

## Minutes 2 MARCH 2010



Minutes of Extra Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 02 March 2010, commencing at 5.39pm.

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, Acting General Manager; Corporate Services Group Manager, Acting Facilities and Services Group Manager; Sustainable Planning Group Manager; Commercial Services Group Manager and Executive Officer.

052	<b>Councillor Ken Jordan</b> <b>Councillor Daniel Maher</b>	It was resolved that the apology from Cr Frank Ward be received and noted.
-----	--	--

# INDEX

SUBJECT

PAGE NO

**RESCISSION MOTIONS ..... 3**

1. DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 29 BOYD  
BOULEVARD, MEDOWIE..... 4

**COUNCIL REPORTS ..... 18**

1. DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 29 BOYD  
BOULEVARD, MEDOWIE..... 19

# RESCISSION MOTIONS

# **RECISSION MOTION**

**ITEM NO. 1****FILE NO: 16-2009-890**

## **DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 29 BOYD BOULEVARD, MEDOWIE**

**COUNCILLORS: JORDAN, FRANCIS, MAHER, TUCKER**  
-----

That Council rescind its decision of 16 February 2010 on Item 1 of the Extra-Ordinary Meeting Report, namely Development Application for Single Storey Dwelling at No. 29 Boyd Boulevard, Medowie in March 2010.

  
-----**ORDINARY MEETING – 02 MARCH 2010**

<b>053</b>	<b>Councillor Daniel Maher Councillor Peter Kafer</b>	It was resolved that Council move into Committee of the Whole.
------------	---	--

	<b>Councillor Ken Jordan Councillor Glenys Francis</b>	That the Rescission Motion be adopted.
--	--	--

Cr Peter Kafer left the meeting at 6.09pm prior to confidential session.

Cr Peter Kafer returned to the meeting at 6.13pm during the confidential session.

<b>054</b>	<b>Councillor Bruce MacKenzie Councillor Bob Westbury</b>	It was resolved that Council move into Confidential session.
------------	---	--

<b>055</b>	<b>Councillor Daniel Maher Councillor Peter Kafer</b>	It was resolved that Council move into Open Committee of the Whole.
------------	---	---

In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

**EXTRA-ORDINARY COUNCIL – 02 MARCH 2010**

Those for the Motion: Crs Glenys Francis, Ken Jordan, Daniel Maher and John Nell.

Those against the Motion: Crs Peter Kafer, Steve Tucker, Shirley O'Brien, Geoff Dingle, Bob Westbury, Sally Dover and Bruce Mackenzie.

The Motion on being put was lost.

<b>056</b>	<b>Councillor Bruce MacKenzie</b> <b>Councillor Peter Kafer</b>	It was resolved that Council move into Open Council.
------------	--	--

	<b>Councillor Glenys Francis</b> <b>Councillor Ken Jordan</b>	That Council rescind its decision of 16 February 2010 on Item 1 of the Extra-Ordinary Meeting Report, namely Development Application for Single Storey Dwelling at No. 29 Boyd Boulevard, Medowie in March 2010.
--	--	--

Cr Peter Kafer left the meeting at 7.02pm.

Cr Peter Kafer returned to the meeting at 7.03pm.

In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Glenys Francis, Ken Jordan, Daniel Maher and John Nell.

Those against the Motion: Crs Peter Kafer, Steve Tucker, Shirley O'Brien, Geoff Dingle, Bob Westbury, Sally Dover and Bruce Mackenzie.

The Motion on being put was lost.

**MATTER ARISING**

<b>057</b>	<b>Councillor Glenys Francis</b> <b>Councillor Steve Tucker</b>	It was resolved that the issues surrounding the JSF and the 2025 ANEF be discussed at the Williamstown Consultative Committee.
------------	--	--

**ITEM NO. 1****FILE NO: 16-2009-890-1****DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 29 BOYD BOULEVARD, MEDOWIE****REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING  
GROUP: SUSTAINABLE PLANNING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Delegate to the General Manager to seek to negotiate with the applicant for Development Application **16-2009-890-1** (29 Boyd Boulevard, Medowie) for agreement to formally incorporate adequate acoustic attenuation to provide internal noise levels consistent with Australian Standard 2021-2000, thereby enabling a formal application and determination to be given consent under delegated authority;
- 2) Note that, in the event of negotiations referred to above being unsuccessful, development consent refusal will be issued under delegated authority.

**EXTRA-ORDINARY COUNCIL MEETING – 16 FEBRUARY 2010**

<b>026</b>	<b>Councillor Bruce MacKenzie Councillor Peter Kafer</b>	It was resolved that Council move into Committee of the Whole.
	<b>Councillor Bruce MacKenzie Councillor John Nell</b>	<p>It is moved that Council support the development application for the single storey dwelling at 29 Boyd Boulevard, Medowie – that support being on the basis that noise attenuation be not required for the design and construction of the dwelling – and request the Group Manager Sustainable Planning to bring forward appropriate conditions should Council determine the application by way of consent, because</p> <p>1. It is noted that it is unfortunate that the applicant bought the block of land</p>

		<p>in early 2009 before the promulgation of the ANEF 2025.</p> <p>2. The 149 zoning Certificate issued by Council and presumably attached to the contract of sale documents addressed ANEF 2012 and the block was not mapped within the ANEF 20-25 noise exposure contour.</p> <p>3. Since purchase the owners engaged a builder and chose a design without being aware that the new ANEF 2025 was going to be promulgated on Monday 19<sup>th</sup> October 2009.</p>
--	--	--

## AMENDMENT

	<p><b>Councillor Glenys Francis</b> <b>Councillor Ken Jordan</b></p>	<p>1. That Council defer consideration of the development application at 29 Boyd Boulevard, Medowie pending legal advice on the implications on approval of the development application and advice on taking Class Action against the Commonwealth Government.</p> <p>2. Invite the Commonwealth Minister for Defence, Senator John Faulkner to a meeting with all Councillors, the General Manager and the Executive Team regarding the management of aircraft noise in Port Stephens – and should the Minister decline to attend such a discussion in Port Stephens, then a deputation be sought with the Minister comprising : The Mayor, Deputy Mayor, one Councillor from each of the three Wards, the General Manager and the Group Manager, Sustainable Planning.</p>
--	--	--

In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Amendment: Crs Glenys Francis, Ken Jordan, Steve Tucker and Shirley O'Brien.

Those against the Motion: Crs Peter Kafer, Daniel Maher, Geoff Dingle, John Nell Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

The Amendment on being put was lost.

<b>027</b>	<b>Councillor Bruce MacKenzie Councillor John Nell</b>	It was resolved that the meeting be adjourned to allow Councillors to consult with the Group Manager Sustainable Planning.
------------	--	--

The Meeting was adjourned at 6.04pm.

The meeting re-commenced at 6.06pm with all councillors present.

The Motion was put and carried.

In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Geoff Dingle, John Nell Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Crs Glenys Francis, Ken Jordan, Daniel Maher, Steve Tucker and Shirley O'Brien.

