

## Minutes 24 November 2009



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 24 November 2009, commencing at 8.00pm.

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

<b>385</b>	<b>Councillor Bruce MacKenzie</b> <b>Councillor Bob Westbury</b>	It was resolved that the apology from Cr Sally Dover be received and noted.
<b>386</b>	<b>Councillor Steve Tucker</b> <b>Councillor Daniel Maher</b>	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 10 and 17 November 2009 be confirmed.

Councillor Ken Jordan declared a non-pecuniary conflict of in Item 2 and Item 3 (site2) and was not present at the commencement of the meeting.

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# MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 3200-003

## MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

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### RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) (ii) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2 on the Combined Strategic/Operations Committee agenda namely ***Tariffs and Charges 2010 – 2011 for Port Stephens Beachside Holiday Parks and Samurai Beach Resort.***
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include:
  - a) details of commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council.
- 3) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it may prejudice Council's commercial position and Council should have the same protection for its confidential commercial activities as that applying to other persons.
- 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.

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### ORDINARY COUNCIL – 24 NOVEMBER 2009

387	Councillor John Nell Councillor Daniel Maher	It was resolved that the recommendation be adopted.
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# **COUNCIL COMMITTEE RECOMMENDATIONS**

ITEM NO. 1

FILE NO: PSC2008-2238

**PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000  
(NO. 32) TO REZONE LAND TO FACILITATE COMMERCIAL  
DEVELOPMENT - CORNER FERODALE AND PEPPERTREE ROADS,  
MEDOWIE**

**REPORT OF: DAVID BROYD - GROUP MANAGER**  
**GROUP: SUSTAINABLE PLANNING**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Not proceed with the Draft Port Stephens Local Environmental Plan 2000 (Amendment No. 32) (**Attachment 1**) at this stage given that there is no supporting Infrastructure Plan as required by the Medowie Strategy.

**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009**

**RECOMMENDATION:**

		This item was withdrawn from the agenda.
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**PROPOSAL DETAILS**

<b>Owner</b>	Buildev Development NSW (CM) Pty Ltd
<b>Proponent</b>	Buildev Development NSW (CM) Pty Ltd
<b>Date of Submission</b>	9 <sup>th</sup> April 2008
<b>Subject Land</b>	Lots 7, 8, 9, 10, 11 DP 19101 Ferodale Road Medowie
<b>Current Zone</b>	2(a) Residential
<b>Proposed Zone</b>	3(a) Business General

**BACKGROUND**

Following public exhibition and Council's adoption of the Medowie Strategy this report presents the draft LEP for Council's consideration whether to;

- not proceed with the draft LEP;
- proceed with the draft LEP as exhibited; or
- alter the draft LEP before proceeding.

Council resolved on 27th May 2008 to prepare a draft Local Environmental Plan (LEP) to rezone the subject land from 2(a) Residential to 3(a) General Business. At the same time, Council resolved to prepare a Development Control Plan (DCP) over the Medowie 'town centre' including the subject land.

Council resolved at its meeting held on 24<sup>th</sup> March 2009 as follows:

It was resolved that Council :

- 1) Adopt the Draft Medowie Strategy (Attachment 1 – provided under separate cover) incorporating amendments as outlined in this report to facilitate; existing and future rezoning requests; future development and redevelopment in Medowie; and implementation of the Lower Hunter Regional Strategy;
- 2) Submit to the Director General of the Department of Planning seeking approval of the adopted Strategy;
- 3) Note that the draft Strategy requires the preparation of an Infrastructure Plan to identify public infrastructure and how this will be funded to enable infrastructure provision to be integrated into the planning process associated with current and future rezoning requests;
- 4) Note that the General Manager will consult with the Hunter Development Corporation regarding prospective involvement in infrastructure delivery;
- 5) Insert the strategic directions (Part A) from the draft Medowie Strategy into the Port Stephens Community Settlement and Infrastructure Strategy 2007; and
- 6) Note that background and research information for the draft Medowie Strategy (Parts B and C) will be retitled Medowie Strategy – Technical Report/s.

Council should note that the “concept plan” is not a matter directly relevant to decision-making on the draft LEP.

In accordance with the adopted Medowie Strategy, the proponents were invited to demonstrate that the proposed rezoning, i.e. commercial land use, will not result in insufficient funding and provision of infrastructure to serve the future needs of development under the Strategy Structure Plan. This information has, to date, not been provided by the proponent.

The draft LEP was placed on public exhibition from 21<sup>st</sup> May to 19<sup>th</sup> June 2009. Submissions are discussed under the consultation section below.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The draft LEP has been prepared and exhibited by Council staff. Stage 1 of the prescribed rezoning fees in accordance with Council's Fees Charges Schedule 2009 has been paid. However, fees for Stage 2 have not yet been paid.

Specific infrastructure to support the proposed urban development under the Structure Plan e.g. roads and drainage is currently outside the scope of Council's current Section 94 Plan. The absence of an Infrastructure Plan or information from the proponent that demonstrates the proposed land use will not result in insufficient funding and provision of infrastructure, makes it problematic in recommending to Council that the draft LEP be adopted.

Council would need to rely on contributions sought under S.94A (1% of capital value nominated at Development Application stage) which does not account for the specific infrastructure requirements required under the Strategy and may create a future shortfall. This potential shortfall needs to be considered against other demands for the timely addition of commercial land as proposed by the draft LEP.

It should be noted, that the specific infrastructure needs under the Strategy relate to 'hard' critical infrastructure (drainage and roads) which applies equally to residential and commercial land uses.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

### **The Medowie Strategy**

The draft LEP aims to amend the existing Port Stephens LEP 2000 to rezone the subject land from 2(a) Residential to 3(a) Business General. As such, Council must satisfy itself whether the proposed commercial zone, and the range of land uses permissible, is appropriate for the subject site.

In terms of land use, the proposed draft LEP is consistent with the Medowie Strategy to include the subject land within a proposed expansion of the 'Medowie Town Centre'. However, the draft LEP is inconsistent with the strategy in so far as, in the absence of an Infrastructure Plan or adopted Section 94 Plan, the proponent has failed to provide sufficient information to demonstrate that the proposed rezoning will not result in insufficient funding and provision of infrastructure to serve the future needs of development under the Strategy.

Council therefore does not have sufficient information before it to quantify the nature and extent of any potential shortfall and therefore whether the draft plan has potential to prejudice any future development under the Strategy as a whole. The following specific issues have been identified for Council's consideration:

- **Widening of Peppertree Road** – The proponent has indicated via email the intention to provide the road reserve widening along the frontage to Peppertree Road at the DA stage. Approved engineering plans by the same proponent for Peppertree Road in 2001 clearly indicate that it was always intended to be widened on the eastern side. This public infrastructure issue is critical to the

development of the town centre and adjoining lands. There is no binding agreement for this to occur – but the proponent has agreed to dedicate land to fulfil this requirement.

- **Intersection widening at Peppertree and Ferodale Roads** – The Strategy identifies a 4 way intersection in this location. In the absence of a Traffic Study projected traffic capacities to determine a suitable intersection type and timing are unknown
- **Contribution to upgrade of the greater road network** – the future infrastructure and section 94 plans have not been completed to quantify the contributions required from each development identified in the Strategy. This leaves a potential short fall to fund the necessary upgrades to the greater road network
- **Campvale Swamp Flooding** – a Flooding and Drainage Study for Medowie will take approximately 18 months to complete to inform the drainage component of the S94 plan. Council is required to consider any cumulative effects between now and the finalisation of the flood management study. Council may need to consider and justify why one development be allowed to proceed potentially at the expense of another.
- **Catchment drainage capacity (immediate impact)** – rezoning requests that are to precede the infrastructure and S94 plans are being asked to initiate such studies for the drainage catchments they are located in. This is so that council can ascertain what capacity or deficiencies currently exist in the catchment to determine a contribution toward strategic upgrade works within the catchment.
- **Contribution to the greater drainage network** – Contributions under the, existing S.94 plans do not take account of the specific infrastructure needs for Medowie. They are likely to be significantly less than a contribution plan that incorporated the infrastructure works resulting from the Medowie Strategy and would not contribute toward the major drainage network items such as trunk drainage and the town lake/detention basin.

Relationship to Councils' resolution of 28th April 2009

On 28<sup>th</sup> April 2009 Council resolved to approve 'in principle', subject to appropriate conditions, a concept proposal for a supermarket on the subject land, based upon the rationale submitted by the proponent (the supermarket concept plan).

Council resolution of 27<sup>th</sup> May 2008 to prepare the draft LEP included a resolution to prepare a DCP. As such Council's resolution to approve in principle the supermarket concept plan in practical terms has the effect of not requiring a DCP prior to a DA.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The sustainability implications of rezoning the land have been addressed in the Medowie Strategy. Proceeding with the rezoning to enable the development of a Woolworths supermarket may have positive social and economic effects. Sustainability of infrastructure and related funding remains a key issue for this proposal.

## CONSULTATION

The draft LEP was placed on public exhibition from 21<sup>st</sup> May to 19<sup>th</sup> June 2009. Exhibition of the draft plan resulted in 9 submissions received from the public. These are discussed under the consultation section below and summarised with respective planning comments and recommendations in **Attachment 2**. In addition submissions received from relevant Govt authorities are addressed below"

### Submission Received from the public

The submissions received from the public are primarily concerned with a concept design for a supermarket on the site. The concept design is inconsistent with the Medowie Strategy and this is a common theme in the submissions. Notwithstanding Councils' approval, in principle, of the supermarket concept plan, the draft LEP itself and rezoning of the land is consistent with the Medowie Strategy with the exception of Infrastructure planning. The approval, in principle, of the supermarket concept plan is a separate matter to the draft LEP currently before Council and not a factor for consideration for the reasons identified earlier in this report.

### Submission Received from relevant government agencies

The Department of Environment Climate Change & Water and the Rural Fire Service provided no objection provided the relevant matters are given consideration at development application stage. Energy Australia are currently undertaking investigations regarding current and future load limits and require the relevant considerations be given at development application stage.

The Roads and Traffic Authority have provided no specific objection to this draft LEP. However, they reiterated previous advice provided in relation to a requirement of strategic traffic planning for Medowie including the intersection of Medowie and Ferodale Roads, and the town centre.

The NSW Department of Planning (DOP), when informing Council that it may continue the preparation of the draft LEP, advised that the LEP Review Panel indicated it should not be finalised by Council until "[a] Council has determined a strategic traffic solution for the town centre, [b] completed the Medowie Strategy and [c] assessed the impact of any out of centre commercial development on the Medowie Town Centre."

[a] The strategic traffic solution for the town centre is the proposed extension of Peppertree Road north to allow it to connect with a proposed new street connecting Medowie Road and Wilga Roads. This will provide alternate access into the town centre and avoid the current concentration of access via Ferodale Road. It is uncertain if this will address the Department's requirements.

The proponent has not addressed the matter as part of the draft LEP and considers it to be best addressed at the development application stage.

[b] The Medowie Strategy has been completed and adopted by Council.

[c] There is no out of centre commercial development proposed in the Medowie Strategy of a size or scale that is likely to impact upon the town centre. All neighbourhood centres identified in the Medowie Strategy are complimentary rather than predatory in terms of both size of area and type of activities proposed.

## **OPTIONS**

Council can:

- 1) Adopt the recommendation and note that a further report will be submitted to Council when adequate information about the related infrastructure plan has been submitted by the proponent;
- 2) Support the draft Local Environmental Plan to be submitted to the NSW Minister for Planning and request the Minister's approval of that draft LEP given the social and economic benefits to Medowie with an indication that Section 94A should apply to any development consent issued for the supermarket development on the site, or

## **ATTACHMENTS**

- 1) Draft LEP instrument and map
- 2) Summary of Public Submissions

## **COUNCILLORS ROOM**

- 1) Submissions Folder
- 2) Medowie Strategy

## **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1  
DRAFT INSTRUMENT AND MAP**

**Port Stephens Local Environmental Plan  
2000 (Amendment No 32) DRAFT**

under the

Environmental Planning and Assessment Act 1979

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

KRISTINA KENEALLY, M.P.,  
Minister for Planning



Clause 1

Port Stephens Local Environmental Plan 2000 (Amendment No 32)

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## **Port Stephens Local Environmental Plan 2000 (Amendment No 32)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Port Stephens Local Environmental Plan 2000  
(Amendment No 32)*.

### **2 Aims of plan**

This plan aims to rezone land referred to in clause 3 from Zone 2(a) Residential "A" Zone to Zone 3(a) Business General "A" Zone under Port Stephens Local Environmental Plan 2000.

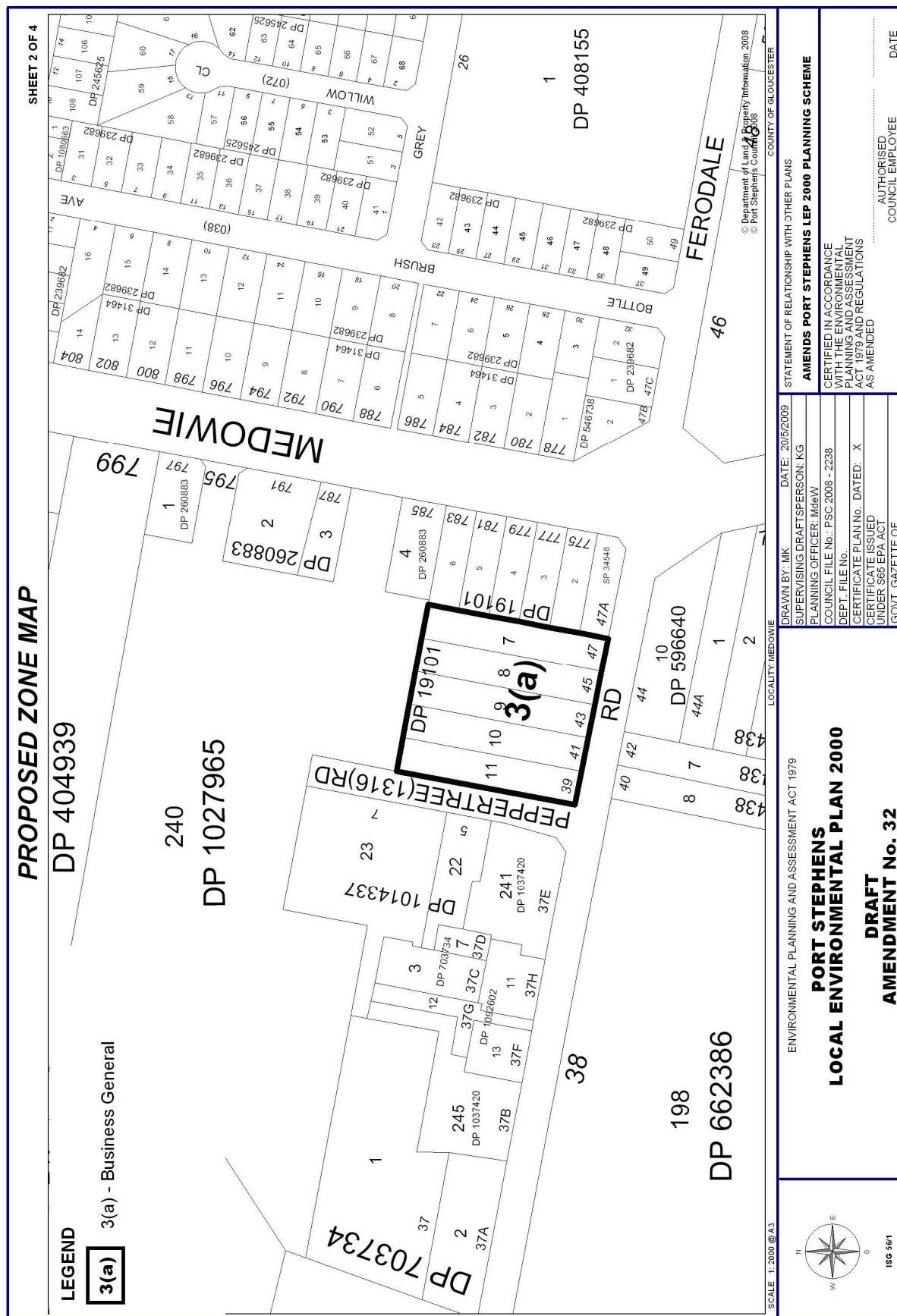
### **3 Land to which plan applies**

With respect to the aim referred to in clause 2, this plan applies to Lots 7,8,9,10 and 11 DP 19101 as shown edged heavy black and lettered 3(a) on the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No 32)" deposited in the office of Port Stephens Council.

### **4 Amendment of Port Stephens Local Environmental Plan 2000**

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

Port Stephens Local Environmental Plan (Amendment No 32)



**ATTACHMENT 2  
SUMMARY OF PUBLIC SUBMISSIONS**

SUBMISSION RECEIVED FROM THE PUBLIC			
Submission/ no.	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
1	<p>Objects to the rezoning of the land to allow for the construction of the proposed shopping centre. Council is supporting a development concept that contravenes the fundamentals and spirit of the Medowie Strategy.</p> <p>The development concept jeopardises the Strategy's plan for road works and widening Peppertree road, which is Medowie's nominated future main street.</p> <p>The community helped to create a strategy which would see the development of a town centre with character.</p> <p>Objects to the development concept placing loading bays feeding directly onto Peppertree Road.</p> <p>Objects to any future development that contravenes the guidelines and spirit of the Medowie Strategy.</p> <p>The decision making that has taken place raises issues of trust in local government.</p>	<p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy.</p> <p>The issues raised are principally related to process and a potential development application for a supermarket on the site.</p> <p>Noted. The concept plan is not relevant to the consideration of the LEP</p> <p>It is outside the scope of the LEP process to consider DA issues. It is appropriate to consider the merits of a supermarket design as part of the development application process and after the rezoning of the land.</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General.</p> <p>Council resolve to clarify the concept plan is not relevant to the consideration of the LEP.</p>

**MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009**
**SUBMISSION RECEIVED FROM THE PUBLIC**

Submission/ no.	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
2	<p>Objects to the rezoning. The development concept is contrary to what the Strategy envisions. The Council worked hard with the community to develop the Strategy, and Council I now contravening that Strategy. Objects to the way that Council has bypassed the usual planning process by resolving to approve (in principle) the development. Raises concern that Council's decision to approve a development (in principle) opens the way to possible corruption. Wants a Medowie shopping centre that is linked for pedestrians to walk around safely, with improved streets and appearance. The Strategy proposes a framework to achieve this.</p>	<p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy. The issues raised are principally related to process and a potential development application for a supermarket on the site and outside the scope of the rezoning process. Noted. The concept plan is not relevant to the consideration of the LEP It is outside the scope of the LEP process to consider DA issues It is appropriate to consider the merits of a supermarket design as part of the development application process and after the rezoning of the land.</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General. Council resolve to clarify the concept plan is not relevant to the consideration of the LEP</p>
3	<p>Objects to a rezoning that facilitates a shopping centre that provides no connection to the existing centre and contravenes the Medowie Strategy. Objects to a proposal that doesn't not address the following matters: Road access to Medowie and the two supermarkets, the widening of Peppertree Lane and the continuation of the lane back to Medowie Road, Parking for both supermarkets and smaller shops,</p>	<p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy. The issues raised are principally related to process and a potential development application for a supermarket on the site and outside the scope of the rezoning process. It is appropriate to consider the merits of a supermarket design as</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General. Council resolve to clarify the concept plan is not relevant to the consideration of the LEP</p>

**MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009**
**SUBMISSION RECEIVED FROM THE PUBLIC**

Submission/ no.	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
	<p>A round-a-bout at the corner of Ferodale Rd and Peppertree Rd once Peppertree has been widened,</p> <p>A bus facility from the main road,</p> <p>Public toilets with pedestrian access,</p> <p>Beautification of the area,</p> <p>Loading and unloading bays should be at the rear of shops,</p> <p>Car parks at the rear of the supermarket, as per the Medowie Strategy.</p> <p>There are examples of supermarkets with parking at the rear, as envisioned by the Strategy. An example is at Stanhope Gardens in western Sydney.</p> <p>The Medowie community spent many hours in consultation with Council during preparation of the Strategy. If the proposed building as supported by Council goes ahead, it is contrary to good governance by Council.</p> <p>To allow a developer to receive approval with only a draft proposal leaves Council open to additional costs.</p>	<p>part of the development application process and after the rezoning of the land.</p> <p>Noted. The concept plan is not relevant to the consideration of the LEP</p>	
4	<p>The development concept for the supermarket is contrary to the Medowie Strategy, which was prepared with input from the community.</p> <p>The development concept will create congested roads, no roundabout and no opportunity for social moments.</p>	<p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy.</p> <p>The issues raised are principally related to process and a potential development application for a</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General.</p>

**MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009**
**SUBMISSION RECEIVED FROM THE PUBLIC**

Submission/ no.	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
	<p>Supports another supermarket in Medowie, but in looking at the development concept the following must be considered:</p> <p>If Peppertree Road is not altered or widened, how will carriers of heavy loads unload their goods at bays.</p> <p>No provision has been made for open space or social interaction,</p> <p>No provision has been made for connection with the existing centre,</p> <p>Car parking facilities should be moved to the rear of the development,</p> <p>All fronts of the shopping centre are faced with car parks – this makes no sense for pedestrians.</p> <p>Councillors who do not live in Medowie have made a decision that is inconsistent with the Medowie Strategy.</p>	<p>supermarket on the site and outside the scope of the LEP process</p> <p>Noted. The concept plan is not relevant to the consideration of the LEP</p> <p>It is appropriate to consider the merits of a supermarket design as part of the development application process and after the rezoning of the land.</p>	
5	<p>Object to the proposed rezoning for the following reasons:</p> <p>A large supermarket should be on the site bound by Ferodale Road, Peppertree Road and Bi-Lo, so as not to split the retail centre of Medowie,</p> <p>By splitting the shopping centre and putting a large car park on the eastern side of Peppertree Road there will be negative impact on traffic, pedestrian and cycle movement,</p> <p>The proposal is contrary to the Medowie Strategy.</p> <p>The site of a second supermarket in Medowie</p>	<p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy.</p> <p>The issues raised are principally related to process and a potential development application for a supermarket on the site.</p> <p>It is appropriate to consider the merits of a supermarket design as part of the development application process and after the rezoning of the</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General.</p>

**MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009****SUBMISSION RECEIVED FROM THE PUBLIC**

<b>Submission/ no.</b>	<b>ISSUES RAISED</b>	<b>PLANNING COMMENT</b>	<b>RECOMMENDATION</b>
	should be in the existing shopping area.	land.	

Note: Some community members made more than one submission, on separate dates. They have been consolidated and considered as a single submission for this report.

<b>MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009</b>
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SUBMISSION RECEIVED FROM GOVERNMENT AUTHORITIES			
Agency	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
<b>Energy Australia</b>	Energy Australia is aware of present and future load growth in the area and is undertaking investigations to allow for future loadings within the area. The applicant/developer will generally be responsible for the electrical reticulation requirements for any proposed development of the subject land.	Noted.	Proceed with the draft LEP to rezone the land to 3(a) Business General.
<b>NSW Roads and Traffic Authority</b>	The RTA provided previous advice to Council on the Medowie Strategy generally, and advise that those comments still apply to any rezoning in Medowie. The RTA has reviewed the information provided for the draft LEP, and has no objection to the rezoning.	Noted.	Proceed with the draft LEP to rezone the land to 3(a) Business General.
<b>Department of Environment, Conservation and Climate Change</b>	No objection to the rezoning.	Noted.	Proceed with the draft LEP to rezone the land to 3(a) Business General.
<b>NSW Rural Fire Service</b>	No objection to the rezoning.	Noted.	Proceed with the draft LEP to rezone the land to 3(a) Business General.



