

## Minutes 28 April 2009



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 24 April 2009, commencing at 6.00pm

PRESENT:

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

096	<b>Councillor Glenys Francis</b> <b>Councillor Geoff Dingle</b>	It was resolved that the Minutes of the Ordinary Meetings of Port Stephens Council held on 24 March 2009 and 14 April 2009 be confirmed.
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# INDEX

SUBJECT

PAGE NO

## **MAYORAL MINUTES ..... 5**

1. MOTION TO CLOSE MEETING TO THE PUBLIC ..... 6
2. DEVELOPMENT APPLICATION FOR HOME EMPLOYMENT (HAIR DRESSING SALON) AT NO 12/5 MOSMAN PLACE, RAYMOND TERRACE (LOT 12, SP 44117) ..... 7

## **MOTION TO CLOSE ..... 21**

1. MOTION TO CLOSE MEETING TO THE PUBLIC ..... 22
2. MOTION TO CLOSE MEETING TO THE PUBLIC ..... 23

## **OPERATIONS COMMITTEE RECOMMENDATIONS ..... 24**

1. ABORIGINAL PROJECT FUND – NAIDOC WEEK 2009 ..... 25
2. SECTION 96 APPLICATION – PROPOSED DUAL OCCUPANCY AT 2 TUNA CRESCENT, FINGAL BAY ..... 29
3. DEVELOPMENT APPLICATION FOR COMMERCIAL PREMISES & DEMOLITION OF EXISTING BUILDINGS AT NO. 10 & 12 KANGAROO STREET, RAYMOND TERRACE (LOTS 4 & 5 DP37947) ..... 35
4. COUNCILLOR APPOINTMENT - KARUAH WORKING TOGETHER INC ..... 77
5. ACQUISITION OF DRAINAGE EASEMENT - CORLETTE ..... 81
6. ADJUSTMENT TO LOCALITY BOUNDARIES OF NELSON BAY AND CORLETTE ..... 85
7. ACQUISITION OF DRAINAGE EASEMENT – BOAT HARBOUR ..... 89
8. CREATION AND CANCELLING OF DRAINAGE EASEMENTS OVER LOT 4 DP1054980 AT BOAT HARBOUR ..... 93
9. MINOR ADJUSTMENTS TO LOCALITY BOUNDARIES ..... 97
10. DRAINAGE IMPROVEMENTS BETWEEN OLD PUNT ROAD AND TOMAGO ROAD AT TOMAGO ..... 108
11. RELEASING OF RIGHT OF CARRIAGEWAY OVER LOT 279 DP740009 AT RAYMOND TERRACE ..... 112
12. ROAD CLOSURES – MEMORANDUM OF UNDERSTANDING FOR PROTOCOLS WITH THE DEPARTMENT OF LANDS ..... 116
13. ROAD WIDENING CLARENCE TOWN ROAD GLEN OAK NEAR BOUNDARY WITH DUNGOG COUNCIL ..... 123
14. INFORMATION PAPERS ..... 128

## **OPERATIONS COMMITTEE INFORMATION PAPERS ..... 129**

1. CHILD FRIENDLY COMMUNITIES PROGRAM OUTCOMES ..... 130
2. ABORIGINAL STRATEGIC COMMITTEE ..... 135
3. DETERMINED AND UNDETERMINED DEVELOPMENT APPLICATIONS ..... 144

## **MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

4. ACCESS COMMITTEE MINUTES .....	145
5. PORT STEPHENS LIBRARY SERVICE.....	155
6. OPERATIONS REPORT FROM JULY TO DECEMBER 2008 .....	155
7. ACCESS TO INFORMATION – SECTION 12 LOCAL GOVERNMENT ACT 1993 .....	157
8. PORT STEPHENS ECONOMIC DEVELOPMENT ADVISORY PANEL.....	159

## **STRATEGIC COMMITTEE RECOMMENDATIONS ..... 162**

1. ALTERNATIVE DISPUTE RESOLUTION POLICY .....	163
2. DRAFT SEA LEVEL RISE POLICY STATEMENT BY DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE.....	181
3. FORESHORE MANAGEMENT PLAN.....	195
4. DRAFT COUNCIL PLAN 2009-2013 AND FEES & CHARGES 2009-2010.....	216

## **GENERAL MANAGER'S REPORT..... 220**

1. REQUEST FOR FINANCIAL ASSISTANCE .....	221
2. DRAFT AMENDMENT TO THE PORT STEPHENS DEVELOPMENT CONTROL PLAN 2007 - CHAPTER C10 VANTAGE NEIGHBOURHOOD – CORLETTE.....	225
3. DEVELOPMENT CONTROL PLAN, DRAFT LOCAL ENVIRONMENTAL PLAN AND MEDOWIE STRATEGY ISSUES FOR MEDOWIE TOWN CENTRE. ....	230
4. PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000 TO REZONE LAND TO FACILITATE ADDITIONAL COMMERCIAL LAND IN THE MEDOWIE TOWN CENTRE	241
5. PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000 TO REZONE LAND TO FACILITATE ADDITIONAL COMMERCIAL LAND IN THE MEDOWIE TOWN CENTRE	246
6. INFORMATION PAPERS.....	256

## **GENERAL MANAGERS INFORMATION PAPERS..... 256**

1. COUNCIL RESOLUTIONS FROM PREVIOUS COUNCIL.....	257
2. COUNCIL REPORTS.....	2722
3. GENERAL MANAGER'S PERFORMANCE REVIEW .....	2733

## **NOTICES OF MOTION ..... 278**

1. TOWN PLAN REQUIRED FOR RAYMOND TERRACE INCORPORATING HISTORICAL, PHYSICAL CONSTRAINTS, SOCIAL, BUSINESS DEVELOPMENT AND FUTURE PLANNING NEEDS.....	279
2. DEPARTMENT OF ENVIRONMENT & CLIMATE CHANGE SUPPORT THE WILDLIFE IN NEED GROUP .....	2822
3. MAINTENANCE OF TOILET BLOCK & INSTALLATION OF SECURITY GATES AT BAGNALL BEACH.....	2844
4. FORM A NEW 355B COMMITTEE TO BE KNOWN AS PORT STEPHENS GRAFFITI ACTION GROUP .....	2866

**CONFIDENTIAL ITEMS.....289**

1. SHED OCCUPIED FOR RESIDENTIAL PURPOSES AT BOBS FARM..... 290
2. TENDER – T03 2009, FINGAL BAY SURF CLUB CONSTRUCTION ..... 291
3. UNAUTHORISED DEPOT: CABBAGE TREE ROAD, WILLIAMTOWN ..... 292

# MAYORAL MINUTES

# MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2007-3360

## MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

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### RECOMMENDATION:

- 1) That pursuant to section 10A(2)(b) and 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 Meeting agenda namely ***Shed Occupied for Residential Purposes at Bobs Farm.***
- 2) That the reasons for closing the meeting to the public to consider this item is that the report and discussion will include matters and information of a personal nature of particular individuals.
- 3) That the discussion will include information concerning legal advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
- 4) 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.
- 5) That the report of the closed part of the meeting remain confidential.

### ORDINARY COUNCIL – 24 APRIL 2009

097	<b>Councillor Steve Tucker</b> <b>Councillor John Nell</b>	It was resolved that the recommendation be adopted.
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# MAYORAL MINUTE

ITEM NO. 2

FILE NO:PSC-2008-732-1

## DEVELOPMENT APPLICATION FOR HOME EMPLOYMENT (HAIR DRESSING SALON) AT NO 12/5 MOSMAN PLACE, RAYMOND TERRACE (LOT 12, SP 44117)

### THAT COUNCIL:

1. Resolve its support for DA 16-2008-730-1, including acceptance of variation for car parking from Port Stephens DCP 2007 and for any consent issued not to be for a limited time period;
2. Indicate its support for increased discretion being applied under delegation in relation to variations of car parking proposed from Port Stephens DCP 2007 by applicants for home employment and developments by Charity organisations or Churches when:
  - an exception or variation is well justified by documentation from the applicant; and
  - any decision to accept variation follows consultation between the Mayor, the Ward Councillors, the General Manager and/or the Group Manager Sustainable Planning and/or the Manager, Development & Building.

The report that we prepared for the Operations Committee in May now follows without our recommendation and with the following introduction.

### ORDINARY COUNCIL – 28 APRIL 2009

098	<b>Councillor Bruce MacKenzie</b> <b>Councillor Shirley O'Brien</b>	It was resolved that the Mayoral Minute be adopted.
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In accordance with the Local Government Act 1993, a division is required.

Those for the motion: Councillors Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien, Sally Dover, Bob Westbury and Bruce MacKenzie.

Those against the motion: Councillors Peter Kafer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

**AMENDMENT**

	<b>Councillor Nell Councillor Dingle</b>	That Council adopted Item 1 and that Item 2 be deferred to the May Operations Committee Meeting.
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The amendment on being was lost.

Below is a report on this matter that has been drafted by the Manager, Development & Building for the Operations Committee in May.

**BACKGROUND**

**The purpose of this report is to present a development application to Council for determination at the request of Mayor McKenzie.**

Consent is sought for a Home Employment – Hair Dressing Salon at 12/5 Mosman Pl, Raymond Terrace. It will be run by a resident of the dwelling and operate by appointment, so only one (1) customer will be present at any time. The proposed hours are from 9am to 7pm, Monday to Friday, and 8am to 12pm on Saturday. The dwelling is part of a 12 unit urban housing development located at the end of the cul-de-sac. The home employment will occupy 22.5m<sup>2</sup> on the ground floor.

**Key Issues**

- One (1) space is required for customer parking. The applicant cannot provide an additional parking space. The dwelling only has a single garage, which is required for residents.
- The applicant argues that customers can park along Mosman Place, or in the visitor parking and manoeuvring areas within the urban housing development.
- It could be considered unacceptable for a home employment to rely on on-street parking.
- It is considered inappropriate for the home employment to rely on shared visitor parking. It is inequitable to other residents, who share maintenance and repair costs. Furthermore, the applicant has no control over the availability of visitor spaces.  
Note: It was observed during site inspections that residents already park their cars in the manoeuvring areas, reducing access to three (3) visitor spaces.

The application is recommended for refusal due to no suitable off-street parking being available.



During the planning assessment, Council staff considered whether the parking issue could be resolved through operational limits. A summary of the relevant assessment comments are included below.

- Each dwelling in the urban housing development is entitled to some of the seven (7) visitor parking spaces provided.
- The applicant argued that parking demand in the development is reduced during standard business hours.
- The proposed hours for the home employment exceed standard business hours and are likely to conflict with other residents.
- Based on standard business and school hours, a reasonable time limit for the home employment is considered to be 9am to 4pm, Monday to Friday.
- The parking entitlement for one dwelling is calculated to one (1) space for a maximum of four (4) hours per day, between 9am and 4pm.
- A condition could be imposed limiting operation of the home employment to a maximum of four (4) hours in one day, between 9am and 4pm Monday to Friday.
- A twelve (12) month consent could be issued to allow the applicant to demonstrate that the home employment can be run without impacting other residences or generating additional on-street parking.

These operational limits were not considered acceptable. The home employment still relies on shared visitor parking spaces, over which the applicant has no control. Furthermore, customers are likely to park on-street due to lack of manoeuvring area, regardless of any entitlement to visitor parking.

## **LINKS TO CORPORATE PLANS**

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

<b>SOCIAL SUSTAINABILITY –</b>	<i>Council will preserve and strengthen the fabric of the community, building on community strengths.</i>
<b>ECONOMIC SUSTAINABILITY –</b>	<i>Council will support the economic sustainability of its communities while not compromising its environmental and social well being.</i>
<b>ENVIRONMENTAL SUSTAINABILITY –</b>	<i>Council will protect and enhance the environment while considering the social and economic ramifications of decisions.</i>

## **FINANCIAL/RESOURCE IMPLICATIONS**

Nil

## **LEGAL AND POLICY IMPLICATIONS**

The development application is inconsistent with Council Policy. An undesirable precedent may be set for Home Employments with no practical off-street parking.

## **BUSINESS EXCELLENCE FRAMEWORK**

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

These outcomes align with the following Business Excellence principles:-

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

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

The home employment is likely to result in additional on-street parking. Any use of the shared visitor parking spaces or manoeuvring areas by customers of the home employment will conflict with resident parking in the urban housing development.

### **ECONOMIC IMPLICATIONS**

There are no likely economic implications.

### **ENVIRONMENTAL IMPLICATIONS**

There are no likely environmental implications.

## **CONSULTATION**

The application was exhibited in accordance with Council policy. One (1) submission was received objecting to the proposal. The issues raised are discussed in Attachment 3.

## **OPTIONS**

Council can:

- 1) Adopt the recommendation and refuse DA 16-2008-732-1.
- 2) Resolve its support for DA 16-2008-732-1 and delegate determination to the General Manager on the basis of a time limited Consent.
- 3) Reject the recommendation and approve DA 16-2008-732-1 subject to amended conditions.

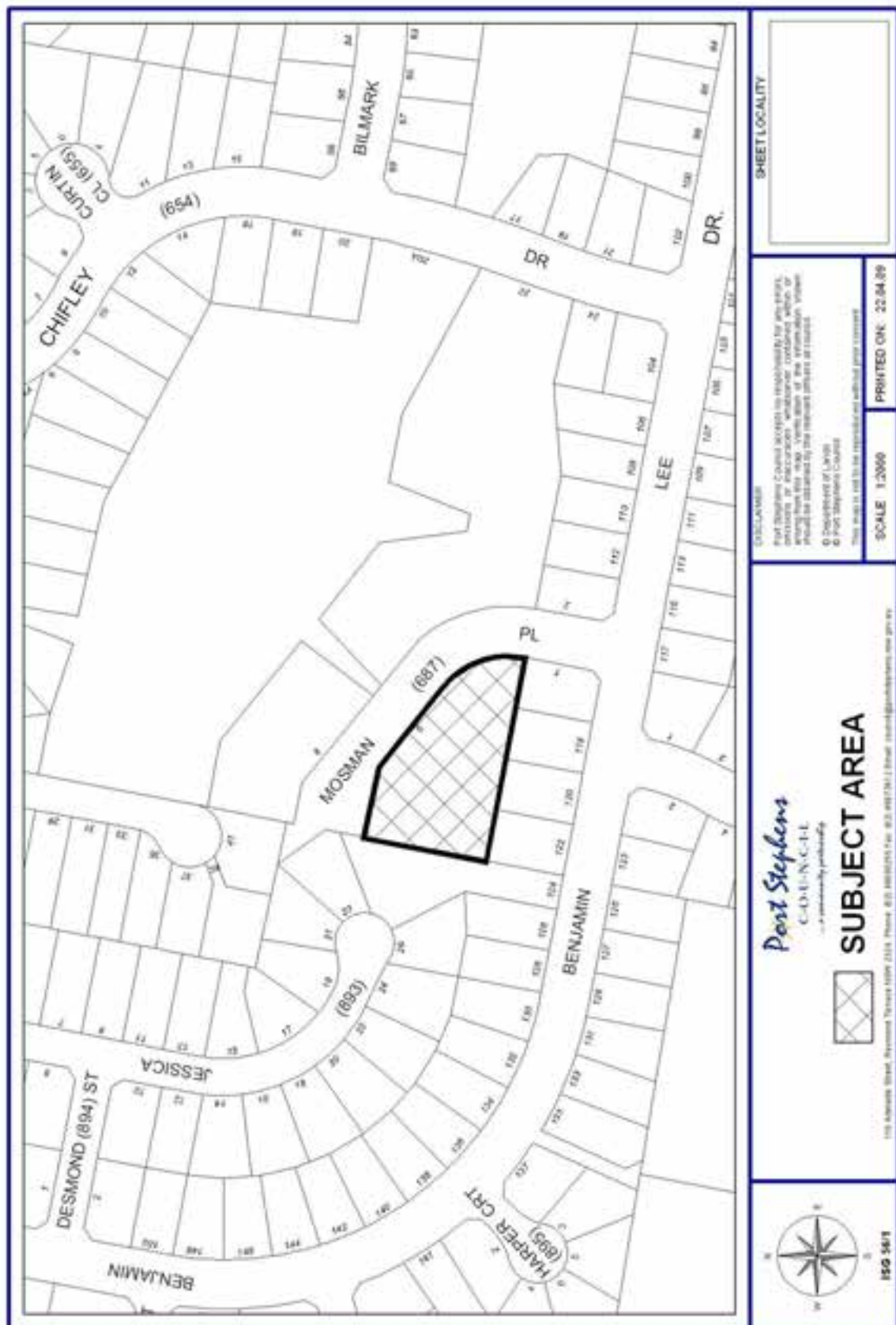
## **ATTACHMENTS**

- 1) Locality Plan
- 2) Site Plan **(needs to be removed due to copyright)**
- 3) Assessment

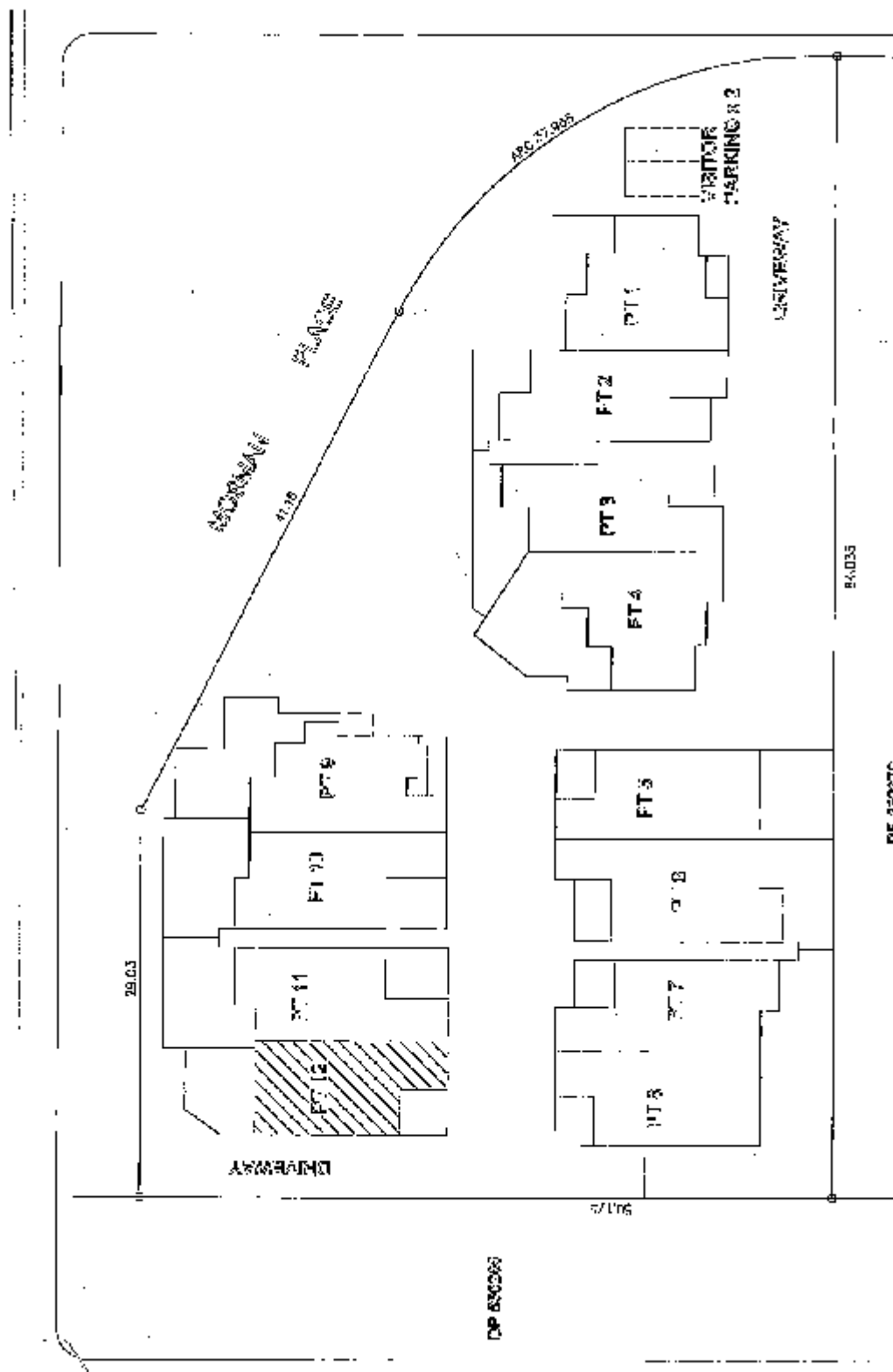
## **COUNCILLORS ROOM**

- 1) Site and floor plans (A3) for proposed Home Employment.

ATTACHMENT 1- LOCALITY PLAN



## ATTACHMENT 2 SITE 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**

Consent is sought for a Home Employment (Hair Dressing Salon) at 12/5 Mosman Pl, Raymond Terrace.

**THE APPLICATION**

Owner	Ms Rudd
Applicant	Ms Rudd
Detail Submitted	Statement of Environmental Effects Site plan and Floor plans

**THE LAND**

Property Description	Lot 12, SP 44117
Address	12/5 Mosman Pl, Raymond Terrace
Characteristics	Two-storey dwelling with single garage. Located in 12 unit urban housing development at end of cul-de-sac.

**THE ASSESSMENT****1. Planning Provisions**

LEP 2000 – Zoning	2(a) Residential
Development Control Plan 2007	B3 Parking & Traffic B10 Home Employment

**LEP 2000**

The site is in the 2(a) Residential zone. The proposed Home Employment is permissible subject to development consent and is consistent with the zone objectives.

**DCP 2007****B3 Parking & Traffic****B3.8 Schedule of Parking Requirements**

Home employments are required to provide one (1) space and an additional space for an employee, if necessary.

## Discussion

Based on merit, the proposal will only require one (1) space, in addition to the existing garage space. The home employment will be run by a resident of the dwelling on an appointment only basis. Only one (1) customer will be present at any one time.

The applicant cannot provide any dedicated off-street parking for the home employment. It is proposed to have customers park on-street or in the shared visitor parking and manoeuvring areas within the urban housing development.

It is unacceptable for a home employment to rely on on-street parking.

It is agreed that each dwelling is entitled to a portion of the visitor spaces. The calculations for the entitlements are included below.

- Seven (7) visitor spaces are provided. It should be noted that access to three (3) of the spaces is limited due to residents parking in the manoeuvring areas.
- Based on twelve (12) dwellings and seven (7) visitor spaces, the applicant is entitled to 0.583 of a space at any one time.
- The applicant argues that parking demand in the development is reduced during business hours. However, the proposed hours of 9am to 7pm, Monday to Friday and 8am to 12pm on Saturday exceed standard business hours.
- Based on standard business and school hours, a reasonable time limit for the home employment is considered to be 9am to 4pm, Monday to Friday.
- During this seven (7) hour period, the applicant is entitled to one (1) space for a maximum of 4 hours per day.

However, the use of shared visitor parking spaces for a business is not considered appropriate or equitable for other residents. Regardless of any entitlement, the applicant has no control over the availability of shared spaces and there is potential for conflict with other residents. This is likely to result in additional on-street parking.

The proposed parking arrangements are considered unacceptable in this instance.

## **B10 Home Employment**

The table below details the home employment's compliance with the relevant clauses in Section B10 of DCP 2007.

Control	Required	Proposed	Complies
B10.2 General Requirements			

## MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

B10.C2	Operated by no more than 2 people (including a resident)	A resident will operate home employment. No employees.	Yes
B10.C3	Max hours 8am to 6pm, Monday to Friday and 9am to 5pm on Saturday	Proposed hours are 9am to 7pm, Monday to Friday and 9am to 12 pm on Saturday	<b>NO</b>
B10.C4	No works on Sunday or Public Holidays	Can be conditioned	Yes
B10.C5	Restricted hours depending on activity	Restricted hours would have been conditioned	Yes
B10.C6	Max 2 deliveries per week	Can be conditioned	Yes
B10.C9	No retail activity	Not proposed	Yes
B10.C10	No additional on-street parking demand	Proposal likely to generate on-street parking	<b>NO</b>
B10.C12	Noise limits	Noise not likely to be generated	Yes
B10.C15	Max Signage	Can be conditioned	Yes
B10.3 Health & Beauty Services			
B10.C19	Must operate by appointment only and only 1 customer can be present at any time	Can be conditioned	Yes

### Discussion

The home employment does not comply with the requirements for parking and operating hours in DCP 2007.

Operating hours can be restricted through conditions of consent. Due to reliance on shared visitor parking, operating hours should be restricted to a maximum of four (4) hours per day, between 9am and 4pm, Monday to Friday. This has been included as a recommended condition in the event that Council rejects the recommendation for refusal and resolves to approve the development application.

However, the applicant cannot provide any practical off-street parking. They have proposed to use on-street parking or shared visitor spaces within the urban housing development. Neither of these are considered to be acceptable solutions.

### 2. Likely Impact of the Development

The home employment will likely result in customers parking on Mosman Place during operating hours. Customers are unlikely to park in the urban housing development due to manoeuvring and access difficulties.

The home employment is unlikely to generate any other impacts in the urban housing development or on adjoining properties.



### **3. Suitability of the Site**

The site is not considered suitable for the home employment as no dedicated off-street parking can be provided. Reliance on shared visitor parking areas is not considered appropriate.

### **4. Submissions**

The application was notified to adjoining properties and owners in the urban housing development. One (1) submission was received objecting to the development. The issues raised are listed below.

- Use of shared visitor parking and manoeuvring areas for home employment is inappropriate. All residential owners are responsible for maintenance and repairs.
- Safety in urban housing development will be reduced by additional cars and people.
- Home employment will reduce privacy and value of surrounding properties.

#### **Discussion**

It is agreed that the use of visitor parking and manoeuvring areas for customer parking is not appropriate and is inequitable to other residents. The applicant cannot control when the spaces will be available. During site inspections, it was noted that residents already park their cars in the manoeuvring areas.

Customers parking in the urban housing development will likely conflict with residents use of the shared areas. Due to lack of manoeuvring areas, customers are likely to parking on-street, which is not acceptable for a home employment.

The proposal is not likely to reduce the amenity of adjoining properties, as the dwelling has its own entry way. There is no evidence to suggest that the proposal may impact property values.

### **5. Public Interest**

There are no issues relevant to the public interest.

# MAYORAL MINUTE

ITEM NO. 3

FILE NO:A2004-0882

## PROPOSED LICENCE OF PART LOT 2 DP 791551, 8 FLEET STREET, SOLDIERS POINT

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### THAT COUNCIL:

- 1) Grant a licence over Part Lot 2 DP791551 - 8 Fleet Street to the adjoining owner/s of 4 Fleet Street, Soldiers Point.
  - 2) Enter into an MOU for the maintenance of the site.
  - 3) Authorise the Mayor and General Manager to negotiate a licence fee.
- 

### ORDINARY COUNCIL – 24 APRIL 2009

099	<b>Councillor Bruce MacKenzie</b> <b>Councillor Bob Westbury</b>	There being no objection it was resolved that the Mayoral Minute be adopted.
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### BACKGROUND

Port Stephens Council owns a 3.3 hectare parcel of heavily vegetated operational land located at 8 Fleet Street, Soldiers Point. The adjoining owners, Colonial Ridge Resort situated at 4 Fleet Street have approached Council on numerous occasions concerned about the undergrowth/vegetation on Councils land and the associated bushfire risk.

On 30th September 2008 Council was contacted by McDonald Johnson Lawyers acting on behalf of Colonial Ridge Resort notifying that their client would hold Council responsible for any damage caused to improvements on its land arising out of Councils failure to properly manage bushfire loads on its property so as to reduce the potential of bushfire damage to their client's improvements. Council currently maintains a 10m wide APZ and has an established Rural Fire Service Maintenance Plan in place however the adjoining owners maintain the view that a bush fire threat still exists.

On numerous occasions Colonial Ridge Resort have requested an easement be granted in their favour however as an easement is in perpetuity; an alternate solution is to issue a licence over part of the lot for APZ purposes.

As a licence would result in the expansion of an Asset Protection Zone it is recommended that due to the ecological values listed within this report that a Memorandum of Understanding be established to ensure the maintenance of the zone.

## **ENVIRONMENTAL IMPLICATIONS**

The following information was supplied by Council's Natural Resource Coordinator.

Based on Atlas of NSW Wildlife records, field survey and anecdotal recordings a number of threatened flora and fauna species are known to occur on the Fleet St site.

At least 2 variations of the LHCCREMS (Lower Hunter and Central Coast Regional Environmental Management Strategy) vegetation communities are known to exist; Nerong Smooth Barked Apple Forest (MU 32), and Swamp Mahogany-Paperbark Forest (MU37), the last of which is consistent in composition to the Endangered Ecological Community (EECs) listed under the Threatened Species Conservation Act, ie; Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast Bioregion.

Two individual plants species are also listed under the above act that are known to exist in Stoney Ridge Reserve are *Callistemon linearifolius* that is listed as Vulnerable and *Corybas dowlingii* which has been preliminary listed as Endangered.

A total of 16 known threatened fauna species occur in the immediate area of Stoney Ridge Reserve and the Fleet St site and a further 26 threatened fauna species are considered likely to occur given the suitability of the habitat. The known species are as follows, Little Bent-Wing Bat, Regent Honeyeater, Masked Owl, Grass Owl, Koala, Brush-Tailed Phascogale, Squirrel Glider, Osprey, Barking Owl, Powerful Owl, Turquoise Parrot, Sooty Oyster Catcher, White Bellied Sea Eagle, Spotted Tailed Quoll, Glossy Black Cockatoo, and the Bush Stone Curlew.

The site and contains regularly spaced mature trees containing hollow limbs and trunks which are highly valuable for roosting and nesting sites. The forest community also supports a diverse canopy and shrub layer consisting of nectar and pollen producing species. The site contains a variable shrub and ground cover layer, large quantities of large woody debris, well developed litter layers, extensive rock outcrops and standing dead trees. These attributes provide high quality fauna habitat.

In addition to these flora and fauna considerations the site also contains areas of Supplementary Koala Habitat as identified in the Port Stephens Council Comprehensive Koala Plan of Management (CKPoM). Conservation of Koala Habitat is the best mechanism for ensuring their survival, this is also supported by the recently finalised Koala Recovery Plan for NSW which has as its number one objective the conservation of Koalas in their existing habitat.

As stated in Section 4.4 of the CKPoM Resource Document 'Port Stephens Council is one of the biggest property developers in the Port Stephens LGA. This represents a great opportunity for Council to provide the lead for the development industry by demonstrating best practice management of koala habitat. Hence, the principles

and standards of the Port Stephens Council CKPoM should be rigorously applied to all developments and activities carried out by council'

The Soldiers Point - Salamander Bay Tidy Towns and Landcare 355B Committee has had a long term commitment to the area with countless hours of bush regeneration activities in order to maintain and improve both the adjacent Stoney Ridge Reserve and the Fleet St site. The Fleet St site also contains many walking trails that together with Stoney Ridge Reserve are highly valued both by residents and visitors alike for both the passive recreation, environmental and aesthetic attributes.

The Fleet St site also contains an aboriginal scar tree that looks to be within the requested 60m easement/expanded APZ. Identified Aboriginal scar trees are Aboriginal sites protected under the National Parks and Wildlife Act 1974. No action should be taken that could foreseeably result in damage to these trees unless the PSC has obtained the appropriate authorities under s.90 of the National Parks and Wildlife Act 1974.

In 2005 Port Stephens Council commissioned Ecological Australia to prepare the Stoney Ridge Reserve Bushfire Management Implementation Plan that also incorporates the Fleet St site. This document gives a comprehensive assessment as to the sites bushfire threats and outlines an appropriate bush fire management plan to balance both environmental values (and legislation) and protection of property. This plan has allowed for a 30m APZ along the edge of the Colonial Ridge Resort.

The assessment of environmental values for the purposes of implementing bushfire protection measures is addressed through the application of the Bushfire Environmental Assessment Code 2003 (BEAC). The BEAC identifies prescriptions for species protected under the Threatened Species Conservation Act, 1995 and other significant environmental values. If prescriptions are adhered to, a 'Bushfire Hazard Reduction Certificate' (BHRC) can be issued.

If a land owner wishes to create a greater APZ than described in the Bushfire Hazard Reduction Certificate than further environmental assessment in the form of an assessment of significance under the Threatened Species Conservation Act, 1995 would need to be undertaken.

# MOTION TO CLOSE

**ITEM NO. 1****FILE NO: 1779-003****MOTION TO CLOSE MEETING TO THE PUBLIC****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
-----**RECOMMENDATION:**

- 1) That pursuant to section 10A(2)(d) 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 Council agenda namely **Tender T03-2009 Fingal Bay Surf Club Construction**.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
  - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
  - ii) In particular, the report includes confidential pricing information in respect of the **Tender T03-2009 Fingal Bay Surf Club Construction**.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.

**ORDINARY COUNCIL – 24 APRIL 2009**

<b>100</b>	<b>Councillor Steve Tucker</b> <b>Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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**ITEM NO. 2****FILE NO: PSC2008-3934****MOTION TO CLOSE MEETING TO THE PUBLIC****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
-----**RECOMMENDATION:**

- 1) That pursuant to section 10A(2)(b) and 10A(2)(g) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary Meeting agenda namely **Unauthorised Depot – Cabbage Tree Road, Williamstown.**
- 2) That the reasons for closing the meeting to the public to consider this item is that the report and discussion will include matters and information of a personal nature of particular individuals.
- 3) That the discussion will include information concerning legal advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
- 4) 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.
- 5) That the report of the closed part of the meeting remain confidential.

**ORDINARY COUNCIL – 24 APRIL 2009**

<b>101</b>	<b>Councillor Steve Tucker Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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# **OPERATIONS COMMITTEE RECOMMENDATIONS**



**ITEM NO. 1****FILE NO: PSC2005-0889****ABORIGINAL PROJECT FUND – NAIDOC WEEK 2009****REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Allocate \$8,000 from Council's Aboriginal Project Fund to assist in covering the costs associated with holding the 2009 Port Stephens NAIDOC Week Celebrations currently being organised by Council's Aboriginal Strategic Committee.

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**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie</b> <b>Councillor John Nell</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>102</b>	<b>Councillor Ken Jordan</b> <b>Councillor Daniel Maher</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

**The purpose of this report is to seek Council endorsement for the allocation of \$8,000 from Council's Aboriginal Project Fund towards the 2009 Port Stephens NAIDOC Week Celebrations currently being organised by Council's Aboriginal Strategic Committee.**

NAIDOC celebrations are held annually around Australia in the first full week of July to celebrate the history, culture and achievements of Aboriginal and Torres Strait Islander people and their contributions to modern Australia. NAIDOC originally stood for 'National Aborigines and Islanders Day Observance Committee'. This committee was once responsible for organising national activities during NAIDOC Week and its acronym has become the name of the week itself. The theme for NAIDOC Week 2009 is '*Honoring our Elders, Nurturing our Youth*'.

In Port Stephens the annual NAIDOC Week Celebrations are organised by members of Council's Aboriginal Strategic Committee (ASC). For the last two years local NAIDOC Week Celebrations have centred primarily around a large community day of celebration. In its inaugural year this event won the accolade of *Port Stephens Community Event of the Year*. Last year's event built upon the success of the inaugural celebrations and the ASC plans to do likewise this year.

The costs associated with running this community event are approximately \$14,000 a year. Council has allocated \$2,000 in the 2008/2009 for NAIDOC Week and it is anticipated that the total costs of the event will be covered with the recommended contribution from the Aboriginal Project Fund and other contributions detailed herein. For instance, in previous years the Worimi and Karuah Local Aboriginal Land Councils have generously provided financial and in-kind support, and Council's Aboriginal Strategic Committee has been successful in securing additional funding from the *Department of Families, Housing, Community Services and Indigenous Affairs* along with an allocation from Council's Aboriginal Project Fund. The Aboriginal Strategic Committee is once again pursuing these funding sources for the 2009 Port Stephens NAIDOC Week Celebrations.

To assist in covering the anticipated costs associated with this year's NAIDOC Week Event, Council's Aboriginal Strategic Committee at its meeting on 9 March 2009 unanimously endorsed an approach being made to Council to seek an allocation of up to \$10,000 from the Aboriginal Project Fund towards this year's NAIDOC Week Celebrations.

In the event that sufficient funds are not sourced to cover the event as in previous years, the Aboriginal Strategic Committee will run a downsized event.

## **LINKS TO CORPORATE PLANS**

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

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

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

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

## **FINANCIAL/RESOURCE IMPLICATIONS**

A total of \$38,954 is currently available in Council's Aboriginal Project Fund. An allocation of \$8,000 towards the costs of this year's NAIDOC Week Celebrations will leave a balance of \$30,954 for the next funding round of Council's Aboriginal Project Fund. Given the anticipated contributions from the other funding sources mentioned herein, an allocation of \$8,000 from the Aboriginal Project Fund is

considered appropriate in lieu of \$10,000 which is the maximum permitted for a single grant under Council's Aboriginal Project Fund.

The next funding round of Council's Aboriginal Project Fund recently commenced with the calling of Stage 1 expressions of interest, in accordance with the program's funding guidelines. Following the completion of the assessment of these initial expressions of interest and the subsequent Stage 2 applications by Council's Aboriginal Strategic Committee, a further report will be presented to Council making recommendation on the allocation of the remaining \$30,954 in Aboriginal Project Funds.

## **LEGAL AND POLICY IMPLICATIONS**

A risk management plan is routinely developed as part of the Port Stephens NAIDOC Week Celebrations to ensure provisions are made to protect the safety of all participants.

## **BUSINESS EXCELLENCE FRAMEWORK**

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

These outcomes align with the following Business Excellence principles:-

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

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL, ECONOMIC AND ENVIRONMENTAL IMPLICATIONS**

The proposed 2009 Port Stephens NAIDOC Week Celebrations provide the opportunity for Aboriginal and non-Aboriginal community members alike to come together and celebrate Aboriginal culture through participating in a range of activities. This enhances people's awareness and appreciation of Aboriginal culture, as well as strengthens their sense of community belonging and connectedness.

### **CONSULTATION**

Council's Aboriginal Strategic Committee at its meeting on 9 March 2009 supported Council being formally approached to consider an allocation from Council's Aboriginal Project Fund towards the 2009 Port Stephens NAIDOC Week Celebrations. A sub-committee of Council's Aboriginal Strategic Committee comprising representatives from the Karuah and Worimi Local Aboriginal Land Councils, interested community organisations and relevant Council Officers has been established to oversee the planning for this year's event.

### **OPTIONS**

- 1) To accept the recommendation
- 2) To amend the recommendation
- 3) To reject the recommendation

### **ATTACHMENTS**

Nil

### **COUNCILLORS ROOM**

Nil

### **TABLED DOCUMENTS**

Nil

**ITEM NO. 2****FILE NO: DA 16-2006-1-2****SECTION 96 APPLICATION – PROPOSED DUAL OCCUPANCY AT 2 TUNA CRESCENT, FINGAL BAY****REPORT OF: SCOTT ANSON – MANAGER DEVELOPMENT AND BUILDING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse the Section 96 application, endorse the current requirements of the Condition 13 of the consent (DA 16-2006-1-2) and require the kerb and gutter to be constructed.

**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie Councillor Bob Westbury</b>	<b>That the item be deferred for consultation with Council's Facilities &amp; Services and Sustainable Planning Groups.</b>
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>103</b>	<b>Councillor Bruce MacKenzie Councillor John Nell</b>	It was resolved that the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required.

Those for the Motion: Crs Bruce MacKenzie, Bob Westbury, Frank Ward, Sally Dover, John Nell, Peter Kafer, Glenys Francis, Daniel Maher, Ken Jordan, Shirley O'Brien, Steve Tucker and Geoff Dingle.

Those against the Motion: Nil.

**PURPOSE**

The purpose of this report is to seek Council's direction on the proposed deletion of a condition of consent that requires the provision of kerb and gutter across the frontage of the subject land.

## **BACKGROUND**

Consent Condition 13 of Development Application 16/2006/1 requires the provision of "kerb and gutter, ancillary drainage and an adjacent sealed road shoulder pavement, making a smooth connection to the existing bitumen seal, for the full frontage of the development."

The applicant is seeking the deletion of the above mentioned condition and the construction of minor gravel and seal works to establish a bitumen sealed "rolled hip" in lieu of the construction of kerb and gutter.

On 4 July, 2007, Council issued a Roads Act Approval for the proposed kerb and gutter works and on 13 November, 2007 issued a Construction Certificate for building works. Building works were subsequently commenced and are now complete with the exception of driveways, footway turfing and kerb and gutter works.

By virtue of applying for both a Construction Certificate and Roads Act Approval and through the commencement of construction, the applicant has accepted the conditions of consent associated with the development. The applicant has had considerable time in which to consider the conditions applied to the proposal prior to commencing the development.

The deletion of Condition 13 would be contrary to the requirements of the Section B1.10 of the Port Stephens DCP 2007.

## **LINKS TO CORPORATE PLANS**

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

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

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

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

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

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

## **FINANCIAL/RESOURCE IMPLICATIONS**

The proposed deletion of Condition 13 if supported by Council would result in a direct financial implication as Council would need to fund any future kerb and gutter work in this locality.

## **LEGAL AND POLICY IMPLICATIONS**

Section B1.10 Infrastructure, Clause B1.P28 and B1.C44 of the Port Stephens DCP 2007 state the following:

### *B1.10 Infrastructure*

*Where the infrastructure in the road or public land adjoining the boundary of a site does not meet Council's current standards, then any subdivision or development (not including single dwellings) on that site will require the upgrading of infrastructure of the adjoining land to current Council standards.*

### *PRINCIPLES*

*B1.P28 Development should provide public Infrastructure including stormwater drainage, kerb and gutter, street trees, street lighting, bus shelters and footpaths and cycleways as required in Council's current standards.*

### *DEVELOPMENT CONTROLS*

*B1.C44 Subdivision (including a 2 lot subdivision) must provide infrastructure within the adjoining road or public land including kerb and gutter, stormwater drainage, pedestrian footpaths and cycleways, street lighting, street trees and bus shelters*

Should the proposed deletion of Condition 13 be supported, both a legal and policy precedent would be created given the specific reference by the DCP to two (2) lot subdivision within Clause B1.C44. The deletion of the condition would potentially undermine Council's future position when requiring compliance with the DCP for like applications. The deletion of the condition would further create inequity between this application and previous applications that have complied with similar conditions of consent.

## **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:-

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- 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**

As previously stated the proposed deletion of Condition 13 would expose Council to financial implications by having to fund the construction of the kerb and gutter in future works programs. Alternatively, Council could issue Orders against the owner to comply with Condition 13, and carry out the works itself and raise a debt against the property.

### **ENVIRONMENTAL IMPLICATIONS**

Nil

## **CONSULTATION**

The proposed deletion of Condition 13 has been discussed with Council's Engineering Services and Assets Sections who have advised that they do not support the deletion of Condition 13 given the existence of other kerb and gutter in the immediate vicinity, the clear requirements of the DCP and the intensification of the development on the Tuna Crescent frontage through the inclusion additional driveways.



**OPTIONS**

- 1) Council endorse the current requirements of the Condition 13 of the consent and require the kerb and gutter to be constructed.
- 2) Council agree to deletion of Condition and therefore the construction of the kerb and gutter.
- 3) Council require the payment of a contribution equal to the cost of the construction of the kerb and gutter.

**ATTACHMENTS**

- 1) Locality plan

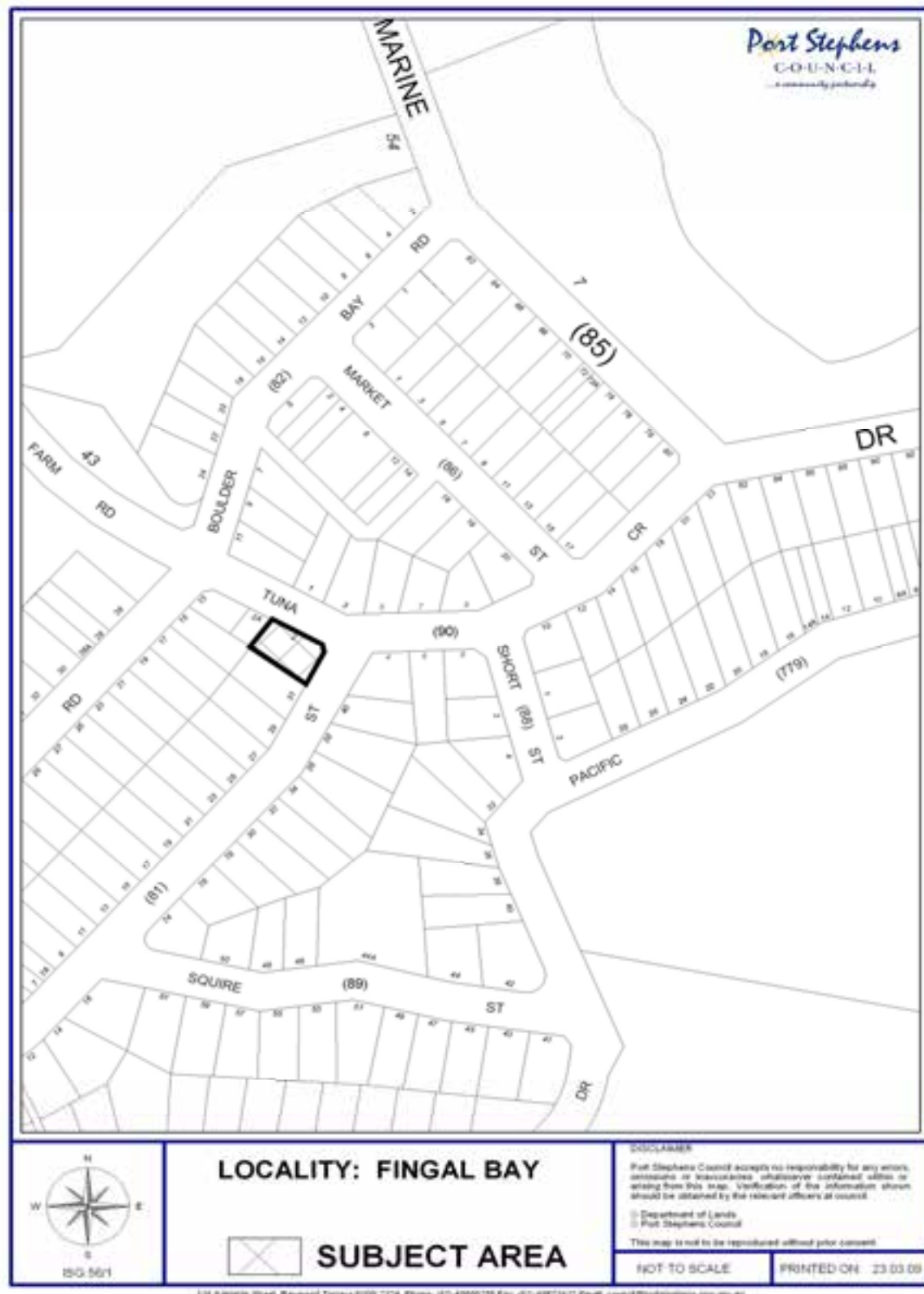
**COUNCILLORS ROOM**

- 1) Plans
- 2) Section 96 Application

**TABLED DOCUMENTS**

Nil

# ATTACHMENT 1 LOCALITY PLAN



**ITEM NO. 3**

**FILE NO: 16-2008-506-1**

**DEVELOPMENT APPLICATION FOR COMMERCIAL PREMISES & DEMOLITION OF EXISTING BUILDINGS AT NO. 10 & 12 KANGAROO STREET, RAYMOND TERRACE (LOTS 4 & 5 DP37947)**

**REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2008-506-1 – Commercial Premises & Demolition of Existing Buildings at No. 10 & 12 Kangaroo Street, Raymond Terrace as a Deferred Commencement Consent subject to the conditions contained in Attachment 5.
- 

**OPERATIONS COMMITTEE – 14 APRIL 2009**

**RECOMMENDATION:**

<b>Councillor Glenys Francis Councillor Daniel Maher</b>	<p><b>That the recommendation be adopted with the exception of the amendment of Condition 11 to delete the contribution of \$15,000 for the one deficient car parking space on the basis that:</b></p> <p><b>a) The deficiency of one space will not be a significant impact in terms of car parking demand in the immediate locality.</b></p> <p><b>b) The turnover of car parking for such a commercial development will be less than a retail development.</b></p>
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In accordance with the Local Government Act 1993, a division is required.

Those for the Motion: Crs Bruce MacKenzie, Bob Westbury, Frank Ward, Sally Dover, John Nell, Peter Kafer, Glenys Francis, Daniel Maher, Shirley O'Brien and Geoff Dingle.

Those against the Motion: Nil.

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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>104</b>	<b>Councillor Glenys Francis Councillor John Nell</b>	It was resolved that the Operations Committee recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required.

Those for the Motion: Crs Bruce MacKenzie, Bob Westbury, Frank Ward, Sally Dover, John Nell, Peter Kafer, Glenys Francis, Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien and Geoff Dingle.

Those against the Motion: Nil.

**MATTER ARISING**

<b>105</b>	<b>Councillor Glenys Francis Councillor Ken Jordan</b>	It was resolved that Council review the DCP for the northern side of Kangaroo St, Raymond Terrace and report to Council.
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In accordance with the Local Government Act 1993, a division is required.

Those for the Motion: Crs Bruce MacKenzie, Bob Westbury, Frank Ward, Sally Dover, John Nell, Peter Kafer, Glenys Francis, Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien and Geoff Dingle.

Those against the Motion: Nil.

**BACKGROUND**

**The purpose of this report is to present a development application to Council for determination and based upon Council's recent Resolution in relation to planning policies for Kangaroo Street, Raymond Terrace.**

**Proposal**

The subject land is situated at No.10 and 12 Kangaroo Street, Raymond Terrace (Lots 4 & 5 DP 37947) and is zoned 5(g) – Special Urban (Flood Affected) zone under the Port Stephens Council Local Environmental Plan 2000 (LEP). The application seeks approval for a commercial building comprising 1692m<sup>2</sup> gross floor area with forty two (42) ground floor car parking spaces with vehicular access from Kangaroo Street.

The proposal is defined as a “*commercial premises*” which is permissible in the 5(g) zone with Council consent.

As denoted by the landuse zone the land is identified as flood prone land and development is therefore subject to a flood planning level. The development incorporates undercroft carparking which will be subject to inundation. Access for persons with a disability is provided by a lift or alternatively via a pedestrian ramp incorporated into the main street entry situated at street level. The building setback is generally consistent with the existing building line and presents as a two (2) and three (3) level building when viewed from Kangaroo Street responding to the slope of the land.

The existing development on the subject land comprises a single storey dwelling house situated on each allotment. The existing buildings are proposed to be demolished.

### **Planning Context**

The proposal is located within the residential precinct identified on Figure C1.1 Raymond Terrace Town Centre which forms part of Port Stephens Development Control Plan (DCP) 2007 - C1: Raymond Terrace Town Centre (Attachment 2). The DCP was adopted by Council in May 2007.

Whilst it is recognised that commercial premises are permissible with development consent in the 5(g) zone, the DCP identifies the subject site as located within a residential precinct. The intent of the residential precinct is to protect the character of the existing area and the precinct principles and controls specifically reflect this residential intent. As a consequence concerns have been raised with the applicant from the outset to justify the proposal in terms of its existing planning context and address challenging built form relationships when proposing to situate a commercial building immediately adjoining single storey dwellings and two (2) storey residential units. On 24 March 2009 Council adopted an *Interim Planning Policy for Land on Kangaroo Street Raymond Terrace*. The report and interim policy is included in Attachment 4. An assessment of this proposal against the Interim Planning Policy is considered in this report below.

### **Chronology of Assessment**

On Friday 27 June 2008, the applicant attended a pre-lodgement meeting with Council's Development Assessment Panel (DAP). The applicant was advised that whilst the proposed land use was permissible in the 5(g) zone, the subject site was identified within a residential precinct and “*in the event that a decision was made to progress the development, it was considered that the commercial activity/building on the site would need to be significantly reduced in bulk and scale to be more in keeping with the predominantly residential character of the area*”.

On Monday 30 June 2008, the applicant lodged a Development Application which contained near identical plans that were presented to the DAP on 27 June 2008.

On July 2008 Council considered a report to review the 5(g) Special Urban (Flood Affected) zone. The aim of the review was to clarify land uses currently permissible within the zone. Specific to this application, the recommendation was to rezone the subject site from 5(g) zone to 2(a) Residential zone in line with the existing residential precinct.

On 22 July 2008 Council resolved to rezone the subject site from the 5(g) Special Urban (Flood Affected) zone to 3(a) Commercial zone. Council is awaiting advice from the Department of Planning Rezoning Panel. A draft Local Environmental Plan (LEP) must be certified for exhibition by the Department of Planning. Council's resolution signals Council's intent to change the landuse zones but does not have the same determinative weight as a draft Local Environmental Plan.

On 11 September 2008, Council forwarded advice to the applicant identifying the key assessment issues. The applicant was advised that *"the proposal does not respond to the predominant streetscape qualities including building form, scale and character....and the design would be dominating on the streetscape due to the bulky building design in comparison to the smaller scale of surrounding residential development"*. The applicant was provided with the following three options:

- 1) Withdraw the current application until such time as the proposed rezoning to 3(a) Commercial zone gains approval from the Department of Planning for placement on exhibition.
- 2) Proceed with current Development Application; however, in its current form Council officers do not support the proposal.
- 3) Redesign the proposal to significantly reduce the bulk and scale.

The applicant was clearly advised that option (2) and to a lesser extent option 3 would need to be supported by written documentation and graphic analysis justifying the proposal and demonstrating that there would not be an unreasonable and unacceptable impact upon the residential amenity of the adjoining residential dwellings.

### **Response from Applicant**

On 15 December 2008, the Applicant submitted amended plans and an Addendum to the Statement of Environmental Effects. The amended plans increased maximum height from RL 11.9 AHD to RL 13.4 AHD. The addendum addressed the principles and controls in terms of the Raymond Terrace Town Centre Extension precinct and the Commercial and Mixed Use Development chapters which do not apply to the subject land. The addendum does not address the residential precinct which applies to the subject land. The addendum, prematurely, seeks to justify inclusion into an adjoining precinct and nor does it justify the development in terms of an alternative landuse planning framework and/or principles for assessment. The addendum is considered to be incomplete and relies on anecdotal observations rather than any rigorous landuse planning and urban design analysis.

In addition, despite repeated requests the applicant has not provided information which would enable Council to comprehensively complete assessment of the application. This includes:

- Amended landscaping plan;
- Amended Acid Sulphate Soils Management Plan; and
- Provision of access details for on-site carparking demonstrating minimum height clearances for vehicles parking in designated disabled spaces.

The application has therefore been assessed on the available information.

### **Interim Planning Policy for Land on Kangaroo Street, Raymond Terrace**

The proposed development is generally consistent with the provisions contained in the interim policy. A detailed assessment is provided in the attachments. The following key points are noted.

- Commercial premises are a permissible land use.
- The proposed development is capable of being adapted for future retail use.
- The development is setback approximately 6m from Kangaroo Street consistent with the existing building line setback.
- There is an opportunity to extend the building forward towards the street, to the rear and to the side setback immediately adjoining the laneway.
- There is limited opportunity to expand the building footprint towards the existing dwelling house due to likely adverse impacts upon residential amenity.
- The proposed development presents as a 2 storey development when viewed from Kangaroo Street and exceeds the height limit by 0.1m and is considered satisfactory.
- The proposed floor space ratio is 1.15:1 and is considered satisfactory due to proposed site amalgamation.
- The proposed site coverage is 90% and is over the recommended 80% identified in interim policy.
- The proposed development does not provide a path perpendicular to the footpath and does not internalize ramp access within the building. The proposed pedestrian access arrangements have been redesigned to articulate the building entry and are considered to be satisfactory.
- The proposed development has not submitted a landscape plan as required.
- Footpaths and public art provisions will be reinforced as conditions of consent

### **Key Issues**

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

- Hunter Regional Environmental Plan and Hunter Region Planning Strategy
- Compliance with the 5(g) zone description and objectives;
- Compliance with the requirements of DCP 2007;
- Interim Planning Policy for Land on Kangaroo Street, Raymond Terrace adopted by Council on 24 March 2009

- Council's resolution to rezone land in Kangaroo Street to 3(a) General Business dated July 2008.
- Suitability of the land use.
- Impact on adjoining residential buildings.
- Flooding.
- On-site carparking shortfall
- Outstanding information/documentation requested from applicant

An assessment of these issues is provided within the attachments. The outstanding information and issues identified below is considered capable of being resolved through an engineering/design solution and is proposed to be addressed by way of Deferred Commencement conditions:

- Amended landscaping plan;
- Amended Acid Sulphate Soils Management Plan;
- Provision of access details for on-site carparking demonstrating minimum height clearances for identified disabled car spaces; and
- Enhanced privacy/sun protection screens on side elevations

It is recommended that the application is approved subject to Deferred Commencement conditions addressing outstanding details in addition to specific conditions to mitigate any potential adverse impact on the privacy of adjoining dwellings and enhanced landscaping within the front setback consistent with scale of the proposed development and established native plantings in the immediate vicinity.

