



MINUTES OF THE PLANNING MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 25th November 2003 commencing at 9.07a.m.

PRESENT:

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

General Manager, A V Burgess; Director Environmental Services, B W Casselden; Ken Woods and Donna Pearson.



APOLOGY:

2003. P71

RESOLVED:

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

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



MINUTES OF THE PLANNING MEETING OF KEMPSEY SHIRE COUNCIL DATED 28TH OCTOBER 2003

2003. P72

RESOLVED:

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

That the Minutes of the Planning Meeting of Kempsey Shire Council dated 28th October 2003, be adopted.



ASSESSMENT OF ITEMS LISTED IN CONFIDENTIAL BUSINESS PAPER

2003. P73

RESOLVED:

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

That the items listed in the confidential section of the business paper remain in confidential section.

CONSIDERATION OF LATE REPORTS

*THIS IS PAGE 1 OF THE FULL TEXT MINUTES OF THE PLANNING MEETING OF THE KEMPSEY
SHIRE COUNCIL HELD ON TUESDAY 25TH NOVEMBER 2003.*

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MAYOR

Consideration of late reports to determine whether they should be dealt with or deferred.

2003. P74

RESOLVED:

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

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



PUBLIC FORUM

- 1 - Mike Dutton addressed Council regarding DES3 (Page G8) Application to rezone land at Gladstone.
- 2 - Ron King addressed Council regarding DES6 (Page G20) Proposed Section 96 Modification of Consent.
- 3 - Gordon Smith addressed Council speaking against DES1 (Page G1) Rock Sorting Machine – Clybucca.
- 4 - Daniel Johnson addressed Council in favour of DES13 (Page G62) Proposed Dwelling New Entrance.
- 5 - Mike Dutton addressed Council regarding DES15 (Page G75) Proposed directional sign.
- 6 - Trudy Vermeer addressed Council regarding DES16 (Page G76) Proposed Dwelling South Kempsey.



CONSIDERATION OF LATE REPORTS

2003. P75

RESOLVED:

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

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



CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Reports DES1, DES3, DES6, DES13, DES15 and DES16.

DES1	ROCK SORTING MACHINE - CLYBUCCA
FILE: T6-03-510 AD	{Folio No. 265504}

SUMMARY:

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Reporting that Council has received an application for a rock sorting machine at Clybucca, for which eight (8) objections have been received. [\(Appendix A\)](#)



Applicant: Mr V Henderson
Subject Land: Lot 1 DP 705945 No 240 Menarcobrinni Lane, Clybucca
Zone: 1(a1) Rural
Proposal: Rock Sorting Machine

Heads of Consideration:

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

The proposal is not contrary to any State Environmental Planning Policies or North Coast Regional Environmental Plan 1988. The proposal is permissible under Kempsey Local Environmental Plan 1987 as a “Home Industry”.

Background

Council received an application for a rock screening/sorting machine in an existing shed at Clybucca on the 31st July 2003 for the purposes of sorting crushed quartz from 10 mm as delivered, to three lesser sizes for the use as an additive to paint for non-slip purposes, operating for a maximum of 35 days per year. [\(Appendix B\)](#)

On the 14th August 2003, the applicant was requested to provide:

- A detailed noise report indicating the proposal will not adversely impact on surrounding residences;
- Sediment control details including the methods proposed to control dust and fines; and controlling sediment runoff in times of flood;
- further clarification regarding the actual process involved.

In a report from Hackett Laboratory Services, dated 22nd September 2003, the response can be summarized as follows: [\(Appendix C\)](#)

Noise:

- The report establishes likely recommended noise planning levels, and that full impact of noise from the proposal can only be assessed if the machine is operational at Clybucca. It must be noted there are five dwellings within an approximate 500 metre radius. It also suggests that if noise levels are exceeded, attenuation measures can be adopted, including:

- lining the shed with insulation;
- isolation and damping of vibration sources;
- stating that the shed will attenuate the majority of noise emissions;
- the flood mound and dwelling adjacent to the shed will act as a barrier to noise received at the residence to the north east.

Sediment Control

- Minimal sediment production from the activity - during all parts of the screening process the quartz material is contained within bags or bins which are easily moved.
- Moisture from the drying cycle is vented by exhaust fan through the roof. Any dust in this moisture plume is collected by a series of fine misters positioned within the exhaust vent, with residue from the vent flowing into a collection sump. A small wheeled crusher is attached to the plant to grind any oversized material.

No details relating to sediment runoff control in times of flood have been provided.

Public Exhibition

The proposal was advertised in accordance with Council's Policy with nine (9) objections having been received, which may be summarized as follows:

Objection		Planning Comment	
1	The proposal will generate a considerable amount of noise and dust.	1	No definitive details have been provided regarding noise impacts upon adjoining residences, or methods of controlling dust and fines.
2	The activity will generate excess heavy vehicle usage on a road not suited to such traffic.	2	The applicant has not specified the type of vehicle to be used to transport the produce but has stated the machine will be operated a maximum of 35 times a year with a maximum of 5 truck movements annually. Should Council agree to extend the recommended one (1) month consent contributions towards Menarcobrinni Road

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3	The disruption of peace and tranquility by way of noise would be detrimental to horse breeding in that area.	3	would be payable. The use is permissible within consent in Zone 1(a1) - Rural as a "home industry". It must be noted that rural areas are often sought after for residential purposes, scenic amenity and tranquility. Although conflicts can arise between permissible land uses provided EPA noise criteria are met, any disruption would be within recognized limits.
4	This type of activity has no place in a rural area. Industry should be in the industrial area, less than 15 kilometres by road to South West Rocks where it can be properly maintained.	4	The use is permissible with development consent in the zone, provided it is undertaken by a resident and not more than one (1) non-resident employee.
5	The land is very flat and therefore noise would travel a great distance.	5	See "General Planning Comment".
6	The material to be crushed is of a hazardous nature with documented evidence on its effects on people and animals has fatal consequences ie. effects similar to asbestosis.	6	Any development consent granted will require adequate dust and sediment control measures to be applied, with details to be provided prior to commencement of the activity. Location and operation of the plant are subject to current Occupational Health and Safety/Workcover requirements.
7	The plant - having been considered inappropriate in a designated industrial area by Workcover, should not be allowed in a rural area.	7	Refer planning comments 4 and 6.

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8	The plant is to be located in a known flood zone.	8	Any development consent granted will include the application of a condition requiring details of all flood proofing and sediment runoff prevention measures. Having regard to the scale of the development any impacts of a 1 in 100 year flood are likely to be minimal.
9	Menarcobrinni Road is a narrow dirt road. Trucks using the road would necessitate in one vehicle having to reverse into a suitable section so that safe passing was to occur.	9	The use is not anticipated to generate traffic in excess of what a rural 1(a1) zoned lot would generate. The traffic conflict potentially resulting from five truck movements per year is considered to be minimal.
10	The EPA should be consulted due to the fact that hazardous materials are to be utilised in an area that could be considered susceptible to environmental degradation.	10	The proposal is not designated or integrated development and referral is not required.
11	The application is extremely short on detail and appears an attempt to "slip" something through.	11	Whilst the application was lacking in relation to information on noise and sediment control, the applicant has strongly requested that the application is forwarded to Council for examination. See "General Planning Comment".
12	There has been no consultation with neighbours as to the type of operation proposed.	12	The proposal was advertised in accordance with Council's Policy.
13	If the application is one of a home industry, then why does the associated house 20 metres away have a rental	13	Such claims have not been supported by the evidence.

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	contract for 12 months.		
14	The machine in question is actually a rock crusher, not rock sorter.	14	The report from Hacket Laboratory Services indicated there would be 'Grinding' of oversized material by wheeled crusher. The use, whether grinding is occurring alongside screening, will be subject to current noise guidelines contingent upon the receipt of a detailed noise report indicating the use is not detrimental to the amenity of the area.
15	The proposal is hazardous to animals and humans, including pregnant mares, and the oyster leases on the Macleay River could be affected.	15	Refer to Planning Comment 5.
16	It is understood that the whole operation is to be relocated from the South West Rocks Industrial Area to the site.	16	The applicant is entitled to store equipment on site, but cannot commence the activity until conditional development consent is granted.

Planning Comment

Whilst it is agreed that the applicant has not submitted all required information in order to address concerns relating to noise, sediment control and flood issues, the report is presented to Council at the request of the applicant for reasons relating to financial commitments contingent upon determination of the development application. The applicant has verbally agreed to the following:

- 1 A conditional consent for a one (1) month trial only for the purposes of noise monitoring.
- 2 A condition requiring that should the amenity of the area be adversely affected, the activity shall cease immediately upon receipt of any request from Council.
- 3 That after the expiration of the initial trial term, the activity shall cease immediately until a detailed noise report prepared by a suitably qualified consultant is submitted to Council indicating the activity is not

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detrimental to the amenity of the area, and Council has provided written agreement to continue for a further twelve (12) months extendable contingent on compliance with conditions of consent and whether justifiable complaints are received.

Director Environmental Services Recommendation:

- A That consent be granted, subject to the following condition:**
- 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 operates for a period of one (1) month only following establishment of the plant in accordance with conditions of this consent, extendable in accordance with Condition 5 of this consent.**
 - 3 Access to the site for deliveries is to be confined to between 7.00 am and 7.00 pm daily. In this regard, a sign clearly indicating same is to be displayed at the entry to the development. Details, including location of signage, are to be provided prior to commencement of the activity.**
 - 4 The applicant is to provide written confirmation of the intended date of commencement. The use is not to commence until Council has provided its written confirmation that the trial may commence.**
 - 5 After the expiration of the one (1) month trial term, the activity shall cease until a detailed noise report prepared by a suitably qualified consultant has been submitted to Council indicating the activity is not detrimental to the amenity of the area. Should the report indicate noise exceeds EPA criteria, details of ameliorative measures are to be provided. The activity is not to recommence until Council has provided its written agreement to continue.**

Should such results indicate the activity is not detrimental to the amenity of the area, any extension will only be granted for a period of twelve (12) months, extendable contingent upon Council receiving a written request to continue, compliance with conditions of consent and whether any justifiable complaints are received.
 - 6 Detailed plans of the means of collecting and containing all fines, dust and associated sediment are to be provided prior to commencement of the one (1) month trial for approval to Council.**

The plans are to be prepared by a suitably qualified person indicating that relevant EPA quality requirements will be met.

- 7 Detailed plans of the means of filtering fines, dust and other associated sediment from entering the exhaust system of the screening machine are to be provided prior to the commencement of the one (1) month trial.
- 8 The applicant is to provide a suitable plan of evacuation/removal or storage of the finished product and associated equipment in accordance with Council's Flood Risk Management Policy prior to the commencement of the one (1) month trial.
- 9 Additional monitoring shall be carried out at the request of Council in the event any complaints are received.
- 10 The operation of the plant, including all transportation shall be restricted to between 9.00am and 3.00pm Monday to Friday.
- 11 All loading and unloading in connection with the use of the subject premises shall be carried out wholly within the subject property.

B That the applicant be advised that in the event an extension of the consent is sought, that Council intends restricting deliveries to not more than five (5) per annum and that a contribution towards the upgrading and maintenance of Menarcobrinni Road will be required.

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

2003. P76

RESOLVED:

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

That the application be refused for the following reasons;

- It is not in keeping with the agricultural amenity of the area
- The issue of noise has not been adequately addressed
- The envisaged use is better suited to a locality in a zoned industrial area

DES3	APPLICATION TO REZONE LAND AT GLADSTONE FOR RESIDENTIAL PURPOSES FILE: T5-88 MEI	{Folio No. 265509}
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SUMMARY:

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Reporting that Council has received an application to rezone land at Gladstone which it has previously considered and refused to support.



Subject Land: Lots 1 and 2 DP 1039916, Kinchela Street, Gladstone
Current Zone: 1(a3) Rural (Agricultural Protection)
Proposed Zone: 2(v) (Village or Township)

Council has received an application to rezone land at Gladstone which it has previously considered at its meeting of 10th June 2003 and resolved not to support (*Appendix E*). The property owner's consultant has reapplied for a rezoning from the current 1(a3) Rural (Agricultural Protection) to 2(v) Village or Township (*Appendix F*) on the basis of the following:-

1. The property is already in two lots and an adjustment of boundaries is underway to separate the land along the Barnard Street boundary.

Comment: *The Consultant has lodged a boundary adjustment with Council which will have to be forwarded to Department of Infrastructure Planning and Natural Resources at Grafton with a State Environmental Planning Policy No 1 (SEPP 1) objection for their approval.*

It cannot be assumed that they will approve the application. However, the matter of the boundary adjustment is not at issue in the rezoning application.

2. The land is not "prime agricultural" but disused village land littered with old debris.

Comment: *The Gladstone area has been assessed by NSW Agriculture under its Rural Land Evaluation Manual and determined to be Class 2 land. They use a five part classification scheme of which Class 1 is the highest. The North Coast Regional Environmental Plan identifies prime crop or pasture land as that identified by NSW Agriculture as Classes 1, 2 or 3. Clause 7 of the Regional Environmental Plan provides:*

A draft Local Environmental Plan applying to prime crop or pasture land should:

- (a) *identify and include land in an agricultural protection zone and contain provisions that:*
 - (i) *prevent the subdivision of land within the zone for the purposes other than commercial farming;*
 - (ii) *set minimum allotment sizes which maintain the concept of a minimum area capable of efficient, sustainable agricultural production in the long term;*
 - (iii) *separate land zoned for residential use from land zoned or used for agricultural use or for intensive animal industries; and*
 - (iv) *prohibit development which is incompatible with the objectives of this Division; and*

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MAYOR

- (v) *rezone prime crop or pasture land for the purposes other than agricultural only after a detailed analysis of the agricultural capability of the land and adjoining land has been carried out,*

The 1(a3) Rural (Agricultural Protection) Zone is to conserve higher quality agricultural land in the Shire and reflects the fundamental agricultural productivity of the land. Being "littered with old debris" does not alter this inherent productivity. Further, the land has not previously been developed for urban purposes and therefore cannot be regarded as "disused village land".

4. There is no intention to subdivide immediately or in the near future.

Comment: *The presumption of this point is of no relevance. It should also be noted that Clause 12 of KLEP 1987 does not permit the subdivision of floodprone land such as this, even if it is zoned 2(v). The issue is should Council support the rezoning or not considering the relevant planning issues. Council has already done so recently and resolved not to support the rezoning.*

5. There will be no effect upon the residue land, which can remain as 1(a3) east of Barnard Street.

Comment: *The application is only for that land west of Barnard Street.*

6. There will be no precedent set as there cannot be any other land in the same situation.

Comment: *It is not a matter of precedent. This application will need to be considered having regard to the relevant planning consideration. It is presumed that the applicant raises the issue of precedent as an encouragement to Council to vary its planning provisions in this instance. However, as noted previously this application is not only contrary to Council's planning provisions but also State level provisions, which Council has no power to vary.*

The applicant contends that Council should support the rezoning because the current zoning of the land, when adjoining land to the north and south is 2(v), as an anomaly which should be addressed. In support of this the applicant argues that Council should vary the relevant planning provisions which apply in this instance.

This application is contrary to Council's Flood Risk Management Policy, two of the Principle Objectives of which are:-

- To prevent the creation of any new areas of urban development on flood prone lands.
- To prevent any extension of existing zoned areas into flood prone lands.

Part 4 of the Policy states that Council will not support the rezoning of land for urban development unless it is shown to be at or above the flood planning level. Further Clause 45A of the North Coast Regional Environmental Plan

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states that a draft local environmental plan should not alter the zoning of flood liable land to a residential or other urban type zone.

Clause 38 of the REP refers to Urban Land Release Strategies and requires that any rezonings for urban land should be consistent with an adopted Urban Land Release Strategy. The subject land is not identified in Council's Strategy and the Department of Planning has made it clear in the past that they will not agree to any rezoning for land not identified in the Strategy.

Whilst the applicant may argue that the proposal has merit given the particular circumstances of this application it is considered that Council should not support this application as it is contrary to Council Policy and the North Coast REP. Council's Flood Risk Management Policy and the REP contain provisions which acknowledge the need to carefully consider the consequences of development in flood prone areas both in terms of risk to property and life and the costs to the broader community in the event of (inevitable) flooding. Any increase in development in flood prone areas increases these risks and costs. Even if Council did support this rezoning previous experience has shown that the Department of Infrastructure Planning and Natural Resources is unlikely to support it, ending the matter.

Director Environmental Services Recommendation:

That Council not support this rezoning application.

2003. P77

RESOLVED:

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

That Council supports this rezoning application and the application be referred to DIPNR for determination.

DES6

**PROPOSED SECTION 96 MODIFICATION OF
CONSENT FOR A DUAL OCCUPANCY AT 6 MAY
STREET, CRESCENT HEAD**

FILE: T6-02-685 SAR

{Folio No. 265515}

SUMMARY:

Reporting that a Section 96 Modification of consent has been received for approval to modify an approved dual occupancy at the above mentioned address.



Applicant: T Mecham
Owner: R and B King
Subject land: Lot 154 DP754441, 6 May Street, Crescent Head.

Background

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In 2002 a Development Application was submitted for the erection of a dual occupancy at 6 May Street, Crescent Head. This application was submitted to Council on the 11 March 2002 for consideration, and consent granted for the erection of the proposed dual occupancy.