ITEM NO. 2

FILE NO: PSC2008-2238

**PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000  
(NO. 32): COMMERCIAL DEVELOPMENT, CORNER FERODALE &  
PEPPERTREE ROADS, MEDOWIE – INFRASTRUCTURE AGREEMENT**

**REPORT OF: DAVID BROYD – GROUP MANAGER**  
**GROUP: SUSTAINABLE PLANNING**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the Infrastructure Agreement as contained in Attachment 1 (letter from Group Manager, Sustainable Planning to Builddev Pty Ltd) and
  - 2) Endorse the draft Port Stephens Local Environmental Plan 2000 Amendment No. 32 to be submitted to the NSW Department of Planning requesting that the Plan be made by the NSW Minister for Planning.
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**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009**  
**RECOMMENDATION:**

	<b>Councillor Daniel Maher</b> <b>Councillor Steve Tucker</b>	That Council: <ol style="list-style-type: none"><li>1) Endorse the Infrastructure Agreement as contained in Attachment 1 (letter from Group Manager, Sustainable Planning to Builddev Pty Ltd) and require the General Manager to put into place a legal mechanism to bind any successive owners; and</li><li>2) Endorse the draft Port Stephens Local Environmental Plan 2000 Amendment No. 32 to be submitted to the NSW Department of Planning requesting that the Plan be made by the NSW Minister for Planning.</li></ol>
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Frank Ward.

## MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

### MATTER ARISING

	<b>Councillor Glenys Francis</b> <b>Councillor Peter Kafer</b>	That Council be provided with a briefing from the consultants on the Medowie Flood Study.
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### ORDINARY COUNCIL – 24 NOVEMBER 2009

<b>388</b>	<b>Councillor Daniel Maher</b> <b>Councillor Steve Tucker</b>	It was resolved that the Council Committee 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 Peter Kafer, Daniel Maher, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Bob Westbury, Bruce MacKenzie and Glenys Francis.

Those against the Motion: Cr Frank Ward.

### MATTER ARISING

<b>389</b>	<b>Councillor Daniel Maher</b> <b>Councillor Steve Tucker</b>	It was resolved that Council be provided with a briefing from the consultants on the Medowie Flood Study.
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### BACKGROUND

The purpose of this report is to recommend Council's endorsement of the Infrastructure Agreement reached between the Group Manager, Sustainable Planning and the Directors of Buildev Pty Ltd in relation to the draft LEP amendment No. 32 and thereby enable that draft LEP amendment to be recommended to the NSW Department of Planning and NSW Minister of Planning for approval and gazettal.

This report compliments Item 1 – report to the Council Committee of 10 November 2009 which was deferred by Council to enable an Infrastructure Agreement to be reported upon prior to the submission of the Draft Local Environmental Plan to the NSW Department of Planning.

Following the initial recommendation for the draft Local Environmental Plan to not proceed, management representatives from Buildev Pty Ltd met with the Group

Manager, Sustainable Planning and Coordinator, Infrastructure Planning on Monday 9 November 2009 with the resulting negotiation of an agreement on infrastructure provision associated with the draft LEP amendment. The key issues here were:

1. Fulfilment of the adopted Medowie Strategy in terms of commitment to infrastructure planning, funding and provision in relation to applications for rezoning;
2. This draft Local Environmental Plan being facilitated for endorsement prior to the completion of a comprehensive Infrastructure Plan and Flood Management Study and Plan by Council;
3. Ensuring equitable contributions from developments in the short term prior to the Infrastructure Plan and Flood Plain Management Study and Plan being completed relative to the anticipated contributions from all future developments in accordance with the Medowie Strategy and
4. Getting clear and legally sound bases for the Infrastructure Plan and differentiating between liability for infrastructure planning and commitment at draft LEP and development application stages.

It is submitted that the Agreement that is contained in the letter from the Group Manager, Sustainable Planning which is Attachment 1 to this report responds appropriately to the above key issues.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The Infrastructure Agreement has been negotiated to fulfil the infrastructure planning requirements contained in the Medowie Strategy and in terms of seeking to achieve relatively equitable approach for this short-term development relative to the longer term developments and contributions in accordance with the Medowie Strategy.

### **LEGAL, POLICY AND RISK IMPLICATIONS**

The Infrastructure Agreement has been negotiated on a legally sound basis to implement the Medowie Strategy, based upon Section 94A contributions and seeking to ensure clear differentiation between the draft Local Environmental Plan stage and the development application stage.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The sustainability implications of rezoning the land have been addressed in the Medowie Strategy. Proceeding with the rezoning to enable the development of a Woolworths supermarket may have positive social and economic effects. Sustainability of infrastructure and related funding remains a key issue for this proposal.

**CONSULTATION**

Meeting with Buildev Pty Ltd.

**OPTIONS**

1. Council can adopt the recommendation and endorse the Infrastructure Agreement and thereby enable the submission of the draft Local Environmental Plan Amendment No. 32 to the NSW Department of Planning and NSW Minister For Planning;
2. Seek renegotiation of certain elements of the Infrastructure Agreement before endorsing the draft Local Environmental Plan to be submitted to the State Department of Planning or
3. Not accept the recommended Infrastructure Agreement and not proceed with the draft Local Environmental Plan No. 32.

**ATTACHMENTS**

- 1) Letter from Group Manager Sustainable Planning to the Directors of Buildev Pty Ltd proposing the finally negotiated Infrastructure Agreement
- 2) Letter from Buildev Pty Ltd confirming the Company's endorsement of the Infrastructure Agreement proposed on Council's behalf by the Group Manager, Sustainable Planning.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1  
GROUP MANAGER SUSTAINABLE PLANNING LETTER**

**TO BE PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 2  
BUILDEV LETTER**

**TO BE PROVIDED UNDER SEPARATE COVER**

Cr Ken Jordan entered the meeting at 8.02pm at the conclusion of Item 2.

**ITEM NO. 3**

**FILE NO: PSC2006-0029**

## **MEDOWIE STRATEGY REVIEW**

**REPORT OF: DAVID BROYD – GROUP MANAGER**

**GROUP: SUSTAINABLE PLANNING**

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### **RECOMMENDATION IS THAT COUNCIL:**

- 1) Prepare a draft amendment and public exhibition of the Medowie Strategy to identify:
  - a. Site 1 Boundary Road as potential future Rural Small Holdings in the south west part and the remainder Environmental Management (**Attachment 1**);
  - b. Site 3 Waropara Road North as Rural Small Holdings and Environmental Living (**Attachment 2**);
  - c. Site 5 Ferodale Road West as Environmental Living (**Attachment 3**);
- 2) Make no change to the Medowie Strategy with respect to:
  - a. Site 2 Corner Ferodale Road and Kirrang Drive (**Attachment 4**);
  - b. Site 4 Coachwood Drive East (**Attachment 5**);
  - c. Site 6 Medowie Rd (Brocklesby Neighbourhood North) (**Attachment 6**);
  - d. Site 7 Wade Close (**Attachment 7**);
- 3) Prepare a planning proposal in accordance with section 55 of the Environmental Planning and Assessment Act 1979 to initiate the rezoning process of the Boundary Road site (Site 1) for Rural Small Holdings and Environmental Management purposes (**Attachment 1**) and request the NSW Department of Planning to undertake a 'gateway' determination, with no further action to be undertaken until Council's consideration of the exhibited Medowie Strategy incorporating the proposed draft amendments including Site 1 Boundary Road

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### **COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009**

#### **RECOMMENDATION:**

	<b>Councillor Geoff Dingle</b> <b>Councillor Peter Kafer</b>	That Council defer the matter until such time as Council receives the model from the Medowie Flood Drainage Study.
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In accordance with the Local Government Act 1993, a division is required for this item.

## MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

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

Those against the Motion: Crs Ken Jordan, Daniel Maher, Shirley O'Brien, Steve Tucker Bob Westbury and Bruce MacKenzie.

The Motion on being put was lost.

### AMENDMENT:

	<b>Councillor John Nell</b> <b>Councillor Frank Ward</b>	That Council defer to allow for a site inspection.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien, Bob Westbury and Bruce MacKenzie.

The Amendment on being put was lost.

### MOTION:

	<b>Councillor Bruce MacKenzie</b> <b>Councillor Steve Tucker</b>	<p>That Council:</p> <ol style="list-style-type: none"><li>1. Prepare a draft amendment and public exhibition of the Medowie Strategy to identify:<ol style="list-style-type: none"><li>a. Site 1 Boundary Road as potential future Rural Small Holdings in the south west part and the remainder Environmental Management (<b>Attachment 1</b>);</li><li>b. Site 3 Waropara Road North as Rural Small Holdings and Environmental Living (<b>Attachment 2</b>);</li><li>c. Site 5 Ferodale Road West as Environmental Living (<b>Attachment 3</b>);</li></ol></li><li>2. Make no change to the Medowie</li></ol>
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## MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

		<p>Strategy with respect to:</p> <ul style="list-style-type: none"> <li>a. Site 2 Corner Ferodale Road and Kirrang Drive <b>(Attachment 4);</b></li> <li>b. Site 4 Coachwood Drive East <b>(Attachment 5);</b></li> <li>c. Site 6 Medowie Rd (Brocklesby Neighbourhood North) <b>(Attachment 6);</b></li> <li>d. Site 7 Wade Close <b>(Attachment 7);</b></li> </ul> <p>3. Prepare a planning proposal in accordance with section 55 of the Environmental Planning and Assessment Act 1979 to initiate the rezoning process of the Boundary Road site (Site 1) for Rural Small Holdings and Environmental Management purposes <b>(Attachment 1)</b> and request the NSW Department of Planning to undertake a 'gateway' determination, with no further action to be undertaken until Council's consideration of the exhibited Medowie Strategy incorporating the proposed draft amendments including Site 1 Boundary Road</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Ken Jordan, Daniel Maher, Shirley O'Brien, Steve Tucker, Bob Westbury and Bruce MacKenzie.

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

### ORDINARY COUNCIL – 24 NOVEMBER 2009

<b>390</b>	<b>Councillor Daniel Maher Councillor Bob Westbury</b>	It was resolved that the Council Committee recommendation be adopted.
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Those for the Motion: Crs Daniel Maher, Steve Tucker, Shirley O'Brien, Bob Westbury and Bruce MacKenzie

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

The Motion was carried on the casting vote of the Mayor.

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## **BACKGROUND**

The purpose of this report is to determine whether to amend the Medowie Strategy with respect to seven (7) submissions seeking to include seven (7) sites (see Attachment 8 for location of all sites relative to Structure Plan in the Medowie Strategy).

On 24 March 2009 Council adopted the Medowie Strategy. At this time Council also resolved to prepare a Medowie infrastructure plan to address water, sewer, emergency services, roads, community facilities, flooding and drainage infrastructure, staging and funding methods. This plan is currently being prepared.

During the second exhibition of the Medowie Strategy and subsequent reporting to Council in March 2009, six submissions were received requesting amendments to the Strategy. Given that the Strategy was exhibited twice, it was not recommended that these sites be given consideration as this would require re-exhibition of the Strategy. The March 2009 report stated that if land owners seek to develop their land different to that proposed by the Strategy and that a compelling case exists to do so then a rezoning request could be submitted and reported to Council accordingly.

Another submission for inclusion in the Strategy was submitted on 21 August 2009. This brings the total number of sites for consideration to seven. The details of each site are as follows:

### **SITE 1 BOUNDARY ROAD**

**Property Description:** Lots 93, 94, 95, 96 in DP 753194, Boundary Road.

**Proponent:** Eureka, submission by Urbis JHD September 2009.

**Existing Zoning:** 1(c1) Rural Small Holdings (minimum lot size 20 hectare. The Medowie Strategy does not identify any change in zoning for the site.

**Submission Summary:** request to rezone site part 1(c5) Rural Small Holdings (minimum lot size 2000m<sup>2</sup>) and 7(a) Environment Protection with potential yield of 260 rural residential lots ranging from 2000 - 8000m<sup>2</sup>. The proposal provides an environmental corridor of approximately 50 hectares to be zoned 7(a) Environment Protection crossing the site in a northwest to southwest direction. The corridor is an Endangered Ecological Community – Swamp Sclerophyll Forest and includes a 50m buffer.

The submission states that the proposal provides a logical extension to existing rural residential development in Medowie. The large site area and common ownership

provides opportunity to develop the land in a coordinated manner. A development control plan is proposed to be prepared for the site.

The site is adjacent to reticulated sewer and water services and there is potential for future development to be connected to those services should development occur. The proposal is consistent with the rural residential theme for this part of Medowie and is consistent with the principles and desired outcomes of the Medowie Strategy.

**Comment:** proponent originally requested site be identified for 1300 residential lots. The Medowie Strategy does not identify site as suitable for urban development for those reasons reported to Council in February 2008. The site is identified in the Lower Hunter Regional Strategy (LHRS) within the Watagan Stockton Green Corridor. Council has received previous advice from the Department of Planning in relation to other proposals within the LGA stating that the Green Corridor specifically precludes use of the LHRS sustainability criteria to consider and assess one-off developments (Department of Planning - 21<sup>st</sup> September 2007).

There is merit in considering rural residential development for the south west part of the site located adjacent to land to the south that is already zoned 1(c4) Rural Small Holdings. This area was not identified by the Medowie Strategy as having conservation significance. This part of the site could form a logical extension of rural residential development in Medowie subject to state government support.

That part of the site north east of the proposed environmental corridor is comparatively isolated from existing rural residential development and the town of Medowie itself. Its separation from existing and proposed development and relationship to the surrounding environment decreases its suitability for development, particularly compared to the south west part of the site. This part of the site would form an isolated development surrounded by the adjoining Medowie State Conservation Area and the green corridor in the Lower Hunter Regional Strategy, separating it from adjoining development and therefore, is not recommended. Rather this part of the site should be protected from further development. This is consistent with the site's location in the Watagan Stockton Green Corridor under the Lower Hunter Regional Strategy and will decrease edge effects on the Endangered Ecological Community that crosses the site. The Medowie Strategy also identifies the north east section of the site as having high conservation significance (Figure A1.13 in the Medowie Strategy).

It is considered appropriate to amend the Medowie Strategy to reflect the potential for Rural Small Holdings in the south west part of the site to allow lots of 1000 square metres minimum and the north east part of the site for Environmental Management.

Note: To enable proper public consultation and community input to be sought on whether the Medowie Strategy should be amended the rezoning proposal should not proceed to exhibition pending a 'gateway' determination from the NSW Department of Planning and following Council's determination of the exhibited draft amendments to the Medowie Strategy.

**Recommendation:** amend the Medowie Strategy and identify the site as part Rural Small Holdings in the south west part of site and the remainder Environmental Management.

**SITE 2 CORNER OF FERODALE ROAD AND KIRRANG DRIVE**

**Property Description:** Lots 2 & 3 in DP 249781, Corner of Ferodale Road and Kirrang Drive.

**Proponent:** Buldev, submission by Buldev, Urbis JHD & GHD 10<sup>th</sup> June 2008.

**Existing Zoning:** the site is currently zoned 1(c4) Rural Small Holdings (minimum lot size 4000m<sup>2</sup>). The Medowie Strategy does not identify any change in zoning for the site.

**Submission Summary:** request to identify the subject land for commercial use in the Medowie Strategy. The submission proposes a commercial development that uses underground parking to avoid impacting on the existing flooding experienced by other properties.

The submission states that the site is suitable for commercial development because of the lack of vegetation on site, its location on transport routes and proximity to the existing and proposed commercial centre of Medowie. The flood impact assessment concludes that rezoning of the site to accommodate the proposed development will have negligible impact on the existing flooding experienced by surrounding properties. The proposal relies on underground parking, acting as compensatory flood storage, to achieve this. The submission indicates that there will be on-site flooding impacts.

The submission does not demonstrate consistency with planning directions for flood prone land under S.117 of the Environmental Planning and Assessment Act 1979.

**Comment:** the Medowie Strategy does not indicate site as suitable for commercial development, or recommend any change in land use, due to it being flood affected and that the location of commercial development on this land would fragment and undermine the existing town centre and its proposed expansion under the Medowie Strategy.

The use of underground car parking to avoid off-site flood impacts is noted. However, this is not a solution to the flooding impacts. There is likely to be increased risk to users and of the site if development proceeded as a proposal.

The submission provides that adjoining land to the east along Ferodale Road is flood affected and is already zoned 3(a) Business General. This is a historical matter derived without current flooding information that is now publicly available for this site and catchment. Arguing precedent does not justify zoning of recently recognised flood prone land for commercial development.

The submission focuses on the lack of environmental constraints on the site compared to other land that is identified commercial in the Medowie Strategy, particularly the land behind Bi-Lo. However, this land is not flood prone. Furthermore, the submission does not address the economic and social costs and impacts that developing the site would have upon the current and future town centre.

The Strategy identifies sufficient land for commercial use to support the projected population growth. This includes a draft LEP on the corner of Ferodale and Peppertree Roads that has been publicly exhibited and was recently submitted to Council for further consideration. It would not be suitable to amend the Strategy to reflect a commercial use for Site 2, having regard to the flooding implications and its' location relative to the town centre.

**Recommendation:** No amendment to the Medowie Strategy.

#### SITE 3 WAROPARA ROAD NORTH

**Property Description:** Lot 2 in DP 869411.

**Proponent:** Carman Surveyors 12 June 2008.

**Existing Zoning:** 1(c3) Rural Small Holdings (minimum lot size 1 hectare). The Medowie Strategy map does not identify any change in zoning for this site.

**Submission Summary:** request to have Site 3 identified for development in the Medowie Strategy although the specific type of land use change being sought is not stated.

**Comment:** The Medowie Strategy identifies the site as having low conservation significance whilst land to the south for residential and to the east for rural small holdings and part environmental living. There is existing rural residential development to the north. In this context there is merit in investigating the site further for rural residential development and part environmental living.

**Recommendation:** Amend the Medowie Strategy to identify site part Rural Small Holdings and part Environmental Living.

#### SITE 4 COACHWOOD DRIVE EAST

**Property Description:** Lot 1 in DP 1019113, Coachwood Drive.

**Proponent:** Carman Surveyors 12 June 2008 and April 2008.

**Existing Zoning:** 7(a) Environment Protection. The Medowie Strategy map does not identify any change in zoning for the site as it is outside the Medowie Strategy study area.

**Submission Summary:** request to identify site for part residential (28 hectares) and retain the remainder of the site as environment protection (34 hectares). The principal reason given for urban development is that Site 4 is located immediately adjacent to existing urban development and has access to infrastructure.

**Comment:** it is acknowledged that the site is located adjacent to existing urban development and infrastructure. The site is located in the Watagan Stockton Green Corridor under the LHRS which generally precludes its consideration for rezoning for development. It is reasonable to assume that there is a community expectation that land currently zoned for environmental protection is not rezoned for urban purposes.

The 7(a) Environment Protection zoning is appropriate for the site for the following reasons:

- site is identified in the LHRS as within the Watagan Stockton Green Corridor;

- proposed development footprint occurs within Preferred and supplementary Koala Habitat and Koala Habitat Buffer Zones under the Port Stephens Comprehensive Koala Plan of Management
- contains large portions of Endangered Ecological Community – Swamp Sclerophyll Forest listed under the Threatened Species Conservation Act 1995.
- contains habitat for the Wallum Froglet and the Koala, species listed under the Threatened Species Conservation Act 1995.
- contains State Environmental Planning Policy 14 Coastal Wetlands; National Parks and Wildlife Service Key Habitats and Corridor Mapping 2001 identifies the site as containing a large amount of "key habitat" and the area also acts as an important buffer to NPWS Estate;
- has a high corridor value, providing an important vegetated connection running north south along east side of Medowie.

In addition to the issues outlined above, the proponent has not provided an extensive flora/fauna study to support the request.

Site is impacted by the new Australian Noise Exposure Forecast 2025 (ANEF 2025) maps and is identified in the 20-25 ANEF contour. State Planning Directions issued under section 117 of the Environmental Planning and Assessment Act 1979 would require any dwellings on the site to be noise attenuated.

**Recommendation:** No amendment to the Medowie Strategy.

#### SITE 5 FERODALE ROAD WEST

**Property Description:** Lot 106 in DP 1082077, Ferodale Road West.

**Proponent:** Monteath & Powys 18<sup>th</sup> June 2008.

**Existing zoning:** 1(c1) Rural Small Holdings (minimum lot size is 20 hectares). The Medowie Strategy map does not identify any change in zoning for the site.

**Submission Summary:** submission seeks to identify the site as Environmental Living. The site is adjacent to a parcel of land on Ferodale Road under the same ownership, and provides increased opportunities for coordinated development.

The submission is accompanied by advice provided by ecological consultants Biolink Pty Ltd indicating that Koala activity is focussed on the very western edge of Lot 106 where two Swamp Mahogany trees are located, with no evidence of significant koala activity elsewhere on the site. The advice does not oppose the appropriate development of the land and is of the opinion that a suitable rezoning with a biodiversity offset package may have merit.

**Comment:** The site exists within a context of rural residential development to the north and south of Ferodale Road. There is vegetation on the site and it is mapped in the Medowie Strategy as Preferred Koala Habitat and of mostly medium conservation value, and part high conservation value.

The size of the site and common ownership may provide opportunity for a coordinated development.

Environment Services do not object, in principle, to the identification of the site as Environmental Living in the Medowie Strategy. However, the environmental corridor identified in the Medowie Strategy in the vicinity of Site 5 requires refining given that it has a width of less than 100m and has limited connectivity. Environment Services recommends that additional land to the north should also be included to create a viable corridor.

If the Medowie Strategy is amended to include the site as Environmental Living it will facilitate further detailed investigation and consideration for potential development of the site.

**Recommendation:** amend the Medowie Strategy to identify Site 5 as Environmental Living.

#### **SITE 6 MEDOWIE ROAD (BROCKLESBY NEIGHBOURHOOD NORTH)**

**Property Description** Medowie Road Lot 1 in DP 567481 and Lots 7, 8 & 9 in DP 855814, Medowie Road (Site 6)

**Proponent:** ADW Johnson 3 June 2008.

**Existing zoning:** 1(a) Rural Agriculture. The site is identified in the Medowie Strategy as a mixture of Standard Residential, Home Enterprise, Environmental Living, Environmental Management and Parks.

**Submission Summary:** request to modify that part of the site identified as Environmental Living under the Medowie Strategy to Standard Residential based on the desire to accommodate extra development.

**Comment:** The land identified for Environmental Living in the Medowie Strategy is based upon the environmental characteristics of the site and the location of an important environmental corridor in this location. For these reasons the area of the site should remain as Environmental Living under the Medowie Strategy.