The development proposes to amalgamate two lots in the residential precinct which enables the building to be setback from the front boundary and provide a 2.9m side setback to the adjoining land. The adjoining residential units are separated by the public reserve and SP 43730 requires landscaping to be maintained along the side boundary adjoining the public reserve.

The proposed development does not result in any adverse or unreasonable impacts on the streetscape and adjoining residential amenity subject to satisfactorily addressing deferred commencement and development conditions.

## **LINKS TO CORPORATE PLANS**

The links to the Council Plan are:-

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

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

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



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

## **FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial and/or resource implications associated with this development application.

## **LEGAL AND POLICY IMPLICATIONS**

The development application is inconsistent with Council's Port Stephens Development Control Plan 2007 – C1 Raymond Terrace Town Centre but is generally consistent with Interim Planning Policy for Land on Kangaroo Street, Raymond Terrace adopted 24 March 2009.

## **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:-

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- 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**

There are no unreasonable or unacceptable social impacts associated with the proposed development if conditions of consent are satisfied on the subject land and adjoining properties.

### **ECONOMIC IMPLICATIONS**

Commercial premises are a permissible use in this zone. The proposed development will create a positive multiplier effect in the local economy, initially, through income to local contractors during the construction phase and in the longer term, through increased demand for goods and services by staff.

### **ENVIRONMENTAL IMPLICATIONS**

The site is a fully serviced allotment zoned 5(g) – Special Urban (Flood Affected), and commercial premises are permissible in this zone with development consent.

The development site has previously been cleared of any significant vegetation. As such the development is unlikely to pose an adverse effect on any known threatened species, populations or ecological communities.

### **CONSULTATION**

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

### **OPTIONS**

- 1) Adopt the recommendation.
- 2) Reject or amend the recommendation.
- 3) Defer determining the application until advice is available from the Department of Planning Rezoning Panel on Council's resolution to rezone the subject land to 3(a) General Business.

### **ATTACHMENTS**

- 1) Locality Plan
- 2) Raymond Terrace Town Centre
- 3) Assessment
- 4) Interim Planning Policy for Land on Kangaroo Street, Raymond Terrace
- 5) Conditions of Consent

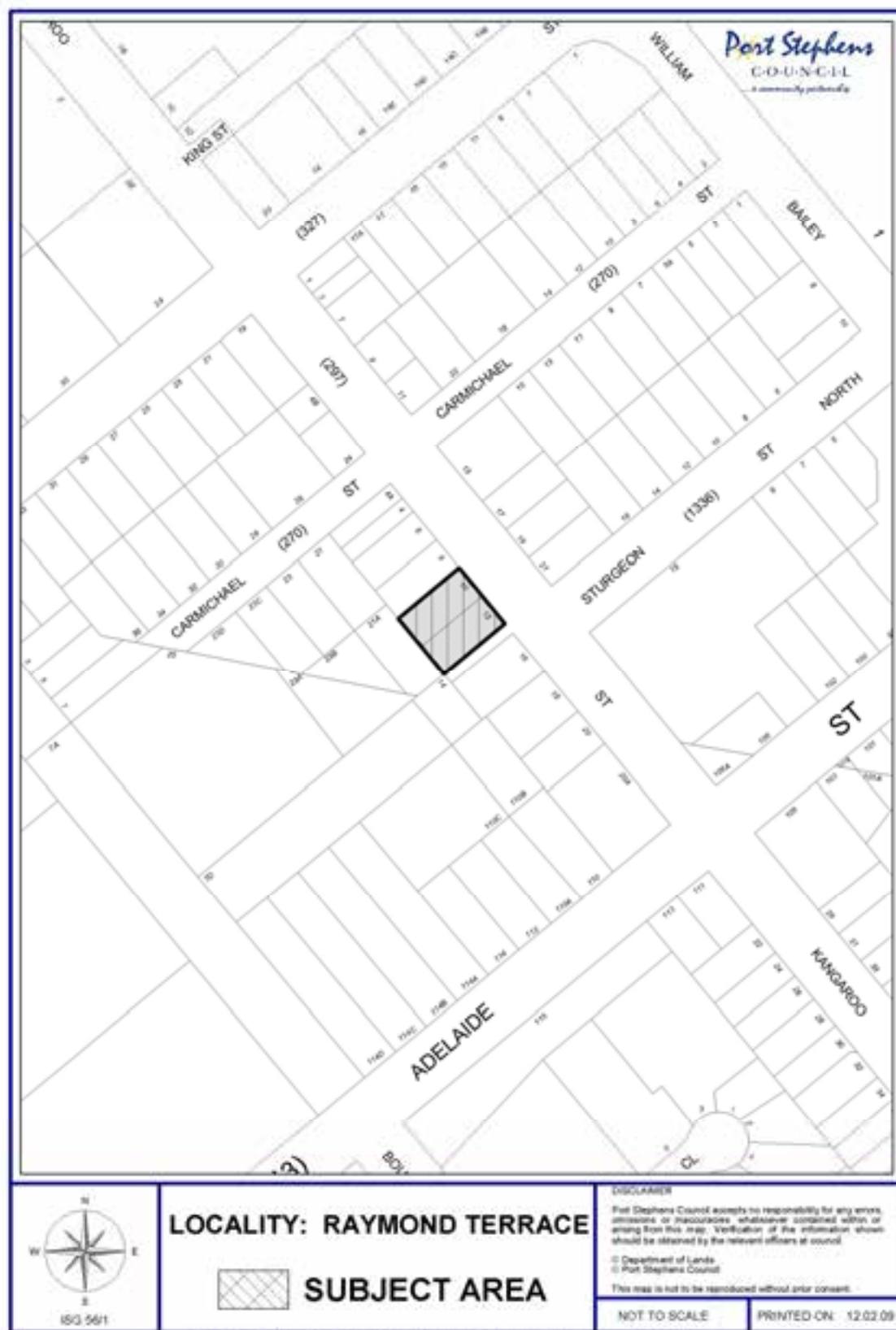
**COUNCILLORS ROOM**

- 1) Plans and Statement of Environmental Effects
- 2) Addendum to Statement of Environmental Effects

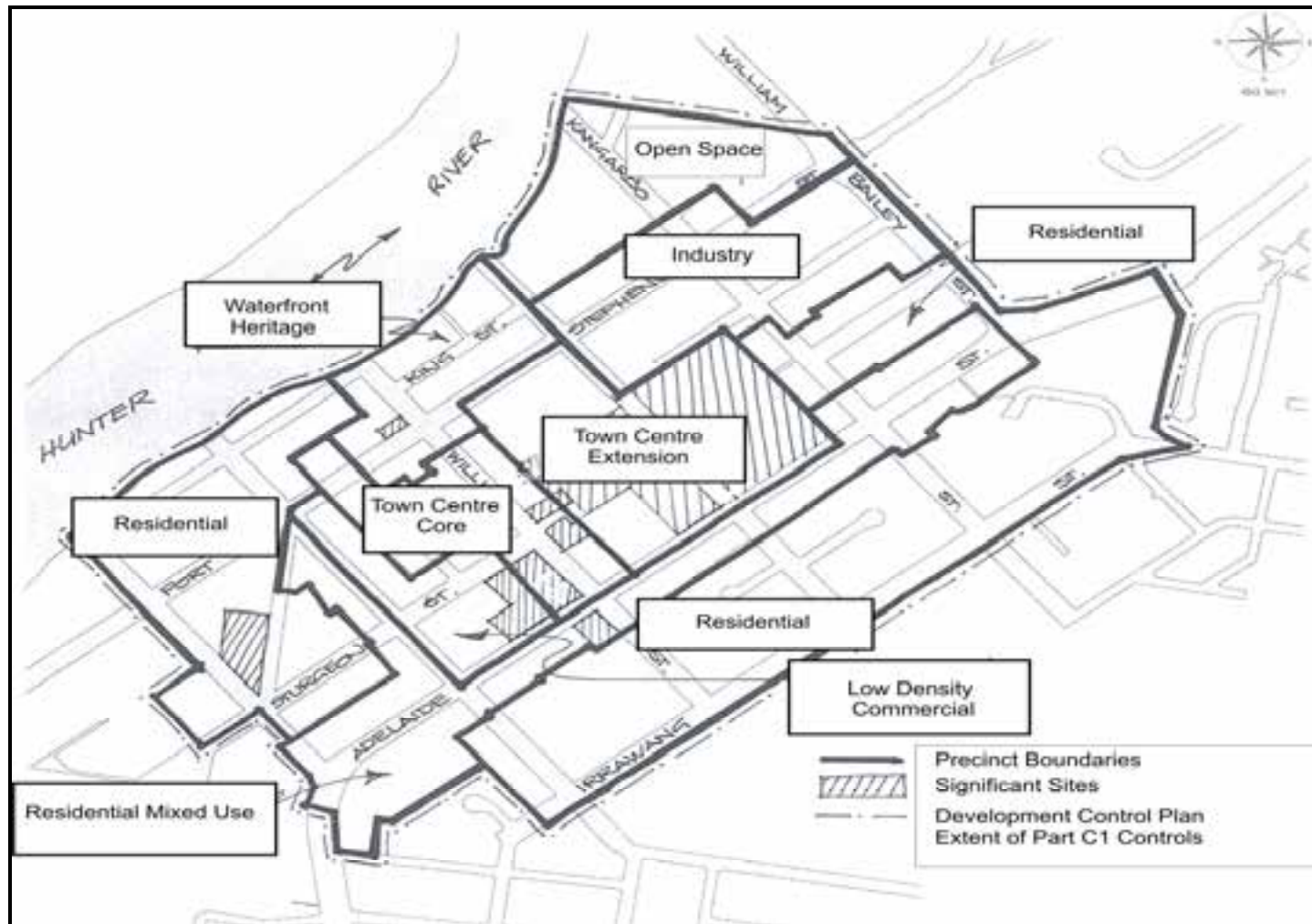
**TABLED DOCUMENTS**

Nil

# ATTACHMENT 1 LOCALITY PLAN



ATTACHMENT 2  
RAYMOND TERRACE TOWN CENTRE



**ATTACHMENT 3****ASSESSMENT**

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

**THE PROPOSAL**

The application seeks approval for a commercial building and forty two (42) ground floor car parking spaces and seven (7) car parking spaces on the road reserve.

**THE APPLICATION**

Owner	Taylors Beach Developments Pty Ltd
Applicant	David Morgan
Detail Submitted	Context Analysis Plan, Architectural Plans, Perspectives, Stormwater Drainage Plans, Statement of Environmental Effects, Addendum to Statement of Environmental Effects, Landscaping Plan, Shadow Diagram, Waste Management Plan.

**THE LAND**

Property Description	Lots 4 & 5 Deposited Plan 37947
Address	10 & 12 Kangaroo Street, Raymond Terrace
Area	1467m <sup>2</sup>
Dimensions	The two sites combined have a 120m frontage to Kangaroo Street and side boundaries of 132m.
Characteristics	The site is located on Kangaroo Street with a lane way adjoining Lot 5. The land slopes to the rear of the site and both lots are currently occupied by single storey dwellings. The site is located approximately 400 metres to the William Street town centre.

**THE ASSESSMENT****1. Planning Provisions**

Regional Environmental Plans	Hunter Regional Environmental Plan 1989
State Environmental Planning Policies	State Environmental Planning Policy 71 – Coastal Protection

LEP 2000 – Zoning  
Relevant Clauses

5(g) Special Urban (Flood Affected) Zone  
26, 38, 47, 51A

Development Control Plan 2007

B2 – Environmental and Construction  
Management  
B3 – Parking, Traffic and Transport  
B4 – Commercial Development  
C1 – Raymond Terrace Town Centre

## **Discussion**

### ***Hunter Regional Environmental Plan 1989 (HREP) and Hunter Region Planning Strategy***

The proposed development is not considered to be inconsistent with the Hunter *Hunter Regional Environmental Plan 1989 (HREP)* or the *Hunter Region Planning Strategy*.

Port Stephens Council Economic Development Strategy adopted by Council on October 2007 contains a recommendation that *“Raymond Terrace is developed as the Local Government Area’s primary retail and service centre, and that consideration is given to the consolidation of retail, services and office in the town city core”*. It is considered that this individual development proposal will not undermine the Raymond Terrace town centre core and the provision of modern office space in close proximity to the town centre expansion area is consistent with Council’s adopted strategy given that *commercial premises* are identified as a permissible landuse in the 5(g) zone.

### **State Environmental Planning Policy 71 - Coastal Protection**

The proposal is considered to be consistent with the objectives of this policy. It is considered that the application as proposed will not result in adverse impacts upon the visual amenity of the Hunter River, given that the subject site is not directly adjoining the waterway and is located approximately 400 metres away from the waterway.

### **Local Environmental Plan 2000**

The subject site is zoned 5(g) – Special Urban (Flood Affected) zone in accordance with the LEP 2000 and development for the purposes of commercial premises is permissible with development consent under the provisions of Clause 26.

The objectives of the 5(g) – Special Urban (Flood Affected) zone are as follows:

- (a) to enable a range of urban development compatible with the constraints of the land such as floodwater inundation, and
- (b) to identify land suitable for future urban development, and

- (c) to allow only development of a kind that is, or can be rendered to be, compatible with inundation by flood water, and
- (d) to reduce the incidence of loss of life and damage to property and the environment in areas subject to flooding, and
- (e) to allow suitable development on valuable land close to existing urban areas, and
- (f) to protect and preserve items of environmental heritage, and
- (g) to permit development which is compatible with the provisions of detailed planning objectives contained within development control plans.

It is demonstrated through the assessment detailed below for Clause 26, 38, 47 and 51A of the LEP 2000, that the proposal is consistent with objectives (a) and (c) of the zone by proposing urban development that is compatible with the flood prone nature of the land. As outlined in this report, a suggested planning framework and assessment principles, inform this merit assessment having regard to objective (g). It is concluded that the proposal is generally consistent with this objective.

Clause 38 – Development on Flood Prone Land

The site is identified as flood prone and the building has been designed to achieve the Flood Planning Level of 5.3 (AHD) for the commercial area, with an undercroft car parking area which allows the movement of flood water underneath the building.

Clause 47 - Services

The subject site is fully serviced.

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

The subject site is identified on the planning maps as Class (5) which is works within 500m of adjacent class. Subject sites are within 500m of both Category (4), which is works beyond 2 m beyond the natural ground surface, and Category (3), which is works beyond 1 m beyond the natural ground surface. Council awaits the submission of an amended Acid Sulphate Soils Management Plan which will identify the potential impact on Acid Sulphate Soils and if required, the proposed mitigation measures to be in place before and during construction. This issue will be addressed by a deferred commencement condition.

**Development Control Plan 2007**

C1: Raymond Terrace Town Centre

This DCP chapter applies to all land contained within the defined area of Raymond Terrace town Centre. Chapter C1 states that for commercial and mixed use development that principals and controls in Chapter B4 also apply. In the event of an inconsistency the provisions of Chapter C1 prevails over Chapter B4, therefore Chapter C1 has been considered first.



The DCP 2007 identifies Raymond Terrace as a sub-regional centre with a distinctive urban character that was founded as a base for the commercial development of the surrounding areas. The Raymond Terrace Town Centre is divided into the following precincts:

- waterfront heritage;
- open space;
- industry;
- residential;
- town centre extension;
- town centre core;
- residential mixed use; and
- low density commercial.

The subject site is located within the *residential precinct* which is surrounded by residential mixed use, industry and town centre extension development. The intent of the residential precinct is to protect the character of the existing residential development.

Below is a summary of the assessment of the proposed development against the relevant objectives and development controls of the DCP 2007 Chapter C1.

#### C1.2 Town Structure

The town structure identifies a number of key views and a regular grid network that supports the town centre and William Street as the main street. The proposed development does not adversely impact upon any identified view corridors. The proposed development adjoins a public reserve which will serve as a potential future pathway to the expanding retail precinct.

#### C1.3 Streetscape

The proposal has been assessed in relation to the following controls that apply to the residential precinct:

- Control C1.C6 stipulates that the buildings must comply with the build to lines and setbacks in Figure C1.21. It is noted that Figure C1.21 does not include the subject site. The proposed development incorporates a 6.245m front set back to the building line. The canopy over the building entry represents a minor encroachment into the front setback, articulates the main entry and provides shelter for pedestrians accessing the building. The proposal generally complies with the prevailing front setback within the streetscape.
- Control C1.C8 stipulates that buildings that abut a lane must provide active retail or commercial frontage to that thoroughfare. The building abuts a public reserve on the south-east boundary of the subject site which may become a future laneway accessing the expanded retail precinct. Given the topography of the subject land and the need to respond to the nominated flood planning level it is

considered impractical to activate the south east boundary with active retail or commercial frontage at ground level due to these constraints.

#### C1.4 Building Height

Control C1.C16 of the DCP stipulates that the maximum height of the buildings within the 5(g) Special Urban (Flood Affected) zone, measured from the Flood Planning Level of 5.3m AHD, must not exceed 8m and two (2) storeys. The amended plans received from the applicant on 15 December 2008 increased the original height from RL 11.9 AHD to RL 13.4 AHD. The permissible height is 13.3 AHD. The proposed increase in height does not result in any unacceptable overshadowing of adjoining dwellings and associated private open space. Therefore the increase in height is considered negligible.

#### C1.7 Town Centre - Extension

As previously discussed in this report Council requested additional information from the applicant in September 2008 to justify the proposed commercial premises within the existing residential precinct. The applicant advised that, as a result of Council's resolution to rezone the 5(g) zone to 3(a) Commercial zone and the subject site adjoining the Town Centre Extension area, the applicant's consultant has chosen to discuss compliance or otherwise with the Town Centre Extension Precinct rather than compliance with the Residential Precinct. The information provided by the applicant is noted but does not adequately address the current planning controls applying to the subject land.

#### C1.10 Residential Area

The intent of the principles and controls of the residential precinct is to maintain and enhance the desired built form character of the precinct with specific regard to heritage, setbacks and street tree planting. The applicant was requested to provide further supporting documentation which demonstrates that the proposed commercial development has considered the residential context of its location; however, the applicant declined to submit further information.

In the absence of a satisfactory response from the applicant, Development & Building has undertaken a preliminary landuse survey to identify existing, permissible and approved developments within the residential precinct. The conclusions from this analysis are presented below:

- The analysis identified that there are no items of State or local heritage significance adjoining or adjacent to the subject site.
- There are no heritage conservation areas or contributory heritage items in proximity to the subject site.
- The prevailing setbacks appear to be generally 6m.

- The established street tree plantings in the immediate locality appear to be natives and predominantly eucalypts rather than Jacaranda's as identified in the DCP.
- Therefore the residential precinct is considered to generally comprise Sturgeon Street North
- No through access flanked by McDonalds and an approved industrial use accessed from William Bailey Street.
- Residential precinct linked by similar topography and informal median with established plantings.
- Intersection of Sturgeon Street North and Kangaroo Street comprises aged care residences, residential units, single storey dwellings and vacant land.
- Land situated on southern side of Kangaroo Street – topography reflects flood prone nature of land and influences built form outcomes.
- Street trees are apparent on southern side of street, street trees unlikely to occur on northern side due to presence of overhead electricity.
- The public reserve provides potential direct access to future retail expansion of the former playing fields which is now zoned 3(a) General Business.

#### B2: Environmental and Construction Management

The proposal complies with all relevant controls, specifically erosion and sediment control measures and a construction waste management plan has been submitted and approved by Council's Waste Management Co-ordinator.

#### B3: Parking, Traffic and Transport

The proposal includes the provision of forty two (42) carparking spaces on site, two (2) of which are identified as disabled spaces. The schedule of carparking requirements within DCP 2007 requires forty three (43) carparks for the development which results in a shortfall of one (1) space. It is noted that the subject site is not currently located on a public bus route and closest access to public transport services is a bus stop in Adelaide Street which is a distance of approximately 270m away. The shortfall of one (1) space is not considered to result in an unacceptable impact on carparking demand in the immediate locality.

#### B4 : Commercial & Mixed Use Development

The assessment against the principles and controls of B4 is as follows:

##### B4.2 Site Analysis

The Applicant has submitted a site analysis plan and documentation stating that the development proposal is suitable on the subject site given the transitional nature of the Raymond Terrace Town Centre and having regard to the adjoining residential dwellings. As previously stated in this report the information submitted by the applicant is considered inadequate. This assessment has relied on the *Interim Policy for land on Kangaroo Street, Raymond Terrace dated 24 March 2009* and investigations undertaken by Development & Building to inform the assessment of this development application.

#### B4.3 Uses

The proposal complies with the relevant controls in this section in that the street level commercial unit has a width to depth ratio of 1:1.

#### B4.4 Street Character and Front Setback

The DCP requires that development is built to a consistent front alignment to effectively define the street space and establish the street character. The proposed commercial development is a permissible use within consent. The subject site is also situated within a residential precinct and is flanked by dwelling houses and residential units. The following controls are considered in this context.

- B4.C8 requires the development to be built to the street property boundary, however, Part C of the DCP takes precedence over this control and the development is proposing a 6.25 metre setback which is consistent with existing residential development in Kangaroo Street.
- B4.C12 requires a continuous or stepped solid box awning for the full extent of the building frontage over the footpath. The applicant has not proposed an awning as the development is setback 6 metres from the boundary in line with existing development in the street and therefore an awning to the footpath is not achievable.
- Control B4.C14 requires a large building or 'big box' type development to provide a sleeve of smaller buildings that conceal its bulk and provides active frontage to the public street. The applicant's response is that *'the building has been designed to give the appearance of two separate components to reduce the visual impact'*. This control seeks to guide "big box" retail development encouraging a finer grain retail frontage rather than stand alone commercial buildings. Sleeving the proposed development is not considered applicable in this instance.

It is considered that the proposed development is satisfactory in terms of the abovementioned controls.

#### B4.5 Scale and Bulk

The DCP does not specify floor space ratio requirements for the 5(g) zone.

As a guide the maximum FSR permitted in a 3(a) General Business Zone for a permissible use is 1.8:1. Having regard to the *residential precinct* the maximum FSR permitted for single dwellings is 0.5:1. Immediately apparent is the disparity in FSR's typically associated with commercial premises as compared to residential dwellings. The proposed development has an FSR of 1.15:1. Using the suggested planning framework as a further guide, centre support zones would allow an FSR in the order of 1:1 supported by maximum site coverage controls. Floor space bonuses could also be considered for site amalgamation and the like. The proposed FSR is therefore considered on the upper limit if floor space bonuses are considered appropriate.

#### B4.6 Building Height

DCP B4 does not specify height requirements for 5(g) zoned land and requires development in the Raymond Terrace Town Centre to comply with the controls in DCP C1. The principles of B4.6 require development to achieve a scale and height in keeping with the existing and desired future character of the street. The building height has been addressed in the discussion of DCP Chapter C1 and is considered satisfactory.

#### B4.7 Side and Rear Setbacks

DCP B4 does not specify side or rear setbacks for the 5(g) zoned land. As a guide to assessment the principles of B4 states that development should provide side and rear setbacks that ensures visual and acoustic privacy for existing and new residents.

The proposed development provides 2.97m side setbacks and a rear setback of 3.80m. Lot 5 Deposited Plan 37947 also adjoins a 6m wide unformed public road which provides a further setback from the adjoining residential unit development.

There is potential for some overlooking of adjoining private open space due to the relative height between the proposed development and adjoining dwelling's rear yard and balconies on the adjoining residential units. It is noted that the potential for overlooking from the commercial premises would occur predominantly during business hours on weekdays when occupants are in the office building. The potential for overlooking outside of business hours and on weekends is considered to be less. In response the development proposes screens to windows on the side elevations to prevent overlooking. The screens cover approximately 30% of the windows and attempt to minimise the opportunity for building occupants to overlook adjoining private open space by partially obstructing the view and direct line of sight from the window. The screens would also serve as a sun control device on the building. The applicant has not demonstrated that the proposed screens will effectively prevent overlooking of adjoining private open space on the neighbouring property. It is recommended that the applicant submit further information including sight lines and the like demonstrating that the floor to ceiling glazing on the side elevations do not result in an unreasonable impact on privacy. There are various design responses available to the applicant including the use of opaque glazing, infill panels, revised screen design and the like. This has been included as a deferred commencement condition.

#### B4.8 Building Design Elements

The DCP building design elements require façade articulation to provide character, interest and human scale particularly for larger scale buildings. The proposal has satisfied the majority of controls in this section as applicable to a commercial development however; B4.C33 states that *'street façade design must use materials and architectural elements that are compatible with neighbouring buildings'*.

The applicant has responded to Control B4.C33 by stating that *'as the first building of its type in Kangaroo Street, it is not possible to present a consistent façade with the general streetscape.'*

It is considered that land zoned 5(g) is in a period of landuse transition. The building materials selected are not dissimilar to those used on the Defence Housing building situated at the corner of Kangaroo & Adelaide Streets, noting that this building is situated on land zoned 3(a) Business General. The proposed building materials are consistent with modern design and construction practices for commercial premises. The proposed development does not adjoin a heritage item and is not situated in a heritage conservation area. The building materials are therefore considered satisfactory in this instance and will be conditioned to ensure a reflectivity index of no greater than 20% due to adjoining residences.

#### B4.9 External Lighting

External lighting is important for pedestrian way finding, safety and visibility but must avoid unnecessary light pollution for neighbours. Lighting details were submitted with the development application and have been assessed using the principles of Safer by Design. It is considered that the proposal complies with the requirements of the DCP in terms of pedestrian safety and amenity to adjoining properties.

#### B4.10 Energy Efficiency

The applicant has provided written advice that the *'design of this building aims to meet the principles of BASIX and the energy efficiency requirements of the BCA through the effective use of passive solar design principles and the good solar orientation of the site'*. A full assessment report in respect to Section J of the Building Code of Australia 2007 was requested on 11 September 2008 however, the applicant's consultant has stated that *'it would be more appropriate to submit this information at Construction Certificate stage'* which is noted.

#### B4.11 Landscape

There is no minimum percentage specified for landscaping in the 5(g) zone however, the DCP requirements for landscaping in the 3(a) commercial zone is a minimum of 10% of the site with landscaping provided in the following areas:

- the front building line setback,
- the side and rear setbacks if visible from a public space,
- the perimeter of open storage areas as necessary to provide screening from public view and car parking areas to provide shade and soften the visual impact.

The applicant submitted a landscaping plan which was assessed by Council's Vegetation Management Officer. The applicant was advised that the proposed landscaping was not sufficient for the development and that more space should be allocated for appropriate landscape features to ensure adequate screening of the development without compromising Safer by Design principles.

At this stage, an amended landscaping plan has not been submitted by the applicant, however, if approval was to be granted, landscaping must be addressed prior to issue of consent. Adequate landscaping should be provided in the required areas to provide screening and privacy to adjoining residential properties and to lessen the visual impact of the building on the streetscape.

#### **B4.12 Public Domain Improvements**

The proposal is in excess of \$1million therefore; public artwork, located in a visually prominent or culturally significant place within the public domain, must be incorporated into the development proposal.

The applicant has provided written advice proposing paving along the street and street tree planting. The applicant's consultant has further stated that *'no street furniture or public art would be appropriate in this instance but also states that if development consent is obtained; expressions of interest from local artists will be called to suggest and create a suitable artwork'*. The development will be conditioned to provide public art and bike racks in accordance with the requirements of the DCP.

#### **B4.13 Access, Parking and Servicing**

Access and carparking has been previously addressed in B3: Parking, Traffic and Transport. The provision of services, including waste storage areas is considered to be adequate and screened from the street.

#### **Council's resolution to rezone land in Kangaroo Street to 3(a) General Business dated July 2008.**

Council resolved to rezone the subject site to 3(a) General Business in July 2008. Council has received advice back from the Department of Planning Rezoning Panel which has deferred consideration of Council resolution until such time as the Raymond Terrace Town Centre Strategy is prepared. In the absence of a change in zoning or a draft local environmental plan which is imminent and certain determining weight is placed on the current statutory controls and the applicant's submission on the basis of inclusion in the 3(a) Town Centre Expansion can be given no weight at this time. The subject land is currently zoned 5(g) – Special Urban (Flood Affected) and is situated within the residential precinct in accordance with DCP 2007 Chapter C1 and other relevant controls within the DCP. The development application has been assessed on its merit in this context, based on the relevant information provided by the applicant.

**Interim Planning Policy for Land on Kangaroo Street, Raymond Terrace**

The proposed development is generally consistent with the provisions contained in the interim policy as discussed below.

**Land use activities:** As per 5(g) zone permissible land use activities.  
Shop front retailing ancillary and directly linked to the land use activity proposed or occurring within the building.

*Comment*

Commercial premises are a permissible land use. The proposed development is commercial in nature and shop front retailing is not proposed. The proposed development is capable of being adapted for future retail use.

**Setbacks:**

Front	3 metres
Side	0 metres for adjoining street, merit based for adjoining existing residential land use.
Rear first floor	0 metres if no adverse overshadowing of public open space
Rear second floor	3m

*Comment*

The development is setback approximately 6m from Kangaroo Street consistent with the existing building line setback. It is noted that there is an opportunity to extend the building forward towards the street, to the rear and to the side setback immediately adjoining the laneway. There is limited opportunity to expand the building footprint towards the existing dwelling house due to likely adverse impacts upon residential amenity.

**Building Height:** 13.3metres AHD and 2 storeys from Kangaroo Street

*Comment*

The proposed development presents as a 2 storey development when viewed from Kangaroo Street and exceeds the height limit by 0.1m and is considered satisfactory.

**Floor Space Ratio:** 1:1 for lots created before the adoption of this policy.  
10% bonus for lot amalgamation.

*Comment*

The proposed floor space ratio is 1.15:1 and is considered satisfactory due to proposed site amalgamation.



**Building Site  
Coverage:**

80%

*Comment*

The proposed site coverage is 90% and is over the 80% identified in the interim policy.

**Balconies:**

Lots fronting Kangaroo Street and backing onto identified park to the south have double frontage. Therefore, balconies shall be provided part or all of the front façade and part of the rear of the building facing onto the proposed park.

*Comment*

The proposed development incorporates balconies and is consistent with the interim policy.

**Pedestrian Access:** Pedestrian access to the front entrance of buildings shall be provided by a path perpendicular to the footpath.  
Ramped access in front of the building should be avoided and is to be internalized within the building where practicable

*Comment*

The proposed development does not provide a path perpendicular to the footpath and does not internalize ramp access within the building. The proposed pedestrian access arrangements have been redesigned to articulate the building entry and are considered to be satisfactory.

**Landscaping:**

Ground cover and mid storey landscaping species to complement the large street tree planting.  
Constructed fencing or hedging provided to delineate front private property and public street boundary.

Fencing shall be applied to screen the undercroft parking from the park to the south

*Comment*

The proposed development has not submitted a landscape plan as required. The applicant has been advised that this information is outstanding on multiple occasions and has advised that a landscape plan will not be provided. This issue is addressed in deferred commencement conditions. It should be stressed that the applicants decision to not provide this information prevents Council from issuing an operational consent.

**Street:** Sturgeon Street shall be extended north from William Street through the identified Town Centre Extension and connect to Kangaroo Street and incorporate the existing pedestrian lane.

*Comment*

The development adjoins the existing lane.

**Parking:** Angled parking shall be provided on Kangaroo Street to accommodate visitors and convenience parking where practicable.

*Comment*

The applicant previously proposed to construct angled parking along the site's frontage in lieu of parking shortfall. The applicant has since deleted angled parking within the Kangaroo road reserve from the proposal.

**Footpaths:** Shall be constructed for the width of the lot along street and lane frontages

*Comment*

This will be reinforced as a condition of consent.

**Public Art:** Public art should be incorporated into the façade of the proposed building e.g. balustrades, within the front setback or incorporated into the footpath.

*Comment*

This will be reinforced as a condition of consent and could have been addressed as part of the landscape plan.

## **2. Likely Impact of the Development**

As outlined in this report the proposed commercial premises is a permissible landuse in the 5(g) zone and the subject site is located within the residential precinct of the Development Control Plan 2007 – C1: Raymond Terrace Town Centre. It is evident from the preliminary landuse survey that the immediate area is also subject to a period of landuse transition. For example the subject land adjoins the former playing fields which has now been rezoned 3(a) General Business.

Whilst the development will result in impacts on the residential amenity of the adjoining land these issues can be minimised and mitigated through conditions of consent. In addition, the maintenance and/or reestablishment of landscaping included as a condition of consent on the adjoining residential unit complex will assist in minimising the visual impact of the proposed development on the adjoining land. The inclusion of deferred commencement consent conditions to resolve minor engineering and design details will ensure that there are no unreasonable or unacceptable impacts on the adjoining residential land uses.

Deferred Commencement consent conditions addressing enhanced landscaping to the sites' perimeter will minimise the visual impact of this development within the existing streetscape and will serve to establish the standard for landscaping along this street for this form of development.

### **3. Suitability of the Site**

The subject site is zoned 5(g) – Special Urban (Flood Affected) zone and commercial premises are permissible in this zone with development consent. The range of permissible uses does give rise to potential landuse conflicts as addressed in this report. The flooding constraint has been assessed in accordance with Council's policies and the proposal has been designed to satisfy the required flood planning level.

It is considered that the residential precinct and associated principles and controls as defined in the DCP do not correlate with the attributes of the subject site as addressed in the *Interim Policy for land on Kangaroo Street* recently adopted by Council. The proposed development is considered satisfactory in respect to the suggested planning framework and assessment principles contained in this report.

### **4. Submissions**

The application was advertised and adjoining owners were notified in accordance with DCP A1.9. No submissions were received by Council in relation to this proposal.

### **5. Public Interest**

The proposal is a permissible use with consent in the 5(g) zone and will provide modern office space and employment in close proximity to the Raymond Terrace Town Centre Expansion Area. The proposed use is therefore not considered to be contrary to the public interest.

**ATTACHMENT 4**  
**INTERIM PLANNING POLICY FOR LAND ON KANGAROO STREET, RAYMOND TERRACE**



**POLICY**

Adopted:XX/03/2009  
Minute No: xxx

**FILE NO: PSC2009- 01064**

**TITLE: INTERIM PLANNING POLICY FOR LAND ON KANGAROO STREET, RAYMOND TERRACE**

**BACKGROUND**

This Interim Planning Policy applies to land identified in Figure 1. It clarifies the planning controls for this land when considering development in the Residential Precinct in Figure C1.1 Raymond Terrace Town Centre in *Port Stephens Development Control Plan 2007 – C1 Raymond Terrace Town Centre*.

This Policy aligns the planning controls with the land use activities permissible with consent in the 5(g) – Special Urban (Flood Affected) zone under the Port Stephens LEP 2000.

**OBJECTIVE**

To establish Policy directions and to enable Council as the consent authority to assess and determine Development Applications for land use activities on land, permissible with consent under the Port Stephens LEP 2000.

The objectives of the Interim Policy and draft amendment to Port Stephens Development Control Plan 2007 are as follows:

- To facilitate the transition of the residential area on the south side of Kangaroo St to a higher density commercial/mixed use "centre support" area that provides activities to support the Raymond Terrace town centre (William Street) and Town Centre Extension adjacent and to the south of the subject land and adjoining lands along Kangaroo Street.
- To encourage investment and redevelopment in Kangaroo Street.

- To require the extension of Sturgeon Street to connect to Kangaroo Street so that “centre support” activities have direct access to the town centre;
- To require building design to over look the public domain (Kangaroo Street to the front, Sturgeon Street extension to the east side and the public park to the rear)
- To require building design and the provision of public infrastructure, street furniture and tree planting to integrate to create a safe and attractive pedestrian street commensurate for a centre support urban environment.

## **APPLICATION**

This Interim Policy must be considered when dealing with proposals for development on land south of Kangaroo Street, Raymond Terrace as indicated in Figure 1. This Policy should be read in conjunction with the requirements of the Port Stephens LEP 2000. If this policy is inconsistent with the requirements of the Port Stephens DCP 2007 then this policy shall prevail to the extent of the inconsistency.

## **POLICY STATEMENT**

### **Private land**

**Land use activities:** As per 5(g) zone permissible land use activities.  
Shop front retailing ancillary and directly linked to the land use activity proposed or occurring within the building.

**Setbacks:** Front – 3 metres  
Side – 0 metres for adjoining street, merit based for adjoining existing residential land use.  
Rear first floor - 0 metres if no adverse overshadowing of public open space  
Rear second floor – 3m

**Building Height:** 13.3metres AHD and 2 storeys from Kangaroo Street

**Floor Space Ratio:** 1:1 for lots created before the adoption of this policy.  
10% bonus for lot amalgamation.

**Building Site Coverage:** 80%

**Balconies:** Lots fronting Kangaroo Street and backing onto identified park to the south have double frontage. Therefore, balconies shall be provided part or all of the front façade and part of the rear of the building facing onto the proposed park.

**Pedestrian Access:** Pedestrian access to the front entrance of buildings shall be provided by a path perpendicular to the footpath.  
Ramped access in front of the building should be avoided and is to be internalized within the building where practicable

- Landscaping:** Ground cover and mid storey landscaping species to complement the large street tree planting.  
Constructed fencing or hedging provided to delineate front private property and public street boundary.
- Fencing shall be applied to screen the undercroft parking from the park to the south
- Public land**
- Street:** Sturgeon Street shall be extended north from William Street through the identified Town Centre Extension and connect to Kangaroo Street and incorporate the existing pedestrian lane.
- Parking:** Angled parking shall be provided on Kangaroo Street to accommodate visitors and convenience parking where practicable.
- Footpaths:** Shall be constructed for the width of the lot along street and lane frontages
- Public Art:** Public art should be incorporated into the façade of the proposed building e.g. balustrades, within the front setback or incorporated into the footpath.

#### **RELATED POLICIES**

*Port Stephens Community Settlement and Infrastructure Strategy 2007*  
*Port Stephens Development Control Plan 2007*  
Section 79C of the Environmental Planning and Assessment Act 1979.

#### **REVIEW DATE**

Three years from date of adoption or until superseded by amendments to the Port Stephens LEP 2000 and/or DCP 2007.

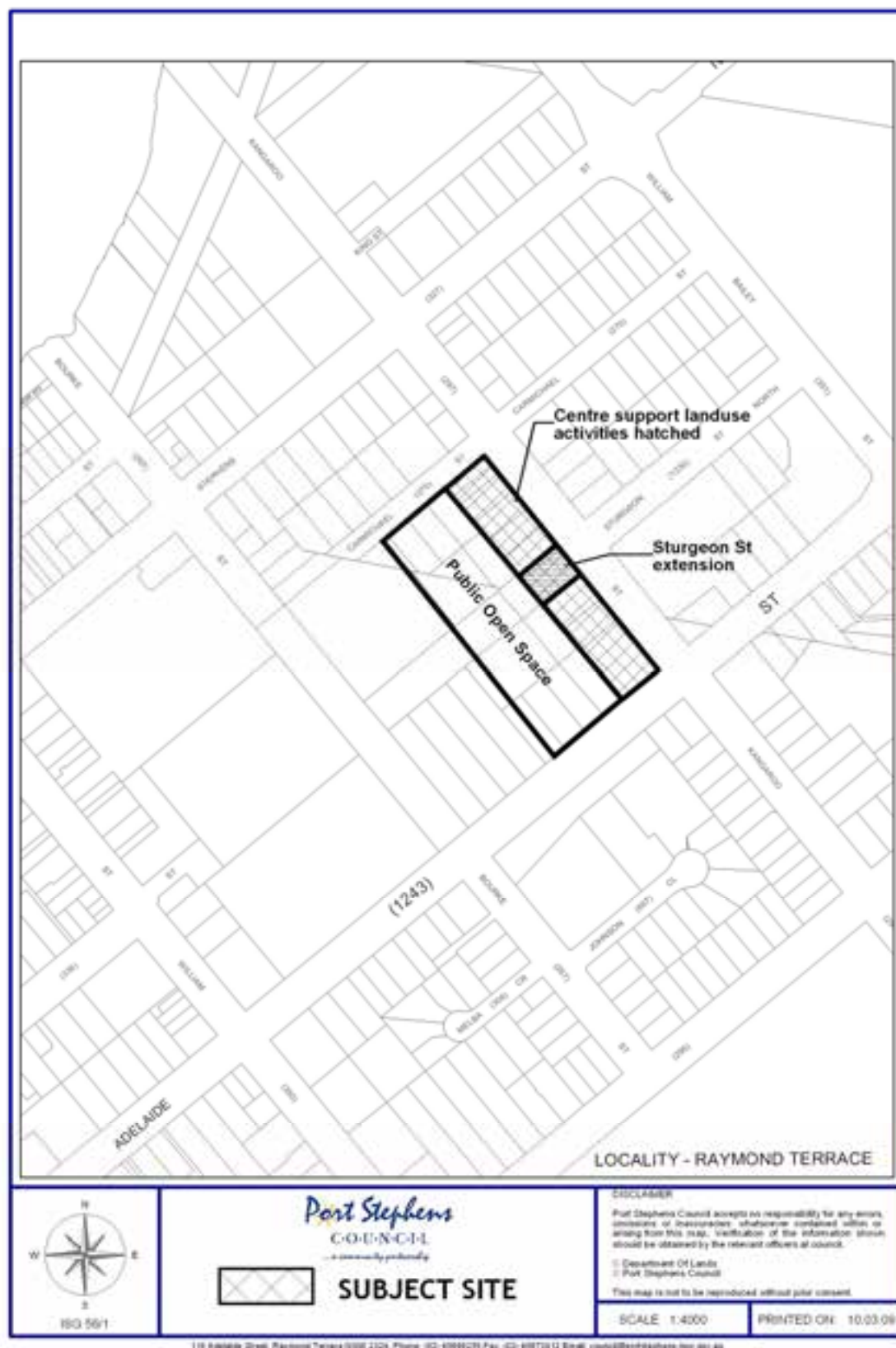
#### **RELEVANT LEGISLATIVE PROVISIONS**

*Environmental Planning and Assessment Act 1979*  
*Port Stephens Local Environmental Plan 2000*

#### **IMPLEMENTATION RESPONSIBILITY**

Sustainable Planning Group

**FIGURE 1**  
**LANDS SUBJECT TO INTERIM PLANNING POLICY**



## ATTACHMENT 5 CONDITIONS OF CONSENT

This consent is issued as a Deferred Commencement Consent under Section 80(3) of the Environmental Planning and Assessment Act 1979.

This consent is granted with "Deferred Commencement" conditions and is granted subject to a condition that the consent is not to operate until, in accordance with the regulations, the consent authority is satisfied as to any matter specified in the "Deferred Commencement" conditions.

Part A of this consent clearly distinguishes the "deferred commencement" conditions concerning matters as to which the consent authority must be satisfied before the consent can operate; from Part B, which contains the conditions of consent.

The consent authority specifies that the period within which the applicant must produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters listed in Part A is 12 months from the date of this consent. The applicant must produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters within that period, or the consent lapses

If the applicant produces evidence to satisfy the deferred commencement conditions, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matters.

If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of section 97 of the Environmental Planning and Assessment Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.

This consent is not to operate until the applicant satisfies the consent authority of the matters set out below:

### Part A

1. An amended stormwater drainage plan detailing design levels that allows natural fall to the proposed outlet point shall be submitted to Council. Details must be submitted and approved by Council **prior to issue of consent.**
2. Full details shall be submitted to Council demonstrating that access to the proposed carpark can be achieved in accordance with Council's Standard Drawings S105B and S123 and AS2890.1. Details must be submitted and approved by Council **prior to issue of consent.**
3. Plans submitted shall include details of any proposed footway regrading in Kangaroo Street, Raymond Terrace. All works shall be designed in accordance with Council's Subdivision Guidelines. Details must be submitted and approved by Council **prior to issue of consent.**



4. An amended landscaping plan inclusive of a bicycle storage area shall be submitted to and approved by Council **prior to issue of consent**. Landscaping plan must include a minimum of 10% landscaping of the ground level of the subject site and must incorporate landscaping in the following areas: the front building line setback; and the side and rear setbacks if visible from a public place. All landscaping must fulfil the requirements of the Safer by Design Guidelines. The bicycle storage area shall be provided in the vicinity of the building entrance and cater for a total of five (5) bicycles.
5. Details of a public art feature, located on either the front façade balustrades or the disabled access ramp balustrades shall be submitted to Council. This feature shall provide visual interest for pedestrians and interpret or reflect the local setting and/or landscape character and/or the cultural setting of the Raymond Terrace area. Features such as an imprint of a Jacaranda Tree or equivalent are suggested. The feature shall be designed to ensure long-term durability and be resistant to vandalism. Details must be submitted and approved by Council **prior to issue of consent**.
6. Applicant must submit amended plans which incorporate the windows on the north-west elevation to be constructed of translucent/opaque glazing to a minimum height of 1.8m above the finished floor level of each floor to reasonably mitigate the privacy impacts to the adjoining Lot 3 Deposited Plan 37947. The translucent glazing shall be designed to ensure that the persons looking out of the windows cannot see or identify people or features on Lot 3 Deposited Plan 37947. The area to be glazed is identified by red hatching on the north-west elevation. Details must be submitted and approved by Council **prior to issue of consent**.
7. An amended Preliminary Acid Sulphate Soil Assessment must be submitted to and approved by Council **prior to issue of consent**. The amended assessment must detail the depth of excavation required for this development.
8. Applicant must submit amended plans which delete the on-street carparking arrangement shown on original plans, instead reverting to the existing on-street parking arrangements at the front of the site. Details must be submitted and approved by Council **prior to issue of consent**.

**Part B**

9. The on-street carparking identified on the approved plans is not required to be provided as part of this consent.
10. The applicant shall consolidate Lots 4 and 5 Deposited Plan 37947 into one allotment **prior to issue of Occupation Certificate**. **Occupation of any part of the development must not be permitted** until confirmation is provided to Council or the Private Certifier that the plan of consolidation has been registered as a deposited plan with the Land Information Centre

11. The development shall provide forty three (43) on-site car parking spaces, including two (2) disabled parking spaces. These spaces shall be separately accessible, clearly line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with the Port Stephens Development Control Plan 2007. All car parking must be provided **prior to the issue of the occupation certificate**.
12. A Construction Management Plan shall be submitted and approved by Council, **prior to the issue of the Construction Certificate**. The Construction Management Plan shall specify operational details to minimise any potential impact to adjoining properties. The Construction Management Plan should include but not be limited to the following information:- construction techniques, noise and vibration management, storage of equipment and building materials, hours of work, parking of construction/employees vehicles, primary route for truck movements, etc.
13. A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

	Per Lot	Total
Civic Administration	(\$600)	(\$10,152)
Public Open Space, Parks and Reserves	(\$0)	(\$0)
Sports and Leisure Facilities	(\$0)	(\$0)
Cultural and Community Facilities	(\$0)	(\$0)
Roadworks	(\$1,520)	(\$25,718)
Fire & Emergency Services	(\$0)	(\$0)
Carparking	(\$15,857)	(\$15,857)

Note:

- a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.
- b) Contributions are to be paid prior to **issue of construction certificate**.
- c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months.
14. All landscaping works must be completed **prior to issue of Occupation Certificate**. Landscaping shall be maintained in perpetuity to Council's satisfaction by the existing or future owners and occupiers of the property.

15. The public art feature shall be installed **prior to issue of Occupation Certificate.**
16. The retaining wall(s) to the north-east boundary of Lot 5 Deposited Plan 37947 shall be constructed of masonry material. Structural Engineering details shall be submitted and approved by the Principal Certifying Authority **prior to the issue of the Construction Certificate.** (Note: to be used for retaining walls that exceed 1m in height and located within 500mm of any site boundary)
17. The development shall be constructed in accordance with the approved colour scheme nominated in the Statement of Environmental Effects and dated 30/06/08.
18. Certification is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:
- a. On completion of ground floor construction, confirmation that the floor levels are in accordance with the Reduced Levels indicated on the approved plan.
  - b. On completion of each subsequent floor level, confirming that the floor levels are in accordance with Reduce Levels indicated on the approved plan.
  - c. When the roof has been completed, confirmation that the building does not exceed the Reduced Levels as indicated on the approved plan.
19. Black 'pool style' fencing to a height of 1.8m must be constructed along the length of the boundary between Lot 5 Deposited Plan 37947 and the adjoining Council laneway to allow visibility and natural surveillance from public areas. All fencing must be constructed **prior to issue of Occupation Certificate.**
20. Black 'pool style' fencing to a height of 1.8m must be constructed along the entire length of the rear boundaries of Lot 4 and Lot 5 Deposited Plan 37947. Fencing shall be a suitable mid-tone colour to blend into the surrounding environment. All fencing must be constructed **prior to issue of Occupation Certificate.**
21. Colourbond fencing to a height of 1.8m must be constructed at the Applicant's expense along the north-west boundary between Lot 3 and Lot 4 Deposited Plan 37947 to preserve the visual privacy of Lot 3 Deposited Plan 37947. The fence must end at the line of the front of the building and not encroach into the front building line. Fencing shall be a suitable mid-tone colour to blend into the surrounding environment. All fencing must be constructed **prior to issue of Occupation Certificate.**
22. The construction of the building, including the roof, shall be in materials of a low reflective quality. The visible light reflectivity from building material used

on the facades shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place.

23. A bicycle storage area catering for a total of five bicycles shall be provided in the vicinity of the building entrance. The bicycle storage area must not conflict with pedestrian or vehicle access and must be incorporated into the landscape design plan. Details shall be provided to Council within the amended landscape design plan. Bicycle storage area must be constructed **prior to issue of Occupation Certificate.**

24. Garbage bins must be stored within the allocated rubbish bin area as identified on the Ground Floor Plan except on collection days.

25. Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.

26. Any advertising structures shall comply with Council's signage requirements under the Local Environmental Plan 2000 and Port Stephens Council Development Control Plan 2007: B12 -Advertising Signs.

No advertisement shall be displayed without the consent of Council, unless the advertisement does not require approval under the Local Environmental Plan 2000: Schedule 3 Exempt development or Port Stephens Council Development Control Plan 2007:B12 - Advertising Signs Code.

27. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005).

28. The Flood Planning Level for this development is 5.3 metres AHD.

29. Flood Compatible Building Materials are listed in the attached Schedule.

The following design precautions must be adhered to:-

- a. The floor level of any habitable room is to be located at a height not less than
  - i. the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level.
- b. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge.
- c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods.
- d. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible.

- e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level.
  - f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed.
  - g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.
  - h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level.
  - i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.
30. The vehicle driveway from the roadway to the property boundary incorporating the gutter crossing shall be constructed in accordance with the options shown on **Council's Standard Dwg No. S123.**
31. All redundant lay-backs shall be reinstated to match the adjoining kerb and gutter profile.
32. The driveway levels shall comply with Council's specifications for high/low level driveway construction indicated on **Council's Standard drawing S105B.**
33. Submission of Works-As-Executed plans and report prepared and certified by a suitability qualified engineer confirming all driveway and manoeuvring areas (levels, grades, location) are built in accordance with conditions of consent and the approved plan.  
Minor variations in height can be certified providing they are clearly identified in the report and the engineer certifies that drainage flow paths are not compromised and vehicles will not bottom out.
- The documents shall be submitted to, and accepted by the Certifying Authority, **prior to issue of the occupation certificate.**
34. Collected stormwater runoff shall be piped to the existing Council drainage system, in accordance with **Council's Standard Drawing S147.**

35. Filling shall not obstruct any natural stormwater flowpath or water drainage system. Neither shall the fill encroach any adjoining property.
36. In areas that are disturbed for site filling, all available topsoil shall be stockpiled and re-used at the completion of the earthworks. The topsoil shall be spread evenly and lightly rolled. All disturbed areas shall be stabilised within 14 days of completion of the filling operations with grass cover by either turfing or seeding.
37. Erosion control measures shall be put in place to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with "Managing Urban Stormwater", Volume 1:2004 (Landcom).
38. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
39. Submission of Works-As-Executed plans and report prepared and certified by a suitability qualified drainage engineer confirming all drainage works (volume, discharge, levels, location, etc) are built in accordance with conditions of consent and the approved plan. Minor variations in height can be certified providing they are clearly identified in the report and the engineer certifies that the overland flow paths are not altered, discharge rates are not increased, and no additional negative effects are imparted on any dwellings or property. Minor variations can only be certified where it can be demonstrated that the ease of maintenance and monitoring of the system has not been negatively affected.

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

40. The driveway (within the road reserve) shall have a minimum of 0.5 metres clearance from the edge of existing drainage structures, pits, power poles etc. Details shall be approved by the certifying authority **prior to issue of the construction certificate.**
41. Driveways, parking and turning areas shall sealed with either reinforced concrete over a suitably prepared, compacted sub-base. These areas shall be maintained in perpetuity by the existing or future owners and occupiers of the property(s).
42. Provide a drainage system on site to collect pavement runoff from vehicle parking areas into proprietary oil arrestor before discharge from the site (or to any stormwater detention or infiltration systems on-site). Pollutants shall be disposed of in an approved manner. Roof stormwater must be discharged separately. Full details, shall be approved by the certifying authority **prior to issue of the Construction Certificate.**

43. The stormwater detention system shall be designed and built in accordance with the approved concept plan. Details shall be approved by the certifying authority **prior to issue of the construction certificate.**
44. The stormwater detention system is to be designed in accordance with Section 8.11 of AS 3500.3:2003. Details are to be approved by the Certifying Authority **prior to issue of Construction Certificate.**
45. Structural Certification is required for the below ground stormwater system/tank(s). Details are to be approved by the Principal Certifying Authority **prior to issue of the Construction Certificate.**
46. Details of any proposed structures or batters within the footway shall be submitted to, and approved by Council **prior to issue of the Construction Certificate.**
47. A concrete footpath 1.2 metres wide and 100mm thick shall be provided, to Council's Standards, over the full street frontage of the site **prior to Occupation.** Details shall be submitted to, and approved by Council **prior to issue of Construction Certificate.**
48. All works as listed as conditions of development consent, which are located in public roads are subject to approval under section 138 of the Roads Act 1993. Engineering details in accordance with Council's Subdivision and Development Code, of such works shall be submitted with a Roads Act application form and then approved by Council prior to approval to commence these works and **prior to issue of the Construction Certificates.**
- The following items are also required to be approved by Council prior to approval being granted to commence works:
- a) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
  - b) Payment of fees and bonds (same Principle Certifying Authority fees, inspection fees and maintenance bonds as relevant to subdivisions);
  - c) Contractors public liability insurances to a minimum value of \$10 million dollars.
49. The stormwater detention system shall be constructed and made operational prior to construction of any hardstand areas within the site, including slabs and parking and manoeuvring areas. A construction staging plan shall be submitted to, and approved by the certifying authority **prior to issue of the construction certificate**, demonstrating any measures required to provide compliance with this condition. Details shall also include measures necessary to capture and convey stormwater to the system during construction phases.
50. The building is located adjacent to a drainage system and as such all footings are to be founded below the zone of influence. Details shall be approved by an accredited Certifier or Council **prior to issue of the Construction Certificate.**

51. Where the proposed development incorporates pile-driving activities associated with the construction process the applicant/beneficiary of the consent shall, **prior to commencement of work** associated with the piling system undertake the following actions.

a) For development incorporating pile-driving activities for a period of 5 days or more, be that consecutive or combined total:

i) An appropriately qualified Acoustic Engineer shall prepare a report on the impact on adjoining properties in relation to anticipated noise and vibration with reference to compliance with British Standard 6472 - 1996 Guide to evaluation of human exposure to vibration in buildings (1Hz to 80 Hz).

ii) Where the anticipated impacts exceed the prescribed performance standards of the noted Standard the consultant shall make recommendations on the method of minimising the noted impacts to meet the performance standards.

iii) For pile driving activities with a duration in excess of 5 days as noted above the applicant/beneficiary of the consent shall engage an Acoustic Engineer to undertake monitoring of the pile driving to verify the identified performance standards noted are not exceeded. Details to be forwarded to Principal Certifying Authority.

