

Minutes 22 April 2008



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 22 April 2008, commencing at 5.35pm.

PRESENT:

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

072	Councillor Robinson Councillor Dingle	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 25 th March and 8 th April 2008 be confirmed.
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COMMITTEE RECOMMENDATIONS

The Committees met on the 1st & 8th April, 2008 and make the following recommendations to Council.

COMMITTEE	PRESENT	TIME
Strategic Committee	Councillors Swan, Nell, Tucker, Francis, Robinson, Jordan, Dingle, Westbury, Dover, Hodges & Brown, and Messrs Gesling, Murrell, Triglar & Broyd & Ms Shine Apology: Cr Francis	1 st April, 2008 Commenced: 7.05pm Concluded: 8.30pm
Operations Committee	Councillors Swan, Nell, Tucker, Francis, Robinson, Dingle, Westbury, Dover, Hodges & Brown, and Messrs Gesling, Murrell, Linnane, Broyd & Ms Shine Apology: Cr Jordan	8 th April, 2008 Commenced 6.37pm Concluded 8.35pm

MOTION TO CLOSE

ITEM NO. 1

FILE NO: PSC2008-1100

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGEMENT

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(g) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **GWH Pty Ltd ats Port Stephens Council – proposed liquor shop fit- out at Tanilba Bay – Land and Environment Court Proceedings No. 10133 of 2008**
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning legal proceedings and advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.
- 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.
- 4) That the report and the minutes of the closed part of the meeting remain confidential until the matter is settled.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:

073	Councillor Robinson Councillor Hodges	It was resolved that the recommendation be adopted.
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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2007-2338

DRAFT EXPOSURE BILL – IMPROVING THE NSW PLANNING SYSTEM AND DEVELOPER INFRASTRUCTURE CONTRIBUTIONS

REPORT OF: DAVID BROYD – GROUP MANAGER, SUSTAINABLE PLANNING

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:

074	Councillor Swan	There being no objections it was resolved that the Mayoral Minute be adopted.
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RECOMMENDATION IS THAT COUNCIL:

- 1) Make representation to the Minister of Planning indicating its strong disappointment that planning processes and financial administration imposts onto Councils raised by the Discussion Paper – Improving the NSW Planning System have not been adequately considered and consequently not reflected in the draft Exposure Bill.
- 2) Reaffirm its Resolution of the 5 February 2008, being:
 - A. *That Council endorses the draft submission in response to the NSW Government's Discussion Paper "Improving the NSW Planning System" (Attachment 1) and forward this to the NSW Premier, NSW Minister for Planning, the Director General of the Department of Planning, the NSW Opposition leader, the Shadow Minister for Planning and the President of the Local Government Association and the Local Government Shires Association.*
 - B. *Strongly reaffirm the following responses:*
 - I. *Strong opposition to the establishment of Joint Regional Planning Panels to determine Development Applications of a value in excess of \$50M;*
 - II. *Strong opposition to the increasing centralisation of planning responsibilities of the State Government in various forms in both plan making and development assessment;*
 - C. *The crucial need for neighbours to have the opportunity to make submissions on Development Applications for single dwellings and other "minor developments"*
 - D. *Support the view that private certifiers should only be able to make submissions of certificates to Councils and for Councils to be the final determining authorities.*
 - E. *That Council emphasise the need for a more "whole of government" approach to Planning Reform including the necessity for the NSW Department of Planning and NSW Department of Local Government to integrate their individual approaches contained in NSW Planning Reform and*

the integrated Planning Reform Framework. Further that relevant linkage to the State Plan be considered.

F. That Council endorse the recommendation of Hunter Councils and the resolution of the LGMA Forum.

- 3) Request that further consultation occur to allow more effective consideration of improving the NSW Planning System and its efficient implementation by local governments across NSW.
- 4) Reaffirm its Resolution of the 12 February 2008, being:
- a. Supports the actions of the Presidents and Executive of the Local Government and Shires and Shires Association in mounting a campaign on the NSW Government's proposed planning changes including both the issues of Section 94 developer contributions and the recommendations in the Government's Discussion Paper – and preparing an alternative reform package as a base for discussion with the government, councils, stakeholders and the community;*
 - b. Advise the NSW Minister for Planning and the Presidents of the Local Government & Shires Association that it will concur with the position of the Associations and refuse to cooperate with the NSW Government if requested to transfer Section 94 funds held in trust by the Council to the Government;*
 - c. Give endorsement to making a contribution to the Local Government and Shires Associations towards the cost of engaging lobbying and media representatives to formulate and assist with the implementation of a continuing publicity campaign and*
 - d. Endorse the recommendations of the Group Manager, Sustainable Planning contained in the attached report (Attachment 2).*

BACKGROUND

The purpose of this report is to provide details of the draft exposure Bill released by the State Government on the 3 April 2008 following consideration of submissions to the "Discussion Paper – Improving the NSW Planning System." The draft Exposure Bill also includes proposed new provisions for Infrastructure Contributions. Public comment on the draft Exposure Bill will conclude on the 24 April 2008.

On 3 December 2007, the NSW Minister for Planning formally released the Discussion Paper "Improving the NSW Planning System". The Discussion Paper focussed upon regulatory reform and contained the following sections:

- Changing Land Use and Plan Making
- Development Assessment and Review
- Exempt & Complying Development
- e-Planning
- Building and Subdivision Certification
- Strata Management Reform
- Resolving Paper Subdivisions

At the meeting of the 5 February 2008 Council resolved to:

- 1) Endorse the draft submission in response to the NSW Government's Discussion Paper "Improving the NSW Planning System" (Attachment 1) and forward this to the NSW Premier, NSW Minister for Planning, the Director General of the Department of Planning, the NSW Opposition leader, the Shadow Minister for Planning and the President of the Local Government Association and the Local Government Shires Association.
- 2) Strongly reaffirm the following responses:
 - a) Strong opposition to the establishment of Joint Regional Planning Panels to determine Development Applications of a value in excess of \$50M;
 - b) Strong opposition to the increasing centralisation of planning responsibilities of the State Government in various forms in both plan making and development assessment;
- 3) The crucial need for neighbours to have the opportunity to make submissions on Development Applications for single dwellings and other "minor developments"
- 4) Support the view that private certifiers should only be able to make submissions of certificates to Councils and for Councils to be the final determining authorities.
- 5) Delegate to the General Manager to make changes to format and presentation as seen as appropriate before forwarding the submission – without changing the substance of the submission in any way.

Essentially, the draft Bill proposes very little change from what was originally stated in the Discussion Paper. As a result there are still significant adverse implications for Council. A Copy of Council's submission is at Attachment 1. Council's submission does endorse the need for reform in the planning system, however, the details as outlined in the draft Exposure Bill will actually increase the complexity of an already very complicated system.

LINKS TO CORPORATE PLANS

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

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

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

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

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

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

FINANCIAL/RESOURCE IMPLICATIONS

Development Applications and Plan Making

The draft Bill requires Council to cover the cost of the:

- Planning Assessment Commission which will take over 80% of applications currently determined by the Minister under Part 3A of the Environmental Planning and Assessment Act.
- Joint Regional Planning Panels – consent authority for specific classes of regional development as listed in a State Environmental Planning Policy – designated development, nominated development over \$5 million such as private hospitals, residential/commercial/retail development over \$50 million.
- Independent Hearing and Assessment Panels – to assess an aspect or particular planning matter
- Planning Arbitrators – limited to minor development such as residential development under \$1 million.

Extract from draft Bill

Recovery of certain costs

- (1) A Council is to pay to the Director-General out of the Council's consolidated fund:
- (a) the remuneration, costs and expenses of the Commission in respect of the exercise of any functions of a consent authority involving development on land within the area of the Council, and
- (b) any other costs relating to the provision of services to the Commission by the Department in respect of the exercise of any such functions.
- (2) The Councils for an area or part of an area situated in a part of the State for which a regional panel has been appointed are to pay to the Director-General, out of the Councils' consolidated funds, the remuneration, costs and expenses of the panel and of the Department relating to the costs of administration of the panel.
- (3) A Council is to pay out of the Council's consolidated fund the remuneration, costs and expenses of any planning arbitrator in respect of the exercise of functions relating to matters involving development on land within the area of the Council or of any independent hearing and assessment panel established by the Council.

Obligations of Councils to assist Commission, regional panels and planning arbitrators

- (1) The Commission, a regional panel or a planning arbitrator is entitled:
- (a) to have access to, and to make copies of and take extracts from, records of a Council relevant to the exercise of the Commission's, panel's or arbitrator's functions, and
- (b) to the use of the staff and facilities of a relevant Council in order to exercise the Commission's, panel's or arbitrator's functions.
- (2) The general manager of a Council must carry out any reasonable direction of the Commission, a regional panel or a planning arbitrator relating to functions of the Council being exercised by the Commission, panel or arbitrator.
- (3) A member of a Council, or the general manager or other member of staff of a Council, must not obstruct the Commission, a regional panel, a planning arbitrator, a member of the Commission or a panel in the exercise of the Commission's, panel's or arbitrator's functions under this Act.

Section 94 Developer Contributions

The Exposure Bill proposes that only Growth Centre Councils funds (currently North and South West Sector of Sydney) will be held by the State Government.

S94 is now called a “Direct Contribution” while S94A (1% levy) is now an “Indirect Contribution”

Councils may only levy for:

- Local infrastructure including roads, bus infrastructure, parks, sporting, recreational, cultural, civic and social services facilities
- Drainage and stormwater management works,
- Land for any community infrastructure (except land for riparian corridors),
- District infrastructure of the kind referred to above but only if there is a direct connection with the development to which a contribution relates.

A Community Guide advises that such facilities as dog and cat pound facilities, computer upgrades, information rest bays, lookouts and administration buildings cannot be funded by Contributions. It does not appear that Councils may levy for the administration of Contributions.

Existing S94 Contribution Plans will automatically be repealed on:

- 30 June 2009 if the current S94 Plan includes contributions for facilities other than the above, or
- 30 June 2015 if the current S94 Plan only includes the above facilities, or is designated by the Minister as a preserved contributions plan because facilities have been commenced or committed in the 2007/08 financial year.

The State on the other hand may levy for any public amenities and public services, affordable housing, and transport infrastructure, whether local, district or regional. This includes:

- The funding of recurrent expenditure,
- The conservation or enhancement of the natural environment and
- The exercise of any statutory function under this Act, including the carrying out of any research or investigation and the preparation of any report, study or instrument.

Developers may appeal and the courts may disallow or amend a consent issued by a Council requiring a “Direct contribution” (S94). On the other hand a developer cannot appeal against a condition requiring a State Infrastructure contribution.

LEGAL AND POLICY IMPLICATIONS

The main concerns and implications of the changes to the planning system as out lined in the Council report of 5 February 2008 have not changed as a result of Council’s submission. The following is a brief summary:

- a) The need for reform is undeniable. It is a question of “how”, not “if”. The Discussion Paper is more about regulatory reform and administrative process efficiency – not about real planning reform and outcomes.
- b) The reduction of local government planning responsibilities to one that “bites at both ends”, i.e. more Exempt & Complying development open to certification and developments worth more than \$50M going to Joint Regional Planning Panels. This

undermines local government democracy. It also has implications for the political and professional roles in local government and the “job satisfaction” that goes with those roles.

- c) The reduced entitlement for neighbours to comment on single dwellings and minor developments. Much emphasis is put on “Mums and Dads” as applicants, not on “Mums and Dads” as neighbours who have the right to comment upon impacts of proposed developments on lifestyle, property values, privacy, views etc.
- d) Increased role of private certifiers when there is a significant level of distrust, conflict of interest and what the LGSA refers to therefore as an “unworkable system”. It is recommended that Council support the LGSA view that private certifiers submit certificates to Council for determination.
- e) The real fundamental issues lie in the need for State legislation and State/local government practice reform. The NSW Premier, Cabinet and Minister for Planning should commit to a longer term framework reform into which short term reform is made compatible.

Business Excellence Framework

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

These outcomes align with the following Business Excellence principles:-

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

SUSTAINABILITY IMPLICATIONS

The social, economic and environmental implications of the draft Bill are discussed in the Legal and Policy Sections above and in more detail in Attachment 1.

CONSULTATION

As raised in the original report, the lack of consultation with local government and other stake holders is a significant issue. Although this matter was raised with the Department of Planning, the draft Bill is available for comment only between 3 April and 24 April 2008. The matter is further exacerbated by the lack of analyses and rationale for not supporting many of the issues raised by those who lodged submissions.

Following the exhibition period of the Discussion Paper, the Department of Planning engaged consultants to prepare an independent report on submissions received. This report provides details of number of submissions received, identifies sectors of the community who responded i.e. local government, development industry, community groups and provides a summary of the issues raised. However, it does not provide an 'opinion' on the issues raised or recommend any modifications. Further, the Department has not provided any detailed rationale as to why recommended amendments/issues were either supported or dismissed in the preparation of the draft Bill.

OPTIONS

- 1) Council adopt the recommendations
- 2) Council not adopt the recommendations

ATTACHMENTS

- 1) Copy of the Submission to the NSW State Government: Discussion Paper and Summary Paper on Improving the NSW Planning System as adopted by Council on the 5 February 2008.

COUNCILLORS ROOM

- 1) Community Guide prepared by the Department of Planning

TABLED DOCUMENTS

- 1) Preliminary response by the LGSA to the Exposure Draft Bill.

ATTACHMENT 1

SUBMISSION TO THE NSW STATE GOVERNMENT : DISCUSSION PAPER AND
SUMMARY PAPER ON IMPROVING THE NSW PLANNING SYSTEM

PORT STEPHENS COUNCIL

**SUBMISSION TO THE NSW STATE GOVERNMENT :
DISCUSSION PAPER AND SUMMARY PAPER ON
IMPROVING THE NSW PLANNING SYSTEM**

**SUBMISSION TO THE NSW MINISTER FOR PLANNING THE
HON. FRANK SARTOR AND THE DIRECTOR GENERAL,
NSW DEPARTMENT OF PLANNING: MR SAM HADDAD**

5 February 2008

ITEM NO. 1

FILE NO: PSC2007-2338

5 February 2008

1.0 General Comments

- 1.1 Firstly, Council commends the NSW State Government for undertaking significant reform of the NSW Planning System – it is certainly not a debate about ‘if reform is needed’ but “how reform should be initiated and implemented.”
- 1.2 Council respectfully requests the Minister to engage with a Reference Group involving the main stakeholders including the Local Government Association and Shires Association with a view to:
- a) reviewing the report on the submissions received in response to the Discussion Paper
 - b) Adding rigour and detail to many of the recommendations
 - c) Analysing the impacts and implications of the proposals
 - d) Establishing a more collaboratively agreed approach to implement reform by 1 January 2009.
- 1.3. The Premier, Cabinet and the NSW Minister for Planning should commit to a longer term vision of what we want the future planning system to look like and deliver and to be based upon comprehensive reform of a number of pieces of legislation that in combination represent the NSW planning system. The NSW planning system is based upon highly fragmented legislation and therefore practices and accountabilities amongst state government agencies, local government, private certifiers and the development industry generally. The short-term changes should be compatible with this longer-term vision/framework.
- 1.4 The key issues raised by the Discussion Paper and the Summary Paper for this Council and for Local Government can be summarised as:
- a) Significant displacement of local government responsibilities for effective service delivery within the planning system – both politically and professionally. This therefore undermines the operation of local democracy and for the general job satisfaction and pride felt in the planning profession by its practitioners at the local level;
 - b) Increasing centralisation of planning responsibilities, but there is unproven performance by the NSW Department of Planning to replace local government functions. This also means an increasing separation from the planning issues, policy implementation and accountabilities with communities that are impacted.

- c) The Discussion and Summary Papers represent a focus upon regulatory reform and not planning reform. The emphasis is essentially upon administrative efficiency and process, not about planning outcomes which should be the real goal of the profession and the function of planning
 - d) The major lack of consultation with local government during the process of preparing the Discussion Paper and the Summary Paper – this is manifest in the lack of detail and lack of understanding in some of the content of recommendations put forward and indeed is undermining a partnership approach to implementing true and effective planning reform.
 - e) The proposal to enhance the level of private certification which compares with a level of distrust, and demands for higher levels of accountability and accreditation by local government and the community.
 - f) The limited time for consultation and input at this stage in response to the Discussion Paper and Summary Paper further reinforces the effects of lack of consultation with local government in analysing and implementing effective planning reform.
- 1.5 There are five essential principles against which the effectiveness of planning reform should be evaluated:
- a) Sustainability – including the financial and resource sustainability of local government to effectively play its role in planning;
 - b) Integration of development, infrastructure provision and environmental conservation/management in the planning process and in the achievement of outcomes;
 - c) Good governance, i.e. ensuring a positive working relationship between the two levels of government (between the NSW State Government and Councils) in implementing planning reform and achieving good outcomes;
 - d) Climate change – providing clear leadership to this major challenge;
 - e) A clear and efficient system of plan making and approvals that achieves the desired planning and public policy outcomes
- 1.6 The current separation/lack of connection between the Department of Planning's Discussion Paper on Planning Reform and the NSW Department of Local Government's proposals for Integrated Planning Framework is highly detrimental to good reform and should be addressed immediately by coordination between the two State Governments and through the NSW Cabinet.
- 1.7 The inclusion of broader social, cultural, economic, environment and governance outcomes and principles with the planning reform agenda must be focussed upon and as the bases for longer term planning to achieve quality outcomes and as mandatory strategic plans as foundations for Council's new Local Environmental Plans. The LEP is simply a legal instrument to implement good strategic planning which is the prime responsibility of our profession and of State and local government in delivering well in a planning system.

Governance.

1.8 There are significant issues around governance for the NSW Planning system raised by the Discussion Paper:

- a) Increasing centralisation by State Government, much of which is “ad hoc”
- b) Need to clarify respective responsibilities
- c) Increasing adversity of working relationships between State and local government
- d) There is an inequity in that there are no regional plans west of the Divide and so programs are needed to roll out regional strategies for this major part of the State.

The Initiatives/responses to these issues are put forward as:

- Commitment to a longer-term process of legislative change to comprehensively reform the Planning System – and ensuring that the shorter-term changes are compatible;
- Negotiate an Inter-Governmental Agreement to clarify roles and responsibilities of State and Local Government in NSW planning – particularly: criteria for Part 3A,
 - monitoring and implementing regional strategies,
 - more tailored to benefits and equitable allocation of the Planning Reform money,
 - Establish guidelines for Memorandums of Understanding to be negotiated with State Agencies for service delivery on DA referrals and assumed concurrences/deeming provisions.
- Establish Regional Planning Commissions involving relevant State agencies, constituent Councils, interest group representatives etc. to:
 - annually monitor implementation of Regional Strategies
 - integrate State agencies, policies, budgets and delivery of infrastructure for regional settlement patterns
 - be the “LEP Panels” for that region.

2.0 Plan Making

2.1 Council commends the State Government and the NSW Minister for Planning for achieving a NSW State Plan and a number of regional strategies including the locally relevant Lower Hunter Regional Strategy. These should be built upon to:

- a) Establish Regional Commissions comprising of the Regional Director of the relevant Department of Planning Regional Office, representatives of local government, the development industry and interest groups to comprise a Commission for the effective implementation of the regional strategies and their translation into, and connection with, the LEP’s to be prepared by local constituent councils;

- b) To enhance the integration of infrastructure and environmental research constraints and management with the settlement pattern and urban development embodied in those regional strategies;
 - c) To carry out effective monitoring, review and adaptation of the regional strategies over time;
 - d) To generally improve the connections with local strategic planning.
- 2.2 An enhanced integrated planning framework approach by the Department of Local Government and Department of Planning based upon sustainable futures and embodying longer term broader social, economic, environmental, cultural and governance outcomes should be the fundamentals of strategic planning approaches for which the State Government issues guidelines and practice notes.
- 2.3 The Regional Commissions proposed in 2.1 above can play roles in coordinating the connections between regional strategies and local plans and LEP's and better utilise the significant and currently under-utilised depth and strength of professional planning resources in regional offices of the Department of Planning. Also, coordination of State Government agency policy approaches at the regional level can be improved by this means.
- 2.4 Local planning strategies should be mandatory pre-requisites of the preparation of LEP's by Councils.
- 2.5 Inter-regional/State-wide issues and plans need to be given more emphasis, e.g. climate change policies, demographic change and other factors need to be subject of clear policy outcomes at the State level - and with intervention designed to increase the guidance of coastal development and decentralisation relative to infrastructure capacities and delivery, economic development opportunities and environmental constraints and factors.
- 2.6 The standard LEP should be reviewed to be less prescriptive in its content. The State Government needs to recognise the diversity of places that make up Council areas, both as existing and as thought to be created by planning. The Council agrees with a standardised format, but recommends less standardised content in the standard LEP issued by the State Government.
- 2.7 The role and status of Development Control Plans should be clarified and enhanced. Development Control Plans are effective local planning instruments that require formal review by the Council, public exhibition of proposed changes and subsequent reconsideration, modification and adoption by Councils in response to the public exhibition and the comments made. This enables accountable but timely delivery of planning policy changes at the local level. The Exempt & Complying provisions should be in Development Control Plans – and recognising the State Government's desire to have standardised approaches to certain extent the subject of formal review by the Regional Office of the Department of Planning before public exhibition of the DCP's is endorsed.
- 2.8 More detailed comments are made below relative to the recommendations contained in the Discussion Paper.

PLAN MAKING – COMMENTS RELATIVE TO DISCUSSION PAPER RECOMMENDATIONS

Recommendation in NSW Government Discussion Paper	Support (Y/N)	Comments/Implications for PSC
P1 It is proposed is to introduce a new system of plan-making that is better tailored to the scale, risk, and complexity of land use changes, and allows most LEP's to be finalised more quickly. For smaller LEP's, the system is expected to reduce average time of processing time by at least 50 percent.	No	The process for plan making under Part 3 of the Act is straight forward and simple but needs tightening and clarification. However, it is the operation of Part 3 by both levels of government that requires reform. Therefore, don't bring in a new system - refine current system.
P2 A gateway screening system for land use changes would be introduced. This would be carried out prior to any rezoning or LEP being commenced. A rezoning, or LEP, would not proceed if it did not meet certain specified criteria. The criteria would vary according to the risks and scale associated with a rezoning or development proposal, and would apply whether initiated by a council, State agency, or private proponent. Gateway evaluations for large scale proposals would require a whole of government approach, while smaller proposals, or LEP amendments, would be progressively delegated to other authorities. The gateway evaluation could also look at whether a temporary or permanent rezoning was appropriate.	Yes	Criteria should be formally established on how LEP's of differing scales, risks and complexities are to be managed by Councils and organisational arrangements to review the draft LEP before it is endorsed for public exhibition. Criteria for relatively minor LEP's should be strongly stated and sufficiently specific to enable the Director of Planning or equivalent at a local constituent Council to be able to endorse public exhibition as required of such relatively minor LEP's.
P3 When land use changes have been agreed to in principle, the making or amendment of a rezoning or LEP would also be authorised. The LEP (or relevant plan) would then be streamed into different pathways for processing and determination commensurate with risk, scale and sensitivity. For minor land use issues, consideration could be given to expanding those matters that can be dealt with under Section 73A.	Yes	Recognise that we don't need more complexity. Clear line of sight for processes. Panel needs to be based in region and include representatives with Local Government experience
P4 Where land use or plan changes are initiated by a private proponent, an appropriate fee for service would be chargeable to compensate the relevant council or agency for resources required in both gateway reviews and plan-making.	Yes	Majority of rezonings are developer initiated – system needs to recognise why rezonings are attractive to landowners and developers. Fees to be clarified and address land value capture or public benefits relative to the significant private financial benefits that a rezoning generates.

ORDINARY MINUTES – 22 APRIL 2008

P5 Referral to and consultation with State agencies would be required at gateway stage before a plan or LEP is commenced. In areas approved for release, where infrastructure and environmental issues have been addressed, no further referrals should be required. The referral and consultation process for all Plans would be subject to time limits to allow for efficient processing.	Yes	<p>Provided that S.62 of the Act is removed. If additional information required, then agencies consulted again but still at gateway stage.</p> <p>State Agencies and DOP to be geared to provide timely and clear response, and this should be resolved at the gateway stage.</p> <p>Council emphasises the need for cultural change to take place in State government agencies, their management and associated priorities with Council LEP's in responding to this proposal.</p>
<p>P6 A system of accountability for LEPs would be introduced which might include:</p> <p>P6.1 Mandatory timeframes for different stages of the process.</p> <p>P6.2 The ability to refer an outstanding LEP or land use issue to the proposed PAC, or a Joint Regional Planning Panel (JRPP), where timeframes are not being met or finalisation of an LEP has stalled.</p> <p>P6.3 Extending the existing power in the EP&A Act (Section 74) to allow the State to directly amend an LEP where there are issues of State or regional significance.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Despite intentions, Department of Planning doesn't abide with stipulated time frames.</p> <p>Powers and representatives on PAC or JRPP needs clarification.</p> <p>Minister to formally and publicly justify why Minister's powers have been exercised.</p> <p>Need criteria to include exhibition process.</p>
P7 To support the gateway and streaming process the responsibilities of different parties in the plan making process would be better defined to streamline the mechanical elements of plan making, in particular legal drafting. This would include a one stop shop model to operate once a council has exhibited and adopted a policy/land use change for incorporation into an LEP.	No	<p>Have guidelines/templates on written Instrument to reduce surprises post-exhibition.</p> <p>Need for DOP to be advocate for Council rather than be silent and reserving its views until when formally asked.</p> <p>State government agencies should be required to devise criteria and policies that enable increased delegation to local Councils in formulating and implementing LEP's including integrated development assessment.</p>
<p>P8 The Department of Planning should continue to streamline and reduce the number of REP's and SEPP's by:</p> <p>P8.1 Preparing and implementing the regional and subregional strategies.</p> <p>P8.2 Enabling SEPP's to be prepared for</p>	Yes	<p>But removing SEPP numbers and altering the 117 direction numbers is confusing and inefficient.</p> <p>Regional strategies need more detailed and integration with rest of Government Agencies.</p> <p>Remove REP's – irrelevant</p> <p>Stop putting heads of consideration into</p>

<p>issues of regional significance.</p> <p>P8.3 Further consolidation of SEPP's.</p> <p>P8.4 The possible removal of REP's from the plan-making system.</p>		<p>SEPP's for DA's – that's for Section 79C. There should be only 2 locations for planning definitions – in the Act or in the LEP template.</p> <p>The LEP template and an amended Section 74 extending Minister's powers makes SEPP's and REP's unnecessary</p>
<p>P9 The Department of Planning would issue guidelines for different levels of LEP's and DCP's to support a new system that would identify the appropriate content and timeframes of these Plans and non-compliance with State policies such as SEPP 65 would be prevented.</p>	Yes	<p>Need guidelines not only for legal planning but strategic planning for local district and regional scales.</p> <p>The Department needs to significantly increase its experience and skills on development control planning if it is to play a meaningful role in this.</p> <p>The Department should also be placing emphasis on how strategies should be prepared. e.g. content, level of detail etc</p>
<p>P10 The following measurable outcomes are recommended for the changes to plan-making:</p> <p>P10.1 Reduce processing time for LEP's by 50 per cent.</p> <p>P10.2 Reduce the number of SEPP's/REP's by 50 per cent</p>	Yes with qualifications	<p>Need clarification of requirement for 50% reduction.</p> <p>Prudent to determine what SEPPs and REPs are needed first before stipulating a target.</p> <p>Reducing processing time for LEP's is acceptable, but LEP's are not DA's. Document needs to recognise that draft LEPs are policy tools of local government and hence are inherently political. It is inappropriate for a legislated timeframe to be imposed on what is essentially a political process.</p>

3.0 Development Assessment

- 3.1 Part 3A of the Act should be amended to enable a Commission of Inquiry, or alternatively, a Merit of Review Appeal against Ministerial decisions on major development applications and state infrastructure projects.
- 3.2 Section 79 of the Environmental Planning & Assessment Act should be amended to relate to different categories of development and the related matters for consideration.
- 3.3 State government agencies should be required as a matter of priority and by certain dates to prepare policies and criteria that enable delegations to local councils on integrated development applications and local development applications – thereby substantially reducing the referral requirements and delays associated with State Government agency referrals. This includes referrals under integrated development to the Rural Fire Service where land is bushfire prone in terms of mapping required under the Bushfire Protection Act. Building Surveyors and Planners can be accredited through training to exercise such delegations under

certain criteria and to ensure implementation in accordance with the Bushfire Protection Manual.

- 3.4 Review and reform Section 79C and associated sections of the Act so that Statements of Environment Effects are not required for some minor local development applications or for complying development. Assessment reports under certain requirements can be facilitated for preparation by certified practising planners to assist Council processing in validating the professional content and thereby eliminate significant “rework” and checking required. This may involve resolution of accountability and liabilities between the certifying practising planner preparing the assessment report and the Council in making the subsequent determination.
- 3.5 The replacement of Councils in determining development applications of a value in excess of \$50M by joint regional planning panels is strongly opposed. This is undermining local democracy and the role of local government to an unacceptable extent. It also adds another layer and step in the process of determining development applications and has the distinct potential to cause more extensive delays in determination times and therefore go against one of the original intentions of such an initiative. Certain advisory panels, e.g. Design Review Panels, etc. should be encouraged for enhanced use by local councils. In effect, the local planning department is the expert in assessing, recommending and determining local and integrated development applications.



**NSW STATE GOVERNMENT DISCUSSION PAPER ON PLANNING REFORM
RESPONSE TO RECOMMENDATIONS**

CHAPTER 4**DEVELOPMENT ASSESSMENT AND REVIEW**

Recommendation in NSW Government Discussion Paper	Support (Y/N)	Comments/Implications for PSC
A1 A hierarchy of decision making bodies would be established to reflect the differing levels of assessment for State significant, regionally significant, local, minor and complying developments (including reviews) and the degree of the environmental impacts.	No	This recommendation is not supported in large part because the Joint Regional Planning Panel represents another layer replacing professional assessment and decision making that should occur at the local government level.
A2 Currently under Part 3A the Minister cannot delegate determinations to another body. Under this revised scheme, the Minister would delegate the majority of ministerial-level determinations to a new PAC, excluding applications for critical infrastructure and other key projects of State significance.	Yes	This recommendation is supported assuming that Council will provide an advocacy role to the Planning Assessment commission given its pool of local and regional knowledge, however there are staff resourcing issues associated with this.
A3 The new PAC would determine most projects of State significance. The PAC would also be able to conduct public hearings, provide advice to the Minister, and undertake other planning functions as directed by the Minister from time to time, such as a review of outstanding LEPs.	Yes	This recommendation is supported, however clarification is required in relation to the review of outstanding Local Environmental Plans.
A4 The PAC would determine regionally significant projects where the host Council does not have the resources to support a JRPP.	No	This recommendation is not supported. Clarification is sought as to why Council can't assess the application and refer it to the Planning Assessment Commission for determination. Nonetheless, development fees should cover the cost of the Joint Regional Planning Panel.
A5 At a regional level, JRPPs would be established to determine applications of	No	This recommendation is emphatically not supported. Clarification is required at to

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<p>regional significance. These could include applications by State agencies, and other developments exceeding \$50 million in value. JRPPs would be modelled on the current Central Sydney Planning Committee (CSPC) for the City of Sydney, and would comprise three State appointees and two council appointees. These would only be established where Councils have sufficient planning resources to provide proper assessment advice on major applications.</p>		<p>the meaning of “sufficient resources”. Does this relate to skills, expertise, finances? Why \$50M? Under this proposal, only two local government areas would be represented, which would be a problem with the likes of the Mahogany Ridge development which has impacts over three local government areas. It represents another layer in the system and undermines local democracy.</p>
<p>A6 At the local level, Councils could be directed to establish an Independent Hearing and Assessment Panel (IHAP) to deal with certain developments, such as applications seeking a major SEPP 1 variation beyond the existing LEP controls. However, such IHAPs would be advisory only and would be appointed by Councils from an accredited register.</p>	<p>No</p>	<p>This is potentially supported if such panels and the expertise that they provide are at the discretion of the Council. However, the existing Development Assessment Panel delegations and assessment staff enable this already.</p>
<p>A7 For small applications, such as single dwellings and matters worth less than \$1 million in CIV, it is proposed to establish a system of planning arbitrators. These would deal with all Section 82A reviews and deemed refusals for small matters. Planning arbitrators would be appointed by a council from a register accredited by the PAC, or the State. Senior council staff from adjacent or nearby councils may serve as planning arbitrators.</p>	<p>No</p>	<p>This is emphatically not supported and indeed is considered unnecessary given the existing Development Assessment Panel and assessment staff and is not supported.</p>
<p>A8 The role of IHAPs, design review panels and independent advisory panels should be rationalised to remove duplication and ensure consistent and expeditious advice to elected councils. One possibility is to ensure IHAPs contain appropriate design skills.</p>	<p>No</p>	<p>This is not considered necessary and is not supported as existing staff and assessment reviews deal with this already.</p>
<p>A9 The nature and extent of information required for different types of development applications could be mandated. Councils would prepare appropriate guidelines to outline the minimum requirements for plans, reports and studies. The period for councils to reject DAs on the basis of inadequacy</p>	<p>Yes</p>	<p>This is strongly supported. Council already has the appropriate guidelines in place with the Development Application Guide 2006.</p>

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could also be increased from seven to 14 days.		
A10 e-Planning will provide the basis for improved DA lodgement and tracking and would be strongly encouraged. See Chapter 6.	Yes	Clarification is required in relation to the funding for this recommendation, however it is generally supported.
A11 Appeals to the Court would generally be allowed, as is presently the case. However, the need for appeals when the PAC has held public hearings should be reviewed. Small applications subject to local independent review should only proceed to the Court after the matter has been considered and determined by a planning arbitrator. Stricter accountability measures for complying development would be introduced (see Chapter 5), but no appeals would be allowed.	No	This process appears to be less streamlined than the existing process and is not supported. It is recommended that Regional Panels have a role in resolving such disputes – similar to Tribunals in Victoria that have experts who arbitrate in such merit based decision making. This would alleviate the Land & Environment Court significance in determining such “small applications”.
A12 The NSW Government would continue its review of agency referral requirements with a view to reducing unnecessary referrals. Where referral matters have been determined during planmaking, they would generally not be referred again at the development assessment stage. Concurrence and DA referral guidelines would be prepared to streamline the referral process.	Yes	This recommendation is supported, however clarification is required as to the proposed timeframes.
A13 Conditions of development approval would be standardised. One option is to require councils to prepare and publish standard development consent conditions consistent with State guidelines.	Yes (conditional)	This recommendation is supported subject to special development/site specific condition still being available for use.
A14 The current system of development modifications would also be improved. Changes to be considered would include:	Yes	
14.1 Reducing the number of Section 96 modifications that can be approved for a development.	Yes	This recommendation is supported, however clarification is sought as to how many Section 96 modifications will be allowed.
14.2 Allowing councils greater flexibility to re-issue consents under Section 96 if an error is made.	Yes	This recommendation is supported.
14.3 Ensuring that Section 96 modifications are subject to SEPP 1	Yes	This recommendation is supported, however it has been suggested that the

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where relevant.		Department explore the possibility of requiring a new development application in the instance where a variation is sought to a development standard, and not allowing for it to be assessed as a Section 96 modification.
<p>A15 To strengthen assessment accountability it is proposed to introduce a range of 'deemed to comply' periods to better reflect realistic determination times for developments. A scale of the following magnitude has been suggested:</p> <p>15.1 Ten days for complying development.</p> <p>15.2 Twenty days for DAs not requiring exhibition.</p> <p>15.3 Forty days for small scale development.</p> <p>15.4 Sixty days for medium scale development.</p> <p>15.5 Ninety days for development equivalent to designated development.</p>	No	This recommendation is not supported, particularly the deemed to comply provisions. Thresholds need to be defined between small, medium and development equivalent to designated development. Resourcing and supply of assessment professionals would make this problematic.
A16 The current DA fee regime would be reviewed to enable councils to match fees for service.	Yes	This recommendation is strongly supported.
A17 The Department of Planning would issue consultation guidelines, which incorporate community consultation principles and standardised notification procedures. Councils will be able to require applicants to address issues raised during community consultation, as is currently the case with major project applications under Part 3A.		Consultation is generally supported, however further clarification of this recommendation is required.
<p>A18 The following measurable outcomes are recommended for changes to the development assessment process:</p> <p>18.1 Reduce overall time frames for local government DA processing from 68 days (current State average) to 48 days.</p>	Yes	These recommendations are generally supported, however clarification is sought in relation to the data used to establish the figures proposed.
18.2 Reduce the number of Section 96 applications by a third.	Yes	As above
18.3 Improve DA processing time frames and facilitate better regional	Yes	As above

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planning by:		
18.4 Improve DA processing time frames and facilitate better regional planning by:	Yes	As above
18.5 Establishing Joint Regional Planning Panels – to deal with about 80 per cent of regionally significant projects.	No	This again is emphatically not supported given that the proposed establishment of joint Regional Planning Panels is seen as another layer which undermines local democracy.
18.6 Reduce the need for legal appeals to the Court by 20 per cent. Achieve this by establishing planning arbitrators to double the number of minor appeals reviewed under Section 82.	No	This recommendation is not supported. While less litigation would be a positive outcome, the involvement of arbitrators would not be.

CHAPTER 5

EXEMPT AND COMPLYING DEVELOPMENT

Recommendation in NSW Government Discussion Paper	Support (Y/N)	Comments/Implications for PSC
C1 The Department would extend the ambit of exempt development and develop mandatory guidelines for such development, to ensure, for example, that they have minimal impact upon the environment.	Yes	C1 cannot be judged until the Guidelines for such developments are provided, however Council supports the guidelines being prepared.
C2 The Department would extend the ambit of complying development and develop mandatory guidelines for such development, to ensure, for example, that they have minimal impact upon the environment.	Yes	C2 cannot be judged until the Guidelines for such developments are provided, however Council supports the guidelines being prepared.
C3 The Department would establish a Complying Development Experts Panel (CDEP) to advise on complying codes policy, and the acceptability of complying development codes. The panel would include experts working within local government.	Yes	CDC Expert panel is supported.
C4 The Department would develop, with the assistance of the CDEP, a series of Statewide complying development codes for common minor development categories such as single dwellings, alterations and additions, industrial sheds, and commercial fitouts. Such codes would define acceptable	Yes	Should go further than merely addressing acceptable standards of amenity, it should go to streetscape performance, environmental performance of outcomes, and site design response.

standards for community amenity, and would be subject to public exhibition and stakeholder consultation prior to adoption.		
C5 The Statewide complying development codes would be made mandatory default codes, to apply to all relevant development categories unless an alternative local code has been accredited. Complying development codes will provide for numeric based 'deemed to comply standards', which will provide for both certainty in terms of the standards to be complied with; and flexibility to accommodate innovative design and matters such as different lot sizes and densities and minor non compliances. Performance based measures may be incorporated into the code.	No	Represents no significant difference to the current situation, other than revamping SEPP 60 to ensure Statewide consistency. This approach diminishes the local buy-in to development outcomes by communities, and seeks to make urban development across the state homogenous. This approach is against the intentions of pre-existing state policy such as the Coastal Design Guidelines that support SEPP 71 that seeks to guide and differentiate urban development outcomes depending on the hierarchy of urban development settlements in the coastal zone.
C6 Councils would be permitted to develop alternative complying development codes, which must be generally consistent with the State codes. These would be accredited by the Department on the advice of the CDEP and must achieve at least the same level of complying development as the State codes.	No	<p>This recommendation assumes that the mandatory codes are going to perform to a standard that achieves the State Government intentions, whereas the historical facts demonstrate the SEPP 60 has not been largely successful, compared with Councils such as Port Macquarie Hastings that have developed their own exempt and comply criteria with far superior results to that of SEPP 60, due to the focused promotion and administration at the Customer Service Counter.</p> <p>The success of the codes will be largely dependent on how they are promoted and administered at the regulatory level.</p> <p>Recommendations should focus on promoting the codes and ensuring Council's are properly resourced to administer Complying Development Effectively.</p> <p>Supported to allow Council's to improve upon the Codes to address local issues.</p>
C7. The achievement of increased levels of complying development should be reported annually through the Local Development Performance Monitoring Report issued by the Department, with an expectation that the level of complying development will increase from 11 per cent to 30 per cent within	No	The selected targets are arbitrary, and are not based upon the capacity of the existing resource supply problems to meet the targets, the accreditation processes improvements, and the codes being developed that are workable.

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two years of implementation, and to 50 per cent within four years.		
<p>C8 The following procedures would be adopted for determining development where a complying code applies:</p> <p>8.1 Where a development proposal is fully compliant with an applicable code, a certifier (private or council), may approve the development and lodge the complying development certificate with the local council.</p> <p>8.2 Where a development proposal has minor non compliances that in the opinion of the certifier (private or council) would not generate an impact on neighbours or set a planning precedent in the neighbourhood, the certifier would be required to lodge a provisional complying development certificate with the local council. This would become effective after seven days unless challenged by council. If however, the council did not consider the non compliances to be minor then a DA would need to be formally lodged and processed in the normal manner.</p> <p>8.3 Where a development proposal has minor non compliances, which require a performance assessment by the council, only that aspect of the proposal will require council approval.</p>	No	What about rights of appeal for residents that consider they have been affected by a variation deemed to be inconsequential by the PCA. The provisional CDC process should allow for community engagement. A seven (7) day turn around from the Council is insufficient time to consider the variation. What information is required to be provided from the applicant to demonstrate that variations have acceptable levels of impact
8.4 A certifier could also be empowered to condition an application that has minor variations so that it becomes compliant.	No	Who enforces the condition, and what if the condition is found to be ineffective in ensuring compliance with the CDC thresholds. Council should be consulted about the appropriateness of the condition if we are left to enforce.
C9 Where an accredited certifier issues a complying development certificate with minor non compliances endorsed by council, the council would be entitled to a fee for the service.	Yes	Council supports the fee for service in assessing and determining whether variations have merit.
C10 Where a development does not comply with the relevant codes (and non-	Yes	Council agrees that developments that do not comply with the codes and have

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conformities are not minor or trivial), then a development application to Council would be required.		impacts, should be lodged as a DA, and Council has the discretion to decide whether the variations are acceptable or not for CDC.
C11 The mandatory default code would include appropriate complying development standards for developments in environmentally sensitive or heritage areas. These codes will be informed by better mapping of environmentally sensitive areas.	No	Easier said than done, and relies on quality mapping and data gathering. This recommendation from experience will not carry forward due to the lack of commitment to local issues from the Department of Planning.
C12 The certifier (whether council or private) would have an obligation to provide a courtesy notice to immediate neighbours advising of the request for a complying development certificate, noting works found to be complying development would be automatically approved.	Yes	Obligatory notification of neighbours by the PCA for any CDC is supported. But where does the PCA issuing the CDC get the owners address details? Neighbours should have the opportunity for comments, particularly where it is a merit-based judgement.
C13 The local council would be required to keep an electronic database of all complying development details (certificates issued, construction values etc) for public and annual reporting purposes.	No	The Department should keep the electronic register of CDC's by LGA, with data mined from Council's records by the Department.
C14 Statewide procedures and guidelines governing the complying development certification process and for public reporting purposes would be required.	Yes	The level and type of documentation to be provided with any CDC should be included in the guidelines as well as lodgement checklists and assessment templates for use by proponents and PCA's in preparing CDC's;
C15 Changes to existing arrangements would be made to strengthen the accountability of accredited certifiers (see Chapter 7).	Yes	Increased accountability of accredited certifiers is strongly supported.
C16 The implementation of the first mandatory complying code would be targeted for 1 July 2008.	No	Implementation of mandatory codes should be deferred until such time as the industry and Councils have had the opportunity to engage in consultation of the NSW Code and supporting guidelines.
C17 The NSW Government, in conjunction with local government and industry representatives, would conduct a public education campaign on the system as it is implemented.	No	The timeframes for implementation are too tight to carry out the suggested public education campaign with industry and Council's. The issues surrounding environmentally

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		sensitive lands and data gathering would seem to be a gap in the campaign as it is unlikely it will be implemented immediately.
<p>C18 The following measurable outcomes are recommended for the changes to exempt and complying development administration:</p> <p>18.1 Increase the number of exempt & complying development certificate from 11 per cent (currently) to:</p> <p>18.1.1 30 per cent within two years</p> <p>18.1.2 50 per cent within four years</p> <p>18.2 Mandatory default code to be adopted by 100 per cent of Councils across the State by July 2008.</p>	No	The targets are arbitrary and do not adequately reflect the different environmental issues, and resource shortages that various local government areas face.

CHAPTER 6

E-PLANNING INITIATIVES

Recommendation in NSW Government Discussion Paper	Support (Y/N)	Issues & Implications
E1 The NSW Government, in conjunction with local Councils, should assess the readiness and current competencies of local government and relevant NSW Government agencies in the areas of ePlanning.	Yes	<ul style="list-style-type: none"> ▪ Already underway. ▪ Investigation of readiness for e-planning should be investigated.
E2 The SiX Viewer should be implemented as the platform for e-planning to collate, integrate, manage and display planning information from councils and relevant NSW Government agencies to facilitate and accelerate the adoption of ePlanning initiatives.	Not sure at this stage	<ul style="list-style-type: none"> ▪ Need more information about SiX Viewer & compatibility. ▪ Costs to Council? Recoup existing funding development? ▪ Council's should be consulted about the SiX Viewer platform to ensure that IT resources are focused in the directions identified by the Department.
E3 The Department of Lands and Department of Planning should implement a number of regional and local council pilot programs utilising the SiX system within the existing Statewide framework to demonstrate the benefits of early adoption of ePlanning and to build on the work already undertaken in a number of	Yes	<ul style="list-style-type: none"> ▪ Pilot it first. ▪ Piloting of SiX Viewer is supported;

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sectors.		
E4 Protocols should be developed to ensure standard approaches to the exchange and the organisation of planning information.	Yes	<ul style="list-style-type: none"> ▪ Fundamental – is it XML format. Government/Industry standard required. ▪ Council supports the preparations of protocols for information management and capture. The issue of copyright in the display of information on-line is a significant hurdle that should be explored and addressed by the Department Planning.
E5 More effective delivery of the planning system using ePlanning should be explored in:		
5.1 e-DAs.	Yes	<ul style="list-style-type: none"> ▪ Subject to analysis and costs and State Government funding support. ▪ Council supports exploration of the opportunities identified in E5.1, E5.2, E5.3, and E5.4
5.2 Exempt and complying codes.	Yes	<ul style="list-style-type: none"> ▪ Council supports exploration of the opportunities identified in E5.2
5.3 Access to Section 149 certificates.	Yes	<ul style="list-style-type: none"> ▪ Council supports exploration of the opportunities identified in E5.3
5.4 The tracking of LEPs.	Yes	<ul style="list-style-type: none"> ▪ Council supports exploration of the opportunities identified in E5.4
E6 The Department would establish an ePlanning experts panel (EPEP) to advise on appropriate directions for ePlanning that are practical and work with existing systems. The EPEP would include experts working within local government. Its detailed terms of reference would be determined prior to its establishment.	Yes	<ul style="list-style-type: none"> ▪ If DoP funds it and fund backfill. ▪ E-planning experts panel is supported'
E7 That the collection and development of assessment information be expanded to include construction details.	Yes	<ul style="list-style-type: none"> ▪ Significant cost implications. ▪ Council collects construction data for the ABS, so this initiative is supported to measure resource supply in the context of Statewide economic development and sustainability
E8 An implementation plan would be developed over the next three years by the EPEP with targets for State and local government achievements. The plan would also include potential funding to reach these targets and an ePlanning training and communications	Yes	<ul style="list-style-type: none"> ▪ Potential funding – Mandatory funding needed from DoP. ▪ Planning the implementation – not actual implement. ▪ Council supports the preparation of a report in 3 years, however, funding should be provided by the State

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strategy.		government to allow Council's to achieve e-planning readiness or e-planning implementation;
<p>E9 The following measurable outcomes are recommended for the implementation of ePlanning:</p> <p>9.1 Implementation plan with targets adopted by State and local government within three years.</p> <p>9.2 Adoption of ePlanning platforms in local councils:</p> <p>9.2.1 Within two years 80 per cent of councils are to provide online DA tracking.</p> <p>9.2.2 Within two years 100 per cent of exempt and complying codes will be available on line (State provided) and 50 per cent of Council codes (as accredited by the State).</p> <p>9.2.3 Within three years 50 per cent to provide online Section 149 planning certificates.</p> <p>9.2.3 Within three years 50 per cent are to have LEP tracking systems.</p>	Unsure at this stage	<ul style="list-style-type: none"> ▪ EPEP to identify measures within say 12 months having regard to E1. Otherwise where have these measures come from ie data analysis? ▪ Analysis of cost to achieve the E9.2.1 to E9.2.3 should be undertaken in preparing the implementation plans, and funding should be allocated from the State for targeted e-planning projects within local government.

CHAPTER 7

BUILDING AND SUBDIVISION CERTIFICATION

Recommendation in NSW Government Discussion Paper	Support (Y/N)	Comments/Implications for PSC
Addressing Conflicts of interest		
B1 For small developments (defined under the BCA as any building not requiring a fire isolated exit) a number of measures have been suggested:		
1.1 The number of construction or complying development certificates that can be issued to any one client or involving any one builder or developer by an accredited certifier to be limited in any one calendar year. The	Yes	<ul style="list-style-type: none"> • Council supports the allocation of building surveyors for large projects or repeat projects to ensure there is no conflict of interest; • Council's accredited certifiers must be included in the pool of eligible accredited

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BPB will be given powers to exempt certifiers in rural areas from this limitation if alternatives are not available.		certifiers to be used in large and repeat projects for the certification process in order to meet National Competitive tendering
1.2 Only the landowner would be allowed to appoint a certifier to issue a construction certificate or complying development certificate. An education campaign will be undertaken to inform landowners of this change.	Yes	<ul style="list-style-type: none"> Supported
<p>B2 For small developments (defined under the BCA as any building not requiring a fire isolated exit) a number of measures have been suggested:</p> <p>2.1 The number of projects to which an accredited certifier could be appointed as the principal certifying authority by any one client or involving any one builder or developer be limited in any one calendar year. The BPB will be given powers to exempt certifiers in rural areas from this limitation if alternatives are not available.</p>	Yes	Council's accredited certifiers must be included in the pool of eligible accredited certifiers to be used in large and repeat projects for the certification process in order to meet National Competitive tendering
B3 For large or complex projects, (defined under the BCA as any building requiring a fire isolated exit), staff of the BPB would allocate the accredited certifier to issue construction certificates and act as the PCA for the project subject to the right of developers to reject the first two certifiers allocated.	No	Seeks to discriminate accredited certifiers, and is likely to exclude Council certifiers from the process.
B4 The BPB would develop a model set of contractual arrangements that will clearly specify the responsibilities of the certifier and the builder/developer.	Yes	Supported
<p>B5 The BPB would undertake targeted audits focussing on:</p> <p>5.1 Those certifiers whose income from any one client or income derived from developments involving any one builder or developer exceeds a significant proportion of their total income for the year.</p>	Yes	<p>Supported</p> <p>Audits should also extend to projects in environmentally sensitive locations to ensure compliance with the mandatory codes is being achieved.</p>

5.2 Those certifiers who work on larger projects		
Broadening accreditation		
B6 The proposed changes would expand the accreditation system from individuals to include companies, provided the company employs at least three accredited certifiers. Under this system, at least one director of the company would be a certifying authority, and an appropriately accredited person must sign all certificates.	Yes	<ul style="list-style-type: none"> • Accreditation of Building Surveyors – Generally is supported. However, issues for Council's being able to supply Accredited Certifiers to deal with A1, and having to outsource accredited services, because the Act presently requires that Council must provide certification irrespective of whether Council's can provide the accredited staff. • Councils should have access to a pool of A1 accredited certifiers. • Councils that employ building surveyors issuing CC's on Class 2 to 9 structures should automatically be accredited to level A2 for five years. This will commit Councils to have officers tertiary trained and to gain the relevant accreditation. Further, will permit Councils to allocate funding and establish training programs within their organisation.
B7 Under these revised rules, Councils would also seek corporate accreditation. All individuals in Council who are required to sign certificates or conduct mandatory inspections will be deemed to be accredited at A3 level of accreditation. These deemed accredited certifiers would only be allowed to certify certain types of development. All other developments will need to be certified by appropriately accredited certifiers, either from Council or the private sector.	Yes	Supported. Accreditation needs to be extended to development engineers responsible for the issue of construction certificates associated with road and drainage works (subdivisions).
B8 The NSW Government would investigate whether certain categories of building design professionals, particularly those involved in designing critical building systems, need to be accredited.	Yes	<ul style="list-style-type: none"> • Everyone involved in critical building systems should be accredited due to OHS, Workcover issues etc
Clarifying responsibilities and sanctions		
B9 Councils' responsibility to enforce development consents, whether or not	No	<ul style="list-style-type: none"> • The responsibility for Council enforcing Development Consents that have been

the principal certifying authority is an accredited certifier would be mandated. Penalties could be imposed against councils where they are made aware of an issue and do not act.		poorly administered by the PCA is significantly flawed. Firstly, because there are no ramifications or requirement for the Certifier to get it right the first time, secondly Council is left deal the owner who has already paid the certifier and expected that the Certifier would do their job properly, and thirdly because Council is left to bear the full cost of remedying a failed inspection process already paid to the PCA by the owner. This process is neither equitable or sustainable
B10 Councils' powers of enforcement for unauthorised work would be increased.	Yes	<ul style="list-style-type: none"> PIN's are not an appropriate mechanism for raising revenue, they are part of a suite of regulatory tools to resolve development investigations, and should be used in accordance with the NSW Ombudsman Guidelines for enforcement. Council supports the inclusion of a "Stop Work Order" in the Environmental Planning and Assessment Act.
B11 Consideration would be given to increasing fees for building certificates to avoid these certificates from being used as retrospective approvals for unauthorised building works.	Yes	<ul style="list-style-type: none"> Council supports increasing the fees for Building Certificates to adequately reflect the work involved in assessing and issuing a Building Certificate Application.
B12 The BPB's powers to fine or suspend an accredited certifier or attach conditions on their accreditation would be expanded and streamlined.	Yes	<ul style="list-style-type: none"> Council supports increased powers to BPB to regulate and discipline PCA's However, the BPB needs to be resourced and motivated to take actions. So far very little has been done to fine or suspend PCA's that have been found to be failing the requirements of the process.
B13 The respective roles and responsibilities of certifiers, Councils and landowners, should be clarified through the development of guidance/education material as well as possible legislative changes.	Yes	Council's are continually contacted by owners and neighbours to resolve disputes arising during the construction phase being managed by the PCA.
Certification of land subdivisions		
B14 Consideration be given to allowing private certification of subdivisions (both land subdivision and strata subdivision), but with the following	No	<ul style="list-style-type: none"> Issue of CC and subsequent Linen Release by PCA's that includes dedication of infrastructure (like roads and stormwater systems etc) presents serious concerns for Council regarding

ORDINARY MINUTES – 22 APRIL 2008

controls:		the adequacy of the works as installed. Only Council should be allowed to issue CC's and Linens that include works for which it will become ultimately responsible as asset owner
14.1 A developer could only be able to appoint a certifier from a list of five certifiers identified by the local council.	No	Excludes Council from nominating itself. Presumes all PCA's are in the private sector. The largest proportion of PCA's is within the Councils themselves.
14.2 The certifier would be required to lodge a provisional subdivision certificate with the local Council, which would become effective after fourteen days unless challenged by council.	No	Subdivision Certificates should remain with Council due to the critical nature of the certification process, particularly surrounding infrastructure, Section 94, and land titles.
14.3 The local council would be entitled to a fee for the service of reviewing the certificate.	No	Council's should be the only certifier in order to maintain independence in this very lucrative area of the development industry and should collect all fees for processing the subdivision certificate.
B15 Consideration will be given to enabling greater ranges of strata subdivision development proposals as complying development as one of the complying development codes outlined in Chapter 5.	No	<ul style="list-style-type: none"> • Strata Subdivisions should not be CDC's unless the PCA is required to implement all conditions of consent (not just BCA issues), such as driveway finish, landscape outcomes, fire safety installations, disability access, building colours and finished, roof reflectivity etc. Council planners will need to explore subdivision outcomes at the time the original DA whether or not they are proposed, because, a PCA could effectively allow subdivision the land without further consultation with Council. • This process will substantially add to the DA process in order for Council to be satisfied all outcomes required of a Strata Subdivision are achieved.
Miscellaneous amendments		
B16. Consider miscellaneous amendments to improve the certification system including:		
16.1 Mandatory training for accredited certifiers regarding policies for complying development.	Yes	Supported
16.2 Mandatory reporting of complaints about developments to both council or the certifier (depending on who has received	Yes	Supported. Public reporting of PCA's that are performing poorly should be undertaken.

the complaint).		
16.3 Provide powers to the Minister to define the level of consistency with respect to the relationship of construction certificates to development consents.	Yes	<ul style="list-style-type: none"> The powers vesting in the Minister is misguided and subject to political interference, and it should be delegated to the DG. Council supports some guidance around the level of consistency between DA's and CC's; however, the extent of changes to the CC that do not require a S96 should be limited to internal changes. Alterations to the external appearance of the dwelling in terms of Bulk and Scale, setbacks, and size and location of doors and windows should be dealt with by a modification of consent.
16.4 Review the role of occupation and interim occupation certificates including their relationship with the development consent.	Yes	<ul style="list-style-type: none"> Supported. Interim Occupation Certificates should be abolished, and no Occupation Certificates should be issued until the project is completed. Large projects should be staged to allow for Occupation Certificates to be issued at various stages. Interim Occupation Certificates provide a high level of uncertainty for the consumer, and only seek to benefit the developers, that wish to force settlement of purchase of residential units before the works are completed.
16.5 Allow for conditioning of construction certificates in relation to BCA matters	Yes	<ul style="list-style-type: none"> Council supports clarification of the Occupation Certificate and the enforcement of the Development Consent
16.6 Additional mandatory inspections for fire separating construction and acoustic insulation in BCA class 2–9 buildings as well as new inspections before the issue of strata certificates; construction certificates and complying development certificates.	Yes	<ul style="list-style-type: none"> Support additional mandatory inspections for fire separating construction
16.7 Amend liability provisions for certifiers under the EP&A Act to make consistent with the insurance requirements under the BPB Act	Yes	<ul style="list-style-type: none"> Support the changes to the liability provisions
Monitoring the performance of the reforms		

ORDINARY MINUTES – 22 APRIL 2008

B17. The following measurable outcomes are recommended for changes to certification:		
17.1 Accredited certifiers undertaking the role of the principal certifying authority to be audited at least every two years.	Yes	Supported
17.2 BPB to undertake at least 100 audits per annum within the first two years of the changes, and to increase this number over time.	No	A much larger sample should be obtained. The fact the Department recommends 100 audits is a reflection of the low level of significance the Department places on responsible certifying. Instead seeking to pass the responsibility on to Council's for enforcement and auditing of PCA's. This recommendation is an extremely poor reflection of the significance of the failures of the 1998 PCA reforms.
17.3 Number of complaints to the BPB relating to enforcement of development consents by accredited certifiers to reduce by 50 per cent in the first four years of the reforms.		<ul style="list-style-type: none"> Support the increased auditing regime, however, the complaints of the BPB being reduced depends on the department's ability to improve the quality and rigour of the accreditation process.