<b>028</b>	<b>Councillor Bruce MacKenzie Councillor Peter Kafer</b>	It was resolved that Council move into the Open Council meeting.
------------	--	--

## **MOTION**

	<b>Councillor Glenys Francis Councillor Ken Jordan</b>	<p>It was moved:</p> <p>1. That Council defer consideration of the development application at 29 Boyd Boulevard, Medowie pending legal advice on the implications on approval of the development application and advice on taking Class Action against the Commonwealth</p>
--	--	---



		<p>Government.</p> <p>2. Invite the Commonwealth Minister for Defence, Senator John Faulkner to a meeting with all Councillors, the General Manager and the Executive Team regarding the management of aircraft noise in Port Stephens – and should the Minister decline to attend such a discussion in Port Stephens, then a deputation be sought with the Minister comprising :</p> <p>The Mayor, Deputy Mayor, one Councillor from each of the three Wards, the General Manager and the Group Manager, Sustainable Planning.</p>
<b>AMENDMENT</b>		
<b>029</b>	<p><b>Councillor Bruce MacKenzie</b> <b>Councillor Geoff Dingle</b></p>	<p>It is resolved that Council support the development application for the single storey dwelling at 29 Boyd Boulevard, Medowie – that support being on the basis that noise attenuation be not required for the design and construction of the dwelling – and request the Group Manager Sustainable Planning to bring forward appropriate conditions should Council determine the application by way of consent, because</p> <p>1. It is also noted that it is unfortunate that the applicant bought the block of land in early 2009 before the promulgation of the ANEF 2025.</p> <p>2. The 149 zoning Certificate issued by Council and presumably attached to the contract of sale documents addressed ANEF 2012 and the block was not mapped within the ANEF 20-25 noise exposure contour.</p> <p>3. Since purchase the owners engaged a builder and chose a design without being aware that the new ANEF 2025 was going to be promulgated on Monday 19<sup>th</sup> October 2009.</p>
The Amendment on being put was carried became the Motion, which was put		

and carried.

In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Crs Glenys Francis, Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien and John Nell.

The Mayor exercised his casting vote.

### **MATTER ARISING**

<b>030</b>	<b>Councillor Glenys Francis Councillor Steve Tucker</b>	It was resolved that Council invite the Commonwealth Minister for Defence, Senator John Faulkner to a meeting with all Councillors, the General Manager and the Executive Team regarding the management of aircraft noise in Port Stephens – and should the Minister decline to attend such a discussion in Port Stephens, then a deputation be sought with the Minister comprising : The Mayor, Deputy Mayor, one Councillor from each of the three Wards, the General Manager and the Group Manager, Sustainable Planning.
------------	--	--

### **BACKGROUND**

**The purpose of this report is to present a development application significantly affected by noise pollution from Williamstown Air Force Base and Australian Noise Exposure Forecast (ANEF) 2025 noise exposure to Council for determination at the request of the Mayor.**

Consent is sought for the construction of a single storey brick veneer dwelling at LOT: 30 DP: 248738 29 Boyd Boulevard. The site has been identified as aircraft noise affected and it is mapped within the 20-25 contours of the Australian Noise Exposure Forecast (ANEF) 2025. The proposed dwelling is conditionally acceptable within the 20-25 contours ANEF 2025 provided the recommendations of an acoustic report prepared in accordance with Australian Standard 2021-2000, are incorporated into the dwelling building design to provide appropriate acoustic attenuation.

The applicant has provided an acceptable acoustic report from Reverb Acoustics dated December 2009 (report No. 09-1434-R1). However, the applicants have stated that they do not want the acoustic report recommendations included in the building design

specifications. They want the dwelling to be approved without the acoustic measures being implemented due to financial constraints.

The report received from Reverb Acoustics concludes that the dwelling can comply “providing the recommendations and procedures outlined in this report are followed, internal noise levels will be consistent with the intent of AS 2021-2000”.

In assessing this application it is noted that without an appropriate acoustic attenuation it contravenes Council's Development Control Plan B2.13 Aircraft Noise and Australian Standard 2021-2000. The dwelling, without appropriate acoustic attenuation, can not be approved following a merit assessment under 79C of the Environmental Planning and Assessment Act 1979.

It is also noted that it is unfortunate that the applicant bought the block of land in early 2009 before the promulgation of the ANEF 2025. The 149 zoning Certificate issued by Council and presumably attached to the contract of sale documents addressed ANEF 2012 and the block was not mapped within the ANEF 20-25 noise exposure contour. Since purchase the owners engaged a builder and chose a design without being aware that the new ANEF 2025 was going to be promulgated on Monday 19<sup>th</sup> October 2009.

Council must assess the application under 79c of the Environmental Assessment and Planning Act 1979 and consider Australian Noise Exposure Forecast 2025.

#### **FINANCIAL/RESOURCE IMPLICATIONS**

Nil

#### **LEGAL AND POLICY IMPLICATIONS**

Approval is sought for Council to approve the dwelling within the 20-25 contours of Australia Exposure Forecast without appropriate noise attenuation. This is inconsistent with Council's Development Control Plan 2007 B2.13 and AS 2021-2000.

Consent of the application above may represent a precedent which has the potential to be used in future Development Applications as reason for consent noting fairness, consistency and equity in the application of Council planning provisions. There are approximately 2090 properties that will be affected in 20-25 ANEF as noted in the Draft Public Environment Report by the Department of Defence dated October 2009.

#### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The social implications directly attributable to aircraft noise impacts and increased land-use conflict include reduced residential amenity and potential restriction of operation of the Williamstown Air-force Base and Newcastle Airport.

It is difficult to quantify the economic impacts of increased land-use conflict and/or changes to aircraft noise pollution due to encroaching development upon the Williamstown Air-force Base and Newcastle Airport. Cost may be significant on a local and

national scale.

Aircraft noise has the potentially adverse impact on residential amenity. To permit the erection of dwelling without appropriate acoustic attenuation may unreasonably restrict the lawful ongoing operation of the Williamstown Air Force Base and Airport.

## **CONSULTATION**

The application was not required to be exhibited as the application complied with Council's Local Environmental Plan 2000 and Development Control Plan 2007 – Section B6.

Council has liaised with the department of defence in relation to the promulgation of the ANEF 2025 and the forecast impacts of aircraft noise. The Department of Defence has expressed the view that dwellings such as proposed in this application must incorporate appropriate acoustic attenuation to ensure internal noise levels will be consistent with the intent of Australian Standard AS 2021-2000.

## **OPTIONS**

Council has three options to consider with the proposed development:

- 1) Refuse the application as recommended.
- 2) To indicate support for the Development Application and request the Group Manager, Sustainable Planning to bring back draft conditions to a forthcoming Council meeting in the event that Council determines by way of approval, with such support being based upon a recognition of the need for points of difference to be clear in relation to potential precedent.
- 3) Defer the application to allow the applicant to amend the proposal to include appropriate acoustic attenuation.

