



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

Tuesday 28th October 2003 commencing at 9.02 a.m.

### **PRESENT:**

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

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



### **APOLOGY:**

2003. \*

### **RESOLVED:**

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

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



## **MINUTES OF THE PLANNING MEETING OF KEMPSEY SHIRE COUNCIL DATED 23RD SEPTEMBER 2003**

2003. \*

### **RESOLVED:**

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

That the Minutes of the Planning Meeting of Kempsey Shire Council dated 23rd September 2003, be adopted with the addition of the notation that Councillor Howell lodged a rescission motion in regard to item DES13 Belle O'Connor Street subdivision.



### **PUBLIC FORUM**

- 1 - Mr Grant Barnett addressed Council regarding DES3 Storage Shed, Show Grounds Sea Street, West Kempsey (page G64).
- 2 - Mr Trevor Scott addressed Council speaking against Belle O'Connor Rescission Motion Application for Lot 52 Eric Norman Developments File: T6-03-186 and T6-03-191

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**CONSIDERATION OF LATE REPORTS**

2003. \*

**RESOLVED:**

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

That the late report DES11 Rock Sorting Machine Clybucca, be deferred until the next Planning meeting 25<sup>th</sup> November 2003.



At this stage 9.20 a.m. the Mayor invited Council to hold one minute silence in memory of Councillor Mick Tuck, Mayor of Greater Taree Council, who passed away on Saturday 25<sup>th</sup> October 2003.



**ADOPTION OF AGENDA ORDER OF BUSINESS**

2003. \*

**RESOLVED:**

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

That the Agenda Order of Business be adopted.



**CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Reports DES3 and Rescission Motion 1.**

2003. \*

**RESOLVED:**

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

That the items relating to public forum be dealt with in the order DES3 and Rescission Motion 1.

<b>DES3</b>	<b>STORAGE SHED, SHOW GROUNDS SEA STREET, WEST KEMPSEY FILE: T6-03-38 AD (NRN)</b>	<b>{Folio No. 263668}</b>
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**SUMMARY:**

Reporting that Council has received a Development Application for an Equipment Storage Shed at Kempsey Show grounds. ([Appendix A](#))



**Applicant:** R Baker on behalf of Macleay District Pony Club  
**Subject Land:** Lot 18 DP 112084 No 19 Sea Street, West Kempsey  
**Zone:** 5(a) – Special uses (Showground)

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### **Heads of Consideration:**

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

The proposal is not contrary to any State Environmental Planning Policy (SEPP), North Coast Regional Environmental Plan 1987 (KLEP 1987)

### **Background**

The proposal is to erect a storage shed adjacent to the Kempsey Showground buildings which are listed as an item of Environmental Heritage under Schedule 1 of KLEP 1987, and was the subject of a report to Council on the 8<sup>th</sup> April 2003 (DES 11) (*Appendix B*), with Council resolving:-

*"That the application be referred back to the Pony Club for an alternative site."*

The applicant in a submission to Council dated 17<sup>th</sup> September 2003 submitted an amended plan showing the shed in the same location as previously applied for, citing reasons such as flooding, landfill, and financial difficulties as being reasons preventing re-location of the shed. (*Appendix C*)

Referral of the submission to Council's Heritage Advisor resulted in the following assessment.

*"The clubs response has provided a land use diagram combined with estimated landfill areas.*

*The response did not provide details of an alternative site as per Council's resolution.*

*Given that the potential development of the showground it would be appropriate for the owner to prepare a master plan/ conservative plan of the future development, which would establish the opportunities and constraints to site development.*

*Pending such a document the proposed location of the shed is not recommended for the reasons previously noted.*

*However since no formal conservation/future development plan has yet been prepared, sites which, could accommodate a shed not close or visually in contact with the heritage fabric within the grounds would be a possible alternative being a temporary site subject to a Master Plan.*

*The compatible land use location near the stables at the eastern end of Wide Street would provide a relatively flat and economic building area with reasonable access to the ring, and would accommodate the shed plus container".*

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## Planning Comment

Having regard to Council's previous resolution, the applicant has not endeavored to address the issues of impacts upon the heritage value of the site, and has not submitted plans providing for re-location of the shed. It is agreed that constraints such as flood liable land and landfill limit the options available to the applicant to re-locate the proposed shed, however, placement of the shed in its original location requires the examination of heritage issues as existing showground buildings are listed as items of Environmental Heritage under Schedule 1 of KLEP 1987.

Treating the shed as a temporary structure until a Conservation Management Plan is lodged, as suggested by Council's Heritage Advisor, is not considered feasible in this instance as the difficulty and expense involved in the erection of the proposed shed, and the enforcement of conditions requiring its removal.

Council has three options available with respect to determining the application:-

1. Refusing the application in its current form;
2. Require the submission of amended plans providing for the relocation of the proposal to another site;
3. Require the submission of amended plans providing for the re-design of the shed in the same location in accordance with the heritage character of the area.

## Director Environmental Services Recommendation:

**That the applicant be requested to submit amended plans prepared in consultation with Council's Heritage Advisor providing for a building which is in keeping with the heritage values of the site.**

2003. \*

## RESOLVED:

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

1. **That the applicant be requested to submit amended site plans prepared in consultation with Council's Heritage Advisor providing for a building, which is in keeping with the heritage values of the site.**
2. **That the applicants be invited to lodge the amended plans within three months or the application be refused.**



# RESCISSION MOTION

<b>RM1</b>	<b>APPLICATION FOR LOT 52 ERIC NORMAN DEVELOPMENTS</b> <b>FILE: T6-03-186, T6-03-191 RBP (NRN) {Folio No. 263671}</b>
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28th October 2003

Notice is hereby given that we intend to move the following Rescission Motion at the Planning Meeting of Kempsey Shire Council on Tuesday 28th October 2003.

2003. \*

**RESOLVED:**

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

**That Motion of 23 September 2003 in part re- "That the application for Lot 52 be referred to the appropriate authority" be rescinded.**

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

**That the Directors recommendation report of 23rd September 2003 in respect to applications Eric Norman Developments Pty Ltd T6-03-186 and T6-03-191 be adopted.**

.....  
Councillor J Howell

.....  
Councillor R Bowen

.....  
Councillor B Sowter

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

**MOVED:**

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

**That the applications Eric Norman Developments Pty Ltd T6-03-186 and T6-03-191 be approved in accordance with the Director Environmental Services recommendation of 23<sup>rd</sup> September 2003 with consent granted subject to the following conditions for each of the developments:-**

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

**GENERAL**

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development**

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Plan No 50035-022 amendment "A" and as modified by any conditions of this consent.

- 2 The existing restriction on the use affecting proposed lots 51 to 56 created in accordance with development application T6-01-376 is to be extinguished prior to the issue of the Subdivision Certificate.
- 3 The Construction Certificate for this development shall not be issued until all the conditions of the concurrence issued by the NSW National Parks and Wildlife Service identified in condition 20 of this consent have been met.

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

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

- 4 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.
- 5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council
- 6 Submission with the final plan of subdivision, copies of any instruments under Section 88B or E of the Conveyancing Act 1919, relevant to any restrictive covenants, easements, rights of way created or affected by this development.
- 7 In addition to the requirements of the NSW Rural Fire Service as detailed in condition 19 of this consent, should this development proposal commence before the development immediately adjoining lot 223 DP754396 then the following additional requirements shall be met prior to the release of the Subdivision Certificate: -
  - (a) The creation of a suitable restriction as to user allowing for the construction and maintenance of a 40metre wide Bushfire Asset Protection Zone for the full length of the common boundary between Stage 2 (Lots 62 - 64 and 67-70) and residual lot 81 and between Lot 31 DP 754396 and proposed lots 59 and 60.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **PUBLIC UTILITIES**

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

#### **CONTRIBUTIONS**

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

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

- (a) Payment of a contribution towards district water supply at the rate of \$1184 per equivalent tenement, i.e. \$1184 x 24 E.T = \$28,416 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (b) Payment of a contribution towards the augmentation of sewerage headworks( Spencerville Area 1) at the rate of \$2899 per equivalent tenement, i.e. \$2,899 x 24 E.T = \$69,576 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (c) Extension of the town water supply main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.
- (d) Extension of the town sewer main(s) is necessary to serve the proposed development, at full cost to the applicant.

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

- (e) Provision of a suitable booster pump station to allow for the adequate supply of reticulated water to each lot in this subdivision. The applicant's Consultant Engineer is to liaise with Council's Water and Sewer Manager Mr Glenn Pearson of Council's Business Enterprises Unit for details prior to preparing the detailed engineering drawings.

