

Minutes 28 August 2007



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 28 August 2007, commencing at 5.44pm.

PRESENT:

S. Tucker (Deputy Mayor); C. Baumann; H. Brown; G. Dingle; S. Dover; G. Francis; J. Hodges; K. Jordan; J. Nell; G. Robinson; R. Westbury; General Manager; Executive Manager – Corporate Management, Facilities and Services Group Manager; Sustainable Planning Group Manager; Business and Support Group Manager.

215	Councillor Jordan Councillor Nell	It was resolved that the apology from Cr Swan (Mayor), be received and noted.
216	Councillor Hodges Councillor Francis	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 24 July 2007 be confirmed.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2007-1800

HUNTER WATER CORPORATION – HEATHERBRAE AND TOMAGO RETICULATED SEWERAGE SCHEMES

THAT COUNCIL:

- 1) Write to Hunter Water Corporation asking that they provide a likely timeframe for the provision of a reticulated sewerage scheme to Heatherbrae and Tomago.
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BACKGROUND

The industrial areas of Heatherbrae and Tomago are not currently serviced with reticulated sewerage services. One of the issues arising from this lack of sewerage infrastructure is that it discourages large industries that generate significant effluent/ sewage volumes from establishing in these areas. Another problem is that a number of the existing industries have aging septic systems, which are starting to deteriorate (with some failing). Council staff are currently negotiating with at least five (5) large businesses in the Heatherbrae area to improve their existing on-site wastewater systems due to problems.

Hunter Water carried out a preliminary investigation into providing sewer to Heatherbrae and the cost estimate came back at \$13,370,000 (with a 30 year life cycle cost of \$14,000,000). One of the issues that Hunter Water has raised is that they are reluctant to fund this scheme without any commitment from the existing industrial property owners.

If we are to attract larger employment generating industries to the Heatherbrae and Tomago areas and if existing industries are to be sustainable in terms of long term management of their sewage, a reticulated sewerage system is required.

ORDINARY MEETING OF COUNCIL – 18 August 2007

RESOLUTION:		
217	Cr Tucker (Deputy Mayor)	There being no objection it was resolved that the Mayoral Minute be adopted.

MINUTES FOR ORDINARY MEETING – 28 AUGUST 2007**ORDINARY MEETING OF COUNCIL – 28 August 2007****MOTION:**

	Cr Tucker (Deputy Mayor)	I move to suspend standing orders and put a Motion that the meeting be adjourned at 8.30pm for dinner this evening and resume at 9.15pm.
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ORDINARY MEETING OF COUNCIL – 28 August 2007**AMENDMENT:**

218	Cr Bauman Cr Dingle	<p>1. That Council resolve to note break for dinner.</p> <p>2. That the following matters be brought forward on the Agenda and dealt with before the balance of the Agenda:</p> <p><u>OPERATIONS COMMITTEE MATTERS</u></p> <p>1. Item 1 – Development Application for a Service Station, Storage Units, Two Industrial Sheds and demolition of existing buildings at No. 40 and 40A Richardson Road, Raymond Terrace;</p> <p>2. Item 2 – Development Application for Two Storey Dwelling at No. 480 Hinton Road, Hinton;</p> <p>3. Item 5 – Workplace Agreements.</p> <p><u>GENERAL MANAGER'S REPORTS</u></p> <p>1. Item 1 – Development Application for 198,200,202,204 Lemon Tree Passage Road, Salt Ash – ANEF AFFECTED;</p> <p>2. Item 2 – Policy Implications Associated with Development Application for place of Public Worship at No. 43 Shearwater Drive, Taylors Beach;</p> <p>3. Item 6 – Draft Medowie Strategy – Establish Review Panel; and</p> <p>4. Item 7 – Development Control Plan 2007 – Proposed Savings Provision Policy relating to Single Storey Dwellings only.</p>
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The Amendment on being put became the Motion.

**OPERATIONS
COMMITTEE
RECOMMENDATIONS
BROUGHT FORWARD**

ITEM NO. 1**FILE NO: 16-2005-550-1****DEVELOPMENT APPLICATION FOR A SERVICE STATION,
STORAGE UNITS, TWO INDUSTRIAL SHEDS AND DEMOLITION OF
EXISTING BUILDINGS AT NO. 40 AND 40A RICHARDSON ROAD,
RAYMOND TERRACE****REPORT OF: SCOTT ANSON – MANAGER - DEVELOPMENT AND BUILDING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2005-550-1 subject to the conditions contained in Attachment 3.

OPERATIONS COMMITTEE RECOMMENDATIONS – 14 August 2007**RECOMMENDATION:**

1. That Council defer this matter for site inspection and discussions on the recommended Conditions of Consent; and
2. For discussions on how the recommended Conditions of Consent might address the concerns of the resident Objectors.

ORDINARY MEETING OF COUNCIL – 28 August 2007

MOTION:		
219	Cr Hodges Cr Jordan	RECOMMENDATION IS THAT COUNCIL: 1) Approve Development Application 16-2005-550-1 subject to the conditions contained in Attachment 3.

AMENDMENT:		
	Cr Francis Cr Baumann	That this Development Application be deferred for an independent audit and negotiations with the applicant regarding an application to rezone the site to medium density residential which may make decontamination viable.

On being put the Amendment was lost and the Motion was carried.

Councillor Francis recorded her Vote against the Motion.

BACKGROUND

The purpose of this report is to present a development application to Council for determination at the request of Councillor Francis.

This application seeks consent for a Service Station (24 hour operation), with a gross leasable floor area of 322m², two Industrial Sheds, comprising of a motor vehicle repairer and motor vehicle tyre centre and a Warehouse development, being a self-storage unit facility. The proposal also includes associated office space, car parking areas and the demolition of existing structures.

The subject site is identified as lots 6 and 7 DP163999, No.s 40 and 40A Richardson Road, Raymond Terrace, having a combined area of 16832m². This site is zoned 4(a) – Industrial General “A” Zone and the proposed uses are permissible with development consent. The vehicular access for the development will be via driveways off Richardson Road.

The key issues associated with this proposal are as follows:-

- Compliance with the zone description and objectives;
- Suitability of the site;
- The operation of a service station within close proximity to residentially zoned and utilized land; and
- Proposed hours of operation; and
- Public Submissions

History and existing use of the site

Based on information contained in an Information Paper submitted to the Operations Committee on 8 October 2002, the site was originally a Bus Depot, which appears to have commenced operations circa 1959, prior to the need to gain development approval under the Northumberland Planning Scheme of 1960. Council acknowledged the depot as a lawful use when major extensions were approved in 1982 and again in 1989. Waste Contractors are presently leasing part of the site as a depot for the storage and maintenance of their vehicles, used in the collection of waste in the Port Stephens area. It is noted that complaints have been received by Council in relation to the use of the property as a depot, from adjoining residents regarding alleged starting times of vehicles, noise nuisance, offensive odours and health and safety concerns.

Public Submissions

The application was originally exhibited in 2005 and 163 submissions were received in opposition to the proposal, 157 of which were petition-style letters. The application was notified for a second time in June 2007, and Council received four (4) submissions from this notification period.

A full assessment of the issues contained in the submissions is contained in the attachments, however the main concerns related to the proposal service station and the potential impacts of a 24 hour operation, and the historical land use conflict being that an industrial zone is in such close proximity to residential land.

Contamination of Site

Contamination is considered to be a significant constraint for development proposed on the subject site. The applicant has commented that alternative uses possible if the land were to be rezoned are unlikely to be commercially feasible due to the significant costs involved in making the land suitable for these purposes.

The Geotechnical Reports submitted by the applicant states that remediation is required to make the site suitable for the proposed development, to address contamination due to elevated hydrocarbons and presence of asbestos materials. It is considered that these remediation works are likely to result in an improved environmental outcome and ensure that the land is suitable for the proposed use.

Proposed 24 Hour Nature of the Service Station

The proposed 24 hour nature of the service station has been one of the main considerations in the assessment of the proposal, and a strong concern raised by the public submissions. The issues resulting from the proposed operating hours include noise, traffic creation and noise, light spill and the potential for anti-social behaviour.

In relation to the proposed operating hours, it has been taken into consideration that the current use, being a waste depot, has constituted virtually a 24 hour use, involving garbage truck movements from approximately 3am, without any form of significant attenuation. Accordingly, it is considered that the amount of noise attenuation proposed for this development, including acoustic fencing, as well as setbacks and landscaping to adjoining properties, is likely to result in an improved outcome.

The applicant has submitted that the relocation of the night time activities to the north of the site will reduce the impact to the overall locality. It is considered that the existing depot may have involved heavy vehicle movement across the whole site at all hours of the day, and that the proposed use will mainly involve mainly light vehicle movements, suitably attenuated in the northern half of the site. This is also likely to result in an improved outcome to adjoining properties.

The following comment has been provided from the applicant in relation to their expectation for a low amount of trade for the early morning period.

“The expected trade for the period between 12am and 4am is so minimal that it is virtually insignificant....The purpose of 24 hour trading for the proposal is primarily as a security and surveillance measure for the site in its entirety, i.e. the storage facility, and is not likely to offer the tenant any particular financial gain. This will stand to benefit the adjoining neighbours who will be offered the casual surveillance and crime deterrence that is afforded from 24 trading hours.”

Acoustic impact

Noise has been a significant issue raised in the public submissions received. Adjoining properties have raised concerns in relation to noise that may be created from the service station entries, particularly during night hours, stating that

“the disturbances (e.g. loud talking, car doors slamming and horns honking etc) may only be of short durations, but if they are constant then the ability to either have a good nights sleep....is jeopardised.”

The applicant's acoustic consultant has responded to this concern stating that

“The (resident’s) concern in respect of night time impacts are understandable; however, (the report) clearly shows that the distribution of existing maximum noise levels from Richardson Road, which they find acceptable is not likely to be changed by the noise levels predicted in... the Acoustic Report. Even assuming that peak traffic flows, as predicted by the traffic report for the development, occur at night the traffic noise generated by the development remains below the existing average traffic noise level. Given the estimated traffic flows from the proposed development is not possible for the predicted traffic volume to alter existing traffic noise levels.”

In relation to noise created by heavy vehicle traffic using the service station, the supplementary information submitted by the applicant’s acoustic consultants states that both the general noise and noise from heavy vehicles have an L_{Amax} (maximum noise level in a measurement period) level of not more than 53 dB(A) and that the predicted noise levels are approximately 15-20 dB below the prevailing existing conditions and are therefore not considered likely to become significant for residents in the acoustic climate. It is further considered that the number of heavy vehicle movements are likely to decrease in comparison to the waste depot that currently exists on the site.

The noise assessment prepared by the applicant concludes that there will be no net effect on traffic noise exposure at any adjoining property, and that the existing traffic noise from Richardson Road will remain the dominant noise source.

Concerns have also been raised by objectors in relation to noise from the proposed motor vehicle repairer. The acoustic consultant has stated that the noise from the workshop will be audible at a distance of 20 metres or about 4 metres inside (the objectors) yard but complies with the requirements of the EPA Industrial Noise Policy and are not expected to be a significant issue over time.

The Acoustic Report has made recommendations to reduce the development’s impact, and concludes that provided that these recommendations are implemented, the proposal is unlikely to have an unreasonable impact upon adjoining properties. These recommendations include the provision of a 1.8 metre high acoustic fence.

The perception that the proposal will attract anti-social behaviour

A concern raised in the public submissions was that the service station would attract anti-social behaviour. The applicant has responded to this concern, stating that the operator prioritises the safety of employees and staff, and that *“gatherings, although rare, are dispersed immediately with the assistance of security staff employed by the tenant even if no anti social behaviour is occurring.”* It is considered that the service station is likely to improve security to the immediate locality as it will facilitate casual surveillance of the street.

Lighting over the proposed development

The 24 hour nature of the proposed service station will involve lighting of the site during night hours. It is considered that the proposed fencing and landscaping of the site will reduce the impact of this lighting to adjoining properties. In relation to dwellings on the opposite side of Richardson Road, it is considered that the large road reserve will mitigate impacts to these

properties. The proposal has been conditioned to comply with *Australian Standard 4282-1997 – Control of the obtrusive effects of outdoor lighting*.

Traffic movements

It is acknowledged that the proposal is likely to increase traffic generation to the site, and concerns have also been raised in the public submission regarding road safety. As Richardson Road is a State road, the proposal was referred to the Roads and Traffic Authority, as well as the Local Traffic Committee for comment. After a number of amendments to the design of the entry/exits to the development, the RTA and Local Traffic Committee have advised that they have no objection to the proposal.

Summation

The proximity of the development to the residential land which borders the site is considered to be the most significant issue in the assessment of this proposal. In particular, the proposed 24 hour nature of the service station has been one of the main concerns raised by the public submissions.

The existing land use zoning of the property and its surrounds, being a 4(a) industrial site adjoining 2(a) residential property, creates a land use interface which is not ideal. However, this is a historical situation, which due to the contamination of the site is unlikely to be remedied. In terms of the existing industrial zoning, the proposed uses may be considered to be less intrusive than other forms of permissible development. The applicant has commented that alternative uses possible if the land were to be rezoned are unlikely to be commercially feasible due to the significant costs involved in making the land suitable for these purposes. In relation to the proposed operating hours of the service station, based on the justification provided by the applicant, it is considered that the proposed 24 hour operating hours are acceptable.

In relation to the proposed automotive industrial sheds and storage units, it is considered that these components are unlikely to create an unreasonable impact to adjoining properties.

It is recommended to approve this application as it is generally consistent with Councils codes and policies. A detailed assessment of all the issues discussed above is provided within the attachments.

LINKS TO CORPORATE PLANS

The following goals of the Council Plan 2007-2011 are applicable:

G1. Lifestyle - *provide opportunities for people to participate in a healthy lifestyle*

G13. Environmental protection - *Protect the unique local government area environmental heritage & mitigate the effects of climate change & population growth on the environment*

G17. Strategy & planning - *Plan for sustainability & allow for balanced growth for our community*

G18. Knowledge & information - *All decision-making will be based on unbiased, well-researched data*

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council's Policy.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The site is a fully serviced allotment zoned 4(a) Industrial General, permitting service stations, automotive industries and storage facilities with the consent of Council. The development is not considered to result in an unreasonable negative social impact.

ECONOMIC IMPLICATIONS

The proposal is not likely to have any significant adverse economic implications, however additional outlets may increase competition to existing service stations and businesses.

ENVIRONMENTAL IMPLICATIONS

The proposal will involve the removal of eucalypt trees fronting Richardson Road, which are considered to have a high amenity value. To compensate for the removal of these trees, the proposal involves replacement planting at the front of the development and within the side setbacks. In general the development site has previously been cleared of any significant vegetation, and as such the development does not pose an adverse effect on any known threatened species, populations or ecological communities.

The site has been identified as containing contaminated soils, and the remediation of the site as part of this proposal will have a positive environmental outcome.

CONSULTATION

The application was exhibited in accordance with Council policy. The application was originally exhibited in 2005 and 163 submissions were received in opposition to the proposal, 157 of which were petition-style letters. The application was notified for a second time in June 2007, and Council received four (4) submissions from this notification period.

These are discussed in the Attachments.

OPTIONS

- 1) Adopt the recommendation.

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- 2) Adopt the recommendation with varied conditions of consent.
- 3) Reject the recommendation and refuse the development application. In this instance, refusal will need to be drafted by Councillors including supporting justification as a basis for defence in any potential legal proceedings.

ATTACHMENTS

- 1) Locality Plan
- 2) Assessment
- 3) Conditions of Consent

COUNCILLORS ROOM

- 1) Development Plans
- 2) Statement of Environmental Effects and supplementary documents from planning consultants
- 3) Multi-Level Risk Assessment
- 4) Acoustic Report and supplementary letter from Acoustic Consultant
- 5) Draft Remedial Action Plan
- 6) Traffic Assessment Report and supplementary documents from Traffic Engineers
- 7) Letter of concurrence from the Roads and Traffic Authority
- 8) Submission Letters

TABLED DOCUMENTS

Nil.

ATTACHMENT 1- LOCALITY PLAN



ATTACHMENT 2

ASSESSMENT

The application has been assessed pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and the following is a summary of those matters considered relevant in this instance.

THE PROPOSAL

The proposal includes:

- 24 Hour service station, including 10 double sided bowzers and convenience store with a gross leasable floor area of 322m²
- Two Industrial Sheds, specifically a Motor Vehicle Repairer and Motor Vehicle Tyre Centre
- A Warehouse development, being a storage unit facility containing adaptable units and associated office space. The adaptable nature of the units allows for between 100 and 280 units.
- Demolition of existing structures

THE APPLICATION

Owner	Helcon Pumping and Paving Pty Ltd
Applicant	Valentine Unit Trust
Detail Submitted	Architectural Plans, Statement of Environmental Effects, Stormwater Plans, Site Analysis and Survey Plan, Landscaping Plan, Construction Management Plan, Traffic Assessment Report, Multi-Level Risk Assessment, Acoustic Report, Draft Remedial Action Plan and Geotechnical Investigation Report.

THE LAND

Property Description	Lot 6 and 7 DP163997
Address	40 and 40a Richardson Road, Raymond Terrace
Area	Approximately 1.7 hectares
Dimensions	84.7 metres x 201.2 metres
Characteristics	The site is currently used as a waste depot, containing offices and industrial sheds.

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	4(a) – Industrial General “A” Zone
Relevant Clauses	23, 41, 42
Development Control Plan	PS4 – Commercial and Industrial Guidelines PS2 – Parking and Traffic Guidelines PS10 – Building Standards & Notification of Development Applications
State Environmental Planning Policies	Hunter Regional Environmental Plan 1989

SEPP 11 – Traffic Generating Development
SEPP 33 – Hazardous and Offensive Development
SEPP 55 – Remediation of Land
SEPP 64 – Advertising and Signage

Discussion

Local Environmental Plan 2000 Clause 23

The subject site is zoned 4(a) – Industrial General “A” Zone. The proposed service station, light industrial sheds (for automotive industries) and self storage sheds are all permissible land uses within the zone. Whilst the proposed convenience store is a retail use, it is considered permissible as it is ancillary to the service station. An assessment of the development’s compliance with the applicable objectives of the zone is provided below.

(a) to enable the development of a wide range of industrial, service and storage activities and a limited range of business and retail activities, and

The proposal is consistent with this objective.

(b) to allow industrial development only after comprehensive hazard analysis and risk assessment provide adequate safeguards designed to protect the surrounding environment and ecological balance, and

The applicant has submitted a Multi-Level Risk Assessment, which provides recommendations in relation matters including the handling of hazardous materials. A Draft Remedial Action Plan has also been submitted in relation to the contaminated land found on the site. Accordingly, it is considered that the proposal is consistent with this objective.

(c) to regulate industries in proximity to urban localities and to ensure that adequate buffers are provided in the vicinity of adjacent zones, so that activities near the boundary of an adjacent zone will not have a significant detrimental effect on the amenity of that zone, and

The applicant has provided the following comment in relation to this objective:

“The site is surrounded by residential development on all sides. The proposal is therefore a low impact use which by its nature will minimise the effects of noise, odour and vibration upon the neighbours. The self storage units are perhaps the most innocuous possible industrial use which involve very little activity. In addition, the proposal includes a buffer area of at least 13.5 metres of landscaping which will act to reduce the already very limited impacts of the proposal upon neighbours.

The two light automotive industrial units will operate only during normal daytime hours. These units face to the north, rather than to the east or west, in order to minimise any potential noise from the work bay openings affecting residences to the south, east and west, and are significantly removed from the residents across the road to the north. As such, the proposed use of these buildings will also have limited impact upon the locality.

The proposed service station is also located at the front of the site and centrally within the frontage to maximise separation from the residences. The landscaping proposed is intended to ensure that lights from vehicles entering and exiting the site will not affect

neighbours. The plant and equipment for all the proposed uses of the site are enclosed in housing or within the main buildings to minimise the impact if noise from such noisy items as air compressors and air conditioning units.

In this regard it is considered that the proposal will not adversely affect the amenity of residents in the area. It is certainly an improvement upon the levels of noise and loss of amenity currently experienced by residents as a result of the current operations on the site."

Assessment comment: Based on the above comments, as well as the justification contained in the applicant's supporting documentation, it is considered that the proposal is consistent with this objective.

(e) to allow commercial, retail, residential, or other development only where it is associated with, ancillary to, or supportive of, industrial development, and

Assessment comment: It is considered that the proposed convenience store is an appropriate ancillary use for the service station.

(g) to encourage a high standard of design and amenity in industrial areas.

Assessment comment: The proposal is consistent with this objective.

Based on the above comments, it is considered that the proposal is consistent with the objectives of the 4(a) – Industrial General "A" zone.

Clause 41 and 42 - Direct access to certain roads is restricted and Development along arterial roads

The proposal adjoins and gains direct access to Richardson Road, which is identified as a State Road. The Roads and Traffic Authority (RTA) has advised that they have no objection to the proposal, subject to conditions (Condition 55). Accordingly, it is considered that these clauses have been satisfied.

Development Control Plan PS4 – Commercial and Industrial Guidelines (DCP PS4)

The proposal is considered to comply with the DCP requirements for floor space ratio, height, landscaping, visual amenity to car parking areas and services. An assessment of the proposal's compliance with building line and carparking requirements are discussed in the assessment of other applicable DCPs.

In relation to setbacks, for Industrial zones a nil setback is permissible, unless the subject site adjoins residential properties, and then setbacks are determined on merit. The applicant has sought to justify a nil setback for the proposed motor vehicle repair facility to adjoining residential properties, stating that:

"The proposal will reduce the amount of built form that is adjoining, or close to, the sites western boundary. The proposal seeks to erect the motor vehicle repair facility 65.6m along the western boundary for a distance of only 27.4m as opposed to the existing structure which stretches for 50m. The proposed therefore represents a decrease of 45% of built form on this boundary that, in conjunction with landscaping as proposed, will offer a much improved visual outcome for the adjoining dwellings...and will also significantly reduce the total amount of overshadowing of the adjoining allotments.

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The revised plans illustrate a modified design incorporating greater articulation along the western boundary which serves to improve the visual outcomes for the development... (replacing) existing structures that offer only blank walls with no form of articulation...Council's concerns in relation to the visual amenity...is however acknowledged and the design has been amended to reduce the height of the proposed wall on the boundary by about 500mm. It should be noted that 80% of the proposed building is less than the height of the existing building (with no part higher).

In terms of general amenity and the use of a zero setback, the project brief from day one has been to 'design out crime'... The design has therefore been driven on the basis of CPTED principles, namely:

- Reinforce the land use boundaries to strengthen the distinction between public and private space;*
- Optimise the visibility, functionality and safety of building entrances;*
- Improve the opportunities for casual surveillance;*
- Minimise opportunities for concealment; and*
- Control access to development.*

(The requirement for) a 1 metre setback is conducive to undesirable and unsociable behaviour - (potentially producing) an enclave attractive to persons with undesirable intent, obviously impacting on the amenity of residents...The general amenity for adjoining residences is able to be improved in so far as...the existing dwellings on the two adjoining lots are approximately 20 metres away from the boundary, with their own shed obscuring any view of the proposed building."

Assessment comment: Consideration of the above justification has determined that the proposed nil setback is unlikely to create an unreasonable impact on adjoining properties. Given the building currently located on this boundary, the proposal is likely to improve the visual impact to adjoining properties, and increase security to these properties.

Development Control Plan PS2 – Parking and Traffic Guidelines

The total number of parking spaces proposed for the development is as follows:

Proposed Use	Parking Rate	Spaces Required	Spaces Proposed	Complies
Service Station and Convenience Store	4 spaces per work bay plus 1 space per 20m ² GLFA for the convenience store	16	20 (next to bowzers)	Yes
Automotive Industry	1 space per 100m ² GFA; and/or 4 spaces per work bay, whichever is greater	24 (six work bays)	24	Yes

In relation to the proposed storage units, DCP PS2 has no specified parking rates, and accordingly has been assessed on merit. It is considered that in addition to the parking spaces shown in the above table, nine (9) spaces are proposed which can be utilised by customers and staff. It is also acknowledged that it is likely that customers of the storage sheds will park directly in front of their shed rather than at the north of the site. Accordingly, it is considered that the proposal has provided adequate parking facilities, and complies with DCP PS2.

Development Control Plan PS10 Building Standards & Notification of Development Applications

The subject site is zoned 4(a) Industrial and is located on a main road. The applicable building line is 15 metres. The proposed convenience store complies with this requirement, however the service station awning and two fuel bowzers are located within this setback. The proposed awning is 700mm wide and is located 5 metres above ground, setback approximately 3.5 metres from the road boundary. The proposed first row of fuel bowzers and the vertical support structures for the awning are setback 7 metres from the road boundary.

In the assessment of the proposed variation, the following performance criteria are applicable:

- a) Setbacks are generally consistent with those of adjoining development, though not necessarily identical. Variations to minimum setbacks can be considered particularly where such variations are used to create streetscape or area variety and interest.

Applicant's comment – 'There is no general setback for the development fronting Richardson Road in the site locality. The encroachment by the canopy ensures a street presence where there are currently only back fences of the adjoining residential area. Street presence will help activate an otherwise dormant thoroughfare, bringing a feeling that the surrounding area (adjoining open spaces inclusive of cycle and pedestrian paths, back fences to adjoining house, open space area across the road) is passively supervised. It will also add variety and interest to the existing streetscape, in keeping with the transport related purpose of the land use. Setting the canopy further back will set the entire proposal back from the street, obscured from the activities along Richardson Road.'

Assessment comment – It is considered that the proposal is consistent with this performance criteria, given that this area of Richardson Road has no general setback, and that the subject site is an isolated industrial property.

- b) The setback of a building is related to its height and also to the width of the street in which it is located, in such a way to ensure pedestrians and other users of the area do not feel buildings are overbearing.

Applicant's comment – 'The awning/canopy is elevated in height and allows for completely natural light penetration. The absence of any mass or bulk within the first 15m ensures the proposal will have no effect on the amenity of pedestrians and other users.'

Assessment comment – Based on the above comment, it is considered that the proposal is consistent with this criteria.

- c) Setbacks provide space for residents to feel an adequate sense of visual and acoustic privacy when using rooms fronting the street.

Applicant's comment – 'Not applicable to the proposal.'

Assessment comment – Given the width of Richardson Road, it is not considered that properties on the opposite side of the road will be unreasonably affected in terms of privacy. Accordingly, it is considered that the proposal is consistent with this criteria.

- d) Parking and garages have no significant impact on the frontage of the development.

Applicant's comment – *'The small number of car parks identified within the 15m setback are suitably attenuated and buffered with landscaping that will mitigate any visual impact car parking may have on the existing or desirable streetscape.'*

Assessment comment – Given that the parking spaces are located behind the service station awning and are screen by landscaping, it is considered that the proposal is consistent with this criteria.

- e) The scale and appearance of new development is compatible and sympathetic to existing development in the locality (particularly where the site has some heritage significance or distinctive character).

Applicant's comment – *'The building line adopted for the proposal, being predominantly 15m from the road reserve, ensures that the development is compatible and sympathetic to existing development. Although the awning does encroach into the building line, this is balanced by suitable landscaping treatment and by virtue of the form not being an imposing hard edge.'*

- g) Hazards are not presented to pedestrians and traffic.

Applicant's comment – *'The encroachment of the awning will create no hazards for pedestrians or traffic. To the contrary, the proposal will increase the safety afforded to pedestrians by replacing buildings setback some distance from the street with a well lit and active environment.'*

Assessment comment – It is not considered that the proposed variation poses a hazard to traffic and pedestrians.

Based on the assessment of the above comments, it is considered that the proposed variation is acceptable. It has been taken into consideration that the subject site is an isolated industrial site, and compliance with the 15m standard would not necessarily create a better streetscape outcome.

Port Stephens Development Control Plan 2007

Given that the application was lodged in 2005, the provisions of this policy do apply to the development.

Hunter Regional Environmental Plan 1989 (HREP)

It is not considered that the proposal is contrary to the objectives of the HREP. Given that the subject site is already zoned industrial, it is considered that no further assessment in relation to this policy is applicable.

State Environmental Planning Policy 11 – Traffic Generating Development (SEPP11)

Service Stations on State roads are identified in SEPP11 as requiring a comment from the Traffic Committee and the RTA for comment. The Traffic Committee and RTA have advised that they have no objection to the proposal, subject to conditions (Condition 55).

State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP33)

It is not considered that the proposal is a Hazardous Development, based on the definitions contained in this policy. In terms of reducing any potential hazards in relation to the service station, a Multi-Level Risk Hazard Assessment has been submitted (Conditions 80-92).

State Environmental Planning Policy 55 – Remediation of Land (SEPP55)

SEPP 55 aims to reduce the risk of harm to human health and the environment, in relation to development applications on contaminated land. The subject site is also listed as a category 3 Contaminated Land – Potentially contaminated site in Council's Contaminated Lands Policy. The report submitted by the applicant states that remediation is required to address contamination due to elevated hydrocarbons and presence of fibro materials. The report concludes that the site can be made suitable for the development; subject to the appropriate remediation works specified in the draft Remedial Action Plan submitted (Conditions 34-46). It is considered that SEPP55 and Council's Contaminated Land Policy have been satisfied by the documentation submitted.

State Environmental Planning Policy 64 – Advertising and Signage (SEPP64)

As the proposal is located on a State road, it is considered likely that any signage for the development will require concurrence from the RTA. However, the applicant has advised that signage is not proposed under this development application, and will be lodged separately. Accordingly, for this current application, no further consideration in accordance with this policy is required (Condition 72).

Operating Hours of the Service Station

The proposed 24 hour nature of the Service Station is a key consideration in the assessment of the proposal, and was one of the main concerns raised from the public submissions. Below is an excerpt of the applicant's supporting documentation for a 24 hour operation.

- *The site's existing use – It is noted that the existing, and previous, use of the site has constituted virtually 24 hour use. The existing tenant operates heavy vehicles (garbage trucks) at all hours of the day with a significant increase in vehicle movements from approximately 3:00am.*

Prior to the current use, the site was used as a bus depot that required 24 hour movements of large buses in and out of the site. Both of these uses have been undertaken without any significant form of noise attenuation and hence the impact to neighbouring properties is likely to have been significant.

The proposal seeks to change the use of the site from predominantly large vehicle movements to light vehicle movements only (with the exception of fuel deliveries as discussed below) with a significant amount of noise attenuation including acoustic fencing, setbacks to the adjoining properties and landscaping. This will result in an improved outcome for the site and will ensure the proposed will increase the amenity afforded to the neighbouring properties.

- *The relocation of all night time activities to the north of the site – By locating the service station on the Richardson Road frontage, the proposal will focus all night time*

activities away from the adjoining dwellings. The service station component of the proposal will be the only area that is in use after 5pm. Subsequently, the existing heavy vehicle movements that (currently) occur over the whole site at all hours of the day will be replaced with light vehicle movements, suitably attenuated as discussed below, in the northern half of the site. The majority of adjoining dwellings are located to the south, east and west of the site and therefore development as proposed will significantly decrease the perceived night time activity level from the site.

- The noise controls in place for heavy vehicle movements – The service station will require a small number (2-3 a week) of tanker movements within the site during the early evening, between 6pm and 10pm. These movements will be regulated by the tanker delivery management plan..... The existing use of the site does not utilise a similar management plan for the heavy vehicle movements and the number if movements is expected to be much higher than 2-3 a week. The site redevelopment will therefore reduce the number of heavy vehicle movements from the site overall but particularly during the evenings and will thus significantly improve the amenity afforded to the adjoining neighbours.
- The low amount of trade expected for the early morning period – The expected trade for the period between 12am and 4am is so minimal that it is virtually insignificant. The number of customers for each hour of the day, as taken from the BP Service Station at Thornton, shows that only 10 customers visited the store in this period with fuel trade forecasts predicting that the proposed development will attract even less than this. Hence, it is considered that any potential impacts from site clientele over the course of the early morning period will be insignificant with all vehicle movements from the site totalling less than those currently experienced from the site.

The purpose of 24 hour trading for the proposed is primarily as a security and surveillance measure for the site in its entirety, i.e. the storage facility, and is not likely to offer the tenant any particular financial gain. This will stand to benefit the adjoining neighbours who will be offered the casual surveillance and crime deterrence that is afforded from 24 trading hours.

- The proposed trading hours will have no impact on the noise amenity of the adjoining neighbours – A noise assessment...has been prepared by Hunter Acoustics.....This assessment has analysed the level of noise expected as a result of the proposed development. The assessment is summarised below:
 - The proposal is not considered to be of a type that will significantly influence the overall amenity of the area, due to the intermittent nature of the noise and the low power sound levels normally associated with these types of operations;
 - The residents adjoining the property to the rear are sufficiently far away from the entrance and exit of the service station to not be affected by noise from traffic movement into and out of the site; and
 - The proposal utilises a 1.8m high acoustic fence along the boundaries adjoining neighbouring properties that mitigates any likely noise emitted from the service station, inclusive of noise associated with evening trading hours. The assessment concludes that there will be no net effect on traffic noise exposure at any adjoining property as a result of the proposal with the existing traffic noise from Richardson Road remaining as the dominant noise source.

The trading hours of the service station will therefore have no impact on the noise amenity of the adjoining neighbours.

- *Lighting over the proposed development – The level of lighting required over the site as a component of its 24 hour operation will be significantly attenuated by the proposed landscaping. Further, the wash from the service station component during its operation will spill predominantly onto an area of reserve which fronts the opposite side of Richardson Road. Any dwellings that may potentially be impacted upon by light wash from the proposed in Richardson Road are likely to be mitigated by distance from the station to habitual rooms (as a result of a large road reserve and significant setbacks that dwellings have to the street). However should light wash become an area of concern the proponent is happy to revise the positioning of any required lighting to accommodate neighbouring properties.*

Dwellings along each side boundary are not likely to be impacted by the proposal as a result of the elevation change to the site from west to east (the site being a significantly lower RL) and dwellings to the east being setback from the most intensively lit component of the proposal.

No impacts are therefore expected from the lighting within the proposed development.

- *The perception of the proposal attracting unsociable behaviour – The operation of the service station will be undertaken under the strict guidance of the Caltex site Standards Manual which has the highest priority of site safety for employees and customers. In this regard, staff are not left to deal with obnoxious behaviour on their own and gatherings, although rare, are dispersed immediately with the assistance of security staff employed by the tenant even if no anti social behaviour is occurring.*

The proposal will increase the activity within Richardson Road that is likely to further deter any undesirable behaviour. The existing site use offers little in the way of casual surveillance and therefore the 24 hour trading within the site will offer significant improvements in this regard.

It could be therefore considered that the site is a deterrent to anti social behaviour and may in fact add to the security afforded to the adjoining neighbours and the community as a whole.

Based on the above justification provided by the applicant, it is considered that the proposed 24 hour operating hours are acceptable.

Noise

The applicant has provided an Acoustic Assessment in support of the proposal. The report states that the likely noise sources of the development are the service station driveway operations, plant noise, traffic accessing the storage area, the motor vehicle repair facility operations and from heavy vehicle refuelling and manoeuvring.

An assessment of the key concerns held in objections, and the applicant's response to these concerns, is detailed below.

Noise Impact of traffic using driveway access and Service Station

Objectors concern –

“residence situated at the ‘entry’ driveway and will be subject to any noise created by every single vehicle that enters the premises...at night it would create sleep disturbances which would be more exacerbated than with Solo Waste....The disturbances (e.g. loud talking, car doors slamming and horns honking etc) may only be of short durations, but if they are constant then the ability to either have a good nights sleep....is jeopardised.

We acknowledge that the submitted Acoustic Assessment indicates....that we are already affected by the existing noise from Richardson Road during night hours. Without the proposed development Richardson Road is a reasonably quiet road at night....How can a fair comparison of noise be evaluated by levels recorded and logged during peak hour and no study on noise be recorded for less busy times. We point out here that traffic from Richardson Road cannot come any closer to our house but the new proposed development has car parking spaces just a few metres from our bedroom windows.”

Applicant’s response –

“I am not surprised that the (residence) was previously disturbed by the operation of the (Waste depot) as there was not acoustic protection in place to provide screening to the sleeping spaces of (the residence). The proposed acoustic barriers... will improve the situation significantly. The (resident’s) concern in respect of night time impacts are understandable; however, (the report) clearly shows that the distribution of existing maximum noise levels from Richardson Road, which they find acceptable is not likely to be changed by the noise levels predicted in... the Acoustic Report.

(The noise assessment prepared) concludes that there will be no net effect on traffic noise exposure at any adjoining property as a result of the proposal with the existing traffic noise from Richardson Road remaining as the dominant noise source.

Even assuming that peak traffic flows, as predicted by the traffic report for the development, occur at night, the traffic noise generated by the development remains below the existing average traffic noise level. Given the estimated traffic flows from the proposed development is not possible for the predicted traffic volume to alter existing traffic noise levels.”

Assessment comment –

Concerns have also been received in relation to noise created by heavy vehicle traffic using the service station. The supplementary information submitted by the applicant’s acoustic consultants states that both the general noise and noise from heavy vehicles have an L_{Amax} (maximum noise level in a measurement period) level of not more than 53 dB(A) and that the predicted noise levels are approximately 15-20 dB below the prevailing existing conditions and are therefore not considered likely to become significant for residents in the acoustic climate.

Based on the information contained in the Acoustic Report submitted, the existing use of the site as a depot, and noise mitigation measures proposed, it is considered that the proposal is satisfactory in terms of traffic noise creation.

Noise Impact from Workshop (Motor Vehicle Repairer)

Applicant’s response –

‘Noise level predictions for workshop noise have been conducted for the loudest activity that is likely to occur in this type of development. The sources used are hammering on metal and the use of air impact tools. These activities are assumed to occur continuously, which they do not. The noise from the workshop will be audible at a distance of 20 metres or about 4

metres inside (the objectors) yard but complies with the requirements of the (EPA Industrial Noise Policy) and are not expected to be a significant issue over time.'

Assessment comment –

Based on the Acoustic Consultants response, it is considered that the proposal is satisfactory in terms of workshop noise creation.

In summary, in relation to the noise impact of the proposal, the Acoustic Report has made recommendations to reduce the acoustic impact of the development, and concludes that provided that these measures are implemented, that the proposal is unlikely to have an unreasonable impact to adjoining properties. These recommendations include the provision of a 1.8 metre high acoustic fence (Conditions 28-30).

2. Likely Impact of the Development

Subject to remediation works and compliance with conditions of consent, it is considered that the development does not adversely impact on the natural or built environment.

3. Suitability of the Site

The subject site is zoned 4(a) Industrial General, within which the proposed uses are permissible. Council officers have considered that whilst the site is not ideal for the development in terms of the proximity to adjoining residential properties, that in terms of the industrial zoning, the proposed uses may be less intrusive than other forms of permissible development. Consideration of other land uses permissible with the current industrial zoning demonstrates that the proposal is suitable for the site. The applicant has commented that alternative uses possible if the land were to be rezoned are unlikely to be commercially feasible due to the significant costs involved in making the land suitable for these purposes.

4. Submissions

The proposal has been notified and advertised in accordance with Council's policy twice during the assessment period. A summary of the results of these periods is detailed below.

Notification in 2005

163 submissions were received in opposition to the proposal, 157 of which were petition-style letters. The matters raised in the petition-style letter are responded to in the table below.

Issue	Response
Amenity	As demonstrated by the assessment, it is considered that the proposal is unlikely to create an unreasonable impact on surrounding properties.
Environmental	Consideration of the Multi-Level Risk Assessment and Draft Remedial Action Plan has determined that the proposal is unlikely to create an unreasonable environmental impact.
Effects on land values	This is outside the scope of assessment as specified by the

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and on local small business	Environmental Planning and Assessment Act 1979.
Traffic	The proposal has been reviewed and supported by the Local Traffic Committee and RTA.

The matters raised in the other letters received are summarised and responded to below:

Issue	Response
Additional crime and safety concerns	The proposal has been reviewed by Council's Community Safety Officer, and has been conditioned to conduct a full 'Safer by Design' audit. The applicant has justified that 24 hour trading increases activity and surveillance, which may act as a deterrent to anti-social behaviour.
The property should be decontaminated for residential use	Legally, Council can only consider the development proposed, however, the applicant has submitted that alternative uses possible if the land were to be rezoned are unlikely to be commercially feasible due to the remediation costs.
Privacy	The proposal involves significant landscaping to the side boundaries. For the service station area a 1.8 metre acoustic fence is proposed. It is not considered that the proposal will involve a significant loss of privacy.
Light Impact to adjoining properties	Given the proposed fencing and landscaping proposed, it is not considered that the proposal will have an unreasonable impact in terms of light spill. The proposal has been conditioned to comply with the Australian Standard for outdoor lighting.
Visual Impact of acoustic fencing	The fencing is a matter for the land owners to negotiate, pursuant to the Dividing Fences Act. The acoustic consultant has advised that there are a number of suitable options that may be selected.
Construction Noise	Standard conditions of consent manage this issue.
Accuracy of Acoustic Report	A supplementary letter from the acoustic consultants has clarified that there was a typographical error in the original report, which as now been clarified.
Noise from access driveway and service station adjacent to residence	The acoustic consultants have submitted a supplementary letter to respond to objection, and states: <i>'I am not surprised that the (residence) was previously disturbed by the operation of the (Waste depot) as there was no acoustic protection in place to provide screening to the sleeping spaces of (the residence). The proposed acoustic barriers will improve the situation significantly.'</i> A condition relating to reducing noise from grates, ramps or other components has also been imposed.
Traffic noise (in general)	The acoustic consultant's report states that: <i>'even assuming that peak traffic flows, as predicated by the traffic report for the development, occur at night the traffic noise generated by the development remains below the existing average traffic noise level. Given the estimated traffic flows from the proposed development is not possible for the predicted traffic volume to alter existing traffic noise levels.'</i>
Noise from automotive sheds	The acoustic consultant's report states that: <i>'Noise level predictions for workshop noise have been conducted for the loudest activity that is likely to occur in this type of development. The sources used are hammering on metal and the use of air impact</i>

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	<i>tools. These activities are assumed to occur continuously, which they do not. The noise from the workshop will be audible at a distance of 20 metres or about 4 metres inside (the objectors) yard but complies with the requirements of the guideline and are not expected to be a significant issue over time.'</i>
Long term parking of trucks	It is not considered that the proposal is likely to involve the long-term parking of trucks, however if this did occur, given screening and fencing, this is unlikely to create a significant impact to adjoining properties.
Concern of Brown Street and Watt Street being joined	Given the location of retaining walls and building, it is not considered that this would be proposed at a later date.
Restructuring to allow fast food drive-thru at a later date	This is not proposed under the current application. If the applicant lodged this component at a later date, it would be notified to adjoining properties for comment and assessed on merit.
24 hour operation	Refer to assessment in Section 1 of this report.
Stormwater	The applicant has provided a preliminary Stormwater Plan, and this detail has been reviewed and supported by Council's Development Engineers.
Pollution from traffic and fuel odours	It is not considered that the development will create an unreasonable impact in this regard, particularly given the current level of traffic on Richardson Road. In relation to fuel odours, it is considered that the distance to adjoining properties and proposed fencing, as well as a condition of consent relating to the installation of a vapour recovery system during refuelling, will reduce the impact.

Notification in 2007

The second notification period was undertaken during June 2007, and was sent to adjoining properties, as well as objectors from the 2005 notification period. Council received 4 objections as a result of this period. Issues not previously raised by the 2005 notification period are summarised and responded to below:

Issue	Response
Accidents on Richardson Road roundabout and safety of crossing Richardson Road	The proposal has been reviewed and supported by the Local Traffic Committee and RTA, who have no objection to the proposal.
Music played at night	The proposal has been conditioned that it shall not impact on the adjoining properties as defined under the Protection of the Environment Operations Act 1997.
Retaining wall to an adjoining property on eastern side	A 1.7 metre retaining wall is proposed close to this boundary. This wall 'cuts' the development lower than the adjoining properties, which will reduce the visual impact of the development to the adjoining properties.
Retaining wall to an adjoining property on western side	The plans submitted demonstrate that the proposed wall on this boundary will be 860mm, which is consistent with residential standards.
Contingencies for any fuel spills etc.	The applicant has submitted a Multi-Level Risk Assessment which addresses these matters.

5. Public Interest

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The proposal is not contrary to the public interest as the development satisfies relevant planning considerations.

ATTACHMENT 3 CONDITIONS

General Conditions

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
3. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
4. The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.
5. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
6. **Prior to the issue of the construction certificate** documentary evidence from Energy Australia shall be submitted indicating that satisfactory arrangements have been made for the provision of an electricity service to the development.
7. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Port Stephens Section 94A Development Contributions Plan, a contribution of 1% of the cost of the development, as determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000, shall be paid to Council

The amount to be paid is to be determined in accordance with the provisions of the Port Stephens Section 94A Development Contributions Plan. The contribution is to be paid prior to issue of the Construction Certificate.

A cost summary report (form attached) setting out an estimate of the proposed cost of carrying out development in accordance with Schedule 1 of the Port Stephens Section 94A Development Contributions Plan must be approved by Council **prior to issue of a Construction Certificate.**

8. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
9. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
 - i) Monday to Friday, 7am to 6pm;
 - ii) Saturday, 8am to 1pm;

No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

10. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
11. A Construction Management Plan shall be submitted and approved by Council, **prior to the issue of the Construction Certificate**. The construction management plan shall specify operational details to minimise any potential impact to adjoining properties. The construction management plan should include but not limited to the following information:- Construction techniques, noise and vibration management, storage of equipment and building materials, hours of work, primary route for truck movements, etc.
12. Where the proposed development incorporates pile-driving activities associated with the construction process the applicant/beneficiary of the consent shall, prior to commencement of work associated with the piling system undertake the following actions.
 - i) For development incorporating pile-driving activities for a period of 5 days or more, be that consecutive or combined total:
 - ii) An appropriately qualified Acoustic Engineer shall prepare a report on the impact on adjoining properties in relation to anticipated noise and vibration with reference to compliance with British Standard 6472 - 1996 Guide to evaluation of human exposure to vibration in buildings (1Hz to 80 Hz).
 - iii) Where the anticipated impacts exceed the prescribed performance standards of the noted Standard the consultant shall make recommendations on the method of minimising the noted impacts to meet the performance standards.
 - iv) For pile driving activities with a duration in excess of 5 days as noted above the applicant/beneficiary of the consent shall engage an Acoustic Engineer to undertake monitoring of the pile driving to verify the identified performance standards noted are not exceeded. Details to be forwarded to Principal Certifying Authority.
13. Pile driving shall only be carried out between the hours of 8.00am - 3.30pm Monday to Friday excluding public holidays. Development incorporating pile-driving activities for a period of less than five (5) days be that consecutive and a total combined throughout the construction process, shall comply with the provision of British Standard 6472-1996.

The applicant or the person who is the beneficiary of the development consent incorporating pile-driving activities shall, prior to commencement of work prepare and submit for approval of a Construction Management Plan incorporating notification provisions for the pile-driving activities with practical measures taken to notify all adjoining property occupants of the commencement date and period of pile-driving works. The notification shall be forwarded a minimum of 2 days prior to the commencement of works.

14. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the Roads Act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted. No construction or demolition work shall obstruct pedestrian or vehicular traffic in a public place, a hoarding or fence must be erected between the construction site and the public place.
15. Approved toilet accommodation for all tradespersons on the building site is to be provided from the time work commences until the building is complete. The toilet shall not be placed on the road reserve, without separate approval from Council.
16. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.
17. Construction details for retaining walls greater than 600mm in height shall be submitted and approved by the Principal Certifying Authority prior to commencement of works associated with the retaining wall. All retaining walls in excess of 1m shall be designed by a Practising Structural Engineer.

Where retaining walls exceed 1m in height and located within 500mm of a site boundary, they shall be constructed of masonry material.

It is recommended to construct the retaining walls prior to the commencement of any other work, while the area is readily accessible and to prevent any movement of soil and/or potential damage to adjoining properties.

18. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with AS2601-2001 and Workcover Authority requirements.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

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, the person undertaking the excavation must preserve and protect the building from damage, which may involve underpinning and supporting the building in an approved manner.

19. The adjoining property owner shall be given 7 days notice before excavating below the level of the base of the footings of a building on an adjoining allotment of land. 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 condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this condition, allotment of land includes a public road and any other public place.

20. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.

Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing

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Urban Stormwater – Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.

21. A “KEEP PORT STEPHENS WATERWAYS POLLUTION FREE” sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
22. Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
23. All stockpiled materials shall be retained within the property boundaries. Stockpiles of topsoil, sand, aggregate, spoil or other materials shall be stored clear of the all weather vehicle access and drainage lines.
24. The applicant shall consolidate Lot 6 and 7 into one allotment. Occupation of any part of the development will not be permitted until confirmation that the plan of consolidation has been registered as a deposited plan with the Land Information Centre
25. Certification is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority at the following stages of construction:
 - i) On completion of ground floor construction, confirming that the floor levels are in accordance with the Reduced Levels indicated on the approved plan.
 - ii) When the roof has been completed, confirmation that the building does not exceed the Reduced Levels, as indicated on the approved plan.
26. The fit out of the food preparation, storage and service areas are to be designed and constructed to comply with the Food Standards Code and Australian Standard 4674 for the construction and fit out of food premises. If Council is nominated as the Principal Certifying Authority, details of compliance are to be included in the plans and specifications for the construction certificate. The Food Surveillance Officer shall be given 48hours notice to inspect the premises prior to the commencement of the business. Where Council is not nominated as the Principal Certifying Authority, a certificate from an appropriately qualified person confirming compliance with the above legislation and guidelines is to be provided to Council **prior to the issue of the Occupation Certificate.**
27. **Prior to the issue of the Construction Certificate**, security and public safety arrangements are to be provided to Council taking into account Safer By Design principles and crime prevention.
28. The proposal shall not impact on adjoining properties as defined under the Protection of the Environment Operations Act 1997.
29. The development shall be constructed in accordance with the recommendations contained in the acoustic report prepared by Hunter Acoustic and dated 3 May 2005. **Prior to the issue of any Occupation Certificate**, submit to the Principal Certifying Authority, certification confirming that the measures recommended in the acoustic report have been fully implemented. This certification should confirm specific details of measures and materials/methods of construction. In particular, the applicant should

note the requirement for the construction of an acoustic fence in locations stipulated in the report submitted.

30. All grates, ramps or other components which are built into the driveway areas are to be tight fitting and sound insulated to minimise noise impacts.
31. A site and waste management plan shall be developed for finished development **prior to the issue of the Occupation Certificate**. This report shall specify how the property shall be managed in terms of litter from users and adjoining properties, determine the location and capacity of receptacles and specify odour and vermin control measures. This management plan shall be implemented for the life of the development.
32. The operating hours of the automotive repair sheds shall be restricted to the following:
Monday – Saturday (inclusive) 8.00am – 6.00pm
33. The operating hours of the storage sheds shall be restricted to the following:
Monday – Sunday 8.00am – 6.00 pm
(At other times by appointment)

Conditions relating to Demolition and Site Remediation

34. A waste management plan prepared in accordance with PS11 shall be submitted and approved by the Principal Certifying Authority, which covers demolition and building works through to the management of the finished development **prior to the issue of the Construction Certificate**. The applicant shall recycle any material which is able to be salvaged from the demolition of the existing building/structure. Non salvageable material shall be disposed of at Council approved refuse/land fill sites.
35. Building demolition shall be carried out in accordance with Australian Standard AS2601-2001 - The Demolition of Structures.
36. Prior to demolition, all existing services are to be disconnected, sealed and made safe. The sewer, water and gas service is to be disconnected by a licensed plumber.
37. The demolition and disposal of materials containing asbestos should be carried out in accordance with Workcover Authority Guidelines. The material may be disposed of at Council's waste disposal site by phoning (4987 4524). Details of the materials and twenty-four (24) hours notice is necessary.
38. An asbestos audit shall be undertaken in respect of the proposed demolition work by a qualified occupational hygienist to determine the presence or otherwise of materials containing asbestos. Where asbestos is found to be present, a written procedure approved by Workcover Authority is to be used by contractors for the demolition handling and disposal of materials containing asbestos. A copy of such procedure and Workcover approval is to be submitted to Council before undertaking any works.
39. The demolition and disposal of materials containing asbestos should be carried out in accordance with Workcover Authority Guidelines. Material should be disposed of at a licensed landfill facility.
40. The remediation works shall be undertaken in accordance with the Remedial Action Plan prepared by Douglas Partners and dated February 2006, unless modified by the conditions of consent or the Department of Environment and Climate Change policies

and standards. Details that the works have been undertaken in accordance with the Remedial Action Plan shall be provided to the Principal Certifying Authority.

41. In accordance with State Environmental Planning Policy No. 55 - Remediation of Land, all remediation work must be carried out in accordance with any contaminated land planning guidelines issued under section 145C of the Act, any guidelines in force under the Contaminated Land Management Act 1997, and the remediation plan approved under this consent.
42. In accordance with State Environmental Planning Policy No. 55 - Remediation of Land, a notice of completion of remediation work must be provided to Council within 30 days of the completion of remediation work. The notice must include particulars as specified by clause 18 of State Environmental Planning Policy No. 55.
43. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council immediately upon discovery.
44. An impervious poly-liner shall be used to contain and bund any contaminated soils excavated and stored on the site.
45. Disposal of any contaminated materials shall be performed in accordance with Department of Environment and Climate Change policies and standards.
46. The stockpiling of any contaminated soils shall be located so as to not impact on adjoining properties by way of odour.

Conditions relating to Disability Access

47. A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1 shall be provided between the entrance to the premises and any disable parking spaces
48. The proposed development shall be provided with access and facilities for the disabled in accordance with Australian Standard 1428.1 and the relevant provisions of the Building Code of Australia
49. External access to the building required to be accessible must be in accordance with the Building Code of Australia Part D and Australian Standard 1428.1, and must be provided-
 - i) from the allotment boundary at the main points of entry; and
 - ii) from any accessible carparking space on the allotment; and
 - iii) from any adjacent and associated accessible building on the allotment; and
 - iv) through the principal public entrance.
50. The minimum number of accessible car parking spaces shall be provide in accordance with the Building Code of Australia Section D Subsection 3.5 and designed in accordance with Australian Standard 2870.6
51. Access and facilities for the disabled in accordance with Australian Standard 1428.1 and the relevant provisions of the Building Code of Australia, shall be maintained for the life of the development.

52. A qualified access adviser* shall submit a detailed design for access and facilities for persons with disabilities in order to comply with the Building Code of Australia and the Disability Discrimination Act (1992) **prior to the issue of the Construction Certificate.**

*A qualified Access Advisor is a current member of wither:

Association of Consultants in Access Aust Inc

326 Autumn Street, HERNE HILL VIC 3218

PH: (03) 5221-2820, www.access.asn.au

Access Institute of NSW

123 Little Bay Road, LITTLE BAY NSW 2036

Ph: (02) 9949-6859, www.access-institute.org.au

Conditions relating to Fire Safety

53. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council. If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
54. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

Conditions relating to Roads, Traffic and Parking

55. The development shall comply with the general terms of approval issued by the Roads and Traffic Authority dated 13 March 2007 under the relevant legislation. (copy attached).
56. The development shall provide 39 on-site car parking spaces, in addition to the spaces provided next to fuel bowzers, including 2 disabled parking spaces. These spaces shall be separately accessible, clearly line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with the Port Stephens Development Control Plan PS2 Parking and Traffic Guidelines. Car parking must be provided **prior to the issue of the occupation certificate** or use of the development.
57. The vehicle driveway from the roadway to the property boundary incorporating the gutter crossing shall be constructed in accordance with the options shown on Council's Standard Dwg No. S123.

58. All works as listed as conditions of development consent, which are located in public roads are subject to approval under section 138 of the Roads Act 1993. Engineering details in accordance with Council's Subdivision and Development Code, of such works shall be submitted with a Roads Act application form and then approved by Council prior to approval to commence these works and **prior to issue of the Construction Certificates.**

The following items are also required to be approved by the Road Authority prior to approval being granted to commence works:

- a) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
- b) Payment of fees and bonds (same Principle Certifying Authority fees, inspection fees and maintenance bonds as relevant to subdivisions);
- c) Contractors public liability insurances to a minimum value of \$10 million dollars.

59. The following fees and/or bonds are to be paid as part of this consent:

- a) Subdivision construction certificate/plan approval fee, **prior to approval of construction certificate** or plans.
- b) PCA/inspection fee, **prior to approval of construction certificate** or plans.
- c) Long Service Levy, **prior to issue of construction certificate** (verification of payment is required if paid directly to Long Service Board)

The rates are as listed in Council's fees and charges. Contact Council's Subdivision Engineer prior to payment.

60. Works associated with the approved plans and specifications located within the existing Road Reserve shall not commence until:

- i) a Roads Act Approval has been issued, and
- ii) all conditions of the Roads Act Approval have been complied with to Road Authority's satisfaction.

61. All civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of the Road Authority **prior to issue of the Occupation Certificate.**

All works associated with the Roads Act Approval shall be at no cost to Council and/or the Road Authority.

62. Works associated with the Roads Act Approval are subject to:

- a. inspection by the Road Authority,
 - b. testing by a registered NATA Laboratory and
 - c. approval by the Road Authority at each construction stage
- as determined by the Road Authority.

63. Works-As-Executed plans prepared by a suitability qualified person detailing all road and drainage works in accordance with Councils Subdivision Specifications. This shall

be submitted to, and accepted by the Certifying Authority, prior to issue of the Subdivision Certificate.

64. All access, turning lane, pedestrian and cyclist provisions are to be in accordance with the requirements of the Road Authority. Details are to be approved by the Road Authority **prior to the issue of the Construction Certificate.**

65. No vehicular access to the development is permitted via Brown Street or Watt Street.

Conditions relating to Landscaping and Appearance of Buildings

66. Landscaping shall be carried out in accordance with the approved Landscape Plan prepared by Mansfield Landscape Planners and dated 21.04.05. The landscape designer must provide a compliance certificate to the Principal Certifying Authority certifying that the landscaping has been carried out in accordance with the approved plan, **prior to the issue of the Occupation Certificate.** Where Council is not the Principal Certifying Authority, a copy of the certificate must be provided for Council's records.

