

Minutes 25 November 2008



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 25 November 2008, commencing at 6.01pm.

PRESENT: Councillors B. MacKenzie (Mayor); G. Dingle; S. Dover, G. Francis; P. Kafer; K. Jordan; D. Maher, J. Nell; S. O'Brien; S. Tucker, F. Ward; General Manager; Acting Group Manager, Corporate Excellence, Acting Facilities and Services Group Manager; Sustainable Planning Group Manager; Group Manager Commercial Services and Executive Officer.

326	Councillor Ken Jordan Councillor Sally Dover	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 21 st October & 11 th November 2008 be confirmed.
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RESOLUTION:

327	Councillor John Nell Councillor Ken Jordan	It was resolved that apologies be accepted for Cr Westbury
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Note: Councillor Westbury arrived at 6.37pm.

Councillor Jordan declared a significant non – pecuniary.

INDEX

SUBJECT	PAGE NO
MAYORAL MINUTES	4
1. ROADS & DRAINAGE INFRASTRUCTURE RENEWAL.....	5
2. KINGS HILL RELEASE AREA AND PROPOSED DEVELOPMENT AT WALLALONG.....	7
3. SILO – STEEL STREET, WILLIAMTOWN	9
MOTIONS TO CLOSE	10
1. MOTION TO CLOSE MEETING TO THE PUBLIC	11
2. MOTION TO CLOSE MEETING TO THE PUBLIC	12
OPERATIONS COMMITTEE RECOMMENDATIONS	13
1. DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 20 NOBLES ROAD NELSONS PLAINS.....	14
2. DEVELOPMENT APPLICATION FOR URBAN HOUSING (7 DWELLINGS) AT NO. 204 MEREDITH CRESCENT, RAYMOND TERRACE – LOT 231 DP 593512 AND NO. 251 ADELAIDE STREET, RAYMOND TERRACE – LOT 232 DP 593512	34
3. SECTION 96 MODIFICATION FOR AN INDUSTRIAL SUBDIVISION AT NO. 78-80 PORT STEPHENS DRIVE, TAYLORS BEACH.....	54
4. ACQUISITION LOT 1959 DP 713229 – WILGA ROAD MEDOWIE	63
5. QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2008	69
6. ROAD AND DRAINAGE MAINTENANCE 2008/09 PROGRESS REPORT	78
7. LOCAL TRAFFIC COMMITTEE MEETING – 7 TH OCTOBER 2008.....	83
8. LOCAL TRAFFIC COMMITTEE MEETING – 5 TH AUGUST 2008.....	113
9. INFORMATION PAPERS	136
OPERATIONS COMMITTEE INFORMATION PAPERS	137
1. CASH AND INVESTMENTS HELD AT 30 SEPTEMBER 2008	138
2. 2008 ACCESS AWARENESS DAY.....	142
3. GLOUCESTER COAL SEAM GAS PROJECT.....	143
4. ABORIGINAL STRATEGIC COMMITTEE.....	147
STRATEGIC COMMITTEE RECOMMENDATIONS.....	152
1. ANNUAL REPORT 2007-2008 INCORPORATING STATE OF THE ENVIRONMENT SUPPLEMENTARY REPORT 2007-2008.....	153
2. QUARTERLY REPORT AGAINST COUNCIL PLAN 2008-2012 FOR SEPTEMBER QUARTER & QUARTERLY PERFORMANCE MEASUREMENT REPORT	156

ORDINARY MINUTES – 25 NOVEMBER 2008

3. COUNCIL OWNED LAND AT SALAMANDER BAY/SOLDIERS POINT/TAYLORS BEACH
159
4. INFORMATION PAPERS174

STRATEGIC COMMITTEE INFORMATION PAPERS175

1. WILLIAMTOWN DEFENCE AND AIRPORT RELATED EMPLOYMENT ZONE176

GENERAL MANAGER'S REPORT180

1. REVIEW OF THE MAYOR AND GENERAL MANAGER'S DELEGATIONS.....181
2. PRESENTATION OF 2007/2008 FINANCIAL REPORTS192
3. PORT STEPHENS COUNCIL CODE OF CONDUCT194
4. MEMBERSHIP OF COMMITTEES & GROUPS196
5. REQUEST FOR FINANCIAL ASSISTANCE199
6. INFORMATION PAPERS202
7. ELECTION FUNDING & DISCLOSURE ACT 1981 – MAYOR & COUNCILLORS'
OBLIGATIONS FOR REPORTING203
8. PETITION – TO STOP ILLEGAL ACCESS OF VEHICLES ONTO BIRUBI AND SHELLEY
BEACHES.....207

NOTICES OF MOTION227

1. UTILITY SERVICE PROVIDERS TO CONSULT COUNCIL228
2. RESTRICTION ON COAL EXPLORATION.....229
3. POLICE CHECKS FOR WORKING WITH CHILDREN232
4. DA COMPLIANCE FOR WATER SPORTS.....233

CONFIDENTIAL ITEMS234

1. VALUATION DATA FOR COUNCIL OWNED LAND AT SALAMANDER BAY/SOLDIERS
POINT/TAYLORS BEACH
2. ADVICE ON THE PENDING LEGAL ACTION IN RESPONSE TO UNAUTHORISED SAND
EXTRACTION AT 5 ZIRCON LANE, FULLERTON COVE

MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2005-2859

ROADS & DRAINAGE INFRASTRUCTURE RENEWAL

THAT COUNCIL:

- 1) Approve the external borrowing of \$4 million to allocate towards Road and Drainage Infrastructure renewal.
 - 2) Delegate authority to the Mayor and General Manager to negotiate the loan terms and sign all necessary documents.
 - 3) Approve the affixing of the Council Seal to all necessary loan and contract documents.
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RESOLUTION:

328	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that the Mayoral Minute be adopted..
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AMENDMENT:

	Councillor John Nell Councillor Glenys Francis	That the matter be deferred to allow for further investigation into the source of funds and Council's ability to repay the loan.
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The amendment on being put was lost.

BACKGROUND

The state of Council's infrastructure is deteriorating at an unacceptable rate and immediate action needs to be taken to address the problem. After discussions with the General Manager and staff I now propose that an immediate injection of funds be made towards the expansion of Council's road and drainage infrastructure renewal program.

Council's Road and Drainage infrastructure has been identified through the end of year asset report as the highest priority infrastructure category. The current infrastructure works backlog is \$24 Million for Roads and drains alone. Also the "back to normal" rainfall we have received so far has, and will continue to, deteriorate our roads at a faster rate than we have seen in the last decade. Like most Councils and State Government asset owners, our back log of infrastructure works is increasing each year for many reasons - stable revenue streams, rate capping, infrastructure

growth, cost increases, etc and this backlog needs to be addressed. The financial implications of borrowing money now may be unpalatable, but not addressing the infrastructure backlog will leave an unacceptable financial legacy for future Councils and community members to overcome.

While there is a cost to Council in borrowing funds, the cost to Council and the community in not spending money on infrastructure now, is many times greater. For a simplistic example, do we

- spend \$24,000 today to seal a kilometre of road to extend the life of the road by 10 years ready for another reseal OR
- not seal now, save the \$24,000 plus interest today and then rehabilitate the same kilometre of road for \$320,000 in the next 10 to 15 years.

Road and drains have also been identified by the community as being the most important Infrastructure category in the recent Customer Satisfaction survey.

During the last Council term Councillors endorsed the establishment of an "Infrastructure Backlog Strategy" which involved borrowing money that would be allocated to reducing Council's infrastructure backlog. Council would utilise identified future commercial property income streams to fund the repayment of this debt.

Given the deterioration of the global economy, the timing of these future commercial property income streams may be delayed.

During the last month Council has been working towards securing an alternate revenue stream in the amount of approximately \$600,000 per annum for the next five years.

It is proposed to utilise this unbudgeted income stream to fund 'Phase 1' of the Infrastructure Backlog Strategy. This would involve borrowing \$4 million that would be allocated to Road and Drainage infrastructure over the next twelve months with the unbudgeted income to be committed to funding loan repayments for the first five years. Commercial property income streams would then supplement this strategy as 'Phase 2' in the future, for the remaining infrastructure backlog. This philosophy is supported by the recent Percy Allen report into the financial sustainability of NSW Local Government.

MAYORAL MINUTE

ITEM NO. 2

FILE NO:PSC2006-0191

KINGS HILL RELEASE AREA AND PROPOSED DEVELOPMENT AT WALLALONG

THAT COUNCIL:

Note that I shall be forwarding a letter to the Minister for Planning, the Honourable Kristina Keneally, seeking a deputation to her comprising myself, the General Manager and the Group Manager, Sustainable Planning to discuss the status of planning for Kings Hill/North Raymond Terrace release area (including the proposal for Moxey's land) and the potential consideration of areas at Wallalong for additional and/or alternative urban release area designation.

RESOLUTION:

329	Councillor Bruce MacKenzie	There being no objection the Mayoral Minute was adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Kafer, Francis, Jordan, Maher, Tucker, O'Brien, Dingle, Nell, Ward, Dover and MacKenzie.

Those against the motion: Nil.

MATTER ARISING:

330	Councillor John Nell Councillor Frank Ward	It was resolved that Council request the Department of Defence to extend the runway east before the introduction of the Joint Strike Fighter (JSF).
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BACKGROUND

On Thursday 20 November 2008, I met Mr Jeff McCloy and Mr Matt Somers, representing development companies who own approximately 280 hectares of land at Wallalong. Mr McCloy proposed to Council and to the Director General of the NSW Department of Planning in early 2007 that the Company's land at Wallalong be

rezoned as part of its adoption of the Port Stephens Community Settlement and Infrastructure Strategy.

Council resolved on 24 April 2007 to not support the proposal for rural residential rezoning at Wallalong by the McCloy Property Group and reconsider the proposal when Council and State government decision-making has been finalised on the North Raymond Terrace/Kings Hill and Medowie release areas.

As Councillors will be aware, the potential impacts of noise from military aircraft are being considered by the State Minister for Planning based upon the advice of the North Raymond Terrace Aircraft Noise Working Party and independent noise consultants – the Minister's decision is to be expected early in 2009.

This Council made strong submissions to the State Department of Planning for the inclusion of Wallalong in the Lower Hunter Regional Strategy as a major urban release area. This was not accepted by the State Minister of the time and the Lower Hunter Regional Strategy endorsed by the NSW Cabinet did not include Wallalong as a release area.

In my view, the status of planning at Kings Hill (including the proposal for the Moxey's land) and the consideration of Wallalong as an additional or alternative urban release area warrants discussion with the Minister for Planning, the Honourable Kristina Keneally. Accordingly, I shall forward a letter to the Minister seeking a deputation to her at the earliest opportunity.

MAYORAL MINUTE

ITEM NO. 3

FILE NO:PSC2006-0039

SILO – STEEL STREET, WILLIAMTOWN

THAT COUNCIL:

Resolve to prepare a draft amendment to Port Stephens Local Environmental Plan 2000 to include the silo at Steel Street, Williamtown in the schedule of items of local heritage significance.

RESOLUTION:

331	Councillor Bruce MacKenzie Councillor Glenys Francis	It was resolved to prepare a draft amendment to Port Stephens Local Environmental Plan 2000 to include the silo at Steel Street, Williamtown in the schedule of items of local heritage significance and consult with the Heritage Advisor as part of the process.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs MacKenzie, Dingle, Dover, Francis, Jordan, Kafer, Maher, Nell, O'Brien, Tucker and Ward.

Those against the motion: Nil

BACKGROUND

Recently I received representations from local residents regarding the purchase by the Department of Defence of land in Steel Street on which the silo is located which is associated with the former Redriff House and dairy. The silo is by advice expected to have local heritage significance and qualify for inclusion in the schedule of items of local heritage significance in the Port Stephens Local Environmental Plan. The Department of Defence have formally agreed to defer any consideration of demolition of the silo pending the investigation and process that will determine whether or not the silo is to be included in the Port Stephens Local Environmental Plan.

It is acknowledged that there may be public liability issues associated with the silo and this is an issue that Council will work with the Department to evaluate.

Councillor Westbury entered the meeting at 6.37pm.

MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: PSC2007-2685

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) (i) & 10A(2)(e) 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 **Valuation Data for Council owned Land at Salamander Bay/Soldiers Point/Taylors Beach**
 - 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include:
 - a) details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.
 - b) information that would, if disclosed, prejudice the maintenance of law.
 - 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 it may prejudice Council's commercial position and Council should have the same protection for its confidential commercial activities as that applying to other persons.
 - 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.
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RESOLUTION:

332	Councillor John Nell Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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ITEM NO. 2

FILE NO: A2004-0573

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

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 meeting to discuss Confidential Information Item 1 (General Manager's Information Paper) on the Ordinary agenda namely **Advice on the Pending Legal Action in Response to Unauthorised Sand Extraction at 5 Zircon Lane, Fullerton Cove.**
 - 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 – 25 NOVEMBER 2008

RESOLUTION:

333	Councillor John Nell Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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OPERATIONS COMMITTEE RECOMMENDATIONS

ITEM NO. 1

FILE NO: DA 16-2008-291-1

**DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO.
20 NOBLES ROAD NELSONS PLAINS**

REPORT OF: SCOTT ANSON - MANAGER DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2008-291-1 for the following reasons:

-
1. The proposed development is inconsistent with the provisions of the Hunter Regional Environmental Plan 1989 (Clauses 52-54) by being an inappropriate land use since it will increase the number of people susceptible to the effects of inundation.
 2. The proposed development is inconsistent with the provisions of Port Stephens Local Environmental Plan 2000, in particular, the Rural 1(a) Zone objectives and planning considerations for development on flood prone land.
 3. The proposed development is located on a Floodplain identified as being an area of Extreme Hazard and the Lower Hunter Valley Floodplain Risk Management Study (November 2001) recommends that no additional dwellings should be permitted in this location.
 4. The proposed development is considered an inappropriate land use under the Floodplain Development Manual 2005.
 5. Approving additional dwelling houses in an Extreme Hazard flood area places further demand on the already limited resources of the State Emergency Service due to domestic property protection, evacuation and/or re-supply.
 6. Approval of this application would have an undesirable cumulative effect by increasing the community's susceptibility to flooding in terms of social, economic and environmental/ecological consequences.
 7. It is not possible to implement an evacuation plan which provides permanent, fail safe, maintenance free measures to ensure the timely, orderly and safe evacuation of occupants.
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OPERATIONS COMMITTEE – 11 NOVEMBER 2008

RECOMMENDATION:

Councillor Glenys Francis Councillor John Nell	That the recommendation be adopted
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Division: In accordance with the Local Government Act, a division is required.

Those for the motion: Crs Dingle, Dover, Francis, Jordan, Maher, Nell, O'Brien & Tucker

Those against the motion: Cr MacKenzie

BACKGROUND

This Development Application was previously considered by Council on 22 July 2008 and was deferred pending a report on further information and advice from the Williams River Floodplain Management Committee on the recently received Flood Study. The report to the July meeting is Attachment 1.

The purpose of this report is to present to Council the further information requested at the Ordinary Meeting of 22 July 2008.

The Lower Hunter Valley Floodplain Risk Management Study (November 2001) indicates that the subject property is located in an area of “**Extreme Hazard**” where it is recommended that no additional residential dwellings should be permitted and should be actively discouraged in areas where the natural surface is below the level of the 5% AEP (1 in 20 year) flood. The 5% AEP flood level identified in the currently exhibited draft Williams River Flood Study for this site is 4.1 metres AHD. Sound planning and engineering practice does not support habitable dwellings on land below the level of the 5% AEP flood level. The subject land is typically 1.8 to 2.6 metres AHD.

Large areas of this floodplain management zone are exposed to extreme hazard during large floods. Flood depths of greater than 3 metres typically occur in the 0.5% AEP flood. *Aspect Development & Survey Pty Ltd* have identified a surface level of 2.6 metres AHD at the base of the existing earth mound with an approximate height of 4.2 metres AHD. Plans submitted with the application show a Finished Floor Level (FFL) for the habitable rooms of the proposed dwelling of 5.3 metres AHD. To achieve this floor level, the applicant proposes to introduce a further 715-865mm of fill onto the existing mound increasing the height of the earth mound to approximately 5.1 metres AHD. The proposed dwelling and earth mound will have a maximum height of approximately 10.3 metres AHD to the ridge of the roof.

On 11 June 2007, the most recent flooding event occurred. This flood event was calculated to be approximately a 5% Annual Exceedance Probability (AEP) flood event. This flood event was estimated in the order of a 1 in 20 year or 1 in 15 year flood.

The nearest flood free land available to the subject land is situated approximately 3 kilometres to the north at the intersection of Hinton and Seaham roads and 3 kilometres to the south to Raymond Terrace. If approved, the introduction of an additional dwelling and potential planning precedent for further dwellings in the locality will place further pressure on emergency service resources in a known floodway and excessive depth zone.

Referral to Williams River Floodplain Risk Management Committee

The Williams River Floodplain Risk Management Committee considered this application at its meeting of 25 August 2008, where it was discussed that the

Committee's role is to develop policy for a wider study area (in this case, the Nelsons Plains area) and not site specific.

The Committee resolved:

"That Council be urged to wait until a policy has been developed before determining this application".

Due to the likely extended timeframe until a catchment specific floodplain policy is developed and adopted by Council, it is strongly recommended that the application be determined by consent refusal. An alternative is that the applicant be encouraged to withdraw the application, obtain a partial refund of fees and resubmit to Council when the abovementioned policy is adopted. If the applicant is not prepared to withdraw the application at this time then the application should be refused based upon available information including the expected level of flood risk and associated social, economic and environmental impacts.

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	<i>Council will protect and enhance the environment while</i>
SUSTAINABILITY –	<i>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

Nil

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council's Policy.

Council may become legally liable in cases of property damage and/or loss of life where approval has been given to construct residential dwellings in flood prone areas whilst being specifically aware of the risks.

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

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.*

This aligns with the following ABEF Principles.

SUSTAINABILITY IMPLICATIONS

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

SOCIAL IMPLICATIONS

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

ECONOMIC IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

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

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

CONSULTATION

The current development application has been assessed on its merits with due regard to background information contained in the previous application and report from Council's Flooding Engineer.

The State Emergency Service (SES) has advised that it has no statutory authority to endorse or reject development applications and/or private flood evacuation plans. The SES considers that approving the construction of dwelling houses in known flood plain areas is undesirable, placing additional demand upon already limited resources attending to property and infrastructure protection, evacuation and/or re-supply. The preparation of private evacuation plans may reduce the demand upon SES resources however these plans are usually ineffective during significant flood events and are not to be relied upon. Refusal of this application is recommended based on the level of flood risk upon the proposed development and not as a consequence of advice received by the SES.

OPTIONS

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

ATTACHMENTS

- 1) Business Paper Report from July 2008

COUNCILLORS ROOM

- 1) Plans and elevations
- 2) Council Policy - Areas Affected by Flooding and/or Inundation
- 3) S733(4) Local Government Act 1993 Exemption from liability – flood liable land and land in coastal zones.

ATTACHMENT 1
REPORT FROM JULY 2008 OPERATIONS COMMITTEE MEETING

ITEM NO. 1

FILE NO: DA 16-2008-291-1

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 20 NOBLES ROAD NELSONS PLAINS

REPORT OF: SCOTT ANSON - MANAGER DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2008-291-1 for the following reasons:

1. The proposed development is inconsistent with the provisions of the *Hunter Regional Environmental Plan 1989* (Clauses 52-54) by being an inappropriate land use since it will increase the number of people susceptible to the effects of inundation.
2. The proposed development is inconsistent with the provisions of *Port Stephens Local Environmental Plan 2000*, in particular, the Rural 1(a) Zone objectives and planning considerations for development on flood prone land.
3. The proposed development is located on a Floodplain identified as being an area of *Extreme Hazard* and the *Lower Hunter Valley Floodplain Risk Management Study* (November 2001) recommends that no additional dwellings should be permitted in this location.
4. The proposed development is considered an inappropriate land use under the *Floodplain Development Manual 2005*.
5. Approving additional dwelling houses in an *Extreme Hazard* flood area places further demand on the already limited resources of the State Emergency Service due to domestic property protection, evacuation and/or re-supply.
6. Approval of this application would have an undesirable cumulative effect by increasing the community's susceptibility to flooding in terms of social, economic and environmental/ecological consequences.
7. It is not possible to implement an evacuation plan which provides permanent, fail safe, maintenance free measures to ensure the timely, orderly and safe evacuation of occupants.

BACKGROUND

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

On 1 August 2005 Council refused a development application DA 16-2002-712-1 proposing to erect a single storey dwelling upon an earth mound located at the abovementioned property. The current application DA 16-2008-291-1 proposes the construction of a single storey dwelling house upon an earth mound situated fifty (50) metres from the western boundary addressing Nobles Road, seventy (70) metres from the Hunter River and eight hundred (800) metres from the eastern boundary addressing Seaham Road.

The subject site is zoned 1(a) – Rural Agriculture, which is described in *Port Stephens Local Environmental Plan 2000* (LEP). The subject site is identified as flood prone land and Clause 37 of the LEP addresses development on flood prone land.

The Lower Hunter Valley Floodplain Risk Management Study (November 2001) indicates that the subject property is located in an area of “**Extreme Hazard**” where it is recommended that no additional residential dwellings should be permitted and should be actively discouraged in areas where the natural surface is below the level of the 5% AEP (1 in 20 year) flood. The 5% AEP flood level varies from 4.6 metres AHD near Green Rocks to 3.2 metres AHD at the downstream end of the Zone. Sound planning and engineering practice does not support habitable dwellings on land below the level of the 5% AEP flood level. The subject land is typically below 4 metres AHD.

Large areas of this *floodplain management* zone are exposed to extreme hazard during large floods. Flood depths of greater than 4 metres typically occur in the 0.2% AEP flood. *Aspect Development & Survey Pty Ltd* have identified a surface level of 2.6 metres AHD at the base of the existing earth mound and an approximate height of 4.2 metres AHD. Based upon these figures it is expected that this property could be inundated by floodwater to a depth of approximately 6.6 metres AHD. Plans submitted with the application show a Finished Floor Level (FFL) for the habitable rooms of the proposed dwelling of 5.3 metres AHD. To achieve this floor level, the applicant proposes to introduce a further 715-865mm of fill onto the existing mound increasing the height of the earth mound to approximately 5.0 metres AHD. The proposed dwelling and earth mound will have a maximum height of approximately 10.3 metres AHD to the ridge of the roof.

On 11 June 2007, the most recent flooding event occurred. This flood event was calculated to be approximately a 5% Annual Exceedance Probability (AEP) flood event. This flood event was estimated in the order of a 1 in 20 year or 1 in 15 year flood.

The nearest flood free land available to the subject land is situated approximately 3 kilometres to the north at the intersection of Hinton and Seaham roads and 3 kilometres to the south to Raymond Terrace. If approved, the introduction of an additional dwelling and potential planning precedent for further dwellings in the locality will place further pressure on emergency service resources in a known floodway and excessive depth zone.

Although flood inundation gives rise to temporary/intermittent impacts, the introduction of additional people and dwellings onto a known floodplain is not supported and is contrary to the provisions of the *New South Wales Floodplain Development Manual 2005*. Refusal of this application is recommended due to an extreme risk of flooding on the subject land. The level of risk is determined by flood depths and velocities, flood frequency, isolation, emergency response and the cumulative effect of permitting the construction of additional dwellings with the resultant increase in occupant numbers placed at risk. These contributing factors are discussed further in the assessment.

Refusal of this application is recommended based on the level of flood risk upon the proposed development and not as a consequence of advice received by the SES. It is strongly recommended that this application be refused based upon the expected level of flood risk and associated social, economic and environmental impacts.

LINKS TO CORPORATE PLANS

This report relates to the Goals in the Assessment and Approvals program of Council's Management Plan, which is an ordered and predictable built environment in Port Stephens.

The following goals are considered applicable in this case:

G4. Safety

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

G5. Housing

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

G13. Environmental Protection

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

G17. Strategy and Planning

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

G18. Knowledge and Information

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

G25. Infrastructure and Services

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

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

Council may become legally liable in cases of property damage and/or loss of life where approval has been given to construct residential dwellings in flood prone areas whilst being specifically aware of the risks.

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

Council's solicitors Harris Wheeler Lawyers advise:

"This defence (Section 733[1] of the Local Government Act 1993) will be less easily established if the consent is not issued substantially in accordance with the principles established in the Floodplain Management Manual notified under s.733 (5). The Manual provides, in effect, that a site specific evacuation plan is ineffectual and should not be the basis of a consent. Accordingly, simply imposing a condition, including a deferred commencement condition, that an applicant obtain the SES's approval of a site specific evacuation plan, runs the risk that the consent is not in accordance with the Manual. In addition, it is understood that the SES is refusing to approve such plans, having no statutory authority or role in doing so. Accordingly, any such condition would be incapable of being satisfied and is, for that reason, also inappropriate."

If Council approves the subject application, Council will be establishing a significant planning and environmental precedent in this locality and other flood prone areas within Port Stephens LGA, effectively encouraging residential development in known flood prone areas adjoining an environmentally sensitive water body (the Hunter and Williams rivers). This raises the potential for liability against which the Council is not protected as referred to in Section 733 (1).

Further, Gadens Lawyers report that a recent decision of the NSW Land and Environment Court in *Walker v Minister for Planning* [2007] NSWLEC 741 confirmed that planning authorities must consider the potential impact of climate change and rising sea levels on future developments.

The consequences of the Court's decision demonstrates it's consideration of the significance of "global" environmental factors such as greenhouse emissions and climate change on project assessments. In making his decision, Biscoe J comprehensively outlines the relevancy of Environmentally Sustainable Development (ESD) principles and the scientific data available which supports the existence of pending climate change.

The Walker decision has implications specifically for applications to develop or expand developments in coastal and flood liable areas. Consequently, in relation to these applications, it is recommended that proponents and councils make an assumption that there is the potential for greater flooding or inundation than is presently the case (ie due to climate change).

Where there is a failure to consider these matters, the Court has demonstrated that it is not hesitant to declare the approval void. Should this application be refused, the applicant has the right of appeal.

The development application is inconsistent with Council's *Areas Affected by Flooding and/or Inundation* Policy originally adopted on 27 January 1998 and most recently amended by Council on 25 September 2007. The objectives of this policy include:

OBJECTIVES

1. To manage the development of land subject to or affected by the likelihood of flooding and/or tidal inundation defined as flood prone land in the Port Stephens Local environmental Plan 2000.
2. To base the nature of the restriction applied to an affected site on the principles of the NSW Floodplain Development Manual 2005, the Port Stephens Foreshore (Floodplain) Management Study and Plan 2002, the Paterson River Floodplain Management Study and Plan 2001, the draft Lower Hunter Valley Floodplain Management Study 2001, the Williamstown Salt Ash Flood Study and any further flooding information available to Council at the time.
3. To ensure that decision in relation to the acquisition and development of land are made having regard to the best flooding information available
4. To ensure that Council complies with the provision of S733 of the Local Government Act 1993 - Exemption from liability – flood liable land and land in coastal zone.

Specifically the policy states that:

“3(a) If Council determines that a comprehensive flood report is required to support the development application, then this shall be prepared by an experienced Flood Engineer”.

The applicant has not provided a comprehensive flood report in respect to this development application. Given that the subject land is identified as being subject to Extreme Hazard affectation it is considered highly unlikely that the applicant will be able to satisfactorily demonstrate that the proposal is consistent with the provisions of the *Floodplain Management Manual* adopted by the NSW Government.

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 culture 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

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

SOCIAL IMPLICATIONS

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

ECONOMIC IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

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

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

CONSULTATION

The current development application has been assessed on its merits with due regard to background information contained in the previous application and report from Council's Flooding Engineer.

The State Emergency Service (SES) has advised that it has no statutory authority to endorse or reject development applications and/or private flood evacuation plans. The SES considers that approving the construction of dwelling houses in known flood plain areas is undesirable, placing additional demand upon already limited resources attending to property and infrastructure protection, evacuation and/or re-supply. The preparation of private evacuation plans may reduce the demand upon SES resources however these plans are usually ineffective during significant flood events and are not to be relied upon. Refusal of this application is recommended based on the level of flood risk upon the proposed development and not as a consequence of advice received by the SES.

OPTIONS

1. Adopt the recommendation.
2. Reject or amend the recommendation.
3. Council express its support in principle for the Development Application and request the Group Manager, Sustainable Planning to draft Conditions of Consent for the next Ordinary Meeting of Council in the event that Council resolves to determine the Application in terms of Conditional Consent.

ATTACHMENTS

1. Locality Plan
2. Assessment

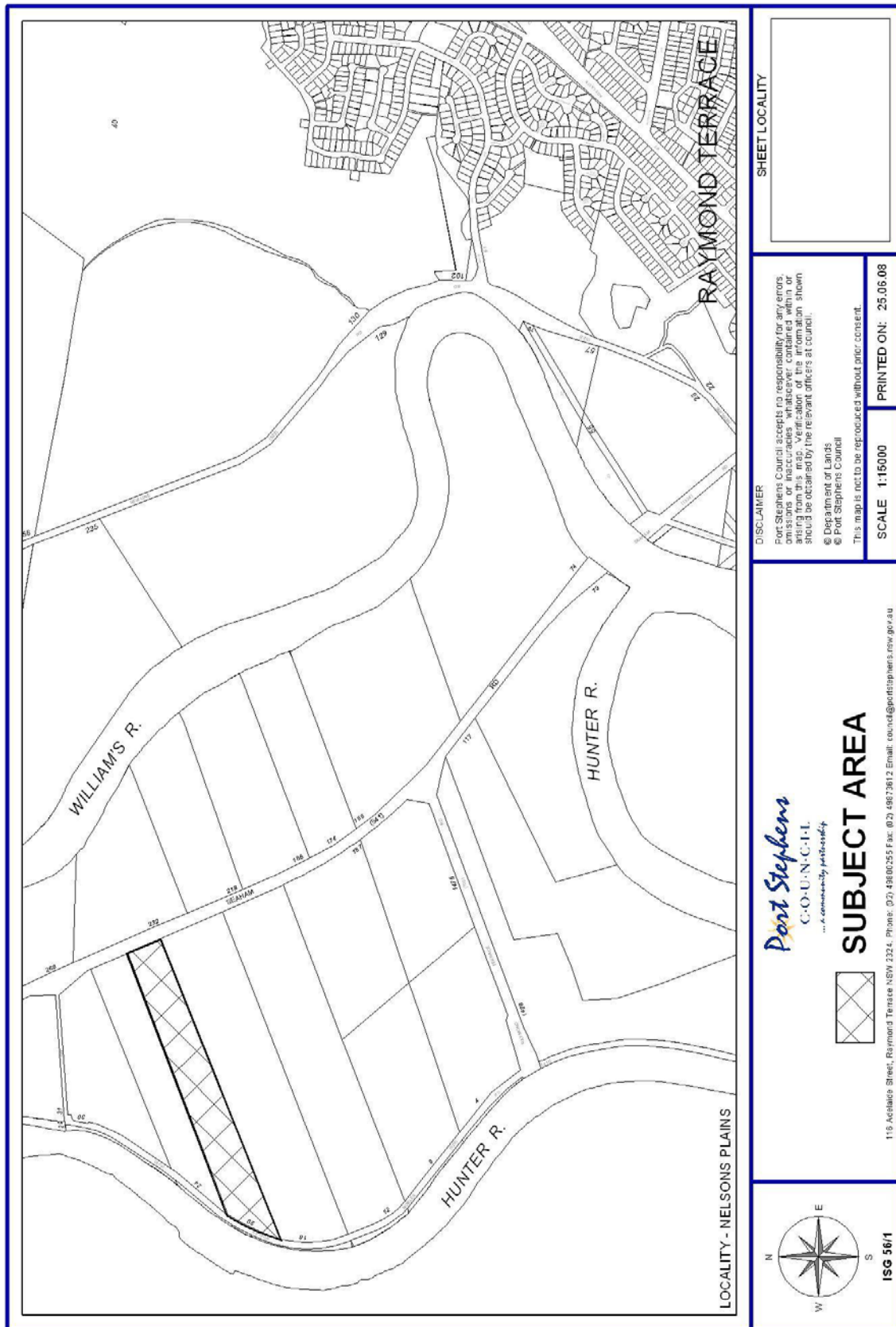
COUNCILLORS ROOM

1. Plans and elevations
2. Council Policy - Areas Affected by Flooding and/or Inundation
3. S733(4) Local Government Act 1993 Exemption from liability – flood liable land and land in coastal zone

TABLED DOCUMENTS

1. Nil

ATTACHMENT 1
LOCALITY PLAN



ATTACHMENT 2 ASSESSMENT

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

THE PROPOSAL

The applicant seeks approval to construct a single storey dwelling house on an elevated earth mound located approximately 50 metres to the east of Nobles Road, Nelsons Plains and 800 metres from the western boundary (Seaham Road). The Hunter River is approximately 70 metres to the west of the raised mound. The dwelling consists of a lounge/dining/kitchen/family/rumpus/study area, four (4) bedrooms and associated bathroom/ensuite and a two vehicle garage with attached workshop.

The application proposes to construct a habitable floor level at 5.300 metres AHD.

THE APPLICATION

Owner	Mr Noel Martin
Applicant	Mr Noel Martin c/- Mr G K Lindsay
Detail Submitted	Development plans which include site and floor plans and elevations.

THE LAND

Property Description	Lot 2, DP 784901
Address	Number 20 Nobles Road, NELSONS PLAINS
Area	10.21 Hectares
Characteristics	The land is generally level with an average elevation of approximately 2.00 metres AHD. The dwelling is proposed to be constructed upon an earthen mound located approximately 3 kilometres distance from flood free land in the townships of Osterley and/or Raymond Terrace. The top of the existing earthen mound is generally 4.00 metres AHD. The submitted plans indicate that the applicant proposes to raise the height a further 715–865mm to a final level of approx 4.90 metres AHD.

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	Rural 1(a) RURAL AGRICULTURAL “A”
Relevant Clauses	Clause 11 (2)(e) and Clauses 37 and 38 (including “ Objectives for development on flood prone land ”)

ORDINARY MINUTES – 25 NOVEMBER 2008

Development Control Plan

Port Stephens Development Control Plan 2007
(Adopted 31 May 2007). Application received 21 April 2008.

State Environmental Planning Policies

Not applicable.

ATTRIBUTE	PROPOSED	REQUIRED	COMPLIES
LEP Requirements			
Minimum area per dwelling	10.21 Hectares (102,100 m ²)	4000 m ² minimum	Yes
Floor Level (Flood Prone Land)	5.30 metres AHD	Flood Planning Level 5.30m AHD	Yes *
EXTREME HAZARD ZONE	New dwelling	No dwelling	No **
DCP Requirements			
Building Line Setback	Approx 50 metres from West boundary (Nobles Road)	12 metres from West boundary (Nobles Road)	Yes
Side Boundary Setbacks	44 metres (North Boundary) and 52 metres (South Boundary)	900mm	Yes
BASIX Requirements	Water Score 40 Energy Score 48	Target 40 Target 40	Yes Yes

**Flood Planning Level (FPL). Flood levels selected for planning purposes which should be based on an understanding of the full range of flood behaviour and the associated flood risk, including the social, economic and ecological consequences associated with floods of different severities. Different FPL's may be appropriate for different categories of land-use and for different flood plans.*

*** The proposal is not consistent with Clause 52 of Hunter Regional Environmental Plan, Clauses 37 and 38 Port Stephens LEP 2000, Flood Management Manual 2001 or the Lower Hunter Valley Floodplain Risk Management Study 2001 and is the primary basis for recommending refusal in this instance. In a 1% Annual Exceedance Probability flood event, the proposed dwelling will be physically isolated due to severe flood inundation. The nearest flood free land in proximity to the subject land is located at Mount Osterley and/or Raymond Terrace, placing further pressure upon emergency services and potentially placing dwelling occupants and volunteer emergency personnel at risk. The June 2007 flood event was calculated as approximately a 5% Annual Exceedance Probability flood event.*

Discussion

The proposed development is inconsistent with the provisions of:

1. Hunter Region Environmental Plan
2. Port Stephens Local Environmental Plan 2000
3. Floodplain Management Manual 2001
4. Lower Hunter Valley Floodplain Risk Management Study 2001

Hunter Region Environmental Plan (REP)

The Hunter Regional Environmental Plan (REP) aims to achieve the balanced development of the region by the optimum utilisation of resources, whilst facilitating the improvement of the urban and rural environments. Port Stephens Local Environmental Plan 2000 (LEP)

gazetted on 29 December 2000 is consistent with the provisions of the REP and reinforces its aims and regional policies.

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

The Lower Hunter Valley Floodplain Risk Management Study (2001) indicates that the subject property is located in an “**Extreme Hazard Zone**” where it is recommended that no additional dwelling houses should be permitted.

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

Port Stephens Local Environmental Plan 2000

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

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

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

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

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

This proposed development is located in an extreme flood risk area (**Extreme Hazard**) as identified by the *Lower Hunter Valley Floodplain Risk Management Study (2001)*, where the 1% Annual Exceedence Probability (AEP) flood level is recorded at 5.3 metres AHD, with a velocity between 0.8 and 3.0 metres per second. Based on a natural ground level of 2.5 metres AHD, the land will be inundated by floodwater to a depth of 2.8 metres. Even in moderate floods, for example, the 5% AEP in this location is 4.9 metres AHD, the property will be inundated by floodwaters to a depth of 2.4 metres.

It is not possible to condition this application to mitigate the effects of flooding. The applicant could prepare an evacuation plan but this would need to demonstrate to Council that there are permanent, fail safe, maintenance free measures available to ensure the timely, orderly

and safe evacuation of occupants should flooding occur. The SES has advised that private evacuation plans are usually ineffective thereby placing additional demand upon limited SES resources.

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

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

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

Floodplain Development Manual 2005

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

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

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

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

Flood storage areas are those parts of the floodplain that are important for the temporary storage of floodwaters during the passage of the flood. If the capacity of a flood storage area is substantially reduced by, for example, the construction of levees or by landfill, flood levels in nearby areas may rise and the peak discharge downstream may be increased. Substantial reduction of the capacity of a flood storage area can also cause a significant redistribution of flood flows.

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

The proposed development should be refused since it increases the community's susceptibility to flooding. There is no permanent, fail safe evacuation plan in place to ensure a timely, orderly and safe evacuation of occupants. In an emergency, evacuation of

occupants would only be possible by boat or helicopter, which may place rescuers/operators at risk.

Lower Hunter Valley Floodplain Risk Management Study (2001)

The Lower Hunter Valley Floodplain Risk Management Study (2001) defines *Floodways* as those areas of the floodplain where a significant discharge of water occurs during floods. They are often aligned with naturally defined channels. Floodways are areas which, even if only partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels. Floodways are often areas of deeper flows or areas where higher velocities occur. As for flood storage areas, the extent and behaviour of floodways may change with flood severity. Areas that are benign for small floods may cater for much greater and more hazardous flows during larger floods. An objective of the study is to prevent intensification of the use of floodways and, wherever possible, allow for their conversion to natural waterway corridors.

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

2. Likely Impact of the Development

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

Rural Amenity

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

The single storey dwelling and earth mound will have a total height of 10.280 metres AHD. This is considered compatible with existing dwellings located upon the floodplain.

Access

The surrounding road system is sufficient to accommodate vehicular traffic associated with the proposed development. However, in moderate floods, the access roads will be

inundated by floodwaters, rendering the occupants isolated and reliant upon the SES for property protection, evacuation and/or supplies.

Emergency Response

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

In this locality, the awareness of property owners/occupants is hampered by the lack of a telemetered flood warning system and the Bureau of Meteorology does not advise of predicted flood levels. The *Lower Hunter Valley Floodplain Risk Management Study 2001* suggests that a telemetered flood warning system be developed for the Lower Hunter with specific provisions for the mostly rural lands between Green Rocks and Raymond Terrace.

Cumulative Effect

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

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

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

3. Suitability of the Site

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

4. Submissions

This application is not subject to Council's policy regarding advertising and notification.

5. Public Interest

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

ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

334	Councillor Ken Jordan Councillor John Nell	It was resolved that the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs MacKenzie, Dingle, Dover, Francis, Jordan, Kafer, Maher, Nell, O'Brien, Tucker, Ward and Westbury.

Those against the motion: Nil.

ITEM NO. 2

FILE NO: 16-2007-1119-1

**DEVELOPMENT APPLICATION FOR URBAN HOUSING (7 DWELLINGS)
AT NO. 204 MEREDITH CRESCENT, RAYMOND TERRACE – LOT 231 DP
593512 AND NO. 251 ADELAIDE STREET, RAYMOND TERRACE – LOT
232 DP 593512**

REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2007-1119-1 subject to the conditions contained in Attachment 4.

OPERATIONS COMMITTEE – 11 NOVEMBER 2008

RECOMMENDATION:

Councillor Glenys Francis Councillor Geoff Dingle	That the matter be deferred for a site inspection prior to Ordinary Council meeting on 25 November 2008 and the matter be referred to the Local Traffic Committee
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In accordance with the Local Government Act, a division is required.

Those for the motion: Crs Dover, Tucker, MacKenzie, Dingle, Francis, Kafer, Nell, Jordan, Maher, & O'Brien.

Those against the motion: Nil.

ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

335	Councillor Ken Jordan Councillor John Nell	It was resolved that the supplementary information be noted and Council approve the development application 16-2007-1119-1 subject to the conditions recommended in the report be adopted.
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Matter Arising:

Cr Glenys Francis/Peter Kafer

That a **“No Through Road”** sign be erected on Meredith Cres and that the timeframe to erect the sign be provided to Councillors.

ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

336	Councillor Ken Jordan Councillor John Nell	It was resolved that the matter arising 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 Francis.

Proposal

The application is for a seven (7) dwelling - urban housing development. The existing dwelling will be retained and six (6) new single storey dwellings will be constructed.

Key Issues associated with the development include

1. The site is accessed by a 3.3m wide driveway off Meredith Crescent. The site does not have any other street frontage.
2. The development provides a 40m Asset Protection Zone (APZ) for bushfire protection on an adjoining property, Lot 232 DP 593512.
3. Council received twenty-four (24) submissions objecting to the proposal. The main concern was traffic impacts, including:
 - Increase in cars using Meredith Crescent;
 - Meredith Crescent is narrow and cannot cope with additional traffic;
 - Increased risk of accidents;
 - Lack of visitor parking, leading to more cars parking on the street.

Other concerns raised in the submissions included:

- Seven (7) dwellings is too much of an increase in density;
- Insufficient setback to adjoining properties;
- Clearing for the Asset Protection Zone will harm the environment.

Comments

1. A Traffic Impact Statement (TIS) was submitted supporting the application. It estimates that peak hour traffic will increase from 28 cars to 33 cars, which is within the acceptable limit (100 cars) for a minor access road.

2. The TIS demonstrates compliance with the relevant Australian Standards and the car parking requirements of DCP 2007. This includes the provision of three (3) visitor parking spaces.
1. The development generally complies with the requirements of LEP 2000 and DCP 2007, including both the density and setback requirements.
2. The concerns raised in the submissions have been addressed in the planning assessment do not warrant refusal of the application.
3. The owners of Lot 232 DP 593512 have agreed to lodgement of the application over their property and creation of an 88B restriction on the title for the 40m APZ.
4. The APZ will consist of 20m Inner Protection Area and 20m Outer Protection Area. The majority of trees within the 40m APZ, including 35 identified koala feed trees, are within the OPA. OPA's only require management of the understorey, allowing the retention of large trees.