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

- 13 Dedication of an area within the subdivision not less than 750m<sup>2</sup> in area, suitable for the purposes of developing as a neighbourhood park.
- 14 The applicant is to pay a contribution towards the Belle O'Connor Trunk Drainage System in accordance with Council's Section 94 Plan for Belle O'Connor Trunk Drainage System. The contribution is to be paid prior to the release of the Subdivision Certificate, at the rate prevailing at that time. The current rate is \$1852 per additional dwelling unit, i.e. \$1,852 x 24 E.T = \$44,448. (Indexed 2003/2004).

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

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

**Note**

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

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

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

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

#### STORMWATER DRAINAGE

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

#### ROADS/ANCILLARY WORKS

- f) The proposed internal roads are to be constructed for the full frontage of all the lots in the development to the characteristics defined in Table D1.5 of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development as follows*: -
  - (i) Proposed Road No. 1 (from Belle O'Connor Street to proposed road number 2. shall be a type 2 Local Street, and
  - (ii) Proposed Road 2 shall be a type 2 Local Street.
  - (iii) The provision of a temporary turning area to dimensions specified in DCP 36. The wearing surface is to be a single coat flush bitumen seal.

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- (iv) The intersection with Belle O'Connor Street is to be designed and construction in accordance with DCP 36 and the Austroads Manual Part 5 intersections at grade.
- (v) Belle O'Connor Street shall be constructed as a type 5 arterial road (Table D1.5 DCP 36) with concrete kerb and gutter, grassed nature strip a minimum of 3.5 metres fronting each lot in this stage of the development and dedicated to Council as public road. The applicant is to submit detailed plans for half width construction of Belle O'Connor Street.
- g) Details on the method(s) to be employed by the Contractor to dispose of cleared vegetation shall be lodged with Council for approval prior to Council issuing the Construction Certificate. Council will not approve of disposal by burning off onsite.
- h) Construction of a fire trail (from the made section of Belle O'Connor Street for this development to Keith Andrews Avenue) in accordance with the provisions of the publication *Planning for Bushfire Protection 2001*, to meet the conditional issue of the NSW Rural Fire Service approval for a Bush Fire Safety Authority. Detailed Engineering plans are to be submitted to Council for approval prior to the issue of the Construction Certificate.
- i) The street design for this stage of the development is to incorporate traffic calming principles in accordance with DCP 36.
- j) Provision of functional vehicular access to all proposed allotments i.e. provision of layback type kerb and gutter.
- k) Provision of a concrete footpath along one side of the proposed internal road pursuant to Section D1.16 (5) of Development Control Plan No 36.
- l) Applicant is to supply and install "no through" road signs at the intersection of Keith Andrews Avenue where it intersects the new Fire Trail and at the intersection of proposed internal roads 1 and 2.
- m) The applicant is to submit a list of at least three (3) names in accordance with Council's Policy on Street Naming for Council to consider in respect to the proposed internal roads 1 and 2.
- n) The proposed Fire Trail where it traverses part lot 511 and the section of Crown Road is to be sign posted restricting vehicle access to Fire fighting appliances. Details Plans

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showing how it is intended to physically restrict use of this Fire Trail by others is to be submitted to Council for approval.

- o) The Section of Crown Road traversing along the western boundary of Lot 223 DP 754396 is to be dedicated as public road. The applicant is to meet all costs associated with the road dedication.
- p) The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- q) Inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

The following inspections required:

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

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

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

- (a) A survey plan prepared by a registered surveyor indicating the location of all trees over 3 metres in height and 200mm in diameter relative to the proposed lot boundaries.
- (b) Identification of building envelopes on each affected allotment not less than six metres from trees nominated for retention.

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- (c) Location of water, sewer, electricity, telecommunication and drainage services so as to minimise the removal of trees.
- (d) Retention of all trees within roads and public reserves, except where required to be removed to provide services and construct roads.
- (e) A report prepared by a suitably qualified person indicating that the proposed tree retention will comply with the Rural Fire Service *Planning for Bushfire Protection, 2001* .
- (f) Details of the means of protecting trees nominated for retention during construction of the subdivision.

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

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

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

**NSW RURAL FIRE SERVICE CONDITIONS**

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

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

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

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

The cul-de-sac in the Eric Norman Development has a turning circle and is directly linked to road number 1. A minimum 40 metre APZ will be established along the boundary between Machro and Eric Norman developments, within the Machro site as shown on the plan.

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

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

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

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

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

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

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

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distressed or otherwise incapacitated native fauna from the site of the clearing;

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

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

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

**GENERAL**

1 The development referred to in this application is to be carried out substantially in accordance with the approved development Plan No 50035-023 amendment "A" and as modified by any conditions of this consent.

2 The Construction Certificate for this development shall not be issued until all the conditions of the concurrence issued by the NSW National Parks and Wildlife Service identified in condition 19 of this consent have been met.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **PUBLIC UTILITIES**

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

#### **CONTRIBUTIONS**

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

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

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

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

- (e) Provision of a suitable booster pump station to allow for the adequate supply of reticulated water to each lot in this subdivision. The applicant's Consultant Engineer is to liaise with Council's Water and Sewer Manager Mr Glenn Pearson of Council's Business Enterprises Unit for details prior to preparing the detailed engineering drawings.

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

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

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

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

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

**Note**

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

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

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

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

**STORMWATER DRAINAGE**

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

**ROADS/ANCILLARY WORKS**

- f) The proposed internal roads are to be constructed for the full frontage of all the lots in the development to the characteristics defined in Table D1.5 of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development as follows*: -
  - (i) Proposed Road No. 1 (from Belle O'Connor Street to proposed road number 2. shall be a Type 2 Local Street, and
  - (ii) Proposed Road 2 shall be a Type 2 Local street.

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- (iii) The intersection with Road number 1 is to be design and construction in accordance with DCP 36 and the Austroads Manual Part 5 intersections at grade for urban streets.
- g) Details on the method(s) to be employed by the Contractor to dispose of cleared vegetation shall be lodged with Council for approval prior to Council issuing the Construction Certificate. Council will not approve of disposal by burning off onsite.
- h) The street design for this development is to incorporate traffic calming principles allowing in accordance with DCP 36.
- i) Provision of functional vehicular access to all proposed allotments i.e. provision of layback type kerb and gutter.
- j) Provision of a concrete footpath along one side of the proposed internal road pursuant to Section D1.16 (5) of Development Control Plan No 36.
- k) The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- l) Inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

The following inspections required:

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

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

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

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

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

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

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

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

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

- (a) Should Macro P/L develop first(Plan A), a right of way and cleared and constructed fire break will be established along the western edge of the Eric Norman site that will link with a formed, curbed and guttered road along the

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western side of the macro development . to the south the fire trail will link with Belle O'Connor Street and to the north the curbed and guttered section will link with Keith Andrews Avenue. Both belle O'Connor Street and Keith Andrews Avenue link with Trevor Judd Avenue, a through road allowing traffic unrestricted access around the development.

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

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

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

## NSW NATIONAL PARKS AND WILDLIFE SERVICE CONDITIONS

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

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

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

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of trees and areas of vegetation to be retained must be given to known or likely habitat of threatened species known or likely to occur on the subject site.  
The Plan must be approved in writing by the NPWS before clearing of the vegetation begins on the subject site.

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

An Amendment was MOVED:

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

That this matter be deferred until all Councillors receive a copy of the Species Impact Statement (SIS) so as to make an informed decision.

The AMENDMENT was PUT to the Meeting and was LOST.

2003. \* The MOTION was PUT to the MEETING and was CARRIED.

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



## DIRECTOR ENVIRONMENTAL SERVICES REPORT

The following report DES1 was dealt with in conjunction with Rescission Motion 1 earlier in the meeting just after Public Forum.

<b>DES1</b>	<b>SUBDIVISION OF LOT 52 DP 1025337 SPENCERVILLE FILE: T6-03-186 AND T6-03-191 RBP {Folio No. 263675}</b>
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This report DES1 relates to a rescission motion lodged at Council's meeting of 23<sup>rd</sup> September 2203 relating to a decision to refer the applications to the Minister for Planning Infrastructure and Natural Resources.

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**SUMMARY:**

Reporting on proposed extension of trading hours Riverside Tavern.



**Applicant:** Eastland Construction Pty Ltd and  
Shannon Pacific Pty Ltd  
**Subject Land:** Lot 4 DP 1022342 New Entrance Road,  
New Entrance

**Description of Proposal**

The proposal is to extend trading hours on New Years Eve to 1am which requires a modification to the existing development consent.

**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.

In consideration of the potential of noise and information contained in the applicants Noise Impact Statement for the Riverside Tavern, Condition 22 of the Development Consent restricts trading to between 9am and midnight Monday to Saturdays and 9am to 11pm Sundays.

Condition 24 requires the provision of a courtesy bus on Friday and Saturday nights whenever entertainment is provided with the bus to depart the hotel at 10pm, 11pm and 12.15am.

