

Minutes 30 June 2009



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 30th June 2009, commencing at 6.02pm.

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

178	Councillor Peter Kafer Councillor John Nell	It was resolved that the apology from Cr Frank Ward be received and noted, also that Cr Glenys Francis be granted leave of absence from 10 June 2009 to 27 July 2009 due to being overseas.
179	Councillor Steve Tucker Councillor Shirley O'Brien	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 19 May 2009, 9 June 2009 and the Record of Proceedings of 23 June 2009 be confirmed.

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ORDINARY COUNCIL MEETING - 30th June 2009

180	Councillor John Nell Councillor Bruce MacKenzie	It was resolved that Notice of Motion Items 1 and 3 and the Rescission Motion be brought forward and dealt with prior to the Motions to Close given the attendance by the Community in those Items.
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NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217 + PSC2005-4165

MEETING OF WILDLIFE RESCUE GROUPS

COUNCILLORS: JOHN NELL, GEOFF DINGLE, PETER KAER, GLENYS FRANCIS,
BOB WESTBURY

THAT COUNCIL:

- 1) Council call a meeting of the two "Wildlife Rescue Groups" in Port Stephens and representatives of DECC and NPWS to :-
 - (a) Resolve differences between groups.
 - (b) Ensure to have wide coverage for wildlife rescue
 - (c) Report back to council.
-

ORDINARY COUNCIL MEETING - 30th June 2009

181	Councillor John Nell Councillor Peter Kaer	It was resolved that Council call two separate meetings of the two "Wildlife Rescue Groups" in Port Stephens with representatives of DECC and NSWPS, before calling a joint meetings with the supporting agencies to :- <ol style="list-style-type: none">(a) Resolve differences between groups.(b) Ensure to have wide coverage for wildlife rescue(c) Report back to council.
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BACKGROUND REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES

BACKGROUND

The Port Stephens Council Local Government Area currently has two animal carer groups, Native Animal Trust Fund (NATF) and the Hunter Koala Preservation Society (HKPS) – Tilligerry which only handles the rescue of Koalas on the Tilligerry Peninsula.

Council staff understand that Wildlife in Need of Care is a splinter group of NATF that are trying to obtain their own license from DECC to undertake wildlife rescues.

There a number if matters relating to this issue that Councillors should be made aware of, including:

- The management and licensing of wildlife care groups in NSW is the jurisdiction of the Department of Environment and Climate Change (DECC) and not local government.
- DECC have provided a license to NATF and not WINC in accordance with the departments policy to minimise the number of animal carer groups in a locality to avoid conflict.
- DECC has already attempted to resolve the differences between the groups and engaged NATF and WINC in a negotiation process with an external facilitator. The conflict between the groups remains and the encouragement of a merger failed.
- NATF has informed council staff that they have advised members of WINC that the door remains open to become members of NATF and assist with wildlife rescue within Port Stephens.
- Council supports NATF with equipment, signage, access to community land and regeneration of native animal habitat and in general by working together on issues relating to native fauna and habitat in Port Stephens.
- Having another Wildlife Care Group within Port Stephens would result in additional financial costs for Council. This would include the costs associated with modifying current signage, information cards and other information distributed by council.
- Another Wildlife Care Group within Port Stephens may also require additional representation on committees and could cause confusion for the general public on who to call for wildlife rescues.
- As per the resolution from the NOM on the 28th of April 2009 a letter has been sent to DECC requesting that the Department support the 'Wildlife in Need of Care' (WINC) group by providing them with a license and asks that DECC respond to council with the reason for the lack of licensing to the group.
- NATF are disappointed that Council is supporting another wildlife group in this area.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: A2004-0217; PSC2005-3544

REMOVE ACCESS GATE BLOCKING THE ACCESS TO MALLABULA WHARF

COUNCILLOR: STEVE TUCKER

THAT COUNCIL:

- 1) Undertake to remove the access gate blocking the access to Mallabula Wharf.
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ORDINARY COUNCIL MEETING - 30th June 2009

182	Councillor Steve Tucker Councillor Ken Jordan	It was resolved that the gate remain in place and that a MILAK lock be installed with disabled parking signposted.
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This Notice of Motion was deferred at the Ordinary Meeting of Council on the 19th May 2009 to the June meeting of Council to allow for a Works Inspection and consultation with the community.

ORDINARY COUNCIL – 19TH MAY 2009

	Councillor Steve Tucker Councillor Daniel Maher	That the Notice of Motion be adopted.
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AMENDMENT:

163	Councillor Glenys Francis Councillor Peter Kafer	It was resolved that the Notice of Motion be deferred to the Ordinary Meeting of Council in June 2009 to allow for a Works Inspection onsite and consultation with the community.
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The motion on being put was carried.

COUNCILLORS COMMENTS

A Recreational Fishing Grant was received under the Commonwealth Community Grants Programme in 2006 to restore the Mallabula Wharf.

The stated basis for this project was:

“Completion of the project will provide the Mallabula and Tanilba Bay communities with a safe and accessible jetty from which fishing can continue to take place. In addition to the prime public benefit of enhancing sustainable recreational fishing in our communities, the project will also have the following public benefits:-

- Provide the only jetty on the Tanilba Bay and Mallabula foreshore at which small craft can transfer passengers.
- Provide a vital emergency services asset for the transfer of casualties from boat to land ambulance.
- Provide the only seaward evacuation point for Mallabula residents cut off by bushfire.
- As part of the planned system of coastal walks, enhance the tourist experience.
- Continue to provide a suitable location for automatic tide measuring equipment.
- Often used by local residents as a place of peace and contentment and to enjoy the views and sunsets.
- Has been used in the past by Department of Environment and Conservation for rescue of endangered sea life (turtles and other environmental and sustainable fishing research projects such as dolphin census).
- Land Department maps surveyed in February 1886 show a jetty of some sort at this location. While it is not claimed that the existing jetty circa 1886, the location has significant heritage value making it all the more important to restore the jetty”

The access road has now been blocked limiting access to the general public. Access by even moderately disabled people is all but impossible due to the steep grade and unsealed nature of the access road.

BACKGROUND REPORT OF: MIKE TRIGAR – GROUP MANAGER, FACILITIES AND SERVICES

BACKGROUND

The original wharf and existing boat ramp at this Mallabula location were both unauthorised and illegal. The wharf was also in dangerous disrepair. The boat ramp was not built to the appropriate standard making it a hazard and further it was dangerous to use in certain prevailing weather conditions. Access and parking to the wharf and boat ramp were also problematic. Both structures were not under the care and responsibility of Port Stephens Council but of NSW Crown Lands. When NSW Crown Lands originally approached Council to takeover the wharf, it was initially rejected because of these inherent problems.

However, some of the local community wished to retain the wharf so despite the serious ongoing concerns about the community's application for the recreational fishing grant as outlined above was finally sponsored. Some considerable funds from Council of around \$69,000 were added to the \$44,000 in Federal and State grants to construct the new wharf.

For the concerns above, it was never envisaged that the boat ramp would continue to be used, hence the access barrier at the top of the unsealed road leading to the new wharf and ramp. In fact, the closure of access to this area by road was part of the Development Approval (DA) for the wharf. It should be noted that Council received no comments on this at the time of the DA process.

Apart from the safety concerns, it is unlikely that approval for the ramp would be given by the Marine Parks Authority (MPA) due to the adjacent MPA sanctuary zone, sea grass beds and the very shallow water in the area. The two Licensed Boat Ramps in the area nearby are or the 1 km to Tanilba Bay, 1 km away and Lemon Tree Passage, 4 km away.

The Mallabula Parks Committee is fully aware of the Council closing access and has encouraged this closure for a variety of reasons including inappropriate behaviour by visitors at night.

The new access gate is yet to be modified for facilitating disabled access to the wharf to unload and load only. There will be a disabled "Milak" lock and key provided to current local disabled users and additional keys will be made available for use and return from the local parks committee.

It is therefore recommended that Council retain the closure of access to the new Mallabula wharf except for disabled unloading and loading.

RESCISSION MOTIONS

RECISSION MOTION

ITEM NO. 1

FILE NO: A2004-0217 + PSC2005-4165

REZONING REQUEST FOR 60 PORT STEPHENS DRIVE

COUNCILLORS: PETER KAFER, GEOFF DINGLE AND FRANK WARD

That Council rescind its decision of 19 May 2009 on Item 1 of the Strategic Committee Report, namely to prepare a draft amendment to the Port Stephens Local Environmental Plan 2000 to rezone Lot 100, DP 1121428, 60 Port Stephens Drive, Taylors Beach to 7 (a) Environment Protection and 4 (a) Industrial.

ORDINARY COUNCIL MEETING - 30th June 2009

183	Councillor Peter Kafer Councillor Geoff Dingle	It was resolved that the Rescission Motion be carried.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil

184	Councillor John Nell Councillor Geoff Dingle	It was resolved that the draft LEP for 60 Port Stephens Drive be deferred to enable an ecologist to be engaged by Eureka Pty Ltd to review the ecological values of part of the site fronting Port Stephens Drive and for the outcomes of the ecological investigation to be subject of further discussions between Council, Eureka Pty Ltd and the NSW Department of Environmental & Climate Change.
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In accordance with the Local Government Act 1993, a division is required for this item.

MINUTED FOR ORDINARY MEETING – 30 JUNE 2009
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Those for the Motion: Councillors Bruce MacKenzie, Peter Kafer, Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Bob Westbury and Sally Dover

Those against the Motion: Nil

ITEM NO. 1

FILE NO: PSC2007-1441

REZONING REQUEST FOR 60 PORT STEPHENS DRIVE

REPORT OF: TREVOR ALLEN – MANAGER INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to prepare a draft amendment to the Port Stephens Local Environmental Plan 2000 to rezone Lot 100, DP 1121428, 60 Port Stephens Drive, Taylors Beach to (a) Environment Protection and 4(a) Industrial (**Attachment 1**)

COMBINED STRATEGIC & OPERATIONS COMMITTEE – 12TH May 2009

RECOMMENDATION:

	Councillor John Nell Councillor Geoff Dingle	That the draft amendment to the Port Stephens Local Environmental Plan 2000 to rezone Lot 100, DP 1121428, 60 Port Stephens Dr, Taylors Beach be refused.
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The motion on being put was lost.

	Councillor Bruce MacKenzie Councillor Shirley O'Brien	That the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

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

BACKGROUND

The purpose of this report is to advise Council of a request to rezone land at 60 Port Stephens Drive, Taylors Beach.

Owner: Eureka 1 Project 17 Pty Ltd

Proponent: As above

Date of Submission: December 2008

Subject Land: Lot 100 in DP 1121428

Current Zones: 4(a) Industrial and 1(a) Rural Agriculture (**Attachment 2**)

Proposed Zones: 4(a) Industrial and 7(a) Environment Protection (**Attachment 1**)

Council has received a request to rezone land at Taylors Beach industrial area. The majority of the site is already zoned for industrial development. The request is to rezone additional areas of land on the site to 4(a) Industrial, and rezone the remainder of the site to 7(a) Environment Protection. The proponent submits that the rezoning will facilitate an improved industrial subdivision.

It should be noted that a previous rezoning request for the site was lodged in April 2007 seeking to expand the area zoned 4(a) Industrial and retain some areas zoned 1(a) Rural Agriculture. Consideration of that request was delayed then stopped following the alleged illegal clearing of the land between August 2006 and April 2007. Council entered into negotiation with the landowner to rehabilitate the site and a Deed of Agreement has been made to ensure this occurs.

DEED OF AGREEMENT

The Deed of Agreement was exchanged on the 15th April 2009 and ensures that an important wildlife corridor on the southern boundary of the site is restored. Just as importantly the Deed also dictates that this corridor is dedicated to Council ensuring its long term survival. The ecological value of the corridor is recognised in the request to rezone this area to environmental protection. The size of this wildlife corridor is approximately 2.1ha, the same size of the original 1a land that was cleared without approval.

The Deed also contains detailed specifications as to how the wildlife corridor is to be restored and maintained and ensures that the restoration of the corridor is to occur before its transfer to Council. If this does not occur to an appropriate standard Council can call upon a bond already lodged with council.

In addition to the above public benefits the Deed ensures that the developer enter into a voluntary planning agreement to provide for a \$20,000 contribution to council to be applied to native vegetation regeneration works in the Port Stephens LGA. This contribution is additional to all section 94 contributions.

DEVELOPMENT APPLICATION 16-2007-1065-1

It is important to note that the majority of the site, approximately 7.9 hectares, is already zoned for industrial development and a development application is under assessment for 38 industrial lots on the site. The assessment and potential approval of the development application does not rely on the rezoning of the land.

FINANCIAL/RESOURCE IMPLICATIONS

Stage 1 rezoning fees have been paid. Stage 2 fees will be sought from the proponent if the rezoning request proceeds to public exhibition. Council staff time will be spent processing the proposed draft LEP.

LEGAL AND POLICY IMPLICATIONS

The request is consistent with the Deed of Agreement, exchanged between Council and the landowner on 15th April 2009, to rehabilitate that part of the site proposed to be zoned 7(a) Environment Protection.

The request is consistent with the intent of the Lower Hunter Regional Strategy 2006 and the Port Stephens Community Settlement and Infrastructure Strategy 2007. It is a comparatively minor adjustment to zone boundaries in an existing industrial area.

SUSTAINABILITY IMPLICATIONS

SOCIAL AND ECONOMIC IMPLICATIONS

The purpose of the rezoning request, as stated in the rezoning report submitted by the developer, is to "...facilitate improved land use outcomes and for the site and to facilitate efficient use of the land for industrial purposes". The draft LEP will facilitate industrial development immediately adjacent to Port Stephens Drive increasing its exposure to passing motorists and increasing economic benefits in the form of employment and the provision of products and services for the Tomaree Peninsula.

ENVIRONMENTAL IMPLICATIONS

The site was cleared without consent on between approximately August 2006 and April 2007. Part of the site adjacent to Port Stephens Drive is proposed for rezoning to 4(a) Industrial. Prior to being cleared approximately 2.1ha of the site comprised Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, an Endangered Ecological Community (ECC) listed under the Threatened Species Act 1995. It was also an area of preferred koala habitat identified under the Port Stephens Comprehensive Koala Plan of Management and a known wildlife corridor.

To account for the loss of the ECC 2.1 hectares of the site is proposed to be rezoned to 7(a) Environment Protection (**Attachment 2**) and be revegetated. The land owner has initiated the rehabilitation works of the 2.1ha in accordance with the Deed of Agreement. Although more than the 2.1ha was cleared the majority of the site already zoned 4a industrial and had relatively few less environmental constraints. The restoration and projection of the 2.1ha wildlife corridor ensures the corridors viability while still allowing for an effective sub division layout.

CONSULTATION

Council's Environment Services section supports the rezoning request on the basis

that it is consistent with the Deed of Agreement.

Council officers met with representatives of the developer and DECC on 16th March 2009 to discuss the Deed of Agreement over the site. DECC advised at the meeting and via letter dated 25th March 2009 (**Attachment 4**) that it does not support the rezoning of lands along Port Stephens Drive due to likely adverse impacts on threatened species. DECC's opposition to the rezoning mainly relates to the agreed wildlife corridor not being identical in location to the original area occupied by the EEC and their concern that the new corridor layout will not completely counteract the vegetation that was lost. Although the size of the wildlife corridor is commensurate the layout has been amended to allow for a more effective sub division layout.

If Council resolves to prepare a draft LEP over the site and it receives the approval of the NSW Department of Planning's LEP Review Panel to progress, additional consultation will occur with government authorities including the DECC. The draft LEP will also be placed on public exhibition.

OPTIONS

- 1) Not adopt the recommendations
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Proposed Zoning Map
- 2) Existing Zoning Map
- 3) Aerial photograph
- 4) Advice from DECC dated 25th March 2009

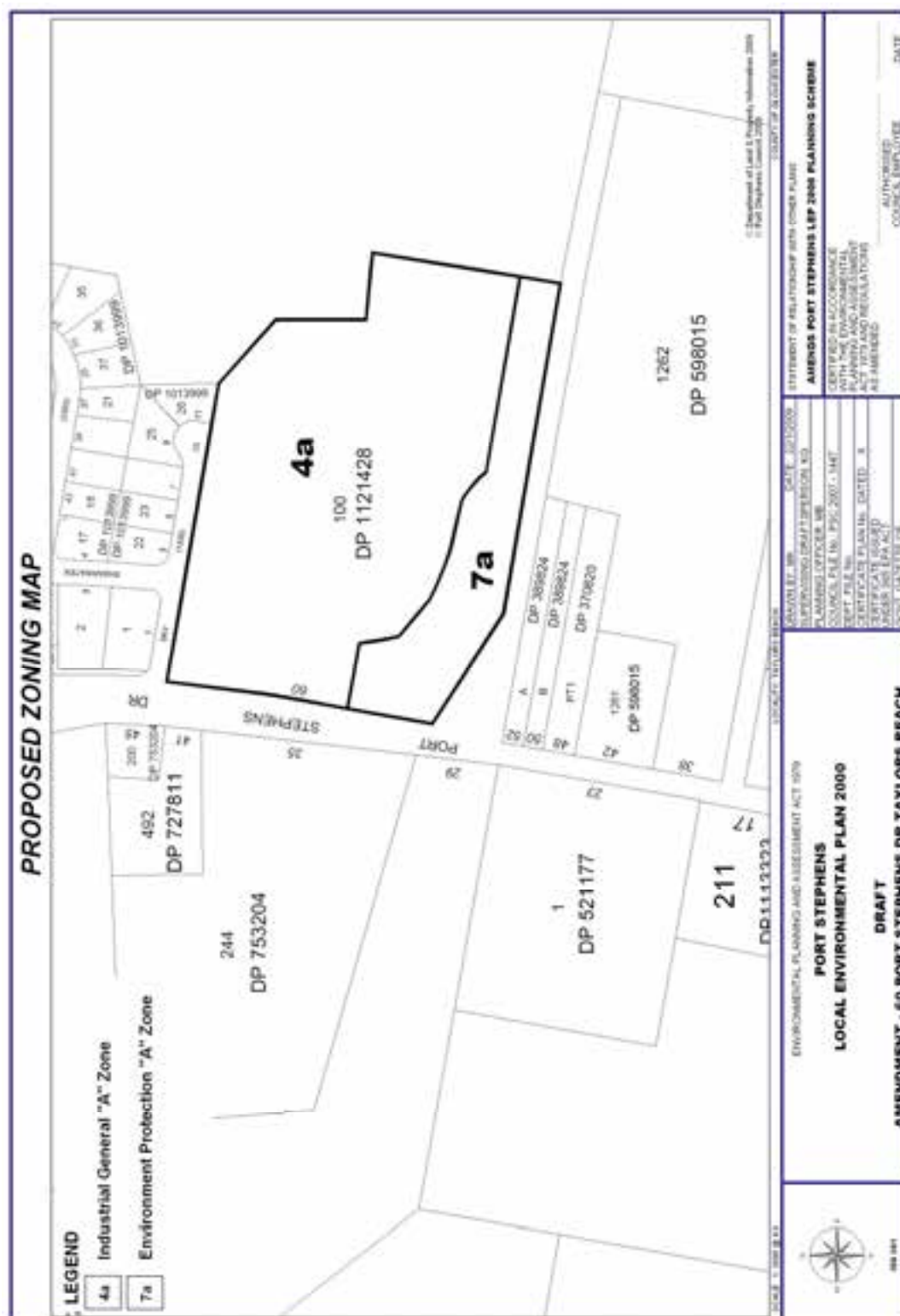
COUNCILLORS ROOM

- 1) Rezoning Report (Orogen Pty Ltd December 2008)

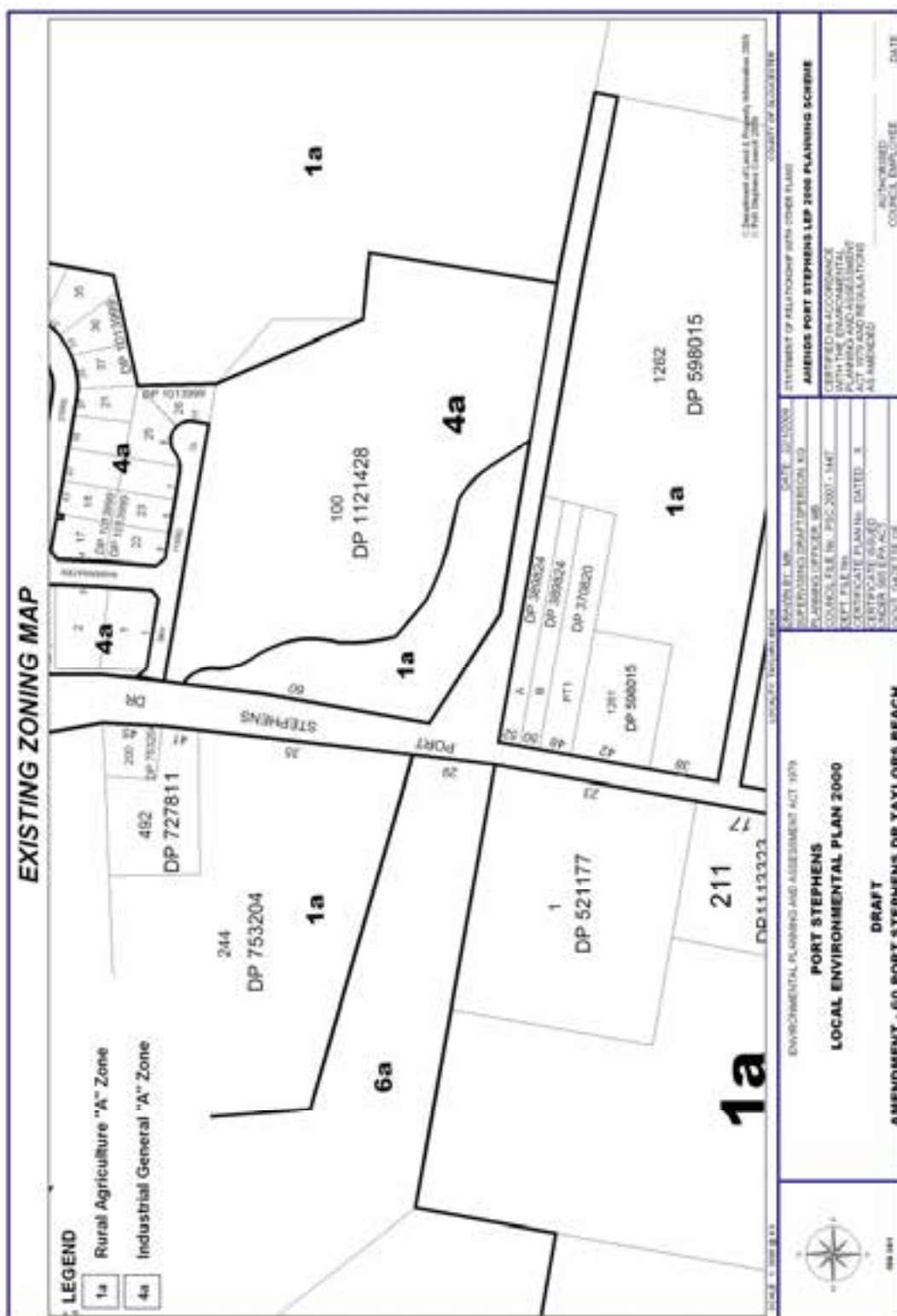
TABLED DOCUMENTS

Nil

18



19



ATTACHMENT 3 AERIAL PHOTOGRAPH

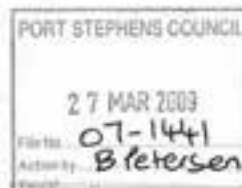


ATTACHMENT 4
ADVICE FROM DECC

Our reference: DOC09/13489; File No.: FL06/925-05
Contact: Emma Coombs, (02) 4908 6831

Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Attention: Bruce Petersen



Dear Mr Petersen,

RE: TAYLORS BEACH REZONING APPLICATION – DEED OF AGREEMENT AND REVEGETATION PROPOSAL

Reference is made to the meeting held between the Department of Environment and Climate Change (DECC), Port Stephens Council and Eureka on 16 March 2009 concerning Lot 473 DP 728126 Port Stephens Drive, Taylors Beach ("the site"). DECC understands that this meeting was held as a requirement of the Deed of Agreement (DoA) reached between Eureka and Port Stephens Council outlining the requirements for remediation following unauthorised clearing of vegetation including Swamp Mahogany Paperbark Forest.

DECC understands that the site is currently the subject of a development application over all the existing lands zoned 4(a) General Industrial under the Port Stephens LEP and that Council is currently considering this application. DECC also understands that a rezoning application is currently before Council to rezone lands along Port Stephens Drive and in the north-east of the site from 1(a) Rural Agriculture to 4(a) General Industrial. The rezoning application also proposes rezoning the land on the southern boundary from "Industrial" and "Rural" to 7(a) "Environmental Protection". We were advised at the meeting that part of this land is proposed to be revegetated in an effort to create a connective habitat link.

As discussed at the meeting DECC does not support the rezoning of the lands along Port Stephens Drive to "Industrial" due to likely adverse impacts on threatened species. In particular:

1. The area of land along Port Stephens Drive proposed for rezoning to 4(a) Industrial is mapped in the Port Stephens Council Comprehensive Koala Plan of Management (CKPoM) as "Preferred" Koala Habitat.
2. The area of land along Port Stephens Drive proposed for rezoning to 4(a) Industrial is noted as a location where koalas have been recorded crossing the road between adjacent stands of vegetation.

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Tel: (02) 4908 6800 Fax: (02) 4908 6810
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www.environment.nsw.gov.au

Department of Environment and Climate Change NSW



3. The vegetation on the western boundary of the site adjacent to Port Stephens Drive is Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions Endangered Ecological Community (EEC). EEC's should be protected wherever possible.
4. We note that this land on the western boundary has been cleared in recent times, however we have observed that the EEC vegetation is in the process of regrowing. Council should note that an individual and a company have been charged with offences in relation to this clearing, in particular for causing damage to the habitat of a threatened species (koala), knowing that the land concerned is habitat of that kind.
5. Taylors Beach falls within the Tomaree Peninsula Koala Management Unit identified within the CKPoM. The document states that land between Anna Bay/Boat Harbour and Salamander Bay/Taylors Beach are identified as being of particular importance for habitat conservation. These lands contain Preferred Koala Habitat in particular, but also contain Supplementary Koala Habitat, Habitat Buffers and/or Habitat Linking Areas.

This Koala Management Unit has been targeted for the application of incentives-based conservation measures such as rezoning for environmental protection or being set aside under a Voluntary Conservation Agreement.

Given that the land adjacent to Port Stephens Drive is vegetated with an EEC that contains species known to be preferred by koalas, and given that the land is mapped as preferred koala habitat and koalas have been recorded in this area, DECC is of the opinion that this land should be rezoned to 7(a) Environmental Protection and not 4(a) Industrial. Further, to ensure conservation in perpetuity a Voluntary Conservation Agreement under the *National Parks and Wildlife Act 1974* should be established over the Preferred Koala Habitat areas.

