

## Minutes 8<sup>th</sup> July 2008



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 8<sup>th</sup> July 2008, commencing at 7.20pm.

PRESENT:

Councillors R. Swan (Mayor); S. Dover (Deputy Mayor); 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.

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# MOTIONS TO CLOSE

**ITEM NO. 1**

**FILE NO: T11-2008**

**MOTION TO CLOSE MEETING TO THE PUBLIC**

**REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGEMENT**

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**RECOMMENDATION:**

- 1) That pursuant to section 10A(2)(d)(i) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary Meeting agenda namely **Tender T11-2008 – Western Terminal Extension**.
  - 2) That the reasons for closing the meeting to the public to consider this item be that:
    - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
    - ii) In particular, the report includes confidential pricing information.
  - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
  - 4) That the report and minutes of the closed part of the meeting are to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the Local Government (General) Regulation 2005. **Port Stephens Council resolution will remain confidential until Newcastle City Council has made its decision.**
- 

**ORDINARY MEETING – 8 JULY 2008**

**RESOLUTION:**

<b>159</b>	<b>Councillor Hodges Councillor Swan</b>	<b>It was resolved that the recommendation be adopted.</b>
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**ITEM NO. 2**

**FILE NO: PSC2007-3313**

**MOTION TO CLOSE MEETING TO THE PUBLIC**

**REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGEMENT**

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**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 Confidential Item 2 on the Ordinary Meeting agenda namely **Workplace Agreement**.
  - 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.
- 

**ORDINARY MEETING – 8 JULY 2008**

**RESOLUTION:**

<b>160</b>	<b>Councillor Hodges Councillor Swan</b>	<b>It was resolved that the recommendation be adopted.</b>
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**ITEM NO. 3**

**FILE NO: A2004-0573V22**

**MOTION TO CLOSE MEETING TO THE PUBLIC**

**REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGEMENT**

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**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 Confidential ***Information*** Item 1 of the of the Ordinary Meeting 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 legal advice provided 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.
- 

**ORDINARY MEETING – 8 JULY 2008**

**RESOLUTION:**

<b>161</b>	<b>Councillor Hodges Councillor Swan</b>	<b>It was resolved that the recommendation be adopted.</b>
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# MAYORAL MINUTE

# MAYORAL MINUTE

ITEM NO. 1

FILE NO: 3150-029, 2007-1204

## **EXTENSION OF TIME FOR COMMUNITY CONSULTATION OF 2030 PLAN**

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### **THAT COUNCIL:**

- 1) Allow an extension of time for the Community Consultation of the 2030 Nelson Bay Draft Plan to two months.
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### **ORDINARY MEETING – 8 JULY 2008**

#### **RESOLUTION:**

<b>162</b>	<b>Councillor Swan Councillor Nell</b>	<b>It was resolved that the recommendation be adopted.</b>
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### **BACKGROUND**

- 1) Council resolved at its meeting of 10<sup>th</sup> June 2008 to place the Draft Nelson Bay 2030 Strategy on exhibition from 19 June until 17 July 2008. The four week exhibition period was proposed to allow time for a report on the exhibition of the draft Strategy to be provided for consideration by the current Council prior to the elections. The forty day moratorium that has been introduced by the Department of Local Government on policy reports to Council means that the exhibition of the draft Strategy will not be reported to the current Council. When Council officers attended the Tomaree Resident and Ratepayers Association meeting on Monday 23 June 2008 the short length of the exhibition period was raised as an issue. An extension of the exhibition period for four weeks to 14 August 2008 is supported.
- 2) Should Council support the extension of the exhibition period, a notice will need to be placed in the Examiner on 17 July 2008. The deadline for this advertisement to make the Examiner is 10th July 2008.



# OPERATIONS COMMITTEE RECOMMENDATIONS

**ITEM NO. 5 (OPERATIONS COMMITTEE)**

**FILE NO: 2007-3507**

**MAKING OF RATES AND CHARGES FOR 2008/2009**

**REPORT OF: JEFF SMITH, FINANCIAL SERVICES MANAGER**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Make rates and charges for 2008/2009 in accordance with **ATTACHMENT 1** (5.3% increase to the ordinary rate) should the Minister for Local Government approve Council's special variation application.
  - 2) Make rates and charges for 2008/2009 in accordance with **ATTACHMENT 2** (3.2% increase to the ordinary rate) should the Minister for Local Government not approve Council's special variation application.
  - 3) Agree to consider a late supplementary report to make the rates and charges for 2008/2009 at either an ordinary or extraordinary meeting (if necessary) should the Minister for Local Government approve a different percentage increase.
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**OPERATIONS COMMITTEE – 8 JULY 2008**

**RECOMMENDATION:**

**That this matter be deferred to the Ordinary Meeting of Council 22<sup>nd</sup> July 2008**

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**BACKGROUND**

The purpose of this report is to make rates and charges for 2008/2009. Council is required to make its rates and charges by resolution and issue rate notices before 1 August each year. The rates and charges included in the recommendation are those adopted in the Council Plan 2008-2012. Council has applied for a 5.3% special variation to its notional general income. At the time of preparation of the business paper the Minister for Local Government had not advised of his determination of Council's special variation application.

As timing is critical to ensure that rate notices are issued on time two recommendations are presented as attachments. Attachment 1 represents the rate structure to apply if Council's special variation application is approved. Attachment 2 represents the rate structure to apply if Council's special variation application is refused. It is anticipated that by the time this report is presented to Council the outcome of Council's special variation application will be known.

