



MINUTES OF THE ORDINARY COUNCIL MEETING

HELD AT COUNCIL CHAMBERS, BREESE PARADE, FORSTER

ON Tuesday, 24 March 2009

Keith O'Leary
GENERAL MANAGER

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Minutes of the Ordinary Meeting of the Great Lakes Council held at the Council Chambers, Breese Parade, Forster on 24 March 2009 commencing at 9.35am.

PRESENT

Clr J McWilliams, Clr M Tuffy, Clr L Vaughan, Clr L Roberts, Clr L Gill, Clr K Hutchinson, Clr C McCaskie and Clr J Stephens

IN ATTENDANCE

General Manager - Keith O'Leary, Director Engineering Services - Ron Hartley, Director Planning & Environmental Services - Glenn Handford, Director Corporate & Community Services - Steve Embry and Sue Bookallil - Administrative Support Assistant (Minute Taker).

ACKNOWLEDGEMENT OF COUNTRY

The Mayor read the following statement:

"I acknowledge the Worimi people, the traditional owners of the land on which we meet today. I acknowledge their traditional wisdom and enduring culture."

PRAYER

Pastor Iain White, Forster Baptist Church led the meeting in prayer.

APOLOGIES

Clr J Weate is on annual leave and will be absent from the meeting.

190 RESOLUTION

(Moved L Gill/Seconded L Vaughan)

That the apology of Clr Weate be accepted.

The Mayor read aloud the following statement:

"An audio recording of this meeting is being made for minute taking purposes as authorised by the Local Government Act 1993 and may be made available to members of the public where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1989."

ADOPTION OF MINUTES OF MEETING

191 RESOLUTION

(Moved L Roberts/Seconded C McCaskie)

That the Minutes of the Ordinary Meeting of 24 February 2009, copies of which were distributed among the Councillors, be taken as read and confirmed as a true record of proceedings.

DECLARATIONS OF PECUNIARY & NON-PECUNIARY CONFLICTS OF INTEREST

Councillor/Staff Member	Item and Subject	Nature of Interest
Clr Mike Tuffy	Item 5 - PES Resolution of Deferred Areas: Bullocky Way/Mill Road Precinct, Failford	Non-pecuniary interest, the nature of the interest being land owner at Failford. Clr Tuffy left the meeting and took no part in discussions or voting.
Mr Glenn Handford	Item 9 - PES - DA 37/2009 - Proposed retaining Wall for Driveway: 14 Kinka Road, Seal Rocks And Item 11 - PES - DA237/09 - Outdoor Cinema, Pilot Hill, Head Street, Forster	Non-pecuniary interest, the nature of the interest being consultant for objector is a friend Non-pecuniary interest the nature of the interest being applicant is a friend. Mr Handford left the meeting and took no part in discussions on both items 9 and 11.
Clr Linda Gill	Item 16 - PES - Land & Environment Court Status Update	Non-pecuniary interest, the nature of the interest being my brother sold the saw mill to Mr Wilkes. Clr Gill left the meeting and took no part in discussions or voting.
Clr Leigh Vaughan	Item 21 - CCS - Re-establishment of Alcohol Free Zones adjacent to Palmgrove and Collendina Parks Forster	Non-pecuniary interest, the nature of the interest being I live in the vicinity of Collendina Reserve. Clr Vaughan left the meeting and took no part in discussions or voting.
Clr Carol McCaskie	Item 12 - PES - North Shearwater Draft Local Environmental Study (LES)	Pecuniary interest, the nature of the interest that I share a common boundary with the North Shearwater Estate. Clr McCaskie left the meeting and took no part in discussions or voting.

NOTICE OF MOTION

NOTICE OF MOTION - CLR ROBERTS - MANNING STREET, TUNCURRY

RECOMMENDATION:

(Moved L Roberts/Seconded K Hutchinson)

1. That the information be noted.

2. Council wishes to proceed with the request to rezone the land known as the "triangular" area bordered by Manning and Wilson Streets, Tuncurry and Council resolves to:
 - i. Review and finalise the Draft Manning Street Landuse and Zoning Study and place it on public exhibition for a period of 40 days, followed by a report to Council detailing the findings of the Draft Study and submissions received, and
 - ii. Incorporate the action above into the work program once the Development Control Plan (DCP) Review Project (Stages 1 and 2) has been complete, prior to resubmitting Council's comprehensive Local Environmental Plan (LEP) 2008 to the Department of Planning for public exhibition.

An amendment was moved by L Gill and seconded by L Vaughan that the information be noted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the amendment, the results of which were as follows:

FOR VOTE - Clr M Tuffy, Clr L Gill, Clr L Vaughan

AGAINST VOTE - Clr J McWilliams, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson

ABSENT. DID NOT VOTE - Clr J Weate

The amendment was lost.

The motion was put to the vote and declared carried.

The results of this division were as follows:

FOR VOTE - Clr J McWilliams, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson

AGAINST VOTE - Clr M Tuffy, Clr L Gill, Clr L Vaughan

ABSENT. DID NOT VOTE - Clr J Weate

192 RESOLUTION

(Moved L Roberts/Seconded K Hutchinson)

1. That the information be noted.
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PUBLIC ADDRESSES

PUBLIC ADDRESS 1 - MR ROWLAND ADAMS

9 PES - DA37/2009 - Proposed Retaining Wall for Driveway: 14 Kinka Road, Seal Rocks

Index: DA37/2009 & PK15188
Author: Building Surveyor - David Underwood

Mr Glenn Handford, Director Planning & Environment Services declared a non-pecuniary interest and left the meeting, taking no part in discussions.

Mr Rowland Adams, Objector, addressed Council objecting to the proposal in particular to traffic, noise and other issues. Mr Adams answered various questions raised by Councillors.

Mr Tony Tuxworth (Consultant for Objector, Peter Adams) addressed Council objecting to the proposal, in particular to removal of the hedge for construction of the retaining wall, requesting deferral of a decision pending an inspection of the site by Councillors. Mr Tuxworth answered various questions raised by Councillors.

Mr Greg Harrison (Owner/Applicant) addressed Council in support of the proposal, particularly with regard to access issues to his property, and requested modification and clarification of some conditions.

