

## Minutes 23 MARCH 2010



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 23 March 2010, commencing at 8.13pm.

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

078	<b>Councillor Bruce MacKenzie</b> <b>Councillor Daniel Maher</b>	It was resolved that the apologies from Cr Ken Jordan & Cr Bob Westbury be received and noted.
079	<b>Councillor Daniel Maher</b> <b>Councillor Steve Tucker</b>	It was resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 09 March 2010 be confirmed.

Cr Bruce MacKenzie declared a pecuniary conflict of interest Item 5 – the nature of the interest is Cr Mackenzie is a land and business owner of adjoining land.

Cr Glenys Francis declared a pecuniary conflict of interest in item 1 – the nature of the interest is Cr Francis is an investor.

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# MOTION TO CLOSE

ITEM NO. 1

FILE NO: T19-2009

## MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

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### RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) 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 Council Committee and Ordinary Council agenda namely **Tender T19-2009 Tomaree Aquatic Centre – Access Ramp Construction and Pools surfacing upgrade.**
- 2) That the reasons for closing the meeting to the public to consider this item be that:
  - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
  - ii) In particular, the report includes confidential pricing information in respect of the **Tender T19-2009 Tomaree Aquatic Centre – Access Ramp Construction and Pools surfacing upgrade.**
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.

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### COUNCIL COMMITTEE – 23 MARCH 2010

#### RECOMMENDATION:

	<b>Councillor John Nell</b> <b>Councillor Peter Kafer</b>	That this item be deferred to the Ordinary Council meeting of 23 March 2010.
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**ORDINARY COUNCIL MEETING – 23 MARCH 2010**

<p><b>080</b></p>	<p><b>Councillor Daniel Maher Councillor Steve Tucker</b></p>	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Council Committee and Ordinary Council agenda namely Tender T19-2009 Tomaree Aquatic Centre – Access Ramp Construction and Pools surfacing upgrade.</li> <li>2) That the reasons for closing the meeting to the public to consider this item be that: <ol style="list-style-type: none"> <li>i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and</li> <li>ii) In particular, the report includes confidential pricing information in respect of the Tender T19-2009 Tomaree Aquatic Centre – Access Ramp Construction and Pools surfacing upgrade.</li> </ol> </li> <li>3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.</li> <li>4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in</li> </ol>
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<b>MINUTES FOR ORDINARY MEETING – 23 MARCH 2010</b>
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		accordance with Clause 179) of the Local Government (General) Regulation 2005.
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# **COUNCIL COMMITTEE RECOMMENDATIONS**

Cr Glenys Francis left the meeting at 8.14pm prior to Item 1.

Cr Peter Kafer left the meeting at 8.14pm and returned at 8.15pm.

**ITEM NO. 1**

**FILE NO: 16-2003-1221-4**

**SECTION 96 MODIFICATION - EXPANSION OF EXISTING  
AQUACULTURAL FACILITIES AT 476C MARSH ROAD BOBS FARM**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve the Section 96 Application to allow for an Occupation Certificate to be issued for the tourist facility (Stage 1) and the temporary use of a driveway on an adjoining property for internal access. Completion of necessary intersection and internal access works are to be deferred for a maximum period of six (6) months from the date of occupation of the development, subject to the recommended conditions in Attachment 4.
- 2) Not support the applicants request to reduce the tapers required (in accordance with Council's standard drawing s145) within Marsh Road for the access to the development.

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**COUNCIL COMMITTEE – 23 MARCH 2010**  
**RECOMMENDATION:**

	<b>Councillor Bruce MacKenzie</b> <b>Councillor Sally Dover</b>	That Council: <ol style="list-style-type: none"><li>1) The applicant be given twelve (12) months to complete the roadworks from the date of occupation and the matter be reviewed in 4 months.</li><li>2) That Council guide post the existing constructed tapers.</li><li>3) The decision is based on the economic viability of the development.</li></ol>
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

## MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

Those for the Motion: Crs Peter Kafer, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Frank Ward, Sally Dover and Daniel Maher.

Those against the Motion: Crs Geoff Dingle and John Nell.

### ORDINARY COUNCIL MEETING – 23 MARCH 2010

081	<b>Councillor Daniel Maher Councillor Sally Dover</b>	It was resolved that Council: <ol style="list-style-type: none"><li>1. The applicant be given twelve (12) months to complete the roadworks from the date of occupation and the matter be reviewed in 4 months.</li><li>2. That Council guide post the existing constructed tapers.</li><li>3. The decision is based on the economic viability of the development in its early stages.</li></ol>
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Frank Ward, Sally Dover and Daniel Maher.

Those against the Motion: Crs Geoff Dingle and John Nell

### BACKGROUND

**The purpose of this report is to present a Section 96 Application for the 'Tailor Made Fish Farm' (TMFF) at Marsh Road, Bobs Farm, to Council for determination at the request of the Mayor.**

#### Proposed Section 96 Modification

Development Consent 16-2003-1221-3 approved the Expansion of Existing Aquacultural Facilities (known as 'Tailor Made Fish Farm') at 476C Marsh Road, Bobs Farm.

This Section 96 Application seeks to modify the development to allow for an Occupation Certificate to be issued for the tourist facility prior to the completion of the required intersection and internal driveway works, to be achieved by:

- Staging the development, and allowing an Occupation Certificate to be issued for Stage 1 prior to the completion of Stage 2 (ie amend current condition 12).
- Allow for the temporary use of an existing driveway on an adjoining property (Lot 1631 DP 818752) for internal vehicular access to the development.
- Defer Stage 2 works, which includes (1) construction of the internal driveway wholly within TMFF land and (2) road widening on the northern side of Marsh Road intersection (and associated line marking), for a maximum period of six (6) months from the occupation of Stage 1.
- Reduce the length of internal driveway required to be constructed to the standard of 200mm thick compacted gravel and two coat bitumen seal and 6 meters wide, from 150m to 50m (ie amend current condition 11).

The applicant also requested that the requirement for construction of tapers on the south west side of the intersection (in accordance with the approved plans and Council's standard drawing S145) be removed.

#### Recommendations for Section 96

##### Deferral of Stage 2 works

Following discussions with the applicant, the Group Manager, Sustainable Planning has agreed to the deferral of road works and temporary use of the adjoining neighbour's driveway.

A time limitation on the completion of intersection and access works was considered appropriate to ensure that the risk to Council was managed. It is recommended that the deferral of Stage 2 works be for a maximum of six (6) months from the occupation of the tourist facility.