Local Government
Association of NSW



Shires Association of NSW

Our ref: R04/0066.jd Out-15969
16 April 2008

Cr Ron Swan
Mayor of Port Stephens
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Attn: Mr Peter Gesling, General Manager

Dear Cr Swan

PORT STEPHENS COUNCIL	
13 APR 2008	
File No.	08-1838
Action by	A McCandish
Cr	P. D. Gray

PLANNING LEGISLATION – PRELIMINARY ASSESSMENT AND LGSA RESPONSE

On 3 April the Minister for Planning released draft exposure bills that contain over 200 pages of changes to the NSW planning system.

They include legislative amendments to three main Acts - the *Environmental, Planning and Assessment Act*, the *Building Professional Board Act* and the *Strata Management Act* - and a number of minor amendments to other Acts.

The Associations have serious concerns with many aspects of the legislation as communities will lose their right to have a say over local development, councils' role in the development process will be significantly reduced, and funding of local infrastructure is under threat.

The Minister has provided only three weeks - to 24 April - for review and comment on the draft legislation. This time frame is too short and is clearly designed to short cut any proper consultation with Local Government, stakeholders and the community.

The Associations have undertaken a preliminary assessment- attached for your information. A more detailed response will be available on our website www.lgsa.org.au in the coming week.

In addition to this formal response, on Friday the Associations launched the 'Keep it Local' campaign. The campaign is designed to make sure our communities understand the impacts of the changes for them, in the hope that the Government will see sense and amend the legislation.

The campaign website is www.keepitlocal.org.au, and it is crucial that as many people as possible use the automated letter of concern on the site to write to their local MP - we therefore urge you to pass the link on to your colleagues and contacts.

Next week, as part of the campaign, councils will receive a sample pack of fliers, posters and other materials, and an order form to purchase more. Those councils which have in-house printing facilities can download templates of the material from the Keep It Local website and print them off themselves.

It is imperative that you put the posters up on facilities that are at risk (such as your childcare centres, libraries, playgrounds), send out media releases, arrange photo opportunities with your mayor or councillors, and provide a link to the Keep It Local website from your council's website as a matter of urgency.

Yours sincerely

Cr Genia McCaffery
President
Local Government Association of NSW

Cr Bruce Miller
President
Shires Association of NSW

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Local Government
Association of NSW



Shires Association
of NSW

Planning - Draft Exposure Bills

Local Government and Shires Associations of NSW Preliminary Assessment

April 2008

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Introduction

The Associations support reform of the NSW planning system but not the suite of changes proposed by the NSW Government. There is a need for the simplification of the planning system for all users to improve clarity, certainty and transparency. The government's proposed changes introduce further complexity into the planning system and override a fundamental planning principle, embedded in the Environmental Planning and Assessment Act 1979, that recognises the importance of public participation in the process.

The draft bills will reduce the local communities' participation in the planning process, by substantially reducing councils' role in planning decisions and minimizing residents' opportunities to make submissions on planning issues. The changes will also increase the financial burden on growing communities by reducing overall development levies on new development.

The Associations preliminary assessment of the key provisions of the Environmental Planning and Assessment Amendment Bill 2008 are presented in this paper.

Time for submissions

The 3 week period (3 April to 24 April 2008) is too short to allow for meaningful review and submissions on over 200 pages of legislation. This is clearly designed to short cut any proper consultation with Local Government, stakeholders and the community. The Associations call on the State Government to extend the time available to make submissions on the legislation.

Lack of detail

Many sections of the legislation reference and rely on subordinate legislative provisions – regulations, directions, orders and codes – that are not yet available for parliamentary or public scrutiny. Most concerning is that the proposed housing codes (extending the use of complying codes) are not yet finalised and may not be made available until just prior to or after the legislation is debated in Parliament. This again appears designed to short cut review of the full impact of the legislation by MPs, Local Government, stakeholders and the community. The package of reforms, including the details of amendments to subordinate legislation, should be made available for parliamentary scrutiny.

Responding to submissions

The draft exposure bills differ in only a few respects from the recommendations contained in the discussion paper released in November 2007. Yet the independent report on submissions, released on 19 March 2008, highlighted a number of areas that were of concern to a range of stakeholders. The Associations are concerned that issues raised by councils and the community in submissions on the discussion paper have not been properly considered in the drafting of the exposure bills.

Key concerns

Local Government has a number of key concerns with the draft bills: communities may lose their right to have a say over local development, councils' role in the development process will be significantly reduced, and funding of local infrastructure will be under threat. In particular, the Associations are concerned with:

- Community rights - the overall reduction of the role of council and community in the planning process;

- Complexity – the likelihood that the legislation, rather than simplifying the development assessment process, will make it more complex and difficult to navigate. Many of the real problems with the DA process have not been addressed by the legislation, which relies on reducing the role of councils and the right of local communities to have a say over development.
- Probity – greater corruption risks due to the expanded role of appointed panels and the introduction of planning arbitrators.
- Increased costs – borne by councils and their communities, due to changes to the development contributions framework and costs associated with supporting regional panels and arbitrators.

There are a number of positive aspects of the Bill such as the establishment of the Planning Assessment Commission (PAC), improvements to plan making and the creation of the 'gateway test', which may have practical merit. Many of the proposals are difficult to evaluate however, as much of the detail will be contained in regulations or through complying codes which are yet to be released.

Preliminary assessment of draft legislation

The draft exposure bills contain over 200 pages of legislative amendments to three main Acts – the *Environmental, Planning and Assessment Act*, the *Building Professional Board Act* and the *Strata Management Act* – and a number of minor amendments to other Acts.

Due to the large number of changes proposed, and the short time available for review and comment, it has not been possible to provide an assessment and response on each of the proposed amendments and all draft bills. Instead, the Associations have undertaken a preliminary assessment of the *Environmental Planning and Assessment Amendment Bill 2008* using the following key themes:

1. Decision making processes
2. Reviews and appeals
3. Development contributions
4. Certification and extension of exempt and complying development
5. Plan making
6. Heritage

A brief assessment of the key changes proposed and the Associations' position is provided below. The assessment is cross-referenced to the specific sections or divisions of the draft exposure bill to assist council members and staff to better understand the legislative changes.

Separate papers on each theme, containing more detailed information and assessment of the proposed legislative changes, will be available on the Associations' website – www.lgsa.org.au – in the coming week.

1. Decision making powers

Schedule 2

Planning Assessment Commission (PAC)

The Associations support the model of the PAC subject to:

- Oversight of decisions re membership and operation of the PAC by a Parliamentary Committee similar to the committee on the ICAC. (Could add to responsibilities of existing ICAC Committee to save costs).
- Satisfaction with the details of the proposed regulations.
- Removing the ban on legal representation.
- Making available appeal rights for applicants and third parties.
- Restricting intervention opportunities by the Minister.

Joint Regional Planning Panels (JRPPs)

The provisions relating to JRPPs significantly extend the powers of JRPPs from those initially proposed in the discussion paper. JRPPs will operate as a consent authority; a review body for decisions made by planning arbitrators and panels; advisory body to the Minister on planning and development matters or EPIs; and will have functions in respect of applicant and third party merit reviews.

JRPPs will be identified in a State environmental planning policy as consent authority for:

- designated development;
- nominated development over \$5m including Crown development, private infrastructure and where council has an interest;
- residential, commercial and retail development over \$50m; and
- nominated subdivisions and certain other development in coastal zone that is currently under Part 3A.

The Associations oppose the establishment of JRPPs as an unnecessary duplication of existing government and judicial bodies and one that will add costs and time to the development assessment process.

The Associations propose that:

- *The Land and Environment Court be retained for appeal and review work.*
- *Councils with an IHAP undertake major development decisions and local developments in the coastal zone.*
- *A sub-committee of the PAC should act as consent authority for those developments where councils have a financial interest or projects are of genuine regional significance.*

Independent hearing and assessment panels (IHAPs)

The proposed IHAP model is opposed as being unnecessary. Councils that have used an IHAP (some for over ten years now) have operated them successfully and with no complaints. Processes should not be regulated unnecessarily and IHAPs should not be used as a vehicle for Ministerial intervention in councils' operations.

Should the State Government wish to promote the use of IHAPs, this can be provided administratively by the Department of Planning. The Associations are supportive of the use of advisory IHAPs by councils as a means of improving the development process.

Planning arbitrators

The legislation proposes to set up a completely new system of planning arbitrators who would be private consultants appointed by the Minister; to conduct hearings on reviews with regard to minor applications; and that are paid for and supported by councils.

The Associations believe that the proposed system of planning arbitrators should not be established as would be:

- an unnecessary duplication of existing processes and appeal bodies;
- costly for councils to support;
- likely to distort councils priorities by requiring them to respond to arbitrator reviews of small scale and minor developments;
- open to undue pressures from developers and other interest groups;
- likely to encourage ambit claims with additional appeal steps;
- requiring a complaints procedure that is currently not detailed and potentially will be ineffective; and
- open to political pressure.

The Associations strongly oppose the model of planning arbitrators as being unjustified, a costly duplication of acceptable appeal processes, and a high probity risk.

As suggested previously by the Associations, the s82A review provision should be abolished and an appeal to the Court reinstated as the only avenue following a council refusal. To improve the current system the following could occur:

- Councils should make greater use of IHAP hearings;
- Consideration could be given to an IHAP panel member being asked by council to conduct a conciliation process before council makes a decision;
- Merit appeals should be retitled to reflect the essentially non-adversarial nature of the hearing; and
- Access to the Court for conciliation could be made even simpler. (If there is something wrong with an existing body, fix the body rather than creating an additional one.)

None of these suggestions would require legislative change.

2. Reviews and appeals

Schedule 2, new Division 7A

The bill proposes a raft of changes to the existing system of reviews and appeals that reflect the proposed new decision making and review bodies. The new system provides for a complex set of arrangements of reviews and appeals depending on:

- the type of development;
- whether you are an applicant or objector;
- the consent authority for the application;
- whether a public hearing has been held (in the case of the Planning Assessment Commission);
- whether a JRPP has been established for the area in which the application is lodged; and

- in the case of planning arbitrators, the particulars of the review process and whether council supports an appeal to the court.

All appeals to the Land and Environment Court are to be made within 3 months of the applicant receiving notice of the determination. Currently the time allowed to make an appeal is 12 months.

The Associations oppose the proposed system of appeals and reviews as unnecessary, costly and open to corruption risks.

3. Development contributions

Schedule 3

The draft bill repeals the existing provisions of the *Environmental Planning and Assessment Act* relating to development contributions (Part 4, Divisions 6 & 6A) and replaces it with a new Part 9.

Development contributions levied by councils have been renamed community infrastructure contributions and now comprise 'direct contributions' (s94) and 'indirect contributions' (s94A). The bill also introduces a two-tier system that limits the use of community infrastructure contributions to funding 'key community infrastructure'. Contributions can be levied for 'additional community infrastructure' only if approved by the Minister. Councils must provide a business case or an independent report to the Minister when requesting approval to additional community infrastructure. Land for riparian corridors cannot be approved as additional community infrastructure. Community infrastructure contributions from Growth Centre councils will be collected and held in trust by Treasury.

The legislation gives the Minister wide ranging control over local contributions and introduces new state infrastructure contributions in greenfield release areas outside the growth centres. The legislation:

- places limits on the types of projects for which local levies can be used;
- gives power to the Minister to approve projects outside the prescribed list;
- gives the Minister the power to direct councils in relation to the type of community infrastructure that can be levied for, the means for determining contribution levels; the maximum amount of any direct contribution; type or area of development for which community contribution may be imposed and maximum percentage of an indirect contribution; and time frames for spending contributions; and
- provides for Growth Centre councils' contributions to be collected and held by Treasury. The Minister can also declare other areas to be covered by these provisions via an order in the Government Gazette.

The Associations welcome the State Government's concession on councils being able to levy contributions to pay part of the cost of upgrading or building district or council wide facilities, although the wording of the bill and the lack of detail about the types of projects that can be funded is still of concern.

The Associations oppose:

- the wide ranging and discretionary powers given to the Minister to direct councils' collection and use of development contributions;
- Treasury control over Growth Centre councils' funds from development contributions.

- *the lack of a formal mechanism for determining levies in greenfield release areas with significant potential for State levies to 'crowd out' local levies.*

4. Certification and extension of exempt and complying development

Schedule 4 and Schedule 1

Private certification

The Minister has rejected the Associations' alternative solution of having certificates issued to government and has instead sought to address the symptoms of a fundamentally flawed private certification system. i.e. a certifier exercising discretionary judgements on the respective rights of citizens when being paid by one of those citizens.

Proposals in the bill to improve enforcement and disciplinary provisions in relation to accredited certifiers are generally supported. The Associations will provide more detailed comments in relation to each of the respective proposals in the draft bills in a later submission.

Increasing the range of exempt and complying development

The introduction of mandatory state-wide codes for exempt and complying development has the potential to reduce legitimate public participation in development decisions, negatively impact on the amenity of residents and alter the character of local neighbourhoods, particularly in inner city and metropolitan areas. The housing codes are still under development and may not be placed on public exhibition before the framework legislation is passed. This is of major concern to the Associations which support deferral of the complying development provisions until the whole 'package' of changes is available for public review.

The draft legislation makes a number of changes to the current system of complying development. These include:

- Complying development does not have to 'comply'. A Complying Development Certificate (CDC) can be issued for a development that does not comply with the development standards or conditions if:
 - the variation is of a minor nature; and
 - it is not likely to cause a substantial net adverse impact on owners of adjoining and adjacent land or on the land on which the development is carried out.

Council is to determine whether the variation is minor within a prescribed period.
- Public notification of Complying Development Certificates (CDCs) and their determination will be under the regulation made by the Minister rather than being placed in councils' Development Control Plan (DCP).
- Removing restrictions on where complying development can be approved, including all previously established exclusions such as designated development, heritage land, critical habitat, wilderness land, heritage items and environmentally sensitive land.

The Associations oppose:

- *The provision to allow minor variations to complying development as this will result in arguments over the degree of non compliance and an assessment by council of the impact on neighbours, which is effectively a DA.*
- *Moving the provisions for development that has to be publicly notified from being in a Development Control Plan (DCP) to a regulation.*

- *Wholesale removal of existing exclusions for complying development without any details of the intended scope of future exemptions and their impact at the local level. Local councils are better placed to determine the scope of exemptions for complying development in their area.*

5. Plan making

Schedule 1

State Environmental Planning Policies

Schedule 1.1[8]

The legislation provides for a SEPP to be made about any matter of State or regional environmental planning significance (s37). The provisions relate to the intent of the Government to remove regional environmental plans (REPs), which had requirements for publicity and submissions. Now Minister can arrange for a SEPP to deal with regional significant matters without any prior exhibition. Under the provisions, the Minister *may* publicise a draft SEPP and seek submissions.

The Associations recommend that draft SEPPs should have to be publicised and submissions received. If objections cannot be satisfied there should be a compulsory hearing by a panel similar to the Victorian system.

Relevant planning authority

s54

The draft bill widens the list of those who can initiate a Local Environment Plan (LEP) to include the Director-General or *any other body identified by Regulation*:

- where the Minister thinks it is of state or regional environmental planning significance;
- to tidy up Part 3A decisions;
- to implement changes to the standard instrument;
- where the PAC or JRPP recommends; or
- where council failed to comply with its obligations at all or *in a satisfactory manner*.

These provisions effectively give the Director General of Planning and other bodies (yet to be detailed in the regulation), with Ministerial support, the right to initiate amendments to LEPs.

The Associations believe these provisions are contrary to the original intent of the Act (to limit spot rezoning to local government initiatives), can be achieved through a SEPP or use of Part 3A, and lack probity. If these provisions are to be included in the legislation, there should be a requirement for a compulsory panel hearing as part of the process.

Process for making LEPs

ss 55-60

The draft legislation creates a new set of procedures for studies and consultation, hearing and drafting of LEPs. It also provides a 'gateway' process whereby some details of the proposal are given to the Director General for a determination by the Minister of how a rezoning should proceed, including any required further studies and particularly the consultation process that must be undertaken.

The Associations support this proposal in principle as potentially more efficient and effective than current processes. However further time to consider the details of this proposal and obtain feedback from councils is necessary.

6. Heritage

Schedules 1.3 & 2.3

The changes proposed in the draft Bill have followed the general approach recommended in the report of the Independent Expert Panel on the review of the Heritage Act i.e. to reduce the consideration of heritage matters as stand alone matters.

Key changes in the draft bill include:

- heritage is to be considered under the 'gateway test' in the LEP process;
- complying development can apply to land subject to a heritage conservation orders and items of heritage significance; and
- current rights of review (now available to the Commissioner of Inquiry) will be referred to the Planning Assessment Commission (PAC).

The Associations:

- *support in principle the consideration of heritage under the 'gateway test' but would like to see further details of the proposal;*
- *oppose the application of complying codes to heritage items; and*
- *note the transfer of review rights to the Planning Assessment Commission (PAC).*

MAYORAL MINUTE

ITEM NO. 2

FILE NO: PSC2008-1838

PLANNING REFORM AND SECTION 94 CONTRIBUTIONS

THAT COUNCIL:

Endorse the Contribution of \$1,595.67 to the NSW Local Government Shires Association for the purpose of supporting a lobbying media and communication campaign directed at the State Government in relation to the Exposure Draft Bill on planning reform and in particular the proposals relating to developer contributions.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:		
075	Councillor Swan	There being no objections it was resolved that the Mayoral Minute be adopted.

BACKGROUND

On 3 December 2007 the NSW Minister for Planning issued a Discussion Paper on improving the NSW Planning System. Also, there were proposals through Circulars issued regarding Section 94 contributions and this included the proposed discretionary right of the State Government to require contributions obtained by Councils under Section 94 of the Environmental Planning & Assessment Act to be held by NSW Treasury instead of by the Councils involved.

On 30 January 2008 the Group Manager Sustainable Planning and I attended a forum of Mayors and General Managers organised by the Local Government Shires Association regarding NSW planning reforms and the proposals for development contributions.

One resolution of that meeting was to endorse the Local Government Shires Association to seek contributions from NSW Councils to support a media, communication and lobbying campaign directed at the NSW State Government regarding the proposed planning reforms and changes to developer contribution legislations and practices.

A letter has been received from the NSW Local Government Shires Association – Attachment 1 – seeking the provision of \$1,595.67 from this Council.

Local Government
Association of NSW

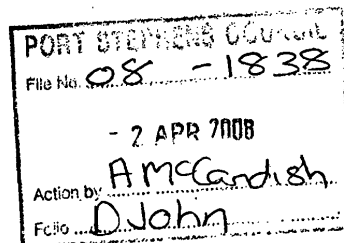


Shires Association of NSW

Monday, 31 March 2008

Cr Ron Swan
Mayor of Port Stephens
PO Box 42
RAYMOND TERRACE NSW 2324

Dear Cr Swan
cc: Mr Peter Gesling



PLANNING REFORMS - REQUEST FOR CONTRIBUTIONS

On 30 January 2008 mayors, general managers and councillors from 84 councils across NSW attended the Associations' Leader's Forum on Planning.

At that meeting attendees resolved the Associations hire a communications consultant to continue and expand the public campaign against some of the State Government's proposed changes to the planning system, and particularly the revised development contributions framework. The resolution also stated councils be asked to help fund the campaign.

The proposed changes are a direct attack on Local Government and if they proceed will have significant impacts on local autonomy and the future provision of community infrastructure.

In line with the resolution of the Leaders Forum, a consultant has been hired with a brief to communicate the likely implications of the proposed changes to all NSW communities. The Associations are now asking members to support the campaign and contribute to the cost.

The support of councils throughout the campaign to date - through the signing of an open letter to the Premier and by raising the issue locally - has been greatly appreciated and it is crucial we keep up the pressure.

Please find attached an invoice, which we hope you will action. Your council's suggested contribution has been calculated based on member subscriptions.

Please do not hesitate to contact our Communications Manager, Kristie Down on 9242 4061 if you have any queries.

Thank you again for your ongoing support.

Yours sincerely,

Cr Genia McCaffery
President
Local Government Association of NSW

Cr Bruce Miller
President
Shires Association of NSW

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www.lgsa.org.au lgsa@lgsa.org.au


Shires Association of NSW
Tax Invoice

Invoice Number 52518
Date 28/03/08

Invoice to:
Port Stephens Council
Po Box 42
RAYMOND TERRACE NSW 2324

Customer Code **Customer Reference**
PORT

Item Code	Item Description	Invoice Quantity	Per	Price	GST	Amount
MEDCAM	Media Campaign Call	1		1450.61	145.06	1,595.67

Above being for 'your contribution to fund cost of Campaign
re: State Government's proposed changes to Planning System'

Attn: The Mayor

Terms: 30 Days

Total Includes GST of
145.06

Total
1,595.67

Payment to: LGSA NSW BSB: 062005 Account No. 00090198

MAYORAL MINUTE

ITEM NO. 3

FILE NO: PSC2005-0894; PSC2006-0200

BOAT HARBOUR TREE VANDALISM REPORT

THAT COUNCIL:

Endorse the proposed actions to:

- 1) Replace the current temporary shipping containers located on the foreshore at Boat Harbour with more permanent fencing in accordance with Council's approved approach. Such fencing to consist of timber framing and shade cloth to the height of the vandalised trees.
- 2) Install appropriate public signage indicating the reasons for such fencing also in accordance with Council's approved approach.
- 3) Continue to engage with all the local residents to co-operatively maintain and enhance where appropriate the native flora and fauna of the foreshore of Boat Harbour in the long term.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:

076	Councillor Swan	There being no objections it was resolved that the Mayoral Minute be adopted.
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BACKGROUND

As a result of a tree poisoning in Victoria Parade, Nelson Bay around March 2004, Council considered the first of a number of Mayoral Minutes and subsequent Operations Committee reports dealing with the escalating issue of foreshore tree and vegetation vandalism. Among the options approved in these reports for significant tree vandalism was the immediate temporary placement of shipping containers.

Two shipping containers were installed just prior to Easter 2008 at a location on the foreshore of Boat Harbour following extensive environmental vandalism by the cutting down of over twenty mature Banksia trees. This placement was to draw attention to the vandalism and to potentially deter future acts of vandalism elsewhere.

Since that time significant media interest has drawn considerable public notice to this ongoing issue as is reported separately in the General Manager's Report with regard to the accompanying Draft Regional Tree Vandalism Policy.

At the Ordinary Meeting of Council on the 25 March 2008 it was resolved that Council call for a report by the end of April on the restoration of the area and removal of the containers. Due to the need to consult with the residents of Boat Harbour and interested ward councillors, the report requested is presented as this Mayoral Minute in order to meet the timelines resolved.

OPERATIONS COMMITTEE RECOMMENDATIONS

Note: Item 3 of the Strategic Committee Recommendations was brought forward and dealt with prior to Item 1 of the Operations Committee Recommendations

ITEM NO. 3

FILE NO: PSC2006-0801

DRAFT AMENDMENT 27 TO PORT STEPHENS COUNCIL LOCAL ENVIRONMENTAL PLAN 2000 – TO REZONE THE NELSON BAY RSL CLUB SITE AT SHOAL BAY ROAD, NELSON BAY

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to rezone the subject land from 2(a) Residential to part 3(a) Commercial and part 6(c) Special Recreation via Draft LEP Amendment 27 of Port Stephens Local Environmental Plan 2000 (**Attachment 1**) pursuant to Section 68 and 69 of the Environmental Planning and Assessment Act 1979 consistent with the building heights indicated on **Attachment 2**; and,
 - 2) Resolve to prepare a draft Development Control Plan for the subject land consistent with the draft LEP and place on public exhibition for a period of 6 weeks; and,
 - 3) Acknowledge the land owners commitment to fund local infrastructure additional to that levied under Port Stephens Section 94 Developer Contributions Plan 2007; and
 - 4) Support the preparation of a Voluntary Planning Agreement in accordance with the requirements of the Environmental Planning and Assessment Act between Council and the landowner to identify and fund public infrastructure improvements, in addition to that required under Port Stephens Section 94 Developer Contributions Plan, in close proximity to the subject land.
-

STRATEGIC COMMITTEE MEETING – 1 April 2008

RECOMMENDATION:

- 1) That Council resolve to rezone the subject land from 2(a) Residential to part 3(a) Commercial and part 6(c) Special Recreation via Draft LEP amendment 27 of Port Stephens Local Environment Plan 2000 (Attachment 1) pursuant to Section 68 and 69 of the Environmental Planning and Assessment Act 1979.
- 2) Resolve to prepare a draft DCP with mediated public consultation including building heights indicated in Attachment 4 (Option 2) for the subject land consistent with the draft LEP and place on public exhibition for a period of 6 weeks.
- 3) Acknowledge the land owners' commitment to fund local infrastructure additional to that levied under Port Stephens Section 94 Developer Contributions Plan 2007; and
- 4) Support the preparation of a Voluntary Planning Agreement in accordance with the requirements of the Environmental Planning and Assessment Act between Council and the landowner to identify and fund public infrastructure improvements, in addition to that required under Port Stephens Section 94 Developer Contributions Plan, in close proximity to the subject land.

Matter Arising:

That Council call for a report to retain William Strong Oval as a full size football field

ORDINARY MINUTES – 22 APRIL 2008**ORDINARY MEETING OF COUNCIL – 22 APRIL 2008****RECOMMENDATION:**

	Councillor Hodges Councillor Jordan	It was resolved that the recommendation be adopted.
--	--	---

AMENDMENT:

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008**RESOLUTION:**

077	Councillor Nell Councillor Dingle	It was resolved that Council 1) Rezone the subject land from 2(a) Residential to part 3(a) Commercial and part 6(c) Special Recreation via Draft LEP amendment 27 of Port Stephens Local Environmental Plan 2000 (Attachment1) pursuant to Section 68 and 69 of the Environmental Planning and Assessment Act 1979. 2) Resolve to prepare a draft DCP with mediated public consultation for the subject land consistent with the draft LEP and report the draft DCP back to Council. 3) Acknowledge the land owners' commitment to fund local infrastructure additional to that levied under Port Stephens Section 94 Developer Contributions Plan 2007; and 4) Support the preparation of a Voluntary Planning Agreement in accordance with the requirement of the Environmental Planning and Assessment Act between Council and the landowner to identify and fund public infrastructure improvements, in addition to that required under Port Stephens Section 94 Developer Contributions Plan, in close proximity to the subject land,
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The amendment on being put became the motion which was put and carried.

MATTER ARISING:

That Council call for a report to retain William Strong Oval as a full size football field

RESOLUTION:

078	Councillor Nell Councillor Dingle	It was resolved that the recommendation be adopted.
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Note: Cr Hodges left the meeting at 7.17pm during Item 3 and returned at 7.19pm during Item 3

Note: Cr Robinson left the meeting at 7.42pm during Item 3 and returned at 7.46pm during Item 3

PURPOSE

The purpose of this report is for council to consider the results of the public exhibition of the draft LEP and support the draft LEP Amendment, consistent with the recommendations of this report, to be forwarded to the Minister for Planning requesting that the draft LEP be made.

PROPOSAL DETAILS

Owner : Nelson Bay RSL Memorial Club Ltd
Proponent: RPS HSO
Date of Submission: May 2006
Subject Land: Lots 15, 16, 21 & 23-31 DP 213730, Lots 59 - 67 DP 224365; Lots 1-6 DP 238164; and Lot 44 DP 221350 Shoal Bay Road, Nelson Bay. *Note – future development of the site will require amalgamation of these lots into a single parcel to address technical and policy requirements.*
Current Zone: 2(a) Residential
Proposed Zone: Part 3(a) General Business, Part 6(c) Special Recreation

BACKGROUND

In November 2006 Council resolved to prepare a draft LEP over the land subject to the preparation of an Economic Impact Assessment (that quantifies and qualifies how the proposed draft LEP will not undermine, but complement the existing retail hierarchy on the Tomaree Peninsula) and the preparation of a Development Control Plan for the site to guide how built form and integration of the site with the adjoining land uses can be achieved.

The rezoning request submitted to Council had merit as redevelopment of the club, that is currently an “internalised” private focal point for the local community (i.e internal retail and service activities inside the club), had potential to become an externalised public focal point for the local community (retail and service activities facing onto public streets and park) associated with tourist accommodation and conference facility development. The rezoning submission indicated that 5 storey buildings may be possible on the subject land. Obviously this was subject to further investigation. However, it was clear that future redevelopment of the site would involve an intensification of development on the site.

The draft LEP was forwarded to the Department of Planning (DoP) LEP Review Panel for their consideration. Discussions were held with the DoP regarding the possible impacts additional development in this location may have on the Nelson Bay Town Centre and Austral Street Shops and the issues associated with height and the impacts on adjoining and surrounding residential areas.

On 4 July 2007 the LEP Review Panel indicated Council’s resolution to prepare a draft LEP over the site subject had some merit subject to resolving matters of height and identifying a specific amount of commercial area for the site.

An Economic Impact Assessment was prepared by Castlecrest Consultants on behalf of the proponents. This report recommended that the subject land could accommodate approximately 1000m² of floor area for local retailing without undermining the centre hierarchy of Nelson Bay and Shoal Bay and other centres on the Tomaree Peninsula.

An Urban Design Analysis was prepared by Annand Alcock on behalf of the proponent. This report identified bulk, height issues and potential built form for the site and their relationship

to adjoining and surrounding land. This also included land to the east along Shoal Bay Road that is outside of the land subject to the draft LEP where the potential for a private hospital was mooted. Whilst this concept may have merit, its purpose was only to illustrate the strategic potential of the draft LEP over the subject land as a catalyst for further development opportunities in the locality. Obviously, the merits or otherwise of such development would be subject to another rezoning request being submitted to Council for its consideration.

Council officers had concerns with the Urban Design Analysis report, in particular the building heights proposed for the site. However, in the interests of expediting the processing of the draft LEP, it was considered acceptable to allow the draft LEP to be publicly exhibited with this documentation to allow public comment.

Following public exhibition, the receipt of a number of objections including a petition and a further review of the Urban Design Analysis, it is considered that the request for accommodating building heights up to 7 storeys on the subject site has not been justified and hence, has not been recommended in this report for the following reasons:

1. Consideration of the social and economic role and visual appearance of the proposed neighbourhood centre is to be complementary to that of Nelson Bay town centre. Therefore, in general terms, Nelson Bay should have increased building heights and development densities and retail and commercial floor space relative to other centres to reflect its role at the top of the centre hierarchy and as the “capital” of the Tomaree Peninsula. The draft Nelson Bay Strategy is currently reviewing these issues for Nelson Bay town centre.
2. The proposition has been put forward by the proponent that 7 storeys are required to attract a hotel to the site (the club building is currently 14 metres (3 storeys) in height). It would appear that this is based on a development model that requires a minimum number of rooms to be achieved before it would be financially viable for a hotel developer. If so then it would be more appropriate for such a “model” hotel to be located in a larger centre such as the Nelson Bay town centre where higher building heights would be more appropriate economically and visually.
3. The Urban Design Analysis justified building heights up to 7 storeys based upon illustrating increased building heights on surrounding residential zoned land (currently limited to 2 storeys and 8 metres) that might occur in the future i.e rezone surrounding lands to a higher density. However, it is unlikely that this would occur in the foreseeable future as the existing residential lots are relatively small, have already been developed, the housing stock on them is not very old and they consist of multiple land owners (many are holiday or rental properties). Redevelopment is likely to occur over time but not at the level suggested by the Urban Design Analysis.

LINKS TO CORPORATE PLANS

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

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

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

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

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

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

FINANCIAL/RESOURCE IMPLICATIONS

Should the recommendations of this report be supported, the Integrated Planning Section will invest staff time to submit and prepare the draft LEP to the DoP for their consideration. Staff time will also be invested into preparing the draft site specific DCP and area specific Voluntary Planning Agreement (VPA).

LEGAL AND POLICY IMPLICATIONS

Legal - There are no legal implications should Council reject the recommendations of this report.

Should Council adopt the recommendations of this report then the draft LEP will be forwarded to the Department of Planning for their consideration and requesting that it be forwarded to the Minister for Planning to make the plan.

Council should note that the majority of clubs in the Port Stephens LGA are zoned 6(c) Special Recreation. Therefore, rezoning the subject land will provide zoning consistency to this land use under the Port Stephens LEP 2000.

The draft LEP will be supported by a DCP and VPA that will be reported back to Council in due course. A draft DCP and draft VPA have not been prepared and submitted to Council to date due to the need to resolve strategic issues of building heights, ensure consistency with Ministerial Directions and addressing any objections outstanding from a public authority or body associated with the draft LEP as required by the Department of Planning in their letter of delegation to Council.

Policy – The subject land has not been identified in the *Port Stephens Community Settlement and Infrastructure Strategy 2007* for redevelopment. For this reason the criteria in **Part G3 Land Not Identified for Development** applies:

G3 Criteria 1 Shall be consistent with the Part F Sustainability Principles and Criteria, the Integrated Land Use and Transport Policy package and the Coastal Design Guidelines for NSW - the recommendation is consistent with the Land Use Transport Policy Package and the Coastal Design Guidelines. The subject land is located on Shoal Bay Road – the main transport corridor linking Fingal and Shoal Bay villages with the town of Nelson Bay. In this location the creation of a neighbourhood centre on a transport corridor with increased tourist accommodation and associated club activities and limited retail development will support public transport and walking and cycling through the

neighbourhood and to and from the centre. The existing slip lane on Shoal Bay Rd provides excellent opportunities for increased development whilst minimising friction with passing traffic.

The recommendation is aimed at encouraging development consistent with the Coastal Design Guidelines which indicate generally heights up to 4 storeys are appropriate with allowances for place specific urban design analysis justifying additional height. Development to this scale would not undermine existing centres. Whilst the Nelson Bay Strategy is still in draft form, the height recommended in the Draft Strategy is a baseline of 3 storeys with 5 and 6 storeys in limited areas.

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

F1 Settlement Structure and Movement Network – development of the site consistent with the report recommendations will complement the settlement structure and create a neighbourhood centre with limited retail activities and club activities. However, additional detailed investigations will be required at development application stage to enable the appropriate design and measures to mitigate any adverse traffic impacts on the movement network (Shoal Bay Road).

F3 Infrastructure Services and Facilities – Additional infrastructure services and facilities would be provided with the proposed development via Section 94. However, it is recommended that Council enter a Voluntary Planning Agreement with the land owner to negotiate public infrastructure additional to that levied under Section 94 that will benefit residents and the public in the immediate area of the subject land. The club has indicated their intentions to provide a 150 - 200 room motel and adjoining conference facility. Development of this nature would provide support for the local/regional tourism conference industry. Therefore, development of the subject land has significant potential to increase and diversify the tourism infrastructure for the Tomaree Peninsula.

F4 Natural Areas and Resources- Future development will be required, via a DCP, to show energy efficient design and incorporate water sensitive design techniques. The site is not located on flood affected land.

F5 Economics and Employment – the recommended draft LEP will not undermine the hierarchy of centres. Development consistent with the recommendations of this report will complement the existing Shoal Bay and Nelson Bay Town Centres.

F6 Sustainability Criteria - Sustainability Threshold criteria is to be applied for any proposed development outside designated areas in the Regional Strategy. The criteria are derived from the Sustainability Threshold Criteria in Appendix One of the Lower Hunter Regional Strategy LHRS – this is a matter for consideration by the Department of Planning

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

G3 – 3 Rezoning requests for land that meets Criteria 2 will only be considered if they are located on the transport corridor. Proposals that are located away from the transport corridor or, due to land use constraints, cannot achieve acceptable vehicular and pedestrian access on to the transport corridor will not be considered: Not applicable.

G3 - 4 Rezoning requests for land not strategically identified for development will require a Local Environmental Study (L.E.S) to be prepared: An LES is not required in this instance.

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

G3 – 6 A structure plan shall be prepared by a qualified urban designer illustrating how the principles of the Strategy can be achieved. The structure plan shall illustrate how the proposed development; complements the Port Stephens transport network and centres hierarchy in terms of retail and employment; integrates the new village, neighbourhood or town with the transport corridor; and can achieve the principles of the Strategy: N/A – draft LEP relates to an existing developed area and not a large greenfield development site.

G3 - 7 Rezoning requests shall address strategic traffic and transport planning issues including investigation and assessment of road hierarchy, strategic access controls, intersection locations and conceptual treatments to be provided for these connections: The rezoning of the site to allow redevelopment would have acceptable impacts on access, existing traffic conditions and road hierarchy within the area. However, this will be investigated further for the preparation of the DCP as well being required at development application stage.

G3 - 8 Rezoning requests for land that meets Criteria 2 will have a minimum ratio of 20% attached or multi unit dwellings to 80% detached dwellings to increase housing diversity and housing choice and improve the social and economic viability of the new village or town – N/A

G3 – 9 Rezoning requests for greenfield land attached to existing urban developed land shall demonstrate ability to physically connect with existing urban development by streets so that proposed development is a logical extension of existing urban areas. Council will determine if the proposed development warrants consideration as a new centre consistent with the principles of this Strategy – N/A

G3 - 10 Rezoning requests for infill development will be guided by the Sustainability Principles and Criteria of the Strategy including the Transect in Figure 24 – The recommendations of this report are consistent with the transect in Figure 24 of the CSIS. The design elements from the transect will guide the preparation of the DCP.

G3 – 11 Rezoning requests for land that contribute or lead to ribbon or strip development will not be considered. For green field development the spacing of new villages, neighbourhoods or towns will be responsive to ensuring that the rural or environmental landscapes that characterise the LGA are maintained – NA

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

G3 – 13 Rezoning requests for development will include an assessment of the costs of the construction, operation and maintenance of supporting infrastructure, community services and facilities and the long-term life cycle costs of such infrastructure and

whether the increased rate revenue likely to be generated by the proposed development can support it – Development of the site will be subject to Section 94 levies with additional funding for infrastructure in the form of a VPA being recommended.

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

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

Business Excellence Framework

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

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – *Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.*
- 2) **CUSTOMERS** – *Understand what makes markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
- 4) **PEOPLE** – *Develop and value people's capability and release their skills, resourcefulness and creativity to change and improve the organisation.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a 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

Public submissions to the draft LEP indicated current operations of the Club are adversely impacting on the amenity of the surrounding residents. This includes noise from air conditioning units, entertainment activities and antisocial behaviour. Should redevelopment occur on the site the operational noise from air conditioning units would be required to be mitigated as part of any future development application.

The draft LEP will enable the Club to grow and could cater for a conference facility and a motel and allow supporting retail activity that would overlook WJ Strong Memorial Oval. Having neighbourhood retail activities located opposite the high amenity oval creates a public

focal point for local residents to meet and socialise in a public setting (e.g café/restaurant over looking the park) that in turn increases casual surveillance over the park. Other social implications are benefits of increased local employment associated with these activities.

The existing built form is unsympathetic to the surrounding environment. Redevelopment of the site would see an opportunity to redevelop the Dolphin Motel as well as sleeve the eastern and western ends of the existing club with new buildings. Future development on the site will be guided by a site specific DCP which will be prepared by Council. The resolution of Council regarding height will form the part of the site specific DCP.

ECONOMIC IMPLICATIONS

Redevelopment of the site would provide positive economic outcomes, but will not undermine the existing Nelson Bay and Shoal Bay Centres. Nor will the development have adverse impacts on the nearby Austral Street centre. Economic Impact Assessment was undertaken indicating that limiting commercial space to 1000m² will not impact on the surrounding centres. The actual area of the proposed 3(a) Commercial zone is approximately 1000m².

Having motel and conference facilities on the site would attract visitors to the area and increased visitor spending. This is consistent with the principle of “capturing external wealth earned elsewhere” outlined in Appendix 2 of the *Port Stephens Community Settlement and Infrastructure Strategy 2007*. This includes recreational visitors (tourists, ‘day visitors’ and ‘family visitors’) and business visitors (mice = meetings, incentives, conferences and events). Combined with the facilities and services of the club, this can extend to ‘Pre Retirement, Early Retirement, Retirees and Retirement Services (high net-worth families and individuals).

Public exhibition of the draft LEP raised the issue of building heights and the relationship of the draft LEP to Nelson Bay town centre. The draft LEP and the subsequent redevelopment opportunities of the subject land are intended to be complementary to the economic role and functioning of Nelson Bay as the “capital” of the Tomaree Peninsula.

Voluntary Planning Agreement

Separate to the draft LEP, a VPA is recommended to be established to enable funds above the required Section 94 fees be collected and allocated to public infrastructure in the immediate surrounding area. The Club has indicated they would commit, at a minimum, an additional \$300 000 + \$20 000 per year for a 5 year period additional to the standard Section 94 fees levied by Council.

Preliminary discussions have been held between Council Officers regarding the opportunities that additional infrastructure funding would provide for the area in the immediate vicinity of the subject land. These include, but not limited to the following:

Public transport infrastructure including bus stop shelters;
Kerb and guttering;
Intersection treatments;
Foot paths and cycleways including cycleway to Little Beach and connecting footpath to Nelson Bay town centre;
New fencing and landscaping for the WJ Strong Memorial Oval;
Upgrade of facilities including new club house for WJ Strong Memorial Oval
Irrigation infrastructure Fly Point Reserve

Investigation and further negotiations will be required to ensure the additional funds are allocated to appropriate infrastructure to provide benefit for the local residents and for visitors.

It should be noted that Section 94 fees can only be used for projects identified in Council's Section 94 Plan and Forward Works Program. A VPA would allow for upgrades of facilities in the immediate area not identified in current plans.

ENVIRONMENTAL IMPLICATIONS

The site is already developed for urban purposes including the Dolphin Motel, Club and associated car park. These developments do not physically relate well to the surrounding area as they have been designed and constructed with an internal focus. Therefore, future development should address this by sleeving existing blank walls of the club and redevelopment of the Dolphin Motel with an external focus onto Shoal Bay Road, Achilles St and Dixon Drive. Development in this manner of up to 5 storeys will have impacts on the visual environment. However, the acceptability of this is dependent upon establishing appropriate development controls in the proposed DCP and the skill of the architect or building designer to design building's that positively relate to public streets and parks and adjoining residential areas and are attractive and complement the setting of the locality.

The intention of the report recommendations is to encourage development that will not significantly intrude visually on the existing skyline by restricting height on Shoal Bay Road and creating a focus toward Memorial Oval. The DCP will be placing much emphasis on the public facades of any new buildings for the site.

CONSULTATION

Internal consultation occurred when developing the draft plan. The preparation of urban design analysis involved consultation between the proponent and Integrated Planning Officers (see Background).

The draft LEP was exhibited from 8 December 2007 to 1 February 2008. The exhibition period was extended to accommodate local residents and landowners who may have been away or distracted by the Christmas period. A total of 8 submissions were received including a petition signed by 67 residents. Concerns relating to height and the surrounding built environment were raised in the letters of objection. **(Attachment 5)**. Concerns were also raised that the supporting material prepared by the proponent was misleading as it indicated uses such as a hospital that may never be realised as there is no legal mechanism in the rezoning process to guarantee that this type of development would occur.

No objections or significant comments were received by State agencies consulted under Section 62 of the Act.

To gain a better understanding of the matters raised through the submissions, Council Officers made a number of site visits and met with 3 of the residents who made submissions at their respective properties, these matters have been considered and are reflected in the recommendations of this report.

If Council supports the recommendations of this report, further consultation will be undertaken with the local community in the preparation of the DCP and VPA for the development. These will also involve public exhibition and subsequent reporting back to Council.

OPTIONS

There are two options Council may consider beyond that recommended in this report.

Option 1 - proceed with the draft LEP limiting height to that identified in **Attachment 3** to 3 storeys over the site consistent with the Club's existing height and to be reflected in a DCP

for the site. Should this option be supported a VPA would not be recommended. Development of this kind would allow redevelopment opportunities but not at a level as submitted by the proponent.

This option may lead to reduced financial incentives for the land owner to redevelop the site and hence, may not be a sufficient catalyst for creating a public neighbourhood focussed onto Memorial Oval and conference facilities and address the existing public amenity issues raised by the current buildings on the site. Furthermore, this option would not provide the infrastructure opportunities, via a Voluntary Planning Agreement, for the local residents additional to that levied under Port Stephens S.94 Development Contributions Plan 2007 (see Economic Implications section of this report).

Option 2 - proceed with the draft LEP limiting height to that identified in **Attachment 4** up to 7 storeys over the site and to be reflected in a DCP for the site. This option would have an adverse impact on the surrounding residential development due to the potential bulk and scale of proposed developments. Further, the intensification of this site could economically and visually adversely impact on the existing Nelson Bay town centre in terms of confusing residents and visitors what area is the higher order centre within, and travelling through, the landscape.

For reasons outlined in this report this option is not recommended. Furthermore, the Lower Hunter Regional Strategy and the draft Nelson Bay Strategy (still being finalised) require Council ensures that the Nelson Bay town centre is enhanced and supported. It is considered that this option could undermine investment and economic and social exchange in the Nelson Bay town centre.

ATTACHMENTS

- 1) Draft LEP 27 Instrument and Map.
- 2) Plan indicating recommended heights.
- 3) Option 1 indicating height to 3 storeys.
- 4) Option 2 indicating building heights up to 7 storeys as submitted by the proponent.
- 5) Summary of Submissions.

COUNCILLORS ROOM

- 1) Urban Design Analysis report submitted by the proponent
- 2) Economic Impact Assessment report submitted by the proponent.

TABLED DOCUMENTS

Nil

ATTACHMENT 1

DRAFT LEP 27 INSTRUMENT AND MAP

Port Stephens Local Environmental Plan 2000 DRAFT (Amendment No 27)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.

Minister for Planning

**Port Stephens Local Environmental Plan 2000 DRAFT
(Amendment No 27)**

under the

Environmental Planning and Assessment Act 1979

1 NAME OF PLAN

This plan is *Port Stephens Local Environmental Plan 2000 DRAFT (Amendment No 27)*.

2 AIMS OF THE PLAN

This plan aims to rezone the land to which this plan applies from Zone No 2(a) (the Special Residential "A" Zone) to Part zone No 3(a) (the General Business Zone) and Part zone No 6(c) (the Special Recreation) under "*Port Stephens Local Environment Plan 2000*".

The intent of the plan is to formalise the existing operations of the Nelson Bay RSL Memorial Club, allow tourist style accommodation and limited commercial development associated with the RSL Club.

3 LAND TO WHICH PLAN APPLIES

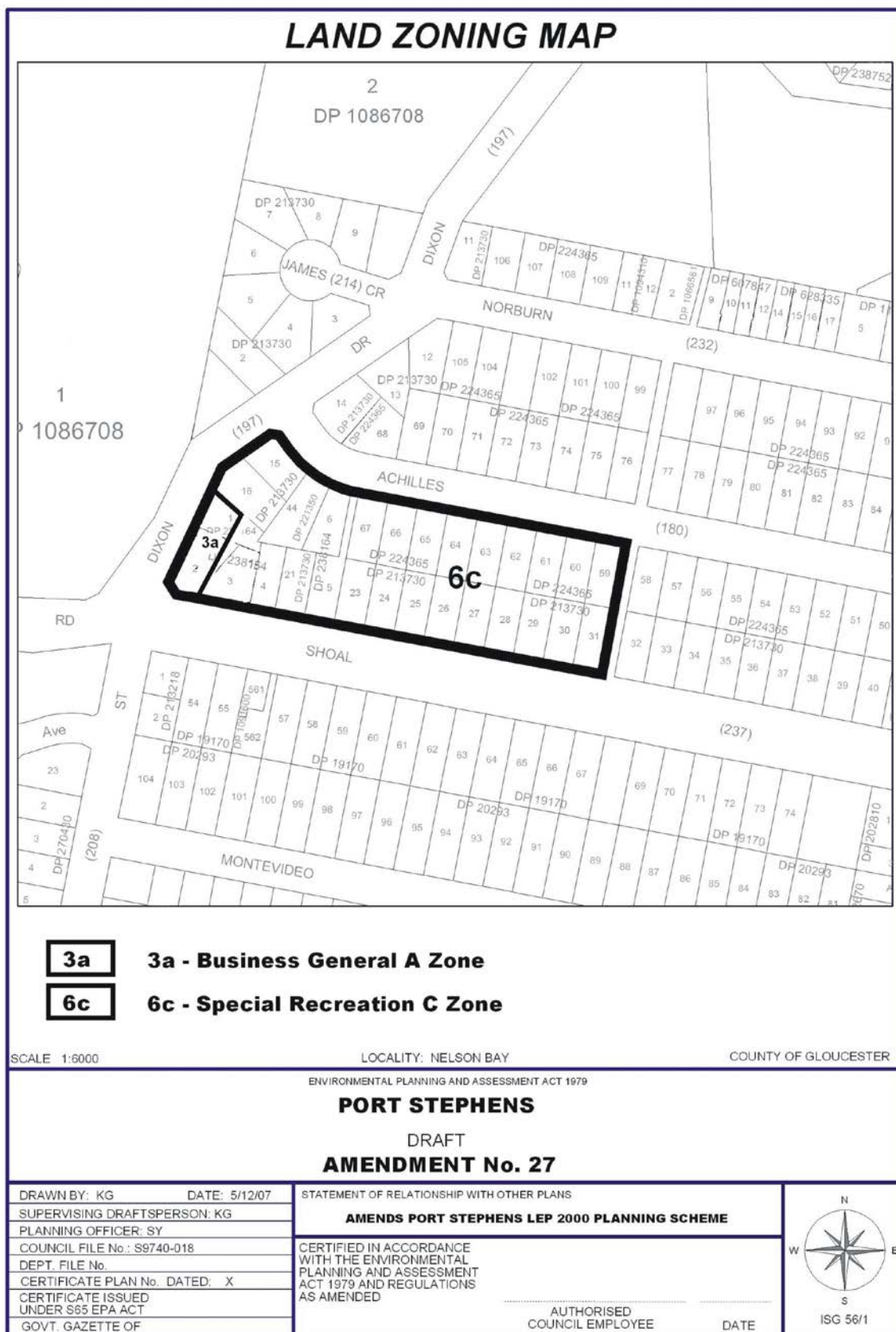
- 1) To the extent that this plan applies to land situated in the local government area of Port Stephens, being part Lot 2 DP 238164 and Lot 1 DP 238164 as shown edged heavy black and lettered "3(a)" on the map marked "*Port Stephens Local Environment Plan 2000 (Amendment No 27)*".
- 2) To the extent that this plan applies to land situated in the local government area of Port Stephens being Part Lot 2 DP 238164, Lots 3, 4, 5 & 6 DP 238164, Lots 15, 16, 21 & 23-31 DP 213730, Lots 59-67 DP 224365 & Lot 44 DP 221350 as shown edged heavy black and lettered 6(a) on the map marked "*Port Stephens Local Environment Plan 2000 (Amendment No27)*".

**4 AMENDMENT OF PORT STEPHENS LOCAL ENVIRONMENT PLAN
2000**

Port Stephens Local Environmental Plan 2000 is amended by inserting in appropriate order in the definition of the map in the Dictionary the following words:

Port Stephens Local Environmental Plan 2000 (Amendment No 27).

