



**PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL**

Tuesday 10<sup>th</sup> March 2009 commencing at 9.01a.m.

**CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Reports DSDS9, RM1, DSDS1, DSDS6, DSDS7, DSDS15 and DSDS8**

2009. 115 **RESOLVED:**

*Moved: Hayes  
Seconded: Green*

That the reports relating to the items dealt with in Public Forum be brought forward and dealt with immediately.

**DSDS9 SECTION 82A APPLICATION TO REVIEW DETERMINATION TELECOMMUNICATIONS TOWER, TURNERS FLAT  
FILE: T6-08-264 SDS {Folio No. 392788}**

**SUMMARY:**

Reporting that Council has received a request for Review of Determination under Section 82A of the Environmental Planning and Assessment Act 1979, including a revised site plan indicating a change of position for a telecommunication tower and compound at Turners Flat

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

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**Director Sustainable Services Department Recommendation:**

- A. 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	3	MYD Consulting Engineering	21 <sup>st</sup> Jan 2009
Site Setout Plan Job No. T237 S2 Sheets 3	3	MYD Consulting	21 <sup>st</sup> Jan 2009

Plan No. / Supporting Document	Version	Prepared by	Dated
		Engineering	
Site Elevation Job No. T237 S3 Sheets 4	2	MYD Consulting Engineering	21 <sup>st</sup> Jan 2009

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) m<sup>2</sup>.

**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 a.m. to 6 p.m.
  - Saturday, from 8 a.m. to 1 p.m.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.

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES**

**11. Asset Protection Zone**

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.

a) At the commencement of building works and in perpetuity the property around the building shall be managed as follows:

- North, South, East and West for a distance of 20 metres as an asset protection zone, as outlined within Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.

**12. Access**

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and other assisting fire fighting activities.

a) Property access roads shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.

**13. Design and Construction**

New 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) New construction shall comply with Australia Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 3;
- b) Roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5;
- c) There is to be no exposed timber on the proposed building.

**14. Demolition of tower upon decommissioning**

At the completion of the life of the tower (decommissioning of the tower and associated infrastructure) the development will be dismantled or demolished and removed in full from the subject site.

B. That the objectors be advised on Council's decision.

2009. 116 RESOLVED:

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

That this matter be listed for a works inspection.

A Division on this decision resulted in the following votes.

F = Voted For

A = Voted Against

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

**RM1 PROPOSED LOCAL ENVIRONMENTAL PLAN AMENDMENT NO 55 TO REZONE LAND KNOWN AS "SALTWATER" AT SOUTH WEST ROCKS FILE: T5-55 SDS CLRS JCG EAC DFS {Folio No. 392770}**

**MOVED:**

*Moved: Cl. Gribbin  
Seconded: Cl. Campbell*

That resolution number 2009.9 from the Ordinary Meeting held Tuesday 3<sup>rd</sup> February 2009, as printed below;

- "1. That Council adopt draft LEP Amendment No.55 (as amended in boldfaced italics) attached to this report, except for the area of land that is within 400 metres of the South West Rocks STP Boundary and to be known as the Deferred Area Pursuant to S.68(5) of the EP&A Act, and forward it to the Department of Planning for Gazettal.*
- 2. That the Department of Planning be advised that Council's endorsement of the draft LEP is contingent upon the requirement to prepare a DCP prior to any development consent being issued being retained in the approved LEP.*
- 3. That all persons directly affected by this amendment, agencies and submission makers be advised of Council's decision.*
- 4. That a further report be submitted to Council no later than the April 2009 Meeting."*

be rescinded.

The RESCISSION MOTION was PUT to the Meeting and was LOST.

A Division resulted in the following votes.

**F = Voted For  
A = Voted Against**

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

**DSDS1 PROPOSED LOCAL ENVIRONMENTAL PLAN AMENDMENT NO.55 TO REZONE LAND KNOWN AS "SALTWATER" AT SOUTH WEST ROCKS FILE: T5-55 SDS {Folio No. 392775}**

**SUMMARY:**

Reporting that further information has been sought for Council's consideration of the "Saltwater" rezoning in respect to the proposed STP buffer

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2009. 117 RESOLVED:

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

- A. That Council adopt Draft LEP Amendment 55 except for the area of land that is shown on the attached Map as the "Deferred Area" pursuant to s68 of the EP&A Act, and forward it to the Department of Planning for Gazettal.
- B. That the Department of Planning be advised that Council's endorsement of the draft LEP is contingent upon the requirement to prepare a DCP prior to any development consent being issued being retained in the approved LEP.
- C. That all agencies and persons who made submissions be advised of Council's decision.