There is likely to be a reduction in road safety until the necessary intersection and access works are completed, hence it is recommended that a suitable traffic control plan be submitted which covers the entire 6 month period or until completion of Stage 2 works.

##### Reduction in constructed length of internal driveway

Council staff do not object to a reduction in the length of internal driveway (150m to 50m) that needs to be constructed as 200mm thick compacted gravel and two coat bitumen seal, 6m wide.

The requirement was imposed on the original consent due to its use of an existing driveway on an adjoining neighbour's property, which was not considered suitable for commercial use.

##### Reduction in tapers

Council staff do not support the reduction of tapers required by the plans submitted by the applicant, and Council's S145 drawing.

Tapers are required as per Port Stephens Council standard drawing S145 Minimum Access Improvement for Developments. It should be reinforced that this is Council's absolute minimum requirement for development and a further reduction in this standard will not be supported. The approved plans meet these requirements.

The applicant has verbally questioned this requirement, as he believes that the alignment of the access should taper until just past the power pole. The basis for this request is the belief that the tapers would otherwise taper around the power pole. However the plans and site have been reviewed, and this is not the case. The only works required behind the power pole are regrading of the natural surface for drainage purposes.

The requirement for the intersection works has been known to the applicant since 2005 when the original consent was issued. Further, a plan was approved by Council staff as part of the Roads Act Application that is considered acceptable from a traffic safety perspective. The request from the applicant has been the result of the cost of the intersection.

#### Amended Conditions

The proposed modification will require the following changes to be made to the current conditions of consent (DA 16-2003-1221-3):

- Amend condition 2 to split the development into two (2) stages;
- Amend condition 12 to enable an Occupation Certificate for Stage 1 prior to the completion of Stage 2 works;
- Amend condition 13 to permit temporary use of the existing driveway on the adjoining neighbour's property (Lot 1631 DP 818752);
- Amend condition 11 to reduce constructed length of internal driveway (on TMFF land) from 150m to 50m.

The following minor modifications will also be required:

- Amend condition 7 to require completion of the car park as part of Stage 1;
- Amend condition 15 to prohibit use of intersection on adjoining neighbour's property by the tourist facility;
- Add condition 16 to limit use of the driveway on adjoining neighbour's property to a maximum of six (6) months from occupation of tourist facility.
- Amend condition 23 (previously condition 18) to require details and completion of necessary engineering works prior to issue of Occupation Certificate for Stage 1.

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

Should Council support a reduced standard of intersection, the safety and quality of a Council road is likely to be affected. In this regard, future costs may be incurred by Council in maintaining or upgrading this section of Marsh Road.

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

Any operation of the business without completion of the approved intersection will be subject to the following safety risks:

The current access does not meet Council's design requirements for minimum access improvements in that:

- should upgrading the northern side of the intersection be delayed, there is inadequate access width to allow a vehicle to safely enter the property.
- there would be inadequate tapers to allow a vehicle to safely exit the site.

Given the 80km/hr speed limit which applies to this section of Marsh Road, the above design deficiencies pose serious safety risks in regard to left and right turning movements and egress/ingress movements from the existing access. Controlled access arrangements are critical in helping to reduce the number of crashes on the road network.

Marsh Road is a high speed road with a speed limit of 80km/h. It has a sealed road pavement of approximately 7m wide, it has no centreline line marking, no street lighting, no road shoulders and deep table drains on each side of the road starting from the edge of sealed pavement.

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

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

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

The liability to Council should substandard road design be supported, has the potential to have significant economic implications to Council.

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

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



## **CONSULTATION**

Nil.

## **OPTIONS**

- 1) Adopt the recommendation and approve the Section 96 modification.
- 2) Amend the recommendations and approve the Section 96 modification. Any further extension of time for intersection/access works, or reduction in tapers or line marking required would require reasons for approval to be drafted by Councillors including supporting justification as a basis for defence in any potential legal proceedings.
- 3) Reject the recommendations.

## **ATTACHMENTS**

- 1) Intersection design approved under Roads Act 1993
- 2) Council's standard drawing S145
- 3) Assessment
- 4) Conditions of consent

## **COUNCILLORS ROOM**

Nil.