52. Pile driving shall only be carried out between the hours of 8.00am - 3.30pm Monday to Friday excluding public holidays.

53. Development incorporating pile-driving activities for a period of less than five (5) days be that consecutive and a total combined throughout the construction process, shall comply with the provision of British Standard 6472-1996.

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

The notification shall be forwarded a minimum of 2 days prior to the commencement of works.

55. All noise emitting equipment ie pumps, filters, air conditioners, etc, is to be positioned or insulated to prevent causing offensive noise to neighbours.



Note: 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 (NSW).

56. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the Roads Act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted.
57. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. **Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.**
58. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.
- Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing Urban Stormwater – Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.
59. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
60. Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
61. All stockpiled materials shall be retained within the property boundaries. Stockpiles of topsoil, sand, aggregate, spoil or other materials shall be stored clear of the all weather vehicle access and drainage lines.
62. The Principal Certifying Authority shall only issue an occupation certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of consent. No occupational use is permitted until the Principal Certifying Authority issues an occupation certificate. NOTE: If an accredited certifier approves occupation, the accredited certifier is to immediately notify Council in writing.
63. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the

Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council, If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.

64. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
  - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.
65. A Geotechnical Report as to the suitability of the foundation to withstand imposed loads from the proposed building to be provided with Construction Certificate Application.
66. Building demolition shall be carried out in accordance with Australian Standard AS2601-2001 - The Demolition of Structures.
67. Prior to demolition, all existing services are to be disconnected, sealed and made safe. The sewer, water and gas service is to be disconnected by a licensed plumber.
68. The demolition and disposal of materials containing asbestos should be carried out in accordance with Workcover Authority Guidelines. Material should be disposed of at a licenced landfill facility.
- 69.** In accordance with the approved Waste Management Plan, Council requires the applicant/owner to retain demolition and construction waste dockets to confirm which facility received the materials for recycling or disposal. Dockets to be submitted to Council **prior to issue of Occupation Certificate.**
70. The proposed development shall be provided with access and facilities for the disabled in accordance with Australian Standard 1428.1 and the relevant provisions of the Building Code of Australia.
71. A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1 shall be provided to and within any building on the site. This accessway shall provide access to all required facilities.
72. External access to the building required to be accessible must be in accordance with the Building Code of Australia Part D and Australian

Standard 1428.1, and must be provided:a

- (i) from the allotment boundary at the main points of entry; and
- (ii) from any accessible carparking space on the allotment; and
- (iii) from any adjacent and associated accessible building on the allotment; and
- (iv) through the principal public entrance.

73. The minimum number of accessible car parking spaces shall be provided in accordance with the Building Code of Australia Section D Subsection 3.5 and designed in accordance with Australian Standard 2890.1.

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

**ADVICE**

1. This approval relates to **Development Consent** only and does not infer any approval to commence excavations or building works upon the land. **A Construction Certificate should be obtained prior to works commencing.**
2. The consent shall be sought and obtained prior to any change of use of the premises.
3. Servicing of Council provided garbage bins is from the kerbside via side loading collection vehicles.
4. Large light coloured surfaces on the outside of the building may attract graffiti. Council recommends that anti-graffiti surface be utilised.
5. The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. This applies particularly to new buildings or significant building alterations. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act. Further information can be obtained from Council or the Human Rights and Equal Opportunity Commission on 008 021199.
6. Consideration should be given to the following enhanced access and facilities provisions for the proposed development.  
  
(III) Australian Standard 1428.3 Design for access and mobility – Requirements for children and adolescents with physical disabilities.
7. Further information about disabled access obligations can be found at the Human Rights and Equal Opportunities Commission website [www.hreoc.gov.au](http://www.hreoc.gov.au)
8. Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work shall cease and the **National Parks and Wildlife Service** shall be consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the **National Parks and Wildlife Act 1974.**
9. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

**ITEM NO. 4****FILE NO: A2004-0322****COUNCILLOR APPOINTMENT - KARUAH WORKING TOGETHER INC****REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Nominate and elect one West Ward Councillor as Council's representative to the membership of Karuah Working Together Inc.
- 2) Subject to recommendation (1), appoint one additional West Ward Councillor as an alternate Council representative to the membership of Karuah Working Together Inc.

**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie Councillor Shirley O'Brien</b>	<b>That the recommendation be adopted with Cr Francis nominated as the delegate for the West Ward.</b>
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**ORDINARY COUNCIL – 24 APRIL 2009**

	<b>Councillor Bruce MacKenzie Councillor Shirley O'Brien</b>	That the recommendation be adopted.
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**AMENDMENT**

	<b>Councillor Glenys Francis Councillor Ken Jordan</b>	That Council resolved to negotiate a meeting night with the Karuah Working Together Committee.
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**FORESHADOWED AMENDMENT**

<b>106</b>	<b>Councillor Bruce MacKenzie Councillor Steve Tucker</b>	<b>It was resolved that the West Ward Councillors negotiate a representative from the West Ward.</b>
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The amendment on being put was lost.

The foreshadowed amendment was put and became the amendment. The amendment on being put became the motion and was carried.

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## **BACKGROUND**

**The purpose of this report is to seek the appointment of two West Ward Councillors to the membership of Karuah Working Together Inc, one as Council's designated representative and the other as an alternate representative for any occasions where Council's designated representative is unable to fulfil their duties.**

In early 2005 the *Karuah Community & Economic Redevelopment Committee* (now known as Karuah Working Together Inc) was established to oversee the implementation of the *Karuah Community & Economic Redevelopment Plan*. The Plan specified a range of initiatives aimed at mitigating any potential negative impacts on Karuah arising from the opening of the Pacific Highway bypass, whilst maximising the opportunities the bypass presented for the Town.

Council has actively supported Karuah Working Together Inc (KWT) since its inception with support and assistance from Councillors and relevant Council Officers. At the outset Council appointed one West Ward Councillor to the membership of KWT in accordance with the Committee's Terms of Reference. Despite the restriction on Councillor membership, all West Ward Councillors have wherever possible lent their support to KWT through endeavouring to attend meetings, workshops, events and associated activities.

A clear declaration of Council's ongoing commitment and support for Karuah was evidenced when all four West Ward Councillors nominated and were appointed as Council's representatives on KWT following last year's local government election. After being notified of the appointment of West Ward Councillors, KWT at its meeting on 7 November 2008 did not support Council's appointment of all four West Ward Councillors. KWT agreed that whilst all Councillors are welcome guests at their meetings, they resolved to invite Council to provide a single nominee, and substitute, as Council's designated representative and official contact.

## **LINKS TO CORPORATE PLANS**

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

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

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

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

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

### **FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial or resource implications.

### **LEGAL AND POLICY IMPLICATIONS**

Karuah Working Together Inc is not a S355b Committee of Council. It is an incorporated committee of Karuah residents and business people with links to Port Stephens Council via Council's nominated Councillor.

### **BUSINESS EXCELLENCE FRAMEWORK**

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

These outcomes align with the following Business Excellence principles:-

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

### **SUSTAINABILITY IMPLICATIONS**

### **ECONOMIC, ENVIRONMENTAL AND SOCIAL IMPLICATIONS**

There are no economic, environmental or social implications.

## **CONSULTATION**

The recommendations specified in this report have been formulated with reference to the outcomes of the Karuah Working Together Inc meeting on 7 November 2008.

## **OPTIONS**

- 1) To accept the recommendations
- 2) To reject the recommendations

## **ATTACHMENTS**

Nil

## **COUNCILLORS ROOM**

Nil

## **TABLED DOCUMENTS**

Nil



**ITEM NO. 5****FILE NO: A2004-0948****ACQUISITION OF DRAINAGE EASEMENT - CORLETTE****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Grants authority for Councils Seal and signatures to be affixed to Transfer Granting Easement creating a drainage easement over Lot 526 DP821184 being Crown Land.

**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor John Nell</b> <b>Councillor Daniel Maher</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>107</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to recommend Council executes the necessary document to create the Easement once executed by Department of Lands as property owner.

Council extended an existing pipeline to prevent further erosion of the sandy beach east of the marina. The pipeline has been in place for a considerable time but Council needs to create an easement over the pipeline as it is within an area leased by the Department of Lands. The easement is necessary to protect Council and ensure Council can satisfactorily maintain the pipeline. See **ATTACHMENT 1** for location of easement.

**LINKS TO CORPORATE PLANS**

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

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

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

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

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

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

### **FINANCIAL/RESOURCE IMPLICATIONS**

Facilities and Services budget cover the costs of creating the easement and compensation payable under the Land Acquisition (Just Terms Compensation) Act 1991.

### **LEGAL AND POLICY IMPLICATIONS**

Compensation was determined by the Valuer General and will be paid. Council's Seal is required for the document to be registered at LPI. Registration of the documents will finalise the matter and the titles will be adjusted.

### **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.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

Stormwater previously eroded the sandy beach to form a huge open gutter. The extended pipeline now has allowed this sandy beach to reform making it more usable by the general public for recreation.

### **ECONOMIC IMPLICATIONS**

Maintenance to replenish the previously washed away sand will no longer be required. Beach maintenance therefore will be reduced resulting in less funds being spent.

### **ENVIRONMENTAL IMPLICATIONS**

The seagrass on the bed of the port will benefit through not being covered with sand washed from the beach.

### **CONSULTATION**

Drainage Engineer  
Engineering Services Manager  
Principal Property Advisor  
Department of Lands

### **OPTION**

- 1) Accept recommendation
- 2) Reject recommendation

### **ATTACHMENTS**

- 1) Location of easement

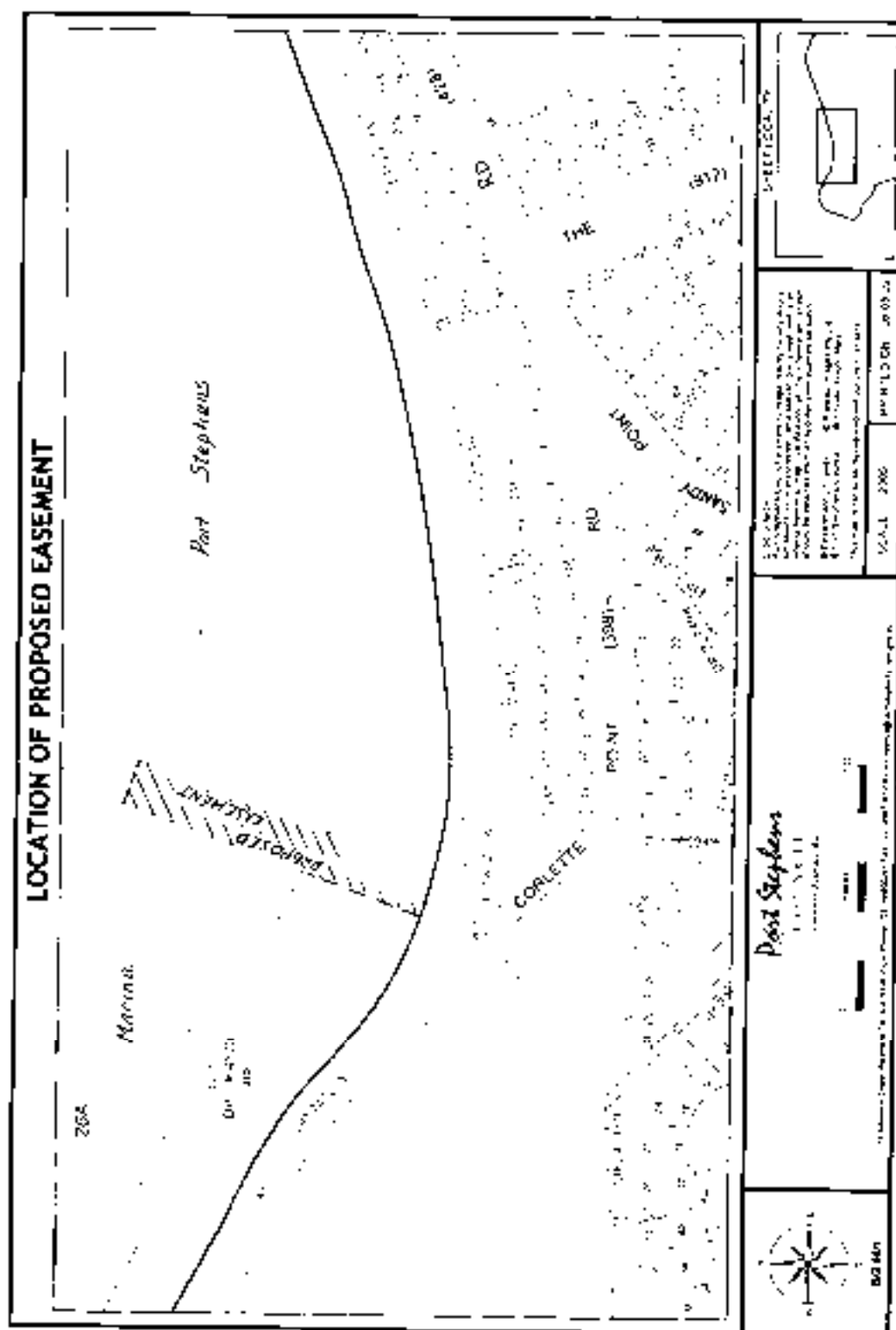
### **COUNCILLORS ROOM**

Nil

### **TABLED DOCUMENTS**

Nil

## 84



**ITEM NO. 6****FILE NO: PSC2008-0808****ADJUSTMENT TO LOCALITY BOUNDARIES OF NELSON BAY AND CORLETTE****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Consults with the affected property owners whose address is Wallawa Road Corlette regarding possible change to Nelson Bay.
- 2) Receives another report after the consultation with a view to advising the Geographical Names Board (GNB) if it is generally accepted.

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**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie</b> <b>Councillor Bob Westbury</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>108</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to recommend the consultation regarding the possible change of address from Corlette to Nelson Bay of those 20 properties on the western side of Wallawa Road.

Council has had enquiries about the possibility of changing the address of those affected properties from Corlette to Nelson Bay because houses on the opposite side of the street are in Nelson Bay. This causes confusion for people trying to make deliveries in that street because of the two different localities. Currently there are about 10 houses in this section of the street with the rest of the properties being vacant. It is inappropriate to have different localities or suburbs on opposite sides of the same street. Consultation with the residents should clarify if they wish to remain in Corlette or be changed.

This situation came about in the 1980's where there had been no development west of Wallawa Road and the locality boundary was not changed when Landcom

subdivided the previous bushland. If the proposed changes are agreed to and put in place it will mean all properties fronting Spinnaker Way will be in Corlette and those fronting Wallawa Road will be in Nelson Bay.

Because of the number of properties involved the GNB must be advised and agree to the change. If the change is approved the GNB will place a notice in the Government Gazette. See **ATTACHMENT 1**.

## **LINKS TO CORPORATE PLANS**

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

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

**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**

No implications for Council however if the changes take place each resident will have to notify their new address to all contacts and services. This will involve time and expense for them.

## **LEGAL AND POLICY IMPLICATIONS**

The GNB is the controlling authority for such changes which can only be put in place under their regulations.

## **BUSINESS EXCELLENCE FRAMEWORK**

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

These outcomes align with the following Business Excellence principles:-

- 1) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 2) **CONTINUOUS IMPROVEMENT** – Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.

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

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

It will improve provision of services to members of the community who have previously had difficulties with delivery and services.

### **ECONOMIC IMPLICATIONS**

Of minor nature within the normal activities of Council but there will be some cost for residents notifying of the change.

### **ENVIRONMENTAL IMPLICATIONS**

Nil

### **CONSULTATION**

Principal Property Advisor  
Geographical Names Board  
Councillor Dover  
GIS Co-ordinator.

### **OPTIONS**

- 1) Accept recommendations
- 2) Do nothing
- 3) Make other suggestions

### **ATTACHMENTS**

- 1) Location map

### **COUNCILLORS ROOM**

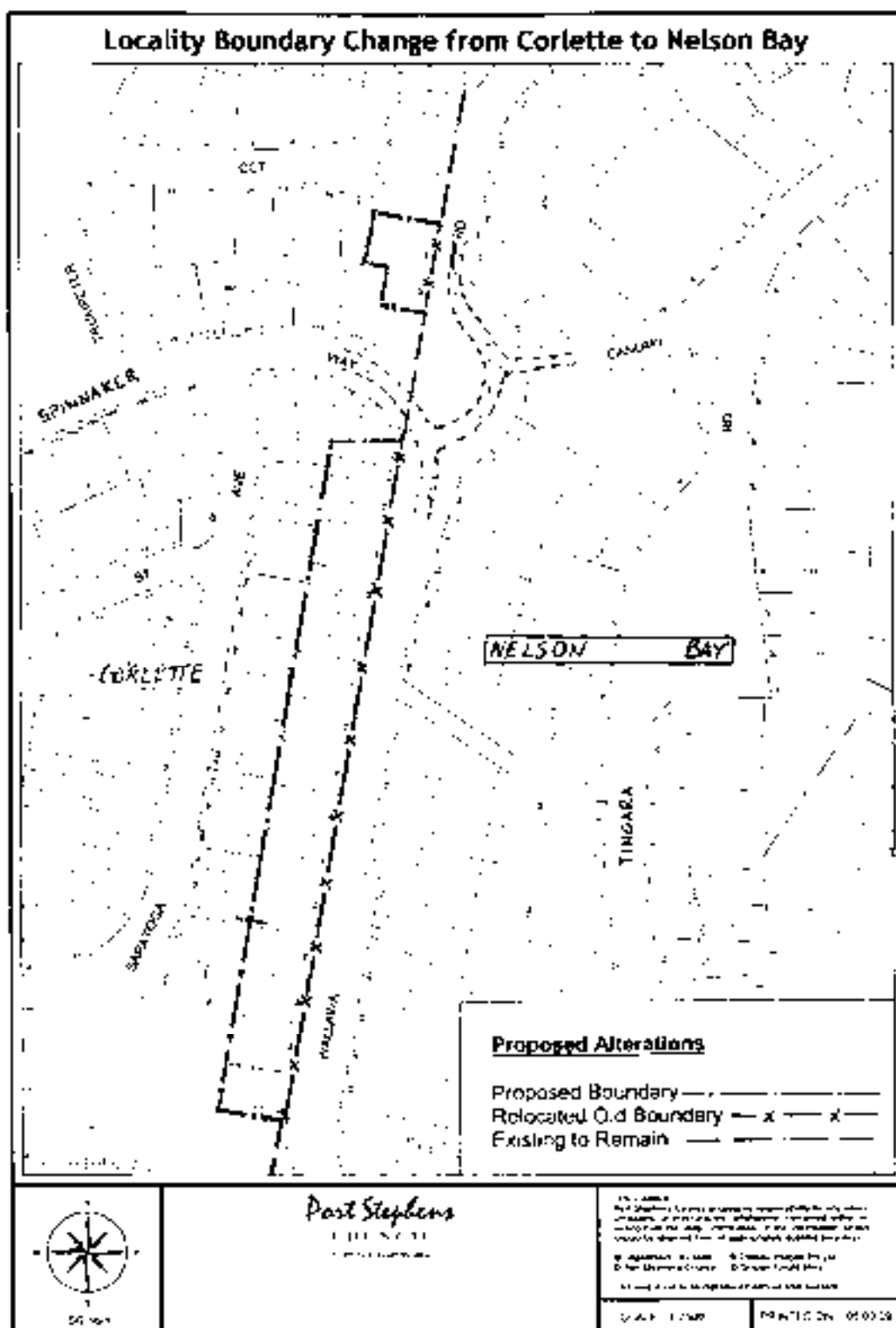
Nil

### **TABLED DOCUMENTS**

Nil

## ATTACHMENT 1

41





**ITEM NO. 7****FILE NO: PSC2005-4181****ACQUISITION OF DRAINAGE EASEMENT – BOAT HARBOUR****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Grants authority for Councils Seal and signatures to be affixed to Transfer Granting Easement creating a drainage easement over Lot 7027 DP1053966 being Crown Land.

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**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie</b> <b>Councillor Bob Westbury</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>109</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to recommend Council executes the necessary document to create the Easement once executed by Department of Lands as property owner.

Some time ago Council diverted an existing pipeline to prevent further erosion of the sandy beach. Previously the stormwater discharged from an open drain onto the sandy beach but it now discharges onto a rock platform to the north. The pipeline has been in place for a considerable time but Council needs to create an easement over the pipeline as it is within an area of Crown Reserve. The easement is necessary to protect Council and ensure Council can satisfactorily maintain the pipeline. See **ATTACHMENT 1** for location of easement.

**LINKS TO CORPORATE PLANS**

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

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

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

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

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

## **FINANCIAL/RESOURCE IMPLICATIONS**

Facilities and Services budget cover the costs of creating the easement and compensation payable under the Land Acquisition (Just Terms Compensation) Act 1991.

## **LEGAL AND POLICY IMPLICATIONS**

Compensation will be determined by the Valuer General and will need to be paid. Council's Seal is required for the document to be registered at LPI. Registration of the documents will finalise the matter and the title will be adjusted.

## **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) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 2) **CONTINUOUS IMPROVEMENT** – Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.
- 3) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 4) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

Stormwater previously eroded the sandy beach to form a huge open gutter. The diverted pipeline now has allowed this sandy beach to reform making it more usable by the general public for recreation.

**ECONOMIC IMPLICATIONS**

Beach maintenance will be reduced resulting in less funds being spent for this purpose due to the outlet now being onto a rock platform.

**ENVIRONMENTAL IMPLICATIONS**

Reduced erosion on the beach because of stormwater discharge has been reduced and will allow the natural beach formation to re-establish.

**CONSULTATION**

Drainage Engineer  
Engineering Services Manager  
Principal Property Advisor  
Department of Lands.

**OPTIONS**

- 1) Accept recommendation
- 2) Reject the recommendation

**ATTACHMENTS**

- 1) Location of easement

**COUNCILLORS ROOM**

Nil

**TABLED DOCUMENTS**

Nil



**ITEM NO. 8****FILE NO: PSC2005-2676****CREATION AND CANCELLING OF DRAINAGE EASEMENTS OVER LOT 4 DP1054980 AT BOAT HARBOUR****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Grants authority for Councils Seal and signatures to be placed on instruments creating a new drainage easement and cancelling an existing drainage easement.

**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie</b> <b>Councillor Bob Westbury</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>110</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to obtain Councils authority to affix the Seal to the Transfer Granting Easement instrument as well the Transfer Cancelling Easement instrument.

Following consent of a Development Application an existing pipeline was removed and relocated to a new position within the existing property 21 Richardson Street Boat Harbour. The property owner is required to grant an easement over the new location of the pipeline and cancel the existing easement over the pipeline which was removed. The necessary documents have been prepared and are now ready for execution by Council. Recommendation allows the execution to take place, **ATTACHMENT 1** for the location of the easement.

**LINKS TO CORPORATE PLANS**

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

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

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

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

### **FINANCIAL/RESOURCE IMPLICATIONS**

Nil - as the applicant pays all costs associated with the registration of the documents.

### **LEGAL AND POLICY IMPLICATIONS**

Council Seal is required on the documents for correct execution and lodgement at Land and Property Information.

### **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) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 2) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 3) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

### **SUSTAINABILITY IMPLICATIONS**

#### **SOCIAL IMPLICATIONS**

Nil as it involves replacing an existing drainage pipeline.

#### **ECONOMIC IMPLICATIONS**

Council maintains the existing pipeline and will continue to do so in the new location.

**ENVIRONMENTAL IMPLICATIONS**

Nil

**CONSULTATION**

Principal Property Advisor  
Development Engineering Coordinator  
Property owner's surveyor.

**OPTIONS**

- 1) Accept recommendations
- 2) Reject the recommendations

**ATTACHMENTS**

- 1) Location of Easement.

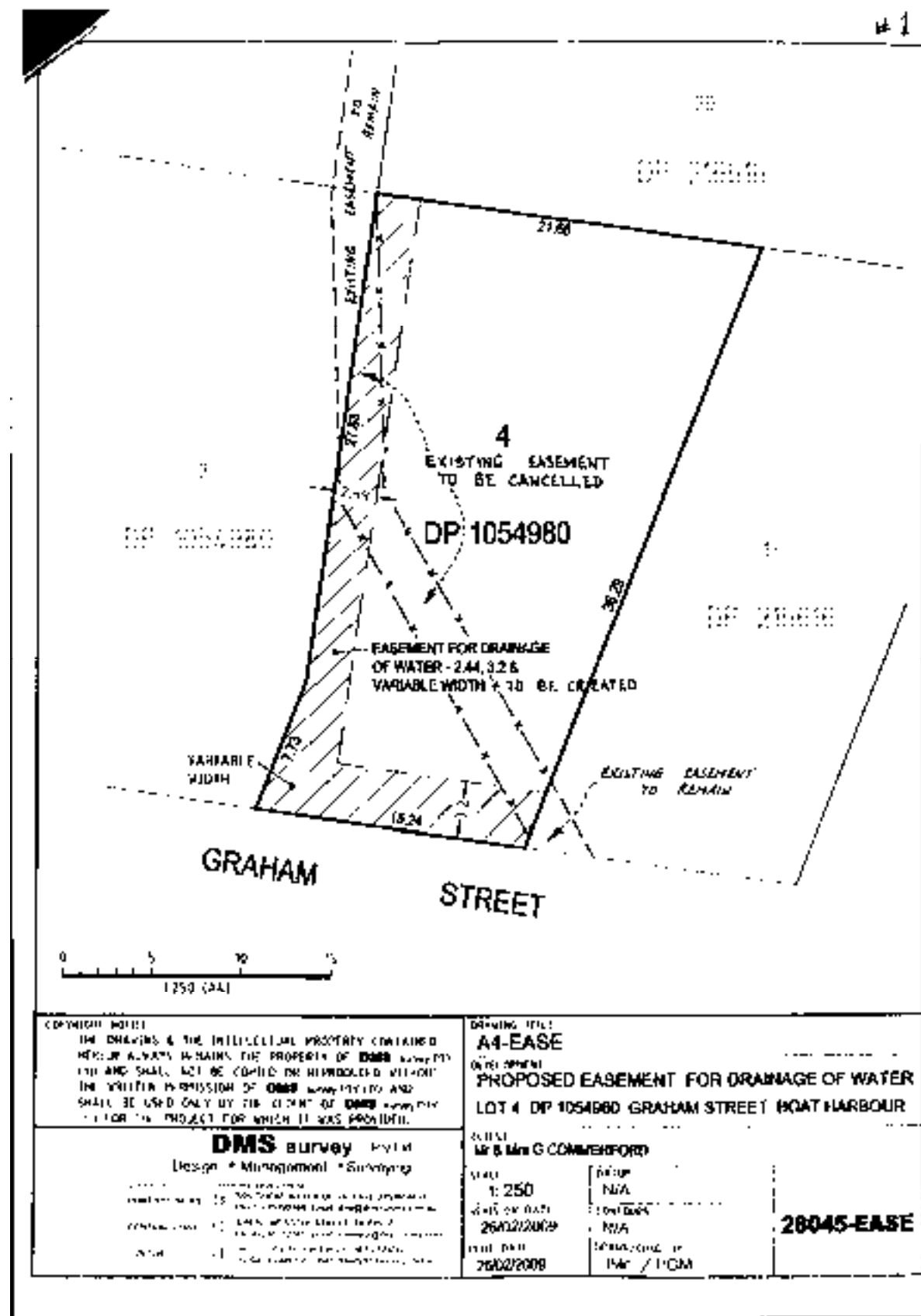
**COUNCILLORS ROOM**

Nil

**TABLED DOCUMENTS**

Nil

ATTACHMENT 1





**ITEM NO. 9****FILE NO: PSC2009-00870****MINOR ADJUSTMENTS TO LOCALITY BOUNDARIES****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves the recommended minor adjustments to the localities of – Brandy Hill/Seaham, Medowie/Campvale, Fullerton Cove/Fern Bay, Nelsons Plains/Seaham, Swan Bay/ Karuah, Raymond Terrace/Ferodale and Wallalong/Woodville.
- 2) Council advises the affected owners and service authorities of the adjustments.

**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie</b> <b>Councillor Bob Westbury</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>111</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to recommend adjustments of locality boundaries to meet resident's needs to improve deliveries.

A small number of owners have expressed concern at deliveries of goods and mail not being delivered effectively in various areas throughout the Council area. The majority of them relate to land on corners of roads which were originally included in a locality but because their driveways and mail boxes now face the other road they were in another postal locality. This doubt and confusion needs to be overcome see **ATTACHMENTS 1-7** for each situation.

The Geographical Names Board (GNB) now allows Council to carry out minor adjustments to localities where only up to 10 properties are involved without consultation with that board. In each case there are far less than 10 properties

involved and the GNB will allow Council to carry out the adjustments without advertising or Gazettal. See **ATTACHMENT 8** for GNB policy notes.

### **LINKS TO CORPORATE PLANS**

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

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

**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**

Very minor nature.

### **LEGAL AND POLICY IMPLICATIONS**

GNB policy permits this action to take place provided the necessary conditions and steps are taken.

### **BUSINESS EXCELLENCE FRAMEWORK**

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These outcomes align with the following Business Excellence principles:-

- 1) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 2) **CONTINUOUS IMPROVEMENT** – Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.
- 3) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

Improve provision of services to member of the community who have previously had difficulties with deliveries and services.

### **ECONOMIC IMPLICATIONS**

Of minor nature within the normal activities of Council.

### **ENVIRONMENTAL IMPLICATIONS**

Nil

### **CONSULTATION**

GNB, Principal Property Advisor and GIS Co-ordinator.

### **OPTIONS**

- 1) Accept recommendations
- 2) Do nothing

### **ATTACHMENTS**

- 1) Location maps (7)
- 2) GNB Policy notes

### **COUNCILLORS ROOM**

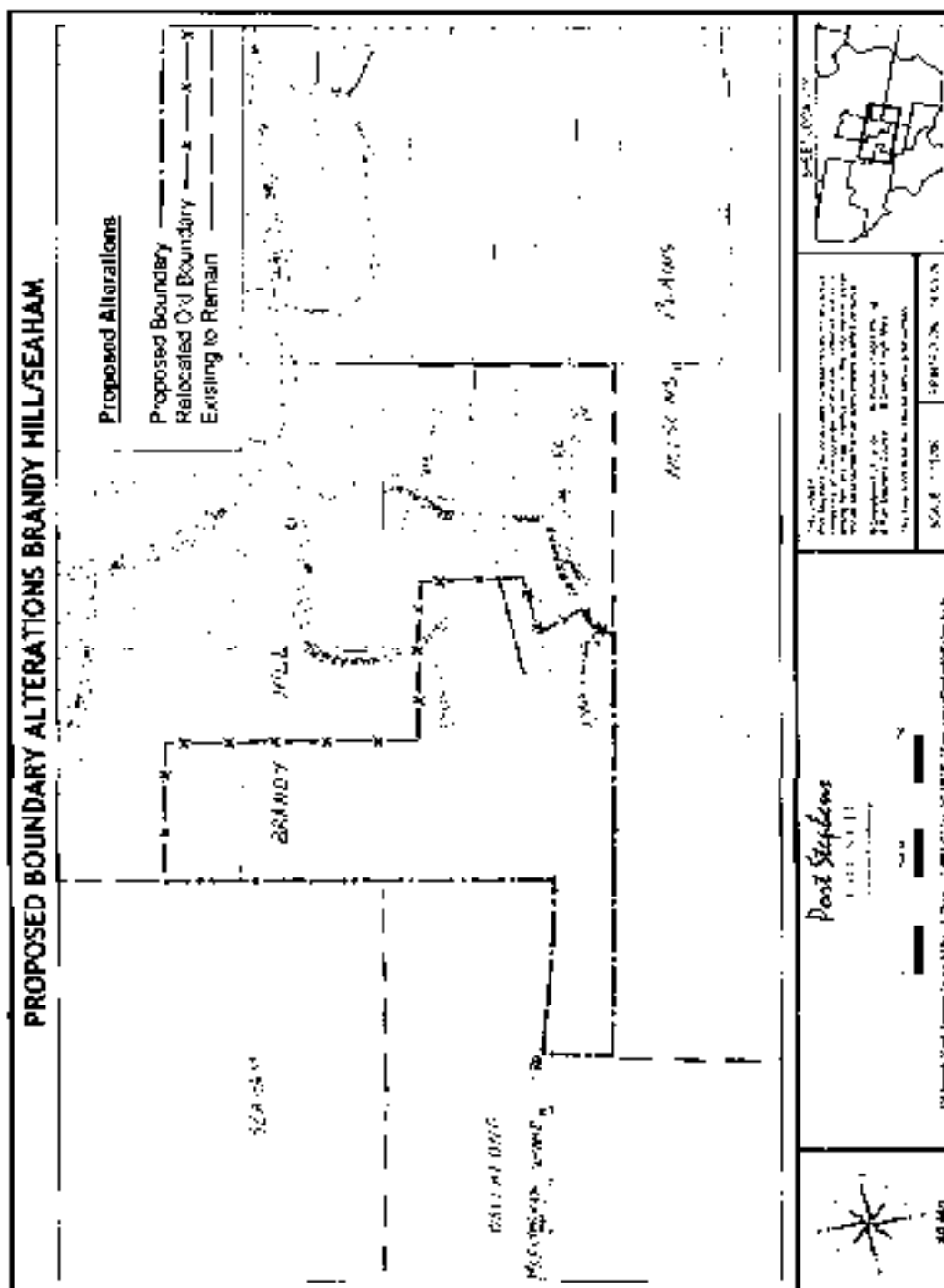
Nil

### **TABLED DOCUMENTS**

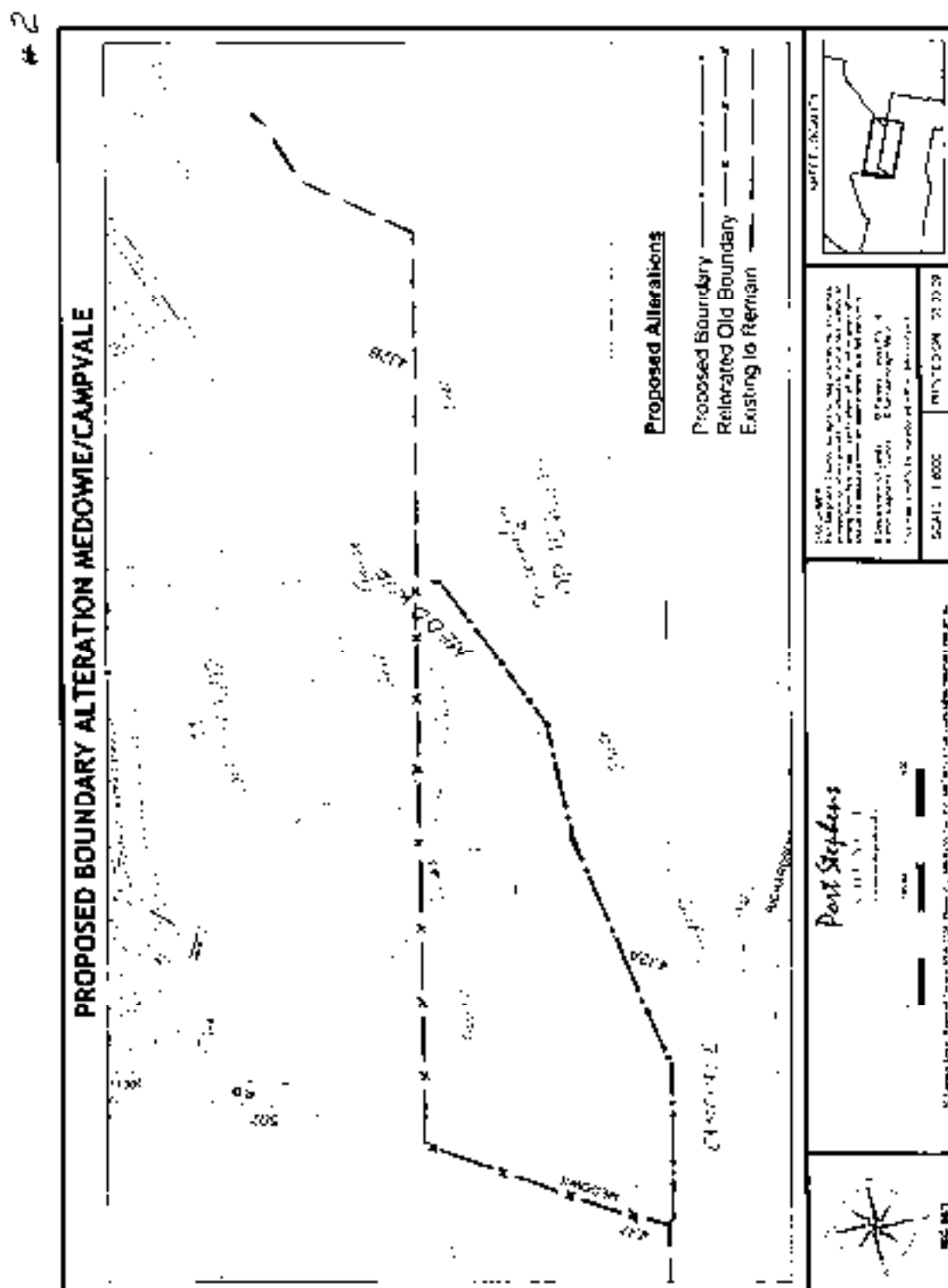
Nil

## 100

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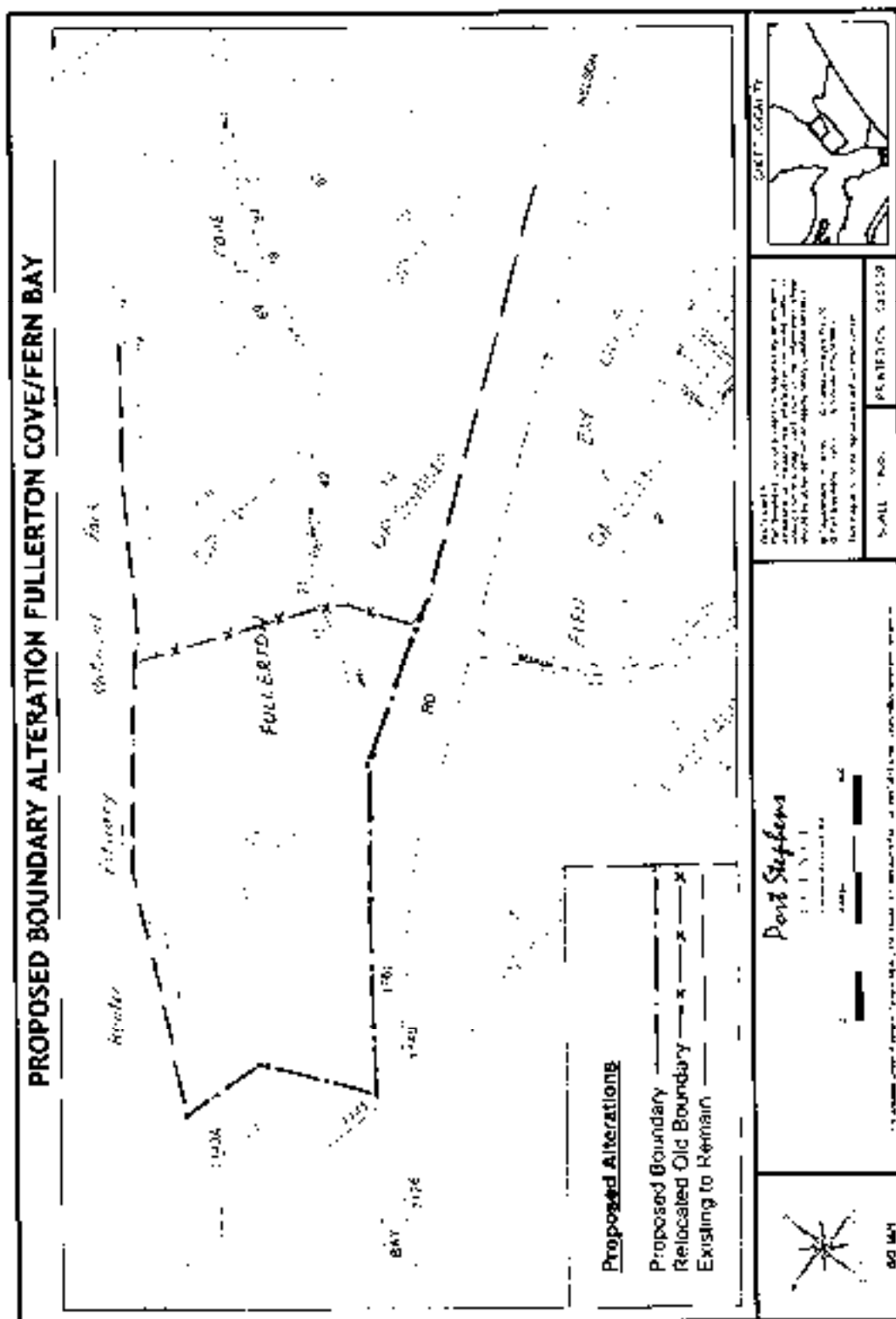


## 101



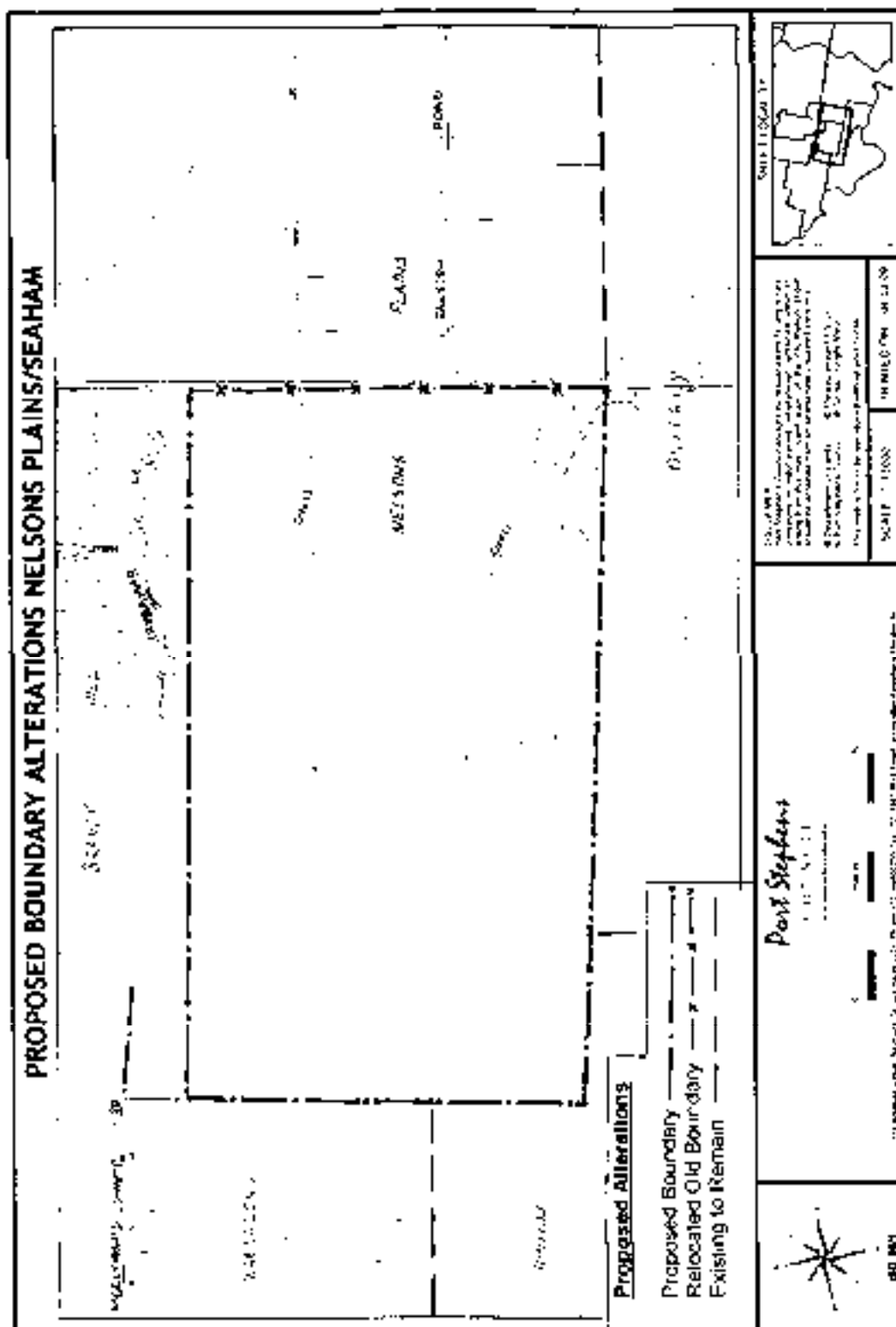
ATTACHMENT 3

#3



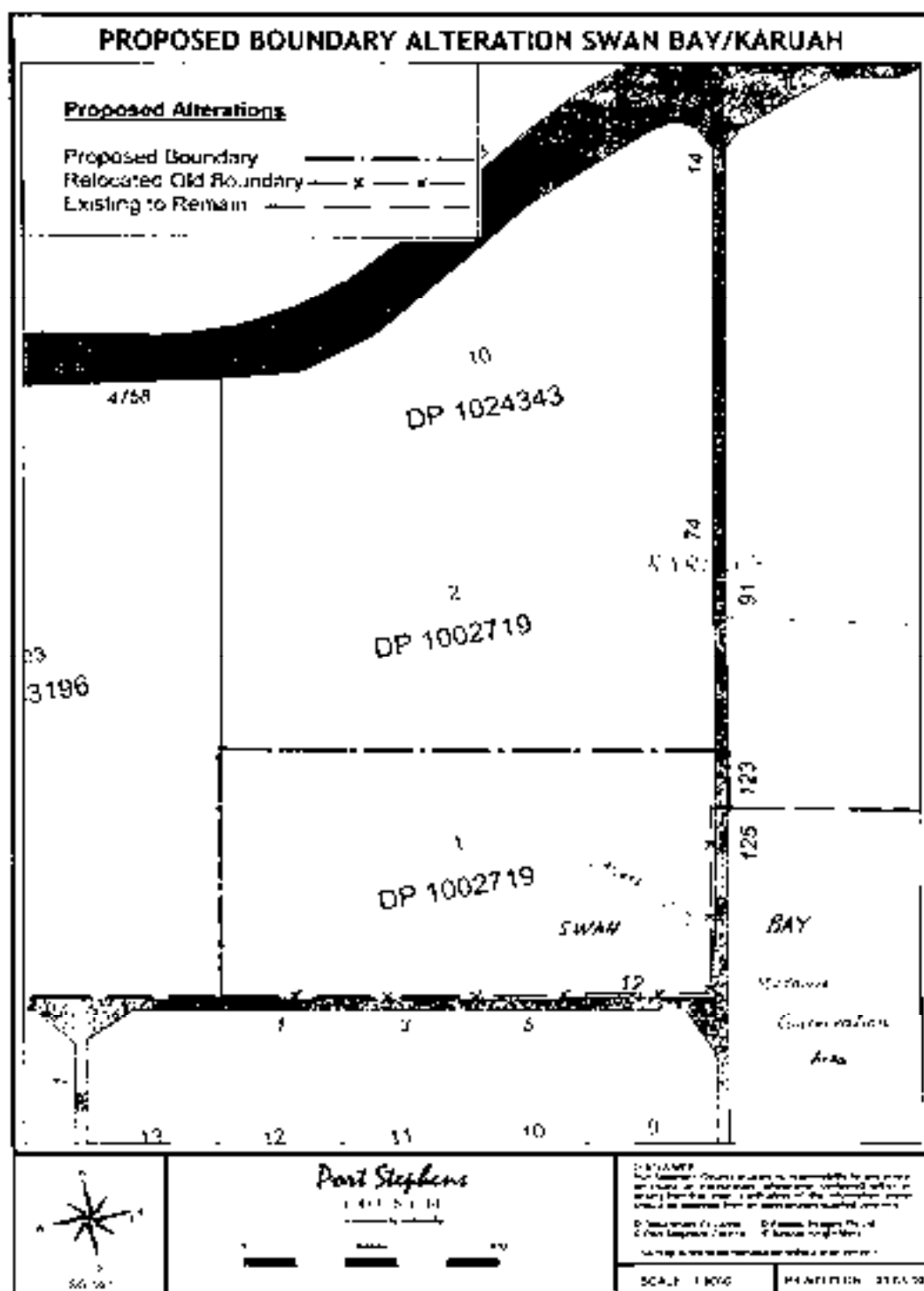
ATTACHMENT 4

#4



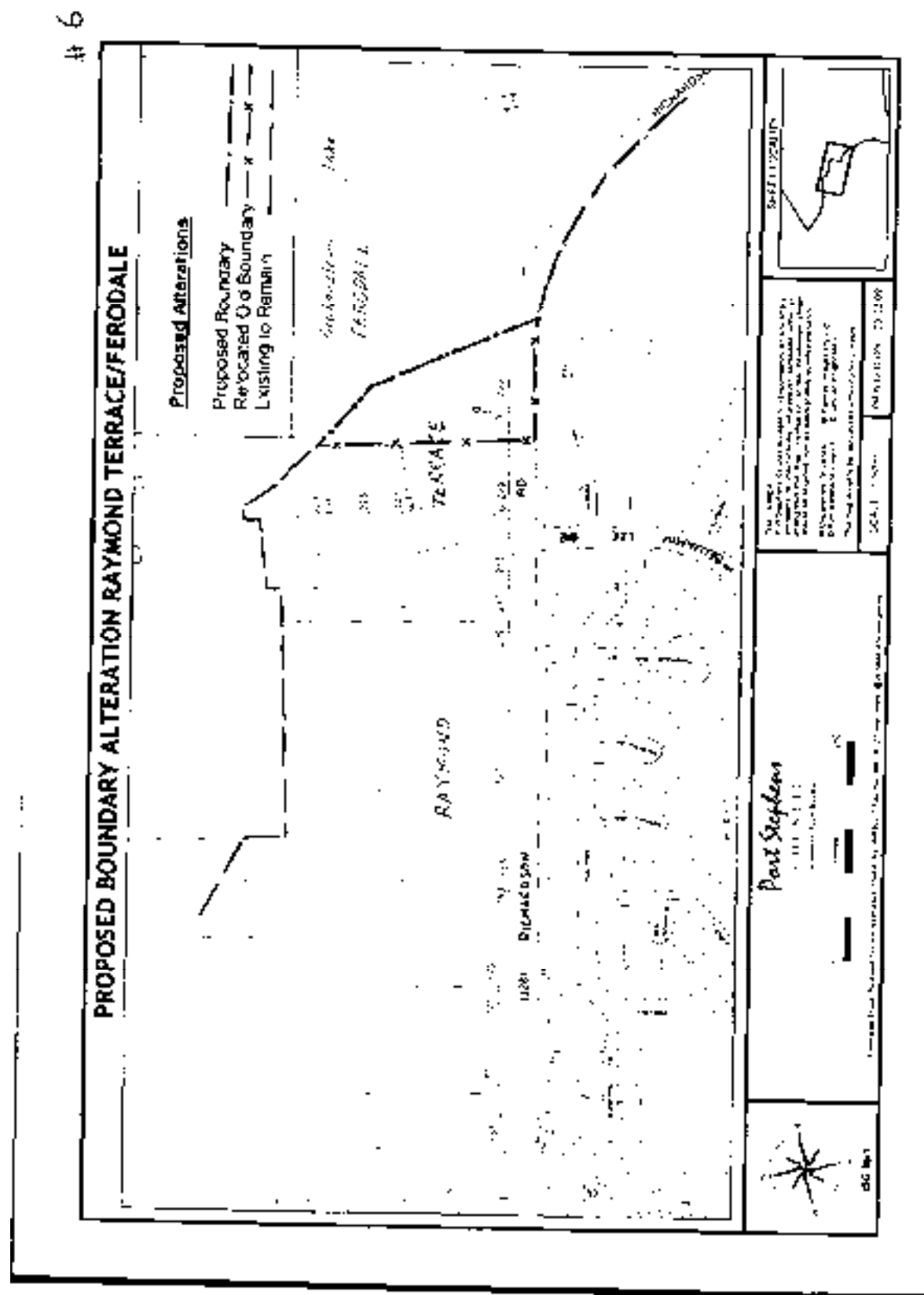
ATTACHMENT 5

#5

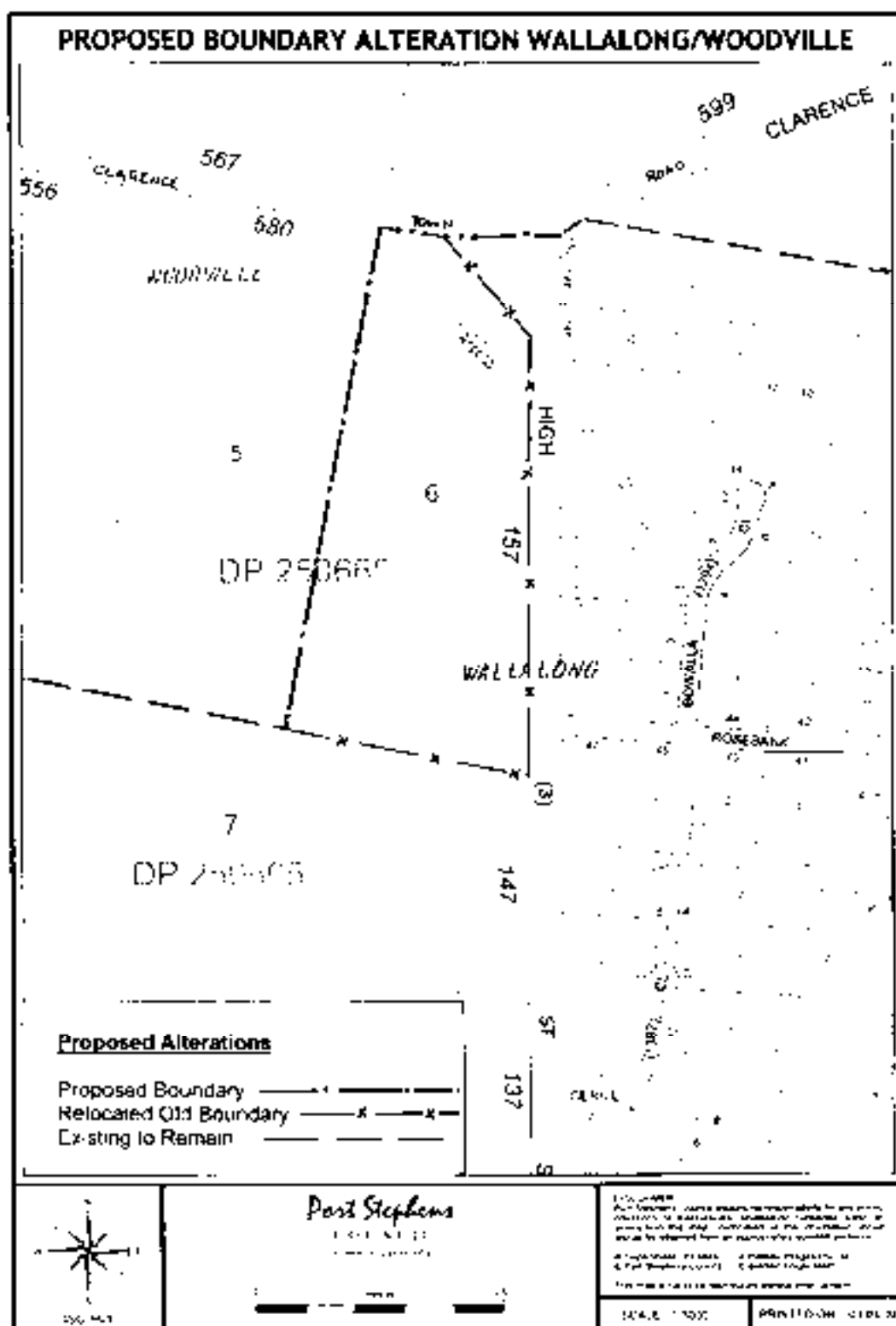




## 105



## 106



## ATTACHMENT 8

# 8

Geographical Names Board of New South Wales  
Position & Extent of Geographical Names Policy - Version 1.2  
26 June 2001

### Geographical Names Board's of New South Wales Policy on Position & Extent of Geographical Name

The Geographical Names Board (the Board) is empowered to determine the extent and position for geographical names within New South Wales as per Section 5 of the Geographical Names Act 1986 (the Act).

The Board determines extent for designated Address Localities; all other designated features will be located by position only. This position will be recorded to the nearest second on the best available map base.