**Recommendation:** No amendment to the Medowie Strategy in regard to Site 6.

#### **SITE 7 WADE CLOSE**

**Property Description:** Lot 1433 in DP 716004, Lot 84 in DP 259434 & Lot 1 in DP 1105039, Wade Close.

**Existing zoning** 1(c2) Rural Small Holdings (minimum lot size 2 hectares) and 1(c3) Rural Small Holdings (minimum lot size 1 hectare). The site outside the Medowie Strategy study area.

**Submission Summary:**

- Current zoning has been in place for approximately 40 years and was relevant up until about 20 years ago when development and augmentation costs were less expensive. Current zoning doesn't reflect market demand where large lots only caters to the upper echelon of the market place which represents approximately 5% of market.
- The site is close to Newcastle Regional Airport and the Williamstown RAAF Base, both recognised as major employment generators with significant growth predicted.
- Virtually all land between Lakeside Village Estate and the site is owned by Hunter Water, hence this will always remain a green belt area. Between the site and

Medowie proper there exists only acreage lots some of which are quite low lying. For any higher density development to take place on these lands would in the main require consolidation of numerous lots which would result in a very protracted process.

- The site is only a few minutes from the sporting fields located at Lakeside Village and a further few minutes from Raymond Terrace.
- The site is in the main clear of vegetation. Proposed development over a large area of Medowie will be very difficult as there are major flora and fauna problems, viz, koala habitats.
- The land is not affected by Australian Noise Exposure Forecast 2012.
- Public transport (Busways) have been approached and they are prepared to incorporate the site into their existing and future Medowie/Raymond Terrace and Medowie/Newcastle timetables.
- The existing Raymond Terrace/Medowie cycleway passes the site and any proposed residential development on the site would incorporate cycle paths connecting to the existing cycleway.
- A Community Hall and Village Square (bar-b-ques, playground etc) are intended to be incorporated into development of the site.

**Comment:** the Site has not been part of investigations during the preparation of the Medowie Strategy and is outside the identified growth area of the Lower Hunter Regional Strategy. Development of the site at higher densities than that currently permitted under the Port Stephens LEP 2000 would be inconsistent with the principles of the Medowie Strategy and further fragment the settlement pattern of the Medowie area and the associated environmental, economic and social issues and impacts that the Medowie Strategy is seeking to manage.

The site is impacted by the new ANEF 2025 maps and the site is identified in the 25-30 ANEF contour. State Planning S117 Direction 3.5 states that Council must not prepare a planning proposal to increase residential densities where the ANEF exceeds 25. Under AS 2021-2000 residential development is identified as 'unacceptable' in the 25-30 ANEF contour. The landowners have the ability to apply for subdivision on this site under the current zonings. Council is currently assessing a development application for a 28 lot subdivision for 3 Wade Close (DA 16-2002-1921).

**Recommendation:** no amendment to the Medowie Strategy and allow consideration of development under the current zoning and planning controls applicable to the site.

## **FINANCIAL/RESOURCE IMPLICATIONS**

Other than Council planning, staff time and effort to exhibit the assessment and report the proposed amendments there are no financial/resource implications by amending the Medowie Strategy.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

The Medowie Strategy is adopted by Council and is used to provide strategic direction in making planning recommendations and decisions. By making



amendments to the Strategy Council will be indicating its general support for future changes in land use for the relevant sites, subject to detailed investigations and site consideration as part of any planning proposal (i.e. rezoning) process occurring under the Environmental Planning and Assessment Act 1979.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The social, economic and environmental implications of adopting the Medowie Strategy have been the subject of previous reports to Council. The recommended amendments to the Medowie Strategy have very similar sustainability implications and can be discussed in detail when rezoning requests are received for each site.

### **CONSULTATION**

Comments from Environment Services section have been sought for Boundary Road (Site 1) and Ferodale Road West (Site 5) as environmental issues primary concerns for those sites. Those comments have been incorporated into the recommendations for each site.

Further consultation in the form of a public exhibition will occur if Council resolves to support the recommended draft amendments to the Medowie Strategy.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Site Map – Site 1 Boundary Road
- 2) Site Map – Site 3 Waropara Road North
- 3) Site Map – Site 5 Ferodale Road West
- 4) Site Map – Site 2 Corner Ferodale Road and Kirrang Drive
- 5) Site Map – Site 4 Coachwood Drive East
- 6) Site Map – Site 6 Medowie Road
- 7) Site Map – Site 7 Wade Close
- 8) Location of sites requested to be included into the Medowie Strategy
- 9) Letter to Eureka
- 10) Letter of Response from Eureka

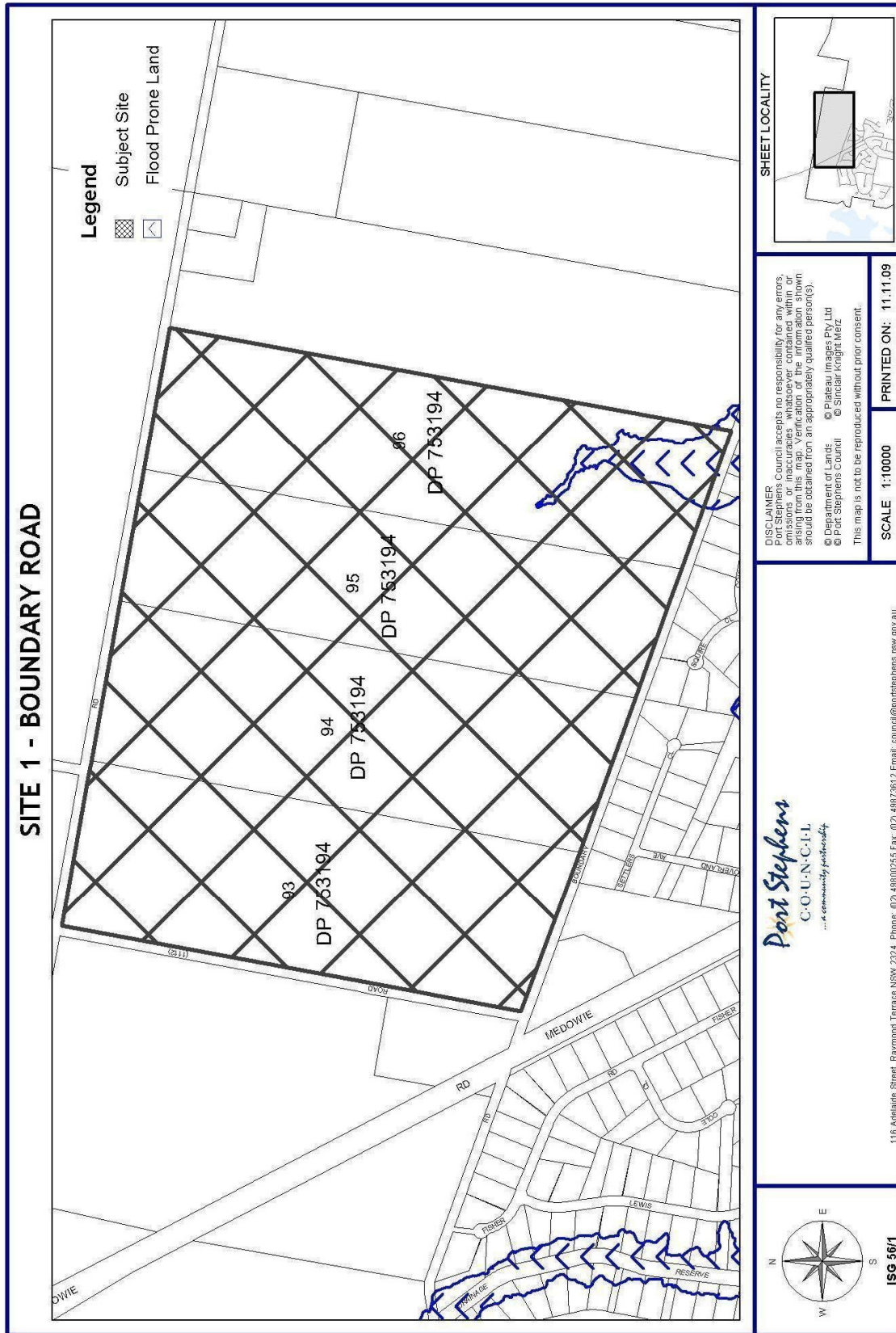
### **COUNCILLORS ROOM**

- 1) Submissions
- 2) Medowie Strategy – Adopted March 2009

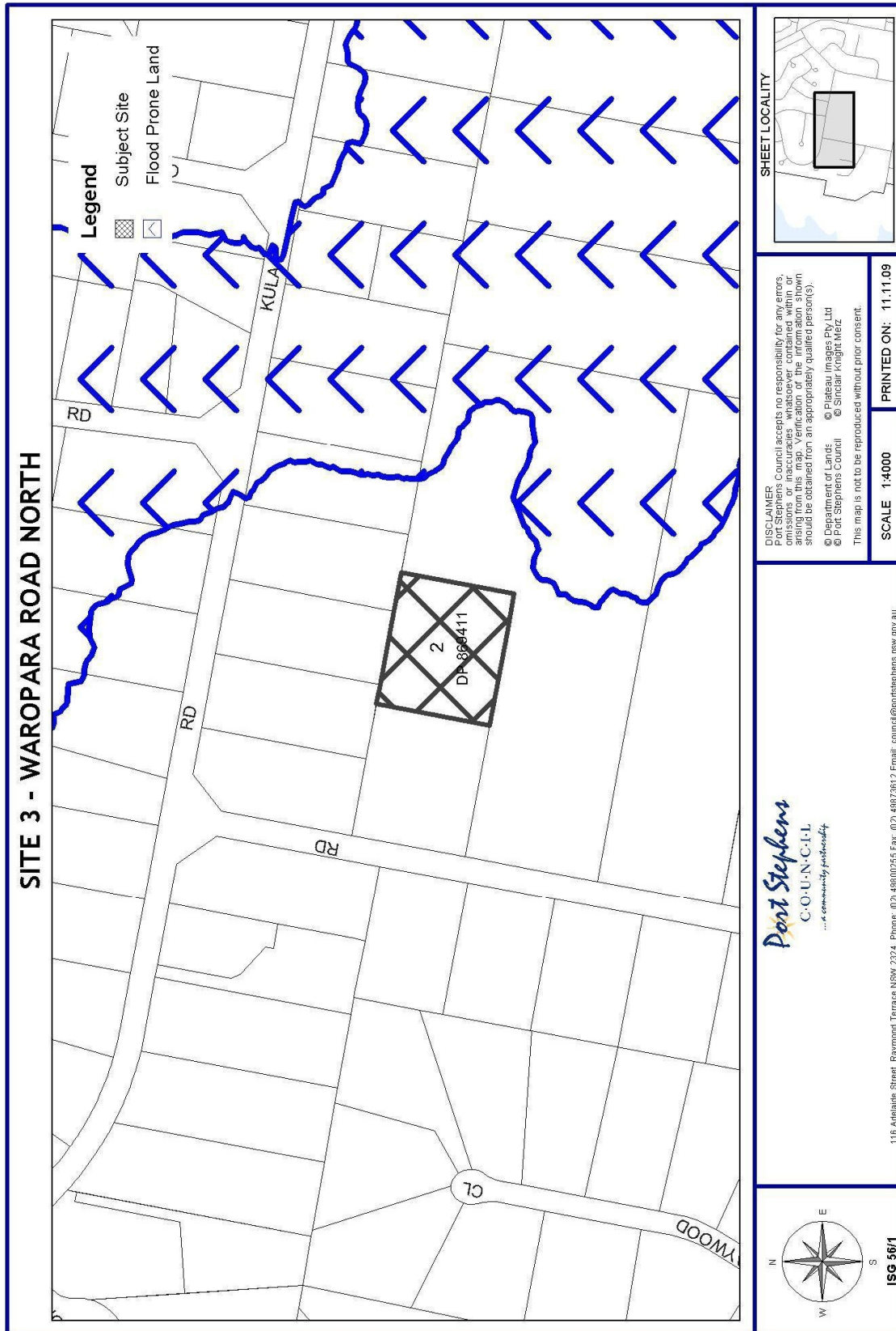
### **TABLED DOCUMENTS**

Nil.