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>

This report relates to *Goal 18 Success & Sustainability – Managing Development Functions.*

To provide a predictable and effective advisory, assessment and inspections service for all development and building activity within Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Councils Policy.

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 development will benefit the community by providing additional housing choices. The proposed design complies with DCP 2007 and is unlikely to generate any adverse social impacts.

ECONOMIC IMPLICATIONS

The development will generate economic activity in the locality associated with residential construction.

ENVIRONMENTAL IMPLICATIONS

The proposal is not considered to pose any significant environmental implications. The proposal involves some vegetation removal to provide an Asset Protection Zone (APZ) for bushfire protection. All koala feed trees in this area will be retained.

CONSULTATION

The application was exhibited in accordance with Council policy and twenty-four (24) submissions were received. These are discussed in the Attachments.

OPTIONS

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

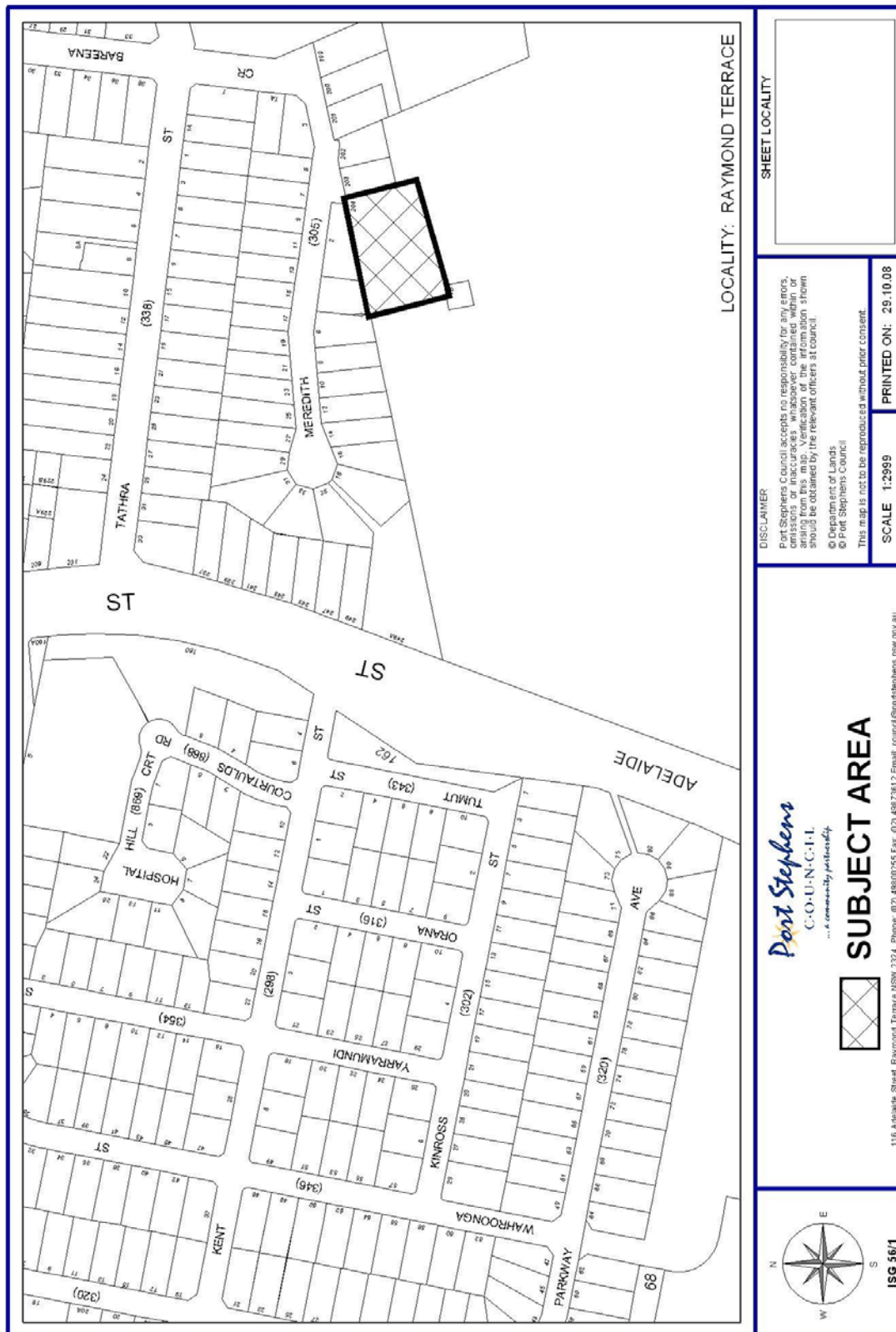
ATTACHMENTS

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

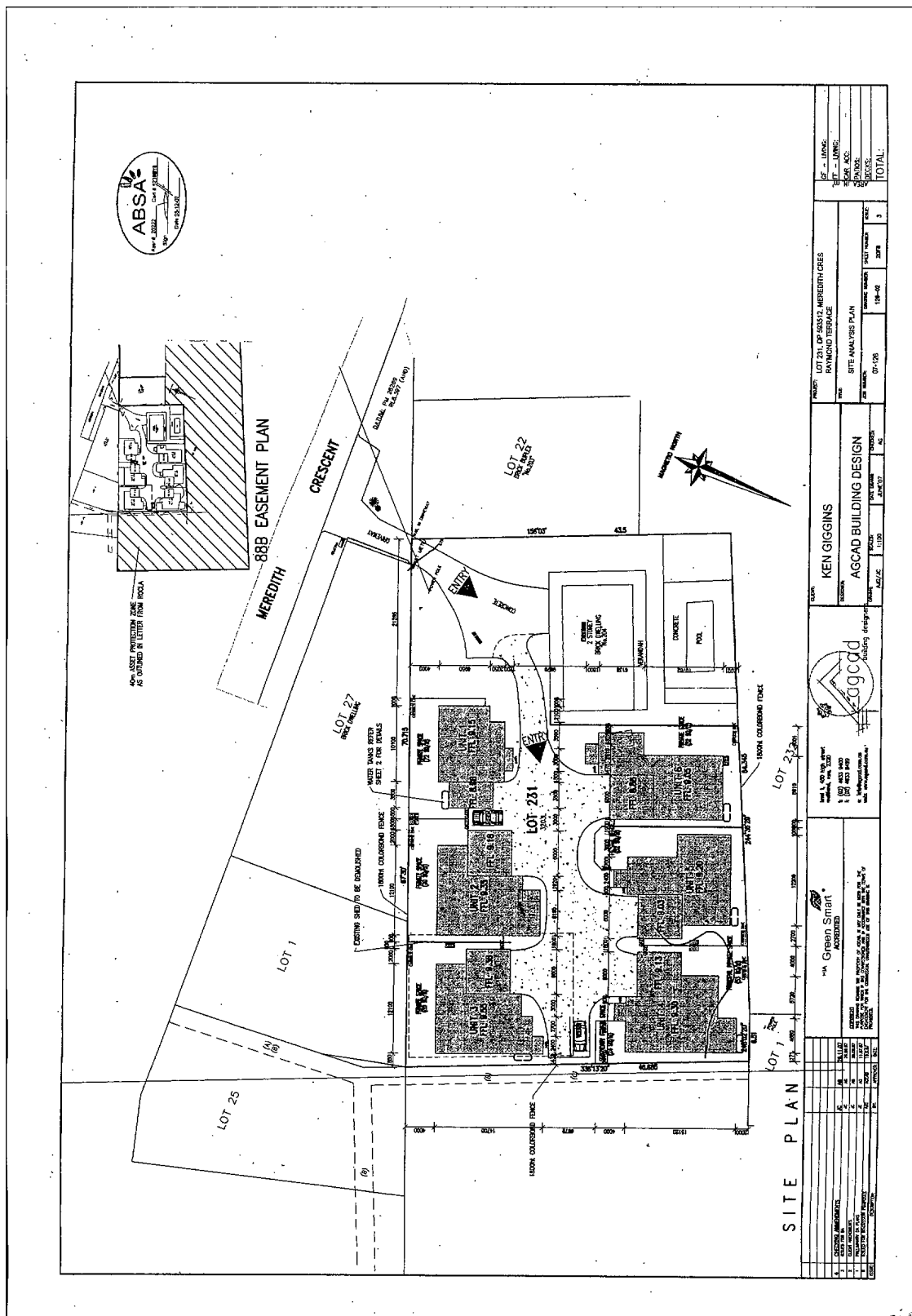
COUNCILLORS ROOM

- 1) Traffic Impact Statement
- 2) Copy of plans

ATTACHMENT 1 LOCALITY PLAN



39



ATTACHMENT 3

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 is for a seven (7) dwelling urban housing development. The existing dwelling on site will be retained as part of the development. Six (6) new single storey dwellings will be constructed.

The site is accessed by a 3.3m wide driveway off Meredith Crescent. The site does not have any other street frontage.

The development requires a 40m Asset Protection Zone to be provided on an adjoining property (Lot 232 DP 593512) for bushfire protection.

THE APPLICATION

Owner	Mr K L & Mrs B L Giggins
Applicant	Mr K L Giggins
Detail Submitted	Statement of Environmental Effects Plans Traffic Impact Statement Bushfire Hazard Assessment Koala Habitat Assessment

THE LAND

Property Description	Lot 231 DP 593512
Address	204 Meredith Cres, Raymond Terrace
Area	3203.4sqm
Dimensions	70.715m x 43.5m x 64.345m x 46.685m
Characteristics	Rectangular shaped and level No frontage to Meredith Crescent
Proposed 40m APZ	APZ will be provided on adjoining property Lot 232 DP 593512 251 Adelaide St, Raymond Terrace Approx 44.36 hectares

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	2(a) Residential
Relevant Clauses	Clause 19 – Dwelling-houses, dual occupancy and urban housing

Development Control Plan 2007

Clause 51A – Development on land identified on Acid Sulphate Soils Planning Maps

B2 Environmental and Construction Management

B3 Parking, Traffic & Transport

B7 Villa and Townhouse Development

Section 94 Development Contributions Plan

LEP 2000

The site is zoned 2(a) Residential. Urban housing is permissible within the 2(a) zone subject to Clause 19, which sets requirements for minimum site area per dwelling, floor space ratio and height.

Clause 19

The development complies with the requirements of Clause 19 (see table below) and is consistent with the objectives of the zone, which encourages a range of residential development providing it is compatible with the existing character of the area.

Clause 51A

Clause 51A applies to the application. The site is mapped as Class 4 Acid Sulphate Soils, which requires a preliminary site assessment for works below 2m from the ground surface. The proposed excavation should not exceed 2m. No further consideration is required.

ATTRIBUTE	REQUIRED	PROPOSED	COMPLIES
Minimum site area	300sqm per dwelling	457.63sqm	Yes
Floor Space Ratio	0.5:1	0.26:1	Yes
Height	8m	5.1m	Yes
Class 4 Potential Acid Sulphate Soil	2m below NGL	Excavation should not exceed 1m below NGL	Yes

DCP 2007

Sections B2 - Environmental and Construction Management, B3 - Parking, Traffic and Transport and B7 - Villa and Townhouse Development are applicable to the proposed development.

The development is generally consistent with the relevant principals and controls in DCP 2007, except for a variation to Private Open Space fencing. Provided below is a table detailing the development's compliance with DCP 2007:

ATTRIBUTE	REQUIRED	PROPOSED	COMPLIES
B2 Environmental and Construction Management			
Koala Management	Assessment of koala habitat	Retention of koala feed trees	Yes
B3 Parking, Traffic and Transport			
Car parking	13 spaces	13 spaces	Yes
Visitor parking	3 spaces	3 spaces	Yes
B7 Villa and Townhouse Development			
Front setback	6m	No direct street frontage	NA
Orientation of dwellings	Toward main access points	All dwellings orientated toward main driveway	Yes
Front entrance	Shelter provided by portico, awning or verandah	Porch provided for each dwelling	Yes
Vehicular access	Dwellings to be accessed via same driveway	All dwellings accessed from same driveway	Yes
Driveway design	Landscaping along driveway	Landscaping proposed	Yes
	Max width of 3.5m in public road reserve	Greater width required for safe vehicle manoeuvring	Yes
	Visual impact to be minimised. Not to use excessively dark or bright pavement.	To be conditioned	Yes
Garage design	Max width of 6m or 50% of dwelling facade	Garage doors are less than 50% of dwelling facade	Yes
	Garages setback at least 1.5m behind dwelling frontage	Garages setback 1.5m	Yes
	Double garage doors to be of mid tone colours	To be conditioned	Yes
Site coverage	Max 60%	59.86%	Yes
Retaining walls	1m	800mm-900mm	Yes
Height	Must not exceed 2 storeys	Single storey development	Yes
Side setback	900mm	1.17m	Yes
Rear setback	2m	4m	Yes
Dwelling design	Varying facade treatments	Each dwelling varies in design	Yes
	Max 10m unbroken ridge line	No unbroken ridge lines	Yes

ORDINARY MINUTES – 25 NOVEMBER 2008

Private open space	Min 35sqm and 4m wide	Each dwelling has a POS area that complies	Yes
	POS accessed from living area	POS accessed from family areas	Yes
	POS areas at front of dwelling to have surveillance of street	POS for Dwelling 5 is located in front of the dwelling. A masonry fence is proposed	NO
	Each POS area must receive 3 hours of sunlight	The POS areas will get at least 3 hours of sunlight mid winter	Yes
Fencing	Side/rear fences not to exceed 1.8m	1.8m colourbond proposed	Yes
Garbage storage area	Storage area must be provided that is accessible and screened from view	Each dwelling has own bin storage area	Yes
Clothes drying area	Drying area to be provided for each dwelling	Drying area provided for each dwelling	Yes

NA = Not Applicable

Discussion

The proposal is permissible in the 2(a) zone and is considered consistent with the objectives of the zone. Except for the minor variation to Clause B7.C64 relating to fencing private open space, the proposal complies with the relevant requirements of both LEP 2000 and DCP 2007.

Section 94 contributions are required for six (6) additional dwellings. A condition is recommended requiring payment of the applicable fees prior to the issue of a Construction Certificate. (Refer to Condition 35)

Proposed Variations - Fencing of Private Open Space

The development does not comply with Clause B7.C64, which requires any private open space located in front of the dwelling to be visible from the street and to provide mutual surveillance. The private open space (POS) for dwelling 5 is located in front of the dwelling. A masonry fence is proposed around the POS area, which prevents casual surveillance of the access.

The variation is considered acceptable in this instance given that the access is an internal driveway, not a public street and the benefit of additional privacy for residents using their main private open space area.

2. Likely Impact of the Development

Context, Setting and Public Domain

The proposal is unlikely to have any significant impacts on adjoining properties or the existing character of the street. Dwellings 1, 2 and 3 are setback 4m from adjoining residential boundaries and all six (6) dwellings will be single storey construction. This will reduce any potential for overshadowing or privacy impacts.

Although the development will increase the density of dwellings on the site, there is no frontage to Meredith Crescent. Any new dwelling will be generally obscured from view. Therefore the development will not adversely impact on the existing streetscape.

Landscaping

A landscaping plan has been submitted with the application. It is considered that an appropriate amount of landscaping is proposed along the driveway and within the open space areas of the development.

Environmental Considerations

Acid Sulphate Soils

The site is mapped as Class 4 Acid Sulphate Soils, which requires a site assessment for works 2m below natural ground level. The development does not propose any excavation (for the purposes of footings or stormwater) greater than 1m. A site assessment is considered unnecessary in this instance.

Koala Habitat

The proposal will require an Asset Protection Zone (APZ) on an adjoining property, Lot 232 DP 593512, which is mapped as containing *Preferred Koala Habitat*. An assessment for koala habitat trees was undertaken. Approximately thirty five (35) koala feed trees were identified within the APZ area at a distance of 30m from the development site.

The 40m APZ, will consist of 20m Inner Protection Area (IPA) and 20m Outer Protection Area (OPA). The koala feed trees are located in the OPA section. OPAs only require management of the understorey. The majority of trees in the APZ, including the identified koala feed trees, are able to be retained.

A condition has been recommended requiring all koala feed trees to be retained. A further condition has been recommended requiring submission of a plan identifying any tree removal required for the APZ to be submitted to Council prior to the issue of a Construction Certificate.

It should be noted that Lot 232 DP 593512 is zoned 1(a) Rural Agriculture. Any tree clearance on that lot will require approval from the Catchment Management Authority (CMA). A condition has been recommended requiring approval from the CMA to be obtained if necessary. (Refer to Condition 31)

Access and Traffic

The proposed vehicular access to the site is 3.3m wide at the property boundary. The vehicular access is also wider within the site. Sufficient area is provided for vehicle manoeuvring to allow for entry and egress in a forward direction.

The development will increase traffic along Meredith Crescent. Council requested that a Traffic Impact Statement (TIS) be submitted. After conducting traffic counts and estimating traffic flow through Meredith Crescent, the report stated that "the peak hour traffic flow would be increased from 28 to 33", which was considered to be an acceptable level for a minor access street. In addition, the proposal was considered to comply with the relevant Australian Standards.

The application was referred to Council's Development Assessment Engineers, who do not object to the development subject to the inclusion of recommended conditions. (Refer to Conditions 13-16, 33, 34, 36)

3. Suitability of the Site

Bushfire

The site is mapped as being bushfire prone. The proposal does not include subdivision, so consideration of bushfire protection is required under Section 79BA of the Environmental Planning & Assessment Act.

The bushfire assessment submitted determined that the proposal satisfies the specifications and requirements for infill development in Planning for Bushfire Protection 2006, subject to the inclusion of recommended bushfire protection measures and provision of a 40m Asset Protection Zone on Lot 232 DP 593512.

The owner of Lot 232 DP 593512 has consented to lodging the application on the basis that the APZ will be provided on their property. A condition is recommended requiring creation of a restriction for the 40m APZ on the title of Lot 323 DP 593512 prior to the issue of a Construction Certificate. (Refer to Condition 32)

4. Submissions

Council received twenty-four (24) submissions objecting to the urban housing development. This included one petition with forty-eight (48) signatures. It should also be noted that three (3) submissions were received from the same two (2) people.

The issues raised in the submissions have been considered and addressed in the planning assessment and the issues raised do not warrant refusal of the application. The issues raised in the submissions, along with the relevant assessment comments, are outlined below:

The development will generate an unreasonable amount of traffic and detrimentally impact traffic safety

Comment

It is agreed that the development will increase traffic in the immediate vicinity of the site. Council requested that a Traffic Impact Statement (TIS) be prepared to address this issue.

The TIS references the "RTA Guide to Traffic Generating Developments", which recommends a daily and peak trip generation rate of 8.5 and 0.85, respectively, per residential dwelling."

The rates recommended by the Roads and Traffic Authority (RTA) guide were similar to the rates observed during traffic counts of the intersection between Meredith Crescent, Tathra Street, Phillip Street and Bareena Street. The TIS classified Meredith Crescent as a Minor Access Street, which have a recommended maximum hourly traffic flow capacity of 100 vehicles.

The TIS went on to state that "Using these trip rates it is estimated that the proposed six (6) town houses will generate approximately 50 trips per day and 5 trips during the AM and PM peak hours. The additional 5 trips generated by the proposed six (6) town houses will increase the peak hour traffic flow on Meredith Cres to 33 trips (from

28 trips pre-development), which is well within the 100 vehicle limit defined for a Local Access Street.”

The TIS supported the development on the basis of this information.

The proposal does not make adequate provision for visitor parking, which will increase the number of cars parking on Meredith Crescent

Comment

DCP 2007 requires 1 visitor space per 3 dwellings, or every part thereof. The proposal relates to seven (7) dwellings and requires three (3) visitor parking spaces. The development includes three (3) visitor spaces and complies with the requirements of DCP 2007.

Meredith Crescent is too narrow and the development will exacerbate existing traffic problems

Comment

It is agreed that Meredith Crescent is a narrow street. The development provides the necessary amount of off-street car parking required by DCP 2007. The TIS advises the road has sufficient capacity for the development and is unlikely to unreasonably impact existing traffic conditions.

That density of the development is unsuitable for the area

Comment

The site is zoned 2(a) Residential under Port Stephens Local Environmental Plan 2000, which permits urban housing subject to compliance with Clause 19. The proposal complies with the density requirements of LEP 2000.

Insufficient setback is provided between the development and adjoining residences

Comment

DCP 2007 requires a 2m setback to rear boundaries. The development provides a 4m setback to adjoining residential properties and complies with this requirement.

The development will require a 40m APZ, which will result in the destruction of native vegetation

Comment

The development will require a 40m APZ to be provided on an adjoining property, being Lot 232 DP 593512. Councils Geographical Information System indicates that the proposed APZ will contain some preferred koala habitat. An assessment of the vegetation identified approximately thirty-five (35) koala feed trees, at least 30m from the development site.

The APZ will consist of 20m Inner Protection Area (IPA) and 20m Outer Protection Area (OPA). The koala feeds trees will be within the OPA and shall be retained.

The development has insufficient area provided for children's recreation, which will lead to them playing on the street

Comment

Each dwelling has a private open space area that complies with the requirements of DCP 2007. There is no requirement for additional recreation facilities.

Concern that waste bins will be located outside adjoining properties

Comment

The road reserve has sufficient area adjacent to the driveway for placement of twelve (12) waste bins.

Construction noise will detrimentally impact amenity of surrounding residences

Comment

A standard condition relating to construction noise and permitted hours of work is applied to all development consents.

No provision made for mail boxes

Comment

It is considered that there is sufficient area along the driveway for the provision of letterboxes. A condition regarding the provision of letter boxes is recommended. (Refer to Condition 12)

The development will reduce house prices

Comment

The proposal is permissible on the site and consistent with the zone objectives. There is no evidence to suggest the development will decrease house/land values.

The development will provide low cost housing and is likely to increase noise and criminal activity

Comment

The development will provide housing choice in the locality. The development is residential in nature and complies with the design requirements of DCP 2007. This residential development is unlikely to generate any unreasonable noise impacts. There is no evidence to suggest that this residential development will result in increased criminal activity and is outside the scope of this planning assessment.

5. Public Interest

The development complies with the relevant environmental planning instruments and is unlikely to result in any unreasonable or detrimental impacts on adjoining properties or the locality in general. It is concluded that the proposal is consistent with the public interest.

ATTACHMENT 4

CONDITIONS

1. 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.
2. 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.
3. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
4. 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.
5. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
 - * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

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

6. 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.
7. Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
8. The development shall be constructed in accordance with the recommendations of the bushfire report prepared by Fire Management Services and received on 23/6/08, except as modified by specific conditions of consent.

9. The koala habitat assessment prepared by Brad Chapman Professional Tree Services and received on 26/2/08 identifies approximately 35 koala feed trees within the proposed Asset Protection Zone on Lot 232 DP 593512. These trees shall be retained. The trees must be clearly identified on the site prior to commencement of work.
10. The visual impact of double garage doors must be minimised using plain panels and non-reflective mid-tone colours.
11. The visual impact of driveway pavement must be minimised using a combination of neutral paving materials, banding and detail elements and landscape plantings. Excessively dark or bright coloured pavement is not acceptable.
12. Mailboxes shall be provided for each dwelling in an easily accessible location within the site.
13. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
14. Filling shall not obstruct any natural stormwater flowpath or water drainage system. Neither shall the fill encroach any adjoining property.
15. In areas that are disturbed for site filling, all available topsoil shall be stockpiled and re-used at the completion of the earthworks. The topsoil shall be spread evenly and lightly rolled. All disturbed areas shall be stabilised within 14 days of completion of the filling operations with grass cover by either turfing or seeding.
16. 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.
17. 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.
18. 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.**
19. 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.**

20. Construction details for retaining walls greater than 600mm in height shall be submitted and approved by the Principal Certifying Authority **prior to commencement of works associated with the retaining wall**. All retaining walls in excess of 1m shall be designed by a Practising Structural Engineer..

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

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

21. 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.

22. 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.

23. 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.

24. 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.
25. 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.
26. 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.
27. 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.
28. **Prior to occupying the approved dwelling(s)**, contact Council's Mapping Section on 49800304 to obtain the correct house numbering. Be advised that any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
29. The development shall be carried out in accordance with the Building Sustainability Index (BASIX) certificate number 170646M. Where minor changes to the development occur (eg colours and the like) these changes shall be referred to Council **prior to the changes being made**. Where approved, a copy of the amended/new BASIX Certificate shall be submitted to Council within fourteen days and will be considered sufficient to satisfy this condition.

Conditions to be satisfied prior to the issue of a Construction Certificate

30. Trees removal required for establishment of the Asset Protection Zone shall be identified on a plan and submitted to and approved by Council's Vegetation Management Officer **prior to the issue of a Construction Certificate**.
31. The removal of any trees on Lot 232 DP 593512 will require approval from the Catchment Management Authority under the Native Vegetation Act 2003. This approval shall be provided to the Principal Certifying Authority **prior to the issue of a Construction Certificate**.
32. A restriction on the title of Lot 232 DP 593512 shall be created for provision of a 40 metre Asset Protection Zone to benefit the development **prior to the issue of a Construction Certificate**. The APZ shall consist of 20m Inner Protection Area and 20m Outer Protection Area. Council shall be nominated as the sole authority permitted to alter/remove the endorsement.

33. The stormwater detention system shall be designed and built in accordance with the approved concept plan. Impervious surface and roof water is to be disposed of by an onsite detention drainage system to Council's drainage network, designed for the critical 1:100yr storm. A drainage design indicating all engineering details relevant to site regrading and the collection and disposal of the stormwater from the site is to be submitted to and approved by the certifying authority **prior to the issue of a Construction Certificate**. Details are to include detention system design, existing site levels, finished levels, pipeline sizes, invert levels, pipe grades and calculations.
34. The stormwater detention system shall be constructed and made operational prior to construction of any hardstand areas within the site, including slabs and parking and manoeuvring areas. A construction staging plan shall be submitted to, and approved by the certifying authority **prior to issue of the Construction Certificate**, demonstrating any measures required to provide compliance with this condition. Details shall also include measures necessary to capture and convey stormwater to the system during construction phases.
35. 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	(\$367)	(\$ 2,202)
Public Open Space, Parks and Reserves	(\$1,993)	(\$11,958)
Sports and Leisure Facilities	(\$4,697)	(\$28,182)
Cultural and Community Facilities	(\$2,361)	(\$14,166)
Roadworks	(\$666/\$888)	(\$ 5106)
Fire & Emergency Services	(\$144)	(\$ 864)

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 **issue of Construction Certificate**.

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.

Conditions to be satisfied prior to the issue of an Occupation Certificate

36. 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 an Occupation Certificate.**

37. A bushfire report certifying compliance with the recommended bushfire protection measures in the hazard assessment prepared by Fire Management Services and received 26/6/08 shall be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**
38. Landscaping shall be carried out in accordance **with the approved Landscape Plan** prepared by HLO Design and dated November 2007. The landscape designer must provide the Principal Certifying Authority with certification that the landscaping has been carried out in accordance with the approved plan **prior to the issue of the Occupation Certificate.**
39. 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.

ITEM NO. 3**FILE NO: 16-2001-1700-3****SECTION 96 MODIFICATION FOR AN INDUSTRIAL SUBDIVISION AT NO. 78-80 PORT STEPHENS DRIVE, TAYLORS BEACH****REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT AND BUILDING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Supports the proposed access to the industrial subdivision via a new intersection (roundabout) with Port Stephens Drive and removes existing approved access via Kara Crescent.
- 2) Supports the provision of an ecological corridor generally consistent with the figure contained in Attachment 2 (Reference: Hunter Land Project Number 07254L, Drawing Number L1, Revision 6).
- 3) Delegates the determination of the Section 96 application to the General Manager under delegated authority.
- 4) Delegates to the General Manager to negotiate a draft Voluntary Planning Agreement that is anticipated to be proposed by the applicant, consistent with the contents of this report.
- 5) Note that a further report will be submitted on the draft Voluntary Planning Agreement prior to the final endorsement of that Agreement.

OPERATIONS COMMITTEE – 11 NOVEMBER 2008**RECOMMENDATION:**

Councillor John Nell Councillor Bruce MacKenzie	That the recommendation be adopted
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In accordance with the Local Government Act, a division is required.

Those for the motion: Crs Dover, Tucker, MacKenzie, Dingle, Francis, Kafer, Nell, Jordan, Maher, & O'Brien.

Those against the motion: Nil.

ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

337	Councillor John Nell Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
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In accordance with the Local Government Act, a division is required.

Those for the motion: Crs MacKenzie, Dover, Tucker, Dingle, Kafer, Nell, Jordan, Maher, Francis, Westbury, Ward & O'Brien.

Those against the motion: Nil.

The purpose of this report is to obtain a policy position from the Council with respect to proposed modifications to an approved industrial subdivision and the Section 94 contributions applicable to the development.

BACKGROUND

The applicant has lodged a Section 96 application proposing a new access and intersection with Port Stephens Drive. The current approved industrial subdivision obtains access via existing Kara Crescent. The applicant has requested that Council consider entering into a Voluntary Planning Agreement (VPA) to facilitate the construction of a new roundabout on Port Stephens Drive. The construction of a roundabout intersection would improve road safety to the Port Stephens Drive & Taylors Beach Drive intersection. Removing the road access to Kara Crescent has a potential additional benefit of enhancing an identified ecological corridor proposed through the subdivision. The proposed plan of modification is shown in Attachment 2. The previously approved plan is shown in Attachment 3.

Road connectivity and wildlife corridor

As a principle Council generally encourages road connectivity with the existing road network wherever practical. In this instance Council has identified an ecological corridor which will be diminished in value if Council insists on a through road connection to Kara Crescent.

It was noted during the assessment of the current application that some clearing has already been approved by the original consent. Council officers are not in support of approving further clearing associated with a through road connection given the known koala movement across the site. The previous approval provides for a wildlife corridor of 7300m². The new layout remains consistent with this area inclusive of landscaping area on the lots adjoining the corridor. The revised proposal strengthens this corridor by not only removing the need for fauna to cross a proposed road, but also provides an improved shape. The amended shape has tapering ends, and would therefore 'funnel' fauna through the site. It is concluded that a strengthened connection providing protected passage for local fauna, particularly koalas outweighs the benefits of a local traffic management outcome in this location.

Section 94 Contributions

As part of the proposed new intersection works the applicant proposes to construct a roundabout servicing Port Stephens Drive, Taylors Beach Road and the industrial subdivision. The applicant has requested that Council enter into a Voluntary Planning Agreement (VPA) to facilitate the construction of the roundabout. The proposed agreement would involve the allocation of funds already identified in the Forward Works Program (FWP) for the intersection of Port Stephens Drive and Taylors Beach Road.

Council officers recommend providing a financial contribution equal to the estimated cost of the intersection works as proposed in the FWP (\$150,000) plus rehabilitation works (\$6,000). Should the VPA not occur then the previously proposed T intersection would not be recommended for further improvement until 2012/13 at the earliest, depending on availability of funds. Pending negotiations with the applicant, these funds could be made available earlier.

Once amended, the conditions of consent for the industrial subdivision will require that the applicant contribute approximately \$77,718 in Section 94 contributions. The applicant has requested that Council consider allowing this payment to be allocated to the construction of the roundabout as an additional financial offset. This request from the applicant is supported in principle by Council officers and will be reported to Council for final endorsement as Voluntary Planning Agreement.

The above matters are summarised in Table 1 below.

Table 1: Summary of Costs

	Cost (\$)
Intersection works identified in FWP prior to applicant's proposed roundabout *	150,000
Rehabilitation works specific to Roundabout (as per FWP)	6, 000
Section 94 PLUS CPI**	77,718
Anticipated cost of Roundabout (RAB)Construction	800 000 (Preliminary Estimate)
Approximate Net Value to Council Infrastructure - i.e. Cost of RAB minus FWP funding and CPI Section 94 contribution	566 282

* Note: The Forward Works Program has since been amended to reflect the anticipated construction of the Roundabout by the applicant. Council has valued the overall works as potentially costing \$500 000, however this is a very generalised estimate and has been superseded by the applicant's estimate. The estimate provided by the applicant appears to be reasonable, however will be reviewed in further detail when a Voluntary Planning Agreement is pursued.

** Note: the rate used was that which applied at the time of the original approval (24 March 2003). This amount varies from the original contribution condition given that the area of the lot sizes has varied.

Conclusion

Council officers recommend supporting the deletion of the road connection to Kara Crescent, in favour of a Roundabout at the intersection of Port Stephens Drive and Taylors Beach Road, and commence the preparation of a VPA. It is considered that this recommendation would facilitate the following outcomes:

1. Infrastructure benefits, i.e. a roundabout will be constructed rather than a lower engineering standard intersection (left turn lane and right turn slip lane)
2. Road safety benefits
3. Strengthened ecological corridor

LINKS TO CORPORATE PLANS

The links to the 2008-2012 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

This report relates to Goal 18 Success & Sustainability – Managing Development Functions.

To provide a predictable and effective advisory, assessment and inspections service for all development and building activity within Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

The proposed development provides an opportunity to bring forward intersection works in this location and facilitate the provision of an intersection of a higher engineering standard with improved road safety. Section 94 contributions identified for the Council proposed left turn lane and right turn slip lane intersection would be reallocated to a roundabout to be constructed by the proponent.

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council Policy.

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 allotment zoned 4 (a) (Industrial General “A” Zone). Industrial subdivision is permitted with the consent of Council. The development is likely to have a positive social impact, given that additional employment is likely to be created as a result of the proposal.

ECONOMIC IMPLICATIONS

The subdivision will increase the supply of serviced industrial land in the locality which is likely to create additional employment during and post construction.

ENVIRONMENTAL IMPLICATIONS

It is considered that the proposed modification will result in a more positive environmental outcome by providing a strengthened wildlife corridor compared to the original approved subdivision circa 2001.

CONSULTATION

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

Council’s Strategic Engineer has been consulted, and endorses the recommendations in this report.

Comment – Manager, Engineering Services

The proposed roundabout location, amendment to the Future Work Program and allocation of Section 94 funds identified in this report are fully endorsed.

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject or amend the recommendations.
- 3) Support recommendation to modify development application, having two cul-de-sacs on either side of an ecological corridor.
- 4) Reject recommendation for ecological corridor, having one main through road linking Kara Crescent with Port Stephens Drive.

ATTACHMENTS

- 1) Locality Plan
- 2) Site Plan (as modified)
- 3) Site Plan (as approved)

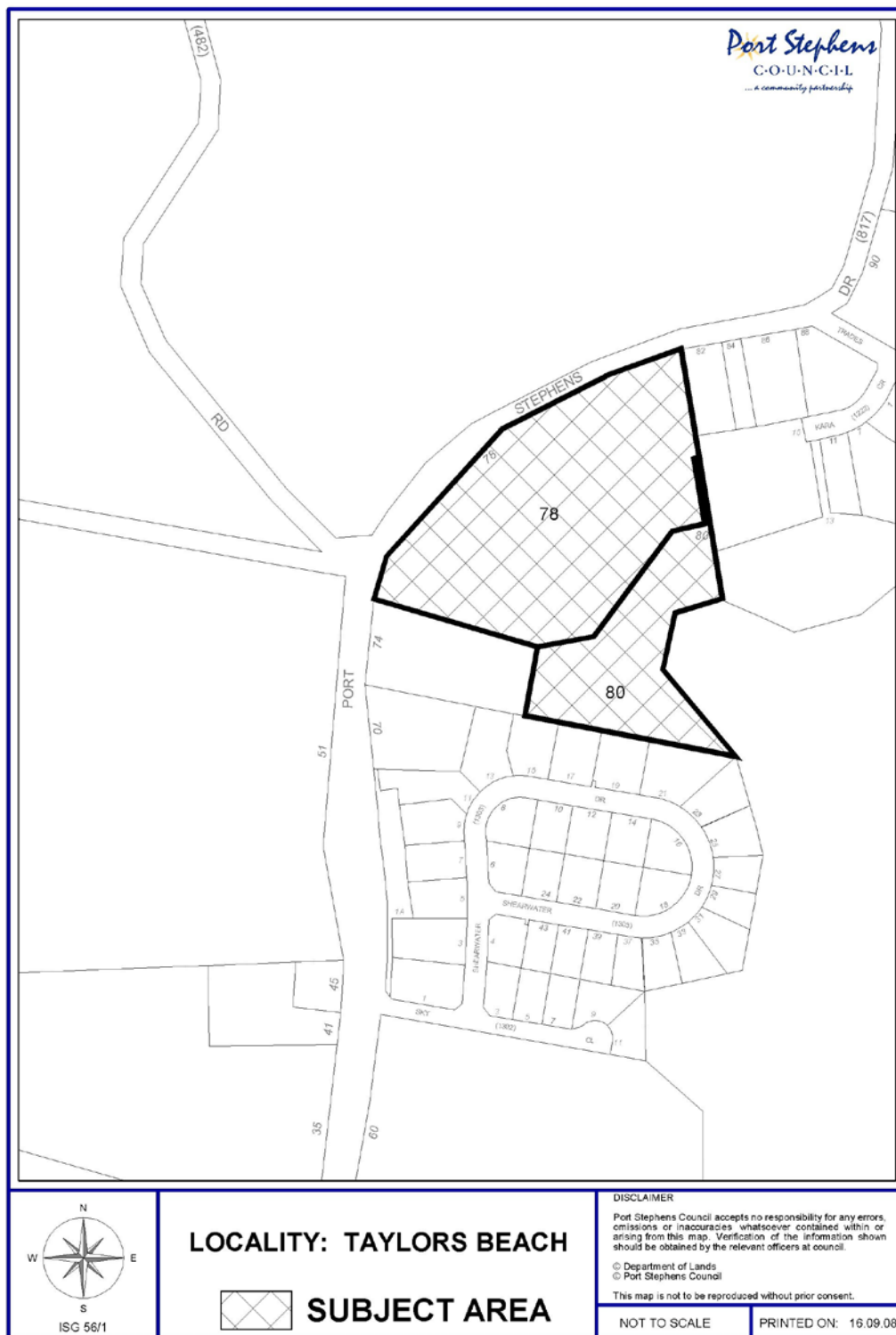
COUNCILLORS ROOM

- 1) Nil

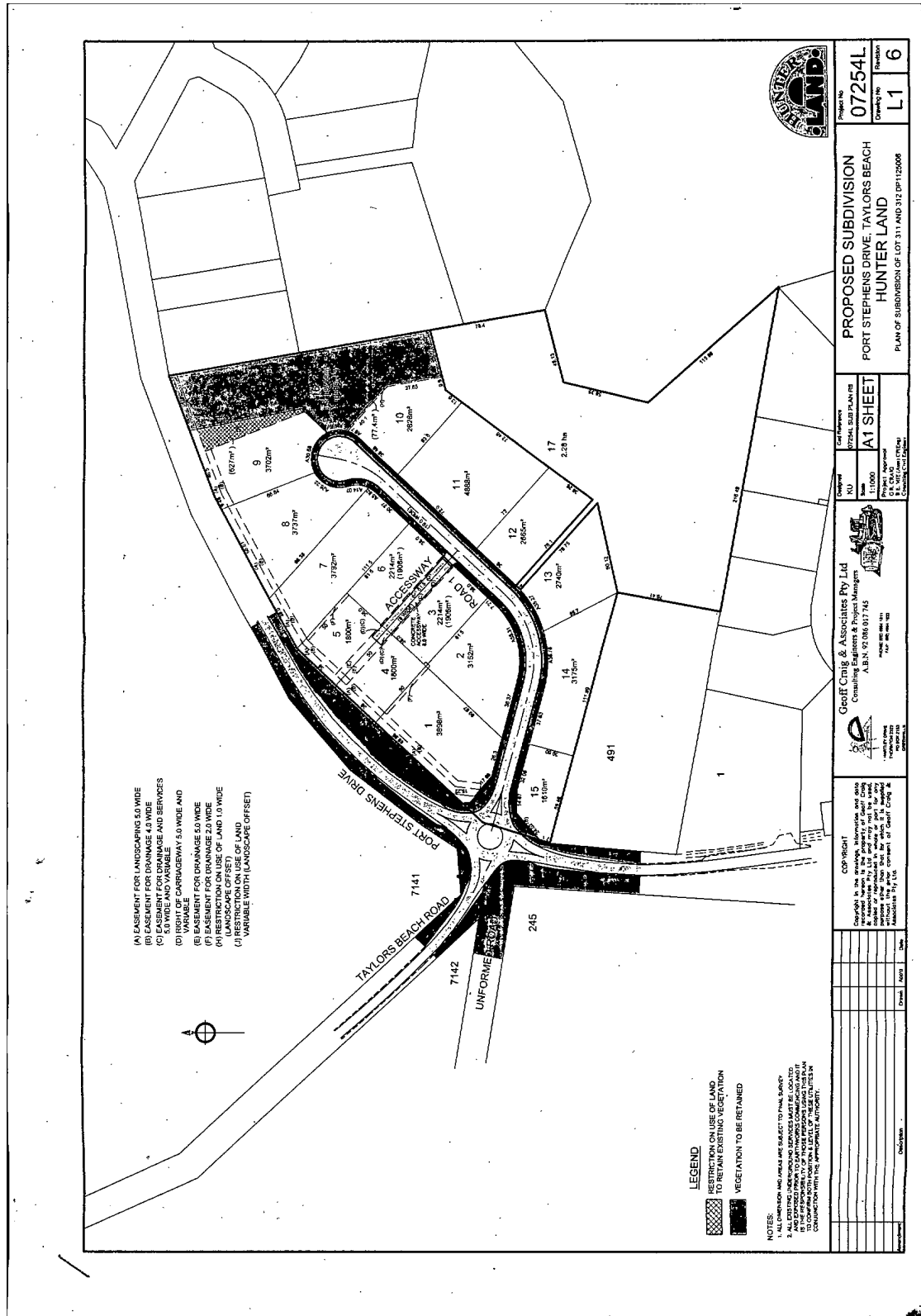
TABLED DOCUMENTS

- 1) Nil

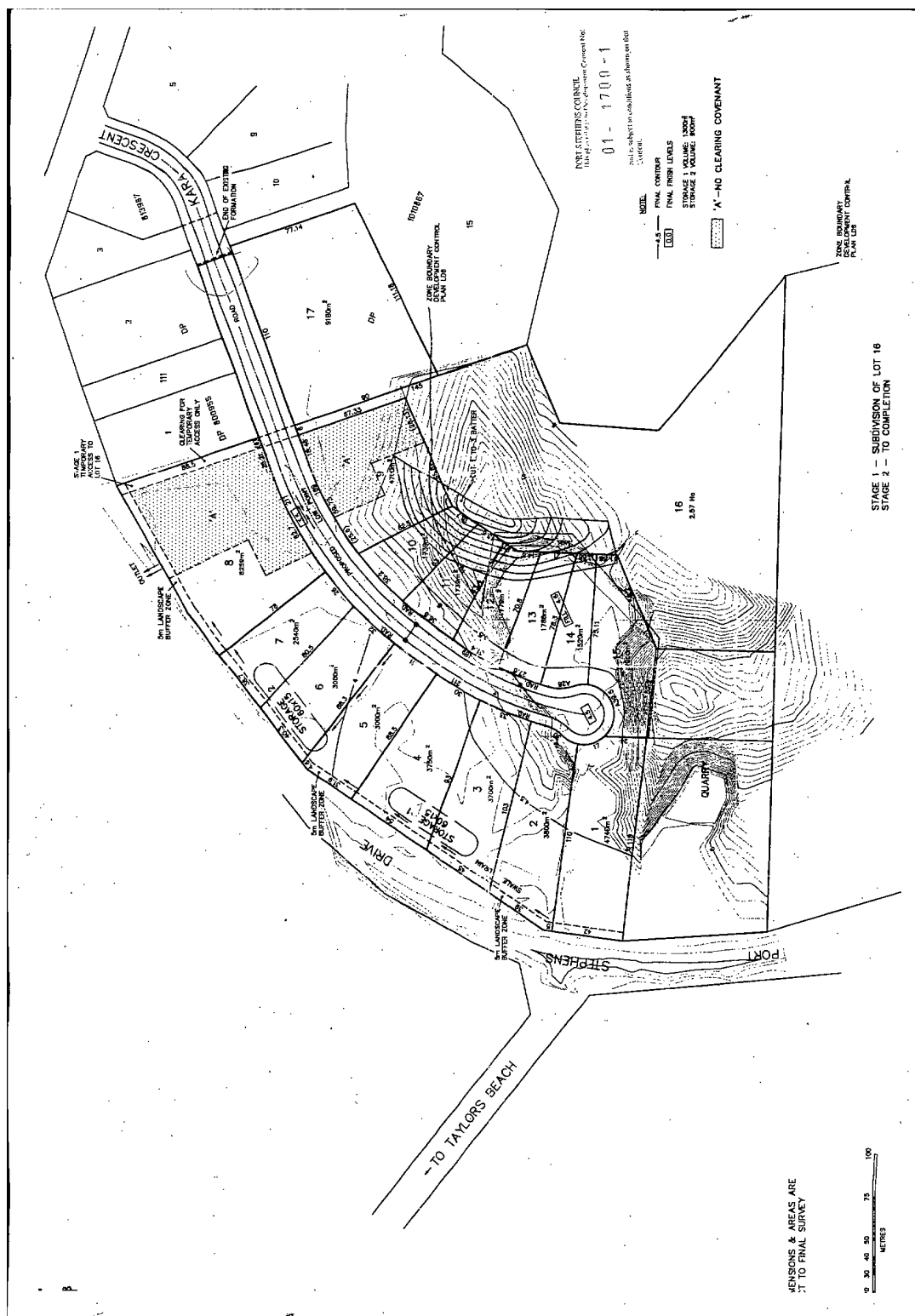
ATTACHMENT 1 LOCALITY PLAN



ATTACHMENT 2
SITE PLAN (AS MODIFIED)



62



ITEM NO. 4**FILE NO: PSC2006-0914****ACQUISITION LOT 1959 DP 713229 – WILGA ROAD MEDOWIE****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER**

RECOMMENDATION IS THAT COUNCIL:

- 1) Consents to accept transfer as per Section 570 of the Local Government Act 1993 of Lot 1959 DP713229 from Hunter Valley Developments to Council and declare the parcel Public Road.
 - 2) Classify the acquired property as 'Operational' status under the Local Government Act 1993.
 - 3) Grants authority to affix Council's Seal and signatures to the Transfer document transferring the proposed parcel to Council.
 - 4) After transfer of the parcel declare it public road in the Government Gazette.
-

OPERATIONS COMMITTEE – 11 NOVEMBER 2008**RECOMMENDATION:**

Councillor Bruce MacKenzie Councillor John Nell	That the recommendation be adopted
--	---

ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

338	Councillor Geoff Dingle Councillor Steve Tucker	That the recommendation be adopted.
------------	--	--

BACKGROUND

The purpose of this report is to accept Transfer under Section 570 of the Local Government Act 1993 land of 158.55 square metres strip known as Lot 1959 DP713229 at Wilga Road Medowie.