## **ATTACHMENTS**

- 1) Locality Plan
- 2) ANEF 20-25 map
- 3) Preliminary Assessment

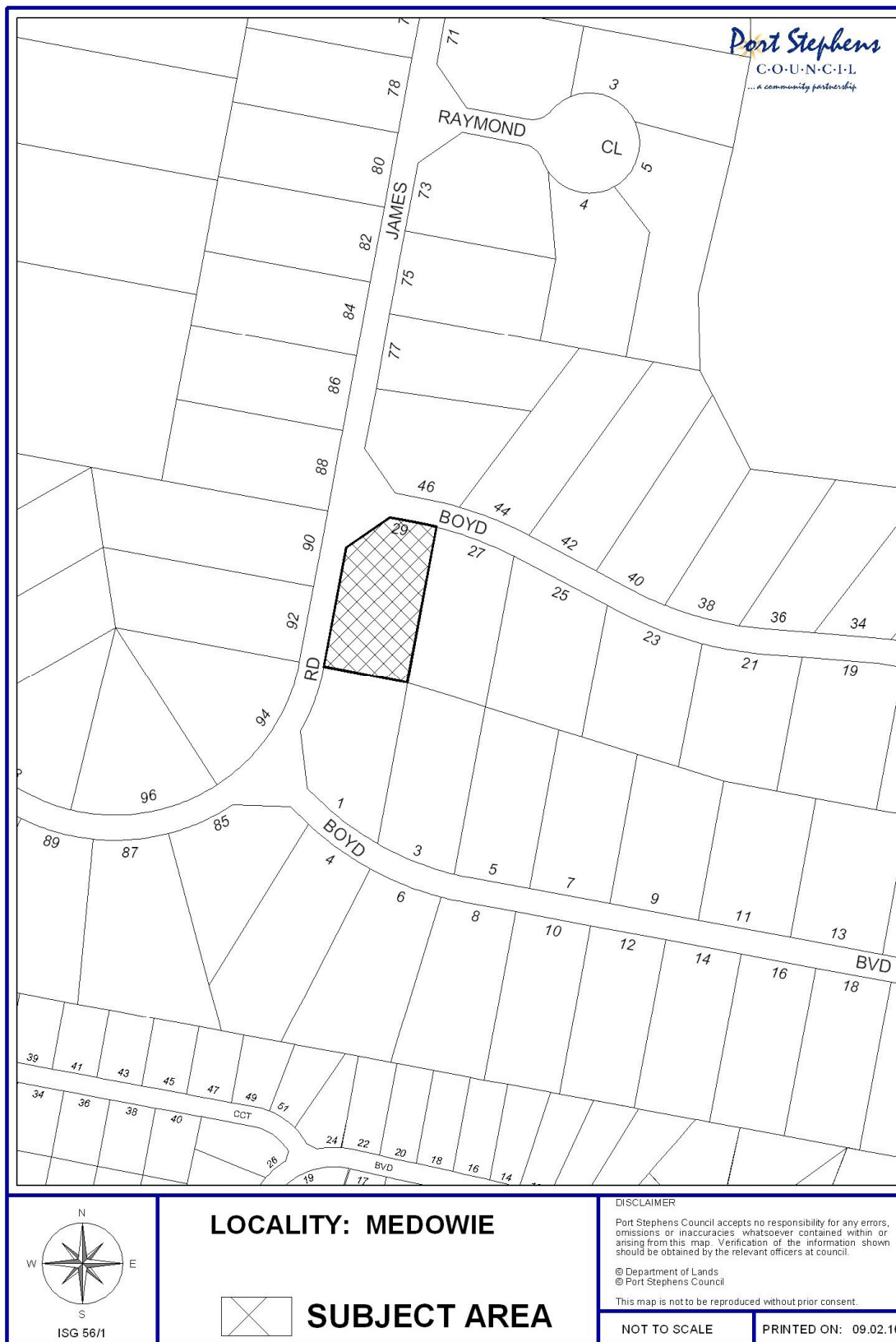
## **COUNCILLORS ROOM**

- 1) Development Plans and Elevations
- 2) Statement of Environmental Effects
- 3) Aircraft Noise Impact Statement prepared by Reverb Acoustics dated December 2009
- 4) Supplementary Information dated 2 & 3 February 2010

**TABLED DOCUMENTS**

Nil

## ATTACHMENT 1 LOCALITY PLAN





### ATTACHMENT 3

#### PRELIMINARY 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 for a single storey brick veneer dwelling.

#### THE APPLICATION

Owner	Mr M Strain & Ms R M Hann
Applicant	Acroplan Pty Ltd
Detail Submitted	Development Plans Statement of Environmental Effects Acoustic Report

#### THE LAND

Property Description	LOT 30 DP 248738
Address	29 Boyd Boulevard, Medowie
Area	8167.48m <sup>2</sup>
Dimensions	
Characteristics	The block is located on a corner and falls towards the northern boundary, mapped within 20-25 ANEF 2025 contours.

#### THE ASSESSMENT

##### 1. Planning Provisions

LEP 1987 – Zoning	1 (c3) Rural Small
Development Control Plan	B2.13 Aircraft Noise

ATTRIBUTE	PROPOSED	REQUIRED	COMPLIES
LEP Requirements			
Floor Space Ratio	277m <sup>2</sup>	4083m <sup>2</sup>	Yes
Height	4.609	9	Yes
DCP Requirements			
Number of Storeys	1	2	Yes
Building Line Setback	28.6m	12m	Yes
Side Setback	2m	13.5	Yes



Rear Setback	2m	40m	Yes
Privacy			
Resident Parking	2	2	Yes
Basix	Dwelling Valued at \$232 441.00	Yes	Yes

**Discussion**

The proposed dwelling is permissible on the site and generally complies with Council's Development Control Plan 2007 except Section B2.13 Aircraft Noise.

Council's policy states that Development Applications within 20-25 ANEF is conditionally acceptable provided an acoustic report is submitted and signed and endorsed by an acoustic engineer. The report must demonstrate that Australian Standard 2011-200 has been considered in the design of the building and any proposed attenuation measures must be incorporated into the design and conditions and consent.

The applicant has argued the following:-

- 1) Actual Location of the property in relation to the 20-25 ANEF contour.
- 2) Anticipated noise impact of JSF on the applicant's property, according to Draft PER.
- 3) Financial Constraints placed on the applicant based on Council's policy.
- 4) S149 Certificate received from Council pre ANEF 2025.

**2. Likely Impact of the Development**

The proposed development will not have an adverse impact on the neighbouring properties but will impact the occupants of the dwelling with regards to excessive noise.

**3. Suitability of the Site**

The proposed dwelling is suitable for the site provided an appropriate sound attenuation report is provided.

**4. Submissions**

The application wasn't required to be advertised under Port Stephens Development Control Plan 2007.

**5. Public Interest**

The proposal if approved by Council would have major ramifications on how Council would assess Development Application for dwelling and dwelling additions within the 20-25 ANEF contour. The policy states that all development applications for dwelling and dwelling additions are conditionally acceptable provided an acoustic report is submitted that is signed and endorsed by an acoustic engineer. This would set a precedent within the Port Stephens Shire and the policy would be very hard to police.

