

Minutes 18th December 2007



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 18th December 2007, commencing at 5.43pm.

PRESENT:

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

373	Councillor Robinson Councillor Hodges	It was resolved that the apology from Cr Dover and Mr Stewart Murrell be received and noted.
374	Councillor Councillor	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 26 November 2007 be confirmed.

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MAYORAL MINUTE

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2005-0632

WHALE & DOLPHIN WATCHING – MARINE MAMMALS ACT

THAT COUNCIL:

Endorse the Joint Venture Committee Resolution which supports the approach taken by Whale & Dolphin Watch Australia (WADWA), on behalf of Port Stephens Operators which includes licensing and a Code of Conduct for the Dolphin Tourism Industry.

375	Councillor Swan Councillor Baumann	There being no objection the Mayoral Minute was adopted.
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BACKGROUND

At the recent Joint Venture Tourism Committee meeting on 20 November 2007 it was recommended that Council support the WADWA approach to the state government seeking changes to the Marine Mammals Act.

On 19th November 2007, WADWA sent a letter to three State Ministers (Hon. P Koperberg MP, Hon. Ian Macdonald MLC and Hon. M Brown MP) in relation to concerns regarding the changes to the Marine Mammals Act. WADWA considered that the addition of a minimum approach distance to dolphins, in the Marine Mammals Act, would put Port Stephens and NSW at a complete marketing disadvantage against other Australian states.

Port Stephens has ten commercial vessels in the area, which are slow moving vessels with professional captains and lookouts. Dolphin and whale watching is the Tourism's idyllic picture of Port Stephens. Fifty million dollars per year is attributed to this important tourism industry and the overall affect upon the hospitality business is enormous. Operators from across NSW are expected to compete with other States which promote close proximity swimming, feeding and even touching.

Current regulations prohibit approaching dolphins closer than 50 metres from adults and 150 metres for adults with calves. WADWA would like to see an accreditation program instituted, including a permit system which would possibly permit approved commercial marine mammal operators a closer approach than general public recreation vessels.

The Charter Vessel Association of NSW and Whale and Dolphin Watch Australia are seeking a meeting with the Honourable Ministers to resolve a more practical approach than changing the Marine Mammals Act.

ATTACHMENT

- 1) Minutes from the Joint Venture Tourism Committee Meeting (20 November 2007)

ATTACHMENT 1
MINUTES OF THE JOINT VENTURE COMMITTEE
held at Council Chambers Committee Rooms
Tuesday 20 November 2007 at 6:25 PM

Present	Mayor Swan, Cr Westbury, Cr Tucker, P.Gesling, C.Pilley, R Yeo, P.Dann,
In Attendance	Cr Nell, Cr Dover, Cr Dingle, Cr Robinson, D Broyd, S Murrell, M.Campbell, N Deuis & T Bylhouwer
Apologies	Cr Hodges, Cr Brown, Cr.Francis
Chair	C.Pilley
Minutes of the last meeting	The minutes of the meeting held 21 st August 2007 were confirmed as an accurate record of the meeting with the addition of Cr Robinson as an attendee. Moved: B.Westbury, Seconded: P.Dann
Business Arising	nil
Current Activities	1. Fly Drive Campaign: Still awaiting information from TNSW/JetStar. 2. Sydney Surrounds: Information 3. Mid North Coast: Pacific Coast Touring Route (PCTR): Information Tourism Review: Information Wine and Food Guide: Information ATE Application. Information. 4. Consumer Shows: Penrith Caravan and Camping: Information. Canberra Leisure Show: Information 5. Visitor Guides: Information 6. Advertising/Media: Information 7. PSTL Strategic Plan: Information 8. Port Stephens Marketing Plan: N.Deuis gave background on plan development. It was resolved that: "The JVC approve the 2008/09 Marketing Plan in principle and that it be included in Councils planning process" Moved: P.Gesling B.Westbury (unanimous) 9. Karuah Working Together: Information 10. Port Stephens Web Site bookings: Information
General Business	1. Resignation: C.Pilley informed the meeting that he had received a letter of resignation from Neil Gordon. It was resolved that "N.Gordon be congratulated on his new position and thanked for his significant role with Port Stephens during his tenure as Chair" Moved P.Gesling B.Westbury (unanimous) 2. Dolphin Watching: R Yeo tabled a letter addressed to the relevant State Ministers. It was resolved that "The JVC support the approach taken by the industry association which includes licencing and a Code of Conduct. Moved : B.Westbury Cr Dover (unanimous) 3. NSW Tourism Awards: Cr Westbury advised that there were 3 winners from the Mid North Coast. 4. Departure Tax: N.Deuis raised the issue of the possibility of investigating an Airport Departure Tax as a revenue source to assist tourism funding.
Meeting Closed	19:55

MOTION TO CLOSE

ITEM NO. 1

FILE NO: A2004-0573

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGEMENT

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(g) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss General Manager's Confidential Item 1 on the Ordinary agenda namely **SEABREEZE ESTATE**.
 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning the commercial arbitration and legal costs incurred and advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
 - 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.
 - 4) That the report and the minutes of the closed part of the meeting remain confidential until the matter is settled.
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ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007

RESOLUTION:

376	Councillor Swan Councillor Tucker	It was resolved that the recommendation be adopted.
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OPERATIONS COMMITTEE RECOMMENDATIONS

ITEM NO. 1**FILE NO: 16-2006-288-1****DEVELOPMENT APPLICATION FOR DETACHED DUAL
OCCUPANCY (ONE DWELLING EXISTING) AT NO. 59 DEAN
PARADE LEMON TREE PASSAGE****REPORT OF: SCOTT ANSON MANAGER DEVELOPMENT AND BUILDING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2006-288-1 subject to the conditions contained in Attachment 3.

OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007**RECOMMENDATION:****That the recommendation be adopted****ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007****MOTION:**

	Councillor Hodges Councillor Tucker	That Council indicates its intent to refuse this development application and bring forward its reasons for refusal at its meeting in February 2008.
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The motion on being put was lost

RESOLUTION:

377	Councillor Francis Councillor Robinson	It was resolved that the Operations Committee recommendation be adopted.
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BACKGROUND

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

The development application seeks approval for a detached dual occupancy development and two (2) lot Torrens title subdivision. The proposed building will be two (2) storeys, constructed on poles allowing for parking underneath. The new dwelling is to be sited behind the existing dwelling fronting Dean Parade.

The subject land is situated within an established residential area and has a frontage to Dean Parade, and to the rear adjoining residential development. The proposed dwelling contains three (3) bedrooms, living and dining areas, kitchen, rumpus, double garage a single deck and three (3) balconies at first and upper levels.

The application was lodged in May 2006, prior to the adoption of the Port Stephens Development Control Plan 2007. As such, the application has been assessed in accordance with the provisions of the development controls in force at the time of lodgement of the application. Please note that Transitional and Savings Provisions clause within *Development Control Plan 2007* applies, therefore the provisions of *PS1 – Urban Housing and Dual Occupancy Guidelines*, *PS2 – Traffic and Parking Guidelines* and *PS10 – Building Standards and Notification Procedures* apply to the application.

The current application has been the subject of multiple negotiations with Councils Development Assessment Panel and has been required to respond to issues identified in two (2) notification periods.

The key issues associated with this proposal and Development Control Plan, 2007, specifically Section B6, are as follows:-

- Bulk and Scale (Section B6.5)
- Cut and Fill (Section B6.6)
- Building Height (Section B6.7)
- Side and Rear Setbacks (Section B6.8)
- Building Design Elements (Section B6.9)
- Privacy and Amenity (Section B6.12)

The development is concluded to be supportable in terms of the provisions of the *Port Stephens Local Environmental Plan 2000*, and the development control plans applicable at the time of lodgement, *PS1 – Urban Housing and Dual Occupancy Guidelines*, *PS2 – Traffic and Parking Guidelines* and *PS10 – Building Standards and Notification Procedures*.

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

- View Sharing
- Privacy
- Height
- Building Bulk
- Residential Amenity

• Character of Area An assessment of these issues is provided within the attachments. It is recommended to approve this application, as the development is consistent with Council's policies and Local Environmental Plan 2000.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

SOCIAL SUSTAINABILITY – *Council will preserve and strengthen the fabric of the community, building on community strengths.*

CULTURAL SUSTAINABILITY – *Council will assist to inspire a sense of pride and place as well as enhancing quality of life and*

defining local identity.

ECONOMIC SUSTAINABILITY – *Council will support the economic sustainability of its communities while not compromising its environmental and social well being.*

ENVIRONMENTAL

**NTAL
LITY**

SUSTAINABILITY

Council will protect and enhance the environment while considering the social and economic ramifications of decisions.

BUSINESS EXCELLENCE

–

Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council's Local Environmental Plan, Development Control Plans and Policies.

Business Excellence Framework

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The site is a fully serviced residential zoned allotment permitting dual occupancy development up to eight (8) metres in height with the consent of Council. The development provides an additional dwelling for residential accommodation in an acceptable way.

ECONOMIC IMPLICATIONS

The proposed development should create a positive multiplier effect, albeit limited, on the local economy. Initially, through income to local contractors during the construction phase and, in the longer term, through the increased demand for goods and services by residents and visitors.

ENVIRONMENTAL IMPLICATIONS

The development site contains a small number of scattered trees and grassed areas. No major vegetation is proposed to be removed and the landscaping plan will introduce further vegetation to the area.

The site is not known to contain any threatened flora or fauna and as such the development should not pose an adverse effect on any known threatened species, populations or ecological communities.

CONSULTATION

The application was exhibited in accordance with Council policy. Through two (2) notification periods a total of fourteen (14) submissions were received. These submissions are discussed in Attachment 2.

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject or amend the Recommendations and/or recommend conditions of consent.
- 3) Refuse the application whereby Council will need to identify reasons for refusal.
- 4) Delegate to the General Manager or their nominee to renegotiate aspects of the development proposal.

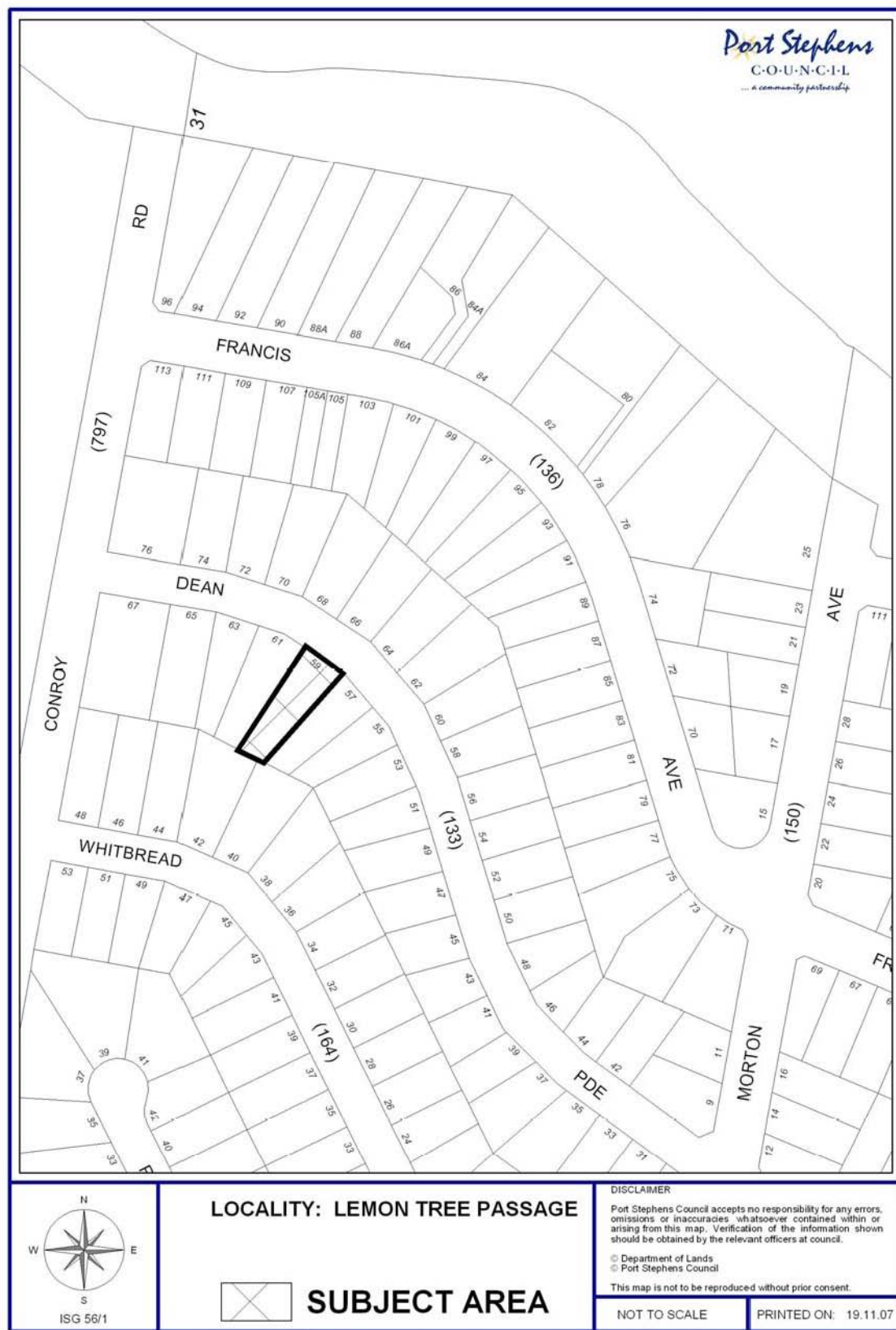
ATTACHMENTS

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

COUNCILLORS ROOM

- 1) Development Plans including Site Plan
- 2) Statement of Environmental Effects
- 3) Submissions

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 application seeks approval for a dual occupancy development in the form of two detached two story dwellings. The dwelling fronting the street is currently existing on site, with a new second dwelling to be sited behind the existing development.

The proposed dwelling is two (2) storey in form, constructed on poles due to the site topography.

Access to the proposed second dwelling will be via a driveway along the side of the front dwelling, with parking contained under the new dwelling.

THE APPLICATION

Owner	Mr E C Geddes
Applicant	Tattersall Surveyors Pty Ltd
Detail Submitted	Statement of Environmental Effects Development Plans Bushfire Assessment

THE LAND

Property Description	Lot: 116 DP: 221189
Address	59 Dean Parade, Lemon Tree Passage
Area	708.2m ²
Dimensions	The development site is irregular shaped having a frontage to Dean Parade of 18.29m and a rear width of 11.28m. The site is approximately 49m in depth
Characteristics	The site currently contains a two (2) storey dwelling in the front of the site. The rear of the site is currently undeveloped and contains a lawn, and some scattered large trees. The site rises from the street towards the rear of the allotment. The site is elevated at the rear and slopes toward the street.

THE ASSESSMENT**1. Planning Provisions**

LEP 2000 – Zoning	2(a)
Relevant Clauses	17, 19
Development Control Plan	PS1, PS2, PS10
State Environmental Planning Policies	SEPP1, SEPP 71

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007
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ATTRIBUTE	PROPOSED	REQUIRED	COMPLIES
LEP Requirements			
Min Area Per Dwelling	354.1m ²	300m ²	Yes
Floor Space Ratio	0.4:1	0.5:1	Yes
Height	8.5m	8m	No – Refer SEPP1 request to vary development standard
DCP Requirements			
Building Line Setback	Building is sited behind existing building	6m	Yes
Side/Rear Setbacks	Refer to Assessment	Ground Floor Upper Floor	Yes
Privacy		Direct Views between living area windows shall be screened or obscured.	Yes
Useable Open Space	Large decked area to complement ground level landscaping. Total area exceeds 35m ² with a minimum 4m dimension.	35m ² per dwelling with a minimum dimension of 4m	Yes
Resident Parking	3	3	Yes
Visitor Parking	0	0	Yes
Retaining Walls	No boundary retaining walls	If development is setback greater then 1.3m, retaining walls may be 900mm.	Yes
BASIX			Yes

Port Stephens Local Environmental Plan

2000 Clause 17

Clause 17 of the *Port Stephens Local Environmental Plan (LEP) 2000* stipulates that consent for the subdivision of residential land to create an allotment of less than 500m² shall not be granted unless consent is granted at the same time for the erection of a dwelling.

The application seeks to create two allotments in conjunction with a dwelling, and as such is considered to comply with clause 17 of the *Local Environmental Plan, 2000*.

Clause 19

The proposed development is considered to be consistent with the Development Standards of Minimum Site Area Per Dwelling and Floor Space Ratio specified within Clause 19 of the *Port Stephens LEP 2000*.

A variation has been sought to the height standard contained within this clause. An objection to the development standard using SEPP1 is discussed below.

State Environmental Planning Policy No. 1

A SEPP1 objection was lodged in respect to the height requirements contained within Clause 19 of the *Port Stephens Local Environmental Plan 2000*.

Clause 19 requires that a development for the purposes of a Dual Occupancy in the 2(a) zone not exceed 8m in height. The proposal exceeds this standard by 500mm.

The applicant provided the following justification to support the SEPP1 objection;

- Maximum height is in the centre of the building,
- The proposal will not impact on views and the sloping topography of the site has resulted in the height variation,
- The development will present as a two storey dwelling to the east and south,
- Development will not be visible from the street and will not impact upon the streetscape,
- Vegetation screening proposed will aid in limiting the perceived bulk of the building.

It is considered that in this instance the Development Standard for height is both unreasonable and unnecessary and the height variation can be supported.

State Environmental Planning Policy No. 71 – Coastal Protection

The development is not considered to be contrary to the provisions of SEPP 71.

Port Stephens Development Control Plan 2007

The application was lodged in May 2006, prior to the adoption of the Port Stephens Development Control Plan 2007. As such, the application has been assessed in accordance with the provisions of the development controls in force at the time of lodgement of the application.

The relevant plans applicable to this assessment are discussed below.

Development Control Plan PS1 – Urban Housing and Dual Occupancy Guidelines

The performance based design requirements of the *Dual Occupancy and Urban Housing Development Control Plan PS1* are relevant to the assessment of this application. Assessment of the key design considerations are addressed below:-

Streetscape, Building Height, Bulk and Scale:

The development is compliant with the requirements of side setbacks, floor space ratio and site coverage specified in Clause 19 of the LEP.

A minor variation has been requested to Clause 19 of the LEP, specifically height. This

represents a 0.5m height variation over a minor portion of the structure. The issue of height variation is addressed in the SEPP1 assessment, however, it is considered that the bulk and scale of the proposal is not excessive in relation to other dwellings in the vicinity.

When viewed from the east or south the development will present as a single storey dwelling with the upper storey concealed within the roof line. The elevation of the buildings to the south results in the existing dwellings on the rear properties being sited above the proposed development, limiting any view loss.

To the west, the development will present as a two (2) storey development, raised on poles. It is noted however that this elevation is setback significantly from the boundary and the proposed landscape plan incorporated screening that will serve to limit the bulk of the building. It is not considered that the bulk or scale of the building is excessive.

Visual Privacy:

The main cause of concern in relation to privacy with respect to this development is the impacts of the proposed balconies.

Where the balconies exceed one (1) metre in dimension on the northern elevations, privacy screens have been incorporated to restrict views onto the adjoining property. Conditions of consent require these screens to be of not more than 25% transparency (Conditions 7, 16). It is also noted that the screens extend to cover the window of bedroom 2 on the upper story.

To further negate against the impacts of privacy, the landscaping plan indicates the use of tall screening (3 to 7 metres in height) on the north western boundary. It is considered that these elements will effectively mitigate against any possible privacy issues relating to the proposal overlooking the adjoining property.

With respect to the dwelling located to the east of the subject site (57 Dean Parade), concerns have been raised regarding the proposed decking to be used as open space. The concerns include light penetration and noise.

The proposal incorporates screening on the south east elevation. The lower level balcony is not considered to be excessively elevated in relation to the fencing and it is considered that the proposed screening will be effective in minimising potential privacy impacts. A condition of consent is included requiring the screening to extend along the entirety of the south eastern edge of this deck.

With respect to impacts from the upper deck, it is considered that the combination of its narrow width (1.5m) and separation from the boundary will limit impacts on adjoining properties. Nevertheless it is proposed to impose a condition requiring screening on the south east elevation.

It is considered that the development does not result in any adverse privacy impacts to adjoining properties as a result of the balcony dimensions, setbacks and screening methods employed.

Boundary Setbacks:

The setback requirements for dual occupancy housing are stipulated in Section 3.2 of *PS1 – Urban Housing and Dual Occupancy Guidelines*.

The eastern elevation of the proposal presents as a single storey dwelling with a wall height of 3.3m. This would require a side setback of 1.09m which the proposal complies with having a setback to the eastern boundary of 1.1m

The southern elevation presents as a two (2) storey development with the wall heights ranging from 3.2m to 6.6m. The boundary is angled away from the dwelling with the setbacks increasing as the height of the proposal increases. The proposal complies with the stipulated setback requirements at all points on this elevation.

The proposal presents to the western boundary as a two storey development suspended on poles, with parking underneath. This setback has a minimum setback of 2.8m which increases to 4.2m. The proposal complies with all required setbacks for the western elevation.

The development complies with the requirements of *PS1 – Urban Housing and Dual Occupancy Guidelines* with regard to side and rear setback requirements.

Site Coverage:

The proposed development, including hardstand areas, covers 58% of the site. Under the requirements of DCP PS1, the development could have achieved a maximum site coverage of 60% and as such the development is considered to comply with Council's site coverage requirements.

Acoustic Privacy:

The development does not pose an unreasonable acoustic privacy impact. All noise generated (construction and on-going) from this development will need to comply with the *Protection of the Environment Operations Act 1997*.

Solar Access:

With respect to overshadowing, given the orientation of the allotment and shadow diagrams provided it is considered that the development is compliant with the provisions of PS1 in respect to solar access.

Views:

The development site and adjacent properties contain distant water glimpses of Port Stephens to the north. Given the siting of the building and the direction of views in the area it is not considered that the development will restrict existing views to a level that warrants refusal or modification of the application.

The property most likely to be affected in terms of views is to the rear of the subject allotment (No. 40 Whitbread Avenue). This dwelling is in an elevated position (approximately 6 meters higher) than the proposal for 59 Dean Parade. It is acknowledged that some view loss will be experienced from ground floor windows and open space, however the elevated balconies and windows will continue to receive views.

Parking & Traffic:

The parking and traffic arrangements are in accordance with Council's Development Control Plan, *PS2 – Traffic and Parking Guidelines*.

The development provides garage parking for two (2) cars per dwelling. There is no requirement for the provision of visitor parking for dual occupancy development. The parking layout and garage design are considered to comply with the provisions of *PS1 – Urban Housing and Dual Occupancy Guidelines* and the trafficable width of Dean Parade is considered to be able to accommodate the traffic generated by this development.

Useable Open Space:

Given the topography of the site, providing extensive ground level open space accessible from the living areas is problematic. In light of this, the development has supplemented the extensive ground level landscaping with a large deck area on the northern side of the dwelling. The existing dwelling will be provided with an area of compliant ground level open space in the rear of the dwelling.

This deck area is screened from adjoining properties and is considered to be consistent with the required 35m² open space accessible from a living area. Other deck areas on the dwelling are considered to be of too small a scale to contribute to the overall useable open space.

Landscaping:

The application is supported by an extensive landscape plan (Prepared by Lithos Group Dated: 03/05/07) and will supplement existing vegetation on site. The landscape plan has nominated species to be used for screening and will serve to significantly reduce any impacts the dwelling may present to adjoining properties.

The landscape plan incorporates dense screening along the western boundary (4 to 7m height) to prevent views into the adjoining site and to mask the building when viewed from adjoining properties.

The southern boundary incorporates further tall screening (5 to 7m height) to limit the visual impact of the dwelling on adjoining properties.

Screening trees are also proposed around the usable open space areas to ensure privacy is maintained to No 57 Dean Parade. This screening is proposed to be 5 to 12m in height.

In addition to the screen plantings, the proposal also incorporates multiple smaller species throughout the site. The Landscape plan is considered to be consistent with the requirements of *PS1 – Urban Housing and Dual Occupancy Guidelines*.

Development Control Plan PS10 – Building Standards and Notification Procedures

The development was advertised, notified and renotified in accordance with the provisions of this development control plan. Issues raised in submissions are discussed elsewhere in this report.

The development is compliant with the building lines specified within the development control plan. It is considered that the application is consistent with the requirements of *PS10 – Building Standards and Notification Procedures*.

Rural Fires Act 1997

The subject land is identified as bushfire prone land. The application includes subdivision and integrated development under the provisions of Section 100B of the *Rural Fires Act, 1997*.

To this end the application was referred to the NSW Rural Fire Service for assessment and a Bushfire Safety Authority was subsequently issued on 3rd July 2006 subject to two (2) conditions of consent. By virtue of the Bushfire Safety Authority being issued it is considered that the application satisfies the integrated provisions of the *Rural Fires Act, 1997*.

Flora and Fauna

Despite being vegetated, the development site is not identified as containing and threatened flora or fauna or endangered ecological communities. It is proposed in the provided landscape plan to retain as much natural existing vegetation as possible.

It is not considered that this development will result in adverse impacts to, or pose an unacceptable risk to threatened flora and fauna.

2. Likely Impact of the Development

The proposed development is consistent with the requirements of the *Port Stephens Local Environmental Plan 2000* and *DCP PS1 – Urban Housing and Dual Occupancy Guidelines*.

While there is not a predominance of dual occupancies in the immediate vicinity, the development is consistent in bulk, scale and appearance to other developments in the locality. It is considered that the proposed development will not have an adverse impact on the amenity of any surrounding allotments.

3. Suitability of the Site

The site is fully serviced and there are no physical constraints on the site that would make the land unsuitable for this development.

It is considered that the proposed development is consistent with Council's codes and policies governing development of the site while being compatible and sympathetic with existing and envisaged residential streetscape.

4. Submissions

The development was initially advertised and notified on the 15th May 2006. In response to this process five (5) submissions were received objecting to the proposal.

As a result of these submissions and the subsequent assessment, amendments to the proposal were made by the applicant and the proposal was re-notified in June 2006.

Nine (9) submissions were received in respect to the re-notified proposal, and the issues raised are addressed below. The applicant also responded to these issues in a letter dated 26th June 2007.

The key issues raised in the submissions are discussed below.

Privacy

Concerns were raised regarding privacy issues from the proposal, particularly the balcony areas. While several of the submissions raising the issue of privacy related to properties which were far removed from the proposal, the issue of privacy was addressed as it related to the adjoining properties.

To address the issue of privacy and overlooking of the residence and open space to the north west (No. 61 Dean Parade), the development has been revised to reduce the width of the balconies on this elevation to 1 meter. This is considered to reduce the balcony to a size that is not suitable for use as a recreation area or space where people are likely to remain.

Where the balconies exceed 1m in dimension on the northern elevations, privacy screens have been incorporated to restrict views onto the adjoining property. Conditions of consent (Conditions 7, 16) require these screens to be of not more than 25% transparency. It is also noted that the screens extend to cover the window of bedroom 2 on the upper story.

To further negate against the impacts of privacy, the landscaping plan indicates the use of tall screening (3 to 7m height) on the north western boundary. It is considered that these elements will effectively mitigate against any possible privacy issues relating to the proposal overlooking the adjoining property.

With respect to the dwelling located to the east of the subject site (57 Dean Parade), concerns have been raised regarding the proposed decking to be used as open space. The concerns include light penetration and noise.

The proposal incorporates screening on the south east elevation. The lower level balcony is not considered to be excessively elevated in relation to the fencing and it is considered that the proposed screening will be effective in minimising potential privacy impacts. A condition of consent is included requiring the screening to extend along the entirety of the south eastern edge of this deck.

With respect to impacts from the upper deck, it is considered that the combination of its narrow width (1.5m) and separation from the boundary will limit impacts on adjoining properties, Nevertheless it is proposed to impose a condition (Conditions 7, 16) requiring screening on the south east elevation.

Light and Overshadowing

With respect to overshadowing, given the orientation of the allotment and shadow diagrams provided it is considered that the development is compliant with the provisions of DCP *PS1 – Urban Housing and Dual Occupancy Guidelines*, in respect to solar access.

Stormwater

Council engineers have undertaken an assessment of the proposal taking into account likely impacts of drainage and stormwater. It is considered that with suitable conditions the development will not result in adverse drainage impacts.

Environmental Issues

The proposal requires the removal of two trees and proposes extensive landscaping to supplement the vegetation removal. As previously noted in this assessment the site does not contain any critical habitat, endangered flora and fauna or threatened ecological communities.

Fire Safety

The development was referred to the NSW Rural Fire Service under the provisions of Section 100B of the *Rural Fires Act, 1997*. The application was deemed to satisfy the RFS requirements and a Bushfire Safety Authority was issued. It is considered that the development does not constitute a bushfire risk to adjoining properties.

Consistency with Amenity of local area

While the existing current built form in the area is characterised by single dwellings situated at the front off allotments, the proposal for a dual occupancy at the rear of an allotment is consistent with the 2(a) zoning under the provisions of the *Port Stephens Local Environmental Plan 2000*.

Noise

The development is compliant with side setback requirements and it is considered that there is sufficient separation of dwellings for there to be no adverse impacts in terms of typical

residential noise.

Views

Given the siting of the building and the direction of views in the area it is not considered that the development will restrict existing views to a level that warrants refusal or modification of the application.

The property most likely to be affected in terms of views is to the rear of the subject allotment (No. 40 Whitbread Avenue). This dwelling is in an elevated position (approximately 6m higher) than the proposal for 59 Dean Parade. It is acknowledged that some view loss will be experienced from ground floor windows and open space, however the elevated balconies and windows will continue to receive views.

Bulk, Scale, Height

The development is compliant with the requirements of side setbacks, floor space ratio and site coverage.

A minor variation has been requested to Clause 19 of the LEP, specifically height. This represents a 0.5m height variation over a minor portion of the structure. The issue of height variation is addressed in the SEPP1 assessment, however, it is considered that the bulk and scale of the proposal is not excessive in relation to other dwellings in the vicinity.

5. Public Interest

The proposal is not contrary to the public interests as the development satisfies relevant planning considerations and maintains an acceptable level of residential amenity.

ATTACHMENT 3
CONDITIONS

CONDITIONS OF APPROVAL

- 1) Works shall not commence until such time as a construction certificate, where necessary, has been issued for the 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 has been granted an approval from the NSW Rural Fire Service dated 3/7/06 under their relevant legislation (**copy attached**). Where conditions are imposed by the authority the development shall comply with the general terms of approval.
- 5) 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.
- 6) Landscaping shall be carried out in accordance **with an approved landscaping plan** . The landscaping must be completed prior to issue of Occupation Certificate
- 7) The upper storey balcony balustrade facing towards the North Western boundary (No.61 Dean Parade) shall be constructed of opaque or obscured material and be increased in height to 1.2m to preserve the visual privacy of the adjoining property.
- 8) Semi mature native trees and shrubs, a minimum 1m high, shall be planted along the North Western boundary (No.61 Dean Parade) to maintain privacy and prevent the overlooking of the adjoining property. These trees and shrubs are to be maintained to maturity through use of mulch and watering to achieve their natural height.
- 9) A Subdivision Certificate must be obtained from Council within five (5) years of the date of this consent, otherwise this approval will lapse. 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.
- 10) 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.

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007

- 11) All lots in the proposed subdivision shall be serviced by the Hunter Water Corporation with water and sewerage facilities.
- 12) A Compliance Certificate under Section 50 of the Hunter Water Corporation Act, 1991 shall be submitted to Council prior to endorsement of the final survey plan. Applications for Section 50 Certificates are to be made direct to the Hunter Water Corporation.
- 13) All erosion and sediment control measures/works and other pollution control and rehabilitation measures undertaken on the site shall conform to the specifications and standards contained in the current version of;

Erosion and Sediment Control Regional Policy and Code of Practice
Managing Urban Stormwater – Soils and Construction produced by Landcom 2004,

An erosion and sediment control plan shall be submitted for approval with the engineering plans.

- 14) A bushfire report certifying compliance with the Bushfire Safety Authority conditions imposed by the Rural Fire Service shall be submitted to Council **prior to the issue of the Subdivision Certificate.**
- 15) Subdivision of proposed Lot 1 and Lot 2 has been granted for the purpose of a dual occupancy and development of the land should be in accordance with development consent 16-2006-288-1. If the Subdivision Certificate is sought prior to construction the title of these properties shall be endorsed under Section 88B of the Conveyancing Act to give effect to this condition. Council shall be nominated as the sole authority permitted to alter/remove the endorsement.
- 16) Privacy screens indicated on pre approved plans shall be constructed to a height of 1.8m and of not more than 25% transparency to maintain privacy and prevent overlooking of the adjoining property (No. 61 Dean Parade).
- 17) Creation of the right of carriageway in accordance with the approved plans. Details are to be approved by Council **prior to issue of the Subdivision Certificate.**
- 18) Internal carparking and manoeuvring areas shall have a 100mm concrete kerb along the boundary edge to stop stormwater discharging onto neighbouring properties. This is to be located on the eastern side. This kerb shall not extent past the property boundary.
- 19) Submission of Works-As-Executed plans and report prepared and certified by a suitability qualified engineer confirming all driveway and manoeuvring areas (levels, grades, location) 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 drainage flow paths are not compromised and vehicles will not bottom out.

The documents shall be submitted to, and accepted by the Certifying Authority, **prior to issue of the occupation certificate.**

- 20) The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
- 21) 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.**

- 22) The construction of the footpath crossing and associated lipless layback must be constructed **prior to the issue of any Interim and Final Occupation Certificate.**
- 23) Driveways, parking and turning areas shall be paved or sealed with either reinforced concrete, pavers or asphalt over a suitably prepared, compacted sub-base. These areas shall be maintained in perpetuity by the existing or future owners and occupiers of the property(s)
- 24) All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
- 25) 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.
- 26) 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 L_{10} 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.
- 27) 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.
- 28) 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.
- 29) 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.
- 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 Principal Certifying Authority.
- 30) Pile driving shall only be carried out between the hours of 8.00am - 3.30pm Monday to Friday excluding public holidays.
- 31) 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.
- 32) 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.
- 33) 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.
- 34) 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.
- 35) 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.
- 36) 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.**
- 37) 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.**
- 38) 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.

- 39) 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.

- 40) 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.

- 41) 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.

- 42) 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.
- 43) 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.
- 44) 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.

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- 45) 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.
- 46) The development shall be carried out in accordance with the Building Sustainability Index (BASIX) certificate. 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 (14) days and will be considered sufficient to satisfy this condition.

- 47) 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.
- 48) Prior to occupying the approved dwelling(s), contact Council's Land Information Section on 49800357 to obtain the correct house numbering.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

- 49) Provide detailed specification (two copies) of proposed works to achieve level 2 construction to protect against bushfire threat.
- 50) 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**.
- 51) A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

Per Lot		Total
Civic Administration	(\$356)	(\$356)
Public Open Space, Parks and Reserves	(\$1935)	(\$1935)
Sports and Leisure Facilities	(\$4561)	(\$4561)
Cultural and Community Facilities	(\$2293)	(\$2293)
Road Haulage	(\$0)	(\$0)
Roadworks	(\$1296)	(\$1296)
Fire & Emergency Services	(\$140)	(\$140)

Note:

- a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.
- b) Contributions are to be paid prior to either **issue of construction certificate** or the release of the final survey plan of subdivision, whichever is to occur first.

c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months.

52) The tree(s) within the footway shall be retained and protected during construction. Details are to be provided **prior to issue of the construction certificate** indicating the location of the trees and what protection measures are to be installed/implemented.

53) The vehicle driveway along to full length of the right of carriageway / battleaxe handle shall be constructed as follows:

- i) a minimum trafficable width of 3 meters ii) The constructed driveway (trafficable width) shall have an offset of 300mm or greater from obstructions higher than 150mm.
- iii) Concrete consisting of a minimum thickness of 125mm on a compacted sub base and reinforced with a minimum of F72 mesh fabric, OR
- iv) Paving blocks in accordance with **Council's Standard Drawing S122** OR
- v) A concrete strip driveway between the front property line to the end of the handle providing the 3m trafficable width is maintained. (See part i)

Full details, shall be approved by an accredited certifier or Council **prior to issue of the construction certificate.**

54) The stormwater infiltration system shall be designed and built in accordance with the approved concept plan. Details shall be approved by the certifying authority **prior to issue of the construction certificate.**

ITEM NO. 2**FILE NO: 16-2006-989-1****DEVELOPMENT APPLICATION FOR A SHOP FITOUT (RETAIL LIQUOR SHOP) AT NO. 69 BEATTY BOULEVARDE, TANILBA BAY****REPORT OF: SCOTT ANSON, MANAGER DEVELOPMENT AND BUILDING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2006-989-1 subject to the conditions contained in Attachment 3.

OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007**RECOMMENDATION:**

That the Council express its intention to refuse the DA at the Ordinary Meeting of 18 December 2007 with reasons for refusal to be moved at that meeting.

MATTER ARISING:

That Council make a submission to the NSW Licencing Court objection to the issue of any further retail liquor licence on the Tilligerry Peninsula.

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007**RESOLUTION:**

378	Councillor Dingle Councillor Tucker	It was resolved that Council refuse the DA for the reasons contained in the Supplementary Information Report – <ol style="list-style-type: none">1) It is considered that the development would have an unreasonable socio-economic impact2) The proposal is likely to have the potential to exacerbate alcohol-related crime levels in the locality3) It is considered that the use is inconsistent with “Safer by Design” principles and will have a potential detrimental impact to the immediate locality, in terms of the level and ease of supply of alcohol4) It is considered that the Social Impact Assessment has not adequately assessed the social impact of the proposal and therefore does not demonstrate that the proposal would not involve an unreasonable risk of social detriment to the community5) The proposal would involve an unreasonable risk of detriment to the amenity of residential properties in the immediate vicinity
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MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007

		6) It is considered that the proposal is contrary to the public interest
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MATTER ARISING:**RESOLUTION:**

379	Councillor Francis Councillor Robinson	It was resolved that Council make a submission to the NSW Licencing Court objection to the issue of any further retail liquor licence on the Tillegerry Peninsula.
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Note: Cr Baumann left the meeting at 7pm during Item 2 and returned at 7.05pm during Item 2.

BACKGROUND

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

This application seeks consent to fit out Shop 2, 69 Beatty Boulevard to be used as a Retail Liquor Outlet. The application includes an internal fit-out, some minor structural works and the erection of signage. The site is zoned 3(a) Business General "A" Zone, which permits retail shops subject to consent. The proposal is considered to be consistent with the zone objectives.

It is noted that the scope of assessment pursuant to the Environmental Planning and Assessment Act 1979 (EPA Act) relates to a shop fit-out only, as Council's Local Environmental Plan 2000 prescribes that the conversion of an approved shop to another form of shop is exempt development. Detailed below is a summary of an assessment pursuant to the heads of consideration detailed in Section 79C of the EPA Act.

a) The provisions of any environmental planning instrument and any development control plans.

It has been taken into consideration that the proposal is permissible in accordance with the Port Stephens Local Environmental Plan 2000 and is consistent with relevant Development Control Plans.

b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

It is considered that the proposal is unlikely to have an impact on the natural and built environment.

Comment: - Community Projects Officer – Community Safety

In relation to the potential social and economic impact of the proposal, the secondary supply of alcohol has been recognised by local Police as a major problem in the Tilligerry area. This contributes to the level of youth violence and the rising incidence of malicious damage. Coles Liquorland stores are supermarket style liquor stores. Their type of price orientated advertising, promotion and discounting is designed to encourage the buying public to increased household stocks of liquor. This stock-piling and availability in the home is likely to lead to increased consumption and secondary supply. The outlet's location next to the supermarket means although alcohol is a drug, its availability is 'normalised' when it is sold alongside healthful consumer products. It also takes less effort for consumers to purchase alcohol as they can include it in their regular, sometimes daily trips to the supermarket.

c) the suitability of the site for the development

It is considered that the site is suitable for the proposed development, being a recently approved retail premises.

d) any submissions made in accordance with this Act or the regulations

Prior to the completion of this report, Council received 6 submissions and a petition letter objecting to the proposal and raising concerns relating to the proposed activity, its suitability and the potential for detrimental social or economic impacts. In response to these concerns, it has been taken into consideration that retail shops are a permissible activity in the Business zone and that an additional retail liquor store it is not likely to have a significant social impact on the community, as liquor is already available from a number of existing liquor outlets and licensed premises within the vicinity of this development.

Consideration of the submissions received for this proposal is discussed in this report, however the majority of the issues raised were outside the scope of assessment for a shop fit-out.

e) the public interest

It is not considered that a shop-fit for an existing approved retail space is contrary to the public interest.

Based on the consideration of the proposal in accordance with Section 79C, it is considered that the development application should be supported. However, it is acknowledged that some concerns raised in the submissions are a relevant matter for consideration as part of the liquor licensing process.

Many of the concerns raised in the submissions were regarding the sale of liquor to underage persons, however it is noted that the operation of any liquor premises must comply with the requirements of the Liquor Act 1982 and Crimes Act 1900, which prohibits the sale of alcohol to underage and intoxicated persons. A liquor licence is also required for the proposal, which is a separate process to the development assessment process. In this regard the applicant has prepared a Social Impact Assessment (SIA) for assessment, in accordance with the requirements of the NSW Office of Liquor, Gaming and Racing guidelines. Through this process a comprehensive assessment of the potential social impacts of the proposal will be undertaken.

The assessment undertaken by the Licensing Court of NSW in accordance with the Liquor Act 1982 takes into consideration matters which are outside the scope of a shop fitout, including the matters detailed below:

- The density of hotelier's licences and bottle shops in the area, compared to the Statewide average
- The ratio of young person and adult population per hotelier's licence and bottle shop compared to the Statewide average
- The cumulative effect of multiple applications in a single area and the resulting increases in density
- Alcohol-related crime data compared to the Statewide average
- Drink driving and other related road safety data compared to the Statewide average
- The proximity of the proposed premises to any area where police have identified problems with public drinking, and the potential for exacerbation of these problems if the relevant application is approved
- Whether the granting of a licence will have a detrimental impact on Aboriginal or NESB communities in the local area
- The demographic profile, in particular data which may indicate certain social 'risk' factors, such as high unemployment
- Impacts on the ability of the broader community to service potential increases in social health outcomes from increased access to licensed venues

(Source: NSW Office of Liquor, Gaming and Racing website)

It is noted that the legislation administered by the Licensing Court is more equipped to manage any negative social impacts of the proposal additional liquor outlet, than the planning legislation controlled by Council. However, it is considered that Council can play a role through conditions of consent addressing operating hours.