The land is a small 1m wide and 158.55m long parcel running parallel to Wilga Road at Medowie. Transfer of the land to Council was overlooked at the time of subdivision of the adjoining land. Agreement was reached in principle in July 2008 between Council's Property & Rates Sections and Hunter Valley Developments.

Execution of the Transfer document was made by Hunter Valley Developments on 11th September 2008. The current outstanding rates as at November 2008 are \$677.76.

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.*

FINANCIAL/RESOURCE IMPLICATIONS

Loss of annual rates for the property \$293.51, cost of lodgement and registration of legal documents at Land and Property Information approximately \$500, payment of outstanding rates not recouped for property owner approximately \$677.76.

LEGAL AND POLICY IMPLICATIONS

All actions necessary for this action to take place fall under the Local Government Act 1993 and Conveyancing and Public Roads Act with no Council Policies involved.

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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Owners, Civil Assets Engineer, Revenue Coordinator and Principal Property Advisor.

OPTIONS

1. Adopt recommendations

2. Reject recommendations

ATTACHMENTS

- 1) Location Map
- 2) Location Map
- 3) Deposited Plan 713229

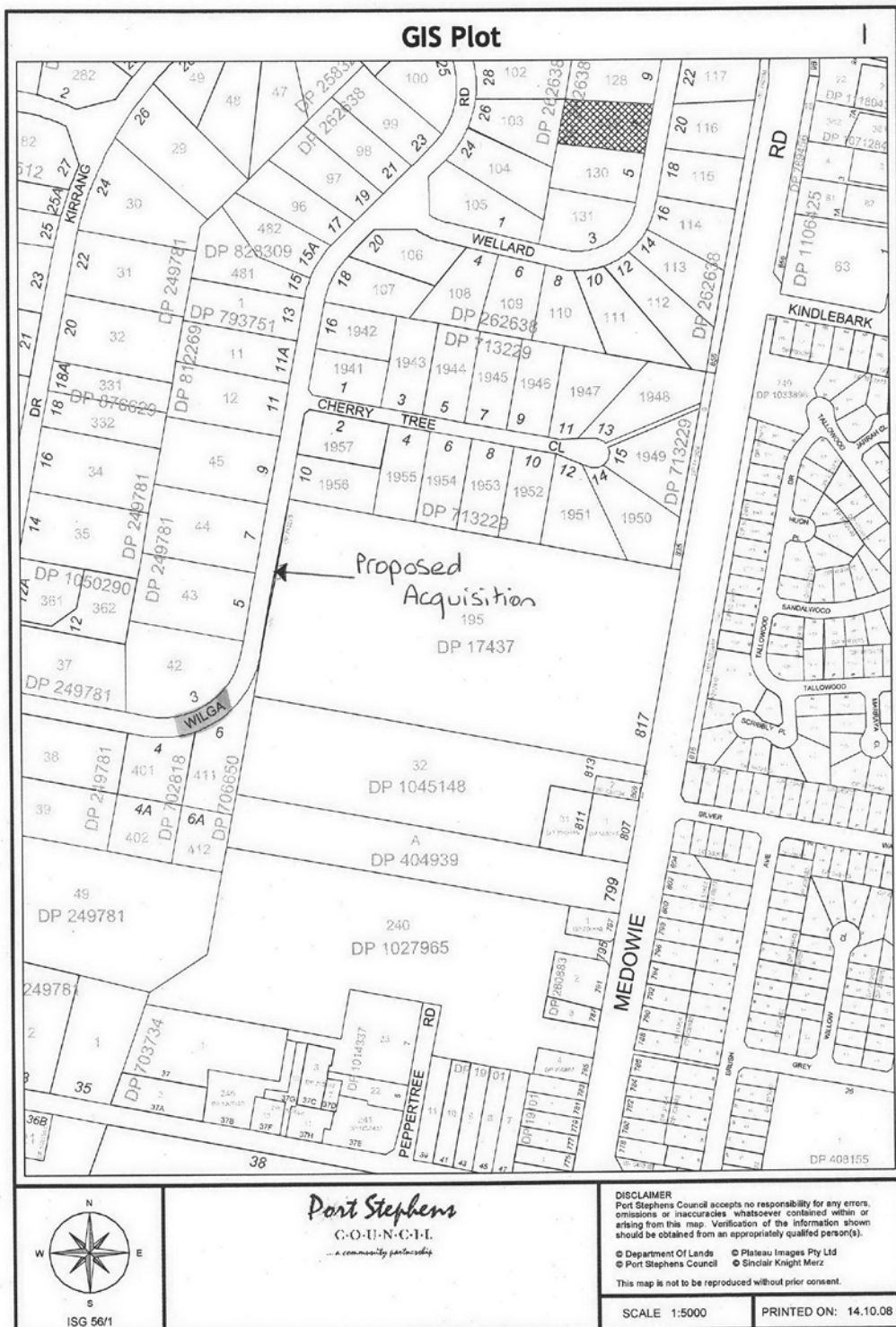
COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

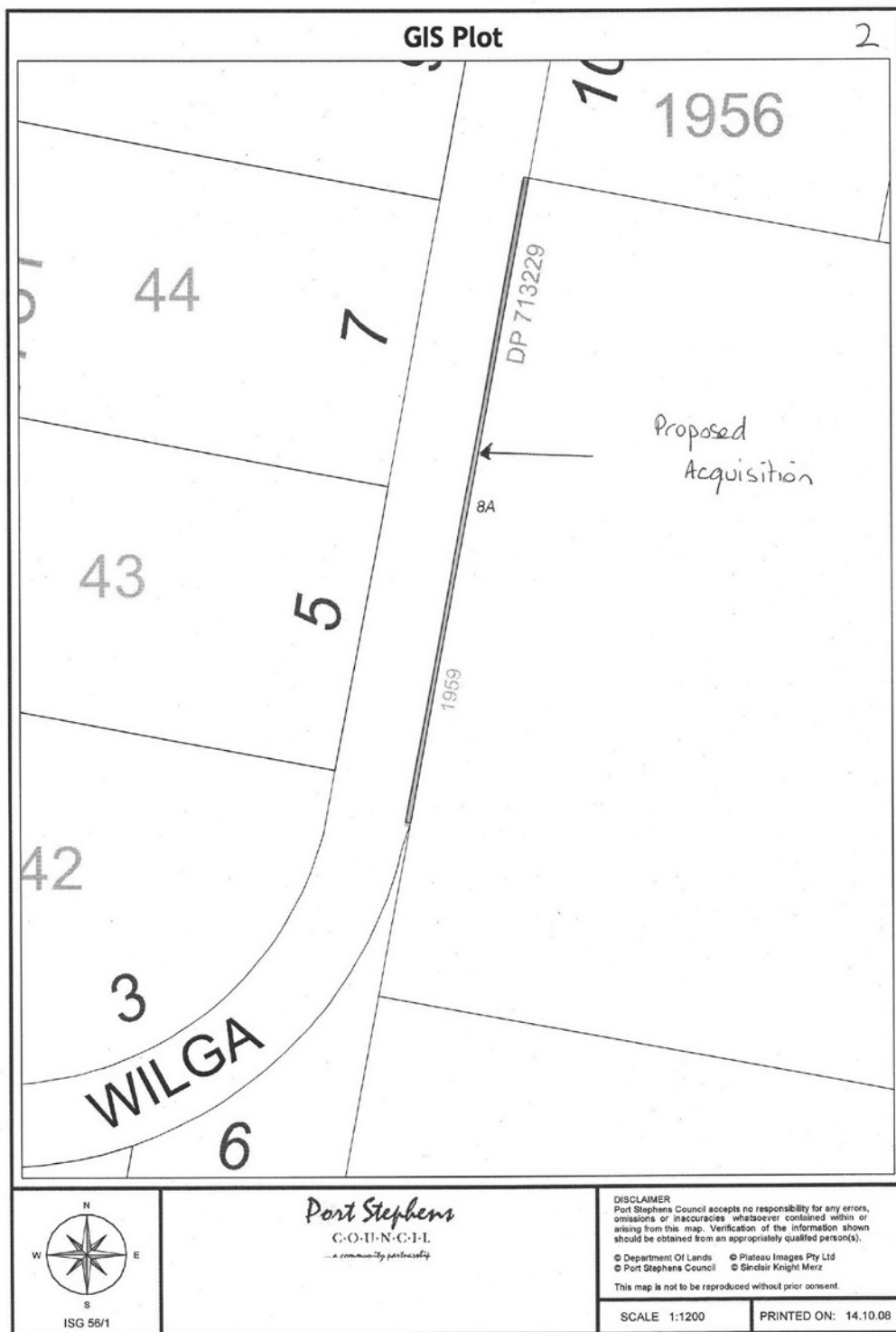
- 1) Nil

ATTACHMENT 1



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

ATTACHMENT 2



3

PLAN FORM 2

Signature and seal only.

55

1st April 1985

3rd 10/3/85

By *[Signature]*

M. P. D.

BEARING	DISTANCE	FROM
12° 12' 20"	4.4	200
12° 12' 20"	4.4	200
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CHERRY TREE CLOSE
POSSIBLE WIDTH

1951 1950 1949 1948 1947 1946 1945 1944 1943 1942

1958 PUBLIC RESERVE

MAIN ROAD

WILGA ROAD

CHERRY TREE ROAD

CLOSE ROAD

EASEMENT TO DRAIN WATER 8 WIDE

X ROAD WIDENING

1959

1951 1950 1949 1948 1947 1946 1945 1944 1943 1942

1958 PUBLIC RESERVE

MAIN ROAD

WILGA ROAD

CHERRY TREE ROAD

CLOSE ROAD

EASEMENT TO DRAIN WATER 8 WIDE

X ROAD WIDENING

1959

1951 1950 1949 1948 1947 1946 1945 1944 1943 1942

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1958 PUBLIC RESERVE

MAIN ROAD

WILGA ROAD

CHERRY TREE ROAD

CLOSE ROAD

EASEMENT TO DRAIN WATER 8 WIDE

X ROAD WIDENING

1959

1951 1950 1949 1948 1947 1946 1945 1944 1943 1942

Diagram 1: 500

Registration No. 124-5-1985

CANONICAL 18 OF 10-4-1985

Title System: TORRENS

Purpose: SUBDIVISION

Ref. Map: PARISH

Last Plan: DP1747, DP149781

PLAN OF SUBDIVISION OF LOT 194
D.P. 17437 AND LOT 5 D.P. 249781

Production Plan 1: 2000
Length in metres.

Block/Title: 124-5-1985

Locality: MCDONNELL

Parish: SUTTON

County: GLOUCESTER

Block/Title: 124-5-1985

Owner: 1. MICHAEL DOUGLAS COOPER
2. JAMES DOUGLAS COOPER
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ITEM NO. 5

FILE NO: A2004-0242

QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2008**REPORT OF: JEFF SMITH – ACTING GROUP MANAGER COMMERCIAL SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes the estimated Statement of Cash Position to 30/6/2009 as detailed in ATTACHMENT 1 to this report.
- 2) Notes the estimated Statement of Restricted Funds Movements to 30/06/2009 as detailed in ATTACHMENT 2 to this report.
- 4) Approve the discretionary changes to the adopted recurrent budget, (totalling \$383,280, a positive effect on revenue) as detailed under separate cover as TABLE 1.1 of DOCUMENT 1 to this report and vote the necessary funds to meet the expenditure.
- 5) Approve the discretionary changes to the adopted capital budget, (totalling \$170,000 a negative effect on revenue) as detailed under separate cover as TABLE 1.2 of DOCUMENT 1 to this report and vote the necessary funds to meet the expenditure.
- 6) Notes the identified issues, which may have a future budgetary impact, as identified under separate cover as TABLE 2 of DOCUMENT 1 to this report.
- 7) Notes the estimated surplus/(deficit) from ordinary activities before capital amounts of \$198,789.
- 8) Notes the figures contained in this report do not contain the Roll Forwards and Revotes and this information will be supplied in the December Quarterly Budget Review after the auditing of the Annual Financial Statements.
- 9) Notes the Quarterly Budget Review comparing Budgets to Actuals as tabled under a separate cover as DOCUMENT 2 to this report.

OPERATIONS COMMITTEE – 11 NOVEMBER 2008**RECOMMENDATION:**

Councillor Steve Tucker Councillor Shirley O'Brien	That the recommendation be adopted
---	---

Cr Glenys Francis declared an interest with respect to the Halloran Way, Raymond Terrace item.

ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

339	Councillor John Nell Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to amend the Budget by bringing to Council's attention the proposals and issues that have an impact on the 2008/2009 Budget.

Council adopted its Council Plan 2008/2012 (Council Minute 083) on the 22nd April, 2008, this included budget estimates for the 2008/2009 financial year.

The major changes to the Recurrent Budget in this Review are detailed in Table 1.1 of Document 1 and are summarised as follows:

- Increased income of \$600,000 for rates special variation (item 2).
- Increased income of \$405,456 for interest on investments (item 5).
- Increased expenditure of \$286,954 for increased interest on loans (item 6).
- Increased expenditure of \$600,000 for Economic Development (item 11).
- Decreased income of \$175,728 for Waste Management (items 39 and 40).
- Decreased expenditure of \$107,000 for Drainage Support interest on loans (item 45).
- Increased grant income and expenditure of \$112,000 for Council Roads Maintenance from the June 2007 long weekend storm disaster (item 48).
- Decreased expenditure of \$170,000 for Urban Bushland Management (item 54).

The Major transfers in the Recurrent Budget in this forecast, detailed in Table 1.1 of document 1 are:

- Transfer of \$100,000 from Flood Studies to P.S. LEP Review (items 18 and 19).
- Transfer of \$214,124 from Advisory Services to Strategic Planning, Environmental Services Administration, Environmental Projects and Regulatory Services for Budget reporting purposes (items 14, 17, 20, 21 and 36).

The major changes to the Capital Budget in this Review are detailed in Table 1.2 of Document 1 and are summarised as follows:

1. Increased expenditure of \$1,086,005 for Property Investments and Land Development (item 1).
2. Increased expenditure of \$125,000 for Fingal Bay Holiday Park (item 2).
3. Decreased expenditure of \$106,459 for Soldiers Point Holiday Park (item 4).
4. Decreased expenditure of \$125,000 for Halifax Holiday Park (item 5)
5. Increased income of \$100,000 and increased expenditure of \$200,000 for Drainage works at President Wilson Walk Tanilba Bay (item 7).
6. Decreased expenditure of \$131,000 for Drainage works at Melba Crescent Raymond Terrace (item 9).
7. Increased expenditure of \$100,000 for Old Main Road Drainage (item 13).

8. Increased expenditure of \$140,000 at Halloran Way Raymond Terrace (item 17).
9. Increased expenditure of \$220,000 on Brandy Hill Road Construction (item 19).
10. Increased expenditure of \$100,000 on Clarencetown Road Construction (item 22).
11. Increased income of \$100,000 and increased expenditure of \$130,000 at Bundabah Street Karuah (item 24).
12. Increased income of \$175,000 and increased expenditure of \$175,000 at Blanch Street Boat harbour (item 26).
13. Increased expenditure of \$150,000 on Dowling and Stockton Streets Roundabout to include car park construction (item 28).
14. Increased expenditure of \$250,000 for Lemon Tree Passage Road (item 29).
15. Decreased expenditure of \$580,000 at Raymond Terrace Waste rehabilitation site (item 31).
16. Increased expenditure of \$637,000 at Salamander Waste rehabilitation site (item 32).
17. Increased expenditure of \$234,000 for implementation of Leisure Centres Asset Management Plan (item 37).
18. Increased income of \$174,000 and increased expenditure of \$279,000 for implementation of Sports Facilities Asset Management Plan (item 38).
19. Decreased expenditure of \$150,000 for a reduction in scope for the Foreshore Management Plans (item 40).
20. Increased income of \$140,000 and increased expenditure of \$390,000 for Soldiers Point boat ramp (item 41).
21. Increased expenditure of \$170,000 on Foreshore Capital for the implementation of part of the Recreation Services Management Plans (item 43).

This report also foreshadows impacts on Council's future financial position.

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.*

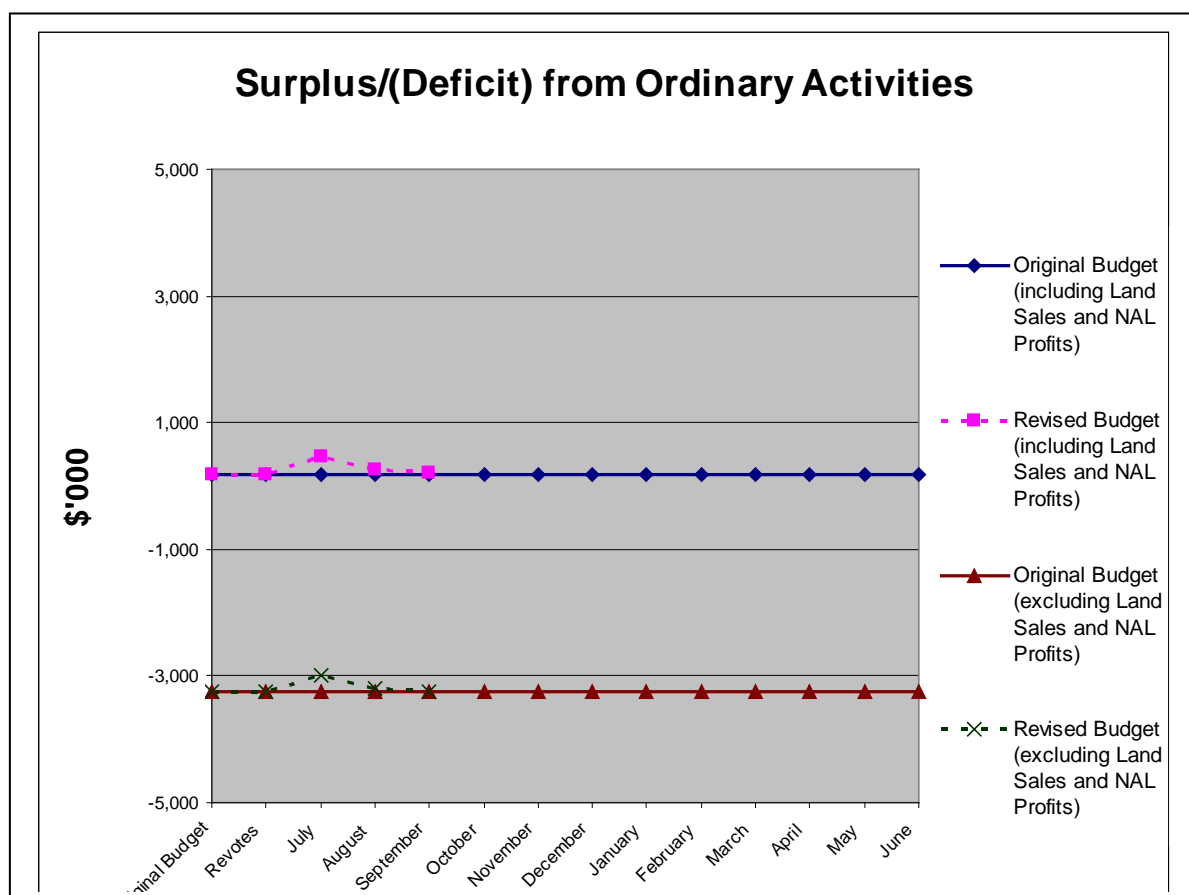
FINANCIAL/RESOURCE IMPLICATIONS

Council's Original 2008/2009 Budget estimate is a \$264,472 cash surplus after internal transfers, repayment of Capital lease and before depreciation of \$13.5 million. TABLE'S 1.1 and 1.2 of Document 1 of this report detail the changes in this review. The net cash result of these changes is a projected cash surplus of \$250,752 (Ref N of Attachment 1), before 2009 revotes and carry forwards are taken into account, and is shown in the table below;

IMPACT OF QUARTERLY BUDGET REVIEW ON COUNCIL'S ADOPTED BUDGET				
	Recurrent	Capital	Total	Ref
Document 1 Table 1.1	\$383,280	\$0	\$383,280	
Document 1 Table 1.2	\$0	(\$170,000)	(\$170,000)	
Previous Quarterly Budget Reviews	\$0	(\$0)	(\$0)	
Original Budget after transfers and before Depreciation	\$1,735,012	(\$1,486,900)	\$248,112	
Repayment of Capital Lease and Loans		(210,640)	(\$210,640)	
Net Available Surplus Funds	\$2,118,292	(\$1,867,540)	\$250,752	
Revotes and Carry Forwards from previous year	\$0	\$0	\$0	
Revised 2008/2009 Cash Surplus (after transfers and before Depreciation)	\$2,118,292	(\$1,867,540)	\$250,752	N

PROJECTED FINANCIAL RESULT FOR 2008/2009

	Ref	After September Review	Original Budget
Total Operating Revenue	A	\$78,509,809	\$77,097,804
Less Total Operating Expenditure	B	(\$64,811,020)	(\$63,410,249)
Less Total Depreciation and Provisions Transferred	C	(\$13,500,000)	(\$13,500,000)
	D=B+C	(\$78,311,020)	(\$76,910,249)
Surplus/(Deficit) From Ordinary Activities Before Capital Amounts	E=A+D	\$198,789	\$187,555
Net Operating movement for September Review		(\$11,234)	
Total Budgeted Land Sales Profits	F	(\$2,000,000)	(\$2,000,000)
Total Budgeted Newcastle Airport (NAL) Profits	G	(\$1,442,500)	(\$1,442,500)
Surplus/(Deficit) From Ordinary Activities without Land Sale Profits, NAL Profits and Before Capital amounts	H=E-F-G	(\$3,243,711)	(\$3,254,945)



LEGAL AND POLICY IMPLICATIONS

The Local Government (Financial Management) Regulation Section 7 requires that a Budget Review Statement be submitted to Council no later than two months after the end of each quarter and that all expenditure must be authorised and voted by Council before it is incurred. This report is submitted so that Council can review the impact of all issues, which will affect the Budget.

The General Manager has the delegated authority to approve changes up to \$10,000 within a Group.

The September Quarterly Budget Review Statement indicates that Council's financial position (excluding land sale profits) has not changed significantly. Council's financial position needs to be monitored closely with particular regard to those issues contained in TABLE 2 of Document 1. Long-term financial projections will also be reviewed.

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:-

- 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.*
- 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

Council's Budget is fundamental for operational sustainability and to the provision of facilities and services to the community.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Executive Group

Section Managers

OPTIONS

- 1) That Council accepts the discretionary changes to the adopted budget.
- 2) That Council rejects some or all of the discretionary changes to the adopted budget.

ATTACHMENTS

- Attachment 1 Estimated Statement of Cash Position to 30/06/2009.
- Attachment 2 Estimated Statement of Restricted Funds Movements to 30/06/2009.

TABLED DOCUMENTS

- 1) Document 1 of 2008-2009 Quarterly Budget Review for September 2008.
Table 1.1- Discretionary Changes to adopted Recurrent Budget.
Table 1.2- Discretionary Changes to adopted Capital Budget.
Table 2 - Identified issues, which may have a future budgetary impact.
- 2) Document 2 of 2008-2009 Quarterly Budget Review for September 2008, comparing Budgets to Actuals.

ATTACHMENT 1

ESTIMATED STATEMENT OF CASH POSITION TO 30/06/2009 2009 Budget Forecast after September Review			
	Ref	2009 Budget Forecast after September Review	Original Budget
Total Operating Revenue	A	\$78,509,809	\$77,097,804
Less Total Operating Expenditure	B	(\$64,811,020)	(\$63,410,249)
Less Total Depreciation and Provisions Transferred	C	(\$13,500,000)	(\$13,500,000)
	D=B+C	(\$78,311,020)	(\$76,910,249)
Surplus/(Deficit) From Ordinary Activities Before Capital Amounts	E=A+D	\$198,789	\$187,555
Add Back: Depreciation and Provisions Transferred	C	\$13,500,000	\$13,500,000
Less Councils Share of Newcastle Airport Profit	W	(\$1,442,500)	(\$1,442,500)
Cash Surplus From Operations	F=A+B+W	\$12,256,289	\$12,245,055
Transferred to Restricted Funds	G	\$10,137,997	\$10,510,043
Cash Surplus / (Deficit) From Operations After Transfers	H=F-G	\$2,118,292	\$1,735,012
Total Capital Income	I	\$11,006,200	\$10,473,000
Total Capital Expenditure	J	(\$26,373,820)	(\$22,576,801)
Surplus/(Deficit) From Capital Works	K=I+J	(\$15,367,620)	(\$12,103,801)
Transferred from Restricted Funds	L	(\$13,710,720)	(\$10,616,901)
Cash Surplus / (Deficit) From Capital Works After Transfers	M=K-L	(\$1,656,900)	(\$1,486,900)
Total Cash Surplus / (Deficit) After Transfers	N=H+M+X	\$250,752	\$264,472
RECONCILIATION OF CASH POSITION			
Estimated Cash Position as at 01/07/2008	O	\$34,806,219	\$34,806,219
Estimated Cash Position as at 30/06/2009	P	\$32,528,257	\$36,007,842
Increase/(Decrease) in Cash Balance	Q=P-O	(\$2,277,962)	\$1,201,623
Represented By:			
Estimated opening Restricted Funds Balance	R	\$32,244,732	\$32,244,732
Closing Restricted Funds Balance	S	\$29,716,018	\$33,181,883
Increase/(Decrease) in Restricted Funds Balance	T=S-R	(\$2,528,714)	\$937,151
Repayment of Capital Lease and Loans	X	(\$210,640)	\$16,360
Total Cash Surplus/ (Deficit) from Operations & Capital	N=Q-T	\$250,752	\$264,472
Principal of Loan Funds Repaid and Finance leases	U	(\$2,396,529)	(\$2,396,529)
Loan Funds and Proceeds from Sales Received	V	\$4,164,538	\$4,164,538
Increase/(Decrease) in Cash Balance	Q=T+N	(\$2,277,962)	\$1,201,623

ATTACHMENT 2

ESTIMATED STATEMENT OF RESTRICTED FUNDS MOVEMENTS TO 30/06/2008 2009 Budget Forecast after September Review					
RESTRICTED FUNDS	Estimated Balance as at 30/06/2008	Recurrent Budget	Capital Budget	Balance Sheet Movements	Estimated as at 30/06/2009
SECTION 94	\$11,965,894	\$691,297	(\$893,000)		\$11,764,191
DOMESTIC WASTE MANAGEMENT	\$3,872,015	\$647,581	(\$1,986,273)	(\$406,044)	\$2,127,279
Sub Total. Externally Restricted	\$15,837,909	\$1,338,878	(\$2,879,273)	(\$406,044)	\$13,891,470
BUSINESS DEVELOPMENT RESTRICTED FUND	\$859,544	\$1,019,780	(\$1,336,005)	\$449,569	\$992,888
INVESTMENT PROPERTIES DEPRECIATION FUND (INVESTMENT PROPERTIES SINKING FUND)	\$1,058,282	\$703,763	\$0		\$1,762,045
ASSET REHABILITATION RESERVE	\$332,144	\$150,812	(\$808,000)		(\$325,044)
FLEET MANAGEMENT (PLANT)	\$3,434,841	\$2,056,561	(\$2,677,791)	\$550,897	\$3,364,508
OTHER WASTE SERVICES	\$2,696,248	(\$50,000)	\$0		\$2,646,248
QUARRY DEVELOPMENT	\$728,273	\$17,733	\$0		\$746,006
BUSINESS OPERATIONS RESTRICTED FUND	(\$3,594,369)	\$1,683,821	(\$2,965,541)	\$1,260,587	(\$3,615,502)
EMPLOYEE LEAVE ENTITLEMENTS	\$4,408,597	\$0	\$0		\$4,408,597
BEACH VEHICLE PERMITS	(\$28,661)	\$10,171	\$0		(\$18,490)
DRAINAGE	\$110,694	\$784,000	(\$1,020,000)	(\$87,000)	(\$212,306)
INTERNAL LOAN	(\$619,519)	\$249,900	\$0		(\$369,619)
TRANSPORT LEVY	\$97,630	\$350,000	(\$350,000)		\$97,630
ENVIRONMENTAL LEVY	\$347,369	(\$101,707)	(\$210,000)		\$35,662
ADMINISTRATION BUILDING SINKING FUND	\$710,848	\$476,854	(\$506,500)		\$681,202
DEPOT SINKING FUND	\$795,245	\$312,939	(\$101,093)		\$1,007,091
RTA BYPASS ROADS MTCE RESTRICTED FUND	\$1,659,034	\$131,580	(\$500,000)		\$1,290,614
RESTRICTED CASH	\$2,383,313	(\$415,181)	(\$356,517)		\$1,611,615
COUNCILLOR WARD FUNDS	\$154,315	\$600,000	\$0		\$754,315
INFORMATION TECHNOLOGY STRATEGY	\$189,365	\$0	\$0		\$189,365
PROVISION FOR LOCAL GOVT ELECTION	\$150,000	(\$150,000)	\$0		\$0
PARKING METER RESERVE	\$533,630	\$244,093	\$0		\$777,723
Sub Total. Internally Restricted	\$16,406,823	\$8,075,119	(\$10,831,447)	\$2,174,053	\$15,824,548
RESTRICTED FUNDS TOTAL	\$32,244,732	\$9,413,997	(\$13,710,720)	\$1,768,009	\$29,716,018
* Balance Sheet Movements are the repayments of the Principals on Loans and the funds from Loans received and the proceeds for land Sales					

ITEM NO. 6

FILE NO: PSC2005-0059

ROAD AND DRAINAGE MAINTENANCE 2008/09 PROGRESS REPORT

REPORT OF: MICK LOOMES - ENGINEERING SERVICES MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Postpone road reconstruction works in Trafalgar Street, Nelson Bay and James Paterson Street at Anna Bay to provide additional funds for road maintenance works in 2008/09.
- 2) Increase the drainage maintenance vote for 2008/09 by \$200,000 by increasing the deficit.

OPERATIONS COMMITTEE – 11 NOVEMBER 2008

RECOMMENDATION:

Councillor Steve Tucker Councillor Ken Jordan	That the recommendation be adopted
--	------------------------------------

ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

340	Councillor John Nell Councillor Sally Dover	It was resolved that the recommendation be adopted.
-----	--	---

BACKGROUND

The purpose of this report is to seek additional funds for road and drainage maintenance in 2008/09 by postponing two capital works projects and by increasing the deficit by \$200,000.

The road and drainage maintenance budget for 2008/09 was compiled in late 2007/early 2008 during a relatively long period of fairly dry weather conditions. No allowance was made at that time to consider the risk of increasingly wet weather conditions and their likely impacts on the road and drainage networks. Accordingly, both maintenance budgets only increased by a small amount in line with the CPI.

Roads

Since early winter, extending into spring, there has been a significant increase in the rainfall, especially with rainfall lasting for several days consecutively. This has resulted in rapid deterioration of some heavily trafficked roads in particular, and over the whole network generally. Sustained and increasing

levels of heavy haulage over particular roads such as Brandy Hill Drive and the Seaham to Raymond Terrace Road has also compounded the problem during this time. These effects have stretched Council's resources to the limit in an effort to meet the deterioration level of service and increasing safety problems created on the road network. Pavement maintenance, including heavy patching and pothole repairs have been focussed on over the last 3 or 4 months and additional S94 and haulage funds have been called on to undertake increased road rehabilitation works not earlier allowed for, such as on Lemon Tree Passage Road and Brandy Hill Drive. Expenditure rates on routine pavement repairs have escalated to a degree that cannot be sustained and still remain within the current budget. Costs for the first quarter show approximately 40% of the year's allocation to have been spent, whereas 25% would have been expected. There is also a lot of "catch-up" work still to do and it is clear that the current maintenance budget is inadequate to support the needs at this time.

Service levels have been reduced already for "non-essential" maintenance tasks such as roadside slashing, tree and shrub maintenance, linemarking, gravel road resheeting and potentially, resealing. Further close monitoring of maintenance expenditures and reseals will be essential over the next few months and a further progress report is foreshadowed during the first quarter of 2009 if current weather conditions persist.

It is proposed that the extraordinary level of road pavement maintenance, along with heavy patching and excavation of road failures be partly funded by deferring two capital works projects until next year and this is further commented on later in this report.

Drainage

Drainage maintenance expenditures so far this year have been curtailed somewhat due to the increasing attention to the road pavements, however expenditure is still at approximately 22% of the budget with 25% of the year gone to the end of September. Drainage maintenance needs are also very significant at this time and this is particularly evident in the condition of the open drains in the Anna Bay, Bobs Farm, Salt Ash and Williamtown areas, where drains are clogged with heavy growth and weeds. In the last few years, and with lower than average rainfall, maintenance on open drains has been reduced without too severe consequence. However, now that higher rainfall has been received in the last few months, combined with the warmer weather, growth in the drains has been accelerated and many drains are badly in need of cleaning out.

The capital works program for drainage is unable to provide any funds to be re-directed to drainage maintenance, as much of the work is completed, underway or is urgently required itself to relieve serious flooding problems.

LINKS TO CORPORATE PLANS

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

BUSINESS EXCELLENCE –

Goal 16: Asset Management linking the Council's Charter to the Asset Management Plans.

- *Have regard to the long term and cumulative effects of its decisions.*

- o *Bear in mind that it is the custodian and trustee of public assets and to effectively account for and*
- o *manage the assets for which it is responsible.*

FINANCIAL/RESOURCE IMPLICATIONS

This report seeks to re-allocate \$309,000 of capital works funding in 2008/09 to the recurrent road maintenance program. Capital works at Trafalgar Street, Nelson Bay (\$179,000 of revenue allocated in 2008/09) and at James Paterson Street, Anna Bay (\$130,000 revenue) can realistically be deferred until 2009/10 to provide funding for the urgent road pavement repairs currently being undertaken throughout the Local Government area. Other projects in the transport capital works program for 2008/09 are either completed, underway or substantially committed, or utilise grant funding which cannot be moved to the road maintenance program. In addition, a further \$200,000 is being sought, by increasing the deficit to apply to the drainage maintenance program this year.

The following table identifies the current level of funding and expenditure in the transport and drainage maintenance budgets to the 25 September 2008:

Maintenance Budget Allocation x \$1000	Expenditure to 25/09/08 x \$1000	% of Existing Budget Spent	Revised Budget Proposed x \$1000
Roads: \$3,315	\$1,280	39%	\$3,624
Drainage: \$938	\$202	22%	\$1,138
Total: \$4,253	\$1,482	35%	\$4,762

LEGAL AND POLICY IMPLICATIONS

There is increasing risks to Council's landowners and road users in not allocating further funds to mitigate road and drainage problems currently being experienced. Public liability risks are growing and claims have been 3 or 4 times more than average over the last 4 months. Potholes contributing to tyre and wheel damage have made up the bulk of the new claims, however, the risk of serious property flooding is also rising as Council struggles to manage the extensive drainage network.

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Damaged road pavements contribute to an increased safety risk to road users. Blocked drains contribute to and exacerbate local flooding during storms and wet periods causing personal loss and distress to landowners.

ECONOMIC IMPLICATIONS

Damaged roads contribute to vehicle damage such as tyres and rims, and potentially more serious consequences. Flooding caused by inadequately maintained drainage networks impacts on rural landowners experiencing rising land ownership costs and lower productivity, whilst urban landowners can suffer loss through property damage and insurance premiums.

ENVIRONMENTAL IMPLICATIONS

Poorly maintained drains could contribute to the spread of weeds, silt and pollution of the waterways.

CONSULTATION

Consultation within Facilities and Services Group and with Finance Section has taken place.

OPTIONS

- 1) As per the recommendations.
- 2) Reject the recommendations.

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 7

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 7TH OCTOBER 2008**REPORT OF: TREVOR ALLEN – INTEGRATED PLANNING MANAGER**
-----**RECOMMENDATION IS THAT COUNCIL:**

Adopt the recommendations contained in the minutes of the Local Traffic Committee meeting held on 7th October 2008.

-----**OPERATIONS COMMITTEE – 11 NOVEMBER 2008****RECOMMENDATION:**

Councillor Ken Jordan Councillor Glenys Francis	That the recommendation be adopted
--	---

Matter Arising:

Cr Geoff Dingle

That Item C.3. Page 83 – be deferred to Local Traffic Committee – to further consider the bus stop on the western side of Grahamstown Rd, to a location where the visibility is better.

-----**ORDINARY MEETING – 25 NOVEMBER 2008****RESOLUTION:**

341	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that the recommendation be adopted with the exception of item C5 being referred back to the Local Traffic Committee to further investigate.
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-----**ORDINARY MEETING – 25 NOVEMBER 2008****RESOLUTION:**

342	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that the matter arising be adopted.
------------	---	--

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.

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:

Nil

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, Integrated 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 a part of the meeting of 7th October 2008.

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 7th October 2008 are contained in ATTACHMENT 1.

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1

PORT STEPHENS LOCAL TRAFFIC COMMITTEE MEETING

INDEX OF LISTED MATTERS

7TH OCTOBER, 2008

-
- A. ADOPTION OF THE MINUTES OF TRAFFIC COMMITTEE FROM SEPTEMBER 2008
- B. BUSINESS ARISING FROM PREVIOUS MEETING
- C. LISTED MATTERS
- C.1. REQUEST FOR INSTALLATION OF DISABLED PARKING, 15 KING ST RAYMOND TERRACE
 - C.2. CAR PARK EXIT AT IRRAWANG HIGH SCHOOL - CONCERNS RE SAFETY OF VEHICLES, EXITING MOUNT HALL RD RAYMOND TERRACE
 - C.3. REQUEST TO INSTALL HARD STAND AREA FOR PICK-UP AND SET DOWN BY HUNTER VALLEY BUSES, GRAHAMSTOWN RD AT WADE CLOSE MEDOWIE
 - C.4. CONCERN REGARDING SAFETY AT THE PEDESTRIAN REFUGE AT THE CORNER OF COOK PDE, MEREDITH ST LEMON TREE PASSAGE
 - C.5. VEHICLE HAS RUN-OFF ROAD ON LEFT HAND BEND INTO RESIDENTS FENCE AND POOL, 44 SANDY PT RD CORLETTE
 - C.6. REQUEST FOR 'NO PARKING' ON WESTERN SIDE OF DRIVEWAY TO IMPROVE SIGHT DISTANCE, 6 GOVERNMENT RD NELSON BAY
 - C.7. REQUEST FOR BUS STOP OUTSIDE BERNIE THOMPSON COMPLEX, GOVERNMENT RD AND SHOAL BAY RD INTERSECTION
 - C.8. REQUEST TO REVIEW INTERSECTION PRIORITIES, LAVERICK AVE/OLD PUNT RD TOMAGO
- D. INFORMAL ITEMS
- D1. REQUEST TO REVIEW SPEED LIMIT - EXISTING 50KM/H IS NOT APPROPRIATE AND IS NOT COMPLIED WITH BY DRIVERS, FORESHORE DR SALAMANDER BAY
 - D2. IDEAS FOR BLACK SPOT FUNDING OF ACCIDENT LOCATIONS, LEMON TREE PASSAGE RD AT TANILBA BAY
 - D3. REQUEST FOR ACCESSIBLE CROSSING POINT, GAN GAN RD NEAR KOALA PLACE

E. GENERAL BUSINESS

PORT STEPHENS LOCAL TRAFFIC COMMITTEE MINUTES

Meeting commenced at 9.15am on 7TH October 2008 in the Port Stephens Council Chambers.