The position of any geographical feature will be that shown in the geographical names register as approved by the Board on 12 December 2001.

Where the Board resolves that the extent for any geographical name needs to be determined or an existing extent needs to be amended, the Board will follow the process outlined in sections 8, 9 and 10 of the Act, except in the case of minor amendments.

Extent will be depicted as a boundary that is to be stored by the Department of Lands. For the purpose of public consultation and gazettal these boundaries will be shown on maps and titled with the Board's file number, which in turn will be referenced in the Board's public advertisements and gazettal notices.

Public exhibition of these maps will take place to coincide with the advertisement as stipulated in section 8 of the Act.

Minor amendments to the extent of a geographical name can occur under the delegated authority of the Secretary. There would be no requirements for these amendments to be advertised or gazettal. The amendment can be immediately processed if:

- it affects less than ten (10) cadastral parcels, or
- changing errors are detected, or
- a new survey plan affects an address locality boundary.

If the amendment affects less than twenty (20) cadastral parcels the amendment can be processed if the consent of the local Council is obtained. Areas that cover more than twenty cadastral parcels are not considered 'minor' unless approved by the Board.

Further information can be obtained from the Board's Secretariat on 02 6332 8214.



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**ITEM NO. 10****FILE NO: PSC2006-1473 & 1475****DRAINAGE IMPROVEMENTS BETWEEN OLD PUNT ROAD AND TOMAGO ROAD AT TOMAGO****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Grants authority for Councils Seal and signatures to be affixed to 88B Instruments or Transfer Granting Easements and plan creating the drainage easements over Lot 7 DP562394 and Lots 46 & 47 DP711253.

**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie</b> <b>Councillor Bob Westbury</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>112</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to recommend Council executes the necessary documents and plans to create the Easements once executed by the owners.

Council has constructed an enlarged drain to cater for an increase in the volume of stormwater from Old Punt Road as a result of increased industrial areas being developed. The owners of affected properties have all agreed to the works and the widening of the existing easements to cover the enlarged drain without compensation being paid or claimed. The survey plans for the easements is available and will be lodged at Land and Property Information once all parties have executed them. On registration the easements will be created. See **ATTACHMENT 1** for location of the easements.

**LINKS TO CORPORATE PLANS**

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

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

**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**

Facilities and Services budget for the works cover all costs including creation of the easements.

## **LEGAL AND POLICY IMPLICATIONS**

No compensation was paid however Council's Seal is required for the documents to be registered at LPI. Registration of the documents will finalise the matter and the titles will be adjusted.

## **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) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 2) **CONTINUOUS IMPROVEMENT** – Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.
- 3) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 4) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

The new drains will avoid flooding which took place affecting the businesses in the area with financial consequences and the drains will also confine the stormwater overflow to within the easement.

**ECONOMIC IMPLICATIONS**

Improved drainage will reduce maintenance costs to those which existed previously.

**ENVIRONMENTAL IMPLICATIONS**

Reduced areas of inundation will have less impact on the environment than was evident with the previous drainage system.

**CONSULTATION**

Drainage Engineer  
Engineering Services Manager  
Principal Property Advisor  
Property owners.

**OPTIONS**

- 1) Accept recommendation
- 2) Reject the recommendation

**ATTACHMENTS**

- 1) Location of easements

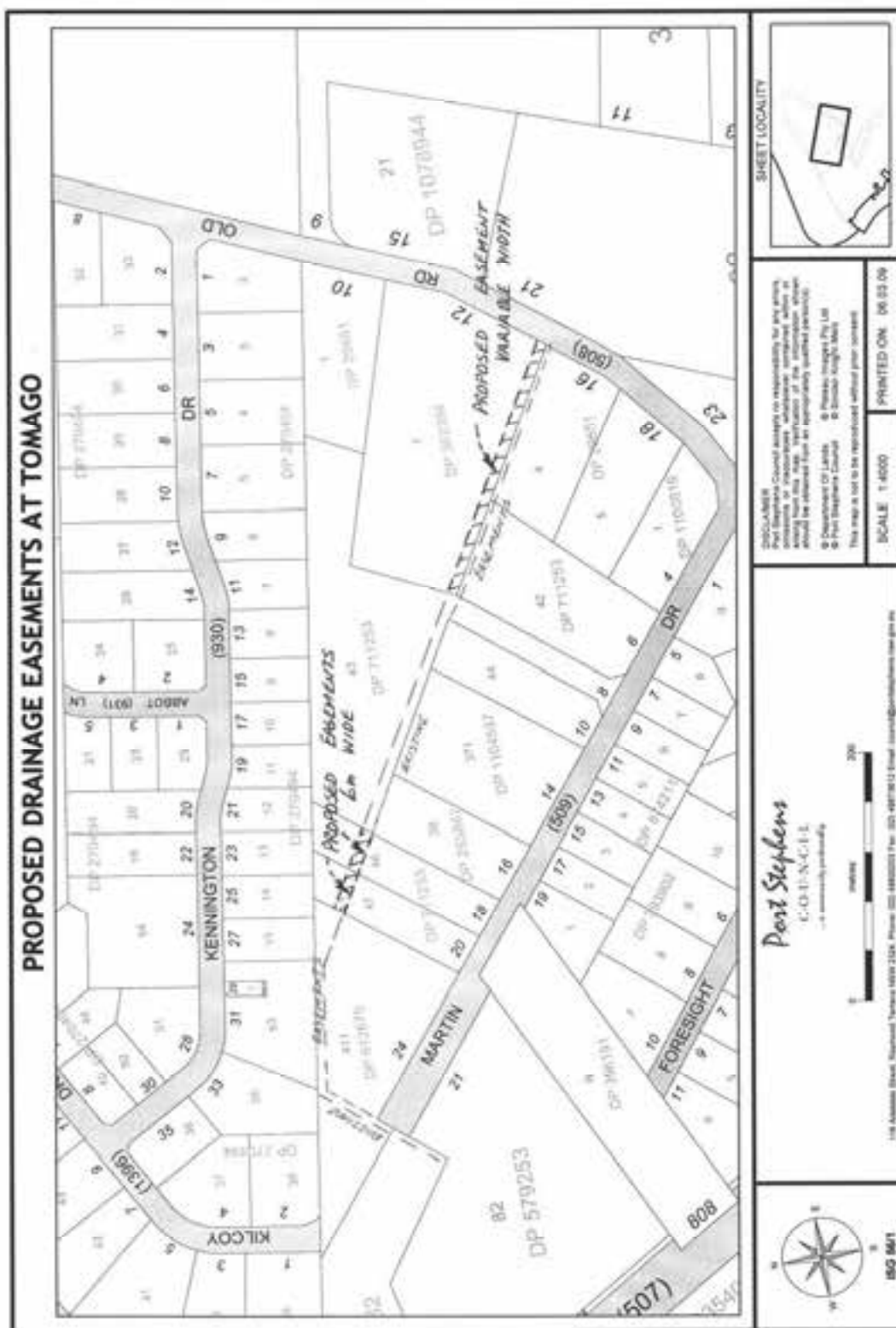
**COUNCILLORS ROOM**

Nil

**TABLED DOCUMENTS**

Nil

ATTACHMENT 1



**ITEM NO. 11****FILE NO: PSC2009-00382****RELEASING OF RIGHT OF CARRIAGEWAY OVER LOT 279 DP740009  
AT RAYMOND TERRACE****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Grants authority for Councils Seal and signatures to be affixed to instrument to cancel a Right of Carriageway 6m wide over lot 279 D.P.740009.

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**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie Councillor Bob Westbury</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>113</b>	<b>Councillor John Nell Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to obtain Councils authority to affix the Seal to the Transfer Releasing Easement instrument to release (cancel) the Right of Carriageway (R of W).

The Roads and Traffic Authority (RTA) has no further need for this R of W which burdens Councils land in Garden Avenue at Raymond Terrace. The easement was created in 1987 when there was a land parcel further to the east which had no other access, other than the R of W.

The RTA subsequently purchased the parcel and constructed the Raymond Terrace Bypass on it. As this bypass of the Pacific Highway has no access allowed across its boundary the R of W provides no purpose. The RTA has executed the Transfer and if Council wishes the R of W to be cancelled the Transfer has to be executed by Council. Council will then lodge it for registration at Land and Property Information (LPI).



The R of W is a burden on the land and it is preferable that it be cancelled see **ATTACHMENT 1** for the location of the R of W.

## **LINKS TO CORPORATE PLANS**

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

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

**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**

Of minor nature associated with the registration of the documents.

## **LEGAL AND POLICY IMPLICATIONS**

Council Seal is required on the document for correct execution and lodgement at Land and Property Information.

## **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) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 2) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 3) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

Nil as it involves a R of W not available to the public and it serves no public function.

**ECONOMIC IMPLICATIONS**

Council maintains the existing land and will continue to do so regardless of whether the R of W remains or not.

**ENVIRONMENTAL IMPLICATIONS**

Nil

**CONSULTATION**

Principal Property Advisor,  
Recreation Services Manager  
Property Section RTA.

**OPTIONS**

- 1) Accept recommendations
- 2) Reject the recommendations

**ATTACHMENTS**

- 1) Location of Right of Carriageway

**COUNCILLORS ROOM**

Nil

**TABLED DOCUMENTS**

Nil

ATTACHMENT 1



**ITEM NO. 12****FILE NO: A2004-0936****ROAD CLOSURES – MEMORANDUM OF UNDERSTANDING FOR PROTOCOLS WITH THE DEPARTMENT OF LANDS****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Formally accepts and signs the Memorandum of Understanding between Council and Department of Lands (DoL) regarding the processes and protocols for Road Closings.

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**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie</b> <b>Councillor Bob Westbury</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>114</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to recommend the formal acceptance and signing of the Memorandum of Understanding (MOU) attached to the Proposal for Partnership.

Council has been using the procedures and protocols contained within the MOU for about the last 5 years in dealing with Road Closure Applications without formally entering into the partnership. It has worked very well for both organisations as it removes duplication of advertisements and notifications to adjoining owners thus reducing costs. The Minister for Lands has delegated authority to staff of Councils to place the official notifications on behalf of the Department in terms of the Roads Act 1993 where necessary.

These actions have resulted in the saving of time and funds for Council as well as the DoL. Council is a member of a Roads Legislation Group which covers approximately 24 Councils and this MOU has been recognised and adopted by at least half of those Councils. Those Councils which have adopted it are satisfied with the benefits

and outcomes by having the MOU. It is appropriate that Council now formally signs the document. See **ATTACHMENT 1** Proposal for Partnership (MOU).

**ATTACHMENT 2** is the Checklist adopted by Councils in dealing with road closures under the partnership. This is presented for Councillors general information on the management process of the Roads Act 1993.

## **LINKS TO CORPORATE PLANS**

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

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

## **FINANCIAL/RESOURCE IMPLICATIONS**

The signing of the MOU will not result in Council bearing any costs incurred in the process as all costs are borne by the applicant.

## **LEGAL AND POLICY IMPLICATIONS**

The MOU itself will not involve Council in any implications as it is the Roads Act 1993 which administers the actions and sets out requirements.

## **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) **CONTINUOUS IMPROVEMENT** – Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.
- 5) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

Better liaison between staff of the two organisations.

### **ECONOMIC IMPLICATIONS**

No additional implications because of signing the MOU.

### **ENVIRONMENTAL IMPLICATIONS**

Nil

## **CONSULTATION**

Department of Lands Regional Offices, Roads Legislation Group, Principal Property Advisor and other Councils

## **OPTIONS**

- 1) Accept recommendations
- 2) Do not sign MOU

## **ATTACHMENTS**

- 1) MOU

## **COUNCILLORS ROOM**

Nil

## **TABLED DOCUMENTS**

Nil

ATTACHMENT 1

# 1



**A PROPOSAL FOR PARTNERSHIP  
 COUNCIL ROAD CLOSINGS**

**MEMORANDUM OF UNDERSTANDING**

A proposal for partnership between Port Stephens Council and the Department of Lands to allow a more efficient and cost effective method of administering proposals to close Council public roads.

The objective of this memorandum of understanding is to allow Port Stephens Council to undertake certain specified actions as provided by the Roads Act 1993 on behalf of the Minister. According to the Minister for Natural Resources (Lands) hereinafter called the Minister.

The signatures below confirm that the following agreed actions may be undertaken by Port Stephens Council on behalf of the Minister with regard to applications for the closing of roads for which Port Stephens Council is the roads authority under the provisions of the Roads Act 1993.

**Agreed Delegated Actions:**

- (a) The placing of a notice in a local newspaper as provided for in Section 15 of the Roads Act 1993 on behalf of the Minister.
- (b) The receipt of submissions to the Minister provided for in Section 36 of the Roads Act 1993.

Port Stephens Council agrees that the placing of a notice as per (a) above will be undertaken following consultation and the concurrence of the delegate of the Minister at the Marland office of the Department of Lands for the action to proceed on a case by case basis.

Port Stephens Council also agrees to serve notice on those parties affected by the road closing as requested by the delegate of the Minister.

All submissions regarding the road closure, received by Port Stephens Council will be forwarded to the Minister's delegate.

Attachments "a1" & "a2" to this Understanding provide a checklist and flowchart that set out the general protocols for proceeding. The protocols may be open to alteration by mutual agreement between the Minister's delegate and Council from time to time.

This memorandum of understanding will commence upon signature by both parties.

Signed this . . . . . day of . . . . . 20 . . . . .

Signed this . . . . . day of . . . . . 20 . . . . .

General Manager / Delegated Council Officer  
 . . . . .  
 Cliff Johnson, Principal Project Advisor  
 Port Stephens Council

Regional Manager  
 Sydney - Minister  
 Department of Lands  
 As a delegate of the Minister According  
 to the Minister for Natural Resources  
 (Lands)  
 11/04/09 at 11:01 AM

## ATTACHMENT 2

CC2-revised 2/12/2008  
MD97 A 5.1

### PROPOSED ROAD CLOSING AT ..... COUNCIL PUBLIC ROAD

### COUNCIL ACTING AS AGENT FOR DEPT OF LANDS CHECKLIST

(tick applicable boxes as action is completed)

- ☐ 1 Confirm if road is constructed/unconstructed. (Constructed road will vest in Council, unconstructed road will vest in the Crown)
- ☐ 2 Organise a search to confirm status of the road and how the road was created and origin. A copy of the title front which the road was created (Search can be requested from LPI Sydney) (some roads created pre 1928 may not be public roads that can be closed under the Roads Act 1993) (if a previous title existed before the road was created, this information is required for lodgement of a plan of the road closing area)
- ☐ 3 Complete Application Form (CI 31.30)  
(Full application form to be completed and submitted)
- ☐ 4 Include evidence of road construction in application (e.g. Aerial photo, Council records of expenditure etc).
- ☐ 5 Prepare Diagram showing Road Closing Area
- ☐ 6 Prepare Draft Advertisement (form CC1)
- ☐ 7 Forward completed Application Form, Construction evidence, Diagram and Draft Advertisement together with cheque for \$378.60 (deposit) to the Department of Lands for approval to advertise. An additional approval and gazettal fee will be called for should the road closing proceed to finalisation. See step 24.3.3.
- ☐ 8 Approve to advertise, Reference list (form CC4) and diagram "1" of those to be notified received from the Department of Lands.
- ☐ 9 Obtain copies of titles for relevant adjoining landowners etc (computer files etc)
- ☐ 10 Prepare advertisement to be placed in local newspaper  
(Date of Advertisement)
- ☐ 11 Proof of advertisement from the publisher is essential. Obtain copy of newspaper advertisement when published.
- ☐ 12 Forward copy of advertisement (CC5) reference letters and diagram to relevant government authorities and affected landowners (see form CC4) (Reference letters can be sent out when processing advertisement)
- ☐ 13 Forward reference letter (see form CC4), diagram and copy of relevant section of topographic map to the Department of Primary Industries/Minerals (former Department of Mineral Resources). (The agreed response period for DPI is 2 months. In most cases the Department of Primary Industries/Minerals has no requirements.)



## ATTACHMENT 2

CC7-Item09 22/04/2009  
MFD/11-53

2

- i. 17. Referred back to Council
  - ii. 18. Resolution number and date
  - iii. 19. If no submissions received + submissions received only from government authorities requesting easements to the road for its own objectives, are without merit go to step 21
  - iv. 20. If Submissions / objections have been received
    - i. 20. Undertake Resolution of objections (if objections cannot be resolved go to step 23)
    - ii. 20. Receipt of withdrawal of objections in writing (go to step 24)
    - iii. 20. Objections cannot be resolved
      - i. Further refer to Land Board requiring for report (Section 750 Roads Act 1993) - then go to step 21 or 22 as required OR
      - ii. Withdraw application (go to step 23)
  - v. 21. Prepare submission to the Department of Lands to approve road closing. Submission should address issues such as:
    - Council's agreement to creation of any required easements in the plan of road closure
    - Address any objections that Council may consider do not have merit
    - Address resolution of objections
  - vi. 22. Forward to the Department of Lands
    - Submission / letter requesting approval of road closing
    - Proof of advertising (usually a copy of the advertisement)
    - Copies of all titles and results of search
    - Copies of letters sent to affected landowners and government authorities
    - Originals of all submissions / objections received
    - Originals of letters of withdrawal of objection
  - vii. 23. Advice sent to the Department of Lands of withdrawal of application due to objections received. Council should also forward:
    - Proof of advertising
    - Copies of letters sent to affected landowners and government authorities
    - Originals of all submissions / objections
- GO TO EITHER 24 OR 25:
- 24. FOR CONSTRUCTED COUNCIL PUBLIC ROADS  
AFTER APPROVAL ACTION**
- i. 24.1 Department of Lands has provided advice of approval. Road has been constructed in the past. Survey / plan completion instructions received from the Department of Lands. Request for further names along way be lodged at this time by the Department of Lands

ATTACHMENT 2

DOC issued 22/5/2006  
MD37/1453

3

- ☐ 24.2 Make Section 581 Application to NSW
- ☐ 24.3.1 Arrange survey / plan completion
- ☐ 24.3.2 Forward plan to Department of Lands for signature by approved officer
- ☐ 24.3.3 Signed plan received from Department of Lands. Letter also received from Department of Lands requesting approval and gazettal fee of \$147.50
- ☐ 24.3.4 Complete Subdivision Certificate on plan
- ☐ 24.4 Plan forwarded to Land and Property Information NSW (LPI) for registration
- ☐ 24.5 Plan registered. Copy of registered plan and fee of \$147.50 called for at step 22.3.3 forwarded to Department of Lands to allow gazettal
- ☐ 24.6 Advice received of gazettal of road closing and vesting in Council Gazette. Enfo
- ☐ 24.7 Request form and copy of gazette notification forwarded to LPI requesting issue of title and removal of "public road" notification from Second Schedule
- ☐ 24.8 Title received by Council

OR

**25. FOR UNCONSTRUCTED COUNCIL PUBLIC ROADS  
AFTER APPROVAL ACTION**

- ☐ 25.1 Department of Lands has provided advice of approval of road closing. Road is unconstructed. Land to vest in Crown on closure. No further action required by Council
- ☐ 25.2 Department of Lands has provided advice that road closure has been gazetted and land has vested in the Crown

**ITEM NO. 13****FILE NO: PSC2008-2548****ROAD WIDENING CLARENCE TOWN ROAD GLEN OAK NEAR  
BOUNDARY WITH DUNGOG COUNCIL****REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) That Council acquires a parcel of land of approximately 500 square metres for road widening associated with road reconstruction from Lot 14 DP1120749.
- 2) Grants authority for Councils Seal and signatures to be placed on Transfer document and Acquisition Plan.

**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor Bruce MacKenzie Councillor Bob Westbury</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>115</b>	<b>Councillor John Nell Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to recommend Councils consent to the acquisition and affix Councils Seal and signatures to the necessary documents.

Council is working with Dungog Shire Council for the design and reconstruction of a section of Clarence Town Road in both Local Government areas see **ATTACHMENT 1** for site location. Acquisition for the construction is necessary within both areas. Only one property is involved in this Council and an agreement has been reached with the property owner on the land required and compensation has been paid. See **ATTACHMENT 2** for the area to be acquired from Lot 14. To finalise the acquisition it is necessary for Council to execute the documents.

**LINKS TO CORPORATE PLANS**

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

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

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

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

## **FINANCIAL/RESOURCE IMPLICATIONS**

Council's current Facilities and Services estimate and budget for the works and acquisitions cover all anticipated costs.

## **LEGAL AND POLICY IMPLICATIONS**

The acquisition and compensation must comply with the Land Acquisition (just Terms Compensation) Act 1991. Council Seal is required on the documents for correct execution and lodgement at Land and Property Information (LPI). Registration of the documents at LPI will finalise the matter and land titles will be adjusted.

## **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) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 2) **CONTINUOUS IMPROVEMENT** – Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.
- 3) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 4) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

The new road will provide safer situations for travellers and therefore will be a benefit to all the community.

## **ECONOMIC IMPLICATIONS**

The new design and construction will decrease the amount of maintenance funds required in the future compared with the existing old road.

## **ENVIRONMENTAL IMPLICATIONS**

Minor vegetation will be disturbed but the impact will be insignificant.

## **CONSULTATION**

Principal Property Advisor  
Engineering Services Manager  
Civil Projects Coordinator  
Dungog Shire Council  
Property owner.

## **OPTIONS**

- 1) Accept recommendations
- 2) Suggest alternative recommendations

## **ATTACHMENTS**

- 1) Location of road widening.
- 2) Area to be acquired.

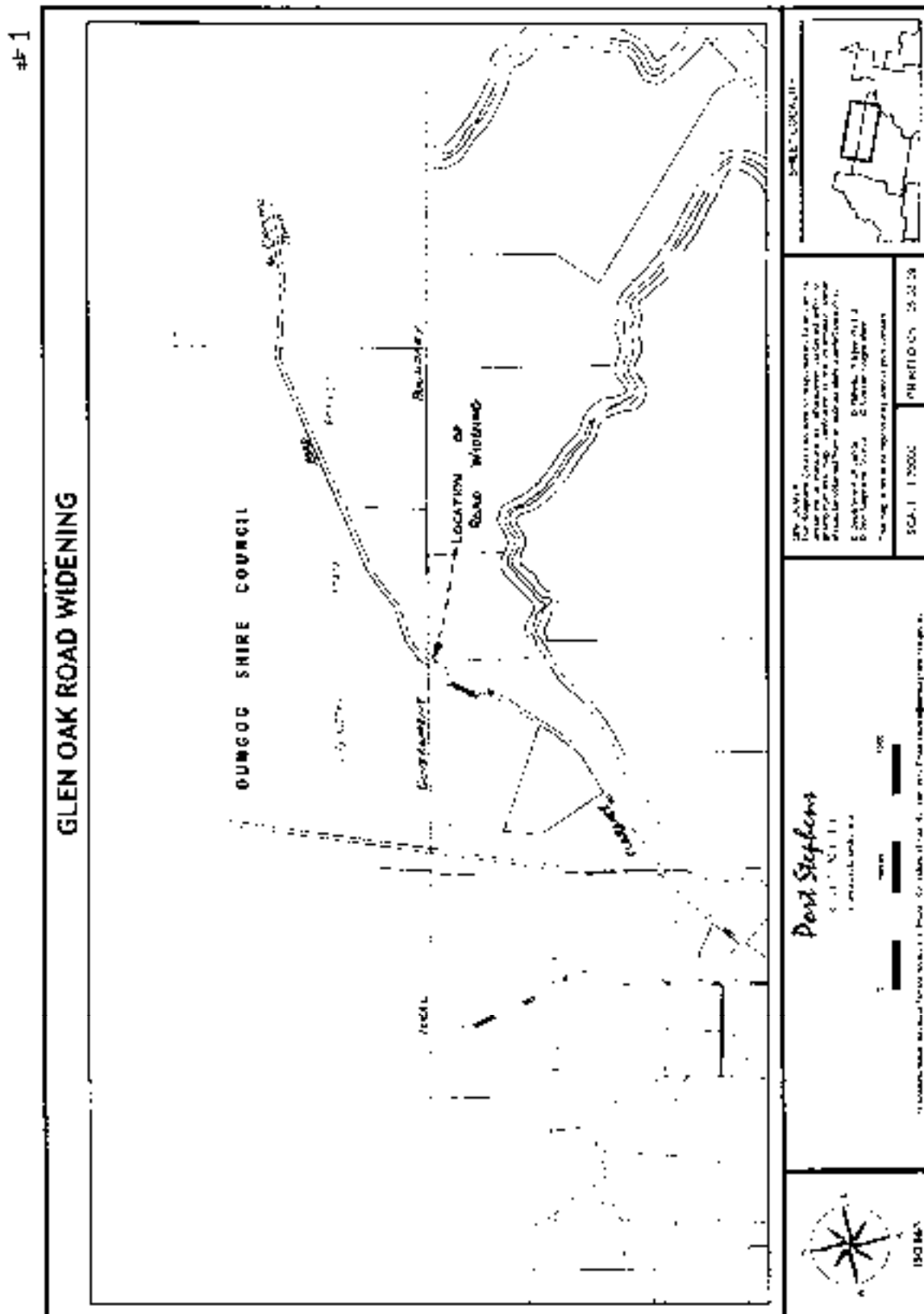
## **COUNCILLORS ROOM**

Nil

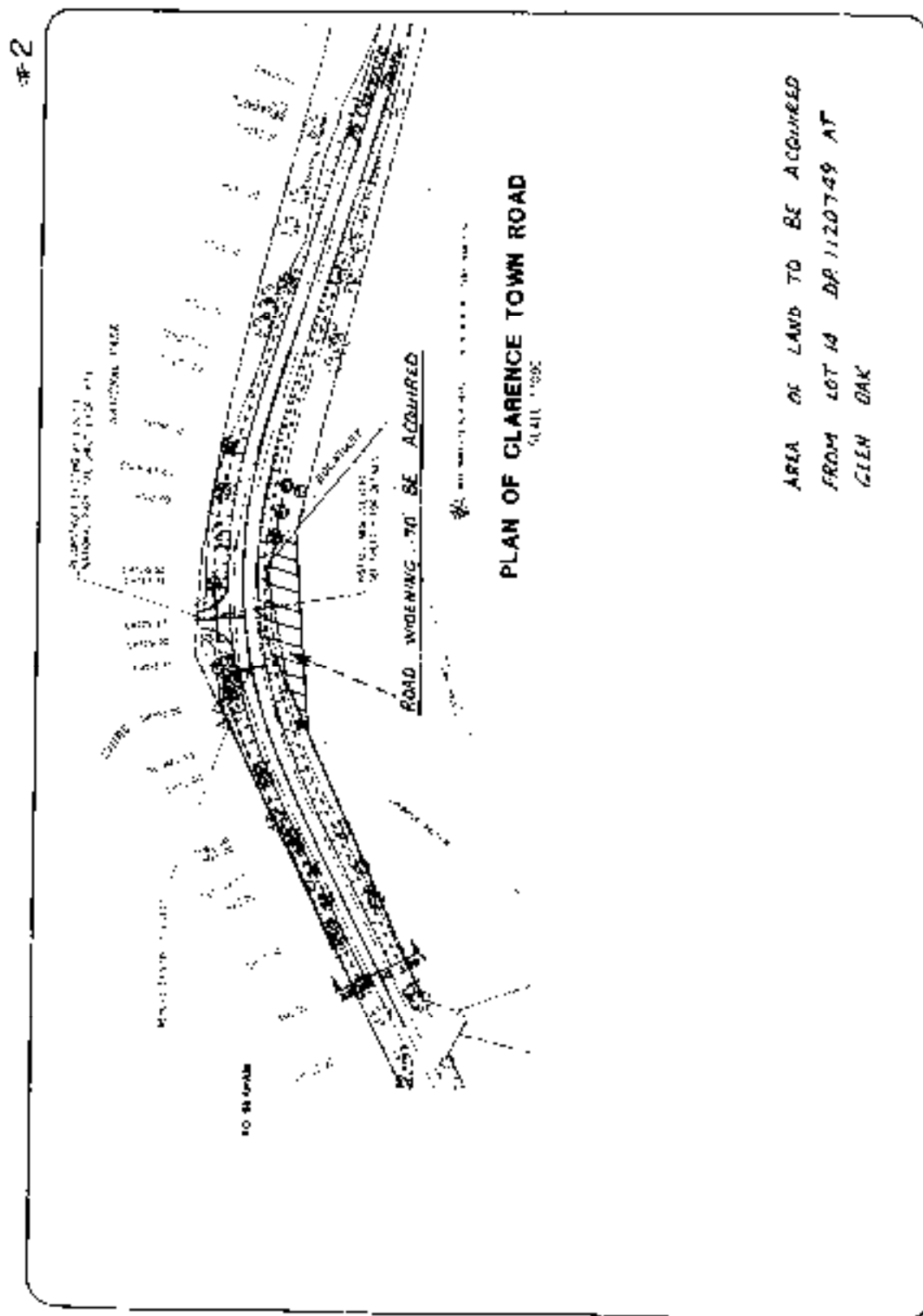
## **TABLED DOCUMENTS**

Nil

ATTACHMENT 1



## 127



**ITEM NO. 14****INFORMATION PAPERS****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
-----**RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 14 April, 2009.

  
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<b>No:</b>	<b>Report Title</b>
1	Child Friendly Communities Program Outcomes
2	Aboriginal Strategic Committee
3	Determined & Undetermined Development Applications
4	Access Committee Minutes
5	Cash & Investments Held at 28 February 2009
6	Port Stephens Library Service Operations Report from July to December 2008
7	Access to Information – Section 12 Local Government Act 1993
8	Port Stephens Economic Development Advisory Panel

  
-----**OPERATIONS COMMITTEE – 14 APRIL 2009****RECOMMENDATION:**

<b>Councillor John Nell</b> <b>Councillor Daniel Maher</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>116</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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# OPERATIONS COMMITTEE INFORMATION PAPERS



**INFORMATION ITEM NO. 1**

**CHILD FRIENDLY COMMUNITIES PROGRAM OUTCOMES**

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

**FILE:                   PSC2005-03607**

**BACKGROUND**

**The purpose of this report is to inform Council of the outcomes of Council's Child Friendly Communities Program which concluded on 31 December 2009.**

In 2006 Council was successful in its expression of interest to auspice the Child Friendly Communities Program for a period of 3 years. The program was funded under the Federal Government's Communities for Children Initiative. The funding guidelines restricted the scope of the project to the townships of Raymond Terrace and Karuah.

The funding enabled Council to employ a Child Friendly Communities Development Officer and a Support Officer to oversee the development and implementation of the Child Friendly Communities Program. The primary aim of the Child Friendly Communities Program was to carry out an assessment as to how child friendly (ie; child inclusive) were Council's various policy, planning and decision making processes.

The Child Friendly Communities Program has since resulted in a number of reforms to Council's practices along with the development of a number of resources as outlined in Attachment 1 of this report. From the outset of this project an emphasis was placed upon ensuring that any reforms to Council practice were sustainable which has been achieved through the integration of child friendly principles into a number of Council practices and processes.

The achievements of Council's Child Friendly Communities Program over the last 3 years have resulted in Council now being recognised by the NSW Commission for Children & Young People as one of the leading NSW Councils in child friendly practice.

The Child Friendly Communities Program has now ended with the cessation of the grant funding on 31 December 2008. Council will continue to build upon the outcomes of this program which will include the implementation of child friendly principles in the future review of Council's *Community Settlement & Infrastructure Strategy*, and *Development Control Plan*.

To assist in this review an Urban Planning Consultancy was engaged by Council late last year under the Child Friendly Program to test the draft indicators framework for Child Friendly Built Environments developed by the NSW Commission for Children

and Young People. They have applied these indicators across Council's land use planning policies, procedures and planning framework to assess their level of child friendliness. The findings of this assessment will be presented to Council at a 2 – way conversation scheduled for 12 May 2009.

Council's Social Planning Team will continue to assume organisational responsibility for driving child friendly practice throughout Council.

For further information on Council's Child Friendly Communities Program please contact Council's Social Planning Co-ordinator on 4980 0323.

## **ATTACHMENTS**

- 1) Overview of outcomes of Council's Child Friendly Communities Program 2005-2008

**ATTACHMENT 1**
**Overview of Outcomes of Child Friendly Communities Program 2005 - 2008**

<b>Council Practice</b>	<b>Item</b>	<b>Details</b>
Learning & Development	Child Friendly Conference	In May 2007 Council hosted the 'Building Child Friendly Communities Conference' with nationally and internationally renowned experts in child friendly practice. This conference was attended by a number of Council Officers from a cross section of Council departments. This conference served as the foundation stone for introducing staff to child friendly practice and giving an understanding of the relevance to their respective roles.
	Child Safe Child Friendly Training	Eight Council staff along with eleven representatives from local community organisations have been trained as trainers in the 'Child Safe Child Friendly Education Program' which is an initiative developed by the NSW Commission for Children & Young People. This training has been added to Council's Learning & Development Program and will be offered to relevant members of staff.
	Consulting Children	Council has developed a special module on engaging children which has been incorporated into the 'Community Engagement Training' offered under Council's Learning & Development Program. This module provides staff with skills in how to appropriately and effectively engage with children & young people.
Corporate Planning	Council Plan	<p>Immediately following the May 2007 'Building Child Friendly Communities Conference' Council's Executive Team convened a child friendly strategic planning session. This resulted in a number of ongoing initiatives including:</p> <ul style="list-style-type: none"> <li>• Inclusion of Child Friendly Communities in Council's Council Plan signifying Council's commitment and strategic pathway to addressing the needs of children and families in Port Stephens</li> <li>• Establishment of Council's Child Friendly Communities Working Group. This group incorporates representation from across each section of Council. The group has developed a Child Friendly Action &amp; Implementation Plan which they are currently co-ordinating its implementation.</li> </ul>
Policy	Smoke Free Outdoor Areas Policy	In December 2008 Council adopted a 'Smoke Free Outdoor Areas Policy' with the objective of improving the health and amenity of the community by banning smoking in public outdoor areas. The policy has resulted in the immediate banning of smoking within 10 metres of all children's play areas which fall under Council care. The policy includes the imposing of a number of bans on smoking which will be implemented incrementally including smoking in public places, children's playground areas, playing fields, sporting grounds and sporting facilities, alfresco dining areas, beaches, bushland, parks,
	Draft Child Friendly Policy	In accordance with Council's Council Plan a Child Friendly Policy has been drafted which articulates Council's vision and goals for ensuring Council continues to give adequate consideration to child friendly principles.

## MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

Decision Making	Council Reports	Work will be undertaken in the coming months to ensure that a greater emphasis is given by authors of Council Reports to consider the impacts of their recommendations on children, when they complete the 'Social Implications' section of the business paper.
Development Controls	Indicators of Child Friendly Built Environments	Over the last 18 months Council has worked in partnership with the NSW Commission for Children & Young People to develop a set of 'Indicators of Child Friendly Built Environments'. The indicators have now been drafted and the NSW Commission for Children & Young People is aiming to have these indicators finalised and released to all NSW Councils this year. This partnership has placed Council in a position of local government leadership in the area of Child Friendly Communities.
	Built Environment Consultancy	<p>Council engaged a consultancy to undertake a review of Council's planning instruments (eg; Development Control Plan) to review and assess the effectiveness of these controls in ensuring that (where relevant) development and/or redevelopment in Port Stephens is inclusive of child friendly design principles.</p> <p>The review has been completed and the consultant has made some recommendations for how Council can integrate child friendly design principles into Council's current planning framework. It is envisaged that the findings will be presented to Council in mid 2009 via a 2 Way Conversation.</p>
Collaboration & Partnerships	Local, State and National Partners	<p>Council's Child Friendly Communities Program has resulted in the strengthening of partnerships between Council and community and government organisations in Raymond Terrace and Karuah (eg; schools, preschools, Karuah Working Together Inc, The Family Action Centre, Department of Housing, Karuah and Worimi Aboriginal Land Councils, Kidsafe).</p> <p>In addition to this, Council has established a number of partnerships with a number of peak bodies which Council will continue to work with to ensure we keep abreast of ongoing research and trends in child friendly practice at a national and international level. These partners include Griffiths University's Urban Research Program, NSW Commission for Children and Young People, National Association for the Prevention of Child Abuse and Neglect (NAPCAN).</p>
Community & Recreational Facilities	Longworth and Kitty Hawke Parks	<p>Council has formulated plans to dramatically transform Longworth Park, Karuah and Kitty Hawke Park, Raymond Terrace into creative child play spaces. The transformation of Longworth Park is nearing completion and will be officially launched in the coming months through a community event currently being organised which will include Councillors, local schools, families and other key stakeholders.</p> <p>A key component in the formulation of the plans was the engagement of local children. For instance the preparation of the concept plan for Longworth Park at Karuah included consultation with 120 children from Karuah Public School regarding the proposed transformation of the park as a 'child friendly space'. Their input has been incorporated into the overall design, layout, fit-out and cultural elements of the park.</p> <p>It is envisaged that the transformation of Kitty Hawke Park, Raymond Terrace will be completed in the coming months which will also be followed by a public launch.</p>
	Raymond Terrace & Karuah Child Friendly Map	Council has recently developed a child friendly map which depicts of the services and facilities available for families and children in Raymond Terrace and Karuah (eg, parks, schools, and health and community support services). This map will be disseminated to local families and children, relevant service providers and local schools throughout Raymond Terrace and Karuah in the coming

## MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

		months.
	Playground Matrix	A draft matrix has been developed which specifies a set of indicators which determine the adequacy of a park / playground in terms of being child friendly. This matrix will be further refined and once finalised will be used to assist in the future planning of Council's recreational spaces and facilities.
Community Engagement	Community Engagement Panel	Council's Community Engagement Panel's Terms of Reference have been amended to ensure that Council's community engagement practices are inclusive of children and young people. In addition to this a 'checklist' and 'toolkit' has been developed in collaboration with the Community Engagement Panel for staff to use when undertaking consultations with children & young people
Customer Service	Administration Building Foyer	The dedicated child activity space in Council's foyer, for use by customers children has been upgraded with new resources, furniture and activity aides.
Research	Dads in the Workplace Research	Council engaged the Family Action Centre – University of Newcastle to undertake a special research project exploring if and how an individual's Council Officers role as a 'father' impacts on the work they undertake within Council. The aim was to identify strategies for assisting Council to be more child-focussed and child friendly from the perspectives of men in a fathering role. The findings and suggested strategies from the research have been fully documented in the 'Dads in the Workplace Research Report'. Several of the suggested strategies have already been incorporated into Council's practices as demonstrated in the flexible working arrangements in Council's workplace agreement.
Cultural Planning	Child Friendly Community Events	<p>The Child Friendly Communities Program was kicked off at its commencement with a special Communities for Children event for children and their families during the annual Children's Week celebrations in Raymond Terrace.</p> <p>Throughout the course of Council's Child Friendly Program a number of community events were developed and facilitated for local children and families. This included a special onsite event at Kitty Hawke Park, Raymond Terrace which provided families with the opportunity to participate in designing the park as a child friendly play space'.</p> <p>Besides these specific events, Council has worked with organisers of Council and (where relevant) non-Council community events to ensure that events are inclusive of the needs and aspirations of children and families (eg; Naidoc Week, Karuah Bridge Celebrations, Plant a Tree Day, Neighbour Day).</p>
	Events Guide	To assist Council and community members alike in organising community events which are child friendly, Council has developed a publication titled: <i>'What's in an Event? – a guide to making your event child safe &amp; child friendly'</i> . This resource will be available to relevant individuals and groups.
	Photo Bank	Since the outset of the Child Friendly Communities Program efforts have been made to capture all events and associated activities using photography. With the permission of parents and/or guardians Council has been able to use these photos to create a 'photo bank' of incredible images which Council can now utilise in various publications and media.

**ABORIGINAL STRATEGIC COMMITTEE**

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**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 meetings with Worimi Local Aboriginal Land Council held on 8 December 2008 and 9 March 2009.

Key issues considered at these meetings included:

- 1) Middens at Birbui Headland Update
- 2) Soldiers Point Boat Ramp Update
- 3) Cultural Mapping – Development Assessment
- 4) Port Stephens Local Environmental Plan

**ATTACHMENTS**

- 1) Minutes of Aboriginal Strategic Committee meeting with Worimi LALC on 8 December 2008.
- 2) Minutes of Aboriginal Strategic Committee meeting with Worimi LALC on 9 March 2009.

**ATTACHMENT 1**  
**ABORIGINAL STRATEGIC COMMITTEE MEETING**  
**WITH WORIMI LOCAL ABORIGINAL LAND COUNCIL**  
**HELD ON THE 8 DECEMBER 2008**  
**AT THE MURROOK CULTURAL & LEISURE CENTRE**

**Present:**

Andrew Smith	Worimi LALC
Cr Shirley O'Brien	PSC
Cr Sally Dover	PSC
Paul Procter	PSC
Jason Linnane	PSC
Cliff Johnson	PSC
Mike Triggar	PSC
Scott Anson	PSC

**Apologies:**

Janice MacAskill	Worimi LALC
Val Merrick	Worimi LALC
Cr Bruce MacKenzie	PSC
Cr Peter Kafer	PSC
Peter Gesling	PSC

**Note:**

*Cr Dover chaired the meeting. As there was no quorum, these minutes will be tabled at next meeting to be ratified.*

**1. WELCOME TO COUNTRY / ACKNOWLEDGEMENT TO LAND**

Worimi CEO led the Committee in one minute silence to respect and acknowledge the passing of Auntie Iris who was the oldest surviving member of the Worimi Nation.

This was followed by Worimi CEO paying respect to the Worimi Country, Elders past and present.

**2. DECLARATION OF CONFLICTS OF INTEREST**

There were no conflicts of interest declared.

**3. BUSINESS ARISING FROM PREVIOUS MINUTES**

The following items of business arising from the meeting held on 13 October 2008 were discussed:

**Item 2: Middens at Birubi Headland**



Council's Recreation Services Manager advised that Council is awaiting advice from the National Parks & Wildlife Service concerning final scope of works. Anticipate works to commence early 2009.

**Item 3: Soldiers Point Boatramp Improvements**

Works have commenced with Worimi Officers onsite. Work is progressing well and it is envisaged that extension of break wall will be completed by end of the year. Propose to seek tenders in early 2009 for the construction of the pontoon.

**Item 4: Aboriginal Employment**

Council's Social Planning Co-ordinator provided WLALC with a list of examples of the scope of services Council puts out to contract as requested.

**Item 6: Request for Assistance towards Purchase of a Boat**

Council's Social Planning Co-ordinator indicated that he is currently liaising with the Marine Parks Authority with regard to any opportunities which may exist for WLALC to seek assistance towards the acquisition of a boat to enable monitoring and regular inspections of their remote sites (ie; islands) to occur.

**Item 7: Cultural Mapping – Development Assessment**

The aim is to map various localities containing sites of significance to ensure that all land related issues are considered during the DA process. Further discussion deferred until next meeting.

**Item 8: Review of Aboriginal Strategic Committee Constitution Schedule**

The Constitution has been amended as per the recommendations of the ASC and has been submitted to Council for consideration and adoption.

**Item 9: Shelly Beach – Vehicle Access:**

Council's Recreation Services Manager indicated that Council has endorsed the placement of restrictions pertaining to vehicle access onto Shelly Beach.

**Item 10: Community Ball:**

WLALC will give consideration to lodging an expression of interest under the next round of Council's Aboriginal Project Fund to assist in the facilitation of a formal Indigenous Ball. The idea has been born out of the planning for Naidoc Week and has strong support from Worimi Elders and community members. November 2009 is an option being considered as it would coincide with the 25 Anniversary of the WLALC.

**4. ABORIGINAL PROJECT FUND**

The Director of the Karuah Preschool attended the meeting and gave an update on the 'Linking Attendance, Literacy, Numeracy & Culture Project' as funded under Council's Aboriginal Project Fund. She indicated that:

- ✚ The preschool which is currently open 3 days a week is full and has a waiting list for more enrolments.

✚ The preschool currently has 15 Indigenous children enrolled. The work of staff and the Indigenous Support Worker has seen significant improvements in the overall literacy and numeracy levels of children which will ensure their readiness for advancing to school.

The preschool has appreciated the support provided by Council under the Aboriginal Project Fund and would like to apply for further funding in the future to enable a similar program to be facilitated again.

## **5. GENERAL BUSINESS**

### **5.1 CEO – Karuah Local Aboriginal Land Council:**

Mr David Feeney has been appointed as CEO of KLALC. Noted.

### **5.2 2009 Meeting Dates:**

Council's Social Planning Co-ordinator tabled 2009 ASC meeting schedule. Noted.

### **5.3 Community Engagement Training:**

Council's Social Planning Co-ordinator acknowledged WLALC CEO for their assistance in co-facilitating a recent training session for Council staff on engaging Indigenous Communities.

### **5.4 Birbui Surf Club:**

Council's Recreation Services Manager indicated that initial concept plans will be completed shortly which will be presented to the Surf Club for feedback followed by other key stakeholders such as WLALC.

## **6. DETAILS OF NEXT MEETING**

The next meeting with WLALC will be held on 9 March 2009 at Murrook commencing at 1pm.

**ATTACHMENT 2**

**ABORIGINAL STRATEGIC COMMITTEE MEETING  
WITH WORIMI LOCAL ABORIGINAL LAND COUNCIL  
HELD ON THE 9 MARCH 2009  
AT THE MURROOK CULTURAL & LEISURE CENTRE**

**Present:**

Andrew Smith	Worimi LALC
Val Merrick	Worimi LALC
Cr Shirley O'Brien	PSC
Cr Sally Dover	PSC
Paul Procter	PSC
Cliff Johnson	PSC
Bryce Cameron	PSC (on behalf of Jason Linnane)
Scott Anson	PSC (Guest Speaker)
Wonona Christian	PSC (Guest Speaker)
Geraldine O'Connor	PSC (Guest Speaker)
Peter Marler	PSC (Guest Speaker)

**Apologies:**

Janice MacAskill	Worimi LALC
Cr Bruce MacKenzie	PSC
Cr Peter Kafer	PSC
Peter Gesling	PSC
Jason Linnane	PSC
Mike Triggar	PSC

Meeting opened at 1:25pm

Cr Dover chaired the meeting in Cr Kafer's absence.

**1. WELCOME TO COUNTRY / ACKNOWLEDGEMENT TO LAND**

Worimi CEO brought the acknowledgement to the land paying respect to the Worimi Country, Elders past and present and recognising their right to self determination in the spirit of reconciliation.

**2. DECLARATION OF CONFLICTS OF INTEREST**

There were no conflicts of interest declared.

### **3. MINUTES OF PREVIOUS MEETING**

Worimi CEO moved that the minutes of the previous meeting held 8 December 2008 be accepted as an accurate record of the meeting. Seconded by Cr O'Brien.

### **4. BUSINESS ARISING FROM PREVIOUS MINUTES**

The following items of business arising from the meeting held on 8 December 2008 were discussed:

#### **Item 2: Middens at Birubi Headland**

Council's Parks Facilities Co-ordinator advised that an onsite meeting between Council and the Department of Environment & Climate Change (DECC - Coffs Harbour Office) took place in early February 2009. The purpose of the meeting was to discuss the proposed scope of works. DECC requested additional information which Council has subsequently supplied to DECC.

#### **Item 3: Soldiers Point Boatramp Improvements**

Council's Parks Facilities Co-ordinator advised that the extension of the break wall has been completed. A report will be considered by Council's Operations Committee March meeting on the proposed installation of pontoons with relevant information to Worimi to follow.

#### **Item 4: Cultural Mapping – Development Assessment**

Council's Development & Building Manager acknowledged that the completion of the mapping of locations containing sites of cultural significance has been a long standing issue which Council is keen to complete.

The aim is to ensure that any locality containing sites of significance are 'flagged' as early as possible in the DA process to ensure cultural issues are considered.

It was agreed that this proposed framework necessitates the formulation of a draft memorandum of understanding (MOU) pertaining to the proposed roles and operations of Council and WLALC. Council's Development & Building Manager suggested that the template their section has formulated with respect to internal Service Level Agreements could be used as a basis for the MOU.

WLALC CEO indicated that WLALC are one of several key stakeholder groups which need to have input into this process. They suggested that WLALC would be willing to hold a one day workshop at Murrook for other stakeholders (eg; Worimi Lands Conservation Board, Karuah LALC) to attend and have input prior to the process and map being finalised.

WLALC CEO also indicated that the proposed framework be called 'Aboriginal Impact Assessment' as opposed to 'Sites of Cultural Significance' as all land is considered significant.

<b>Actions:</b>	1. Council's Principle Property Adviser to formulate with WLALC a working draft memorandum of understanding between Council and
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	<p>WLALC pertaining to Aboriginal Impact Assessment of relevant Development Applications covering: -</p> <ul style="list-style-type: none"> <li>- outline basic issues being considered</li> <li>- responsibilities of Council and WLALC</li> <li>- values</li> <li>- standards</li> <li>- protocols around how/when the data will be used and not used</li> </ul>
	<p>2. Council's Principle Property Adviser is preparing a rudimentary base map depicting localities of low, medium, high significance.</p>
	<p>3. Council's Principle Property Adviser will forward draft memorandum of understanding to WLALC along with base map to WLALC to workshop with their members.</p>
	<p>4. Council's Principle Property Adviser to complete drafting definitions of classifications for sites of significance.</p>
	<p>5. Council's Development &amp; Building Manager will nominate a Council Officer to carry the completion of this project forward whilst on a 12 month secondment from their Council role.</p>

## **5. PORT STEPHENS LOCAL ENVIRONMENTAL PLAN (LEP)**

Council's Senior Strategic Planner who is responsible for preparing Council's new LEP along with Council's Strategic Planning Co-ordinator gave a brief overview of Council's current LEP and the new LEP being developed including: -

- Current LEP was prepared in 2000
- The LEP prescribes the zones of *what can be done* in each geographic area
- The State Government requires all Councils to prepare a new LEP. They have prepared a standard LEP template for Councils to use.
- All new LEPs require sign off by the State Government
- Port Stephens is aiming to have the preliminary draft LEP completed later this year

In terms of preparing the new LEP, Council needs to gain a clear understanding of the Port Stephens landscape. Worimi is one of the largest land owners in Port Stephens so it is important that they have input into the development of the new LEP.

Worimi CEO indicated that they would like to have a meeting with Council's Senior Strategic Planner to gain a mutual understanding of what Council and WLALC are aiming to achieve. WLALC is appreciative of the co-operative approach being taken by Council.

Action:	1. Council's Senior Strategic Planner to meet with WLALC CEO to further discuss the development of Council's new LEP.
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**6. PORT STEPHENS FUTURES**

Council's Senior Strategic Planner who is responsible for the Port Stephens Futures Project gave an overview of the strategy and how the information gained through the community consultation process will directly input into Council's future strategic directions and will link to Council's new Local Environmental Plan.

They gave an overview of the Futures Forum planned for early May 2009 and the role of other agencies. Council is eager to engage the Port Stephens Aboriginal community to ensure their needs and aspirations are appropriately reflected in the Port Stephens Futures Strategy.

**7. ABORIGINAL PROJECT FUND**

Council's Social Planning Co-ordinator indicated that the next funding round will commence shortly. The LALCS will be notified of the details once finalised.

**8. 2009 JOINT MEETING**

Council's Social Planning Co-ordinator indicated that the joint meeting between the LALCS and Council will be held on 21 July 2009. Suggestions for potential guest speakers are sought.

Action:	1. Aboriginal Strategic Committee to forward names of potential guest speakers to Council's Social Planning Co-ordinator.
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**9. SOLDIERS POINT FORESHORE**

Cr Dover expressed a desire to see a retaining wall erected along the foreshore area between the boat ramp and marina to help stabilise the existing embankment whilst also providing the opportunity for a pedestrian link to be created along the foreshore area.

Action:	1. This matter will be referred to the attention of relevant Council Officers.
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**10. NAIDOC WEEK 2009**

The theme for Naidoc Week 2009 which will be held 5 – 12 July is '*Honoring our Elders, Nurturing our Youth*'.

Council's Social Planning Co-ordinator indicated that Council would be seeking an external grant again to help cover the costs of our annual Port Stephens Naidoc Day Celebration which costs approximately \$12,000. They suggested that the Aboriginal Strategic Committee consider making recommendation to Council to allocate up to \$10,000 from the Aboriginal Project Fund to cover any projected shortfall in covering the event costs. The ASC unanimously endorsed the allocation of up to \$10,000 of Aboriginal Project Fund monies to this year's Naidoc Week Celebrations.

## MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

Action:	<ol style="list-style-type: none"><li>1. Council's Social Planning Co-ordinator to prepare and submit a report to Council seeking the allocation of up to \$10,000 in Aboriginal Project Fund monies to assist in covering the expenses associated with Naidoc Week 2009.</li><li>2. Council's Social Planning Co-ordinator to organise a preliminary planning meeting between relevant Council Officers and Karuah and Worimi LALCS and interested community organisations to plan this year's Naidoc Week celebrations.</li></ol>
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### 11. MANAGEMENT OF BUSES ON JAMES PATTERSON RD, ANNA BAY

Cr Dover requested that consideration be given to the creation of a bus drop-off/transfer point at Anna Bay where tourist operators on the Bight can collect their customers so as to reduce the number of buses on James Patterson Rd.

Action:	<ol style="list-style-type: none"><li>1. This matter will be referred to the attention of relevant Council Officers.</li></ol>
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### 12. GENERAL BUSINESS

#### **WLALC Representation on Aboriginal Strategic Committee:**

WLALC CEO indicated that at their upcoming Board meeting they will review and appoint their designated representatives to Council's Aboriginal Strategic Committee and will advise Council accordingly so they can update their records.

Action:	<ol style="list-style-type: none"><li>1. WLALC CEO will advise Council's Social Planning Co-ordinator of designated WLALC representatives on Council's Aboriginal Strategic Committee so Council's records can be updated accordingly.</li></ol>
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### 13. DETAILS OF NEXT MEETING

The next meeting with WLALC will be held on 11 May 2009 at Murrook commencing at 1pm.

**INFORMATION ITEM NO. 3**

**DETERMINED AND UNDETERMINED DEVELOPMENT APPLICATIONS**

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**REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING**  
**FILE: PSC2007-3153**

**BACKGROUND**

The purpose of this report is to provide Councillors with information on determined and undetermined development applications currently with Council, at the request of Cr Tucker.

As it is considered more convenient for Councillors if the reports are run on the last day of the month, and it is not possible to meet the necessary deadline for the Business Paper, the information will be provided under separate cover.

**ATTACHMENTS**

Nil.



**INFORMATION ITEM NO. 4**

**ACCESS COMMITTEE MINUTES**

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**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 3 March 2009.**

Key issues addressed at the meeting included: -

- 1) Little Beach Wharf
- 2) Seniors Discount Directory

**ATTACHMENTS**

- 1) Minutes of the Access Committee meeting held on 3 March 2009.

**ATTACHMENT 1**

**PORT STEPHENS ACCESS COMMITTEE  
MINUTES OF MEETING ~ 3 MARCH 2009  
NELSON BAY RSL CLUB**

**Present:**

Michelle Page, Cathy Jennings, Kathy Delia, Joe Delia, Margaret O'Leary, Karen Whiting, Ken Whiting, Cr Sally Dover, Gavin Jones, Angelo & Marianne.

**Apologies:**

Amanda Heidke, Robert Harper, Liz Harper, Sue Spliet

**Meeting Opened:** 10.25am

**1. New Business**

**1.1 Access Committee Positions:**

Council's Community Planner – Ageing & Disability introduced the new positions to the Committee for 2009 as elected at the Committee Planning Day in February 2009 as follows: -

Chairperson ~ Joe Delia

Deputy Chairperson ~ Robert Harper

Secretary ~ Gavin Jones

**1.2 Little Beach Wharf:**

An access registration form was received by a Committee member prior to Access Committee meeting in relation to the maintenance of the Little Beach Accessible Wharf. The issue was raised that the wharf was slippery and had barnacles attached which posed a potential risk for users. Council's Community Planner – Ageing & Disability will follow up this matter with relevant Council Officers.

**1.3 Salamander Pool:**

An email was received from a resident in relation to current access provisions at the Salamander Pool. The resident has experienced problems especially during peak times in accessing the existing lifting device at the pool. They have suggested Council consider other options such as a ramp and hand railing.

Cr. Dover advised the Committee that there are plans to upgrade Salamander Pool. Cr. Dover suggested that the Committee invite Council's Recreation Services Manager to a future Access Committee meeting to discuss plans and timelines for the Salamander Pool upgrade. The Committee agreed that this would be appropriate.

