

Minutes 08 December 2009



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 08 December 2009, commencing at 7.04pm.

PRESENT: Councillors B. MacKenzie (Mayor); R. Westbury (Deputy Mayor); G. Dingle; S. Dover, 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.

		No apologies were received.
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405	Councillor Glenys Francis Councillor Ken Jordan	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 24 November 2009 be confirmed.
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INDEX

SUBJECT

PAGE NO

MAYORAL MINUTES 3

1. MOTION TO CLOSE MEETING TO THE PUBLIC 4

MOTION TO CLOSE 5

1. MOTION TO CLOSE MEETING TO THE PUBLIC 6
2. MOTION TO CLOSE MEETING TO THE PUBLIC 7

COUNCIL COMMITTEE RECOMMENDATIONS..... 8

1. DEVELOPMENT APPLICATION FOR FOUR (4) LOT SUBDIVISION AT NO. 364 SIX MILE ROAD, EAGLETON 9
2. REVISED CORPORATE SPONSORSHIP POLICY 41
3. INFORMATION PAPERS..... 56

COUNCIL COMMITTEE INFORMATION PAPERS..... 57

1. CASH AND INVESTMENTS HELD AT 31 OCTOBER 2009 58
2. AUSTRALIAN CITIZENSHIP CEREMONIES..... 63
3. LEGAL SERVICES – EXTENSION OF CONTRACT T15-2007 64
4. PETITION FOR COMMUNITY USE OF WILLIAMTOWN PUBLIC SCHOOL SITE..... 65
5. PETITION FOR CONTINUING COUNCIL SUPPORT FOR REHABILITATION OF TANILBA BAY FORESHORE AND PUBLIC PATHWAY PROJECT 67

CONFIDENTIAL ITEMS..... 71

1. LETTER OF OFFER – TECAN AND MERC PROJECTS..... 72
2. UNAUTHORISED DEPOT: CABBAGE TREE ROAD, WILLIAMTOWN 73
3. GENERAL MANAGER'S CONTRACT OF EMPLOYMENT 74

MAYORAL MINUTES

ITEM NO. 1

FILE NO: 3200-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) (i) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 3 on the Ordinary Council meeting agenda namely **Letter of Offer – Tecan and Merc Projects**.
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include:
 - a) details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.
- 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.

ORDINARY COUNCIL - 08 DECEMBER 2009

406	Councillor Steve Tucker Councillor Ken Jordan	That the recommendation be adopted.
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MOTION TO CLOSE

ITEM NO. 1

FILE NO: PERS: GESLING

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(a) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Mayoral Minute Confidential Item 2 on the Ordinary Meeting agenda namely **General Manager's Contract of Employment**.
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include matters and information relating to personnel matters concerning particular individuals
- 3) That the report of the closed part of the meeting remain confidential.

ORDINARY COUNCIL - 08 DECEMBER 2009

407	Councillor Steve Tucker Councillor Ken Jordan	That the recommendation be adopted.
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ITEM NO. 2

FILE NO: 3200-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(g) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the 8December 2009, Council Committee agenda namely ***Unauthorised Depot : Cabbage Tree Road, Williamtown.***
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning the commercial arbitration and legal costs incurred and advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
- 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.
- 4) That the report of the closed part of the meeting remain confidential until the matter is settled.

ORDINARY COUNCIL - 08 DECEMBER 2009

408	Councillor Steve Tucker Councillor Ken Jordan	That the recommendation be adopted.
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COUNCIL COMMITTEE RECOMMENDATIONS

ITEM NO. 1

FILE NO: 16-2009-105-1

DEVELOPMENT APPLICATION FOR FOUR (4) LOT SUBDIVISION AT NO. 364 SIX MILE ROAD, EAGLETON

**REPORT OF: ANTHONY RANDALL – ACTING MANAGER, DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2009-105-1 for the reasons listed below.

- 1) The proposal has not demonstrated a future use or that the proposed allotments are capable of sustaining a permissible use in the future.
- 2) The development is inconsistent with Clause 37 and Clause 38 of the Port Stephens Council Local Environmental Plan 2000. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding, impact on occupants, property and impact on adjoining properties. Proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and due to isolation in severe floods accessibility for emergency services would be severely limited.
- 3) Approval of any intensification of land use as a result of the subdivision in high risk flood areas places further demand on already limited SES resources by way of domestic property protection, evacuation and/or resupply.
- 4) The development is considered to be an inappropriate land use under the Floodplain Development Manual, 2005.
- 5) The development is not consistent with the provisions and objectives of Zone No 1 (a) (Rural Agriculture "A" Zone) of the Port Stephens Local Environmental Plan 2000. The proposal will fragment agricultural lands and will not protect the agricultural potential of the land. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 6) Insufficient information was submitted with the application to enable a comprehensive assessment of the use of the proposed allotments under Section 79C of the Environmental Planning and Assessment Act, 1979.
- 7) Insufficient information has been provided to assess the proposal in accordance with Clause 47 of the Port Stephens Local Environmental Plan 2000, in terms of demonstrating that the site has the capability for adequate facilities for water provision and wastewater treatment for any intensification of land use permissible as a result of the subdivision.

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009

- 8) Insufficient information has been provided to demonstrate that adequate access can be achieved for all proposed allotments, and in particular proposed Lot 3 has no physical constructed access currently available.
- 9) The development is inconsistent with the principles of State Environmental Planning Policy (Rural Lands) 2008, as the development is not considered to be located in an appropriate location due to extent and nature of flooding.
- 10) It is not possible to implement an evacuation plan for proposed Lots 1-3, that would provide permanent, fail safe, maintenance free measures to ensure the timely, orderly and safe evacuation of any future development on the land, including animal based agricultural activities.
- 11) The development is contrary to the public interests and expectations, of an orderly and predictable built environment.
- 12) The development is inconsistent with the provisions of the Hunter Regional Environmental Plan 1989. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 13) Approval of this application would have an undesirable cumulative effect, having the potential to increase the community's susceptibility to flooding, in terms of social, economic and environmental consequences.

COUNCIL COMMITTEE – 08 DECEMBER 2009

RECOMMENDATION:

	Councillor Glenys Francis Councillor John Nell	That the matter be deferred to allow for further information to be provided with respect to: <ol style="list-style-type: none">1. Inform the Council as to whether the legal status of the roads relevant to this application.2. Information relating to the incidence of flooding history of the site.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009

Those against the Motion: Cr Ken Jordan.

ORDINARY COUNCIL - 08 DECEMBER 2009

409	Councillor Glenys Francis Councillor John Nell	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 Bruce MacKenzie, Peter Kafer, Glenys Francis, Daniel Maher, Steve Tucker, Shirley O'Brien, Geoff Dingle Frank Ward, John Nell, Sally Dover and Bob Westbury .

Those against the Motion: Cr Ken Jordan.

BACKGROUND

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

This development application was lodged on 24 February 2009, and proposes a four lot torrens title subdivision, pursuant to Clause 12 (1)(a)(v) of the Port Stephens Local Environmental Plan 2000 (LEP), as the property is divided by public roads in three locations. One of these roads is Newline Road, and two of these roads are currently unformed.

Proposed lots 1 and 2 have frontage and direct access to Newline Road, similarly proposed lot 4 has frontage and access to Six Mile Road. Proposed lot 3 has frontage to two unformed public roads, one along the western boundary and one along the eastern boundary. The applicant amended the proposal during the assessment to delete a proposed right of way for Lot 3, and is now proposing to rely on the unformed road for access.

The subject site is zoned 1(a) – Rural Agriculture, which is described in LEP. The subdivision of the allotment, by road severance is permissible with consent, as specified by Clause 12 of the LEP.

This proposed development is located in a high flood risk area (High Hazard) as identified by the Lower Hunter Valley Floodplain Risk Management Study (2001), where the 1% Annual Exceedence Probability (AEP) flood level is recorded at 5.5 metres AHD. Even in moderate floods, for example, the 20% AEP (i.e. 1 in 5 year event the property will be inundated by floodwater. The Flood Planning Level is 5.2

metres AHD. Proposed lots 1, 2 and 3 are substantially flat at a level of approximately RL 1.0, and therefore would be severely affected by flooding of up to 4.2 metres.

In this regard, while consent is not being sought for any post subdivision uses as part of this application, Council officers consider that the likely post subdivision uses are relevant as a matter of public interest under Section 79C of the Environmental Planning and Assessment Act 1979. This is to ensure that the lots could be developed for a range of permissible uses, and that the fragmentation of agricultural land is not occurring without adequate justification.

The applicant has not provided an anticipated use for the resultant allotments, despite numerous requests from Council officers. The applicant has stated, in part:

'As with all subdivisions the future intended use of lots to be created is unknown at this time and the future use of the lots cannot be restricted by the issue of consent to the subdivision. The purpose of the subdivision is to make the lots available for future disposition and sale and their future uses is unknown and more importantly could include any and all of the uses permissible within the zone, subject to the further consent of Council....'

'...If future applications for inappropriate land uses are received by Council let Council deal with them at the time they are lodged. Trying to consider all possible end uses for the land at this time is tantamount to Council considering the likelihood of meteorite strikes on the land....'

'.... The owner has advised that they will not entertain any further discussion in this matter and will be lobbying Councillors to have the matter brought before Council as soon as possible....'

Council officers have significant concerns with this approach. As stated above, any permissible use in the Rural 1(a) zone could be proposed in a forthcoming development application. In this regard, Council officers consider it necessary to assess all land uses permissible by the LEP, to assess whether these lots being created, would legitimately have any future uses once subdivided noting the flooding issue and other site constraints.

The assessment of these uses has been performed in accordance with Floodplain Development Manual 2005 (FDM). The FDM also provides the framework from which Council has determined the hazard characterisation of land, which is 'high hazard'. High Hazard is defined by situations where there is possible danger to personal safety; evacuation by trucks difficult; able-bodied adults would have difficulty in wading to safety and potential for significant structural damage to buildings.

The assessment revealed that the majority of future potential uses are likely to be unacceptable, and that any appropriate uses, for example agriculture, would be less viable as a result of the subdivision.

It is also noted that Clause 12 (2) of LEP 2000 states:

Subdivision of land for a purpose specified in subclause (1) (a) does not have the effect of precluding development of the land for any purpose for which it might have been developed immediately prior to the subdivision (except in so far as the land has been taken for a road as referred to in subclause (1) (a)).

In this regard, Council would be prevented from conditioning the allotments to have no dwelling entitlements. The three additional allotments would therefore have a dwelling entitlement given that they are larger than 4000m². Accordingly, approval of this application has the potential to create three additional high hazard flood prone allotments, upon which future owner's may seek dwellings or the like.

The applicant states that the subdivision by road severance may also allow for the sale of those lands to adjoining land owners. It is noted that this same outcome could be facilitated by proposing a boundary adjustment in accordance with Clause 12 (1)(a)(ii) of the LEP. A boundary adjustment would be the more desirable option as it would not have the affect of creating additional dwelling potential on flood prone land.

On 26 August 2008 Council refused an identical development application DA 16-2008-388-1 at the property under delegated authority due to the high hazard flooding constraint on the site. The application was relodged with Council without any significant amendments.

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

- Flooding
- Suitability of the site
- Insufficient information submitted to enable an adequate assessment
- Inconsistent with provisions of environmental planning instruments

An assessment of these issues is provided within the attachments.

It is recommended that this application be refused.

The subject site is considered to be highly constrained with regard to flooding, given the proximity to the Williams River and the likelihood of the river flooding on a regular basis. The grounds for refusal are on the basis of the social and economic impacts of flooding on future occupants of any land use proposed in the future, including the ability of emergency services to access, rescue and support residents in flood prone areas and the precedent set by approving subdivisions in a flood prone area. Further, the rural parcel will become fragmented and accordingly, less agriculturally viable.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

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

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

The development application is inconsistent with Council's Areas Affected by Flooding and/or Inundation Policy originally adopted on 27 January 1998 and most recently amended by Council on 16 December 2008. The objectives of this policy include:

OBJECTIVES

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Approval of this subdivision has the potential to increase the community's susceptibility to the effects of flooding and the associated consequences, by creating additional dwelling entitlements or opportunities to intensify land use. The effects of flooding may be distinguished between social, economic and environmental implications

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

In terms of economic impacts, the subdivision of this land has the potential to result in three additional land owners with an expectation that the land can be developed. As detailed in this assessment, Council officers would not recommend approval of a dwelling or other intensification of the land due to the flooding constraint. This may

incur financial hardship to these future owners. Refusal of this application may have an immediate economic impact upon the property owner but, in the long term, reduces private and public economic losses attributed to flooding.

Environmental impacts are likely to be created by the impacts of unsuitable development on flood prone land contributing to environmental pollution through erosion, waterborne debris, residual debris, structural failure of dwellings, fences, outbuildings and other domestic/rural infrastructure, and possible effluent pollution (from onsite sewage treatment systems).

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

CONSULTATION

As the proposed subdivision is less than 5 allotments, the proposal was not required to be notified, as prescribed in the Port Stephens Development Control Plan 2007.