MEMBERS PRESENT:

Mr Craig Baumann MP, Member for Port Stephens
Snr Constable John Simmons, Port Stephens Local Area Command
Mr Bill Butler, NSW Roads and Traffic Authority
Mr Graham Orr, Chairperson, Port Stephens Council

APOLOGIES:

Mr Mark Newling, Port Stephens Coaches

ADVISORS AND OBSERVERS PRESENT:

Mr Brian Mosely, Hunter Valley Buses
Mr Scott Page, Port Stephens Council
Cr Bruce Mackenzie, Port Stephens Council
Cr Peter Kafer, Port Stephens Council

A. Adoption of the minutes of the Traffic Committee meeting held 2nd September 2008:

Adoption of the minutes was supported unanimously

B. Business arising from the previous meeting:

Nil

C. Listed Matters

Item: C1

REQUEST FOR INSTALLATION OF DISABLED PARKING, 15 KING ST RAYMOND TERRACE

State MP: Mr C Baumann MP

Requested by: Ms Geraldine Bush

Background:

The property at 15 King Street is leased to Eagleton Ridge Respite Centre which operates a small bus for mobility impaired clients. The property owner's claim that there is a need for on-street, accessible parking in close proximity to the centre.

Comment:

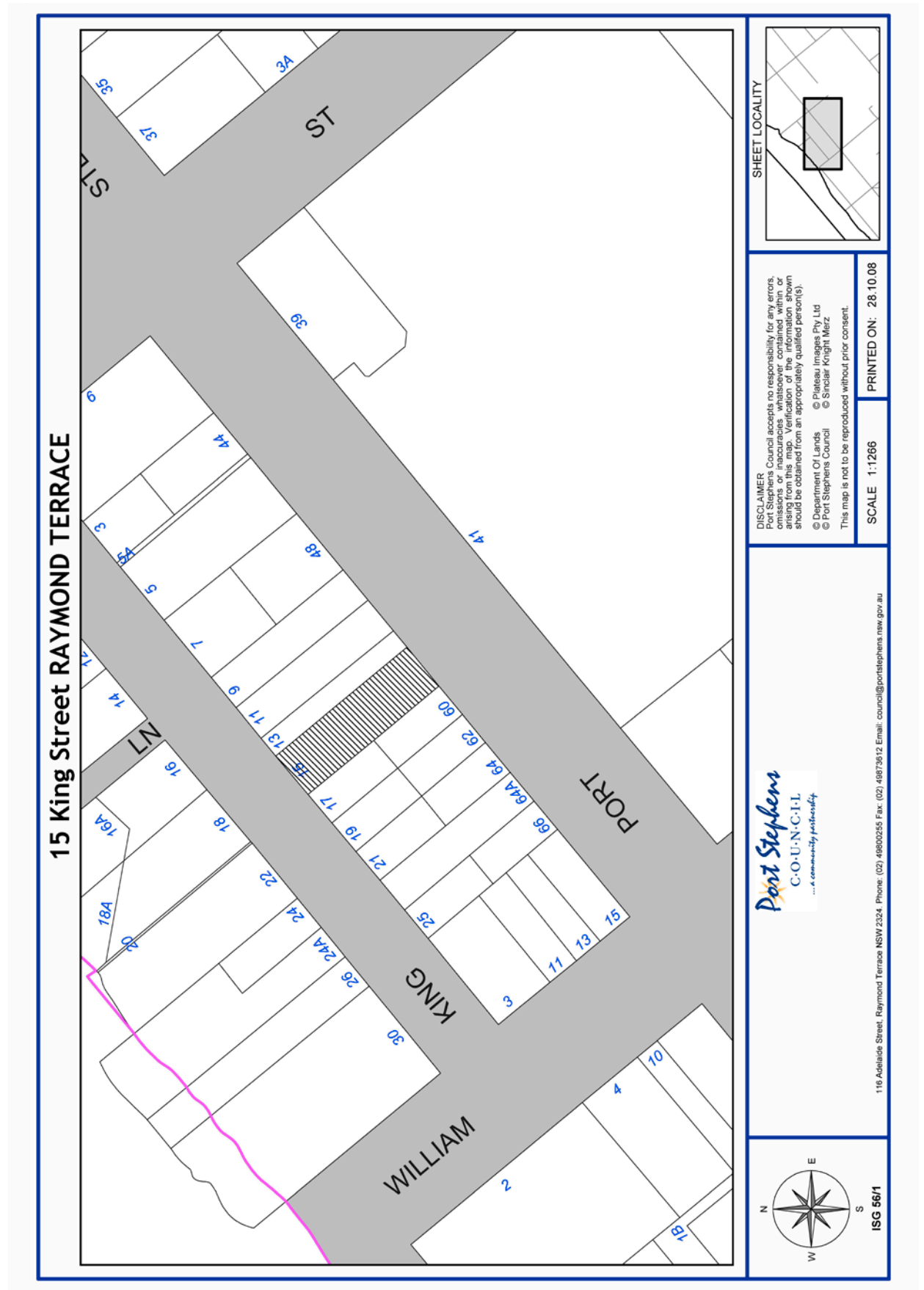
King Street is a heritage street and mobility impaired persons have no facilities due to the steep kerb and footpaths combined with step-up entries to buildings. To provide accessible parking would be contradictory in this location. The applicant's site has dual frontage to King and Port Stephens Streets and it is understood that accessible access is available from Port Stephens Street. An existing 'No Parking' area is available immediately adjacent to the King Street frontage which can be utilised for patron drop-off. Consideration could be given to installation of a loading zone in King Street now that timed parking has been installed.

Recommendation to the Committee:

1. To not provide disabled parking in King Street
2. Consider a loading zone for the area

Discussion:

<u>Support for the Recommendation:</u> 1)	Unanimous	<input checked="" type="checkbox"/>	
2)	Majority		<input type="checkbox"/>
3)	Split Vote		<input type="checkbox"/>
4)	Minority Support		<input type="checkbox"/>
5)	Unanimous decline		<input type="checkbox"/>



Item: C2

CAR PARK EXIT AT IRRAWANG HIGH SCHOOL - CONCERNS RE SAFETY OF VEHICLES, EXITING MOUNT HALL RD RAYMOND TERRACE**State MP:** Mr C Baumann MP**Requested by:** Cr Glenys Francis**Background:**

Concerns have been raised regarding the safety of the western exit from the student car park onto Mount Hall Road and it's positioning opposite Closebourne Way intersection.

Comment:

The driveway location does not comply with the guidelines of AS2890.1 – 2004, however it is noted that it is 'Exit Only' and is clearly signposted. The Inspection Committee recommended against relocating the car park exit point back to the entry point due to the existing conflicts with bus zones and the undesirable crest in the road. There is potential to relocate the exit to somewhere between the current location and the bus zones should accidents become an issue.

Recommendation to the Committee:

1. No action be taken

Discussion:

<u>Support for the Recommendation:</u> 1)	Unanimous	<input checked="" type="checkbox"/>	
	2) Majority		<input type="checkbox"/>
	3) Split Vote		<input type="checkbox"/>
	4) Minority Support		<input type="checkbox"/>
	5) Unanimous decline		<input type="checkbox"/>

Item: C3**REQUEST TO INSTALL A HARD STAND AREA FOR PICK-UP AND SET DOWN BY HUNTER VALLEY BUSES, GRAHAMSTOWN ROAD AT WADE CLOSE MEDOWIE****State MP:** Mr C Baumann MP**Requested by:** Hunter Valley Buses**Background:**

As part of Hunter Valley Buses OH&S management, their drivers have lodged a Hazard Notice in relation the westbound bus stop located on Grahamstown Road at the corner of Wade Close. The reasons are as follows:

- This stop is consistently used for the pick-up of school children and is also an established stop on a scheduled service that runs through the area.
- The stop is regularly patronised by disabled persons.
- On occasions, buses have had to stop partially blocking the main road to complete their pick-up which poses a collision risk with other traffic.

Comment:**Recommendation to the Committee:**

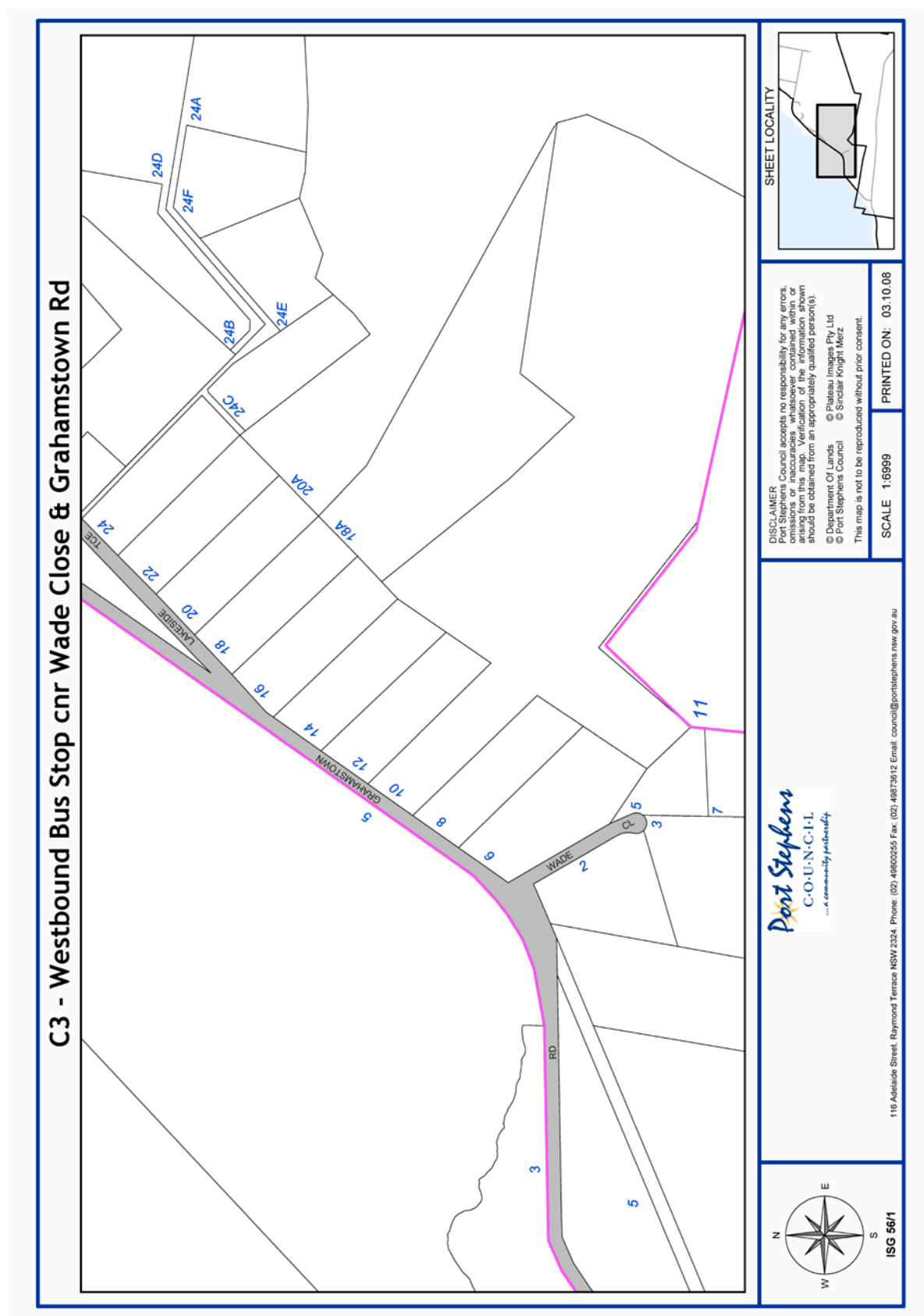
1. Council investigate the option to construct shoulder widening on the south-eastern shoulder of Grahamstown Road, just west of the Wade Close intersection.
2. Council investigate the feasibility of the bus company entering Wade Close to pick-up/set-down passengers in a location safe from the Grahamstown Road traffic. The Bus Company and Ministry of Transport should be included in the investigation of options.

Discussion:

Hunter Valley Buses indicated that they are unwilling to consider entering Wade Close for pick-up/set-down as the road does not have a suitable turnaround area for a bus.

Support for the Recommendation:

Recommendation 1:			Recommendation 2:		
1)	Unanimous	<input checked="" type="checkbox"/>	1)	Unanimous	<input type="checkbox"/>
2)	Majority	<input type="checkbox"/>	2)	Majority	<input type="checkbox"/>
3)	Split Vote	<input type="checkbox"/>	3)	Split Vote	<input type="checkbox"/>
4)	Minority Support	<input type="checkbox"/>	4)	Minority Support	<input type="checkbox"/>
5)	Unanimous decline	<input type="checkbox"/>	5)	Unanimous decline	<input checked="" type="checkbox"/>



Item: C4

CONCERN REGARDING SAFETY AT THE PEDESTRIAN REFUGE AT THE CORNER OF COOK PDE, MEREDITH ST LEMON TREE PASSAGE

State MP: Mr C Baumann MP

Requested by: Marcia Andrews, resident

Background:

Ms Andrews had a near miss whilst commencing to walk from the middle of the road, at the pedestrian refuge on Meredith Street at approximately 3.30pm on 28th August 2008. At the time, a bus was standing at the stop on Meredith Street which was idling quite loudly. School students were disembarking the bus at this time. Momentarily distracted, Ms Andrews went to complete her crossing just as a motorist went to turn right into Cook Parade. Due to the noise of the bus and the school students. She failed to hear or notice the oncoming vehicle. She was "saved" by her husband who pulled her back as she went to step out onto the road.

Ms Andrews feels that the distance between the pedestrian refuge and its junction with Cook Parade is too little.

Comment:

The Inspection Committee considered that the pedestrian refuge is located correctly and that people would continue to cross at the intersection even if the pedestrian refuge were to be moved. The Inspection Committee noted that safety of the pedestrian refuges would be enhanced by painting the kerbs and replacement of faded signage. This work can be done under general maintenance.

Recommendation to the Committee:

1. No action on relocation of the pedestrian refuge. A request be forwarded to Council's Works Depot for maintenance of the refuge.

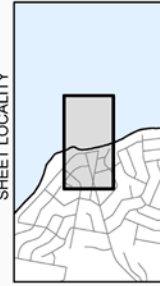
Discussion:

<u>Support for the Recommendation:</u> 1)	Unanimous	<input checked="" type="checkbox"/>	
	2) Majority		<input type="checkbox"/>
	3) Split Vote		<input type="checkbox"/>
	4) Minority Support		<input type="checkbox"/>
	5) Unanimous decline		<input type="checkbox"/>

C4 - Pedestrian Refuge - Meredith Avenue & Cook Pde LEMON TREE PASSAGE



SHEET LOCALITY

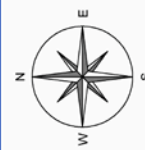


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 ...a community partnership



ISG 56/1

116 Adelaide Street, Raymond Terrace NSW 2224. Phone: (02) 49802555 Fax: (02) 49873912 Email: council@portstephens.nsw.gov.au

Item: C5

REQUEST FOR INSTALLATION OF MEASURES TO PREVENT VEHICLES RUNNING OFF ROAD AT 44 SANDY POINT ROAD CORLETTE

State MP: Mr C Baumann MP

Requested by: Mr Bill Morley

Background:

Mr Morley contacted Council to request investigation of measure to prevent vehicles running off the road and colliding with his property. He said that the accident which occurred on 18th August 2008 was the second time that his property had been damaged by vehicles running off the road at this location.

A single vehicle accident occurred at the location about 3.10pm on Monday 18 August 2008 involving an 85 year old woman driver. She was issued with an infringement notice for negligent driving. Breath test was negative. She has no memory of the incident so therefore a fitness report is being sent to the RTA.

Comment:

The Inspection Committee noted that line marking of the centreline and edge lines are well marked and maintained. The location is on a slight bend with a street light above it.

Recommendation to the Committee:

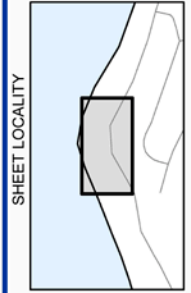
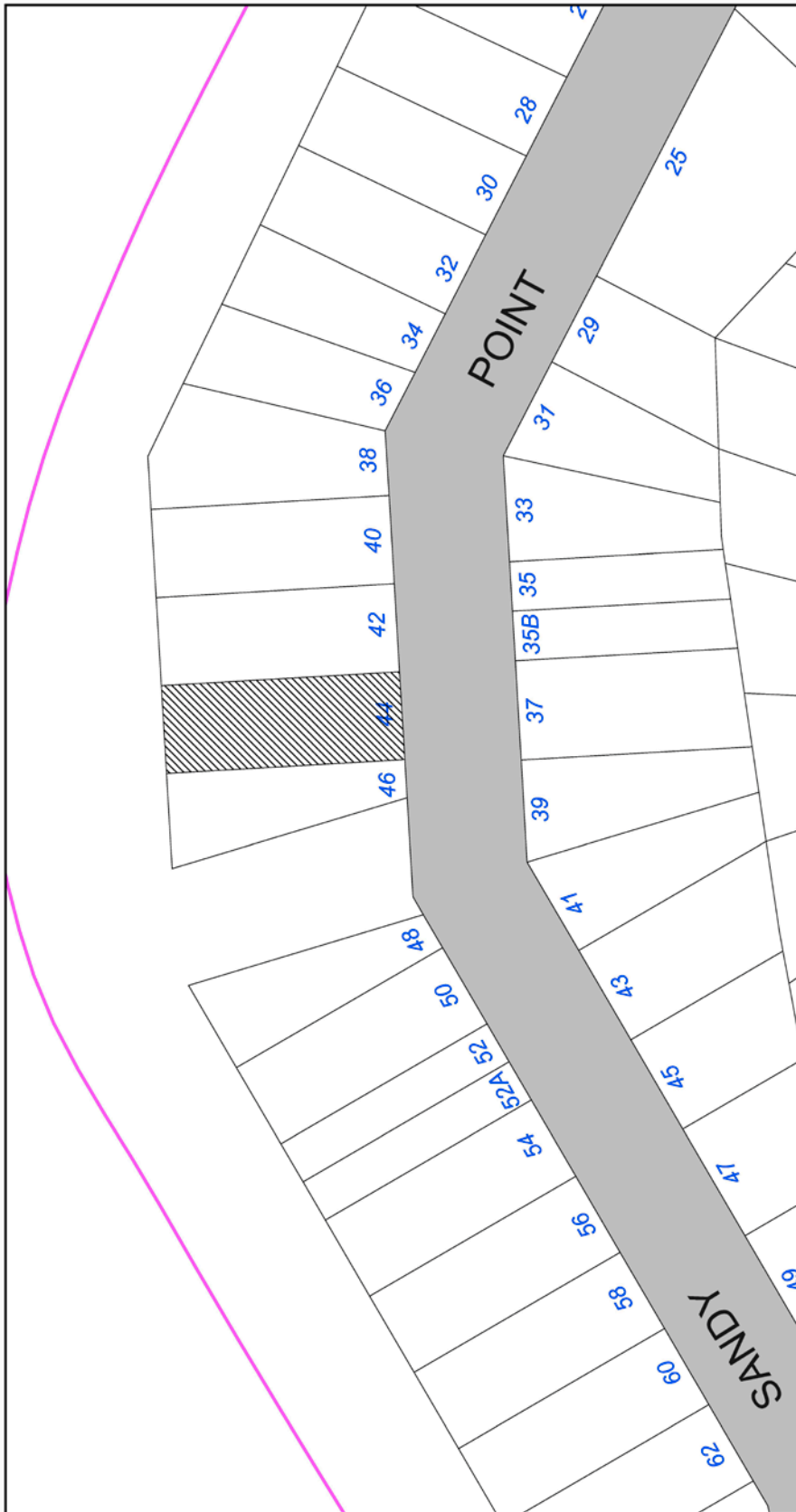
1. No action

Discussion:

It was considered that there is no cost effective solution that would prevent all possibility of another accident at this location. The use of raised, reflective pavement markers was considered unnecessary.

<u>Support for the Recommendation:</u>		1)	Unanimous	<input checked="" type="checkbox"/>	
		2)	Majority		<input type="checkbox"/>
		3)	Split Vote		<input type="checkbox"/>
		4)	Minority Support		<input type="checkbox"/>
		5)	Unanimous decline		<input type="checkbox"/>

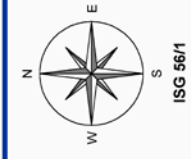
C5 - 44 Sandy Point Road CORLETTE



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Item: C6

REQUEST FOR 'NO PARKING' ON WESTERN SIDE OF DRIVEWAY TO IMPROVE SIGHT DISTANCE, 6 GOVERNMENT RD NELSON BAY

State MP: Mr C Baumann MP

Requested by: Body Services

Background:

The Managing Agent for 6 Government Road is requesting a “no standing” sign be erected on the western side of the driveway for safety purposes. With no sign, it’s very difficult for vehicles coming out of the driveway to exit in a safe manner onto Government Road. This is due to cars parked on the street obstructing the view of oncoming traffic.

Comment:

The driveway is approximately 6m wide and is located at the start of the 40km/h High Pedestrian Activity area. There were no extenuating circumstances noted by the Inspection Committee as to why this driveway warrants special consideration compared to other driveways in the area.

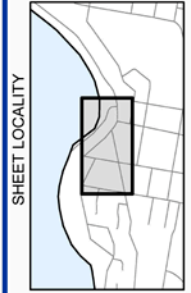
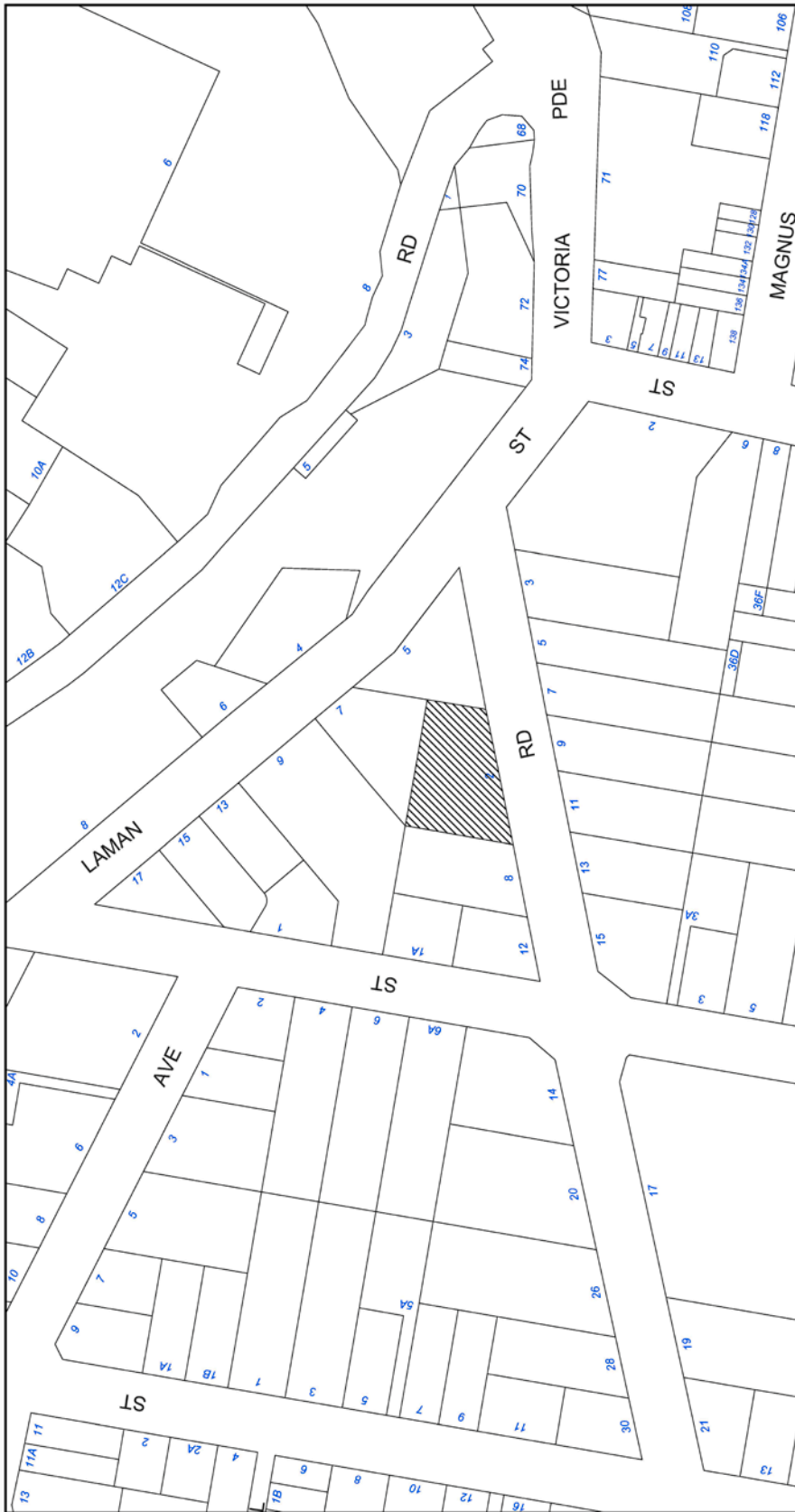
Recommendation to the Committee:

1. No action

Discussion:

<u>Support for the Recommendation:</u>	1) Unanimous	<input checked="" type="checkbox"/>	
	2) Majority		<input type="checkbox"/>
	3) Split Vote		<input type="checkbox"/>
	4) Minority Support		<input type="checkbox"/>
	5) Unanimous decline		<input type="checkbox"/>

C6 - 2 Government Rd (formerly 6 Government Rd) NELSON BAY



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Item: C7

REQUEST FOR BUS STOP OUTSIDE BERNIE THOMPSON COMPLEX, GOVERNMENT RD AND SHOAL BAY RD INTERSECTION

State MP: Mr C Baumann MP

Requested by: Mr Letana

Background:

Mr Letana is a resident of the Bernie Thompson Complex. His concern is that the closest bus stop is at the Shoal Bay Resort which is too far for him to walk as he has limited vision and mobility. A bus stop close to Government Road would be the best solution.

Comment:

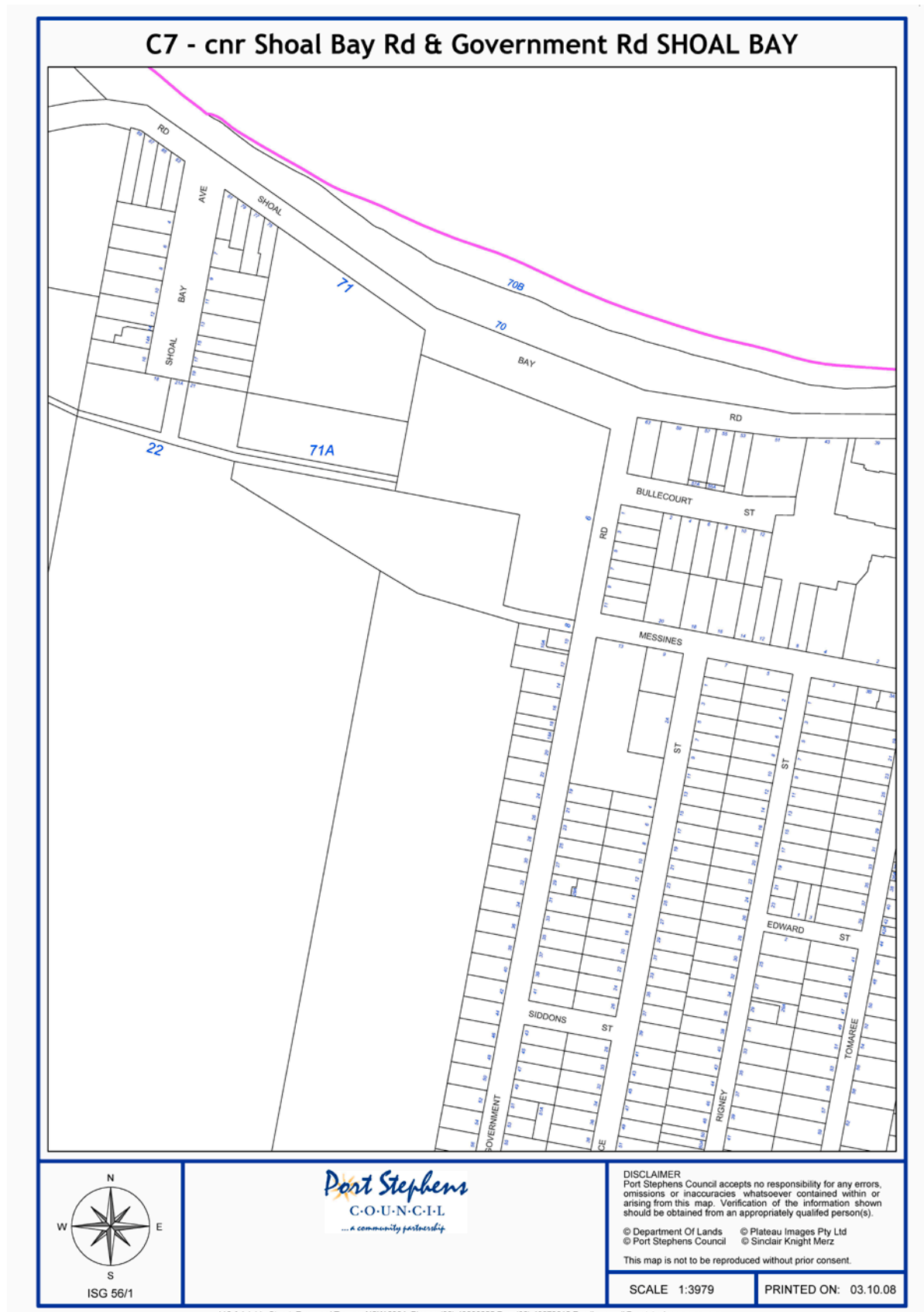
Recommendation to the Committee:

1. A bus stop be provided on the western side of Government Road, Shoal Bay

Discussion:

Bus Company representatives confirmed that the only bus services in Government Road are school buses. Committee discussion noted that the requestee was probably seeking a bus stop in Shoal Bay Road closer to the Government Road intersection. This will require further investigation.

<u>Support for the Recommendation:</u>		1)	Unanimous	<input type="checkbox"/>	
		2)	Majority		<input type="checkbox"/>
		3)	Split Vote		<input type="checkbox"/>
		4)	Minority Support		<input type="checkbox"/>
		5)	Unanimous decline		<input checked="" type="checkbox"/>



Item: C8

**REQUEST TO REVIEW INTERSECTION PRIORITIES, LAVERICK AVE/OLD PUNT RD
TOMAGO**

State MP: Mr C Baumann MP

Requested by: Forgacs

Background:

Council was contacted by the personnel manager of Forgacs who raised concerns about the safety of Forgacs employees who have to travel through the intersection of Laverick Avenue and Old Punt Road, Tomago.

Comment:

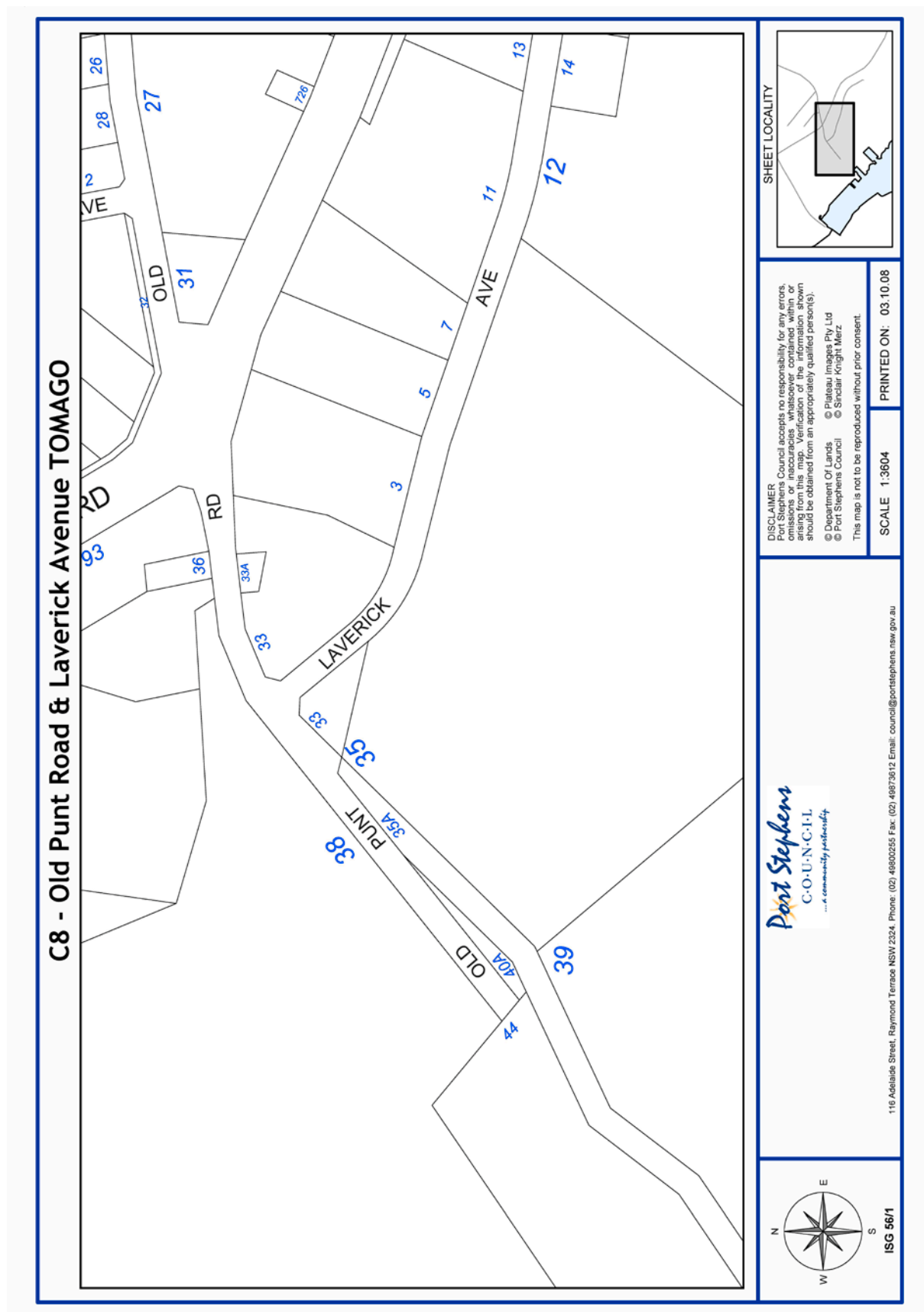
Recent developments and road works in Laverick Avenue have made it into the priority road, although the intersection is essentially a 'T' intersection. The Forgacs employees are virtually the only users of Old Punt Road, beyond Laverick Avenue. Most traffic enters Laverick Avenue and the road environment now favours this road being the priority.

Recommendation to the Committee:

1. Install Give Way signage and 'TB' line marking in Old Punt Road so that priority of vehicle movement is given to Laverick Avenue.

Discussion:

<u>Support for the Recommendation:</u> 1)	Unanimous	<input checked="" type="checkbox"/>	
	2) Majority		<input type="checkbox"/>
	3) Split Vote		<input type="checkbox"/>
	4) Minority Support		<input type="checkbox"/>
	5) Unanimous decline		<input type="checkbox"/>



D. Informal Matters

Item: D1

REQUEST TO REVIEW SPEED LIMIT - EXISTING 50KM/H IS NOT APPROPRIATE AND IS NOT COMPLIED WITH BY DRIVERS, FORESHORE DR SALAMANDER BAY

State MP: Mr C Baumann MP

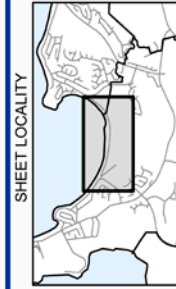
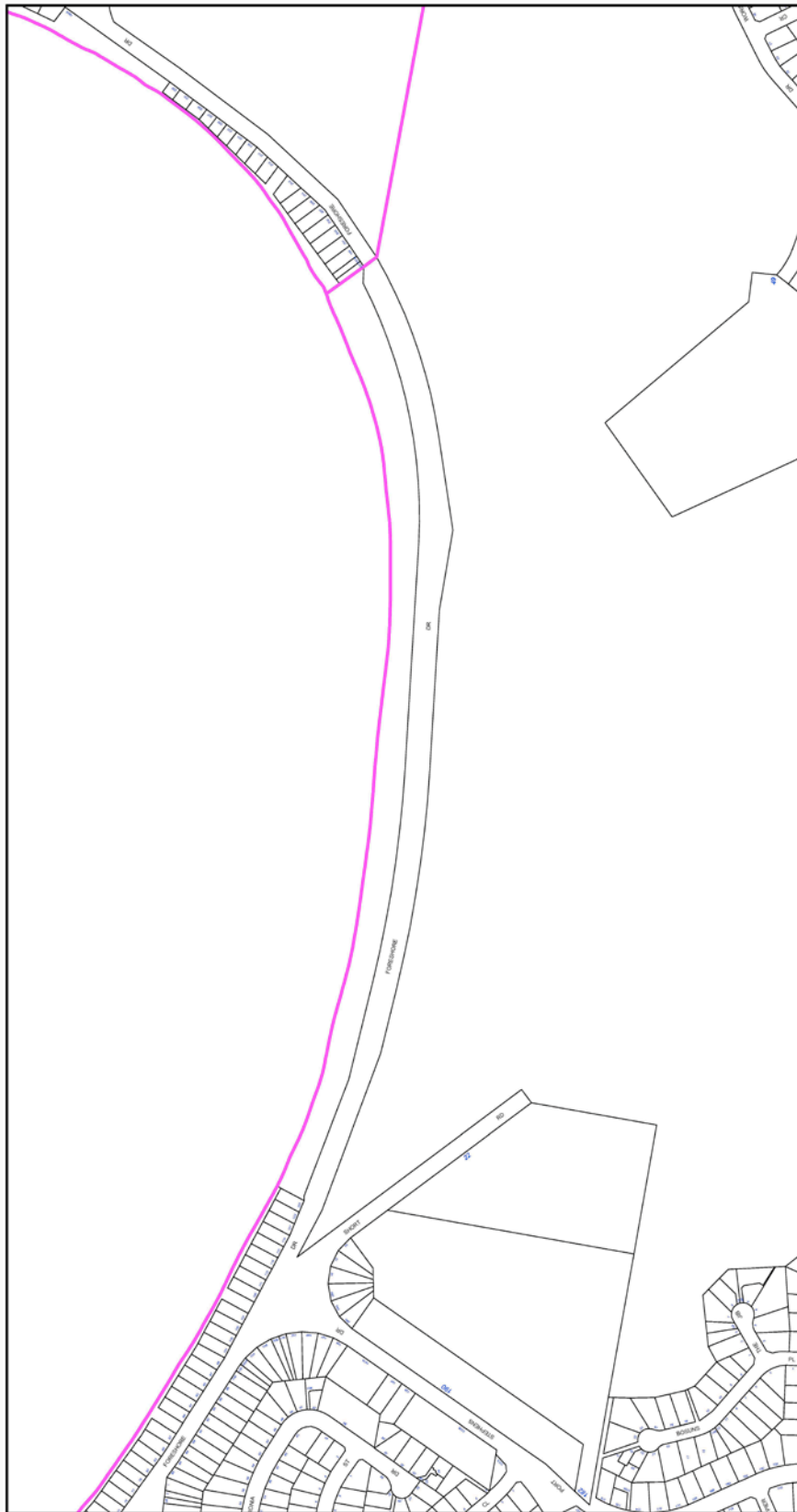
Discussion:

There is approximately 1km of Foreshore Drive which is adjoined by bushland. The existing 50km/h speed limit through this section of Foreshore Drive is not supported by the road environment and would have poor level of compliance.

Committees Advice:

That this matter be referred to the RTA for consideration.

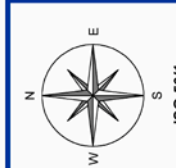
D1 - Foreshore Drive SALAMANDER BAY



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Item: D2

Ideas for Black spot funding of accident locations, Lemon Tree Passage Rd at Tanilba Bay

State MP: Mr C Baumann MP

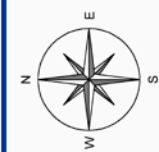
Discussion:

The Traffic Committee discussed various options for improved safety at this location.

Committees Advice:

Options will be forwarded to Council's Traffic Engineer.

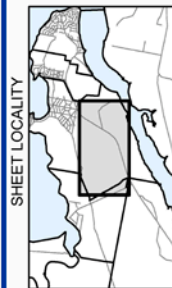
D2 - Lemon Tree Passage Road TANILBA BAY



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Item: D3

REQUEST FOR ACCESSIBLE CROSSING POINT, GAN GAN ROAD NEAR KOALA PLACE

State MP: Mr C Baumann MP

Discussion:

The Traffic Committee looked at the most suitable location for pedestrians to cross Gan Gan Road.

Committees Advice:

The proposed kerb ramps would be best located on the eastern side of the bus stop which is located to the east of the Koala Close roundabout.

D3 - Gan Gan Road ANNA BAY (intersection of Koala Place)



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E. General Business

Nil

ITEM NO. 8**FILE NO: A2004-0511****LOCAL TRAFFIC COMMITTEE MEETING – 5TH AUGUST 2008****REPORT OF: TREVOR ALLEN – INTEGRATED PLANNING MANAGER**
-----**RECOMMENDATION IS THAT COUNCIL:**

Adopt the recommendations contained in the minutes of the Local Traffic Committee meeting held on 5th August 2008.

-----**OPERATIONS COMMITTEE – 11 NOVEMBER 2008****RECOMMENDATION:**

Councillor Ken Jordan Councillor Geoff Dingle	That the recommendation be adopted
--	------------------------------------

-----**ORDINARY MEETING – 25 NOVEMBER 2008****RESOLUTION:**

343	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that the recommendation be adopted with the exception of C7.
344	Councillor John Nell Councillor Sally Dover	It was resolved that Item C7 (Request for bus stop outside Bernie Thompson Complex, Government Rd and Shoal Bay Rd intersection) be referred back to the Local Traffic Committee to reconsider the matter.

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.

LINKS TO CORPORATE PLANS

The items referred to the Local Traffic Committee, and the subsequent recommendations are linked to the current Council Plan 2008 - 2012. 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:

Nil

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, Integrated Planning Manager and Road Safety Officer. During this period comments

are received and taken into consideration during discussions at the Traffic Committee meeting.

Consultation was carried out for Item C5 with Port Stephens Coaches and for Item C7 with East Ward Councillors, Nelson Bay Town Management, Roads and Traffic Authority

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 5th August 2008 are contained in ATTACHMENT 1.