ATTACHMENT 1



ATTACHMENT 2
PLAN INDICATING RECOMMENDED HEIGHTS



ATTACHMENT 3
OPTION 1



ATTACHMENT 4
OPTION 2



**ATTACHMENT 5
SUMMARY OF SUBMISSIONS**

General nature of the issue raised	Comment
Objection to existing noise from the RSL Club – Base generated from the night club	This is an operational matter and not part of the assessment of the rezoning proposal, however, the concerns raised in the submission has been forwarded on to the relevant officer for investigation as there appears to be a long history of discussion between both parties.
Objection to existing antisocial behaviour from patrons	This is an operational matter and not part of the assessment of the rezoning proposal, however, both Club management and the police are aware of this matter.
Loss of views from high rise development	The supporting material suggests heights ranging from 3 to 7 storeys across the site. The recommendation does not support these heights and has recommended a limit of 4/5 storeys across the site. This matter has been addressed in full in the body of this report.
Loss of privacy in backyard from high rise development	Any perceived loss of privacy would need to be considered at the development application stage.
Increased noise in surrounding streets from service provision i.e. garbage trucks	This would be a matter for consideration at the development application stage which would include information on access, traffic management and design.
Increased traffic in area	Traffic implications will need to be considered in detail at the development application stage. The additional information provided by the applicant suggests potential uses; however, as it is a rezoning application there is no requirement for the uses identified to be progressed. ,
Concerned that rezoning was not published in full in the local paper	The rezoning proposal was exhibited in accordance with the legislative requirements of the Environmental Planning and Assessment Act, 1979.
Objection to the assertion by the developer of the need for a neighbourhood centre when the area is only two minutes down the road to Nelson Bay	Noted. Two minutes by car but not within reasonable walking distance for most residents.
Applicant addresses the transport issue and references a 21% usage of the train when there is no train.	The reference in the proponent's submission to trains related to transport usage for the broader area, not specifically about accessing this site.
Provision of a private hospital considered a 'red herring' to get the publics attention and support.	This matter has been addressed in this report.
General support for the redevelopment of the site and the proposed improvement to the site such as landscaping.	Noted
Concerned about the design solutions suggested in the urban design analysis.	The analysis is a concept proposal only. A DCP will need to be developed for the site which would provide clear direction for future development. The DCP will be placed on exhibition for public comment.
Request that the area identified for rezoning be extended to include additional sites to the south.	To include additional areas in the draft LEP would require a new Council resolution to begin the process again. The Club has indicated that they wish the matter be reported to Council and not delayed.
Concern that the urban design analysis could "lock" the current property owners into specific uses with out the benefit of being included in the discussions.	The urban design analysis prepared by the proponent extended beyond the subject site, however, as it is only a concept proposal, there is no obligation on the property owner to pursue the uses identified.

ITEM NO. 1

FILE NO: 16-2006-246-1

REVIEW OF DEVELOPMENT APPLICATION FOR HOME EMPLOYMENT (EARTH MOVING & ENGINEERING) PURSUANT TO SECTION 82A ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AT NO 774 MARSH ROAD BOBS FARM

REPORT OF: SCOTT ANSON, MANAGER – DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

Refuse the Review of Development Application 16-2006-246-1 for the following reasons:

- 1) The development is inconsistent with the objectives of the 1(a) Rural Agriculture zone pursuant to Port Stephens Local Environmental Plan 2000;
- 2) The development is inconsistent with the definition of home employment pursuant to Port Stephens Local Environmental Plan 2000 in that it will adversely interfere with the amenity of adjoining properties and the immediate locality;
- 3) The development is inconsistent with the home employment requirements of Development Control Plan 2007;
- 4) The development is considered to be out of character with the immediate locality and will detract from the rural setting and residential amenity;
- 5) The development poses an unacceptable acoustic and vibration impact associated with the earth moving component;
- 6) The development poses an unacceptable social impact on properties in the locality;
- 7) The development is contrary to the public interest and expectations of an orderly and predictable environment.

OPERATIONS COMMITTEE MEETING – 8 April 2008

RECOMMENDATION:

That the recommendation be adopted

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:

079	Councillor Dover Councillor Hodges	1. Defer determination of Section 82A review for one (1) month to enable the applicant to investigate the feasibility of relocating the engineering fabrication and earthmoving business to adjoining land Lot 10 DP 1071458 and submit a report to Council addressing the following issues: <ul style="list-style-type: none">• Confirmation of ownership or option to purchase Lot 10 DP 1071458;• Confirmation of ability to secure
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		<p>right of way (r.o.w) access over adjoining land;</p> <ul style="list-style-type: none"> • Documentation from Roads and Traffic Authority (RTA) confirming in-principle support for proposed left in/left out access from Nelson Bay Road subject to detail engineering design; • Documentation from a qualified engineer confirming practical access suitable for heavy vehicles can be achieved via the existing track; and • Submission of preliminary planning report addressing capability and suitability of Lot 10 DP 1071458 for the proposed use as the basis for rezoning the site subject to accepted land use and locational criteria for siting a depot <p>2 The applicant to submit the planning report by no later than 22 May 2008</p> <p>3 Council requests a further report in July 2008 to enable consideration of the Section 82A review and the applicants planning report concurrently.</p> <p>4 That Council not undertake legal action whilst the site investigation occurs subject to an undertaking from Hays Enterprises to restrict the number of heavy plant on site to two (2) at any one time and to relocate all other heavy plant to work sites where practical.</p>
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AMENDMENT:

	<p>Councillor Francis Councillor Nell</p>	<p>That Council;</p> <ol style="list-style-type: none"> 1. Defer determination of Section 82A review for one (1) month to enable the applicant to investigate the feasibility of relocating the engineering fabrication and earthmoving business to adjoining land Lot 10 DP 1071458 and submit a report to Council addressing the
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		<p>following issues:</p> <ul style="list-style-type: none"> • Confirmation of ownership or option to purchase Lot 10 DP 1071458; • Confirmation of ability to secure right of way (r.o.w) access over adjoining land; • Documentation from Roads and Traffic Authority (RTA) confirming in-principle support for proposed left in/left out access from Nelson Bay Road subject to detail engineering design; • Documentation from a qualified engineer confirming practical access suitable for heavy vehicles can be achieved via the existing track; and • Submission of preliminary planning report addressing capability and suitability of Lot 10 DP 1071458 for the proposed use as the basis for rezoning the site subject to accepted land use and locational criteria for siting a depot
	2	The applicant to submit the planning report by no later than 22 May 2008
	3	Council requests a further report in July 2008 to enable consideration of the Section 82A review and the applicants planning report concurrently.
	4	That Council not undertake legal action whilst the site investigation occurs subject to an undertaking from Hays Enterprises to restrict the number of heavy plant on site to two (2) at any one time and to relocate all other heavy plant to work sites where practical.
	5	The objectors be notified of Council's decision and the applicant be requested to not have any contact with the objectors.

The amendment on being put was lost.

BACKGROUND

The purpose of this report is to present a review of the Development Application pursuant to Section 82A of the Environmental Planning and Assessment Act to Council for determination.

Council has previously received noise, dust, odour and traffic complaints from persons in the locality relating to the use of the subject land. Council's investigations revealed that the site appears to have been operating as an earthmoving business and depot for a number of years without development consent. In an attempt to regularise the operation, the applicant submitted a development application for home employment (DA 16-2006-246-1). The subject development application was refused by Council on 27 June 2006. Council and the owner/operator subsequently entered into mediation to address Council's concerns and issues raised in public submissions. As an outcome of that mediation process, the owner/operator has lodged a Section 82A application seeking a formal review of Council's determination. In addition, a detailed chronology is provided in **Attachment 1**.

At the time of original determination, Development Control Plan PS5 applied. Development Control Plan 2007 now applies to any Section 82A in accordance with the savings provisions contained in the current DCP. A detailed comparison of the controls is provided in this report in **Attachment 3**.

In the assessment of this Section 82A review and revised proposal, determining weight is given to the resultant unreasonable and unacceptable impacts upon the adjoining Bobs Farm Public School. The impacts associated with this development are exacerbated by the overall scale of the proposal. In addition, the Statement of Environmental Effects submitted with the original application states that there will be a maximum of 10 vehicle movements per day. The Management Plan submitted with the 82A Review indicates 30 vehicle movements per day. In this regard, the proposal is not reduced in scale. Accordingly, the Section 82A application and revised proposal is recommended for refusal.

LINKS TO CORPORATE PLANS

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

SOCIAL SUSTAINABILITY –	<i>Council will preserve and strengthen the fabric of the community, building on community strengths.</i>
CULTURAL SUSTAINABILITY –	<i>Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.</i>
ECONOMIC SUSTAINABILITY –	<i>Council will support the economic sustainability of its communities while not compromising its environmental and social well being.</i>
ENVIRONMENTAL SUSTAINABILITY –	<i>Council will protect and enhance the environment while considering the social and economic ramifications of decisions.</i>
BUSINESS EXCELLENCE –	<i>Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement</i>

*leading to long-term sustainability across operational
and governance areas in a Business Excellence
Journey*

FINANCIAL/RESOURCE IMPLICATIONS

If approved, the proposal is likely to generate continued complaints to Council from surrounding neighbours, particularly the adjoining Bobs Farm Public School. These complaints are likely to generate significant demand on Council's limited development compliance resources.

LEGAL AND POLICY IMPLICATIONS

The proposal is inconsistent with the definition for home employment pursuant to Port Stephens Local Environmental Plan 2000 in that it will adversely interfere with the amenity of adjoining properties and the immediate locality. The proposal is not consistent with Council's adopted Development Control Plan 2007, specifically Section B10 Home Employment in terms of numbers of employees, hours of operation and number of vehicles/plant.

Australian 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.*
- 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

This proposal will have a detrimental impact on the amenity of surrounding properties in addition to impacting on the learning environment of the adjoining Bobs Farm Public School. These impacts include noise and vibration from the heavy vehicles and their impact on the condition of Marsh Road and its users, specifically school children accessing the adjoining school.

The Department of Education and Bobs Farm Public School have expressed strong concerns about the development and its on-going impact on the school. The subject school opened in July 1918, some 67 years prior to the time when the applicant claims to have commenced using the site as an earthmoving depot circa 1985.

ECONOMIC IMPLICATIONS

The proposal will generate employment for 15 people. It is noted that this represents a reduction of seven (7) employees on site, from that proposed in the development application refused by Council. If the proposal is not supported by Council, it is acknowledged that there will be a potential negative impact on employment unless an alternative site or operational arrangements are identified for this use.

ENVIRONMENTAL IMPLICATIONS

This proposal will have a detrimental impact on the amenity of surrounding properties in addition to impacting on the learning environment of the adjoining Bobs Farm Public School. The storage of fuel and chemicals associated with the proposal in close proximity to residences and the school is problematic. If Council proposes to approve the proposal, it is strongly recommended that a condition be placed on the development requiring all fuel and chemical storage to be suitably bunded including an emergency management plan. Storage structures should be located to comply with relevant Australian Standards, Department of Environment and Climate Change and WorkCover guidelines and requirements given proximity to residences and the school.

CONSULTATION

The application was exhibited in accordance with Council policy, and adjoining property owners/parties who previously made a submission were notified. Five submissions were received. These are discussed in **Attachment 3**.

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject or amend the recommendation.
- 3) Council indicates support for the engineering contracting component of the home employment comprising a metal fabrication and welding business to be undertaken in the proposed shed subject to appropriate conditions of consent. Council indicates its intention to refuse the earthmoving component of the home employment unless the proposal is reduced in scale and generally consistent with the home employment definition and requirements under DCP 2007 contained in **Attachment 3**.

Comment

An appropriately scaled home employment use could be supported on the subject land. The engineering fabrication component could be scaled to generally satisfy the scope of home employment requirements in terms of numbers of employees and is supported in principle subject to appropriate conditions of consent. The scale and impacts associated with the earthmoving component is problematic in terms of the unreasonable and unacceptable impacts on the adjoining school.

- 4) Council indicates its support for the application and requests the Group Manager Sustainable Planning to bring forward conditions of consent in the event that Council determine to give conditional approval to this application.

Comment

Approving the development at the scale proposed may require a review of home employment provisions contained in DCP 2007.

ATTACHMENTS

- 1) Chronology of Events
- 2) Locality Plan
- 3) Assessment

COUNCILLORS ROOM

- 1) Site Plan
- 2) Elevation Plan for Proposed Shed
- 3) Landscape Plan
- 4) Management Plan

TABLED DOCUMENTS

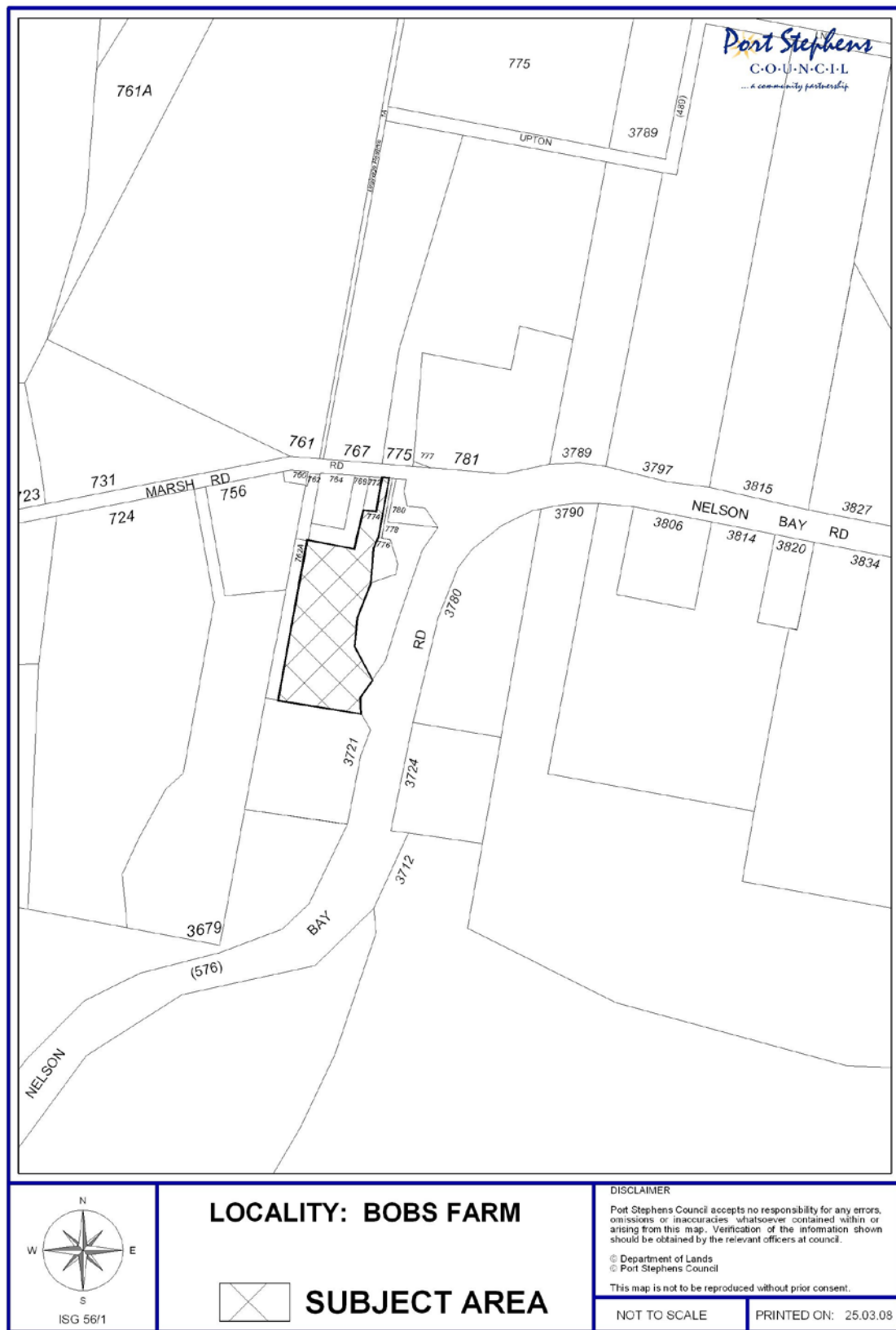
Nil

ATTACHMENT 1
CHRONOLOGY OF EVENTS
REFUSAL OF DEVELOPMENT APPLICATION TO ASSESSMENT OF S82A
REVIEW

- **27 June 2006** - Ordinary Meeting of Council refused DA 16-2006-246-1 for Home Employment (Earth Moving and Engineering) for the following reasons:
 1. The development is inconsistent with the objectives of the 1 (a) Rural Agriculture Zone pursuant to Port Stephens Local Environmental Plan 2000.
 2. The development is inconsistent with the requirements of Development Control Plan PS No. 5 "Home Employment Guidelines".
 3. The development is considered out of character with the immediate locality and will detract from the rural setting and residential amenity.
 4. The development poses an unacceptable acoustic impact because of the activities associated with the Engineering Contracting business and proposed operating hours of the Earth Moving Business.
 5. The development poses an unacceptable social impact on properties in the locality.
 6. The development is contrary to the public interests and expectations of an orderly and predictable environment.
- **25 July 2006** – Rescission Motion in relation to this resolution was considered at the Council meeting and was lost.
- **15 August 2006** - Letter to this effect was sent to the landowner, Hay Enterprises.
- **30 August 2006** – In response, Hay Enterprises submitted a letter seeking Council's support for a rezoning of the property to enable the subject business activities to be legitimised.
- **12 September 2006** – After consultation with Council, Sparke Helmore sent a letter requiring cessation of business activities and a Letter of Undertaking from the land owner to this effect within 7 days.
- **18 September 2006** - A reply was received requesting an additional 14 days to formally respond to Council and claiming that Port Stephens Council has regularly engaged the services of Hays Enterprises over the past eighteen years, to the extent that in the twelve months prior to February 2006 Council repeatedly contracted Hays Enterprises on numerous occasions.
- **10 October 2006** - Council resolved to defer legal proceedings and any further action for 28 days to enable the preparation of a submission regarding existing use rights and/or the scaling down of the business to seek to meet the definitional and policy statements link within Port Stephens LEP 2000 and DCP on Home Employment Guidelines.

- **6 November 2006** - Hunt and Hunt Solicitors for Hay Enterprises made a submission in regard to existing use rights, which was referred to Sparke Helmore for advice. Existing use rights were not proven by Hunt and Hunt Solicitors on behalf of Hay Enterprises and there was no other information/advice to hand to impede Council from initiating action in the Land and Environment Court in this matter.
- **28 November 2006** - Ordinary Meeting of Council resolved to provide further opportunity for Hunt and Hunt, Solicitors for Hays Enterprises, to make submissions regarding existing use rights until 8 December 2006.
- **30 January 2007** - Hunt and Hunt sent documents to support their client's claim.
- **19 June 2007** - After consideration of this submission and detailed research of Council's records, Council was still not satisfied that the use carried on by Hay Enterprises on the subject site has existing use rights, and instigated a Mediation Conference. At this conference Hay Enterprises agreed to address Council's concerns about the operation of the business, by a reduction in scale and arranging for an Section 82A review to be lodged.
- **1 August 2007** - Hay Enterprises lodged an application under Section 82A for review of the determination, which was deficient in a number of areas. There were no notification plans, the site plan lacked detail and dimensions and was not drawn to scale. There was no landscaping plan, and the management plan also lacked detail and was incomplete.
- **10 September 2007** - Voicemail messages were left with Hunt and Hunt advising of the outstanding information.
- **12 September 2007** - A representative of Hunt and Hunt advised that the outstanding information would be lodged with Council shortly.
- **14 November 2007** - Letter sent to Hays Enterprises and Hunt and Hunt, reiterating Council's previous verbal request for the additional information.
- **18 December 2007** - Council wrote to Hunt and Hunt, advising that unless the information is provided by 14 January 2008 that the application would be refused.
- **14 January 2008** - Further submission was received. While of a higher standard than that previously lodged, the Site Plan and Plan of Management still lacked detail, the Landscape Plan was inadequate and the Advertising Plans were not fully legible.
- **22 January 2008** –Council sent a letter advising of the deficiencies. These issues were rectified in a submission received by Council, allowing for the application to be notified and assessed.

ATTACHMENT 2 LOCALITY PLAN



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 proposal is seeking development consent for Home Employment. The Home Employment consists of the operation of two businesses, namely Engineering Contracting and Earth Moving Contracting. The development includes the following components:

- The "Engineering Contracting" component of the Home Employment comprises a Metal Fabrication and Welding Business, to be undertaken in the proposed shed.
- The existing rural shed that currently houses the Metal Fabrication and Welding business is to be used for storage associated with the businesses.
- The "Earth Moving" component of the Home Employment seeks to utilise the site for the storage of vehicles, plant and machinery in an open, unsealed area, and an area for the temporary stockpiling of material. Maintenance and repairs of vehicles/plant/machinery to be undertaken in the proposed shed.

THE APPLICATION

Owner	Mr Allan & Mrs Evelyn Hay
Applicant	Mr Allan Hay
Detail Submitted	Site Plan Landscape Plan Management Plan

THE LAND

Property Description	Lot 11 DP 1071458
Address	774 Marsh Road BOBS FARM
Area	2.892 hectares
Characteristics	The battle-axe allotment is irregular in shape and is located on the southern side of Marsh Road, Bobs Farm.

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning 1 (a) Rural Agriculture

Relevant Clauses Clause 11

Development Control Plan DCP 2007 – Section B10 Home Employment

ORDINARY MINUTES – 22 APRIL 2008

(Applicable to S82A in accordance with savings provisions of DCP 2007)

DCP No 5 Home Employment Guidelines

Applicable to development application at time of determination)

Regional Environmental Planning Policies Hunter REP1989

State Environmental Planning Policies Nil

ATTRIBUTE	PREVIOUSLY REQUIRED UNDER DCP PS5	PROPOSED IN ORIGINAL DEVELOPMENT APPLICATION	PROPOSED IN 82A REVIEW	REQUIRED UNDER DCP 2007	DOES 82A APPLICATION COMPLY with DCP 2007
Total Floor Area (internal operations only)	50 square metres	Engineering 50 square metres *	Engineering 450 square metres Site Office for Earth Moving 45 square metres TOTAL 495 SQUARE METRES	50 square metres for trucking operations (truck and vehicle parking/storage may be considered in addition to this area)	Yes
No of employees	2	22	15	2	No
Hours of Operation	Mon-Fri 8-6 Sat 9-5	Mon-Fri 7-5 Sat 8-5	Mon-Fri 7-5.30 Sat 8-4	Mon-Fri 8-6 Sat 9-5	No
Vehicle Movements/ day	Not specified	10	30**	Not specified	No requirement (see below)
No Prime Movers/Heavy Equipment	2 trucks/prime movers	Not specified	12 Excavators/trucks	2 trucks/prime movers	No

* The previous Council report noted that in the circumstances of this proposal this requirement would be very difficult to regulate and ensure compliance. This provision is now superseded by DCP 2007

** The Statement of Environmental Effects submitted with the original application states that there will be a maximum of 10 vehicle movements per day. The Management Plan submitted with the 82A Review indicates 30 vehicle movements per day. In this regard, the proposal is not reduced in scale.

Discussion

The land is zoned for agricultural use under the provisions of the LEP 2000. Although the applicant has applied for home employment, the proposed use would be more suitable in an industrial setting. The site has not been zoned for industrial use and the site is not suitable for this purpose.

Port Stephens Local Environmental Plan (LEP) 2000 applies to the subject land. The land is zoned Rural 1(a) Agriculture under the provisions of the LEP. Under the previous planning instrument LEP 1987 and initially LEP 2000, depots were a permitted land use within the Rural 1(a) Agriculture zone.

However, Council resolved to remove a number of inappropriate land uses permissible within the rural agriculture zone, which included prohibiting depots within the 1(a) Rural Agriculture zone. This amendment was gazetted on the 5th September 2003.

Exhibition of the proposed review of Development Application proposal has generated four (4) letters of objection, raising concerns in relation to heavy vehicles including noise and vibration, the impact on Marsh Road and the subsequent diesel fumes.

It is acknowledged that this locality supports a mix of land uses, including some that are not typical in a rural setting and generate noise eg go-kart track. However the number of vehicle/truck movements associated with this development (10 vehicle movements per day in original application now increasing to 30 vehicles per day in the 82A Review) is still anticipated to have a significant impact on the amenity of surrounding residences and the adjoining school.

The proposal is recommended for refusal as it is contrary to long established landuse zoning principles and sound planning practice. In this regard, the proposal results in land use conflict between what in essence is an industrial use and the adjoining school and surrounding dwellings. Whilst some impacts are capable of being mitigated through conditions of consent, significant adverse and unacceptable impacts, particularly on the school. These impacts are exacerbated by the overall scale of the proposal. Therefore the development is contrary to the public interest and expectation of an orderly and predictable environment. As such, the development as proposed and revised in the Section 82A application is still considered incompatible with the surrounding land uses and should not be supported.

2. Likely Impact of the Development

Given the history of complaints Council has received in relation to this business, it is anticipated that these would continue if the proposal was approved.

The proposal is likely to generate a number of adverse impacts on surrounding residents and the adjoining school. These impacts include:

- Damage to Marsh Road
- Noise/vibration
- Odour/fumes
- Safety concerns associated with children accessing the public school

The applicant maintains that the business should be supported on the basis that it satisfies the relevant provisions of "Home Employment" pursuant to Local Environmental Plan 2000 and Development Control Plan PS5 Home Employment Guidelines, and that it has operated over many years in a satisfactory manner. The scale and intensity has been reduced and it is suggested that consent conditions can be imposed to ensure compliance with the relevant requirements in this regard. In order to comply with Home Employment provisions would include a reduction in staff numbers from fifteen (15) to two (2) and a reduction in trucks and heavy machinery from twelve (12) to two (2).

2.1 Hunter Regional Environmental Plan 1989 (HREP)

During the assessment and review of this 82A application it was noted that the subject land is identified on Department of Primary Industry maps as being Prime Agricultural Land.

Clauses 24-28 of the HREP relate to rural land. These clauses seek to:

- (a) protect prime crop and pasture land from alienation, fragmentation, degradation and sterilisation,
- (b) to provide for changing agricultural practices, and
- (c) to allow for the development of small rural holdings and multiple occupancy on land capable of such developments in appropriate locations.

Clause 27(2) requires that Council take account of the views of the Department of Primary Industries (on the effect on the productive potential of the land and on the productive use and potential of adjoining lands) prior to granting consent to a development application for development, other than commercial farming on such land. These views have not been sought as the proposal is recommended for refusal. If Council proposes to approve the development then formal consultation with the Department of Primary Industries would be required prior to determination. The DPI would need to consider the subject lands agricultural productivity, viability with due regard to adjoining landuses which include the school and residences.

2.2 Port Stephens Local Environmental Plan 2000 (LEP 2000)

Pursuant to LEP 2000, Home Employment “means the use of any land or buildings within an allotment on which a dwelling is located, for any office, industry or business, but only where such use:

- (a) is undertaken by the permanent residents of the dwelling, whether or not others are also employed, and
- (b) does not interfere with the amenity of adjoining properties or the locality in which it is situated, and
- (c) does not involve exposure to view from any adjacent premises or from any public place of any unsightly matter, and
- (d) does not require the provision of any essential service main of a greater capacity than that available in the locality.”

The business is not considered to fully satisfy the provisions of LEP 2000, particularly (b) and (c) above. Over the last three years Council has received numerous complaints in regard to this operation and its impact on the amenity of adjoining property. Site inspections have been conducted by Council officers in response to these documented complaints.

The most recent inspection was carried out at approximately 3.00pm on 25 February 2008, by Council's Senior Development Planner and Development Compliance Officer accompanied by the Site Manager. There was no activity occurring on the site at that time and there was no stockpiles observed. There was no plant visible and while there were several cars parked on the site, there appeared to be no employees on the site other than the site manager and a receptionist in the office. Fresh tyre marks were noted on the

extensive unsealed hardstand area. During this inspection, the site manager advised Council officers in attendance that the owner is proposing additional landscaping to that included on the development plans, to screen the business from his residence on the site.

2.3 Port Stephens Development Control Plan 2007 (DCP 2007) Section B10 Home Employment

DCP 2007 became effective on 31 May 2007. Despite not being in force when the application was initially determined, section A1.2 of the DCP states that it applies to applications for review of determination under section 82A of the Act that are made after its commencement. The review of development application has been assessed under the provisions of section B10 (Home Employment) of DCP 2007.

Section B10.1 states *“in determining a development application for home employment, Council will give consideration to the type of business activity proposed, the hours of operation of the activity on adjoining neighbours, and the location of the activity on the property. The intention is to permit small scale home employment activities in rural and residential areas where they are compatible with the surrounding land use and will not interfere with, or reduce the amenity of, adjoining neighbours.”*

For the purpose of assessment it is noted that this review of development application includes:

- Reduction in staff numbers from 22 to 15,
- Erection of a new shed to move the Engineering Contracting component of the business away from the surrounding dwellings,
- Provision for dust control,
- Insulation of the compressor to minimise noise,
- Screen planting to property boundaries for privacy and noise attenuation
- Fencing on the boundary to the north of the existing shed,
- Internal signage for speed limits, and an undertaking that no trucks are to pass the school during drop off and pick up times.

Despite the revisions proposed above, this development is essentially an industrial use, contrary to the provisions of the HREP 1989, LEP 2000, DCP 2007 and the previous DCP PS5. Noise, vibration and other issues associated with a home employment use comprising a maximum of two (2) trucks operating on the site (as permitted under DCP 2007) in a rural setting would generally be considered to be an acceptable impact subject to standard conditions of consent. The substantial departures from DCP 2007 in relation to the number of employees and the number of heavy plant/vehicles involved in the business indicate that the business is beyond the scale of home employment envisaged in the DCP...

The development is considered to be contrary to the provisions of DCP 2007, which states that *“where the activity could potentially reduce the amenity of the area, the activity may be required to be confined within a suitably treated building, or may be required to be located in a more appropriate area (such as a commercial or industrial area).”* Whilst the engineering contracting component is more capable of satisfying this requirement the DCP clearly

suggests that the earthmoving component would be more appropriately located on an industrial site based on the scale of the proposed operation.

2.4 Development Control Plan PS5 Home Employment Guidelines (PS5)

For the purposes of comparison DCP PS5 was in force at the time when the original development application was lodged for this development and therefore the review of development application has been assessed under the provisions of this plan.

Similarly to DCP 2007, PS5 states that its intention is to encourage the operation of non-intrusive businesses within rural and residential areas, where appropriate, of a minor scale which will not interfere with the amenity of the surrounding area. The establishment of any business or industry at home should not be used as a substitute for the operation of that business from a commercial or industrial premise where it may be more appropriate.

Clause 12 of PS5 requires the floor space to be used for a home employment activity not to exceed 50 square metres (excluding truck and vehicle parking/storage areas) of internal floor space. It was maintained in the original application that no more than 50m² of internal floor space would be utilised in operation of the business. This review of development application acknowledges that some 450m² of internal floor space is required for the business. The substantial departure to this requirement further reinforces that the business would be more appropriately located in the industrial zone.

3. Suitability of the Site

The land is zoned for agricultural use pursuant to LEP 2000. Although the review of development application is for Home Employment, the use is more appropriately defined as a depot pursuant to LEP 2000 as follows:

***depot** means a building or place used for the servicing, repair and storage of any plant, machinery, motor vehicles or stock of materials or spare parts used in the course of any one business or industrial undertaking or public utility undertaking, but does not include any part of the building used for sales by retail, wholesale or otherwise.*

The site has not been zoned for this type of activity and is not considered suitable given the proposed scale of the operation.

The surrounding land includes a number of rural dwellings to the north east, Bobs Farm Public School to the north-west and a go-kart track to the east. The impacts associated with the development are further compounded by existing lot layout and the location of surrounding dwellings and the school. The Department of Education and Bobs Farm Public School have objected to this review of development application, in addition to a number of complaints to Council during the last three years, raising concern about the depot being operated in a rural zone and the significant impact on the school and the learning environment for the students due to noise, dust, odour and other activities, characteristic of an industrial development.

There is a pocket of vegetation adjoining the area nominated for the Home Employment. If Council proposes to approve the proposal it is strongly recommended that a condition be placed on the development to screen the land area used for home employment use to the satisfaction of Council and the NSW Rural Fire Service in respect to bushfire management and visual impact.

The site is also potentially affected by Class 3 Acid Sulfate Soils, for which a consent condition can be included requiring the necessary reports prior to excavation beyond one (1) metre below ground level.

The site is flood prone to the extent that any habitable buildings require a minimum floor height of 2.5m AHD. This is not applicable to the subject proposal as there are no new habitable buildings proposed.

4. Submissions

The application was notified in accordance with Council policy until 27 February 2008. Reasonable extensions of time were granted to parties who had previously made submissions to enable them to address the revised proposal. Council received five (5) submissions. Four (4) submissions object to the proposal and one (1) submission supports the proposal as amended.

The letter of support states that there is no objection to the continued operation of the business as there will be changes that will maintain privacy and reduce noise.

The objection letters raised concerns about a number of issues including:

- Drainage
- Pollution – groundwater and Tilligerry Creek
- Belongs in an Industrial zone
- Doesn't satisfy Home Employment Guidelines
- Air pollution/Dust/Diesel fumes
- Contamination of tank water
- Noise/vibration
- Proximity of diesel tanks to boundary with school
- Trucks damaging Marsh Road as it has a 3 tonne limit
- Conflict with school children and heavy vehicles
- Quiet ambience destroyed

4.1 Bobs Farm Public School

The school has raised concerns about the site becoming a large depot, which does not comply with Council's LEP and DCP and the subsequent dust and air pollution (including smoke generated during burning off). The noise caused by heavy vehicles, compressors and grinders, and the vibration from heavy vehicles is said to affect student learning within classrooms and during outdoor classes such as PE.

The school also claims that their tank water, which is used for drinking, is compromised due to dust and contaminants. Diesel tanks are located close to the common boundary, creating a potential explosion or leak hazard.

The weight limit on Marsh Road is 3 tonnes and the school estimates that the weight of the vehicles used in the subject business would be 20-30 tonnes, when carrying a load. The continuous breach of the weight limit damages Marsh Road and creates potholes. There is also a potential safety conflict with heavy vehicles and school children walking or riding their bikes on Marsh Road, to and from school.

The NSW Department of Education and Training has made a separate submission reinforcing the objections raised by the Bobs Farm Public School and Bobs Farm Parents and Citizens Association (P&C). The issues raised are similar to those raised in the submission received from the school, including noise and vibration from industrial equipment and the movement of heavy trucks and machinery on and off the site.

Concern has also been raised in relation to diesel fumes and dust pollution, and the impact of heavy vehicle traffic on both the physical condition of Marsh Road given its 3 tonne limit, and other road users (particularly students and parents).

Assessment Comment

The application has proposed measures to address dust concerns, including mulching of the yard to prevent dust in driveway areas and wet down before trucks and equipment arrive at the yard. A 50mm bore water sprinkler has been installed on the site for this purpose.

In respect to airborne pollution the main options to minimise impact may involve:

- Provision of appropriate setbacks between uses to maximise opportunity for dispersion
- Avoid concentration of heavy plant in one area, or being used at any one time, limit operating times or a combination of all of the above

It is acknowledged that the S82A application includes revisions to proposed operating times and the organisation of plant, stockpiles, storage and fabrication on site. The following spatial details are relevant to this assessment.

- The battle axe handle that provides access to the subject site from Marsh Road is located adjacent to the school's eastern boundary.
- The site also adjoins the southern (rear) boundary of the school.
- The school's oval is located in this south eastern corner, with the existing machinery storage and handling area for the Home Employment adjacent to the south, approximately thirty (30) metres away from the closest school building. The former shed, now proposed as storage, is approximately 39 metres away from the closest school building across the school oval.
- The existing residence on the subject land is approximately sixty two (62) metres from the proposed storage compound.

Whilst the noise generated by compressors and grinders may be confined to the proposed shed, which could be conditioned to incorporate acoustic treatment, there is limited opportunity to ameliorate the noise and vibration resulting from the heavy vehicles using this part of the site.

Whilst two (2) heavy vehicles may cause some minor interference, the number of heavy vehicles to be used in the business has an unacceptable impact in this regard.

Diesel tanks are regulated by the Department of Environment and Conservation (the Environmental Protection Authority) and must comply with relevant Australian Standards (AS 1940-2004: *Storage and Handling of Flammable and Combustible Liquids*). This can be imposed as a consent condition should the development be approved.

In respect to potential damage to Marsh Road from heavy vehicle use associated with this development the development could be conditioned to upgrade that trafficable portion of Marsh Road to the intersection with Nelson Bay Road.

Safety conflicts between school children walking or riding their bikes and heavy vehicles can be minimised as per the applicant's suggestion for no trucks to pass the school during drop off and pick up times (8.15am - 9.15am and 2.45pm – 3.45pm). Should consent be issued it is suggested that this time be extended to 8.00am – 9.30am and 2.30pm – 4.00pm, in accordance with the 40km/hr speed limit times specified by the Roads and Traffic Authority.

NSW Rural Fire Service (RFS) has jurisdiction for bushfire hazard reduction permits and this may occur on the site regardless of its land use.

5. Public Interest

Given the nature, scale and extent of the proposed development in this location and on going complaints from surrounding properties, the proposal is not considered in the public interest.

ITEM NO. 2

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 5TH FEBRUARY, 2008

AUTHOR: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

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

OPERATIONS COMMITTEE MEETING – 8 April 2008

RECOMMENDATION:

That the recommendation be adopted with the items to be referred back to the Local Traffic Committee for consideration;

- **C2 - Bundabah St, Karuah – Review of Bus Zone**
Why would this bus shelter have to be removed?
- **C3 – Fairlands Rd, Mallabula – Signage & Linemarking Request Intersection of Hartford St and Britannia Ave**
Does the installation of this signage require a Development Application?
- **C6 – Wollomi Ave, Nelson Bay – Request for Speed Humps and Speed Reminder Signs**
Recommend that it be a 10km speed zone

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RECOMMENDATION:		
	Councillor Westbury Councillor Dingle	That the recommendation be adopted.

AMENDMENT:		
080	Councillor Francis Councillor Jordan	It was resolved that the Traffic Committee Minutes with the exclusion of C2 (until further information has been received).be received and noted.

The amendment on being put, became the motion which was put and carried

Note: Cr Swan left the meeting at 7.48pm during Item 2

Note: Cr Hodges left the meeting at 7.48pm during item 2

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:

C.2. BUNDABAH ST, KARUAH - REVIEW OF BUS ZONE

LEGAL AND POLICY IMPLICATIONS

The local Traffic Committee is not a Committee of Council; it is a technical advisory body authorised to recommend regulatory traffic controls to the responsible Road Authority. The Committee's functions are prescribed by the Transport Administration Act with membership

extended to the following stakeholder representatives; the Local Member of Parliament, the Department of Transport, NSW Police, Roads & Traffic Authority and Council.

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

AUSTRALIAN BUSINESS EXCELLENCE FRAMEWORK

This aligns with the following ABEF Principles;

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

SUSTAINABILITY IMPLICATIONS

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

SOCIAL IMPLICATIONS

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

ECONOMIC IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

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

CONSULTATION

The Committee's technical representatives are the Police, RTA, and Council Officers; they investigate issues brought to the attention of the Committee and suggest draft recommendations for further discussion during the scheduled meeting. One week prior to

ORDINARY MINUTES – 22 APRIL 2008

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 5th February, 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 5th February, 2008 are contained in ATTACHMENT 1.

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1
**PORT STEPHENS LOCAL TRAFFIC COMMITTEE
MINUTES**

**INDEX OF LISTED MATTERS
TUESDAY 5TH FEBRUARY, 2008**

PRESENT: Port Stephens Council's Technical Representative, Port Stephens Council's Project Officer Traffic and Road Safety, Roads and Traffic Authority's Representative, NSW Police's Representative and Port Stephens Coaches Representative.

APOLOGIES: No apologies were received.

- A. ADOPTION OF THE MINUTES OF 13TH NOVEMBER, 2007**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- C. LISTED MATTERS**
 - C.1. WALKER CRESCENT, RAYMOND TERRACE – REQUEST FOR LINE MARKING IN VICINITY OF GOLF CLUB DRIVEWAY**
 - C.2. BUNDABAH ST, KARUAH - REVIEW OF BUS ZONE**
 - C.3. FAIRLANDS ROAD, MALLABULA – SIGNAGE & LINEMARKING REQUEST INTERSECT. HARTFORD AND BRITANIA**
 - C.4. NELSON BAY ROAD, BOBS FARM – REQUEST FOR PAINTED ARROWS AND REMINDER SIGNS**
 - C.5. NELSON BAY ROAD, SALAMANDER – REQUEST FOR REDUCTION IN SPEED FROM 80 KM/HR TO 60 KM/HR**
 - C.6. WOLLOMI AVENUE, NELSON BAY – REQUEST FOR SPEED HUMPS AND SPEED REMINDER SIGNS**
 - C.7. AUSTRAL STREET, NELSON BAY – REQUEST FOR NO PARKING SIGNS**
 - C.8. DALTON STREET, NELSON BAY – REQUEST FOR 2 ADDITIONAL 15 MINUTE PARKING SPACES**
 - C.9. LILLIAN STREET, SHOAL BAY – REQUEST FOR NO PARKING SIGNS**
 - C.10. SHOAL BAY ROAD, SHOAL BAY – REQUEST FOR PEDESTRIAN CROSSING**

C.11. SHOAL BAY ROAD, SHOAL BAY – RELOCATE PEDESTRIAN CROSSING

C.12. SALAMANDER WAY, SALAMANDER BAY – SPEED LIMIT REDUCTION

SEPP 11

**LOT 31 & 32 DP1100980 78 & 80 PORT STEPHENS DRIVE, TAYLORS
BEACH – S.96 MODIFICATION**

**LOT 473 DP 728126 60 PORT STEPHENS DRIVE, TAYLORS BEACH – 39
LOT SUBDIVISION**

D. GENERAL BUSINESS

E. ATTACHMENTS

**LOCAL TRAFFIC COMMITTEE MINUTES
TUESDAY 5TH FEBRUARY, 2008
AT 9:30AM**

A. ADOPTION OF MINUTES OF MEETING 13TH NOVEMBER, 2007

The minutes of the previous Local Traffic Committee Meeting dated 13th November, 2007 were adopted.

B. BUSINESS ARISING FROM PREVIOUS MEETING

There is no business arising from the previous meeting.

C. LISTED MATTERS

C.1 WALKER CRESCENT, RAYMOND TERRACE - REQUEST FOR LINE MARKING IN VICINITY OF GOLF CLUB DRIVEWAY

A resident of Walker Crescent has requested Traffic Committee investigate the need for line marking on Walker Crescent in the vicinity of the Golf Club Driveway.

REQUESTED BY: Resident

CONSULTATION: Nil

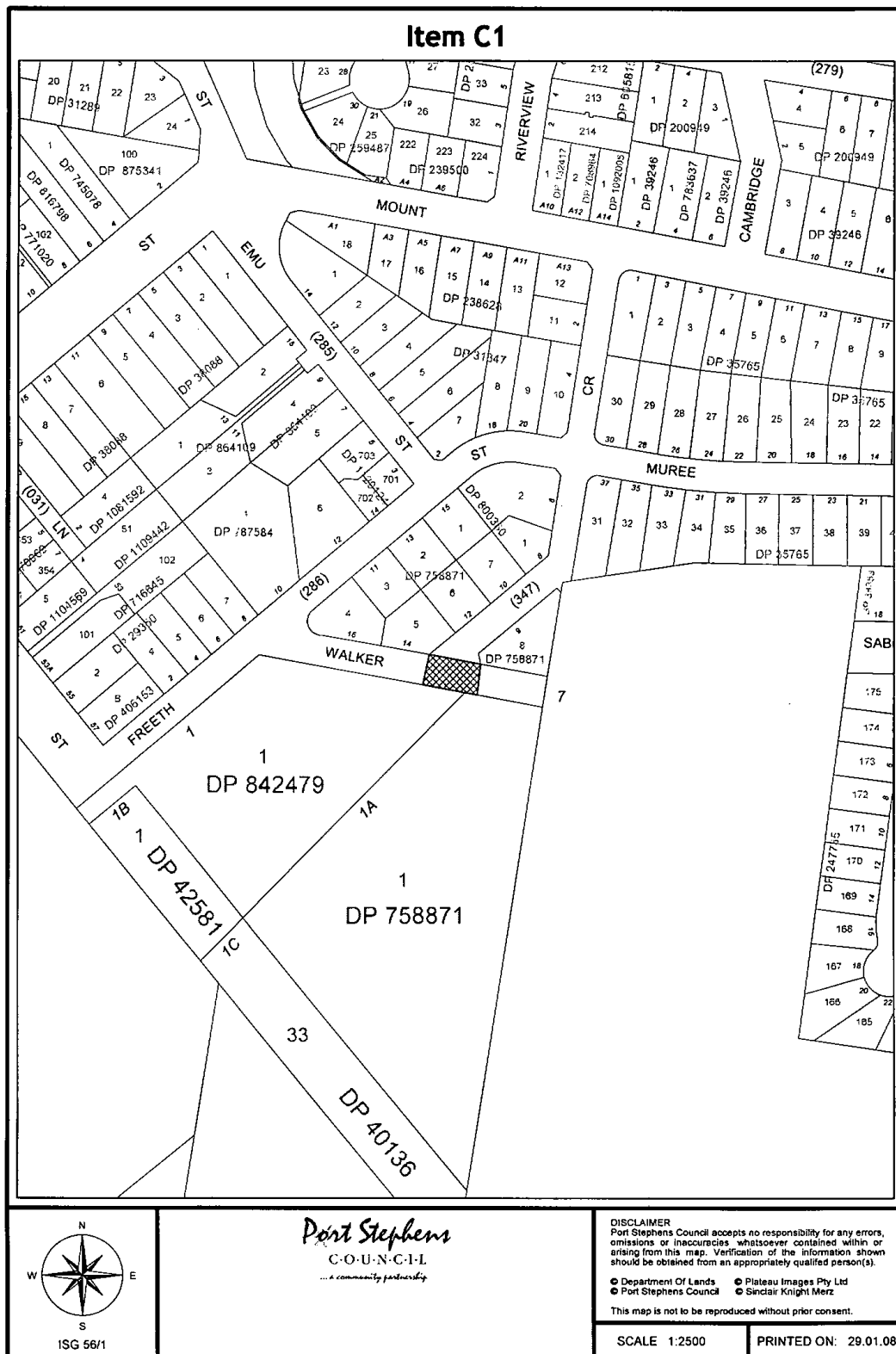
INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT Walker Crescent forms a terminating 't' junction with Walker Crescent and access to Muree Golf Club.

RECOMMENDATION

- Provide Give Way signs and hold line on the terminating approach on Walker Crescent

ESTIMATED COST \$200
FUNDING SOURCE Traffic Facilities Budget



C.2 BUNDABAH ST, KARUAH - REVIEW OF BUS ZONE

Karuah Primary School has requested the bus stop location for Karuah Primary School be relocated from its current location in Bundabah Street to Tarean Road.

REQUESTED BY: Principal – Karuah Primary School

CONSULTATION: Nil

INSPECTION **UNDERTAKEN** Yes

AGREE WITH REQUEST No

ADDITIONAL ATTACHMENT No

COMMENT

Bus zone in Bundabah Street better suited for bus route
Steep embankment in Tarean Road not ideal for pedestrian access
Existing bus zone in Bundabah Street too long for number of buses
Drop area needed at front of school in Bundabah Street

RECOMMENDATION

- No action be taken to relocate the bus zone to Tarean Road
- The bus zone in Bundabah Street be reduced to cater for 2 buses
- A No Parking Zone be provided in Bundabah Street east of the bus zone
- The existing bus shelter be removed

ESTIMATED COST \$600

FUNDING SOURCE Traffic Facilities Budget

THIS ITEM HAS A SAFETY PRIORITY

**C.3 FAIRLANDS ROAD, MALLABULA – SIGNAGE & LINEMARKING
REQUEST INTERSECTION OF HARTFORD STREET AND BRITTANIA
AVENUE**

Councils Maintenance Service Officer has reported that the intersections of Fairlands Road and Hartford Street is unsafe, and has requested Traffic Committee investigate the installation of signage and line marking at this intersection.

REQUESTED BY: Maintenance Service Officer

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

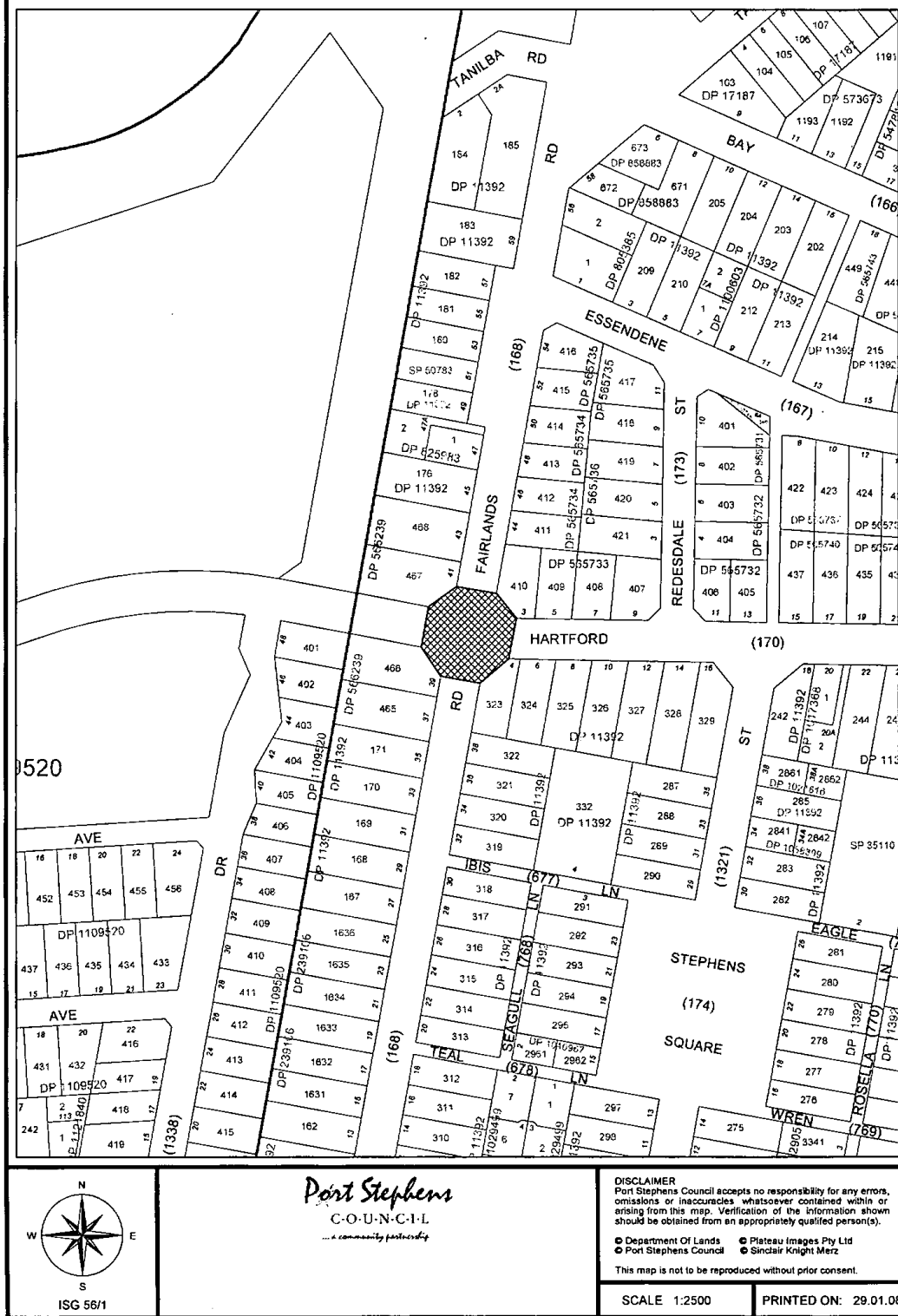
COMMENT Hartford Street was originally a 't' junction with Fairlands Road.
Construction of subdivision roads from Landcom Estate has created a cross intersection.
No intersection priority has been established.

RECOMMENDATION

- Provide Give Way signs and hold lines on Hartford Street at Fairlands Road.

ESTIMATED COST	\$300
FUNDING SOURCE	Traffic Facilities Budget

Item C3



C.4 NELSON BAY ROAD, BOBS FARM – REQUEST FOR PAINTED ARROWS AND REMINDER SIGNS

A resident has requested painted arrows and reminder signs on the dual carriageway on Nelson Bay Road, Bobs Farm.

The resident reports that it is a regular occurrence for traffic that miss the turn off to the avocado farm and surrounding properties to do a u-turn and come back along the same carriageway, heading into oncoming traffic as they travel down the eastern lane of the Nelson Bay bound carriageway.

REQUESTED BY: Resident

CONSULTATION: Nil

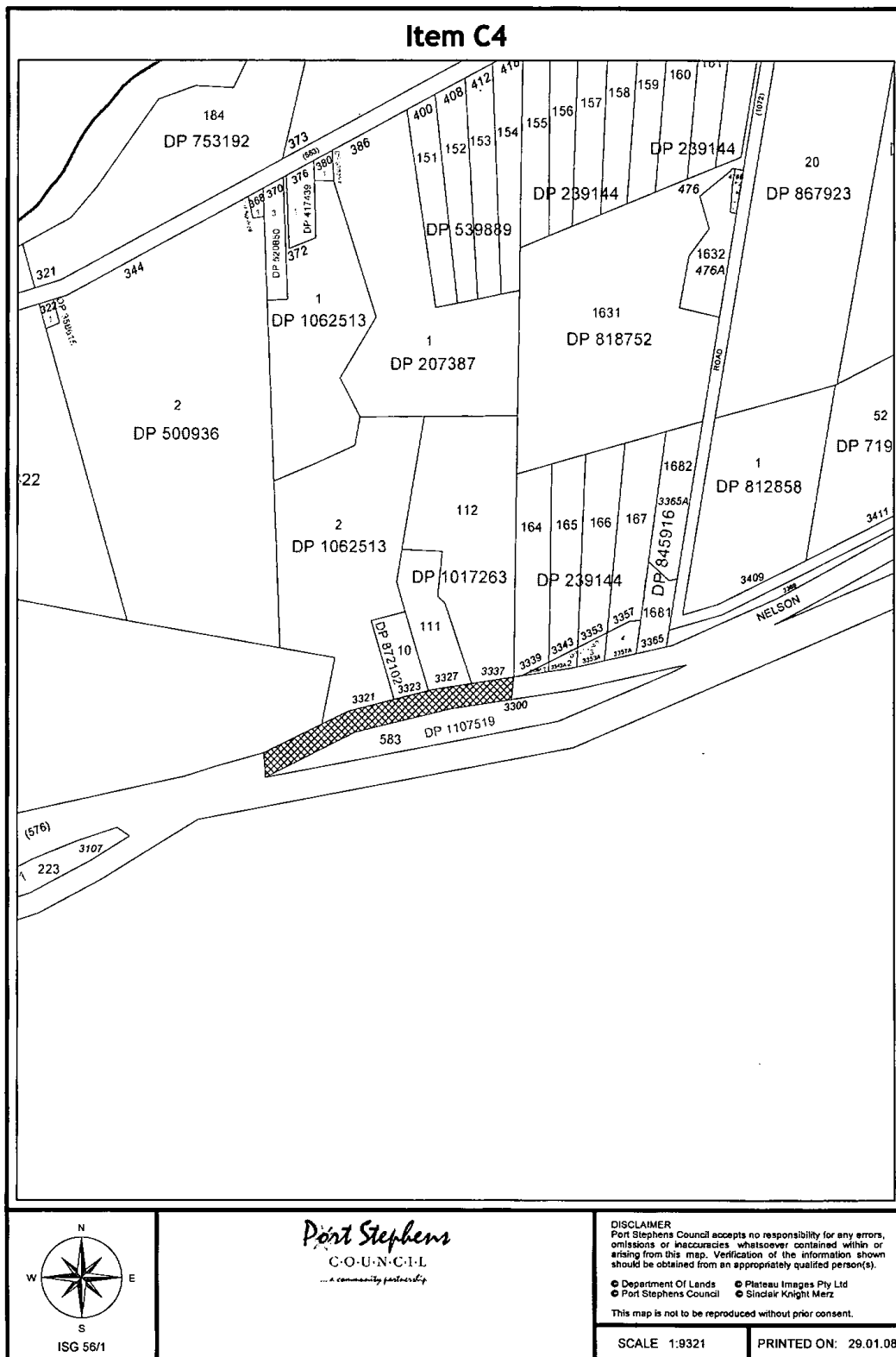
INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	No
ADDITIONAL	ATTACHMENT	No

COMMENT U turn bays are signposted along Nelson Bay Road.
Signposting indicating one way traffic are provided

RECOMMENDATION

- Relocate the existing U-turn bay signpost located 100m before access to Avocado Farm to a location 100m after the access to the Avocado Farm
- Change the signposting to read 'Turn Bay 200m Ahead'
- No action be taken to provide pavement arrows on Nelson Bay Road.
- Roads and Traffic Authority investigate current linemarking and signposting scheme for U – turn bays on Nelson Bay Road

ESTIMATED COST	\$200
FUNDING SOURCE	Traffic Facilities Budget



C.5 NELSON BAY ROAD, SALAMANDER – REQUEST FOR REDUCTION IN SPEED FROM 80 KM/HR TO 60 KM/HR

Cr Nell on behalf of the Tomaree Sporting Community, has requested the reduction in speed limit on Nelson Bay Road fronting Tomaree Sports Complex, from 80 km/hr to 60 km/hr.