The proposed extended trading hours relate to New Years Eve only.

**Public Exhibition**

In accordance with Council's Public Notification Policy, the proposed amendment is considered of minor consequence and therefore is not required to be re-advertised.

**Planning Comment**

No objection is raised to the amendment on the basis that it is for New Years Eve only and no objections have been received from Council in respect to the operation of the Tavern.

2003. \*

**RESOLVED:**

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

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

Condition 22 to read:-

The hours of trading are to be restricted to be between to 9am to midnight Monday to Saturday and 9am to 11pm Sundays, except on New Years Eve whereby an extension of trading hours to 1am on the 1<sup>st</sup> January is permitted.

Condition 24 to read:-

A courtesy bus is to be provided for transport of patrons between the development and all parts of South West Rocks. On Monday and Friday nights whenever entertainment is provided the bus shall depart from the hotel at 10pm, 11pm and 12.15am, except on New Years Ever whereby the bus shall also depart at 1.15am on 1<sup>st</sup> January.

<b>DES3</b>	<b>STORAGE SHED, SHOW GROUNDS SEA STREET, WEST KEMPSEY FILE: T6-03-38 AD (NRN)</b>	<b>{Folio No. 263668}</b>
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This report was dealt with earlier in the meeting just after Public Forum.

<b>DES4</b>	<b>PROPOSED COURT YARD WALL AND INGROUND SWIMMING POOL LOCATED IN THE FRONT YARD FILE: T6-03-609 DJW</b>	<b>{Folio No. 263682}</b>
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**SUMMARY:**

Reporting that a Local Development Application has been received to erect a courtyard wall and inground swimming pool in the front yard of the primary building line.



**Applicant:** Mr L Ray  
**Subject Land:** Lot 6 DP 870077 No 17 Hill Street, South West Rocks  
**Zone:** 2(a) Residential

**Proposed Development**

The proposal is to erect a brick courtyard wall on the boundary and an inground swimming pool forward of the primary building line.

**Siting**

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The site is an allotment consisting of a brick veneer dwelling situated on the southern side of Hill Street. An easement is located at the rear of the property which inhibits erection of a swimming pool behind the building line. The property has a street frontage of 18.2m and a site area of approximately 600m<sup>2</sup>. (*Appendix D*)

### **Courtyard Wall**

#### **Comment:**

The courtyard wall requires a development consent under Development Control Plan No 30. The applicant proposes to erect the brick courtyard wall on the primary building line boundary to allow the proposed swimming pool to have sufficient area around it for safe movement. It is considered the courtyard wall will meet the objectives to allow the erection for the following reasons:

- 1 The footpath reserve forward of the courtyard wall is approximately 10 metres wide and landscaped.
- 2 The applicant will be required to provide a landscaped indentation in the courtyard wall to reduce the impact of the length of the wall when viewed from Hill Street.
- 3 The proposed courtyard wall and inground swimming pool will not adversely affect the adjoining neighbourhood or streetscape.
- 4 The proposal complies with DCP 22 as the average setback is at least 1.5 metres.

#### **Objections**

Adjoining property owners and occupiers were notified of the proposed development in accordance with Council's Notification Policy. No submissions have been received.

#### **Conclusion**

It is considered reasonable for Council to permit the erection of the courtyard wall and inground swimming pool in this instance due to the circumstances of the case. It is further considered that the proposed development will not adversely affect the adjoining owners.

Having considered all the relevant matters under 79 (c) of the Environmental Planning and Assessment Act, 1979 and application be approved.

2003. \*

#### **RESOLVED:**

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

**That the Development Application T6-03-609 be approved 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 has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
- 3 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 4 The Courtyard wall and in ground swimming pool is not to be occupied prior to the issue of an Occupation/Interim Occupation Certificate by Council.
- 5 An application for a certificate is enclosed. It is requested that it be completed and returned to Council prior to requesting an inspection. A minimum of 48 hours notice is necessary when requesting the inspection. Appointments will be made in accordance with the inspection program for that area.
- 6 The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

**Inspections required:**

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

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

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

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

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

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

- a The pool is not to be filled with water until the fencing is erected.
  - b The pool installation together with fencing and gates shall be in accordance with the Swimming Pool Act 1992 and Regulations and Council's Swimming Pool Code (copy of Code attached).
  - c Swimming pool pumps are not to be used between the hours of 8.00 p.m. - 7.00 a.m., Mondays to Fridays, and 8.00 p.m. - 8.00 a.m. on Saturdays, Sundays and Public Holidays if the noise they make can be heard inside neighbouring houses.
  - d That the noise emanating from the swimming pool pump is not more than 5dB(A) above the background noise level at the boundary.
  - e Backwash and overflow waters from the swimming pool are to be discharged to the sewer.
- 11 The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
  - 12 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.

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- c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.
- 13 Protection of any kerb inlet pit located downstream of the site in accordance with Council's Engineering Guidelines for subdivision and development (drawing No SW20).

**Note:**

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

Councillor Hunt recorded his vote against the foregoing Resolution.

<b>DES5</b>	<b>PROPOSED DWELLING DECK LOT 2 SP 37825 No 2/42 GREGORY STREET, SOUTH WEST ROCKS FILE: T6-03-538 DJW</b>	<b>{Folio No. 263684}</b>
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**SUMMARY:**

Reporting that Council has received an application to build a timber deck on a Dual Occupancy unit, which requires variation to Council's DCP 22 Local Housing Strategy.

Council's Local Housing Strategy DCP No 22 Development Standard 4.2.1 (d) permits an unenclosed structure to encroach 1.5m into the 5m primary building alignment, provided it does not impact on the existing streetscape or any adjoining property. The applicant proposes a nil boundary setback.



**Applicant:** K Fazakerley and P Clarke  
**Subject Land:** Lot 2 SP 37825 No 2/42 Gregory Street,  
South West Rocks  
**Zone:** 2(a) Residential Zone

**Proposed Development**

The proposal is to erect a deck on zero primary building alignment.

**Site**

The site contains a Dual Occupancy situated on the northern side of the street which was approved in 1989 prior to DCP 22 requirements. The land

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falls from the rear to the front boundary. The property has a street frontage of approximately 15.2m and a site area of approximately 220.4m<sup>2</sup> with a footway reserve of approximately 16m.

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

<b>Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies Y/N</b>
<b>SETBACKS</b> - side <i>East elevation</i> <i>West elevation</i>	0.9m 0.9m	Existing 0.9m 2.260m	Yes Yes
<i>Front</i> <i>Rear</i>	3.5m and 5m 1.8m	0m setback 1.8m	<b>NO</b> Yes

### **Primary street frontage**

As indicated in the table above, the proposal complies with DCP 22 except in respect to the deck's setback.

### **Comment**

The applicant proposes to construct the open deck structure on a reduced Primary Street frontage setback. It is further considered the supporting documentation from K Fazakerley and P Clarke demonstrates the variation meets the performances objectives of DCP 22, they may be viewed in ([Appendix E](#)).

- a. As shown on the plans the rear and side areas are very narrow which gives us no living area.
- b. We are required to provide a visitor car parking space by bringing the deck out to the boundary this prevents the deck from interfering with car parking space.
- c. The deck cannot be erected towards the side boundary due to easements.
- d. The adjoining neighbours have no objection to the development.
- e. The boundary is 16 metres from the road and thickly vegetated.

### **Objections**

Adjoining property owners and occupiers were notified of the proposed development in accordance with Council's Notification Policy. No objections have been received.

### **Conclusion**

Having considered all of the relevant matters under Section 79(c) of the Environmental Planning and Assessment Act, 1979 and DCP 22,

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Performance Objectives and the circumstances of the case, it is recommended that the development application be approved subject to the following conditions.

2003. \*

**RESOLVED:**

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

**That Development Application T6-03-538 be approved subject to the following conditions:-**

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

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

- 5** The building is not to be occupied until all conditions of Council's consent have been complied with and an Occupation Certificate has been obtained from Council or an accredited certifier and submitted to Council.

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

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

- 6** A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.
- 7** All building work must be carried out in accordance with the provisions of the Building Code of Australia.

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

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

(1) Part 3.9.1. and 3.9.2 of BCA Housing Provisions

Note: Spacing of rails not to exceed 125mm.

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

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

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

- 8 A Survey Report is to be submitted on completion of floor frame to ensure the location of the building is in accordance with the approval issued.
- 9 The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- 10 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.

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- c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.

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

**Note:**

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

<b>DES6</b>	<b>PROPOSED TWO STOREY ADDITIONS AND DEMOLITION OF AN EXISTING GARAGE SOUTH WEST ROCKS</b>	<b>FILE: T6-03-554 DJW</b>	<b>{Folio No. 263688}</b>
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**SUMMARY:**

Reporting that a Local Development Application has been received to build a two storey addition and demolish an existing garage, which require variations to Council's DCP 22 Local Housing Strategy.



