



PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 14th October 2008 commencing at 9.01am

RM1	PROPOSED RESPITE CARE FACILITY	{Folio No. 383270}
	FILE: T6-08-203 RBP	

2008. 657 **RESOLVED:**

Moved: Cl. Hayes
Seconded: Cl. Sproule

That resolution number 2008.23 from the Works Inspection Committee Meeting held 30th September 2008, as printed below;

“That this item be deferred to the November 2008 Council meeting so as to allow the new councillors to familiarise themselves with the application”

be rescinded.

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Bowell	F	Campbell	F	Green	F	Gribbin	A	Hayes	F	Saul	A
Snowsill	F	Sproule	F	Walker	F						

MOVED:

Moved: Cl. Hayes
Seconded: Cl. Sproule

A. That Development Application T6-08-203 is approved subject to standard conditions:-

PARAMETERS OF THIS CONSENT

1. **Development is to be in accordance with approved plans**
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan Supporting Document	No./	Version	Prepared by	Dated
Sheet 01/01 Job No. 00684M		-	Midcoast Design & Drafting	28 th July 2008

In the event of any inconsistency between conditions of this development consent and the plans / supporting documents

referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. DTET Building Code of Australia and insurance requirements under Home Building Act 1989:

- a) All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.
- b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- b) to the erection of a temporary building.

3. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act.
- b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates

(not being the council) has given the council written notice of the updated information.

4. The applicant must comply with the Category 1 - fire safety provisions of Part 7B (P2) of the Building Code of Australia. Building work, only as and if necessary to comply with Category 1 fire safety provisions, may be carried out. These requirements do not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188(4).
5. In accordance with Clause 94 of the Environmental Planning & Assessment Regulation 2000 Council requires the existing building(s), subject to a development application, be brought into total compliance with the fire safety provisions of the Building Code of Australia.
6. A separate application is to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures, other than those permitted without consent by Council.
7. This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
8. Consent to operate this facility at this location is limited to a period of 3 years only from the date of approval.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

9. An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council. The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site specific design of sewage management in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.
10. The application for a Construction Certificate is to include plans and specifications that indicate access and facilities for persons with access disabilities to and within the development in accordance with AS 1428.1 - *Design for Access and Mobility* and Part D3 of the *Building Code of Australia*.

Such plans and specifications must be approved as part of the Construction Certificate.

11. A waste management plan is to be submitted to and approved by Council to ensure all waste is collected, stored

and disposed of to the satisfaction of Council. The plan must incorporate measures to separate recyclable materials and describe the methods for collection of waste containers from the site.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

12. A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:
- a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

13. Under the provisions of AS3959 – 1999 Construction of Buildings in Bushfire-Prone Areas, the site has been determined as a medium category of bushfire attack requiring level 1 construction.

The property owner shall implement and maintain all recommendations of the Bushfire Hazard Assessment (Appendix D) report prepared by Hopkins dated May 2008.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

14. Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
- a) Monday to Friday, from 7 am to 6 pm.
 - b) Saturday, from 8 am to 1 pm.

No construction work is to take place on Sundays or Public Holidays.

15. All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

16. Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OCCUPATION OF THE BUILDING

17. All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.
18. Access and facilities for persons with disabilities are to be provided in accordance with AS 1428 - *Design for Access and Mobility*. An accessible car parking space is to be provided where adjacent to the building in accordance with approved plans.
19. The on-site effluent management system is to be completed in accordance with approved plans and current specifications and standards. The system is not to be used and / or operated until a Council Officer has inspected the system and authorised its use.
20. A fire detection and alarm system must be installed and maintained within the building. Such system must comply with the Building Code of Australia (BCA) Part 3.7.2.2 requirements for a Class 1a building.
21. Bushfire protection measures must be undertaken in accordance with the Bush Hazard Assessment prepared by 'Midcoast Environmental' submitted with the application.
22. An approval to operate the onsite waste water management system is required prior to occupancy.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

23. All vehicles connected with the premises to be parked or garaged within the premises at all times.
24. Bedrooms must provide a safe, healthy, clean and functional area for the sleeping, storage and amenity of clients. Adequate lighting and ventilation must be in accordance with the standards applied by the Building Code of Australia.
25. At the commencement of building works the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and appendix 5 of Planning for *Bush Fire Protection 2006* and the NSW Rural Fire Service's document '*Standards for asset protection zones*'.
26. Water, electricity and gas are to comply with section 4.2.7 of Planning *Bush Fire Protection 2006*.