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

OPTIONS

- 1) Adopt the recommendation.
- 2) Amend the Recommendation.
- 3) Reject the recommendation and approve the development application. In this instance, reasons for approval will need to be drafted by Councillors including supporting justification as a basis for defence in any potential legal proceedings.

ATTACHMENTS

- 1) Locality Plan
- 2) Flood Extent Mapping – 20% AEP (i.e. the 1 in 5 year flood event)
- 3) Assessment
- 4) Reasons for Refusal

COUNCILLORS ROOM

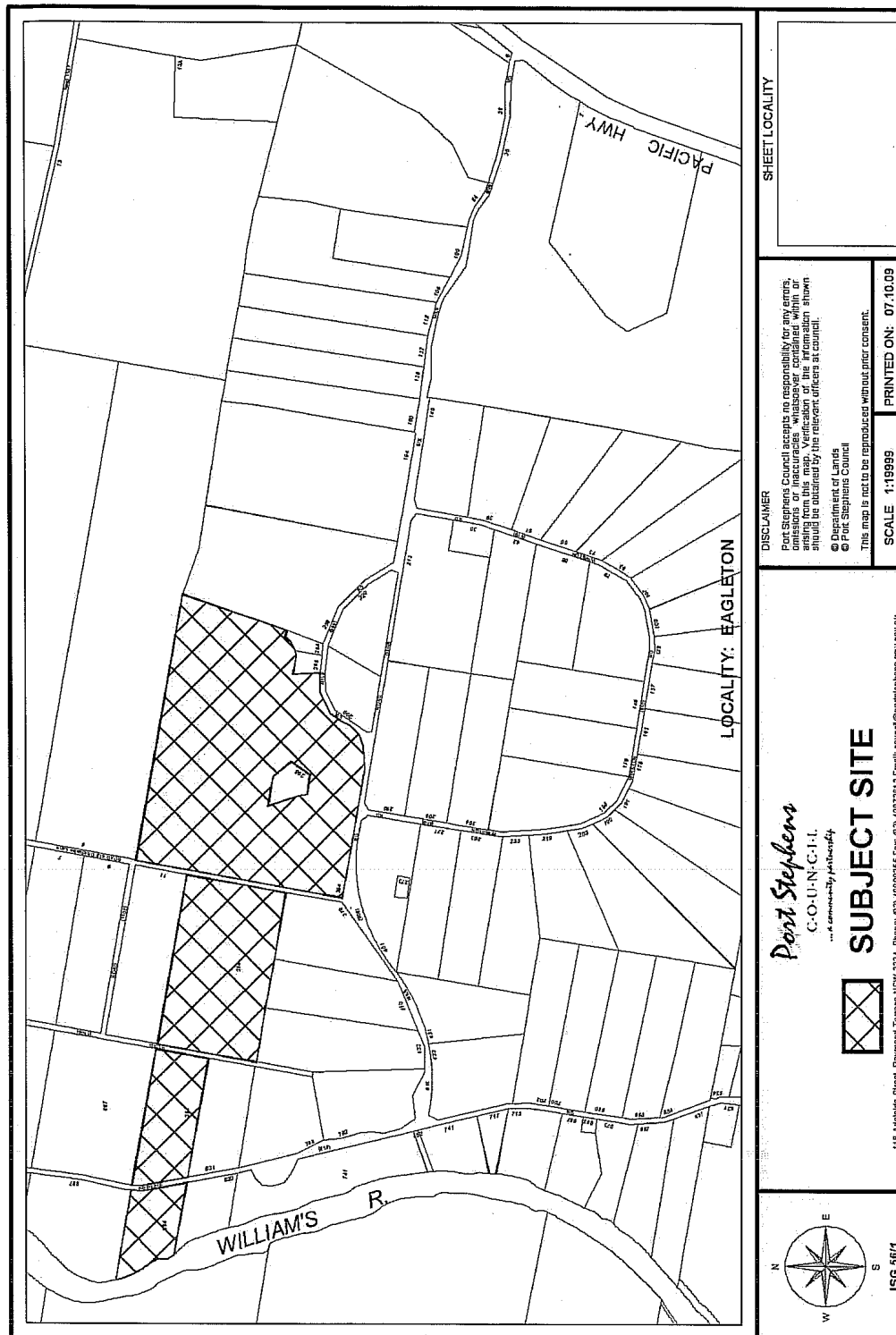
- 1) Plans and elevations/site plan.
- 2) Council Policy - Areas Affected by Flooding and/or Inundation

- 3) S733(4) Local Government Act 1993 Exemption from liability – flood liable land and land in coastal zone

TABLED DOCUMENTS

Nil

ATTACHMENT 1 LOCALITY PLAN



SHEET LOCALITY

DISCLAIMER
Port Stephens Council accepts no responsibility for any errors, omissions or misstatements in this map. Verification of the information shown should be obtained by the relevant officers at council.
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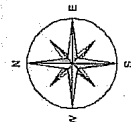
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Port Stephens
C.O.U.N.C.I.L.
...a community partnership



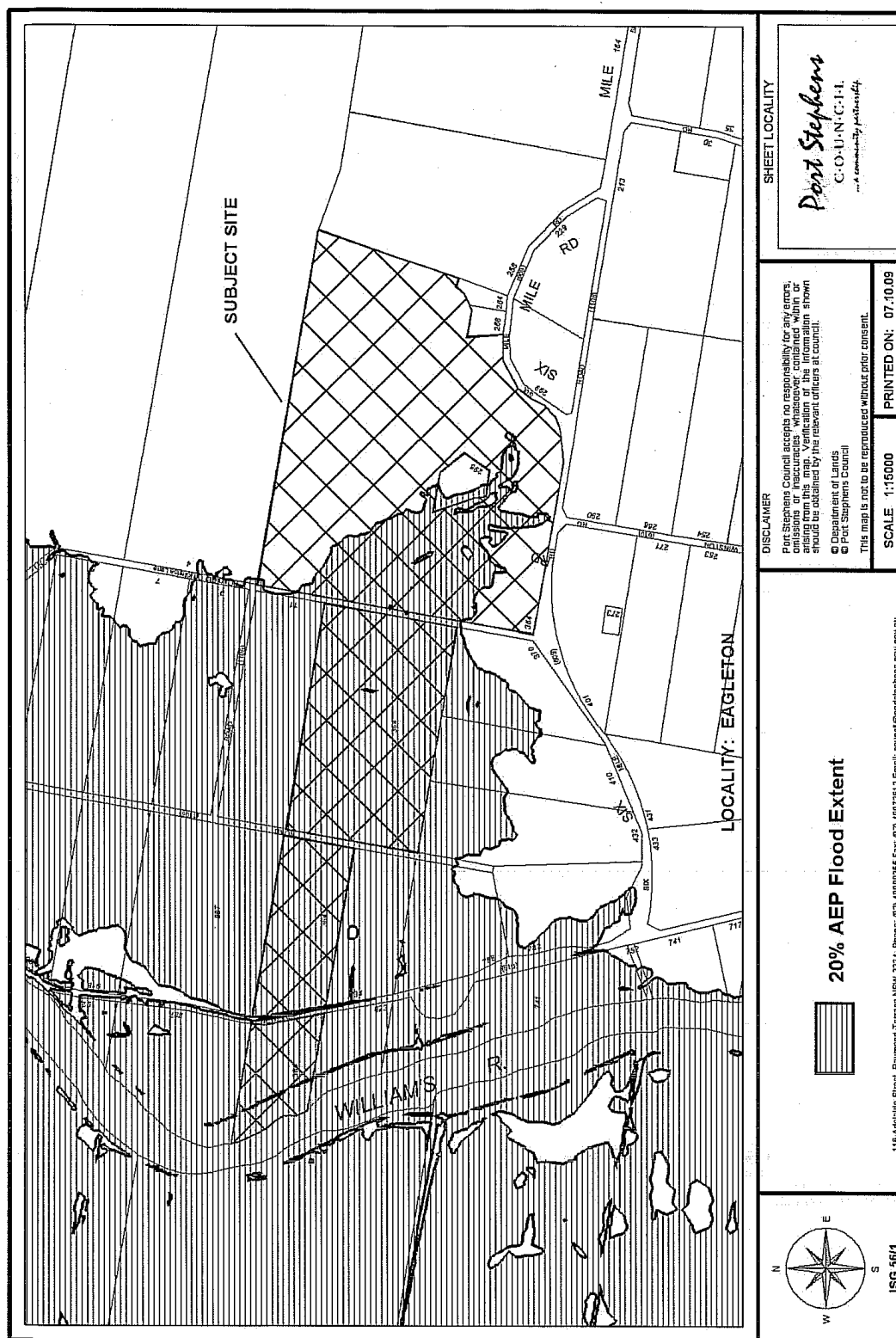
SUBJECT SITE

118 Adelaide Street, Raymond Terrace NSW 2224. Phone: (02) 4930255 Fax: (02) 49373612 Email: council@portstephens.nsw.gov.au



ISG 56/1

ATTACHMENT 2
FLOOD EXTENT MAPPING – 20% AEP (I.E. THE 1 IN 5 YEAR FLOOD EVENT)



ATTACHMENT 3**ASSESSMENT**

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

THE PROPOSAL

The proposal is a four lot torrens title subdivision, proposed pursuant to Clause 12 (1)(a)(v) of the LEP, as the property is divided by public roads in three locations. One of these roads is Newline Road, and two of these roads are unformed.

The proposed lot sizes are:

- Lot 1 – 6.59 hectare
- Lot 2 – 10.66 hectares
- Lot 3 – 26.15 hectares
- Lot 4 – 75.02 hectares

Proposed lots 1 and 2 have frontage and direct access to Newline Road, similarly proposed lot 4 has frontage and access to Six Mile Road. Proposed lot 3 has frontage to two unconstructed dedicated public roads, one along the western boundary and one along the eastern boundary. The applicant amended the proposal during the assessment to delete a proposed right of way for Lot 3, and is now proposing to rely on the unformed road for access.

THE APPLICATION

Owner	N.L. & H.G. HAMMOND
Applicant	Paul Le Mottee Project Management Pty Limited
Detail Submitted	Plan of proposed subdivision and Statement of Environmental Effects (including two addendums)

THE LAND

Property Description	Lot 11 DP 833856
Address	364 Six Mile Road EAGLETON
Area	118.53 hectares
Dimensions	Length of allotment including roads is approximately 2.79 kms. The width of the allotment varies from 240 metres to 585 metres.
Characteristics	The site has varying grades from small hills to flood plain flats. There is an existing dwelling on the highest area of the allotment (i.e. on proposed lot 4).

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning Relevant Clauses	Rural 1(a) RURAL AGRICULTURAL “A” 10 Zone objectives and development control table 11 Rural zonings 12 Subdivision within rural zones generally 37 Objectives for development on flood prone land 38 Development on flood prone land 39 Development near the Williams River 47 Services
Development Control Plan	Port Stephens Development Control Plan 2007
Regional Environmental Planning Policies	Williams River Catchment Regional Environmental Plan 1997 Hunter Regional Environmental Plan 1989 (now superseded but applicable at date of lodgement)
State Environmental Planning Policies	State Environmental Planning Policy (Rural Lands) 2008

Discussion

NSW Floodplain Development Manual 2005 (FDM)

Glossary of terms:

Annual Exceedance Probability (AEP) - When floods do sporadically occur they vary greatly in likelihood of occurrence, as measured by AEP. The AEP of a particular flood discharge at a particular point in a particular catchment is the probability that the discharge will be equalled or exceeded in any one year. Typically, AEP is quoted in terms of percentages, for example, a flood with a 10% AEP has a 10% or one-in-ten chance of occurring in any year.

The 1% AEP flood – this term is a statistical event occurring on average once every 100 years, ie, there is a 1% chance of a flood of this size or greater occurring in any given year.

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

different categories of land-use and for different flood plans. Accordingly, the advice provided in this report with respect to FPL are only applicable to dwellings.

AHD = Australian Height Datum – refers to metres above mean sea level (or mean tide).

Assessment:

The FDM, prepared by the Department of Infrastructure, Planning and Natural Resources provides the framework from which decisions are made with respect to development affected by flooding. The FDM notes that case-by-case decision making cannot account for the cumulative impacts on flood behaviour and risks, caused by individual developments or works. This form of ad hoc assessment contravenes the principles of the manual.

Under the provisions of the FDM, Council is responsible for managing development on flood prone land. In this regard, Council has adopted specific provisions in the LEP relating to development on flood prone land. Council has also completed a Williams River Flood Study (prepared by BMT WBM Pty Ltd in 2009), which was prepared in accordance with the FDM.

This proposed development is located in a high flood risk area (High Hazard) as identified by the Lower Hunter Valley Floodplain Risk Management Study (2001), where the 1% AEP flood level is recorded at 5.2 metres AHD. Even in moderate floods, for example, the 20% AEP (i.e. 1 in 5 year event) the property will be inundated by floodwater.