67. The turf species planted in the road reserve shall be a native species requiring low maintenance.

68. Measures shall be installed to control vehicles from overhanging landscaping areas. Protection to landscaping areas shall be installed in accordance with AS2890-1:2004 Section 2.4.5 (such as wheel stops, bollards or high kerb). Details are to be approved by the Principal Certifying Authority or Council **prior to issue of a Construction Certificate.**

69. A colour scheme providing full details of the colours and character of all external building materials and finishes to be used shall be approved by Council **prior to the issue of the Construction Certificate.**

70. A garbage storage area is to be provided, designed and constructed so as to conceal its contents from view from public places and adjacent properties and is to be integrated into the landscaping scheme. The storage area shall be located so as to be readily accessible from within the site, and serviceable by the waste collector from the adjoining road.

71. The construction of the building, including the roof, shall be in materials of a low reflective quality. The visible light reflectivity from building material used on the facades shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place.

72. No advertisement shall be displayed without the consent of Council, unless the advertisement does not require approval under the Exempt & Complying Development Control Plan, Port Stephens Council Advertising Signs Code and/or State Environmental Planning Policy 64 – Advertising and Signage. An exempt signage displayed on the site shall relate to the approved development or premises situated on that land and shall not be flashing illuminated signage. All signage shall be maintained in a presentable and satisfactory state of repair.

73. Lighting on the site is to be designed in accordance with Australian Standard 4282-1997 – Control of the obtrusive effects of outdoor lighting. Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.

Conditions relating to the design and operation of Service Station and Industrial Sheds

74. The area contained in the front setback (i.e. in front of the service station) is to be landscaped and kept clear of vehicles and materials at all times.
75. All work or the storage of goods or materials shall be confined within the building or approved areas. Separate development approval is required for external storage.
76. All vehicle repairs are to be undertaken within the approved building. No repairs of any sort shall be carried out in the car parking or common areas.
77. All noise emitting equipment, i.e. pumps, filters etc, is to be positioned or insulated to prevent causing offensive noise to neighbours. ('offensive noise' ,as defined by the Protection of the Environment Operations Act 1997 (NSW)).
78. All service entries to workshop areas must be provided with a trafficable bund at least 100mm high, to prevent any spillages from leaving the workshop area and entering the drainage system. The workshop area shall be graded into a pollution control device and or grated drains in accordance with the trade waste agreement issued by the Hunter Water Corporation or collected for refuse/disposal by an EPA licensed waste contractor.
79. Any oils, lubricants, paints, thinners and associated chemicals shall be stored in sealed containers under cover, in a designated bunded area equal to 110% capacity of the largest container, in accordance with AS1940-1993 and AS/NZS 4452:1997, to ensure that accidental spillages are contained therein.
80. Workcover Authority or an accredited consultant shall certify the handling and storage of Dangerous and Hazardous goods such as flammable/combustible liquids and toxic substances in accordance with AS1940-1993 and AS/NZS 4452:1997 **prior to the issue of an occupation certificate.**
81. Fuel filler points shall be located clear of accesses to prevent obstruction by fuel service vehicles. Diesel fuel pumps shall be located so as to be easily accessible by heavy ridged vehicles.
82. The fuel tanks and fuelling areas must be designed and operated in accordance with the Code of practise for Design, Installation and Operation of Underground Petroleum Storage Systems by the Australian Institute of petroleum and AS1940-1993 and AS/NZS 4452:1997 The Storage and Handling of Flammable and Combustible Liquids.
83. Prior to the commencement of the operation, the applicant is required to install a vapour recovery system to capture petroleum gases during refuelling and return gases to tanker, to preserve the amenity of adjoining properties.
84. The proposal shall be designed and operated in accordance with the Multi-Level Risk Assessment Report prepared by Myrosdesign Pty Ltd dated April 2005, unless modified by the conditions of consent or the Department of Environment and Climate Change policies and standards.
85. **Prior to the issue of any Occupation Certificate for the Service Station**, the Applicant must submit to Council a report from a qualified and independent person, to confirm that the safety related measures and procedures detailed in the Development Application, the Preliminary Hazard Analysis and arising from the Conditions of Consent have been implemented.

86. **Prior to the issue of the Construction Certificate**, the Applicant shall consult with the NSW Fire Brigades or the Rural Fire Service (as applicable) and implement their requirements, in relation to the storage of hazardous materials.
87. **Prior to the issue of any Occupation Certificate for the Service Station**, the Applicant shall develop a comprehensive Safety Management System, covering all on-site operations. The document shall clearly specify all safety related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to the procedures. Records shall be kept on-site and shall be available for inspection by the Consent Authority upon request. The Safety Management System shall be developed generally in accordance with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 9, 'Safety Management'. This Condition may be satisfied by an appropriate Safety Management System developed by the fuel supplier.
88. The LPG facility shall comply at all times with the requirements of AS1596-1997.
89. The applicant shall obtain separate approval from the Workcover Authority for the installation and operation of the LPG facility. A copy of the work cover authority approval shall be provided to Council prior to operating the LPG facility.
90. The operator of the LPG facility shall surrender or modify the development consent in the event that the facility no longer complies with AS1596-1997 or Workcover Authority requirements. If the consent is surrendered, the LPG facility shall be removed from the site within 30 days.
91. The development shall comply at all times with Australian Standard 1596 – 'The Storage and Handling of LP Gas'. **Prior to the issue of the Occupation Certificate**, certification verifying compliance with the LPG Automotive Retail Outlets Department of Planning Hazardous Industry Locational Guidelines Number 1 shall be provided by a suitably qualified person to Council.
92. A vapour barrier fence shall be erected on the Eastern boundary adjacent to residential land. Liquid fuel and LPG deliveries should only take place when service station personnel are on site.

Conditions relating to Stormwater Management

93. The development has the potential to generate significant quantities of waste water which cannot be disposed of into the stormwater system. An application needs to be made for a trade waste agreement with the Hunter Water Corporation to allow the waste water to be treated and connected to sewer. The Hunter Water Corporation may be contacted by calling 1300 657657.
94. All stormwater runoff from the site must pass through a pollution control device capable of removing litter, sediment and oil/grease prior to entering Council's stormwater system. Details of the pollution control device shall be submitted to and approved by Council **prior to issue of the Construction Certificate**. A report prepared by a hydraulic engineer shall be submitted to Council confirming that the pollution control device has been installed in accordance with the approved specification **prior to the issue of an occupation certificate**.
95. The service station forecourt area shall be graded into a pollution control device capable of removing litter, sediment and oil/grease and or grated drains in accordance with the trade waste agreement issued by the Hunter Water Corporation or collected for refuse/disposal by an EPA licensed waste contractor.

96. The stormwater detention system shall be built in accordance with the approved concept plan.
97. The stormwater detention system is to be designed in accordance with Section 8.11 of AS 3500.3:2003. Details are to be approved by the Certifying Authority **prior to issue of Construction Certificate.**
98. Advisory signs shall be prominently located adjacent to the stormwater detention area detailing the purpose of the system, the possible depth of inundation and warning of the danger.
99. Structural Certification is required for the below ground stormwater system/ tank(s). Details are to be approved by the Principal Certifying Authority **prior to issue of the Construction Certificate.**
100. A registered surveyor is to certify that all stormwater pipeline systems are covered by an easement. Details are to be submitted to Council **prior to the issue of an Occupation Certificate.**
101. Stormwater discharge from adjoining properties shall be catered for. Full details, shall be approved by an accredited certifier or Council **prior to issue of the Construction Certificate.**
102. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
103. Submission of Works-As-Executed plans and report prepared and certified by a suitability qualified drainage engineer confirming all drainage works (volume, discharge, levels, location, etc) are built in accordance with conditions of consent and the approved plan. Minor variations in height can be certified providing they are clearly identified in the report and the engineer certifies that the overland flow paths are not altered, discharge rates are not increased, and no additional negative effects are imparted on any dwellings or property. Minor variations can only be certified where it can be demonstrated that the ease of maintenance and monitoring of the system has not been negatively affected.
- The documents shall be submitted to, and accepted by the Certifying Authority, **prior to issue of the occupation certificate.**
104. Drainage Works in Eagleton Way will require a hydraulic design and Roads Act Approval **prior to the issue of the Construction Certificate.** Written evidence that the Department of Housing is satisfied with the stormwater measures undertaken for this development is to be provided **prior to the issue of the Construction Certificate.**
105. The onsite detention system is to be constructed and made operational to capturing, convey, and detain stormwater prior to the construction of any other impervious areas on the site. Once any impervious area is constructed on site, it must immediately be connected to the on site detention system. Details shall be approved by the certifying authority **prior to issue of the construction certificate.**

ITEM NO. 2

FILE NO: 16-2007-316-1

**DEVELOPMENT APPLICATION FOR TWO STOREY DWELLING AT
NO. 480 HINTON ROAD, HINTON**

REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2007-316-1 for the following reasons:
 1. The proposed development is inconsistent with the provisions of the Hunter Regional Environmental Plan by being an inappropriate land use since it will increase the number of people susceptible to the effects of inundation.
 2. The proposed development is inconsistent with the provisions of Port Stephens Local Environmental Plan 2000, in particular, the Rural 1(a) Zone objectives and planning considerations for development on flood prone land.
 3. The proposed development is located in a Floodway & Excessive Depth Zone and the Paterson River Floodplain Management Study (2001) recommends that no additional dwellings should be permitted in this location.
 4. The proposed development is considered an inappropriate land use under the Floodplain Development Manual 2005.
 5. Approving additional dwelling houses in a high risk flood area places further demand on the already limited resources of the SES due to domestic property protection, evacuation and/or re-supply.
 6. Approval of this application would have an undesirable cumulative effect by increasing the community's susceptibility to flooding in terms of social, economic and environmental/ecological consequences.
 7. It is not possible to implement an evacuation plan which provides permanent, fail safe, maintenance free measures to ensure the timely, orderly and safe evacuation of occupants.

OPERATIONS COMMITTEE RECOMMENDATIONS – 14 August 2007

RECOMMENDATION:

1. That Council be recommended to express support for the Applicant's Development Application; and
2. That the Group Manager Sustainable Planning be requested to bring forward draft Conditions of Consent in the event that Council determines to approve this application.

Tabled Documents: Yes

ORDINARY MEETING OF COUNCIL – 28 August 2007

RESOLUTION:		
220	Cr Jordan Cr Hodges	That the Recommendation be adopted.

Cr Brown & Nell recorded their Vote against this Motion.

BACKGROUND

The purpose of this report is to present a development application to Council for determination on a policy position in regards to restricting development in an area subject to flooding.

The applicant has previously submitted an application to Council, seeking approval to erect a two storey dwelling upon a mound located at the abovementioned property. Development Application number 16-2000-1483-1 was submitted on 25 September 2000 and was refused by Council on 29 June 2001.

This application proposes the construction of a two storey dwelling house upon an elevated earth mound situated 155 metres from the northern boundary addressing Hinton Road and 60 metres from the western boundary.

The subject site is zoned 1(a) – Rural Agriculture, which is described in Port Stephens Local Environmental Plan 2000 (LEP) as land of agricultural value and land which has not been set aside for rural residential development.

The subject site is identified as flood prone land and Clause 37 of the LEP addresses development on flood prone land.

The Paterson River Floodplain Management Study (Adopted November 2001) indicates that the subject property is located in a **“Floodway & Excessive Depth Zone”** where it is recommended that no additional residential dwellings should be permitted. At this location, the 1% Annual Exceedence Probability (AEP) flood level is 6.2 metres AHD (Australian Height Datum) with a velocity between 0 and 0.5 metres per second. Atkinson & Tattersall Surveyors have identified a surface level of 2.56 metres AHD at a location approximately 40 metres south of the northern boundary (which addresses Hinton Road). Based upon these figures it is expected that this property will be inundated by floodwater to a depth of approximately 3.64 metres. The 1955 flood level in this locality was recorded at 6.3 metres AHD.

On 11 June 2007, the most recent flooding event occurred. A flood level of 5.8 metres AHD was recorded at the Hinton Bridge. This flood event was calculated to be approximately a 5% Annual Exceedance probability flood event (this is in the order of a 1 in 20 or 1 in 15 year flood). Emergency Services personnel evacuated numerous residents from dwellings surrounding Hinton. The nearest flood free land is the elevated areas of Hinton village which is physically isolated and an island refuge accessible only via boat or helicopter. If approved, the introduction of an additional dwelling and potential for further dwellings to follow the precedent established will place further pressure on emergency service resources in a known floodway and excessive depth zone.

The proposed dwelling and earth mound will have a maximum height of approximately 12.4 metres AHD which equates to 9.5 metres above the existing (natural) ground level.

Although flood inundation gives rise to temporary/intermittent impacts, the introduction of additional people and dwellings into a known floodway is not supported and is contrary to the provisions of the *New South Wales Floodplain Development Manual 2005*.

It is recommended that this application be refused based upon the expected level of flood risk and associated social, economic and environmental impacts.

LINKS TO CORPORATE PLANS

This report relates to the Goals in the Assessment and Approvals program of Council's Management Plan, which is an ordered and predictable built environment in Port Stephens. The following goals are considered applicable in this case:

G1. Lifestyle

To provide opportunities for people to participate in a healthy lifestyle.

G4. Safety

To provide programs and planning instruments that enhance the safety of individuals and the community whilst preserving social amenity and discouraging social isolation.

G5. Housing

To provide for an increase in diversified, affordable and sustainable housing stock across the Local Government Area.

G13. Environmental Protection

To protect the unique Local Government Area environmental heritage and mitigate the effects of climate change and population growth on the environment.

G14. Education and Communication

Encourage a partnership with our community and visitors to protect the Port Stephens environment.

G17. Strategy and Planning

Plan for sustainability and allow for balanced growth in the community.

G18. Knowledge and Information

All decision-making will be based upon unbiased, well-researched data.

G20. Customer and Market Focus

Port Stephens Council will develop and enhance opportunities for the community and stakeholders to have relevant input into all Council decisions that affect the direction of Council.

G21. Innovation, Quality and Improvement

Council will facilitate improvement in every aspect of its operations.

G25. Infrastructure and Services

To provide sustainable facilities and services to the community of Port Stephens now and into the future.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

Council may become legally liable in cases of property damage and/or loss of life where approval has been given to construct dwellings and reside in flood prone areas while being aware of the risks associated with same.

The Councillors attention is specifically drawn to Sections 733(1) and 733(4) of the Local Government Act 1993 relating to exemption from liability with respect to flood prone land and the basis of “good faith” defence established in legal case law.

If Council approves the subject application, Council will be establishing a significant planning and environmental precedent in this locality and other flood prone areas within Port Stephens LGA, effectively encouraging residential development in known flood prone areas.

Should this application be refused, the applicant has the right of appeal.

The development application is inconsistent with Council’s Policy.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation’s ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

Approval of this application increases the community’s susceptibility to the effects of flooding and the associated consequences. The effects of flooding may be distinguished between social, economic and environmental implications

SOCIAL IMPLICATIONS

The social implications directly attributable to flood inundation include but are not limited to community disruption, direct and indirect damages caused by floodwaters, (property damage, loss of goods and personal possessions), emotional, mental and physical health costs, provision of food and accommodation for evacuees, loss of wages and opportunity cost to the public caused by the closure or limited operation of public facilities.

ECONOMIC IMPLICATIONS

Introducing additional dwelling houses into known high flood risk areas is not desirable. Refusal of this application may have an immediate economic impact upon the property owner but, in the long term reduces private and public losses attributed to flooding.

ENVIRONMENTAL IMPLICATIONS

The temporary and intermittent impacts of unsuitable development on flood prone land contribute to environmental pollution through erosion, waterborne debris, residual debris, structural failure of dwellings, fences, outbuildings and other domestic/rural infrastructure, and possible effluent pollution (from onsite sewage treatment systems in instances where the occupant chooses not to evacuate).

There are no flora and fauna issues associated with this application.

CONSULTATION

The application was exhibited in accordance with Council policy and no submissions were received.

The assessment included a comprehensive review of the previous application, an SES response to that application and a report from Council's Flooding Engineer (Land Use Planning Department).

The SES have advised that they have no statutory authority to endorse or reject development applications and/or private flood plans. However, they consider that approving the construction of dwelling houses in flood plain areas is undesirable since it places an additional demand upon already limited resources due to an expectancy of property and infrastructure protection, evacuation and/or re-supply.

The preparation of private evacuation plans may reduce the demand upon SES resources however these plans are usually ineffective during significant flood events and are not to be relied upon.

PLEASE NOTE: Refusal of this application is recommended based on the level of flood risk upon the proposed development and NOT as a consequence of advice received by the SES.

Refusal of this application is recommended since the property in question is situated in an area considered to be at a high risk of flooding. The level of risk is determined by flood depths and velocities, flood frequency, isolation, emergency response and the cumulative effect of permitting the construction of additional dwellings with the resultant increase in occupant numbers placed at risk. These contributing factors are discussed further in the assessment.

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject or amend the Recommendations.
- 3) Council support in principle approval of Development Application and request the Group Manager, Sustainable Planning to prepare Conditions of Approval.

ATTACHMENTS

- 1) Locality Plan
- 2) Assessment

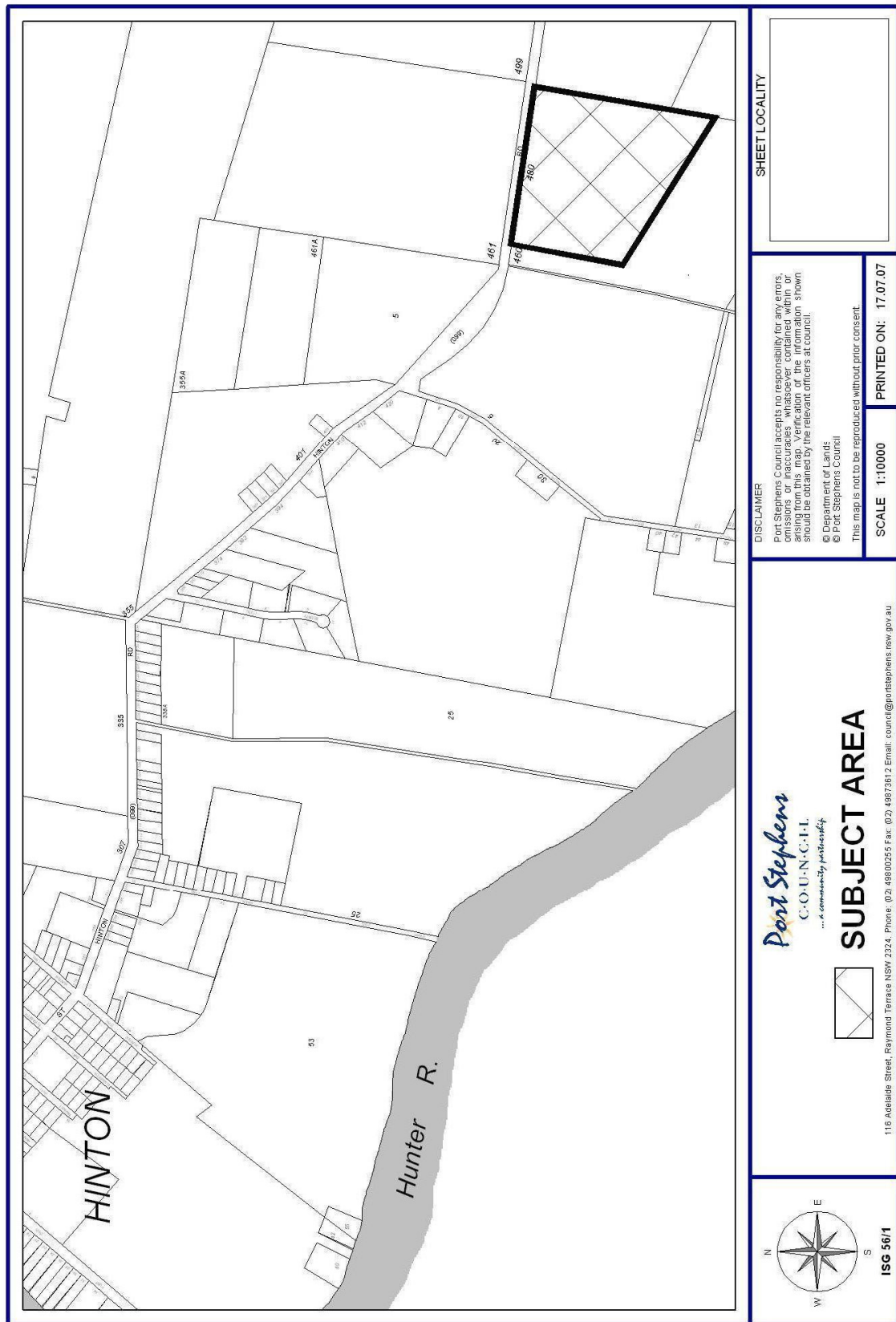
COUNCILLORS ROOM

- 1) Plans and elevations
- 2) Port Stephens Examiner report on Hinton's isolation during June 2007 flood event
- 3) Photographs taken by Council officers during June 2007 flood event depicting subject site
- 4) S733(4) Local Government Act 1993 *Exemption from liability – flood liable land and land in coastal zone*

TABLED DOCUMENTS

- 1) Port Stephens Examiner report on Hinton's isolation during June 2007 flood event
- 2) Photographs taken by Council officers during June 2007 flood event depicting subject site
- 3) S733(4) Local Government Act 1993 *Exemption from liability – flood liable land and land in coastal zone*

ATTACHMENT 1 LOCALITY PLAN



ATTACHMENT 2

ASSESSMENT

The application has been assessed pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and the following is a summary of those matters considered relevant in this instance.

THE PROPOSAL

The applicant seeks approval to construct a two storey dwelling house on an elevated earth mound located 155 metres to the south of Hinton Road and 60 metres from the western boundary. The dwelling consists of a lounge/dining/kitchen area, three (3) bedrooms and associated bathroom/ensuite to the upper level and a store room/workshop, entry, laundry, bathroom and car parking area to the lower level.

The application proposes to construct the lower floor level at 5.09 metres AHD.

THE APPLICATION

Owner	Ms K Jenkins
Applicant	Ms K Jenkins
Detail Submitted	Development plans which include site and floor plans, elevations, structural engineer's details and specifications.

THE LAND

Property Description	Lot 6, DP 9567
Address	Number 480 Hinton Road, HINTON
Area	9.82 Hectares
Characteristics	The land is generally level with a slight fall towards Hinton Road. The dwelling is proposed to be constructed upon an earthen mound located approximately 700 metres distance from flood free land in the township of Hinton, which also becomes isolated during extreme flood events. Full details of the earthen mound have not been submitted with the application other than a mention in the Statement of Environmental Effects which says "Filling of the site is proposed by way of benching the building area to a height of 2.42 metres to bring the finished level to 5.0m AHD."

Full details of the proposed mound have not been requested at this point in time so as not to impose additional expense upon the applicant. Should Council's determination be to approve the application, this matter may be addressed either by conditions of consent or to request further information at that time.

MINUTES FOR ORDINARY MEETING – 28 AUGUST 2007

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning
Relevant Clauses

Rural 1(a) RURAL AGRICULTURAL “A”
Clause 11 (2)(e) and Clause 38 (including
**“Objectives for development on flood
prone land”**)

Development Control Plan

Port Stephens Development Control Plan
2007 (Adopted 31 May 2007). Application
received 18 April 2007.

Development Control Plan PS10 (Building
Standards and Notification Procedures for
Development Applications)

State Environmental Planning Policies

Not applicable.

ATTRIBUTE	PROPOSED	REQUIRED	COMPLIES
LEP Requirements			
Minimum area per dwelling	9.82 Hectares (98,200 m ²)	4000 m ² minimum	Yes
Floor Level (Flood Prone Land)	7.74m AHD	6.7m AHD	Yes
Floodway & Excessive Depth Zone	New dwelling	No dwelling	No*
DCP Requirements			
Building Line Setback	155 metres from North boundary (Hinton Road)	12 metres from North boundary (Hinton Road)	Yes
Side Boundary Setbacks	60 metres (West Boundary)	900mm	Yes
BASIX Requirements	Water Score 42 Energy Score 43	Target 40 Target 40	Yes Yes

* The proposal is not consistent with Clause 52 of Hunter Regional Environmental Plan, Clause 73 Port Stephens LEP 2000, Flood Management Manual 2001 or the Paterson River Floodplain Management Study 2001 and is the primary basis for recommending refusal in this instance. In a 1% Annual Exceedance Probability flood event, the proposed dwelling will be physically isolated due to severe flood inundation. The nearest flood free land in proximity to the subject land is the village of Hinton which is also subject to extended periods of isolation in a flood event, placing further pressure upon emergency services and potentially placing dwelling occupants and volunteer emergency personnel at risk. The June 2007 flood event was calculated as approximately a 5% Annual Exceedance Probability flood event.

Discussion

The proposed development is inconsistent with the provisions of:

- **Hunter Region Environmental Plan**
- **Port Stephens Local Environmental Plan 2000**
- **Floodplain Management Manual 2001**
- **Paterson River Floodplain Management Study 2001**

Hunter Region Environmental Plan (REP)

The Hunter Regional Environmental Plan (REP) aims to achieve the balanced development of the region by the optimum utilisation of resources, whilst facilitating the improvement of the urban and rural environments. *Port Stephens Local Environmental Plan 2000 (LEP)* gazetted on 29 December 2000 is consistent with the provisions of the REP and reinforces its aims and regional policies.

Clause 52 of the REP requires Councils to develop strategies to control developments on flood prone land and encourage floodplain management practices which ensure maximum personal safety whilst at the same time encouraging appropriate land uses.

The Paterson River Floodplain Management Study (2001) indicates that the subject property is located in a “**Floodway & Excessive Depth Zone**” where it is recommended that no additional dwelling houses should be permitted.

The proposed dwelling house is an inappropriate land use since it increases the number of persons susceptible to the effects of flooding.

Port Stephens Local Environmental Plan 2000

The subject land is zoned Rural 1(a) and under the provisions of *Port Stephens Local Environmental Plan 2000*, dwelling houses are permissible with development consent.

The proposal is inconsistent with the Rural 1(a) zone objective to maintain the rural character of the area and to promote the efficient and sustainable utilisation of rural land and resources.

New developments should not increase the community's susceptibility to flood inundation and related impacts. In this instance, the construction of a dwelling house in a high flood risk area increases the social, economic and environmental consequences caused by flooding.

Clause 37 outlines the factors to be considered by Council in the assessment of a development on flood prone land. These are outlined as follows:-

- (a) The extent and nature of the flooding or inundation hazard affecting the land.
- (b) Whether or not the proposed development would increase the risk or severity of flooding or inundation affecting other land or buildings, works or other land uses in the vicinity.
- (c) Whether the risk of flooding or inundation affecting the proposed development could be reasonably mitigated and whether conditions should be imposed on any consent to further the objectives of this plan.
- (d) The social impact of flooding on occupants, including the ability of emergency services to access, rescue and support residents of flood prone areas.

- (e) The provisions of any floodplain management plan or development control plan adopted by the Council.

This development is located in a high flood risk area as identified by the *Paterson River Floodplain Management Study (2001)*, where the 1% Annual Exceedence Probability (AEP) flood level is recorded at 6.2 metres AHD, with a velocity between 0 and 0.5 metres per second. Based on a natural ground level of 2.5 metres AHD, the land will be inundated by floodwater to a depth of 3.7 metres. Even in moderate floods, for example, the 5% AEP in this location is 4.9 metres AHD, the property will be inundated by floodwaters to a depth of 2.4 metres.

It is not possible to condition this application to mitigate the effects of flooding. The applicant could prepare an evacuation plan but this would need to demonstrate to Council that there are permanent, fail safe, maintenance free measures available to ensure the timely, orderly and safe evacuation of occupants should flooding occur. The SES have advised that private evacuation plans are usually ineffective thereby placing additional demand upon limited SES resources.

Without a permanent fail safe evacuation plan addressing the approval of additional dwelling houses in high flood risk areas, the adverse social implications discussed throughout this report can be expected.

Council has not yet adopted a floodplain management plan however, the *Paterson River Floodplain Management Study (2001)* recommends that additional residential dwellings should not be permitted in these areas.

Based on the abovementioned considerations, this application is inconsistent with the provisions of *Port Stephens Local Environmental Plan 2000*.

Floodplain Development Manual 2005

The primary objective of *the Floodplain Management Manual* is to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone properties and to reduce private and public losses as a result of flooding.

The Paterson River Floodplain Management Study (2001) has been prepared in accordance with this manual and it stipulates appropriate land use management policies. As already mentioned in this report, the Study recommends that no additional residential dwellings be permitted in this locality.

The Floodplain Management Manual (2001) provides interim guidelines for determining appropriate land uses in flood prone areas (refer Appendix I). Under these guidelines, the subject land is categorised as high hazard flood storage generally inundated by more than 1 metre depth of floodwater.

Floodways are those areas where a significant volume of water flows during floods and are often aligned with obvious natural channels. They are areas that, even if only partially blocked, would cause a significant increase in flood levels and/or a significant redistribution of flood flow, which may in turn adversely affect other areas

Flood storage areas are those parts of the floodplain that are important for the temporary storage of floodwaters during the passage of the flood. If the capacity of a flood storage area is substantially reduced by, for example, the construction of levees or by landfill, flood levels

in nearby areas may rise and the peak discharge downstream may be increased. Substantial reduction of the capacity of a flood storage area can also cause a significant redistribution of flood flows.

The Manual suggests that the property owner be required to demonstrate that the proposed development will not increase the flood damage or flood hazard to other properties or adversely affect flood behaviour. A detailed report by an appropriately qualified consulting engineer and a detailed study assessing the social, environmental and ecological impacts should be required in support of a development application. This has not been requested at this point in time so as not to impose additional costs upon the applicant.

The proposed development should be refused since it increases the community's susceptibility to flooding. There is no permanent, fail safe evacuation plan in place to ensure a timely, orderly and safe evacuation of occupants. In an emergency, evacuation of occupants would only be possible by boat or helicopter, which may place rescuers/operators at risk.

Paterson River Floodplain Management Study (2001)

The Paterson River Floodplain Management Study (2001) defines a *Floodway* as that part of the floodplain which conveys significant quantities of flow path and would pose a significant hazard to property and persons as determined by an application of the principles contained within the *Floodplain Development Manual*. An objective of the study is to prevent intensification of the use of floodways and, wherever possible, allow for their conversion to natural waterway corridors.

The Floodway and Excessive Depth Zone identifies that part of the floodplain where there is considered to be no potential to implement ameliorative measures and/or allow for any structures or intensive activity at a level of risk which would be considered acceptable to the community. Floodways are areas conveying a significant proportion of the flood flow and where partial blocking will adversely affect flood behaviour to a significant and unacceptable extent. The principal risk criterion in this zone exists when flood water velocities exceed levels which may threaten the integrity of built structures or the safety of persons. The threat to personal safety and to gross structural damage caused by floods, depends largely upon the speed and depth of floodwaters. These, in turn, are dependent upon both the size of the flood and the hydraulic characteristics of the river and its floodplain. If the flood velocity is significant, buildings can be severely damaged (even destroyed). The build up of debris and the impact of floating logs can cause significant structural damage to buildings. Consequently, the property owner should demonstrate that any building or structure can withstand the force of flowing floodwater, including debris and buoyancy forces as appropriate. A detailed report from an appropriate consulting structural engineer should be required in support of a development application. This has not been requested as part of this assessment so as not to impose additional costs upon the applicant at this point in time.

2. Likely Impact of the Development

As discussed throughout this report, the approval of this application increases the community's susceptibility to the effects of flooding in terms of social, economic and environmental consequences.

Rural Amenity

The proposed development maintains an acceptable level of residential amenity in regards to visual appearance boundary setbacks and visual and acoustic privacy.

The two storey dwelling and earth mound will have a total height of 9.5 metres. This is considered compatible with existing dwellings located upon the floodplain.

Access

The surrounding road system is sufficient to accommodate vehicular traffic associated with the proposed development. However, in moderate floods, the access roads will be inundated by floodwaters, rendering the occupants isolated and reliant upon the SES for property protection, evacuation and/or supplies.

Emergency Response

SES advised that it is undesirable to increase the number of dwellings and occupants susceptible to flooding since it places an excessive demand on already limited SES resources due to the ineffectiveness of private evacuation plans.

In this locality, the awareness of property owners/occupants is hampered by the lack of a telemetered flood warning system and the Bureau of Meteorology does not advise of predicted flood levels.

Cumulative Effect

Approval of this application further increases the number of people susceptible to the effects of flooding in this locality. The problem arises when the cumulative impact of developments that have individually small (or even no impact), but which collectively have significant affects on flood behaviour. The most common examples of this are:

- blocking of floodways and flowpaths by individual developments and levees;
- loss of flood storage due to filling of floodplain areas for individual developments and the consequential rise in flood levels; and
- increase over time in the at-risk population living and working on flood prone land and their impacts on emergency management resources or the capacity of evacuation routes.

Whilst it is true that each development by itself may not lead to a significant increase in flood levels, risk, evacuation needs or potential damage, the increase occasioned by the cumulative effects of a number of such developments is often unacceptable. Land use on a floodplain should be compatible with and able to withstand the effects of flooding.

3. Suitability of the Site

The subject land is considered unsuitable for rural-residential development taking into account the level of flood risk and likely social, economic and environmental consequences.

4. Submissions

The application was advertised and notified. No objections or submissions were received.

5. Public Interest

This proposal is contrary to the public interest in that it has the potential to further exacerbate the impact of flooding and private and public losses in this locality, the potential to increase demand upon emergency services and an unnecessary and unreasonable demand on limited SES resources. Development should not detrimentally increase the potential flood displacement onto other development/properties within this area.

ITEM NO. 5

FILE NO: 1454-01

WORKPLACE AGREEMENTS**REPORT OF: ANNE SCHMARR – ORGANISATION DEVELOPMENT MANAGER**

RECOMMENDATION IS THAT COUNCIL:

Negotiate a Port Stephens Council Union Collective Agreement as outlined in Option 2.2 of **ATTACHMENT 1**.

OPERATIONS COMMITTEE RECOMMENDATIONS – 14 August 2007**RECOMMENDATION:**

That Council commence preparation of a Port Stephens Council Union Collective Agreement as outlined in Option 2.2 of Attachment 1.

ORDINARY MEETING OF COUNCIL – 28 August 2007**RESOLUTION:**

221	Cr Hodges Cr Jordan	That the Operations Committee Recommendation be adopted.
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Councillor Baumann left the meeting at 6.15pm during item 5 and returned at 6.20pm.

Councillor Jordan left the meeting at 6.18pm during item 5 and returned to the meeting at 6.19pm.

BACKGROUND

The purpose of this report is to recommend to Council the negotiation of a Port Stephens Council specific Workplace Agreement with staff following the implementation of the Workchoices amendments to the Workplace Relations Act 1996.

On the 29 May 2007 representatives from the United Services Union (USU), the Local Government Engineers Association (LGEA), the Development and Environmental Professionals Association (DEPA) and the Local Government and Shires Association (LGSA) attended a Councillor briefing. The intent of the briefing was to have all stakeholders participate to provide Council with information regarding the various preferred approaches to the implementation of a Port Stephens Council Specific Workplace Agreement.

On the 19th March 2006, the Federal Government released the Workplace Relations Regulations 2006 and announced that the substantive provisions of the Workplace Relations Amendment (WorkChoices) Act 2005 would commence on 27th March 2006.

MINUTES FOR ORDINARY MEETING – 28 AUGUST 2007

Following this, on the 14th November, 2006, the High Court of Australia dismissed the challenge of five States and two trade union organisations to the validity of the WorkChoices legislation. The States of NSW, Victoria, Queensland, South Australia and Western Australia together with the Australian Workers' Union and Unions NSW, commenced proceedings in the High Court challenging the constitutional validity of the Workplace Relations Amendment (WorkChoices) Act 2005 and the amended legislation as it was principally based upon the corporations power of the Constitution. The High Court, by a majority of 5-2, rejected these submissions and upheld the reliance by the Commonwealth on the corporations power.

Councils were advised by the LGSA that a Council's status as a trading corporation is the constitutional basis upon which the Workplace Relations Amendment (WorkChoices) Act 2005 applies to employers.

The Associations' legal advice indicated that a council is a trading corporation if a substantial proportion of its current activities are trading activities, notwithstanding that there may be other non-trading activities (such as activities related to the provision of community services and the function of local government). Councils were advised to seek legal advice on this issue.

Legal advice received from Council's Solicitors on 29th May, 2006 confirmed that based on the range of activities derived from the Annual Financial Report 2005, that in their view the Council is a trading corporation, and accordingly a constitutional corporation for the purposes of the Workplace Relations Act 1996 ('WRA').

This has been further clarified by advice received on 16th April 2007 from the Federal Minister for Employment and Workplace Relations, the Hon. Joe Hockey:-

"If a council is a constitutional corporation, it is covered by the Federal WorkChoices system, and state industrial relations legislation no longer applies to it.....Councils cannot choose which system to be covered by. Only councils that are not constitutional corporations remain covered by their State industrial relations system."

This means that Council is covered by the transitional arrangements under the WRA from the date of commencement of WorkChoices (27 March 2006).

As a result, all previous State based Awards and Agreements covering Council employees have been moved into the Federal system.

The Awards are now known as Notional Agreement Preserving State Awards ('NAPSA') and agreements as Preserved State Agreements ('PSA'). The NAPSAs and PSAs will be in place until 27 March 2009 or until a workplace agreement is negotiated under the WRA to replace them.

Currently Council employees are covered by a variety of terms and conditions of employment provided through the following industrial instruments:-

- Port Stephens Council Notional Agreement Preserving Local Government (State) Award 2004
 - Council agreements covering Librarians and Beachside Holiday Parks
- Port Stephens Council Notional Agreement Preserving the Local Government (Electricians) State Award

- Port Stephens Council Preserved State Enterprise Agreement for Section Managers
- Common law contracts of employment
- Policies and Management Directives

Referral Agreements

The USU, LGEA and DEPA, requested Council sign two Referral Agreements, one for unfair dismissal and the second for general disputes.

At its meeting on 26th September, 2006, Council deferred a decision on signing Referral Agreements until the future of the WorkChoices legislation was known following the High Court appeal. In general terms the purpose of referral agreements is to enable industrial organisations and employers to use the New South Wales Industrial Relations Commission for the resolution of workplace disputes and unfair dismissal claims. The authority for the referral agreements arises from Section 146A of the Industrial Relations Act 1996 which was an amendment introduced by the New South Wales State Government by way of response to the Commonwealth Government's WorkChoices reforms.

AGREEMENTS IN THE CURRENT LEGISLATIVE ENVIRONMENT

Council is strongly committed to being an employer of choice. Being an employer of choice is about the structures a business has in place supporting its employee opportunities, wellbeing and company values.

It is not possible for Council to achieve employer of choice status without negotiation of a Council specific agreement with its staff. A 'one size fits all' approach to workplace agreements does not support this commitment to excellence.

Also, there are no more pay increases available under the NAPSA except for those provided through the Australian Fair Pay Commission ('AFPC') review process. The last decision of the AFPC was handed down on 5 July 2007.

On 18th May 2007 LGSA released a WorkChoices Update circular, further clarifying choices available for Councils in the current legislative environment as outlined in **ATTACHMENT 1**

On 22 May 2007 the USU wrote to Council with options supporting the LGSA release on current options for agreements. These were:-

- A moderate interim wage increase and if there is a pressing need to reach agreement on an issue or issues covered in the NAPSA, negotiation of a Council Agreement
- A Common Law Deed
- An Unregistered Agreement
- Referral Agreements

Agreement to any of the above will receive USU endorsement with their members.

Impact of Current Federal Political Environment

It is possible that the legislation may change in the new year following the Federal election if the Labor party is successful at the next election, due in November 2007.

MINUTES FOR ORDINARY MEETING – 28 AUGUST 2007

The Unions, in particular the USU, are strongly against the negotiation and registering of an agreement in the Federal system prior to the election for the following reasons:

- They do not recognise the coverage of Council's under the WorkChoices amendments
- They believe that a Labor government will be able to institute substantial change to the legislation which may see local government back in the State system.

It is possible that any change in the legislation will not have a smooth path through the Senate and unlikely that these changes, if passed, would be in operation prior to the middle of 2008.

Matter Before Federal Court

There is little doubt that Council is covered by the WorkChoices amendments. However, further clarification may be available following the outcome of the Australian Workers Union case against Etheridge Shire Council to the Federal Court. This is as a test case to challenge the assertion that local councils should be considered trading corporations for the purposes of WorkChoices.

Some legal experts however say that this case may not ultimately serve as a straightforward test case for the local government sector's exposure to WorkChoices because Etheridge Shire is a small rural municipality. This may mean that it is ultimately not truly representative of many other councils.

The status of this decision as a test case would be bolstered if it reached the High Court.

The court case between the Australian Workers Union and Etheridge Shire is currently before the Federal Court.

Senior Management Team Position

On 28th February 2007 the Senior Management Team held a Workshop to discuss the preferred options in relation to the negotiation of a range of workplace agreements that recognise the value of our staff and which meet both organisational and employee expectations

The preferred options identified for the workshop were:-

- Australian Workplace Agreements
- Employee Collective Agreements
- Union Collective Agreements

There was a general level of satisfaction with options chosen, while emphasising the amount of time involved in developing future agreements.

Following this Workshop a further meeting was held with the Senior Management Team on 9 May 2007 to discuss current issues with the NAPSAs.

Items requiring attention were identified at this meeting. The overall conclusion of the meeting was a recommendation to negotiate a Port Stephens Council specific Workplace Agreement.

It was recognised that negotiating a Port Stephens Council Agreement provides the opportunity to clarify a number of workplace issues. Further, there is a range of work and family friendly and extra benefit clauses that can be tailored to an Agreement. A number of these have been identified as recommendations by our focus teams and the discussion paper on the workforce plan, plus our existing flexitime arrangements.

In addition, we are currently reviewing a range of employment conditions. This includes agreement from the Executive Team that Expressions of Interest will be called for a comprehensive review of the current remuneration and reward system within the organisation. The Organisation Development Section is also undertaking a well-rounded review of all employment conditions including HR Management Directives and the bonus system as part of this exercise.

Workplace Agreement Committee

In order to negotiate a truly representative and progressive collective agreement, Council should create a working party which is representative of the various types of workers within Council.

Members of the working party would nominate and be elected by a general ballot across the entire organisation. Any member of staff would be eligible to nominate, providing they are representative of the category in which they are nominating.

All Unions would also be invited to have a representative on the Workplace Agreement Committee to ensure Union members views are adequately represented, a Management Representative would be appointed and the Human Resource Manager would also be a permanent member of the WRC. An independent Chair would be appointed with the agreement of the Committee.

Communication Strategy and Timeline

ATTACHMENT 2 outlines the Communication Strategy and Timeline for the negotiation and implementation. Please note that it is intended to report back to Council at the relevant milestones throughout negotiations.

LINKS TO CORPORATE PLANS

One of the key result areas in our Council Plan is “Our People” – Goal 19

“Enhance Council’s ability to attract and retain quality staff”

And

“Provide systems to allow all staff to enjoy a safe and healthy working environment and support their wellbeing”

FINANCIAL/RESOURCE IMPLICATIONS

It is difficult to estimate potential financial implications at this point. During the negotiation period the process will consume HR Resources and will also necessitate staff involvement, therefore there will be cost implications in the short term for long term sustainability and efficiency.

LEGAL AND POLICY IMPLICATIONS

Council has sought and received independent legal advice that confirms that Port Stephens Council is a “constitutional corporation” and is therefore bound by the federal government’s WorkChoices legislation.

Council has until March 2009 to either enter into Collective Agreements or to move to a federal award which will only provide minimum terms and conditions of employment.

AUSTRALIAN BUSINESS EXCELLENCE FRAMEWORK

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 4) To improve the outcome, improve the system and its associated processes
- 5) The potential of an organisation is realised through its people’s enthusiasm, resourcefulness and participation
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 11) Sustainability is determined by an organisation’s ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The negotiation and implementation of a Workplace Agreement will provide Social Sustainability within our workforce as well as the wider community.

ECONOMIC IMPLICATIONS

Council is one of the larger employers in the LGA and contributes via wages approximately \$15 million per annum to the economy.

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Consultative Committee
Development and Environmental Professionals' Association
Senior Management Team
Local Government and Shires Association
Local Government Engineers Association
United Services Union

MINUTES FOR ORDINARY MEETING – 28 AUGUST 2007

Sparke Helmore Solicitors

OPTIONS

1. Pay an interim wage increase in 2007 and 2008 and maintain the current arrangements under the NAPSAs and PSA (up until March 2009).
2. Negotiate a Council Agreement under the NAPSAs (which could remain in place until March 2009).
3. Negotiate a specific Port Stephens Council Employee Collective Agreement (without union involvement).
4. Negotiate a specific Port Stephens Council Union Collective Agreement.

ATTACHMENTS

1. Options Available to Council as advised by the LGSA's Circular dated 18 May 2007.
2. Communication Strategy and Timeline.

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

1. STATUS QUO

This option involves maintaining the terms and conditions of employment in the relevant NAPSA or PSA and paying any wage increases handed down by the AFPC. Post March 2009 conditions of employment will not be prescribed by the NAPSA or PSA and will instead revert to the Australian Fair Pay and Conditions Standard ('AFPCS'). Salary increases will be subject to future AFPC decisions. It should be noted that the AFPC's decisions do not affect PSAs.

The AFPC made in July 2007 and addressed the Commission's key objective of promoting the economic prosperity of the people of Australia with regard to:

- The capacity for the unemployed and low paid to obtain and remain in employment;
- Employment and competitiveness across the economy;
- Providing a safety net for the low paid; and
- Providing minimum wages for junior employees, and employees to whom training arrangements apply and employees with disabilities that ensure those employees are competitive in the labour market.

The review included consideration of the impact of the Commission's first Minimum Wage Decision and changes to minimum wage rates affecting employees with a disability.

The Commission announced its decision regarding this review on 5 July 2007.

The decision has increased the standard Federal Minimum Wage and all Pay Scales up to \$700 a week by \$10.26 per week.

The Commission has also increased all Pay Scales paying \$700 a week and above by \$5.30 per week. Both increases apply from the first pay date on or after 1 October 2007.

This option would see Council not seek to implement an agreement prior to 27 March 2009. Conditions of employment under this option would continue to be set by the NAPSAs, existing Council Agreements and PSA for Section Managers.

Council would provide a moderate increase of CPI, currently 2.4%, on 1 November 2007 and 1 November 2008. The increase would absorb any Australian Fair Pay Commission decisions which may occur from time to time during the period.

Policies could be adjusted where appropriate but may be restricted by the NAPSAs conditions.

This option does not deliver any outcomes in relation to Council becoming an employer of choice nor does it address the Management Team's concerns and there is no opportunity for staff to be involved in any meaningful way with the outcomes of this option.

Section Managers will continue to negotiate their own employee collective agreement during this process which will set terms and conditions of employment specifically for them but which may not necessarily align with general agreement terms and conditions in the future.

2. REGISTERED WORKPLACE AGREEMENTS

If the object of negotiating a Council specific workplace agreement is to put into effect specific and strategic goals in relation to the long term regulation of the employment relationship, then a union collective agreement or alternatively, an employee collective agreement, is a practical option for establishing variations to conditions of employment, rates of pay and allowances that are formalised in an industrial instrument.

If a variation to this agreement is required in the future for specific positions because their seniority, specialisation or project basis, this can be achieved with the use of an Australian Workplace Agreement.

Variations to conditions of employment, rates of pay and allowances formalised in a workplace agreement are subjected to the new fairness test, which applies to agreements lodged on or after 7 May 2007 to be able to override the any current NAPSA or PSA conditions.

2.1 EMPLOYEE COLLECTIVE AGREEMENT

Given that the USU has expressed no desire to be involved in the negotiation of a union collective agreement under the WRA and they still do not recognise that Council is covered by the provisions of the WRA, one option for achieving a collective agreement would be to bargain directly with the staff and attempt to implement an employee collective agreement.

The advantages of this option are that Council has an opportunity to negotiate an agreement which can be in place for up to 5 years and all staff would be given an opportunity to genuinely participate in the process. It removes confusion in relation to which jurisdiction applies (State or Federal) and provides opportunities for moving to becoming an employer of choice and addressing all of the Management Team's concerns with the current agreements.

It has the potential to be highly disruptive for staff and have a negative impact on morale by creating divisions between those who are happy to negotiate directly with Council and those who wish to be represented by a Union.

Section Managers will continue to negotiate their own employee collective agreement during this process which will set terms and conditions of employment specifically for them but which may align with general agreement terms and conditions where appropriate.

2.2 UNION COLLECTIVE AGREEMENT

This strategy would see Council seek agreement of the Unions to begin negotiation of a union collective agreement, recognising that this process will take around 9-12 months to complete. This allows the jurisdiction argument for registration of the agreement to be dealt with at the end of the negotiation, following the Federal election in November 2007 and the outcome of any legal cases in relation to the applicability of the WRA to Councils generally.

By this time there should be clear direction on the jurisdiction which will apply and the Unions objections to the Federal jurisdiction, if it is still applicable, will have ceased either because there is now a Labor Government in power who have amended the legislation or because they will be forced to deal in the Federal system as the NAPSAs cease to exist.

Under this option, Council would agree initially to a CPI or AFPC increase (whichever is the greater) with an undertaking to back-pay any bargained increase to November 2007 following conclusion of negotiations and registration of the collective agreement in 2008.

The USU have indicated that any increase to rates of pay they would prefer to have secured under a Council Agreement under the current NAPSA. A copy of their draft agreement is attached to this report. They have also indicated that they are looking for a larger than CPI increase to be committed to by Council for the 1 November date. Indications are that a 3.5% would be acceptable and Council could agree to this on the basis that any efficiencies gained during the negotiation of the agreement would only apply to wage rates commencing from the date the agreement is actually registered. We would agree to increase rates during the life of this agreement in line with any State Award increases which may be made in the NSW jurisdiction.

This option delivers on Council's objective to become an employer of choice, potential for a 5 year agreement, addresses the Management Team's stated concerns and provides a genuine opportunity for all staff to be consulted and involved in the process. Whilst there may be some initial issues in negotiating the wage increase and gaining agreement to move forward, indications are that we will be able to negotiate an acceptable position for all parties. This option minimises the disadvantages surrounding the negotiation of an employee collective agreement as all parties have agreed to participate genuinely in the process under an agreed set of guidelines.

Section Managers will continue to negotiate their own employee collective agreement during this process which will set terms and conditions of employment specifically for them but which can be aligned with general agreement terms and conditions where appropriate.

3. COUNCIL AGREEMENTS UNDER THE NAPSA

This option will need to take the AFPC increases into account and it can not be sustained beyond 27 March 2009. Council agreements are creatures of NAPSA's and these cease to operate on 27 March 2009.

This option provides Council with an opportunity to partially address matters of concern.

A pay increase greater than CPI may be able to be delivered under this arrangement for a period of 2 years, providing sufficient efficiencies were delivered.

This option does not fully deliver in the areas of becoming an employer of choice or on the Management Team's concerns as it only partially addresses some issues. A council agreement under the NAPSA is not available for Section Managers as they are currently covered by a PSA. Policies could be adjusted where appropriate but may be restricted by the NAPSA's conditions.

Handled correctly, there are opportunities under this option for all staff to be involved in the consultation process and development of the agreement.

Council agreements are creatures of the NAPSA and so will still cease to exist in March 2009. A new agreement would need to be negotiated and in place by this date otherwise conditions would revert to the minimal Australian Fair Pay and Conditions Standards and Pay Scales under the WRA.

Section Managers will continue to negotiate their own employee collective agreement during this process which will set terms and conditions of employment specifically for them but which may not necessarily align with general agreement terms and conditions in the future.

4. COMMON LAW DEED

LGSA have received legal advice that the only people bound by the Deed and able to enforce the Deed in contract law would be the Union and Council. As such the obligations and benefits of the Deed would not be binding upon employees of Council.

By entering into a Deed, Council cannot vary an individual's existing contract of employment. In the absence of some specific authority from the individual concerned or some provision in the union's rules, then Council cannot vary an individual employee's contract of employment by entering into a Deed with the Union.

Even though Council has entered into a Deed, council will remain bound by the provisions of the Workplace Relations Act 1996, the provisions of the relevant NAPSA or PSA, the AFPCS and the rates of pay identified in the relevant APCS. A breach of the Act, NAPSA or PSA may attract a penalty fine of up to \$33,000.

The Deed does not preclude individual employees from bringing claims or proceedings other than in accordance with the Deed.

If Council were to execute a deed it would potentially expose itself to additional legal liability and the associated legal costs attached to such liability.

5. UNREGISTERED AGREEMENTS

The problems associated with this option are substantially the same as the objections to the common law deed option.

6. AGREE TO A MODERATE INTERIM WAGE INCREASE

This option involves granting of a CPI type wage increase by decision of the General Manager or a resolution of Council, while maintaining the terms and conditions of employment in the relevant NAPSA or PSA.

As with the status quo option, post 27 March 2009 conditions of employment will revert to the AFPCS. Salary increases for employees covered by a NAPSA will also be subject to future AFPC decisions. Under this option, Council will need to specify whether it intends to absorb AFPC decisions.

ATTACHMENT 2**COMMUNICATION STRATEGY AND TIMELINE**

It is essential that Council implement a comprehensive communication strategy to ensure that stakeholders are kept fully informed of developments with the Workplace Agreement and to minimise any negative publicity which could be generated during any negotiation process.

This strategy will include the following:-

Item	Delivery Timeline
Internal Newsletter Articles	Continuous through process and after implementation
Information Paper for Councillors	Distributed prior to consultation with staff.
HR Manager – Attend Section Meetings <ul style="list-style-type: none"> • Explain options • Answer questions • Update on progress • Receive feedback on preferred options from staff • Explain composition and operation of Workplace Agreement Committee 	July-August 2007
Management Team and Unions Meet	July 2007 to negotiate agreement for preferred option being put before Council
HR Manager and Unions Meet with Staff in series of Joint Meetings to Explain Council Decision and Expression of Interest for Workplace Agreement Committee circulated	September 2007 (following Council Decision) then regularly throughout negotiation process
Election of Workplace Agreement Committee and Commencement of Negotiations	September 2007
Workplace Agreement Committee Negotiations	October 2007- May 2008
Workplace Agreement Committee Members consult with Staff they represent on matters before Committee	September 2007 – May 2008
Agreement Put to Vote of Staff by Secret Ballot and Registered in agreed jurisdiction	June 2008
Agreement Commences	1 July 2008
Workplace Agreement Committee	Monitors implementation July 2008 to June 2009

GENERAL MANAGER'S REPORTS BROUGHT FORWARD

ITEM NO. 2

FILE NO: 16-2007-227-1

**POLICY IMPLICATIONS ASSOCIATED WITH DEVELOPMENT
APPLICATION FOR PLACE OF PUBLIC WORSHIP AT NO. 43
SHEARWATER DRIVE, TAYLORS BEACH**

REPORT OF: SCOTT ANSON – MANAGER –DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

Resolve not to support proposals for *places of public worship* that:

- 1) Do not achieve an appropriate level of on-site car parking resulting in undesirable impacts on the road network thereby compromising the efficient and coordinated development of the zone;
- 2) Potentially conflicts with other permissible uses in the zone such as *brothels* and other uses intended for the industrial zone (by Council resolution) such as *restricted premises* to be solely permitted within industrial zoned land;
- 3) Are retro-fit into existing built developments in the circumstance where the total existing floor space available for use by members of the congregation would need to be restricted to ensure the efficient and coordinated development of the zone;
- 4) Result in undesirable precedent being established with respect to:
 - the provision of on-site car parking;
 - the efficient and coordinated development of the zone;
 - undesirable land-use compatibility within the zone; and
 - the adaptive re-use of existing purpose built developments that have not been designed to properly accommodate proposed alternate/change of use.

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007

RESOLUTION:		
222	Cr Dover Cr Robinson	That Council express support for the Development Application for the place of public worship at no. 43 Shearwater Drive, Taylors Beach and request the Group Manager Sustainable Planning to bring forward draft Conditions of Consent to the next Council meeting in the event that Council determines to approve this application.

Councillors Dover and Robinson called for a division.

Those for the motion – Councillors Jordan, Hodges, Baumann, Dingle, Nell, Westbury, Dover, Robinson and Tucker.

Those against the motion – Councillors Francis and Brown.

BACKGROUND

The purpose of this report is to highlight to Council the policy implications for the approval of a significant carparking variation for a proposed place of public worship within the Taylors Beach Industrial Estate.

The applicant is seeking consent for a change of use from an approved industrial warehouse/medical centre/restaurant to a place of public worship/restaurant. The subject site is located within the Taylors Beach Industrial Estate which is zoned 4(a) Industrial General “A”. A place of public worship is permissible within this zone.

The applicant is proposing to use the medical centre component for Sunday worship services and the industrial building component as a weekday/weekend church hall with ancillary activities e.g. Kids’ Club, dance classes and the like. The upper floor is now proposed as offices, storage, lounge area and a meeting room. The restaurant, originally approved without restricted hours of operation, would remain as a restaurant use and would be available to lease to external parties.

LEGAL/POLICY IMPLICATIONS

There are significant policy implications for Council relating to this application. The key issues are summarised and discussed below:

Key Policy Issues

The key issues for development policy and precedent associated with the proposal are:

- 1) Variation to parking which is proposing more than fifty per cent (50%) of the parking to be located off site (on street parking).
- 2) Incompatibility with the zone objectives.
- 3) Potential statutory implications arising from current Council resolutions.
- 4) Future land use compliance issues.
- 5) Undesirable planning precedent.

Variation to carparking requirements

Under Port Stephens Council Development Control Plan PS2 – Parking and Traffic Guidelines (DCP PS2) the Schedule of Car Parking Requirements identifies calculation rates based on the use. A *place of public worship* requires the car parking rates to be determined on merit, whilst the other components of the building are calculated on floor space. An objective of DCP PS2 is to ensure that developments provide an appropriate level of off-street car parking. Council’s merit based assessment must also be satisfied that the proposed parking and manoeuvring arrangements are safe and practical. The combined

amount of car parking required for each component of the building as proposed totals 96.5 parking spaces.

Council's Development Control Plan PS2 – Parking and Traffic Guidelines (PS2) allows for 'combined use discounting' where a proposal has several components. Even allowing for certain components of the development to operate under restricted hours creates an overflow of parking onto the street on weekdays and on Sundays in excess of 50% (see car parking calculation table below).

