



## PLANNING VOTES REGISTER OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

11 November 2009

### DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

<b>DSDS1</b>	<b>PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING TWO (2) STOREY DWELLING</b>
	<b>FILE: T6-09-64 LRK {Folio No. 412980}</b>

#### SUMMARY:

Reporting that Council has received a Development Application for alterations and additions to an existing two storey dwelling to include a third storey for which two objections have been received.

#### SECTION 375A OF LOCAL GOVERNMENT ACT, 1993 REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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**Applicant:** Robert Dennis and Associates  
**Subject Property:** Lot 1 DP1085597  
No 7 Gabriel Avenue, East Kempsey  
**Zone:** 2 (a) (Residential "A" Zone)

#### DESCRIPTION:

##### Proposed Development

The site contains an existing two storey dwelling situated on the southern side of Gabriel Avenue, East Kempsey. The front boundary width is 16.46m with a site area of 763.1m<sup>2</sup>. The land is steep and falls to the north. The slope of the site on the footprint of the existing building is 14%. [\(Appendix A - Page SDS1\)](#)

The proposal is to construct alterations and additions to an existing two storey dwelling. The proposed building work will include additions resulting in a three storey dwelling which requires support of a SEPP 1 objection to the two storey height limit applying to the area.

##### Heads of Consideration

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

##### Kempsey Local Environment Plan 1987(KLEP)

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

Clause 24 of KLEP 1987 provides that Council shall not consent to the erection within Zone No. 2 (a) of a building which contains more than two storeys. A SEPP 1 has been lodged with Council to vary this clause of the Kempsey Local Environmental Plan 1987.

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

**State Environmental Planning Policy 1 Objection (SEPP1)**

The Development Application is accompanied by a SEPP 1 objection to the two storey height limit and may be summarised as follows: - [\(Appendix B - Page SDS2\)](#)

1. The proposed works will not exceed the height for a two storey residential dwelling for Zone 2(a) set out in Clause 24(1)(a)(b).
2. The existing dwelling and the proposed additions and alterations will satisfy the objectives of the zone.
3. The building does not exceed the 7.2m restriction and fits within the existing two storey building envelope.
4. There are no residences behind and therefore views will not be affected.
5. The height of the proposed building is in compliance with Council Policy C23.7, "Height of Buildings".

**Planning Comment**

The existing dwelling has been designed to provide minimal impact on the streetscape and adjoining properties.

No objection is raised to the variation as the addition complies with Council's Building Height Policy, overshadowing will not impact on adjoining properties and no loss of views will occur.

**DCP 22 - Local Housing Strategy**

The proposal has been assessed under the requirements of DCP 22 – Local Housing Strategy. The location of the proposed dwelling is contained within the medium density area.

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

STANDARD	REQUIRED	PROPOSED	DEVELOPMENT STANDARD YES / NO	COMPLIANCE PERFORMANCE OBJECTIVE
Density Medium	1 x 3 bedroom 400m <sup>2</sup>	763.1m <sup>2</sup>	Yes	Yes
Setbacks Side West Elevation	1.5 m	3.0 m	Yes	Yes

STANDARD	REQUIRED	PROPOSED	DEVELOPMENT STANDARD YES / NO	COMPLIANCE PERFORMANCE OBJECTIVE
<b>East Elevation</b>	Single 0.9m 2 storey 1.5m 3 storey 2.0m	1.1m 1.1m 1.7m	Yes No (see note) No (SEPP 1)	Yes
<b>Front</b>	5.0m	9.0m	Yes	Yes
<b>Rear</b>	1.8 m	4.2m	Yes	Yes
<b>Car parking</b>	1 covered	1 covered space	Yes	Yes
<b>Landscaping</b>	130m <sup>2</sup>	> 130m <sup>2</sup>	Yes	Yes
<b>Height</b>	7.2m	<7.2 for existing top plate	Yes Comments in report	Yes
<b>Number of Storeys</b>	Two	Three	<b>No</b> (SEPP 1)	Yes
<b>Solar access</b>	Open space and living areas are not to be shaded for more than 2 hours between 9.00am and 3.00pm	Complies	Yes	Yes
<b>Energy Efficiency</b>	BASIX Certificate	BASIX Certificate provided	Yes	Yes
<b>Privacy</b>	Adequate	Complies	Yes	Yes
<b>Cut and Fill</b>	<1.5m	<1.5m	Yes	Yes
<b>Long Walls</b>	20m	<20m	Yes	Yes
<b>Access</b>	25%	<25%	Yes	Yes
<b>Private open space</b>	25m <sup>2</sup>	>25m <sup>2</sup>	Yes	Yes
<b>Site Coverage</b>	330m <sup>2</sup>	245m <sup>2</sup>	Yes	Yes

**Note: east elevation setback** The dwelling was built prior to the introduction of DCP 22. The existing side boundary setback of 1.1m complied with Council regulations at the time of construction and therefore complies with DCP 22.

### Building Height

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

Council's Height of Buildings Policy sets out the circumstances under which Council will consider compliance to be impractical. Council's Policy provides that it is impractical to comply with the 6.2 metre height limit where slopes exceed 10% within the footprint of the building provided the ceiling height is not more than 7.2

metres with an overall ridge height of 9.2 metres. The proposed addition will have a ceiling height of 7.05 metres and a ridge height of 8.05 metres.

The overall height of the dwelling complies with Council's Height of Buildings Policy.

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

The proposal was advertised in accordance with Council's Policy with two objections received. [\(Appendix C - Page SDS5\)](#)

<b>Objection</b>		<b>Planning Comment</b>	
1	Detraction of historic significance of the area	1	The area is not listed as a historically significant area under KLEP 1987.
2	Out of character	2	The development is consistent with the adjacent buildings.
3	Noise	3	Condition 10 regarding construction times has been included. Noise from occupants would be addressed under the POEO Act.
4	Exceed the height level	4	Refer SEPP 1 variation.
5	Health issue regarding proximity to sewer vent	5	Shire Services Department has advised separation distance is adequate.
6	Increased traffic	6	Development is additions to an existing dwelling and no additional traffic flow is anticipated.
7	Mobile phone tower health risk	7	This issue was addressed with the original application for the mobile phone tower and no additional risk will result.