Mr Glenn Handford, Director Planning & Environment Services returned to the meeting.

PUBLIC ADDRESS 2 - MR REG WILTSHIRE

13 PES - Pacific Palms Draft Local Environmental Plan

Index: SP-LEP-13, Land Use Planning/Pacific Palms Study
Author: Release Area Manager - Roger Busby

Mr Reg Wiltshire addressed Council in regard to the Pacific Palms Draft Local Environment Plan, and tabled a submission requesting the inclusion of a small area of land identified in the submission. Mr Wiltshire answered questions raised by Councillors.

PUBLIC ADDRESS 3 - MR GAVIN MABERLEY SMITH

5 PES - Resolution of Deferred Areas: Bullocky Way/Mill Road Precinct, Failford

Index: SP-LEP-69
Author: Release Area Manager - Roger Busby

Mr Tuffy declared a non-pecuniary interest and left the meeting, taking no part in discussions.

Mr Gavin Maberley Smith (on behalf of the Owner) addressed Council in support of the application.

CONSIDERATION OF OFFICERS' REPORTS:

DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

9 PES - DA37/2009 - Proposed Retaining Wall for Driveway: 14 Kinka Road, Seal Rocks

Index: DA37/2009 & PK15188
Author: Building Surveyor - David Underwood

Mr Glenn Handford, Director Planning & Environment Services declared a non-pecuniary interest and left the meeting, taking no part in discussions.

RECOMMENDATION:

It is recommended that DA 37/2009 for the proposed Retaining Walls for Driveway at Lot 5 DP 114001, 14 Kinka Road, Seal Rocks be approved subject to the following conditions:

The following condition/s have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:

1. The development being carried out in accordance with the details set out in the Development Application unless otherwise amended by these conditions of consent.
2. The building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority subject to the provisions of the Environmental Planning and Assessment Act 1979 and Regulation 2000) to verify compliance with this consent and the standards of construction detailed in the Building Code of Australia, at not less than the following stages prior to proceeding to the subsequent stages of construction:
 - a) Commencement of works.
 - b) Pier holes before they are filled with concrete.
 - c) Footings.
 - d) Steel reinforcement.
 - e) Final.
3. Work on any building shall not commence until a Construction Certificate, complying in all respects with the provisions of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Building Code of Australia, has been issued.
4. It is a condition of approval that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
5. Submission of a Damage Bond Application Form and payment of a bond in the amount of \$2,110.00, payable for the purpose of funding repairs to any damage that may be occasioned to Council assets by activities/works associated with the construction of the development approved by this consent and ensuring Council standards and specifications are complied with. The bond shall be paid to Council prior to the issue of any Construction Certificate that may be issued for any component of the development.

Note: The bond will be considered for refund by the Engineering Services Division when an application for occupancy of the development or release of subdivision is lodged.

A fee will be deducted from the bond to cover administration costs as follows:

- a) \$110.00 for developments up to \$400,000.

The Damage Bond is reviewed periodically and therefore the fee and bond amount payable shall be determined from Council's current fees and charges document at the time of lodgement of the Damage Bond.

- 6. Detailed design plans being submitted with an Application for a "Public Engineering Works Permit" (PEWP).

Detailed design plans are to be approved by the Director of Engineering prior to the commencement of any engineering works. All work is to be at the developer's expense and must comply with Council's Engineering guidelines, specifications and standards.

The work is to be completed and approved prior to the issue of an Occupation Certificate. Included in the engineering works is to be the following:

Construction of the retaining wall in accordance with the option 'B' driveway slab and drainage plan dated 17/06/08 (drawing number 07385-6) and the amended landscape plan dated November 2008 (drawing number 0415/2).

- 7. Lodgement of a Public Engineering Works Permit Application Form and payment of the following, prior to the issuing of a Construction Certificate:

- a) Engineering supervision fees in accordance with Council's Schedule of Fees at the time of lodgement of plans.
- b) A defects liability bond of 5% of the value of all public engineering works associated with the development, as required by this approval, with a minimum of \$2,700. The defects liability bond is to be paid upon acceptance of the public works. Please note that a Construction Certificate will not be issued until this bond is paid. This bond will be lodged in a Council Trust Fund to cover any defects in the works subsequent to their acceptance by Council. One (1) year after the acceptance of these works by Council, the bond will be refunded if, at an inspection arranged by the applicant, no defects are apparent.

The defects liability bond is reviewed periodically and the amount may change prior to the release of the construction certificate. The fees and maintenance period shall be determined from Council's current requirements at the time of acceptance of these works.

- 8. Prior to commencement of construction and throughout the construction process until completion, adequate provision shall be made for the following measures (as applicable), to ensure compliance with the terms of the Consent:

- a) Sediment control measures.
- b) Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
- c) Maintenance of the public place free from any unauthorised materials, waste containers or other obstructions.

- 9. Building work that involves residential building work (within the meaning of the Home Building Act, 1989) must not be carried out unless the principal certifying authority:

- a) in the case of work to be done by a licensed contractor:

- (i) has been informed in writing of the licensee's name and contractor number; and
 - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act (in relation to insurance policies); or
 - b) in the case of work to be done by any other person:
 - (i) has been informed of the person's name and owner-builder permit number; or
 - (ii) has been given a declaration, signed by the owner of the land, that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.
10. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the principal certifying authority prior to the issue of a construction certificate. The plans shall detail:
- a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas.
 - b) Footings of the proposed structure.
 - c) Structural steel beams/columns.
- Where it is proposed to use driven timber piles as part of any building footing system, the following certification from a professional engineer shall be provided prior to a footing inspection:
- i) The durability class (and/or chemical treatment grade) of all piles used within the footing system; and
 - ii) That the driven piles have achieved the required bearing capacity.
11. Construction of the retaining walls for driveway to be undertaken in accordance with Construction Methodology as detailed in letter from Collins & Associates Engineers dated 23 October 2008, ref: 07385. In addition the design engineer is to periodically inspect and certify the construction of the retaining walls and driveway at the following stages: footings, drainage and final inspection.
12. Dilapidation reports are to be submitted for the existing dwellings located on Lots 3 and 4 Kinka Road, Seal Rocks. These reports are to be submitted to Council prior to the issue of a construction certificate.
13. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life or property.
14. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- a) must preserve and protect the building from damage.
 - b) if necessary, must underpin and support the building in an approved manner.
 - c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, ***allotment of land*** includes a public road and any other public places.