All proposed lots are affected by flooding. Proposed lots 1, 2 and 3 are substantially flat at a level of approximately RL 1.0 and severely affected by flooding. The south western half of proposed lot 4 is also affected by flooding. A substantial creek also runs through all properties. Flooding could not be reasonably mitigated for development on the proposed lots 1, 2 and 3. The occupants of proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and isolation in severe floods and emergency services would be severely limited.

In addition, climate change trends towards higher ocean levels and an increase in storm severity with more intense rainfall are likely to increase the prevalence and severity of flooding and associated damage.

Development placed above RL 5.2 m AHD on lot 4 would mitigate flooding and it is noted that a dwelling already exists on this allotment.

It is noted that the applicant has not provided the future land use for the allotments proposed to be created, and has stated that as the LEP allows subdivision by road severance, that consideration of future end uses should be dealt with at such time as development applications are lodged for any future uses. Council officers have significant concerns with this approach, as this subdivision has the potential to create three additional dwelling entitlements on high hazard flood prone land. This developer's insistence that this issue does not have to be addressed therefore has a

significant potential of creating a situation where three new owners will propose dwellings that Council will have to assess. The outcome of these applications would be for planning staff to recommend refusal, which may incur financial hardship to these future owners.

It is also noted that any permissible use in the Rural 1(a) zone could be proposed in a forthcoming development application. In this regard, Council officers considered it necessary to assess all land uses permissible by the LEP, to assess whether these lots being created for no nominated future use, would legitimately have any future uses once subdivided. This assessment is detailed below in the assessment of the LEP.

It is not possible to condition this application to mitigate the effects of flooding on proposed lots 1-3 and therefore the proposed development is likely to increase the community's susceptibility to flooding. There is no permanent, fail safe evacuation plan in place to ensure a timely, orderly and safe evacuation of occupants. In an emergency, evacuation of occupants would only be possible by boat or helicopter, which may place rescuers/operators at risk. Whilst any future uses of this land could prepare an evacuation plan, the SES has advised that private evacuation plans are usually ineffective thereby placing additional demand upon limited SES resources.

On the basis of the above assessment, Council's Flooding Engineer has recommended that the subdivision not be approved due to the severe affectation of flooding.

Local Environmental Plan 2000 (LEP)

Clause 10 Zone objectives and development control table

This clause of the LEP requires Council to consider the likelihood that development would result in increased stormwater run-off, erosion or sedimentation or other significant pollution within the Williams River catchment, or have a significant adverse effect on water quality in the Williams River.

It is noted that the subdivision in itself does not create any physical works.

It is considered that the subdivision has the potential to create additional dwellings entitlements which would require non-reticulated waste water treatment systems, which has the potential to affect the water quality of the Williams River. Many other permissible uses have the potential to create water quality issues, as detailed in Table 1 below.

Clause 11 – Rural Zonings

The objectives of the Rural Agriculture "A" Zone seek to maintain the rural character of the area and to promote the efficient and sustainable utilisation of rural land and resources. The specific objectives are addressed below:

- (a) regulating the development of rural land for purposes other than agriculture by ensuring that development is compatible with rural land uses*

and does not adversely affect the environment or the amenity of the locality, and

It is noted that the subdivision is not in itself incompatible with surrounding rural land uses.

(b) ensuring development will not have a detrimental effect on established agricultural operations or rural activities in the locality, and

It is noted that the subdivision is not in itself incompatible with surrounding rural land uses, however the subdivision will result in fragmentation of rural land, which has the potential to significantly reduce the agricultural potential of the existing holding.

(c) preventing the fragmentation of grazing or prime agricultural lands, protecting the agricultural potential of rural land not identified for alternative land use, and minimising the cost to the community of:

- (i) fragmented and isolated development of rural land, and*
- (ii) providing, extending and maintaining public amenities and services, and*

Applicant's response to this objective:

'...the subdivision in accordance with clause 12 (1)(a)(v) is clearly in recognition that the land is already fragmented by the existence of the public roads and the LEP specifically provides for this subdivision and as such it will not result in further fragmentation of grazing or prime agricultural lands, it will not alter the agricultural potential of rural land not identified for alternative land use, and will not result in any additional cost to the community of isolated development or rural land and the providing, extending and maintaining public amenities and services in that the subdivision will not create the demand for an increase in services and amenities beyond the capacity of Council to provide such services through its S94 Plan and contributions applicable under than plan.'

Council officer assessment:

Whilst the subject site is technically severed by public roads in three locations, only one of these roads is constructed. It is noted that the other two roads would be unlikely to be constructed in the foreseeable future. In this regard, the allotment is able to function as a rural property without significant physical barriers. This is significant as it allows the flood prone land to be contiguous to non-flood prone land, so that in times of flood animals using the site can find refuge above the flood planning level.

The subdivision creates the potential that the property can be sold to four separate owners, accordingly in excess of 40 hectares of flood prone rural land would be without flood refuge, thereby reducing the agricultural potential for the land.

Further, should these allotments be sold to separate users, there is a real potential that these future users would seek to use these properties in a rural residential context, thereby further limiting and fragmenting the rural land.

(d) protecting or conserving (or both protecting and conserving):

- (i) soil stability by controlling development in accordance with land capability, and*
- (ii) trees and other vegetation in environmentally sensitive localities where the conservation of the vegetation is likely to reduce land degradation or biodiversity, and*
- (iii) water resources, water quality and wetland areas, and their catchments and buffer areas, and*
- (iv) land affected by acid sulphate soils by controlling development of that land likely to affect drainage or lower the water table or cause soil disturbance, and*
- (v) valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits, and*

It is noted that the subdivision in itself would not create any physical works.

It is considered that the subdivision has the potential to create additional dwellings entitlements which would require non-reticulated waste water treatment systems. This has the potential to affect the water quality of the Williams River. Many other permissible uses have the potential to create water quality issues, as detailed in Table 1 below.

(e) reducing the incidence of loss of life and damage to property and the environment in localities subject to flooding and to enable uses and developments consistent with floodplain management practices.

Applicant's response to this objective:

'The subdivision will not result in development likely to reduce the incidence of loss of life and damage to property and the environment in localities subject to flooding and will not prevent future uses and development consistent with floodplain management practices.'

Council officer assessment:

As previously discussed in this assessment, Council officers consider that the likely post subdivision uses are relevant as a matter of public interest. As the subdivision, for example, has the potential to create three additional dwelling entitlements on high hazard flood prone land, it is considered that this subdivision may have the potential to increase the incidence of loss of life and damage to property

Discussion of uses permissible in the Rural Agriculture "A" Zone

It is noted that the applicant has not provided the future land use for the proposed allotments, and has stated that as the LEP allows subdivision by road severance, that consideration of future end uses should be dealt with at such time as development applications are lodged for any future uses. As previously stated in this report, Council officers have significant concerns with this approach.

It is noted that the applicant has advised:

'The purpose of the subdivision is to make the lots available for future disposition and sale and their future uses is unknown and more importantly could include any and all of the uses permissible within the zone, subject to the further consent of Council.'

It is therefore considered that any permissible use in the Rural 1(a) zone could be proposed in a forthcoming development application. In this regard, Council officers considered it necessary to assess all land uses permissible by the LEP, to assess whether these lots being created for no future use, would legitimately have any future uses once subdivided.

It is considered that should any of these uses be clearly unacceptable, then this is a reason to refuse the application. Upon completion of this assessment, it became apparent that the majority of permissible uses were inappropriate, or that any potential appropriate uses, such as agriculture, are likely to be made less viable as a result of the subdivision.

The assessment of these uses has been performed in accordance with FDM, and the classification of the land as a 'high hazard', which is defined by situations where there is possible danger to personal safety; evacuation by trucks difficult; able-bodied adults would have difficulty in wading to safety; potential for significant structural damage to buildings.

The significance of the hazard is also a function of the type of development and occupant mobility. The following factors can affect the assessment of hazard:

- the existence of special evacuation needs;
- level of occupant awareness;
- isolated residential development;
- hazardous industries or hazardous storage establishments; and
- potential for damage and danger to personal safety

TABLE 1: Assessment of potential future uses on the proposed allotments

NOTE:

* The above table addresses all land uses identified in the LEP. It is noted that additional uses may exist that are considered to be innominate uses or uses that are exempt development.

** Similar development types have been grouped for the purposes of this assessment.

*** The below assessment relates only to the subject site. It is noted that the above uses may be appropriate on other flood prone land, depending on the specific nature of each site. For example, in relation to the 5(g) zone in Raymond Terrace, certain development may be considered differently taking into account factors including historical land use settlements, proximity to services, evacuation opportunities, level of isolation and the extent and nature of the flooding.

Development allowed with or without development consent	Issues with respect to flooding constraint, or other site specific issues	Likelihood of being appropriate on resulting allotments.
agriculture	<p>The applicant has stated that in their opinion, due to the soil types present, that there are significant issues or limitations for agriculture on the existing holding due to flood hazard, permanently high water tables, seasonal water logging, foundation hazard, ground water pollution hazard, localised tidal inundation, highly plastic potential acid sulphate soils of low fertility and localised shallow soils.</p> <p>Regular flooding enhances agricultural productivity by increasing soil moisture, recharging groundwater and depositing fertile silt across the floodplain. However, flooding can also interfere with production, communication and agricultural practices, destroying high value crops.</p> <p>It is however noted that the subdivision of the land would create further issues, in that it would fragment fully flood prone allotments from the higher land that exists to the east of the site on proposed lot 4. Therefore, should animal based agriculture be proposed, proposed lots 1-3 would not have any flood refuge area for animals. Accordingly, the risk of animal deaths is likely to be significant. It is further noted that any proposed land fill to create a flood refuge has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>In terms of crop based agriculture on proposed lots 1-3, the three allotments have a risk of loss of plantings and property due to flooding.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with high hazard floodwaters.</p>	SIGNIFICANTLY REDUCED POTENTIAL AFTER SUBDIVISION

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009
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<p>flood mitigation works</p> <p>Clearing</p> <p>Dam</p> <p>Earthworks</p> <p>telecommunications facility</p>	<p>It is not considered that there is a nexus between subdivision and these uses.</p>	<p>N/A</p>
<p>abattoir</p>	<p>It is considered that the waste and pollution issues surrounding this form of land use, would create a significant downstream environmental risk in times of flooding. It is further considered that the proximity to existing dwellings may be an issue for this use.</p> <p>Isolation and evacuation issues for staff in times of flooding may also create a risk to human life.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	<p>UNLIKELY APPROPRIATE USE</p>
<p>advertisement</p>	<p>As per Clause 15, no stand alone advertisements are permitted on rural land.</p>	<p>MEDIUM (Only with another approved use)</p>
<p>Airport</p> <p>Race Track</p>	<p>The resultant allotments after the subdivision are likely to be too small/short for such a use. Further the location of the creek further reduces the potential for this use.</p> <p>It is considered that issues including damage to property and evacuation of users during times of flooding are concerns. Fuel or chemicals stored in conjunction with this use, may create a significant downstream environmental risk in times of flooding.</p> <p>It is further noted that any proposed land fill to accommodate such a use has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p>	<p>UNLIKELY APPROPRIATE USE</p>
<p>animal establishment</p>	<p>The subdivision, which would result in the fragmentation of the existing rural holdings, would result in three allotments (i.e. proposed lots 1-3) that do not have any flood refuge area for animals. Accordingly, the risk of animal deaths is likely to be significant.</p> <p>It is further noted that any proposed land fill to create a flood refuge has the potential to alter flood movements at</p>	<p>UNLIKELY APPROPRIATE USE</p>

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009
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	<p>the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	
aquaculture	The Aquaculture Permit Application Guidelines prepared by the Department of Primary Industries has broad criteria for native freshwater fish/crayfish farms. These criteria include that such farms must be constructed above the 1/100 year flood level. Accordingly, it is not considered that proposed lots 1-3 could accommodate such uses.	UNLIKELY APPROPRIATE USE
bed and breakfast establishment home-based child care or family day care home	<p>Uses would have to be in conjunction with a dwelling, which due to the flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3. The Floodplain Development Manual notes that due to the likely low level of occupant awareness of flooding issues and likely specific evacuation needs, this use is not desirable uses on flood prone land.</p> <p>It is noted that on lot 4 an existing dwelling exists above the flood planning level. These uses are a possibility for this existing dwelling.</p>	UNLIKELY APPROPRIATE USE
Camp/ caravan site club community facility educational establishment health consulting rooms Hospitals hotel Institutions Place of Public Worship tourist facility	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.</p> <p>The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, and likely low level of occupant awareness of flooding issues it is not desirable on flood prone land.</p> <p>It is further noted that any proposed land fill to accommodate such a use has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters. Further, caravan structures can easily wash away during time of flooding and cause risk to life and property down stream.</p>	UNLIKELY APPROPRIATE USE
child care	Due to flooding constraint, it would be inappropriate to	UNLIKELY