The Traffic Impact Statement submitted with this application demonstrates that one space is currently required for every 1.8 persons attending the current Sunday services. This equates to 43.7 spaces for an 80 seat congregation assembling in the church auditorium. Only eighteen (18) vehicles can be accommodated on site if the restaurant and the other parts of the building are closed. There is currently no restriction on the hours of operation of the restaurant, so this creates an additional demand/conflict.

The carparking requirement for the church hall (dance class, kids' club and the like) is for 31.4 car parking spaces. The restaurant and church hall require 38.9 spaces in total if operated simultaneously.

The applicant originally chose to withdraw the weekday activities or locate them elsewhere, but has since returned to their original submission and requested the weekday activities to be considered.

The Taylors Beach Industrial Estate contains thirty nine (39) lots and currently just over fifty percent (50%) of the lots are developed. Of the lots developed, only two (2) lots currently restrict Sunday trading. This means that the remaining lots are permitted to trade on Sundays which may present a further conflict on Shearwater Drive in relation to traffic volumes and available overflow parking.

The applicant has provided an amended carparking plan showing eighteen (18) car parks on site. The following table identifies the number of original approved parking spaces, the activities proposed and the number of proposed parking spaces required for these activities.

MINUTES FOR ORDINARY MEETING – 28 AUGUST 2007

CAR PARKING CALCULATIONS

	Original approved parking spaces	Floor Area	Parking Generation	Parking Spaces required for seating/floor space	Sunday	Weekday and Saturday Afternoon ⁽⁴⁾	Weeknight
Café/Restaurant	7.5	50 m ²	15 spaces per 100 m ²	7.5	7.5 ⁽¹⁾	7.5	7.5
Church Auditorium (Sunday Worship Service)	4 (Medical Centre)	146 m ²	1 car per 1.8 persons ⁽²⁾ (Place of Public Worship)	43.7 ⁽³⁾ (80 seats)	43.7 Morning Service Evening service	0	n/a
Church Hall (plus Ancillary activities)	2 (Warehouse)	314m ²	1 space per 10 m ² (Place of Assembly)	31.4	0	31.4 Friday morning Play Group Wed afternoon Dance Class Saturday afternoon Kids Craft Club	0 No definite activities proposed.
Meeting Room/ Lounge (upstairs)	0 (Storage only for warehouse)	98m ²	1 space per 10 m ² (Place of Assembly)	9.8	0		9.8 Friendship group. Counselling
Lounge/Office (upstairs – excludes storage rooms)	0 (Storage only for warehouse)	41m ²	1 space per 10 m ² (Place of Assembly)	4.1	0		4.1 Friendship group. Counselling
				TOTAL 96.5	51.2 required 18 on site 33.2 on road	38.9 required 18 on site 20.9 on road	13.9 required 18 on site

⁽¹⁾ Café/Restaurant was approved with unrestricted hours of operation.

⁽²⁾ The calculation of parking spaces for Place of Public Worship is merit based. The Traffic Impact Statement shows '1 vehicle per 1.8 persons' is the actual vehicle generation.

⁽³⁾ Based on 80 seats (Note: Recent verbal advice from applicant suggests that congregation will total 70 persons maximum)

⁽⁴⁾ There are currently only two (2) lots with restricted hours of operation in this industrial estate.

Comment

The available car parking reflects the parking requirements for the current approved use which is predominantly industrial in nature based on existing floor space. When higher parking generating elements are introduced onto the site as proposed under the current application for a change of use, parking requirements quickly exceed the on-site capacity.

Even if Council considers accepting a parking concession to apply on Sundays only, weekday and Saturday parking provision requires greater than 50% of the required parking to be situated off site (Shearwater Drive). This situation is considered to generate conflicts with the efficient functioning of industrial zoned land. The primary role of industrial land is to provide for employment generating activities for the local government area.

Incompatibility with land use zones

The proposed land use is to be located within Taylors Beach Industrial Estate which is zoned 4(a) Industrial. A *place of public worship* is not prohibited within this zone. however the proposal does not appear to satisfy the objectives of the zone.

The objectives of the Industrial General “A” Zone are:

- (a) to enable the development of a wide range of industrial, service and storage activities and a limited range of business and retail activities, and
- (b) to allow industrial development only after comprehensive hazard analysis and risk assessment provide adequate safeguards designed to protect the surrounding environment and ecological balance, and
- (c) to regulate industries in proximity to urban localities and to ensure that adequate buffers are provided in the vicinity of adjacent zones, so that activities near the boundary of an adjacent zone will not have a significant detrimental effect on the amenity of that zone, and
- (d) to enable the most efficient and effective industrial development of waterfront industrial land by encouraging associated waterfront land uses sympathetic to the environment and ecology of the waterfront lands, and
- (e) to allow commercial, retail, residential, or other development only where it is associated with, ancillary to, or supportive of, industrial development, and
- (f) to limit development for the purpose of bulky goods salesrooms or showrooms, and
- (g) to encourage a high standard of design and amenity in industrial areas.

Specifically, *places of public worship* are inconsistent with the industrial zone objectives because the use is not development that is associated with, ancillary to, or supportive of industrial development. The current proposal introduces potential adverse impacts upon the existing industrial road network due to overflow car parking unable to be catered for on-site. Encouraging significant overflow car parking associated with this land use into a street utilised by industrial traffic gives rise to potential safety issues and wider consideration of safe paths of travel for pedestrians accessing the site.

The above issues raise significant concern for the efficiency and coordinated development of the industrial zoned land. Industrial zones provide an area of land for the purpose of

industrial activities and employment generation. The introduction of land uses that compromise, restrict or impede these core objectives should not be supported.

Potential Statutory Implications

Council has recently refused to consent to a *restricted premises* proposal within the Nelson Bay commercial area. On 26th September 2006 Council resolved to prepare a draft LEP amendment to make restricted premises, sex services and sex services premises prohibited in all zones in Port Stephens LEP except in industrial zones.

The purpose of the amendment was to restrict businesses of a sexual nature to industrial areas to avoid conflict with other sensitive land uses. *Brothels* are currently permitted with Council consent in 4(a) Industrial zoned land. *Restricted premises* are currently prohibited within 4(a) Industrial zoned land.

Council further resolved to require a report on other provisions that could be included in an amendment to Council's *Development Control Plan 2007* (DCP 2007) to restrict brothels/sex services premises and restricted premises proposed to be located in close proximity to churches, schools, residential properties and community facilities.

If Council were to approve a *place of public worship* within an existing industrial estate, it could undermine the intent of the above resolution designed to provide for restricted premises in the industrial zone. Alternatively, if the *place of public worship* was approved in the 4(a) industrial zone a *brothel* or *restricted premises* (subject to enacting the above mentioned Council resolution) could be located in close proximity to the *place of public worship*.

Future land use compliance issues.

The proposal is for a *place of public worship* to be retro-fit into existing purpose built development currently providing extensive floor space for, predominantly, industrial purposes.. The available floor space for use by members of the church congregation would need to be restricted. If this application was approved, a condition of consent would require the number of patrons using this site to be limited as the floor space available within this building would allow a greater number of patrons than the carparking spaces provided for on site. Compliance of such an arrangement would be difficult to practically achieve or enforce. The applicant has provided verbal assurances that any conditions of consent applied to the *place of public worship* would be met.

If approved subject to the above restriction to the number of patrons, this would result in an undesirable precedent being established with respect to the adaptive re-use of existing purpose built developments. Future alternative uses proposed for the site within the industrial area, or indeed within the local government area in general, would seek similar car parking concessions and the like to apply to their development proposals, in effect undermining the consistent application of Council's development controls.

Undesirable Precedent

If Council were to support a *place of public worship* in a partially developed industrial estate allowing less than 50 percent (50%) of parking on-site, this would set a significant precedent for the Port Stephens local government area. The development application is considered inconsistent with Council policy and is considered incompatible with the objectives of the 4(a)

Industrial zone. In addition, approval of the proposed *place of public worship* within 4(a) industrial land would be incompatible with Council's Draft LEP Amendment to make restricted premises, sex services and sex services premises prohibited in all zones in Port Stephens LEP 2000 except in industrial zones.

LINKS TO CORPORATE PLANS

This report relates to the following Goals of the Port Stephens Council Plan.

- G10 Attract new businesses that provide a new approach to economic sustainability.
- G12 Target future needs & work to retain the young people in the local government area.
- G16 Planning is integrated to provide clear direction that allows focus on achievements of organisational and personal goals.
- G17 Plan for sustainability and allow for balanced growth of our community.
- G18 All decision-making will be based on unbiased, well-researched data.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The social implications of this application are considered a key issue and have been identified and addressed in detail within the legal/policy section of this report.

ECONOMIC IMPLICATIONS

The proposal could impact on the efficient development of industrial zoned land which has been specifically identified for employment-generating activities within the Port Stephens local government area.

ENVIRONMENTAL IMPLICATIONS

The proposal is located in an existing approved development and would not involve the removal of any vegetation.

CONSULTATION

The application was exhibited in accordance with Council policy and there were no written submissions received, however two verbal submissions against the proposal due to lack of on- site carparking were received.

ATTACHMENTS

- 1) Locality Plan
- 2) Draft Carparking Plan

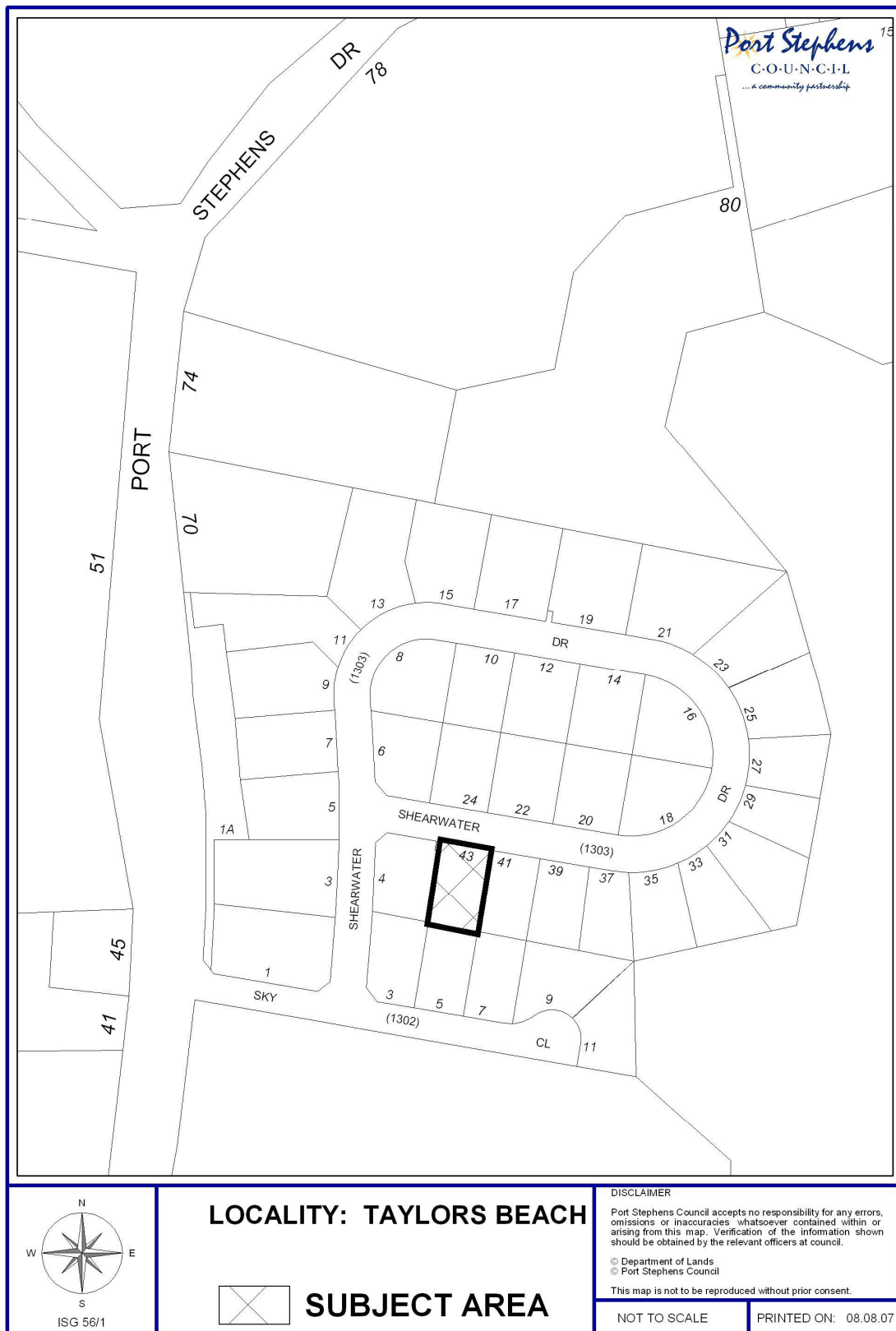
COUNCILLORS ROOM

Nil

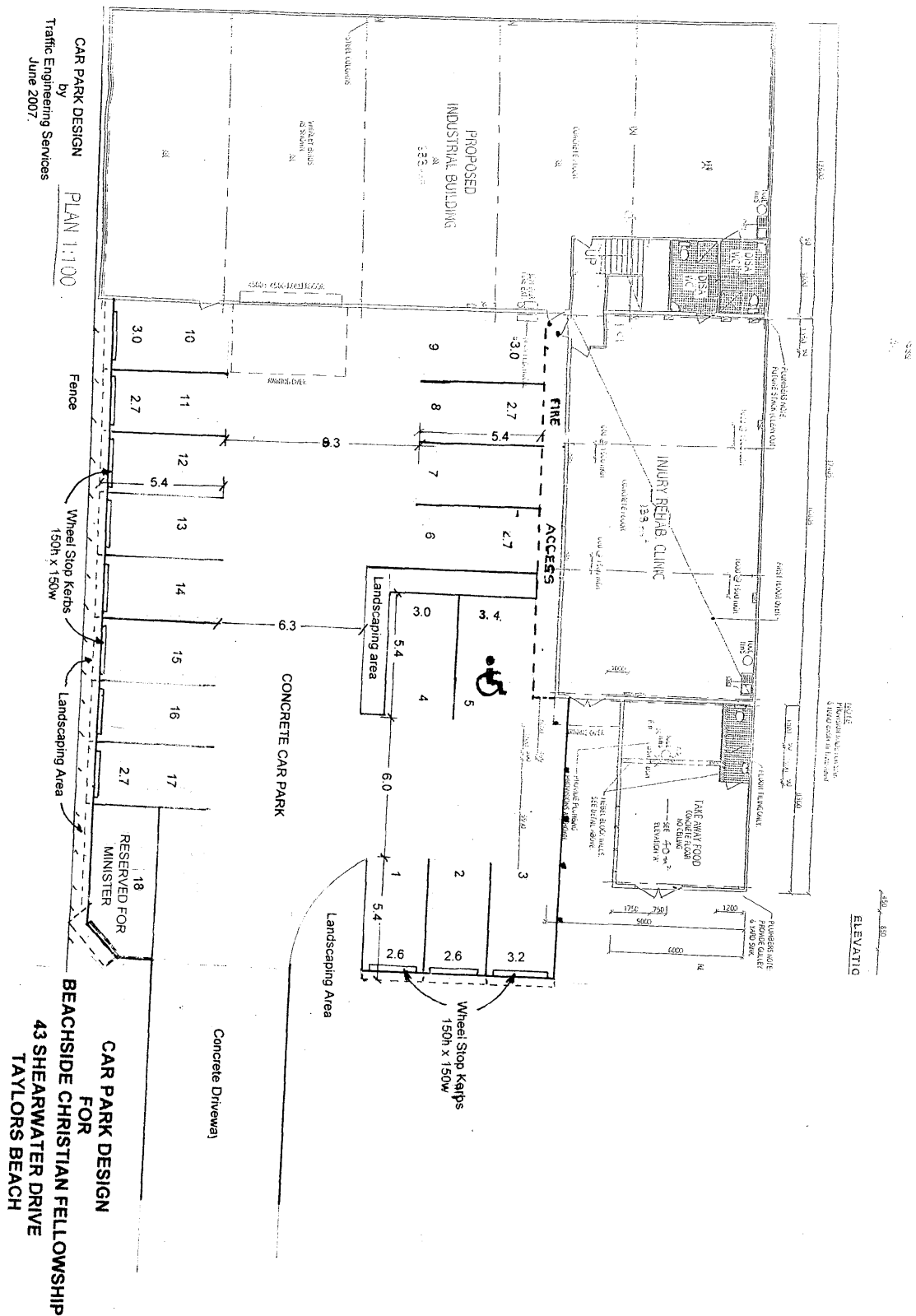
TABLED DOCUMENTS

Nil

ATTACHMENT 1 LOCALITY PLAN



ATTACHMENT 2 SITE PLAN



ITEM NO. 6

FILE NO: PSC 2006-0029

DRAFT MEDOWIE STRATEGY – ESTABLISH REVIEW PANEL

REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING

THAT COUNCIL:

- 1) Confirm the Review Panel membership.

Note: Council will be aware that this report was considered as a Mayoral Minute at the Ordinary Council Meeting on the 14th August 2007. At this meeting Council resolved that the report be brought back to Council at its meeting on the 28th August 2007 to approve the Review Panel membership. Those representatives elected from the draw from the hat on the 14 August 2007 were, including 3 reserve representatives:

- a) Ian Buhler
- b) R Belcher
- c) Christine Worthington
- d) Andrew Jeffreys
- e) C Ireland
- Reserve Representatives
- f) Russell Lunney
- g) Bob Stewart, and
- h) Lou Cassar

The membership is to also include a business representative from the Medowie community.

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007

RESOLUTION:

223	Cr Baumann Cr Hodges	THAT COUNCIL:
		<ol style="list-style-type: none"> 1) Confirm the Review Panel membership. 2) Mr. John Robinson be appointed as the Business Representative of the community of Medowie on the Draft Medowie Strategy Review Panel; and 3) Note the inclusion of Manager, Financial Services Jeff Smith on the Review Panel.

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007**MATTER ARISING:**

224	Cr Jordan Cr Nell	The Department of Planning be requested to be a member of the Medowie Review Panel.
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BACKGROUND

During the public exhibition of the draft Medowie Strategy (March/April 2007) Council officers made the undertaking that a Review Panel would be established to review the submissions made and make recommendations to Council's Community Planning Section to amend the draft Strategy. The Panel is to include nominated representatives of the local community and number between 5 and 10 persons.

Nominations for residents to be members of the Panel were accepted during community consultation and are placed before Council for 5 members and 3 reserve members to be randomly selected to participate in a two day program.

In its entirety, the Review Panel will consist of the following members:

- Medowie residents x 5
 - a) Ian Buhler (also business community representative)
 - b) R Belcher
 - c) Christine Worthington
 - d) Andrew Jeffreys
 - e) C Ireland
- Medowie Concerned Residents Action Group and the Medowie Progress Association x 1 each
- Urban Development Institute of Australia (UDIA) x 1
- Property Council of Australia (PCA) x 1
- Port Stephens Council Comprehensive Koala Plan of Management Steering Committee x 1
- Central Ward Councillors x 4
- Port Stephens Council Representatives:
 - Land use Planning – Paul Maher
 - Land Use Planning – Wal Mills
 - Environmental Services – Sally Whitelaw
 - Recreation Services – Jason Linnane
 - Engineering Services – Mick Loomes
 - Transport Engineer – Mark Morrison
 - Community Planning – Paul Procter & Trevor Allen

At the Operations Committee meeting on 14 August 2007, it was decided that a Medowie business representative be included in the Panel. The Committee discussed and agreed that if a community representative was selected who owned/ran a business in Medowie, then that person would be acceptable to be a business community representative. Ian Buhler fits this criteria and it is recommended that he be recognised as the business community representative on the Panel.

The Review Panel will consist of up to 22 persons. It will be facilitated by an independent person to be appointed by Council's Acting Community Planning Manager. Representatives from the Medowie Concerned Residents Action Group, Medowie Progress Association, UDIA, PCA and the Koala Plan of Management Steering Committee will be nominated by these organisations following Council's endorsement of the recommendations of this report.

All Panel members will be contacted subject to the outcomes of the August Ordinary meeting to confirm attendance and Review Panel program details.

REVIEW PANEL PROGRAM

The intended program for the Panel is as follows:

Proposed Day 1 - Wednesday 19 September 2007

Participants will be forwarded a summary of submissions to familiarise themselves with issues raised during public exhibition. The program for Day 1 will involve, but not be limited to:

- Discussion of submission content;
- Discussion on the integration of economic, environmental, social and cultural issues in sustainable planning and development;
- Discussion on balancing economic, environmental, social and cultural issues raised by the submissions relative to the proposed outcomes for Medowie identified in the draft strategy;
- Recommendations to amend the Draft Strategy.

Proposed Day 2 - Wednesday 14 November 2007

- Present revised draft Strategy to the Panel;
- Discussion on the level and appropriateness of proposed changes relative to outcomes of Day 1;
- Recommendations to progress Draft Strategy.

It is intended that a report will be submitted to Council's Strategic Committee in December 2007 detailing the results of the exhibition of the draft Strategy, including the process and outcomes of the Review Panel, and subsequent amendments to the Draft Medowie Strategy.

ITEM NO. 7**FILE NO: PSC2006-1627****DEVELOPMENT CONTROL PLAN 2007 – PROPOSED SAVINGS
PROVISION POLICY RELATING TO SINGLE STOREY DWELLINGS
ONLY****REPORT OF: DAVID BROYD - GROUP MANAGER, SUSTAINABLE PLANNING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Accept applications to vary the design controls for single storey dwellings that are contained in Port Stephens Development Control Plan 2007 for merit assessment and potential acceptance until 30 November 2007.
- 2) Enable merit assessment of such variations to be determined under delegation based upon the merit assessment and application addressing:
 - (a) That contracts and/or plans were committed by 31 May 2007 and that this is verified in a letter from the owner of the subject property;
 - (b) The Development Application is lodged on or before 30 November 2007;
 - (c) Variation to the design controls would be compatible with existing streetscape and some of the principles contained in the Port Stephens DCP 2007 and/or
 - (d) Amendments to submitted designs would have adverse consequences for other reasons, e.g. fulfilling BASIX, reducing private open space and other like reasons.
- 3) Note that the Group Manager – Sustainable Planning will consult further with the Housing Industry Association, Master Builders' Association and other representative organisations;
- 4) Note that a further report will be submitted to Council in November 2008.

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007**RESOLUTION:**

225	Cr Nell Cr Dingle	RECOMMENDATION IS THAT COUNCIL: <ol style="list-style-type: none">1) Accept applications to vary the design controls for single storey dwellings that are contained in Port Stephens Development Control Plan 2007 for merit assessment and potential acceptance until 30 November 2007.2) Enable merit assessment of such variations to be determined under
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		<p>delegation based upon the merit assessment and application addressing:</p> <ul style="list-style-type: none"> (a) That contracts and/or plans were committed by 31 May 2007 and that this is verified in a letter from the owner of the subject property; (b) The Development Application is lodged on or before 30 November 2007; (c) Variation to the design controls would be compatible with existing streetscape and some of the principles contained in the Port Stephens DCP 2007 and/or (d) Amendments to submitted designs would have adverse consequences for other reasons, e.g. fulfilling BASIX, reducing private open space and other like reasons. <p>3) Note that the Group Manager – Sustainable Planning will consult further with the Housing Industry Association, Master Builders' Association and other representative organisations;</p> <p>4) Note that a further report will be submitted to Council in November 2007.</p>
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BACKGROUND

The purpose of this report is to make recommendations to Council to clarify the transition to full implementation of the Port Stephens DCP 2007.

Port Stephens DCP 2007 was adopted by Council on 22 May 2007 and became effective on 31 May 2007 when the adoption was made public. A number of strong representations have been received from individual property owners having applications to develop single dwellings, builders and building companies that the design controls on single dwellings negate some existing commitments to plans and contracts. Hence there needs to be clarification to manage the transition of implementation of Port Stephens DCP 2007 in these terms. These representations include a letter that has been sent to all Councillors from a major house building company in the Lower Hunter.

LINKS TO CORPORATE PLANS

G5 – Provide for an increase in diversified, affordable and sustainable housing stock across the Local Government Area.

G17 – Strategy & Planning – Plan for sustainability and allow for balanced growth for our community

G21 – Innovation, Quality & Improvement – Council will facilitate improvement in every aspect of its operations.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

The recommendation seeks to retain the legal integrity and satisfy the planning and design intent of Council's recently adopted DCP 2007 and is limited to single storey dwellings only.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 6) Continual improvement and innovation depend on continual learning
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders
- 12) Senior leadership's constant role-modelling of these principles, and creating a supportive environment in which to live these principles will help the enterprise and its people to reach their full potential

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The social implications are in terms of ensuring fairness to applicants for single dwellings and building companies that may have invested substantially in committing to plans and contracts to build but the applications are incompatible with Port Stephens DCP 2007 controls. Hence,

Council needs to ensure fairness and credibility in managing the transition to implementing these controls.

ECONOMIC IMPLICATIONS

Single storey dwellings typically represent the entry point into the housing market for many people and representations received from owners and building industry representatives indicate that recommencement of or substantially amending plans would have significant cost implications for property owners.

ENVIRONMENTAL IMPLICATIONS

Enabling a transition of six months from initiation of the DCP may result in some visual /streetscape impacts that are less desirable, but this is considered to be a relatively low risk outcome.

CONSULTATION

Consultation has involved in-house reviews involving representatives from Development & Building and Community Planning in addition to conversations with customers and stakeholders representing owners and the building industry.

OPTIONS

- 1) Adopt the recommendation
- 2) Not accept the recommendation and apply the 31 May 2007 commencement date with strong compliance with Council's Port Stephens DCP 2007.
- 3) Amend the recommendation in terms of how such applications for variation may be submitted and assessed.

ATTACHMENTS

- 1) Chapter B6 of the Port Stephens DCP 2007

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1 CHAPTER B6 OF THE PORT STEPHENS DCP 2007

Port Stephens Development Control Plan 2007

B6 Single and Dual Occupancy Dwellings

B6.1 Where this part applies

This part applies to residential development proposals for single detached dwellings and dual occupancy dwellings.

Residential flat buildings or the residential component of mixed-use buildings should comply with the provisions of the Residential Flat Design Code and State Environmental Planning Policy for Residential Flat Buildings (SEPP 65).

B6.2 Site Analysis

A design and site layout for a new dwelling should be based on careful analysis of the site conditions and the relationship of the site to the street, to open space and to surrounding development.

DEVELOPMENT CONTROLS

- B6.C1 An application for a single dwelling must include a Site Analysis **plan** clearly showing the proposed development, the street and adjacent buildings.
- B6.C2 An application for dual occupancy dwellings must include a Site Analysis **plan** and a **street elevation** that clearly show the proposed development and its neighbouring buildings.
- B6.C3 The Site Analysis must comply with the format and content requirements as set out in Council's *Application Guide*.
- B6.C4 A development application must clearly state how the design of the proposed development has responded to the Site Analysis.

Note: Examples of acceptable Site Analysis plans and presentation are provided in the Application Guide

B6.3 Streetscape & Front Setback

Streetscape describes the collective appearance of the street (including trees, footpaths and roadway) and the frontage of all buildings facing the street (including gardens and fences). The streetscape gives a neighbourhood its character. It facilitates interaction between residents and the street and adds visual interest. Open verandas, porches and decks should be provided within the front setback area.

Low fences, visible front doors and front verandas or porches are all encouraged to support interaction between residents and the street, natural surveillance and development of visual character.



Figure B6. 1 Corner dwelling with return veranda and transparent fencing that overlooks both streets

PRINCIPLES

- B6.P1 Development should be of scale and appearance that reinforces the existing or the desired future character of an area.
- B6.P2 Development should be sympathetic to the existing context particularly where the development site has heritage significance or where development would have a visual impact on a heritage item or heritage conservation area.
- B6.P3 A dwelling should face the street and a corner dwelling should overlook both streets.
- B6.P4 Front setbacks should reinforce the local street pattern and include an open veranda, porch or deck where practicable.
- B6.P5 Development should provide easy and legible pedestrian access to the front entry of each dwelling.
- B6.P6 The design and location of garages, carports and driveway pavement should not be visually intrusive in the streetscape.
- B6.P7 Development should provide sufficient space for casual parking between the front boundary and the garage or carport to maintain good pedestrian access along the street.
- B6.P8 Dwellings adjacent to a public park, reserve or street should be designed to maximise natural surveillance.

Effective: 31st May 2007



B6-1

Port Stephens Development Control Plan 2007

B6 Single and Dual Occupancy Dwellings

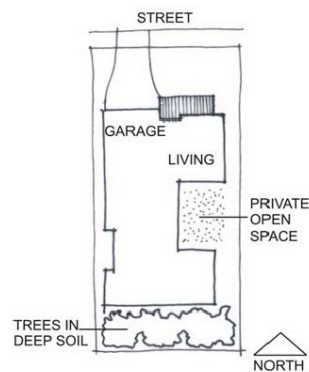
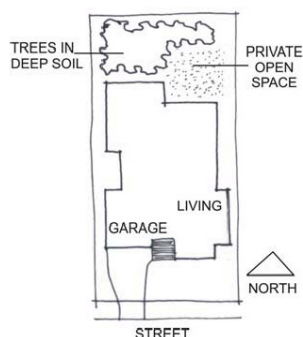
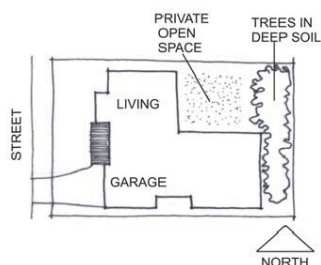


Figure B6.2 Site layout options for a single storey dwelling

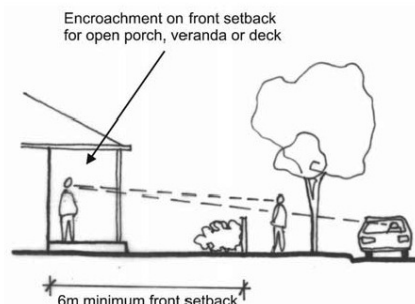


Figure B6.3 Dwelling design with front porch that allows surveillance to and from the street

B6.P9 Building, fencing and landscape design should allow mutual and natural surveillance of the street, front yards, and front windows and doors as shown in Figure B6.3.

B6.P10 Development on a lot with a slope from front to back should be split-level to avoid retaining walls on the street boundary.

B6.P11 Fence design should include clearly visible gates and entry points, and include articulated elements, recesses or detail panels to break-up otherwise blank sections.

B6.P12 Front fences should be compatible with facilities in the street frontage area such as mailboxes and garbage collection areas and allow easy access to public utility installations such as electricity and water meters.

DEVELOPMENT CONTROLS

B6.C5 Residential development must face the street and clearly distinguish public front and private open space in accordance with Figure B6.2.

B6.C6 On residential zoned land any external wall of a dwelling must be setback a minimum of 6m from the front property boundary. Council **may** approve encroachments in the front setback area up to 1.5m if the encroachment:

- Occupies no more than 50% of the building frontage; and
- Includes a deck, porch or veranda that is directly accessible from a habitable room.

Note 1: Encroachments for internal floor space only are not permissible within the front setback area.

Note 2: Where the established front setback pattern of dwellings in the street is less than 6m a reduced setback may be acceptable if it complies with Figure B6.3.

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B6.C18 For dual occupancy development, a fence must be provided on the common property boundary in the front private open space area separating both dwellings to distinguish separate dwellings and property.

Note: This fence on the common property boundary must comply with all other controls for front fencing.

B6.C19 Solid sheet steel fencing must not be used on any street boundary.

B6.C20 "Front to back" dual occupancy development without direct street frontage for both dwellings must provide access to both dwellings via the same driveway crossing at the street and a shared right of carriageway as shown in Figure B6.7.

B6.C21 The total width of garage doors and carports facing the street must not exceed 6m or 50%, whichever is less, of the total width of the dwelling(s).

Note: Development of 'side by side' dual occupancy dwellings with one double garage and one single garage would require a minimum site frontage of approximately 20m. Sites with smaller frontages would be limited to 2 single garages.

B6.C22 Driveway crossings within the public road reserve must be no more than 4m in width. Council may approve wider crossings only where safe vehicle manoeuvring could not be otherwise achieved.

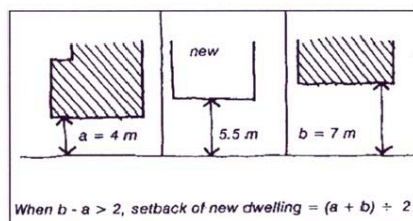


Figure B6.6 Front setback to fit existing street pattern

B6.C23 All garage doors must be setback:

- A minimum of 1.5m behind the adjacent alignment of the building frontage; or
- A minimum of 2.5m from the front alignment of deck or balcony overhanging the garage.

B6.C24 The visual impact of double garage doors must be reduced using plain panels and non-reflective light to mid-tone colours.

B6.C25 For dual occupancy, development must be separated by at least one habitable room and its window(s).

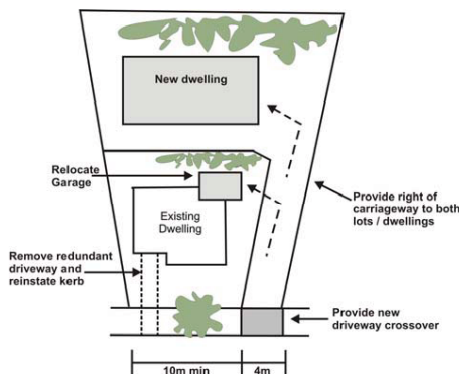


Figure B6.7 Access requirements for dual occupancy dwellings without direct street frontage

B6.C26 The visual impact of driveway pavement must be minimised using a combination of neutral paving materials, banding and detail elements, and landscape planting. Excessively dark or bright coloured pavement is not acceptable.

B6.C27 Driveway pavement within the road reserve must be standard broom finished concrete unless otherwise specified by Council.

B6.C28 Dual occupancy development must provide on the street boundary or boundaries any footpath or cycleway identified on Council's Footpath and Cycleway Plan.

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B6 Single and Dual Occupancy Dwellings

B6.4 Heritage

Heritage conservation is more than preservation or restoration of old buildings. It involves careful guidance and design to enable the re-use of heritage buildings without loss of heritage values or significance. Inappropriate alterations, substitution or removal of materials and details, enclosing verandas, unsympathetic colour schemes, poorly designed carports, garages and fences are major contributors to the deterioration of architectural heritage.

Heritage places rarely exist in isolation, whether they are a single item such as a tree, monument or building, or a large precinct such as a town centre or village. The setting for the heritage item includes all elements contributing to its heritage significance and is known as the heritage curtilage.

Unsympathetic development adjacent to a heritage item can have an adverse impact on its significance.

PRINCIPLES

- B6.P13 Development should retain and conserve non-indigenous and indigenous items, sites and places of cultural and heritage significance
- B6.P14 Development should conserve archaeological sites and places of Aboriginal cultural significance.
- B6.P15 Development should ensure preservation of the distinctive character of an area that is identified for heritage conservation or is valued by the community.
- B6.P16 Development should protect views to and from the heritage item or potential heritage item.
- B6.P17 Infill developments adjacent to heritage items, within a heritage conservation area, or visible from a heritage item should be sympathetic to the item in both scale and design.
- B6.P18 Building design should reflect the scale and form of dominant design features that contribute to the historic character of a streetscape.
- B6.P19 Development should retain existing remnants of heritage tree or avenue planting and provide additional planting in keeping with the site character.

DEVELOPMENT CONTROLS

B6.C29 For sites listed as a heritage item under Port Stephens LEP 2000, a comprehensive statement of heritage impact prepared by a suitably qualified person must be provided with the development application.

B6.C30 Development within the curtilage of a heritage item or within a heritage conservation area must be designed to retain and complement the heritage initiatives by using compatible building styles, colours and materials.

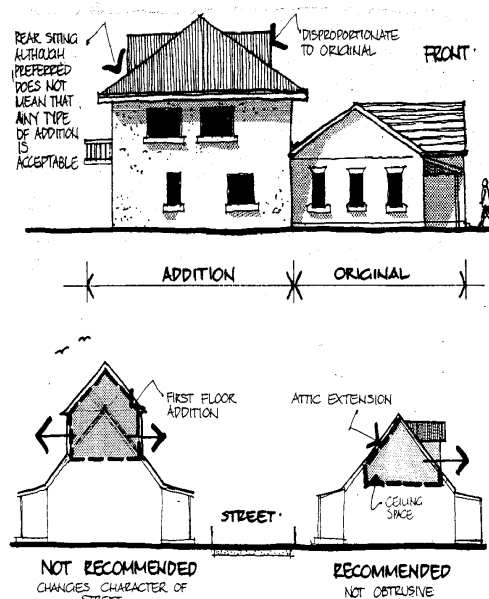


Figure B6.8 Additions to heritage buildings

B6.C31 Development adjacent to a contributory heritage building must reflect characteristic elements, materials and forms including; gabled and hipped roof forms, chimneys, vertically proportioned windows, wall claddings and single and double height verandas.

B6.C32 Development visible from a heritage item or in the Heritage Conservation Area must retain and enhance the streetscape elements that contribute to heritage character.

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Note: Where a site contains localised outcrops, hillocks or depressions, council may, at any point, approve greater variation to natural ground level.

B6.C36 In the 2(a) zone site coverage for residential development (including pervious or impervious paving areas) must not exceed 60%.

Note: See also requirements for minimum landscape area.

B6.C37 In the 2(c) zone the site coverage for residential development (including pervious or impervious paving areas) must not exceed 75%.

Note: For the purposes of site coverage calculations a minimum area of 15m² of impervious pavement will be assumed for any ground level principal private open space area.

B6.6 Cut and Fill

PRINCIPLES

B6.P24 The footprint and design of a new dwelling should relate to land form, and require minimal cut and fill.

DEVELOPMENT CONTROLS

B6.C38 A single slab on ground construction must not be used where the building footprint occupies a contiguous area with a natural grade greater than 1:10.

Note: For slopes greater than 1:10, a split-level slab on ground, or pier footings with lightweight flooring are acceptable alternatives.

B6.C39 Earthworks for cut or fill must not alter natural ground level by more than 1m at any point.

Note: Council may approve cut or fill in excess of 1m for localised knolls or depressions that are wholly contained within the site.

B6.C40 A batter slope must not exceed a gradient of 1:4.

B6.C41 The height of any retaining wall must not exceed 1.5m.

B6.C42 Retaining walls must be separated by a minimum distance of 2m in any direction.

B6.C43 Within 2m of the site boundary the height of a retaining wall must not exceed 750mm.

B6.C44 For dual occupancy development the Landscape Plan must include location, height and details of all retaining walls, including those required for stormwater purposes.

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Single and Dual Occupancy Dwellings

	ZONE	PRECINCT (where specified)	MINIMUM SITE AREA PER DWELLING	FLOOR SPACE RATIO	MAXIMUM HEIGHT
Dwelling- house	2(a), 2(c)	Unspecified Areas	500 m ²	0.5:1	9m
	2(a)	Hill Tops*	600 m ²	0.5:1	9m
Dual Occupancy Housing	2(a)	Unspecified Areas	300 m ²	0.5:1	8m
	2(c)	Unspecified Areas	250 m ²	0.5:1	8m
	2(a)	Upper Slopes*	500 m ²	0.5:1	8m
	2(a), 2(c)	Foreshore and Lower Slopes*	300 m ²	0.5:1	8m
	2(a), 2(c)	Town Centre Edge* Town Centre Housing* Wahgunyah Neighbourhood*	250 m ²	0.5:1	8m

Figure B6.10 Development Standards (see Port Stephens LEP 2000)

* localities within Nelson Bay West

B6.7 Building Height

Development standards for height are specified in the Port Stephens LEP 2000.

PRINCIPLES

B6.P25 Development should achieve a scale and height in keeping with the existing and desired future character of the street.

B6.P26 Development should enable sharing of views.

DEVELOPMENT CONTROLS

B6.C45 Development must comply with the standards for maximum permissible height as stated in Port Stephens LEP 2000.

B6.C46 Development in the Residential 2(a) zone must not exceed 2 storeys. Council **may only** approve loft spaces and dormer windows if they do not significantly alter roof design, roof pitch or building bulk, and do not cause adverse impacts on the privacy or amenity of neighbouring dwellings.

Note: Dwellings with a loft space must comply with overall height limit

B6.C47 A development application must include a site plan prepared by a registered surveyor, that clearly shows contours or spot levels over the extent of the site and at the boundaries, and shows the wall and ridge height of the buildings on each adjacent lot.

B6.C48 For any building of 2 storeys or more Council may require a survey of building heights as constructed that is prepared by a registered surveyor.

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B6 Single and Dual Occupancy Dwellings

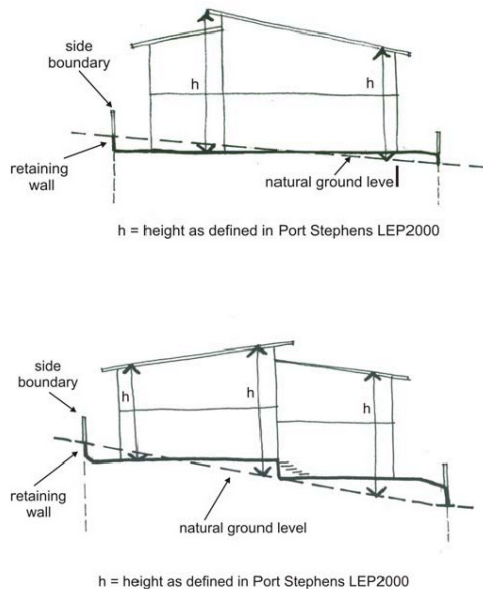


Figure B6.11 Maximum Building Height - the height of the building is measured vertically from the natural ground level, or finished ground level, whichever is the lower, to the corresponding highest point of the completed building.

B6.8 Side & Rear Setback

PRINCIPLES

- B6.P27 Development should allow adequate building setbacks for landscape planting, privacy, natural light and ventilation between dwellings.
- B6.P28 Development should maintain small views between dwellings by providing a larger side setback for the upper storey.
- B6.P29 Dwellings built to the boundary should maintain privacy for neighbouring dwellings and associated private open space.
- B6.P30 Residential development should provide a rear setback area for deep soil planting that is sufficient to meet BASIX requirements and to provide screening to neighbours at the rear.

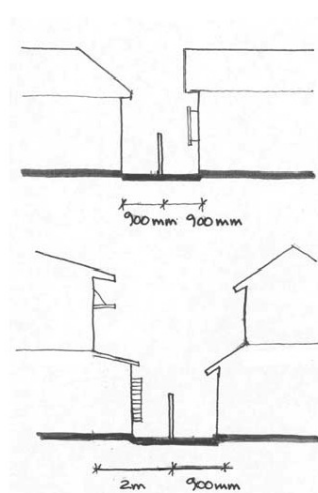


Figure B6.12 Side boundary setbacks

DEVELOPMENT CONTROLS

B6.C49 Any external wall of a dwelling must be setback a minimum of 900mm from the side boundary.

B6.C50 The upper level of a two-storey dwelling must be setback a minimum of 2m from the side boundary.

Note 1: Eaves and lightweight awnings and screens may encroach up to 1/3 of the depth of the side setback area.

Note 2: If more than half the area of an existing external wall is rebuilt the entire wall must be made to conform to setback controls.

B6.C51 Council **may** approve a dwelling built to a side boundary if:

- The maximum wall height is 3m and the maximum wall length is 6m and there will be no impact on privacy, use of private open space and solar access for adjoining properties;
- There are no openings unless such openings comply with the fire resistance levels of the Building Code of Australia (BCA) and are filled with translucent or opaque materials; and
- The wall height and length match a similarly constructed wall on the adjoining site.

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B6.C52 Development in 2(a) zone must be setback from the rear boundary a minimum of 2m for the ground level and 6m for upper levels, and must provide a single area of at least 50m² on the rear boundary that is reserved for tree planting in deep soil.

Note: Council may approve development to the rear boundary on lots zoned 2(a) that have rear lane access.

B6.C53 Development in a 2(c) zone must provide a minimum rear setback of 6m or 25% of the lot depth (whichever is the lesser) that is reserved for tree and landscape planting in deep soil as shown in Fig 6.13. *Design for sun access and protection*.

B6.C54 Development adjacent to a waterfront reserve must be setback a minimum of 4.5m from the reserve boundary. Council **may** approve encroachments up to 1m for access stairs and a lightweight structure to shelter a doorway.

DEVELOPMENT CONTROLS

B6.C55 Unbroken roof ridgelines must not exceed 10m in length and blank walls without a window must not exceed 5m in length.

B6.C56 Building design elements including window areas, awnings, balcony depths, screening elements, and rooflines must be used to provide good sun access and shade, privacy and views, wind shelter and natural ventilation. Unprotected glass 'curtain walls' are not acceptable.

B6.C57 The selection of colours and materials must be used to highlight the shape of building masses and detail elements. Single colour buildings are not acceptable.

B6.C58 Metal cladding used for external walls or roofing must have a permanent colour-treated finish applied at the time of production.

Note: Council **may** approve in-situ painting or bright steel finishes for heritage items.

B6.9 Building Design Elements

Building design elements such as 'stepping' or articulation of wall lines, window and door treatments, rooflines, materials and colours; all of which contribute to built character and street identity.

PRINCIPLES

B6.P31 Development should reflect street character through use of local design elements, materials and forms.

B6.P32 Building design should respond to context, sun orientation, views and breezes.

B6.P33 Building design should balance horizontal and vertical proportions, windows positions and openings on all building facades.

B6.P34 Façade design should use high quality materials and detailing.

B6.P35 Building design elements such as window areas, awnings, balcony depths, screening, and rooflines should respond to environmental conditions including sun orientation, noise exposure, overlooking, breezes and views.

B6.P36 Extensive glass areas that have a negative impact on privacy and energy efficiency should be avoided.

B6.10 Energy Efficiency

Energy efficient housing, using passive solar design, can provide residents with year round comfort and reduce total energy consumption for heating and cooling. Adequate daylight, natural ventilation and the avoidance of overshadowing to habitable rooms and principal private open spaces is beneficial for mental and emotional wellbeing, particularly for persons living alone and the elderly.

PRINCIPLES

B6.P37 The main indoor and outdoor living spaces should be orientated with major window areas facing towards the north and east.

B6.P38 West facing walls should be designed with windows fitted with appropriate awnings, louvres or shade screens, or sheltered by landscape planting.

B6.P39 Garages should be located on the southern and western sides of a dwelling to facilitate passive solar design and provide insulation from the western sun.

B6.P40 Building design should, wherever possible, include a north facing roof upon which a solar hot water system or collector could be installed.

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B6.P41 The internal layout of the dwelling and window locations should allow natural cross ventilation and cooling.

Note: Natural ventilation may be restricted for dwellings that are affected by aircraft noise.

B6.P42 Solar access to adjoining properties should be protected.

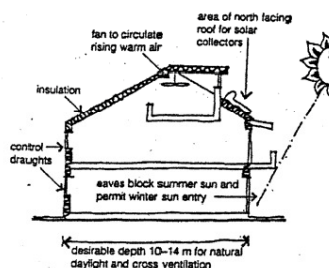


Figure B6.13 Design for sun access and protection



Figure B6.14 Winter sun in a north facing house.

DEVELOPMENT CONTROLS

B6.C59 Dwellings must comply with the requirements of Building Sustainability Index (BASIX).

Note: See www.basix.nsw.gov.au for further information.

B6.C60 For all development that is two or more storeys in height or where lot size, orientation, slope, scale or building setbacks create a potential for overshadowing of an adjoining property a shadow diagram prepared by a suitably qualified person must be provided. The shadow diagram must show existing shadows, and shadows created by the proposed building on adjoining residential buildings and their private open space.

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B6.11 Private Open Space

Private open space is a clearly defined area, designated for outdoor living.

PRINCIPLES

B6.P43 Private open space should be directly accessible from a main living area of the dwelling and suitable for relaxation, dining, entertainment, recreation and children's play as well as service functions.

B6.P44 Design of private open space should take advantage of sun access, any outlook or view and cooling breezes.

B6.P45 Design and location of private open space should protect the privacy of users and residents of adjoining properties.

B6.P46 Orientation of private open space should enable and allow comfortable year round use.

DEVELOPMENT CONTROLS

B6.C61 Development must provide at least 50m² of private open space per dwelling with the principal private open space having a minimum useable area of 35m² and a minimum dimension of at least 4m.

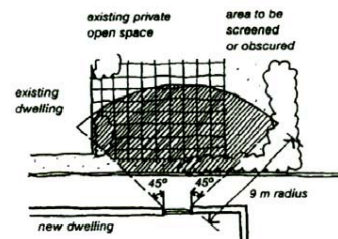
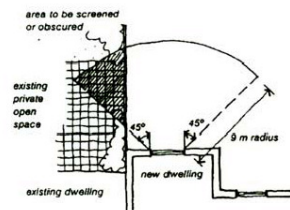


Figure B6.15 Screening for private open space

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Single and Dual Occupancy Dwellings

B6.C62 Narrow elongated areas with any dimension less than 4m, and driveways, carparking areas, and drying or service areas must not be included when calculating the area of private open space.

B6.C63 Where a dual occupancy dwelling has no living area at ground level development must provide a balcony, deck or terrace space of not less than 20m² and with a minimum dimension of at least 3m.

B6.C64 The principle private open space area must be directly accessible from the living area of the dwelling.

B6.C65 Private open space at the front of the dwelling facing a public street must be visible from the street to provide mutual surveillance.

B6.C66 Development of a single dwelling or a dual occupancy dwelling must not include a roof top terrace.

B6.C67 Development must provide a minimum of 2 hours sunlight to private open space of new dwellings between the hours of 9am and 3pm in midwinter.

B6.C68 Development must allow sunlight to at least 50% of the principle private open space of adjacent dwellings for a minimum of 2 hours between 9am and 3pm in midwinter. Where existing overshadowing is greater than this development must not further reduce sunlight access by more than 20%.

B6.P49 Windows, doors and private open space should be located to avoid direct and close views into the windows, balconies or private open space of adjoining dwellings.

DEVELOPMENT CONTROLS

B6.C69 Wherever possible balconies, private open space, and window or doors openings of habitable rooms, must be offset from balconies, private open space, and windows or doors openings (of habitable rooms) of adjoining dwellings.

B6.C70 Development must provide suitable screening where there is a direct line of site between neighbouring balconies or private open space, or window or doors openings of habitable rooms.

B6.C71 Dual occupancy development must provide a practical boundary between dwellings that avoids any adverse impacts on dwelling design, privacy, or amenity.

B6.C72 Equipment such as tank or pool pumps and air conditioners must be located and shielded to minimise the impact of noise on adjoining properties.

B6.C73 The windows of the main habitable rooms of a dwelling must be setback a minimum of 1.0m from a shared driveway or access way.

B6.12 Privacy and Amenity

The site analysis at the start of the design process should identify elements that will affect the comfort and liveability for new and existing residents, including views, sun access, local noise sources (such as aircraft noise levels, driveways, air conditioners and pool pumps) and potential overlooking to and from neighbours.

PRINCIPLES

B6.P47 Development should step with the natural contours of the site to minimise height and to allow the sharing of views with neighbours.

B6.P48 Building design should locate windows and walls to avoid noise sources from adjacent lots and the street.

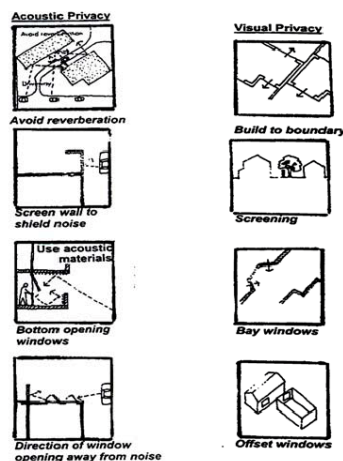


Figure B6.16 Design techniques to achieve visual and acoustic privacy (Australia's Guide to Good Design).

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B6.13 Backyard Fences and Walls

The design and location of rear and side fences (and low retaining walls if necessary) is important for protecting the useability and comfort of private open space.

PRINCIPLES

B6.P50 Development should ensure that rear and side fences and walls provide privacy, security and noise attenuation.

DEVELOPMENT CONTROLS

B6.C74 Side and rear fences must not exceed a height of 1.8m.

B6.C75 Side fences must not encroach on the front setback area of the dwelling.

B6.C76 Fences within the root zone of an existing tree must be constructed of lightweight suspended panels supported by posts with pier footings.

B6.C77 Retaining walls at the property boundary must be of masonry construction.

B6.14 Vehicular Access & Parking

Direct and efficient vehicular access and parking is required for all dwellings. The location and design of garages and parking areas can be accommodated into dwelling design to contribute to safe and attractive places.

PRINCIPLES

B6.P51 Development should provide convenient, accessible and safe parking to meet the needs of residents.

B6.P52 Development should provide for service vehicle access where necessary.

B6.P53 Development should avoid direct access from main or busy roads wherever possible.

B6.P54 Driveway design should avoid impacts of headlights and vehicle noise on neighbouring properties.

DEVELOPMENT CONTROLS

B6.C78 On-site parking must be provided at rate of 1 space for each one or two bedroom dwelling and 2 spaces for each dwelling with three or more bedrooms. No visitor parking is required.

B6.15 Stormwater & Greywater

Stormwater is rainwater runoff and is a valuable resource. Collection in a tank can offer an alternative source of non-potable water for toilet flushing, clothes washing, lawn and garden irrigation. Infiltration on site is important for groundwater recharge and can significantly reduce demand for garden watering.

Because stormwater often contains contaminants like oils, grease, detergents, fertilisers, weeds, sediments, pesticides or litter, management of water quality on any development site is important.

Greywater is domestic wastewater from laundries and bathrooms (excluding toilet waste) and is useful for toilet flushing and garden watering.

PRINCIPLES

B6.P55 Development should not adversely alter the quantity or distribution of stormwater flows leaving the site.

B6.P56 Development should not reduce the quality of surface or groundwater leaving the site in the short or long term.

B6.P57 Development should provide appropriate Erosion and Sediment Control Measures to minimise or eliminate point or diffuse sources pollution.

B6.P58 Development should maximise the potential for retention and use of stormwater and grey water within the dwelling and/or in the garden.

B6.P59 The existing topography and drainage pattern should be maintained wherever possible.

B6.P60 Wherever possible stormwater should be diverted away from parking areas, driveways, paths and other impervious areas towards stable vegetated areas to allow filtering and infiltration of water.

B6.P61 The final stormwater drainage system should be completed prior to the roof being installed. Temporary or permanent downpipes should be installed.

DEVELOPMENT CONTROLS

B6.C79 A statement must be submitted with any development proposal that addresses the flows (pre and post development) and the measures taken to ensure that stormwater is retained on site.

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B6.C80 Each allotment must be able to drain all roof water and impervious runoff, through the site's drainage system to the public drainage system (i.e. the street, easement or public pipes.), or by approval to a public area. The system must be 'gravity' drained. Pumping of stormwater is not permitted.

B6.C81 Dual Occupancy development sites without direct drainage to a public drainage system must have an easement through the down stream properties.

B6.C82 The developed site must provide an overland flow path for the 1% AEP storm event. The post development flows of stormwater generated from the development must approximate the predevelopment flows.

B6.C83 Roof and hardstand areas (such as paths, paving, decks and concrete driveways) must not exceed site coverage allowances.

B6.C84 All stormwater from downpipes, including the overflow from rainwater tanks, must be piped to the stormwater drainage system or to an infiltration trench.

B6.C85 Trenching for retention or infiltration must be designed by a suitably qualified person and must conform to Council's S136 standard specification and guidelines. Council **may** require on site detention or site infiltration designed for storm events up to the 1% AEP for particular sites or soil types.

B6.C86 Drainage systems must be designed to ensure safety and to avoid any potential for stormwater inundation of habitable floor areas.

B6.C87 The retention and potential reuse of stormwater must be achieved by a suitable combination of rainwater collection tanks, stormwater pits, underground tanks or landscaped swales.

Note: The amount of storage volume required is subject to detailed calculation, but may be estimated at approximately 17 m³ per 1000 m² of developed site area.

B6.C88 The design and use of infiltration devices, porous paving, retention trenches and other runoff controls must satisfy design and maintenance standards appropriate to the site conditions and soil type.

B6.C89 Water tanks for stormwater or roofwater collection must satisfy standards for installation, treatment, water reuse and impact on neighbours.

B6.C90 The treatment and re-use of greywater must comply with *NSW Guideline for Sewered Residential Premises (Single Households) Greywater Reuse* NSW Department of Energy, Utility and Sustainability.

B6.C91 An Erosion and Sediment Control Plan or a Soil and Water Management Plan must be provided in accordance with the requirements of *Managing Urban Stormwater*, Volume 1:2004.

B6.16 Landscape

Landscape planting can be used to create shade, enhance or frame views, provide privacy from surrounding buildings or roadways, provide habitat, protect from bushfire or enhance the local streetscape.

PRINCIPLES

B6.P62 Landscape planting should enhance the appearance and amenity of new development.

B6.P63 Landscape design should integrate development with the existing landscape features including natural landforms, watercourses, native vegetation and the streetscape.

B6.P64 Plant species selection and the location and maintenance of landscape plantings should ensure that access to sun and views is maintained on adjacent sites.

B6.P65 Landscape design should minimise water demand.

B6.P66 Indigenous species should be used when revegetating and landscaping development sites in close proximity to native vegetation and reserves.

B6.P67 Non-indigenous species should only be used when appropriate to the neighbourhood character and not listed as an environmental weed.