#### **1.4 Committee Agenda Items:**

Council's Community Planner – Ageing & Disability discussed the outcome of the Committee planning day which included regular agenda items each month to be added for Committee discussions. After discussions it was decided by the Committee to include the following agenda items for each meeting: -

- Australian Standards ~ An introduction of an Australian Standard relating to accessibility
- Promotion of Port Stephens Access Committee ~ Lifestyle Day ~ to facilitate discussions concerning the annual Access Awareness activities to raise awareness of the community and businesses of access and associated barriers which affect the community
- Recruitment~ to discuss a formal avenue to invite and recruit new members to join the Access Committee.

#### **1.5 Council's Work Programs:**

It was noted that Council's Community Planner – Ageing & Disability has been inspecting numerous sites throughout Port Stephens as part of Council's Pedestrian Access Mobility Plan (PAMP) and Forward Works Program. Council's Community Planner – Ageing & Disability discussed the various access improvements Council has completed in recent months.

Cr. Dover suggested that the Committee invite Council's Engineering Services Manager to a future Access Committee meeting to update the Committee on the Forward Works Program and the PAMP project priorities for Port Stephens.

#### **1.6 Port Stephens Council leading by example:**

Council's Community Planner – Ageing & Disability indicated Council's desire to ensure its facilities are accessible for people with disabilities. In some cases older facilities require upgrading, with improvements being carried out in terms of priority and funding availability.

As part of this process, Cr. Dover and the Committee expressed their support of Council's Community Planner – Ageing & Disability to undertake an audit of Council's Administration Centre to determine what additional improvements could

be carried out to further enhance the accessibility of this facility (eg; provisions for people with vision and hearing impairments).

### **1.7 Visulettes now available:**

Council's Community Planner – Ageing & Disability informed the Committee that they have purchased two Visulettes for the use of the Committee members with sight impairments. Visulettes are a sliding magnifying glass which magnifies the text by 3 times its usual size allowing people with poor eyesight to read standard text. Visulettes are also available for use by visitors and volunteers to Council's Administration Building.

## **2. COUNCIL'S COMMUNITY PLANNER – AGEING & DISABILITY UPDATE**

### **2.1 Seniors Discount Directory 2009:**

Council's Community Planner – Ageing & Disability tabled copies of the directory. Additional copies are available from her if required.

### **2.2 OH&S induction training dates for Committee Members:**

It is a requirement for all Council volunteers to have attended the Council's OH&S induction training for volunteers. Attending Committee members are encouraged to attend one of the proposed training sessions. Council's Community Planner – Ageing & Disability will circulate to Committee members details of these meetings.

### **2.3 Combined Pensioners & Superannuants (CPSA) - Pensioner Grocery Vouchers:**

Council's Community Planner – Ageing & Disability discussed the CPSA grocery vouchers available from the CPSA of NSW Inc. They provide one-off grocery vouchers valued at approximately \$50. These vouchers can be applied for by aged pensioners, disability pensioners and single parent pensioners. There is a waiting list of approximately two months. Applications have to be made in writing to the CPSA, located at Level 9, 28 Foveaux St, Surry Hills NSW 2010. You will need to include your name, address, telephone number, photocopy of your pension Card (just the front - signature is not required), along with the name of the designated supermarket where you intend to use your voucher. For further information call 1800 451 488 or go to [www.cpsa.org.au](http://www.cpsa.org.au).

### **2.4 Draft Access to Premises:**

Council's Community Planner - Ageing & Disability informed the Committee that the Draft Disability Standards (Access to Premises-Buildings) were recently tabled in the Parliament of Australia House of Representatives to conduct consultations and receive submissions on the draft Standards between the BCA (Building Codes of Australia) and the Commonwealths Discrimination Act 1992(DDA).

The submission was to show differences and to give rise and align compliance with access provisions and the BCA to facilitate compliance with both the Premises

Standard and the Building Code. Council's Community Planner – Ageing & Disability will keep the Committee updated as information becomes available.

### **2.5 Community Planner Access Auditor Accreditation**

Council's Community Planner – Ageing & Disability informed the Committee that she would be an apology for the next Committee meeting as they will be attending a course of access auditing.

### **3. Next Meeting**

Raymond Terrace Bowling Club ~ Boardroom ~ 7 April 2009 at 10.30am

Meeting closed at 11.45am

**INFORMATION ITEM NO. 5**

**CASH AND INVESTMENTS HELD AT 28 FEBRUARY 2009**

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**REPORT OF: CHRISTOPHER BRICE – ACTING FINANCIAL SERVICES MANAGER  
FILE: PSC2006-6531**

**BACKGROUND**

**The purpose of this report is to present Council's schedule of Cash and Investments Held at 28 February 2009.**

**ATTACHMENTS**

- 1) Cash and Investments Held at 28 February 2009.
- 2) Monthly Cash and Investments Balance March 2008 – February 2009
- 3) Monthly Australian Term Deposit Index July 2008 – February 2009

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**
**ATTACHMENT 1**
**CASH & INVESTMENTS HELD AS AT 28 FEBRUARY 2009**

INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value December	Market Value January	Market Value February	Current Mark to Market Exposure
<b>GRANGE SECURITIES</b>										
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate C	AA	20-Mar-12	1,000,000.00	3.17%	0.00%	\$750,000.00	\$420,000.00	\$420,000.00	-\$580,000.00
NEXUS BONDS LTD "TOPAZ AA-"	Floating Rate C	AA-	23-Jun-15	412,500.00	1.31%	6.49%	\$315,562.50	\$198,000.00	\$173,250.00	-\$239,250.00
HERALD LTD "QUARTZ AA"	Floating Rate C	AA	20-Dec-10	450,000.00	1.43%	5.79%	\$317,925.00	\$116,595.00	\$63,135.00	-\$386,865.00
STARTS CAYMAN LTD "BLUE GUM AA-"	Floating Rate CDO		22-Jun-13	1,000,000.00	3.17%	5.65%	\$507,400.00	\$10,000.00	\$20,500.00	-\$979,500.00
HELIUM CAPITAL LTD "ESPERANCE AA+" *	Floating Rate C	A-	20-Mar-13	1,000,000.00	3.17%	5.43%	\$536,000.00	\$0.00	\$0.00	-\$1,000,000.00
HOME BUILDING SOCIETY	Floating Rate Sub Debt		25-Jul-11	500,000.00	1.58%	4.46%	\$470,500.00	\$429,275.00	\$407,705.00	-\$92,295.00
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note		18-Oct-11	500,000.00	1.58%	5.71%	\$420,500.00	\$488,000.00	\$485,000.00	-\$15,000.00
GRANGE SECURITIES "KAKADU AA"	Floating Rate C	AA-	20-Mar-14	1,000,000.00	3.17%	5.35%	\$418,600.00	\$182,200.00	\$83,300.00	-\$916,700.00
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate C	AA	20-Sep-14	1,000,000.00	3.17%	0.00%	\$319,000.00	\$0.00	\$0.00	-\$1,000,000.00
<b>TOTAL GRANGE SECURITIES</b>				<b>\$6,862,500.00</b>	<b>21.75%</b>		<b>\$4,055,487.50</b>	<b>\$1,844,070.00</b>	<b>\$1,652,890.00</b>	<b>(\$5,209,610.00)</b>
<b>ABN AMRO MORGANS</b>										
REMBRANDT ISOSCELES SERIES 1	Floating Rate C	AA	20-Sep-09	\$2,000,000.00	6.34%	0.00%	\$1,590,000.00	\$1,685,000.00	\$1,646,200.00	-\$353,800.00
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note		17-Sep-11	\$1,000,000.00	3.17%	0.00%	\$875,800.00	\$902,700.00	\$891,000.00	-\$109,000.00
BANK OF QLD FLOATING RATE NOTE	Floating Rate Note		15-Jun-09	\$1,000,000.00	3.17%	4.71%	\$991,110.00	\$991,110.00	\$991,110.00	-\$8,890.00
BANK OF QLD TERM DEPOSIT	Term Deposit		5-Sep-09	\$750,000.00	2.38%	4.65%	\$750,000.00	\$750,000.00	\$750,000.00	\$0.00
<b>TOTAL ABN AMRO MORGANS</b>				<b>\$4,750,000.00</b>	<b>15.06%</b>		<b>\$4,206,910.00</b>	<b>\$4,328,810.00</b>	<b>\$4,278,310.00</b>	<b>(\$471,690.00)</b>
<b>ANZ INVESTMENTS</b>										
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA"	Floating Rate C	AA-	6-Apr-10	\$500,000.00	1.58%	5.19%	\$151,600.00	\$147,000.00	\$88,000.00	-\$412,000.00
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate C	AA	30-Dec-11	\$1,000,000.00	3.17%	0.00%	\$230,300.00	\$266,100.00	\$266,100.00	-\$733,900.00
MOTIF FINANCE (IRELAND) PLC	Floating Rate C	A	1-Jun-17	\$517,876.98	1.64%	0.00%	\$569,858.42	\$620,904.95	\$671,798.80	\$153,921.82
ADELAIDE BANK SENIOR DEBT	Floating Rate Deposit		22-May-09	\$1,000,000.00	3.17%	3.28%	\$996,100.00	\$996,030.00	\$995,950.00	-\$4,050.00
<b>TOTAL ANZ INVESTMENTS</b>				<b>\$3,017,876.98</b>	<b>9.57%</b>		<b>\$1,947,858.42</b>	<b>\$2,030,034.95</b>	<b>\$2,021,848.80</b>	<b>(\$996,028.18)</b>
<b>RIM SECURITIES</b>										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		29-Jul-13	\$2,000,000.00	6.34%	0.00%	\$462,960.00	\$426,480.00	\$329,520.00	-\$1,670,480.00
ELDER'S RURAL BANK (2011)	Floating Rate Sub Debt		8-Oct-11	\$1,000,000.00	3.17%	4.61%	\$946,755.00	\$943,464.00	\$947,237.00	-\$52,763.00
QLD POLICE CREDIT UNION	Term Deposit		11-Mar-09	\$500,000.00	1.58%	4.54%	\$1,000,000.00	\$1,004,684.93	\$500,000.00	\$0.00
SAVINGS AND LOANS CREDIT UNION	Term Deposit			\$0.00	0.00%	0.00%	\$1,000,000.00	\$0.00	\$0.00	\$0.00
AUSTRALIAN CENTRAL CREDIT UNION	Term Deposit			\$0.00	0.00%	0.00%	\$1,000,000.00	\$1,000,000.00	\$0.00	\$0.00
COMMUNITY CPS CREDIT UNION	Term Deposit			\$0.00	0.00%	0.00%	\$1,000,000.00	\$0.00	\$0.00	\$0.00
HERITAGE BUILDING SOCIETY	Term Deposit		4-May-09	\$1,000,000.00	3.17%	5.15%			\$1,000,000.00	\$0.00
POLICE AND NURSES CREDIT UNION	Term Deposit		5-Mar-09	\$1,000,000.00	3.17%	5.15%			\$1,000,000.00	\$0.00
<b>TOTAL RIM SECURITIES</b>				<b>\$5,500,000.00</b>	<b>17.43%</b>		<b>\$5,409,715.00</b>	<b>\$3,374,628.93</b>	<b>\$3,776,757.00</b>	<b>(\$1,723,243.00)</b>

# MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

## ATTACHMENT 2

<b>WESTPAC INVESTMENT BANK</b>										
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt	27-Apr-10	\$500,000.00	1.58%	4.61%	\$485,800.00	\$486,315.00	\$487,310.00	-\$12,690.00	
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt	20-Nov-11	\$500,000.00	1.58%	4.19%	\$439,220.00	\$440,385.00	\$441,990.00	-\$58,010.00	
<b>TOTAL WESTPAC INV. BANK</b>				<b>\$1,000,000.00</b>	<b>3.17%</b>	<b>\$925,020.00</b>	<b>\$926,700.00</b>	<b>\$929,300.00</b>	<b>(\$70,700.00)</b>	
<b>LONGREACH CAPITAL MARKETS</b>										
LONGREACH SERIES 16 PROPERTY LINKED NOT	Property Linked	AA	7-Mar-12	\$500,000.00	1.58%	0.00%	\$390,700.00	\$417,950.00	\$396,600.00	-\$103,400.00
LONGREACH SERIES 19 GLOBAL PROPERTY										
LINKED NOTE	Property Linked Note	7-Sep-12	\$500,000.00	1.58%	0.00%	\$392,550.00	\$406,650.00	\$402,800.00	-\$97,200.00	
<b>TOTAL LONGREACH CAPITAL</b>				<b>\$1,000,000.00</b>	<b>3.17%</b>	<b>\$783,250.00</b>	<b>\$824,600.00</b>	<b>\$799,400.00</b>	<b>(\$200,600.00)</b>	
<b>COMMONWEALTH BANK</b>										
EQUITY LINKED DEPOSIT	Equity Linked Note	20-Sep-11	\$500,000.00	1.58%	3.00%	\$486,350.00	\$493,100.00	\$490,650.00	-\$9,350.00	
EQUITY LINKED DEPOSIT GI100	Equity Linked Note	03-Aug-10	\$500,000.00	1.58%	3.00%	\$497,950.00	\$501,650.00	\$507,600.00	\$7,600.00	
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	05-Nov-12	\$500,000.00	1.58%	3.00%	\$473,400.00	\$483,150.00	\$481,700.00	-\$18,300.00	
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	09-Nov-12	\$500,000.00	1.58%	4.57%	\$400,000.00	\$432,215.00	\$433,415.00	-\$66,585.00	
BANK OF QUEENSLAND	Term Deposit	12-Aug-10	\$1,000,000.00	3.17%	4.80%			\$1,000,000.00	\$0.00	
<b>TOTAL COMMONWEALTH BANK</b>				<b>\$3,000,000.00</b>	<b>9.51%</b>	<b>\$1,857,700.00</b>	<b>\$1,910,115.00</b>	<b>\$2,913,365.00</b>	<b>(\$86,635.00)</b>	
<b>FIG SECURITIES</b>										
CREDIT SUISSE PRINCIPAL PROTECTED NOTE										
AQUADUCT AA-	Principal Protected Note	21-Jun-10	\$1,000,000.00	3.17%	0.00%	\$941,200.00	\$951,600.00	\$951,300.00	-\$48,700.00	
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note	30-Nov-14	\$500,000.00	1.58%	4.16%	\$420,100.00	\$330,300.00	\$188,950.00	-\$311,050.00	
AUSTRALIAN DEFENCE CREDIT UNION	Term Deposit	27-Apr-09	\$1,000,000.00	3.17%	4.29%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00	
<b>TOTAL FIG SECURITIES</b>				<b>\$2,500,000.00</b>	<b>7.92%</b>	<b>\$2,361,300.00</b>	<b>\$2,281,900.00</b>	<b>\$2,140,250.00</b>	<b>(\$359,750.00)</b>	
<b>MAITLAND MUTUAL</b>										
	Floating Rate Sub Debt	30-Jun-09	500,000.00	1.58%	5.24%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00	
	Term Deposit	25-May-09	556,584.50	1.76%	4.30%	548,292.61	548,292.61	556,584.50	\$0.00	
	Floating Rate Sub Debt	31-Dec-09	500,000.00	1.58%	5.66%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00	
<b>TOTAL M'LAND MUTUAL</b>				<b>\$1,556,584.50</b>	<b>4.93%</b>	<b>\$1,548,292.61</b>	<b>\$1,548,292.61</b>	<b>\$1,556,584.50</b>	<b>\$0.00</b>	
<b>TOTAL INVESTMENTS</b>				<b>\$29,186,961.48</b>	<b>92.51%</b>	<b>\$23,582,983.53</b>	<b>\$19,069,151.49</b>	<b>\$20,068,705.30</b>	<b>(\$9,118,256.18)</b>	
<b>AVERAGE RATE OF RETURN ON INVESTMENTS</b>						<b>2.99%</b>				
<b>CASH AT BANK</b>				<b>\$2,363,722.41</b>	<b>7.49%</b>	<b>3.20%</b>	<b>\$1,031,239.77</b>	<b>\$3,146,915.53</b>	<b>\$2,363,722.41</b>	<b>\$0.00</b>
<b>AVERAGE RATE OF RETURN ON INVESTMENTS + CASH</b>						<b>3.01%</b>				
<b>TOTAL CASH &amp; INVESTMENTS</b>				<b>\$31,550,683.89</b>	<b>100.00%</b>	<b>\$24,614,223.30</b>	<b>\$22,216,067.02</b>	<b>\$22,432,427.71</b>	<b>(\$9,118,256.18)</b>	
<b>BBSW FOR PREVIOUS 3 MONTHS</b>						<b>3.79%</b>				

\* Lehman Brothers is the swap counterparty to these transactions and as such the deals are in the process of being unwound. No valuation information is available.

### CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

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

**P GESLING**

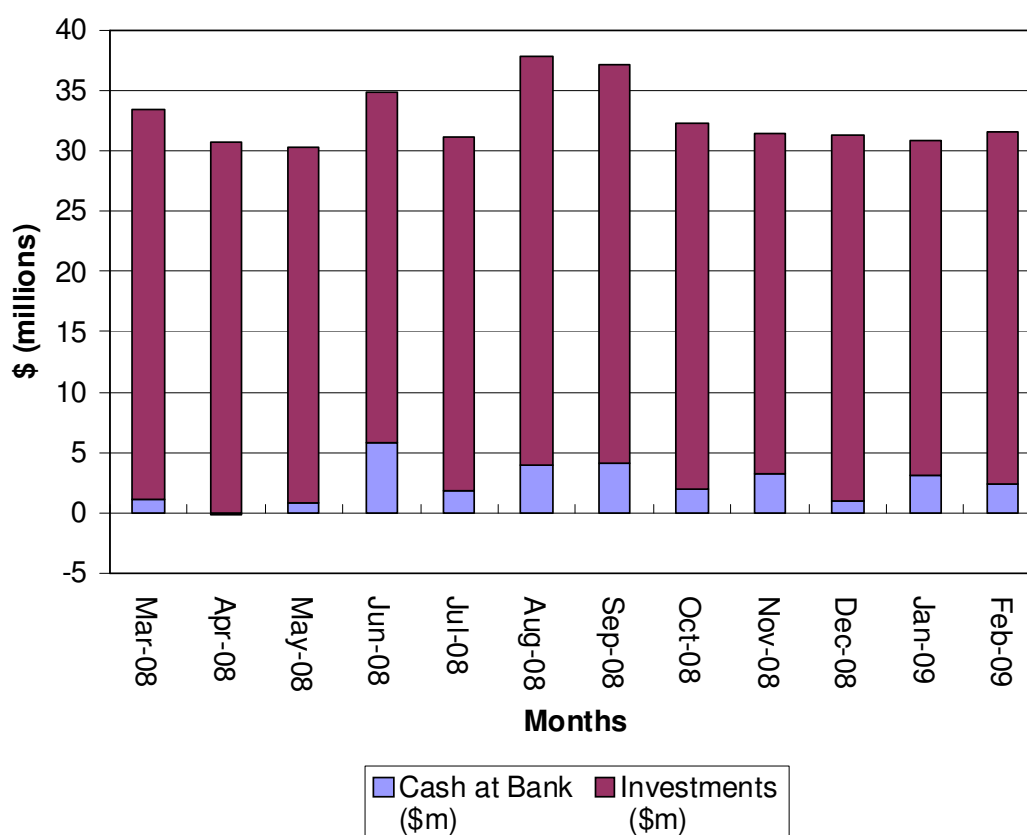


## ATTACHMENT 2

## Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Mar-08	1.162	32.230	33.392
Apr-08	0.146	30.783	30.637
May-08	0.889	29.407	30.296
Jun-08	5.899	28.907	34.806
Jul-08	1.780	29.407	31.187
Aug-08	3.939	33.846	37.785
Sep-08	4.141	32.918	37.059
Oct-08	1.934	30.418	32.352
Nov-08	3.234	28.179	31.412
Dec-08	1.031	30.179	31.210
Jan-09	3.147	27.683	30.830
Feb-09	2.364	29.187	31.551

### Cash and Invested Funds for the Period ended 28/2/2009

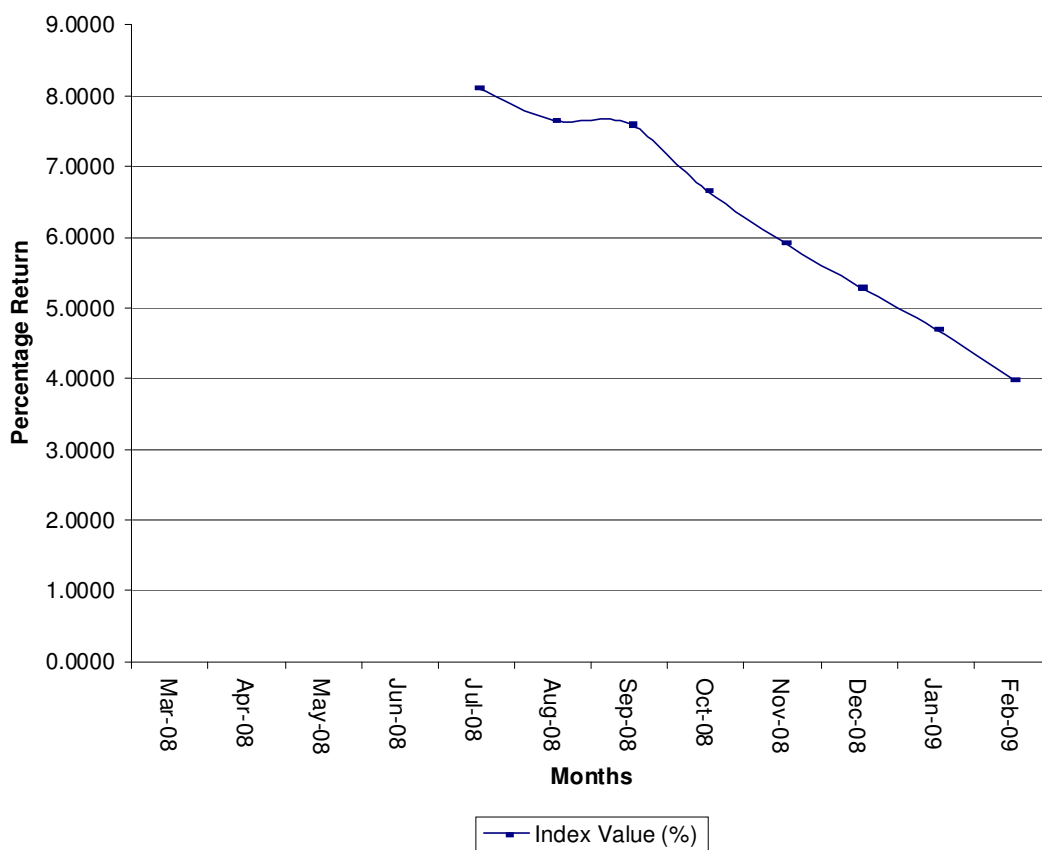


### ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Mar-08	
Apr-08	
May-08	
Jun-08	
Jul-08	8.1102
Aug-08	7.6563
Sep-08	7.6020
Oct-08	6.6626
Nov-08	5.9328
Dec-08	5.2972
Jan-09	4.7113
Feb-09	4.0024

Australian Term Deposit Index as at 28/2/2009



INFORMATION ITEM NO. 6

**PORT STEPHENS LIBRARY SERVICE  
OPERATIONS REPORT FROM JULY TO DECEMBER 2008**

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**REPORT OF: PHILIP CROWE - COMMUNITY & LIBRARY SERVICES MANAGER**  
**FILE: PSC2005-3986**

**BACKGROUND**

**The purpose of this report is to inform Council about the level of operations of Port Stephens Library Services for the six month period July 2008 to December 2008.**

The figures presented in this paper indicate a steady demand for library services within Port Stephens. Highlights include:

- Public access computers/Internet bookings climbing to **28,680** representing an extraordinary **13.2%** increase over the corresponding period of the previous year.
- Circulation volume just short of a quarter of a million with **249,115** loans for the period. This figure represents a **2.2%** increase over the corresponding period of the previous year.

A more extensive overview of operations is available in the table at the end of this report.

Other highlights for the reporting period include;

- A successful July school holiday program with 388 local children participating in library programs, activities & events.
- Visits by authors Michael Robotham, Deborah Adelaide and Peter Andrews.
- A successful Living Library event held on August 2<sup>nd</sup> 2008 at the Tomaree Library and Community Centre. A Living Library is like a regular library, but in the Living Library the people are the books. 6 volunteer books were borrowed by 24 customers for 30 minute sessions. The event ran for 2 hours and was held during Local Government Week 2008, fitting in well with the LGW theme **"Over the fence....cultivating our own backyard"**.
- Launch of the "First Friday Book Club" at Tomaree Library.
- Stories in the Park Literacy Event. Despite wet weather preventing the event running as planned at Boomerang Park, presenters willingly took their planned entertainment & activities to the local schools.
- Partnership with the Australian Taxation Office to run a tax assistance program at Tomaree library for those requiring help in completing their annual tax return.
- Review of existing Mobile Library stops and finalisation of the 2009 Mobile Library timetable.

## MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

- Kris Abbott & Vicki James gave a presentation on *Port Stephens Library in the Community*, at the Asset Based Community Development Conference held at Newcastle University on 3 December. The presentation focussed on the assets or treasures that our library offers the community and ways that the community can easily access these assets (including programs, activities, events, resources etc)
- The Tomaree Library & Community Centre continued to be heavily used by community groups, organisations and Council (for Council programs/workshops).
- Successful series of "Dad's Storytime" sessions held as part of the Kids Who Read Succeed children's literacy program.

No. of items Loaned	Tomaree Library	Raymond Terrace Library*	Mobile Library	Tilligerry Community Library	Total
Jul – Dec 07	116217	90296	30957	6163	243633
Jul – Dec 08	121678	87490	33420	6527	249115
% increase or decrease	4.4%	-3.2%	7.3%	5.5%	2.2%

\* Note: Loan figures for Raymond Terrace were impacted by closure in June for rewiring of library.

Internet / PC Usage	Tomaree Library	Raymond Terrace Library	Mobile Library	Tilligerry Community Library	Total
Jul – Dec 07	13746	11593	-	-	25339
Jul – Dec 08	15284	13396	-	-	28680
%increase or decrease	11.2%	15.6%	-	-	13.2%

Visitor Numbers	Tomaree Library	Raymond Terrace Library	Mobile Library	Tilligerry Community Library	Total
Jul – Dec 07	68981	69352	5160	-	149023
Jul – Dec 08	68783	65991	5568	-	140342
% increase or decrease	- 0.2%	-4.8%	7.9%	-	-5.8%

\* Note: Visitor numbers fell slightly during the 2008 period due to temporary closures at Tomaree (re-organisation of adult non-fiction collection) and Raymond Terrace (electrical rewiring of the entire building).

New Members	Tomaree Library	Raymond Terrace Library	Mobile Library	Tilligerry Community Library	Total
Jul – Dec 07	768	642	139	14	1563
Jul – Dec 08	812	591	122	26	1551
% increase or decrease	5.7%	-7.9%	-12.2%	85.7%	-0.8%

\*Note: Total membership of the library was 28,280 members as of December 2008

INFORMATION ITEM NO. 7

**ACCESS TO INFORMATION – SECTION 12 LOCAL GOVERNMENT ACT  
1993**

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**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
**FILE: PSC2008-3083**

**BACKGROUND**

**The purpose of this report is to advise Council and make public the reasons for not granting access to documents/information under Section 12A, *Local Government Act 1993*.**

In accordance with Section 12A (1), *Local Government Act 1993*, the General Manager or any member of staff who decides that access should not be given to a document or other information to the public or a councillor, is required to provide Council with written reasons for the restriction. Sub-section 12A (2) requires that the reason must be publicly available.

The requests shown in **ATTACHMENT 1** to this report are those that are made in writing and determined by Council's Executive Officer for the period 2008/09.

The information in **ATTACHMENT 1** is for the period of January to March 2009 with a total of 8 applications received, 3 with full access granted and 5 with restrictions as shown below.

Total received for the year to March 2009 is 43 applications.

**ATTACHMENT 1** provides Council with the details of the request and the reasons why access was not fully granted. The names of applicants have not been provided as this would be a breach of the *Privacy & Personal Information Protection Act 1998*. Further details may be available should Councillors require it.

In addition to these figures no applications were received under the Freedom of Information Act for the period of January to March 2009. Total received for the year to March 2009 is 7 applications.

**ATTACHMENTS**

- 1) Listing of requests under Section 12 of the *Local Government Act 1993*.

**ATTACHMENT 1****LISTING OF REQUESTS UNDER SECTION 12 OF THE LOCAL GOVERNMENT ACT 1993**

<b>No.</b>	<b>File No.</b>	<b>Information requested</b>	<b>Determination</b>
1	PSC2008-1543	Seeking development application information	Part released due to Privacy & Personal Information Protection Act & copyright legislation
2	PSC2009-00041	Seeking development application information	Part released due to Privacy & Personal Information Protection Act & copyright legislation
3	PSC2009-00332	Seeking development application information	Part released due to Privacy & Personal Information Protection Act
4	PSC2009-00657	Seeking development application information	Part released due to Privacy & Personal Information Protection Act & copyright legislation

**INFORMATION ITEM NO. 8**

**PORT STEPHENS ECONOMIC DEVELOPMENT ADVISORY PANEL**

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**REPORT OF: LESLEY MORRIS – ECONOMIC DEVELOPMENT MANAGER**  
**FILE: A2004-0645**

**BACKGROUND**

The purpose of this report is to present to Council the minutes of the Port Stephens Economic Development Advisory Panel on Tuesday 3 February 2009.

**ATTACHMENTS**

- 1) Minutes of the Port Stephens Economic Development Advisory Panel meeting on 43 February 2009.

## ATTACHMENT 1

**MINUTES OF THE PORT STEPHENS ECONOMIC DEVELOPMENT ADVISORY PANEL MEETING  
HELD 9.30AM TUESDAY 3 FEBRUARY 2009  
AT COMS RAZER BOARD ROOM**

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**PRESENT:** Cllr Bob Westbury (In the Chair), Robyn Bradbury, Paul Hughes, Scott Orpin, Ian Rennie, Peter Gesling, Boris Novak, Gillian Summers, Cllr Steve Tucker, Lesley Morris, Brendan Brooks, Trevor Allen (guest)

**APPOLOGIES:** Peter Quinn, Susan Rowe

**MINUTES OF PREVIOUS MEETING**

Accepted as true and correct

Moved by I. Rennie, seconded by S. Tucker

Business Arising: nil

**OVERVIEW OF COUNCIL'S CURRENT PLANNING STUDIES AND STRATEGIES – TREVOR ALLEN, MANAGER INTEGRATED PLANNING, PORT STEPHENS COUNCIL**

Trevor gave a brief on the current Integrated Planning strategies:

- Port Stephens Futures
- Anna Bay Strategy
- Medowie Strategy
  - o Draft to council next month
  - o Looks at street layout, land use, flooding and ecology
  - o Where should development occur?
  - o 3000 people in dwellings
- Kings Hill
  - o 12,000 people
  - o Issue with aircraft noise from the King Strike Fighter
  - o Council is seeking data from Defence
  - o Defence providing data to engage a consultant
- DARE – DA imminent, some biodiversity issues

He also discussed a number of planning issues such as:

- New Exempt & Comply conditions in the new State Government SEPP
- Does the LUP feed into the new zoning map and the new state government template or does Council have input into the zones.

Trevor acknowledged the Economic Development Unit as an important partner giving input into the data. S. Orpin asked if there is anything Integrated Planning need from the Economic Development Advisory Panel. Trevor indicated that he is open to receiving advice on planning matters. P. Gesling requested support and involvement in the upcoming Futures Forums.

**OVERVIEW OF RAZER INDUSTRIES NEW FACILITY – GILLIAN SUMMERS**

Tony Lobb and Gillian Summers gave a presentation on the COMS RAZER operations



## ATTACHMENT 1

### **ECONOMIC IMPACT OF CARBON POLLUTION REDUCTION SCHEME UPON HUNTER INDUSTRIES - HUNTER VALLEY RESEARCH FOUNDATION STUDY FOR HUNTER BUSINESS CHAMBER**

Scott Orpin gave a brief on the Issue of Carbon Permit Reduction Scheme and its impact, particularly on Tomago Aluminium but also on all business in Port Stephens. G. Summers made comment that Tomago Aluminium is more affected than any other company in the LGA and expressed the need to represent Tomago Aluminium in this issue.

### **QUARTERLY REPORT, STATISTICS AND PROJECT UPDATES**

Lesley Morris presented the Business Port Stephens quarterly report.

#### **Business Arising:**

- Regional Defence committee meeting to be held in Raymond Terrace
- Business Port Stephens taking up an additional adjoining office for expansion
- Business Port Stephens website is evolving, will include statistical performance data at future meetings
- The Economic Profile and Prospectus nearing completion
- Tourism statistical data collection project
- Tourism strategy leading to a discussion on the impact of the Global Financial Crisis on the tourism industry, with domestic tourism up, inbound down
- B. Brooks gave a brief on the intended research & development project with Newcastle University partnership

#### **GENERAL BUSINESS:**

- New Volvo bus assembly plant has been approved for Tomago
- Unsure about the progress of the Westrac facility in Tomago
- G. Summers reiterated the need for Business Port Stephens to take a lead role in lobbying for the right Emissions Trading Scheme and Tomago Aluminium in particular
- R. Bradbury suggested that Business Port Stephens participate in the next Bay Business Breakfast

There being no further business, the meeting closed at 11.30am.

**NEXT MEETING – 9.30AM TUESDAY 5 MAY 2009**

# **STRATEGIC COMMITTEE RECOMMENDATIONS**

**ITEM NO. 1****FILE NO: PSC2008-9962****ALTERNATIVE DISPUTE RESOLUTION POLICY****REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES****RECOMMENDATION IS THAT COUNCIL:**

That Council adopts the Alternative Dispute Resolution Policy.

**STRATEGIC COMMITTEE – 07<sup>th</sup> APRIL 2009****RECOMMENDATION:**

<b>Councillor Ken Jordan</b> <b>Councillor Glenys Francis</b>	That Council place the Alternative Dispute Resolution policy on public exhibition and that there being no substantiative submissions that the policy be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>117</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to seek support for the adoption of an Alternative Dispute Resolution Policy.

The term “alternative dispute resolution” (ADR) is used to describe a wide variety of dispute resolution mechanisms that are alternative to litigation. ADR systems generally include negotiation, mediation or arbitration systems.

The NSW Ombudsman encourages NSW councils to use Alternative Dispute Resolution as an alternative to litigation and as a means to help resolve disputes between members of the community involving councils.

A number of NSW councils have developed Mediation /Alternative Dispute Resolution Policies which focus on the use of mediation to address a broad range of disputes including Warringah, Blue Mountains, Newcastle, Ashfield, Clarence Valley and Lismore Council's.

The overriding purpose of these policies is to:

- Establish a clear, consistent and fair process to help address disputes.
- Provide an alternative dispute handling mechanism that is more informal and cooperative than litigation.
- To save time and costs and reduce conflict in the dispute handling process.

### **Need for a Formally Adopted ADR Policy**

Council currently engages external mediators/ negotiators on an as needs basis to assist with various types of disputes including environmental and development matters and staff disputes.

Council however does not have a formally adopted process for alternative dispute resolution (including mediation and negotiation). Without a formal process, supported with adequate training there is potential for:

- Inconsistency in the application of ADR.
- Inefficiencies in the way Council deals with disputes.
- Uncertainty in when and how to use ADR.
- The escalation of some disputes and associated costs.

It is for these reasons that Council staff drafted a framework for the development of an Alternative Disputes Resolution Policy. The resultant Draft Policy has also had considerable input from a number of other NSW Councils, NSW Ombudsman's office, Community Justice Centre and ICAC. A Draft Policy is attached.

The purpose of the Draft Policy is to provide a process to help resolve disputes that relate to Port Stephens Council. The Policy framework sets out a clear, consistent and fair means to address disputes in an effective and cooperative manner. The Policy also provides an alternative dispute handling process that is less formal and less costly than litigation.

The Policy relates to planning, development, environment, enforcement issues, land management, customer, business, and staff and industrial relations disputes.

### **LINKS TO CORPORATE PLANS**

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

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

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

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

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

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

### **FINANCIAL/RESOURCE IMPLICATIONS**

There will not be any significant increases in costs associated with the implementation of an Alternative Dispute Resolution Policy. It is anticipated that the Policy will in time help reduce the cost of handling disputes within Council.

### **LEGAL AND POLICY IMPLICATIONS**

The Alternative Dispute Resolution Policy will assist Council to avoid costly court proceedings.

### **BUSINESS EXCELLENCE FRAMEWORK**

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

These outcomes align with the following Business Excellence principles:-

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

- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 8) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

The adoption of an Alternative Dispute Resolution Policy will encourage a cooperative approach between Council and its Customers.

### **ECONOMIC IMPLICATIONS**

It is intended that this Policy will help to reduce the cost of handling disputes and will there benefit Council and its customers.

### **ENVIRONMENTAL IMPLICATIONS**

It is intended that this Policy will help achieve better environmental outcomes associated with environmental disputes by focussing on negotiated offsets or rehabilitation rather than pursuing litigation.

## **CONSULTATION**

When preparing this Policy, many Council staff were consulted, as well as representatives from other NSW Council's, the Ombudsman's office, the Community Justice Centre and ICAC.

## **OPTIONS**

- 1) Council adopt the Alternative Dispute Resolution Policy;
- 2) Council adopt a modified Alternative Dispute Resolution Policy;
- 3) Council not adopt the Alternative Dispute Resolution Policy.

## **ATTACHMENTS**

- 1) Draft Alternative Dispute Resolution Policy

## **COUNCILLORS ROOM**

Nil

## **TABLED DOCUMENTS**

Nil

ATTACHMENT 1  
ALTERNATIVE DISPUTE RESOLUTION



POLICY

Adopted:  
Minute No:  
Amended:  
Minute No:

**FILE NO: PSC2008-9962**

**TITLE: ALTERNATIVE DISPUTE RESOLUTION POLICY**

**AUTHOR: MANAGER ENVIRONMENTAL SERVICES**

**BACKGROUND**

Due to its business, community and regulatory roles, Council can find itself dealing with conflict in many areas including the building, development assessment and planning areas, neighbourhood disputes over trees noise, odours and animals and industrial relations disputes. Many of these disputes may be dealt with effectively by staff as they arise, however at times some disputes may escalate into significant issues which consume considerable time, energy and community money to address.

Mediation, negotiation, facilitation and other forms of Alternative Dispute Resolution can be used when appropriate to assist resolve difficult disputes or as an alternative to the expensive and time- consuming option of litigation.

Not all difficult issues will warrant the use of alternative dispute resolution processes involving independent negotiators or mediators. Many disputes can be dealt with and resolved informally by staff without the need to resort to other means. This Policy is only meant to cover the more difficult disputes that Council encounters where it is considered that an alternative dispute handling process is the best alternative.

The NSW Ombudsman encourages NSW councils to use Alternative Dispute Resolution as an alternative to litigation and as a means to help resolve disputes between members of the community involving councils.

In accordance with NSW Ombudsman's Guidelines for Local Government, this Policy must not fetter or limit the range of discretion conferred by a statute on Council staff involved in regulatory or enforcement matters. In exercising that discretion, officers must not act under the dictation or at the behest of any third person or body.

This Policy is meant only to provide guidance in the exercise of those powers and at times, depending on the issues surrounding the particular dispute, mediation or negotiation may not be the best option.

## **PURPOSE**

The purpose of this Policy is to provide a process to help resolve disputes that relate to Port Stephens Council. The Policy framework sets out a clear, consistent and fair means to address disputes in an effective and cooperative manner. The Policy also provides an alternative dispute handling process that is less formal and less costly than litigation.

The Policy relates to planning, development, environment, enforcement issues, land management, customer, business, and staff and industrial relations disputes.

## **DEFINITIONS**

### **Alternative Dispute Resolution - ADR**

The term “alternative dispute resolution” or “ADR” is often used to describe a wide variety of dispute resolution mechanisms that are short of, or alternative to, full-scale court processes. ADR systems may be generally categorised as negotiation, conciliation/mediation, or arbitration systems.

### **Arbitration**

Arbitration is a formal dispute resolution process governed by the Commercial Arbitration Act 1984 NSW (or the equivalent in other states) in which two or more parties refer their dispute to an independent third person (the arbitrator) for determination. Providing that the arbitration is conducted according to the principles of natural justice its procedures may be varied by the parties to suit the size and complexity of their dispute.

In an industrial relations context, Arbitration is a formal dispute resolution process governed by the Industrial Relations Act 1996 (NSW) as amended.

### **Development Application (DA)**

A development application is a formal request for permission to carry out development, and includes plans and drawings, a statement of environmental effects and a completed application form.

### **Facilitation**

The term facilitation is broadly used to describe any activity which makes tasks for others easy. For example:

Facilitation is used in business and organisational settings to ensure the designing and running of successful meetings or negotiations. A person who takes on such a role is called a facilitator.

### **Mediation**

A process in which parties to a dispute with the assistance of a neutral third party (“the Mediator”) identify disputed issues, develop options, consider alternatives and



endeavour to reach an agreement. The mediator has no advisory or other determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

### **Mediation Agreement**

A mediation agreement is a written agreement setting out the terms of settlement reached between the parties to the mediation process. The agreement is confidential except where the terms of the agreement expressly permit part or all of its contents to be divulged to other parties. The agreement must be signed by all parties to the agreement.

### **Negotiation**

At its most basic, negotiation is an informal bargaining process. It takes place directly between the people in dispute, but can be assisted by others e.g. lawyers and advocates. The people involved in the dispute communicate directly to try to reach an agreement. Communication may be written or spoken and may take some time.

### **Neutral Evaluation**

This is a process provided by the NSW Land and Environment Court. There is no legislative basis for this process, however the Land and Environment Court provides this as a form of mediation in some disputes.

### **Section 34 Conferences**

These are conducted by the Land and Environment Court (NSW). These conferences are more formal than other Court managed ADR processes and are presided over by a single Commissioner.

## **POLICY OBJECTIVES**

- To establish a clear, consistent and fair process to help address disputes.
- To provide an alternative dispute handling process that is less formal and more cooperative than litigation.
- To save time and costs.
- To reduce conflict in the dispute handling process.

## **POLICY PRINCIPLES**

The Alternative Dispute Resolution (ADR) Policy will apply to development, environment and land management disputes and other disputes concerning animals, trees, noise effluent, odours and other forms of pollution. It also applies to business, staff and industrial relations disputes. The following principles relate to the way ADR is applied by Council:

- 1) ADR is a voluntary process.
- 2) To preserve the legitimacy of the process, all parties to ADR are given the opportunity to be represented and have control over the outcomes.
- 3) Where appropriate, ADR is to be initiated as soon as possible to avoid issues escalating.
- 4) Council will ensure confidentiality and respect privacy requirements when dealing with disputes.
- 5) Council will ensure procedural fairness in ADR matters.
- 6) Where mediation is used as one of the ADR options, the mediator is to be suitably qualified, independent and impartial to the dispute at hand.
- 7) Any mediated agreement will be documented and signed by all parties.
- 8) Costs associated with ADR are generally shared between all parties to the dispute unless other arrangements are agreed to by Council.

## **POLICY STATEMENT**

### **Awareness and Cooperation**

Council will encourage parties to a dispute to resolve issues as they arise or come to notice before they escalate into significant matters.

Council will take a proactive approach to minimise the occurrence of disputes.

Council will train appropriate staff in ADR approaches including negotiation.

### **Approach**

Council will not enter into ADR:

- Where there are issues that relate to the content of Council Policies (as opposed to the application of the Policy).
- Where a dispute may create a planning precedent.
- Where the parties are not willing to cooperate.
- Where Council does not believe that ADR is the best option, based on the particular circumstances and broader public interest considerations.

**APPENDIX ONE** provides a summary of the types of disputes that are suitable for ADR.

**APPENDIX TWO** outlines the principles of ADR.

**RELATED POLICIES**

- Compliance Policy
- Complaints/ Requests Handling Policy
- Council Prosecutions Policy
- Grievance and Disputes Procedures contained in Clause 24 of the Port Stephens Council Enterprise Agreement 2008.

**RELEVANT LEGISLATIVE PROVISIONS**

Not Applicable

**IMPLEMENTATION RESPONSIBILITY**

All staff and Councillors involved in Alternative Dispute Resolution.

**REVIEW DATE**

December 2010.

## APPENDIX ONE

### When is ADR Suitable

#### KEY

**ADR** = Alternative Dispute Resolution

**CJC** = Community Justice Centre

**M** = Mediation

**NA** = Not Applicable

**NEG** = Negotiation

Issue	ADR Yes/ No	Type of ADR	Comments
<b>Neighbourhood Disputes that are <u>not</u> Council's Responsibility.</b>	Yes- however in all likelihood these will be referred to another agency.	NEG & M	Neighbours to be referred to CJC.  Refer also to Council's Compliance Policy regarding issues that are not Council's Responsibility.
<b>DA related Disputes.</b>	Yes	NEG & M	It is best if potential issues can be resolved early through negotiation and facilitation.
<b>DA dispute raises matters, which may create a planning precedent.</b>	No	NA	
<b>Minor compliance Issues where Council is the regulatory authority.</b>	Yes- however if it is deemed by the delegated officer to be an Infringement issue (or an Infringement Notice has been issued), there is another process of appeal that should be followed.	NEG or M	Refer to Council's Compliance Policy.  Depending on the dispute, it may be advantageous to utilise the CJC.

Issue	ADR Yes/ No	Type of ADR	Comments
<b>Moderate to critical compliance issues.</b>	Yes -however if it is deemed by the delegated officer to be an Infringement issue (or an Infringement Notice has been issued), there is another process of appeal that should be followed.	NEG or M	<p>Mediation can be a suitable alternative to legal action in compliance matters at times.</p> <p>A critical compliance matter can include significant human health, public safety, pollution or environmental harm issues.</p> <p>A moderate compliance matter can include moderate, actual or potential public health, safety or environmental issues.</p> <p>Refer to Council's Compliance Policy for a full definition of compliance issues and preferred responses to these matters.</p>
<b>Illegal acts where the matter is deemed critical and is a criminal offence.</b>	Yes in some instances.	NA	<p>In some cases the issue may be so serious and have such broad impacts that it is best to take some form of regulatory action. Refer to Compliance Policy.</p> <p>A risk management approach is to be taken with these issues when deciding on the best approach.</p>
<b>Contractual Disputes between Council and a third party.</b>	Yes	NEG or M	External Mediator to be selected in accordance with the contract conditions where appropriate.
<b>Industrial Relations issues.</b>	Yes in some cases.	NEG or M	Refer to Council's Grievance & Disputes Procedures contained in the Port Stephens Council Enterprise Agreement 2008.
<b>Industrial Relations disputes that have escalated into a legal dispute.</b>	No  See below- Legal Disputes.	See below- Legal Disputes	Refer to Council's Grievance & Disputes Procedures contained in the Port Stephens Council Enterprise Agreement 2008.
<b>Staff Vs Staff disputes</b>	Yes but only in accordance with Council's	NEG, M	Refer to Council's Grievance & Disputes Procedures contained in the Port Stephens Council

Issue	ADR Yes/ No	Type of ADR	Comments
	Grievance & Disputes Procedures contained in the Port Stephens Council Enterprise Agreement 2008.		Enterprise Agreement 2008.
<b>Customer Vs staff disputes</b>	Yes in some cases.	NEG or M	In some cases, where both parties are agreeable, mediation may be the preferred approach.
<b>Legal Disputes</b>	Yes if the Court is in favour of this & the laws /circumstances allow this to happen.	NEG or M	<p>Court may refer parties to mediation or may insist on some other form of ADR.</p> <p>The Land and Environment Court provide Mediation and Neutral Evaluation Services for matters before it as well as Section 34 – Conciliation Conferences (see definitions)</p>

## APPENDIX TWO

# Principles of Alternative Dispute Resolution

## A) Mediation

Mediation is one of the most commonly known forms of formal ADR. It is used to help resolve a wide range of disputes by different agencies.

### Initiation of Mediation

Mediation may be initiated by the General Manager, a Group Manager/ Section Manager or by a resolution of Council. Mediation may be considered in the following situations:

- At the request of either party in a dispute where both parties are willing.
- After consideration of submissions following a public exhibition period for a planning instrument or development application.
- As an alternative to regulatory action in accordance with Council's Compliance Policy.
- As an alternative to legal action in other disputes outlined in this Policy.

Before mediation is initiated, the following issues need to be considered:

Is the dispute within Council's area of responsibility?

Is it best for another agency to deal with the dispute?

Is mediation the best way to deal with the dispute taking into consideration broader public interest issues and the nature of the dispute?

Are all parties willing to enter into the mediation process?

### Selection of the Mediator

The mediator must be a neutral and impartial person who does not impose a solution on the parties, nor does he or she make a decision for, or give any legal advice to, the parties.

- The mediator must be independent and must be seen to be independent.
- The mediator must be impartial.

- The mediator must be adequately trained and must have the appropriate experience.
- The mediator must be neutral and have no vested interest in the outcome of the dispute.

It will not always be possible to use internal mediators to deal with Council related disputes as they may not be considered independent or neutral. There will be exceptions to this rule however.

In some cases it may be necessary to seek the assistance of an external mediator such as the Community Justice Centre for issues that fall within its jurisdiction. In other cases it may be necessary for Council to engage an external mediator from its panel of approved mediators.

### **Notification of Mediation**

Council will inform the parties of the name of the appointed mediator, establish suitable dates and times and where appropriate, provide administrative support to the mediator.

### **Provision of Information**

Council will provide the mediator with all relevant information. In the case of a development application, this will include plans and any other information provided by the developer in support of the application. The mediator will be briefed by the relevant Council staff prior to the mediation.

Prior to mediation, if time permits parties will be asked to provide a statement of their issues detailing their concerns. This will be given to all parties to the mediation prior to the meeting.

### **Representation and Attendance**

Where a dispute involves a group of individuals with common interests or an incorporated organisation, the group/ organisation may be requested to formally nominate a representative to undertake mediation on their behalf.

### **The Process**

The process used for mediation will be similar in most cases. However in complex matters such as those that involve many parties, Council will work with the Mediator to establish an appropriate process, in line with accepted industry standards for mediation.

Generally the mediation process will consist of a number of meetings, including:

- 1) The initial meeting between Council staff and the mediator where the mediator will be briefed on the issues and provided with all relevant information.



- 2) A meeting between the mediator and the parties.
- 3) The mediation meeting (which usually occurs immediately after the above meeting).

It is the responsibility of the mediator to explain the mediation process to all parties.

### **Outcomes of the Mediation Process**

Mediation may result in three outcomes:

- 1) Full agreement and settlement.
- 2) Partial settlement.
- 3) No settlement.

Where there has been partial or full settlement of the dispute, the parties will enter into a Mediation Agreement. The Mediation Agreement is a written agreement setting out the terms of settlement reached between the parties to the mediation process. The agreement is confidential except where the terms of the agreement expressly permit part or all of its contents to be divulged to other parties. The agreement must be signed by all parties to the agreement.

### **Confidentiality**

Information disclosed in the course of mediation is confidential and must not be divulged by any of the parties or the mediator except where the terms of the agreement expressly allow this.

### **Termination of Mediation**

Mediation may be terminated if:

- 1) The parties reach settlement and sign a Mediation Agreement.
- 2) The Mediator declares that further efforts at mediation are unlikely to be successful.
- 3) The parties can't reach settlement.
- 4) The General Manager terminates the mediation process for any of the above reasons or due a breach of time limits on the mediation process.

### **Time Limit for Mediation Process**

The General Manager reserves the right to impose a time limit on mediation procedures or terminate the process.

## **B) Negotiation**

Negotiation is fundamentally an informal bargaining process. It takes place directly between the people in dispute, but can at times be assisted by others e.g. lawyers and advocates. The parties involved communicate directly to try to reach an agreement.

Negotiation is also the most basic form of Alternative Dispute Resolution (ADR). It is not as formal as other forms of ADR such as mediation however it is the building block from which all other ADR is built upon.

### **Types of approaches**

There are two basic approaches to negotiation, including distributive bargaining and interest based bargaining.

#### **1) Distributive Bargaining**

An example of this type of negotiation is in labour bargaining with management over wages or salaries or negotiating over the price of goods or services. In this type of bargaining there is little room to move except for the price that is agreed between two parties.

#### **2) Interest Based Bargaining**

This process is more open and flexible than distributive bargaining and involves problem solving that attempts to reach mutually beneficial outcomes. To achieve this, there is a need for frankness, flexibility and an attempt to understand each other's needs. Examples of this approach include negotiating contract conditions with a supplier, reaching an "out of court" settlement over some dispute or reaching an agreement over the conditions of consent in a difficult development application process.

### **Initiation of Negotiation**

In most disputes involving building issues, development assessment and planning matters, neighbourhood disputes (over trees noise, odours and animals), compliance matters and industrial relations, negotiation may be initiated by the staff member dealing with the dispute. Formal negotiation would only be required for high level disputes where the issues have escalated beyond the resources of the staff members to deal with these.

### **The Process**

There needs to be a deliberate process supporting all forms of negotiation. The level of work that goes into the negotiation process will vary depending upon the risks involved in the dispute and what is at stake. For example in industrial relations

disputes and many large development proposals the stakes can be very high. The basic steps are:

### **Research the Issues**

Determine what the other party wants out of the process. In some cases this may not be obvious without some background reading or conversations.

Begin with a Positive Approach.

Demonstrate a positive attitude and do not form any predetermined negative perceptions of the other party.

Determine how far Council is willing to go in the negotiations. For any significant regulatory matters, industrial relations disputes, contract issues and any other critical matters that need to be negotiated, the staff member involved should come to an agreement with their Manager regarding the limits of negotiation before the process begins.

### **Address Issues, not Personalities**

Do not attack the other party's views or opinions. Focus on the issues and show respect for the other person regardless of your own views.

### **Be prepared to Bargain and be Flexible**

Not much is cast in stone, including regulatory issues. At times it may appear that there is little room to move in negotiations however attempt to see if there is some way to get past any hurdles in the process. Look for mutually beneficial solutions.

Councils (and delegated staff) have considerable discretion in deciding to enforce the law. If there are good sound reasons not to apply the letter of the law, Council staff may legitimately decide not to enforce the law in some circumstances. In some cases therefore a negotiated decision may not fully meet a particular policy or law however it may result in a better outcome when weighed against the broader public interest.

It is important to document any decisions where this approach has been taken including the reasons. Reference should be made to the NSW Ombudsman's Guidelines in relation to the exercise of discretion.

### **Emphasise Win- Win**

It is not always possible to end up with a win- win outcome however win-win should be the mindset. Look for solutions that will give the other party a positive outcome while satisfying Council's objectives. The final solution may not be exactly what both parties originally had in mind however it may satisfy both needs in a different way.

### **Be Open to Third Party Assistance**

At times the negotiation process may not be reaching a satisfactory outcome for either party. If the stakes are high enough, it may be worth bringing in a third party negotiator or engaging in mediation.

### **Outcomes of the Negotiation Process**

Where there has been partial or full settlement of the dispute by negotiation, the parties may enter into an agreement. Depending upon the dispute, it is not always necessary to enter into a formal agreement. At times it may be suitable to write to the other party, outlining the main points of agreement or in the case of a development application; the outcomes of negotiation are included in the Conditions of Consent.

If a formal agreement is deemed necessary, it should be a written agreement setting out the terms of settlement reached between the parties to the negotiation process. The agreement is confidential except where the terms of the agreement expressly permit part or all of its contents to be divulged to other parties. The agreement must be signed by all parties to the agreement.

## **C) Other Options**

There are times when mediation and negotiation may not be appropriate or the process doesn't work for a particular dispute. At other times the mediation or negotiation process may initially work, however the agreement may not be honoured for various reasons. In these cases, there needs to be other options open to Council. These options can include:

1. Do nothing. This may be a legitimate option if Council considers that it is not in the public interest to pursue a dispute. This is particularly the case where considerable community resources are needed to help resolve an issue where there is little public benefit or there is a low probability of satisfactory resolution.
2. Instigate other measures that help to resolve the issue, not the dispute. For example in contract management there is the opportunity to terminate a contract if both parties are in dispute and it can't be resolved. Another example may include the option of modifying the conditions of an approval issued by Council to address a particular issue that is in dispute.
3. Consider taking legal action to resolve the dispute. If this is considered as a preferred option, the costs of taking action need to be weighed against the benefits. If there is little public benefit in pursuing legal action, or if the action is motivated only on principle, then it may not be worth taking this form of action.