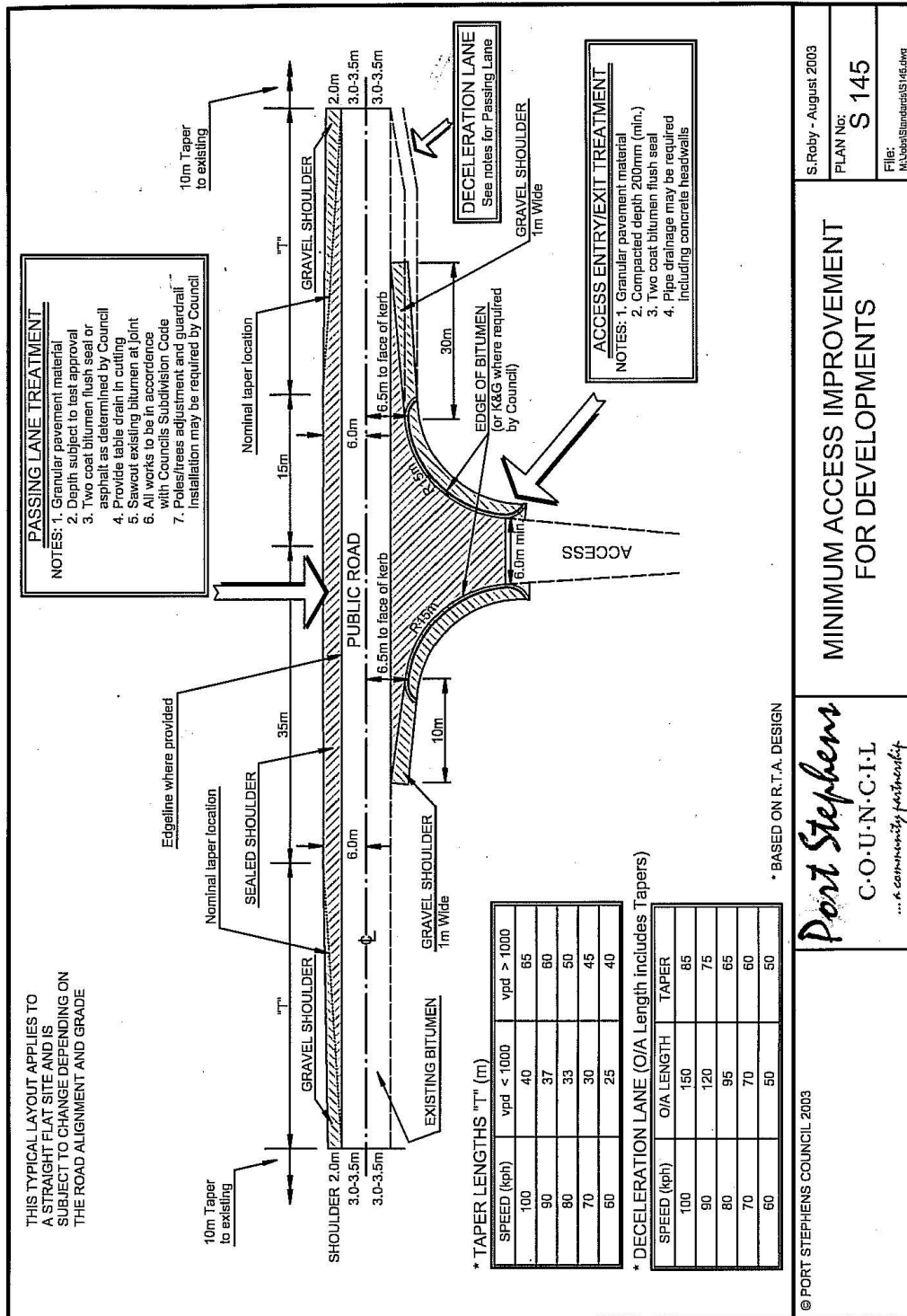
## **TABLED DOCUMENTS**

Nil.



## ATTACHMENT 2

### COUNCIL'S STANDARD DRAWING S145



### **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**

This Section 96 Application seeks to modify the development to allow for an Occupation Certificate to be issued for the tourist facility prior to the completion of the required intersection and internal driveway works, which is to be achieved by staging the development.

Stage 1 will include:

- Construction of tourist facility, consisting of temporary use of two (2) grow out sheds, one (1) feed storage and machinery shed, staff and tourism amenities block, four (4) shipping containers (refrigerated), car parking area (42m x 42m);
- Construction of intersection with Marsh Road and first 50 metres of internal driveway;
- Temporary use of existing driveway on adjoining neighbour's property (Lot 1631 DP 818752).

Stage 2 will include:

- Completion and use of internal driveway wholly within TMFF land;
- Road widening on northern side of Marsh Road intersection and associated line marking.

Stage 2 is to be completed within six (6) months from the occupation of the tourist facility.

#### **THE ASSESSMENT**

##### **1. Planning Provisions**

The proposed modification will not significantly alter the completed development, and will not create any additional non-compliance with Port Stephens Local Environmental Plan 2000 and the applicable Development Control Plans and Council policies.

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

Deferring completion of the necessary intersection and access works has the potential to reduce traffic safety along Marsh Road, both for users of the tourist facility and members of the public.

Consideration of each of the proposed changes is provided below:

Deferral of road widening along northern side of Marsh Rd intersection

The modification will allow the tourist facility to operate for a maximum period of six (6) months prior to the completion of the road widening works.

At a site meeting held 1 February 2010, the Manager Sustainable Planning advised that Council would consider whether the northern side of the intersection could be deferred until a certain traffic generation figure was reached, i.e. when the tourist facility reached a certain traffic count, then the northern side would be required to be constructed.

Upon further investigation by engineering staff, it became apparent that the intersection required was the absolute minimum that would be required for any commercial/industrial use in a rural area. On this basis, a traffic based trigger was not available.

The Manager Sustainable Planning agreed to accept deferral of the road widening works to the northern side of the Marsh Road intersection for a maximum period of six (6) months. It was considered that a time limited option is appropriate to ensure that the risk to Council is managed.

The applicant agreed to the line marking of the southern part of the intersection, which is to be constructed prior to the occupation of the development.

Temporary use of driveway on adjoining neighbour's property

Condition 15 in the current DA requires access to be provided wholly within TMFF land. The applicant seeks to temporarily amend the access arrangements as follows:

- A new intersection is to be constructed, providing access to TMFF land from Marsh Road;
- The first 50 metres of internal driveway will be on TMFF land and is to be constructed as part of Stage 1;
- The access will then divert onto the existing driveway on the adjoining neighbour's land (Lot 1631, DP818752);
- The access will cross back over on TMFF land and extend to the development.

It should be noted that the TMFF land currently benefits from an existing easement for right-of-way over the adjoining neighbour's driveway. However, Council received submissions from the owners of Lot 1631 DP 818752 raising concern over the unsuitability of the existing driveway for commercial traffic.

The owners of the adjoining land have provided a letter of owner's consent authorizing the temporary use of their driveway.

Whilst it is noted that the temporary outcome is not preferred (i.e. it may cause some confusion for patrons), as long as the turning circles for the access are safe, there should be no unreasonable impacts on traffic safety.

In terms of safety for drivers, of greater importance is a safe intersection, which will be provided prior to use of the building. The diversion of the driveway onto the neighbour's driveway will occur at least 50 metres from the intersection, which will ensure that road safety is not compromised.

This temporary access arrangement would be for a maximum of six (6) months, or until the internal access on TMFF land is completed, whichever occurs first.

#### Reduction of constructed driveway length

Condition 11 in the current DA requires the first 150 meters of internal driveway (within TMFF land) to be constructed as 200mm thick compacted gravel and two coat bitumen seal, 6m wide.

The remainder of the internal driveway is to be constructed as granular pavement with a minimum compacted depth of 200mm, 4m wide.

Council's engineers do not object to reducing the length of internal driveway (from 150m to 50m) that needs to be constructed as 200mm thick compacted gravel and two coat bitumen seal, 6m wide.

The requirement was imposed on the original consent due to its use of an existing driveway on an adjoining neighbour's property, which was not considered suitable for commercial use.

#### Concessions to Roads Act Approval

Both the current DA and Roads Act Approval reference plans submitted by the applicant prepared by DMS Survey, Ref No. E2009374 and dated 27/11/09. The approved design was considered to be in accordance with Council's standard drawing S145 Minimum Access Improvement for Developments.

Following discussions with the applicant, Council staff have agreed to some concessions to the Roads Act Approval (listed below). These do not need to be formally modified as they are considered to be consistent with the approved intersection design plans.