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1

PORT STEPHENS LOCAL TRAFFIC COMMITTEE MEETING

**INDEX OF LISTED MATTERS
5TH AUGUST, 2008**

- A. ADOPTION OF THE MINUTES OF TRAFFIC COMMITTEE FROM JULY 2008
- B. BUSINESS ARISING FROM PREVIOUS MEETING
- C. LISTED MATTERS
 - C.1. WILLIAM STREET, RAYMOND TERRACE – ALTERATION TO PARKING FRONTING POLICE STATION
 - C.2. OLD PUNT ROAD, TOMAGO – SAFETY OF CROSSING AT INTERSECTION OF LAVERICK AVENUE
 - C.3. OLD PUNT ROAD, TOMAGO – REQUEST FOR NO PARKING SIGNS
 - C.4. STILL STREET, SEAHAM – REQUEST FOR GIVE WAY SIGNS AT INTERSECTION OF DIXON STREET
 - C.5. WALLAWA ROAD, NELSON BAY – REQUEST FOR RELOCATION OF BUS STOPS IN VICINITY OF INTERSECTION OF CANOMII CLOSE
 - C.6. DOWLING STREET, NELSON BAY – REQUEST FOR DIRECTIONAL SIGNAGE FOR FINGAL & SHOAL BAY
 - C.7. VICTORIA PARADE, NELSON BAY – INSTALLATION OF 40KM/H HIGH PEDESTRIAN AREA
- D. INFORMAL ITEMS
 - D.1. NELSON BAY ROAD, SALAMANDER BAY – REQUEST FOR STOP SIGN AT EXIT FROM TOMAREE SPORTS COMPLEX
- E. GENERAL BUSINESS

PORT STEPHENS LOCAL TRAFFIC COMMITTEE MINUTES

Meeting commenced at 9.00am on 5TH August 2008 in the Port Stephens Council Chambers.

MEMBERS PRESENT:

Snr Constable John Simmons, Port Stephens Local Area Command
Mr Bill Butler, NSW Roads and Traffic Authority
Mr Graham Orr, Chairperson, Port Stephens Council

APOLOGIES:

Mr Craig Baumann MP, Member for Port Stephens
Mr Mark Newling, Port Stephens Coaches
Mr Brian Mosely, Hunter Valley Buses

ADVISORS AND OBSERVERS PRESENT:

D. Adoption of the minutes of the Traffic Committee meeting held 1st July 2008:

The minutes of the previous Local Traffic Committee meeting dated 1st July 2008, were adopted.

E. Business arising from the previous meeting:

Nil

F. Listed Matters

Item: C1

**WILLIAM STREET, RAYMOND TERRACE – ALTERATION TO PARKING FRONTING
POLICE STATION**

State MP: Mr C Baumann MP

Requested by: NSW Police

Background:

NSW Police have requested the alteration of the parking controls in front of the Raymond Terrace Police Station. It is requested that the 1 hour parking be changed to No Parking – Police Vehicles Excepted, to cater for the additional Police Vehicles associated with the creation of the Port Stephens LAC

Comment:

Recommendation to the Committee:

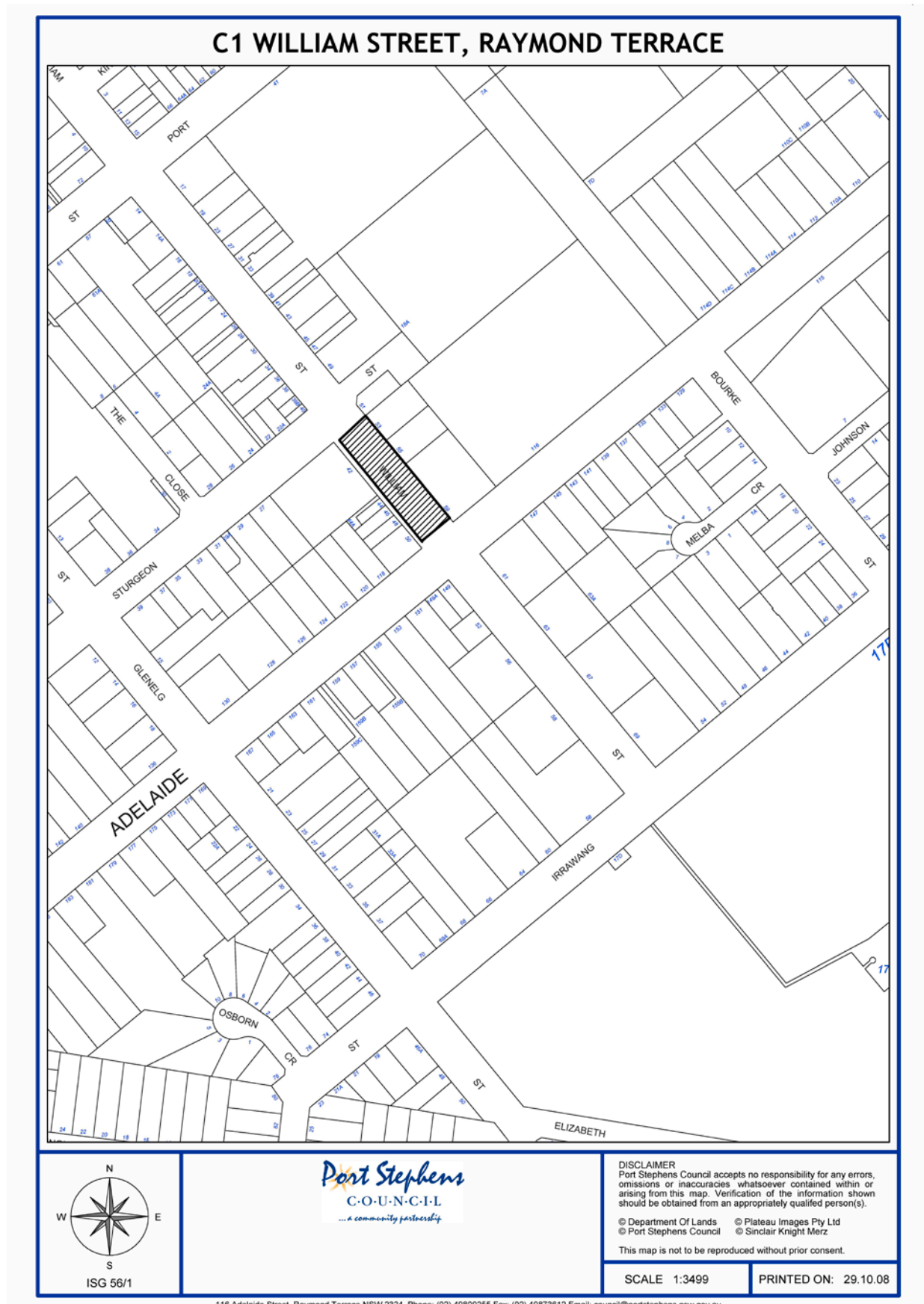
1. Replace 1 hour parking signs (1 space) with No Parking - Police vehicles excepted

Discussion:

This will assist Police operations in establishing the Port Stephens Local Area Command

Support for the Recommendation:

1) Unanimous	<input checked="" type="checkbox"/>	
6) Majority		<input type="checkbox"/>
7) Split Vote		<input type="checkbox"/>
8) Minority Support		<input type="checkbox"/>
9) Unanimous decline		<input type="checkbox"/>



Item: C2

OLD PUNT ROAD, TOMAGO – SAFETY OF CROSSING AT INTERSECTION OF LAVERICK AVENUE

State MP: Mr C Baumann MP

Requested by: Local Business

Background:

A local Tomago business has requested Traffic Committee investigate the safety of people crossing in the vicinity of Laverick Avenue & Old Punt Road.

Staff cross the road from their worksite to access the car park opposite. They are crossing at the intersection which is a safety concern.

Comment:

Inspection of the site identified that workers are crossing toward the intersection due to a lack of separate pedestrian access to the car park.

Staff require provision of a footpath and access to the car park opposite the staff access point to the premises on Laverick Road to prevent staff crossing closer to the intersection.

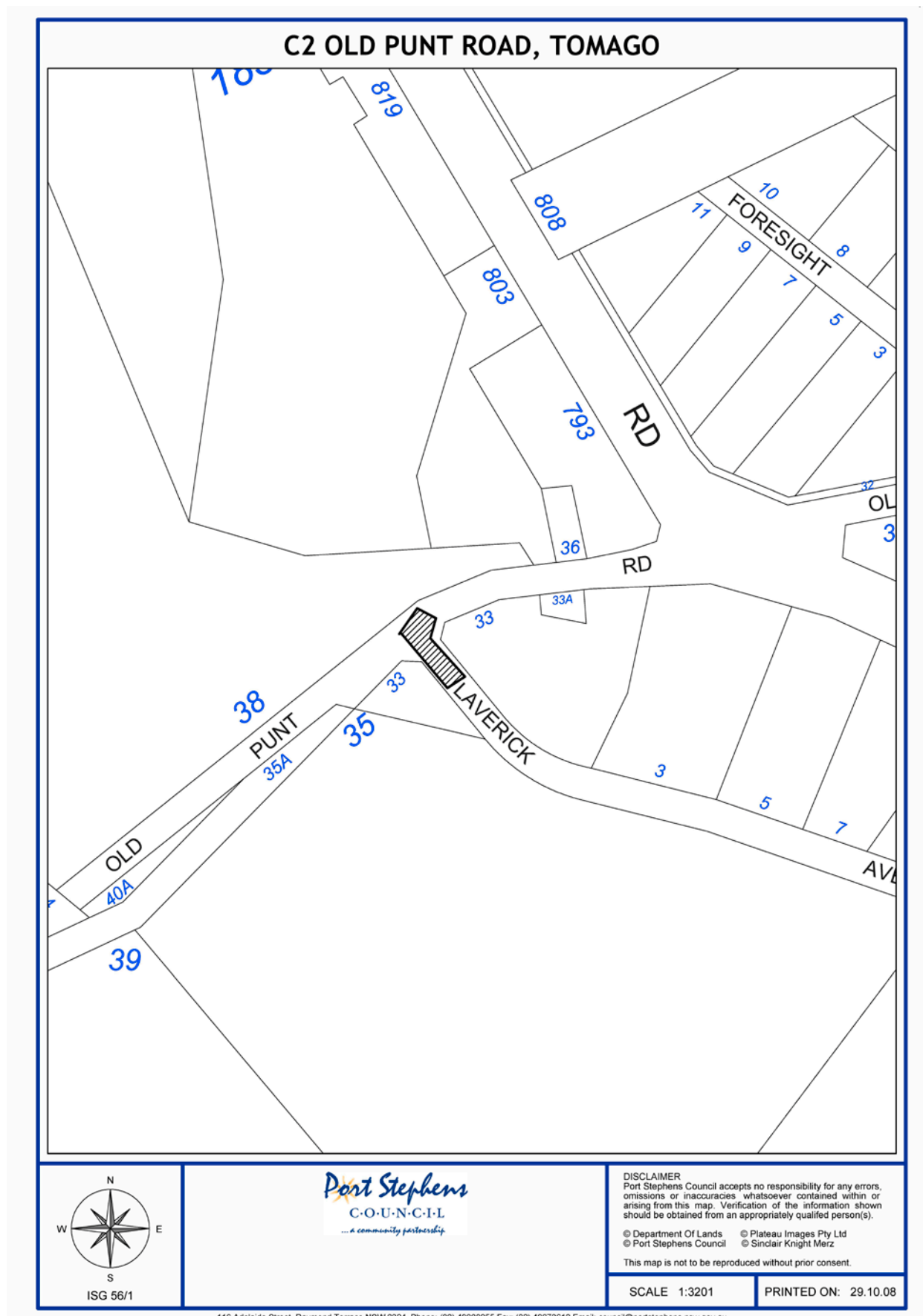
Recommendation to the Committee:

1. No action be taken

Discussion:

Support for the Recommendation:

- | | | |
|----|-------------------|-------------------------------------|
| 1) | Unanimous | <input checked="" type="checkbox"/> |
| 2) | Majority | <input type="checkbox"/> |
| 3) | Split Vote | <input type="checkbox"/> |
| 4) | Minority Support | <input type="checkbox"/> |
| 5) | Unanimous decline | <input type="checkbox"/> |



Item: C3

OLD PUNT ROAD, TOMAGO – REQUEST FOR NO PARKING SIGNS

State MP: Mr C Baumann MP

Requested by: Ampcontrol

Background:

Ampcontrol have requested the installation of No Parking signs either side of the driveway to their business on Old Punt Road. They report 3 near miss accidents as motorists attempt to exit their driveway due to visibility issues.

Comment:

Inspections found traffic entering and exiting the southern driveway only. The northern driveway was locked and used as a parking area both internally and on the footway.

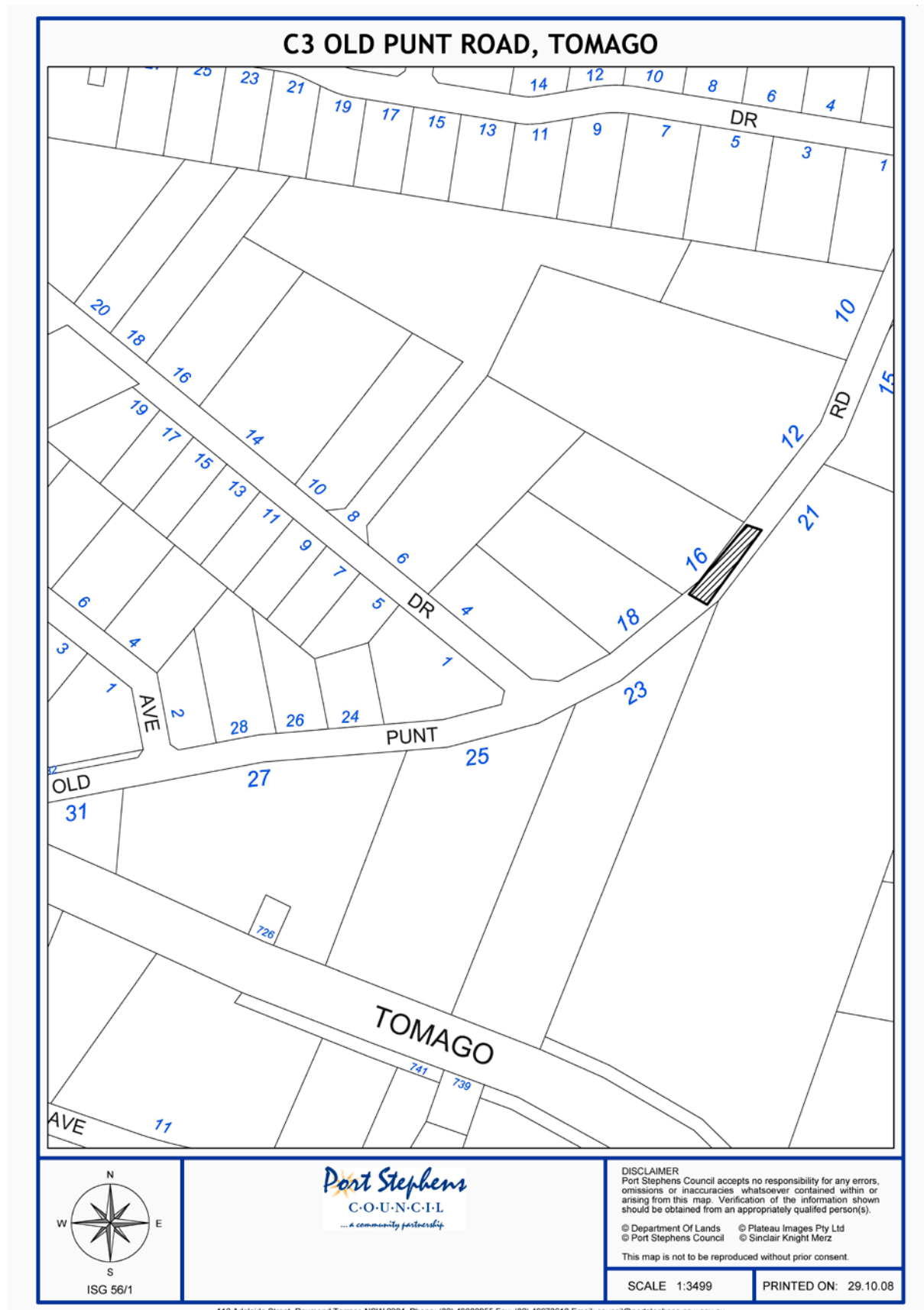
Sight lines are more acceptable for staff leaving the site using the northern driveway

Recommendation to the Committee:

1. Council direct Ampcontrol to re-establish access to Old Punt Rd using northern driveway.
2. Council direct Ampcontrol to signpost and pavement mark both entry(southern) and exit (northern) driveways
3. No stopping zone will then be provided on Old Punt Rd for the exit driveway to provide improved sight lines for drivers leaving the site. The No Stopping zone will be provided between entry and exit driveways and 20 metres north of exit driveway.

Discussion:

<u>Support for the Recommendation:</u> 1)	Unanimous	<input checked="" type="checkbox"/>	
	2) Majority		<input type="checkbox"/>
	3) Split Vote		<input type="checkbox"/>
	4) Minority Support		<input type="checkbox"/>
	5) Unanimous decline		<input type="checkbox"/>



Item: C4

STILL STREET, SEAHAM – REQUEST FOR GIVE WAY SIGNS AT INTERSECTION OF DIXON STREET

State MP: Mr F Terenzini MP

Requested by: Resident

Background:

A resident of Still Street has requested the installation of Give Way signage at the intersection of Still & Dixon Streets. School traffic travels down Dixon Street and turns south into Still Street. Motorists are confused about who gets right of way.

Comment:

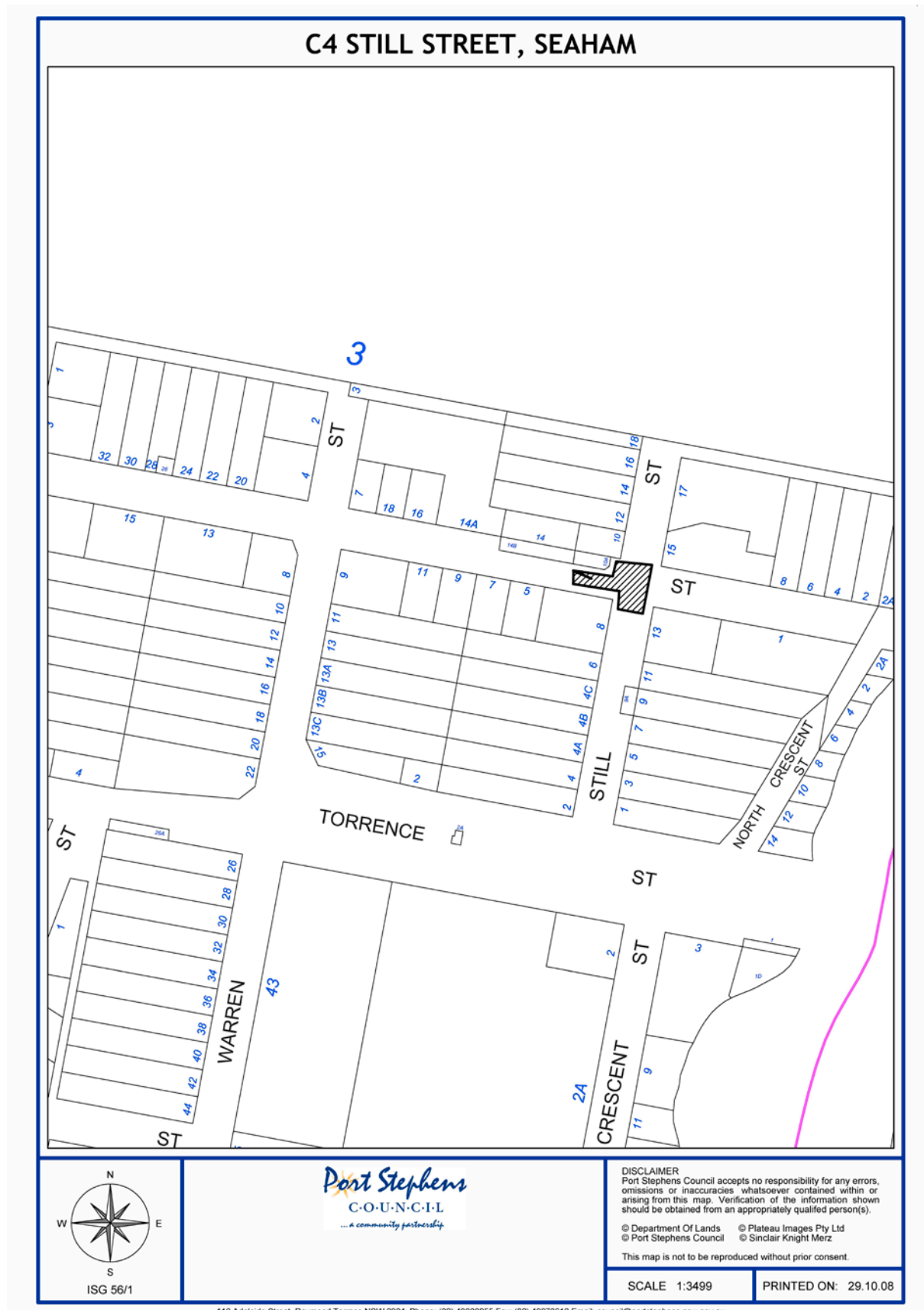
Inspections found a need to establish priority for the majority of traffic using Dixon and Still Streets to access the rear of the Seaham Public School. The alignment of existing design and construction also allows for priority to be given to the majority of traffic using the intersection

Recommendation to the Committee:

1. Provide Give Way signs and hold lines at the intersection of Dixon and Still Streets for southbound traffic on Still Street.

Discussion:

<u>Support for the Recommendation:</u> 1)	Unanimous	<input checked="" type="checkbox"/>	
	2) Majority		<input type="checkbox"/>
	3) Split Vote		<input type="checkbox"/>
	4) Minority Support		<input type="checkbox"/>
	6) Unanimous decline		<input type="checkbox"/>



Item: C5

WALLAWA ROAD, NELSON BAY – REQUEST FOR RELOCATION OF BUS STOPS IN VICINITY OF INTERSECTION OF CANOMII CLOSE

State MP: Mr C Baumann MP

Requested by: Cr Dover

Background:

Cr Dover has requested Traffic Committee investigate the location of the two bus stops on Wallawa Road. They are in the vicinity of the intersection of Canomii Close, and when there are buses at both stops of a morning and afternoon, traffic cannot pass through and visibility around the curve is restricted.

Comment:

Inspections found bus stop locations on this length of road need to be reviewed in consultation with stakeholders

More information is required to assess safety concerns

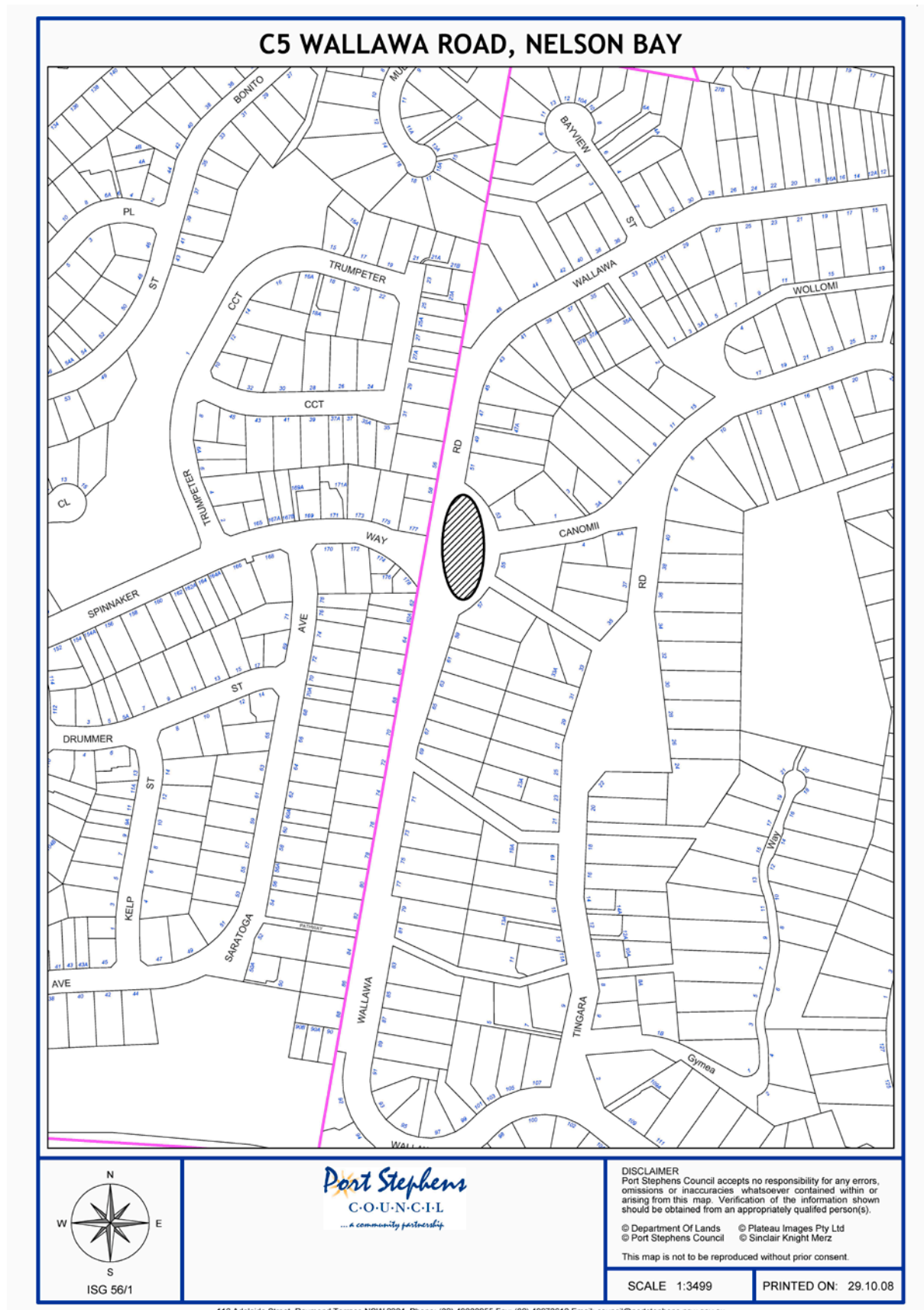
Traffic volumes on Wallawa Rd are 1600 vehicles/day

Recommendation to the Committee:

1. Council and Bus operator review bus stop locations and signage on-site at Wallawa Rd
2. Report back to Traffic Committee and Ministry of Transport if any relocations of bus stops are required

Discussion:

<u>Support for the Recommendation:</u> 1)		Unanimous	<input checked="" type="checkbox"/>	
6)	Majority			<input type="checkbox"/>
7)	Split Vote			<input type="checkbox"/>
8)	Minority Support			<input type="checkbox"/>
9)	Unanimous decline			<input type="checkbox"/>



Item: C6

DOWLING STREET, NELSON BAY – REQUEST FOR DIRECTIONAL SIGNAGE FOR FINGAL & SHOAL BAY

State MP: Mr C Baumann MP

Requested by: Nelson Bay Town Management

Background:

Existing signage for identified high vehicle connects Stockton Street and Shoal Bay via Dowling St, Fingal St and Trafalgar St.

Existing signage for identified high vehicle route is inconsistent

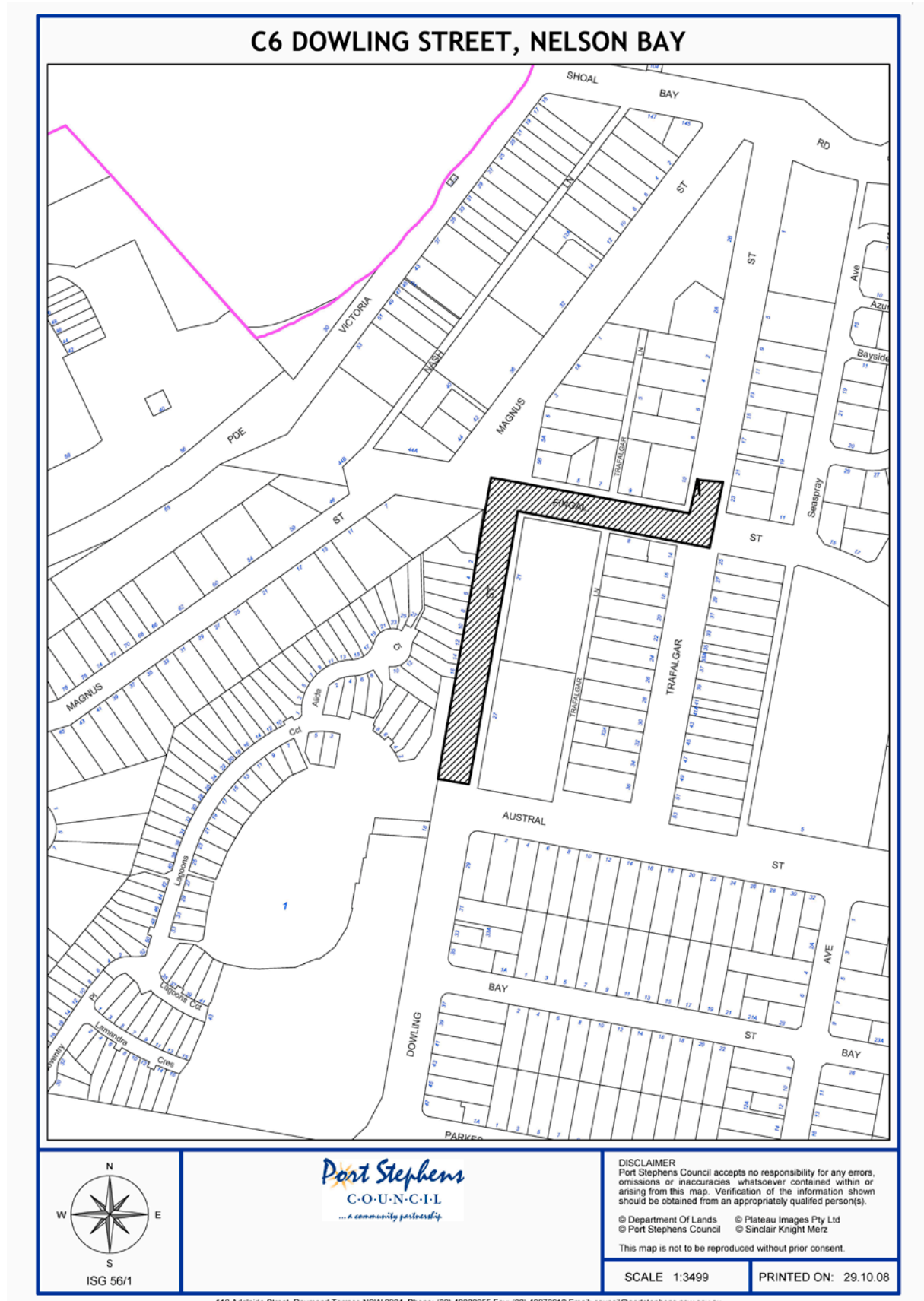
Comment:

Recommendation to the Committee:

1. Upgrade existing high vehicle bypass signage
2. Investigate installing accompanying focal point signage to Shoal Bay on identified high vehicle route

Discussion:

<u>Support for the Recommendation:</u> 1)	Unanimous	<input checked="" type="checkbox"/>	
	6) Majority		<input type="checkbox"/>
	7) Split Vote		<input type="checkbox"/>
	8) Minority Support		<input type="checkbox"/>
	9) Unanimous decline		<input type="checkbox"/>



Item: C7

VICTORIA PARADE, NELSON BAY – INSTALLATION OF 40KM/H HIGH PEDESTRIAN AREA

State MP: Mr C Baumann MP

Requested by: Infrastructure Planning Section

Consultation: East Ward Councillors, Nelson Bay Town Management, Roads and Traffic Authority

Background:

Infrastructure Planning Section is requesting the approval to install a 40km/h high pedestrian area and associated works for Victoria Parade, Nelson Bay

Comment:

Council has been successful in acquiring 100% funding to design and construct a 40km/h High Pedestrian Activity Treatment on Victoria Parade, Nelson Bay as part for the RTA's 'Council 2007/2008 Road Safety & Traffic Management Program'. The area in question is on Victoria Parade between Laman Street and the Teramby Road roundabout.

Victoria road has traffic volumes of 12,000 vpd (vehicles per day) which increase to almost 15,000 vpd over the Christmas/new year period. Approximately 600 pedestrians cross Victoria Parade in a weekend (non holiday period) peak hour with only the aid of a small pedestrian refuge island.

Stage one of works was installed prior to June 30 2008. Works included entry treatments on Victoria Pde and Teramby Rd. Entry treatments consisted of kerb blisters, fencing, signs and road markings.

Stage two of works will consist of pedestrian activated signals*, pedestrian facilities on Victoria Pde and Teramby Rd, Nelson Bay

** Council is not empowered to authorise traffic control signals. The RTA has this authority*

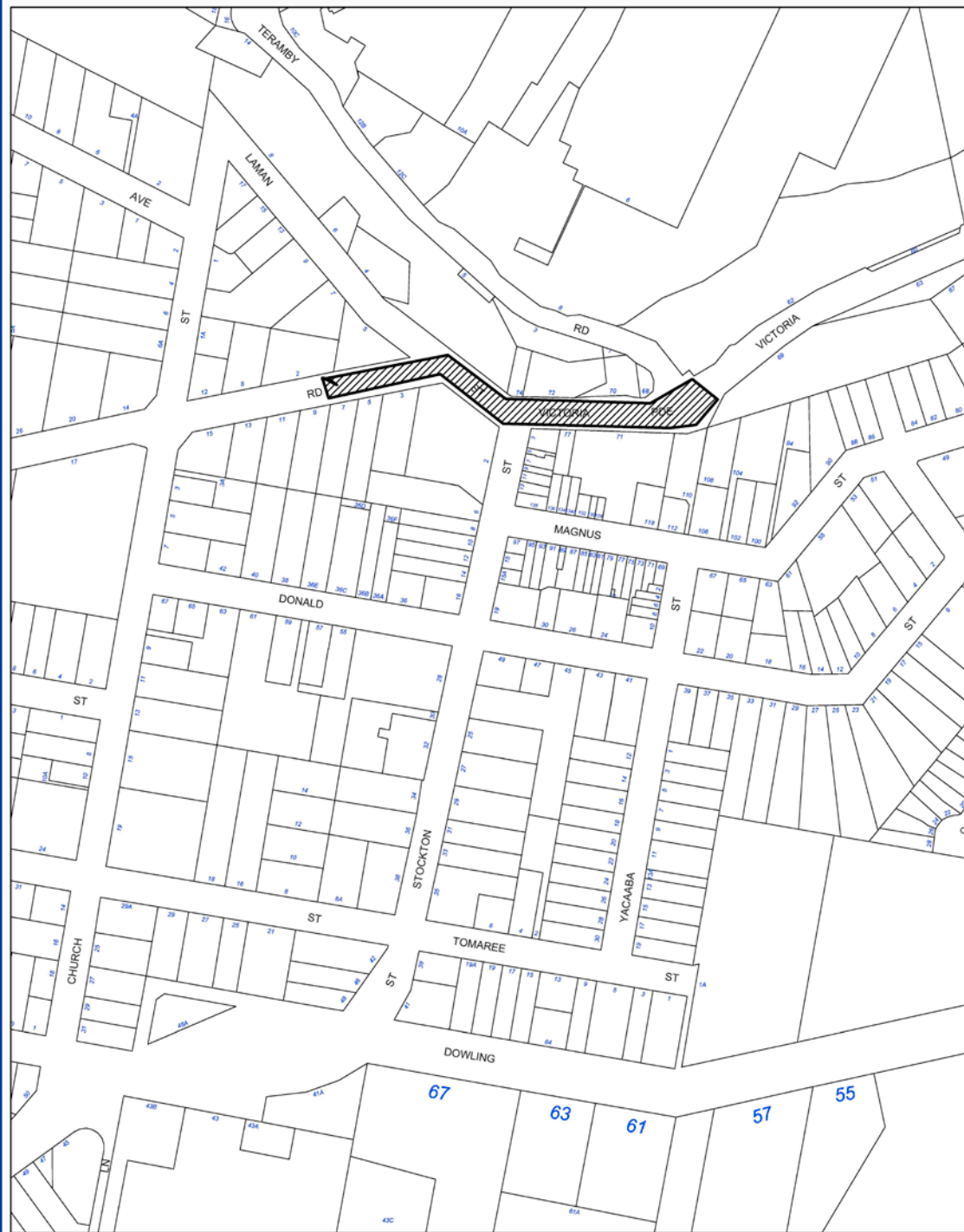
Recommendation to the Committee:

1. Council approve the 40Km/h High Pedestrian Area scheme for Victoria Parade, Nelson Bay (this recommendation excludes the pedestrian activated signals which are approved by the RTA)

Support for the Recommendation:1)

Unanimous	<input checked="" type="checkbox"/>	
2) Majority		<input type="checkbox"/>
3) Split Vote		<input type="checkbox"/>
4) Minority Support		<input type="checkbox"/>
6) Unanimous decline		<input type="checkbox"/>

C7 VICTORIA PARADE, NELSON BAY



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D. Informal Matters

Item: D1

NELSON BAY ROAD, SALAMANDER BAY – REQUEST FOR STOP SIGN AT EXIT FROM TOMAREE SPORTS COMPLEX

State MP: Mr C Baumann MP

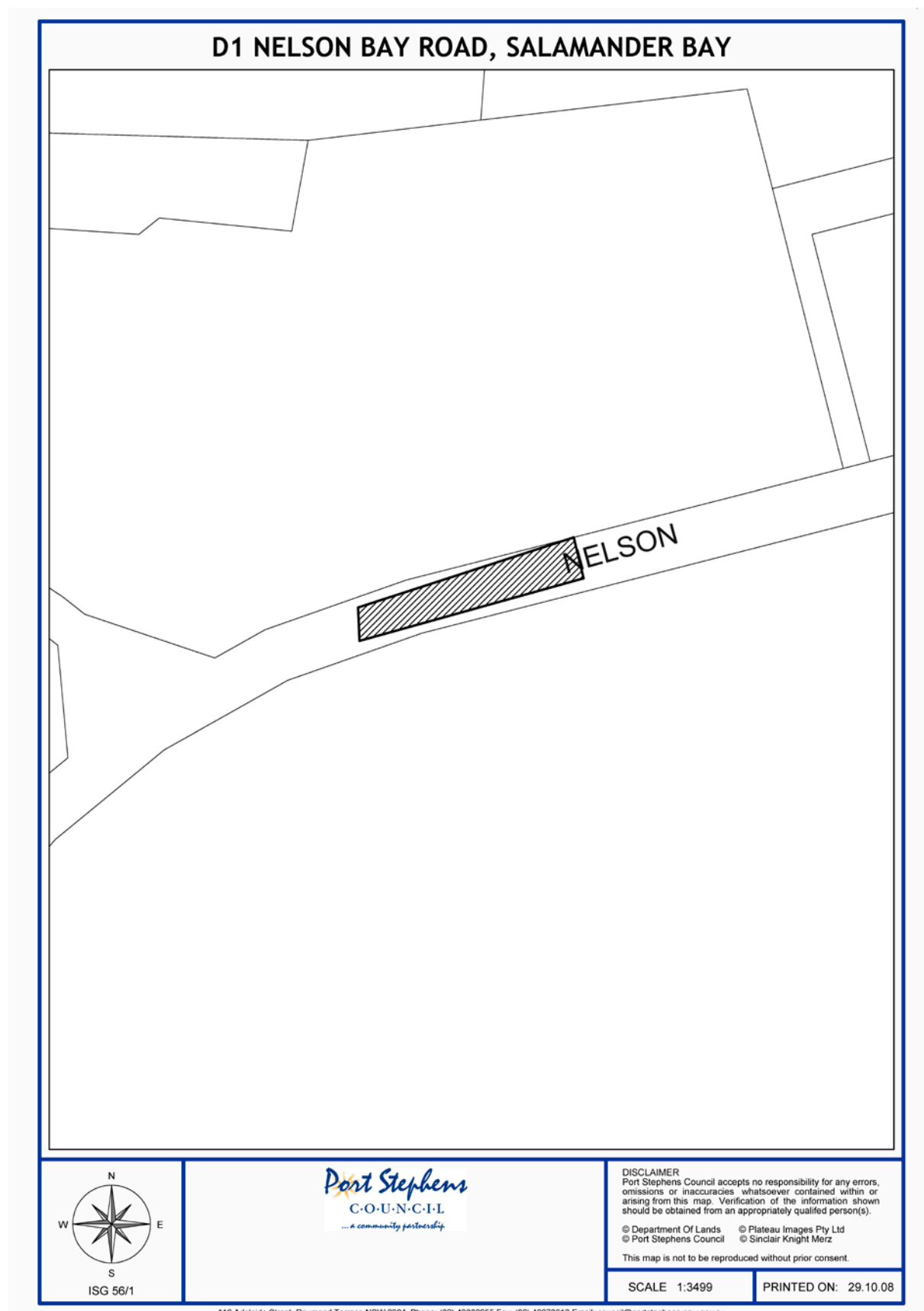
Requested by: Mr C Baumann MP

Discussion:

Craig Baumann MP has requested on behalf of residents to investigate the need for a Stop sign at the exit from the Tomaree Sports Complex on Nelson Bay Road. Accident history shows two injury accidents at this location 2003-04. One of these accidents was a result of traffic entering Nelson Bay Road from the Tomaree sports complex.

Committees Advice:

That this matter be referred to the RTA for consideration.



F. General Business

Nil

ITEM NO. 9

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 11TH November 2008.

No:	Report Title	Page:
1	Cash and Investments held at 30 th September 2008	
2	2008 Access Awareness Day	
3	Gloucester Coal Seam Gas Project	
4	Aboriginal Strategic Committee	

CONFIDENTIAL INFORMATION PAPER

1. Update on Vegetation Removal at Port Stephen Drive
-

OPERATIONS COMMITTEE – 11 NOVEMBER 2008

RECOMMENDATION:

Councillor John Nell Councillor Bruce MacKenzie	That the recommendation be adopted except for the confidential item
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ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

345	Councillor John Nell Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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OPERATIONS COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

CASH AND INVESTMENTS HELD AT 30 SEPTEMBER 2008

REPORT OF: JEFF SMITH, FINANCIAL SERVICES MANAGER
FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of Cash and Investments Held at 30 September 2008.