In August 2003 an inspection of the property was undertaken, after receiving a complaint from an adjoining property owner that the building was not being constructed in accordance with the approved plans and that a cut in the land had not been securely retained. The inspection revealed that a portion of the south western corner of the first floor level had been extended by 1.1 metres. At the time of inspection, the cut had been retained by boards pinioned against the dwelling under construction.

Council proceeded to issue an intention to serve an order notice for the unapproved works and was advised by the builder that a section 96 modification of consent was being prepared. An order was served against the builder for the excavated cut along the southern boundary. Under instruction from Council works ceased on that portion of the dwelling and no further works have been undertaken.

A Section 96 modification of consent was submitted to Council and readvertised in accordance with Council's notification and advertising policy to 5 adjoining owners, with one submission received.

Proposal

The proposed modification is to extend the front south western portion of the first floor level by 1.1 metres, extend the first floor level balcony by 1 metre, the addition of a planter box along the southern edge of the front balcony and an alternative type of retaining wall. A submission made by the owners of 6 May Street is appended to this report. ([Appendix I](#))

Advertising

The Section 96 modification of consent was readvertised in accordance with Council's notification and advertising policy to 5 adjoining owners, with one submission received from Mr and Mrs Grahame of 31 Morton Ave, Lewisham, owners of 8 May Street, Crescent Head.

A copy of the submission is appended to this report as ([Appendix J](#))

The following concerns were raised by Mr and Mrs Grahame:

- The changes increase the overall size of the dwelling, which they feel is inappropriate as to size and design.
- The proposed additions will affect the views and privacy of 8 May Street, as well as casting additional shadows.
- The additions are an attempt to regularize a breach of the previous consent.

A further request was made by the adjoining property owner for revised shadow diagrams. However, as the modification constitutes no change in the

external configuration of the building including roofline, it was considered that there was no requirement for additional shadow diagrams.

The objectors submission can be summarised and addressed as follows:

- 1 The changes increase the overall size of the dwelling, which they feel is inappropriate as to size and design:

Comment

The proposed changes to the approved dwelling constitute a minimal variation in the design of the dwelling and represent no significant change in the overall external configuration. It is considered that the proposed increase in the south western portion of the dwelling by 1.1 metres and an increase in the front balcony by 1 metre will have no significant impact on the overall bulk of the building as compared to that previously approved. The modification will maintain a visual bulk and architectural scale that is consistent with that of the consented dual occupancy, as well as the surrounding locality. The addition of a flower box along the southern edge of the front balcony will further assist in softening any impact upon the adjoining dwelling.

- 2 The proposed additions will affect the views and privacy of 8 May Street, as well as casting additional shadows:

Comment

The proposed extension of the front southwestern corner of the dwelling and balcony does not constitute any overall increase in the space available for overlooking of the adjoining property. There has been no increase in the size or number of windows along the southern portion of the dwelling and it is considered that the potential for overlooking from the balcony extension would be no more significant than that from the previously approved balcony, which was considered to be minimal.

The impact on views as a result of the proposed modification is considered negligible. The potential for view loss from the adjoining property has been previously addressed by Council.

Because there is no change in the size or orientation of the roof as compared to the consented plans, and the additions remain well within the roofline, in terms of overshadowing, there will be no foreseeable reduction in solar access to the adjoining property. It is considered that the modification will result in no more significant overshadowing than that which currently exists for the approved dual occupancy. The issue of overshadowing has previously been addressed by Council and the original shadow diagrams are appended to this report. ([Appendix K](#))

- 3 The additions are an attempt to regularize a breach of the previous consent:

Comment

See background notes.

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MAYOR

Conclusion

It is considered reasonable for Council to allow the proposed modification of development consent as it is considered that there will be no increase in the existing building bulk and therefore no decrease in the access to sunlight or existing views from the adjoining property. It is further considered that the overall proposal will be in keeping with the architectural style of the approved dwelling, nor will it detract from the amenity of the adjoining property.

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

2003. P78

RESOLVED:

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

That the Section 96 modification of consent for Development Application T6-02-685 be approved subject to the conditions as applied to the original consent.

DES13	PROPOSED DWELLING NEW ENTRANCE
FILE: T6-02-486 RBP	{Folio No. 265538}

2003. P79

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Bowen*

That this matter be listed for Works Inspection to be held at the adjournment of this Meeting.

NOTE: This matter was the subject of a Works Inspection and was dealt with later at the resumption of this Meeting.

DES15	PROPOSED DIRECTIONAL SIGN
FILE: A4-2 RBP	{Folio No. 265542}

SUMMARY:

Reporting that Council has received an application to erect a directional sign which is contrary to DCP 25.



Description of Proposal

The proposal is to erect a directional sign attached to the Suez Road sign at the intersection of Suez Road and Plummers Lane providing direction to the Rainbow Reach Oyster Barn.

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Development Control Plan 25 - Advertising Signs in Kempsey Shire

Due to a proliferation of directional fingerboard signage throughout the Shire, in October 2000, Council sought to amend its Policy to restrict such signage to directional signs for premises which provide a commercial service for travellers and tourists.

The consultant acting for the Rainbow Reach Oyster Barn was advised by letter of 5th September 2003 that as the sign did not comply with Councils Policy (i.e. the Rainbow Reach Oyster Barn not being a commercial service for travellers and tourists) that approval was not granted.

By letter of 16th September 2003, the applicants consultant has submitted that the proposal does comply with Councils Policy as the Rainbow Reach Oyster Barn is a tourist establishment and on the basis of numerous signs erected around the Shire to non-tourist establishment destinations. (*Appendix E1*)

Planning Comment

Under Kempsey Local Environmental Plan 1987, "tourist facilities" (*means an establishment providing for holiday accommodation or recreation and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, water sports facilities, or a club used in conjunction with such activities.*)

It is considered that whilst the Rainbow Reach Oyster Barn may well sell oysters to visitors, the facility does not provide for accommodation or a recreation and therefore does not comply with Councils Policy.

Note: It should be noted that the existing sign directing the public to the Rainbow Reach Oyster Barn is subject to the same restrictions, however, in 1995 Council was of the view that the facility was a tourist facility on the basis that it provided a scientific and educational experience to tourists.

In respect to the numerous examples provided by the applicants consultant, whilst the majority of signage does relate to tourist facilities, other non-tourist facilities referred to was the basis that Council adopted the current Policy. In respect to the industrial area directory sign at South Kempsey, DCP 25 has a specific section allowing such signage for industrial and commercial areas. The Riverside Tavern signs at South West Rocks, the Smithtown RSL Bowling Club sign, Sherwood Estate Wines sign and Riverview Hotel signs, all comply with Councils Policy as they direct the public to tourist facilities.

Director Environmental Services Recommendation:

That the applicant be advised that the proposal does not comply with Councils Policy relating to directional signs as Council does not consider that the Rainbow Reach Oyster Barn is a tourist facility.

2003. P80

RESOLVED:

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

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

DES16	PROPOSED DWELLING SOUTH KEMPSEY
FILE: T6-02-707 RBP	{Folio No. 265550}

SUMMARY:

Reporting that Council has received a request for a review of determination in respect to a dwelling adjacent to Churchill Quarry which was previously refused.



Applicant: Dutton Engineering
Owner: T A Vermeer
Subject Land: Lot 1 DP 568531 No 232 Crescent Head Road, South Kempsey

Background

At its meeting of 10th June 2003, Council considered a report concerning a proposed dwelling within the buffer zone surrounding Churchill Quarry. ([Appendix F1](#))

A works inspection was currently held and, at its meeting of 24th June 2003, Council resolved:

- A** *That the applicant be invited to submit an amended application accompanied by an acoustic report prepared by a suitably qualified person and a report prepared by a qualified quarrying consultant providing for the erection of a dwelling in a location which will not result in adverse impacts from adjoining quarrying operations or place any unreasonable restrictions on future quarrying activities.*

- B** *That the applicant be advised that unless written advice is received within 14 days of notice being provided that it is intended to submit the required amended application, that the application be refused for the following reasons:*
 - 1** *The proposal is contrary to Clause 16 of North Coast Regional Environmental Plan 1988 as the applicant has failed to demonstrate that the proposed dwelling will not prevent the potential sterilisation of the adjoining quarry, having regard to potential adverse noise, over pressure and vibration.*

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2 *The proposal is contrary to DCP 12 - Conflicting Land uses as the applicant has failed to demonstrate that the proposed dwelling will not be adversely impacted upon as a result of the operation of Churchill Quarry.*

Considerable correspondence was exchanged between the applicant and Council complaining about Councils decision, however, no agreement to provide the requested information was reached and, in accordance with Councils resolution, the application was refused on the 24th July 2003.

Pursuant to Section 82A of the Environmental Planning and Assessment Act, by letter received 10th September 2003, the applicant requested a reconsideration of Councils refusal of the application. (*Appendix G1*)

The owner has requested a re-consideration on the basis that it is proposed to relocate the dwelling to outside the designated buffer zone immediately adjacent to the northern boundary. As the setback does not comply with the Rural Fire Service Guidelines for Bushfire Protection, the application was forwarded to the Rural Fire Service. See Bushfire Assessment.

Applicants submission

- 1 Owner not supplied with a Notice of Determination.
- 2 As the dwelling is to be located outside the buffer zone, a noise report is not needed.
- 3 There are two dwellings adjacent to the property which did not require a noise report, one of which is closer than the proposed dwelling to the quarry.

Planning Comment

The following comments are made in respect to the applicants submission.

- 1 The Notice of Determination was forwarded to the applicants consultant on the 24th July 2003.
- 2 The buffer created by DCP 12 is arbitrary and is not related to any data collected in respect to noise, vibration and dust etc. The purpose of the buffer was to alert persons contemplating purchase of land to the existence of the quarry and the need to address such impacts when applications for dwellings and subdivisions are submitted. This is achieved via a notation on the relevant zoning certificate.

Schedule 1 of DCP 12 refers to land affected by the buffer which includes the subject land.

DCP 12 also states that the purpose of the buffers is to minimise nuisance to development within the buffers, whilst recognising that persons residing outside the buffers should not expect nil nuisance from the protected land use.

The applicants consultant advised that the owner was aware of this affectation at the time of purchase and of a noise report which had been prepared for the previous owners.

Council advised the previous owner that it did not agree to the restriction contained within the previous noise report relating to the operation of Churchill Quarry. It is not clear whether this advice was forwarded to the current owner.

DCP 12 identifies a buffer around the Churchill Quarry which is considered to be a significant local resource. This view is supported by Councils consultant in respect to future management options for the quarry and the Department of Mineral Resources. (*Appendix H1*)

Having identified by the previous noise report that the proposed dwelling would be adversely impacted upon by the quarry without serious limitations being placed on the operation of the quarry, it is considered that Council should not approve of the relocation of the dwelling without some form of noise assessment to verify compliance with EPA criteria.

Complaints to the Environment Protection Authority

Council Officers have recently been interviewed by an officer from the EPA concerning complaints from residents surrounding Churchill Quarry. Such complaints highlight the need for Council to ensure that the future operation of the quarry is not jeopardised by intrusion of dwellings to within areas adversely affected by noise, over pressure and vibration. The EPA have advised that in respect to Councils previous resolution to prepare a environmental management plan for the quarry, that Council will be provided with a deadline for preparation of such a study, Council may potentially face significant monetary penalties and/or closure of the quarry. As at the date of writing written confirmation had not been received from the EPA.

Whilst it is considered that the applicant has failed to demonstrate that the proposed dwelling would not be adversely impacted upon by the operation of the adjoining quarry, it is considered that the applicant should be advised that Council would reconsider a fresh application upon completion of the environmental management plan thereby providing the necessary criteria on which to base an additional noise assessment.

- 3 The dwellings referred to by the owner are located outside the buffer, however, a small area only of Lot 211 is affected by the buffer. A noise report was not required. As stated, it is not suggested that the proposed dwelling could not be located on the subject land under any circumstances. It is recommended to Council that it would jeopardise the future operation of the quarry unless the impacts of noise and vibration on the proposed dwelling are quantified. It should be noted that an assessment of possible acoustic shielding in respect of the dwelling on lot 211 as a result of the topography and vegetation has

not been undertaken in order to support a statement that such a dwelling would suffer greater effects from the operation of the quarry.

Director Environmental Services Recommendation:

- A** That Council adhere to its previous decision to refuse the application on the basis that the applicant has failed to demonstrate that the proposed dwelling would not be adversely impacted upon by the future operation of the quarry.
- B** That the applicant be advised that Council is prepared to consider a fresh application upon completion of an Environmental Management Plan for the future operation of Churchill Quarry and submission of a revised noise impact assessment based on the recommendations of the Environmental Management Plan.

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

That Council approve the application.

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

That item B of the Director’s recommendation be approved.

2003. P81 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.



ADOPTION OF AGENDA ORDER OF BUSINESS

2003. P82 **RESOLVED:** *Moved: Cl. Bowen
Seconded: Cl. Hunt*

That the Agenda Order of Business be adopted.



DIRECTOR ENVIRONMENTAL SERVICES REPORT

DES1	ROCK SORTING MACHINE - CLYBUCCA
FILE: T6-03-510 AD	{Folio No. 265504}

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

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MAYOR

**DES2 REZONING OF LAND FOR RESIDENTIAL PURPOSES
IN COCHRANE STREET, WEST KEMPSEY
FILE: T5-86 MEI (NRN) {Folio No. 265506}**

SUMMARY:

Reporting that a rezoning application to rezone land in Cochrane Street from 3(b) Business (Neighbourhood) to 2(a) Residential has been gazetted and now takes effect.



Subject Land: Lot 11 DP 700765, Cochrane Street, West Kempsey
Owner: Kempsey Nursing Home Pty Ltd
Current Zone: 3(b) Business (Neighbourhood)

This rezoning covers 4 lots of a nine lot subdivision bounded by Cochrane Street and Kidman Avenue in West Kempsey (*Appendix D*). It was gazetted Friday 24th October 2003 and takes effect from that date. Council is now able to determine a plan of subdivision for the subject land.

2003. P83

RESOLVED:

*Moved: Cl. Bowen
Seconded: Cl. Sowter*

That the information be noted.

**DES3 APPLICATION TO REZONE LAND AT GLADSTONE
FOR RESIDENTIAL PURPOSES
FILE: T5-88 MEI {Folio No. 265509}**

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

**DES4 PROPOSED SINGLE STOREY DWELLING AND
DEMOLITION OF EXISTING DWELLING
FILE: T6-03-567 JGR {Folio No. 265540}**

SUMMARY:

Reporting that Council has received an application to erect a single storey dwelling and demolish an existing dwelling, which requires a variation to Councils Local Housing Strategy DCP 22.



Applicant: Mr Robert Martin
Subject Land: Lot 168 DP 247665 No 28 Currawong Crescent,
South West Rocks
Zone: Residential 2(a)

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Proposed Development

The proposal is to build a single storey dwelling on the site and demolition of the existing building.

Location

The site is situated on the western side of Currawong Crescent. The allotment has a 28.9m frontage to Currawong Crescent and narrows to 7.9m at the rear. The site has a fall of 1m from the rear to the front.

The existing dwelling will be demolished to make way for a new single storey brick veneer residence.

Heads of Consideration:

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

The proposal may be defined as "dwelling house" and is permissible with consent in the 2(a) Residential Zone under Kempsey Local Environmental Plan 1987. The proposal is not contrary to any State Environmental Planning or North Coast Regional Environmental Plan 1988.

An assessment of the proposal against requirements of DCP 22 is provided.

Standard	Required	Proposed	Complies Y/N
DENSITY - low	4 brm = 500m ²	663m ²	Yes
SETBACKS Side <i>North elevation</i> <i>South elevation</i> Front Rear	 1.8m 1.8m 5m 1.8m	 1.5m with compensation 1.225m with compensation 5m >1.8m	 Yes Yes Yes Yes
CARPARKING*	1 covered	2 covered spaces	Yes
Private open space	25m ²	>25m ²	Yes
Landscaping	165m ²	> 165m ²	Yes

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Height	5m	<5m	Yes
Solar Access	Adequate	Adequate	Yes
Privacy	Adequate	Adequate	Yes
Cut and fill	<1.5m	<1.5m	Yes
Long walls	20m	<20m	No
Access	20%	<20%	Yes

Long Walls

The proposal does not meet the requirements of Clause 4.2.3 of DCP 22 which allows for 20m of wall in a single plane. ([Appendix G](#))

The proposed wall situated on the southern elevation is 21.5m which represents a 1.5m increase upon the required 20m.

Comment

The intent of the long wall requirement is to ensure buildings are designed so that they don't impact visually upon the adjoining property or street-scape.

The applicant has submitted a submission detailing reasons as to why Council should support the application with a long wall of 21.5m. The submission is summarised as follows. A copy of the full submission is appended to this report. ([Appendix H](#))

Submission

1 The proposed dwelling is cut into the site and will not overlook the adjoining property.

Planning Comment

1 The front section of the building will be on 350mm fill. The rear section will be on a cut 400mm deep.

The long wall extending into the cut area will reduce the impact of the long wall, from the adjoining property.

The dwelling is single storey and should be mostly obscured by a 1.8m high dividing fence which

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2 No objections have been received in respect to the proposal.

will largely reduce the impact from the neighbours property and also from the street.

2 The proposal was advertised in accordance with Councils Notification Policy.

No objections have been received in respect to the proposal.