In the event that the Minister for Local Government approves an increase lesser than the amount Council applied for, but greater than the 3.2% ratepegging increase, a late supplement to this report will be provided, detailing the rate structure to apply based on the approved increase.

2008/2009 is the first year 2007 base date land values will be used to calculate rates following revaluation of Port Stephens. Under Council's Debt Recovery and Hardship Policy relief provisions exist for ratepayers suffering substantial hardship as a result of rate increases arising from the new valuations. In accordance with that policy it is proposed that

ratepayers who incur an increase in ordinary rates of more than 15% above ratepegging be eligible to apply for hardship relief.

## **LINKS TO CORPORATE PLANS**

The links to the 2008-2012 Council Plan are:-

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

**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**

The Minister for Local Government has announced a general rate variation of 3.2% for New South Wales Councils for 2008/2009.

Should Council be advised that the application for a 5.3% special variation has been approved then it is recommended that Council take up the full special variation to fund its Economic Development Plan.

Council is required to post rate notices before 1 August 2008 so that they are properly served in time for the first rate instalment due date of 1 September 2008. If Council does not make rates and charges and serve notices before 1 August 2008 then the due date for the first rate instalment is extended until 1 December, 2008 which would adversely impact on Council's cash flow and investment income. It would also impact on all ratepayers who would have both instalments 1 and 2 due on the same date.

The Minister for Local Government has approved a maximum interest rate of 10% to be applied to overdue rates and charges during 2008/2009.

## **LEGAL AND POLICY IMPLICATIONS**

Council must obtain Ministerial approval to exceed the general ratepegging increase of 3.2%

Council's Debt Recovery and Hardship Policy provides for \$20,000 in aggregate assistance for ratepayers who suffer substantial hardship resulting from a general revaluation.

### **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 culture of continual improvement, innovation and learning.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

Rate income is necessary for Council to deliver the services outlined in the Council Plan 2008-2012.

### **ECONOMIC IMPLICATIONS**

The additional income sought from the Special Variation is to fund implementation of the Economic Development Plan.

### **ENVIRONMENTAL IMPLICATIONS**

Rate income is necessary for Council to deliver the environmental programs outlined in the Council Plan 2008-2012.

## **CONSULTATION**

The appropriate co-ordination and corporate consultation has taken place. The rating and charging proposals were placed on public display in the Council Plan.

## **OPTIONS**

1. Accept the recommendation
2. Reject the recommendation
3. Amend the recommendation

## **ATTACHMENTS**

1. Rates and charges under a 5.3% ratepegging increase
2. Rates and charges under a 3.2% ratepegging increase

## **COUNCILLORS ROOM**

1. Copy - Nelson Bay Town Improvement Special Rate Map
2. Copy - Hunter Central Rivers Catchment Management Area Map

## **TABLED DOCUMENTS**

1. Nelson Bay Town Improvement Special Rate Map
2. Copy - Hunter Central Rivers Catchment Management Area Map

**ATTACHMENT 1**

**5.3% Ratepegging Increase**

- 1) Make ordinary rates in accordance with the following schedule for 2008/2009 using 2007 land values.

Rate Type	Rate Name	Land Category Rate Applies to	Ad Valorem Rate cents in \$	Base Amount \$	% of Yield from Base Amount
Ordinary	Residential	Residential	0.2404	287.00	35%
Ordinary	Farmland	Farmland	0.2404	287.00	21%
Ordinary	Business	Business	0.5520	1,143.00	35%
Ordinary	Mining	Mining	0.5520	nil	

- 2) Make special rates in accordance with the following schedule for 2008/2009 using 2007 land values.

Rate Type	Rate Name	Land Category Rate Applies to	Ad Valorem Rate cents in \$	Base Amount \$	% of Yield from Base Amount
Special	Nelson Bay Town Improvement	All categories	0.09624	96.00	25%

The benefit area for Nelson Bay Town Improvement Rate is within the CBD at Nelson Bay as defined on the Nelson Bay Town Improvement Special Rate Map.

- 3) Levy on behalf of Hunter-Central Rivers Catchment Management Authority a catchment contribution at the rate determined by the Authority for 2008/2009 on all rateable land with a land value of \$300 or more in the defined benefit area. The defined benefit area for the catchment contribution is shown on the Hunter Central Rivers Catchment Map.
- 4) Fix the interest rate to apply to overdue rates and charges in 2008/2009 at 10.0%.
- 5) Make the following annual Domestic Waste Management Charges and Waste Management Charges for 2008/2009. All rateable assessments that are undeveloped (ie have no buildings erected upon them) will be levied either a Domestic Waste Management Charge or a Waste Management Charge. All developed rateable assessments (ie have a building/s erected upon them) will be levied either a Domestic Waste Management Service Charge or a Waste Management Service Charge in addition to the Domestic Waste Management Charge/Waste Management Charge

**MINUTES FOR ORDINARY MEETING – 8 JULY 2008**

<b>Charge Type</b>	<b>Charge Code</b>	<b>Charge Name</b>	<b>Land Category Charge Applies to</b>	<b>Amount of Charge</b>
Domestic Waste Management (section 496 Local Government Act, 1993)	6-63	Domestic Waste Management Charge	All rateable land categorised as Residential except land that is levied a S.496 Domestic Waste Management Service Charge (7-73).	\$56.00 per assessment
Waste Management Charge (section 501 Local Government Act, 1993)	6-64	Waste Management Charge	All rateable land categorised as Mining or Business. All rateable land categorised as Farmland except land that is levied a S.501 Additional Farm Waste Management Charge (6-65). All rateable land categorised as Residential except land that is levied a S.496 Domestic Waste Management Charge (6-63). All non-rateable land that uses the Domestic Waste Management Service.	\$56.00 per assessment
Waste Management Charge (section 501 Local Government Act, 1993)	6-65	Additional Farm Waste Management Charge	All rateable land categorised as Farmland where more than one assessment is held in the same ownership and those assessments are operated as a single farming entity, then the Waste Management Charge (6-64) is to be levied on the first assessment and this Additional Farm Waste Management Charge (6-65) is to be levied on the second and subsequent assessments.	\$1.00 per assessment
Domestic Waste Management (section 496 Local Government Act, 1993)	7-73	Domestic Waste Management Service Charge	All developed rateable land categorised as Residential or Farmland, whether occupied or unoccupied. All non-rateable land that uses the Domestic Waste Management Service	\$267.00 per dual 240 litre bin service