6. The area proposed to be revegetated along the eastern half of the southern boundary is unlikely to have attributes as valuable for endangered fauna movement and foraging as the land along Port Stephens Drive, which is EEC vegetation.
7. We are of the opinion that the proposed revegetation area will not completely restore connectivity to remaining vegetated bushland to the north, east or west. The vegetation adjacent to the revegetation area (outside the southern boundary) is within privately owned land and is fragmented, with reduced ecological value. The width of the proposed revegetation area will lead to any restored bushland being subject to edge effects and further fragmentation.
8. DECC has not reviewed the DoA, but it appears that the only long term protection proposed for the 7(a) zoned lands (should the rezoning be approved by Council) is the protection provided by that zoning. DECC is of the opinion that any lands to be set aside for conservation should be formalised by a Voluntary Conservation Agreement under the *National Parks and Wildlife Act 1974*, or a covenant under section 88E of the *Conveyancing Act 1919*.

In light of the above, and as advised in our meeting of 16 March 2009, DECC is not in a position to support the rezoning proposal as it is currently presented. If you wish to discuss this matter further or require additional information please contact Emma Coombs on (02) 4908 6831.

Yours sincerely

 25-3-09

PETER JAMIESON

Head Regional Operations Unit Coastal

North East Branch

Environment Protection and Regulation

MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 3200-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(g) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely **Kings Hill Draft LEP – Consideration of Department of Planning's Draft Report on Aircraft Noise Associated with Future Introduction of the Joint Strike Fighter to RAAF Base, Williamstown**
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning the commercial arbitration and legal costs incurred and advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
- 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.
- 4) That the report of the closed part of the meeting remain confidential.

ORDINARY COUNCIL MEETING - 30th June 2009

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

FILE NO: PSC2009-02209

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(c) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Ordinary meeting agenda namely **Proposed Commercial Acquisition Newcastle**.
- 2) That the reasons for closing the meeting to the public to consider this item be that it contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council proposes to conduct business.
- 3) In particular, the information and discussion concerns **Proposed Commercial Acquisition Newcastle**.
- 4) On balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as the information and discussion need to be carried out confidentially to protect the interests of both parties. Any breach of such confidentiality could prejudice Council's position.
- 5) That the minutes relating to this item be made public.

ORDINARY COUNCIL MEETING - 30th June 2009

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

ITEM NO. 1

FILE NO: PSC2006-0859

PROPOSED AMENDMENT TO PORT STEPHENS S94A DEVELOPMENT CONTRIBUTIONS PLAN

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft amendments to the Port Stephens S94A Development Contributions Plan to include non-residential subdivisions.
- 2) Endorse the draft amendments for public exhibition.

OPERATIONS COMMITTEE – 09th June 2009

RECOMMENDATION:

	Councillor John Nell Councillor Bob Westbury	That the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil

Cr Peter Kafer was not present at the meeting at the time of this item.

ORDINARY COUNCIL MEETING - 30th June 2009

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

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

Those against the Motion: Nil

BACKGROUND

The purpose of this report is to advise Council of a proposal to amend the current S94A Development Contributions plan for non-residential subdivision development and seek endorsement of draft amendments for exhibition.

Developer Contributions

Under the Environmental Planning and Assessment Act 1979, as amended, a consent authority may request development to contribute to funding local infrastructure by three alternative methods:

- S94 Development Contributions;
- S94A Levy; or
- Planning Agreements.
-

Section 94 (S94) development contributions are imposed by way of a condition of development consent or complying development, and can be satisfied by:

Dedication of land; a monetary contribution; material public benefit; or a combination of some or all of these.

Section 94A (S94A) allows a fixed percentage levy to be imposed (up to 1% of the cost of development) when a development consent or complying development certificate is issued.

S94 and S94A levies can only be imposed if a development contributions plan is validly in place. S94 requires strict apportionment, nexus (relationship to development) and other legislative requirements. S94A on the other hand requires no direct relationship of the expenditure to the development. While there are benefits in the levying of S94A, the limit of 1% normally amounts to minimal income.

Section 93F(1) provides that a planning agreement is a voluntary agreement or other arrangement between one or more planning authorities and a developer under which the developer agrees to make development contributions towards, or undertakes works of, a public purpose.

Non Residential Development

Council resolved at its meeting of 27 June 2006 to adopt the S94A Development Contributions plan and “operate S94 and S94A in parallel for Commercial, Retail and other development as defined in the S94A Plan, and apply the levy that provides the greatest Public Benefit” (Minute 569). In the case of subdivisions for Commercial, Retail and Industrial, these developments have been levied under S94 for Civic Administration (including new Council depots) and Roadworks. While these levies are legitimate, the calculations are based on projected average size development where there are likely to be many Council owned roads in the general vicinity. In cases such as Williamstown and Tomago where extremely large development can occur it is more appropriate to levy S94A rather than S94. S94A for this type of development is based on a percentage cost of the development (0.5% for development costing \$100,000 to \$200,000 and 1% for development over \$200,000) and is not subject to the strict nexus (connection between development and works) requirements of S94.

To levy S94A for commercial, retail, industrial and other non residential subdivisions it is necessary to amend the current S94A Plan as provided in 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.

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 preparation and management of the amendments and procedures will be undertaken within current budgets. Should the proposed amendments not be enacted Council will forego substantial levies from major development in areas such as Williamstown and Tomago that are needed to contribute to the Public Infrastructure required for the districts.

LEGAL AND POLICY IMPLICATIONS

The amendments will be exhibited in accordance with legislative requirements and ensure Council is levying Developer Contributions in accordance with the legislation.

There is a requirement under the Environmental Planning and Assessment (EPA) Act 1979 Section 94A subclause 2(A) that:

“A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:

- (a) the Minister, or
- (b) a development corporation designated by the Minister to give approvals under this subsection.”

Schedule 5A of the Environmental Planning and Assessment (EPA) Act 1979 defines land within any growth centre to be a special contributions area. State Environmental Planning Policy (Sydney Region Growth Centres) 2006 defines growth centre as including the North West Growth Centre being part of the Hills, Blacktown and Hawkesbury Local Government areas and the South West Growth Centre being part of the Liverpool, Camden and Campbelltown Local Government areas. Schedule 1 of the Growth Centres (Development Corporations) Act 1974 defines several growth centres including that area under the control of the Hunter Development Corporation being all those pieces or parcels of land within the local government areas of Cessnock, Dungog, Gloucester, Great Lakes, Lake Macquarie, Maitland, Muswellbrook, Newcastle, Port Stephens, Singleton and Upper Hunter as at 1 January 2008. Other Growth centres include areas under the control of the Festival Development Corporation, Gosford: and Cooks Cove Development Corporation, Sydney. Other special contributions areas include the Wollongong City Centre; Wyong Employment Zone; and Warnervale Town Centre.

Port Stephens Council along with other Hunter Councils are within a special contributions area. Accordingly, a letter has been forwarded to the Minister seeking approval to impose a S94A levy on development within this Local Government Area.

State Government Levies

At the same time as the Department of Planning and Treasury have criticised Councils for imposing high contribution levies on the development industry, the NSW Roads and Traffic Authority have requested this Council on a number of occasions to include a clause in any LEP amendments for rezoning for their infrastructure. In the case of the DAREZ site at Williamstown, the Department of Planning added a clause, beyond Council's submission, that the developer contribute to State infrastructure. The RTA are requesting \$75,000 per hectare for non residential development and \$15,000 per lot for residential. It is not Council's role to enforce this collection and a separate report on this matter will be presented to Council.

BUSINESS EXCELLENCE FRAMEWORK

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

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.
- 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 amendments will assist Council to provide Public Infrastructure, Services and Facilities.

ECONOMIC IMPLICATIONS

The amendments are most likely to reduce the otherwise S94 developer contributions cost to the development industry, which may not necessarily offset the impact of that development on the Public Infrastructure including recurrent costs. Council's General Fund has to compliment Section 94/S94A funding on many projects to provide Public Infrastructure. Nevertheless the contribution will provide greater flexibility and less likely to legal challenge.

ENVIRONMENTAL IMPLICATIONS

There are no direct environmental implications in adopting the recommendations.

CONSULTATION

The proposed changes will be placed on public exhibition for a minimum of 28 days. All submissions will be reported back to Council.

OPTIONS

- 1) Adopt the recommendations
- 2) Amend or reject the recommendations

ATTACHMENTS

- 1) Proposed amendments to S94A Plan
- 2) Proposed cost summary report for subdivisions
- 3) Proposed Quantity Surveyors report for subdivisions
- 4) Proposed S94A Plan with amendments (excludes schedule of works and maps)

COUNCILLORS ROOM

- 1) Current S94A Plan

TABLED DOCUMENTS

Nil

ATTACHMENT 1
PROPOSED AMENDMENTS TO PORT STEPHENS S94A DEVELOPMENT
CONTRIBUTIONS PLAN

Proposed Amendment	Change
Clause 1.2 Summary Levies Type of Development <p>Commercial, Retail and other Employment based Development, or <i>non residential development or subdivision</i>, including mixed use, that would create a demand for public amenities and services:</p>	Added "non residential development or subdivision"
Development to which this plan applies <p>This Plan applies to the following development types:</p> <ul style="list-style-type: none"> Commercial, Retail and other Employment based Development, or <i>non residential development or subdivision</i>, including mixed use that would create a demand for public amenities and services where the proposed cost of carrying out the development is greater than \$100,000. 	Added "non residential development or subdivision"
When is the levy payable? <p>Settlement of monetary contributions, or completion of a Material Public Benefit agreement shall be finalised at the following stages:</p> <ul style="list-style-type: none"> Applications for both work and subdivision – prior to the issue of the Construction Certificate, <i>Subdivision Certificate</i> or Complying Development Certificate, whichever comes first; 	Added "Subdivision Certificate"
Schedule 1 – Subdivision Cost Summary Report (works equal to or less than \$500,000)	New Schedule for subdivisions See Attachment 2
Schedule 2 – Subdivision Quantity Surveyors Report (works greater than \$500,000)	New Schedule for subdivisions See Attachment 3

ATTACHMENT 2

SCHEDULE 1

(B) Subdivision/Roadworks Cost Summary Report

[Development Cost no greater than \$500,000]

DEVELOPMENT APPLICATION No:

SUBDIVISION CERTIFICATE No.

DATE:

APPLICANT'S NAME:

APPLICANT'S ADDRESS:

DEVELOPMENT DETAILS:

DEVELOPMENT ADDRESS:

ANALYSIS OF DEVELOPMENT COSTS:

Survey	\$	Batter Protection/Stabilisation	\$
Design	\$	Pavement Surfacing	\$
Site Works	\$	Footpaths	\$
Clearing	\$	Topsoil	\$
Earthworks	\$	Fencing	\$
Drainage	\$	Turfing	\$
Pavement	\$	Subdivision Registration	\$
Kerbing	\$	Other related work	\$
		Sub-total	\$

Sub-total above C/F	\$
Preliminaries and margin	\$
Sub-total	\$
Consultant Fees	\$
Other related development costs	\$
Sub-total	\$
Goods and Services Tax	\$
TOTAL DEVELOPMENT COST	\$

I certify that I have:

inspected the plans the subject of the application for development consent or subdivision certificate;

calculated the development costs in accordance with the definition of development costs in clause 25J of the *Environmental Planning and Assessment Regulation 2000* at current prices; and included GST in the calculation of development cost.

Signed: _____

Date: _____

Name: _____

Phone _____

Position and Qualifications: _____

Address _____

ATTACHMENT 3

SCHEDULE 2

(B) Registered* Quantity Surveyor's Detailed Subdivision/Roadworks Cost Report
[Development Cost in excess of \$500,000]

*An Associate member and above of the Australian Institute of Quantity Surveyors

DEVELOPMENT APPLICATION No.:

COMPLYING DEVELOPMENT APPLN NO:

SUBDIVISION CERTIFICATE No:

DATE:

APPLICANT'S NAME:

APPLICANT'S ADDRESS:

DEVELOPMENT NAME:

DEVELOPMENT ADDRESS:

DEVELOPMENT DETAILS:

Roads including road reserve	m2	Developable lots	m2
Non Developable area (drainage and other reserves etc)	m2	Total Site Area	m2
Total Development Cost	\$		
Total Construction Cost	\$		
Total GST	\$		

ESTIMATE DETAILS:

Professional Fees	\$	Pavement	\$/m ²
% of Development Cost	%		\$
% of Construction Cost	%	Pavement Surfacing	\$/m ²
Survey	\$		\$
Design	\$	Kerbing	\$/m
Site Works	\$		\$
Subdivision Registration	\$	Batter Protection/Stabilisation	\$/m ²
			\$
Clearing	\$/Ha	Footpaths	\$/m ²
	\$		\$
Earthworks	\$/ Ha	Topsoil	\$/m ²
	\$		\$
Drainage	\$/ m	Turfing	\$/m ²
	\$		\$
Fencing	\$/ m	Other related work	\$

I certify that I have:

inspected the plans the subject of the application for development consent or
subdivision certificate;

MINUTED FOR ORDINARY MEETING – 30 JUNE 2009

prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors;

calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices; and

included GST in the calculation of development cost.

Signed: _____

Date: _____

Name: _____

Position: _____

AIQS Membership grade and ID Number _____

CPD Certificate No _____

ATTACHMENT 4
PROPOSED S94A PLAN WITH AMENDMENTS

Port Stephens S94A Development Contributions Plan

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

3rd July 2006

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AMENDMENTS

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AMENDMENTS

Amendment No	Date	Amendment Details
0	28 March 2006	Original
1	25 May 2006	Changes from Contributions Panel
2	31 January 2006	EPA Regulation amending levy thresholds
3	2009	Non residential development or subdivision added

1. Part A- Plan Summary**1.1 What does Section 94A of the Act provide?**

Section 94A of the Act provides as follows:

Section 94A Fixed Development Consent Levies

(1) A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.

(2) A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 94.

(3) Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.

(4) A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition.

1.2 Summary Levies

Levies paid to council will be applied towards meeting the cost of provision or augmentation of new public facilities. Schedule 3 provides for details of new public facilities, which will be provided by council over the next 5 and more years, as well as the estimated cost of provision and timing.

Summary Development Types and Levy for Section 94A Contributions Plan

Type of Development	Levy (%)
Commercial, Retail and other Employment based Development, or <u>non residential development or subdivision</u> , including mixed use, that would create a demand for public amenities and services:	
a) Where the proposed cost of carrying out the development is greater than \$100,000 up to and including \$200,000.	0.5%
b) Where the proposed cost of carrying out the development is greater than \$200,000.	1%

1.3 Expected Development and Demand for Public Facilities

The relationship between expected development and the demand is established through:

- The estimated residential population of the Port Stephens Council area at 30 June 2005 was 63,579 (3218.0 - Regional Population Growth, Australian Bureau of Statistics)
- The population projections undertaken by Council using Australian Bureau of Statistics information and Councils Urban Settlement Strategy 2002 indicates an estimated permanent residential population of 114,500 in 2032.
- The likely development will require the provision of additional public facilities.
- The likely development will diminish the existing developments enjoyment and standards of public facilities.
- The traffic generated according to the type of development.
- The expected increase in traffic as a consequence of that development.
- The availability, status and capacity of the existing road network.
- The extent to which the proposed road network will meet the needs of the public.

2. Part B – Administration and Operation of the Plan

2.1 What is the name of this Development Contributions Plan?

This development contributions plan is called the:

Port Stephens Section 94A Development Contributions Plan 2006.

2.2 When does this Development Contributions Plan commence?

This Contributions Plan commences on 3rd July 2006.

2.3 What is the purpose of this Contributions Plan?

The primary purposes of this Contributions Plan are:

- To authorise and require a certifying authority (the Council or an accredited certifier) to impose a condition on certain development consents and complying development certificates requiring the payment of a contribution pursuant to section 94A of the Environmental Planning and Assessment Act, 1979.
- To assist the Council to provide the appropriate public facilities, which are, required to maintain and enhance amenity and service delivery within the area.
- To publicly identify the purposes for which the levies are required.

2.4 Continuation of existing s94 plans

This plan does not repeal any s94 plans applying in the Port Stephens local government area, and those s94 plans continue to apply to all development to which they are stated to apply.

2.5 Application of this Plan

This Development Contributions Plan applies to applications for development consent and applications for complying development certificates under Part 4 of the Environmental Planning and Assessment Act, 1979 on all land within the local government area of Port Stephens Council.

2.6 Development to which this plan applies

This Plan applies to the following development types:

- Commercial, Retail and other Employment based Development, or non residential development or subdivision, including mixed use that would create a demand for public amenities and services where the proposed cost of carrying out the development is greater than \$100,000.

2.7 How will the levy be calculated?

This plan authorizes Council to grant consent to development to which this plan applies subject to a condition requiring the applicant to pay to Council a levy of 1% of the proposed cost of carrying out the development, provided that Council does not also impose on the consent a condition pursuant to section 94 of the Act.

This Plan also requires a certifying authority to impose a condition on a complying development certificate for development to which this Plan applies, requiring the applicant to pay to Council a levy of 1% of the proposed cost of carrying out the development.

2.8 How is the proposed cost of carrying out the development determined?

The proposed cost of carrying out the development will be determined in accordance with clause 25J of the EP&A Regulation. The procedures set out in Schedule 1 to this plan must be followed to enable Council to determine the amount of the levy to be paid.

The value of the works must be provided by the Applicant at the time of the request and where the value exceeds \$500,000 must be independently certified by a Quantity Surveyor who is registered as an Associate member or above with the Australian Institute of Quantity Surveyors.

Without limitation to the above, Council may review the valuation of works and may seek the services of an independent person to verify the costs. In these cases, all costs associated with obtaining such advice will be at the expense of the Applicant and no Construction Certificate will be issued until such time that the levy has been paid.

2.9 Are there any exemptions to the levy?

Council may consider exempting developments, or components of developments from the s94A levy or may vary the levy to a lesser amount, at its complete discretion.

For such claims to be considered, any such request will need to include a comprehensive submission arguing the case for exemption or reduction.

2.10 Pooling of levies

Council is satisfied that the pooling and progressive application of the money paid will not unreasonably prejudice the carrying into effect, within a reasonable time, of the purposes for which the money was originally paid. This plan expressly authorises s94A levies paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule.

2.11 Construction Certificates and the obligation of Accredited Certifiers

In accordance with clause 146 of the EP&A Regulation 2000, a Certifying Authority must not issue a Construction Certificate for building work or subdivision work under a Development Consent unless it has verified that each condition requiring the payment of levies has been satisfied.

In particular, the Certifier must ensure that the Applicant provides a receipt(s) confirming that levies have been fully paid and copies of such receipts must be included with copies of the certified plans provided to Council in accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid.

The only exceptions to the requirement are where a works in kind, material public benefit, dedication of land or deferred payment arrangement has been agreed by Council. In such cases, Council will issue a letter confirming that an alternative payment method has been agreed with the Applicant.

2.12 When is the levy payable?

Settlement of monetary contributions, or completion of a Material Public Benefit agreement shall be finalised at the following stages:

- Development applications for building or other work - prior to the issue of the construction certificate;
- Applications for both work and subdivision – prior to the issue of the construction certificate or Subdivision Certificate or Complying Development Certificate, whichever comes first; or
- Development applications where no building approval is required – prior to commencement of use in accordance with the conditions of consent.

2.13 How will the levy be adjusted?

Pursuant to clause 25J(4) of the Regulation, the proposed cost of carrying out development is to be indexed before payment to reflect quarterly variations in the Consumer Price Index All Group Index Number for the weighted average of eight capital cities between the date the proposed cost was determined by the Council and the date the levy is paid.

Contributions requested, as a condition of consent under the provisions of this Plan will be adjusted at the time of payment of the contribution in accordance with the following formula:

$$\text{Contribution at time of payment} = 1\% \times \text{IDC}$$

Where IDC = the indexed development cost

$$= \text{ODC} \times (\text{CP2}-\text{CP1})/\text{CP1}$$

where:

ODC = the original development cost estimated by the Council

CP2 = the current CPI at the date the levy is paid

CP1 = the previous CPI at the date the original development cost was estimated by the Council.

CPI = Consumer Price Index All Group Index Number for weighted average of eight capital cities as published by the Australian Bureau of Statistics

Note: In the event that the Current index CP2 is less than the previous index CP1, then the previous development cost and levy shall apply.

2. Part B – Administration and Operation of the Plan

2.1 What is the name of this Development Contributions Plan?

This development contributions plan is called the:

Port Stephens Section 94A Development Contributions Plan 2006.

2.2 When does this Development Contributions Plan commence?

This Contributions Plan commences on 3rd July 2006.

2.3 What is the purpose of this Contributions Plan?

The primary purposes of this Contributions Plan are:

- To authorise and require a certifying authority (the Council or an accredited certifier) to impose a condition on certain development consents and complying development certificates requiring the payment of a contribution pursuant to section 94A of the Environmental Planning and Assessment Act, 1979.
- To assist the Council to provide the appropriate public facilities, which are, required to maintain and enhance amenity and service delivery within the area.
- To publicly identify the purposes for which the levies are required.

2.4 Continuation of existing s94 plans

This plan does not repeal any s94 plans applying in the Port Stephens local government area, and those s94 plans continue to apply to all development to which they are stated to apply.

2.5 Application of this Plan

This Development Contributions Plan applies to applications for development consent and applications for complying development certificates under Part 4 of the Environmental Planning and Assessment Act, 1979 on all land within the local government area of Port Stephens Council.

2.6 Development to which this plan applies

This Plan applies to the following development types:

- Commercial, Retail and other Employment based Development, or non residential development or subdivision, including mixed use that would create a demand for public amenities and services where the proposed cost of carrying out the development is greater than \$100,000.

2.7 How will the levy be calculated?

This plan authorizes Council to grant consent to development to which this plan applies subject to a condition requiring the applicant to pay to Council a levy of 1% of the proposed cost of carrying out the development, provided that Council does not also impose on the consent a condition pursuant to section 94 of the Act.

This Plan also requires a certifying authority to impose a condition on a complying development certificate for development to which this Plan applies, requiring the applicant to pay to Council a levy of 1% of the proposed cost of carrying out the development.

2.8 How is the proposed cost of carrying out the development determined?

The proposed cost of carrying out the development will be determined in accordance with clause 25J of the EP&A Regulation. The procedures set out in Schedule 1 to this plan must be followed to enable Council to determine the amount of the levy to be paid.

The value of the works must be provided by the Applicant at the time of the request and where the value exceeds \$500,000 must be independently certified by a Quantity Surveyor who is registered as an Associate member or above with the Australian Institute of Quantity Surveyors.

Without limitation to the above, Council may review the valuation of works and may seek the services of an independent person to verify the costs. In these cases, all costs associated with obtaining such advice will be at the expense of the Applicant and no Construction Certificate will be issued until such time that the levy has been paid.

2.9 Are there any exemptions to the levy?

Council may consider exempting developments, or components of developments from the s94A levy or may vary the levy to a lesser amount, at its complete discretion.

For such claims to be considered, any such request will need to include a comprehensive submission arguing the case for exemption or reduction.

2.10 Pooling of levies

Council is satisfied that the pooling and progressive application of the money paid will not unreasonably prejudice the carrying into effect, within a reasonable time, of the purposes for which the money was originally paid. This plan expressly authorises s94A levies paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule.

2.11 Construction Certificates and the obligation of Accredited Certifiers

In accordance with clause 146 of the EP&A Regulation 2000, a Certifying Authority must not issue a Construction Certificate for building work or subdivision work under a Development Consent unless it has verified that each condition requiring the payment of levies has been satisfied.

In particular, the Certifier must ensure that the Applicant provides a receipt(s) confirming that levies have been fully paid and copies of such receipts must be included with copies of the certified plans provided to Council in accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid.

The only exceptions to the requirement are where a works in kind, material public benefit, dedication of land or deferred payment arrangement has been agreed by Council. In such cases, Council will issue a letter confirming that an alternative payment method has been agreed with the Applicant.

2.12 When is the levy payable?

Settlement of monetary contributions, or completion of a Material Public Benefit agreement shall be finalised at the following stages:

- Development applications for building or other work - prior to the issue of the construction certificate;
- Applications for both work and subdivision – prior to the issue of the construction certificate or Subdivision Certificate or Complying Development Certificate, whichever comes first; or
- Development applications where no building approval is required – prior to commencement of use in accordance with the conditions of consent.

2.13 How will the levy be adjusted?

Pursuant to clause 25J(4) of the Regulation, the proposed cost of carrying out development is to be indexed before payment to reflect quarterly variations in the Consumer Price Index All Group Index Number for the weighted average of eight capital cities between the date the proposed cost was determined by the Council and the date the levy is paid.

Contributions requested, as a condition of consent under the provisions of this Plan will be adjusted at the time of payment of the contribution in accordance with the following formula:

$$\text{Contribution at time of payment} = 1\% \times \text{IDC}$$

Where IDC = the indexed development cost

$$= \text{ODC} \times (\text{CP2}-\text{CP1})/\text{CP1}$$

where:

ODC = the original development cost estimated by the Council

CP2 = the current CPI at the date the levy is paid

CP1 = the previous CPI at the date the original development cost was estimated by the Council.

CPI = Consumer Price Index All Group Index Number for weighted average of eight capital cities as published by the Australian Bureau of Statistics

Note: In the event that the Current index CP2 is less than the previous index CP1, then the previous development cost and levy shall apply.

2.14 Can deferred or periodic payments be made?

Council, at its complete discretion, may permit deferred or periodic payments in the following circumstances:

- deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of public facilities included in the works program
- in other circumstances considered reasonable by Council.

Such a request must:

- be made in writing by the applicant, and
- satisfy Council that there are valid reasons for deferral.

The decision to agree to such a request will be at the complete discretion of Council.

If Council does decide to accept deferred or periodic payment, the following conditions will apply:

- deferral of settlement will be for a maximum of one year or until commencement of use in accordance with the conditions of consent (whichever comes first);
- a bank guarantee by an approved Bank will be required to be lodged for the value for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen months estimated Consumer Price Index as defined under Cl 14.12 as determined by Council, plus any charges associated with establishing or operating the Bank Security;
- indexing will be calculated from the date the contribution was due until the date of payment;
- the Bank must unconditionally pay the guaranteed sum if Council so demands in writing, without reference to the Applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the Development Consent or the carrying out of development;
- the Bank's obligations are discharged when payment to Council is made in accordance with this guarantee or when Council notifies the Bank in writing that the guarantee is no longer required, on the outstanding contribution and accrued interest is paid to Council;
- where a Bank Guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid;
- Council reserves the right to terminate such an agreement at any time and upon written notice to the applicant, the applicant will be required to make the contribution.

3. Part C - References

3.1 Dictionary

In this plan, unless the context or subject matter otherwise indicates or requires, the following definitions apply:

Act means the Environmental Planning and Assessment Act 1979,

Council means Port Stephens Council,

EP&A Regulation means the Environmental Planning and Assessment Regulations 2000,

S94 plan and Contributions Plan mean a contributions plan made pursuant to section 94B of the Act,

Development contribution/s means a development contribution required to be paid by a condition of development consent imposed pursuant to section 94 of the Act,

Levy means a levy under s94A of the Act authorised by this plan,

Public Facility means a public amenity, or public service, which is included in Schedule 3 to this Plan and is proposed to be provided, extended or augmented, or has been provided by the Council in accordance with that schedule.