Planning Comment

In this instance given that the building is single storey and cut into the site and that the long wall is only 1.5m longer than specified in DCP 22 it will be recommended that Council approve of the application.

2003. P84

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Bowen*

That consent be issued subject to compliance with the following conditions:-

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

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

- 4 Prior to demolition commencing, the person causing the demolition to be carried out shall give written notice of his intention to the owners of any adjoining allotment of land seven days prior to the commencement of demolition work.
- 5 Access to the site shall be restricted to Authorised Persons only and the site shall be secured against unauthorised entry when building work is not in progress or the site is otherwise unoccupied.

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- 6 A sign shall be erected on the site stating that unauthorised entry is not permitted.
- 7 A sign shall be displayed on the site indicating the name of the builder or another person responsible for the site and a telephone number of which the builder or other person can be contacted outside normal working hours or when the site is unattended.
- 8 A suitable hoarding shall be erected along the front boundary of the allotment to prevent unauthorised persons from gaining entry to the site.
- 9 Any access to the site by way of temporary gates or movement of the fencing shall be directed into the site and shall not obstruct Councils footway.
- 10 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;
- (b) completion of wall and timber framing with any veneer walls completed prior to wall sheeting being fixed;
- (c) wet area floor and wall surfacing prior to tiling;

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

- 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 Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.
- b That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls

are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.

- c External walls of the garage are strengthened by a minimum of 350mm x 230mm engaged brick piers spaced at maximum 1800mm centres.
- 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.

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

Walls	medium colour
Roof	medium colour
Wall	foil insulation
Roof	sarking
Ceiling	R1.5 batts

Hotwater heat pump

- 13 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.
- 14 Roofwaters are to be directed by means of sealed pipes to the street gutter. Details are to be provided with the plans for the required Construction Certificate.
- 15 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.
- 16 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.

DES5	REPORT BY THE PLANFIRST REVIEW TASKFORCE
FILE: T4-2 MEI (NRN)	{Folio No. 265513}

SUMMARY:

Reporting on the report by the PlanFirst Review Taskforce as to whether the PlanFirst reforms announced in 2002 should be pursued as a means of reforming the NSW planning system.

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Following the NSW State Government elections and subsequent Ministerial and Departmental reshuffle the new Minister for Infrastructure and Planning and Minister for Natural Resources, Craig Knowles announced that a taskforce would be formed to report on whether the PlanFirst reforms should be pursued. The taskforce delivered its report 1st September 2003, making a number of recommendations regarding future reforms of the NSW planning system.

The taskforce considered the main elements of PlanFirst within the context of the planning system generally. These were broken down into:

- regional planning
- local planning
- the strategic planning fee
- implementation

Regional Planning

Under PlanFirst regional strategies would be prepared dealing with settlement and growth management, transport and service provision, and natural resource management issues. They were to play a key role in identifying how catchment and natural resource planning approaches could better translate to the land use planning system.

The taskforce supports the emphasis on the importance of regional planning and identifies the role of DIPNR in regional planning as critical. However, it considered the PlanFirst “one size fits all” approach as inappropriate. It considered that the complexity of issues facing each region are such that they could not be coherently incorporated into an all encompassing regional strategy. Further, the proposed timeframe for the simultaneous delivery of the strategies for every region was considered unachievable.

The taskforce recommends that new (non-statutory) regional strategies be prepared which are supported by SEPPs and/or REPs to give them effect. These strategies should incorporate the strategic objectives of the relevant state agencies to achieve a whole government approach. This will also move what the taskforce referred to as the “ongoing and often contradictory role of state agencies in the local plan making process” to the regional level. It believes this will enable Councils to undertake local level planning with a known and agreed context of state and regional parameters.

Local Planning

A local plan under PlanFirst was to be the strategic whole of Council plan, providing a single mechanism that coordinated a Council’s planning activities. It was to bring together all of a Council’s planning controls, social programs, Section 94 plans, state of environment reporting, heritage plans, cultural plans, budgeting programs, asset management plans etc.

The taskforce believes that this approach far exceeded the role that an environmental planning instrument could and should have within the system

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of local government. It notes that DIPNR has retreated from this proposed role of a local plan although this revised position has not been publicised.

Despite this the taskforce supports the principle of a single and coherent source of planning information at a local level. It uses the term "integrated plan" to reflect the position that such a plan should integrate with a broad range of Council plans and strategies and also to integrate with state government planning objectives at a state and regional level. This is not the same thing as incorporating all those plans into a single plan but rather suggests a level of consistency and mutual support throughout those plans.

In support of this proposal the taskforce has developed a standard template for integrated plans which would contain statutory and non-statutory components. The statutory components include standardised zones, standard definitions, model provisions, core exempt and complying provisions and the provisions of the applicable SEPPs and REPs. The non-statutory content would contain the strategic state, regional and local context of the plan. Despite the template the taskforce still believes that there is flexibility to tailor the LEP to the local situation through development standards, special provisions and performance indicators.

The Strategic Planning Fee

From 1 November 2002 NSW consent authorities have been collecting a "strategic planning fee" on development applications valued at over \$50,000, not including complying developments. The fee is 64c for every \$1,000 of the proposed development. The idea of the fee is to assist with the implementation of PlanFirst and planning system reform. As at 31st July 2003 \$8.5 million had been collected.

The taskforce did not regard an additional fee on development as an equitable way of funding what it regards as a core government function under the Environmental Planning and Assessment Act. However, they support the retention of the fee, at least in the short term, as long as it is spent on its intended use.

Implementation

The taskforce feels that the Environmental Planning and Assessment Act is flexible enough to cater for its recommendations with only minor (if any) amendments. As such it makes the following recommendation regarding implementation:

Short Term

- Integrated plan standard template (including standard zones, definitions and model provisions) requires amendment to the EP&A Regulation before 31 December 2003. A Section 71 Determination can be used as an alternative mechanism in the interim if necessary.
- Strategic planning fee: clarifying administration and application of the fee will require an amendment to the EP&A Regulation.

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Longer Term

These amendments are not required immediately, however they should be undertaken as part of any future comprehensive amendments to the EP&A Act.

- Consolidation of competing environmental planning and natural resource legislation into one Act.
- The requirement to prepare the statutory components of integrated plans in accordance with the standard template after 31 December 2006 will require an amendment to the Regulation.
- The requirement for councils to adopt the non-statutory components of integrated plans in before 31 December 2008 will require an amendment to the Regulation.
- The mandatory requirement for councils to consolidate their planning instruments into a maximum of one integrated plan for every LGA will require an amendment to the Act. DIPNR's timetable for this to occur in metropolitan, coastal and inland LGAs will require an amendment to the Regulation.
- The difference between the role and function of LEP and DCP components of integrated plans must be clearly maintained. However, the provision of greater certainty and statutory weight to the DCP provisions of integrated plans must be achieved.

The Minister issued a press release 12 September 2003 advising that serious consideration would be given to these reforms. No further advice has been received.

The report of the Taskforce can be viewed on DIPNR's iPlan website.

<http://www.iplan.nsw.gov.au/taskforce.php>

2003. P85

RESOLVED:

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

That the information be noted.

DES6	PROPOSED SECTION 96 MODIFICATION OF CONSENT FOR A DUAL OCCUPANCY AT 6 MAY STREET, CRESCENT HEAD	FILE: T6-02-685 SAR	{Folio No. 265515}
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This report was dealt with earlier in the meeting just after Public Forum.

DES7	DUAL OCCUPANCY GREGORY STREET, SOUTH WEST ROCKS	FILE: T6-03-37 AD	{Folio No. 265517}
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RESOLVED:

Moved: Cl. Bowen

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That this matter be listed for Works Inspection to be held at the adjournment of this Meeting.

NOTE: This matter was the subject of a Works Inspection and was dealt with later at the resumption of this Meeting.

DES8	SUBDIVISION - STREET NAMES
	LOT 2 DP 803137 NORTH STREET, WEST KEMPSEY
	FILE: T6-03-281 AJC {Folio No. 265520}

SUMMARY:

Reporting on a request for Council to consider Street names for Stage 1 of a residential subdivision off North Street, Kempsey.



Applicants: Arakoon Homes Pty Ltd and Gowings Kempsey Pty Ltd.
Subject Land: Lot 2 DP803137, at North Street, West Kempsey

Proposal

The applicant's consultant has submitted proposals for the street names in the Bunya Pines Estate Stages 1 and 2 as follows: -

- 1 Road No. 1, the main access road into the subdivision, either **Bunya Pines Way** or **Bunya Pines Drive**.

The names are related to the existing mature (100 year old) Bunya Pines located on the proposed stage 2 public reserve(3325m²), which are a feature of this site.

Council records indicate that there are no other Council streets bearing this name in the Kempsey Shire.

2. Road No. 2, a large cul de sac in Stage 1, **Cecil Baldwin Place**.

Captain Cecil Baldwin (1900 to 1945) was a Royal Australian Navy officer who originated from Smithtown and saw active service in World War II. A complete history is provided in ([Appendix 0](#)) of this report.

Council records show there is a Baldwin Street located at South West Rocks.

3. Road No. 3, a large cul de sac in Stage 1, **Allan Chapman Place**.

Allan Neil Chapman served in the 3 Australia Pack Transport Company AIF during World War II. Died in service under unusual

circumstances. A biographical note is appended to this report.
(Appendix 0)

Council records show there is a Chapman Street located at Frederickton.

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.

Council Policy gives first preference to names supplied by the RSL for those killed in active service. **Allan Chapman Place** has been allocated to subdivision S15-91-124, which is active and cannot be used in this development.

Council records show there is a *Baldwin Street* located at South West Rocks. This officer is listed in the RSL listings for World War II. The name was allocated to S15-93-24, which has not commenced and the development approval has lapsed. The name **Cecil Baldwin Close** is an appropriate street name, which complies with Council policy.

Use of the name *Bunya Pine* is appropriate in this instance as the name cannot be confused with others in the Shire, it is not offensive, is unique to Kempsey Shire and the copse of trees presence over a significant period of time. The street name **Bunya Pine Court** be considered and applied to proposed road number 1.

With respect to naming road number two it is recommended that it be named after a World War I serviceman killed on active service, Bert Edward Dyson in Belgium in 1917. This name is not on a honour list provided by the RSL. However the information in respect to Bert Dyson was provided to Council via a previous Mayor. It is recommended that the street name **Bert Dyson Place** be applied to road number two. Council records indicate that there is a Stanley Dyson Place in East Kempsey named after a serviceman killed in action during World War II.

Director Environmental Services Recommendation:

- 1 The following Street names be applied with respect to all the following internal streets within the development: -
 - a Street No. 1, **Bunya Pine Court**
 - b Street No. 2, **Cecil Baldwin Close**
 - c Street No. 3, **Bert Dyson Place**

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2 Naming of the streets in this development be undertaken having consideration for the requirements of the Roads Act 1993 and Regulation 2000.

MOVED:

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

That the Directors recommendation be adopted with point 1 item c being subject to RSL Sub Branch approval.

An Amendment was MOVED:

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

Items a and b be adopted and that item c be referred back to the applicant.

The Motion lapsed for want of a seconder.

2003. P87 The MOTION was PUT to the MEETING and was CARRIED.

DES9	SUBDIVISION OF LOT2 DP 803137, OFF NORTH STREET, WEST KEMPSEY
FILE: T6-03-497	AJC
	{Folio No. 265522}

SUMMARY:

Reporting on proposed residential subdivision.



Applicants: Gowings Kempsey Pty Ltd and Arakoon Homes
Owners: Gowings Kempsey Pty Ltd and Arakoon Homes
Subject Land: Lot 2 DP803137, off North Street, West Kempsey

Proposal

The proposal before Council is to subdivide the balance of the existing residential zoned land so as to create an additional 44 residential allotments with one residue allotment as shown in the plan of application attached to this report as ([Appendix P](#)).

Evaluation

This proposal has been examined having regard for the matters identified for consideration pursuant to Section 79 C [1] of the Environmental Planning and Assessment Act 1979.

As the proposed lots 33 and 76 did not comply with Clause 16(1)[a] of Kempsey Local Environmental Plan 1987(minimum allotment size), an application pursuant to State Environmental Planning No. 1 was lodged by

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the applicants, seeking the Director General of Planning's concurrence. NSW Planning issued the concurrence on the 30 October 2003.

The subject land parcel is located on bush fire prone land. Section 79BA of the Environmental Planning and Assessment Act 1979 requires subdivision in a bush fire prone locality for residential purposes to be referred to the NSW Rural Fire Service for the issue of a Bush Fire Safety Authority pursuant to Section 100B of the Rural Fires Act 1997 before development consent can be issued. A conditional Bush Fire Safety Authority was issued by the NSW Rural Fire Service.

The evaluation process has identified that all proposed residential allotments in this stage of the development will need to be filled to ensure there is at least 500m² in each of the lots above the assessed 1 in 100 Flood level of 7.6 M AHD suitable for the erection of future buildings. Council's policy requires that the maximum depth of filling not exceed one metre. The plan of application attached to this report as (*Appendix P*) shows the extent of filling on this site to be generally no more than one metre in depth with small isolated pockets shown hatched representing depths up to 1.42 metres over a total approximate area of 2210m².

A condition will be imposed on the development making the applicant responsible for the maintenance and repair of the road pavement along the identified haulage route (not yet disclosed) during the importation of fill onto the site for Council's urban road system ie. North Street. A suitable deposit will need to be lodged with Council for the duration of the fill haulage operations and will become refundable once Council is satisfied that there has not been any damage to Council's urban road network.

A separate condition will be imposed pursuant to the provisions of the Council's current Section 94 Contribution Plan for Rural Roads requiring a contribution towards upgrading of any Council rural roads along the haulage route.

The applicants Consultant Engineer is continuing to liaise with Council concerning the most practical method for upgrading of the existing sewage pump K21, which will service this development.

Applicants Submission

The applicants Consultant requests Council consider approving of the minor non-compliance in this instance for the following reasons: -

- a The areas where it exceeds the one metre depth are small. It affects only 19 allotments out of the 45 and approximately then only 16% of each lot or less.
- b The Council requirement to have the proposed fill lots graded at 1% have contributed to the need to apply greater depth of fill at the locations shown on the plan of application.

Planning Comment

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This office concurs with the Consultants reasons for requesting a variation to the Council policy with regards to filling and the following additional comments are made in support: -

- a *Filling impacts on larger flood events and in determining limits of fill consideration needs to be given to cumulative effects of filling projects across the full extent of the existing flood plain*(NSW Flood Plain Manual 2001). There will be no cumulative effects as this fill proposal is the only residential zoned land located partially within the current drainage cell. Flooding in this area being backwater from the Macleay River. The subject land parcel has connection to higher ground above the 1 in 100 Flood to North Street and is protected by an existing levee and drainage systems.
- b Levees were constructed on the left bank of the Macleay River to protect Glenrock and Tennessee areas in 1958 and 1963. The Kempsey 1985 Study(Webb McKeown) and the Macleay River Flood Study of April 1989 took this into account(Section 4.7), when preparing their report.
- c It is anticipated that the filling will have a miniscule effect in larger floods emanating from the Macleay River and no effect from floods generated in the local catchment area.
- d The departure from the current standard will not set an undesirable precedent, as the conditions on this site are unique.

Director Environmental Services Recommendation:

That Council agree to the minor variation to Clause 6.3.5 of its Flood Risk Management Policy allowing isolated filling on proposed allotments 51 to 56 and 46 to 49 and 63 to 72 and 74 to a maximum of 1.42 metres for the reasons stated in the body of this report.

2003. P88

RESOLVED:

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

That the Directors recommendation be adopted.



At this stage 10.32 a.m. the Meeting adjourned for Morning Tea and upon resumption at 11.05 a.m. all present at the adjournment were in attendance.



SUMMARY:

Reporting that Council has received a request to modify conditions of consent to permit a variation to an approved height of a building for which objections have been received.



Applicant: R & P Ryan
Subject Land: Lot 21 DP 733618 Paragon Avenue, South West Rocks
Zone: 3(v) Business Village Zone

Background

At its meeting of the 17th November 1998, Council considered a report relating to a proposed five storey building on the subject land. Council subsequently resolved:

“That the applicant be advised that Council is prepared to consider an application supported by an appropriate SEPP 1 objection for a building which exceeds three storeys and which incorporates the following:-

- 1 *An overall height above natural ground level (inclusive of any roof structure or any architectural devices) of not more than 10.5 metres at any point;*
- 2 *Such features as are necessary to ensure that any overshadowing of Paragon Avenue between the hours of 9am and 3pm on the 22nd June is restricted to not more than three hours;*
- 3 *General compliance with the requirements of DCP 22 - Local Housing Strategy.”*

Council further advised that it was prepared to refuse the application unless the requested application was provided.

An amended application was subsequently submitted and, at its meeting of the 9th February 1999, Council resolved to approve of a four storey building on the basis that the lower parking level was set into the ground so as to achieve an overall height consistent with other three storey units in the area. To confirm this, Condition 6 states:

“The plans submitted with the required Construction Certificate are to provide for a building (inclusive of the roof structure) of not more than 10.5 metres above the natural ground surface.”