**ITEM NO. 2****FILE NO: PSC2005-44732****DRAFT SEA LEVEL RISE POLICY STATEMENT BY DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE****REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft submission to the Department of Environment and Climate Change (Attachment 1) in relation to the Department's Draft Sea Level Rise Policy Statement.

**STRATEGIC COMMITTEE – 07<sup>th</sup> APRIL 2009****RECOMMENDATION:**

<b>Councillor John Nell</b> <b>Councillor Peter Kafer</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>118</b>	<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to seek Councils endorsement of a submission to the Department of Environment and Climate Change on their Draft Sea Level Rise Policy Statement.

Many Governments throughout the world are developing Climate Change Policies in anticipation of increasing sea level rises due to climate change. The Australian Government and States and Territories believe that climate change is a risk that needs to be managed and therefore have commenced developing specific policies in anticipation of increasing sea level rise.

The Department of Environment and Climate Change (DECC) have called for submissions on their draft sea level rise policy statement. The closing date for

submissions was originally Friday the 3<sup>rd</sup> April, however this has been extended to 10<sup>th</sup> April. The draft submission for Council is Attachment 1.

The draft Policy Statement by Department of Environment and Climate Change consists of a number of key elements including:

1. A benchmark of 40cm sea level rise by 2050 and 90cm by 2100
2. A statement on the relationship between this policy and other related NSW Government initiatives such as the NSW Coastal Policy, the NSW Coastal and Hazard Policy and the NSW Flood Prone Land Policy.
3. A number of sea level rise policy principles including the need for risk base approach to managing sea level rise impacts, supporting Local Council's, supporting appropriate Coastal Development, Supporting the community during emergencies and the provision of information on climate change.

The draft submission (attached) supports the State Governments initiative in preparing a draft policy on sea level rise as this will help achieve consistency between NSW Council's. However there are a number of areas where the Policy could be improved including the need to incorporate a risk management approach to sea level rise in the existing legislative framework administered by the Department of Planning and DECC. The submission also highlights the need for the State Government to play a larger role in relation to managing the risks associated with sea level rise on private and public land.

## **LINKS TO CORPORATE PLANS**

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

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

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

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

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

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

## FINANCIAL/RESOURCE IMPLICATIONS

Nil

## LEGAL AND POLICY IMPLICATIONS

The current draft sea level rise policy statement places considerable responsibility on Local Government to make decisions on predicted sea level rise implications and to financially support adaptive measures in the future. There is a need to ensure the State Government takes more responsibility for dealing with the risks associated with sea level rise.

## BUSINESS EXCELLENCE FRAMEWORK

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

These outcomes align with the following Business Excellence principles:-

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

## SUSTAINABILITY IMPLICATIONS

### SOCIAL IMPLICATIONS

There are no significant associated with the draft policy.

### **ECONOMIC IMPLICATIONS**

There may be significant economic implications associated with the draft policy particularly relating to the responsibility put back onto Local Government

### **ENVIRONMENTAL IMPLICATIONS**

There are no significant environmental implications associated with this policy

### **CONSULTATION**

Staff have consulted with other Local Council's and Hunter Councils regarding the draft policy.

### **OPTIONS**

- 1) Council make a submission to the Department of Environment and Climate Change in relation to their recently released Draft Sea Level Rise Policy Statement.
- 2) Do not make a submission to the Department of Environment and Climate Change.

### **ATTACHMENTS**

- 1) Draft submission to Department of Environment and Climate Change
- 2) Draft Sea Level Rise Policy Statement

### **COUNCILLORS ROOM**

Nil

### **TABLED DOCUMENTS**

Nil



ATTACHMENT 1  
DRAFT SUBMISSION

**DRAFT**

Telephone Inquiries:  
**Bruce Petersen**  
**Environmental Services**

*25 March 2009*

Draft Sea Level Rise Policy Consultation  
Urban & Coastal Water Reform Branch  
Department of Environment & Climate Change NSW  
PO Box A290  
SYDNEY SOUTH NSW 1232

Dear Sir/Madam

**Re: Draft Sea Level Rise Policy Statement**

Port Stephens Council welcomes the NSW Draft Sea Level Rise Policy Statement as it will assist Council's and other levels of Government to achieve a consistent risk approach to predicted sea level rises. It is noted that the draft Policy suggests projections of sea level rise along the NSW coast of up to 40cm by 2050 and 90cm by 2100. The Policy also suggests that increasing sea levels have two broad and related impacts being:

- A permanent increasing sea levels relative to current sea levels.
- Increased coastal hazards and flooding risks during major storms.

The draft Policy also mentions related NSW Government initiatives

Council also notes that the draft Policy provides sea level rise policy principals including an adaptive risk base management approach, support for local Council's in dealing with sea level rise issues, community support and State Government support for appropriate coastal development.

Council has the following comments on the draft Policy.

#### State Legislative Frame Works

Council believes that there is a need to incorporate risk management principles associated with likely sea level rises into the existing legislative frame work including the NSW Coastal Policy 1997 and the NSW Flood Prone Land Policy administered by the Department of Planning and the Department of Environment and Climate Change. The policy does not go far enough in relation to this issue.

#### Policy Principles

The policy principals appear to cover the main issues however the responsibility for actions seems to be directed towards Local Government and away from State Government. There is clearly a need for the State Government to play a larger role in relation to managing the risks associated with sea level rise including the promotion of an adaptive risk based approach intergraded into State Planning Legislation. The provision of guidelines and financial support for local Council's to support sea level rise adaption planning will also be required.

#### Planning Provisions

The draft Policy identifies land use and development planning as a key element in dealing with the risks of sea level rise. Council recommends that the Department of Planning reviews the Standard Instrument and Templates (for the local environmental plans) to allow special provision to deal with sea level rise and associated flooding.

While guidelines and benchmarks are necessary to provide Councils and Developers with some Certainty and consistently they should not impose a "one-size-fits-all" across all Council areas. This will allow Councils to consider local conditions and issues.

#### Development on Land Predicted To Be At Risk from Sea Level Rise

The draft Policy indicates the need in some circumstances for Council's to pay for the protection or purchase of private property where some public benefit is to be achieved. The current draft policy appears to delegate responsibility for such decisions solely to Local Government. Although Council welcomes the offer of support and some financial assistance to Local Government, the draft policy needs to make it clear that the responsibly for dealing with risks associated with sea level rise including protection works and land purchase does not rest with Local Government alone.

#### Management of Public Lands

Much of the land that is predicted to be affected by sea level rise is publically owned land, either owned by Council's or by the State. A large portion of coastal

land in Port Stephens is owned by the crown and much of this is in the care and control of Council. Council believes that the State Government has the responsibility to recognise its role as land owner and provide additional assistance to Local Government to manage the impact of sea level rise on these lands.

Yours faithfully

**PETER GESLING**  
**GENERAL MANAGER**

**ATTACHMENT 2**  
**DRAFT SEA LEVEL RISE POLICY STATEMENT**

**Draft Sea Level Rise Policy Statement**



### Submissions Invited

Please send your submissions by email to [angrew.gregg@environment.nsw.gov.au](mailto:angrew.gregg@environment.nsw.gov.au) or posted to:

Oran Sea Level Rise Policy Consultation  
Urban and Coastal Water Reform Branch  
Department of Environment and Climate Change NSW  
PO Box A253  
SYDNEY SOUTH NSW 1232

Closing date for submissions:

Submissions must be received by the Department of Environment and Climate Change by  
5 pm, Friday 3 April 2009

Published by

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February 2009

## Introduction

The NSW Government acknowledges that increased sea levels will have significant medium- to long-term social, economic and environmental impacts. As an integral part of the state's response to climate change, the Government is committed to supporting coastal communities in adapting to sea level rise. While sea level rise is a global problem, it will have local impacts on the NSW coastline that will require action by communities, the Government and local councils.

This policy statement outlines the Government's objectives and commitments to sea level rise. It outlines the support that the Government will provide to coastal communities and local councils to prepare and adapt to rising sea levels.

## The impacts of rising sea levels

Over the 20th century, global sea levels have risen by 17 cm and are continuing to rise. The current global average rate is approximately three times higher than the historical average.<sup>1</sup>

Sea level rise is a gradual process and will have medium- to long-term impacts. The best national and international projections of sea level rise along the NSW coast are for a rise relative to 1990 mean sea levels of up to 60 cm by 2050 and 90 cm by 2100.<sup>1</sup> There is no scientific evidence to suggest that sea levels will stop rising beyond 2100 or that the current trends will be reversed.

Increasing sea levels have two broad and related impacts. These are:

- a permanent increase in sea levels relative to current sea levels
- increased coastal hazards (particularly beach erosion) and flooding risks during major storms

The tidal cycle changes sea levels continually throughout the day. Sea level rise will increase average sea levels, as well as raising high and low tide levels. This will impact on coastal land and foreshore land around estuaries, bays and harbours, increasing the tidal inundation of foreshore land and structures, and reducing the ability to effectively drain low-lying coastal areas.

Currently, coastal land can be affected by coastal hazards, including coastal erosion and tidal inundation. These natural processes have been altering the shape of parts of the coastline for thousands of years. Sea level rise is projected to increase the hazards arising from these well-known processes, including increasing beach erosion. This may affect coastal properties, buildings and infrastructure, recreational facilities, social amenity and coastal access. In addition, sea level rise is projected to increase flood levels in areas that are subject to tidal influence, increasing the area of low-lying coastal land affected by flooding.

<sup>1</sup> Refer to the Department of Environment and Climate Change Technical Note: *Scientific Basis of the 2009 Sea Level Rise Benchmark* for further details.

## Related NSW Government Initiatives

The NSW Government currently has in place policies, programs and legislation to reduce the risks to life and property from coastal hazards and flooding. These are also relevant to managing projected increased risks from sea level rise.

The NSW Coastal Policy 1997 aims to facilitate the development of the coastal zone in a way that protects and conserves its values. In relation to climate change, the policy recommends an approach to minimise risks based on ecologically sustainable development principles. One of the policy's goals is to 'recognise and accommodate coastal processes and hazards, including a related objective to recognise and consider the potential effects of climate change in the planning and management of coastal development'.

The NSW Coastal Policy is given statutory effect through *State Environmental Planning Policy 71 – Coastal Protection* and through a Ministerial Direction to local councils under section 11.7 of the *Environmental Planning and Assessment Act 1979*.

The Sea Level Rise Policy Statement supersedes the 1988 *NSW Coastal Hazard Policy*. Most of objectives from that policy have been included in the NSW Coastal Policy 1997 which remains current. Other objectives from the 1988 *NSW Coastal Hazard Policy* are updated by this Policy.

The *NSW Flood Prone Land Policy* has a primary objective to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods.

These policies are supported by the Government's Coastal, Estuary and Floodplain Management programs, which provide technical policy support and grants to councils to identify and manage coastal hazards and flooding risks.

## Sea level rise policy principles

The primary objective of this Sea Level Rise Policy Statement is to minimise the social disruption, economic costs and environmental impacts resulting from long-term sea level rise. To achieve these objectives, the NSW Government will:

1. promote an adaptive risk-based approach to managing sea level rise impacts;
2. provide guidance to local councils to support their sea level rise adaptation planning;
3. encourage appropriate development on land projected to be at risk from sea level rise;
4. continue to provide emergency management support to coastal communities during times of floods and storms;
5. continue to provide updated information to the public about sea level rise and its impacts.

Further details of these policy principles are provided below.

### 1. Promoting adaptive risk-based management

The NSW Government will promote an adaptive, risk-based approach to managing the impacts of sea level rise. This approach recognises that projections of sea level rise are being continually refined based on updated information, and this continuous improvement in

## Draft Sea Level Rise Policy Statement

The accuracy of the projections is expected to continue. The adaptive risk-based approach recognises that there are potentially significant risks from sea level rise and that the accuracy of sea level rise projections will improve over time.

Planning and investment decisions should therefore consider the range of sea level rise projections over the life of an asset to decide on how the asset can be located or designed to avoid or minimise any associated impacts. This early consideration will minimise the initial costs of considering sea level rise and the future costs of adapting to sea level rise (e.g. through relocation of affected buildings or infrastructure).

To support this adaptive risk-based approach, the NSW Government has adopted a sea level rise planning benchmark. This benchmark will enable consistent consideration of sea level rise within this adaptive risk-based management approach. There is no regulatory or statutory requirement for development to comply with this benchmark. The benchmark's primary purpose is to provide guidance to support consistent consideration of sea level rise impacts, within applicable decision-making frameworks. This will include strategic planning and development assessment under the *Environmental Planning and Assessment Act 1979* and infrastructure planning and renewal.

The NSW sea level rise planning benchmark is an increase above 1990 mean sea levels of 40 cm by 2050 and 90 cm by 2100. This was established by considering the most credible national and international projections of sea level rise<sup>2</sup> and taking into consideration the uncertainty associated with sea level rise projections. The Government will periodically review this planning benchmark, based on updated information, such as the release of future Intergovernmental Panel on Climate Change assessment reports.

The sea level rise planning benchmark can be used for purposes such as:

- incorporating the projected impacts of sea level rise in predicted flood risks and coastal hazards;
- the designing and upgrading of public assets in low-lying coastal areas where appropriate, taking into account the design life of the asset and the projected sea level rise over this period;
- assessing the influence of sea level rise on new development (see below for further details);
- considering the impact of sea level rise on coastal and estuarine habitats, such as salt marshes, and identifying valuable habitats at most risk from sea level rise;
- assessing the impact of changed salinity levels in estuaries, including implications for access to fresh water.

## 2. Supporting local councils

The NSW Government will continue to provide funding assistance to councils to prepare studies to identify areas at risk from coastal flooding and coastal hazards. Priority will be given to areas where properties are at greatest current and future risk from flooding and coastal hazards. These studies will provide information on the influence of sea level rise on

<sup>2</sup> Refer to the Department of Environment and Climate Change, *Technical Note: Scientific Basis of the 2009 Sea Level Rise Benchmark* for further details.



Draft Sea Level Rise Policy Statement

coastal hazards and flood risk which can be considered in the development of land-use planning instruments.

The Government will also continue to provide guidance and assistance to local councils to reduce the risks to private and public property from coastal hazards. The risks from coastal hazards are significant and are projected to increase with sea level rise. Government financial assistance to councils is unlikely to extend to protecting or purchasing all properties at risk from coastal hazards and sea level rise.

When allocating funding assistance to councils for coastal protection works, the Government will give priority to public safety and protecting valuable publicly-owned assets, and then to private land. The criteria that the Government will use to allocate any funds to councils to protect or voluntarily purchase private property will include the:

- magnitude of current and future hazards
- cost-effectiveness of management actions
- contribution to the project's costs from the local council and benefiting landowners taking into consideration genuine hardship for affected coastal residents
- effectiveness of the proposed arrangements for maintaining any proposed works
- ability of the project to accommodate sea level rise

Where assistance is provided to reduce the impacts of coastal hazards, the Government does not assume any responsibility for these hazards. The Government will continue to provide funding assistance to councils for coastal hazard studies and management planning.

This principle will not affect the NSW Coastal Lands Protection Scheme, where the criteria for land purchase does not include coastal hazard reduction.

### 3. Supporting appropriate coastal development

Provisions under the *Environmental Planning and Assessment Act 1979* require consent authorities to consider coastal and flooding hazards in their planning and development approval decisions. The NSW Coastal Policy and coastal regional strategies also require consideration of sea level rise, as does the Standard Instrument or Template for Local Environmental Plans where relevant.

The sea level rise planning benchmark will support consistent consideration of the influence of sea level rise on any coastal hazards and flooding risks that may influence a development or redevelopment site. The benchmark is not intended to be used to preclude development of and projected to be affected by sea level rise. The goal is to ensure that such development recognises and can appropriately accommodate the projected impacts of sea level rise on coastal hazards and flooding over time, through appropriate site planning and design.

The Department of Planning will be preparing guidelines on how sea level rise should be considered in land use planning and development approval decisions by councils. This will also provide guidance to landowners, infrastructure providers and developers.

Coastal hazards and flooding are natural processes and the Government considers that the risks to properties from these processes appropriately rest with the property owners, whether they be public or private. This will continue where these risks are increased by sea level rise. Under both statute and common law, the Government does not have nor does it accept

#### Draft Sea Level Rise Policy Statement

specific future obligations to reduce the impacts of coastal hazards and flooding caused by sea level rise on private property.

Landowners affected by current and future coastal hazards may seek approval from their local council to construct works on their land to protect their property. These works may be approved under the *Environmental Planning and Assessment Act 1979* where they do not cause adverse impacts on coastal processes beyond the property boundary or on public amenity or the environment. Landowners will not normally be permitted to construct works on State owned land to protect their property. All required approvals must be obtained before any works commence and unauthorised works may be removed at the landowner's cost.

#### **4. Community support during emergencies**

The Government currently provides emergency management support to coastal communities during and following floods and major storms. This support is normally coordinated by the State Emergency Service, operating under the *State Emergency and Rescue Management Act 1989*. The Government will continue to provide this support to coastal communities likely to be affected by sea level rise.

The Government's direct community support will be focused on emergency management. The Government currently does not provide compensation to the owners or potential developers of land affected by coastal hazards or flood risks, except for some compensation and other payments that may be made in relation to an emergency. This arrangement will continue and will include land where these hazards or risks are increased by sea level rise. Compensation will also not be provided for any impact on property titles due to erosion or sea level rise.

#### **5. Information availability**

The Government has provided information to the community on sea level rise projections and the likely impacts of sea level rise on low-lying coastal areas. The Government will continue to provide updated information on sea level rise and its impacts, and will continue to work with councils to provide information on the impacts of sea level rise on local flooding and coastal hazards.

Ensuring public access to current and credible information on sea level rise is important for various reasons, including:

- supporting community adaptation to sea level rise
- supporting the community and the private sector to make appropriate investment decisions in coastal areas
- assisting the insurance industry to price risks from sea level rise in their insurance policies

**ITEM NO. 3****FILE NO: PSC2005-4381****FORESHORE MANAGEMENT PLAN****REPORT OF: BRUCE PETERSEN - MANAGER, ENVIRONMENTAL SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) That Council adopt the Port Stephens Foreshore Management Plan.

**STRATEGIC COMMITTEE – 07<sup>th</sup> APRIL 2009****RECOMMENDATION:**

<b>Councillor John Nell</b> <b>Councillor Bob Westbury</b>	That the recommendation be adopted and that additional supplementary information be provided at the Ordinary Council meeting on the dogs area.
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**MATTER ARISING**

<b>Councillor Sally Dover</b>	That Council call for a report on the cost and timeframe involved in surveying Sandy Point, Corlette.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>119</b>	<b>Councillor John Nell</b> <b>Councillor Steve Tucker</b>	It was resolved that the Foreshore Management Plan be endorsed with the exception that the reference to off dog lead exercise areas be removed from the endorsed Plan.
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**MATTER ARISING**

<b>120</b>	<b>Councillor John Nell</b> <b>Councillor Steve Tucker</b>	It was resolved that the Matter Arising be adopted.
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## **BACKGROUND**

The purpose of this report is to recommend that Council adopt the recently completed Foreshore Management Plan.

In 2000, the Port Stephens Myall Lakes Estuary Management Plan recommended the development of a Foreshore Management Plan for Port Stephens. The overriding objective of the plan was to address the sustainable use of the Foreshore as part of an important marine ecosystem that supports tourism, aquaculture, research and commercial and recreation activities.

The Port Stephens Foreshore is the transitional area between the aquatic and terrestrial environment. The Foreshore Plan defines the Foreshore Area (for the purposes of this Plan) as the area extending from 100 metres landward of the tidal high water mark to 20 metres seaward of the tidal low water mark. For the purposes of this plan the Foreshore includes the southern, western and northern foreshores of the estuary, the foreshores of all tributaries, creeks and wetlands associated with the estuary, the foreshore of the Karuah River up to its tidal limit and the foreshore of the Myall River up to Kangaroo Island. Map attached highlighting the extent of the Foreshore Plan as Appendix B.

The objectives of the Foreshore Management Plan are to:

- Increase community awareness and understanding of foreshore issues;
- Provide a strategic context for work that occurs on the foreshore;
- Recommend actions to improve the foreshore;
- Provide for a structured and prioritised planning framework for the foreshore;
- Provide practical advice on appropriate management actions for key areas of the foreshore.

The Plan is not meant to solve every issue along the foreshore, nor is it meant to provide detailed strategies for how to address existing problems. Rather, the Plan highlights opportunities and identifies problem areas. It also provides a strategic framework in which to address these issues. In many cases, the Plan has recommended more detailed investigations into some critical foreshore issues.

The Port Stephens Myall Lakes Coastal Zone and Estuary Management Committee adopted the Foreshore Management Plan in its current form following extensive community consultation and exhibition in 2008. This Plan needs to be formally adopted by both Port Stephens and Great Lakes Council's.

The Foreshore Plan was originally put on public exhibition for a period of three months, however due to strong community interest in the Plan, Council agreed to extend the exhibition period for another three months. Over 700 submissions were received from the community and of these submissions, 600 related to off leash dog exercise areas on the Tomaree and Tilligerry Peninsulas. Due to the level of interest in off leash dog exercise areas, Council officers recommended that the Plan be modified to take these concerns into account. The majority of other submissions

related to access to the foreshore, maintenance issues, cycle ways, climate change, flora and fauna, erosion and parking. A detailed breakdown of submissions is attached as Appendix 1.

### **KEY ISSUES ARISING FROM THE PLAN**

There are many issues arising from the Foreshore Management Plan, however there are a number of key issues in particular that Councillors need to be aware of:

1. A recommendation to rezone private land at Taylors Beach, this was the subject of recent reports to Council and will be reviewed as part of comprehensive LEP review;
2. Recommendation to rezone some publicly owned land along the foreshore to environment protection. (This identified land is owned by Council or the Department of Lands and denotes areas that have significant vegetation or are the interface between highly significant marine habitat and the terrestrial environment. This recommendation will be reviewed as part of comprehensive LEP review.
3. Recommendations to improve existing revetment and sea walls along the foreshore which in some case pose a physical barrier to the legitimate access by the public to the foreshore, or a safety hazard;
4. The demolition and replacement of a number of public amenities (eg. Public toilet blocks) at specific locations around the foreshore;
5. The investigation of new marinas, boat ramps and associated parking. This is important not only from a recreations perspective, but it is also important to the economic development of Port Stephens. This aspect will need to be investigated in more detail.
6. The need to consider possible sea level rise implications along the foreshore.

### **COMMUNITY CONSULTATION**

The preparation of the Foreshore Plan was supervised by the Port Stephens Myall Lakes Estuary and Coastal Zone Management Committee. Although the EMC was the primary stakeholder reference group for this project, broader community participation was sought through several means:

- Distribution of a several community brochures;
- Consultation with key community groups;
- Media releases;
- Face to face community participation at local community meetings;
- Exhibition of the Plan and discussions with community members regarding aspects of the Plan;
- The use of an electronic web based consultation tool referred to as "Bang the Table"

## **RECOMMENDATIONS ARISING FROM THE FINAL REPORT**

Following consultation with the community and written submissions on the Foreshore Plan, a number of changes were made to the Foreshore Management Plan including alterations and additions to key recommendations. Recommendations now include:

- The Protection of Aboriginal and European Heritage;
- The support of community groups undertaking rehabilitation and enhancement projects on the Foreshore;
- The need to look at the possible rezoning of areas around Taylors Beach from the existing zonings to Environment Protection as part of the current Local Environmental Plan review process.;
- The need to review the current foreshore protection structures such as revetment and sea walls (retaining walls);
- Rehabilitation of damaged sections of the foreshore;
- More detailed investigation of opportunities for new marinas and boat ramps;
- Beautification, landscaping and revegetation opportunities along the foreshore;
- Beach nourishment in certain areas;
- Demolition and replacement of a number of the existing public amenities around the foreshore;
- Improvements to safety and access associated with foreshore structures;
- Improvements and upgrading to car parking;
- Pollution control;
- Consideration of possible sea level rises associated with Climate Change.

## **LINKS TO CORPORATE PLANS**

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

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

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

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

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

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

The recommendations arising from the Foreshore Plan once adopted, will be used to inform the Futures Strategy, which is currently being developed by Council.

## **FINANCIAL/RESOURCE IMPLICATIONS**

To implement all recommendations arising from this Plan would cost Council a considerable amount. Rather than Council attempting to fund all recommendations from its own budget, it is proposed to work on priority areas and seek State or Federal funding to address these issues over time. See the full list of recommendations with associated costs in Part 3 of the Foreshore Management Plan.

All recommendations have indicative costs associated with them, timeframes, priorities and responsible agencies attributed to them.

## **LEGAL AND POLICY IMPLICATIONS**

There are no significant legal issues arising out of the Plan. However, the Plan does recommend rezonings in certain areas of the foreshore, this would need to be addressed in the upcoming comprehensive Local Environmental Plan review. Another significant issue that has been raised in the Plan relates to illegal/unauthorised revetment and sea wall structures which in some cases provides a pedestrian barrier along the foreshore and at times, may present a safety hazard on public land. If Council is to address some of these revetment and sea wall issues a number of detailed investigations will need to be carried out, involving engineering and environmental studies to determine the best way to improve these structures.

## **BUSINESS EXCELLENCE FRAMEWORK**

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

These outcomes align with the following Business Excellence principles:-

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

- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 8) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

There will be some longer term, positive social outcomes associated with the Foreshore Plan, particularly where water quality, improved access and other foreshore improvements are concerned. Many recreational and economic activities within Port Stephens are affected to some extent by the quality of the foreshore area. Improvements in foreshore amenity and management should result in improvements in tourism and recreational opportunities.

### **ECONOMIC IMPLICATIONS**

Improvements to the foreshore area should lead to economic improvements including a positive impact on tourism, some commercial operations and possibly land values.

### **ENVIRONMENTAL IMPLICATIONS**

There will be a number of opportunities for environmental improvements arising from the Foreshore Plan including the revegetation of parts of the foreshore, reduced erosion, improved water quality and aesthetic enhancements. The most significant improvements are expected to be associated with foreshore ecosystems which in turn will lead to healthier waterways, increased bio-diversity and improved habitat for fish and oysters.

## **CONSULTATION**

There was extensive consultation with the community as this plan was being developed including face to face meetings with residents groups, community groups and discussions with stakeholder groups, including the local Aboriginal Lands Council, volunteer coastal patrol, maritime waterways user group, fishing organisations, and State Government agencies. All land owners along the foreshore were also sent a letter advising of the plans exhibition.

## **OPTIONS**

- 1) To adopt the Foreshore Management Plan in its final form;
- 2) Adopt the Foreshore Management Plan with revisions;
- 3) Do not adopt the Foreshore Management Plan.



**ATTACHMENTS**

- 1) Executive Summary

**COUNCILLORS ROOM**

- 1) Foreshore Management Plan for Port Stephens, March 2009.
- 2) Detailed Analysis of Submissions
- 3) Map Detailing Extent of Foreshore Plan

**TABLED DOCUMENTS**

Nil.

1. ATTACHMENT 1
2. EXECUTIVE SUMMARY

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Port Stephens Council and  
Great Lakes Council

**DRAFT**

**Living on the Edge**

**A Foreshore Management Plan for  
Port Stephens  
Executive Summary**

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March 2009



**DRAFT**

**Living on the Edge**

**A Foreshore Management Plan for**

**Port Stephens**

**Executive Summary**

**Prepared by**

**Umwelt (Australia) Pty Limited**

**on behalf of**

**Port Stephens Council and Great Lakes Council**

Project Director:	Peter Jamieson		
Project Manager:	Pam Dean-Jones		
Report No.	2034/R01/Exec Summ	Date:	March 2009



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## **Executive Summary**

### **Introduction**

The Port Stephens Foreshore Management Plan compiles and augments the findings of a large number of previous studies to provide a framework that can be used to protect and enhance the environmental, recreational, aesthetic, economic, and cultural values of the Port Stephens foreshore.

The foreshore is 250 kilometres in length and encompasses the transitional area between the aquatic and terrestrial environments. It contains diverse habitats (beaches, rocky headlands, saltmarsh, mangrove, wetland, etc), is affected by a range of physical processes (wave runup, erosion, sea level rise, etc), and is a focus of development activity and recreational usage. This combination of process sensitivity and escalating natural and socio-economic pressures makes the foreshore highly vulnerable to change over time and potential loss of highly valued foreshore attributes.

Great Lakes Council and Port Stephens Council (in conjunction with the Department of Environment and Climate Change (DECC)) have recognised that a detailed and long term planning guide is required to ensure that the unique values of the estuary and its foreshore are protected for future generations, while at the same time maintaining a robust economy and vibrant growing community.

Other State agencies having significant interests and responsibilities in relation to the foreshore, such as Department of Lands, Marine Parks Authority (MPA), NSW Maritime Authority and Department of Primary Industries (Fisheries) have contributed to the development of the Foreshore Management Plan and will be involved in its implementation.

### **The Physical Environment**

The area addressed by the Port Stephens Foreshore Management Plan is defined as the area extending from 100 metres landward of the tidal high water mark, to 20 metres seaward of the tidal low water mark. It includes the southern western and northern foreshores of the estuary, the foreshores of all tributaries and creeks that flow into the estuary, the foreshore of all wetlands that are functionally related to the estuary, the foreshore of the Karuah River up to its tidal limit, and the foreshore of the Myall River up to Kangaroo Island.

The physical character and processes operating on the shoreline vary markedly around its length. The Inner Port (to the west of Soldiers Point) is dominated by fluvial processes. This section of the port is characterised by wide mud flats with mangrove and saltmarsh. Sediments consist of muddy lithic sands that originate from the Karuah River. These sediments can be resuspended by wind waves and tidal currents, resulting in relatively high turbidity. The Outer Port (to the east of Soldiers Point) is dominated by tidal and wave processes. The form and composition of the sands and mud in the Outer Port are predominantly tidal in origin. The rapid flushing time and sandy bottom result in the high water clarity for which this area is well

known. The sandy beaches of the Outer Port are also a draw card for visitors and residents alike.

The diverse physical character of the foreshore means that there is a diverse range of values associated with it, it also means that some areas are more prone to threats than others. In order to provide clear assessment and direction in the current Plan, the foreshore has been divided into 14 Management Zones. The values and assets of the foreshore, the issues affecting each asset, and management actions that address these have been identified for each management zone. In order to enable a systematic review, the assets/values/issues have been divided into the categories of: Ecological Habitats, Aboriginal Heritage, European Heritage, Visual Amenity, Water Quality, Public Reserves and Facilities, Waterway Access and Facilities for Boat Users, and Foreshore Stability.

### **The Social Environment**

The key considerations with regard to the Port Stephens foreshore social environment are:

- the residential and tourist populations are growing rapidly and will continue to grow over the foreseeable future. Consequently, usage of foreshore reserves and facilities will continue to increase, as will pressures on the natural environment;
- both residents and tourists are attracted to the Port Stephens area (particularly the foreshore) by the natural and peaceful environment, the relatively undeveloped nature of the area, and the recreational activities offered by the waterway, beaches, parks and reserves;
- the number of people who are accessing and using the waterway in boats is increasing. The usage of boat ramps and jetties, as well as foreshore reserves accessible by boat will continue to increase;
- there is a strong sense of community concern and ownership of foreshore reserves, the waterway and the environment in general; and
- people are concerned that future development will impact on the values which currently make the foreshore so attractive and important to them.

### **Institutional Context**

The foreshore of Port Stephens is located in Port Stephens Council area (on the southern shore) and Great Lakes Council area (on the northern shore). Use of the foreshore is considered in the local planning schemes (Local Environment Plans (LEPs) and Development Control Plans (DCPs)) of both Councils. The LEPs are currently being revised and rationalised to give effect to the NSW Department of Planning's regional planning strategy and other NSW planning reforms. Both Councils also manage parts of the foreshore reserve system as Community Land or as Crown land for which they have care agreements.

The area below Mean High Water Mark and many of the foreshore reserves around Port Stephens are Crown land. As such, any use of these areas requires an approval under the *Crown Lands Act 1989*. Crown land can only be occupied, used, sold, leased, licensed, dedicated or reserved or otherwise dealt with under the provisions of the *Crown Lands Act 1989*. The Department of Lands administers the *Crown Lands Act 1989*. It is therefore necessary to consult with the Department and obtain the relevant approvals before undertaking use or development of submerged or foreshore Crown land. Such developments include structures such as public and private jetties, sea walls and boat ramps.

An important element of the institutional arrangements for Port Stephens is the presence of the Port Stephens-Great Lakes Marine Park. The Park was established in 2005 and a zoning plan commenced in 2007. The primary concerns of the MPA are to conserve marine biodiversity and to maintain ecological processes in a comprehensive system of marine parks.

Where other uses are consistent with these objectives, the MPA supports sustainable use of fish and marine vegetation in marine parks and opportunities for public appreciation, enjoyment and understanding of the marine environment.

The management of the foreshore is of great interest to the MPA, as it forms the interface between the marine park and adjoining lands. Development within and adjacent to the foreshore has the potential to alter ecological processes in the marine environment and may be inconsistent with the *Marine Parks Act 1997* and the MPA's management objectives. For this reason, development within the locality of the marine park, regardless of marine park zonings, must consider the *Marine Parks Act 1997*.

### **Community Contribution**

The Port Stephens and Myall Lakes Estuary Management Committee, which is a joint committee of Port Stephens and Great Lakes Councils, was established to provide broad representation of local and State government authorities, estuary user groups and community conservation interests, in planning for the sustainable use of the estuarine waterway and its immediate hinterland.

The Estuary Management Committee supervised the preparation of the Port Stephens and Myall Lakes Estuary Management Plan in 2000. The Foreshore Management Plan was a recommendation of the Estuary Management Plan

The Estuary Management Committee has also been the primary stakeholder reference group during the preparation of the Foreshore Management Plan. Presentations, progress reports and opportunities for discussion have been provided to the Committee throughout the project.

Broader community participation has been sought through meetings and discussions with: multiple local community groups and individuals having interests in different issues and sections of the foreshore; Local Aboriginal Land Councils; Councillors and

Council staff; and State Government agencies (e.g. the Department of Lands, the Department of Primary Industries (Fisheries), the DECC, the NSW Maritime Authority, the MPA, etc).

### **Identified Issues and Management Actions**

Hundreds of assets and issues affecting the foreshore have been identified during the fieldwork, community consultation and research undertaken during the preparation of this Plan. The following sections summarise these issues and the management actions that address them.

Assets, threats and challenges that have been identified throughout this Plan, include:

- continuation and re-establishment of safe and easy access to the waterway;
- improving access for pedestrians and cyclists along identified sections of the foreshore (e.g. a formal shoreline walk);
- foreshore erosion, wave runup/flooding and foreshore structures;
- a consistent signage system;
- planning and location of waterway access facilities and facilities for boaters;
- distribution of reserve and facilities usage;
- riparian and aquatic vegetation protection and rehabilitation;
- protection of visual amenity; and
- protection and management of cultural heritage values.

### **Foreshore Reserves and Facilities – Planning Considerations**

The management recommendations in the Foreshore Management Plan draw on detailed documentation and analysis of diverse aspects of the current condition of the foreshore and community aspirations for its future use and the quality of supporting facilities.

Issues and recommendations include:

- the condition and adequacy of facilities within reserves - each facility has been individually assessed;
- public access - sections of the foreshore where public access is passively discouraged or hindered by structures have been identified;
- levels of foreshore reserve usage - reserves which have the potential to be more intensively used and so take the pressure off other reserves have been identified;
- car parks - temporary overflow parking areas have been recommended;
- walkways/cycleways - extensions to the existing cycleway system have been recommended; and
- dog exercise areas - some off-leash areas should be converted to on-leash areas.

Two overarching planning recommendations apply to the entire foreshore.

The majority of public land along the southern and inner shorelines is zoned 6(a) General Recreation and 7(a) Environmental Protection in the Port Stephens LEP, with

other minor areas being zoned 2(a) Residential and 4(a) Industrial – General. The limited section of private land is zoned 1(a) Rural Agriculture. The majority of the privately owned northern shoreline is zoned 1(a) Rural in the Great Lakes LEP. Other foreshore zones include

2 – Village, 7(a) Wetlands and Littoral Forest, and 6(a) Open Space and Recreation. These zones do not recognise the unique combination of conservation, recreational and aesthetic values of the Port Stephens foreshore.

Consequently, a key identified management action is the development of a **Foreshore Protection Zone and/or an Estuary Foreshore DCP** which would allow the management of foreshore values and threats in a holistic way.

The DCP/Protection Zone would allow the management of the estuary foreshore as a continuous land use unit and provide recognition of its extremely important ecological and scenic values, as well as its recreational and social values. It would provide the opportunity to develop a unified and interrelated set of planning requirements and guidelines that address the needs of the estuary shoreline in both the local and regional context. A foreshore protection zone or DCP would also be consistent with the objectives of the adjacent Port Stephens – Great Lakes Marine Park.

The second overarching major management action is exploring the potential for **government acquisition** of private land that has important ecological, recreational and aesthetic values which require long term conservation for the benefit of Port Stephens as a whole.

### **Ecological Habitats**

The extent of natural vegetation along the foreshore of Port Stephens is a key value that has been identified by the local community. The Port Stephens Foreshore supports a large number of significant ecological features, such as threatened species, endangered ecological communities (EECs), State Environmental Planning Policy (SEPP) 14 wetlands, SEPP44 koala habitat, and important shorebird habitat. The Port Stephens Estuary is listed on the Directory of Important Wetlands in recognition of the significant wetland habitats it supports. It is estimated that Port Stephens supports 21 per cent of NSW's mangroves, 13 per cent of saltmarsh and 5 per cent of seagrasses (West, et al 1985). Key threats to foreshore biodiversity include land clearing and urban development, introduced species and tree poisoning.

High priority conservation areas that have been identified along the foreshore include: Bagnalls Beach Reserve, Fly Point Reserve, Mambo Wetlands Reserve, Stony Ridge Reserve, the entire foreshore of Cromartys Bay, the Mallabula foreshore, Tilligerry Nature Reserve and Tilligerry Creek, the foreshore of Twelve Mile Creek, the foreshore of Reedy Creek, the northern foreshore between Karuah and Hawks Nest, Corrie Island Nature Reserve and the Myall Lakes National Park (Fame Point).

Key management actions that have been identified in the Foreshore Management Plan with regard to the protection of biodiversity include the development of a DCP/Foreshore Protection Zone; potential government acquisition of particular



areas; individual management plans for the management of conservation and recreational activities in specific areas; tree planting and maintenance of reserves; encouraging native planting on private property; and conservation agreements.

### **Aboriginal Heritage**

Areas of Aboriginal heritage sensitivity have been mapped around the foreshore. These areas include previously recorded sites, areas which have the potential to contain subsurface or previously undiscovered sites, and areas of mythological and contemporary significance to the local Aboriginal community. The major identified actions with regard to Aboriginal heritage are the preparation of a Regional Aboriginal Heritage Study and Plan for the Great Lakes and Port Stephens regions, and the development of a Foreshore Protection Zone/Estuary Foreshore DCP (see above). Such strategic planning is required to achieve sustainable cultural heritage management on a local government area (LGA) scale.

Short term actions include the preparation of *Parks and Reserves Maintenance Guidelines* for Council employees and volunteer groups. The Guidelines would provide information about known and potential cultural heritage sites and how they can be managed appropriately. Other actions apply to specific heritage sites.

### **European Heritage**

There are a number of important European heritage sites along the Port Stephens foreshore. These are associated with various aspects of Port Stephens' history including early European settlement, shipping, and structures and places associated with defence and training during World War II. The Great Lakes Heritage Study addresses the management of significant European heritage sites in foreshore areas within the Great Lakes LGA. The preparation of a similar study is recommended for the Port Stephens LGA.

### **Visual Amenity**

Foreshore residents and people looking across the waterway from the southern foreshore in the Outer Port generally see a spectacular waterway backed by the vegetated slopes and ridgelines of the northern shoreline. The excellent visual amenity enjoyed from the southern shoreline is in a large part brought about by the lack of urban development on the northern shoreline.

Views from the northern shoreline in the Outer Port are characterised by quite dense urban scenes interspersed among natural slopes and foreshore areas. Development on the southern shoreline, similarly, has a substantial impact on the vista observed by the residents and visitors to the northern foreshore.

The vista across the inner bays of Port Stephens and along the banks of the estuarine creeks are generally characterised by tidal flats, mangroves and saltmarsh, with sections these areas bordered by urban development. The leases and sheds of the oyster industry also form part of the character of these areas.

Visual amenity from the perspective of boaters on the waterway and from the opposite shoreline can be best protected by effective urban planning, including concentrating new development within existing urban areas and minimising development on ridgelines and the immediate foreshore. Appropriate landscaping and vegetative screening of existing foreshore development and surrounds also contributes to visual amenity from across the water.

Some of the factors which affect the visual amenity of the immediate foreshore zone include:

- the extent of foreshore reserve and foreshore vegetation;
- the landscaping and facilities within foreshore reserves;
- unauthorised waterfront structures;
- water quality;
- stormwater outlets;
- foreshore erosion and foreshore structures;
- urban development; and
- signage.

Detailed management actions to address these threats include a review of foreshore signage with a view to reducing the overall number of signs and establishing a consistent design theme. Additionally, the recommended Foreshore Protection Zone/Estuary Foreshore DCP would address the threats to visual amenity on a whole of foreshore basis.

### **Waterway Access and Facilities for Boat Users**

The following management actions have been identified with regard to Port Stephens waterway access facilities:

- Undertake a boat ramp usage survey by installing classified traffic counters at all boat ramps during a peak and an off-peak period in order to reliably establish usage patterns and volumes.
- Upgrade and standardise all signage at boat ramps (include directions to alternative facilities).
- Disseminate information about the range of waterway access facilities (and reserves easily accessible by boaters) available around Port Stephens with a view to distributing usage of facilities more evenly around the entire foreshore.
- Install and upgrade dinghy racks in appropriate locations.
- Investigate suitable sites for new marinas (and slipways) and dry boat storage sites on both the southern side and northern side of Port Stephens.
- Undertake environmental audits of all marinas and slipways. Enforce a strict compliance timetable.
- Upgrade Shoal Bay Boat Ramp.
- Upgrade the Shoal Bay Jetty.
- Encourage the use of Bagnalls Beach by passive watercraft users.
- Upgrade Salamander Bay Boat Ramp to a more user friendly local scale facility.

- Upgrade Soldiers Point Boat Ramp to a regional scale facility (as per *Soldiers Point Infrastructure and Foreshore Management Plan* (in progress)).
- Upgrade Taylors Beach Boat Ramp to a more user friendly local scale facility.
- Construct jetty at Soldiers Point (as per *Soldiers Point Infrastructure and Foreshore Management Plan* (in progress)).
- Undertake structural maintenance on Taylors Beach Jetty as recommended in PB&P (1997).
- Investigate former oyster leasees in Cromarty Bay, Tilligerry Creek, Oyster Cove and Karuah for boat ramp/marina/slipway dry boat storage locations.
- Upgrade Lilli Pilli Boat Ramp to a more user friendly local scale facility.
  
- Upgrade Lemon Tree Passage Boat Ramp to a regional scale facility. Incorporate upgrade to Lemon Tree Passage Jetty.
- Upgrade Foster Park Boat Ramp to a more user friendly local scale facility.
- Remove Caswell Reserve Boat Ramp.
  
- Remove informal/unauthorised boat ramps along Tanilba Bay foreshore.
- Upgrade the Karuah Boat Ramp to a regional scale facility. Incorporate upgrade to adjacent Karuah Jetty.
- Construct a local scale boat ramp at North Arm Cove.
- Upgrade the local scale boat ramps at Bundabah and Lower Pindimar.
- Construct a local scale boat ramp at Pindimar.
- Undertake improvements to boat ramps and jetties at Tea Gardens, Winda Woppa and Hawks Nest as recommended in the *Waterways Shore Facilities Management Strategy for the Southern Areas of Great Lakes Council from Karuah to Bulahdelah*.

The planning and maintenance of waterway access facilities would also be addressed in the recommended Foreshore Protection Zone/Estuary Foreshore DCP.

### **Foreshore Stability**

Community consultation has identified foreshore erosion as another major concern to Port Stephens residents. Shoreline erosion has been identified as a significant issue in the Outer Port of Port Stephens for many decades and there are anecdotal reports of the Jimmys Beach/Yacaaba sandy barrier being overtopped by storm waves at the end of the nineteenth century. Erosion of the foreshore is also an issue in the Inner Port. The Tanilba Bay foreshore and the banks of lower Tilligerry Creek are of particular concern to local residents.

Existing foreshore erosion has been attributed to a range of factors, including:

- Historical major storm events that have dramatically changed shoaling patterns in the Port, affecting ongoing the pattern of wave refraction and wave height along the shoreline.
- Exposure of sandy shorelines with a long fetch to strong wind driven waves or ocean waves.
- Changes to tidal currents.

- Flood flows.
- Vegetation changes that allow landward loss of sand blown from the foreshore.
- Local impacts of foreshore structures.
- Medium term movements of beach sand and storminess associated with the el nino Southern Oscillation.
- Increases in sea level already recorded over the last century.

Predicted climate change and associated sea level rise (current DECC estimates are 40 centimetres above 1990 mean sea level by 2040 and 90 centimetres above 1990 mean sea level by 2100) are expected to exacerbate foreshore erosion and recession hazards on sandy shorelines. The inundation hazard for low lying foreshores will also increase.

The effects of these shoreline process hazards on valued attributes and uses of the Port Stephens foreshore are not fully defined at the local scale, but are likely to include:

- Reduced effectiveness of existing sea walls and other foreshore protection structures (overtopping and undermining). Changes to the design requirements for these structures are needed and are discussed in the Foreshore Management Plan.
- Loss of beach width.
- Erosion of foreshore parks and reduced public access along the shoreline, including along shore access and the condition of steps and ramps from reserves onto the beach.
- Toppling of some trees and loss of habitat in areas affected by erosion/recession.
- More frequent inundation of foreshore reserve areas (picnic and playground facilities, dinghy storage areas, car parking).

The majority of formally constructed seawalls around Port Stephens are unauthorised and not designed or constructed to accepted coastal engineering standards. The majority of the walls built by private land owners are vertical and rigid. Current engineering and environmental standards do not favour rigid vertical structures because:

- they restrict access across the foreshore and can pose a risk to public safety. Some seawalls are of a height that requires a safety rail, particularly in areas that are used by the public, e.g. Sandy Point. The majority of Council-built rock revetments also do not meet current coastal engineering standards;
- they reflect wave energy, often causing the erosion and disappearance of the beach in front of the wall;
- they can induce erosion on adjacent unprotected areas (and erosion around the ends of a seawall can lead to their collapse);
- scour at the base of a seawall can result in its catastrophic failure;
- they remove the natural intertidal habitat; and
- *ad hoc* design, placement and materials can detract from visual amenity and may cause pollution of the adjacent estuarine waters.

In addition to seawalls, there are a large number of private jetties, boat ramps and access ways that are unauthorised. While these are generally not impacting on coastal processes or foreshore stability, they do have a major impact on public access and visual amenity and have potential to impact on public safety.

All of these foreshore structures require a licence from the Department of Lands where they are situated below Mean High Water or on Crown land. Consultation with the MPA is also required for structures in Port Stephens below Mean High Water.

It is likely that many people who construct foreshore structures are unaware that a rigorous authorisation process is required. Additionally, neither the Port Stephens nor the Great Lakes Council have a relevant DCP or standard guidelines that provides information about the appropriate location, design and construction of foreshore protection structures or other structures such as private jetties and boat ramps. Suggestions regarding the content of DCP/guidelines for foreshore stabilisation and protection are detailed in this Plan as well as the Foreshore Reference Document.

While the majority of existing structures do not meet current coastal engineering standards and/or are unauthorised, their large scale removal is likely to be difficult for the following reasons:

- the costs involved would be very high because major engineering works would often be required to restore the natural foreshore profile or an appropriate protection system, on top of the cost of structure removal;
- the complexities involved in identifying the individual/authority responsible for funding and undertaking such work is likely to be prohibitive;
- individual private owners are likely to vigorously oppose the removal of foreshore structures; and
- the removal of concentrations of foreshore structures (and foreshore rehabilitation) would need to be undertaken on a whole of foreshore (or section of foreshore) basis in order to effectively deal with the wider coastal processes. This would be a major and controversial undertaking.

It is therefore considered appropriate that a program of foreshore rehabilitation be commenced as part of a holistic plan to improve public access around the foreshore.

Structural design guidelines for the rehabilitation of seawall structures around Port Stephens are provided in this Plan and the Foreshore Reference Document. The construction of seawalls or rock revetment on previously unprotected sections of the foreshore should be undertaken only as a last resort. The potential impacts on coastal processes, ecological habitats, public access and safety and visual amenity should be thoroughly assessed. Sections of the foreshore where it is considered foreshore structures would be inappropriate are identified in this Plan. Similarly, the number of private jetties and boat ramps should be minimised, with a focus on shared and public facilities. The provision of adequate public facilities would decrease the need for private ones, and so reduce the visual amenity and ecological impacts of numerous private structures.

In addition to guidelines regarding foreshore protection structures, it is considered that a community education program that informs residents about the important ecological values of a naturally vegetated foreshore would be worthwhile.

## **Water Quality**

The principle risks to water quality in Port Stephens are:

- urban stormwater (nutrients, biological pollutants from domestic animals, sediment, litter and chemicals);
- rural runoff (nutrients, biological pollutants such as faecal coliforms from livestock, sediment);
- run-off from on-site wastewater treatment systems;
- drainage from oxidised acid sulphate soils; and
- point source discharges from marinas (and slipways) and municipal wastewater treatment plants.

Many of these risks have been addressed in existing plans and policies, e.g. Port Stephens Council's *Urban Stormwater and Rural Water Quality Management Plan (Stormwater Plan)*, *Policy and Code of Practice for Erosion and Sediment Control for the Central Coast, Hunter, Karuah, Great Lakes and Manning Region LGAs*, and *Water Sensitive Urban Design (WSUD)* principles, and LEP/DCP requirements with regard to acid sulphate soils.

Nelson Bay Harbour was identified as a major concern with regard to water quality during community consultation. The harbour area is relatively poorly flushed and there have been problems with its water quality since its construction in 1986. Identified management actions involve the preparation of a Management Plan, the formation of a working party of all stakeholders, preparing protocols for minor oil spills, installing additional litter bins, etc.

Other identified management actions to maintain or improve water quality include:

- convert off-leash dog exercise areas located along the foreshore to on-leash exercise areas;
- prepare a Stormwater Management Plan for the villages of North Arm Cove, Bundabah, Lower Pindimar and Pindimar;
- ensure the Erosion and Sediment Control Policy is implemented in all developments adjacent to the foreshore;
- undertake environmental audits of all Port Stephens marinas and slipways;
- undertake environmental audits of industrial estates and the environmental management of large foreshore car parks;
- install trash racks, gross pollutant traps or other water quality improvement devices in the stormwater system; and
- implement catchment wide initiatives such as ensuring that fuel and stormwater management systems at Williamstown RAAF are in place and effective.

## **Document Structure**

The Port Stephens Foreshore Management Plan consists of the following:

- The Port Stephens Foreshore Management Plan (the current document);
- The Port Stephens Foreshore Reference Document (detailed results of field studies and literature reviews). Some of the information included in the Reference Document has been produced at the regional scale and it is acknowledged that some inaccuracies may occur when the information is applied at the local scale. In such situations, more detailed local survey and on ground assessment would be conducted before preparing detailed local scale designs and assessments under the relevant legislation;
- Port Stephens Asset Inventory (Access Database) which identifies all foreshore assets; and
- Port Stephens GIS layers (MapInfo format, linked to Inventory).

The current document is divided into three Parts:

- **Part 1** explains why the Foreshore Management Plan is required, what it aims to provide, and how it was produced;
- **Part 2** describes the current character of the foreshore, the values (assets) of the foreshore, and the issues affecting these values; and
- **Part 3** summarises the issues affecting each foreshore management zone, and presents a prioritised list of management actions.

It is intended that this Plan be a living document. It has been set up so that it can be updated regularly (every three years) and so remain a workable document.

Normal

**ITEM NO. 4****FILE NO: PSC2008-9838****DRAFT COUNCIL PLAN 2009-2013 AND FEES & CHARGES 2009-2010****REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Receives and notes the information contained in this Report.
- 2) Considers the recommendations contained in the Supplementary Report to be provided before 7 April 2009.

**STRATEGIC COMMITTEE – 07<sup>th</sup> APRIL 2009****RECOMMENDATION:**

<b>Councillor Ken Jordan</b> <b>Councillor John Nell</b>	That the recommendation be adopted including the supplementary information provided.
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>121</b>	<b>Councillor Steve Tucker</b> <b>Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted with consideration of the inclusion for additional expenditure of \$20,000 for Henderson Park and \$15,000 pa for funding for skate parks across the LGA.
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**AMENDMENT**

	<b>Councillor John Nell</b> <b>Councillor Frank Ward</b>	That the recommendation be adopted, with the inclusion of an additional \$40,000 for each Ward to be allocated by Ward Councillors to specific projects after consultation with Council staff.
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The amendment on being put was lost.



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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 2009.**

A Supplementary Information Paper with collated submissions and recommendations will be provided in advance of the meeting of the Strategic Committee on 7 April 2009.

## **LINKS TO CORPORATE PLANS**

The links to the draft 2009-2013 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**

Amendments to the Fees & Charges document are anticipated from the submissions, together with feedback from the community.

Submissions in relation to the Draft Council Plan 2009-2013 may impact Council's decisions in relation to the budget.

## **LEGAL AND POLICY IMPLICATIONS**

There are no implications anticipated from the submissions process.

## **BUSINESS EXCELLENCE FRAMEWORK**

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The

Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

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

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

The Draft Council Plan 2009-2013 contains 4 goals and 11 strategies designed to preserve and strengthen the fabric of the community.

### **ECONOMIC IMPLICATIONS**

The Draft Council Plan 2009-2013 contains 1 goal and 2 strategies that support the economic development of the community.

### **ENVIRONMENTAL IMPLICATIONS**

There are 2 goals and 6 strategies in the Draft Council Plan 2009-2013 that provide for protection and enhancement of the environment of Port Stephens.

### **CONSULTATION**

The Draft Council Plan 2009-2013 and the Draft Fees & Charges 2009-2010 have been advertised in local media as being on exhibition. Copies have been placed on Council's website and in libraries and community centres.

**OPTIONS**

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

**ATTACHMENTS**

Nil

**COUNCILLORS ROOM**

Nil

**TABLED DOCUMENTS**

Nil

# GENERAL MANAGER'S REPORT

PETER GESLING  
GENERAL MANAGER

**ITEM NO. 1****FILE NO: PSC2005-5185****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**

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**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) Life Education NSW – Contribution for towing van for life education in Port Stephens - \$4,200 – (\$1400 from each ward)
  - b) Raymond Terrace Art Show Committee – Port Stephens Council Award Prize Sponsorship - \$2,000 – West Ward Funds
  - c) Seaside Singers – Seeking Seed Funding - \$1,000 – East Ward Funds
  - d) Lemon Tree Passage & District Sub Branch – Funds for operational costs – \$500 - Central Ward
  - e) Children's Cancer Institute of Australia – Funds to childhood cancer fundraiser - \$200 – Mayoral Funds
  - f) Medowie Girl Guides – Girl Guides Association – Fundraiser for international Jamboree in Victoria - \$500 – Central Ward Funds
  - g) Medowie Tidy Towns – PSC Minor Works for 3 Bench Seats - \$2904 – Central Ward Funds
  - h) Medowie Anglican Church – Funds for the Inaugural Medowie Flower Show - \$500 – Central Ward Funds
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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>122</b>	<b>Councillor Steve Tucker Councillor Peter Kafer</b>	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

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

Government Act. This would mean that the financial assistance would need to be included in the Management Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

Council's policy for financial assistance has been developed on the basis it is "seed" funding and that there is benefit to the broader community. Funding under Council's policy is not intended for ongoing activities.

The requests listed below were considered by the former Ward Councillors and approved however these were not reported to Council prior to the Local Government election. Due to the timing Items (a) and (b) have been approved by the General Manager and are before Council for ratification by Council.