15. Prior to the commencement of work, toilet facilities shall be provided within the site boundaries at the rate of 1 toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet shall be connected to the sewer.

Where the sewer is not available, chemical (portable WC) toilet(s) shall be provided or the toilets shall be connected to on-site sewage management system approved by Council.

16. Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied.

The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

17. The development is not to be used until it is completed in accordance with the approved plans and conditions of development consent.

18. Vehicular driveway to be designed and installed in accordance with Council's Steep Driveway Policy.

19. A Certificate of Compliance being received from MidCoast Water prior to the issue of any Construction Certificate, stating that satisfactory arrangements have been made for the provision of water supply and sewerage to the development.

20. The developer, at no cost to Council, making any necessary alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, and footways.

21. A site specific traffic control plan complying with the requirements of the RTA Traffic Control at Work Sites Manual is to be submitted with the application for the construction certificate. Details are to be submitted by a person accredited with the RTA Traffic Control at Work Sites Manual.

22. Vibrating compaction rollers not being used during construction unless it can be demonstrated that there will be no impact upon adjoining or nearby properties.

23. An R5-40 No Parking sign 225mm x 450mm (arrow head to the left, being in accordance with RTA regulatory signs and Australian Standard 1743) be erected near the front vehicular access point indicating that on-site parking is not available along any part of the driveway. The sign is to be positioned so as not to restrict the visibility of drivers when exiting the driveway. Another No Parking sign meeting the above criteria with an arrow head to the right is to be positioned on the eastern side of the proposed driveway solely within the confines of lot 5 approximately where the front boundary of lot 4 meets the common boundary of lot 5. All costs associated with acquiring and implementing the signs shall be met by the developer.

24. Should any Aboriginal site or relic be disturbed or uncovered during the construction of this development, all works should cease and the National Parks and Wildlife Service be consulted. Any person who knowingly disturbs an Aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.

25. Structural details for the proposed vehicle turntable are to be submitted prior to the release of the construction certificate. Details are to include the use of corrosion resistant materials and the limit of earthworks involved in the installation of the device.

26. Structural details for the provision of a 200mm high barrier kerb along the northern edge of the driveway are to be submitted for approval by Council's Transports Assets branch prior to the issue of a construction certificate.
27. Prior to the issuing of a Construction Certificate, the registered proprietor of Lot 5 Kinka Road, shall engage, at their cost, a horticulturalist that is approved in writing by Council's Parks Branch, to prepare a separate and stand-alone Rehabilitation Plan for that part of Kinka Road Reserve fronting Lots 3 – 5 Kinka Road. The draft plan shall be submitted to Council's Parks Branch for approval. The plan shall clearly show:
- a) The final approved location and configuration of the driveway on the Kinka Road Reserve and the type of material to be used for the formation of such;
 - b) Final details of earthworks including mounding and retaining walls in the Kinka Road Reserve;
 - c) Final mapped locations and details (including species, trunk diameter and height) of trees that are to be removed from the Kinka Road Reserve for the establishment of the driveway. Trees are defined as vegetation, whether alive or dead, that exceed 3-metres in height or 100mm in trunk diameter at breast height but which are not multi-stemmed shrubs;
 - d) Recognises and adopts the objectives and aims of the existing Council work plan;
 - e) Comprehensive detail as to the means with which trees that are to be retained near the construction are to be adequately protected during the clearing and construction (eg. orange safety mesh fencing, protection of critical root zones, etc);
 - f) Details of a revegetation and habitat enhancement program for the Kinka Road Reserve post-construction that demonstrably achieves a compensatory/ net gain in native coastal plants and serves to screen, landscape and afford wind protection to surrounding native vegetation in the Kinka Road Reserve fronting Lots 3 – 5 inclusive. This must include details of planting locations, densities and numbers and must include native species from all vegetation strata, including shrubs. As such, at least 32 native coastal tree or shrub species shall be planted in the rehabilitation area;
 - g) Details of species to be planted, their maximum height and canopy spread, planting density, planting procedure and maintenance;
 - h) The use of predominantly native flora species that grow in coastal locations and littoral rainforests in the Seal Rocks locality;
 - i) The use of appropriate local provenance for plantings;
 - j) Details of planting procedure, protection and maintenance including replacement of lost stock. This must include that planted specimens to be used to compensate the removal of trees from the land be immediately protected by Council's TPO (LEP Clause 10);
 - k) The use of mulching and coconut or brush-matting of the Kinka Road Reserve and the retention of log sections from the felled trees for ground fauna habitat and ground surface stabilisation; and
 - l) The details of the means with which all Lantana and Bitou Bush shall be removed from the Kinka Road Reserve fronting Lots 3 – 5 inclusive and suppressed and eradicated and replaced with native shrub and groundcover. Weed removal shall be conducted using appropriate and best practice techniques that do not harm, injure or kill native vegetation.
28. The registered proprietor of Lot 5 shall, at their cost, engage bushland regenerators to implement the planting and primary weeding aspects of the rehabilitation plan in accordance with the final approved plan.
29. Prior to the issuing of a Construction Certificate, a separate (distinct from the Road Reserve revegetation plan required above) revised Final Landscape Plan shall be prepared by a qualified landscape architect/ horticulturalist for Lot 5 and submitted to Council or the PCA for approval. The plan shall clearly show:
- a) The final approved location and configuration of the driveway and any parking and storage areas on Lot 5 and the type of material to be used for the formation of these areas;
 - b) Final details of earthworks including mounding and retaining walls in Lot 5;