REQUESTED BY: Cr Nell

CONSULTATION: Nil

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

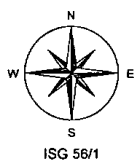
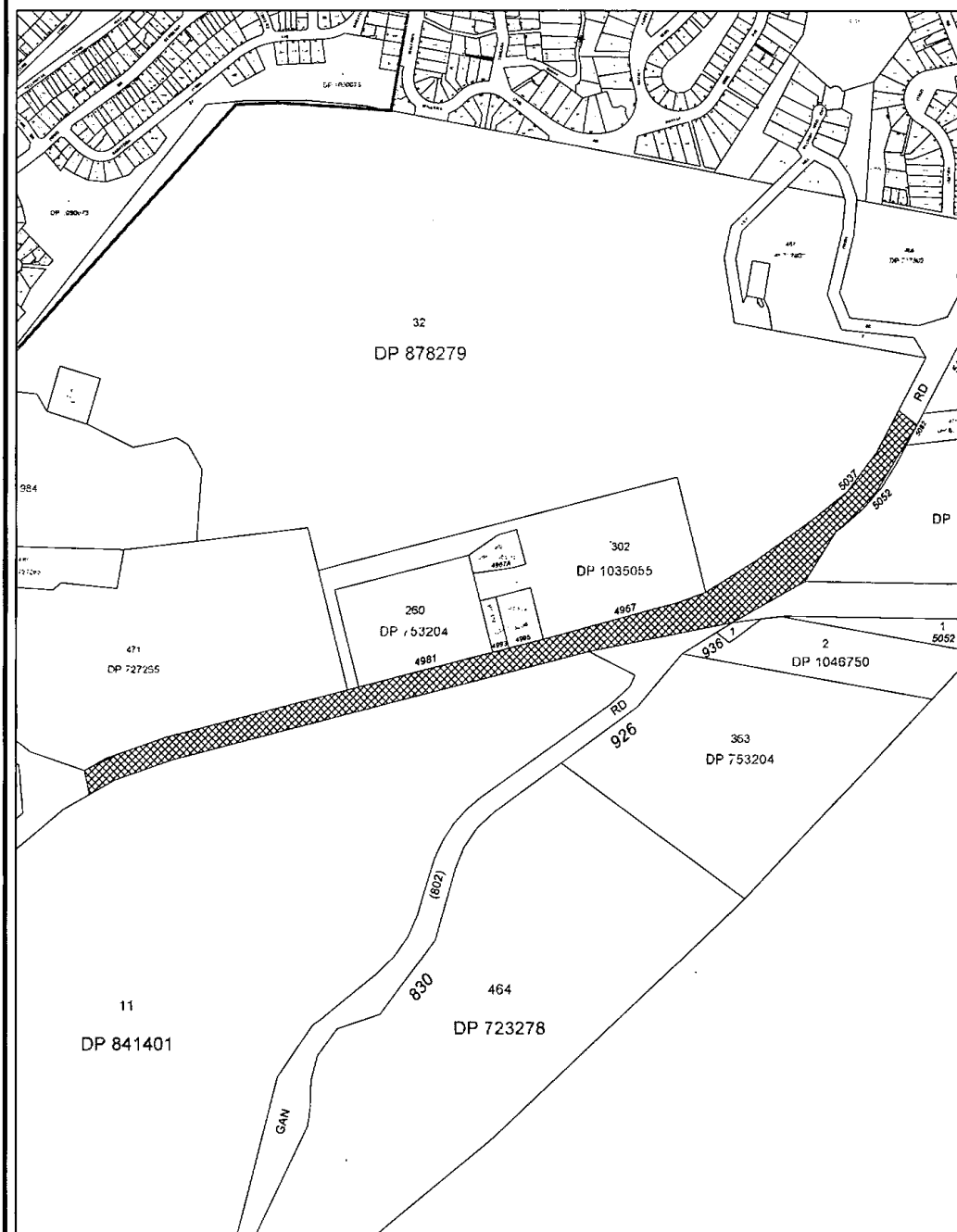
COMMENT Intersections to Tomaree Sport Complex and the Port Stephens Council Depot have been designed for a 100 km/h environment including protected right turn lane and left turn lanes
RTA advised that a reduction in the speed limit is not appropriate on this section of Nelson Bay Road

RECOMMENDATION

- No further action be taken to reduce the speed limit.

ESTIMATED COST	N/A
FUNDING SOURCE	N/A

Item C5



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C.6 WOLLOMI AVENUE, NELSON BAY – REQUEST FOR SPEED HUMPS AND SPEED REMINDER SIGNS

A resident of Wollomi Avenue has requested the installation of speed humps and speed reminder signs in the street. Residents are concerned about the speed of vehicles travelling along the street.

REQUESTED BY: Resident

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	No
ADDITIONAL	ATTACHMENT	No

COMMENT Low speed environment constrained by 3.5m wide access road and curved road alignment.
Illegal 10 Shared Zone speed limit sign on northern end

RECOMMENDATION

- No further action be taken to provide speed control devices
- Remove the existing 10km/h shared Zone speed sign from the northern end of Wollomi Avenue

ESTIMATED COST \$100
FUNDING SOURCE Traffic Facilities Budget

C.7 AUSTRAL STREET, NELSON BAY – REQUEST FOR NO PARKING SIGNS

Cr Nell has requested parking restrictions in Austral Street. The streets gets very congested in the vicinity of the shopping centre, where cars park on both sides of the street leaving only enough room for a single lane of traffic.

REQUESTED BY: Cr Nell

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT Nil

RECOMMENDATION

- Provide No Stopping parking restrictions on the northern side of Austral Street from the access to Nelson Bay PCYC east to the intersection of Armidale Avenue
- Provide Bus Zone signposting for the existing bus stop on southern side of Austral Street outside Seabreeze Shopping Centre

ESTIMATED COST	\$500
FUNDING SOURCE	Traffic Facilities Budget



C.8 DALTON STREET, NELSON BAY – REQUEST FOR 2 ADDITIONAL 15 MINUTE PARKING SPACES

The owners of the Child Care Centre in Dalton Street, have requested an additional 2 parking spaces fronting the centre. They have requested 15 minute parking restrictions on the extra spaces. Cars are currently parking there all day long.

REQUESTED BY: Child Care Centre

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT Extending the 15 min parking spaces would still be in front of the Child Care Centre and not affect adjoining properties.

RECOMMENDATION

- Extend the existing parking restrictions west for 2 more carparking spaces.

ESTIMATED COST	\$100
FUNDING SOURCE	Traffic Facilities Budget

Item C8

The map displays a complex arrangement of land parcels, many of which are identified by Department of Planning (DP) and State Planning (SP) codes. Roads shown include ST (Street), RD (Road), and CR (Creek Road). The map also indicates government-owned land and various other land uses. The bottom left corner features a compass rose pointing North, and the bottom center includes a scale bar and the text 'ISG 56/1'.

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C.9 LILLIAN STREET, SHOAL BAY – REQUEST FOR NO PARKING SIGNS

Councils Maintenance Service Officer has requested the installation of No Parking signs at the end of Lillian Street, near the Country Club. Cars park very close to the end of the street and cars are being clipped and damaged by traffic trying to turn into the street.

REQUESTED BY: Maintenance Service Officer

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

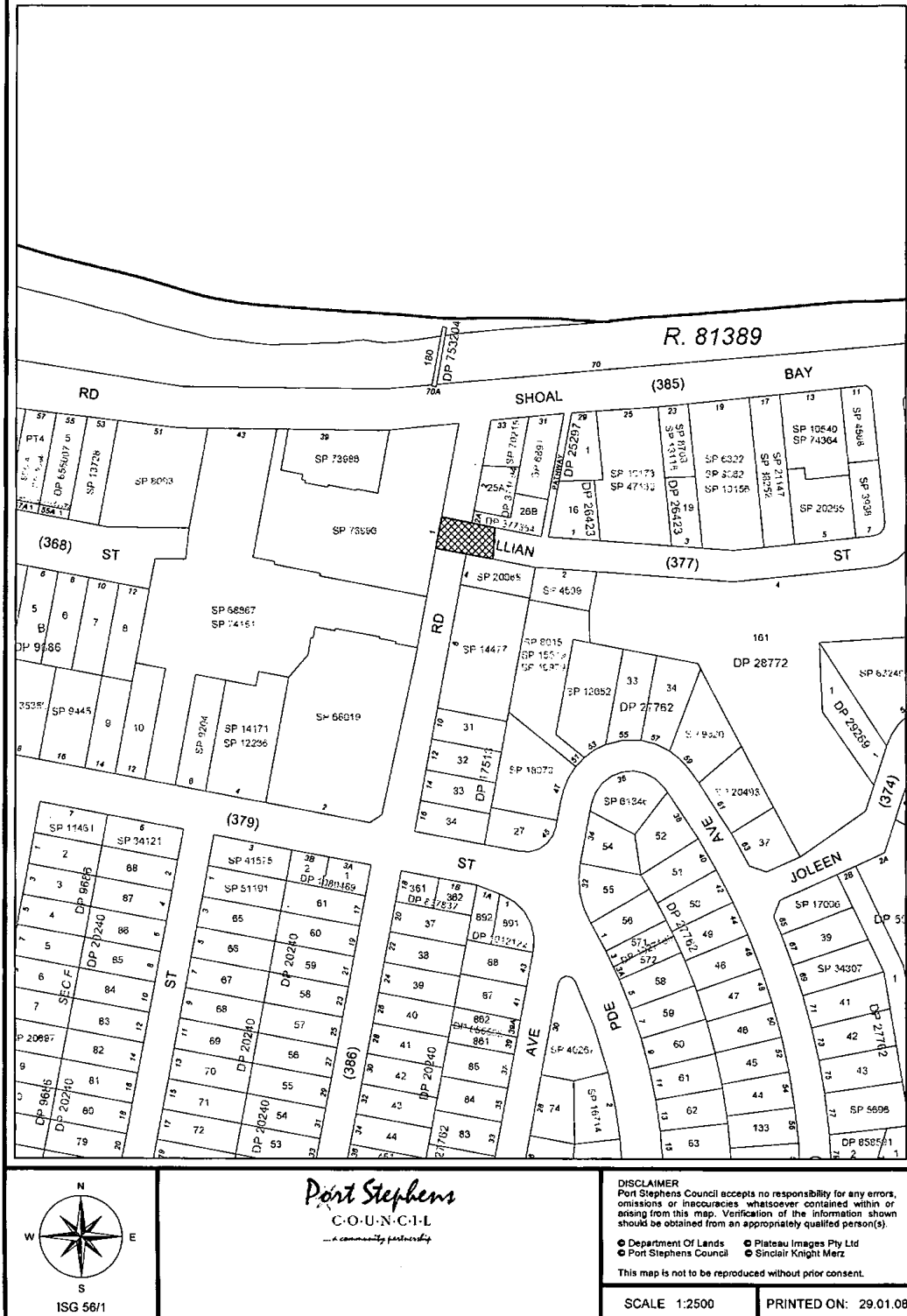
COMMENT Nil

RECOMMENDATION

- Provide No Stopping Parking Restriction for 10m from Tomaree Road on both sides of Lillian Street

ESTIMATED COST	\$200
FUNDING SOURCE	Traffic Facilities Budget

Item C9



C.10 SHOAL BAY ROAD, SHOAL BAY – REQUEST FOR PEDESTRIAN CROSSING

Shoal Bay Resort and Spa have requested a pedestrian crossing be provided on Shoal Bay Road in the vicinity of the Resort. There is a lot of pedestrian activity from the Resort across to the foreshore reserve area.

REQUESTED BY: Shoal Bay Resort and Spa

CONSULTATION: Nil

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

COMMENT There is pedestrian activity to and from the commercial area and the foreshore along the full length of Shoal Bay Road
Several opportunities can be investigated for suitable access point and pedestrian treatments

RECOMMENDATION

- Provide raised pedestrian crossing treatment including kerb blisters at the boundary between No. 43 and No 51 Shoal Bay Road
- Provide footpath connection to existing footpath in beachside reserve
- Relocate existing bus zones to just west of Tomaree Road on Shoal Bay Road

ESTIMATED COST \$4000
FUNDING SOURCE Traffic Facilities Budget

C.11 SHOAL BAY ROAD, SHOAL BAY – REQUEST FOR PEDESTRIAN CROSSING

Council's Traffic Engineer has requested the pedestrian crossing at Shoal Bay Holiday Park be relocated east to provide a safer crossing point and to increase turning capacity into the Holiday Park. There is a lot of pedestrian activity not using the pedestrian crossing to access the foreshore reserve area. The crossing could be relocated 100m further east of current location to line up with pedestrian footpaths on the foreshore.

REQUESTED BY: Traffic Engineer

CONSULTATION: Nil

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

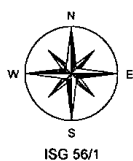
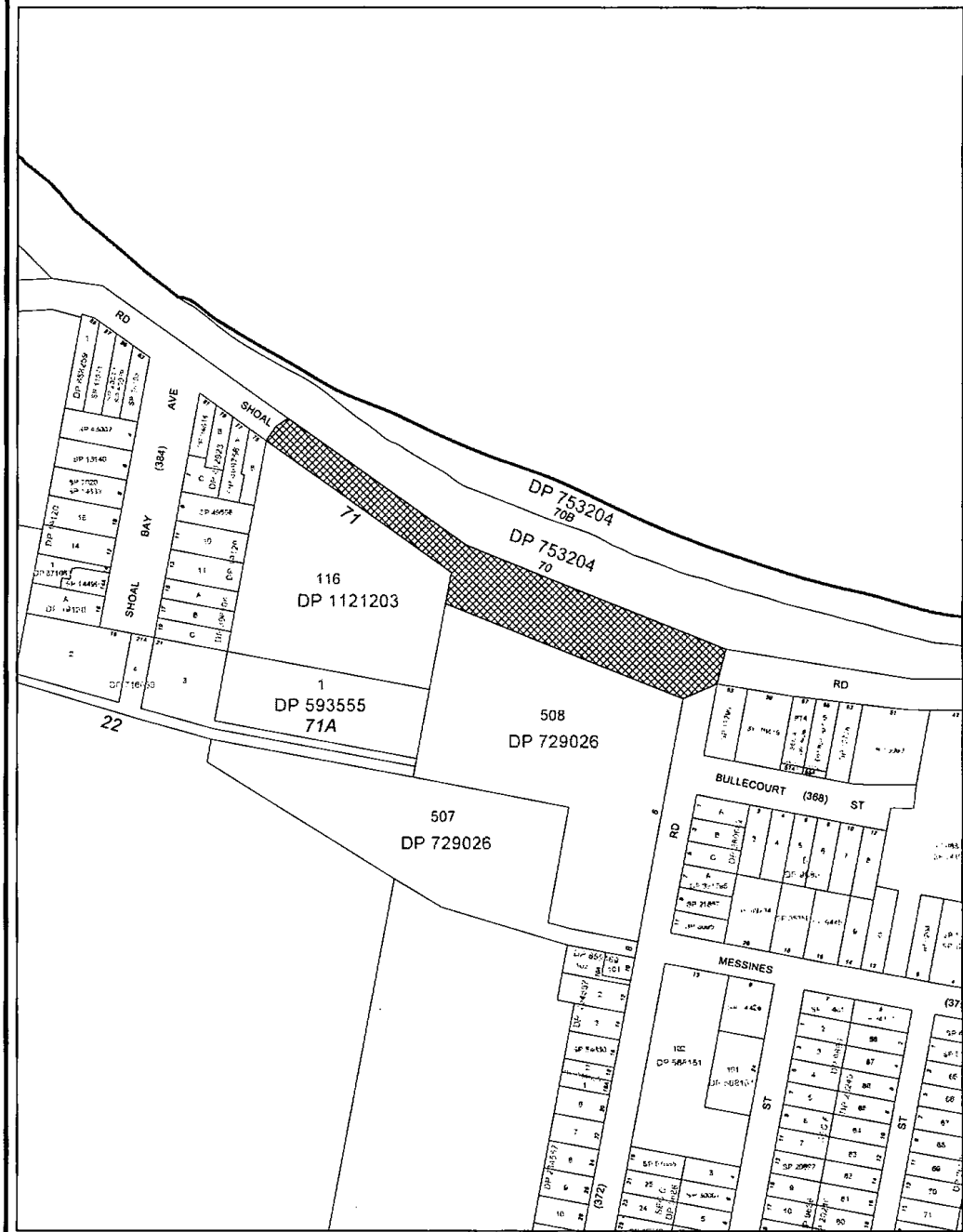
COMMENT There is an opportunity to extend the 40 km/h High Pedestrian Activity Area to include the new crossing location.
Poor sight distance from reserve side of crossing created by large trees and foliage that cannot be removed.

RECOMMENDATION

- Provide a raised pedestrian crossing 100m east of existing pedestrian crossing
- Remove existing pedestrian crossing including linemarking markings and medians
- Provide pram crossing in kerb on reserve side of Shoal Bay Road at the existing footpath connection into the reserve
- Provide kerb blisters on the Holiday Park side of Shoal Bay Road at the new crossing
- Extend the 40km/h speed limit to include the new pedestrian crossing
- Close the existing beach access through the reserve at the existing pedestrian crossing
- Provide a bus zone on the departure side of the pedestrian crossing for westbound buses.

ESTIMATED COST \$3000
FUNDING SOURCE Traffic Facilities Budget

Item C11



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C.12 SALAMANDER WAY, SALAMANDER BAY – SPEED LIMIT REDUCTION

Lower Hunter Highway Patrol has requested a reduction in the speed limit on Salamander Way near Bagnall Beach Road to be consistent with the speed limit on Bagnall Beach Road. Currently the speed limit for Salamander Way is 60km/h and Bagnall beach Road has a speed limit of 50km/h. No speed reminder signs have been provided on Bagnall Beach Road because it is within the 40km/h School Zone. Outside the School Zone speed limit times there is no advise of the speed limit on Bagnall Beach Road.

REQUESTED BY: Lower Hunter Highway Patrol

CONSULTATION: Nil

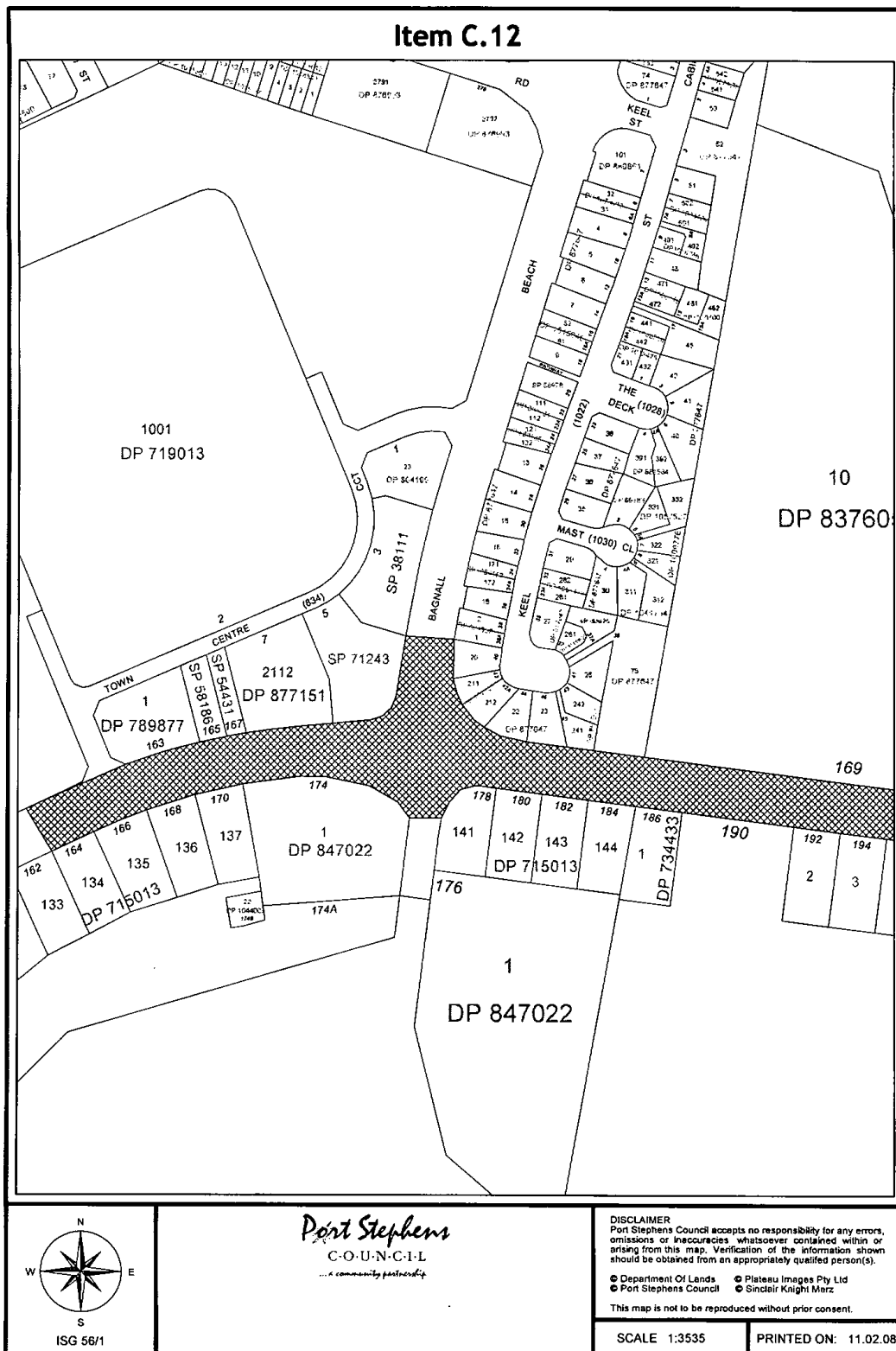
INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	N/A
ADDITIONAL	ATTACHMENT	No

COMMENT Changing the speed limit to 50km/h on the sections of Salamander Way either side of Bagnall Beach Road would help to rationalise the speed limits in this area.

RECOMMENDATION

- Roads and Traffic Authority be requested to consider the speed limit change on Salamander Way.

ESTIMATED COST	N/A
FUNDING SOURCE	N/A



D. GENERAL BUSINESS

E. ATTACHMENTS

ITEM NO. 3**FILE NO: A2004-0511****LOCAL TRAFFIC COMMITTEE MEETING – 4TH MARCH, 2008****AUTHOR: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING**

RECOMMENDATION IS THAT COUNCIL:

Adopt the recommendations contained in the minutes of the Local Traffic Committee meeting held on 4th March, 2008.

OPERATIONS COMMITTEE MEETING – 8 April 2008**RECOMMENDATION:**

That the recommendation be adopted

MATTER ARISING:

That Council staff monitor illegal parking on Wallawa Road at Nelson Bay

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008**RESOLUTION:**

081	Councillor Westbury Councillor Dingle	It was resolved that the recommendation be adopted.
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MATTER ARISING:**RESOLUTION:**

082	Councillor Nell Councillor Westbury	It was resolved that the recommendation contained in the Matter Arising be adopted.
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BACKGROUND

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

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.

The following consultation took place as a part of the meeting of 4th March, 2008.

C.1 BRANDY HILL DRIVE, SEAHAM – REQUEST FOR STOP SIGN AT INTERSECTION OF CLARENCETOWN ROAD

CONSULTATION WITH HANSON QUARRY MANAGER

C.4 DONALD STREET, NELSON BAY – BUS STOP RELOCATION

C.7. FROST ROAD, ANNA BAY – RELOCATION OF BUS STOP

CONSULTATION WITH PORT STEPHENS COACHES

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 4th March, 2008 are contained in ATTACHMENT 1.

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1

**PORT STEPHENS LOCAL TRAFFIC COMMITTEE
MEETING**

**INDEX OF LISTED MATTERS
TUESDAY 4TH MARCH, 2008**

- A. ADOPTION OF THE MINUTES OF FEBRUARY**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- C. LISTED MATTERS**
 - C.1. BRANDY HILL DRIVE, SEAHAM – REQUEST FOR STOP SIGN AT INTERSECTION OF CLARENCETOWN ROAD**
 - C.2. WALLAWA ROAD, NELSON BAY – TRAFFIC CALMING**
 - C.3. CHURCH STREET, NELSON BAY – ALTERATION TO NO STANDING ZONE**
 - C.4. DONALD STREET, NELSON BAY – BUS STOP RELOCATION**
 - C.5. BEACH ROAD, LITTLE BEACH – REQUIREMENT FOR NO STOPPING SIGNS AT PEDESTRIAN ACCESS**
 - C.6. SHOAL BAY – REQUEST FOR DISABILITY PARKING**
 - C.7. FROST ROAD, ANNA BAY – RELOCATION OF BUS STOP**
 - C.8. ROBINSON STREET, BIRUBI – TRAFFIC CALMING**
 - C.9. FERODALE ROAD, MEDOWIE – APPLICATION FOR TEMPORARY ROAD CLOSURE**
- D. GENERAL BUSINESS**
- E. ATTACHMENTS**

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 4TH MARCH, 2008
AT 9:30AM**

Present: PSC Projects Officer – Traffic & Road Safety (Chair), RTA Representative, Port Stephens Coaches Representative, PSC Road Safety Officer

Apologies: NSW Police Representative

D. ADOPTION OF MINUTES OF MEETING FEBRUARY

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

E. BUSINESS ARISING FROM PREVIOUS MEETING

There was no business arising from the previous meeting.

F. LISTED MATTERS

C.1 BRANDY HILL DRIVE, SEAHAM – REQUEST FOR STOP SIGN AT INTERSECTION OF CLARENCETOWN ROAD

Hanson have requested that the Give Way sign at the intersection of Brandy Hill Drive and Clarencetown Road be replaced with a Stop sign.

A Stop sign at this location would stop people driving straight through into the entrance to the Quarry site, as drivers assume Brandy Hill Drive continues through. This may also reduce accidents at this intersection.

REQUESTED BY: Hanson Construction Materials

CONSULTATION: Hanson Quarry Manager

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

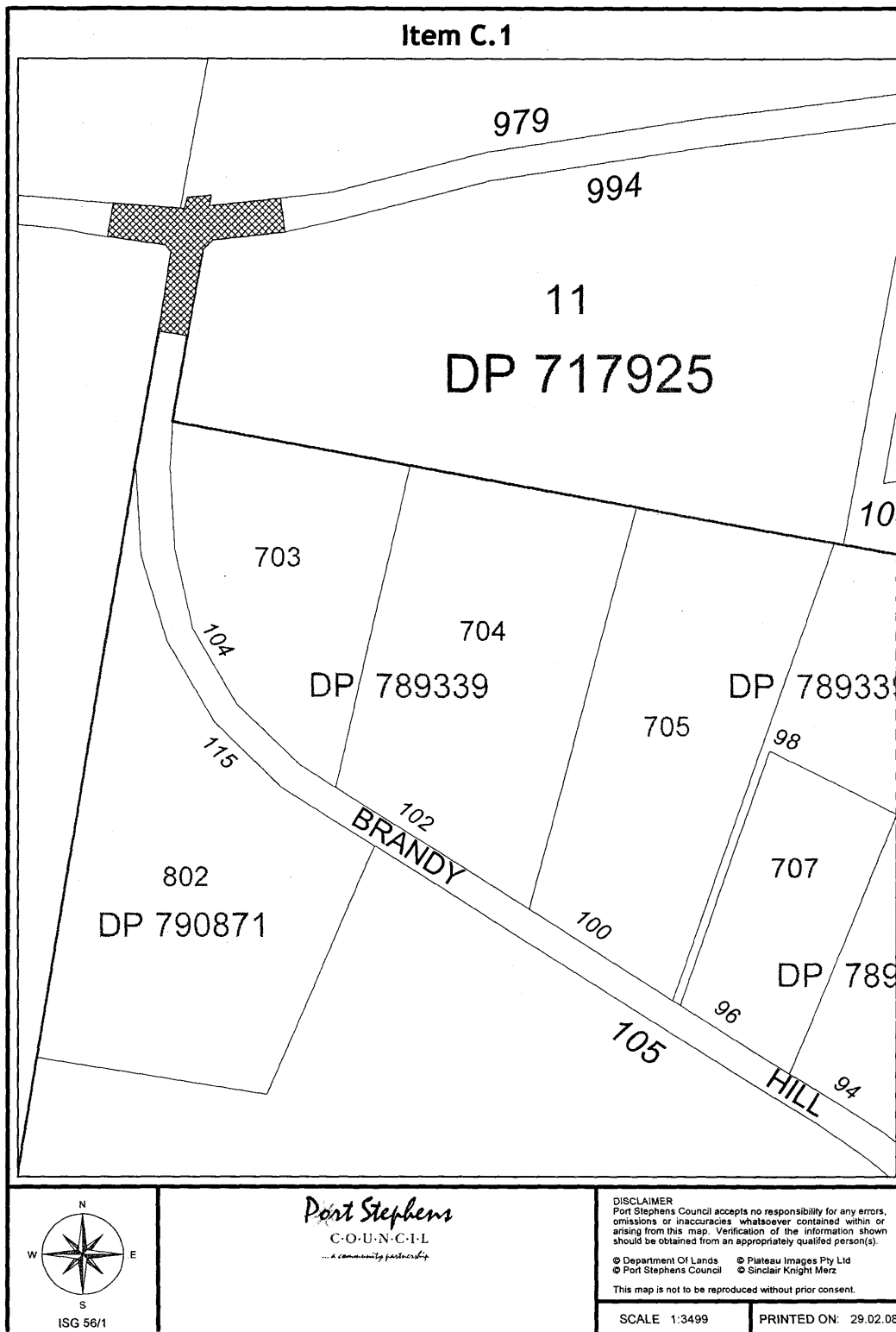
COMMENT Discussions to be undertaken with Hanson regarding recommended changes to property entrance.
Check truck advance warnings on Clarencetown Road
98739

CRM

RECOMMENDATION

- The Give Way signs at the intersection to be replaced with Stop signs and hold lines
- A centre median be installed on Brandy Hill Drive at Clarencetown Road
- Approach signage on Brandy Hill Drive be replaced with Intersection and Stop sign warnings
- Directional and chevron warning signs on Clarencetown Road adjacent to Hanson Quarry Entry be upgraded
- Energy Australia be requested to provide intersection lighting
- Advance Warning signs to Brandy Hill be provided on Clarencetown Road

ESTIMATED COST \$2000
FUNDING SOURCE Traffic Facilities Budget



C.2 WALLAWA ROAD, NELSON BAY – TRAFFIC CALMING

A resident has requested Traffic Committee investigate traffic calming in Wallawa Road.

The street from Galoola Drive to Spinnaker Way is narrow and winding, and parked cars and bus movements make the street difficult to traverse.

The 50 km/hr speed limit does not seem to be observed and the situation will get worse as the development of the Landcom Estate develops over time.

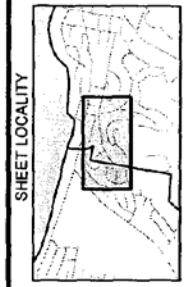
REQUESTED BY:	Resident	
CONSULTATION:	Nil	
INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	N/A
ADDITIONAL	ATTACHMENT	No
COMMENT	Nil	
FILE	CRM	

RECOMMENDATION

- Speed and volume counts be undertaken and the results brought back to the Committee

ESTIMATED COST	\$300
FUNDING SOURCE	Infrastructure Planning Budget

Item C.2



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



118 Adelaide Street, Raymond Terrace NSW 2264. Phone: (02) 4980225 Fax: (02) 4987312 Email: council@portstephens.nsw.gov.au

C.3 CHURCH STREET, NELSON BAY – ALTERATION TO NO STANDING ZONE

Councillor Nell has requested that the No Standing sign in Church Street fronting the Anglican Church be exempt for Church goers. An exemption currently exists for funerals and weddings.

REQUESTED BY: Cr Nell

CONSULTATION: Nil

INSPECTION UNDERTAKEN Yes

AGREE WITH REQUEST No

ADDITIONAL ATTACHMENT No

COMMENT Sight distance at intersection is to be maintained.
Accident history at intersection is reducing with improvements to sight distance and speed reduction
Off street parking is available.

FILE CRM

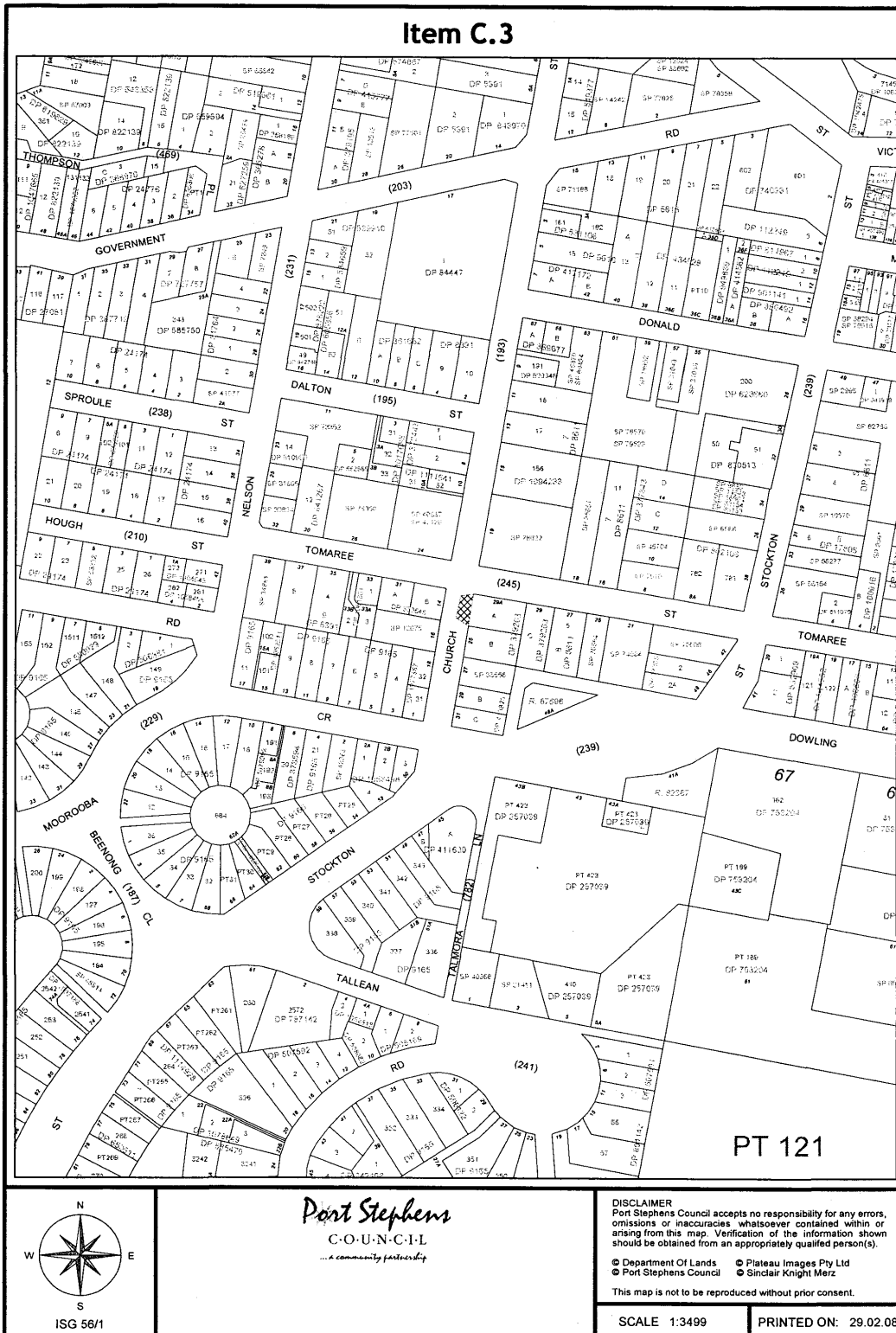
RECOMMENDATION

- No further action

ESTIMATED COST Nil

FUNDING SOURCE Nil

Item C.3



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

C.4 DONALD STREET, NELSON BAY – BUS STOP RELOCATION

A resident has reported problems with sight distance when exiting the carpark in Donald Street. Since the Bus Stop was relocated and the 2nd exit removed from the carpark, sight distance has become a problem when buses are sitting at the stop.

REQUESTED BY: Resident

CONSULTATION: Port Stephens Coaches

INSPECTION **UNDERTAKEN** Yes

AGREE WITH REQUEST Yes

ADDITIONAL ATTACHMENT No

COMMENT

Sight distance will be gained with alteration to the zones. Altering the zones more than three metres would impact on the taxi zone by a restricted footpath width in front of Nelson Bay Cellars.
Port Stephens Coaches reported 22 Bus movements per day at this location

FILE CRM

RECOMMENDATION

- Lengthen Bus Zone 3 metres east on Donald Street
- Relocate Taxi Zone 3 metres east on Donald Street
- Reinstate 1 hour parking opposite Cote'Dzur Apartments on Donald Street

ESTIMATED COST \$200.00

FUNDING SOURCE Traffic Facilities Budget

Item C.4



C.5 BEACH ROAD, LITTLE BEACH – REQUIREMENT FOR NO STOPPING SIGNS AT PEDESTRIAN ACCESS

A resident has requested appropriate signage for the pedestrian ramps on Beach Road, Little Beach. Quite often a car or car & boat trailer are parked across 1 or both access ramps, making it difficult for bikes and prams etc to access the ramp.

REQUESTED BY: Resident

CONSULTATION: Nil

INSPECTION UNDERTAKEN Yes

AGREE WITH REQUEST Yes

ADDITIONAL ATTACHMENT No

COMMENT No Stopping Zone can be reduced once pedestrian blisters are installed

FILE CRM

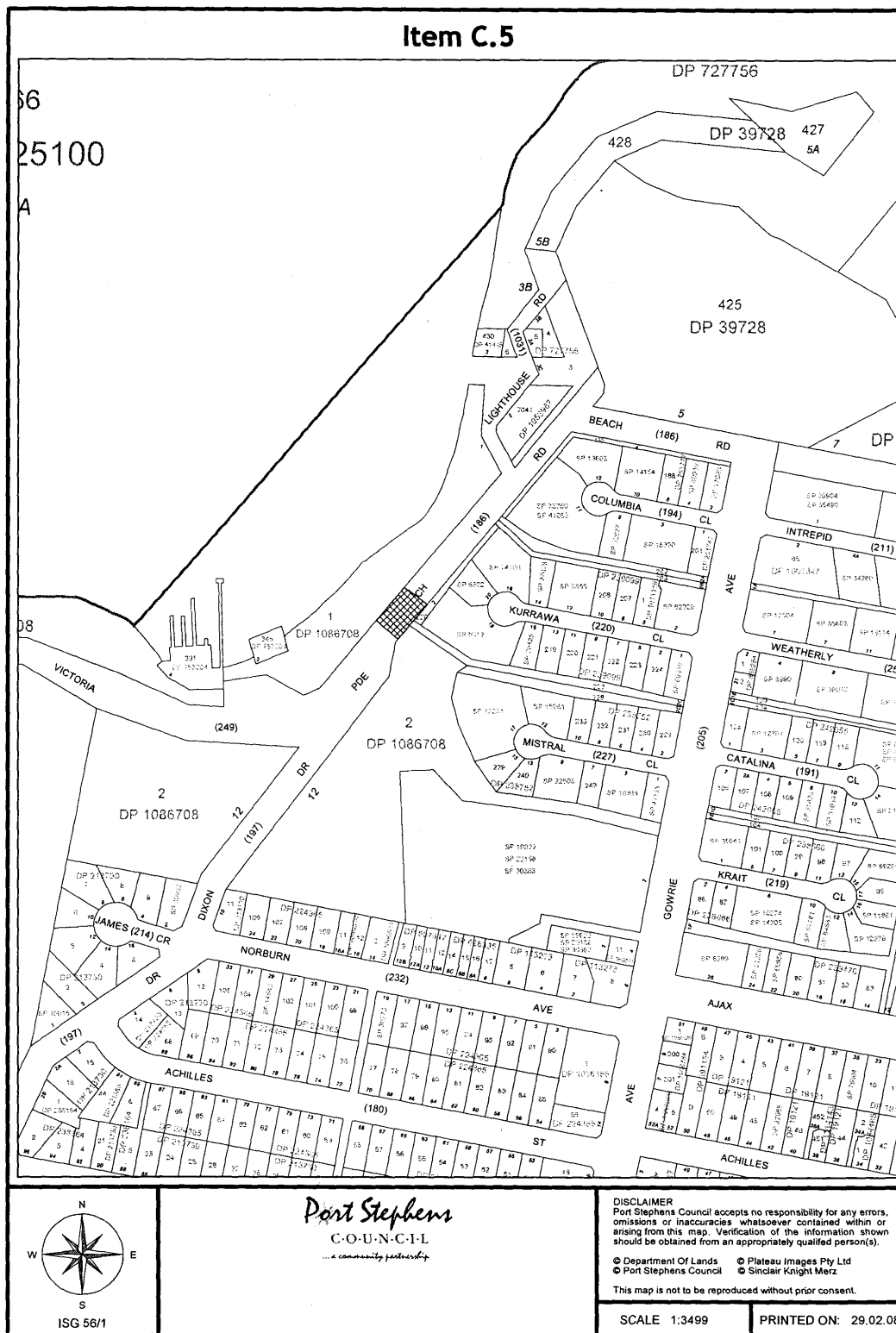
RECOMMENDATION

- No Stopping zone be installed 20 metres on approach and 10 m on the departure side of the pedestrian ramps
- Pedestrian blisters and signage be installed on approach and departure sides of pedestrian ramp
- Fluorescent Pedestrian warning signs be installed on Beach Road

ESTIMATED COST \$1500

FUNDING SOURCE Traffic Facilities Budget

Item C.5



C.6 SHOAL BAY – REQUEST FOR DISABILITY PARKING

A resident has requested Traffic Committee install disability parking spaces in Shoal Bay. The resident states there are no disability parking spaces at the shopping centre, the chemist or the pathology unit in Bullecourt Street.

REQUESTED BY: Resident

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT

Areas of attention :

- Footpath widths at Chemist and adjacent areas
- Disability access to pathology and doctors surgery
- Disability parking availability for Shoal Bay Resort & Spa for patrons

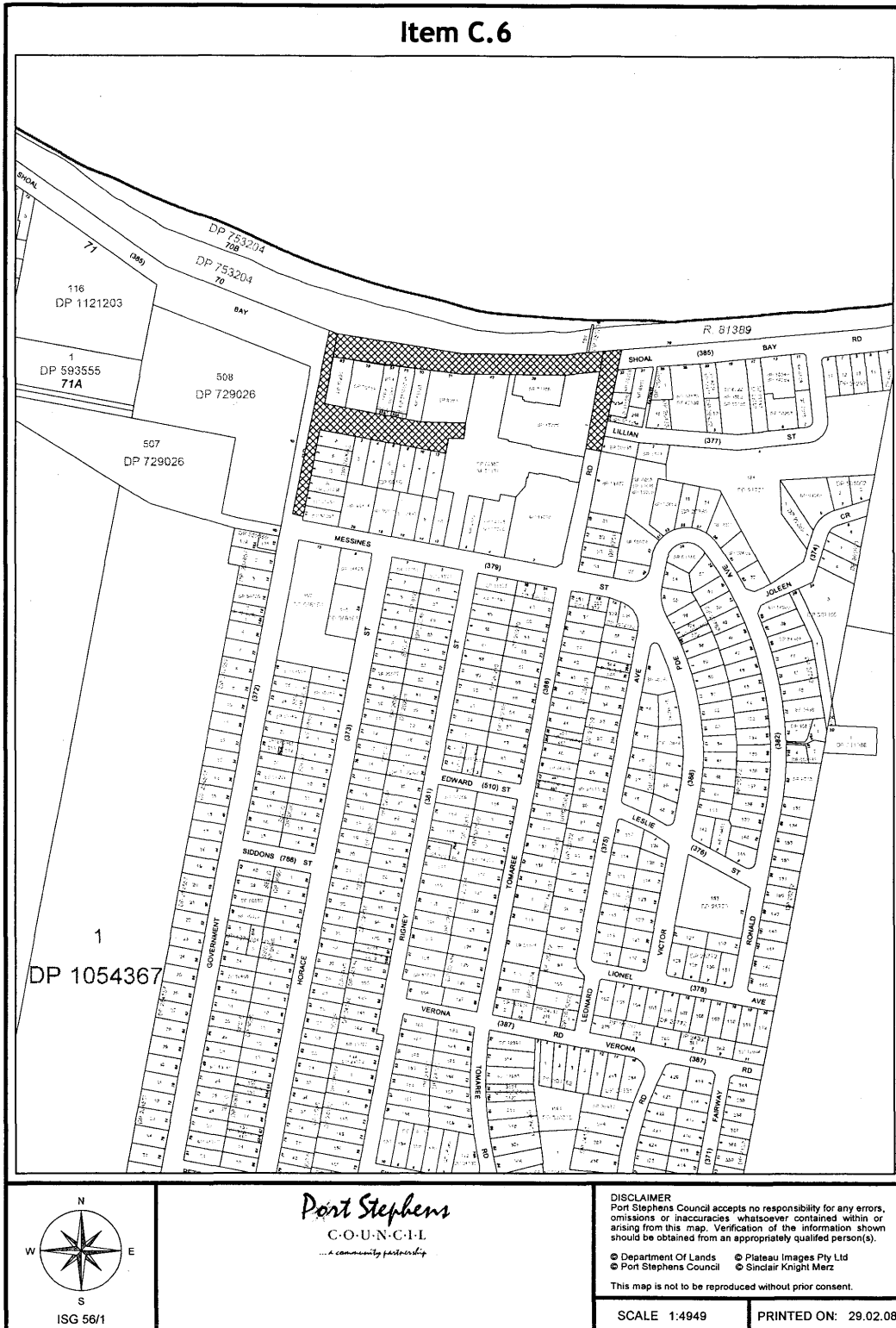
FILE CRM

RECOMMENDATION

- Shoal Bay CBD be assessed by Council's Disability Access Officer for parking and access with results to be returned to Traffic Committee.
- To be considered in design of pedestrian and parking plan for Shoal Bay

ESTIMATED COST N/A
FUNDING SOURCE N/A

Item C.6



C.7 FROST ROAD, ANNA BAY – RELOCATION OF BUS STOP

A resident has requested that the bus stop in frost road in the vicinity of house number 6 be relocated further down towards the corner.

The bus stop is around a blind corner, there is a gravel surface on the shoulder, and not enough room for the buses to pull in as they partially obstruct the roadway.

REQUESTED BY: Resident

CONSULTATION: Port Stephens Coaches

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	No
ADDITIONAL	ATTACHMENT	No

COMMENT

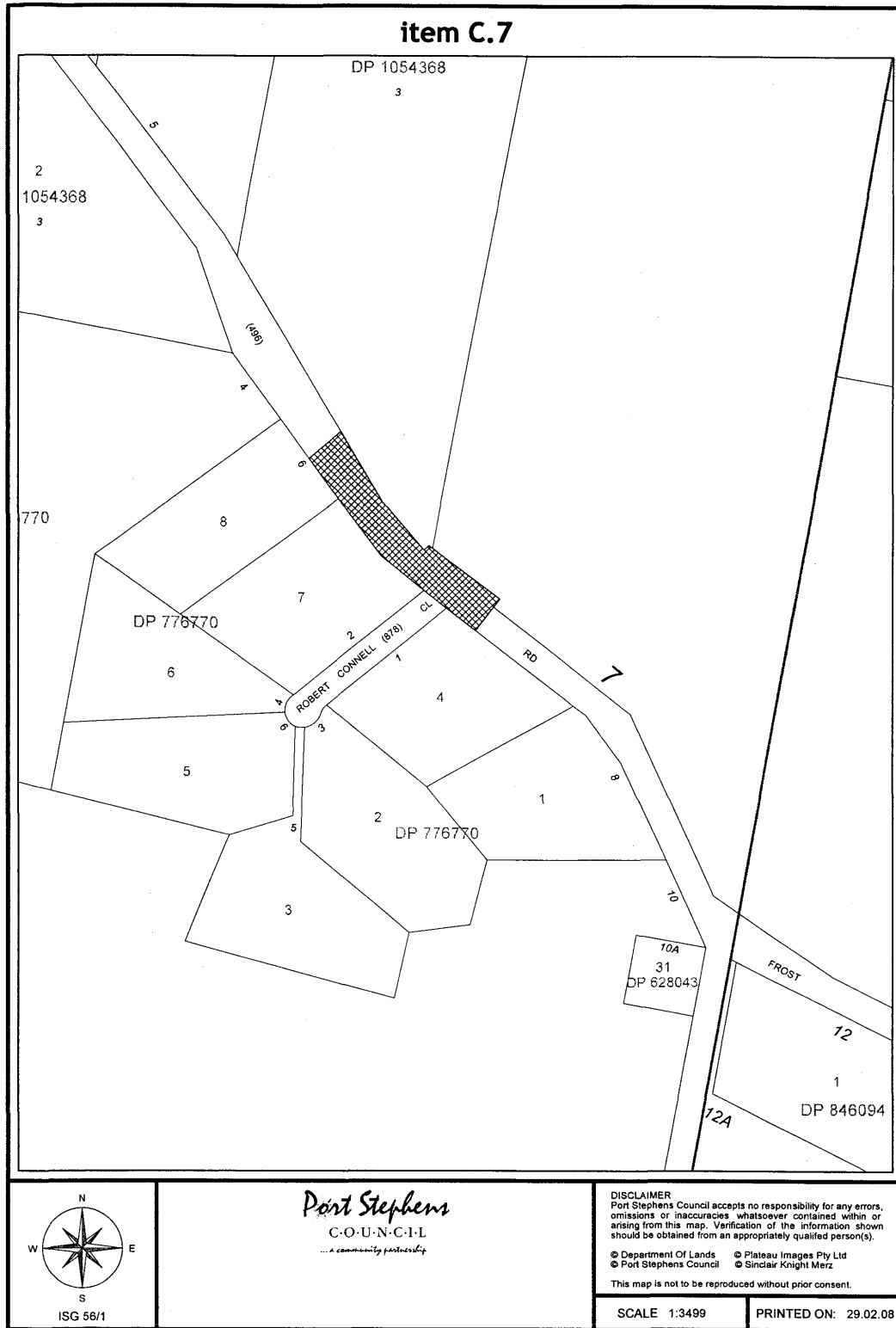
The committee recommended that upgrading the existing stop in preference to relocating the stop. Visibility to be improved at the current location of the bus stop. Relocation may increase distance for pedestrians to and from the Samurai Backpackers and other residents of Robert Connell Cl.

FILE CRM

RECOMMENDATION

- Trees on approach to the bus stop be trimmed to improved visibility for bus drivers and passengers
- The J Pole for the bus stop be relocated 15 m south east.
- The shoulder be sealed at this location
- RTA review the speed limit on Frost Rd

ESTIMATED COST	\$1000
FUNDING SOURCE	Traffic Facilities Budget



C.8 ROBINSON STREET, BIRUBI – TRAFFIC CALMING

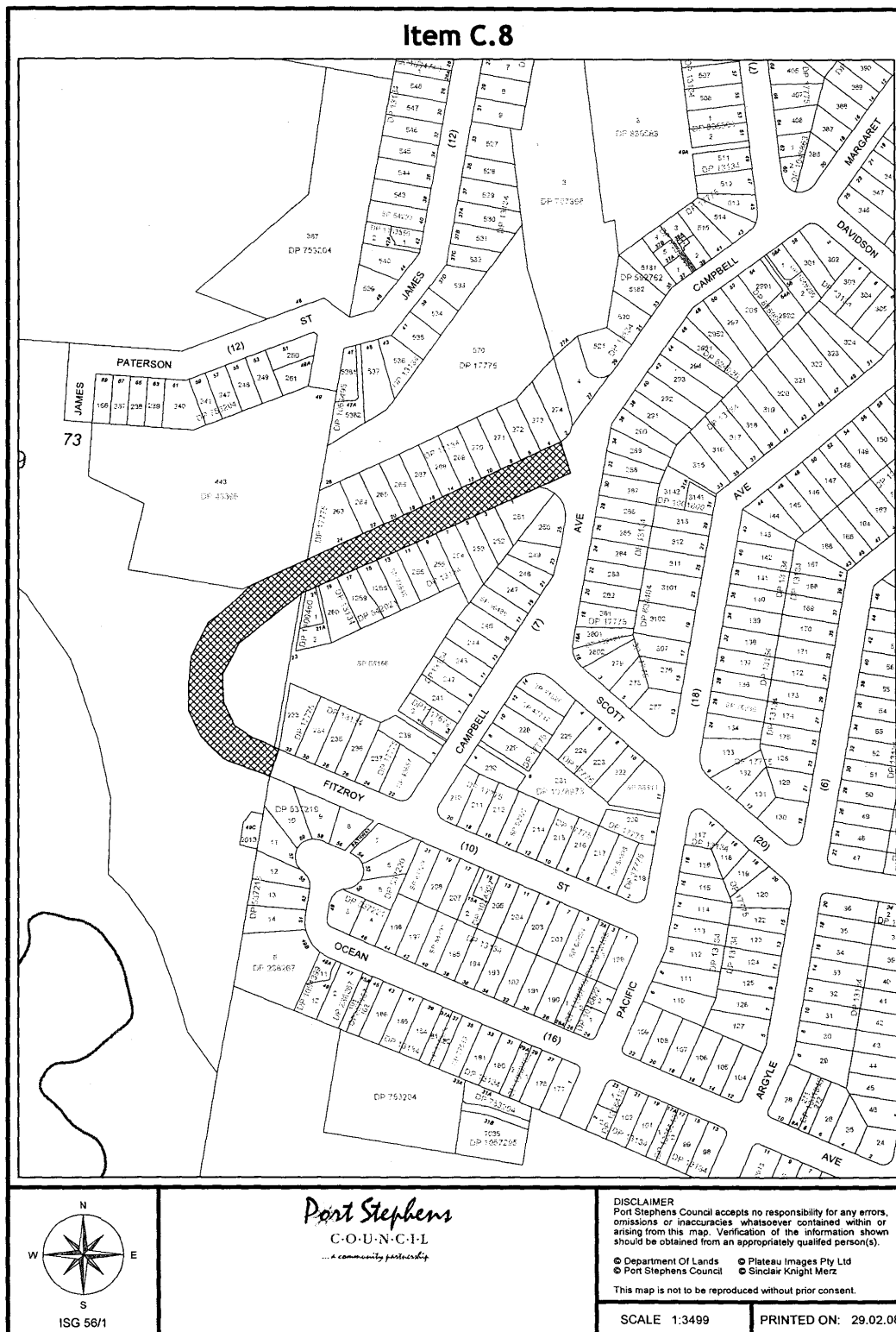
A resident has requested traffic calming devices be installed in Robinson Street. The road is frequently used by drivers in modified cars at excessive speeds in the vicinity of the skate park.