# COUNCIL REPORTS



ITEM NO. 1

FILE NO: 16-2009-890-1

**DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 29 BOYD BOULEVARD, MEDOWIE**

**REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING  
GROUP: SUSTAINABLE PLANNING**

**RECOMMENDATION IS THAT COUNCIL:**

Give consideration to the draft conditions prepared following Council Resolution No. 029 of the meeting of 16 February 2010.

**ORDINARY MEETING – 02 MARCH 2010**

<b>058</b>	<b>Councillor Daniel Maher Councillor Bob Westbury</b>	It was resolved that the matter be deferred to the next Ordinary Council meeting.
------------	--	---

In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**BACKGROUND**

**The purpose of this report is to provide draft Conditions of Consent for consideration by Council for a development application that Council has resolved to support. The application is for a single storey dwelling at premises significantly affected by noise pollution by noise pollution from Williamtown Air Force Base and Australian Noise Exposure Forecast (ANEF) 2025 noise exposure. Consideration of this report is subject to Council's determination of a related rescission motion.**

On 16 February 2010, Council considered the proposal for determination. At this meeting Council resolved (reference 029) :

*"That Council support the development application for the single storey dwelling at 29 Boyd Boulevard, Medowie – that support being on the basis that noise attenuation be*

*not required for the design and construction of the dwelling – and request the Group Manager Sustainable Planning to bring forward appropriate conditions should Council determine the application by way of consent, because*

- 1. It is also noted that it is unfortunate that the applicant bought the block of land in early 2009 before the promulgation of the ANEF 2025.*
- 2. The 149 zoning Certificate issued by Council and presumably attached to the contract of sale documents addressed ANEF 2012 and the block was not mapped within the ANEF 20-25 noise exposure contour.*
- 3. Since purchase the owners engaged a builder and chose a design without being aware that the new ANEF 2025 was going to be promulgated on Monday 19<sup>th</sup> October 2009.”*

In this regard, draft conditions are shown in Attachment 1.

Consent is sought for the construction of a single storey brick veneer dwelling at LOT: 30 DP: 248738 29 Boyd Boulevard. The site has been identified as aircraft noise affected and it is mapped within the 20-25 contours of the Australian Noise Exposure Forecast (ANEF) 2025. The proposed dwelling is conditionally acceptable within the 20-25 contours ANEF 2025 provided the recommendations of an acoustic report prepared in accordance with Australian Standard 2021-2000, are incorporated into the dwelling building design to provide appropriate acoustic attenuation.

The applicant has provided an acoustic report that confirms that the premises are exposed to significant noise pollution levels; however, the applicants do not want the acoustic report recommendations included in the building design specifications. They want the dwelling to be approved without the acoustic measures being implemented due to financial constraints.

The acoustic report concludes that the dwelling can comply “providing the recommendations and procedures outlined in this report are followed, internal noise levels will be consistent with the intent of AS 2021-2000”.

In assessing this application it is noted that without an appropriate acoustic attenuation it contravenes Council's Development Control Plan B2.13 Aircraft Noise and Australian Standard 2021-2000. Council must assess the application under 79c of the Environmental Assessment and Planning Act 1979 and consider Australian Noise Exposure Forecast 2025. Approval of the development application for the dwelling, without appropriate acoustic attenuation, can not be supported by Council's professional building and planning assessment officers following a merit assessment under 79C of the Environmental Planning and Assessment Act 1979.

It is noted that the applicant bought the block of land in early 2009 before the promulgation of the ANEF 2025. Since purchase the owners apparently engaged a builder and chose a house design without being aware that the new ANEF 2025 was going to be promulgated on Monday 19<sup>th</sup> October 2009.

For Council's reference, the report dated 16th February 2010, including the staff assessment of the proposal pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and supplementary information to the extra ordinary Council meeting dated 16 February 2010 is shown in Attachment 2.

The standard development assessment procedure that has been applied to date of implementation of ANEF 2025 has been (min # 430) (15/12/2009)

1. The ANEF 2025 maps are promulgated – in that they have been endorsed by the Deputy Chief of the Royal Australian Airforce (as per formal advice received on Monday 19 October 2009).

The Department of Defence has, to date, held the position that these ANEF 2025 maps supersede the ANEF 2012 maps.

2. The ANEF 2025 maps therefore are effectively matters for consideration under Section 79c of the Environmental Planning & Assessment Act and are the basis for relevant clauses to be included in Section 149 Certificates – subject of course to identified impacts of the noise contours contained in the ANEF 2025 maps for relevant properties.
3. Notwithstanding Points 1 and 2, the ANEF 2012 maps still represent Council policy under the Port Stephens DCP 2007 until such time as Council resolves to negate their policy effect. Therefore, the ANEF 2012 maps have continued applicability for advice, Section 79c assessment and Section 149 Certificate inclusion as has been recent practice.

It is hoped that that further clarification can be established and a joint position hopefully established with the Department of Defence regarding the implications and policy positions of the new aircraft noise mapping.

The ANEF 2025 maps are based upon assumed commencement of operation of the Joint Strike Fighter in 2017 and the establishment of full operation of the total number of Joint Strike Fighters to be based at Williamstown by 2025.

Clearly 79c assessment relates to applications for development that will sustain beyond 2017 and 2025; however there is at least an 8 year period from now during which the Hawk and Hornet aircraft will still operate and similar noise impacts will accrue as has been the case over recent years and has formed the basis of the ANEF 2012 mapping. Hence, Council needs to proceed on the basis, until Council policy changes, that the 2012 maps are also applicable.

This follows a calculated and sound approach with a view of Councils obligations under Section 79C of the Environmental Planning and Assessment Act 1979, the information at hand submitted to Council from the DOD and application of the Australian Standard AS2021-2000.

To again refer to legal advice on Councils ANEF policy conferred by Harris Wheeler "There may be however, potential consequences if clause 31A requires acoustic testing and compliance with table 3.3 (of AS2021-2000) and Council fails to impose such conditions on development approved; the council would then find itself in the same situation as in Booth" (*Moffats- Fishermans Village*).

### **FINANCIAL/RESOURCE IMPLICATIONS**

Reference is made to Attachment 2 - Council Report dated 9 February 2010 and supplementary information to the extra ordinary Council meeting dated 16 February 2010.

### **LEGAL AND POLICY IMPLICATIONS**

Reference is made to Attachment 2 - Council Report dated 9 February 2010 and supplementary information to the extra ordinary Council meeting dated 16 February 2010.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Reference is made to Attachment 2 - Council Report dated 9 February 2010 and supplementary information to the extra ordinary Council meeting dated 16 February 2010. .

### **CONSULTATION**

Reference is made to Attachment 2 - Council Report dated 9 February 2010 and supplementary information to the extra ordinary Council meeting dated 16 February 2010.