- Removal of sub-soil drainage

In lieu of subsoil drainage the construction technique of the widening is to be by benching of the road pavement widening rather than boxing-in the new material. This will spread runoff away from the carriageway/wheel path and prevent failures due to saturated soils under this point of loading which would be the maintenance responsibility of Council. In this regard, a reduction in the sealed area as shown on the approved plans cannot be supported.

- Reduce amount of sealing required for adjoining driveway that is affected by the intersection

Council officers have agreed to this request, as it remains within the context of the approved plans. The intersection tapers crossing the neighbour's driveway shall be 'made good', and a minimum 5 metres of the neighbour's driveway shall be constructed so as to allow a car to stop at the end of the driveway and avoid any conflict with traffic using the TMFF access.

- A centreline offset of 1m being adopted to reduce the extent of works required on the northern side of Marsh Road (adjacent to wetland)
- A tighter radius being used at the left turn exit from the site to avoid the need to remove an existing power pole
- Use of a Geotechnical Report prepared for another development along Marsh Road, given that this report proposed a 'worst case' design for Marsh Road.

It is considered that any further concessions to the road design (reduced tapers, line marking etc) would significantly undermine safety standard, be against Council staff's recommendations and would require an amended Development Consent and Roads Act Application.

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

It is considered that the proposed modification does not impact the developments suitability for the site.

### **4. Submissions**

No submissions were received for the proposed modification. It was not advertised or notified in accordance with Council policy.

### **5. Public Interest**

It is considered that the deferral of required intersection and access works for the tourist facility is acceptable from a traffic safety and risk management perspective, and as such, is not contrary to the public interest.

**ATTACHMENT 4  
DRAFT CONDITIONS**

1. The Development Consent No. 16-2003-1221-3 has been superseded by this Modified Development Consent No. 16-2003-1221-4. The Development Consent No.16-2003-1221-3 must be surrendered to the Council prior to commencement of works associated with the Modified Development Consent or the issue of any Construction Certificate by the Principal Certifying Authority.
2. The development shall be carried out in two (2) stages:
  - Stage 1 will consist of two (2) grow out sheds, one (1) feed storage and machinery shed, staff and tourism amenities block, four (4) shipping containers (refrigerated), car parking area (42m x 42m), intersection with Marsh Road and first 50 metres of internal driveway.
  - Stage 2 will consist of road widening on northern side of Marsh Road intersection (in accordance with Roads Act approval) and completion of the internal driveway. Stage 2 shall be completed and inspected by Council within six (6) months from the date of occupation of Stage 1 (the tourist facility).
3. Works shall not commence until such time as a Construction Certificate, where necessary, has been issued for the works approved by this application.
4. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
5. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
6. The development shall comply with the requirements of the NSW Fisheries dated 18/3/03 the Department Infrastructure, Planning and Sustainable Natural Resources dated 15th April 2004.(copy attached)
7. The development shall provide 25 on-site car parking spaces, including 2 disabled parking spaces. These spaces shall be separately accessible, clearly line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with the Port Stephens Development Control Plan PS2 Parking and Traffic Guidelines. Car parking must be provided prior to the issue of the occupation certificate for Stage 1 or use of the development.
8. Where materials or goods are stored outside the building they should be screened from view from any public place and adjacent premises and should not encroach on the parking, vehicular manoeuvring or landscaped areas.
9. Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.



## MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

10. Provide an access treatment at the junction with the public road in accordance with plans prepared by DMS Survey, dated 27/11/09 numbered E2009374 to incorporate a treatment for:
  - i) Access entry/exit.No kerb and gutter is required on splayed corners.
11. Prior to the issue of any Construction Certificate for the driveway access, details of the construction of the access way to the property shall be approved by Council. The construction shall be as follows:
  - \* The intersection with Marsh Road shall be constructed as per the plans prepared by DMS Survey dated 27 November 2009 and numbered E2009374.
  - \* From this intersection with Marsh Road the driveway shall be constructed for 50 metres, with a minimum 200mm thick compacted gravel and two coat bitumen seal, 6 metres wide.
  - \* The remaining driveway within Lot 20, DP 867923, to the carparking area shall be at a minimum granular pavement having a minimum compacted depth of 200mm, 4 metres wide.
12. The works required by condition 10 and 11 shall be completed prior to the issue of any Occupation Certificate for Stage 1 (excluding works contained in Stage 2).
13. During the period of temporary use of the Right of Way over Lot 1631 DP 818752, the temporary access driveway shall maintain appropriate grades and turning circles so that vehicles can safely utilise the driveway.
14. Any clearing shall be undertaken in accordance with the recommendations of the Seven Part Test prepared by Garry Worth, dated February 2009.
15. No commercial traffic shall be permitted to use the intersection for the Right of Way over Lot 1631, DP 818752, given that this access and intersection is not constructed to an appropriate standard for this form of use.
16. After six (6) months from the date of issue of any Occupation Certificate for the tourist facility, or upon the completion of the driveway on Lot 20 DP 867923, no commercial traffic shall be permitted to use the intersection or driveway over the Right of Way over Lot 1631, DP 818752.
17. All works as listed as conditions of development consent, which are located in public roads are subject to approval under section 138 of the Roads Act 1993. Engineering details in accordance with Council's Subdivision and Development Code, of such works shall be approved by Council prior to approval of a Construction Certificate.

The following items are also required to be submitted to, and approved by Council prior to approval being granted to commence works:

  - a) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
  - b) Payment of fees and bonds (same Principle Certifying Authority fees, inspection fees and maintenance bonds as relevant to subdivisions);
  - c) Contractors public liability insurances to a minimum value of \$10 million dollars.
18. The following fees and/or bonds are to be paid as part of this consent:

- a) Subdivision construction certificate/plan approval fee, prior to approval of construction certificate or plans.
- b) PCA/inspection fee, prior to approval of construction certificate or plans.
- c) Long Service Levy, prior to issue of construction certificate (verification of payment is required if paid directly to Long Service Board)

The rates are as listed in Council's fees and charges. Contact Council's Subdivision Engineer prior to payment.