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009

centre	propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4. The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, it is not desirable on flood prone land.	APPROPRIATE USE
dwelling-house	Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.	UNLIKELY APPROPRIATE USE
dual occupancy housing	It is noted that on lot 4 an existing dwelling exists above the flood level.	
exhibition home	It is noted that exhibition homes are by industry practice converted to dwellings at a point in time. Due to flooding constraint, it would be inappropriate to propose a dwelling on proposed lots 1-3 and for the majority of proposed Lot 4. It is further noted that due to the isolation from any recent residential subdivisions, that this use would not be appropriate in the location.	UNLIKELY APPROPRIATE USE
extractive industry mine	The subdivision, which would result in the fragmentation of the existing rural holdings, is likely to result in allotments not large enough to sustain an extractive industry. Further it is noted that potential pollution issues from erosion, fuel and chemical storage, waste water ponds created in conjunction with this use, may create a significant downstream environmental risk in times of flooding.	UNLIKELY APPROPRIATE USE
forestry	The subdivision, which would result in the fragmentation of the existing rural holdings, is likely to result in allotments not large enough to sustain such an activity. It is further noted that the risk of flooding creates a significant risk of loss of plantings and property.	UNLIKELY APPROPRIATE USE
helicopter landing site heliport	It is considered that the potential issues surrounding this form of land use, for example storage of fuels and chemicals have the potential to create a significant downstream environmental risk in times of flooding. It is further considered that the proximity to existing dwellings would be a likely issue for this use in terms of noise impacts.	UNLIKELY APPROPRIATE USE
home employment home occupation	Uses would have to be in conjunction with a dwelling, which due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.	UNLIKELY APPROPRIATE USE
intensive agricultural pursuit	Regular flooding enhances agricultural productivity by increasing soil moisture, recharging groundwater and depositing fertile silt across the floodplain. However,	SIGNIFICANTLY REDUCED POTENTIAL

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009
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intensive animal husbandry	<p>flooding can also interfere with production, communication and agricultural practices, destroying high value crops.</p> <p>The applicant has stated that in their opinion, due to the soil types present, that there are significant issues or limitations for agriculture due to flood hazard, permanently high water tables, seasonal water logging, foundation hazard, ground water pollution hazard, localised tidal inundation, highly plastic potential acid sulphate soils of low fertility and localised shallow soils.</p> <p>It is however noted that the subdivision of the land would create further issues, in that it would fragment fully flood prone allotments from the higher land that exists to the east of the site. Therefore, should animal based agriculture be proposed, these three allotments would not have any flood refuge area for animals. Accordingly, the risk of animal deaths is likely to be significant. It is further noted that any proposed land fill to create a flood refuge has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>In terms of crop based agriculture on the flood prone lots, there is a significant risk of loss of plantings and property due to flooding.</p> <p>The Environmental Management Guidelines for the Dairy Industry authored by the Department of Primary Industries in 2008 advises that due to environmental risks to surface and subsurface waters, that sheds and waste or ponding areas should not be sited in areas subject to flooding at 1-in-25-year or more frequent levels, unless adequate safeguards can be incorporated. Such safeguards include systems that are above the flood line or protected from floodwater. Similar standards exist in the Environmental Impact Statement Guidelines for Cattle Feedlots (1996) prepared by the Department of Urban Affairs and Planning and the NSW Meat Chicken Farming Guidelines prepared by DPI in 2004.</p> <p>Lots 1-3 could not comply with these industry standards.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	AFTER SUBDIVISION
intensive agriculture	Does not apply to the Williams River Catchment.	N/A
Marina	Not applicable, as subdivision relates only to land, not	N/A

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009

tourist boats	adjoining waterway.	
mineral sand mine	Given the soil type of the site, it is not considered likely that such a use would be proposed. Further, the subdivision, which would result in the fragmentation of the existing rural holdings, is likely to result in allotments not large enough to sustain a mining activity.	UNLIKELY APPROPRIATE USE
recreation area recreation facility	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4. The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, and likely low level of occupant awareness of flooding issues it is not desirable on flood prone land.</p> <p>It is further noted that any proposed land fill to accommodate such a use has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>It is noted that uses such as sportfields may be appropriate uses on some flood prone land areas, however, given the location of the creek, as well as isolation issues, it is considered unlikely that this site is appropriate.</p>	UNLIKELY APPROPRIATE USE
restaurant	<p>Pursuant to clause 14A of LEP 2000, a restaurant would only be permissible with a tourist facility. Due to the flooding constraint, as discussed below, a tourist facility would not be an appropriate use.</p> <p>The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, and likely low level of occupant awareness of flooding issues it is not desirable on flood prone land.</p>	UNLIKELY APPROPRIATE USE
retail plant nursery Market	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.</p> <p>It is considered that the risk of flooding creates a significant risk of loss or damage to property, and due to the nature of the uses, there are potentially evacuation issues for workers or customers.</p>	UNLIKELY APPROPRIATE USE
roadside stall	<p>Roadside stalls are only permissible if they sell only primary products produced on the property on which the building or place is situated. As detailed in this table, the ability for the fragmented allotments to sustain an primary production activity would be significantly reduced by the subdivision. Accordingly such a use would be unlikely.</p> <p>It is also noted that damage to property, including debris</p>	UNLIKELY APPROPRIATE USE

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009
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	washing downstream, could result from this form of use.	
rural industry	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.</p> <p>It is considered that the potential pollution issues surrounding this form of land use, for example waste products and fuels/chemicals stored on the site have the potential to create a significant downstream environmental risk in times of flooding.</p> <p>It is further noted that the risk of flooding creates a significant risk of loss or damage to property. In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	UNLIKELY APPROPRIATE USE
utility installation	Not applicable to private development, as these works can only be undertaken by a public authority.	N/A
utility undertaking		
veterinary hospital	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.</p> <p>The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, and likely low level of occupant awareness of flooding issues it is not desirable on flood prone land.</p> <p>Accordingly, the risk of animal deaths is likely to be significant.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	UNLIKELY APPROPRIATE USE

Clause 12 Subdivision within rural zones generally

The proposed subdivision is proposed in accordance with Clause 12 (1)(a)(v), which states that

- (1) A person must not subdivide land within any rural zone except:
- (a) for any of the following purposes:
- (v) the creation of allotments corresponding to the parts into which a single allotment is divided by a public road

It is also noted that Clause 12 (2) states:

Subdivision of land for a purpose specified in subclause (1) (a) does not have the effect of precluding development of the land for any purpose for which it might have been developed immediately prior to the subdivision (except in so far as the land has been taken for a road as referred to in subclause (1) (a)).

In this regard, Council would be prevented from conditioning the allotments to have no dwelling entitlements. Accordingly, approval of this application has the potential to create three additional high hazard flood prone allotments, upon which future owner's may seek dwellings or the like.

It is noted that the applicant states that the subdivision by road severance may also allow for the sale of those lands to adjoining land owners. It is noted that this same outcome could be facilitated by proposing a boundary adjustment in accordance with Clause 12 (1)(a)(ii) of the LEP. A boundary adjustment would be the more desirable option as it would not have the affect of creating additional dwelling potential on flood prone land.

Clause 37 Objectives for development on flood prone land and Clause 38 Development on flood prone land

The subject site is identified as flood prone land, and accordingly consideration of these clauses is required. These clauses prescribe that before granting consent to development on flood prone land the consent authority must consider certain matters. A more detailed assessment addressing the considerations has been previously provided in this report as part of the assessment of the FDM, however below is a summary of the assessment:

Consideration	Response
<i>(a) the extent and nature of the flooding or inundation hazard affecting the land,</i>	All proposed lots are affected by flooding. The flood planning level is 5.2 metres AHD. Proposed lots 1, 2 and 3 are substantially flat at a level of approximately RL 1.0 and severely affected by flooding. The south western half of proposed lot 4 is also affected by flooding, with a depth of water of up to 4.2 metres above natural ground level. A substantial creek also runs through all properties.
<i>(b) whether or not the proposed development would increase the risk or severity of flooding or inundation affecting other land or buildings, works or other land uses in the vicinity,</i>	Whilst the subdivision itself does not propose any physical works, it is noted that any proposed land fill to accommodate future land uses on the land has the potential to alter flood movements at the detriment of adjoining or downstream properties.
<i>(c) whether the risk of flooding or inundation affecting the proposed development could reasonably be</i>	Flooding could not be reasonably mitigated for development on the proposed lots 1, 2 and 3. Development

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009

<i>mitigated and whether conditions should be imposed on any consent to further the objectives of this plan,</i>	placed above RL 5.2 m AHD on lot 4 would mitigate flooding.
<i>(d) the social impact of flooding on occupants, including the ability of emergency services to access, rescue and support residents of flood prone areas,</i>	The occupants of proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and isolation in severe floods and emergency services would be severely limited.
<i>(e) the provisions of any floodplain management plan or development control plan adopted by the Council.</i>	Council has not adopted any floodplain management plan or development control plan for this area.

On the basis of the assessment, Council's Flooding Engineer has recommended that the subdivision not be approved due to the severe affectation of flooding.

Clause 39 Development near the Williams River

This clause specifies that development must not result in a significantly increased risk of (a) soil erosion or other environmental degradation, loss of vegetation or habitat, disturbance of sodic or dispersive soils, or degradation of water quality or the quality of groundwater supplies.

The subdivision in itself does not directly create the impacts referred to above.

Many land uses permissible in the Rural 1(a) zone, if undertaken on proposed Lots 1-3, have the potential to have significant environmental impacts to the river system in time of flooding.

Clause 47 Services

It is noted that any future land uses on the subject site may have constraints in terms of servicing. Due to the isolation, the site would not be serviced by reticulated water and sewer. It is further noted that the flood prone nature of the land would likely result in environmental issues with any on-site waste water system, further that substantial costs to install systems on this type of site would be extremely costly.

Hunter Regional Environmental Plan 1989

Division 1 Rural land – Clause 24 Objectives

The objectives of this plan in relation to planning strategies concerning rural land are:

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

As detailed above in the assessment of the Local Environmental Plan 2000 and Table 1, the proposal is likely to fragment, and potentially hinder the agricultural use of proposed lots 1-3.

Should future purchasers of the land proposed to use the land for rural residential purposes, Council officers would recommend refusal due to the high hazard flood risk.

Division 3 Environmental hazards - 52 Objectives

The relevant objectives of this plan have been considered, including:

(b) control developments on flood liable lands and encourage flood plain management practices which ensure maximum personal safety and appropriate land uses,

As discussed previously in this assessment, the subdivision is not considered to be proposed in an appropriate location given the flooding constraint on the subject site.

Clause 53 Policies for plan preparation and control of development

In determining applications for consent to development for urban, tourist or rural residential purposes, Councils should consider the likelihood of environmental issues including flooding, coastal erosion or storm damage and cumulative catchment-wide impacts, together with the means of controlling and managing such impacts.

Applicant's comment:

...it is advised that as the subdivision is not for the purpose of urban, tourist or rural residential purposes the provisions of this clause do not apply.

Council officer's comments:

It is noted that the applicant's advice with respect to this clause is contrary to the advice provided elsewhere, where the applicant advises that dwelling houses, or other permissible uses that includes tourist facilities, are future potential end uses for the proposed allotments.

In terms of urban, tourist and rural residential uses, the site is not considered to be an appropriate location given the flooding constraint on the subject site.

State Environmental Planning Policy (Rural Lands) 2008

Clause 8 Rural Subdivision Principles

The Rural Subdivision Principles are addressed as follows:

Consideration	Response
<i>(a) the minimisation of rural land</i>	As discussed previously, in the assessment

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009

<i>fragmentation,</i>	of the proposal pursuant to the LEP, and in table 1, it is considered that the proposal has a significant impact on rural land in terms of fragmentation.
<i>(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,</i>	It is noted that the subdivision is not in itself incompatible with surrounding rural land uses.
<i>(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,</i>	It is not considered that the location is an appropriate location to plan future supply of rural residential land due to the flooding constraint.
<i>(d) the consideration of the natural and physical constraints and opportunities of land,</i>	As discussed previously, in the assessment of the proposal pursuant to the LEP, and in table 1, it is considered that the subdivision will limit future opportunities for the land, particularly with respect to agricultural use of proposed lots 1-3, with respect to the flooding constraint.
<i>(e) ensuring that planning for dwelling opportunities takes account of those constraints.</i>	It is not considered that the location is an appropriate location to create additional dwelling opportunities due to the flooding constraint.

Clause 10 Matters to be considered in determining development applications for rural subdivisions or rural dwellings

This clause requires Council to take into account the following matters when considering subdivision of land proposed to be used for the purposes of a dwelling. Whilst it is noted that the application does not include a dwelling at this stage, the subdivision creates an additional three dwelling entitlements on lots 1-3 as they will be greater than 4000m² in area, and accordingly an assessment of this clause is detailed below.

Consideration	Response
<i>(a) the existing uses and approved uses of land in the vicinity of the development,</i>	It is noted that the subdivision is not in itself incompatible with surrounding rural land uses.
<i>(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,</i>	It is noted that the subdivision is not in itself incompatible with surrounding rural land uses.
<i>(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),</i>	It is noted that the subdivision is not in itself incompatible with surrounding rural land uses.
<i>(d) if the land is not situated within a rural residential zone, whether or not the</i>	The land is not situated within a rural residential zone.