4. Part D - Schedule 1 and Schedule 2 - Cost Summary Reports

4.1 Procedure

An Application for a Construction Certificate or an application for a complying development certificate must be accompanied by a report setting out an estimate of the proposed cost of carrying out development prepared as follows:

- Where the estimated cost of carrying out the whole of the development as approved by the consent is \$500,000 or less - a cost summary report in accordance with Schedule 1;
- Where the estimated cost of carrying out the whole of the development as approved by the consent is more than \$500,000 - A Quantity Surveyor's Detailed Cost Report, completed by a Quantity Surveyor who is a registered Associate member or above of the Australian Institute of Quantity Surveyors, in accordance with Schedule 2.

Section 25J of the Environmental Planning and Assessment Act 1979 sets out the things that are included in the estimation of the construction costs by adding up all the costs and expenses that have been or are to be incurred by the Applicant in carrying out the development, including but not limited to the following:

- (a) if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,
- (b) if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed.

Council may, at the applicant's cost, appoint a person to review the cost reports referred to in this clause.

SCHEDULE 1
Cost Summary Report
 [Development Cost no greater than \$500,000]

DEVELOPMENT APPLICATION No: _____

COMPLYING DEVELOPMENT APPLN NO: _____

CONSTRUCTION CERTIFICATE No. _____

DATE: _____

APPLICANT'S NAME: _____

APPLICANT'S ADDRESS: _____

DEVELOPMENT DETAILS: _____

DEVELOPMENT ADDRESS: _____

ANALYSIS OF DEVELOPMENT COSTS:

Demolition and alterations	\$	Hydraulic services	\$
Structure	\$	Mechanical services	\$
External walls, windows and doors	\$	Fire services	\$
Internal walls, screens and doors	\$	Lift services	\$
Wall finishes	\$	External works	\$
Floor finishes	\$	External services	\$
Ceiling finishes	\$	Other related work	\$
Fittings and equipment	\$	Sub-total	\$

Sub-total above C/F	\$
Preliminaries and margin	\$
Sub-total	\$
Consultant Fees	\$
Other related development costs	\$
Sub-total	\$
Goods and Services Tax	\$
TOTAL DEVELOPMENT COST	\$

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate.
- calculated the development costs in accordance with the definition of development costs in clause 25J of the *Environmental Planning and Assessment Regulation 2000* at current prices.
- included GST in the calculation of development cost.

Signed: _____

Date: _____

Name: _____

Phone: _____

Position and Qualifications: _____

Address: _____

SCHEDULE 1
(B) Subdivision/Roadworks Cost Summary Report
 [Development Cost no greater than \$500,000]

DEVELOPMENT APPLICATION No: _____

SUBDIVISION CERTIFICATE No: _____

DATE: _____

APPLICANT'S NAME: _____

APPLICANT'S ADDRESS: _____

DEVELOPMENT DETAILS: _____

DEVELOPMENT ADDRESS: _____

ANALYSIS OF DEVELOPMENT COSTS:

Survey	\$	Batter Protection/Stabilisation	\$
Design	\$	Pavement Surfacing	\$
Site Works	\$	Footpaths	\$
Clearing	\$	Topsoil	\$
Earthworks	\$	Fencing	\$
Drainage	\$	Turfing	\$
Pavement	\$	Subdivision Registration	\$
Kerbing	\$	Other related work	\$
		Sub-total	\$

Sub-total above C/F	\$
Preliminaries and margin	\$
Sub-total	\$
Consultant Fees	\$
Other related development costs	\$
Sub-total	\$
Goods and Services Tax	\$
TOTAL DEVELOPMENT COST	\$

I certify that I have:

- inspected the plans the subject of the application for development consent or subdivision certificate;
- calculated the development costs in accordance with the definition of development costs in clause 25J of the *Environmental Planning and Assessment Regulation 2000* at current prices; and
- included GST in the calculation of development cost.

Signed: _____

Date: _____

Name: _____

Phone: _____

Position and Qualifications: _____

Address: _____

SCHEDULE 2

Registered* Quantity Surveyor's Detailed Cost Report

[Development Cost in excess of \$500,000]

*An Associate member and above of the Australian Institute of Quantity Surveyors

DEVELOPMENT APPLICATION No.:

COMPLYING DEVELOPMENT APPLN NO.:

CONSTRUCTION CERTIFICATE No.:

DATE:

APPLICANT'S NAME:

APPLICANT'S ADDRESS:

DEVELOPMENT NAME:

DEVELOPMENT ADDRESS:

DEVELOPMENT DETAILS:

Gross Floor Area – Commercial	m2	Gross Floor Area – Other	m2
Gross Floor Area – Residential	m2	Total Gross Floor Area	m2
Gross Floor Area – Retail	m2	Total Site Area	m2
Gross Floor Area – Car Parking	m2	Total Car Parking Spaces	
Total Development Cost	\$		
Total Construction Cost	\$		
Total GST	\$		

ESTIMATE DETAILS:

Professional Fees	\$	Excavation	\$
% of Development Cost	%	Cost per square metre of site area	\$/m ²
% of Construction Cost	%	Car Park	\$
Demolition and Site Preparation	\$	Cost per square metre of site area	\$
Cost per square metre of site area	\$/m ²	Cost per space	\$/space
Construction – Commercial	\$	Fit-out – Commercial	\$
Cost per square metre of site area	\$/m ²	Cost per m2 of commercial area	\$/m ²
Construction – Residential	\$	Fit-out – Residential	\$
Cost per square metre of residential area	\$/m ²	Cost per m2 of residential area	\$/m ²
Construction – Retail	\$	Fit-out – Retail	\$
Cost per square metre of retail area	\$/m ²	Cost per m2 of retail area	\$/m ²

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate.
- prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors.
- calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices.
- included GST in the calculation of development cost.
- measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume 1, Appendix A2.

Signed: _____

Date: _____

Name: _____

Position: _____

AIQS Membership grade and ID Number _____

CPD Certificate No _____

Section 94 A Development Contributions Plan

Port Stephens
COUNCIL
— a community partnership

SCHEDULE 2

(B) Registered* Quantity Surveyor's Detailed Subdivision/Roadworks Cost Report
[Development Cost in excess of \$500,000]

*An Associate member and above of the Australian Institute of Quantity Surveyors

DEVELOPMENT APPLICATION No.:

COMPLYING DEVELOPMENT APPLN NO:

SUBDIVISION CERTIFICATE No:

DATE:

APPLICANT'S NAME:

APPLICANT'S ADDRESS:

DEVELOPMENT NAME:

DEVELOPMENT ADDRESS:

DEVELOPMENT DETAILS:

Roads including road reserve	m2	Developable lots	m2
Non Developable area (drainage and other reserves etc)	m2	Total Site Area	m2
Total Development Cost	\$		
Total Construction Cost	\$		
Total GST	\$		

ESTIMATE DETAILS:

Professional Fees	\$	Pavement	\$/m ²
% of Development Cost	%		\$
% of Construction Cost	%	Pavement Surfacing	\$/m ²
Survey	\$		\$
Design	\$	Kerbing	\$/m
Site Works	\$		\$
Subdivision Registration	\$	Batter Protection/Stabilisation	\$/m ²
			\$
Clearing	\$/Ha	Footpaths	\$/m ²
	\$		\$
Earthworks	\$/ Ha	Topsoil	\$/m ²
	\$		\$
Drainage	\$/ m	Turfing	\$/m ²
	\$		\$
Fencing	\$/ m	Other related work	\$

I certify that I have:

- inspected the plans the subject of the application for development consent or subdivision certificate;
- prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors;
- calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices; and
- included GST in the calculation of development cost.

Signed: _____

Date: _____

Name: _____

Position: _____

AIQS Membership grade and ID Number _____

CPD Certificate No _____

5. Part E - Schedule 3 - Section 94A Work Schedules

- 5.1 Community Facilities
- 5.2 Roads
- 5.3 Open Space and Recreation

The Work Schedule gives detail of the specific public amenities and services proposed to be provided by the Council, together with an estimate of their cost and staging.

Both staging and costs will be review as the needs of the population at the time are determined.

ITEM NO. 2**FILE NO: A2004-0511****LOCAL TRAFFIC COMMITTEE MEETING – 5TH MAY 2009****REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING**
-----**RECOMMENDATION IS THAT COUNCIL:**

Adopt the recommendations contained in the minutes of the Local Traffic Committee meeting held on 5th May 2009.

-----**OPERATIONS COMMITTEE – 09th June 2009****RECOMMENDATION:**

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

MATTER ARISING

	Councillor Glenys Francis	That further information be provided to Council on other streets such as Kangaroo and Glenelg Streets that open onto Adelaide Street to allow access similar to Bourke Street proposal.
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ORDINARY COUNCIL MEETING - 30th June 2009

188	Councillor Daniel Maher Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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189	Councillor Daniel Maher Councillor Ken Jordan	It was resolved that the Matter Arising be adopted.
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190	Councillor Geoff Dingle Councillor John Nell	It was resolved that the timing of the improvement works by the RTA at Benjamin Lee Drive (eastern end) be referred back to the Local Traffic Committee.
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BACKGROUND

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

LINKS TO CORPORATE PLANS

The items referred to the local Traffic Committee, and the subsequent recommendations are linked to the current Council Plan 2008 – 2012. In Parts 5 and 7 of the Plan, the Local Traffic Committee contributes to the following directions and goals:

- 1) Provide programs and planning instruments that enhance the safety of individuals and the community whilst preserving social amenity and discouraging social isolation.
- 2) Providing good community planning and the development of quality infrastructure.

FINANCIAL/RESOURCE IMPLICATIONS

Council has an annual budget of \$41 000 (\$25 000 grant from the RTA and General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. The construction of traffic control devices and intersection improvements resulting from the Committee's recommendations are not included in this funding and are listed within Council's "Forward Works Program" for consideration in the annual budget process. The construction of traffic control devices and intersection improvements for items with a **SAFETY PRIORITY** (listed below) have a budget of \$ 25 000 (Safety Around Schools Program).

The local Traffic Committee procedure provides a mechanism to respond to and remedy problems in accordance with Council's "Best Value Services" Policy. The recommendations contained within the local Traffic Committee Minutes can be completed within the current Traffic Committee budget allocations and without additional impact on staff or the way Council's services are delivered.

SAFETY PRIORITIES

The installation of regulatory traffic controls or traffic control devices that are noted as having a Safety Priority shall be attended to before other works undertaken by Council. These works are generally of an urgent nature requiring immediate action.

The items with a Safety Priority are listed as follows:

NIL

LEGAL AND POLICY IMPLICATIONS

The local Traffic Committee is not a Committee of Council; it is a technical advisory body authorised to recommend regulatory traffic controls to the responsible Road Authority. The Committee's functions are prescribed by the Transport Administration Act with membership extended to the following stakeholder representatives; the Local Member of Parliament, the Department of Transport, NSW Police, Roads & Traffic Authority and Council.

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

AUSTRALIAN BUSINESS EXCELLENCE FRAMEWORK

This aligns with the following ABEF Principles;

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

SUSTAINABILITY IMPLICATIONS

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

SOCIAL IMPLICATIONS

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

ECONOMIC IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

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

CONSULTATION

The Committee's technical representatives are the Police, RTA, and Council Officers; they investigate issues brought to the attention of the Committee and suggest draft recommendations for further discussion during the scheduled meeting. One week prior to the local Traffic Committee meeting copies of the agenda are forwarded to the Committee members, Councillors, Facilities and Services Group Manager, Integrated Planning Manager and Road Safety Officer. During this period comments are received and taken into consideration during discussions at the Traffic Committee meeting.

Additional consultation took place as a part of the meeting of 5th May 2009. This was public consultation required for the consideration of Item 19-05/09 – Adelaide Street Raymond Terrace. A summary of the consultation results is attached with the item.

OPTIONS

- 1) Adopt the Recommendation.
- 2) Adopt specific item recommendations contained in the minutes of the local Traffic Committee and refer non-adopted matters back to the next meeting of the local Traffic Committee with suggested amendments.

ATTACHMENTS

- 1) The minutes of the local Traffic Committee meeting held on 5th May 2009 are contained in ATTACHMENT 1. Please note that Items D and E are not listed as no issues relating to these matters were raised during the meeting.

TABLED DOCUMENTS

Nil

Cr Peter Kafer arrived at the meeting at 7.16pm.

ATTACHMENT 1

**PORT STEPHENS
LOCAL TRAFFIC COMMITTEE AGENDA**

**INDEX OF LISTED MATTERS
TUESDAY 5th May, 2009**

-
- A. ADOPTION OF THE MINUTES OF 7TH APRIL 2009**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- 05_02/09 PORT STEPHENS DRIVE SALAMANDER BAY – REQUEST TO REDUCE
VEHICLE SPEEDS ON PORT STEPHENS DRIVE
- C. LISTED MATTERS**
- (I) 19_05/09 ADELAIDE STREET RAYMOND TERRACE - PROPOSAL
TO RE-OPEN THE CENTRAL MEDIAN AT BOURKE STREET
- (II) 20_05/09 BENJAMIN LEE DRIVE RAYMOND TERRACE - REQUEST
FOR INSTALLATION OF A SCHOOL BUS STOP AT THE RICHARDSON
ROAD INTERSECTION
- (III) 21_05/09 FERODALE ROAD MEDOWIE - REQUEST FOR THE
RELOCATION OF AN EXISTING BUS STOP FROM NO.52 JAMES
ROAD TO BETWEEN NO.104 & 106 FERODALE ROAD
- D. INFORMAL MATTERS**
- E. GENERAL BUSINESS**

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 5TH MAY 2009
AT 9:30AM**

Present:

Mayor Cr Bruce MacKenzie, Cr Peter Kafer, Sen. Const. Simon Chappell – NSW Police, Mr Bill Butler – RTA, Mr Brian Moseley – Hunter Valley Buses, Mr Joe Gleeson – Port Stephens Council (Chairperson)

Apologies:

Mr Craig Bauman MP – Member for Port Stephens, Mr Frank Terenzini MP – Member for Maitland, Mr Mark Newling – Port Stephens Coaches

A. ADOPTION OF MINUTES OF MEETING HELD 7TH APRIL, 2009

B. BUSINESS ARISING FROM PREVIOUS MEETING

Item: 05_02/09

PORT STEPHENS DRIVE SALAMANDER BAY – REQUEST TO REDUCE VEHICLE SPEEDS ON PORT STEPHENS DRIVE

State MP: Member for Port Stephens

Requested by: Port Stephens Council

File: PSC2005-4030

Background:

Councillor resolution – 24th February 2009 – Minute No.30 – 'It was resolved that Council request the Traffic Committee to consider the matter of painted white lines at the 80km/h to 50 km/h speed zones on Port Stephens Drive to indicate the change in traffic zone – similar to those on the F3 Freeway.'

Comment:

Painted white lines or rumble strips are installed as a perceptual countermeasure to excessive speeding. Rumble strips serve to alter the perception of the correct speed for a particular road so that drivers assume a lower speed is more appropriate. Use of perceptual countermeasures requires the approval of the General Manager Safer Roads (RTA).

Rumble strips are not recommended for extensive use. They should only be considered as an alerting device to address a specific road safety problem where other conventional measures such as signing and road marking have proven to be ineffective. Before deciding to use rumble strips it is recommended that the following options are considered:

- Increased level of signing on the approaches by duplicating the recommended signs on both sides of the roads - **Done**
- Provision of edge lines - **Done**
- Installation of retro reflective raised pavement markers to supplement separation lines and edge lines
- Increased size of the recommended signs - **Done**

Rumble strips are generally only used in isolated locations remote from residential areas due to the noise generated by vehicles passing over them.

The Traffic Inspection Committee did not support installation of rumble strips in Port Stephens Drive because of the proximity to residences and the low number of reported accidents in the vicinity.

The Traffic Committee meeting held 3rd February 2009 made the following recommendations:

1. Arrange trimming of the trees on the western approach to the driveway of No.7 Warramunga Close to improve sight distance. – Work order sent to Depot
2. Investigate relocation of the existing bus shelter to further improve sight distance. – Shelter currently being relocated
3. Council's Traffic Engineer to prepare a concept plan for an entry treatment to

further enhance '50' area and list for funding in Council's Forward Works Program. – The entry treatment (sketch attached) has been assessed and placed in Council's Forward Works Program. A cost estimate for the installation of the treatment has been given as \$6 000 - \$12000 depending on the materials used. It has been assessed as having a very low priority and would be unlikely to be completed for many years given current funding allocations for traffic facilities.

This issue of complaints from the resident in Port Stephens Drive has been ongoing for several years and Council and the Local Traffic Committee has responded to the complaints by the following speed reduction measures:

- Installation of edge lines and barrier lines to reduce lane widths
- Relocation of the '50' signs to be further from the start of the residential area.
- Duplication of '50' speed zone signs on both sides of the road
- Increasing the size of the '50' signs
- Traffic speed and volume surveys to better target Police enforcement of the speed limit.

These changes have occurred over the last 4-5 years and have resulted in incremental reductions in the recorded 85th percentile speeds however this remains well above the posted speed limit.

Vertical deflection devices requested by the resident, such as speed humps or speed platforms are not recommended for roads such as Port Stephens Drive because of the relatively high traffic volumes and because it is a bus route and an important route for heavy and commercial vehicles.

Legislation, Standards, Guidelines and Delegation:

RTA Delineation Manual – Section 5 – Enhanced delineation devices
Austroads Guide to Traffic Management - Part 8 – Local Area Traffic Management

Recommendation to the Committee:

Install RRPM's (raised retro reflective pavement markers) on the centreline and edge lines at reduced intervals, for 50m on approach to the '50' signs to further highlight the reduced lane widths and the change to the speed zone.

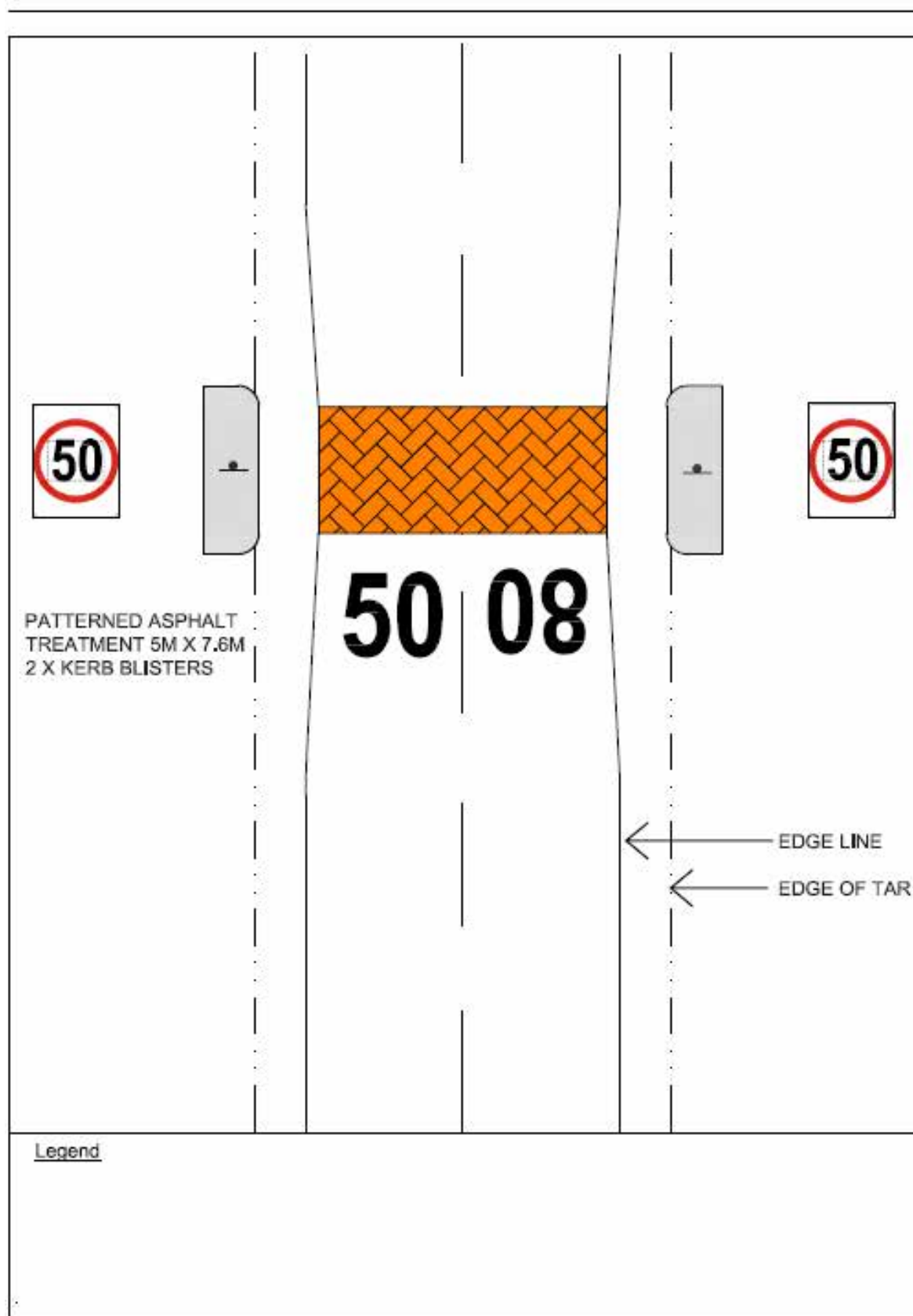
Discussion:

The Committee members noted that there is little else that can be done practically to reduce vehicle speeds. This option was supported as a relatively low cost option that may assist in driver awareness of the '50' zone.

Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

PORT STEPHENS COUNCIL - URBAN AREA ENTRY TREATMENT



C. Listed Matters

(I) Item: 19_05/09

ADELAIDE STREET RAYMOND TERRACE - PROPOSAL TO RE-OPEN THE CENTRAL MEDIAN AT BOURKE STREET

State MP: Member for Port Stephens

Requested by: Port Stephens Council

File: PSC2005-4030

Background:

Recent drainage improvement works undertaken by Council in Adelaide Street Raymond Terrace have presented an opportunity to re-open the central median of Adelaide Street to allow traffic to turn right into and out of Bourke Street. Public consultation has been undertaken regarding the proposal and a summary of responses received by Council is attached.

Comment:

The proposal to re-open the Adelaide Street median to allow right-turning traffic into and out of Bourke Street has the following benefits:

- A reduction in traffic volumes past St Brigid's Primary School and associated school zone
- Improved access to businesses situated in Bourke Street both for customers and for service deliveries
- Improved access for residents of Bourke Street, Melba Crescent and Johnson Close
- Reduced waiting times for traffic who currently have to travel via the William Street traffic signals

Legislation, Standards, Guidelines and Delegation:

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

Support the re-opening of the Adelaide Street median and approve the signs and linemarking as shown on the attached detailed design.

Discussion:

The Committee members noted the widespread, almost unanimous support for the proposal shown by the responses received to the public consultation.

Councillors MacKenzie and Kafer expressed reservations regarding the proposal and noted that there is a likelihood that accidents will increase as a result of the traffic turning right onto Adelaide Street from Bourke Street.

The RTA representative noted that the design is for a seagull treatment that provides a staged crossing where vehicles turning right onto Adelaide Street will be able to shelter while waiting to join the traffic stream.

The Committee members noted that one of the main benefits to the proposal will be the reduction in traffic through the nearby school zone.

The Committee members noted that there is a need to address perceived safety issues at the Irawang Street intersection as part of this proposal.

The RTA also requested that the pedestrian refuge is aligned with the pedestrian ramps on either side of Adelaide Street.

Support for the recommendation:

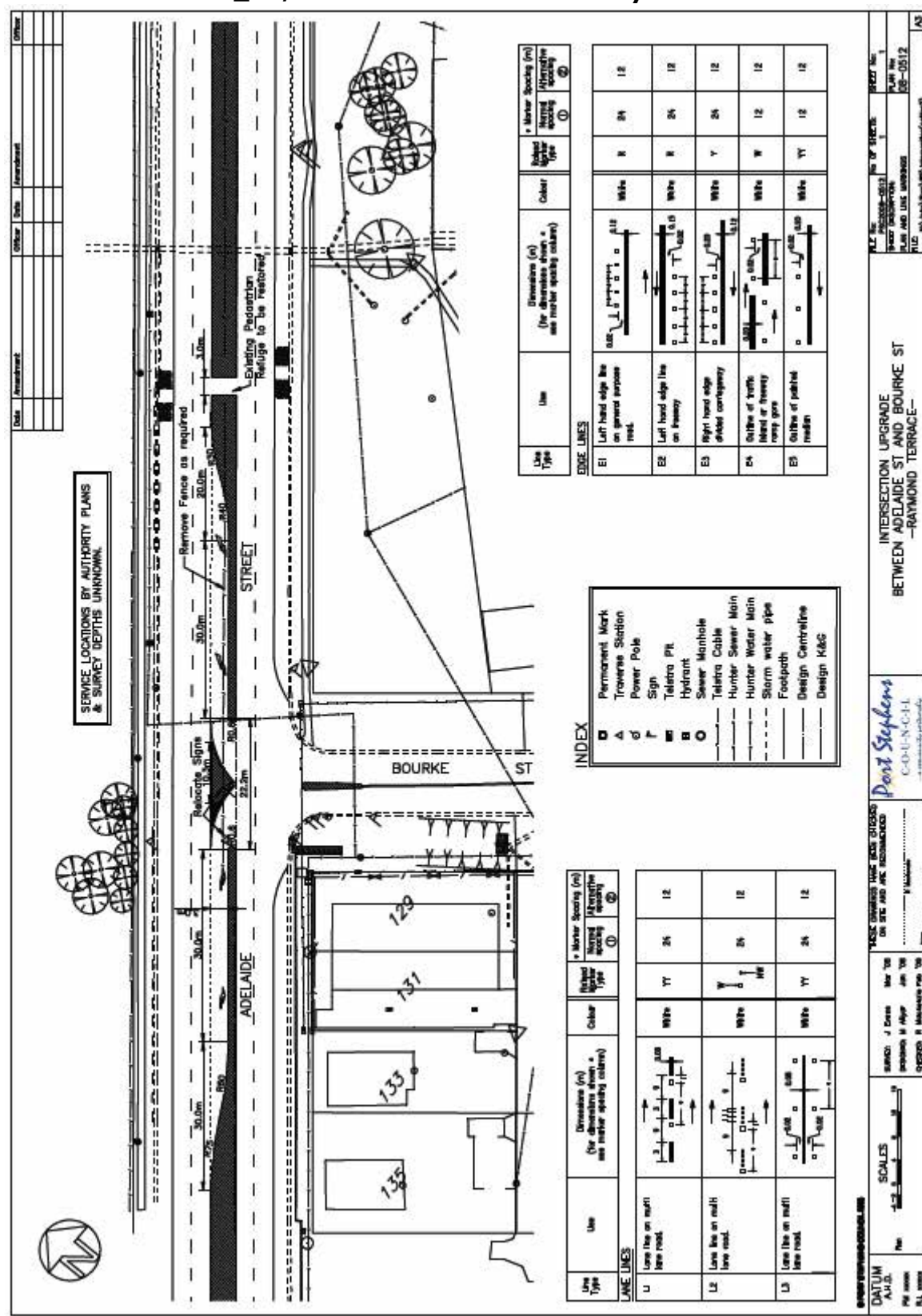
1	Unanimous	
2	Majority	✓
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

Item 19_05/09 – Adelaide Street Raymond Terrace

Summary of responses received by Council to the public consultation:

Respondent	Address	Comment	Support
A resident	Melba Cr.	Welcomes intersection opening but feels that the intersection of Bourke and Irrawang Streets needs to be improved as well as parking conditions in Bourke Street.	Yes
A resident	Bourke St.	Expressed concerns regarding increased traffic in Bourke Street and requests that parking issues be addressed	No
NSW Fire Brigade	William St.	Welcomes intersection opening as it will allow the Fire Brigade to avoid traffic congestion at the William Street traffic signals and St Brigid's School	Yes
Residents	Johnson Cl.	Very supportive of the proposal and request adequate 'No Stopping' signs at the intersection to allow safe sight distance.	Yes
A resident	Johnson Cl.	Supports the proposed re-opening	Yes
A business operator	Raymond Terrace Cinema Centre	Very supportive of the proposal. It will greatly improve access between the CBD and the cinema centre	Yes
Salvation Army	Raymond Terrace Cinema Centre	Very supportive of the proposal. It will greatly improve travel efficiency for people accessing the centre. Suggests that a roundabout would be a better solution	Yes
A resident	Bourke St.	Takes exception to the diversion of additional traffic into Bourke Street and would like to see pedestrian access improved along the eastern side of Adelaide Street.	Yes
A resident	Johnson Cl.	Believes it is a great idea that will make access to Bourke Street more convenient. Would like to see appropriate signage to prevent parking around intersections	Yes
A resident	Melba Cl.	Supports the idea but requests that turning lanes be provided at the Irrawang Street intersection	Yes
A business operator	Raymond Terrace Cinema Centre	Supports proposal. It will reconnect the cinema centre with the Raymond Terrace CBD and reduce unnecessary traffic flow past the school	Yes

Item 19_05/09 – Adelaide Street Raymond Terrace



(II) Item: 20_05/09**BENJAMIN LEE DRIVE RAYMOND TERRACE - REQUEST FOR INSTALLATION OF A SCHOOL BUS STOP AT THE RICHARDSON ROAD INTERSECTION****State MP:** Member for Port Stephens**Requested by:** Hunter Valley Buses**File:** CRM 110490-2009**Background:**

Hunter Valley Buses request approval for installation of a bus stop at the above location. This has become an informal pick-up point for school students attending the Medowie Christian School. Children are dropped off at this location from various areas throughout the LGA and then taken by bus to the Medowie School.