19. Works within the existing or proposed Road Reserve are subject to:
  - a. inspection by Council,
  - b. testing by a registered NATA Laboratory and
  - c. approval by Council at each construction stage as determined by Council's Subdivision & Development Code.
20. Collected stormwater runoff shall be piped to an infiltration trench located in the front landscaped area(s), in accordance with Council's Standard Drawing S 136 (without overflow pipe).
21. Any upgrading of access tracks shall not impede existing stormwater paths or concentrate discharge onto adjoining properties.
22. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Subdivision & Development Code, to the satisfaction of Council prior to issue of the Occupation Certificate for Stage 1.
23. Visitor parking area to include specific disabled parking place with vertical sign at front and logo on ground if ground sealed.
24. Disabled access shall be constructed by way of a sealed path to visitor facilities at least 1200mm wide. (Compressed earth, no gravel) path with confined edges is satisfactory, and path to have no lips onto adjoining surfaces.
25. A veranda ramp must be installed and shall comply with Australian Standards
26. If veranda surface is timber, slats should run at right angles to building all around (to prevent front wheelchair wheels slipping).
27. Provision of a minimum of 1000mm clear passing space beside outdoor tables at all times.
28. All doors into public areas (including meeting room, gift shop, servery, bar WC) must provide for a minimum of 850mm clear opening with no lips at doors.
29. Disabled WC is minimum size. Door should open outwards or user may be unable to close it once inside. Disabled WC must comply with AS1428.1, including: \* support rails \* minimal floor fall to drain to ensure wheelchair stability \* clothes hook \* shelf adjacent to basin \* door to be at least 850mm clear opening \* taps and handles to be easy to manipulate \* mirror \* thermostat for hot water set at 42 degrees maximum.
30. The premises, including the construction and installation of all equipment, fixtures and fittings must comply with the requirements of Australian Standard 4674-2004 for the

design, construction and fit out of food premises. In this regard the developers attention is drawn to the following aspects:

- \* All walls are to be of solid construction
- \* A fixed ceiling is to be provided over food preparation areas
- \* A free standing hand wash basin is to be provided in a convenient location able to deliver warm running water through a single outlet with taps that operate hands free
- \* A cleaners sink is to be provided

31. Prior to occupation the business is to be registered with Council
32. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
33. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
  - \* Monday to Friday, 7am to 6pm;
  - \* Saturday, 8am to 1pm;
  - \* No construction work to take place on Sunday or Public Holidays. When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.
34. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
35. Occupation of any buildings shall not take place until the building has been completed in accordance with the approved plans, specifications and conditions of this approval unless approval to occupy an incomplete building is granted by Council or an accredited certifier. Approval to occupy will not be given if any health or safety defects exist. NOTE: If an accredited certifier approves occupation of a dwelling the accredited certifier is to immediately notify Council in writing.
36. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out: a) stating that unauthorised entry to the work site is prohibited, and b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This clause does not apply to: a) work carried out inside an existing building, or b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
37. If the work involved in the erection or demolition of a building: a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or b) building involves the enclosure of a public place. A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. a) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. b) Any such hoarding, fence or awning is to be removed when the work has been completed.

## MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

38. Approval to occupy, close or partially close the footpath adjacent to the property to which this approval relates shall be the subject of a separate application. Without specific approval, storage of materials on or closure of the footpath is prohibited.
39. The building site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is restricted to the site. Council and the Environmental Protection Authority may issue 'on the spot' fines if breaches of the Clean Waters Act 1970 are detected. The applicant/builder will be responsible for restoration of any erosion and removal of sediment from the stormwater drainage system.
40. Vehicular access to the property, during construction of the dwelling is to be via an all weather access for delivery of materials & trades.
41. A waste containment facility to Council's requirements, is to be provided on the building site immediately after the first concrete pour for the building and is to be regularly serviced. Council and the Environmental Protection Authority may issue 'on the spot' fines if breaches of the Environmental Offences and Penalties Act, are detected. Note: Your attention is drawn to your responsibility to control any litter arising from building works associated with this approval.
42. Approved toilet accommodation for all workmen on the building site is to be provided from the time work commences until the building is complete.
43. Retain all live trees protected by Council's Tree Preservation Order, other than those affected by the location of the building and driveways. Approval for removal of trees is limited to a distance of three (3) metres from the building and a three (3) metre wide driveway strip. A development application must be made to Council for the removal or pruning of any other tree or trees on the property (\$15.00 application fee applies)
44. If the soil conditions require it retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and adequate provision must be made for drainage. Note: Where retaining walls exceed 600 mm in height and/or are adjacent to property boundaries, details of the method of construction are to be submitted to Council for approval prior to erection. It is recommended that the construction of any retaining walls be carried out prior to the commencement of any other work while the area is readily accessible and to prevent any movement of soil and/or potential damage to adjoining properties.
45. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign is to be displayed for public viewing on the site at the commencement of site works and during construction of the development and is to remain in place until completion of works.
46. A monetary contribution is to be paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979, towards the provision of the following public facilities in the locality:-

	Total
Roads and/or Intersections	(\$2490)

Note:

- a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.
- b) Contributions are to be paid prior to issue of construction certificate
- c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months.
47. A colour scheme providing full details of the colours and character of all external building materials and finishes to be used shall be approved by Council prior to the issue of the Construction Certificate.
48. Prior to the release of the Construction Certificate the applicant shall provide a detailed design layout of the proposed car parking area. All car parking spaces shall be fully dimensioned in accordance with DCP PS No. 2 Parking and Traffic Guidelines. The plan shall also indicate a bus parking and turning area.
49. If Council is nominated as the Principal Certifying Authority, details of compliance of Australian Standard 4674-2004 for the design, construction and fit out of food premises are to be included in the plans and specifications prior to release of the Construction Certificate. The Food Surveillance Officer shall be given 48 hours notice to inspect the premises prior to commencement of the business. Where Council is not nominated as the Principal Certifying Authority a certificate from an appropriately qualified person confirming compliance with the above legislation and guidelines is to be provided before the issue of the occupation certificate.
50. Detailed working/engineering drawings are to be provided in respect of machinery shed and fish grow out buildings prior to issue of the Construction Certificate.
51. Prior to the issue of the Construction Certificate the applicant shall have approval to install a waste treatment device and approval to operate an on site sewerage management system.
52. Because the value of the work is \$25,000 or more, you will need to pay a levy to the long service corporation prior to issue of the construction certificate. You can either pay the long service levy corporation direct and show us your receipt or you can pay us and we'll send your money to them. The amount owing is \$700.00 Note: Owner builders can ask for a reduction in the levy. For more details contact the Long Service Corporation, Locked Bag 3000, CCDS, Lisarow 2252, phone 131441.