**Applicant:** Mr B Crotty  
**Subject Land:** Lot 6 DP 242580 No 99 Gregory Street, South West Rocks  
**Zone:** 2(a) Residential Zone

**Proposed Development**

The proposal is to erect a two storey addition at the rear of the existing dwelling and demolish the existing garage.

**Siting**

The property consists of an existing dwelling and detached garage sited on the corner of Gregory Street and Arthur Street. The property has a street frontage of 16.26m and site area of 596.5m<sup>2</sup> approximately.

**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

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**MAYOR**

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

The proposal may be defined as 'dwelling house' and is permissible with consent in the 2(a) Residential "A" Zone under Kempsey local Environmental Plan 1987.

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

**DCP 22 - Local Housing Strategy**

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

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

Standard	Required	Proposed	Complies Y/N
<b>DENSITY - low</b>	1 x 3 brm = 400m <sup>2</sup>	596.5m <sup>2</sup>	Yes
<b>SETBACKS</b> - side North elevation South elevation  -Front - rear	1.5m 3m  5m 1.5m	>1.5m 1.420m  >5m >1.5m	Yes <b>NO</b>  Yes Yes
<b>CARPARKING*</b>  setback	1 covered 3m	1 covered 1.42m	Yes <b>NO</b>
<b>Private open space</b>	25m <sup>2</sup>	>25m <sup>2</sup>	Yes
<b>Landscaping</b>	130m <sup>2</sup>	> 130m <sup>2</sup>	Yes
<b>Height</b>	6.2m	>6.2m	Yes
<b>Solar Access</b>	15 points	15 points	Yes
<b>Privacy</b>	Adequate	Adequate	Yes

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<b>Cut and fill</b>	<1.5m	<1.5m	Yes
<b>Long Walls</b>	20m	<20m	Yes
<b>Access</b>	20%	<20%	Yes

**Secondary Street Frontage**

As indicated in the table above, the proposal complies with DCP 22 except in respect to the dwelling's secondary street frontage setback and carparking setback.

**Comment**

On corner allotments, the setback to the secondary street frontage may not be reduced to less than 3 metres. Relevant matters in considering any reduction shall include:-

1. Maintaining traffic sight distances
2. Maintaining views.
3. Consistency with existing street scape.
4. Compliance with other requirements of Local Housing Strategy.

The applicant proposes a setback of 1.42m which follows the same setback as the existing dwelling. It is considered the secondary street frontage variations meets the above requirements and the objectives of DCP 22 Local Housing Strategy (Urban Areas) 2001.

It is further considered the supporting documentation from Rescon Design demonstrates the variations meet the performance objectives of DCP 22, they are:-

1. The additions maintain the same secondary street frontage as the existing dwelling.
2. There is no reduction in the required traffic sight distances as the additions are located at the rear of the existing dwelling.
3. The proposed additions are located adjacent to a Council footway and reserve of 11 metres in width approximately which is effectively landscaped.
4. To require the additions to be set back 3 metres would aesthetically detrimental to the streetscape and built environment.

**Car Parking**

**Comment**

A minimum of one (1) car parking space is to be provided within the property boundary behind the building line. The applicant proposes to provide the car parking spaces on the secondary street frontage of 1.42m.

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It is considered the visual privacy meets the requirements of DCP 22 Local Housing Strategy (Urban Areas) 2001.

It is further considered the supporting documentation from Rescon Design demonstrates the variations meet the performance objectives of DCP 22, they are:- *(Appendix F)*

1. The footpath reserve is 10.3m wide in front of the proposed garages.
2. The traffic sight distances would not be impeded.
3. Parking on the footpath reserve would still leave 6m behind the vehicle.
4. The reversing out of the garage would not cause a danger to pedestrians.

### **Visual Privacy**

#### **Comment**

DCP 22 provides that visual privacy between proposed and existing adjoining dwellings is to be ensured. Overlooking of living spaces in buildings and private open spaces is to be avoided.

It is considered the visual privacy meets the requirements of DCP 22 Local Housing Strategy (Urban Areas) 2001.

It is further considered the supporting documentation from the adjoining owners and Rescon Design demonstrates the variations meet the Development Standards of DCP 22, they are:- *(Appendix F)*

1. The deck is only 0.85m higher than the existing dwellings floor height.
2. The deck looks directly into the adjoining dwellings roof area and small area of the rear yard.
3. The nearest open space is 60m away.
4. Mr David and Genic Thurlow adjoining owners have submitted a letter of no objection.

#### **Section 79C (1)(e) - Advertising**

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

#### **Conclusion**

It is considered reasonable for Council to permit a variation of the building's secondary street frontage and car parking setback in this instance due to the circumstances of the case. It is further considered that the proposed development will not adversely affect the adjoining owners or effect the street scape.

Having considered all of the relevant matters under Section 79C(1) of the Environmental Planning and Assessment Act, 1979 and the relevant

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standards of DCP 22. It is recommended that the development application be approved subject to the following conditions.

2003. \*

**RESOLVED:**

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

**That Development Application T6-03-554 be approved subject to the following conditions:-**

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

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

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

**Inspections required:**

- (a) footings in position and prior to the pouring of concrete;
- (b) all steel reinforcement prior to the pouring of concrete;
- (c) completion of wall and timber framing with any veneer walls completed prior to wall sheeting being fixed;
- (d) wet area floor and wall surfacing prior to tiling;
- (e) completion of stormwater systems prior to backfilling;
- (f) prior to any wall linings the insulation shall be inspected, a ladder shall be provided at the final stage to provide access to the ceiling space or alternatively, a certification from a registered installer shall be submitted certifying the

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wall and ceiling installation complies with the approved single residence scorecard.

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

- 6 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:-
- 7 Carrying out sewerage work.
- 8 Carrying out stormwater drainage work.
- 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 A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.
- 12 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

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

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

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

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

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

Note: Spacing of rails not to exceed 125mm.

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

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

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

- g Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
- h 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.
- i Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
- j Class 1(a) and 1(b) Buildings

An automatic fire detection and alarm system is to be installed in the building. Such system to conform with Specification E1.7 of the Building Code of Australia or be a

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smoke alarm system complying with AS 3786 or listed in the SSL Register of Accredited Products.

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

- k 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.
- l The door to all fully enclosed sanitary compartments must open outwards, or slide, or be readily removable from the outside, in accordance with the requirements of the Building Code of Australia.
- m Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
- n The sub floor ventilation must comply with Part 3.4.1.2 a) b) c) d) e) f) and g) of the Building Code of Australia (Housing Provisions).
- o Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
- p Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- q 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.
- r 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.
- s A sign shall be erected on the site stating that unauthorised entry is not permitted.
- t 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.

- u A suitable hoarding shall be erected along the front boundary of the allotment to prevent unauthorised persons form gaining entry to the site.
  - v 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 Council's footway.
  - w All material in the building which contains asbestos shall be removed in accordance with the guidelines of the WorkCover Authority and requirements of Protection Authority.
  - x Prior to demolition commencing, erosion control measures shall be provided on site e.g. silitation fences, etc.
  - y Demolition shall be limited to the hours of between 7.00am and 6.00pm weekdays, 7.00am and 1.00pm on Saturdays with no work being carried out on Sundays and Public Holidays.
  - z Demolition of the building shall be carried out in accordance with the requirements of Australian Standard 2601-1991 where applicable.
  - a1 Demolition shall be carried out in a safe manner without danger to the public.
- 13 A Survey Report is to be submitted on completion of slab formwork to ensure the location of the building is in accordance with the approval issued.
- 14 The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- 15 Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Urban Properties. Applicant is to consult Mr Tony Castle of Council's Environmental Services Department for requirements before commencing construction.
- 16 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.
- 17 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.

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- b sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent unwanted sediment and other debris escaping from the land.
- c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.

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

Note:

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

Councillor Hunt recorded his vote against the foregoing Resolution.

<b>DES7</b>	<b>PROPOSED TWO STOREY DWELLING OCEAN STREET, SOUTH WEST ROCKS FILE: T6-03-396 DJW</b>	<b>{Folio No. 263689}</b>
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**SUMMARY:**

Reporting that Council has received an application to build a two storey pole dwelling on a vacant allotment, which requires a variation to Council's DCP 22 Local Housing Strategy.



**Applicant:** Mr D & Mrs D Lewis  
**Subject:** Land, Lot 46, DP 31938, 17 Ocean Street, South West Rocks  
**Zone:** 2(a) (Residential "A" Zone) & 7D

**Background**

At it's meeting of 12<sup>th</sup> February 2003 Council resolved to approve a similar dwelling 8.9 metres in height due to the inherent slope constrains of the site.

**Proposed Development**

The proposal is to build a two storey dwelling on the above-mentioned allotment.