Comment:

Traffic Inspection Committee raised no objection to a bus stop being introduced at this location. The RTA representative agreed to check whether there were any planned upgrade works at the intersection of Benjamin Lee Drive and Richardson Road that would affect a bus stop at this location.

Legislation, Standards, Guidelines and Delegation:

ARR Part 12 Div.2 – Rule 195 – Stopping at or near a bus stop

Disability Standards for Accessible Public Transport 2002

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

Approve the installation of a school bus stop as requested on the western side of Benjamin Lee Drive near the Richardson Road intersection, adjacent to the Baptist church. Refer to Facilities and Services to coordinate the installation with regard to Disability Discrimination Act requirements.

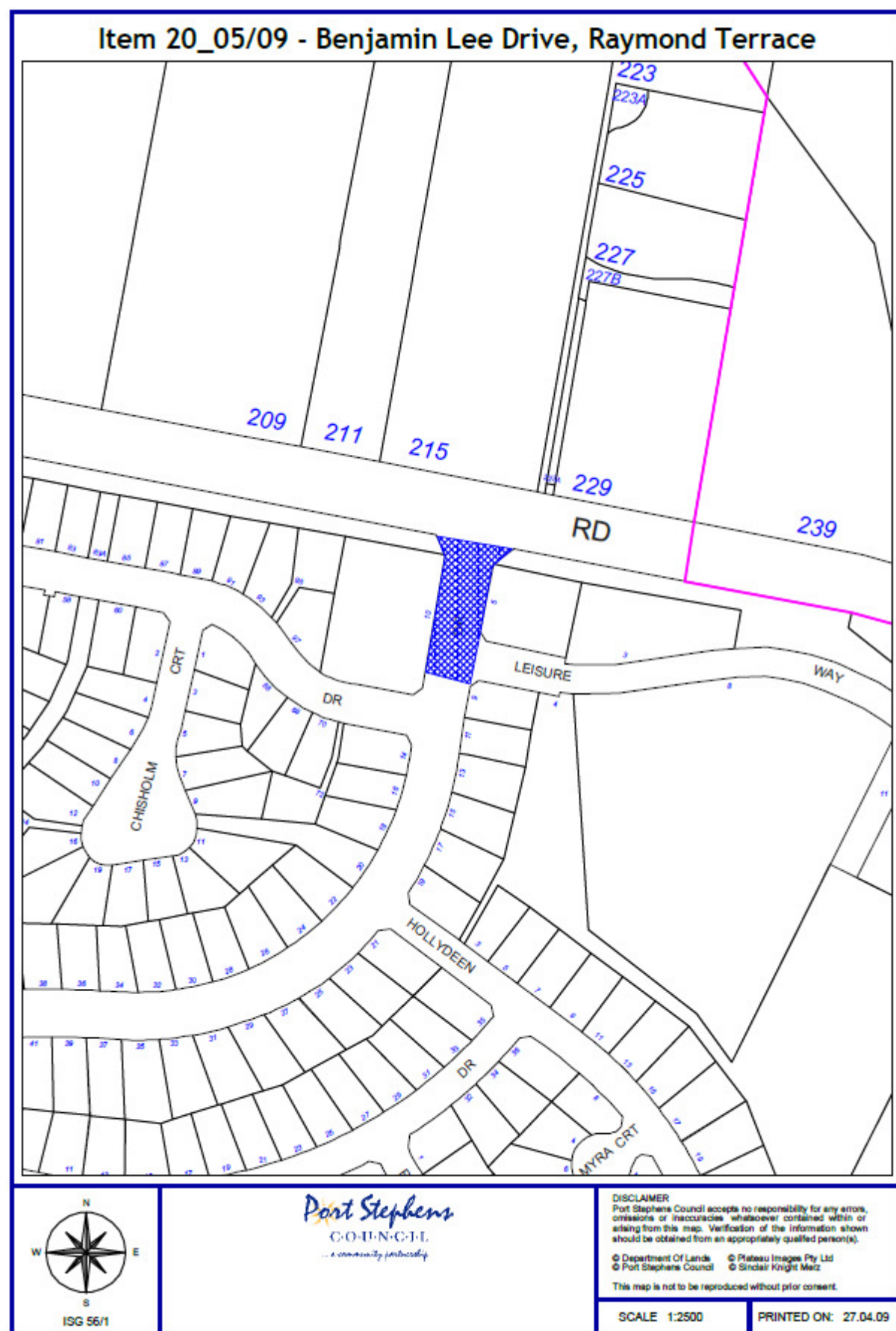
Discussion:

Mr Moseley explained that this is a formalisation of an existing situation. The RTA representative advised that there is an intersection upgrade planned for the Richardson Road/Benjamin Lee Drive intersection that may impact on exact positioning of the bus stop and that this would be advised further when information is available.

Cr Kafer advised that following representations from him Council's Facilities and Services Section are investigating the installation of a bus shelter at this location.

Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	



(III) Item: 21_05/09**FERODALE ROAD MEDOWIE - REQUEST FOR THE RELOCATION OF AN EXISTING BUS STOP FROM NO.52 TO BETWEEN NO.104 & 106**

State MP: Member for Port Stephens

Requested by: Hunter Valley Buses

File: CRM 110490-2009

Background:

The existing bus stop is situated on a bend in the road adjacent to the intersection of Ferodale Road and Coachwood Drive. The road at this location has a narrow steep shoulder and sight distance is restricted because of the bend in the road.

The request is based on safety concerns as the bus is unable to pull off the road sufficiently and there are inadequate conditions for people waiting for the bus. Conditions at the proposed location are much more suitable with a straight stretch of road and relatively flat footpath area with kerb and gutter.

Comment:

The Inspection Committee supported the request.

Legislation, Standards, Guidelines and Delegation:

ARR Part 12 Div.2 – Rule 195 – Stopping at or near a bus stop

Disability Standards for Accessible Public Transport 2002

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

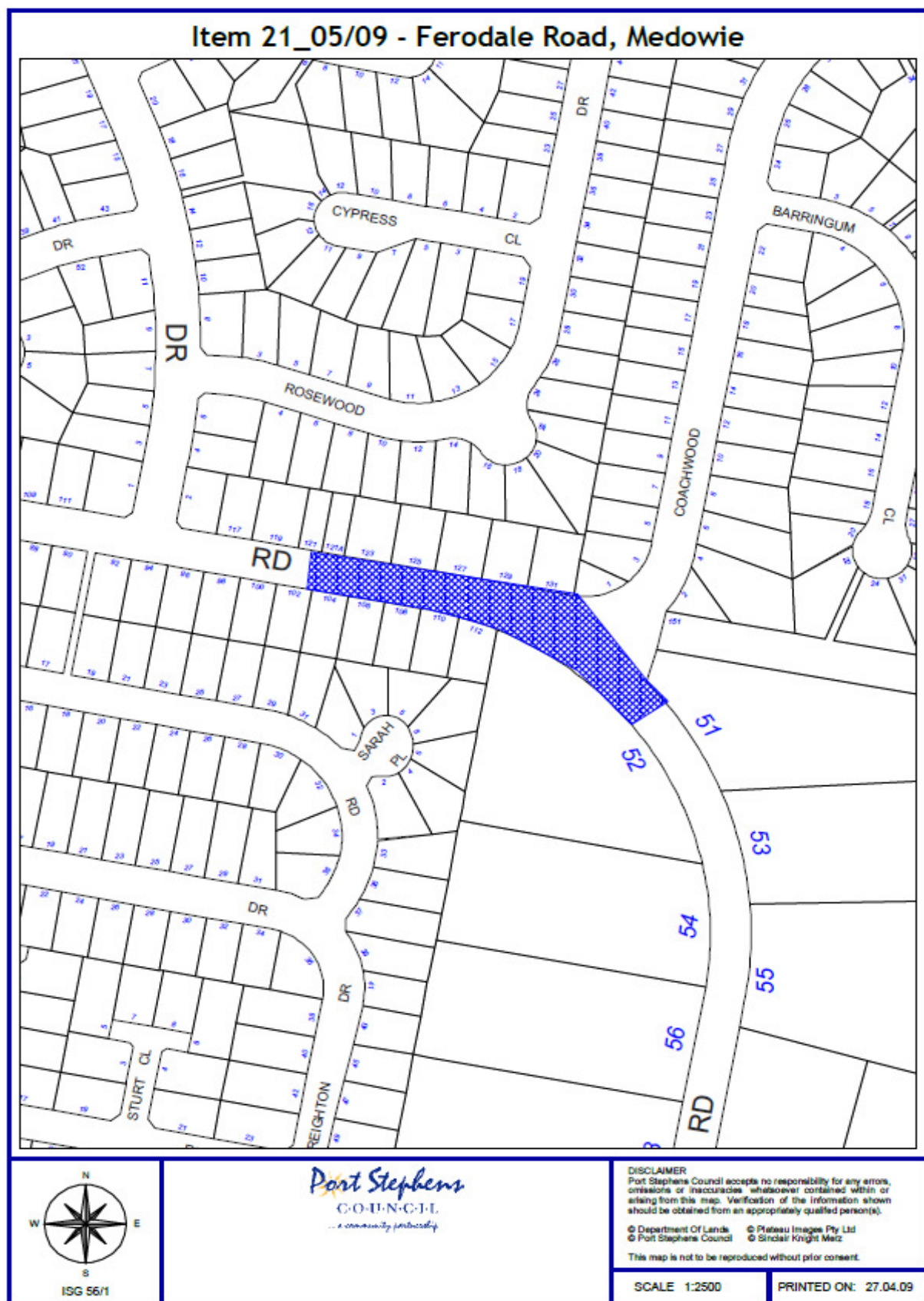
Recommendation to the Committee:

Approve the relocation of the bus stop as requested, from No.52 James Road to the boundary between No.104 and No.106 Ferodale Road. Refer to Facilities and Services to coordinate the relocation with regard to Disability Discrimination Act requirements.

Discussion:

Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	



ITEM NO. 3**FILE NO: PSC2005-4386****EXHIBITION OF DRAFT HUNTER ESTUARY MANAGEMENT PLAN AND STUDY****REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Resolve to place the Draft Hunter Estuary Management Study and Draft Hunter Estuary Management Plan on public exhibition for a period of 28 days.

OPERATIONS COMMITTEE – 09th June 2009**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Ken Jordan	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 30th June 2009

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

The purpose of this report is to gain Council approval to place the Draft Hunter Estuary Management Study and Plan on public exhibition and to update Council on the project's progression.

The preparation of the Study and Plan has been an ongoing partnership between Port Stephens Council, Newcastle City Council, Maitland City Council and the Department of Environment and Climate Change (DECC). Newcastle City Council has coordinated the plan's preparation which has been in response to, and in accordance with, the NSW Estuary Management Manual.

The Hunter Coast and Estuary Management Committee has overseen the development of the Coast and Estuary Program since 1997. This Committee has representatives from community groups, industry, Councillors, Council officers, public utilities and government agency representatives. In the current Council term there have been no meetings of the Hunter Coast and Estuary Management Committee as Newcastle City Council is currently undertaking a comprehensive review of

Committees. This has led to the technical sub-committee overseeing the final stages of the draft Plan's preparation.

The Hunter Estuary is one of the largest estuaries in NSW, and arguably the most complex from a land use and administrative perspective. The study area for the project is defined by the tidal limits of the Hunter Estuary and its tributaries. This includes the bed and banks of the waterway from the Port of Newcastle to the tidal limits at Seaham Weir on the Williams River, Gostwyck on the Paterson River and Oakhampton on the Hunter River.

There are essentially three stages in the development of an Estuary Management Plan:

Stage 1 is the 'Processes Study' stage, which involves data collection and analysis to define causes and extent of issues of concern. The Processes Study outlines the hydraulic, sedimentation, water quality and ecological processes within the estuary and the impact of human activities on these processes. An understanding of these processes is an important aspect of developing an effective Estuary Management Plan. This stage was completed in September 2003.

Stage 2 is the 'Estuary Management Study', which brings together the current scientific knowledge of how the estuary works and the aspirations for future management. This information is then used to recommend a shortlist of strategies for the future management of the Hunter Estuary. For completeness and consistency, the Hunter Estuary Management Study was finalised concurrently with the Hunter Estuary Management Plan.

Stage 3 is the 'Estuary Management Plan', which contains a list of recommended strategies that have been developed and prioritised according to the 'vision', 'guiding principles' and 'objectives' for the Hunter Estuary which were adopted by all three Councils in late 2006.

Approval for exhibition is being sought from the three Councils involved and it is intended that, after the exhibition and any necessary amendments of the draft Study and Plan, a final Hunter Estuary Management Study and Plan will be completed and submitted to all three Councils for adoption.

Implementation of the recommendations contained in the Draft Hunter Estuary Management Plan will rely heavily on an integrated approach by the relevant key stakeholder agencies which have been, and will continue to be, involved in the project.

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

Implementation of the management strategies contained within the Hunter Estuary Management Plan will rely heavily on an integrated approach by the relevant key stakeholder agencies. Some projects are the direct responsibility of local government, however these projects will be prioritised alongside existing and future commitments. Many projects will be also be partially or fully funded by State and Federal grants.

Financial requirements for the consultation process have been allowed for in the existing budget.

LEGAL AND POLICY IMPLICATIONS

The Draft Hunter Estuary Management Plan has been developed to ensure consistency with all relevant legislation and planning policies relevant to the study area.

Specifically the Plan has been developed under the NSW Government's Estuary Management Program. It complies with the requirements of the NSW Estuary Policy 1992, the NSW Coastal Policy 1997, and the Hunter Central Rivers Catchment Action Plan. The Plan is also considered to be a Coastal Zone Management Plan under the provisions of Part 4A of the Coastal Protection Act 1979.

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

The Plan's vision is as follows:

"The community, industry and government working together towards a productive, economically viable and ecologically sustainable Hunter Estuary, recognising social, cultural and environmental values".

SOCIAL IMPLICATIONS

The Hunter River Estuary, wetlands and environs are of cultural significance to Aboriginal People while Newcastle and surrounds were one of the first sites of European settlement and the Hunter Estuary study area includes a unique variety of historical structures and sites of significance.

The estuary is also a significant landscape feature that determines the identity of regional communities and contributes to the amenity of the region. The Hunter Estuary is also a focus for recreational activities in the region.

The Estuary Management Plan seeks to ensure the sustainable management of the estuary, taking into consideration the need to protect and conserve existing social values.

ECONOMIC IMPLICATIONS

The deep water access and port-side activities of the Port of Newcastle act as a significant driver for local, regional and state economies. In addition the agricultural, fishing and aquaculture industries around the Hunter Estuary contribute to both local and regional economies. The Lower Hunter Estuary is also considered a key attraction for tourists and recreational users to the area, with associated economic benefits.

The Estuary Management Plan seeks to ensure the sustainable management of the estuary, taking into consideration the estuary's economic values.

ENVIRONMENTAL IMPLICATIONS

The Hunter River Estuary and wetlands are of international significance, being listed under the Ramsar Wetland Convention, and utilised by 38 of the 66 migratory species protected by the Japan-Australia Migratory Bird Agreement (JAMBA), China-Australia Migratory Bird Agreement (CAMBA), and Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA).

The Hunter River Estuary and wetlands are also of State and national significance, being utilised by a range of species protected under the *NSW Threatened Species Conservation Act 1995* and the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999*. Estuarine vegetation communities of the Hunter River Estuary play an important role in providing wildlife corridors of a landscape scale.

The Plan seeks to protect, enhance, maintain and restore the environment of the Hunter Estuary, its associated ecosystems, ecological processes and biological diversity, and its water quality.

CONSULTATION

Broad community and stakeholder consultation has underpinned the development of the Study and Plan. A stakeholder workshop was facilitated in March 2009 with relevant agencies in order to gain in-principle support before the Plan's public exhibition. Representatives attended from the following departments:

Department of Planning; Department of Environment and Climate Change; Department of Lands; Department of Primary Industries; Newcastle Port Corporation; Hunter Central Rivers Catchment Management Authority; Newcastle City Council, Port Stephens Council; and Maitland City Council.

Prior to considering finalisation of the Plan, further community input through public display and review will be undertaken. This would provide all interested or affected parties with the opportunity to review the reports and register any objections or suggestions. It is also anticipated that a public information session will be run in order to update the community on the project and report back to residents that attended

previous consultation sessions. The consultation plan will be discussed with Council's Community Engagement Panel.

OPTIONS

- 1) Adopt, reject or amend the recommendation.

ATTACHMENTS

- 1) Draft Hunter Estuary Management Plan (provided under separate cover)

COUNCILLORS ROOM

- 1) Hunter Estuary Management Study & Plan

TABLED DOCUMENTS

- 1) Hunter Estuary Management Study & Plan

**ATTACHMENT 1
DRAFT HUNTER ESTUARY MANAGEMENT PLAN**

PROVIDED UNDER SEPARATE COVER

**ATTACHMENT 2
DRAFT HUNTER ESTUARY MANAGEMENT STUDY**

PROVIDED UNDER SEPARATE COVER IN THE COUNCILLORS ROOM

ITEM NO. 4**FILE NO: PSC2009-00707****MAKING OF RATES AND CHARGES FOR 2009/2010****REPORT OF: DAMIEN JENKINS - MANAGER, FINANCIAL SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Make rates and charges for 2009/2010 in accordance with **ATTACHMENT 1**.
-

OPERATIONS COMMITTEE – 09th June 2009**RECOMMENDATION:**

	Councillor Ken Jordan Councillor John Nell	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 30th June 2009

192	Councillor Bob Westbury Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to make rates and charges for 2009/2010. Council is required to make its rates and charges by resolution and issue rate notices before 1 August each year. The rates and charges included in the recommendation are those included in the Council Plan 2009-2013 adjusted to reflect the 3.5% ratepegging and changes in land value received in the Valuer General's monthly supplementary lists.

LINKS TO CORPORATE PLANS

The links to the 2009-2013 Council Plan are:-

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

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

FINANCIAL/RESOURCE IMPLICATIONS

Council is required to make rates for 2009/2010 before 1 August, 2009 (section 533 Local Government Act, 1993). If Council does not make rates and charges and serve notices before 1 August, 2009 then the due date for the first rate instalment is extended from 31 August, 2009 until 30 November, 2009 (section 562 LGA) adversely impacting on Council cash flow and causing ratepayers to need to pay both instalment 1 and 2 on the same date.

The Minister for Local Government has set a maximum interest rate of 9% to be applied to overdue rates and charges in 2009/2010.

LEGAL AND POLICY IMPLICATIONS

Rates and charges must be made by resolution annually (sections 494 and 535 LGA).

BUSINESS EXCELLENCE FRAMEWORK

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

These outcomes align with the following Business Excellence principles:-

- 2) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 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

Rate income is necessary for Council to deliver the human services included in the Council Plan 2009/2013.

ECONOMIC IMPLICATIONS

Council activities contribute substantially to the local economy.

ENVIRONMENTAL IMPLICATIONS

Rate income is necessary for Council to deliver the environmental services included in the Council Plan 2009/2013.

CONSULTATION

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

OPTIONS

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

ATTACHMENTS

- 1) Rates and charges under a 3.5% ratepegging increase

COUNCILLORS ROOM

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

TABLED DOCUMENTS

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

ATTACHMENT 1

3.5% Ratepegging Increase

- 1) Make ordinary rates in accordance with the following schedule for 2009/2010 using 2007 land values.

Rate Type	Rate Name	Land Category Rate Applies to	Ad Valorem Rate cents in \$	Base Amount \$	% of Yield from Base Amount
Ordinary	Residential	Residential	0.2504	298.00	35%
Ordinary	Farmland	Farmland	0.2504	298.00	21%
Ordinary	Business	Business	0.5751	1,187.00	35%
Ordinary	Mining	Mining	0.5751	nil	

- 2) Make special rates in accordance with the following schedule for 2009/2010 using 2007 land values.

Rate Type	Rate Name	Land Category Rate Applies to	Ad Valorem Rate cents in \$	Base Amount \$	% of Yield from Base Amount
Special	Nelson Bay Town Improvement	All categories	0.09499	96.00	26%

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

- 3) Levy on behalf of Hunter-Central Rivers Catchment Management Authority a catchment contribution at the rate determined by the Authority for 2009/2010 on all rateable land with a land value of \$300 or more in the defined benefit area. The defined benefit area for the catchment contribution is shown on the Hunter Central Rivers Catchment Area Map.
- 4) Fix the interest rate to apply to overdue rates and charges in 2009/2010 at 9.0%.
- 5) Make the following annual Domestic Waste Management Charges and Waste Management Charges for 2009/2010. All rateable assessments that are undeveloped (ie have no buildings erected upon them) will be levied either a Domestic Waste Management Charge or a Waste Management Charge. All developed rateable assessments (ie have a building/s erected upon them) will be levied either a Domestic Waste Management Service Charge or a Waste Management Service Charge in addition to the Domestic Waste Management Charge/Waste Management Charge

MINUTED FOR ORDINARY MEETING – 30 JUNE 2009
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Charge Type	Charge Code	Charge Name	Land Category Charge Applies to	Amount of Charge
Domestic Waste Management (section 496 Local Government Act, 1993)	6-63	Domestic Waste Management Charge	All rateable land categorised as Residential except land that is levied a S.496 Domestic Waste Management Service Charge (7-73).	\$57.00 per assessment
Waste Management Charge (section 501 Local Government Act, 1993)	6-64	Waste Management Charge	All rateable land categorised as Mining or Business. All rateable land categorised as Farmland except land that is levied a S.501 Additional Farm Waste Management Charge (6-65). All rateable land categorised as Residential except land that is levied a S.496 Domestic Waste Management Charge (6-63). All non-rateable land that uses the Domestic Waste Management Service.	\$57.00 per assessment
Waste Management Charge (section 501 Local Government Act, 1993)	6-65	Additional Farm Waste Management Charge	All rateable land categorised as Farmland where more than one assessment is held in the same ownership and those assessments are operated as a single farming entity, then the Waste Management Charge (6-64) is to be levied on the first assessment and this Additional Farm Waste Management Charge (6-65) is to be levied on the second and subsequent assessments.	\$1.00 per assessment
Domestic Waste Management (section 496 Local Government Act, 1993)	7-73	Domestic Waste Management Service Charge	All developed rateable land categorised as Residential or Farmland, whether occupied or unoccupied. All non-rateable land that uses the Domestic Waste Management Service	\$286.00 per dual 240 litre bin service

MINUTED FOR ORDINARY MEETING – 30 JUNE 2009
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Charge Type	Charge Code	Charge Name	Land Category Charge Applies to	Amount of Charge
Waste Management Charge (section 501 Local Government Act, 1993)	7-74	Waste Management Service Charge	All developed rateable land categorised as Mining or Business, whether occupied or unoccupied.	\$286.00 per dual 240 litre bin service
Waste Management Charge (section 501 Local Government Act, 1993)	3-74	Waste Service Charge – Additional Red Bin	All rateable land categorised as Farmland, Residential, Mining or Business where the ratepayer requests provision of the additional service. All non-rateable land where provision of the additional service is requested.	\$189.00 per additional waste (red lid) bin
Waste Management Charge (section 501 Local Government Act, 1993)	4-74	Waste Service Charge – Additional Yellow Bin	All rateable land categorised as Farmland, Residential, Mining or Business where the ratepayer requests provision of the additional service. All non-rateable land where provision of the additional service is requested.	\$97.00 per additional recycling (yellow lid) bin

Cr Ken Jordan declared a significant non-pecuniary conflict of interest in Item 5 and left the meeting prior to Item 5 at 6.35pm.

ITEM NO. 5

FILE NO: PSC2008-1422

PROPOSED ROAD CLOSURE & PURCHASE ZIRCON LANE FULLERTON COVE

REPORT OF: CARMEL FOSTER – MANAGER, COMMERCIAL PROPERTY

RECOMMENDATION IS THAT COUNCIL:

- 1) Consents to the closure and sale of part of Zircon Lane being that part separating Lot 1 DP1006307 from Lot 1910 DP557701 commencing of the existing gate to the north easterly to the boundary near Nelson Bay Road.
 - 2) Makes application under Section 34 Roads Act 1993 to the Department of Lands for the closure to be processed.
 - 3) Obtains a valuation from a registered valuer of the proposed closure area and that the valuation set be used to establish the purchase price.
 - 4) Prepares a land Transfer on finalisation of the closure and payment of all costs including the purchase price by the applicant.
 - 5) Requires the applicant to lodge a subdivision application with Council for the road closed lot as required by Land and Property Information NSW.
 - 6) Requires the applicant to prepare a plan for the subject area to be consolidated with the adjoining lot, if the application is successful. This consolidation plan to be presented to Council prior to execution of the Transfer.
 - 7) Allocate proceeds from the sale to road improvements in the vicinity.
 - 8) Grants 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.
 - 9) Grants authority to affix the Council Seal and Signatures to the future Transfer, if the matter is successfully concluded.
-

MINUTED FOR ORDINARY MEETING – 30 JUNE 2009

OPERATIONS COMMITTEE – 09th June 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Shirley O'Brien	That the recommendation be adopted.
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Cr Frank Ward recorded his vote against the recommendation.

ORDINARY COUNCIL MEETING - 30th June 2009

193	Councillor Bob Westbury Councillor John Nell	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to recommend the closure and sale of part of Zircon Lane and consolidation with Lot 1910 DP 557701 owned by the adjoining owner.