- c) Final mapped locations and details (including species, trunk diameter and height) of trees, if any, that are to be removed from Lot 5 for the establishment of the driveway and parking areas. Trees are defined as vegetation, whether alive or dead, that exceed 3-metres in height or 100mm in trunk diameter at breast height but which are not multi-stemmed shrubs. Trees shall be marked clearly for retention or for removal, as is required;
 - d) Comprehensive detail as to the means with which trees that are to be retained near the construction are to be adequately protected during the clearing and construction (eg. orange safety mesh fencing, protection of critical root zones, etc);
 - e) Details of a revegetation and habitat enhancement program for Lot 5 post-construction that demonstrably achieves a compensatory/ net gain in native coastal plants and serves to screen and landscape the driveway and parking areas. This must include details of planting locations, densities and numbers;
 - f) Details of species to be planted, their maximum height and canopy spread, planting density, planting procedure and maintenance;
 - g) The use of predominantly native flora species that grow in coastal locations and littoral rainforests in the Seal Rocks locality;
 - h) Details of planting procedure, protection and maintenance including replacement of lost stock. This must include that planted specimens to be used to compensate the removal of trees from the land be immediately protected by Council's TPO (LEP Clause 10);
 - i) The use of mulching and coconut or brush-matting of the land and the retention of log sections from the felled trees for ground fauna habitat and ground surface stabilisation; and
 - j) The details of the means with which all Lantana and Bitou Bush shall be removed from Lot 5 and continually suppressed and eradicated and replaced with native shrub and groundcover.
30. All landscaping shall be carried out in accordance with the final approved plan and be maintained in accordance with the plan at all times.
31. Only those trees and native vegetation within the approved development footprint shall be removed, harmed or injured. In this respect, prior to any site works, the extent of the approved disturbance area shall be marked on the Kinka Road Reserve and Lot 5 through the establishment of orange safety mesh barrier fencing. Such fencing shall demarcate and limit the deliberate or accidental impacts of the works and shall protect all adjacent native vegetation and trees from clearing, harm or modification. There shall be no stockpiling, storage of constructive vehicle access outside the marked disturbance area. The fencing specified in this condition shall be maintained until such time as the driveway has been completed.
32. All trees that are not identified to be removed in the above condition shall be conserved in their present state, free from direct or indirect construction impacts. These trees shall remain duly protected under Clause 10 of GLLEP 1996, the tree preservation order.
33. Any excavations must be conducted sensitively within the drip zone of the trees and native vegetation to be retained. The supporting roots must not be severed and if such features are encountered during the works, hand excavation or boring shall be utilised to protect these roots and establish the utilities under existing roots.
34. The trees identified for removal shall be felled using directional or sectional techniques that avoid damage or harm to surrounding vegetation.
35. Trees and shrubs removed from the study area shall be used either in log form or as mulch. No felled vegetation shall be burnt.
36. All bitou bush and lantana on the Lot and the adjoining Kinka Road reserve shall be removed and continuously suppressed and destroyed using appropriate and best practice techniques that do not harm, injure or kill native vegetation.

37. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name, address and telephone number of the principal certifying authority for the work; and
 - (c) showing the name of the principal contractor and a telephone number at which that person may be contacted outside of working hours.

Any such sign is to be removed when the work has been completed.

38. All retaining walls for driveway construction are to be set out by a Registered Surveyor to ensure compliance with this consent, and the approved plan/s, and a copy of plan to be supplied to the principal certifying authority prior to the pouring of any concrete slabs / placement of flooring materials.

The following group of condition/s have been applied to ensure that noise from the development does not create a nuisance and to ensure that reasonable levels of the amenity of the area are maintained during construction and after the erection of the building:

39. There is to be no construction and/or demolition works, including deliveries on or to the site prior to 7.00 am or after 6.00 pm Monday to Friday, prior to 8.00 am and after 6.00 pm Saturday, and prior to 9.00 am and after 4.00 pm Sunday.

The following conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

40. Any surface water generated by the development that is not disposed of through the proposed Atlantis Cells treatment shall be disposed of by a drainage system to Council's drainage network.

The following condition/s have been applied to ensure compliance with Council's Erosion and Sediment Control Policy:

41. An Erosion and Sediment Control Plan is to be submitted to and approved by the principal certifying authority prior to the issue of a construction certificate.

The Plan will include scaled drawings and detailed specifications which can be readily understood and applied on-site by supervisory staff. Items to be shown on the Plan shall include:

- a) Locality of the site, a north point and scale;
- b) Existing contours of the site including catchment area boundaries and indications of direction of fall;
- c) Location of and basic description of existing vegetation;
- d) Diversion of uncontaminated upslope runoff around the disturbed site(s);
- e) Location of significant natural areas requiring special planning or management including water bodies, flood plans, seasonally wet areas, areas prone to ponding/water logging, unstable slopes, etc;
- f) Nature and extent of earthworks, including cut and fill and roadworks;
- g) Location of all soil and material stockpiles;
- h) Location of site access, proposed roads and other impervious areas;
- i) Existing and proposed drainage patterns;
- j) Location and type of proposed erosion and sediment control measures;
- k) Site rehabilitation proposals, including final contours.

42. Stockpiles of construction and landscaping materials, and of site debris shall be located clear of drainage lines and in such a position that they are within the erosion containment boundary or are equivalently protected from erosion and do not encroach upon any footpath, nature strip or roadway.
43. Final site spoil shall be disposed of to the satisfaction of Council.
44. Vehicular or machinery access shall be controlled so as to prevent tracking of sediment or other pollutants onto adjoining roadways, particularly during wet weather or when the site is muddy.
Vehicular access paths shall be stabilised with compacted gravel.

(Moved L Gill/Seconded L Vaughan)

That an inspection be carried out prior to any decision being made and that the points raised regarding access be clarified.

An amendment was moved L Roberts and seconded J Stephens that the recommendation in the report be adopted with the following amendments to the conditions of approval:

Condition 12

To replace the sentence following the words "Seal Rocks" with the following:

The appropriate qualified consultants appointed to undertake the dilapidation reports, at the applicant's expense, shall give written notice to the owners of Lots 3 and 4 Kinka Road, Seal Rocks of the proposed dilapidation reports and their need to have access to the respective dwellings. Should either owner of Lot 3 or Lot 4 Kinka Road, Seal Rocks not make their respective dwelling available for a period greater than thirty (30) days, after being served notice of the intention to carry out a dilapidation report on that dwelling, then a dilapidation report need not be prepared for that dwelling.