REQUESTED BY:	Resident	
CONSULTATION:	Nil	
INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	N/A
ADDITIONAL	ATTACHMENT	No
COMMENT	Nil	
FILE	CRM	

RECOMMENDATION

- Speed and volume counts to be undertaken and results brought back to the Committee
- Lower Hunter Police to be tasked to monitor anti social behaviour

ESTIMATED COST	\$300
FUNDING SOURCE	Infrastructure Planning Budget



C.9 FERODALE ROAD, MEDOWIE – APPLICATION FOR TEMPORARY ROAD CLOSURE

Medowie RSL Sub Branch has requested the Temporary Closure of Ferodale Road for the purpose of an ANZAC Day March. The march will take place on Friday 25th April between 5.30 am and 6.15 am and involve Ferodale Road between Kirrang Drive and Medowie Road.

REQUESTED BY:	Medowie RSL Sub Branch	
CONSULTATION:	Nil	
INSPECTION	UNDERTAKEN	Yes
ADDITIONAL	AGREE WITH REQUEST	N/A
	ATTACHMENT	No
COMMENT	Nil	
FILE	CRM	

RECOMMENDATION

- The road closure be approved subject to standard conditions.

ESTIMATED COST	\$180
FUNDING SOURCE	Council

D. GENERAL BUSINESS**E. ATTACHMENTS**

ITEM NO. 4**FILE NO: PSC2007-2397****DRAFT COUNCIL PLAN 2008-2012 AND DRAFT FEES & CHARGES 2008-2009****REPORT OF: EXECUTIVE MANAGER CORPORATE MANAGEMENT****RECOMMENDATION IS THAT COUNCIL:**

- 1) Council receives and notes the information contained in this Report
- 2) Council considers the recommendations contained in the Supplementary Report to be provided on 8 April 2008

OPERATIONS COMMITTEE MEETING – 8 April 2008**RECOMMENDATION:**

- 1) That the Operations Committee recommends to Council that the Draft Council Plan 2008-2012 with the actions noted in the Attachment 1 be adopted
- 2) That the Operations Committee recommends to Council that those Draft Fees and Charges 2008-2009 that required no amendment, be adopted
- 3) That the Operations Committee recommends to Council to place on exhibition for a further 28 days, those Draft Fees and Charges that are to be amended as outlined in Attachments 2 and 4.
- 4) That the Operations Committee recommends to Council that the application for a variation to the business rate proceeds to the Minister for Local Government.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008**RESOLUTION:**

083	Councillor Robinson Councillor Brown	It was resolved that the recommendation be adopted.
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AMENDMENT:

	Councillor Hodges Councillor Tucker	That Council adopt the Council Plan as per recommendations 1-4 and include Part 5 contained in the Supplementary Information Report in relation to Fire Safety Fees..
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The amendment on being put was lost.

RESOLUTION:

084	Councillor Hodges Councillor Tucker	It was resolved that a division be called for
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Those in favour of the motion: Crs Brown, Francis, Dingle, Nell, Westbury, Robinson, Dover and Swan

Those against the motion: Crs Tucker, Jordan and Hodges

MATTER ARISING**RESOLUTION:**

085	Councillor Francis Councillor Nell	It was resolved that financial modelling be completed for businesses across the local government area to determine the impact of the fire safety level.
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BACKGROUND

The purpose of this report is to advise Council that in accordance with its determination, the abovementioned documents will come off public exhibition on 31 March 2008.

A briefing for Councillors has been arranged for 4.00pm on 8 April 2008, in advance of which a Supplementary Information with collated submissions and recommendations will be provided. A report of the outcomes of the public exhibition process will also be included.

LINKS TO CORPORATE PLANS

Draft Council Plan 2008-2012 including budget and fees and charges

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

Amendments to the Fees & Charges document are anticipated from the submissions, together with feedback from the business community on the proposed variation to the business rate.

Submissions in relation to the Draft Council Plan 2008-2012 may impact Council's decisions in relation to the budget.

LEGAL AND POLICY IMPLICATIONS

The formal application to the Minister for Local Government concerning a special variation to the business rate will be determined by the outcome of Council's deliberations once submissions are considered.

Business Excellence Framework

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

These outcomes align with the following Business Excellence principles:-

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The Draft Council Plan 2008-2012 contains 3 goals, 9 strategies and 29 objectives designed to preserve and strengthen the fabric of the community.

ECONOMIC IMPLICATIONS

Funding the Economic Development Plan is predicated on successful application to the Minister for a special rate variation, and this is dependent upon Council's decisions having regard to any submissions received.

ENVIRONMENTAL IMPLICATIONS

There are 2 goals, 6 strategies and 16 objectives in the Draft Council Plan 2008-2012 that provide for protection and enhancement of the environment of Port Stephens.

CONSULTATION

The Draft Council Plan 2008-2012 and the Draft Fees & Charges 2008-2009 have been advertised in local media as being on exhibition. In addition the Group Manager Business & Support has hosted two business breakfasts (Nelson Bay and Raymond Terrace) and provided a presentation to the Rotary Dinner in Raymond Terrace on 3 March 2008. Letters have been sent to all 1823 business ratepayers who will be affected by the proposed variation to the business rate; and a web presence on the independently moderated "bangthetable.com.au" website has invited comments.

OPTIONS

- 1) Adopt the recommendations in this Report
- 2) Amend the recommendations in this Report
- 3) Reject the recommendations in this Report

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

ITEM NO. 5

FILE NO: 16-2007-1070-1

**DEVELOPMENT APPLICATION FOR ERECTION OF ILLUMINATED
INFORMATION SIGN AT SOLDIERS POINT BOWLING CLUB, 118
SOLDIERS POINT ROAD, SOLDIERS POINT**

REPORT OF: SCOTT ANSON, MANAGER DEVELOPMENT AND BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2007-1070-1 subject to the conditions contained in Attachment 3.

OPERATIONS COMMITTEE MEETING – 11 MARCH 2008

RECOMMENDATION:

That Council:

1. Refuse the development application 16-2007-1070-1 due to the reasons contained in the submission summary (attached).
2. Council call for a report to review the Council's advertising code and LED signage policy.

ORDINARY MEETING OF COUNCIL – 25 MARCH 2008

RESOLUTION:

057	Councillor Nell Councillor Hodges	It was resolved that the matter be deferred to the Operations Committee meeting to be held on the 8 April 2008.
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**DEVELOPMENT APPLICATION FOR ERECTION OF ILLUMINATED
INFORMATION SIGN AT SOLDIERS POINT BOWLING CLUB, 118 SOLDIERS
POINT ROAD, SOLDIERS POINT**

REPORT OF: SCOTT ANSON, MANAGER DEVELOPMENT AND BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2007-1070-1 subject to the conditions contained in Attachment 3.

OPERATIONS COMMITTEE MEETING – 8 april 2008

RECOMMENDATION:

**That the recommendation be adopted with the additional condition –
That the applicant be required to provide certification from the manufacturer that the
flashing and moving images be disabled.**

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:

086	Councillor Nell Councillor Westbury	It was resolved that Council 1) Approve Development Application 16-2007-1070-1 subject to the
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		conditions contained in attachment 3 2) That the applicant be required to provide certification from the manufacturer that the flashing and moving images be disabled 3) Council call for a report to review the Council's advertising Code and LED signage policy.
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Note:

Councillors will be aware that this report was originally submitted to the March 2008 Operations Committee meeting and the Operations Committee Recommendation was submitted to the last Ordinary meeting of Council on the 25th March 2008 where the report was deferred to the April Operations Committee meeting.

ITEM NO. 5**FILE NO: 16-2007-1070-1****DEVELOPMENT APPLICATION FOR ERECTION OF ILLUMINATED INFORMATION SIGN AT SOLDIERS POINT BOWLING CLUB, 118 SOLDIERS POINT ROAD, SOLDIERS POINT****REPORT OF: SCOTT ANSON, MANAGER DEVELOPMENT AND BUILDING**

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2007-1070-1 subject to the conditions contained in Attachment 3.
-

OPERATIONS COMMITTEE MEETING – 11 MARCH 2008**RECOMMENDATION:****That Council:**

1. Refuse the development application 16-2007-1070-1 due to the reasons contained in the submission summary (attached).
 2. Council call for a report to review the Council's advertising code and LED signage policy.
-

ORDINARY MEETING OF COUNCIL – 25 MARCH 2008**RESOLUTION:**

057	Councillor Nell Councillor Hodges	It was resolved that the matter be deferred to the Operations Committee meeting to be held on the 8 April 2008.
------------	--	--

**DEVELOPMENT APPLICATION FOR ERECTION OF ILLUMINATED
INFORMATION SIGN AT SOLDIERS POINT BOWLING CLUB, 118 SOLDIERS
POINT ROAD, SOLDIERS POINT**

REPORT OF: SCOTT ANSON, MANAGER DEVELOPMENT AND BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2007-1070-1 subject to the conditions contained in Attachment 3.

BACKGROUND

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

This application seeks consent for the erection of a pylon sign within the grounds of the Soldiers Point Bowling Club and having dimensions of 2.15m wide x 0.82m high. The sign will have an overall height of 2.9m and will display wording on only one side of the sign. The sign will consist of Light Emitting Diodes (LED's) and will not be externally illuminated. The sign is not an animated sign and cannot be programmed to flash. The subject sign will be used solely for the purpose of providing information to members of the Soldiers Point Bowling Club and their guests. The sign will not be used for general advertising.

The applicant has indicated that the subject sign is replacing a slightly larger sign that was destroyed in the June 2007 storm.

The subject site is zoned 6(c) Special Recreation under the Port Stephens Local Environmental Plan 2000 (LEP), and the proposed development is permissible, subject to consent, within this zone. The proposal is considered to be consistent with the zone objectives.

Detailed below is a summary of assessment of the application pursuant to the heads of consideration detailed in Section 79C of the EP&A Act.

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

It has been taken into consideration that the proposal is permissible in accordance with the LEP and is consistent with the relevant provisions of Port Stephens Development Control Plan 2007 (DCP). Further, it has been concluded that the proposal does not conflict with the relevant provisions of State Environmental Planning Policy 64 – Advertising and Signage (SEPP 64).

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

It is considered that the proposed development is unlikely to have any adverse impacts on the natural or built environments.

- c) *the suitability of the site for the development*

It is considered that the site is suitable for the proposed development, particularly due to the size of the subject site and the location of the proposed sign.

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

Council has received three (3) submissions, including two from the one household. These submissions raised a raft of concerns which are mostly captured by the categories of adverse visual impact, potential hazard for motor vehicles, design of the sign and precedent for future signs.

Consideration of the submissions received in respect of the proposed development is discussed in this report, however as is explained, the issues are not considered to warrant sufficient weight to justify refusal of the application.

e) *public interest*

It is not considered that the proposed illuminated sign is contrary to the public interest.

Based on the consideration of the proposal in accordance with Section 79C, it is considered that the development application should be supported. It is acknowledged that a range of concerns have been raised in the submissions, however assessment concludes that this proposal is consistent with statutory requirements and is not contrary to the public interest.

On the basis of the current planning provisions, it is considered that the proposal is consistent with Council policy and that there are no merit-based planning considerations that could warrant refusal of the application. Accordingly, the application is recommended for approval subject to attached conditions.

LINKS TO CORPORATE PLANS

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

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

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

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

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

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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.*
- 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 subject site is occupied by a Bowling Club. The club provides a service to the local as well as wider community in both passive and active recreational pursuits. The proposed sign will only be used for identification of the bowling club and the provision of information to its members and visiting guests. Accordingly, the proposed development is not considered to have any adverse social implications.

ECONOMIC IMPLICATIONS

The proposed development being for an information sign is not considered to have any adverse economic implications.

ENVIRONMENTAL IMPLICATIONS

No adverse environmental implications have been identified.

CONSULTATION

The application was exhibited in accordance with Council policy. During the exhibition period a total of three (3) submissions were received. Two of the submissions came from the same

household. These submissions objected to the proposal. These are discussed in the Attachments.

OPTIONS

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

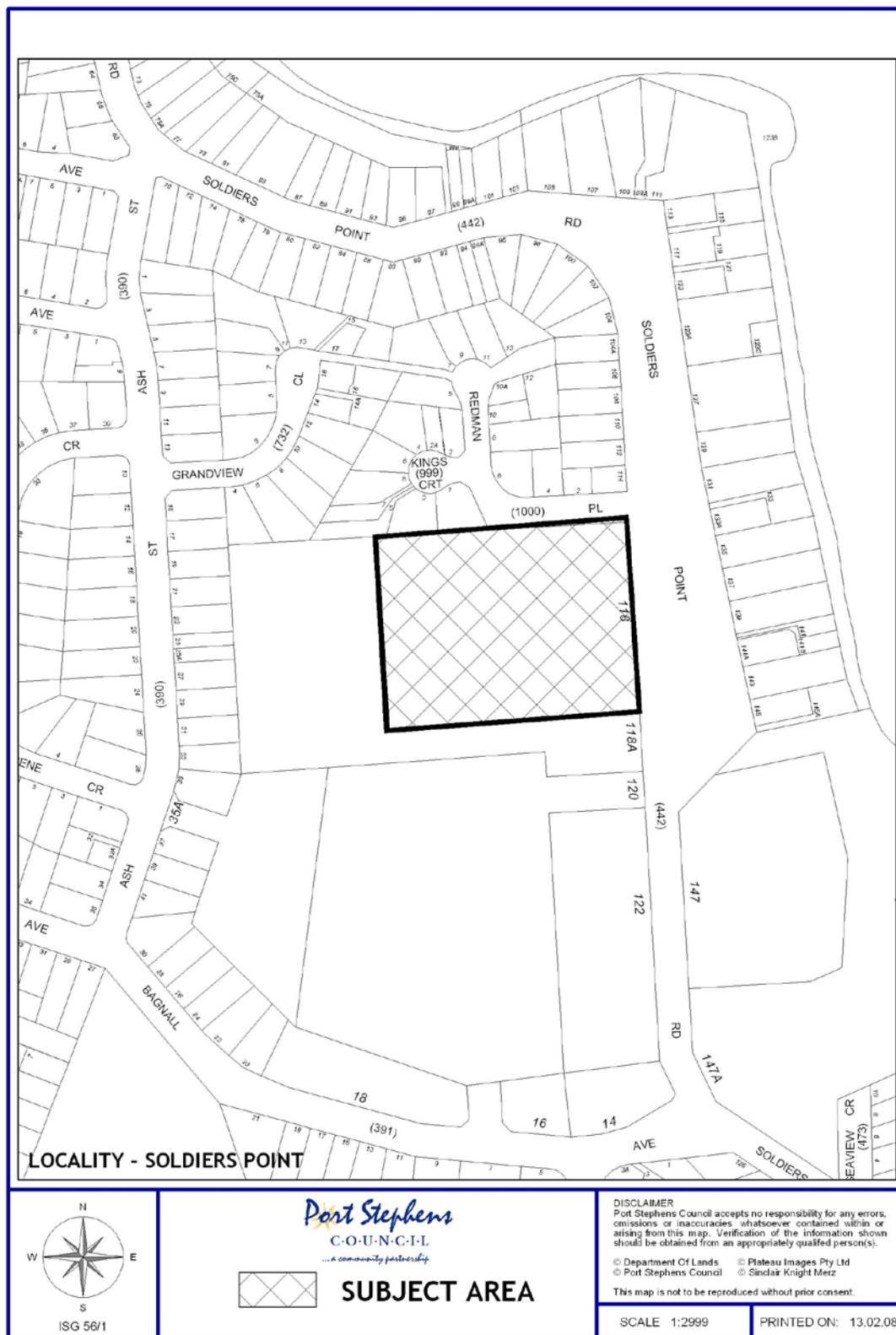
ATTACHMENTS

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

COUNCILLORS ROOM

- 1) Development Plans
- 2) Statement of Environmental Effects
- 3) Submission letters

ATTACHMENT 1 LOCALITY PLAN



ATTACHMENT 2
ASSESSMENT

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

THE PROPOSAL

This application seeks consent for the erection of a pylon sign within the grounds of the Soldiers Point Bowling Club and having dimensions of 2.15m wide x 0.82m high. The sign will have an overall height of 2.9m and will display wording on only one side of the sign. The sign will consist of Light Emitting Diodes (LED's) and will not be externally illuminated. The sign is not an animated sign and cannot be programmed to flash. The sign will contain an automatic dimmer so that the intensity of the illumination reduces as ambient light fades.

The subject sign will be used solely for the purpose of providing information to members of the Soldiers Point Bowling Club and their guests. The sign will not be used for general advertising.

The sign will be black, both in respect of the metal supporting box as well as the background to the LED displays.

The applicant has indicated that the subject sign is replacing a slightly larger sign that was destroyed in the June 2007 extreme weather event.

THE APPLICATION

Owner	Soldiers Point Bowling Club
Applicant	Soldiers Point Bowling Club
Detail Submitted	Plans of Proposed Development and Statement of Environmental Effects

THE LAND

Property Description	Lot 1 DP627638
Address	118 Soldiers Point Road, Soldiers Point
Area	1.766ha
Dimensions	The subject site is a large irregular shaped allotment with approximate measurements of 183.4m x 116.5m.
Characteristics	The proposal is located on the periphery of the township of Soldiers Point. Land in the immediate vicinity of the subject site is used for a variety of residential and commercial/retail uses. The site has historically been cleared as part of the site preparation for the existing bowling club. As such, the current vegetation on the site is limited to vegetative landscaping. This consists mainly of a mix of native grasses, scattered shade trees and small shrubs.

THE ASSESSMENT

1. Planning Provisions

SEPP 64 -	State Environmental Planning Policy 64 – Advertising and Signage
LEP 2000 – Zoning Relevant Clauses	6(c) Special Recreation “C” Zone 29
Development Control Plan	Port Stephens DCP 2007

Discussion

Local Environmental Plan 2000 (LEP)

Clause 29 – Recreation Zonings

The subject site is in the 6(a) Special Recreation “C” Zone, which permits a range of privately and publicly owned land uses for recreational purposes, such as clubs, subject to development consent. The proposal has been considered against the relevant objectives of the 6(c) zone and no areas of non-compliance have been identified.

Assessment comments are provided below:

Objectives of the 6(c) Special Recreation Zone are:

To enable privately and publicly operated recreational development in suitable and accessible localities and to ensure facilities do not reduce the amenity of the locality or its environmental quality.

The subject bowling club is located in an established privately operated recreational area and has operated from this site for many years.

The proposal is classified as “ancillary to recreation facilities” and is considered to be consistent with the zone objectives. There are no specific planning provisions in LEP 2000 relating to illuminated signs.

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

The aims and objectives of this policy are:

(1) *This Policy aims:*

(a) *to ensure that signage (including advertising):*

(i) *is compatible with the desired amenity and visual character of an area, and*

(ii) *provides effective communication in suitable locations, and*

(iii) *is of high quality design and finish, and*

- (b) to regulate signage (but not content) under Part 4 of the Act, and*
 - (c) to provide time-limited consents for the display of certain advertisements, and*
 - (d) to regulate the display of advertisements in transport corridors, and*
 - (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*
- (2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.*

The submitted Statement of Environmental Effects (SEE) makes the following comment in respect of the above objectives:

Existing advertising signage is located on the existing building site. In order to promote the service and events of Soldiers Point Bowling Club, an additional illuminated sign is proposed.

The proposal to include the above-mentioned signage is deemed compatible with the existing commercial and residential character of the area. That is, signage proposed is proportional to the form and design of the existing building structure (i.e.: signage does not alter the existing profile of the building and/or its facades). The sign will replace a sign that was previously erected at the site, which was ruined in the June 2007 storm. This previous sign incorporated larger dimensions than the proposed sign. That is, the proposed sign will be approximately 1.92m² smaller in area than the previous sign. The signage proposed is considered consistent with that applied by other businesses in the vicinity of the site.

Furthermore, the proposed signage is deemed appropriate in that:

- The sign only faces south;*
- The sign has been positioned / angled in such a way that residential occupants will not be impacted upon by the sign;*
- There is ample separation distance between the sign and the closest residential and commercial receivers;*
- Landscaping provides a visual buffer between the sign and residential development in the locality;*
- No important views will be obscured or compromised;*
- The viewing rights of other advertisers will not be adversely impacted;*
- The quality of vistas will not be impacted or reduced;*
- The safety of pedestrians and road users will not be compromised; and*
- The sign will begin operating at 8.00am in the morning and will cease operating after 9.30pm at night.*

The above comments are considered to be a reasonable response to the aims and objectives of SEPP 64.

Clause 8 of SEPP 64 states:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*

(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

As detailed above it is considered that the proposed development is consistent with the objectives of this policy. This clause also requires Council to consider the proposed development against the criteria contained in Schedule 1 of the policy. The heads of consideration contained in Schedule 1 include:

- 1 Character of the area*
- 2 Special areas*
- 3 Views and vistas*
- 4 Streetscape, setting or landscape*
- 5 Site and building*
- 6 Associated devices and logos with advertisements and advertising structures*
- 7 Illumination*
- 8 Safety*

After application of the assessment criteria contained in Schedule 1 of SEPP 64 it has been concluded that the proposed development is an acceptable form of development.

Development Control Plan 2007 (DCP)

The relevant provisions of the DCP are:

B.12.10 – Post, Pole or Pylon Signs

B12.C43 requires pylon signs not to project beyond the property boundary. Compliance has been achieved with this control.

B12.C44 requires where two or more signs are proposed certain controls apply. The proposed development involves the erection of only one pylon sign.

B12.C45 This control does not identify controls relevant to Recreational or Open Space zones. Nevertheless, as the site is surrounded by residential, the residential controls are applied. This control identifies a maximum area of 2.0m² and a height of 2.0m. The proposed development has an area of 1.76m² and a height of 0.82m.

B12.C46 requires the height of the pylon sign must not protrude above the dominant skyline (including buildings and trees) when viewed from ground level. The proposed sign is well below the dominant building skyline created by the club building. The sign is located under a large eucalypt tree and has a height of approximately 15% of the height of the tree. Accordingly, the proposed development does not protrude above the dominant skyline in the locality.

B12.16 prohibits a range of signs including:

- Flashing signs (illuminated at frequent intervals); and

- Moving signs.

The proposed development is not considered to be a flashing sign as it does not rapidly flash on and off. The sign will not be animated or have the ability to flash. The applicant has submitted that these functions require specific programming into the sign. The electronics that control the subject sign are not able to accept this type of program. Further, the sign is not a moving sign.

B12.18 states that Council will generally not favour high intensity illuminated signs.

In respect of this control the submitted SEE states:

The subject land is located along Soldiers Point Road, opposite a landscaped park. Due to the location of vegetation screening and associated buffers along Soldiers Point Road (i.e. separation distance between adjacent developments, road alignment, the positioning / angling of the sign etc), the subject sign is not a safety hazard to pedestrians or vehicles (i.e. potential customers) who travel along Soldiers Point Road. The sign is not considered a nuisance to residents, for the same reasons. The sign does not have the potential to impact upon aircraft, given: (i) the location of the site, (ii) the low height and strategic alignment of the sign, and (iii) the minimal emitted illumination from the sign. The sign is to operate between the hours of 8.00am and 9.30pm.

In view of the reasons submitted by the applicant and general consideration of the proposed development, it is considered that the sign cannot be classified as a high intensity illuminated sign. In summary, the proposed development has not been identified as being in conflict with any relevant provisions of the DCP.

2. Likely Impact of the Development

The likely impacts of the proposed development have previously been addressed in consideration of the LEP, SEPP 64 and the DCP. Outside of the matters flowing out of consideration of these statutory plans, no additional likely impacts have been identified.

3. Suitability of the Site

The subject site is considered to be suitable for the proposed development.

4. Submissions

During the public exhibition period a total of three submissions were received. It is noted that two of the submissions came from the same household.

The specific matters raised by the submissions are detailed below:

Out of character with the “sea side village atmosphere of the locality”

Comment:

The matter of streetscape has been addressed in consideration of the DCP. Given that the proposed development consists of a sign that is less than 2.0m² in area and is located in close proximity to the bowling club building, it is very much incorporated into the overall visual impact of the club building. The proposed sign is considered not to adversely impact upon the streetscape of the locality.

The sign will distract drivers

Comment:

Soldiers Point Road in vicinity of the proposed development is straight and there are no identifiable reasons to conclude that an average person driving a motor vehicle would be so distracted by the proposed sign that it could become a road safety hazard.

The sign would be a “severe visual impact upon the area and a safety hazard for pedestrians, bicycles and motor vehicles”

Comment:

This issue has drawn in the matter of pedestrians and bicycle riders. As with the previous comment relevant to motor vehicles, there is no identifiable evidence to support this point of view.

One submission refers to the provisions of Council's vision for Port Stephens as well as the applicable statutory plans affecting the site and it's relevance to the proposed development.

Comment:

The development is considered to be of an acceptable form and ancillary use to the existing bowling club and not considered to pose an unacceptable impact in the locality and is consistent with Council's policy inclusive of LEP 2000, SEPP 64 and DCP 2007.

5. Public Interest

It is considered that the erection of the proposed illuminated pylon sign within the grounds of the Soldiers Point Bowling Club is not contrary to the public interest. Accordingly, the application is recommended for approval, subject to specific conditions.

ATTACHMENT 3 CONDITIONS

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
 2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
 3. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
 4. The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.
 5. The sign shall not flash at frequent intervals.
 6. The sign shall not provide any moving text or images.
 7. The sign shall be operated between the hours of 8:00 am and 9:30 pm daily.
 8. The sign shall be located so as to generally face south.
 9. The sign shall not display any form of general advertising, and will be solely used for the promotion of services and events at the Soldiers Point Bowling Club.
 10. The sign shall not be externally illuminated.
 11. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
 12. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
 13. 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.
14. 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

ORDINARY MINUTES – 22 APRIL 2008

Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.

15. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.

ITEM NO. 6**FILE NO: PSC2007-0060****LEASE OF COMMUNITY LAND – 1B BOURKE STREET, RAYMOND TERRACE (LOT 21 DP 788588)****REPORT OF: STEWART MURRELL, GROUP MANAGER BUSINESS AND SUPPORT**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Request the Minister's consent to the proposed 21 year lease of 1B Bourke Street, Raymond Terrace - Lot 21 DP 788588 - to Buildev Pty Ltd.
 - 2) Subject to Minister's Consent, enter into a 21 year lease with Buildev Pty Ltd for the occupancy of 1B Bourke Street, Raymond Terrace - Lot 21 DP 788588.
 - 3) Authorise the Mayor and General Manager to affix the seal of Council to the Lease document.
-
-

OPERATIONS COMMITTEE MEETING – 8 april 2008**RECOMMENDATION:****That the recommendation be adopted**
-----**ORDINARY MEETING OF COUNCIL – 22 APRIL 2008****RESOLUTION:**

087	Councillor Hodges Councillor Robinson	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to seek Council's consent to the 21 year lease of Community Land known as 1B Bourke Street, Raymond Terrace, Lot 1 DP 788588. The land is currently leased to Buildev Pty Ltd for a period of five years only, to facilitate parking for the Department of Defence development in King Street. The granting of a further lease term to Buildev is now sought in accordance with the provisions of the Local Government Act (LGA) in relation to dealings with Community Land.

Buildev Pty Ltd is currently constructing the Department of Defence building in King Street, Raymond Terrace. The terms of Development Consent provide for the provision of 37 parking spaces on site, with additional parking to be provided on vacant Council owned land located in Bourke Street. The Council owned land consists of three parcels in total, two classified Operational Land and the balance (Lot 21 DP 788588, the subject land) classified as Community Land. Whilst Council is able to lease the parcels of Operational Land for an

indefinite period, the Community land may only be leased for a period of up to 21 years, subject to the provisions of the LGA.

At its meeting of 10 April 2007, Council resolved to grant a 5 year lease over the subject land to Buildev Pty Ltd (**ATTACHMENT 1**). A further 21 year lease of Lot 21 DP 788588 is now being sought to provide Buildev Pty Ltd with an extended period of tenure over the site. In accordance with the terms of the LGA, a lease term in excess of 5 years cannot be entered into unless the requirements of the LGA have been satisfied. Accordingly, the relevant provisions of the LGA and Council's compliance with same in relation to the proposed 21 year lease are outlined in this report.

In accordance with Sect 46A (3) of the LGA, a lease exceeding 5 years may be granted only by tender. In this respect, Public Tenders were called for the occupancy of the site, with potential respondents requested to provide details on the term of the lease required i.e. up to 21 years, and the purpose of the lease. Only one response was received, with Buildev Pty Ltd submitting a complying Tender requesting the maximum lease period of 21 years for the purpose of constructing a car park. This use is consistent with the General Community Use category that applies to the subject land. As their submission complied with each of the relevant selection criteria, the submission was accepted and Buildev Pty Ltd were selected as the successful respondent in this regard.

Following this process, Council was subsequently required to advertise the lease proposal in accordance with Sect 47 of the LGA. The requirement in this regard is to give public notice of the proposal to lease, detailing the general terms and proposed lessee. Council must also call for submissions concerning the proposal for not less than 28 days.

Notification of the proposed lease was placed in the Examiner, with relevant correspondence forwarded to all persons owning or occupying the adjoining land. Notice of the proposal was also placed on the land. Three submissions were received. The LGA requires Council to consider all submissions in relation to the proposal and further, seek Minister's Consent if objections to the proposal are received. Below is a summary of the objections received and the relevant responses.

1. "Planning of this whole development has been ad-hoc" (Peter and Julie Reid).

The development referred to has been the subject of an appropriate Development Application. Extensive public consultation has been undertaken by Council in relation to this development, resulting in several amendments by the Applicant prior to the granting of Development Consent.

2. "There were other appropriate private lands available" (Peter and Julie Reid)

The developer explored several options in relation to securing an alternate site, however no suitable land was made available within the required boundaries of the development.

3. "It will put pressure on natural foreshore areas to be reclassified for car parking" (Peter and Julie Reid)

Council has no current plan to recategorise or reclassify any additional areas of existing Community Land in this area. Should such a proposal be put forward in future, it would be subject to the requirements of the LGA with particular reference to community consultation.

4. "An agreement to lease has already been signed on this natural foreshore area" (Peter and Julie Reid)

The subject area is categorised as General Community use. There is no agreement to lease for any area of natural foreshore. The subject land is adjoined by Operational Land and has no direct connection to the natural foreshore area.

5. “Any development of this area will increase flooding due to lack of soakage” (William Bobbins)

The proposed development has been the subject of an extensive and thorough drainage assessment. Development Consent has issued and conditioned in accordance with Council’s requirement to maintain existing drainage systems affecting the area.

6. “There is plenty of land available on the Raymond Terrace Showground” (William Bobbins)

The site referred to is the subject of an existing proposal to redevelop and is not available for this purpose.

7. “Council are proposing to grant a lease over existing community property to a private developer in an area already deficient in public car parking” (Bruce W Tattersall).

The terms of the proposed lease require the lessee to construct and maintain the car park. At the conclusion of the lease, control of the area will revert to Council, together with all improvements on the site, enhancing public car parking in the area.

8. “The Council appears determined to allow a private developer to profit from the use of community land” (Bruce W Tattersall).

Under the 21 year lease proposal the lessee will remit to Council an annual market rental, subject to annual review. This money will be directed to the improvement of community facilities in the area.

9. “If the lease is granted I urge Council to condition the lease to be dependant upon the Department of Defence occupying this new building” (Bruce W Tattersall).

Under the terms of the proposed lease, the lessee must relinquish the lease of the subject land should the King Street building no longer be occupied by a Federal Government Department.

As identified in the responses above, the objections to the lease are not considered to be significant and have been addresses during Council’s previous dealing with both the Department of Defence development on King Street and the lease proposal process.

In order to finalise this matter, referral to the Minister requesting Consent, is now required. On receipt of all relevant information the Minister will review the matter and provide a determination on the proposal.

LINKS TO CORPORATE PLANS

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

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

Upon finalisation of appropriate lease documentation and construction of the car park, Council will receive an annual commercial return from the lessee. The proposed 21 year Lease agreement provides for payment of market rental (determined, but not disclosed in this report), with annual 3.00% increases. The lessee is also responsible for all outgoings in relation to the site.

LEGAL AND POLICY IMPLICATIONS

The relevant provisions of the LGA have been identified and adhered to in relation to the requirements for dealing with Community Land. It should be noted that Lot 21 DP 788588 is currently the subject of a reclassification proposal from Community Land to Operational Land, which if successful, will enable the future long term lease of the site in alignment with the adjoining Operational Land.

Business Excellence Framework

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These outcomes align with the following Business Excellence principles:-

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The provision of car parking on this site facilitates development on surrounding land which is well located with respect to support services such as community facilities, commercial and employment centres and open space.

ECONOMIC IMPLICATIONS

The lease proposal supports economic development in the immediate CBD and demonstrates both private and public sector confidence in the future development of the area.

ENVIRONMENTAL IMPLICATIONS

The provision of car parking on this site is integral to the Department of Defence development currently being constructed in King Street, Raymond Terrace. The community facilities to be provided in accordance with the Development Consent for the Buldev site will enhance the natural foreshore area environment by providing promenades, boardwalks and additional beautification of the foreshore area.

CONSULTATION

Business Development Section
Recreation Services
Strategic Planning
Harris Wheeler Lawyers

OPTIONS

- 1) Accept recommendation
- 2) Amend recommendation

ATTACHMENTS

- 1) Minutes of Ordinary Meeting of 10 April 2007

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 10 APRIL 2007

MAYORAL MINUTE

ITEM NO. 2

FILE NO: PSC2007-0060

LEASE OF LAND – KING, PETER DRON AND BOURKE STREETS,
RAYMOND TERRACE

THAT COUNCIL:

- 1) Enter into a **Deed of Agreement to Lease** in respect of Lot 21 DP 788588, Lot 1 DP 250593, Part Lot 1 DP 85666 and Part Lot 84 DP 1106659, Lot 10 DP 939306, Lot 11 DP 939306. **ATTACHMENT 1.**
- 2) Enter into a **Lease**, Lot 21 DP 788588, Lot 1 DP 250593, Part Lot 1 DP 85666 and Part Lot 84 DP 1106659 (existing Community Land) and a **Lease** of Lot 10 DP 939306, Lot 11 DP 939306 (existing Operational Land). **ATTACHMENT 1.**
- 3) Authorise the Mayor and General Manager to affix the seal of Council to the Deed of Agreement to Lease and the respective Lease documents in relation to each of the areas.

ORDINARY MEETING OF COUNCIL – 10 April 2007

RESOLUTION:

082	Cr Swan	There being no objection it was resolved that the Mayoral Minute be adopted.
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BACKGROUND

Council recently granted Development Consent to Buildev Pty Ltd for the construction of a three storey commercial premises on the corner of King & William Street, Raymond Terrace. The purpose of the building is to provide office accommodation and appropriate facilities, including car parking, for the Department of Defence (DOD). The contractual agreement between Buildev and DOD requires the developer to provide office accommodation for 250 staff and 110 car parking spaces.

The Development Application lodged by Buildev provides the required office space on the King/William Street site, however, it cannot accommodate the total number of required car parking spaces. Under the terms of the Development Consent issued, the developer is required to provide 65 car parking spaces, 37 of which will be accommodate on site, with the balance to be provided on Council's King/Bourke/Peter Dron Street site (**ATTACHMENT 1**).

Council's land located at King/Bourke/Peter Dron Streets consists of both Community and Operational Land. Under its agreement with DOD, Buildev is required to obtain, and retain control, of any lands on which the car park is constructed, and accordingly, they would need

ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 10 APRIL 2007

to enter into an appropriate lease agreement with Council. The relevant lots are classified as follows, and identified on the attached plan (**ATTACHMENT 1**):

Lot 10 DP 939306	Operational
Lot 11 DP 939306	Operational
Lot 21 DP 788588	Community
Lot 1 DP 250593	Community
Part Lot 1 DP 85666	Community
Part Lot 84 DP 1106659	Community

While there is no impediment to the lease of the Operational portion of this land, there are restrictions on Council's ability to deal with the Community Land. Its classification restricts Council's ability to lease the land under terms acceptable to the parties. In order to remedy this, reclassification of the affected land from Community to Operational has commenced as per the report approved by Council on 27th March 2007 Min #058 (**ATTACHMENT 2**).

As the land in question is currently partially classified Community Land, Council must enter into a leasing arrangement in two stages. Firstly, on completion of the recategorisation, a Deed of Agreement to Lease may be entered into which essentially grants a lease covering both the Operational and Community Land. This agreement complies with the requirements of the Local Government Act in relation to the lease of Community Land but only grants tenure for a period of five years in relation to the Community land.

On the successful reclassification of the Community Land to Operational Land, the parties may then enter into one Lease Agreement for the total area. Under the Operational Land provisions, Council may enter into a commercial lease agreement, with terms and conditions acceptable to both parties. In this respect a draft lease agreement has been negotiated, incorporating provision for market rent subject to annual review. This lease agreement may be entered into following the successful reclassification of the Community Land.

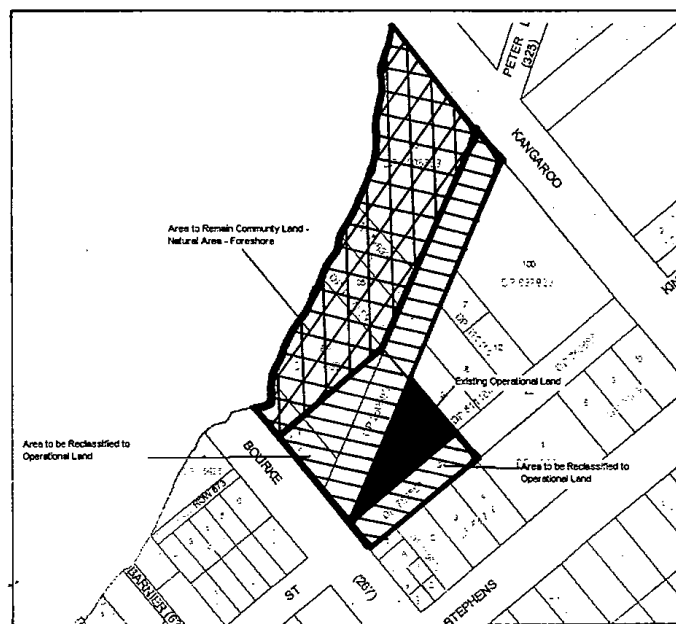
ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 10 APRIL 2007

ATTACHMENT 1

RECLASSIFICATION PROPOSAL

Lot 21 DP 788588 – 1B Bourke Street, Raymond Terrace
Lot 1 DP 250593 – 1A Peter Dron Street, Raymond Terrace
Part Lot 1 DP 85666 – 2 Peter Dron Street, Raymond Terrace
Part Lot 84 DP 1106659 – 6 Peter Dron Street, Raymond Terrace



ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 10 APRIL 2007

ATTACHMENT 2

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

ITEM 1 OF THE OPERATIONS COMMITTEE WAS DEALT WITH AS THE FIRST ITEM IN THE STRATEGIC COMMITTEE.

ITEM NO. 2

FILE NO: PSC 2007-0060

PROPOSAL TO SUBMIT A REQUEST FOR THE RECLASSIFICATION OF COMMUNITY LAND, PETER DRON STREET, KING STREET & BOURKE STREETS, RAYMOND TERRACE

AUTHOR: MALCOLM CAMPBELL – BUSINESS DEVELOPMENT MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Submit the request to consider the reclassification of 1B Bourke Street - Lot 21 DP 788588, 1A Peter Dron Street - Lot 1 DP 250593, 2 Peter Dron Street – Part Lot 1 DP 85666 & 6 Peter Dron Street – Part Lot 84 DP 1106659, Raymond Terrace from Natural Areas (Foreshore) to General Community Use to Operational Land.

OPERATIONS COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

058	Councillor Jordan Councillor Hodges	That the Recommendation be adopted.
-----	--	-------------------------------------

ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 10 APRIL 2007

ATTACHMENT 2

COMBINED STRATEGIC/OPERATIONS COMMITTEE -13 MARCH 2007

ITEM NO. 2

FILE NO: PSC 2007-0060

PROPOSAL TO SUBMIT A REQUEST FOR THE RECLASSIFICATION OF COMMUNITY LAND, PETER DRON STREET, KING STREET & BOURKE STREETS, RAYMOND TERRACE

AUTHOR: MALCOLM CAMPBELL – BUSINESS DEVELOPMENT MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Submit the request to consider the reclassification of 1B Bourke Street - Lot 21 DP 788588, 1A Peter Dron Street - Lot 1 DP 250593, 2 Peter Dron Street - Part Lot 1 DP 85666 & 6 Peter Dron Street - Part Lot 84 DP 1106659, Raymond Terrace from Natural Areas (Foreshore) to General Community Use to Operational Land.

BACKGROUND

The purpose of this report is to seek Council's consent, as the land owner, to submit a request to reclassify Council owned land. The subject land is 1B Bourke Street (Lot 21 DP 788588), 1A Peter Dron Street (Lot 1 DP 250593), 2 Peter Dron Street (Part Lot 1 DP 85666) & 6 Peter Dron Street (Part Lot 84 DP 1106659), Raymond Terrace. The proposed change is from Community Land to Operational Land. A locality map is contained in the Attachments.

This report seeks to gain Council's support, as the landowner, for the lodgement of the reclassification request. Should the above recommendation be supported then the relevant application will be submitted to the Sustainable Planning Group for consideration and assessment. Following finalisation of the assessment, a report outlining the outcomes and final recommendation will be submitted to Council.

The subject land is currently classified Community Land and further categorised as a Natural Area – Foreshore. The prescribed uses under the category of Foreshore are prohibitive in that they allow only limited activities to take place on the site. A process is presently under way to recategorise the subject land from Natural Area - Foreshore to General Community Use. Upon the land being recategorised to General Community Use the practical management of the site will be less constrained. The recategorisation will also allow for "structures" to exist within the site, provided they are compatible with the core objectives of the General Community Use category. It is anticipated that this process may be complete by mid April 2007, with a report outlining the process and outcomes to be presented to Council on 10 April 2007.

If successful, one of the objectives of reclassifying the area is to make it available for both public and private vehicle parking. Such an outcome will facilitate the current Development Application on the King/Bourke Street site (commonly known as the Buildex site) by allowing appropriate provision to be made for car parking off their immediate site. This may be achieved under the terms and conditions of an appropriate lease agreement with Council with provision for a market rent return. The additional benefit to Council and the public is that

PORT STEPHENS COUNCIL

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PORT STEPHENS COUNCIL

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ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 10 APRIL 2007

ATTACHMENT 2

COMBINED STRATEGIC/OPERATIONS COMMITTEE -13 MARCH 2007

public car parking is also made available to users of the adjoining reserves and sporting facilities.

It should be noted that the area immediately adjacent to the foreshore will remain Community Land – Natural Area – Foreshore, as identified on the attached plan. Its use and classification will remain unaffected by the present proposal and the zoning will remain unchanged. As per the Development Consent issued in relation to the Buildex site, there is a requirement to enhance the natural foreshore area with promenades and boardwalks and the provision of car parking adjacent to this area will further encourage public use of this area.

LINKS TO CORPORATE PLANS

The relevant part of the Council Plan in this instance relates to "Community Services and Facilities". The proposal to reclassify the subject land through submitting a reclassification request is consistent with the strategic direction to "sustainably manage in a way which allows residents and visitors comprehensive opportunities for recreational activities." The construction of a car park on the land which is the subject of this proposal supports the utilisation recreational facilities within both the immediate and surrounding area.

FINANCIAL/RESOURCE IMPLICATIONS

There is a financial cost implication in the short term in respect of the fees required for the reclassification application.

LEGAL AND POLICY IMPLICATIONS

The land is currently classified as Community Land and is zoned 5(g) Special Uses (Flood Affected). To facilitate the development as proposed, it will be necessary to change the classification to Operational.

Australian Business Excellence Framework

This aligns with Principles 1, 3, 8 & 11 of the ABEF Framework.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals.
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action.
- 8) Effective use of facts, data and knowledge leads to improved decisions.
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The proposed reclassification is intended to facilitate development on land which is well located with respect to support services such as community facilities, commercial and employment centres and open space.

ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 10 APRIL 2007

ATTACHMENT 2

COMBINED STRATEGIC/OPERATIONS COMMITTEE -13 MARCH 2007

ECONOMIC IMPLICATIONS

Upon finalisation of appropriate lease documentation and construction of the proposed car park, Council will receive an annual commercial rental from the lessee. The lessee will also maintain the car park area and accordingly the return created is positive.

ENVIRONMENTAL IMPLICATIONS

The reclassification from Community Land to Operational Land reduces the total area of Community Land in the immediate vicinity, however, the reduction is not significant. In return, the community facilities to be provided in accordance the Development Consent for the Buildex site will enhance the natural foreshore environment by providing promenades, boardwalks and additional beautification of the foreshore area.

CULTURAL IMPLICATIONS

Nil

CONSULTATION

Business Development Section
Strategic Planning
Recreation Services

The processing of the request will require formal exhibition of the reclassification and Council will need to engage the services of an appropriate person to conduct a hearing to consider the reclassification.

OPTIONS

- 1) To resolve to submit the reclassification request as detailed above, or
- 2) Defer for further information.

ATTACHMENTS

- 1) Locality Plan

TABLED DOCUMENTS

Nil

ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 10 APRIL 2007

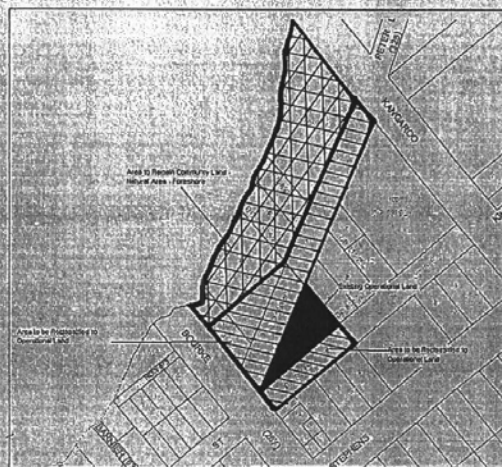
ATTACHMENT 2

COMBINED STRATEGIC/OPERATIONS COMMITTEE -13 MARCH 2007

ATTACHMENT 1

RECLASSIFICATION PROPOSAL

Lot 21 DP 788588 – 1B Bourke Street, Raymond Terrace
Lot 1 DP 250593 – 1A Peter Dron Street, Raymond Terrace
Part Lot 1 DP 85666 – 2 Peter Dron Street, Raymond Terrace
Part Lot 84 DP 1106659 – 6 Peter Dron Street, Raymond Terrace



ITEM NO. 7**FILE NO: T36-2007****T 36/2007: TENDER FOR CLEANING OF PUBLIC RECREATIONAL FACILITIES****REPORT OF: RAY BOWEN - RESOURCES MANAGER**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Reject all tender submissions received for the above-mentioned tender as recommended by the tender review panel in accordance with Section 55 of the Local Government Act
 - 2) To accept the proposal of reengaging the services of the Corporate Clean Unit for a period of up to 12 months.
-
-

OPERATIONS COMMITTEE MEETING – 8 april 2008**RECOMMENDATION:****That the recommendation be adopted**
-----**ORDINARY MEETING OF COUNCIL – 22 APRIL 2008****RESOLUTION:**

088	Councillor Robinson Councillor Tucker	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to provide context to the recommendation. The contract is for the provision of cleaning services for the public toilets, dog faeces bins and BBQ recreational facilities in the western area of the Port Stephens LGA.

The Corporate Clean Unit is the current provider of services for the abovementioned contract.

Running parallel to this tender process Council is also negotiating a new Workplace Agreement for whole of Council inclusive of the Corporate Clean Unit.

It has become apparent through the contract review process and discussions internally of Council that it would be beneficial to Council to continue using the current contract holder while continuing the negotiations relating to the wider Workplace Agreement process, this would demonstrate Council's support of the Corporate Clean Unit staff as they work through facilitating their new Workplace Agreement.

It is proposed to continue working with the Corporate Clean Unit for a further period of 12 months, by taking this position Council are within the requirement of the Local Government Act as the duration is less than 2 years and under the \$150,000 threshold.

Council will at the end of this period seek submissions from the market place for the future provision of these services.

LINKS TO CORPORATE PLANS

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

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

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

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

FINANCIAL/RESOURCE IMPLICATIONS

The current facilities cleaning contract expenditure of \$140,000 is funded from a corresponding recurrent maintenance budget allocation.

LEGAL AND POLICY IMPLICATIONS

The tender process complies with the Local Government Act 1993. Further to this the recommendation requires the following action as stated in Local Government (General) Regulation 2005, Clause 178 (3) of the Regulation:

A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:

(a) postpone or cancel the proposal for the contract,

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 makes markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*

- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a cultural of continual improvement, innovation and learning.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The tender process provides quality service providers in order to maintain Councils Public Amenities image for the general and visiting public.

ECONOMIC IMPLICATIONS

Provision of these services is the employment of locally based staff.

ENVIRONMENTAL IMPLICATIONS

The tender process allows Council to have cleaning services delivered in an environmentally responsible manner.

CONSULTATION

Procurement & Contracts Co-ordinator
Parks Co-ordinators – West & East
Human Resources Manager
General Manager
Group Manager Business & Support

OPTIONS

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

ATTACHMENTS

- 1) Nil

ITEM NO. 8

INFORMATION PAPERS

REPORT OF: JUNE SHINE – EXECUTIVE MANAGER, CORPORATE MANAGEMENT

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 8 April, 2008.

No:	Report Title	Page:
1	Access Committee Minutes	115
2	Aboriginal Strategic Committee Minutes	119
3	Council Ward Funds	123
4	Cash & investment held at 29 February 2008	126

OPERATIONS COMMITTEE MEETING – 8 april 2008

RECOMMENDATION:

That the recommendation be adopted

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:		
089	Councillor Nell Councillor Brown	It was resolved that the recommendation be adopted.

INFORMATION ITEM NO. 1

ACCESS COMMITTEE MINUTES

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

FILE: A2004-0226

BACKGROUND

The purpose of this report is to present to Council the minutes of the Access Committee meeting held on 4 March 2008.

Key issues addressed at the meetings included: -

- 1) Birubi Beach Public Toilet Update
- 2) MLAK Key- Little Beach

ATTACHMENTS

- 1) Minutes of the Access Committee meeting held on 4 March 2008.

ATTACHMENT 1

**PORT STEPHENS ACCESS COMMITTEE
MINUTES OF MEETING HELD 4 MARCH 2008
AT THE RAYMOND NELSON BAY RSL CLUB**

Present:

Cr. Helen Brown (Chairperson), Cr. Sally Dover, Michael Elliott, Alice De-Carle, Judy Rosier, Susan Rosier, Margaret O'Leary (including two Occupational Therapy Students), Ken Whiting, Karen Whiting, Joe Delia, Kathy Delia, Donna Robinson, Liz Harper, Deborah Hall

Apologies:

Tony Kean, Robert Harper, Michelle Page

1. WELCOME & ADOPTION OF PREVIOUS MINUTES

Chairperson Cr. Brown welcomed the Committee. The minutes of the previous meeting held on 5 February 2008 were adopted as an accurate record of that meeting.

2. BUSINESS ARISING FROM PREVIOUS MINUTES

2.1 Minor Access Works

Discussion was held around procedures for partnering with appropriate organisations and firms to address minor access works in the community in addition to the extensive works program undertaken by Council. Matters discussed included funding, insurance, work standards and materials. The Committee endorsed the inclusion of the 'Minor Works List' as a standard agenda item for future meetings.

Action:	1. Agenda template will be amended to include 'Minor Works List' as a standard item.
---------	--

2.2 Birubi Beach Public Toilet

The Birubi Beach accessible toilet block had been repaired and was now fully operational.

2.3 Birubi Beach Accessible Parking Spaces

During recent extension works at the Birubi Beach SLSC two of the accessible parking spaces were removed temporarily. It appears that the building work is now completed.

Action:	1. Council's Community Planner – Ageing & Disability will make enquiries in relation to the reinstatement of the parking spaces.
---------	--

2.4 Mobility Map

The issue of the mobility map was raised and discussed. It was decided to put it on the agenda for next month's meeting for further discussion.

3. GENERAL BUSINESS**3.1 Amendment to 2008 Meeting Dates List**

Cr. Brown indicated that there was an error on the 2008 Access Committee meeting schedule. The annual joint meeting with Councillors will be on the 17 June 2008 and the ordinary June meeting of the Access Committee will be held on 3 June 2008.

Action:	1. Amended copies of the meeting schedule will be mailed out to Committee members.
---------	---

3.2 MLAK Key- Little Beach

Cr. Dover enquired as to the status of the MLAK key normally available at the kiosk at Little Beach for loan to the public to access Council's nearby accessible toilet and wharf wheelchair. She recently enquired about the key and the staff member informed her that they were unaware of the key.

Action:	1. Council's Community Planner – Ageing & Disability will follow up this matter.
---------	---

3.3 Accessible Parking at the Donald Street Parking Station, Nelson Bay

Council's Community Planner – Ageing & Disability reported that although there were several accessible parking spaces in the Donald Street parking station, there were none that were accessible to the accessible toilet block within the station. It was suggested that an accessible space be provided on the top level in close proximity to the accessible toilet.

Action:	1. Council's Community Planner – Ageing & Disability will carry out a site inspection in consultation with relevant Council's Officers to assess this matter and to consider an appropriate course of action.
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3.4 Guest Speaker at June Joint Meeting

Discussions were held around guest speaker options for the June 2008 joint meeting between Council and the Access Committee. One Committee member volunteered to be the guest speaker and some other people were suggested. The Committee concluded they would like to have someone with experience in access auditing as well as local experience.

Action:	1. Council's Community Planner – Ageing & Disability will formulate a shortlist of potential guest speakers and/or alternatives.
---------	---

ORDINARY MINUTES – 22 APRIL 2008

3.5 Salamander Bay – New Tourist Accommodation Facility

Council's Community Planner – Ageing & Disability will organise an inspected of new tourist accommodation facility at Salamander Bay to ensure the development is compliant with specified access provisions and relevant legislation.

3.6 Vehicles Allegedly Obstructing Cycleway at Anna Bay

A report was tabled by two Committee members outlining details of vehicles reportedly obstructing the Anna Bay cycleway. Council's Community Planner – Ageing & Disability outlined the action that Council had taken to date in relation to this matter.

Action:	1. Council's Community Planner – Ageing & Disability will refer this matter to Council's Road Safety Officer and Rangers.
---------	---

3.7 Accessible Buses

Discussion was held around accessible buses that had ramps and it was ascertained that there is sometimes a disparity in functionality of the ramp depending on if the bus stop had kerb and gutter or not.

4. **DETAILS OF NEXT MEETING**

The next meeting will be held on the 1 April 2008 at 10.30am at the Raymond Terrace Bowling Club.

INFORMATION ITEM NO. 2

**ABORIGINAL STRATEGIC COMMITTEE MEETING WITH WORIMI
LOCAL ABORIGINAL LAND COUNCIL**

REPORT OF: TREVOR ALLEN –MANAGER, INTEGRATED PLANNING

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 10 March 2008.

Key issues considered at the meeting included:

- 1) Update on Soldiers Point Boat Ramp Improvements
- 2) Aboriginal Strategic Committee
- 3) Aboriginal Project Fund

ATTACHMENTS

- 1) Minutes of Aboriginal Strategic Committee meeting with Worimi LALC on 10 March 2008.

ATTACHMENT 1

**ABORIGINAL STRATEGIC COMMITTEE MEETING
WITH WORIMI LOCAL ABORIGINAL LAND COUNCIL
HELD ON THE 10 MARCH 2008
AT THE MURROOK CULTURAL & LEISURE CENTRE**

Present:

Andrew Smith	Worimi LALC
Janice MacAskill	Worimi LALC
Cr Ron Swan	PSC
Cr Sally Dover	PSC
Cr Helen Brown	PSC
Paul Procter	PSC
Jason Linnane	PSC
Cliff Johnson	PSC

Apologies:

Val Merrick	Worimi LALC
Peter Gesling	PSC
Mike Trigar	PSC

Cr Brown chaired and opened the meeting at 1:20pm

1. WELCOME TO COUNTRY

A Traditional Elder of the Land can only make the 'Welcome to Country'. In the absence of a local Elder, Andrew Smith made an '*Acknowledgement to Land*' paying respects to the Worimi Land which we meet on today.