The property owner is applying to close and purchase a section of road shown in **ATTACHMENT 1** (public road) adjoining the boundary of their property for consolidation with that property. The total area of road to be closed is an approximate area of 7560 square metres as shown in **ATTACHMENT 2**. If closed, the parcel will be sold to the applicant being the adjoining land owner.

The property owner is to obtain written consent from the Worimi Local Aboriginal Land Council (WLALC) stating that it believes the site does not affect any Aboriginal heritage. The proposed closure has been advertised and adjoining owners notified with no objections being received. Council has been advised that the Service Authorities have no assets in the area and therefore raise no objection to the proposal. Council staff has raised no objections to the proposed closure subject to confirmation in writing from WLALC, as mentioned above.

If the closure is successful a Certificate of Title will issue in Council's name and this will be transferred to the applicant on the payment of the purchase price and costs. As is normal in these matters, the registered valuer will be required to provide a valuation assessment for the closed road and this will be used to determine the purchase price.

LINKS TO CORPORATE PLANS

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

SOCIAL SUSTAINABILITY –	<i>Council will preserve and strengthen the fabric of the community, building on community strengths.</i>
ENVIRONMENTAL	<i>Council will protect and enhance the environment while</i>
SUSTAINABILITY –	<i>considering the social and economic ramifications of decisions.</i>

FINANCIAL/RESOURCE IMPLICATIONS

The applicant must meet all costs associated with the closure process. If these costs are not met at different stages through the process the next stage is not commenced, until such payment is made.

LEGAL AND POLICY IMPLICATIONS

All actions relating to road closure and purchases are controlled by the Roads Act 1993 with the application being made under Section 34. The Department of Lands is responsible for the process once Council consents to the closure, the Department makes the final decision and gazettes the closure. The Conveyancing Act controls the actual sale process once the new Certificate of Title has been issued. Council's Road Closure Policy details the actions to be followed.

BUSINESS EXCELLENCE FRAMEWORK

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These outcomes align with the following Business Excellence principles:-

- 1) **CUSTOMERS** – *Understand what makes markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 2) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 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

Nil.

ECONOMIC IMPLICATIONS

Nil.

ENVIRONMENTAL IMPLICATIONS

Confirmation from WLALC is required by the applicant. No other implications are foreseen.

CONSULTATION

Applicant; Department of Lands; Service Authorities; adjoining owners; development consultants; Council's Facilities & Services and staff and Principal Property Advisor.

OPTIONS

- 1) Accept recommendation
- 2) Refuse consent

ATTACHMENTS

- 1) Plan showing proposed closure
- 2) Survey plan showing area of land

COUNCILLORS ROOM

Nil

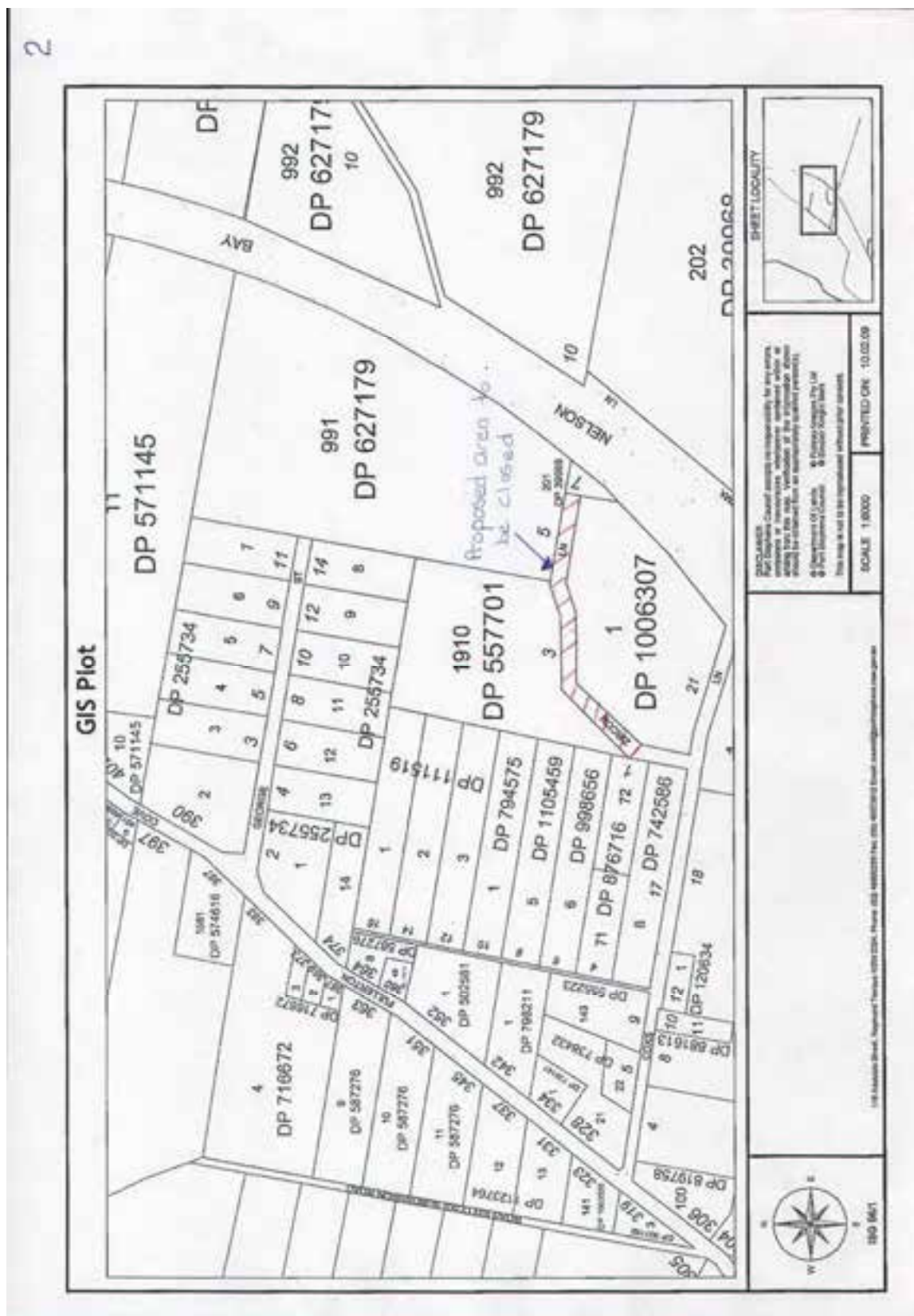
TABLED DOCUMENTS

Nil

ATTACHMENT 1



ATTACHMENT 2



Councillor Ken Jordan returned to the meeting at 6.36pm following Item 5.

ITEM NO. 6

FILE NO: A2004-1000 & PSC2009-01763

ACQUISITION & DEDICATION OF EASTERN END OF KILLALOE LANE AS PUBLIC ROAD - EAGLETON

REPORT OF: CARMEL FOSTER – MANAGER, COMMERCIAL PROPERTY

RECOMMENDATION IS THAT COUNCIL:

- 1) Seeks the Minister for Local Government's consent and the Governors approval to publish in the N.S.W. Government Gazette a 'Notice of Acquisition' by agreement under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for road purposes over the following areas of land:-
 - b. Lot 1 D.P. 860597 and
 - c. Strip shown as "Killaloe Lane (20 wide and var.)" shown on D.P.1008109 separating lots 1 and 2 in D.P.1008109.
 - 2) Dedicates the areas of land in a. above as Public Road under Section 10 Roads Act 1993 as soon as practicable after publication of the above Notice of Acquisition.
 - 3) Officially names the constructed length of road from Newline Road generally easterly, known locally and signposted as Killaloe Lane as 'Killaloe Lane' under Section 162 Roads Act 1993.
 - 4) Under Geographical Names Board regulations relocates the locality boundary between Eagleton and Balickera to the northern and eastern boundaries of lot 1 D.P.860597 to place the full length of Killaloe Lane in Eagleton.
 - 5) Investigates the possibility of renaming the section of Killaloe Lane running westward from the Pacific Highway along the southern boundary of the locality of Balickera. Discussions to be held with landowners affected and a further report to be presented to Council.
-

OPERATIONS COMMITTEE – 09th June 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor John Nell	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 30th June 2009

194	Councillor Ken Jordan Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to recommend finalisation of the process for Council to acquire the constructed sections of Killaloe Lane where it is located on private property – also to declare these sections as Public Road and officially name the entire length of road as “Killaloe Lane” from Newline Road. The recommendation is also to investigate the possibility to rename the unconnected section of Killaloe Lane running west from the Pacific Highway.

In 1991 it was drawn to Councils attention that the full length of Killaloe Lane was not a Public Road. Neighbour disputes developed regarding access to some very old (1876) parcels of land and the legal access situation was not clear. In an attempt to overcome the situation Council commenced negotiations with all concerned and a resolution was proposed. The resolution involved compromises by neighbours with Councils involvement to include surveys of the existing constructed road over some private lands for the “settlement” of doubts to clarify the situation. Plans were registered at the Land Titles Office (LPI) after much input from that office and solicitors involved in the then new Roads Act 1993.

Deposited Plans 860597 and 1008109 were registered on 9-8-1996 and 11-11-1999 respectively – **ATTACHMENTS 1 AND 2**. There were a number of property sales and no final agreements had been put in place until now. As a result of the sales there are only two properties affected by the acquisition proposals. The owners of both these properties have now agreed to acquisition by Council of the sections of Killaloe Lane shown on the 2 Deposited Plans. They have agreed that the use of the Compulsory Acquisition process and the Land Acquisition (Just Terms Compensation) Act 1991 would be the easiest way to finalise the matter. No compensation is being claimed for the land to be acquired by Council and this will simplify the acquisition because of the agreements over both properties.

An approval for the acquisition must be obtained from the Minister for Local Government and consent of the Governor to publish the Acquisition Notice in the Government Gazette. Following that notice Council will declare the subject sections Public Road and again in the Government Gazette, officially name the entire length as Killaloe Lane in compliance with the Geographical Names Board policy.

The recommendation to slightly relocate the Eagleton/Balickera locality boundary is simply to have Killaloe Lane in only one locality that is Eagleton.

Additionally there is another road known as Killaloe Lane running west from the Pacific Highway on the same projection as Killaloe Lane from Newline Road. The

road from the Pacific Highway has no constructed intersection with the highway and the only access is via a Right of Carriageway from Italia Road, **ATTACHMENT 3**. As the access from Italia Road is not shown on street directories deliveries to these properties along the subject length of road are often directed to the wrong area. None of the in vehicle G.P.S. directories are able to locate the properties either. For this reason it has been suggested one single official name on the access and Killaloe Lane could avoid many issues – **ATTACHMENT 4**. Contact has been made with all the affected property owners for their input or suggestions. A further report will be submitted to Council after all matters are clear, including a possible name.

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.

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 a minor nature as no monetary compensation is to be paid and the only costs will be the publishing of notices in the Government Gazette.

LEGAL AND POLICY IMPLICATIONS

The Roads Act 1993, authorises the acquisition for road purposes while the Land Acquisition (Just Terms Compensation) Act 1991 provides the statutory requirements to the final gazettal.

BUSINESS EXCELLENCE FRAMEWORK

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These outcomes align with the following Business Excellence principles:-

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- 4) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 5) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Recommendations will improve the communities' ability to locate addresses and save delivery times to properties.

ECONOMIC IMPLICATIONS

No long term implications as the only costs will be for notices in the Government Gazette which are covered by Councils normal budget.

ENVIRONMENTAL IMPLICATIONS

Nil as no works are proposed

CONSULTATION

Property owners and mortgagees, Australia Post, Councils Engineering Services Manager and Principal Property Advisor.

OPTIONS

- 1) Accept recommendations
- 2) Modify recommendations
- 3) Reject recommendations

ATTACHMENTS

- 1) D.P.860597
- 2) D.P.1008109
- 3) Killaloe Lane and Access
- 4) Possible Road/Access Renaming

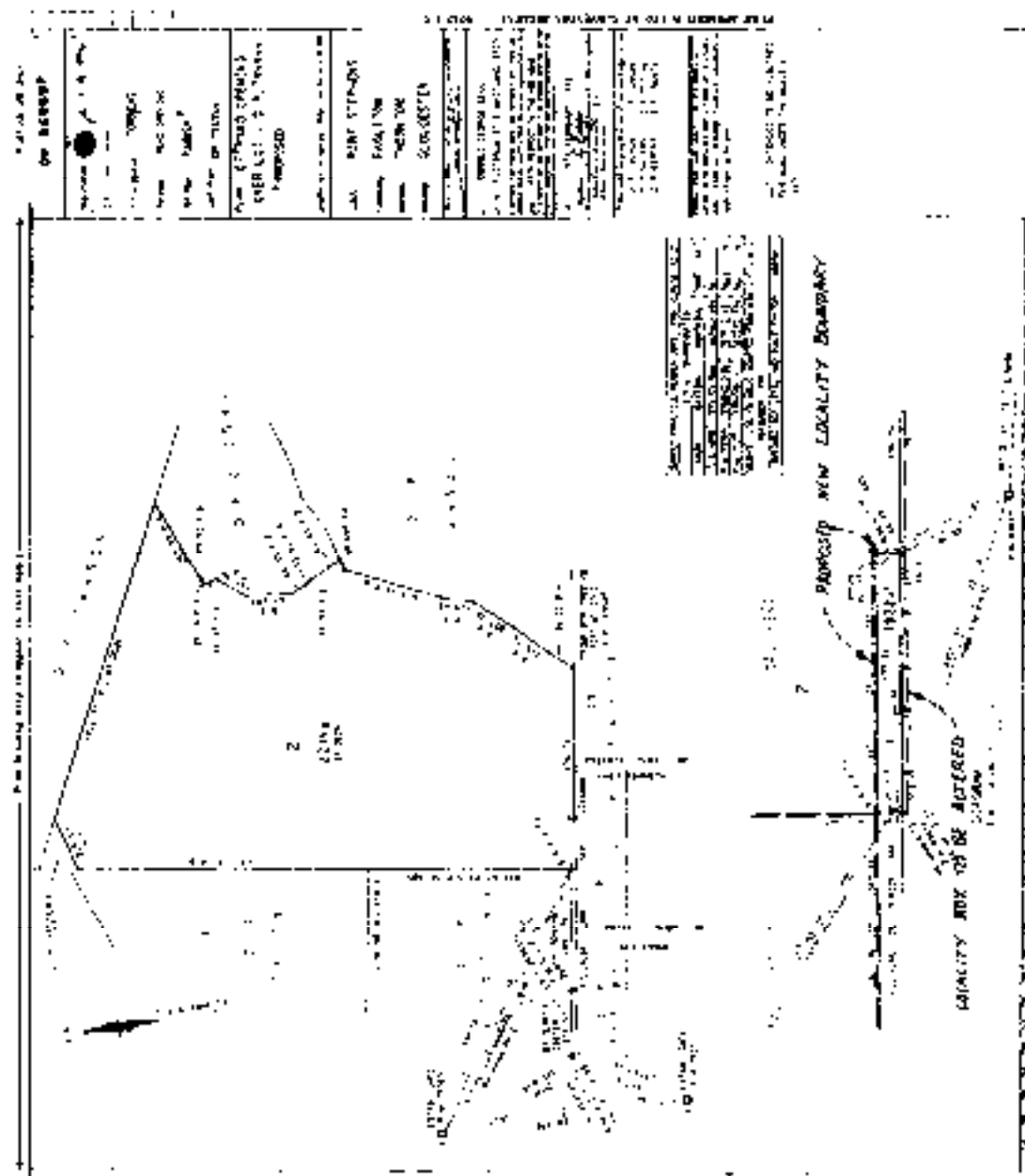
COUNCILLORS ROOM

Nil

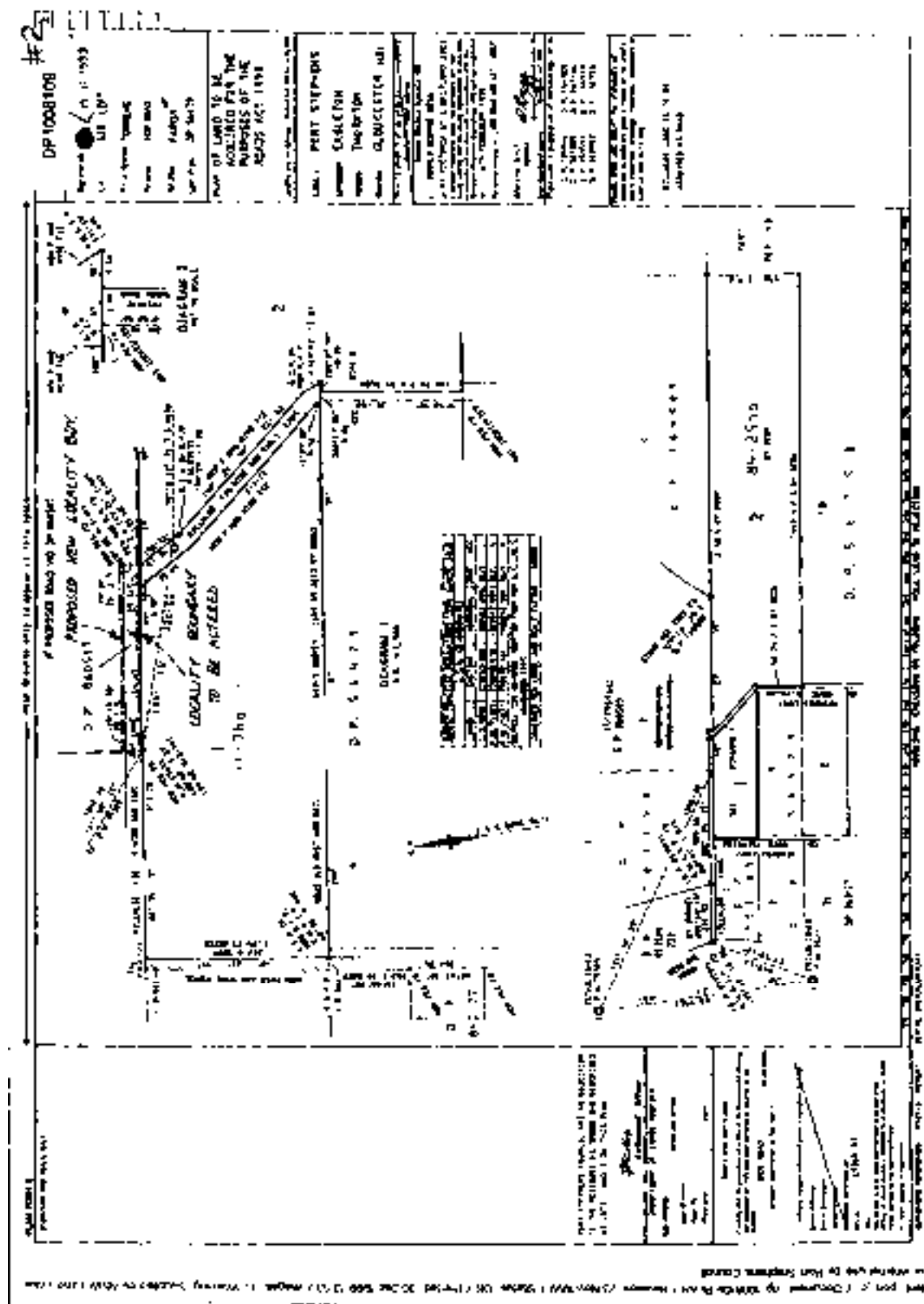
TABLED DOCUMENTS

Nil

ATTACHMENT 1

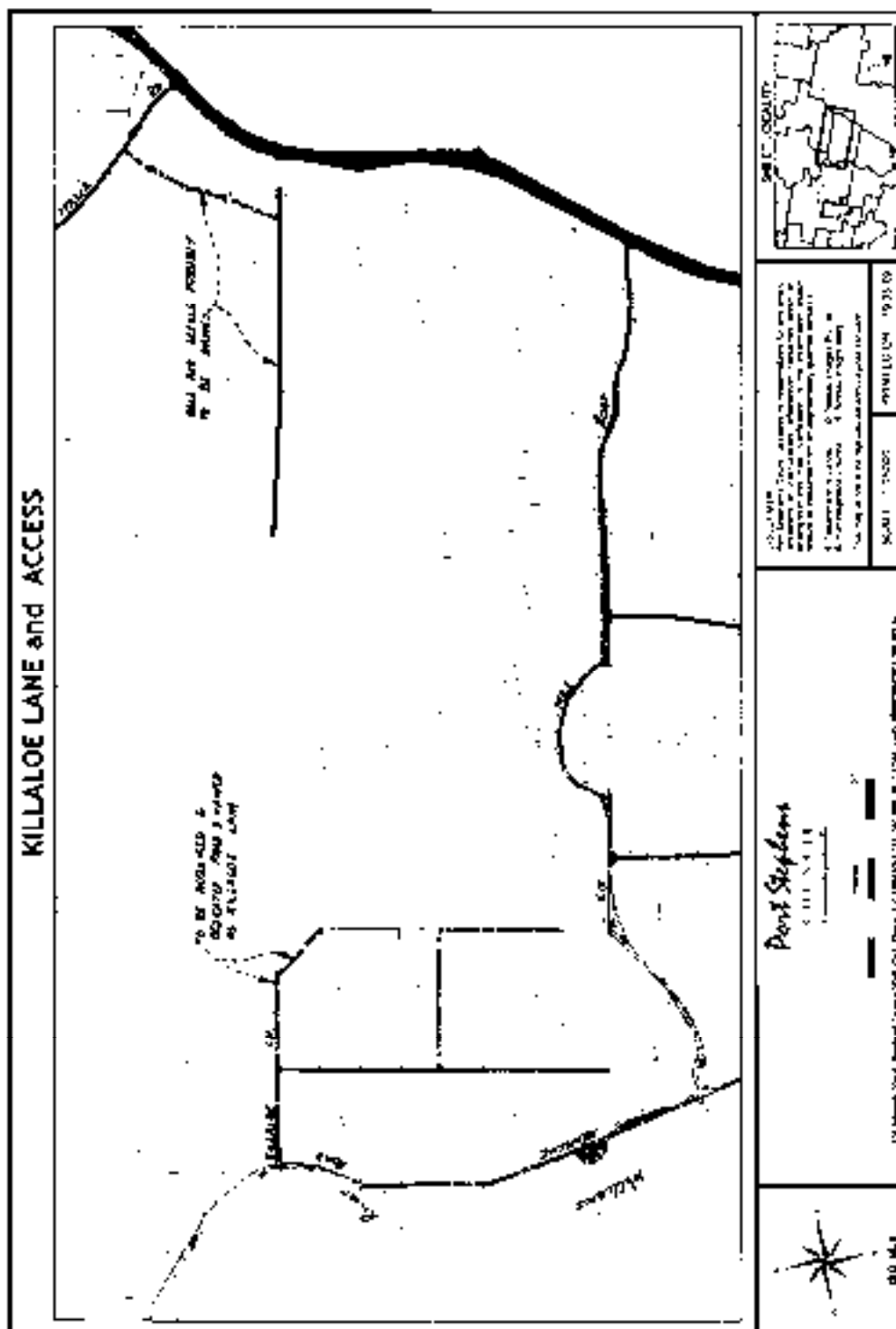


ATTACHMENT 2



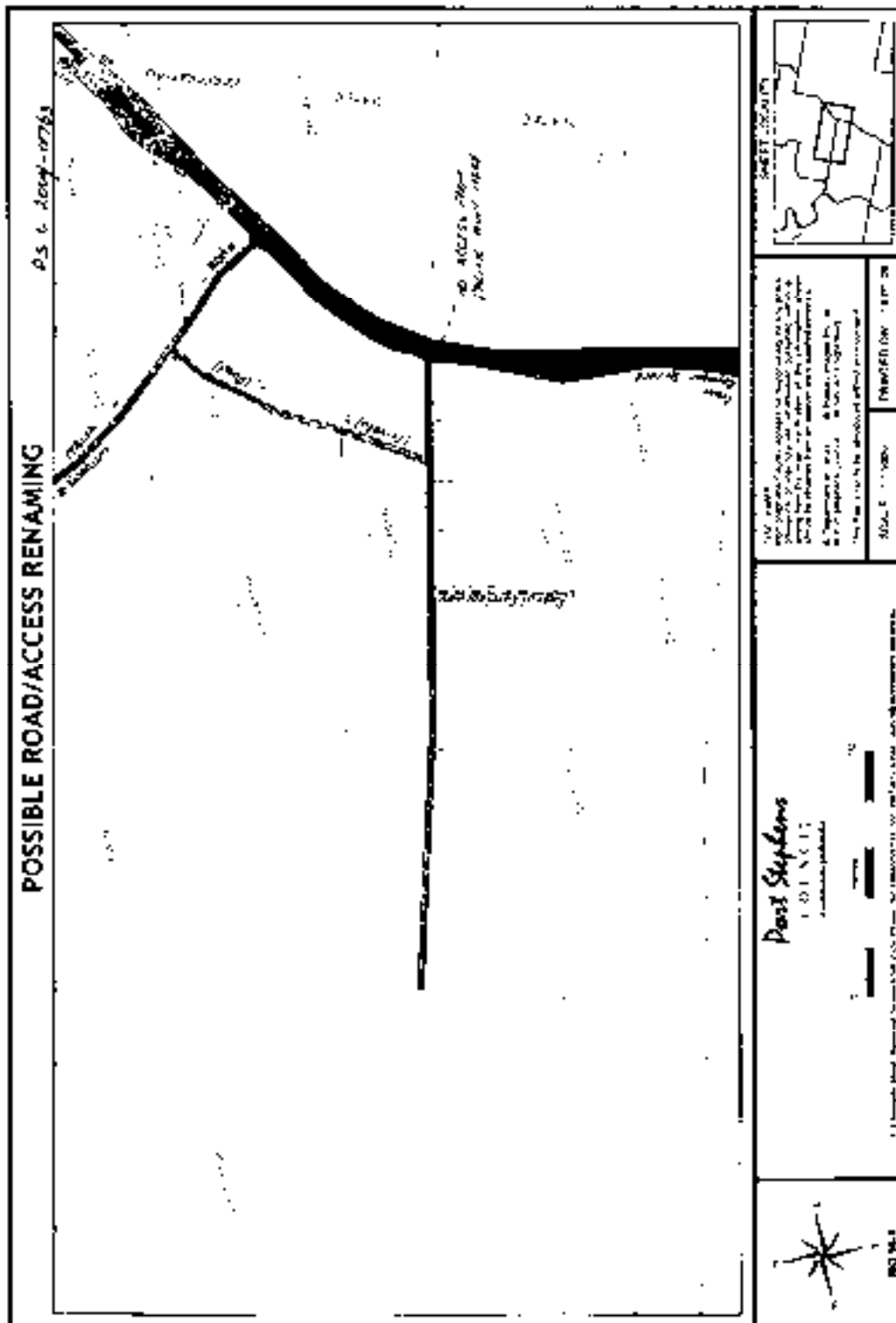
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54



ATTACHMENT 4

#4



ITEM NO. 7**FILE NO: A2004-1014****ROAD WIDENING ITALIA ROAD EAST SEAHAM****REPORT OF: CARMEL FOSTER – MANAGER, COMMERCIAL PROPERTY**

RECOMMENDATION IS THAT COUNCIL:

- 1) Acquires a strip of land 10 metres wide from Lot 303 DP713773 to finalise previous road work for the widening of Italia Road at corner of East Seaham Road.
 - 2) Accept the owner's offer of the land with no compensation payable as new fencing was provided by Council when previously constructing the road widening.
 - 3) Carries out the survey required and lodges the plan at Land and Property Information after endorsement by the owners.
-

OPERATIONS COMMITTEE – 09th June 2009**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor John Nell	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 30th June 2009

195	Councillor John Nell Councillor Bob Westbury	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to request Councils formal consent to finalise the acquisition of land for road widening previously constructed.