Cr Glenys Francis returned to the meeting at 8.15pm following Item 1.

**ITEM NO. 2**

**FILE NO: 2008-3522**

## **REVIEW (2010) OF PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000**

**REPORT OF: PETER MARLER - ACTING MANAGER INTEGRATED PLANNING**  
**GROUP: SUSTAINABLE PLANNING**

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

- 1) Prepare a Planning Proposal pursuant to the Environmental Planning and Assessment Act 1979 to amend the Port Stephens Local Environmental Plan (LEP) 2000 to:
    - Alter the Heritage Conservation Area boundary;
    - Include the Farm Silo Steel Street Williamtown as an additional heritage item of local significance;
    - Make a general administrative update to Schedule 2 of LEP 2000 to reflect changes to lot numbers, deposited plans etc and bring the Schedule into the Standard Instrument format;
    - Provide a minor addition to Schedule 3 Exempt development – signage for sponsorship in open space areas;
    - Rezone Lot 1 DP 874513, 51 William Street Raymond Terrace from 3(a) General Business to 5(c) Proposed Road Zone;
    - Remove superfluous provisions from the Exempt and Complying Schedules in accordance with the State Environmental Planning Policy (SEPP) (Exempt and Complying Development Code) 2008;
    - Rezone and reclassify part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a).
  - 2) On receipt of the Authorisation to Exercise Delegation from the Minister, place the draft LEP and supporting documentation on exhibition in accordance with the requirements of the Department of Planning.
  - 3) Note that No 2,4,6 and 11 Irrawang Street, Raymond Terrace and Williamtown Primary School have been identified as potential heritage items and should be considered for listing if any funding becomes available.
-

## MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

### COUNCIL COMMITTEE – 23 MARCH 2010

#### RECOMMENDATION:

	<b>Councillor Bruce MacKenzie</b> <b>Councillor Peter Kafer</b>	That the recommendation be adopted.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil

### ORDINARY COUNCIL MEETING – 23 MARCH 2010

<b>082</b>	<b>Councillor Steve Tucker</b> <b>Councillor John Nell</b>	It was resolved that the recommendation be adopted.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil

The purpose of this Report is to recommend Council resolve to prepare and place on exhibition an amendment to the Port Stephens Local Environmental Plan (LEP) 2000. The Amendment is the result of a comprehensive review of the existing Heritage Conservation Areas at Raymond Terrace, Tipperary Hill and Hinton in association with Council's Heritage Advisory Committee, a minor addition to Schedule 3 Exempt development, the actioning of three Council resolutions and removal of provisions in the Exempt and Complying Schedules resulting from the implementation of the SEPP Exempt and Complying Development Code.

In addition Council resolved on 28 July 2009 to initiate a draft amendment to Clause 14 of LEP 2000 to enable permissibility of dwellings on allotments created prior to the appointed date. To progress the proposed amendment the Department of Planning has confirmed Council will need to undertake an analysis of the implications having regard to the State Environmental Planning Policy (Rural Lands) 2008. This work is currently being prepared and will be presented to Council once completed.

Council also resolved on 24<sup>th</sup> October 2006 to rezone and reclassify part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a) in order for the land to be maintained as a public park as part of Aliceton Reserve. This recommendation will implement Council's earlier resolution on this matter.

## **BACKGROUND**

This Report was originally presented to Council on the 9 February 2010, however, Council resolved to defer the matter until a 2-way conversation was held. The 2-way conversation occurred on 2 March 2010.

Previously Council has requested that LEP 2000 be reviewed regularly to ensure the document is current and reflects the changing demands on land use provisions. Since the 2008 General Review additional matters have been identified to be addressed prior to the Principal LEP required in 2011. A copy of the Planning Proposal and draft instrument are provided as **Attachments 1 and 2**.

### **Key Proposed Amendments**

#### Heritage

As part of the preparation of the Principal LEP the current heritage schedule and Heritage Conservation Areas have been reviewed. As the work has been completed it is considered appropriate to progress these amendments now rather than wait for the Principal LEP. Council's Heritage Advisory Committee (the Committee) had initially reviewed the current schedule of heritage items and their associated level of significance with the recommended changes being addressed in the 2008 General Review. The Committee and Council's Heritage Advisor have now reviewed the existing three Heritage Conservation Areas of Hinton, Tipperary Hill and Raymond Terrace.

A review of the three Heritage Conservation Areas, two located within Raymond Terrace and the third at Hinton, was conducted by the Heritage Advisor between August 2008 and February 2009 in consultation with the Committee. The purpose of this review was to ascertain the integrity of the conservation areas. Recommendations from the Committee for retaining existing boundaries or contraction of some areas within the HCA's are outlined as follows:

#### **1) Raymond Terrace**

*The precinct nominated as the Raymond Terrace Conservation Area generally describes a section of Raymond Terrace which contains the majority of listed heritage items. There has been some new residential development occur in the Melba Crescent/ Bourke Street area, which mostly contains residences that are of a post war period with little or no heritage significance. Likewise there are areas that have had commercial development of an unsympathetic heritage nature that now require removal from the conservation area boundaries.*

#### **Main areas to be deleted:**

*Location: The residential block bounded by Irrawang, Bourke and Melba Crescent. Modern housing development has occurred in this area, which*



*appears to be generally made up of typical post war housing with little or no heritage significance.*

*Location: Properties to the west of Adelaide Street between Glenelg and William Street. This is predominantly vacant commercial land and is located in a commercial precinct that has no heritage significance.*

**Recommendation: Remove existing HCA boundaries to the above 2 areas, and other minor locations in accordance with the attached map.**

Refer to **Attachment 3** for the existing HCA boundary for Raymond Terrace and **Attachment 4** for the proposed conservation area boundary.