The applicant has submitted an application to modify Condition 6 to permit a 110 mm encroachment at the north-eastern corner and a 0.6 to 1 metre encroachment in respect to the feature gable. ([Appendix Q](#))

Planning Comment

No objection is raised to the variation for the following reasons:

- 1 The applicant was unable to lower the building any further having regard for the requirement to obtain adequate fall for sewer and stormwater disposal.
- 2 The encroachment in the north-eastern corner is considered to be of minor consequence affecting only a small part of the building.
- 3 The proposed gable end will enhance the architectural appeal of the building when viewed from adjoining properties with minimal, if any, impact on views. (*Appendix R*)

Public Exhibition

As the proposed gable ends would alter the external appearance to the building and having regard to the previous objections relating to height, the proposal was advertised in accordance with Council's Public Notification Policy with 17 objections and three letters in support having been received which may be summarised as follows: (*Appendix S*)

Objection		Planning Comment	
1	Building is 4 storeys where 3 storeys is maximum.	1	Council approved of the 4 storey building in 1999. The current application is restricted to minor intrusions above 10.5 metres.
2	Upper ceiling level is 11.2 metres above the lowest ground level where 9 metres is the maximum.	2	The 10.5 metre level is shown at (<i>Appendix R</i>)
3	The building is not stepped as required by DCP 34.	3	The building was approved prior to DCP 34 having been adopted in June 2001.
4	The building has no setback to Paragon Avenue where 5 metres is required by DCP 34.	4	See Point 3.
5	There is no provision for active street front use as required by DCP 34.	5	See Point 3.
6	Additional floor will add to	6	See Point 1.

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	congestion.		
7	The period of exhibition 23/9/03 to 3/10/03 is less than 10 days.	7	The period of exhibition was 10 days. In addition, the application was readvertised as the initial notice stated the original developer as the applicant with the land having since changed hands, providing a total of 20 days.
8	14 day extension requested.	8	Council's Policy provides for 10 days in which to make submissions which expired on 31 st October 2003. The requested extension expired on 29 th October with an additional submission received 31 st October 2003 which has been included in this report.
9	Alterations are significant and will result in a loss of amenity.	9	See Planning Comment. The eastern façade which exceeds 10.5 metres would not be visible from the objectors premises (12 Prince of Wales Ave).
10	View from Units at No 21 Paragon Avenue will be impeded.	10	Similarly, the eastern façade will not be visible from No 21 Paragon Avenue. (<i>Appendix T</i>)
11	Building will overshadow Paragon Avenue.	11	See Point 1. It should however be noted that Council previously considered this aspect and determined overshadowing to be acceptable.

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RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Bowen*

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- A That pursuant to Section 96 of the Environmental Planning and Assessment Act, Council approve the modification by agreeing to adopt the amended plans for the purposes of the development consent.
- B That the objectors be advised of Council's decision.

Councillor Hunt recorded his vote against the foregoing Resolution.

DES11	12 RESIDENTIAL AND TWO COMMERCIAL UNITS - SOUTH WEST ROCKS FILE: T6-03-589 AD	{Folio No. 265536}
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SUMMARY:

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



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

Heads of Consideration:

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

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

SEPP 65 - Design Quality of Residential Flat Development

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

DCP 34 - South West Rocks Town Centre

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

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

Planning Comment

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

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

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

DCP 22 - Local Housing Strategy

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

Standard	Required	Proposed	Complies Y/N
DENSITY	1560m ²	1670m ²	Yes
SETBACKS	Do not apply in 3 (v) Zone		Yes

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

*** Planning Comment**

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

- **Solar access** - An assessment of the proposal revealed both units 2 and 8 would not meet the requirements of Section 4.7 of DCP 22, however, the applicant has provided what is considered to be a suitable design solution in the form of a 'light well', as well as being

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designed to ensure 'excellent' cross - ventilation. Both units achieve a 5 star NatHERS energy rating. The applicant has also justified the variations by stating:-

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

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

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

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

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

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

Public Exhibition

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

Objection	Planning Comment
1 The proposal lacks both on and off street carparking provided for both residential and commercial premises, with four on-street carparks included in the proposal	1 An assessment of required carparking revealed the proposal:- <ul style="list-style-type: none"> • Enjoys 2 carparking credits on the basis the 3 existing lots will

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which should not be.

be consolidated;

- Requires 12 covered resident carpark (provided);
- Requires 4 visitor carpark (2 designated, a further 3 shown as vacant on plans adjacent to units 7, 8 and 9 resident parking);
- Requires 8 commercial carpark (2 provided plus 1 excess visitor); therefore:-

24 carpark required (total),
 19 provided,
 2 credits enjoyed,
 3 cash contributions to be charged.

Note: The parking shown on-street was not included in the carparking calculations and the applicant has indicated a willingness to overcome any parking shortfall by payment of carparking contributions. It is for these reasons that carparking provision is considered adequate for the proposal.

2 As the street is a direct route to Arakoon, increased volume of traffic and congestion will substantially increase the risk of traffic accidents.

2 The proposal is located within a designated medium to high density, commercially zoned area, and as such, is considered suitable to the amenity of the area, and will not substantially increase traffic generation on Landsborough Street, which is considered a major arterial road.

Planning Comment

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

Director Environmental Services Recommendation:

A. That approval be granted, subject to the following conditions:-

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- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.
- 2 This consent does not permit the use of either commercial premises.

Separate consent is required whereby details of internal fit-outs are to be provided.
- 3 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
- 4 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
- 5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 6 The units and commercial premises are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.
- 7 Provision of a security deposit to Council totalling \$4200 to cover any damage sustained to public property including footway and kerb and gutter or road pavement during construction and to ensure satisfactory completion of any works on public property required in connection with this approval. The deposit is to be lodged with Council prior to the issuing of the required Construction Certificate and will be released upon submission of documentary evidence indicating that an Occupation Certificate has been issued.
- 8 Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-
 - a Installing a temporary structure on land.
 - b Carrying out water supply work.
 - c Installing, altering, disconnecting or removing a meter connected to a service pipe.
 - d Carrying out sewerage work.
 - e Carrying out stormwater drainage work.
 - f Connecting a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer which connects with such a public drain or sewer.

g Disposing of waste into a sewer of the Council.

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

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

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

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

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

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

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

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

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

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

- 15 Compliance with the Building Code of Australia.**

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

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

- 16 If the soil conditions require it:-
 - (a) retaining walls or other approved methods of preventing movement of the soil must be provided; and
 - (b) adequate provision must be made for drainage.
- 17 The dwellings shall be constructed to include all of the energy efficiency requirements as specified by the assessment No 003/KEM/1027 dated 24th October 2003 provided with the application.
- 18 The hours of operation of construction activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- 19 Building materials are not to be stored within the road reserve or any other public place.
- 20 Excavated material from the site is not to be placed within the road reserve or any other public place.
- 21 Vehicular access from the street to the property boundary is to be via a heavy duty layback and full width 150mm thick reinforced concrete paving. A detailed plan is to be submitted prior to the release of the Construction Certificate.
- 22 Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.
- 23 All internal parking areas, accessways, turning areas, driveways and ramps are to be constructed in accordance with Council's Parking Code and Engineering Guidelines for Subdivision and Development before occupation of the building or commencement of the proposed land use. All such areas to be concrete paved.
- 24 Provision of a physical barrier across the full road frontage of the property suitable to prevent vehicular access at locations other than the approved driveways prior to occupation of the premises. Details are to be provided with the plans for the Construction Certificate.
- 25 The plans prepared for the Construction Certificate are to provide for a concrete footpath across the full road frontage of the property in accordance with Council's Engineering Guidelines for

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Subdivision and Development - DCP 36. All works are to be carried out strictly in accordance with the plan.

- 26 Detailed engineering plans and supporting calculations for on site stormwater detention are to be submitted for approval prior to the release of the Construction Certificate and are to be prepared and certified by a qualified Civil Engineer. The design of the proposed system will limit post development flows to be less than or equal to pre development flows for all storm events up to and including the 1 in 100 year storm event in accordance with "Australian Rainfall and Runoff" and Councils Engineering Guidelines for Subdivision and Development DCP 36.
- 27 Prior to the issuing of an Occupation Certificate the following requirements are to be satisfied:-
 - a Work-as-executed details obtained by the person responsible for the design and supervision are to be submitted to verify the storage has been constructed in accordance with the design requirements, and that floor levels are above the minimum required. Any significant variations must be supported by amended calculations.
 - b Verification that an appropriate 88B restriction as to user has been placed on the title of the land describing the facility clearly and that it is not to be varied in any way without the consent of Council.
- 28 Stormwater from the development is to be connected to Councils stormwater drainage system in Landsborough Street located approximately 87 metres to the east. The Landsborough Street road reserve is to be 375mm.
- 29 Detailed engineering plans for relocation of Councils sewer main clear of the proposed building are to be submitted for approval prior to the release of the Construction Certificate and are to be prepared and certified by a qualified Civil Engineer in accordance with Councils Engineering Guidelines for Subdivision and Development - DCP 36. Works-as-executed plans are to be submitted prior to the issuing of an Occupation Certificate.
- 30 Lot 8 Section 7 DP 374092 and Lots A and B DP 301224 are to be consolidated into one lot prior to the issuing of an Occupation Certificate.
- 31 Applicant is to submit with the final plan of subdivision copies of any instruments under Section 88B of the Conveyancing Act 1919 relevant to any restrictive covenants, assessments or rights of way created by or affected by this subdivision.
- 32 Submission of an application for Subdivision Certificate pursuant to Section 4A of the Environmental Planning and Assessment

Act 1979, which authorises the registration of the plan of subdivision.

- 33 Submission of an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the 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.
- 34 You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with:-
- a Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$2964 per equivalent tenement, i.e $\$2964 \times 9.29 \text{ E.T} = \$24,535$. (Indexed 2003/2004)
 - b Payment of a contribution towards district water supply at the rate of \$1184 per equivalent tenement, i.e $\$1184 \times 9.29 \text{ E.T} = \$10,999$. (Indexed 2003/2004)
- 35 The applicant is to pay a contribution towards outdoor recreation for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Construction Certificate, at the rate prevailing at that time. The current rate is \$1842 per additional dwelling unit, i.e $\$1842 \times 9.29 \text{ E.T} = \16578 . (Indexed 2003/2004)
- A copy of Council's Section 94 Plan may be inspected at Council's offices, Corner Elbow and Tozer Streets, West Kempsey.
- 36 Submission of a detailed landscaping plan providing for the establishment of suitable species endemic to the area, including the number and species of plants to be planted and the means of establishing the landscaping beds prior to release of the Construction Certificate.
- 37 Soil Erosion control measures are to be implemented on the site. The control measures shall be in accordance with Council's Guidelines - Preparing an Erosion and Sediment Control Plan. The Control Plan is to be submitted and approved prior to release of the required Construction Certificate.
- 38 Payment of a cash contribution in lieu of the provision of on-site carparking in accordance with Council's Section 94 Plan for off-street carparking at the rate applicable at the time of payment (currently \$12541 per space), based on 3 parking spaces, prior to release of the Construction Certificate. The total cash contribution is for the sum of \$37,623 (indexed 2003/2004).

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

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

B. That the objector be notified.

2003. P90

RESOLVED:

Moved: Cl. Bowen
Seconded: Cl. Sproule

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

DES12

REVIEW OF DCP 22

FILE: T4-88 RBP

{Folio No. 265537}

SUMMARY:

Reporting on the results of public consultation in respect to proposed amendments to DCP 22 - Local Housing Strategy.



Background

At its meeting of 23rd September 2003, Council resolved:

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

Public Exhibition

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The draft Development Control Plan was subsequently advertised from the 7th October to 7th November 2003 with eleven submissions having been received which may be summarised as follows (*Appendix W*):

Objection	Planning Comment
1 Issues addressed by the SWR Committee should apply to the whole Shire.	1 It is agreed that none of the proposed controls relate to issues specific to SWR and could equally be applied elsewhere. However, Council considered this view in determining to exhibit a draft DCP with specific separate provisions for SWR.
2 Important vegetation must be identified before any development can proceed.	2 "Important vegetation" is not a new definition and was included in the original DCP 22. In respect to existing zoned land, important vegetation is required to be identified at subdivision stage with the means of protecting the vegetation specified. DCP 22 does not relate to non-urban zones whereby it is agreed that important vegetation should be protected by appropriate restrictive zonings.
3 What criteria will Council use to define ecologically sustainable development.	3 ESD principles require Council to consider the "triple bottom line" of environmental social and economic impacts of development. It is for the Council of the day to determine what weighting they choose to place on each aspect when defining what is ESD.
4 Delegations to officers dangerous and takes responsibility away from Councillors.	4 The proposed increased delegation would only apply:- • When no objections are received; and • Where a submission has been made by the applicant (which is available to the public) which demonstrates that the General Performance Objectives of the plan have been met. As an added safeguard, it is suggested that words be included

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		to the effect that in addition to these criteria, the variation(s) must represent a minor departure from any development standard. (See "Recommended Variations to the Exhibited Draft DCP").
5	Section 4.1 Column 1 to Table substitute "site area" for "site density".	5 Agreed.
6	Minimum allotment size for a 4 bedroom dwelling should be 650m ² , not 500m ² .	6 See "Recommended Variations to Exhibited draft DCP".
7	Objectives to encourage economic expansion and to consider the principles of ESD are at odds.	7 See Point 3.
8	Should include a provision to include retention of undergrowth.	8 DCP 22 cannot be used as an arbitrary control to protect the habitat of native flora and fauna. That is the function of Section 5A of the Environmental Planning and Assessment Act whereby ecological assessments are required to determine whether developments are likely to result in significant impacts on any threatened flora and fauna. It is the recommendations of those assessments which may (or may not) require retention of understorey vegetation. Retention of understorey vegetation can only effectively be achieved in a reserve system and not on individual private residential allotments. The feasibility of such reserves must also be considered in terms of satisfying bushfire requirements and in terms of Council's ability to maintain those reserves for habitat purposes, including weed, access & litter control.

9	Streetscape section should include provisions preventing overhead wires and control fencing.	9	DCP 36 requires all electricity services to be underground.
			The Committee considered the issue of fencing, however, no preferred type or controls were determined.
			As suggested to the Committee, Council may find it difficult to discriminate against any particular type of fencing in favour of another.
10	Need controls preventing use of brick and tiles similar to adjoining lots and require variations in floor plans.	10	Although discussed, the Committee did not consider it necessary to place any restriction on building materials considering such controls to be over regulatory.
			DCP 37 contains provisions requiring predominantly non-masonry external cladding which reflects the character of Hat Head.
			Buildings erected in residential areas of SWR since the 1970's have predominantly been of brick and tile construction.
11	The Committee was "stacked" with developers and the two (2) Councillors have no interest in conservation issues at SWR.	11	No planning comment.
12	Committee should have representatives from all towns and villages.	12	Council has resolved to convene similar committees in other towns and villages.
13	Strong market for smaller lots to 550m ² . Should retain 500m ² minimum.	13	See "Recommended Variations to Exhibited draft DCP".
14	Larger lots would force prices up.	14	Council controls must strike a balance between housing affordability and other competing, conservation interests.
			North Coast REP 1988 requires Council to have flexible provisions

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		to provide for a range of housing choices in recognition of the dwindling land supply, the exponential increase in demand and associated upward pressure on housing costs.
		Larger lots would result in decreased supply and increased costs, leading to a rapid escalation in prices. This is likely to create even greater pressures for medium density housing in the longer term.
		See "Recommended Variations to Exhibited DCP".
15	Controls on dual occupancy and subdivision overly restrictive. Lots less than 650m ² , 20 metres in width should be considered.	15 The draft DCP would not prevent Council approving of developments at variance to the controls provided the developer is able to demonstrate that the underlying performance objectives of the plan would be met.
16	Medium density development need to utilise land efficiently so as to prevent "urban sprawl".	16 Agreed.
17	Proposed changes would make housing unaffordable for young families and pensioners.	17 See Point 14.
18	Large properties difficult to maintain by aging population.	18 Agreed. As advised to the Committee, restrictions which significantly decrease densities in the shorter term, may result in the opposite effect in the longer term as the existing owners age and spiraling property prices combine to force greater urban consolidation. Larger lots would create increased development potential in the longer term.
19	Changes are an overreaction as dual occupancy only represents	19 Noted. Whilst the Committee was formed to formulate controls to protect key design and landscape

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	10% of approved dwellings.		elements at SWR, the Committee was made aware that such controls could not be used as defacto restrictions to prevent medium density development.
20	Controls should apply to new lots not existing lots and implementation should be delayed.	20	See Point 15.
21	Recommended change for DCP 22 to apply to the whole shire not recommended by Committee has caused confusion.	21	See Point 1. The recommendation that the draft DCP apply to the whole Shire was that of the Committee. Council subsequently resolved that such a recommendation was beyond Council's terms of reference to the Committee with the exhibited DCP containing a separate section for SWR.
22	New LEP required.	22	A review of the LEP for SWR may well be justified. However, the future form of the LEP is currently unknown, with PlanFirst being under review. DIPNR are expected to provide best practice guidelines by 31 st December 2003. Council is obliged to deal with applications to develop existing zoned land with DCP 22 being the relevant development control document.
23	No controls for impacts on Heritage Items have been included.	23	Controls relevant to Heritage Items are contained in KLEP 1987, NCREP 1988 and DCP 34. No Heritage Items currently identified are located on residential zoned land which is affected by DCP 22.
24	NatHERS limited in application. Requirement that NatHERS certification only apply to attached housing may force	24	NatHERS is the system of assessment approved by the Sustainable Energy Development Authority.