<i>development is likely to be incompatible with a use on land within an adjoining rural residential zone,</i>	
<i>(e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).</i>	Not applicable.

Development Control Plan 2007Chapter B1 – Subdivisions and Streets

Insufficient information has been provided to assess the proposal in terms of the vehicular accesses proposed for the resultant allotments.

Chapter B2 – Environment and Construction Management

Insufficient information has been provided to assess the suitability of the proposal in relation to Section B2.12 Waste Water, in terms of demonstrating that the site capability for water provision and wastewater treatment could be provided for any intensification of land use permissible as a result of the subdivision.

2. Likely Impact of the Development

As discussed previously in this assessment, it is considered that the subdivision, which could facilitate intensification of high hazard flood prone land, including at least three additional dwelling entitlements, is likely to increase the community's susceptibility to the effects of flooding in terms of social, economic and environmental consequences.

This impact also include that in a moderate flood, the access roads will be inundated by floodwaters, rendering any future occupants of the lots isolated and reliant upon the SES for property protection, evacuation and/or supplies.

Any development that may result in intensification of flood prone land is undesirable as it increases the number of people and amount of personal property susceptible to flooding, and places an excessive demand on already limited SES resources due to the ineffectiveness of private evacuation plans.

3. Suitability of the Site

Proposed allotments 1-3 are not likely to be suitable for any intensification of land use, as demonstrated in Table 1, including future dwellings. The subject land is considered unsuitable for the majority of land use permissible in the 1 (a) zone, with the exception of some agricultural purposes, taking into account the level of flood risk and likely social, economic and environmental consequences. Future occupants or land uses on proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and isolation in severe floods and emergency services would be severely limited.

It is considered that the subdivision would result in the land being less viable for agriculture due to fragmentation.

The subject site is identified bushfire prone. The proposal is considered to be satisfactory with respect to this constraint.

4. Submissions

No public submissions have been received in relation to the proposal. The application did not require public exhibition pursuant to Council's exhibition policy in DCP2007.

5. Public Interest

The public interest is relevant as it is considered likely that the subdivision will give rise to future development applications for permissible uses of the subdivided lots, which in terms of potential future flooding impacts and the fragmentation of rural lands, would be largely unlikely to be supported due to the site constraints.

The proposal would create an additional three allotments on land that is entirely flood prone. This has the potential to create an expectation that a dwelling or the like could be sought on these newly created allotments.

The assessment revealed that the majority of future potential uses are likely to be unacceptable, and that any appropriate uses, for example agriculture, would be less viable as a result of the subdivision. The subdivision creates the potential that the property can be sold to four separate owners, accordingly in excess of 40 hectares of flood prone rural land would be without flood refuge, thereby reducing the agricultural potential for the land.

This proposal is contrary to the public interest in that it has the potential to further exacerbate the impact of flooding and private and public losses in this locality, the potential to increase demand upon emergency services and an unnecessary and unreasonable demand on limited SES resources.

ATTACHMENT 4
REASONS FOR REFUSAL

- 1) The proposal has not demonstrated a future use or that the proposed allotments are capable of sustaining a permissible use in the future.
- 2) The development is inconsistent with Clause 37 and Clause 38 of the Port Stephens Council Local Environmental Plan 2000. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding, impact on occupants, property and impact on adjoining properties. Proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and due to isolation in severe floods accessibility for emergency services would be severely limited.
- 3) Approval of any intensification of land use as a result of the subdivision in high risk flood areas places further demand on already limited SES resources by way of domestic property protection, evacuation and/or resupply.
- 4) The development is considered to be an inappropriate land use under the Floodplain Development Manual, 2005.
- 5) The development is not consistent with the provisions and objectives of Zone No 1 (a) (Rural Agriculture "A" Zone) of the Port Stephens Local Environmental Plan 2000. The proposal will fragment agricultural lands and will not protect the agricultural potential of the land. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 6) Insufficient information was submitted with the application to enable a comprehensive assessment of the use of the proposed allotments under Section 79C of the Environmental Planning and Assessment Act, 1979.
- 7) Insufficient information has been provided to assess the proposal in accordance with Clause 47 of the Port Stephens Local Environmental Plan 2000, in terms of demonstrating that the site has the capability for adequate facilities for water provision and wastewater treatment for any intensification of land use permissible as a result of the subdivision.
- 8) Insufficient information has been provided to demonstrate that adequate access can be achieved for all proposed allotments, and in particular proposed Lot 3 has no physical constructed access currently available.
- 9) The development is inconsistent with the principles of State Environmental Planning Policy (Rural Lands) 2008, as the development is not considered to be located in an appropriate location due to extent and nature of flooding.
- 10) It is not possible to implement an evacuation plan for proposed Lots 1-3, that would provide permanent, fail safe, maintenance free measures to ensure the timely, orderly and safe evacuation of any future development on the land, including animal based agricultural activities.

- 11) The development is contrary to the public interests and expectations, of an orderly and predictable built environment.
- 12) The development is inconsistent with the provisions of the Hunter Regional Environmental Plan 1989. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 13) Approval of this application would have an undesirable cumulative effect, having the potential to increase the community's susceptibility to flooding, in terms of social, economic and environmental consequences.

ITEM NO. 2**FILE NO PSC2009-08257****REVISED CORPORATE SPONSORSHIP POLICY****REPORT OF: STEPHEN CROWE - COMMUNICATIONS & CUSTOMER RELATIONS
MANAGER****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current Corporate Sponsorship Policy adopted 13 May 1997, amended 21 March 2000 Minute No: 138 (Attachment 1).
 - 2) Adopt the proposed Corporate Sponsorship Policy (Attachment 2).
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COUNCIL COMMITTEE MEETING – 08 DECEMBER 2009**RECOMMENDATION:**

	Councillor Steve Tucker Councillor Bruce MacKenzie	That Council: 1. Place the proposed Corporate Sponsorship policy on public exhibition for a period of 28 days. 2. Should no submissions received the Policy be adopted 3. Upon adoption of the Policy that the previous Policy be revoked (Minute No. 138 of 21 March 2000).
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ORDINARY COUNCIL - 08 DECEMBER 2009

410	Councillor John Nell Councillor Steve Tucker	It was resolved that the Council Committee recommendation be adopted.
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BACKGROUND

The purpose of this report is to propose an amended corporate sponsorship policy. This new policy more accurately reflects the requirements of sponsorship acquisition and provision in the current environment. It has been prepared in response to a

February 2008 resolution, which asked for a report on creating a pool of funds to allocate to all sponsorships on an annual basis.

A review of the current Policy determined that it deals only with Council seeking sponsorship, and does not deal with providing sponsorship to other organisations.

That review also revealed that the policy did not clearly differentiate between sponsorship, grants and donations. Clearly defining what sponsorship is (and what it is not) is fundamental to any understanding of this issue, going forward.

The amended policy also makes specific reference to the potential acquisition of sponsorship for Council's facilities including parks, halls and playing fields.

FINANCIAL/RESOURCE IMPLICATIONS

A sponsorship budget has been set aside for the provision of sponsorship to outside organisations.

Council events may become more financially viable if sponsorship can be more successfully sought in the future.

LEGAL, POLICY AND RISK IMPLICATIONS

The approval process for sponsorship is required to be transparent to ensure Council's integrity is not compromised.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed policy encourages stronger ties with the community through the provision of sponsorship.

There may be the opportunity to assist in the private provision of relevant and required infrastructure to the LGA.

There are no environmental implications in the proposed policy amendments.

CONSULTATION

As part of the policy review process, the Manager Communications & Customer relations worked closely with the Manager Recreational Services to ensure the amended policy adequately referred to potential acquisition of sponsorship for Council's facilities including parks, halls and playing fields.

Corporate Sponsorship policies from several other Councils were also referred to during the amendment process.

OPTIONS

- 1) Adopt the draft revised Corporate Sponsorship Policy;
- 2) Amend the draft revised Corporate Sponsorship Policy;
- 3) Reject the draft revised Corporate Sponsorship Policy.

ATTACHMENTS

- 1) Corporate Sponsorship Policy
- 2) Draft revised Corporate Sponsorship Policy

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1



FILE NO: PSC2009-08257

TITLE: CORPORATE SPONSORSHIP POLICY

REPORT OF SECTION MANAGER COMMUNICATIONS AND CUSTOMER RELATIONS

1. BACKGROUND

Sponsorship opportunities have become competitive and regulated. In addition, the community expects that when Council becomes involved in sponsorship it is gaining value and that the processes are transparent.

Sponsorship should be advantageous to both parties, however Council must ensure sponsorship agreements do not compromise or bring into question the integrity of Council operations.

1.1 Definition

Sponsorship does not include the selling of advertising space, joint ventures, consultancies, grants (in regard to received sponsorship) or unconditional gifts, donations, bequests or endowments. Sponsorship is not philanthropic. A sponsor expects to receive a reciprocal benefit beyond a modest acknowledgement.

To further assist with understanding the differences between different types of financial assistance, the following definitions are offered:

Sponsorship: The provision of monetary or non-monetary goods and services in return for certain specified benefits. It should not be confused with donations.

Grant: A form of financial assistance that funds an individual or organisation to develop a specific project. It is generally given with directions about the administration of the grant.

Donation: Provision of cash or other items of value with no return benefit expected

2. OBJECTIVE

This policy and related documents will enable Council to take a proactive approach towards the financial and information management related to seeking and providing sponsorship as a marketing tool.

It seeks to ensure an open and transparent process and that Council complies with the relevant legislation.

3. POLICY STATEMENT

Sponsorship can take the form of Council providing sponsorship to a third party or Council seeking sponsorship of money, goods or services to support Council activities in exchange for a mutually agreed benefit.

Groups may be sponsored by Council under S356 of the Local Government Act (1993). However under that Section, 28 days notice is required for individuals. Please refer to Council's Financial Assistance Policy for further details.

When providing sponsorship, Council must also consider the provisions relating to granting financial assistance under S356 of the Local Government Act (1993).

3.1 Council providing sponsorship

Council can receive requests to 'sponsor' activities of an external party eg. the provision of funding or resourcing for activities or events.

In most cases, 'sponsorship' is actually a request for financial assistance or support. These requests should be assessed in accordance with Council's Financial Assistance Policy.

3.2 Criteria for providing sponsorship

Council considers suitable sponsorship activities those that will assist Council in meeting community expectations to enhance lifestyle in the Local Government Area.

Before the Council will consider a sponsorship agreement the following benefits should be considered:

- Will it strengthen Council's ties to the community?
- Will it provide relevant and required infrastructure/services to the community?
- Will it demonstrate commitment to sustainability?

In addition, the following criteria should be evident from the information provided to support the application for sponsorship.

- The economic benefit to the community should be argued in terms of increased visitation, increased economic activity by way of increasing utilisation of accommodation, local product etc.
- Widespread branding opportunity to promote the Council and the region.
- Increased promotion of the Council and/or identification of the LGA with a recognised product such as food, wine, agribusiness, clean environment etc.
- Council can clearly recognise the value of its assistance in the event, promotion etc. It should be quantifiable.

3.3 Council seeking sponsorship

Council may, from time to time, seek sponsorship for an event such as a conference, or facility such as a sporting field, hall or park. In this case, Council should make sponsorship opportunities widely known through open tendering. In certain circumstances this ideal may be impractical and request for sponsorship could be by invitation.

Where practical the sponsorship opportunity must be advertised in print media and on the Council's website.

3.4 Criteria for seeking sponsorship

The purpose of this policy is to provide guidelines that will ensure a consistent and strategic approach for seeking monetary and non-monetary sponsorships by Council to assist in the staging of its promotions and activities.

The policy outlines the process and criteria that Council will use to gain sponsorship for its corporate and community events and programs.

Opportunities to sponsor a Council activity must be advertised and clearly communicated to the public.

Expressions of interest will be evaluated against the following criteria:

- Is the business/organisation offering sponsorship one which the Council wishes to be identified with i.e. will not bring the Council into disrepute?
- Is there a risk that a public perception could be formed that an individual/business has received favourable treatment due to its sponsorship?
- Would the donation signify to the community a religious or political bias?

3.5 Recognition of sponsors

In return for accepting a corporate sponsorship, Council has a commitment to fully acknowledge and promote the contribution and involvement by the sponsor in Council's event or promotion.

Benefits supplied to sponsors will be determined by:

- The value of the sponsorship in dollar terms

- The length of the sponsorship
- The type of assets, services, functions or program being sponsored.

The following is a list of the types of benefits that may be offered by Council when developing a sponsorship package.

- Acknowledgement of the sponsor, including their logo in a range of promotional material associated with the event/promotion including fliers, brochures, invitations, programs and promotional banners.
- Reference to the sponsor's name and logo in print, radio and television advertising with the event or promotion.
- Reference to the sponsor in official media releases issued by Council promoting the event/activity.
- Allowing display signage and other promotional material on behalf of the sponsor at selected Council events or facilities associated with the sponsorship.