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

- Compliance with the 3(a) zone description and objectives;

- Social Impact of the proposal; and
- Suitability of the site.

An assessment of these issues is provided within the attachments.

As part of Council's assessment, it has been considered that the application is for a shop fitout only, in an existing approved retail complex. It is noted that Council's Local Environmental Plan 2000 prescribes that the conversion of an approved shop to another form of shop is exempt development. The purpose of this application is for minor structural works and advertising signage. On this basis, under the current planning provisions, it is considered that the proposal is consistent with Council policy and that there are no merit-based planning considerations that warrant the refusal of the application. Accordingly, the proposal is recommended for approval subject to the attached conditions.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

SOCIAL SUSTAINABILITY – *Council will preserve and strengthen the fabric of the community, building on community strengths.*

CULTURAL SUSTAINABILITY – *Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.*

ECONOMIC SUSTAINABILITY – *Council will support the economic sustainability of its*

communities while not compromising its environmental and social well being.

ENVIRONMENTAL SUSTAINABILITY – *Council will protect and enhance the environment while considering the social and economic ramifications of decisions.*

BUSINESS EXCELLENCE

– *Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey*

FINANCIAL/RESOURCE IMPLICATIONS

Should Council reject the recommendation and refuse the development application, the applicant may appeal Council's determination in the Land and Environment Court. This would have financial implications should the Court support the application.

LEGAL AND POLICY IMPLICATIONS

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*

7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*

8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The site is a fully serviced allotment zoned 3(a) – Business General, with previous Council

approval for a retail use. An additional retail liquor store is not considered likely to have a significant social impact on the community, as liquor is already available from a number of existing liquor outlets and licensed premises within the vicinity of this development. The Crimes Act 1900 and Liquor Act 1982 prohibits sale of alcohol to minors or the provision of alcohol to minors. Approving a retail liquor outlet is not considered to be contrary to the public interest on planning merit grounds.

Comment: - Community Projects Officer – Community Safety

In relation to the potential social and economic impact of the proposal, the secondary supply of alcohol has been recognised by local Police as a major problem in the Tilligerry area. This contributes to the level of youth violence and the rising incidence of malicious damage. Coles Liquorland stores are supermarket style liquor stores. Their type of price orientated advertising, promotion and discounting is designed to encourage the buying public to increased household stocks of liquor. This stockpiling and availability in the home is likely to lead to increased consumption and secondary supply. The outlet's location next to the supermarket means although alcohol is a drug, its availability is 'normalised' when it is sold alongside healthful consumer products. It also takes less effort for consumers to purchase alcohol as they can include it in their regular, sometimes daily trips to the supermarket.

ECONOMIC IMPLICATIONS

The proposal is not likely to have any significant economic implications, however an additional outlet may increase competition to existing liquor stores in the immediate vicinity.

ENVIRONMENTAL IMPLICATIONS

The proposal is located in an approved retail shop and will not involve the removal of any vegetation.

CONSULTATION

The application was exhibited in accordance with Council policy. The application was exhibited in accordance with Council policy and 6 submissions and a petition letter containing 159 signatures in opposition to the proposal were received. These are discussed in the Attachments.

OPTIONS

- 1) Adopt the recommendation.
- 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.

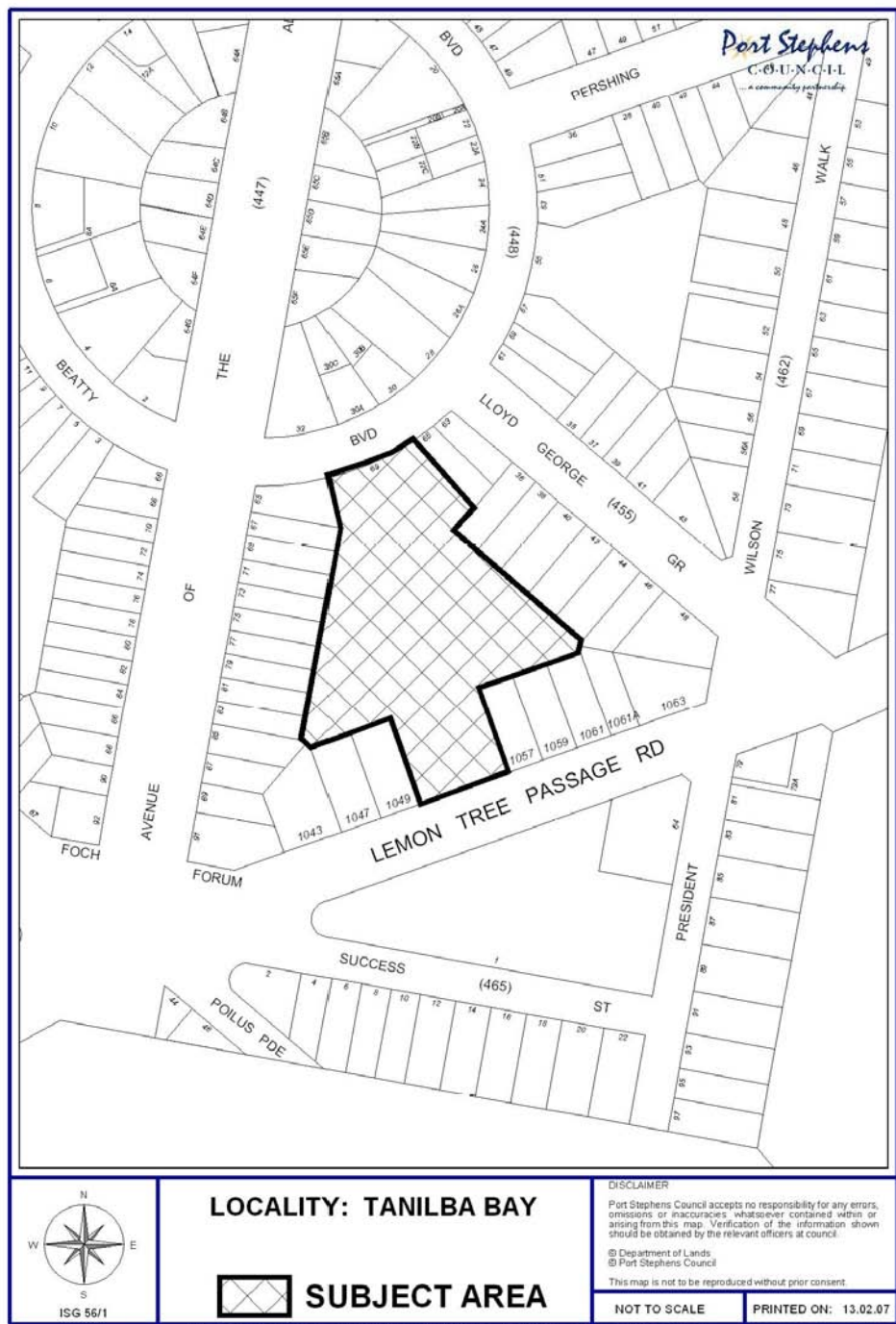
ATTACHMENTS

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

COUNCILLORS ROOM

- 1) Development Plans including Site Plan
- 2) Statement of Environmental Effects
- 3) Social Impact Assessment
- 4) Submission Letters and Petition

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

This application seeks consent to fit out Shop 2, 69 Beatty Boulevard to be used as a Retail Liquor Outlet. This includes an internal fit-out, some minor structural works and the erection of signage. The proposed hours of operation for the shop are Monday to Sunday 9am to 9pm.

It is noted that the scope of assessment pursuant to the Environmental Planning and Assessment Act 1979 (EPA Act) relates to a shop fit-out only, as Council's Local Environmental Plan 2000 prescribes that the conversion of an approved shop to another form of shop is exempt development.

THE APPLICATION

Owner	Tanilba Bay Shopping Centre
Applicant	Liquorland
Detail Submitted	Plans of Proposed Development, Social Impact Assessment and Statement of Environmental Effects

THE LAND

Property Description	Lot 447 DP10716
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Address 67 Beatty Boulevard, Tanilba Bay Area 145m² Dimensions Shop is an irregular shape, having dimensions of approximately 20 by 6 metres.

Characteristics	The proposal is located in a vacant shop in the recently approved Tanilba Bay Shopping Centre. Parking is already constructed and is accessed via Lemon Tree Passage Road.
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THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning 3(a) Business General “A” Zone Relevant Clauses 21	
Development Control Plan	PS4 – Commercial and Industrial Guidelines PS2 – Parking and Traffic Guidelines

Discussion

Local Environmental Plan 2000 (LEP)

Clause 21 – Business Zonings

The subject unit is in the 3(a) Business General “A” Zone, which permits retail outlets subject to development consent. The proposal has been considered against the relevant objectives of the 3(a) zone. It is also noted that the subject site has previously been approved for a retail use, and that the LEP prescribes that the conversion of an approved shop to another form of shop is exempt development.

Assessment comments are provided below:

Objectives of the Business General Zone

(a) *to provide for a range of commercial and retail activities, and uses associated with, ancillary to, or supportive of, retail and service facilities, including tourist development*

and industries compatible with a commercial area, and

The subject unit is located in an established commercial area that contains a wide variety of businesses. Liquor stores are a retail activity and considered compatible with the surrounding commercial area. The proposal is unlikely to significantly alter the character of the commercial area.

(b) to ensure that neighbourhood shopping and community facilities retain a scale and character consistent with the amenity of the locality, and

The scale and nature of the shop is unlikely to have a detrimental impact on the character of the commercial area due to the variety and number of existing businesses, particularly given that the unit has been previously approved by Council for a retail use.

(c) to maintain and enhance the character and amenity of major commercial centres, to promote good urban design and retain heritage values where appropriate, and

As discussed in (b), it is considered that the proposal is unlikely to detrimentally impact the character of the existing commercial area.

(d) to provide commercial areas that are safe and accessible for pedestrians, and which encourage public transport patronage and bicycle use, and minimise the reliance on private motor vehicles, and

The proposal is located within an approved shopping complex, located centrally within the general business area of Tanilba Bay.

(e) to provide for waterfront-associated commercial development whilst protecting and enhancing the visual and service amenity of the foreshores.

The proposed change of use is situated within an existing approved shop unit. The proposal does not contravene any of the zone objectives. There are no specific planning provisions in LEP 2000 relating to retail liquor shops.

Development Control Plan PS4 – Commercial and Industrial Guidelines

The proposal does not propose any alteration to the footprint of the constructed building, and accordingly it is not considered that a further assessment of floor space ratio, setbacks, height or landscaping is applicable to the development application.

The proposed development is located in an adequately serviced retail store and is considered to comply with the requirements of DCP PS4. There are no specific planning provisions in DCP PS4 relating to retail liquor shops.

Development Control Plan PS2 – Parking and Traffic Guidelines

With regard to DCP PS2, the shop development is serviced by the parking area recently approved for Tanilba Bay Shopping Centre. It is considered that no additional parking is required for the proposed shop fit out.

Safer by Design Considerations

The proposal has been referred to Council's Community Safety Officer who has made recommendation in terms of conditions of consent. These conditions have the intention of reducing the risk of theft and harm to employees, as well as minimising the access of the premises to underage persons (Conditions 11-15).

Disability Access

The proposal has been assessed by the Disability Access Officer who has advised that the proposal is able to comply with the relevant requirements, and has conditioned the development accordingly (Conditions 6-10).

2. Likely Impact of the Development

The applicant has submitted a Social Impact Assessment for the proposal, which has been prepared in accordance with the requirements of the NSW Office of Liquor, Gaming and Racing guidelines. This document will be assessed by the Licensing Court of NSW in accordance with the Liquor Act 1982.

In relation to the potential economic impacts of the proposal, it is considered that the use of an existing approved retail space is unlikely to create an unreasonable impact, however an additional outlet may increase competition to existing liquor stores in the immediate vicinity.

In relation to the potential social and economic impact of the proposal, the secondary supply

of alcohol has been recognised by local Police as a major problem in the Tilligerry area. This contributes to the level of youth violence and the rising incidence of malicious damage. Coles Liquorland stores are supermarket style liquor stores. Their type of price orientated advertising, promotion and discounting is designed to encourage the buying public to increased household stocks of liquor. This stock-piling and availability in the home is likely to lead to increased consumption and secondary supply. The outlet's location next to the supermarket means although alcohol is a drug, its availability is 'normalised' when it is sold alongside healthful consumer products. It also takes less effort for consumers to purchase alcohol as they can include it in their regular, sometimes daily trips to the supermarket.

An additional retail liquor store it is not considered likely to have a significant impact on the community, as liquor is already available to the community from a number of existing liquor outlets and licensed premises within the vicinity of this development.

3. Suitability of the Site

The proposal is located within an approved retail shop within a shopping centre complex. It is considered that the zoning of the site and location are appropriate for a liquor retail outlet. Liquor stores are a retail activity and considered similar to those in the surrounding commercial area.

4. Submissions

Six submissions and a petition letter containing 159 signatures in opposition to the proposal were received by Council. In general response to the issues raised in the submissions, the applicant has commented:

"Whilst there may be concerns by the Community, these concerns are mainly based on under age drinking issues and lack of police presence in the local community. We are requesting that Council determine the application based on planning principles. This is a use which is permissible within the Zone and a use which the Social Impact Statement....clearly stipulates that will not have any adverse economic or social impacts on the Local and/or Broader Community."

The specific matters raised by the submissions are detailed below:

The level of vandalism and fears of the community

Applicant's comment:

"Given the location in a new retail development, size of proposed store and implementation of RSA measures it is considered unlikely that the Relevant Premises would affecting littering or vandalism".

Assessment comment:

It is considered that an additional liquor retail outlet is unlikely to exacerbate any existing crime issues in the community, as liquor is already available to the community from a number of existing liquor outlets and licensed premises within the vicinity of this development.

It is also considered that the proposal will be required to be compliant with the requirements of the Liquor Act 1982 and Crimes Act.

Number of existing premises and density of outlets

Applicant's comment:

"there is only one other premise that is off licensed (Retail) and no hotels licensed within the Discrete Local Community. There is a further one Off-License (Retail) outside the Secondary Trade Area at Lemon Tree Passage. There is an Off-License (Retail) outside the Secondary Trade Area at Salt Ash. The (Social Impact Statement) finds that the resultant density from an additional license is favourable in the context of the defined Trade Area, being similar to NSW averages. The Report further stipulates that the license outlet densities of the Trade Area and Primary Trade Area are favourable to the application in light of other social risk factors and social health indicators assessed elsewhere."

Assessment comment:

It is not considered that comprehensive and conclusive information is available to Council to substantiate the concern that increased density of outlets would exacerbate existing socioeconomic issues in the locality. However, it is acknowledged that there may be some potential impact in this regard. However, it is considered that this matter would be more appropriately addressed through the liquor licensing process. In opinion is also based on the acknowledgement that the development application relates to a proposed shop fitout only, given that the LEP prescribes that the conversion of one form of shop to another form of shop is exempt from requiring Council's consent.

Anti social behaviour of youths and underage drinking

Applicant's comment:

"the use of alcohol amongst some young people in the Local Community is linked to boredom created by a lack of available activities for young people. It is thus apparent that this situation is not directly related to the availability of alcohol in the community, rather a symptom of the lack of youth-specific service provision in the Local Community. Alcohol is already available to these young people via 'secondary supply'. The Relevant Premises will not change the availability of alcohol in the area. The restriction of such supply should rather be a broader cultural issue requiring youth and parent education rather than an issue of which a license has sole influence.

The Social Impact Assessment finds that there is no evidence to suggest that the Relevant Premises will directly affect rates of underage drinking or exacerbate problems with young people and alcohol.

Assessment comment:

It is considered that an additional liquor retail outlet is unlikely to exacerbate any existing crime issues in the community, as liquor is already available to the community from a number of existing liquor outlets and licensed premises within the vicinity of this development.

It is also considered that the proposal will be required to be compliant with the requirements of the Liquor Act 1982 and Crimes Act.

Development not in the best interest of the neighbourhood

Applicant's comment:

"It is considered that the Relevant Premises will not result in a significant change to the character or identity of the Local Community and will not pose a heightened social risk".

Assessment comment:

It is not considered that a shop-fit for an existing approved retail space is contrary to the public interest.

Economic and Social Impact The concerns raised regarding the social and economic impact of the proposal have been addressed in the assessment of this application.

Adequacy of documentation

The proposal is considered to meet the requirements of the Environmental Planning and Assessment Act 1979.

5. Public Interest

It is not considered that a shop-fit incorporating minor structural works and the proposed advertising signage for an existing approved retail space is contrary to the public interest. The proposal will be required to be compliant with the requirements of the Liquor Act 1982 and Crimes Act. Accordingly, the application is not considered contrary to the public interest and is recommended for approval.

ATTACHMENT 3
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 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.

6 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.

7 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.

8 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.

9 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.

☐ 10. 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.

10 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

11 A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1 shall be provided to and within any building on the site. This accessway shall provide access to all required facilities.

☐ 13. 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.

12 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 2890.1

13 Access and facilities for the disabled provided in accordance with Australian Standard 1428.1 and the relevant provisions of the Building Code of Australia. These shall be maintained for the life of the development by existing or future owners.

14 The ice and non-alcoholic fridges shall be relocated to the front of the shop opposite the sales counter to restrict underage persons to the front of the shop.

15 Closed Circuit Television shall be installed below/behind the sales counter to allow for surveillance and increase security for employees.

16 Details shall be provided to Council outlining the proposed management methods incorporating surveillance measures, including but not limited to provision of surveillance measures within the coolroom area.

17 The sales area shall be tiled for Forensic Survey purposes.

18 The front windows shall be devoid of any advertising material above 1200mm to allow for visual surveillance. The advertising structures shall comply with Council's signage requirements under the Local Environmental Plan and Port Stephens Council Advertising Signs Code adopted 11th April 1995.

19 No advertisement shall be displayed without the consent of Council, unless the advertisement does not require approval under the Exempt & Complying Development Control Plan or Port Stephens Council Advertising Signs Code.

20 The advertisement shall relate to the approved development or premises situated on that land. The advertisement must be maintained in a presentable and satisfactory state of repair.

21 Flashing illuminated signage is not permitted. Illuminated signs must be fitted with an automatic timing device to extinguish the illumination between the hours of 10.00pm and 7.00am.

☐ 24. Hours of operation will be restricted to the following times:

☐ Monday to Sunday – 9am to 9pm

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

23 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.

☐ 27. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-

☐ a. Monday to Friday, 7am to 6pm;

☐ b. Saturday, 8am to 1pm;

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

24 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.

25 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.

26 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.

ITEM NO. 3**FILE NO: PSC2007-3153****DEVELOPMENT ASSESSMENT – AN APPLICATION
DETERMINATION POLICY****REPORT OF: DAVID BROYD – GROUP MANAGER, SUSTAINABLE PLANNING****RECOMMENDATION IS THAT COUNCIL:**

- 1) That Council receive and note the report on the implementation of the Business Process Review Program;
- 2) Endorse the Application Determination Policy that is Attachment 1 to this report.

OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007**RECOMMENDATION:****That the recommendation be adopted.****ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007****RESOLUTION:**

380	Councillor Nell Councillor Hodges	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to inform Council of some significant trends in development assessment, the State Government Planning Reform Agenda, the implementation of the Business Process Review Program and to recommend the endorsement of an Applications Determination Policy.

From 1 July 2007, the implementation of the Business Process Review Program and the Performance Management System, are driving a much enhanced performance monitoring approach to development assessment. To date, there have been the components of the “Cockpit Charts” reported on a quarterly basis together with the comparative reporting data provided to the NSW Department of Planning and Department of Local Government on an annual basis.

The most significant measures of performance to date have been:

- ☐ The number of undetermined DA's
- ☐ Mean assessment times and
- ☐ Median assessment times

Undetermined DA's

As shown by Attachment 2, the number of undetermined DA's at the beginning of each month reflects a reduction from 872 in September 2004 (commencement of data collection) to 298 as at 30 June 2007. 300 has been a consistently targeted figure related to reasonable apportionment and work volumes to each professional Planner and Health & Building Surveyor. However, as at mid-November the outstanding number of DA's had increased to approximately 340. This was due to two vacancies: one Senior Development Planner and one Development Planner, together with extended leave of one Development Planners. It has also coincided with some significant legal issues.

Mean Processing Times

Mean processing times, as reported to the NSW Department of Local Government for their annual report on comparative performance data, have been as follows and as compared to the Category 4 Councils up to 2004/05:

	2002/03	2003/04	2004/05	2005/06	2006/07
Port Stephens	75.16	73.33	92.04	86.0	49.8
Group Average	40.98	43.09	40.78		

Median Assessment Times

	2002/03	2003/04	2004/05	2005/06	2006/07
Port Stephens	39.0	45.0	48.0	38.0	30.6
Group Average	27.71	28.05	26.27		

Planning Reform Agenda

The Minister for Planning, Frank Sartor is intending to issue a Discussion Paper regarding Planning Reform in NSW at the end of November 2007. This is anticipated to include recommendations that will increase the proportion of developments that are subject of Exempt & Complying Development provisions rather than local developments that will be assessed and determined by local government. A comprehensive report on the State Government's Planning Reform proposals will be presented to Council at the earliest opportunity.

Application Determination Policy

It is acknowledged that the improvement in service delivery for the function of development applications and compliance is continuous and that the benefits and outcomes of the RRIF and more general business process review projects are yet to be fully realised. A key need in the short term is to bring the Development & Building Section back up to full staffing levels. Significant improvements have already been made and are reflected in the performance indicators summarised above and in the cockpit charts received by Council on a quarterly basis. The improvements are exemplified primarily above by the mean assessment time in 2006/07 being 49.8 days compared to 92 days in 2004/05 and the median assessment time being 30.6 days in 2006/07 compared to 48 in 2004/05.

The efficient and effective service delivery for development assessment is the result of the input of a range of customers and stakeholders – with Council having the prime responsibility. Most importantly, the promptness and effectiveness of assessment by Council is highly influenced by the quality of the DA as lodged and negotiated by the applicant.

In order to further improve Council's service delivery, it is recommended that an Application Determination Policy (Attachment 1) be endorsed. The intent of this Policy is to better reflect the multi stakeholder responsibility for effective service delivery, enable a high level of equity of resource allocation of Council Planners to those DA's that have been submitted with adequate supporting information and to focus more on quality outcomes and reduced assessment times. Hence, Council can operate in a more "businesslike" approach in effecting this high level of joint responsibilities.

Pre-lodgement Advisory Services

The Application Determination Policy is underpinned by Council's pre-lodgement services comprising four tiers of access for customers comprising:

- ☐ • The Council's website for access to:
 - ☐ o The Lodgement Guide;
 - ☐ o Council policy (i.e. Local Environmental Plan and Development Control Plans);
 - ☐ o Interactive and static application forms; and
 - ☐ o DA Tracker.
- ☐ Council's application lodgement processes through Customer Service screening applications for their adequacy for processing, and only accepting applications that are complete;
- ☐ Council's Duty Officers for specific planning, building and engineering advice; and
- ☐ Council's Pre-lodgement Advisory service with the Development Assessment Panel for complex and significant proposals, requiring payment of a fee for service, and submission of information ahead of the meeting.

In order to facilitate achieving quality of outcomes as well as reduced assessment times, the objective of Council's pre-lodgement services are to ensure applicants are fully aware of the policy and information requirements for applications being lodged with Council. Applications to be lodged that are incomplete or don't comply with the Council's policies shall be dealt with strictly in accordance with the Applications Determination Policy. (Refer to Attachment 1 for the Applications Determination Policy.)

In order to maximise efficiency, it is intended to dispense with the issuing of Notices of Intent to Refuse to applicants prior to determination of applications that are either incomplete, or have not provided the necessary requested information within the specified timeframes. Instead, staff will provide a memo to Councillors advising of the circumstances of the case, and providing a seven (7) day opportunity to have the application called to Council for consideration prior to its determination.

Business Process Change

The implementation phase of the Red Tape Reduction Incentive Fund project is underway with 63% of the 147 recommendations of the fifteen project teams implemented. (Attachment 4 shows the implementation progress chart for the Business Process Change).

The focus on implementation has been to provide our Customers with the immediate benefits from the project with the implementation of the website benefits including DA Tracker, Interactive Smart Forms, Smart Fees for quoting applications, and the DA Lodgement Guide. The implementation of preferred contact via email has also commenced, along with the Pre-lodgement advisory services.

Initiatives being implemented over the second half of this year include improved customer service, staff work practice notes, the applications determinations policy, assessment templates, customised interactive Statements of Environmental Effects, and the Internal and External Referrals improvements. Upon completion of the initiatives, Case Management practice improvements will be implemented.

Refer to Attachment 3 for the timeframes on implementation.

LINKS TO CORPORATE PLANS

The Process Change has been founded upon business excellence.

COUNCIL PLAN 2007 – 2011

BUSINESS EXCELLENCE –

Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey

G21. Innovation, Quality & Improvement

Council will facilitate improvement in every aspect of its operations.

STRATEGY

All reviews of systems and processes are undertaken using the Business Excellence Framework

Objective

- . By December 2009 all sections of Council will have developed a cyclical program to systematically review their processes.

G21. Key Performance Indicators

- ☐ . An appropriate percentage of the time of all Councillors and staff is spent “working on the system”
- ☐ . Council endorses and resources it’s Business Excellence Journey
- ☐ . Councillors monitor the progress of continuous improvement processes at Port Stephens Council and communicate them regularly to the community
- ☐ . The number of Councillors and staff actively engaged in continuous improvement projects continues to rise
- ☐ . The quantifiable savings identified by application of PDSA processes continues to rise

FINANCIAL/RESOURCE IMPLICATIONS

The Application Determination Policy has the objectives of increasing equity of allocation of resources to DA's that are submitted with adequate information i.e. are "competent" DA's and also to provide the Development Planners with a more controlled workload and management situation. Under current policies, there are provisions for reimbursement of fees for DA's that are withdrawn or refused, and it is intended to review this approach at the December budget review.

LEGAL AND POLICY IMPLICATIONS

The proposed Application Determination Policy aims to achieve compliance with the statutory 40 day and 60 day determination timeframes for local and integrated development respectively. If achieved, Council will not be exposed to deemed refusal appeals to the Land and Environment Court, and will be performing within expected timeframes as reported by the NSW Department of Planning.

Business Excellence Framework

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – *Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.*
- 2) **CUSTOMERS** – *Understand what makes markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
- 4) **PEOPLE** – *Develop and value people's capability and release their skills, resourcefulness and creativity to change and improve the organisation.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a cultural of continual improvement, innovation and learning.*
- 6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The proposed Application Determination Policy aims to achieve equitable consideration of development applications by staff, and will allow for a clearer focus on socially acceptable development outcomes.

ECONOMIC IMPLICATIONS

The proposed Application Determination Policy will result in the timely processing of applications which will reduce holding costs on land for developers, provided economic stimulus into the local economy, and create greater certainty for investors in the development market.

ENVIRONMENTAL IMPLICATIONS

Overall, proposed Application Determination Policy will allow for a greater focus on environmentally acceptable outcomes through the development process.

CONSULTATION

The proposed Application Determination Policy is a recommendation flowing from the RRIF project which included consultation with Councillors and the Development Industry.

OPTIONS

1) Adopt the recommendation. 2) Reject or amend the Recommendations.

ATTACHMENTS

- 1) Application Determination Policy
- 2) Undetermined Development Applications
- 3) Development Application Net Processing Times
- 4) Sustainable Planning Group – Development and Building Section - Business Process Change Tactical Plan
- 5) Business Process Change Implementation Progress Chart

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1



Adopted: Minute No: Amended: Minute No:

FILE NO: PSC2007-3153

TITLE: APPLICATION DETERMINATION POLICY

BACKGROUND

- 1.1 Efficient development assessment that achieves quality outcomes is highly dependent upon two factors:
 - a) The quality of the legislative and policy framework of State and Local Government, and
 - b) The quality of applications submitted
- 1.2 Port Stephens has a relatively high level of growth and development demand that generate a range of social, economic and environmental issues for development assessment.
- 1.3 This Council has high level emphasis on customer service and business excellence that underpin the service delivery of a responsibility such as development assessment. Council policies and operations – and the Council Plan 2007-2011 – are founded upon the five pillars of sustainability – social, cultural, economic, environmental and business excellence. Implementation of the objectives and strategies to fulfil these five pillars of sustainability will have strong influence that will enhance the delivery of service for development assessment.

OBJECTIVE

- 2.1 The objectives of this policy are:
 - a) to support continuous improvement of the delivery of the development assessment service to all customers involved in the development application and development certification processes;
 - b) to achieve and enhance the effectiveness and efficiency in the assessment and decision making processes;
 - c) to increase the focus of stakeholders and professional staff resources on achieving quality of outcomes as well as reduced assessment times;
 - d) to “shift” the development and building responsibilities in Council to a more “business-like” approach and reflect the high level joint responsibilities of

- Council and applicants to achieve the efficiencies of process and quality of outcomes;
- e) to ensure appropriate prioritisation of staff resources and time to applications that have significant implications and also applications that are well prepared, adequate and valid in terms of legal and policy requirements, and
 - f) to increase the level of partnership between Council and proponents in managing an effective and efficient development assessment and decision-making process.

PRINCIPLES

3. SERVICE COMMITMENT

- 3.1 Council's management and professional staff involved in development assessment are committed to work towards achievement of the objectives above and to prioritise workload to respond to:
- a) the sequence of lodgement of development applications and certificates;
 - b) the public interest importance of applications;
 - c) the priorities that Councillors place on decision-making on certain applications;
 - d) equitable response to applicants who have invested time and resources in pre-lodgement and the preparation of good quality, well-prepared applications.

4. OBLIGATIONS OF APPLICANTS

4.1 The NSW legislation applicable to planning, development and environmental issues is contained in many different pieces of legislation and is highly complex.

4.2 Efficient and effective assessment and decision-making for development assessment depends very significantly upon the quality of applications and documentation comprising the overall development application lodged with Council. The onus is upon applicants to provide quality applications to serve this process and to have applications supported with all relevant and legally valid information and plans. Applicants need to consider very strongly the engagement of consultants with expertise to ensure such quality of applications.

4.3 Again, Council will give priority responsiveness to applicants who have invested the time and professional resources in pre-lodgement discussions and preparing high quality of applications that enable efficient assessment and decision making.

2 ASSESSMENT AND DECISION MAKING PROCESSES

- 5.1 Where an application is not statutorily valid and/or lodged in compliance with council's lodgement guide, then the application will not be accepted at the counter. To be statutorily valid, an application must therefore be:
- a) submitted with the prescribed form accompanied by the appropriate fee (refer to Council's Fees and Charges);

- b) include the consent of all landowners
 - c) include all plans and necessary supporting information such as a Statement of Environmental Effects or an Environmental Impact Statement together with such specialised reports as are required legally or by Council's policies.
- 5.2 As provided for in Part 6 of the Environmental Planning & Assessment Regulation, Council can reject an application within 7 days after receipt if the application is illegible or unclear as to the development consent sought, or does not contain the relevant information as prescribed within Schedule 1 of the Regulation required to assess the proposal. Rejection of deficient applications this will be implemented by Council – should such an application be received by post or otherwise not have been declined for acceptance at the customer service counter.
- 5.3 In accordance with Clause 61(2) of the Environmental Planning & Assessment Regulation Council will reject an application within 14 days if:
 - a) it is an application for development that requires concurrence but the application does not include the concurrence fees appropriate for each concurrence relevant to the development, or
 - b) the application is for integrated development, but the application fails to identify all the approvals referred to in Section 91 of the Environmental Planning & Assessment Act and fails to include the approval fees appropriate for each approval relevant to the integrated development, or
 - c) is an application that requires a Species Impact Statement (SIS) in accordance with Section 78a(8)(b) of the Act but does not include such an SIS or
 - d) it fails to meet the lodgement requirements as identified in Schedule 1 below.

When an application is rejected under the above terms, the application is for the purposes of the legislation considered never to have been made and the Council will refund the whole of any application fees paid.
- 5.4 If the application is concluded to be statutorily valid but is manifestly inadequate in terms of supporting information or conformity with Port Stephens LEP 2000, Port Stephens Development Control Plan 2007 or other relevant policies – the application will be refused at the discretion of Council's Manager of Development & Building or Group Manager Sustainable Planning.
- 5.5 If the development application is statutorily valid generally but requires more supporting information and plans consistent with legal and policy requirements, and/or raises issues requiring further information or clarification, then the applicant will be advised by letter and requested to supply that information and/or clarification within a letter with identified timeframes as outlined within Schedule 1 below. If the relevant information and/or clarification is not provided within that period, then the application will be determined under delegation on the information provided or recommended to

Council based upon the information currently provided. If the application warrants refusal Council staff will provide a memo to Councillors advising of the circumstances of the case, and providing a seven (7) day opportunity to have the application called to Council for consideration prior to its determination.

- 5.6 It is at the discretion of the Manager Development & Building or Group Manager Sustainable Planning to call a meeting with proponents and any other stakeholders in relation to a particular development application to seek to negotiate the provision of additional information or indeed improvement in the content of the DA to achieve quality outcomes.
- 5.7 It is also at the discretion of the Manager Development & Building or Group Manager Sustainable Planning that, if there is a significant policy issue raised by the application, and it is considered productive to the assessment process to do so, then a report will be submitted to Council to seek a resolution to clarify the policy position notwithstanding that the total application cannot be determined at that time or may still require further information for such determination.

6.0 CONSULTATION

- 6.1 It is desirable and productive – particularly for major sensitive or complex applications – that the proponents consult key community groups and stakeholders prior to finalising the application for lodgement with Council and certainly to take the opportunity of a pre-lodgement consultation with Council's Development Assessment Panel.
- 6.2 Council offers a service of pre-lodgement consultation for proponents to attend Council's Development Assessment Panel to provide guidance and assistance to ensure applications are valid, adequate and generally acceptable for lodgement and DAP offers the service on the following bases:
- a) that concept plans and any additional summarised information are submitted one week prior to the appointment;
 - b) that notes of advice given at the meeting will be displayed on a screen in the meeting room and provided if possible and at the discretion of the Chair of the Development Assessment Panel to the external parties making the enquiries before they leave the meeting;
 - c) the DAP gives as much information as possible regarding the acceptability of the proposal and the content of the application upon lodgement, but necessarily places a disclaimer on such advice given the processes of assessment consultation and decision-making subsequent to lodgement.

6.3 Fees applicable to pre-lodgement consultations are as follows:

- ☐ Estimated value of proposal \$1 million or less - \$396 per 45 minute appointment
- ☐ Estimated value of proposal more than \$1 million - \$770 per 45 minute appointment.
- ☐ Subdivision less than 10 lots - \$396 per 45 minute appointment
- ☐ Subdivision 10 lots or more - \$770 per 45 minute appointment.

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007

IMPLEMENTATION RESPONSIBILITY

Group Manager, Sustainable Planning – David
Broyd Manager of Development and Building – Scott
Anson

REVIEW DATE

December 2008 SCHEDULE 1

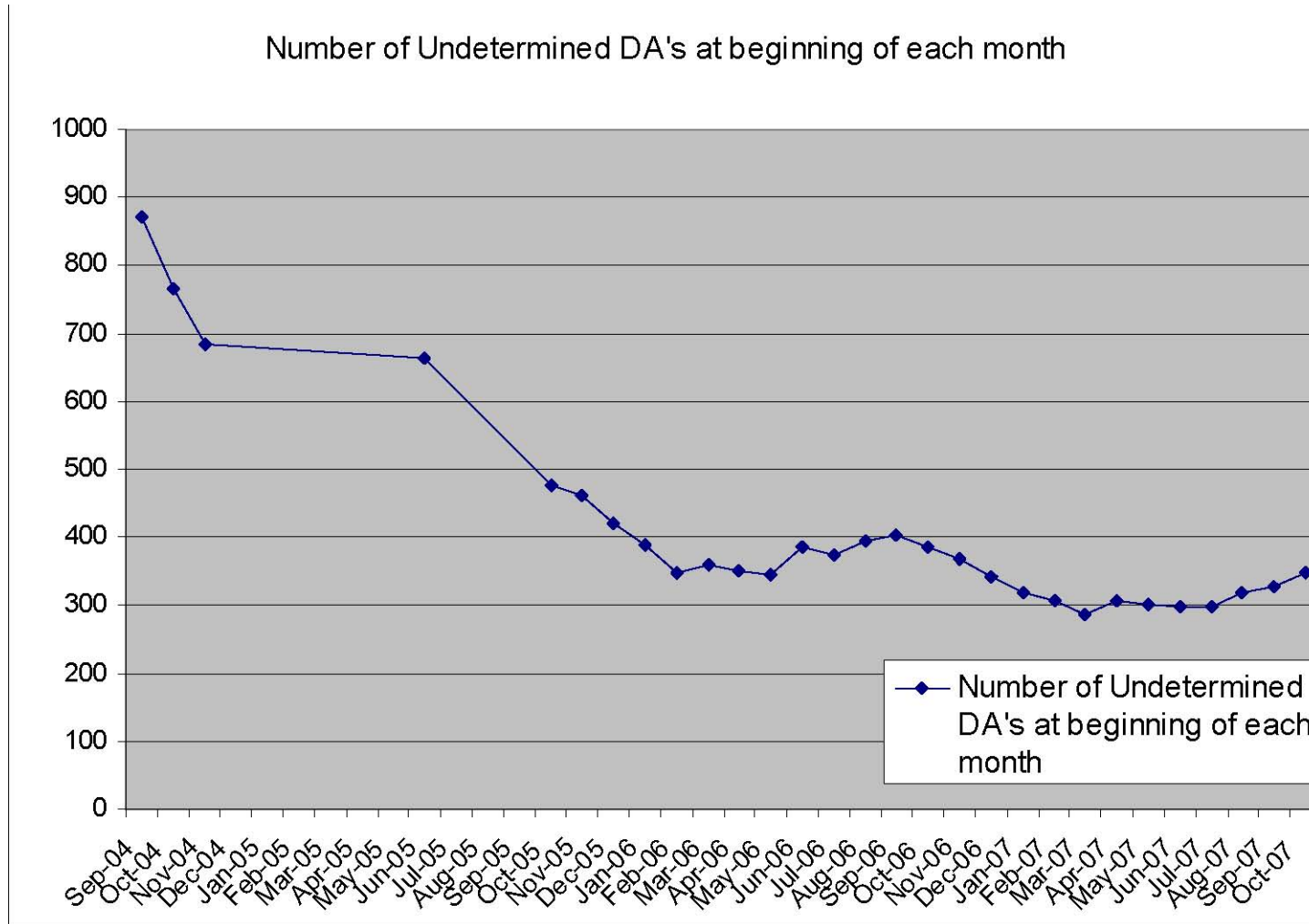
TIME FRAMES – ‘Rejection of DA’ and ‘Stop the Clock’ For Additional Information

ITEM		NUMBER OF DAYS IF NOT SUBMITTED	NUMBER OF DAYS IF INSUFFICIENT INFO.
Timeframes		14 Days - 21 Days - 28 Days - 60 Days - 6 Months	
CUSTOMER SERVICE STAFF	LODGEMENT GUIDE MATRIX COMPLIANCE	Do Not Accept	Do Not Accept
	DA/CC FEES	Do Not Accept	7 Local / 14 Integrated
	OWNERS CONSENT	Do Not Accept	14
	OWNERS CONSENT FROM PUBLIC AUTHORITY EG DEPT LANDS	Do Not Accept	14
	ADVERTISING / NOTIFICATION PLANS	Do Not Accept	14
	CONCURRENCE & FEES	Do Not Accept	14
	INTEGRATED DEVELOPMENT & CHEQUE	Do Not Accept	14
	STATEMENT OF ENVIRONMENTAL EFFECTS	Do Not Accept	14 minor / 28 major
	SITE CONTEXT ANALYSIS PLAN	Do Not Accept	14
	SITE PLANS, ELEVATIONS	Do Not Accept	14
	HUNTER WATER STAMP	Do Not Accept	14
	CONSTRUCTION TRAFFIC MGT PLAN	Do Not Accept	21
	SECTION 68 WASTE WATER APPLICATION	Do Not Accept	21
	SURVEY PLAN / REDUCED LEVELS / CUT & FILL	Do Not Accept	21
	LANDSCAPING PLAN	Do Not Accept	21
	BASIX CERTIFICATE	Do Not Accept	21
DEVELOPMENT ASSESSMENT STAFF	BUSHFIRE REPORT	Do Not Accept	21
	STORMWATER PLANS	Do Not Accept	21 minor / 28 major
	SUBDIVISION PLAN	Do Not Accept	21
	SEPP 65 – DESIGN VERIFICATION STATEMENT	Do Not Accept	21
	SEPP 1 OBJECTION	Do Not Accept	21
	AIRCRAFT NOISE REPORT	Do Not Accept	21
	HERITAGE REPORT (Identified Items)	Do Not Accept	21
	EROSION AND SEDIMENT CONTROL PLAN	Do Not Accept	21
	TRAFFIC REPORT (State Road, SEPP 11)	Do Not Accept	28

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007
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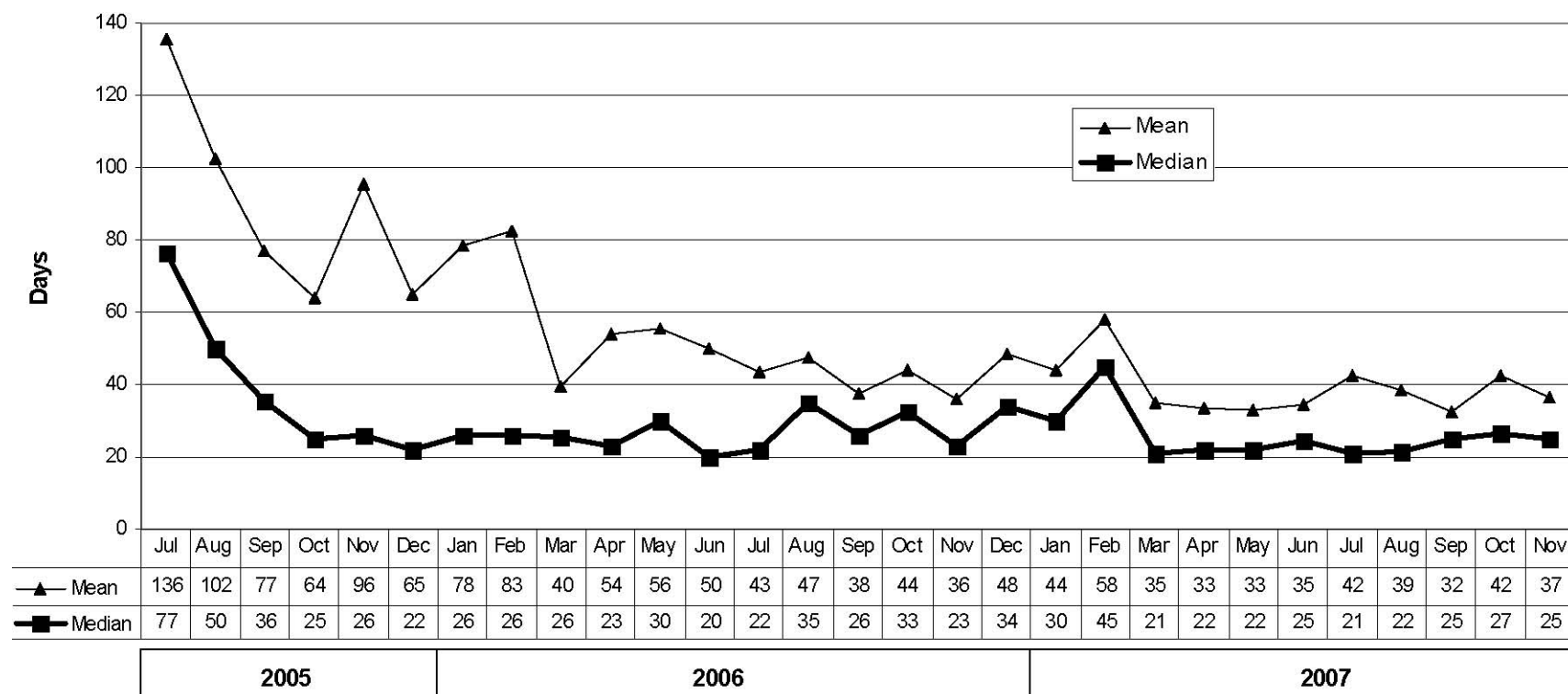
	ARBORIST REPORT	21	21
	CONTAMINATED LANDS ASSESSMENT	21	21
	DRIVEWAY ENGINEERING DETAILS	21	21
	POLICY MATTER – E.g. Additional Justification	21	21
	ARCHITECTURAL AMENDMENTS - Eg Change In Garage Design	21	21
	ACID SULFATE SOILS MGT PLAN	28	28
	FLORA AND FAUNA ASSESSMENT - SIMPLE	28	28
	EASEMENTS TO NEGOTIATE	Owners Intent Letter (Note 1)	60 days to create (Note 2)
	FLORA AND FAUNA ASSESSMENT - COMPLEX	60	6 months

ATTACHMENT 2
PORT STEPHENS COUNCIL – UNDETERMINED DEVELOPMENT APPLICATIONS



ATTACHMENT 3
DEVELOPMENT APPLICATION NET PROCESSING TIMES

DEVELOPMENT APPLICATION NET PROCESSING TIMES



ATTACHMENT 4
BUSINESS PROCESS CHANGE

BUSINESS PROCESS CHANGE TACTICAL PLAN

Situational Analysis This plan has been developed to detail the tactical plan for **the period to June 2008** to implement the relevant objectives of **Development and Building Operational Plan** of the Council Plan 2007-2011.