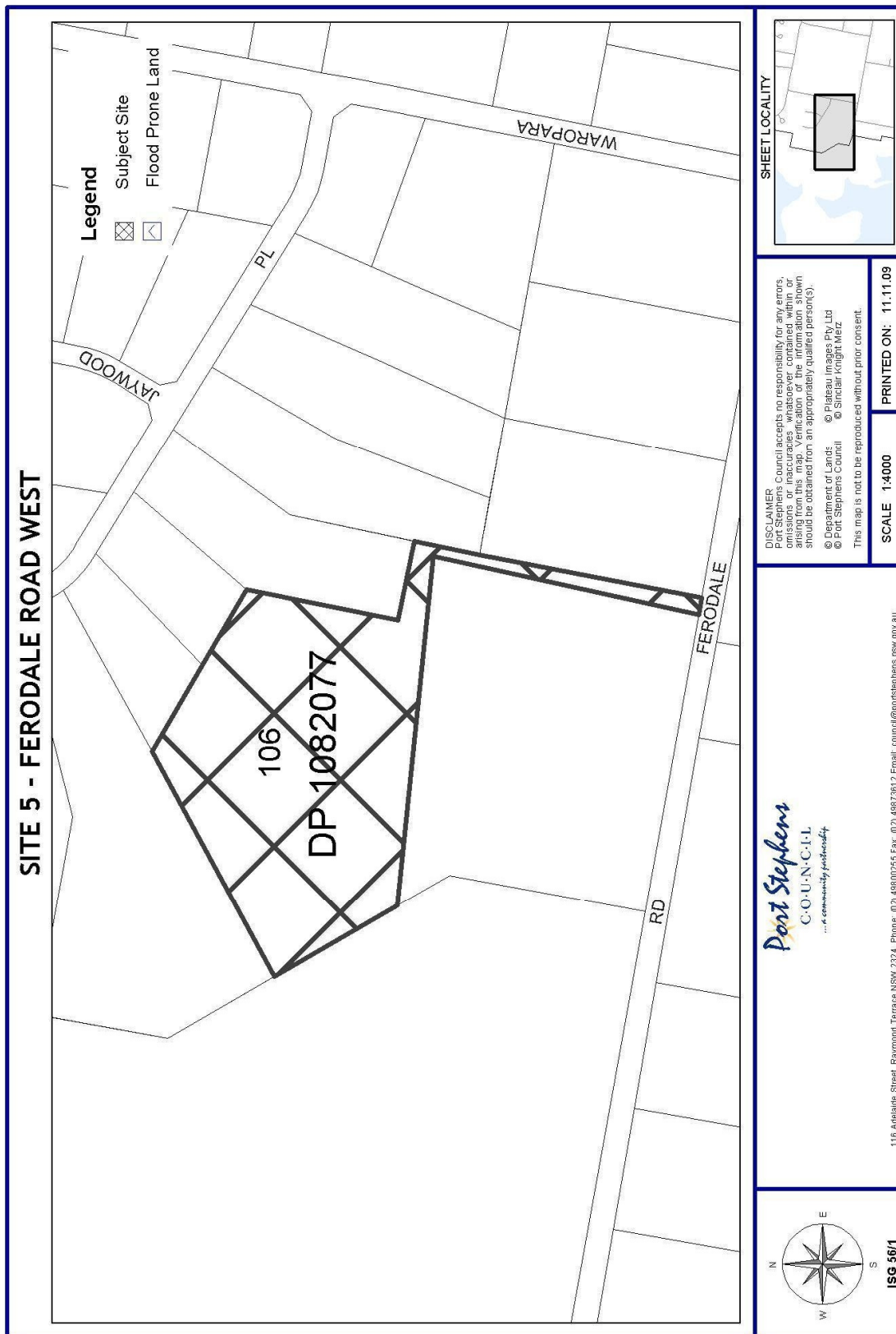
ATTACHMENT 1  
SITE 1



ATTACHMENT 2  
SITE 3

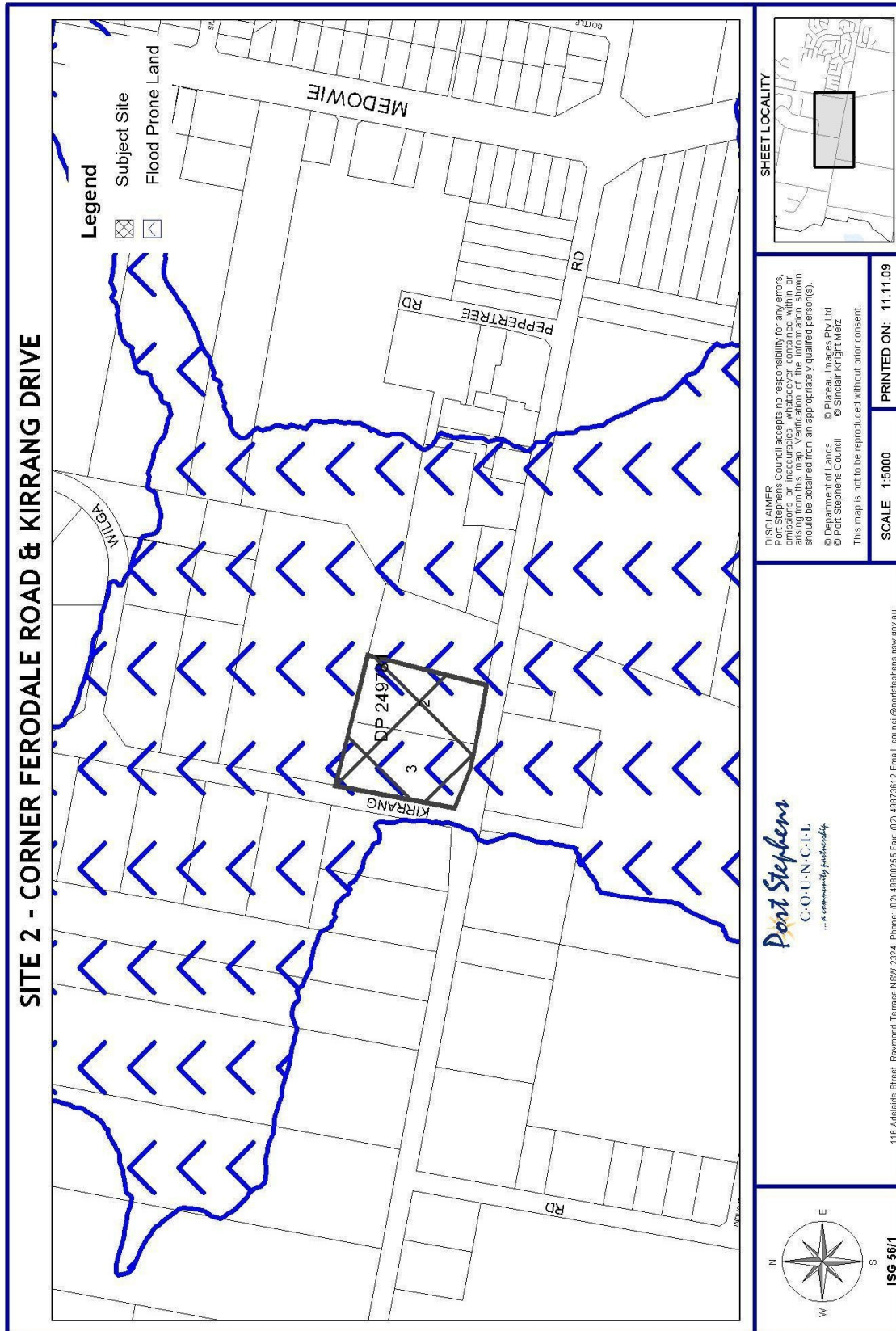


ATTACHMENT 3  
SITE 5

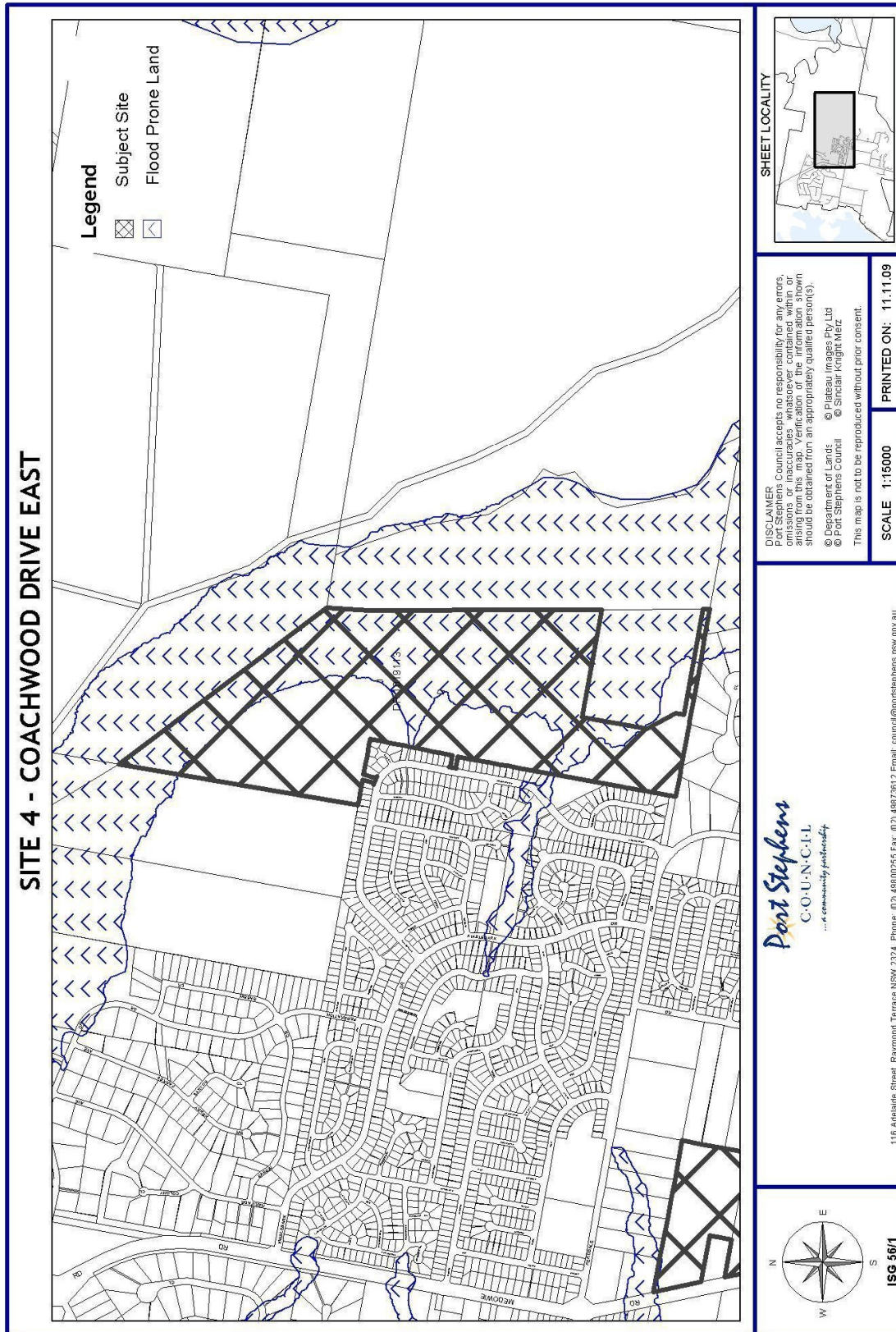




ATTACHMENT 4  
SITE 2

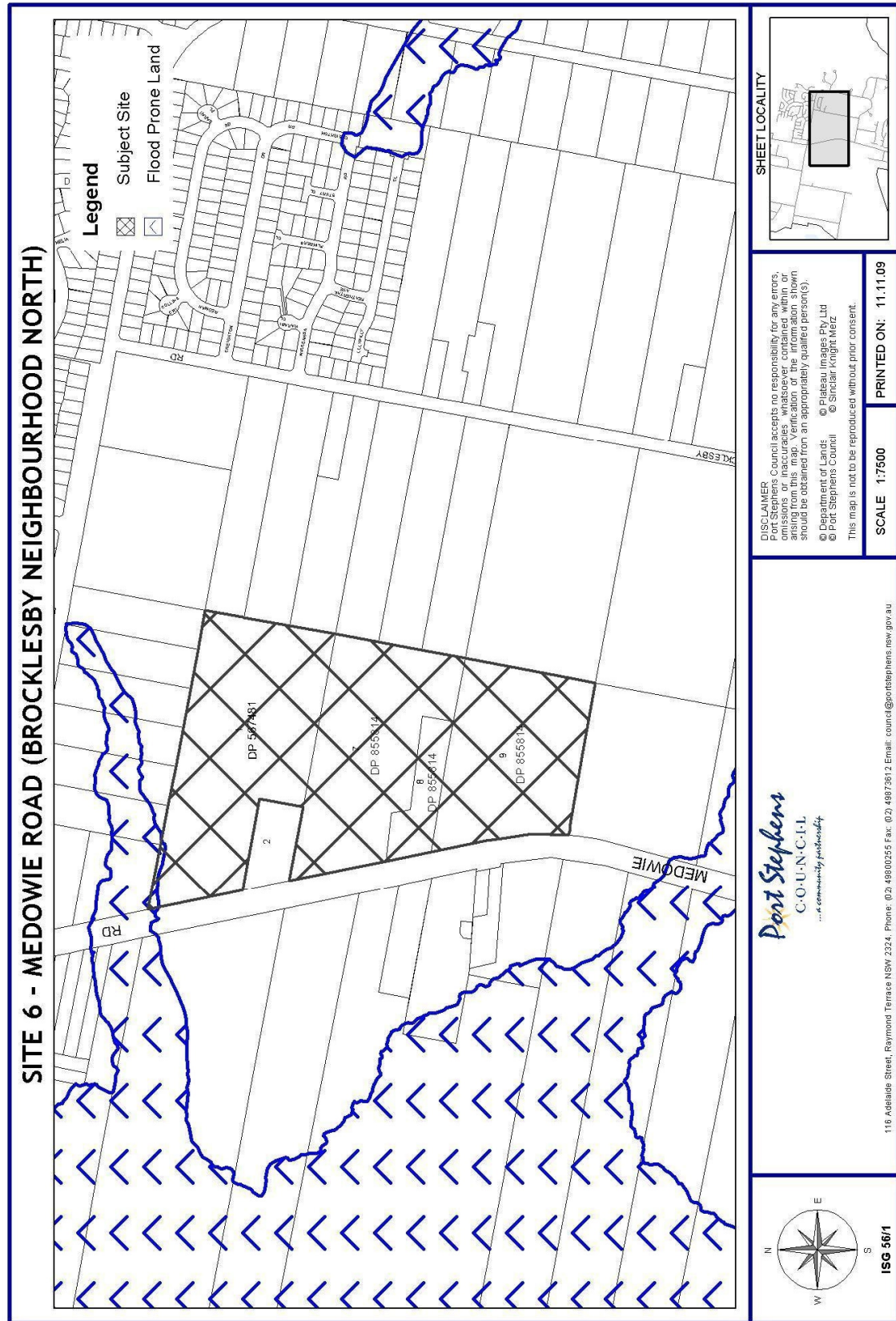


ATTACHMENT 5  
SITE 4





ATTACHMENT 6  
SITE 6



ATTACHMENT 7

SITE 7





**ATTACHMENT 8  
LOCATION OF SITES REQUESTED TO BE INCLUDED INTO THE  
MEDOWIE STRATEGY**

**TO BE PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 9  
LETTER TO EUREKA**

*Telephone inquiries  
David Broyd  
49 800 319  
Please quote file no:  
PSC2006-0029*

Andrew Simons  
Development Manager  
Eureka Funds Management  
GPO Box 4201  
SYDNEY NSW 2001

Dear Andrew

**Re: Draft Amendment to Medowie Strategy – Boundary Road, Medowie**

I refer to our meeting this morning and now seek to confirm the outcomes as follows:

1. It is accepted that the whole site is covered by the "green corridor" identified in the Lower Hunter Regional Strategy. I also acknowledge that the designation of a "green corridor" still enables submissions to be made for rezoning of land contained in that corridor;
2. That the rezoning to Rural Residential for that part of the site north and north east of the proposed conservation area traversing the middle of the site is not supported (due to planning issues) professionally within my Group and that this sector of the site will be recommended to the Ordinary Meeting of Council on 24 November 2009 to be an Environmental Protection Zone;
3. That, apart from the land fronting Boundary Road, the remainder of the site will be recommended for an amendment to the Medowie Strategy for the development of rural small holdings enabling lots of smaller size to be created, indicatively 1,000 to 1,500 square metres;
4. That the subdivision proposed for lots fronting Boundary Road will be of similar size and configuration to lots that are existing on the southern side of Boundary Road with an intensification of yield from the remainder of this part of the site to support development feasibility (this sector of the site will be provided with reticulated water supply and sewer provision should it proceed to development);
5. The northern/north eastern sector that will be recommended for environmental conservation as an amendment to the Medowie Strategy and as a subsequent draft LEP would, for the best outcome in terms of management and conservation, be transferred to the ownership of the State Department of Environment, Climate Change and Water;
6. Therefore, the recommendation to Council for its meeting on 24 November will:
  - Recommend amendments to the Medowie Strategy as outlined above;
  - Recommend initiation of a draft LEP under Section 55 of the Environmental Planning & Assessment Act so that the "Gateway Proposal Process" can be initiated and on condition that any exhibition of the draft LEP will not be

| Page 1

committed until Council has received a report on submissions received in response to exhibition of the amendment to the Medowie Strategy – that report anticipated to be submitted in February/March 2010.

- The above recommendations will embody support for subdivision of rural residential down to a minimum lot size of 1,000 square metres.

Could you promptly respond in terms of:

- Your agreement or not to the above summary of the outcomes of our meeting of today's date;
- Whether your Company is willing to initiate negotiations involving Council and DECCW at an appropriate time for the potential transfer of the northern sector of the site to public ownership and, if so, on what conditions such negotiations should proceed.

Yours faithfully

**DAVID BROYD**  
**GROUP MANAGER**  
**SUSTAINABLE PLANNING**

9 November 2009

ATTACHMENT 10  
LETTER OF RESPONSE FROM EUREKA



Eureka 1 Project 10 Pty Limited  
ACN 118 189 718  
Level 9, NAB House  
255 George Street  
Sydney NSW 2000  
GPO Box 4201, Sydney 2001  
P: 02 9255 0221  
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11 November 2009

Mr David Broyd  
Group Manager  
Sustainable Planning  
Port Stephens Council  
116 Adelaide Street  
RAYMOND TERRACE NSW

Dear David

**Draft Amendment to Medowie Strategy - Boundary Road Medowie**  
Your ref PSC2006-0029

We refer to our meeting on 9 November 2009 and your letter of the same date. We agree that the summary of the outcomes of the meeting in that letter accords with our understanding of the outcomes of the meeting. We enclose a draft plan, the North Medowie Neighbourhood: Land Use Plan dated 11 November 2009 ("**Land Use Plan**"), which shows indicative land use proposals for the site prepared on the basis of the outcomes of our meeting.

We also confirm that Eureka 1 Project 10 Pty Limited ("**Eureka**") is willing to initiate negotiations with Council and the Department of Environment, Climate Change and Water ("**DECCW**") for the potential transfer of the north eastern sector of the Medowie Boundary Road site to public ownership.

We propose that this take the form of an offer by Eureka to enter into a planning agreement governed by Subdivision 2 of Division 6 of Part 4 the *Environmental Planning and Assessment Act 1979* ("**EPA Act**") with Council, and possibly also with DECCW, under which Eureka agrees to dedicate the north eastern sector of the site, generally in accordance with the area marked as EEC and Undeveloped land on the Land Use Plan, to the DECCW for no cost subject to:

- (a) the rezoning of the south west sector of the site, generally in accordance with the area marked Rural Small Holdings on the Land Use Plan (attached), to Rural Small Holdings (1,000m<sup>2</sup> - 1,500m<sup>2</sup>) as detailed within section A2.4 of the Medowie Strategy (adopted 24 March 2009); and
- (b) the subsequent granting of consent to a development application relating to this rezoning.

The specific details of any planning agreement to this effect would be the subject of further negotiations with Council.

Andrew Simons  
Development Manager  
Eureka Funds Management  
Ph: 02 9255 0221  
Mob: 0434 515 659  
Email: andrew.simons@eurekafm.com.au

**ITEM NO. 4****FILE NO: 16-2009-418-2****SECTION 96 APPLICATION – PROPOSED MODIFICATION TO MANUFACTURING AND TESTING FACILITY FOR SANDVIK MINING EQUIPMENT AND MACHINERY AT NO. 431 MASONITE ROAD HEATHERBRAE****REPORT OF: ANTHONY RANDALL – ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP:  
SUSTAINABLE PLANNING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve the Section 96(1A) application to modify Conditions 5 and 39 of the consent (DA 16-2009-418-1) so that a Construction Certificate can be obtained without the Section 50 Certificate being issued by Hunter Water Corporation, and to permit external work and storage of goods and materials on hardstand areas.

**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009****RECOMMENDATION:**

	<b>Councillor John Nell Councillor Ken Jordan</b>	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 Peter Kafer, Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Bob Westbury, Bruce MacKenzie, Glenys Francis and Frank Ward.

Those against the Motion: Nil

**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>391</b>	<b>Councillor John Nell Councillor Daniel Maher</b>	It was resolved that the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

## **MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009**

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

Those against the Motion: Nil

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### **BACKGROUND**

The Development Application was originally approved at the Extra-Ordinary Council meeting held on 15 September 2009, for a maintenance, manufacturing and testing facility for Sandvik Mining Equipment and Machinery.

Condition 5 of Development Consent 16-2009-418-1 requires the proponent to obtain a Section 50 Certificate from Hunter Water Corporation prior to the issue of the any Construction Certificate.

The applicant has advised that practically, the works required by Hunter Water Corporation are best undertaken during the preliminary stages of construction on site, and as such have requested that the condition be omitted or amended so that a construction certificate can be obtained without the Section 50 Certificate being issued, subject to written evidence being submitted to the Principle Certifying Authority demonstrating that satisfactory arrangement have been made with Hunter Water Corporation relating to the development and the provision of reticulated water and sewer to the site.

This is considered to be a reasonable request, given that Council has cited correspondence from Hunter Water, advising the applicant that provided there are no conflicts with services internal to the site (such as building over sewer mains), Hunter Water may consider issuing a letter to the effect that it is willing for a Construction Certificate to be issued prior to the issue of the Section 50 Certificate.

Condition 39 requires all work or the storage of goods and materials to be confined within the buildings, and that separate development approval is required for external storage, with the exception of display goods and materials. The applicant has requested that this condition be amended so that all work or the storage of goods and materials shall be confined within the buildings or to hardstand areas.

This condition was imposed to avoid the visual impact of external work, and or storage of goods and materials, while permitting display goods and materials. On this basis, it is considered reasonable that the condition be amended as per the applicant's request, and include a requirement for external works or the storage of goods and materials to be screened from view from any public place and adjacent premises, through landscaping, and not encroach on parking, vehicular manoeuvring or landscaped areas. The additional landscape screening has been discussed with the applicant who has agreed to it being included in the amended condition. Apart from the display areas on Masonite Road, areas of storage including the large area at the rear of the property will be effectively screened from adjacent properties through landscaping.

## **FINANCIAL/RESOURCE IMPLICATIONS**

Nil

## **LEGAL, POLICY AND RISK IMPLICATIONS**

Nil

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil

## **CONSULTATION**

Given the nature of the proposed changes, the proposal was not required to be notified under Council policy.

## **OPTIONS**

- 1) Council agree to modify Conditions 5 and 39 to state:

Written evidence to be submitted to the Principle Certifying Authority demonstrating that satisfactory arrangements have been made with Hunter Water Corporation relating to the development and the provision of reticulated water and sewer to the site, prior to the issue of any Construction Certificate. A Section 50 Certificate must be issued prior to the issue of the Occupancy Certificate.

All work or the storage of goods and materials shall be confined within the buildings or to hardstand areas. Where works or the storage of goods and materials (other than display goods and materials) are stored outside the building they should be screened from view from any public place and adjacent premises through landscaping, and should not encroach on parking, vehicular manoeuvring or landscaped areas.

- 2) Council uphold the current requirements of Conditions 5 and 39 of the consent and require

Section 50 Certificate be issued by Hunter Water Corporation prior to issue of a Construction Certificate, and

All work and the storage of goods and materials to be confined within the buildings, with separate development approval being required for external storage, with the exception of display goods and materials.

## **ATTACHMENTS**

- 1) Locality Plan

**COUNCILLORS ROOM**

Plans

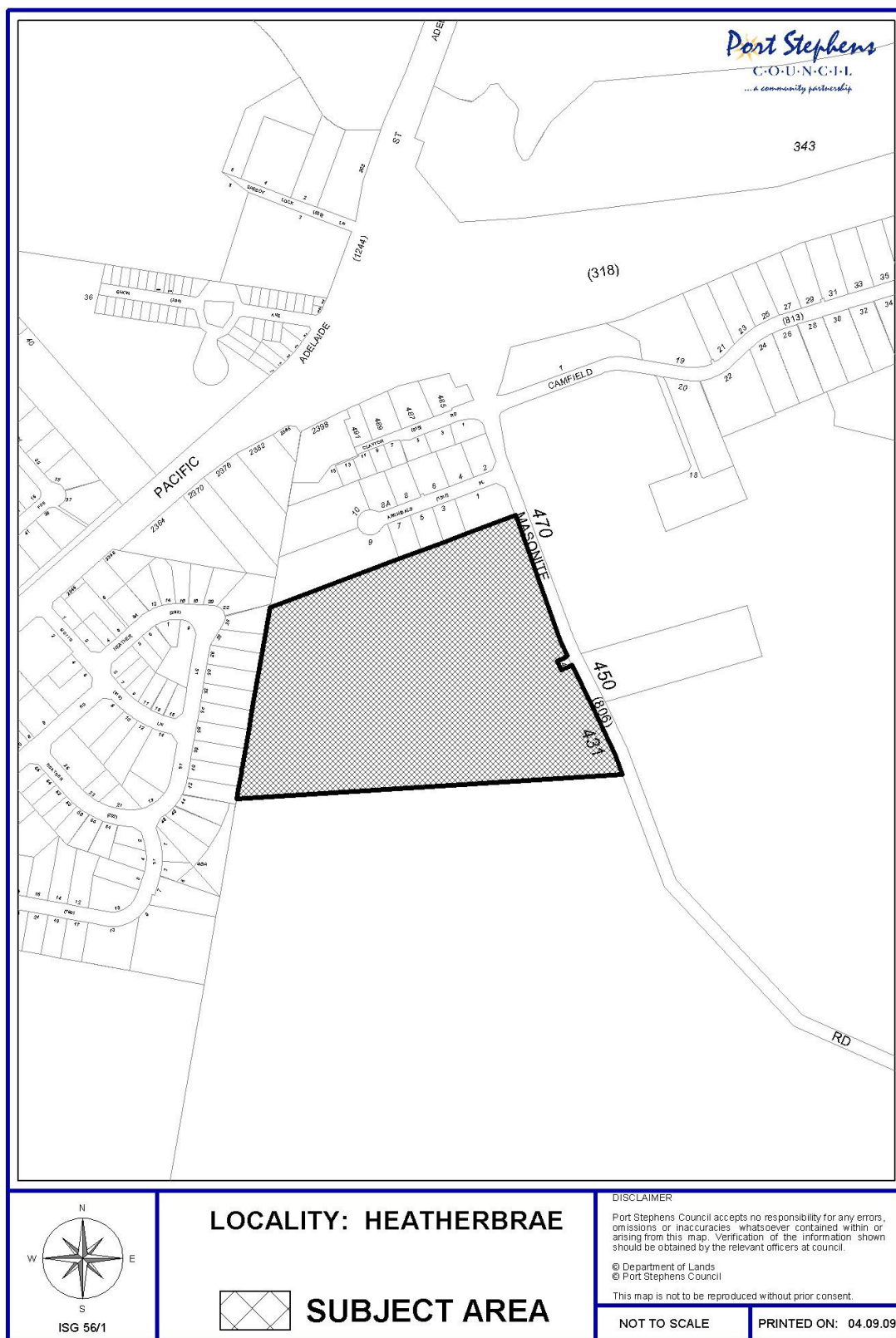
1) S96 Application

**TABLED DOCUMENTS**

Nil.



## ATTACHMENT 1 LOCALITY PLAN



**ITEM NO. 5****FILE NO: PSC2009-01155****GRAFFITI REWARD SCHEME****REPORT OF: TREVOR ALLEN – MANAGER INTEGRATED PLANNING****GROUP: SUSTAINABLE PLANNING**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Does not implement a graffiti reward scheme
- 2) Reconsiders the implementation of a graffiti reward scheme in 12 months after an evaluation of the effectiveness of the Graffiti Management Plan adopted by Council in 2009

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**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009****RECOMMENDATION:**

	<b>Councillor Glenys Francis Councillor John Nell</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>392</b>	<b>Councillor Bob Westbury Councillor Steve Tucker</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to provide Council with information on graffiti rewards as required by a Notice of Motion, September 2009 and relative to the Graffiti Management Plan (GMP).

Before ascertaining the need for a graffiti reward scheme, consideration should be given to a progress update in the Graffiti Management Plan, Crime Statistics for the LGA and a review of similar schemes by other councils across Australia.

**1. Implementation of Graffiti Management Plan**

- Council's Graffiti Management Plan outlines a number of strategies to reduce graffiti damage to Council and private property and was adopted by Council on 19 May 2009 and commenced on 1 September 2009:

Council employees are now cleaning graffiti from public property three days a week whilst the Council supported volunteer Graffiti Action Team (GAT) is cleaning graffiti from public and private property, especially in the Tomaree area;

The Police Crime Co-ordinator has created a shared mail file to which all details of graffiti, including photographs, are sent and this is checked each Friday by the Police Crime Prevention Officer;

Council's customer request system has been modified so that graffiti complaints reach the appropriate people as soon as they are received;

Development of educational resources outlined in the GMP is underway and will include a pamphlet, fridge magnet and business-sized card for GAT volunteers to hand out to interested persons;

In conjunction with the community education resources, cleaning kits for residential property owners will be soon made available;

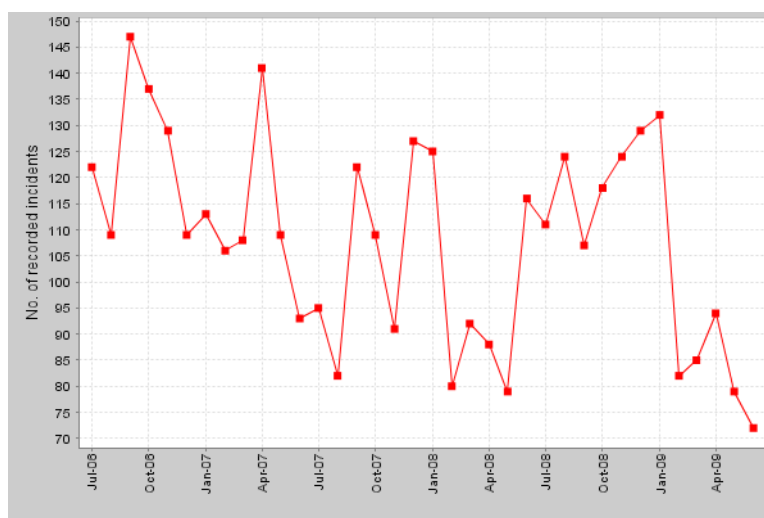
Council's Youth Team has acquired more commissioned artworks from Hunter Water (Salamander and Boomerang Park Water Towers) and the 'Snak & Rap' youth crime prevention program is being funded by the Attorney General's Department for a third year through Council's endorsed Crime Prevention Plan;

Partnership meetings are being held with Council, Police and volunteers discussing Risk Management, appropriate cleaning methods and communication.

## 2. **Port Stephens' crime statistics**

The malicious damage (vandalism) rate in Port Stephens LGA from July 2006 to July 2009 is on 'a gradual downward trend' (Bureau of Crime Statistics and Research) with an average annual change of -6.0%. Some areas of Port Stephens are experiencing higher levels of graffiti than others. The downward trend coincides with the formation of the Port Stephens Local Area Command and an increase in the number of convictions. The graph below summarises the number of reported offences of malicious damage on all types of property within the LGA.

July 2006 to June 2009  
Malicious damage to property, Port Stephens Local Government Area  
(Bureau of Crime Statistics & Research)



From August 2008, the rate of malicious damage in August 2009 decreased 11.2%, with reported graffiti decreasing by 21.7%. Graffiti made up 11.75% of malicious damage reports. (Police Crime Analyst: Community Safety Precinct Meeting – 18<sup>th</sup> August 2009)

**3. Reward Systems in other Councils**

A number of Councils within Australia have implemented a reward system. The following information including comparative population and operating budget (relative to Port Stephens of 64,560 persons and \$80m respectively) outlines the key points for each of these systems:

*Mosman Council - New South Wales (Population 26,236; Operating Budget Estimate \$4,639,481)*

Mosman's reward system began in 2001, rewarding of up to \$500 for information leading to a conviction for graffiti and vandalism offences on Council property. Mosman was receiving a small number of calls each week but the reward was only paid once, in 2005, when a citizen's arrest was made on an offender. In general, the community showed limited interest in the system. (Information source: Sutherland Shire Council's Crime Prevention and Youth Manager's Report-2006). It appears that the system is no longer operating as staff from Mosman Council are not aware of the scheme.

*Salisbury Council - South Australia (Population 130,000; Operating Budget \$80,935,000)*

Employs a full time Senior Security Officer, a former police officer, to administer their graffiti rewards scheme. They also have an extensive system of monitored CCTV surveillance systems and are currently trialling eNose sensors which 'smell' paint and 'cry', setting off a monitored alarm which alerts Police. This Council offers a reward of \$200 for a signed witness statement which leads to an admission of guilt. If witnesses are unwilling to sign the statement, they are ineligible for a reward even if the offender is successfully charged. The scheme has been running for ten years and the Council receives 'hundreds of calls' each year. To date they have paid out 'about 200 rewards'. For each conviction, Council lodges a victim's compensation claim for reimbursement of costs.