**Siting**

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The site is a vacant allotment situated on the western side of Ocean Street. The land has a steep fall from the street boundary to the rear, with a street frontage of 15.25m and a total site area of 1230m<sup>2</sup> approximately.

**Heads of Consideration**

The proposal has been examined having regard to the Heads of Consideration identified under Section 79 C (1) of the Environmental Planning and Assessment Act 1979 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 Environment Plan 1988.

**DCP No 22 – Local Housing Strategy**

The proposal is required to comply with the following requirements of DCP No 22. The location of the proposal is contained within a defined low density area for which single dwellings only are permitted.

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

			Complies Y/N
<b>DENSITY – Low</b>	3 bedrooms = 400m <sup>2</sup>	1234m <sup>2</sup>	Yes
<b>SETBACKS</b> Side North Elevation South Elevation Front Rear	15m 1.5m 5m 1.5m	1.5m 1.5m 7m >1.5m	Yes Yes Yes Yes
<b>CAR PARKING</b>	1 covered	2 covered	Yes
<b>Private open space</b>	25m <sup>2</sup>	>25m <sup>2</sup>	Yes
<b>Landscaping</b>	135m <sup>2</sup>	> 135m <sup>2</sup>	Yes
<b>Height</b>	6.2m & 7.9m	8.9m	No
<b>Solar Access</b>	Adequate	Adequate	Yes

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<b>Privacy</b>	Adequate	Adequate	Yes
<b>Cut and fill</b>	<1.5m	<1.5m	Yes
<b>Long Walls</b>	20m	<20m	Yes
<b>Access</b>	<25%	<25%	Yes

**Comment:**

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

**BUILDING HEIGHT**

**Comment:**

The building heights within various residential and commercial zones are controlled by Clauses 24 and 25 of Kempsey Local Environmental Plan 1987. In respect to residential zones, buildings are restricted to two (2) storeys with a topmost floor ceiling level of not more than 6.2 metres above *natural ground level* unless the topography of the site makes compliance extremely difficult. A maximum rise of additional 1.7m may be allowed in respect to dwellings containing raked ceilings.

The proposed site is extremely steep, the land falls to the West 11 metres over a distance of 34 metres approximately, fall from the front boundary to the rear of the proposed dwelling is 6 metres, the slope where the building is to be erected falls 4 metres over 14.73 metres. It is for this reason the required height limit has been exceeded by 205mm in the northern elevation and 1.38 metres southern elevation.

It is considered the supporting documentation from the Pole Home Centre shows the variations meet the performance objectives of DCP 22 this can be viewed in ([Appendix G](#)).

It is further considered satisfactory for the additional reasons

1. Maximum ceiling height of the building's front elevation is only 3 metres
2. The floor level in the garage was calculated to allow access and to have small a grade as possible for the concrete driveway. Therefore it was the compromise of driveway gradient and height restriction that floor levels were also based upon.
3. The building height variation will have no adverse impact on the streetscape.

4. The proposal would result in less excavation than the dwelling already approved by Council.

#### **Section 79(1)(e) – ADVERTISING**

The proposal was advertised in accordance with the Environmental Planning Assessment Act, 1979 and Council's policy with no objections being received.

#### **Conclusion**

Having considered all of the relevant matters under Section 79(c) of the Environmental Planning and Assessment Act, 1979 and DCP 22 Performance Objectives and the circumstances of the case, it is recommended that the development application be approved subject to standard conditions.

2003. \*

#### **RESOLVED:**

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

**That the Development Application T6-03-369 be approved subject to the following:-**

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.
- 2 This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
- 3 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 4 The dwelling is not to be occupied prior to the issue of an Occupation/Interim Occupation Certificate by Council.  
  
An application for a certificate is enclosed. It is requested that it be completed and returned to Council prior to requesting an inspection. A minimum of 48 hours notice is necessary when requesting the inspection. Appointments will be made in accordance with the inspection program for that area.
- 5 The building is not to be occupied until all conditions of Council's consent have been complied with and an Occupation Certificate has been obtained from Council or an accredited certifier and submitted to Council.
- 6 The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried

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out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

**Inspections required:**

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

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

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

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

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

the sewer is required on site throughout the entire building operation.

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

- 12 A minimum distance of 900mm is to be provided between the wall building and the side boundary alignment.
- 13 A minimum distance of 900mm is to be provided between the wall building and the side boundary alignment.
  - a Structural Engineer's Details for retaining walls, footings, structural steel and stormwater disposal system is to be submitted prior to any work commencing on the building.
  - b Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.
  - c That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.
  - d External walls of the garage are strengthened by a minimum of 350mm x 230mm engaged brick piers spaced at maximum 1800mm centres.
  - e The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The applicant shall furnish Council with a report from the supplier upon completion of the window and glass installation indicating compliance with the requirements of AS1288 and AS2047.
  - f Should the verandah, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the verandah, patio or landing and steps for safety and convenience.

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

(1) Part 3.9.1. and 3.9.2 of BCA Housing Provisions

Note: Spacing of rails not to exceed 125mm.

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

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

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

- h Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
- l Details of wall bracing to be carried out in accordance with Australian Standard 1684-1999 are to be submitted to Council prior to commencement of work.
- j Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
- k 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.

- l Glazing of all windows and doors is to be in accordance with the requirements of B1 of the Building Code of Australia.
- m The door to all fully enclosed sanitary compartments must open outwards, or slide, or be readily removable from the outside, in accordance with the requirements of the Building Code of Australia.
- n Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
- o The sub floor ventilation must comply with Part 3.4.1.2 a) b) c) d) e) f) and g) of the Building Code of Australia (Housing Provisions).

- p Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
  - q Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 14 A Survey Certificate is to be submitted upon completion of the roof framing to ensure that the top plate is at or below 25.80 metres A.H.D.
  - 15 A Survey Report is to be submitted on completion of floor frame prior to laying floor to ensure the location of the building is in accordance with the approval issued.
  - 16 The dwelling shall be constructed to include all of the energy efficiency requirements installed in accordance with NATHERS report.
  - 17 The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
  - 18 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.
  - 19 Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-
    - a diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed.
    - b sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent unwanted sediment and other debris escaping from the land.
    - c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.

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

Note:

- i Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage.

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- ii Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.

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

<b>DES8</b>	<b>PROPOSED ERECTION OF A NEW TWO-STOREY DWELLING</b> <b>LOT 50 DP 1822650 No 18 KINCHELA STREET, CRESCENT HEAD</b> <b>FILE: T6-03-514 LA18401 SAR</b>	<b>{Folio No. 263690}</b>
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**SUMMARY:**

A Development Application has been received for approval to erect a new two-storey dwelling for which objections have been received.



**Applicant:** Frank Qorraj  
**Owner:** Frank and Sue Qorraj  
**Subject land:** Lot 50 DP1822650, 18 Kinchela Street, Crescent Head

**Proposal:**

A Development Application was submitted for erection of a new two-storey dwelling at 18 Kinchela Street, Crescent Head. ([Appendix H](#))

**Advertising:**

The Development Application was advertised in accordance with Council’s notification and advertising policy to 10 adjoining owners, with two submissions received, one (1) of which was marked confidential. ([Appendix I](#))

The following concerns where raised:

- Tree removal from rear or property.
- Overlooking other properties.
- The dwelling should be in alignment with the adjoining properties.

The submissions can be summarised and addressed as follows:

**1. Overlooking of properties**

It is considered that there will be minimal potential for overlooking of any private open space from the proposed dwelling which would be no more significant than that which currently exists from other dwellings in the locality. The addition of a boundary fence between the adjoining properties would further reduce any impact.

Any potential overlooking can be further reduced by the use of a privacy screen along the northern edge of the front verandah and the deletion or replacement of the proposed north facing kitchen window with a highlight window with a floor to window height of no less than 1.5 metres. The addition of a highlight window at 1.5 metres, will allow for light access into the proposed kitchen area while preventing overlooking of the adjoining yard. The principle living areas of the dwelling are to be located toward the front of the proposed dwelling and any potential for overlooking of the adjoining property from this area can therefore be alleviated by the use of the privacy screen along the northern verandah.

**2. Tree removal**

The positioning of the dwelling will maximize the number of trees retained on the site, with only a few smaller trees to be removed along the south eastern boundary. The more significant trees located at the front and middle of the block including a significant Eucalypt with tree hollows, will be retained, maintaining the overall aesthetic quality of the streetscape.