Objective

Implement the Business Process Change Tactical Plan across the operational areas of Advisory and Lodgement, Assessment and Determination, Inspections and Compliance to achieve improved development application processing.

Target	Resource Allocation	Timing
Implement Lodgement Guide – Team 2 recommendations	Executive Planner	February 2006
Implement DA Tracker – Team 13 recommendations	Executive Planner	March 2007
Implement Website – Team 14 recommendations	Executive Planner	March 2007
Implement Electronic Forms – Team 3 recommendations	Executive Planner	July 2007
Implement Smart Fees – Team 4 recommendations	Coordinator Customer Support Customer Support Team Leader	July 2007
Implement DAP Pre-lodgement Meetings – Team 9 recommendations	DAP Representatives Coordinator Customer Support; Customer Support Team Leader; Executive Planner	July 2007
Implement 2nd Editions Print Lodgement Guide – Team 2 recommendations	Building Coordinator and Executive Planner	July 2007

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007

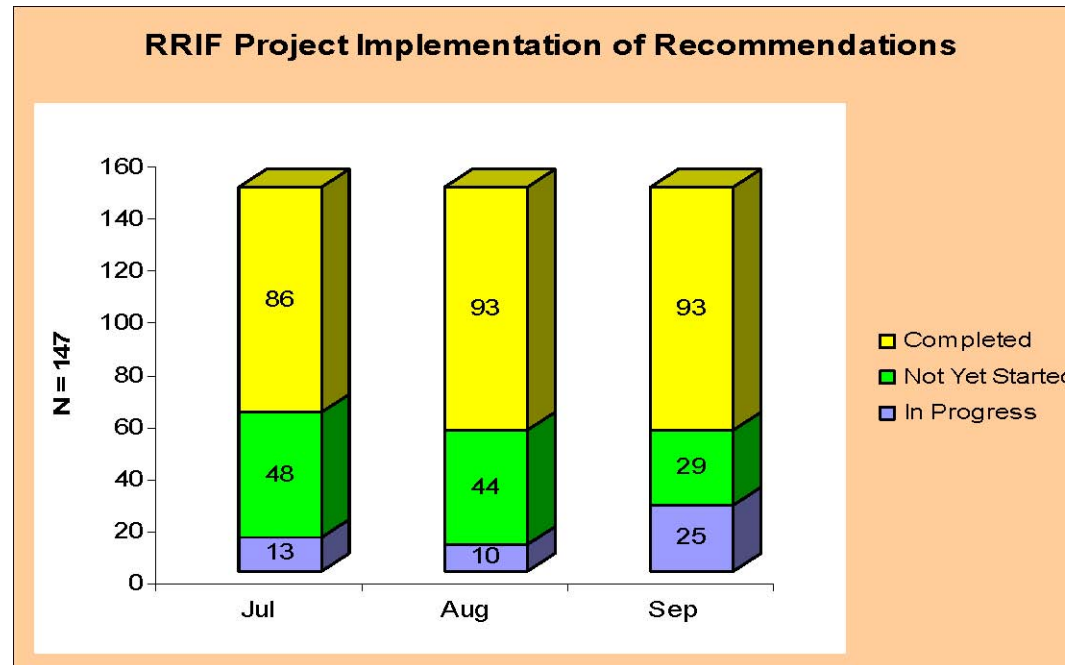
Implement Preferred Contact – Team 11 recommendations	Coordinator Customer Support Customer Support Team Leader	July 2007
Implement Customer Service – Team 1 recommendations	Coordinator Customer Support Customer Support Team Leader Executive Planner	August 2007
Implement Practice Notes – Team 7 recommendations	Executive Planner	August 2007
Implement Stop the Clock – Team 6 recommendations	Group Manager Sustainable Planning Manager Development and Building Executive Planner	September 2007
Implement SOEE – Team 5 recommendations	Executive Planner	September 2007

Implement Assessment Templates – Team 12 recommendations	Executive Planner Development and Building Section Coordinators	September 2007
Implement Internal/External Referrals – Team 15 recommendations	Executive Planner Development and Building Section Coordinators	October 2007
Implement Case Management – Team 8 recommendations	Group Manager Section Manager Development and Building Section Coordinators Executive Planner	December 2007

Review Date

This plan will be reviewed in October 2007.

ATTACHMENT 4
BUSINESS PROCESS CHANGE IMPLEMENTATION PROGRESS



ITEM NO. 4**FILE NO: 7100-044****RE-ESTABLISHMENT OF ALCOHOL- FREE ZONE IN SHOAL BAY
CENTRAL BUSINESS DISTRICT****REPORT OF: TREVOR ALLEN – INTEGRATED PLANNING MANAGER**

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the extension of the existing Alcohol-Free Zone in the Shoal Bay Central Business District for a further three years, effective 24 December 2007.
-

OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007**RECOMMENDATION:**

That the recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007**RESOLUTION:**

381	Councillor Westbury Councillor Robinson	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to inform Council of the outcomes of consultation undertaken and recommend the extension of the Alcohol-Free Zone in the Shoal Bay Central Business District.

The three year duration of the existing Alcohol-Free Zone (AFZ) in the Shoal Bay Central Business District expires on 23 December 2007. Based on an analysis of alcohol related crime statistics before and after the establishment of the Shoal Bay Central Business District AFZ, the Licensing Sergeant for the Lower Hunter Police Local Area Command has recommended the proposal to extend the AFZ for a further three years.

In accordance with the Department of Local Government's guidelines on the establishment of an AFZ, a community consultation process was conducted seeking comments on the proposal. The consultation process comprised primarily of disseminating the proposal to key stakeholders (eg; licensees) and placing a notice in the Port Stephens Examiner. This resulted in only one written submission being received which was in support of the proposed extension of the AFZ.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are: -

SOCIAL SUSTAINABILITY – *Council will preserve and strengthen the fabric of the community, building on community strengths.*

**CULTURAL
SUSTAINABILITY –**

Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.

**ECONOMIC
SUSTAINABILITY –**

Council will support the economic sustainability of its communities while not compromising its environmental and social well being.

**ENVIRONMENTAL
SUSTAINABILITY –**

Council will protect and enhance the environment while considering the social and economic ramifications of decisions.

FINANCIAL/RESOURCE IMPLICATIONS

The cost of updating the existing AFZ signs (ie; commencement and expiration dates) will be covered in the existing resources of Council's Social Planning budget for this financial year.

LEGAL AND POLICY IMPLICATIONS

The implementation of AFZ is governed by Section 646 (1) of the Local Government Act 1993 and the Local Government Amendment (Alcohol-Free Zones) Act 1995 and guided by the Department of Local Government's Ministerial Guidelines on Alcohol-Free Zones.

Business Excellence Framework

The recommendation of this report is consistent with the following Business Excellence principles:

-
- 2) **CUSTOMERS** – *Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

AFZ's contribute to reducing the risk of alcohol related anti-social and criminal behaviour in public places. The establishment of the AFZ in the Shoal Bay CBD has helped to improve public perceptions of safety and resulted in a change in patterns of alcohol consumption within the Shoal Bay CBD.

ECONOMIC IMPLICATIONS

Reductions in criminal incidents and improved perceptions of safety in the Shoal Bay CBD are likely to correlate with an increase in economic activity as a result of more people willing to patronise local businesses. Reduced crime will also lead to reductions in the costs of repairing vandalised premises, replacing stolen goods and insurance premiums.

ENVIRONMENTAL IMPLICATIONS

Changing the patterns of alcohol consumption in the Shoal Bay CBD will contribute to a reduction in the amount of alcohol-related rubbish and broken glass in the area, which will improve the overall amenity and safety of the environment.

CONSULTATION

All relevant stakeholders as prescribed by the Department of Local Government's guidelines have been consulted on the proposal to re-establish the AFZ within the Shoal Bay Central Business District.

OPTIONS

- 1) Accept the recommendation
- 2) Amend the recommendation
- 3) Reject the recommendation

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil

ITEM NO. 5**FILE NO: A2004-0511****LOCAL TRAFFIC COMMITTEE MEETING – 16TH OCTOBER, 2007****AUTHOR: TREVOR ALLEN, INTEGRATED PLANNING MANAGER**
-----**RECOMMENDATION IS THAT COUNCIL:**

Adopt the recommendations contained in the minutes of the local Traffic Committee meeting held on 16th October, 2007.

-----**OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007****RECOMMENDATION:**

That the recommendation be adopted.

-----**ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007****RESOLUTION:**

382	Councillor Francis Councillor Nell	It was resolved that the recommendation be adopted.
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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 3rd October, 2007. In attendance were Port Stephens Council's Technical representative, the Roads and Traffic Authority representative and NSW Police's representative.

The Local Traffic Committee met at 9.30am on 16th October, 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, NSW Police's representative and Port Stephens Coaches representative. Apologies were received from Rod Landers and Brian Mosely.

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.

The items with a Safety Priority are listed as follows:

Item C.6 Ferodale Road, Medowie – No stopping zone
Item C.3 Hastings Drive, Raymond Terrace – No stopping zone

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 16th October, 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 16th October, 2007 are contained in ATTACHMENT 1.

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1

PORT STEPHENS LOCAL TRAFFIC COMMITTEE MEETING

**INDEX OF LISTED MATTERS
FOR THE MEETING HELD ON TUESDAY 16TH OCTOBER, 2007**

- A. ADOPTION OF THE MINUTES OF SEPTEMBER**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- C. LISTED MATTERS**
 - C.1. WILLIAM STREET, RAYMOND TERRACE – DISABLED PARKING AT ROADS AND TRAFFIC AUTHORITY**
 - C.2. PORT STEPHENS STREET, RAYMOND TERRACE – ADJUSTMENT TO ANGLE PARKING IN THE VICINITY OF TWIN RIVERS**
 - C.3. HASTINGS DRIVE, RAYMOND TERRACE – NO STOPPING ZONE**
 - C.4. OLD PUNT ROAD, TOMAGO – REDUCTION IN SPEED LIMIT**
 - C.5. SWAN BAY ROAD, SWAN BAY – EXTENSION OF B DOUBLE ACCESS**
 - C.6. FERODALE ROAD, MEDOWIE – NO STOPPING ZONE**
 - C.7. BAGNALLS BEACH ROAD, CORLETTE – INSTALLATION OF APPROACH SIGNAGE**
 - C.8. ITALIA ROAD, EAST SEAHAM – INSTALLATION OF WARNING SIGNS**
- D. GENERAL BUSINESS**
- E. ATTACHMENTS**

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 16TH OCTOBER, 2007
AT 9:30AM**

A. ADOPTION OF MINUTES OF PREVIOUS MEETING

The minutes of the previous Local Traffic Committee Meeting dated 4th September 2007 were adopted.

B. BUSINESS ARISING FROM PREVIOUS MEETING

C. LISTED MATTERS

C.1 WILLIAM STREET, RAYMOND TERRACE – DISABLED PARKING AT ROADS AND TRAFFIC AUTHORITY

The Roads and Traffic Authority have requested advice regarding positioning of a disabled parking space at the Raymond Terrace RTA Office. Initial suggestions from the RTA are to utilise the dedicated Licence Testing parking space in William Street directly in front of the RTA building.

REQUESTED BY: Roads and Traffic Authority

CONSULTATION: Nil

INSPECTION UNDERTAKEN Yes

AGREE WITH REQUEST No

ADDITIONAL ATTACHMENT No

- Site in front of RTA would require extensive works to address cross fall, roundabout entry/exit and driveway safety.

COMMENT

- One hour parking space to the east could be investigated for the RTA requirements.

RECOMMENDATION

- ☐ The site proposed by the RTA on William Street is unsuitable for Disabled Parking.
- ☐ The RTA be advised to investigate other options within the RTA site.

ESTIMATED COST N/A

FUNDING SOURCE N/A



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

C.2 PORT STEPHENS STREET, RAYMOND TERRACE – ADJUSTMENT TO ANGLE PARKING IN THE VICINITY OF TWIN RIVERS

The owner of Twin Rivers Auto Repairs has requested the removal of one angle parking space on the north side of their driveway (RH Side on exiting). She reports many near misses when customers leave their premises as vision is restricted to the right by parked cars, particularly 4WD's.

REQUESTED BY: Twin Rivers Auto Repairs

CONSULTATION: Nil

INSPECTION UNDERTAKEN Yes

AGREE WITH REQUEST No

ADDITIONAL ATTACHMENT No

COMMENT

- Existing wide driveway allows visibility for traffic
- Similar to adjacent businesses

RECOMMENDATION

- No action be taken.

ESTIMATED COST N/A

FUNDING SOURCE N/A

C.3 HASTINGS DRIVE, RAYMOND TERRACE – NO STOPPING ZONE

Port Stephens Council Rangers have requested the installation of No Stopping signage from the southern boundary on Hastings Drive and extending south past the driveway of No. 25.

REQUESTED BY: PSC Rangers

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT

- Line marking could be upgraded to enhance delineation of bus bay.

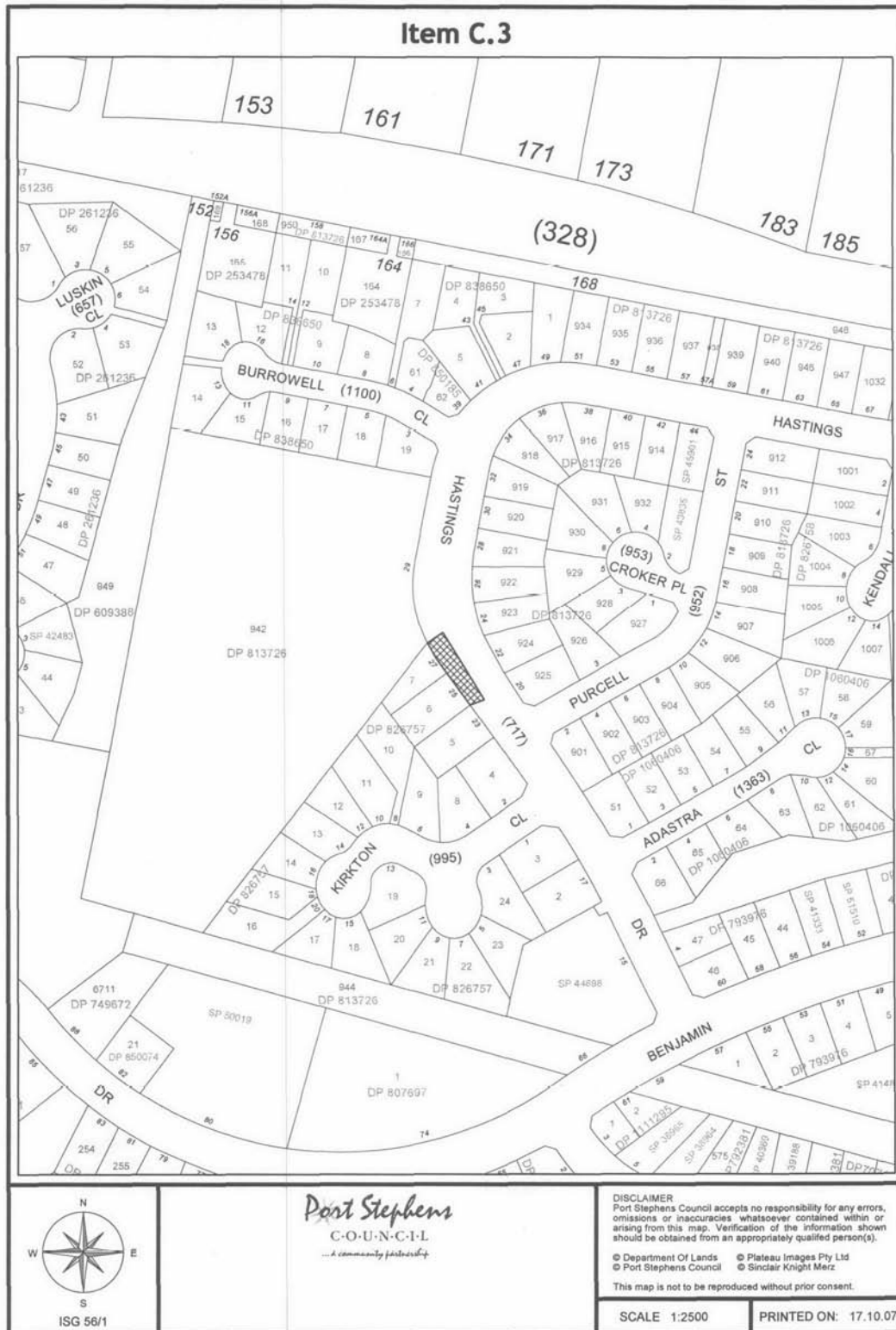
RECOMMENDATION

- ☐ No Stopping Zone be extended south past driveway of Number 25.
- ☐ This zone be time restricted to school days and 8 – 9.30am and 2.30 – 4.00 pm

ESTIMATED COST \$100

FUNDING SOURCE Traffic Facilities Budget

THIS ITEM HAS A SAFETY PRIORITY



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

C.4 OLD PUNT ROAD, TOMAGO – REDUCTION IN SPEED LIMIT

Boral Concrete have requested Traffic Committee investigate adjusting the speed limit on Old Punt Road. The old speedway site is being redeveloped and there are a lot of heavy vehicles accessing the site and surrounds. The current speed is 70 km/hr, the road is narrow and cars park on both sides of the road.

REQUESTED BY: Boral Concrete

CONSULTATION: Nil

INSPECTION UNDERTAKEN Yes

AGREE WITH REQUEST Yes

ADDITIONAL ATTACHMENT No

COMMENT

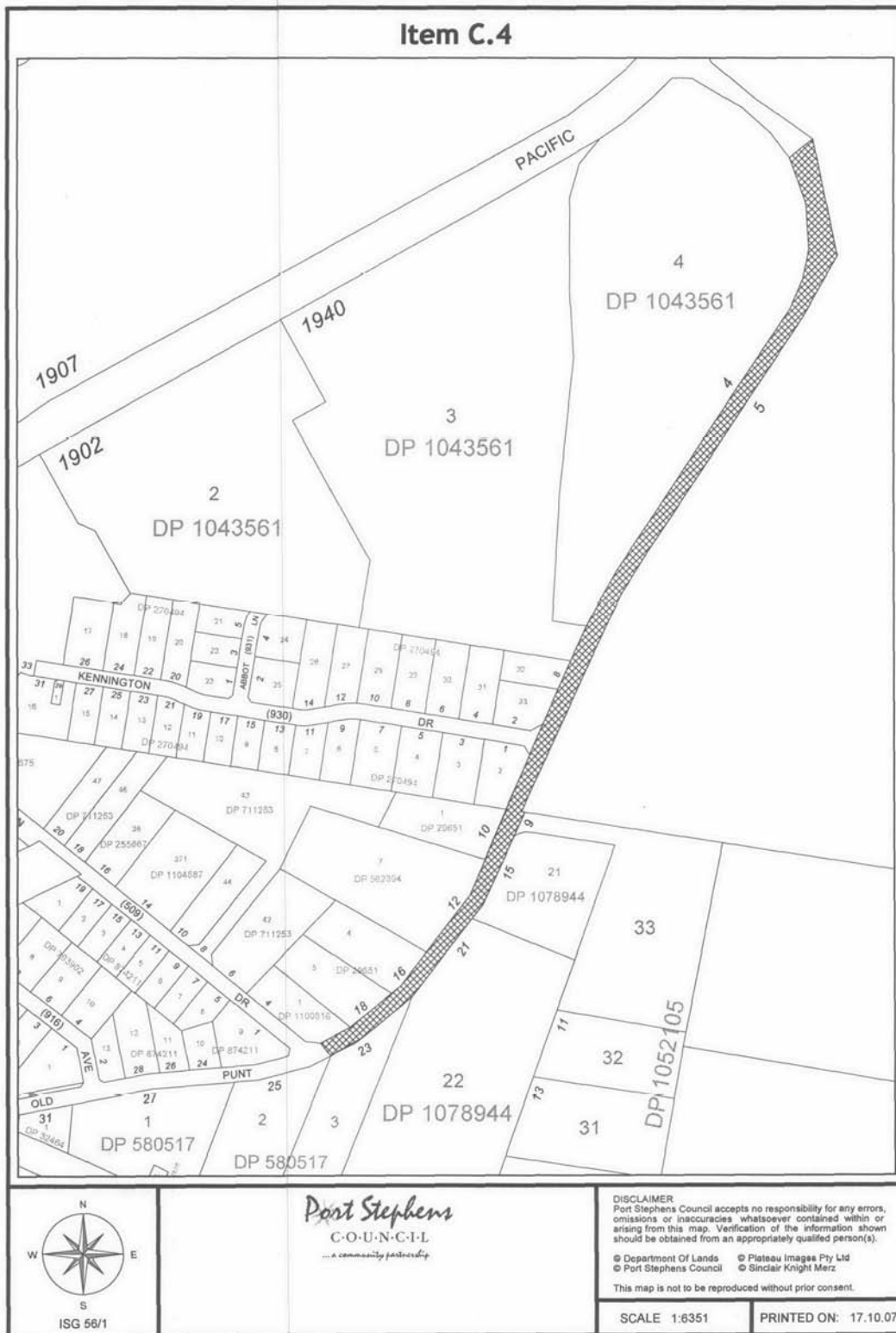
- A speed limit of 60 km/hr would be suitable on Old Punt Road
- **Location of change of speed (currently 70/80) should be located 200m east of existing location**

RECOMMENDATION

- This matter be referred to the RTA.

ESTIMATED COST N/A

FUNDING SOURCE N/A



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

C.5 SWAN BAY ROAD, SWAN BAY – EXTENSION OF B DOUBLE ACCESS

Cox Transport have requested the extension of the existing B Double route on Swan Bay Road to the Moffats Road intersection to allow access to property No. 771 Swan Bay Road.

REQUESTED BY: Cox Transport Pty Ltd

CONSULTATION: Nil

INSPECTION UNDERTAKEN Yes

AGREE WITH REQUEST Yes

ADDITIONAL ATTACHMENT No

COMMENT

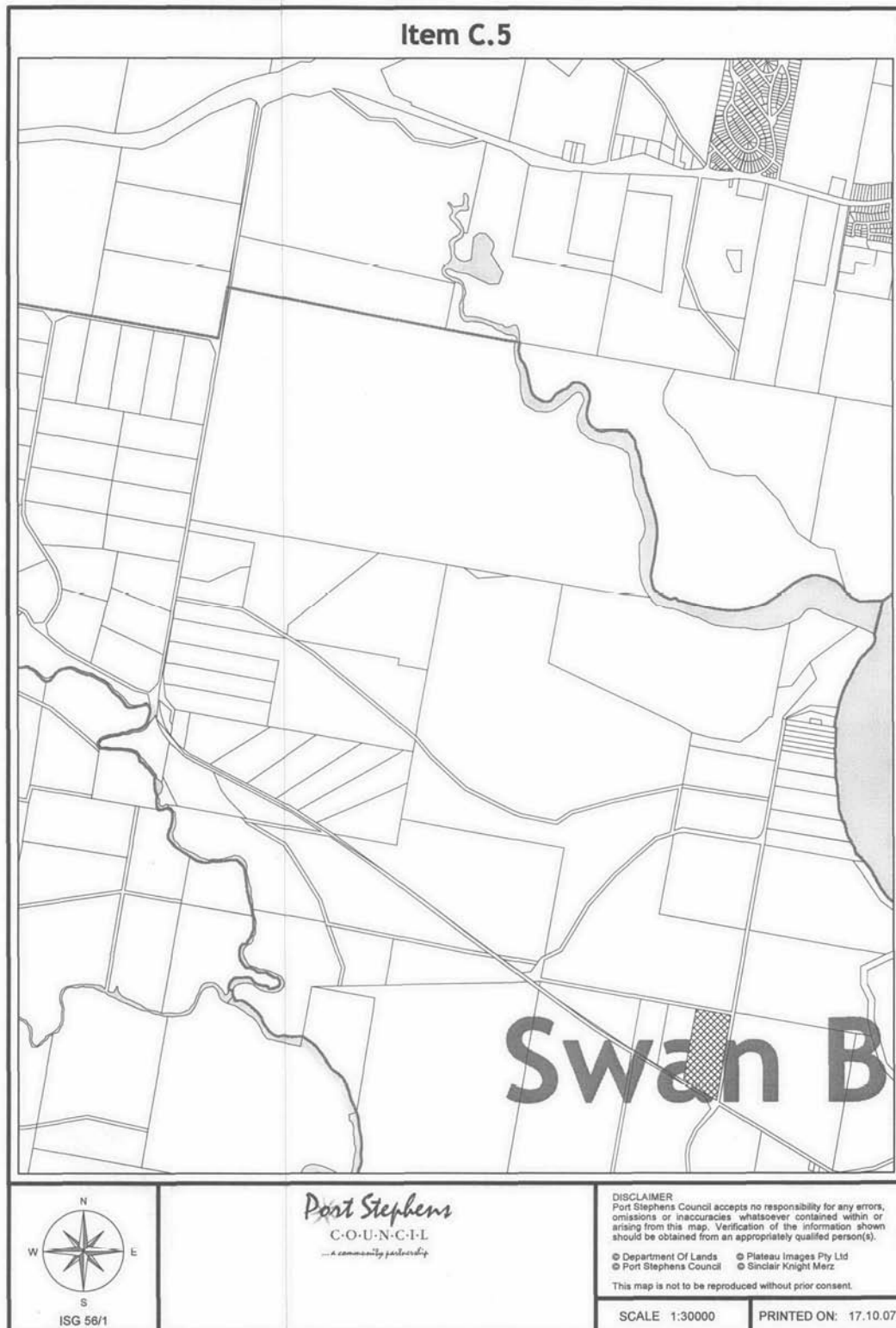
- Swan Bay Road shoulder maintenance near completion.
 - Access to the property RA 771 Swan Bay Road be from Swan Bay Road and upgraded to suit.
- Good sight distance and width for entry and exit to property.

RECOMMENDATION

- The extension of the B Double route be approved to allow 25m B Doubles

ESTIMATED COST N/A

FUNDING SOURCE N/A



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

C.6 FERODALE ROAD, MEDOWIE – NO STOPPING ZONE

Port Stephens Council Rangers have requested the installation of No Stopping signage to cover the front of 85 Ferodale Road to the end of the access road adjacent to Wirreanda Primary School crossing on Ferodale Road.

REQUESTED BY: PSC Rangers

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

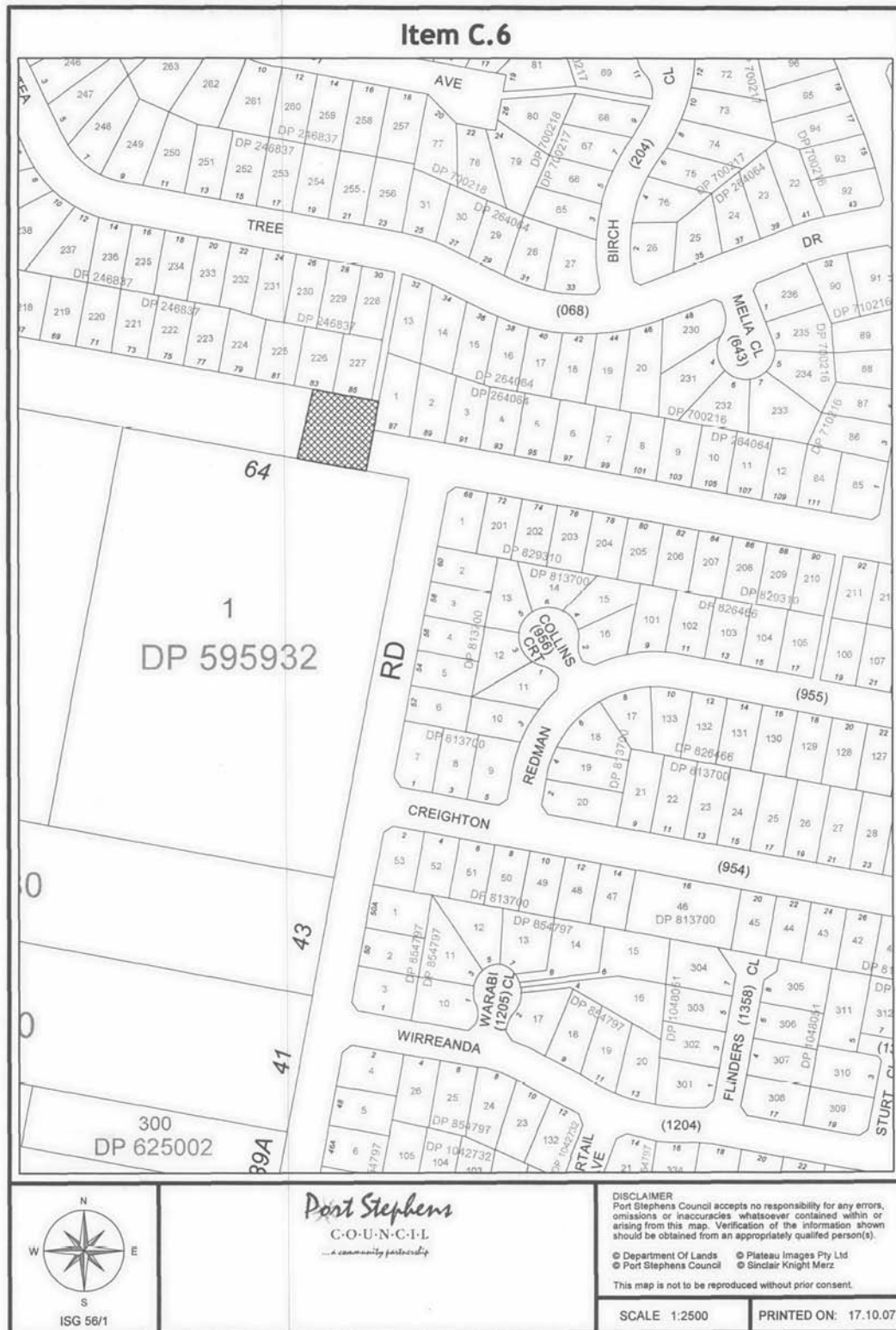
COMMENT	<ul style="list-style-type: none">Hunter Valley Buses have been asked to assess the change of route in the afternoon. This would not require buses entering access road at peak times.
----------------	--

RECOMMENDATION

- ☐ A No Stopping Zone be installed on Ferodale Road from east of driveway at 83 Ferodale Road to the school crossing on Ferodale Road.
- ☐ A No Stopping Zone be installed on the grass verge for the distance of end radius.

ESTIMATED COST \$300 **FUNDING SOURCE** Traffic Facilities Budget

THIS ITEM HAS A SAFETY PRIORITY



C.7 BAGNALLS BEACH ROAD, CORLETTE – INSTALLATION OF APPROACH SIGNAGE

Councillor Dover has requested the installation of warning signs and road markings for vehicles approaching northbound to roundabout at the intersection of Government Road and Bagnalls Beach Road, Corlette.

REQUESTED BY: Councillor Dover

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT

- This roundabout has had all roundabout signage replaced several times since construction.

RECOMMENDATION

- ☐ Warning signs be upgraded and commence 100 m south of Marlin Street.
- ☐ Road pavement markers commence from Marlin Street.
- ☐ Curve alignment markers be replaced at the roundabout entry.

ESTIMATED COST \$500 **FUNDING SOURCE** Traffic Facilities Budget

C.8 ITALIA ROAD, EAST SEAHAM – INSTALLATION OF WARNING SIGNS

A resident of Italia Road has requested Council install Concealed Driveway, Wildlife Crossing and Speed Reminder Signage along Italia Road in the vicinity of Caswells Creek Bridge. The bridge is currently being upgraded to a two lane bridge, and residents feel that drivers speeds will increase as there will no longer be a need to slow down to negotiate a one lane bridge.

REQUESTED BY: Resident

CONSULTATION: Nil

INSPECTION UNDERTAKEN Yes

AGREE WITH REQUEST Yes

ADDITIONAL ATTACHMENT No

COMMENT

- Driveway access widths to be discussed at meeting.
- Truck warning signs be assessed for position in relation to water board entry.
- An increase in the speed limit on Italia Road is unnecessary.

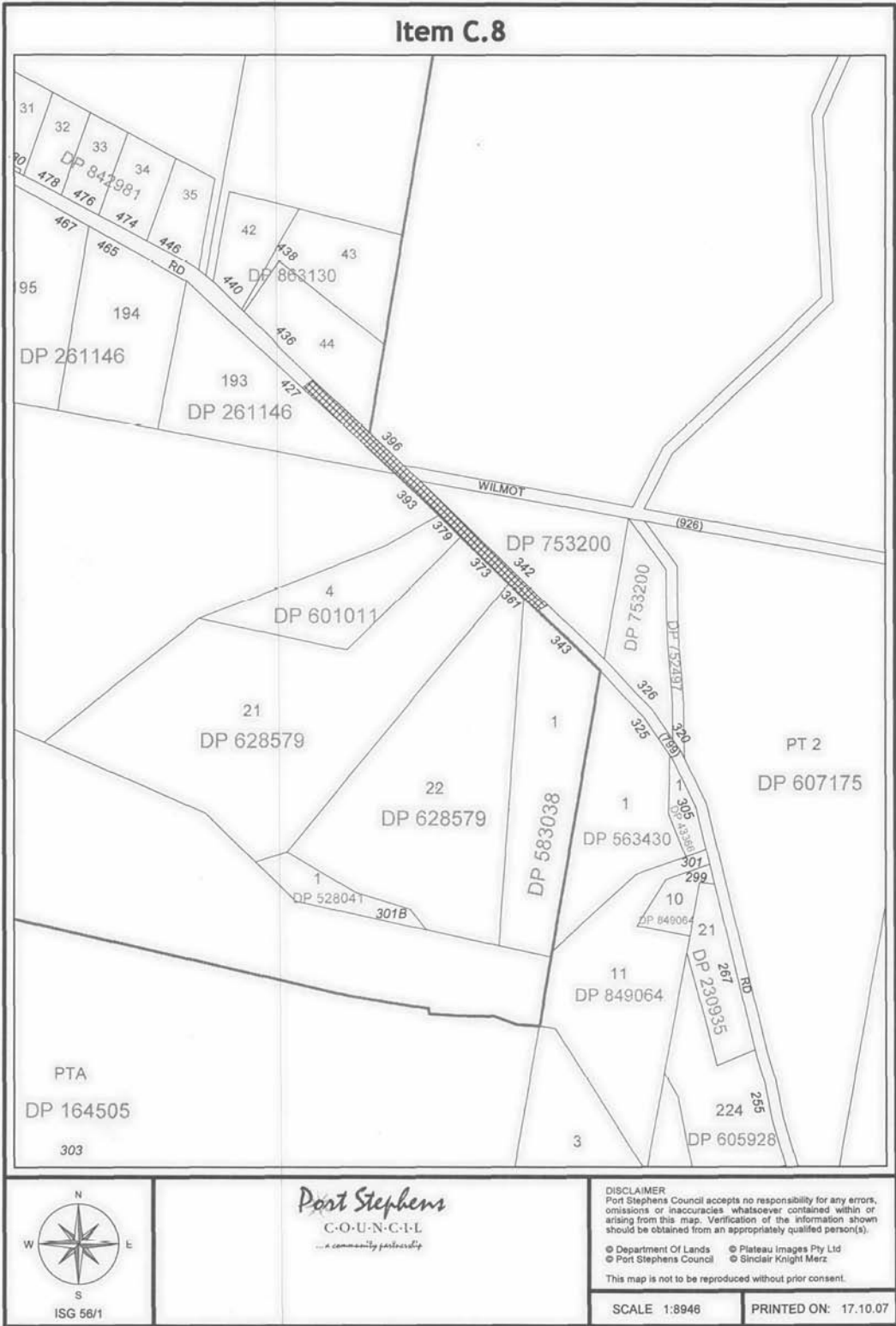
FILE PSC2005-2660

RECOMMENDATION

- Signage be reviewed on completion of bridgework.

ESTIMATED COST N/A

FUNDING SOURCE N/A



D. GENERAL BUSINESS

Cr Dingle had resigned as Council's elected representative on the Committee due to increasing work commitments. Cr Dingle's contribution and support to the Committee was greatly valued and the Committee recognises the commitment required to maintain a positive input to the Committee and thanked Cr Dingle for his support and enthusiasm.

ITEM NO. 6**FILE NO: 9750-013****REQUEST TO AMEND LOCAL ENVIRONMENTAL PLAN 2000 – REZONE LAND AT 290 TAREAN ROAD, KARUAH, TO FACILITATE RESIDENTIAL DEVELOPMENT.****REPORT OF: TREVOR ALLEN - INTEGRATED PLANNING MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Resolve to support the rezoning request over a portion of Lot 20 DP 579653, Lot 21 DP 579653 and Lot 2 DP 748343 Tarean Road, Karuah for residential development to enable the draft amendment to proceed in accordance with Section 54 of the *Environmental Planning and Assessment Act 1979 (Attachment 1)*, subject to the proponent resolving adequate connection through to George Street on the adjoining subdivision to the east to enable adequate connection with the adjoining street networks.
- 2) Resolve to prepare draft amendments for the subject land to the Port Stephens Development Control Plan 2007.

OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007**RECOMMENDATION:****That the recommendation be adopted.****ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007****RESOLUTION:**

383	Councillor Francis Councillor Brown	It was resolved that the recommendation be adopted.
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Note: Cr Dingle left the meeting at 7.13pm during Item 6 and returned at 7.16pm during Item 6.

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007**RESOLUTION:**

384	Councillor Baumann Councillor Tucker	It was resolved that Council; a) Resolve to support a rezoning request over a portion of Lot 3 DP 1098770 and Lot 11 DP 37430 Newline Road, Raymond Terrace with the appropriate buffers to be established through the rezoning process and to be agreed by Council in a subsequent report to Council post exhibition of the draft LEP; and with b) the draft LEP and associated Development Control Plan being integrated with the Kings Hill draft LEP and draft DCP, Section 94 and/or developer agreements to ensure coordination and integration of the
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		<p>development of the town of Kings Hill with the subject land.</p> <p>c) Council receiving formal commitment from the land owner to fund the undertaking of the third party review of noise and odour issues above and beyond the fee attracted by the rezoning request to inform Council of these issues associated with the Kings Hill draft Local Environmental Plan.</p> <p>d) Council receiving formal commitment from the land owner to fund the undertaking of the third party review of noise and odour issues above and beyond the fee attracted by the rezoning request to inform Council of these issues associated with the Kings Hill draft Local Environment Plan.</p>

PURPOSE

The purpose of this report is to recommend that Council support the rezoning request for limited residential development under Section 54 of the Environmental Planning and Assessment Act 1979.

PROPOSAL DETAILS

Owner	Nethmike Pty Ltd
Proponent	Hunter Development Brokerage
Date of Submission	May 2005
Subject Land	Lot 20 DP 579653, 290 Tarean Rd, Karuah. Lot 21 DP 579653, 308 Tarean Rd, Karuah Lot 2 DP 748343, 314 Tarean Rd, Karuah
Current Land Use Zone	1(a) Rural Agriculture
Proposed Land Use Zone	2(a) Residential (Attachment 2)

BACKGROUND

Specific areas of Karuah have been identified in the *Lower Hunter Regional Strategy (LHRS)* as proposed future urban growth areas subject to local planning. The site adjoins areas identified in Council's *Community Settlement and Infrastructure Strategy 2007 (CSIS)* as having potential for urban development.