**MINUTES FOR ORDINARY MEETING – 8 JULY 2008**

Charge Type	Charge Code	Charge Name	Land Category Charge Applies to	Amount of Charge
Waste Management Charge (section 501 Local Government Act, 1993)	7-74	Waste Management Service Charge	All developed rateable land categorised as Mining or Business, whether occupied or unoccupied.	\$267.00 per dual 240 litre bin service
Waste Management Charge (section 501 Local Government Act, 1993)	3-74	Waste Service Charge – Additional Red Bin	All rateable land categorised as Farmland, Residential, Mining or Business where the ratepayer requests provision of the additional service. All non-rateable land where provision of the additional service is requested.	\$178.00 per additional waste (red lid) bin
Waste Management Charge (section 501 Local Government Act, 1993)	4-74	Waste Service Charge – Additional Yellow Bin	All rateable land categorised as Farmland, Residential, Mining or Business where the ratepayer requests provision of the additional service. All non-rateable land where provision of the additional service is requested.	\$89.00 per additional recycling (yellow lid) bin

- 6) Set at 15% for 2008/2009 the percentage ordinary rate increase required for ratepayer eligibility to apply for relief from hardship resulting from the 2007 general revaluation of Port Stephens referred to in the Debt Recovery and Hardship Policy.

**ATTACHMENT 2**

**3.2% Ratepegging Increase**

- 1) Make ordinary rates in accordance with the following schedule for 2008/2009 using 2007 land values.

Rate Type	Rate Name	Land Category Rate Applies to	Ad Valorem Rate cents in \$	Base Amount \$	% of Yield from Base Amount
Ordinary	Residential	Residential	0.2404	287.00	35%
Ordinary	Farmland	Farmland	0.2404	287.00	21%
Ordinary	Business	Business	0.4963	1,028.00	35%
Ordinary	Mining	Mining	0.4963	nil	

- 2) Make special rates in accordance with the following schedule for 2008/2009 using 2007 land values.

Rate Type	Rate Name	Land Category Rate Applies to	Ad Valorem Rate cents in \$	Base Amount \$	% of Yield from Base Amount
Special	Nelson Bay Town Improvement	All categories	0.09624	96.00	25%

The benefit area for Nelson Bay Town Improvement Rate is within the CBD at Nelson Bay as defined on the Nelson Bay Town Improvement Special Rate Map.

- 3) Levy on behalf of Hunter-Central Rivers Catchment Management Authority a catchment contribution at the rate determined by the Authority for 2008/2009 on all rateable land with a land value of \$300 or more in the defined benefit area. The defined benefit area for the catchment contribution is shown on the Hunter Central Rivers Catchment Map.
- 4) Fix the interest rate to apply to overdue rates and charges in 2008/2009 at 10.0%.
- 5) Make the following annual Domestic Waste Management Charges and Waste Management Charges for 2008/2009. All rateable assessments that are undeveloped (ie have no buildings erected upon them) will be levied either a Domestic Waste Management Charge or a Waste Management Charge. All developed rateable assessments (ie have a building/s erected upon them) will be levied either a Domestic Waste Management Service Charge or a Waste Management Service Charge in addition to the Domestic Waste Management Charge/Waste Management Charge



**MINUTES FOR ORDINARY MEETING – 8 JULY 2008**

<b>Charge Type</b>	<b>Charge Code</b>	<b>Charge Name</b>	<b>Land Category Charge Applies to</b>	<b>Amount of Charge</b>
Domestic Waste Management (section 496 Local Government Act, 1993)	6-63	Domestic Waste Management Charge	All rateable land categorised as Residential except land that is levied a S.496 Domestic Waste Management Service Charge (7-73).	\$56.00 per assessment
Waste Management Charge (section 501 Local Government Act, 1993)	6-64	Waste Management Charge	All rateable land categorised as Mining or Business. All rateable land categorised as Farmland except land that is levied a S.501 Additional Farm Waste Management Charge (6-65). All rateable land categorised as Residential except land that is levied a S.496 Domestic Waste Management Charge (6-63). All non-rateable land that uses the Domestic Waste Management Service.	\$56.00 per assessment
Waste Management Charge (section 501 Local Government Act, 1993)	6-65	Additional Farm Waste Management Charge	All rateable land categorised as Farmland where more than one assessment is held in the same ownership and those assessments are operated as a single farming entity, then the Waste Management Charge (6-64) is to be levied on the first assessment and this Additional Farm Waste Management Charge (6-65) is to be levied on the second and subsequent assessments.	\$1.00 per assessment
Domestic Waste Management (section 496 Local Government Act, 1993)	7-73	Domestic Waste Management Service Charge	All developed rateable land categorised as Residential or Farmland, whether occupied or unoccupied. All non-rateable land that uses the Domestic Waste Management Service	\$267.00 per dual 240 litre bin service