### **OPTIONS – SUBJECT TO THE DETERMINATION OF THE RELATED RESCISSION MOTION COUNCIL MAY:-**

- 1) Approve the development application, **16-2009-890-1** (29 Boyd Boulevard, Medowie), subject to conditions as listed in Attachment 1.
- 2) Delegate to the General Manager to seek to negotiate with the applicant for Development Application **16-2009-890-1** (29 Boyd Boulevard, Medowie) for agreement to formally incorporate adequate acoustic attenuation to provide internal noise levels consistent with Australian Standard 2021-2000, thereby enabling a formal application and determination to be given consent under delegated authority. (as per the recommendation of staff report as per attachment 2 Council Report dated 9 February 2010).
- 3) Amend the conditions (Attachment 1) to support a determination to approve.

**ATTACHMENTS**

- 1) Draft Conditions of Consent
- 2) Council Report 16 February 2010

**COUNCILLORS ROOM**

- 1) Plans and elevations/site plan.

**TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**  
**DRAFT CONDITIONS OF CONSENT**

1. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the roads act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted.
2. No construction or demolition work shall obstruct pedestrian or vehicular traffic in a public place, a hoarding or fence must be erected between the construction site and the public place.
3. Approved toilet accommodation for all tradespersons on the building site is to be provided from the time work commences until the building is complete. The toilet shall not be placed on the road reserve, without separate approval from council.
4. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. **Council may issue 'on the spot' fines for pollution/littering offences under the protection of the environment operations act 1997.**
5. Tree clearing shall be carried out in accordance with council's tree preservation order. The development consent and construction certificate must be issued before it is possible to remove any trees within 3m of any approved building, as measured horizontally from the building wall to the outside trunk of the tree. Tree clearing for the vehicle driveway or any other purpose requires separate approval under the tree preservation order. A copy of the **tree preservation order is attached.**
6. Retaining walls, not clearly noted on the approved plans or outside the parameters set in council's exempt and complying development criteria, are to be subject to a separate development application.

Such application shall be lodged and approved prior to any works relating to the retaining wall taking place

7. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the protection of the environment operations act 1997.

**Note:** erosion and sediment control measures prepared in accordance with the erosion and sediment control regional policy and code of practice or managing urban stormwater – soils and construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.



8. A "keep Port Stephens waterways pollution free" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
9. Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
10. All stockpiled materials shall be retained within the property boundaries. Stockpiles of topsoil, sand, aggregate, spoil or other materials shall be stored clear of the all weather vehicle access and drainage lines.
11. The development shall take place in accordance with the stated values of the energy efficiency scorecard or nathers assessment and/or the basix certificate submitted with the application. **Prior to the issue of any occupation certificate** an appropriately qualified person shall certify compliance with these requirements, as applicable.
12. The principal certifying authority shall only issue an occupation certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of consent. No occupational use is permitted until the principal certifying authority issues an occupation certificate. Note: if an accredited certifier approves occupation of a dwelling the accredited certifier is to immediately notify council in writing.
13. The development shall be carried out in accordance with the building sustainability index (basix) certificate number 254326S. Where minor changes to the development occur (eg. Colours and the like) these changes shall be referred to council **prior to the changes being made.**

Where approved, a copy of the amended/new basix certificate shall be submitted to council within fourteen (14) days and will be considered sufficient to satisfy this condition.

14. **Prior to occupying the approved dwelling(s)**, contact council's mapping section on 49800304 to obtain the correct house numbering. Be advised that any referencing on development application plans to house or lot numbering operates to provide identification for assessment purposes only.
15. **Prior to commencement of any works** within the road reserve for the provision of a driveway crossing, the applicant or their nominated contractor shall make application to council and receive approval for the construction of the driveway.

Application shall be made on council's driveway construction application form, **a copy of which is attached** to this consent for your convenience. For further information on this condition please contact council's facilities and services group.

The construction of the footpath crossing must be completed **prior to issue of final occupation certificate.**

16. Collected stormwater runoff shall be piped to an infiltration trench located in the landscaped area(s), in accordance with **Council's Standard Drawing S 136** (without overflow pipe).

**ATTACHMENT 2  
COUNCIL REPORT AND SUPPLEMENTARY INFORMATION  
DATED 16 FEBRUARY 2010.**

**ITEM NO. 1**

**FILE NO: 16-2009-890-1**

**DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO.  
29 BOYD BOULEVARD, MEDOWIE**

**REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING  
GROUP: SUSTAINABLE PLANNING**

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Delegate to the General Manager to seek to negotiate with the applicant for Development Application **16-2009-890-1** (29 Boyd Boulevard, Medowie) for agreement to formally incorporate adequate acoustic attenuation to provide internal noise levels consistent with Australian Standard 2021-2000, thereby enabling a formal application and determination to be given consent under delegated authority;
  - 2) Note that, in the event of negotiations referred to above being unsuccessful, development consent refusal will be issued under delegated authority.
- 

**BACKGROUND**

**The purpose of this report is to present a development application significantly affected by noise pollution from Williamstown Air Force Base and Australian Noise Exposure Forecast (ANEF) 2025 noise exposure to Council for determination at the request of the Mayor.**

Consent is sought for the construction of a single storey brick veneer dwelling at LOT: 30 DP: 248738 29 Boyd Boulevard. The site has been identified as aircraft noise affected and it is mapped within the 20-25 contours of the Australian Noise Exposure Forecast (ANEF) 2025. The proposed dwelling is conditionally acceptable within the 20-25 contours ANEF 2025 provided the recommendations of an acoustic report prepared in accordance with Australian Standard 2021-2000, are incorporated into the dwelling building design to provide appropriate acoustic attenuation.

The applicant has provided an acceptable acoustic report from Reverb Acoustics dated December 2009 (report No. 09-1434-R1). However, the applicants have stated that they do not want the acoustic report recommendations included in the building

design specifications. They want the dwelling to be approved without the acoustic measures being implemented due to financial constraints.

The report received from Reverb Acoustics concludes that the dwelling can comply "providing the recommendations and procedures outlined in this report are followed, internal noise levels will be consistent with the intent of AS 2021-2000".

In assessing this application it is noted that without an appropriate acoustic attenuation it contravenes Council's Development Control Plan B2.13 Aircraft Noise and Australian Standard 2021-2000. The dwelling, without appropriate acoustic attenuation, can not be approved following a merit assessment under 79C of the Environmental Planning and Assessment Act 1979.

It is also noted that it is unfortunate that the applicant bought the block of land in early 2009 before the promulgation of the ANEF 2025. The 149 zoning Certificate issued by Council and presumably attached to the contract of sale documents addressed ANEF 2012 and the block was not mapped within the ANEF 20-25 noise exposure contour. Since purchase the owners engaged a builder and chose a design without being aware that the new ANEF 2025 was going to be promulgated on Monday 19<sup>th</sup> October 2009.

Council must assess the application under 79c of the Environmental Assessment and Planning Act 1979 and consider Australian Noise Exposure Forecast 2025.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Nil

### **LEGAL AND POLICY IMPLICATIONS**

Approval is sought for Council to approve the dwelling within the 20-25 contours of Australia Exposure Forecast without appropriate noise attenuation. This is inconsistent with Council's Development Control Plan 2007 B2.13 and AS 2021-2000.