A Division resulted in the following votes.

F = Voted For  
A = Voted Against

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

<b>DSDS6</b>	<b>NSW STATE GOVERNMENT DRAFT SEA LEVEL RISE POLICY STATEMENT FILE: 1048 AJC {Folio No. 392784}</b>
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**SUMMARY:**

Reporting that a draft policy relating to the impact of a predicted rise in sea levels on coastal development has been released by the NSW Government

**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 Council make a submission in accordance with the matters raised in this report.

2009. 118 RESOLVED:

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

That the Director Sustainable Development Services Recommendation be adopted with the addition of;

- 2. That Marsdens Law Group be requested to have this item included in their annual seminar in 2009.

A Division on this decision resulted in the following votes.

F = Voted For  
A = Voted Against

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

<b>DSDS7</b>	<b>PROPOSED SUBDIVISION OF 2 LOTS INTO 3</b>
<b>FILE: T6-07-358 SDS</b>	<b>{Folio No. 392786}</b>

This report has been referred for determination of a development application that was the subject of a Works Inspection on 6<sup>th</sup> March 2009.

**SUMMARY:**

Reporting that Council has received an application to subdivide 2 lots into 3 lots at Dulconghi Heights 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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2009. 119 RESOLVED:

*Moved: Cl. Walker*  
*Seconded: Cl. Snowsill*

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

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
Site plan 0433/06 S01 & 02	2	Robert Dennis Associates	23 <sup>rd</sup> Oct 2007
Hydrological Assessment Plan D01	1	Robert Dennis Associates	16 <sup>th</sup> Sept 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. 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.

Required work	Specification of work
Driveways Rural – unsealed roads	All-weather driveways, in accordance with Council's rural driveway

Required work	Specification of work
	standards, from the edge of the road to 3 metres within the property boundary for each of the proposed new allotments.
<i>Driveway Internal – where 2wd access not available to building</i>	A three (3) metre wide all-weather driveway to the building site for proposed Lot(s) 1 & 2. The plans will include certification that the access construction will not have detrimental effects on the stormwater flow patterns or local flooding in the area.
Service Conduits	Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.
Culverts required across drainage channels or streams	Culvert to be designed to ensure that peak flow rates for the 1 in 20 year storm event are not affected. The applicant is to obtain any necessary approvals from the Department of Natural Resources and / or the Department of Primary Industries, Fisheries, and plans.

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

3. **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.
  
4. **Erosion and Sedimentation Control Plan**  
The plans and specifications to accompany the construction certificate application are to include a sediment and erosion control plan to indicate the measures to be employed to control erosion and loss of sediment from the site. 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 must be prepared by a suitably experienced person such as a person certified by:
  - The Institution of Engineers, Australia, for engineering and hydrology matters.
  - The International Erosion Control Association for soil conservation matters.
  - The Australian Society of Soil Science for collection or analysis of soil data.

The plan must incorporate (without being limited to) information on general site management, material handling practices, soil stabilisation, water control, sediment control, wind erosion control and access measures.

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO COMMENCEMENT OF SUBDIVISION WORKS**

5. **Written Notification**  
Written notification of intention to commence works must be forwarded to the Council seven (7) days prior to work commencing. Notification is to include contact details of the supervising engineer and site contractor.
6. **Public Liability Insurance**  
The developer and / or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$10 million. Council is to be nominated as an interested party on the policy. The public liability insurance cover is to be maintained for the duration of the period of the works and during any maintenance period.
7. **Erosion & sediment measures in accordance with the approved Erosion and Sediment Control Plan**  
Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

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

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

8. **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 a.m. to 6 p.m.
  - b) Saturday, 8 a.m. to 1 p.m.
  - c) No construction work to take place on Sundays or Public Holidays.
9. **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).
10. **Construction vibration**  
Construction vibration is to be limited in accordance with:
  - (a) The NSW Roads and Traffic Authority Environmental Noise and Management Manual;
  - (b) EPA Environmental Noise Control Manual, Chapter 174, *Vibration in Buildings*; and
  - (c) Australian Standard AS 2670, *Evaluation of Human*