Council's Rezoning Assessment Panel met with the proponents in December 2004 and advised that rezoning of the subject land for residential development had merit in principle. The rezoning request was lodged in May 2005 and proposed to rezone Lot 20 DP 579653 in its entirety which equates to approximately 80 residential lots (**Attachment 2**). Due to consideration of the relevant issues it has been recommended that portions of ; Lot 21 DP 579653, Lot 2 DP 748343 and Lot 20 DP 579653 be rezoned for residential purposes as shown on the Recommended Zoning Map in **Attachment 1**. The owners of Lot's 20 and 21 DP 579653 have given authorisation for the proposal, but the owner of Lot 2 DP 748343 has been notified but has not given authorisation to the proponent.

The proponent has had ongoing discussions with Council on matters of connectivity and access of the proposed residential area to the recently developed George Street to the east. Physical connection and integration of the proposed rezoning to the existing neighbourhood and direct access to existing open space (Aliceton Reserve) and the village centre are vital aspects to this rezoning proposal.

In keeping with the construction of the adjoining residential development (River Glades Estate) and Draft LEP 24 (Wattle and Holdom Streets), it is recommended that development be restricted to the area north of the flood line. This will minimise environmental impacts and focus urban development towards Tarean Road and the existing village. The topography and flood line has defined the extent of Karuah to date. The recommended Draft LEP should continue to apply this principle.

Advice from the LEP Review Panel

Council has resolved to prepare Draft LEP 24 (Wattle and Holdom Street) and Draft LEP 27 (339 Tarean Road) (**Attachment 3**). Council has received advice from Department of Planning's LEP Review Panel stating that The Panel do not support Draft LEP 27 due to; the site identified in Lower Hunter Regional Strategy (LHRS) as part of the 'Green Corridor' and that, Draft LEP 24 in conjunction with existing residential land provides sufficient residential land to supply Karuah at this stage.

Council has written to LEP Review Panel advising that Draft LEP 27 has strategic merit and economic benefits for Karuah and has requested The Panel reconsider Draft LEP. Draft LEP 27 as shown on map **Attachment 3**, is 600 metres from the village centre and as such will provide economic benefits to Karuah businesses. Those economic benefits are manifested through increased number of population in close proximity to the main street. Economic sustainability of the main street is justification for loss of vegetation in the 'Green Corridor' bearing in mind that the proposal retains the SEPP 14 wetland area with a 50m buffer. Some vegetation loss can be justified where there are direct public benefits through economic sustainability gains.

Due to proximity to the main street, Draft LEP 27 is preferred over the site subject of this report. 290 Tarean Road is suitable for limited development but is more removed from the village centre than Draft LEP 27. However, in light of the Department of Planning's advice, support for 290 Tarean Road becomes more essential in securing an improved the trade catchment for Karuah businesses in the short term.

Future development in Karuah regarding all three proposals is supported based on sound planning principles and that:

- ☐ Karuah is experiencing adverse economic effects due to the Pacific Highway bypass
- ☐ Population increase in the right location will contribute to the economic sustainability of Karuah
- ☐ Karuah Wastewater Treatment Works capacity can accommodate all three developments
- ☐ Limited amount of residential development in walkable distances to shops, parks and community facilities and resultant vegetation loss is an acceptable balance.
- ☐ The three proposals represents a 'rounding-off' of Karuah's population and not over-development

LINKS TO CORPORATE PLANS

This report addresses the strategic and future directions of Council's Plan 2005-2008 in particular:

- ☐ Integrating planning for facilities and services.
- ☐ Promote, plan and guide development to create sustainable communities that conserve and enhance the natural and built environment.
- ☐ Ensure that our planning framework provides appropriate levels of housing, transport, infrastructure, human services and community facilities across all of our communities.
- ☐ Alignment of Council Plans.
- ☐ Alignment with State and Regional Plans.
- ☐ Deliver facilities and services to meet community needs now and in the future.
- ☐ Development focuses on our communities being sustainable.

FINANCIAL/RESOURCE IMPLICATIONS

The rezoning request will attract the prescribed rezoning fees in accordance with Council's Fees and Charges Schedule 2007. Should Council adopt the recommendations of this report, Land Use Planning will invest staff time to prepare and submit the standard Section 54 information to the Department of Planning's LEP Review Panel.

LEGAL AND POLICY IMPLICATIONS

Legal – There are no legal requirements should Council adopt or reject the recommendations of this report. This includes the owner of Lot 2 DP 748343 who has not authorised the proponent that they support the inclusion of their land in the submitted rezoning request. Despite this Council has the authority to consider zoning issues for this land.

Policy – The subject land has not been identified for residential development in the *Port Stephens Community Settlement and Infrastructure Strategy 2007* in *E3 Local Area Strategies for Karuah*. For this reason the criteria in *Part G3 Land Not Identified for Development* applies.

Part G3 Land Not Identified for Development

Part G3 – 1 Shall be consistent with the Part F Sustainability Principles and Criteria, the Integrated Land Use and Transport Policy package and the Coastal Design Guidelines for NSW.

The recommended rezoning is consistent with the *Land Use Transport Policy Package* and the *Coastal Design Guidelines*. In this location development will support walking and cycling through connective links to the adjoining development.

The development will be consistent with the *Coastal Design Guidelines* in that development will reinforce the existing town and will be consistent with the existing street pattern of the coastal village.

The proposal is generally consistent with Part F Sustainability Criteria as follows:

F1 Settlement and Movement Network – The Draft LEP land will have connections to Tarean Road and the local street network through George Street. This will enable vehicular and pedestrian access via these streets improving connectivity of the site with the village centre which are important connections.

F2 Infrastructure, Services and Facilities – There are existing services in Karuah. Hunter Water has indicated the capacity of the sewerage system at Karuah, in particular the wastewater treatment and effluent disposal component of the system, is limited. It is considered that this rezoning proposal combined with adjoining developments will be within this limit. Since the Pacific Highway bypass of Karuah an increase in population of the area will provide increased viability of services and infrastructure in the village.

F3 Quality Places to Live – The site will have access to the village centre for both pedestrians and vehicles. The proposal is not intended to be a gated community nor will it isolate residents from the surrounding area. Design of the street blocks will enable efficient development and solar access for future dwellings.

F4 Natural Areas and Resources – The rezoning request is consistent with these principles. Development on the site will be restricted to the north of the flood affected land and utilise Water Sensitive Urban Design Practices. This will limit impacts on natural areas including nearby Wetlands and the Karuah River.

F5 Economics and Employment – The Karuah village has experienced an economic downturn since the realignment of the Pacific Highway and subsequent bypass of Karuah. Residential development will have positive effect through construction works and will contribute to the local village businesses.

F6 Sustainability Criteria - (The LHRS's Sustainability Thresholds Criteria and to be applied for any proposed development outside designated areas in Regional Strategy). The site is not identified in the LHRS. The criteria in the LHRS are for the consideration of the Department of Planning.

G3 – 2 Greenfield land not physically attached to existing urban-zoned land and located on a transport corridor identified for the purposes of this Strategy in Figure 45 will require a minimum of 50 hectares of developable land excluding land required for bushfire hazard buffers and passive open space including wetland and riparian buffers -The site is physically attached to residential zoned land to the east.

G3 – 3 Rezoning requests for land that meets Criteria 2 will only be considered if they are located on the transport corridor. Proposals that are located away from the transport corridor or, due to land use constraints, cannot achieve acceptable vehicular and pedestrian access on to the transport corridor will not be considered -The site is located on a transport corridor and adjoining residential zoned land, development will have connections to the adjoining pedestrian and vehicular network.

G3 – 4 Rezoning requests for land not strategically identified for development will require a Local Environmental Study (L.E.S) to be prepared - It is considered that an LES is not required in accordance with Section 57 of the Environmental Planning Assessment Act 1979.

G3- 5 The Director General of the Department of Planning may advise of any additional issues that need to be considered in an LES before proceeding with the LEP process - refer to the Department's Planning Circular PS 06-005 and PS 06-013 for additional information. Should Council support the recommendation the Department of Planning's LEP Review Panel will be notified via Section 54.

G3 – 6 A structure plan shall be prepared by a qualified urban designer illustrating how the principles of the Strategy can be achieved. The structure plan shall illustrate how the proposed development; complements the Port Stephens transport network and centres hierarchy in terms of retail and employment; integrates the new village, neighbourhood or town with the transport corridor; and can achieve the principles of the Strategy -Should the recommendation to rezone the land be supported a structure plan and indicative lot layout will be required illustrating the position of lots and how connectivity will be achieved to the adjoining areas. A structure plan has been submitted by the proponent that illustrates that street connection to adjoining residential area to the east can be achieved.

G3 - 7 Rezoning requests shall address strategic traffic and transport planning issues including investigation and assessment of road hierarchy, strategic access controls, intersection locations and conceptual treatments to be provided for these connections -The proposal will not have adverse impacts on the exiting street network, further investigations will be required at development application stage to access the access controls.

G3 – 8 Rezoning requests for land that meets Criteria 2 will have a minimum ratio of 20% attached or multi unit dwellings to 80% detached dwellings to increase housing diversity and housing choice and improve the social and economic viability of the new village or town - It is considered that seeking greater density of lot and dwelling type in this location on the

fringes of the town would not be economically or socially desirable. It is considered justified in this instance not to meet the required minimum ratio of 20% attached or multi unit dwellings to 80% detached dwellings.

G3 – 9 Rezoning requests for greenfield land attached to existing urban developed land shall demonstrate ability to physically connect with existing urban development by streets so that proposed development is a logical extension of existing urban areas. Council will determine if the proposed development warrants consideration as a new centre consistent with the principles of this Strategy -The proponents have demonstrated physical connection to adjoining urban areas can be achieved.

G3- 10 Rezoning requests for infill development will be guided by the Sustainability Principles and Criteria of the Strategy including the Transect in Figure 24 -N/A

G3 – 11 Rezoning requests for land that contribute or lead to ribbon or strip development will not be considered. For green field development the spacing of new villages, neighbourhoods or towns will be responsive to ensuring that the rural or environmental landscapes that characterise the LGA are maintained -The proposal will define the extent of development to the west of Karuah and will define a boundary to preserve the rural and environmental character of the area.

G3 – 12 Rezoning requests to create a new village or town should be located towards transport corridor junctions to strengthen the public transport network and provide greater choice of routes for residents and transport users in the movement economy -
N/A

G3 – 13 Rezoning requests for development will include an assessment of the costs of the construction, operation and maintenance of supporting infrastructure, community services and facilities and the long-term life cycle costs of such infrastructure and whether the increased rate revenue likely to be generated by the proposed development can support it -
Development of the land will include construction of infrastructure on site provided by developer. Via Section 94 and /or developer agreements, additional infrastructure off site will be provided commensurate with population growth associated with rezoning request. It is considered that the proposed extension of the village of Karuah via this rezoning proposal should be supported by public streets and for part of Council's asset responsibilities. The increase in demand and use on these facilities is not likely to adversely impact on their long-term life cycle costs.

G3 – 14 If the maintenance and replacement of infrastructure, services and facilities identified in Criterion 15 cannot be supported by the increased rate revenue likely to be generated by the proposed development, then subsequent costs shall be borne by the developer and future landowners in perpetuity yet remain accessible to the public-
N/A

G3 – 15 Any proposed development adjacent to the Pacific Highway will require a grade separated interchange as well as access to the local street network connecting other centres so that the role and performance of the highway as an interstate road is not undermined by local traffic-N/A

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

- 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/ECONOMIC IMPLICATIONS

Since the construction of the Karuah By-Pass the Karuah village has experienced an economic downturn. Additional housing choice in this location will provide social and economic benefit both in the construction stage and long term as additional residents locate in the area.

Limiting development to the north of the flood line as shown on **Attachment 1** will reduce isolation from the village centre that would occur should the whole site be developed. Restricting development to this area will provide the urban focus to Tarean Road and the village centre. Both vehicle and pedestrian links with existing and proposed streets will enable development with good connectivity and provide positive social outcomes. The topography and flood line have defined development in the south west of Karuah this should continue through this Draft LEP to define urban environment.

An Archaeological Heritage Impact Assessment was undertaken by Myall Coast Archaeological Services including members of the Worimi Local Aboriginal Land Council. Three artefacts were located on the site including two stone artefacts and a scarred eucalypt. The two stone artefacts were considered to be of low significance however the scarred eucalypt tree is considered to be of a high local and possibly regional significance. Should development occur on the site it should be consistent with the recommendations of the archaeological assessment.

ENVIRONMENTAL IMPLICATIONS

The site is cleared and is of limited ecological value. Flora and fauna investigations have indicated there was 1 threatened flora species (Callistemon Linearifolius) located on the southern boundary of the site. However the flora and fauna investigations indicate that should the proposal proceed, disturbance of this species is unlikely to place the local distribution at risk of extinction. Internal consultation has indicated the site is not affected by Preferred or Supplementary Koala Habitat nor is it a Koala Linking Area. However there are individual Koala Food Trees and it is recommended that these trees be protected through the development application process and the PSC Comprehensive Koala Plan of Management.

Council's mapping indicates the land as partially flood affected which flows into the SEPP 14 Wetlands in the South East. Residential development should be restricted to the north of these constraints and strict water quality control mechanisms should be put in place to protect the wetlands.

A transmission easement 30 metres wide exists over a portion on the northern area of the site. No development would be permitted under this easement. Infrastructure could be created under this easement or appropriate-shaped lots could enable the construction of dwellings outside the easement.

CONSULTATION

Internal consultation has occurred with Environmental Services, Recreation Services, Social Planning, Subdivision, Drainage and Traffic Engineers. Their comments have been considered throughout this report.

Consultation with the NSW Department of Planning and LEP Review Panel with relation to other

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007

Draft LEP's in Karuah have been considered in this report.

Should the LEP Review Panel support the proposed rezoning Section 62 Consultation will occur between Council and the relevant Government Authorities. Consultation will be undertaken with the owner of Lot 2 DP 748343 seeking their views prior to public exhibition of the draft LEP.

OPTIONS

- 1) Adopt the recommendation of this report.
- 2) Reject the recommendation of this report.
- 3) Make amendments to the recommendation.

ATTACHMENTS

- 1) Recommended Zoning Map prepared by Council.
- 2) Proposed rezoning map as submitted indicating existing zoning, flood prone land and SEPP 14 Wetland.
- 3) Draft LEP's in Karuah

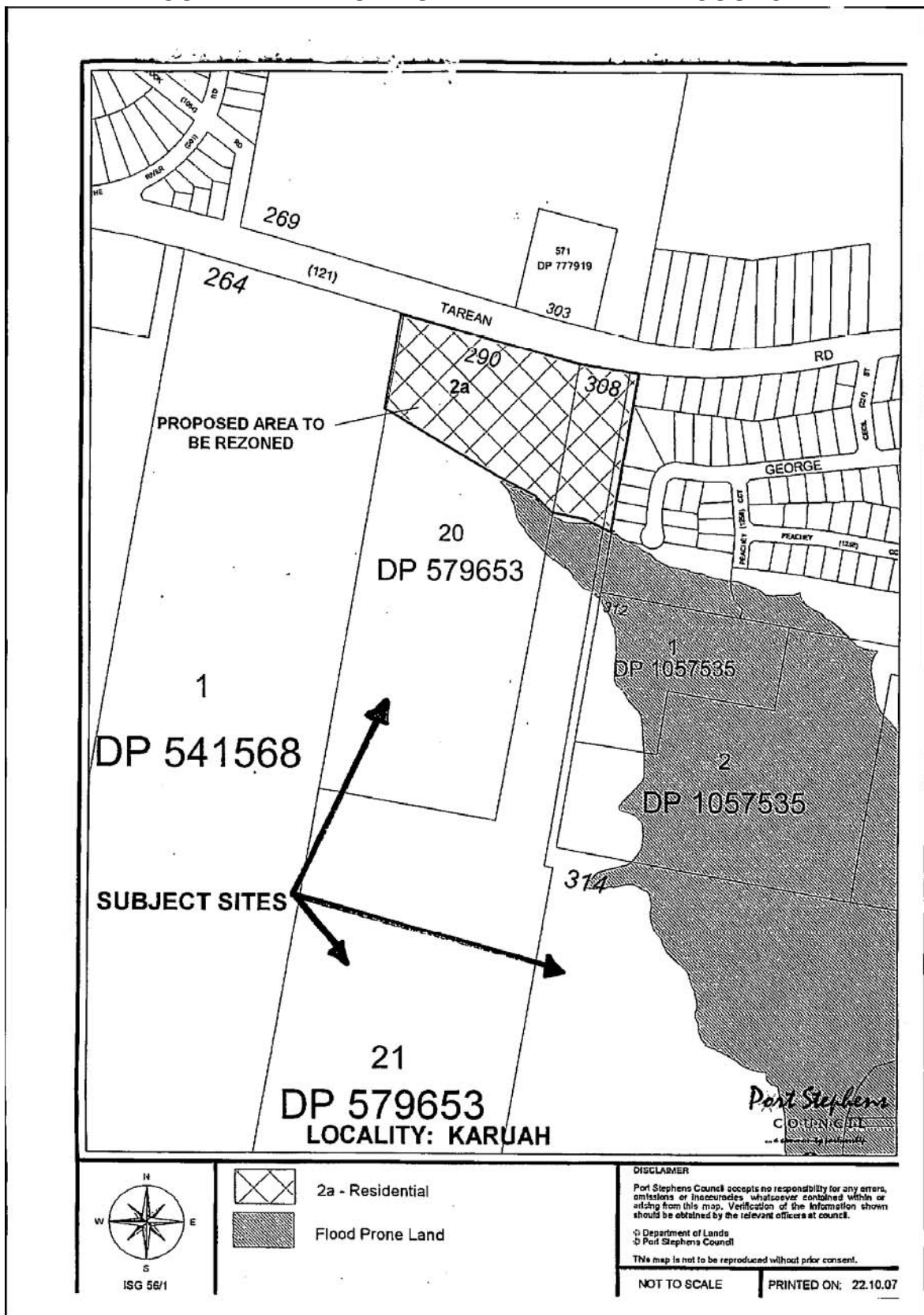
COUNCILLORS ROOM

- 1) Planning Report prepared by Hunter Development Brokerage.
- 2) Concept Plan prepared by Hunter Development Brokerage.

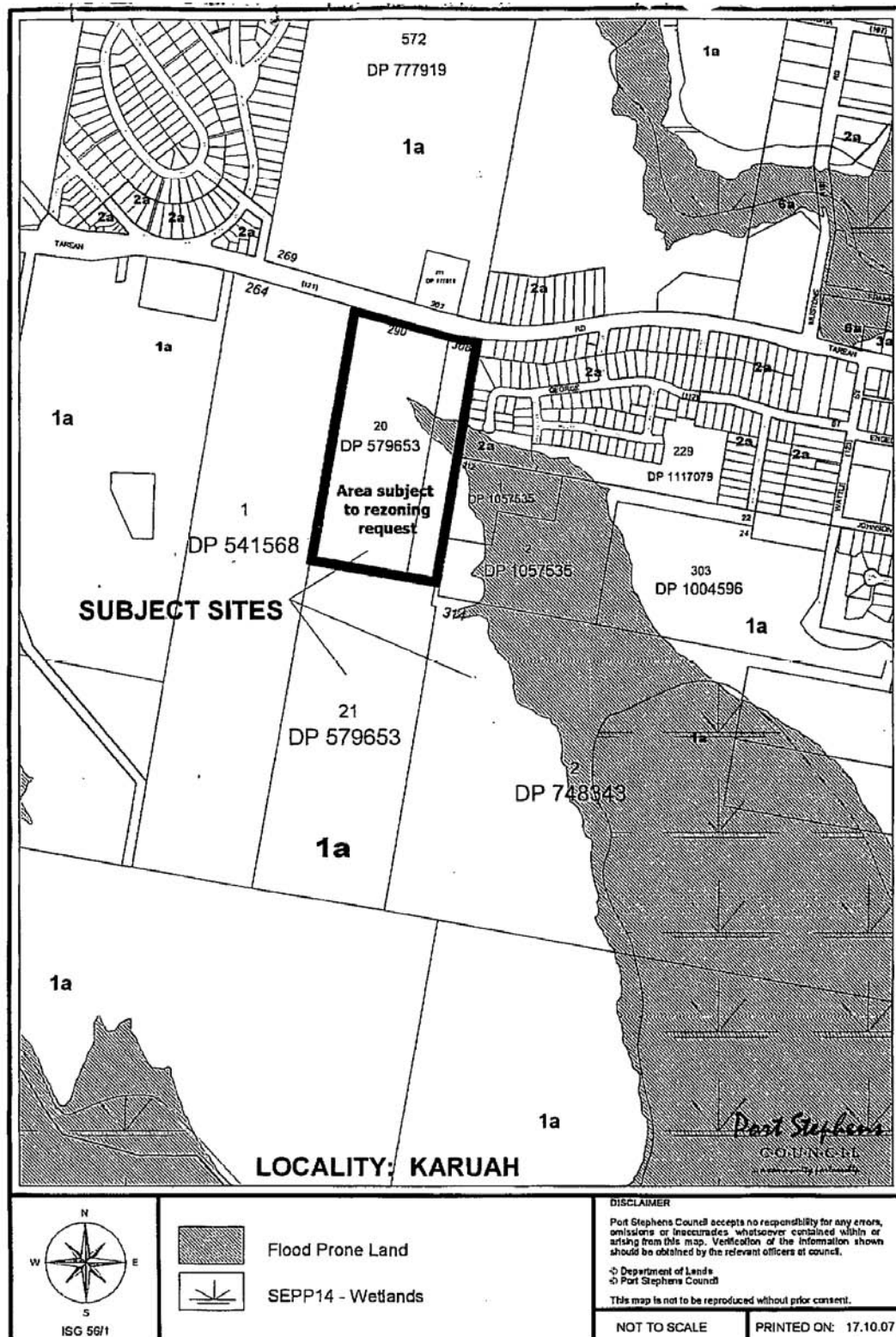
TABLED DOCUMENTS

Nil

ATTACHMENT 1
RECOMMENDED ZONING MAP PREPARED BY COUNCIL

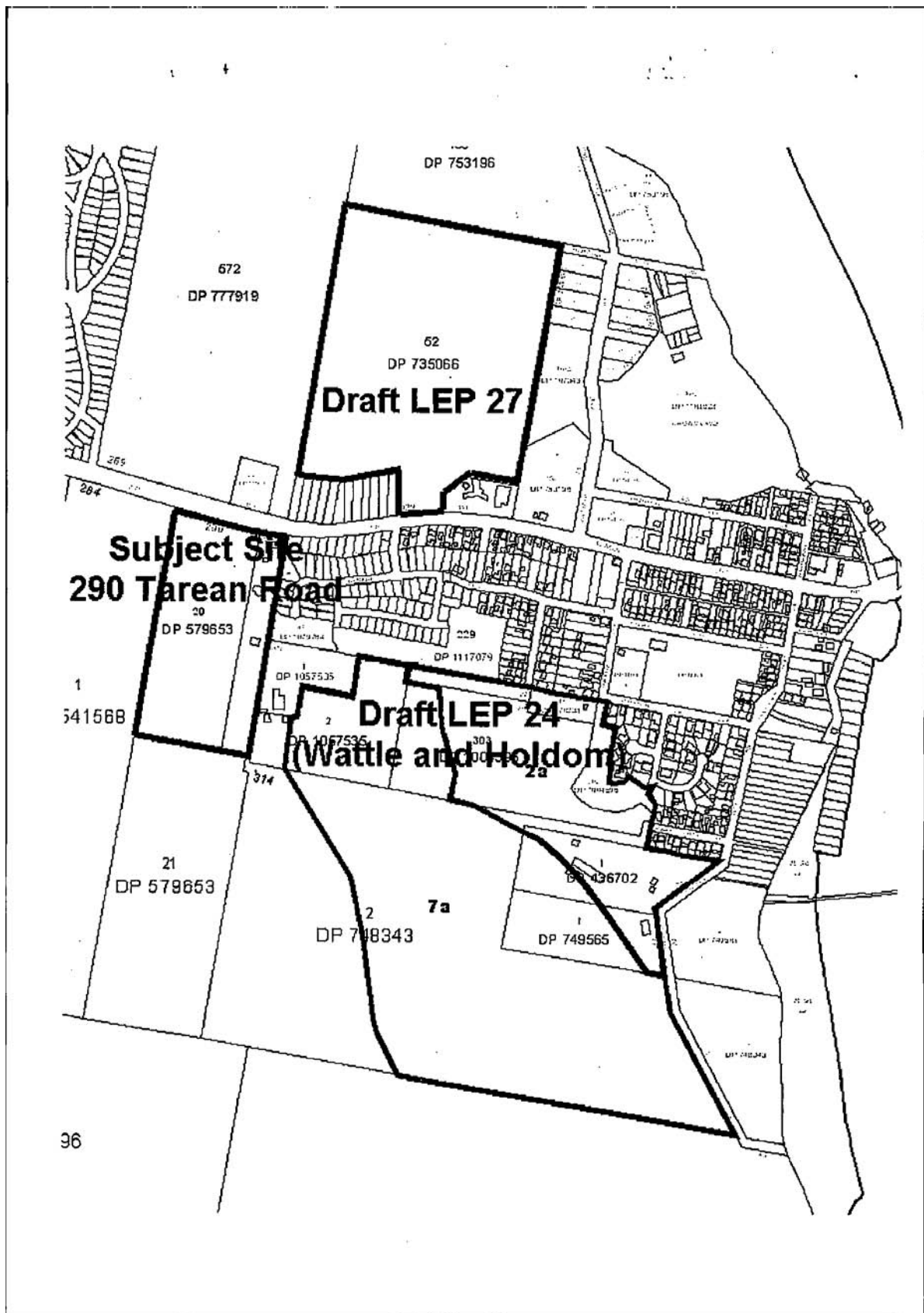


ATTACHMENT 2
PROPOSED REZONING MAP AS SUBMITTED INDICATING EXISTING ZONING,
FLOOD PRONE LAND AND SEPP 14 WETLAND



ATTACHMENT 3

DRAFT LEPS IN KARUAH



ITEM NO. 7

FILE NO: PSC2006-6662

REQUEST TO AMEND LOCAL ENVIRONMENT PLAN 2000 - REZONE LAND AT NEWLINE ROAD ADJOINING THE BEDMINSTER WASTE TREATMENT FACILITY AND KINGS HILL TO FACILITATE RESIDENTIAL DEVELOPMENT.

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to support a rezoning request over a portion of Lot 3 DP 1098770 and Lot 11 DP 37430 Newline Road, Raymond Terrace (**Attachment 1**) in accordance with Section 54 of the *Environmental Planning and Assessment Act 1979*, subject to:
 - a) No urban development occurring within 1000m of the Bedminster waste facility to ensure that future residents associated with the proposed development of the Kings Hill town are not subjected to potential odours from the facility during events associated with poor performance, facility failure or adverse weather conditions; and, ensuring that the facility has the capacity to expand to treat waste associated with population growth in Port Stephens or increased waste contracts.
 - b) consultation and advice from the Department of Environment and Climate Change and the Department of Defence relating to odour, flora and fauna and noise issues.
 - c) the draft LEP and associated Development Control Plan being integrated with the Kings Hill draft LEP and draft DCP, Section 94 and/or developer agreements to ensure coordination and integration of the development of the town of Kings Hill with the subject land.
 - d) Council receiving formal commitment from the land owner to fund the undertaking of the third party review of noise and odour issues above and beyond the fee attracted by the rezoning request to inform Council of these issues associated with the Kings Hill draft Local Environmental Plan.

OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007

RECOMMENDATION:

That this matter be deferred to allow the Environmental Waste Technology to have discussions with Staff.

PURPOSE

The purpose of this report is to analyse a rezoning request and subsequently, recommend to Council to support an amended rezoning proposal under Section 54 of the Environmental Planning and Assessment Act 1979.

PROPOSAL DETAILS

Owner	Newline Resource Pty Ltd
Proponent	Tattersall Surveyors Pty Ltd
Date of Submission	March 2007
Subject Land	Part Lot 3 DP 1098770 Part Lot 11 DP 37430 totalling 54.6 hectares
Current Land Use Zone	1(a) Rural Agriculture
Proposed Land Use Zone	2(a) Residential = 480 lots (Attachment 2)

BACKGROUND

Kings Hill is identified by the *Port Stephens Community Settlement and Infrastructure Strategy* and *Lower Hunter Regional Strategy (LHRS)* as an area for future urban development subject to local planning. The rezoning request that is the subject of this report includes 2 portions of land owned by Newline Resources that are part of the Kings Hill draft LEP (**Attachment 3**). These two portions of land owned by Newline Resources are being considered as part of the Kings Hill draft LEP. It is understood that Newline Resources have not financially contributed to the technical studies for the Kings Hill draft LEP. It is anticipated that this draft LEP will be reported to Council in early 2008.

The land subject to this report, whilst outside of the Kings Hill draft LEP boundary, was investigated during the draft LEP process by the Kings Hill proponent in preparing an Environmental Management Strategy (EMS - supported by detailed technical investigations including noise and odour). Council's Strategic Planning team commissioned an independent consultant to undertake a third party review of the EMS that informed the preparation of a Local Environmental Study (LES), as required by the Department of Planning.

During the planning and investigations for the adjoining Kings Hill Draft LEP, Newline Resources Pty Ltd, who then owned the Bedminster Waste Composting Facility expressed concerns to Council that; the long term operations and possible expansion of the facility might be compromised as a result of urban development proposed by the Kings Hill Draft LEP; and, Newline Resources are *"committed to ensuring that appropriate buffers are in place and that the space for these buffers be appropriately apportioned between ourselves and the developers"* (**Attachment 4**).

The outcomes of the EMS, third party review and LES for the Kings Hill draft LEP constitute the local planning for the Kings Hill project. The background issues for the land that is the subject of this report are as follows:

a) Noise issues associated with Kings Hill

Bedminster Waste Management Facility

The EMS concluded that industrial plant noise emanating from the facility required a 700m buffer that excludes part of the Kings Hill site from urban development.

A third party review of the EMS undertaken Air, Noise and Environment Pty Ltd stated *"assessment methodology generally follows methodology defined in NSW DECC industrial noise policy. Additional work required to ensure consistency with DECC policy. There is considerable scope for refining urban development footprint relative to industrial noise sources if further noise assessment work determines this. This will be undertaken further during the rezoning process"*.

The LES agreed with the third party review but, given the advice of Newline Resources and the public interest of avoiding future land use conflicts and the need to not jeopardise the future operation of the facility, stated that noise from station would impact on the site to the north of the facility within 700 metres of the facility fans and that no urban development be permissible within 700 metres of the facility.

Aircraft Noise

The EMS concluded that the Kings Hill is outside of the ANEF noise contours and development is therefore unconditionally permissible relative to the standards in AS 20212000.

A third party review by Air, Noise and Environment Pty Ltd recommended:

- *a review of ANEF recommended to understand changes in civilian aircraft volumes over next 10 years to ensure that proposed development will remain outside of the ANEF 20 noise contour.*
- *an assessment of maximum measured noise levels be undertaken for military aircraft noise to determine compliance with maximum internal noise criteria defined in AS 2021-2000.*

The LES, under Recommendation No.8, states: *“further longer term monitoring is required to specify if parts of the subject site are affected by military aircraft noise equal to that specified in ANEF 2012 noise contour criteria. This monitoring will also identify if, where and what type of noise attenuation would be required to meet the requirements of AS 2021-2000”.*

In 2003 and 2004 Department of Defence (DoD) advised Council that it didn't support the draft LEP but, should the draft LEP proceed, strongly recommended that implementation of AS2021-2000 noise attenuation measures be implemented; and, that it would not be responsible for noise complaints from future residents of Kings Hill. Department of Defence's qualified views were considered not significant enough to preclude urban development from the site, and therefore, preparing the draft LEP continued. However, it was only in early 2007 that the Department of Defence formally and strongly objected to the draft LEP on the basis that the site is significantly affected by military aircraft noise that may lead to an increase in noise complaints and curtail and jeopardise the future operation of RAAF Base Williamtown.

In response, Council and the Kings Hill proponent have commissioned separate noise consultants who have individually collected and analysed noise event data and recommended in summary, that aircraft noise issues raised by DoD are not sufficient to preclude urban development of Kings Hill. Furthermore, a clause has been inserted into the Kings Hill draft LEP to require that each development application submitted under the LEP be supported by noise data to ascertain likely noise impact issues and any subsequent noise attenuation requirements as guided by AS 2021-2000. The data and attenuation requirements are to be certified by an independent third party. The resolution of this matter is currently with the Department of Planning.

b) Odour issues associated with Kings Hill

The EMS concluded that odours emanating from the waste facility required a 400m buffer that includes excluding part of the Kings Hill site from urban development.

The third party review advised that the EMS odour assessment methodology is generally sound. Some additional data and a revised odour assessment that will refine urban development boundaries to be undertaken further during the rezoning process.

The LES states that odour affected areas to be excluded from development with appropriate buffers to cater for weather and plant operational variables. Recommendation No. 7 states; *“further survey and analysis of odour issues associated with the Bedminster facility is required to verify necessary buffer areas between the station and urban development. This is to occur and be finalized prior to the draft LEP being forwarded to the Department of Planning post exhibition”.*

The odour and noise issues associated with the waste facility have placed constraints on urban development occurring on land in the south western corner of the Kings Hill site. These constraints, plus advice from the previous owners of the waste facility, have informed the Kings Hill structure plan and the Kings Hill draft LEP zones and boundaries. This and the recommendations of this report have informed the local planning for the Kings Hill urban release area.

c) Newline Resources – Change of Intent

In October 2005 Council approved the subdivision of Newline Resources land that then enabled the company to create a separate parcel of land on which is located the waste facility. Newline Resources have now sold the facility to Sita CEC but have retained ownership of Lot 11 DP 37430, Lot 3 DP 1098770 and Part Lot 3 DP 1098770.

Council's Rezoning Assessment Panel met with the land owner and proponent in November 2006. The Panel was advised that the plant was being upgraded, all noise and odour issues were being resolved to allow the sale of the facility to another operator and that they were seeking to rezone the surplus land. The panel verbally advised that submitting a rezoning request would be premature as the entire Kings Hill project was still in doubt due to aircraft noise issues. Refusal of the Kings Hill draft LEP would automatically determine the land use outcome of the subject land.

d). Rezoning request

The rezoning request contains technical reports relating to bushfire, odour, noise and archaeology but relies upon technical reports prepared by another party for the Kings Hill proposal relating to flora and fauna, parking and traffic and economic, social and infrastructure issues.

The rezoning submission raises the following to justify the rezoning request:

- (i) *lack of land supply in the Lower Hunter Region due to environmental, infrastructure, zoning and ownership constraints.*

Unsubstantiated comment that does not acknowledge that Kings Hill draft LEP proposes to release some 4500 dwellings over 25 years unaffected by noise and odour issues associated with the waste facility. Recent verbal advice from the Department of Planning and Property Council of Australia on the progress of the Lower Hunter Regional Strategy indicated that there are significant urban development proposals soon to be released that will significantly alter the regional land supply situation.

- (ii) *Significantly enhance the current village structure proposed by the Kings Hill structure plan.*

It is unclear what this means. The Kings Hill structure plan has been prepared to integrate social, economic and environmental sustainability issues to design a new town. The rezoning request, totalling some 230 lots (based on rezoning submission minus Newline Resources land already included in the Kings Hill totalling some 150 lots) that would be subject to potential odour impacts from the waste management facility does not significantly enhance the town structure totalling some 4500 dwellings.

- (iii) *Provide supervision of the proposed recreational grounds to the north*

The rezoning request would increase passive surveillance over the playing fields. But this area, including that part of the Kings Hill structure plan overlooking the playing fields, is affected by odour impacts associated with the waste management facility.

- (iv) *Provide residential lots with stunningly beautiful views over the Williams River and floodplains.*

Not a public strategic planning issue for consideration for rezoning proposals.

- (v) *The preferred development option will have an enhanced and positive impact on the proposed delivery of services to new residents.*

Unclear what this means and if this is referring to future residents of the proposed rezoning or to those associated with the Kings Hill draft LEP.

- (vi) *Will provide an additional sustainable future for the Kings Hill villages.*

Unsubstantiated and therefore unclear what this means.

- (vii) *Upgrades have occurred to the waste facility to reduce noise and odour impacts on the surrounding lands. Rezoning request investigations used modelling to predict the severity of future noise and odour impacts on the surrounding areas with the upgrades in place. The waste facility is to not allow any exceedance of stipulated noise and odour criterion by way of restrictive covenant between the waste facility owner and Newline Resources.*

The rezoning request places significant weight on the resolution and management of ongoing noise and odour issues associated with the waste facility through a restrictive covenant (attached to contractual conditions of sale - selective parts of the covenant have been provided in the rezoning request submission). The covenant simply restricts the ability of the waste facility owner from allowing noise and odour to exceed specified criterion in

operating the facility. If a noise or odour exceedance occurs, then Newline Resources may request the provision of a report prepared by an independent expert.

The restrictive covenant is between two private parties only and is not a matter for enforcement by Council. Therefore, reliance on a restrictive covenant between two parties is not appropriate for Council, as the local planning authority, to determine public interest issues and future land uses where land use conflicts have a potential to occur.

e) Third Party Review of noise and odour issues

For reasons of continuity and consistency, Council engaged Air Noise Environment Pty Ltd to undertake a third party review of the noise and odour reports submitted by the proponent. On the site inspection and tour of the Bedminster Facility on 10th October 2007 odour emanating from the facility was evident on the northwest area of the proposed urban land which would have negative impacts on any future residents in this area. There was routine maintenance carried out at this time, however maintenance or unforeseen events would still impact on residents should the land be rezoned.

There has been an upgrade of the Bedminster Facility. These measures appear to have reduced some of the impacts associated with the facility on nearby residents.

Recommendations for industrial noise: Recommendations for aircraft noise:

- i) industrial noise from the Bedminster waste facility and neighbouring land fill site could be attenuated to within the required receptor noise levels providing it is feasible to implement mitigation at the waste facility.
- ii) Council require the applicant to provide revised noise modelling to confirm noise predictions for the entire rezoning site and to confirm the required acoustic barriers to attenuate noise from the Bedminster plant and the land fill site.
- iii) Adoption of the 750 m buffer separation from the Bedminster facility recommended in the Kings Hill EMS is not considered necessary.
- i) Adoption of the ANEF approach as defined in AS2021-2000 may not satisfactorily reflect the impact of maximum noise levels from overflying military jets at the proposed rezoning site.
- ii) The available evidence regarding the maximum noise levels is conflicting. It is recommended that Council require the applicant to complete noise measurements at the proposed rezoning site.
- iii) The issue of noise impacts from military aircraft is being debated with respect to Kings Hill rezoning and the conclusions of this debate may ultimately be suitable for informing a decision of the subject rezoning request.

Recommendations for odour:

- i) There is potential for a significant proportion of the proposed development site to be affected by unacceptable odours from the Bedminster facility.
- ii) The risk of adverse odour impacts arising as a result of operations at the adjacent inert landfill is considered to be low.
- iii) Mitigation of the current odour situation at the Bedminster facility should involve full sealing of the waste processing buildings and provision of odour locks to all vehicle and employee access doors and other openings and apertures. This also includes achieving continuous negative pressure throughout and proposed mitigation works should be implemented for the compost maturation area and product stockpile.
- iv) Even with these mitigation measures there is potential for significant odour releases to occur over extended periods (of many weeks) in the event of poor performance or failure of one of the biofilters. The odour complaint history indicates that odour events sufficient to cause

complaints over 2 km from the site occurred at least every two months during 2005 and 2007. On this basis, and given that odours were clearly detectable at a distance of approximately 400m downwind during the site inspection, adopting the 400m buffer defined for odour in the existing planning documents is not considered appropriate. A larger buffer appears warranted based on the available information and observations.

f) Recommended rezoning

The Kings Hill draft LEP proposes some 4500 dwellings over a 25 year period. In the rezoning submission there are insufficient economic, social and environmental arguments put forward of the need for Council to consider releasing more urban land that is adjacent to the waste facility and the associated impacts and risks of operating the facility on the surrounding environment.

Therefore, based on; the above; the information in points a to e above; adopting a precautionary approach to reducing potential land use conflicts; the need to ensure the long term viability of the Bedminster waste facility, it is recommended that a 1000 metre buffer be applied to the waste facility. The 1000m buffer is derived from information contained in the Kings Hill planning documents, the subject rezoning submission, the results of the third party review of the rezoning submission, the inadequacy of a 400m buffer and the fact that odours have been detected two kilometres from the waste facility. The proposed buffer excludes residential development and accommodates long term weather and facility operational variables including facility expansion. The buffer will also involve excluding some 3.13 hectares of land for urban development within the Kings Hill draft LEP.

It should be noted that, despite the buffer, land to the south east, south, west and north west of the waste facility cannot be developed as this land consists of SEPP 14 wetlands, is flood affected by the Williams River and the Grahamstown spillway and is affected by Australian Noise Exposure Forecast contours associated with the operation of RAAF Base Williamtown. The rezoning request that is the subject of this report is for land that is closer to the ANEF contours than any land associated with the Kings Hill draft LEP that DoD is now strongly objecting to.

The effect of the proposed buffer means that some 21.16 hectares of land owned by Newline Resources and adjacent to the proposed McPherson village is unaffected by odour issues. This land is considered suitable for urban development and forms the basis for the recommendations of this report (see Attachment 1). The inclusion of this land supports the town structure of Kings Hill and the associated environmental, social and economic sustainability principles that Council has required the Kings Hill project to achieve.

If Council supports the recommendations of this report, the views of the LEP Review Panel and subsequent consultation with Department of Environment and Climate Change, Department of Defence and the waste facility owner may significantly influence the progress of the draft LEP. If subject land is rezoned as recommended by this report, it is likely to be some 5-10 years before it could be developed based on current staging strategy and the associated provision of infrastructure.