### **RECOMMENDATION IMPLICATIONS:**

#### **· Environmental**

*It is not anticipated that there will be any adverse environmental impacts from the proposed new alterations and additions to the existing dwelling.*

#### **· Social**

*Nil*

#### **· Economic (Financial)**

*The proposal is considered to provide an economic benefit only for the period of construction.*

**Policy or Statutory**

*The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, Kempsey Local Environmental Plan 1987 and Development Control Plan 22.*

2009. 853 RESOLVED:

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

- A. That Development Application T6-09-64 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 Supporting Document	No./	Version	Prepared by	Dated
Site Plan Level 1 Floor Plan Dwg No. A01		1	Robert Dennis & Associates Pty Ltd	11 Mar 2009
Level 2 Floor Plan, Level 3 Floor Plan Dwg No. A02		1	Robert Dennis & Associates Pty Ltd	11 Mar 2009
Sections Dwg No. A03		1	Robert Dennis & Associates Pty Ltd	11 Mar 2009
Elevations Dwg No. A04		1	Robert Dennis & Associates Pty Ltd	11 Mar 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 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. 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 ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS**

- 4. 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 A54076, dated 10 March 2009. 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.

- 5. Structural Engineer's Certificate required – Existing Building

Structural Engineer's certificate stating that the existing building is capable of carrying the additional live and dead loads is to be submitted to the Principal Certifying Authority.

- 6. The plans prepared for the Construction Certificate are to delete reference to access from Council's Reserve – Rudder Park.

- 7. Structural Engineer's Details required

Three (3) sets of structural engineering details, prepared and certified by a practicing structural engineer, of all reinforced concrete and structural members shall be submitted to the Principal Certifying Authority.

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

- 8. Plumbing Standards and requirements

All Plumbing, Water Supply and Sewerage Works are to be installed and operated in accordance with the Local Government Act 1993, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.

**9. 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**

**10. 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.

**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. Access is not permitted from Rudder Park Reserve.

**12. Erosion & sediment control - special measures required**

Erosion and sedimentation controls are to be in place in accordance with the *DCP 36 – Engineering Guidelines for Subdivision and Development*. 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.**

**13. Survey of building height required**

**A survey certificate prepared by a registered surveyor is to be submitted to the Principal Certifier upon completion of the wall framing to ensure that the top plate is at or below 38.31 metres A.H.D in accordance with the development consent.**

**14. Glazing requirements**

**Glazing materials used in the building are to be selected in accordance with the provisions of Australian Standard AS 1288 *SAA Glass Installation Code* and must comply with the requirements of Australian Standard AS 2208 "Safety Glazing Materials for Use in Buildings (Human Impact Considerations)" as required by the Building Code of Australia.**

**Windows must be constructed to comply with Australian Standard AS 1288 or Australian Standard AS 2047. Written certification must be submitted to Council prior to occupation inspection to confirm that glazing selection, manufacture and installation has been completed in accordance with the relevant Australian Standards for the job specific project.**

**15. Stormwater details required**

**The application for a Construction Certificate is to include plans and specification for the construction of stormwater disposal from the site in accordance with the plans approved by this consent. The drainage system is to be designed for 1 in 20 year storm event and must discharge to the kerb and gutter via manufactured kerb adaptor. The stormwater system must be designed to comply with the requirements of AS/NZS 3500.3:2003 - *Plumbing and drainage*, Part 3: Stormwater drainage.**

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

**Engineering plans and specifications 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.**

**Note: The applicant is required to treat storm water on site to an acceptable level to minimise impacts on coastal water bodies.**



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

**16. 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.

**17. Fire detection and alarm system required**

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.

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

**18. Notice must be displayed in the immediate vicinity of a swimming pool in accordance with Policy Statement No 9.4.1 "Guidelines for the Preparation of Posters on Resuscitation. The notice must bear the words "Young children should be supervised when using the Swimming Pool", and include instructional details on resuscitation technique.**

**19. Swimming pool discharge**

The discharge of waste water from the swimming pool is to be in accordance with AS/NZS 3500.2.2, Section 10.9 and Figure 10.2.

**20. Swimming pool pump location**

The swimming pool filter pump is to be located such that noise from the operation of the pump is not more than 5dB(A) above the background noise level at the boundary. If necessary an acoustic enclosure must be provided around the pump to achieve the required noise attenuation. The pump is not to be used between the hours of 8.00pm - 8.00am on any day if the noise of the pump is audible inside neighbouring houses.

**21. Swimming pool health requirements**

The swimming pool water is to be recirculated, filtered and disinfected in accordance with the requirements of Council's Senior Environmental Health Officer and the Health Department of New South Wales. The swimming pool water is to be maintained at satisfactory levels of purity for bathing at all times and operated in accordance with NSW Department of Health's *Public Swimming Pool and Spa Pool Guidelines 1996*.

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

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

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

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

<b>DSDS2</b>	<b>PROPOSED TWO STOREY DWELLING</b>
<b>FILE: T6-00-331</b>	<b>DJW {Folio No. 412998}</b>

**SUMMARY:**

Reporting that Council has received an application to modify a development consent to reposition an approved two storey dwelling which requires a variation to Council's Height of Building Policy and for which objections have been received.

**SECTION 375A OF LOCAL GOVERNMENT ACT, 1993 REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT**

2 2 2 2 2

**Applicant:** Mr D and Mrs J Pitman  
**Subject Property:** Lot 46 DP 874223  
14 Marlin Circuit, Hat Head  
**Zone:** 2 (v) (Village or Township Zone)

**BACKGROUND**

A two storey dwelling was approved on the subject land by Council on 8 August 2000. During initial excavation in April 2003, the site experienced a rock roll which resulted in the intervention of WorkCover, the suspension of further excavation works and construction of the dwelling. WorkCover required barrier fencing around the dwelling site and adjacent boundary fencing plus the securing of potentially unstable rocks.

The engineering consultants advised not to continue the excavation and vibration of the rock shelf by heavy machinery and to relocate the two storey dwelling away for the rock shelf.

**Proposed Development**

The site is vacant land on the eastern side of Marlin Circuit. The front boundary width is 26m with a site area of 10,000m<sup>2</sup>. The land is steep and falls to the west 25 metres over a distance of approximately 192 metres. The slope of the site on footprint of the proposed building work is 13%.