Condition 19

Clarification be sought as to whether this condition is required as there is currently no water or sewerage services, available to the property.

Condition 27

Inclusion of the words "landscape architect/horticulturist" to replace "horticulturist".

193 RESOLUTION

(Moved Hutchinson/Seconded McCaskie)

That the debate on this matter be adjourned until later in the meeting to enable the appropriate Council staff to be in attendance to answer questions.

13 PES - Pacific Palms Draft Local Environmental Plan

Index: SP-LEP-13, Land Use Planning/Pacific Palms Study
Author: Release Area Manager - Roger Busby

Clr Tuffy tabled a written statement advising of his intention to vote against this item.

RECOMMENDATION:

In relation to Great Lakes Local Environmental Plan 1996 (Amendment No.13 - deferred matter) it is recommended that Council:

- A. Grant authority to the Mayor and General Manager to:
 1. prepare a revised draft Local Environmental Plan based on the recommendations of the SMEC Report with the amendments as shown the figure in Annexure G subject to agreement being reached with the main landowners on the development/conservation offsets shown in the figure.
 2. prepare a revised draft LEP written instrument, generally as set out in this report, that:
 - protects Koala food trees on lots that are not involved in the development/conservation offset arrangement.
 - protects fauna movement corridors on lots that are not involved in the development/conservation arrangement.
- B. Exhibit the revised draft LEP, in accordance with the Environmental Planning and Assessment Act, 1979 for a period of 30 days.
- C. Undertake further consultation with key Government Agencies on the revised draft LEP.
- D. Grant authority to the Mayor and General Manager to endorse for exhibition the necessary documents, including proposed Voluntary Planning Agreements and/or LEP clauses, necessary to give effect to the development/conservation offset with such documents being acceptable to the main landowners and to the Department of Environment and Climate Change and Department of Planning.
- E. Exhibit the revised draft local environmental plan referred to in Recommendation A only when a legally enforceable mechanism satisfactory to the relevant government agencies and the main landowners is identified that guarantees the transfer of the lands shown in Annexure G to the National Park Estate.
- F. Exhibit a corridor strategy concurrently with the revised draft Local Environmental Plan.
- G. Advise the owner of Lot 191 DP 226108 Red Gum Rd (Kerr) that Council does not support the creation of the most south eastern proposed lot and that further discussion will be required as to the size and configuration of the lot containing the existing house.
- H. Advise the owner of Lot 114 DP 1103145 Boomerang Dr (Hughes) that whilst Council is prepared to exhibit a draft LEP that shows part of the land as being zoned 2(a) Low Density Residential as shown in Annexure G (except for the requested extension in a westerly direction to join the road reserve) it will be necessary to submit detailed information during the exhibition period which demonstrates that the land can be practically developed having regard to the slope of the land.
- I. Advise the owner Lot 19 DP 710308 Hillside Pde (Webster) that:
 1. whilst Council is prepared to exhibit a draft LEP that shows part of the land as being zoned 2(a) Low Density Residential as shown in Annexure G, it will be necessary to submit detailed information during the exhibition period which demonstrates how flooding, drainage and climate change issues can be resolved without unreasonable adverse impact on the environmental and upon adjoining properties.

2. the rezoning of the land the area of land to 2(a) Low Density Residential is contingent on the protection of the remainder of the land into perpetuity by transferring the land to DECC.

194 RESOLUTION

(Moved L Roberts/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
AGAINST VOTE - Clr M Tuffy
ABSENT. DID NOT VOTE - Clr J Weate

5 PES - Resolution of Deferred Areas: Bullocky Way/Mill Road Precinct, Failford

Index: SP-LEP-69
Author: Release Area Manager - Roger Busby

Clr Tuffy declared a non-pecuniary interest and left the meeting, taking no part in discussions or voting.

RECOMMENDATION:

It is recommended that:

- A. Council adopt the zone boundaries as shown in Annexure "D" for Lot 12 DP 747289 and Lot 3 DP 560535 so as to rezone the deferred area on these Lots to Large Lot Urban and Environmental Conservation.
- B. Council adopt the zone boundaries as shown in Annexure "E" for Lots 4 and 5 in DP 250230 so as to rezone the deferred area on these Lots to Large Lot Urban and Environmental Conservation.
- C. The owners of Lots 4 and 5 DP 250230 be advised that a dwelling house will be permissible with consent in the Environmental Conservation zone.
- D. The rezoning of the deferred areas as set out in recommendations A and B above be included in the Principal LEP for Great Lakes.

195 RESOLUTION

(Moved K Hutchinson/Seconded J Stephens)

That this matter be deferred and that a site inspection be held.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate, Clr M Tuffy,

Clr M Tuffy has returned from temporary absence.

GENERAL MANAGER

2 GM: Department of Local Government Promoting Better Practice Program - Review Report.

Index: Governance - Local Government Reform Program
Author: Manager Corporate Governance - Phil Brennan

RECOMMENDATION:

1. That the Review Report provided by the Department of Local Government under the Promoting Better Practice Program be tabled for Council's consideration.
2. That the report be made publicly available.
3. That the tabled Action Plan, developed in response to the Review Report, be implemented.

196 RESOLUTION

(Moved J Stephens/Seconded K Hutchinson)

That the above recommendation be adopted.

DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

3 PES - On-Site Sewage Management - Fees and Charges

Index: Septic Systems - Fee and Charges
Author: Environmental Health Coordinator - Malcolm Hunter

RECOMMENDATION:

That the proposed fee structure for the on-site sewage management program be adopted as outlined in this report and the 2009/2010 fees and charges be amended accordingly.

197 RESOLUTION

(Moved K Hutchinson/Seconded J Stephens)

That the above recommendation be adopted.

4 PES - Landfill Cover and Capping Material

Index: Bulahdelah Landfill; Tea Gardens Landfill
Author: Acting Manager Environmental Services - John Cavanagh

RECOMMENDATION:

That the information be noted.