27. Construction is to comply with Appendix 3 – Site Bush Fire Attack Assessment of *Planning for Bush Fire Protection 2006*. In this regard the following design standards for construction are to be incorporated into the development.
 - a) Roofing for the entire building shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any material used shall have a Flammability Index no greater than 5.
 - b) The existing building is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with non-corrosive metal screen. This includes any sub floor areas where applicable and eaves.
 28. An emergency / evacuation plan is to be prepared consistent with the NSW Rural Fire Services Guidelines for implementation by the occupants in the event of a required evacuation.
 29. Respite care is to be provided on a temporary basis to two (2) to the three (3) days at a time, with an anticipated frequency two (2) to three (3) stays per week.
 30. Accommodation will be provided for a maximum of six (6) people per stay which will include a minimum of one (1) carer.
 31. “Day sessions” will not be held in conjunction with overnight stays.
 32. Clients are to be restricted to persons with low risk medical needs who are unlikely to require acute medical attention.
 33. The consent for the use of the site as Temporary Group Home will lapse 2 years from the date of issue.
- B. That all residents of Dulconghi Estate are to be advised in writing when or if there is a new development application with a clear explanation of the term of the DA.
 - C. That the residents be advised of the statutory provisions relating to the lapsing of the DA.

An AMENDMENT was MOVED:

*Moved: Cl. Gribbin
Seconded: Cl. Saul*

- A. That Development Application T6-08-203 is approved subject to standard conditions:-

PARAMETERS OF THIS CONSENT

1. Development is to be in accordance with approved plans
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan Supporting Document	No./	Version	Prepared by	Dated
Sheet 01/01 Job No. 00684M		-	Midcoast Design & Drafting	28 th July 2008

In the event of any inconsistency between conditions of this development consent and the plans / supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. DTET Building Code of Australia and insurance requirements under Home Building Act 1989:

- c) All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.
- d) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- d) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- e) to the erection of a temporary building.

3. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act.
- b) in the case of work to be done by an owner-builder:

- i) the name of the owner-builder, and
- ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

4. The applicant must comply with the Category 1 - fire safety provisions of Part 7B (P2) of the Building Code of Australia. Building work, only as and if necessary to comply with Category 1 fire safety provisions, may be carried out. These requirements do not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188(4).
5. In accordance with Clause 94 of the Environmental Planning & Assessment Regulation 2000 Council requires the existing building(s), subject to a development application, be brought into total compliance with the fire safety provisions of the Building Code of Australia.
6. A separate application is to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures, other than those permitted without consent by Council.
9. This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
10. Consent to operate this facility at this location is limited to a period of 3 years only from the date of approval.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

9. An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council. The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site specific design of sewage management in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.
10. The application for a Construction Certificate is to include plans and specifications that indicate access and facilities

for persons with access disabilities to and within the development in accordance with AS 1428.1 - *Design for Access and Mobility* and Part D3 of the *Building Code of Australia*.

Such plans and specifications must be approved as part of the Construction Certificate.

11. A waste management plan is to be submitted to and approved by Council to ensure all waste is collected, stored and disposed of to the satisfaction of Council. The plan must incorporate measures to separate recyclable materials and describe the methods for collection of waste containers from the site.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

12. A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:
 - a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - f) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

13. Under the provisions of AS3959 – 1999 Construction of Buildings in Bushfire-Prone Areas, the site has been determined as a medium category of bushfire attack requiring level 1 construction.

The property owner shall implement and maintain all recommendations of the Bushfire Hazard Assessment (Appendix D) report prepared by Hopkins dated May 2008.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

14. Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
 - a) Monday to Friday, from 7 am to 6 pm.
 - b) Saturday, from 8 am to 1 pm.

No construction work is to take place on Sundays or Public Holidays.