**MINUTES FOR ORDINARY MEETING – 8 JULY 2008**

Charge Type	Charge Code	Charge Name	Land Category Charge Applies to	Amount of Charge
Waste Management Charge (section 501 Local Government Act, 1993)	7-74	Waste Management Service Charge	All developed rateable land categorised as Mining or Business, whether occupied or unoccupied.	\$267.00 per dual 240 litre bin service
Waste Management Charge (section 501 Local Government Act, 1993)	3-74	Waste Service Charge – Additional Red Bin	All rateable land categorised as Farmland, Residential, Mining or Business where the ratepayer requests provision of the additional service. All non-rateable land where provision of the additional service is requested.	\$178.00 per additional waste (red lid) bin
Waste Management Charge (section 501 Local Government Act, 1993)	4-74	Waste Service Charge – Additional Yellow Bin	All rateable land categorised as Farmland, Residential, Mining or Business where the ratepayer requests provision of the additional service. All non-rateable land where provision of the additional service is requested.	\$89.00 per additional recycling (yellow lid) bin

- 6) Set at 15% for 2008/2009 the percentage ordinary rate increase required for ratepayer eligibility to apply for relief from hardship resulting from the 2007 general revaluation of Port Stephens referred to in the Debt Recovery and Hardship Policy.

**ITEM NO. 8 (OPERATIONS COMMITTEE)**

**FILE NO: PSC2007-3291**

**CROSS BOUNDARY S94 PLAN FOR VILLAGE IN GREAT LAKES COUNCIL LOCAL GOVERNMENT AREA ADJACENT TO KARUAH**

**REPORT OF: TREVOR ALLEN - INTEGRATED PLANNING MANAGER**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the amendment to the “Port Stephens Section 94 Development Contributions Plan 2007” to “Port Stephens Section 94 Development Contributions Plan incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Development Contributions Plan 2008”, and to include the site specific chapter 4.7.7 “Land zoned village (2) within the locality of ‘Karuah’ within the local government area of Great Lakes Council” (**Attachment 1**).
- 2) Endorse the Draft Amendment for public exhibition.

**OPERATIONS COMMITTEE – 8 JULY 2008**

**RECOMMENDATION:**

That the recommendation be adopted.

**ORDINARY MEETING – 8 JULY 2008**

**RESOLUTION:**

<b>163</b>	<b>Councillor Nell Councillor Francis</b>	<b>It was resolved that the recommendation be adopted.</b>
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**BACKGROUND**

The purpose of this report is to advise Council of negotiations with Great Lakes Council to enter into a Cross Boundary Section 94 Development Contributions Plan for the small village zone in Karuah in Great Lakes Council’s LGA and to seek Council’s adoption of that S94 Plan.

Council resolved at its meeting of 26 June 2007 (min 162) together with adopting the new S94 Plan to: ‘3) Undertake discussions with adjoining Councils to consider Cross Boundary Contributions Plans as the need arises.’

A development application for 71 lots was received by the Department of Planning in July 2007 for No 488 Tarean Rd Karuah just north of Karuah bridge. The Department subsequently notified and sort comments on the development from Port Stephens Council in November 2007. Discussions then commenced with Great Lakes Council in relation to a Cross Boundary S94 Plan for the development and adjacent village zone within the Great Lakes Local Government area.

Following a number of discussions with Great Lakes Council staff, it was agreed that a site specific chapter inserted into Port Stephens Councils S94 Plan would be the most suitable for this site. Council's S94 Plan would need to be appropriately named to comply with legislation. Great Lakes Council staff therefore submitted a report to Great Lakes Council recommending that the attached site specific chapter of our S94 Plan be adopted with the proviso that Port Stephens Council accept all costs defending the cross-boundary S94 Plan. The Council however resolved to take no action on the report at its meeting of 13 May 2008. Our General Manager has now written to Great Lakes General Manager seeking reconsideration of the matter.

Should Great Lakes Council reconsider and accept the proposed cross-boundary S94 Plan it is also necessary for this Council's agreement.

In addition to Council's agreement legislation requires exhibition of the Plan for 28 days and necessary time to place appropriate notices of exhibition and adoption.

Although the Minister for Planning is the consent authority, environmental assessment has been delegated to Great Lakes Council. Conditions of consent will generally be drafted by Great Lakes Council.

## **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.*

**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**

There are no additional revenue costs to Council. S94 staff will amend the accounting records and processes.

## **LEGAL AND POLICY IMPLICATIONS**

Selection of projects and enabling Council to obtain developer contributions must follow the requirements of Section 94 of the Environmental Planning and Assessment Act (1979) and Regulation as amended from time to time. Public notice of both Port Stephens and Great Lakes Councils decision is required to be placed in a local newspaper within 28 days after

the decision is made and the contributions plan comes into effect on the date that public notice of its approval is given, or on a later date specified in the notice.

### **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**

The Cross Boundary S94 Chapter will require development in the Great Lakes Council Karuah area to contribute to the facilities located in within Karuah township and district facilities within Port Stephens Local Government area.

#### **ECONOMIC IMPLICATIONS**

The Cross Boundary S94 Chapter will enhance the ability to provide facilities for future communities.

#### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications by the proposed Cross Boundary S94 Chapter.

## **CONSULTATION**

A number of discussions have been held with the S94 Coordinator at Great Lakes Council in relation to this cross boundary issue and the associated implications.

## **OPTIONS**

- 1) To accept the recommendation
- 2) To reject the recommendation
- 3) To reject the recommendation calling for more information to support the report.