*Exposure to Whole Body Vibration, Part 2: Continuous and Shock-Induced Vibration in Buildings (1 to 80 Hz).*

11. **Fencing to protect trees**  
Trees to be retained are to be protected by a fence so as to minimise disturbance to existing ground conditions within the drip line of the trees. The fence is to be constructed:
- with a minimum height of 1.2 metres,
  - outside the drip line of the tree,
  - of steel star pickets at a maximum distance of 2 metres between pickets,
  - using a minimum of 3 strands of steel wire,
  - to enclose the tree, and
  - with orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter.

The fence is to be maintained for the duration of the site clearing, preparation and construction works.

12. **Care to be taken when placing services near trees**  
All care is to be taken to manually excavate around or under any lateral structural support roots of any tree so as to minimise root disturbance where services are to be laid within the drip-line of a tree.

13. **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 be finer than that being covered in situ, *e.g. clay must not be placed over loam soil.*

14. **Inspection of Public Works**  
Development works on public property are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection. You must quote your construction certificate number and property description to book your inspection.
- prior to commencement of site clearing and installation of erosion control facilities;
  - at completion of installation of erosion control measures
  - prior to installing traffic management works
  - at completion of installation of traffic management works
  - at the commencement of earthworks;
  - before commencement of any filling works;
  - when the sub-grade is exposed and prior to placing of pavement materials;
  - when trenches are open, stormwater / water / sewer pipes and conduits jointed and prior to backfilling;
  - at the completion of each pavement (sub base / base) layer;
  - before pouring of concrete for kerb and guttering;
  - prior to the pouring of concrete for sewerage works;
  - prior to the pouring of concrete or paved foot paving works;
  - on completion of road gravelling or pavement;
  - during construction of sewer infrastructure;

- o) during construction of water infrastructure;
- p) prior to sealing and laying of pavement surface course.

All works at each hold point are to be certified as compliant, in accordance with Council's current Design and Construction Manuals and Specifications, prior to proceeding to the next hold point. Council will undertake random audit of work sites to verify compliance of public works as required.

**15. Responsibilities under the National Parks and Wildlife Act 1974**

All earthmoving contractors and operators must be instructed that, in the event of any bone, or stone artefacts, or discrete distributions of shell, being unearthed during earthmoving, work must cease immediately in the affected area, and the Local Aboriginal Land Council and officers of the National Parks and Wildlife Service, informed of the discovery. Work must not recommence until the material has been inspected by those officials and permission has been given to proceed. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration to a site or to archaeological material may be prosecuted under the National Parks and Wildlife Act 1974.

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

**17. Public safety requirements**  
All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Council is not held responsible for any negligence caused by the undertaking of the works.

**18. Council Specification**  
All works to be constructed to at least the minimum requirements of Council's Adopted Engineering Standard.

**19. Approved Plans to remain on site**  
A copy of the approved Construction Certificate including plans, details and specifications must remain at the site at all times during the construction of the subdivision.

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE**

**20. Plan of Subdivision**  
An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application. Seven (7) copies of the plan of subdivision are to be submitted with the application for a subdivision certificate. The location of all buildings and / or other permanent improvements including fences and internal access driveways / roads must be indicated on 1 of the copies.

**21. Plan of Subdivision and Section 88B Instrument requirements**

A Section 88B Instrument and 1 copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and / or Section 88B Instrument	Details of Item
Dwelling Envelope	Restrictions to limit the erection of dwellings to the nominated dwelling envelope.

**22. Completion of All Works**

All roads, drainage and civil works, required by this development consent and associated Construction Certificate, are to be completed. Works are to include restoration, replacement and / or reconstruction of any damage caused to surrounding public infrastructure, including damage to road pavements along any haulage routes used for the construction of the subdivision.

**23. Electricity Supply Certificate**

Written evidence from an electricity supply authority is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of underground electricity supply throughout the subdivision.

**24. Telephone Supply Certificate**

Written evidence from Telstra is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of underground telephone supply throughout the subdivision.