The proposal is to move the dwelling 4.5 metres to the north off the rock shelf to avoid further excavation on the site whilst keeping the same floor heights.

[\(Appendix D - Page SDS6\)](#)

**Heads of Consideration**

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

### **Kempsey Local Environment Plan 1987 (KLEP)**

The proposal may be defined as 'dwelling house' and is permissible with consent in the 2(v) Village or Township zone under Kempsey Local Environmental Plan 1987.

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

### **State Environmental Planning Policy 71 – Coastal Protection**

The subject lot falls within the coastal zone as defined by SEPP 71, however the site is not classified as a sensitive coastal location. Council is required to have regard for the matters as set out by Clause 8. [\(Appendix E - Page SDS10\)](#)

- a. The proposal is not considered contrary to the aims and objectives as set out in clause 2 of the SEPP.
- b. The proposal is located a substantial distance from any coastal foreshore and will not interfere with any public access to the foreshore.
- c. As the site is not located adjacent to any foreshore there is no requirement to enhance any existing public access.
- d. See comments in body of the report on suitability of the development in the locality.
- e. The site is not located adjacent to any coastal foreshore and therefore will not overshadow any public foreshore reserve.
- f. The surrounding area is predominately urban. The development will not detract from the scenic qualities of the New South Wales Coastline.
- g. The site will require minimal clearing therefore having minimal impact upon threatened species of flora and fauna.
- h. There will be no direct impacts on marine ecosystems.
- i. The lot is situated within an existing subdivision. There will be no impact upon any wildlife corridor.
- j. There are no perceived impacts, upon coastal process.
- k. The site has no foreshore frontage so conflict between land and water based activities will not result from this development.
- l. Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of aboriginals have been considered.
- m. The applicant is required to treat storm water on site to an acceptable level to minimise impacts on coastal water bodies.
- n. There are no issues related to the conservation and preservation of items of heritage, archaeological or historic significance.

## NSW Coastal Policy 1997

The proposal is considered to be consistent with the principal which seeks to ensure that buildings are consistent with the height and scale of existing development.

### DCP No 22 - Local Housing Strategy

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

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

STANDARD	REQUIRED	PROPOSED	DEVELOPMENT STANDARD Y/N	COMPLIANCE PERFORMANCE OBJECTIVE
<b>Density</b> (As per DCP 37)	1 x 4 bedroom 600m <sup>2</sup>	10,000m <sup>2</sup>	Yes	Yes
<b>Setbacks</b> <b>Side</b>  <b>North elevation</b> <b>South elevation</b>  <b>Front</b> <b>Rear</b>	   1.5 m 1.5m  5 m 1.8m	   50m 22m  135m 13.5m	   Yes Yes  Yes Yes	   Yes
<b>Car parking</b>	1 covered	2 covered spaces	Yes	Yes
<b>Landscaping</b>	115m <sup>2</sup>	> 115m <sup>2</sup>	Yes	Yes
<b>Height</b>	7.2m	7.95m	<b>No</b> See "Building Height" in report	Yes
<b>Solar access</b>   <b>Energy Efficiency</b>	Open space and living areas are not to be shaded for more than 2 hours between 9.00am and 3.00pm BASIX Certificate required	Complies  BASIX Certificate provided	Yes  Yes	Yes  Yes
<b>Privacy</b>	Adequate	Complies	Yes	Yes
<b>Cut and Fill</b>	<1.5m	<1.5m	Yes	Yes
<b>Long Walls</b>	20m	<20m	Yes	Yes
<b>Access</b>	25%	<25%	Yes	Yes
<b>Private open space</b>	25m <sup>2</sup>	>25m <sup>2</sup>	Yes	Yes

## **Building Height**

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

Council's Height of Buildings Policy sets out the circumstances under which Council will consider compliance to be impractical. Council's Policy provides that it is impractical to comply with the 6.2 metre height limit where slopes exceed 10% within the footprint of the building provided the ceiling height is not more than 7.2 metres with an overall ridge height of 9.2 metres.

The ceiling height of the proposed dwelling above natural ground at the preferred building site will exceed Council's Height of Buildings Policy by 0.750m (7.95m) for 4.2% or 6.6m<sup>2</sup> of the total floor area of the dwelling with the ridge at 8.05m substantially less than the permitted overall 9.2m height.

The variation in building height is considered to have minimal impact on the adjoining neighbourhood. [\(Appendix F - Page SDS13\)](#)

## **Loss of Privacy**

DCP 22 Section 4.8 Visual Privacy requires visual privacy between proposed and existing adjoining dwellings to be ensured. Overlooking of living spaces in buildings and private open spaces is to be avoided.

Due to the location of the proposed dwelling being 22 metres from the southern boundary and 50 metres to the nearest northern boundary there is minimal potential to cause a loss of privacy to existing dwellings on adjoining properties due to the extensive natural vegetation on the property.

## **Protection of Views**

Council has given consideration to the Land and Environment Court planning principles to be applied to applications to determine the impact of the development on the views enjoyed by adjoining properties having regard to the *Tenacity Consulting v Warringah Council* decision.

### **Step 1**

#### **Where views will be affected:**

*"Water views are more valuable than land views."*

*"Whole views are valued more highly than partial views."*

The proposal will result in a minor loss of views of Korogora Creek and Hat Head village.

### **Step 2**

#### **Where are views obtained from?**

*"Views across side boundaries cannot be protected by unreasonable requirements."*

*"Views from sitting positions cannot be protected by unreasonable requirements".*

The dwelling at No 16 Marlin Circuit has been designed to take advantage of the primary views to the west and north across the side boundary.

### Step 3

#### Where is the impact?

*"Views from living areas and kitchens are more important than from bedrooms and service areas."*

The losses of views are from the living and deck area.

*"Assess view loss in qualitative terms - The loss would be Minor."*

### Step 4

#### Is the proposal reasonable?

*"Does the proposal comply with other controls in this DCP?"*

No, however height variation has minimal effect.

*"If it does comply would a more clever design provide the same development potential and amenity and reduce the impact on views? If not, impact probably considered as acceptable and view sharing reasonable"*

A site plan and longitudinal section has been produced that clearly shows the impact the proposed two storey development has on the adjoining premises. [\(Appendix G - Page SDS14\)](#)

### DCP No. 37 – Hat Head

The proposal has been assessed under the requirements of DCP No. 37 Hat Head. The location of the proposal is contained within the defined area where single dwellings only are permitted.