The reasons for the relatively low number of rewards include:

- Caller does not want to sign a statement or have details passed onto police
- Information is not adequate for an investigation
- Often the information is the only evidence in a case and the caller does not want to go to court as a witness
- A small number of calls are malicious or contrived

*Gosford City Council – New South Wales (Population 162,388; Operating Budget \$189,561,308)*

Gosford Council's scheme offered between \$500 to \$5000 for information relating to both Council and commercial/retail property in town centres. The reward was based on costs of repair/removal with the maximum reward being for information for offences with a damage bill over \$20,000. Council retained the discretion to pay

partial rewards where the information resulted in police action but not a conviction. This meant that in cases where an action such as caution or juvenile conference was undertaken a reward could still be paid.

The reward was advertised monthly and was administered through the Risk Management Unit. Rewards were handed out less than once per year with the average being \$500. In 2007 the risk assessor indicated that there had not been a reduction in cost to Council for malicious damage. (Information source: Sutherland Shire Council's Crime Prevention and Youth Manager's Report-2006). It appears that the reward system is no longer operating as Gosford Council staff were not aware of the scheme when asked about it.

Holroyd City Council - New South Wales (Population 95,130; Operating Budget \$69,037,431)

Holroyd City Crime Prevention Plan 2009-2014 mentions the establishment of a reward scheme as part of their proposed graffiti management plan. However, the staff indicate that they have no reward scheme in operation. Four employees clean graffiti from Council property on a full-time basis.

Rockingham - Western Australia (Population 97,388; Operating Budget \$143,572,000)

Rockingham Council rewards up to \$1000 for information leading to the conviction of a graffiti offender for offences on council property. The reward scheme began in 2000 and in 2005 \$30,000 per annum was dedicated to advertising of the reward. This Council based the amount of reward on a formula which incorporated the cost of repair minus an administration fee of 10%. The Coordinator Safety and Security indicated that there had not been a reduction in costs to repair malicious damage. (Information source: Sutherland Shire Council's Crime Prevention and Youth Manager's Report-2006)

This scheme has apparently ceased as there is no indication of a graffiti reward scheme on Rockingham Council's graffiti website.

Onkaparinga Council – South Australia (Population 149,971; Operating Budget \$138,000,000)

This Council employs three full-time staff to clean graffiti and runs a reward scheme in partnership with the Police. The scheme commenced in 2004 and anyone with information about someone doing illegal graffiti can contact Council. Council gathers and prepares which is then passed onto the local Police. Council administration staff then monitor the progress of the case and if an offender is convicted the informant is given up to \$500, depending on the costs involved in removing the graffiti. The Property Maintenance and Crime Prevention Manager indicated that there is no evidence that the reward scheme has reduced graffiti in the LGA. Only about five rewards are made each year whilst about 100 people per year are actually convicted by the Police. Several times a year the Council runs operations with the Police which involve Council employing security guards to assist Police in stake-outs of known graffiti hotspots to catch offenders in the act of defacing property. These appear to be a more effective means of reducing graffiti.

Sutherland Shire Council – New South Wales (Population 213,917; Operating Budget \$142,409,790)

Although this Council is currently in the process of developing a Graffiti Management Plan, it has been running a graffiti reward scheme since 2006. Applicants must first have reported their information to the Police and then apply to Council for the reward. Each case is monitored by Council staff and if it leads to a conviction an amount equal to the cost of the graffiti removal is awarded. Since 2006, 13 people have applied for the reward with 11 being approved at a cost of \$13,050. Like Port Stephens Council, they have also had juvenile offenders removing graffiti as part of their Juvenile Justice Conference Outcome Plans.

An annual budget of \$30,000 is allocated to the reward scheme, with most of this being spent on educational and awareness resources. Sutherland Shire Council's Crime Prevention and Youth Projects Manager indicates that the main aim of their scheme is educating the community about graffiti and that graffiti is a crime. They spend approximately \$600,000 per year on graffiti removal which includes two full-time employees to remove.

4. Summary of main points:

- Council's Graffiti Management Plan is underway and includes a number of proactive actions including identification, recording and rapid removal of graffiti which research shows is the most effective method for the long term management of illegal graffiti;
- Current crime statistics indicate a downward trend in the rate of graffiti in Port Stephens;
- The local Police believe that the policy of rapid removal has had a significant impact on the reduction of graffiti;
- Councils surveyed indicated that graffiti or vandalism attacks or costs had not reduced since the implementation of a reward system. In fact, for most of them, the costs for removing graffiti are still very high;
- Each year Councils spend much more (between \$4,000 and \$60,000) on publicity and promotion than on payment of rewards (\$0 to \$4000);
- The main benefit of a graffiti rewards scheme appears to be community education and this is already being developed in Port Stephens as part of the GMP;
- Compared to the overall number of calls received, Councils have had relatively small numbers of valid applications for payment of the reward;

Each reward application received by Councils takes many hours to process and monitor whether or not it results in the payment of a reward. This often requires the employment of extra administration staff;

It appears that some of the Councils have ceased their rewards schemes in favour of adopting a rapid removal policy combined with community education;

Information from the surveyed Councils also indicates that in most cases the reward system is staff-intensive, requiring a staff member for up to 6 weeks full-time to set up policies, MOU etc, design, develop and distribute educational resources and then on-going administration time of 3-10 hours a week depending on the number of calls received.

The effectiveness of Graffiti Rewards Schemes is highly questionable given that many community schemes have lost momentum due to a combination of variables

including community/resident responses, administrative, legal complexities and responsibilities and labour.

### **LEGAL, POLICY AND RISK IMPLICATIONS**

There are no legal policy or risk implications with the recommendation of this report.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Port Stephens Council has a small population and a relatively small budget. Therefore the financial and staff resources to support and maintain a Graffiti reward Scheme are limited. There are no sustainability implications with the recommendations of this report.

### **CONSULTATION**

Port Stephens Local Area Command has advised that the incidence of graffiti increases with too much publicity and therefore the advertising of a reward might be seen as an opportunity for illegal graffitiists to 'display' their work. Further, Council's Graffiti Management Plan's rapid removal action has had a 'significant impact' and that 'consideration of the reward money could be directed in that direction'. They also commended the work being done by the volunteer Graffiti Action Team and also mentioned that rewards of up to \$1000 are available through Crime Stoppers for the successful conviction of an offender.

### **OPTIONS**

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

### **ATTACHMENTS**

Nil.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

**ITEM NO. 6**

**FILE NO: PSC2006-0029**

## **CULTURAL PROJECT FUND**

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

**GROUP: SUSTAINABLE PLANNING**

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### **RECOMMENDATION IS THAT COUNCIL:**

- 1) In accordance with Council's Cultural Project Fund Guidelines, 2009, supply funds from Council's Cultural Project Fund for 2009/2010 the amounts, purposes and conditions as prescribed below:
  - a) \$2300 to 'Tomaree Family History Group' to purchase "History of Australia" a 33 volume octavo. Condition: That the resource be purchased as part of the public library collection – not for loan.
  - b) \$500 to 'Tilligerry Adult & Community Education Inc' for the 'Examiner Port Stephens Literature Awards'. Condition: Joint naming rights acknowledging Council.
  - c) \$1500 to 'Tilligerry Lions Club' for the 'Tilligerry Lions Australia Day Breakfast'. Condition: Participation in the Council 355b Australia Day Committee required to receive funds.
  - d) \$1000 to 'Tilligerry Art, Craft & Quilting Committee' for the "Tilligerry Art, Craft & Quilting Show". Condition: Acknowledgment of Council
  - e) \$550 to 'Tilligerry Arts Group' for the 'Tilligerry Arts Group Acrylic Workshop'.
  - f) \$1500 to 'Hands on Youth Events' for 'Skatepark.com'. Condition: Project be expanded to include all skate parks in Port Stephens, and linked with Council Website.
  - g) \$3000 to 'Tilligerry Communication Association' for the 'Tilligerry Festival'. Condition: Collect evidence regarding success and attendance.
  - h) \$900 to 'Tilligerry Bridge Club' for 'Tilligerry Bridge Congress'. Condition: measure and evaluate success.
  - i) \$1500 to 'Tomaree Musical Theatre Company Inc' for 'Major Musical performed for the Port Stephens area'. Condition: Funding being phased out after receiving funds over a number of years and that the shows are profitable.
  - j) \$1000 to 'The Seaside Singers' for the 'Variety Concert'. Condition: Funding is dependant on a relationship being formed with 355b Choir Committee to prevent duplication of resources.
  - k) \$3000 for 'Port Stephens FM' for 'An Outside Broadcast Unit'.
  - l) \$1500 for 'Musical Matinees Inc' for the 'Musical Matinees Variety Concert'. Condition: Funding being phased out after receiving funds over a number of years.



## MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

- m) \$2000 to the Port Stephens Fellowship of Australian Writers for 'Mosaic'.
  - n) \$3000 to the Hunter Botanic Gardens for 'The Gardens Outdoor Sculpture Prize'. Condition: Naming rights for Council
  - o) \$2110 for Raymond Terrace & District Historical Society for a 'Colour brochure for Sketchley Cottage'. Condition: One off funding. Acknowledged 'Sponsored by Port Stephens Council'.
  - p) \$3000 to the Karuah Oyster and Timber Festival Inc for the 'Karuah Oyster and Timber Festival'. Conditions: Sponsorship phased out. Pursue opportunities to be self sustaining. Acknowledgment of Council. Demonstrated involvement of other oyster farmers.
  - q) \$1900 to Octapod for 'CultureHunter Workshop Series'.
- 2) Endorse that the Cultural Project Fund' be tied to the Cultural Plan, where the resources assist organisations to address identified cultural priorities.
  - 3) Endorse that the cultural sponsorships funding, adopted at the April 2009 Council meeting, be untied from cultural sponsorships and tied to implementation of Council's cultural development program.
  - 4) Endorse that the Councillors nominated to the new 'Strategic Cultural Committee' serve as the selection panel for the Cultural Project Fund, rather than having an additional separate committee.
  - 5) Endorse that Cultural Project Funds not allocated to projects in the 2008/09 round be available for delivery of Council's cultural development program which is designed to build the capacity of cultural projects, events and organisations.
  - 6) Endorse **Attachment 1**, the Cultural Project Fund Selection Panel meeting minutes held 9 November 2009.

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## COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009

### RECOMMENDATION:

	<b>Councillor John Nell</b> <b>Councillor Glenys Francis</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>393</b>	<b>Councillor John Nell Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

**The purpose of this report is to make recommendations for the allocation of money from Cultural Project Funds to the applications made under the Fund and assessed by the Cultural Projects Fund Selection Panel Meeting (Attachment 1).**

**The 2009/10 funding round process**

Applications opened on the 15 June and closed 24 August 2009.

A briefing session was held in each ward during June 2009. The sessions included:

- An outlined of the cultural project funding process
- Examples of the types of projects that would be considered
- As community groups are encouraged to work together, participants will have the opportunity to talk about their project idea to attract possible project partners
- Grant writing advice tailored to participant's project ideas
- Distribution of information/application kits

A total of 20 applications were received requesting a total of \$51,431.40.

All applications received were assessed as meeting the essential criteria and therefore were eligible for consideration by the Panel. The essential criteria for applications were that applicants be:

- Community organisations, not individuals
- Based in Port Stephens, or delivering cultural projects to Port Stephens
- Providing a program or managing a cultural venue
- Managed by a community based management committee
- Not-for-profit

The role of the Panel is to assess the applications on merit. Successful projects will be in alignment with the purpose of the Cultural Project Fund, which is to encourage the development of projects that:

- Extend or diversify knowledge or experience of cultural or artistic programs or skills of practitioners in the community and have the ability to attract new audiences.
- Increase opportunities to extend community capacity for cultural and/or artistic activity.
- Offer opportunities for employment generation.

- Complement Council's own community and cultural objectives, strategies and programs and will contribute to a vibrant cultural and community life for Port Stephens and its permanent and visiting community.

**Cultural budget**

In April 2009 Council adopted for the Cultural Project Fund to increase from \$10,000 per ward to \$20,000 per ward in the 2009/2010 budget. This ensures Council has the capacity to support the new initiatives stimulated through the new Culture Port Stephens Network and Cultural Plan.

As the funds available exceed the value of the recommended applications for the current financial year, it is recommended that these remaining funds be utilised to support cultural projects, organisations and events through delivery of Council's cultural development program.

In April 2009 Council adopted a budget of \$20,000 to be allocated for cultural sponsorships.

Currently all of Council's cultural budget allocation is for external distribution, with no resources for council to undertake cultural development programs or to develop/implement the cultural plan. Therefore, it is recommended that the additional cultural budget allocation be untied from cultural sponsorships and tied to implementation of Council's cultural development program.

**Relationship to the Cultural Plan**

Once the Port Stephens Cultural Plan is finalised, the cultural priorities will be identified and an approach adopted on how to address them in partnership with the community.

As the public resources allocated to the Cultural Project Fund need to be used effectively, it is recommended that the projects are assessed for alignment with the forthcoming Cultural Plan.

**Relationship with Strategic Cultural Committee**

Since the establishment of the Cultural Project Fund Selection panel, Council has established a 'Strategic Cultural Committee' to 'partner in the delivery of the Cultural Plan.

It is recommended that the Councillors nominated to the new 'Strategic Cultural Committee' serve as the selection panel for the Cultural Project Fund, rather than having a separate committee.

## **FINANCIAL/RESOURCE IMPLICATIONS**

A total of \$60,000 is currently available in Council's 2009/2010 budget for the Cultural Project Fund, pending decision to reallocate some funds to the cultural plan. The 20 projects recommended to the panel for consideration total \$51,431.40 of requests.

All funded projects will be supported and monitored by Council's Community Planner for Cultural Development.

Recipients will provide acquittal reports on completion of their projects.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

Recipients of funding under the Cultural Project Fund shall accept full responsibility for the liability of any programs or projects funded.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

These cultural projects aim to enhance community identity and sense of belonging. The projects also provide the opportunity for local community members to further develop the skill and creativity base of community members in Port Stephens.

Several of the projects recommended for funding will generate employment opportunities for local artists and industry practitioners. Funded projects will positively impact on local businesses and suppliers (eg; catering, accommodation, venue hire, printing, and advertising). Cultural activities not only enhance the lives of our existing permanent community but they also attract new community members, and visitors to the area.

## **CONSULTATION**

The opportunity to apply for Cultural Project Funding was promoted across the community through mass media, key locations and established networks.

Briefing sessions were held in each ward, engaging prospective applicants who were provided with assistance in the development of their applications.

Applications were open for approximately two months to maximise the opportunity for groups to prepare and lodge their application.

All applications have been developed in consultation with Council's Community Planner – Cultural Development.

The Cultural Project Fund selection panel, consisting of Councillors Francis, Nell and Tucker assessed the applications based on merit.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Minutes of the Cultural Projects Fund Selection Panel Meeting, held 9 November 2009

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**  
**MINUTES OF CULTURAL PROJECTS FUND SELECTION PANEL MEETING –**  
**9 NOVEMBER 2009**



**Cultural Projects Fund  
 Selection Panel Meeting**

**Minutes**



**Meeting held on 9 November 4-6pm in the Karuah room.**

**Convenor:** Chloe Beevers, Community Planner for Cultural Development

**Present:**    **Voting panel members:** Clr John Nell, Clr Glenys Francis, Clr Steve Tucker  
                  **Non-voting attendees:**    Chloe Beevers and Alison Davison (work placement student)

Item	Topic	Decision/Action summary	Who	By when
1.	<b>Overview of the Cultural Projects Fund Process</b> <ul style="list-style-type: none"> <li>the application process (CB)</li> <li>Summary of applications received: 20 applications received requesting a total of \$51,431.40. (CB)</li> </ul>			
	<b>Cultural budget</b> <ul style="list-style-type: none"> <li>It was adopted by Council at the April 2009 meeting that:                             <ul style="list-style-type: none"> <li>the Cultural Fund allocation increase from \$10k per ward to \$20k per ward.</li> <li>\$20k be</li> </ul> </li> </ul>	<b>Recommendation from the panel to Council:</b> <ul style="list-style-type: none"> <li>"Recommend to Council that the cultural sponsorships funding, adopted at the April 2009 Council meeting, be untied from cultural sponsorships and tied to implementation of Council's cultural development program."                             <ul style="list-style-type: none"> <li><b>Moved:</b> Clr John Nell</li> <li><b>Seconded:</b> Clr Glenys Francis</li> </ul> </li> <li>"Recommend to Council that Cultural Project Funds surplus to allocations be used to establish an</li> </ul>		

# MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

Item	Topic	Decision/Action summary	Who	By when
	<p>allocated to cultural sponsorships.</p> <ul style="list-style-type: none"> <li>All cultural funding is for external distribution, with no resources for council to implement the cultural plan.</li> </ul>	<p>'events equipment library' for use by not-for profit community organisations."</p> <ul style="list-style-type: none"> <li><b>Moved:</b> Clr Glenys Francis</li> <li><b>Seconded:</b> Clr Steve Tucker</li> </ul> <p>As not all funds were allocated so the panel recommends to council:</p> <ul style="list-style-type: none"> <li>"Cultural Project Funds not allocated to projects in the 2008/09 round be available for delivery of Council's cultural development program which is designed to build the capacity of cultural projects, events and organisations."</li> <li><b>Moved:</b> Clr John Nell</li> <li><b>Seconded:</b> Clr Glenys Francis</li> </ul> <p><b>Actions:</b></p> <p>Recommendations from the Panel to Council be incorporated in a report.</p>	Chloe Beevers	For the November 24 Council meeting
2.	<p><b>Assess each of the applications</b></p> <p>The panel assessed the applications based on merit and alignment with the purpose of the funding program, being:</p> <ul style="list-style-type: none"> <li>Extend or diversify knowledge or experience of cultural or artistic programs or skills of practitioners in the community and have the ability to attract new audiences.</li> <li>Increase opportunities to extend community</li> </ul>	<p>the panel recommends to council:</p> <ul style="list-style-type: none"> <li>In accordance with Council's Cultural Project Fund Guidelines, 2009, supply funds from Council's Cultural Project Fund for 2009/2010 the amounts and purposes prescribed below, including conditions for funding: <ul style="list-style-type: none"> <li>r) A grant of \$2300 to 'Tomaree Family History Group' to purchase "History of Australia" a 33 volume octavo. Condition: That the resource be purchased as part of the public library collection – not for loan.</li> <li>s) A grant of \$500 to 'Tilligerry Adult &amp; Community Education Inc' for the 'Examiner Port Stephens Literature Awards'. Condition: Joint naming rights acknowledging Council.</li> <li>t) A grant of \$1500 to 'Tilligerry Lions Club' for the 'Tilligerry Lions Australia Day Breakfast'. Condition: Participation in the Council 355b Australia Day Committee required to receive funds.</li> <li>u) A grant of \$1000 to 'Tilligerry Art, Craft &amp; Quilting Committee' for the "Tilligerry Art, Craft &amp; Quilting Show'. Condition: Acknowledgment of</li> </ul> </li> </ul>		<p>For Nov 24 Council meeting</p> <p>25 Nov</p> <p>25 Nov</p>

**MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009**

Item	Topic	Decision/Action summary	Who	By when
	<p>capacity for cultural and/or artistic activity.</p> <ul style="list-style-type: none"> <li>• Offer opportunities for employment generation.</li> <li>• Complement Council's own community and cultural objectives, strategies and programs and will contribute to a vibrant cultural and community life for Port Stephens and its permanent and visiting community.</li> </ul>	<p>Council</p> <p>v) A grant of \$550 to 'Tilligerry Arts Group' for the 'Tilligerry Arts Group Acrylic Workshop'. Comments: An invitation to showcase results of workshop through application to exhibit in Mezzanine Gallery.</p> <p>w) A grant of \$1500 to 'Hands on Youth Events' for 'Skatepark.com'. Condition: Project be expanded to include all skate parks in Port Stephens, and linked with Council Website.</p> <p>x) A grant of \$3000 to 'Tilligerry Communication Association' for the 'Tilligerry Festival'. Condition: Collect evidence regarding success and attendance.</p> <p>y) A grant of \$900 to 'Tilligerry Bridge Club' for 'Tilligerry Bridge Congress'. Condition: measure and evaluate success.</p> <p>z) A grant of \$1500 to 'Tomaree Musical Theatre Company Inc' for 'Major Musical performed for the Port Stephens area'. Condition: Funding being phased out after receiving funds over a number of years and that the shows are profitable. Recommendation: Build Licensing fee into ticket prices</p> <p>aa) A grant of \$1000 to 'The Seaside Singers' for the 'Variety Concert'. Condition: Funding is dependant on a relationship being formed with 355b Choir Committee to prevent duplication of resources.</p> <p>bb) A grant of \$3000 for 'Port Stephens FM' for 'An Outside Broadcast Unit'.</p> <p>cc) A grant of \$1500 for 'Musical Matinees Inc' for the 'Musical Matinees Variety Concert'. Condition: Funding being phased out after receiving funds over a number of years. Recommendation to build cost into ticket price.</p> <p>dd) A grant of \$2000 to the Port Stephens Fellowship of Australian Writers for 'Mosaic'.</p> <p>ee) A grant of \$3000 to the Hunter Botanic Gardens for 'The Gardens</p>	Chloe Beevers	



# MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

Item	Topic	Decision/Action summary	Who	By when
		<p>Outdoor Sculpture Prize'. Condition: Naming rights for Council</p> <p>ff) A grant of \$2110 for Raymond Terrace &amp; District Historical Society for a 'Colour brochure for Sketchley Cottage'. Condition: One off funding. Acknowledged 'Sponsored by Port Stephens Council'.</p> <p>gg) A grant of \$3000 to the Karuah Oyster and Timber Festival Inc for the 'Karuah Oyster and Timber Festival'. Conditions: Sponsorship phased out. Pursue opportunities to be self sustaining. Acknowledgment of Council. Demonstrated involvement of other oyster farmers. Recommendations: Join Port Stephens Tourism and consult with Event Port Stephens for Support. Name change to 'Port Stephens Oyster and Timber Festival'.</p> <p>hh) A grant of \$1900 to Octapod for 'CultureHunter Workshop Series'.</p> <ul style="list-style-type: none"> <li>• <b>Moved:</b> Clr Steve Tucker</li> <li>• <b>Seconded:</b> Clr Glenys Francis</li> </ul> <p><b>Actions:</b></p> <ol style="list-style-type: none"> <li>1. Write report to Council summarising the Panel's recommendations.</li> <li>2. Advise applicants of the council decision –unsuccessful / successful and any conditions.</li> <li>3. Invite successful applicants to a presentation ceremony on 7 December.</li> </ol>	<p>Chloe Beevers</p> <p>Chloe Beevers</p>	
3.	<p><b>Strategic Cultural Committee</b></p> <p>Since Council decided to form a Cultural Project Fund Selection Panel, Council has established a 'Strategic Cultural Committee' to 'partner in the delivery of the Cultural Plan'. These could be consolidated.</p>	<p><b>Recommendation from the panel to Council:</b></p> <ul style="list-style-type: none"> <li>• "The Councillors nominated to the new 'Strategic Cultural Committee' serve as the selection panel for the Cultural Project Fund rather than having a separate committee."</li> <li>• <b>Moved:</b> Clr Glenys Francis</li> <li>• <b>Seconded:</b> Clr Steve Tucker</li> </ul> <p><b>Actions:</b></p> <p>Recommendations from Panel incorporated in a report to Council.</p>	<p>Chloe Beevers</p>	<p>For the November 24 Council meeting</p>

<b>MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009</b>
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Item	Topic	Decision/Action summary	Who	By when
4.	<b>Cultural Plan</b> Once the Port Stephens Cultural Plan is finalised, we will have identified the cultural priorities and adopted an approach to how we will address them in partnership with the community.	<b>Recommendation from the panel to Council:</b> The additional cultural funding, adopted at the April 2009 Council meeting, be untied from the Cultural Project Fund and tied to implementation of the Cultural Plan. <b>Actions:</b> Recommendations from Panel incorporated in a report to Council.	Chloe Beevers	For the November 24 Council meeting

**ITEM NO. 7****FILE NO: PSC2009-02012****ANNUAL REPORT 2008 – 2009****REPORT OF: WAYNE WALLIS - GROUP MANAGER****GROUP: CORPORATE SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopts the Annual Report 2008-2009
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**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009****RECOMMENDATION:**

	<b>Councillor Bob Westbury Councillor Ken Jordan</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>394</b>	<b>Councillor Steve Tucker Councillor Daniel Maher</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to provide to Council the Annual Report 2008-2009.