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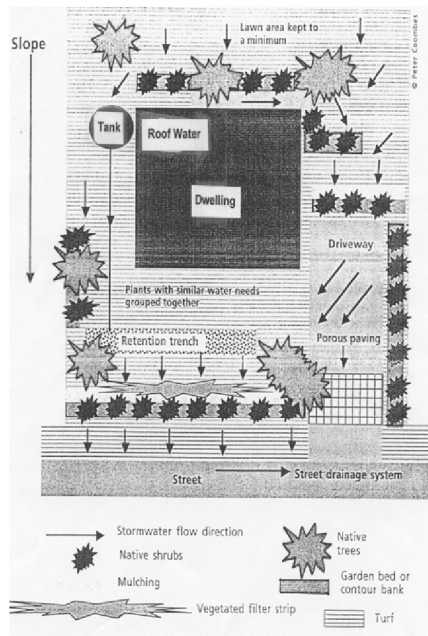


Figure B6.17 An integrated suite of stormwater management measures (Source: LHCOREMS)



Figure B6.18 Landscape planting appropriate to scale of development



Figure B6.19 Landscape planting inadequate for scale of development

DEVELOPMENT CONTROLS

B6.C92 Specimen trees, which are to be used for key elements in the landscape scheme, must be of a suitable species type and stock size that can achieve 50% of required shading in 5 years.

B6.C93 Landscape design must minimise site disturbance and incorporate existing natural features such as rock formations and significant trees.

B6.C94 All dual occupancy development must be accompanied by a Landscape Plan, prepared by a suitably qualified person, detailing the:

- Location, height and species of existing trees and vegetation, nominating those to be removed;
- Location, height and species of trees and vegetation to be introduced, including planting procedures and maintenance;
- Proposed method of protection of trees to be retained on site during construction; and
- Proposed earthworks including mounding and retaining walls.

B6.C95 Landscape planting must provide shade to unprotected windows and private open space on the northerly and westerly elevations in summer while allowing sunlight in winter.

B6.C96 Landscape planting must be tolerant of site conditions and adequately mulched in order to reduce demand for water, herbicides and fertilisers.

B6.C97 Landscape planting on top of stormwater structures such as tunnel trenches, pits and plastic cells (such as Atlantis or Ausdrain cells) must not have a mature height greater than 1.5m in height.

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B6.17 Site Facilities & Services

Site facilities and services such as such as garbage and recycling bin enclosures, mailboxes, clothes drying areas, external storage facilities that are well integrated into the development design are convenient for users but not visually intrusive.

PRINCIPLES

B6.P68 Site facilities, such as garbage and recycling bin enclosures, mail boxes, clothes drying areas, external storage facilities, exterior lighting and signage should be visually discreet, easy to maintain and efficient and convenient to use.

B6.P69 Essential amenities and communication facilities should be integrated within the residential design.

B6.P70 Adequate light should be provided to all pedestrian paths, shared areas and building entries.

B6.P71 Compatible public utility services should be co-ordinated in common trenching to minimise construction costs for underground services.

DEVELOPMENT CONTROLS

B6.C98 The provision of electricity and gas for new dwellings must be provided underground.

B6.C99 A garbage storage area must be provided that is readily accessible from within the site, screened from view of adjacent public place and neighbours. It must be provided with a water tap for wash down purposes and drained to connect to the sewer.

B6.C100 A mailbox must be provided on the street boundary and close to the main pedestrian entry to the front yard.

B6.C101 Street numbers must be clearly identifiable when viewed from the street.

B6.C102 An open-air area suitable for clothes drying and composting must be provided at the rear of the dwelling.

B6.18 Sheds

The size, location and appearance of sheds in residential areas can have an adverse impact on street character and neighbours' amenity.

PRINCIPLES

B6.C103 Sheds in a residential or rural residential area should be located and designed to minimise adverse impacts on street or landscape character, neighbouring amenity, and stormwater drainage.

B6.C104 Sheds in a residential area should be located and designed to retain deep soil planting areas and existing vegetation at the rear of the lot.

DEVELOPMENT CONTROLS

B6.C105 In residential 2(a) and 2(c) zones the floor area of a shed must not exceed 72m².

B6.C106 In residential 2(a) and 2(c) zones the height of the shed measured from the existing ground level to the eaves must not exceed 2.7m, and from existing ground level to the ridge must not exceed 3.6m.

B6.C107 In Rural Small Holdings 1(c2) 1(c3) 1(c4) and 1(c5) zones the floor area of a shed must not exceed 108m².

B6.C108 In Rural Small Holding 1(c2), 1(c3), 1(c4) and 1(c5) zones the height of a shed measured from the existing ground level to the eaves must not exceed 3.6m and from the existing ground level to the ridge must not exceed 4.2m.

B6.C109 A shed must be clad in non-reflective material with dark to mid-tone colour. Bright Zinalume® sheet steel (or similar product) is prohibited for wall and roof cladding.

B6.C110 A shed must be located a minimum of 1m from a side or rear boundary notwithstanding other requirements for minimum setbacks.

B6.C111 A shed proposal in a residential area must retain a minimum of 20% of the site area for deep soil planting.

Effective: 31st May 2007



B6-16

B6

Single and Dual Occupancy Dwellings

B6.C112 A shed proposal at the rear of a residential lot must provide shrub and broad canopy tree planting that effectively reduces the visual impact for neighbouring properties. The development application must include a landscape plan that clearly demonstrates in plan and section the scale and type of planting proposed.

B6.C113 Where landscape and tree planting is proposed to reduce the visual impact of a shed an application must include a landscape plan that clearly demonstrates in plan and section the scale and type of planting and the extent of screening that would be provided within 3 years.

Effective: 31st May 2007



B6-17

OPERATIONS COMMITTEE RECOMMENDATIONS

ITEM NO. 1

FILE NO: 16-2005-550-1

**DEVELOPMENT APPLICATION FOR A SERVICE STATION,
STORAGE UNITS, TWO INDUSTRIAL SHEDS AND DEMOLITION OF
EXISTING BUILDINGS AT NO. 40 AND 40A RICHARDSON ROAD,
RAYMOND TERRACE**

REPORT OF: SCOTT ANSON – MANAGER - DEVELOPMENT AND BUILDING

**THIS MATTER WAS BROUGHT FORWARD TO BE DEALT WITH
AFTER THE MAYORAL MINUTE**

ITEM NO. 2

FILE NO: 16-2007-316-1

**DEVELOPMENT APPLICATION FOR TWO STOREY DWELLING AT
NO. 480 HINTON ROAD, HINTON**

REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING

**THIS MATTER WAS BROUGHT FORWARD TO BE DEALT WITH
AFTER THE MAYORAL MINUTE**

ITEM NO. 3

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 9TH JULY, 2007

AUTHOR: TREVOR ALLEN, ACTING COMMUNITY PLANNING MANAGER

RECOMMENDATION IS THAT COUNCIL:

Adopt the recommendations contained in the minutes of the local Traffic Committee meeting held on 9th July, 2007.

OPERATIONS COMMITTEE RECOMMENDATIONS – 14 August 2007

RECOMMENDATION:

That the Recommendation be adopted.

MATTER ARISING

1. That the Traffic Committee review the issue of speeding in or around Tingarra Road, Spinnaker Way, Wallawar Road and Baker Drive.

RECOMMENDATION:

That the Recommendation and Matters Arising be adopted.

ORDINARY MEETING OF COUNCIL – 28 August 2007

RESOLUTION:

226	Cr Jordan Cr Nell	1. Adopt the Operations Committee Recommendation including the Matter Arising; 2. That Council support Transport Planning initiatives for speed reduction methods on existing roads in Port Stephens LGA; 3. That Council investigate funding in the 08/09 budget, for permanent speed cushions to replace temporary units at the end of trial phase.
------------	------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

BACKGROUND

The purpose of this report is to bring to Council's attention traffic issues raised and detailed in the Traffic Committee minutes and to meet the legislative requirements for the installation of any regulatory traffic control devices associated with Traffic Committee recommendations.

Inspections were conducted on 27th June, 2007. In attendance were Port Stephens Council's Technical representative, Port Stephens Council's elected representative, the Roads and Traffic Authority representative.

The Local Traffic Committee met at 9.30am on 9th July, 2007 in Council's Administration Building. In attendance were Port Stephens Council's Technical representative, Roads and Traffic Authority's representative, Port Stephens Council's Road Safety Officer, Port Stephens Council's elected representative, NSW Police's representative.

LINKS TO CORPORATE PLANS

The items referred to the local Traffic Committee, and the subsequent recommendations are linked to the current Council Plan 2007 - 2011. In Parts 5 and 7 of the Plan, the Local Traffic Committee contributes to the following directions and goals:

- 1) Provide programs and planning instruments that enhance the safety of individuals and the community whilst preserving social amenity and discouraging social isolation.
- 2) Providing good community planning and the development of quality infrastructure.

FINANCIAL/RESOURCE IMPLICATIONS

Council has an annual budget of \$41 000 (\$25 000 grant from the RTA and General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. The construction of traffic control devices and intersection improvements resulting from the Committee's recommendations are not included in this funding and are listed within Council's "Forward Works Program" for consideration in the annual budget process. The construction of traffic control devices and intersection improvements for items with a **SAFETY PRIORITY** (listed below) have a budget of \$ 25 000 (Safety Around Schools Program).

The local Traffic Committee procedure provides a mechanism to respond to and remedy problems in accordance with Council's "Best Value Services" Policy. The recommendations contained within the local Traffic Committee Minutes can be completed within the current Traffic Committee budget allocations and without additional impact on staff or the way Council's services are delivered.

SAFETY PRIORITIES

The installation of regulatory traffic controls or traffic control devices that are noted as having a Safety Priority shall be attended to before other works undertaken by Council. These works are generally of an urgent nature requiring immediate action.

There were no items with a Safety Priority at the meeting on 9th July, 2007.

LEGAL AND POLICY IMPLICATIONS

The local Traffic Committee is not a Committee of Council; it is a technical advisory body authorised to recommend regulatory traffic controls to the responsible Road Authority. The Committee's functions are prescribed by the Transport Administration Act with membership extended to the following stakeholder representatives; the Local Member of Parliament, the Department of Transport, NSW Police, Roads & Traffic Authority and Council.

The procedure followed by the local Traffic Committee satisfies the legal requirements required under the Transport Administration (General) Act furthermore there are no policy implications resulting from any of the Committee's recommendations.

AUSTRALIAN BUSINESS EXCELLENCE FRAMEWORK

This aligns with the following ABEF Principles.

- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 6) Continual improvement and innovation depend on continual learning
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

The recommendations from the local Traffic Committee aim to improve traffic management and road safety.

SOCIAL IMPLICATIONS

A safer road environment reduces costs to the Council and community by reducing the number and severity of accidents on our roads.

ECONOMIC IMPLICATIONS

Improved transport efficiency assists in the reduction in green house gases and vehicle operating costs.

ENVIRONMENTAL IMPLICATIONS

Transport efficiency and road user safety contribute positively to the quality of life for residents and visitors to Port Stephens. Improved road user safety distributes benefits to all road users including commercial and private motorists, cyclists and pedestrians. These benefits include improved accessibility, mobility and safer road environment.

CONSULTATION

The Committee's technical representatives are the Police, RTA, and Council Officers; they investigate issues brought to the attention of the Committee and suggest draft recommendations for further discussion during the scheduled meeting. One week prior to the local Traffic Committee meeting copies of the agenda are forwarded to the Committee members, Councillors, Facilities and Services Group Manager, Community Planning Manager and Road Safety Officer. During this period comments are received and taken into consideration during discussions at the Traffic Committee meeting.

No additional consultation took place as part of the business for the meeting of 9th July, 2007.

OPTIONS

- 1) Adopt the Recommendation.
- 2) Adopt specific item recommendations contained in the minutes of the local Traffic Committee and refer non-adopted matters back to the next meeting of the local Traffic Committee with suggested amendments.

ATTACHMENTS

- 1) The minutes of the local Traffic Committee meeting held on 9th July, 2007 are contained in ATTACHMENT 1.

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1
PORT STEPHENS LOCAL TRAFFIC COMMITTEE

INDEX OF LISTED MATTERS
AGENDA FOR THE MEETING TO BE HELD ON MONDAY 9TH JULY, 2007

- A. ADOPTION OF THE MINUTES OF 5TH JUNE, 2007**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- C. LISTED MATTERS**
 - C.1. WILLIAM STREET, RAYMOND TERRACE – CHANGE TO PARKING RESTRICTIONS FRONTING POLICE STATION & COURT HOUSE**
 - C.2. ADELAIDE STREET, RAYMOND TERRACE – REQUEST FOR NO STOPPING SIGNS AT ENTRANCE TO NURSING HOME**
 - C.3. PHILLIP ROAD INTERSECTION OF MEREDITH/TATHRA/BARINA STREETS – REQUEST FOR NO PARKING SIGNS**
 - C.4. MARTIN DRIVE, TOMAGO – REQUEST FOR NO PARKING SIGNS**
 - C.5. WILLIAMTOWN DRIVE, WILLIAMTOWN – REQUEST FOR NO STOPPING SIGNS**
 - C.6. BOTTLE BRUSH AVENUE, MEDOWIE – REQUEST FOR INSTALLATION OF TRAFFIC CALMING DEVICES**
 - C.7. GALOOLA DRIVE, NELSON BAY – REQUEST FOR INSTALLATION OF TRAFFIC CALMING DEVICES**
 - C.8. GYMEA WAY, NELSON BAY – REQUEST FOR INSTALLATION OF TRAFFIC CALMING DEVICES**
- D. GENERAL BUSINESS**

**LOCAL TRAFFIC COMMITTEE MEETING
ON MONDAY 9TH JULY, 2007
AT 9:30AM**

A. ADOPTION OF MINUTES OF MEETING 5TH JUNE, 2007

The minutes of the previous Local Traffic Committee Meeting dated 5th June, 2007 are yet to be adopted.

B. BUSINESS ARISING FROM PREVIOUS MEETING**C. LISTED MATTERS****C.1 WILLIAM STREET, RAYMOND TERRACE – CHANGE TO PARKING RESTRICTIONS FRONTING POLICE STATION & COURT HOUSE**

Raymond Terrace Police have requested Traffic Committee alter parking restrictions in the area of the Court House & Police Station for Court Staff and Police Vehicles.

REQUESTED BY: Raymond Terrace Police

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	No
ADDITIONAL	ATTACHMENT	No

COMMENT

- Existing No Stopping restrictions required for traffic signals.
- Existing No Standing Police Vehicles accepted
- Priority parking is not applicable to Court House Staff
- Adelaide Street has no time limit on parking

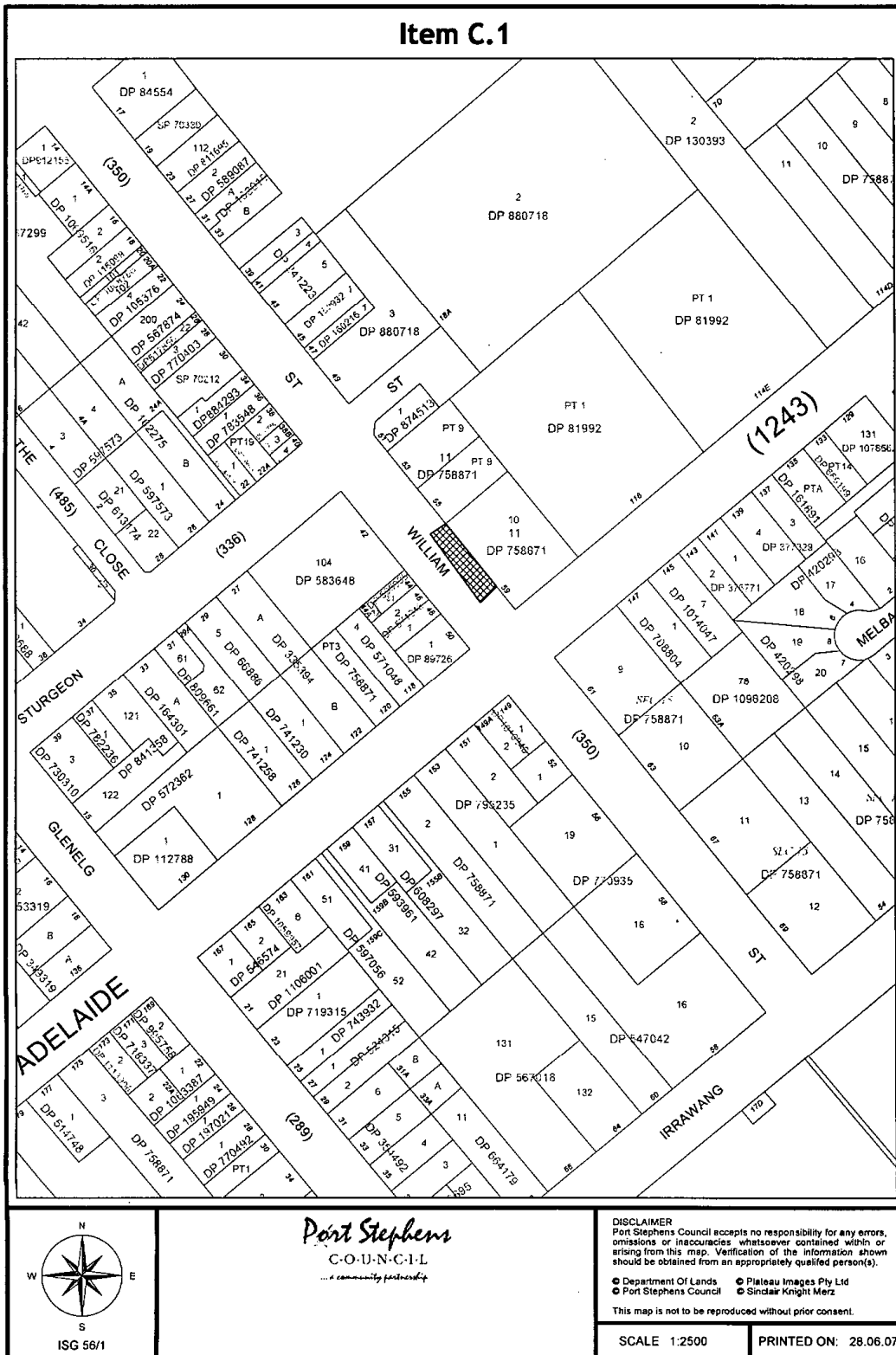
FILE PSC2005-4019

RECOMMENDATION

- No further action

ESTIMATED COST	N/A
FUNDING SOURCE	N/A

Item C.1



C.2 STURGEON STREET, RAYMOND TERRACE – REQUEST FOR NO STOPPING SIGNS AT ENTRANCE TO NURSING HOME

Cr Hodges has requested Traffic Committee assess the need for No Stopping signs at the driveway entrance to Raymond Terrace Gardens Nursing Home.

REQUESTED BY:	Cr Hodges	
CONSULTATION:	Nil	
INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No
COMMENT	Nil	
FILE	PSC2005-4019	

RECOMMENDATION

- No Stopping signs be provided 4 metres each side of the access driveways to Raymond Terrace Gardens Nursing Home.

ESTIMATED COST	\$200
FUNDING SOURCE	Traffic Facilities Budget

C.3 PHILLIP ROAD INTERSECTION OF MEREDITH/TATHRA/BARINA STREETS – REQUEST FOR NO PARKING SIGNS

A resident of Meredith Street has requested the installation of No Parking Signs in Phillip Road. Traffic parks up to the corner of this intersection blocking the vision of oncoming cars.

REQUESTED BY: Resident

CONSULTATION: Nil

INSPECTION **UNDERTAKEN** Yes

AGREE WITH REQUEST No

ADDITIONAL ATTACHMENT No

COMMENT Adequate parking available along the street and opposite

FILE PSC2005-4019

RECOMMENDATION

- No Stopping signs be installed on the northern side of Phillip Road 15 metres east of Bareena Street

ESTIMATED COST \$150

FUNDING SOURCE Traffic Facilities Budget

C.4 MARTIN DRIVE, TOMAGO – REQUEST FOR NO PARKING SIGNS

Hangel Transport have requested the installation of No Parking signs in front of their warehouse. Delivery trucks cannot enter without having to find people to move their cars.

REQUESTED BY: Hangel Transport Pty Ltd

CONSULTATION: Nil

INSPECTION **UNDERTAKEN** Yes

AGREE WITH REQUEST No

ADDITIONAL ATTACHMENT No

COMMENT Multiple driveways along street. Restriction placed at driveways would severely restrict parking all day. On street parking is high.

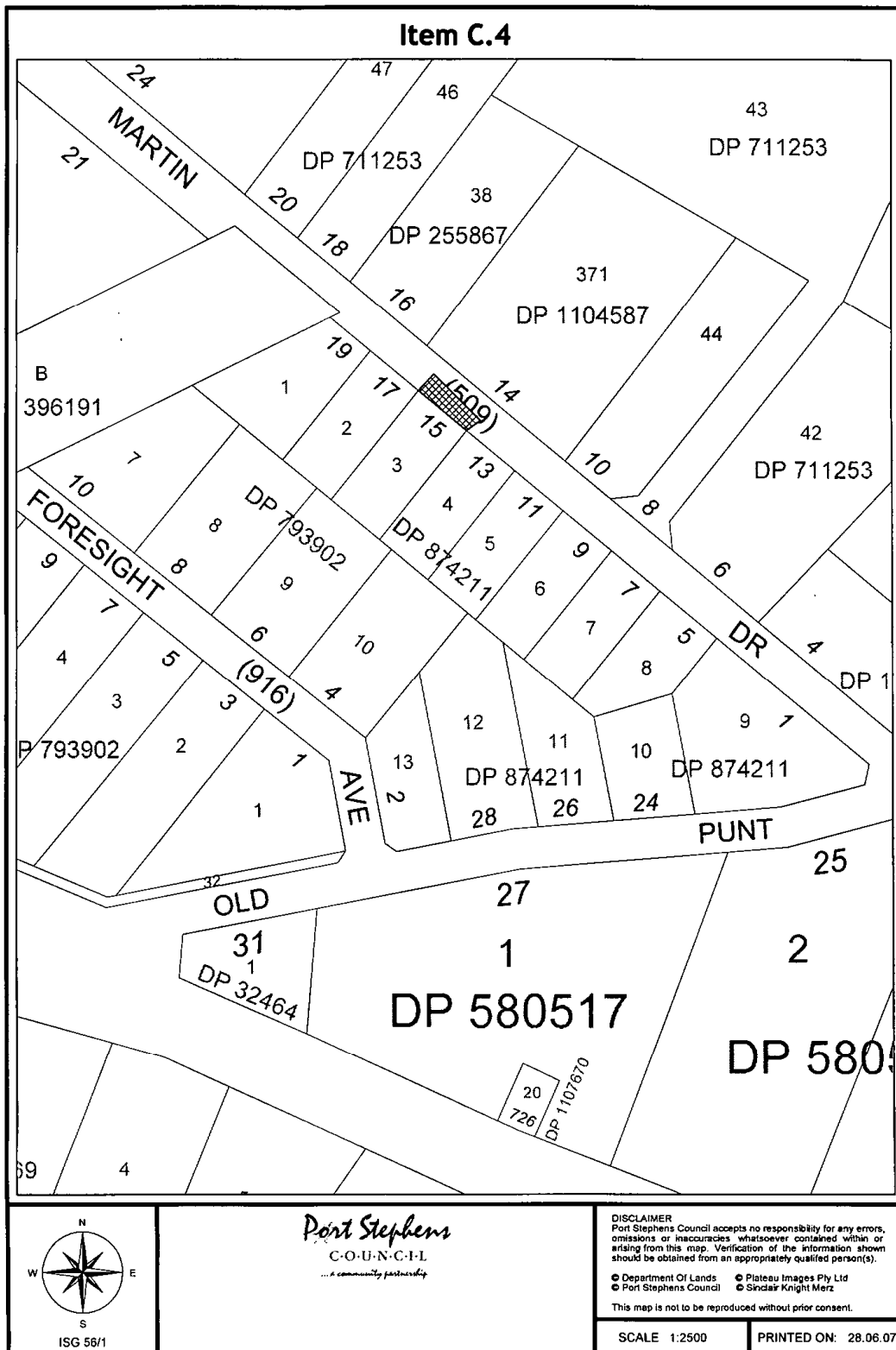
FILE PSC2005-4019

RECOMMENDATION

- No further action to be taken to provide parking restrictions on Martin Drive, Tomago.

ESTIMATED COST Nil

FUNDING SOURCE Nil



C.5 WILLIAMTOWN DRIVE, WILLIAMTOWN – REQUEST FOR NO STOPPING SIGNS

PSC Rangers have requested the installation of No Stopping signs on Williamtown Drive in the vicinity of the Metro Service Station. Hire cars park along both sides of Williamtown Drive near the exit of the service station, obscuring oncoming cars.

REQUESTED BY: Port Stephens Council Rangers

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT

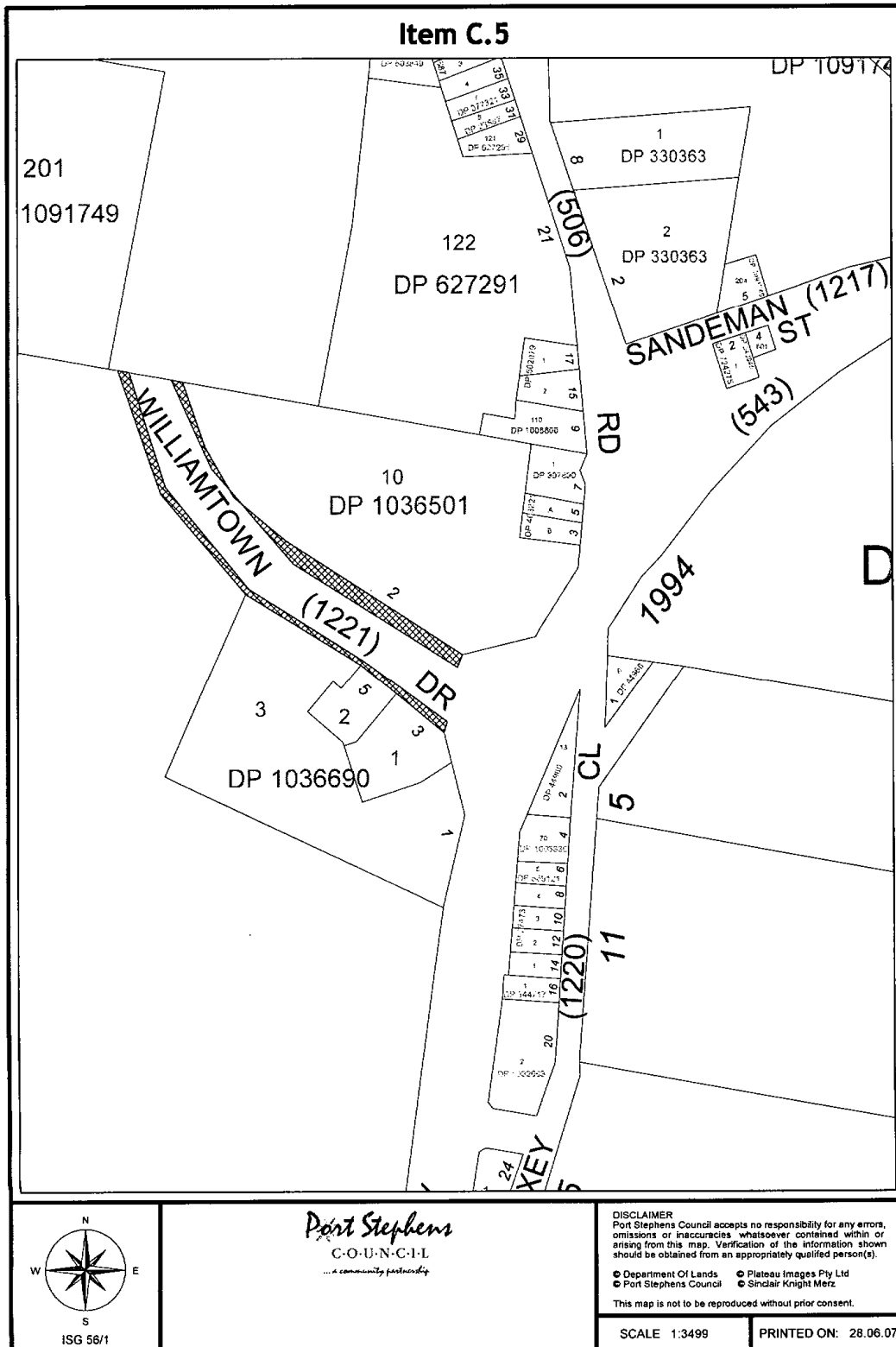
- There are no pedestrian paths from the road side connecting to the airport. Pedestrians are at risk by walking on roadway.
- Vehicles park in this area to avoid paying parking fees.
- Existing parking restrictions and line marking within the airport restrict parking area.

FILE PSC2005-4019

RECOMMENDATION

- No Stopping signs be provided from the existing restricted parking area south to Nelson Bay Road on both sides of Williamtown Drive.
- A single yellow edge line be provided on both sides of Williamtown Drive to match the length of the No Stopping zones.

ESTIMATED COST \$800
FUNDING SOURCE Traffic Facilities Budget



C.6 BOTTLE BRUSH AVENUE, MEDOWIE – REQUEST FOR INSTALLATION OF TRAFFIC CALMING DEVICES

A resident of Bottle Brush Avenue has requested the installation of speed monitoring equipment with the view to installing traffic calming devices in Bottle Brush Avenue. The volume of speeding vehicles presents a risk to the safety of pedestrians, many of which are school children.

REQUESTED BY: Resident

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	N/A
ADDITIONAL	ATTACHMENT	No

COMMENT

- There is no footpath in Bottle Brush Avenue. Pedestrians walk on road.
- Low traffic volumes on Bottle Brush Avenue.
- Footpath on western side is listed on Councils FWP.

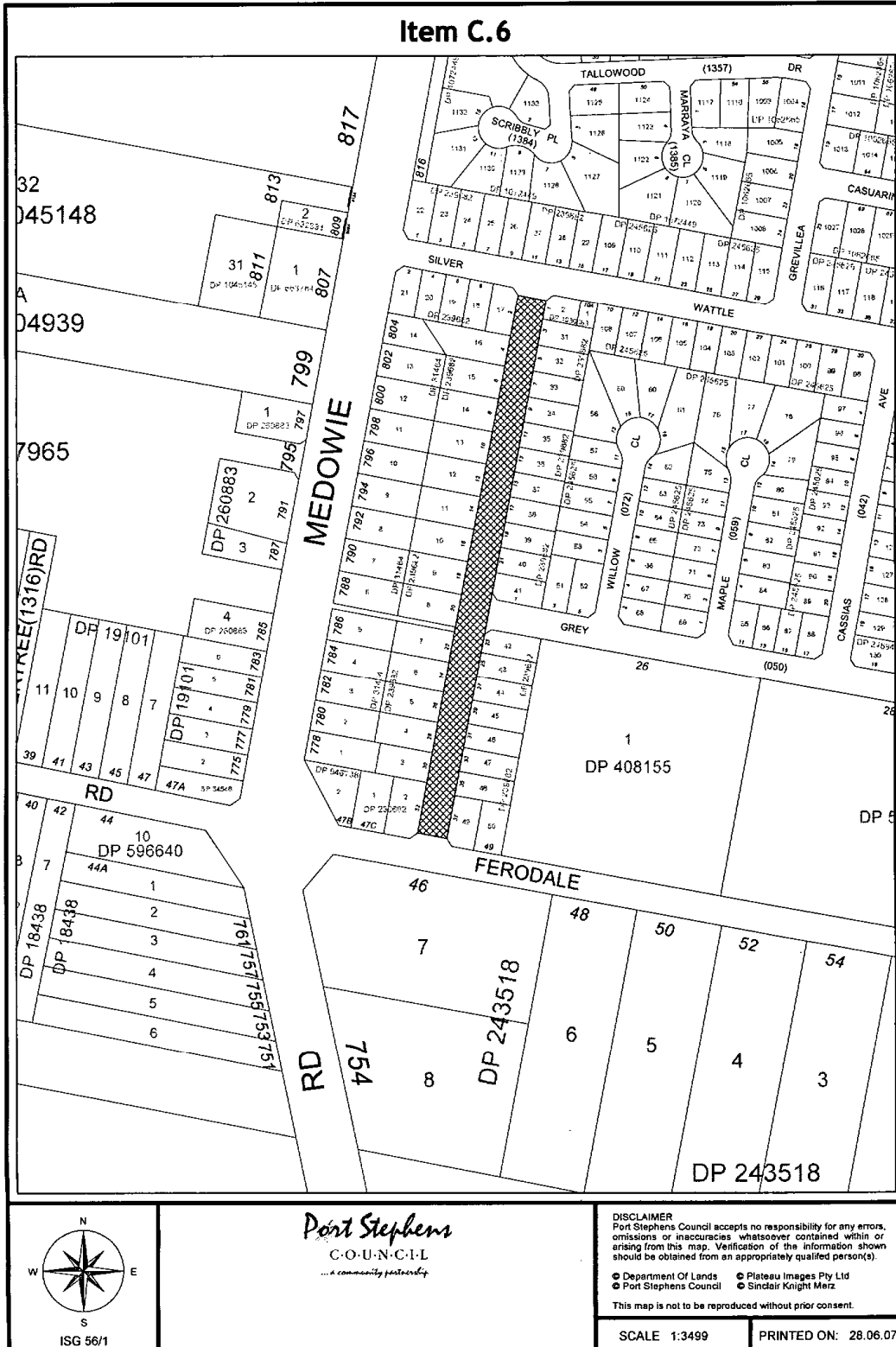
FILE PSC2005-4019

RECOMMENDATION

- A speed and volume count be conducted.
- List Bottle Brush Avenue on the Lower Hunter Speed Program run by Council.

ESTIMATED COST Nil
FUNDING SOURCE Nil

Item C.6



C.7 GALOOLA DRIVE, NELSON BAY – REQUEST FOR INSTALLATION OF TRAFFIC CALMING DEVICES

A number of residents of Galoola Drive have requested Traffic Committee investigate the volume of speeding vehicles on Galoola Drive.

REQUESTED BY: Galoola Drive Residents

CONSULTATION: Nil

INSPECTION UNDERTAKEN Yes

AGREE WITH REQUEST Yes

ADDITIONAL ATTACHMENT No

COMMENT

- Council is conducting further research with speed and volume counts to be undertaken. Council has identified a number of suitable locations for speed control devices, and will be included as part of Council Lower Hunter Speed Program.
- Police have concerns that speed humps may not be the best solution for all situations.
- As a part of the ongoing development process, various types of treatments will be investigated including chicanes and slow points.
- RTA to forward advice on preferred treatments for urban areas.
- LHS Program sets out to modify the speed culture, route selection and behaviours of the drivers on urban streets.

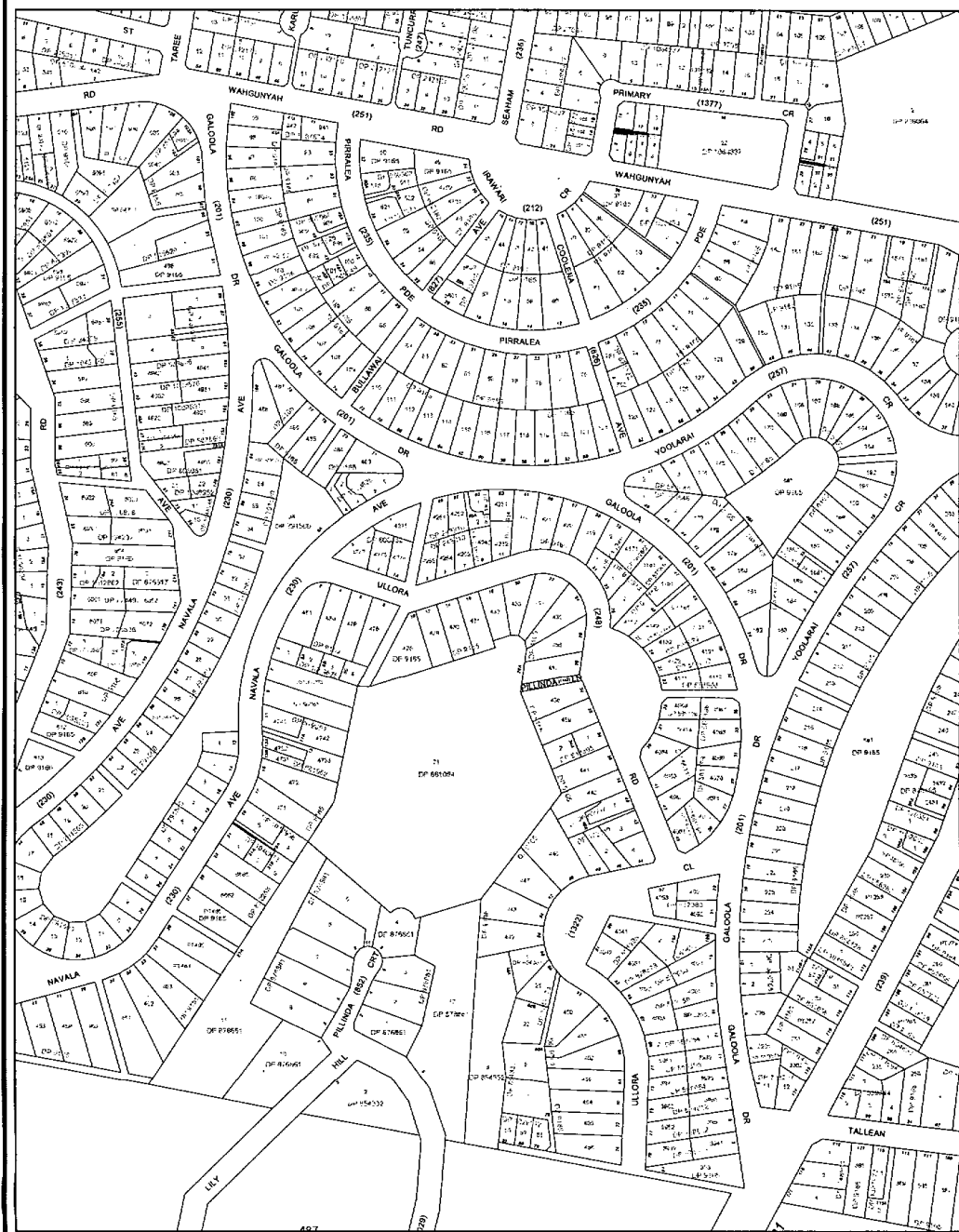
FILE PSC2005-4019

RECOMMENDATION

- The Committee endorse the inclusion in the Lower Hunter Speed Program.

ESTIMATED COST Nil
FUNDING SOURCE Nil

Item C.7



Port Stephens
C.O.U.N.C.I.L.
...a community partnership

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116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

C.8 GYMEA WAY, NELSON BAY – REQUEST FOR INSTALLATION OF TRAFFIC CALMING DEVICES

Cr Nell has requested traffic committee investigate restricting access or controlling speed on GyMEA Way adjacent to Tingara Road.

REQUESTED BY: Cr Nell

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	No
ADDITIONAL	ATTACHMENT	No

COMMENT

- GyMEA Way is a public street with a narrow pavement and very steep grade.
- Speed on this road is limited by the steep grades, narrow pavement and sharp curves.

FILE PSC2005-4019

RECOMMENDATION

- No further action be taken to provide speed control devices or to restrict access.

ESTIMATED COST Nil
FUNDING SOURCE Nil

ITEM NO. 4**FILE NO: PSC2007-2293****PROPOSED USE OF 393-397 TAREAN ROAD, KARUAH (OLD BP SITE) BY KARUAH WORKING TOGETHER INC.****REPORT OF: PHILIP CROWE, COMMUNITY & LIBRARY SERVICES MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the recommendation of the Executive Team to enter into a three (3) year lease of 393-397 Tarean Road (*known as the old BP site*) with Karuah Working Together Inc.
- 2) Develop a Partnering Agreement with Karuah Working Together Inc. in relation to the usage of 393-397 Tarean Road as a centre to promote community enterprise and services within the Karuah community.

OPERATIONS COMMITTEE RECOMMENDATIONS – 14 August 2007**RECOMMENDATION:**

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 28 August 2007**RESOLUTION:**

227	Cr Francis Cr Jordan	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to inform Council of an in principle agreement reached between Council and executive representatives of the Karuah Working Together Committee Inc. (KWT) regarding the usage of 393-397 Tarean Road, Karuah (*the old BP site*).

Following representations to the General Manager, the Group Manager, Facilities and Services and other staff, representatives of KWT were asked to bring to Council a proposal regarding the potential usage of the old BP site in Karuah as a community enterprise centre. This proposal was to include a detailed cost plan in relation to the restoration of the site to a state where it would be fit for the purpose of its proposed usage.

After undertaking consultation with the Group Manager, Facilities and Services and the Community & Library Services Manager a draft proposal was prepared by KWT, detailing potential usage and a costing plan. This plan was considered by the Executive Team at its meeting of July 4th 2007. The plan proposed a range of potential community usages of the

site and an investment of up to \$56,000 to undertake immediate remediation of the site to make it suitable for the occupancy for these proposed programs and services.

The proposal that the Executive Team endorsed involved the following;

That Port Stephens Council will:

- agree to lease 393-397 Tarean Road (*the old BP site*), Karuah to KWT for a period of three (3) years for a nominal lease fee;
- provide a sum of \$25,000 to assist with capital works associated with the restoration of the site and the building.

In return Karuah Working Together will:

- use its own funding sources of \$31,000 and with the \$25,000 financial support from Council, undertake the range of works identified to remediate the site and building so that it is fit for its proposed usage;
- complete negotiations with a number of community services and groups to take up occupancy and commence operations from the site;
- negotiate with Council a community lease with KWT taking responsibility for the operations of the centre for the three year period of the lease;
- develop a Partnering Agreement with Council in relation to the usage of the site as a community enterprise centre servicing the needs of the Karuah community.

The \$25,000 funding for the project will be reallocated through a review of existing budgets and programs.

LINKS TO CORPORATE PLANS

In accordance with the Council Plan, 2007-2011, under the **Social Sustainability** actions Council will preserve and strengthen the fabric of the community, building on community strengths and under the **Economic Sustainability** actions, Council will support the economic sustainability of its communities while not compromising its environmental and social wellbeing.

FINANCIAL/RESOURCE IMPLICATIONS

A budget review will be undertaken to allocate \$25,000 towards the range of capital works required to be undertaken at the site. KWT Inc. will enter an agreement to more than match Council's investment and this proposal will deliver improvements to the building and help preserve and improve this asset to the benefit of the local community and Council.

LEGAL AND POLICY IMPLICATIONS

Council can enter into a standard three year community lease with KWT. This proposal also fits with Council's Social Policy which states that Council will abide by and encourage the following principles and values;

Opportunity:

- An empowered community where there are opportunities for people to genuinely participate in community life and in decisions that affect their lives.
- A community where there are opportunities for potential community leaders to obtain and develop skills in community leadership
- A community where people can create opportunities to better themselves by participating in lifelong learning and by building upon their community's assets and gifts

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 4) To improve the outcome, improve the system and its associated processes
- 5) The potential of an organisation is realised through its people's enthusiasm, resourcefulness and participation
- 6) Continual improvement and innovation depend on continual learning
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

This proposal provides the opportunity for a community based organisation to actively participate in meeting the needs of its community and develop skills in community leadership. Further, this community enterprise model is an exciting initiative that could be used by some other communities in due course if this is appropriate.

ECONOMIC IMPLICATIONS

The proposal is designed to encourage local community enterprise and to take an existing community asset owned by Council that is currently in a state of deterioration and turn it into a focal point for the local community in the short to medium term. In the medium to long term the site could revert back to a full commercial site.

ENVIRONMENTAL IMPLICATIONS

This proposal will involve the remediation of the building and site including the removal of old septic tanks and the connection of the building to the sewerage system. There are no other specific environmental implications associated with this proposal.

CONSULTATION

Consultation has occurred with members of the Karuah Working Together Inc., the General Manager and the Executive Team, the Business Development Manager and the Social Planning Coordinator.

OPTIONS

- 1) Adopt the recommendations
- 2) Reject the recommendations
- 3) Amend the recommendations

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

FILE NO: 1454-01

WORKPLACE AGREEMENTS

REPORT OF: ANNE SCHMARR – ORGANISATION DEVELOPMENT MANAGER

**THIS MATTER WAS BROUGHT FORWARD TO BE DEALT WITH
AFTER THE MAYORAL MINUTE**

ITEM NO. 6

FILE NO: PSC2005-2892

LOCAL GOVERNMENT ASSOCIATION ANNUAL CONFERENCE

REPORT OF: PETER GESLING – GENERAL MANAGER

**THIS MATTER WAS CONSIDERED AT COUNCIL'S ORDINARY MEETING OF THE 14
AUGUST 2007.**

ITEM NO 7**FILE NO: PSC2006-6415****QUARTERLY REPORT FOR JUNE 2007 QUARTER: COUNCIL PLAN 2006-2009 & PERFORMANCE MEASUREMENT (COCKPIT CHARTS)****REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGEMENT****RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopts the Quarterly Report (June Quarter) against the Council Plan 2006-2009 incorporating Performance Measurement Cockpit Charts.

OPERATIONS COMMITTEE MEETING 8 MAY 2007**RECOMMENDATION:**

That the Recommendation be adopted.

Tabled Documents:

1. Quarterly Report June 2007 against Council Plan 2006-2009
2. Performance Measurement (Cockpit Charts) June Quarter 2007

ORDINARY MEETING OF COUNCIL – 28 August 2007**RESOLUTION:**

228	Cr Nell Cr Jordan	That the Recommendation be adopted.
------------	------------------------------	--------------------------------------------

Tabled Documents:

3. Quarterly Report June 2007 against Council Plan 2006-2009
4. Performance Measurement (Cockpit Charts) June Quarter 2007

BACKGROUND

The purpose of this report is to present the fourth Quarterly Report in the new reporting system adopted for reports against the Council Plan 2006-2009.

LINKS TO CORPORATE PLANS

The Quarterly Report June 2007 reports against the Council Plan 2006-2009.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

Nil

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 4) To improve the outcome, improve the system and its associated processes
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 9) All systems and processes exhibit variability, which impacts on predictability and performance

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The Quarterly Report cockpit charts map progress in the implementation of the Social and Cultural Plans.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

The Quarterly Report measures progress against the sustainability and environmental indicators in the Council Plan 2006-2009.

CONSULTATION

Nil

OPTIONS

- 1) Adopts the Quarterly Report June 2007 and Performance Measurement cockpit charts for July 2006 to June 2007.
- 2) Amends the Quarterly Report June 2007 and Performance Measurement cockpit charts for July to June 2007.

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

1) Nil

TABLED DOCUMENTS

1. Quarterly Report June 2007 against Council Plan 2006-2009
2. Performance Measurement (Cockpit Charts) June Quarter 2007.

ITEM NO. 8**FILE NO: 1160-002
FILE NO:A2004-0242****QUARTERLY BUDGET REVIEW AS AT 30 JUNE 2007****AUTHOR – JEFF SMITH – MANAGER FINANCIAL SERVICES**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes the estimated Statement of Cash Position to 30/6/2007 as detailed in **ATTACHMENT 1** to this report.
 - 2) Notes the estimated Statement of Restricted Funds Movements to 30/06/2007 as detailed in **ATTACHMENT 2** to this report.
 - 3) Approve the discretionary changes to the adopted recurrent budget (Totalling \$7,014. A positive effect on Revenue) as detailed under separate cover as **TABLE 1.1 of DOCUMENT 1** to this report and vote the necessary funds to meet the expenditure.
 - 5) Approve the discretionary changes to the adopted capital budget (Totalling \$37,021. A negative effect on Revenue) as detailed under separate cover as **TABLE 1.2 of DOCUMENT 1** to this report and vote the necessary funds to meet the expenditure.
 - 6) Notes the identified issues, which may have a future budgetary impact, as identified under separate cover as **TABLE 2 of DOCUMENT 1** to this report.
 - 7) Notes the legal costs budget for 2006/2007 has been amended to \$2,105,960.
 - 8) Notes the estimated surplus/(deficit) from ordinary activities before capital amounts of (\$1,690,166).
 - 9) Notes the Quarterly Budget Review comparing Budgets to Actuals as tabled under a separate cover as **DOCUMENT 2** to this report.
-
-

OPERATIONS COMMITTEE RECOMMENDATIONS – 14 August 2007**RECOMMENDATION:**

That the Recommendation be adopted.

Tabled Documents: Yes**ORDINARY MEETING OF COUNCIL – 28 August 2007****RESOLUTION:**

229	Cr Nell Cr Jordan	That the Recommendation be adopted.
------------	------------------------------	--------------------------------------------

BACKGROUND

On the 23rd May 2006 Council adopted its Council Plan and Budget 2006/2009 (Council minute 522/2006). This included budget estimates for the 2006/2007 financial year.

The purpose of this report is to amend the Budget by bringing to Council's attention the proposals and issues that have an impact on the 2006/2007 Budget.

The major changes to the Recurrent Budget in this Review, detailed in Table 1.1 of Document 1 are:

- \$100,000 increased provision for legal appeals (see item 1).
- \$100,000 decreased Information Services expenditure (see item 9).
- \$137,000 increased income from invested funds (see item 11).
- \$1,630,000 decreased income from profit on sale of investment properties (see item 15).
- \$167,000 increased expenditure for Business Operations Administration (see item 18).
- \$195,000 increased Development Approvals income (see item 21).
- \$497,729 increased Environmental Projects grants and contributions income and \$352,578 increased expenditure (see item 25).
- \$135,694 increased income and \$225,858 increased expenditure in Operational Services due to increased externally funded private works (see item 28).
- \$120,000 increased income from a RTA Grant for Maintenance of Old Pacific Highway to be transferred to the RTA Bypass Roads M'tce Restricted Fund (see item 33).
- \$374,662 increased Domestic Waste Management income and \$96,732 decreased expenditure (see item 37).
- \$101,590 decreased income and \$106,539 decreased expenditure in Community Services (see item 40).

The major changes to the Capital Budget in this Review, detailed in Table 1.2 of Document 1 are:

- Decreased Council Roads Construction expenditure of \$200,000 (see item 3).
- Decreased Council Roads Construction expenditure of \$385,454 (see item 5).
- Decreased Council Roads Construction expenditure of \$270,000 and decreased income of \$190,000 (see item 6).
- Decreased Ancillary Facilities expenditure of \$200,000 (see item 7).

The major transfers to the Recurrent Budget in this Review, detailed in Table 1.1 of Document 1 are:

- Transfer of \$207,000 legal costs from Corporate Management (see Table 1.1, item 1) to Development & Building Appeals (see Table 1.1, item 21).

This report also foreshadows impacts on Council's future financial position.

LINKS TO CORPORATE PLANS

This report relates to the Budget estimates for the 2006/2007 financial year in the financial policy program of Council's Management Plan.

FINANCIAL/RESOURCE IMPLICATIONS

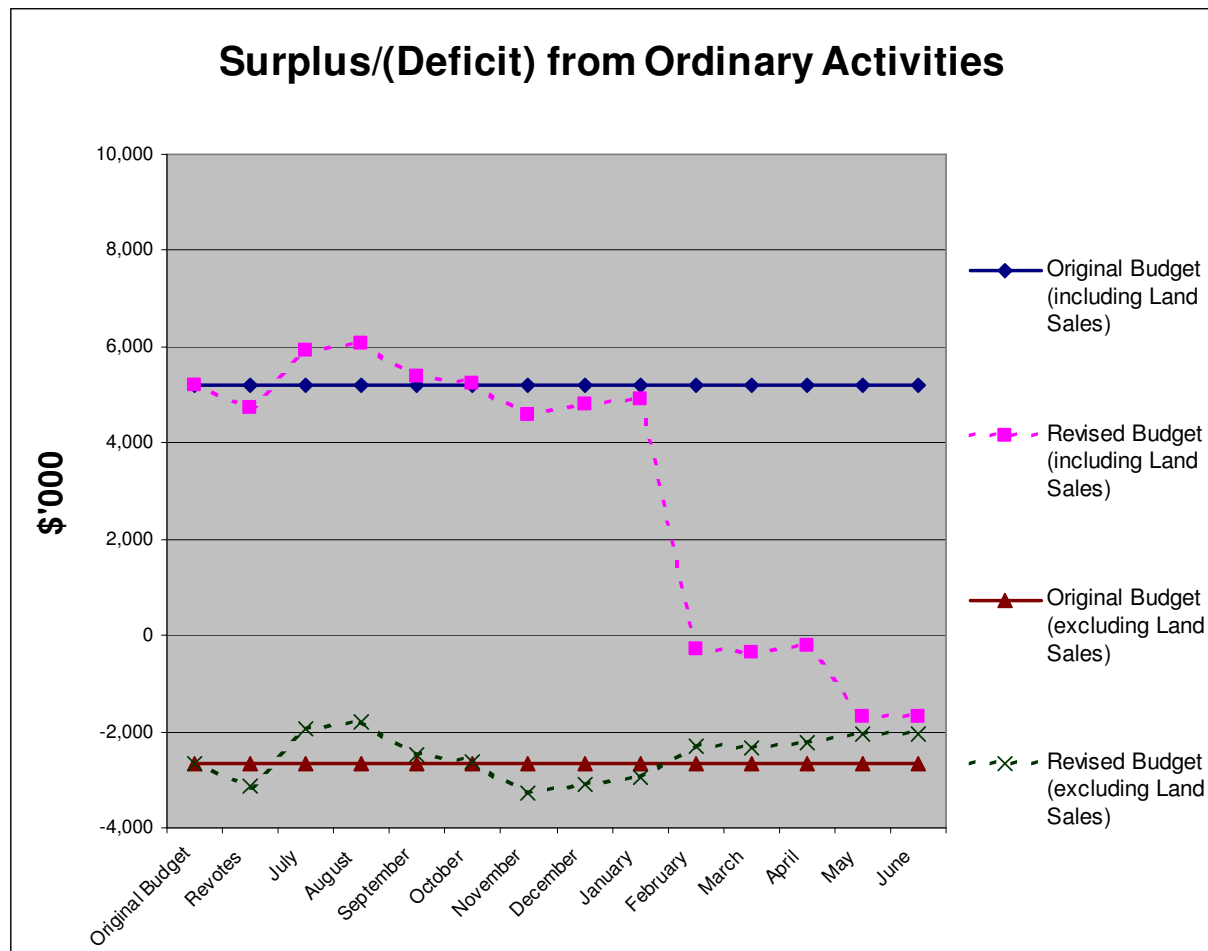
Council's original 2006/2007 Budget estimate is a \$1,344,146 cash surplus after internal transfers and before depreciation of \$12.195 million. **TABLE'S 1.1 and 1.2** of Document 1 of this report detail the changes in this review. The net cash result of these changes, and the 2006 revotes and carry forwards, is a projected cash surplus of \$1,308,112 (Ref N of Attachment 1), before 2007 revotes and carry forwards are taken into account.

A. IMPACT OF QUARTERLY BUDGET ADJUSTMENT

IMPACT OF QUARTERLY BUDGET REVIEW ON COUNCIL'S ADOPTED BUDGET				
	Recurrent	Capital	Total	Ref
Document 1 Table 1.1	\$7,014	\$0	\$7,014	
Document 1 Table 1.2	\$0	(\$37,021)	(\$37,021)	
Previous Quarterly Budget Reviews	\$587,266	(\$24,617)	\$562,649	
Original Budget after transfers and before Depreciation	\$2,478,372	(\$1,134,226)	\$1,344,146	
Net Available Surplus Funds	\$3,072,652	(\$1,195,864)	\$1,876,788	
Revotes and Carry Forwards from previous year.	(\$198,888)	(\$369,788)	(\$568,676)	
Revised 2006/2007 Cash Surplus (after transfers and before Dep'r)	\$2,873,764	(\$1,565,652)	\$1,308,112	N

B. PROJECTED FINANCIAL RESULT FOR 2006/07

	Ref	After June Budget Review	Original Budget
Total Operating Revenue	A	\$77,030,300	\$75,612,959
Less Total Operating Expenditure	B	(\$66,525,466)	(\$58,224,613)
Less Total Depreciation and Provisions Transferred	C	(\$12,195,000)	(\$12,195,000)
	D=B+C	(\$78,720,466)	(\$70,419,613)
Surplus/(Deficit) From Ordinary Activities Before Capital Amounts	E=A+D	(\$1,690,166)	\$5,193,346
Net Operating movement for June Review		(\$1,334,922)	
Total Budgeted Land Sales Profits	F	\$370,000	\$7,870,000
Surplus/(Deficit) From Ordinary Activities without Land Sale Profits and Before Capital amounts	G=E-F	(\$2,060,166)	(\$2,676,654)



LEGAL AND POLICY IMPLICATIONS

The Local Government (Financial Management) Regulation Section 7 requires that a Budget Review Statement be submitted to Council no later than two months after the end of each quarter and that all expenditure must be authorised and voted by Council before it is incurred. This report is submitted so that Council can review the impact of all issues, which will affect the Budget.

The General Manager has the delegated authority to approve changes up to \$10,000 within a Group.

The June Quarterly Budget Review Statement indicates that Council's financial position (excluding land sale profits) has improved. This situation needs to be monitored closely with particular regard to those issues contained in **TABLE 2 of Document 1**. Long-term financial projections will also be reviewed.

AUSTRALIAN BUSINESS EXCELLENCE FRAMEWORK

This aligns with the following Principles of the ABEF Framework:

- 2) Mutually agreed plans translate organisational direction into actions
- 4) To improve the outcome, improve the system and its associated processes
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders
- 12) Senior leadership's constant role-modelling of these principles, and creating a supportive environment in which to live these principles will help the enterprise and its people to reach their full potential.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Council's Budget is fundamental for operational sustainability and to the provision of facilities and services to the community.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Executive Group
Section Managers

OPTIONS

- 1) That Council accepts the discretionary changes to the adopted budget.
- 2) That Council rejects some or all of the discretionary changes to the adopted budget.