LINKS TO CORPORATE PLANS

The report addresses the strategic and future directions of Council's Plan 2005-2008 in particular:

- ☐ Integrating planning for facilities and services.
- ☐ Promote, plan and guide development to create sustainable communities that conserve and enhance the natural and built environment.
- ☐ Ensure that our planning framework provides appropriate levels of housing, transport, infrastructure, human services and community facilities across all of our communities.
- ☐ Alignment of Council Plans.
- ☐ Alignment of Regional Plans.
- ☐ Deliver facilities and services to meet community needs now and in the future.
- ☐ Development focuses on our communities being sustainable.

FINANCIAL/RESOURCE IMPLICATIONS

The rezoning request will attract the prescribed rezoning fees in accordance with Council's Fees and Charges Schedule 2007. Should Council adopt the recommendations of this report, Strategic Planning will allocate staff time to prepare and submit the standard Section 54 information to the Department of Planning's LEP Review Panel.

Council's Strategic Planning team has undertaken and paid for the third party review from Integrated Planning Section's budget. The reason for this was to expedite the completion of the third party review. As the third party review also involves finalising outstanding matters for the Kings Hill LES (prepared by Council) and as Council can recoup the costs of council staff time and expenses in preparing the LES from all landowners benefiting from the Kings Hill draft LEP, it is for these reasons that this report recommends the recovering of these costs under Recommendation 1(d).

It should be noted that the land owner has insisted that their rezoning request be assessed and reported to Council as soon as possible. This is despite the outcome of the Kings Hill draft LEP being uncertain. Furthermore, the rezoning submission has requested that Council consider information on particular issues prepared specifically for the rezoning submission whilst relying on other information associated with the Kings Hill draft LEP. This has made the assessment of the rezoning request and the preparation of this report complex, time consuming and has adversely impacted on the capacity of Strategic Planning team to progress and deliver other projects of higher priority and significance in Strategic Planning's work program.

LEGAL AND POLICY IMPLICATIONS

This section addresses the legal and policy implications of the rezoning of the subject land as recommended by this report.

Legal - there are no legal implications should Council adopt or reject the recommendations of this report.

Policy - The *Port Stephens Community Settlement and Infrastructure Strategy 2007* and the *Lower Hunter Regional Strategy* identify Kings Hill as an urban release area subject to local planning. The local planning for the Kings Hill urban release area has been investigated and clarified by the EMS and the LES and concluded that the Newline Resources land plus some land within the draft LEP boundary are not suitable for urban development. The EMS and LES also included Lot 3 DP 234521 (East of Pacific Highway along southern boundary of study area totalling 0.25 ha to allow a grade separated interchange) and part of Lot 113 DP733181 (West of Pacific Highway totalling 13.8 ha for urban development). On the 19th December 2006 Council resolved to prepare a draft LEP that includes these lands. With the exception finalising the south western corner of the Kings Hill draft LEP, this effectively forms the boundaries for the new town. Therefore, the recommended rezoning is for land that has not been identified for urban development and **Part G3 Land Not Identified for Development** under the Port Stephens CSIS applies.

G3-1 Shall be consistent with the Part F Sustainability Principles and Criteria, the Integrated Land Use and Transport Policy package and the Coastal Design Guidelines for NSW.

F1 Settlement Structure and Movement – principles 1 –17 - the recommended rezoning would be a logical extension of Kings Hill proposed town and therefore is generally consistent with the sustainability principles governing spatial location of urban development to underpin sustainable settlement structure and transport movement.

F2 Infrastructure Services and Facilities -Principles 18–25 – the recommended rezoning would be an extension of the Kings Hill proposed town and therefore, is generally consistent with the sustainability principles governing the location of urban development and the provision

of and access to infrastructure services and facilities. The recommended rezoning will be integrated with the Kings Hill draft LEP including infrastructure and staging.

F3 Quality Places to Live - Principles 26-29. If Council adopts the rezoning as recommended by this report and the Department of Planning's LEP Review Panel agrees, then the proponent will be required to employ the services of a qualified urban designer to design the layout of the proposed urban area to ensure that principles 26-29 are addressed and that the site integrates with the Kings Hill draft LEP.

F4 Natural Areas and Resources – Principles 30-42 – the recommended rezoning would be an extension of the Kings Hill proposed town. The Kings Hill EMS and LES have identified the Grey Crowned Babbler and the Brush Tailed Phascogale (threatened species) occurring within the south western corner of the Kings Hill draft LEP land and within the subject land. Whilst the urban development of the subject land does not have significant economic and social benefits to Kings Hill under Principle 32, it does have social and economic benefits to the village of McPherson. The Department of Environment and Climate Change will advise if the loss of vegetation proposed by the rezoning will need to be offset additional to that required for the Kings Hill draft LEP.

Development will not be permitted within flood affected land and will apply Water Sensitive Urban Design Practices to limit the impacts on the natural systems including the SEPP 14 south and south east of the site.

F5 Economics and Employment – Principles 43-53 – the recommended rezoning would be an extension of the Kings Hill proposed town, in particular the proposed village of McPherson. The design and structure of the Kings Hill draft LEP has been created in a manner that will not undermine other centres, the land use patterns proposed will ensure the efficient use of the site and encourage activities that will have positive economic impact on McPherson village. The recommended rezoning is generally consistent with the principles relating to economics and employment.

F6 Sustainability Criteria (derived from the Regional Strategy's Sustainability Threshold Criteria and to be applied for any proposed development outside designated areas in Regional Strategy) - these criteria are for consideration by the Department of Planning.

Extending the proposed McPherson village as recommended by this report would be consistent with the Integrating Land Use and Transport policy package and the Coastal Design Guidelines for NSW.

G3-2 Greenfield land not physically attached to existing urban-zoned land and located on a transport corridor identified for the purposes of this Strategy in Figure 45 will require a minimum of 50 hectares of developable land excluding land required for bushfire hazard buffers and passive open space including wetland and riparian buffers – subject land is adjacent to Kings Hill draft LEP (future urban zoned land).

G3-3 Rezoning requests for land that meets Criteria 2 will only be considered if they are located on the transport corridor. Proposals that are located away from the transport corridor or, due to land use constraints, cannot achieve acceptable vehicular and pedestrian access on to the transport corridor will not be considered – subject land is adjacent to Kings Hill draft LEP (future urban zoned land).

G3-4 Rezoning requests for land not strategically identified for development will require a Local Environmental Study (L.E.S) to be prepared. Any additional investigations required through the process of the recommended draft LEP will be managed by Council but paid for by the land owner. This will ensure that the consistency and integration with the LES undertaken for the Kings Hill draft LEP.

G3-5 The Director General of the Department of Planning may advise of any additional issues that need to be considered in an LES before proceeding with the LEP process - refer to the Department's Planning Circular PS 06-005 and PS 06-013 for additional information.

G3-6 A structure plan shall be prepared by a qualified urban designer illustrating how the

principles of the Strategy can be achieved. The structure plan shall illustrate how the proposed development; complements the Port Stephens transport network and centres hierarchy in terms of retail and employment; integrates the new village, neighbourhood or town with the transport corridor; and can achieve the principles of the Strategy - should the recommended rezoning be supported, a structure plan will be required illustrating the position of streets, street blocks and lots and connectivity to McPherson's Village and how the Sustainability Principles and Criteria of the CSIS will be achieved.

G3-7 Rezoning requests shall address strategic traffic and transport planning issues including investigation and assessment of road hierarchy, strategic access controls, intersection locations and conceptual treatments to be provided for these connections – to be addressed subject to Council supporting the recommended rezoning and the views of the Department of Planning LEP Review Panel.

G3-8 Rezoning requests for land that meets Criteria 2 will have a minimum ratio of 20% attached or multi unit dwellings to 80% detached dwellings to increase housing diversity and housing choice and improve the social and economic viability of the new village or town – subject land is adjacent to Kings Hill draft LEP (future urban zoned land).

G3-9 Rezoning requests for greenfield land attached to existing urban developed land shall demonstrate ability to physically connect with existing urban development by streets so that proposed development is a logical extension of existing urban areas. Council will determine if the proposed development warrants consideration as a new centre consistent with the principles of this Strategy – subject land is adjacent to Kings Hill draft LEP (future urban zoned land). The recommended rezoning can integrate with the streets of the Kings Hill draft LEP.

G3-10 Rezoning requests for infill development will be guided by the Sustainability Principles and Criteria of the Strategy including the Transect in Figure 24. Recommended rezoning is greenfield development and is consistent with the Land Use Transect.

G3-11 Rezoning requests for land that contribute or lead to ribbon or strip development will not be considered. For green field development the spacing of new villages, neighbourhoods or towns will be responsive to ensuring that the rural or environmental landscapes that characterise the LGA are maintained - recommended rezoning is an extension of the proposed Kings Hill town and in this context, will not blur or undermine the distinction between the proposed town and the surrounding rural and environmental landscapes.

G3-12 Rezoning requests to create a new village or town should be located towards transport corridor junctions to strengthen the public transport network and provide greater choice of routes for residents and transport users in the movement economy – recommended rezoning is an extension to a proposed new village of McPherson that forms part of the town of Kings Hill.

G3-13 Rezoning requests for development will include an assessment of the costs of the construction, operation and maintenance of supporting infrastructure, community services and facilities and the long-term life cycle costs of such infrastructure and whether the increased rate revenue likely to be generated by the proposed development can support it – the recommended rezoning will form part of the Kings Hill draft LEP and therefore is subject to the processes and outcomes concerning infrastructure, community services and facilities yet to be finalised.

G3-14 If the maintenance and replacement of infrastructure, services and facilities identified in Criterion 15 cannot be supported by the increased rate revenue likely to be generated by the proposed development, then subsequent costs shall be borne by the developer and future landowners in perpetuity yet remain accessible to the public.

N/A.

G3-15 Any proposed development adjacent to the Pacific Highway will require a grade separated interchange as well as access to the local street network connecting other centres so that the role and performance of the highway as an interstate road is not undermined by local traffic. N/A. However, as part of the Kings Hill draft LEP, the subject land

owner will have to negotiate with other land owners in contributing to financing the grade separated interchange.

BUSINESS EXCELLENCE FRAMEWORK

This report aligns with the following BEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 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/ECONOMIC/ENVIRONMENT IMPLICATIONS

The sustainability implications of the rezoning request have been considered in the Background section to this report. The sustainability implications of the recommended rezoning have been considered in the Legal and Policy Implications section of this report.

CONSULTATION

Internal consultation has occurred with Environmental Services, Engineering Services and Integrated Planning. Their comments have been considered in preparing this report. Consultation with the Department of Planning, Department of Environment and Climate Change and the Department of Defence, as part of the Kings Hill LEP, have also been considered in this report. Due to the recommended rezoning being for land that is outside of the Kings Hill draft LEP and hence outside of the local planning boundaries for this urban release area, the advice and views of these agencies may differ to that provided to the Kings Hill draft LEP.

A meeting was held between Council's General Manager and Group Manager of Sustainable Planning and the land owner on the 19th November 2007 to discuss the rezoning request. This led to a teleconference on the 23rd November 2007 between Councils consultant for the third party review, Integrated Planning staff and the proponent including their noise and odour consultants. The teleconference highlighted differences of opinion between the specialist consultants that has made consideration of this rezoning request very difficult.

Whilst some additional modelling, testing of data and subsequent modifications to the infrastructure and/or operation of the waste plant can be undertaken (as discussed during the teleconference), such measures are insufficient to guarantee that land use conflicts between the plant owners and future residents will not occur in the future. Furthermore, the teleconference highlighted that the economic need for the development of land adjacent to the waste plant is insufficient to warrant Council accepting the risks that this rezoning request poses and supporting the placing of homes adjacent to the main waste management facility for Port Stephens upon which Council heavily relies in implementing its waste management responsibilities.

The issues discussed at the teleconference form only a part of the matters which have been considered and form the recommendations of this report. Hence, the teleconference has not altered the recommendations of this report. A conclusion that Council's expert third party review consultant concurs with.

OPTIONS

- 1) Support the recommendations of this report.
- 2) Reject the recommendation of this report.
- 3) Make amendments to the recommendations of this report.

ATTACHMENTS

- 1) Recommended area for rezoning by this report.
- 2) Proposed rezoning as submitted by proponent.
- 3) Site in relation to Kings Hill and 1 kilometre buffer from Bedminster.
- 4) Correspondence from Newline Resources expressing concern over Kings Hill Draft LEP

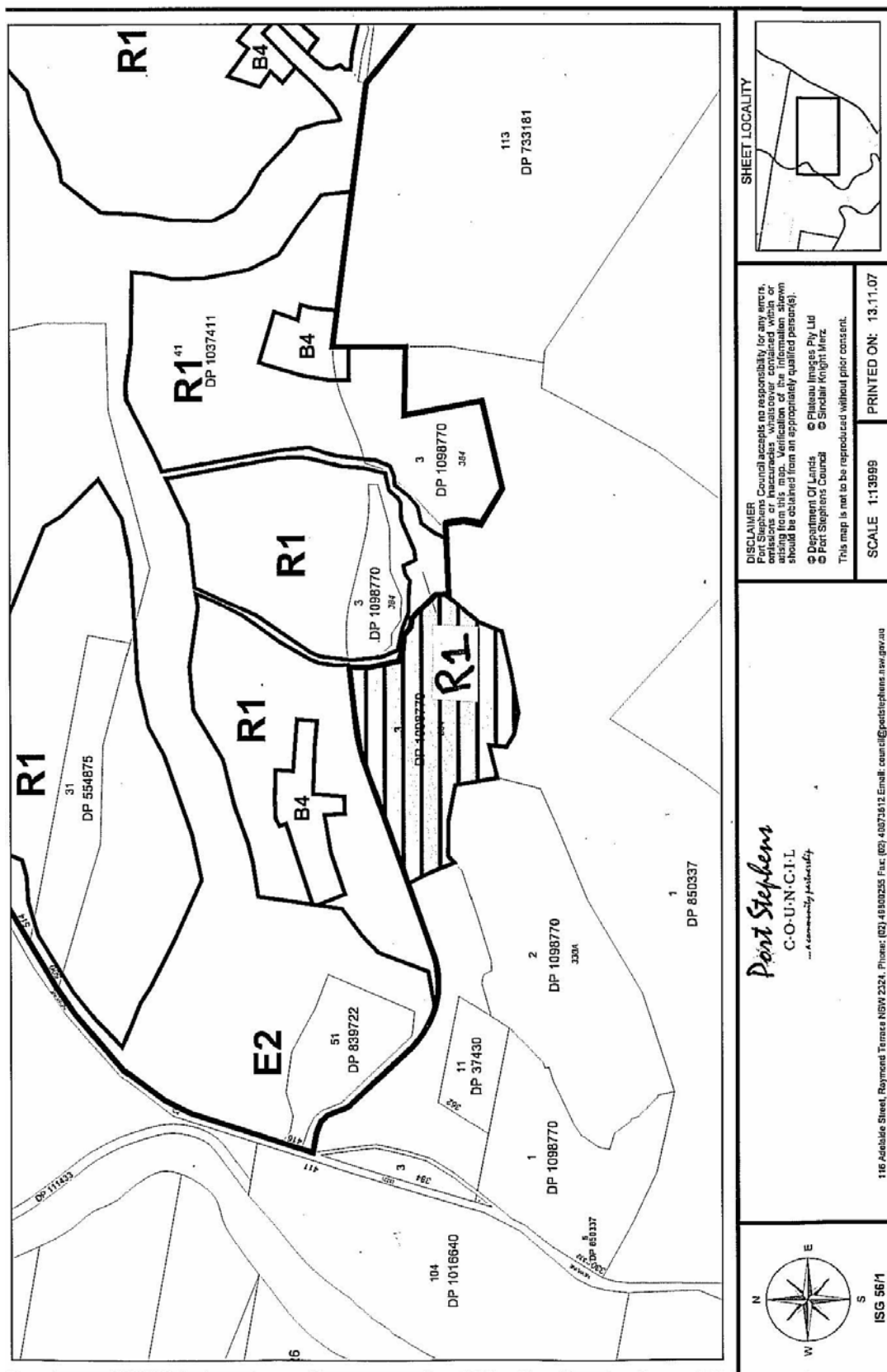
COUNCILLORS ROOM

- 1) Rezoning request including supplementary Odour and Noise reports
- 2) Third Party Review of Odour and Noise prepared by Air Noise Consultants.

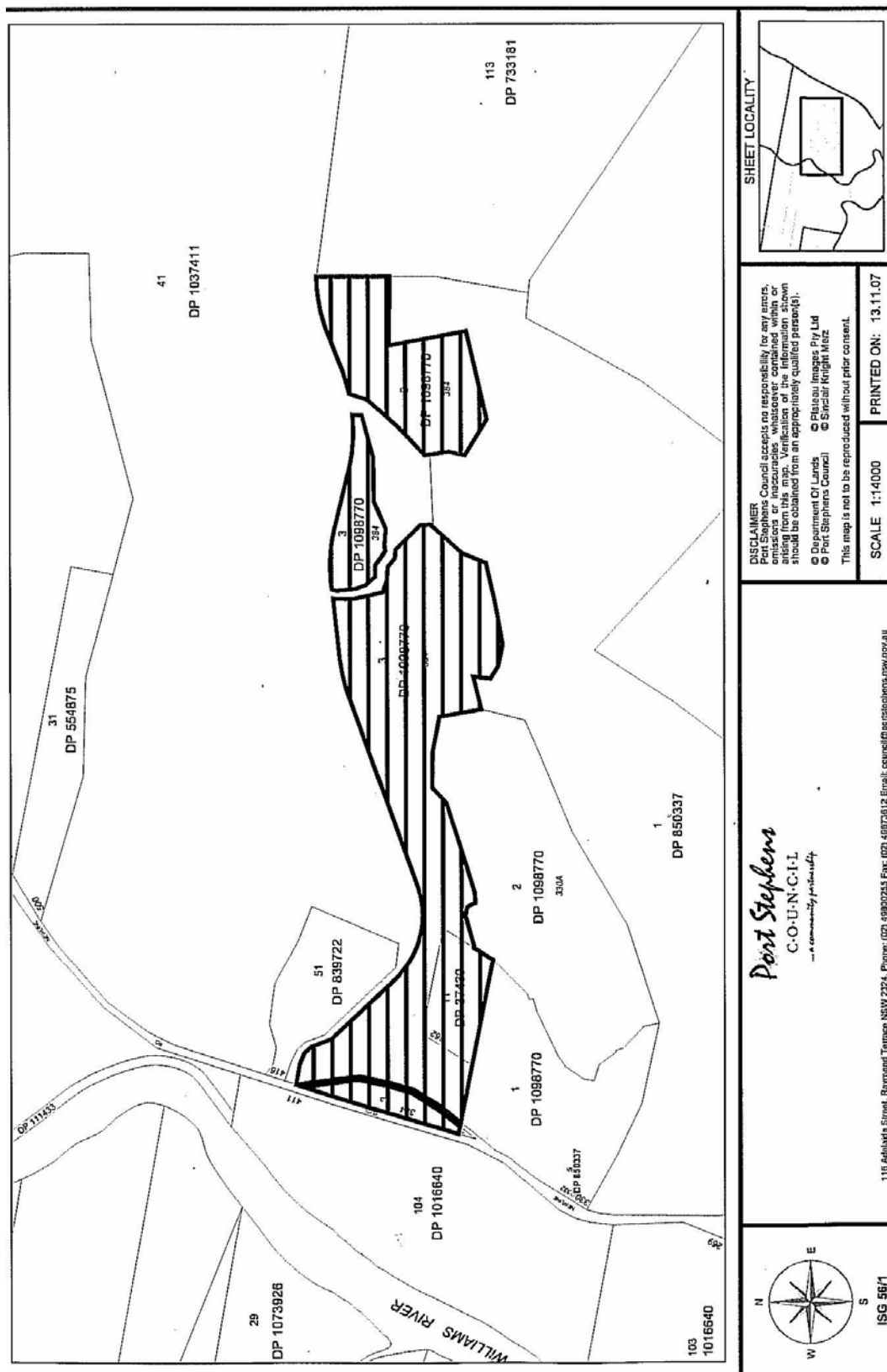
TABLED DOCUMENTS

Nil

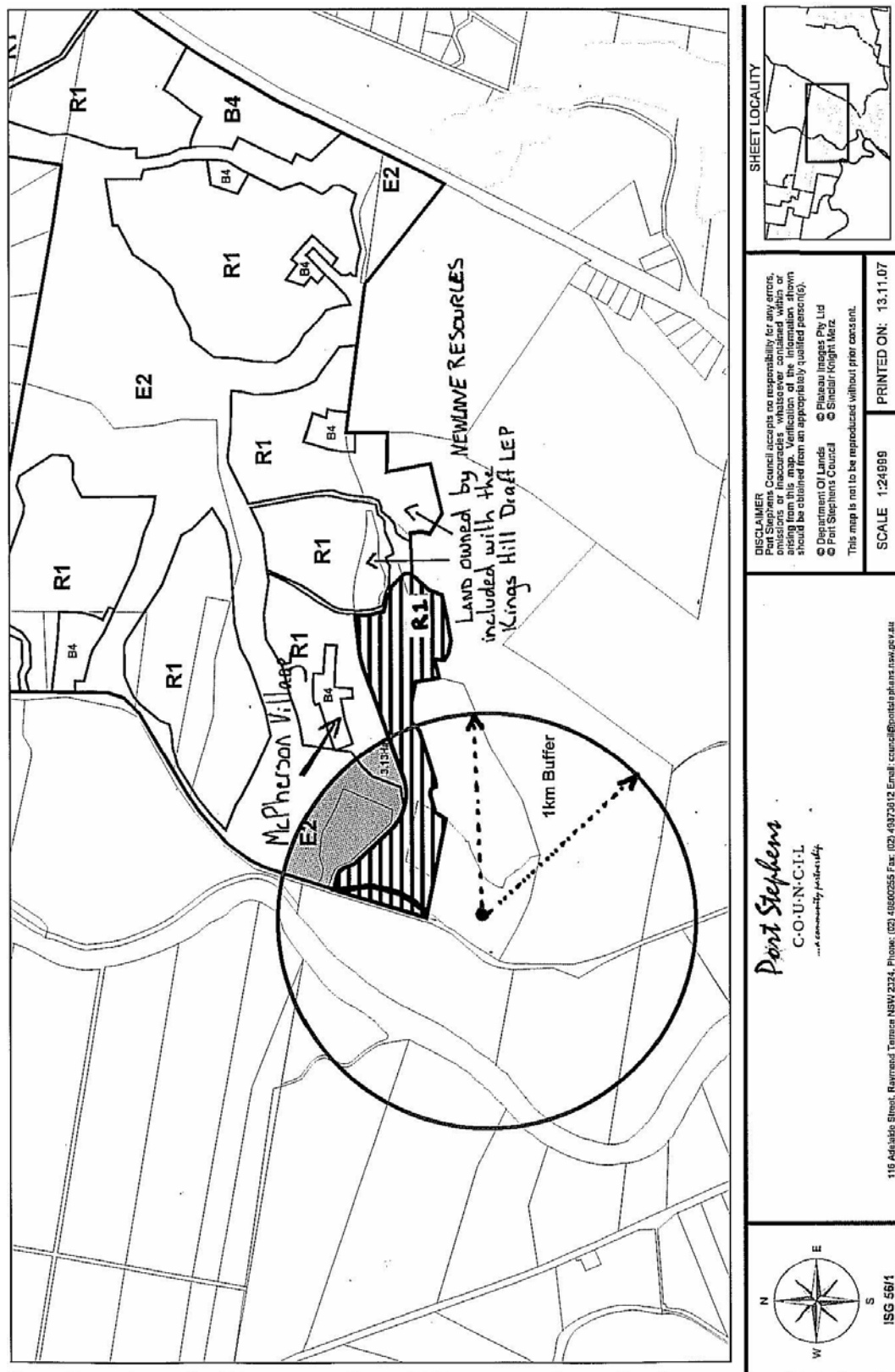
ATTACHMENT 1
RECOMMENDED AREA FOR REZONING BY THIS REPORT



ATTACHMENT 2
PROPOSED REZONING AS SUBMITTED BY PROPONENT



**ATTACHMENT 3
SITE IN RELATION TO KINGS HILL AND 1 KILOMETRE BUFFER FROM
BEDMINSTER**



ATTACHMENT 4
CORRESPONDENCE FROM NEWLINE RESOURCES EXPRESSING CONCERN
OVER KINGS HILL DRAFT LEP

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5 June 2003

The General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Attn: Mr R Dwyer, Town Planner

Dear Sir

Re: Raymond Terrace North Proposed Development

As you may be aware, Port Stephens Waste Management Group Pty Limited (PSWMG) and Newline Resources Pty Limited are wholly owned companies of EWT Pty Limited.

EWT is aware of a proposed development ("Raymond Terrace North") adjacent to Newline Resources' property at Newline Road Raymond Terrace and PSWMG's Bedminster facility. We also understand from Mr Mike Triggar that Council is generally supportive of the proposed development.

We have had certain discussions with Mr Kim Clarke from Xcel Properties who we understand is the project manager for Raymond Terrace North. We have not however been provided with copies of proposed masterplans so our understanding of the development is limited.

EWT has expressed concerns to Xcel Properties regarding the potential effects that the proposed development may have on our own long term operations and on future expansion potential of our facility. We are committed to ensuring that appropriate buffers are in place and that the space for these buffers be appropriately apportioned between ourselves and the developers.

Recently we have had brief discussions with Planning NSW's Mr Brian Murphy regarding the proposed development. Mr Murphy suggested that, subject to your concurrence, we meet with you and Planning NSW so that our concerns may be better understood.

We would be grateful if that meeting could be arranged by you. We also request that the current masterplan be tabled at such a meeting (or such suitable information as Council may currently have available) so that we may gain a better understanding of the developer's proposal.

Suite 4, 99 Alexander Street
Crows Nest NSW 2065 Australia
Tel: +61 2 9902 4400
Fax: +61 2 9966 9166
Email: bbamailbox@bedminster.com.au
ACN 085 648 773

Environmental Waste Technologies

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Page 2
05 May 2003

We look forward to your response. I may be contacted in our Raymond Terrace office on (02) 4983 1520 or (0412) 719 620.

Yours sincerely



Rebecca Wark
NSW Regional Manager

cc: Mr Mike Triggar, PSC
Mr Steven Hedge, CEO EWT
Mr Tony Kanak, EWT

ITEM NO. 8**FILE NO: PSC2006-1004****PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000 TO REZONE LAND – NELSON BAY ROAD, FERN BAY TO FACILITATE RESIDENTIAL DEVELOPMENT AND ENVIRONMENTAL PROTECTION****REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING****RECOMMENDATION IS THAT COUNCIL:**

1. Not support a request to prepare a draft Local Environmental Plan over Lots 1 and 2 DP 1006399 and Lot 3 DP 664552 Nelson Bay Road, Fullerton Cove for residential purposes at this stage;
2. Reconsider the subject land and other lands in the Fullerton Cove and Fern Bay areas as part of the review of the Community Settlement and Infrastructure Strategy – particularly addressing infrastructure, community services, economic and ecological issues - and as part of and developing an integrated and sustainable planning policies for this area.

OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007**RECOMMENDATION:**

That Council consider the subject land and other lands in the Fullerton Cove and Fern Bay areas as part of the review of the Community Settlement and Infrastructure Strategy, particularly addressing infrastructure, community services, economic and ecological issues – and as part of and developing an integrated and sustainable planning policies for this area.

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007**RECOMMENDATION:**

	Councillor Nell Councillor Dingle	That the recommendation be adopted.
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Amendment:

RESOLUTION:

385	Councillor Baumann Councillor Swan	It was resolved that 1) Council support the draft LEP for Lots 1 and 2 DP1006399 and Lot 3 DP664552 Nelson Bay Road Fullerton Cove for residential and environmental protection generally in accordance with Attachment 4; and 2) An infrastructure and servicing study be prepared for Fullerton Cove and Fern Bay with the terms of reference and brief to be agreed. The study to be funded by Boral and prepared in conjunction with Council. The study is to be considered by Council prior to the exhibition of the draft LEP
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RESOLUTION:

386	Councillor Francis Councillor Brown	It was resolved that a division be called for
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Those for the Motion: Crs Jordan, Hodges, Tucker, Baumann, Westbury, Robinson and Swan

Those against the Motion: Crs Brown, Francis, Dingle and Nell

On being put the Amendment was carried and became the motion. On being put the motion was carried.

BACKGROUND

The purpose of this report is to provide Council with additional information to assist consideration of a rezoning request that was reported by Integrated Planning to Council's Operations Committee on 11th September 2007.

Council resolved at its Operations meeting of 11th September 2007 to defer consideration of this rezoning for a site inspection. An inspection was undertaken on Saturday 17th November 2007. The inspection was attended by Boral representatives and their consultant, Councillors, Council General Manager and Sustainable Planning staff.

Attachment 1 provides a complete and detailed assessment of the rezoning request. The matters raised during the September 11th Operations Meeting and the site inspection are the subject of this report.

LINKS TO CORPORATE PLANS

See Deferred Report included in Attachment 1.

SOCIAL SUSTAINABILITY – Council should focus its efforts on strengthening communities in Medowie and developing Kings Hill as a new town where existing infrastructure and services can be expanded or new infrastructure and services provided rather than dispersing the population in Fern Bay where provision of adequate infrastructure and services is posing significant challenges for Port Stephens and Newcastle Councils.

CULTURAL SUSTAINABILITY – the Worimi Conservation Lands provide a strong cultural link in this area and are a valuable asset for the Port Stephens Local Government Area. The site inspection highlighted the sensitive location of the Boral site as a buffer to these lands.

The map of the Worimi Conservation Lands included in the deferred report was noted to be out of date. An updated map of the Worimi Conservation Lands is included in this report in **Attachment 2**.

The site also adjoins the historic Stockton Sand Dune System listed as State Significant under LEP 2000.

ECONOMIC SUSTAINABILITY – the Fern Bay / Fullerton Cove area is experiencing incremental growth although it is not identified as a future growth area and no strategic planning specifically for this area is proposed in Council's work program.

The approval of residential development in areas remote from identified growth areas places financial pressure on Council through the provision of facilities and services where accessibility and economies of scale are problematic. A thin distribution of facilities and services actively works against Council's policy to consolidate facilities and services to prevent duplication and manage assets in a more efficient and cost effective manner and provide improved outcomes for the

community.

ENVIRONMENTAL SUSTAINABILITY – the site adjoins well vegetated areas including the Watagan Stockton and Wallarah Green Corridors identified in the Lower Hunter Regional Strategy and the draft Regional Conservation Plan. The restriction of urban development in this area will support the improved sustainability of the existing vegetation communities.

BUSINESS EXCELLENCE – the development of the site for residential purposes does not support Council's goal of long-term sustainability across operational and governance areas in Business Excellence.

FINANCIAL/RESOURCE IMPLICATIONS

See Deferred Report included in Attachment 1.

LEGAL AND POLICY IMPLICATIONS

Attachment 1 provides a detailed assessment of the proposed rezoning against the Sustainability Principles and Criteria in the Port Stephens Community Settlement and Infrastructure Strategy 2007. This Strategy identifies Council's priorities for the investigation of land suitable for future urban development and does not include land at Fullerton Cove or Fern Bay. Consideration of the Boral rezoning ahead of areas identified under the Port Stephens Community Infrastructure and Settlement Strategy would require a change in Council policy.

SUSTAINABILITY IMPLICATIONS

SOCIAL / ECONOMIC IMPLICATIONS –

See Deferred Report included in Attachment 1.

ENVIRONMENTAL IMPLICATIONS

The deferred report in Attachment 1 on Page 9 noted Coastal Sand Apple Blackbutt Forest as an Endangered Ecological Community. Environmental Services advise that this community is not an EEC but highlight the value of Coastal Sand Apple Blackbutt Forest as habitat for many threatened species known to occur in the area such as the Squirrel Glider, Powerful owl, Spotted tailed quoll, and several species of micro bats. The loss of this habitat is potentially significant.

An ecological assessment of the site prepared for the proponent identified an area in the northern part of the site as an Endangered Ecological Community, Swamp Sclerophyll Forest, and two other pockets of what they have called Swamp Mahogany Paperbark Forest in the main area of the site. The names of these two vegetation communities are often used interchangeably, (e.g section 4.4 of the ecological assessment). Although it is inferred that the Swamp Mahogany Paperbark Forest is not the Endangered Ecological Community Swamp Sclerophyll Forest, this argument has not held up in court (refer Motorplex (Australia) Pty Limited v Port Stephens Council [2007] NSWLEC 74).

Department of Environment and Climate Change "Key Habitats and Corridors Project" identifies the area, of which the site forms part of, as a component of a regional corridor connecting the Sugarloaf Range to Stockton Bight. Although a buffer corridor along Nelson Bay Road has been established by the Seaside development to the south, the continued fragmentation of the corridor will increase the vulnerability of the remaining vegetation to degradation as a result of reduced sized, increased edge to area ratios and increased fragmentation and isolation.

CONSULTATION

An inspection of the site occurred on Saturday 17 November 2007. Representatives from Boral and their consultants were in attendance with Council staff. Officers from Strategic Planning and Environmental services have been consulted in the preparation of this report.

OPTIONS

- 1) Adopt the recommendation;
- 2) Resolve to initiate a draft Local Environmental Plan in accordance with section 54 of the Environmental Planning and Assessment Act (1979).

ATTACHMENTS

- 1) Deferred Operations Meeting Report of 11 September 2007.
- 2) Updated Worimi Conservation Lands Map

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil

ATTACHMENT 1
OPERATIONS COMMITTEE REPORT – 11 SEPTEMBER 2007
ITEM NO. 5 FILE NO: PSC2006-1004

REQUEST TO AMEND LOCAL ENVIRONMENTAL PLAN 2000 - REZONE LAND NELSON BAY ROAD, FULLERTON COVE, TO FACILITATE RESIDENTIAL DEVELOPMENT AND ENVIRONMENTAL PROTECTION.

REPORT OF: TREVOR ALLEN – ACTING MANAGER, COMMUNITY PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Not support a request to prepare a draft LEP over Lots 1 and 2 DP 1006399 and Lot 3 DP 664552 Nelson Bay Road, Fullerton Cove for residential purposes.
- 2) As part of the review of the Port Stephens LEP 2000 by 2011, support the inclusion of:
 - ☐ (a) the subject land with the intent to rezone to environmental protection that facilitates the required long term rehabilitation and ecological restoration of the site; and,
 - ☐ (b) the residual residential zoned land associated with the Seaside development, that will not be developed for ecological reasons outlined in the Species Impact Statement with the intent to rezone to environmental protection -

in recognition of the high environmental and conservation values of these lands forming part of the regional ground water catchment area and Watagan Stockton Green Corridor and the potential for these lands to be included as part of the Stockton conservation area.

BACKGROUND

The purpose of this report is to recommend that Council not support the request to prepare a draft LEP over the subject land for residential purposes but resolve to include the subject land in the LEP 2000 review that reflects; the proponent's obligations to rehabilitate the site disturbed by sand extraction activities; the predominant land use of adjoining lands in this location; the subject land's location relative to existing public infrastructure, services and facilities; and, Council's ability to provide, maintain and replace infrastructure, services and facilities to new development in this area.

PROPOSAL DETAILS

Owners: Boral Resources (NSW) Pty Ltd **Proponent:** Environmental Resources Management Australian Pty Ltd (ERM) **Date of submission:** November 2006 **Site:** Lots 1 and 2 DP 1006399 and Lot 3 DP 664552 Nelson Bay Road, Fullerton

Cove Existing zoning: 1(a) Rural Agriculture "A" **Proposed zoning:**

- ☐ Residential 2(a) Zone (approx. 80 ha, 1,100 dwellings / 2,800 residents);
- ☐ environmental conservation zone (approx. 125ha);
- ☐ retention of a rural zone to allow continued sand extraction (approx. 20 years); and
- ☐ an enabling clause to permit a tourist development within the proposed 2(a) residential zone and to permit the relocation of the depot and haul road within the proposed 7(a) environment protection 'a' zone.

Attachment 1 Location of the site and existing zoning of adjoining lands. **Attachment 2** Relationship of the site to the Worimi Conservation lands. **Attachment 3** Site showing extent of site disturbance in relation to the total area. **Attachment 4** Rezoning and Development Concept Plan for the site **Attachment 5** Reduction of residential zoned land in Fern Bay area

since 1996. **Attachment 6** Relationship of Development Concept Plan to the latest Seaside “village” masterplan.

The site covers an area of approximately 246ha. The site adjoins a corridor that links the Tomago Coastal Plain with the Lower Hunter plain, west to the Sugarloaf Range and is surrounded by State Recreation and Conservation areas. The site directly adjoins lands referred to as the Worimi Conservation Lands that include the new 1905ha Stockton National Park, a 1475ha State Conservation area and the 818ha Regional Park. The relationship of the Worimi Conservation lands to the site is shown in **Attachment 2**. The site adjoins land to the north fronting Stockton Bight that is identified as a State Heritage item under LEP 2000. This land includes the Stockton Beach Dune System, Aboriginal artefacts and WW11 items. The Boral site is considered to have historical value as well as conservation value to the Port Stephens LGA.

Sand extraction activities were approved under DA D2010/94 and have disturbed approximately 25% of the site. An aerial view of the site showing the extent of site disturbance in relation to the entire site is included at **Attachment 3**. This controversial DA was approved by Council following an extensive consultation period where Council sought the independent advice of the Office of the Commissioners of Inquiry for Environment and Planning to assist in the assessment of the proposal and to make recommendations on determining the proposal and the drafting of conditions of consent.

Consent for sand extraction was to lapse on 1st May 2006 but has been extended for 3 years by Council through a Section 96 amendment. It is expected that the sand resource will be depleted within this time. It is a condition of consent that disturbed areas of the site be rehabilitated. The landowner is obligated to undertake this rehabilitation work and has prepared a Management Plan to direct this work. The remainder of the site is undisturbed and includes high conservation value vegetation and habitat.

A proposal to extract wind blown sand on the eastern edge of the property was approved by the Minister for Planning on 24 January 2006. The sand extraction activity is likely to last 20 years. Cox’s Lane will be utilised as the haul road.

The proponent met with Council’s Rezoning Assessment Panel in December 2005 and was advised:

- 1 *Settlement Strategy is under review. The existing Urban Settlement Strategy will be relied upon to guide assessment and advice to council.*
- 2 *If rezoning is supported by Council, loss of ecological values will need to be addressed through ecological offsets.*
- 3 *Development concepts will need to be supplied to provide a taste of what is proposed. Land Use Planning will undertake internal consultation and assess strategic factors before reporting to council. If Council supports rezoning subject to resolution of certain matters then these matters can then be resolved through the rezoning process.*
- 4 *Need to address draft Lower Hunter Regional Strategy Sustainability Criteria.*

In April 2006 a detailed rezoning request for the site was submitted to Council but later withdrawn by the proponent on the basis that; the proposed area for residential development had been increased; and the Department of Planning is now seeking short concise strategically based rezoning submissions. In November 2006 a revised request was submitted requesting an area greater than that disturbed by sand extraction activities be rezoned for residential development. The Concept Plan for the site is shown in **Attachment**

4.

In the meantime, the State government has released the Lower Hunter Regional Strategy, established the LEP Review Panel and significantly reformed the policy framework governing rezoning requests. Council has adopted the Council Plan 2007-2011 that emphasises the social, cultural, economic and environmental pillars of sustainability, ensuring that short term decision-making is based upon long term directions and that, as a performance indicator, rezoning requests

are offset and measured against community gain. Council has also adopted the Community Settlement and Infrastructure Strategy 2007 that integrates Council's Sustainability Policy with the State government's Integrating Land Use and Transport policy package, Coastal Design Guidelines and the Lower Hunter Regional Strategy.

Reduction of the Fern Bay urban release area and Fern Bay Seaside "village" development

During the 1990's Council and the State government considered Fern Bay to be a significant area for future urban development both strategically and through land use zoning. However, over time the size and yield of urban development from this area has significantly decreased. This has been a result of an increasing appreciation of the area's environmental attributes, detailed studies of this area, subsequent land use planning decisions by Council and the State Government rezoning residential land to environmental protection, plus, a general desire by the State Government to protect sensitive coastal lands from inappropriate development (e.g. proposals to create a Stockton Bight National Park in 1995, SEPP 71 Coastal Protection policy and the recent granting by the State government of crown lands in the Stockton Bight to the Worimi Local Aboriginal Land Council to be leased back to the government as conservation reserves).

For the Fern Bay Seaside "village", consultation with government authorities resulted in the establishment of a 200m environmental corridor along Nelson Bay Rd and a north-south environmental corridor between Seaside "village" and the subject site. These corridors have left the "village" disconnected from Nelson Bay Road, the subject site and from Fern Bay itself. The Species Impact Statement prepared for the "village" states that land zoned residential and deemed to be ecologically sensitive will not be developed but rezoned to environmental protection. The result is an isolated community that would not be considered a sustainable urban development. The reduction of residential zoned land in the Fern Bay area since 1996 that led to the current development area of the Seaside "village" can be seen in **Attachment 5**.

LINKS TO CORPORATE PLANS

This report addresses the strategic and future directions of Council's Plan 2007-2011 in particular:

- ☐ Integrating planning for facilities and services.
- ☐ Council's facilities and services meet community need.
- ☐ Promote, plan and guide development to create sustainable community that conserve and enhance the natural and built environment.
- ☐ Port Stephens treasured environment is maintained and improved for the well being of our community.
- ☐ Alignment of Council Plans
- ☐ Alignment of State and Regional Plans
- ☐ Development focuses on our communities being sustainable
- ☐ Our Council will plan and manage our finances to maximize community benefit.

FINANCIAL/RESOURCE IMPLICATIONS

The preparation and delivery of Council's strategic planning priorities over the last 12 months has lead to the need for a planning consultant, appointed by Council and funded through rezoning fees, to undertake the investigation and analysis of the rezoning request and preparation of this report.

Should council not adopt the recommendations of this report and resolve to prepare a draft LEP in accordance with the proponent's submission (that is then supported by the Department of Planning's LEP Review Panel), this will require the appointment by Council of a planning consultant to; process the draft LEP, including an LES prepared by Council and funded by the proponent; prepare Section 94 plan and developer agreements and development control matters.

LEGAL AND POLICY IMPLICATIONS

Legal – there are no legal implications if Council adopts the recommendations of this report.

Policy - Community Settlement & Infrastructure Strategy 2007.

The relevant sections of the Strategy guide the assessment of the rezoning request as follows:

Part D Strategic Directions; - the subject site is identified on Figure 21 as Rural and Agricultural land only.