ATTACHMENTS

- 1) Cash and Investments Held at 30 September 2008.
- 2) Monthly Cash and Investments Balance October 2007 – September 2008

ATTACHMENT 1

CASH & INVESTMENTS HELD AS AT 30 SEPTEMBER 2008

INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value July	Market Value August	Market Value September	Current Mark to Market Exposure
GRANGE SECURITIES										
WIDE BAY CAPRICORN BUILDING SOCIETY	Floating Rate Sub Debt		15-Dec-08	500,000.00	1.35%	8.94%	\$496,250.00	\$496,800.00	\$496,800.00	-\$3,200.00
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	AA	20-Mar-12	1,000,000.00	2.70%	0.00%	\$780,000.00	\$750,000.00	\$750,000.00	-\$250,000.00
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO	AA-	23-Jun-15	412,500.00	1.11%	10.45%	\$315,562.50	\$315,562.50	\$315,562.50	-\$96,937.50
HERALD LTD "QUARTZ AA"	Floating Rate CDO	AA	20-Dec-10	450,000.00	1.21%	8.87%	\$323,235.00	\$317,925.00	\$317,925.00	-\$132,075.00
STARTS CAYMAN LTD "BLUE GUM AA"	Floating Rate CDO		22-Jun-13	1,000,000.00	2.70%	8.77%	\$548,800.00	\$507,400.00	\$507,400.00	-\$492,600.00
HELIUM CAPITAL LTD "ESPERANCE AA+"	Floating Rate CDO	A-	20-Mar-13	1,000,000.00	2.70%	0.00%	\$562,200.00	\$536,000.00	\$536,000.00	-\$464,000.00
HOME BUILDING SOCIETY	Floating Rate Sub Debt		25-Jul-11	500,000.00	1.35%	8.71%	\$474,500.00	\$470,500.00	\$470,500.00	-\$29,500.00
NOTE	Yield Curve Note		18-Oct-11	500,000.00	1.35%	0.00%	\$436,400.00	\$420,500.00	\$420,500.00	-\$79,500.00
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	AA-	20-Mar-14	1,000,000.00	2.70%	8.37%	\$461,200.00	\$418,600.00	\$418,600.00	-\$581,400.00
GRANGE SECURITIES "COOLANGATTA AA"	Floating Rate CDO	AA	20-Sep-14	1,000,000.00	2.70%	0.00%	\$410,500.00	\$319,000.00	\$319,000.00	-\$681,000.00
ANZ YIELD CURVE NOTE	Yield Curve Note		15-Jan-09	500,000.00	1.35%	8.25%	\$425,500.00	\$436,000.00	\$436,000.00	-\$64,000.00
TOTAL GRANGE SECURITIES				\$7,862,500.00	21.22%		\$5,234,147.50	\$4,988,287.50	\$4,988,287.50	(\$2,874,212.50)
ABN AMRO MORGANS										
REMBRANDT ISOSCELES SERIES 1	Floating Rate CDO	AA	20-Sep-09	\$2,000,000.00	5.40%	8.77%	\$1,880,000.00	\$1,870,000.00	\$1,866,400.00	-\$133,600.00
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note		17-Sep-11	\$1,000,000.00	2.70%	0.00%	\$791,700.00	\$805,900.00	\$817,900.00	-\$182,100.00
BANK OF QLD FLOATING RATE NOTE	Floating Rate Note		30-Jun-09	\$1,000,000.00	2.70%	7.49%	\$992,730.00	\$992,730.00	\$992,730.00	-\$7,270.00
TOTAL ABN AMRO MORGANS				\$4,000,000.00	10.79%		\$3,664,430.00	\$3,668,630.00	\$3,677,030.00	(\$322,970.00)
ANZ INVESTMENTS										
ECHO FUNDING PTY LTD SERIES 16 "3 PILARS AA"	Floating Rate CDO	AA-	6-Apr-10	\$500,000.00	1.35%	8.96%	\$351,500.00	\$337,000.00	\$217,500.00	-\$282,500.00
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	AA	30-Dec-11	\$1,000,000.00	2.70%	0.00%	\$628,630.00	\$607,100.00	\$503,700.00	-\$496,300.00
MOTIF FINANCE (IRELAND) PLC	Floating Rate CDO	A	1-Jun-17	\$1,017,876.98	2.75%	4.36%	\$839,324.83	\$863,724.21	\$812,800.58	-\$205,076.40
ADELAIDE BANK SENIOR DEBT	Floating Rate Deposit		22-May-09	\$1,000,000.00	2.70%	7.50%	\$0.00	\$0.00	\$994,290.00	-\$5,710.00
TOTAL ANZ INVESTMENTS				\$3,517,876.98	9.49%		\$1,819,454.83	\$1,807,824.21	\$2,528,290.58	(\$989,586.40)
RIM SECURITIES										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		29-Jul-13	\$2,000,000.00	5.40%	9.76%	\$1,330,000.00	\$1,337,780.00	\$1,328,968.00	-\$671,032.00
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		8-Oct-11	\$1,000,000.00	2.70%	8.45%	\$942,940.00	\$942,944.00	\$943,584.00	-\$56,416.00
QLD POLICE CREDIT UNION	Term Deposit		7-Oct-08	\$1,000,000.00	2.70%	8.02%	\$0.00	\$0.00	\$1,000,000.00	\$0.00
QLD POLICE CREDIT UNION	Term Deposit		8-Oct-08	\$500,000.00	1.35%	8.27%	\$0.00	\$0.00	\$500,000.00	\$0.00
TOTAL RIM SECURITIES				\$4,500,000.00	12.14%		\$2,272,940.00	\$2,280,724.00	\$3,772,552.00	(\$727,448.00)
WESTPAC INVESTMENT BANK										
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt		27-Apr-10	\$500,000.00	1.35%	8.94%	\$493,345.00	\$493,895.00	\$495,300.00	-\$4,700.00
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		20-Nov-11	\$500,000.00	1.35%	8.38%	\$454,100.00	\$454,710.00	\$442,905.00	-\$57,095.00
TOTAL WESTPAC INV. BANK				\$1,000,000.00	2.70%		\$947,445.00	\$948,605.00	\$938,205.00	(\$61,795.00)
LONGREACH CAPITAL MARKETS										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked No	AA	7-Mar-12	\$500,000.00	1.35%	6.60%	\$391,400.00	\$394,650.00	\$374,300.00	-\$125,700.00
NOTE	Property Linked Note		7-Sep-12	\$500,000.00	1.35%	0.00%	\$378,350.00	\$373,300.00	\$368,450.00	-\$131,550.00
TOTAL LONGREACH CAPITAL				\$1,000,000.00	2.70%		\$769,750.00	\$767,950.00	\$742,750.00	(\$257,250.00)

ATTACHMENT 1

COMMONWEALTH BANK									
PRINCIPAL PROTECTED YIELD ACCRUAL NOTE	Yield Curve Note	06-Nov-11	\$500,000.00	1.35%	9.25%	\$482,400.00	\$485,850.00	\$498,400.00	-\$1,600.00
CALLABLE CPI LINKED NOTE	Yield Curve Note	04-Apr-12	\$500,000.00	1.35%	0.00%	\$439,250.00	\$458,950.00	\$463,100.00	-\$36,900.00
EQUITY LINKED DEPOSIT	Equity Linked Note	20-Sep-11	\$500,000.00	1.35%	3.00%	\$441,450.00	\$446,750.00	\$457,050.00	-\$42,950.00
EQUITY LINKED DEPOSIT GI100	Equity Linked Note	03-Aug-10	\$500,000.00	1.35%	3.00%	\$465,000.00	\$464,100.00	\$467,700.00	-\$32,300.00
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	05-Nov-12	\$500,000.00	1.35%	3.00%	\$418,100.00	\$431,400.00	\$436,800.00	-\$63,200.00
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	09-Nov-12	\$500,000.00	1.35%	9.02%	\$460,660.00	\$461,195.00	\$461,580.00	-\$38,420.00
TOTAL COMMONWEALTH BANK			\$3,000,000.00	8.10%		\$2,706,860.00	\$2,748,245.00	\$2,784,630.00	(\$215,370.00)
FIIG SECURITIES									
AQUADUCT AA-	Principal Protected Note	21-Jun-10	\$1,000,000.00	2.70%	0.00%	\$909,100.00	\$927,800.00	\$900,300.00	-\$99,700.00
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note	30-Nov-14	\$500,000.00	1.35%	8.26%	\$461,650.00	\$461,650.00	\$420,100.00	-\$79,900.00
STATE GOVERNMENT EMPLOYEES CREDIT UNION	Term Deposit	30-Oct-08	\$1,000,000.00	2.70%	8.65%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
STATE GOVERNMENT EMPLOYEES CREDIT UNION	Term Deposit	31-Oct-08	\$1,000,000.00	2.70%	8.01%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
AUSTRALIAN DEFENCE CREDIT UNION	Term Deposit	29-Nov-08	\$1,000,000.00	2.70%	8.23%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
AUSTRALIAN DEFENCE CREDIT UNION	Term Deposit	30-Oct-08	\$1,000,000.00	2.70%	8.55%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
AUSTRALIAN DEFENCE CREDIT UNION	Term Deposit	16-Nov-08	\$1,000,000.00	2.70%	8.34%	\$0.00	\$0.00	\$1,000,000.00	\$0.00
TOTAL FIIG SECURITIES			\$6,500,000.00	17.54%		\$5,370,750.00	\$5,389,450.00	\$6,320,400.00	(\$179,600.00)
MAITLAND MUTUAL									
	Floating Rate Sub Debt	30-Jun-09	500,000.00	1.35%	8.77%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
	Term Deposit	25-Nov-08	537,521.56	1.45%	7.95%	\$526,881.44	526,881.44	537,521.56	\$0.00
	Floating Rate Sub Debt	31-Dec-08	500,000.00	1.35%	8.73%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
TOTAL M'LAND MUTUAL			\$1,537,521.56	4.15%		\$1,526,881.44	\$1,526,881.44	\$1,537,521.56	\$0.00
TOTAL INVESTMENTS			\$32,917,898.54	88.83%		\$24,312,658.77	\$24,126,597.15	\$27,289,666.64	(\$5,628,231.90)
AVERAGE RATE OF RETURN ON INVESTMENTS						7.09%			
CASH AT BANK			\$4,141,115.82	11.17%	6.95%			\$4,141,115.82	
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH						7.07%			
TOTAL CASH & INVESTMENTS			\$37,059,014.36	100.00%		\$24,312,658.77	\$24,126,597.15	\$31,430,782.46	(\$5,628,231.90)
BBSW FOR PREVIOUS 3 MONTHS						7.47%			

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

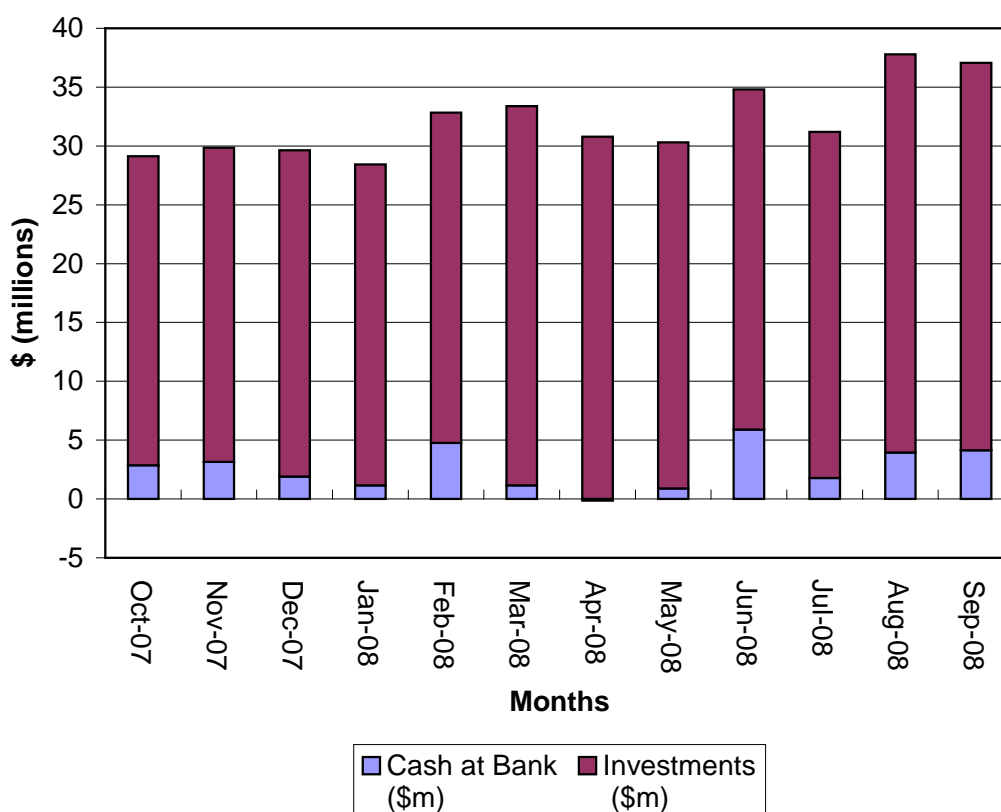
I, Peter Gesling, being the Responsible Accounting Officer of Council, hereby certify that the Investments have been made in accordance with the Local Government Act 1993, the Regulations and Council's investment policy.

P GESLING

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Oct-07	2.855	26.268	29.123
Nov-07	3.148	26.713	29.860
Dec-07	1.911	27.731	29.641
Jan-08	1.163	27.262	28.424
Feb-08	4.760	28.085	32.844
Mar-08	1.162	32.230	33.392
Apr-08	0.146	30.783	30.637
May-08	0.889	29.407	30.296
Jun-08	5.899	28.907	34.806
Jul-08	1.780	29.407	31.187
Aug-08	3.939	33.846	37.785
Sep-08	4.141	32.918	37.059

**Cash and Invested Funds for the Period ended
30/9/2008**

INFORMATION ITEM NO. 2

2008 ACCESS AWARENESS DAY

REPORT OF: TREVOR ALLEN - INTEGRATED PLANNING MANAGER

FILE: A2004-0226

BACKGROUND

The purpose of this report is to inform Council of the recent Access Awareness Day held for relevant Council Officers (i.e.; planners and engineers).

On 7 October 2008, the Access Committee of Port Stephens conducted an Access Awareness Day in Raymond Terrace. The purpose of the day was to educate and raise the awareness of physical access issues amongst Council Officers responsible for planning, maintaining and making decisions regarding development applications, Council assets and infrastructure.

Participants were required to complete a range of experientially based tasks set by the Access Committee with a focus on the local access barriers regularly experienced by users of wheelchairs, walkers, scooters, crutches and prams.

The tasks included: -

- Attending supermarkets, amenities, libraries and local businesses all while in wheelchairs and vision impaired
- Collecting evidence based items when completing activities while confined to wheelchairs and wearing vision impaired aids

Following the completion of the set tasks, participants were asked to provide feedback including difficulties, barriers and suggestions about the activities of the day. All participants found the day to be of real value to their respective positions. This initiative and others, assists council in implementing the Port Stephens Disability Action Plan.

In light of the day's success and value to Council, the Access Committee is planning to conduct this event again in 2009.

ATTACHMENTS

- 1) Nil

INFORMATION ITEM NO. 3

GLOUCESTER COAL SEAM GAS PROJECT

REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES

FILE: PSC2008-2015

BACKGROUND

The purpose of this report is to inform Councillors about the Gloucester Coal Seam Gas Project.

The Gloucester Coal Seam Gas Project is a joint venture between Lucas Energy Pty Ltd and Molopo Australia Limited. The project is for the development of coal seam gas (CSG) including the installation of gas wells, construction of a Central Processing Facility and a high-pressure pipeline to transport the gas. Of interest to Port Stephens Council is the pipeline which will travel through Port Stephens local government area (in the vicinity of Seaham) on its way to Hexham where it will link in with existing infrastructure.

Coal seam gas (CSG) is a natural gas found in coal seams. It is a safe energy source formed as a by-product of the natural conversion of plant material to coal and consists mainly of methane. CSG is a naturally odourless and colourless gas that is used like other forms of conventional gas to power heaters, stoves and hot water systems. CSG is also used as a direct source of power for industry and as a fuel for electricity generation.

The proposed development is expected to have limited long term impacts upon either the environment or future land use. Field development after drilling has a small footprint on the land and the pipeline will be buried after construction with the subject land being rehabilitated. Gas production is also environmentally clean compared to coal, generating approximately 40% less greenhouse emissions than conventional electricity generation.

The project is being assessed under Part 3A of the Environmental Assessment Act 1979 and the preparation of the Environmental Assessment will include comprehensive studies on all environmental impacts. Council staff will provide submissions to this process.

Lucas Energy has already begun consulting with landholders on or adjacent to the proposed pipeline, well locations and the Central Processing Facility and will this continue throughout the project. In addition a Community Consultative Committee has been formed to assist the project team. Port Stephens Council has both a Councillor and staff representative on this Committee, which will meet four times a year.

At this stage the main point of community concern is the location of the processing facility which is located in the Gloucester local government area. Land holders that have the possibility of the pipeline going through their land will be financially

compensated and at this stage there have been few objections. As the exact route of the pipeline becomes more apparent there will need to be more consultation. Lucas Energy has indicated a willingness to work with land holders to resolve issues as they arise.

More information can be found on the project website: www.gloucestergas.com.au

ATTACHMENTS

- 1) Port Stephens Council Submission to ENSR Australia

ATTACHMENT 1
SUBMISSION TO ENSR

Telephone inquiries
Sally Whitelaw
(02) 49800351
Please quote file no:
PSC2008-2015

3 November 2015

Ms Erin Saunders
Associate Planner
ENSR Australia Pty Ltd
PO Box 726
Pymble NSW 2073

Dear Erin,

Re: Environmental Assessment – Gloucester Coal Seam Gas Project – Request for Comment

Thank you for your letter dated 11th September, asking for further comments on the Environmental Assessment. Port Stephens Council understands that you requested comments by 25th September and apologises for the delay. We hope these comment will still be of use. These comments should be viewed as additional to the comments previously supplied by Port Stephens Council to Lucas Energy in April 2008.

In terms of the preliminary report, it is anticipated that the key issues identified will be further considered and addressed in the Environmental Assessment currently being prepared for the proposal. However, in relation to the preliminary information provided, the following comments are made:

- The majority of the land affected by the pipeline in the Port Stephens Local Government Area relates to existing infrastructure corridors, i.e. electricity transmissions easements and Hunter Water pipe lines.
- The pipeline is proposed within the Hunter Water pipeline corridor that runs through Brandy Hill, and may, during the construction phase, cause road closures or interruptions. In this regard, Council would recommend that comment is sought from Council's Asset Engineers.
- Council understands that community consultation has commenced and would like to add emphasis to the need to undertake consultation, not only with the residents that are immediately affected, but also with the wider community surrounding the pipeline.
- It is assumed that the dwellings in close proximity to the pipeline will be included in any risk assessment for the construction period and long term life of the pipeline.
- As the proposed route comes in close proximity to SEPP 14 wetlands, the Environmental Assessment should define an appropriate buffer around these wetlands to ensure no adverse effects, especially in relation to changes in hydrology, are experienced by these wetlands.

- The proposed route crosses areas of known Endangered Ecological Communities, and clearing within or immediately adjacent to these communities should be avoided. The Environmental Assessment should include a Flora and Fauna Assessment to determine if there are any significant impacts on the EECs, or other threatened species, (by a 7 part test). The assessment should also detail the specification, including the location, of any remediation activities to reduce the impact to threatened species.
- The Environmental Assessment should determine the need to test for Acid Sulfate Soils and how disturbance of these soils will be addressed.
- The pipeline route crosses areas known to be affected by Alligator Weed. Earth moving practices are known to spread the weed unless appropriate management practices are put in place. The pipeline crosses prime agricultural land, and the spread of this weed would have severe impacts on that land's profitability. This impact has not been mentioned in previous scoping reports and should be given its due attention.
- The issue of Koala Habitat seems to have dropped off the list of Key Issues from the Preliminary Assessment report dated June 2008 to the Concept Plan and Preliminary Assessment Report dated July 2008. Port Stephens Council disagrees with this demotion and with the statement in the June 2008 Preliminary Assessment report that implies that there is limited Koala Habitat on the western side of the Hunter River. This is incorrect, and valuable Koala Habitat does exist within the location of the proposed pipeline route. The Port Stephens Comprehensive Koala Plan of Management should be addressed as part of the Environmental Assessment. Offsets may be required for the removal of any Koala Habitat.
- Although they are not listed as Heritage Items in the Port Stephens Local Environmental Plan, the gravestones at Osterley should be avoided by the pipeline route as they are likely to have significance to the local community. Also of significance to the local community is the vegetation on East Seaham Road, and the project should avoid damaging this vegetation.
- The relevant provisions of Council's Planning Policies, including the Local Environmental Plan 2000 and Development Control Plan 2007 should be addressed in the Environmental Assessment, including the requirements pertaining to Acid Sulfate Soils in the Local Environmental Plan 2000.

It is noted that once the Environmental Assessment is completed and referred to Council that additional assessment could be undertaken and further comment made.

Comments have not been made in relation to other key issues, e.g. river crossings, threatened species etc., as the relevant State agencies have been involved in preliminary discussions and it is anticipated that these matters will be addressed.

Yours faithfully

DAVID BROYD
GROUP MANAGER
SUSTAINABLE PLANNING

INFORMATION ITEM NO. 4

ABORIGINAL STRATEGIC COMMITTEE

REPORT OF: TREVOR ALLEN, INTEGRATED PLANNING MANAGER

FILE: PSC2005-0629

BACKGROUND

The purpose of this report is to present to Council the minutes of the Aboriginal Strategic Committee meeting with Worimi Local Aboriginal Land Council on 13 October 2008.

Key issues considered at the meeting included:

- 1) Middens at Birbui Headland Update
- 2) Soldiers Point Boat Ramp Update

ATTACHMENTS

- 1) Minutes of Aboriginal Strategic Committee meeting with Worimi LALC on 13 October 2008.

ATTACHMENT 1

**ABORIGINAL STRATEGIC COMMITTEE MEETING
WITH WORIMI LOCAL ABORIGINAL LAND COUNCIL
HELD ON THE 13 OCTOBER 2008
AT THE MURROOK CULTURAL & LEISURE CENTRE**

Present:

Andrew Smith	Worimi LALC
Janice MacAskill	Worimi LALC
Val Merrick	Worimi LALC
Cr Bruce MacKenzie	PSC
Cr Shirley O'Brien	PSC
Cr Peter Hafer	PSC
Peter Gesling	PSC
Paul Procter	PSC
Jason Linnane	PSC

Apologies:

Cr Sally Dover	PSC
Mike Triggar	PSC
Scott Anson	PSC
Cliff Johnson	PSC

1. WELCOME TO COUNTRY / ACKNOWLEDGEMENT TO LAND

Worimi CEO paid respect to Worimi Country, Elders past and present. They also extended a special welcome to the newly elected Councillors.

2. APPOINTMENT OF COMMITTEE CHAIRPERSON:

Cr MacKenzie nominated Cr Kafer as Chairperson. Cr Kafer accepted this role and commenced chairing the remainder of the meeting.

3. DECLARATION OF CONFLICTS OF INTEREST

There were no conflicts of interest declared.

4. BUSINESS ARISING FROM PREVIOUS MINUTES

The following items of business arising from the meeting held on 12 May 2008 were discussed:

- Item 1: Proposed State Government Reforms - Development Application Processes:

A copy of Council's submission to the State Government on the proposed planning forms has been forwarded to WLALC for their information. NOTED

Item 2: Middens at Birubi Headland

Council's Recreation Services Manager advised that Council is ready for work to commence once the scope of works have been signed off by National Parks & Wildlife Service. NOTED

Item 3: Soldiers Point Boatramp Improvements

Onsite meeting held in August with Worimi community members, Councillors and relevant Council staff. Development Application has been lodged and it is anticipated that work will commence shortly. A Worimi Site Officer will be onsite during the work. NOTED

Item 4: Aboriginal Employment

Council's Social Planning Co-ordinator has held discussions with Council's Resources Manager, and Procurement & Contracts Co-ordinator regarding potential opportunities which may exist to support Aboriginal employment. He indicated that the discussion re-iterated that Council is not permitted to segregate out/give preference to a local supplier over other suppliers of goods and services. Council's list of preferred suppliers is developed through an open and transparent process. WLALC is welcome to submit a registration of interest (with reference to their skills and experience base) at the end of the financial year when Council will be calling for registrations of interest.

Action:	1. Council's Social Planning Co-ordinator to provide WLALC CEO with a copy of the scope of services Council puts out to contract for WLALC to review in preparation for preparing a future bid for Council business.
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Item 5: Declaration of Conflict of Interest

The Committee's agenda template has been amended to include "Declaration of Conflict of Interest" as a standard agenda item. NOTED

Item 6: Request for Assistance towards Purchase of a Boat

WLALC CEO flagged for the Committee's attention that WLALC is still seeking assistance in obtaining a boat to enable some of their remote sites (i.e.; islands) to be inspected.

Action:	1. Council will discuss further with the Marine Parks Authority.
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The following items of business arising from the meeting held on 11 August 2008 were discussed:

Item 7: Mustons Rd, Karuah Footpath/Cycleway

The first stages of constructing the footpath / cycleway have been completed. Design plans for the final stage between the Land Council Office and the boardwalk have been completed in consultation with Karuah LALC. This remaining link is included in Council's forward works program. Council's Social Planning Co-ordinator has advised KLALC that given current priorities for Karuah in Council's forward works

program, it is anticipated that the final stage will not be constructed for approximately 3 years subject to funds being available. Opportunities are also being explored to undertake this work in partnership with KLALC and an accredited employment training provider/s to enable the work to be completed sooner whilst also providing community members with accredited training. NOTED.

5. CULTURAL MAPPING – DEVELOPMENT ASSESSMENT

Discussion deferred until next meeting.

6. REVIEW OF ABORIGINAL STRATEGIC COMMITTEE CONSTITUTION SCHEDULE

It was agreed that the Committee members and LALCs will review the Constitution and notify Council's Social Planning Co-ordinator of any proposed amendments.

Council's Social Planning Co-ordinator also stated that letters have been sent to Mindaribba LALC and other Aboriginal service providers inviting them to liaise with the ASC where relevant.

Actions:	<ol style="list-style-type: none">1. Council's Social Planning Co-ordinator will seek comments on the Constitution from KLALC.2. Worimi will review Constitution and provide Council's Social Planning Co-ordinator with feedback by early November 2008.3. Updated Constitution will be presented to Council in Dec 2008 for consideration and adoption.
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7. 2008 NSW LOCAL GOVERNMENT ABORIGINAL NETWORK CONFERENCE

This year's conference will be held at Armidale 25 – 27 November. Council is supporting the attendance of Worimi CEO. For further information contact Council's Social Planning Co-ordinator. NOTED

8. ABORIGINAL PROJECT FUND

A representative from the Karuah Preschool will be attending the December meeting of the ASC to give an update on the *Linking Literacy and Numeracy Project*. At this stage the next funding round will be held in the first quarter of 2009. NOTED

9. GENERAL BUSINESS

9.1 Shelly Beach – Vehicle Access:

Council's Recreation Services Manager indicated that consideration needs to be given to restricting the movement of vehicles at Shelly Beach.

Action:	<ol style="list-style-type: none">1. Council's Recreation Services Manager will discuss this matter further with Cr O'Brien.
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	2. Council's Recreation Services Manager to proceed with undertaking the necessary process and consultation with relevant stakeholders.
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9.2 Community Ball:

Worimi CEO flagged his continued interest and commitment in seeking support to see a formal Indigenous Ball held in Port Stephens in the future. NOTED

10. DETAILS OF NEXT MEETING

The next meeting with WLALC will be held on 8 December 2008 at Murrook commencing at 1pm.

STRATEGIC COMMITTEE RECOMMENDATIONS



ITEM NO. 1

FILE NO: PSC2008-3714

ANNUAL REPORT 2007-2008 INCORPORATING STATE OF THE ENVIRONMENT SUPPLEMENTARY REPORT 2007-2008**REPORT OF: JUNE SHINE - ACTING GROUP MANAGER - COPORATE EXCELLENCE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopts the Annual Report 2007-2008 and the Supplementary State of the Environment Report 2007-2008
-

STRATEGIC COMMITTEE – 4 NOVEMBER 2008**RECOMMENDATION:**

Councillor Glenys Francis Councillor John Nell	That the recommendation be adopted.
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ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

346	Councillor Ken Jordan Councillor John Nell	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to provide to Council the Annual Report 2007-2008.

Council is required to report annually to the community and the Department of Local Government against its Council Plan and include a State of the Environment Report. The State of the Environment Report 2003-2004 was the four-yearly comprehensive report, and Council is required to provide updates in the form of supplementary reports in the other three years. Past practice has been to include the Annual Report, the Annual Financial Statements and the State of the Environment Report in the one document. For the last 2 years, the Supplementary State of the Environment Report was produced as a separate document and cross-references within the Annual Report.

For this year, the Annual Report is being produced in three (3) volumes: Volume 1 is the Annual Report 2007-2008, incorporating the Statutory Return as required by Section 428 of the Local Government Act 1993 and including the Financial Statements 2007-2008; Volume 2 is the Financial Report (under separate cover) and Volume 3 is the Supplementary State of the Environment Report 2007-2008.

Volumes of the Annual Report are required to be lodged with the Department of Local Government on or before 30 November 2008.

LINKS TO CORPORATE PLANS

Council Plan 2007-2011, incorporating the Budget 2007-2008.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

The Annual Report 2007-2008 complies with the requirements of the Local Government Act 1993.

Business Excellence Framework

This aligns with the following ABEF 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.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The Annual Report 2007-2008 monitors achievements against agreed social, cultural, economic and community goals as established in the Council Plan 2007-2011.

ECONOMIC IMPLICATIONS

The Annual Report 2007-2008 monitors the Council's performance against its approved budget.

ENVIRONMENTAL IMPLICATIONS

The Annual Report 2007-2008 reports against the environmental goals of the Council Plan 2006-2009 and Volume 2 is the Supplementary State of the Environmental Report 2007-2008.

CONSULTATION

Not Applicable

OPTIONS

- 1) Recommend that the Annual Report 2007-2008 Volumes 1 and 2 be adopted:
- 2) Amend the recommendation.

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Annual Report 2007-2008 (Volume 1)
- 2) Supplementary State of the Environmental Report 2007-2008 (Volume 3)

ITEM NO. 2

FILE NO: PSC2008-3716

**QUARTERLY REPORT AGAINST COUNCIL PLAN 2008-2012 FOR
SEPTEMBER QUARTER & QUARTERLY PERFORMANCE MEASUREMENT
REPORT**

REPORT OF: JUNE SHINE - ACTING GROUP MANAGER - CORPORATE EXCELLENCE

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopts the Quarterly Report against Council Plan 2008-2012 for September Quarter & Quarterly Performance Measurement Report.
-

STRATEGIC COMMITTEE – 4 NOVEMBER 2008

RECOMMENDATION:

Councillor Bob Westbury Councillor Frank Ward	That the recommendation be adopted.
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ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

347	Councillor Ken Jordan Councillor Geoff Dingle	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to present to Council the Quarterly Report (September Quarter 2008) against the Council Plan 2008-2012 and the cockpit charts measuring Council's performance in key areas.

The Quarterly Report with its accompanying cockpit charts will provide Councillors with accurate, meaningful data that address the key issues facing Port Stephens Council.

The Quarterly Report addresses the progress in relation to strategies and objectives across all functional areas of Council. The new format for quarterly reporting incorporates all four quarters over time so that the Councillors can see the progress of every Objective with the Council Plan. The September quarter is highlighted in yellow.

The cockpit charts are now aligned with the key areas in the Department of Local Government Report on Port Stephens Council – Promoting Better Practice. These are;

- Strategic
- Governance
- Regulatory Functions
- Assets and Financial Management
- Community, communications and consultation
- Workplace Relations

LINKS TO CORPORATE PLANS

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

SOCIAL SUSTAINABILITY

The Quarterly Report cockpit charts map progress in the implementation of the Social and Community Plan.

CULTURAL SUSTAINABILITY

The Quarterly Report cockpit charts maps progress in the implementation of the Cultural Plan. This is the first report against this Plan.

ECONOMIC SUSTAINABILITY

The Quarterly Report documents progress against Goals 5 - 14 of the Council Plan 2008 -2012. The cockpit charts report against the Council's financial performance.

ENVIRONMENTAL SUSTAINABILITY

The Quarterly Report documents progress against the sustainability and environmental indicators in the Council Plan 2008-2012.

BUSINESS EXCELLENCE

The Quarterly Report documents progress against Goals 8 - 13 of the Council plan 2008- 2012.

FINANCIAL/RESOURCE IMPLICATIONS

The Quarterly Report cockpit charts should be read in conjunction with associated budget documents provided under separate cover.

LEGAL AND POLICY IMPLICATIONS

The Local Government Act 1993, Section 407(1) provides that Council receives a quarterly update on progress against its Management Plan (Council Plan 2008-2012).

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 culture 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.*

CONSULTATION

The Quarterly Report, with the performance measurement charts, was compiled by Corporate Management with input from sections across Council, and referred to the Executive Management for accuracy & completeness.

OPTIONS

- 1) Adopts the Quarterly Report (September 2008) and Performance Measurement cockpit charts for July to September 2008.
- 2) Amend the Quarterly Report (September 2008) and Performance Measurement cockpit charts for July to September 2008.

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Quarterly Report September Quarter 2008: Council Plan 2008-2011
- 2) Performance Measurement (Cockpit Charts) Report September Quarter 2008.

ITEM NO. 3**FILE NO: PSC2007-2685****COUNCIL OWNED LAND AT SALAMANDER BAY/SOLDIERS POINT/TAYLORS BEACH****REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING**

RECOMMENDATION IS THAT COUNCIL:

Resolve in accordance with Section 54 of the Environmental Planning and Assessment Act to prepare a draft Local Environmental Plan for Council owned lands (Attachment 1) to undertake the following:

- 1) Site 1 – 100 Salamander Way, Salamander Bay (Lot 21 DP 1044009): Council note this site is currently being investigated for rezoning and reclassification.
- 2) Site 2 – 360 Soldiers Point Road, Soldiers Point (Lots 1-4 DP 111773): Council note the possible redesign and future use of this land is currently being investigated.
- 3) Site 3 – 314 Soldiers Point Road, Soldiers Point (Lot 1 DP 263269): Council note previous resolution to reclassify this land is being actioned. Further, Council resolve to include the southern portion of Lot 600 DP 27382 in the investigations for rezoning from 6(a) General Recreation to 4(a) Industrial and reclassification to Operational Land.
- 4) Site 4 – Stoney Ridge Reserve (Lot 51 DP 803471): Council resolve, in accordance with the Notice of Motion issued at its meeting of 27 June 2006 to rezone Part Lot 51 DP 803471 from 6(a) General Recreation to 7(a) Environmental Protection (Council note this land is Classified as Community Land, Categorised “Natural Area” with a sub-category of “Foreshore”). Further, Council resolve to rezone the wildlife corridor on Lot 3 DP 791551 and Lot 164 DP 27047 from 6(a) General Recreation to 7(a) Environmental Protection.
- 5) Site 5 – 8 Fleet Street (Lot 2 DP 79155): Council note previous resolution of 27 June 2006 to rezone Part Lot 2 DP 791551 (not including the 2(a) zoned land) from 6(a) General Recreation to 7(a) Environmental Protection and reclassify this part of the land from Operational to Community.
- 6) Site 6 – 9B Diemars Road, Soldiers Point (Lot 644 DP 658258): Council note further investigation of this land be held in abeyance pending adoption of the draft Foreshore Management Plan.
- 7) Site 7 – Diemars Quarry (Part Lot 51 DP 803471): Council resolve to rezone the Quarry site (Part Lot 51 DP 803471) for urban purposes and reclassify to operational. This rezoning is to include investigation of Lot 56 DP 618505 and Lot 54 DP 260211 (privately owned land) to a more appropriate open space/environmental zone.
- 8) Site 8 – 22 Homestead Street, Salamander Bay (Lot 598 DP 27382): Council resolve to rezone the land from 6(a) General Recreation to 2(a) Residential and 7(a) Environmental Protection. Investigations are to include the triangular piece of land to the immediate north, which forms part of the south/eastern boundary of Stoney Ridge Reserve (Site 7).

ORDINARY MEETING – 25 NOVEMBER 2008

- 9) Site 9 – 14 Taylors Road, Taylors Beach (Lot 636 DP 27628): Council note further investigation of this land be held in abeyance, pending the outcome of investigations into the land to the north of this site.

Further, Council resolve to:

- 10) Review the potential application of S94A to infill residential development in the Peninsula rather than s94.
- 11) Monitor the development of the biobanking framework closely in relation to the potential for biobanking credits to be earned from some of the subject land.

STRATEGIC COMMITTEE – 4 NOVEMBER 2008**RECOMMENDATION:**

Councillor John Nell Councillor Sally Dover	That the recommendation be adopted.
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Councillor Daniel Maher left the meeting at 6.48pm.

In accordance with the Environmental Planning & Assessment Act, a division is required.

Those for the motion:

Clrs Nell, Westbury, Maher, Jordan, Dover, O'Brien, Ward, Francis, MacKenzie, Dingle and Tucker.

Those against the motion: Nil.

Councillor Daniel Maher returned to the meeting at 6.55pm

ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

	Councillor John Nell Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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AMENDMENT:

348	Councillor Bruce MacKenzie Councillor Bob Westbury	It was resolved that 4. Council resolve to: 5. Site 3 – Soldiers Point Road, Soldiers Point (Lot 1 DP
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		<p>263269): include the southern portion of Lot 600 DP 27382 in the investigations for rezoning from 6(a) General Recreation to 4(a) Industrial and reclassification to Operational Land.</p> <p>6. Site 4 – Stoney Ridge Reserve (Lot 51 DP 803471): rezone Part Lot 51 DP 803471, in accordance with the Notice of Motion issued at its meeting of 27 June 2006, from 6(a) General Recreation to 7(a) Environmental Protection.</p> <p>7. rezone the wildlife corridor on Lot 3 DP 791551 and Lot 164 DP 27047 from 6(a) General Recreation to 7(a) Environmental Protection.</p> <p>8. Site 7 – Diemars Quarry (Part Lot 51 DP 803471): rezone the Quarry site (Part Lot 51 DP 803471) for urban purposes and reclassify to operational. This rezoning is to include investigation of Lot 56 DP 618505 and Lot 54 DP 260211 (privately owned land) to a more appropriate open space/environmental zone.</p> <p>9. Site 8 – 22 Homestead Street, Salamander Bay (Lot 598 DP 27328): rezone from 6(a) General Recreation to 2(a) Residential and 7(a) Environmental Protection. Investigations are to include the triangular piece of land to the immediate north, which forms part of the south/eastern boundary of Stoney Ridge Reserve (Site 7).</p> <p>10. Review the potential application of S94A to infill residential development in the Peninsula rather than s94.</p> <p>11. Monitor the development of the Biobanking framework</p>
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		<p>closely in relation to the potential for biobanking credits to be earned from some of the subject land.</p> <p>12. Council note:</p> <p>13. Site 1 - 100 Salamander Way, Salamander Bay (Lot 1 DP 1044009) is currently being investigated for rezoning and reclassification.</p> <p>14. Site 2- 360 Soldiers Point Road, Soldiers Point (Lots 1-4 DP 111773): the possible redesign and future use of this land is currently being investigated.</p> <p>15. Site 3 – 314 Soldiers Point Road, Soldiers Point (Lot 1 DP 263269): Council note previous resolution to reclassify this land is being actioned.</p> <p>16. Site 5 – 8 Fleet Street (Lot 2 DP 791551): Council note previous resolution of 27 June 2006 to rezone Part Lot 2 DP 791551, not including the 2(a) zoned land) from 6(a) General Recreation to 7(a) Environmental Protection and reclassify this part of the land from Operational to Community.</p> <p>17. Site 6 – 9BDiemars road, Soldiers Point (Lot 644 DP 658258): Council note further investigation of this land be held in abeyance pending adoption of the draft Foreshore Management Plan.</p> <p>18. Site 9 – 14 Taylors Road, Taylors Beach (Lot 636 DP 27628): Council note further investigation of this land be held in abeyance, pending the outcome of investigations into the land to the north of this site.</p>
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		With the exception of Site 8.
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The amendment on being put became the motion, which was put and carried.

In accordance with the Local Government Act 1993, a division is required for this item.

Those for the motion:

Clrs Westbury, Maher, Jordan, Dover, O'Brien, Ward, Francis, Kafer, MacKenzie, Dingle and Tucker.

Those against the motion: Cr Nell.

BACKGROUND

The purpose of this report is to recommend the strategic planning directions for certain Council owned public lands in the Salamander Bay/Soldiers Point/Taylors Beach area to Council as the local planning authority for its consideration. These strategic directions have been largely derived from the report Strategic Overview – Council Owned Lands at Salamander/Soldiers Point prepared for Council by consultant, Strategy Hunter.

Council's Facilities and Services Group and Commercial Services Group – representing Council as a land owner - have identified nine parcels of Council owned land in the western side of the Tomaree Peninsula that they are seeking to rezone and/or reclassify to allow opportunity to consider a range of future development opportunities. It should be noted that a number of these site have already been subject to Council resolution to rezone or reclassify as stated in the recommendations of this report.

In response, Council's Sustainable Planning Group – representing Council as the local planning authority – commissioned a consultant, Strategy Hunter to strategically review the economic, environmental and social values of these nine parcels of land within the Salamander Bay/Soldiers Point/Taylors Beach area and make recommendations to Council on the planning issues and opportunities for each parcel of land (Attachment 2). The recommendations of the Strategy Hunter report have been considered in preparing this report and largely form the recommendations of this report to Council.

The details, Strategy Hunter Recommendations and the recommendations of Council's Internal Review Team for each site are as follows:

Site ²	Current zone/ classification	Recommendations of Strategy Hunter	Council Internal Review Team Recommendations ¹
Site 1: 100 Salamander Way, Salamander Bay – Lot 21 DP 1044009	Zoned 1(a) Rural Agriculture, 7(a) Environmental Protection and 6(c) General Recreation. Classified Community.	Progress development options for the land subject to the constraints and considerations identified in the review.	Council has resolved to prepare a draft LEP for this land that has been support by LEP Review Panel. No further action required.
Site 2: 360 Soldiers Point	Zoned 6(a) Open Space,	The development proposal for Stage 1 to be	Revisit Stage 1 with a view to redesigning the

ORDINARY MEETING – 25 NOVEMBER 2008

Road, Soldiers Point – Lots 1-4 DP 111773	2(a) Residential and 1(a) Rural. Classified Operational (2(a) and 1(a) zoned land), Community (waste management and sports field).	re-examined, with a view to ensuring an adequate wildlife corridor, as recommended by Andrews Neil and Ecological Australia. Discuss with relevant Government departments the ongoing management, zoning and ownership of the 1(a) zoned lands.	proposed subdivision to take into account the critical corridor (and appropriate width) that runs along the north/west boundary of Lot 4 DP 1117732. Property Section to undertake this review in conjunction with Environmental Services Section.
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- ¹ Consists of representatives from Facilities & Services, Commercial Services and Sustainable Planning Groups.
² For details and assessment of each site, please refer to the Strategy Hunter report in Attachment 2.