The Annual Report 2008-2009 is in 3 volumes: volume 1 comprises the report to the community on the principal activities of Council and the statutory statements required by the Local Government Act (Section 428) and other legislation; volume 2 comprises the audited financial accounts of Council; volume 3 is the Comprehensive State of the Environment Report 2009.

The State of the Environment Report 2009 has been streamlined to remove repetition whilst complying with both the legislation and the agreement between Hunter Councils concerning how information in the Pressure/State/Response reporting framework would be reported.

The Annual Report is required to be lodged with the Department of Local Government on or before 30 November 2009.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The Annual Report is published in house and hard copies are distributed to libraries and distribution points across the LGA; to the State Library and to surrounding councils. This expenditure is budgeted within the Corporate Services Group.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

The Annual Report complies with Council's obligations under the Local Government Act.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Annual Report 2008-2009 addresses performance across all five sustainability pillars in the Council Plan 2008-2012. In addition the State of the Environment Report 2009 (volume 3) provides detailed analysis of the environment of Port Stephens LGA.

## **CONSULTATION**

Nil

## **OPTIONS**

Recommend that the Annual Report 2008-2009 be adopted;  
Amend the recommendation.

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Annual Report 2008-2009 – Volumes 1 and 3 (Note: Volume 2 – audited accounts is delivered under separate cover when the audit is complete).

**ITEM NO. 8****FILE NO: A2004-0242****QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2009****REPORT OF: DAMIEN JENKINS - FINANCIAL SERVICES MANAGER****GROUP: COMMERCIAL SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes the estimated Statement of Cash Position to 30/6/2010 as detailed in **ATTACHMENT 1** to this report.
- 2) Notes the estimated Statement of Restricted Funds Movements to 30/06/2010 as detailed in **ATTACHMENT 2** to this report.
- 3) Notes the changes to the adopted capital budget previously approved by Council (totalling \$0, a nil effect on revenue) as detailed under separate cover as TABLE 1.1 of DOCUMENT 1.
- 4) Approve the discretionary changes to the adopted recurrent budget, (totalling \$91,061, a negative effect on revenue) as detailed under separate cover as TABLE 1.2 of DOCUMENT 1 to this report and vote the necessary funds to meet the expenditure.
- 5) Approve the discretionary changes to the adopted capital budget, (totalling \$5,250 a negative effect on revenue) as detailed under separate cover as TABLE 1.3 of DOCUMENT 1 to this report and vote the necessary funds to meet the expenditure.
- 6) Notes the identified issues, which may have a future budgetary impact, as identified under separate cover as TABLE 2 of DOCUMENT 1 to this report.
- 7) Notes the estimated surplus/(deficit) from ordinary activities before capital amounts of \$162,748.
- 8) Notes the Quarterly Budget Review comparing Budgets to Actuals as tabled under a separate cover as DOCUMENT 2 to this report.
- 9) Notes the figures contained in this report for Roll Forwards and Revotes does not contain the Sources of Funds and has been listed as general revenue as the 2008/2009 figures for Contributions, Grants and Restricted Funds has not yet been audited. The sources of funds will be supplied in the December Quarterly Budget Review.
- 10) Notes the movement of \$2,866,287 of Loan Funds to Revenue.

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**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009****RECOMMENDATION:**

	<b>Councillor Glenys Francis Councillor John Nell</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>395</b>	<b>Councillor Bob Westbury Councillor Daniel Maher</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to amend the Budget by bringing to Council's attention the proposals and issues that have an impact on the 2009/2010 Budget.

Council adopted its Council Plan 2009/2013 (Council Minute 169) on the 9th June, 2009 this included budget estimates for the 2009/2010 financial year.

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

- Increased expenditure of \$186,217 due to unbudgeted additional leadership program and salary for Development Officer (item 7).
- Increased income of \$344,216 due to a Workers Compensation rebate from State Cover (item 8).
- Decreased income of \$959,986 due to Federal Assistance Grant received in 2008/09 (item 10).
- Increased income of \$1,576,000 due to Newcastle Airport fees and charges (item 12).
- Increased expenditure of \$100,179 due to new Development Coordinators position (item 13).
- Increased income of \$520,822 due to new investment property (item 14).
- Increased expenditure of \$323,331 due to interest on new investment property loan and increased investment properties operating costs (item 14).
- Decreased income of \$241,640 due to Federal Assistance Grant being received in June 2009 (item 34).

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

- Increased expenditure of \$5,610,000 due to purchase of 528 Hunter Street, Health One Development and New Gymnasium (items 1, 2, 3, 4, 5).
- Decreased expenditure of \$250,000 due to a reduction in drainage works this financial year (item 6).
- Increased expenditure of \$175,000 due to increased scope of works at Tomaree Pool (item 7).
- Increased income of \$165,000 due to grants for parks, halls, and amenities asset management (item 10).
- Increased income of \$187,000 and increased expenditure of \$1,113,000 due to Foreshore Capital works (items 11, 12, 13, 14, 15).

## MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

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

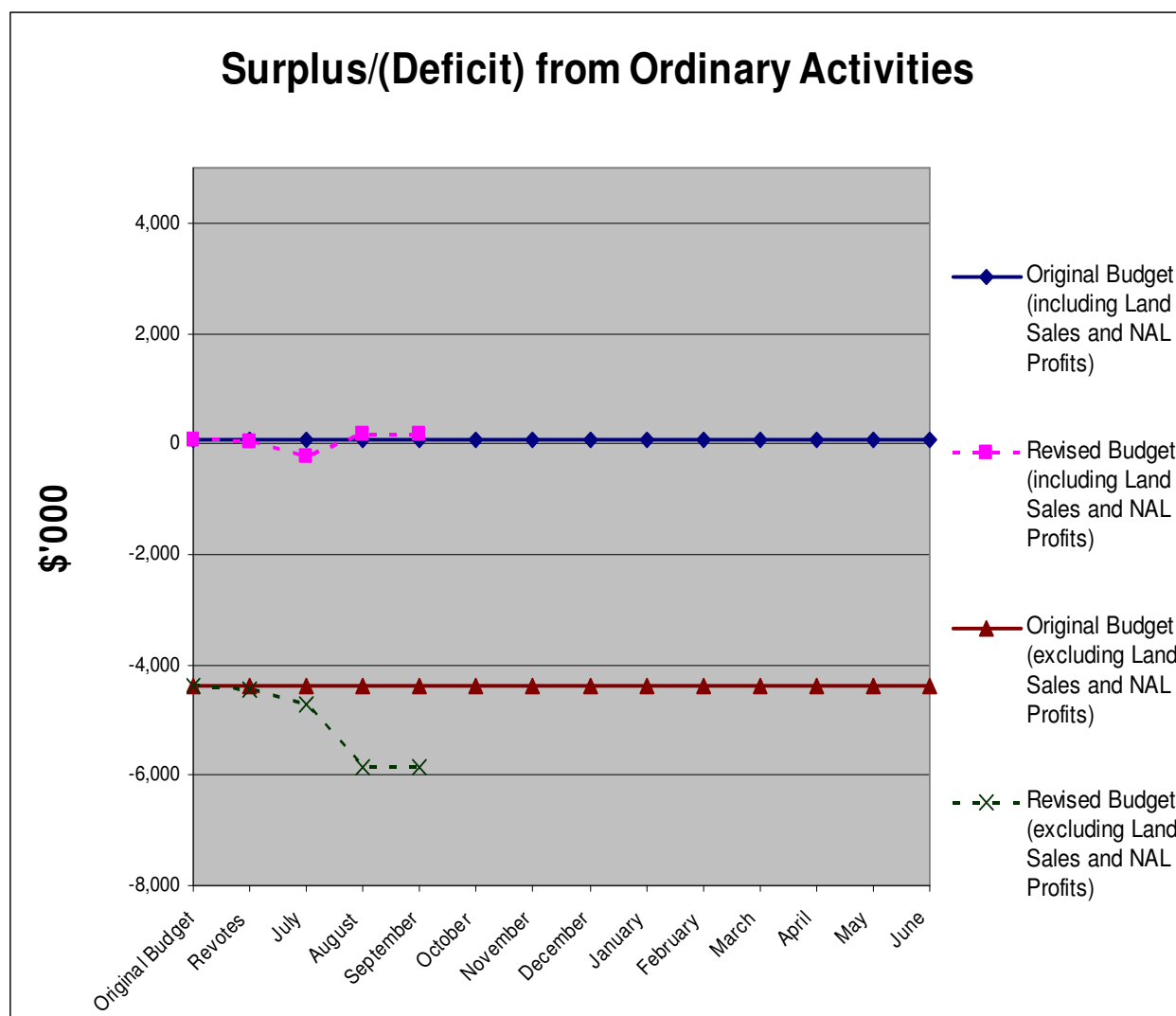
### FINANCIAL/RESOURCE IMPLICATIONS

Council's Original 2009/2010 Budget estimate is a \$1,557,806 cash deficit after internal transfers, repayment of Capital lease and before depreciation of \$14.0 million. TABLE 1 of Document 1 of this report details the changes in this review. The net cash result of these changes is a projected cash deficit of \$3,296,508 (**Ref N of Attachment 1**), before 2010 revotes and carry forwards are taken into account and are shown in the table below;

IMPACT OF QUARTERLY BUDGET REVIEW ON COUNCIL'S ADOPTED BUDGET				
	Recurrent	Capital	Total	Ref
Document 1 Table 1.1	\$0	\$0	\$0	
Document 1 Table 1.2	(\$91,061)	\$0	(\$91,061)	
Document 1 Table 1.3	\$0	(\$5,250)	(\$5,250)	
Original Budget after transfers and before Revenue Loans and Depreciation	(66,704)	(\$3,783,059)	(\$3,849,763)	
Repayment of Capital Lease and Loans		(574,670)	(\$574,670)	
Loan Funds to Revenue	\$1,433,027	\$1,433,600	\$2,866,627	
<b>Net Available Surplus/(Deficit) Funds</b>	<b>\$1,275,262</b>	<b>(\$2,929,379)</b>	<b>(\$1,654,117)</b>	
Revotes and Carry Forwards from previous year	(\$55,316)	(\$1,587,075)	(\$1,642,391)	
<b>Revised 2009/2010 Cash Surplus (after transfers and before Depreciation)</b>	<b>\$1,219,946</b>	<b>(\$4,516,454)</b>	<b>(\$3,296,508)</b>	<b>N</b>

### PROJECTED FINANCIAL RESULT FOR 2009/2010

	Ref	After September Review	Original Budget
Total Operating Revenue	A	\$84,965,332	\$83,600,490
Less Total Operating Expenditure	B	(\$70,802,584)	(\$69,515,247)
Less Total Depreciation and Provisions Transferred	C	(\$14,00,000)	(\$14,000,000)
	D=B+C	(\$84,802,584)	(\$83,515,247)
<b>Surplus/(Deficit) From Ordinary Activities Before Capital Amounts</b>	<b>E=A+D</b>	<b>\$162,748</b>	<b>\$85,243</b>
<b>Net Operating movement for September Review</b>		(\$132,821)	
<b>Total Budgeted Land Sales Profits</b>	<b>F</b>	<b>(\$3,000,000)</b>	<b>(\$3,000,000)</b>
<b>Total Budgeted Newcastle Airport (NAL) Profits</b>	<b>G</b>	<b>(\$3,003,742)</b>	<b>(\$1,476,242)</b>
<b>Surplus/(Deficit) From Ordinary Activities without Land Sale Profits, NAL Profits and Before Capital amounts</b>	<b>H=E-F-G</b>	<b>(\$5,840,994)</b>	<b>(\$4,390,999)</b>



## LEGAL, POLICY AND RISK IMPLICATIONS

The Local Government (General) Regulation 2005 Clause 203 requires that a Budget Review Statement be submitted to Council no later than two months after the end of each quarter and that all expenditure must be authorised and voted by Council before it is incurred. This report is submitted so that Council can review the impact of all issues, which will affect the Budget.

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

The September Quarterly Budget Review Statement indicates that Council's financial position (excluding land sale profits) has changed significantly. Council's financial position needs to be monitored closely with particular regard to those issues contained in TABLE 2 of Document 1. Long-term financial projections will also be reviewed.



## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

## **CONSULTATION**

Executive Group  
Section Managers

## **OPTIONS**

That Council accepts the discretionary changes to the adopted budget.

That Council rejects some or all of the discretionary changes to the adopted budget.

## **ATTACHMENTS**

- 1) Attachment 1 Estimated Statement of Cash Position to 30/06/2010.
- 2) Attachment 2 Estimated Statement of Restricted Funds Movements to 30/06/2010.

## **COUNCILLORS ROOM**

NIL

## **TABLED DOCUMENTS**

- 1)
  - a. Table 1.1 - Discretionary Changes to the adopted Recurrent Budget.
  - b. Table 1.2 - Discretionary Changes to the adopted Capital Budget.
  - c. Table 2 - Identified issues, which may have a future budgetary impact.
- 2) Document 2 of 2009-2010 Quarterly Budget Review for June 2010, comparing Budgets to Actuals.

# MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

## ATTACHMENT 1

ESTIMATED STATEMENT OF RESTRICTED FUNDS MOVEMENTS TO 30/06/2010 2010 September Budget Forecast			
	Ref	2010 September Budget Forecast	2010 Original Budget Forecast
Total Operating Revenue	A	\$84,965,332	\$83,600,490
Less Total Operating Expenditure	B	(\$70,802,584)	(\$69,515,247)
Less Total Depreciation and Provisions Transferred	C	(\$14,000,000)	(\$14,000,000)
	D=B+C	(\$84,802,584)	(\$83,515,247)
<b>Surplus/(Deficit) From Ordinary Activities Before Capital Amounts</b>	E=A+D	<b>\$162,748</b>	<b>\$85,243</b>
Add Back: Depreciation and Provisions Transferred	C	\$14,000,000	\$14,000,000
Less Councils Share of Newcastle Airport Profit	W	(\$3,003,742)	(\$1,476,242)
Cash Surplus From Operations	F=A+B+W	\$11,159,006	\$12,609,001
Transferred to Restricted Funds	G	\$9,939,060	\$12,675,705
<b>Cash Surplus / (Deficit) From Operations After Transfers</b>	H=F-G	<b>\$1,219,946</b>	<b>(\$66,704)</b>
Total Capital Income	I	\$11,446,740	\$11,084,740
Total Capital Expenditure	J	(\$39,765,151)	(\$31,482,956)
<b>Surplus/(Deficit) From Capital Works</b>	K=I+J	<b>(\$28,318,411)</b>	<b>(\$20,398,216)</b>
Transferred from Restricted Funds	L	(\$24,376,627)	(\$16,615,157)
<b>Cash Surplus / (Deficit) From Capital Works After Transfers</b>	M=K-L	<b>(\$3,941,784)</b>	<b>(\$3,783,059)</b>
<b>Total Cash Surplus / (Deficit) After Transfers</b>	N=H+M+X	<b>(\$3,296,508)</b>	<b>(\$1,557,806)</b>
RECONCILIATION OF CASH POSITION			
Estimated Cash Position as at 01/07/2009	O	\$32,120,241	\$32,120,241
Estimated Cash Position as at 30/06/2010	P	\$22,449,782	\$26,019,972
Increase/(Decrease) in Cash Balance	Q=P-O	(\$9,670,459)	(\$6,100,269)
Represented By:			
<b>Estimated Opening Restricted Funds Balance</b>	R	\$34,923,774	\$34,923,774
Closing Restricted Funds Balance	S	\$28,549,823	\$30,381,311
Increase/(Decrease) in Restricted Funds Balance	T=S-R	(\$6,373,951)	(\$4,542,463)
Repayment of Capital Lease and Principal of Loans from Revenue	X	(\$574,670)	\$2,291,957
<b>Total Cash Surplus/ (Deficit) from Operations &amp; Capital</b>	N=Q-T	<b>(\$3,296,508)</b>	<b>(\$1,557,806)</b>
Principal of Loan Funds Repaid From Reserves	U	(\$2,912,234)	(\$2,912,234)
Increase/(Decrease) in Cash Balance	Q=T+N	(\$9,670,459)	(\$6,100,269)

# MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

## ATTACHMENT 2

ESTIMATED STATEMENT OF RESTRICTED FUNDS MOVEMENTS TO 30/06/2009 2010 September Budget Forecast					
RESTRICTED FUNDS	Estimated Balance as at 30/06/2009	Recurrent Budget	Capital Budget	Balance Sheet Movements	Estimated as at 30/06/2010
SECTION 94	\$12,500,025	\$545,513	(\$1,309,156)		\$11,736,382
DOMESTIC WASTE MANAGEMENT	\$2,344,186	\$997,149	(\$1,731,000)	(\$432,480)	\$1,177,855
Sub Total. Externally Restricted	\$14,844,211	\$1,542,662	(\$3,040,156)	(\$432,480)	\$12,914,237
BUSINESS DEVELOPMENT RESTRICTED FUND	(\$183,810)	\$2,024,729	(\$9,770,000)	\$5,480,436	(\$2,448,645)
INVESTMENT PROPERTIES DEPRECIATION FUND (INVESTMENT PROPERTIES SINKING FUND)	\$1,662,855	\$1,104,276	\$0		\$2,767,131
ASSET REHABILITATION RESERVE	\$10,320	\$500,000	(\$619,490)		(\$109,170)
FLEET MANAGEMENT (PLANT)	\$3,155,759	\$2,044,002	(\$2,824,541)	\$369,481	\$2,744,701
OTHER WASTE SERVICES	\$4,685,075	\$0	\$0		\$4,685,075
QUARRY DEVELOPMENT	\$757,413	\$12,533	\$0		\$769,946
BUSINESS OPERATIONS RESTRICTED FUND	(\$2,524,617)	\$1,643,039	(\$3,260,000)	\$566,044	(\$3,575,534)
EMPLOYEE LEAVE ENTITLEMENTS	\$4,978,625	\$0	\$0		\$4,978,625
BEACH VEHICLE PERMITS	\$6,577	\$3,500	(\$18,000)		(\$7,923)
DRAINAGE	\$281	\$849,000	(\$410,000)	(\$96,234)	\$343,047
INTERNAL LOAN	(\$384,736)	\$250,000	\$0		(\$134,736)
TRANSPORT LEVY	(\$12,650)	\$350,000	\$0		\$337,350
ENVIRONMENTAL LEVY	\$234,842	\$0	(\$440,000)		(\$205,158)
ADMINISTRATION BUILDING SINKING FUND	\$875,709	\$371,256	(\$1,220,500)		\$26,465
DEPOT SINKING FUND	\$994,703	\$335,899	(\$140,000)		\$1,190,602
RTA BYPASS ROADS MTCCE RESTRICTED FUND	\$1,899,188	\$64,678	(\$450,000)		\$1,513,866
RESTRICTED CASH	\$2,711,903	(\$2,966,525)	(\$1,433,600)	\$2,866,627	\$1,178,405
COUNCILLOR WARD FUNDS	\$176,164	\$900,000	(\$213,340)		\$862,824
INFORMATION TECHNOLOGY STRATEGY	\$235,346	(\$60,000)	(\$150,000)		\$25,346
PROVISION FOR LOCAL GOVT ELECTION	\$50,000	\$100,000	\$0		\$150,000
PARKING METER RESERVE	\$750,616	\$179,753	(\$387,000)		\$543,369
Sub Total. Internally Restricted	\$20,079,563	\$7,706,140	(\$21,336,471)	\$9,186,354	\$15,635,586
RESTRICTED FUNDS TOTAL	\$34,923,774	\$9,248,802	(\$24,376,627)	\$8,753,874	\$28,549,823
* Balance Sheet Movements are the repayments of the Principals on Loans and the funds from Loans received and the proceeds for land and fleet sales					

**ITEM NO. 9****FILE NO: PSC2007-3163****WASTE MANAGEMENT AND RESOURCE RECOVERY POLICY 2009****REPORT OF: MICK LOOMES - ENGINEERING SERVICES MANAGER**  
**GROUP: FACILITIES AND SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopts the Port Stephens Council Waste Management and Resource Recovery Policy 2009
- 

**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009****RECOMMENDATION:**

	<b>Councillor Bob Westbury</b> <b>Councillor Ken Jordan</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>396</b>	<b>Councillor Ken Jordan</b> <b>Councillor Steve Tucker</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

**The purpose of this report is to recommend the adoption of the amended Waste Management and Resource Recovery Policy 2009.**

The Port Stephens Council Waste Management and Resource Recovery Policy 2007 was developed to both inform the Port Stephens community about how waste is managed, and to formally document decision making principles for current and future waste management in the Port Stephens local government area.

Since the adoption of the Waste Management and Resource Recovery Policy 2007, some changes have occurred to the provision of waste services in Port Stephens, for example the closure of the Lemon Tree Passage Waste Transfer Station. The amended policy reflects these changes.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The amendments to this policy will not result in a resource or financial implication. Any changes to Council's waste services that result in a resource or financial implication will be detailed in a specific Council report.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

There are no legal impediments for the adoption of this Policy.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Efficient and effective waste management is a vital public health service. Recycling and advanced waste processing contributes to the long term ability for future generations to maintain the health and aesthetic qualities of the local environment. The adoption of this policy informs the community of the decision making protocols for waste services for Port Stephens Council. Any changes to these services that result in a social implication will be detailed in a specific report to Council.

The NSW waste levy is driving up the cost of traditional land filling practices. It is envisaged that by 2011 the cost to landfill in the Extended Regulated Area (Hunter, Illawarra and Central Coast) will exceed the cost to use alternative waste technologies and advanced recycling systems.

The implications for the Port Stephens community will be that differential pricing for source separated wastes will encourage greater recycling of waste than would otherwise be destined for expensive landfill. However, given Port Stephens Council's early adoption of alternative waste technology, our community is well placed to receive positive economic outcomes.

This policy informs the community of the decision making protocols for waste services in Port Stephens Council. Any changes to these that result in an economic implication will be detailed in specific reports to Council.