The requests for financial assistance are shown below:-

**MAYORAL DONATIONS**

Children's Cancer Institute of Australia	Funds to childhood cancer fundraiser	\$200
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**WEST WARD – Councillors Jordan, Francis, Maher & Kafer**

Life Education NSW	Contribution for towing van for life education in Port Stephens	\$1,400
Raymond Terrace Art Show Committee	PSC Award Prize Sponsorship	\$2,000

**EAST WARD – Councillors Nell, Westbury, Dover & Ward**

Life Education NSW	Contribution for towing van for life education in Port Stephens	\$1,400
Seaside Singers	Seeking Funding new musical association for Port Stephens	\$1,000

**CENTRAL WARD – Councillors Dingle, MacKenzie, O'Brien, Tucker**

Life Education NSW	Contribution for towing van for life education in Port Stephens	\$1,400
Lemon Tree Passage & District Sub Branch	Funds for operational costs	\$500
Medowie Girl Guides	Girl Guides Association – Fundraiser for international Jamboree in Victoria	\$500
Medowie Tidy Towns	PSC Minor Works for 3 Bench Seats	\$2904
Medowie Anglican Church	Funds for the Inaugural Medowie Flower Show	\$500

**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. 2

FILE NO: PSC2006-1627

**DRAFT AMENDMENT TO THE PORT STEPHENS DEVELOPMENT CONTROL PLAN 2007 - CHAPTER C10 VANTAGE NEIGHBOURHOOD – CORLETTE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Place the Draft Amendment to the Port Stephens Development Control Plan 2007 - Chapter C10 Vantage Neighbourhood – Corlette (**Attachment 1**) on public exhibition for a period of 28 days.
- 

**ORDINARY COUNCIL – 24 APRIL 2009**

<b>123</b>	<b>Councillor John Nell Councillor Sally Dover</b>	It was resolved that the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required.

Those for the motion: Councillors Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien, Sally Dover, Bob Westbury, Bruce MacKenzie, Peter Kafer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

Those against the motion: Nil.

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**PURPOSE**

**The purpose of this Report is to recommend a proposed Draft Development Control Plan Chapter additional to the Port Stephens Development Control Plan (DCP) 2007 to be placed on public exhibition.**

**BACKGROUND**

Vantage neighbourhood is located on elevated and sloping land south of Bagnalls Beach. In January 2008 Council approved a subdivision for 273 low density residential lots and 2 medium density superlots (large lots established for future subdivision for medium density housing). Construction of the infrastructure for the subdivision has been completed for the initial stage. Sale of lots began during February 2009.

In 2008 Landcom requested the preparation of a DCP to guide the design of dwellings on the subject land to assist Landcom to implement its Charter and Sustainability Policy. This includes the delivery of the State government's urban design and environmental policies. This initiative and efforts by any developer that seeks to develop more sustainable and higher quality development outcomes in the Port Stephens local government area - in terms of improving the qualities of built form and the public street and parks - are encouraged.

The proposed Draft Amendment to the Port Stephens Development Control Plan 2007 - Chapter C10 Vantage Neighbourhood – Corlette was drafted by Landcom in consultation with Council staff. The draft DCP chapter proposes principles and controls for residential development for the Vantage neighbourhood only. This includes design for housing on steeper sites, retention of trees, visual impact and bulk of housing to the street.

Significant areas of bushland have been retained for habitat and recreation with the intent of creating a bushland character for the future neighbourhood.

The neighbourhood has been designed to maximise view sharing. Streets either run uphill to the ridge and the view of the bushland reserves or have an outlook onto a local park. A significant number of residential lots are on steeper land many of those lots have scattered native trees.

All lots in the subdivision fall between 600m<sup>2</sup> and 900m<sup>2</sup> and many have slopes in excess of 10%. Landcom have undertaken lot testing and architectural modelling for a range of lot types and development proposals.

The proposed Draft Chapter C10 aims to minimise the building footprint, stepping floor levels and using basement garages to reduce costs of retaining cut and fill outside the house footprint. A summary of the difference between Council's general residential provisions and the draft Chapter is provided below:

<b>ELEMENT</b>	<b>CHANGE</b>	<b>INTENT</b>
<b>SINGLE DWELLINGS</b>		
Front Setbacks	reduced from 6m to 5m	reduce change in level from street to front entry on steep lots
Rear Setbacks	increased from 2m to 6m	maximise area at rear for trees
Site Coverage	reduced from 60% to 50%	encourage basement garages, reduce cut and fill, maximise natural infiltration areas and tree retention
Fill on boundary	not permitted side fences at natural ground level	reduce overlooking of neighbours avoid problems of 2 retaining walls at boundary
Cut on boundary	increase from 750mm to 1m max	avoid need for fill on low side
Cut and Fill for garages	combined cut and fill	allow basement garages on

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

	increased from 1.5m to 2.5m	low side of 2 storey dwellings
<b>DUAL OCCUPANCY</b>		
Front elevation design	require, articulation, architectural elements, balconies over garage doors	reduce visual bulk and scale of building and garages
Garage width for each dwelling	increase from 50% to 60%	To improve design flexibility
<b>ALL DWELLINGS</b>		
Stacked parking	Permitted only on lots fronting streets where two parking and two passing lanes exist	Reduce visual impact of driveways & garages. Provide dwelling design flexibility on steeper slopes & narrow lots.

**FINANCIAL/RESOURCE IMPLICATIONS**

The proposed draft DCP will involve council staff administration time and costs to publicly exhibit the draft DCP.

**LEGAL AND POLICY IMPLICATIONS**

The draft chapter C10 provides site specific principles and controls that supplement the general controls of DCP 2007. Council will take on the responsibility of administering the DCP through the development assessment process.

The State government's new NSW Housing Code – Guide to complying development for detached housing is now in force. The Code does not apply to the subject land as it has been identified as bushfire affected and is exempt from the Code. Therefore, all dwellings will require consent from Council.

The preparation of this draft DCP has been undertaken with the view that the State government may amend the Code at any time in the future so that complying development applies to bushfire affected land. In effect, this would mean that a proposal to construct a dwelling on the subject land would be complying development if it satisfies the development standards for the dwelling type under the Code. If the proposal doesn't satisfy the Code's standards, then Council is the consent authority and hence, satisfy the provisions of the draft DCP.

Landcom has prepared housing design guidelines for prospective land owners and housing designers to consider before submitting a DA. The draft DCP does not refer to these guidelines but the desired housing outcomes for the site are consistent between the two documents.

**SUSTAINABILITY IMPLICATIONS**

The intended outcomes of the draft DCP is housing that is responsive to the topography of the site, minimises cut and fill and the subsequent need for expensive retaining walls and contributes to attractive and safe public streets and parks.

## **CONSULTATION**

The Draft chapter has been drafted by Landcom in consultation with Council staff. Public exhibition of the draft chapter would include consultation with the Housing Industry Association, UDIA and Property Council of Australia.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) *DRAFT Port Stephens Development Control Plan 2007* C10 Vantage Neighbourhood – Corlette (provided under separate cover)

## **COUNCILLORS ROOM**

- 1) Colour copy *DRAFT Port Stephens Development Control Plan 2007* C10 Vantage Neighbourhood – Corlette

## **TABLED DOCUMENTS**

Nil

**ATTACHMENT 1  
DRAFT PORT STEPHENS DEVELOPMENT CONTROL PLAN 2007 C10 VANTAGE  
NEIGHBOURHOOD, CORLETTE**

Provided under separate cover.

Cr Jordan declared non-pecuniary interest in Item 3 and left the meeting at 6.53pm prior to Item 3.

**ITEM NO. 3**

**FILE NO: PSC2008-2238**

**DEVELOPMENT CONTROL PLAN, DRAFT LOCAL ENVIRONMENTAL PLAN AND MEDOWIE STRATEGY ISSUES FOR MEDOWIE TOWN CENTRE.**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Confirm its resolution dated 27<sup>th</sup> May 2008 (**Attachment 1**) to prepare a Development Control Plan over land on the corner of Ferodale and Peppertree Roads for a supermarket and the surrounding town centre in the form of a site specific chapter of the Port Stephens Development Control Plan 2007 (DCP);
  - 2) Note that Council funds have been allocated to prepare a DCP and that a consultant will be appointed in the near future to undertake the required work and that this will occur parallel to the processing of the draft LEP;
  - 3) Resolve that the concept proposal for a supermarket on the corner of Ferodale and Peppertree Roads (**Attachment 2**) and the rationale submitted by the proponent (**Attachment 3**) is not consistent with the principles and intended outcomes of the Medowie Strategy and does not provide a compelling argument to depart from this and other relevant planning policies;
  - 4) Pursuant to Section 54 of the Environmental Planning and Assessment Act (1979) resolve to prepare a draft LEP to rezone council owned land Lot 4 DP 813A, Lot 5 DP 809A; Lot 240 DP 1027965; and privately owned land Lot 2 DP 632334; Lot 32 DP 1045148; Lot 31 DP 1045148; Lot 1 DP 553784; Lot A DP 404939; Lot 1 DP 260883; Lot 2 DP 260883; Lot: 3 DP 260883; and Lot 195 DP 17437 in the Medowie town centre (**Attachment 4**) to facilitate development of this land, provide flexibility to resolving pedestrian and vehicular access design issues raised by the super market site and devise a traffic solution to the town centre as required by the Department of Planning prior to finalising the supermarket site draft LEP; and
  - 5) Consult with land owners affected by Recommendation 4 prior to the draft LEP being forwarded to the LEP Review Panel.
  - 6) Through Council's Integrated Planning Section, engage an independent consultant to peer review the assessment of the proposed rezoning of land under Recommendation 4 that is in council ownership.
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**ORDINARY COUNCIL – 24 APRIL 2009**

	<b>Councillor Dingle Councillor Francis</b>	That the recommendation be adopted.
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**AMENDMENT:**

<b>124</b>	<b>Councillor Steve Tucker Councillor Shirley O'Brien</b>	<p>It was resolved that Council:-</p> <ol style="list-style-type: none"><li>1. Confirm its resolution dated 27<sup>th</sup> May 2008 (Attachment 1) to prepare a Development Control Plan over land on the corner of Ferodale and Peppertree Roads for a supermarket and the surrounding town centre in the form of a site specific chapter of the Port Stephens Development Control Plan 2007 (DCP);</li><li>2. Note that Council funds have been allocated to prepare a DCP and that a consultant will be appointed in the near future to undertake the required work and that this will occur parallel to the processing of the draft LEP;</li><li>3. Resolve that the concept proposal for a supermarket on the corner of Ferodale and Peppertree Roads (Attachment 2) and the rationale submitted by the proponent (Attachment 3) be approved in principle subject to appropriate conditions.</li><li>4. Pursuant to Section 54 of the Environmental Planning and Assessment Act (1979) resolve to prepare a draft LEP to rezone council owned land Lot 4 DP 813A, Lot 5 DP 809A; Lot 240 DP 1027965; and privately owned land Lot 2 DP 632334; Lot 32 DP 1045148; Lot 31 DP 1045148; Lot 1 DP 553784; Lot A DP 404939; Lot 1 DP 260883; Lot 2 DP 260883; Lot: 3 DP 260883; and Lot 195 DP 17437 in the Medowie town centre</li></ol>
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		<p>(Attachment 4) to facilitate development of this land, provide flexibility to resolving pedestrian and vehicular access design issues raised by the super market site and devise a traffic solution to the town centre as required by the Department of Planning prior to finalising the supermarket site draft LEP; and</p> <p>5. Consult with land owners affected by Recommendation 4 prior to the draft LEP being forwarded to the LEP Review Panel.</p> <p>6. Through Council's Integrated Planning Section, engage an independent consultant to peer review the assessment of the proposed rezoning of land under Recommendation 4 that is in council ownership.</p>
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In accordance with the Local Government Act 1993, a division is required.

Those for the motion: Councillors Daniel Maher, Steve Tucker, Shirley O'Brien, Sally Dover, Bob Westbury and Bruce MacKenzie.

Those against the motion: Councillors Peter Kafer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

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

## **PURPOSE OF THE REPORT**

**Buldev and Woolworths have asserted to the Mayor and Council staff that the project for a second supermarket in the town centre may be discontinued unless Council gives a favourable and prompt answer to planning and design issues raised by the proposed supermarket. This has lead to the submission of this report with the purpose of seeking resolution of the following:**

1. Council to consider if a Development Control Plan is still required in conjunction with the proposed rezoning of land for a supermarket on the corner of Ferodale and Peppertree Roads.



2. Council to consider if the concept proposal for a supermarket in the town centre is acceptable given the inconsistency with the recently adopted Medowie Strategy.
3. Council to resolve to prepare a draft Local Environmental Plan for other town centre lands, including council owned land, to facilitate the development of the town centre as the social and economic centre for the Medowie community and to assist in resolving the constraints of the proposed supermarket site on the corner of Peppertree and Medowie Roads and achieve better public outcomes.

## **BACKGROUND**

Upon receipt of a rezoning request from Buildev Development NSW CM Pty Ltd on the 9<sup>th</sup> April 2008 (in the form of a letter only that stated that the request is consistent with the outcomes of the Medowie Strategy) a report was promptly submitted to Council in May 2008 recommending that Council resolve to prepare a draft LEP for the supermarket site and prepare a DCP for the site and the surrounding town centre. On the 27<sup>th</sup> May 2008 Council supported these recommendations. The draft LEP was supported by the LEP Review Panel on 18<sup>th</sup> February 2009 and approved Council to treat the rezoning as a separate draft LEP to expedite its processing. The LEP Review Panel has advised Council that the LEP is not to be finalised until Council has determined a strategic traffic solution for the town centre. Council staff are currently consulting with relevant government agencies on the draft LEP.

Buildev and Woolworths have asserted in meetings with the Mayor and Council staff that they will “walk away” if Council does not support the design proposal put forward by Buildev (**Attachment 2**) as part of the draft LEP that Council staff are currently processing.

### **Background to Recommendation 1**

The proponent tabled a concept plan on the 28<sup>th</sup> January 2009 (**Attachment 2**) and requested that they not be required to prepare a DCP if agreement could be reached on a concept plan that achieves all the requirements and outcomes of a DCP. This request was agreed in principle. In the three subsequent meetings with the proponent, the Mayor and Council staff, no other concept plans have been tabled indicating options that are available to achieve a better built form and public outcome for the town centre. Issues that require resolution through design are: addressing Peppertree Roads and Ferodale Roads as public streets and spaces that accommodate the needs for pedestrians and motor vehicles, the width of Peppertree Road to accommodate two travel lanes and two parking lanes and allow the street to evolve into a main street; how to accommodate slope issues on the subject site from the public street through the site to eastern boundary of the site; how development of the site facilitates future development of adjoining land; the location of loading bays and their screening from public streets and spaces and how trucks access the loading bays without creating undesirable conflicts with pedestrians and pedestrian amenity.

The proponent has sought not to prepare a DCP. This report recommends confirmation of its resolution of 27<sup>th</sup> May 2008 and that a DCP is required to guide the develop of the site and the town centre.

### **Background to Recommendation 2**

The cost of preparing a DCP is approximately \$30,000. Funds from within Integrated Planning budget have been allocated for the engagement of a consultant to prepare a DCP. If Council endorses Recommendation 1, a consultant will be engaged in early May 2009 with a draft document prepared within 8 weeks for submission to Council.

### **Background to Recommendation 3**

For the town centre, the Medowie Strategy states on page 35:

*"..... the objective is to co-ordinate car parking, enabling easy circulation throughout. To achieve this Peppertree Road would be widened to allow on street parking and 2 travel lanes. This would also connect with the street network north of the existing supermarket to provide links to Medowie Road and Wilga Road. Pepper Tree Road could be transformed into a low speed Main Street with pedestrian cycling and public transport having priority over private vehicles. The main street could be themed to local colouring, textures landscaping with footpaths suitable for footway dining.*

*The creation of the main street will require development to build to the street boundary and use rear lanes running parallel with Peppertree Road to access unsightly loading docks and vehicle parking areas which would otherwise detract from the amenity and character of a vibrant town centre."*

The Strategy is clear in establishing desired outcomes for the town centre.

### **Background to Recommendations 4 and 5**

The proponent has indicated that the proposal does not accommodate specialty stores and that design options are limited as the size of the site is such that it can only accommodate a supermarket in the north east corner and associated on site car parking. Now that the Medowie Strategy has been adopted by Council, it is prudent for all the lands in the town centre be rezoned and allow more flexibility to address the issues raised by the proponent and by this report.

### **FINANCIAL/RESOURCE IMPLICATIONS**

\$30,000 has been allocated to engage an urban design/planning consultant to prepare the DCP and undertake the associated consultation.

The proposed rezoning attracts the prescribed rezoning fees in accordance with Council's Fees and Charges Schedule. These fees will be recouped from the affected land owners through the rezoning process. Should Council adopt this recommendation, Strategic Planning will invest staff time to prepare and submit the standard Section 54 information to the Department of Planning's LEP Review Panel.

## **LEGAL AND POLICY IMPLICATIONS**

The DCP would be consistent with, and implement the principles of the Medowie Strategy and the State government's *Integrating Land Use and Transport - Improving Transport Choice — Guidelines for planning and development*.

The location of the proposed supermarket is consistent with the above mentioned policies. However, the design of the proposed development is not consistent with these policies. Furthermore, it is not consistent with the requirements of Port Stephens DCP 2007 in particular B3 Parking, Traffic and Transport in terms of loading bays and B4 Commercial and Mixed Use Development in terms of building to the street property boundary and addressing a street corner.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL/ ECONOMIC/ENVIRONMENTAL IMPLICATIONS**

#### **Recommendations 1 and 2**

The DCP will establish how development in the town centre can be achieved that gives the best public built form outcomes. This includes integrating issues such as; slope relative to street levels and property boundaries; drainage in terms of water quality and quantity; street dimensions; on street parking; off street parking ratios relative to peak and off peak parking needs; pedestrian movements between the larger stores, footpaths and street furniture; the location of loading bays and their screening from public streets and spaces; and, service truck access.

If the town centre is well designed to be pedestrian friendly then residents are more likely to use the centre more and stay longer, creating a sense of community and place and delivering increased patronage for businesses. Furthermore, as Medowie is the closest town to RAAF Base Williamtown and Newcastle Airport it has the most potential to attract off base business activities in terms of convenience and co-location – e.g. main street cafes with attractive urban amenity can be an important business setting for visitors and workers alike as well as socially for local residents.

#### **Recommendation 3**

The proposal illustrated in Attachment 2 is primarily a car oriented development with a loading dock fronting onto Peppertree Road and setback from Peppertree and Ferodale Roads. As a consequence, the proposal provides poor pedestrian and public amenity outcomes for Peppertree and Ferodale Roads and for the town centre. The development model illustrated in Attachment 2 is more appropriate for a highway service centre than a town centre.

In the state governments Draft Centres Policy – Planning for Retail and Commercial Development (April 2009) the following extract is provided for Council's information:

*“The centres, and major retail and commercial development in those centres, play an increasingly important role in the daily life of the community. This warrants a strong focus at*

*both the planning stage and the development design stage to ensure their functions and appearance appropriately consider public, civic and sustainability values, as well as their economic role.*

*The quality of design of the buildings and the public and private spaces play an important role in how people experience these centres. The public spaces include the streets, squares and parks associated with the centre and 'private' spaces include walkways, mezzanines and atriums within the centres and spaces within shops. These are the areas where people meet and mix and where local community events take place. Centres with safe, attractive and vibrant spaces are likely to be more valued and used by the community and more commercially successful.*

*Given the importance of retail as the catalyst for visits to centres, it is important that the design of these components of centres contribute to the public domain and provide effective linkages to the wider centre and surrounding community. Safe and efficient access to the centre by foot, public transport or car is vital for a successful centre. In addition, new buildings and other structures should make a positive contribution to an area's character (either existing or preferred future character) by protecting or contributing to the valued natural, built or community qualities. An understanding and appreciation of the local character, public setting and strategic planning issues relating to the area must be considered at the outset".*

The May 2008 rezoning report highlighted the importance of development design to Council stating;

*"..... conventional retail development generally has a large box and supporting specialty stores surrounded by car parking. This model has shaped the current layout, operation and physical appearance of the town centre. There has been much comment by Medowie residents that future development should not repeat past practises and "repair" the current town centre. These are the key issues that the recommended DCP will address".*

### **Design Alternatives**

The most appropriate method of incorporating "big box" retailing in a town centre is to sleeve the building frontage with specialty shops. Pedestrian access to the supermarket can either be between shops fronting the street or via the car park at the rear. If specialty shops are not proposed then the supermarket could be setback from the main street at a depth that allows specialty shops to be added in the future.

By resolving to include more town centre land to be rezoned as per Recommendation 4, this will provide more flexibility to achieve more integrated and better quality outcomes for the supermarket site and for the town centre overall.

It should be noted that a rezoning request by the proponent for the corner of Kerrang and Peppertree Road included data that demonstrated a requirement for a second supermarket and associated specialty shops and professional services with a total floor space of 4000-6000m<sup>2</sup>. The lone supermarket now proposed for the town centre is 3800m<sup>2</sup> in area. No specialty shops have been included within the proposal that would have enabled the "big box" to be sleeved from the street and therefore, creating a more social and economically attractive place.

**Recommendations 4 and 5**

The implications of rezoning this land for urban development has been addressed in the Medowie Strategy.

**CONSULTATION**

The preparation of the DCP will include consultation with landowners, councillors and council staff prior to formally being submitted to Council seeking the draft document be placed on public exhibition.

The proponent did not make a submission to the Medowie Strategy prior to its adoption by Council indicating that developing the site would not be consistent with the Strategy. This is despite the policy directions of the *Port Stephens Community Settlement and Infrastructure Strategy 2007*, Section 117 Directions requiring draft LEPs for retail development to address the principles of the state government's *Integrating Land Use and Transport Policy package*, and the planning controls in Section B3 Parking, Traffic and Transport and B4 Commercial and Mixed Use Development of the *Port Stephens DCP 2007*.

The proponent has now made a submission (Attachment 3) asserting the rationale for the proposal and how it relates to the Medowie Strategy. The issues raised and a response to them is as follows:

<b>Issue raised by Proponent</b>	<b>Response</b>
Our concept design adheres to the principle of drawing traffic movements away from Ferodale Road by locating the primary entry to the supermarket and the loading facilities off Peppertree Road.	Ferodale Rd is the only east west road connecting these respective areas of the town. Creating Peppertree Road as an "off line" main street that extends northwards and connects with future cross streets from Medowie Rd across to Wilga Rd, will create an alternate parallel route across and into the town centre and reduce the need for traffic to concentrate onto Ferodale Rd.
One of the reasons we have located the supermarket in the proposed position is the cross fall of the site. If the supermarket was located on the north western corner, as suggested in the Strategy, then the site would require a massive cut to obtain the required grades for a Supermarket car park. If this were to occur the height of the retaining wall in the north eastern corner would be over 5 m. This is not a good outcome.	Cross fall of the site is recognised. The amount of cut and fill undertaken on the site is dependent upon desired end grades at street boundary, through site to the rear boundary. Desired end grade at the street boundary is crucial to determining visual and pedestrian access between the site and across Peppertree Road to rest of the town centre. Sufficient data has not been provided to conclude that a 5m retaining would occur.
....locating the supermarket in the north eastern corner of the Site achieves one of the stated guidelines of the Strategy by providing "centralised parking" between the two supermarkets and existing specialties.	It is not the intention of the Medowie Strategy to create a town centre predominantly consisting of car parks. Such an outcome is not pedestrian friendly and does not encourage people to stay in the town centre and subsequent social and economic exchange and development that in turn

## MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

	supports businesses.
Locating it where it is proposed in the Strategy effectively alienates the parking to the east and south of the new supermarket from the existing supermarket and specialties.	The amount and location of parking proposed in Attachment 2 is calculated for the proposed supermarket only. It is not a public car park.
On balance, and with the benefit of understanding the levels on the subject site, we believe the better location for the supermarket is the north eastern corner of the subject site which allows for efficient, convenient and centralised parking.	This is a private issue that does not address public issues about public streets and spaces in the town centre.
We propose that Peppertree Road be utilised as two travel lanes. This will facilitate better transport and cycling circulation and, with an improved footpath on the western side of Peppertree Road, pedestrian amenity will be enhanced.	<p>The Medowie Strategy identifies this street to become the future main street for the town. This requires a departure from previous planning and development practices that have lead to the current town centre. The orientation of buildings to the street, integrating on and off street car parking with buildings and the needs of pedestrian should be paramount.</p> <p>The proposal is a "box" surrounded by car parking and is therefore, a car dependent/oriented development. It is unclear how pedestrian amenity would be enhanced by the proposal.</p>
Peppertree Road is currently wide enough to accommodate two travel lanes without on-street parking. We do not see the utility of Council resuming private land to widen Peppertree Road to create on-street parking when the private land itself is proposed to be parking.	<p>On street and on site car parking in any town centre act together to provide short and long term parking, convenience parking and parking for peak periods either during the day, week or year.</p> <p>A town centre with many public streets provides more on street parking, slower street speeds, more pedestrian activity, and more street frontage for businesses. This makes for more efficient use of private land for development.</p>
..creating on-street parking will detract from the stated aim of encouraging "easy circulation" of traffic in the locality as cars parallel parking provide an impediment to traffic circulation	Such an outcome is desired. On street parking slows traffic down and in doing so is more pedestrian and cycle friendly.
Further, it is not consistent with the principle of creating an "off-line" main street by drawing traffic away from Ferodale Road. In our view, if the offline main street approach is to be adopted it should be consistently applied and the traffic corridors separated from parking where possible.	Traffic corridors separated from parking in a town centre is an engineering/planning and development design approach that has been superseded by a more integrated pedestrian oriented approach that is reflected in many planning policies across Australia and has been implemented in town centre developments such as Budgewoi, Belmont and new towns at Tullimbar (Albion Park), Sovereign Hill (Port Macquarie) Shellharbour, Warnervale and Kings Hill.
Creating on-street parking would have the added disadvantage to Council of	This is an accepted outcome and responsibility for the town centre.

## MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

becoming an asset for Council to maintain.	
<p>This requirement was not in the Draft Strategy that was exhibited. It was inserted into the Strategy after exhibition.</p> <p>Further this is not an amendment that was drawn to the attention of Councillor the public in the report prepared in response to the exhibition.</p> <p>It appears to have been inserted into the Strategy as a direct response to the supermarket concept plan we tabled for consideration at our December and January meetings with Council staff and the Mayor</p> <p>On this basis, we question whether this requirement has been properly inserted into the Strategy.</p>	<p>The second version of the Medowie Strategy that was publicly exhibited clearly stated that Peppertree Road should become the main street for the town. In the final version submitted to Council, clarification was provided on what this means in terms of infrastructure and building orientation.</p> <p>This advice is consistent with the Transect, Figure 30 of the <i>Port Stephens Community Settlement and Infrastructure Strategy 2007</i>. The transect guides land uses and development design relating to LEP amendments and the preparation of DCPs. It provides guidance on treatment of main streets, parking and pedestrian requirements, frontage to streets, façade treatment and appropriate setbacks. The CSIS is consistent with the state government's Integrating Land Use and Transport Policy Package. Therefore, there are sufficient planning policies to provide the basis for professional advice and input into preparing and refining the Medowie Strategy.</p>
We also question the wisdom of creating a second intersection with Ferodale Road that would be utilised by delivery trucks. It would require significant work on Ferodale Road to allow the turning circle for delivery trucks and could potentially impact on community uses located on the southern side of Ferodale Road.	Such an outcome is not automatic or necessarily desired. It is subject to consideration and integration of a range of design issues that this report has raised but the proposal has not addressed.
... our concept plan can be developed over time to relocate the loading dock to the north eastern corner of the supermarket when the Council land to the north of the site is developed. This adopts a similar approach to that which has been accepted for the Bi-Lo site which relies on the loading dock being relocated over time to achieve the aim of the Strategy in relation to this point.	Once the development has been completed, it would be unlikely for the land owner or lease holder to move the loading dock to another location.

### OPTIONS

- 1) Support the recommendations
- 2) Reject the recommendations
- 3) Make amendments to the recommendations

## **ATTACHMENTS**

- 1) Copy of May 2008 Strategic Committee Report and Ordinary Council Resolution 28<sup>th</sup> May 2008.
- 2) Copy of proposed supermarket for corner of Ferodale and Peppertree Roads
- 3) Copy of submission from proponent to Council.
- 4) Land affected by Recommendations 4 and 5 to be included in a draft LEP.

## **COUNCILLORS ROOM**

Copy of Powerpoint Presentation – Potential Building Designs for Medowie – Medowie Strategy Submission Review Panel Meeting – Wednesday 5 December 2007.

## **TABLED DOCUMENTS**

Nil



ATTACHMENT 1

MAY 2008 STRATEGIC COMMITTEE REPORT AND ORDINARY COUNCIL  
RESOLUTION 28 MAY 2008

ITEM NO. 1

FILE NO: PSC2008-2238

**PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000  
TO REZONE LAND TO FACILITATE ADDITIONAL COMMERCIAL  
LAND IN THE MEDOWIE TOWN CENTRE**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Pursuant to Section 54 of the Environmental Planning and Assessment Act, Council resolve to prepare a Draft Local Environmental Plan to amend the zoning of Lot 7 DP 19101, Lot 8 DP 19101, Lot 9 DP 19101, Lot 10 DP 19101, Lot 11 DP 19101 Ferodale Road, Medowie to 3(a) General Business (**Attachment 1**);
- 2) Resolve to prepare a development control plan over the subject land and the surrounding town centre in the form of a site specific chapter of the Port Stephens Development Control Plan 2007 (DCP)

**BACKGROUND**

**The purpose of this report is to recommend that Council support the rezoning request for land identified in the draft Medowie Strategy for commercial development under Section 54 of the Environmental Planning and Assessment Act 1979.**

**PROPOSAL DETAILS**

**Owner** Lot 7 DP 19101 Ferodale Road Mr David Barton and Mrs Glenys Margaret Barton.

Lot 8 and Lot 11 DP 19101 Ferodale Road Mr Ronald Arthur West and Mrs Joan Margaret West.

Lot 9 and Lot 10 DP 19101 Ferodale Road Mr Kenneth Leslie Taaffe, Mrs Carol Anne Taaffe

**Proponent** Buildev Development NSW CM Pty Ltd

**Date of Submission** 9 April 2008

**Subject Land** Lot 7 DP 19101 Known as, 47 Ferodale Road, Medowie  
Lot 8 DP 19101 Known as, 45 Ferodale Road, Medowie  
Lot 9 DP 19101 Known as, 43 Ferodale Road, Medowie  
Lot 10 DP 19101 Known as, 41 Ferodale Road, Medowie  
Lot 11 DP 19101 Known as, 39 Ferodale Road, Medowie

**Current Land Use Zone** 2(a) Residential

**Proposed Land Use Zone** 3(a) General Business

**BACKGROUND**

*The request is consistent with the revised draft Medowie Strategy now on exhibition and therefore, it is appropriate to report this request to Council. The proponent has an interest in all the subject land and the landowners have given authorisation to the proponent.*

*The draft Medowie Strategy is consistent with the Port Stephens Community Settlement and Infrastructure Strategy 2007(CSIS) and hence is consistent with the Lower Hunter Regional Strategy 2006 (LHRS). Both strategies identify Medowie for future urban growth.*

*A development application (16-2008-202-1) has recently been lodged with Council on the adjoining commercial premises. This development application involves an extension of the existing supermarket and proposes a two storey car park. This development application and the subject draft LEP have been considered when forming the recommendations of this report in particular, the need for a site specific DCP chapter for the Medowie Town Centre.*

**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**

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

**LEGAL AND POLICY IMPLICATIONS**

**Legal** – *There are no legal requirements should Council adopt or reject the recommendations of this report.*

**Policy** – *The recommendations are consistent with the Lower Hunter Regional Strategy 2006 (LHRS). The Port Stephens Community Settlement and Infrastructure Strategy (CSIS) provides the policy framework for managing urban growth and building communities in Port*

*Stephens. The CSIS recognises Medowie as one of only two significant new release areas for development for the next 25 years based on the LHRS Map as noted above. The draft Medowie Strategy has been prepared in accordance with the principles and strategic directions of the CSIS.*

*The rezoning request is consistent with the Draft Medowie Strategy and will implement the strategic directions contained therein. Supporting the recommendations will facilitate a coordinated approach to development of the subject land within the town centre that will service existing and future residents.*

*The design and layout for developing the subject land, particularly relationships to public streets will be addressed through the completion of a Medowie Town Centre Development Control Plan to be prepared in conjunction with this draft LEP. A site specific DCP will cover the subject draft LEP and adjoining lands within the Medowie Town Centre.*

### **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.*
- 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/ ECONOMIC/ENVIRONMENTAL IMPLICATIONS**

*The sustainability implications of rezoning the subject land have been addressed in the preparation of the draft Medowie Strategy and the strategic directions for the subject land contained therein.*

*The proponent has indicated that it will be soon submitting a DA for a supermarket and specialty stores that would be permissible with consent on the subject land under the proposed rezoning.*

*The current Draft Strategy has identified a larger area of the town centre for future mixed use development including another supermarket and specialty stores. This is in recognition of the multiple land holdings in the town centre and the need to provide flexibility and opportunity for competition in revitalising and further developing the town centre.*

*The Draft Medowie Strategy proposes the future growth of the town centre to “consolidate into a main street based on a typical NSW coastal town” with Peppertree Road functioning as the main street. Locating competing supermarkets close together will facilitate social and economic exchange in the town centre and promote more efficient carparking and land use, walking and cycling.*

*The subject land is located on the corner of Ferodale and Peppertree Roads. Having land that fronts both streets creates opportunities and challenges for developing the subject land and hence the development of the town centre.*

*It should be noted that conventional retail development generally has a large box and supporting specialty stores surrounded by car parking. This model has shaped the current layout, operation and physical appearance of the town centre. There has been much comment by Medowie residents that future development should not repeat past practises and “repair” the current town centre. These are the key issues that the recommended DCP will address. The DCP will also address more specific design matters for the area including town centre character, active street frontages, safety issues, on and off street parking, public transport and pedestrian networks needs and the need and location for public amenities.*

### **CONSULTATION**

*There has been extensive community consultation through the preparation of the draft Medowie Strategy. Should Council support the proposed amendment and, subject to support from the LEP Review Panel, there would be further consultation with relevant state government agencies under Section 62 of the Environmental Planning and Assessment Act and further community consultation through exhibition of the proposed amendment.*

*Through the investigation and creation stage of the site specific DCP it would be required to follow the regular policy framework.*

### **OPTIONS**

- 4) *Support the recommendations*
- 5) *Reject the recommendations*
- 6) *Make amendments to the recommendations*

### **ATTACHMENTS**

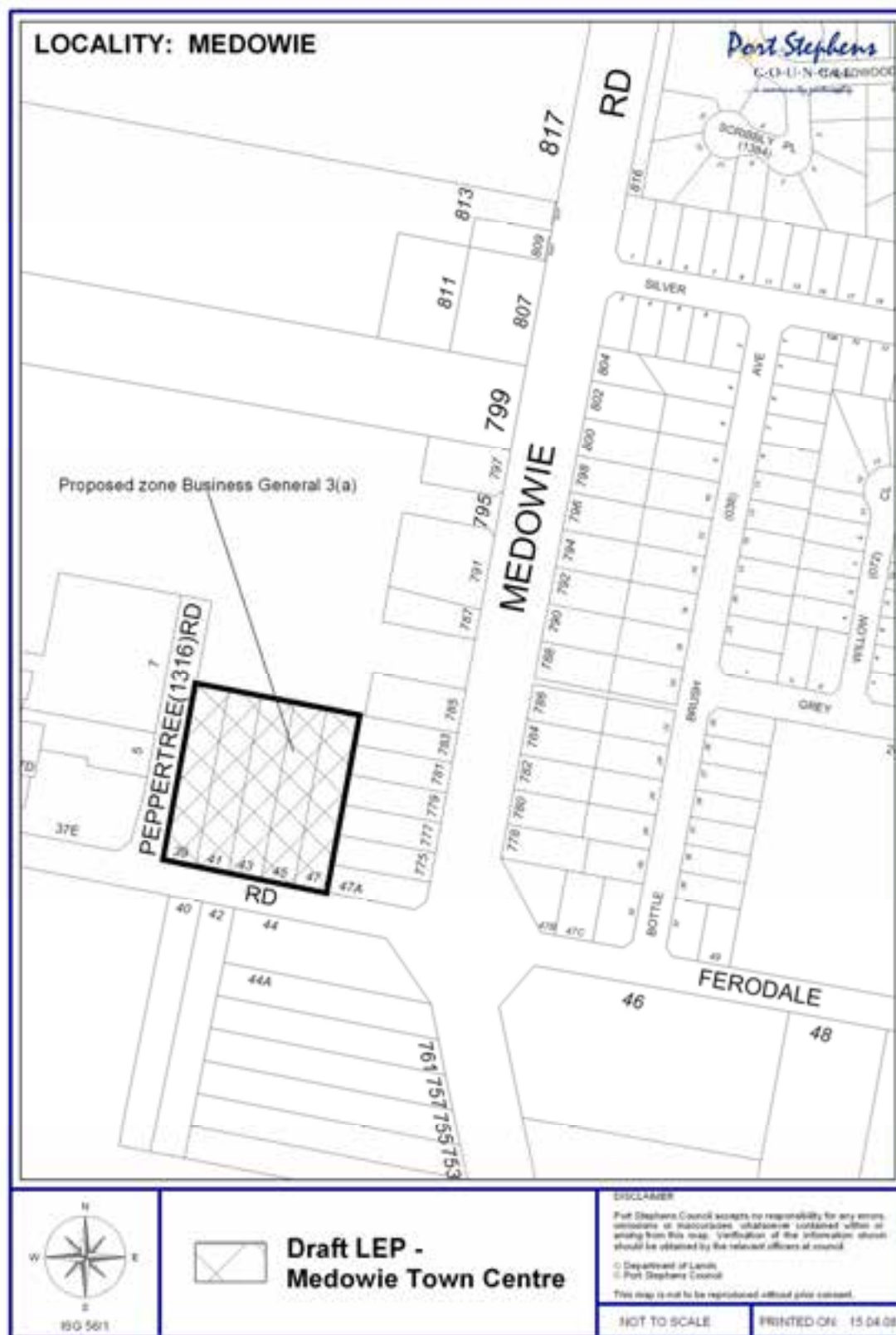
- 1) *Recommended draft LEP Boundaries.*

### **COUNCILLORS ROOM**

- 1) *Rezoning boundaries and aerial photo.*

### **TABLED DOCUMENTS**

- 1) *Nil*



ATTACHMENT 1

ITEM NO. 1

FILE NO: PSC2008-2238

**PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000  
TO REZONE LAND TO FACILITATE ADDITIONAL COMMERCIAL  
LAND IN THE MEDOWIE TOWN CENTRE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Pursuant to Section 54 of the Environmental Planning and Assessment Act, Council resolve to prepare a Draft Local Environmental Plan to amend the zoning of Lot 7 DP 19101, Lot 8 DP 19101, Lot 9 DP 19101, Lot 10 DP 19101, Lot 11 DP 19101 Ferodale Road, Medowie to 3(a) General Business (**Attachment 1**);
  - 2) Resolve to prepare a development control plan over the subject land and the surrounding town centre in the form of a site specific chapter of the Port Stephens Development Control Plan 2007 (DCP)
- 

**STRATEGIC COMMITTEE MEETING – 06 May 2008**

**RECOMMENDATION:** That the recommendation be adopted.

**MATTER ARISING:**

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

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**ORDINARY MEETING – 27 May 2008**

**RESOLUTION:**

114	Councillor Dingle Councillor Tucker	It was resolved that the Strategic Committee recommendation be adopted.
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Note: Matter Arising completed and included in report dated 27/5/08.

**ATTACHMENT 2  
PLAN OF PROPOSED MEDOWIE SUPERMARKET**

**PLAN IS AVAILABLE UPON REQUEST**

**ATTACHMENT 3**  
**SUBMISSION FROM PROPONENT TO COUNCIL**



7 April 2009

The General Manager  
Attn: Trevor Allen  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE 2324

**RE: Supermarket Concept Plan  
Lots 7, 8, 9, 10, 11 of DP 19101  
Ferodale Road, Medowie**

Dear Trevor,

Following our recent meetings, we wish to confirm the rationale underpinning various design aspects of our proposed Woolworths Supermarket on the subject site and how it relates to the Medowie Strategy.

**Background**

We lodged a rezoning request in relation to the subject land in April 2008. The request was consistent with the Draft Medowie Strategy and, as such, has progressed to s.62 consultation stage. At the time of lodging the request we did not have a tenant secured for the Site.

On 12 June 2008 the third and final exhibition of the Medowie Strategy concluded.

In December 2008 the Woolworths board approved a proposal for the Site.

On 16 December 2008 we had a meeting with the Mayor and staff to discuss how to best progress the project.

On 28 January 2009 a meeting was held with staff where the concept plan was discussed in detail.

On 25 February 2009 Council staff issued a letter which outlined a list of concerns with the concept plan. Following discussions in relation to this letter it was agreed we would prepare a concept master plan for the entire underdeveloped commercial precinct to show how it could develop over time.

Builddev Development  
NSW (CM) Pty Ltd  
ABN 42 135 338 212

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Property Development  
& Investment



On 17 March 2009 a meeting was held with the Mayor and staff to discuss the concept plan and the concept master plan where it was agreed that a further meeting with representatives of Woolworths should be arranged so that Council could discuss potential design changes with the tenant directly. For your convenience a further copy of the master plan is attached with some additional notes in relation to staging.

On 24 March 2009 the Draft Medowie Strategy was adopted after Council considered a report outlining the submissions received in response to the exhibition and recommending minor changes to the exhibited strategy.

On 31 March 2009 a meeting was held with the Mayor, staff, Buildev and Woolworths to discuss the plans. Woolworths confirmed that there was no store configuration for the site that was acceptable to them that involved locating the supermarket directly to the street boundary of Peppertree Road. They further confirmed that implementing the proposed long term master plan, which involved relocating the loading dock, is a possibility in the future.

It was agreed that the matter would now be referred to Council for direction on whether to prepare a DCP prior to considering a DA for the Site and direction on the overall concept design and how it conforms to the Medowie Strategy.

To assist the preparation of this report we have prepared the following analysis of the concept plan and the Medowie Strategy.

**Medowie Strategy – how does the proposed development fit?**

Part A2.4 Centre Hierarchy and Associated Land Use Activities and Part A2.5.1 Medowie Town Centre – North specifically relates to the Medowie Town Centre and the subject land.

In general land use terms the Strategy recommends that the subject land be zoned Commercial 3(a). This is consistent with our proposal.

The Strategy also contains a number of design comments. In this regard we have extracted the relevant points within these Parts in the following table and provided analysis in the context of our supermarket concept plan and master plan.

Part A2.4 Centre Hierarchy and Associated Land Use Activities	
Extract from Strategy	Comments
<p>Nedowle Road will form the eastern limit of the town centre and Ferodale Road will be the primary access route. Peppertree Road will fulfil the main street function, acting as an 'off-line' main street, drawing traffic movements away from Ferodale Road.</p>	<p>Our concept design adheres to the principle of drawing traffic movements away from Ferodale Road by locating the primary entry to the supermarket and the loading facilities off Peppertree Road.</p>
<p>Due to population increase, it is expected that the existing supermarkets will expand on its present site in the near future. Commercial indicators show that a second supermarket may occur simultaneously. Two competing supermarket providers in a sustainable configuration that will not adversely impact on the existing town centre's economic sustainability are encouraged. It is desirable that the two supermarkets be located as close as possible to encourage centralised parking, walking and convenience as shown in Figure 2.4.</p>	<p>The Strategy clearly anticipates that a second Supermarket will be located on the subject land.</p> <p>Our concept design varies marginally from one of the conceptual options as we propose to locate the supermarket in the north eastern corner of site.</p> <p>One of the reasons we have located the supermarket in the proposed position is the cross fall of the site. If the supermarket was located on the north western corner, as suggested in the Strategy, then the site would require a massive cut to obtain the required grades for a Supermarket car park. If this were to occur the height of the retaining wall in the north eastern corner would be over 5m. This is not a good outcome.</p> <p>Notwithstanding this point, locating the supermarket in the north eastern corner of the Site achieves one of the stated guidelines of the Strategy by providing "centralised parking" between the two supermarkets and existing specialties.</p> <p>Locating it where it is proposed in the Strategy effectively alienates the parking to the east and south of the new supermarket from the existing supermarket and specialties.</p> <p>On balance, and with the benefit of understanding the levels on the subject site, we believe the better location for the supermarket is the north eastern corner of the subject site which allows for efficient, convenient and centralised parking.</p>

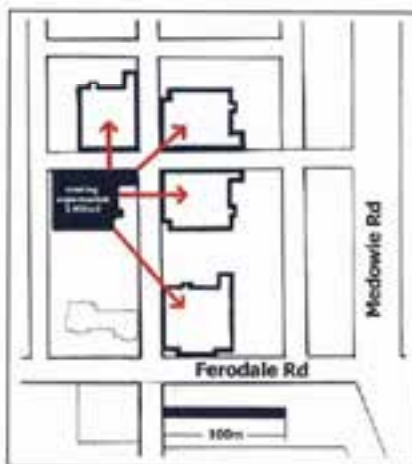


Figure A2.4: Possible locations of proposed second supermarket in comparison to the existing supermarket based on new streets proposed through the Structure Plan.

Part A2.5.1 Medowie Town Centre – North	
Extract from Strategy	Comments
The first objective of development of the town centre is an improved street network to support transport circulation, provide for public transport infrastructure and facilitate cycling and walking into and across the town centre.	We propose that Peppertree Road be utilised as two travel lanes. This will facilitate better transport and cycling circulation and, with an improved footpath on the western side of Peppertree Road, pedestrian amenity will be enhanced.
The second objective is to co-ordinate carparking, enabling easy circulation throughout. To achieve this Peppertree Road would be widened to allow on street parking and 2 travel lanes. This would also connect with the street network north of the existing supermarket to provide interconnecting links to Medowie Road and Wilga Road. Peppertree Road could be transformed into a low speed Main Street with pedestrian cycling having priority over private vehicles. The main street could be themed to local colouring, textures landscaping with footpaths suitable for footway dining.	<p>Peppertree Road is currently wide enough to accommodate two travel lanes without on-street parking. We do not see the utility of Council resuming private land to widen Peppertree Road to create on-street parking when the private land itself is proposed to be parking.</p> <p>In addition, creating on-street parking will detract from the stated aim of encouraging "easy circulation" of traffic in the locality as cars parallel parking provide an impediment to traffic circulation.</p> <p>Further, it is not consistent with the principle of creating an "off-line" main street by drawing traffic away from Ferodale Road. In our view, if the off-line main street approach is to be adopted it should be consistently applied and the traffic corridors separated from parking where possible.</p> <p>Creating on-street parking would have the added disadvantage to Council of becoming an asset for Council to maintain.</p>

The creation of the main street will require development to build to the street boundary and use rear lanes running parallel with Peppertree Road to access unsightly loading docks and vehicle parking areas which would otherwise detract from the amenity and character of a vibrant town centre.

This requirement was not in the Draft Strategy that was exhibited. It was inserted into the Strategy after exhibition.

Further this is not an amendment that was drawn to the attention of Council or the public in the report prepared in response to the exhibition.

It appears to have been inserted into the Strategy as a direct response to the supermarket concept plan we tabled for consideration at our December and January meetings with Council staff and the Mayor.

On this basis, we question whether this requirement has been properly inserted into the Strategy.

Notwithstanding this point, the requirement does not take into account the topography of the subject site. As discussed above, in order to have commercial development at grade from Peppertree Road a significant cut is required for the site which would result in a retaining wall in the north eastern corner of the site of over 5m.

We also question the wisdom of creating a second intersection with Ferodale Road that would be utilised by delivery trucks. It would require significant work on Ferodale Road to allow the turning circle for delivery trucks and could potentially impact on community uses located on the southern side of Ferodale Road.

We have demonstrated that our concept plan can be developed over time to relocate the loading dock to the north eastern corner of the supermarket when the Council land to the north of the site is developed. This adopts a similar approach to that which has been accepted for the Bi-Lo site which relies on the loading dock being relocated over time to achieve the aim of the Strategy in relation to this point.

Proximity, convenience and security are element required when providing public transport to the town centre. Public transport is likely to skirt around Peppertree Road utilising Ferodale Road, Medowie road and possibly the interconnecting link roads between Medowie Road and Wilga Road. This bypassing of Peppertree Road will potentially allow special events such as festivals and the like to temporarily occupy the road whilst not disrupting public transport.	Our concept plan is not inconsistent with this potential outcome.
The use of Peppertree Road provides an opportunity for the commercial centre to expand to the north, north-east, east or south-east. All these options are	Our concept plan is not inconsistent with this potential outcome as the proposed master plan demonstrates.

The Strategy is intended as a guide for the general future land use of Medowie and not a detailed design document. It is apparent when the site is considered in detail and in light of topographic information not previously available, that some of the design commentary within the Strategy cannot be practically achieved.

Notwithstanding this point, we have effectively demonstrated how the concept plan currently achieves many of the design elements in the Strategy and how, over time, can be amended to further satisfy the Medowie Strategy.

If you require any further information, please contact Craig McGaffin.

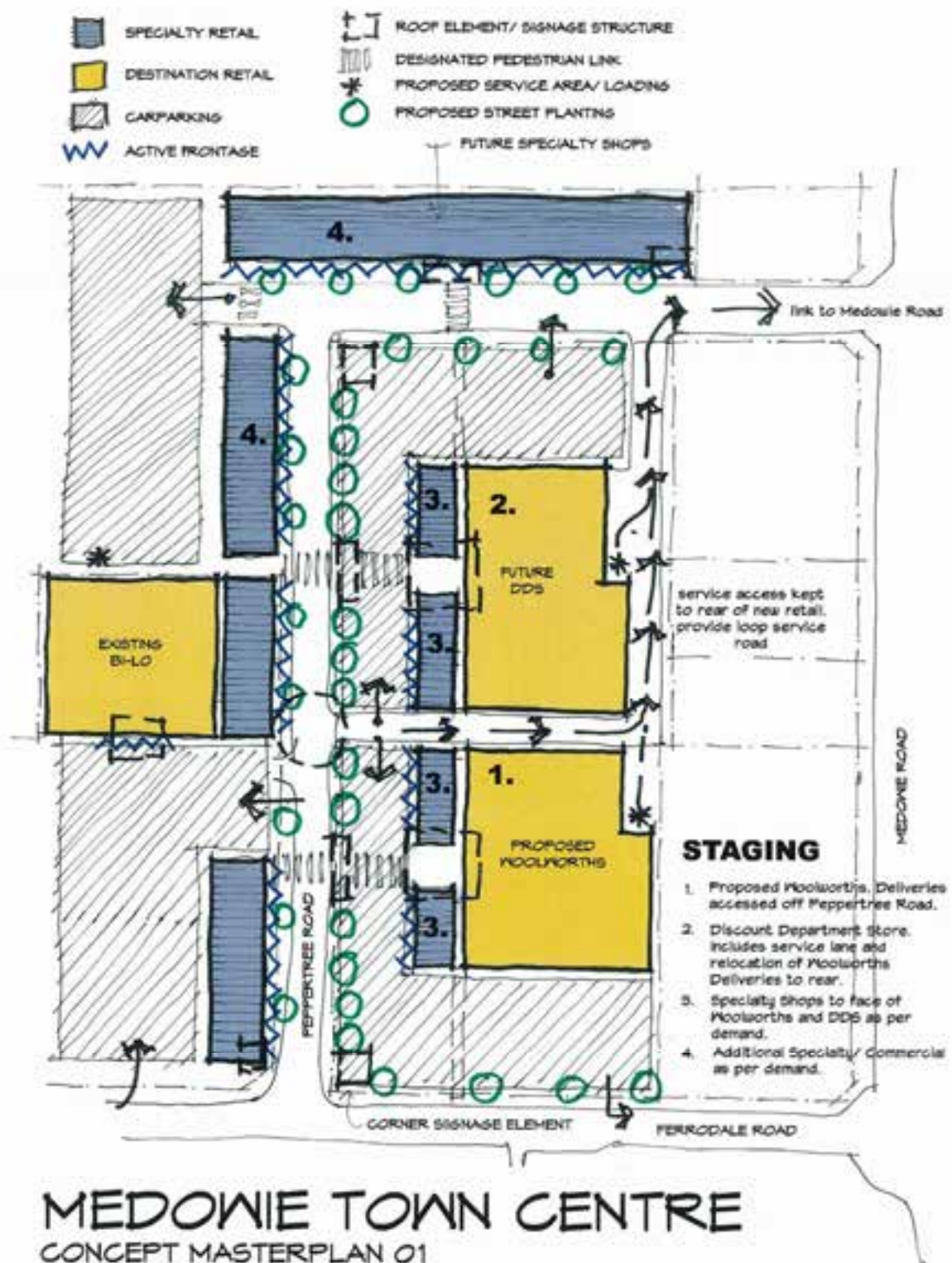
Yours sincerely,

**BUILDEV DEVELOPMENT NSW (CM) PTY LTD**



**Craig McGaffin**  
**Development Partner**

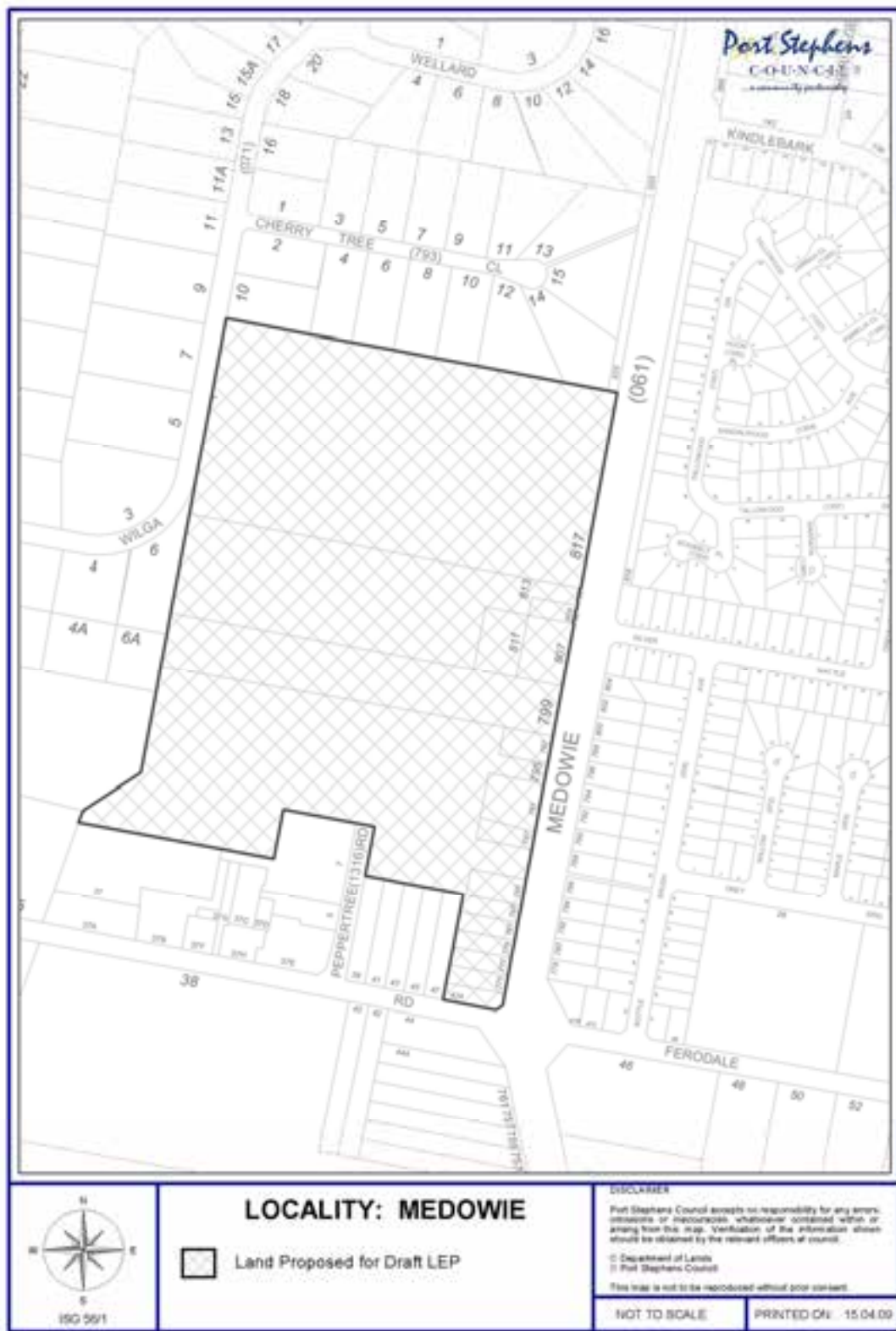




JOB NO. 6723 09 MARCH 2009

**EVE** architecture

**ATTACHMENT 4  
LAND AFFECTED BY RECOMMENDATIONS 4 AND 5  
TO BE INCLUDED IN A DRAFT LEP**



Cr Jordan returned to the meeting at 7.28pm following Item 3.