198 RESOLUTION

(Moved L Gill/Seconded J Stephens)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

6 PES - Redesign of Bramble Parade Constructed Wetland

Index: Wetland Conservation
Author: Co-ordinator, Coastal Catchments Initiative - Prudence Tucker

Mr Glenn Handford, Director Planning & Environment Services returned to the meeting.

RECOMMENDATION:

That the information be noted.

199 RESOLUTION

(Clr J Stephens/Clr L Vaughan)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

7 PES - DA146/2009 - Vary 88B Instrument Regarding Bushfire Matters

Index: DA 146/2009 & PK 35664
Author: Senior Building Surveyor - Bruce Arkle

RECOMMENDATION:

It is recommended that Council agree to vary the requirements of the 88B instrument in this instance so that the proposed modification to development consent No. 146/2009, for the erection of a dwelling at Lot 10 DP1120907 can be approved subject to the following changes;

1. Amend condition No. 22 of the consent to read:

A static water supply of 20,000 litres shall be provided for fire fighting purposes. Any above ground tanks shall be constructed of either concrete or steel. The tank or tank system shall be fitted with a 65mm Storz outlet with a ball valve control. The fire fighting connection point is to be located so as to be accessible by tanker to allow filling of a tanker with a 10m hose.

2. Delete condition No. 23

200 RESOLUTION

(Moved C McCaskie/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

The results of this division were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

8 PES - DA291/2009 - Proposed Dwelling Alterations: 48 Taree Street, Tuncurry

Index: DA 291/2009 & PK 8712
Author: Senior Building Surveyor - Bruce Arkle

RECOMMENDATION:

That the conditions outlined above be included in the consent for alterations and additions to the existing dwelling at Lot 49 DP 255703, 48 Taree Street, Tuncurry, as resolved by Council at it's Ordinary Meeting held on 24 February 2009.

201 RESOLUTION

(Moved C McCaskie/Seconded J Stephens)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

10 PES - DA144/2009 - s96 Modification of Development Consent for a Community Information Sign : Lot 7008 Foreshore Reserve, Coomba Park

Index: DA144/2009 & PK36347

Author: Development Assessment Planner - David Koppers

RECOMMENDATION:

It is recommended that the s96 Modification of Consent for DA144/2009 which proposes to modify Condition 3 be refused for the following reasons:

1. The proposal is not consistent with the assessment requirements of State Environmental Planning Policy 64 – Advertising and Signage and State Environmental Planning Policy 71 – Coastal Protection.
2. The approval of the proposed modification would set an undesirable precedent for the erection of commercial signage on foreshore reserves.

202 RESOLUTION

(Moved L Gill/Seconded L Vaughan)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

The results of this division were as follows:

FOR VOTE - Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
AGAINST VOTE - Clr J McWilliams
ABSENT. DID NOT VOTE - Clr J Weate

11 PES - DA237-09 - Outdoor Cinema, Pilot Hill, Head Street, Forster

Index: DA237/2009 & PK7560
Author: Development Assessment Planner - David Koppers

Mr Glenn Handford, Director Planning & Environment Services declared a non-pecuniary interest and left the meeting and did not return.

RECOMMENDATION:

It is recommended that the information be noted and that the matter be deferred to the April Council Meeting.

(Moved L Gill/Seconded L Vaughan)

That the above recommendation be adopted.

An amendment was moved by Clr McCaskie and seconded by Clr Stephens that the matter be deferred to the May Council Meeting and that Council's concerns be noted in relation to matters being deferred, and interested parties notified, without the development application being referred to Council for decision.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the amendment, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson

AGAINST VOTE - Clr L Gill, Clr L Vaughan

ABSENT. DID NOT VOTE - Clr J Weate

The amendment became the substantive motion and was carried.

The results of this division were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson

AGAINST VOTE - Clr L Gill, Clr L Vaughan

ABSENT. DID NOT VOTE - Clr J Weate

203 RESOLUTION

(Moved C McCaskie/Seconded J Stephens)

That the matter be deferred to the May Council Meeting and that Council's concerns be noted in relation to matters being deferred, and interested parties notified, without the development application being referred to Council for decision.

12 PES - North Shearwater Draft Local Environmental Study (LES)

Index: SP-LEP-27; SP-LEP-50

Author: Release Area Manager - Roger Busby

Release Area Co-ordinator - Robert Dwyer (RPS Harper Somers O'Sullivan)

Clr McCaskie declared a pecuniary interest and left the meeting, taking no part in discussions or voting.

RECOMMENDATION:

That Council resolve to:

- A. Place the North Shearwater Local Environmental Study on public exhibition for a period of 30 days.
- B. Invite Geolink Pty Ltd to present the findings of the LES at the Strategic Committee meeting of 14 April.
- C. The owner of the land be advised that further monitoring of groundwater levels in the north eastern part of the facilities can be installed to treat urban runoff to Council's standards.

204 RESOLUTION

(Moved L Roberts/Seconded J Stephens)

That the above recommendation be adopted with the addition of Point D:

- D. That in placing this matter on exhibition, it be noted that Council is neither supporting or rejecting the information in the Local Environmental Study.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan

ABSENT. DID NOT VOTE - Clr J Weate, Clr C McCaskie

Clr C McCaskie has returned from temporary absence.

14 PES - Draft DCP 39 Pacific Palms (Elizabeth Beach, Boomerang Beach, Blueys Beach); Draft DCP 47 Tea Gardens (Low Density Residential); and Draft DCP 48 Hawks Nest (Low Density Residential)

Index: DCP Review 2007 Project - Stage 2
Author: Senior Strategic Planner - Alexandra Macvean

RECOMMENDATION:

It is recommended that:

- A. Council adopt Draft DCP 39 Pacific Palms (Elizabeth Beach, Boomerang Beach, Blueys Beach); Draft DCP 47 Tea Gardens (Low Density Residential); and Draft DCP 48 Hawks Nest (Low Density Residential), for public exhibition purposes; and
- B. Notification of the exhibition of the documents in Item 'A' be given in the manner prescribed under the *Environmental Planning and Assessment Act 1979*.

205 RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That the above recommendation be adopted, with the adoption of point C.