2. MINUTES OF PREVIOUS MEETING

Cr Swan moved that the minutes of the previous meeting held on 10 December 2007 be accepted as an accurate record of the meeting. Seconded by J. MacAskill.

3. BUSINESS ARISING FROM PREVIOUS MINUTES

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

Port Stephens Council has prepared a submission to the State Government on the implications of the proposed reforms to the handling of Development Applications. WLALC indicated that they haven't had any input as yet into the preparation of Council's submission. This is important as LALCS are often bypassed in the notification stage of Development Applications.

Action:	1. Council's Social Planning Co-ordinator will follow up with relevant Council Officers to ensure that WLALC is provided with a copy of Council's submission and are given the opportunity to make comment.
---------	---

Item 2: Middens at Birubi Headland

Council's Recreation Services Manager met two weeks ago with WLALC and NPWS where a suitable works program was agreed upon. The NPWS will undertake the work in consultation with WLALC and Port Stephens Council. The work will initially focus on protecting the cultural heritage items on the site with subsequent work to include improvements to the car park, park facilities, access ways, revegetation and appropriate signage. The Mayor requested that the work also include repairing the existing potholes on the roadside edge, which are problematic for pedestrians. The work is due to commence shortly once NPWS have organised their staffing resources to carry out this work. Port Stephens Council is to provide \$30,000 towards the midden protection works.

Item 3: Soldiers Point Boatramp Improvements

The work will be done in three stages as follows:

Stage 1: Reconstruction of Boatramp comprising: -

- widening of boatramp to three lanes
- installation of a floating pontoon
- reconfiguration of carpark

Stage 2: Revetment & Rock Groyne comprising: -

- reconstruction of revetment wall and groyne. No details on this work are available yet.

Stage 3: Yacht Club Proposal comprising: -

- Construction of a long jetty

It is envisaged that Stage 1 will be completed by the end of the year. Council has supplied WLALC with a copy of Council's Plan of Management for this site. WLALC will have their site officers on site during the works. Council will provide WLALC with a copy of the Engineering Designs for the site as soon as they are available.

Item 4: Aboriginal Project Fund

The Aboriginal Strategic Committee (ASC) held a special meeting on 7 February 2008 to assess Stage 2 funding proposals and to formulate recommendations to Council on the allocation of available Aboriginal Project Funds. Cr Brown thanked the members of the ASC on their efforts during this process and commended WLALC for their wonderful and humbling gesture of considering a significant inkind contribution to assist KLALC in achieving the desired goals and objectives of one of their proposed projects. The recommendations of Council will be considered for endorsement at the Ordinary Council meeting on 25 March 2008.

Item 5: Agenda Template Amendment

The agenda template for meetings of the ASC has been amended to include 'Welcome to Country'. However as demonstrated by today's meeting, a further amendment is required to make allowance for any occasions when a Traditional Elder is not present.

Action:	1. Agenda template be amended to specify 'Welcome to Country' /. 'Acknowledgement to Land'.
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Item 6: Review of ASC Constitution

Copies of the Constitution were tabled for review and discussion.

Action:	1. Discussion of Constitution deferred until next meeting.
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4. GENERAL BUSINESS**4.1 Economic Development Strategy**

Council has appointed an Economic Development Manager who commences on 25 March 2008. Their key role will be to drive the implementation of Council's new Economic Development Strategy.

Action:	<ol style="list-style-type: none">1. Council's Social Planning Co-ordinator will forward to WLALC a copy of Council's Economic Development Strategy and Events Strategy.2. Council's Social Planning Co-ordinator will organise for Council's new Economic Development Manager to meet with CEO of WLALC as part of their orientation.
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4.2 Draft Council Plan 2008 - 2012

A copy of Council's Draft Council Plan 2008 – 2012 was presented to WLALC for review and comment. Submissions close 31 March 2008.

4.3 Naidoc Week 2008

The theme of this year's Naidoc Week (6 – 13 July 2008) is 'Advance Australia Fair'. A poster competition is being held as part of this year's celebrations. See Naidoc Week 2008 website for further details.

4.4 Joint ASC Meeting

This year's joint meeting will be held at Council on 15 July 2008. Dr Kelvin Kong has been tentatively confirmed as guest speaker.

5. NEXT MEETING

The next meeting with WLALC will be held on 12 May 2008 at 1:00pm at Murrook.

Meeting closed at 2:25pm.

INFORMATION ITEM NO. 3

COUNCIL WARD FUNDS

**REPORT OF: JEFF SMITH, FINANCIAL SERVICES MANAGER
FILE: PSC2007-0183**

BACKGROUND

The purpose of this report is to provide Ward Funds & Minor Works expenditure and available balances as at 10 March 2008.

ATTACHMENTS

- 1) 2007/08 Allocations of Councillor Ward Funds
- 2) 2007/08 Allocations of Minor Works

ATTACHMENT 1

2007/2008 ALLOCATIONS OF WARD FUNDS				
WARDS	EAST	CENTRAL	WEST	TOTAL
BALANCE B/FWD FROM 30 JUNE 2007	44,908	-93,472	103,402	54,838
FUNDS REALISED IN 2007-2008	47,090	47,090	47,090	141,271
TOTAL AVAILABLE	91,998	-46,382	150,492	196,108
ALLOCATED TO:-				
From Original Budget				
From Revotes and Carry Forwards				
King Park Landscaping			7,000	7,000
Little Beach Disability Access ramp	29,290			29,290
From Budget Reviews				
TOTAL ALLOCATED	29,290	0	7,000	36,290
BALANCE	62,708	-46,382	143,492	159,818
Reconciled 10/03/08				

ATTACHMENT 2

2007/2008 ALLOCATIONS OF MINOR WORKS				
WARDS	EAST	CENTRAL	WEST	TOTAL
BALANCE B/FWD FROM 30 JUNE 2007	6,458	16,568	4,298	27,323
2007/2008 BUDGET ALLOCATION FROM REVENUE	20,000	20,000	20,000	60,000
TOTAL AVAILABLE 1 JULY, 2007	26,458	36,568	24,298	87,323
ALLOCATED TO:-				
Allocated 2007/2008 Financial Year				
Tomaree Public School CM 201/07	1,000			1,000
Karuah Bridge Celebrations CM 243/07			1,000	1,000
Irrawang High School CM 243/07			100	100
LTP District Garden Club CM 243/07		250		250
Medowie Guides CM 243/07		500		500
Rotary Club of Nelson Bay CM 243/07	1,000			1,000
Nelson Bay Town Management CM133/07	1,924			1,924
Taylors Beach Reserves CM289/07	270			270
Port Stephens Family History Group LTP Community Centre CM289/07		960		960
Rotary Club of Nelson Bay Golf Day CM 289/07	200			200
Hunter River HighSchool CM347/07			300	300
Grahamstown Congregations CM347/07			1,000	1,000
Medowie Public School CM 399/07		300		300
Jnl 21983/2008 M Lees Cancelled	-93			-93
St Johns Anglican Church CM042/08			250	250
Life Education CM042/08	1,400	1,400	1,400	4,200
Raymond Terrace Tennis Club CM042/08			1,250	1,250
Port Stephens Community Band CM042/08	1,000	1,000	1,000	3,000
Hunter Region Botanic Gardens CM042/08	1,000	1,000	1,000	3,000
Raymond Terrace Water Polo CM042/08			1,000	1,000
Tilligerry Committee CM042/08		500		500
Salt Ash Sports Ground CM042/08		3,000		3,000
Soldiers Point Salamander Parks Reserves Hall Committee CM042/08	5,000			5,000
TOTAL ALLOCATED	12,701	8,910	8,300	29,911
BALANCE	13,757	27,658	15,998	57,412
Reconciled 10/03/08				

INFORMATION ITEM NO. 4

CASH AND INVESTMENTS HELD AT 29 FEBRUARY 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 29 February 2008.

ATTACHMENTS

- 3) **Cash and Investments held at 29 February 2008.**
- 4) **Monthly Cash and Investments Balance March 2007 – February 2008**

ATTACHMENT 1

CASH & INVESTMENTS HELD - AS AT 29 FEBRUARY 2008							
INVESTED WITH	INV. TYPE	DATE INVESTED	MATURITY OR COUPON DATE	NO. OF DAYS	AMOUNT INVESTED	INTEREST RATE	% OF TOTAL FUNDS HELD
GRANGE SECURITIES							
WIDE BAY CAPRICORN BUILDING SOCIETY	Floating Rate Sub Debt	17-Dec-07	17-Mar-08	91	500,000.00	8.99%	1.52%
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	20-Dec-07	20-Mar-08	91	1,000,000.00	8.80%	3.04%
NEXUS BONDS LTD "TOPAZ AA-"	Floating Rate CDO	22-Nov-07	23-May-08	183	412,500.00	9.90%	1.25%
HERALD LTD "QUARTZ AA"	Floating Rate CDO	20-Dec-07	20-Mar-08	91	450,000.00	8.80%	1.37%
STARTS CAYMAN LTD "BLUE GUM AA-"	Floating Rate CDO	24-Dec-07	25-Mar-08	92	1,000,000.00	8.62%	3.04%
HELIUM CAPITAL LTD "ESPERANCE AA+"	Floating Rate CDO	20-Dec-07	20-Mar-08	91	1,000,000.00	8.40%	3.04%
HOME BUILDING SOCIETY	Floating Rate Sub Debt	25-Jan-08	25-Apr-08	91	500,000.00	8.28%	1.52%
NOTE	Yield Curve Note	18-Jan-08	18-Apr-08	91	500,000.00	0.00%	1.52%
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	20-Dec-07	21-Mar-08	92	1,000,000.00	8.30%	3.04%
GRANGE SECURITIES "COOLANGATTA AA"	Floating Rate CDO	20-Dec-07	20-Mar-08	91	1,000,000.00	8.60%	3.04%
ANZ YIELD CURVE NOTE	Yield Curve Note	17-Jan-08	17-Apr-08	91	500,000.00	8.25%	1.52%
MACQUARIE CASH MANAGEMENT TRUST	Cash Management	20-Jul-07			9,638.65	5.58%	0.03%
BENDIGO BANK FLOATING RATE SUB DEBT	Floating Rate Sub Debt	24-Jan-08	24-Apr-08	91	500,000.00	8.42%	1.52%
TOTAL GRANGE SECURITIES					\$8,372,138.65		25.46%
ABN AMRO MORGANS							
REMBRANDT ISOSCELES SERIES 1	Floating Rate CDO	20-Dec-07	20-Mar-08	91	2,000,000.00	8.70%	6.08%
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	21-Mar-07	21-Mar-08	366	1,000,000.00	7.00%	3.04%
TOTAL ABN AMRO MORGANS					\$3,000,000.00		9.12%
ANZ INVESTMENTS							
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA-"	Floating Rate CDO	7-Jan-08	7-Apr-08	91	500,000.00	8.32%	1.52%
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	20-Dec-07	20-Mar-08	91	1,000,000.00	8.80%	3.04%
MOTIF FINANCE (IRELAND) PLC	Floating Rate CDO	20-Dec-07	20-Mar-08	91	500,000.00	8.80%	1.52%
TOTAL ANZ INVESTMENTS					\$2,000,000.00		6.08%
RIM SECURITIES							
HERITAGE BUILDING SOCIETY LTD (2008)	Floating Rate Sub Debt	29-Jan-08	29-Apr-08	91	500,000.00	9.00%	1.52%
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO	11-Jan-08	11-Apr-08	91	2,000,000.00	9.14%	6.08%
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt	7-Jan-08	7-Apr-08	91	1,000,000.00	7.81%	3.04%
TOTAL RIM SECURITIES					\$3,500,000.00		10.64%
WESTPAC INVESTMENT BANK							
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt	29-Jan-08	29-Apr-08	91	500,000.00	8.45%	1.52%
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt	21-Feb-08	21-May-08	90	500,000.00	8.88%	1.52%
TOTAL WESTPAC INV. BANK					\$1,000,000.00		3.04%

ORDINARY MINUTES – 22 APRIL 2008

ATTACHMENT 1

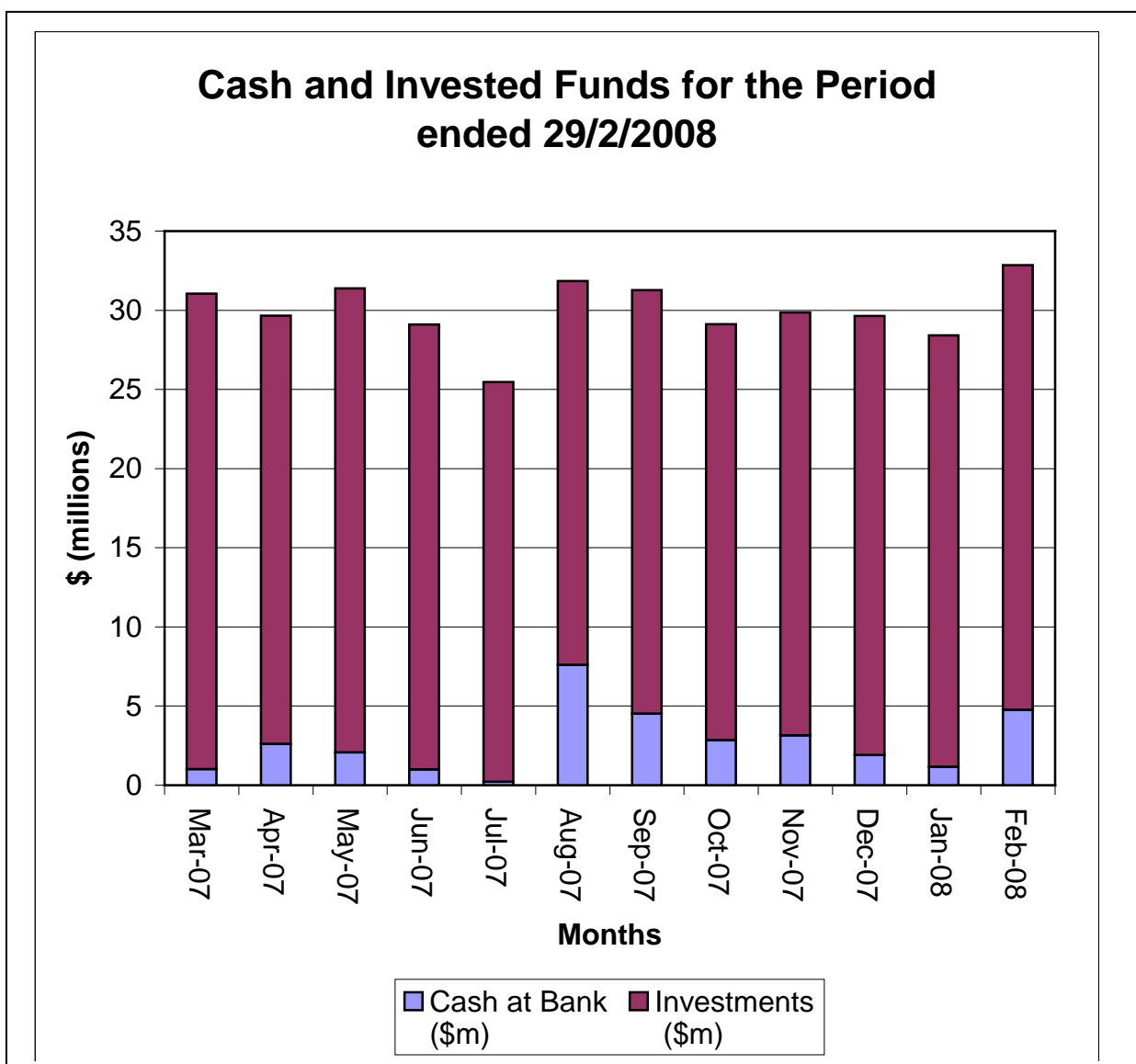
LONGREACH CAPITAL MARKETS							
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	6-Sep-07	6-Mar-08	182	500,000.00	6.60%	1.52%
NOTE	Property Linked Note	7-Sep-07	7-Mar-08	182	500,000.00	6.00%	1.52%
TOTAL LONGREACH CAPITAL					\$1,000,000.00		3.04%
FUND MANAGERS						RATE OF RETURN - MTH	
MERRILL LYNCH INVESTMENT MANAGERS	Managed Funds				112,883.97	5.53%	0.34%
PERPETUAL INVESTMENTS	Managed Funds				146,771.11	5.82%	0.45%
ADELAIDE MANAGED FUNDS	Managed Funds				50,000.00	7.55%	0.15%
TOTAL FUND MANAGERS					\$309,655.08		0.94%
COMMONWEALTH BANK							
PRINCIPAL PROTECTED YIELD ACCRUAL NOTE	Yield Curve Note	06-Feb-08	06-May-08	90	500,000.00	9.25%	1.52%
CALLABLE CPI LINKED NOTE	Yield Curve Note	04-Jan-08	04-Apr-08	91	500,000.00	9.00%	1.52%
EQUITY LINKED DEPOSIT	Equity Linked Note	03-Aug-07	05-Aug-08	368	500,000.00	8.25%	1.52%
EQUITY LINKED DEPOSIT GI100	Equity Linked Note	20-Dec-07	20-Mar-08	91	500,000.00	3.75%	1.52%
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	04-Feb-08	04-May-08	90	500,000.00	3.00%	1.52%
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	11-Feb-08	09-May-08	88	500,000.00	9.21%	1.52%
TOTAL COMMONWEALTH BANK					\$3,000,000.00		9.12%
FIIG SECURITIES							
AQUADUCT AA-	Principal Protected Note	24-Dec-07	24-Mar-08	91	1,000,000.00	7.00%	3.04%
STATE GOVERNMENT EMPLOYEES CREDIT UNION	Term Deposit	08-Feb-08	08-May-08	90	500,000.00	7.84%	1.52%
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note	29-Feb-08	31-May-08	92	500,000.00	8.99%	1.52%
STATE GOVERNMENT EMPLOYEES CREDIT UNION	Term Deposit	29-Feb-08	31-Mar-08	31	1,000,000.00	7.95%	3.04%
AUSTRALIAN CENTRAL CREDIT UNION	Term Deposit	10-Dec-07	10-Mar-08	91	500,000.00	7.58%	1.52%
TOTAL FIIG SECURITIES					\$3,500,000.00		10.64%
MAITLAND MUTUAL							
	Floating Rate Sub Debt	16-Jan-08	16-Apr-08	91	500,000.00	8.17%	1.52%
	Term Deposit	27-Feb-08	27-May-08	90	1,403,020.08	8.18%	4.27%
	Floating Rate Sub Debt	11-Dec-07	11-Mar-08	91	500,000.00	8.27%	1.52%
TOTAL M'LAND MUTUAL					\$2,403,020.08		7.31%
TOTAL INVESTMENTS					\$28,084,813.82		85.42%
CASH AT BANK					\$4,795,124.10	7.20%	14.58%
TOTAL CASH & INVESTMENTS					\$32,879,937.92		100.00%

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

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

P GESLING

ATTACHMENT 2



STRATEGIC COMMITTEE RECOMMENDATIONS

ITEM NO. 1

FILE NO: PSC 2006-0210

DRAFT LEMON TREE PASSAGE DEVELOPMENT CONTROL PLAN

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the revised Draft Port Stephens Development Control Plan 2007 Part C9 – Lemon Tree Passage. (**Attachment 1**).
-

STRATEGIC COMMITTEE MEETING – 1 april 2008

RECOMMENDATION:

That the recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:		
090	Councillor Tucker Councillor Dingle	It was resolved that the recommendation be adopted.

BACKGROUND

The purpose of this report is to inform Council of the results of the public exhibition of the Draft Port Stephens Development Control Plan 2007 Part C9 (DCP) and to seek Council's Resolution to adopt the revised Draft DCP.

Council resolved to fund the preparation of a DCP specific to the Lemon Tree Passage village in 2006 to ensure that future development in the village supports the future desired character of the area.

In June 2007, Council resolved to defer consideration of DA No. 16-2004-1181-1 for commercial premises and 7 units at 9 Cook Parade, Lemon Tree Passage until the adoption of the Draft DCP. In August 2007, Council resolved to place the Draft DCP on exhibition.

Should Council adopt the revised Draft DCP, it will be inserted into *Port Stephens DCP 2007* and the controls will be taken into account when determining current and future development proposals in the village.

LINKS TO CORPORATE PLANS

An adopted Draft Lemon Tree Passage DCP chapter will address the strategic and future directions of the Council Plan 2005-2008 in particular:

- Creating safe communities.
- Integrating planning for facilities and services.
- Preserving and enhancing our heritage, biodiversity, and environmental health.
- Promoting, planning and guiding development to create sustainable communities that conserve and enhance the natural and built environment.
- Alignment of Council Plans.
- Planning and development processes involve community participation and development outcomes reflect community values.
- Integrating land use and transport.

FINANCIAL/RESOURCE IMPLICATIONS

The preparation of the draft controls by the consultant was funded by Ward funding as the project was not identified in Strategic Planning work program. Adoption of the recommendation of this report will contribute to improving and strengthening Council's planning framework and address the issues and expectations of the community concerning development issues in the village of Lemon Tree Passage.

LEGAL AND POLICY IMPLICATIONS

Adoption of the draft DCP will guide the design, assessment and determination of development applications in the Lemon Tree Passage village.

The draft DCP is consistent with the objectives and principles of the NSW Coastal Design Guidelines 2003.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 4) To improve the outcome, improve the system and its associated processes
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL/ECONOMIC AND ENVIRONMENTAL IMPLICATIONS

The draft DCP, as part of the Port Stephens DCP 2007, will guide the design, assessment and consideration of development in the Lemon Tree Passage Village Centre. The intended

From	Detail	Response
Local resident	<i>Security & Privacy compromised by proposed boardwalk.</i> <i>Property Values reduced.</i> <i>Concern over no slipway being mentioned.</i>	Future development is to increase pedestrian public access along the foreshore. This could be achieved through the construction of a boardwalk. This would occur only with land owners consent and after consideration and approval by Council of a development application. No data or rationale provided why and how property values would be reduced. Consideration is required through individual development applications, existing structure will only be altered through the approval process.
Local resident	<i>Support for the DCP.</i>	Noted.
Local resident	<i>Concern over proposed laneway parallel to Cook Pde.</i> <i>Existing wharf infrastructure.</i>	The proposed laneway is to reduce the impact of car movements on the street by providing parking at the rear. This in turn removes garages appearing in the village centre, allows more internal floor space to be provided facing north (natural lighting) and amenity of the Port. This in turn is likely to make future redevelopment more financially attractive and an attractive built environment. The existing wharf structure will only be altered through the approval of a development application.
Local resident	<i>Concern over proposed laneway parallel to Cook Pde.</i>	As above.

outcome over the long term is development that is attractive, human scaled and protects and builds upon the existing character of the village as the social and economic centre for the community of Lemon Tree Passage.

CONSULTATION

Internal comments were considered in the preparation of the draft DCP. In April 2007 a community consultation evening was conducted by Council and Noni Ruker, Council's Urban Design consultant. The discussion and feedback from the consultation evening were considered in the preparation of the draft DCP.

The exhibition period was from 6 September to 5 October 2007 during which 4 submissions were received. The issues raised are as follows:

OPTIONS

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

ATTACHMENTS

- 1) Draft C9 Lemon Tree Passage to the Port Stephens DCP 2007.

COUNCILLORS ROOM

- 1) Colour copy of C9 Lemon Tree Passage to the Port Stephens DCP 2007.

TABLED DOCUMENTS

Nil

ATTACHMENT 1

DRAFT C9 LEMON TREE PASSAGE

WHERE THIS PART APPLIES

This DCP applies to all the land contained within the village centre as identified in Figure C9.1.

This plan provides a comprehensive approach to the development of the village centre of Lemon Tree Passage both on public and private land.

For commercial or mixed-use development the principals and controls in *B4: Commercial and Mixed Use Development*

are also applicable. For residential development *B7 Villa and Townhouse Development* or *B8 Residential Flat Buildings* are also applicable. In the case of an inconsistency the provisions of this section take precedence.

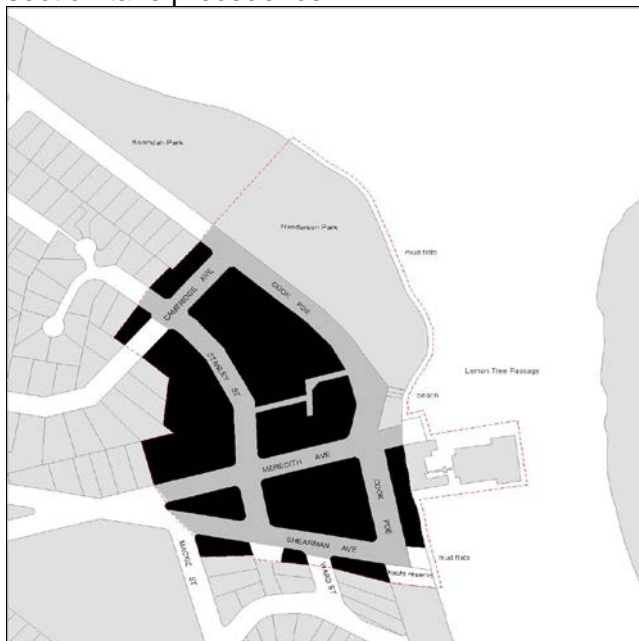


Figure C9.1 Lemon Tree Passage Village Centre.

PRINCIPLE

- C9.P1 Development should retain and enhance waterfront commercial uses such as the Marina, and integrate facilities for maritime activities into foreshore sites and provide public access through and along these sites to and along the foreshore.
- C9.P2 Development should ensure that the water based uses and boat access are protected.
- C9.P3 Development should increase pedestrian and public access to and along the foreshore and provide appropriate tenure mechanisms to safeguard future public access to the waterfront.
- C9.P4 Development should protect significant natural and cultural heritage values, including marine ecological values.
- C9.P5 Development should protect and enhance the unique visual qualities of the location and its foreshores.
- C9.P6 Development should provide an appropriate scale and design quality that supports the centre as a vibrant and successful commercial centre.

VILLAGE CHARACTER

The primary aim of this plan is to ensure that developments and public domain improvements are coordinated to improve the quality and character of Lemon Tree Passage as a small coastal village centre within the Port Stephens area.

WATERFRONT BUILDINGS: COOK PARADE

The Waterfront Building type is primarily a commercial building located on the waterfront within the sites shown in Figure C9.2. Small scale pavilion type buildings may be suitable on the marina deck east of a waterfront building as shown in Figure C9.6.

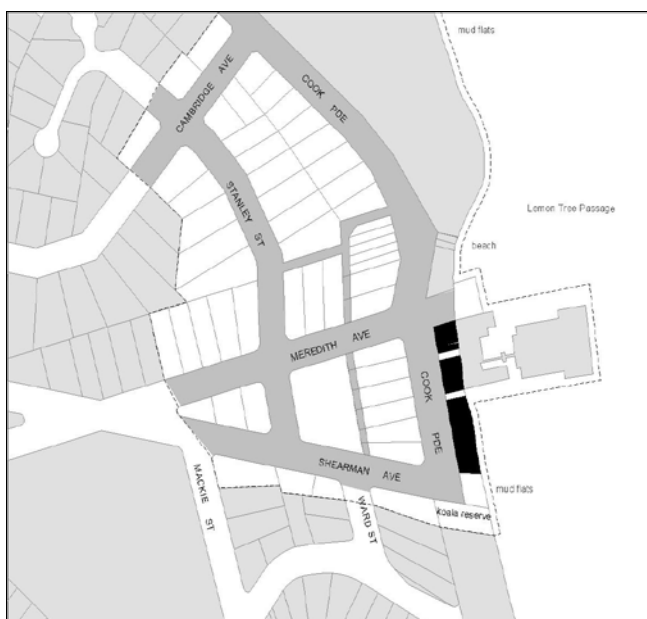


Figure C9.2 Extent of Waterfront Building Type

Waterfront buildings may provide residential accommodation on the upper levels only of lots towards the south.

PRINCIPLES

- C9.C1 Pavilion type buildings should be small scale detached buildings that provide facilities ancillary to commercial waterfront activity.
- C9.C2 Pavilion type buildings should be sympathetic to the character of the marina structure with pitched roof and constructed of lightweight materials.
- C9.P7 Waterfront type buildings should have dual frontage to the street and to the water.

C9.P8 Waterfront type buildings should provide economically viable commercial spaces for tenants and owners.

C9.P9 Development should support the commercial, retail, civic, community and recreational uses within the centre.

C9.P10 Development should provide a building form that complements the waterfront and park location as shown in Figure C9.3.



Figure C9.3 Timber, glass and moveable weather and sun protection louvers in muted/light colours or in the natural colour of the material add to the seaside architectural theme and complement the buildings waterfront locations.

- C9.P11 Development should provide building type that maximises public access to and enjoyment of the foreshore and the public parks.
- C9.P12 Development should create a strong built edge along the street, waterfront and park.
- C9.P13 Development should provide good physical and visual connection between the street and the inside of the building at ground level.
- C9.P14 The waterfront aspect of buildings should provide balconies and decks with large retractable doors for dining and café uses on the ground, first and second levels.
- C9.P15 Residential units should be oriented to the front and the rear of the lot to protect privacy and amenity of habitable rooms.



Figure C9.4 Connection views to the water from within the building particularly from the circulation system within and outside the building maximizes the waterfront location and helps to create an attractive and enjoyable experience for visitors and employees.

DEVELOPMENT CONTROLS

- C9.C3 New waterfront buildings must allow for a new public boardwalk of minimum 3m width along the waterfront that links Henderson Park with Koala Park.
- C9.C4 Development must comply with Figure C9.6 and Figure C9.7
- C9.C5 Development on sites that abut the designated future public laneways must provide a dedicated and uninterrupted 6m public access way and view corridor

to the waterfront as shown in Figure C9.6.

- C9.C6 Uses on the marina site must be commercial or retail only.
- C9.C7 Development in the area designated for pavilion type buildings must have a maximum footprint of 100m² and a maximum height to the roof ridgeline of 4.5m.
- C9.C8 A pavilion building must be of lightweight construction and have a gable or skillion roofline with a minimum pitch of 22 degrees.
- C9.C9 Development must be built to front, rear and side boundaries.



Figure C9.5 Timber boardwalks maximize pedestrian access to and enjoyment of the water. Combining the walkway with access to water crafts provides additional activities on the water and increased opportunities for recreation and relaxation associated with the water.

- C9.C10 Buildings must be 3 storeys in height with an optional attic.
- C9.C11 Buildings must have a parapet wall height along Cook Parade, Koala Park and Henderson Park of between 12.5 and 13m AHD.

C9.C12 Maximum height including all roofs, lift overruns and plant must be no greater than max. 13m AHD (Figure C9.7).

C9.C13 The internal space of the ground floor of the development must be no greater than 300mm above footpath level at the street entry.

C9.C14 Buildings must have solid fixed awnings along Cook Parade and facing onto Koala Park and Henderson Park consistent in height and materials along the street.

C9.C15 Development must provide dedicated and clearly delineated on street car spaces at the rate of one per dwelling and one per commercial premises.

Note: On site parking is not permissible except for the marina site which can have on grade carparking to the rear/water side of the site.

C9.C16 The Cook Parade facade must be solid with punched windows or balcony openings. The balcony must be recessed behind the buildings' facade.

C9.C17 At least 30% of the Cook Parade facade must be solid surface (including wall cladding, masonry and any balustrades with at least 50% solid elements).

Note: Glass doors or windows are not considered solid elements.

C9.C18 Adjustable louvers or screens of lightweight materials must cover 50% of any balcony opening.

C9.C19 Development must provide a continuous horizontal parapet wall to Cook Parade, with no pitches or modelling.

C9.C20 Roofs must have a minimum pitch of 22 degrees to the waterfront.

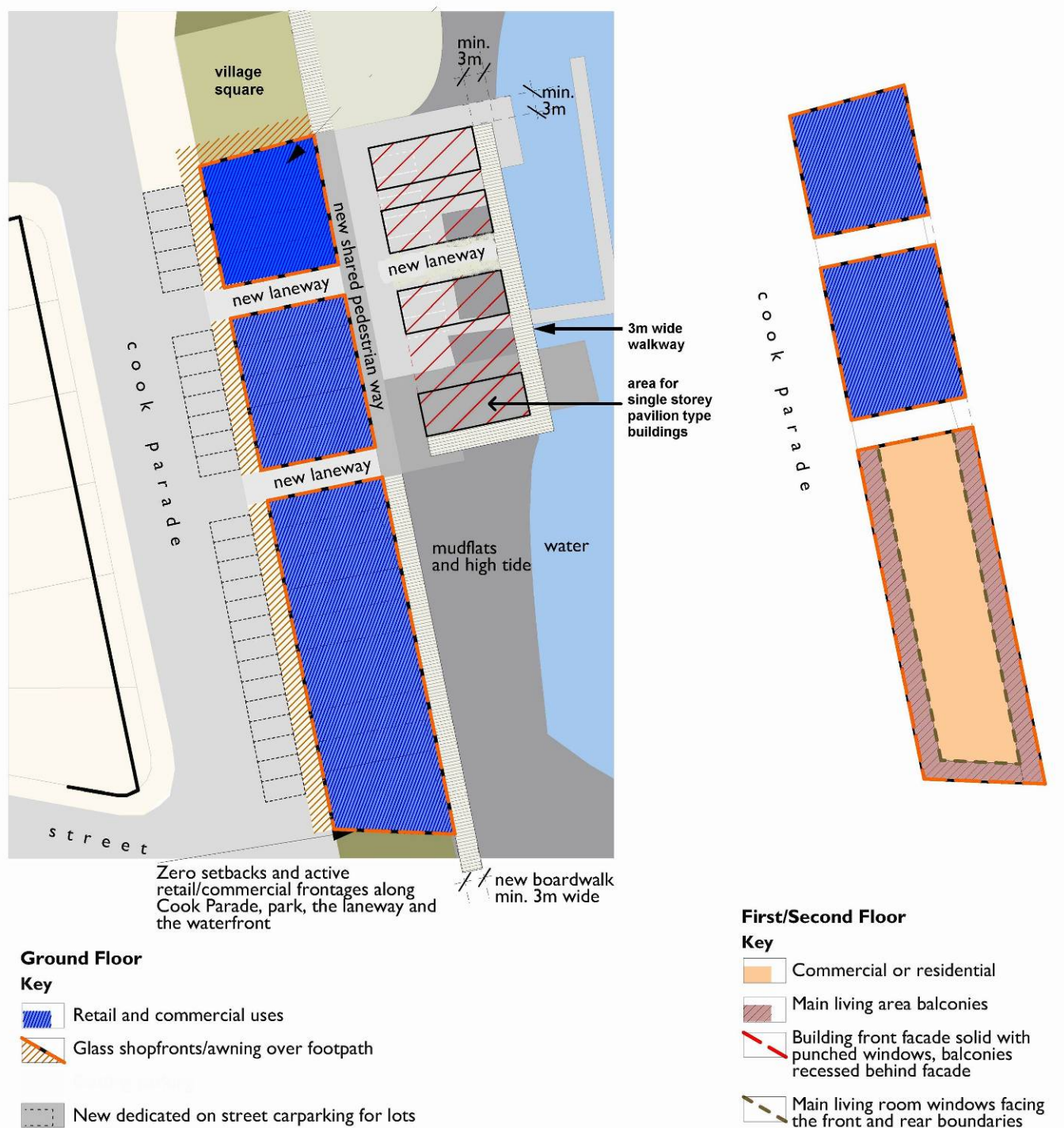
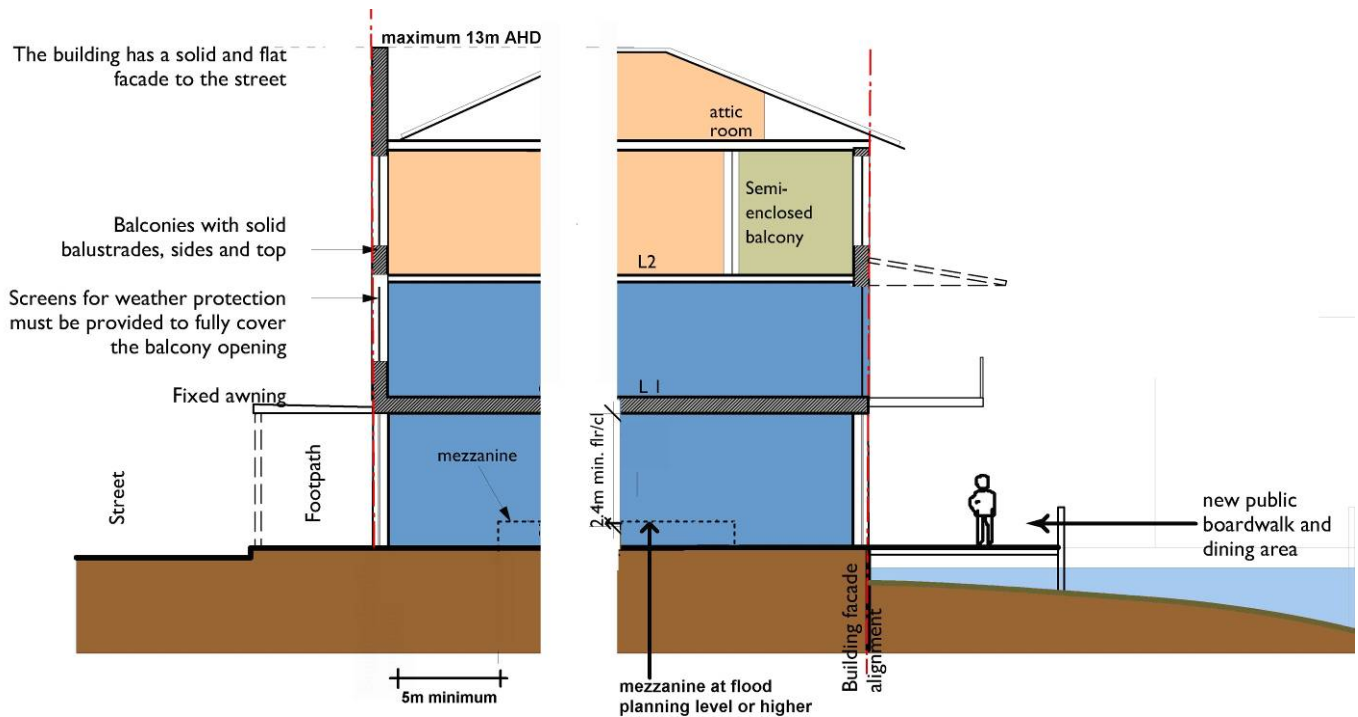


Figure C9.6 Plan: Waterfront Building Type.



Building Facade Section

Figure C9.7 Control Section: Waterfront Building Type



Figure C9.8 Working waterfront uses retained and extended with areas for pedestrians to walk along the waterfront.



Figure C9.9 Pitched roof forms and materials along the waterfront.

MIXED USE BUILDINGS: COOK PARADE

This building type is located in the main street. It is built to the street alignment as well as the side boundaries in order to give a strong built edge to the street.

This building type can have residential on upper levels above ground floor retail or commercial uses. Shop-top residential provides compact accommodation in proximity to high amenity public space, transport and shopping, as well as entertainment, dining and social activities.

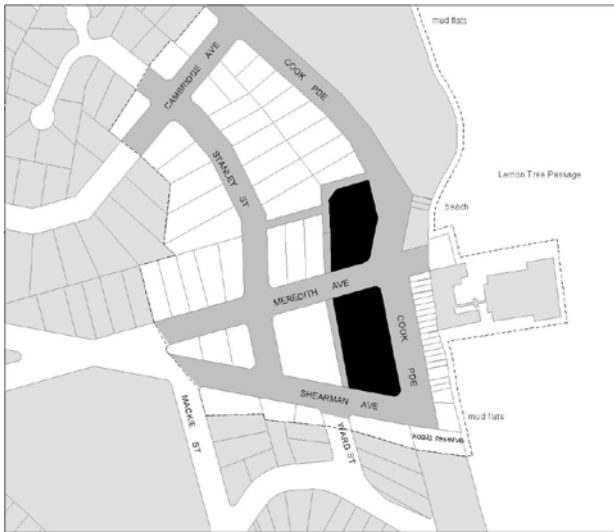


Figure C9.10 Extent of Cook Parade mixed use buildings

PRINCIPLES

- C9.P16 Development should provide economically viable commercial spaces for tenants and owners.
- C9.P17 Carparking should be accessed from either an existing or a new laneway in order to reduce the impact of car movement on the street front.
- C9.P18 Dwellings should be oriented to the front or the rear of the lot to protect amenity and privacy and maximise surveillance of the street.
- C9.P19 Development should provide a building form that complements a commercial village main street.

- C9.P20 Development should create a strong built edge along the street and define the street space.
- C9.P21 Development should define the character of the centre and a quality coastal village atmosphere.
- C9.P22 Development should create a physical and visual connection between the footpath/street and the inside of the building at ground level.
- C9.P23 Building design should include a flood free mezzanine area at the rear of each ground floor retail or commercial unit.



Figure C9.11 Building Character and Materials that reflect the coastal location and provide a pleasant pedestrian environment.

DEVELOPMENT CONTROLS

- C9.C21 Development must comply with Figure C9.14 and Figure C9.15.
- C9.C22 Vehicular access must be provided at the rear of the development site. Vehicle access from Cook Parade is not permissible.
- C9.C23 Where there is no rear lane access to the development site or its immediate neighbouring lots, development must provide an 8m wide dedicated road or legal right of way along the full extent of the rear boundary of the lot.

C9.C24 Ground floor retail must be built to the front and side setbacks for a minimum depth of 15m along Cook Parade, 5m along Meredith Avenue and 5m along Shearman Avenue.

C9.C25 Building height must be no greater than 13m AHD.

C9.C26 Development must achieve 3 storeys at the street frontage(s).

Note: Attics within the roof space are permissible provided that the roof form is screened by the parapet line when viewed from Cook Parade and the waterfront reserve.

C9.C27 Buildings must include a continuous horizontal parapet wall to the street, with no pitches or modelling, along Cook Parade, Meredith Avenue and Shearman Avenue at a height of between 12.5 and 13.0m AHD.

C9.C28 Roofs must have a minimum pitch of 22 degrees to the rear or where visible from a streets or laneway.

Note: Skillion roofs are acceptable to the sides and front of the building behind the parapet.

C9.C29 The finished floor level of ground floor of the development must be no greater than 300mm above footpath level at the street entry.

C9.C30 The main street facade must be aligned to the front property boundary.

C9.C31 Each retail unit must have a maximum width of 6m at the main street frontage.

Note: A larger retail unit may be acceptable where two or more public access doors to the street are provided.

C9.C32 Mezzanine Levels must be a minimum of 2.4 metres floor to ceiling.

C9.C33 The main street facade must be solid with punched windows or balcony openings. Balconies must be recessed behind the buildings facade.

C9.C34 At least 30% of the facade must be solid surface (including wall cladding, masonry and any balustrades with at least 50% solid elements).

Note: Glass doors or windows are not considered solid elements.

C9.C35 Building design must include a mezzanine area at the rear of each ground floor retail or commercial unit with a finished floor level of at least flood planning level of 2.5m AHD.

C9.C36 Any flood free mezzanine must not be located within 5m of the building street boundary or waterfront facade.

C9.C37 Adjustable louvers or screens of lightweight materials must cover 50% of any balcony opening.



Figure C9.12 Recessed balconies behind the building façade help define the public street space. Awnings and additional sails can provide excellent protection for *al fresco* dining.



Figure C9.13 Movable screens allow variable enclosure for resident privacy, sun protection, noise buffering and security.

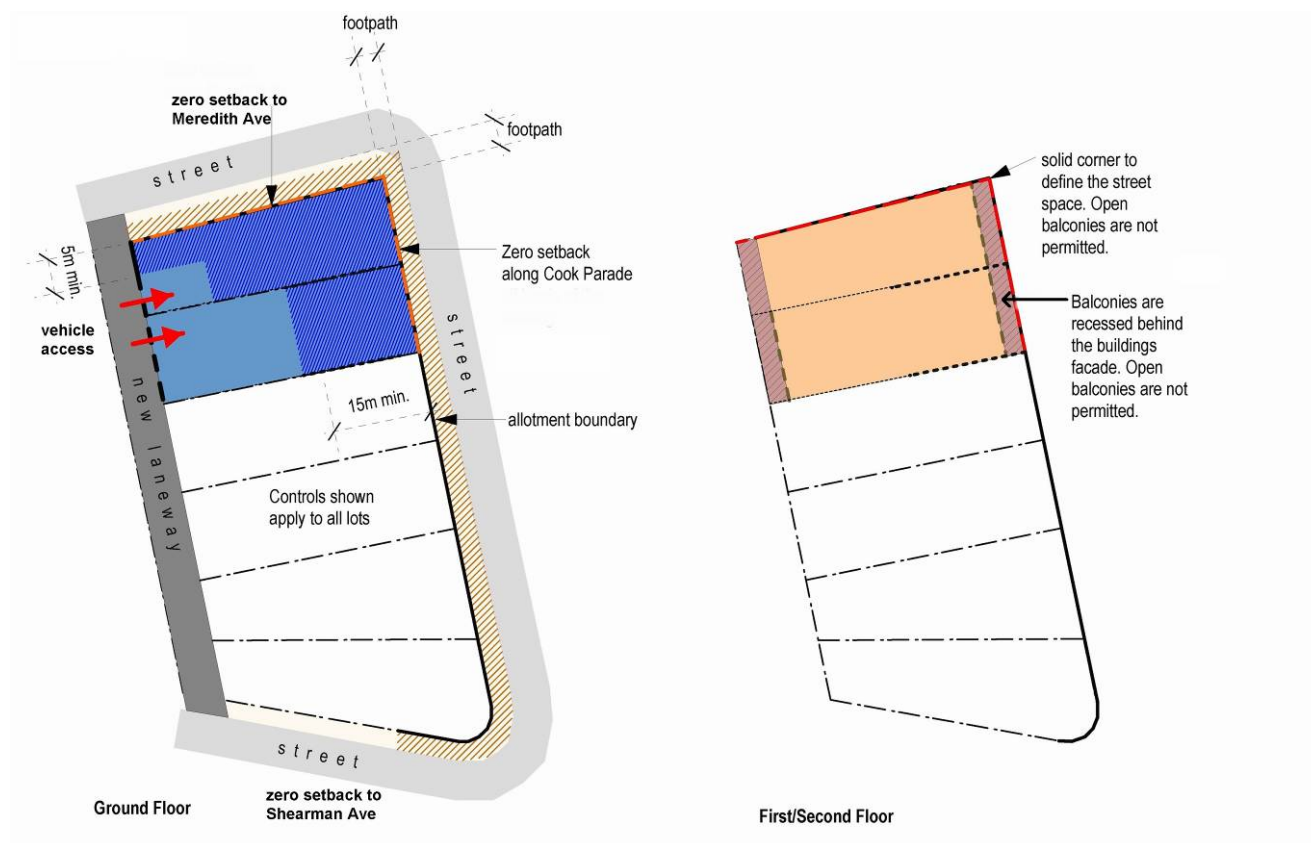


Figure C9.14 Control Plan: Mixed Use Building Type

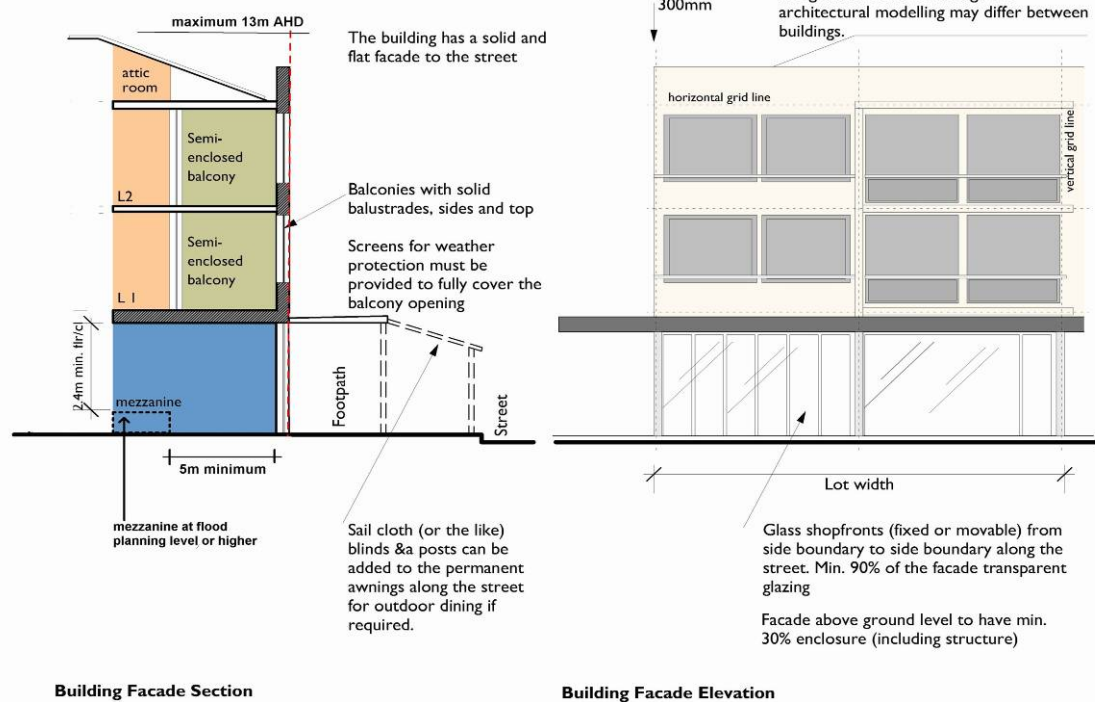


Figure C9.15 Control Section: Mixed Use Building

TOWNHOUSES AND APARTMENTS

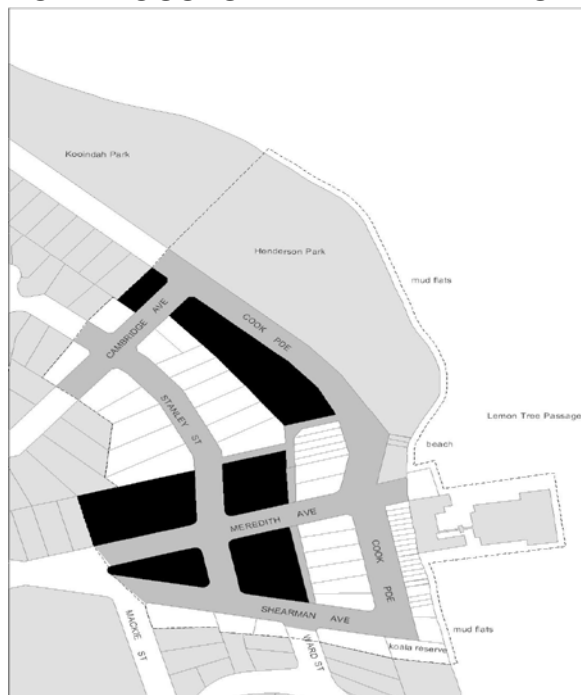


Figure C9.16 Extent of Townhouses and Apartments. Townhouses and apartments are best located either facing the waterfront or on the access street into the settlement's centre. These buildings are highly visible and can contribute to the visual quality and character of the centre and its foreshore open spaces.

Townhouses and apartments are medium density building types and suited to tourist accommodation being close to the waterfront and to the village centre.

PRINCIPLES

C9.P24 Development should enhance the light and breezy coastal village atmosphere.

C9.P25 Development should provide building and roof massing that creates a coherent street elevation.

C9.P26 Driveways and hardstand areas should be minimized so as to allow for generous soft landscaping in the front garden, and to reduce the visual impact of driveways and hard surfaces along the street.

C9.P27 Front fences should be lightweight, part transparent and lower to reflect the character of a small coastal settlement.

BUILDING SEPARATION

Building separation and the location of windows and doors affects the amenity and privacy of new and existing dwellings and has an impact on the view sharing between buildings.

DEVELOPMENT CONTROLS

C9.C38 Development must provide the following separation distances where windows (or external living areas) of a new dwelling face windows (or external living areas) of an existing dwelling:

12m minimum	between primary windows of a living area (or the access to an external living area) and primary windows of a living area (or the access to an external living area)
9m minimum	between primary windows of living area (or access to an external living area) and all other windows
3m minimum	between windows of a non-habitable room and window of a non-habitable room
6m minimum	between all other windows

Figure C9.17 Separation between residential buildings

C9.C39 Development must provide the following separation distances where windows (or external living areas) of a dwelling face windows of a commercial building or floor:

9m minimum	between primary windows of living areas or balconies and office space.
6m minimum	between all other windows and commercial (office space)
3m minimum	between all other windows and non-habitable commercial (service areas)

Figure C9.18 Separation between residential and commercial buildings

C9.C40 Development must provide the following separation distances where windows of a commercial building or floor face windows of another commercial building or floor:

6m minimum	between windows of office or retail space.
3m minimum	between windows of service areas

Figure C9.19 Separation between commercial buildings

Note 1: A primary window of a living area is one that provides the main source of light, air and outlook.

Note 2: Where windows are offset the distance is measured diagonally.

Note 3: Where no neighbouring windows look onto the site or encroach into the required separation distances then setback must be provided from the side boundary that is half the nominated separation distance.

Note 4 Secondary windows and doors of living areas, and windows of bedrooms can also provide outlook, light and air to the room but where greater privacy is required these windows or doors can be smaller, opaque glazed, screened or shaded.

BUILDING DESIGN ELEMENTS

The character of Lemon Tree Passage can be enhanced by locality specific controls for materials, colours and fences.

PRINCIPLES

C9.P28 Building design should include articulation of the building façade and roof masses as well as verandas, awnings, eaves or overhangs to avoid excessive building bulk and mass.

C9.P29 Building design should use a mix of light weight materials and light or natural colours.

DEVELOPMENT CONTROLS

Cook Parade and Meredith Avenue

C9.C41 Walls finish must be plywood (stained or natural finish), weatherboard profiles, bagged or rendered brick or block work, corrugated iron or timber. Face brick is not acceptable.

C9.C42 Main walls of a building must be any shade of white or off white.

C9.C43 The roof must be finished in corrugated steel sheeting and pitched with pitching points facing the rear boundary.

C9.C44 Detailing of windows and doors must use timber or commercial grade aluminium frames, clear glass, aluminium or timber louvers. Detail and contrast elements must be the natural colour of the material or any shade of blue.

Waterfront, Henderson Park and Koala Park

C9.C45 Wall finish must be plywood (stained or natural finish), weatherboard profiles, bagged or rendered brick or block work, corrugated iron, or timber with opening glass walls or doors and verandas.

C9.C46 Windows and doors must be timber or aluminium frames.

C9.C47 Main walls of building to be light, muted and neutral colours.

C9.C48 The roof must be finished in corrugated steel sheeting and pitched at a minimum of 22 degrees, with pitching points facing the waterfront.



Figure C9.20 Facades are composed of common elements that are repeated to create a coherent street quality. Note that Lemon Tree Passage would have muted whites and off-white colours rather than the stronger colours illustrated here.

Residential frontages on Cook Pde, Meredith Ave, Shearman Ave, Cambridge Ave and Stanley St and rear of mixed use lots (not including waterfront buildings)

C9.C49 Wall finish must be plywood (stained or natural finish), weatherboard profiles, bagged or rendered brick or block work, corrugated iron, or timber. Face brick must not be used on more than one third of external walls that are visible from the street.

C9.C50 Windows and doors must have timber or aluminium frames.

C9.C51 Main walls of building must be light, muted and neutral colours.