**ITEM NO. 4****INFORMATION PAPERS****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**

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**RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 28<sup>TH</sup> April, 2009.

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No:	Report Title	Page:
1	COUNCIL RESOLUTION FROM PREVIOUS COUNCIL	
2	COUNCIL REPORTS	
3	GENERAL MANAGERS PERFORMANCE REVIEW	

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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>125</b>	<b>Councillor Daniel Maher Councillor Steve Tucker</b>	It was resolved that the recommendation be adopted.
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**CONFIDENTIAL**

- 1 UNAUTHORISED DEPOT – CABBAGE TREE ROAD, WILLIAMTOWN

<b>133</b>	<b>Councillor John Nell Councillor Sally Dover</b>	It was resolved that the recommendation be adopted.
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**MATTER ARISING**

<b>134</b>	<b>Councillor Geoff Dingle Councillor Sally Dover</b>	That council seeking legal advice following receipt of the RTA's advice should such that advice not be acceptable with regard to the unauthorised depot at Cabbage Tree Road, Williamtown.
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# GENERAL MANAGERS INFORMATION PAPERS



**INFORMATION ITEM NO. 1**

**COUNCIL RESOLUTIONS FROM PREVIOUS COUNCIL**

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**REPORT OF: PETER GESLING – GENERAL MANAGER**  
**FILE: PSC2009-01383**

**BACKGROUND**

**The purpose of this report is to provide Council with a schedule of Council resolutions passed by the previous Council that are still in progress.**

At the end of the term of the previous Council a resolution was passed that a report be prepared for Council on all resolutions from April 2004 to September 2008 that have not been acted on.

During the last term of Council 1751 resolutions were passed with 59 remaining in progress.

Councillors are provided with a full list of resolutions and the status on a monthly basis in the Councillor Room.

**ATTACHMENTS**

- 1) Schedule of Council resolutions from April 2004 to September 2008 in progress.

**ATTACHMENT 1**  
**RESOLUTIONS FROM THE LAST TERM OF COUNCIL**  
**(2004-2008)**

No	Minute No.	Council Resolution	Responsible Manager	Due
1	404	Dedication of Roads in Tanilba Bay  1. That Council takes steps to dedicate the roads and similar strips of land set aside for the purpose of access as Public Roads at Tanilba Bay in Deposited Plan 10716. 2. That the consent of the Minister for Local Government be sought for the compulsory acquisition of these roads to allow notification in the NSW Government Gazette.	Carmel Foster	1.4.09
2	262	Confidential Mayoral Minute - Purchase of Land - Nelson Bay  See confidential minutes for details	Carmel Foster	31.9.09
3	98	RT Historical Sketchley Cottage Site  Grants authority to affix Councils Seal to the plan of consolidation and the Section 88B instrument of the 3 parcels of land occupied by Sketchley Cottage as per resolution 536 of 16th December 2003. (SEE ATTACHMENT 1) 2) Lodges a further plan to allow title creation for the entire parcel of land as fenced containing Sketchley Cottage as one lot. 3) Grants authority to affix Councils Seal to the plan mentioned in item 2 above.		26.6.09
4	145	NOM Historic Brick Warehouse - King St Raymond Tce  It was resolved that staff prepare a report on costs associated with preventing further water damage to the building	Carmel Foster	31.6.09
5	484	Proposed Road Closure - Glenelg St, Raymond Tce  Consents to the road closure of that section of Glenelg Street, Raymond Terrace between Hunter Street and the Hunter River. 2) Makes application to the Department of Lands for the closure to proceed under Section 34 Roads Act 1993. 3) Lodges a subdivision application to separate the area from the remaining road, as required by Land and Property Information office. 4) Upon closure classifies the area as Community Land to be used as part of Riverside Park. 5) Grant authority to affix Councils Seal to the subdivision plan prior to lodging it at the office of Land and Property Information.	Carmel Foster	30.9.09

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

No	Minute No.	Council Resolution	Responsible Manager	Due
6	485	<p>Proposed Road Closure - Peter Dron St, Raymond Tce</p> <p>Consents to the road closure of the part of Peter Dron Street currently occupied by the Vi Barnett Sporting Fields between Kangaroo Street and Seaham Road at Raymond Terrace.</p> <p>2) Make application to the Department of Lands for the closure to proceed under Section 34 Road Act 1993.</p> <p>3) Lodges subdivision application with Council to separate the area from the remaining road as required by the Land and Property Information Office.</p> <p>4) Upon closure reclassifies the area as Community Land to continue its current use as sports fields.</p> <p>5) Following reclassification consolidates all of the land parcels owned by it between Kangaroo Street, Seaham Road, Port Stephens Street and the Hunter River which form the Vi Barnett Fields into one lot.</p> <p>6) Grants authority to affix Councils Seal to the plan of consolidation for registration.</p>	Carmel Foster	30.9.09
7	487	<p>Road Closure - Lily Hill Rd Nelson Bay</p> <p>Consents to the road closure of that section of Lily Hill Road currently fenced and occupied by the communications equipment for a Digital Television facility and Councils own facilities including the Rural Fire Service.</p> <p>2) Makes application under Section 34 Roads Act 1993 for the formal procedure to continue.</p> <p>3) Lodges a subdivision application with Council to separate the area from the remaining road, as required by the office of Land and Property Information.</p> <p>4) Grants authority to affix Councils Seal to the road closure subdivision plan prior to lodging it at the office of Land and Property Information.</p> <p>5) Following gazettal of the road closure Council negotiates with Optus for alteration to its existing fenced areas.</p> <p>6) Lodges a subdivision application to realign the boundary between the road closure area and the Optus base.</p> <p>7) Grants authority to affix Councils Seal to the boundary realignment plan and the lease boundary alteration documents.</p>	Carmel Foster	30.3.09
8	489	<p>Road Closure Part Newline Rd Raymond Tce</p> <p>Consents to the closure and sale of a section of Newline Road adjoining Lot 105 DP1016640.</p> <p>2) Make application under Section 34 Roads Act 1993 to the Department of Lands for the closure to be processed.</p> <p>3) Obtains a valuation from the State Valuation Office of the proposed closure area and the valuation be set as the</p>	Carmel Foster	30.6.09

# MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

No	Minute No.	Council Resolution	Responsible Manager	Due
		<p>purchase price.</p> <p>4) On finalisation of the closure and payment of all costs and the purchase price by the application (owner lot 105) a land Transfer for the closure area from Council to the applicant be prepared.</p> <p>5) Lodges subdivision application with Council for the lot, as required by Land and Property Information NSW.</p> <p>6) Require the subject are to be consolidated with the adjoining lot (owned by the applicant) if the application is successful. The plan for consolidation to be registered at the office of Land and Property Information.</p> <p>7) Allocate proceeds from the sale to road improvements in the vicinity.</p> <p>8) Grants authority to affix the Council Seal and Signatures to the future Transfer, if the matter is successfully concluded.</p>		
9	619	<p>Notice of Motion</p> <p>Investigate a truck parking yard as a business development opportunity. This is to investigate zoning, needs of local businesses and implementations opportunities. This business is to include secure parking, wash down bays, and hygiene opportunities for drivers.</p>	Carmel Foster	31.3.09
10	718	Matter Arising - It was resolved that Council call for a report seeking advice to rezone Council's land at Karuah.	Carmel Foster	31.6.09
11	786	<p>DEDICATION OF LAND FOR ROAD WIDENING FROM LOT 1 D.P.664066 AT ANNA BAY</p> <p>1) Consents to the creation of approximately a 12 square metre parcel of land for road widening from lot 1 D.P.664066.</p> <p>2) Grant authority to affix Council's Seal and signatures to a transfer document transferring the 12 square metre parcel of land to Council for road widening.</p> <p>3) After transfer of the parcel declares it public road in the Government Gazette.</p>	Carmel Foster	30.6.09
12	195	<p>DEDICATION OF LAND FOR ROAD WIDENING FROM LOT 326 DP808038 CORNER NULLA NULLA LANE &amp; HINTON ROAD, HINTON</p> <p>1) Consents to the creation of a parcel of land with an area approximately 70 square metres for road widening taken from Lot 326 D.P.808038 at Hinton.</p> <p>2) Grants authority to affix Council's Seal and signatures the Transfer document transferring the proposed parcel to Council for road widening.</p> <p>3) After transfer of the parcel declare it public road in the Government Gazette.</p>	Carmel Foster	30.4.09
13	196	ROAD CLOSURE PART FISHERMANS	Carmel Foster	29.5.09

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

No	Minute No.	Council Resolution	Responsible Manager	Due
		<p>BAY ROAD AT ANNA BAY</p> <p>1) Consents to the closure of a section of Fishermans Bay Road adjoining Lot 258 D.P.753204 at Anna Bay.</p> <p>2) Makes application under Section 34 Roads Act 1993 to the Department of Lands for the closure to be processed.</p> <p>3) If consent is granted, on finalisation of the closure, the land is to be used by Council as car park for the adjoining proposed fire station.</p> <p>4) Lodge the subdivision application with Council to separate the area from the road, as required by the Land and Property Information NSW.</p> <p>5) Require the subject area to be consolidated with the adjoining lot (owned by Council) if the application is successful. The plan of consolidation to be registered at the office of Land and Property Information.</p> <p>6) Grant authority to affix the Council Seal and signatures to the road closure subdivision plan prior to lodging it at the office of Land and Property Information.</p> <p>7) Grants authority to affix the Council Seal and Signatures to the subdivision and consolidation plans.</p>		
14	365	<p>50 William St, Raymond Terrace</p> <p>See Confidential Minutes for details</p>	Carmel Foster	30.6.09
15	370	<p>155 Salamander Way, Salamander Bay</p> <p>See Confidential Minutes for details</p>	Carmel Foster	30.6.09
16	87	<p>Lease of Community Land 1B Bourke St, Raymond Terrace</p> <p>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.</p> <p>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.</p> <p>3) Authorise the Mayor and General Manager to affix the seal of Council to the Lease document.</p>	Carmel Foster	31.6.09
17	157	<p>Notice of Motion - Nelson Bay Town Management</p> <p>Council prepare a report by November 2008 on the option of sustaining a Nelson Bay Town Management function by either/or:</p> <ul style="list-style-type: none"> <li>o Promotional levy</li> <li>o Grants</li> <li>o Local Enterprise fee</li> </ul>	Carmel Foster	29.5.09

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

No	Minute No.	Council Resolution	Responsible Manager	Due
		for retaining and attracting business in the Nelson Bay Central Business District and waterfront.		
18	195	Notice of Motion  1) Prepare a report on the establishment of an office on the Tomaree Peninsula.	Stephen Crowe	30.6.09
19	43	Matter Arising  It was resolved that Council call for a report on creating a pool of funds to allocate to all sponsorships on an annual basis.	Stephen Crowe	1.5.09
20	121	Notice of Motion - Youth Communications System  Initiate an investigation into an opportunity to formalise a communications system with young people under 25 years. This system may include "Youth Council" or "facebook", "my space" type of communication but should include opportunities for young people to access and attempt to understand Council procedures.	Phillip Crowe	30.06.20 09
21	388	Notice of Motion - Proposed Road Closure of Stanley St, LTP  Prepare a report on the possible reclassification of unformed Stanley Street, Lemon Tree Passage between Shearman and Meredith Streets.	Mick Loomes	30.6.09
22	531	Policy Review Various Street & Road Activities That Council consider the amalgamation of the policies where possible and after reviewed, highlight the changes in bold.	Mick Loomes	30.06.20 09
23	226	Matter Arising - Echo Beach Drainage That Echo Beach drains maintenance be reviewed.	Mike Trigar	30.6.09
24	244	Notice of Motion - Create a Masterplan for Ross Wallbridge Park  1) That Council start a master planning process for Ross Wallbridge Park (Duck Pond Park), including the provision of BBQ's and Picnic facilities, open play areas for ball games and a Child Friendly playground, a structured duck pond, public amenities and walking tracks. A master plan for Ross Wallbridge Park will provide diversity in open space for families in the western parts of the Port Stephens LGA.	Jason Linnane	30.06.09
25	242	Notice of Motion - Sealed Town Centre Parking in RT	Jason Linnane	30.06.20 09

# MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

No	Minute No.	Council Resolution	Responsible Manager	Due
		1) Allocate \$147,000 currently in the S94 Raymond Terrace Town Centre Car Park Fund or other appropriate S94 plan for the formal creating of sealed town centre parking located adjacent to the Raymond Terrace Netball and Tennis Courts. The allocation of these funds would enable car parking to be provided for shop employees throughout the Raymond Terrace CBD during weekday trading and structured car parking for the users of the sporting facilities on evenings and weekends.		
26	63	MATTER ARISING  It was resolved that Council develop its policy on the use of thrift bins	Mick Loomes	30.06.09
27	122	Notice of Motion - Tarean Rd Redevelopment  1) Prior to commencement of the Second Stage of Tarean Road medians and associated works (old Pacific Highway, Karuah) undertake a comprehensive evaluation of Stage 1 of the Tarean Road redevelopment. 2) This evaluation to be presented to Council prior to decisions on the Stage 2 time frame for commencement. 3) This evaluation and time frame for commencement to include formal consultation with the Karuah community.	Mike Trigdar	30.12.09
28	150	Matter Arising - Street Tree Planting  Information Paper outlining the current policy or protocol we have in place to plant street trees across the LGA.	Mike Trigdar	01.06.09
29	194	Notice of Motion - Fingal Bay Link Road  Prepare a report on the upgrade of Dowling Street, Fingal Bay Link Road and the extension of Austral Street to Government Road Shoal Bay.	Mike Trigdar	01.06.09
30	245	Tender T21-2008, Birubi Point Surf Club Function Centre Design Services  See Confidential Minutes for details	Peter Avis	01.02.10
31	371	TENDER T05 - 2008 KARUAH MULTI-PURPOSE COMMUNITY FACILITY  See confidential minutes	Peter Avis	30.09.09
32	370	CONTRACTING OF ASSET PROTECTION ZONE MAINTENANCE  See confidential minutes	Jason Linnane	09.12.08
33	243	Notice of Motion - Indoor Heated Pool  1) That Council investigate the feasibility for the provision of a	Jason Linnane	01.12.09



**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

No	Minute No.	Council Resolution	Responsible Manager	Due
		indoor heated and hydrotherapy (non-medical) pool to cater for the Port Stephens population		
34	239	<p>Notice of Motion - Construction of a Croquet Court at Raymond Tce</p> <p>1) That Council investigate a site adjacent to the new Raymond Terrace Senior Citizens and Community Centre in Boomerang Park to construct a Croquet Court to provide sporting diversity to our senior community.</p>	Jason Linnane	30.06.09
35	567	<p>NOM - Protection of Stoney Ridge Reserve</p> <p>Prepare a report on the protection of Stoney Ridge Reserve, Salamander Bay including the following:</p> <p>1) Rezoning the area of land known as Stoney Ridge, Salamander Bay, Part Lot 51, DP 803471 (the large area up to Diemars Road), from 6a General Recreation to 7a Environmental Protection</p> <p>2) Rezoning the Wildlife Corridor from Stoney Ridge Reserve to George Reserve, Part Lot 2, DP 791551 (not including the 2a land adjoining Colonial Ridge Resort), from 6a General Recreation to 7a Environmental Protection and reclassifying this land from Operational to Community Land</p> <p>3) Rezoning Continuing Wildlife Corridor Lot 3, DP 791551 from 6a General Recreation to 7a Environmental Protection</p> <p>4) Rezoning Continuing Wildlife Corridor Lot 164, DP 27047 from 6a General Recreation to 7a Environmental Protection</p> <p>5) That Councillors inspect Stoney Ridge Reserve</p>	Jason Linnane	30.06.09
36	652	<p>Open Space Consolidation Review</p> <p>1. Resolve to submit a Reclassification and Rezoning request for the land parcels as identified and detailed in this Report</p> <p>2. Consider a further report on the possible allocation of the net proceeds realised from the sale of the nominated land parcels for the rehabilitation and or embellishment of infrastructure.</p>	Jason Linnane	30.04.09
37	343	<p>Open Space Consolidation Review</p> <p>Resolve to submit a Reclassification and Rezoning request for the land parcels as identified and detailed in the information provided under separate cover.</p> <p>2) Consider a further report on the possible allocation of the net proceeds realised from the sale of the nominated land parcels for the rehabilitation and/or embellishment of infrastructure.</p>	Jason Linnane	30.04.09
38	470	<p>NOM - Signage for Swimming Beaches</p> <p>Prepare a report on having some beaches or sections of beaches designated as Swimming Beaches.</p>	Jason Linnane	30.07.09

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

No	Minute No.	Council Resolution	Responsible Manager	Due
39	673	Matter Arising - Site Inspection - Heatherbrae  That Council arrange a site visit in relation to the sewerage issues in the area and a briefing from Hunter Water Council be organised.	Bruce Petersen	1.5.09
40	101	PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000 TO REZONE LAND TO FACILITATE RESIDENTIAL DEVELOPMENT ON 100 SALAMANDER WAY, SALAMANDER BAY.  Pursuant to Section 54 of the Environmental Planning and Assessment Act, Council resolve to prepare a Draft Local Environmental Plan to: a. Rezone Lot 21 DP 1044009 to part urban development and part environmental protection as specified in this report; b. Reclassify part of Lot 21 DP 1044009 proposed for urban development from community to operational pursuant to the Local Government Act 1993 to permit the Council as land owner to sell or lease that part of the land subject being rezoned for urban development; c. Subject to resolution of ecology, urban design, transport, hydrology and land owner consultation, rezone land adjoining the subject land and located on Salamander Way from 7(f3) Environmental Protection (Urban Conservation) to an urban zone to support the economic and social viability of Salamander Way "Town Centre"; d. Remove Clause 52 from Port Stephens Local Environmental Plan 2000 that permits development of 251 dwellings and 600 square metres of commercial or retail floor space on Lot 21 DP 1044009 as the proposed rezoning that is the subject of this report will make this clause redundant. e. Amend clause 62 of the Port Stephens LEP 2000 by removing reference to Lot 50 -144, DP 751013, Lot 1 - 13, DP 734433 and Lot 1, DP 810714 Salamander Way, Salamander. 2) Council resolve pursuant to Section 57 of the Environmental Planning and Assessment Act 1979 to prepare a Local Environmental Study to support and justify the draft LEP; 3) Engage a qualified urban designer to prepare a structure plan over the subject land and adjoining lands to understand how urban development can occur on part of the subject land and adjacent residential lands that integrates social, economic and environmental sustainability outcomes for the site and the Salamander area; 4) Prepare a site specific chapter to be inserted into PSC Development Control Plan 2007 that includes the outcomes of the investigations undertaken in Recommendation No. 2 and 3 to guide future development of land covered by the draft LEP.	Geraldine O'Connor	25.08.2009
41	137	TOMAREE COMMUNITY FACILITIES STUDY	Paul Procter	30.6.09

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

No	Minute No.	Council Resolution	Responsible Manager	Due
		<p>That Council:</p> <p>1) Appropriately define the boundary of the "community precinct" by undertaking a concept plan that allows for the expansion of community facilities, considers parking coordination and explores opportunities for expansion to the north of the existing precinct as per option 4 in the Background to the report;</p> <p>2) As a result of Recommendation 1, continue with negotiations for a non-binding Heads of Agreement over the rear of the existing community precinct site for retail and commercial development;</p> <p>3) Identify sites for the provision of multipurpose community space of high quality for the consolidated Nelson, Shoal and Fingal Bay area and southern Anna Bay area and place in the forward works program at the appropriate time.</p>		
42	778	<p>MATTER ARISING</p> <p>That a drainage study report into the improvement of drainage in the Sutton Park area in Medowie be provided to Council.</p>	Scott Page	31.12.09
43	401	<p>Matter Arising - Victoria Pde - Nelson Bay</p> <p>That Council investigate the possibility of angle parking for ten coaches on Victoria Pde, Nelson Bay.</p>	Scott Page	30.6.09
44	378	<p>Matter Arising re DCP LD1 Raymond Tce</p> <p>That Council instigate an investigation into heights for Raymond Terrace Commercial Area in consultation with State Gov't and the community</p>	Trevor Allen	23.06.09
45	100	<p>Notice of Motion - Information Bays</p> <p>THAT COUNCIL:</p> <p>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.</p> <p>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.</p>	Trevor Allen	23.06.09
46	141	<p>WATER TANKS IN INDUSTRIAL AREAS</p> <p>That Council:</p> <p>Look at Industrial areas which traditionally have large catchment and hardstand areas with the view to having</p>	Trevor Allen	30.6.09

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

No	Minute No.	Council Resolution	Responsible Manager	Due
		water tanks on site to help address run-off plus provide an alternative water supply. Their use should be investigated and encouraged.		
47	162	<p>DEVELOPER CONTRIBUTIONS (SECTION 94) - PROGRAM FOR REPEAL AND REVISED SECTION 94 DEVELOPER CONTRIBUTION PLAN</p> <p>1) Adopt the Section 94 Contributions Plan 2007 as amended by this report.                  2) Undertake discussions with Newcastle Council with a view to preparing a Cross Boundary Contributions Plan.                  3) Undertake discussions with adjoining Councils to consider Cross Boundary Contributions Plans as the need arises</p>	Trevor Allen	30.6.09
48	202	<p>REVIEW OF SPLIT ZONINGS AT TAYLORS BEACH INDUSTRIAL ESTATE</p> <p>THAT COUNCIL:</p> <p>1) Resolve to prepare a draft LEP to rezone those parts of allotments that have dual zonings in Taylors Beach Estate in Trades Circuit and Kara Crescent from Rural 1 (A) to Industrial 4(A); and                  2) Subject to initial investigations by the Group Manager – Sustainable Planning supporting this draft LEP, request affected landowners to proportionately fund consultants for this purpose and to enable higher priority in the Strategic Planning Work Program.</p>	Trevor Allen	30.6.09
49	214	<p>DEVELOPMENT CONTROLS FOR BROTHELS &amp; RESTRICTED PREMISES</p> <p>That Council review Development Controls for other uses such as gunshops and other activities</p>	Trevor Allen	30.6.09
50	278	<p>MATTER ARISING - DEPARTMENT OF DEFENCE ANEF CONTOUR MAPS</p> <p>That Council request the Department of Defence to develop new ANEF contour maps to take into account the introduction of new aircraft over the next five (5) years.</p>	Trevor Allen	30.6.09
51	384	<p>Request to amend LEP 2000 – Rezone land at Newline Rd to facilitate residential development</p> <p>It was resolved that Council;</p> <p>a) Resolve to support a rezoning request over a portion of Lot 3 DP 1098770 and Lot 11 DP 37430 Newline Road, Raymond Terrace with the appropriate buffers to be established through the rezoning process and to be agreed by Council in a subsequent report to Council post exhibition of the draft LEP; and with                  b) the draft LEP and associated Development Control Plan being integrated with the Kings Hill draft LEP and draft DCP, Section 94 and/or developer agreements to ensure coordination and integration of the development of the town</p>	Trevor Allen	30.6.09

**MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009**

No	Minute No.	Council Resolution	Responsible Manager	Due
		of Kings Hill with the subject land. c) Council receiving formal commitment from the land owner to fund the undertaking of the third party review of noise and odour issues above and beyond the fee attracted by the rezoning request to inform Council of these issues associated with the Kings Hill draft Local Environmental Plan.		
52	25	<p>PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000 TO REZONE LAND TO FACILITATE URBAN DEVELOPMENT AND EXTENSION OF PACIFIC DUNES GOLF COURSE – MEDOWIE</p> <p>It was resolved that:</p> <p>1) Pursuant to Section 54 of the Environmental Planning and Assessment Act, Council resolve to prepare a Draft Local Environmental Plan over the area identified in the applicant's submission dated 18 February 2008 to:</p> <p>(a) Amend the zoning of Lots 411, 412 and part 413 DP 1063902, Lot 3 DP 587953 and Lot 22 DP 715103 on the west of Medowie Road to part general residential, part private recreation and part neighbourhood centre;</p> <p>b) investigate amending Clause 54A of the Port Stephens Local Environmental Plan 2000 relating to Lot 4 DP 270438, Lot 11 DP 270438, Lot 7 DP 270438, Lot 1 DP 270438, Lot 10 DP 270438, Lot 9 DP 270438 and Lot 11 DP 107932, on the east side of Medowie Road that comprise Stage 1 of Pacific Dunes Golf Course, to rezone the existing residential golf course development to a residential zone as well as to rezone additional lands for additional residential development, as submitted by the proponent, that is consistent with the principles of the draft Medowie Strategy.</p> <p>2) Resolve to amend the existing site specific chapter of the Port Stephens Development Control Plan 2007 (DCP) so as it reflects the proposed modifications to Pacific Dunes Stage 1 and applies to the Pacific Dunes Stage 2 lands.</p>	Trevor Allen	30.6.09
53	128	<p>Matter Arising: Rail Study</p> <p>It was resolved that Council call on the State Government to undertake a study for rail access to Newcastle Airport and Tomago Industrial Zone.</p>	Trevor Allen	30.6.09
54	142	<p>Matter Arising - Local Traffic Committee</p> <p>It was resolved that Council arrange for the installation of a Giveway sign at the corner of Fairlands Road and Hartford St, Mallabulla.</p>	Trevor Allen	30.6.09
55	184	<p>Review of Port Stephens LEP 2000</p> <p>It was resolved that;</p> <p>1) Prepare a draft Local Environmental Plan pursuant to Section 54 of the Environmental Planning and Assessment Act 1979 which includes the following changes:</p>	Trevor Allen	22.09.09

# MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009

No	Minute No.	Council Resolution	Responsible Manager	Due
		<ul style="list-style-type: none"> <li>o Minor editing and clarification of clauses</li> <li>o Deletion of the 5(g) Special Urban (Flood Affected) zone and replacement with existing Port Stephens Local Environmental Plan 2000 zones for residential, industrial and commercial</li> <li>o Modification to level of heritage significance for existing cemeteries</li> <li>o Inclusion of existing potential archaeological items in the local significance schedule</li> <li>o Identification of the Heritage Conservation Areas on the zone maps</li> <li>o Modification to the definitions of clearing, earthworks and utility undertakings.</li> <li>o Rezoning of 7 Bourke Street to unzoned road and refer to the Minister requesting delegation for a Section 65 Certificate.</li> </ul> <p>2) On receipt of the Authorisation to Exercise Delegation from the Minister, place the draft LEP and supporting documentation on exhibition for a period of two months in accordance with Section 66 of the Environmental Planning and Assessment Act 1979.</p> <p>3) Defer the matter of Dual Occupancy Development in the Rural 1 (a) Zone;</p> <p>4) Adopt the Policy that Dual Occupancy Development remain as permissible with the consent of Council in the Rural 1 (a) Zone;</p> <p>5) Request that a Press Release be issued through the Mayor's office tomorrow to advise that the current provisions on Dual Occupancy Development in Rural 1 (a) will remain;</p> <p>6) That the revised plan of Raymond Terrace rezoning be included.</p>		
56	219	<p>PS LEP2000 Prohibition of Depots in Rural 1A Zone</p> <p>Endorse the approach of considering whether depots should be made permissible in the Rural 1(a) zone or not as being part of the preparation of the Comprehensive port Stephens LEP due in March 2011 for Ministerial endorsement.</p>	Trevor Allen	22.03.11
57	220	<p>Williamstown Defence and Airport Related Employment Zone</p> <p>1) Resolve to investigate rezoning the remainder of land under the DAREZ Strategy (Attachment 1) to SP1 Special Activities – Defence and Airport Related Employment Development subject to;</p> <ul style="list-style-type: none"> <li>a. further information being provided by the proponents to address flooding, geotechnical and biodiversity issues, as identified in this report, that demonstrates satisfactory resolution of these constraints;</li> <li>b. Council seeking independent advice on the economic impacts of rezoning the subject lands upon the staging and implementation of "High, Medium and Low Proximity" land identified in the DAREZ Strategy and Draft Port Stephens LEP 2000 Amendment No. 29 that Council adopted on the 24th June 2008;</li> </ul>	Trevor Allen	

<b>MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009</b>
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No	Minute No.	Council Resolution	Responsible Manager	Due
		<p>c. Consultation is undertaken with relevant landowners;</p> <p>2) Resolve that the results of the investigations and resolution of constraints be reported to Council for further consideration prior to having the matter potentially subject to a resolution under Section 54 of the Environmental Planning and Assessment Act (1979 as amended) and submitted to the NSW Department of Planning LEP Review Panel. That Council acknowledge, and express support for, the inclusion in the Defence and Airport Related Employment Zone, the following properties in Cabbage Tree Road, Williamstown: Lot 131 in DP609165, Lot 132 in DP609165, Lot 1 in DP832554; Lot 2 in DP832554, Lot 1 in DP1956042, Lot 2 in DP195042, Lot 1 in DP99417, Lot 12 in DP4831 - with submissions for these inclusions appropriately being submitted to the Project Control Group through the Department of Planning by the relevant land owners.</p>		
58	241	<p>Notice of Motion</p> <p>Investigate the possibility of establishing a Men's Shed Group in the Raymond Terrace area. This to encompass opportunities for a support group to establish this group.</p>	Trevor Allen	30.6.09
59	71	<p>MATTER ARISING</p> <p>It was resolved that:-</p> <p>1. In view of other possible sand extraction development applications in the Janet Parade , Salt Ash area to be considered by the NSW State Government.</p> <p>2. Council urges the NSW State Government to ensure no replication of the visual pollution and loss of amenity to Nelson Bay Road users and residents in the area which have occurred to date from existing sand extraction on vegetated sand dunes at the end of Janet Parade and</p> <p>3. Council call on the NSW State Government to require for such purpose an outer sand dune buffer zone to be provided and maintained by the proponent.</p>	David Broyd	30.6.09

**INFORMATION ITEM NO. 2**

**COUNCIL REPORTS**

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**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
**FILE: PSC2009-01383**

**BACKGROUND**

**The purpose of this report is respond to a Council resolution from the previous term of Council.**

The previous Council resolved that a report be prepared to identify a means of reducing the number of reports.

At the time of Council calling for this report the Council was considering a high volume of reports on a regular basis. Since this time the volume of reports has decreased, therefore a report to reduce the number of reports will not be provided at this time.

Staff are required to provide Council with particular reports to comply with legislation and other reports are brought before Council at the request of Councillors. Staff also provide reports to Council to ensure both Councillors and the community are well informed.

The volume of reports to Council will continue to be monitored.

**ATTACHMENTS**

Nil



**INFORMATION ITEM NO. 3**

**GENERAL MANAGER'S PERFORMANCE REVIEW  
JUNE 2008 TO JULY, 2009**

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**REPORT OF: PETER GESLING – GENERAL MANAGER  
FILE: PERS GESLING P**

**BACKGROUND**

**The purpose of this report is for Council to receive and accept the outcome of the Performance Feedback process.**

Council has established a Performance Feedback process for the General Manager that aligns with the Department of Local Government guidelines. This includes:

- 1) Establishment of a Performance Feedback Committee to review the General Manager's performance against the agreed Business Performance Plan (BPP). This Committee meets in February and August each year and provides a report to Council.
- 2) Undertaking an assessment of the statutory quarterly performance report against the Council Plan. This is done in the first week of November, February, May and August.

A further element is available to Council, that any concern should be raised when it occurs. It should include written notification to the Mayor and General Manager. After assessment, the General Manager will respond to the council to ensure a review in the bi-annual meeting of the Performance Feedback Committee. This review included a discussion with all Councillors at Shoal Bay on the 17<sup>th</sup> February, 2009 following the Holiday Park site inspections and a meeting of the Performance Feedback Committee on 14<sup>th</sup> February. The quarterly assessment in November was not held due to the Council commencing its term of office.

**LINKS TO CORPORATE PLANS**

This process ensures that Council meets its obligation detailed in Part 9 of the Council Plan;

Specifically, Council will

- improve management and leadership policies.
- assess the performance of our leadership and management system.
- be open, transparent and accountable in its operation, policy making and decision making.

## **FINANCIAL/RESOURCE IMPLICATIONS**

Included in operating budget.

## **LEGAL AND POLICY IMPLICATIONS**

Council's charter requires it

- To have regard to the long term and cumulative effects of its decisions.
- To be a responsible employer.

Participation in this formal process allows Council to demonstrate these elements of the Charter and models behaviour for the organisation that performance management is important to ensure Council objectives are achieved. Council's workforce policies are met in this process.

## **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**

Participation in the Performance Feedback Process enhances the overall sustainability of the organisation by modelling behaviours expected of other supervisors within the organisation and building more effective working relationships.

## **OPTIONS**

- 1) Accept the recommendation.

## **ATTACHMENTS**

- 1) Flow Chart for the General Manager's Performance Review Process
- 2) GM Performance Plan Review – file note of John Pala dated 14<sup>th</sup> February 2009.

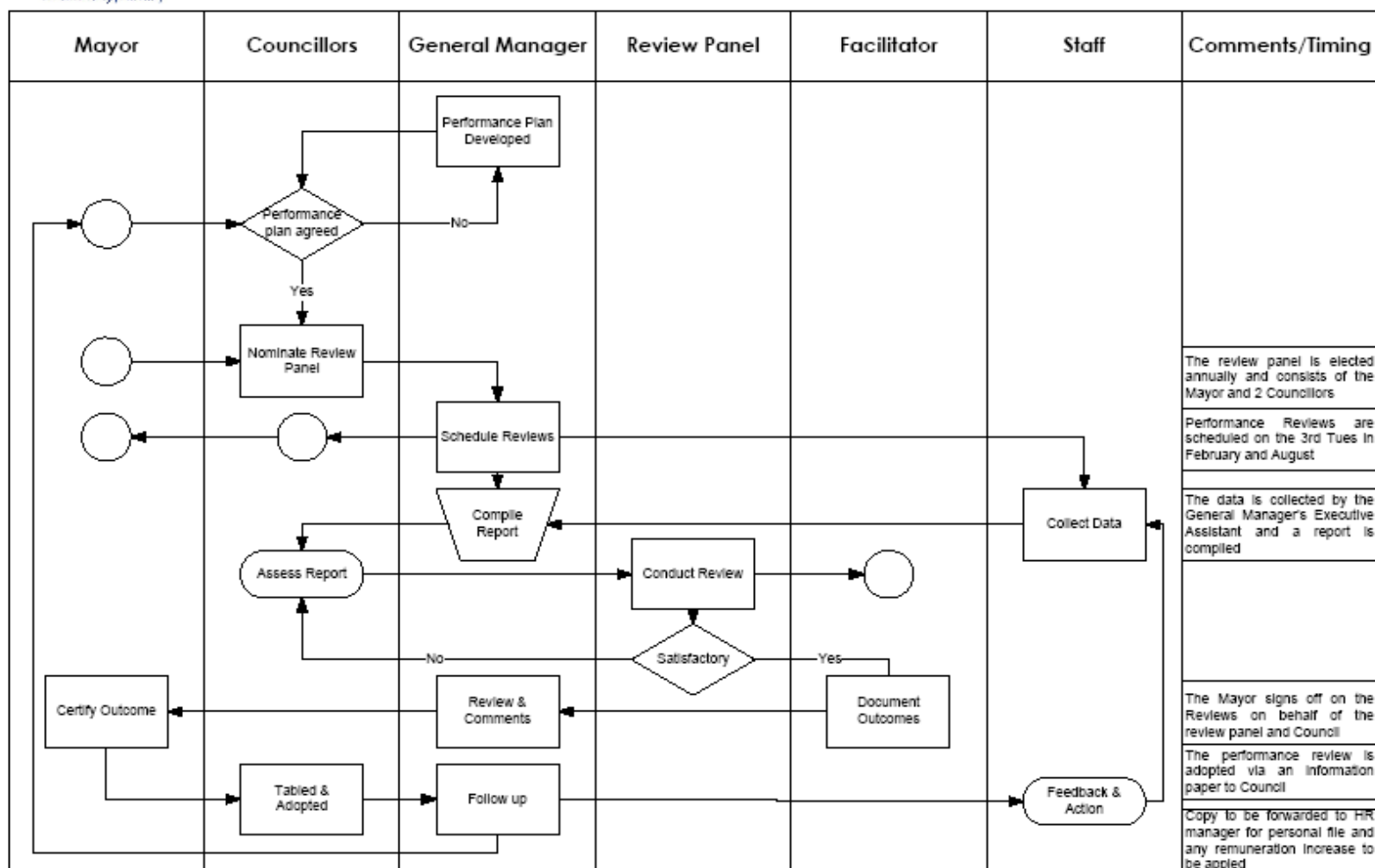
## **TABLED DOCUMENTS**

- 1) Business Performance Plan (BPP) for 2008/2009

ATTACHMENT 1



Review of General Manager's Performance- Port Stephens Council



ATTACHMENT 2

**File Note**

**Port Stephen Council**

**Performance Management meeting with General Manager**

Date: 14 February 2009

**Attendees**

General Manager:	Peter Gesling
Councillors (Sub- committee):	Bruce Mackenzie, Glenys Francis, Shirley O'Brien
Facilitator:	John Pala (Palaris)

- (i) The meeting was held as a follow up to the full council meeting held on the 17 February 2009 at Shoal Bay where the performance plan for the General Manager was discussed. In general the Shoal Bay meeting highlighted the need to simplify the current plan and focus on a number of key areas.
- (ii) Following the meeting at Shoal Bay, the meeting agreed that the General Manager's performance plan should focus on the following key areas:
  - Financial Management
  - Service Delivery/ asset Management
  - Organisational Effectiveness/ People
  - Risk Management – OH&S, environmental, legal etc
  - Marketing/ public perception
  - Continuous improvement
- (iii) It was agreed that the new system should be simplified relative to the old system and it should drive accountability.
- (iv) Aim to develop a draft performance plan over the next couple of months.
- (v) The performance plan should include Results Measure and Targets identified in the 'Port Stephen's Council Systems View'.
- (vi) The General Manager to further meet with the facilitator as needed to finalise draft performance plan

# NOTICES OF MOTION

# **NOTICE OF MOTION**

**ITEM NO. 1**

**FILE NO: A2004-0217**

**TOWN PLAN REQUIRED FOR RAYMOND TERRACE INCORPORATING HISTORICAL, PHYSICAL CONSTRAINTS, SOCIAL, BUSINESS DEVELOPMENT AND FUTURE PLANNING NEEDS.**

**COUNCILLOR: GLENYS FRANCIS**

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**THAT COUNCIL:**

- 1) Develop a town plan for Raymond Terrace incorporating historical, physical constraints, social, business development and future planning needs as soon as possible.

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**ORDINARY COUNCIL – 24 APRIL 2009**

<b>126</b>	<b>Councillor Glenys Francis Councillor Peter Kafer</b>	<b>It was resolved that the Notice of Motion be adopted.</b>
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**BACKGROUND REPORT OF: TREVOR ALLEN – INTEGRATED PLANNING MANAGER**

**BACKGROUND**

Raymond Terrace has been identified by the Lower Hunter Regional Strategy 2006 and the Port Stephens Community Settlement and Infrastructure Strategy 2007 to evolve into a major regional centre over the next 25 years involving an estimated increase of 1 600 jobs and 300 dwellings.

The current zoning framework applying to Raymond Terrace (including heritage items and Heritage Conservation Area as identified in the LEP 2000) does not differentiate between retail/commercial/employment land use activities within and across the town centre and the edge of town. These differences include; hours of trading, car parking requirements, differing building typologies and floor areas, building heights, collocation and amenity issues such as shared parking and convenience shopping, and the diverse needs of business owners in providing diverse goods and services in the market. In summary the social and economic dynamics of the town are complex and the current zones and planning controls are not accommodating of this complexity and attracting investment onto land that is well located and provides clear public benefits.

Whilst there has been significant reform to the planning controls applying to Raymond Terrace under the Port Stephens Development Control Plan 2007 this primarily relates to built form outcomes only. There is a trend of commercial and retail development occurring outside of the Business 3(a) zone and into the 5(g) Special Urban zone i.e. from the town centre to its periphery. This is despite an apparent adequate supply of Business 3(a) zoned land in the town centre to accommodate future retail and commercial office growth. The presence of a new Aldi supermarket, a proposed church within an area of the 5g zone that is characterised as an industrial area and a proposed liquor store within a residential precinct indicate that the town is becoming increasingly fragmented, dispersed over a large area, undermining the retail/commercial core of the town around William Street and generating development outcomes that are not economically, socially and environmentally integrated.

The long term effects of this could be the fragmentation of the town centre, reducing pedestrian and shopping activity along William Street and corresponding financial impacts upon small business owners and land owners. This leads to vacant shops and buildings and decreased maintenance that leads to less pedestrian activity that in turn leads to a decline in the perceptions of safety and potentially antisocial behaviour. A strategic priority for the town is the protection and redevelopment of William Street as the retail and commercial core of the town as it evolves from a sub regional centre into a regional centre in terms of retail floor space and economics for employment and the provision of goods and services.

### **STRATEGIC OPPORTUNITIES**

However, the above strategic challenges need to acknowledge the proposed development at Kings Hill – a new town of some 10-12000 people, the proposed growth of Medowie of some 6-8000 people and the further development and growth of RAAF Base Williamstown, Newcastle Airport, the Defence and Airport Related Employment Zone and the Tomago industrial area over the next 25 years. Kings Hill and Medowie are planned to accommodate as much services and employment within each local centre subordinate to the services and employment offered and accommodated within the higher order regional centre of Raymond Terrace. In effect the population growth of Kings Hill and Medowie will support the future services and employment growth of Raymond Terrace.

### **PROPOSED RAYMOND TERRACE STRATEGY AND FUNDING CHALLENGES**

To plan and manage this growth Council has applied for \$165,000 under the Department of Planning's Planning Reform Fund Round 6 to prepare a Raymond Terrace Strategy. The objectives of the proposed Strategy outlined in the submission to the Department include:

- To support the implementation of the regional strategy
- To provide clear strategic direction for the orderly growth of Raymond Terrace
- To provide appropriate land use zones to facilitate development



- To improve the visual amenity of the commercial centre with quality urban design guidelines
- Ensure car parking controls respond to the projected growth
- To promote Raymond Terrace as an economically viable option for developers
- To facilitate the opportunity for affordable housing in the area.

The outputs of the proposed project include:

- Raymond Terrace Growth Strategy document
- Traffic Study and car parking demand analysis (including amendment to S94 plans)
- LEP amendments to reflect centres hierarchy in a format to be included in the Principal LEP including zone identification and general LEP controls
- Amended DCP chapter
- Economic prospectus for Raymond Terrace.

The Council is still awaiting a response from the Department on the success or otherwise of the application.

As part of preparation of the draft 2009-10 Council budget, a Service Level Increase of \$80,000 was proposed by the Manager, Integrated Planning to prepare a Raymond Terrace Strategy. However, this is not included in the draft Council budget.

# **NOTICE OF MOTION**

**ITEM NO. 2**

**FILE NO: A2004-0217 + PSC2005-4165**

## **DEPARTMENT OF ENVIRONMENT & CLIMATE CHANGE SUPPORT THE WILDLIFE IN NEED GROUP**

**COUNCILLOR: GLENYS FRANCIS**

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### **THAT COUNCIL:**

- 1) Write to the Regional & Head offices of the Department of Environment and Climate Change requesting they support the Wildlife in Need group. There have been recent episodes when local veterinary practise have been unable to obtain services of NATF for rescuing animals and this group has been refused access to servicing in the area.
- 2) Ask the Department of Environment and Climate Change respond to council with the reason for the lack of licensing to the group.

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### **ORDINARY COUNCIL – 24 APRIL 2009**

<b>127</b>	<b>Councillor Glenys Francis Councillor Bruce MacKenzie</b>	<b>It was resolved that the Notice of Motion be adopted.</b>
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### **BACKGROUND REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES**

#### **BACKGROUND**

N.B. If writing to the department clarification of the name “Wildlife in Need Group” (WING) should be sought. Port Stephens Environmental Services have previously known the group as “Wildlife in Need of Care”(WINC).

- 1) The Port Stephens Council Local Government Area currently has two animal carer groups
  - Native Animal Trust Fund (NATF).
  - Hunter Koala Preservation Society (HKPS) – Tilligerry Peninsula Koalas only.

- 2) Department of Environment and Climate Change (DECC) policy outlines that DECC's aim is to minimise the number of groups within a locality to avoid conflict.
- 3) Recently the Great Lakes Wildlife Care Group disbanded. This resulted in DECC approaching the carer group to the north of Great Lakes and NATF (carer group to the south) moving their boundaries to incorporate the great lakes area. This is in line with the above mentioned policy and was accepted by the two groups.
- 4) DECC has previously engaged NATF and WING in a negotiation process with an external facilitator to encourage the groups to merge. Both exist in the same geographical area. The conflict between the groups remains and the encouragement of a merger failed. WING and NATF remain separate groups.
- 5) DECC have provided a license to NATF and not WING in accordance with the departments policy to minimise the number of animal carer groups in a locality.

# **NOTICE OF MOTION**

**ITEM NO. 3**

**FILE NO: A2004-0217, PSC2005-3615**

## **MAINTENANCE OF TOILET BLOCK & INSTALLATION OF SECURITY GATES AT BAGNALL BEACH**

**COUNCILLOR: SALLY DOVER**

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### **THAT COUNCIL:**

- 1) Re-open the central toilet block on Bagnall Beach.
  - 2) Repair and clean the existing block.
  - 3) Install security gates which will be locked in the evening and opened in the mornings.
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### **BACKGROUND REPORT OF: MIKE TRIGAR – GROUP MANAGER, FACILITIES & SERVICES**

#### **ORDINARY COUNCIL – 24 APRIL 2009**

<b>127</b>	<b>Councillor Sally Dover Councillor Bob Westbury</b>	<b>It was resolved that the Notice of Motion be adopted.</b>
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#### **AMENDMENT**

	<b>Councillor John Nell Councillor Frank Ward</b>	That East Ward Councillors meet with Council staff to review the location of toilet blocks on the Tomaree Foreshore. .
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The amendment on being put was lost.

Councillor John Nell recorded his vote against the resolution.

#### **MATTER ARISING**

<b>128</b>	<b>Councillor Glenys Francis Councillor Steve Tucker</b>	<b>It was resolved that a report be provided to Council on the security levels of all public toilet facilities across the Local Government area.</b>
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**BACKGROUND**

This block is part of the Corlette Hall Parks & Reserves 355b Committee's area and this committee has made this request. It should also be noted however that some representations on behalf of the Tomaree Ratepayers and Residents' Association do not support this re-opening.

Recreation Services Section has just completed its asset management review of toilets along the Bagnall Beach foreshore. The specific toilets at the "centre" car park are in good condition but were closed following a council resolution several years ago because of anti-social behaviour. Since then staff have received considerable feedback from the community in favour of and also against the closure. Most notably, in recent times the requests to reopen the toilets have come from existing and new users of the cycleway built from Dutchies Beach west car park, at Nelson Bay through to Bagnall Beach west car park, near Sandy Point, Corlette. The usage along the cycleway and in particular adjacent to these toilets has at least doubled and even trebled on weekends.

Further, the draft Waterfront Master Plan commissioned by Port Stephens Council and the NSW Department of Lands foreshadows a proposed major redevelopment of this centre car park in the long term. The proposal includes the installation of automated toilets, other substantial buildings and the construction of a different entry road. No funding sources are yet identified for any of these works.

For all the reasons given above, it is now considered and recommended that the existing toilets be reopened following some asset rehabilitation works. These works would include a general clean-up, repainting, renovation of the skylights and the installation of new security gates. Funds for these works are already available in our 2008/09 and 2009/10 budget allocations (subject to approval.) It is also recommended that these toilets be monitored closely for at least twelve months following their reopening and subsequently reclosed should anti-social behaviour again become intolerable. It should be noted that in concert with these works, the NSW Police will be requested to regularly patrol the surrounding car park area.

It is believed that this is a workable compromise that accounts for the broad range of views in the community on this issue. Further, it is intended to install security gates at the east car park toilet block of Bagnall Beach at the same time as the works above.

# NOTICE OF MOTION

ITEM NO. 4

FILE NO: PSC2009-01155

## FORM A NEW 355B COMMITTEE TO BE KNOWN AS PORT STEPHENS GRAFFITI ACTION GROUP

COUNCILLOR: SALLY DOVER

### THAT COUNCIL:

1. Form a new 355b Committee to be known as Port Stephens Graffiti Action Group.
2. The Chairman is to be Mr Keith Brabham together with a least 12 volunteer graffiti removalists who will be trained by Mr Keith Brabham and Mr Ted Bickford of Foster and Council.
3. Council will issue Mr Keith Brabham with a 1800 telephone number to be advertised as the Port Stephens Graffiti Hot Line.
4. Mr Keith Brabham will co-ordinate the incoming calls, forward them on to the appropriate member of the committee who will photograph the graffiti then remove it.

### ORDINARY COUNCIL – 24 APRIL 2009

129	Councillor Sally Dover Councillor Bruce MacKenzie	<p>It was resolved that Council:-</p> <ol style="list-style-type: none"><li>1. Form a new 355b Committee to be known as East Port Stephens Graffiti Action Group.</li><li>2. The Chairman is to be Mr Keith Brabham together with a least 12 volunteer graffiti removalists who will be trained by Mr Keith Brabham and Mr Ted Bickford of Forster and Council.</li><li>3. Council will issue Mr Keith Brabham with a 1800 telephone number to be advertised as the Port Stephens Graffiti Hot Line.</li><li>4. Mr Keith Brabham will co-ordinate the incoming calls, forward them on to the appropriate member of the committee who will photograph the graffiti then remove it.</li></ol>
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		<b>5. That Items 1 to 4 be considered in conjunction with the Graffiti Management Plan.</b>
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**COUNCILLORS COMMENTS:-**

Mr Brabham of Tomaree Residents and Ratepayers Association has been working on a Graffiti Action Plan. This involves Port Stephens Council creating a new 355b Committee to be known as Port Stephens Graffiti Action Group. This group will receive Council funding of \$1,000 per year.

This Action Plan has been initiated to save Port Stephens Council the \$60,000 it spent last year on graffiti removal.

This new initiative involves Keith acting as co-ordinator for a group of volunteers we will call "Teds" because this plan is based on that created by Ted Bickford who has successfully kept Great Lakes Shire free from graffiti over the last 12 years.

Mr Brabham will be issued by Council with a 1800 phone number and stickers will be supplied "Port Stephens GRAFFITI HOT LINE..1800 xxx xxx" and distributed all over the Tomaree Peninsula. Mr Brabham will also arrange for permission to remove graffiti from private properties where appropriate.

The Tomaree Peninsula will be the first pilot area for this whole program which will eventually cover all Port Stephens.

On receiving a call that a certain area has been vandalised with graffiti, Mr Brabham will immediately ring the appropriate "Ted" who will immediately visit the area, photograph the graffiti for police records and remove it. The "Teds" will be trained on what chemicals to use to remove each type of graffiti and equipped with a suitable chemical kit and camera.

Mr Brabham has already enlisted "Teds" in Soldiers point, Salamander Bay, Salamander Shopping precinct, Corlette, Nelson Bay, Fly Point, Little Beach, Fingal Bay, Boat Harbour, Anna Bay and Tanilba Bay.

All these volunteers will become members of the 355b committee and receive appropriate OH&S training as well as graffiti removal training. Training by Mr Ted Bickford will also be given on how to build relationships with the young men who are the graffiti vandals and be able to mentor them into an appreciation of our beautiful area and how to be accountable for their behaviour. Mr Ted Bickford has personally successfully mentored many juveniles who have been referred to him by the courts.

The primary aim of this Graffiti Action Plan is to keep our beautiful area free from graffiti and to release the \$60,000 spent last year, to constructive maintenance of Council's assets.

**BACKGROUND REPORT OF: TREVOR ALLEN – INTEGRATED PLANNING MANAGER**

**BACKGROUND TO NOTICE OF MOTION**

The establishment of a *Port Stephens Graffiti Group* 335b Committee under the Local Government Act 1993 is possible under the Plan but may have the following shortcomings to manage graffiti removal:

1. The *Draft Port Stephens Graffiti Management Plan* establishes Council and the community's framework for the management of illegal graffiti across the entire Port Stephens Local Government Area.
2. The proposed Committee is likely to have a Tomaree Peninsula focus yet graffiti management is an issue for the entire LGA. If the proposed 1800 number serviced by the Chairperson is advertised as the 'Port Stephens Graffiti Hotline', graffiti all over Port Stephens will be reported to this number.
3. There are occupation, health and safety and insurance issues involved with the removal of graffiti particularly from high or confined spaces. For volunteers to undertake this work increases Council's liability for insurance coverage;
4. There needs to be a guarantee that the volunteers on the proposed committee are able to consistently meet the rapid removal requirements of the draft Plan over the short and long term.
5. The Draft Graffiti Management Plan proposes an LGA wide approach to graffiti management that is coordinated by Council staff in terms of actions, costs and subsequent reporting to council and the community.
6. Coordinating and prioritising customer requests to undertake graffiti removal on council assets and private property requires professional objectivity. Community members of the proposed Committee do not have access to Council's property information system to determine who the property owner is with the authority to contact the land owner and undertake the necessary graffiti removal actions.
7. The last Department of Local Government review of Council recommended a reduction in the number of 355b committees that council has established.
8. Existing 355b Committees for example Tidy Towns Committee, Parks and Reserves Committee have the capacity to participate in graffiti removal under the draft Plan.



# 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 COUNCIL – 24 APRIL 2009

130	<b>Councillor Peter Kafer Councillor Ken Jordan</b>	It was resolved that Council move into Confidential Session
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There being no further business the meeting closed at 8.15pm.

CONFIDENTIAL

# MAYORAL MINUTE

ITEM NO. 1

FILE NO:PSC 2007-3360

## SHED OCCUPIED FOR RESIDENTIAL PURPOSES AT BOBS FARM

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### THAT COUNCIL:

- 1) Resolve to not pursue the upgrading of wastewater disposal facilities in relation to the Shed occupied at Bobs Farm, being Assessment No. 164046, given the review carried out by Bruce Petersen, Manager of Environmental Services.
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131	Councillor Bruce MacKenzie	It was resolved that there being no objection, that Council not pursue the upgrading of wastewater disposal facilities in relation to the Shed occupied at Bobs Farm, being Assessment No. 164046, given the review carried out by Bruce Petersen, Manager of Environmental Services.
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**CONFIDENTIAL**

**ITEM NO. 1**

**FILE NO: PSC2004-0347; T03 2009**

**TENDER – T03 2009, FINGAL BAY SURF CLUB CONSTRUCTION**

**REPORT OF: PETER AVIS, PROJECT SERVICES MANAGER AND JASON LINNANE, RECREATION SERVICES MANAGER**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Accepts the tender of J&J Killalea for the construction of the Fingal Bay Surf Life Saving Club Upgrade (Stage 1).

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<b>132</b>	<b>Councillor John Nell Councillor Glenys Francis</b>	It was resolved that Council accept the tender of J&J Killalea for the construction of the Fingal Bay Surf Life Saving Club Upgrade (Stage 1).
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**CONFIDENTIAL**

**INFORMATION ITEM NO. 1**

**UNAUTHORISED DEPOT: CABBAGE TREE ROAD, WILLIAMTOWN**

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**REPORT OF: ANTHONY RANDALL - MANAGER, DEVELOPMENT & BUILDING  
FILE: PSC2009-0384**

**BACKGROUND**

The purpose of this report is to respond to Matter Arising from the Resolution of Council at the Ordinary Meeting on 24 March 2009 seeking a status report on planning and traffic management issues relating to Legend Cranes. It was also resolved at this meeting that Council allow the operators to continue with the industrial activities.

**ORDINARY COUNCIL – 24 APRIL 2009**

<b>135</b>	<b>Councillor Ken Jordan Councillor Peter Kafer</b>	It was resolved that Council move out of Confidential Session
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<b>MINUTES FOR ORDINARY COUNCIL – 28 APRIL 2009</b>
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*I certify that pages 1 to 293 of the Open Ordinary Minutes of Council 28 April 2009 and the pages 294 to 307 of the Confidential Ordinary Minutes of Council 24 April 2009 were confirmed by Council at its meeting held on 19 May 2009.*

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**Cr Bruce MacKenzie**  
**MAYOR**