Part E Local Area Strategies - a Local Area Strategy has not been undertaken for the Fern Bay / Fullerton Cove area.

Part G Implementation - as the subject site has not been strategically identified for urban development in Parts D or E, Part G3 Land Not Identified for Development applies.

Part G3 Land Not Identified for Development

G3 Criteria 1: Assessment of the proposal against Part F Sustainability Principles and Criteria is as follows:

F1 Settlement Structure and Movement Network - Principles 3 and 5

The proposed rezoning is neither a village nor a town located on a transport corridor consistent with Figures 26, 27 28 and 29. It is a car dependent development only and does not support the public transport network for direct and efficient connections to access jobs, services and provide choice in modes of travel.

Residents would have to access community services and facilities outside the development. Based on the moderate figure of 6 car movements per dwelling per day, an additional 6,600 car movements would be generated. This adds to the 19967 (2005 data) vehicles per day travelling along Nelson Bay Road. The separation of the proposed development from the transport corridor reinforces the development as a car oriented development only. The proposed development would marginalise children, young adults, elderly and people physically or financially incapable of driving or owning a motor vehicle.

Principle 8 - the proposed rezoning does not support direct and efficient public transport as it is located separate to the transport corridor and has only one access point.

F2 Infrastructure Services and Facilities - Principles 18 - 25

How infrastructure, services and facilities including human support services and programs will be delivered to the site is not detailed. The nearest services in the LGA are at Raymond Terrace some 17 kms away, alternatively, at Stockton in the Newcastle LGA some 12 km away. Future residents would be dependent upon private motor vehicle to access services and facilities.

Current council negotiations concerning Seaside "village" and community facilities are highlighting the physical difficulties in providing facilities in good locations in Fern Bay. Health, education, legal, cultural and community development services are located at existing centres well removed from the subject site. The ability to provide future services and facilities in Fern Bay that are accessible and financially viable is problematic.

F3 Quality Places to Live - Principles 26-29. N/A at this stage.**F4 Natural Areas and Resources**

Principle 30 – it is unclear if site is located above or forms a catchment to a regional aquifer. According to Council's mapping, Hunter Water Corporation Special Areas are delineated to the north and south of the site by the property boundaries of the subject land. These lands are also zoned environment protection for water catchment purposes.

Principle 32 – proposed rezoning is an opportunistic development proposal as part of the land owner's investigations for further development of the site post cessation of sand extraction activities. The proposal does not pose significant economic, environmental or social benefits to the community enough to justify that the loss of ecological values or processes on the site can be offset by same ecological values or processes elsewhere.

F5 Economics and Employment

Principle 52 – the rezoning proposal does not facilitate local employment and business opportunities. By locating "offline" from the transport corridor, local employment and business opportunities would only be serviced by the primary catchment area of the proposed development. It is unlikely that such activities could be economically sustained over the long term. Furthermore, retailing on the site is likely to be limited in product range and price and require residents to shop at Raymond Terrace, Medowie or Stockton. Opportunities to move the development towards Nelson Bay Road are limited by the 200 metre environmental corridor that runs between Nelson Bay Road and the proposed development area.

F6 Sustainability Criteria (derived from the Lower Hunter Regional Strategies

Sustainability Threshold Criteria and to be applied for any proposed development outside designated areas in Regional Strategy):
These criteria are for consideration by the Department of Planning.

The proposal is not consistent with the Integrating Land Use and Transport policy package particularly Principle 3, align centres with corridors, and Principle 4, link public transport with land use.

The proposal is inconsistent with the objectives of the NSW Coastal Design Guidelines. In particular, to limit coastal sprawl, to integrate land use with transport, to encourage new coastal settlement to be appropriately located, and, to create neighbourhoods centred around services and facilities.

G3 Criteria 2: the site is not located on a transport corridor for the purposes of the Figure 45 of the CSIS. This is because the majority of Nelson Bay Road runs through land that the regional strategy and the draft Regional Conservation Plan have identified as having high conservation value with significant areas of land added to the national park estate. The regional strategy does not allow the Sustainability Threshold Criteria to be applied to these lands but can apply to the subject land.

The Concept Plan for the site indicates 80ha of land for consideration for residential purposes, over the 50ha minimum. This 'developable' land includes land that Boral is obligated to rehabilitate, as well as the clearing of vegetation adjoining the Seaside "village" site that is identified in a previous ecological assessment by the proponent as having high conservation value.

G3 Criteria 3: The site is not suitable for urban development as it is located away from a transport corridor and has the land use constraint of a 200m environmental corridor along Nelson Bay Road that restricts vehicular and pedestrian access. This restriction undermines the appropriateness of developing the land for urban development and supports the continued rehabilitation of the land by the current owner undertaking sand extraction.

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007

G3 Criteria 4: A Local Environmental Study would be required if a rezoning proposal for urban development were to be supported.

G3 Criteria 5: – N/A

G3 Criteria 6: The concept plan (Attachment 4) illustrates that the proposed development is unable to compliment the transport network or the centre's hierarchy for retail or employment. The required environmental corridor prohibits the new community from integrating with the transport corridor and cannot achieve the principles of the Strategy to create a more sustainable community.

G3 Criteria 7: The proposed development is restricted by environmental constraints that limit access points and permit only restricted connection to Nelson Bay Road.

G3 Criteria 8: Proponent has indicated that they are prepared to meet housing diversity/choice targets of 80% detached and 20% attached. Aged, disabled or affordable housing via market delivery is unlikely to be achieved on site as it is isolated making it difficult for social and economic planning goals to be achieved. A combination of location, remoteness, environmental and design factors undermine the appropriateness of seeking affordable housing outcomes for this site. Market intervention to facilitate such outcomes on the site would be undesirable and not in the public interest.

G3 Criteria 9: The site is attached to existing urban-zoned land to the south. However, as recommended by the Species Impact Statement for the Seaside development, this land is recommended to be included in the LEP review for 2011 to be rezoned to environmental protection. Consequently, the proposed development cannot connect to existing urban developed land and cannot demonstrate a logical extension of existing urban areas. Development of the site will create a physical community with characteristics similar to a gated community and no connection to adjoining areas.

G3 Criteria 10 - 12 – N/A

G3 Criteria 13: The rezoning request indicates that an assessment of the costs of construction, operation and maintenance of public infrastructure and whether increased rate revenue to council from future residents can financially support the development will be determined through the rezoning process. However, the challenges of providing public infrastructure to the site is illustrated by the following standards table from Council's recently adopted Section 94 plan adapted to include the likely point of access to facilities for development on the site:

		Existing facilities Fern Bay area 0	Required to serve population 2800 700 3	Point of access for Boral development Anna Bay
Facility Community Services	Standard 1 plot 1 niche wall			
Cemeteries Burials Niches				
Multipurpose Children's space	1 child care place	0	50 spaces	Stockton
Multipurpose Community Space	100sqm of space	Fern Bay Hall	280m2	Fern Bay
Cultural Services and Leisure Facilities				
Libraries	1 branch library	Mobile library	contribution	Raymond Terrace
	1 library lounge		contribution	Mobile Library
Exhibition Space	100m2	0	30m2	Raymond Terrace
Recreational facilities				
Leisure Centres	n/a	0	contribution	Lakeside Raymond Terrace
Surf Lifesaving Clubs	n/a	0	contribution	Birubi Surf Club
Boat Ramps and jetties	n/a	0	contribution	Port Stephens
Parks and reserves				
Local Parks and Playgrounds	0.3ha	Provided with development	1ha	On site
Neighbourhood	1ha	0	0.7ha	On site
District Parklands	1ha	0	0.7ha	Raymond Terrace Medowie

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Natural Open Areas Sports Facilities Netball Courts	2.5ha 1 comp level	Reserves surrounding Fern Bay 0	7ha 1	On site Raymond Terrace
Skate Parks	1 park	0	1	Raymond Terrace
BMX tracks	n/a	0	Contribution	
Sport Fields	1 ha	0	3-4ha contribution	Raymond Terrace
Tennis Courts	1 court	1	2	Raymond Terrace
Swimming Facilities	1 facility	30,000	Contribution	Lakeside Raymond Terrace

The amount of public facilities and infrastructure generated by the proposed development would be located at Raymond Terrace, Medowie or Stockton some 17, 12 and 12 km away respectively. This combined with the need for shopping, banking, medical, employment and other support activities, means that residents would be dependent on travelling significant distances to meet their daily needs. This is not a sustainable form of development.

Internal consultation on this rezoning request expressed strong concerns over the appropriateness and the ability of Council to provide public facilities for this proposal. This is on top of the existing difficulties to negotiate financially and socially sound outcomes for public facilities associated with the Seaside “village” and other developments in Fern Bay to the south of the subject land.

This concern is reflected by Newcastle City Council's formal request for cross boundary section 94 contributions plan to offset the impacts of the Seaside development upon Newcastle's infrastructure in Stockton. A separate report dealing with the Newcastle's request is being prepared for Port Stephens Council. The provision of public facilities on site means the ongoing burden to Port Stephens Council to manage isolated facilities is likely to far exceed expected rate income, broader social outcomes and facility utilisation rates.

G3 Criteria 14: Rate revenue from the proposed development is unlikely to support the level of public facilities and infrastructure required of the development and would require subsidisation by ratepayers across the LGA. If these costs were to be borne by the developer and future residents in perpetuity this in effect would lead to the proposed development becoming a private gated community. This, combined with high private transport costs to access facilities, means that such a community could not be considered appropriate to address housing affordability issues.

Lower Hunter Regional Strategy

The LHRS provides that ‘former mining land offers opportunities for conservation and development outcomes when activities are completed.’ The rezoning request explores a development outcome with no consideration given to a conservation outcome. A conservation outcome will be consistent with the obligations to restore the site and in keeping with the predominately environmental, conservation, forest and rural land uses adjoining the site. The CSIS and the LHRS show the site as having Rural and Agricultural land uses.

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
- 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 rezoning request has been submitted on the following basis:

1. *the site is disturbed land*

Response: the site has been disturbed to enable the proponent to access a resource. The legally agreed end use is to rehabilitate the site to its original state as specified by conditions of consent. For the land owner to circumvent its legal obligations by seeking to change the land use to allow permanent residential development on the basis that the land is disturbed is a circular argument that ignores the sustainability issues raised in this report. There are many areas of disturbed land across the LGA that do not automatically lead to the conclusion that such lands are suitable for urban development.

2. *the site is relatively constraint free and the proposal will provide much needed housing to assist in accommodating the projected population over the next 25years*

Response: The site is not constraint free as the legally agreed end use is a rehabilitated site to restore ecological values lost through sand extraction activities. Had the site not been disturbed in the first instance raises the question whether the site is a good location for accommodating future population growth. Under the LHRS and the CSIS, the State Government and Council have not identified the site as suitable for urban development. These Strategies have identified suitably located lands to accommodate the projected population over the next 25 years that satisfy economic, social and environmental criteria for creating more sustainable communities.

3. *the site is well located to the proposed Williamtown employment lands.*

Medowie is better located to support the Williamtown employment land as an airport town that can more sustainably accommodate growth in population, infrastructure and services far superior to that offered by the subject site.

Access to employment is only one criterion for the creation of a sustainable community. Future development at Medowie will provide residential land well located to the proposed Williamtown employment lands and will be integrated with current and future community facilities and services linked to public transport.

The proposed development will result in the destruction of rehabilitated land and the removal of approximately 25 ha of Coastal Sand Apple-Blackbutt forest – an Endangered Ecological Community. The clearing of this section of the site aims to facilitate a connection to the Seaside “village” to the south. However, such a connection is unlikely to be achieved as the Species Impact Statement for Seaside development recommends that this land be rezoned from Residential 2(a) to environmental protection. The relationship of the Concept plan to the latest Seaside masterplan is shown on the map at **Attachment 6**.

Port Stephens Comprehensive Koala Plan of Management aims to achieve no further loss of Koala Habitat. Koala Habitat has already been lost in the Fern Bay area through the development of the Seaside “village”. The site has disturbed areas of Koala Habitat that will be rehabilitated following sand extraction. Further vegetation loss is unlikely to be supported by relevant Government Departments and Agencies as demonstrated by the restrictions and requirements placed by these authorities on the Seaside “village”.

Residential development of the site will adversely impact on the environmental qualities of the site through the additional clearing of high quality vegetation and habitat and the introduction of edge effects of residential uses adjoining sensitive ecosystems.

Contamination

A phase 1 remediation report has identified contamination near the depot and ORX across the Boral site. The need for further detailed investigation has been identified. The Concept Plan indicates development restricted to the low risk areas of the site.

CONSULTATION

Internal consultation has been undertaken with Council Officers and their comments have been incorporated into this report.

CONCLUSION

The proponent's rezoning request is not recommended to be supported as:

- ☐ The site is not identified in the LHRS or the CSIS for urban development.
- ☐ • The rezoning request has been assessed against Council's Community Settlement and Infrastructure Strategy 2007 Part G Implementation criteria. The assessment
- ☐ finds that housing 2800 people in this location as proposed would lead to poor economic, social, environmental and cultural sustainability outcomes.
- ☐ The LHRS and CSIS have both identified other more suitable and sustainable sites to accommodate population growth for the next 25 years. This includes Medowie where future population growth will be supported by employment opportunities at Williamstown employment zone whilst co-located with current and future infrastructure, services and community facilities.
- ☐ Fern Bay as a major urban release area has been significantly reduced by past Council and State Government planning decisions reflecting the environmental sensitivities and significance of the area.
- ☐ Provision of current and future infrastructure, services and facilities to this area is problematic due to location and inability to achieve economies of scale to achieve more sustainable provision. The proposed development, in terms of location and design, does not assist Council in providing more equitable and sustainable infrastructure and services to the Fern Bay/Fullerton Cove area.
- ☐ • The rezoning request is an opportunistic proposal for short term gain that provides I
- ☐ little to no long term community benefits to existing residents of Fern Bay or Port Stephens generally.
- ☐ The site has been disturbed for sand extraction but the land owner is obligated to rehabilitate the site as part of conditions of consent issued by Council. The basis of this consent, and community expectation, is the agreed end result that the site will be rehabilitated to allow it to regain its ecological values over time. The proposition that the land is disturbed is a circular argument that ignores the legal responsibilities of the land owner to rehabilitate the site.
- ☐ The development proposes to clear undisturbed heavily vegetated land that includes possible EEC and Koala habitat;
- ☐ The site is sensitively located adjoining the southern edge of Stockton Bight, with links to the Watagan Stockton Bight corridor;
- ☐ The Conservation and Heritage significance of this location holds long-term sustainable economic and tourist values for the Port Stephens LGA ;
- ☐ The site does not directly link to any sustainable area of urban development with the predominant surrounding land uses being rural, environmental protection or recreation.

Based on the above points it is considered that a conservation end use for the site is the most sustainable end use. This would reflect the conservation values of the site and adjoining lands, historical land use decisions by council and the state government, and facilitate the continued rehabilitation of the site.

OPTIONS

- 1) Council adopt the recommendations of this report.
- 2) Not adopt the recommendations of this report and under Section 54 of the EP& A Act resolve to prepare a draft LEP over the subject land in accordance with the request of the proponent and refer matter to the LEP Review Panel.

ATTACHMENTS

- 1) Location of the site and zoning of adjoining lands.
- 2) Relationship of the site to the Worimi Conservation lands.
- 3) Site showing extent of site disturbance in relation to the total area.
- 4) Rezoning and Development Concept Plan for the site
- 5) Reduction of residential zoned land in Fern Bay area since 1996.
- 6) Relationship of Development Concept Plan to the latest Seaside “village” masterplan.

COUNCILLORS ROOM

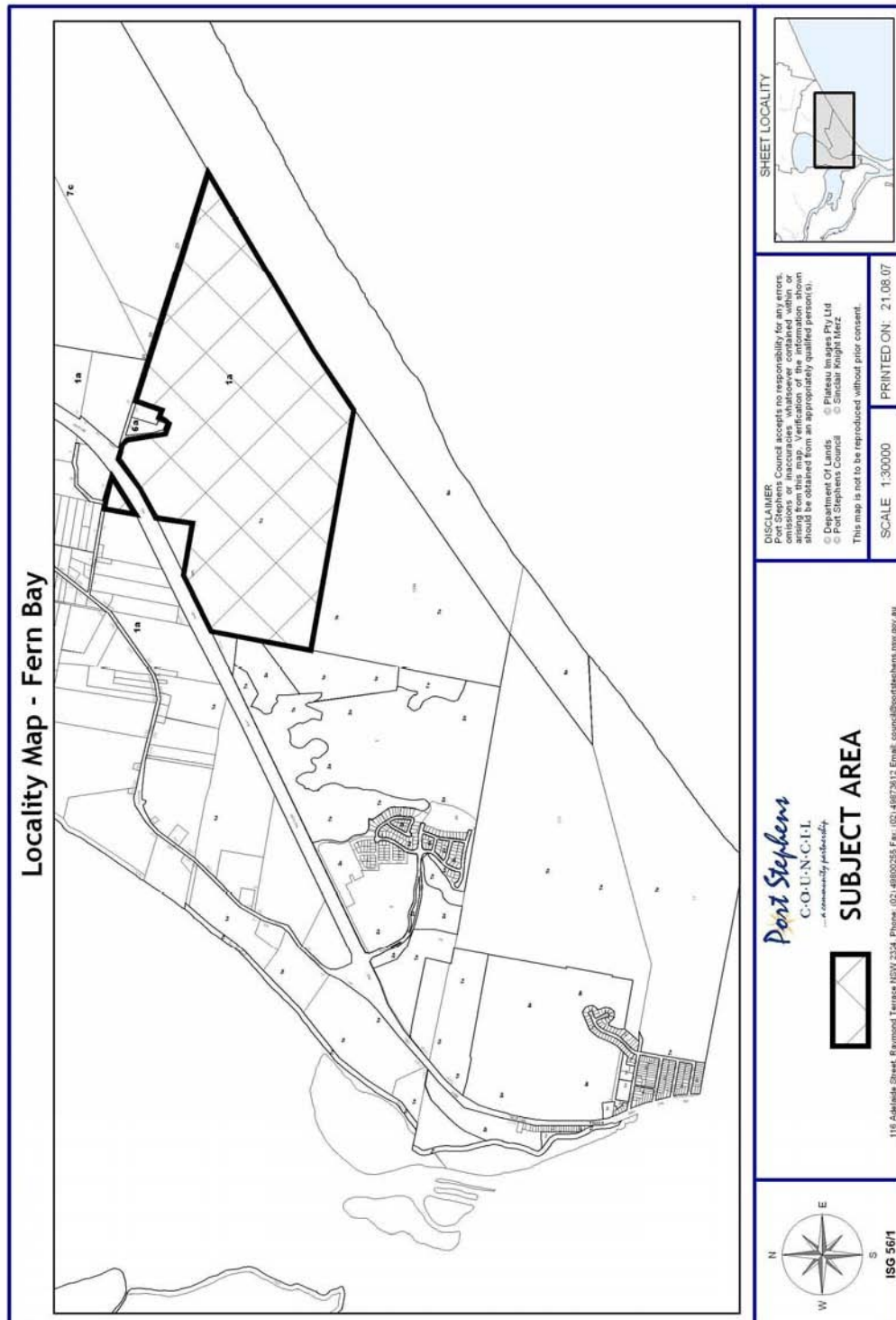
- 1) Boral Stockton Sand Quarry Rezoning Proposal - November 2006

TABLED DOCUMENTS

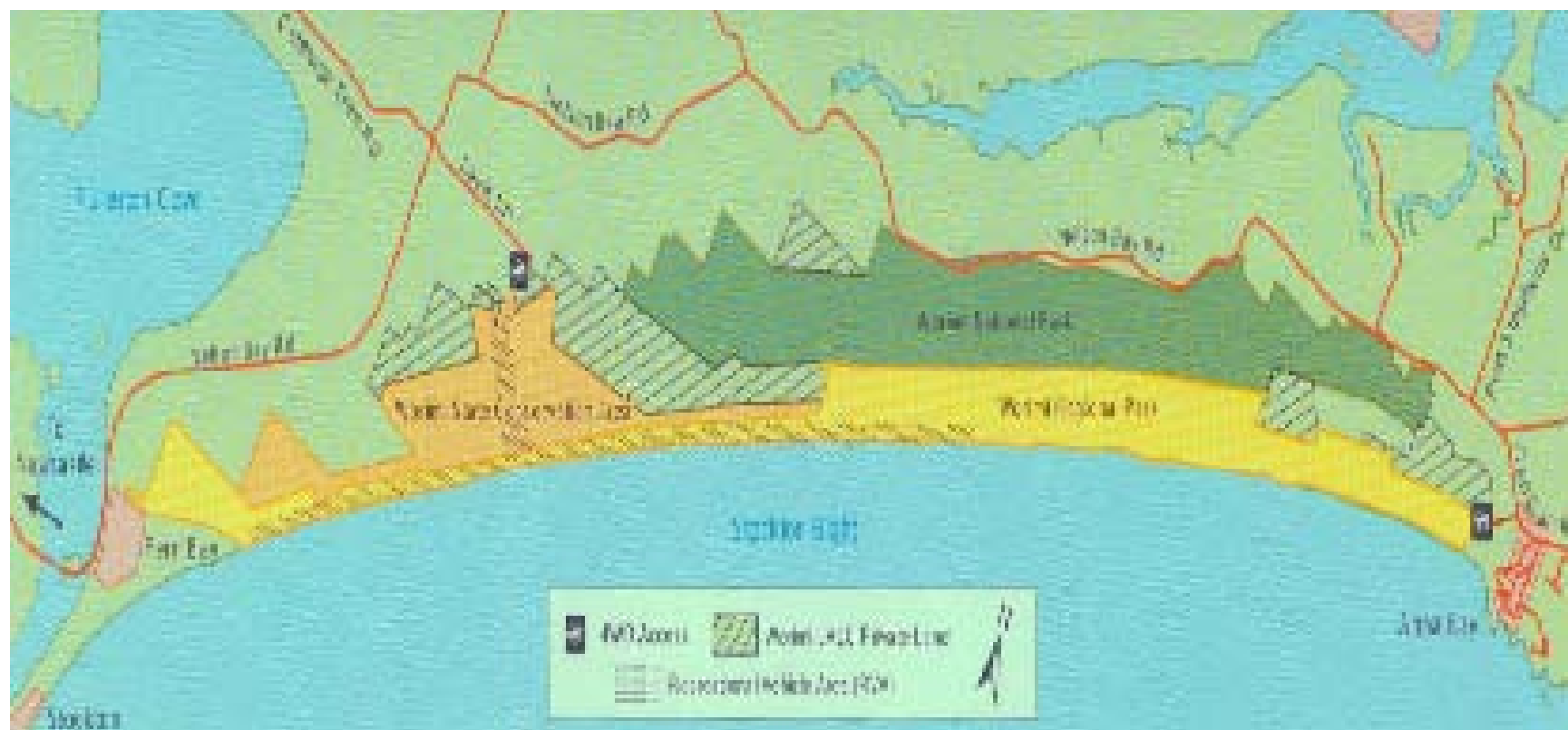
Nil

ATTACHMENT 1

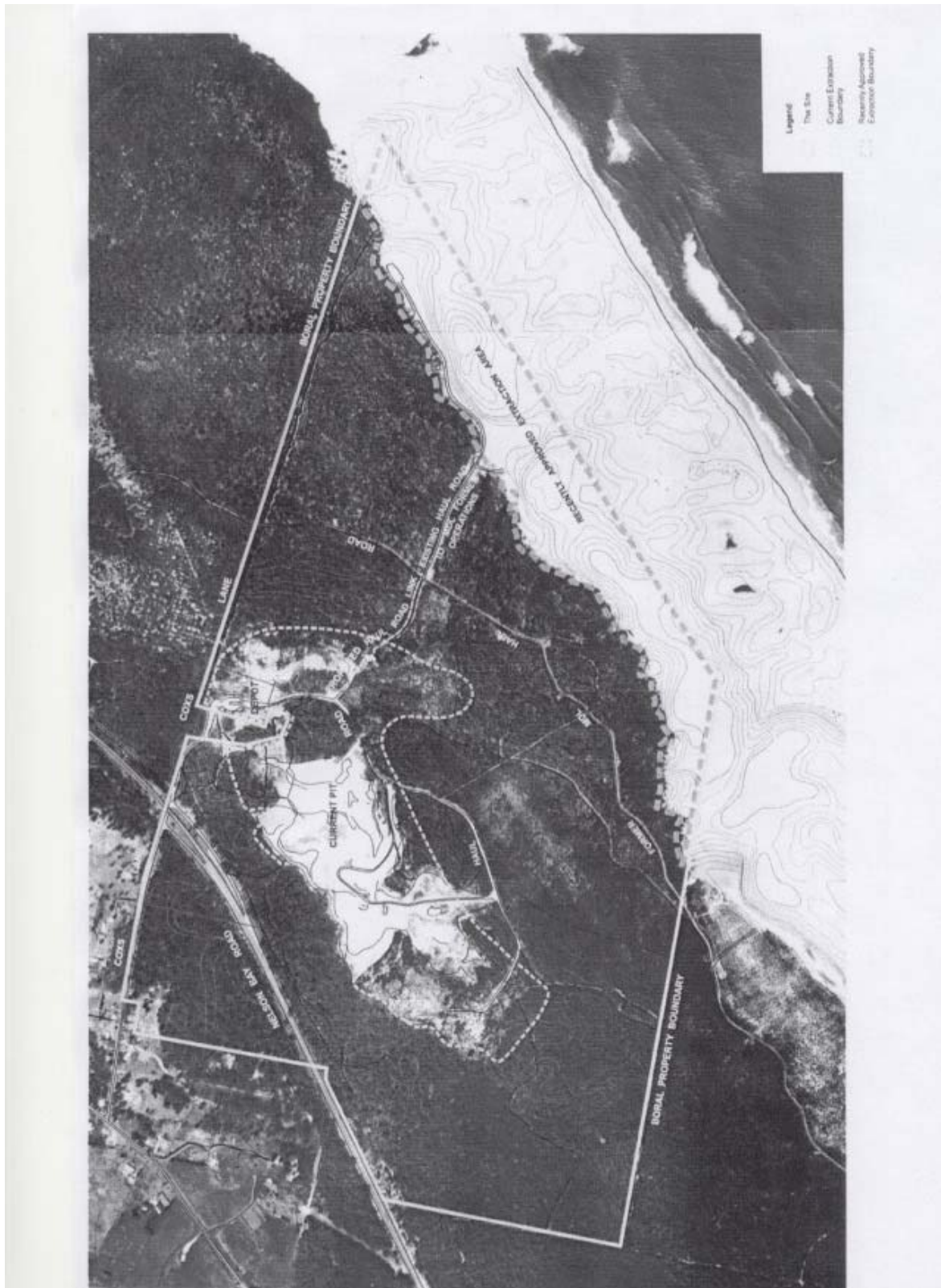
LOCATION OF SITE AND ZONING OF ADJOINING LANDS



ATTACHMENT 2
RELATIONSHIP OF SITE TO WORIMI CONSERVATION LANDS



ATTACHMENT 3
SITE SHOWING EXTENT OF SITE DISTURBANCE IN RELATION TO THE TOTAL AREA



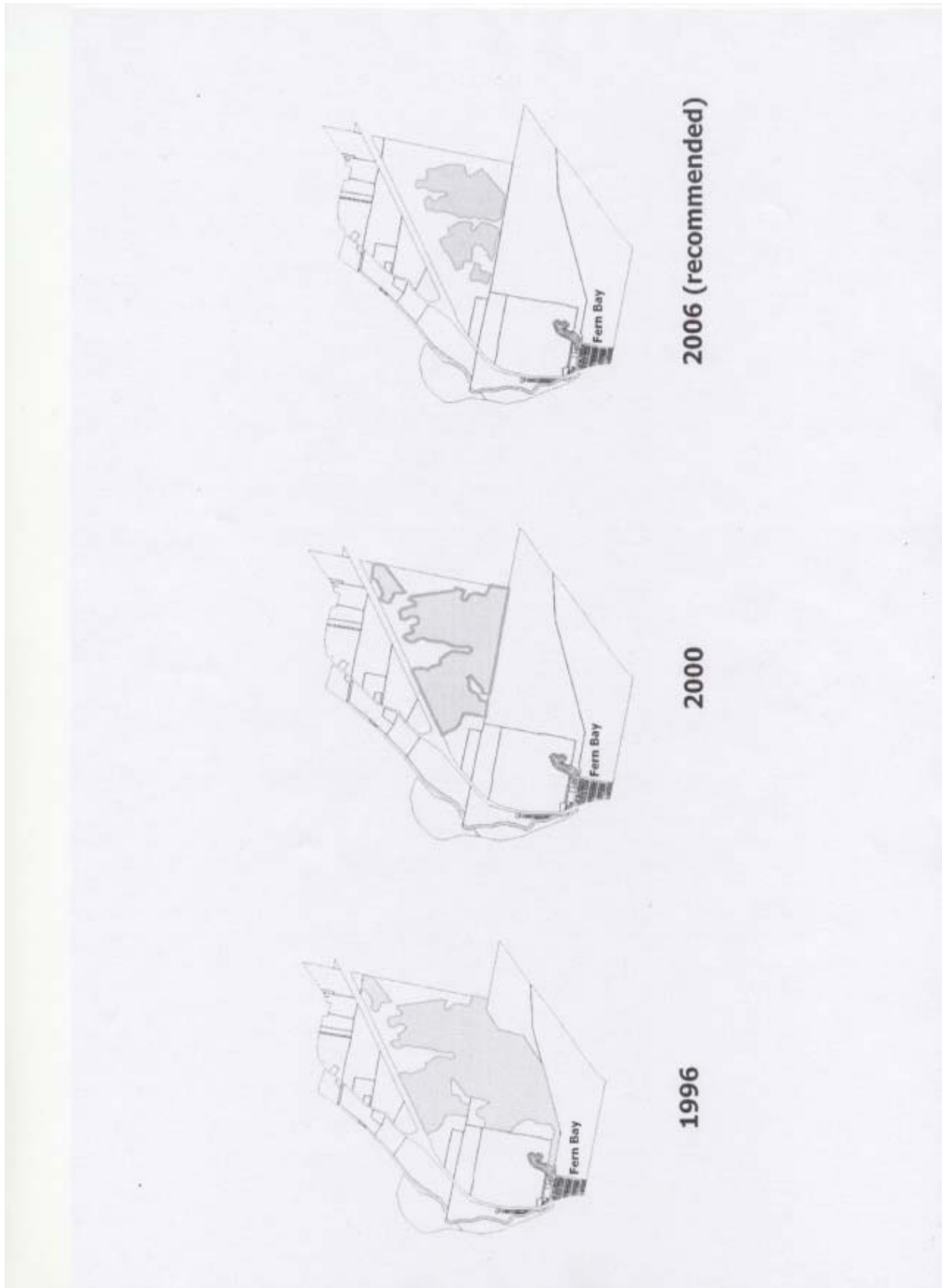
ATTACHMENT 4

REZONING AND DEVELOPMENT CONCEPT PLAN FOR SITE



ATTACHMENT 5

REDUCTION OF RESIDENTIAL ZONED LAND IN FERN BAY AREA SINCE 1996



ATTACHMENT 6
RELATIONSHIP OF DEVELOPMENT CONCEPT PLAN TO LATEST SEASIDE
“VILLAGE” MASTERPLAN



ATTACHMENT 2
UPDATED WORIMI CONSERVATION LANDS MAP



ITEM NO. 9**FILE NO: A2004-0026****LOCAL GOVERNMENT TRAINING INSTITUTE****REPORT OF: STEWART MURRELL – GROUP MANAGER BUSINESS & SUPPORT**

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to continue to support the establishment of a Local Government Training Institute as proposed by Hunter Council's Inc by way of sharing of liability to underwrite to a maximum value of \$200,000.
- 2) Authorise the General Manager to enter into all contract agreements or other legal documentation to allow the project to proceed.
- 3) Authorise the attachment of the seal to all necessary contractual documents.

OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007**RECOMMENDATION:****That the recommendation be adopted.**

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007**RESOLUTION:**

387	Councillor Robinson Councillor Hodges	It was resolved that the recommendation be adopted.
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RESOLUTION:

388	Councillor Baumann Councillor Tucker	It was resolved that Council take a 5 minute break at 8.05pm.
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Council restarted the meeting at 8.10pm – all Councillors were present.

BACKGROUND

The purpose of this report is to recommend Council's continued involvement with this project.

At the Ordinary Meeting of Council on 26 June 2007 (Min. No.157) it was resolved to:-

- "1. *Resolve to participate in the Local Government Training Institute as proposed by Hunter Councils Inc. by way of sharing of liability to underwrite to the value of \$164,831*

- 1 *Authorise the General Manager to enter into all contract agreements or other legal documentation to allow the project to proceed.*
- 2 *Authorise the attachment of the seal to all necessary contractual documents.*
- 3 *That the General Manager write to Hunter Councils endorsing our support of its current activities and congratulating Dr. Barbara Penson on her role as CEO."*

Since that date there has been a withdrawal of one Council from the program. This has necessitated that all contributing Council's will require to under write an increased amount for this project.

Port Stephens underwriting liability has increased from \$164,831 to \$175.854 an increase of 6.7%.

All other aspects of the project remain the same as the previous report on this issue.

ATTACHMENT 1.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

SOCIAL SUSTAINABILITY – *Council will preserve and strengthen the fabric of the community, building on community strengths.*

CULTURAL SUSTAINABILITY – *Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.*

ECONOMIC SUSTAINABILITY – *Council will support the economic sustainability of its communities while not compromising its environmental and social well being.*

ENVIRONMENTAL SUSTAINABILITY – *Council will protect and enhance the environment while considering the social and economic ramifications of decisions.*

BUSINESS EXCELLENCE

– *Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey*

FINANCIAL/RESOURCE IMPLICATIONS

Council would guarantee to underwrite a share of the capital to a maximum of \$200,000, this allows for other minor amendments to contribution before necessitating a further report to Council.

LEGAL AND POLICY IMPLICATIONS

Council has previously determined that regional service delivery is an appropriate option for the provision of activities.

Business Excellence Framework

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – *Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.*
- 2) **CUSTOMERS** – *Understand what makes markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
- 4) **PEOPLE** – *Develop and value people's capability and release their skills, resourcefulness and creativity to change and improve the organisation.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a cultural of continual improvement, innovation and learning.*
- 6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The project is aimed at providing a more sustainable Hunter Region for all its community. It is a practical example of the "Hunter Model" or ILAC proposal. This model asserts that:-

- 1 All services have a "catchment area" that can be smaller or larger than existing LGA's
- 2 Not all existing LGA's can provide the same level of service to the community.

ECONOMIC IMPLICATIONS

Resource sharing and extra LGA agreements are an effective way of reducing the economic cost of service delivery while maintaining or increasing the social benefit to communities.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are involved except those to be resolved through the usual DA process.

CONSULTATION

Extensive consultation has occurred with all 12 Councils in the Hunter Region with 11 committing to the project.

OPTIONS

- 1) Accept Recommendation
- 2) Not participate in the project

ATTACHMENTS

- 1) Business Paper Extract 26 June 2007

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 26 JUNE 2007

ITEM NO. 1

FILE NO: A2004-0026

LOCAL GOVERNMENT TRAINING INSTITUTE

REPORT OF: STEWART MURRELL, GROUP MANAGER - BUSINESS & SUPPORT

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to participate in the Local Government Training Institute as proposed by Hunter Councils Inc. by way of sharing of liability to underwrite to the value of \$164,831.
- 2) Authorise the General Manager to enter into all contract agreements or other legal documentation to allow the project to proceed.
- 3) Authorise the attachment of the seal to all necessary contractual documents.

STRATEGIC COMMITTEE MEETING – 26 June 2007

RECOMMENDATION:

1. Resolve to participate in the Local Government Training Institute as proposed by Hunter Councils Inc. by way of sharing of liability to underwrite to the value of \$164,831
2. Authorise the General Manager to enter into all contract agreements or other legal documentation to allow the project to proceed.
3. Authorise the attachment of the seal to all necessary contractual documents.
4. That the General Manager write to Hunter Councils endorsing our support of its current activities and congratulating Dr. Barbara Penson on her role as CEO.

ORDINARY MEETING OF COUNCIL – 26 JUNE 2007

RESOLUTION:		
157	Councillor Nell Councillor Robinson	That the Strategic Committee Recommendations be adopted.

ATTACHMENT 1

COMBINED STRATEGIC/OPERATIONS COMMITTEE – 12 JUNE 2007

ITEM NO. 1

FILE NO: A2004-0026

LOCAL GOVERNMENT TRAINING INSTITUTE

REPORT OF: STEWART MURRELL, GROUP MANAGER - BUSINESS & SUPPORT

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to participate in the Local Government Training Institute as proposed by Hunter Councils Inc. by way of sharing of liability to underwrite to the value of \$164,831.
- 2) Authorise the General Manager to enter into all contract agreements or other legal documentation to allow the project to proceed.
- 3) Authorise the attachment of the seal to all necessary contractual documents.

BACKGROUND

The purpose of this report is to recommend Councils involvement in the establishment of a Local Government Training Institute.

The 12 member Councils of Hunter Councils Inc. have implemented a shared services approach to training which has exceeded all expectations since the original Regional Training Coordination Pilot Project, initiated in December 1999.

Now a registered Training Organisation employing 10 staff plus numerous contract trainers, Hunter Councils Learning & Development (HCL&D) provides a highly specialised range of training services and Local Government qualifications to Council workforces across NSW. These have been developed to meet the needs of local government and range from training courses that are designed to address a raft of legislative compliance requirements, to technical training across a wide range of Council operations and several tiers of leadership and management training developed specifically for local government managers.

By developing and conducting highly specialised training from a central location in the Hunter, HCL&D delivers dramatic cost-efficiencies to member Council's by

- Eliminating the duplication of training research, development and coordination across the 12 local government areas;
- Reducing significant travel and accommodation costs for staff who would otherwise travel out of the region to access training;
- Providing specialised training pathways that would be beyond the resources of many medium to small councils.

This unique approach to regional collaboration has enabled HCL&D to develop local government industry networks and reference groups which are critical to identifying and responding to training needs that directly impact on the competence of council staff to perform their duties effectively.

PORT STEPHENS COUNCIL

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ATTACHMENT 1

COMBINED STRATEGIC/OPERATIONS COMMITTEE – 12 JUNE 2007

Building on this solid foundation, it is proposed that a Local Government Training Institute be established at the training unit's current location at Thornton. This centre will provide additional capacity for classroom training and offer an expansion of flexible learning initiatives using information technology and telecommunications, with the potential to be accessed by:

- 1) all council employees aspiring to a career at any level within local government;
- 2) high school students or those with limited local employment options considering a career in local government;
- 3) individuals from disadvantaged communities who are currently unable to access quality training due to their geographical location.

The proposed Local Government Training Institute will provide the necessary training facilities and office infrastructure to:

- Cater for larger classroom numbers, and the provision of multiple courses on the same day, to meet the increased demand for specialised local government training courses;
- Enhance the capacity of the current distance education traineeship programs to be delivered by a blend of e-learning and classroom training enabling the delivery of training to a broader market, particularly small rural and remote communities, which are traditionally more difficult to cater for;
- Commence the delivery of a school-based training program – locally and to rural and remote students – and provide networks and pathways to enhance students' employment opportunities in local government.
- Provide training to youth at risk and indigenous youth who aspire to, or are suited to employment in council related activities, including civil construction works;
- Showcase and promote participants to council networks, who are seeking appropriately trained staff; and
- Leverage off the already established infrastructure to provide further efficiencies and cost-savings through the co-location of training courses for council's in the Hunter Region, across NSW and throughout Australia.

In summary, this project offers the unique opportunity to deliver significant benefits across three of the key areas that are priorities under the Regional Partnerships Program, namely:

1. Improve Access to Services
 - It will bring increased access to training for council staff, by providing additional classrooms that can cater for multiple regional courses on the same days. This will assist not only with the growing volume of training courses, but will benefit councils who may only be able to release limited numbers of staff on any given day, or who need to train staff as they are

ATTACHMENT 1

COMBINED STRATEGIC/OPERATIONS COMMITTEE – 12 JUNE 2007

appointed, necessitating the regular repetition of courses. On some weeks up to 12 or 14 courses can be scheduled which is increasingly beyond the capacity of the current single training room to cope.

- It will provide increased opportunities and access to training for the wider community, particularly those in small, rural, remote communities and youth by providing an expanded suite of e-learning options.
- It will provide increased opportunities and access to training for youth and the geographically disadvantaged by delivering practical skills training suited to local government operations.

2. Stimulate Growth in Regions

- It will offer improved employment outcomes for young people, particularly in rural areas, by offering training and skills development targeted to employer requirements, and dramatically improving the interface between council and students.
- It will potentially provide increased opportunities for economic participation by remote and disadvantaged communities by offering training and skills which they would otherwise not have ready access to.

3. Support Planning

- It provides councils with a strategy to assist with workforce planning in a climate of well-documented skills shortages, which are expected to worsen with the aging workforce.
- It provides the potential to assist schools and employment agencies and labour market agencies to plan employment pathways.

LINKS TO CORPORATE PLANS

This report links to the following directional statements contained in the 2007/2011 Council Plan:-

Part 7 – Economic Sustainability

"Council will support the economic communities while not compromising its environmental and social well being by": "Providing and supporting opportunities for people to become skilled and be flexible in the workforce".

G.12 - Employment

- Establish a regional employment working group comprising representatives of employers, training organisations and advocacy organisations to develop an employment plan by December 2008.
- Work with regional organisations to coordinate a forum on employment to be held by December 2009.

ATTACHMENT 1

COMBINED STRATEGIC/OPERATIONS COMMITTEE – 12 JUNE 2007

Part 9 - Business Excellence

Council will use the Australian Business Excellence Framework to innovate and to demonstrate Continuous Improvement leading to long term sustainability across all of its operational and governance areas in the Business Excellence Journey.

G 19 – People

- Enhance Councils ability to attract and retain quality staff
- Employees have an individual learning and development program
- Enhance operations staff training
- Leverage regional partnerships to establish communities of practice
- Build a skilled and progressive workforce

FINANCIAL/RESOURCE IMPLICATIONS

Council would guarantee to underwrite a share of the capital estimated at \$146,831. The Business Plan indicates positive returns ongoing from the 1st full year of operation following the establishment of the Local Government Training Institute.