ATTACHMENTS

- 1) Attachment 1 Estimated Statement of Cash Position to 30/06/2007
- 2) Attachment 2 Estimated Statement of Restricted Funds Movements to 30/06/2007

TABLED DOCUMENTS

Document 1 of 2006-2007 Quarterly Budget Review for June 2007

Table 1.1 Discretionary Changes to adopted Recurrent Budget

Table 1.2 Discretionary Changes to adopted Capital Budget

Table 2 Identified issues, which may have a future budgetary impact

Document 2 of 2006-2007 Quarterly Budget Review for June 2007 comparing Budgets to Actuals

ATTACHMENT 1

ESTIMATED STATEMENT OF CASH POSITION TO 30/06/2007 After June 2007 Quarterly Budget Review			
	Ref	After June 2007 Quarterly Budget Review	Original Budget
Total Operating Revenue	A	77,030,300	75,612,959
Less Total Operating Expenditure	B	(66,525,466)	(58,224,613)
Less Total Depreciation and Provisions Transferred	C	(12,195,000)	(12,195,000)
	D=B+C	(78,720,466)	(70,419,613)
Surplus/(Deficit) From Ordinary Activities Before Capital Amounts	E=A+D	\$(1,690,166)	\$5,193,346
Add Back: Depreciation and Provisions Transferred	C	12,195,000	12,195,000
Less Councils Share of Newcastle Airport Profit	W	(1,781,500)	(1,459,605)
Cash Surplus From Operations	F=A+B	8,723,334	15,928,741
Transferred to Restricted Funds	G	5,849,570	13,450,369
Cash Surplus / (Deficit) From Operations After Transfers	H=F-G	\$2,873,764	\$2,478,372
Total Capital Income	I	9,264,751	9,190,200
Total Capital Expenditure	J	(22,348,826)	(23,902,784)
Surplus/(Deficit) From Capital Works	K=I+J	\$(13,084,075)	\$(14,712,584)
Transferred from Restricted Funds	L	(11,518,423)	(13,578,358)
Cash Surplus / (Deficit) From Capital Works After Transfers	M=K-L	\$(1,565,652)	\$(1,134,226)
Total Cash Surplus / (Deficit) After Transfers	N=H+M	\$1,308,112	\$1,344,146
RECONCILIATION OF CASH POSITION			
Opening Cash Position as at 01/07/2006	O	30,504,034	30,504,034
Estimated Cash Position as at 30/06/2007	P	26,940,886	33,690,293
Increase/(Decrease) in Cash Balance	Q=P-O	\$(3,563,148)	\$3,186,259
Represented By:			
Estimated opening Restricted Funds Balance	R	29,779,353	23,389,695
Closing Restricted Funds Balance	S	24,947,400	25,271,115
Increase/(Decrease) in Restricted Funds Balance	T=S-R	(4,831,953)	1,881,420
Repayment of Capital Lease and Newcastle Airport Loan	X	(39,307)	(39,307)
Total Cash Surplus/ (Deficit) from Operations & Capital	N=Q-T	\$1,308,112	\$1,344,146
Principal of Loan Funds Repaid and Finance leases	U	(1,792,668)	(1,792,668)
Loan Funds and Proceeds from Sales Received	V	\$2,629,568	\$3,802,077
Increase/(Decrease) in Cash Balance	Q=T+X+N	\$(3,563,148)	\$3,186,259

OPERATIONS COMMITTEE – 14 AUGUST 2007

ATTACHMENT 2

ESTIMATED STATEMENT OF RESTRICTED FUNDS MOVEMENTS TO 30/06/2007 **After June 2007 Budget Forecast**

RESTRICTED FUNDS	Balance as at 30/06/2006	Recurrent Budget	Capital Budget	Balance Sheet Movements	Estimated as at 30/06/2007
SECTION 94	13,009,935	(373,603)	(436,093)		12,200,239
DOMESTIC WASTE MANAGEMENT	4,364,672	1,277,674	(477,500)	(359,563)	4,805,283
Sub Total. Externally Restricted	17,374,607	904,071	(913,593)	(359,563)	17,005,522
BUSINESS DEVELOPMENT RESTRICTED FUND	1,206,683	213,682	(1,196,610)	(237,628)	(13,873)
INVESTMENT PROPERTIES DEPRECIATION FUND (INVESTMENT PROPERTIES SINKING FUND)	1,238,521	287,687	0		1,526,208
ASSET REHABILITATION RESERVE	508,811	256,049	(367,447)		397,413
FLEET MANAGEMENT (PLANT)	3,013,171	2,129,949	(3,997,581)	232,376	1,377,915
OTHER WASTE SERVICES	1,833,545	0	0		1,833,545
QUARRY DEVELOPMENT	782,748	19,160	(88,000)		713,908
BUSINESS OPERATIONS RESTRICTED FUND	(3,342,631)	614,884	(2,422,532)	1,201,715	(3,948,564)
EMPLOYEE LEAVE ENTITLEMENTS	3,952,281	0	0		3,952,281
BEACH VEHICLE PERMITS	107,312	(132,356)	(20,842)		(45,886)
DRAINAGE	561,675	760,600	(1,744,210)		(421,935)
INTERNAL LOAN	(2,073,619)	249,700	0		(1,823,919)
TRANSPORT LEVY	84,665	0	0		84,665
ENVIRONMENTAL LEVY	260,000	(182,653)	(77,913)		(566)
ADMINISTRATION BUILDING SINKING FUND	176,056	395,955	(99,000)		473,011
DEPOT SINKING FUND	125,724	406,251	(25,823)		506,152
RTA BYPASS ROADS MTCE RESTRICTED FUND	1,743,784	(136,000)	0		1,607,784
RESTRICTED CASH	1,654,574	(145,502)	(293,592)		1,215,480
COUNCILLOR WARD FUNDS	311,303	38,500	(271,280)		78,523
INFORMATION TECHNOLOGY STRATEGY	181,852	(80,500)	0		101,352
PROVISION FOR LOCAL GOVT ELECTION	50,000	50,000	0		100,000
PARKING METER RESERVE	28,291	200,093	0	0	228,384
Sub Total. Internally Restricted	12,404,746	4,945,499	(10,604,830)	1,196,463	7,941,878
RESTRICTED FUNDS TOTAL	29,779,353	5,849,570	(11,518,423)	836,900	24,947,400

* Balance Sheet Movements are the repayments of the Principals on Loans and the funds from Loans received and the proceeds for land Sales

ITEM NO. 9

COUNCIL WARD FUNDS

**REPORT OF: JUNE SHINE, EXECUTIVE MANAGER- CORPORATE
MANAGEMENT**

FILE: PSC 2007-0183

OPERATIONS COMMITTEE RECOMMENDATIONS – 14 August 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 28 August 2007

RESOLUTION:

230	Cr Nell Cr Jordan	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to provide the current Ward Funds expenditure and the balance as at 27 June 2007.

ATTACHMENTS

- 1) Ward Funds
- 2) Minor Works

ATTACHMENT 1

2006/2007 ALLOCATIONS OF COUNCILLOR WARD

FUNDS

WARDS	EAST	CENTRAL	WEST
ESTIMATED BALANCE B/FWD FROM 30 JUNE 2006	138,436	1,940	170,927
FUNDS REALISED IN 2005-2006	0	0	0
TOTAL AVAILABLE 1 JULY 2006	138,436	1,940	170,927
ALLOCATED TO:-			
From Original Budget			
Corlette SES	15,000		
Contribution to RT Comm & Policing Services Rental assistance CM372/05			15,000
Raymond Terrace Senior Citizens Centre			35000
Medowie Skate Park		77000	
From Revotes and Carry Forwards			
Shelly Beach Amenities	25000		
King Park Landscaping			7000
Anna Bay Oval Upgrade		1697	
Anna Bay Pony Club		-10251	
Bowthorne Park Upgrade			21000
Tomaree Sports Complex - New Water Service	70000		
Little Beach Disability Access ramp	33904		
Raymond Terracs CCC			19108
Tilligerry Creek Erosion Study		5000	
Cycleway Construction Brockelsby Road Medowie		22744	
Bus Facilities Construction Medowie		18571	
Bus Facilities Construction Anna Bay		11299	
Bus Facilities Construction LTP		3314	
Karuah Main Sreet			7894
From Budget Reviews			
Port Stephens Community Arts Centre CM 222/05	10,000		
Salt Ash Sports Ground CM 434/06		35,000	
LTP Development Control Plan CM 469/06		12500	
TOTAL ALLOCATED	153,904	176,874	105,002
BALANCE as at 23.7.07	-15,468	-174,934	65,925

ATTACHMENT 2

2006/2007 ALLOCATION OF MINOR WORKS

WARDS	EAST	CENTRAL	WEST
BALANCE B/FWD FROM 30 JUNE 2006	0	0	0
2006/2007 BUDGET ALLOCATION FROM REVENUE	20,000	20,000	20,000
TOTAL AVAILABLE 1 JULY, 2006	20,000	20,000	20,000

ALLOCATED TO:-

Previously Allocated funds paid this Financial year

Tilligerry Lions and Habitat Arts Festival CM 578/06		500	
Glen Oak School of Arts CM 578/06			339

Allocated 2006/2007 Financial Year

Medowie Scout Group CM 618/06		110	
Rotary Club of Nelson Bay CM 618/06	2,500		
Shoal Bay Public School CM 618/06	869		
Shoal Bay Public School CM655/06	395		
Access Comm of Port Stephens CM 794/06	595		
1st Tilligerry Scout Group CM 794/06		722.5	
P S Fellowship of Australian Writers CM 679/06	1000		
Hunter River High School CM 679/06			200
Irrawang Public School CM 734/06			200
Glen Oak School of Arts CM734/06			2000
Port Stephens Music Festival CM 734/06	93.2		
1st Paterson Bolwarra Scouts Group CM 761/06			200
Nelson Bay Senior Citizens Hall Clr req 05-1181	3000		
Thou Walla Family Centre CM 031/07			2000
Royal Volunteer Coastal Patrol Car Park CM 031/07	3190		
PS Community Care Senior Expo CM 031/07			1000
Raymond Terrace Water Polo CM 031/07			500
TRT and District tennis Club CM 031/07			1250
Whale and Dolphin Watch (Skye Bertoli) CM 031/07	500	500	500
Life Education CM 074/07	1400	1400	1400
Karuah Patch Work and Quilters CM 74/07			60
Hunter Botanical Gardens CM 113/07			1335
Glen Oak School of Arts CM 113/07			256
Irrawang High School CM 113/07			500
Grahamstown Public School Clr Req			1000
Mt Kanwarly Public School CM 113/07			1000
Karuah Progress Assoc DA fees			762.3
Anna Bay Public School		200	
Nelson Bay Town Management	1923.9		
Anglican Church Ray Tce			200
Seaham Scouts			1000
TOTAL ALLOCATED AS AT 23/7/07	15,466	3,433	15,702

ITEM NO. 10**INFORMATION PAPERS****REPORT OF: JUNE SHINE, EXECUTIVE MANAGER - CORPORATE MANAGEMENT**
-----**RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 14 August 2007.

No:	Report Title	Page:
1.	Funding from Attorney General's Department of NSW Crime Prevention Division	125
2.	Aboriginal Strategic Committee Joint Meeting	127
3.	Access Committee Minutes	132
4.	Minutes of Tourism Joint Venture Committee Meeting 15 May 2007	135
5.	Port Stephens Council – Progress of Asset Management Planning as of 30 June 2007	139
6.	Insurance Renewals	147
7.	Cash and Investments Held at 30 June 2007	151

-----**OPERATIONS COMMITTEE RECOMMENDATIONS – 14 August 2007****RECOMMENDATION:**

That the Recommendation be adopted.

MATTER ARISING:

Due to the extent of anti-social behaviours and research relating to alcohol awareness issues in different parts of the LGA, the Group Manager Sustainable Planning be requested to undertake research and report to Council on the opening hours contained in the Conditions of Consent for Hotels, Taverns and Licensed Premises mainly in the Tomaree Peninsula.

That the Matter Arising be adopted.

ORDINARY MEETING OF COUNCIL – 28 August 2007**RESOLUTION:**

231	Councillor Jordan Councillor Hodges	That the Operations Committee Recommendation be adopted.
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MATTER ARISING:**232**

That the Operations Committee **MATTER ARISING** be amended as follows and adopted:

MATTER ARISING: Due to the extent of anti-social behaviours and research relating to alcohol awareness issues in different parts of the LGA, the Group Manager Sustainable Planning be requested to undertake research and report to Council on the opening hours contained in the Conditions of Consent for Hotels, Taverns and Licensed Premises with priority in the Tomarree Peninsula.

OPERATIONS COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

**FUNDING FROM ATTORNEY GENERAL'S DEPARTMENT OF NSW
CRIME PREVENTION DIVISION**

REPORT OF: TREVOR ALLEN, ACTING COMMUNITY PLANNING
MANAGER

FILE: PSC2005/3947

BACKGROUND

The purpose of this report is to inform Council that on June 12th 2007 the Attorney General's Department of NSW Crime Prevention notified Council that its application for \$40,708 in grant funding towards the implementation of two initiatives contained in Council's *'Crime Prevention Plan 2006 – 2010'* had been successful.

INITIATIVE 1: Council has been awarded \$22,548 to fund the implementation of the *'Port Stephens Snak & Rap Program'*. This program is a mobile community service designed to operate in public places frequented by young people (aged 11-17 yrs) on weekend nights. It focuses upon locations which have been linked to reported incidences of alcohol abuse, vandalism and/or malicious damage.

The program brings young people together with positive adult role models from their own community (eg; Rural Fire Service, PCYC, youth workers, volunteers from community organisations) with the aim of building positive relationships via food (snak) and conversation (rap). Conversation and other communication including drawing and design work that takes place during the program are focused wherever possible on the topic of appropriate behaviour(s) in public venues and respecting community resources.

Some young people who attend the *Snak & Rap* events on weekends will also be invited to take part in ongoing Youth Reference Groups which will be a positive voice for local youth aimed at getting the message out to the community that vandalism and anti-social behaviours are not acceptable.

This funding will enable Council to employ a dedicated part-time program worker and cover the purchase of resources and other project expenses. Whilst the program will be primarily focused on the Tilligerry area, it will also be promoted and delivered on a one-off trial basis in other communities in the LGA with a view to expanding the program in the future.

INITIATIVE 2: Council has been awarded \$18,160 to fund the implementation of the *'Port Stephens Crime Wise Program'*. This is an innovative educational program using a variety of methods to promote personal and property safety in the areas of Medowie and Raymond Terrace. Participants will be older people and people with disabilities. People who have been victims of break and enter and assault will also be included.

The program will include a range of crime prevention strategies including: -

- Development of a local safety tips brochure/magnet and poster (Home Security Kits)
- A safety workshop
- Participants completing a NSW Police Residential Security Assessment
- Safety audits of homes and neighbourhoods using CPTED principles
- Displays at local libraries, shopping centres and seniors' events
- Target-hardening of properties
- Engraving of property items
- Advertising and editorials in local newspapers
- Council participation in Telecross program

The project will decrease the vulnerability of participants and reduce their fear of crime by making them more aware of practical steps they can take to reduce the risk of being a victim of crime. Existing working partnerships with the Police, Department of Housing, Medowie Neighbourhood Watch and Raymond Terrace Residents' Group will ensure the program is effective and reaches the targeted participants.

The funding will be used to cover the costs associated with designing and producing a safety brochure, purchase of resources for security kits (eg; door peep-holes, lamp timers) and advertising costs.

ATTACHMENTS

- 1) Nil

INFORMATION ITEM NO. 2

ABORIGINAL STRATEGIC COMMITTEE JOINT MEETING

**REPORT OF: TREVOR ALLEN - ACTING COMMUNITY PLANNING
MANAGER**

FILE: PSC2005-0629

BACKGROUND

The purpose of this report is to present to Council the minutes of the joint meeting between Council and the Aboriginal Strategic Committee on 17 July 2007.

The most important aspects of the meeting were:

- 1) Address by Karuah Local Aboriginal Council
- 2) Address by Worimi Local Aboriginal Council
- 3) Karuah Boatshed Update
- 4) Draft Anna Bay Strategy

ATTACHMENTS

- 1) Minutes of Joint Meeting between Port Stephens Council and the Aboriginal Strategic Committee held on 17 July 2007.

ATTACHMENT 1
MINUTES OF JOINT MEETING
BETWEEN PORT STEPHENS COUNCIL
AND ABORIGINAL STRATEGIC COMMITTEE
17 JULY 2007

Meeting opened at 5:40pm

Present:

Aunty Val Merrick	Worimi LALC	Cr Ron Swan	PSC
Jamie Tarrant	Worimi LALC	Cr Geoff Dingle	PSC
Uncle John Ridgeway	Worimi LALC	Cr Bob Westbury	PSC
Aunty Sandra Ridgeway	Worimi LALC	Cr Sally Dover	PSC
Aunty Elaine Larkins	Worimi LALC	Cr Ken Jordan	PSC
Andrew Smith	Worimi LALC	Cr Steve Tucker	PSC
Priscilla Mason	Karuah LALC	Cr Geoff Robinson	PSC
Wayne Ping	Karuah LALC	Peter Gesling	PSC
Helen Ping	Karuah LALC	David Broyd	PSC
Emma Simms	Karuah LALC	Paul Procter	PSC
Raylene Slater	Karuah LALC	Cliff Johnson	PSC
Darrell Gay	Karuah LALC		
Alane Gay	Karuah LALC		

Apologies:

Colleen Perry	Karuah LALC	Cr Glenys Francis	PSC
Fiona Manton	Karuah LALC	Cr Craig Baumann	PSC
Carl Simms	Karuah LALC	Cr John Nell	PSC
Janice Page	Karuah LALC	Cr Josh Hodges	PSC
Janice MacAskill	Worimi LALC	Cr Ken Jordan	PSC
Delece Manton	Worimi LALC	Cr Helen Brown	PSC
Leigh Ridgeway	Worimi LALC	Jason Linnane	PSC
Bev Manton	NSW State Aboriginal Land Council	Mike Trigar	PSC
		Philip Crowe	PSC
		Stewart Murrell	PSC
William Jonas	Guest Speaker		

1. TRADITIONAL WELCOME (John Ridgeway – Worimi Elder)

Worimi Elder, John Ridgeway brought the traditional welcome to the land of the traditional tribe, the Worimi people. John said that he is a proud Traditional Elder and Citizen of the Year. He outlined the boundaries of the area covered by the Worimi Nation which extends to Gloucester, Foster coastline, Mungo Brush, Tea Gardens back down to Port Stephens.

2. MAYORAL ADDRESS (Mayor – Councillor Ron Swan)

The Mayor welcomed the Elders and members of the Worimi and Karuah Local Aboriginal Land Councils along with fellow Councillors and members of staff. The Mayor on behalf of Council extended his congratulations to Bev Manton on her recent election to the NSW State

Aboriginal Land Council and her subsequent appointment as Chairperson. He also congratulated Priscilla Mason on her appointment as Acting Chairperson of KLALC.

He went on to extend his congratulations to Council's Aboriginal Strategic Committee for their ongoing work and achievements over the last 12 months including: -

- Success of the inaugural Naidoc Day Event held on 8 July 2007. It was a fantastic day, great to see the involvement of kids and the large participation in the breakfast, street march and riverside Park celebrations. It's an event that he would like to see continue to grow over future years. The day was a real credit to KLALC and WLALC along with members of Council staff and the local police and community.
- Ongoing administration of Council's Aboriginal Project Fund
- Receipt of a Commendation under the *2006 National Awards for Local Government in the Strengthening Indigenous Communities Category*
- Receipt of specially framed Croc fest t-shirts from Hunter River High School in recognition of Council's financial support under the Aboriginal Project Fund of the school's participation in annual Crocfest Celebrations at Moree.

3. ADDRESS BY KARUAH LALC (Priscilla Mason and Paul Procter)

As Bev Manton has recently stepped down from the position of KLALC Co-ordinator, Acting Chairperson Priscilla Mason asked Paul Procter to assist in presenting Council with an overview of KLALC activities over last 12 months which included: -

- Appreciation of Council's support under the Aboriginal Project Fund to assist in purchase of resources such as a photocopier. These resources have greatly assisted in the day to day operations of the Land Council's Office
- The Land Council is currently undergoing a period of transition following Bev Manton's departure. At this stage Priscilla will be acting in the role of Co-ordinator (now referred to as CEO) under recent reforms introduced under the Land Rights Act. It is anticipated that the position of CEO will be filled within the next 6 months
- The Land Rights Act
- The Land Council is currently working through the reforms and the subsequent implementation including the establishment of a 10 member Board
- One of the biggest challenges still facing the Land Council is unemployment. The ongoing work of Council with members of the Aboriginal Strategic Community to try to formulate some strategies around this issue is greatly appreciated
- Priscilla Mason thanked Council for their support of the illegal dumping project earlier this year which was a great success and partnership with DEC and Council.

In closing, Paul Procter also thanked KLALC for their support of this year's Naidoc Day Event and for their ongoing support and participation with the Karuah Working Together Inc program.

4. ADDRESS BY WORIMI LALC (Andrew Smith)

Andrew Smith indicated that the Land Council was no longer under Administration and is now powering ahead with most of the outstanding issues either resolved or nearing resolution.

He indicated that the partnership with Port Stephens Council concerning the issuing of beach permits on Stockton Bight is in place. They are now working closely with NPWS to ensure that the area is well managed and significant areas are protected.

He thanked Council for their ongoing support such as the grant they received under Council's Aboriginal Project Fund for the 'Breathing New Life Project' which has assisted the Land Council to enhance their professional image to their customers and the local community (eg; purchase of office equipment, uniforms and associated office furniture).

Andrew expressed the Land Council's appreciation to Council staff for their ongoing support with special acknowledgment of the work of Cliff Johnson and Paul Procter. In terms of the Land Rights Act, Andrew indicated that Land Councils are also now required to expand their membership in line with the size of their local Aboriginal population.

Like KLALC, WLALC would like to see more employment opportunities for Aboriginal people.

In closing, Andrew welcomed Priscilla Mason to the position of Acting CEO of KLALC.

5. BUSINESS ARISING FROM PREVIOUS JOINT MEETING

5.1 KARUAH BOATSHED UPDATE

Council's Principle Property Adviser, Cliff Johnson indicated that an expression of interest for the commercial use of the Boatshed is currently being considered by the Dept of Lands. The outcome of this submission is pending a suitable resolution by the proponent of a number of outstanding issues.

6. GENERAL BUSINESS

6.1 Council Appreciation of Support from LALCs

Cliff Johnson commended the Elders and members of the two Land Councils for their proactive efforts in ensuring the continuation within the Land Councils of well established families and young people as evidenced through the progression of Jamie Tarrant and Emma Simms. He also thanked the Land Councils for their ongoing assistance and support to Council on various issues.

6.2 Draft Anna Bay Strategy

Andrew Smith indicated that whilst the efforts of Council in developing the Draft Anna Bay Strategy are commendable, he expressed some concerns over the lack of consultation with WLALC.

In response, David Broyd invited Andrew to meet with him prior to the Draft Anna Bay Strategy being presented to Council next week for consideration before being placed on public exhibition in draft form for 28 days for comment.

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Action :	1. <i>David Broyd to meet with Andrew Smith to discuss Draft Anna Bay Strategy.</i>
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6.3 Guest Speaker

Cliff Johnson acknowledged the inability of Dr William Jonas to attend tonight's meeting as guest speaker due to illness as a great loss given Dr Jonas links with the local area.

Paul Procter mentioned that Dr William Jonas expressed great disappointment in not being able to attend tonight's meeting and indicated a desire to come to Port Stephens at a future time to speak to Council and the Aboriginal Strategic Committee.

7. DATE OF NEXT MEETING

To be advised

Meeting closed at 6:45pm.

INFORMATION ITEM NO. 3

ACCESS COMMITTEE MINUTES

**REPORT OF: TREVOR ALLEN – ACTING COMMUNITY PLANNING
 MANAGER**

FILE: A2004-0226

BACKGROUND

The purpose of this report is to present to Council the minutes of the Access Committee Meeting held on 3 July 2007.

Key issues addressed at the meetings included: -

- 1) Executive Elections date set down for 4 September 2007
- 2) Report on 2007 Annual Joint Meeting between Council and the Access Committee
- 3) Presentation by Disability Services Australia

ATTACHMENTS

- 1) Minutes of the Access Committee Meeting held on 3 July 2007.

ATTACHMENT 1

**PORT STEPHENS ACCESS COMMITTEE
MINUTES OF MEETING HELD 3 JULY 2007
AT THE RAYMOND TERRACE COMMUNITY CARE CENTRE**

Present:

Michael Elliott, Robert Harper, Liz Harper, David Painter, Valda Painter, Tony Kean, Erin Devlin, Cathy Delia, Cathy Lees, Alice De-Carle, Roslyn Innes

Apologies:

Cr Brown, Cr Dover, Joe Delia, Judy Rosier, Susan Rosier, Michelle Pavy, Graham Roberts, Cathy Jennings

1. WELCOME & ADOPTION OF PREVIOUS MINUTES

Deputy Chairperson, Robert Harper welcomed the Committee members.

The minutes of previous meetings held on the 5 June 2007 and the 1 May 2007 were both adopted as an accurate record of those meetings without amendment;

Motion to adopt minutes put forward by Cathy Delia and seconded by David Painter.

2. BUSINESS ARISING FROM PREVIOUS MINUTES

2.1 2007 Annual Joint Meeting

Michael Elliott gave a brief report on the successful 2007 Annual Joint Meeting between Port Stephens Council and the Access Committee held on the evening of 19 June 2007. Items of interest from the meeting included: -

- An entertaining presentation from guest speaker Andrew Buchanan, Chairperson of the NSW Disability Council
- Funding approval for the extension of Council's Disability Access Officer position from it's current 2 days per week to a full time 5 days per week which would also incorporate a portfolio on ageing
- Acknowledgement to investigate funding options for additional funds towards annual Disability Picnic

2.2 Public Swimming Pool Entry Fees

Erin Devlin enquired as to the current status of discussions around reduced entry fees for people with disabilities to public swimming pools. Michael Elliott undertook to follow up and report back to the Committee on this issue.

2.3 Executive Elections

David Painter requested that executive elections be held for the Committee so as to permanently appoint new executives. After discussion among Committee members it was decided to hold the elections at the September 2007 meeting of the Access Committee.

Nominations (including self nominations) for positions of Chairperson, Deputy Chairperson and Media Liaison Officer are now being called. Absentee votes will be accepted. Please submit any nominations or absentee votes in writing to;

Michael Elliott
Disability Access Officer
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

3. GENERAL BUSINESS

3.1.1 Development Applications Assessed by Council's Disability Access Officer

Michael Elliott reported on a number of Development Applications he had recently assessed with regard to access. One of note was an aquatic tourist facility.

3.2 Service Provider Presentation

Roslyn Innes, Manager of NSW Day Programs for Disability Services Australia attended the meeting and briefed members on services provided by her organisation. The service has recently extended operations into the Port Stephens area and are currently based at the Tomaree Community Centre. Services provided include Vocational Service for both mainstream and supported employment, Day Programs and Accommodation. The service is funded by DADAHC and can be accessed by contacting DADAHC. Further information can also be obtained on the website www.dsa.org.au

4. CORRESPONDENCE

Michael Elliott presented the following items of correspondence: -

- Hunter New England Health Carer information sessions to be held at Charlestown Community Room August 7 to 11 September. Contact Kathy on 4921 4895 for further details
- Spinal Cord Injuries Australia Publications
- Educare Support Services Awareness and Coping Skills for Carers Workshop to be held at Wests leagues Club New Lambton on Thursday the 26 July 2007. Contact Educare on 4921 4895 for further details

5. DETAILS OF NEXT MEETING

The next meeting will be held on the 7 August 2007 at 10.30am at the Nelson Bay RSL Club.

INFORMATION ITEM NO. 4

**MINUTES OF TOURISM JOINT VENTURE COMMITTEE MEETING 15
MAY 2007**

**REPORT OF: MALCOLM CAMPBELL – BUSINESS DEVELOPMENT MANAGER
FILE: A2004-1127**

BACKGROUND

The purpose of this report is advise Council of the minutes of the meeting of the Tourism Joint Venture Committee Meeting held at Council on the 15th May 2007.

ATTACHMENTS

- 1) Minutes of Tourism Joint Venture Committee Meeting – 15th May 2007

ATTACHMENT 1

**MINUTES OF THE JOINT VENTURE COMMITTEE
held at Council Chambers Committee Rooms
Tuesday 15th May 2007 at 6:45 PM**

Present	P.Gesling, Mayor Cr R Swan, Cr Nell, Cr Hodges, C.Pilley, P.Dann, M.Aylmer & N.Gordon,
In Attendance	D Broyd, Cr Dover, Cr Brown, Cr.Francis, N Deuis & T Bylhouwer,
Apologies	Cr B Westbury, J Longworth, Cr Jordan, Cr Tucker, Cr Bauman & S Murrell
Chair	N Gordon
Minutes of the last meeting	The minutes of the meeting held 20 th Feb 2007 were confirmed as an accurate record of the meeting. Cr Swan P Dann
Business Arising	Nil
Current Activities	<ul style="list-style-type: none"> • Fly Drive Campaign: Initial feedback from coop partners indicates a poor response and Jetstar have indicated they will have their results to Tourism NSW within two weeks. A debrief will be held in Port Stephens in early June. Information • Sydney Surrounds: T.NSW will have the final proposal and budget to PSTL by end of May for immediate implementation. Information • Mid North Coast: Belinda Novicky appointed new Marketing Manager. Main current project for the regional is assessment of a Regional Wine & Food Guide. Information • Pacific Coast Touring Route (PCTR): New steering group formed to keep the product moving until a formal resolution is made by T.NSW and the participating Regional Tourism Organisations (RTOs): Information • Consumer Shows: Sydney C&C Show was up approx 10%; Melbourne was mixed with brochure distribution down approximately 5%. Participants reported good brand recognition in Melbourne. Information

	<ul style="list-style-type: none"> • Visitor Guides: Planning has commenced for the 2008 guide. Information • Advertising/Media: Cr Hodges asked for the media file to be tabled at a future Council meeting. Information • PSTL Members Survey: Reference was made to the members blog site for feedback on the survey and other issues. Information • Tourism Awards: Will be hosted by Great Lakes and a workshop will be held in Port Stephens on 5 June 2007. Information • Signage: Audit has been delayed due to other priorities. Information • PSTL Strategic Planning: PSTL is currently undertaking a strategic review of the organisation and making direction for the next 3-5 years. Draft reports are due August/September 2007. Information • Karuah Working Together: Cr Francis reported that the group had an adversarial approach and that they assert no assistance was given by PSTL with regards to free or subsidised advertising in the Visitors Guide. PSTL to provide Cr Francis will the history is relation to Karuah. • August JVC Meeting: The meeting agreed to hold the August JVC at the Visitors Information Centre, Nelson Bay. • Port Stephens Web Site bookings: Information – (Cr Hodges requested that the graphs be printed in colour).
General Business	<p>Cr Swan: Inquired about Sand Dune Commercial Operator and Private Permit status. In summary NPWS have advised PSTL as follows:</p> <ul style="list-style-type: none"> • Permits will be available for sale by registered outlets by 1/06/2007. • There is currently no one licenced to commercially operate quad bikes on the dunes. • They are negotiating with the current commercial operators to renew their licences. <p>The committee expressed their concern regarding the potential impact on the tourism industry if there was an incident involving a non licenced operator.</p>

	<p>Recommendation: The Committee agreed that the General Manager take up issue of licences with NPWS after report back from PSTL Board meeting to be held on Monday 21 June 2007.</p> <p>Cr Swan: Rajoo Gurram is keen to commence a sister city relationship in India. The information has been passed onto sister city committee.</p> <p>Recommendation: Information</p> <p>Cr Swan: Celtic Festival 17th May 2008. Mayor spoke to numerous people and media interviews while attending celtic festivals at Glenn Innes and in the Southern Highlands. The Festival will be conducted in conjunction with NBTM.</p> <p>Recommendation: Information</p> <p>P.Dann: Feedback on Triathlon. It was stated by several members that there was only one negative comment received and that the event was regarded as very successful. The event has been booked again for next year.</p>
Meeting Closed	19:25

INFORMATION ITEM NO 5

**PORT STEPHENS COUNCIL PROGRESS OF ASSET MANAGEMENT
PLANNING AS OF 30 JUNE 2007**

**REPORT OF: M S (MIKE) TRIGAR, GROUP MANAGER FACILITIES AND SERVICES
FILE: PSC2006-0407**

BACKGROUND

The purpose of this report is to advise the Department of Local Government (DLG) and Port Stephens Council of progress on the development of a comprehensive Asset Management Plan as of 30 June 2007.

The DLG also require this comprehensive Asset Management Plan (AMP) to be linked to a long-term financial plan. This is part of Port Stephens Council's (PSC) requirements under the approval by the NSW Local Government Department Minister of a special rate variation for the 2005/06 financial year and also the DLG's current proposal for Asset Management Planning for NSW Local Government.

PSC encompasses a total land area of 850 sq km of which a significant portion is National Parks, State Forest, other Crown Lands and nature reserves. As the area also contains natural features such as Stockton Bight, the Hunter and Williams Rivers, and the Port Stephens and Myall Lakes Marine Park, its population nearly 64,000 is widely dispersed.

Located some 30 minutes north of Newcastle, Port Stephens is similar to many NSW coastal Councils in continuing to deal with the effects of an ageing community infrastructure, a rapidly growing population (including a large percentage of retirees in certain areas) expecting increased facilities and services, while at the same trying to do more with constrained income (rates and prescribed charges) as well as uncertainty with regard to future grants allocation.

PSC currently manages 533 kms of sealed roads, 66 kms of unsealed roads and 56 kms of regional classified roads. Council also manages 16 bridges, 69 bus shelters and 78 kms of foot paving, 73 kms of cycle ways and numerous car parks.

Port Stephens Council also manages approximately 460 other buildings and structures comprising of 1 administration building, 4 libraries, 17 multi-purpose centre buildings and childcare centres, 20 structures at depots, 17 halls, 196 holiday park buildings and structures, 3 aquatic centres, 72 parkland and sports field amenities blocks, 29 clubhouses, 2 State Emergency Service buildings, 15 Rural Fire Service buildings and stations, 14 structures at 2 waste transfer stations, 12 wharves and jetties, 19 boat ramps, 24 miscellaneous structures and 15 investment properties.

Further, Council has 450 plant and fleet assets as well as various environmental and heritage assets. The total value of all this infrastructure, property (including investment property), plant and equipment as at 30 June 2006 was approximately \$402 million.

INTRODUCTION

Progress to 2006/07

PSC around 2003 adopted the International Public Works and Engineering Australia's (IPWEA) recommended industry best practice approach to asset management as detailed (now) in the International Infrastructure Management Manual (IIMM) – Version 3.0, 2006 for its largest asset category, roads, bridges and drains.

This followed the previous implementation by PSC across our organisation of the requirements under the Australian Accounting Standards (ASS27) for infrastructure assets in around 1996. Development and implementation of the roads, bridges and drainage asset maintenance plans followed.

In early 2003, Council's General Manager requested the newly appointed Group Manager, Facilities and Services to develop and implement a holistic and comprehensive asset management strategy across the whole of the organisation's various sections of asset management, maintenance and operations.

In 2004, after a number of "false starts," a dedicated resource from the Engineering Services Section of the group was seconded to assist the six designated asset owners and managers across Council to develop their individual community and or category asset management plan(s.)

PSC has been progressively developing 20-year asset management plans and consolidating all nominated projects across the whole organisation into one corporate list called our Forward Works Plan (FWP.) It should be noted that the International Public Works Engineering Australia (IPWEA), National Asset Management Strategy (NAMS) Committee advocates a 20-year timeframe. Our understanding is that the national framework and proposed NSW guidelines for asset management for Local Government will be similar.

Port Stephens Council's asset management policy and strategy in accordance with asset management best practice states that PSC in consultation and partnership with its community shall:

- Provide non-asset solutions for service delivery wherever possible.
- Prefer rehabilitation over embellishment and building new asset works so that sustainability in the long term can be achieved.
- Consolidate assets so that they fulfil a multi-purpose function which maximises utilisation whilst lowering overheads and other costs.
- Consolidate assets to build in flexibility in responding to changing community needs into the future.
- Periodically review its asset base whilst taking into account changing community needs and expectations.

The complete PSC Asset Management Policy is shown in **ATTACHMENT 1**.

Accordingly we have commenced the review of each of our asset categories in turn against criteria such as existing levels of service, degree of utilisation, ability to fund in the long-term, capacity to consolidate, appropriateness of location, opportunities to increase user charges and or further commercialise, and or opportunities to rationalise certain assets. We expect

that this will take three to five years in total to review all components of our various asset categories.

For instance, it has taken us two years within existing resources to review our potential surplus of “pocket parks.” In this case, we expect to realise over \$2 million in surplus or redundant assets to be targeted to future funding of other rehabilitation, renewal, enhancement or the provision of new assets, subject to community exhibition, consultation and scrutiny.

Another asset category review currently in progress includes all playgrounds across the municipality. The playground review has been to public consultation and recommends the removal of approximately one-third of all sub-standard or poorly located installations in certain areas as well as a 10-year replacement program. It has drawn appropriate comments from the local areas affected. A further asset category review in progress includes all our public toilets. The review of PSC’s three pools and one gym is also to commence shortly.

From 2005 all infrastructure projects including asset creation, enhancement, consolidation and rehabilitation planned over three (now four) years across the whole organisation has further been consolidated within one project budgeting, monitoring and reporting system known as our Integrated Works Program (IWP.) The IWP has produced many benefits apart from improved project financial control. The system has allowed PSC’s various asset owners to better communicate and co-ordinate their projects as well as to develop a common conversation regarding asset management strategy and planning. The four-year timeframe particularly suits the planning, design, construction and commissioning of infrastructure projects.

Progress 2006/07

For the last twelve months, Council’s various asset owners have been comprehensively reviewing and mapping both our FWP (and therefore also our IWP) to include all major rehabilitation, renewal, enhancement and new capital projects in concert with the review of Council’s S94 Plans for just “new” projects. This was to take full advantage of the NSW State Government’s S94 reforms and to subsequently bring all these projects up-to-date with current legislation and emerging community standards.

In future our asset management plans (AMP) will articulate directly to our 20-year FWP as well as to our new S94 plans (where applicable.) It is our intention to periodically and cyclically review our AMP for continued community relevance.

We will also be progressively reviewing our depreciation rates and amounts in line with the LGMA’s, Fair Value Asset Accounting, Depreciation and Asset Management Workshops that our Engineers and Accountants from Port Stephens attended training in March 2007.

It is worth noting that in an ideal “start-up” circumstance, PSC would have developed our individual AMP(s) first, from these developed our Forward Works Plan (FWP) for a period of ten to twenty years and finally, implemented our Integrated Works Program (IWP) in concert with our (now) four year Council (Management) Plan. These works plan and program as mentioned include all asset creation, enhancement, consolidation and rehabilitation projects planned to date.

However, this has been developed “in reverse” due to such factors such as our immediate priorities, our existing works plan and program, our previous focus on immediate community

demands plus the extent of the organisation's existing financial and other information systems.

Development of our Asset Management Plan as of 30 June 2007 is shown in **TABLE 1**. progress from now may be influenced by the DLG's proposed Asset Management Planning legislation for NSW Local Government overall.

Progress 2007/08

As previously mentioned we are continuing to review each of our asset categories in turn as we complete the respective asset management plans. These reviews include verification of all asset details, costs of replacement, enhancement (if planned), maintenance and operations over the life of the category concerned.

This information can then be used to inform and consult with our community in accord with our stated Asset Management Policy attached that was formally adopted early in 2007.

Actions proposed for the 2007/08 financial year on include the further development and implementation of asset management action and improvement plans as detailed in Table 1. Please note that the Rural Fire Services (RFS) and State Emergency Services (SES) facilities have been added to the table since our 31 December 2006 report.

**TABLE 1.
DEVELOPMENT OF ASSET MANAGEMENT PLANS AS OF 31/12/06**

PSC Infrastructure Summary	AMP Status	Comment
Civil Infrastructure Assets: <ul style="list-style-type: none"> • Roads • Bridges • Ancillary Facilities <ul style="list-style-type: none"> ○ Footpaths/ Cycleways ○ Bus Shelters ○ Guardrails ○ Parking Meters ○ Retaining walls ○ Signs ○ Street Lights • Drainage <ul style="list-style-type: none"> ○ Detention Ponds ○ Gross Pollutant Traps ○ Pits, Pipes, & Headwalls ○ Open Drains • Heritage Items 	<ul style="list-style-type: none"> • Completed 31/12/06 • Completed 31/12/06 • Completed 31/12/06 • Completed 31/12/06 • Completed 31/12/06 	<ul style="list-style-type: none"> • Review by 30/06/09 • Review by 30/06/09 • Review by 30/06/09 • Review by 30/06/09 • Review by 30/06/09
Sport and Recreation Assets: <ul style="list-style-type: none"> • Beaches • Sport Fields <ul style="list-style-type: none"> ○ Courts ○ Club Houses ○ Ancillary items; • Pools and Leisure Centres • Parks and Buildings • Reserves 	<ul style="list-style-type: none"> • Complete 31/12/09 • Complete 31/12/07 • Complete 31/12/07 • Complete 31/12/08 • Complete 31/12/08 	<i>Does not include some assets classified as Environmental or Natural Resource Management (NRM) Assets. Council is still considering its approach to these assets.</i>

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<ul style="list-style-type: none"> • Wharves and Jetties • Ancillary Items <ul style="list-style-type: none"> ○ BBQs ○ Lights ○ Play Equipment ○ Shelters & Seats 	<ul style="list-style-type: none"> • Complete 31/12/09 • Complete 31/12/08 	
Waste Management Assets: <ul style="list-style-type: none"> • Landfill Sites • Buildings <ul style="list-style-type: none"> ○ Transfer stations ○ Weigh Bridges ○ Ancillary Items 	<ul style="list-style-type: none"> • Completed 29/06/07 	<i>Subject to review as part of Waste Strategy Plan due 30 June 2008</i>
Commercial Assets: <ul style="list-style-type: none"> • Holiday Parks/ Resorts • Investment Properties • Land (developed) • Land (undeveloped) 	<ul style="list-style-type: none"> • Complete 30/06/08 • Complete 28/09/07 • Complete 28/09/07 • Complete 28/09/07 	
Environmental Assets: <ul style="list-style-type: none"> • Waterways <ul style="list-style-type: none"> ○ Creeks & Rivers ○ Coastal & Estuaries ○ Ground Water ○ Storm Water • Biodiversity <ul style="list-style-type: none"> ○ Vegetation ○ Trees ○ Fauna • Community Land (some included in Recreation Assets) • Soils • Atmosphere • Heritage <ul style="list-style-type: none"> ○ Aboriginal ○ European 	<ul style="list-style-type: none"> • TBA • TBA • Complete 31/12/07 • TBA • TBA • TBA 	<i>Council is still considering its approach to these assets.</i>
Fleet Assets: <ul style="list-style-type: none"> • Plant & Equipment • Vehicles • Miscellaneous 	<ul style="list-style-type: none"> • Complete 20/12/07 • Complete 20/12/07 • Complete 20/12/07 	<ul style="list-style-type: none"> • Review 20/06/08 • Review 20/06/08 • Review 20/06/08
IT Assets: <ul style="list-style-type: none"> • Hardware • Software 	<ul style="list-style-type: none"> • Complete 20/12/07 • Complete 20/12/07 	<ul style="list-style-type: none"> • Review 20/06/08 • Review 20/06/08
Note: <i>Collective Assets are in Bold Text and Solid Dot Points</i> <i>Individual Assets are in Regular Text and Hollow Dot Points</i>		

ATTACHMENT 1



Adopted:
Minute No:
Amended:
Minute No:

FILE NO: PSC2005-3231

TITLE: ASSET MANAGEMENT POLICY

RESPONSIBLE OFFICER: ENGINEERING SERVICES MANAGER

BACKGROUND

Port Stephens Council is responsible for a large and diverse asset base. These assets include roads, bridges, footpaths, drains, libraries, childcare centres, halls, parks, sporting facilities, land, commercial properties and investments to name a few. According to Council's Charter under the Local Government Act, with regard to asset management, Council should:

- Provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services are managed efficiently and effectively;
- Have regard to the long term and cumulative effects of its decisions; and
- Bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible.

Over time Port Stephens Council has greatly increased its net assets, which has consequently increased its depreciation, operating and maintenance costs to an already large and aging asset base. In order to manage this asset base, strategies and plans designed to address issues regarding asset lifecycles need to ensure that priorities are designed in line with organisational objectives, that financing and expenditure is planned and controlled in accordance with these priorities, and that resources are used as effectively and efficiently as possible. This Asset Management Policy is a general statement of how Port Stephens Council will manage its assets into the future.

OBJECTIVE

The objectives of this policy is to demonstrate Council's commitment to developing, managing, maintaining and operating its assets to an agreed level of service with its community while optimising lifecycle costs in accordance with current asset management world and Australian best practice.

PRINCIPLES

Australian Business Excellence Framework

This aligns with the following Principles of the ABE Framework namely:

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 4) To improve the outcome, improve the system and its associated processes
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

POLICY STATEMENT

Council is committed to undertake the management of assets in accordance with current best practice that is outlined in the accompanying Port Stephens Council's Asset Management Guideline. The guideline details areas of asset management to be addressed including:

- Gathering Background Data of the Asset (What is the asset, the capacity, the value)
- Planning (The Big Picture)
- Creation / Acquisition / Augmentation Plan (How we gain assets)
- Financial / Risk Management Plan (How we fund asset management)
- Operations and Maintenance Plan (How we maintain asset and to what standard)
- Condition and Performance Monitoring (What is asset performance against needs)
- Rehabilitation / Replacement Plan (How and when we upgrade our asset)
- Consolidation / Rationalisation Plan (How we optimise our management of assets)
- Audit Plan (Is the process working efficiently and effectively)

Port Stephens Council's asset management policy and strategy in accordance with asset management best practice states that PSC in consultation and partnership with its community shall:

- Provide non-asset solutions for service delivery wherever possible.
- Prefer rehabilitation over embellishment and building new asset works so that sustainability in the long term can be achieved.
- Consolidate assets so that they fulfil a multi-purpose function which maximises utilisation whilst lowering overheads and other costs.
- Consolidate assets to build in flexibility in responding to changing community needs into the future.

- Periodically review its asset base whilst taking into account changing community needs and expectations.

RELATED POLICIES

Asset management covers many activities in local government and as a multidisciplinary organisation there is an extensive list of related community and Council strategies, plans and policies. Therefore only a selection of key related strategies, plans and policies are listed below.

- Port Stephens Local Environmental Plan (LEP) 2000
- Port Stephens Urban Settlement Strategy
- Port Stephens Economic Development Strategy
- Port Stephens Community Services and Facilities Strategy
- Port Stephens Social and Community Plan
- Port Stephens S94 Plans
- PS 10 Building Standards and Notification Procedures for Development Applications
- PS 8 Guidelines for Exempt and Complying Developments
- PS Generic Sportsground Plan of Management
- Communication and Consultation Strategy
- Sustainability Policy
- Risk Management Strategy
- Disability Access Policy
- Assessment and Maintenance of Roads Policy
- Assess and Maintenance of Footways Cycleways Policy

SUSTAINABILITY IMPLICATIONS

The Port Stephens Council's Asset Management Policy and accompanying Asset Management Guideline provides the tools to ensure that Council examines and reviews the services and standards provided by its assets to sustainability meet current and futures needs. Asset management directions and actions shall be considerate of but not limited to the implications listed below.

SOCIAL IMPLICATIONS

The social implication of community safety, needs and priorities, equity, amenity and utilization.

ECONOMIC IMPLICATIONS

asset condition, availability of external funds, user and owner costs, impacts on local economic activities

ENVIRONMENTAL IMPLICATIONS

protection and conservation of environmental assets, resource use, energy and water conservation.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993 - Section 8 The Council Charter

IMPLEMENTATION RESPONSIBILITY

All Council Staff responsible for the whole or part lifecycle management of Council assets.

REVIEW DATE

May 2009

INFORMATION ITEM NO. 6

INSURANCE RENEWALS 2007 - 2008

AUTHOR: JEFF SMITH - FINANCIAL SERVICES MANAGER
FILE: PSC2007-0082

BACKGROUND

The purpose of this report is to advise Council of the result of the annual insurance renewal process for the 2007 – 2008 policy period.

The majority of Council's insurance policies expire on 30 June each year. Prior to expiry Council, in consultation with our insurance brokers, undertakes a comprehensive review of Council's insurance requirements for the coming term. This review involves assessing the adequacy of policy coverage, sums insured, limits and sub limits of policies and uninsured risks.

Placement of policies for the 2007 – 2008 insurance period has been completed and the following table provides a summary of costs/premium comparison excluding GST:

Insurance Policy	Actual 2006–2007 \$	Actual 2007–2008 \$	Actual Variance \$	Budget 2007–2008 \$	Actual Variance to Budget
Public Liability/Professional Indemnity	795,000	818,850	23,850	874,500	(55,650)
Property	286,160	336,044	49,884	371,906	(35,862)
Motor Vehicle	153,358	171,740	18,382	168,695	3,045
Marine Hull	3,670	2,027	(1,643)	3,854	(1,827)
Fidelity Guarantee	2,920	2,577	(343)	3,066	(489)
Casual Hirers' Liability	2,420	2,550	130	2,541	9
Pool Lessees Liability	48,076	52,884	4,808	52,884	-
Personal Accident	2,200	2,200	-	2,310	(110)
Councillors' & Officers Liability	27,261	28,402	1,141	38,648	(10,246)
Business Practices Protection	8,400	8,400	-	18,000	(9,600)
TOTAL	\$1,329,465	\$1,425,674	\$96,209	\$1,536,404	\$(110,730)

The Motor Vehicle and Property premiums/contributions are adjustable at expiry based on actual vehicle numbers and asset values. An additional adjustment premium for Property insurance of \$17,365.40 is not included in the table above. This additional premium is levied due to the increase of \$20,369,973 in the value of Council's Asset Schedule since last renewal. The increase is partly a result of a desktop update in September 2006 of the professional valuations of all Council owned buildings in September 2005. Council will receive a total rebate of \$23,075.47 for Fund Year 7 (2004 – 2005) that negates the adjustment premium.

The actual Property premium has increased by approximately 5% for all Statewide Property Mutual scheme members due to an increase in reinsurance costs. Reinsurers amended renewal contribution rates following the storm on the June long weekend as, based on reported known damage to date, the estimated cost of property damage claims incurred by members of the Property Mutual is expected to exceed \$4m.

An adjustment premium of \$10,110.00 is due for Motor Vehicle this year as the total number of units insured has increased by 35 from 292 to 327 since last renewal. This adjustment premium is not included in the table above. The actual premium has remained stable largely due to Council's proactive fleet management strategies. This year will be the sixth straight year where no premium increase has been levied.

Council's Motor Vehicle policy will again be subject to a 50/70 Claims Experience Discount (CED), subject to a maximum rebate of 10% of the premium. This means that if Council's claims experience does not exceed 35% of the premium, Council will be rewarded with a rebate. Were it not for the storm on 8 June 2007 causing the total loss of several Council vehicles, Council would have received a CED of approximately \$10,000 for the 2006/2007 year.

A 3% increase in premium contribution for Public Liability/Professional Indemnity insurance was as a result of an increase in terms for all members. The limit of indemnity for Public Liability has increased from \$300m to \$400m and the limit of indemnity for Professional Indemnity has increased from \$200m to \$300m at no additional cost to Council. The Board of Management of Statewide Mutual resolved that the cost of increased limits of indemnity be financed from the General Funds of the Scheme. A bonus distribution of \$1,282.78 for the 2004/2005 fund year has been applied to the Fidelity Guarantee premium listed above.

A surplus of approximately \$106,330 is expected in the insurance budget following payment of all premiums.

ATTACHMENTS

- 1) Nil

INFORMATION ITEM NO. 7

CASH AND INVESTMENTS HELD AT 30 JUNE 2007

**REPORT OF: JEFF SMITH, FINANCIAL SERVICES MANAGER
FILE: PSC2006-6531**

BACKGROUND

The purpose of this report is to present Council's schedule of Cash and Investments Held at 30 June 2007.

ATTACHMENTS

- 1) Cash and Investments Held at 30 June 2007.

ATTACHMENT 1

CASH & INVESTMENTS HELD - AS AT 30 JUNE 2007							
INVESTED WITH	INV. TYPE	DATE INVESTED	MATURITY OR COUPON DATE	NO. OF DAYS	AMOUNT INVESTED	INTEREST RATE	% OF TOTAL FUNDS HELD
GRANGE SECURITIES							
WIDE BAY CAPRICORN BUILDING SOCIETY	Floating Rate Sub Debt	15-Jun-07	15-Sep-07	92	500,000.00	8.03%	1.72%
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	20-Jun-07	20-Sep-07	92	1,000,000.00	7.96%	3.44%
NEXUS BONDS LTD "TOPAZ AA-"	Floating Rate CDO	23-May-07	22-Nov-07	183	1,500,000.00	6.47%	5.15%
HERALD LTD "QUARTZ AA"	Floating Rate CDO	20-Jun-07	20-Sep-07	92	1,000,000.00	7.96%	3.44%
STARTS CAYMAN LTD "BLUE GUM AA-"	Floating Rate CDO	22-Jun-07	24-Sep-07	94	1,000,000.00	7.90%	3.44%
HELIUM CAPITAL LTD "ESPERANCE AA+"	Floating Rate CDO	20-Jun-07	20-Sep-07	92	1,000,000.00	7.56%	3.44%
HOME BUILDING SOCIETY	Floating Rate Sub Debt	26-Apr-07	26-Jul-07	91	500,000.00	7.39%	1.72%
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note	18-Apr-07	18-Jul-07	91	500,000.00	8.25%	1.72%
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	20-Jun-07	20-Sep-07	92	1,000,000.00	7.46%	3.44%
GRANGE SECURITIES "COOLANGATTA AA"	Floating Rate CDO	20-Jun-07	20-Sep-07	92	1,000,000.00	7.76%	3.44%
TOTAL GRANGE SECURITIES					\$9,000,000.00		30.92%
ABN AMRO MORGANS							
REMBRANDT ISOSCELES SERIES 1	Floating Rate CDO	20-Jun-07	20-Sep-07	92	2,000,000.00	7.86%	6.87%
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	21-Mar-07	21-Mar-08	366	1,000,000.00	7.00%	3.44%
TOTAL ABN AMRO MORGANS					\$3,000,000.00		10.31%
ANZ INVESTMENTS							
ECHO FUNDING PTY LTD SERIES 16 "3 PILLSARS AA-"	Floating Rate CDO	10-Apr-07	10-Jul-07	91	500,000.00	7.61%	1.72%
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	20-Jun-07	20-Sep-07	92	1,000,000.00	7.96%	3.44%
MOTIF FINANCE (IRELAND) PLC	Floating Rate CDO	1-Jun-07	31-Aug-07	91	500,000.00	7.56%	1.72%
TOTAL ANZ INVESTMENTS					\$2,000,000.00		6.87%
RIM SECURITIES							
HERITAGE BUILDING SOCIETY LTD (2008)	Floating Rate Sub Debt	30-Apr-07	30-Jul-07	91	500,000.00	8.10%	1.72%
CSFB AUSTRALIA PROPERTY LINKED NOTE (2010)	Property Linked Note	21-Jun-07	21-Sep-07	92	1,000,000.00	2.00%	3.44%
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO	10-Apr-07	10-Jul-07	91	2,000,000.00	8.41%	6.87%
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt	5-Apr-07	5-Jul-07	91	1,000,000.00	7.10%	3.44%
TOTAL RIM SECURITIES					\$4,500,000.00		15.46%
WESTPAC INVESTMENT BANK							
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt	27-Apr-07	27-Jul-07	91	500,000.00	7.55%	1.72%
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt	21-May-07	18-Aug-07	89	500,000.00	7.47%	1.72%
TOTAL WESTPAC INV. BANK					\$1,000,000.00		3.44%

OPERATIONS COMMITTEE – 14 AUGUST 2007

ATTACHMENT 1

LONGREACH CAPITAL MARKETS							
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	7-Mar-07	7-Sep-07	184	500,000.00	6.66%	1.72%
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	6-Mar-07	6-Sep-07	184	500,000.00	6.00%	1.72%
TOTAL LONGREACH CAPITAL					\$1,000,000.00		3.44%
FUND MANAGERS							
						RATE OF RETURN - MTH	
MERRILL LYNCH INVESTMENT MANAGERS					515,808.69	6.85%	1.77%
PERPETUAL INVESTMENTS					1,005,042.76	6.79%	3.45%
ADELAIDE MANAGED FUNDS					250,000.00	6.35%	0.86%
TOTAL FUND MANAGERS					\$1,770,851.45		6.08%
COMMONWEALTH BANK							
PRINCIPAL PROTECTED YIELD ACCRUAL NOTE	Yield Curve Note	07-May-07	05-Aug-07	90	500,000.00	9.25%	1.72%
PRINCIPAL PROTECTED YIELD ENHANCED ACCRUAL NOTE "COMMENTS AA-"	Yield Curve Note	31-Jan-07	31-Oct-07	273	500,000.00	7.15%	1.72%
CALLABLE CPI LINKED NOTE	Yield Curve Note	04-Apr-07	04-Jul-07	91	500,000.00	9.00%	1.72%
TOTAL COMMONWEALTH BANK					\$1,500,000.00		5.15%
FIIG SECURITIES							
CREDIT SUISSE PRINCIPAL PROTECTED NOTE	Principal Protected Note	22-Jun-07	22-Sep-07	92	1,000,000.00	7.00%	3.44%
AQUADUCT AA-	Term Deposit	30-May-07	30-Jul-07	61	1,000,000.00	6.66%	3.44%
TOTAL FIIG SECURITIES					\$2,000,000.00		6.87%
MAITLAND MUTUAL							
	Floating Rate Sub Debt	16-Apr-07	16-Jul-07	91	500,000.00	7.53%	1.72%
	Term Deposit	2-Jun-07	31-Aug-07	90	1,331,808.76	6.60%	4.58%
	Floating Rate Sub Debt	11-Jun-07	11-Sep-07	92	500,000.00	7.35%	1.72%
TOTAL M'LAND MUTUAL					\$2,331,808.76		8.01%
TOTAL INVESTMENTS					\$28,102,660.21		96.56%
CASH AT BANK					\$1,001,223.68	6.20%	3.44%
TOTAL CASH & INVESTMENTS					\$29,103,883.90		100.00%

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

I, Peter Gesling, being the Responsible Accounting Officer of Council, hereby certify that the Investments have been made in accordance with the Local Government Act 1993, the Regulations and Council's investment policy.

P GESLING

STRATEGIC COMMITTEE RECOMMENDATIONS

ITEM NO. 1**FILE NO: PSC 2006 - 0210****PROPOSED DRAFT LEMON TREE PASSAGE DEVELOPMENT
CONTROL PLAN.****REPORT OF: TREVOR ALLEN – ACTING COMMUNITY PLANNING MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the *Draft Amendment Chapter C9* of the *Port Stephens Development Control Plan 2007: Lemon Tree Passage* to be placed on public exhibition for a period of 4 weeks.