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	<p> dwellings closer leading to energy inefficiency.</p>	<p>The Building Code of Australia specifies a minimum separation between detached housing, whether or not on the same allotment, of 1.8 metres without additional fire rating.</p> <p>It is suggested that Section 4.7.4 d) be amended to include a requirement for NatHERS certification of dwellings either attached or separated by less than 1.8 metres between external walls as fire rating requirements may affect energy efficiency. (See "Recommended Variations to the Exhibited draft DCP").</p> <p>Note: The current system of energy efficiency is soon to be incorporated in the BCA which will override DCP 31.</p>
25	<p>Suggested lots of 1000 to 2000m² in sloping areas has not been adopted.</p>	<p>25 The reference was included in a discussion paper prepared for the Committee and reflects lot sizes, currently being achieved in sloping areas at New Entrance. No such provision was adopted by the Committee.</p>
26	<p>Further public consideration needed.</p>	<p>26 Should Council wish to extend the period of public consultation, the existing DCP will continue to apply without any specific provisions for SWR, several of which are agreed to by all parties.</p>
27	<p>Plan does not apply to additions to existing dwellings. Why?</p>	<p>27 It is intended that whilst the development standards should not apply to additions to existing dwellings, the General Performance Objectives should continue to apply where existing dwellings comply with relevant standards. This reflects the fact that Council has invariably agreed to variations to development standards where existing dwellings do not comply (see Recommended Variations to the Exhibited draft DCP).</p>

28	Council is only required to “have regard” to relevant design guidelines. Council should bind themselves to the requirements of relevant guidelines eg. the Coastal Design Guidelines for NSW.	28	The relevant guidelines referred to are not binding statutory documents as they are “guidelines” and contain few, if any, development standards. Similarly, the entire DCP is not legally binding on Council, however, any variations must be justifiable.
29	Limit on encroachment into front setback of 1.5 metres has been removed.	29	This omission was inadvertent and should be retained. (See Recommended Variations to Exhibited draft DCP).
30	Reference to outermost face of a wall in respect to setbacks has been removed.	30	This omission was inadvertent and should be retained.
31	Reference to requirement to provide a covered parking space “behind the building line” removed.	31	Removal of reference reflects the setback variations permitted by Section 4.2.1.
32	Reference to economic expansion should not be included in the aims and objectives.	32	Council’s Corporate Strategic Plan has identified the need for economic development as a key priority which must also be balanced against other environmental considerations.
33	Need designated dual occupancy sites.	33	Having regard for Council’s obligation to provide for medium density development Council would find it difficult to defend refusals on non-designated dual occupancy sites where such sites are not subject to any inherent constraints. Council must deal with each application of their individual merits.
34	Committee should be reconvened to produce controls that will address the inappropriate development which has occurred.	34	See Point 26.

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35	The minimum lot size should be in 3.1.	35	Council resolved that the suggested minimum lot size of 650m ² , if approved, would only apply in SWR (See Recommended Variations to the Exhibited draft DCP.
36	Density based on bedroom numbers open to abuse by describing bedrooms as other offices, etc). Definition of dwelling size needed.	36	The definition of a bedroom includes any room capable of being used for sleeping whether or not it is the developers intention to do so.
37	Primary and secondary street frontage needs to be redefined so that backyards can't face main roads.	37	In circumstances where adequate landscaping can be provided, it may be preferable to allow lots to back onto main roads so as to avoid traffic conflicts. Rather than provide such a prescriptive control, in a DCP, it would be preferable to assess each proposal on their respective merits.
38	The energy efficiency scorecard, should be expanded to include rainwater collection and greywater reuse.	38	The State Government is looking to introduce mandatory water efficiency measures for new buildings. However, issues such as the potential health affects of reusing greywater have not as yet been resolved.
39	Maximum Site Coverage Table is inaccurate and misleading.	39	The submission appears to have misunderstood this section which should also be read in conjunction with the definition of Maximum Site Coverage. If adopted, the bold font will be replaced by standard font which will more clearly indicate that a definition for Maximum Site Coverage is included.
40	Exhibited DCP not the same as recommended by the Committee.	40	See Point 21.
41	Plan discusses issues for	41	Each provision including general

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	the whole Shire which were not discussed by the Committee.		amendments were endorsed by resolution of the Committee. <i>(Appendix X)</i>
42	Other Councils use size to designate dual occupancy lots.	42	DCP 22 uses lot size to designate dual occupancy lots by specifying the minimum area per bedroom.
43	Council ignores current requirements of DCP. Will proposed provisions have any consequence?	43	Council has never ignored the requirements of DCP 22. DCP 22 has inbuilt mechanisms for varying development standards where the underlying performance objectives are met. DCP 22 adopts the principle that innovative design alternatives should not be stifled by rigid regulation.
44	Who decides what vegetation should be retained in subdivisions?	44	Section 11.3 specifies that vegetation not required to make way for roads and services and future buildings should be retained. The requirement for maximised tree retention will ensure that subdivisions are designed to avoid unnecessary tree removal.
45	Offset for long walls should be reduced to 0.5 metres.	45	Rather than reduce the offset required for walls greater than 20 metres, it is considered preferable for variations to be granted on a merits basis provided no objections have been received. If Council rejects proposed Section 2(f), the required offset should be reduced to 0.5 metres to reflect variations previously granted by Council.
46	Council could consider introducing a slope limit at which height variations to the 6.2 metre limit would be considered.	46	Due to the variable nature of slopes, an average slope may not reflect a problem in only a small part of a lot where compliance would be difficult. Reference to the specific slope of the affected part of an allotment may lead to exceedances on parts

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of an allotment which are not constrained by slope.

The current method is preferred as it places the onus on the applicant to demonstrate that compliance is extremely difficult to achieve.

47 Perhaps the 20 metre width restriction could be relaxed in exchange for decreased density of development. Should any additional controls apply to medium density development.

47 Rather than arbitrarily write such controls into the DCP, it is preferable to rely on the current requirements of Section 9 whereby the applicant would need to justify any variation.

Density as well as other allowances may be considered to satisfactorily offset any reduction in the minimum width.

It was considered by the Committee that the proposed controls would not unduly restrict medium density development.

48 Recent rezoned Riverview Place should be reclassified low density.

48 Agreed. (See Recommended Variations to the Exhibited Draft DCP).

2003. P91

RESOLVED:

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

A That Council resolve to adopt the draft Development Control Plan, appended to this report, effective upon public notification being given.

B That persons who made submissions be advised of Council's decision and thanked for their input.

2003. P92

RESOLVED:

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

That the two Councillors and the staff be thanked for their input into the Review.

DES13	PROPOSED DWELLING NEW ENTRANCE
FILE: T6-02-486 RBP	{Folio No. 265538}

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

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SUMMARY:

Reporting that Council has received expressions of interest from persons interested in serving on a Community Committee to assist Council to prepare a Local Environmental Plan for the area south of Crescent Head.

**Background**

At its meeting of the 12th August 2003, Council resolved to prepare a draft Local Environmental Plan to restrict the form and type of development in the area south of Crescent Head serviced by Point Plomer Road so as to protect the existing unspoilt character of the locality. Council further resolved to appoint a Community Committee to assist in identifying desirable planning controls for the area.

At its meeting of the 23rd September 2003, Council considered a report concerning the process for appointing a Committee whereby it resolved to hold a public meeting prior to advertising for expressions of interest to serve on the Committee.

A public meeting was subsequently held on the 16th October 2003 which was well attended by the community at which information was provided concerning the background to the proposed LEP; existing planning controls make up and role of the Committee; and the likely public consultation process throughout the LEP preparation process.

An invitation for expressions of interest was advertised with 14 submissions having been received. (*Appendix D1*) The submissions may be summarised as follows:

	KEY PLANNING ISSUES	AREA OF INTEREST/ EXPERTISE	COMMUNITY INVOLVEMENT
Garry Hamill	• Ecologically sustainable development	• Resident of Point Plomer Road • Tourist Operator	• Crescent Head Chamber of Commerce
Nerida Ahern	• Controlling inappropriate development	• Womens perspective	• Active in community affairs
Chris Dockrill	• Point Plomer Road residents key stakeholders pro-conservation.	• Experienced in Meetings procedures and serving on committees.	• KSC Australia Day Award recipient for community cultural activities.
Fred Andrews	• Aboriginal sites • Development	• Owner of tourist accommodation,	• Sporting group

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	controls on height and size.	Point Plomer Rd	
David Wilcox	<ul style="list-style-type: none"> • Managing increase in people using area. 	<ul style="list-style-type: none"> • Tourism promotion. (ex) Real Estate Agent. 	<ul style="list-style-type: none"> • Crescent Head Chamber of Commerce. Lions International.
Phil Heaton	<ul style="list-style-type: none"> • Aboriginal sites • Groundwater • Habitat Protection • Visual Amenity • Camping & Livestock control. 	<ul style="list-style-type: none"> • Land rehabilitation • Coordinator of Coastal Rehabilitation. 	<ul style="list-style-type: none"> • President of NSW Dunecare Conference Committee.
Brian Hardy	<ul style="list-style-type: none"> • Aboriginal Issues. 	<ul style="list-style-type: none"> • Builder and Tourist Manager • Resident of Point Plomer Road 	<ul style="list-style-type: none"> • C/H Chamber of Commerce • C/H Chamber of Sustainable Commerce • Goolawah Dune Care • Goolawah Advisory Committee • Saltwater Killick Creek Group • C/H Ratepayer Association • C/H Malibu Club • C/H Surf Club
Margo Johnston	<ul style="list-style-type: none"> • Monitoring development. Aboriginal Issues. 	<ul style="list-style-type: none"> • Project management, meetings procedures, communication skills. 	<ul style="list-style-type: none"> • KSC Access Committee • Kempsey Family Support Service • Crescent Head Clean Up Australia Day • President C/H Out of School Hours • C/H Tennis Club • KSC Community Services Committee • C/H Public School Canteen Volunteer
Madeleine Mainey	<ul style="list-style-type: none"> • Flora & Fauna Protection • Aboriginal Issues • Economic Viability • Safety • Social Justice. 	<ul style="list-style-type: none"> • Development of strategic plans • Research Community Consultation • Communication Skills 	<ul style="list-style-type: none"> • KSC Access Committee • KSC Beautification Committee • Womens Gathering Committee • C/H Pre-School Committee • C/H Public School P & C • Macleay Hastings

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			Safe Communities Committee • Tank Radio News • Kempsey Arts Council • C/H Country Club • C/H Bushfire Brigade • Primary School Committee
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Polly Thompson	<ul style="list-style-type: none"> • Sustainability Rural Uses • Coastal Rehabilitation • Restrictions on camping in the National Park 	<ul style="list-style-type: none"> • Owner of Point Plomer Road property • Completing Masters Degree in Environmental Science • Public land management, policy development. 	<ul style="list-style-type: none"> • NSW RFS • Pittwater Natural Heritage Association • West Pittwater Commerce Association
Peter Cornish	<ul style="list-style-type: none"> • Controls on commercialism 	<ul style="list-style-type: none"> • Business operator • Intimate knowledge of the area 	<ul style="list-style-type: none"> • President of C/H Chamber of Sustainable Commerce
John Jeayes	<ul style="list-style-type: none"> • SEPP 71 • Environmental Issues 	<ul style="list-style-type: none"> • Understanding of environmental issues • Coastal rehabilitation • Experienced with groups and committees. 	<ul style="list-style-type: none"> • President C/H Ratepayer & Residents Association • Goolawah Advisory committee • Various Council advisory committees
Peter Ingles	<ul style="list-style-type: none"> • Balancing needs of users and environment 	<ul style="list-style-type: none"> • Regular user of area • Coastal management 	<ul style="list-style-type: none"> • Millbank Hall Committee assisted • Construction of the delicate weather shed
Roger Ferguson	<ul style="list-style-type: none"> • Sustainable Development • Aboriginal Issues, • Plomer Road Upgrading • Effluent Disposal 	<ul style="list-style-type: none"> • Knowledge of plans, policies • Aboriginal Issues • Coastal Protection. 	<ul style="list-style-type: none"> • Sports Coach • Police Boys Club • Cultural Activities • Tidy Towns Committees • Save Our Racecourse Environment Action Group

Council previously resolved that the Committee be comprised of a total of eight community representatives including two members nominated by the Aboriginal Liaison Committee being Ms Mary-Lou Buck and Mr John Kelly.

It is for Council to determine the remaining six community representatives from the submissions received.

Director Environmental Services Recommendation:

For Council's determination.

2003. P93

RESOLVED:

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

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1. That the two nominees from the Aboriginal Liaison Committee, Mrs Mary-Lou Buck and Mr John Kelly, be accepted and invited to become members of the Community Committee.

2. That the expressions of interest received from the following persons be accepted and they be invited to become members of the Community Committee;

- Gary Hammill
- Chris Dockrill
- Margo Johnston
- Madeleine Mainey
- Polly Thompson
- Roger Ferguson

and that Brian Hardy be reserve member for the committee.

3. That all applicants be thanked for their expressions of interest.

2003. P94

RESOLVED:

*Moved: Cl. Bowen
Seconded: Cl. Sowter*

That Councillors Bowell and Hunt be accepted as official nominees for the Community Committee.

DES15	PROPOSED DIRECTIONAL SIGN	
	FILE: A4-2 RBP	{Folio No. 265542}

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

DES16	PROPOSED DWELLING SOUTH KEMPSEY	
	FILE: T6-02-707 RBP	{Folio No. 265550}

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

DES17	REQUEST TO MODIFY CONSENT - FISHERMANS REACH	
	FILE: T6-02-203 RBP	{Folio No. 265552}

SUMMARY:

Reporting that Council has received a request to modify conditions of consent relating to the upgrading and maintenance of an access road for a rural industry at Fishermans Reach for which an agreement has been reached which requires Council's endorsement.

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Background

At its meeting of 24th June 2003, Council considered a request to modify conditions of consent relating to the construction and maintenance of Serrata Lane required to service a rural industry being the packaging of avocados and other rural produce.

Council subsequently resolved to conduct a works inspection whereby it was decided to refer the matter back to the Planning Committee for determination. Subsequent to that meeting, discussions have been held with the applicant with a view to reaching an agreement concerning a suitable contribution towards the road.

The applicant's legal advisor has produced an opinion contending that there is an argument that the packaging of avocados within this shed, including avocados not grown on the property is not a rural industry and does not require consent.

Although this view is not concurred with on the basis that the proposed use represents a change of building classification which now requires development consent under the Environmental Planning and Assessment Act and by the nature of the use, negotiations were entered into on the basis of the history of Serrata Lane, being a dedicated public road which has never been maintained by Council.

It should be noted that the original estimate to upgrade the road to a suitable standard of \$130,000 to \$150,000 was based on construction of a road suitable to withstand semi-trailer movements over a standard 25 year pavement life which included associated drainage structures.

Section 94 of the Local Planning and Environment Act 1979 allows Council to levy contributions towards the provision of public amenities and public services.

Section 94 of the Act recognises that a contribution plan needs to incorporate into the plan the concept of reasonableness.

On that basis it may be fair that Council recognises the fact that the road was constructed to Councils minimum standards at the time for that particular subdivision and the road dedicated at the time of subdivision in 1979. Council's Director of Engineering concurs that in recognition of works undertaken in the past, acceptance by Council of a lesser standard of construction would be fair in these particular circumstances.

On the basis that Council allows a credit for the pavement previously provided at the time of subdivision by the applicant and with an allowance for its subsequent maintenance over a 20 year period with Council to accept responsibility to maintain the road into the future, a new condition has been agreed upon to replace the previous conditions to read as follows:

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"It is recognised that the applicant has maintained Serrata Lane to date. The payment of a cash contribution towards the upgrading and maintenance of Serrata Lane in accordance with Council's Section 94 Plan for Rural Roads is \$10,232. This contribution recognises Council will now assume all responsibility for maintenance of the road in the future. The contribution is to be paid prior to the release of the construction certificate at the rate prevailing at the time."

Financial Implications

The financial implications of the following recommendation would be a loss of \$60,158 towards road upgrading and maintenance of Serrata Lane.

2003. P95

RESOLVED:

*Moved: Cl. Bowen
Seconded: Cl. Sowter*

That Council agree to modify conditions of consent by replacing Condition 16 and 17 with the condition as follows;

It is recognised that the applicant has maintained Serrata Lane to date. The payment of a cash contribution towards the upgrading and maintenance of Serrata Lane in accordance with Council's Section 94 Plan for Rural Roads is \$10,232. This contribution recognises Council will now assume all responsibility for maintenance of the road in the future. The contribution is to be paid prior to the release of the construction certificate at the rate prevailing at the time.

DES18	BUILDING AND DEVELOPMENT	
	FILE: B9-2 BWC (NRN)	{Folio No. 265553}

SUMMARY:

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



Reporting that the following applications have been approved.