Site	Current zone/ classification	Recommendations of Strategy Hunter	Council Internal Review Team Recommendations
Site 2 (continued)		Undertake further investigation into the environmental importance of the Stage 2 area before determining the future of the land.	It is acknowledged that there are significant environmental constraints associated with Stage 2. However, this area has offset potential.
Site 3: 314 Soldiers Point Rd, Soldiers Point – Lot 1 DP 263269	Zoned 4(a) Industrial. Classified Community.	Reclassify the site (consistent with the 2006 Open Space Consolidation Report) and negotiate the sale of Site 3 to the owners of the adjacent property in George Street. Examine the desirability of rezoning the land in between the two intersections of George Street for light industrial development, pending an assessment of wildlife movement corridors in the area in conjunction with the introduction of traffic management devices to reduce vehicle speeds further.	An existing Council Resolution to reclassify this parcel of land Operational land is being actioned. Investigations are to include the southern portion of Lot 600 DP 27382 that is currently zoned 6(a) General Recreation and is classified as Community Land. These investigations should include gazettal of the road that exists through this land and possible reclassification to Operational Land and 4(a) Industrial General zoning. Investigations will also include the possibility of strengthening the wildlife movement corridor that starts in the northern section of this lot.
Site 4: Stoney Ridge	Zoned 6(a) General Recreation.	With the exception of Diemars Quarry it is considered that Stoney	Council resolved at its meeting of 27 June 2006 to rezone the area known as

ORDINARY MEETING – 25 NOVEMBER 2008

Reserve – Lot 51 DP 803471	Classified Community.	Ridge Reserve should remain community land, and consistent with a recent Council resolution, a more conservation oriented zoning and a Community Land Category of "Natural Area" may be appropriate.	<p>Stoney Ridge, Salamander Bay, Part Lot 51 DP 803471 (the large area up to Diemars Rd) from 6(a) General Recreation to 7(a) Environmental Protection and reclassify the land from Operational to Community. It is noted the subject land is currently Classified as Community Land with a category of "Natural Area", sub-category "Foreshore".</p> <p>The Resolution included rezoning of the wildlife corridor on Lot 3 DP 791551 and Lot 164 DP 27047 from 6(a) General Recreation to 7(a) Environmental Protection.</p>
Site 5: 8 Fleet St - Lot 2 DP 79155	Zoned 2(a) Residential and 6(a) General Recreation. Classified Operational.	<p>Further environmental investigation be undertaken to delineate the urban development potential of the 2(a) land at Site 5.</p> <p>Following the finalisation of the zone boundaries, the 6(a) zoned land be classified as Community Land, Category "Natural Area".</p>	Environmental issues such as a threatened species of orchid and hollow bearing trees on the site require further investigation as part of the rezoning process.
Site 6: 9B Diemars Rd, Soldiers Point – Lot 644 DP 658258	Zoned 4(a) Industrial General. Classified Community.	If it is to be consistent with its policy actions, Council could wait for the finalisation of the Foreshore Management Plan. However, given the nature of this site, the pragmatic course is to seek expressions of interest from adjacent landholders for the purchase or lease of the land, subject to its reclassification to operational land, consistent with the Open Space Consolidation Report.	<p>The draft Foreshore Management Plan recommends retaining Council owned land adjacent to the foreshore for community land. However, this particular parcel of land is landlocked and provides little opportunities for community use.</p> <p>Council should await the adoption of the Foreshore Management Plan prior to any further consideration.</p>
Site 7: Part Lot 51 DP	Zoned 6(a) General	The rezoning of the Quarry Site for urban	Council proceed with the rezoning of the subject land

ORDINARY MEETING – 25 NOVEMBER 2008

803471 – Diemars Quarry	Recreation. Classified Community.	<p>purposes should be pursued. The wildlife corridor should be placed in an appropriate open space/conservation zone.</p> <p>Consider rezoning the vacant privately owned land west of Diemars Quarry to 6(a) Open Space to better reflect the environmental qualities and the emerging land use strategy for the area, including the sanctuary zoning of Cromarty's Bay.</p>	<p>for urban purposes.</p> <p>This rezoning should include investigation of the privately owned land west of Diemars Quarry from 4(a) Industrial General to a more appropriate open space zone.</p>
Site 8: 22 Homestead Street – Lot 598 DP 27382	Zoned 6(a) General Recreation. Classified Operational.	The “cleared area” of Site 8 be rezoned for urban development.	An opportunity exists for development of the cleared area. This will require rezoning of the land (may be split zoned to reflect the different values). Any rezoning should also include a triangular piece of land to the immediate north of the subject land, which forms part of the south/eastern boundary of Stoney Ridge
Site	Current zone/ classification	Recommendations of Strategy Hunter	Council Internal Review Team Recommendations
Site 8 (continued)			Reserve (to the immediate east of Diemars Quarry).
Site 9: 14 Taylor Rd, Taylors Beach – Lot 636 DP 27628	Zoned 2(a) Residential. Classified Operational.	Council take no action on this Site for the time being, instead waiting for increased clarity of the future of the Crown land to the south and for decisions by the owners of private land in the vicinity of Taylors Beach.	<p>Issues include lack of infrastructure (sewer & water) and environmental constraints. Council is currently considering land to the north (Walker Corporation land) for rezoning. Part of that proposal may include the provision of infrastructure to the Taylors Beach Area.</p> <p>It is recommended that no further decisions are made, pending the outcome of land to the north.</p>

General Recommendations by Strategy Hunter regarding Community Facilities & Funding Mechanisms

Recommendation	Comment
Council supplement the Community Facilities Study with additional information and analysis which assesses the condition of the existing facilities, the role of other community facilities providers and the potential for partnerships, as a component of its 10 year forward plan.	Not agreed. Further discussion between Facilities & Services and Sustainable Planning Groups required to clarify current and future community infrastructure issues for this local area.
As the bulk of new development in the Tomaree Peninsula will be infill, Council review the potential application of S94A to infill residential development in the Peninsula rather than S94, particularly in light of reforms to development contributions being progressively announced by the Department of Planning.	Agreed. Recommendation to form part of Council resolution. Council note the intent of the negotiation of a Voluntary Planning Agreement subject to these tasks.
Council monitor the development of the Biobanking framework closely in relation to the potential for biobanking credits to be earned from some of the subject land.	Agreed. Recommendation to form part of Council resolution
Council has the most impact on housing affordability in the LGA through indirect actions, including assisting the supply of housing to meet demand, ensuring planning regulations are not excessive and that approval systems are efficient. Council could consider specific direct interventions relating to the development and disposal of its land such as those described above.	Agreed. Council note that discussions will be held with different agencies regarding some of these sites for housing affordability including the Commonwealth Government's recently amended Housing Affordability Fund.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 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 –

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 report's recommendations will involve Sustainable Planning staff time and resources to administer the rezoning and reclassification process including the need for public hearings as required by legislation.

The commissioning of Strategy Hunter to review the subject lands was jointly funded by Facilities and Services, Commercial Services Group and Sustainable Planning Group.

LEGAL AND POLICY IMPLICATIONS

This report seeks Council resolution to prepare a draft local environmental plan in accordance with section 54 of the Environmental Planning and Assessment Act (1979) to reclassify and/or rezone the subject parcels of land, in accordance with section 30 of the Local Government Act (1993). This process involves firstly, support from the Department of Planning LEP Review Panel and if successful, consultation with state government agencies, public exhibition, a public hearing for those lands proposed to be reclassified, and a report back to council.

There are no legal implications of Council adopting the recommendations of this report.

The recommendations of this report have been prepared on the basis of an assessment of the policy implications of rezoning and/or reclassifying the subject lands by Strategy Hunter. The recommendations of this report are generally consistent with the existing planning policies of Council and the 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 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 culture 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

Property	
Site 1: 100 Salamander Way, Salamander Bay - Lot 21 DP 1044009	Minimal social value. Large area of land to be retained for passive recreation.
Site 2: 360 Soldiers Point Road, Soldiers Point – Lots 1-4 DP 111773	Minimal social value.
Site 3: 314 Soldiers Point Road, Soldiers Point – Lot 1 DP 263269	Minimal social value.
Site 4: Stoney Ridge Reserve – Lot 51 DP 803471	Significant community value for both active and passive recreation.
Site 5: 8 Fleet Street, Salamander Bay - Lot 2 DP 79155	Minimal social value.
Site 6: 9B Diemars Road, Soldiers Point – Lot 644 DP 658258	Inaccessible to the public, limited social value.
Site 7: Part Lot 51 DP 803471 – Diemars Quarry	Limited social value in current form.
Site 8: 22 Homestead Street, Salamander Bay – Lot 598 DP 27382	Well used trails and interpretive walks maintained by Tidy Towns groups
Site 9: 14 Taylors Road, Taylors Beach – Lot 636 DP 27628	To be determined.

ECONOMIC IMPLICATIONS

The economic implications of rezoning and reclassifying the subject lands have been considered against social & environmental implications and are not considered to be significant for the Tomaree Peninsula.

ENVIRONMENTAL IMPLICATIONS

Property	
Site 1: 100 Salamander Way, Salamander Bay - Lot 21 DP 1044009	SEPP 14 Wetlands, Endangered Ecological Communities and Threatened Species recorded on site. Identified as preferred and supplementary Koala habitat (CKPoM). Acid Sulphate Soils. Mosquito issues.
Site 2: 360 Soldiers Point Road, Soldiers Point – Lots 1-4 DP 111773	Critical fauna movement corridor to be retained. Supplementary Koala Habitat (CKPoM). Threatened Species recorded on site. Acid Sulphate Soils. Mosquito issues.
Site 3: 314 Soldiers Point Road, Soldiers Point – Lot 1 DP 263269	Adjacent to Wanda Wetlands. Used Koala feed tree on site.
Site 4: Stoney Ridge Reserve – Lot 51 DP 803471	Extremely important refuge area for local flora/fauna. 2 known endangered species and 16 threatened species occurring on site with a further 26 threatened species likely to occur. 2 known Endangered Ecological Communities on site. High numbers of hollow bearing trees on site. Preferred and supplementary Koala habitat (CKPoM)
Site 5: 8 Fleet Street, Salamander Bay - Lot 2 DP 79155	Preferred and supplementary Koala habitat (CKPoM). High numbers of hollow bearing trees. Threatened Species on site. Endangered Ecological Community on site. State listed historic fig tree on site. Remnants of historic dwelling on site. Freshwater perched wetland on site. Mosquito issues
Site 6: 9B Diemars Road, Soldiers Point – Lot 644 DP 658258	Adjacent to Marine Park Sanctuary Zone.
Site 7: Part Lot 51 DP 803471 – Diemars Quarry	Critical connectivity of fauna corridor from Stoney Ridge Reserve to southern areas. Adjacent to Marine Park Sanctuary Zone. Remnant of littoral rainforest on site. Significant fig trees on site. Acid Sulphate Soils. Mosquito issues.
Site 8: 22 Homestead Street, Salamander Bay – Lot 598 DP 27382	Essential corridor along western edge that contributes to corridor in Site 7. Preferred Koala habitat (CKPoM). Endangered Ecological Community on site. Endangered Species (2) recorded on site. Threatened Species on site.
Site 9: 14 Taylors Road, Taylors Beach – Lot 636 DP 27628	Supplementary and preferred Koala habitat (CKPoM). 16 known Threatened Species on site. 2 Endangered Species recorded on site. Endangered Ecological Community recorded on site. High numbers of hollow bearing trees and >200 yr old Blackbutt trees on site. Mosquito issues.

CONSULTATION

Consultation was undertaken internally, with a workshop held at Council on 22 July 2008 with Council's Internal Review Team consisting of representatives from Facilities and Services, Commercial Services and Sustainable Planning Groups. Further consultation on the Strategy Hunter report recommendations was undertaken via a joint meeting of these representatives on the 3rd October 2008. The preparation of this report to Council also involved consultation across the three Groups.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan for sites 1 to 9
- 2) Report: Strategic Overview – Council Owned Lands at Salamander/Soldiers Point prepared by Strategy Hunter – **PROVIDED UNDER SEPARATE COVER**

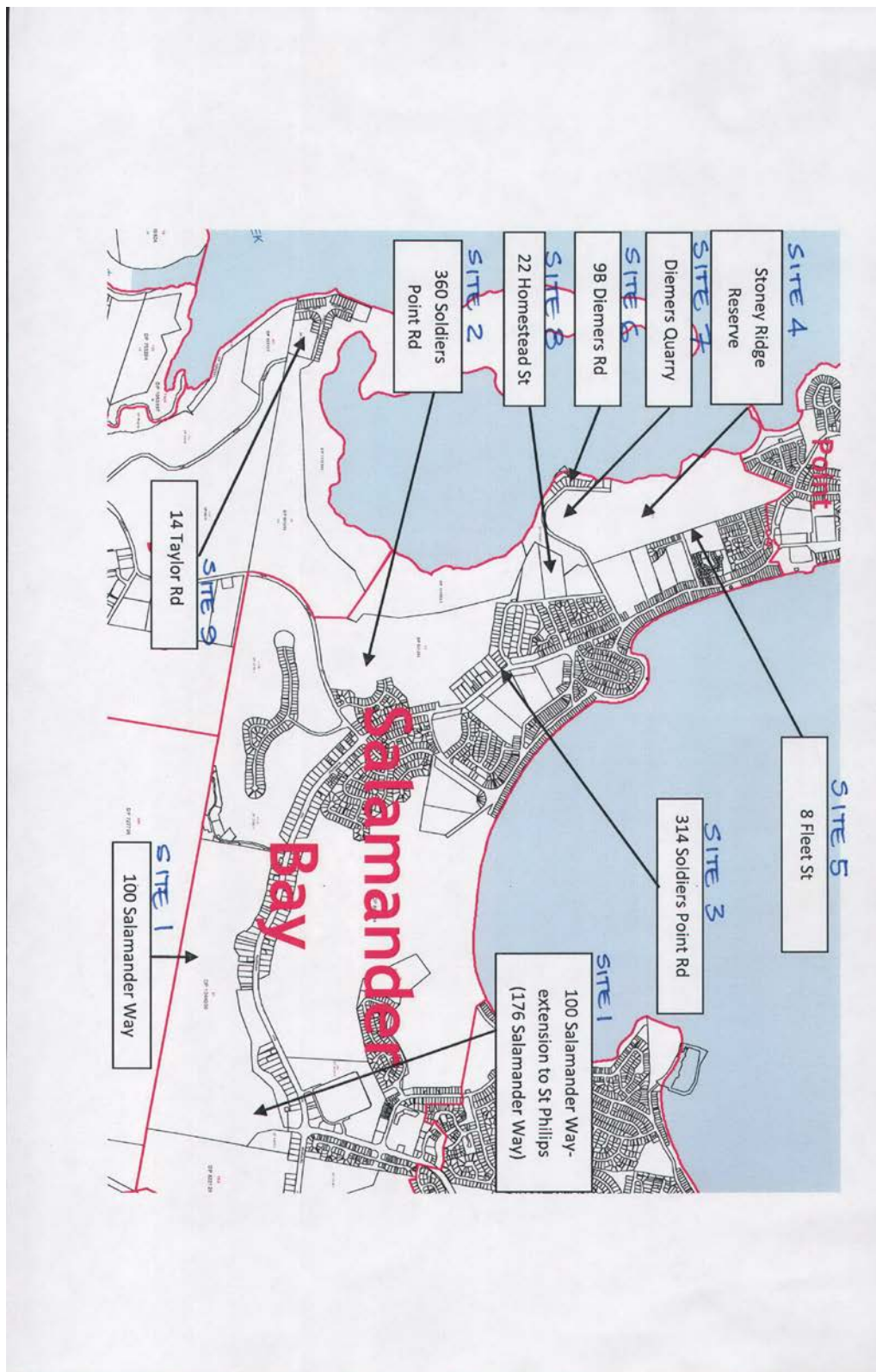
COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1
LOCALITY PLAN FOR SITES 1 TO 9



ATTACHMENT 2

**REPORT: STRATEGIC OVERVIEW – COUNCIL OWNED LANDS AT
SALAMANDER/SOLDIERS POINT PREPARED BY STRATEGY HUNTER**

Provided under separate cover

ITEM NO. 4

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 4TH November 2008.

No: Report Title

Page:

Williamtown Defence and Airport Related Employment Zone

STRATEGIC COMMITTEE – 4 NOVEMBER 2008

RECOMMENDATION:

Councillor Westbury Councillor Bruce MacKenzie	That the recommendation be adopted
---	------------------------------------

ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

349	Councillor John Nell Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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STRATEGIC COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

WILLIAMTOWN DEFENCE AND AIRPORT RELATED EMPLOYMENT ZONE

REPORT OF: DAVID BROYD – GROUP MANAGER SUSTAINABLE PLANNING
FILE: PSC2006-0298

BACKGROUND

The purpose of this report is to provide an update report to the Council meeting on the progress of the Defence and Airport Related Employment Development Zone (DAREZ) at Williamtown as requested at the Ordinary meeting of Council on 22 July 2008.

On the 24th June 2008, Council resolved to:

- 1) *Adopt the Williamtown Defence and Airport Related Employment Zone Land Use Development Strategy to guide future urban development around Williamtown Airport.*
- 2) *Endorse the Draft Local Environmental Plan (LEP) that includes amendment to the internal zone boundaries – zoning the entire subject land SP1 Special Activities – Defence and Airport Related Employment Development (Attachment 1) subject to:*
 - a) *An Agreement being formalised between the Department of Environment and Climate Change and the proponent before the Draft Local Environmental Plan is recommended for endorsement to the NSW Minister for Planning, and*
 - b) *An Agreement being formalised for the preservation of Aboriginal Cultural Heritage – also before the Draft LEP is recommended for endorsement to the NSW Minister for Planning.*
- 3) *Endorse the Draft LEP to be forwarded to the NSW Minister for Planning (under section 70 of the Environmental Planning and Assessment Act 1979) with the inclusion of restaurants as a permissible use.*

The NSW Department of Planning's Lower Hunter Regional Strategy (2006) and Council's Community Settlement and Infrastructure Strategy (2007) identify land in the vicinity of Newcastle Airport/RAAF Base Williamtown as having potential for a specialised defence and airport related employment development zone (DAREZ). A detailed planning strategy for the area, known as the DAREZ Strategy, was subsequently prepared and endorsed by Council to provide a detailed planning

and development framework for the area. It identifies land suitable for rezoning, land for investigation, and establishes the range and type of development that is suitable to achieving the objective of a defence and airport related employment zone.

Council resolved at its meeting on 26th February 2008 to rezone approximately 100 hectares of land for defence and airport related employment at Newcastle Airport/RAAF Base Williamstown (refer to Attachment). The rezoning is referred to as Draft Port Stephens LEP 2000 Amendment No. 29.

In addition to the rezoning under draft Port Stephens LEP 2000 Amendment No.29, on 26th August 2008 Council resolved to investigate rezoning an additional 50 hectares of land to SP1 Special Activities – Defence and Airport Related Employment Development.

The progress of these matters is outlined below.

DRAFT PORT STEPHENS LEP 2000 AMENDMENT NO. 29

To progress the draft LEP in accordance with Council's Resolution, a meeting took place on the 19th September 2008 at the Newcastle Office of the Department of Premier and Cabinet to resolve the issues of Aboriginal cultural heritage and biodiversity offsets. Representatives of that Department, Hunterland, Council, the Department of Environment Conservation and Climate Change (DECC) and the Department of Planning (DoP) were present. It was agreed between the parties that Hunterland and DECC would enter into a Deed of Agreement to resolve the biodiversity offset issue. It was also agreed that Hunterland has made application to DECC under s87/90 of the National Parks and Wildlife Act 1974 for the management of Aboriginal heritage on the site, and approval of the same should not be a pre-requisite to progressing the draft LEP.

It should be noted that the DoP have agreed to accept the draft LEP on this basis, and will forward it to the Minister for Planning once a Deed of Agreement has been made between DECC and Hunterland.

It is considered that the above arrangements meet the intent of Council's Resolution made on 24th June 2008. Accordingly, the matter was reported to the General Manager recommending that 2(a) and 2(b) of Council's Resolution on 24th June 2008 be removed. On 23rd September 2008 the Mayor endorsed the amended Resolution and the draft LEP was forwarded to the DoP on 26th September 2008.

REMAINING LAND IN THE DAREZ STRATEGY

On 26th August 2008 Council resolved to:

- 1) *Investigate rezoning the remainder of land under the DAREZ Strategy...to SP1 Special Activities – Defence and Airport Related Employment Development subject to:*
 - a. *Further information being provided by the proponents to address flooding, geotechnical and biodiversity issues, as identified in this report, that demonstrates satisfactory resolution of these constraints;*
 - b. *Council seeking independent advice on the economic impacts of rezoning the subject lands upon the staging and implementation of "High, Medium and Low Proximity" land identified in the DAREZ Strategy and Draft Port Stephens LEP 2000 Amendment No. 29 that Council adopted on the 24th June 2008;*

- c. *Consultation is undertaken with relevant landowners;*
- 2) *Resolve that the results of the investigations and resolution of constraints be reported to Council for further consideration prior to having the matter potentially subject to a resolution under section 54 of the Environmental Planning and Assessment Act 1979 and submitted to the NSW Department of Planning LEP Review Panel.*
- 3) *Acknowledge, and express in principle support for, the inclusion of the additional investigation area zone on the map submitted by Hunterland in Public Access plus Lot 3(i) being included in the DAREZ and for the submissions to be made by the landowners included in this additional investigation area and for Lot 3(i), such submissions to be made to the Project Control Group through the Department of Planning.*

Additional land is identified as “investigation” under the DAREZ Strategy because of significant geotechnical, flooding and drainage constraints. Under the terms of the Resolution the proponents (Hunterland and Buldev) are required to submit further information that demonstrates satisfactory resolution of these constraints. Council staff met with Hunterland and Buldev on the 25th September 2008 to discuss the progress of submitting this further information. The proponents are continuing to undertake investigations and no additional information has been submitted to date.

There are a number of other private landowners within the DAREZ investigation area that will be contacted concerning Council’s Resolution to investigate their land for rezoning. An information session for affected landowners will be held in mid-late October 2008, with the precise date to be confirmed.

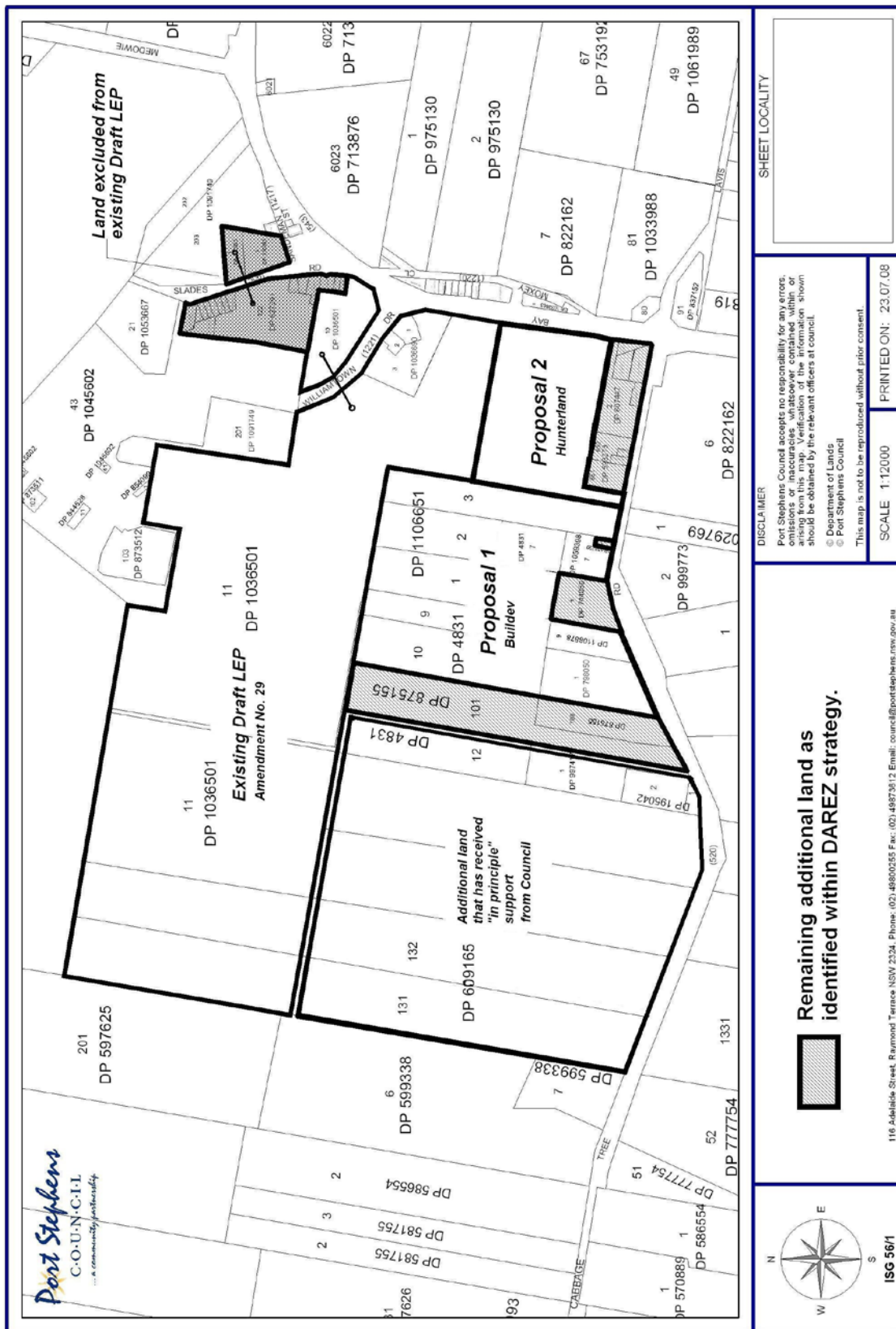
As part of Council’s Resolution to investigate rezoning a further 50 hectares of land identified for “investigation” under the DAREZ Strategy, it was resolved that Council would seek independent advice on the economic impacts of rezoning the additional land upon the staging and implementation of “High, Medium and Low Proximity” land identified in the DAREZ Strategy. A brief to provide that advice has been sent to suitably qualified consultants. The intent is to have the advice received by early November.

Part 3) of the Resolution refers to land that is outside of the adopted DAREZ Strategy. Council staff wrote to the Department of Planning on the 9th September 2008 informing them of Council’s Resolution. A response was received on the 7th October 2008 advising that it is unlikely that a further expansion to the DAREZ would be supported at this stage due to the amount of land already proposed for rezoning and investigation in the DAREZ Strategy. Any other additional land could be considered at a future date as part of a review of the DAREZ Strategy.

ATTACHMENTS

- 1) Status of land within the DAREZ Strategy

ATTACHMENT 1 STATUS OF LAND WITHIN THE DAREZ STRATEGY



GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1

FILE NO: A2004-0169

REVIEW OF THE MAYOR AND GENERAL MANAGER'S DELEGATIONS**REPORT OF: PETER GESLING – GENERAL MANAGER**

RECOMMENDATION IS THAT COUNCIL:

- 1) Delegate the functions as shown in ATTACHMENT 1 to the General Manager; and
 - 2) Delegate the functions as shown in ATTACHMENT 2 to the Mayor.
 - 3) Approve the affixing of the Common Seal to the General Manager's and Mayor's delegations.
-

ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

350	Councillor John Nell Councillor Geoff Dingle	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to review the General Manager's and Mayor's delegation as required in Section 380 of the Local Government Act 1993. The Act requires that Council must review its delegations during the first 12 months of each term of office.

It is recommended that the best approach for the efficient and effective management of Council's day to day operations is to delegate most of Council's functions to the General Manager. This general delegation is then subject to statutory and other exceptions as detailed in the delegation document. The alternative approach is to specify each particular function and any limitation that may it may be subject to. The problem with this approach is that the functions of Council are many and varied and the probability is that something will be missed. The advantage of the general delegation is that it is less likely to be subject to a successful challenge.

In respect of the delegations to the Mayor, the revised delegation is aimed at ensuring the Mayor has adequate authority to carry out his/her statutory function. Council may delegate other functions to the Mayor if it wishes, provided such functions are not restricted by legislation from being delegated.

The delegations for both the General Manager and the Mayor have been reviewed and no changes are proposed.

The reviewed delegation for the General Manager is contained in ATTACHMENT 1 and the Mayor's reviewed delegation is contained in ATTACHMENT 2.

LINKS TO CORPORATE PLANS

The delegations are aimed at helping Council to achieve the governance objective of providing stable and democratic Local Government representing the interests of the local community, acting in the best interests of the community.

The links to the 2008-2012 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

An effective system of delegations is necessary to ensure that Council's operations are carried out with the optimum use of resources. The General Manager will sub-delegate specific functions to appropriate staff to ensure they have the authority to perform their duties effectively and to achieve their performance targets.

LEGAL AND POLICY IMPLICATIONS

Section 355 of the Local Government Act provides that function of a council may, subject to the Act, be exercised:

- by the council by means of the councillors or employees, by its agents or contractors, by financial provision, by the provision of goods, equipment, services, amenities or facilities or by any other means, or
- by a committee of the council , or
- partly or jointly by the council and another person or persons, or
- jointly by the council and another council or councils (including by means of a Voluntary Regional Organisation of Councils of which the councils concerned are members), or
- by a delegate of the council (which may, for example, be a Voluntary Regional Organisation of Councils of which the council is a member).

Under Section 377 of the Local Government Act a Council may, by resolution, delegate to the General Manager or other person or body (not including another employee of the Council) any of the functions of the Council, other than those listed

in Section 377. The General Manager may than sub-delegate any of the functions to any person or body including employees of Council.

All delegations are subject to the requirements of any law as well as any express policy of Council.

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.*
- 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.*
- 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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

- General Manager
- Acting Corporate Services Group Manager
- Executive Officer

OPTIONS

1. Approve the delegations as recommended;
2. Amend the delegations as required;
3. Defer for further consideration.

ATTACHMENTS

1. Reviewed Delegation of the General Manager
2. Reviewed Delegation of the Mayor

TABLED DOCUMENTS

1. Nil

ATTACHMENT 1



INSTRUMENT OF DELEGATION TO THE GENERAL MANAGER

Review Date: 20 June 2000
27 July 2004

STATUTORY FUNCTIONS

The functions of the General Manager are defined in Section 335 of the Local Government Act 1993 as:

335 (1) General responsibilities

The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

(2) Particular functions

The General Manager has the following particular functions:

- the day to day management of the Council;
- to exercise such of the functions of the Council as are delegated by the Council to the General Manager;
- to appoint staff in accordance with an organisation structure and resources approved by Council;
- to direct and dismiss staff;
- to implement the Council's equal employment opportunity management plan.

(3) Further functions

The General Manager has such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.

Section 337 of the Act provides that the General Manager may appoint or dismiss senior staff only after consultation with the Council.

Section 378 of the Local Government Act, 1993, further provides that:

- 27 The General Manager may delegate any of the functions of the General Manager, other than this power of delegation;
2. The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the Council).

Local Government (General) Regulation, 2005 – Clause 209

Particular Responsibilities of the General Manager.

1. The General Manager of a Council must ensure that:-
 - a) the provisions of the Act, the regulations and any other written law relating to Council's financial obligations or the keeping of accounts by Council are complied with; and
 - b) effective measures are taken to secure the effective, efficient and economical management of financial operations within each division of the Council's administration; and
 - c) authorising and recording procedures are established to provide effective control over the Council's assets, liabilities, revenue and expenditure and secure the accuracy of the accounting records, including a proper division of accounting responsibilities among the Council's staff; and
 - d) lines of authority and the responsibilities of members of the Council's staff for related tasks are clearly defined.

The General Manager is also the Responsible Accounting Officer of Council for the purposes of the Regulation unless the General Manager designates a member of staff to be so.

Delegations.

Pursuant to Section 377 of the Local Government Act, 1993, Port Stephens Council hereby delegates the following powers, authorities, duties or functions to the person holding the position of General Manager of Port Stephens Council. These delegations are to be exercised according to:

- the requirements of the Local Government Act, 1993, and Regulations thereunder ;
- the requirements of any other relevant Act, law or regulation;
- any expressed resolution or policy of Port Stephens Council.

Specifically, Council hereby delegates, in accordance with Section 377(1) of the Local Government Act 1993, relating to affixing the Council corporate seal the following:-

To affix the corporate seal of Port Stephens Council to all documents necessary for Port Stephens Council to enter into or be a party to any property or commercial transaction, provided that the transaction has already been authorised by specific resolution of Council.

Pursuant to Clause 14 of the Local Government (Rates and Charges) Regulation, Council delegates the function of writing off rates and charges by the General Manager, to the fixed amount stated in the Council resolution.

These delegations revoke all previous delegations to the General Manager and recognise that certain functions are conferred on the General Manager by the Local Government Act 1993.

1. All powers and functions of Council under the Local Government Act. 1993, and regulations thereunder except:
 - those powers and functions under Section 377 of the Act which cannot be delegated being:-
 - the appointment of a general manager
 - the making of a rate
 - a determination under section 549 as to the levying of a rate
 - the making of a charge
 - the fixing of a fee
 - the borrowing of money
 - the voting of money for expenditure on its works, services or operations
 - the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)
 - the acceptance of tenders which are required under this Act to be invited by the council
 - the adoption of a management plan
 - the adoption of a financial statement included in an annual financial report
 - a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
 - the fixing of an amount or rate for the carrying out by the council of work on private land
 - the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work
 - the review of a determination made by the council , and not by a delegate of the council , of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979
 - the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
 - a decision under section 356 to contribute money or otherwise grant financial assistance to persons
 - the power of the council under section 455 in relation to attendance at meetings
 - the making of an application, or the giving of a notice , to the Governor or Minister
 - this power of delegation
 - any function under this or any other Act that is expressly required to be exercised by resolution of Council

In addition the following functions of Council are excluded from this delegation:

- Adoption of a plan of management for community land;
- The granting of a lease or licence or other estate over community land except where the lease or licence is for a period of less than five (5) years and is consistent with an adopted Plan of Management for the relevant community land;
- Consent to the carrying out of development on community land prescribed by section 47E(1) of the Local Government Act 1993, except developments exempted under Section 47E(2) of the Local Government Act 1993;
- Adoption, amendment or revocation of a local approvals and orders policies;
- Abolition, alteration and naming of Wards (s210 LGA);
- Initiate a proposal to amalgamate or alter boundaries under s218E of the Local Government Act;
- The fixing of annual fees for Councillors and Mayor;
- The determination of the organisation structure and senior staff positions;
- Adoption and amendment of a Code of Meeting Practice (s362/3 LGA)
- Adoption or amendment to Council's Code of Conduct (s440 LGA)
- Sell land for unpaid rates and charges (s713 LGA)
- Any variation to approved expenditure votes except the authority to transfer votes up to a maximum of \$5,000 between Budget components and programs.

2. Powers and Legislative Responsibilities

Authority to exercise all of the functions **conferred or imposed on, or delegated to** the Council pursuant to any law, Act including all by-laws, Ordinances and Regulations or instrument of delegation including but not limited to:

A New Tax System (Goods And Services Tax) Act 1999 (Cth)

Anti-Discrimination Act 1977

Coastal Protection Act 1979

Community Land Development Act 1989

Community Land Management Act 1989

Companion Animals Act, 1997

Contaminated Land Management Act, 1997

Crimes Act 1900

Crown Lands Act 1989

Disability Discrimination Act 1992 (Cth)

Disability Services Act 1993

Dividing Fences Act 1991

Dog Act 1966

Dog Regulation 1981

Drainage Act 1939

Environmental Planning & Assessment Act, 1979

Environmental Planning & Assessment Model Provisions 1980

Environmental Planning and Assessment Regulation 1980

Fair Trading Act 1987

Food Act 1989

Food (General) Regulation 1992
Food Production (Safety) Act 1998
Freedom of Information Act 1989
Geographical Names Act 1966
Heritage Act 1977
Impounding Act 1993
Independent Commission Against Corruption Act 1988
Interstate Road Transport Act 1985
Land Acquisition (Just Terms Compensation) Act 1991
Library Act 1939
Local Government Act 1993 and Regulations
Motor Accident Act 1988
Motor Traffic Regulations 1935
National Parks & Wildlife Act 1974
Native Vegetation Conservation Act 1997
Noxious Weeds Act 1974
Noxious Weeds Regulation 1993
Occupational Health & Safety Act, 1988
Ombudsman Act 1974
Ombudsman Amendment (Child Protection And Community Services) Act 1998
Privacy and Personal Information Protection Act 1998
Police Offences Act 1993
Protected Disclosures Act 1994
Protection of the Environment Operations Act 1997
Public Health Act 1991
Public Health Regulation 1991
Public Works Act 1912
Recreation Vehicles (General) Regulation, 1985
Recreation Vehicles Act 1983
Rivers and Foreshores Improvement Act 1948
Roads Act 1993
Rural Fire Act, 1997
Rural Lands Protection Act 1989
State Emergency and Rescue Management Act 1989
State Emergency Services Act and Regulations 1989
State Records Act 1998
Strata Title Act 1973
Summary Offences Act 1988
Swimming Pools Act 1992
Threatened Species Conservation Act 1995
Trade Practices Act 1974 (Cth)
Traffic Act 1909
Transport Administration Act 1988
Unclaimed Money Act 1977
Valuation Act 1916
Valuation Regulation 1991
Waste Minimisation and Management Act 1995
Waste Minimisation and Management Regulation 1996
Workers Compensation Act 1987

The delegation to the General Managers is effective from the date of this Instrument of Delegation as authorised by Council.

The common seal of the Port Stephens
Council

Was hereto affixed pursuant to a Resolution of the

Mayor

Council at its meeting of *

Min *

Councillor

ATTACHMENT 2



INSTRUMENT OF DELEGATION TO THE MAYOR

Review Date: 26 June 2001
27 July 2004

STATUTORY FUNCTIONS

The functions of the Mayor are defined in Section 226 of the Local Government Act 1993 as:

The role of the Mayor is:

- to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council
- to exercise such other functions of the council as the council determines
- to preside at meetings of the council
- to carry out the civic and ceremonial functions of the mayoral office.

Delegations.

Pursuant to Section 377 of the Local Government Act, 1993, Port Stephens Council hereby delegates the following powers, authorities, duties or functions to the person holding the position of Mayor of Port Stephens Council. These delegations are to be exercised according to:

- the requirements of the Local Government Act, 1993, and Regulations thereunder ;
 - the requirements of any other relevant Act, law or regulation;
 - any expressed resolution or policy of Port Stephens Council.
-
- To approve expenditure from the Mayor's Office Component of Council's approved Budget;
 - To authorise the attendance of Councillors at seminars and conferences in accordance with budgetary limitations and Council's Policy on Councillors Reimbursement;
 - To determine who should represent Council at civic, ceremonial and social functions where the Mayor is unable to attend and Council has not determined its representative(s)

- To approve use of the Council Chambers and Councillors Rooms by other persons
- To represent Council to the community generally and to be its spokesperson in accordance with Council's policies and decisions;
- In concurrence with the General Manager, to declare a person a "vexatious complainant" in accordance with Council's Complaints Policy ;
- To approve or refuse public access applications in accordance with Council's policy and Code of Meeting Practice.
- In the cases of emergency, where it is not practical to wait for the next scheduled meeting of Council, to exercise such functions of the Council as is necessary in the situation, except those functions listed under Section 377 of the Local Government Act 1993 and those regulatory functions under Chapter 7 of the Act. This delegation applies only to those functions properly held by the Council and does not extend to the statutory functions of the General Manager under Section 335 of the Local Government Act 1993.
- **To make community awards on the recommendation of the Port Stephens Community Awards Panel and after appropriate consultation with all Councillors.**

Specifically, Council hereby delegates, in accordance with Section 377(1) of the Local Government Act 1993, relating to affixing the Council corporate seal the following:-

To affix the corporate seal of Port Stephens Council to all documents necessary for Port Stephens Council to enter into or be a party to any property or commercial transaction, provided that the transaction has already been authorised by specific resolution of Council.

These delegations revoke all previous delegations to the Mayor.

The delegation to the Mayor is effective from the date of this Instrument of Delegation as authorised by Council.

The common seal of the Port Stephens
Council

Was hereto affixed pursuant to a Resolution of the _____
Councillor

Council at its meeting of * Min * _____
Councillor

NOTE: THIS ITEM WAS DEFERRED TO THE ORDINARY MEETING IN DECEMBER 2008

ITEM NO. 2

FILE NO: A2004-0323

PRESENTATION OF 2007/2008 FINANCIAL REPORTS

REPORT OF: CHRIS BRICE – ACTING FINANCIAL SERVICES MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Present the audited financial reports, together with the Auditor's reports for the year ended 30 June 2008 to the public as a public document at the 25 November 2008 Council Meeting.
- 2) Refer to Council's Auditor for comment, any submissions received within 7 days of this meeting which are in respect of the reports, after which, a report in respect of the submissions be presented to Council for consideration.

ORDINARY MEETING – 25 NOVEMBER 2008

THIS ITEM WAS DEFERRED TO THE ORDINARY MEETING IN DECEMBER 2008

BACKGROUND

The purpose of this report is to advise Council that its external auditor, PriceWaterhouseCoopers, has completed the audit of Council's accounts for the year ended 30 June 2008 and has furnished the necessary audit reports..

In compliance with the Act, copies of the reports will be forwarded to the Department of Local Government and the Australian Bureau of Statistics.

The Act also requires that Council give public notice of its intention to present the financial reports to the public as a public document. Public notice has been given.

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

A complete copy of the financial and audit reports have been forwarded under separate cover.

LEGAL AND POLICY IMPLICATIONS

The presentation to the public of the Financial reports and Auditor's report as a public document and the acceptance and subsequent referral of any submissions, satisfies the requirements of the Local Government Act and Regulations

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Completion of the annual financial statements provide Council with the information needed to assist in prudent financial management and decision making which will have a positive social impact on the community.

ECONOMIC IMPLICATIONS

The annual financial statements provide Council with the information needed to assist in the efficient allocation of resources so that the community benefits from effective decision-making.

ENVIRONMENTAL IMPLICATIONS

The annual financial statements provide Council with the information needed to assist in the effective management of resources which will ensure that sufficient funds are available for Council to meet its environmental responsibilities.

CONSULTATION

PriceWaterhouseCoopers, Council's external auditor, provided advice and guidance on accounting concepts and standards, and changes to the Code of Accounting Practice prior to and during the compilation of the reports and external audit.

OPTIONS

- 1) Accept the recommendations
- 2) Amend the recommendations.

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

- 1) 2008 Annual Financial Reports and Special Schedules

ITEM NO. 3

FILE NO: A2004-0984

PORT STEPHENS COUNCIL CODE OF CONDUCT**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Revoke the previous Code of Conduct dated 27 November 2007 (Min No. 332)
- 2) The new Port Stephens Council Code of Conduct be adopted.

ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

351	Councillor John Nell Councillor Steve Tucker	It was resolved that the recommendation be adopted.
-----	---	---

BACKGROUND

The purpose of this report is to provide Council with the new Port Stephens Council Code of Conduct and feedback on the consultation with the Consultative Committee.

Council at its meeting on the 21st October 2008 resolved to adopt the new Port Stephens Council Code of Conduct subject to consultation with the Consultative Committee.

The new Code of Conduct was tabled with the Consultative Committee on 3 November 2008 with a request from the Committee to provide a definition or “note” as to why the reference to policies and management directives was included in the Code. The Code has been updated to reflect this request under Part1, Section 2 Definitions.

Council is now requested to formally adopt the new Code of Conduct as tabled at this meeting.

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

Councillor training costs have been provided for in the current 2008-09 budget.

LEGAL AND POLICY IMPLICATIONS

It is a requirement under the Local Government Act 1993 for Council to adopt a Code of Conduct.