C9.C52 The roof must be finished in corrugated steel sheeting and pitched at a minimum of 22 degrees, with pitching points facing the waterfront.

C9.C53 An entry portico or porch must have a maximum height of 3 metres to the underside and 3.6 metres to the top of the structure.

C9.C54 Front and return fences must have a maximum height of 1.2 metres. Any solid part of the fence must be no higher than 500mm and the remainder must have at least 50% voids.

Note: Colorbond sheet metal or timber paling is not permissible.



Figure C9.21 Pitched roofs, corrugated iron and timber fencing help to give this building a coastal character. Windows and doors facing the street give the building a 'public face' to the street and help casual surveillance over the street.

C9.C55 Driveways must use visually low impact materials including permeable pavers or gravel, crushed rock or smaller concrete strips. Stencilled finishes are not acceptable.

PUBLIC DOMAIN IMPROVEMENTS

Cooke Parade

Development on the southwest side of Cooke Parade enjoys an excellent NE sun aspect and outlook to Henderson Reserve and the marina.

PRINCIPLES

C9.P30 Mixed use or commercial development on the southwest side of Cooke Parade should provide a high quality paved and landscaped area suited to *al fresco* uses.

C9.P31 Mixed use or commercial development on the southwest side of Cooke Parade should provide advanced street tree planting for shade, shelter and to define a pleasant pedestrian-scale space.

DEVELOPMENT CONTROLS

C9.C56 Mixed use or commercial development on Cooke Parade must include infrastructure works, paving and landscape works necessary to provide high amenity *al fresco* areas and 90 degree angle parking as shown in Figure C9.22.

Note 1: For properties on the south-west side of Cooke Parade between Meredith and Shearman Avenues public domain works by the developer would include kerb realignment.

Note 2: Works within the road reserve or on public land may be used to offset s94 obligations or may be the subject of a Developer Agreement with Council.

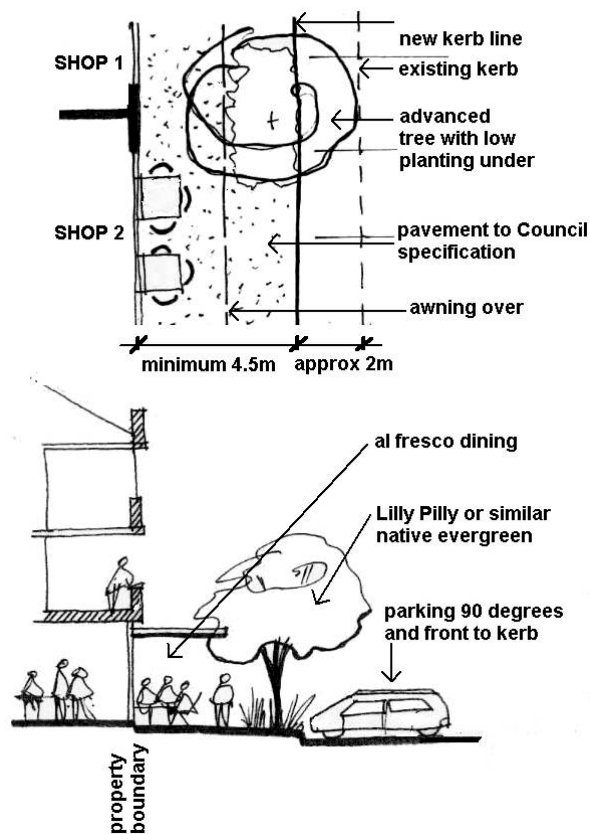


Figure C9.22 Public domain improvements for Cooke Parade

ITEM NO. 2**FILE NO: PSC2006-1627****REVIEW OF DCP 2007 CHAPTER C4 - NELSON BAY - SITE SPECIFIC CONTROLS FOR NELSON BAY FORESHORE****REPORT OF: TREVOR ALLEN – MANAGER INTEGRATED PLANNING**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Resolve to prepare site specific controls for the Nelson Bay Foreshore area in conjunction with the review of planning controls being undertaken through the Nelson Bay 2030 Project.
-
-

STRATEGIC COMMITTEE MEETING – 1 april 2008**RECOMMENDATION:**

That the recommendation be adopted.

-----**ORDINARY MEETING OF COUNCIL – 22 APRIL 2008****RESOLUTION:**

091	Councillor Westbury Councillor Dover	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to respond to the Notice of Motion that Council.

- 1) Request an urgent report from the Group Manager, Sustainable Planning to upgrade the planning controls for the area in Nelson Bay subject of the draft Foreshore Management Plan prepared by the NSW Department of Lands in order to ensure limitations on types of development, heights and densities that are compatible with the location and current Nelson Bay planning controls.

A supplementary memo was provided to Councillors at the meeting of 26 February 2008. This report incorporates and expands on the content of this memo.

A range of Planning Controls are currently in force and are required to be addressed in the preparation of future development applications along the Nelson Bay Foreshore. No site specific development controls exist for the Port Stephens foreshore. A generic 8m building height applies to land zoned 3(a) Business 'A'.

The existing Planning Controls that relate to the Nelson Bay Foreshore land include:

Port Stephens Local Environmental Plan (LEP) 2000

The LEP 2000 map and instrument that covers the Nelson Bay Foreshore land is included as Attachment 1. The zones include 7(w) Environment Protection “W” (Waterways) Zone for land adjoining the waterway, 6(a) General Recreation “A” Zone and 3(a) Business General “A” zone.

LEP 2000 contains only one business zone. No height controls are contained within the LEP for these zones.

Port Stephens Development Control Plan (DCP) 2007

Land zoned 3(a) is subject to controls under Port Stephens DCP 2007. Height in the Marina Precinct is limited to 8m by the provisions of Chapter B4 Commercial and Mixed Use Development. DCP 2007 provides a range of considerations to be taken into account in the preparation of a development application. Chapter C4 – Nelson Bay of DCP 2007, currently under review through the Nelson Bay 2030 Project, does not cover the Marina Precinct.

The development of land zoned 6(a) or 7(w) would be assessed on the merits of the proposal in relation to the objectives of the zone, detailed site analysis and the general intentions of the DCP in relation to the specific development proposed.

Approval Process

The Minister for Lands will be the applicant for any future development application lodged over Crown Lands. Either Council or the Minister for Planning could be the approval authority as guided by the Environmental Planning and Assessment Act. Council controls will be considered in the assessment of any future planning applications.

Nelson Bay 2030 Project

This project will include consideration of opportunities for improved links between the Nelson Bay Town Centre and the Marina Precinct. The consultation process for this project has highlighted the significance of the qualities of the Port Stephens waterways and the importance of the use of the foreshore land to reflect the image of Nelson Bay.

Community concern has been noted regarding any increase in commercial activity along the foreshore and the importance of this reflecting the natural characteristics of the Port Stephens Waterways. The Department of Lands has been involved in the Nelson Bay 2030 Project and is aware of the community concerns and comments raised in relation to future plans for the foreshore land.

State Environmental Planning Policy 71

This policy has been made under the Environmental Planning and Assessment Act 1979 to ensure that development in the NSW coastal zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management and to ensure there is a clear development assessment framework for the coastal zone.

Coastal Design Guidelines

The Coastal Design Guidelines have been developed to protect the diverse beauty of the NSW coast considered at risk from developments which pay little attention to urban design principles. Application of the principles set out in the 'Coastal Design Guidelines for NSW' (Coastal Council of NSW 2003) aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The

guidelines provide a world-standard approach for how urban design can be best used in a coastal context.

The Minister for Planning has issued a Direction under section 117 of the Environmental Planning and Assessment Act 1979 to all local councils in the coastal zone regarding the Coastal Design Guidelines 2003 and the preparation of draft LEP's.

Lands Department Proposed Integrated Foreshore Corridor

The Department of Lands has called for Expressions of Interest for Consultancy Services for Foreshore Planning Port Stephens NSW January 2008 to develop a Strategic Masterplan for the 'Proposed Integrated Foreshore Corridor' from Corlette to Shoal Bay which includes the 'Nelson Bay Foreshore Revitalisation – Planning Area'. This Master Plan Work requires the successful consultant to "Work closely with Lands' and Councils' project managers to ensure that the strategic goals and objectives of both organisations, with respect to the development and use of Crown and Community lands, are reflected in planning documents."

LINKS TO CORPORATE PLANS

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

- SOCIAL SUSTAINABILITY –** *Council will preserve and strengthen the fabric of the community, building on community strengths.*
- CULTURAL SUSTAINABILITY –** *Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.*
- ECONOMIC SUSTAINABILITY –** *Council will support the economic sustainability of its communities while not compromising its environmental and social well being.*
- ENVIRONMENTAL SUSTAINABILITY –** *Council will protect and enhance the environment while considering the social and economic ramifications of decisions.*
- BUSINESS EXCELLENCE –** *Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey*

FINANCIAL/RESOURCE IMPLICATIONS

A review of the planning controls that relate to Nelson Bay including the Foreshore is currently underway. This work could be incorporated into this review.

LEGAL AND POLICY IMPLICATIONS

Amendments to LEP 2000 and DCP 2007 may be required to incorporate new controls. Any proposed amendments could be incorporated into processes already underway for Nelson Bay.

Business Excellence Framework

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

These outcomes align with the following Business Excellence principles:-

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

SUSTAINABILITY IMPLICATIONS

SOCIAL / ECONOMIC / ENVIRONMENTAL IMPLICATIONS

The sensitive redevelopment of the foreshore is required to protect the environmental qualities of the Port Stephens Waterways that draw visitors to the area and support the tourism industry. Managing the height, bulk and density of development will have social and economic benefits through the creation of safe and attractive public spaces that draw people to the area and facilitate social and economic exchange.

CONSULTATION

Council consideration of the revised planning controls for Nelson Bay will include community consultation.

OPTIONS

- 1) recommendation.

ATTACHMENTS

- 1) The LEP 2000 map and instrument that covers the Nelson Bay Foreshore land is included as Attachment 1.

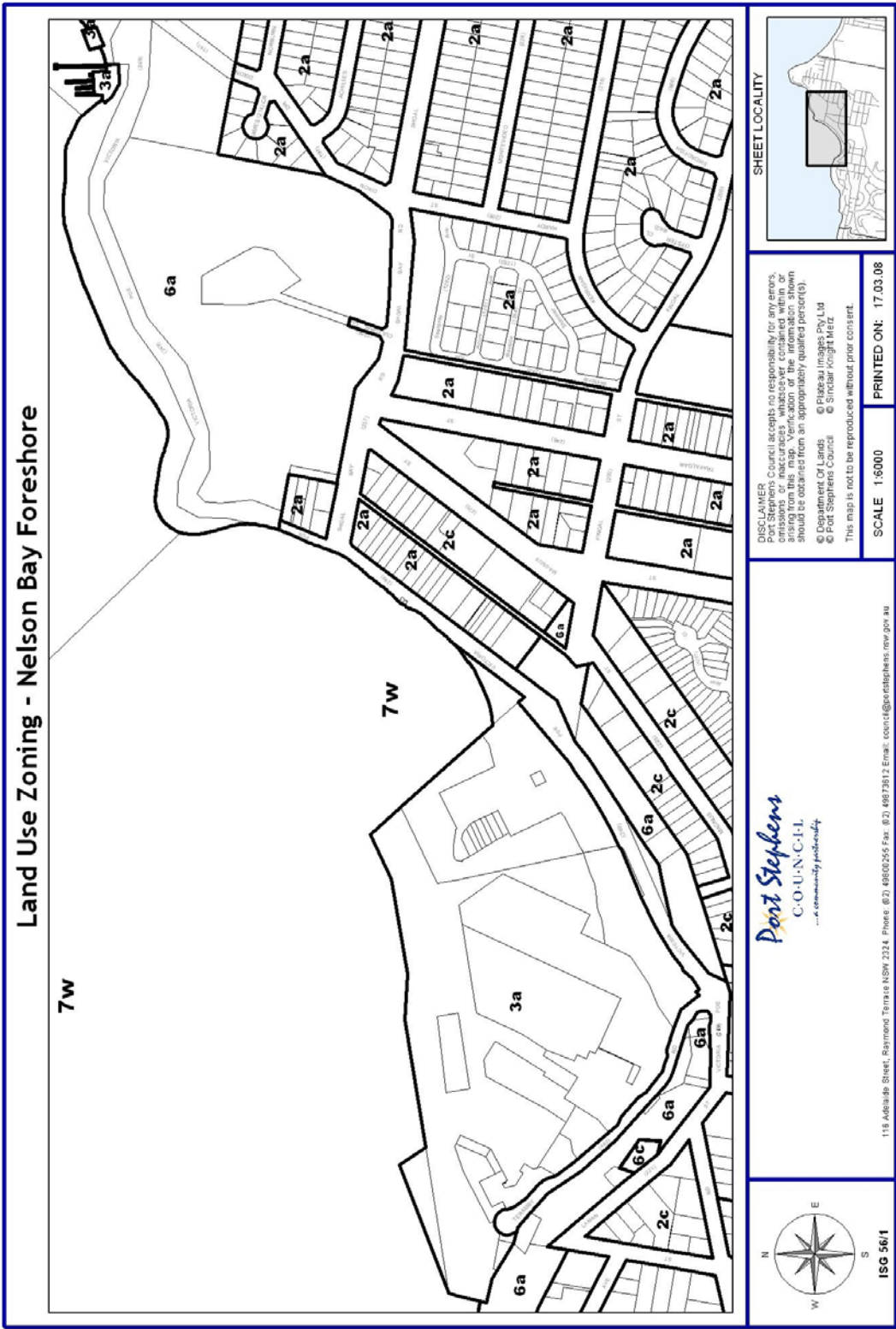
COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1
LEP MAP AND INSTRUMENT



Zone No. 3(a) - Business General “A” Zone

(1) Description of the Zone

The Business General “A” Zone covers both the major commercial centres of Port Stephens and the smaller neighbourhood shopping centres. It is characterised by a mix of commercial uses and some associated tourist accommodation and residential uses. Small, low impact industrial activities that involve retailing or direct service to the public may be appropriate in this zone

(2) Objectives of the Zone

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

- (a) to provide for a range of commercial and retail activities, and uses associated with, ancillary to, or supportive of, retail and service facilities, including tourist development and industries compatible with a commercial area, and
- (b) to ensure that neighbourhood shopping and community facilities retain a scale and character consistent with the amenity of the locality, and
- (c) to maintain and enhance the character and amenity of major commercial centres, to promote good urban design and retain heritage values where appropriate, and
- (d) to provide commercial areas that are safe and accessible for pedestrians, and which encourage public transport patronage and bicycle use, and minimise the reliance on private motor vehicles, and
- (e) to provide for waterfront-associated commercial development whilst protecting and enhancing the visual and service amenity of the foreshores.

(3) Development allowed without development consent

- Exempt Development.

(4) Development allowed only with development consent

Any development not included in Item 3 or 5.

(5) Development which is prohibited

Development for the purpose of:

- abattoirs,
- brothels,
- camp or caravan sites,

- dwellings (unless the ground floor of the building is used for another use permissible within the zone),
- exhibition homes,
- extractive industries,
- hazardous industries,
- hazardous storage establishments,
- helicopter landing sites,
- heliports,
- institutions,
- intensive agriculture,
- liquid fuel depots,
- material recycling facilities,
- mineral sand mines,
- mines,
- offensive industries,
- offensive storage establishments,
- race tracks,
- road transport terminals,
- roadside stalls,
- rural industries,

Zone No. 6(a) - General Recreation “A” Zone**(1) Description of the zone**

The General Recreation “A” Zone contains land that is currently used or is available to be used for both active and passive recreation. The zone generally relates to recreation reserves, foreshores, bushland and other land reserved for the public. It can include a number of recreational developments, such as playing fields, children’s playgrounds and bushland parks, and may include services and facilities catering for users of the reserve.

(2) Objectives of zone

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

- (a) to identify publicly owned land and ensure that it is available for open space recreation, and
- (b) to provide an open space network to serve the present and future recreational needs of residents and visitors, and
- (c) to permit development associated with, or complementary to, open space, and
- (d) to allow development on foreshores where that development is water related and enhances the recreational use or natural environment of the foreshore, and
- (e) to preserve the aesthetics of land which is prominent and visible to the public along foreshore areas, and

- (f) to reserve privately owned land that is essential for future public open space and to provide for its acquisition by the Council.

(3) Development allowed without development consent

Exempt development.

Works for the purpose of landscaping or gardening.

(4) Development allowed only with development consent

Development for the purpose of:

- advertisements,
- agriculture,
- aquaculture,
- bushfire hazard reduction,
- camp or caravan sites,
- child care centres,
- clearing,
- clubs,
- community facilities,
- dams,
- earthworks,
- educational establishments,
- forestry,
- helicopter landing sites,
- marinas,
- places of assembly,
- race tracks,
- recreation areas,
- recreation facilities,
- restaurants,
- telecommunication facilities,
- utility installations.

(5) Development which is prohibited

Any development not included in Item 3 or 4.

Zone No. 7(w) - Environment Protection “W” (Waterways) Zone

(1) Description of the zone

The Environment Protection “W” (Waterways) Zone applies to the Port Stephens waterways including Tilligerry Creek. Development in this zone is generally of a low impact nature that is sympathetic to, and compatible with, the natural environment.

(2) Objectives of the zone

The objectives of the Environment Protection “W” (Waterways) Zone are to minimise the impacts caused by commercial operations on the marine life and ecology of the Port Stephens waterways and to provide for such activities and facilities which:

- (a) are compatible with the existing or planned future character of the waterways and adjoining foreshores, and
- (b) protect and maintain the viability of the oyster, prawn and fishing industries of the Port whilst enabling a balance of recreational uses, and
- (c) maintain the integrity of the waterways resource base and provide for its continued use by future generations, and
- (d) ensure there is provision for multiple use of the waterways of Port Stephens having regard to the use and zoning of adjoining waterfront lands, and
- (e) protect and enhance the aquatic environment and the significant marine habitats of Port Stephens, and
- (f) protect and enhance the natural environment based on the principles of ecologically sustainable development including biological diversity and ecological integrity, and
- (g) do not adversely affect or be adversely affected by coastal processes, in both the short and long term.

(3) Development allowed without development consent

Development for the purpose of:

- boating activities, except development for the purpose of tourist boats,
- maintenance dredging

Exempt development.

(4) Development allowed only with development consent

Any developed not included in Item 3.

(5) Development which is prohibited

Nil.

ORDINARY MEETING – 22 APRIL 2008

Note: Item 3 of the Strategic Committee Recommendations was brought forward and dealt with prior to Item 1 of the Operations Committee Recommendations

ITEM NO. 4

INFORMATION PAPERS

REPORT OF: JUNE SHINE – EXECUTIVE MANAGER, CORPORATE MANAGEMENT

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 1 April, 2008.

No:	Report Title	Page:
1	Quarterly Update on the Hunter Central Coast Regional Environmental Management Strategy	51
2	Child Friendly Communities Program Update	63

STRATEGIC COMMITTEE MEETING – 1 April 2008

RECOMMENDATION:

That the Information Papers be received and noted.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:

092	Councillor Brown Councillor Robinson	It was resolved that the recommendation be adopted.
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INFORMATION ITEM NO. 1

**QUARTERLY UPDATE ON THE HUNTER CENTRAL COAST
REGIONAL ENVIRONMENTAL MANAGEMENT STRATEGY**

**REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES
FILE: PSC2005-4459**

BACKGROUND

The purpose of this report is to provide Councillors with an update on the Hunter Central Coast Regional Environmental Management Strategy.

The Lower Hunter Central Coast Regional Environmental Management Strategy (LHCCREMS) was originally conceived in 1993 by Environmental Managers of Lower Hunter Central Coast Councils who felt that there was significant potential to work collaboratively, and more cost effectively, on regional environmental management issues. As a result, a Steering Committee was formed which comprised senior staff and elected representatives of all interested Councils.

The original LHCCREMS project was developed in 1995 and in 2002 the project was extended to include the Upper Hunter Councils and in 2004, Greater Taree City Council was welcomed to the program. At this time the project was renamed the Hunter Central Coast Regional Environmental Management Strategy (HCCREMS).

HCCREMS is supported by the Environment Division of Hunter Councils and all supporting Councils make a financial contribution to the program to allow for the regional coordination.

The Steering Committee, which is chaired by Cr Helen Brown, meets quarterly and is supplemented by interim meetings that aim to provide the opportunity for a wider range of staff from Councils to provide focused input and expertise to the development and implementation of projects that are of particular concern to Councils.

HCCREMS is making good progress in all of the projects currently underway and has resulted in gains for all members including Port Stephens Council. The attached report is prepared by the Director of HCCREMS and provides a good mechanism for keeping Councils better informed on the progress of HCCREMS.

Of particular interest is the review of the HCCREMS program that was a result of a workshop attended by General Managers and other senior staff in July 2007. This led to a report by Greg Walkerden (facilitator of the workshop) to GMAC in September 2007. GMAC has asked Brian Bell (GM from Lake Macquarie Council), Quentin Espey (Manager Environmental System at Lake Macquarie Council) and David Broyd (Group Manager Sustainable Planning Port Stephens Council) to review the report and make recommendations to GMAC regarding a Governance Framework and future directions.

ATTACHMENTS

- 1) Hunter & Central Coast Regional Environmental Management Strategy Steering Committee Report February 2008



HUNTER & CENTRAL COAST REGIONAL ENVIRONMENTAL MANAGEMENT STRATEGY

Steering Committee Report

February 2008

GENERAL INFORMATION

(I) GMAC REVIEW OF HCCREMS/ENVIRONMENT DIVISION

The GMAC review is being led by Brian Bell, General Manager of Lake Macquarie Council.

- Councils have considered the workshop report developed by Greg Walkerden and provided feedback to GMAC
- Brian Bell will be discussing a range of issues and options with Environment Division staff at a meeting scheduled for February 13th
- A full day meeting and workshop will then be convened with the Directors of Planning and/or Environment from each of the HCCREMS member councils in early March
- It is proposed that the review, and any new directions arising from it will be completed by June

(II) ROUNDTABLE: NATIVE VEGETATION ACT

Advice was received from the Chairman of the HCRCMA late last year that the state government was addressing the issues surrounding the implementation of the Native Vegetation Act, particularly in relation to the dual roles of DECC and the CMA and the conflicting advice Councils were receiving in relation to development and vegetation clearing. On this advice, the planned “roundtable discussion” between local government and the agencies in the region was postponed, with General Managers agreeing to a watching brief.

At the February meeting of GMAC, the matter was revisited, and it was acknowledged that Councils were still experiencing on-going issues, and that effective communication between Councils, the CMA and the agencies was essential. As a result, the General Managers have decided to proceed with a roundtable session on the issue, and will invite representatives from DoP, the CMA and DECC to address a future GMAC meeting.

(III) REGIONAL WEEDS PROGRAM

The Environment Division Director has been working with GMAC to guide a restructure of the regional weeds program. Over the last few months, General Managers, Council Managers, DPI and CMA staff has been engaged on the issue. Steve McDonald, General Manager of Muswellbrook Council has agreed to sponsor a “Professional Team” (made up of Council Managers) who will work toward establishing a new structure and approach to regional weed management issues and opportunities. It is likely that the Environment Division will continue to manage large regional, strategic projects (and any associated staff), and the Professional Team will concentrate on coordinating the roles and responsibilities of Councils as Local Control Authorities.

(IV) STAFFING

Emma Graham and Michael Ward have both commenced work with the HCCREMS Team during January 2008 in the role of Natural Resource Management Officers. Emma and Michael will contribute to the implementation of a range of HCCREMS project initiatives; however their primary focus during 2008 will include implementation of Stage 2 of the Regional Roadside Environment Project (Emma) and implementation of the Regional Post Flood Aquatic Weed Project (Michael).

Emma completed a Master of Environmental Management through the University of New England in June 2007. She has previously worked for an environmental consultancy where she was primarily involved in ecological assessments and bushfire planning. Prior to this Emma worked for a number of years within the health sector and during this time undertook volunteer work with The Wetlands Centre and Blackbutt Nature Reserve.

Michael was formerly employed by the Central Coast Community Environment Network, promoting native biodiversity conservation to private landholders and coordinating the *Land for Wildlife* program on the Central Coast. Michael has considerable experience managing bush regeneration projects, having supervised projects for both Conservation Volunteers Australia and Greening Australia. He was also involved in a regional riparian rehabilitation initiative on the Central Coast.

Angela McCauley (Regional Biodiversity Program Co-ordinator) has recently left the HCCREMS team after nearly 4 years, to accept a position in Canberra with the Department of the Environment, Water, Heritage and the Arts. Angela has been instrumental to the progress of the Regional Biodiversity Program and the vegetation mapping outputs it has delivered in recent years.

Michael Somerville has been promoted to the role of Program Coordinator and will manage the completion of the Regional Vegetation Mapping Project that is presently underway.

(V) GRANTS: STATUS OF CURRENT GRANT APPLICATIONS

Grant Body	Grant Program	Project Title	Funds Requested	Status
Hunter-Central Rivers CMA	Environmental Education Grant Program	Production and distribution of 'A Guide to Rural Residential Living'	\$50,000	Successful
Hunter-Central Rivers CMA	Hunter Catchment Contributions	Identification and Control of Alligator Weed and Other Priority Aquatic Weed Infestations in the Hunter Catchment.	\$50,000	Successful
Department of Primary Industries	State Weed Management Program	Post Flood Aquatic Weed Project	\$100,000	Successful
Environmental Trust:	Urban Sustainability Program	Regional Sustainability Compliance Program	\$1.4M	Successful (\$1.2 M approved)
Dept of the Envir't & Water Resources / Australian Greenhouse Office	Local Adaptation Pathways Program	Adapting to climate change in the Hunter Central and Lower North Coast Region of NSW	\$30,000	Pending
National Water Commission	Raising National Water Standards	A National Toolkit for Building Water Sensitive Cities	\$775,000	Unsuccessful
National Water Commission	Raising National Water Standards	A Package of National Training Modules to Facilitate WSUD and IWCM	\$529,000	Unsuccessful

P R O J E C T U P D A T E S

(I) WATER PROGRAM

Capacity Building Events

Three capacity building events in urban integrated water cycle management (IWCM) were held during November and December:

1. E2 Elements Series Workshop: Organisational Change; 4th November – Forster
2. E1 Elements Series Workshop: Organisational Change; 5th November – Toronto
3. R2 Issues Series Field Day: Porters Creek Stormwater harvesting and wetland polishing systems – Porters Creek; 18th December - Wyong

About 40 attendees the second Element Series workshop (E2), including three from Mid-Coast Water at the Forster workshop; indicative of the high priority they place on the development of a well considered integrated water management plan. Speakers included André Taylor, who extended the institutional change elements introduced in the first Element Series workshop to within-organisation change concepts. He was supported by case studies from four mid/high level managers from councils outside the region that have achieved considerable organisation change to achieve some examples of best practice IWCM.

Using a presentation framework developed by HCCREMS staff, the council presenters were able to “map” their experiences back to the conceptual change models that André presented. Attendees found the council presentations to be both instructive in a practical, “this is how we did it” way, as well as inspiring confidence that senior managers will take the lead where the foundations of organisation change have been well attended to, i.e. it takes action at all levels within an organisation to get the ball rolling.

The Porters Creek Stormwater Harvesting Tour (R2), was also very well received. Participants were very interested in the practical lessons to be learnt from Wyong Council’s experience in constructed wetlands and the plans to link these into a stormwater harvesting scheme to protect the Porters Creek Wetland. Maps and fact sheets prepared by Wyong Council officers, Santina Pennisi and Shah Alam, assisted participant’s understanding of each system’s design, costs and maintenance. Other council planning and maintenance staff were able to flesh out other strategic planning and practical elements, providing a very complete picture of what it takes to implement such facilities and to manage them efficiently in the long term.

Upcoming events are listed in the table below.

Series No.	Regional Capacity Building Events	Schedule
E3	IWCM Best Planning Practices – Regional Application	20 th Feb
E4	IWCM Best Management Practices – Introduction	March/April
R3	Solving the Nutrient Equation in Coastal Lakes	18 th March

Key: ‘E’ = IWCM Essential “Elements” series – forms a comprehensive course
 ‘R’ = IWCM “Regional” issues series – an ad hoc series of issue based events

Newsletter

The November edition of Regional Water Newsletter was despatched to more than 150 recipients (http://www.urbanwater.info/Catalytic/Regional_eNewsletters.cfm).

Register of IWCM Demonstration Sites

Detailed design specifications for the database and web site were developed during November and December in close consultation with the consultants who delivered a preliminary version of the online Demonstration Sites Register in late January. Following refinement of functionality and layout, it is anticipated that on-line beta testing will be completed by the end of February for the site's public launch in March.

Central Coast Public Schools Integrated Water Program

All water-saving devices were installed in the participating schools by the end of November. A final report is being prepared for the funding body, the NSW Water Savings Fund, administered by the Environmental Trust of the Department of Environment and Climate Change. It will include an analysis of the water savings achieved and lessons learnt – it's not just the students who learnt!

National IWCM Capacity Building Forum

The submission to the National Water Commission in September for funding under the National Water Initiative (NWI) was not supported by the commissioners. One of the principal reasons given was the impression that it was to fund recurrent funding of core capacity building work, which is distant from the NWI's funding priorities that are directed primarily at research and increasing the level of water related information.

It may be necessary for one or more of the national network members to meet with NWI representatives in Canberra to ascertain their priorities in relation to capacity building, and clarify their perceptions of the role of bodies like HCCREMS in advancing the NWI.

(II) BIODIVERSITY PROGRAM

The current focus of the Biodiversity Program includes completion of the Hunter Central Rivers CMA Vegetation Classification and Mapping Project Stage 2. Current activities under this project include:

Vegetation Surveys

367 field based vegetation surveys have now been completed under the project (see figure 1 below). This exceeds the target of 350 sites identified in the project objectives, with the potential still existing to target further sites if required following an expert review of the data. The nature and location of the completed surveys was determined by a gap analysis of regional, sub-regional, expert derived and private property priorities. Most of the data generated by the surveys has been provided to HCCREMS, with its collation presently underway. Figure 1 below shows the locations of the surveys completed under both Stage 1 (312 sites) and Stage 2 (367 sites) of the Regional Vegetation and Classification Mapping Project.

Expert Review of Data Collation

The rule-set created to collate and prepare the survey data for analysis, along with the lists of the surveys and the species that were identified have been distributed to a broad group of botanical experts for review and comment. Feedback from this process is nearly complete. When finalised, this feedback will be collated and presented to the botanical classification team to guide the initial data analyses.

Botanical Classification

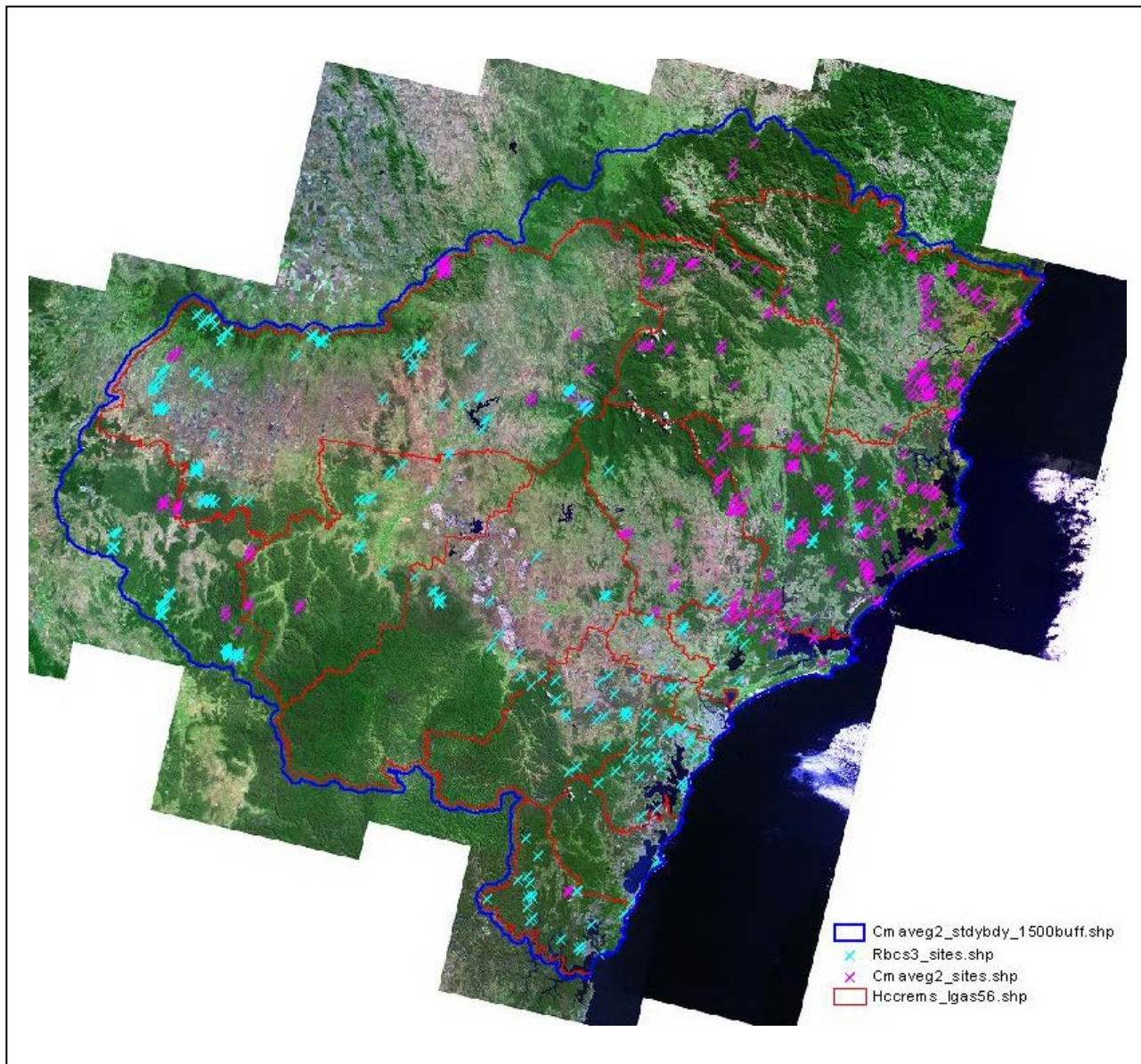
A team of four expert botanists commenced work on the 11th February to undertake numerical classification work in conjunction with the Project Coordinator. This work will aim to derive a draft botanical classification scheme for the region. When completed, the draft classification scheme will be presented to a wider group of botanical experts to facilitate a broader range of expert analysis and input.

Vegetation Sub-projects

A number of sub projects have also been initiated to provide additional inputs to both the classification and mapping work. These are all currently in the planning phase and include:

- **Targeted API mapping:** due to the limitations of SPOT5 and other region wide data products in regard to the delimitation of fine scale coastal vegetation patterns, targeted API mapping will be completed at a limited number of locations. This information will be used as an input to the modelling/mapping phase of the project.
- **Grasslands classification:** Grasslands (and possibly other non-woody vegetation) are not likely to be adequately represented in the numerical classification work. As such, it has been determined that an interim grassland classification scheme will also be produced under the project. This will involve experts on the region's grasslands working to derive a set of communities that are representative of the region, at a scale similar to that of the overall classification scheme. This will enable this information to be incorporated within the final classification scheme that is developed.
- **Soils mapping:** Soils mapping is a major input to most vegetation modelling work and as such it is important to have complete and reliable coverage across the study area. This sub-project aims to update the current soils mapping for the region, including the standardisation of soil classes and edge-match line work across the various soil landscape map sheets. This in turn will allow a number of related variables such as fertility and rooting depth to be derived as continuous variables across the study area.

Figure 1: Site locations for Stage 1 & Stage 2 Sites



Stage 2 of this program will be delivered throughout 2008 and will include implementation of the priorities identified in the *'Draft Strategy for the Management of Roadside Environments in the Hunter, Central and Lower North Coast Region of NSW'*. These include;

- Implementing a rapid roadside environmental assessment program across the region;
- Developing a series of best practice management guidelines / practice notes;
- Developing roadside environmental training and capacity building materials / modules;
- Developing a Regional 'Review of Environmental Factors' template for road works;
- Developing a Regional Roadside Environmental Management Policy template;
- Continuing to refine and develop the GIS based Roadside Environment Mapping and Assessment Tool developed during Stage 1 of the Program; and

- Developing collaborative grant applications for roadside environmental rehabilitation and protection works.

Stage 1: Roadside Briefings

Briefings on the outcomes of Stage 1 and the implementation strategy for Stage 2 have now been completed with 12 councils (Maitland yet to be briefed, it is unclear as to whether Newcastle will participate in the project this year). Council staff representing a range of disciplines including asset management, engineering design and construction, works managers, parks & recreation staff, weeds officers and natural resource & environment officers have participated. The meetings have also included demonstration of the Roadside Environment Mapping and Assessment Tool (REMAT) and the provision of this product to councils for trialling.

Rapid Roadside Assessment Program

A Draft Rapid Roadside Assessment methodology has now been developed and has undergone field trials in the Maitland and Port Stephens local government areas (LGA's). This draft will be reviewed by the Project Steering Committee at its meeting on 19th February 2008. In addition to utilising the Roadside Environment Mapping to identify potential survey sites, councils have also been invited to nominate locations that feature particular roadside management issues, initiatives or conservation values. The Rapid Roadside Assessment Program is scheduled to run for a 6 week period during February/March 2008.

Regional Roadside Environment Network

Stage 2 of the Program includes the establishment of a Regional Roadside Environment Network. The purpose of the network is to provide professional and technical input to the design and development of products being developed by the project. Potential network participants are presently being identified. It is intended that members will represent a diversity of professional and operational expertise and experience from within councils across the region. The network will collaborate largely via email, however some issue / product specific workshops may be required. It is anticipated that the network will formally commence in early March 2008.

Practice Notes & Management Guidelines

To assist in the development of practice notes and management guidelines, a literature review process of existing roadside environmental management products and resources has been completed. This has identified the existence of over 250 resources. Document sources include local government, state government, infrastructure management and scientific journals.

(IV) CLIMATE CHANGE PROJECT

Recruitment of a new post doctoral researcher to replace Danielle Verdon following her resignation has been completed, with Dr Karen Blackmore commencing in the role on 7th January 2008. The amended time frame for delivery of these is provided below:

Project Activity	Completion Date
Stage 1 - Identify the key synoptic patterns relevant to the study region	Complete
Stage 2a - Determine how the synoptic patterns (identified in Stage 1) drive climate and climate related variability in the region – Draft Format Report	End of April 2008
Stage 2b - Determine how the synoptic patterns (identified in Stage 1) drive climate and climate related variability in the region – Final Report	End of May 2008
Stage 3 - Downscale CSIRO Global Climate Model (GCM) predictions for NSW to the study region	End of August 2008
Stage 4 - Determine the potential impacts of climate change on the region based on the statistical downscaling conducted in Stage 3	End of March 2009

In addition to continuing with the research program, the project will also begin to focus on the delivery of an industry awareness and consultation process. This will aim to provide information on the HCCREMS project and its objectives, raise awareness of the importance of risk assessment and planning processes in preparing for climate change, and identify the key vulnerabilities that industry / land use sectors believe they will be exposed to as a result of climate change. An understanding of these vulnerabilities will enable the research program to deliver information, data and resources in suitable formats to assist industry and land use sectors to accurately undertake climate change risk assessment and adaptation planning processes in relation to these.

(V) RURAL RESIDENTIAL RESOURCE GUIDE

HCCREMS has been successful in sourcing an additional \$50,000 from the Hunter-Central Rivers CMA to fund the further production, marketing and distribution of 'A Guide to Rural Residential Living'. Specifically, this funding will be utilised to:

1. Produce an additional 50 paper versions of the Resource Guide for placement in council libraries and other publicly accessible facilities;
2. Produce an additional 5000 CD's
3. Develop a web based version of the Resource Guide (www.ruralresidentialliving.com.au) ;
4. Implement a co-ordinated marketing and distribution campaign throughout the region.

As reported at the November Steering Committee Meeting, development of the Resource Guide resulted in HCCREMS being nominated as a finalist in the Environmental Education Category of the 2007 Local Government Excellence in the Environment Awards. While not winning the overall category, HCCREMS did receive a 'Highly Commended' Award.

(VI) REGIONAL SUSTAINABILITY CAPACITY BUILDING AND EDUCATION PROJECT

The first Community Arts Event to be implemented under the Regional Sustainability Project was successfully delivered on 18th November 2007 at Murrurundi. 'River Day' was a key output of the Turning the Pages Project, an initiative that linked scientists, artists, and school children in a manner aimed at promoting broader community appreciation of the rich geological, biological and cultural history of the Pages River. Around 180 school children from five schools across the Upper Hunter worked directly with artists and scientists to understand the importance of the Pages River to the region's community, economy, and ecosystem services. The knowledge gained by the children was expressed through the creation of poetic sculptural artworks mounted on a 130m long installation, as well as a range of activities that were exhibited on 'River Day', an event that effectively focused the attention of the children, their families and the broader community on the river and the issues around its current health and sustainability. Around 1000 people are estimated to have participated in the 'River Day' festivities.

(VII) POST-FLOOD AQUATIC WEED PROJECT

A total of \$150,000 in funding has been sourced from the Department of Primary Industries (\$100,000) and the Hunter Central Rivers Catchment Management Authority (\$50,000) to strategically identify and address the impacts of the June 2007 Hunter and Central Coast floods on the distribution and extent of Alligator Weed (and other aquatic weed) infestations in the region. Importantly, the project includes the development and implementation of on ground work plans to control regionally significant emergent aquatic weed infestations.

Particular activities that will be implemented under the project include:

1. Auditing and assessing June 2007 flood patterns and their impacts on the core and widespread infestations of Alligator Weed (and other aquatic weeds) in the region
2. Recording and centralising data on a regional basis to inform prioritisation, monitoring and reporting activities
3. Identifying and prioritising on a regional basis the location of emergent infestations of Alligator weed (and other high priority aquatic weeds) that have resulted from the flooding and that require active management to prevent their ongoing establishment and dispersal
4. Inspecting and evaluating high priority sites and developing collaborative on ground control strategies between councils, landowners and state government authorities for their management
5. Implementing the management and control strategies developed for priority locations
6. Raising community and landowner awareness and commitment to the identification and management of Alligator and other aquatic weeds in priority locations.
7. Monitoring and reporting the findings and outcomes of the project

Michael Ward has been recruited to co-ordinate implementation of this project. Since his commencement in January, Michael has been liaising with Council weeds officers regarding the availability and collation of council information and data to assist with the identification and prioritisation of sites, and has completed a number of joint inspections in areas affected by the June flooding to ascertain the nature and extent of the issues that exist.

INFORMATION ITEM NO. 2

CHILD FRIENDLY COMMUNITIES PROGRAM UPDATE

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING
FILE: PSC2005-3607

BACKGROUND

The purpose of this report is to inform Council on the progress of the Child Friendly Communities Program and to outline the program's priorities for the remainder of 2008.

In 2006 Council's expression of interest to auspice the Child Friendly Communities Program (CFC) was successful. This program is funded under the former Federal Government's Communities for Children Initiative and covers the townships of Raymond Terrace and Karuah.

The Child Friendly Communities Program represents a significant challenge to Council, given the broad practices of Local Government such as policy and plan making, community engagement, community events, provision of community and recreational facilities and development design practices have not historically been regarded as child inclusive or child friendly.

In August 2006 Council used some of the government funds allocated to this project to employ a Child Friendly Communities Development Officer to oversee the development and implementation of the Child Friendly Communities Program. This program is set to conclude on 31 December 2008 in accordance with the conditions of funding associated with the grant.

The aim of the Child Friendly Communities Program has been to deliver a number of strategic and community based initiatives aimed at addressing the four following key principles underpinning child friendly communities: -

- i. Participation of Children
- ii. Community Partnerships
- iii. Built Environment
- iv. Child Friendly Agenda

A number of achievements in each of these four key principles have been achieved since the inception of the Child Friendly Communities Program at Council. A summary of these achievements is outlined in Attachment 1 of this report along with an overview of the strategic work priorities for remainder of project.

ATTACHMENTS

- 1) Summary of Achievements of Child Friendly Communities Program to date.
- 2) Overview of Child Friendly Communities Program work priorities March – December 2008

ATTACHMENT 1
SUMMARY OF ACHIEVEMENTS OF CHILD FRIENDLY COMMUNITIES
PROGRAM TO DATE

Key Principle	Achievements to Date
Participation of Children	<ul style="list-style-type: none"> Children and their families participated in an annual Children's Week celebration in Raymond Terrace since the CFC Program commenced. The CFC Program also collaborated with other community partners to deliver a number of community events that incorporate a clear child focus (eg: NAIDOC Week 2007, Karuah Bridge Celebrations, Plant a Tree Day, Neighbour Day). Coordinated a community event to provide children and families with the opportunity to participate in designing Kitty Hawke Park Raymond Terrace as a 'child friendly space'. Facilitated a consultation process with 120 children from Karuah Public School regarding the design & development of Longworth Park, Karuah as a 'child friendly space'.
Community Partnerships	<ul style="list-style-type: none"> Strengthened partnerships between Council and community and government organisations in Raymond Terrace and Karuah (e.g. schools, preschools, Karuah Working Together Inc, The Family Action Centre, Department of Housing, Karuah and Worimi Aboriginal Land Councils, Kidsafe). Established a number of partnerships for Council including: Griffiths University's Urban Research Program, NSW Commission for Children and Young People, National Association for the Prevention of Child Abuse and Neglect (NAPCAN). Employed an additional Project Officer for 14 hours a week as part of the Takes a Community to Raise a Child initiative to continue build community partnerships and enhance social connectedness and social capital within Raymond Terrace and Karuah.
Built Environment	<ul style="list-style-type: none"> Established a partnership between Council and the NSW Commission for Children & Young People to develop a set of "Indicators of Child Friendly Built Environments". This partnership will also involve the participation of Wollongong Council, and aims to develop these indicators for release to all NSW Councils by December 2008. This partnership has placed Council in a position of local government leadership in the area of Child Friendly Communities.
Child Friendly Agenda	<ul style="list-style-type: none"> In May 2007 hosted the "Building Child Friendly Communities" Conference, followed by Councils Child Friendly Strategic Planning Session. The most significant outcomes from these initiatives have been: <ul style="list-style-type: none"> inclusion of Child Friendly Communities in Council's Council Plan 2008-2012 signifying Council's commitment and strategic pathway to addressing the needs of children and families in Port Stephens Establishment of Council's Child Friendly Communities Working Group. This group incorporates representation from across each section of Council. The group is developing a Child Friendly Action & Implementation Plan. This plan will outline the various initiatives required for a sustainable pathway for the wellbeing of children and families beyond the life of the CFC Program. Coordinated the training of 19 people (8 Council staff; 11 community and service representatives) as trainers of the "Child Safe Child Friendly" Program – an initiative developed by the NSW Commission for Children & Young People.

ATTACHMENT 2

Overview of Child Friendly Communities Program Work Priorities March – Dec 2008

Key Principle	Priorities March – December 2008
Participation of Children	<p>The CFC Program will work with the CEP to: -</p> <ul style="list-style-type: none"> • Establish a policy statement for the inclusion of children and young people in community engagement processes undertaken by Council • Develop a 'checklist' and 'toolkit' for the CEP in undertaking consultations with children & young people • Coordinate the provision of staff training in participation techniques with children & young people <p>Participation Forum: The CFC Program plans to host a Participation Forum in Children's Week (October 2008). This forum organised in partnership with children and young people across Raymond Terrace and Karuah aims to: -</p> <ul style="list-style-type: none"> • Provide education & skill development in participation techniques with children & young people • Raise awareness of issues related to the participation of children & young people • Promote positive examples of community participation with children & young people
Community Partnerships	<p>Child Friendly Community Action Group: In partnership with the Communities for Children Initiative and NAPCAN, will establish a community action group to provide interested parents and community members a forum for the ongoing facilitation of child focussed and child friendly activities throughout the community.</p>
Built Environment	<p>Indicators of Child Friendly Built Environments: In collaboration with Council's Social Planning Coordinator and Integrated Planning Manager, will continue to be actively involved in this project with the NSW Commission for Children and Young People.</p> <p>Child Friendly by Design Project: In partnership with Council's Strategic Planning Team will engage a consultant to: -</p> <ul style="list-style-type: none"> • Establish a working group comprised of developers, urban designers, and Council staff to examine the role of child friendly principles across the built environment • Collaborate with CFC Program and NSW Commission on the 'Indicators' Project' • Conduct a review of Council's Planning Policies in regards to child friendly communities • Provide a report and recommendations to Council. <p>Child Friendly Spaces: In partnership with Council's Facilities & Services Group continue to advance the development of two child friendly spaces (ie; Kitty Hawke Park Raymond Terrace and Longworth Park, Karuah).</p>

<p>Child Friendly Agenda</p>	<p>Child Friendly Working Group and Action Plan: Continue to coordinate the Child Friendly Working Group and work towards the development of an Action Plan for Port Stephens Council. This plan will:-</p> <ul style="list-style-type: none"> • Represent a long term vision for Council and the community • Outline common principles underpinning commitments and actions • Identify priority areas for each section across Council • Specify key actions and timeframes to be undertaken within Council. <p>Child Safe Child Friendly Training: Following the training of 8 Council staff as trainers in the “Child Safe Child Friendly” education program, the CFC Program, in partnership with Council’s Organisation Development Section will trial the delivery of this training to a selected group of Council Staff. The CFC Program will work towards establishing a long term place on the Learning and Development Calendar for this training beyond the life of the CFC Program.</p> <p>Dads in the Workplace Research: A requirement of the CFC Program under the Commonwealth funding agreement is that we deliver an activity that focuses on Father Inclusive Practice. The CFC Program has contracted The Family Action Centre – University of Newcastle to undertake the research project. Using voluntary male Council staff as participants, this research will explore if and how an individual’s role as a ‘father’ impacts on the work they undertake within Council. The aim is to identify strategies for making Council and the local community more child-focussed and child friendly from the perspectives of men in a fathering role.</p>
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GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1**FILE NO: PSC2005-5698****REVIEW OF COUNCILLOR NUMBERS****REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Determine the number of Councillors for Port Stephens Council which is at least 5 and not more than 15.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008**RESOLUTION:**

093	Councillor Jordan Councillor Nell	It was resolved this matter be deferred to the Operations Committee meeting 13 May 2008.
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BACKGROUND

The purpose of this report is for Councillors to determine the Councillor numbers before the next Local Government election.

In accordance with Section 224 (2), *Local Government Act 1993*, Council must not, less than 12 months before the next ordinary election, determine the number of Councillors for the following term of office.

Council is required to determine the number of Councillors in accordance with Section 224 (1), *Local Government Act 1993*.

Section 224 (1)

“A Council must have at least 5 and not more than 15 Councillors (one of whom is the Mayor).”

Councillors are aware that this matter is also partly addressed in the report regarding the 2008 Council Referendum, which is contained in this business paper for Council's consideration.

LINKS TO CORPORATE PLANS

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

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

FINANCIAL/RESOURCE IMPLICATIONS

The financial implications would depend upon Council's decision, whether that be to increase or decrease the Councillor numbers. Currently the annual allowance for a Councillor is \$14,540 per Councillor.

In addition to this there would be a saving or otherwise dependant upon the decision to increase or decrease Councillor numbers. This saving/cost would be associated with conferences and other reimbursements allowable under the Councillor Reimbursement policy, together with costs associated with conducting Council and Committee meetings.

LEGAL AND POLICY IMPLICATIONS

The legal implications are that Council is required to have at least 5 and not more than 15 Councillors including the Mayor in accordance with Section 224(1), *Local Government Act 1993*.

Councillors need to be aware that an increase in Councillor numbers would require a constitutional referendum at the next election under Section 224 (3), *Local Government Act 1993*. However a decrease in Councillor numbers would only require a resolution of Council to apply to the Minister for consideration of the proposal, following 21 days of public notice under Section 224A, *Local Government Act 1993*. This would then come into effect at the next ordinary election in 2012.

Council cannot reduce the number of Councillors within each Ward fewer than 3 under Section 224A.

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.*
- 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

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

General Manager

Executive Manager – Corporate Management

Council's Legal service provider

OPTIONS

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

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

ITEM NO. 2**FILE NO: PSC2006-1473, 1474 & 1475****PROPOSED EASEMENT ALTERATION OLD PUNT ROAD TOMAGO****REPORT OF: STEWART MURRELL GROUP MANAGER BUSINESS & SUPPORT****RECOMMENDATION IS THAT COUNCIL:**

- 1) Creates an Easements to Drain Water as set out below and agreed by the property owners:-
 - Easement 6 meters wide and variable width over lot 43 D.P.711253, and
 - 6 metres wide over lots 46 and 47 D.P.711253, and
 - 3 metres wide over lot 42 D.P. 711253, and
 - 3 metres and variable over lot 4 D.P.29651, and
 - Variable width (approximately 3 metres) over lot 7 D.P.562394
- 2) Releases Easements for Drainage of Water 6 wide over lot 4 D.P.29651 and 5 wide over lot 43 D.P. 711253.
- 3) Grant approval to affix Council's Seal to the relevant Transfers Granting Easements, Transfers Cancelling Easements and Section 88B Instruments.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008**RESOLUTION:**

094	Councillor Westbury Councillor Jordan	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to recommend Council consents to the creation of various easements and the cancellation of existing easements which will be contained within the newly created easements, and authorise Council's Seal to be placed on the relevant documents to achieve this.

The large drain down stream from Old Punt Road is to being upgraded and enlarged to make it more efficient. The construction cannot be contained within the existing 5 metre wide easement. Negotiations with the property owners affected by the drain and easement have resulted in consent being granted by all owners for the increased easement width. No compensation has been offered or sought for the increased width, provided Council pays all costs associated with the process to create the easements and release these which will become redundant.

Rather than creating a new one metre wide easement the best way to do it is to create a new 6 metre wide one and cancel the existing one. These actions will be carried out using both Transfers Creating Easement and Transfers Cancelling Easement as well as in some cases the use of a Section 88B instrument under the Conveyancing Act.

See attachment #1 for the existing easements and attachment #2 for the proposed easements.

LINKS TO CORPORATE PLANS

Linked to Council's Goal to ensure the sustainable management of assets that meet community need.

FINANCIAL/RESOURCE IMPLICATIONS

Funds have been provided in the current Infrastructure and Services budget for the improvements to the drain as well as the legal requirements.

LEGAL AND POLICY IMPLICATIONS

Council's drains should be contained within the easements, hence the need to widen the easement. Provision for cancellation and the creation of easements is made in the Conveyancing Act 1919. The documents used require execution under Council's Seal.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil as a result of this resolution, however, the planned improvements to the drain will lessen the risk of flooding of businesses and properties.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Stormwater Consultants, Designers, Affected Property Owners, Council's Engineering Services Manager, Drainage Engineer and Principal Property Advisor.