Council Report on Local Development Application

Reporting that the following applications have been approved

2001/LD-00010 Lot 119 DPDP752409 COOKS LANE CLYBUCCA
CONTINUED USE OF EXISTING DWELLING
Owner: WHALEN RC & RA
Builder: 0

2003/LD-00186 Lot 511 DPDP1048157 STEVE EAGLETON DR SOUTH
WEST ROCKS

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23 LOT SUBDIVISION & RESIDUE
Owner: ERIC NORMAN DEVELOPMENTS PTY LTD
Builder: 23

2003/LD-00191 Lot 511 DPDP1048157 STEVE EAGLETON DR SOUTH
WEST ROCKS
STAGE 3, 23 LOT SUBDIVISION
Owner: ERIC NORMAN DEVELOPMENTS PTY LTD
Builder: 23

2003/LD-00201 2582 SOUTH WEST ROCKS ROAD KINCHELA
FLOOD MOUND
Owner: FORD R A, E & RD
Builder: 0

2003/LD-00304 53 NORTH STREET WEST KEMPSEY
LONG DAY CHILDCARE FACILITY
Owner: THE LEARNING TREE CHILDRENS CENTRES PTY
LTD
Builder: 0

2003/LD-00318 42 WIRRANG DRIVE DONDINGALONG
FARM STAY
Owner: ROBERTS S F
Builder: 0

2003/LD-00351 Lot 11 DPDP554777 LOFTUS ROAD BELMORE RIVER
DWELLING & MACHINERY SHED
Owner: RIGG S J
Builder: 0

2003/LD-00368 Lot 83 DPDP752419 TURNERS FLAT
DWELLING ADDITIONS
Owner: O CONNOR T L
Builder: 0

2003/LD-00396 17 OCEAN STREET SOUTH WEST ROCKS
TWO STOREY DWELLING
Owner: LEWIS D F & D M
Builder: 0

2003/LD-00411 365 OLD STATION RD VERGES CREEK
DWELLING
Owner: STUART R L
Builder: 0

2003/LD-00441 Lot 68 DPDP752431 WILLI WILLI ROAD
MOPARRABAH
DWELLING
Owner: WALSH N H & S P
Builder: 0

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2003/LD-00442 Lot 893 DPDP701552 MOPARRABAH ROAD
MOPARRABAH
DWELLING
Owner: WALSH NH & SP
Builder: 0

2003/LD-00448 Lot 69 DPDP754423 KINCHELA CREEK LEFT BANK
RD KINCHELA
DWELLING
Owner: COOK R
Builder: 0

2003/LD-00460 14 DARKWATER STREET GLADSTONE
RESUBDIVIDE EXISTING 3 ALLOTMENTS INTO 2
Owner: THURGOOD SA
Builder: 2

2003/LD-00481 Lot 121 DPDP752419 SHERWOOD ROAD
SHERWOOD
DWELLING
Owner: BARNETT J & W
Builder: 0

2003/LD-00489 Lot 101 DPDP555750 HOPETOON STREET KEMPSEY
FILL PRIOR TO CONSTRUCTION
Owner: RANATAN PTY LTD & SCHIMER R B J
Builder: 0

2003/LD-00538 2/42 GREGORY STREET SOUTH WEST ROCKS
DECKING
Owner: FAZAKERLEY K & CLARKE P
Builder: 0

2003/LD-00542 421 WILLI WILLI ROAD TURNERS FLAT
SWIMMING POOL
Owner: USHER G & A
Builder: 0

2003/LD-00548 Lot 12 DPDP1057903 FRANCIS CONN PLACE
FREDERICKTON
DWELLING
Owner: WILLIS C & J
Builder: 0

2003/LD-00550 Lot 2 DPDP1024932 OLD COAST ROAD KUNDABUNG
BOUNDARY ADJUSTMENT & ONE ADDITIONAL LOT
Owner: HABITAT EXPERIENCE
Builder: 1

2003/LD-00552 12 HILTON TROTTER PLACE WEST KEMPSEY
DWELLING
Owner: MUNRO C & C
Builder: 0

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2003/LD-00554 99 GREGORY STREET SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: CROTTY B & K
Builder: 0

2003/LD-00555 41 NEVILLE MORTON DRIVE CRESCENT HEAD
DWELLING & GARAGE
Owner: CLONDA M
Builder: 0

2003/LD-00560 7 OCEAN DRIVE SOUTH WEST ROCKS
FENCING HERITAGE SITE
Owner: KEMPSEY SHIRE COUNCIL
Builder: 0

2003/LD-00569 106 RAVENSWOOD ROAD KUNDABUNG
DWELLING
Owner: BRENNAN I
Builder: 0

2003/LD-00573 181 MARYS BAY ROAD EUROKA
DWELLING
Owner: O'DONNELL P, J & M
Builder: 0

2003/LD-00576 1 ROBERT GARDEM PLACE WEST KEMPSEY
SHED
Owner: CAMERON M & M
Builder: 0

2003/LD-00577 217 RIVER STREET GREENHILLS
ENCLOSING EXISTING VERANDAH
Owner:
Builder: 0

2003/LD-00578 25 MAIN STREET WILLAWARRIN
ADDITION
Owner: WEEDON M
Builder: 0

2003/LD-00582 2 SEA STREET KEMPSEY
SECURITY FENCE
Owner: NSW ATTORNEY GENERALS DEPARTMENT
Builder: 0

2003/LD-00584 80 VERGES CREEK ROAD VERGES CREEK
DWELLING EXTENSIONS
Owner: MARTIN W & C
Builder: 0

2003/LD-00588 275 RIVER STREET GREENHILLS
SHED

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Owner: ROBERTSON B
Builder: 0

2003/LD-00591 7 CARRINGTON STREET WEST KEMPSEY
GARAGE
Owner: LAMBERT W
Builder: 0

2003/LD-00595 39 EDGAR STREET FREDERICKTON
SHED & DRIVEWAY
Owner: NICHOLSON D & S
Builder: 0

2003/LD-00597 25-31 SOUTH STREET SOUTH KEMPSEY
TYRE RETAILING
Owner: LEOPOLD R & L
Builder: 0

2003/LD-00598 41 MCINTYRE STREET SOUTH WEST ROCKS
GARAGE
Owner: SOUTH WEST ROCKS RSL SUB BRANCH
Builder: 0

2003/LD-00599 149 SUMMER ISLAND ROAD SUMMER ISLAND
ABOVE GROUND SWIMMING POOL
Owner: HICKSON T & A
Builder: 0

2003/LD-00601 4/31-33 FREDERICK KELLY STREET SOUTH WEST
ROCKS
DOG GROOMING
Owner: FOLEY P
Builder: 0

2003/LD-00604 2 JAMES GRIMWADE PLACE EAST KEMPSEY
DWELLING & ATTACHED GARAGE
Owner: COOPER S
Builder: 0

2003/LD-00609 17 HILL STREET SOUTH WEST ROCKS
INGROUND POOL & FENCE
Owner: RAY L D
Builder: 0

2003/LD-00610 6 SANDERS PLACE SOUTH WEST ROCKS
DWELLING
Owner: WILLIAMSON R
Builder: 0

2003/LD-00615 Lot 216 DPDP1011333 GOWINGS HILL ROAD
DONDINGALONG
DWELLING
Owner: DE BOER J

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SHIRE COUNCIL HELD ON TUESDAY 25TH NOVEMBER 2003.***

.....
MAYOR

Builder: 0

2003/LD-00617 Lot 9 DPDP1057903 FRANCIS CONN PLACE
FREDERICKTON
DWELLING
Owner: ARNCAT (NOMINEES) PTY LTD
Builder: 0

2003/LD-00618 25 GLADSTONE STREET KEMPSEY
MINI STORAGE UNITS ADDITIONS
Owner: PACKWOOD M&H
Builder: 0

2003/LD-00619 61-79 RAWSON STREET SMITHTOWN
ADDITIONS
Owner: NESTLE AUSTRALIA LTD
Builder: 0

2003/LD-00620 87 WARDS ROAD ALDAVILLA
NON HABITAL GLASSROOM
Owner: LANGER M & L
Builder: 0

2003/LD-00631 Lot 15 DPDP1057903 FRANCIS CONN PLACE
FREDERICKTON
SHED
Owner: FULLER R J & T L
Builder: 0

2003/LD-00632 66 BELMORE STREET SMITHTOWN
DWELLING ADDITION
Owner: SUTHERLAND S & C
Builder: 0

2003/LD-00634 9 INNES STREET EAST KEMPSEY
DETACHED GARAGE
Owner: LOLLBACK W & K
Builder: 0

2003/LD-00637 54 BLOOMFIELD STREET SOUTH KEMPSEY
ADDITIONS
Owner: CARTWRIGHT S
Builder: 0

2003/LD-00639 Lot 11 DPDP1008056 BELLE RIO CLOSE VERGES
CREEK
DWELLING & SHED
Owner: MAINEY C
Builder: 0

2003/LD-00642 301 RIVER STREET GREENHILLS
DRAINAGE INTERLOT
Owner: BOOTH C & W SUPERANNUATION FUND

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SHIRE COUNCIL HELD ON TUESDAY 25TH NOVEMBER 2003.*

.....
MAYOR

Builder: 0

2003/LD-00647 Lot 2 DPDP1009322 PACIFIC HIGHWAY
FREDERICKTON
GARAGE
Owner: HARWOOD D & R
Builder: 0

2003/LD-00649 1 TREVOR JUDD AVENUE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: LYNCH A & Z
Builder: 0

2003/LD-00650 221 GRASSY HEAD ROAD STUARTS POINT
SHED
Owner: PALLOT W & J
Builder: 0

2003/LD-00652 98 SEA STREET WEST KEMPSEY
DWELLING
Owner: WATERSON G
Builder: 0

2003/LD-00653 13 WALKER STREET CRESCENT HEAD
PICTURE FRAMING BUSINESS
Owner: BARNETT G & K
Builder: 0

2003/LD-00655 96 SEA STREET WEST KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: WATERSON G
Builder: 0

2003/LD-00656 178 CRESCENT HEAD ROAD SOUTH KEMPSEY
GARAGE
Owner: FIRKIN A & S
Builder: 0

2003/LD-00660 Lot 3 DPDP1043473 SMITHS CREEK ROAD
KUNDABUNG
DWELLING & AGRICULTURAL BUILDING
Owner: TAYLOR A & L
Builder: 0

2003/LD-00661 33 ARMIDALE ROAD YARRAVEL
ABOVE GROUND POOL
Owner: STANDARD A
Builder: 0

2003/LD-00662 27 BARNARD STREET GLADSTONE
INGROUND SWIMMING POOL
Owner: WINN P & K
Builder: 0

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.....
MAYOR

2003/LD-00669 5 GILBERT CORY STREET SOUTH WEST ROCKS
TWO STOREY DWELLING ADDITIONS
Owner: MURNAIN J
Builder: 0

2003/LD-00673 601 SMITHS CREEK ROAD KUNDABUNG
SHED
Owner: MAROCIK S, WOODS S & WOODS J
Builder: 0

2003/LD-00676 154 KINCHELA CREEK LEFT BANK RD KINCHELA
SWIMMING POOL
Owner: CARMODY R & S
Builder: 0

2003/LD-00678 115 NORTH STREET WEST KEMPSEY
CHANGE OF USE - DWELLING AS A DISPLAY HOME
Owner: PERRY HOMES (AUST) PTY LTD

2003/LD-00681 10 MILTON DUFTY PLACE EAST KEMPSEY
DWELLING
Owner: BATES D & R
Builder: 0

2003/LD-00682 26 KENNO PLACE CRESCENT HEAD
GARAGE
Owner: SMITH T & A
Builder: 0

2003/LD-00685 16 CAERLON PLACE GREENHILLS
GARAGE
Owner: SNOWDEN P & W

2003/LD-00690 15 CAERLON PLACE GREENHILLS
DWELLING
Owner: CONNORS G & M
Builder: 0

2003/LD-00691 3 RESERVE ROAD GRASSY HEAD
POOL, SPA, SAUNA & DECK
Owner: MCRAE A
Builder: 0

2003/LD-00694 28 ATHOL ELLIOTT PLACE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: PASS BRIAN
Builder: 0

2003/LD-00695 20 RAFFERTY CRESCENT SOUTH WEST ROCKS
DWELLING
Owner: COLLINS R & L
Builder: 0

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.....
MAYOR

2003/LD-00697 25 YARRAVEL STREET SOUTH KEMPSEY
DWELLING ADDITION
Owner: PEAD T & D

2003/LD-00700 1673 BELMORE RIVER RIGHT BANK ROAD
BELMORE RIVER
DWELLING ADDITIONS
Owner: SCOTT J
Builder: 0

2003/LD-00702 8 BREAM CLOSE HAT HEAD
ADDITION - GLASS ENCLOSURE
Owner: ST AGNES FOUNDATION LIMITED
Builder: 0

2003/LD-00703 25 WHEELDONS ACCESS TURNERS FLAT
SWIMMING POOL
Owner: CHAPMAN R & G
Builder: 0

2003/LD-00704 21 ELRINGTON AVENUE WEST KEMPSEY
GARAGE & VERANDAH / DECK
Owner: LITTLEJOHN M
Builder: 0

2003/LD-00705 55 ARMIDALE ROAD YARRAVEL
ABOVE GROUND SWIMMING POOL
Owner: MCMANNUS D & T
Builder: 0

2003/LD-00710 83 LEITH STREET WEST KEMPSEY
DWELLING
Owner: KETTLE B & J
Builder: 0

2003/LD-00711 Lot 1 DPDP814327 GOWINGS HILL ROAD
DONDINGALONG
INGROUND SWIMMING POOL
Owner: MARTIN G & S
Builder: 0

2003/LD-00718 17 MAIN STREET SMITHTOWN
DWELLING ADDITIONS
Owner: SHELLY J
Builder: 0

2003/LD-00720 111 COCHRANE STREET WEST KEMPSEY
DWELLING ADDITIONS
Owner: WILLIAMS BJ & J
Builder: 0

2003/LD-00728 35 STANLEY FOLKARD PLACE SOUTH KEMPSEY

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.....
MAYOR

DETACHED GARAGE AND CARPORT
Owner: MORRIS BJ & WISE MA
Builder: 0

2003/LD-00730 55 BRUSHBOX CRESCENT YARRAVEL
DWELLING ADDITIONS
Owner: CLARKE A & M
Builder: 0

2003/LD-00733 331 GREGORY STREET SOUTH WEST ROCKS
TIMBER DECK
Owner: CLARKSON P & D
Builder: 0

2003/LD-00735 1 PARK ROAD YARRAVEL
INGROUND POOL
Owner: MERCER M & B
Builder: 0

2003/LD-00736 14 HAT HEAD ROAD KINCHELA
FARM SHED ON EXISTING FLOOD MOUND
Owner: SYDENHAM MB & L
Builder: 0

2003/LD-00737 186 NORTH STREET WEST KEMPSEY
GARAGE
Owner: SUTHERLAND G & FULLER J
Builder: 0

2003/LD-00738 54 CYRUS SAUL CIRCUIT FREDERICKTON
DOUBLE GARAGE
Owner: COUTTS DA & JE
Builder: 0

Summary	Type	No	Value
Local Development Application	90	7469570	

As at 17 Nov 2003 237 applications are in the office awaiting a determination.

The number of applications in excess of 40 days is 113.

The reasons for the matters outstanding are:-

BL	Builders Licence Requirements	1
DR	DA Requirements	1
FD	Further Details Req	70
IA	Incomplete Application	23

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.....
MAYOR

NN	Neighbour Notification	5
OA	Other Agencies	10
RC	Refer Council	1
XX	No Reason Given	2

Council Report on Construction Certificate Building

Reporting that the following applications have been approved

2001/CB-00485 3037 PACIFIC HIGHWAY BARRAGANYATTI
DWELLING
Owner: GREGOR JN & JG

2002/CB-00180 1 STEWART STREET CRESCENT HEAD
CONVERSION OF EXISTING 4 UNITS INTO 3 UNITS.
ADDITIONS AND ALTERATIONS TO EXISTING BUILDING
AND VARIATION TO THE BUILDING LINE TO STEWART ST
AND HEIGHT LIMIT.
Owner: RYDER M & S

2002/CB-00429 Lot 125 DPDP752425 TEMAGOG
DWELLING
Owner: MCGOLDRICK J & I

2002/CB-00460 2 OXLEY PLACE SOUTH WEST ROCKS
DWELLING ADDITION
Owner: O'SHANNESY G & Z

2003/CB-00150 59 OCEAN STREET SOUTH WEST ROCKS
TWO STOREY DWELLING
Owner: OATES B & P

2003/CB-00298 21 KINCHELA STREET GLADSTONE
SHADE SAILS
Owner: LAND R P

2003/CB-00304 Lot 83 DPDP752419 TURNERS FLAT
DWELLING ADDITIONS
Owner: O CONNOR T L

2003/CB-00329 17 OCEAN STREET SOUTH WEST ROCKS
TWO STOREY DWELLING
Owner: LEWIS D F & D M

2003/CB-00330 12-14 COOPER STREET SOUTH WEST ROCKS
DWELLING
Owner: KEITH & COLLEEN ARTHUR

2003/CB-00344 365 OLD STATION RD VERGES CREEK
DWELLING

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.....
MAYOR

Owner: STUART R L

2003/CB-00364 443 PACIFIC HIGHWAY SOUTH KEMPSEY
PLACE OF PUBLIC WORSHIP
Owner: CHRISTIAN OUTREACH

2003/CB-00392 21-23 AKUBRA PLACE SOUTH KEMPSEY
TRUCK PARKING FACILITY FOR 3 TRUCKS
Owner: MCINTYRE N F & R

2003/CB-00414 5 DULCONGHI STREET CRESCENT HEAD
AWNING
Owner: MILIC D & E A

2003/CB-00438 1 STEWART STREET CRESCENT HEAD
CONVERSION OF EXISTING 4 UNITS INTO 3 UNITS.
ADDITIONS AND ALTERATIONS TO EXISTING BUILDING
AND VARIATION TO THE BUILDING LINE TO STEWART ST
AND HEIGHT LIMIT.
Owner: RYDER M & S