Adopting the recommendation will ensure that all decisions regarding waste management and resource recovery for Port Stephens Council are made with the primary goal being to protect the environment.

## **CONSULTATION**

Waste Management Coordinator, Engineering Services Manager, Group Manager Facilities and Services

## **OPTIONS**

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

- 3) Reject the recommendation

## **ATTACHMENTS**

- 1) Port Stephens Council Waste Management and Resource Recovery Policy 2007 with proposed changes

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



**POLICY**

Adopted: 27/11/07  
Minute No: 337

**FILE NO: PSC2007-3163**

**TITLE: PORT STEPHENS COUNCIL WASTE  
MANAGEMENT AND RESOURCE RECOVERY  
POLICY 2007**

**RESPONSIBLE OFFICER: MICK LOOMES,  
ENGINEERING SERVICES MANAGER**

**BACKGROUND**

Port Stephens Council currently provides domestic and non-domestic waste services in accordance with sections 496 and 501 of the Local Government Act 1993. These services include the provision of mobile garbage bins, a weekly waste collection service, a fortnightly recycling collection service, an annual bulk and green waste collection, the processing of recyclables, an alternative waste technology for the processing of residual waste, and where required, the land filling of residual wastes.

Port Stephens Council also provides waste services in public places where Council's asset owners have determined this need.

Residents and businesses of Port Stephens have access to two Council-owned Waste Transfer Stations. Waste is delivered here and separated for reuse, recycling or disposal.

Council operates one active landfill at Salamander Bay, and has five decommissioned landfills where the health of the surrounding environment continues to be monitored.

Council's role in waste management also extends to the education of the community about its waste services and how waste generation can be reduced.

**Changes**

**Delete** 2007  
**Insert** 2009

***Insert an additional service*** – 'a monthly green waste drop-off service'

***Insert new sentence***

Port Stephens also coordinates the collection of certain hazardous wastes not suitable for collection in either household bin. Examples of these include chemical collections, electronic waste collections, battery collections, mobile phone collections and fluorescent tube collections.

**Delete** – Residents and businesses of Port Stephens have access to two Council-owned Waste Transfer Stations.

**Insert** - Residents and businesses of Port Stephens have access to one Council-owned and one privately owned Waste Transfer Station.

The management of waste provides significant outcomes for human health and for the quality of our environment. Since the mid 1990's Council's approach to waste management has moved from simple land filling of all wastes to kerbside recycling and the utilisation of technology designed to efficiently collect and sort waste for maximum resource recovery. Through these actions Port Stephens Council has improved the sustainability of its waste management services and the community.

## **OBJECTIVE**

The objective of this policy is to define Council's positions on solid waste management within Port Stephens local government area in order to determine a Waste Management and Resource Recovery Plan for the future delivery of waste management services.

## **PRINCIPLES**

The following principles guide sustainable waste management in Port Stephens. They are derived from legislation and guidelines affecting Port Stephens Council waste services, and Council's desire to increase the sustainability of all activities.

- 1) Council will protect and enhance the environment while considering the social and economic ramifications of decisions
- 2) In the management of waste services Council will observe the principles of ecological sustainable development (as defined in the Local Government Amendment (Ecologically Sustainable Development) Act 1997) specifically; inter-generational equity; improved valuation, pricing and incentive mechanisms (eg: polluter pays & full life cycle costing); the precautionary principle and the conservation of ecological integrity
- 3) Council will comply with NSW Environment Protection Licences for waste transfer stations and landfill sites
- 4) Council will comply with the Local Government Act 1993 by continuing to provide waste services to domestic and non-domestic properties under sections 496 and 501 of the Act
- 5) Council will comply with the Occupational Health & Safety Act 2000 and Occupation Health & Safety Regulation 2001
- 6) Council will give due consideration to state and commonwealth guidelines and strategies including but not limited to:

**Delete** - Council operates one active landfill at Salamander Bay, and has five decommissioned landfills where the health of the surrounding environment continues to be monitored.

**Insert** – Council has six decommissioned landfills where the health of the surrounding environment continues to be monitored.



- a. “NSW Waste Avoidance and Resource Recovery Strategy” (ISBN: 0-9580364-2-X)
  - b. “Preferred Resource Recovery Practices by Local Councils” (ISBN: 1741378311)
  - c. “Better Practice Guide for Public Place Recycling” (ISBN: 1741373271)
  - d. “Waste Wise Events Guide” (ISBN: 9781741224903)
  - e. “Handbook for the Design and Operation of Rural and Regional Transfer Stations” (ISBN: 1741379547)
- 7) The NSW Waste Hierarchy of Avoid, Reuse, Recycle, Dispose, will guide decision making processes (Waste Avoidance & Resource Recovery Act 2001)
- 8) Council will comply with Australian Standards relating to mobile garbage bin design and standard colours (AS4123.6 2006 and AS4123.7 2006)
- 9) Council will provide services and education material that is consistent with regional, state and national strategies and programs
- 10) Where opportunities exist, Council will participate in local and regional initiatives to address waste issues.

No changes to this page

## POLICY STATEMENTS

No changes to this page

### 1) *Domestic and Non-domestic (Commercial) Waste Management*

Council is committed to:

- Providing convenient and accessible waste services that meet the needs of the community
- Reasonable costing of waste services in accordance with sections 496 and 501 of the Local Government Act 1993
- The source separation of commercially viable recyclables from residual waste both in its kerbside collections and bulk waste collections
- Processing residual waste via alternative waste technology (Bedminster Composting Plant) until at least 2018
- The disposal of domestic waste to licensed landfill sites
- The provision of waste collection services via contracts with commercial operators
- The provision of alternative waste technology via contracts with commercial operators
- Supporting the introduction of Container Deposit Legislation
- Continually educating the community about its range of waste services

### 2) *Toxic / Hazardous / Medical Waste*

Council is committed to:

- Solutions that source separate these wastes from the domestic / commercial waste streams
- Supporting extended producer responsibility schemes for the collection and disposal of hazardous and medical wastes

### 3) *Public Place Waste Management*

Council is committed to:

- Providing mobile garbage bins and bulk containers in public places where the need is determined by Council's asset owners (ie: Facilities and Services Group)
- The source separation of commercially viable

recyclables in locations where trials have deemed it successful

- The provision of waste services for special events where Council has approved the waste management plans for these events

**4) *Management of Waste Transfer Stations***

Council is committed to:

- The provision of waste transfer stations in Port Stephens Council is based on the Asset Management Plan for Waste Transfer Stations and Landfill Sites and recommendations outlined in the “Handbook for the Design and Operation of Rural and Regional Transfer Stations”.

**5) *Landfill Management***

Council is committed to:

- Complying with Environment Protection Licences for the management of active landfills
- The rehabilitation of decommissioned landfills to meet or exceed the licence requirements
- The continued monitoring of decommissioned landfill sites for due diligence purposes so that the environmental impacts are known
- Reducing the community’s reliance on land filling as the primary waste management method

**6) *Financial Assistance for the Disposal of Waste in Port Stephens***

Council is committed to:

- The provision of financial assistance for the disposal of waste in Port Stephens. Financial assistance will be provided in accordance with Council’s Policy “Financial Assistance for the Disposal of Waste in Port Stephens” under section 356 of the Local Government Act 1993.

**7) *Illegal Dumping***

Council is committed to:

- Minimising illegal dumping as it is an offence under the NSW Protection of the Environment Operations Act 2001 and those carrying out such activities may be fined. Council’s Compliance Policy addresses the issues surrounding illegal dumping, in terms of its regulation and the need to prioritise activities that educate the community.

**Delete** – Complying with Environment Protection Licences for the management of active landfills

*8) Information / Education*

Council is committed to:

- Providing clear and concise information on the range, cost and availability of waste services provided
- Providing education to residents and visitors to the area in order to maximise the potential of its services
- Working with Environmental Services to educate the community via its association with community groups, schools and other interest groups.

*1) Development Planning*

Council is committed to:

- Ensuring that waste management issues are managed in the Local Environment Plan and related Development Control Plan's.

No changes to this page

## RELATED POLICIES

- “Financial Assistance for the disposal of waste in Port Stephens Council” (Adopted 24/4/07, minute number 268)
- “Compliance Policy” (Adopted 28/8/07, minute number 235)

## SUSTAINABILITY IMPLICATIONS

### SOCIAL IMPLICATIONS

Efficient and effective waste management maintains the health and aesthetic qualities of our environment. The adoption of this policy formalises and documents existing services.

### ECONOMIC IMPLICATIONS

Waste management fees are at present slightly higher in the Port Stephens local government area compared with the surrounding local government areas. This is due to the higher costs of processing waste into compost. The increase in the sustainability of waste management operations and the community justifies this higher rate.

The adoption of this policy will not affect general economic activity within Port Stephens in the short term, nor will it affect Council’s resources to manage waste services. This policy formalises and documents existing services only. The proposed Waste Management Plan will detail any economic implications for new services proposed.

### ENVIRONMENTAL IMPLICATIONS

Efficient and effective waste management maintains the health and aesthetic qualities of our environment. The adoption of this policy formalises and documents existing services.

## RELEVANT LEGISLATIVE PROVISIONS

NSW Local Government Act 1993  
Local Government Amendment (Ecologically Sustainable Development) Act 1997  
NSW Waste Avoidance and Resource Recovery Act 2001  
Protection of the Environment Operations Act 2001  
Occupational Health and Safety Act 2000

**Delete** – Waste management fees are at present slightly higher in the Port Stephens local government area compared with the surrounding local government areas. This is due to the higher costs of processing waste into compost. The increase in the sustainability of waste management operations and the community justifies this higher rate.

**Delete** – The proposed Waste Management Plan will detail any economic implications for new services proposed.

**Insert** – Where existing services are changed and/or new services introduced, a specific Council report will detail the economic implications for these.

## IMPLEMENTATION RESPONSIBILITY

Waste Services Co-ordinator

## REVIEW DATE

After twelve months from adoption of the policy

**Delete** – Waste Services Coordinator

**Insert** – Waste Management Coordinator

**Delete** – After twelve months from adoption of the policy

**Insert** – Policy to be reviewed at least once in every Council term. Next review due November 2013.

**ITEM NO. 10****FILE NO: A2004-0284****COUNCILLOR REIMBURSEMENT POLICY REVIEW****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Council revoke the Councillor Reimbursement Policy dated 16 December 2008 (Min No. 398)
  - 2) Council adopt the revised Councillor Reimbursement Policy as advertised.
- 

**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009****RECOMMENDATION:**

	<b>Councillor Bob Westbury Councillor Steve Tucker</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>397</b>	<b>Councillor Bob Westbury Councillor John Nell</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

**The purpose of this report is to provide Council with any response received from the community following public exhibition of the Councillors Reimbursement Policy.**

Council at its meeting on 22 September 2009 resolved to place the Councillors Reimbursement Policy on public exhibition for a period of 28 days. Public exhibition was from 1 October 2009 to 29 October 2009. No submissions were received.

Council is now asked to consider the adoption of the Policy as resolved at the meeting of the 22 September 2009.

**FINANCIAL/RESOURCE IMPLICATIONS**

Council's 2009-10 budget allocation provides for the inclusions covered in the Policy.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

Under Section 252 Council must adopt a policy concerning the payment of expenses incurred by Councillors in relation to discharging the functions of civic office. It is a requirement of the Local Government Act that Council adopt the policy after June 30 each year and lodge the adopted policy with the Department prior to November 30 each year.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

## **CONSULTATION**

General Manager  
Councillors  
Port Stephens Community

## **OPTIONS**

- 1) Adopt the recommendation
- 2) Amend the draft policy

## **ATTACHMENTS**

Nil.

## **TABLED DOCUMENTS**

- 1) Councillors Reimbursement Policy



**ITEM NO. 11****FILE NO: 1190-001****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
- a) Raymond Terrace Cricket Club – Donation towards team shirts - \$200.00 – Rapid Response – Cr Francis.
  - b) Nelson Bay Pony Club – Donation towards Jamboree Festival - \$200.00– Rapid Response – Cr Westbury.
  - c) Carries Place Womens & Children's Crisis Service – Donation towards Annual Christmas Party 2009 - \$200.00 – Rapid Response – Mayor MacKenzie
  - d) Tanilba Bay Golf Club – Replacement of three bridges at Golf Club - \$1,683.00 – Requisition for Funds – Central Ward
  - e) Port Stephens Council Facilities & Services – Mallabulla Sports Club Fertilising & Top Dressing Sports Fields - \$5,000.00 – Requisition for funds – Central Ward
  - f) Tilligerry Community Centre – Replace canvas window awnings - \$1,200.00 – Requisition for funds – Central Ward
  - g) The Rotary Club of Nelson Bay – Donation towards Nelson Bay Charity Golf Day - \$1,000.00 – Mayoral Funds
  - h) Tomaree Family History Group – Donation towards books – \$500 Old System – Each Ward
  - i) Medowie Public School – Donation towards presentation ceremony - \$200 – Rapid Response – Cr Dingle
  - j) Karuah Progress Association – Donation towards Christmas Carol Events - \$500 – Requisition for Funds – Mayoral Funds

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**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009****RECOMMENDATION:**

	<b>Councillor Peter Kafer</b> <b>Councillor Steve Tucker</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>398</b>	<b>Councillor John Nell Councillor Daniel Maher</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

**The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The new Financial Assistance Policy adopted by Council 19 May 2009, to commence from 1 July 2009, gives Councillors a wide discretion to either grant or to refuse any requests.**

The new Financial Assistance Policy provides the community and Councillors with a number of options when seeking financial assistance from Council. Those options being:

1. Mayoral Funds
2. Rapid Response
3. Community Financial Assistance Grants – (bi-annually)
4. Community Capacity Building

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.

The requests for financial assistance are shown below is provide through Mayoral Funds, Rapid Response or Community Capacity Building:-

**WEST WARD – Councillors Francis, Jordan, Kafer & Maher**

Raymond Terrace Cricket Club	Donation towards team shirts	\$200.00
Tomaree Family History Group	Donation towards purchase of books	\$500.00
Medowie Public School	Donation towards presentation ceremony	\$200.00

**MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009****CENTRAL WARD – Councillors Dingle, MacKenzie, O'Brien & Tucker**

Tanilba Bay Golf Club	Replacement of three bridges	\$1 683.00
Tilligery Community Centre	Replace several canvas window awnings	\$1,200.00
Port Stephens Council Facilities & Services	Mallabulla Sports Club fertilising & top dressing sports fields	\$5,000.00
Tomaree Family History Group	Donation towards purchase of books	\$500.00

**EAST WARD – Councillors Westbury, Dover, Nell, Ward**

Nelson Bay Pony Club	Donation towards Jamboree Festival	\$200.00
Tomaree Family History Group	Donation towards purchase of books	\$500.00

**MAYORAL FUNDS**

Carries Place Womens & Children's Crisis Service	Donation towards Annual Christmas Party 2009	\$200.00
The Rotary Club of Nelson Bay	Donation towards Nelson Bay Charity Golf Day	\$1,000.00
Karuah Progress Association	Funds towards Christmas Carol Event	\$500.00

**FINANCIAL/RESOURCE IMPLICATIONS**

Council Ward, Minor Works and Mayoral 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.

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Council financial assistance provides both social and economic benefit to the Port Stephens Local Government area. It also has environmental benefit with particular assistance offered.

**CONSULTATION**

Mayor  
Councillors  
Port Stephens Community

**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. 12****FILE NO: A2004-0284****REVIEW OF THE CODE OF MEETING PRACTICE**

**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
**GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT:**

- 1) Revoke the previous Code of Meeting Practice dated 16 December 2009 Min No. 397.
- 2) Adopt the tabled Code of Meeting Practice.

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**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009**  
**RECOMMENDATION:**

	<b>Councillor Bob Westbury</b> <b>Councillor Steve Tucker</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>399</b>	<b>Councillor Bob Westbury</b> <b>Councillor Shirley O'Brien</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

**The purpose of the report is to provide Council with any response received from the community following public exhibition of the Code of Meeting Practice.**

Council at its meeting on 13 October 2009 resolved to place the Code of Meeting Practice on public exhibition for a period of 28 days. Public exhibition was from 22 October 2009 to 12 November 2009. No submissions were received.

Council is now asked to consider the adoption of the Code.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The Code will be implemented within current financial and human resources.

Once adopted, the Code of meeting practice must be available for public inspection free of charge at the office of the Council during ordinary office hours. Copies of the Code must be available free of charge or, if the Council determines, on payment of the approved fee.

## **LEGAL AND POLICY IMPLICATIONS**

Under Section 361 of the Local Government Act, the draft Code must be placed on public exhibition for not less than 28 days. The council must consider all submissions received before determining the Code.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The code allows Councillors to effectively carry out their responsibilities at meetings of the council and committees of which all the members are councillors.

## **CONSULTATION**

General Manager  
Councillors  
Port Stephens Community

## **OPTIONS**

- 1) Adopt the recommendation
- 2) Retain the existing policy

## **ATTACHMENTS**

Nil.

## **TABLED DOCUMENTS**

- 1) Draft Code of Meeting Practice

**ITEM NO. 13****FILE NO: PSC2009-01806****CODE OF CONDUCT INVESTIGATION**

**REPORT OF: PETER GESLING –GENERAL MANAGER**  
**GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- Consider the recommendations of the Sole Reviewer's report.

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**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009**  
**RECOMMENDATION:**

	<b>Councillor Steve Tucker</b> <b>Councillor Ken Jordan</b>	That Council adopt the recommendation contained in the Sole Reviewer's Report.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>400</b>	<b>Councillor Steve Tucker</b> <b>Councillor Shirley O'Brien</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to provide Council with the findings of the investigation following a complaint made by Councillor Steve Tucker under the Code of Conduct.

The complaint was received by the General Manager on 12 May 2009 and as General Manager I appointed a Sole Reviewer to investigate the allegations made by Councillor Tucker.

The Sole Reviewer's report is shown at ATTACHMENT 1 for consideration by Council.

**FINANCIAL/RESOURCE IMPLICATIONS**

The 2009/10 budget does not provide for investigations under the Code of Conduct however additional funds will only be sought from Council if the costs associated with the investigation cannot be provided for within the existing budget.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

The investigation has been conducted in accordance with the Local Government Act 1993 and the Code of Conduct.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil

## **CONSULTATION**

General Manager

Kath Roach – Sinc Solutions (Sole Reviewer)

Councillors Maher, O'Brien, Kafer, Tucker and Dingle

## **OPTIONS**

Adopt the recommendation of the Sole Reviewer's report.

Amend the recommendation of the Sole Reviewer's report.

Reject the recommendation of the Sole Reviewer's report.

## **ATTACHMENTS**

Sole Reviewer's report.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.



**ATTACHMENT 1**

PORT STEPHENS COUNCIL  
Report to Ordinary Council Meeting on 24 November 2009

Page 1

**SUBJECT:** REPORT OF THE CONDUCT REVIEW COMMITTEE  
- SOLE REVIEWER  
**REPORT BY:** CONDUCT REVIEW COMMITTEE – SOLE REVIEWER  
**CONTACT:** KATH ROACH, SINC SOLUTIONS PTY LTD

**PURPOSE**

The following report has been prepared under the provisions of Part 3, Section 12 - Complaint Handling Procedures and Sanctions of Port Stephens Council's Code of Conduct adopted 25 November 2008.

**RECOMMENDATIONS**

1. That Council receive and note the contents of this report.
2. That Council note that Councillor Dingle and Councillor Tucker reached resolution on this matter during a facilitated discussion held on 29 October 2009.
3. That no action be taken against Councillor Dingle in relation to this matter.
4. That Council consider conducting a Code of Conduct training session with all Councillors to update Councillors on Code of Conduct issues arising across NSW and to address any concerns Councillors may wish to discuss in relation to the Code of Conduct.

**BACKGROUND**

<b>Person Subject of Complaint</b>	Councillor Geoff Dingle
<b>Description of Complaint</b>	Allegations of inappropriate behaviour, including insulting and disrespectful comments made by Councillor Dingle towards Councillor Tucker at the conclusion of the Extra-Ordinary Council Meeting held on 5 May 2009. Further, it was alleged that during this conversation Councillor Dingle incited or strongly encouraged a few members of the audience to abuse Councillor Tucker.
<b>Date of Alleged Breach</b>	5 May 2009
<b>Date of Complaint</b>	12 May 2009
<b>Relevant Code of Conduct</b>	Port Stephen's Council Code of Conduct (adopted 25 November 2008).
<b>Sole Reviewer</b>	Ms Kath Roach Managing Director, SINC Solutions Pty Ltd

**Complaint against Councillor Geoff Dingle**

A letter of complaint was received by the General Manager, Mr Peter Gesling, on 12 May 2009 regarding alleged inappropriate behaviour by Councillor Geoff Dingle towards Councillor Steve Tucker in the Council Chambers at the conclusion of the Extra-Ordinary Council Meeting on 5 May 2009. The General Manager assessed the complaint in accordance with the provisions of the Code of Conduct. Following a review of all available information, on 26 June 2009, the

**PORT STEPHENS COUNCIL**

Report to Ordinary Council Meeting on 24 November 2009

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General Manager referred the matter for review under the relevant provisions of Council's Code of Conduct.

The complainant alleged that at the conclusion of the Extra-Ordinary Council Meeting on 5 May 2009 Councillor Dingle exhibited behaviour towards Councillor Steve Tucker that was inappropriate and included insulting and disrespectful conduct. Further, the complainant alleged that Councillor Dingle encouraged the audience of the gallery to join in with the inappropriate conduct which resulted in Councillor Tucker feeling physically threatened by a few members of the audience. The complainant stated that Councillor Dingle called Councillor Tucker a "*puppet of Buildex*" and a "*lackey*".

**CONDUCT OF COUNCILLOR DINGLE****PROCEDURAL HISTORY:**

The following provides a procedural history relating to the allegations against Councillor Dingle:

- On 5 May 2009, at the conclusion of the Extra-Ordinary meeting of Council an incident is alleged to have occurred between Councillor Dingle and Councillor Tucker and also involved a few members of the audience who were present in the gallery of the Council Chambers.
- On 12 May 2009, the General Manager received a written complaint on the alleged incident. The complaint contained a brief recollection of the events which occurred between Councillor Tucker and Councillor Dingle and a few members of the gallery.
- On 26 June 2009, the General Manager after assessing the matter under the provisions of section 13 of Council's Code of Conduct referred the matter in accordance with section 12.9(d), to a Conduct Review Committee, Sole Reviewer.
- On 14 July 2009, confirmation was received by Kath Roach SINC Solutions of appointment of Conduct Review Committee, Sole Reviewer.
- Between 21 August 2009 and 29 October 2009, interviews were conducted with relevant persons who were the subject of the allegation and witnesses to the event on 5 May 2009. This review timeframe was extended due to work and leave commitments of relevant persons.
- On 21 October 2009, Councillor Dingle provided written information to the investigation.