**25. Contributions for Water and Sewer Services prior to this issue of a Subdivision 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 Kempsey Shire Council Macleay Water DSP for Water & DSP Sewage Services 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 ET	\$7,947	\$7,947	30 <sup>th</sup> June 2008 / 09
<b>TOTAL</b>			<b>\$7,947</b>	

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

The particulars of the contributions levied pursuant to Section 94 of the Act is 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 2000
Rural Roads	Rural Roads Developer	May 2000
Section 94 – Project Administration	Project Administration	10 <sup>th</sup> 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.

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	\$449.00	\$449.00	30 <sup>th</sup> June 2008 / 09
Arterials Road	ET	1	\$1,074.00	\$1,074.00	30 <sup>th</sup> June 2008 / 09
<b>Subtotal</b>				<b>\$1,523.00</b>	
S94 Administration	6% of total Section 94 charge applicable			\$91.40	30 <sup>th</sup> June 2008 / 09
<b>TOTAL</b>				<b>\$1,614.40</b>	

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

- 27. **Integrated Rural Bushfire Service**  
The development proposal is to comply with the subdivision layout identified on the drawing prepared by Robert Dennis and Associates Pty Ltd, project number 0433/06 dated 28/8/2007.
- 28. The plan of subdivision is to indicate that the boundaries traversing the SEPP14 wetland have been set by following the existing fence-lines.
- 29. The plans for the required construction certificate are to include detailed engineering plans for the required internal access road to the approved dwelling envelope to 2WD all weather standard. Such plans shall indicate that the road has been designed so as not to impede the flow of stormwater during a 1 in 20 year storm event in accordance with "Australian Rainfall and Runoff".

**B. That the objectors be advised of Council's decision.**

**A Division on this decision resulted in the following votes.**

**F = Voted For  
A = Voted Against**

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

<b>DSDS15</b>	<b>APPLICATION TO MODIFY DEVELOPMENT CONSENT</b>		
	FILE: T6-07-482	SDS	{ Folio No. 392798 }

**SUMMARY:**

Reporting that Council has received an application to modify a condition of consent concerning the required floor level height for a dwelling which is contrary to Council's Flood Plain Management Strategy Policy

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**2009. 120 RESOLVED:**

*Moved: Cl. Green  
Seconded: Cl. Snowsill*

**That the application to modify Development Consent T6-07-482 condition 17 be refused for the following reasons:**

- i) The modification is not in accordance with Council's Flood Risk Management Policy.
- ii) The modification is not in accordance with the conditions of approval.
- iii) Approval of the application would create an undesirable precedent for similar proposals within Kempsey Shire Council.

**A Division resulted in the following votes.**

**F = Voted For**  
**A = Voted Against**

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

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**PRESENTATION**

At 10.28am The Mayor made a presentation to Ms Jacqueline Bradshaw (“Aunty Merle”), who is retiring from Dalaigur Preschool after 38 years of early childhood education.

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<b>DSDS8</b>	<b>USE OF RAILWAY CARRIAGE AS A WORKSHOP</b>
<b>FILE: T6-08-370 SDS</b>	<b>{Folio No. 393173}</b>

**SUMMARY:**

Reporting that Council has received an application to locate a railway carriage for use as a workshop for which objections have been received.

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**2009. 121 RESOLVED:**

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

**A. That consent be granted subject to the following conditions:-**

- 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
T6/08/370/1	-		-
T6/08/370/2	-		
Proposed Workshop		DarkHeart Eco-Consultancy	28/01/09
Bushfire Protection Plan		Mjadwesch Environmental Service support	16/4/2007

**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**  
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.
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.
  4. Separate application required for signs not approved by this consent  
Separate development consent is required from Council prior to the erection of any advertisements or advertising structures other than the sign/s, approved in this consent.

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

5. **Engineer's details required**  
Engineer's details for the footings are to be submitted to prior Council to the issue of a Construction Certificate. The engineer's details are to be prepared by an appropriately qualified and experienced professional and comply with DCP 36- Engineering Standards.
6. **Landscaping plan required**  
The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. The landscaping plan must indicate:
  - a) location of trees identified for removal in the development application plans,
  - b) proposed location for planted shrubs and trees,
  - c) botanical name of shrubs and trees to be planted, and
  - d) mature height of trees to be planted.Such plans and specifications must be approved as part of the Construction Certificate.
7. **Roofwaters**  
Roofwaters are to be directed by means of sealed pipes to rubble drains 3 metres 600mm x 600mm, located not less than 3 metres from the building. Details are to be provided with the plans for the required Construction Certificate.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH**

## **DURING CONSTRUCTION**

### **8. 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 a.m. to 6 p.m.
- Saturday, from 8 a.m. to 1 p.m.

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.