## **ATTACHMENTS**

- 1) Site specific chapter 4.7.7 “Land zoned village (2) within the locality of ‘Karuah’ within the local government area of Great Lakes Council”

## ATTACHMENT 1

*Port Stephens Section 94 Development Contributions Plan 2007  
incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Contributions Plan 2008*

Temporary note for exhibition purposes:

The chapter numbers in this document refer to the current Port Stephens Section 94 Development Contributions Plan 2007. This document should be read in conjunction with and will form part of that document on taking effect.

### 1. Plan Summary

#### General

This Contributions Plan is referred to as the *Port Stephens Section 94 Development Contributions Plan incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Development Contributions Plan 2008*.

The Plan applies to all land within the local government area of *Port Stephens Council* and that land zoned Village (2) within the Locality of Karuah within the local government area of *Great Lakes Council*.

**4.7 Site Specific Contributions**

**4.7.7 PORT STEPHENS AND GREAT LAKES COUNCILS CROSS BOUNDARY SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN 2008.**

**LAND ZONED VILLAGE (2) WITHIN THE LOCALITY OF KARUAH WITHIN THE LOCAL GOVERNMENT AREA OF GREAT LAKES COUNCIL**

Potential exists for the development of urban land within the Great Lakes Local Government area of the locality of Karuah and zoned Village (2) that will require services within both the Great Lakes and Port Stephens Local Government areas.

This site specific cross boundary S94 Plan applies to the land shown on the following map marked 2:



**Nexus**

The anticipated residential growth will result in a demand in the Great Lakes and Port Stephens Local Government Areas:

- On existing facilities provided in advance of population growth; and/or
- Requiring the provision of new public facilities not currently available or which may be available but of insufficient capacity to cater for the anticipated increased demand.

Such public amenities and services that have or will be provided have the nexus relationships in accordance with Section 3 – Strategy of this S94 Plan.

Details of population are provided in the Great Lakes Wide Section 94 Contributions Plan.

**4.7.1.1 Calculation of S94 Contribution**

The following costs per person relating to facilities within the Great Lakes Local Government area are those from the Great Lakes Wide Section 94 Contributions Plan (November 2007) and the Great Lakes Council Section 94 Contributions Plan Open Space – Village Areas (1993/1994).

The costs per person relating to facilities within the Port Stephens Local Government area are those derived from Appendix A of this document – Standards Guiding the Provision of Council’s Community and Recreational Facilities or the relevant section of this document where indicated.

**Civic Administration**

Facility	Cost/Person
<u>Great Lakes Council Facilities</u>	
Section 94 Administration	\$59.29
Headquarters Building	\$186.21
<b>Total</b>	<b>\$245.50</b>

**Public Open Space, Parks and Reserves**

Facility	Cost/Person
<u>Great Lakes Council Facilities</u>	
Open Space Embellishment Villages (Open Space Villages Plan)	\$71.52
<u>Port Stephens Council Facilities</u>	
Neighbourhood and District Parkland Reserves	\$174.17
Undeveloped Natural Areas / Open Space	\$115.26
Foreshore Open Space	\$143.44
Boat Ramps	\$71.40
Wharves	\$84.32
<b>Total</b>	<b>\$660.11</b>



# MINUTES FOR ORDINARY MEETING – 8 JULY 2008

*Port Stephens Section 94 Development Contributions Plan 2007  
incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Contributions Plan 2008*

## Sport and Leisure Facilities

Facility	Cost/Person
<b>Port Stephens Council Facilities</b>	
Leisure Centres	\$248.80
Netball Courts	\$66.47
BMX Tracks	\$23.18
Tennis Courts	\$172.21
Tidal Pools	\$31.45
Swimming Facilities	\$177.45
Skate Parks (refer section 4.3.1)	\$111.24
Sports Fields (refer section 4.3.2)	\$871.32
<b>Total</b>	<b>\$1,702.12</b>

## Cultural and Community Facilities

Facility	Cost/Person
<b>Great Lakes Council Facilities</b>	
Library Bookstock	\$61.94
<b>Port Stephens Council Facilities</b>	
Multipurpose Community Space	\$245.16
Branch Libraries	\$134.64
Library Lounges	\$52.02
Exhibition Space	\$117.50
Community and Recreational Facilities Standards Study (refer section 4.4.1)	\$1.49
Multipurpose Children's Space (refer section 4.4.3)	\$157.77
<b>Total</b>	<b>\$770.52</b>

## Fire and Emergency Services

Facility	Cost/Person
<b>Great Lakes Council Facilities</b>	
Rural Fire Fighting	\$529.54
<b>Port Stephens Council Facilities</b>	
State Emergency Service Contribution	\$10.34
<b>Total</b>	<b>\$539.88</b>

### Contribution per person:

Civic Administration	\$245.50
Public Open Space, Parks and Reserves	\$660.11
Sport and Leisure Facilities	\$1,702.12
Cultural and Community Facilities	\$770.52
Fire and Emergency Services	\$539.88
<b>Total Contribution per person</b>	<b>\$3,918.13</b>

The occupancy factor for this site specific area is 2.4 (2006 Census).

$$\begin{aligned}
 \text{Cost per lot} &= \text{Cost per person} \\
 &\quad \times \text{occupancy factor per household} \\
 &= \$3,918.13 \times 2.4 \\
 &= \$9,403.51
 \end{aligned}$$

**The Section 94 Contribution per additional lot or dwelling is \$9,403.**

## MINUTES FOR ORDINARY MEETING – 8 JULY 2008

*Port Stephens Section 94 Development Contributions Plan 2007  
incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Contributions Plan 2008*

### 4.7.1.2 SETTLEMENT AND DISTRIBUTION OF CONTRIBUTION.

In accordance with section 94C of the *EP&A Act Cross-boundary issues:-*

*(1) A condition may be imposed under section 94 or 94A for the benefit (or partly for the benefit) of an area that adjoins the local government area in which the development is to be carried out.*

*(2) Any monetary contribution that is required to be paid under any such condition is to be apportioned among the relevant councils:*

*(a) in accordance with any joint or other contributions plan approved by those councils, or*

*(b) if provision is not made for the apportionment in any such plan—in accordance with the terms of the development consent for the development.*

This Site Specific Cross Boundary S94 Plan specifically provides for the S94 contribution to be paid to Great Lakes Council at the time specified in the condition that imposes the contribution. If no such requirement is specified, the contribution must be paid in accordance with section 2.3.3 Timing of Settlement.