**3. The dwelling should be in alignment with the adjoining properties**

Although the dwelling is positioned substantially to the rear of 18 Kinchela Street, the positioning of the dwelling maximizes the number of existing trees to be retained upon the block, as well as maintaining adequate solar access and existing views of adjoining properties. By positioning the dwelling at a alignment of adjoining dwellings, there would be significant overshadowing of the adjoining property with shadows cast over the living and private open space areas of the dwelling throughout the day. By maintaining the proposed position of the dwelling, the adjoining property will have minimal loss of solar access with any shadows being cast principally in the morning hours and not in excess of Council's requirements. In addition, a repositioning of the dwelling may reduce any views enjoyed from the existing front deck of 20 Kinchela Street. Because there is variation in the existing setbacks in Kinchela Street, it is considered that the overall proposal will be in keeping with the existing character of the locality and there will be no unacceptable detracting from the existing streetscape.

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

**DCP No 22- Local Housing Strategy**

Standard	Required	Proposed	Complies Y/N
<b>Setbacks</b>			
-side			
-North elevation	1.5m	1.830m	Yes
-South elevation	1.5m	1.565m	Yes
-front	5.0m	25.0m	Yes
-rear	1.5m	3.0m	Yes
<b>Carparking</b>	1 covered	1 covered	Yes
<b>Private open space</b>	25m <sup>2</sup>	>25m <sup>2</sup>	Yes
<b>Height</b>	6.2m	5.9m	Yes
<b>Solar access</b>	15 points	16 points	Yes
<b>Privacy</b>	Adequate	Adequate	Yes
<b>Cut and fill</b>	<1.5m	<1.5m	Yes
<b>Long walls</b>	<20m	<20m	Yes

**Conclusion:**

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 Development Application be approved subject to the following changes being made in regard to the visual privacy of the adjoining property.

1. That the proposed kitchen window facing 16 Kinchela Street be replaced with a highlight window with a floor to window height of no less than 1.5 metres.
2. That privacy screening is installed along the northern side of the proposed front verandah facing 16 Kinchela Street.

It is considered that the proposed changes will reduce any subsequent impact upon the adjoining properties and that the positioning of the dwelling will maintain solar access as well as the existing views of 20 Kinchela Street. In addition it is considered that the dwelling will remain complimentary to surrounding streetscape.

2003. \*

**RESOLVED:**

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

**That the Development Application T6-03-514 be approved 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 has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
- 3 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.
- 4 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 5 The dwelling is not to be occupied prior to the issue of an Occupation/Interim Occupation Certificate by Council.  
  
An application for a certificate is enclosed. It is requested that it be completed and returned to Council prior to requesting an inspection. A minimum of 48 hours notice is necessary when requesting the inspection. Appointments will be made in accordance with the inspection program for that area.
- 6 The building is not to be occupied until all conditions of Council's consent have been complied with and an Occupation Certificate has been obtained from Council or an accredited certifier and submitted to Council.
- 7 The plans for the required Construction Certificate are to provide for the proposed kitchen window facing 16 Kinchela Street to be replaced with a highlight window with a floor to window height of no less than 1.5 metres.
- 8 The plans for the required Construction Certificate are to provide for privacy screening along the northern side of the front verandah facing 16 Kinchela Street.
- 9 The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

Inspections required:

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

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

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

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

- 11 Before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work.
- 12 A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.
- 13 A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.

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

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

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

- a Structural Engineer's Details for Retaining walls, reinforced concrete slab and structural work is to be submitted prior to any work commencing on the building.
- b Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.
- c That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.
- d External walls of the garage are strengthened by a minimum of 350mm x 230mm engaged brick piers spaced at maximum 1800mm centres.
- e The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The applicant shall furnish Council with a report from the supplier upon completion of the window and glass installation indicating compliance with the requirements of AS1288 and AS2047.
- f Should the verandah, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the verandah, patio or landing and steps for safety and convenience.  
Such balustrade to conform with the requirements of the Building Code of Australia:-
  - (1) D2.16
  - (2) Part 3.9.1. and 3.9.2 of BCA Housing ProvisionsNote: Spacing of rails not to exceed 125mm.
- g Riser and Going dimensions for stairs shall be in accordance with Clause D2.13 of the Building Code of Australia. In Class 1 and 10 buildings the following will apply:

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

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

- h Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
  - i Details of wall bracing to be carried out in accordance with Australian Standard 1684-1999 are to be submitted to Council prior to commencement of work.
  - j Artificial lighting and mechanical ventilation is to be provided to the ground floor ensuite.
  - k Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
  - l **Class 1(a) and 1(b) Buildings**  
  
An automatic fire detection and alarm system is to be installed in the building. Such system to conform with Specification E1.7 of the Building Code of Australia or be a smoke alarm system complying with AS 3786 or listed in the SSL Register of Accredited Products.  
  
The system is to be provided with mains electrical power, have a stand by power supply and installed in each storey to comply with Clause E1.7 (N.S.W. Variation). Details of location of the units are to be provided for approval prior to installation.
  - m The walls immediately adjacent or behind a bath, basin, sink or trough, shall be finished to a height of not less than 300mm above the fixture or in the case of a shower, to a height of 1.8 metres above the floor with cement render ceramic tiles or other approved finish impervious to water.
  - n The door to all fully enclosed sanitary compartments must open outwards, or slide, or be readily removable from the outside, in accordance with the requirements of the Building Code of Australia.
  - o Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
  - p Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
  - q Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 15 A Survey Report is to be submitted on completion of slab formwork to ensure the location of the building is in accordance with the approval issued.

- 16 The dwelling shall be constructed to include all of the energy efficiency requirements contained within the single residence scorecard.
- 17 The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- 18 Building materials are not to be stored within the road reserve or any other public place.
- 19 Excavated material from the site is not to be placed within the road reserve or any other public place.
- 20 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.
- 21 Roofwaters are to be directed by means of sealed pipes to the street gutter.
- 22 No trees to be lopped or removed except in accordance with Council's Policy on Tree Preservation, and with the written consent of Council.
- 23 Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-
  - a diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed.
  - b sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent unwanted sediment and other debris escaping from the land.
  - c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.

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

Note:

- i Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage.

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- ii Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.

**DES9**

**BUILDING AND DEVELOPMENT**

**FILE: B9-2 BWC (NRN)**

**{Folio No. 263691}**

**SUMMARY:**

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



Reporting that the following applications have been approved

2001/LD-00030 Lot 506 DPDP827889 PHILLIP DRIVE SOUTH WEST ROCKS

SUBDIVISION OF LOT 506 INTO 12 LOTS  
Owner: SALTWATER DEVELOPMENTS P/L  
Builder: 12

2002/LD-00402 211-221 GREGORY STREET SOUTH WEST ROCKS

SUBDIVISION OF LOT 223 INTO 37 LOTS  
Owner: MACHRO PTY LTD  
Builder: 37

2003/LD-00268 17 CLYDE STREET KEMPSEY

AMENITIES BLOCK  
Owner: KEMPSEY SHIRE COUNCIL  
Builder: 0

2003/LD-00319 5-7 COOPER STREET SOUTH WEST ROCKS

FOUR DWELLINGS AND SUBDIVISION  
Owner: SWAN C D & L  
Builder: 4

2003/LD-00340 37 MAIN STREET SMITHTOWN

TWO STOREY DWELLING ADDITION  
Owner: CRAIG M & S  
Builder: 0

2003/LD-00347 30 DULCONGHI STREET CRESCENT HEAD  
DEMOLISH DWELLING REPLACE WITH TWO-STOREY  
DWELLING

Owner: BRAMBLEY C B & C  
Builder: 0

2003/LD-00371 3 MERTENS PLACE SOUTH WEST ROCKS

DUAL OCCUPANCY & SUBDIVISION  
Owner: SAINSBURY DJ & PJ  
Builder: 1

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2003/LD-00409 26 VERGE STREET KEMPSEY  
WORKSHOP AND RETAIL PREMISES  
Owner: ATKINS & HOLD, HOLDT H & HOLDT G J  
Builder: 0

2003/LD-00415 24 TREVOR JUDD AVENUE SOUTH WEST ROCKS  
TWO STOREY DWELLING  
Owner: DOYLE A B & J  
Builder: 0

2003/LD-00427 Lot 4 DPDP826014 SMITHS CREEK ROAD  
KUNDABUNG  
DWELLING  
Owner: MOBBS C  
Builder: 0

2003/LD-00430 512 CRESCENT HEAD ROAD SOUTH KEMPSEY  
HOME ACTIVITY - PICTURE FRAMING  
Owner: MILLER W & I  
Builder: 0

2003/LD-00452 8 STEVE EAGLETON SOUTH WEST ROCKS  
DWELLING ADDITION AND CARPORT  
Owner: LEITE J O  
Builder: 0

2003/LD-00455 35 MEMORIAL AVENUE SOUTH WEST ROCKS  
TWO STOREY DUAL OCCUPANCY  
Owner: GIRARD R  
Builder: 0

2003/LD-00458 Lot 21 DPDP804680 RIVER STREET WEST KEMPSEY  
DEMOLITION OF EXISTING GARAGE &  
Owner: DOWMAN A & E  
Builder: 0