STRATEGIC COMMITTEE RECOMMENDATIONS –7 August 2007**RECOMMENDATION:**

That the Recommendation be adopted.

Tabled Documents: Yes**ORDINARY MEETING OF COUNCIL – 28 August 2007****RESOLUTION:**

233	Cr Hodges Cr Francis	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to inform Council of the preparation of the *Draft Chapter C9 Lemon Tree Passage* of the *Port Stephens Development Control Plan 2007* (DCP) and to seek Council's resolution to place it on public exhibition.

Council resolved to fund the preparation of development controls specific to the village centre of Lemon Tree Passage in 2006. These development controls will ensure that future development in the village centre is complimentary to and consistent with the strategic directions and future desired character of the area.

A brief was prepared and expressions of interest from urban design consultants were received. As a consequence *Ruker and Associates* (the consultant) were engaged to carry out the task. The consultant is a leading urban design firm instrumental in preparing the *NSW Coastal Design Guidelines 2003* for the Department of Planning.

The recommendation proposes to insert a new site specific chapter (C9 Lemon Tree Passage) into the recently adopted *Port Stephens DCP 2007*. Whilst DCP 2007 provides significantly clearer, stronger and more desirable development controls for mixed use development across the Local Government Area, it is necessary to prepare development

MINUTES FOR ORDINARY MEETING - 28 AUGUST 2007

controls specific to the village of Lemon Tree Passage. Doing so will guide future development in the village centre in a manner that is desirable and intended. Furthermore, a desirable outcome of the draft controls is to attract investment and redevelopment in the village through optimising development yields within agreed building envelopes.

In April 2007, a community consultation evening was held at Lemon Tree Passage to inform the residents of the purpose and benefits of site specific development controls for the village. The consultant and Council Officers highlighted the opportunities and constraints of the location and received feedback from residents on development control and planning matters in the village of Lemon Tree Passage.

A supplementary memo was submitted to Council on 26 June 2007 regarding Development Application No. 16-2004-1181-1 for commercial premises and seven (7) units at 9 Cook Parade, Lemon Tree Passage. The memo informed Council of the progress of the preparation of the Lemon Tree Passage development controls and, subject to consultation with the consultant and with relevant council officers, that it was intended that the draft controls be submitted to Council for its consideration in August 2007. The memo recommended that Council defer determination of the DA subject to resolution of Draft Lemon Tree Passage DCP chapter. On the 12 June 2007 Operations Committee meeting, Council resolved to defer the DA subject to the Draft Lemon Tree Passage DCP chapter being submitted to Council for adoption.

Should Council support the recommendation of this report, submissions will be considered in preparation of the final document. Should Council support the final *Lemon Tree Passage Development Control Plan* chapter, it will be inserted into *Port Stephens DCP 2007* and the controls will be taken into account when determining current and future development proposals in the village.

LINKS TO CORPORATE PLANS

An adopted Draft Lemon Tree Passage DCP chapter will address the strategic and future directions of the Council Plan 2005-2008 in particular:

- Creating safe communities.
- Integrating planning for facilities and services.
- Preserving and enhancing our heritage, biodiversity, and environmental health.
- Promoting, planning and guiding development to create sustainable communities that conserve and enhance the natural and built environment.
- Alignment of Council Plans.
- Planning and development processes involve community participation and development outcomes reflect community values.
- Integrating land use and transport.

FINANCIAL/RESOURCE IMPLICATIONS

The preparation of the draft controls by the consultant was funded by Ward funding as the project was not identified in Land Use Planning's work program. Project management, consultation and publicly exhibiting the draft controls has and will affect the capacity of Land Use Planning to undertake other priorities in the Land Use Planning work program. However, adoption of the recommendation of this report will contribute to improving and strengthening Council's planning framework and address the issues and expectations of the community concerning development issues in the village of Lemon Tree Passage.

LEGAL AND POLICY IMPLICATIONS

Should Council adopt this recommendation, Draft Lemon Tree Passage DCP chapter will be placed on public exhibition for a period of 4 weeks. Submissions will then be considered and contribute to a final document being completed and reported back to Council for endorsement.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 4) To improve the outcome, improve the system and its associated processes
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Placing the Draft Lemon Tree DCP chapter on public exhibition for a period of 4 weeks will enable the community to make comment on the proposed draft. This will assist the Consultant and Council Officers in completing the final document before reporting back to Council.

ECONOMIC IMPLICATIONS

There are no economic implications in adopting the recommendations of this report. The economic and financial implications of the draft controls are recognised and have been an important consideration in their preparation. It is desired and intended that the draft controls, prepared in consultation with the community, provide incentive for investment in the village whilst ensuring that the amenity and visual qualities of the village are retained and protected.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications with placing the draft DCP document on exhibition. Should Council adopt the final document, proposed development controls in the subject area will require future development to protect water quality regimes and improve landscape elements in the public domain (streets and parks).

CONSULTATION

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Internal consultation has occurred and comments from relevant Council Officers were considered in the preparation of the draft controls. Community consultation was held in April 2007 and comments received assisted the consultant and Council's Land Use Planning Team to complete the Draft.

Should Council adopt the recommendation and the draft controls are publicly exhibited, submissions will be reviewed and will inform the final document. A report to Council will seek endorsement of the final document.

OPTIONS

- 1) Adopt the recommendation of this report.
- 2) Reject the recommendation and not place the Draft Amendment on exhibition.
- 3) Make amendments to the recommendation and/or the draft Amendment.

ATTACHMENTS

- 1) The Draft Amendment to Chapter 9 of the Port Stephens Development Control Plan 2007: Lemon Tree Passage (to be provided under separate cover).

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

**THE DRAFT AMENDMENT TO CHAPTER 9 OF THE PORT STEPHENS
DEVELOPMENT CONTROL PLAN 2007: LEMON TREE PASSAGE (NOTE: TO BE
PROVIDED UNDER SEPARATE COVER)**

ITEM NO. 2

FILE NO: PSC2006-0029

DRAFT ANNA BAY STRATEGY

REPORT OF: TREVOR ALLEN – ACTING COMMUNITY PLANNING MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the Draft Anna Bay Strategy and Town Plan 2007 on public exhibition for a period of four weeks.
- 2) Adopt the Consultation Plan detailed in this report.
- 3) Resolve to prepare a Local Environmental Study pursuant to s57 of the Environmental Planning and Assessment Act 1979 for Lot 2 DP1083740, Lot2 and part Lot3 DP502820 and Lot 312 DP753204; to determine the potential impacts of low scale eco-tourism development and conservation uses on archaeological values, visual amenity, habitat, dune stability and hydrology.
- 4) Resolve to prepare a draft LEP pursuant to Section 54 of the Environmental Planning and Assessment Act 1979 to rezone part Lot 3 DP 502820 to permit tourism development.

STRATEGIC COMMITTEE RECOMMENDATIONS –7 August 2007

RECOMMENDATION:

That the Recommendation be adopted.

AMENDMENT:

1. That the former Matilda site is to be identified as R3 reflecting urban housing development that has been constructed;
2. That Council include a more detailed plan depicting proposed road closures on the Strategy map; and
3. That Council include Amendments as identified in its Supplementary Memorandum dated 7 August 2007 as listed below:

The Amendments are as follows:

Section 2.2 Anna Bay Landscape Setting: Change wording from Worimi Conservation Land to Birubi Point Aboriginal Place.

Section 4.5 Worimi Conservation Land & Stockton Sand Dunes: Change wording from Worimi Conservation Land to Birubi Point Aboriginal Place (second dot point).

Section 5.2 Key Strategies: Protecting Aboriginal Heritage Change wording from Worimi Conservation Land to Birubi Point Aboriginal Place.

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Figure 4 Worimi Conservation Land and National Park: Change Worimi Conservation Land to Birubi Point Aboriginal Place (and alter legend accordingly). Include Crown Land and Council managed land on map.

Figure 16 Draft Anna Bay Town Plan 2007 – Land Uses: Change reference in the legend from Worimi Land to Birubi Point Aboriginal Place and update map to more accurately reflect the extent of Birubi Point Aboriginal Place.

Figure 17 Draft Anna Bay Town Plan 2007 – Conservation and Revegetation Areas: Change reference in the legend from Worimi Land to Birubi Point Aboriginal Place and update map to more accurately reflect the extent of Birubi Point Aboriginal Place.

Tabled Documents: Yes

ORDINARY MEETING OF COUNCIL – 28 August 2007

RESOLUTION:		
234	Cr Hodges Cr Jordan	That the Strategic Recommendation and Amendment be adopted.

BACKGROUND

The purpose of this report is to:

- 1. Explain the background, structure, content and implementation of the Draft Anna Bay Strategy and Town Plan 2007 (Attachment 5).**
- 2. To seek Council endorsement to place the Anna Bay Strategy and Town Plan 2007 on public exhibition.**
- 3. To review potential for tourism development within the Stockton dune area south of Gan Gan Road**

Anna Bay is a small coastal town of approximately 2450 people located in a unique coastal setting on Tomaree peninsula. The settlement has been the subject of three major planning studies commissioned by Port Stephens Council in recent years.

The Draft Anna Bay Urban Management Plan and Design Guidelines 2002 identifies opportunities to accommodate new development in the area that would protect and develop the local identity and character of the town.

The Draft Anna Bay Local Area Plan 2004 was prepared to provide the broad strategic land use policy directions for future development in the Anna Bay area including improved transport infrastructure, increased town density and services, support for ecotourism, and protection of habitat.

The Draft Anna Bay North Structure Plan 2005 identifies the flooding, drainage and ecological issues and subsequent management requirements relating to the possible development of land to the north and east of the town.

Extensive community feedback was received through consultation undertaken in the development of each of these previous plans (Attachment 1). A further community consultation meeting was held on 16 October 2006 to present a first draft Anna Bay Town

Plan. The Draft Anna Bay Strategy and Town Plan 2007 have been prepared in house with the benefit of the findings and recommendations of the past three studies, as well as the detailed community feedback.

The draft Anna Bay Strategy and Town Plan 2007 yields up to 650 new dwellings on new release areas and up to 270 dwellings in mixed use development or medium density residential development on infill sites (that are within easy walking distance of the town centre). The projected population increase is up to 1700 over 20 years.

The Draft Anna Bay Strategy - Document Structure

The Anna Bay Strategy is structured as follows:

- *Background and Analysis* that summarises the regional context of Anna Bay (movement network, economy and bio-physical setting) and the constraints and opportunities that influence potential growth (flooding, drainage, flora and fauna habitat, land stability and the like).
- *Town Plan* section includes:
 - o key landscape features to be protected
 - o the town structure defined by the town centre and residential neighbourhoods;
 - o the network and hierarchy of streets, cycleways and footpaths
 - o location of existing and future community facilities
 - o the network of parks, beaches and open space
 - o land uses within each neighbourhood
 - o conservation and revegetation areas for habitat areas and corridors.
- *Potential Yields Summary* identifies the potential yield from rezoning and development in accordance with the Town Plan. The summary includes potential area of commercial floor space and the potential number of dwellings or serviced apartments above. It identifies the area of new industrial land and the extent of existing light industrial uses on land zoned Commercial 3(a) that would in turn be displaced by mixed commercial-residential development. Urban capacity also notes the area of native vegetation loss, and the total area of land to be set aside for conservation and revegetation. The summary includes the total area of new neighbourhood parks and the location.
- *Implementation Strategy* provides the framework for provision of essential infrastructure and establishes the criteria for assessment of re-zoning requests (such as minimum areas; flood catchment studies, developer agreements and biodiversity offsets where development would involve removal of habitat).
- *Appendix 1*: Summary of community feedback in response to Draft Anna Bay Urban Management Plan and Design Guidelines 2002, Draft Anna Bay Local Area Plan 2004 and Draft Anna Bay North Structure Plan 2005.
- *Appendix 2*: Council Forward Works Program 2006

LINKS TO CORPORATE PLANS

The draft Anna Bay Strategy addresses the strategic and future directions of Council's Plan 2005-2008 in particular:

- Providing an integrated policy framework.

- Integrating planning for facilities and services.
- Integrating local and regional strategies.
- Creating safe communities.
- Preserving and enhancing our heritage, biodiversity, and environmental health.
- Maintaining and improving the quality of environment and recreation facilities.
- Achieving development that is more ecologically sustainable.
- Protecting, restoring and managing biodiversity through planning
- Researching and implementing environmental best practice.
- Implementing Water sensitive urban design.
- Promoting, planning and guiding development to create sustainable communities that conserve and enhance the natural and built environment.
- Ensuring that our planning framework provides appropriate levels of housing, transport, infrastructure, human services and community facilities across all of our communities.
- Planning and development processes involve community participation and development outcomes reflect community values.
- Aligning our policies with our planning framework.
- Delivering facilities and services to meet community needs now and in the future.
- Managing facilities and services to meet community needs in a way that protects and enhances the environment and community values.
- Ensuring Council's forward planning framework for infrastructure matches development.
- Integrating land use and transport.

The Anna Bay Strategy and Town Plan once adopted would be included in the *Port Stephens Community Settlement and Infrastructure Strategy 2007* (which sets the policy framework for managing urban growth and building communities in Port Stephens). The Anna Bay Strategy and Town Plan reinforce the sustainability principles of the CSIS.

The Town Plan would establish Council policy in response to new release areas, town centre growth and rezoning requests, as well as priorities for infrastructure development and improvements to community and recreation facilities and services.

It will also facilitate the subsequent preparation of a specific chapter in the Port Stephens Development Control Plan 2007 for the Anna Bay locality.

FINANCIAL/RESOURCE IMPLICATIONS

The Anna Bay Strategy requires commitment from Council, infrastructure providers, landholders and future developers for improvements to roads and parking facilities, cycleways and footpaths, community facilities, main street works, street tree planting and for expansion of water, sewer, power and road services.

Land Use Planning resources will be required for the ongoing consultation with state agencies and infrastructure providers (Department of Planning, Department of Lands, HWC, EA, RTA, National Parks, Worimi LALC) and management of future re-zoning requests.

The State government's recent gazettal of legislation for state infrastructure levies on green field development will be an increasingly important issue for Council when considering rezoning requests for urban development consistent with the draft Strategy. The State government is yet to finalise how a regional infrastructure levy will be applied to the Lower Hunter Region.

On adoption, the implementation of the Anna Bay Strategy and Town Plan will necessitate preparation of development controls (to be inserted into Port Stephens Development Control Plan 2007), a Section 94 plan and developer agreements, and infrastructure and service provision and agreements with Council, state agencies and the private sector.

LEGAL AND POLICY IMPLICATIONS

The Draft Anna Bay Strategy is not a legal document required by legislation. The draft Strategy seeks to implement the relevant contents of the Lower Hunter Regional Strategy (adopted October 2006), the draft Regional Conservation Plan and the Port Stephens Community Settlement and Infrastructure Strategy 2007.

The draft Strategy is a key Council policy to guide where new urban development should occur in identified areas and states how social, economic and environmental factors can be integrated in the planning and design of these areas to achieve more sustainable neighbourhoods. The coordination and timing of rezoning requests will be subject to land owner preferences and economic factors.

Once the Anna Bay Strategy and Town Plan are endorsed by the Department of Planning Council would have delegated authority to assess rezoning requests that are consistent with the Town Plan.

Australian Business Excellence Framework

This aligns with the following ABEF Principles. (Please delete what is not applicable)

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 5) The potential of an organisation is realised through its people's enthusiasm, resourcefulness and participation
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 9) All systems and processes exhibit variability, which impacts on predictability and performance
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

The draft Anna Bay Strategy identifies areas to accommodate future urban development and community facilities. It proposes an evaluation framework for planning, designing and

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assessing rezoning proposals that takes accounts of social, economic and environmental factors. The draft Strategy is consistent with, and incorporates the Direction Statements from Council's Sustainability Policy.

Managing Town Growth

Council is proposing to manage growth and build communities in Anna Bay on a more sustainable basis.

Anna Bay is a seaside settlement in a remarkable natural location. It is fringed by the Pacific Ocean to the south, coastal heathland to the east, treed sand ridge to the north and Stockton Sand Dunes to the West. Anna Bay has a future as a small but vibrant town offering a mix of dwelling types and business opportunities, a pleasant main street with a mix of retail and office space and shop top housing or serviced apartments.

The Draft Anna Bay Strategy and Town Plan has a potential yield of approximately 900 new dwellings (including visitor accommodation), 4.0 ha of commercial land and 2.5 ha of industrial zoned land. This would support a population increase of nearly 900 dwellings and 1700 people over the next 20 years as shown below.

	2006 Census	Increase over 15 yrs	2021	Increase over 20 yrs	2026
Dwellings Town Plan growth	883	600	1483	900	1783
Population Town Plan growth	2441	1044	3485	1677	4118
Population If 1.5% pa growth	2441	610	3051	845	3286

Flooding and Drainage

Large areas of land in Anna Bay have once been estuarine or freshwater wetlands. A significant portion of these low-lying areas to the north of Anna Bay is inundated during the 100-year average recurrence interval (ARI) storm event.

The town centre town is drained to the open channel known as Fern Tree Drain then to the Main Drain which empties into Tilligery Creek. There is minimal fall from Fern Tree Drain to the Creek and water flow is very slow across a broad flat floodway.

Council's *Community Settlement and Infrastructure Strategy* and the State Government's *Lower Hunter Regional Strategy* do not recommend residential development on the 1:100 year flood plain. However previous studies including the *Anna Bay Catchment Drainage/ Flood Study Masterplan* (Sinclair Knight Merz 1995) and *Drainage Investigation Report - Anna Bay North Structure Plan* (Parsons Brinckerhoff 2004) show that limited filling and development within the floodway would not raise existing flood levels in this northern area. The Town Plan identifies approximately 6 ha of flood prone that would require filling for urban development.

The Anna Bay Town Plan identifies defined areas of flood prone land for potential development on the basis that they will consolidate the Town Neighbourhood and contain the northern edge of the town. A rezoning request for any land to the north and west of the

existing town centre as shown on the Town Plan, must be supported by a single flood study that addresses the drainage of all land that has been identified for development in that sub-catchment. The onus is on proponents to coordinate, fund and implement such a study across all allotments in the sub-catchment .

In Anna Bay East local flooding problems are caused by stormwater draining to an existing depression located adjacent to Gan Gan Road. New residential development would require a large detention basin (also used as parkland) and a new pipe through the sand ridge to a second detention basin on the north slope of the sand ridge. A rezoning request for the Clarke Road Neighbourhood must be supported by a single flood study that addresses the drainage of all land that has been identified for development in that sub-catchment and quantifies the detention basin required.

Vegetation Management

Urban development shown in the Town Plan would involve the removal of approximately 2ha of vegetation cover. The proposed removal or modification of native vegetation including Endangered Ecological Communities may trigger the need for Species Impact Statements under the Threatened Species Conservation Act 1995. In particular koalas are listed as a vulnerable species in the Act and are recognised as an umbrella species that indicate the general health of the environment.

The Port Stephens Comprehensive Koala Plan of Management (2002) also applies to the entire Port Stephens Local Government Area. It describes the Anna Bay area as one of the most significant koala habitats on the Tomaree Peninsula and states that clearing has isolated several small sub populations in the area. The Plan stipulates that rezoning requests should only permit development that has a low impact on preferred koala habitat (Swamp Mahogany Paperbark Forest) and supplementary koala habitat areas (Coastal Sandy Apple Blackbutt Forest).

As part of the development of the Anna Bay Strategy 2007, Council has undertaken field surveys as well as a review of data from the Australian Koala Foundation, Lower Hunter Central Coast Regional Environment Management System, Native Animal Trust Fund and the Draft Anna Bay North Structure Plan. (Refer to Draft Anna Bay Strategy 2007 Figure 8 Koala Habitat Areas and Movement Corridors which forms the basis for conservation and revegetation areas established in the Draft Anna Bay Town Plan).

Bio-Diversity Offsets

For re-zoning requests that involve the removal of native vegetation the Anna Bay Strategy proposes a Biodiversity Offset Scheme. The scheme consists of a combination of Voluntary Conservation Agreements (between a landholder and the Department of Environment and Climate Change) and/or a Property Vegetation Plans (administered by the Hunter- Central Rivers Catchment Authority) to protect or restore habitat areas. Land to be conserved or revegetated is identified in the Town Plan.

Implementation of the draft Strategy through rezoning of land that is currently vegetated is dependent upon the draft LEP being endorsed by the Department of Environment, Conservation and Climate Change. If rezoning of vegetated land is consistent with the Town Plan, and the Biodiversity Offset Scheme is acceptable to the Department of Planning and DECC, then Council and DECC would be able to waive the requirements of the '7 part test' under the Environmental Planning and Assessment Act for future Development Applications.

It is possible that any land having significant biodiversity values that is identified for urban development may not be negotiable despite the proposed Biodiversity Offsets Scheme.

Movement Network

Council's Traffic Study 2006 (prepared by Rob Caldwell Traffic Engineering Services) was commissioned to identify infrastructure and parking capacity required for an anticipated town growth of 600-700 dwellings. The key recommendations are:

- Provide a roundabout at the east end of Gan Gan Road and Nelson Bay Road
- Consolidate town parking and designate access lanes to improve efficiency
- Provide an air and water facility for 4WD at the 4WD parking area.
- Future development to comply with DCP requirements for parking

In urban expansion areas the proposed street and block layout aims to maximize connections with existing streets, minimize no through roads and as far as possible follow property boundaries for ease of subdivision. The new street network provides a parallel route to Gan Gan Rd and Old Main Rd to ease traffic pressures. Roads follow the natural topography to limit cut and fill, are of minimal width and should be designed to use grass swales and to retain roadside trees.

The road pattern provides for pedestrian walkability. In the established areas of town pedestrian linkages have been identified to improve walking routes between the shops, surf club and Tomaree National Park.

On James Paterson St heavy and long vehicle movement would be limited in conjunction with providing an alternative 4WD access to the dunes and the beach.

Stockton Sand Dunes

Anna Bay is the gateway to sand dunes that stretch southwards for 32 kilometres along the coastline to Stockton and up to one kilometre wide, covering an area of approximately 2500 hectares. The Stockton Sand Dunes are the largest continuous mobile sand mass in eastern Australia, at some parts rising up to 30 metres above sea level. This landscape is part of the Worimi Conservation Lands co-managed by Parks and Wildlife and the Worimi Aboriginal community. Birubi Point is also formally identified as an Aboriginal Place.

Currently heavy tourist buses and other 4WD recreational vehicles access the dunes and beach via James Patterson St and have an undesirable impact on the amenity of local residents. The Town Plan proposes a new 4WD parking facility with direct access from Gan Gan Road on Lot 312 DP753204. The Strategy supports a commercial operation for servicing of this parking site with water and compressed air which would relieve traffic pressure near the service station in the mainstreet.

Tourism Development

The Town Plan restricts development to low scale eco-tourism facilities within the sensitive dune area through a special purpose zoning. One site closer to the town centre is designated for tourism uses such as serviced apartments. Any development proposal would be subject to assessment of visual impact on sensitive views to and from the coastline, impact on fragile vegetation cover and Aboriginal heritage.

Although there is some evidence that sand mining in the vicinity of Anna Bay may have removed the threat of sand drift to the town a development proposal in the vicinity of the sand dunes must include suitable stabilization measures to deal with sand drift and variable ground levels.

Recreation and Community Facilities

Under the provisions of the Town Plan the population of Anna Bay would increase by 1700 to approximately 4100 people by 2026. Council's population based standards guide the provision of Port Stephens Council's community and recreational facilities (Section 94 Developer Contributions Plan 2007: Appendix 1).

The Town Plan identifies the location of existing community facilities and the location of a new community multi-purpose centre and a new skate park in the Reserve opposite the school and existing community facility to meet increased demand. Council's Forward Works program for Anna Bay identifies a number of footway, cycleway and facility upgrades (Attachment 2).

Landcom Site - Fisherman's Bay Rd

22ha of Crown land on Fisherman's Bay Rd is already zoned for residential uses. However a development application would be subject to the findings of a Species Impact Statement under the *Threatened Species Conservation Act 1995* and a visual impact analysis under *State Environmental Planning Policy 71(Coastal Protection)*. The NSW Coastal Design Guidelines provide a strong policy and design framework for development in such a sensitive coastal location.

The Town Plan identifies three access points to the future Landcom subdivision to allow efficient vehicle circulation and pedestrian accessibility. View corridors, street and block layouts, open space improvements and conservation areas would be detailed in a site specific DCP to be included in the Port Stephens DCP 2007.

Rezoning Request – Stockton Dunes

Council has received a rezoning request for Lot 2 and Lot 3 in DP502820 on land currently zoned 1(a) Rural Agriculture (Locality Plan Attachment 3). The request seeks to have the land rezoned as follows:

“Rezoning of the site to Zone SP3 Tourist with appropriate wording within clause 14 – Additional permitted uses for particular land, allowing tourist facilities, with building heights not to exceed 14.5metres (up to 4 storeys in height with a notional maximum site area of 200m² per dwelling across the site, consistent with previous urban design studies of Anna Bay)”.

Given that the site has a combined area of approximately 5 hectares the rezoning is seeking to allow up to 250 dwellings across the site. This scale and extent of development was not discussed with Council planning staff prior to the lodging of the request and the proponent has not met with Council's Rezoning Assessment Panel.

The Group Manager, Sustainable Planning indicates that the purpose of any rezoning request would be to facilitate assessment of DA 16-2005-788-1 (Attachment 4). This DA seeks to allow 84 tourist units in four buildings with a maximum height up to 14.4 metres on that part of Lot 3 located east of the 4WD access road. The applicant was advised on 14th June 2007 that a report to Council would only consider that part of Lot 3 proposed for development in DA 16-2005-788-1.

The land subject to development assessment is close to the town centre and is outside the Gan Gan Rd vegetation buffer. It has merit for further investigation for rezoning to support tourist development principally due to its proximity to the town centre. The land is identified in the draft Anna Bay Strategy and Town Plan 2007 for rezoning to SP3 Tourism and it is recommended that Council resolve to prepare a draft LEP pursuant to s54 Environmental Planning and Assessment Act 1979 to rezone part Lot 3 DP 502820 to permit tourism development.

As agreed the remaining dune land has been considered in the context of the Anna Bay Strategy and Town Plan 2007. An initial review of Departmental directions indicates that issues likely to require further consideration include consistency with the planning framework for coastal areas, Aboriginal heritage, visual amenity, dune stability and hydrology. A Local Environmental Study pursuant to s57 of the Environmental Planning and Assessment Act 1979 for Lot 2 DP1083740, Lot2 and part Lot3 DP502820 and Lot 312 DP753204; would determine the potential impacts of low scale eco-tourism development and conservation uses.

Implementation Strategy

The Town Plan proposes to apply zones that are set down in the NSW State Government's Standard Instrument – Principal Local Environmental Plan where a change in use or an increase in density is proposed. The location of each of these proposed zones is shown on the Town Plan. These zones will only apply if and when the landholder submits a re-zoning request that is supported by council and the state government.

To implement the Town Plan extended water and sewer infrastructure is required. Hunter Water Corporation has indicated that augmentation works will be undertaken in 2008. Further discussions with HWC would be undertaken during the exhibition period to determine the program of works.

Release of a new urban area is also dependent on resolution of the significant flood and drainage issues for the entire drainage sub-catchment of Anna Bay North or Anna Bay East. There is no preference in timing for the rezoning and development between these two areas.

Development Controls

The Port Stephens Development Control Plan 2007 provides general controls for commercial, mixed use, industrial and residential development. A new chapter for Anna Bay will provide development control principles and controls that are specific to the Anna Bay locality. It is anticipated that the DCP will include principles and controls related to:

- Streetscape
- Town centre built form
- Landscape plantings and species
- Development in koala movement corridors
- Eco-sensitive development in dune areas
- Water Sensitive Urban Design

CONSULTATION

Extensive community feedback was received through development of previous strategic plans for Anna Bay as well as the community consultation meeting held on 16 October 2006 to present a first draft of a more wholistic Anna Bay Town Plan (see Attachment 1). The community comments from that meeting have guided development of the Town Plan.

The preparation of the draft Strategy also involved discussions with the Roads and Traffic Authority, Hunter Water Corporation, Department of Environment and Conservation and the Department of Planning.

The recommended consultation plan for exhibition of the draft Strategy is as follows:

1. Place the draft Anna Bay Strategy and Town Plan 2007 on public exhibition for 4 weeks during August - September with copies placed at Council administration building, Anna Bay Community Hall and on Council's website inviting written submissions from the public;
2. Formally consult with Department of Planning; Department of State and Regional Development; Department of Environment and Conservation and Climate Change; Catchment Management Authority; Department of Education and Training; Ministry of Transport; Department of Housing; Tourism NSW; Rural Fire Service; NSW Fire Brigade; Department of Natural Resources; Hunter Water Corporation, Energy Australia; Port Stephens Coaches; and the Department of Defence;
3. If and when Council adopts the draft Anna Bay Strategy seek endorsement of the Strategy from the Director General of Planning and seek delegated authority for Council to assess future re-zoning requests that are consistent with the Strategy.

OPTIONS

- 1) Adopt the recommendations.
- 2) Require changes to be made to the draft Strategy and Town Plan before placing on public exhibition.

ATTACHMENTS

- 1) Summary of Community responses to previous strategic plans
- 2) Community and Recreation Facilities
- 3) Locality Plan – Rezoning Request for Tourism Uses
- 4) Letter of advice regarding Rezoning Request – Lot3 DP502820
- 5) The Draft Anna Bay Strategy and Town Plan (Note: Attachment 5 supplied under separate cover).

COUNCILLORS ROOM

- 1) The Draft Anna Bay Strategy and Town Plan

TABLED DOCUMENTS

Nil.

**ATTACHMENT 1
RESPONSE TO ISSUES RAISED IN COMMUNITY SUBMISSIONS**

ISSUE		RESPONSE IN TOWN PLAN
Traffic and Parking	Lack of parking in the town centre	The Traffic Study carried out by Traffic Engineering Pty Ltd to investigate implications of growth in Anna Bay advises that there is adequate parking available and that all future redevelopment should meet Council's standards for the provision of parking. theTown Plan identifies common carparking areas and access lanes within the commercial centre.
	4wd access to the town centre for air and water	Council will actively encourage a private operator to establish an air and water facility for 4wd near the access track. This will encourage 4wd's out of the town centre for access to air and water facilities.
	Amount of traffic accessing Birubi Point and Stockton Sand Dunes fromPaterson Street	The town plan provides an alternative parking area for tourist 4wd traffic so that buses and other tourist operator vehicles will no longer need to access Birubi Point from JamesPaterson Street. The Forward Works Programme has allocated money towards the 4wd access track of Gan GanRoad to encourage greater use of this facility.
	Opening Old Main Road	The Town Plan does not propose to open old main road to traffic.
Flora and Fauna	Accuracy of koala habitat mapping	The accuracy of koala habitat mapping has been reviewed and confirmed with the results incorporated into the Town Plan. Areas of preferred and supplementary koala habitat are consistent with vegetation cover shown in up-to-date aerial photographs. Key koala movement corridors have been identified between habitat areas. The corridors permit residential development on larger lots of at least 900m ² that retain areas of tree cover and facilitate continued koala movement. Detailed controls would be included in the Anna Bay DCP.
	Compensation for land identified as conservation.	Land identified as koala habitat may have financial value for landowners under the NSW government's Biodiversity Offset Scheme. Landowners would enter into an agreement to manage land for conservation in exchange for payment. Aside from the northern sand ridge, land that is identified for protection or revegetation is also identified as flood prone. Accordingly, much of this land is unsuitable for development
Development	Lack of tourist development	Lland at the western entrance to the town on the south side of Gan GanRd is recommended for tourism and ecotourism with protected vegetation areas.
	Unattractiveness of town centre	A locality specific Development Control Plan will be developed for Anna Bay that supports improved building design and streetscape improvements and landscape planting in the town centre. A small industrial area is proposed off Gan GanRoad at the entrance to Anna Bay to support the shift of industrial-type land uses out of the town centre.

MINUTES FOR ORDINARY MEETING - 28 AUGUST 2007

	Large lot housing on the northern side of the sand ridge	<p>The sand ridge is an important landscape element and its protection is identified as a principle of the Town Plan. The ridge also serves as a natural 'edge' to urban expansion. The Town Plan identifies suitable dwelling sites for residual lots that are located on the sand ridge.</p> <p>Large lots are only proposed north of the sand ridge at the eastern end of Anna Bay. The community would benefit from the provision of significant drainage infrastructure, however the NSW Department of Planning has a general policy position that they do not endorse large lot housing.</p>
	Extent of developable area	<p>The Town Plan focuses specifically on the existing town of Anna Bay as it is identified in the Lower Hunter Regional Strategy. The Lower Hunter Regional Strategy does not identify other, smaller villages such as Boat Harbour for development. These areas can be considered during the comprehensive review of the Port Stephens Local Environmental Plan, to be completed by 2011.</p> <p>developable land in the area is limited by a number of factors with the primary constraint being flood prone land.</p> <p>Most of the land north of the fern tree drain is identified as flood prone and large amounts of fill would be required for its development. land in this area has been cleared over time however it still forms an important koala movement corridor.</p>
	Height of buildings	<p>Anna Bay has limited potential for 'greenfield' urban expansion. an increase in height is proposed for the central area of Anna Bay to provide for additional population close to the town centre and to encourage redevelopment of the commercial area.</p> <p>Building height will be up to three storeys in the town centre (with lower storey setback 3-4m from boundary and the third storey setback further). The secondary commercial area will be two storeys, and the general residential area a mixture of one and two storeys.</p>
Recreation and Community Facilities		<p>The Town Plan provides 3 new neighbourhood parks within easy walking distance of new housing areas and in accordance with the Port Stephens Development Control Plan 2007. The Plan identifies the need for a multi-purpose community centre and a second skate park.</p>
Flooding and Drainage		<p>Two studies have been completed that investigate flooding and drainage in Anna Bay under limited development scenarios. All rezoning requests will be required to assess drainage impacts.</p> <p>All development will be required to be consistent with the principles of water sensitive urban design to minimise drainage impacts.</p> <p>Council's Draft Section 94 Contributions Plan provides for monetary contributions to be made towards improving drainage infrastructure In Anna Bay in accordance with the Anna Bay Catchment Drainage/Flood Study Masterplan (Sinclair Knight Merz 1995).</p>
Bushfire Hazard	Fire hazard of vegetated areas	<p>A ring road is proposed around the areas identified for development. this provides an 'edge' to the town, improved access for fire control and forms part of the Asset Protection Zone.</p>

ATTACHMENT 2

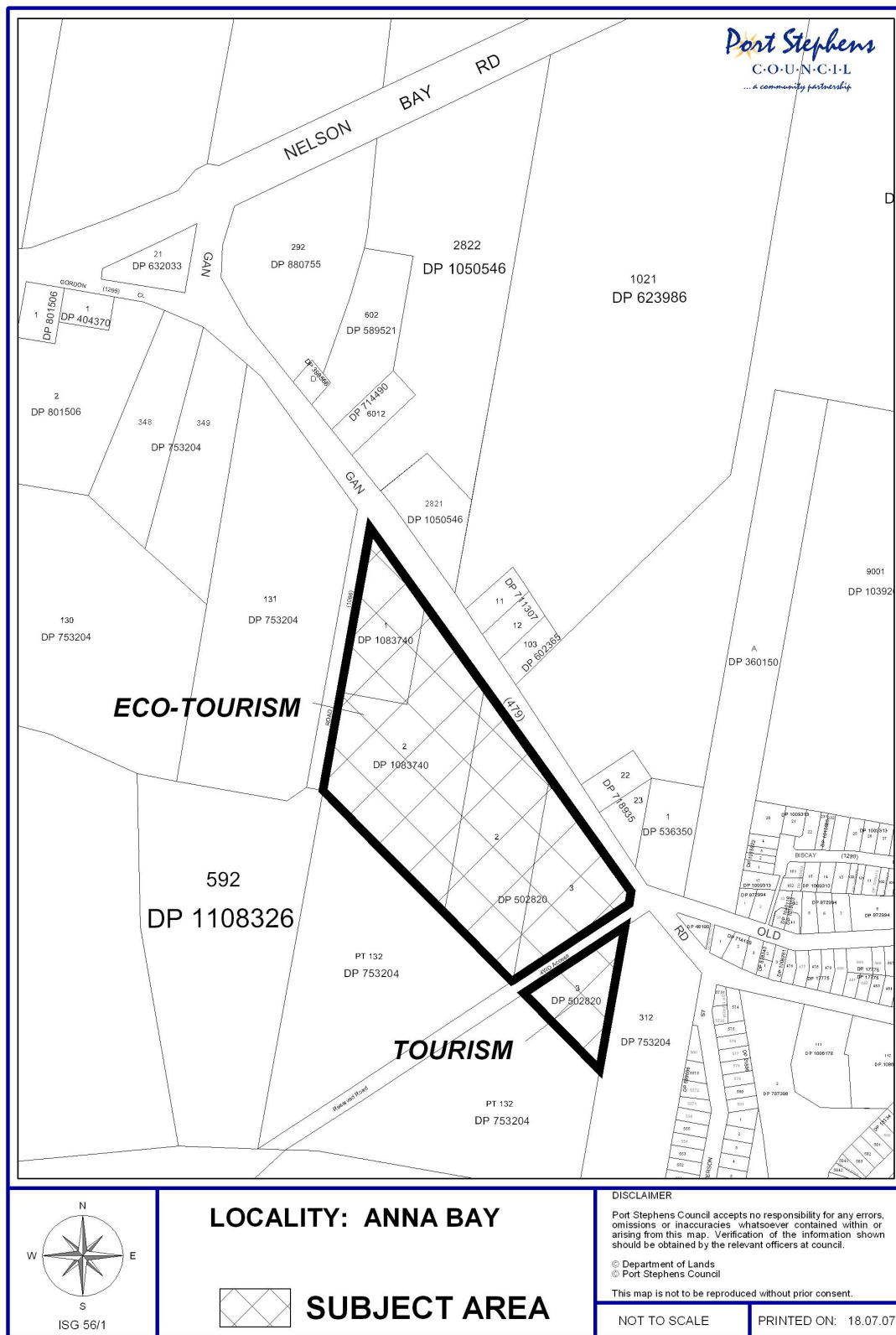
STANDARDS FOR COMMUNITY SERVICES AND FACILITIES

	Standard	Anna Bay requirements*	Location
Cemeteries			
Burials	1 plot/ 4 people		
Niches	1 niche wall / 1,000 people		
Multipurpose Children's Space <i>neighbourhood</i>	1 place/ 20 people 0-12 years	<i>new child care centre</i>	<i>town</i>
Multipurpose Community Space <i>neighbourhood</i>	100 sqm / 1,000 people	<i>new community facility</i>	<i>town</i>
Cultural Services and Leisure Facilities			
Libraries			
Branch Libraries	1 branch library/ 20,000 people	<i>(Salamander Library)</i>	
Library Lounges	1 library lounge/ 10,000 people		
Exhibition Space	100 sqm of space/ 7,500 people		
Recreational Facilities			
Leisure Centres	1 centre/ 25,000 people		
Surf Lifesaving Clubs	1 club/ 30,000 people	<i>existing clubhouse</i>	
Boating			
Boat Ramps	1 ramp/ 6,000 people		
Wharves	1 wharf/ 6,000 people		
Parks and Reserves			
Local Parks and Playgrounds <i>parks</i>	0.3 ha/ 800 people	<i>additional 1.5ha</i>	<i>3 new local</i>
N'rhod & District Reserves	1 ha/ 4,000 people	<i>extensive coastal reserves</i>	
Tidal Pools	1 tidal pool/ 30,000 people		
Undeveloped Natural Areas	2.5 ha/ 1,000 people	<i>existing National Park</i>	
Foreshore Open Space	see district reserves	<i>extensive coastal reserves</i>	
Sports Facilities			
Netball Courts	1 competition court 3,000 people	<i>(Tomaree Sports Complex)</i>	
Skate Parks	1 park/ 500 people 10-19 years	<i>new/extended AB skate park</i>	
BMX Tracks	1 track/ 15,000 people		
Sports Fields	1 ha / 400 people aged 5-39 years	<i>(Salamander Sports Complex)</i>	
Tennis Courts	1 court / 1,500 people	<i>12 new courts at One Mile</i>	
Croquet Courts	1 court / 40,000 people	<i>(Tomaree Sports Complex)</i>	
Swimming Facilities	1 facility/ 30,000 people		

* based on projected population of 4100 people by 2026

ATTACHMENT 3

STOCKTON SAND DUNES – POTENTIAL FOR TOURISM DEVELOPMENT



ATTACHMENT 4
LETTER OF ADVICE REGARDING REZONING REQUEST

Telephone Inquiries

David Broyd

4980 0319

Please Quote File No:

20 March 2007

Bob Monin
142A Sandy Point Road
CORLETTE NSW

Dear Bob

Re: Proposed Tourist Development, Anna Bay Urban Management Plan Guidelines

I refer to the meeting of 19 March 2007 involving yourself; Councillor Bob Westbury; Max Stevens; Manager Development & Building, Scott Anson and myself. At this meeting you introduced the proposal for a development of 84 units, given advice that you had received that this is the minimum number that can be properly promoted and marketed for viable operation. This is, however, a significant shift from the content of our discussions over a number of months at which it was agreed that you would be submitting an amended DA that reduced the original proposal from between 36 and 40 units with a committed management contract. It is confirmed that the Sand Drift Analysis and comments of the Estuary & Coastal Committee are favourable to that downscaled application. If the revised proposal of 84 units is to proceed, then the various impacts would need to be revisited and the Estuary & Coastal Committee further consulted.

Notwithstanding the merits of your proposal in terms of the promotion and marketing rationale, there are significant legal and merit issues arising from such a scale of tourist development in a Rural 1(a) zone adjacent to an urban centre such as Anna Bay.

Consequently, I confirm the options that are now available to you for the latest proposal (consisting of 84 units) to go forward.

1. You revise the current DA to include the 84 units and seek for this to be determined in its own right. This will trigger some significant reassessment, and I cannot foreshadow what recommendation will be made to Council. Clearly the difficulties that arise from such a tourist development in a Rural 1(a) zone in this location would continue.
2. Submit an application for a Draft Local Environmental Plan to rezone the subject land and concurrently lodge a revision to the current DA. On this basis, if consideration of the draft LEP ultimately led to a recommendation to the Minister to endorse this rezoning, then approval of the DA could potentially follow quickly after the Minister's signing of the draft LEP. As you will be aware, such a process could take 12-18 months to come to fruition.

3. Lodge a revised Development Application including 84 units and an application to prepare a Draft LEP for the subject land and seek the rezoning to be considered by Council concurrently with the Anna Bay Strategy that is programmed for report to Council in May 2007. The consideration and exhibition of the draft LEP will then occur at the same time as assessment of the revised DA. If consideration of the draft LEP and DA was favourable to your intents, then Council could consider approval of the DA after public exhibition on the basis of public submissions and State Government agencies' comments being favourable.

I recommend Option 3 as the most appropriate way forward given the history and content of your DA. Please do not hesitate to contact me should you require any clarification of this letter.

Yours faithfully

DAVID BROYD
GROUP MANAGER
SUSTAINABLE PLANNING

**ATTACHMENT 5
DRAFT ANNA BAY STRATEGY AND TOWN PLAN**

To be distributed under separate cover

ITEM NO. 3**FILE NO: PSC 2007-2372****COMPLIANCE POLICY****REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES & SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the draft Compliance Policy - Attachment 1 to this report.
 - 2) Council adopts as part of the Compliance Policy, the Ombudsman's Enforcement Guidelines for Councils (June 2002) as amended from time to time.
 - 3) Endorse the Communications Strategy as proposed in the report below.
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STRATEGIC COMMITTEE RECOMMENDATIONS –7 August 2007**RECOMMENDATION:**

That the Recommendation be adopted.

Tabled Documents: Yes**ORDINARY MEETING OF COUNCIL – 28 August 2007****RESOLUTION:**

235	Cr Brown Cr Dingle	1. That the Strategic Committee Recommendation be adopted. 2. The draft Compliance Policy is to be amended to include a reference to the 2006 ICAC Guidelines on Lobbying Councillors by inserting the following paragraph into the document (in Section 6 under the subheading "Approach"): <i>Council will follow the Independent Commission against Corruption Guide (2006) as amended from time to time when dealing with lobbying activities by special interest groups and/or individuals in relation to compliance matters that are the subject of investigation or action by Council.</i>
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BACKGROUND

The purpose of this report is to seek Council's adoption of a Compliance Policy.

Purpose of the Policy

The purpose of the policy is to assist Council staff to act promptly, consistently and effectively to unlawful activities. The Policy will help to minimise Council's legal costs by giving a high priority to education, intervention, negotiation and mediation. The Policy is also an outcome of a number of workshops with staff and a workshop with Councillors in May 2007 to discuss compliance issues and develop a compliance framework.

The NSW Ombudsman's Enforcement Guidelines for Councils (and the Appendices attached to it) have been used as the basis of framing this policy and for developing operational procedures to address compliance issues.

A compliance workshop was held on 25 July 2007 with the assistance of Hunter Councils involving representatives from the fourteen member Council's to discuss a regional approach to compliance. The Assistant Ombudsman, Mr Greg Andrews, provided a presentation to Councils at the workshop on the Ombudsman's 2002 Enforcement Guidelines. Mr Andrews encouraged participating Council's to develop their own Compliance Policies based on the Ombudsman's Guidelines as a means of improving the way Council's responded to complains of illegal activities.

At the workshop it was agreed that a compliance network would be established made up of staff from the 14 member Council's. This network would meet at least twice a year to discuss compliance issues that were of interest to member Council's including training programs for compliance staff, regional compliance workshops and seminars for businesses and the building/development industry and the general community. The network would also help to encourage uniformity between Hunter Council's in relation to the way we deal with compliance issues.

Policy Objectives

The policy objectives give a high priority to education, awareness, negotiation and remediation prior to the adoption of a regulatory response:

- To initiate a proactive process of education and creation of awareness within the Community in relation the reasons for and the importance of compliance;
- To identify illegal activities before they escalate so they can be addressed and rectified through negotiation.
- To establish clear guidelines for the exercise of discretion in dealing with action requests or complaints about unlawful activity and to assist Council staff to:
 - Recognise and react to a Council approved prioritisation of issues of regulatory compliance;
 - Determine (using accepted guidelines) the extent to which complaints of unlawful activity require investigation and regulatory action;

- Identify and select various options for enforcement action being education, negotiation, mediation, arbitration or some form of regulatory action.

Implementation of the Policy

The Policy when adopted will apply to all staff and to Councillors when dealing with reports of illegal activities. One of the critical aspects of the Policy is the way in which information on illegal activities is collected, recorded and reported on. In this regard there will be one data-base used by Council to record all complaints of illegal activity in accordance with the Ombudsman's Guidelines as updated from time to time. All complaints must be recorded and updated on a regular basis by staff trained in the use of the data -base. The input of the data, its storage, retrieval and use must be carried out in accordance with the Guidelines in terms of accuracy, privacy and integrity.

The Policy also requires the General Manager to seek the endorsement of the full Council if significant resources are to be spent on any complaint of an illegal activity, including its investigation or Court actions.

Some elements of the Policy will take longer than others to implement due to the need to conduct staff training and establish/refine data bases to capture, record and report on unlawful activities. Therefore, it is proposed that the Policy's implementation will be phased in.

The first Compliance Reports to be submitted to Council will commence in the second quarter of 2008.

Compliance Scenarios

Two compliance scenarios (Attachment 2 and 3 attached) have been developed to demonstrate how the policy will be implemented. The two examples are hypothetical however they reflect compliance situations that occur in Port Stephens from time to time. The scenarios also show the way that decisions can be made by Council staff and senior management when dealing with illegal activities.

REPORTING ON UNLAWFUL ACTIVITY

All staff responsible for responding to complaints (of unlawful activity) will report on actions they have taken or propose to take in relation to these complaints every month to the relevant Group Manager.

Every three months a summary report is to be submitted to the full Council for information. The summary report is to include:

1. The number of critical, moderate and minor compliance issues dealt with by Council in the previous 3 –months time period. When the data is available, this report will include an analysis of the types and number of unlawful activities reported to Council over time. An analysis of any obvious trends emerging from the data set will also be reported on.

2. A detailed summary of all unlawful activities rated as critical (that have been reported to Council in that period). The detailed summary will provide a status report on progress with Council's response to each critical activity for the reporting period.
3. Education and awareness programs initiated by Council to help the community better understand their obligations in terms of compliance.
4. Legal costs associated with compliance matters.

COMMUNICATION STRATEGY

To ensure the Policy is effectively communicated, a number of measures will be put in place once the Policy is adopted:

- A media release will be released to advise the broader community of the Compliance Policy and its intent.
- A pamphlet will be developed to inform the development and building industry, home –builders and trade groups of the new Policy and what it means to these stakeholders.
- Fact sheets will be sent to all licensed premises (food outlets, hairdressers etc) advising them of the Policy.
- A series of seminars and information sessions will be launched progressively to help the development and building industry and other businesses in Port Stephens to understand their legal responsibilities.
- Training programs for industry groups that increase their skills and awareness in compliance related issues.

LINKS TO CORPORATE PLANS

This Policy links to the Council Plan Goals- G13, G14, G16, G18 and G24

FINANCIAL/RESOURCE IMPLICATIONS

This Policy has been developed to minimise Council's overall legal costs however there will be some short- term financial costs associated with educational programs.

LEGAL AND POLICY IMPLICATIONS

Council has authority to take regulatory action under a number of NSW Acts and Regulations including, but not restricted to:

The Local Government Act, 1993 (NSW)
Environmental Planning and Assessment Act, 1979 (NSW)
Protection of the Environment Operations Act, 1998 (NSW)
Roads Act, 1993 (NSW)
Companion Animals Act, 1998 (NSW)
Noxious Weeds Act, 1993 (NSW)
Public Health Act, 1991 (NSW)

Swimming Pools Act, 1992 (NSW)
Rural Fires Act, 1997 (NSW)
Traffic Act, 1999 (NSW)
Food Act, 1989 (NSW)
Impounding Act, 1993 (NSW)

The implementation of this policy will provide a framework in which to ensure a consistent approach to compliance by Council in its role as a regulatory authority.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 4) To improve the outcome, improve the system and its associated processes
- 5) The potential of an organisation is realised through its people's enthusiasm, resourcefulness and participation
- 6) Continual improvement and innovation depend on continual learning
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 9) All systems and processes exhibit variability, which impacts on predictability and performance
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders
- 12) Senior leadership's constant role-modelling of these principles, and creating a supportive environment in which to live these principles will help the enterprise and its people to reach their full potential

SUSTAINABILITY IMPLICATIONS

Without a clear policy relating to compliance, it is difficult to ensure illegal activities are dealt with in a consistent, efficient and effective manner. In other words, Council's future response to compliance will not be sustainable if a robust and clearly articulated policy is not adopted.

A policy framework when properly implemented will not only help to reduce community complaints about illegal activities but will also minimise non-compliance and reduce legal costs.

SOCIAL IMPLICATIONS

There are positive social implications associated with this policy including those of equity, fairness and efficiency in the way that Council conducts its regulatory functions. It is not in the community's interest for Council to be spending its time and resources focussing on low priority compliance issues at the expense of more pressing issues. It is also not in the community's interest if Council is not exercising its discretion in a balanced and just way.

An appropriate policy will not only assist Council to approach compliance in a consistent manner and reduce complaints, but will give the community confidence in its role as a regulator.

ECONOMIC IMPLICATIONS

There are no significant additional costs associated with the implementation of this Policy, however there will be some short- term financial costs associated with educational programs.

The Compliance Policy is framed to not only help Council to more efficiently conduct its regulatory functions but to reduce legal costs by focussing on education, awareness raising and negotiation.

The Compliance Officer position was created by Council resolution in August 2006 (Organisational Structure) and Greg Rodwell commenced in the position in April 2007.

ENVIRONMENTAL IMPLICATIONS

The implementation of this Policy should lead to better environmental outcomes due to the policy's emphasis on education and awareness. The policy will also provide a better compliance framework to discourage individuals or corporations from damaging the environment.

A key objective therefore is to increase integrity between:

- a) State and Local legislation and policy, and
- b) development and environmental outcomes.

CONSULTATION

The following groups and organisations were consulted with:

The NSW Ombudsman's Office, Councillors, Council's relevant management, regulatory and support staff, Hunter Councils Inc, Council's Executive Team, Council's Legal Officer, and an external legal reviewer.

OPTIONS

- 1) Adopt this Policy.
- 2) Adopt this Policy with changes.

- 3) Do not adopt this policy.

ATTACHMENTS

- 1) Compliance Policy
- 2) Compliance scenarios - Landfill.
- 3) Compliance Scenario – Swimming Pools

COUNCILLORS ROOM

- 1) NSW Ombudsman's Enforcement Guidelines for Councils
- 2) Two deployment flow charts (Landfill and Swimming Pools)

TABLED DOCUMENTS

- 1) NSW Ombudsman's Enforcement Guidelines for Councils
- 2) Two deployment flow charts (Landfill and Swimming Pools)

**ATTACHMENT 1
COMPLIANCE POLICY**



Adopted:
Minute No:
Amended:
Minute No:

FILE NO: PSC2007-

TITLE: DRAFT COMPLIANCE POLICY

1. BACKGROUND

The purpose of this Policy is to assist Council staff to act promptly, consistently and effectively to unlawful land-use and other illegal activities. The Policy relates to the Regulation of development activity, pollution control, regulation of parking, natural resource management, environmental health, the control over the keeping of animals and other regulatory issues within Council's area of responsibility. The Policy will help to minimise Council's legal costs by giving a high priority to education, intervention, negotiation and mediation.

The Policy aims to encourage:

- The initiation of a process of education and creation of awareness within the Community in relation to the reasons for and importance of compliance.
- The investigation and enforcement of complaints about unlawful activity or failure to comply with the terms or conditions of approval, notices, licences or breaches of legislation which Council is responsible for enforcing.
- Cooperation with other Government Agencies responsible for enforcing legislation that relates to unlawful activities within Port Stephens.

The NSW Ombudsman's Enforcement Guidelines for Council's (and the Appendices` to that document) have been used as the basis of framing this Policy and for developing operational procedures to address compliance issues.

2. PURPOSE

The purpose of this Policy is to assist Council staff to act promptly, consistently and effectively to allegations of unlawful activity.

3. DEFINITIONS

Anonymous Complaints

These are complaints made by persons that do not wish to identify themselves but they are required to identify the issue. The complainants need to provide sufficient information to enable Council to identify the activity, its location and nature.

Prima facie evidence

Is evidence that is sufficient to raise a presumption of fact or to establish the fact in question unless it is rebutted.

Technical breach

Is a minor breach of a regulatory instrument that does not result in any material damage or impact on human health or the environment. It relates primarily to administrative matters, which are in themselves illegal however due to their nature no regulatory action is required.

Unlawful activity

Is any land-use or other activity that has been or is being carried out:

- Contrary to the terms or conditions of a development consent, approval, notice, permission or license.
- Contrary to an Environmental Planning Instrument that regulates the activities or work that can be carried out on particular land.
- Contrary to a legislative provision regulating a particular activity or work.
- Without a required development consent, approval, permission or license.

Using discretion

In regulatory matters, relates to Council's discretion in deciding whether to take enforcement action or not. Council must exercise this discretion in the context of its broad regulatory responsibilities and experience.

4. POLICY OBJECTIVES

- To initiate a process of education and creation of awareness within the Community in relation the reasons for and the importance of compliance;
- To identify illegal activities before they escalate so they can be addressed and rectified through negotiation.
- To establish clear guidelines for the exercise of discretion in dealing with action requests or complaints about unlawful activity and to assist Council staff to:

- Recognise and react to a council approved prioritisation of issues of regulatory compliance;
- Determine the extent to which complaints of unlawful activity require investigation and regulatory action;
- Identify and select various options for enforcement action being education, negotiation, mediation, arbitration or some form of regulatory action.

5. PRINCIPLES

This Policy applies to:

- The initiation of a process of education and creation of awareness within the community in relation the reasons for and the importance of compliance;
- The investigation and enforcement of complaints about unlawful activity or failure to comply with the terms or conditions of approval, licenses or breaches of legislation, which Council is responsible for enforcing. The Policy relates to the regulation of development activity, pollution control, regulation of parking, natural resource management, environmental health, the control over keeping of animals and other regulatory issues within Council's area of responsibility.
- Cooperation with other government agencies responsible for enforcing legislation that relates to unlawful activities within Port Stephens.

6. POLICY STATEMENT

Education Awareness and Cooperation

- Priority will be given to providing information to the public about the regulatory requirements that Council has responsibility for, including Development, Planning and Building, Environmental Health, Animal Control, Natural Resource Management and Pollution Control.
- Council will educate the community and commercial operators in relation to regulatory issues and their responsibilities in this regard.
- Council will encourage the public to try to resolve problems as they arise or come to notice before they escalate into significant issues.
- Council will take a proactive role in cooperation with the community to minimise the occurrence of non -compliance.
- The procedure to be adopted and the resources to be allocated will be an ongoing process to be determined by the appropriate Council Officer's as delegated by the General Manager.
- A series of seminars and information sessions will be launched progressively to help the development and building industry and other businesses in Port Stephens to understand their legal responsibilities.
- Training programs for industry groups will I be initiated to increase their skills and awareness in compliance related issues.

Response

- Council's Regulatory role requires that it identifies and responds appropriately to unlawful activities that it has responsibility for regulating.
- Council must respond appropriately to a complaint relating to an alleged unlawful activity.
- Based on the circumstances of the alleged offence, Council respond in a way that reflects public interest, resource implications and whether the compliance issue poses a significant risk to public safety, health or to the environment.
- Council will respond to anonymous complaints only if the complainant provides the necessary information to enable an appropriate response to be initiated.
- Council will endeavour to avoid conflict of interest and bias when dealing with compliance issues.

Approach

- Council will ensure confidentiality and respect privacy requirements when dealing with matters of compliance.
- The Council will ensure procedural fairness in matters dealing with non-compliance.
- Council will act in a manner that is impartial and objective when investigating matters of alleged non-compliance.