- C. That future reports on these DCPs be presented to Council as separate items.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

15 PES - Consents Issued Under Delegated Authority - Feb 09

Index: Development Consents Issued Under Delegated Authority
Author: Director Planning and Environmental Services - Glenn Handford

RECOMMENDATION:

It is recommended that the information be noted.

206 RESOLUTION

(Moved L Roberts/Seconded J Stephens)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Vaughan, Clr L Gill
ABSENT. DID NOT VOTE - Clr J Weate

16 PES - Land & Environment Court Status Update

Index: Land and Environment Court Appeals - Development Applications
Author: Manager, Development Assessment - Wayne Burgess

Clr Gill declared a non-pecuniary interest and left the meeting, taking no part in discussions or voting.

RECOMMENDATION:

That the information be noted.

207 RESOLUTION

(Moved J Stephens/Seconded L Vaughan)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate, Clr L Gill

Clr L Gill has returned from temporary absence.

17 PES - Penalty Infringement Notices issued November 2008, December 2008, January 2009 & February 2009

Index: Laws and Enforcement: Infringement Notice Issued
Author: Investigations and Regulatory Control Coordinator - Greg Pevitt

RECOMMENDATION:

It is recommended that the information be noted.

208 RESOLUTION

(Moved C McCaskie/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

18 PES - Earth Hour 2009 - Event

Index: Events - General
Author: Assistant Environmental Officer - April McKay

RECOMMENDATION:

It is recommended that the information be noted.

209 RESOLUTION

(Moved L Gill/Seconded J Stephens)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

DIRECTOR ENGINEERING SERVICES

19 ES - Successful funding application for Lake Street / Cross Street roundabout

Index: Roads - Roundabouts - Design & Construction
Author: Traffic Engineer - Wade Holmes

RECOMMENDATION:

That Council note the grant offer from the RTA and endorse the action taken to accept the funding offer from the Roads and Traffic Authority for the construction of a roundabout at Lake Street and Cross Street, Forster.

210 RESOLUTION

(Moved C McCaskie/Seconded L Gill)

That the above recommendation be adopted.

DIRECTOR CORPORATE & COMMUNITY SERVICES

20 CCS - Lease Renewal - Former Caretaker's Residence, Tuncurry Beach Caravan Park

Index: Council Property - Leasing General; AD-LSE-RESID-TUN-1
Author: Leasing/Caravan Parks Officer - Pat Powell

RECOMMENDATION:

Recommended that:

1. A new lease be granted for the former caretaker's residence at Tuncurry Beach Caravan Park to Mrs V Driscoll for a term of twelve (12) months, commencing on 11 May 2009, at a weekly rental of \$199.00 per week, subject to the same terms and conditions as the previous lease.
2. The Common Seal of Council be affixed to all necessary documents.

211 RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That the above recommendation be adopted.

21 CCS - Re-establishment of Alcohol Free Zones adjacent to Palmgrove and Collendina Parks Forster

Index: Alcohol Free Zones
Author: Administration Officer - Yvette Ellis

Clr Vaughan declared a non-pecuniary interest and left the meeting, taking no part in discussions or voting.

RECOMMENDATION:

It is recommended that:

1. Council resolve to propose to re-establish the Alcohol Free Zones adjacent to Palmgrove and Collendina Parks Forster under the provisions of the Local Government Amendment (Alcohol Free Zones) Act 1995 for a period of four (4) years.
2. Areas to be included in the Alcohol Free Zones to be those shown on the diagrams at Annexures A and B.
3. Following this resolution the appropriate public consultation process be undertaken, including advertising in the local newspapers circulating in the Forster Tuncurry area.

212 RESOLUTION

(Moved J Stephens/Seconded L Roberts)

That the above recommendation be adopted.

Clr L Vaughan has returned from temporary absence.

22 CCS - Community Survey Results

Index: Community Survey

Author: Director Corporate & Community Services - Steve Embry

RECOMMENDATION:

That the Community Survey Results be released and made available on Council's website.

213 RESOLUTION

(Moved J Stephens/Seconded L Roberts)

That the above recommendation be adopted.

23 CCS - Investment Report as at 28 February 2009

Index: Investments

Author: Revenue Accountant – Col Mckillop-Davies

RECOMMENDATION:

It is recommended that the information concerning Council's investments as at 28 February 2009 be noted.

214 RESOLUTION

(Moved J Stephens/Seconded C McCaskie)

That the above recommendation be adopted.

24 CCS - List of Outstanding Reports

Index: Council Meetings - Ordinary

Author: Director Corporate & Community Services - Steve Embry

RECOMMENDATION:

Submitted for Council's information/consideration.

215 RESOLUTION

(Moved J Stephens/Seconded C McCaskie)

That the above recommendation be adopted.

LATE REPORTS

GM - NEED TO AMEND DATE FOR COUNCIL'S APRIL 2009 ORDINARY MEETING

RECOMMENDATION:

It is recommended that Council's current meeting schedule be amended to provide for the April 2009 Ordinary Meeting to be relocated from Tuesday 28th April to Tuesday 21st April 2009 (commencing at 2.00pm).

216 RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That Council's current meeting schedule be amended to provide for the April 2009 Ordinary Meeting to be relocated from Tuesday 28 April to Tuesday 21 April 2009 (commencing at 2.00pm)

PES - DA215/2009 - INSTALLATION OF TELECOMMUNICATIONS FACILITY - LOT 148 DP 729933 YAMBA STREET, HAWKS NEST

RECOMMENDATION:

That the application for a monopole telecommunications tower and associated equipment shelter at Lot 148 DP 729933 be refused for the following reasons:

1. The development proposal is inconsistent with the aims of State Environmental Planning Policy No. 71 – Coastal protection as the proposed 30m high monopole telecommunications tower, represents a potential threat to the visual amenity of the locality.
2. The proposal is inconsistent with the matters for consideration listed in Part 2 of State Environmental Planning Policy No. 71 – Coastal Protection due to the unsuitability of development given its type, location and design and relationship with the surrounding area.
3. The proposal is inconsistent with the Objectives of the 6(a) – Open Space and Recreation Zone contained in Great Lakes Local Environmental Plan 1996 which require, in part, to restrict development to that which does not have an unacceptable impact on the amenity of adjoining areas.