## **2) Tipperary Hill**

*It is recommended that this Heritage Conservation Area be deleted due to very recent and dense housing unit development. It is also recommended that the following residences be locally heritage listed due to their local significance, historical and visual qualities - Numbers 2, 4, 6 and 11 Irrawang Street.*

**Recommendation: Delete Tipperary Hill Heritage Conservation Area and consider listing of No 2, 4, 6 and 11 Irrawang Street as heritage items of local significance.**

## **3) Hinton**

*Currently bounded by Nulla Nulla Street in the east and the Patterson River and bridge to the west. Generally following Hinton Road, and side streets and Patterson Street towards the Patterson River either side. (Refer to map at **Attachment 5**)*

*While there has been a considerable amount of development along Hinton Road on the eastern approaches to the village, the former Residential 2(a) zoned land to the north and south of Hinton Road, as far east as Dillin Lane and the western boundaries of the properties fronting Bounty Close, this land is important in the cultural landscape setting of the village. This includes land around Stuart Park and its heritage-listed grandstand, where Heritage Conservation Area controls are considered necessary to ensure that new development enhances rather than detracts from the heritage values of Hinton.*

**Recommendation: Retain existing Hinton Heritage Conservation Area boundaries.**

### Heritage Conservation Area Maps

The HCAs are identified on a separate map from the LEP zone maps. As a result they are often considered difficult to find. To improve interpretation and allow ease of access it is proposed to include the Heritage Conservation Area on the zone maps. To allow this to occur an additional clause is proposed to be included in LEP 2000 stating the names of the Heritage Conservation Areas and referencing the zoning maps. The relevant definitions have been amended accordingly.

Proposed Additional Heritage Item – Lot 2001 DP 1033856 20 Steel Street Williamtown  
On 25 November 2008 a Mayoral Minute resolved:

*To prepare a draft amendment to Port Stephens Local Environmental Plan 2000 to include the silo at Steel Street, Williamtown in the schedule of items of local heritage significance and consult with the Heritage Advisor as part of the process.*

To progress this Resolution a heritage assessment of the silo was undertaken in accordance with the NSW Heritage Office assessment criteria and by a suitably qualified heritage expert. This work has now been completed and the heritage expert has recommended that the silo be listed as an item of local significance in LEP 2000. This Heritage Assessment document will form part of the supporting documentation for the public exhibition period and a copy has been placed in the Councillors Rooms.

#### Administrative Update

In preparation for the Principal LEP, an administrative review of the Heritage Schedule in LEP 2000 was undertaken. This review has allowed for the updating of property information and conversion into the format required by the Department of Planning for the Principal LEP. Excluding the proposed listing of the silo in Williamtown and the reformatting of the document is administrative only, no other changes are recommended to the items currently listed in Schedule 2 of LEP 2000.

#### Schedule 3 Exempt development – signage for sponsorship in open space areas.

The LEP 2000 Schedule 3 identifies Exempt development. Exempt development, is development that does not require approval under the Environmental Planning and Assessment Act, 1979.

The Schedule identifies several types of relatively minor development including signage. One type of sign listed is for sporting fields which specifies a maximum 5m width and 0.9 height as well as locational restrictions and consistency with an adopted Plan of Management. However, this only relates to sporting fields with no provisions included for other open space areas. As a result, an amendment to the Schedule is proposed to allow sponsorship signage in open space areas with a maximum width of 5m and height of 1m, a maximum of 1 sign per site and in accordance with an adopted Plan of Management.

#### Rezoning – Lot 1 DP 874513 51 William Street Raymond Terrace

The subject site is the former Raymond Terrace Fire Brigade Station. On 25 August 2009 Council resolved to identify the site as public road. The resolution outlined a series of legal steps the Council would need to undertake to identify the land as public road. The final step was to refer the information to the Strategic Planning Section to rezone the site from 3(a) (Business General "A" Zone) to 5(c) Proposed Road Zone under LEP 2000. A draft LEP to rezone the site is located at **Attachment 6**.

#### Rezone part of Lot 61 DP 24364, Johnson Avenue Karuah from 2(a) Residential to 6(a) General Recreation.(Aliceton Reserve)

In 2006 Council considered a proposal to subdivide a portion of lot 61 DP 24364 for 8 residential lots at Johnson Avenue Karuah. The land currently forms part of Aliceton Reserve at Karuah. Most of the land (approx. 3.4 ha) is currently zoned 6(a) while a small proportion is zoned 2(a) (approx. 0.6 ha). In 2006 Council was considering a

proposal to subdivide the 2(a) portion for residential purposes, however community opposition, potential ecological values and the recognition by Council officers that the Reserve has the potential to become the town's most highly utilised park, resulted in the following resolution being adopted by Council on 24<sup>th</sup> October 2006:

- 1) There be no further action regarding this matter; and
- 2) That the subject land be reclassified from operational to community; and
- 3) That a draft LEP be initiated under the Environmental Planning and Assessment Act 1979 with the intent of rezoning from Residential 2(a) to Public Open Space 6(a) in the Port Stephens LEP 2000.

The proposed rezoning and reclassification of Aliceton Reserve was previously included in Council's draft LEP amendment for the rezoning and reclassification of various parcels of Council owned land throughout the LGA, which was considered by Council at its meeting of 28<sup>th</sup> July 2009. However, due to the additional information requirements of the DoP, the large number of properties considered for rezoning and the site already having a separate Council resolution, it is considered appropriate to include the subject site as part of this LEP amendment.

The Reserve is currently classified as operational land, therefore it can be reclassified to community land through the Council resolution (which has occurred on 24<sup>th</sup> October 2006) and therefore only the rezoning component needs to be included in this LEP amendment. As the land is being reclassified to community land, a public hearing is not required. A draft LEP to rezone the site is located at **Attachment 7**.

#### State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

State Environmental Planning Policy (Exempt and Complying Development Code) 2008 (the SEPP) commenced on 27 February 2009. The SEPP has implications for Schedules 3 and 4 of LEP 2000 Exempt and Complying provisions in so far as any inconsistency with the SEPP, the SEPP prevails over LEP 2000.

For a 12 month period the SEPP allowed exempt and complying development under Councils LEP 2000 to run concurrently with the SEPP. Initially, as of the 27 February 2010, the SEPP alone would prevail to the extent of any inconsistency. However, on the 26 February 2010, the Department of Planning (DoP) have now delayed the full implementation of the SEPP until 1 January 2011.

DoP have advised that Council's Schedules will not automatically be updated by Parliamentary Counsel in the short term. This will leave superfluous information in LEP 2000 where the LEP is inconsistent with the SEPP creating confusion for those using the document. To overcome this problem it is proposed to amend the Schedule by deleting duplicated provisions under Section 73A of the Act. This part of the Act deals with administrative amendments which do not alter policy and do not require exhibition.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The financial impacts associated with this review and the resultant amendments have been funded from the existing operational budget and using current staff resources. No additional funds are being sort to complete this work.