Feedback and Record Keeping

- Council will provide prompt feed-back to complainants regarding investigations and the outcome of those investigations relating to compliance issues, and the reasons for decisions made relating to these issues.
- Council will keep accurate records of complaints, of its investigations into these complaints and of its decisions of outcomes in relation to these.

7. RESPONSIBILITY

All Council staff (and Councillors) that deal with written or verbal requests or complaints alleging unlawful activity are responsible for following these Policy guidelines.

All notifications of alleged unlawful activity (verbal or written) will be lodged in Council's complaints system and directed to the responsible person. The responsible person is to be indicated on Council's Deployment Flow Charts for handling compliance issues.

All complaints must be recorded and updated on a regular basis by staff trained in the use of the data-base. The input of the data, its storage, retrieval and use must be carried out in accordance with the Ombudsman's 2002 Guidelines (as updated) in terms of accuracy, privacy and integrity.

8. RESPONDING TO COMPLAINANTS

All action requests or complaints about alleged unlawful activities should be acknowledged at the earliest opportunity and in any event no later than 7 business days after the complaint is received. The response should indicate that Council is investigating the complaint and that a report will be forwarded as soon as possible and no later than a further 28 business days. As soon as possible and within a further 28 business days, a further report should be forwarded to the complainant indicating progress in the matter and where applicable council's decision

9. INVESTIGATING AND PRIORITISING UNLAWFUL ACTIVITY

As a means of helping to screen and prioritise complaints, Council has developed a "Compliance Methodology" in the following terms:

Compliance Methodology

CRITICAL	MODERATE	MINOR
Response time within one business day	Response time within 7 business days	Response time within 28 business days
Features Requires immediate action. <ul style="list-style-type: none"> The issue is so urgent it needs to be attended to <u>now</u>. Short term localised impacts with minimal harm would <u>not</u> be included. Public Safety Issue. <ul style="list-style-type: none"> Can involve significant public safety issues. Human health issue <ul style="list-style-type: none"> Can involve significant human health issues. Environmental harm. <ul style="list-style-type: none"> May involve significant pollution or environmental harm. 	Features Important but not urgent <ul style="list-style-type: none"> The non-compliance does not involve any life threatening issue. It is not critical that the issue be resolved immediately. Public safety issues- <ul style="list-style-type: none"> Can include moderate, actual or potential public safety issues. Human health issue- <ul style="list-style-type: none"> Can include moderate, actual or potential health issues. Environmental harm- <ul style="list-style-type: none"> Can include moderate or potentially serious impacts on the environment. Examples	Features Needs attention but is not urgent. <ul style="list-style-type: none"> May escalate to moderate if left unaddressed. In some cases (but not always) it may be resolved without any regulatory intervention. Public safety issues- <ul style="list-style-type: none"> Public safety aspects are minimal or unlikely. Human health issue- <ul style="list-style-type: none"> Human health impacts are minimal or unlikely. Environmental harm- <ul style="list-style-type: none"> Environmental harm is minimal or unlikely.

<p>Examples</p> <ul style="list-style-type: none"> • Actions that have or are likely to result in some human harm or disease. • Can include life threatening issues. • Can include criminal acts and significant civil breaches. • Can include environmental issues that result in long term significant impacts. <p>Responses</p> <ul style="list-style-type: none"> • Immediate investigation • Immediate action • Education and awareness may be used. • Warnings may be issued. • Mediation may be used. • Some remedy or restoration may be necessary. • Intervention may include some legal instruments (may include stop work, prohibition, injunction, clean up order, etc). • Arbitration may be an option. • The last resort would be court action. 	<ul style="list-style-type: none"> • Situations that if left could adversely affect human health, safety or the environment over time. • Breaches of legislation that carry civil sanctions. <p>Responses</p> <ul style="list-style-type: none"> • Depending on the particular issue, it may be necessary to gather evidence immediately. • Investigations, actions and intervention may be required. • Some remedy or restoration may be necessary. • Mediation may be necessary. • Education and awareness may be an option. • Warnings may be issued. • Stop work orders, clean up notices, infringement notices and other legal instruments may be required. • Arbitration may be an option in some cases. • The last resort would be court action. 	<p>Examples</p> <ul style="list-style-type: none"> • Aesthetic issues. • Breach of Regulation but no immediate or likely adverse impacts. • Can include neighbour disputes. • Minor civil breaches. • Minor localised issues. • Technical breaches of legislation. <p>Responses</p> <ul style="list-style-type: none"> • Investigations / enquiries. • Written warnings / advice. • Follow up actions • Education and awareness may be an option. • Mediation. • Remediation / compensation may be required. • Legal measures would rarely be used for minor compliance issues, however infringement notices may be used in some cases.
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This methodology is not intended to be exhaustive but is meant to be a `guide to ensure the efficient use of Council resources when considering a response to a compliance issue, given the urgency or seriousness of the complaint.

Not all complaints will warrant immediate or extensive investigation. Council will consider a range of factors including those in the methodology when deciding the extent to which a matter will be investigated.

Further matters would include:

Jurisdiction

Is the matter in question within the jurisdiction of Council

Is there another body that is a more appropriate regulatory agency to investigate and deal with the matter?

Permissibility

Is the activity or work permissible with or without consent?

If the activity permissible with consent, is there a consent in place?

Is it possible to determine from the information available to Council whether the activity or work is permissible without consent or whether all conditions of consent are being complied with?

Timing Issues

Is the complaint premature, e.g. does it relate to some unfinished aspect of work that is still in progress?

Has too much time elapsed since the events, the subject of the complaint, took place?

Magnitude of Offence

Is the complaint trivial, frivolous or vexatious?

Is the activity having a significant detrimental effect on the environment or does it constitute a risk to public health or safety?

Pattern of Behaviour

Does the complaint indicate the existence of a systemic problem, e.g. if the complaint is one of a series, could there be a pattern of conduct or a more wide spread problem?

Has the person or organisation complained of been the subject of previous complaints?

Policy and Resource Considerations

Does the complaint have special significance in terms of Council's existing priorities?

Are there significant resource implications in relation to an investigation and any subsequent enforcement action.

Public Interest Considerations

Is it in the public interest to investigate the complaint?

Is there a potential for a conflict of interest in the investigation of or reaction to a complaint

If a decision is made not to investigate a complaint beyond a certain stage, the decision and the reasons for it must be recorded and appropriately approved.

10. OPTIONS FOR DEALING WITH CONFIRMED CASES OF UNLAWFUL ACTIVITY

If an investigation reveals some illegal activity, Council will attempt to use the most efficient and effective option wherever possible.

Approaches to be considered by Council will include:

Referral

Referring the complaint to an external agency for further investigation or prosecution.

Referring the issue to an external mediator.

No Action

Taking no regulatory action on the basis of lack of evidence or for some other appropriate reason.

Counselling and Negotiation

Counselling the subject of the investigation to educate them on the relevant Council requirements.

Negotiating with the subject of the investigation and obtaining some undertaking to address the issues of concern.

Warnings and Notices

Issuing a letter requiring work to be done or the activity to cease.

Issuing a Notice of Intention to Serve an Order or Notice under the relevant legislation.

Issuing a Notice requiring the work to be done under the relevant legislation.

Infringement Notices and Orders

Issuing a Penalty Infringement Notice.

Carrying out the work specified in an Order under the Local Government Act at the cost of the person served with the Order.

Court Action

Starting proceedings in the Land and Environment Court for an Order to remedy or restrain a breach of the relevant legislation.

Seeking injunctions from the Land and Environment Court or the Supreme Court.

Issuing a Summons in the Local Court.

Taking proceedings for an offence under the relevant legislation.

11. TAKING ENFORCEMENT ACTION

When deciding whether to take enforcement action Council will consider the circumstances of the case including:

Constraints

Is the breach a technical breach only?

When was the unlawful activity carried out and for how long?

Impact

How has the unlawful activity affected the natural or build environment and the health, safety and amenity of the area?

Would consent have been given to the party if it had been sought for this particular issue?

Can the breach be easily remedied?

Attitude

Does the person in breach show contrition?

Are there any particular circumstances of hardship affecting the complainant, or the person the subject of the complaint?

Has the person, the subject of the complaint, received a previous warning?

Alternative Approaches

Would an educative approach be more appropriate than a coercive approach?

What are the costs and benefits of taking formal enforcement action, as opposed to taking informal or no action?

Likelihood of Success

What are the chances of success if the proposed enforcement action was challenged in Court?

Is there a Draft Planning Instrument on exhibition that would make the unauthorised use legal?

Public Interest and Council Policies

What action would be reasonable and proportionate in this case given the circumstances?

What would be in the public interest?

Council's prosecution policy -1395-001 where appropriate.

12. REPORTING ON UNLAWFUL ACTIVITY

All staff responsible for responding to complaints (of illegal activity) are to report to management on actions they have taken or propose to take in relation to these complaints every month. Every three months a summary report of these actions is to be submitted to the full Council for information. The summary report is to include:

- The number of critical, moderate and minor compliance issues dealt with by Council in the previous 3 month period. When the data becomes available, this report will include an analysis of the types and number of unlawful activities reported to Council over time. An analysis of any obvious trends emerging from the data set will also be reported on.
- A detailed summary of all unlawful activities rated as critical (in the reporting period). The detailed summary will provide a status report on progress with Council's response to each critical compliance issue for the reporting period.
- Education and awareness programs initiated by Council to help the community better understand their obligations in terms of compliance.
- Legal costs associated with compliance matters.

13. DELEGATION OF ENFORCEMENT ACTION

Council's prosecution policy 1395-001 applies where appropriate.

Where there are potentially high legal costs or significant resource implications for Council in conducting investigations or in deciding to take court action in relation to illegal activities, the General Manager will inform the Council of the intended course of action and seek the Council's endorsement.

14. RELATED POLICIES

Reference should be made to Council's Prosecutions Policy, file number 1395-001, adopted on the 20 June 2000, minute number 319.

15. SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

There are positive social implications associated with this policy including those of equity, fairness and efficiency in the way that Council conducts its regulatory functions. It is not in the community's interest for Council to be spending its time and resources focussing on low priority compliance issues at the expense of more pressing issues. It is also not in the community's interest if Council is not exercising its discretion in a balanced and just way.

An appropriate policy will not only assist Council to approach compliance in a consistent manner but will give the community confidence in its role as a regulator.

ECONOMIC IMPLICATIONS

There are no additional costs associated with the implementation of this policy.

The Compliance Policy will not only help Council to more efficiently conduct its regulatory functions but will minimise legal costs by focussing on education, awareness raising and negotiation rather than expensive legal actions in the courts.

ENVIRONMENTAL IMPLICATIONS

The implementation of this policy should lead to better environmental outcomes due to the policy's emphasis on education and awareness. The policy will also provide a better compliance framework to discourage individuals or corporations from damaging the environment.

16. RELEVANT LEGISLATIVE PROVISIONS

Council has authority to take regulatory action under a number of NSW Acts and Regulations including, but not restricted to:

- The Local Government Act, 1993 (NSW)
- Environmental Planning and Assessment Act, 1979 (NSW)
- Protection of the Environment Operations Act, 1998 (NSW)
- Roads Act, 1993 (NSW)
- Companion Animals Act, 1998 (NSW)
- Noxious Weeds Act, 1993 (NSW)
- Public Health Act, 1991 (NSW)
- Swimming Pools Act, 1992 (NSW)
- Rural Fires Act, 1997 (NSW)
- Traffic Act, 1999 (NSW)
- Food Act, 1989 (NSW)
- Impounding Act, 1993 (NSW)

17. REVIEW DATE

This Policy will be reviewed twelve months after the date on which Council has adopted it.

ATTACHMENT 2

COMPLIANCE SCENARIO - LANDFILL

Compliance Policy Deployment Flowchart Case Study Investigation of Illegal landfill

Background

The following case study is provided to indicate the levels of priority and response (based on Compliance Methodology) of a situation where illegal landfill has been detected. It outlines the reaction, investigation, determination of culpability, enforcement response and remediation.

The case study shows the thresholds of enforcement action when determining the level of response for the illegal land fill event.

Event

Reporting

It was reported to Council that a large amount of fill material was discovered next to a waterway in Salt Ash. The informant claims that a truck carrying waste was observed entering the property next to a public school. The informant observed that the truck left a short time later and was empty.

The informant was contacted by the investigating officer and further details were obtained. Council records revealed that no approval for fill had been granted for the nominated property.

Investigation

An inspection of the area was conducted and a large amount fill material could be seen from the roadway. The owner of the property was contacted and advised of the allegations. The owner of the property admitted to using waste materials from a demolition site to reclaim land adjoining a creek at the rear of his property.

An inspection of the property was conducted with the owner and it was found that the waste material consisted of mainly concrete rubble, plastic, reinforcing metal and wood. There were also some rusted steel containers, small traces of asbestos type material. Physical evidence was gathered at the time and the owner of the property was cautioned and interviewed.

During the interview the owner of the property admitted to placing the fill material at the site to reclaim unusable land for recreational use. He said he hadn't sought approval from council as he didn't think it was necessary. He added that by using the building waste as fill he would reduce the cost of normal disposal.

The evidence from the site was examined, there appeared to be engine oil found in the rusted containers and it was confirmed that the fill material contained small amounts of asbestos. No contamination of the waterway appeared to have occurred.

Determination

It was decided that Council would request the owner to immediately remediate the property by removing the fill material. The Protection of the Environment Operations Act was determined as the most appropriate legislation containing powers to remedy the breach. As the fill material was classed as waste, a clean up notice would be issued to ensure that the removal of the fill material was attended to promptly due to the proximity to the waterway and the School. Enforcement action would be by way of penalty infringement notice (\$750).

The owner of the property indicated that he will not comply with the notice as the cost of removing the fill material was cost prohibitive and did not satisfy he need for further usable land area on his property.

Enforcement

The notice was served on the property owner to remove the waste in a prescribed manner within a period of time. The notice date had passed and no work to remediate the site had occurred.

The property owner was approached and advised that if the work was not undertaken within the next 3 days a penalty infringement notice, for failing to comply with the terms of the clean up notice, would be issued (\$750).

Further inspections revealed that no further work had been undertaken. The property owner was again contacted and reaffirmed that he did not intend to remove the fill material.

A penalty infringement notice was issued to the owner of the property for failing to comply with the clean up notice (\$750). It was decided that the removal of the waste had to be undertaken immediately and it was recommended by the investigating officer that Council remove and dispose of the waste. The property owner should be prosecuted and costs recouped for the work undertaken.

The recommendation was determined by the coordinator and section manager and it was decided that a prosecution was the correct course of action. The General Manager was consulted and found that the recommendation was valid and agreed to have the matter heard by a court.

Council removed and disposed of the waste. Legal action had commenced against the owner of the property

Compliance Protocols

The course of action was determined by using the Compliance Methodology to determine the correct initial reaction to the incident, as it was determined that it was landfill containing contaminants of oil and asbestos was deposited in a sensitive area the level of response had escalated the incident from moderate to critical.

The offender was identified and a moderate enforcement response was taken by intending to issue a PIN for transporting waste to his property. Mediation was not considered to be effective as the offender advised he would not be willing to remediate the area. Remediation was considered to restore the land and if undertaken, no further action would have been necessary.

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The offender had the opportunity to comply with the terms of the notice on two occasions and a warning was issued. As the offender failed to comply with the notice a PIN was issued for failing to comply with that notice.

The response then escalated to the next level of enforcement action by the investigating officer referring it to the coordinator for consideration to prosecute the offender. The Waste was removed and legal action was undertaken to prosecute the offender and recover costs.

Conclusion

In considering the approach to the investigation the Compliance Policy identifies the areas for consideration when addressing the issues of response and enforcement. The Ombudsman Guidelines show the need for natural justice and procedural fairness when dealing with alleged offenders.

By taking an approach as outlined above, the enforcement response was intensified when it was evident that the offender had not complied and instead of issuing a PIN for transporting waste, the offender was served with a Court Attendance Notice for that offence.

As the investigating officer was delegated to issue PINs and notices, the need for consultation with coordinators, managers and Council exists to ensure the best appropriate response is used for the offence detected.

**ATTACHMENT 3
COMPLIANCE SCENARIO – SWIMMING POOLS**

Swimming Pools Flowchart
Scenario

The flowchart would be used where a complaint is received regarding but not limited to any of the following scenarios –

- A pool is not fenced.
- Pool fencing has been removed or altered.
- Pool fencing present but incomplete.
- Pool water quality appears to be a health hazard.
- A wading or temporary pool has been erected without fencing.

The deployment flowchart will firstly determine the most appropriate officer or Section of Council to investigate and take responsibility for the complaint and then set out the appropriate steps to be followed to resolve the issue.

ITEM NO. 4**FILE NO: PSC2005-3686****COMMERCIAL OPERATORS POLICY****REPORT OF: JASON LINNANE - RECREATION SERVICES MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the proposed Commercial Operators Policy (Attachment 1) and Expression of Interest (EOI) renewal process.

STRATEGIC COMMITTEE RECOMMENDATIONS –7 August 2007**RECOMMENDATION:**

That the Recommendation be adopted.

Tabled Documents: Yes**ORDINARY MEETING OF COUNCIL – 28 August 2007****RESOLUTION:**

236	Cr Westbury Cr Dingle	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to adopt the Commercial Operators (CO) Policy and Expression of Interest process for the renewal of licences.

There is currently no CO Policy that has been adopted by Council.

A review of this current system is required in order to ensure that fair, equitable and consistent processes are in place and that commercial activities on our reserves are managed effectively whilst increasing income to contribute to the costs of maintenance and improvements of these assets.

The CO Licensing system has been based on a process that Recreation Services have administered over the years and this process has been the unwritten policy for approving CO Licenses.

This process requires applicants to submit a written management plan outlining:-

- Proposed Activity
- Proposed Location
- References/Past experience in the industry
- Risk Management Plans/Safety Plans

- Rubbish Control Methods
- Insurance
- First Aid
- Other Authority Approval eg NSW Maritime

The criteria used to assess the applications and consider approval is based on:

- Availability of a vacant site
- Plans of Management for the site
- Is the activity appropriate for the proposed site,
- Any Environmental impacts
- Any similar activities within the same area
- Any implications of small local business in the same area
- Restrictions to other public recreation users
- Provision of service to local community and visitors
- Correct insurances
- Reference checks

Licences are currently issued for a 12 month term starting from 1 October and terminating on 30 September of each year. In recent times there has been no public process for renewals.

Income received is approximately \$10240.00 per year.

The Current Status of Sites are outlined in Attachment 2 and shown in the tabled document. The process to identify additional sites has been identified in conjunction with Department of Lands (DoL), NSW Maritime and Marine Parks Authority (MPA).

LINKS TO CORPORATE PLANS

The report relates to goal 23 of the 2007-2011 Council Management Plan which is to achieve and maintain a healthy financial position.

FINANCIAL/RESOURCE IMPLICATIONS

Current income received is \$10240.00. It is expected to triple this income with the implementation of the new sites.

Income derived will be used to offset current costs of parks maintenance and or asset rehabilitation works.

LEGAL AND POLICY IMPLICATIONS

The review process has included DOL, MPA and NSW Maritime and all legal policy requirements from these organisations have been attended to. Local Government Community Land provisions will be adhered to as part of the EOI and licence issue procedures.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 4) To improve the outcome, improve the system and its associated processes
- 5) The potential of an organisation is realised through its people's enthusiasm, resourcefulness and participation
- 6) Continual improvement and innovation depend on continual learning
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 9) All systems and processes exhibit variability, which impacts on predictability and performance
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders
- 12) Senior leadership's constant role-modelling of these principles, and creating a supportive environment in which to live these principles will help the enterprise and its people to reach their full potential.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The interaction/balance between general public recreational use of public land and commercial activities need to be managed. The Draft policy recognises and allows for this.

ECONOMIC IMPLICATIONS

The optimisation of Commercial Operator activities should contribute positively to the general economic health of the municipality. The criteria for assessment includes provisions to mitigate impacts on existing businesses in the area.

ENVIRONMENTAL IMPLICATIONS

NIL. All commercial activities will be managed to ensure there is no environmental impact.

CONSULTATION

Recreation Services Officer

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Parks Co-ordinator
Marine Parks Authority
NSW Maritime
Department of Lands

OPTIONS

- 1) Adopt Recommendation
- 2) Reject Recommendation

ATTACHMENTS

1. Proposed Commercial Operators Policy
2. Table of Current and Proposed Locations and activities

COUNCILLORS ROOM

- 1) A3 Map of Commercial Operator License Sites

TABLED DOCUMENTS

- 1) A3 Map of Commercial Operator Licence Sites

ATTACHMENT 1



Adopted:
Minute No:
Amended:
Minute No:

FILE NO: PSC2005-3687

TITLE: COMMERCIAL OPERATORS POLICY

REPORT OF RECREATION SERVICES MANAGER

BACKGROUND

There is currently no Commercial Operator Policy that has been adopted by Council to date.

A review of this current system is required in order to ensure that fair, equitable and consistent processes are in place and that commercial activities on our reserves are managed effectively whilst increasing income to contribute to the costs of maintenance and improvements of these assets.

The Commercial Operators Licensing system has been based on a process that Recreation Services have administered over the years and this process has been the unwritten policy for approving licenses.

This process requires applicants to submit a written management plan outlining:-

- Proposed Activity
- Proposed Location
- References/Past experience in the industry
- Risk Management Plans/Safety Plans
- Rubbish Control Methods
- Insurance
- First Aid
- Other Authority Approval eg NSW Maritime

The criteria used to assess the applications and consider approval is based on:

- Availability of a vacant site
- Plans of Management for the site
- Is the activity appropriate for the proposed site,
- Any Environmental impacts
- Any similar activities within the same area
- Any implications of small local business in the same area

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- Restrictions to other public recreation users
- Provision of service to local community and visitors
- Correct insurances
- Reference checks

Licences are currently issued for a 12 month term starting from 1 October and terminating on 30 September of each year.

OBJECTIVE

- To allow for commercial activities on reserves to support tourism and provide recreational activities for our visitors whilst ensuring use of public reserves is not compromised for other recreational users.
- To ensure a safe and controlled system for both commercial and recreational users.
- To ensure that activities on our beaches comply with insurances and safety standards to minimise accidents/liability to users of Council Reserves.
- To ensure a minimal impact on existing business throughout Port Stephens.

Policy will be achieved if:

- Both Commercial & Recreational Users are educated on requirements of the policy and licensing system.
- The Policy is enforced.
- Administration of the Policy is managed effectively.
- Policy is equitable with clear guidelines.(Criteria for Assessment).
- To ensure that commercial operators pay a fair and reasonable commercial rent for use of public land.

PRINCIPLES

- Controlled Management of Commercial Activities
- Licensed Operators will ensure safe & more attractive Recreational space.
- Revenue from License Fees will assist in:
 - Foreshore Maintenance and Asset Management
 - Provision of Environmental Management Strategies

POLICY STATEMENT

- All Commercial users of reserves will hold a License with Council.

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

- Holders must have insurance of a minimum of \$10 million public liability, other authority approvals eg Waterways Aquatic License, Management Plans.
- Payments of fees on commencement of license.
- No reduction in fees or payment plans unless otherwise approved by Council.
- State and Federal Government bodies exempt from requirements of Policy.
- Holders must comply with park rules eg driving of vehicles on reserves, parking, rubbish, dogs and as agreed by Parks Co-ordinator.
- Term of the licence will be 2 years with an annual review after the first 12 months.
- Prior to termination date of licences, all sites will go out to an Expression of Interest or similar competitive process. Current holders will have the opportunity to resubmit a tender for the existing site. All sites will be tendered at the same time to ensure consistency.
- There will be no means for pre existing rights for previous licence holders.
- Essential Criteria will be:
 - a) Management Plan (proposed activity, location, safety management plan, proposed licence fee, benefits to Port Stephens community and tourism, rubbish control methods etc).
 - b) Public Liability Insurance of not less than \$10million noting Port Stephens Council as an interested Party as well as the Minister for Lands where it is crown land.
 - c) Other Authority approvals
 - d) Current First Aid Certificates.
 - e) Suitability/Viability of proposed operation. A detailed business plan showing expected income and expenditure to be included.
 - f) Impact on existing businesses
 - g) References (professional and personal)
 - h) Signage must comply with Port Stephens Council Signs Policy
- Annual License fees will be subject to CPI increases.
- Park Rules signs will include requirement to hold license with Council for commercial activities on reserves.
- Failure to comply with Policy will result in enforcement action. (Failure to Comply with Public Notice \$110 Fine).

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

- Licenses are not transferable. Should an operator wish to sell their equipment & revoke their license before termination date, the license does not go with the sale of the equipment. The purchaser will be required to submit their application following Expressions of Interest being advertised for the vacant site.
- Licenses must have the consent of the Minister for Lands where appropriate.
- At its meeting of 28 November 1995, Council resolved to delegate to the General Manager the execution and approval of Licenses and Temporary Licenses.
- Holders must provide a surety in the form of a performance bond and/or directors guarantee (if a company) to ensure the ongoing performance of the terms and conditions of the licence including payment of licence fees and any clean up/remediation expenses on termination of the licence.

RELATED POLICIES

Crown Lands Act 1989
Local Government Act 1993

SUSTAINABILITY IMPLICATIONS

All future applications for commercial licences will be assessed using defined criteria which will ensure sustainability on social, economic and environmental grounds.

SOCIAL IMPLICATIONS

The interaction/balance between the general public recreation use of public land and commercial activities needs to be managed. This draft policy recognises and allows for this.

ECONOMIC IMPLICATIONS

The optimisation of Commercial Operator activities should contribute positively to the general economic health of the municipality.

ENVIRONMENTAL IMPLICATIONS

Nil. All commercial activities will be managed to ensure there is no environmental impacts.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993

IMPLEMENTATION RESPONSIBILITY

Recreation Services Manager

REVIEW DATE

Annual

ATTACHMENT 2

CURRENT LOCATIONS

Fingal Bay	1	Surf School
Shoal Bay	4	1 x Catamaran Hire, Kayak, Windsurfer 1 x Catamaran Hire 2 x vacant
Nelson Bay	1	Pedal Boat Hire
Conroy Park	1	Vacant
One Mile Beach	1	Surf School
Stockton Beach	1	Surf School

Proposed New Locations

Fingal Bay	2	Increase in 1
Shoal Bay	4	No increase
Nelson Bay	2	Increase in 1
Corlette	1	No increase
One Mile	2	Increase in 1
Stockton (PSC land)	1	No increase
George's Reserve	1	New site
Pearson's Park	1	New Site
Roy Wood Reserve	1	New site

Note: Actual activity that is provided at these new sites will be dependant on tender/public process outcomes.

ITEM NO. 5**FILE NO: PSC2005-0828****REVIEW OF DEBT RECOVERY AND HARDSHIP POLICY****REPORT OF: JEFF SMITH, FINANCIAL SERVICES MANAGER**

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current Debt Recovery and Hardship Policy adopted 26 July, 2005 minute number 217.
 - 2) Adopt the revised Debt Recovery and Hardship Policy contained in **ATTACHMENT 1**
-

STRATEGIC COMMITTEE RECOMMENDATIONS –7 August 2007**RECOMMENDATION:**

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 28 August 2007**RESOLUTION:**

237	Cr Hodges Cr Francis	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to review the Debt Recovery and Hardship Policy.

A review paper is contained in **ATTACHMENT 2** that explains the proposed changes.

LINKS TO CORPORATE PLANS

The policy meets Council's objectives of maximising revenue to maintain financial sustainability and also meets Council's charter at section 8 of the Local Government Act to raise funds for local purposes by the fair imposition of rates, charges and fees.

FINANCIAL/RESOURCE IMPLICATIONS

The amounts that might potentially be written off in animal impounding fees would be too small to have any affect on Council's finances. Assistance granted under this policy has in the past predominantly related to extending longer repayment terms for debts.

LEGAL AND POLICY IMPLICATIONS

Nil.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 4) to improve the outcome, improve the system and its associated processes
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Expanding the existing policy to include hardship provisions for animal impounding fees and introducing a mechanism for the Hardship Panel to consider any Council matter involving financial hardship will allow Council to be more responsive with positive benefits for our most vulnerable customers.

ECONOMIC IMPLICATIONS

Nil.

ENVIRONMENTAL IMPLICATIONS

Nil.

CONSULTATION

There has been extensive consultation with members of the Hardship Panel, all Council officers responsible for setting fees and charges and the Executive Team. There was consultation on the current hardship provisions already in place across the organisation to ensure there is no conflict or duplication.

OPTIONS

- 1) Adopt recommendations
- 2) Reject policy changes
- 3) Amend policy changes

ATTACHMENTS

- 1) Revised Debt Recovery and Hardship Policy
- 2) Debt Recovery and Hardship Policy Review Issues Paper

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1**PROPOSED POLICY**

Adopted: 24/6/2003
Minute No: 240
Amended: 26/7/2005
Minute No: 217
Amended: 2007
Minute No: #
TRIM FILE NO: PSC2005-0828

TITLE: DEBT RECOVERY AND HARDSHIP POLICY

BACKGROUND	NOTES
<p>This document prescribes the procedures Council follows to recover monies that are overdue for rates, charges, fees and other debts.</p> <p>This document also prescribes the procedures Council follows in providing financial assistance to ratepayers and debtors suffering financial hardship.</p>	<i>No change</i>
<p>OBJECTIVE</p> <p>The objectives of this policy are:</p> <p>To outline the process for efficient and effective collection of outstanding debts;</p> <p>To provide a decision making framework for the appropriate assessment of all financial hardship applications;</p> <p>To fulfil statutory requirements of the Local Government Act, 1993 and other relevant legislation in relation to the recovery of rates, charges, fees and other debts; and</p> <p>To ensure debts are recognised in Council's accounting system.</p>	<i>No change</i>
<p>PRINCIPLES</p> <p>This policy has been formulated under the following principles:</p> <p>Council recognises it has a responsibility to recover monies owing to it in a timely, efficient and effective manner to finance its operations and ensure effective cash flow management;</p> <p>Council will treat all people fairly and consistently under this policy;</p> <p>Council will consider all matters under this policy confidentially; and</p> <p>Council will recognise genuine financial hardship and treat people with respect and compassion in considering their circumstances.</p>	<i>No change</i>
<p>POLICY STATEMENT</p> <p>Part 1 – Recovery of Rates and Charges</p> <p>1. Rates and Charges Notice</p>	

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Rates and charges notices are issued in July each year and are payable in four instalments on 31 August, 30 November, 28 February and 31 May. A rate notice, or rate instalment notice is issued 30 days before each instalment is due.

No change

2. Reminder Notices

If the whole or part of an instalment, exceeding \$25, is not paid within twenty one (21) days of the instalment due date, then a reminder notice will be issued. Reminder notices will be issued to all ratepayers and will request payment within fourteen (14) days. Where the amount overdue is greater than \$500 the reminder notice will advise that the recovery of the rates and charges may be referred to Council's debt collection agency if the overdue amount is not paid in full within fourteen (14) days. The notice will also advise that arrangements may be made with Council to repay the overdue amount. The notice will also advise that ratepayers complying with an existing repayment arrangement may disregard the notice.

No change

3. Recovery Action – Referral to Debt Collection Agency

Following the expiration of the fourteen (14) days specified in the reminder notice Council will refer overdue assessments to its debt collection agency.

No change

4. Recovery Action – Debt Collection Agency Procedures

The debt collection agency will as soon as practicable after receipt of a referral from Council issue a letter in relation to each overdue amount advising that Council has referred the debt to the agency for collection and that payment is required within seven (7) days of the date of the letter, otherwise legal action will be commenced. The letter is to specify the minimum amount in legal costs that will be added to the ratepayer's rate assessment if legal action is commenced. Following the expiration of the seven (7) days as requested in the letter plus an additional two (2) days to allow for agency receipts to be received, the debt collection agency is then to issue a statement of liquidated claim. Following the statutory period after service of the statement of liquidated claim the debt collection agency is to obtain judgment and then take the necessary proceedings to recover the debt including issuing writs of execution and garnishee orders.

Added "of the date of the letter"

Added "plus an additional two (2) days to allow for agency receipts to be received."

5. Arrangements to Repay Rates and Charges

A ratepayer may enter into a weekly, fortnightly or monthly arrangement to repay rates and charges with Council or Council's debt collection agency provided the arrangement will have rates and charges paid in full within twelve months. Normal interest charges apply to arrangements unless interest is to be written off under Section 564 (see hardship provisions of this policy at part 4). Council's Debtors Clerk may enter into a longer term repayment arrangement if in that Officer's opinion a ratepayer's financial circumstances warrant this. A ratepayer dissatisfied with a decision of the Debtors Clerk may have that decision reviewed by the Hardship Panel established under this policy. Ratepayers are to be advised at the time of making a repayment arrangement that if an arrangement is dishonoured recovery action will

Updated position titles

recommence without further notice. Where an arrangement has been dishonoured, a new arrangement cannot be accepted until a payment is received to show good faith. Where legal action has commenced, arrangements are to be in the form of a court instalment order. Extensions of time beyond three months without any payment are not acceptable. Where a supplementary rates and charges notice is issued in the latter part of the year and where an arrangement is made for payment of the rates within six (6) months of the due date, interest will be written off provided payment of one half of the amount due is made within three (3) months and the balance is paid within six (6) months.

Part 2 –Recovery of Sundry Debtor Accounts

1. Sundry Debtor Invoices and Statements

Invoices are raised as debtor information comes to hand eg. Construction of kerbing and guttering, footpaths, waste, private works, property information, etc. and invoices are to be issued weekly. Within 7 days of the close of a month a statement is to be issued. The due date for payment is 30 days after the invoice date.

Changed invoice processing from twice a month to "weekly". Changed "10 days" to "7 days"

2. Overdue Sundry Debtors

If an account is not paid by the due date a second and then a third monthly statement will be forwarded as a reminder. If payment is not received after issue of the second statement then a recovery notice requesting payment or the making of a satisfactory arrangement to pay is to be forwarded to the debtor as an attachment to the third monthly statement. The recovery notice will advise that the recovery of the overdue account will be referred to Council's debt collection agency if the account is not paid within fourteen (14) days. Section 355(b) committees, sporting clubs and government agencies will not be referred to the debt collection agency.

No change

3. Overdue Sundry Debtors – Aged Pensioners

If a sundry debtor account is a charge on the land i.e. kerb and gutter or foot paving, and it is due by an aged pensioner, the aged pensioner may apply to Council to have the account deferred against their estate subject to the hardship provisions of this policy.

No change

4. Recovery Action – Suspension of Credit Facilities

If the account is an ongoing account, e.g. waste tipping fees, property information etc., further credit to that debtor will be withdrawn until the account is paid.

No change

5. Recovery Action – Referral to Debt Collection Agency

Following the expiration of the fourteen (14) days specified in the recovery notice Council will refer accounts overdue as described above to its debt collection agency.

No change

6. Recovery Action – Debt Collection Agency Procedures

The debt collection agency will as soon as practicable after receipt of a referral from Council issue a letter in relation to each overdue account advising that Council has referred the debt to the agency for collection

and that payment is required within seven (7) days of the date of the letter, otherwise legal action will be commenced. The letter is to specify the minimum amount in legal costs that will be added to the account if legal action is commenced. Following the expiration of the seven (7) days as requested in the letter plus an additional two (2) days to allow for agency receipts to be received, the debt collection agency is then to issue a statement of liquidated claim. Following the statutory period after service of the statement of liquidated claim the debt collection agency is to obtain judgment and then take the necessary proceedings to recover the debt including issuing writs of execution and garnishee orders.

Added "of the date of the letter"

Added "plus an additional two (2) days to allow for agency receipts to be received."

7. Arrangements to Repay Sundry Debtor Accounts

A debtor may enter into a weekly, fortnightly or monthly arrangement to repay accounts with Council or Council's debt collection agency provided the arrangement will have the account paid in full within twelve months. Council's Debtors Clerk may enter into a longer term repayment arrangement if a debtor's financial circumstances warrant this. A debtor dissatisfied with a decision of the Debtors Clerk may have that decision reviewed by the Hardship Panel established under this policy. Debtors are to be advised at the time of making a repayment arrangement that if an arrangement is dishonoured, recovery action will recommence without further notice. Where an arrangement has been dishonoured, a new arrangement cannot be accepted until a payment is received to show good faith. Where legal action has occurred, arrangements are to be in the form of a court instalment order. Extensions of time beyond three months without any payment are not acceptable.

Updated position titles

Part 3 – Credit Control

1. Terms of Payment – 30 Day Accounts

All accounts with Council are to be strictly 30 days trading terms, without exceptions. Council will open credit accounts in accordance with this policy.

No change

2. Terms of Payment – Credit Accounts

No credit account is to be opened unless a 30-day trading application form has been completed and returned to the Debtors Clerk. The Debtors Clerk is to conduct a credit check on the applicant, verifying references provided by the applicant, before a credit account is offered.

Updated position titles

3. Terms of Payment – One Off Usage

No company or individual is to be offered a credit account for one-off use of Council facilities such as hall hire, community centre bookings, caravan park bookings, council stores, sporting field use and the like. All one off usage must be paid for in advance or at the time of usage. Council will however extend credit and allow payment plans for animal impounding fees and sustenance fees at the discretion of the Co-ordinator Environmental Health and Regulation to avoid hardship.

Added payment plans for impounded animal fees to avoid hardship

4. Terms of Payment – Deposits and Progress Payments

For private works Council will provide a written quote for the proposed

work to cover all costs for the work in accordance with the specified rates set out in the Council's Management Plan. For work to proceed, Council requires written authorisation from the client and proof of identity. For work valued at more than \$1,000 a 10% deposit is required before work commences. For work valued at more than \$10,000 Council will require agreed progress payments at various stages.

No change

Part 4 – Hardship Provisions

1. Defer Payment of Rates and Charges – Aged Pensioners

Aged pensioners who satisfy the eligibility criteria may make application to defer the payment of rates and charges and property related sundry debtor accounts, allowing them to accrue as a charge on the land to be paid upon the death of the ratepayer or the sale of the property, or if the pensioner ceases to occupy the property as his/her principal place of living and rents the property out whichever occurs first.

The criteria used to determine eligibility are:

That the ratepayer is in receipt of a pensioner rate concession in relation to the property; and

That the property is the pensioner's principal place of living, and

That the property is used for residential or farming purposes only, and

That the property has no more than a single dwelling house or residential unit erected upon it, and

That the total amount of rates and charges (nett of pensioner concession) and property related sundry debtor accounts payable is more than 8% of the age pension of an individual (if the ratepayer is an individual) or 8% of the age pension of a couple (if the ratepayer is a couple) at the date of the initial application.

The aged pensioner is to complete an initial prescribed application form. Council is to post out a letter each year to the aged pensioner with a copy to sign and return to continue the deferral. The purpose of the annual letter is to confirm that the aged pensioner continues to own and occupy the property, is still alive and is aware of and agrees to the deferral. Deferral will continue once granted without the need to satisfy the 8% criteria again, provided that the pensioner continues to own and occupy the property. Where the pensioner ceases to occupy the rateable property and the property is rented the repayment timeframe of the deferred rates and charges is to be negotiated by the Debtors Clerk. A person dissatisfied with a decision of the Debtors Clerk may have that decision reviewed by the Hardship Panel established under this policy.

Updated position titles

Applications will be considered by the Revenue Co-ordinator. A ratepayer dissatisfied with a decision of the Revenue Co-ordinator may have that decision reviewed by the Hardship Panel established under this policy. The Hardship Panel may approve an application for deferral if it believes the circumstances of the ratepayer warrant this even if the eligibility criteria have not been met. If an application is refused, the applicant will be provided with reasons for such refusal.

Interest charges accrue in respect of deferred rates and charges at the rate determined under the Local Government Act. No deferred rates, charges or interest are to be written off under this policy.

2. Writing Off of Accrued Interest

The Debtors Clerk and Rates Clerks have delegated authority to write off interest that has accrued on rates and charges up to \$10 where the person was unable to pay the rates and charges when they became due and payable for reasons beyond their control. The Revenue Co-ordinator has delegated authority to write off an unspecified amount of interest.

Updated position titles

Ratepayers seeking to have interest written off under hardship provisions are to submit a written application in the form of a letter to be considered by the Hardship Panel. Accrued interest on rates and charges may be written off where payment of the accrued interest would cause the person hardship. The Hardship Panel may request the ratepayer to come to an interview if it is necessary to understand the issues causing hardship.

3. Hardship Resulting from a General Revaluation of the Port Stephens Local Government Area

In accordance with section 601 of the Local Government Act a ratepayer that suffers substantial hardship as the consequence of the making and levying of a rate on the most recent valuation, may apply to Council for relief. Assistance is only available in the first year new valuations are used to calculate rates.

The criteria used to determine eligibility:

The rates payable must be more than 3% of the gross household income; and

The applicant must be an owner and an occupier of the property to which the rates relate and the dwelling must be the applicant's sole or principal place of living; and

The ordinary rate increase must be more in percentage terms than the amount determined by Council at each revaluation. The ordinary rate increase is calculated as the ordinary rates payable for the new rating year (being the first year in which new valuations are used) minus the ordinary rates payable in the previous rating year increased by the allowed ratepegging increase for the year.

(eg. rates 2005/2006 \$600 minus rates 2004/2005 \$400 plus 3% ratepegging increase (\$412) = \$188)

Changed "5%" to "3%"

Applications must be submitted on the prescribed application form.

Assistance is calculated as follows:

- One half of the ordinary rate increase up to a maximum of \$200 (eg. \$188 increase x 0.5 = \$94. \$500 increase x 0.5 = \$200 max)
- No assistance is to be given for domestic waste management charges, HCRCMA levy, or special rates.
- The maximum amount of assistance in aggregate for all ratepayers is \$20,000.

Applications will be considered in the order in which they are

<p>received by Council. No further applications will be considered once the aggregate amount of assistance has been granted. Applications will be considered by the Revenue Co-ordinator. A ratepayer dissatisfied with a decision of the Revenue Co-ordinator may have that decision reviewed by the Hardship Panel established under this policy. If an application is refused, the applicant will be provided with reasons for such refusal.</p>	<p><i>Updated position titles</i></p>
<p>4. Fees and Charges The Coordinator Environmental Health and Regulation may consider hardship matters relating to animal impounding and sustenance fees. Assistance may be provided in the form of allowing additional time to pay or waiving the fees in cases of hardship. A customer dissatisfied with a decision of the Coordinator Environmental Health and Regulation may have that decision reviewed by the Hardship Panel established under this policy. Applicants under this section are to be made aware that fees and charges in relation to animal impounding increase on a daily basis and will accrue during the review period. Council will not consider hardship applications in relation to animal registration fees, or the costs of microchipping or veterinarian fees and charges.</p>	<p><i>New clause to add hardship provisions for animal impounding fees</i></p>
<p>5. Hardship Panel A Panel comprising the Revenue Co-ordinator, Social Planner and a representative from Corporate Management will determine applications for assistance referred to it and review decisions as necessary.</p> <p>6. Referral of Matters to Hardship Panel The General Manager or Mayor may refer any Council matter involving financial hardship of a ratepayer or resident to the Hardship Panel for consideration and advice.</p>	<p><i>Updated position titles</i></p>
<p>7. Privacy In accordance with the Privacy Code of Practice and Council's Privacy Management Plan, personal information collected as a consequence of this policy will only be used for the purpose of assessing eligibility under the Policy and will not be used for any other purpose or disclosed to any other person unless we are required by law to do so or authorised to do so by the person to whom that personal information relates.</p>	<p><i>New clause to introduce a mechanism to deal with new and unforeseen hardship issues</i></p>
<p>Part 5 – Sale of Property for Overdue Rates The sale of land, for overdue rates, is in accordance with Chapter 17 division 5, Section 713 to 726 of the Local Government Act 1993. The process is as follows:</p>	<p><i>No change</i></p>
<p>1) 1) In September of each year, outstanding debts are to be reviewed to identify all properties where any rates or charges are overdue and have remained unpaid for more than five (5) years, or in the case of vacant land (1) years rates, from the date from which they became payable.</p> <p>2) 2) Council staff will establish all owners and interested</p>	<p><i>No change</i></p>

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

<p>parties through a title search.</p> <p>3) 3) Vacant land – a comparison of the rates owing and the last valuation shall be undertaken and land identified where the rates owing exceed the valuation. In these cases a valuation shall be obtained in accordance with the Act and the sale process be handled in accordance with the Act.</p> <p>4) 4) A report shall be put to Council recommending the sale to proceed and appointing an agent to conduct the auction from a list of local agents listed on Council's appointed panel.</p> <p>5) 5) Completed Section 149 Certificates, and Drainage Diagrams shall be forwarded to the solicitors for preparation of contracts.</p> <p>6) 6) A date for the auction shall be set being not more than six (6) months and not less than three (3) Months from publishing of the proposed notice of sale.</p> <p>7) 7) All owners and interested parties will be notified of Council's intention to sell the property using the last known address or information available.</p> <p>8) 8) The venue for the auction shall be selected and booked (eg: the Council Chambers).</p> <p>9) 9) Council shall publish the proposed sale in the local newspaper and the Government Gazette.</p> <p>10) 10) Assessments must be checked daily as the sale will not take place if full payment is received. A "Warning Memo" is to be attached to the assessment to notify staff of the impending sale and advising that arrangements are only to be authorised by the General Manager.</p> <p>11) 11) On the day of sale, a deposit of 10% shall be payable by cash or bank cheque.</p> <p>12) 12) If the land is not sold at auction, Council may organise another public auction or the property may be sold by private treaty upon a resolution of Council. All costs associated with the sale are to be met by the purchaser.</p> <p>Upon settlement of the sale:</p> <p>13) 13) If the sale amount is less than the outstanding balance, Council will consider the debt to be paid in full in accordance with section 719 of the Act.</p> <p>14) 14) If the amount received is more than the amount outstanding Council will hold the money for persons having estates or interests in the land immediately before the sale according to their respective estates and interests. Section 720 of the Act provides for Council to pay the balance of the purchase</p>	
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MINUTES FOR ORDINARY MEETING – 24 JULY 2007

<p>money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it. The receipt by the person of any payment so made is an effectual discharge of Council's liability.</p> <p>15) 15) Upon finalisation, the sale results shall be reported to Council.</p>	
<p>Part 6 – Pensioner Rate Concessions</p> <p>The following prescribes how Council will grant concessions to pensioners:</p> <p>1. Eligibility for Pensioner Concessions</p> <p>16) In all situations where an eligible pensioner finds himself/herself in a situation where he/she assumes full and sole responsibility for the paying of rates, notwithstanding the nature of the ownership of the property, Council agrees to grant the full pensioner concession under Section 577 of the Act. The presentation of a Pensioner Concession Card is accepted by Council as a sufficient test to meet the hardship requirements of Section 577 of the Act under these circumstances.</p> <p>2. Backdating of Pensioner Concessions</p> <p>Where an eligible pensioner applies for a concession Council will backdate that concession for up to two (2) years prior to the current year (i.e. a maximum total of three (3) years including the current year) provided that:</p> <p>The pensioner was at all times eligible for the concession; and The pensioner provides a statutory declaration that the rateable property was their sole or principal place of living for all of the period that the concession is claimed for.</p>	<p><i>No change</i></p> <p><i>No change</i></p>
<p>RELATED POLICIES</p> <p>The following policies have been incorporated into this policy: Debt Recovery Policy; Pensioner Rate Rebates; Pensioner Interest Charges; Waiving of Interest Charges; Interest on Overdue Rates; and Interest Charges on Supplementary Rate Levies.</p>	<p><i>No change</i></p> <p><i>No change</i></p>
<p>REVIEW DATE</p> <p>12 months after adoption.</p>	
<p>RELEVANT LEGISLATIVE PROVISIONS</p> <p>Local Government Act 1993 and specifically sections 564, 567, 577, 601, 712 & 713-726.</p>	<p><i>No change</i></p> <p><i>No change</i></p>
<p>IMPLEMENTATION RESPONSIBILITY</p>	<p><i>No change</i></p>

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

Business and Support - Finance & Administration	
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ATTACHMENT 2

Debt Recovery and Hardship Policy Review Issues Paper		
Policy Component	Consideration	Recommendation
Policy Objective	The objectives are appropriate and remain relevant	No change
Policy Principles	The principles are appropriate and remain relevant	No change
Policy Statement Part 1 – Recovery of Rates and Charges		
1. Rates and Charges Notice	Still reflects legislation Data: Number of rate notices issued Instalment 1 2005/2006 29,684 notices Instalment 2 2005/2006 24,947 notices Instalment 3 2005/2006 24,690 notices Instalment 4 2005/2006 24,567 notices Instalment 1 2006/2007 30,170 notices Instalment 2 2006/2007 25,609 notices	No change
2. Reminder Notices	The issue of reminder notices 21 days after the instalment due date is effective in avoiding the need to issue reminder accounts to about 86% of ratepayers. Approximately 3,500 to 4,000 reminder notices are issued after each rate instalment. Amounts less than \$25 do not accrue interest. Selecting debts of \$500 and greater for recovery is responsible given that it costs a minimum of \$327.70 in legal costs to issue a statement of liquidated claim. Data: Number of reminder notices issued Instalment 1 2005/2006 4,015 notices Instalment 2 2005/2006 3,494 notices Instalment 3 2005/2006 3,323 notices Instalment 4 2005/2006 3,684 notices Instalment 1 2006/2007 3,930 notices Instalment 2 2006/2007 3,458 notices	No change
3. Recovery Action – Referral to Debt Collection Agency	The referral of debts to Council's Debt Collection Agency no earlier than 14 days allows sufficient time for ratepayers to arrange payment. In practice every effort is made to contact ratepayers by telephone to negotiate payment terms over four (4) weeks prior to referral to Council's debt collection agency. It is not	No change

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Debt Recovery and Hardship Policy Review Issues Paper		
Policy Component	Consideration	Recommendation
	<p>proposed to include a requirement to make contact with ratepayers by telephone in this policy because Council may not have the resources to always make this contact and some ratepayers have unlisted telephone numbers or are uncontactable by telephone. Approximately 400 to 600 assessments remain unpaid 14 days after the reminder notice is issued.</p> <p>Data:</p> <p>Number of assessments selected for debt recovery</p> <p>Instalment 1 2005/2006 621 assessments</p> <p>Instalment 2 2005/2006 388 assessments</p> <p>Instalment 3 2005/2006 460 assessments</p> <p>Instalment 4 2005/2006 400 assessments</p> <p>Instalment 1 2006/2007 403 assessments</p> <p>Number of assessments referred to Debt Collection Agency</p> <p>Instalment 1 2005/2006 621 assessments</p> <p>Instalment 2 2005/2006 388 assessments</p> <p>Instalment 3 2005/2006 180 assessments (telephone contact commenced here)</p> <p>Instalment 4 2005/2006 137 assessments</p> <p>Instalment 1 2006/2007 99 assessments</p> <p>Number of Summonses issued</p> <p>Instalment 1 2005/2006 83 assessments</p> <p>Instalment 2 2005/2006 50 assessments</p> <p>Instalment 3 2005/2006 99 assessments (telephone contact commenced here)</p> <p>Instalment 4 2005/2006 66 assessments</p> <p>Instalment 1 2006/2007 40 assessments</p>	
4. Recovery Action – Debt Collection Agency Procedures	<p>Council's debt collection agency issues a letter of demand requesting payment within seven (7) days. Council occasionally receives enquiries from ratepayers asking when payment is required. This is because the letter does not make it clear whether the due date is seven days from the date the letter is issued or seven days from the date the ratepayer receives the letter. It is proposed to remove this ambiguity by rewording the letter to state that payment is required within seven (7) days of the date of the letter. Council has not received any complaints that legal action has been commenced too soon after the letter of demand is issued but payments made via Australia Post and BPay rate</p>	<p>Specify in the letter of demand that payment is required within seven (7) days of the date of the letter</p> <p>Specify that a statement of liquidated claim is to be issued two (2) days after the letter of demand due date</p>

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

Debt Recovery and Hardship Policy Review Issues Paper		
Policy Component	Consideration	Recommendation
	payment agencies can take two (2) days to be received by Council. For this reason it is proposed to specify to Council's debt collection agency that a statement of liquidated claim is to be issued two (2) days after the due date specified in the letter of demand. This will assist in overcoming late withdrawal of statements of liquidated claim from the local court upon lodgement.	
5. Recovery Action – Arrangement to Repay Rates and Charges	Many repayment arrangements are negotiated with ratepayers. The application of interest charges is appropriate to reflect the opportunity cost to Council and other ratepayers of assessments in arrears. The flexibility available to staff to negotiate longer term repayment arrangements reduces our reliance on legal processes, meets our customer's needs and assists in promoting a positive image of Council to customers through flexibility and decision making at the point of customer contact which is the opposite of bureaucracy. The use of the Hardship Panel to review decisions provides an independent review mechanism. The requirement for a court instalment order to be made to repay rates once legal action has been commenced is of concern to some ratepayers because it requires the court to enter into judgment which affects an individual's credit rating. Despite this it is not proposed to alter this part of the policy because ratepayers are given several invitations to make a repayment arrangement before a matter escalates to legal action and a court instalment order is a legally binding repayment arrangement.	Update position title to Debtors Clerk
Policy Statement Part 2 – Recovery of Sundry Debtor Accounts		
1. Sundry Debtor Invoices and Statements	In practice accounts receivable invoices are issued at least weekly so it is proposed to change the wording to reflect this. Statements are also issued within seven (7) days of the end of each month so again it is proposed to change the wording.	Specify that invoices are issued weekly and statements are issued within seven (7) days of the end of each month.

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Debt Recovery and Hardship Policy Review Issues Paper		
Policy Component	Consideration	Recommendation
2. Overdue Sundry Debtors	The recovery provisions provide a recovery process using standard attachments to statements that avoid the need to issue separate letters.	No change
3. Overdue Sundry Debtors – Aged Pensioners	The deferral provisions for sundry debtors accounts that are a charge on the land are consistent with the deferral provisions for rates.	No change
4. Recovery Action - Suspension of Credit Facilities	This provision exists as a common sense response to preventing bad debtors obtaining further credit with Council.	No change
5. Recovery Action – Referral to Debt Collection Agency	This clause outlines Council's policy to refer overdue accounts to its debt collection agency. In practice recovery action is uneconomic to pursue for small amounts that are not secured by a charge on the land and recovery methods using the telephone are preferred.	No change
6. Recovery Action – Debt Collection Agency Procedures	These provisions mirror those for rates and charges in Part 1 Clause 4.	Specify in the letter of demand that payment is required within seven (7) days of the date of the letter Specify that a statement of liquidated claim is to be issued two (2) days after the letter of demand due date
7. Recovery Action – Arrangements to Repay Sundry Debtor Accounts	These provisions mirror those for rates and charges in Part 1 Clause 5.	Update position title to Debtors Clerk
Policy Statement Part 3 – Credit Control		
1. Terms of Payment – 30 Day Accounts	30 day accounts fit in with standard business practice and Council's software capabilities.	No change
2. Terms of Payment – Credit Accounts	Formal application for credit and credit checks are standard business practice and reduce the risk of bad debts.	Update position title to Debtors Clerk
3. Terms of Payment – One Off Usage	Up front payment for one off usage is standard business practice and reduces the risk of untraceable bad debts. It is proposed to amend the policy however to extend credit and allow payment plans for animal impounding fees and sustenance fees at the discretion of the Co-ordinator	Introduce provisions to allow accounts to be raised for repayment of animal impounding and sustenance fees

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Debt Recovery and Hardship Policy Review Issues Paper		
Policy Component	Consideration	Recommendation
	Environmental Health and Regulation to avoid hardship.	
4. Terms of Payment – Deposits and Progress Payments	The requirement for deposits and progress payments for private works with large values reduces the risk of bad debts.	No change
Policy Statement Part 4 – Hardship Provisions		
1. Defer Payment of Rates and Charges – Aged Pensioners	<p>There have been a small number of enquiries and formal application for pensioners seeking to defer payment of their rates and charges against their estate. The criteria for assessment is workable, the review process is independent, has been tested on a number of occasions and found to work effectively. The annual application process has also been tested and worked with all deferred pensioners returning the signed form.</p> <p>Data: Number of assessments deferred against estate 8</p>	<p>Update position title to Debtors Clerk</p> <p>Update position title to Revenue Co-ordinator</p>
2. Writing Off of Accrued Interest	The delegation for all rates clerks to write off small amounts of interest up to \$10 in appropriate circumstances meets our customer's needs through streamlining the process and avoiding the traditional need to write a letter. This assists in promoting a positive image of Council to customers through flexibility and decision making at the point of customer contact, again aiming to erode the perception of Council as an inflexible bureaucracy. Ratepayers seeking have large amounts of interest written off due to hardship are still required to write outlining their circumstances.	<p>Update position title to Debtors Clerk</p> <p>Update position title to Revenue Co-ordinator</p>
3. Hardship Resulting from a General Revaluation of the Port Stephens Local Government Area	In July 2005 Council was required to use new land values following a revaluation. There were 1,085 non-business assessments that had an increase of 40% or more to their ordinary rates who potentially could have been eligible for financial assistance under this clause. Despite actively promoting it in rates literature, on the telephone to enquirers and printing its availability on overdue instalment notices Council received only handful of formal applications. None of these were approved because all failed	<p>Modify criteria so that the rates payable must be more than 3% of the gross household income</p> <p>Update position title to Revenue Co-ordinator</p>

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

Debt Recovery and Hardship Policy Review Issues Paper		
Policy Component	Consideration	Recommendation
	the criteria that the rates payable needed to be more than 5% of the gross household income. The 5% figure was an arbitrary figure benchmarked against a similar program offered by Newcastle City Council. In order to make this hardship program effective when the next revaluation takes effect for rating purposes in 2008/2009 it is proposed to relax the criteria to 3% of gross household income.	
4. Fees and Charges	It is proposed to amend the policy to introduce the flexibility for the Coordinator Environmental Health and Regulation to consider hardship matters relating to animal impounding and sustenance fees. Assistance may be provided in the form of allowing additional time to pay or waiving the fees in cases of hardship	Introduce a new item to the policy to allow animal impounding and sustenance fees to be paid off or waived in cases of hardship
5. Hardship Panel	<p>The cross-disciplinary make up of this panel has been effective in making and implementing the hardship components of this policy. The panel has also successfully devised and implemented a hardship assistance program relating to interest free loans for ratepayers required to upgrade their On-site Sewage Management Systems.</p> <p>Data: Number of meetings of the panel held 16 Number of assessments that have had interest written off due to hardship 4 Value of interest charges written off \$7,178.60 Number of deferral applications approved upon review 4 Number of OSMS hardship loan applications received 5 Number of OSMS hardship loan applications approved 3 Number of OSMS hardship loan applications in progress 2</p>	<p>No change to policy.</p> <p>Update position title to Revenue Co-ordinator</p>
6. Referral of Matters to the Hardship Panel	There is an opportunity to expand the scope of the Hardship Panel to assess a wider range of financial hardship matters faced by Council customers such as On-site Sewage Management System upgrades and other Council fees. It is proposed to add an item to the policy that the General Manager or Mayor may refer any Council matter involving financial hardship of a ratepayer or resident to the	Introduce a new item to the policy to allow the General Manager or Mayor to refer any Council matter to the Hardship Panel for consideration and advice.