Consent of the application above may represent a precedent which has the potential to be used in future Development Applications as reason for consent noting fairness, consistency and equity in the application of Council planning provisions. There are approximately 2090 properties that will be affected in 20-25 ANEF as noted in the Draft Public Environment Report by the Department of Defence dated October 2009.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The social implications directly attributable to aircraft noise impacts and increased land-use conflict include reduced residential amenity and potential restriction of operation of the Williamstown Air-force Base and Newcastle Airport.

It is difficult to quantify the economic impacts of increased land-use conflict and/or changes to aircraft noise pollution due to encroaching development upon the Williamstown Air-force Base and Newcastle Airport. Cost may be significant on a local and national scale.

Aircraft noise has the potentially adverse impact on residential amenity. To permit the erection of dwelling without appropriate acoustic attenuation may unreasonably restrict the lawful ongoing operation of the Williamstown Air Force Base and Airport.

## **CONSULTATION**

The application was not required to be exhibited as the application complied with Council's Local Environmental Plan 2000 and Development Control Plan 2007 – Section B6.

Council has liaised with the department of defence in relation to the promulgation of the ANEF 2025 and the forecast impacts of aircraft noise. The Department of Defence has expressed the view that dwellings such as proposed in this application must incorporate appropriate acoustic attenuation to ensure internal noise levels will be consistent with the intent of Australian Standard AS 2021-2000.

## **OPTIONS**

Council has three options to consider with the proposed development:

- 1) Refuse the application as recommended.
- 2) To indicate support for the Development Application and request the Group Manager, Sustainable Planning to bring back draft conditions to a forthcoming Council meeting in the event that Council determines by way of approval, with such support being based upon a recognition of the need for points of difference to be clear in relation to potential precedent.
- 3) Defer the application to allow the applicant to amend the proposal to include appropriate acoustic attenuation.

## **ATTACHMENTS**

- 1) Locality Plan
- 2) ANEF 20-25 map
- 3) Preliminary Assessment

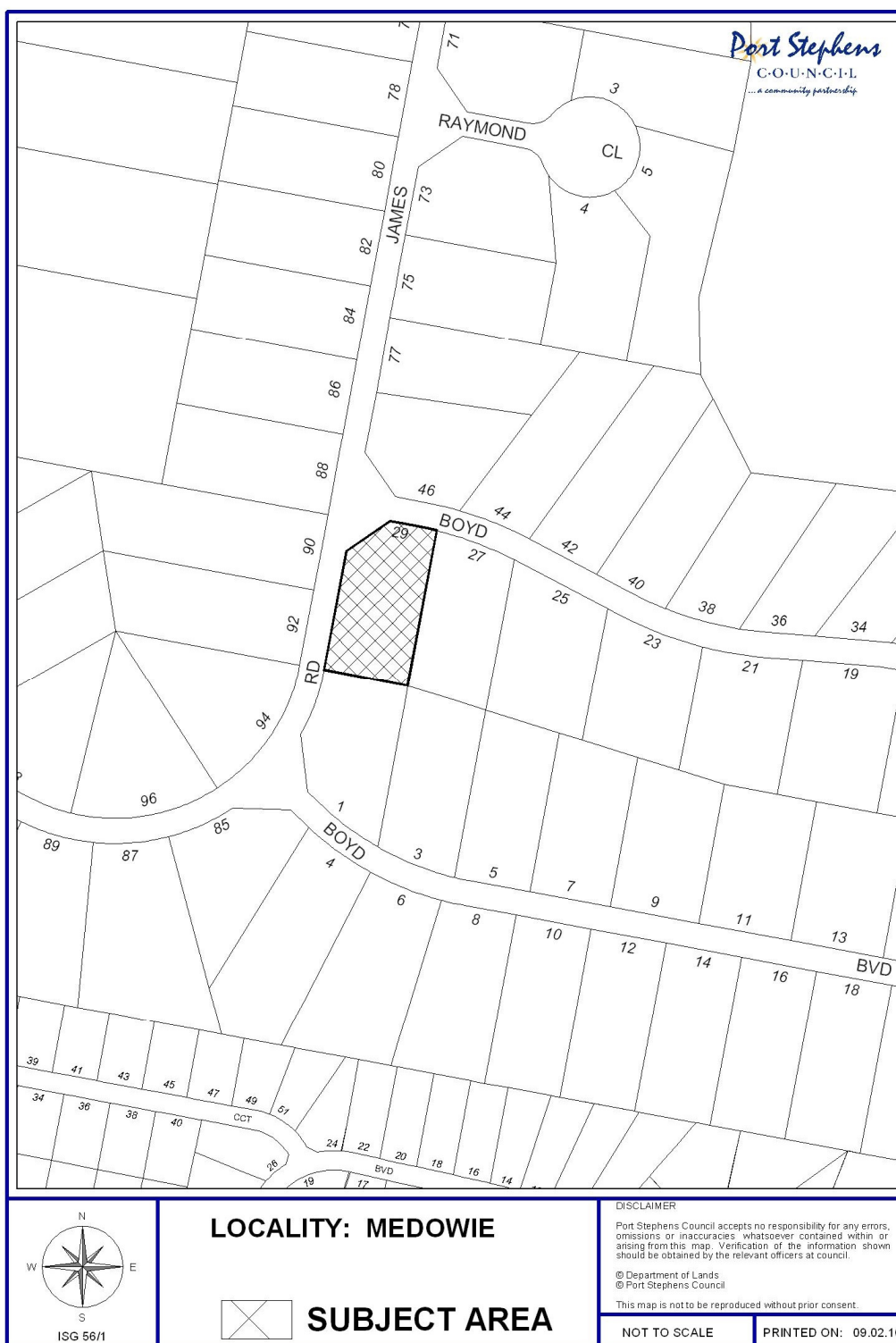
**COUNCILLORS ROOM**

- 1) Development Plans and Elevations
- 2) Statement of Environmental Effects
- 3) Aircraft Noise Impact Statement prepared by Reverb Acoustics dated December 2009
- 4) Supplementary Information dated 2 & 3 February 2010

**TABLED DOCUMENTS**

Nil

## ATTACHMENT 1 LOCALITY PLAN



**ATTACHMENT 2**  
**ANEF 20-25 MAP IN RELATION TO THE LOCALITY PLAN**





**ATTACHMENT 3**  
**PRELIMINARY 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 for a single storey brick veneer dwelling.

**THE APPLICATION**

Owner	Mr M Strain & Ms R M Hann
Applicant	Acroplan Pty Ltd
Detail Submitted	Development Plans Statement of Environmental Effects Acoustic Report

**THE LAND**

Property Description	LOT 30 DP 248738
Address	29 Boyd Boulevard, Medowie
Area	8167.48m <sup>2</sup>
Dimensions	
Characteristics	The block is located on a corner and falls towards the northern boundary, mapped within 20-25 ANEF 2025 contours.