15. All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.
16. Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OCCUPATION OF THE BUILDING

17. All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.
18. Access and facilities for persons with disabilities are to be provided in accordance with AS 1428 - *Design for Access and Mobility*. An accessible car parking space is to be provided where adjacent to the building in accordance with approved plans.
19. The on-site effluent management system is to be completed in accordance with approved plans and current specifications and standards. The system is not to be used and / or operated until a Council Officer has inspected the system and authorised its use.
20. A fire detection and alarm system must be installed and maintained within the building. Such system must comply with the Building Code of Australia (BCA) Part 3.7.2.2 requirements for a Class 1a building.
21. Bushfire protection measures must be undertaken in accordance with the Bush Hazard Assessment prepared by 'Midcoast Environmental' submitted with the application.
22. An approval to operate the onsite waste water management system is required prior to occupancy.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

23. All vehicles connected with the premises to be parked or garaged within the premises at all times.
24. Bedrooms must provide a safe, healthy, clean and functional area for the sleeping, storage and amenity of clients. Adequate lighting and ventilation must be in accordance with the standards applied by the Building Code of Australia.

25. At the commencement of building works the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and appendix 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document '*Standards for asset protection zones*'.
 26. Water, electricity and gas are to comply with section 4.2.7 of *Planning Bush Fire Protection 2006*.
 27. Construction is to comply with Appendix 3 – Site Bush Fire Attack Assessment of *Planning for Bush Fire Protection 2006*. In this regard the following design standards for construction are to be incorporated into the development.
 - a) Roofing for the entire building shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any material used shall have a Flammability Index no greater than 5.
 - b) The existing building is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with non-corrosive metal screen. This includes any sub floor areas where applicable and eaves.
 28. An emergency / evacuation plan is to be prepared consistent with the NSW Rural Fire Services Guidelines for implementation by the occupants in the event of a required evacuation.
 29. Respite care is to be provided on a temporary basis to two (2) to the three (3) days at a time, with an anticipated frequency two (2) to three (3) stays per week.
 30. Accommodation will be provided for a maximum of six (6) people per stay which will include a minimum of one (1) carer.
 31. "Day sessions" will not be held in conjunction with overnight stays.
 34. Clients are to be restricted to persons with low risk medical needs who are unlikely to require acute medical attention.
 35. The consent for the use of the site as Temporary Group Home will lapse 2 years from the date of issue.
- B. That all residents of Dulconghi Estate are to be advised in writing when or if there is a new development application with a clear explanation of the term of the DA.
- C. That the residents be advised of the statutory provisions relating to the lapsing of the DA.
- D. That a 24 hour assistance line be provided for the residents of the area to ring if there is a problem with the operation of the development

The AMENDMENT was PUT to the Meeting and was LOST.

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Bowell	A	Campbell	A	Green	A	Gribbin	F	Hayes	A	Saul	F	Snowsill	A
Sproule	A	Walker	F										

2008. 658 The MOTION was PUT to the MEETING and was CARRIED.

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Bowell	F	Campbell	F	Green	F	Gribbin	A	Hayes	F	Saul	A	Snowsill	F
Sproule	F	Walker	F										

DSDS1	TELECOMMUNICATIONS FACILITY
FILE: T6-08-264 MGD	{ Folio No. 383271 }

SUMMARY:

Reporting that Council has received an application to erect a telecommunications tower and equipment shed for which objections have been received.

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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Director Sustainable Development Services Recommendation:

That Development Application No. T6-08-264 be approved subject to the conditions prescribed below:

PARAMETERS OF THIS CONSENT

1. Development is to be in accordance with approved plans
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No. / Supporting Document	Version	Prepared by	Dated
Locality & Site Plan Job No. T237 S1 Sheets 2	1A	MYD Consulting Engineering	13 th May 2008
Site Setout Plan Job No. T237 S2 Sheets 3	1A	MYD Consulting Engineering	13 th May 2008
Site Elevation Job No. T237 S3 Sheets 4	1A	MYD Consulting Engineering	13 th May 2008

In the event of any inconsistency between conditions of this development consent and the plans / supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Compliance with Building Code of Australia**
All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- b. to the erection of a temporary building.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

3. This consent does not permit commencement of any works
This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

4. **Erosion & sediment control - special measures required**
Erosion and sedimentation controls are to be in place in accordance with the Development Control Plan (DCP) 36. Particular attention is to be given to the provision of the following sediment and erosion control measures:
 - a. Temporary driveway from the edge of road to the building site;
 - b. Temporary downpipes immediately that the roof has been erected; and
 - c. Silt fence or sediment barrier.