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Debt Recovery and Hardship Policy Review Issues Paper		
Policy Component	Consideration	Recommendation
	Hardship Panel for consideration and advice.	
7. Privacy	Standard Privacy Statement	No change
Policy Statement Part 5 – Sale of Property for Overdue Rates	<p>These provisions have been tested and a sale of land for unpaid rates auction was held on 26 November, 2005. No change is required to this clause.</p> <p>Data:</p> <p>Number of properties originally included in sale 12</p> <p>Number of properties offered for sale on the day of the auction 3</p> <p>Number of properties sold on the day of the auction 1</p> <p>Number of properties sold by private treaty in the weeks after auction 2</p> <p>Overdue rates recovered \$120,000</p>	No change
Policy Statement Part 6 – Pensioner Rate Concessions		
1. Eligibility for Pensioner Concessions	The extension of concessions to all pensioners who find themselves responsible for paying rates on properties that are not in their ownership provides an equitable, streamlined solution that has proven to be effective and satisfies customers who no longer experience frustration and potential hardship through paying the full rates.	No change
2. Backdating of Pensioner Concessions	The provision of a clear policy directive has proven to be universally accepted by customers as equitable and accepted by staff as easy to administer.	No change

GENERAL MANAGER'S REPORTS

ITEM NO. 1**FILE NO: 16-2006-1258-1****DEVELOPMENT APPLICATION FOR 198, 200, 202, 204 LEMON TREE
PASSAGE ROAD, SALT ASH - ANEF AFFECTED****REPORT OF: SCOTT ANSON – MANAGER DEVELOPMENT & BUILDING****RECOMMENDATION IS THAT COUNCIL:**

Resolve that Development Application 16-2006-1258-1 is not supported and delegate determination of the application to the General Manager on the basis that consent will be refused for the following reason:

- 1) The proposal is considered unacceptable within the guidelines of Port Stephens Council Policy “Aircraft Noise Exposure in Port Stephens” Minute No. 539.

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007**RESOLUTION:**

238	Cr Hodges Cr Nell	That the Operations Committee Recommendation be adopted
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MATTER ARISING:

239	Cr Jordan Cr Westbury	That the Group Manager Sustainable Planning bring back a report on how offsetting can occur when land is sterilised.
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BACKGROUND

This Development Application was considered by Council at its July Ordinary Meeting with the following Resolution:

- (a) Defer determination of this application for a site inspection; and*
 - (b) Request the Group Manager, Sustainable Planning to have the outstanding issues addressed by the Applicant, and, if appropriate, bring forward draft Conditions in the event that Council determines to approve this application.*
-
- (a) The site inspection was held on 7 August 2007.***
 - (b) The application for a Bushfire Safety Authority was provided and has been approved by the Rural Fire Service.***

Draft Conditions of Consent are provided as Attachment 3, including RFS conditions.

The purpose of this report is to present a Development Application to Council for determination on a policy position in regards to the application of Council's aircraft noise policy.

Aircraft Noise Policy

The application seeks approval to construct a two storey dwelling within the Salt Ash Air Weapons range (SAAWR) 2012 Aircraft Noise Exposure Frequency (ANEF) Zone 25-30 contrary to Council's adopted policy "Aircraft Noise Exposure in Port Stephens". The application also includes a proposal for consolidation of 4 lots in order to provide a minimum allotment area required for the dwelling as prescribed in Port Stephens Council Local Environmental Plan 2000 (LEP2000). The subject lots are identified within an area potentially affected by bushfire and flooding.

The primary issue in assessing this application is the contravention of Council's adopted aircraft noise policy as noted above. It is considered appropriate to report this matter to Council for a resolution on this policy issue alone, prior to the applicant incurring any additional costs in relation to lot consolidation and the preparation of a bushfire threat assessment report.

The proposed dwelling is located within Salt Ash Air Weapons range (SAAWR) 2012 Aircraft Noise Exposure Frequency (ANEF) Zone 25-30. Council policy states that a dwelling house is not acceptable in the ANEF Zone 25-30 and does not contain any provisions to consider an acoustic report in this aircraft noise zone.

In the subject policy, an indoor design sound level of 60dB(A) L_{max} was adopted. This represented an increase in the level specified by AS 2021-2000. The amended indoor design level was adopted in order to achieve a more appropriate balance between public health and noise abatement costs for affected properties.

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

The consequence of increasing the specified indoor design level to 60 dB(A) L_{max} is to reduce the required aircraft noise reduction (ANR) at a given dwelling-house location.

A report has been received from Reverb Acoustics (report No. 06-1048-R1) which concludes that an indoor design level of 60 dB(A) L_{max} is achievable for the proposed dwelling subject to prescribed construction standards. In conclusion the consultant states;

- 1) it is their professional opinion that, provided the recommendations and procedures outlined in their report are followed, internal noise levels will be consistent with the intent of AS 2021-2000 and Council;
- 2) allowable internal noise levels were calculated by following the procedures detailed in AS 2021-2000 “Acoustics – Aircraft noise intrusion – Building siting and construction”; and

The key issue in this instance is the inconsistency with Council’s Policy and the relevant Australian Standard. The policy reflects Australian Standard 2021-2000 in so far as dwellings are not considered acceptable in the 25-30 ANEF. The Australian Standard does acknowledge exceptional circumstances. Of particular relevance to this application is the Notation in Table 2.1 which States

“this standard does not recommended development in unacceptable areas. However, where the relevant planning authority determines that any development may be necessary within existing built-up areas designated as unacceptable. It is recommended that such development should achieve the required ANR determined according to Clause 3.2. For residences, school etc the effect of aircraft noise on outdoor areas associated with the buildings should be considered”.

It is noted that the proposed dwelling is located on lands zoned Rural 1 (a) which is described in LEP2000 as land of agricultural value and land which has not been set aside for rural residential development. Whilst it is acknowledged that a number of dwellings exist in the vicinity of the proposed dwelling the subject land is not characterised as an existing residential zoned area and therefore is not considered to be infill development.

The applicant has submitted an acoustic report in support of the proposal demonstrating that an indoor design level of 60 dB(A) L_{max} is achievable. The consultant report does not address the impact of aircraft noise on outdoor activities typical of residential land use as per Table 2.1 above.

Related Aircraft Noise Determinations

Council recently approved DA 16-2004-1727-1 for a dwelling, Bed and Breakfast Establishment, Landfill and Garage at No. 2843 Nelson Bay Rd Salt Ash. A Supplementary Information report dated 22 May 2007 (Refer Councillors Room) highlighted “Potential problems and issues in relation to approving the application given the Council’s current policy and previous decisions regarding residential dwellings in the ANEF 25-30 zone”. The same planning principles and similar assessment considerations apply to the current proposal to construct a dwelling at 198,200, 202 & 204 Lemon Tree Passage Road, Salt Ash.

Outstanding Issue - Lot Consolidation

The subject four (4) allotments are zoned 1 (a) Rural Agriculture which is described in LEP2000 as land of agricultural value and land which has not been set aside for rural

residential development. The individual lots each have an area up to approximately 1050 m². LEP 2000 Clause 14 requires that the minimum lot size for a dwelling on 1 (a) zoned land be no less than 4000m². No individual lot currently complies with the minimum lot size for a dwelling. The proposal incorporates consolidation of four (4) lots so as to bring the combined area to 4181m² and as a result creating a potential for a dwelling compliant with the development standard.

Outstanding Issue – Bushfire Management

The subject land is identified as bushfire prone land and the proposal is integrated development subject to the provisions of S100B of the Rural Fires Act 1979. Should Council support a variation to the policy in this instance, the applicant will be required to provide a detailed Bushfire Assessment Report pay the necessary integrated development fees. A Bushfire Safety Authority will be required from the NSW Rural Fire Service incorporating General Terms of Approval.

Determination Options

Should Council resolve to support a variation to the adopted policy in this instance, the application could be delegated to the General Manager for determination subject to satisfactory resolution of lot consolidation, bushfire management issues and any related issue arising.

LINKS TO CORPORATE PLANS

This report relates to the goal in the Assessment and Approvals program of Council's Management Plan, which is an ordered and predictable built environment in Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

There may be financial/resource implications if the Council determination is to refuse the application and there is an appeal lodged with the Land and Environment Court.

LEGAL AND POLICY IMPLICATIONS

The proposed dwelling is located within the 25-30ANEF zone and is considered unacceptable in respect to Council's adopted aircraft noise policy. The applicant has sought to demonstrate indoor noise levels identified in the 20-25ANEF zone which permits a dwelling is achievable as per Australian Standard 2021 – 2000 are achievable for the proposed dwelling. The current policy excludes outdoor amenity as a consideration under the policy.

Council's Section 149 Planning certificate identifies aircraft noise, flood prone land and bushfire prone land and other constraints apply to the subject land. A copy of the relevant planning certificates are provided in the Councillors Room.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The social implications directly attributable to aircraft noise impacts include reduced residential amenity.

ECONOMIC IMPLICATIONS

Council's adopted policy may prevent a dwelling entitlement on the subject land resulting in a negative economic impact on the applicant.

ENVIRONMENTAL IMPLICATIONS

Aircraft noise has a potentially adverse impact on the residential amenity of future residents.

CONSULTATION

The application was advertised, with no submissions received.

Councils Land Use Planning officers were consulted regarding the ANEF Policy Minute no. 539 which considers indoor amenity only, and the Draft Chapter B13 of the Consolidated Development Control Plan that is on exhibition until the 12th July. The draft as exhibited requires consideration of both indoor and outdoor amenity.

Council's Property Section was consulted concerning the recent sale of the subject land to the current owner. There were no special conditions attached to the contract of sale and the attached Section 149 Planning Certificates confirm that aircraft noise applies to the subject land. The land was sold with advice that there was no building entitlement due to minimum lot size, and that there are noise, flooding and bushfire issues. It is also understood that the land was purchased primarily for reasons of view retention. The sale price of the land reflected these factors.

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject or amend the recommendation

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

- 3) Resolve to support a variation to the adopted aircraft noise policy in this instance and delegate the determination of the application to the General Manager subject to lot consolidation and General Terms of Approval from the NSW Rural Fire Service.

ATTACHMENTS

- 1) Locality Plan
- 2) Preliminary Assessment

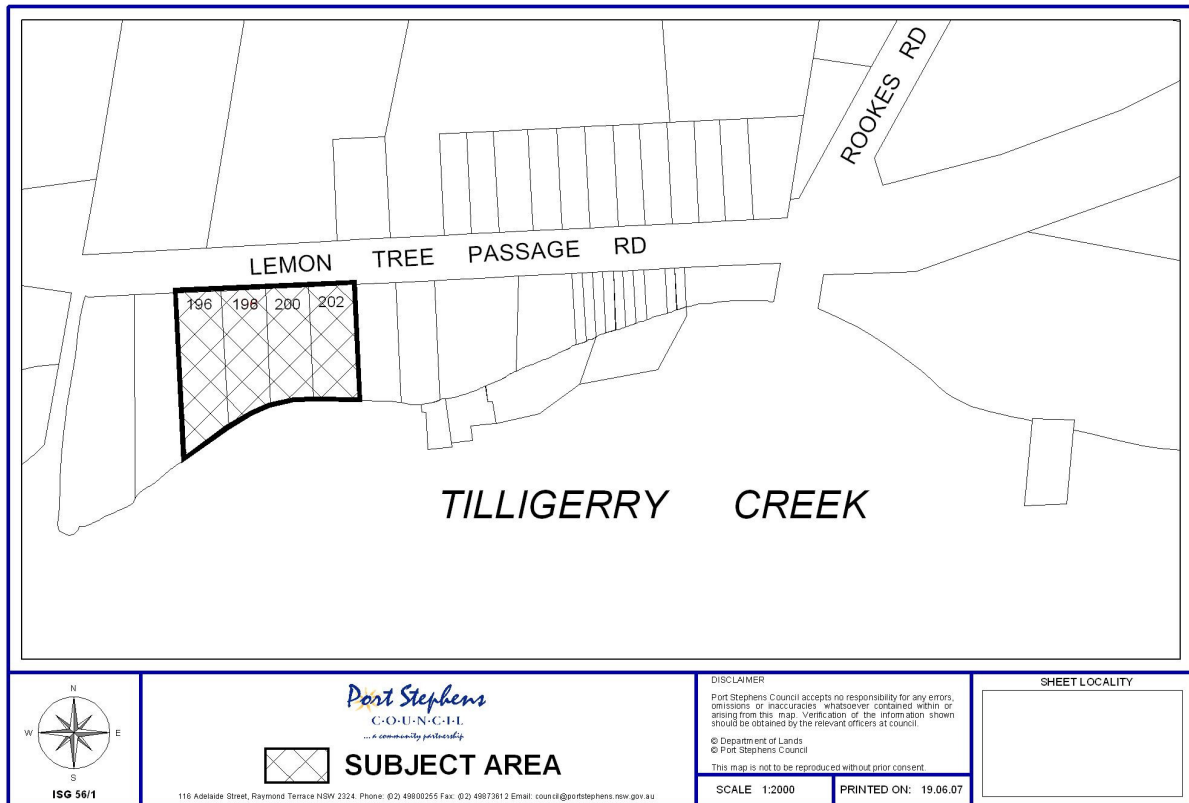
COUNCILLORS ROOM

- 1) Development Plans and Elevations
- 2) Statement of Environmental Effects
- 3) Aircraft Noise Impact Assessment by Reverb Acoustics
- 4) Supplementary Information dated 22/5/07 relating to DA 16-2004-1727-1
- 5) Planning certificates for LOT: 5 DP: 227579, 198 Lemon Tree Passage Road, SALT ASH 2318, LOT: 4 DP: 227579, 200 Lemon Tree Passage Road, SALT ASH 2318, LOT: 3 DP: 227579, 202 Lemon Tree Passage Road, SALT ASH 2318, LOT: 2 DP: 227579, 204 Lemon Tree Passage Road, SALT ASH 2318

TABLED DOCUMENTS

Nil

ATTACHMENT 1 LOCALITY PLAN



**ATTACHMENT 2
PRELIMINARY ASSESSMENT**

The application has not been fully assessed pursuant to Section 79C of the Environmental Planning and Assessment Act 1979. The following is a summary of those matters considered relevant in this instance, noting any outstanding matters that need to be addressed prior to determination. Other issues may arise prior to finalisation of assessment.

THE PROPOSAL

The application seeks approval for the construction of a single storey dwelling located 16.5 metres from the western allotment boundary and 13 metres from the southern boundary of the allotment.

THE APPLICATION

Owner	Mr M J Ryan and Mrs D Ryan
Applicant	Mr M J Ryan and Mrs D Ryan
Detail Submitted	Development plans comprising of site plan, floor plans elevations. Statement of Environmental Effects. BASIX Certificate, Noise impact assessment.

THE LAND

Property Description	Lot 2,3,4,5 DP 227579
Address	198, 200, 202, 204 Lemon Tree Passage Road, Salt Ash
Area	4181m ²
Characteristics	The land is level, bush fire affected, falls within 25-30 ANEF 2012 contours and is identified as flood prone.

THE ASSESSMENT**1. Planning Provisions**

LEP 2000 – Zoning	Rural Agriculture 1 (a)
Relevant Clauses	Clause 12 & 14
Development Control Plan	PS10 Building Standards and Notification Procedures for Development Applications
State Environmental Planning Policies	(Building Sustainability Index: BASIX) 2004

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ATTRIBUTE	PROPOSED	REQUIRED	COMPLIES
LEP Requirements			
Min area per dwelling	4 lots to be consolidated as a total 4181 m ²	4000m ²	Subject to Lot consolidation
Floor space ratio	No requirement	No requirement	No requirement
Height	No requirement	No requirement	No requirement
Flood	Minimum 2.5m AHD habitable floor level as depicted on plan	Minimum 2.5m AHD habitable floor level as depicted on plan	Yes
DCP Requirements			
Building line setback	Approx 15.8m	12m	Yes
Boundary setbacks	W Boundary 16.5m E Boundary 36m S boundary 13m	900mm	Yes Yes Yes
BASIX requirements	Water Score 47 Energy Score 40	Water Score 40 Energy Score 40	Yes
Policies /Requirements for Assessment Under 79 C & 79 BA of the E P & A Act			
Aircraft Noise Exposure in Port Stephens (Adopted 16/12/03)	Dwelling proposed	Dwelling house not acceptable in ANEF Zone 25-30	No
Aircraft Noise Exposure in Port Stephens (Adopted 16/12/03) Minute no. 539	Compliance with Councils adopted indoor design sound level	Indoor design sound level maximum 60 dB(A)	Yes
Bushfire	Comply with The Planning for Bushfire Protection (2001) Guidelines	Subject to referral to NSW RFS under s100B of Rural Fires Act 1997	Subject to further assessment

Discussion

Port Stephens Local Environmental Plan 2000

Clause 12

The land is within a rural zone and is intended that the 4 lots be consolidated for the purpose of the erection of a dwelling-house.

Clause 14

The land is zoned Rural 1 (a) under the provisions of the Port Stephens Council Local Environmental Plan (LEP) 2000. The proposed dwelling is a permissible form of development with the consent of council. The erection of a dwelling-house would be permissible upon the consolidation of the subject 4 lots with a combined area of 4181m².

2. Likely Impact of the Development

Subject to further assessment.

3. Suitability of the Site

Aircraft Noise Exposure

Council recently approved DA 16-2004-1727-1 for a dwelling, Bed and Breakfast Establishment, Landfill and Garage at No. 2843 Nelson Bay Rd Salt Ash. A Supplementary Information report dated 22 May 2007 (Refer Councillors Room) highlighted “Potential problems and issues in relation to approving the application given the Council’s current policy and previous decisions regarding residential dwellings in the ANEF 25-30 zone”. The same planning principles and similar assessment considerations apply to the current proposal to construct a dwelling at 198,200, 202 & 204 Lemon Tree Passage Road, Salt Ash.

Bushfire prone land

The subject land is identified as bushfire prone land. Lot consolidation is integrated development subject to the provisions of S100B of the Rural Fires Act 1979. A Bushfire Safety Authority in accordance with Clause 46 of the Rural Fires Regulation 2002 will be required from the NSW Rural Fire Service incorporating General Terms of Approval. The applicant must consider standards regarding setbacks, asset protection zones, access, provision of water supply and the like, necessary to protect persons, property or the environment from danger that may arise from a bush fire.

With regard to bushfire, Section 6 of the Statement of Environmental Effects concludes that *“the level of bushfire hazard has been assessed as low. The building is proposed to be constructed of non-flammable external finishes which will provide extra protection against any possibility of ember attack should a bushfire emanate in the area”*.

Flood prone land

The subject land is flood prone and has been referred to Council’s Strategic Engineer. The proposed dwelling achieves the required habitable floor level of Australian Height Datum 2.5m RL.

Sewage Management Facility

A Section 68 approval dated 17 April 2007 has been issued for a Sewage Management Facility on Lot 3 DP 227579 (202 Lemon Tree Passage Rd Salt Ash). The Sewage Management Facility consists of an Aerated Wastewater Treatment System and Wisconsin mound.

4. Submissions

The application was advertised and notified. No objections were received.

5. Public Interest

This proposal is contrary to the public interest in permitting development identified as significantly constrained by way of aircraft noise and associated amenity impacts.

**ATTACHMENT 3
DRAFT CONDITIONS OF CONSENT**

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
3. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
4. The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.
5. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the Roads Act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted.
6. No construction or demolition work shall obstruct pedestrian or vehicular traffic in a public place, a hoarding or fence must be erected between the construction site and the public place.
7. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. **Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.**
8. Tree clearing shall be carried out in accordance with Council's Tree Preservation Order. The development consent and construction certificate must be issued before it is possible to remove any trees within 3m of any approved building, as measured horizontally from the building wall to the outside trunk of the tree. Tree clearing for the vehicle driveway or any other purpose requires separate approval under the Tree Preservation Order. A copy of the **Tree Preservation Order is attached.**
9. Construction details for retaining walls greater than 600mm in height shall be submitted and approved by the Principal Certifying Authority **prior to commencement of works associated with the retaining wall.** All retaining walls in excess of 1m shall designed by a Practicing Structural Engineer..

Where retaining walls exceed 1m in height and located within 500mm of a site boundary, they shall be constructed of masonry material..

It is recommended to construct the retaining walls prior to the commencement of any other

work, while the area is readily accessible and to prevent any movement of soil and/or potential damage to adjoining properties.

10. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with AS2601-2001 and Workcover Authority requirements.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

11. 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, the person undertaking the excavation must preserve and protect the building from damage, which may involve underpinning and supporting the building in an approved manner.

The adjoining property owner shall be given 7 days notice before excavating below the level of the base of the footings of a building on an adjoining allotment of land. 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 condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this condition, allotment of land includes a public road and any other public place.

12. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.

Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing Urban Stormwater - Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.

13. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
14. Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
15. All stockpiled materials shall be retained within the property boundaries. Stockpiles of topsoil, sand, aggregate, spoil or other materials shall be stored clear of the all weather vehicle access and drainage lines.
16. The development shall take place in accordance with the stated values of the energy efficiency scorecard or NatHERS assessment and/or the BASIX certificate submitted with the application.
Prior to the issue of any occupation certificate an appropriately qualified person shall certify compliance with these requirements, as applicable.
17. The Principal Certifying Authority shall only issue an occupation certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of

consent. No occupational use is permitted until the Principal Certifying Authority issues an occupation certificate. NOTE: If an accredited certifier approves occupation of a dwelling the accredited certifier is to immediately notify Council in writing.

18. **Prior to occupying the approved dwelling(s)**, contact Council's Land Information Section on 49800357 to obtain the correct house numbering. Be advised that any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
19. A concrete dish crossing shall be constructed within the table drain in accordance with **Council's Standard Drawing No. S106**. Driveway grades shall be adjusted, if practical, to achieve this,

OR

Where driveway grades do not permit a dish crossing, a driveway application is to be submitted so that Council can nominate a pipe size and invert levels. The pipe is to be 5.0m long, at a minimum distance of 2.0 m from the edge of the roadway, ensuring an adequate grade within the drain. Gravel backfill and concrete headwalls shall be placed as indicated on Council's Standard Drawing No. S107.

20. Collected stormwater runoff shall be piped to an infiltration trench located in the landscaped area(s), in accordance with **Council's Standard Drawing S 136** (without overflow pipe).
21. The development shall be carried out in accordance with the Building Sustainability Index (BASIX) certificate number 97331S. Where minor changes to the development occur (eg colours and the like) these changes shall be referred to Council **prior to the changes being made**.

Where approved, a copy of the amended/new BASIX Certificate shall be submitted to Council within fourteen days and will be considered sufficient to satisfy this condition.

22. The development shall be constructed in accordance with the recommendations contained in the acoustic report prepared by Reverb Acoustics Document no. 06-1048R1 and dated October 2006. **Prior to the issue of any Occupation Certificate**, submit to the Principal Certifying Authority, certification confirming that the measures recommended in the acoustic report have been fully implemented. This certification should confirm specific details of measures and materials/methods of construction.
23. A separate wastewater application for the installation of a waste treatment device (septic tank) shall be approved by Council **prior to the issue of the Construction Certificate**. The wastewater management for the property shall be in accordance with the details previously submitted and in accordance with Council's requirements. The application is to be accompanied by full details of the proposed system and a site assessment to comply with Division 4 of Local Government (General) Regulation, 2005.
24. Certification is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority at the following stages of construction:
 - a. On completion of ground floor construction, confirming that the floor levels are in accordance with the Reduced Levels indicated on the approved plan.

b. When the roof has been completed, confirmation that the building does not exceed the Reduced Levels, as indicated on the approved plan.

25. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2001).

The Flood Planning Level for this development is 2.5 metres AHD.

Flood Compatible Building Materials are listed in the attached Schedule

Habitable room for the purposes of this clause includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room, sunroom, bathroom, laundry and water closet.

The following design precautions must be adhered to:-

a. The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level.

In sewered areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge.

b. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods.

c. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible.

d. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level.

e. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed.

f. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.

g. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level.

h. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.

i. Septic and holding tank lids, inspection openings and associated electrical equipment connections and switchgear must be located above the 1% AEP Flood level.

j. Any on-site effluent on site disposal must be carried out in an area above the 5% AEP flood level.

26. **Schedule for flood compatible materials is attached.**
27. A Subdivision Certificate must be obtained from Council. The applicant must submit completed Subdivision Certificate Application Form (& applicable fee), 6 copies of the Survey Plan, two copies of any 88B Instrument and a check list demonstrating compliance with the conditions of consent.
28. Where a condition of development consent requires the preparation of an instrument under Section 88B of the Conveyancing Act, two (2) copies of the instrument shall be provided to the **Principal Certifying Authority** prior to endorsement of the Subdivision Certificate.
29. Prior to endorsement of the Subdivision Certificate written evidence must be submitted from the Telstra Australia and Energy Australia that satisfactory arrangements have been made for the provision of their respective services to all lots in the proposed consolidation.
30. The applicant shall consolidate lots 2,3,4 & 5 into one allotment. Occupation of any part of the development will not be permitted until confirmation that the plan of consolidation has been registered as a deposited plan with the Land Information Centre shall be addressed **prior to the issue of the Construction Certificate.**
31. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
32. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
33. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
- * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L₁₀ level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

34. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
35. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
36. Where the proposed development incorporates pile-driving activities associated with the construction process the applicant/beneficiary of the consent shall, **prior to commencement of work** for the works associated with the piling system undertake the following actions.
- a) For development incorporating pile-driving activities for a period of 5 days or more, be that

consecutive or combined total:

- i) An appropriately qualified Acoustic Engineer shall prepare an report on the impact on adjoining properties in relation to anticipated noise and vibration with reference to compliance with British Standard 6472 - 1996 Guide to evaluation of human exposure to vibration in buildings (1Hz to 80 Hz).
- ii) Where the anticipated impacts exceed the prescribed performance standards of the noted Standard the consultant shall make recommendations on the method of minimising the noted impacts to meet the performance standards.
- iii) For pile driving activities with a duration in excess of 5 days as noted above the applicant/beneficiary of the consent shall engage an Acoustic Engineer to undertake monitoring of the pile driving to verify the identified performance standards noted are not exceeded. Details to be forwarded to Principle Certifying Authority.

37. Pile driving shall only be carried out between the hours of 8.00am - 3.30pm Monday to Friday excluding public holidays.
38. Development incorporating pile-driving activities for a period of less than five (5) days be that consecutive and a total combined throughout the construction process, shall comply with the provision of British Standard 6472- 1996.
39. The applicant or the person who is the beneficiary of the development consent incorporating pile-driving activities shall, **prior to commencement of work** prepare and submit for approval of a Construction Management Plan incorporating notification provisions for the pile-driving activities with practical measures taken to notify all adjoining property occupants of the commencement date and period of pile-driving works.

The notification shall be forwarded a minimum of 2 days prior to the commencement of works.

40. The development has been granted an approval from the NSW Rural Fire Service dated 15th August 2007 under their relevant legislation. Where conditions are imposed by the authority the development shall comply with the general terms of approval.

ITEM NO. 2

FILE NO: 16-2007-227-1

**POLICY IMPLICATIONS ASSOCIATED WITH DEVELOPMENT
APPLICATION FOR PLACE OF PUBLIC WORSHIP AT NO. 43
SHEARWATER DRIVE, TAYLORS BEACH**

REPORT OF: SCOTT ANSON – MANAGER –DEVELOPMENT & BUILDING

**THIS MATTER WAS BROUGHT FORWARD AND DEALT WITH AFTER THE
MAYORAL MINUTE**

ITEM NO. 3**FILE NO: PSC2007-1474****DEVELOPMENT CONTROLS FOR BROTHELS & RESTRICTED PREMISES****REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Resolve to incorporate provisions into the Port Stephens Development Control Plan 2007 that require notification of development applications for brothels and restricted premises to dwellings, dual occupancies, urban housing, child care centres, community facilities, educational establishments, hospitals, and places of public worship.
- 2) Resolve to place on public exhibition draft Port Stephens Development Control Plan 2007 Chapter B14 – Brothels and Restricted Premises for a period of 28 days.

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007**RESOLUTION:**

240	Cr Nell Cr Westbury	RECOMMENDATION IS THAT COUNCIL:
		<ol style="list-style-type: none">1. Resolve to incorporate provisions into the Port Stephens Development Control Plan 2007 that require notification of development applications for brothels and restricted premises to dwellings, dual occupancies, urban housing, child care centres, community facilities, educational establishments, hospitals, and places of public worship within 400 metres of the site of the Development Application2. Resolve to place on public exhibition draft Port Stephens Development Control Plan 2007 Chapter B14 – Brothels and Restricted Premises for a period of 28 days.

MATTER ARISING:

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

241	Cr Nell Cr Baumann	That Council review Development Controls for other uses such as gunshops and other activities
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BACKGROUND

The purpose of this report is to outline proposed development controls and notification procedures for brothels and restricted premises.

Council resolved on 26th September 2006 to:

- 1) Prepare a Draft LEP Amendment to make restricted premises, sex services and sex services premises prohibited in all zones in Port Stephens LEP except in industrial zones.
- 2) Incorporate provisions into the draft Port Stephens Control Plan 2007 that require notification of development applications for brothels/sex services premises and restricted premises to residents, churches and schools within 400m of the site of the development application.
- 3) Require a report on other provisions that could be included in an amendment to Council's Consolidated Development Control Plan to restrict brothels/sex services premises and restricted premises proposed to be located in close proximity to churches, schools, residential properties and community facilities.

Item 1 has been referred to the NSW Department of Planning's LEP Review Panel. The Panel did not support the draft amendment as proposed (refer to attached correspondence dated 13th July 2007). The Department considers restricted premises a retail use and therefore should be permitted in business zones.

Items 2 and 3 are addressed as part of the proposed amendments to the Port Stephens Development Control Plan 2007 accompanying this Mayoral Minute.

In respect to Item 2, it is recommended that Council modify its resolution of September 2006 to incorporate provisions to require notification of development applications for brothels and restricted premises to dwellings, dual occupancies, urban housing, child care centres, community facilities, educational establishments, hospitals and places of public worship. This modification maintains the intent of the original resolution, and uses definitions from the Port Stephens LEP (The terms used in the original resolution are not defined in the Port Stephens LEP).

The proposed amendments to the Port Stephens Development Control Plan 2007 will introduce notification, design and site controls for brothels and restricted premises that are currently absent from Council's planning framework. Furthermore, the proposed amendment will provide development controls for brothels and restricted premises within the 3(a) Business and 4(a) Industrial zones despite the NSW Department of Planning not supporting Council's draft LEP on this matter.

LINKS TO CORPORATE PLANS

Nil

FINANCIAL/RESOURCE IMPLICATIONS

Notifying all of the above land uses within 400m of a proposed brothel or restricted premises is likely to have significant resource implications for Council to administer and may also affect processing times. Further advice on this matter will be provided following the public exhibition of the draft DCP chapter.

LEGAL AND POLICY IMPLICATIONS

The Port Stephens DCP 2007 will be amended to introduce development controls for brothels and restricted premises.

Australian Business Excellence Framework

This aligns with the following ABEF Principles. (Please delete what is not applicable)

- 4) To improve the outcome, improve the system and its associated processes
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Development applications for brothels and restricted premises typically receive a large number of objections from the community. This indicates that such land uses are a sensitive issue within the LGA and therefore a level of development control is required.

The proposed DCP chapter will introduce development controls that ensure such land uses are carried out in a discrete manner and in appropriate locations, given their permissibility under PS LEP 2000.

ECONOMIC IMPLICATIONS

Stricter development controls for brothels and restricted premises may translate to higher business costs for potential business.

ENVIRONMENTAL IMPLICATIONS

Nil.

CONSULTATION

Subject to Council resolution, the draft chapter is to be placed on public exhibition for a period of four weeks.

OPTIONS

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

- 1) Place the draft chapter on public exhibition for a period of four weeks
- 2) Maintain existing planning provisions for brothels and restricted premises in the LGA.

ATTACHMENTS

1. Draft Port Stephens Development Control Plan 2007 Chapter B14 – Brothels and Restricted Premises (including proposed amendment to Section A1.9 Advertising and Notification).

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1

DCP CHAPTER 14 – BROTHELS AND RESTRICTED PREMISES

A1

Introduction

Port Stephens Development Control Plan 2007

DRAFT ONLY

Note: Proposed changes are in bold print and underlined.

Sub-division proposals need to illustrate that street, block and lot layouts are based on careful analysis of the local topography, landscape character, aspect and surrounding development.

A development application must clearly state how the design of the proposed development has responded to the site analysis.

A1.9 Advertising and Notification

The kinds of development listed below will be advertised and notified to adjacent landowners in accordance with this plan, in addition to any development, which is required to be advertised and/or notified by the EPA Act and Regulations.

- Development involving a heritage item;
- Development visible from a heritage item;
- Development visible from the street in a Heritage Conservation Area;
- Non-residential uses in or adjacent to residential or rural-residential areas (not including home employment);
- Council projects (excluding adopted works that are consistent with POM);
- Hotels and Motels;
- Brothels;
- **Restricted premises;**
- Hospitals and institutions;
- Junkyards;
- Places of public assembly and places of public worship;
- Tourist developments;
- Residential dwellings with 2 or more storeys;
- Dual occupancy, villa and townhouse and residential flat developments;
- Residential and rural-residential subdivision of 5 or more allotments.
- Garages
- Variations to building setbacks

All development applications for brothels and restricted premises must be notified to dwellings, dual occupancies, urban housing, child-care centres, community facilities, educational establishments, hospitals and places of public worship within 400m of the subject land.

Any other kind of development may be advertised and/or notified at the discretion of Council where it is

considered appropriate given the nature of the proposal. The minimum advertising/notification period for development applications is 14 days. Where the notice is placed in a newspaper, the period commences on the day on which the notice is published. For the purposes of notification, the period commences from the date that written notice is given.

A1.10 Developer Contributions

Section 94 and 94A of the *Environmental Planning and Assessment (EPA) Act*, 1979 allows Council to levy contributions from developers for the provision of public amenities and services required as a consequence of the development. Contributions are generally required prior to the commencement of works.

Further information on the application and calculation of contributions is contained in Council's Contribution Plans.

A1.11 Varying a Standard or Control

VARIATION OF AN LEP STANDARD

An LEP standard can only be varied under the provisions of State Environmental Planning Policy 1 (SEPP1). A variation should only be considered when that variation can ensure a performance-based solution for a particular site.

A planning report seeking a variation must clearly demonstrate that:

- The standard is unnecessary or unreasonable; and
- The objectives of the standard and the zone have been achieved.

A SEPP1 variation cannot be used to carry out development in a zone where that type of development is prohibited.

VARIATION OF A DCP CONTROL

The applicant must submit sufficient details and documentation to clearly demonstrate that the proposal to vary a DCP control:

- Is consistent with the relevant principle(s) of this DCP; and
- Provides identifiable benefits for the community or for future occupants that would not be achieved by compliance with the DCP control.

Port Stephens Development Control Plan 2006

B14

Brothels & Restricted Premises

DRAFT ONLY Printed: 2/08/2007

B13.1 Where does this part apply?

This part applies to brothels and restricted premises as defined in *Port Stephens Local Environmental Plan 2000*.

This part provides location and design requirements for brothels and restricted premises so that they do not cause disturbance or otherwise have a detrimental impact on the amenity of the host neighbourhood.

B13.2 Location

PRINCIPLES

B14.P1 Brothels and restricted premises should be located at a reasonable distance from other sensitive land uses.

B14.P2 Brothels and restricted premises should not be located in proximity to each other to avoid a concentration of such land uses.

CONTROLS

B14.C1 The entrance to a brothel or restricted premise must not be located within 150 metres from the entrance of a dwelling on residential zoned land.

B14.C2 The entrance to a brothel or restricted premise must not be located within 200 metres from the entrance of any child care centre, community facility, educational establishment, hospital or place of public worship.

B14.C3 The entrance to a brothel or restricted premise must not be located within 200 metres from the entrance of another brothel or restricted premise.

B14.C4 Restricted premises must not be located on the street or ground level of a building.

B14.C5 Brothels are not considered as home employment or home occupation for the purposes of the *Port Stephens Local Environmental Plan 2000*.

B13.3 Scale and character

PRINCIPLES

B14.P3 Brothels and restricted premises should be small in scale and respect the existing character of an area.

CONTROLS

B14.C4 Brothels must provide no more than 5 rooms (one sex worker per room) in which acts of prostitution are to take place.

B14.C5 Acts of prostitution must only occur in rooms or areas that are indicated on plans submitted to and approved by Council.

B14.C6 Any building erected or refurbished for use as a brothel must be designed so that it is sympathetic to the existing character of an area and in accordance with any area-specific development controls.

B14.C7 The entrance to a brothel or restricted premise must be discrete and unobtrusive, with signage limited to one business identification sign (maximum 1.2m length and 0.6m height) devoid of any sexually explicit images, language and objects.

B14.C8 No neon or flashing lighting is permitted.

B14.C9 Brothels must include an internal reception/waiting area of appropriate size to discourage loitering outside the premises.

B13.4 Safety and Environmental Health

PRINCIPLES

B14.P4 Brothels should be designed and located so that the safety of all persons is maximised.

CONTROLS

B14.C11 All applications for brothels must include a statement describing how the proposed development addresses the principles of public and individual safety and surveillance.

B14.C11 Council will consider the health and hygiene of a brothel and its operation in terms of:

- Offensive noise – *Australian Standard 1055 Acoustics and Protection of the Environment Operations Act 1997*;
- Ventilation and Lighting;
- Bars and food preparation areas – *Australian Standard 4674-2004 Construction and fit-out of food premises*;
- Spa baths – Department of Health Guidelines;
- Sanitary Facilities – direct access must be provided to shower and hand wash basin facilities; and

Port Stephens Development Control Plan 2006

B14

Brothels & Restricted Premises

DRAFT ONLY Printed: 2/08/2007

- Contaminated waste – facilities must be provided for disposal of used condoms and contaminated waste.

ITEM NO. 4

FILE NO: 16-2005-550-1

**DEVELOPMENT APPLICATION FOR A SERVICE STATION,
STORAGE UNITS, TWO INDUSTRIAL SHEDS AND DEMOLITION OF
EXISTING BUILDINGS AT NO. 40 AND 40A RICHARDSON ROAD,
RAYMOND TERRACE**

REPORT OF: SCOTT ANSON – MANAGER - DEVELOPMENT AND BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2005-550-1 subject to the conditions contained in Attachment 3.

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007

**THIS MATTER WAS DEALT WITH AT ITEM 1 OF THE OPERATIONS
COMMITTEE RECOMMENDATIONS.**

ITEM NO. 5**FILE NO: PSC2007-2662****2008 LOCAL GOVERNMENT ELECTION****REPORT OF: PETER GESLING – GENERAL MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Consider conducting a constitutional referendum at the 2008 Local Government Election, including the question/s to be put to the referendum.

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007**RESOLUTION:**

242	Cr Hodges Cr Nell	RECOMMENDATION IS THAT COUNCIL: 1. Resolve to conduct a Constitutional Referendum at the 2008 Local Government Election. 2. Form a working party of interested Councillors to work with the Executive Manager to develop the questions for the Referendum.
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BACKGROUND

The purpose of this report is to allow Council to consider the method used to elect the Mayor of Port Stephens and a possible referendum at the 2008 Local Government election.

Council at its meetings on the 27 September 2005 and 26 September 2006 resolved to move towards introducing a voting system to allow the Mayor to be popularly elected by the people of Port Stephens. To do this a constitutional referendum would need to be conducted in conjunction with the 2008 Local Government Election with the change to a popularly elected Mayor occurring at the 2012 Local Government Election, should the community indicate through the referendum to change the voting method.

As Council is aware the Mayor is elected in September on an annual basis by the elected members. For Council to move towards the voting system of a popularly elected Mayor, Council needs to firstly consider a number of matters:-

- 1) Resolve to conduct a constitutional referendum in conjunction with the 2008 Local Government Election to change the way the Mayor is elected.

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

- 2) Due to the Local Government area being split into Wards, consider whether to increase or decrease the councillor numbers to allow for the popularly elected Mayoral method, and/or
- 3) Abolish the Ward system, which will also require a separate question being asked at the referendum to revert to a whole of local government area.
- 4) Resolve the question/s to be asked of the people of Port Stephens in the referendum.

Should Council choose to remain with the Ward system, Council needs to be mindful that in accordance with Section 280, Local Government Act 1993, each Ward is required to have the same number of Councillors with the Mayor to be excluded from the count if the Mayor is to be elected by the electors. This would require an increase of councillor number to 13, if Council chose to remain with four (4) councillors per Ward.

If Councillors were to remain with the Ward system but reduce the number of councillors, then the number of councillors must not be reduced below three (3) per Ward. This would result in nine (9) councillors and the popularly elected Mayor making ten (10) councillors.

If Councillors were to abolish the Ward system then the councillor numbers could remain the same with twelve (12) councillors being elected including a popularly elected Mayor. This would require a second question to be put to the community at a referendum.

Council should be aware that if two (2) questions are put to the community and the community responds in the positive with one and the negative in another, this could be different from Council's original intent. For example Council could ask:-

SAMPLE QUESTIONS:

	YES	NO
1. As a ratepayer/resident of Port Stephens I would like to vote directly for a popularly elected Mayor.	<input type="checkbox"/>	<input type="checkbox"/>
2. I would like to see the Local Government Ward system abolished to create a whole of local government area	<input type="checkbox"/>	<input type="checkbox"/>

If Council was of the mind to put both questions to the community in the form of a referendum and the community responded with a YES for question 1 and a NO for question 2, then Council would need to consider increasing or decreasing councillor numbers.

If it was a YES to both then Councillor numbers could remain the same. However if they were reversed and the community said NO to question 1 and YES to question 2, Councillor numbers would remain the same with the local government area being a whole are rather than divided into Wards and Councillors would elect the Mayor.

If the community responded NO to both questions then the status quo would remain.

LINKS TO CORPORATE PLANS

Goal 16 Leadership – *Planning is integrated to provide a clear direction that allows a focus on achievement of organisational and personal goals*

FINANCIAL/RESOURCE IMPLICATIONS

Dependent upon the decision of Council with respect to increasing or decreasing the Councillor numbers there would be a financial implication. It is anticipated if the councillor numbers increased by one then the cost would approximately increase by \$30,000 per year (\$120,00 per Council term) or alternatively if the number decreased the savings would be in the vicinity of \$60,000 per year (\$240,000 per Council term).

Also should Council choose to conduct a referendum at the 2008 Local Government Election, this would increase the costs of conducting the election.

LEGAL AND POLICY IMPLICATIONS

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, Council is required to conduct a referendum to make changes to the election of Mayor and changes to the Ward system.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 9) All systems and processes exhibit variability, which impacts on predictability and performance
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders
- 12) Senior leadership's constant role-modelling of these principles, and creating a supportive environment in which to live these principles will help the enterprise and its people to reach their full potential

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Dependent upon Council's decision this may allow the community to have direct input into the election of the Mayor.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Governance Coordinator

OPTIONS

- 1) Adopt the recommendation

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

- 2) Reject the recommendation
- 3) Amend the recommendation

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 6

FILE NO: PSC 2006-0029

DRAFT MEDOWIE STRATEGY – ESTABLISH REVIEW PANEL

REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING

**THIS MATTER BROUGHT FORWARD AND DEALT WITH AFTER THE
MAYORAL MINUTE**

ITEM NO. 7

FILE NO: PSC2006-1627

**DEVELOPMENT CONTROL PLAN 2007 – PROPOSED SAVINGS
PROVISION POLICY RELATING TO SINGLE STOREY DWELLINGS
ONLY**

REPORT OF: DAVID BROYD - GROUP MANAGER, SUSTAINABLE PLANNING

**THIS MATTER BROUGHT FORWARD AND DEALT WITH AFTER THE
MAYORAL MINUTE**

ITEM NO. 8**FILE NO: PSC2005-5185****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: JUNE SHINE – EXECUTIVE MANAGER, CORPORATE MANAGEMENT**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayoral and Ward Funds to the following:-
 - a) Port Stephens Community Band – Purchase of Equipment (\$1220.90 – Mayoral Fund)
 - b) Riding for the Disabled – Assist with Operating Costs (\$1000 – Mayoral Fund)
 - c) Lemon Tree Passage & Districts Garden Club (\$250 – Central Ward)
 - d) Rotary Club of Nelson Bay East Timor Project (\$1000 – East Ward)
 - e) Medowie Guides – Purchase of Marquee (\$500 – Central Ward)
 - f) Tomaree Public School – 2007 Challenge Program (\$1000 – East Ward)
 - g) Karuah Bridge Celebrations – 50th Bridge Celebrations (\$1000 – West Ward)
 - h) Irrawang High School - \$100 – Boys Education Program (\$100 – West Ward)
-
-

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007**RESOLUTION:**

243	Cr Baumann Cr Hodges	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The Council's policy gives Councillors a wide discretion to either grant or to refuse any requests.

The Council regularly receives requests for financial assistance from community groups and individuals. However, Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act. This would mean that the financial assistance would need to be included in the Management Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

Council's policy for financial assistance has been developed on the basis it is "seed" funding and that there is benefit to the broader community. Funding under Council's policy is not intended for ongoing activities.

The requests for financial assistance are shown below:-

MAYORAL DONATIONS

Port Stephens Community Band	Purchase of Equipment	\$1220.90
Riding for the Disabled	Assist with Operating Costs	\$1000.00

WEST WARD

Karuah Bridge Celebrations	50 th Bridge Celebrations	\$1000.00
Irrawang High School	Boys Education Programme	\$100.00

CENTRAL WARD

Lemon Tree Passage & Districts Garden Club	Annual Flower Show	\$250.00
Medowie Guides	Purchase of Marquee	\$500.00

EAST WARD

Rotary Club of Nelson Bay	East Timor Project	\$1000.00
Tomaree Public School	2007 Challenge Program	\$1000.00

LINKS TO CORPORATE PLANS

The Council's Management Plan does not have any program or stated goal or objective for the granting of financial assistance.

FINANCIAL/RESOURCE IMPLICATIONS

Council Ward Funds are the funding source for all financial assistance.

LEGAL AND POLICY IMPLICATIONS

To qualify for assistance under Section 356(1) of the Local Government Act, 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function which it, the Council, would otherwise undertake;

MINUTES FOR ORDINARY MEETING – 24 JULY 2007

- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

The policy has other criteria, but these have no weight as they are not essential. These criteria are:

- a) a guarantee of public acknowledgment of the Council's assistance
- b) the assistance encouraging future financial independence of the recipient
- c) the assistance acting as 'seed' funding with a multiplier effect on the local economy.

Australian Business Excellence Framework

This aligns with the following ABEF Principles:

- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders.

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1**FILE NO: 3150-029 [PSC2005-3986]**

STATE GOVERNMENT FUNDING FOR PUBLIC LIBRARY FACILITIES

COUNCILLOR: BROWN**THAT COUNCIL:**

- 1) Make a submission in response to the Review of funding for New South Wales public libraries announced by the Minister for Planning and the Minister for Arts - the Honourable Frank Sartor on 21 August 2007.
- 2) Copies of these submissions are to be provided to the Minister for Planning and the Minister for Arts and the Member for Port Stephens, Craig Baumann.

BACKGROUND REPORT OF: PHILLIP CROWE – COMMUNITY & LIBRARY SERVICES MANAGER**ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007****RESOLUTION:**

244	Cr Brown Cr Tucker (Deputy Mayor)	It was resolved that the Notice of Motion be adopted.
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BACKGROUND

NSW public libraries receive the lowest state government per capita contribution in Australia (NSLA Australian Public Libraries Statistical Report 2003-2004). NSW State Government funding has reduced from 23.6% of the total cost of public libraries in 1980 to just 7.8% of the total in 2004/2005. See table below

Year	State Government Expenditure		Total Local Government Expenditure	
	Total	% of whole	Total	% of whole
1980	\$8.5M	23.6%	\$27.5M	76.4%
1990	\$13.1M	12.6%	\$90.9M	87.4%
1998/1999	\$16.7M	8.0%	\$191.8M	92.0%
2002/2003	\$21M	8.8%	\$217.3M	91.2%
2003/2004	\$22M	8.4%	\$240M	91.6%
2004/2005	\$22.4M	7.8%	\$265M	92.2%

(Source: NSW LGSA 2007 State Election Public Library Platform Policy, p10)

In 2006/2007, State Government funding for public libraries reduced by \$247,990 compared to the previous year.

In 2007/2008, the State funding for public libraries has been further reduced by a massive \$1,023,000 (4.16%)

So in the period 1980 to 2004/2005 the total expenditure on public libraries has increased from \$36M to \$287.4M. During that time the State Government contribution to that expenditure has increased by a factor of three (3) from \$8.5M to \$22.4M where local government contribution has increased by a factor of ten (10) from \$27.5M to \$265M.

There are 400 public libraries in NSW. They are amongst the most popular and used of Council facilities in NSW;

- More than 31 million visits to public libraries each year
- 48% of the population are members – over 3 million people
- Three and half (3.5) million detailed reference questions answered

Public libraries provide an enormous range of resources to their local communities:

- 13.5M books and other materials available in collections.
- 46M plus loans made each year.
- 2,000 public access computers are available and are used for 2M hours.
- Over 15,000 hours of dedicated assistance for eGovernment inquiries.

Port Stephens libraries provided the following through our public libraries in 2006 – 2007;

- **511,230 items borrowed**
- **507,307 items checked in**
- **35,161 reference enquiries handled by staff**
- **230,868 visits to the libraries**
- **20 public access computers provided**
- **25,974 hours of internet usage provided**
- **5858 people attended special programs, events or activities**
- **27,746 people are current members of the library as at 31st July 2007.**

ATTACHMENT

Media Release – The Honourable Frank Sartor MP – *NSW Public Libraries Funding Review Announced* dated 21 August 2007.



NEW SOUTH WALES

MEDIA RELEASE

The Hon Frank Sartor MP

Minister for Planning

Minister for Redfern Waterloo

Minister for the Arts

21 August 2007

NSW PUBLIC LIBRARIES FUNDING REVIEW ANNOUNCED

State Plan Priority E8: More people participating in the arts and cultural activity

Minister for the Arts Frank Sartor today announced an independent review of public library funding in NSW, to help ensure libraries retain their important role in local communities.

Former Independent Pricing and Regulatory Tribunal chair Dr Tom Parry will carry out the review, beginning immediately.

"This strategic review will help to ensure Government funding is distributed in the most effective way," Mr Sartor said.

"Dr Parry will look at a range of relevant issues including local government funding for public libraries and the areas in greatest need of public funding support."

The review will include consultation with a range of stakeholders such as the Library Council of NSW and its Public Libraries Consultative Committee, the Local Government and Shires Associations of NSW, the NSW Arts Advisory Council, the Metropolitan Public Libraries Association of NSW and the Country Public Libraries Association of NSW.

"The lemma Government recognises the important service provided by public libraries, particularly in regional areas," Mr Sartor said.

"Since 1995, State Government funding to the public library network has increased by almost 40% to \$23.5 million in 2007/08.

"This review of public libraries funding – in consultation with industry – will help to ensure we are working to the best possible advantage for the community and the arts."

Minister Sartor said he expected to receive a report from Dr Parry by the end of the year and would consider any recommendations.

Media contact:

Ann-Marie Wilcock

9228 4700 / 0413 872 275

TERMS OF REFERENCE – REVIEW OF GOVT FUNDING FOR PUBLIC LIBRARIES

The NSW Minister for the Arts has identified the need for a strategic review of the Government's funding support for public libraries to ensure the most effective application of these funds for the benefit of the NSW public libraries system as a whole.

The review will examine and report on:

- Revenue raising potential of local government authorities by local government area (detailed for sources of revenue and demographic factors);
- Options for the most strategic application of State Government funding which would ensure this funding is directed towards areas of greatest need;
- Any regulatory implications associated with these options;
- Transitional arrangements including an implementation plan to guide the migration to a new more strategic system of funding;
- Any other means by which library services may be enhanced in NSW; and
- Identification of special issues and anomalies.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 3150-029

CIRCUSES USING EXOTIC ANIMALS

COUNCILLOR: BROWN FRANCIS & SWAN

THAT COUNCIL:

- 1) Join the many other Councils in Australia and across the world which are rejecting circuses using wild/exotic animals on Council-owned or controlled land, in favour of circuses which depend on human skills only.
-

**BACKGROUND REPORT OF: JASON LINNANE - RECREATION SERVICES
MANAGER**

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007

MOTION:

	Cr Brown Cr Hodges	THAT COUNCIL: 1. Join the many other Councils in Australia and across the world which are rejecting circuses using wild/exotic animals on Council-owned or controlled land, in favour of circuses which depend on human skills only.
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AMENDMENT:

245	Cr Jordan Cr Baumann	That Council defer the Motion/Recommendation to hear argument from the other party - the Circus Industry.
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That the Amendment on being put became the Motion and was carried.

A division was called for by councillor Francis and councillor Hodges.

Those for the motion: Councillor Jordan, Hodges, Baumann, Westbury, Robinson and Tucker.

Those against the motion: Councillor Brown, Francis, Dingle, Nell and Dover.

BACKGROUND

Port Stephens Council has previously approved the use of public land for circus events that use animals. These approvals have been consistent with current Council policy and have been well attended by the community. There is no current legislative restriction on this practice and a change would be at the discretion of Council

It should be noted that Council has taken the same approach for circus events that depend on human skills only.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: 3150-029 [PSC2005-3947]

ESTABLISHMENT OF A 355B COMMITTEE FOR THE DEVELOPMENT OF CRIME PREVENTION STRATEGIES

COUNCILLORS: STEVE TUCKER, CRAIG BAUMANN AND JOSH HODGES

THAT COUNCIL:

1. Establish a 355b Committee to develop crime prevention strategies for the Tilligerry Peninsula; and
2. That the Committee be able to apply for grants from State and Federal Governments to help achieve its goals.

ORDINARY MEETING OF COUNCIL – 28 AUGUST 2007

MOTION:

246	CR Tucker CR Baumann	THAT COUNCIL: 1. Establish a 355b Committee to develop crime prevention strategies for the Tilligerry Peninsula; and 2. That the Committee be able to apply for grants from State and Federal Governments to help achieve its goals.
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AMENDMENT:

	Cr Francis Cr Nell	That Council defer this matter to conduct a briefing on the issues on the Tilligerry Peninsula.
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On being put the Amendment was lost and the Motion was carried.

A division was called for by Councillor Baumann and Councillor Hodges.

Those for the motion: Councillor Jordan, Hodges, Baumann, Westbury, Robinson, Tucker and Dover.

Those against the motion: Councillor Brown, Nell and Francis.

Cr Dingle left the Council Chambers at 9.29pm.

BACKGROUND REPORT OF: TREVOR ALLEN – ACTING COMMUNITY PLANNING MANAGER

BACKGROUND

Last month a public meeting was called by Tilligerry residents to address local crime issues. In attendance were Lower Hunter Police Area Commander Des Organ, Federal Justice and Customs Minister David Johnston, Federal Member for Paterson Bob Baldwin, Local Member for Port Stephens, Craig Baumann and Opposition Police Spokesman Mike Gallacher. According to the Newcastle Herald (01/08/07) 'the meeting supported a motion to form a community committee through Port Stephens Council to develop crime prevention strategies.'

Currently local crime issues for the Tilligerry area are addressed by the Police Local Area Command through the Police Action Community Team (PACT). Council has representation on this committee. Meetings are held quarterly in different areas of Port Stephens, including Tilligerry. These meetings provide an opportunity for community members to discuss their concerns about crime directly with Chief Inspector Greg Lindsell and other members of the Police Force and include an update of the latest police crime statistics.

Council has been successful in obtaining Community Safety Compact funding through the NSW Attorney General's Department for the 'Snak & Rap' program which was developed from a proposal at the June 2006 meeting to 'create a neutral area to liaise with youth'. This program is being successfully piloted in Tilligerry by Council's Youth Officer, James Campbell, with assistance from community members and the Police.

Other Council crime prevention strategies under Council's Crime Prevention Plan 2006-2009 include liquor accords, alcohol-free zones, Safer by Design, safety audits, training programs and educational campaigns.

Current Port Stephens LGA statistics from the Bureau of Crime Statistics and Research (BOCSAR) indicate that there has been a rise over the last 10 years in domestic violence-related assault of 11.4%, with police crime data indicating that there has been a significant rise in this crime in most areas. There has also been an overall rise in malicious damage of 7%, again with most areas also experiencing a rise in this crime. However the incidence of break and enter – dwelling/non-dwelling and steal from dwelling have experienced a downward trend over the last 10 years whilst sexual assault, motor vehicle theft and steal from motor vehicle have all remained stable.

Further breakdown of these figures within Port Stephens can be obtained from analysis of police crime data which can be requested from NSW Police.

In giving consideration to this Notice of Motion Council need to be mindful of the implications of establishing further 355(B) committees, such as the recommendation from the Department of Local Government Report with respect to the existing number of 355 (B) committees, the impact of Council resources and whether it is considered a function of Council. The main aim of establishing 355 (B) committees is to carry out functions of Council.

Council could consider alternative methods of developing crime prevention strategies as the ongoing involvement with the group stated above or perhaps the establishment of a community forum group which is not established under 355 (B).

There being no further business the Meeting closed at 9.30pm.

I certify that pages 1-296 of the Ordinary Minutes of Council dated 28 August 2007 were confirmed by Council at its meeting held on 25 September 2007.

.....
Cr Ron Swan
MAYOR