The contribution shall be apportioned by Great Lakes Council in accordance with section 4.7.1.1 as follows:

Category	Contribution per lot	Apportionment	
		Great Lakes	Port Stephens
Civic Administration	\$589	\$589	
Public Open Space, Parks and Reserves	\$1,584	\$172	\$1,412
Sport and Leisure Facilities	\$4,085		\$4,085
Cultural and Community Facilities	\$1,849	\$149	\$1,700
Fire and Emergency Services	\$1,296	\$1,271	\$25
<b>Total</b>	<b>\$9,403</b>	<b>\$2,181</b>	<b>\$7,222</b>

**ITEM NO. 9 (OPERATIONS COMMITTEE)**

**INFORMATION PAPERS**

**REPORT OF: JUNE SHINE – EXECUTIVE MANAGER, CORPORATE MANAGEMENT**

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**RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Confidential Information Paper listed below being presented to Council on 8<sup>th</sup> July, 2008.

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<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	Seabreeze Estate (Confidential)	

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**OPERATIONS COMMITTEE – 8 JULY 2008  
RECOMMENDATION:**

That the Confidential Information Paper be received and noted.

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**ORDINARY MEETING – 8 JULY 2008  
RESOLUTION:**

<b>164</b>	<b>Councillor Nell Councillor Westbury</b>	<b>It was resolved that the recommendation be adopted.</b>
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# GENERAL MANAGER'S REPORT

**PETER GESLING  
GENERAL MANAGER**

**ITEM NO. 1**

**FILE NO: PSC2007-2662**

**2008 LOCAL GOVERNMENT ELECTION - REFERENDUM**

**REPORT OF: JUNE SHINE – EXECUTIVE MANAGER – CORPORATE MANAGEMENT**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Rescind Minute No. 109, of the Council Meeting 27 May 2008, titled 2008 Local Government Election - Referendum.
- 2) Adopt the following question to be printed on the Referendum ballot paper;

**“The Mayor of Port Stephens Council is currently elected by the Councillors.**

**Do you favour the election of the Mayor by electors for a four year term and a decrease of the number of Councillors from twelve to ten to enable the election of three councillors from the three wards?”**

- 3) Authorise the General Manager to make changes the YES/NO cases should the Electoral Commission require changes to reflect Council’s intention.

**ORDINARY MEETING – 8 JULY 2008**

**RESOLUTION:**

<b>165</b>	<b>Councillor Nell Councillor Westbury</b>	<b>It was resolved that the recommendation be adopted.</b>
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**BACKGROUND**

The purpose of this report is request Council to review the questions for the Referendum that will be held in conjunction with the Local Government Elections on 13 September 2008.

Council at its meeting on 27 May 2008 resolved the following questions to be asked at the Referendum:-

1. *Do you wish to change how we elect the Mayor of Port Stephens, from the current method (where the Councillors elect the mayor annually) to the alternative method (where the electorate directly votes for the Mayor at each ordinary local government election, which are generally held every 4 years)?*
2. *If question 1 is carried at this referendum, do you wish to increase the number of Councillors from the current 12 to 13 (which would provide for 4 in each of the three Wards and for the Mayor to be elected directly by the electors from all three Wards)?*

Council also reviewed the Councillor numbers at the same meeting resolving to maintain the existing Councillor numbers should the popularly Mayor referendum not be carried and should the referendum be carried that the Councillor numbers be decreased to 10.

In light of question 2 which states to increase the Councillor numbers and the fact that Council resolved to decrease Councillor numbers should the referendum be carried, Council is required to make changes to question 2.

Council has subsequently advised the Electoral Commission of the Council resolution. The Commission have questioned the wording of question 2 and advised that Council needs to made its intention clear (ie. if the intention is to decrease councillor numbers, then the question needs to reflect same – this cannot be achieved by stating it in the propositions).

To remove the need for two (2) questions the Electoral Commission have suggested the following wording:

**The Mayor of Port Stephens Council is currently elected by the Councillors.**

**Do you favour the election of the Mayor by electors for a four year term and a decrease of the number of Councillors from twelve to ten to enable the election of three councillors from the three wards?**

The YES/NO cases to support the question are shown at **ATTACHMENT 1**.

The Commission's deadline to receive this information is 31 July 2008.

## **LINKS TO CORPORATE PLANS**

The links to the 2008-2012 Council Plan are:-

**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**

The Electoral Commission has indicated that estimates surrounding a referendum are not available at this time however they will be provided to those Councils conducting a referendum, following the review of the general election costs.

Dependent upon the decision of Council with respect to increasing or decreasing the Councillor numbers there would be a financial implication. It is anticipated if the Councillor numbers increased by one then the cost would increase by approximately \$30,000 per year (\$120,000 per Council term) or alternatively if the number decreased the savings would be in the vicinity of \$60,000 per year (\$240,000 per Council term).