Additionally the enclosed sign, to promote the awareness of the importance of maintenance of sediment and erosion controls, is to be clearly displayed on the most prominent sediment fence or erosion control device for the duration of the project.

Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.

5. **Toilet facilities**
Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20

persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

6. Site construction sign required

A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:

- a. showing the name, address and telephone number of the principal certifying authority for the work;
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c. stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

7. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- Monday to Friday, from 7 am to 6 pm.
- Saturday, from 8 am to 1 pm.

No construction work is to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

8. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

9. No filling around trees

No soil or fill material is to be placed within the drip-line of a tree so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.

10. Burning of felled trees prohibited

The burning of trees and associated vegetation felled during clearing operations is not permitted. Where possible, vegetation is to be mulched and reused on the site.

NOM3	PROPOSAL FOR ALL RESOLUTIONS OF COUNCIL TO HAVE A DIVISION
FILE: 469 AVB (NRN)	{Folio No. 383267}

MOVED: *Moved: Cl. Green
Seconded: Cl. Hayes*

That all Resolutions of Council include a "Division"

The MOTION was PUT to the Meeting and was LOST.

Councillors Green and Hayes called for a Division.

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Bowell	A	Campbell	A	Green	F	Gribbin	A	Hayes	F	Saul	A	Snowsill	A
Sproule	F	Walker	A										

Items DSDS2 and DSS20 were dealt with in conjunction.

DSDS2	SUBDIVISION AND SINGLE DWELLING
FILE: T6-07-458 RBP	{Folio No. 383272}

SUMMARY:

Reporting that Council has received an application for a subdivision to create 2 lots including the construction of an additional single dwelling on an existing residential property in Hat Head, which requires a variation to DCP 37 – Hat Head

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2008. 671 RESOLVED: *Moved: Cl. Walker
Seconded: Cl. Saul*

That consent be granted subject to the following conditions:

PARAMETERS OF THIS CONSENT

1. **Development is to be in accordance with approved plans**
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No. / Supporting Document	Version	Prepared by	Dated
00670H Sheets 1 to 3	-	Midcoast Design	25 th September 2007

In the event of any inconsistency between conditions of this development consent and the plans / supporting documents

referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989**
 - a. All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.
 - b. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- b. to the erection of a temporary building.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

3. **Sediment and erosion measures required**

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site / premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins. The sediment and erosion control plan is to be designed in accordance with the requirements of the Landcom Blue Book, "Soils and Construction - Managing Urban Stormwater".

The sediment and erosion control plan is to be prepared by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

The plans must be in compliance with Council's current Council's Adopted Engineering Standard. Such plans and specifications must be approved as part of the Construction Certificate.

4. **Water and Sewerage Section 68 approval required**

An approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be

obtained. This application is to include the installation of the proposed rainwater tank and any associated plumbing.

5. Stormwater drainage approval

Stormwater drainage is to be designed to direct all water to a Council approved drainage system to prevent discharge runoff onto adjoining land. The drainage system is to be designed for 1 in 20 year storm event. This system must be designed in accordance with AS/NZS 3500.3:2003 - *Plumbing and drainage*, Part 3: Stormwater drainage. All piped drainage lines over adjoining land are to be located within drainage easements. All costs are the responsibility of the proponent.

An approval is to be obtained under Section 68 of the Local Government Act 1993 to *carry out stormwater drainage work*. Engineering plans and specifications are to be submitted in triplicate and must include details in accordance with Appendix C of AS/NZS 3500.3:2003 - *Plumbing and drainage*, Part 3: Stormwater drainage.

The plans must be in compliance with Council's Adopted Engineering Standard.