An assessment of the proposal against the relevant requirements of DCP No. 37 Hat Head, in particular the Key Landscape Elements Section 4.1.2 Visual Impacts, may be summarised as follows:

STANDARD	REQUIRED	PROPOSED	DEVELOPMENT STANDARD YES/NO	COMPLIANCE PERFORMANCE OBJECTIVE
Residential Densities	600m <sup>2</sup>	10,000m <sup>2</sup>	YES	YES
Minimum clearing requirements under "Planning for Bushfire Protection, 2006	Performance Bushfire Hazard Assessment	Report provided indicating Level 3 (Extreme Level of Construction) required with minimum tree clearance	YES	YES

STANDARD	REQUIRED	PROPOSED	DEVELOPMENT STANDARD YES/NO	COMPLIANCE PERFORMANCE OBJECTIVE
Minimum visual impact of any dwelling and associated access driveway when viewed from the main village or Hat Head Beach	Proposed dwelling to be set well into the lot.	Proposed dwelling is 13m from the eastern boundary and 22m from the southern boundary.	YES	YES
Stormwater Disposal	Minimise stormwater runoff	Roof waters will be directed to a rainwater tank with the overflow and drainage from hardstand areas and driveways shall be treated and directed by means of sealed pipes to the street gutter.	YES  YES	YES  YES
Tree Retention	Retention of any tree that is a key landscape element.	There are no significant trees on the property which may be considered a key landscape element.	YES	YES
Building design	Predominately non-masonry external cladding	Proposed external cladding is Harditex Lightweight Cladding	YES	YES

### **Bush Fire Prone Area**

The Section 96 modification application is supported by a Performance Bushfire Hazard Assessment report which recommends Level 3 Construction complying with AS 3959-1999. The report recommendations have been incorporated into the modified development consent.

### **Applicants Submission**

The applicants have provided a supporting report and justification letter in favour of the variations. [\(Appendix H - Page SDS16\)](#)

The modification is accompanied by a submission relating to the building height which may be summarised as follows: -

- Unable to move the dwelling to the south where the natural ground becomes higher;
- Unable to move the dwelling to the west as the existing drive and turning circle is located;
- Unable to move the dwelling to east as there is greater fall;
- The height variance is minor

- Roof is a low curved roof;
- There are no close neighbouring dwellings;
- Proposed work complies with the requirements of DCP 37.

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

The proposal was advertised in accordance with Council's Policy with two (2) objections received. The grounds for objections may be summarised as follows:  
[\(Appendix I - Page SDS20\)](#)

<b>Objection</b>	<b>Planning Comment</b>
1. Loss of views	1. See report Protection of views
2. Loss of privacy	2. See report Loss of privacy
3. Height of dwelling	3. See report Building Height
4. Reduced valuation of adjoining property	4. There is no evidence to support such a claim.

### **RECOMMENDATION IMPLICATIONS:**

- **Environmental**

*From the information supplied to council, it is not anticipated that there will be any adverse environmental impacts from the proposed new alterations and additions to the existing dwelling.*

- **Social**

*That for the period of construction, the development will provide employment for local tradespeople and others employed in the building.*

- **Economic (Financial)**

*The proposal is considered to provide an economic benefit only for the period of construction.*

- **Policy or Statutory**

*The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, Kempsey Local Environmental Plan 1987, Development Control Plan No. 37 Hat Head and Development Control No. 22 Local Housing Strategy.*

**2009. 834 RESOLVED:**

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

**A. That the Section 96(2) Modification to Development Application T6-00-331 be approved subject to the following conditions:-**

**Amended conditions:**

**Condition 6 – Deleted**



## Condition 16 to 19 - Added

### GENERAL

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

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

### INSPECTIONS

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

6. Deleted (refer to Section 96(2))

### PRESCRIBED CONDITIONS

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

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

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

9. All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.
10. A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.
11. A builder's toilet complying with Clause 78 I of the Environmental Planning and Assessment Regulation is required on site throughout the entire building operation.

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

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

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

- (a) Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.
- (b) That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.
- (c) Should the veranda, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the veranda, patio or landing and steps for safety and convenience. Such balustrade to conform with the requirements of D2.16 of the Building Code of Australia.  
Note: Spacing of rails not to exceed 125mm.
- (d) Riser and Going dimensions for stairs shall be in accordance with Clause D2.13 of the Building Code of Australia. In Class 1 and 10 buildings the following will apply:

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

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

- (e) Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.

- (f) Details of wall bracing to be carried out in accordance with Australian Standard 1684-1992 are to be submitted to Council prior to commencement of work.
- (g) Artificial lighting and mechanical ventilation is to be provided to the bathroom both adjoining bedroom 1.
- (h) Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
- (i) Glazing of all windows and doors is to be in accordance with the requirements of B1 of the Building Code of Australia.
- (j) All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.
- (k) The walls immediately adjacent or behind a bath, basin, sink or trough, shall be finished to a height of not less than 300mm above the fixture or in the case of a shower, to a height of 1.8 metres above the floor with cement render ceramic tiles or other approved finish impervious to water.

**13. If the soil conditions require it:-**

- (a) Retaining walls or other approved methods of preventing movement of the soil must be provided; and
- (b) Adequate provision must be made for drainage.

The colours of the building are to be in accordance with the schedule of finishes submitted with the Development Application.

**PUBLIC UTILITIES (Including stormwater)**

- 14. Roof waters are to be directed by means of sealed pipes to the street gutter.**

**EROSION CONTROL/GEOTECHNICAL REQUIREMENTS**

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

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

**Note:**

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

the gutter is to be removed immediately.

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

**16. Geotechnical Report required – Engineering Works**

A certificate from a professional Geotechnical Engineer is to be provided to the Principal Certifying Authority, certifying that:

- § the design of the civil engineering works, including retaining walls and/or cut and fill batters, has been assessed as structurally adequate in accordance with the relevant Australian Standards;
- § the civil engineering works will not be affected by landslip or subsidence either above or below the works;
- § adequate drainage has been provided with appropriate considerations given to groundwater constraints.

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

**17. Supervised by a geotechnical engineer**

The construction of the proposed dwelling shall be supervised by a geotechnical engineer.