## **LEGAL AND POLICY IMPLICATIONS**

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, Council is required to conduct a referendum to make changes to the election of Mayor and changes to the Ward system.

### **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.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.*

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

Dependent upon Council's decision this may allow the community to have direct input into the election of the Mayor.

### **ECONOMIC IMPLICATIONS**

Nil

### **ENVIRONMENTAL IMPLICATIONS**

Nil

## **CONSULTATION**

General Manager  
Executive Officer  
Electoral Commission NSW

## **OPTIONS**

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

## **ATTACHMENTS**

YES/NO Cases to be provided to the community

## **COUNCILLORS ROOM**

Nil

## **TABLED DOCUMENTS**

Nil

ATTACHMENT 1

**YES – Case**

- The Mayor should be determined by the voters, not Councillors.
- Popularly elected Mayor for 4 years would give stability to the Office of the Mayor.
- The Mayor would have more direct accountability to the electorate.
- The distractions caused by the annual election would be avoided.
- There would be predictability about the style and direction for the 4 year period.
- Possible election of Mayor “out of the hat” is avoided.
- Business may be transacted more speedily.
- There will be some savings associated with the reduction of the number of Councillors.
- Provide the opportunity to have a popularly elected Mayor as this is not possible with 12 Councillors – as each Ward is required to have equal number of Councillors under the Local Government Act plus the Mayor.
- A smaller more unified team will enable improved flexibility and responsiveness to the considerable changes and issues being faced by local government.

**NO – Case**

- The elected Councillors should determine the leader of the Council.
- Councillors need to be able to express continuing satisfaction, or otherwise with the Mayor.
- The popularly elected Mayor may not have the support of the majority of Council.
- The 4 year Mayoral term may be too great a commitment for some to make and the choices may be limited. The Ministers 2 year option would eliminate annual distractions if enacted.
- The most “popular” candidate may not necessarily be the best leader of Council.
- Councillors’ representation of the community would decrease.
- A smaller number of Councillors reduces the number available for engagement with the community.
- Councillor’s workload would increase.
- There could be fewer view points represented on Council.
- Councillor representation on community committees and Council committees could be limited.



# RESCISSION MOTION

## **RECISSION MOTION**

**ITEM NO. 1**

**FILE NO: PSC2008-2332**

### **MEDOWIE HARDWARE STORE**

**COUNCILLOR: FRANCIS, BROWN & DINGLE**

That Council rescind its decision of 27 May 2008 on Item 5 of the Ordinary Meeting Report, namely Matter Arising – Medowie Hardware Store.

*“That we move a rescission Motion on Item 5 Medowie Hardware Store – Matter Arising. i.e. Proposed rezoning from Rural (1c4) to 3A Business.”*

**ORDINARY MEETING – 8 JULY 2008**

**RECOMMENDATION:**

	Councillor Nell Councillor Dingle	That Council rescind its decision of 27 May 2008 on Item 5 of the Ordinary Meeting Report, namely Matter Arising – Medowie Hardware Store.
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On being put the Rescission Motion was lost.

**ITEM NO. 5**

**FILE NO: PSC 2008 - 2332**

### **MEDOWIE HARDWARE STORE - MATTER ARISING 6 MAY 2008**

**REPORT OF: TREVOR ALLEN, MANAGER INTEGRATED PLANNING**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Reaffirm the Rural 1(c)4 Rural Small Holdings zoning and Clause 62 under the Port Stephens Local Environmental Plan applying to Lot 1 DP 249781 Ferodale Road, Medowie and the content and strategic directions of the draft Medowie Strategy (currently on public exhibition) relating thereto.

**DETAILS**

Owner - John Robinson  
 Proponent - Council via Matter Arising  
 Date of Submission - N/A  
 Subject Land - Lot 1 DP 249781, 35 Ferodale Road Medowie  
 Current Zoning - Rural 1(c)4 Rural Small Holdings zoning and Clause 62 that permits, with consent, Timber yard and the fabrication, storage, sale, hire and exhibition of hardware and building materials, and associated products.  
 Proposed Zoning - 3(a) Business.

**ORDINARY MEETING – 27 May 2008**

**RESOLUTION:**

**MINUTES FOR ORDINARY MEETING – 8 JULY 2008**

<b>120</b>	<b>Councillor Tucker Councillor Swan</b>	It was resolved to prepare a draft LEP to rezone Rural 1(c) 4 rural small holdings zoning and Clause 62 under the Port Stephens LEP applying to Lot 1 DP249781 Ferodale Road Medowie to Rural 3a business.
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**AMENDMENT:**

	Councillor Nell Councillor Dingle	<b>That the matter be deferred to the Operations Committee in June 2008.</b>
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The amendment on being put was lost.

**BACKGROUND**

**The purpose of this report is to respond to a Matter Arising from Item 1 of the Strategic Committee on the 6<sup>th</sup> May 2008.**

The Matter Arising was as follows:

*That Council request the Group Manager Sustainable Planning bring forward a report to the Ordinary Council Meeting on the potential rezoning of the existing hardware business in Medowie from Rural 1(a) to 3a business.*

Medowie Thrifty-link Hardware and Timber Supplies currently operates from the site under the provision of an enabling clause 62 under the Port Stephens LEP 2000 that permits the following activity on the site with consent:

*Timber yard and the fabrication, storage, sale, hire and exhibition of hardware and building materials, and associated products.*

**Enabling Clause LEP 2000**

The enabling clause was included in the 1987 LEP and carried forward into the current LEP with the extension of the clause to include "...and associated products." The initial development consent - issued for a timberyard and general store on 4 May 1981 – was followed by several minor applications, all in accordance with Clause 62.