### **9. 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).

### **10. 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;

### **11. 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.

### **12. Care to be taken when placing services near trees**

Where services are to be laid within the drip-line of a tree all care is to be taken to manually excavate around or under any lateral structural support roots of any tree so as to minimise root disturbance.

### **13. 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.

14. **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.
15. **Tree and limb removal**  
The applicant is not to remove any hollow and all tree felling and limb removal associated with the proposal is to be undertaken by an Arborist to ensure that no other tree is damaged. All limb lopping is to be in accordance with the AS 4373 – Pruning of Amenity Trees, and any other relevant Australian Standards.
16. **Maintenance of sediment and erosion control measures**  
Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.
17. **Works to be completed**  
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. **Building not to be used for residential occupation**  
The building must not be used for any form of residential occupation.
19. **Premises not used for human habitation**  
The premises must not be used for human habitation, commercial or industrial purposes.

**B. That the objectors be advised on Council’s decision.**

**A Division resulted in the following votes.**

**F = Voted For**

**A = Voted Against**

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

**DSDS2 PROPOSED AMENDMENT TO KEMPSEY LOCAL ENVIRONMENTAL PLAN 1987 (AMENDMENT NO. 94) TO REZONE THE FORMER SHELL SITE, PHILLIP DRIVE, SOUTH WEST ROCKS**  
**FILE: T5-94 KJA {Folio No. 392777}**

**SUMMARY:**

Reporting that submissions have been received in response to the public exhibition of amendment No. 94 to the Kempsey Local Environmental Plan 1987 to rezone land at Lot 1 Philip Drive, South West Rocks from 5 (a) (Special Uses ‘A’ Zone) to 2(a) (Residential “A” Zone).

**SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A**



**SUMMARY:**

Reporting that Council has received an application and rezoning justification report to amend Kempsey Local Environmental Plan 1987 to permit formalisation of an existing health retreat

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

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**2009. 143 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 permit a tourist facility on rural Lot 19 DP 753436 Diamond Flat Trail, Comara via an enabling clause in the Kempsey LEP 1987.
- B. That the Department of Planning and the Local Environmental Plan Review Panel be notified of Council's decision.

A Division on this decision resulted in the following votes.

**F = Voted For**

**A = Voted Against**

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

**SUMMARY:**

Reporting that Council has received an application to rezone land from Residential 2(a) to Industrial Light 4 (b)

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

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**2009. 144 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 Lot126 DP752417, West Street, South Kempsey, from Residential 2(a) to Industrial Light 4(b)

- B. That the Department of Planning and the Local Environmental Plan Review Panel be notified of Council's decision.
- C. That the Department of Planning be requested to waive the requirement for a Local Environmental Study.

A Division on this decision resulted in the following votes.

F = Voted For  
A = Voted Against

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

**DSDS12 TELECOMMUNICATIONS TOWER - WILLAWARRIN  
FILE: T6-08-464 SDS {Folio No. 392791}**

**SUMMARY:**

Reporting that Council has received an application to erect a telecommunications tower and equipment shed.

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

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**Director Sustainable Services Department Recommendation:**

- A. That development application T6-08-464 be approved subject to the conditions prescribed below:

**PARAMETERS OF THE 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
Statement of Environmental Effects	-	Connell Wagner P/L	19.12.08
Site Elevation Plan	-	Connell Wagner P/L	19.12.08
Site Layout Plan	-	Connell Wagner P/L	19.12.08
Site Location Plan	-	Connell Wagner P/L	-

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.

**4. Engineer's details**  
Structural Engineer's Details for the lattice tower, all antennas, the maintenance shed, and the reinforced concrete slab are to be submitted to Council prior to the issue of a Construction Certificate.

**5. Section 88B Instrument requirements**  
A Section 88B Instrument and 1 copy are to be submitted to Council prior to the issue of Construction Certificate. The Section 88B Instrument is to be provided for the item listed in the following table:

Item for inclusion in Section 88B Instrument	Details of Item
Rights of Carriageway	The creation of suitable rights of carriageway over the access to proposed Lot 22.