2003/CB-00452 2/42 GREGORY STREET SOUTH WEST ROCKS
DECKING
Owner: FAZAKERLEY K & CLARKE P

2003/CB-00457 421 WILLI WILLI ROAD TURNERS FLAT
SWIMMING POOL
Owner: USHER G & A

2003/CB-00464 Lot 12 DPDP1057903 FRANCIS CONN PLACE
FREDERICKTON
DWELLING
Owner: WILLIS C & J

2003/CB-00465 12 HILTON TROTTER PLACE WEST KEMPSEY
DWELLING
Owner: MUNRO C & C

2003/CB-00467 99 GREGORY STREET SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: CROTTY B & K

2003/CB-00472 14 PACIFIC STREET CRESCENT HEAD
TWO STOREY DWELLING
Owner: WILLIAMS MB & KA

2003/CB-00478 106 RAVENSWOOD ROAD KUNDABUNG
DWELLING
Owner: BRENNAN I

2003/CB-00482 217 RIVER STREET GREENHILLS
ENCLOSING EXISTING VERANDAH
Owner:

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.....
MAYOR

- 2003/CB-00483 25 MAIN STREET WILLAWARRIN
ADDITION
Owner: WEEDON M
- 2003/CB-00487 1 ROBERT GARDEM PLACE WEST KEMPSEY
SHED
Owner:
- 2003/CB-00491 275 RIVER STREET GREENHILLS
SHED
Owner: ROBERTSON B
- 2003/CB-00493 80 VERGES CREEK ROAD VERGES CREEK
DWELLING EXTENSIONS
Owner: MARTIN W & C
- 2003/CB-00495 7 CARRINGTON STREET WEST KEMPSEY
GARAGE
Owner: LAMBERT W
- 2003/CB-00501 41 MCINTYRE STREET SOUTH WEST ROCKS
GARAGE
Owner: SOUTH WEST ROCKS RSL SUB BRANCH
- 2003/CB-00502 149 SUMMER ISLAND ROAD SUMMER ISLAND
ABOVE GROUND SWIMMING POOL
Owner: HICKSON T & A
- 2003/CB-00505 39 EDGAR STREET FREDERICKTON
SHED & DRIVEWAY
Owner: NICHOLSON D & S
- 2003/CB-00507 2 JAMES GRIMWADE PLACE EAST KEMPSEY
DWELLING & ATTACHED GARAGE
Owner: COOPER S
- 2003/CB-00509 6 SANDERS PLACE SOUTH WEST ROCKS
DWELLING
Owner: WILLIAMSON R
- 2003/CB-00511 17 HILL STREET SOUTH WEST ROCKS
BRICK POOL FENCE
Owner: RAY L
- 2003/CB-00512 678 POINT PLOMER ROAD CRESCENT HEAD
TOURIST CABINS,DORMITORY, ASSOC REC FACILITIES
Owner: NABATU SUPERFUND PTY LTD
- 2003/CB-00516 Lot 216 DPDP1011333 GOWINGS HILL ROAD
DONDINGALONG
DWELLING
Owner: DE BOER J

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MAYOR

- 2003/CB-00518 Lot 9 DPDP1057903 FRANCIS CONN PLACE
FREDERICKTON
DWELLING
Owner: ARNCAT (NOMINEES) PTY LTD
- 2003/CB-00519 87 WARDS ROAD ALDAVILLA
NON HABITAL GLASSROOM
Owner: LANGER M & L
- 2003/CB-00521 61-79 RAWSON STREET SMITHTOWN
ADDITIONS
Owner: NESTLE AUSTRALIA LTD
- 2003/CB-00532 Lot 15 DPDP1057903 FRANCIS CONN PLACE
FREDERICKTON
SHED
Owner: FULLER R J & T L
- 2003/CB-00533 66 BELMORE STREET SMITHTOWN
DWELLING ADDITION
Owner: SUTHERLAND S & C
- 2003/CB-00534 9 INNES STREET EAST KEMPSEY
DETACHED GARAGE
Owner: LOLLBACK W & K
- 2003/CB-00536 54 BLOOMFIELD STREET SOUTH KEMPSEY
ADDITIONS
Owner: CARTWRIGHT S
- 2003/CB-00538 Lot 11 DPDP1008056 BELLE RIO CLOSE VERGES
CREEK
DWELLING & SHED
Owner: MAINEY C
- 2003/CB-00542 98 SEA STREET WEST KEMPSEY
DWELLING
Owner: WATERSON G
- 2003/CB-00546 Lot 2 DPDP1009322 PACIFIC HIGHWAY
FREDERICKTON
GARAGE
Owner: HARWOOD D & R
- 2003/CB-00547 1 TREVOR JUDD AVENUE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: LYNCH A & Z
- 2003/CB-00548 221 GRASSY HEAD ROAD STUARTS POINT
SHED
Owner: PALLOT W & J

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.....
MAYOR

- 2003/CB-00549 96 SEA STREET WEST KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: WATERSON G
- 2003/CB-00550 178 CRESCENT HEAD ROAD SOUTH KEMPSEY
GARAGE
Owner: FIRKIN A & S
- 2003/CB-00553 Lot 3 DPDP1043473 SMITHS CREEK ROAD
KUNDABUNG
DWELLING & AGRICULTURAL BUILDING
Owner: TAYLOR A & L
- 2003/CB-00554 33 ARMIDALE ROAD YARRAVEL
ABOVE GROUND POOL
Owner: STANDARD A
- 2003/CB-00555 27 BARNARD STREET GLADSTONE
INGROUND SWIMMING POOL
Owner: WINN P & K
- 2003/CB-00559 5 GILBERT CORY STREET SOUTH WEST ROCKS
TWO STOREY DWELLING ADDITIONS
Owner: MURNAIN J
- 2003/CB-00563 601 SMITHS CREEK ROAD KUNDABUNG
SHED
Owner: MAROCIK S, WOODS S & WOODS J
- 2003/CB-00565 10 MILTON DUFTY PLACE EAST KEMPSEY
DWELLING
Owner: BATES D & R
- 2003/CB-00566 154 KINCHELA CREEK LEFT BANK RD KINCHELA
SWIMMING POOL
Owner: CARMODY R & S
- 2003/CB-00567 16 CAERLON PLACE GREENHILLS
GARAGE
Owner: SNOWDEN P & W
- 2003/CB-00568 15 PETER MARK CIRCUIT SOUTH WEST ROCKS
DUAL OCCUPANCY AND SUBDIVISION
Owner: AKHURST C & N
- 2003/CB-00571 26 KENNO PLACE CRESCENT HEAD
GARAGE
Owner: SMITH T & A
- 2003/CB-00573 28 ATHOL ELLIOTT PLACE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: PASS B

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MAYOR

2003/CB-00574 20 RAFFERTY CRESCENT SOUTH WEST ROCKS
DWELLING
Owner: COLLINS R & L

2003/CB-00575 3 RESERVE ROAD GRASSY HEAD
POOL, SPA, SAUNA & DECK
Owner: MCRAE A

2003/CB-00576 15 CAERLON PLACE GREENHILLS
DWELLING
Owner: CONNORS G & M

2003/CB-00578 25 YARRAVEL STREET SOUTH KEMPSEY
DWELLING ADDITION
Owner: PEAD T & D

2003/CB-00582 1673 BELMORE RIVER RIGHT BANK ROAD
BELMORE RIVER
DWELLING ADDITIONS
Owner: SCOTT J

2003/CB-00585 8 BREAM CLOSE HAT HEAD
ADDITION - GLASS ENCLOSURE
Owner: ST AGNES FOUNDATION LIMITED

2003/CB-00586 25 WHEELDONS ACCESS TURNERS FLAT
SWIMMING POOL
Owner: CHAPMAN R & G

2003/CB-00588 21 ELRINGTON AVENUE WEST KEMPSEY
GARAGE & VERANDAH / DECK
Owner: LITTLEJOHN M

2003/CB-00589 55 ARMIDALE ROAD YARRAVEL
ABOVE GROUND SWIMMING POOL
Owner: MCMANNUS D & T

2003/CB-00593 83 LEITH STREET WEST KEMPSEY
DWELLING
Owner: KETTLE B & J

2003/CB-00595 17 MAIN STREET SMITHTOWN
DWELLING ADDITIONS
Owner: ALL STEEL BUILDINGS

2003/CB-00598 Lot 1 DPDP814327 GOWINGS HILL ROAD
DONDINGALONG
INGROUND SWIMMING POOL
Owner: MARTIN G & S

2003/CB-00605 35 STANLEY FOLKARD PLACE SOUTH KEMPSEY
DETACHED GARAGE & CARPORT
Owner: MORRIS BJ & WISE MA

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MAYOR

2003/CB-00606 111 COCHRANE STREET WEST KEMPSEY
DWELLING ADDITIONS
Owner: WILLIAMS BJ & J

2003/CB-00609 55 BRUSHBOX CRESCENT YARRAVEL
DWELLING ADDITIONS
Owner: CLARKE A & M

2003/CB-00611 331 GREGORY STREET SOUTH WEST ROCKS
TIMBER DECK
Owner: CLARKSON P & D

2003/CB-00612 1 PARK ROAD YARRAVEL
INGROUND POOL
Owner: MERCER M & B

2003/CB-00613 14 HAT HEAD ROAD KINCHELA
FARM SHED ON EXISTING FLOOD MOUND
Owner: SYDENHAM MB & L

2003/CB-00614 186 NORTH STREET WEST KEMPSEY
GARAGE
Owner: SUTHERLAND G & FULLER J

2003/CB-00615 54 CYRUS SAUL CIRCUIT FREDERICKTON
DOUBLE GARAGE
Owner: COUTTS DA & JE

Summary

	Type	No	Value
Construction Certificate Building		80	0

As at 17 Nov 2003 198 applications are in the office awaiting a determination.

The reasons for the matters outstanding are:-

BL	Builders Licence Requirements	2
DA	DA Approval Required	2
DR	DA Requirements	5
FD	Further Details Req	34
IA	Incomplete Application	4
NN	Neighbour Notification	1
OA	Other Agencies	1
RC	Refer Council	1
XX	No Reason Given	2

2003. P96

RESOLVED:

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

That the information be noted.

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.....
MAYOR

DIRECTOR ENVIRONMENTAL SERVICES SUPPLEMENTARY REPORT

DES19 (SUPP.)	LOCAL DEVELOPMENT TASKFORCE REPORT FILE: T4-2 BWC
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SUMMARY:

Reporting that the Local Development Taskforce has released its report "Improving Local Development in NSW."



The Assistant Planning Minister, Diane Beamer on the 16th November issued a Press Release in respect to the report of the Local Development Taskforce. ([Appendix I1](#))

The Local Government Association in item 11 of the Weekly Report 46/03 mentioned the Taskforce Report and some initial concerns in respect to that report ([Appendix J1](#)). The Associations are to host a forum on the 1st December 2003 to discuss the recommendations of the Taskforce.

The Taskforce report is a total of 109 pages with a total of 61 recommendations. A copy of the Taskforce Chairmans Message in the report is at ([Appendix K1](#)). In that "message" the issue of complying development is raised particularly in relation to detached houses and associated structures such as carports, swimming pools and additions. The Chairman indicates - "*removing a significant number of these applications from Council's detailed development assessment process will free up Councils resources and allow Council's to direct more attention to complex applications that require a greater quality assessment.*"

The Assistant Planning Minister in her press release indicates the recommendations include "*mandating complying development standards, using certification to remove from councils assessment up to 70% of Development Applications for single houses, alterations, garages, carports, sheds etc.*"

There are no doubt many recommendations that could be seen as unsuitable to local government as the current approval authority for the majority of Development Applications in NSW. For example currently 2 storey dwelling within our Shire requires a Development Consent and is not within the bounds of Complying Development. One of the main reasons for that situation is that the proposal can be advertised and adjoining neighbours notified to provide the ability for them or other interested persons to make a submission for consideration. Recommendations 18-21 in respect to notification are summarised as follows:-

- *Limit notification of DA's and complying development certificates that comply with the common housing standards, to notification that an approval has been granted.*

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.....
MAYOR

- *Notification of single dwelling houses to occur only when there is a variation to the common housing standards.*
- *Preparation of a model notification policy for local development in consultation with ICAC and local government.*
- *Review Environmental Planning & Assessment Act advertising and notification provision to ensure they remain contemporary and provide flexibility.*

The Taskforce is suggesting, as mentioned previously, that complying development, be available for more developments and that certifiers or council (as the certifier) be able to impose conditions.

Many of the recommendations require DIPNR to provide standard documents to be used across the state.

The recommendations, if implemented will have a large impact on how the community, applicants, certifiers and councils will prepare, submit, participate and assess various development proposals.

In some respects there appears to be an undue haste by Government on this issue with the Ministerial Press Release on the 16th November and with submissions to be made by the 19th December. The closing date for submissions is prior to Councils' next Planning Meeting.

It would be wise for Council to be represented at the Forum and for consideration to be given to preparing a submission following that forum.

2003. P97

RESOLVED:

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

- **That Council be represented at the forum on the 1st December 2003.**
- **That Council authorise the Mayor to make a submission on Councils behalf.**

GENERAL MANAGER'S REPORT

GM1	ENVIRONMENTAL SERVICES STAFFING
FILE: S10-45	AVB (NRN) {Folio No. 265554}

SUMMARY:

To outline the need for additional staff resources in Environmental Services Department.

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MAYOR



Economic activity within the Shire in the past three (3) years has grown dramatically and this is being reflected in the number of Development Applications and Construction Certificates being received by Council. Development Applications for the 2001/2002 year were 595 and the expectation for the 2003/2004 year is 1000.

Revenue comparisons between last year and this year are:-

2002/2003 Year

Development Applications		
Original Budget	\$180,000.00	Income Received \$327,971.00
Building Applications		
Original Budget	\$236,000.00	Income Received \$306,914.00

2003/2004 Year

Development Applications		
Original Budget	\$271,500.00	Revised Budget \$336,500.00
Building Applications		
Original Budget	\$283,250	Revised Budget \$333,750.00

The original estimates are conservative as they are prepared at least four months prior to the end of the Financial Year and it is not known whether the level of activity will continue.

The only increase in planning and building staff since 1991 has been one (1) Health and Building Surveyor and an Engineer was transferred from the Engineering Department to undertake the sub-division work. Council has approved the appointment of a Compliance Officer this year but this will not lessen the burden on the approvals staff.

A Process Improvement Team is currently examining the Development Application process and I am sure the recommendations once implemented will result in improved procedures. However, additional staff are required now to overcome the pressures on staff and to reduce processing times.

I have approved the engagement of a contract Health and Building Surveyor for a six month period and have authorised the recruitment of an additional Town Planner. The salaries of these staff can be financed from increased Development Application and Construction Certificate fees. The appointment of any additional permanent staff would be on the basis that any future vacancy would not be filled until an assessment of the then current requirements is made.

I have received the resignation of the Director of Environmental Services, Bruce Casselden, who is to retire effective 9th January 2004. Bruce has had over twenty years service with Council and has occupied the position of Director since 1994. Bruce has been an invaluable member of my Management Team and has served the Kempsey Community responsibly, effectively and honestly during his period of employment, always ensuring the regulatory function of the Council was managed in accordance with the relevant planning legislation and associated instruments and policies.

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Bruce's independent advice and professional opinions are respected by all sides of the regulatory process.

Before advertising for a replacement I am examining our structure to see whether changes should be recommended to Council. During this time an Acting Director will be appointed and if it is for an extended period a temporary staff member will be engaged.

Financial Implications

Additional staff members can be financed from increased income derived from Development Applications and Construction Certificates.

Policy Implications and Statutory Implications

The Policy Implications and Statutory Implications of this report would be nil.

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RESOLVED:

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

1. That Council endorse, through budgetary allocations, the actions of the General Manager in engaging a consultant Health and Building Surveyor and recruiting an additional Town Planner.
2. That the retirement of the Director of Environmental Services be noted and he be issued with a reference under the Seal of Council.



QUESTIONS WITHOUT NOTICE

Councillor Sowter

Councillor Sowter was advised:-

1. That the Director Environmental Services will provide a report on the proposal to request future residential subdivision to use hot mix in carparks and driveways.
2. That the consultants report on carparking at South West Rocks has been sent to consultants at Port Macquarie and that a further report will be provided next year.



At this stage 12.17 p.m. the Meeting adjourned for the Presentation by the Parks and Gardens Staff Process Improvement Team.



At this stage 1.04 p.m. the Meeting adjourned for Luncheon and Works Inspection and upon resumption whilst on inspection at 4.50 p.m. all present at the adjournment were in attendance.



At this stage matters referred from the Works Committee were dealt with.