A number of years ago Council improved the intersection of Italia Road and East Seaham Road at East Seaham to make a safer road. At that time the owners agreed for Council to construct a new fence on the new road boundary. The owners are not claiming compensation because of the costs involved in the new fence construction by Council.

The owners will sign the plan dedicating the strip of land as road on registration of the plan at Land and Property Information (LPI).

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

Of a minor nature involving a survey plan and lodging it at the Land and Property Information office. Facilities and Services existing budget will cover these costs.

LEGAL AND POLICY IMPLICATIONS

The owners will sign the plan dedicating the road widening as public road, under the Conveyancing Act, when registered at the Land and Property Information office.

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) **CONTINUOUS IMPROVEMENT** – Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.
- 3) **INFORMATION AND KNOWLEDGE** – Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.
- 4) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 5) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Property owners
Principal Property Advisor
Senior Survey and Land Information Manager
Engineering Services Manager.

OPTIONS

- 1) Accept recommendations
- 2) Reject recommendations

ATTACHMENTS

- 1) Locality Map
- 2) Deposited Plan

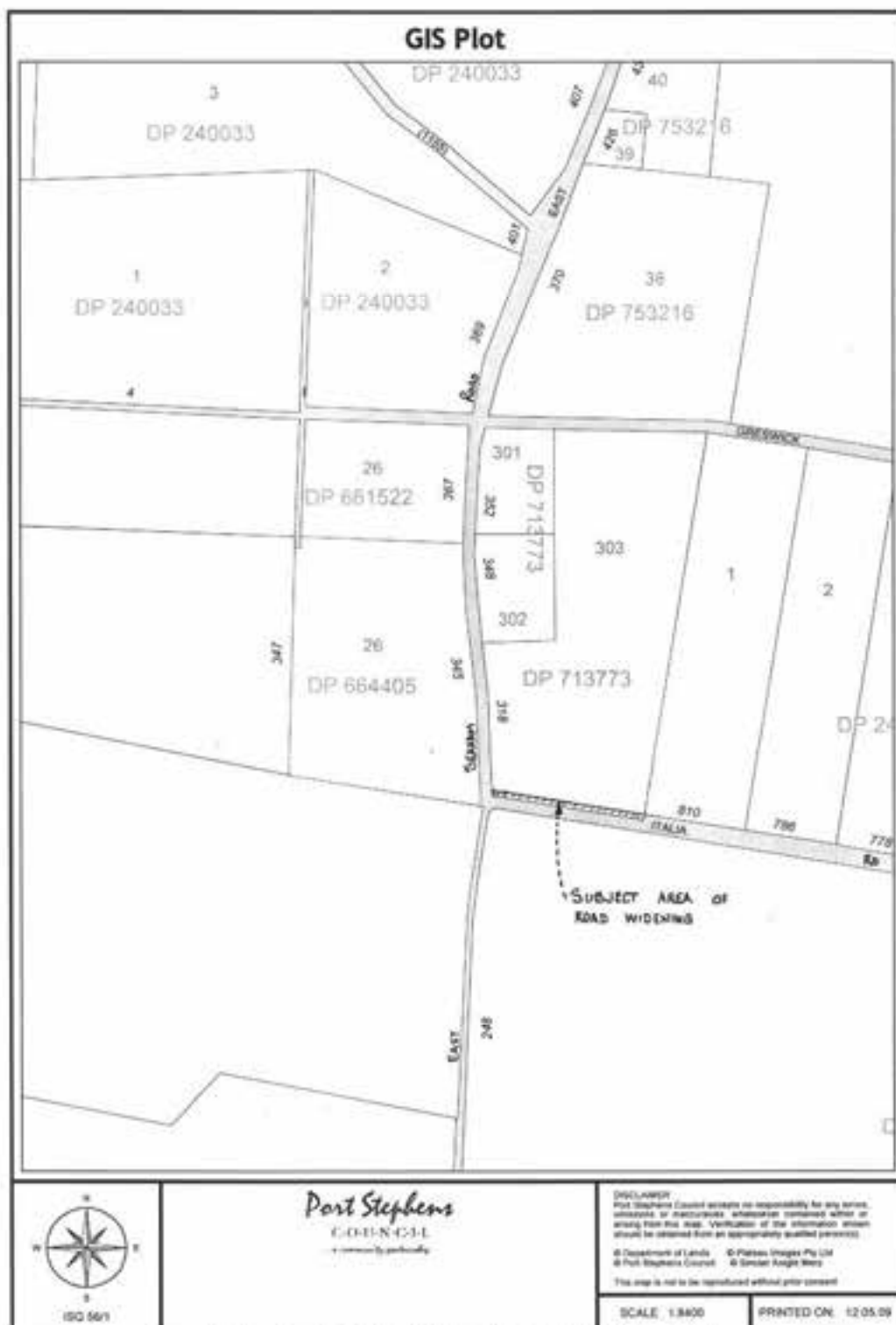
COUNCILLORS ROOM

Nil

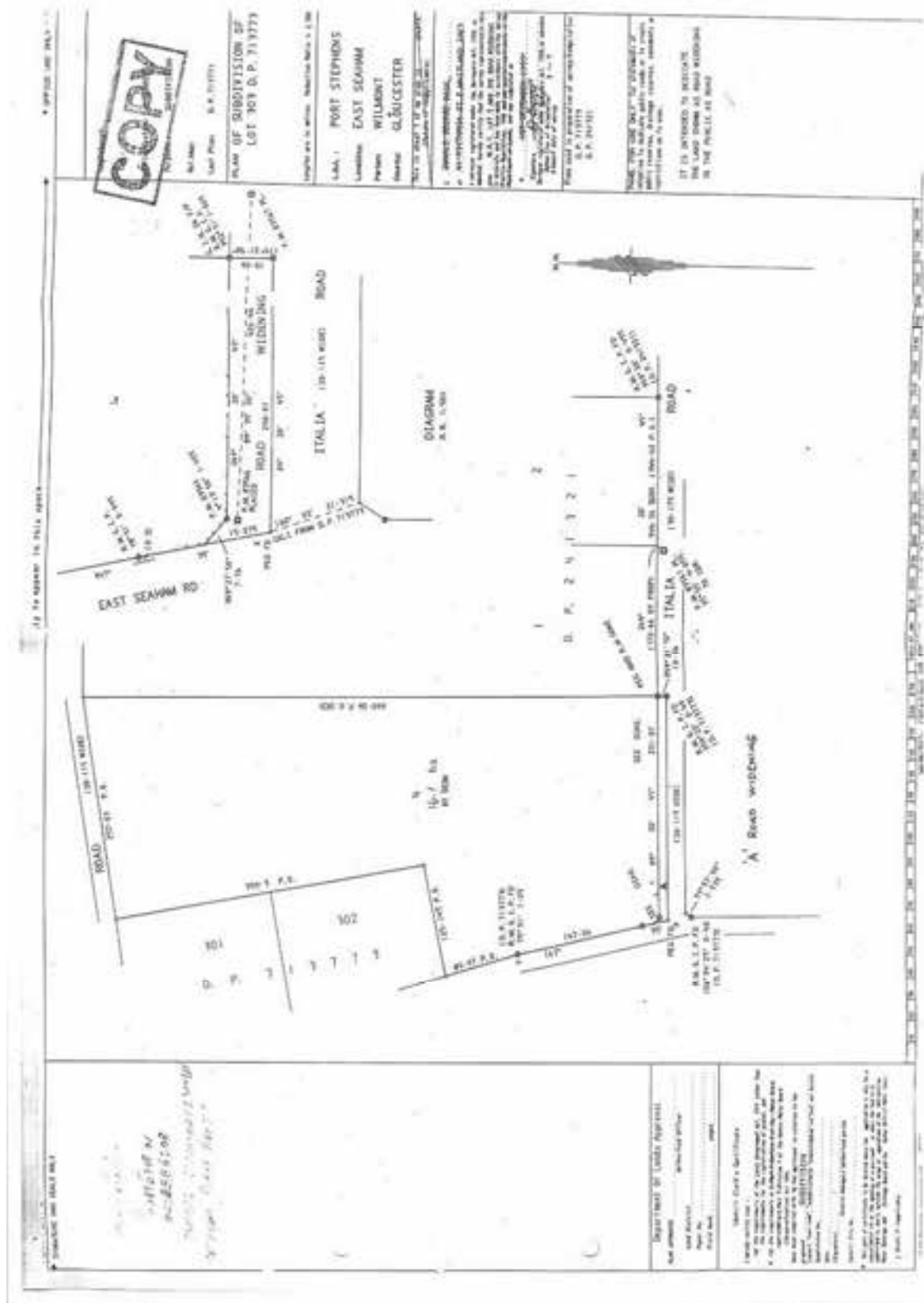
TABLED DOCUMENTS

Nil

ATTACHMENT 1



ATTACHMENT 2



ITEM NO. 8

FILE NO: PSC2008-9838

DRAFT COUNCIL PLAN 2009-2013 AND FEES & CHARGES 2009-2010

REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES

THIS ITEM WAS DEALT WITH AT THE ORDINARY MEETING OF COUNCIL ON 9TH JUNE 2009

ITEM NO. 9

FILE NO: PSC2008-0599

NSW COASTLINE CYCLEWAY GRANTS- SANDY POINT RD

REPORT OF: MICK LOOMES – MANAGER, ENGINEERING SERVICES

THIS ITEM WAS DEALT WITH AT THE ORDINARY MEETING OF COUNCIL ON 9TH JUNE 2009

ITEM NO. 10**FILE NO: A2004-0266****MAYOR AND COUNCILLOR FEES 2009/10****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**

RECOMMENDATION IS THAT COUNCIL:

- 1) Determine the fees for the Mayor and Councillors for the period 1 July 2009 to 30 June 2010.

OPERATIONS COMMITTEE – 09th June 2009**RECOMMENDATION:**

	Councillor Ken Jordan Councillor John Nell	That the maximum allowance be applied for both the Mayoral and Councillors.
--	---	---

ORDINARY COUNCIL MEETING - 30th June 2009

196	Councillor Shirley O'Brien Councillor John Nell	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to determine the fees payable to the Mayor and Councillors for 2009/2010 financial year and to inform Council of the outcome of the Review of Council categories.

The Local Government Remuneration Tribunal is required by Section 239 of the Local Government Act to review the categories of all Councils every 3 years. The last review was completed in 2006 and the 2009 review is now completed. A copy of the Tribunal's Report is provided by way of a tabled document.

The key result of the Review is that whilst the groupings of Councils remain unchanged the Tribunal has applied descriptive titles for each of the categories. Port Stephens Council was previously a category 3 Council. The new categories are shown as follows:-

Previous Category	New Category
4	Rural
3	Regional Rural
2	Metropolitan
1	Metropolitan Centres
1A	Metropolitan Major
S2	Major City
S1	Principal City
S3	County Councils
S4	County Council - Water

Pursuant to Section 241 of the Local Government Act 1993, the annual fees to be paid in each of the categories determined under Section 234 to Councillors and Mayors of Councils during the period 1 July 2009 to 30 June 2010.

The increase with respect to the Councillor and Mayors fees has been increased by 2.5% for the 2009-2010.

Port Stephens Council is currently classified a Regional Rural category (previously category 3) and the Tribunal has determined the range of fees payable as those in the following table.

	Minimum	Maximum		Minimum	Maximum
Councillor	\$7,040	\$15,500	Mayor	\$14,980	\$33,840

The Mayor receives the fee payable as a Councillor with the additional fee as the Mayor. ie. Minimum \$22,020 - Maximum \$49,340.

Council's past practice has been to pay the maximum fees as determined by the Tribunal. In 2008/09 these amounted to \$48,130 for the Mayor and \$15,1202 for Councillors.

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 2009/10 draft Budget has allowed for \$34,332 for the Mayoral Allowance and \$15,726 for Councillors (\$15,121 x 12 = \$188,712).

LEGAL AND POLICY IMPLICATIONS

Annual fees must be paid to Councillors and Mayors in accordance with Section 241 of the Local Government Act, 1993. Council may set the fees anywhere between the minimum and maximum determined by the Tribunal.

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.*
- 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 Remuneration Tribunal's Report takes into account the current financial situation and the overall impact that increase costs have on Local Government and the social implications.

ECONOMIC IMPLICATIONS

The fee allows Councillors and the Mayor to effectively carry out their responsibilities as members of the Council and as community representatives without suffering financial hardship.

ENVIRONMENTAL IMPLICATIONS

Nil

CULTURAL IMPLICATIONS

Nil

CONSULTATION

General Manager
Local Government Remuneration Tribunal

OPTIONS

- 1) Adopt the maximum allowance for the Mayor and Councillors as per the Local Government Remuneration Tribunal determinations for the Regional Rural category Council.
- 2) Choose to pay fees within the range set by the Local Government Remuneration Tribunal for the Regional Rural category.

ATTACHMENTS

Nil.

TABLED DOCUMENTS

- 1) Local Government Remuneration Tribunal Report for 2009.

ITEM NO. 11

FILE NO: A2004-0030

DESIGNATED PERSONS – PECUNIARY INTERESTS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

- 1) Identifies the following positions which require the occupants, for the purposes of Chapter 14 of the Local Government Act (S441), to be deemed "designated persons" because they are involved in the exercise of functions that could give rise to a conflict between the person's duty and that person's private interest.
-

Councillors (past and present)

Cr Bruce MacKenzie
Cr Shirley O'Brien
Cr Daniel Maher
Cr Peter Kafer
Cr Frank Ward
Cr Steve Tucker
Cr Geoff Dingle
Cr Bob Westbury
Cr John Nell
Cr Sally Dover
Cr Ken Jordan
Cr Glenys Francis
Cr Helen Brown
Cr Ron Swan
Cr Geoff Robinson
Cr Josh Hodges

General Manager's office

General Manager
Executive Manager Corporate Management
Executive Officer

Corporate Services

Group Manager Corporate Services
Legal Services Manager
Corporate Planning & Community Engagement Coordinator
Customer Relations and Communications Manager
Information Management Manager
Publications Coordinator
Organisation Development Manager
Human Resources Manager
IT Coordinator

Sustainable Planning

Group Manager Sustainable Planning
Development and Building Manager
Building Coordinator
Integrated Planning Manager
Strategic Planning Coordinator
Senior Land Use Planner
Strategic Planner (2)
Customer Support Coordinator
Engineering Coordinator
Development Coordinator
Senior Development Planner (3)
Senior Policy Planner
Development Planners (2)
Senior Building Surveyors (2)
Health and Building Surveyors (5)
Subdivision Engineer
Section 94 Engineer
Social Planning Coordinator
Development Engineer
Infrastructure Planning Coordinator
Traffic Engineer
Environmental Services Manager
Coordinator Environmental Compliance & Community Health
Coordinator Natural Resources
Compliance Officer
Executive Planner
Environmental Health Team Leader

Commercial Services

Group Manager Commercial Services
Resources Manager
Principal Property Advisor
Property Unit Coordinator
Business Development Manager
Commercial Property Services Manager
Business Operations Manager
Tourism Manager
Financial Services Manager
Fleet Management Coordinator
Finance & Assets Coordinator
Financial Accountant
Economic Development Manager
Procurement & Contracts Coordinator
Mechanical Services Coordinator

Facilities & Services

Group Manager Facilities & Services
Community and Library Services Manager
Engineering Services Manager
Project Services Manager
Operations Manager
Recreation Services Manager
Sports Facilities Coordinator
Parks Facilities Coordinator
Contracts & Halls Coordinator

OPERATIONS COMMITTEE – 09th June 2009**RECOMMENDATION:**

	Councillor Glenys Francis Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 30th June 2009

197	Councillor Steve Tucker Councillor John Nell	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to identify Councillors and Council staff required to complete Designated Persons Returns.

Council is required to identify Council staff who, in the exercise of their functions, have a reasonable likelihood or expectation of appreciable financial gain or loss for themselves or for another person they are associated with (i.e. their spouse or de facto partner, etc). They are described as “designated persons” and are required to disclose their pecuniary interests.

Councillors are also designated persons.

The Act requires that Councillors and designated persons refrain from taking part in decisions on Council matters in which they have a pecuniary interest.

A public register is to be kept and available to the public for inspection upon request. Any person may make a complaint concerning failure to disclose a pecuniary interest and the Local Government Department and Pecuniary Interest Tribunal are empowered to investigate and conduct hearings.

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

Nil Financial and Resource implications are factored into the current budget.

LEGAL AND POLICY IMPLICATIONS

Section 441 Local Government Act 1993 and Council's Procedure for Lodgement of Pecuniary Interest forms.

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:-

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

General Manager

OPTIONS

- 1) To adopt the recommendation

ATTACHMENTS

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 12**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 9th June, 2009.

No:	Report Title	Page:
1	DETERMINED AND UNDETERMINED DEVELOPMENT APPLICATIONS	
2	CASH AND INVESTMENTS HELD AT 30 APRIL 2009	
3	PUBLIC EXHIBITION OF DRAFT PLANS OF MANAGEMENT FOR CROWN LAND RESERVES COVERING FINGAL BAY, HALIFAX AND SHOAL BAY HOLIDAY PARKS	
4	DEPARTMENT OF INFRASTRUCTURE – COMMUNITY INFRASTRUCTURE - PROGRAM – STRATEGIC PROJECTS GRANT APPLICATION: MEDOWIE CYCLEWAYS	

-----**OPERATIONS COMMITTEE – 09th June 2009****RECOMMENDATION:**

	Councillor Glenys Francis Councillor Shirley O'Brien	That the recommendation be adopted.
--	---	-------------------------------------

ORDINARY COUNCIL MEETING - 30th June 2009

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



INFORMATION ITEM NO. 1

DETERMINED AND UNDETERMINED DEVELOPMENT APPLICATIONS

REPORT OF: ANTHONY RANDALL – ACTING 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. 2

CASH AND INVESTMENTS HELD AT 30 APRIL 2009

REPORT OF: DAMIEN JENKINS – FINANCIAL SERVICES MANAGER
FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of Cash and Investments held at 30 April 2009.

ATTACHMENTS

- 1) Cash and Investments Held at 30 April 2009.
- 2) Monthly Cash and Investments Balance May 2008 – April 2009
- 3) Monthly Australian Term Deposit Index July 2008 – April 2009

ATTACHMENT 1

CASH & INVESTMENTS HELD AS AT 30 APRIL 2009										
INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value February	Market Value March	Market Value April	Current Mark to Market Exposure
GRANGE SECURITIES										
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	AA	20-Mar-12	1,000,000.00	3.40%	4.51%	\$420,000.00	\$246,700.00	\$246,700.00	-\$753,300.00
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO	AA-	23-Jun-15	412,500.00	1.40%	6.49%	\$173,250.00	\$173,250.00	\$195,937.50	-\$216,562.50
HERALD LTD "QUARTZ AA"	Floating Rate CDO	BB+	20-Dec-10	450,000.00	1.53%	4.51%	\$63,135.00	\$95,895.00	\$137,025.00	-\$312,975.00
STARTS CAYMAN LTD "BLUE GUM AA"	Floating Rate CDO		22-Jun-13	1,000,000.00	3.40%	4.43%	\$20,500.00	\$20,500.00	\$100.00	-\$999,900.00
HELIUM CAPITAL LTD "ESPERANCE AA+"	Floating Rate CDO	A-	20-Mar-13	1,000,000.00	3.40%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
HOME BUILDING SOCIETY	Floating Rate Sub Debt		25-Jul-11	500,000.00	1.70%	4.01%	\$407,705.00	\$410,745.00	\$412,560.00	-\$87,440.00
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note		18-Oct-11	500,000.00	1.70%	5.33%	\$485,000.00	\$485,000.00	\$492,500.00	-\$7,500.00
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	AA-	20-Mar-14	1,000,000.00	3.40%	4.01%	\$83,300.00	\$83,300.00	\$149,100.00	-\$850,900.00
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate CDO	AA	20-Sep-14	1,000,000.00	3.40%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
TOTAL GRANGE SECURITIES				\$6,862,500.00	23.33%		\$1,652,890.00	\$1,515,390.00	\$1,633,922.50	(\$5,228,577.50)
ABN AMRO MORGANS										
REMBRANDT ISOSCELES SERIES 1	Floating Rate CDO	AA	20-Sep-09	\$2,000,000.00	6.80%	0.00%	\$1,646,200.00	\$1,680,000.00	\$1,680,000.00	-\$320,000.00
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note		17-Sep-11	\$1,000,000.00	3.40%	0.00%	\$891,000.00	\$849,100.00	\$866,000.00	-\$134,000.00
BANK OF QLD FLOATING RATE NOTE	Floating Rate Note			\$0.00	0.00%		\$991,110.00	\$0.00	\$0.00	\$0.00
BANK OF QLD TERM DEPOSIT	Term Deposit		5-Sep-09	\$750,000.00	2.55%	4.65%	\$750,000.00	\$750,000.00	\$750,000.00	\$0.00
TOTAL ABN AMRO MORGANS				\$3,750,000.00	12.75%		\$4,278,310.00	\$3,279,100.00	\$3,296,000.00	(\$454,000.00)
ANZ INVESTMENTS										
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA"	Floating Rate CDO	B	6-Apr-10	\$500,000.00	1.70%	4.31%	\$88,000.00	\$151,000.00	\$178,500.00	-\$321,500.00
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	BBB-	30-Dec-11	\$1,000,000.00	3.40%	0.00%	\$266,100.00	\$266,100.00	\$266,100.00	-\$733,900.00
ANZ ZERO COUPON BOND	Zero Coupon Bond	A	1-Jun-17	\$1,017,876.98	3.46%	0.00%	\$671,798.80	\$671,798.80	\$610,726.18	-\$407,150.80
ADELAIDE BANK SENIOR DEBT	Floating Rate Deposit	BBB+	22-May-09	\$1,000,000.00	3.40%	3.28%	\$995,950.00	\$997,430.00	\$997,430.00	-\$2,570.00
TOTAL ANZ INVESTMENTS				\$3,517,876.98	11.96%		\$2,021,848.80	\$2,086,328.80	\$2,052,756.18	(\$1,465,120.80)
RIM SECURITIES										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		29-Jul-13	\$2,000,000.00	6.80%	0.00%	\$329,520.00	\$520,020.00	\$500,008.00	-\$1,499,992.00
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		8-Oct-11	\$1,000,000.00	3.40%	3.80%	\$947,237.00	\$853,395.00	\$852,732.00	-\$147,268.00
QLD POLICE CREDIT UNION	Term Deposit				0.00%		\$500,000.00	\$500,000.00		
HERITAGE BUILDING SOCIETY	Term Deposit		4-May-09	\$1,000,000.00	3.40%	5.15%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
POLICE AND NURSES CREDIT UNION	Term Deposit				0.00%		\$1,000,000.00	\$0.00	\$0.00	
SAVINGS AND LOANS CREDIT UNION	Term Deposit				0.00%			\$1,000,000.00		
TOTAL RIM SECURITIES				\$4,000,000.00	13.60%		\$3,776,757.00	\$3,873,415.00	\$2,352,740.00	(\$1,647,260.00)
WESTPAC INVESTMENT BANK										
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt		27-Apr-10	\$500,000.00	1.70%	4.16%	\$487,310.00	\$434,075.00	\$439,075.00	-\$60,925.00
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		20-Nov-11	\$500,000.00	1.70%	4.19%	\$441,990.00	\$443,105.00	\$445,300.00	-\$54,700.00
TOTAL WESTPAC INV. BANK				\$1,000,000.00	3.40%		\$929,300.00	\$877,180.00	\$884,375.00	(\$115,625.00)
LONGREACH CAPITAL MARKETS										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	AA	7-Mar-12	\$500,000.00	1.70%	0.00%	\$396,600.00	\$402,300.00	\$403,450.00	-\$96,550.00
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note		7-Sep-12	\$500,000.00	1.70%	0.00%	\$402,800.00	\$403,800.00	\$403,600.00	-\$96,400.00