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

LEP 1987 – Zoning	1 (c3) Rural Small
Development Control Plan	B2.13 Aircraft Noise

ATTRIBUTE	PROPOSED	REQUIRED	COMPLIES
LEP Requirements			
Floor Space Ratio	277m <sup>2</sup>	4083m <sup>2</sup>	Yes
Height	4.609	9	Yes
DCP Requirements			
Number of Storeys	1	2	Yes
Building Line Setback	28.6m	12m	Yes

**MINUTES FOR EXTRA-ORDINARY MEETING – 2 MARCH 2010**

Side Setback	2m	13.5	Yes
Rear Setback	2m	40m	Yes
Privacy			
Resident Parking	2	2	Yes
Basix	Dwelling Valued at \$232 441.00	Yes	Yes

**Discussion**

The proposed dwelling is permissible on the site and generally complies with Council's Development Control Plan 2007 except Section B2.13 Aircraft Noise.

Council's policy states that Development Applications within 20-25 ANEF is conditionally acceptable provided an acoustic report is submitted and signed and endorsed by an acoustic engineer. The report must demonstrate that Australian Standard 2011-200 has been considered in the design of the building and any proposed attenuation measures must be incorporated into the design and conditions and consent.

The applicant has argued the following:-

- 1) Actual Location of the property in relation to the 20-25 ANEF contour.
- 2) Anticipated noise impact of JSF on the applicant's property, according to Draft PER.
- 3) Financial Constraints placed on the applicant based on Council's policy.
- 4) S149 Certificate received from Council pre ANEF 2025.

**2. Likely Impact of the Development**

The proposed development will not have an adverse impact on the neighbouring properties but will impact the occupants of the dwelling with regards to excessive noise.

**3. Suitability of the Site**

The proposed dwelling is suitable for the site provided an appropriate sound attenuation report is provided.

**4. Submissions**

The application wasn't required to be advertised under Port Stephens Development Control Plan 2007.

**5. Public Interest**

The proposal if approved by Council would have major ramifications on how Council would assess Development Application for dwelling and dwelling additions within the 20-25 ANEF contour. The policy states that all development applications for dwelling

and dwelling additions are conditionally acceptable provided an acoustic report is submitted that is signed and endorsed by an acoustic engineer. This would set a precedent within the Port Stephens Shire and the policy would be very hard to police.

## SUPPLEMENTARY INFORMATION

### EXTRA ORDINARY COUNCIL MEETING TUESDAY 16 FEBRUARY 2010



## INDEX

Item No	Report Title	Page No
1	DA for Single Storey Dwelling at 29 Boyd Boulevard, Medowie	3
2.		
3.		
4.		
5.		
6.		
7.		
8.		

**\*PLEASE NOTE THAT SUPPLEMENTARY INFORMATION WHICH IS HIGHLIGHTED HAS NOT YET BEEN VIEWED BY COUNCILLORS**

## Supplementary Information



TO: All Councillors & Executive Team

FROM: David Broyd  
Group Manager, Sustainable Planning

DATE: 15 February 2010

RE: Supplementary information for Extraordinary Council Meeting 16  
February 2010

FILE No: 16-2009-890-1

ITEM No: 1

REPORT TITLE: DA for Single Storey Dwelling at 29 Boyd Boulevard, Medowie

-----

### PURPOSE

The purpose of this supplementary information is to provide advice to Council about wider strategic and legal issues relevant to decision making on this individual development application.

### BACKGROUND

Council is advised that:

1. The Department of Defence has now agreed to provide a composite map to cover noise impacts of the Hawk, Hornet and Joint Strike Fighter. This is in response to issues raised strongly by Council that the impacts of the Hawk and Hornet need to be formally recognised in this way with the impacts phased out in conjunction with the phasing out of the Hornet and transfer to full operation of the joint Strike Fighter – as programmed to take place between 2018 and 2025.

2. As a consequence of this, the Group Manager, Sustainable Planning has directed that letters be circularised to 3,300 property owners who are affected by aircraft noise to varying extents in the LGA.
3. The Group Manager, Sustainable Planning is aiming, through further consultation with the Department of Defence, to recommend draft amendments to Council's Development Control Plan in April.

## **1. Draft Public Environmental Report**

The Department of Defence Public Environment Report Cl. 6.9.2.3 '*Implications for land use development*' identifies the requirement of more homes requiring attenuation as per AS2021-2000 and certain land uses not being appropriate under the newly promulgated ANEF 2025 contour. It further states that PSC will be required to use the maps to ensure appropriate development and attenuation as required is implemented.

The implementation of the attenuation measures are subject to:-

- ANEF maps (issued by DOD) and
- the Australian Standard 2021-2000 'Acoustics- Aircraft Noise Intrusion'.

Council is exercising its functions under the relevant legislative framework in the interests of the homeowner (and subsequent owners of the property) the Department of Defence/ NAL and the community.

Parts of the LGA has been affected by aircraft noise pollution since the establishment of the RAAF Base circa 1945. The noise pollution emitted by the RAAF will increase with the introduction of the Joint Strike Fighter from 2017. PSC, as the development consent authority, will need to adapt policies based upon the ANEF 2025 and the Australian Standard by amending the Port Stephens Development Control Plan.

The changes came about due to amended ANEF maps promulgated by the DOD early October 2009. The actual location of the 20-25 ANEF contour is captured within note 1 of table 2.1 of AS2021 which states "*The actual location of the 20 ANEF contour is difficult to define accurately, mainly because of the variation of flight paths. Because of this, the procedure of clause 2.3.2 (conditionally acceptable-approval with attenuation) may be followed for buildings outside but near to the 20 ANEF contour*".

## **2. Council Resolutions and Directions from the Group Manager, Sustainable Planning**

Note: Council Resolution of 15 December 2009 is Attachment 1.

The standard procedure that has been applied to date of implementation of ANEF 2025 has been (min # 430) (15/12/2009)

1. The ANEF 2025 maps are promulgated – in that they have been endorsed by the Deputy Chief of the Royal Australian Airforce (as per formal advice received on Monday 19 October 2009).

The Department of Defence has, to date, held the position that these ANEF 2025 maps supersede the ANEF 2012 maps.

2. The ANEF 2025 maps therefore are effectively matters for consideration under Section 79c of the Environmental Planning & Assessment Act and are the basis for relevant clauses to be included in Section 149 Certificates – subject of course to identified impacts of the noise contours contained in the ANEF 2025 maps for relevant properties.
3. Notwithstanding Points 1 and 2, the ANEF 2012 maps still represent Council policy under the Port Stephens DCP 2007 until such time as Council resolves to negate their policy effect. Therefore, the ANEF 2012 maps have continued applicability for advice, Section 79c assessment and Section 149 Certificate inclusion as has been recent practice.

It is hoped that that further clarification can be established and a joint position hopefully established with the Department of Defence regarding the implications and policy positions of the new aircraft noise mapping.

The ANEF 2025 maps are based upon assumed commencement of operation of the Joint Strike Fighter in 2017 and the establishment of full operation of the total number of Joint Strike Fighters to be based at Williamstown by 2025.