3.6 Sponsorship Partners

Council will look to negotiate sponsorship agreements with any reputable company, partnership or community group who wishes to participate in Council's sponsorship and whose public image, products or services are consistent with the values, goals and specific policies of Port Stephens Council.

Any organisation that has the potential to involve Council in controversial issues, or expose the Council to adverse criticism will not be considered for sponsorship or as a sponsor.

No sponsorship arrangements will be entered into which impose or imply conditions that would limit, or appear to limit Council's ability to carry out its functions fully and impartially.

If a sponsorship agreement is entered into with an organisation or person, who is or is likely to be subject to regulation or inspection by Council during the life of the agreement, the sponsor is to be informed in writing that their sponsorship will have no bearing on Council's regulatory or inspectorial responsibilities.

The sponsor is also to be informed in writing that should the sponsor engage in any activity that contravenes Council's regulations the sponsorship agreement will be terminated.

Council does not consider the following companies, partnerships, organisations or individuals suitable for entering into sponsorship agreements.

- Those involved in the manufacture, distribution and wholesaling of tobacco, pornography and addictive drugs.
- Those found guilty of illegal or improper conduct by the Independent Commission Against Corruption (ICAC) or any other legal authority
- Those who are involved in political fields (political parties or lobbyists)

- Those whose services or products are considered to be injurious to health, or are seen to be in conflict with Council's policies and responsibilities to the community.

No Councillor or employee, or members of their families, are to receive personal benefit from the sponsorship.

Should a Councillor or employee perceive a potential conflict of interest in dealing with a sponsor on Council's behalf, that potential conflict of interest is to be declared to the General Manager.

3.7 Sponsorship agreements

All sponsorship agreements must be subject to a written contract and conditions will be fully described in a written agreement which clearly sets out:-

- The benefits including economic benefits, available to Council and the sponsor – also
- Document nature of benefits eg naming rights
- Any personal benefits available to the sponsor's employees and their relatives
- The form or forms of sponsorship acknowledgment which will be available
- The scope of uses which the sponsor can make of the sponsorship arrangement including logos
- The term of the sponsorship and any conditions regarding renewal
- Financial accountability requirements
- Provision for termination or suspension of the agreement.

Written agreements must include a statement that Council's functions will continue to be carried out fully and impartially, notwithstanding the existence of a sponsorship arrangement.

The agreement will include a statement to the effect that any attempted influence of Council's regulatory functions will result in an automatic review and/or termination of the sponsorship arrangement.

3.8 Approval of sponsorship

Final approval for sponsorship arrangements is determined by the General Manager. Approval for sponsorship involving less than \$3,000 may be provided by the Manager Communications and Customer Relations.

3.9 Sponsorship Budget

A sponsorship budget shall allocated annually, to be administered by the Manager, Communications and Customer Relations

3.9 Monitoring and evaluation

The Manager Communications and Customer Relations will manage the sponsorship policy implementation.

Formal marketplace research may assist both Council and sponsor in measuring the outcomes. Market research may be used to assist Council in acquiring sponsors in the future and encouraging existing sponsors to renew.

An evaluation must be conducted to gauge the performance of the sponsorship activity and adherence to the agreement.

Measurements for evaluation should be established with the sponsor before the activity. Qualitative and quantitative measures could include but are not limited to:

- Whether the letter of agreement or contract was fulfilled
- Extent to which the sponsor used benefits
- Qualitative assessment activity
- Whether the target audience was reached
- Whether the general community's awareness was raised
- How much media coverage was generated
- Cost/benefit analysis.

RELATED POLICIES

Financial Assistance Policy 2009
Port Stephens Council Code of Conduct
Asset Provision and Sponsorship Management Directive

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Strengthen Council's ties to the community

ECONOMIC IMPLICATIONS

Provide relevant and required infrastructure/services to the community with reduced impact on the rate payer

ENVIRONMENTAL IMPLICATIONS

Nil

RELEVANT LEGISLATIVE PROVISIONS

- Local Government Act 1993
- Independent Commission Against Corruption Act 1988

IMPLEMENTATION RESPONSIBILITY

Communications and Customer Relations

REVIEW DATE

3 years from date of adoption

ATTACHMENT 2



POLICY

Adopted: 13/5/97
Minute No. #
Amended: 21/3/2000
Minute No: 138

TITLE: CORPORATE SPONSORSHIP POLICY

FILE: #

OBJECTIVE: To provide Councillors, staff and Community Management Committees with guidelines to be used when seeking, negotiating, securing and maintaining corporate sponsorship agreements.

DEFINITION: "Sponsorship" means a contribution in money or kind, generally by the corporate sector or private individuals, in support of a council activity, function or event. It does not include the selling of advertising space, joint ventures, consultancies and gifts or donations where the reciprocal benefit provided by the Council does not extend beyond some modest acknowledgment.

GUIDELINES

1 General Manager's Consent

Before seeking expressions of interest to a sponsorship proposal the General Manager, or his designated senior officer, is to be consulted and agreement in principle with the proposal obtained.

The General Manager is to be provided with an outline of the proposed sponsorship arrangement, including:

- a) the type of sponsorship arrangement being sought,
- b) the obligations and benefits arising out of the proposal for both Council and the proposed sponsor.

- c) how the proposed sponsorship is to be resourced so that the promised sponsor benefits can be delivered, and
- d) a project budget giving details of anticipated income and expenditure.

2 Expressions of Interest

At the beginning of each financial year (by 31st July) Council will seek expressions of interest from prospective sponsors by publishing in at least two local popular newspapers a list of proposed sponsorship opportunities.

If after fourteen days from the publication of Council's advertisement there has been no response, or inappropriate response (ie responses which do not comply with a set of predetermined criteria) , individual organisations or persons may be approached with the approval of the General Manager or his designated senior officer.

All sponsorship agreements are to be approved by the General Manager or his designated senior officer. No formal agreement will be entered into without this approval.

An information paper on approved sponsorships will be submitted to Council for notation.

3 Intellectual Property

Should Council be approached by an individual or organisation with a specific sponsorship proposal which has not been included in Council's annual advertised list of sponsorship opportunities, the intellectual property of that person or organisation will be treated as confidential and will be protected so as not to defray or damage any relationship of trust between Council and the proposer.

In these instances Council will not call for expressions of interest from other parties but will determine whether any such proposal would be mutually beneficial to both Council and the proposer. Any such proposal must still be considered within the constraints of this policy and no agreement will be entered into without the approval of the General Manager or his designated senior officer.

Should negotiations between Council and the sponsorship proposer fail then Council may seek expressions of interest for the same activity by advertising in at least two local popular newspapers.

Where, with the approval of the General Manager or his designated senior officer, a decision is taken not to offer sponsorship opportunities widely, the reasons for doing so are to be clearly documented.

4 Assessment of Sponsorship Proposals

Sponsorship proposals are to be assessed against predetermined criteria which have been published in advance or which are circulated to organisations or persons who have submitted an expression of interest. The assessment shall be done by persons who have relevant qualifications and can act, and be seen to act, impartially.

Each proposal shall be assessed on the individual merits of the proposed sponsor and the products or services that are supplied or provided by that sponsor. Any consideration given by Council to the establishment of a sponsorship agreement shall give regard to the following:

- a) ensuring that sufficient resources are available to enable the promised sponsor benefits to be delivered.
- b) that agreements be entered into only with reputable organisations or persons whose public image, products and services are consistent with the values, goals, objectives and specific policies of this Council. Specifically, in relation to sponsor products the following are excluded:
 - I. any organisation or person involved in the manufacture, distribution and wholesaling of tobacco related products or alcohol related products (but not excluding the negotiation of corporate sponsorship agreements with Licensed Clubs and Hotels),
 - II. any organisation or person involved in the manufacture, distribution and/or sale of addictive drugs, and
 - III. any organisation or person whose services or products are injurious to health, or are seen to be in conflict with Council's policies and responsibilities to the Community.

5 Conflict with Council's Regulatory or Inspectorial Responsibilities.

No sponsorship arrangements will be entered into which impose or imply conditions that would limit, or appear to limit, Council's ability to carry out its functions fully and impartially.

If a sponsorship agreement is entered into with an organisation or person who is, or is likely to be , subject to regulation or inspection by Council during the life of the agreement, the sponsor is to be informed in writing that their sponsorship will have no bearing on Council's regulatory or inspectorial responsibilities.

The sponsor is also to be informed in writing that should the sponsor engage in any activity that contravenes Council's regulations the sponsorship agreement will be terminated immediately.

6 Prohibition of Personal Benefits to Councillors and Employees.

No Councillor or employee, or members of their families, are to receive a personal benefit from a sponsorship.

Should a Councillor or employee perceive a potential conflict of interest in dealing with a sponsor on Council's behalf, that potential conflict of interest is to be declared to the General Manager.

7 Non-Endorsement of Sponsor or Sponsor's Product or Service.

Sponsorship of Council activities will not involve explicit endorsement of the sponsor or the sponsor's product or service.

8 Inclusion in Council's Annual Report.

All sponsorship arrangements will be listed in Council's Annual Report. This listing will contain the name of the sponsor, the activity sponsored, the amount and the duration of the sponsorship.

9 Agreement to be in Writing.

A sponsorship agreement is a contract and as such shall be described in a written agreement. The agreement can take the form of an exchange of letters which clearly sets out:

- the benefits, including economic benefits, available to the Council and the sponsor,
- any personal benefits available to staff of the sponsor and their relatives,
- the form or forms of sponsorship acknowledgment which will be available,
- the term of the sponsorship and any conditions regarding renewal,
- consequences of changes which may occur over time (eg a shift in the relationship, new policies, etc)
- financial accountability requirements, and
- any special terms and conditions which are to apply.

10 Safekeeping of Sponsorship Agreement Document.

The original of the sponsorship agreement will be forwarded to the Information Services Section for filing in the Legal Documents Register. A photocopy of the agreement is to be kept on the appropriate file.

ITEM NO. 3**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 Tuesday 08 December 2009.

No:	Report Title	Page:
1	Cash and Investments Held at 31 October 2009	
2	Australian Citizenship Ceremonies	
3	Legal Services – Extension of Contract T15 – 2007	
4	Petition for Community Use of Williamstown Public School	
5	Petition for continuing council support for Tanilba Bay Foreshore and Public Pathway Project	

COUNCIL COMMITTEE MEETING – 08 DECEMBER 2009**RECOMMENDATION:**

	Councillor Ken Jordan Councillor John Nell	That the recommendation be adopted.
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ORDINARY COUNCIL - 08 DECEMBER 2009

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



INFORMATION ITEM NO. 1

CASH AND INVESTMENTS HELD AT 31 OCTOBER 2009

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

BACKGROUND

The purpose of this report is to present Council's schedule of Cash and Investments Held at 31 October 2009.

ATTACHMENTS

- 1) Cash and Investments Held at 31 October 2009.
- 2) Monthly Cash and Investments Balance November 2008 – October 2009
- 3) Monthly Australian Term Deposit Index November 2008 – October 2009