6. Consent required for works within the road reserve

Consent from Council must be obtained for all works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve. Such plans are to be in accordance with Council's Adopted Engineering Standard.

7. Construction of buildings in bushfire-prone areas - further details required

The application for a Construction Certificate is to include details indicating the construction of the building to Level 3 construction as defined in AS 3959-1999 - *Construction of buildings in bushfire-prone areas*. In addition, the plans must include the following:

- window protection;
- subfloor space enclosure;
- fire-retardant / treated timber species to be used; and
- vents and weepholes protection.

Such plans and specifications must be approved as part of the Construction Certificate.

8. Driveway details required

The application for a Construction Certificate is to include plans and specification that indicate vehicular access from the site boundary to the proposed car space(s). Vehicular access must be in accordance with AS/NZS 2890.1-2004: *Parking facilities*, Part 1: Off-street car parking.1. Plans are to include the following items:

- a) pavement description (grades exceeding 15% must be sealed);
- b) site conditions affecting the access;

- c) existing and design levels;
- d) longitudinal section from the road centreline to the car space(s);
- e) cross sections every 20 metres; and
- f) drainage (open drains, pipes, etc.), including calculations and catchment details.

The plans must be in compliance with Council's Adopted Engineering Standard.

9. Contributions for Water and Sewer Services prior to this issue of a Construction Certificate.

Contributions set out in the following table are to be paid to Council prior to the issue of a Construction Certificate. Contributions are levied in accordance with Council's Developer Servicing Plans dated July 2006. The Plans may be viewed during office hours at Council's Offices.

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. Payments will only be accepted by cash or bank cheque.

The Certificate of Compliance under Section 306 of the Water Management Act 2000, identifying payment of the contributions, is to be provided to the Principal Certifying Authority.

Public service	No. of Equivalent Tenements	Contribution Rate (Amount per ET)	Contribution Levied	Date until which Contribution rate is applicable
Water	1	\$7947	\$7947	30 th June 2009
Sewer	1	\$6704	\$6704	30 th June 2009
TOTAL			\$14651.00	

10. Contribution to be paid towards provision or improvement of amenities or services prior to the issue of a Construction Certificate.

The particulars of the contributions levied pursuant to Section 94 of the Act are set out in the following table:

The specific public amenity or service in respect of which the condition is imposed.	The contributions plan under which the condition is imposed	Date of contributions plan
Outdoor Recreation	Outdoor Recreation 2001	September 2001
Section 94-Project Administration	Project Administration	10 th August 2007

The above plans may be viewed during office hours at the Council Customer First Centre located at 22 Tozer Street West Kempsey.

Contributions set out in the following Schedule are to be paid to Council prior to the issue of a Construction Certificate. The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. The contribution rates for specific dates are available from Council offices during office hours. Payments will only be accepted by cash or bank cheque.

Schedule of Contributions pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

Public amenity or service	Unit type	No. of Units	Contribution Rate (Amount per Unit)	Contribution Levied	Date until which Contribution rate is applicable
Outdoor Recreation	ET	1	\$536	\$536	30 th June 2009
Subtotal				\$536	
S94 Administration	6% of total Section 94 charge applicable			\$32.10	30 th June 2009
TOTAL				\$568.10	

11. **Compliance with BASIX Certificate.**
 The Principal Certifying Authority (PCA) is to ensure that the proposed development is constructed in accordance with the requirements of BASIX Certificate No. 1597655, dated 25 September 2007. The Plans submitted for approval with the Construction Certificate must include all of the BASIX Certificate commitments indicated in this certificate.

Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate may be required.

12. **Long Service Levy to be paid**
 A Long Service Levy must be paid to the Long Service Payments Corporation prior to the issue of a Construction Certificate. This amount payable is currently based on 0.35% of the cost of the work. This is a State Government Levy and is subject to change.

These payments may be made at Council's Administration Office. Cheques are to be made payable Council.