MINUTED FOR ORDINARY MEETING – 30 JUNE 2009

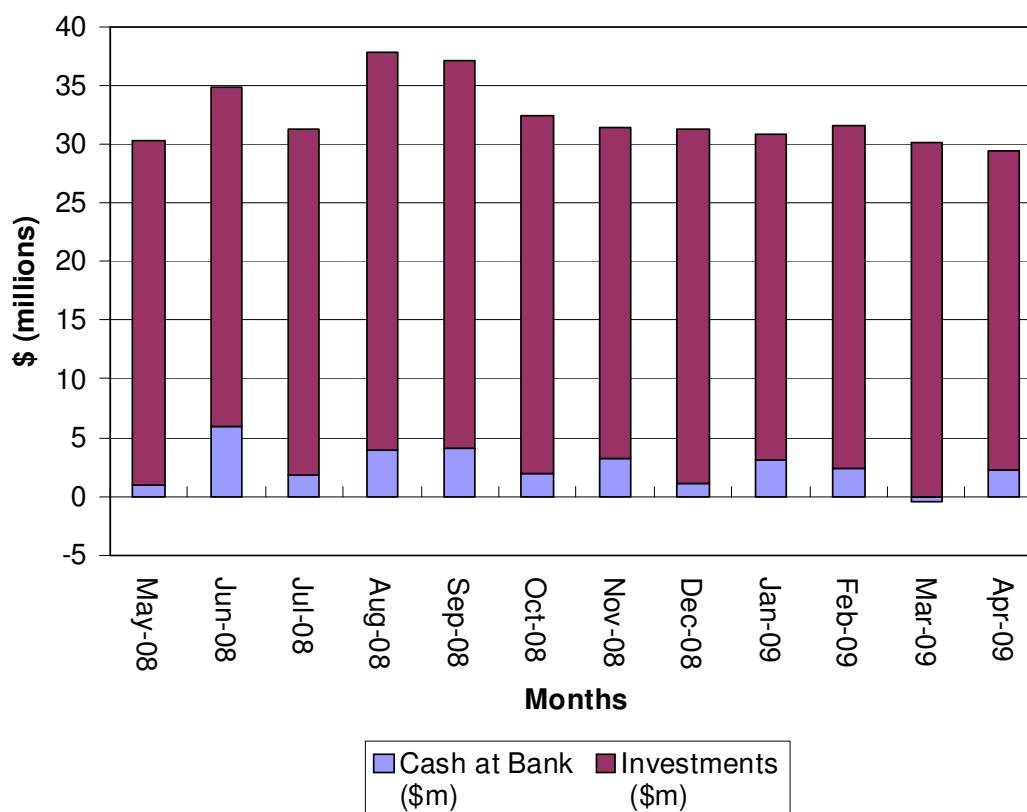
ATTACHMENT 1

COMMONWEALTH BANK										
EQUITY LINKED DEPOSIT	Equity Linked Note	20-Sep-11	\$500,000.00	1.70%	3.00%	\$490,650.00	\$491,400.00	\$491,550.00		-\$8,450.00
EQUITY LINKED DEPOSIT GH100	Equity Linked Note	03-Aug-10	\$500,000.00	1.70%	3.00%	\$507,600.00	\$507,150.00	\$507,400.00		\$7,400.00
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	05-Nov-12	\$500,000.00	1.70%	3.00%	\$481,700.00	\$480,050.00	\$475,450.00		-\$24,550.00
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	09-Nov-12	\$500,000.00	1.70%	4.57%	\$433,415.00	\$434,880.00	\$436,245.00		-\$63,755.00
BANK OF QUEENSLAND	Term Deposit	12-Aug-10	\$1,000,000.00	3.40%	4.80%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00		\$0.00
BANK OF QUEENSLAND BOND	Bond	16-Mar-12	\$1,000,000.00	3.40%	5.35%		\$1,000,000.00	\$1,000,000.00		\$0.00
TOTAL COMMONWEALTH BANK			\$4,000,000.00	13.60%		\$2,913,365.00	\$2,913,480.00	\$3,910,645.00		(\$89,355.00)
FIG SECURITIES										
CREDIT SUISSE PRINCIPAL PROTECTED NOTE AQUADUCT AA-	Principal Protected Note	21-Jun-10	\$1,000,000.00	3.40%	0.00%	\$951,300.00	\$953,300.00	\$956,100.00		-\$43,900.00
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note	30-Nov-14	\$500,000.00	1.70%	4.16%	\$188,950.00	\$185,910.00	\$356,290.00		-\$143,710.00
AUSTRALIAN DEFENCE CREDIT UNION	Term Deposit			0.00%		\$1,000,000.00	\$1,000,000.00			
SAVINGS AND LOANS CREDIT UNION	Term Deposit			0.00%			\$1,000,000.00			
TOTAL FIG SECURITIES			\$1,500,000.00	5.10%		\$2,140,250.00	\$2,139,210.00	\$1,312,390.00		(\$187,610.00)
MAITLAND MUTUAL										
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	30-Jun-13	500,000.00	1.70%	4.64%	\$500,000.00	\$500,000.00	\$500,000.00		\$0.00
MAITLAND MUTUAL TERM DEPOSIT	Term Deposit	25-May-09	556,584.50	1.89%	4.30%	556,584.50	556,584.50	556,584.50		\$0.00
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	31-Dec-14	500,000.00	1.70%	4.63%	\$500,000.00	\$500,000.00	\$500,000.00		\$0.00
TOTAL M'LAND MUTUAL			\$1,556,584.50	5.29%		\$1,556,584.50	\$1,556,584.50	\$1,556,584.50		\$0.00
TOTAL INVESTMENTS										
TOTAL INVESTMENTS			\$27,186,961.48	92.41%		\$20,068,705.30	\$19,046,788.30	\$17,806,463.18		(\$9,380,498.30)
AVERAGE RATE OF RETURN ON INVESTMENTS										
AVERAGE RATE OF RETURN ON INVESTMENTS										2.59%
CASH AT BANK										
CASH AT BANK			\$2,233,981.11	7.59%		\$2,363,722.41	(\$530,586.50)	\$2,233,981.11		\$0.00
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH										
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH										2.62%
TOTAL CASH & INVESTMENTS			\$29,420,942.59	100.00%		\$22,432,427.71	\$18,516,201.80	\$20,040,444.29		(\$9,380,498.30)
BBSW FOR PREVIOUS 3 MONTHS										3.13%
<p>* 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.</p> <p>CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER</p> <p>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> <p>P GESLING</p>										

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
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
Mar-09	0.531	30.187	29.656
Apr-09	2.234	27.187	29.421

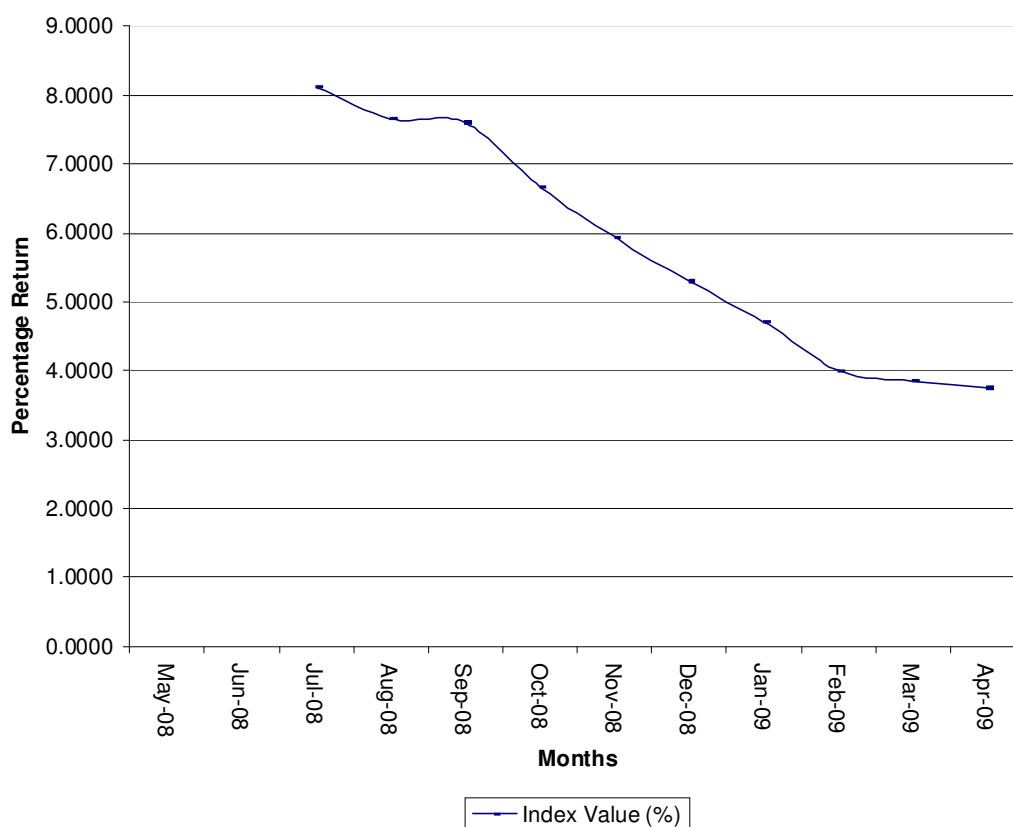
Cash and Invested Funds for the Period ended
30/4/2009

ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	Index Value (%)
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
Mar-09	3.8542
Apr-09	3.7513

Australian Term Deposit Index as at 30/4/2009



INFORMATION ITEM NO. 3

PUBLIC EXHIBITION OF DRAFT PLANS OF MANAGEMENT FOR CROWN LAND RESERVES COVERING FINGAL BAY, HALIFAX AND SHOAL BAY HOLIDAY PARKS.

**REPORT OF: PHIL BUCHAN – MANAGER COMMERCIAL ENTERPRISES
FILES: PSC2005-4322, PSC2005-4312 & PSC2005-4316**

BACKGROUND

The purpose of this report is to advise Council in its capacity as Crown Land Reserve Trust Manager of the Draft Plan of Management process being undertaken on behalf of Department of Lands for the preparation and release by the Minister for Lands for public exhibition.

Council in its capacity as Trust Manager for Crown Reserves is required to comply with the Crown Lands Act 1989. Plans of Management are required for particular reserve trusts as determined by the Minister for Lands. Crown Reserves managed under trust arrangements include Fingal Bay Holiday Park, Halifax Holiday Park and part of Shoal Bay Holiday Park. These three sites have been subject to the preparation of a Plan of Management in accordance with the Crown Lands Act at the request of the Department of Lands.

A Plan of Management sets out the strategic direction of the reserve, outlines operational & management strategies, contains directions for development and infrastructure provision, outlines concepts for future development and proposed improvements, specifies how the legal and policy requirements are applied, and ensures that the environment is appropriately managed.

In 2006 Council received a grant to prepare Plans of Management for the three sites mentioned above. Consultants were engaged to progress this project with the first draft documents available for review in mid 2007. By the end of 2007 the second drafts were sent to the Department of Lands seeking support to progress to the Minister for public exhibition. Due to a number of competing factors the draft documents were released from the Department in mid 2008 with significant changes. The Consultants in discussion with the Department and Council staff finalised the draft Plans of Management in early February 2009. Final comments from the Department were received in May 2009 and the draft documents have been revised to reflect the Department's comments.

In summary the Draft Plans of Management list a broad range of objectives and strategies covering the natural environment, cultural values, recreation, accommodation, utility services, public safety, park information and integrated

management together with a section on proposed improvements. The proposed improvements have been formulated to build on each Park's existing strengths and attractions. The draft Plans of Management have been prepared to provide a combined approach across the three Crown Parks. This approach looks at the best allocation of the available land to accommodate cabins, tourist van sites, camping sites and holiday van sites. The proposed areas for redevelopment over time will provide greater public access to the reserves and improve guests' holiday experience. Development proposed will be staged to lessen the impact on sites with twelve month occupancy agreements, the first year that development will impact on holiday van sites will be the 2011/12 Financial year this is also subject to the availability of capital funding.

As part of the exhibition process the Department of Lands will issue a media release and display the draft documents on its web site. Notices will be placed in relevant local and regional newspapers and the Government Gazette copies of the document will also be available at Council facilities including the holiday parks. The exhibitions period is to be for a minimum of 28 days however given the school holiday period in July it is proposed that the exhibition period extend for two months covering all of July and August. In addition to these measures and to ensure the widest possible communication of the draft Plans it is proposed that Park Management will also write to all Holiday Van owners informing them of the exhibition and where the documents can be viewed and how to make comment. The Department of Lands has requested that Council coordinate, review and collate the public comments for consideration by the Department of Lands. It is proposed that at the end of exhibition period the Commercial Enterprises Advisory Panel will meet to consider suitable recommendations to be sent to the Department for the Minister's approval in finalising Plans of Management.

ATTACHMENTS

Nil

COUNCILLORS ROOM

1. Draft Plan of Management for each Park (two copies) **Note: These documents are to remain confidential until the public exhibition release by the Minister for Lands.**

INFORMATION ITEM NO. 4

**DEPARTMENT OF INFRASTRUCTURE - COMMUNITY INFRASTRUCTURE
PROGRAM - STRATEGIC PROJECTS GRANT APPLICATION: MEDOWIE
CYCLEWAYS**

**REPORT OF: MICK LOOMES - ENGINEERING SERVICES MANAGER
FILE: PSC2005-2555**

BACKGROUND

A grant application under the above program was submitted in late 2008 seeking funds to build a cycleway linking the RAAF Base and various areas of Medowie. The submission was supported by the Defence Force Support Group and representations were also made separately to the Hon. Joel Fitzgibbon, Minister for Defence. The work was estimated at \$2.7Million.

On 12 May 2009 Council was advised that its submission was not successful and a copy of that letter is attached.

ATTACHMENT

- 1) Letter from Department of Infrastructure, Transport, Regional Development and Local Government.

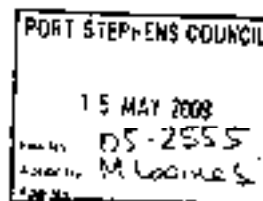
ATTACHMENT 1



Australian Government
Department of Infrastructure, Transport,
Regional Development and Local Government

File Reference: 20-22

Mr Peter Giesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2264



Dear Mr Giesling

RE: COMMUNITY INFRASTRUCTURE PROGRAM – STRATEGIC PROJECTS

I refer to your application for the Williamstown RAAF Base to Meadowbank Freeway Gateway project for funding under the Community Infrastructure Program Strategic Projects.

I regret to advise that your application for funding has not been successful at this time. The Community Infrastructure Program – Strategic Projects received more than 480 applications, which sought in excess of \$2 billion in funding from the Australian Government. As you may be aware, \$150 million was available for allocation, which means that the program was significantly oversubscribed.

While many worthy applicants were unable to be funded, the Australian Government remains mindful of the need to provide continued support to regional and local communities to build and renew local infrastructure and support jobs.

That is why the Government has also committed \$650 million towards the new Jobs Fund, which is open for applications at present. The Jobs Fund is intended to 'support and create jobs and improve skills, by funding projects that build community infrastructure and create social capital in local communities'. You may wish to consider its guidelines and other details available at www.dewpr.gov.au/Employment/Pages/JobsFund.aspx.

In addition, the Government provides information about available grant programs through the GrantsLINK website at www.grantslink.gov.au/. This information is updated regularly as new programs are announced. I suggest that the council monitors the availability of other possible funding through the GrantsLINK website.

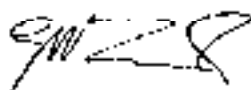
UPP Box 194, Canberra ACT 2601 Australia • Telephone: 02 6274 2813 • Facsimile: 02 6274 2848
Website: www.infrastructure.gov.au • ANZ: 88 287 134 313

ATTACHMENT 1

I would like to thank you for the considerable effort you put into the development of your project, and wish you success in the future.

Should you wish to obtain further information on the funding streams, please contact the Department's information line on 1800 005 434 to arrange a suitable time to discuss your application.

Yours sincerely



Gordon McCormick
General Manager
Local Government Programs

12 May 2009

GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1**FILE NO: 1190-001****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
 - a) Robyn Yvette Dance Centre Fundraising – Sister Cities Visit - \$2,000 (between West / Central / East Ward)
 - b) Mount Kanwarly Public School Association – Transport Costs for Sydney Trip for the School Choir - \$1,400 – West Ward
 - c) Tomaree Peninsula Public Schools – Challenge Program - \$500 – East Ward
 - d) Country Womens Association – Fees for Holding Charity Sausage Sizzle - \$125 – East Ward
 - e) Gateway Family Presbyterian Church – Donation for Market costs - \$125 – Mayoral Funds
 - f) Port Stephens Sister Cities – Donation for books for school - \$450.50 – Mayoral Funds
 - g) Hands on Youth Events Tilligerry – Donations towards operations costs - \$500 – Mayoral Funds
 - h) Tilligerry Habitat Association – Contribution towards cost resulting in break in - \$500 – Central Ward Funds
 - 2) Publicly exhibit the proposal to provide financial assistance to Tynan Wood as a donation towards trip to Canada for Ballet Competition to the value of \$250 from Mayoral Funds, for a period of 28 days.
-
-

ORDINARY COUNCIL MEETING - 30th June 2009

199	Councillor Ken Jordan Councillor Bob Westbury	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public

funding. The Council's policy gives Councillors a wide discretion to either grant or to refuse any requests.

The Council regularly receives requests for financial assistance from community groups and individuals. However, Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act. This would mean that the financial assistance would need to be included in the Management Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

Council's policy for financial assistance has been developed on the basis it is "seed" funding and that there is benefit to the broader community. Funding under Council's policy is not intended for ongoing activities.

The requests 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

Gateway Family	Donation for Market costs	\$125.00
Presbyterian Church		
Port Stephens Sister Cities	Donation for books for school	\$450.50
Hands on Youth Events	Donations towards operations costs	\$500.00
Tilligerry		

EAST WARD – Councillors Nell, Westbury, Dover & Ward

Robyn Yvette Dance & Talent Centre	Sister Cities Visit	\$666.67
Tomaree Peninsula Public Schools	Challenge Program	\$500.00
Country Womens Association	Fees for holiday charity sausage sizzle	\$125.00

CENTRAL WARD – Councillors Dingle, MacKenzie, O'Brien, Tucker

Robyn Yvette Dance & Talent Centre	Sister Cities Visit	\$666.67
Tilligerry Habitat Association	Contribution towards cost resulting in break in	\$500.00

WEST WARD – Councillors Kafer, Jordan, Francis, Maher

Robyn Yvette Dance & Talent Centre	Sister Cities Visit	\$666.67
Mount Kanwaray Public School Association	Transport Costs for Sydney Trip for the School Choir	\$1400.00

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: A2004-0026****HUNTER COUNCILS BOARD ADVISORY GROUPS****REPORT OF: PETER GESLING – GENERAL MANAGER**

RECOMMENDATION IS THAT COUNCIL:

- 1) Appoint a Councillor representative for each of the three Strategic Advisory Groups of the Hunter Board.

ORDINARY COUNCIL MEETING - 30th June 2009

200	Councillor Bruce MacKenzie Councillor Bob Westbury	<p>It was resolved that Councillors John Nell, Bob Westbury and Steve Tucker be appointed as follows as Council's delegates to the Strategic Advisory Groups of the Hunter Board:-</p> <p>Cr John Nell – The Environment Cr Steve Tucker – Cultural & Community Development Cr Bob Westbury – Economic Development and Infrastructure</p>
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BACKGROUND

The purpose of this paper is to seek member Council nominations for councillor representation on the three strategic advisory groups to be formed by the Board of Hunter Councils.

In March of this year the Board of Hunter Councils resolved to amend its constitution in order to facilitate a more powerful and proactive approach by the Board to issues of regional advocacy. The changes to the constitution included restricting membership of the Board to the Mayors of the member councils, increased meeting frequency and the introduction of strategic advisory groups to assist the Board in identifying and actioning responses to key issues affecting our region.

The areas of focus for the strategic advisory groups are derived from the Hunter Councils Constitution and comprise Economic Development and Infrastructure, Community and Cultural Development and Environment. Their roles and responsibilities will comprise the following:

- 1.1 To have input to the development and implementation of strategic, regional positions that will enhance (economic development and infrastructure / cultural and community development / the environment) within the Hunter Region*
- 1.2 To identify areas of opportunity and priority in relation to (economic development and infrastructure / cultural and community development / the environment) and to recommend to the Board appropriate responses to those areas of opportunity and priority*
- 1.3 To provide a forum for discussion of regionally significant (economic development and infrastructure / cultural and community development / environmental) issues*
- 1.4 To receive input from outside agencies in relation to areas of the Advisory Group's responsibility and to determine the potential for that input to inform wider Board deliberations on those matters.*

The strategic advisory groups will not, in themselves, determine Board policy or position on a matter. They will, however, have a critical role in assisting the Board in its deliberations and in its wider development, review of and advocacy for adopted strategic priorities and goals for our Region.

Membership of the strategic advisory groups is limited to councillors chosen by member councils at a ratio of one (1) councillor per council per group. The groups will meet five (5) times in a full calendar year and will be chaired by a councillor elected annually by the members of each group. The operations of each group will be resourced by Hunter Councils Inc through staff time and other assistance allocated by the CEO Hunter Councils.

Meetings will be chaired by a councillor elected from within the group's members.

A councillor may not be a member of more than one (1) advisory group at any given time.

Choosing councillor representatives:

The strategic advisory groups are a recognition of the significant contribution that all councillors can make at a regional level to the communities of the Hunter Region. The groups will be a major and respected resource for our region.

Given that the groups will meet five times a year at agreed venues throughout the region they will, however, generate a significant burden in terms of travel, meeting and preparation time on top of the already significant responsibilities and time demands inherent in being a councillor. Prospective members of the advisory groups will need to bear this additional workload and time impost in mind when considering nomination. Prospective members will also need to be conscious of the fact that – while their local perspective adds value and dimension to their potential

contribution to the regional group – their advisory group role must be approached with a whole of region mindset. Such a focus might not always be easy to achieve especially given the complex nature of many of the issues that will be discussed and the diversity that exists within our many communities and local environments.

It is hoped that nominations for the regional advisory groups will be finalised by the end of June. This will allow a first meeting of the Advisory Groups to be held on a day to be determined in the first and second weeks of July. The groups will then begin a bimonthly meeting schedule as follows:

- August 2009
- October 2009
- December 2009 (to be confirmed)
- March 2010
- May 2010
- July 2010
- September 2010
- November 2010

Terms of reference for the strategic advisory groups are shown at **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.

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

Nil

BUSINESS EXCELLENCE FRAMEWORK

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

These outcomes align with the following Business Excellence principles:-

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Hunter Councils Board

OPTIONS

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

ATTACHMENTS

- 2) Terms of Reference

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1

HUNTER COUNCILS

**ECONOMIC DEVELOPMENT AND INFRASTRUCTURE / CULTURAL AND
COMMUNITY DEVELOPMENT / THE ENVIRONMENT**

STRATEGIC ADVISORY GROUP

TERMS OF REFERENCE

Aim:

To assist the Board of Hunter Councils in developing and implementing strategic, regionally based responses to (economic development and infrastructure / cultural and community development / environmental) issues critically impacting on the communities of the Hunter Region.

Role and Responsibilities:

- 1.5 To have input to the development and implementation of strategic, regional positions that will enhance (economic development and infrastructure / cultural and community development / the environment) within the Hunter Region
- 1.6 To assist in the identification of areas of opportunity and priority in relation to (economic development and infrastructure / cultural and community development / the environment) and to recommend to the Board appropriate responses to those areas of opportunity and priority
- 1.7 To provide a forum for discussion of regionally significant (economic development and infrastructure / cultural and community development / environmental) issues
- 1.8 To receive input from outside agencies in relation to areas of the Advisory Group's responsibility and to advise on the potential for that input to inform wider Board deliberations on those matters.

Level of Autonomy and Accountability:

- 2.1 The Advisory Group will operate within and have input to broader strategic frameworks adopted by the Hunter Councils Board. The Advisory Group can recommend a position or policy to the Board. It is not, however, a decision-making entity and cannot determine Board policy or position on a matter
- 2.2 It is expected that Council representatives will act as an information conduit between their Council and the Advisory Group. Councillor representatives will be assisted in that regard by the provision of Minutes and Agendas to member Councils
- 2.3 Neither the Chair nor members of the Advisory Group have delegated authority to speak with and / or provide information to the media on behalf of the Advisory

Group and its deliberations or on behalf of the Hunter Councils Board as a whole and its deliberations.

Membership:

- 3.1 Membership of the Advisory Group will be limited to one (1) Councillor representative from each member Council of Hunter Councils
- 3.2 The Advisory Group will elect a Chair and Deputy Chair who will hold that position generally for a twelve (12) month period. The term of office of Chair and Deputy Chair will end at the first Advisory Group Meeting held after the Hunter Councils Inc Board Annual General Meeting. At that Advisory Group meeting elections for the positions of Chair and Deputy Chair for the following twelve months will be held
- 3.3 A councillor may not be a member of more than one Advisory Group at any given time
- 3.4 As is the case with attendance at Hunter Councils Board Meetings, alternate members are not permitted
- 3.5 Incumbent Mayors may not be members of a Advisory Group.

Administration:

- 4.1 Meetings will be held five (5) times per year and will take place in months during which a Hunter Councils Board Meeting is not held
- 4.2 Administrative support for the Advisory Group will be provided by staff of Hunter Councils Inc selected for that purpose by the CEO of Hunter Councils. A management representative of Hunter Councils Inc will act as the Group's Executive Officer and will be responsible for agendas, minutes, research and meeting organisation. Hunter Councils Inc will also provide financial resources to assist the Advisory Group's deliberations. Such resourcing will relate to meeting venue costs, catering, guest speaker and related expenditures
- 4.3 Each Advisory Group will develop and adhere to a meeting schedule including dates and venues developed and adopted by the Group's members and consistent with Point 4.1 above
- 4.4 Meeting agendas and Minutes of previous meetings will be distributed to members prior to Advisory Group Meetings. Minutes of the meetings will also be included in the agendas of Hunter Councils Board Meetings. This will include any recommended actions proposed by the Group for Board consideration. A summary report of Advisory Group and Board deliberations will also be made available for reporting to individual Councils
- 4.5 At its discretion the Board of Hunter Councils may direct the Advisory Group to consider a matter and to report its findings
- 4.6 Deliberations of Advisory Group Meetings will be recorded for purposes of accurate minute taking and general accountability. Recommendations of the NSW Privacy Council will be adhered to in relation to meeting tapes.

ITEM NO. 3**FILE NO: PSC2007-3291****CROSS BOUNDARY S94 PLAN FOR FERN BAY AND FULLERTON COVE****REPORT OF: TREVOR ALLEN - INTEGRATED PLANNING MANAGER**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse for public exhibition the draft amendment to change the "Port Stephens Section 94 Development Contributions Plan" to "Port Stephens Section 94 Development Contributions Plan incorporating Port Stephens, Great Lakes and Newcastle Cross Boundary Section 94 Development Contributions Plans 2008" and to include the site specific chapter 4.7.8 "Fern Bay and Fullerton Cove" (Attachment 2).

ORDINARY COUNCIL MEETING - 30th June 2009

202	Councillor Geoff Dingle Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil

BACKGROUND

The purpose of this report is to advise Council of progress with a Cross Boundary Developer Contributions (\$94) Plan with Newcastle City Council

Developer Contributions

Under the Environmental Planning and Assessment Act 1979, as amended, a consent authority may request development to contribute to funding local infrastructure by three alternative methods:

- s94 development contributions;

- s94A levy; or
- planning agreements.
-

Section 94 (S94) development contributions are imposed by way of a condition of development consent or complying development, and can be satisfied by:

Dedication of land; a monetary contribution; material public benefit; or a combination of some or all of these.

Section 94A (S94A) allows a fixed percentage levy to be imposed (up to 1% of the cost of development) when a development consent or complying development certificate is issued.

S94 and S94A levies can only be imposed if a development contributions plan is validly in place. S94 requires strict apportionment, nexus (relationship to development) and other legislative requirements.

Cross Boundary Developer Contributions (S94) Plan with Newcastle City Council

Following the exhibition of Councils revised S94 Plan between March and May 2007, a submission was received from Newcastle Council requesting that acknowledgement of cross border impacts in the Fern Bay – Stockton area be included in a revised Draft Port Stephens S94 Plan including the use of Stockton and Newcastle facilities by residents of Fern Bay. Council subsequently resolved at its meeting of 26 June 2007 (min 162) together with adopting the new S94 Plan to: '2) *Undertake discussions with Newcastle City Council with a view to preparing a cross boundary Contributions Plan*' (Minute 162).'

Following a number of discussions with Newcastle Council staff, it was agreed that a site specific chapter be inserted into Port Stephens Councils S94 Plan based on a similar approach to that taken for the Great Lakes/Karuah area. Council's S94 Plan would need to be appropriately named to comply with legislation. In addition much discussion and several meetings have taken place both internally, with Central Ward Councillors and Newcastle Council staff before agreement has been reached on apportionment of the S94 levies.

Council has now received advice from the Department of Planning that consent for the Seaside, Fern Bay development is imminent and that they have received correspondence from Newcastle Council requesting the Minister impose a condition on the development to distribute apportionment of the S94 levies between both Councils. It is therefore imperative that a Cross Boundary Developer Contributions Plan be implemented as soon as possible.

Legislation requires exhibition of the Plan for 28 days plus necessary time to place appropriate notices of exhibition and adoption.

LINKS TO CORPORATE PLANS

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

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

Selection of projects and enabling Council to obtain developer contributions must follow the requirements of Section 94 of the Environmental Planning and Assessment Act (1979) and Regulation as amended from time to time. Public notice of Councils decision is required to be placed in a local newspaper within 28 days after the decision is made and the contributions plan comes into effect on the date that public notice of its approval is given, or on a later date specified in the notice.

BUSINESS EXCELLENCE FRAMEWORK

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

These outcomes align with the following Business Excellence principles:-

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The Cross Boundary S94 Chapter will require development in the Fern Bay and Fullerton Cove localities to contribute to the facilities located in within those localities and district facilities within Port Stephens and Newcastle Local Government areas.