The guarantee amount is not considered significant in relation to Council's total financial position. Councils guarantee will be backed by land, building and technology which will provide more than adequate coverage to the commitment to underwrite.

LEGAL AND POLICY IMPLICATIONS

Council has previously determined that regional service delivery is an appropriate option for the provision of activities.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The project is aimed at providing a more sustainable Hunter Region for all its community. It is a practical example of the "Hunter Model" or ILAC proposal. This model asserts that:-

1. All services have a "catchment area" that can be smaller or larger than existing LGA's.
2. Not all existing LGA's can provide the same level of service to the community.

ATTACHMENT 1

COMBINED STRATEGIC/OPERATIONS COMMITTEE – 12 JUNE 2007

ECONOMIC IMPLICATIONS

Resource sharing and extra LGA agreements are an effective way of reducing the economic cost of service delivery while maintaining or increasing the social benefit to communities.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are involved except those to be resolved through the usual DA process.

CONSULTATION

Extensive consultation has occurred with all 12 Councils in the Hunter Region who are all in the process of committing to the project.

OPTIONS

- 1) Accept the recommendation
- 2) Not participate in the project

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil

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 11 December, 2007.

No:	Report Title	Page:
1	Access Committee Minutes	
2	Cash & Investments held at 31 October 2007	
3	Council Ward Funds	

OPERATIONS COMMITTEE MEETING – 11 DECEMBER 2007

RECOMMENDATION:

That the recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007

RESOLUTION:		
389	Councillor Francis Councillor Westbury	It was resolved that the recommendation be adopted.

OPERATIONS COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

ACCESS COMMITTEE MINUTES

REPORT OF: TREVOR ALLEN - INTEGRATED 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 2 October 2007.

Key issues addressed at the meeting included: -

1) Overview of Access Provisions within Proposed Town of Kings Hill 2) Access Improvements at Tomaree Swimming Pool 3) Riding for the Disabled Update

ATTACHMENTS

1) Minutes of the Access Committee meeting held on 2 October 2007.

ATTACHMENT 1

**PORT STEPHENS ACCESS COMMITTEE
MINUTES OF MEETING HELD 2 OCTOBER 2007
AT THE NELSON BAY RSL CLUB**

Present:

Cr Helen Brown, Cr Sally Dover, Michael Elliott, Alice De-Carle, Cathy Jennings, Kathy Delia, Jeremy Delia, Ken Whiting, Karen Whiting, Elizabeth Harper, Tony Kean, Trevor Allen

Apologies:

Graham Roberts, Robert Harper, David Painter, Valda Painter, Kathy Lees, Erin Devlin

1. WELCOME & ADOPTION OF PREVIOUS MINUTES

Chairperson Cr Helen Brown welcomed the Committee. The minutes of the meeting held on 4 September 2007 were adopted as an accurate record of that meeting.

2. GUEST PRESENTATION – Trevor Allen

The Committee were given an informative presentation from Trevor Allen (Port Stephens Council's Integrated Planning Manager) on the proposed Kings Hill Development. Kings Hill is just North of Raymond Terrace and is the proposed site for a new town with a population of approximately 12,000 people. Trevor outlined the proposed housing and infrastructure of the site as well as important access provisions to be built into the town such as footpaths, transport links, public transport and employment infrastructure.

3. BUSINESS ARISING FROM PREVIOUS MINUTES

3.1 Tomaree Swimming Pool Access Improvements

Michael Elliott reported to the Committee on Council funded improvements to the Tomaree Aquatic Centre including accessible toilet and change room facilities. These improvements were reported in the Port Stephens Examiner on the 13 September 2007. The article featured the Committee's retired Chairperson, Ken Whiting. During his time on the Committee as Chairperson, Ken played a key role in contributing to the initial planning to get these new facilities. The Committee acknowledges these efforts.

3.2 MLAK facilities in Port Stephens

Michael Elliott distributed a list to members of MLAK key accessible Council facilities in Port Stephens.

4. GENERAL BUSINESS

4.1 Results of the 2007 Mayoral Elections Michael Elliott announced that Cr Ron Swan was re-elected for a second term as Mayor and Cr Sally Dover was elected as Deputy Mayor. Chairperson Cr Helen Brown extended congratulations to Cr Dover on behalf of the Access Committee.

4.2 Venues for Raymond Terrace Access Committee Meetings

Michael Elliott reported that the Raymond Terrace Community Care Centre would no longer be available for Access Committee meetings in 2008 and the Committee must seek an alternative venue. The Sailability Clubhouse at Grahamstown Dam was suggested as a possible venue as it was well situated and fully accessible.

Action:	1. Michael Elliott will enquire about the availability of the Sailability Clubhouse for the Committee's bi-monthly Raymond Terrace meetings in 2008.
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4.3 Port Stephens Council Local Environmental Plan

Michael Elliott reported to the Committee on Council's draft policy regarding Brothels and Restricted Premises that was currently on public exhibition. Concerns have been raised regarding the creation of accessibility barriers for people with disabilities as a result of a proposed condition to prevent such premises from being located at ground floor. Michael proposed to forward a submission on behalf of the Access Committee recommending that this condition be removed, as it was a breach of both the Building Code of Australia and the Disability Discrimination Act. Discussions highlighted that this issue was not about whether the Committee supports such premises; rather it's about preserving the basic principles of accessibility irrespective of proposed use of premises. The Committee is in consensus on supporting this position.

4.4 University of Sydney Study requesting Volunteers

Michael Elliott informed the Committee of a research team which has been established by the University of Sydney, led by Associate Professor Louise Ada. The team will be working with adults with hemiplegic Cerebral Palsy in order to find out which motor impairments (muscle weakness, stiffness, tightness, lack of co-ordination, and involuntary movements) cause the most difficulty in reaching and manipulation, which in turn affects quality of life.

They are looking for adults with hemiplegic Cerebral Palsy (over 18 years old) who would like to receive a FREE testing of the affected arm. This process will involve the measurement of motor impairments and hand activity in the affected arm. The study is being conducted at Cumberland Campus, University of Sydney. Data collection will take approximately 1 ¹/₂ hours and volunteers will reimburse you for your travel costs.

If you are interested in participating and would like to know more,
Please contact: Angel Chiu on 0402721820 (or e-mail: hchi9899@mail.usyd.edu.au)

4.5 Disruption to Riding for the Disabled Due to Equine Flu

Michael Elliott reported that the recent outbreak of equine flu had resulted in considerable disruption to the planned activities of NSW Riding for the Disabled Association who have a branch at Raymond Terrace. Further information is available by contacting the association on 49468615.

4.6 Department of Families, Community Services & Indigenous Affairs Consultations Michael Elliott reported that the Department of Families, Community Services & Indigenous Affairs are currently undertaking national consultations on the Disability Supported Accommodation Program. The Dept is seeking written submissions that provide input into the design and development of the Disability Supported Assistance Program. Submissions can be

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007

forwarded via email to disabilityaccommodation@nationalmailing.com.au or posted to Disability Supported Accommodation PO Box 7442, Canberra BC ACT 2610. The closing date for submissions is the 26 October 2007.

4.7 Recognition of Access Works in Other Local Government Areas

Ken & Karen Whiting reported on a recent trip where they came across several unexpected access initiatives in remote areas which they consider are worthy of recognition. They included; -

- ☐ Surat Queensland (75km from Roma) – Accessible toilet facilities within a travellers rest area
- ☐ Grawin NSW (near Lightning Ridge) – Accessible toilet facilities at the 'Club in the Scrub'

The Committee agreed to send letters of recognition to the providers of these facilities, acknowledging their efforts on behalf of the Access Committee.

5. CORRESPONDENCE

Michael Elliott presented a range of correspondence including; _

- Recent Development Applications assess re access provisions

6. DETAILS OF NEXT MEETING

The next meeting will be held on the 6 November 2007 at 10.30am at the Raymond Terrace Community Care Centre.

**INFORMATION ITEM NO. 2 CASH AND INVESTMENTS HELD AT 31
OCTOBER 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 31 October 2007. ATTACHMENTS**

- 1) Cash and Investments Held at 31 October 2007.**
- 2) Monthly Cash and Investments Balance November 2006 – October 2007**

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007
**ATTACHMENT 1
PORT STEPHENS COUNCIL**

CASH & INVESTMENTS HELD AS AT 31 OCTOBER 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	17-Sep-07	17-Dec-07	91	500,000.00	8.62%	1.72%
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	20-Sep-07	21-Dec-07	92	1,000,000.00	8.35%	3.43%
NEXUS BONDS LTD "TOPAZ AA-"	Floating Rate CDO	23-May-07	22-Nov-07	183	412,500.00	6.47%	1.42%
HERALD LTD "QUARTZ AA"	Floating Rate CDO	20-Sep-07	21-Dec-07	92	450,000.00	8.35%	1.55%
STARTS CAYMAN LTD "BLUE GUM AA-"	Floating Rate CDO	24-Sep-07	27-Dec-07	94	1,000,000.00	8.27%	3.43%
HELIUM CAPITAL LTD "ESPERANCE AA+"	Floating Rate CDO	20-Sep-07	21-Dec-07	92	1,000,000.00	7.95%	3.43%
HOME BUILDING SOCIETY	Floating Rate Sub Debt	26-Oct-07	26-Jan-08	92	500,000.00	7.39%	1.72%
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note	18-Oct-07	18-Jan-08	92	500,000.00	8.25% *	1.72%
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	20-Sep-07	21-Dec-07	92	1,000,000.00	7.85%	3.43%
GRANGE SECURITIES "COOLANGATTA AA"	Floating Rate CDO	20-Sep-07	21-Dec-07	92	1,000,000.00	8.15%	3.43%
ANZ YIELD CURVE NOTE	Yield Curve Note	17-Oct-07	17-Jan-08	92	500,000.00	8.25% *	1.72%
MACQUARIE CASH MANAGEMENT TRUST	Cash Management	20-Jul-07			56,137.17	5.58%	0.19%
TOTAL GRANGE SECURITIES					\$7,918,637.17		27.19%
ABN AMRO MORGANS							
REMBRANDT ISOSCELES SERIES 1	Floating Rate CDO	20-Sep-07	20-Dec-07	91	2,000,000.00	8.25%	6.87%
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	21-Mar-07	21-Mar-08	366	1,000,000.00	7.00%	3.43%
TOTAL ABN AMRO MORGANS					\$3,000,000.00		10.30%
ANZ INVESTMENTS							
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA-"	Floating Rate CDO	8-Oct-07	8-Jan-08	92	500,000.00	8.11%	1.72%
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	6-Jul-07	20-Dec-07	91	1,000,000.00	8.35%	3.43%
MOTIF FINANCE (IRELAND) PLC	Floating Rate CDO	6-Jul-07	30-Nov-07	91	500,000.00	8.09%	1.72%
TOTAL ANZ INVESTMENTS					\$2,000,000.00		6.87%
RIM SECURITIES							
HERITAGE BUILDING SOCIETY LTD (2008)	Floating Rate Sub Debt	29-Oct-07	28-Jan-08	91	500,000.00	8.68%	1.72%
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO	11-Oct-07	13-Jan-08	94	2,000,000.00	8.90%	6.87%
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt	5-Oct-07	7-Jan-08	94	1,000,000.00	7.60%	3.43%
TOTAL RIM SECURITIES					\$3,500,000.00		12.02%

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007
**OPERATIONS COMMITTEE – 11 DECEMBER 2007
ATTACHMENT 1**

WESTPAC INVESTMENT BANK							
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt	29-Oct-07	28-Jan-08	91	500,000.00	8.13%	1.72%
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt	21-Aug-07	21-Nov-07	92	500,000.00	7.91%	1.72%
TOTAL WESTPAC INV. BANK					\$1,000,000.00		3.43%
LONGREACH CAPITAL MARKETS							
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	7-Sep-07	7-Mar-08	182	500,000.00	6.66%	1.72%
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	6-Sep-07	6-Mar-08	182	500,000.00	6.00%	1.72%
TOTAL LONGREACH CAPITAL					\$1,000,000.00		3.43%
MERRILL LYNCH INVESTMENT MANAGERS	Managed Funds				117,677.41	RETURN - MTH 6.75%	0.40%
PERPETUAL INVESTMENTS	Managed Funds				150,128.85	5.98%	0.52%
ADELAIDE MANAGED FUNDS	Managed Funds				250,000.00	6.90%	0.86%
TOTAL FUND MANAGERS					\$517,806.26		1.78%
COMMONWEALTH BANK							
PRINCIPAL PROTECTED YIELD ACCRUAL NOTE	Yield Curve Note	06-Aug-07	05-Nov-07	91	500,000.00	9.25%	1.72%
CALLABLE CPI LINKED NOTE	Yield Curve Note	04-Oct-07	04-Jan-08	92	500,000.00	9.00%	1.72%
EQUITY LINKED DEPOSIT	Equity Linked Note	03-Aug-07	05-Aug-08	368	500,000.00	8.25%	1.72%
EQUITY LINKED DEPOSIT GI100	Equity Linked Note	20-Sep-07	20-Dec-07	91	500,000.00	15.00% *	1.72%
TOTAL COMMONWEALTH BANK					\$2,000,000.00		6.87%
FIIG SECURITIES							
CREDIT SUISSE PRINCIPAL PROTECTED NOTE	Principal Protected Note	21-Sep-07	21-Dec-07	91	1,000,000.00	7.00%	3.43%
AQUADUCT AA-	Term Deposit	12-Sep-07	12-Nov-07	61	1,000,000.00	7.35%	3.43%
POLICE AND NURSES CREDIT UNION							
STATE GOVERNMENT EMPLOYEES CREDIT UNION	Term Deposit	12-Sep-07	11-Dec-07	90	1,000,000.00	7.38%	3.43%
TOTAL FIIG SECURITIES					\$3,000,000.00		10.30%
MAITLAND MUTUAL							
	Floating Rate Sub Debt	15-Oct-07	15-Jan-08	92	500,000.00	7.53%	1.72%
	Term Deposit	31-Aug-07	29-Nov-07	90	1,331,808.76	7.19%	4.57%
	Floating Rate Sub Debt	11-Sep-07	12-Dec-07	92	500,000.00	8.08%	1.72%
TOTAL M'LAND MUTUAL					\$2,331,808.76		8.01%
TOTAL INVESTMENTS					\$26,268,252.19		90.20%
CASH AT BANK					\$2,855,136.71	6.70%	9.80%
TOTAL CASH & INVESTMENTS					\$29,123,388.90		100.00%

* These interest rates are indicative only. Actual rate of return will depend upon the performance of various indices over time

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.

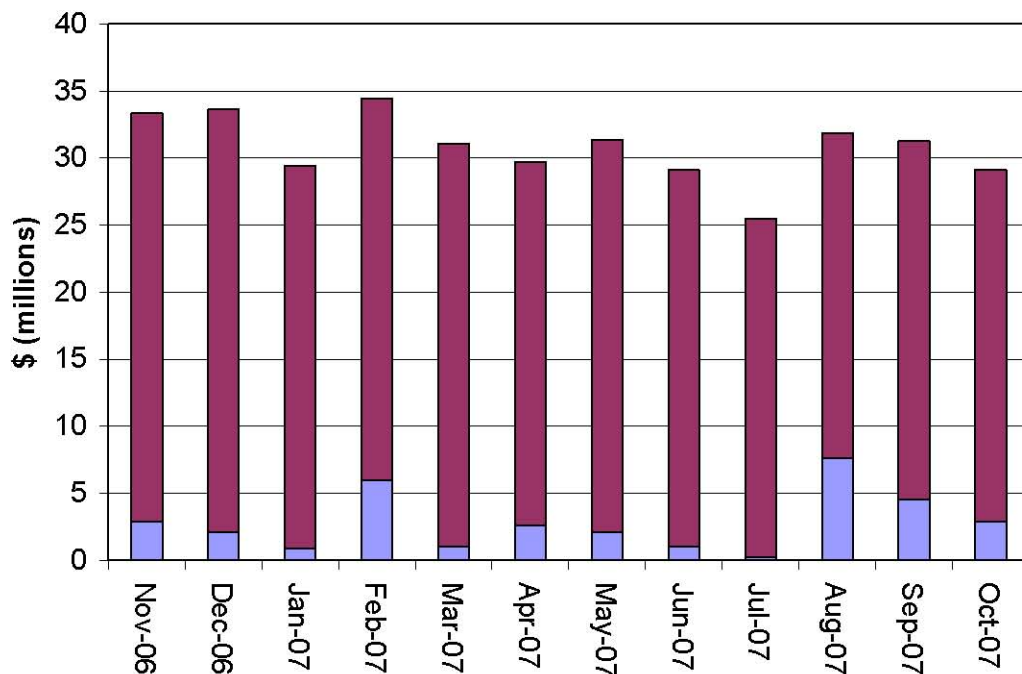
P GESLING

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Nov-06	2.879	30.448	33.327
Dec-06	2.135	31.493	33.628
Jan-07	0.906	28.501	29.408
Feb-07	5.956	28.502	34.458
Mar-07	1.012	30.045	31.058
Apr-07	2.607	27.057	29.664
May-07	2.081	29.308	31.389
Jun-07	1.001	28.103	29.104
Jul-07	0.230	25.237	25.467
Aug-07	7.612	24.236	31.848
Sep-07	4.531	26.737	31.268
Oct-07	2.855	26.268	29.123

Cash and Invested Funds for the Period ended 31/10/2007



INFORMATION ITEM NO. 3

COUNCIL WARD FUNDS

REPORT OF: JEFF SMITH, FINANCIAL SERVICES

MANAGER FILE: PSC2007-0183

BACKGROUND

The purpose of this report is to provide Ward Funds & Minor Works expenditure and available balances as at 20 November 2007. ATTACHMENTS

- 3) 2007/08 Allocations of Councillor Ward Funds
- 4) 2007/08 Allocations of Minor Works

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007
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ATTACHMENT 1

2007/2008 ALLOCATIONS OF WARD FUNDS WARDS	EAST	CENTRAL	WEST	TOTAL
BALANCE B/FWD FROM 30 JUNE 2007 FUNDS REALISED				54,838
IN 2007-2008 TOTAL AVAILABLE	44,908 20,204 65,112	-93,472 20,204 -73,269	103,402 20,204 123,606	60,611 115,449
ALLOCATED TO: From Original Budget				
From Revotes and Carry Forwards				
			7,000	
King Park Landscaping Little Beach Disability Access ramp				7,000
Shelly Beach Amenities				29,290
				6,959
From Budget Reviews	29,290 6,959			
TOTAL ALLOCATED BALANCE	36,249 28,863	0 -73,269	7,000 116,606	43,249 72,200

Reconciled 20/11/2007

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007

ATTACHMENT 2

2007/2008 ALLOCATIONS OF MINOR WORKS WARDS EAST CENTRAL WEST TOTAL

BALANCE B/FWD FROM 30 JUNE 2007 6,458 16,568 4,298 27,323 2007/2008 BUDGET ALLOCATION FROM REVENUE 20,000 20,000 20,000 60,000 TOTAL AVAILABLE 1 JULY, 2007 26,458 36,568 24,298 87,323

ALLOCATED TO:

Allocated 2007/2008 Financial Year

Tomaree Public School CM 201/07 1,000 1,000 Karuah Bridge Celebrations CM 243/07 1,000 1,000 Irrawang High School CM 243/07 100 100 LTP District Garden Club CM 243/07 250 250 Medowie Guides CM 243/07 500 500 Rotary Club of Nelson Bay CM 243/07 1,000 1,000 Neslon Bay Town Management CM133/07 1,924 1,924 Taylors Beach Reserves CM289/07 270 270 Port Stephens Family History Group LTP Community Centre CM289/07 960 960 Rotary Club of Nelson Bay Golf Day CM 289/07 1,000 1,000

TOTAL ALLOCATED 5,194 1,710 1,100 8,004 BALANCE 21,264 34,858 23,198 79,319

Reconciled 20/11/2007

STRATEGIC COMMITTEE RECOMMENDATIONS

ITEM NO. 1**FILE NO: PSC2005-4282****SUPPORT FOR LOCAL OYSTER INDUSTRY – TILLIGERRY CREEK****REPORT OF: BRUCE PETERSEN – MANAGER ENVIRONMENTAL SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Write to the Minister for Primary Industries (Agriculture) seeking assistance for Tilligerry Creek Oyster Farmers affected by pollution in Tilligerry Creek.

STRATEGIC COMMITTEE MEETING – 4 DECEMBER 2007**RECOMMENDATION:**

That Council write to the Minister for Primary Industry (Agriculture) seeking –

- a) compensation for Tilligerry Creek oyster farmers severely affected by pollution in Tilligerry Creek catchment
- b) assistance for Tilligerry Creek oyster farmers affected by pollution in Tilligerry Creek Catchment for business recovery
- c) assistance for cattle farmers in Tilligerry Creek catchment for adjustment to farming practices.

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007**RESOLUTION:**

390	Councillor Baumann Councillor Nell	It was resolved that 1) Council write to the Minister for Primary Industry (Agriculture) seeking – a) compensation for Tilligerry Creek oyster farmers severely affected by pollution in Tilligerry Creek catchment b) assistance for Tilligerry Creek oyster farmers affected by pollution in Tilligerry Creek Catchment for business recovery c) assistance for cattle farmers in Tilligerry Creek catchment for adjustment to farming practices. 2) Copy to the Shadow Minister for Primary Industries and Duncan Gay 3) Send delegation to the Government and Opposition on this matter with oyster farmers.
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BACKGROUND

In 2005, human viruses were detected in oysters within Tilligerry Creek which led to the closure of oyster harvesting area 5B for an indefinite time period. Council worked closely with the Premiers Department and other Government Agencies and arranged some short term rate relief and other assistance for farmers affected by this closure.

Water quality monitoring and research by the University of Newcastle revealed that the source of viral contamination had originated in the unsewered areas of Salt Ash and Bobs Farm. Council conducted an intense inspection and monitoring program of all 560 septic systems in Salt Ash and Bobs Farm and found that 50 were failing to some degree. Council issued Notices on these 50 which have now been upgraded or replaced. Recent monitoring by Council and the University of Newcastle revealed that septic systems are not currently causing a pollution issue within Tilligerry Creek, however agricultural runoff remains a significant issue for oyster farmers.

Recent testing of oysters by the NSW Food Authority has confirmed that human viruses are no longer an issue within Tilligerry Creek oysters and the Food Authority have decided to reopen zone 5B, (subject to certain restrictions) within the near future. One of the remaining issues relates to the high level of faecal contamination coming from agricultural land within the Tilligerry Catchment. Council is currently working closely with rural landholders, the Premiers Department and the Department of Primary Industries to address contamination from agricultural land as this will have a significant economic impact on a significant number of Tilligerry Creek oyster farmers. Agricultural contamination also affects the amenity and ecological health of Tilligerry Creek.

At a recent Port Stephens Myall Lakes Estuary and Coastal Zone Management Committee meeting, the Committee resolved that Council seek assistance from the State Government for oyster farmers within Tilligerry Creek that have been affected by contamination from land use practices (current and past). Based on preliminary estimates (without detailed analysis by DPI Fisheries) it could cost almost \$1,000,000 to assist oyster farmers recover their businesses in the top reaches of Tilligerry Creek.

Due to the impact that land based farming has on the health of Tilligerry Creek, some financial assistance to cattle farmers in the Tilligerry Catchment would help address much of the contamination currently occurring within Tilligerry Creek and produce a more viable oyster industry. This assistance could be, but not limited to, a combination of financial and in kind assistance. It is estimated that at least \$500,000 is required over the next three (3) years to assist cattle farmers improve their land management practices which is required if water quality improvements are to be realised.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

SOCIAL SUSTAINABILITY – *Council will preserve and strengthen the fabric of the community, building on community strengths.*

CULTURAL SUSTAINABILITY – *Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.*

ECONOMIC SUSTAINABILITY – *Council will support the economic sustainability of its communities while not compromising its environmental and social well being.*

ENVIRONMENTAL SUSTAINABILITY – *Council will protect and enhance the environment while considering the social and economic ramifications of decisions.*

BUSINESS EXCELLENCE – *Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey*

FINANCIAL/RESOURCE IMPLICATIONS

This recommendation will have minimal financial impact on Council.

LEGAL AND POLICY IMPLICATIONS

There are very minor policy implications associated with this recommendation.

Business Excellence Framework

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – *Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.*
- 2) **CUSTOMERS** – *Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a cultural of continual improvement, innovation and learning.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

This recommendation, if followed through, should result in assistance to oyster farmers in Tilligerry Creek. A number of oyster farmers and their families have lost their jobs due to the

closure of Zone 5B to oyster harvesting in 2005. This had a devastating social impact on a number of oyster farming businesses and families in the Salt Ash and Bobs Farm area.

ECONOMIC IMPLICATIONS

The oyster industry plays an important part in the economic sustainability of Port Stephens. The long term viability of oyster farming in Tilligerry Creek forms an important part of whether or not oyster farming will be sustainable and therefore an important component of a strong economy.

ENVIRONMENTAL IMPLICATIONS

The support of oyster farmers in Tilligerry Creek is not only important from a social and economic perspective, but is also important in terms of environmental sustainability. The oyster industry plays an important role in the early detection of environmental pollutants in our waterways.

CONSULTATION

The issue relating to the support of oyster farmers was raised at a number of recent Estuary Management Committee Meetings and at a number of meetings with the Premiers Departments Taskforce. Consultation has been with a number of groups from the Estuary Committee and Premiers Department including State Government, the oyster industry and community/environmental groups.

OPTIONS

- 1) Write to the Minister for Primary Industries (Agriculture) seeking assistance for Tilligerry Creek Oyster Farmers affected by pollution in Tilligerry Creek.
- 2) Disregard this report and do not support a submission to the Minister for Primary Industries.

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil

ITEM NO. 2**FILE NO: PSC2007-2001****COMMUNITY ENGAGEMENT AT PORT STEPHENS COUNCIL****REPORT OF: JUNE SHINE - EXECUTIVE MANAGER, CORPORATE MANAGEMENT**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopts the tabled Community Engagement Framework
- 2) Supports the establishment of a Residents' Panel to be operational by June 2008.

STRATEGIC COMMITTEE MEETING – 4 DECEMBER 2007**RECOMMENDATION:**

That Council support the recommendation as written (1 & 2) and hold a briefing prior to Ordinary Council Meeting on 18/12/07

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007**MOTION:**

	Councillor Baumann Councillor Dingle	That no action be taken on this matter
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RECOMMENDATION:

391	Councillor Francis Councillor Jordan	It was resolved that the Motion be put
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The Motion was put and was lost.

RECOMMENDATION:

392	Councillor Hodges Councillor Francis	It was resolved that the Strategic Committee Recommendation be adopted.
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BACKGROUND

The purpose of this report is to give effect to the recommendations of the Consultation Review, conducted by the Centre for Local Government, University of Technology Sydney in 2006.

1. Purpose of the Review

Consultation with the community of Port Stephens is undertaken on behalf of the Council with the purpose of informing decisions and ensuring that the policies and procedures reflect the community's inputs.

There was concern in sections of Council that the current practices in relation to community consultation were flawed. In particular the expectations of the community were not being met, there was confusion between consultation and communication, the views of the 'silent majority' in the community were not being adequately captured whilst those of an unrepresentative sample were given a disproportionate share of voice, and young people were not represented at all.

A tender was let for conduct of a review of Council's consultation practices and the successful tenderer was the Centre for Local Government, University of Technology Sydney. The review was conducted during 2006.

A staff survey was undertaken, and workshops were held with staff and some Councillors. In addition benchmarking was undertaken against councils deemed to be engaging effectively with their communities.

2. Findings of the Review

- 2.1 *Community representation* was deemed to be inadequate, so whilst the review confirmed the view that the 'silent majority' did not have a voice it also found that it was difficult to build bridges with the community. The Review found that people who support a project are quiet, and those who object are "noisy". It is also more difficult to reach the broader community when bigger projects are under discussion.

The Review confirmed the lack of consultation with *young people*.

The Review found that *precinct groups* don't add value to consultations and they are not representative demographically. There appears to be a high degree of politicization and consequently a lack of respect from Councillors and staff. The remaining precincts are unrepresentative geographically as they only cover one ward out of three.

- 2.4 *Skill Levels* – the Review found that generally there was a lack of skills and training amongst staff who conduct consultations on behalf of Council, such that effort does not always equate to benefits. There were also variable levels of preparation and understanding of the nature and purpose of the consultation being conducted.
- 2.5 *Corporate Co-ordination* – the Review found there was a lack of corporate protocols and a need to streamline processes. There was little formal sharing of information between staff and lack of internal coordination resulted in duplication of effort. Some projects were undertaken without consultation that should have been subject to a consultative process with the community. The Review also found there were potential legal risks from a lack of documented protocols and processes.
- 2.6 *Resources* were also identified as a shortcoming, with consultation often proceeding without a budget. There was not enough planning of consultations and making information clear and interesting to draw people to participate.
- 2.7 *Community Concerns* - the Review found the perception in the community is that they are not being consulted, although some people in the community felt that they are over-consulted and becoming burnt out, frustrated then apathetic.

- 2.8 *Clear Boundaries* – the Review found that the difference between communication and consultation was often unclear to staff and the community, and the management of expectations was not uniformly effective.
- 2.9 *Feedback* – whilst the communication of the results of consultation was often fed into proposed policies and other decisions and Councillors informed, the community itself often was left out of the feedback loop.
- 2.10 *Community Consultation Team* – this team has added value by assisting with ideas and methodology and generally making it easier to undertake projects. Members of team have significant corporate knowledge and experience to aid colleagues. However the review also found that the team has a low profile such that the Review found a perception that the consultation team is defunct. Certainly the role of the team was uncertain and not well known and it is unclear which consultations are supposed to go to the team so that it staff are not always availing themselves of this assistance. The Review also found a lack of ownership of the consultation team by senior management.
- 2.11 *Role of Councillors* – the Review found that whilst Councillors are willing to participate in consultations, they sometimes feel they are being excluded. The Review found that there is an over-reliance on Councillors at public meetings, especially where the staff are inexperienced in community consultation. The Review also noted that sometimes there exists a mutual lack of respect and understanding of staff/Councillor roles. It should be understood that all consultation is effectively being undertaken for Councillors. It was also found that informal consultations tended to influence decisions out of proportion to representation.
- 2.12 *Surveys* – the Review found that more surveys are occurring in response to the Business Excellence emphasis on evidence-based decisions, and email, phone, newspaper and mail surveys are being undertaken. However the Review also found that staff often underestimated what was involved in surveys, including that they are difficult to design, administer and interpret. The Review also found that sampling was poorly understood and that surveys needed to be random and representative.

As a result of the Review of Community Consultation the following actions have been taken to improve the processes for engagement with the community:

- 1. A Draft Community Engagement Framework has been formulated for consideration by Council. This Framework follows the principles articulated in *The United Nations Brisbane Declaration on Community Engagement*. This declaration (attached) will be formally adopted by the UN in 2008 and subsequently will inform Australian governments' standards on community engagement.
- 2. The notion of consultation has been expanded to the concept of community engagement to encompass a range of activities from informing the community to full collaboration and delegation. The matrix incorporated in the proposed Community Engagement Framework reflects the operational context for this realignment.
- 3. The responsibility for community engagement has been moved to Corporate Management and the Corporate Planning and Community Engagement Coordinator has assumed responsibility for convening a revitalised Community Engagement Panel. The role of this Panel is to coordinate community engagement and to support staff capacity and develop skills, whilst ensuring appropriate implementation occurs and feedback to the community is undertaken appropriately.
- 4. Planning is under way to coordinate engagement with our community across Council to facilitate capture and feedback of information, to ensure reporting to

- Council on a regular (quarterly) basis or as necessary. A database of community engagement is being established and will be maintained.
5. Skills training and a community engagement toolkit are being developed with a staff training module in process for future deployment.
 6. All community engagement will be referred to the Community Engagement Panel prior to implementation. This means that decisions to undertake major consultations are made by a senior manager in consultation with relevant colleagues and, in appropriate cases, Councillors and having reference to the consultation matrix. Adequate resources will be part of the process of engagement.
 7. Corporate Management will prepare an annual program for expected consultations and incorporate that program in Council's Management Plan and budget.
 8. Evaluation of community engagement will be undertaken by the Community Engagement Panel to ensure incorporation into relevant Council decision-making and for feedback to the community and to Council.

Residents' Panel

The Review recommended that Council adopts a demographically representational Residents' Panel Model that will comprise not less than 2% of the population of Port Stephens LGA proportionally representing each Ward. The Residents' Panel will incorporate young people and those in the demographic 25-49 who are currently very poorly represented in any community engagement.

The need for a place-based approach to consultation will be linked effectively to the way Council delivers services and undertakes local planning. So, for example, the Residents' Panel members for a particular locality and/or a particular demographic will be consulted, rather than the whole Panel.

People are invited to apply to be part of the Residents' Panel provided they meet a set of criteria that includes age, gender and location. People may also nominate special interest areas. At the time nominations are invited, a clear set of expectations will be provided so that people understand that they will have to commit some time throughout an appointment period. The anticipated appointment period is two years, although re-appointment is an option if members so wish.

The concept of a Residents' Panel does not negate the role of special interest groups, nor does it imply that only those views expressed by the Panel will be taken into account. All submissions to Council will continue to be considered in decision-making and recommendations to Council.

Costs associated with the establishment and operation of a Residents' Panel will be met from savings from current, inefficient methods of community engagement, and will form part of the Corporate Management budget. Individual Panel members would expect to be consulted no more than 3 times per year.

Officers of Parramatta Council, which operates a very successful Residents' Panel, have agreed to mentor the establishment of a Residents' Panel for Port Stephens Local Government Area.

A Residents' Panel can be operational by June 2008.

Summary

Adoption of the recommendations that derive from the findings of the independent Consultation Review provide a modern, innovative approach to future engagement with the Port Stephens Community that will be more rigorous, provide more value to those members of the community who participate and to the community generally, and will provide to Councillors a more robust and reliable information stream to better inform decision-making.

LINKS TO CORPORATE PLANS

Council Plan 2007-2011, especially Goal 20

FINANCIAL/RESOURCE IMPLICATIONS

Costs include initial establishment of the Residents' Panel which encompass advertising, and subsequent communication with applicants for the Panel (mail or email); staff costs to maintain the database; and costs associated with projects where the Panel are consulted, which would be borne by the project owner. Estimates for expenditure to June 2008 are approximately \$3000 in direct costs.

Some savings are anticipated from elimination over time of inefficient practices and rework but are not quantified.

LEGAL AND POLICY IMPLICATIONS

Enhanced consultation will lead to better communication, better decision-making and reduction in conflict between community and Council.

The proposed framework complies with the Council Charter and the requirements of the relevant legislation.

Australian Business Excellence Framework

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 2) **CUSTOMERS** – *Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a cultural of continual improvement, innovation and learning.*
- 6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*

- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The proposed Community Engagement Framework will, if implemented, work to enhance the social outcomes for all of the community of Port Stephens, and especially disadvantaged groups.

ECONOMIC IMPLICATIONS

The proposed Community Engagement Framework will, if implemented, work to enhance the economic outcomes for all of the community of Port Stephens, and especially disadvantaged groups.

ENVIRONMENTAL IMPLICATIONS

The proposed Community Engagement Framework will, if implemented, enhance the quality of engagement with the community towards environmental sustainability by its inclusive planning paradigm.

CONSULTATION

In developing this Community Engagement Framework, the Consultation Review (2006) consulted widely at all levels of Council. A briefing session was held on 24 April 2007 to obtain the views of Councillors.

OPTIONS

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

ATTACHMENTS

- 1. The United Nations Brisbane Declaration

TABLED DOCUMENTS

- 1. Community Engagement Framework

ATTACHMENT 1**THE UNITED NATIONS BRISBANE DECLARATION August 2005**

We, representatives of countries and communities, including indigenous peoples, international institutions, national, state and local governments, and business and civil society organisation from across the world, participating in the International Conference on Engaging Communities, held in Brisbane, Australia, from 15-17 August 2005,

1. Acknowledge the universal interest and importance of community engagement, founding the inherent dignity of people and values, rights and responsibilities of all people expressed in the Universal Declaration of Human Rights.
2. Welcome the Seoul Declaration on Participatory and Transparent Governance in its call for all actors in societies to work together to expand and promote participatory, transparent governance for the benefit of their people.
3. Underscore that community engagement is essential to the achievement of the Millennium Declaration including the Millennium Goals for Development.
4. Express appreciation for the efforts of the United Nations and its specialised agencies in helping to advance the practice of community engagement and support of greater participatory and transparent governance.
5. Express appreciation to the Government of the State of Queensland, to the Indigenous peoples for their welcome to the country, and to all the people of Queensland, Australia for hosting the inaugural International Conference on Engaging Communities.
6. Express appreciation to the other Australian governments, tertiary institutions and organisations that have sponsored and partnered in the organisation of this gathering, to the staff and volunteers, and to all those who have through participation shared their expertise and experience to build greater understanding, capability and commitment to the practice of community engagement.

Community Engagement

7. Affirm that community engagement is critical to effective, transparent and accountable governance in the public, community and private sectors.
8. Recognise that community engagement is a two way process:
 - i. By which the aspirations, concerns, needs and values of citizens and communities are incorporated at all levels and in all sectors in policy development, planning, decision-making, service delivery and assessment;
 - ii. By which governments and other business and civil society organisations involve citizens, clients, communities and other stakeholders in these processes.
9. Affirm that effective engagement generates better decisions, delivering sustainable economic, environmental, social and cultural benefits.
10. Also recognise that effective community engagement enables the free and full development of human potential, fosters relationships based on mutual understanding, trust and respect, facilitates the sharing of responsibilities, and creates more inclusive and sustainable communities.
11. Further recognise that meaningful community engagement seeks to address barriers and build the capacity and confidence of people to participate in, and negotiate and partner with, institutions that affect their lives, in particular those previously excluded or disenfranchised.

12. Further recognise that inclusive engagement requires that Indigenous peoples and the poor and marginalised, are adequately resourced to participate meaningfully in the broader community and that they have a stake in the outcome and benefit equitable as a result of being involved.
13. Endorse the core principles of integrity, inclusion, deliberation and influence in community engagement:
 - i. Integrity – when there is openness and honesty about the scope and purpose of the engagement;
 - ii. Inclusion – when there is an opportunity for a diverse range of values and perspectives to be freely and fairly expressed and heard;
 - iii. Deliberation – when there is sufficient and credible information for dialogue, choice and decisions, and when there is space to weigh options, develop common understanding and to appreciate respective roles and responsibilities;
 - iv. Influence – when people have input in designing how they participate, when policies and services reflect their involvement and when their impact is apparent.
14. Recognise the availability of a wide range of methods and technologies, including new and emerging tools associated with the internet, to facilitate appropriate and effective community engagement.
15. Affirm the value of education, ongoing monitoring and evaluation, and knowledge sharing about active citizenship and community engagement processes and outcomes.
16. Draws attention to the materials and recommendations of the specialised panels and workshops which supplement this Declaration.

Next Steps

The participants from all over the world at this conference:

17. Request the Host Country to bring to the attention of the General Assembly of the United Nations the Declaration of this inaugural International Conference on Engaging Communities so that it may provide leadership globally for its promotion and implementation.
18. Further call on international institutions as well as national, provincial and local governments to give effect to the values and principles in the Declaration.
19. Express support for more dialogue between international institutions and others with the people of the world about issues of global interest, and the availability of digital and other means to support such interaction.
20. Encourage the tertiary sector and other public and professional organisations to facilitate research and teaching, policy and practice development, organisational development, evaluation and networking to sustain the learning and connections created at this inaugural International Conference on Engaging Communities.
21. Further encourage the private sector and civil society organisations to implement practical and meaningful ways to be responsive to, representative of, and enabling of the participation of citizens, clients communities.
22. Note with appreciation the willingness of the Queensland Government to support knowledge-sharing and capacity-building for community engagement and to be involved in the follow-up to this Conference.
23. Request the United Nations, building on the success and legacies of this Conference, to assist countries and communities to foster effective community engagement practices by supporting research and training, and documenting successful outcomes and disseminating these widely.

ITEM NO. 3**FILE NO: PSC2007-2001****PRECINCT COMMITTEES AT PORT STEPHENS COUNCIL****REPORT OF: JUNE SHINE, EXECUTIVE MANAGER, CORPORATE MANAGEMENT****RECOMMENDATION IS THAT COUNCIL:**

Discontinues financial and administrative support to the remaining Precinct Committees in response to the comprehensive Consultation Review.

STRATEGIC COMMITTEE MEETING – 4 DECEMBER 2007**RECOMMENDATION:**

That Council;

- 1) Acknowledge the contribution of Precinct groups and look forward to their ongoing community involvement
- 2) Discontinues financial and administrative support to the remaining Precinct Committees in response to the comprehensive Consultation Review.

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007**RECOMMENDATION:**

393	Councillor Westbury Councillor Jordan	It was resolved that the Strategic Committee recommendation be adopted.
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Note: Cr Baumann requested that his name be recorded as having apposed the recommendation.

BACKGROUND

The purpose of this report is to give effect to the recommendation of the Consultation Review related to precinct committees. This review was conducted by the Centre for Local Government, University of Technology Sydney in 2006. That Review contained a number of recommendations, including both policy and operational matters to ensure that the community of Port Stephens has access to the best models for engagement with Council.

A briefing was held on 24 April 2007 with Councillors to articulate the findings of the Review and the process for implementing the recommendations. This Report addresses one of the recommendations of the Review specific to Precinct Committees.

Findings of the Review related to precinct committees.

The Review found that *precinct groups* do not add value to consultations and they are not representative demographically. There appears to be a high degree of politicisation and

consequently a lack of respect from Councillors and staff. The remaining precincts are unrepresentative geographically as they only cover one ward out of three.

Precinct Committees

After considerable research of the precincts model in 1991-1992, including a site visit to North Sydney Council and its precincts by then Councillors and staff, the recommendation of the group was that the precinct model did not fit with the needs of the Port Stephens communities as they were geographically and demographically diverse.

However, in 1992 at the behest of the Citizens for Open Government, Port Stephens Council considered and adopted a Mayoral Minute that established nine precincts within Port Stephens Local Government Area. These were:

- Raymond Terrace
- Raymond Terrace (east)
- Karuah
- Anna Bay/Boat Harbour/Fishermen's Bay
- Shoal Bay/Fingal Bay
- Nelson Bay East/Corlette
- Corlette/Salamander Bay
- Soldier's Point/Salamander Bay/Taylors Beach
- Tilligerry

A review was conducted in 2001 to determine the effectiveness of the system of precinct committees, and as a result a revision of the Precinct Operating Procedures was implemented to try to strengthen the system. Notwithstanding that review, operating difficulties continued so that by 2003 both Raymond Terrace committees and the Karuah Committee had folded; Tilligerry was disbanded; the Nelson Bay East/Corlette and Shoal Bay/Fingal Bay had combined to become East Tomaree Precinct.