13. **Landscaping plan required**
 The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Development Control Plan 37 Hat Head. The landscaping plan must indicate:
- a) location of trees identified for retention in the development application plans;
 - b) proposed location for planted shrubs and trees;

- c) botanical name of shrubs and trees to be planted;
- d) mature height of trees to be planted;
- e) location of grassed and paved areas;
- f) screening of clothes drying areas and garbage receptacles from public view;
- g) location of common tap(s) and / or irrigation system to ensure all landscape works can be adequately watered; and
- h) an effective physical barrier between public spaces, vehicles, accessways, parking areas and the surrounding landscaped area.

The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

Such plans and specifications must be approved as part of the Construction Certificate.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

15. On-site sewage management (OSMS) system Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council. Installation of the OSMS and associated land application area must be in compliance with the Geotechnical Report by Midcoast Environmental dated July 2008 received by Council.

The OSMS must be inspected by Council every two (2) years. The owner must apply for renewal of Approval to Operate on expiration and pay any associated Council fees.

In the instance of OSMS failure, Council reserves the right to require the entire system including the Land Application Area to be improved and / or upgraded. Any remedial work will need to be undertaken by a licensed plumber and in accordance with the Geotechnical Report submitted.

16. Residential building work

Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority:

- a. in the case of work to be done by a licensee under that Act:
 - i) has been informed in writing of the licensee's name and contractor licence number; and
 - ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
- b. in the case of work to be done by any other person:
 - i) has been informed in writing of the licensee's name and contractor licence number; and
 - ii) has been informed in writing of the person's name and owner-builder permit number; or

- iii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: The amount referred to in paragraph (b) (iii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was gazetted that amount was \$5,000. As those regulations are amended from time to time, so that amount may vary.

A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

- 17. **Bushfire-Prone Areas**
Under the provisions of AS3959 – 1999 Construction of Buildings in Bushfire-Prone Areas, the site has been determined as a High category of bushfire attack requiring level 2 constructions.

The property owner shall implement and maintain all recommendations of the Bushfire Risk Assessment report prepared by Midcoast Environmental dated October 2007.
- 18. **Asset Protection Zone**
At the commencement of building works the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and appendix 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document '*Standards for asset protection zones*'.
- 19. **Design and Construction**
Construction is to comply with appendix 3-Site Bush Fire Attack Assessment of *Planning for Bush Fire Protection 2006*. In this regard the following design standards for construction are to be incorporated into the development:
 - a) The existing dwelling is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. This includes any sub floor areas with applicable and eaves.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

- 20. **Construction times**
Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction work is to take place on Sundays or Public Holidays.

21. Limiting construction noise

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

22. Construction dust suppression

All necessary works are to be undertaken to control dust pollution from the site.

These works must include, but are not limited to:

- a. restricting topsoil removal;
- b. regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
- c. alter or cease construction work during periods of high wind;
- d. erect green or black shade-cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

23. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

24. Temporary pool fencing required

Temporary fencing is to be installed around the pool site during its construction to prevent entry by children. Such temporary fencing is to remain in place until permanent fencing is erected.

25. Rainwater tank requirements

Rainwater tank / tank-stand installations are to be structurally sound, and in accordance with manufacturers detail and / or Guidelines for Plumbing Associated with *Rainwater Tanks in Urban Areas*. Overflow from the tank is to be diverted to the existing stormwater system, or disposed of in a manner not to cause nuisance to neighbouring properties or degradation of land.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OCCUPATION OF THE BUILDING

- 26. **Site to be landscaped**
The site must be landscaped in accordance with the approved landscape plan.
- 27. **Internal driveway in accordance approved plans**
A driveway is to be constructed from the property boundary to the proposed car space/s in accordance with the approved plans.
- 28. **Bush Fire Management Plan to be implemented**
Bushfire protection measures must be undertaken in accordance with the Bush Fire Management Plan submitted with the application.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORKS

- 29. **Engineering Construction Plans**
Three (3) copies of engineering construction plans and specifications must accompany the construction certificate application. Such plans are to provide for the works in the following table in accordance with Council's current Design and Construction Manuals and Specifications.