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009

ATTACHMENT 1

CASH & INVESTMENTS HELD AS AT 31 OCTOBER 2009										
INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value August	Market Value September	Market Value October	Current Mark to Market Exposure
GRANGE SECURITIES										
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	1,000,000.00	3.84%	4.78%	\$710,000.00	\$732,100.00	\$772,500.00	-\$227,500.00
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO		23-Jun-15	412,500.00	1.58%	5.74%	\$231,000.00	\$231,412.50	\$231,412.50	-\$181,087.50
HERALD LTD "QUARTZ AA"	Floating Rate CDO	B+	20-Dec-10	450,000.00	1.73%	4.78%	\$199,710.00	\$317,565.00	\$315,990.00	-\$134,010.00
STARTS CAYMAN LTD "BLUE GUM AA"	Floating Rate CDO	NR	22-Jun-13	1,000,000.00	3.84%	4.68%	\$16,000.00	\$10,500.00	\$0.00	-\$1,000,000.00
HELIUM CAPITAL LTD "ESPERANCE AA+"	Floating Rate CDO	NR	20-Mar-13	1,000,000.00	3.84%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
HOME BUILDING SOCIETY	Floating Rate Sub Debt		25-Jul-11	500,000.00	1.92%	4.11%	\$430,745.00	\$436,290.00	\$436,290.00	-\$63,710.00
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note	NR	18-Oct-11	500,000.00	1.92%	5.36%	\$503,100.00	\$536,550.00	\$535,900.00	\$35,900.00
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	NR	20-Mar-14	1,000,000.00	3.84%	4.28%	\$277,500.00	\$311,700.00	\$257,500.00	-\$742,500.00
GRANGE SECURITIES "COOLANGATTA AA"	Floating Rate CDO	NR	20-Sep-14	1,000,000.00	3.84%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
TOTAL GRANGE SECURITIES				\$6,862,500.00	26.37%		\$2,368,055.00	\$2,576,117.50	\$2,549,592.50	(\$4,312,907.50)
ABN AMRO MORGANS										
REMBRANDT ISOSCELES SERIES 1	Floating Rate CDO				0.00%		\$1,969,000.00			
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note		17-Sep-11	\$1,000,000.00	3.84%	0.00%	\$866,300.00	\$868,000.00	\$870,100.00	-\$129,900.00
TOTAL ABN AMRO MORGANS				\$1,000,000.00	3.84%		\$2,835,300.00	\$868,000.00	\$870,100.00	(\$129,900.00)
ANZ INVESTMENTS										
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA"	Floating Rate CDO	CCC-	6-Apr-10	\$500,000.00	1.92%	4.32%	\$345,000.00	\$423,650.00	\$417,350.00	-\$82,650.00
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000.00	3.84%	0.00%	\$503,000.00	\$691,000.00	\$682,300.00	-\$317,700.00
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876.98	3.91%	0.00%	\$594,867.66	\$608,690.43	\$599,163.11	-\$418,713.87
TOTAL ANZ INVESTMENTS				\$2,517,876.98	9.67%		\$1,442,867.66	\$1,723,340.43	\$1,698,813.11	(\$819,063.87)
RIM SECURITIES										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		29-Jul-13	\$2,000,000.00	7.68%	0.00%	\$969,998.00	\$1,000,000.00	\$1,000,000.00	-\$1,000,000.00
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		8-Oct-11	\$1,000,000.00	3.84%	3.94%	\$868,966.00	\$910,185.00	\$921,159.00	-\$78,841.00
TOTAL RIM SECURITIES				\$3,000,000.00	11.53%		\$1,838,964.00	\$1,910,185.00	\$1,921,159.00	(\$1,078,841.00)
WESTPAC INVESTMENT BANK										
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt		27-Apr-10	\$500,000.00	1.92%	4.26%	\$465,475.00	\$470,205.00	\$474,185.00	-\$25,815.00
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		20-Nov-11	\$500,000.00	1.92%	4.42%	\$433,925.00	\$476,735.00	\$477,600.00	-\$22,400.00
TOTAL WESTPAC INV. BANK				\$1,000,000.00	3.84%		\$899,400.00	\$946,940.00	\$951,785.00	(\$48,215.00)
CURVE SECURITIES										
MYSTATE FINANCIAL CREDIT UNION	Term Deposit		21-Dec-09	\$1,000,000.00	3.84%	4.60%		\$1,000,000.00	\$1,000,000.00	\$0.00
SAVINGS AND LOANS CREDIT UNION	Term Deposit				0.00%			\$2,000,000.00		\$0.00
TOTAL CURVE SECURITIES				\$1,000,000.00	3.84%		\$0.00	\$3,000,000.00	\$1,000,000.00	\$0.00

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009

ATTACHMENT 1

LONGREACH CAPITAL MARKETS										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	AA	7-Mar-12	\$500,000.00	1.92%	0.00%	\$419,470.00	\$425,980.00	\$422,220.00	-\$77,780.00
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note		7-Sep-12	\$500,000.00	1.92%	0.00%	\$402,200.00	\$409,800.00	\$408,250.00	-\$91,750.00
TOTAL LONGREACH CAPITAL				\$1,000,000.00	3.84%		\$821,670.00	\$835,780.00	\$830,470.00	(\$169,530.00)
COMMONWEALTH BANK										
EQUITY LINKED DEPOSIT	Equity Linked Note		20-Sep-11	\$500,000.00	1.92%	3.00%	\$478,750.00	\$480,050.00	\$478,650.00	-\$21,350.00
EQUITY LINKED DEPOSIT GH100	Equity Linked Note		03-Aug-10	\$500,000.00	1.92%	3.00%	\$500,100.00	\$505,350.00	\$506,200.00	\$6,200.00
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note		05-Nov-12	\$500,000.00	1.92%	3.00%	\$462,200.00	\$462,650.00	\$461,050.00	-\$38,950.00
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt		09-Nov-12	\$500,000.00	1.92%	4.52%	\$474,940.00	\$478,345.00	\$478,650.00	-\$21,350.00
BANK OF QUEENSLAND	Term Deposit		12-Aug-10	\$1,000,000.00	3.84%	4.80%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
BANK OF QUEENSLAND BOND	Bond		16-Mar-12	\$1,000,000.00	3.84%	5.35%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
TOTAL COMMONWEALTH BANK				\$4,000,000.00	15.37%		\$3,915,990.00	\$3,926,395.00	\$3,924,550.00	(\$75,450.00)
FIG SECURITIES										
CREDIT SUISSE PRINCIPAL PROTECTED NOTE AQUADUCT AA-	Principal Protected Note		21-Jun-10	\$1,000,000.00	3.84%	0.00%	\$956,300.00	\$960,100.00	\$961,100.00	-\$38,900.00
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note		30-Nov-14	\$500,000.00	1.92%	4.49%	\$494,765.00	\$422,600.00	\$423,050.00	-\$76,950.00
TOTAL FIG SECURITIES				\$1,500,000.00	5.76%		\$1,451,065.00	\$1,382,700.00	\$1,384,150.00	(\$115,850.00)
ALLIED IRISH BANKS										
AIB TERM DEPOSIT			18-Nov-09	1,000,000.00	3.84%	4.63%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
AIB TERM DEPOSIT					0.00%		1,000,000.00	1,000,000.00		\$0.00
AIB TERM DEPOSIT			26-Nov-09	1,000,000.00	3.84%	4.67%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
TOTAL ALLIED IRISH BANK				\$2,000,000.00	7.68%		\$3,000,000.00	\$3,000,000.00	\$2,000,000.00	\$0.00
MAITLAND MUTUAL										
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt		30-Jun-13	500,000.00	1.92%	4.88%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
MAITLAND MUTUAL TERM DEPOSIT	Term Deposit		23-Nov-09	568,076.60	2.18%	4.60%	568,076.60	568,076.60	568,076.60	\$0.00
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt		31-Dec-14	500,000.00	1.92%	4.88%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
TOTAL M'LAND MUTUAL				\$1,568,076.60	6.02%		\$1,568,076.60	\$1,568,076.60	\$1,568,076.60	\$0.00
TOTAL INVESTMENTS				\$25,448,453.58	97.77%		\$20,141,388.26	\$21,737,534.53	\$18,698,696.21	(\$6,749,757.37)
AVERAGE RATE OF RETURN ON INVESTMENTS						2.91%				
CASH AT BANK				\$579,126.20	2.23%	3.45%	\$4,298,414.79	\$4,801,314.09	\$579,126.20	\$0.00
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH						2.92%				
TOTAL CASH & INVESTMENTS				\$26,027,579.78	100.00%		\$24,439,803.05	\$26,538,848.62	\$19,277,822.41	(\$6,749,757.37)
BBSW FOR PREVIOUS 3 MONTHS						3.53%				

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

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

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

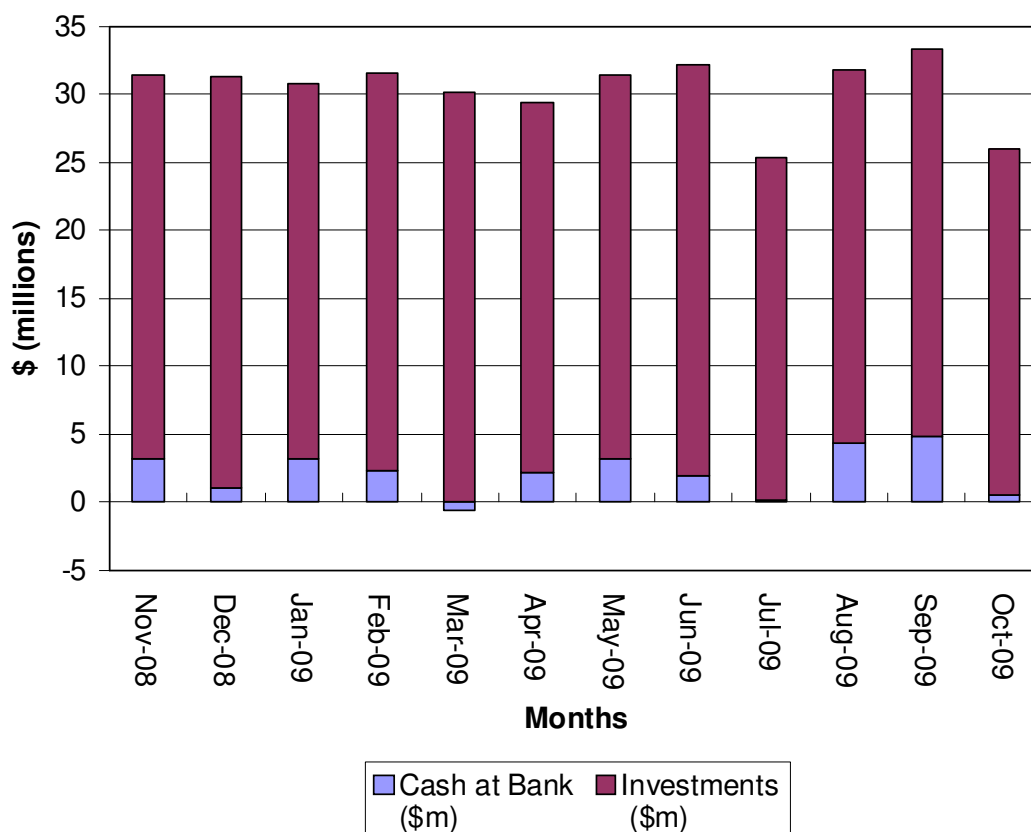
P GESLING

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Nov-08	3.234	28.179	31.412
Dec-08	1.031	30.179	31.210
Jan-09	3.147	27.683	30.830
Feb-09	2.364	29.187	31.551
Mar-09	0.531	30.187	29.656
Apr-09	2.234	27.187	29.421
May-09	3.160	28.193	31.353
Jun-09	1.947	30.193	32.140
Jul-09	0.127	25.193	25.320
Aug-09	4.298	27.448	31.747
Sep-09	4.801	28.448	33.250
Oct-09	0.579	25.448	26.028

Cash and Invested Funds for the Period ended 31/10/2009

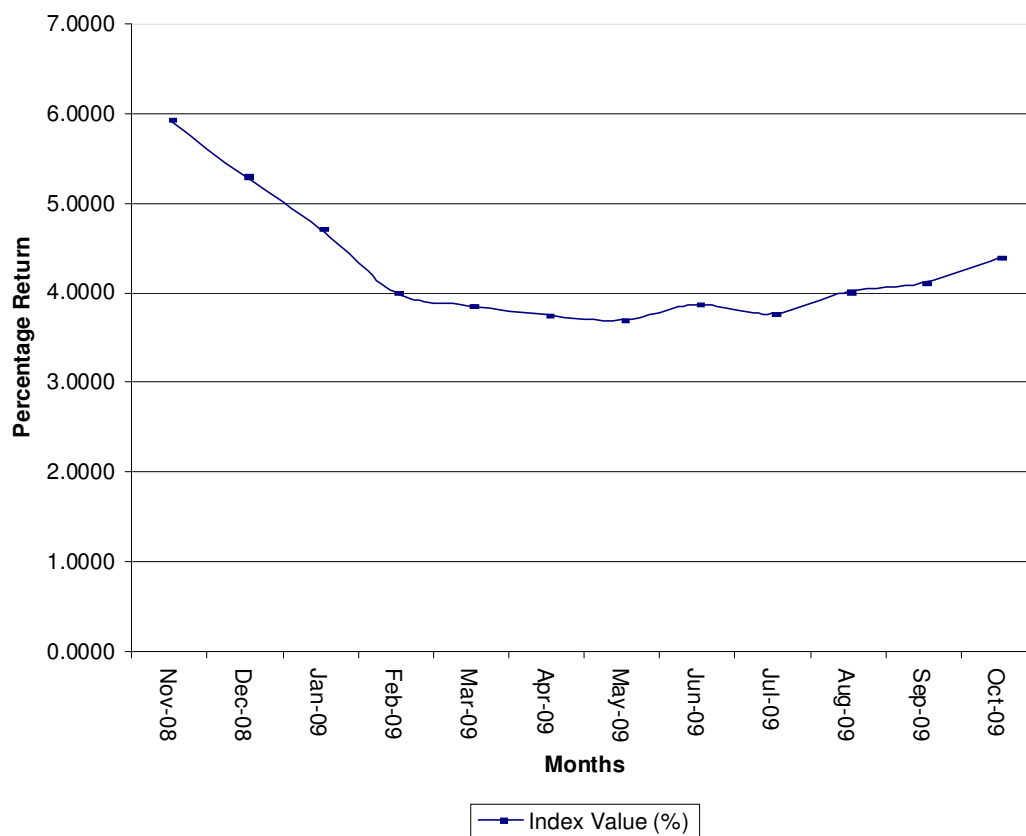


ATTACHMENT 2

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Nov-08	5.9328
Dec-08	5.2972
Jan-09	4.7113
Feb-09	4.0024
Mar-09	3.8542
Apr-09	3.7513
May-09	3.6960
Jun-09	3.8699
Jul-09	3.7701
Aug-09	4.0082
Sep-09	4.1080
Oct-09	4.3946

Australian Term Deposit Index as at 31/10/2009



INFORMATION ITEM NO. 2

AUSTRALIAN CITIZENSHIP CEREMONIES

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER'S OFFICE
FILE: A2004-0045

BACKGROUND

The purpose of this report is to advise Council of changes to the positions authorised to preside at Australian Citizenship ceremonies.