ECONOMIC IMPLICATIONS

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

Under the Standards Approach adopted in the new S94 Plan there will be no change in the S94 Levy imposed on development. The schedule will require amending and the S94 plan exhibited to include projects in the Newcastle Local Government area. S94 funds collected will be redistributed between the two councils.

ENVIRONMENTAL IMPLICATIONS

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

CONSULTATION

A number of discussions have been held with Port Stephens staff, Central Ward Councillors and Newcastle Council staff in relation to the cross boundary proposal and the associated implications. The draft Cross Boundary S94 chapter will be exhibited during the month of July 2009.

OPTIONS

- 1) To accept the recommendation
- 2) To reject the recommendation and modify the draft amendment to public exhibition.
- 3) To reject the recommendation calling for more information to support the report.

ATTACHMENTS

- 1) Letter from Newcastle Council to Department of Planning
- 2) Site specific Chapter 4.7.8 "Port Stephens and Newcastle Councils Cross Boundary Section 94 Development Contributions Plan 2009"

ATTACHMENT 1
LETTER FROM NEWCASTLE COUNCIL TO DEPARTMENT OF PLANNING

SP&D.S Turkington
Phone: (02) 4974 2869

4 June 2009

Ms Paulina Hon
Strategic Assessments
Department of Planning
GPO Box 39
SYDNEY NSW 2001



PO Box 489, Newcastle
NSW 2300 Australia
Phone 02 4974 2000
Facsimile 02 4974 2222
Email mol@ncc.nsw.gov.au

Dear Paulina

EXHIBITION OF PROJECT PLAN – SEASIDE BOULEVARDE FERN BAY (MP06_0250)

Thank you for the opportunity to comment on the exhibition of the project plan for the Fern Bay Estate Development at Seaside Boulevard Fern Bay.

Newcastle City Council (NCC) has been liaising with Port Stephens Council (PSC) for a number of years to prepare a cross boundary section 94 plan to offset the impact future development in Fern Bay will have on the use of public amenities and public services in Stockton. Although both Council's have been working together, amendments are yet to be made to the PSC Development Contributions Plan 2007 to include cross boundary provisions.

The Fern Bay Estate Development upon completion is anticipated to yield approximately 945 lots. Using the current indexed per lot rate (\$10,897), the following contributions are projected to be collected by Port Stephens:

Developer Contributions Plan 2007	Projected Contributions
Civic Administration	\$348,815
Public open space, parks and reserves	\$1,883,385
Sport and leisure facilities	\$4,438,865
Cultural and community facilities	\$2,231,145
Road works	\$1,261,575
Fire and emergency services	\$136,080
Total	\$10,297,665

Currently Port Stephen's Development Contribution Plan 2007, does not address the anticipated growth in Fern Bay and only proposes the following works:

Works to be Provided in Fern Bay	Estimated Cost
Provision of bus shelters	\$7,000
Road works Fullerton Cove Road	\$149,040
Intersection treatment – Coxs Lane	\$50,000
Fern Bay Hall - Internal and external repaint and other rehabilitation works	\$60,000
Total	\$266,040

During the exhibition period of PSC's current contribution plan in 2007 NCC requested acknowledgement of cross boundary impacts to be included in the revised plan. This

would include revision of the works schedule and maps to include works in Stockton. NCC also sought commitment from PSC to ongoing, timely discussion, to best determine how facilities may be provided and funded to support the needs of the future population.

Although an undertaking was given by PSC to NCC that these issues would be addressed in the report to Council (26 June 2007), they were not included in the body of the council report but were responded to in an attachment. The attachment recommended that the draft contributions plan be adopted and that a further report be presented to Council when a strategy for the cross boundary issues had been completed.

Following the adoption of the PSC contribution plan, NCC wrote to PSC outlining the importance of preparing a cross boundary plan to ensure contributions paid by developers would be used on facilities which serve the new population, (i.e. fulfil the nexus requirements of section 94), and would not further delay the assessment of development applications.

Section 7.4.4 and Table 7.1 of the Environmental Assessment (EA) for the proposed development outlines the community and recreational facilities to be provided within the Fern Bay Estate by the proponent under Community Title. The EA does not provide any clarification as to whether the completed facilities will be dedicated to PSC or will remain in the ownership of the Community Association. Section 7.4.4 also states the proponent is proposing to provide the nominated works as 'in-kind' or as a material public benefit rather than through the payment of a monetary contribution.

NCC has no objection to the local parks and playgrounds being provided as works in kind, but only where these become Council owned public spaces which can be utilised by the wider local community, not only residents within the community titled Fern Bay Estate. While 'works-in-kind' are adequate for local parks and playgrounds all other contributions should be provided in the form of a monetary contribution to ensure cross boundary issues can be adequately addressed and funded.

As there are only limited existing and proposed public amenities and public services within Fern Bay, NCC is seeking appropriate apportionment of contributions from PSC towards the embellishment and upgrade of existing facilities and provision of new facilities in Stockton given the increased demand for their uses resulting from the proposed development. Through ongoing negotiations between the two Council's the following apportionment of contributions has been agreed:

Category	General Contribution (additional lot or dwelling)	PSC	NCC	PSC	NCC
Public Open Space, Parks and Reserves					
Local Parks and Playgrounds	\$416	100%		\$416	\$0
Neighbourhood and District Parkland Reserves	\$466	70%	30%	\$326	\$140
Undeveloped Natural Areas / Open Space	\$309	100%		\$309	\$0
Foreshore Open Space	\$384	70%	30%	\$269	\$115
Boat Ramps	\$192	40%	60%	\$77	\$115
Wharves	\$226	50%	50%	\$113	\$113
	\$1,993			\$1,510	\$483
Sport and Leisure Facilities					
Leisure Centres	\$686	70%	30%	\$480	\$206
Surf Lifesaving Clubs	\$132	20%	80%	\$26	\$106
Netball Courts	\$178	100%		\$178	\$0
BMX Tracks	\$62	50%	50%	\$31	\$31
Tennis Courts	\$461	100%		\$461	\$0
Croquet Courts	\$8	50%	50%	\$4	\$4
Tidal Pools	\$84	0%	100%	\$0	\$84
Swimming Facilities	\$475	40%	60%	\$190	\$285
Skate Parks	\$268	50%	50%	\$134	\$134
Sports Fields	\$2,333	50%	50%	\$1,166	\$1,166
	\$4,697			\$2,672	\$2,025
Cultural and Community Facilities					
Burials	\$245	0%	100%	\$0	\$245
Niches	\$117	0%	100%	\$0	\$117
Multipurpose Community Space	\$656	100%		\$656	\$0
Branch Libraries	\$360	70%	30%	\$252	\$108
Library Lounges	\$139	70%	30%	\$97	\$42
Exhibition Space	\$315	70%	30%	\$220	\$94
Community and Recreational Facilities Standards Study	\$4	100%		\$4	\$0
Library Resources	\$102	70%	30%	\$71	\$31
Multipurpose Children's Space	\$422	100%		\$422	\$0
	\$2,361			\$1,724	\$637
Civic Administration					
	\$367	\$367	100%	0%	\$0
Road Works	\$1,335	\$1,335	100%	0%	\$0
Fire and Emergency Services	\$144	\$144	100%	0%	\$0
Total Contribution per Additional Lot or Dwelling	\$10,897			\$7,752	\$3,145

As the current PSC Development Contribution Plan 2007 does not address the cross boundary issues between Stockton and Fern Bay, NCC is seeking the Minister for Planning impose a condition under section 94C of the Environmental Planning and Assessment Act for the Fern Bay Estate Development and any subsequent approvals within Fern Bay.

The inclusion of a condition under s94C will ensure the cross boundary issues between Stockton and Fern Bay are correctly addressed until such time that a cross boundary contribution plan is in place. Assistance is also sought from the Department of Planning to ensure that PSC's Development Contribution Plan, 2007 is amended to include cross boundary provisions.

Should you require further information or clarification of any of the above issues, please contact Ms Shannon Turkington on 4974 2869 or by email at sturkington@ncc.nsw.gov.au

Yours faithfully



Johannes Honnert
SENIOR STRATEGIST – URBAN PLANNING

ATTACHMENT 2

CHAPTER 4.7.8 “PORT STEPHENS AND NEWCASTLE COUNCILS’ CROSS BOUNDARY SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN 2008

*Port Stephens Section 94 Development Contributions Plan
incorporating Port Stephens, Great Lakes and Newcastle Cross Boundary Section 94 Contributions Plans 2008*

Temporary note for exhibition purposes:

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

1. Plan Summary

1.1 General

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

The Plan applies to all land within the local government area of *Port Stephens Council*.

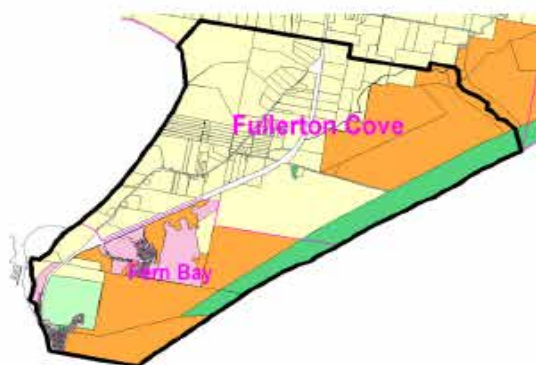
4.7 Site Specific and Cross Boundary Contributions

4.7.8 PORT STEPHENS AND NEWCASTLE COUNCILS CROSS BOUNDARY SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN 2008.

THIS SITE SPECIFIC SECTION 94 PLAN APPLIES TO ALL THAT LAND WITHIN THE LOCALITIES OF FERN BAY AND FULLERTON COVE WITHIN THE LOCAL GOVERNMENT AREA OF PORT STEPHENS COUNCIL

Potential exists for the development of land within the Port Stephens Local Government area of the localities of FERN BAY and Fullerton Cove that will require services within both the Newcastle and Port Stephens Local Government areas.

This site specific cross boundary S94 Plan applies to the land bounded by heavy black line shown on the following map:



Nexus

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

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

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

4.7.8.1 Calculation of S94 Contribution

The following costs per person are those derived from Appendix A of this document – Standards Guiding the Provision of Council's Community and Recreational Facilities or the relevant section of this document where indicated. The Section 94 contributions are those derived under Sections 4.1 to 4.6 of this document.

Category	Contribution	
	Per Person	per Residential lot
Civic Administration	#	\$377
Public Open Space, Parks and Reserves	\$766	\$2,046
Sport and Leisure Facilities	\$1,854	\$4,821
Cultural and Community Facilities	\$932	\$2,424
Roadworks	*	\$1,370
Fire and Emergency Services	\$72	\$188
Total		\$11,226

#Based on annual lots developed

*Based on Traffic generation

The Section 94 Contribution per additional lot or dwelling is \$11,226.

4.7.8.2 Settlement and Distribution of Contribution

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

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

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

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

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

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

The contribution shall be apportioned by Port Stephens Council in accordance with section 4.7.8.1 as follows:

Category	Contribution per lot	Apportionment	
		Port Stephens	Newcastle
Civic Administration	\$377	\$377	
Public Open Space, Parks and Reserves	\$2,046	\$1,550	\$496
Sport and Leisure Facilities	\$4,621	\$2,743	\$2,078
Cultural and Community Facilities	\$2,424	\$1,770	\$654
Roadworks	\$1,370	\$1,370	
Fire and Emergency Services	\$168	\$168	
Total	\$11,226	\$7,998	\$3,228

5. Work Schedules

5.2 Public Open Space, Parks and Reserves

Catchment Specific Projects

Project No	Project Description	Estimate	Staging Threshold
Fern Bay			
OS301	Acquire land and create Foreshore embellishment, walkways, seating, landscaping and improvements	\$1,200,000	1
OS302	Construct new boat ramp, car parking and fish cleaning facilities	\$800,000	2
OS303	Provide new district park and facilities within Fern Bay	\$300,000	3
Stockton			
OSNCC001	Develop an off road bike path network around the Stockton Foreshore	\$1,200,000	2013-2016
OSNCC002	Improve amenity of beachfront / foreshore areas through design, additional planting and the provision of additional park amenities	\$800,000	2014
OSNCC003	Stockton Beach Improvement Program – installation of shade structure, outdoor furniture and litterbins	\$30,000	2010
OSNCC004	Removal of current amenities and installation of two accessible unisex toilets at Griffith Park	\$150,000	2012
OSNCC005	Replace Stockton North Boat Ramp		

5.3 Sports and Leisure Facilities

Project No	Project Description	Estimate	Staging Threshold
Fern Bay			
SD301	Tennis Courts: Upgrade existing Courts provide additional 2	\$300,000	1
SD302	Netball Courts: Provide 3 new courts	\$600,000	2
SD303	Provision of multipurpose Sporting facilities including BMX and skateparks	\$1,300,000	3
Stockton			
SDNCC001	Install interactive water feature at Stockton Swimming Centre	\$25,000	2010
SDNCC002	Undertake development at Stockton Swimming Centre that includes an upgrade of change rooms, entrance systems and kiosk areas and improving landscaping and windbreaks	\$200,000	2010
SDNCC003	Upgrade of Stockton Skate Park	\$200,000	2015
SDNCC004	Extension and redevelopment of Corroba Oval, including the creation of an additional sports ground to accommodate junior athletics and junior cricket	\$600,000	2012
SDNCC005	Upgrade of Lyn and Corroba Oval from training to competition standard to allow for night games	\$150,000	2011

*Port Stephens Section 94 Development Contributions Plan
incorporating Port Stephens, Great Lakes and Newcastle Cross Boundary Section 94 Contributions Plans 2008*

5.3 Cultural and Community Facilities

Project No	Project Description	Estimate	Staging Threshold
Fern Bay			
CLS301	Provision of Mobil Library Stop Facilities at 2 locations	\$200,000	1
CLS302	Vardon Road: Extend Community Hall for future population	\$700,000	2
CLS303	Provision of new multipurpose community facilities	\$900,000	3

5.4 Roadworks

Project No	Project Description	Estimate	Staging Threshold
Fern Bay			
CLS301	Vardon Rd and access near and in the vicinity of primary school, road widening accommodation of parking facilities	\$750,000	1
CLS302	Upgrade Fullerton Cove Rd Ch 1700-2200 from Nelson Bay Rd North	\$202,500	2
CLS303	Upgrade Fullerton Cove Rd Ch 2700-4000 from Nelson Bay Rd North	\$526,500	3
CLS304	Provision of improvements to roads for bus turning facilities	\$200,000	4

6. Work Schedule Mapping

Stockton Cross Boundary



*Port Stephens Section 94 Development Contributions Plan
incorporating Port Stephens, Great Lakes and Newcastle Cross Boundary Section 94 Contributions Plans 2008*



ITEM NO. 4

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 23rd June, 2009.

No:	Report Title	Page:
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1	Australian Shark & Ray Centre – Road Works Update	
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ORDINARY COUNCIL MEETING - 30th June 2009

203	Councillor Sally Dover Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
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GENERAL MANAGERS INFORMATION PAPERS



INFORMATION ITEM NO. 1

AUSTRALIAN SHARK AND RAY CENTRE – ROADWORKS UPDATE

REPORT OF: ANTHONY RANDALL – ACTING MANAGER, DEVELOPMENT AND BUILDING
FILE: 7-1995-394-3 & 16-2007-445-1

BACKGROUND

The purpose of this report is to provide Council with a quarterly update of the progress of the roadworks required to be completed by the Australian Shark and Ray Centre.

The Shark and Ray Centre intersection works have been an ongoing matter since December 2007, when the business operator requested that Council provide an extension for required intersection works, to allow the business to commence operation. The intersection works were required by condition 10 of development consent 7-1995-394-3, which states:

10. This modified development consent No. 7-394-1995-3 approves the use of the site and buildings associated with this consent as a Tourist Facility – Shark and Ray Centre and extends to envelope the approved structures and uses contained with Development Consent No. 16-2007- 445-1 and A1614/97, and all associated conditions contained therein, to ensure this consent and associated consents above mentioned adhere to the requirements of Section 79C of the Environmental Planning and Assessment Act 1979 (as amended).

By the 31 May 2008, provide pavement widening for an intersection turnout to the development onto Marsh Road being a Type A intersection in accordance with the Council's Subdivision Code. An Interim Occupation Certificate may be issued by the Council for the development without this condition being completed, however a Final Occupation Certificate is required to be sought by the proponent upon completion of the works.

As this work is located in a public road, an approval under section 138 of the Roads Act 1993 is required. 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:

- i) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;*
- ii) Payment of fees and bonds (same Principle Certifying Authority fees, inspection fees and maintenance bonds as relevant to subdivisions);*

- iii) *Contractors public liability insurances to a minimum value of \$10 million dollars.*

The following fees and/or bonds are to be paid as part of this consent:

- i) *Construction certificate/plan approval fee, prior to approval of construction certificate or plans.*
- ii) *PCA/inspection fee, prior to approval of construction certificate or plans.*
- iii) *Long Service Levy, prior to issue of construction certificate (verification of payment is required if paid directly to Long Service Board) The rates are as listed in Council's fees and charges. Contact Council's Subdivision Engineer prior to payment.*

Works associated with the approved plans and specifications located within the existing Road Reserve shall not commence until:

- i) *a Roads Act Approval has been issued, and*
- ii) *all conditions of the Roads Act Approval have been complied with to Council's satisfaction.*

All civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of Council (with a letter of practical completion issued) prior to issue of the Occupation Certificate. All works associated with the Roads Act Approval shall be at no cost to Council.

Works associated with the Roads Act Approval are subject to: i. inspection by Council, ii. testing by a registered NATA Laboratory and iii. approval by Council at each construction stage as determined by Council.

Note: Council advises that in order for this condition to be completed, a Roads Act application will need to be lodged with Council prior to 31 January 2008.

Council resolved at its Ordinary Meeting of 18 December 2007 to provide the operator a six month extension, requiring the Centre to upgrade road access, inclusive of design and construction by 31 March 2008. On the basis of this Council resolution, an Interim Occupation Certificate was issued on 21 December 2007 with several outstanding matters to be completed, particularly the intersection works.

The matter was again considered by Council in May 2008 after the business operator requested a further extension stating that he has 'done everything humanly possible to expediate this situation', and he suggested that the timeframe provided was not reasonable. On the basis of this request, at the Ordinary Meeting on 27 May 2008, Council resolved the following:

MINUTES FOR ORDINARY MEETING – 30 JUNE 2009

- 1) *Council reaffirmed the current condition of consent that requires the provision of pavement widening in Marsh Rd for an intersection turnout to the development and provide an extension of time (12 months) for the proprietor to complete required road works in accordance with condition 10 of the development consent.*
- 2) *Issue a letter of intention that the business has 12 months to comply with the conditions of consent. There will be quarterly reports to the Council during this time.*

As required by the 27 May 2008, quarterly reports have been provided to the Council updating the progress of this matter. As a result of these quarterly reports, Councillors requested a site inspection on the 23 March 2009. Subsequent to this site meeting, Council made a further resolution on 24 March 2009, that Council defer the matter to the Ordinary Council meeting on 28 April 2009.

During the debate, a Motion was put to Council to provide a further extension for the intersection works, however this Motion was not carried. This Motion is detailed below:

That Council grant the Shark & Ray Centre:

- 1. An extension to May 2009 to complete run off entry coming from Nelson Bay direction and slash all reeds on the approach for 300 meters.*
- 2. An extension to May 2010 to complete passing lane from Newcastle direction and trim trees and slash reeds again 300 metres on approach to centre entry.*

Given that this Motion was not adopted, the extension provided to the Shark and Ray Centre has now lapsed. In this regard, it is advised that further conversations with the owner have not occurred in terms of progress of this matter due to difficulties in contacting the operator. Opportunities to discuss the issues with the business operator before the Ordinary Meeting are being strongly pursued. Once additional information is received by Council officers, a further update will be provided to Council. Council officers will continue to pursue a meeting to facilitate progression of this matter.

Breakdown of Works

As per the resolution dated 27 May 2008, below is a quarterly report as to the applicant's progress.

A breakdown of anticipated works required to be undertaken to fulfil Condition 10 (as modified) consists of, but not limited to, the following activities. Based on the response received, the progress made by the Proprietor is highlighted in bold below.

MINUTES FOR ORDINARY MEETING – 30 JUNE 2009

It is advised that since March 2009, slashing of reeds has been completed by Council as part of general maintenance program to a width of 1 metre from the constructed road.

Works to be completed by May 2009:

1. **Clearing of sight lines**
2. **Topographical survey**
3. **Concept plan view of existing driveway / intersection (provided to Council April 10, 2008).**
4. Remove part of the gate to provide sufficient width for required access
5. Prepare Geotechnical investigation of pavement widening (shoulder)
6. **Prepare geometric road design and provide a concept plan for Council comment (Design approved by Council on 22 December 2008)**
7. Consult contractors for advice, quote, construction methodology etc.
8. Lodge application to obtain a Roads Act approval
9. Contractor or sub-contractor to develop a Traffic Control Plan for required construction works
10. Approval to remove existing power pole from the driveway swept paths
11. Negotiate with NSW Department of Fisheries to construct shoulder widening
12. Obtain a Roads Act approval
13. Engage a contractor
14. Construct intersection including Council inspection and sign off of hold points specified by Roads Act approval

Risks Assessment

The safety risks should Council allow the business to continue operating without the completion of the intersection works were originally outlined within the Traffic Engineer's Report contained in the Council report of 18 December 2007 (see attached). A summary of the matters outlined in this report is detailed below:

- a) The current access does not meet Council's design requirements for minimum access improvements in that:-- there is no shoulder width to provide a typical basic left or right turn treatment for westbound vehicles turning left into the Property;
 - there is inadequate sight distance for egress vehicles from the Property to the left or right,
 - a power pole and entrance structures;
 - there is inadequate access width to the Property, currently 4.5m and gravel (Council requirement is 6m);
 - there is inadequate return radii for the access, currently 5m left and right (Council requirement is 15m left and right).
- b) Given the 80km/hr speed limit which applies to this section of Marsh Road, the above design deficiencies pose serious safety risks in regard to left and right turning movements and egress/ingress movements from the existing access. Controlled access arrangements are critical in helping to reduce the number of crashes on the road network.

Council's Traffic Section advised that these safety risks should be addressed prior to the business commencing operation. Council resolved to provide an extension to timeframe for works to be undertaken, notwithstanding the safety risks identified.

Given that the works are not completed to date, it is noted that the safety risks continue to be on-going.

It should be noted that Council applies the Austroads Guide to Traffic Engineering Practice as its reference in respect of design, construction and user aspects of roads and bridges and is considered "Best Practice" for assessing intersection improvements. The type of intersection required in the development consent is based on the Austroads Standards.

Council needs to consider the potential for legal implications if in the event that a traffic incident were to occur at the site, and Council has continued to allow these operations to occur without the necessary access/road works being constructed.

OPTIONS

- 1) Reaffirm Condition 10 of the consent that requires a Type A intersection and note that, given that works were not completed by 31 May 2009, an Order will be issued requiring cessation of business operations pursuant to the provisions of the Environmental Planning & Assessment Act 1979.
- 2) Provide a further extension of time for the Proprietor to complete required intersection works as required by condition 10.

ATTACHMENTS

Nil

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217, PSC2009-00431

CONFIDENTIAL REPORTS

COUNCILLOR: FRANK WARD

THAT COUNCIL:

- 1) Request the General Manager prepare a report for discussion by Council on his reasons for the decision to restrict Councillor access to confidential information that has effectively declared to the public that Councillors are untrustworthy. The General Managers report must advise Council as to what authority he has acted under in the Local Government Act and Council's Code of Practice and if the Code of Practice needs to be reviewed. The report and debate on the report should be in open Council.
-

COUNCILLOR WARD HAS REQUESTED THAT THIS NOTICE OF MOTION BE DEALT WITH AT THE JULY ORDINARY MEETING OF COUNCIL. THE NOTICE OF MOTION INCLUDING THE BACKGROUND ON THIS MATTER WILL BE PRESENTED AT THE JULY ORDINARY MEETING OF COUNCIL.

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 MEETING - 30th June 2009

204	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that Council move into Confidential Session.
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CONFIDENTIAL

ITEM NO. 1

FILE NO: PSC 2006-0191

KINGS HILL DRAFT LEP – CONSIDERATION OF DEPARTMENT OF PLANNING'S DRAFT REPORT ON AIRCRAFT NOISE ASSOCIATED WITH FUTURE INTRODUCTION OF THE JOINT STRIKE FIGHTER TO RAAF BASE WILLIAMTOWN

REPORT OF: TREVOR ALLEN - MANAGER, INTEGRATED PLANNING

ORDINARY COUNCIL MEETING - 30th June 2009

205	Councillor John Nell Councillor Steve Tucker	<p>It was resolved that Council:-</p> <ol style="list-style-type: none">1) Advise the NSW Minister for Planning, the Hon. Kristina Keneally, that Council accepts the draft report <i>Review of the Australian Noise Exposure Concept for RAAF Base Williamtown</i> (May 2009) prepared by Airbiz for the NSW Department of Planning and supports planning for the Kings Hill urban release area proceeding expeditiously;2) Note that it is not possible to confirm many of the assumptions used in the modelling presented in the Airbiz report, because this information has not been made available to Council; and that some of the apparent assumptions appear to overstate the nature and impact of aircraft movements on the noise environment of Kings Hill;3) Note that it is not possible to finalise an LEP for Kings Hill or the Moxy land until a revised ANEF is produced by the Department of Defence, particularly because the AirBiz Report is confidential, and its contents (including the ANECs) can not be provided to the public in the absence of the agreement of the Department of Defence and because
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MINUTES FOR ORDINARY MEETING – 30 JUNE 2009

		<p>no readily usable and credible alternative standard is available;</p> <p>4) Request the Department of Defence, through the Department of Planning, to urgently revise the ANEF for Kings Hill and surrounds in response to the available information on the likely aircraft noise environment over the next 10 years. This is particularly important given the impact of any delay on the implementation of the Lower Hunter Regional Strategy, and on the ability to achieve the Australian Government's housing supply and housing affordability objectives within the Region and</p> <p>5) Note that the General Manager will initiate further discussions with the Commonwealth Department of Defence regarding the wider implications of the analysis and conclusions in the Airbiz report for aircraft noise policy in other locations in the Port Stephens LGA.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil

CONFIDENTIAL**ITEM NO. 2****FILE NO: PSC2009-02209****PROPOSED COMMERCIAL ACQUISITION NEWCASTLE****REPORT OF: CARMEL FOSTER – MANAGER, COMMERCIAL PROPERTY**

ORDINARY COUNCIL MEETING - 30th June 2009

206	Councillor Ken Jordan Councillor John Nell	It was resolved that Council:- 1. Authorise the General Manager to proceed with the purchase of Lot A in Deposited Plan 359833 for investment purposes. 2. Subject to the successful acquisition of the above mentioned property, authorise the General Manager to negotiate a loan of a value not exceeding the maximum bid amount and sign all necessary documents. 3. Approve the affixing of the Council Seal to all necessary loan or contract documents.
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There being no further business the meeting closed at 6.45pm.

I certify that pages 1 to 172 of the Open Ordinary Minutes of Council 30 June 2009 and the pages 173 to 191 of the Confidential Ordinary Minutes of Council 30 June 2009 were confirmed by Council at its meeting held on 28 July 2009.

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Cr Bruce MacKenzie
MAYOR