**18. Survey of building floor height required**

A survey certificate prepared by a registered surveyor is to be submitted to the Principal Certifier upon completion of the floor slab formwork, before concrete is poured, to ensure the building will be constructed at or no more than 100mm above 36.4 metres A.H.D (ground Floor) and 39.2 (first floor) metres A.H.D in accordance with the development consent.

**19. The proposed dwelling shall be constructed in accordance with Bush Fire Report prepared by Midcoast Environmental amended September 2009.**

**B. That the objectors be advised of Councils decision.**

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

**F = Voted For**

**A = Voted Against**

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

<b>DSDS6</b>	<b>DRAFT LOCAL GROWTH MANAGEMENT STRATEGY – RESIDENTIAL COMPONENT</b>
	<b>File: 879 SDS {Folio No. 413005}</b>

**SUMMARY:**

Reporting that the Draft Kempsey Local Growth Management Strategy – Residential Component has been publicly exhibited with nineteen (19) submissions received.

2 2 2 2 2

**DESCRIPTION:**

**Public Submission Summary Report**

In accordance with Council’s resolution of 12 May 2009, the Draft Local Growth Management Strategy-Residential Component was placed on public exhibition. Community consultation meetings were held in Kempsey (seven attendees), South West Rocks (two attendees) and Crescent Head (no attendees). Council received twenty (20) submissions. The table below provides detailed comments to the issues raised: [\(Appendix M - Page SDS34\)](#)

Objection	Planning Comment
<p>1. The area Crescent Head Urban Investigation Area (CHUIA) 1 in the Draft Strategy should be the same identified as in the 1997 strategy including all land above the 1:100 year flood level.</p>	<p>1. The 1997 Residential Land Release Strategy identified three release areas for Crescent Head(CH):</p> <ul style="list-style-type: none"> <li>- CH1 which has now been rezoned to residential;</li> <li>- CH 2 which is Crown Land and zoned 1(d) Investigation, contains heavy vegetation and bushfire constraints exist;</li> <li>- CH 3 area was reduced in size by the Department of Planning (Mid North Coast Regional Strategy) which coincides with the 7(d) Scenic Protection zone boundary. Parts of the land have a constraint discount of 20% for environmental and scenic qualities, thus its part zoning of 7 (d).</li> </ul>
<p>2. The full CHUIA 1 area was identified in the <i>5 kilometre radius of Crescent Head study</i> in 1994 as being suitable for future residential development and has no known environmental constraints.</p>	<p>2. Since 1994 environmental policies and legislation have changed significantly including the introduction of threatening species, coastal protection and bushfire legislation. The entire 5 kilometre radius is no longer considered suitable to accommodate residential growth due to current environmental constraints. These constraints are reflected in the DoP’s Mid North Coast Regional Strategy (MNCRS).</p>
<p>3. The CHUIA 1 area has been continually used for</p>	<p>3. Parts of CHUIA 1 have been used for agricultural activities and is</p>

<b>Objection</b>	<b>Planning Comment</b>
agricultural activities and contains little lower storey vegetation.	identified as a potential release area in the draft strategy.
4. The land the subject of the rezoning application in Crescent Head is generally on the lower slopes below the 35 metre contour and its development will not adversely affect the scenic quality of adjacent mountain.	4. Part of the area subject to the rezoning application is within CHUIAI and part is outside of CHUIAI. Consideration of this issue is subject to the rezoning application currently with Council and will require agreement from DoP to vary the growth area identified in MNCRS.
5. The land the subject of the rezoning application in Crescent Head is already zoned in KLEP 1987 for Rural Small holdings with a minimum size of 4000 m2.	5. Part of CHUIA 1 area is zoned 1 (c) Rural Small Holdings. However parts are also zoned 7(d) Scenic Protection. Consideration of this matter will be addressed through the current rezoning application.
6. Any reduction in former area of CH3 (1997 Residential Land Release Strategy) could make development of the area financially unviable.	6. Whilst subject to current rezoning application, the financial viability of development land is not a relevant matter for consideration and is likely to change over time.
7. It would be a mistake not to include the full area of the lodged rezoning application in Crescent Head in the mapped area for residential consideration.	7. The DoP have indicated that Council's strategy should be consistent with the Mid North Coast Regional Strategy (which does not identify the entire area of the previous 1997 Strategy due to environmental constraints). The Department however, has indicated a willingness to expand the area should the rezoning application demonstrate that the land is capable to accommodate residential growth.
8. The area appears to represent the last chance for residential expansion in Crescent Head and to sterilise the area would represent a poor planning decision.	8. See point 7.
9. The draft document shows that demand for residential land in Crescent Head will far outstrip the supply by 2031.	9. Council's projections confirm that demand will outstrip supply by 2031. It is acknowledged that there are limits (on environment and services grounds) on how

Objection	Planning Comment
10. The area the subject of the rezoning application in Crescent Head would be subject to a full ecological assessment and environmental study as part of any rezoning application. This would be the appropriate time to employ any environmental safeguards that may be considered appropriate.	10. Agreed. big Crescent Head can grow to.
11. The mapping for Crescent Head should be based on the finer scale vegetation mapping completed by Kempsey Shire Council rather than the very broad maps shown in then the MNCRS.	11. The Department had indicated a willingness to expand the area should the rezoning application demonstrate that the land is capable to accommodate residential growth having regards to the full range of environmental factors, including Council's Vegetation Mapping Project.
12. It should be noted that the Council approached all land owners in the CHUIA 1 area to lodge a rezoning application and all land owners declined apart from the owners of Lot 707 and 704 Baker Drive, Crescent Head.	12. Noted.
13. Future demand in the short and medium term will meet with the CHUIA 1 area.	13. Noted.
14. Currently there is no supply of land in Crescent Head.	14. There is currently 10.45 hectares of land zoned residential which has not been developed. It should also be noted that whilst the Department of Lands has indicated it does not wish to proceed with the Goolawah Estate Stages III to V at present, the Department declined Council's suggestion to rezone the land to Environmental Protection in order to overcome the previous objections of the DoP to consider the current rezoning application.
15. The Community has shown support for land release in	15. Noted. However, there were no attendees when Council held a