The Minister for Immigration and Citizenship, Senator Chris Evans has advised Council that the Schedule for positions authorised to preside at Australian Citizenship ceremonies has been reviewed and now includes the Deputy Mayor.

The Schedule for New South Wales includes the Lord Mayor of a City; Mayor of a City, municipality or town; Deputy Mayor of a City, municipality or town; Deputy Lord Mayor City of Sydney Council; General Manager of a council; Administrator of a council in cases where a council has been placed under Administration.

The Deputy Mayor will now be able to preside at Citizenship ceremonies in Port Stephens Local Government area in the absence of the Mayor. The new Authorisation from the Minister is effective from 12 October 2009.

ATTACHMENTS

Nil

INFORMATION ITEM NO. 3

LEGAL SERVICES – EXTENSION OF CONTRACT T15-2007

REPORT OF: WAYNE WALLIS – GROUP MANAGER
GROUP: CORPORATE SERVICES
FILE: PSC2007-3442

BACKGROUND

The purpose of this report is to inform Councillors that the option to extend the legal services contract T15-2007 has been taken up.

Councillors would be aware that the current contract with Harris Wheeler Lawyers commenced on 1 November 2007. The contract is for two years with a 12 month option to extend.

The extension of the contract is by mutual agreement between Harris Wheeler and Council and is based upon the original terms and conditions of contract. It commenced on 1 November 2009 and will enable Council to utilise the residual service hours owing and expend the remaining fees to be paid under the contract in a timely and cost effective manner. It is envisaged that the majority of these hours/fees will be expended during the current contract year (ending 31 October 2010) with any remaining residual being used soon thereafter.

The extension of the contract is in line with Goal 15 of the Council Plan 2009-2013 relating to risk management and continues the aim of Goal 24 of the Council Plan 2007-2011 (in place at the time this contract commenced) whereby a net reduction in legal costs of \$800,000 was to be achieved by June 2011. This net reduction has already been met and exceeded.

ATTACHMENTS

Nil

INFORMATION ITEM NO. 4

**PETITION FOR COMMUNITY USE OF WILLIAMTOWN PUBLIC SCHOOL
SITE**

REPORT OF: PETER GESLING – GENERAL MANAGER
GROUP: GENERAL MANAGERS OFFICE
FILE: A2004-0145

BACKGROUND

The purpose of this report is to advise Council of a petition with approximately 211 signatures has been received. The petition states:

Williamtown Public School was closed in December, 2008 after 139 years, by the Department of Education. The residents, former students, parents and staff of the school do not want it to be sold, to fall into disrepair or be demolished. We would hope that it can be saved and become a community asset eg TAFE College, Art/Craft Centre, Training Centre for RAAF/Airport or Special School.

We, the undersigned press the appropriate authorities to seriously consider the future use of the grounds and buildings formerly known as Williamtown Public School.

ATTACHMENTS

- 1) Petition without signatory pages

ATTACHMENT 1

PETITION

Williamstown Public School was closed in December, 2008. after 139 years, by the Department of Education. The residents, former students, parents and staff of the school do not want it to be sold, to fall into disrepair or be demolished. We would hope that it can be saved and become a community asset e.g. TAFE College, Art/Craft Centre, Training Centre for RAAF/Airport or Special School.

We, the undersigned press the appropriate authorities to seriously consider the future use of the grounds and buildings formerly known as Williamstown Public School.

NAME	ADDRESS	SIGNATURE
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INFORMATION ITEM NO. 5

**PETITION FOR CONTINUING COUNCIL SUPPORT FOR REHABILITATION
OF TANILBA BAY FORESHORE AND PUBLIC PATHWAY PROJECT**

REPORT OF: PETER GESLING - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE
FILE: PSC2005-3617

BACKGROUND

The purpose of this report is to advise Council of a petition with approximately 120 signatures has been received. The petition states:

Tanilba Bay foreshore is badly eroding away and in need of a definitive ongoing plan for a path and erosion control. Port Stephens Council has recognised the long term need for a path on Tanilba Bay foreshore.

We respectfully request that council continue to support this project.

ATTACHMENTS

- 1) Letter of submission
- 2) Petition without signatory pages

TABLE DOCUMENT

- 1) Various Maps & Brochure

ATTACHMENT 1

25/11/09

Mayor, Councillors

Find attached

1. 120+ signatures supporting our path and foreshore erosion work on Tanilba Bay foreshore.
2. Various maps
3. A leaflet on Tilligerry Tidy Towns long term goals etc handed out at Tilligerry Festival.
4. Copy of last community map showing possible path around Tilligerry routes.
5. Copy of distributed Tilligerry news
6. Photos of foreshore and working bee.

Tanilba Bay foreshore is badly eroded, littered with concrete and tyres and empty. Few walkers do the 1.4km length picking their way over tree roots and holes. The beach is not accessible by **bikes, wheelchairs, strollers**- most walkers walk on the road. Trekkers on our recent Walk for Tilligerry **Sunset to Marina** when asked to evaluate the route stated that the 10km were fine except for Tanilba shore that needed a path and Lilli Pilli steps that were slippery. Just for comparison the Lemon Tree Passage gravel path is mostly completed and is 4.5km long. There were many squabbles in the construction of that- but commonsense prevailed.

Tilligerry Tidy Towns and Tanilba Bay Parks Reserves and Hall 355B Committees have discussed the state of Tanilba Bay for years. Steve Tucker would have been present at some of these as a member until he was elected, very rarely (if ever) since.

Previous council employees like Brad Horan pointed out that erosion was being caused by people trying to **walk on the edge**-the bottom of the bank and top of the sand. Bryce Cameron thought a **2.4m wide concrete path** would solve foreshore access but apparently had no way of funding it in my life time. He also agreed with others that building it could damage the tree roots and accelerate erosion.

There is no easy solution to the erosion-Lake Macquarie espouses pebble beaches in a different situation (10cm tidal fluctuation v more than 1m here), Bryce passed us a very useful new book from Sydney CMA called Environmentally Friendly Sea Walls which gives some ideas we can use. Our trial pebble beach has been completed.

Eventually we agreed that the path, any path linking the seats and tables would protect the tree roots, reduce wear on the grass, give access, get people off the road and provide a line against which tidal rise could be measured. So the design (as shown) is road, grass, path, unmown area with low growing natives and then a sloping pebble beach for which we committed ourselves to gradually seek grants.

Most of the people opposing the gravel path have been told that they can get a better path this way- that **council will fund the 1.4km concrete path**- probably worth \$200 000 and unlikely to be done in small stages by volunteers. In my experience of 10 years on 355B committees PSC Recreation Services has spent very little above staff salaries on our parks - Council will **never** direct this amount of funding to Tilligerry. There have for example only been 2 new seats (and little else) put in in Tanilba Bay parks in 10 years- we paid for both out of 355B funding. Anything else we have done has been funded by **grants** which volunteers have spent hours applying for or by **scrounging** old seats and repairing and repainting them or old power poles for barriers. Bryce at one stage thought we might get some seats this year but then I was told there had been a budget blowout. **We were told it was gravel or nothing.** Gravel paths are across port Stephens and often raised with edges levelled on the foreshore.

We have done 2 working bees on the path. The third to make some small improvements requested by council (more pegs, soil to level edges, mulch for trees) was cancelled by Cr Tucker with no notice. Since then we have asked council to give us time and support to make the repairs but we are met by open hostility when we walk there. Not that this is new- these locals think they own the park. To give them some credit, some of these people have been led to believe that removing the gravel path will lead to a concrete path. This whole mix up is sad for park committee members but is sadder for Tilligerry Lions who do not have the background and only want to help the community.

If the path is removed we will be back to our beautiful boardwalks being harder to access for wheelchairs and prams. Back to exposed tree root trip hazards and holes on the foreshore. Left with empty foreshore parks and walkers on the road. Council staff has signed off on these funds that will need to be repaid. This is waste for a project that council has signed off according to numerous precedents in a consultation process followed in this case set up by councillors. Before Council votes for this along party lines I ask that councillors give us time to finish the project before they inspect the work done and the hazards in the form of lumps of concrete and tyres that exist now. Most of the people we spoke to expect this process will end up with them getting a path. It is hard to see how if this destruction is allowed.

MY LETTER SENT TO EXAMINER ON MON 23rd NOVEMBER

PEACE PARK PATH

The Peace Park path was approved by Council staff and given a grant – work being done by Tilligerry Tidy Towns & the Lions Club volunteers. Several staff actually said concrete could not be used because it would damage the tree roots that are holding the foreshore together.

MINUTES FOR ORDINARY MEETING – 08 DECEMBER 2009

The path was part of the plan to try to save our badly eroding foreshore. Tanilba beach is spoilt by old concrete lumps, bricks and tyres apparently from the locals that Steve wants to champion. Both local 355B committees have long discussed the littered, eroded bank and falling trees and sought grants to try to fix the foreshore in the era of pending climate change. It is not simple.

It was also planned to allow public access instead of everyone walking on the road. There are gravel paths all over Port Stephens on the narrowest beaches. After years some have recently been concreted.

A path is critical to the management of the foreshore. It will get people safely off the road, allow the grass to recover, get walkers off tree roots and retain SOME native vegetation between the path and the eroding foreshore. Without action, erosion will move towards the road and houses at a faster rate once the existing foreshore trees fall into the water. This model withstood severe storm and inundation in Lake Macquarie in June 07.

As regards communication, a dozen council and Dept of Lands staff have been consulted over the years. I personally door knocked most of the Peace and Foster Park foreshore or dropped newsletters to inform the residents about the pebble beach and the path.

It would be easy to give up on this but I am convinced like all other beaches in Port Stephens this beach needs and will have a path in the future.

One of our long term goals is a path around Tilligerry to develop ecotourism. How can we have a path around Tilligerry if we can't agree on Tanilba Bay?

We are presenting a petition in support of a path to council.

There will be a public meeting to discuss these issues at 10 am on Wed 2nd Dec at Tanilba Foreshore Hall.
Fran Corner

Some photos of real trip hazards

ATTACHMENT 2

BACKGROUND

Tanilba Bay foreshore is badly eroding away and in need of a definitive ongoing plan for a path and erosion control. Port Stephens Council has recognised the long term need for a path on Tanilba Bay foreshore.

We respectfully request that council continue to support this project.

CONFIDENTIAL ITEMS



In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

ORDINARY COUNCIL - 08 DECEMBER 2009

412	Councillor Daniel Maher Councillor Peter Kafer	It was resolved that Council move into Confidential Session.
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Item 3 was brought forward and dealt with first, followed by the Rescission Motion and Item 2.

CONFIDENTIAL

MAYORAL MINUTE

ITEM NO. 3

FILE NO: PSC2009-02408

LETTER OF OFFER – TECAN AND MERC PROJECTS

ORDINARY COUNCIL - 08 DECEMBER 2009

413	Councillor Bruce MacKenzie	It was resolved that there being no objection to decline the offer the Mayoral Minute was carried.
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CONFIDENTIAL

RECISSION MOTION

ITEM NO. 1

FILE NO: PSC2009-00384

UNAUTHORISED DEPOT: CABBAGE TREE ROAD, WILLIAMTOWN

ORDINARY COUNCIL - 08 DECEMBER 2009

414	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council rescind its decision of 10 November 2009 on Item 1 of the Confidential Ordinary Report, namely Unauthorised Depot: Cabbage Tree Road, Williamtown.
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415	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council defer enforcement action requiring the illegal use to cease and instead issue orders requiring the operator to undertake road works at the site access, or other works as required, to reduce the risk to road users to an acceptable level in accordance with road design standards as identified by Council's Traffic Engineer.
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MATTER ARISING:

416	Councillor Glenys Francis Councillor John Nell	It was resolved that the complainant be informed of Council's decision on this matter.
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At this point all staff left the meeting for Council to consider Item 2.

Councillor Frank Ward left the meeting at 8.14pm prior to Item 2 and returned at 8.16pm during Item 2.

CONFIDENTIAL

MAYORAL MINUTE

ITEM NO. 2

FILE NO: PERS GESLING

GENERAL MANAGER'S CONTRACT OF EMPLOYMENT

ORDINARY COUNCIL - 08 DECEMBER 2009

417	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council: 1. Offer's a four year contract to the General Manager under the terms of the proposed Standard Contract of Employment for General Manager's. 2. That Council delegates authority to the Mayor to finalise the total remuneration package of the contract.
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418	Councillor Steve Tucker Councillor Ken Jordan	It was resolved that Council move out of Confidential Session.
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There being no further business the meeting closed at 8.47pm.

I certify that pages 1 to 75 of the Open Ordinary Minutes of Council 08 December 2009 and the pages 76 to 102 of the Confidential Ordinary Minutes of Council 08 December 2009 were confirmed by Council at its meeting held on 15 December 2009.

.....
Cr Bruce MacKenzie
MAYOR