In May 2007 Anna Bay/Boat Harbour/Fishermen's Bay Precinct Committee advised Council that it was disbanding. Anna Bay members are reconstituting as a progress association independently of Council, but will have access to Council in the same manner as any other community group.

Initially a Precinct Support Officer position was created to support the meeting processes of the committees. This position no longer exists and there is no active support of the remaining committees. Council in its adoption of the 2007-2011 Council Plan and Budget, determined not to provide an increase to the financial support of the Eastern Tomaree Precinct Committee.

The recommendation to withdraw financial support in no way implies that the precinct committees could not continue to operate autonomously and provide a 'special interest' voice to Council and to Councillors. The committees could chose to become progress associations, as Anna Bay has done, or retain their current designations. Further, members of the existing precinct committees could nominate to belong to the proposed Residents' Panel if individual applicants meet the criteria.

LINKS TO CORPORATE PLANS

Council Plan 2007-2011

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

Nil

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
- 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

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

The Consultation Review (2006) team from University of Technology, Sydney consulted widely at all levels of Council. A briefing session was held on 24 April 2007 to obtain the views of Councillors.

OPTIONS

1. Adopt the recommendation
2. Amend the recommendation
3. Decline the recommendation

ATTACHMENTS

Nil

TABLED DOCUMENTS

Nil

GENERAL MANAGER'S REPORT

**PETER GESLING
GENERAL MANAGER**

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007**ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007****RECOMMENDATION:**

394	Councillor Jordan Councillor Hodges	It was resolved that the meeting be extended to 9.40pm.
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ITEM NO. 1**FILE NO: PSC2007-1204****DRAFT NELSON BAY 2030 STRATEGY****REPORT OF: TREVOR ALLEN – MANAGER, COMMUNITY PLANNING**

RECOMMENDATION IS THAT COUNCIL:

- 1) Note that the General Manager, to ensure absolute probity and due process in the drafting of the Nelson Bay 2030 Strategy, will ask Council's Internal Auditors to review the process and rationales for the content of the Draft Strategy;
- 2) Subject to the outcome of this review by the Internal Auditors, note that the Mayor, in consultation with the General Manager, will exercise execution authority during January 2008 to initiate the exhibition content of the draft Strategy (provided as an Attachment under separate cover with the Business Paper) for public exhibition and community consultation for a period of 6 weeks during January to March 2008;
- 3) Delegate to the General Manager to make such changes to text and complete such editing as is required – without changing substance of the draft Strategy that is attached – to enable the draft Strategy to go on exhibition between January and February 2008 and note that the Mayor will be requested to exercise any needed Executive Authority in this regard.

RECOMMENDATION:

395	Councillor Robinson Councillor Nell	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to outline the process of developing the draft Nelson Bay 2030 Strategy and present the draft Strategy to Council for consideration prior to placing the draft Strategy on community exhibition.

Council has recognised the crucial need to have a revised strategic planning approach to Nelson Bay, leading to a new chapter in the Port Stephens Development Control Plan and to initiate amendments to the Port Stephens Local Environmental Plan 2000 as may be necessary to achieve improved planning outcomes. Accordingly, Council allocated \$50,000 for this purpose and the draft Strategy is now available for Council's endorsement for public exhibition. A draft amendment to the Port Stephens DCP 2007 will be recommended to Council following evaluation of public submissions in response to this draft Strategy. The report recommending public exhibition of the draft amendment to the DCP is anticipated to be submitted in May 2008.

The draft Nelson Bay 2030 Strategy (draft Strategy) aims to provide a catalyst to the future character of Nelson Bay. The 2030 timeframe has been included in the title to identify that the character of Nelson Bay will evolve over time and to provide consistency with the Lower Hunter Regional Strategy (LHRS) 2006 and the Port Stephens Community Settlement and Infrastructure Strategy (PSCSIS) 2007 timeframes. The principles of the draft Strategy will provide the basis for this evolving character. The study area included all lands zoned 3(a) Business and adjoining 2(c) land. A map of the Study area is included at Attachment 1.

The intended long term outcomes from the implementation of the draft Strategy include a desired future character for Nelson Bay, improved public spaces, better pedestrian connections and links between the Town Centre and the foreshore, guidelines for building height and form, traffic circulation and parking solutions, and principles for retail and economic development. Development Control Plan (DCP) 2007, Chapters C4 - Nelson Bay and C5 - Nelson Bay West will be revised based on the outcomes of the draft Strategy. It is anticipated that amendments to Port Stephens Local Environmental Plan (LEP) 2000 will be required as a result of the revision of this DCP. These changes will be reflected in the comprehensive review of LEP 2000.

Following a tender process, Rohan Dickson and Associates, in conjunction with Chris Stapleton and Patrick Partners were engaged in July 2007 to provide specialist input on urban design and public domain, transport and retail economic outcomes.

The Department of Lands (the Department) are developing a Plan of Management for the Nelson Bay Foreshore. The Department has been involved in the preparation of the draft Strategy and Council has provided input into the Departments process.

LINKS TO CORPORATE PLANS

The draft Strategy seeks to capture the current social, cultural and environmental qualities of the Nelson Bay area and provide strategic directions that incorporate these qualities and identify future opportunities. Best practice sustainability principles are proposed to encourage built form that reflects the quality of the environmental setting. The draft Strategy seeks to support the economic growth of Nelson Bay through appropriate built form that provides flexible building opportunities that encourage an active town centre that is attractive to residents and tourists with improved links to the foreshore and improved pedestrian facilities, traffic movement and parking solutions.

The outcomes and principles contained in the draft Strategy will be incorporated into an amended Port Stephens Community Settlement and Infrastructure Strategy 2007.

The Nelson Bay Foreshore Masterplan July 2002 and the findings of the draft Port Stephens Foreshore Management Plan have been considered in the preparation of the draft Strategy.

FINANCIAL/RESOURCE IMPLICATIONS

In addition to \$50,000 allocated for the project, Council has provided \$4,000 to facilitate meetings between key landholders and the design team from Rohan Dickson's & Associates. These meetings were designed to gather information on intended development in Nelson Bay to test possible development controls and outcomes. As well as discussing the development intentions for key sites, emphasis was placed on developing ideas for improving the relationship and contribution of key sites to the Nelson Bay Town Centre.

Funds to prepare and conduct two community workshops were provided. Council resources will be required for the exhibition and implementation of the draft Strategy.

LEGAL AND POLICY IMPLICATIONS

Legal

There are no legal implications in relation to the preparation of the draft Strategy.

Policy

The Policy implications of the adoption of the draft Strategy are as follows:

Port Stephens Development Control Plan 2007

DCP 2007 Chapters C4 Nelson Bay & C5 – Nelson Bay West will be revised to reflect the contents of the draft Strategy. The revised Chapters will be reported to Council in the first quarter of 2008 seeking Council's support to place the revised chapters on exhibition.

Port Stephens Local Environmental Plan 2000

The Department of Planning LEP Template requires that all height and floor space ratio controls be included in the LEP document. Any such controls in the revised chapters will be incorporated into the comprehensive LEP due to be finalised by 2011.

Port Stephens Community Infrastructure and Settlement Strategy 2007

The draft Strategy, when adopted by Council will be incorporated into an amended PSCSIS 2007 to ensure integration and consistency of outcomes. This will guide Council's decision making in relation to development proposals in Nelson Bay.

Nelson Bay is identified as a specialised centre under the Lower Hunter Regional Strategy 2006. The Nelson Bay area is projected to provide 1,500 jobs and 1,200 dwellings over the next 25 years. These outcomes have been incorporated into the PSCSIS 2007 and the draft Strategy provides Council with a framework to guide the delivery of some of these projected outcomes.

C3.3 Retailing

The Port Stephens Economic Development Strategy identifies Nelson Bay for development as a major regional hub. Attachment 2 shows Figure 30 in the PSCSIS 2007 which identifies the desirable settlement pattern zones that contribute to an ideal settlement pattern with Nelson Bay Town Centre performing the function of a major urban core on the Tomaree Peninsula. The draft Strategy aims to strengthen the town centre and its relationship to the adjoining residential areas, as well as the profile and function within the LGA and the region. The draft Strategy provides the framework to guide the quality of future development as the capacity of the Town Centre expands to provide additional jobs and housing and position itself as a regional hub.

The loss of retailing from Nelson Bay to Salamander Bay and the attraction of office development to lower priced space at Taylor's Beach are issues for Nelson Bay Town Centre. These situations can be turned around and the draft Strategy explores the future role for Nelson Bay within a changing economic market.

Coastal Design Guidelines

The Department of Planning *Coastal Design Guidelines for NSW* identifies Nelson Bay as a coastal town and provides general principles for development. The draft Strategy must consider these guidelines.

Tall Building Study 1984

The findings of the '*Tall Building Study 1984*' have been reviewed and the draft Strategy makes recommendations on building height and form. The draft Strategy and revised DCP Chapter C5 – Nelson Bay will supersede the '*Tall Building Study 1984*' upon adoption by Council.

Business Excellence Framework

Preparation of the draft Strategy by Council supports organisational excellence through the promotion of the following Business Excellence principles:-

- 1) **LEADERSHIP** – the draft Strategy provides clear direction around which to build organisational alignment and focus on sustainable achievement of outcomes mentioned in the draft Strategy.
- 3) **CUSTOMERS** – the draft Strategy allows Council to be responsive in supporting the residents and business community of Nelson Bay through promoting the desired future character of Nelson Bay.
- 6) **INFORMATION AND KNOWLEDGE** – the draft Strategy will improve the level of information and knowledge available about the variables of Nelson Bay and improve strategic and operational decision making.
- 8) **SUSTAINABLE RESULTS** – The draft Strategy aims to provide guidance for Council to achieve sustainable results, value and outcomes for Nelson Bay.

To ensure probity and due process in the preparation of the draft Strategy, which includes recommendation for increased height entitlement on land in Donald Street owned by Council, the General Manager will request Council's Internal Auditors to review the process and the way in which the rationale for the increased development entitlements on the Council owned land have been followed and established. It is important to state that there is no complaint or questioning of the process and the rationale – this is being initiated only to ensure absolute probity and transparency.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The draft Strategy aims to strengthen the social networks and establish a more vibrant town centre and gain community ownership of the outcomes of the project. The interconnection of the town centre with the marina will provide the opportunity for greater usage of these spaces by local residents and support the integration of the holiday population with the attributes of the town. The design of facilities will consider accessibility and improved pedestrian enjoyment.

ECONOMIC IMPLICATIONS

The draft Strategy aims to guide future development to support the evolving character of Nelson Bay and encourage built form and public spaces that support a vibrant town centre that makes Nelson Bay an attractive destination for the region. The draft Strategy and draft development controls support and build on the policies outlined in the *Economic Strategy* produced by Buchan Consulting.

ENVIRONMENTAL IMPLICATIONS

Nelson Bay is located within a pristine natural environment that is a valuable asset for the Port Stephens Local Government Area. The *Port Stephens Foreshore Management Plan* is working to improve the quality of Port Stephens waterways and reduce the impacts of the built environment. Improved development controls for the built environment will reflect the environmental qualities of the surrounding area. Draft controls are proposed that will result in improved outcomes to manage run-off into Port Stephens and protect the natural environment. Building design that incorporates sustainability principles and reduces the

buildings impact will be encouraged and principles are contained within the draft Strategy and DCP. The draft Strategy will support Nelson Bay to become a more sustainable town.

CONSULTATION

Community Involvement has been crucial in developing the draft Strategy. A range of opportunities have been provided for the community, government agencies, Council officers and Council to access information about the process and to respond to the process. This includes.

Web-site: A web-site has been established with a range of information, including the community workshop presentations, provided for discussion purposes only.

Port Stephens Examiner: Notices and updates have been placed in the Examiner.

Posters: posters have been prepared for the project to promote key events. These have been widely distributed.

Mail out: Invitations to the community workshops have been sent to retail/commercial operators and owners, strata title managers and to adjoining landowners within the town.

Community Steering Focus Group: was formed with members and east ward councillors. Three meetings were held and documents circulated for comment.

Community Workshops: Two community workshops were held, one on 3rd September, "Creating our Future", and one on the 18th September 2007 "Developing the Strategy". Both workshops were held at the Nelson Bay RSL Club and were very well attended. The draft Strategy is based on research findings and the generous feedback from the workshops. The feedback from these meetings has been considered in the draft Strategy.

Government Agency workshops: were held on 3 September and 18 October to discuss needs for Nelson Bay. Service providers advised that they were able to cater for, or upgrading was in place to provide the services required and requested to be kept informed by Council of planned growth.

Internal Technical Committee: Officers from all sections of Council make up this committee. Two Meetings were held with these officers and documents were circulated for comment.

Comments have been obtained from community groups and individuals during the process that have been fed into the process for consideration.

Key site owner meetings: designed up to gather information about Nelson Bay, discuss the development intentions for key sites and discuss ways of improving the relationship and contributions that key sites make to Nelson Bay as a whole

The draft Strategy will be presented to Council in a briefing on Thursday 6th December. A copy of the draft Strategy is provided under separate cover with this report. The opportunity for further community input will be provided when the draft Strategy is placed on exhibition. Following the exhibition period and the review of comments received the draft Strategy will be reported back to Council. Council will have another opportunity to revise the draft Strategy to ensure it meets Council and community expectation.

OPTIONS

- 1) Place the draft Nelson Bay 2030 Strategy provided under separate cover with this report, on exhibition from mid January until the end of February 2008 with a report to Council at the completion of exhibition.
- 2) Do Nothing

Option 1 is the recommended Option.

ATTACHMENTS

- 1) Map of Study Area.
- 2) Extract from the Port Stephens Community infrastructure and Settlement Strategy
- 3) Copy of draft Nelson Bay 2030 Strategy **provided under separate cover.**

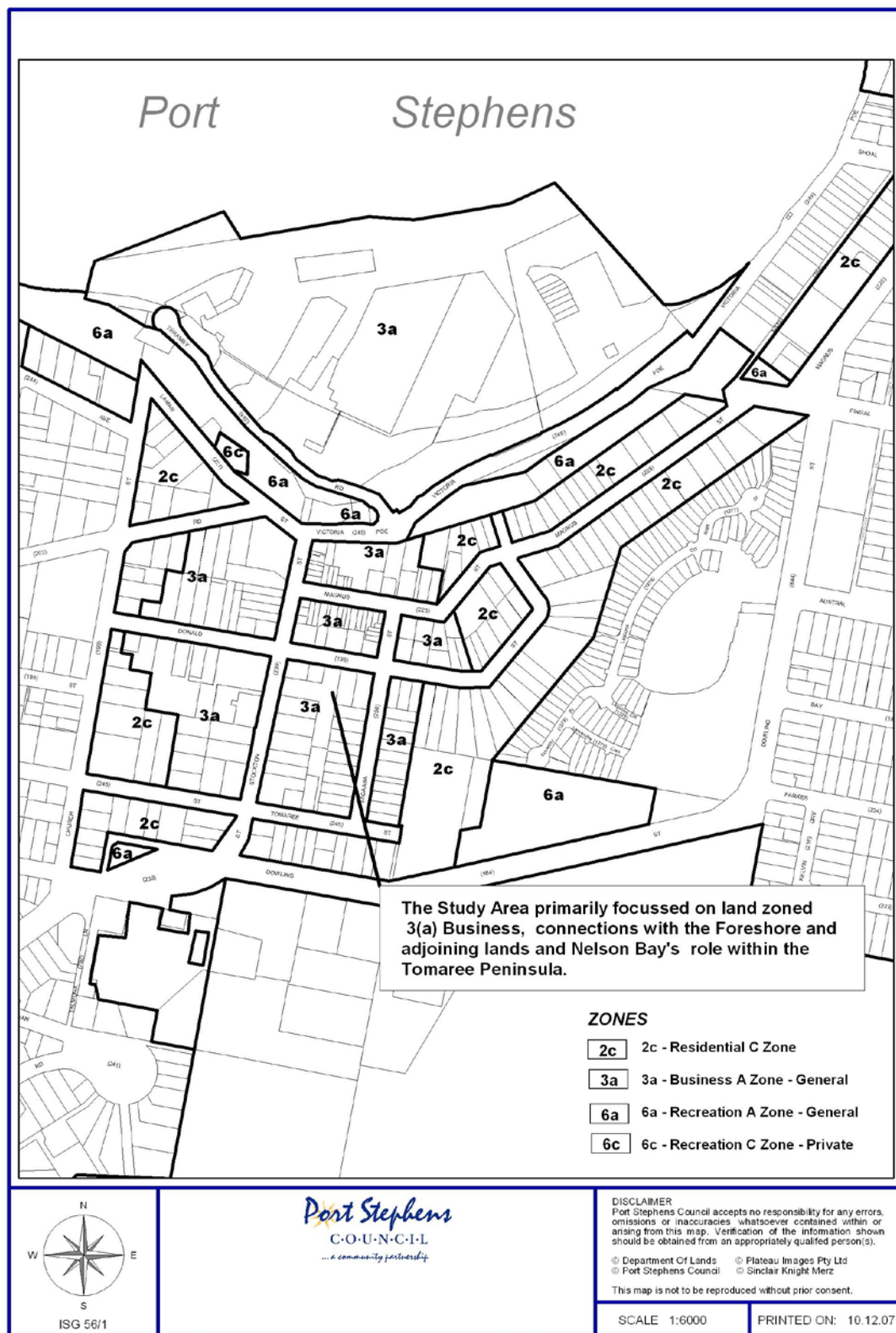
COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

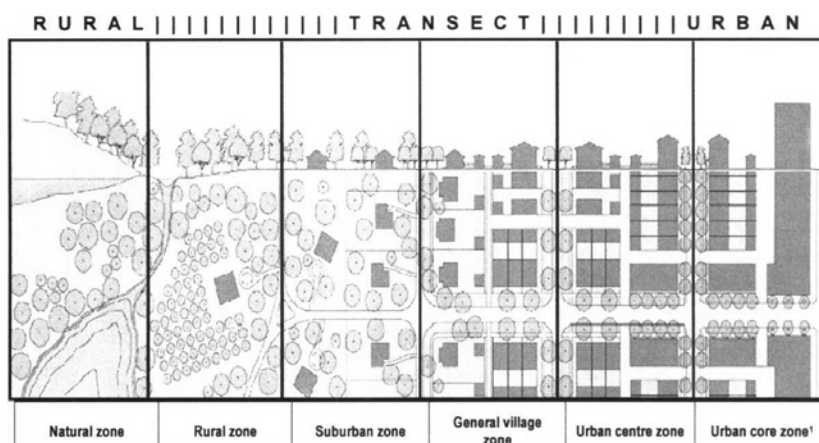
ATTACHMENT 1 MAP OF STUDY AREA



ATTACHMENT 2

EXTRACT FROM THE PORT STEPHENS COMMUNITY INFRASTRUCTURE AND SETTLEMENT STRATEGY

Extract from Port Stephens Community Settlement and Infrastructure Strategy 2007 page 49



	NATURAL/RURAL	SUBURBAN	VILLAGE	URBAN
Element	Mostly car dependent areas	Walkable catchments, low to medium density residential, mixed use areas	Isolated cluster of dwellings around an informal centre, transport dependent for higher order facilities/services	Urban centres, fine grained mixed uses – cities, towns and main streets
Movement Network	Roads, country lanes	Primary distributors - integrator arterials & local streets	Informal lanes and roads	Formal boulevards, streets and lanes
Parking	Off road	Mixed on & off street	Mixed on and off street	On street, inside block, stacked or underground
Pedestrian	Narrow informal paths	Narrow footpaths	Informal paths and narrow footpaths	Wide footpaths
Building size	Generally small buildings	Mixed small & large buildings	General small buildings	Generally large buildings
Building heights	Lower building heights	Some high buildings	Low building heights	Higher building heights
Density	Low	Mixed low and medium	Mixed low and medium	Mixed medium and high
Frontage to street	Rotated frontages	Aligned frontages	Informal and aligned frontages	Aligned frontages
Facades		Yards and verandahs	Yards and verandahs	Shopfronts and balconies

Landscaping	Greenscape	Greenscape - less hardscape	greenscape	Hardscape with less greenscape
Open space	Corridors, farming and conservation areas	Recreation areas, parks, corridors		Pocket parks, plazas, squares
Land use	Dispersed residential	Residential	Clustered residential and supporting centralised mixed use	Mixed use
Setbacks	Deep setbacks	Medium setbacks	Mixture of setbacks	Shallow to no setbacks
House lots	Large	Predominantly medium	Small to large	Medium to small
Curb radii	Large	Mixture	small	Small
Building	Detached	Mix of detached & attached	Predominantly detached	Most buildings attached
		Local gathering places		Regional institutions
Transport	Little-no transport choice	transport choice of car and limited cycling, walking, bus	Cycling and walking within village	Maximum transport choice – cycling, walking, car and bus
Infrastructure and Services	Remote from services and infrastructure – cost prohibitive to provide	Basic services and infrastructure provided but can be remote from higher order services. Provision of higher order services and infrastructure are cost prohibitive.	Basic services and infrastructure provided but remote from higher order services. Provision of higher order services and infrastructure cost prohibitive.	Integrated with services and infrastructure – economies of scale allow costs to be more equitably distributed
Drainage	Open swales	Open swales, kerb & guttering	Open swales	Kerb and guttering
Vegetation	Mixed tree clusters	Garden trees, some street trees	Garden and street trees	Aligned street trees
Signage	Small yard signage			Building mounted & footpath

Figure 30: Land use transect. Modified from DPZ.com.

1. Transect zone does not equate to land use zones under the Port Stephens Local Environmental Plan 2000 (LEP).
The transect should guide land uses and development design.
2. The transect is not to be interpreted rigidly. Its application is dependent upon cultural, economic, social and environmental contexts but shall be consistent with the Strategy. It is a tool to guide future land use planning decisions relating to LEP amendments and the preparation of Development Control Plans.

**ATTACHMENT 3
COPY OF DRAFT NELSON BAY 2030 STRATEGY**

To be provided under separate cover

ITEM NO. 2**FILE NO: 16-2007-445-1****AUSTRALIAN SHARK AND RAY CENTRE – TRAFFIC REPORT****REPORT OF: TREVOR ALLEN – INTEGRATED PLANNING MANAGER**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adhere to the current Condition of Consent that requires the provision of pavement widening in Marsh Road for an intersection turnout to the development – being a Type A intersection in accordance with Council's Subdivision Code.
-

RECOMMENDATION:

396	Councillor Nell Councillor Tucker	It was resolved that 1) Council Adopt the recommendation that the Condition of consent No. 10 – Provide pavement widening in Marsh Road for an intersection turnout to the development, being a Type A intersection in accordance with Council's Subdivision Code for the property, be implemented 2) Council defer condition 10 until May 2008 with the RTA being requested to reconsider reduced speed zone
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MATTER ARISING:**RECOMMENDATION:**

397	Councillor Francis Councillor Jordan	It was resolved that 1) the Applicant be informed in writing of the conditions of consent and 2) Council to be informed of progress on this matter.
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BACKGROUND

The purpose of this report is to provide information to Councillors to review Conditions of Consent for the 'Australian Shark and Ray Centre', Marsh Road, Bobs Farm.

On 24 May 1995 Council approved a Tourist Development at Lot 1 DP 774965, 218 Marsh Road Bobs Farm subject to conditions as part of Development Application 7-1995-394-1. On 16 August 1995 Council approved a modification to development consent pursuant to the then Section 102 of the Environmental Planning and Assessment Act 1979 which amended Condition 10 to read as follows:

“10 Provide pavement widening for an intersection turnout to the development being a Type A intersection in accordance with the Council's Subdivision Code. The construction works may be staged such that the southern side of Marsh road shall be completed prior to the occupation of Stage 1. The northern side of Marsh Road shall be completed prior to occupation and operation of Stage 3” .

All other conditions of consent remain unchanged.

On 24 September 1996 Council granted consent to Tea Rooms and Additions to Shed on the subject property (BO900/96).

On 16 December 1997 Council approved an addition to the Tourist Facility on the subject land (A1614/97).

On 6 December 2004 Council issued an Order on the subject property and then owners under Section 121B of the Environmental Planning and Assessment Act 1979 address a number of outstanding issues including;

- “1 Complete the development in accordance with Building Approvals A1614/97 and BO900/96 and Development Consent D394/95. Copies of these consents are attached for your information and form the list of works required for this order. In particular the road works at the entrance of the property, the fire safety provisions and the provisions relating to the access for people with disabilities have not been satisfactorily completed.
- 2 Fire separate the wall between the commercial and residential portions of the buildings to provide a Fire Resistance Level of 60/60/60
- 3 The premises are not to be used for commercial purposes until the terms of this Order are completed to the satisfaction of Council”

The subject land was sold and the new owner lodged a development application for what is known as the The Australian Shark and Ray Centre. On 13 September 2007 Council granted consent for a Tourist Facility – Marine Life Centre on Lot 1 DP 774965 686 Marsh Road Bobs Farm (Note change to rural addressing). Based on the above chronology, the Type A intersection requirement originated from the 1995 consent, is specifically referenced in the outstanding Order issued circa 2004 and is relied upon for the most recent consent granted on 13 September 2007. The current owner has been working constructively with the Development & Building Section to resolve all issues identified in the above Order, however the intersection works has emerged as the key issue preventing the release of an Occupation Certificate to enable the premises to operate.

An inspection of the access to the subject property was conducted on Thursday 6 December 2007 by Council's Traffic Engineer.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

- SOCIAL SUSTAINABILITY** – *Council will preserve and strengthen the fabric of the community, building on community strengths.*
- CULTURAL SUSTAINABILITY** – *Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.*
- ECONOMIC SUSTAINABILITY** – *Council will support the economic sustainability of its communities while not compromising its environmental and social well being.*
- ENVIRONMENTAL SUSTAINABILITY** – *Council will protect and enhance the environment while considering the social and economic ramifications of decisions.*
- BUSINESS EXCELLENCE** – *Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey*

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

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

It should be noted that Council applies the AUSTROADS Guide to Traffic Engineering Practice as its reference in respect of design, construction and user aspects of roads and bridges and is considered "Best Practice" for assessing intersection improvements. The type of intersection required in the development consent is based on the AustRoads Standards.

Business Excellence Framework

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – *Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.*
- 2) **CUSTOMERS** – *Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 3) **SYSTEMS THINKING** – *Continuously improve the system.*

- 4) **PEOPLE** – *Develop and value people's capability and release their skills, resourcefulness and creativity to change and improve the organisation.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a cultural of continual improvement, innovation and learning.*
- 6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

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 greenhouse 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

Nil

OPTIONS

- 1) Adopt the Recommendation.
- 2) Not adopt the recommendations contained in the Traffic Engineer's Report.

ATTACHMENTS

- 1) The report of the Traffic Engineer contained in ATTACHMENT 1

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1

TRAFFIC ENGINEER'S REPORT-AUSTRALIAN SHARK AND RAY CENTRE

Current Access Arrangements

On Thursday 6 December 2007, I inspected the access to the subject Property, which highlighted several safety risks associated with not proceeding with the Condition of Consent regarding the access arrangements.

Details of the existing intersection arrangement are as follows:

- Marsh Road is a high speed road with a speed limit of 80km/h, it has a sealed road pavement of approximately 7m wide, it has no centreline linemarking, no street lighting, no road shoulders and deep table drains on each side of the road starting from the edge of sealed pavement.
- The access road is approximately 4.5m wide and gravel from the edge of bitumen sealed pavement of Marsh Road to the development. The width between the existing brick entrance structures is 5.4m.
- Sight distance to the left and right of the access road onto Marsh Road is approximately 65m and 70m respectively. This sight distance is severely restricted due to roadside growth, trees, a power pole and entrance structures.

It should be noted that Council applies the AUSTROADS Guide to Traffic Engineering Practice as its reference in respect of design, construction and user aspects of roads and bridges. The type of intersection required in the development consent is based on the AustRoads Standards.

Details of the safety risks arising from not providing intersection improvements are as follows:

- (a) It is considered that the current access does not meet Council's design requirements for minimum access improvements in that;
 - There is no shoulder width to provide a typical basic left turn treatment for westbound vehicles turning left into the Property
 - There is no shoulder width to provide a typical right turn treatment for eastbound vehicles turning right into the Property
 - There is inadequate sight distance for egress vehicles from the Property to the left, currently 65m due to roadside growth, trees, a power pole and entrance structures
 - There is inadequate sight distance for egress vehicles from the Property to the right, currently 70m due to roadside growth, trees and entrance structures
 - There is inadequate access width to the Property, currently 4.5m and gravel (Council requirement 6m min.)
 - There is inadequate return radii for the access, currently 5m left and right (Council requirement 15m left and right);
- (b) Given the 80km/hr speed limit which applies to this section of Marsh Road, the above design deficiencies pose serious safety risks in regard to left and right

turning movements and egress/ingress movements from the existing access. Controlled access arrangements are critical in helping to reduce the number of crashes on the road network.

- (c) An option suggested was to ban right turn movements into the Property using No Right Turn signposting on a temporary basis. Given the location of the Property, compliance to this restriction would be low. Vehicles obeying the restriction would have no safe location beyond the access to make a u-turn in safety.

5. CONCLUSION

The analysis of the existing site conditions indicates that the current access arrangements do not provide adequate sight distance, access width and turning facilities. Without appropriate design requirements for vehicles accessing the Property on a Marsh Road;

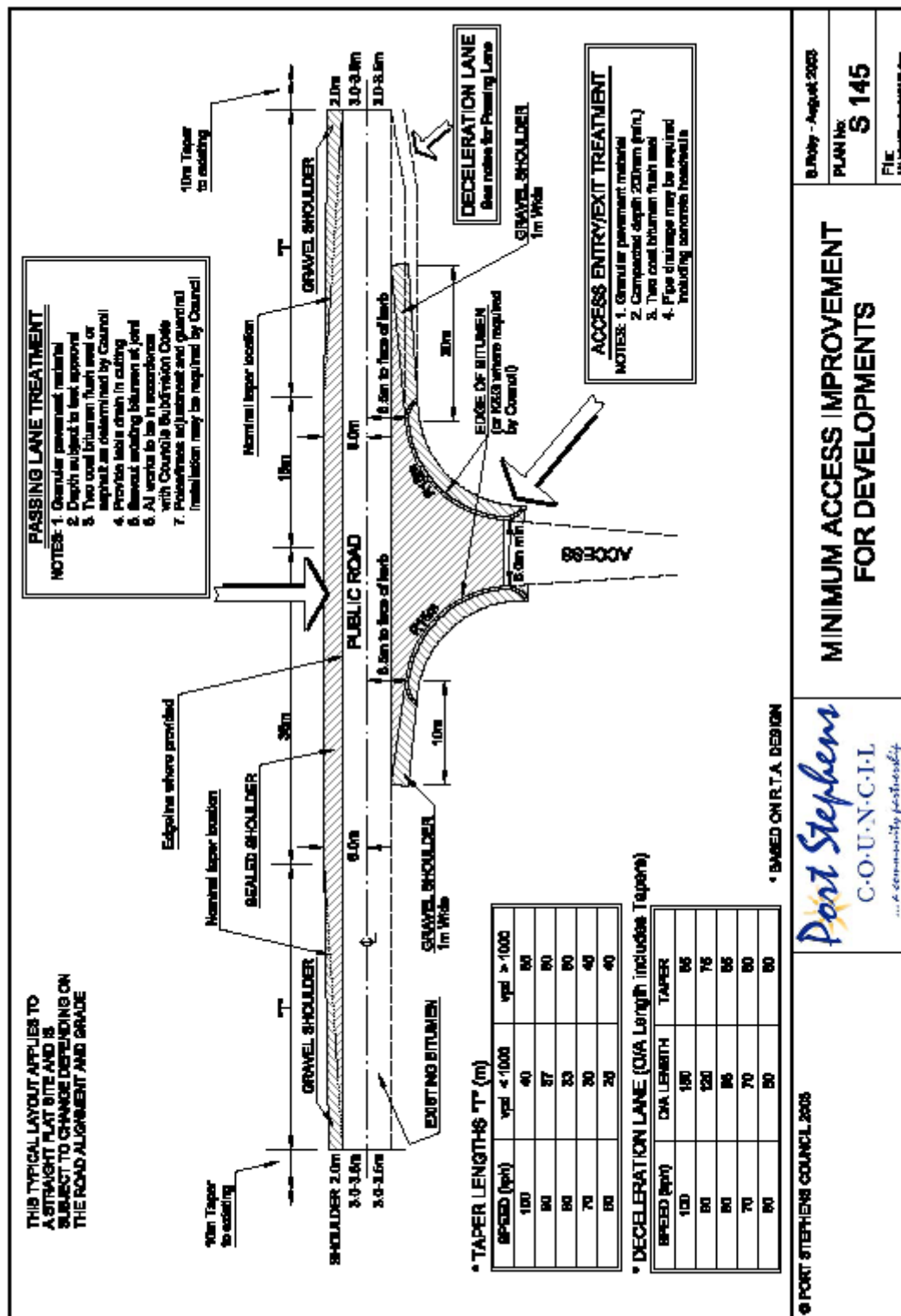
- There is insufficient reaction time for drivers on Marsh Road to perceive and react to a vehicle from the access moving into a collision situation
- There is insufficient warning and clarity of location of the access to the Property
- There is no escape route for drivers for evasive action
- there is no provision for vehicles to queue or pass a stationary vehicle

The lack of appropriate design requirements presents a serious safety risk to members of the public using Marsh Road and necessitates the condition of consent

Recommendation

THAT THE CONDITION OF CONSENT NO. 10.

PROVIDE PAVEMENT WIDENING IN MARSH ROAD FOR AN INTERSECTION TURNOUT TO THE DEVELOPMENT, BEING A TYPE A INTERSECTION IN ACCORDANCE WITH COUNCIL'S SUBDIVISION CODE. FOR THE PROPERTY, BE IMPLEMENTED.



ITEM NO. 3

FILE NO: 16-2000-1014-3

SECTION 96 MODIFICATION TO DEVELOPMENT CONSENT FOR AN URBAN HOUSING DEVELOPMENT AT 15 CHURCH STREET NELSON BAY

REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1 Receive and note this report
- 2 Note that the Land and Environment Court will conduct the next call over on 20 December 2007
- 3 Note that Supplementary Information providing a full assessment of the subject application has been tabled under separate cover
- 4 Note that all authors of written submissions have been advised of Council's public access process (including that there is no public access at an Ordinary Council Meeting) and have been provided with a copy of the Supplementary Information.

RECOMMENDATION:

398	Councillor Jordan Councillor Nell	<p>It was resolved that Council approve the Section 96 Modification to the Development Consent for the Urban Housing Development at 15 Church St, Nelson Bay, subject to additional consent condition –</p> <p><i>All airconditioning plant shall be contained wholly within the building. Rooftop airconditioning plant shall be suitably screened from view from public areas by suitable all-weather colour matched material.</i></p>
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BACKGROUND

The applicant has filed an appeal in the Land & Environment Court for deemed refusal pursuant to Clause 82 of the Environmental Planning and Assessment Act 1979. The purpose of this report and a Supplementary Memo to be tabled under separate cover is to provide Council with an opportunity to consider this application prior to the next call over on 20 December 2007 and enable instructions to be provided to Council's solicitor.

Although legal proceedings have commenced, it is still open to Council to determine the application. If the determination is to approve the application, Council is entitled, with the consent of the applicant and without prejudice to costs, to have the appeal withdrawn prior to the Court hearing and determining the matter.

The original development consent was granted on 16 May 2001 pursuant to the requirements of Port Stephens Local Environmental Plan 1987. The approved development was configured in two (2) buildings with associated services and facilities provided on the site. The approved twenty one (21) unit development consisted of five (5) x two (2) bedroom units and sixteen (16) x three (3) bedroom units at a maximum height of 15.9 metres from natural ground level.

On 22 February 2006 an application to modify the original consent was lodged (Modification Number 1). This current modified development consent reduced the overall maximum height of 14.92 metres above natural ground level or 17.41 metres when measured from the finished basement level.

The current Section 96 modification (Modification Number 2) was lodged on 13 December 2006. The latest modification involves an increase in floor to ceiling height over five (5) storeys resulting in a maximum height of 16.42 metres from natural ground level or 18.47 metres from finished basement level.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

SOCIAL SUSTAINABILITY	<i>Council will preserve and strengthen the fabric of the community, building on community strengths.</i>
CULTURAL SUSTAINABILITY	<i>Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.</i>
ECONOMIC SUSTAINABILITY	<i>Council will support the economic sustainability of its communities while not compromising its environmental and social well being.</i>
ENVIRONMENTAL SUSTAINABILITY –	<i>Council will protect and enhance the environment while considering the social and economic ramifications of decisions.</i>
BUSINESS EXCELLENCE –	<i>Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey</i>

FINANCIAL/RESOURCE IMPLICATIONS

The applicant has filed an appeal in the Land and Environment Court (see below). Council has incurred legal expenses responding to this appeal and significant resources have been redirected from development assessment responding to this appeal.

LEGAL AND POLICY IMPLICATIONS

Development Assessment

The key assessment issue associated with this Section 96 relates to a proposed increase in height. The current development consent, as modified, provides a maximum height of 15.1 metres from natural ground level. The height limit pursuant to Port Stephens Local Environmental Plan 1987 and Port Stephens Local Environmental Plan 2000 is 15 metres. The application proposes to increase height to 16.42 metres or 1.42 metres above the existing height control.

Notification and Exhibition

In accordance with Clause 58 of the Hunter Regional Environmental Plan 1989 the application is required to be exhibited at the usual Council locations as well as the Department of Planning Officers in Newcastle until 10 December 2007.

Court Timetable

Council is currently responding to the Court's timetable in respect to this matter. The next call over is scheduled for 20 December 2007. It is anticipated that the matter will be set down for hearing at this time. The purpose of this report and a Supplementary Memo to be tabled under separate cover is to provide Council with an opportunity to consider this application prior to the call over and enable instructions to be provided to Council's solicitor.

Australian Business Excellence Framework

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

A full appraisal of policy implications will be addressed in the Supplementary Memo to this report including consideration of all public submissions.

CONSULTATION

The application was exhibited in accordance with Council policy and two submissions were received raising objection to the modified proposal. These are discussed in the Attachments.

However, it should be noted that the proposal was required to be renotified to comply with the requirements of Clause 58 of Hunter Regional Environmental Plan 1989 (HREP), for 30 days. In this regard, the application is still on public exhibition until 10 December 2007 and has been forwarded to the Department of Planning for public exhibition in the Newcastle office.

The Department of Planning have previously advised that Clause 58 of HREP does not require the Department's concurrence for s96 modification applications. (Undated letter, reference N00/00148-1, received by Council 12 February 2007.)

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject or amend the Recommendation.

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 4**FILE NO: A2004-0656****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) Medowie Public School – Donation towards prizes for annual school Presentation Ceremony - \$300.00 (Central Ward Funds)
 - b) Hartigan Family – Donation towards rebuilding their family home lost in recent bushfire - \$5,000.00 (Mayoral Funds)
 - c) Port Stephens Family Support Service Inc – Provide cost of entry to Lakeside Leisure Centre for children affected by domestic violence - \$240.00 (Mayoral Funds)

RECOMMENDATION:

399	Councillor Westbury Councillor Francis	It was resolved 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.

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 DONATION

Hartigan Family	Donation towards rebuilding costs of family home lost in bushfire	\$5,000
Port Stephens Family Support Service Inc	Provide cost of entry to Lakeside Leisure Centre for children affected by domestic violence	\$240

WEST WARD - NIL

CENTRAL WARD

Medowie Public School	Donation toward Presentation Ceremony	\$300
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EAST WARD - NIL**LINKS TO CORPORATE PLANS**

The links to the 2007-2011 Council Plan are:-

SOCIAL SUSTAINABILITY – *Council will preserve and strengthen the fabric of the community, building on community strengths.*

CULTURAL SUSTAINABILITY – *Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.*

ECONOMIC SUSTAINABILITY – *Council will support the economic sustainability of its communities while not compromising its environmental and social well being.*

ENVIRONMENTAL SUSTAINABILITY – *Council will protect and enhance the environment while considering the social and economic ramifications of decisions.*

BUSINESS EXCELLENCE – *Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey*

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;
- 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.

Business Excellence Framework

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 2) **CUSTOMERS** – *Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*

OPTIONS

- 1) Adopt the recommendation.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund all the requests.

ATTACHMENTS

Nil

TABLED DOCUMENTS

Nil

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 3150-029 PSC2006-0281

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.
-

ORDINARY MEETING OF COUNCIL – 18 DECEMBER 2007

RECOMMENDATION:		
	Councillor Francis Councillor Brown	That the recommendation be adopted.

The Motion on being put was lost.

Council considered this Notice of Motion at the Ordinary Meeting of Council on the 28 August 2007. Council resolved at the meeting on 28 August 2007 to:-

That Council defer the Motion/Recommendation to hear argument from the other party - the Circus Industry.

Representatives from the Circus industry addressed Council at Public Access on 13 November 2007.

The Notice of Motion is now submitted to Council for further consideration of the recommendation shown above.

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.

MINUTES FOR ORDINARY MEETING – 18 DECEMBER 2007**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: Councillors Jordan, Hodges, Baumann, Westbury, Robinson and Tucker.

Those against the motion: Councillors Brown, Francis, Dingle, Nell and Dover.

**BACKGROUND REPORT OF: JASON LINNANE - RECREATION SERVICES
MANAGER****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.

RECOMMENDATION:

400	Councillor Westbury Councillor Nell	It was resolved that Council go into recess at 9.50pm
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CONFIDENTIAL ITEMS



In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

The meeting resumed at 10.35pm

RECOMMENDATION:		
401	Councillor Nell Councillor Robinson	It was resolved that Council move into Confidential session.

RECOMMENDATION:		
402	Councillor Robinson Councillor Nell	It was resolved that Council move into Committee of the Whole.

I certify that all pages of the Confidential Ordinary Minutes of Council dated 18th December 2007 were confirmed by Council at its meeting held on 26th February 2008.

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Cr Ron Swan
MAYOR