Required work	Specification of work
Driveways <i>sealed roads</i>	Sealed driveways, in accordance with Council's driveway standards, from the edge of the bitumen to 3 metres within the property boundary to each of the proposed new allotments.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH DURING CONSTRUCTION OF SUBDIVISION WORKS

- 30. **Construction times**
Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on residential premises, can only occur:
 - a) Monday to Friday, 7 am to 6 pm.
 - b) Saturday, 8 am to 1 pm.
 - c) No construction work to take place on Sundays or Public Holidays.
- 31. **Construction noise**
Construction noise is to be limited as follows:
 - a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
 - b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes

SUMMARY:

Reporting that draft amendments to Development Control Plan 30 – Exempt and Complying Development within Kempsey Shire were placed on public exhibition with no submissions being made

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2008. 673 RESOLVED:

*Moved: Cl. Saul
Seconded: Cl. Walker*

That Council resolve to adopt the draft Development Control Plan 30 – Exempt and Complying Development, effective from the date of public notification.

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F										

DSDS4	EXHIBITION OF LOCAL ENVIRONMENTAL STUDY (LES), DRAFT LOCAL ENVIRONMENTAL PLAN (LEP) PACIFIC HIGHWAY SOUTH KEMPSEY FILE: T5-81 (GLR) {Folio No. 383274}
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SUMMARY:

Reporting that the Local Environmental Study (LES) to support a draft Local Environmental Plan (LEP) to rezone land in South Kempsey, for industrial use has been prepared for which Council’s endorsement is sought for the purposes of public exhibition.

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2008. 674 RESOLVED:

*Moved: Cl. Green
Seconded: Cl. Walker*

- 1. That Council exercise the Delegation granted by the Department of Planning and resolve to issue a section 65 certificate to exhibit the draft LEP.**
- 2. That the Department of Planning be notified of Councils resolution.**

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F	Snowsill	F
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Sproule	F	Walker	F
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DSDS5	PROPOSED REZONING FOR SLIM DUSTY FOUNDATION	GLR	{Folio No. 383275}
	FILE: T5-109		

SUMMARY:

Reporting that Council has received an application, and Rezoning Justification Report to rezone land upon which the Slim Dusty Centre has been approved.

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2008. 675 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Green*

- A. That, in accordance with Section 54 of the Environmental Planning and Assessment Act 1979, Council prepare a draft Local Environmental Plan to rezone Lot299 DP729768 and lot7 DP737376 Pacific Highway, South Kempsey, from 1(d) (Rural (Investigation) D Zone) to 2(d) (RESIDENTIAL (TOURIST FACILITY) "D" ZONE)
- B. That the Department of Planning and the Local Environmental Plan Review Panel be notified of Council's Decision
- C. That if the Department of Planning and the Local Environmental Plan Review Panel supports Council's decision to prepare the rezoning, that the document prepared by GHD PTY LTD titled "Slim Dusty Foundation – Proposed Rezoning of Lot299 DP729768 and Lot7 DP737376, Pacific Highway, South Kempsey, Rezoning Justification Report, August 2008 be considered as constituting a Local Environmental Study under the provisions of Section 57 of the Environmental Planning and Assessment Act 1979.

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Bowell	F	Campbell	F	Green	F	Gribbin	A	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F										

DSDS12	SAND AND GRAVEL SCREENING PLANT, TURNERS FLAT	RBP	{Folio No. 383282}
	FILE: T6-03-492		

SUMMARY:

Reporting on statutory provisions relating to existing use rights with particular regard to river gravel extraction

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Director Sustainable Development Services Recommendation:

For determination of Council

2008. 682 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Saul*

That no further action be taken on this issue until the full report is received from the Department of Water and Energy.

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F										

DSDS13	BUILDING AND DEVELOPMENT
	FILE: 329 RBP

SUMMARY:

Reporting that the following applications have been approved:

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2008. 683 RESOLVED:

*Moved: Cl. Walker
Seconded: Cl. Hayes*

That the information be noted.

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F										

2008. 751 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Green*

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

A DIVISION ON THE ADOPTED RECOMMENDATION ON ITEM DSS3 (MIXED SOLID WASTE AND GREEN WASTE TENDER) RESULTED IN THE FOLLOWING;

Bowell	F	Campbell	F	Green	F	Gribbin	A	Hayes	F	Saul	A
Sproule	F	Walker	A								