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

**6. Erosion & sediment control - special measures required**  
Erosion and sedimentation controls are to be in place in accordance with the Development Control Plan (DCP) 36 prior to the commencement of any works.

Erosion and sediment controls are to be maintained at all times to the satisfaction of Council until the site has been stabilised by hard surface or permanent vegetation.

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

- 7. 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.
- 8. 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:
- showing the name, address and telephone number of the principal certifying authority for the work;
  - 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
  - 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) m<sup>2</sup>.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION**

- 9. 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 a.m. to 6 p.m.
  - Saturday, from 8 a.m. to 1 p.m.
- 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.
- 10. 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.
- 11. 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.
- 12. Demolition of tower upon decommissioning**  
At the completion of the life of the tower (decommissioning of the tower and associated infrastructure) the development will be dismantled or demolished and removed in full from the subject site.

2009. 147 RESOLVED:

*Moved: Cl. Hayes  
Seconded: Cl. Campbell*

That this matter be listed for a Works inspection.

A Division on this decision resulted in the following votes.

F = Voted For  
A = Voted Against

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

<b>DSDS13</b>	<b>CONTINUED USE OF EXISTING DECK</b>
<b>FILE: T6-08-447</b>	<b>SDS {Folio No. 392794}</b>

**SUMMARY:**

Reporting that Council has received an application for continued use of an existing deck for which an objection has 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 Services Department Recommendation:**

- A. That consent be granted subject to the following conditions:
  - 1. The existing timber screen fixed to the colour bond fence is to be removed.
  - 2. A 1.8m high privacy screen measured from the top of the deck and fixed to the deck floor frame for the full length of the deck, staircase and one colour bond panel past the staircase is to be erected.
  - 3. A Building Certificate with recent survey by registered surveyor showing buildings and the timber deck relative to the boundaries to allow formalisation of the unlawfully erected deck is to be obtained.
  - 4. Submission of an engineer’s certificate certifying the timber deck and screen as constructed are suitable for the intended purposes having regards to expected loadings.
- B. That the applicant be advised that all conditions are to be complied with within 30 days of the date of consent.

2009. 148 RESOLVED:

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

That this matter be listed for a Works inspection.

A Division on this decision resulted in the following votes.

F = Voted For  
 A = Voted Against

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

**DSDS14    MODIFICATION TO TIMBER SCREEN AND TIMBER POOL DECK  
 FILE: T6-08-397    SDS    {Folio No. 392796}**

**SUMMARY:**

Reporting that Council has received an application to increase the height of a previously approved timber privacy screen and inclusion of a timber deck around an above ground pool 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 Services Department Recommendation:**

- A. That the application to modify Development Consent T6-08-397 be approved 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
One Sheet	-	Submitted by H P Morgan	-

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 ANY BUILDING OR CONSTRUCTION WORKS COMMENCING**

**3. 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, 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) m<sup>2</sup>.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION**

**4. 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 a.m. to 6 p.m.
- b) Saturday, from 8 a.m. to 1 p.m.

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

**5. 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.

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES**

**6. Maintenance of sediment and erosion control measures**

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**

- 7. **Works to be completed**  
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.
- 8. **Screen is to be provided on the eastern side**  
Screen is to be provided on the eastern side of the swimming pool deck. Details to be submitted to Council for approval prior to the issue of the construction certificate.

**B. That the objectors be advised of Council’s decision.**

**2009. 149 RESOLVED:**

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

**That this matter be listed for a Works inspection.**

**A Division on this decision resulted in the following votes.**

**F = Voted For  
A = Voted Against**

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

**DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES CONFIDENTIAL REPORT**

<b>DSDS1</b>	<b>APPLICATION TO MODIFY DEVELOPMENT CONSENT</b>
<b>CONF</b>	<b>FILE: T6-07-482 SDS {Folio No. 392842}</b>

**Local Government Act 1993, Section 10A(2) (g)**

This report is submitted on a confidential basis as it involves advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

**SUMMARY:**

Reporting that Council has received an application to modify a development application to erect a dwelling which is contrary to Council’s Flood Risk Management Policy

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

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**2009. 190 RECOMMENDED:**

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

**A. That the information be noted.**