DES7	DUAL OCCUPANCY
	GREGORY STREET, SOUTH WEST ROCKS
FILE: T6-03-37	AD
	{Folio No. 265517}

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
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	Yes

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		U2: 4.96m	
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	2	Only 1 visitor carpark is required for dual

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	requirements - there is only 1 visitor carpark available.		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	Refer "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 windows of any living areas of dwelling 5 being overshadowed for more than 2 hours on the 22 nd 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.
7	Drainage is of concern. The area already floods and high density living may exacerbate the existing problem.	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

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			Contributions for Stormwater drainage are applicable.
8	The value of surrounding properties will depreciate.	8	The proposal is considered appropriate to the amenity of the area. Impact upon the value of surrounding properties is speculative.
9	Such close and high density living has the propensity to create a "slum" area in future.	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 41m ² , and that the southern adjoining lot contains 14 dwellings. 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.
10	Noise will be a problem, with concern regarding the proximity of the driveway to the southern adjoining lot.	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

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		screen planting will be required along the turning barrier, 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.**

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- 6 The dwellings are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.
- 7 Before the commencement of site works, demolition or building, the following activities must be completed:
 - a Installation of soil erosion and sedimentation control devices.
 - b Installation of safety fencing/hoardings between the property and the street
 - c Protection barriers for existing trees
 - d Installation of builder's toilets
 - e Installation of signage in prominent, visible position including -
 - "Unauthorised site entry is prohibited"
 - Name and phone number of builder or other responsible person for contact outside working hours.
- 8 Provision of a security deposit to Council 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 \times .66 \text{ 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 \times 0.66 \text{ 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 \times 0.66 \text{ 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 \times 0.66 \text{ 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.

MOVED:

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

That the Director Environmental Services recommendation be adopted.

The Motion lapsed for want of a seconder.

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RESOLVED:

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

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**

DES13	PROPOSED DWELLING NEW ENTRANCE
FILE: T6-02-486 RBP	{Folio No. 265538}

SUMMARY:

Reporting that Council has received an application to erect a dwelling at New Entrance for which objections have been received.



Applicant: A Rudge
Owner: D Johnson
Subject Land: Lot 5 DP 102234 New Entrance Road,
New Entrance
Zone: 7(b) Scenic Protection
Description of Development: Two storey dwelling

Background

On the 28th August 2002, Council received an application to erect a very large two storey dwelling on the subject land. The dwelling, as originally submitted, was over 40 metres long and 14 metres in height. (*Appendix Z*) Having regard for the excessive height and bulk of the building, the proposal was considered to be contrary to the objectives of the 7(d) Scenic Protection Zone and North Coast Regional Environmental Plan 1988 and amendments were requested to substantially reduce the height and bulk.

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Information was also sought in relation to the presence of any acid sulfate soils, impacts on hydrology and flooding.

The application as originally submitted was advertised and drew considerable public objection.

An amended proposal which reduced the bulk of the building was submitted which, the applicant was advised, was still contrary to the objectives of the 7(d) zone and was never advertised.

The land was sold and further amended plans were submitted providing for a substantial reduction in the size and relocation of the proposed dwelling. Having regard for the substantial public interest and amendments to the application, the proposal was re-advertised with additional objections received. Both sets of objections are addressed in the following report.

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.

Relevant Environmental Planning Policies

State Environmental Planning Policy No 14 - Coastal Wetlands

The proposed development is located only 7 metres from the edge of SEPP 14 Wetland No 436. There is no proposal to clear within the wetland, including clearing to maintain a bushfire asset protection zone, thereby not requiring any consent under SEPP 14 (See Bushfire).

State Environmental Planning Policy No 71 - Coastal Protection

In accordance with Clause 25 of SEPP 71, the Policy does not apply to the proposed dwelling as the development application was made prior to the commencement of the Policy. However, the aims of the Policy and matters identified for consideration are considered to be relevant to Councils consideration of the application. Subject to Council being satisfied that the proposal will not result in any adverse visual impact, it is considered that all other matters for consideration have been addressed by the applicant. (See Assessment of Visual Impact).

North Coast Regional Environmental Plan - 1988

Subject to suitable arrangements being made for the disposal of stormwater so as not to increase predevelopment flows, the proposal is considered to be consistent with Clause 15 which seeks to protect the adjoining wetlands from any impacts. It should be noted that the applicant intends to connect a private pumping station to an existing private pumping station constructed in conjunction with the Tavern. (see Effluent Disposal).

Clause 30 requires Council to consider the objectives relating to Coastal Planning in determining the application (see Assessment of Visual Impacts).

Clause 32B applies to all land affected by the NSW Coastal Policy; the NSW Government Coastal Manual and North Coast Design Guidelines. The Coastal Design Guidelines for NSW also contains reference to matters Council should consider in determining the application.

NSW Coastal Policy 1997

Subject to suitable treatment of stormwater and Council being satisfied that the proposal will not adversely impact on the visual amenity of the area, the proposal is considered to be consistent with the objectives of the Policy. (see also "Assessment of Visual Impacts").

NSW Government Coastal Management Manual

The subject land has the potential to be adversely affected under storm surge conditions during flooding. The effects of storm surge has been factored into Council's Floodplain Management Strategy Policy and, provided the floor area is 500mm above the anticipated level, any affect is considered to be acceptable (see "Flooding").

North Coast Design Guidelines

The Guidelines require Council to ensure that the development will not adversely impact on the natural landscape and that the views of the river and coast enjoyed from adjoining residential areas will not be interrupted.

Having regard for a stand of Casaurina glauca located immediately east of the proposed dwelling, there is likely to be minimal impact on existing views from adjoining residential areas.

Kempsey Local Environmental Plan 1987 (KLEP 1987)

The land is Zoned 7(d) Scenic Protection under KLEP 1987. Clause 9 provides that the proposed development is prohibited unless Council is satisfied that is consistent with the objectives of the Zone. The objective of the 7(d) Scenic Protection Zone is:

"To conserve the environmental and scenic quality of visually significant land by controlling development so that it will accord with the appearance of the landscape."

In determining whether or not the proposal is consistent with the zone objectives, Council is also required to consider the requirements of Clause 32 which provides that Council must be satisfied that the proposal;

- a. Has been designed and sited so as to minimise disturbance to the natural appearance of the land form, urban areas, arterial roads and scenic view points;

- b. The erection of the building will result in as little clearing or lopping of trees as possible.

The subject land enjoys a dwelling entitlement and there is no specified minimum area for the erection of a dwelling within the 7(d) Scenic Protection Zone. (see Assessment of Visual Impacts)

The proposed development is not subject to any foreshore building line which has been fixed by any Council resolution.

The land is within the area affected by Clause 56 being potentially affected by acid sulfate soils. A report by a Geotechnical Engineer subsequently confirmed the presence of actual acid sulfate soils at the depth of intended excavation for which appropriate liming to neutralise the soil would be required. In accordance with DCP 30 - Acid Sulfate Soils, a Plan of Management should be required to be submitted with the plans for the required Construction Certificate detailing the methods proposed to treat affected soils so as to neutralise any acidity.

Flooding

In accordance with Councils Floodplain Management Strategy Policy, the applicant was requested to provide a flood statement prepared by a suitably qualified consultant detailing the impacts of flooding on the proposed structure which indicates that the dwelling would be subject to the following flooding characteristics:

Flood Height	2.55 metres AHD
Natural Surface Level	1.25 metres AHD
Depth of Flooding (D)	1.30 metres
Velocity (V)	0.6 metres/second
V x D	0.78

In accordance with the Government Flood Manual, the proposed dwelling would be subject to a low flooding risk.

In addition to flooding at the site, the applicant was requested to provide levels along New Entrance Road to determine that a safe evacuation path to higher ground would exist during time of extreme flooding. The plan provided indicates that the level of inundation of the centre line of New Entrance Road is between 0.85 and 0.95 metres. Having regard for the relatively low velocity involved, the NSW Floodplain Manual indicates that residents would be able to wade out during the peak of the 1 in 100 year flood.

In addition, the level of inundation over the existing levy bank to the high ground adjacent to Ocean Avenue is between 1.15 and 1.1 metres with lower velocities expected.

Risks are also reduced as the land has the longest possible warning response time in the Valley.

Aboriginal Archeology

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A report was prepared by a consultant archeologist in relation to the entire allotment prepared in consultation with the Kempsey Local Aboriginal Land Council. The report indicates that the subject land does not contain any known Aboriginal sites. The Report also indicates that no evidence of aboriginal occupation was found during field inspection and that due to its low elevation and proximity to other more favourable land forms for camping, there is a low likelihood of Aboriginal cultural material being affected by house construction.

Flora and Fauna

As it is proposed to situate the house within an existing cleared area and provided suitable controls are installed in respect to stormwater, it is considered that Council may reasonably conclude that no adverse impact on any threatened species is likely to result from the development.

Assessment of Visual Impacts

The following is a summary of the relevant controls Council must consider in determining whether the proposal is likely to result in any adverse visual impact:-

Clause 9 KLEP 1987 requires Council to ensure that the design of the building will conserve the environmental and scenic quality of the land so that it will accord with the appearance of the landscape. As the subject land enjoys a dwelling entitlement and permits a range of development, it is considered that Clause 9 should not be interpreted so as to preclude any development on the land provided no unacceptable adverse impacts on the amenity of the visual area results.

In order to determine the relative visual impacts of the proposal, Council may wish to compare the western elevation (i.e. when viewed from the river) of the proposed dwelling with the dwelling on an adjacent allotment which Council determined would not result in any unacceptable visual impacts. ([Appendix A1](#))

Clause 32 KLEP 1987 requires Council to consider the visual impacts of the dwelling when viewed from the adjoining residential areas and riverside reserve. It is considered that the dwelling would not unacceptably impact on the views from residential areas having regard to the existence of a stand of trees to the east of the proposed dwelling. However, some impact when viewed from the riverside reserve would occur.

Clause 32B of North Coast Regional Environmental Plan 1988 requires Council to consider the requirements of the NSW Coastal Policy. The Policy does not however prescribe any development standards and includes broad requirements suggesting that each application needs to be assessed on a case by case basis.

The Coastal Design Guidelines for NSW provides the following guidance for Council in determining the application:-

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- Dwellings should be designed to minimise visual impacts, particularly when viewed from the foreshore with groups of smaller buildings preferred to one large building in order to reduce impacts.
- New dwellings should be located to ensure the coastline retains its natural character. Building design, materials and colours should be chosen to respond to the landscape setting. Buildings should be designed to ensure environmental sustainability having regard to the need to provide for the storage of a potable water supply, disposal of effluent, generation of power and management of solid waste.
- The guidelines suggest the buildings should be no taller than 2 storeys.

North Coast Design Guidelines suggests the buildings must be carefully sited and designed so as to maximise the natural assets of the site and minimise the visual impact on the quality of the coastline. The Guidelines also suggest that any surface structures such as tanks, sheds, carports and garages are best screened by vegetation and walls so as to link the main building or form to a group of buildings. The Guidelines suggest that the building should be restricted to below the tree line and to have a horizontal rather than vertical emphasis so as not to be visually obtrusive.

Planning Comment

Council considered the above provisions in approving of a dwelling on the adjoining lot to the north of the subject land.

The proposed dwelling maybe distinguished from the dwelling approved on the adjoining lot having regard to the following factors:-

- The dwelling approved on adjoining lot 850 provided for the placement of less than a metre of fill on top of which a light structure was proposed (with the exception of a stone tower). The current proposal involves the placement of up to 2.2 metres of fill surrounding a structure which is bulkier in design.
- Consistent with the Coastal Design Guidelines for NSW, the dwelling approved on adjoining Lot 850 had a total footprint of 160m² broken into 3 discreet areas. The current proposal involves the erection of a building with a total footprint of 690m² in a single footprint. ([Appendix B1](#))
- The dwelling approved on adjoining Lot 850 had a main façade to New Entrance Road of only 10.6 metres. The current proposal would have a façade (excluding proposed fill batters) of 29.3 metres.
- The dwelling approved on adjoining Lot 850 is to be set back 21.5 metres from New Entrance Road, thereby providing for extensive screen planting. The current proposal is to be set back 11.025 metres from New Entrance Road.

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- The approved dwelling on adjoining Lot 850 incorporates the use of external timber weatherboards and sandstone, thereby being consistent with the coastal character of the locality. The current proposed dwelling is a rendered and painted brickwork construction.

Bushfire

As the proposed dwelling is within 7 metres of an adjoining SEPP 14 Casuarina Wetlands Swamp Forest, the minimum Asset Protection Zone (APZ) of 20 metres required by the Rural Fire Service Planning in Bush Prone Areas Guidelines cannot be met without clearing within the Wetland which would require an Environmental Impact Statement. In accordance with Rural Fire Service requirements the application was therefore required to be referred to the Rural Fire Service for comment. The Rural Fire Service has subsequently advised that due to the nature and extent of the adjoining vegetation, no objection is raised to the reduced APZ.

Integrated Development

The Department of Infrastructure Planning and Natural Resources has indicated that the development is not integrated development as no "works" within the meaning of the Rivers and Foreshores Improvement Act are proposed within 40 metres of the Macleay River.

Public Exhibition

The original proposal was advertised in accordance with Council's Policy with 27 objections having been received (several of which are marked "confidential") which may be summarised as follows:- ([Appendix C1](#))

Objection		Planning Comment	
1	Proposal is contrary to Clause 32 of KLEP 1987 due to visual impacts.	1	See "Clause 32 KLEP 1987" and "Planning Comment".
2	Building will impact on SEPP 14 wetland.	2	See "SEPP 14" and "North Coast REP 1988".
3	Building will set a precedent for others in the locality.	3	Council needs to carefully consider the parameters it sees as being acceptable in the locality as any decision will influence future proposals.
4	Proposed moat is unacceptable.	4	The moat is no longer proposed.
5	Building will deter future residents.	5	See Point 3.

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6	Area should not be allowed to develop.	6	The area is zoned to permit development.
7	The building will radically change the outlook from the urban area.	7	The original building would be below the existing tree line and has now been lowered significantly. (<i>Appendix Z</i>)
8	No Environment Impact Statement prepared.	8	An EIS is not required for the development.
9	New legislation will prohibit buildings within 100 metres of the river.	9	The legislation referred to is SEPP 71 which does not prohibit any development. Although not requiring referral, the application was provided to DIPNR due to enquiries they were receiving.

The amended proposal was re-advertised having regard to the amendments to the design and relocation of the proposed dwelling with five (5) objections having been received which may be summarised as follows:-

Objection		Planning Comment	
1	Applicant is not the owner.	1	Any person may lodge a Development Application with the consent of the owner. The current owner wishes to proceed with the amended application.
2	Cannot amend application due to changes. Must require a new application.	2	An application which has not been determined may be varied to the extent the applicant wishes. The amended application was re-advertised as it varies significantly from the original proposal in respect to design and location.
3	The SEPP 14 boundary is	3	The SEPP 14 boundary

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	arbitrary.		was determined by survey from the gazetted maps. The building would not be located within either the mapped wetland or the actual wetland.
4	Owner has a conflict of interest in voting against the NSW Coast Design Guidelines.	4	The ownership of the land has changed and Council is obliged to consider the guidelines in its determination.
5	Building will block access for fire fighting.	5	The building is clear of an existing access track and is required to be located further to the north to clear an existing water main. The Rural Fire Service have no objection to the proposal.
6	The land is below the 40 hectare minimum.	6	See Kempsey Local Environmental Plan 1987.
7	Has high tides been addressed.	7	The survey information provided indicates that the land is not affected by King tides and a mound is also proposed.
8	Building is over the 6.2 metre height limit.	8	The 6.2 metre height limit does not apply to the 7(d) zone. However, the proposed building is 5.8 metres in height.

On the basis of the visual impacts likely to result from the development and the relevant guidelines Council must have regard to, it is considered that the proposed dwelling should be redesigned so as to provide for a substantially reduced footprint and façade to the Macleay River.

Director Environmental Services Recommendation:

- A. That the applicant be advised that Council considers that the proposed dwelling would result in unacceptable visual impacts**

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on the amenity of the area having regard to its design, size and bulk.

B. That the applicant be invited to submit an amended application providing for a reduced scale of development designed having regard for the matters of consideration contained within the Coastal Design Guidelines for NSW and the North Coast Design Guidelines.

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

1 The proposal is prohibited under Kempsey Local Environmental Plan 1987 having regard to the likely adverse visual impacts in the 7(d) Scenic Protection Zone.

2 The proposal is likely to create an undesirable precedent for future development in the locality and on other 7(d) zoned land in the Shire.

MOVED:

*Moved: Cl. Sowter
Seconded: Cl. Bowen*

That the application be approved and the edge of the wetland be landscaped with conditions applicable similar to other developments in the area.

The MOTION was PUT to the Meeting and was LOST.

2003. P100

RESOLVED:

*Moved: Cl. Hunt
Seconded: Cl. Hayes*

That the Director Environmental Services recommendation be adopted.

Councillor Sowter recorded his vote against the foregoing Resolution.



MOTION FOR COMMITTEE

2003. P101

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Bowen*

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.



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DIRECTOR ENVIRONMENTAL SERVICES CONFIDENTIAL REPORT

DES1	UNAUTHORISED EXCAVATION AND FILLING WORKS - AUSTRAL EDEN FILE: LA7925 AD
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SUMMARY:

Reporting that unauthorised drainage works in a high risk acid sulfate soil area (ASS) have been undertaken which are resulting in risk of environmental harm.

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

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



2003. P102

RECOMMENDED:

*Moved: Cl. Sowter
Seconded: Cl. Bowen*

That this matter be deferred until the December meeting of the Planning Committee.



REPORT OF THE MEETING OF THE COMMITTEE OF THE WHOLE

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



ADOPTION OF REPORT OF THE COMMITTEE OF THE WHOLE

2003. P103

RESOLVED:

*Moved: Cl. Sowter
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 5.00 p.m.

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