Objection	Planning Comment
Crescent Head.	public meeting for the Draft Strategy in Crescent Head.
16. The number of lot yields for CHUIA 1 is not consistent with the area identified in the rezoning application. The yield number of lot 707 and 704 alone will be approximately 150; assuming 8 blocks per hectare and taking constraints into account.	16. The estimated lot yields may be potentially higher or lower than those indicated in the draft strategy, however, densities will be resolved through the rezoning and development assessment process.
17. The 'Settlement Form and Hierarchy' paragraph quotes that no new medium- high density areas are proposed in Crescent Head. As the studies for CHUIA 1 have not been completed we consider this to be a premature statement and ask for its removal.	17. Medium – High density areas referred to in the LGMS relates to the 2(b1) & 2(b2) zones which are restricted to level parts of Crescent Head. Under the Standard LEP it is intended to zone any new residential areas in Crescent Head as R1 General with density to be determined by a Development Control Plan (DCP).
18. There are very limited areas of infill in Crescent Head which heightens the importance of the rezoning of lots 707 and 704 to provide areas for growth for Crescent Head area.	18. Noted. The suitability of the land referred to is currently being considered as part of the rezoning application.
19. Access to lot 707 and 704 has been established through a recently approved road reserve access crown land between Baker Drive and lot 707.	19. Noted.
20. Crescent Head has a clear direction of growth for the short to medium term (approx. 10 years) and the report in its current manner does not clearly identify this growth.	20. The Draft LGMS- RC clearly identifies potential areas for growth in Crescent Head taking into consideration environmental opportunities and constraints and the DoP's MNCRS Regional Strategy.
21. Crescent Head is not limited by lack of suitable land to be developed. Reference to the <i>5 kilometre radius of Crescent Head study</i> has been made.	21. See Point 2
22. If Crescent Head does not grow but stagnates or dies as	22. The Draft Strategy projects Crescent Head to go from 1114



### Objection

Objection	Planning Comment
your draft shows we will have no other option than to relocate to a more viable location.	people (2006) to 1356 people (2031). The programmed review of the Rural Residential Land Release Strategy may provide additional potential for growth serviced by Crescent Head.
23. There is general concern in relation to the overflow of people from Hastings Shire which will have implications on the urgent need to provide both residential and rural residential land in general Kempsey/ Crescent Head zone.	23. See Point 22.
24. Concerns in relation to population analysis for Crescent Head, in particular the reduction of permanent population and the increase in demand for land, which is not clear enough in the document.	24. The draft strategy has been amended to provide information on this issue more clearly.
25. A potential overflow to the adjoining rural residential areas would encourage residential sprawl and price people out of affordable living.	25. Most areas in close proximity to coastal villages in the Shire are constrained and limited in terms of areas for potential growth. See Point 22.
26. Has consideration been given to affordable housing in order to stop the degeneration of Crescent Head?	26. Opportunities for affordable housing may be realised through the new Affordable Housing SEPP.
27. Additional traffic at the intersection between Crescent Head Road and Pacific Highway will have potential implications on the Bypass.	27. Noted. However, any increase in traffic is unlikely to be significant.
28. There is a discrepancy in the population figure on page 21. The census gives the population as 1114 where as on page 33 it says about 1300 people.	28. Noted. The issue will be investigated and the draft strategy will be amended.
29. Seeking clarification on dwelling demand on page 17 and potential implication on residential estates.	29. Large portions of Crescent Head permit medium density which hasn't reached its full development potential. Additional land on the southern side of Crescent Head has been zoned residential and has not

Objection	Planning Comment
30. The strategy focuses on many occasions on the “popularity of the area for surfing” (p. 33) for Crescent Head. It fails to see the relevance of the importance of it over the large number of activities that people can be involved in.	30. It is acknowledged that Crescent Head has a number of other attractions other than surfing.
31. If Crescent Head is such a perfect environment why not make it possible for more people to enjoy the lifestyle here.	31. The objective of the draft strategy is to identify potentially suitable locations to accommodate population growth in Crescent Head without resulting in environmental degradation or out stripping servicing capacities.
32. Economical struggle of existing social infrastructure in Crescent Head should be considered.	32. The draft strategy has considered existing social infrastructure for Crescent Head which is considered adequate at this point in time.
33. Consider land west of Baker Drive in Crescent Head which is available and very suitable for development.	33. A large part of the land west of Baker Drive is owned by the Department of Lands and restricted by vegetation, flooding and topographic constraints. To the south of this site land has been identified for new release in CHUIA.
34. The draft LGMS mapping is inconsistent with Council's own resolutions and should be amended to reflect the full extent of the area of Lots 703 & 704 DP 749885 and Lot 707 DP 1032859 under draft Amendment 59.	34. The DoP has indicated a willingness to expand the area should the rezoning application demonstrate that the land is capable to accommodate residential growth.
35. The recent registered road plan (DP 1103164) for the site that is subject to the rezoning application in Crescent Head would be a complete waste of time, cost and effort if the boundary proposed in the draft LGMS are retained and adhered to.	35. Noted. However, the road was opened at the instigation of the owners and no indication has been provided in respect to the outcome of the rezoning application.

<b>Objection</b>	<b>Planning Comment</b>
36. Page 13 suitable land to the west of Baker Drive, Crescent Head, which has had a rezoning application at Council for 12 years requires consideration.	36. The rezoning application is now making progress and the suitability of this land for residential is being considered.
37. Page 14 where are 117 blocks coming from?	37. The yield is based on identified potential constraints of the land. This figure may increase or decrease once more detailed studies are undertaken.
38. Page 17 with the demand for housing from holiday owners and almost no availability of affordable land for permanent housing the population would decrease in Crescent Head.	38. Noted. See point 31.
39. Page 22 concerns in relation to potential demand overflow to nearby rural residential areas.	39. Noted. This issue will be addressed in greater detail in the rural residential component.
40. Page 34 Has Council (and Blueprint Planning) already decided that only 3 ha will be developed regardless of the fact that there is a high demand and more land available in Crescent Head.	40. In Crescent Head available land for new release is limited through environmental constraints. The actual area of land identified is approximately 14.63 hectares.
41. Concerns in relation to an intention of Council not to develop Crescent Head further even with a high demand from people to move to the village.	41. Noted. See point 31.
42. Council should consider Lot 280 DP1098732 Maria River Road, Crescent Head Road for future residential or rural residential development.	42. The subject property is located outside of the DoP agreed growth areas and is separated from the village therefore it is unlikely to be considered for residential development. However the land may be suitable for future rural residential release.
43. The strategy should address the major social problems of the area identified for growth and their actual desirability as areas for future growth.	43. The strategy has reference to Council's social sustainability goals as well as to the community strategic plan. The purpose of the LGMS is to identify potential land for future growth based on constraint assessment in accordance to the