**FACTUAL BACKGROUND OF THE INCIDENT:**

1. On 5 May 2009 an Extra-Ordinary meeting of Council was held. There were two (2) items on the Agenda – one Mayoral Minute and one Rescission Motion.
2. The Rescission Motion was the relevant issue in relation to this complaint.
3. The Rescission Motion, by Councillors, Nell, Dingle and Ward, was "*That Council rescind its decision of 28 April 2009 on item 3 of the General Manager's Report, namely Development Control Plan, Draft Local Environmental Plan and Meadowie Strategy Issues for Meadowie Town Centre.*"
4. The Rescission Motion on being put was lost.
5. At the conclusion of the vote the meeting was closed by the Mayor, Councillor MacKenzie.

**PORT STEPHENS COUNCIL**

Report to Ordinary Council Meeting on 24 November 2009

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6. Based upon accounts of persons interviewed, it was alleged at this point that Councillor Dingle spoke to members of the gallery in relation to what had just occurred as well as to Councillor Tucker.
7. Whilst it is in dispute, on the balance of probabilities it appears some inappropriate verbal comments were then made which involved Councillor Dingle, Councillor Tucker and a few members of the gallery.
8. A few members of the gallery then approached Councillor Tucker and allegedly spoke inappropriately to him.
9. Councillor Tucker advised this investigation that at this point he felt physically threatened by a few members of the gallery.
10. Councillor Maher then had to become involved in diffusing the matter.
11. After some time, Councillor O'Brien, Councillor Maher and Councillor Tucker ultimately left the Council Chambers together.
12. Councillor Dingle continued to speak to members of the gallery and to the media.
13. A number of inconsistencies were evident in the information provided to the investigation by persons interviewed, however, it was evident that inappropriate exchanges occurred in the Council Chambers and which involved Councillor Dingle, Councillor Tucker and a few members of the gallery.
14. During the course of this investigation, it was evident that Councillor Dingle and Councillor Tucker were both receptive to a facilitated meeting being held with the conduct reviewer to address this issue.
15. A facilitated meeting is an option for a conduct reviewer under Council's Code of Conduct.

**NAME OF PERSONS INTERVIEWED:**

Councillor Geoff Dingle (2 occasions)  
Councillor Steve Tucker (2 occasions)  
Councillor Daniel Maher  
Councillor Shirley O'Brien  
Councillor Peter Kafar (by telephone)  
Mr Peter Gesling, General Manager

**ISSUE FOR DETERMINATION:**

Did the actions and comments of Councillor Geoff Dingle towards Councillor Steve Tucker, either directly or indirectly, at the conclusion of the Extra-Ordinary Council meeting on 5 May 2009 in the Council Chambers breach 6.1(a), 6.1(d); 6.1(3); 6.3; and/or 6.8 of the General Conduct Obligations of Council's Code of Conduct?

**FINDINGS OF MATERIAL FACT:**

1. Due to the inconsistencies in a number of statements made to this investigation, and the willingness of both Councillor Dingle and Councillor Tucker to address this issue, a facilitated meeting was held on 29 October 2009 between the sole conduct reviewer and the two Councillors.

**PORT STEPHENS COUNCIL**

Report to Ordinary Council Meeting on 24 November 2009

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2. As a result of this discussion Councillor Dingle expressed contrition that Councillor Tucker was placed in the situation that ensued at the conclusion of the Extra-Ordinary Council meeting on 5 May 2009 and which caused Councillor Tucker angst.
3. During the discussion a number of other matters were raised which directly or indirectly related to this matter, however, both councillors requested that these matters remain confidential and the conduct reviewer has respected those requests.
4. During the discussion it was evident that both Councillors saw benefit in an open discussion on the Code of Conduct being conducted and were encouraging of such a future session being held for all Councillors.
5. Councillor Dingle and Councillor Tucker resolved this matter during the facilitated discussion.

**REASONS FOR FINDINGS OF MATERIAL FACT:**

1. The matter was satisfactorily resolved between Councillor Dingle and Councillor Tucker during the facilitated discussion.

**CONSIDERATION ISSUES**

1. Councillor Dingle and Councillor Tucker attended Code of Conduct training conducted on 17 November 2008.
2. There were no recordings made of the Extra-Ordinary Meeting of 5 May 2009 and the subsequent events that occurred. It should be noted that at that time, any recordings of Council meetings were made for the purposes of verification of minutes of the meeting and as such, would not have been able to have been utilised in this investigation even if they had been available.
3. Both Councillor Dingle and Councillor Tucker were extremely co-operative during the course of this investigation which significantly assisted this conduct review process.

**RECOMMENDATIONS:**

The sole reviewer is obligated to report to Council on the outcomes of the investigation into the alleged breaches of the Port Stephens Council Code of Conduct by Councillor Dingle.

The following details those outcomes:

1. That Council receive and note the contents of this report.
2. That Council note that Councillor Dingle and Councillor Tucker reached resolution on this matter during a facilitated discussion held on 29 October 2009.
3. That no action be taken against Councillor Dingle in relation to this matter.
4. That Council consider conducting a Code of Conduct training session with all Councillors to update Councillors on Code of Conduct issues arising across NSW and to address any concerns Councillors may wish to discuss in relation to the Code of Conduct.

PORT STEPHENS COUNCIL  
Report to Ordinary Council Meeting on 24 November 2009

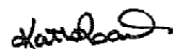
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**REASONS FOR RECOMMENDATIONS:**

In making the above recommendations, as required by the provisions of section 14.9 of the Port Stephens Council Code of Conduct, regard has been given to the following:

1. Councillor Dingle and Councillor Tucker reached resolution on this matter during the facilitated discussion held on 29 October 2009 which accords with the provisions of 14.9(b) of the Code of Conduct being that the matter can be easily remedied or rectified.
2. Councillor Dingle expressed contrition that Councillor Tucker was placed in the situation that ensued at the conclusion of the Extra-Ordinary Council meeting and which caused Councillor Tucker angst which accords with the provisions of 14.9(d) of the Code of Conduct being that contrition has been expressed.
3. Both Councillor Dingle and Councillor Tucker were encouraging of an educative approach being taken in relation to the Code of Conduct for all Councillors which accords with the provisions of 14.9(l) of the Code of Conduct being that an educative approach would be appropriate.

**SIGNED:**



Kath Roach  
Managing Director  
SINC Solutions Pty Ltd

17 November 2009

**ITEM NO. 14****INFORMATION PAPERS**

**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
**GROUP: GENERAL MANAGERS OFFICE**

**RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 24 November 2009.

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	ABORIGINAL STRATEGIC COMMITTEE	
2	FUTURE USE LOT 684 MOOROOPA CRESCENT, NELSON BAY	
3	REDISTRIBUTION OF THE NEW SOUTH WALES FEDERAL ELECTORAL BOUNDARIES	
4	SUPPLY OF ELECTRICITY CONTRACT	

**COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009****RECOMMENDATION:**

	<b>Councillor Bob Westbury</b> <b>Councillor Ken Jordan</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>401</b>	<b>Councillor Bob Westbury</b> <b>Councillor John Nell</b>	It was resolved that the recommendation be adopted.
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# COUNCIL COMMITTEE INFORMATION PAPERS



**INFORMATION ITEM NO. 1**

**ABORIGINAL STRATEGIC COMMITTEE**

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

**FILE: PSC2005-0629**

**BACKGROUND**

**The purpose of this report is to present to Council the minutes of the Aboriginal Strategic Committee meeting with Worimi Local Aboriginal Land Council on 6 October 2009.**

The Aboriginal Strategic Committee is aligned with the following social and cultural directions stated in Council Plan 2009 – 2013: -

**SOCIAL RESPONSIBILITY – DIRECTIONAL STATEMENT**

Council will preserve and strengthen the fabric of the community, building on community strengths by:

- Supporting and providing opportunities to enhance individual and community well-being and welfare;
- Providing opportunities for people to participate in community decision-making.

**CULTURAL RESPONSIBILITY – DIRECTIONAL STATEMENT**

Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity by:

- Providing and supporting opportunities for the expression of community values;
- Promoting the celebration of natural heritage, national days of significance and local indigenous culture;
- Providing the catalyst for the realisation of values, spirit, vitality and expression through cultural activities;

**ATTACHMENTS**

- 1) Minutes of Aboriginal Strategic Committee meeting with Karuah LALC on 6 October 2009.



ATTACHMENT 1



**Aboriginal Strategic Committee  
Meeting with Worimi Local  
Aboriginal Land Council**



**MINUTES**

**Minutes of meeting held on 6 October 2009 at Murrook Cultural & Leisure Centre**

Chair: Cr Peter Kafer

Minute taker: Paul Procter

**Present:**

Cr Peter Kafer  
Cr Sally Dover  
Cr Shirley O'Brien  
Cliff Johnson  
Jason Linnane  
Andrew Smith  
Elaine Larkins  
Val Merrick  
Kristen Eldridge

Port Stephens Council  
Port Stephens Council  
Port Stephens Council  
Port Stephens Council  
Port Stephens Council  
Worimi Local Aboriginal Land Council  
Worimi Local Aboriginal Land Council  
Worimi Local Aboriginal Land Council  
Port Stephens Council (Student Placement)

**Apologies:**

Cr Bruce MacKenzie  
Peter Gesling  
Paul Procter  
Jamie Tarrant  
Grace Kinsella

Port Stephens Council  
Port Stephens Council  
Port Stephens Council  
Worimi Local Aboriginal Land Council  
Worimi Local Aboriginal Land Council

Meeting opened at 1:20pm

**WELCOME TO COUNTRY**

Worimi Elder, Val Merrick welcomed everyone on behalf of the Traditional Land Owners.

**INTRODUCTIONS**

Special welcome was made to the trainee social worker who is on work experience with Council, who will be an observer at today's meeting.

**DECLARATION OF CONFLICTS OF INTEREST**

Nil

**MINUTES OF PREVIOUS MEETING**

The minutes of previous meeting held 4 August 2009 were adopted.

**BUSINESS ARISING FROM PREVIOUS MINUTES**

The following items of business arising from the meeting held on 4 August 2009 were discussed:

**Item 1: Fitzroy Street Midden and Birubi Aboriginal Place Matters**

Council's Manager Recreation Services advised that the approved works on the midden had been completed but there is a need for continuing vegetation maintenance. WLALC CEO highlighted the work provided by the Worimi Green Works Group and indicated their ability to offer assistance on other Council projects in the future. He also expressed appreciation to Council's Weeds Officer for their advice and training.

**Item 2: ABORIGINAL PROJECT FUND UPDATE**

Stage 2 completed and the Aboriginal Strategic Committee's (ASC) recommendations will be considered by Council on 13 October 2009.

**Item 3: NAIDOC WEEK 2009**

It was suggested that planning for next year's NAIDOC Week celebrations commence in the near future.

**Item 4: UPDATE ON CURRENT COUNCIL PLANS & SUPPORT**

Relevant Council Officers attended a meeting of WLALC Board to provide an update on the status of various Council plans (eg: Port Stephens Futures, Draft Cultural Plan, LEP Review).

WLALC appreciated the effort of Council staff and made specific reference to the Draft Cultural Plan, advising that the information in the plan was well prepared. They suggested a more appropriate title for the plan would be 'Lifestyle'.

**Item 5: ILLEGAL DUMPING**

Council's Principle Property Advisor indicated that tipping permits cannot be issued for private lands. All illegal dumping should be reported to Council, no matter where it has occurred. In terms of seeking financial assistance towards clean ups, WLALC CEO indicated that he believed the DECC grants for removal of illegal waste are no longer available.

**Item 6: MURROOK SITE PLANS**

Council's Principle Property Advisor has offered to assist with the provision of plans and ongoing improvements and updating.

**Item 7: KATTANG LANGUAGE PROMOTION**

WLALC CEO advised he is pleased with the embracing of the Kattang language and acceptance being displayed in various places and groups.

**Item 8: BOAT REQUEST**

WLALC CEO requested that Council approach the Marine Parks Authority in regard to this, as both the Authority and Worimi have similar interests and concerns over similar lands and they could work together.

## MINUTES FOR ORDINARY MEETING – 24 NOVEMBER 2009

### GENERAL BUSINESS

#### Provision of Services to Council

Council advised that if WLALC or any associated group is requested by Council to supply work, materials or anything that will attract payment, please insist on being given an order number at that time from the person requesting the service. Then when issuing an invoice make sure the order number is quoted as well as an ABN on it – otherwise payment may not be made.

#### WLALC Representation on Aboriginal Strategic Committee

A request was made for the notices of meetings and agendas to be forwarded to the home addresses of Worimi members. – CJ to follow up.

Action:	1. Council's Principle Property Advisor will follow this up.
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### DETAILS OF NEXT MEETING

Tuesday 1 December 2009 at 1pm at Murrook.

Meeting closed 2:20pm

**INFORMATION ITEM NO. 2**

**FUTURE USE LOT 684 MOOROOPA CRESCENT, NELSON BAY**

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**REPORT OF:** CARMEL FOSTER – COMMERCIAL SERVICES MANAGER  
**GROUP:** COMMERCIAL SERVICES

**FILE:** PSC2009-08225

**BACKGROUND**

The purpose of this report is to advise Council of the actions proposed to overcome the illegal use by property owners who access their lands across the subject Council owned 'Operational Land'.

In approximately 2004 staff met with some residents of the properties using two parcels of Council land for access to the rear of their properties, with no legal rights to do so. The lots were 683 off Wahgunyah Road and 684 off Moorooba Crescent at Nelson Bay.

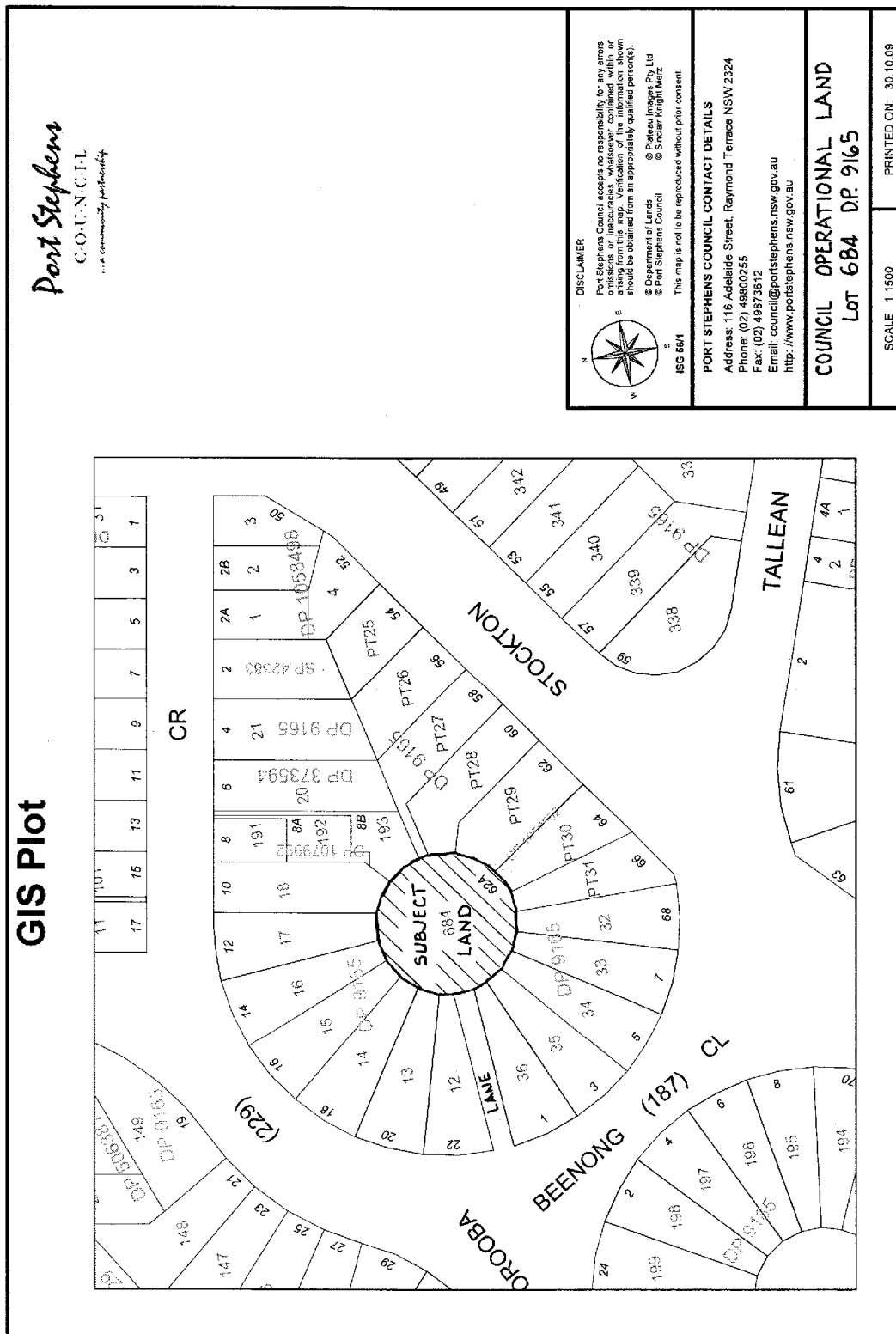
It was decided to attempt to solve the issues over lot 683 Wahgunyah Road before becoming involved with those over lot 684 Moorooba Crescent. The outcomes over lot 683 Wahgunyah Road have been satisfactory with licences for access over the lot being issued to those current users who wished to enter into the agreements. These agreements are for casual access, up to 25 times each year to allow for the movement of caravans, boats, trailers or for building maintenance etc. A fee was charged for establishing each license with a 2 yearly fee of \$100. Many owners did not wish to take up a license and they have removed the rear gates or permanently disabled them.

The same solution will be attempted over lot 684 Moorooba Crescent, however, there is a complication in that some owners have their garage doors facing lot 684. As a result in some cases this is the only access to their properties and any license or agreement will need to reflect this. Further negotiations will lead to common agreements on the matter with clear details whether the accesses will be for casual (as with lot 683) or for regular daily use. Attachment 1 indicates the subject lot 684 and adjoining properties.

**ATTACHMENTS**

- 1) Lot 684 and adjoining properties.

ATTACHMENT 1



**INFORMATION ITEM NO. 3**

**REDISTRIBUTION OF THE NEW SOUTH WALES FEDERAL ELECTORAL  
BOUNDARIES**

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**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
**GROUP: GENERAL MANAGER'S OFFICE**

**FILE: PSC2009-02876**

**BACKGROUND**

The purpose of this report is to update Council with the progress of the Redistribution of the New South Wales Federal Electoral Boundaries.

Council was provided with an Information Paper at its meeting on 25 August 2009 showing details of the proposed changes. Council at this meeting resolved to make a submission to the Commission on the proposed amendments. The submission was provided to the Commission generally extending the southern boundary at Heatherbrae to the Hexham bridge.

The Commission have now advised that the formal determination of the boundaries and names of the electoral divisions will be gazetted on 22 December 2009. Final maps and a report setting out the Commission reasons will be made public after being tabled in Federal Parliament.

**ATTACHMENTS**

- 2) Media release – Australian Electoral Commission

ATTACHMENT 1



23 October 2009

**AUGMENTED ELECTORAL COMMISSION DECIDES BOUNDARIES AND NAMES FOR FEDERAL ELECTORAL DIVISIONS IN NEW SOUTH WALES**

The augmented Electoral Commission for New South Wales today announced the outcome of the deliberations on the boundaries and names of the 48 federal electoral divisions in New South Wales, in accordance with a requirement of the *Commonwealth Electoral Act 1918*.

The presiding member of the augmented Electoral Commission for New South Wales, the Hon Peter Heerey QC, said that it had adopted the proposal of the Redistribution Committee for New South Wales, published on 7 August 2009, with some changes.

The augmented Electoral Commission considers that its proposal is not significantly different from that proposed by the Redistribution Committee. Therefore, a further objection period and further hearing are not required.

The formal determination of the boundaries and names of the electoral divisions will be gazetted on 22 December 2009.

Final maps and a report setting out the augmented Electoral Commission's reasons will be tabled in the Federal Parliament after the formal determination is made, and will then be publicly released.

The augmented Electoral Commission's proposed redistribution is broadly explained on the [AEC website](#).

Further information about the redistribution and the August 2009 report of the Redistribution Committee is available on the [New South Wales redistribution page](#).

MEDIA RELEASE

**Media contacts**

Mr Tjoen San Lauw  
State Manager, AEC, NSW  
02 9375 6300  
0423 847 984

Phil Diak  
Director, Media and Public Awareness  
02 6271 4415  
0413 452 539

25 Years serving  
the Australian community

INFORMATION ITEM NO. 4

SUPPLY OF ELECTRICITY CONTRACT

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REPORT OF: DAMIEN JENKINS – FINANCIAL SERVICES MANAGER  
GROUP: COMMERCIAL SERVICES

FILE: 1600-001

**BACKGROUND**

The purpose of this report is to outline the outcome achieved for the reverse auction conducted for the supply of electricity for Council's large metered (contestable) sites and street lighting as detailed to Council at its meeting 22 September 2009.

Separate auctions were conducted consecutively commencing at 2.00pm on Wednesday 15<sup>th</sup> October 2009 at Council's Administration Building. The auctions were held on-line in attendance was the Energy Action representative, Hunter Councils Procurement representative and multiple Council staff.

The bidding was fast from 4 companies for the metered sites, with the auction completed in 13 minutes. Council realising a **saving of \$444 216** over the period of the contract (30 months). The contract was awarded to TRU energy.

The street lighting auction saw Council achieve a **saving of \$156 483** over the period of Contract. The contract was awarded to AGL.

In total Council will **save over \$ 600 000** for the period of Contract. Which is an excellent result considering our incumbent supplier had notified Council to expect an increase in rates for the forthcoming contract period with an expectation that Council would sign a binding contract immediately with rates unknown.

As requested in the initial report to Council, the General Manager has signed the contracts for the respective supply agreements for TRU energy and AGL.

**ATTACHMENTS**

Nil.



# 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.*

402	Councillor Steve Tucker Councillor Peter Kafer	It was resolved that Council move into Confidential Session.
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**CONFIDENTIAL****ITEM NO. 1****FILE NO: PSC2006-1188****TARIFFS AND CHARGES 2010 – 2011 FOR PORT STEPHENS BEACHSIDE  
HOLIDAYS PARKS AND SAMURAI BEACH RESORT****REPORT OF: PHIL BUCHAN – COMMERCIAL ENTERPRISES MANAGER**  
**GROUP: COMMERCIAL SERVICES**  
-----**ORDINARY COUNCIL – 24 NOVEMBER 2009**

<b>403</b>	<b>Councillor Daniel Maher</b> <b>Councillor Ken Jordan</b>	It was resolved that Council:  1. Adopt the Tariffs and Charges as detailed in ATTACHMENTS 1-6 2. Delegate the General Manager to approve discounted and commissionable rates to an upper limit of 35% for the purpose of implementing marketing and promotional strategies aimed at increasing revenues and profitability.
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<b>404</b>	<b>Councillor Peter Kafer</b> <b>Councillor Steve Tucker</b>	It was resolved that Council move out Confidential Session.
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There being no further business the meeting closed at 8.05pm.

*I certify that pages 1 to 118 of the Open Ordinary Minutes of Council 24 November 2009 and the pages 119 to 132 of the Confidential Ordinary Minutes of Council 24 November 2009 were confirmed by Council at its meeting held on 8 December 2009.*

.....  
**Cr Bruce MacKenzie**  
**MAYOR**