217 RESOLUTION

(Moved C McCaskie/Seconded L Gill)

That the application for a monopole telecommunications tower and associated equipment shelter at Lot 148 DP 729933 be refused for the following reasons:

1. The development proposal is inconsistent with the aims of State Environmental Planning Policy No. 71 - Coastal Protection as the proposed 30m high monopole telecommunications tower, represents a potential threat to the visual amenity of the locality.
-

2. The proposal is inconsistent with the matters for consideration listed in Part 2 of State environmental Planning Policy No. 71 - Coastal Protection due to the unsuitability of development given its type, location and design and relationship with the surround areas.
3. The proposal is inconsistent with the Objectives of the 6(a) - Open space and Recreation Zone contained in Great Lakes Local Environmental Plan 1996 which require, in part, to restrict development to that which does not have an unacceptable impact on the amenity of adjoining areas.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

LATE ITEMS

Bushfire Hazard, Tuncurry

The matter of a bushfire hazard in Bramble Road, Tuncurry was raised and photos and letter tabled in support. The Director Engineering Services agreed to follow up this matter.

Public Art Approval

The matter of the process for approval of public art in the Council area was raised being Item 4 (08/07/08, Minute No. 104) on the List of Outstanding Reports. The Director Corporate Services to follow up and report back to Council.

Leave of Absence - Clr J McWilliams

218 RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That Council approve leave of absence for Clr McWilliams for the period 13 April to 10 May 2009.

Council adjourned for lunch at 1:06pm.
Council reconvened at 1.58pm.

MEET THE PUBLIC SESSION

The Mayor invited members of the gallery who wished to address Council on any items not listed on the agenda to do so at this stage.

WILL ROBERTSON

Mr Robertson tabled an email that he had issued to all Councillors earlier. His concerns centred around various aspects dealing with Smiths Lake. The Mayor advised Mr Robertson that a reply would be forwarded.

RESUMPTION OF DEBATE ON:

9 PES - DA37/2009 - Proposed Retaining Wall for Driveway: 14 Kinka Road, Seal Rocks

Index: DA37/2009 & PK15188
Author: Building Surveyor - David Underwood

(Moved L Gill/Seconded L Vaughan)

That an inspection be carried out prior to any decision being made and that the points raised regarding access be clarified.

An amendment was moved L Roberts and seconded J Stephens that the recommendation in the report be adopted with the following amendments to the conditions of approval:

Condition 12

To replace the sentence following the words "Seal Rocks" with the following:

The appropriate qualified consultants appointed to undertake the dilapidation reports, at the applicant's expense, shall give written notice to the owners of Lots 3 and 4 Kinka Road, Seal Rocks of the proposed dilapidation reports and their need to have access to the respective dwellings. Should either owner of Lot 3 or Lot 4 Kinka Road, Seal Rocks not make their respective dwelling available for a period greater than thirty (30) days, after being served notice of the intention to carry out a dilapidation report on that dwelling, then a dilapidation report need not be prepared for that dwelling.

Condition 19

Clarification be sought as to whether this condition is required as there is currently no water or sewerage services, available to the property.

Condition 27

Inclusion of the words "landscape architect/horticulturist" to replace "horticulturist".

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the amendment, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson
AGAINST VOTE - Clr M Tuffy, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

The amendment became the substantive motion and was carried.

The results of this division were as follows:

FOR VOTE - Clr J McWilliams, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson
AGAINST VOTE - Clr M Tuffy, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

219 RESOLUTION

(Moved L Roberts/Seconded J Stephens)

That the recommendation in the report be adopted with the following amendments to the conditions of approval:

Condition 12

To replace the sentence following the words "Seal Rocks" with the following:

The appropriate qualified consultants appointed to undertake the dilapidation reports, at the applicant's expense, shall give written notice to the owners of Lots 3 and 4 Kinka Road, Seal Rocks of the proposed dilapidation reports and their need to have access to the respective dwellings. Should either owner of Lot 3 or Lot 4 Kinka Road, Seal Rocks not make their respective dwelling available for a period greater than thirty (30) days, after being served notice of the intention to carry out a dilapidation report on that dwelling, then a dilapidation report need not be prepared for that dwelling.

Condition 19

Clarification be sought as to whether this condition is required as there is currently no water or sewerage services, available to the property.

Condition 27

Inclusion of the words "landscape architect/horticulturist" to replace "horticulturist".

GENERAL MANAGER

1 GM: Appointment of Members of Conduct Review panel

Index: Governance - Code of Conduct for Councillors and Staff
Author: Manager Corporate Governance - Phil Brennan

RECOMMENDATION:

1. That the following people be appointed to Council's Conduct Review Panel to serve as members of a Conduct Review Committee or a Sole Conduct Reviewers (as appropriate) to review allegations/complaints of breaches of Council's Code of Conduct:

Mr John Gordon
Ms Helen Colbey
Mr Peter Mulhall
Mr Brian McHugh
Ms Kath Roach

Mr Bernard Smith

2. It is recommended that Attachment A be classified as Confidential in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993 as it relates to:

Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the persons who supplied it.

220 RESOLUTION

(Moved L Gill/Seconded L Vaughan)

That the above recommendation be adopted.

CLOSED COUNCIL

221 RESOLUTION

(Moved Clr Hutchinson, Seconded Clr McCaskie)

That Council move into Closed Council (Confidential Section of Ordinary Meeting) (Meeting Closed to the Public) to discuss the items listed in the report.

Upon resuming into Open Council the Chairperson reported that the following resolutions had been passed.

25 PESCONF - Landfill Gatekeeping Tenders

Index: Bulahdelah Landfill; Tea Gardens Landfill; Stroud Landfill
Author: Acting Manager Environmental Services - John Cavanagh

222 RESOLUTION

That:

- The tenders for the Gatekeeping of Bulahdelah and Tea Gardens Landfills for a one year by Resource Recovery period be accepted.
 - The tender for the Gatekeeping of Stroud Landfill for one year by B McBride be accepted.
 - The Council authorise the affixing of the Council Seal to these documents.
-

MEETING CLOSURE

The meeting closed at 2.41pm.

CHAIRPERSON