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.*
- 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.*
- 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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

General Manager
Corporate Services Group Manager
Consultative Committee

OPTIONS

- 1) Adopt the recommendation
- 2) Suggest further options for inclusion

ATTACHMENTS

- 1) Nil

TABLED DOCUMENTS

- 1) The new Port Stephens Code of Conduct

ITEM NO. 4**FILE NO: A2004-0370****MEMBERSHIP OF COMMITTEES & GROUPS****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Nominate a Council delegate to the Mosquito Management Working Group.
- 2) Appoint Councillor Dover as the Council delegate to the Corlette Reserves & Hall 355B Committee.

ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

352	Councillor Bruce MacKenzie Councillor John Nell	It was resolved that the recommendation be adopted and that a nomination from Cr MacKenzie be accepted as a delegate to the Mosquito Management Working Group.
-----	--	--

BACKGROUND

Council at its meeting on 30 September 2008 resolved to appoint Councillors to various 355B Committees and Groups as Council delegates, and to remove those Committees that were no longer in operation.

As a result of the resolution from the meeting the Mosquito Management Working Group was removed and a council delegate was not appointed. Councillors are requested to consider nominating a Councillor for this Group as the Group is still in existence and has an active events program.

Former Councillor Helen Brown chaired this Group in the past as Port Stephens was seen as a highly affected area and Council is proactive in the management of this issue.

Also at the meeting Councillor Dover was appointed as Council's delegate to the Corlette Headland Committee, however the appointment should have applied to the Corlette Reserves & Hall 355B Committee. Council is asked to consider changing Councillor Dover's appointment from the Corlette Headland Committee to the Corlette Reserves & Hall 355B Committee. This would result in Councillor Ward being the remaining Council delegate on the Corlette Headland Committee and both Councillors Ward and Dover being the delegates for the Corlette Reserves & Hall 355B Committee.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 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

Financial and Resource implications are provided for within the existing budget.

LEGAL AND POLICY IMPLICATIONS

Council has a legal obligation under the Local Government Act 1993.

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

General Manager

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject the recommendation.

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 5**FILE NO: PSC2005-5185****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
- a) Hinton Community Hall - \$5000 – Donation towards the renewal of flooring at Hinton Community Hall from West Ward.
 - b) Grahamstown Public School - \$500 – Donation towards leadership program at school from West Ward.
 - c) Brighter Futures Program - \$500 – Donation towards domestic violence forum from West Ward.
 - d) Hunter River High School - \$300 – Donation towards annual students awards from West Ward.
 - e) Karuah Oyster and Timber Festival - \$52 – Donation towards costs to cover hall hire from West Ward.
 - f) Irrawang High School - \$800 – Donation towards contraception kits from West Ward.
 - g) Raymond Terrace Church Lights -\$7455 – Donation toward the purchase of Christmas lights from West Ward.
 - h) Tilligerry Community Centre Committee - \$270 – Donation towards additional rubbish bins for Tilligerry Festival from Central Ward.
-
-

ORDINARY MEETING – 25 NOVEMBER 2008**RESOLUTION:**

353	Councillor Frank Ward Councillor Glenys Francis	It was resolved that the recommendation be adopted.
-----	--	---

-----**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:-

WEST WARD – Crs Maher, Francis, Jordan and Kafer

Hinton Community Hall	Donation towards the renewal of flooring at Hinton Community Hall.	\$5000
Grahamstown Public School	Donation towards leadership program at school	\$500
Brighter Futures Program	Donation towards domestic violence forum.	\$500
Hunter River High School	Donation towards annual students awards.	\$300
Karuah Oyster and Timber Festival	Donation towards costs to cover hall hire	\$52
Irrawang High School	Donation towards contraception kits	\$800
Raymond Terrace Church Lights	Donation toward the purchase of Christmas lights	\$7455

CENTRAL WARD – Crs MacKenzie, Dingle, Tucker & O'Brien

Tilligerry Community Centre Committee	Donation towards additional rubbish bins for Tilligerry Festival	\$270
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LINKS TO CORPORATE PLANS

The Council's Management Plan does not have any program or stated goal or objective for the granting of financial assistance.

FINANCIAL/RESOURCE IMPLICATIONS

Council Ward Funds are the funding source for all financial assistance.

LEGAL AND POLICY IMPLICATIONS

To qualify for assistance under Section 356(1) of the Local Government Act, 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;

- c) applicants do not act for private gain.

The policy has other criteria, but these have no weight as they are not essential. These criteria are:

- a) a guarantee of public acknowledgment of the Council's assistance
- b) the assistance encouraging future financial independence of the recipient
- c) the assistance acting as 'seed' funding with a multiplier effect on the local economy.

Australian Business Excellence Framework

This aligns with the following ABEF Principles. (Please delete what is not applicable)

- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Mayor
Councillors

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

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 6

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 25TH November, 2008.

No:	Report Title	Page:
1	Election Funding & Disclosure Act 1981 – Mayor & Councillors' Obligations for Reporting	51
2.	PETITION – To Stop Illegal access of vehicles onto Birubi and Shelley beaches	55
1.	CONFIDENTIAL INFORMATION PAPER ADVICE ON THE PENDING LEGAL ACTION IN RESPONSE TO UNAUTHORISED SAND EXTRACTION AT 5 ZIRCON LANE, FULLERTON COVE	85

ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

354	Councillor John Nell Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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INFORMATION ITEM NO. 1

**ELECTION FUNDING & DISCLOSURE ACT 1981 – MAYOR &
COUNCILLORS' OBLIGATIONS FOR REPORTING**

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
FILE: A2004-0769

BACKGROUND

The purpose of this report is to inform Councillors of their obligations under the *Election Funding and Disclosure Act 1981*.

Councillors would be aware of the changes to the legislation in the lead up to the 2008 Local Government Election, which require a declaration of political donations received and electoral; expenditure incurred every six months to be made to the Election Funding Authority.

A copy of correspondence received from the Election Funding Authority is shown at ATTACHMENT 1.

ATTACHMENTS

- 1) Correspondence from the Election Funding Authority.

ATTACHMENT 1

22 October 2008



Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

PORT STEPHENS COUNCIL	
27 OCT 2008	
File No.	04-0769
Action by	D. John
Parcel	

Dear Mr Gesling

Election Funding and Disclosure Act 1981 – councillors and mayors obligations for reporting

I write to inform you that we have written to each of the recently elected councillors in your local government area to advise them of their obligations under the *Election Funding and Disclosure Act 1981* with respect to the bi-annual reporting conditions.

A copy of the letter provided to each councillor is enclosed.

You may consider adding this item to a meeting of council to ensure that all councillors have acknowledged that they have received the correspondence and that they are aware of their obligations under the above Act.

There are significant penalties for any councillor who fails to lodge a declaration every six months.

I note that General Managers have no obligation regarding the administration of these provisions. General Managers should not undertake to submit declarations to the Authority on behalf of their councillors.

If you require additional information regarding the funding and disclosure provisions please visit our website at www.efa.nsw.gov.au.

Yours sincerely

A handwritten signature in cursive script that reads 'Colin Barry'.

Colin Barry
Chair



Name
Street
Suburb Postcode

22 October 2008

Dear First Name,

I write to inform you that as a Local Government Councillor in New South Wales, you must comply with the provisions of the *Election Funding and Disclosure Act 1981* ('the Act'). You must submit to the Election Funding Authority ('the Authority') a declaration of political donations received and electoral expenditure incurred every six months. The following information is a guide to your obligations, but it is not a substitute for the law. Further information regarding your obligations is to be found on the Authority's website at www.efa.nsw.gov.au.

Between now and 30 days after the 2012 Local Government Election, you cannot receive political donations or incur electoral expenditure totalling or exceeding \$1,000 unless you have a campaign account and an official agent. 'Electoral expenditure' includes any expenditure of your own private funds on your campaign in the lead-up to the 2012 Election.

If you are required to have an official agent, you may either retain the agent you appointed prior to the recent Local Government Election or appoint a fresh one.

If you wish to appoint a fresh official agent, he or she must complete the prescribed on-line training and assessment available through the Authority's website. If you are endorsed by a Registered Political Party, you may wish to appoint as your official agent "the party agent" of that party.

If you are required to appoint an official agent, the agent is the only person authorised to operate your campaign account, handle the receipt of political donations and make payments for electoral expenditure. You are required to immediately inform the Authority in writing if, at any time, any of the following occur:

- you revoke the appointment of your official agent;
- you appoint a fresh official agent;
- your agent dies; or
- your agent resigns.

The agent is required to make the appropriate disclosures to the Authority. The declaration for the current disclosure period (1 July 2008 to 31 December 2008) must be lodged between 1 January and 25 February 2009. In the event that you have no donations or expenditure to disclose in the current disclosure period, you are nevertheless required to lodge a 'nil' declaration.

Election Funding Authority of New South Wales
Level 25, 201 Kent Street Sydney 2000 GPO Box 832, Sydney 2001 T 02 9290 5999 F 02 9290 5991 1300 135 736 A.B.N 63 203 011 077 www.efa.nsw.gov.au



Your campaign account must be separate from any personal account(s). The official agent must keep a record of all donations and expenses (and loans of or in excess of \$1,000) associated with your campaign. Donations of \$1,000 or more must be receipted to the donor and disclosed to the Authority. This includes multiple donations received from a single source within one financial year which together equal or exceed \$1,000.

Whether or not you are required to appoint an official agent, the total amount of individual 'small donations' (each being of an amount less than \$1,000) must be disclosed to the Authority, as must the total number of persons who made those donations.

Whether or not you are required to appoint an official agent, loans of \$1,000 or more from any source (other than a bank or financial institution) must be disclosed to the Authority. This includes multiple loans received from a single source within each six month period (ending on 30 June and 31 December each year) which together equal or exceed \$1,000.

Donations 'in kind' of office accommodation, vehicles, computers, advertising or other equipment usable in election campaigns and any of which have a value of in excess of \$1,000 are prohibited. Multiple 'in kind' donations received from a single source within one financial year are aggregated for this purpose.

If at any time you are required to appoint an official agent and establish a campaign account, you must maintain these arrangements until the 2012 Local Government Election. These arrangements must be maintained even if you do not receive any political donations or incur any electoral expenditure during a particular six-month period. In the event that you have no donations or expenditure to disclose in a particular six-month period, you are nevertheless required to lodge a 'nil' declaration. If it is necessary for whatever reason to replace your official agent (e.g. because your original agent resigns, dies or their appointment is revoked by you), you must ensure that all relevant records maintained by the original agent are transferred to the new agent.

Please be aware that failure to lodge a disclosure declaration every six months will result in either you or your official agent (as applicable) being in breach of the Act and liable to a penalty of up to \$22,000.

For more information go to the Authority's website www.efa.nsw.gov.au. The handbook and frequently asked questions will answer most of your enquiries.

From now on you should regularly monitor the EFA website for additional information regarding your disclosure obligations.

Yours sincerely

A handwritten signature in black ink, appearing to read 'B. DeCelis'.

Brian DeCelis
Acting Director
Funding and Disclosure

INFORMATION ITEM NO. 2

**PETITION – TO STOP ILLEGAL ACCESS OF VEHICLES ONTO
BIRUBI AND SHELLEY BEACHES**

REPORT OF: PETER GESLING, GENERAL MANAGER
FILE: A2004-0683

BACKGROUND

The purpose of this report is to advise Council of a petition with approximately 330 signatures has been received. The petition states:

We the undersigned want Birubi and Shelley beaches VEHICLE FREE

ATTACHMENT

- 1) Detailed submission.
- 2) Addendum 1 – Petition without signatory pages.
- 3) Addendum 2 – Further letters of concern added to Petition
- 4) Addendum 3 – Photographic extract from AWACS Report No. 93/17
- 5) Addendum 4 – Draft AWACS Report No. 93/17 Recreation Plan for Birubi Beach, Newcastle Bight and Shelley Beach
- 6) Addendum 5 – Photographs of Birubi and Shelley Beaches.

ATTACHMENT 1

SUBMISSION TO PORT STEPHENS COUNCIL

STOP ILLEGAL ACCESS OF VEHICLES ONTO BIRUBI AND SHELLEY BEACHES, ANNA BAY

Three hundred and two residents and users of Birubi and Shelley Beaches enclose a petition to Port Stephens Council demanding action.

What's the Problem?

Vehicles have a designated access to Stockton Beach at Gan Gan Road yet many use the Robinson Reserve boat ramp access illegally and cross Shelley and Birubi Beaches, both popular family beaches.

Vehicles do this because effective enforcement by Council is impossible. The boat ramp access has a long history of unpenalised illegal entry and is used frequently by 4WDs, trikes and motorcycles in an unsafe manner.



302 Residents and Users of Birubi and Shelley Beaches Sign a Petition

"To Port Stephens Council

We the undersigned want Birubi and Shelley beaches VEHICLE FREE"
(see addendum 1)

Signatures were obtained from people using the beach, parents at the Anna Bay primary school, attendees and stallholders at the Anna Bay car boot sale, members of the Salamander Bay gym, members of a local playgroup, customers of the Anna Bay IgA supermarket and the general Anna Bay community.

Of the 302 who signed, 58 took time to make a comment.

- too dangerous and unsafe
- especially motorbikes
- already enough beach to drive on
- keep it safe
- they drive recklessly
- I have small children, I would hate to see mine or another child get hurt
- getting dangerous
- no respect for families with small children
- look after our children
- people are at risk all the time
- ordinance officers do their job!
- tourists avoiding these areas, Anna Bay shops missing out
- I own a 4WD. There is miles of beach to drive on
- this area is forbidden anyway so rangers need to patrol constantly
- must leave our heritage for the future
- a much needed petition, keep beach safe
- vehicles should use Gan Gan entry
- great idea! (twice)
- OK
- great
- good idea
- it's not safe for kids
- No bikes!
- No vehicles (twice)
- no vehicles little Birubi end in summer (8 months)
- not safe for kids
- please
- unsafe
- dog lead free area too further up beach
- I witnessed on Saturday a car in that area. Lucky I was supervising my 4 year old kicking a ball
- enforce the law
- keep our kids safe (three times)
- kids safety! (twice)

- safety for swimmers
- peace
- safety and peace
- no 4WDs on my beach
- urgently
- think of the kids
- pollution – not safe
- recently we were frightened by an 8 year old being taught by his father to drive on Shelley Beach
- dangerous
- other areas to go
- must stop (twice)
- Soon
- leave access for wheelchair, quadriplegic
- safe idea
- cars are not safe with kids
- don't forget the rubbish issue
- clean up the camel droppings
- use the other end, not where kids and families go
- safety for families

and 2 Anna Bay residents, Tina Frary and Kim Blackman, were motivated to write personal accounts of dangerous and upsetting incidents in which their children were threatened by illegal vehicles on the beach (addendum 2).

I personally asked more than 200 people to sign this petition. Only 15 preferred not to sign. There is strong community support for this issue.

History

Shelley Beach used to be rocky, deeper, and suitable for boat launching. Birubi Headland was a rocky impasse which prevented access from Shelley to Stockton Beach. The boat ramp in such conditions was both safe and acceptable to the community.

However sand deposits over the years have transformed Shelley Beach into a flat, sandy bottomed area perfect for family swimming and sunbathing. The access around Birubi Headland is now wide enough for at least two cars.

The Birubi Point Surf Life Saving Club was formally established in 1998 and has grown each year. There are 160 nippers enrolled this season. Crowds on both beaches continue to grow.

There were two vehicle access points onto Shelley Beach. One was closed years ago after a 4WD hit a pedestrian. See report addendum 3.

Information on Shelley Beach Boat Launching Facilities

As previously stated the topography of Shelley Beach used to be suitable for boat launching. However local fishermen tell me that the beach has filled in with sand and the bottom is now quite flat, so that it is generally not preferred. Use of the beach for boat launching has dwindled so that the most generous estimate of usage would be 2-3 times per week when averaged over the year.

The 1993 Recreation Plan for Birubi Point, Newcastle Bight and Shelley Beach (AWACS Report 93/17 Port Stephens Council) refers to "problems associated with recreational usage of the Stockton Beach to Birubi Headland to Shelley Beach study area. These problems have been addressed in the proposed recreational plan."

On page 8 of the document one of these points is "improving beach user safety through the tighter control of boat launching facilities at Shelley Beach as an interim measure. In the longer term, to develop additional open coast launching facilities (such as at Boat Harbour), at which time boat launching operations at Shelley Beach would cease." See addendum 4

Photographic Evidence

See addendum 5. These photographs clearly illustrate the popularity of the beaches and the illegal use of vehicles in restricted areas.

Community Concerned

This is clearly an area of broad community concern. Most signatories were shocked that the situation has been tolerated for so long and were vocal in their eagerness to sign and their enthusiasm for Port Stephens Council to take some action. Some of the older residents were pessimistic about any action being taken. One told me "there had been many attempts to do something about it but nothing ever happened." This is a great opportunity to resolve a potentially tragic situation and to bring goodwill into the Anna Bay community by showing that Port Stephens Council has listened and acted.

Yours faithfully



Annie Laurence
21a Robinson Street
Anna Bay NSW 2316
0410 511875

Addendums

- 1 Petition signatures
- 2 Personal account letters from two Anna Bay residents
- 3 Beach access closure photo from 1993 report
- 4 Excerpt from Recreation Plan for Birubi Point, Newcastle Bight and Shelley Beach
- 5 Photographs

Page 5 of 5
Submission to Port Stephens Council
October 2008

ATTACHMENT 2

Addendum 1

PETITION

KEEP VEHICLES OFF BIRUBI!

keep our family beaches safe

To Port Stephens Council
We the undersigned want Birubi and Shelley beaches
VEHICLE FREE



ATTACHMENT 3

To Annie Laurence
2008

10th October

I am a local that has live in Anna Bay for 3 years with my 3 children aged 4,11 and 14 years. We are regulars to Birubi beach. I am very concerned at the amount of Vehicles using the playground end of Birubi Beach to access it.

I was at the beach with my family last summer and was concerned about the amount of four wheel drives along that section.. My daughter was playing with another little girl up on the soft sand, I thought it would be safer down near the water, to my horror a vehicle came in from the inside and almost hit both children. I was offcourse shocked and very upset. I am also concerned as a lot of visitors to the area are unaware of these vehicles. Thank you for taking interest in this serious matter.

Yours truly



Tina Frary

Addendum 2

Dear Annie,

I would like to make further comment in regard to your petition in regards to "Vehicles on Birubi Beach."

One lovely hot afternoon my family and I decided to spend some quality time together. After enjoying an icecream and milkshakes at the Blue Juice Cafe we went for a play, and kicked the ball along the beach. My husband and I stopped for a brief chat. Luckily I still had one eye on my four year old boy, as I noticed a 4WD coming in our direction. I quickly moved towards my son and ensured he was out of harms way and then called out to the driver of the car. "You are not allowed in this section of the beach," to his reply was, "There's no signs!"

Luckily for me I am a parent to my

children, as this could have been or turned into a tragedy for my child being run over. Some action needs to be taken to stop cars entering into this area. The public deserves the right to enjoy time with their family without having to be on edge, or be concerned of vehicles present on the beach in that area.

Regards

Kim Blackman
19 Lanting Pl,
Anna Bay, NSW 2316

ph: 49819076



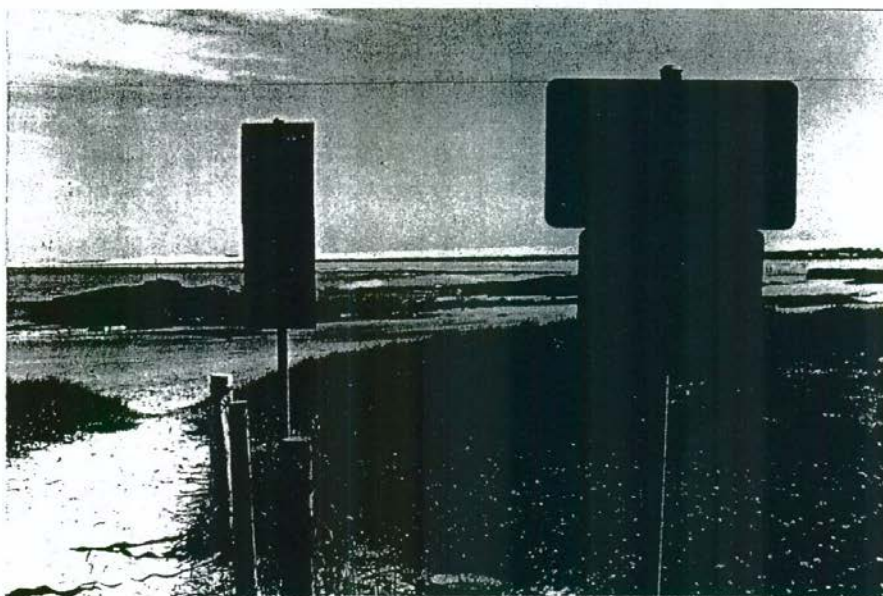
ATTACHMENT 4

Addendum 3



Photograph 17 Shelley Beach southern end (looking north-east)

The dune paddocks at Shelley Beach are partitioned with log and wire fencing. Much of the wire fencing has deteriorated to an extent that it needs replacing. The board and chain walkways are in a good condition. As shown, much of the vegetation comprises patches of Bitou Bush between which there is erosion of the sand by wind. (Photograph taken 6/4/93).



Photograph 18 Shelley Beach northern access way (looking south-west)

Sign issues a warning that Shelley Beach is not patrolled. SLSC services are proposed for the area with facilities to be based at Birubi headland. Several years ago the track shown (lower left of photograph) was a beach access for vehicles. However, following an incident where a 4WD hit a pedestrian the track was narrowed to exclude vehicles. (Photograph taken 6/4/93).

ATTACHMENT 5

Addendum 4



**Recreation Plan for
Birubi Point, Newcastle Bight
and Shelley Beach**



AWACS Report 93/17
November 1993

PORT STEPHENS
COUNCIL

PUBLIC WORKS
DEPARTMENT

RECREATION PLAN FOR BIRUBI POINT,
NEWCASTLE BIGHT AND SHELLEY BEACH

AWACS Report 93/17

November 1993

AWACS REPORT 93/17

6.

Summary

This report presents a recreation plan for Stockton Beach to Birubi Headland to Shelley Beach. The primary aim of the plan is to provide a strategy to optimise the recreational use of the area while also maintaining, and where possible enhancing, environmental safeguards.

The study commenced in February 1993 and has involved:

- the examination of previous documentation;
- the establishment of accurate physiographic information on the study area;
- undertaking a survey/appraisal of vegetation present in the study area;
- site visits, consultations and meetings; and
- the formulation and detailing of the recreation plan.

As a pre-requisite to formulating a recreation management strategy for specific areas, detailed examinations were undertaken of the site characteristics and problems impacting specifically on recreational activities in the study area. The examinations focussed on two main areas, namely, Lavis Lane to Boyces Track and Birubi Headland to Shelley Beach.

The examinations highlighted some very worthwhile measures that had recently been implemented. The measures are as follows.

- The provision of good quality access to Stockton dunes from the south as a result of the construction of a roundabout at the junction of Nelson Bay Road and Lavis Lane, and construction of mining service roads at the end of Lavis Lane. These works establish Lavis Lane as the preferred southern access to Stockton dunes.
- Increase the number of vehicle parking spaces with the construction of a lower carpark on the western side of Birubi Headland behind the frontal dune.
- Formalising 4WD access to Stockton Beach eastern end via Gan Gan Road and Birubi Headland and excluding vehicles from an area within 500m of Birubi Headland; thereby creating a passive beach recreation area adjacent to the headland.
- The pursuit of surf life saving facilities for Stockton Beach eastern end and Shelley Beach, and the eventual construction of a Surf Life Saving Club building on Birubi Headland to service the two beach areas.
- The construction of a cycleway between Shelley Beach and Pacific Avenue, and the intended extension of this to Birubi Headland.

Notwithstanding the above, the examinations also highlighted many problems

November 25, 1993
DRAFT

AWACS REPORT 93/17

7.

associated with recreational usage of the Stockton Beach to Birubi Headland to Shelley Beach study area. These problems have been addressed in the proposed recreation plan. The plan is presented in Figure C.1 (2 sheets) and Figure C.2 (6 sheets). The elements of the plan are as follows:

- The formal selection and public awareness of 4WD and RV beach access locations and conditions of entry. This provides for legal beach access at Lavis Lane and Anna Bay and the introduction of a Shire-wide Beach Vehicle Policy.
- Improved facilities for offroad vehicles entering via Lavis Lane, such as the provision of separate parking and beach access for 4WDs and RVs, improvements to dune access tracks, the marking of a preferred route to the beach and adequate signposting.
- Improved marking of the offroad vehicle legal access route from Gan Gan Road and Birubi Point to Stockton Beach.
- Restoration of the foredune adjacent to Birubi Headland and in front of the lower carpark so as to
 - prevent offroad vehicle traffic through this area,
 - allow planting which will provide shade and prevent beach sand being blown into the lower carpark, and
 - provide an extension to the landscaping and facility upgrades proposed for the adjacent headland.
- Formalising the carparking arrangements, increasing the number of car park spaces and rationalising the traffic flow at Birubi Headland and Shelley Beach.
- Providing a site at Birubi Headland for the future construction of a Surf Life Saving Club (SLSC) and integrating the club site with other site improvements to ensure quick, safe access to Stockton Beach eastern end and Shelley Beach.
- Linking the carparks at Birubi Headland and Shelley Beach by a carriageway which is suitable for accommodating an SLSC service vehicle, bicycles and walkers.
- Extension of the cycleway so as to establish a bicycle and walking path from Pacific Avenue to Birubi Headland.
- The staged eradication of pernicious weeds (Bitou Bush) from adjacent to the lower and upper carparks at Birubi Point, Shelley Beach foredune areas, and the eastern headland to Pacific Avenue. Then the stabilisation of these areas with native grasses and shrub species.
- Landscaping and planting throughout the Birubi Headland to Shelley Beach area so as to improve aesthetics and provide natural shade areas.
- Improving pedestrian safety by providing walking routes which skirt around traffic areas and by the rearrangement of playground, picnic and carpark areas at Shelley Beach.

November 25, 1993
D R A F T

AWACS REPORT 93/17

8.

- Improving beach user safety through the tighter control of boat launching facilities at Shelley Beach as an interim measure. In the longer term, to develop additional open coast boat launching facilities (such as at Boat Harbour), at which time boat launching operations at Shelley Beach would cease.
- Endorsement of a Professional Fisherman's Code of Conduct for Port Stephens.
- Provision of toilet facilities, lighting and water at Birubi Headland for current use and in preparation for future construction of the SLSC.
- Inter tidal harvesting of invertebrates to be controlled (especially pippis).

The various construction activities can be staged in accordance with priorities and funding levels. A suggested works program involves four stages of construction.

Stage 1 is estimated to cost \$437 000. It involves:

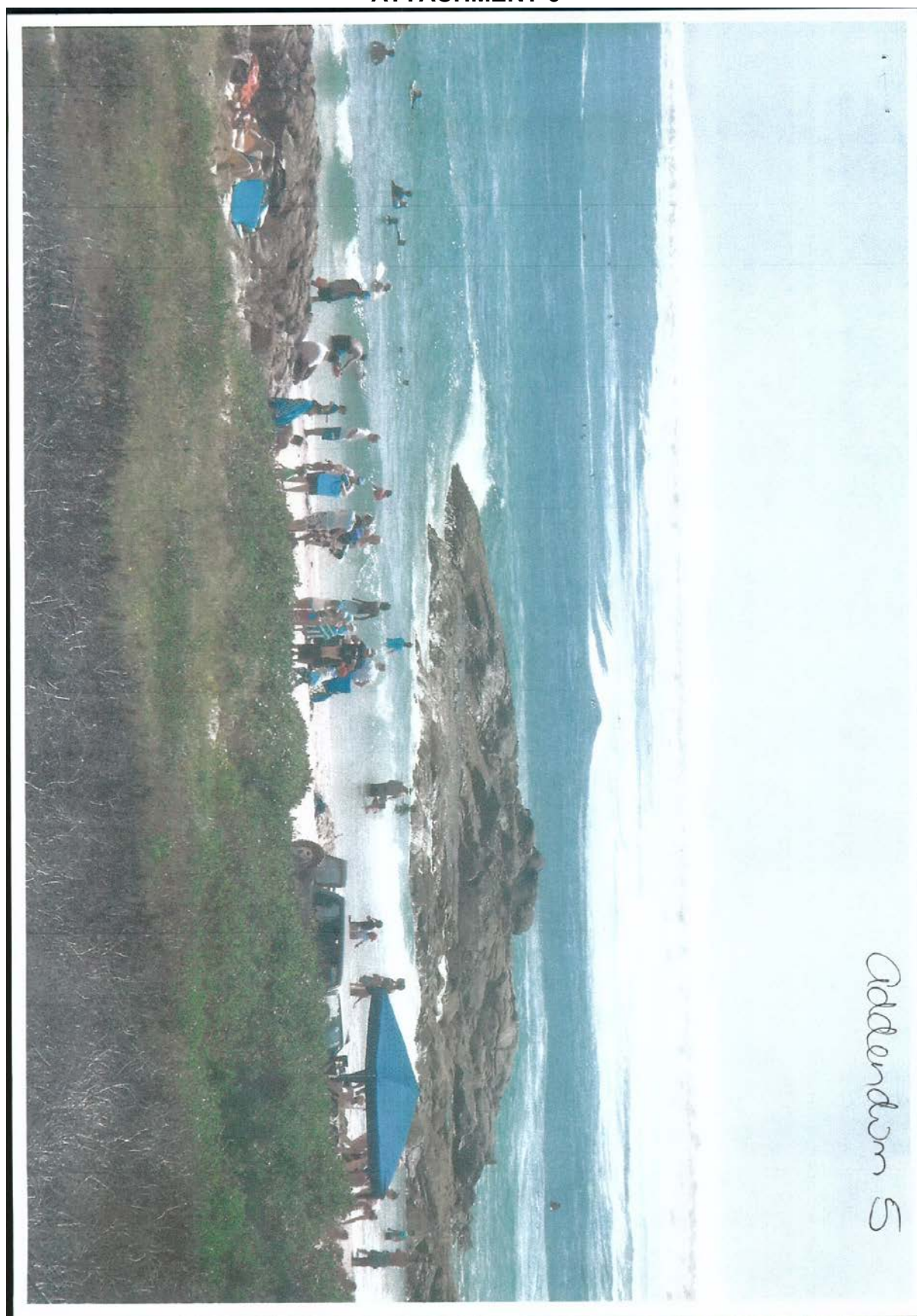
- the upgrading of offroad facilities at Lavis Lane and Anna Bay including improved access tracks and parking and the provision of information signs and poles to guide offroad vehicles along corridors to the beach;
- restoration of the frontal dune adjacent to the western side of Birubi Headland in front of the lower carpark (which accommodates about 40 vehicles – Birubi carpark 1) and planting around this carpark;
- the construction of three carparks on Birubi Headland (Birubi carparks 2, 3 and 4) to accommodate 50 vehicles which, together with the lower carpark near the headland, will then provide 90 formal carpark spaces at this location;
- minor works for Birubi carpark 1 such as road surface grading and repair of log barriers;
- undertaking other works at Birubi Headland including planting around carparks on the headland, construction of a wide path (carriageway) from the headland to Stockton Beach eastern end (for SLSC vehicles and walking access), and the provision of landscaping and picnic facilities around carparks on the headland;
- widening and sealing of James Patterson Drive (JPD) and construction of a 30 vehicle carpark along the western side of JPD, bringing the total formal carparking at Birubi Headland to 120 vehicle spaces; and
- the provision to the site of services (electricity and water) and amenities (toilets and showers).

Stage 2 is estimated to cost \$230 000. It involves:

- relocating the existing playground facilities at Shelley Beach;
- construction of a 106 vehicle carpark at Shelley Beach (Shelley carpark 1);

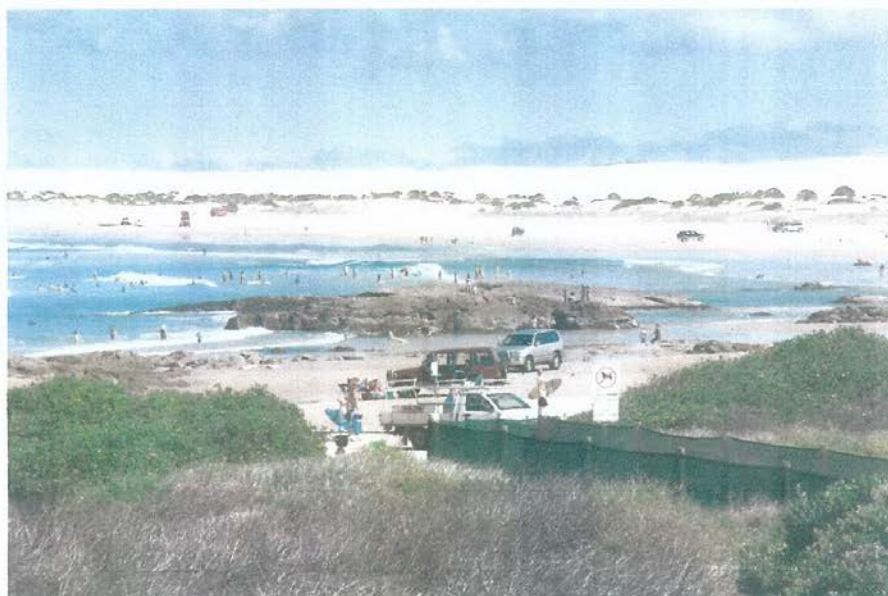
November 25, 1993
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ATTACHMENT 6



Attachment 5









NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217 PSC2007-2680

UTILITY SERVICE PROVIDERS TO CONSULT COUNCIL

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Require Utility Service Providers such as Hunter Water Corporation, Energy Australia, Telstra and others to consult Council about the location and design of structures and see Council approval before commencing construction.
- 2) Seek a explanation from Hunter Water Corporation and Energy Australia about the poor design and location of new structures at Bagnall Beach and Apex Park.

BACKGROUND REPORT OF: DAVID BROYD – GROUP MANAGER, SUSTAINABLE PLANNING

ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

355	Councillor John Nell Councillor Sally Dover	It was resolved that the Notice of Motion be adopted and include requesting painting and planting around the Hunter Water facility on Victoria Parade.
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BACKGROUND

Contact has been made with Hunter Water, Energy Australia and Telstra.

Hunter Water has advised that they do consult with Council (Environmental Services) when they are planning key infrastructure as part of an EIS or REF. They also advise Council of any environmental incidents as part of their wastewater licences with DECC.

Hunter Water does not need to seek Council approval for most of their infrastructure under the model provisions of the EP&A Act, except large above-ground structures.

The other utility service providers are similar in this regard.

Energy Australia and Telstra have not provided a response at this time. It is recommended that letters be drafted to Hunter Water, Energy Australia and Telstra requesting on going consultation with respect utility installations as well as the nomination of contact within the respective organisations should Council require further information on specific issues.

A Memorandum of Understanding with these organisations regarding the aesthetics and location of infrastructure may be an option.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217 + PSC2006-0695

RESTRICTION ON COAL EXPLORATION

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Call upon the Federal and State Resources Ministers Martin Ferguson and Ian Macdonald to restrict the application by Energie Future Pty Ltd to explore for coal in Commonwealth Waters from Wollongong to Newcastle to the period outside whale migration season (May – November).
 - 2) That before mining licences for the highly experimental underground coal gasification (UCG) method be granted, a Special Commission of Inquiry is held, to safeguard the marine environment.
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ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

356	Councillor John Nell Councillor Frank Ward	It was resolved that the Notice of Motion be adopted.
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BACKGROUND REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES

BACKGROUND

Recently, Energie Future Pty Ltd has submitted four applications to explore for coal deposits in the seabed in Commonwealth waters ranging from Wollongong to Port Stephens. The Company is using the experimental mining method of offshore underground coal gasification (UCG). An exploration licence cannot be granted for an area greater than 1,500 km², hence four exploration zones were advertised.

This is the second recent mining exploration licence application for Commonwealth waters off the coast of NSW. The previous case was the Bounty project's oil and gas exploration licence.

The exploration zone application covers almost 6000 square kilometres of ocean about three nautical miles off the NSW coast, running from Wollongong to Port Stephens.

These areas often see large numbers of migratory whales. The risks of oil spills and leaks from construction and operations of the platforms, pipelines, and shipping could be a threat to marine life in this area.

If drilling platforms or offshore processing and handling terminals were eventually built in this zone they would be visible from the shore by the naked eye.

The exploration would initially use seismic testing to search for layers of coal. If found the work would move to core hole drilling to investigate the coal's quality. The effects from seismic testing used in the exploration method could disrupt whale migratory patterns in the area, which would have a direct effect on the tourism industry.

Subsidence is a potential result of the UCG . It has been shown that subsidence can have damaging effects upon surface ecological communities on land . There is little research done regarding the impacts subsidence may have on marine communities.

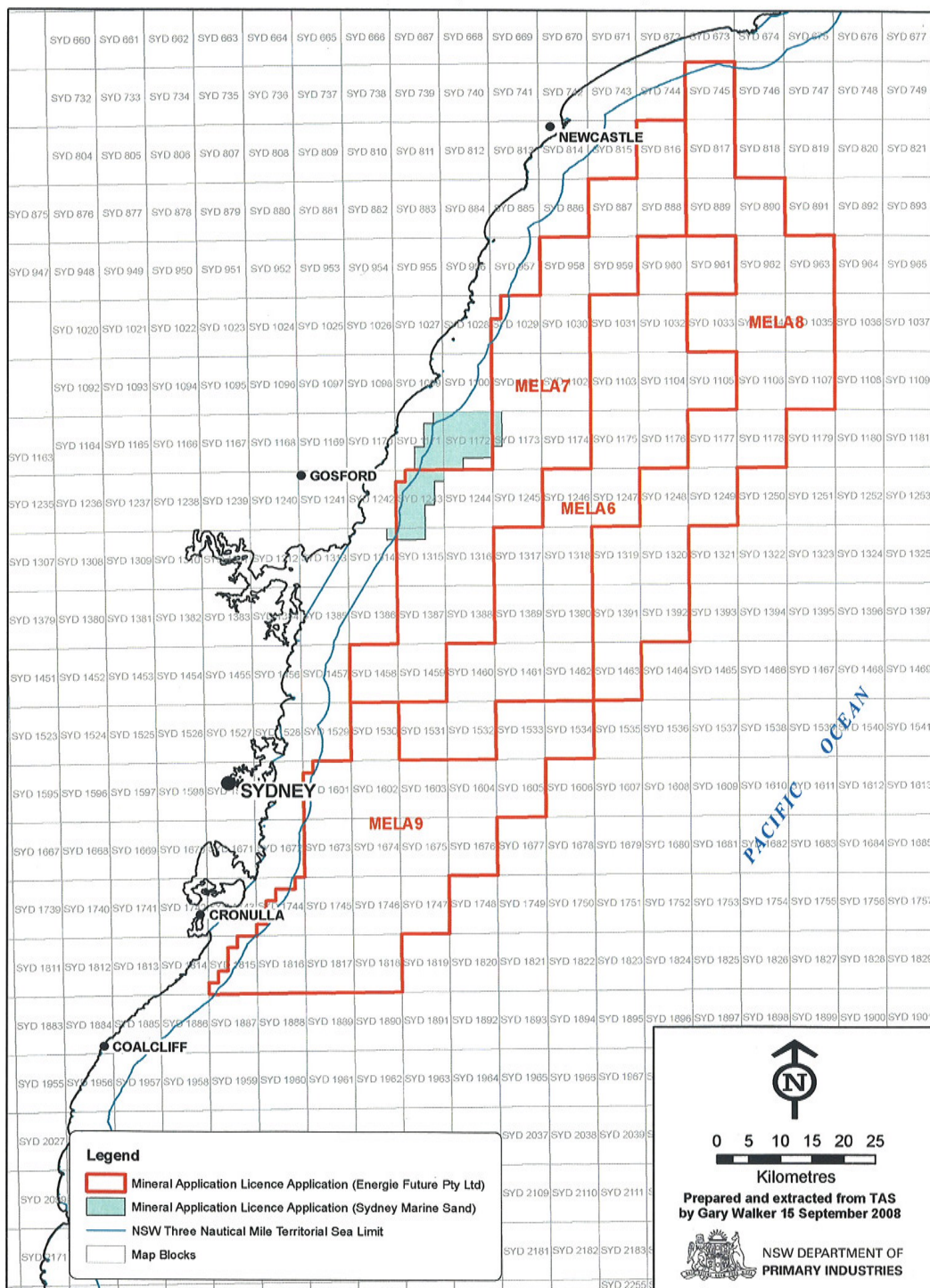
The applications have been lodged with the NSW Department of Primary Industries and seek to explore for coal deposits under the seabed.

The energy company's license application will be considered by the Commonwealth and State Offshore Minerals Authority, which consists of the Commonwealth Minister for Resources, Energy and Tourism and the NSW Minister for Mineral Resources.

The NSW Department of Primary Industries has been given the task of consulting with relevant government agencies and community organisations, with comments or submissions to be received by 31 October 2008.

**MINERAL EXPLORATION LICENCE APPLICATIONS 6 - 9
OFFSHORE MINERAL ACT (COMMONWEALTH) 1994**

DIAGRAM X



NOTICE OF MOTION

ITEM NO. 3

FILE NO: A2004-0217

POLICE CHECKS FOR WORKING WITH CHILDREN

COUNCILLORS: GLENYS FRANCIS, GEOFF DINGLE, PETER KAER

THAT COUNCIL:

- 1) That all Councillors voluntarily agree to having police checks for people working with children. Councillors are often asked to attend small groups and sporting promotions with children. We have a responsibility to the community to undertake these checks as we do with staff.
-

ORDINARY MEETING – 25 NOVEMBER 2008

MOTION:

	Councillor Glenys Francis Councillor Geoff Dingle	That the recommendation be adopted.
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The motion on being put was lost.

NOTICE OF MOTION

ITEM NO. 4

FILE NO: A2004-0217

DA COMPLIANCE FOR WATER SPORTS

COUNCILLORS: JOHN NELL, GLENYS FRANCIS, SALLY DOVER, GEOFF DINGLE, KEN JORDAN

THAT COUNCIL:

- 1) Amend its LEP to enforce DA compliance for water based activities (businesses).

BACKGROUND REPORT OF: ANTHONY RANDALL – ACTING MANAGER
DEVELOPMENT AND BUILDING.

BACKGROUND

Note: The background to this Notice of Motion will be sent under separate cover.

ORDINARY MEETING – 25 NOVEMBER 2008

RESOLUTION:

357	Councillor John Nell Councillor Glenys Francis	It was resolved that the Supplementary Information be noted and the Notice of Motion be adopted.
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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.

Crs Jordan and Maher declared a non-pecuniary interest (non-significant) and left the meeting prior to confidential session and did not return to the meeting.

RESOLUTION:

358	Councillor John Nell Councillor Ken Jordan	It was resolved that Council move into Confidential Session.
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I Certify that all pages of the Ordinary Minutes of Council dated 25th November 2008 were confirmed by Council at its meeting held on 16th December 2008.

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Cr Bruce MacKenzie
MAYOR