OPTIONS

- 1) Adopt recommendation
- 2) Reject recommendation

ATTACHMENTS

- 1) Locality Plan
- 2) Existing Easement
- 3) Proposed Easement

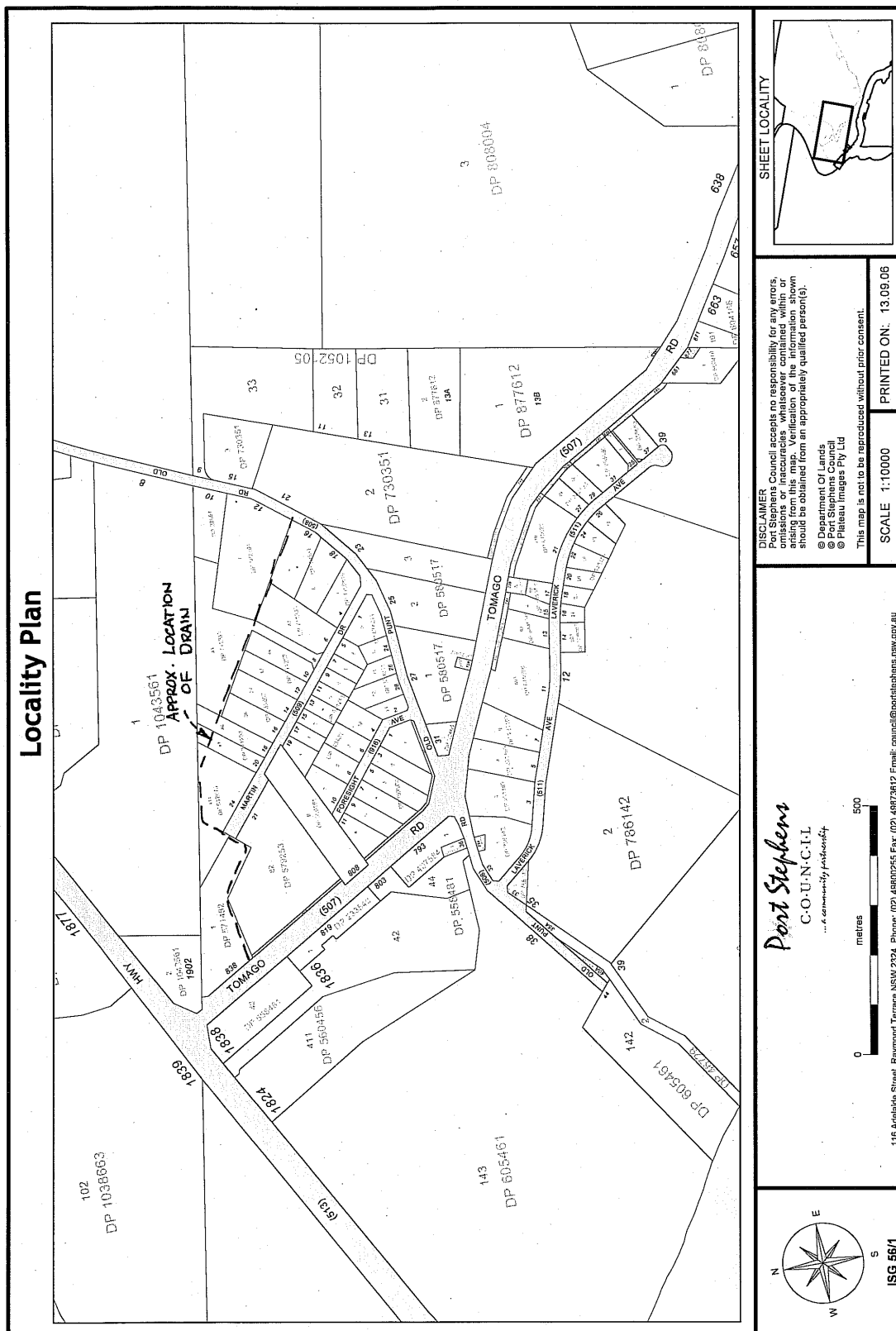
COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

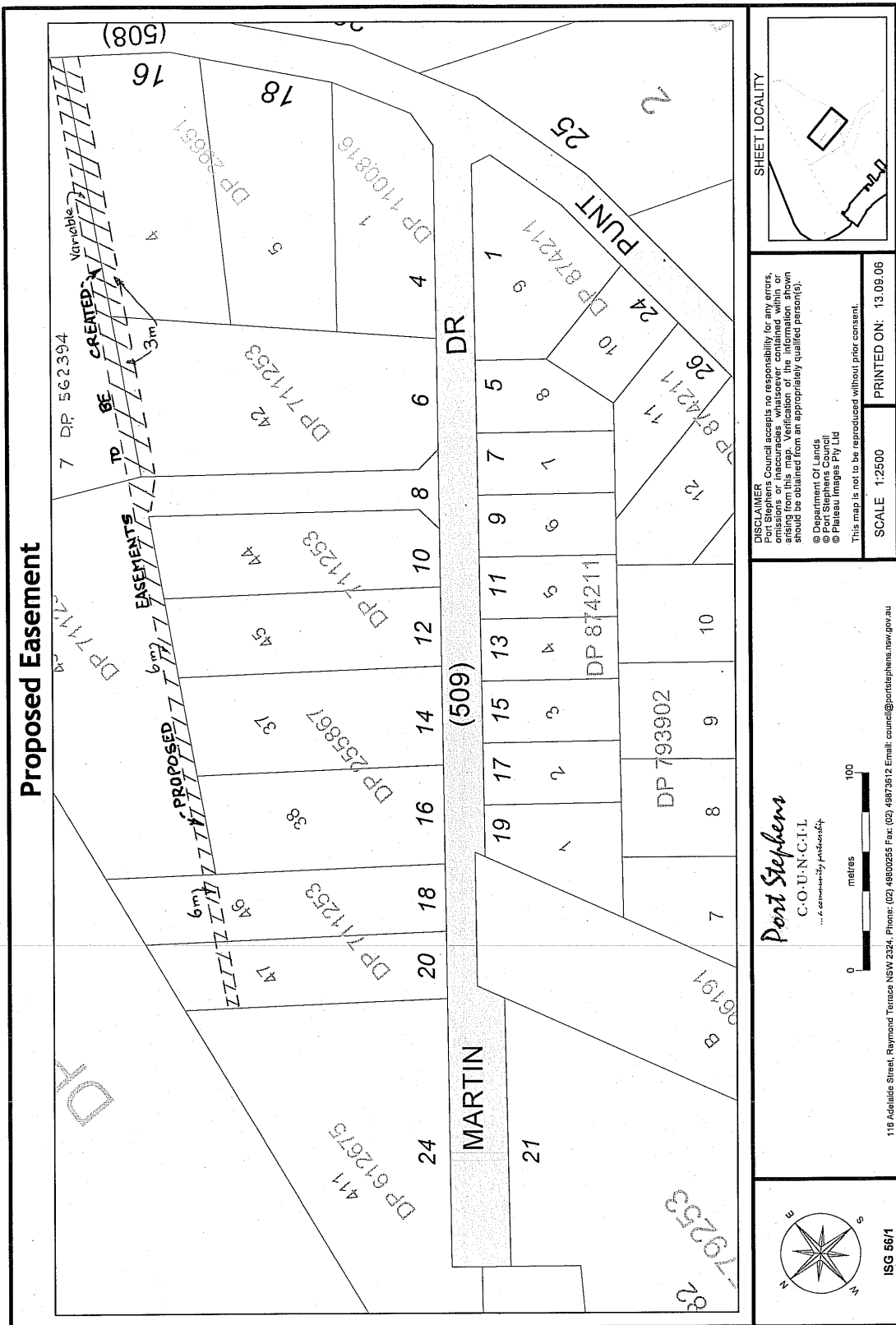
ATTACHMENT 1



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ATTACHMENT 3



ITEM NO. 3**FILE NO: PSC2006-0200****REGIONAL TREE VANDALISM POLICY****REPORT OF: DAVID BROYD – GROUP MANAGER, SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to place the Draft Regional Tree Vandalism Policy on Public Exhibition for a period of 28 days.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008**RESOLUTION:**

095	Councillor Westbury Councillor Brown	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is seek Council's support to allow the Regional Tree Vandalism Policy to go on public exhibition for 28 days in order to facilitate a more consistent and strategic approach to dealing with tree vandalism.

This policy has been developed by a regional working group facilitated by Hunter Councils in light of increasing tree/vegetation vandalism being experienced by Councils across the region. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has seen an increase in the vandalism of trees and vegetation on public land under the care, control and management of Councils.

There are many reasons that motivate vandalism of trees and vegetation. Some acts are random and without purpose, while others occur through ignorance or are motivated by personal self-interest or gain (eg increased property values, better access to the waterfront, or unimpeded views). Where possible, the response to acts of vandalism should be adapted to suit the perceived motivation.

The physical nature of tree and vegetation vandalism can occur in a variety of forms, including poisoning, pruning, removal and destruction, and mowing of native understorey. This kind of vandalism has a significant and cumulative impact on the environment. Particular impacts include reduced visual and community amenity, loss of environmental services such as wind-breaks and erosion control, and loss of wildlife habitat.

Such vandalism can have substantial financial and human resource costs for Councils. These include the direct loss of the asset value of the trees or vegetation, the cost of the investigation, rehabilitation and repair costs, and the cost of implementing potential punitive / deterrence measures.

The clandestine nature of tree/vegetation vandalism on public land frequently makes the identification of perpetrators difficult. Even where it is possible to identify the most likely offender, it can be difficult to collect sufficient evidence to prove responsibility. This is frequently exacerbated by a general unwillingness among the community to provide testimony, even where an offence may have been witnessed.

Recognition of the common tree/vegetation vandalism issues being experienced by Councils has resulted in the HCCREMS Steering Committee resolving to prepare a regional policy. This approach, supported by increased sharing of resources and expertise between Councils, will provide a greater level of organisational capacity and commitment to address this issue consistently throughout the region.

LINKS TO CORPORATE PLANS

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

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

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

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

The policy details the resources needed to implement this policy and includes such things as educational materials, signage, databases, rehabilitation plans and trained staff. Although this may seem extensive initial piloting of the policies principles has shown that by having a consistent and planned approach less time and resources are used when responding to individual events. This is a result of staff being trained in the approach and having a clear direction and parameters in which to undertake their duties along with an approved set of tools.

As this is a regional approach there will also be the opportunity for Councils to share resources.

LEGAL AND POLICY IMPLICATIONS

There is suite of legislation that applies to tree vandalism. These have been included as a table in Attachment 2 of the 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:-

- 1) **LEADERSHIP –** *Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.*

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The community has an expectation that Council respond to tree vandalism incidences and the majority of the community is supportive of Council taking a strong consistent approach.

Tree vandalism on public land also means the loss of a valuable community asset that in most cases is worth several thousands of dollars. Most noted are the reduced visual and community amenity of an area, leafy areas are usually seen as more established and generally have a higher real estate value.

ECONOMIC IMPLICATIONS

Having a consistent and strategic approach to tree vandalism will be more cost effective in the long term than creating new approaches to each new event. Replacing mature trees can be costly, it is hoped that by having a consistent approach to tree vandalism that incidences will decrease resulting in reduced budget expenditure.

ENVIRONMENTAL IMPLICATIONS

In many cases tree vandalism occurs on coastal areas that are already under threat of being over loved and are very fragile. The loss of any vegetation along foreshores is usually followed by severe erosion which in turn creates further environmental and asset management issues. Coastal vegetation also acts as important wind-breaks and valuable wildlife corridors. In addition to decreasing the incidences of environmental damage this policy will assist Council to remediate after tree vandalism events and restore environmental values.

CONSULTATION

It is proposed to put the plan on exhibition for 28 days after which all submissions will be analysed and the policy modified if required.

Discussions will be held with the Community Engagement Panel to devise a consultation plan to ensure adequate community consultation.

The issue has also been debated on the 'Bang the Table' website under the heading of the Foreshore Management Plan. This has shown an overwhelming majority of the community (near 90%) are supportive of Council taking a proactive stand against tree vandalism.

After consultation has been undertaken and the policy has been modified it will come back to Council for adoption. The report will also include a summary of the submissions and details on how the policy has been amended.

OPTIONS

- 1) Adopt, reject or amend the recommendation

ATTACHMENTS

- 1) Regional Tree and Vandalism Policy

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil



POLICY

Adopted:
Minute No:
Amended:
Minute No:

TITLE: REGIONAL TREE / VEGETATION VANDALISM POLICY

PURPOSE

The purpose of this policy is to promote a consistent regional approach to the protection and management of trees and vegetation in the landscape, particularly in deterring and responding to the loss of vegetation arising from deliberate vandalism on public land.

APPLICABILITY

This policy applies to the following Councils that comprise the Hunter, Central and Lower North Coast Region:

Greater Taree City Council	Cessnock City Council
Great Lakes Council	Maitland City Council
Port Stephens Council	Dungog Shire Council
Newcastle City Council	Gloucester Shire Council
Lake Macquarie City Council	Upper Hunter Shire Council
Wyong Shire Council	Muswellbrook Shire Council
Gosford City Council	Singleton Council

It has been amended for use in the Port Stephens Council Local Government area to align with other Port Stephens Council policies while still reflecting the regional priorities.

SCOPE

This policy outlines the recommended procedures and activities to provide:

1. A consistent approach by Councils to deterring and responding to incidences of tree/vegetation vandalism on public land throughout the region.
2. A consistent regional approach to engaging and involving the community in the long term protection and management of vegetation and in reporting illegal vandalism

The policy supplements individual Council tree and vegetation management policies with a regional tree/vegetation vandalism policy that is based on common objectives, values and needs. This policy will assist Council in meeting the recommendations of the NSW

Ombudsman's Enforcement Guidelines for Councils (2002) by establishing a consistent and transparent investigation and decision making framework when responding to tree and vegetation vandalism events on public land.

BACKGROUND

This policy has been developed in light of increasing tree/vegetation vandalism being experienced by Councils across the region. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has seen an increase in the vandalism of trees and vegetation on public land under the care, control and management of Councils. Further background information to the policy and the initiatives it comprises are included in Attachment 1.

POLICY OBJECTIVES

1. To promote the value of and need for protection of trees and vegetation on community land
2. To provide regional consistency in the deterrence, investigation and response to tree vandalism incidents
3. To encourage the sharing of experience, expertise and resources among Councils when deterring and responding to tree / vegetation vandalism incidents throughout the region.
4. To promote and guide broader community involvement in the prevention of vandalism, and in investigation and enforcement following vandalism incidents

POLICY PRINCIPLES

1. Vandalism of trees and vegetation on community and public land is a serious criminal offence;
2. The long term protection and management of trees and vegetation on public land (including re-establishment in previously cleared areas) is integral to maintaining the economic, cultural, environmental and social values of the region. Trees and vegetation contribute significantly to environmental health, and to human health and wellbeing.
3. The identification and prosecution of perpetrators of public tree/vegetation vandalism should be pursued consistently throughout the region.
4. In the absence of successful prosecutions, Council and the community must carry some responsibility for the prevention of further damage and the rehabilitation of damaged areas.
5. Community education is a key mechanism to promote the protection of trees and vegetation, and to encourage the reporting of vandalism.

POLICY STATEMENT

1. Definition of Tree Vandalism

For the purpose of this policy, Tree Vandalism is defined as; *'the unlawful destruction, damage or injury to trees and vegetation on community and public land. Examples include poisoning, mowing, pruning, removal and ringbarking'*.

Land to which the policy applies

This policy applies to public and community land that is under the care, control and management of Port Stephens Council.

RELEVANT LEGISLATIVE PROVISIONS

There exists a range of offences under various legislations that have the potential to apply in cases of tree / vegetation vandalism. An overview of these offences, relevant legislation, responsible authorities and the nature of penalties that apply are included in Attachment 2.

POLICY RESPONSES**1. Education**

Council's community education programs will include the following key elements about the value of vegetation and the adverse impacts of tree and vegetation vandalism:

- To explain the various environmental functions of vegetation in natural and urban environments including: habitat, water quality, air quality, shade, erosion control, aesthetics, weed suppression, noise attenuation, climate change mitigation and wind breaks.
- To explain the cumulative impacts of vegetation loss, so that the impact of a single act can be judged in the context of impacts over time
- To give an economic value to the environmental functions of vegetation and, therefore, to the cost of vegetation loss and damage, and/or by using ANZ Standard (Draft) or similar weighted calculation.
- To highlight the legal significance of offences (i.e. they are criminal acts), and the potential fines and punishments
- To calculate and publicise the direct economic cost to residents of acts of vandalism, in terms of investigation, replacement and remediation costs
- To publicise successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions
- To involve the community directly in maintenance and protection of vegetation, and in rehabilitation of damaged areas (eg through Landcare).

2. Monitoring and prevention

- Council will record vandalism incidents and its response to these on a database to allow an assessment of the cumulative impacts of vandalism, to identify high risk areas and to monitor the effectiveness of rehabilitation and response efforts and community education over time. While Councils may utilise a variety of database types to record this information, in order to assist with regional scale assessment and reporting, all Councils will at a minimum record the following details in regard to vandalism events:
 - a. The area of canopy that has been impacted upon
 - b. Location of the offence
 - c. Vegetation Type (natural bushland or amenity)
 - d. Method of vandalism (cut, cleared or unknown)

- Council will prepare management plans for individual trees and/or stands of vegetation in high risk areas. These plans should include rehabilitation responses in case of loss or damage. These plans should involve residents in their preparation and implementation when possible, and be communicated to residents.
- Council will actively promote community involvement in stewardship and maintenance of high risk bushland areas.
- Council will target community education initiatives toward high risk vandalism areas

3. Regulation, Enforcement and Rehabilitation

- Council will follow the Investigation and Response Protocol included in Attachment 3 when responding to tree and vegetation vandalism events
- To support the effective implementation of the Investigation and Response Protocol, Council will clearly define relevant staff responsibilities within the protocol, and establish clear lines of communication between those that are involved.
- Council will participate in the development and trial of a regionally standardised 'Response Assessment Model' for the purpose of identifying both the level of impact of vandalism events, and the appropriate initiatives that should be implemented by Council in response to these. An example of such an Assessment Model is included in Attachment 4.
- Council endorses the suite of potential response measures to vandalism events included in Attachment 5 of this policy.

RESOURCES

Resources required for an individual Council to implement this policy include

- Educational materials (eg brochures)
- Management plans and rehabilitation strategies
- Correspondence templates (eg for letter drops)
- Signage and/or banners
- Paint stencils
- Investigative / regulatory staff
- Physical materials such as bunting, fencing, sail or shade cloth.
- Database to record and monitor vandalism events
- Access to suitable endemic plants suitable for use in rehabilitation
- Team trained and resourced to carry out rehabilitation

Regional resource opportunities

The effective and consistent application of this policy throughout the region could be enhanced, and the resource implications for individual Councils reduced through the sharing of experience, expertise and resources among Councils. Particular examples of where such resource and information sharing could occur include:

1. Development and use of regional templates for:
 - Educational materials (eg brochures)
 - Management plans and rehabilitation strategies
 - Correspondence (eg for letter drops)
 - Signs
 - Recording vandalism incidents (eg Access database)
2. The sharing of specialist investigative resources and staff that are experienced in environmental investigation techniques. These skills need to be further developed and shared in the region.
3. The promotion and sharing of case studies that critique both successful and unsuccessful responses to vandalism events and the lessons learned from these.
4. Sharing of physical materials required for responding to vandalism events (eg construction fencing, bunting, paint stencils).

There is also the potential for revenue raised through Penalty Infringement Notices and successful court prosecutions to be used as a source of revenue to assist with funding further preventive and regulatory initiatives.

RELATED POLICIES

Port Stephens Council Tree Preservation Order
Port Stephens Council Compliance Policy
Port Stephens Council Tree Management Policy and Procedures
Legal Management Directive

REVIEW DATE

Twelve months from the date of adoption.

IMPLEMENTATION RESPONSIBILITY

Recreation Services Manager
Environmental Services Manager

ATTACHMENTS

1. Background to the Policy
2. Legislative framework
3. Response Protocol
4. Example Response Assessment Model
5. Proposed response measures
6. Template for Letterboxing
7. Signage template

ATTACHMENT 1.

BACKGROUND TO THE POLICY

TREE AND VEGETATION VANDALISM

This policy has been developed in light of increasing tree/vegetation vandalism being experienced by Councils across the region. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has seen an increase in the vandalism of trees and vegetation on public land under the care, control and management of Councils.

This issue is not unique to the Hunter, Central and Lower North Coast region however, with the Minister for the Environment seeking feedback from Councils in November 2005 regarding ways to improve investigation of breaches of the Tree Preservation Order. This was in response to tree poisoning and removal from Council reserves and private property 'appearing to have reached epidemic proportions in some areas' and being particularly common around the harbour and beachside suburbs of Sydney'. In response, the Minister was investigating ways to provide Councils with greater powers to investigate breaches of Tree Preservation Orders.

There are many reasons that motivate vandalism of trees and vegetation. Some acts are random and without purpose, while others occur through ignorance or are motivated by personal self-interest or gain (eg increased property values, better access to the waterfront, or unimpeded views). Where possible, the response to acts of vandalism should be adapted to suit the perceived motivation. For example, community education and Ranger patrols may be the best response to random vandalism, while prosecution and fines may be the most effective deterrent to economically motivated acts.

The physical nature of tree and vegetation vandalism can occur in a variety of forms, including poisoning, pruning, removal and destruction, and mowing of native understorey. This kind of vandalism has a significant and cumulative impact on the environment. Particular impacts include reduced visual and community amenity, loss of environmental services such as wind-breaks and erosion control, and loss of wildlife habitat.

Such vandalism can have substantial financial and human resource costs for Councils. These include the direct loss of the asset value of the trees or vegetation, the cost of the investigation, rehabilitation and repair costs, and the cost of implementing potential punitive / deterrence measures.

The clandestine nature of tree/vegetation vandalism on public land frequently makes the identification of perpetrators difficult. Even where it is possible to identify the most likely offender, it can be difficult to collect sufficient evidence to prove responsibility. This is frequently exacerbated by a general unwillingness among the community to provide testimony, even where an offence may have been witnessed.

Recognition of the common tree/vegetation vandalism issues being experienced by Councils has resulted in the HCCREMS Steering Committee resolving to prepare a regional policy. This approach, supported by increased sharing of resources and expertise between Councils, will provide a greater level of organisational capacity and commitment to address this issue consistently throughout the region.

POLICY RESPONSES**1. Education**

Unless the community has an understanding of the benefits and value of vegetation, and understands the adverse impacts of vandalism, it is difficult to sustain the level of community and political support necessary to deter and respond to such activities. There is no single strategy or argument that will be successful in engendering this support. As such, long-term and varied programs are required.

In this regard, community environmental education program should aim to address the following:

- To explain the various environmental functions of vegetation in natural and urban environments including: habitat, water quality, air quality, shade, erosion control, aesthetics, weed suppression, noise attenuation, climate change mitigation and wind breaks.
- To explain the cumulative impacts of vegetation loss, so that the impact of a single act can be judged in the context of impacts over time
- To give an economic value to the environmental functions of vegetation and, therefore, to the cost of vegetation loss and damage, and/or by using ANZ Standard (Draft) or similar weighted calculation.
- To highlight the legal significance of offences (i.e. they are criminal acts), and the potential fines and punishments
- To calculate and publicise the direct economic cost to residents of acts of vandalism, in terms of investigation, replacement and remediation costs
- To publicise successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions
- To involve the community directly in maintenance and protection of vegetation, and in rehabilitation of damaged areas (eg through Landcare).

2. Monitoring and Prevention

Given the many years of experience by Councils and other land managers in dealing with unapproved clearing and damage to vegetation, it is often possible to predict areas facing high risk of damage, such as new developments fronting waterways with bushland reserves.

The risk of damage to these areas can be reduced by:

- Targeting community education material
- Increasing the presence of enforcement officers
- Monitoring vegetation condition by photographs or aerial photography,
- Involving the community in stewardship and maintenance of bushland areas.
- Developing and implementing management plans for these areas.

Because Councils and other land managers do not have the resources to monitor all areas at risk however, community involvement and reporting of vandalism is integral to any monitoring and prevention program. However, the community must have confidence that, if they do report incidents, they will be followed up promptly and effectively by the Council. Recording and responding to information provided by the community is therefore extremely important, and can be facilitated through the development of a tree / vegetation database. Development and maintenance of a database is integral to any monitoring and prevention program as it is the most effective means of recording and demonstrating the cumulative impacts of tree and vegetation vandalism over time.

3. Regulation, Enforcement & Rehabilitation

In order to promote consistency among Councils when investigating and responding to vandalism events, a guideline protocol has been developed that is included in Attachment 3. Councils' implementation of this protocol will ensure quick and consistent assessment of damage and determination of an appropriate response strategy. To support the effective implementation of this protocol, clear delineation of staff responsibilities within the process, and clear lines of communication between staff involved need to be established. This will ensure implementation of clear and consistent responses by Council, and assist in ensuring that staff and other resources required to initiate and implement a response are available.

Although successful investigations and prosecutions are difficult, their impact is significant in making the community aware of the seriousness of illegally damaging vegetation. Involvement of police and/or private investigators may be warranted in serious cases to take advantage of their investigative skills. Establishing a body of specialist expertise and experience within the region is essential if investigations and prosecutions are going to succeed. This could be supported through the sharing between Councils in the region of staff who possess such expertise.

There are a range of responses that can be and have been used to deal with instances of vandalism to trees and other vegetation. Experience has shown that the most effective responses involve a suite of actions, rather than a single action, and combine enforcement, education, and rehabilitation. Effective responses need to be quick, predictable, consistent, fair and well-resourced. It needs to be recognised, however, that Councils do not have the resources available to implement the full suite of response measures that are available every time a vandalism event is detected.

To promote consistency between Councils in the region, a Response Assessment Model will be developed to assist Councils in assessing the level of impact of vandalism damage, and in determining the appropriate level and type of response that is required. An example of such an Assessment Tool is included in Attachment 4. The model to be developed will consider factors such as the ecological value, cultural significance, natural condition, and public prominence of damaged vegetation, and calculate the level of impact of the damage (ie high medium or low). The suite of potential responses considered appropriate for high, medium and low impact offences is included in Attachment 5.

ATTACHMENT 2

LEGISLATIVE FRAMEWORK

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	MAXIMUM PENALTIES	LIMITATION PERIOD (FROM THE DATE OF THE OFFENCE)	REMEDATION
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Penalty Infringement Notice	Development carried out with out development consent	\$600	1 years	
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Local Court	Development carried out with out development consent	1 - 11 Penalty Units	2 year	
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court	Development carried out with out development consent	1 - 11 Penalty Units	2 years	A Court may, impose remediation
Carry out forbidden development	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court	Development carried out with out development consent	1 - 11 Penalty Units	2 years	
Contravene Tree Preservation Order	s629(1) of the Local Government Act 1993	Local Government	Local Court	Wilful or negligent damage of a plant in a public place	Up to \$2,200	6 months	
Clear native vegetation	S43(1) of the Native Vegetation Act 2003	Department of Natural Resources	Penalty Notice for s12(1) offence		\$3,300 for individual and \$5,500 for corporations.		

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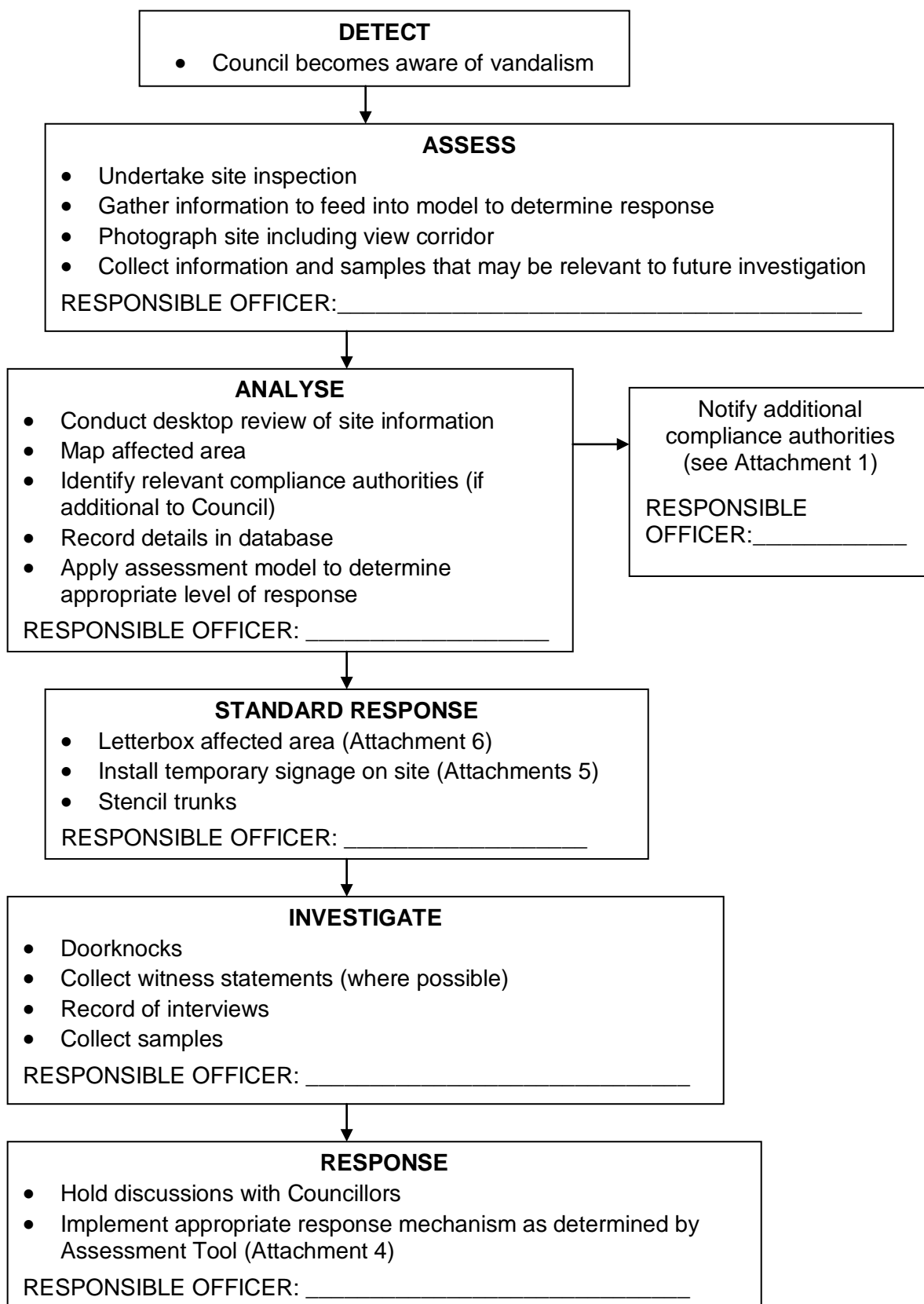
Clear native vegetation	S12(1) and S42(2) of the Native Vegetation Act 2003	Department of Natural Resources	Local Court	Clearing without approval	Up to \$11,000	2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer".	S36 remediation notice may be issued by DNR or a S41 (5) Court may make such order as it thinks fit to remedy or restrain the contravention
Clear native vegetation	S12(1) of the Native Vegetation Act 2003	Department of Natural Resources	Land and Environment Court	Clearing without approval	Up to \$1,100,000	2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer".	S36 remediation notice may be issued by DNR or a Court may make such order as it thinks fit to remedy or restrain the contravention under S41 (5)
Remove material from protected land	s22B(1)b of the Rivers and Foreshores Improvement Act 1948	Department of Natural Resources	Local Court	Carrying out work without a permit	\$66,000 for individual and \$137,500 for corporations.	12 months after the act or omission that form the basis of the alleged offence	
Remove material from protected land	s22B(1)b of the Rivers and Foreshores Improvement Act 1949	Department of Natural Resources	Land and Environment Court	Carrying out work with out a permit	\$66,000 for individual and \$137,500 for corporations.	12 months after the act or omission that form the basis of the alleged offence	

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Wilful or negligent use of a pesticide that injures the property of another person	s.7(1)(b) of the Pesticides Act 1999	Department of Environment and Conservation	Land and Environment Court		Up to \$120,000 / \$250,000 (individual / corporation).	3 years from the date of the offence or the date on which the offence first came to notice of an "authorised officer".	A court may also, where the offence is proven, order the offender to restore land damaged as a result of the offence and / or order the offender to pay the costs of a "public authority" (which includes a Council) where that authority has incurred costs as a result of the offence or in the clean-up, abatement or mitigation of pesticide pollution
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Department of Environment and Conservation	Infringement Notice		\$400 for individual and \$800 for corporation	12 months from the date of the offence or the date on which the offence first came to notice of an 'authorised officer'.	
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Department of Environment and Conservation	Local Court		(2) Up to \$20,000		
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Department of Environment and Conservation	Land and Environment Court.		(3) Up to \$60,000 / \$120,000 (individual / corporation)		
Use registered pesticide in contravention of approved label	s.15(1) of the Pesticides Act 1999	Department of Environment and Conservation	As for offence under s.10(1)(b) of the Pesticides Act		As for offence under s.10(1)(b) of the Pesticides Act.	As for offence under s.10(1)(b) of the Pesticides Act.	

ATTACHMENT 3

INVESTIGATION AND RESPONSE PROTOCOL



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Location: _____

Officer: _____

Date: _____

0.125 Weighting for each Main Criteria

Criteria	T#1	T#2	T#3	T#4	T#5	T#6	T#7	T#8	T#9
Significance of the tree									
Type 2 for yes 1 for no for each item									
Historical value									
Commemorative tree									
Significant tree (on register)									
Exceptionally old or fine specimen									
Curious growth habit or physical appearance									
Horticultural/scientific value									
Unusually large size									
Rare to the area									
Outstanding aesthetic quality									
Valuable habitat or corridor									
Key stone species									
Contributes to landscape									
TOTAL	0	0	0	0	0	0	0	0	0
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Life Cycle Stage									
Type 3 for young, 10 for semi-mature, 42 for mature									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Site									
1 for low profile, 2 for average profile and 3 for high profile									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
SULE									
Type 1 for short, 2 for medium or 3 for long									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Environmental effects									
Type 2 for yes and 1 for no									
Will method cause problems eg poison contamination									
Will method cause problems eg erosion									
Will method cause problems eg branches left on site									
Habitat - Loss of nesting sites									
Is the area able to be restored									
Does poisoned tree impact threatened species									
TOTAL	0	0	0	0	0	0			
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Target									

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1 for occasional, 2 intermittent, 3 frequent, 4 for constant									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Damage									
Type 2 for major or 1 minor									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Cost of remediation and Tree Valuation									
Type in actual amount divided by 1000									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
TOTAL SCORE	0	0	0	0	0	0	0	0	0

SIGNIFICANCE	ACTION
Low Significance 2.63 - 6.253	A) Letterbox residents
	B) Leave trees in place and tattoo trunks
	C) Install temporary signage
	D) PIN or Local Court where evidence exists.
Medium Significance 6.253 - 9.876	A) Letterbox residents
	B) Leave trees in place and tattoo trunks
	C) Install temporary / permanent signage
	D) Replant and rehabilitate
	E) Pursue action in the Local Court or Land & Environment Court where evidence exists.
High Significance 9.876 - 13.5	A) Letterbox residents
	B) Leave trees in place as safety allows
	C) Install permanent signage
	D) Replant and rehabilitate (involve community where possible)
	E) Increase the density of vegetation in rehabilitation works
	F) Offer rewards for information
	G) Block views obtained by the vandalism (eg bunting, shade cloth, shipping containers)
	H) Consider action in the Local Court or Land & Environment Court where evidence exists as per Tree Preservation Order prosecution guidelines.

ATTACHMENT 5

PROPOSED RESPONSE MEASURES FOR LOW, MEDIUM AND HIGH IMPACT VANDALISM EVENTS

The suite of response measures considered appropriate to implement in response to high, medium and low impact tree and vegetation vandalism events on public land are outlined below. They include:

Low impact events

- Letterbox surrounding residents
- Install temporary signage
- Leave tree skeletons in place as far as safety allows and stencil trunks
- Where sufficient evidence exists, issue Penalty Infringement Notice or pursue prosecution in the Local Court.
- Rehabilitate or re-plant

Medium impact events

- Letterbox surrounding residents
- Erect temporary (consider permanent) signage
- Leave tree skeletons in place as far as safety allows and stencil trunks
- Treat poisoned plants or soil to attempt to rescue affected vegetation
- Re-plant and rehabilitate damaged areas.
- Where sufficient evidence is available, pursue legal proceedings in either the Local Court or Land & Environment Court (NB. While the penalties are more substantial in the Land & Environment Court, so too are the costs of proceedings and the burden of evidence that is required. The decision regarding which court to commence proceedings in will depend largely on an assessment of these factors).

High impact events

- Letterbox residents in the vicinity highlighting the damage and seeking information on perpetrators
- Leave tree skeletons in place as far as safety allows
- Erect permanent signs on the site highlighting damage and its consequences
- Publicise damage and responses in the media
- Protect site and rehabilitation works with fencing (eg construction fencing)
- Involve residents and community groups (eg Landcare and schools) directly in planning and implementing rehabilitation strategies
- Treat poisoned plants or soil to attempt to rescue affected vegetation
- Increase the density or extent of vegetation in rehabilitation works(eg “two-for-one” or “three-for-one”)
- Persist with rehabilitation works and maintenance of rehabilitated areas to ensure no loss of vegetation over time
- Offer rewards for information
- Consider proceedings in the Land & Environment Court where sufficient evidence exists as per Tree Preservation Order prosecution guidelines.
- Draw attention to the damage through public art or painting the dead stumps
- Block views using barriers such as bunting, shade cloth, fences or shipping containers

For example, an integrated response to a major incident, combining a suite of actions, may include:

1. Immediately assess the site and gather information
2. Erect permanent signs pointing out the damage and seeking information on the perpetrators.
3. Letterbox residents in the vicinity to publicise the damage and seek information for the investigation.
4. Conduct a thorough investigation including doorknocking local residents with a view to identifying potential witnesses.
5. Assess the best response to stabilise the area and ensure the vandalism isn't rewarded (eg by cutting down or clearing the dead vegetation). Implement measures to block views that may have been obtained (eg shipping containers or screening with shade cloth) or to highlight the damage that has occurred (eg decorating tree skeletons or installing bunting). Such actions can go some way in defeating the vandal's purpose.
6. Prepare and implement a rehabilitation plan, preferably involving local residents (although this may not always be possible or desirable). Successful rehabilitation can be linked with the removal of "punishments". For example, bunting or signs may be removed after 12 months if re-planted vegetation is established and maintained. This will encourage residents to protect rehabilitation works.
7. Where sufficient evidence may be available, consider prosecution in the NSW Land and Environment Court as per Tree Preservation Order prosecution guidelines. If successful, publicise the outcomes.

ATTACHMENT 6

TEMPLATE LETTER FOR LETTER BOXING

Occupier
Address 1
Address 2

Dear Occupier

RE: DAMAGE TO VEGETATION ON COMMUNITY RESERVE

In the last few months valuable trees / bushland in the community reserve at **LOCATION** has been vandalised.

This vandalism has included **[INSERT OFFENCE – EG POISONING OF 5 LARGE TREES]**. The impacts from this deliberate vandalism of community property include **[INSERT IMPACTS EG LOSS OF HABITAT, SHADE AND AMENITY]** The cost to Council of rehabilitating the damage caused is likely to exceed **[INSERT VALUE]**, taking money away from other community services.

All native vegetation on Council reserves is protected. Deliberately killing or pruning trees and other vegetation on Council reserves without approval is illegal, and can attract substantial penalties. Council is now investigating this particular incident with a view to identifying those responsible.

Council is planning to **INSERT PROPOSED SUITE OF ACTIONS e.g. REPLACE THE POISONED TREES WITH THREE NEW TREES OF THE SAME SPECIES; REHABILITATE THE SITE AND FENCE IT TO PREVENT FURTHER DAMAGE; INVITE THE LOCAL PRIMARY SCHOOL TO ASSIST IN REPLANTING THE DAMAGED AREA.**

If you have any information that may help Council in its investigation, or if you would like to be involved in rehabilitating and protecting the site in future, please contact **[NAME – POSITION]** on **[PHONE NUMBER]**.

Your assistance in this matter would be greatly appreciated.

Yours faithfully

MANAGER / MAYOR

ATTACHMENT 7

SIGN TEMPLATE

ENVIRONMENTAL VANDALISM!

These trees / vegetation have BEEN DESTROYED / KILLED / ARE SICK as a result of deliberate POISONING / MOWING / OTHER ACTIVITY.

This vandalism is a criminal act. Council is investigating to identify those responsible for this selfish damage to community property and would be grateful for any information from the community that may assist.

Should you have any information that can assist in these inquiries, or if you would like to participate in helping to rehabilitate and protect the site in future, please phone Council on PHONE NUMBER

ITEM NO. 4**FILE NO: PSC2005-5185****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: JUNE SHINE – EXECUTIVE MANAGER, CORPORATE MANAGEMENT**

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
 - a) Port Stephens Veteran Golfers Association – \$1000 – Donation towards the running costs for the annual Week of Golf Tournament. Mayoral Funds
 - b) Raymond Terrace Youth Centre - \$2630 – Donation towards running costs of a skating competition. West Ward.
 - c) West Ward Cemeteries Committee – \$1100 – Donation towards costs for a new garden seat. West Ward.
 - d) Tomaree Neighbourhood Centre - \$500 – Donation towards cost for additional room rental. East Ward.
 - e) Port Stephens Community Care Inc – \$1000 – Donation towards the running costs of the Seniors Week Expo 2008. East Ward.
 - f) Port Stephens Community Arts Centre – \$1000 – Donation towards the Art Prize. East Ward.
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ORDINARY MEETING OF COUNCIL – 22 APRIL 2008**RESOLUTION:**

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

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The Council's policy gives Councillors a wide discretion to either grant or to refuse any requests.

The Council regularly receives requests for financial assistance from community groups and individuals. However, Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act. This would mean that the financial assistance would need to be included in the Management Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

Council's policy for financial assistance has been developed on the basis it is "seed" funding and that there is benefit to the broader community. Funding under Council's policy is not intended for ongoing activities.

MINUTES FOR ORDINARY MEETING – 22 APRIL 2008

The requests for financial assistance are shown below:-

MAYORAL DONATIONS

Port Stephens Veteran Golfers Association	Donation towards the running costs for the annual Week of Golf Tournament	\$1000
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WEST WARD – Crs Brown, Francis, Hodges & Jordan

West Ward Cemeteries Committee	Donation towards costs for a new garden seat	\$1100
Raymond Terrace Youth Centre	Donation towards running costs of a skating competition	\$2630

EAST WARD – Crs Nell, Dover, Westbury & Robinson

Tomaree Neighbourhood Centre	Donation towards cost for additional room rental	\$500
Port Stephens Community Care Inc	Donation towards the running costs of the Seniors Week Expo 2008	\$1000
Port Stephens Community Arts Centre	Donation towards the Art Prize	\$1000

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.

- 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. 5**FILE NO: PSC2008-2201****SUBMISSION TO THE PARLIAMENT OF AUSTRALIA SENATE
INQUIRY INTO THE MANAGEMENT OF AUSTRALIA'S WASTE
STREAMS****REPORT OF: STEVE BERNASCONI – ACTING MANAGER ENGINEERING SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve the submission to the Parliament of Australia, Senate Environment, Communications and Arts Committee – Inquiry into the Management of Australia's Waste Streams.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008**RESOLUTION:**

097	Councillor Nell Councillor Westbury	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is seek approval from Council to make a submission to the Australian Senate, Environment, Communications and Arts Committee - Inquiry into the Management of Australia's Waste Streams.

The Australian Senate is holding an inquiry into the management of Australia's waste streams. The terms of reference of the inquiry are:

- trends in waste production in Australia across household, consumer, commercial, and industrial waste streams;
- effectiveness of existing strategies to reduce, recover or reuse waste from different waste streams;
- potential new strategies to reduce, recover or reuse waste from different waste streams;
- the economic, environmental and social benefits and costs of such strategies;
- policy priorities to maximise the efficiency and efficacy of efforts to reduce, recover or reuse waste from different waste streams; and
- consideration of the Drink Container Recycling Bill 2008.

Submissions are being sought until 23rd May 2008. Please find attached a copy of the draft submission for your approval.

LINKS TO CORPORATE PLANS

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

**ENVIRONMENTAL
SUSTAINABILITY –**

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

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

There are no legal impediments to making this submission.

The submission supports Council's Waste Management Policy, and in particular its support of the Container Deposit Legislation.

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.*
- 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

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Nil

OPTIONS

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

ATTACHMENTS

- 1) Australian Senate – Inquiry into the Management of Australia's Waste Streams

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1

Australian Senate – Inquiry into the Management of Australia's Waste Streams

This submission is made by Port Stephens Council to the Australian Senate, Environment, Communications and the Arts Committee, in relation to the Inquiry into the Management of Australia's Waste Streams.

Approved by Councillors on XX/XX/08

David Broyd
A/General Manager, PSC

Introduction

Port Stephens Council (NSW) manages the domestic waste for the residents of Port Stephens. The residents of Port Stephens currently have one 240 litre garbage bin and one 240 litre co-mingled recycling bin per household. Residents are able to pay for additional bin services.

The recyclables are currently processed at a privately owned Materials Recycling Facility, while the residual household waste is processed at the Bedminster Composting Plant in Raymond Terrace (NSW).

As Council is primarily concerned about the management of domestic waste, the following comments are mostly in relation to this waste stream.

a. Trends in Waste Production in Australia

Over the last three years waste generation within the Port Stephens Council area has remained steady at approximately 27,000 tonnes per year. This equates to approximately 427kg of waste generated per person, per year.

Of this waste, approximately 19% are co-mingled recyclables processed at a Materials Recycling Facility. The remaining 81% is processed into compost at the Bedminster Composting plant (alternative waste technology plant). Overall we divert approximately 60% of domestic waste from landfill.

b. Effectiveness of existing strategies to reduce, recover and reuse waste from different waste streams

Port Stephens Council measures the effectiveness of its strategies through waste data collected at weighbridges and through feedback from the community via its community satisfaction surveys.

The waste data demonstrates that Port Stephens Council's waste minimisation strategies have been very effective in reducing waste to landfill. From previously land filling 100% of its waste, waste to landfill was reduced to 37% over the two year period between 05/06 and 06/07.

In Port Stephens Council's customer satisfaction survey December 2007, its waste services were rated as 'a strength of the Council, with community members identifying it as both important and performing better than the (other services)'.

c. Potential new strategies to reduce, recover and reuse waste from different waste streams

Port Stephens Council's waste minimisation strategies have historically been in the form of providing infrastructure and/or services for residents and following up with education to promote the service eg household recycling bins. Education is effective for that section of the community that is interested in the environment and that have the will to change their behaviours. A mix of approaches, is needed to engage the remainder of the community and therefore further reduce the quantity of waste going to landfill for example regulation and economic incentives.

Regulation and/or economic incentives have the potential to maximise the effectiveness of existing infrastructure and services provided, and also increase the community's rate of waste avoidance, one example of this is the regulation of the use of single use plastic bags. Some other examples of where this can be applied follow:

- The recent trend in NSW is to use an alternative waste technology plant to process residual waste into compost. It would therefore be in the interest of a lot of Council's to maximise the percentage of waste that is biodegradable. Regulations and/or economic incentives (eg business tax benefits) could be used to phase-out non-biodegradable and non-recyclable waste items eg plastic packaging and replace these with an organic / fibre based product.
- A differential waste levy could be applied in the Sydney Regulated Area and the Extended Regulated Area (Hunter, Illawarra and Blue Mountains areas), based upon the environmental risk profile of the waste type.
- A differential waste levy could also be applied to loads received at waste transfer stations that have the waste types pre-sorted to facilitate recovery.

d. The economic, environmental and social benefits and costs of such strategies

No comment

e. Policy priorities to maximise the efficiency and efficacy of efforts to reduce, recover and reuse waste from different waste streams

The waste industry currently operates at the end of the manufacturing and production industries. Future priorities should focus on moving the influence of the industry from simply the collection and processing of waste, to the redesign of products to make them less toxic, more bio-degradable and more recyclable. This will move the industry so that it is operating in the higher order of the waste hierarchy, in that area of waste avoidance.

f. Consideration of the Drink Container Recycling Bill 2008.

Port Stephens Council supports the introduction of the Beverage / Drink Container Recycling Bill 2008. It also supports the use of the waste hierarchy within the Bill to require producers of drink containers to minimise the environmental impacts of producing beverage containers and redesign them to improve their reusability or recyclability.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1**FILE NO: 3150-029 PSC2008-2027**

VALUATION INCREASE

COUNCILLOR: GLENYS FRANCIS**-----
THAT COUNCIL:**

Writes to the Valuer Generals Department seeking an explanation as to why the average valuation has increased by 37% and yet the large Commercial sites located in the middle of Raymond Terrace have only increased by 10%. This has created a deal of uncertainty and confusion in this community and it is our belief that an explanation as to how valuations are achieved should be given by that department.

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BACKGROUND REPORT OF: CRAIG BARRASS – ACTING FINANCIAL SERVICES MANAGER****ORDINARY MEETING OF COUNCIL – 22 APRIL 2008****RESOLUTION:**

098	Councillor Francis Councillor Brown	It was resolved that the recommendation be adopted.
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BACKGROUND

The Valuer General is required to value land for rating purposes and provide those values to Council at least every 4 years. Land is valued in Port Stephens annually for the Office of State Revenue for land tax purposes and every three years for Council for rating purposes.

A rating authority can lodge an objection to a valuation under section 31 of the Valuation of Land Act. If Council lodges an objection it must do so on the grounds for objection under section 34 of the Valuation of Land Act, which includes 'that the values assigned are too high or too low'. Objections to valuations need to be lodged within the 60 day timeframe prescribed in the Valuation of Land Act. The last date to object to valuations from the recent general revaluation has now passed.

This Council has not in the past lodged objections to valuations. In order to lodge an objection to a valuation Council would need to form the opinion that a land value is incorrect. Council has no statutory valuation function in relation to land that it does not own and so does not have the infrastructure or resources to review the 27,422 values it receives from the Valuer General for all rateable land within Port Stephens.

Council plays no role in assisting individual ratepayers to lodge an objection to their own valuation if the ratepayer thinks their land value is too high. Responsibility rests with the individual ratepayer to take the matter up with the Valuer General. It would not be appropriate for Council to assist individual ratepayers to object to land values for land that they do not own on the basis they have formed the opinion that the land value is too low. The appropriate authority to receive such objections is the Valuer General. It is appropriate to have a clear separation of the valuation role of the Valuer General and rating role of Council.

The Regional Valuer has been contacted in relation to valuation objections and he has advised his office would look into any allegations of errors contained in the valuation roll if Council brought them to his attention. Such a review would not require Council to lodge a formal valuation objection.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: 3150-029 A2004-0217/107

FAMILY MATTERS

COUNCILLOR: GLENYS FRANCIS AND SALLY DOVER

THAT COUNCIL:

- 1) Investigate the sponsorship and membership of Australian Family Matters - a not for profit organisation which offers an interactive website, resources and forums for those in the parenting role. This organisation presented at The ALGWA conference in Rockdale recently and has a few Councils as members.
-

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:		
099	Councillor Francis Councillor Brown	It was resolved that the recommendation be adopted.

BACKGROUND REPORT OF: PHILIP CROWE, COMMUNITY & LIBRARY SERVICES MANAGER

BACKGROUND

Australian Family Matters is a regionally based non-profit community organisation based in Orange and operating mainly in the Orange, Parks and Forbes areas. They are seeking to expand their area of coverage through the provision of web based resources for supporting families.

They are providing opportunities for membership at \$33 per person or a range of Sponsorship Options from between \$100 to \$10,000. This is intended to help this organisation develop its objectives.

According to the website of Australian Family Matters all the directors are based in the Orange area. There is a range of general material on the website and references to specific programs or services appear to be limited to the Orange district at this stage.

Council already has corporate membership or is on the mailing list for a range of peak non-profit community organisations locally, regionally and nationally.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: 3150-029 A2004-0217/106

INFORMATION BAYS

COUNCILLOR: GLENYS FRANCIS

THAT COUNCIL:

Investigate the introduction of Roadside Information Bays at strategic locations throughout Port Stephens- particularly at entry points and lay bys where caravans etc. pull in for a rest stop.

Ideally these bays would have a map of the LGA, opportunity to update them regularly and attract sponsorship. They should be able to include information on local community groups in the immediate vicinity. These bays should include directional signage and information on Visitors centres i.e. Nelson Bay, Raymond Terrace and transport routes.

A list of sites is to be developed and method of facilitating their introduction to be outlined to Council for costing with sponsorship opportunities outlined.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:		
100	Councillor Francis Councillor Brown	It was resolved that the recommendation be adopted.

BACKGROUND REPORT OF: TREVOR ALLEN AND SCOTT PAGE – INTEGRATED PLANNING MANAGER AND INFRASTRUCTURE PLANNING COORDINATOR
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BACKGROUND

Strategic routes for Roadside Information Bays could include Nelson Bay Road including airport, entry to the Port Stephens LGA at Fern Bay, Salt Ash and at an appropriate location in Nelson Bay, Pacific Highway at Tomago and Karuah, Raymond Terrace and at Hinton.

The bays could be indented like bus bays or offline like rest areas. Set within a shelter and a setting that allows other activities e.g park, play equipment, BBQ etc gives an incentive for visitors to stop at the information bay.

The location of bays would need to address availability of land in or outside of the road reserve, address traffic and pedestrian safety, parking and include negotiations with the Roads and Traffic Authority.

An information bay could have a range of display media from a simple notice board with map to a 3 dimensional relief map to an electronic touch screen to allow user interface that creates a portal for visitors to download any relevant visitor information that Council would consider appropriate. The benefits of the latter is that it can be update remotely and continuously. Obviously issues of cost, vandalism and security and maintenance would be considered in selecting the appropriate medium.

Costs for construction and fit out of information bays is dependent upon land availability – higher if it is privately owned, traffic management issues including deceleration and acceleration lanes on higher speed transport corridors, parking requirements, construction of ancillary activities (if desirable) and the type of media used to convey visitor information.

Obviously there are opportunities for sponsorship but this should not be done at the expense of the visual amenity of the locality or the transport corridor. There may be opportunities to link road side information bays with town centre information kiosks that are co-located with other businesses or activities. Sponsorship could be sourced from tourist businesses.

NOTICE OF MOTION

ITEM NO. 4

FILE NO: 3150-029 A2004-0217/104

PREPERATION OF A DRAFT LOCAL ENVIRONMENTAL PLAN FOR TAYLORS BEACH

COUNCILLOR: JOHN NELL

THAT COUNCIL:

Implement the recommendation of the Draft Foreshore Management Plan, to prepare a draft Local Environmental Plan to rezone the land at Taylors Beach; Lot 2: DP 1115507, 41 Taylors Beach Rd, Taylors Beach from Rural 1(a) to Environmental Protection (7a) given the ecological significance of the land.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:

101	Councillor Nell Councillor Westbury	It was resolved that this item be deferred and a site inspection be scheduled.
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BACKGROUND REPORT OF: SALLY WHITELOW – NATURAL RESOURCES COORDINATOR

BACKGROUND

This land has great ecological significance as an intertidal wetland composed of mangroves and marsh land. It is also a significant bird sanctuary and an important buffer zone for the oyster industry at Cromarty Bay.

The site contains two Endangered Ecological Communities (EECs), Swamp Sclerophyll Forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions and Coastal Saltmarsh in the NSW North Coast, Sydney Basin and South East Corner Bioregions.

In addition the site also contains areas of Preferred Koala Habitat and almost the entire site is classified as a SEPP 14 wetland.

The site surrounds Cromarty Bay which is a Marine Park Sanctuary Zone and has large areas of intertidal zones which are integral to the life cycle of many marine flora and fauna, and the aquaculture industries of the area.

The site is also visited by a number of migratory birds many which are listed under the Federal Environmental Protection Biodiversity Conservation Act 1999 (EPBC Act). The EPBC Act also protects birds listed under bilateral agreements with Japan, China and the Republic of Korea.

The land also acts as an important wildlife corridor around the waters of Cromarty Bay.

These environmental attributes when combined highlight the significance of the site and is the reason why the Draft Foreshore Management Plan recommends its rezoning to Environmental Protection.

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.

ORDINARY MEETING OF COUNCIL – 22 APRIL 2008

RESOLUTION:

102	Councillor Jordan Councillor Tucker	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 22 April 2008 were confirmed by Council at its meeting held on 27 May 2008.

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Cr Ron Swan
MAYOR