2003/LD-00464 26 BARNARD STREET GLADSTONE  
TWO STOREY DWELLING ADDITION  
Owner: STOUT J F  
Builder: 0

2003/LD-00466 21-23 AKUBRA PLACE SOUTH KEMPSEY  
TRUCK PARKING FACILITY FOR 3 TRUCKS  
Owner: MCINTYRE N F & R  
Builder: 0

2003/LD-00478 Lot 821 DPDP773764 PACIFIC HIGHWAY SOUTH  
KEMPSEY  
SELF STORAGE UNITS  
Owner: JEMMETT M & PRESCOTT J  
Builder: 0

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2003/LD-00484 Lot 3 DPDP831781 MARIA RIVER ROAD CRESCENT  
HEAD

DWELLING  
Owner: BUTCHER G  
Builder: 0

2003/LD-00494 5 DULCONGHI STREET CRESCENT HEAD

AWNING  
Owner: MILIC D & E A  
Builder: 0

2003/LD-00495 9 STEWART PLACE EUROKA

DWELLING & GARAGE  
Owner: MADDALENA J & M  
Builder: 0

2003/LD-00496 35 BELGRAVE STREET KEMPSEY

ADDITIONS TO COMMERCIAL BUILDING  
Owner: DEER INVESTMENTS PTY LTD  
Builder: 0

2003/LD-00503 Lot 8 DPDP839097 EVERINGHAMS LANE  
COLLOMBATTI

GARAGE  
Owner: BENSON R & E  
Builder: 0

2003/LD-00508 16 QUEEN STREET GREENHILLS

RELOCATION OF HOUSE  
Owner: CLARKE G

2003/LD-00521 24 BELMORE STREET SMITHTOWN

SWIMMING POOL  
Owner: PARISH K

2003/LD-00527 10 CLARENCE RYAN AVENUE WEST KEMPSEY

GARAGE  
Owner: CHAPMAN C & C  
Builder: 0

2003/LD-00528 22 KOROGORA STREET CRESCENT HEAD

GARAGE  
Owner: ACKROYD A A & H  
Builder: 0

2003/LD-00529 888 STUARTS POINT ROAD STUARTS POINT

ADDITIONS  
Owner: WATSON D  
Builder: 0

2003/LD-00532 1 MEMORIAL AVENUE GLADSTONE

ROTATE DWELLING  
Owner: KING ST & D  
Builder: 0

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2003/LD-00534 7 BELMORE STREET SMITHTOWN  
GARAGE  
Owner: MCKIERNAN J & R  
Builder: 0

2003/LD-00536 136 SOUTH WEST ROCKS ROAD HAMPDEN HALL  
SHED  
Owner: KUNDICEVIL T & S  
Builder: 0

2003/LD-00543 51 TOZER STREET WEST KEMPSEY  
GARAGE  
Owner: RILEY C  
Builder: 0

2003/LD-00544 4 RUSSELL AVENUE SMITHTOWN  
CARPORT  
Owner: FLANNAGAN B  
Builder: 0

2003/LD-00545 Lot 18 DPDP249351 LIKA DRIVE SOUTH KEMPSEY  
SHED  
Owner: MOOR S & T  
Builder: 0

2003/LD-00547 Lot 6 DPDP1051745 OLD COAST ROAD KUNDABUNG  
DWELLING & SHED  
Owner: EAST COAST CHARTER SERVICES  
Builder: 0

2003/LD-00556 255-279 GREGORY STREET SOUTH WEST ROCKS  
DOCTORS SURGERY  
Owner: HAYES & SCHIPP  
Builder: 0

2003/LD-00557 45 WIDE STREET WEST KEMPSEY  
SWIMMING POOL  
Owner: DUTTON M & R  
Builder: 0

2003/LD-00562 22 HERBERT APPLEBY CIRCUIT SOUTH WEST  
ROCKS  
REAR PATIO ROOF AND SLAB  
Owner: WATERS L  
Builder: 0

2003/LD-00564 23 CYRUS SAUL CIRCUIT FREDERICKTON  
GARAGE  
Owner: PURCELL A & R  
Builder: 0

2003/LD-00568 2 LANDBOROUGH STREET SOUTH WEST ROCKS  
DEMOLITION

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SHIRE COUNCIL HELD ON TUESDAY 28TH OCTOBER 2003.*

.....  
**MAYOR**

Owner: LAHEY PROPERTY PTY LTD  
Builder: 0

2003/LD-00574 82 MULBURY PLACE EUROKA  
SHED  
Owner: BRENTON M W & J A  
Builder: 0

2003/LD-00575 44 INNES STREET EAST KEMPSEY  
SHED & VERANDAH  
Owner: COLBERT M  
Builder: 0

2003/LD-00579 11 THIRTEENTH AVENUE STUARTS POINT  
DWELLING ADDITIONS  
Owner: PUGH NRF & WT  
Builder: 0

2003/LD-00585 63 MULBURY PLACE EUROKA  
DETACHED GARAGE & DRIVEWAY  
Owner: HOLLIER G & K  
Builder: 0

2003/LD-00590 1 PETER MARK CIRCUIT SOUTH WEST ROCKS  
AWNING  
Owner: GORHAM J & D  
Builder: 0

2003/LD-00594 8 EVERGLADES PLACE SOUTH WEST ROCKS  
DWELLING ADDITIONS  
Owner: HALL G & P  
Builder: 0

2003/LD-00603 6 KEVIN HOGAN PLACE SOUTH WEST ROCKS  
CARPORT  
Owner: ANDERSON B M  
Builder: 0

2003/LD-00612 21 RUDDER STREET SOUTH WEST ROCKS  
ATTACHED GARGAE  
Owner: VAN DINTEREN JC & JOHNSON HJ  
Builder: 0

2003/LD-00614 19 SMOKY RIDGE DRIVE ARAKOON  
GARAGE  
Owner: SMITHETT A&M  
Builder: 0

2003/LD-00616 60 RONALD LYNE DRIVE SOUTH KEMPSEY  
EXTENDING POOL DECK  
Owner: PEARSON L  
Builder: 0

2003/LD-00621 10 COCKATOO PLACE SOUTH WEST ROCKS

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SHIRE COUNCIL HELD ON TUESDAY 28TH OCTOBER 2003.*

.....  
**MAYOR**

PATIO & CARPORT  
Owner: ANDREW R&R  
Builder: 0

2003/LD-00623 20 SETTLERS WAY SOUTH KEMPSEY  
SHED  
Owner: RAISON D & S  
Builder: 0

2003/LD-00624 2304 PACIFIC HIGHWAY CLYBUCCA  
CONVERT EXISTING SHED TO DOG KENNELS  
Owner: COOK R & N  
Builder: 0

2003/LD-00633 8 BELLE O'CONNOR STREET SOUTH WEST ROCKS  
PATIO AWNING  
Owner: COLQUHOUN S & BARBER D  
Builder: 0

2003/LD-00636 14 DENNIS CRESCENT SOUTH WEST ROCKS  
DWELLING  
Owner: RUDDER W & M C-/ PERRY HOMES (AUST) PTY LTD  
Builder: 0

2003/LD-00646 16 HAVEN CRESCENT YARRAVEL  
EXTEND EXISTING DECK  
Owner: WEARNE R & H  
Builder: 0

2003/LD-00665 Lot 1 DPDP2076 BELLIMBOPINNI  
PUBLIC RESERVE  
Owner: SWAN D H

Summary

Type	No	Value
Local Development Application	56	5784013

As at 17 Oct 2003 252 applications are in the office awaiting a determination.

The number of applications in excess of 40 days is 101 and the range of days is 41 to 1380.