The operation of the traditional timber and hardware store provides a range of ancillary products and services such as garden supplies and gardening advice. It was to meet these changes in the market that the original definition was expanded. As is evident, the expanded definition is very broad and does not constrain the property owner in responding to changing trends and customer expectations of product availability of a modern hardware business.

**Draft Medowie Strategy**

The draft Strategy has been developed to guide the future urban growth of the area. The investigations into the development of the draft Strategy considered the current uses on the subject site. The subsequent strategic directions of the draft Strategy for this site relative to the current and future town centre expansion is to recognise the continued operation of the hardware store - that is legally established by Clause 62 - but not recommend the site be identified as part of the current and future town centre core area.

**Standard Instrument LEP**

Council is required to prepare a new LEP in accordance with the Department of Planning's Standard LEP Template by March 2011. The development of the new LEP has identified the need to undertake a review of all commercial centres across the Local Government Area. This Commercial Centres Hierarchy Study will analyse the capacity of the existing centres and trends to ensure the size, location and planning controls of all centres are appropriate to the current and future needs of the community. Further, all enabling clauses in the current LEP will be reviewed to ensure compliance with the requirements of the Department of Planning who are, currently, desiring to limit the use of such clauses. This review will be informed by the Centres Study.

**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**

There are no financial implications in adopting the recommendations of this report.

**LEGAL AND POLICY IMPLICATIONS**

There are no legal and policy implications in adopting the recommendations of this report.

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

### **SUSTAINABILITY IMPLICATIONS**

There are no economic, social and environmental sustainability implications in adopting the recommendations of this report. However, if Council were to consider preparing a draft LEP over the subject land, the sustainability implications would be as follows:

1. Land north of Ferodale Road, including the subject land plus the 3(a) Business zoned land adjacent and to the east, has been identified in a study by a flood consultant for Council to be flood affected. Prior to this study, it was formally recognised that flood affected land existed primarily on the southern side of Ferodale Road down stream of the subject land. The consultant's study further identified that any filling of the identified flood affected land on the northern side Ferodale Road has greater implications for the displacement of water for down stream properties than filling flood affected land on the southern side of Ferodale Road.
2. Locating town centre activities on the subject land and land adjacent and to the west along Ferodale Road, to allow shops including supermarkets would displace the existing and intended future focus of the growing town centre. The location and size of commercially zoned land is crucial to creating competitive, convenient, vibrant and efficient town centres. The dispersal of commercial zoned land in town centres is likely to lead to outcomes such as that currently being experienced in the Tanilba Bay town centre following the recent development of a new supermarket and specialty shops.
3. The 3(a) Business zone is the zone applied to all town centres under the Port Stephens LEP 2000. Relying on a single zone for all retail activity within and around town centres does not distinguish nor accommodate town centre core activities and town centre support activities. Therefore, the presence of a hardware store on the subject land, as recognised by Clause 62, is an effective method of accommodating a centre support activity whilst still retaining the current and future focus on the town centre core within the Peppertree Road area.
4. Consideration of changes to zoning should be based on long term needs and public benefit regardless of current activities and land owner intent. Therefore, Council as the local planning authority should consider the potential long term issues such as the hardware business cease trading, relocating or the land sold to another party that decides to redevelop the site for town centre core activities.
5. Extending town centre activities is likely to create an expectation that land adjacent and to the west (on the corner of Kirrang Drive and Ferodale Roads) should also be for town centre core activities. This land is subject to a rezoning request that was submitted to Council some 2 years ago with a proposal to construct a new supermarket and specialty shops. This request has not been reported to Council as the draft Medowie Strategy does not recommend that this land should form part of the future Medowie town centre. The proponent for this rezoning request has recently submitted another rezoning request on land on the corner of Peppertree and Ferodale Roads consistent with the draft Medowie Strategy. Subsequently Council Strategic Committee has recommended that Council resolve to support this request and prepare a draft LEP in May 2008.

**CONSULTATION**

In April 2008 Council officers met with the land owners on site to discuss their desire to have their land recognised in the draft Medowie Strategy and the land use zone amended accordingly. The stated motivation to rezone their land was to ensure that future business operators in the growing town centre could not legally challenge the range of goods sold at the hard ware business as being outside of that permitted under Clause 62.

**CONCLUSION**

Clause 62 in the LEP 2000 is; suitably broad to accommodate a changing market in the hardware business; does not restrict the current operation of the site; and, is likely to be compatible with the range of goods being sold. The clause includes products associated with a timber yard and the fabrication, storage, sale, hire and exhibition of hardware and building materials, are permissible with consent. Therefore, there is no compelling need to amend the draft Medowie Strategy or consider changing Clause 62 or the land use zone over the subject land for the reasons stated under the section titled "Sustainability Implications".

Further, Council will be reviewing all commercial activities in preparation of the new LEP. The draft Strategy will be considered with the conclusions from the commercial analysis to determine the most appropriate zones for this area. It would be premature to pre-empt the outcomes of this investigation by recommending changes to zones affected by enabling clauses.

**OPTIONS**

- 1) That Council adopt the recommendation.
- 2) That Council amend the recommendation.

**ATTACHMENTS**

- 1) Nil

**COUNCILLORS ROOM**

- 2) Nil

**TABLED DOCUMENTS**

Nil

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**ORDINARY MEETING – 8 JULY 2008**

**RESOLUTION:**

166	Councillor Hodges Councillor Tucker	It was resolved that Council move into confidential.
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