Objection	Planning Comment Settlement Planning Guidelines (2007 Department of Planning).
44. KUIA 1 though the owners have declined the opportunity to submit a rezoning application and at present there are no plans for development in the short term.	44. Noted.
45. KUIA 2 is incorrectly mapped due to the 100 year flood level. Any development in the area adjacent to the sewage treatment plant and Department of Housing estate is highly optimistic and unrealistic. Please review timing and adjust accordingly.	45. The identified release area is partly flood affected and has the sewerage treatment system near by. The land identified is not overly constrained on the basis that it does not contain significant vegetation.
46. KUIA 3 is incorrectly mapped due to the 100 year flood level. Yield from this area will not have great significance for the growth of Kempsey. The area has a potential yield of approximately 20 lots. We ask Council to please revise their figures and maps.	46. Noted. The site is constrained by flooding. The current map is considered adequate for the purpose of this strategy. A 20 lot yield is only indicative.
47. KUIA 4 is cloaked by enormous constrains. People do not wish to settle in this area due largely to social problems.	47. The MNCRS identifies this area as potentially accommodating residential growth. When assessed against the Settlement Planning Guidelines 2007, the land is considered potentially suitable. The area may also offer opportunities for affordable housing. It is not appropriate for the LGMS to comment on the perceptions of social problems as a basis to exclude areas (in some cases already zoned for residential development from future release).
48. Any development in KUIA 4 in the short, medium and long term will not be viable to developers.	48. See point 44.
49. Due to different ownerships and noise associated developments in the area segregation is evident. We	49. Market forces will determine potential time for future development on site. (e.g. if the race track site becomes more

<b>Objection</b>	<b>Planning Comment</b>
expect a very limited (if any) uptake of land over the next 10 years.	economically attractive to develop for residential purposes than to remain i.e. relocate).
50. KUIA 5 this area has quality flood free land. We see the possibility of this area being developed in the foreseeable long term future to be very slim.	50. Noted.
51. Should take into account other land:  Red Hill	<p>51. Red Hill is not identified as being a potential growth area, in the DoP's MNCRS. Inquiries with the DoP indicate that there is limited scope to go outside the targeted areas. Due to the separation from existing sewerage services a preliminary estimate of servicing costs for sewer would be high (estimated cost of \$36,000 per lot).</p> <p>This does not include the costs of roads and water and sewerage reticulation estimated to be a further \$40,000 to \$50,000 per lot. Apart from the inconsistency with the MNCRS, the high development costs would not justify development in this area in the foreseeable future and may be considered when the Strategy is next reviewed.</p> <p>The site is also inconsistent with Council's Flood Policy given it will be isolated during a flood event for an extended period of time.</p>
52. Frederickton	52. Council has identified the maximum potential for new release at this point in time. However, Council is preparing a Highway Bypass Strategy and its impact may contribute to a change in the growth boundaries in future. Therefore, this matter may be subject of consideration in five years when Council next reviews the strategy.
54. Aldavilla – consider the area adjacent Springfield Drive Greenhill for future residential development.	54. The identified area is within the agreed growth boundaries and has been incorporated in the strategy.

Objection	Planning Comment
55. Small scale of the area marked wetland in SWRUIA 6 appears very close to gazetted wetland boundary 438.	55. Noted. The Map has been amended to provide a buffer to the wetland.
56. The area marked as 'flood affected' within the property may be partly topographical information we have at the site. The high flood level is governed by the culvert size and road height at the western end of Gordon Young Drive (5.30 AHD) and would be approximately 5.50 AHD at the site. (SWRUIA 6)	56. Noted. Physical constraints of the land will be considered in greater detail at the rezoning stage.
57. KUIA 2 is influenced severely at its western end by the existing sewage treatment works. Take it into consideration.	57. Noted. Need to be considered in the rezoning phase.
58. Why is un-developable portion of KUIA 2 included?	58. Noted. A more meaningful zone boundary will be established at the rezoning phase taking into account more detailed analysis of the opportunities and constraints of the land.
59. Lot 82 DP263591 (New Entrance, South West Rocks) to be included in the strategy.	59. A portion of Lot 82 has been included in the draft strategy on the basis that it contains few environmental constraints. Another portion of the land however is not considered suitable given its topography (slope greater than 20 per cent).
60. Decrease in permanent population in a short time ago for Crescent Head.	60. ABS data does not conclude that there has been a decrease in Crescent Head's permanent population.
61. Currently a serious deficit in the supply of blocks. There is an urgent need to replace that land stock to maintain the current size and nature of the village of Crescent Head. The document should explore that land stock deficit.	61. Through the Local Growth Management Strategy potential new release areas have been identified to accommodate residential development and population growth within existing ecological and servicing constraints.
62. Additional population growth increases the dwelling	62. It is not the intent of this strategy to necessarily take

### **Objection**

projection for the Macleay to 3,900 additional dwellings by 2031 and could result in expectations that the dwelling projections for the Hastings, over the same period, will be reduced.

63. Council has not been able to determine the justification for a transfer of growth away from Port Macquarie Hastings in the draft Kempsey Strategy.
64. Port Macquarie Hastings Council is seeking further consultation with representatives of Kempsey Shire Council and the Department of Planning regarding implications of the above issue on the Port Macquarie Hastings LGMS. In particular, Council would like to ascertain how apportionment of projected dwelling targets and dwelling types in the sub- region will be addressed by the Department of Planning.
65. Port Macquarie Hastings Council would like to commence consultation on the relationship between industrial investigation areas in the Regional Strategy.
66. Kempsey has nothing to offer for homes in price range around \$500,000.

### **Planning Comment**

population growth away from Port Macquarie Hastings. It is considered that the strategy provides the justification to release more additional dwellings in Kempsey Shire than projected in the MNC Regional Strategy. If the results of the Hastings growth strategy supports additional dwellings the MNC Strategy should be adjusted when it comes up for review in 2011.