The reasons for the matters outstanding are:-

BL	Builders Licence Requirements	1
FD	Further Details Req	64
IA	Incomplete Application	18
NN	Neighbour Notification	5
OA	Other Agencies	10
RC	Refer Council	3

2003/CB-00228 9 OXLEY PLACE SOUTH WEST ROCKS  
TWO STOREY DWELLING ADDITION

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.....  
**MAYOR**

Owner: WALKER J A

2003/CB-00261 500 BARBERS LANE YARRAHAPINNI  
DWELLING

Owner: WYETH M P & ARMSTRONG T D

2003/CB-00314 3 MERTENS PLACE SOUTH WEST ROCKS  
DUAL OCCUPANCY & SUBDIVISION

Owner: SAINSBURY DJ & PJ

2003/CB-00345 24 TREVOR JUDD AVENUE SOUTH WEST ROCKS  
TWO STOREY DWELLING

Owner: DOYLE A B & J

2003/CB-00353 8 MILTON DUFTY PLACE EAST KEMPSEY  
DUAL OCCUPANCY

Owner: GILL C & H

2003/CB-00358 Lot 4 DPDP826014 SMITHS CREEK ROAD  
KUNDABUNG

DWELLING

Owner: MOBBS C

2003/CB-00377 8 STEVE EAGLETON SOUTH WEST ROCKS  
DWELLING ADDITION AND CARPORT

Owner: LEITE J O

2003/CB-00384 Lot 21 DPDP804680 RIVER STREET WEST  
KEMPSEY

DEMOLITION OF EXISTING GARAGE &

Owner: DOWMAN A & E

2003/CB-00385 13 HILTON TROTTER PLACE WEST KEMPSEY  
2 x 2 BEDROOM VILLAS

Owner: COULTER C B & IORNFIELD B & K

2003/CB-00391 26 BARNARD STREET GLADSTONE  
TWO STOREY DWELLING ADDITION

Owner: STOUT J F

2003/CB-00401 Lot 3 DPDP831781 MARIA RIVER ROAD CRESCENT  
HEAD

DWELLING

Owner: BUTCHER G

2003/CB-00421 16 QUEEN STREET GREENHILLS  
RELOCATION OF HOUSE

Owner: CLARKE G

2003/CB-00428 Lot 8 DPDP839097 EVERINGHAMS LANE  
COLLOMBATTI

GARAGE

Owner: BENSON R & E

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SHIRE COUNCIL HELD ON TUESDAY 28TH OCTOBER 2003.*

.....  
**MAYOR**

2003/CB-00431 37 MAIN STREET SMITHTOWN  
TWO STOREY DWELLING ADDITION  
Owner: CRAIG M & S

2003/CB-00441 10 CLARENCE RYAN AVENUE WEST KEMPSEY  
GARAGE  
Owner: CHAPMAN C & C

2003/CB-00444 22 KOROGORA STREET CRESCENT HEAD  
GARAGE  
Owner: ACKROYD A A & H

2003/CB-00447 888 STUARTS POINT ROAD STUARTS POINT  
ADDITIONS  
Owner:

2003/CB-00448 1 MEMORIAL AVENUE GLADSTONE  
ROTATE DWELLING  
Owner:

2003/CB-00449 24 BELMORE STREET SMITHTOWN  
SWIMMING POOL  
Owner: PARISH K

2003/CB-00453 7 BELMORE STREET SMITHTOWN  
GARAGE  
Owner: MCKIERNAN J & R

2003/CB-00454 136 SOUTH WEST ROCKS ROAD HAMPDEN HALL  
SHED  
Owner:

2003/CB-00459 51 TOZER STREET WEST KEMPSEY  
GARAGE  
Owner: RILEY C

2003/CB-00460 4 RUSSELL AVENUE SMITHTOWN  
CARPORT  
Owner: FLANNAGAN B

2003/CB-00461 Lot 18 DPDP249351 LIKA DRIVE SOUTH KEMPSEY  
SHED  
Owner: MOOR S & T

2003/CB-00463 Lot 6 DPDP1051745 OLD COAST ROAD  
KUNDABUNG  
DWELLING & SHED  
Owner: MARQUETT C

2003/CB-00470 45 WIDE STREET WEST KEMPSEY  
SWIMMING POOL  
Owner: DUTTON M & R

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SHIRE COUNCIL HELD ON TUESDAY 28TH OCTOBER 2003.*

.....  
**MAYOR**

2003/CB-00474 22 HERBERT APPLEBY CIRCUIT SOUTH WEST  
ROCKS

REAR PATIO ROOF AND SLAB  
Owner: WATERS L

2003/CB-00475 23 CYRUS SAUL CIRCUIT FREDERICKTON  
GARAGE

Owner: PURCELL A & R

2003/CB-00484 11 THIRTEENTH AVENUE STUARTS POINT  
DWELLING ADDITIONS

Owner: PUGH NRF & WT

2003/CB-00485 82 MULBURY PLACE EUROKA  
SHED

Owner: BRENTON M W & J A

2003/CB-00486 44 INNES STREET EAST KEMPSEY  
SHED & VERANDAH

Owner: COLBERT M

2003/CB-00492 63 MULBURY PLACE EUROKA  
DETACHED GARAGE & DRIVEWAY

Owner: HOLLIER G & K

2003/CB-00494 1 PETER MARK CIRCUIT SOUTH WEST ROCKS  
AWNING

Owner: GORHAM J & D

2003/CB-00498 8 EVERGLADES PLACE SOUTH WEST ROCKS  
DWELLING ADDITIONS

Owner: HALL G & P

2003/CB-00500 18A MCINTYRE STREET SOUTH WEST ROCKS  
TWO STOREY DUAL OCCUPANCY AND SUBDIVISION

Owner: DANRYAD PTY LIMITED

2003/CB-00504 6 KEVIN HOGAN PLACE SOUTH WEST ROCKS  
CARPORT

Owner: ANDERSON B A

2003/CB-00513 21 RUDDER STREET SOUTH WEST ROCKS  
ATTACHED GARGAE

Owner: VAN DINTEREN JC & JOHNSON HJ

2003/CB-00514 19 SMOKY RIDGE DRIVE ARAKOON  
GARAGE

Owner: SMITHETT A&M

2003/CB-00517 60 RONALD LYNE DRIVE SOUTH KEMPSEY  
EXTENDING POOL DECK

Owner: PEARSON L

2003/CB-00520 10 COCKATOO PLACE SOUTH WEST ROCKS

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SHIRE COUNCIL HELD ON TUESDAY 28TH OCTOBER 2003.*

.....  
**MAYOR**

PATIO & CARPORT  
Owner: ANDREW R&R

2003/CB-00524 20 SETTLERS WAY SOUTH KEMPSEY  
SHED  
Owner: RAISON D & S

2003/CB-00527 8 BELLE O'CONNOR STREET SOUTH WEST ROCKS  
PATIO AWNING  
Owner: COLQUHOUN S & BARBER D

2003/CB-00535 14 DENNIS CRESCENT SOUTH WEST ROCKS  
DWELLING  
Owner: RUDDER W & M C-/ PERRY HOMES (AUST) PTY LTD

Summary

Type	No	Value
Construction Certificate Building	43	0

As at 17 Oct 2003 215 applications are in the office awaiting a determination.

The number of applications in excess of 40 days is 56 and the range of days is 41 to 1772.

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	32
IA	Incomplete Application	7
NN	Neighbour Notification	1
OA	Other Agencies	3
RC	Refer Council	2
XX	No Reason Given	2

2003. \*

**RESOLVED:**

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

**That the information be noted.**



## **QUESTIONS WITHOUT NOTICE**

Councillor Howell

Councillor Howell was advised:-

1. That in regard to his concerns about the accuracy of road count figures on Point Plomer Road provided to the Minister for

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.....  
**MAYOR**

Environment, the Mayor will arrange for the Director Engineering to conduct another traffic count during the December school holidays.

Councillor Parkinson

Councillor Parkinson was advised:-

1. That the Director Environmental Services would investigate the burning of rubbish by proprietors of Macleay Skid Bins in the back yard of their South West Rocks property.
2. That the meeting held on Monday 27<sup>th</sup> October 2003 with representatives of the National Party to discuss the Pacific Highway passed a resolution to approach the Federal Government to commit to funding past 2006.



**At this stage 10.05am the Meeting adjourned for morning tea and a Works Inspection and upon resumption at 1.15 p.m. all present at the adjournment were in attendance with exception of Councillor Parkinson.**

#### **WORKS COMMITTEE REPORT**

**REPORT OF THE MEETING OF THE WORKS COMMITTEE HELD ON TUESDAY 28<sup>TH</sup> OCTOBER 2003 COMMENCING AT 10.30 A.M.**

2003. \*

**RESOLVED:**

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

**That the Report of the Works Committee held on 28<sup>th</sup> October 2003 be adopted.**



**At this stage the matter referred from the Works Committee was dealt with.**

<b>1</b>	<b>CHANGE OF USE – AIR CONDITIONER AND REFRIGERATION REPAIRS - GLADSTONE</b>
<b>FILE: T6-03-412 AD</b>	<b>{Folio No. 261547}</b>

#### **SUMMARY:**

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

2003. \*

**RESOLVED:**

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

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.....  
**MAYOR**

- a. That the applicant be invited to submit an amended application to provide for a shed sufficient to cater for tourist coaches to be confined wholly within the building.
- b. That upon receipt of a suitable amended application, the conditions to be imposed are those contained in the Director Environmental Services report of 23<sup>rd</sup> September 2003 DES2, with the addition of the following;
  - i. All vehicles to be repaired are to exit the site in a forward direction.
  - ii. All vehicles under repair, including all works, are to be contained wholly within the workshop building.
- c. That the objectors be advised of Council's decision.



**CONCLUSION:**

There being no further business, the Meeting terminated at 1.30 p.m.