Clearly 79c assessment relates to applications for development that will sustain beyond 2017 and 2025; however there is at least an 8 year period from now during which the Hawk and Hornet aircraft will still operate and similar noise impacts will accrue as has been the case over recent years and has formed the basis of the ANEF 2012 mapping. Hence, Council needs to proceed on the basis, until Council policy changes, that the 2012 maps are also applicable.

This follows a calculated and sound approach with a view of Councils obligations under Section 79C of the Environmental Planning and Assessment Act 1979, the information at hand submitted to Council from the DOD and application of the Australian Standard AS2021-2000.

To again refer to legal advice on Councils ANEF policy conferred by Harris Wheeler "There may be however, potential consequences if clause 31A requires acoustic testing and compliance with table 3.3 (of AS2021-2000) and Council fails to impose such conditions on development approved; the council would then find itself in the same situation as in *Booth*" (*Moffats- Fishermans Village*).

### **3. Recent and Current Development Applications**

Recent and current development applications (Attachments 2) is a record of recent and current Development Applications relevant to the implementation of aircraft noise policy following the promulgation of the ANEF 2025 maps.

### **4. Further Advice from Department of Defence**

Advice from Manager, Land Planning & Spatial Information, John Kerwan from Department of Defence received on 15 February 2010 is provided below.

*The subject land at 29 Boyd Blvd, Medowie is approximately 2.7 km to the west from the target area at Salt Ash Air Weapons Range (SAWR).*

*\* The F-35 Joint Strike Fighter and Hawk aircraft will not directly overfly the site at low altitudes.*

*\* The forecast is for 13,116 aircraft movements passing at various altitudes over the SAWR per year.*

*\* There are forecasted, on average, to be 115 flying days a year at SAWR. (The F-35 Joint Strike Fighter is planned to operate up to 52 days a year and the Hawk is planned to operate up to 115 days a year.).*

*\* On an average flying day, there are forecasted to be more than 10 aircraft noise events over 80 dB(A) at the site per average flying day.*

*\* We're not aware of the details as to how the 8.7 hours per year was calculated. On an average flying day where SAWR is utilised, it is possible that there could be 4 "sorties" (or missions if you like) of up to 4 aircraft at a time (2, 3, or 4-aircraft formations), lasting no more than one hour (usually ~45mins) and comprising on average approximately 30 noise events affecting the subject land.*

### **RECOMMENDATION**

That Council:

1. Invite the Commonwealth Minister for Defence, Senator John Faulkner to a meeting with all Councillors, the General Manager and the Executive Team regarding the management of aircraft noise in Port Stephens – and should the Minister decline to attend such a discussion in Port Stephens, then a deputation be sought with the Minister comprising :  
The Mayor, Deputy Mayor, one Councillor from each of the three Wards, the General Manager and the Group Manager, Sustainable Planning.



## **MINUTES FOR EXTRA-ORDINARY MEETING – 2 MARCH 2010**

2. To note the advice from the Department of Defence (15 February 2010) in relation to the Development Application for 29 Boyd Boulevard, Medowie.

### **ATTACHMENTS**

- 1) Council Resolution of 15 December 2009
- 2) Recent and Current Development Applications.

**ATTACHMENT 1  
COUNCIL RESOLUTION OF 15 DECEMBER 2009**

**MINUTES ORDINARY COUNCIL – 15 DECEMBER 2009**

**ITEM NO. 4**

**FILE NO: PSC2006-0038**

**PROPOSED AMENDMENT TO PORT STEPHENS DEVELOPMENT  
CONTROL PLAN 2007 IN RESPECT OF ANEF 2025**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the continued implementation of the direction of the Group Manager, Sustainable Planning that the ANEF 2012 and ANEF 2025 noise contour maps will, in combination, be used to assess development applications under Section 79(c) of the Environmental Planning & Assessment Act as amended 1979;
- 2) Note Council's submission in response to the draft Public Environment Report (**Attachment 5**), and
- 3) Continue, through the General Manager, to make representations to the Commonwealth Department of Defence to review the current situation of the ANEF 2025 maps and the continued noise impacts of the Hawk and Hornet aircraft and provide a composite ANEF noise contour map as requested in the response to the draft Public Environment Report.

**COUNCIL COMMITTEE MEETING – 15 DECEMBER 2009  
RECOMMENDATION:**

	<b>Councillor Bob Westbury Councillor Shirley O'Brien</b>	<p>That Council:</p> <ol style="list-style-type: none"><li>1) Note the continued implementation of the direction of the Group Manager, Sustainable Planning that the ANEF 2012 and ANEF 2025 noise contour maps will, in combination, be used to assess development applications under Section 79(c) of the Environmental Planning &amp; Assessment Act as amended 1979;</li><li>2) Note Council's submission in response to the draft Public Environment Report (<b>Attachment 5</b>), and</li><li>3) Continue, through the General Manager, to make representations to the Commonwealth Department of Defence to review the current situation of the ANEF 2025 maps and the continued noise impacts of the Hawk and Hornet aircraft and provide a</li></ol>
--	---	---

## MINUTES FOR EXTRA-ORDINARY MEETING – 2 MARCH 2010

### MINUTES ORDINARY COUNCIL – 15 DECEMBER 2009

		<p>composite ANEF noise contour map as requested in the response to the draft Public Environment Report.</p> <p>4) Write to the Department of Defence with copies to the Minister and Shadow Minister for Defence requesting compensation for residents and property owners previously unaffected by aircraft noise under ANEF 2012 but now inside the 2025 ANEF 20-25 noise effected zone to cover the costs of existing or new home attenuation.</p> <p>5) Prepare standardised measures for noise attenuation for dwelling affected by aircraft noise.</p> <p>6) Request a policy report to enable exceptions to noise attenuation requirements for property owners who have current development application that are now impacted by the ANEF 2025.</p>
--	--	---

In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Steve Tucker

#### MATTER ARISING:

	<p><b>Councillor Glenys Francis</b> <b>Councillor Steve Tucker</b></p>	<p>That Council seek a meeting Minister of Defence, Department of Defence and RAAF regarding the proposed ANEF, EIS seeking reassurance that the current and future flight paths are adhered to.</p>
--	--	--

## MINUTES FOR EXTRA-ORDINARY MEETING – 2 MARCH 2010

### MINUTES ORDINARY COUNCIL – 15 DECEMBER 2009

#### ORDINARY MEETING – 15 DECEMBER 2009

429	Councillor Bob Westbury Councillor Peter Kafer	It was resolved that the Council Committee recommendation be adopted.
-----	---	---

In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Steve Tucker

#### MATTER ARISING

430	Councillor Bob Westbury Councillor Peter Kafer	It was resolved that the Matter Arising be adopted.
-----	---	---

**ATTACHMENT 2  
RECENT AND CURRENT DEVELOPMENT APPLICATIONS  
(DISTRIBUTED ON THE NIGHT)**

There being no further business the meeting closed at 7.05pm.

*I certify that pages 1 to 45 of the Open Ordinary Minutes of Council 2 March 2010 were confirmed by Council at its meeting held on 9 March 2010.*

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