63. See point 64.
64. The Department of Planning has clarified that higher projections in Kempsey's Strategy will not result in Port Macquarie Hastings having to reduce their figures.
65. Council will liaise with Port Macquarie/ Hastings Councils on this matter when preparing the industrial component of the strategy.
66. This is not an issue to be addressed by this strategy.

### **NEXT STEPS**

The following steps will have to be undertaken in order to complete the Strategy:

- A. Finalise the Draft Local Growth Management Strategy – Residential Component. The following changes have been made to the Strategy which was placed on public exhibition:

- Amendments to maps (boundaries adjustments, removal on medium density precincts, incorporation of new areas, buffers);
  - Incorporation of additional properties such as Lot 82 DP 263591 (partly), Lot 2 DP 565498, (partly) Lot 29 DP1067942 and Lot 50 DP843912;
  - Change of the estimate yield number for CHUIA 1 from 33 lots to 111 lots;
  - Delete comments relating to Mixed use developments, Live-Work Precincts and Residential Tenures on p14;
  - UIA Tables for each growth area amended to be expressed as a total;
  - Annual uptake tables removed;
  - Delete character statement, urban design and heritage and ESD Strategy comments; and,
  - Delete p42 (Rural Residential comments which are not relevant at this time) and p43 (Business & Employment Landstocks which are also not relevant).
- B. Forward to DoP for consideration, comment and in principal agreement;
- C. Reporting to Council for adoption Final Draft Local Growth management Strategy incorporation comments provided by DoP; and,
- D. Endorsement by the DoP.

**REPORT IMPLICATIONS:**

· ***Environmental***

*Nil*

· ***Social***

*Nil*

· ***Economic (Financial)***

*Nil*

· ***Policy or Statutory***

*Nil*

**2009. 835 RESOLVED:**

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

- 1. That Council notes the report and resolves to forward the Final Draft Local Growth Management Strategy – Residential Component to the Department of Planning seeking in principal agreement.**
- 2. That Council begins negotiations with the Department of Planning and include representations to the Minister for Planning, at the appropriate time, to consider areas outside the strategy.**
- 3. That council further considers the draft local growth management strategy residential component in conjunction with the community**



consultation forums being implemented within council's restructure framework.

4. That Council actively seek to enhance the strategy by taking an innovative and new approach to local growth management.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

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

**DSDS9                      ASPHALT BATCHING PLANT**  
**FILE: T6-09-319      KJA                      {Folio No. 413015}**

**SUMMARY:**

Reporting on Development Application T6-09-319 for an asphalt batching plant at 63 South Street, South Kempsey, for which the Northern Region Joint Planning Panel (NJRPP) is the consent authority.

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

2 2 2 2 2 2

**Applicant:** Tropic Asphalt Pty Ltd  
C/- KHA Development Managers  
**Subject Property:** Lot 45 DP 245599,  
63 South Street, South Kempsey  
**Zone:** 4(a) (Industrial(General)Zone)

**DESCRIPTION:**

The application seeks consent to construct an asphalt batching plant with the capacity to produce up to 100,000 tonnes per annum and to operate seven (7) days per week 24 hours per day when required.

The applicant advises that the product will be used in the construction of the Kempsey Bypass. The site is adjacent to the Gills Bridge Creek and currently accommodates a landscape supplies establishment, spray painting/panel beating workshop and a dwelling. The site is flood prone and surrounded by industrial uses.

The main issues associated with the proposed development are:

1. Management of environmental issues e.g. dust, noise, fumes and odour
2. Treatment of stormwater
3. Flooding
4. Traffic volumes and movements, and
5. Gills Bridge Creek Rehabilitation Plan

The proposal falls under the provisions of both Integrated Development (*Water Management Act 2000*) and Designated Development (produces over 30,000 tonnes per annum within 100 metres of a natural water course).

*Northern Region Joint Planning Panel (NRJPP)*

The Northern Region Joint Planning Panel (NRJPP) has been set up as part of the planning reforms by the NSW Government.

Regionally significant developments (which this development application falls under, as it is designated development) are assessed by Council and determined by the NRJPP. These include development identified in the Major Development SEPP which meet the following criteria:

1. Development with a capital investment value (CIV) of over \$140 million;
2. Designated development
3. The following development with a CIV over \$5 million
  - a) Certain public and private infrastructure e.g. community facilities, schools
  - b) Crown development
  - c) Development where Council is the proponent or has a conflict of interest, and
  - d) Ecotourism
4. Subdivision of land into 250 lots or more, and
5. Certain coastal developments (previously assessed under Part 3A of the EP&A Act)

*Timing*

The following milestone dates are targeted for this application:

- 20 November 2009 – Public exhibition period concludes
- 25 November – Presentation by Council Officers to NRJPP of the proposed development
- 26 November - Council's assessment report submitted to the NRJPP
- 10 December - NRJPP meeting to determine development application

**RECOMMENDATION IMPLICATIONS:**

· ***Environmental***

*Currently under consideration as part of the assessment of the application.*

· ***Social***

*Nil*

· ***Economic (Financial)***

*Should the development be approved employment opportunities may arise.*

· ***Policy or Statutory***

*Nil*

· ***Director's Review***

*It is intended, where possible, to provide Council with the opportunity to be informed and, where Council considers necessary, make submissions to the NJRPP.*

*In this instance, the timing of the application is such that reporting the completed assessment to Council is not possible as Council will not meet before the assessment is completed.*

*A copy of the final assessment and determination of the NJRPP will be provided to Council for information*

**2009. 859 RESOLVED:**

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

**That Council not lodge an objection to the development proposal.**

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

**F = Voted For**

**A = Voted Against**

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

**DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES CONFIDENTIAL REPORT**

<b>DSDS1</b>	<b>UNAUTHORISED DEVELOPMENT</b>
<b>CONF</b>	<b>FILE: LA9164 CC: LA6198 SRR {Folio No. 413063}</b>

**Section 10A(2)(e) – Maintenance of Law**

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

On balance, the public interest in preserving the confidentiality of the information which relates to matters of law, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

**SUMMARY:**

Reporting on the status of actions relation to unauthorised development at Crescent Head.

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

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**2009. 883 RESOLVED:**

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

**That the information be noted.**

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

**F = Voted For**

**A = Voted Against**

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

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