In addition to the request to list four properties recommended by the Heritage Advisory Committee in the review of the Tipperary Hill Heritage Conservation Area, a submission to list the Williamtown Primary School has also been received. As in the case of the request to list the silo in Williamtown, a heritage assessment prepared in accordance with the Heritage Office guidelines would need to be undertaken. Council does not have a budget allocation for this work.

The proposed 5(c) zone for William Street Raymond Terrace will require acquisition and associated costs to Council at some point in time. However; these matters were dealt with in a previous Council report 25 August 2009.

## **LEGAL AND POLICY IMPLICATIONS**

Adoption of the recommendations of this Report will formally commence the process of amending LEP 2000, in order to improve its operation. The Environmental Planning and Assessment Act, 1979 requires Council to resolve to prepare a draft planning proposal (amending LEP) and forward it to the Department of Planning LEP Review Panel for Authorisation of Delegation prior to proceeding to public exhibition.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

To support a sustainable Port Stephens, in accordance with Council's Sustainability Policy, LEP 2000 needs to maintain its accuracy and currency to respond to changes in trends, demands and government policy for land use. The annual review and proposed amendments to LEP 2000 provides Council with the opportunity to make amendments or clarifications which assist in the interpretation and operation of the document for both the community and Council officers. By amending the LEP, Council continues to emphasise its commitment to streamline the development assessment process.

## **CONSULTATION**

The results of the above review of the Heritage Conservation Area have been mapped and presented to the Heritage Advisory Committee for comment. No issues were raised by the Committee and the recommendations made by the Heritage Advisor were adopted. External consultation will occur in accordance with the provisions of the Act. The Committee will be advised of any submissions received relating to their recommendations.

The Recreation and Strategic Planning Sections discussed the legal requirements of signage proposed on Council assets to ascertain the current development

requirements and ensure compliance. As a result of these discussions only a minor amendment was required.

In relation to the partial rezoning of Aliceton Reserve Karuah from 2(a) Residential to 6(a) Public Open Space, previous consultation has occurred with West Ward Councillors, the Business and Support Group Manager, Recreation Services Manager, Recreation Planner, Property Unit Co-ordinator, Property focus Group and members of the Karuah Progress Association.

## **OPTIONS**

- 1) Council resolve to support the recommendations of this Report to refer the draft Amendment to the Minister seeking Authorisation to Exercise Delegation and proceed to exhibition. This is the recommended option.
- 2) Request changes to the draft Amendment. This would require the reallocation of resources to undertake requested changes and delay both this Amendment and the preparation of the Principal LEP.
- 3) Not support the recommendation. This is not the preferred option and will not assist the improvement in the operation of the document or support the improvements to the development assessment process.

## **ATTACHMENTS**

- 1) Planning Proposal
- 2) Instrument
- 3) Map – Existing Raymond Terrace Heritage Conservation Area boundary
- 4) Map – Proposed Raymond Terrace Heritage Conservation Area boundary
- 5) Map – Hinton Existing Conservation Area
- 6) Rezoning Map – Lot 1 DP 874513, 51 William Street Raymond Terrace
- 7) Rezoning Map – Lot 61 DP 24364, Johnson Avenue Karuah

## **COUNCILLORS ROOM**

- 1) Copy of Heritage Assessment of the Silo Steel Street Williamtown

## **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1  
PLANNING PROPOSAL**

**Planning Proposal – Amendment to Port Stephens LEP 2000**

**Part 1 – Objectives or Intended Outcomes**

To amend the conservation area boundaries to reflect more appropriately areas to be identified as conservation areas, list an additional heritage item of local significance and undertake a general administrative update of the Schedule to reflect changes to lot numbers, deposited plans etc. The Planning Proposal also recommends the rezoning of an existing commercially zoned site to proposed road reserve in accordance with an approved Road Widening Scheme, a minor addition to Schedule 3 Exempt development – signage for sponsorship in open space areas and Section 73A amendment to Exempt and Complying development Schedules in response to the SEPP Exempt and Complying Development Codes 2008 changes in force 27 February 2010. In addition the proposal seeks to rezone part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a) in order for the land to be maintained as a public park as part of Aliceton Reserve.

**Part 2 – Explanation of Provisions**

The intent of the proposal is to:

- Alter the Heritage Conservation Area boundary;
- Include Farm Silo Steel Street Williamtown as a heritage item of local significance;
- Undertake a general administrative update of Schedule 2 of LEP 2000 to reflect changes to lot numbers, deposited plans etc and bring the Schedule into the Standard Instrument format;
- Undertake minor addition to Schedule 3 Exempt development ;
- Rezoning of Lot 1 DP 874513, 51 William Street Raymond Terrace.
- Rezone and reclassify part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a).

**Part 3 – Justification**

**Section A – Need for the planning proposal**

- 1) Is the planning proposal a result of any strategic study or report?

The Amendment is the result of a comprehensive review of the Heritage Conservation Areas in Port Stephens LEP 2000 in association with Council's Heritage Advisory Committee, a minor addition to Schedule 3 Exempt development and the actioning of three Council resolutions. Part of the amendment relates to updating and reformatting the heritage schedule in readiness for its move across to the Standard Template LEP format.

The following is the detail of what is proposed in the Planning Proposal and the rationale for the Amendment.

#### Heritage

As part of the preparation of the Principal LEP the current heritage schedule and Heritage Conservation Areas have been reviewed. As the work has been completed it is considered appropriate to progress these amendments now rather than hold them back and wait for the Principal LEP. Council's Heritage Advisory Committee had initially only reviewed the current schedule of heritage items and their associated level of significance with the recommended changes being addressed in the 2008 General Review (Amendment 31). The Committee have now reviewed the existing three Heritage Conservation Areas of Hinton, Tipperary Hill and Raymond Terrace.

The purpose of a heritage conservation area (HCA) is to identify and protect an area recognised as having both important visual and historic qualities. Development within the HCA is required to be monitored to ensure that the areas unique qualities are not compromised in any manner by poorly conceived or unsympathetic acts.

A review of the three HCA, two located within Raymond Terrace and the third at Hinton, was conducted by the Heritage Advisor between August 2008 and February 2009 in consultation with the Committee. The purpose of this review is to ascertain the integrity of the conservation areas and make recommendations for the effective management of each area. Recommendations from the Committee for retaining existing boundaries or contraction of some areas within the HCA's are outlined as follows:

#### **4) Raymond Terrace**

*The precinct nominated as the Raymond Terrace Conservation Area generally describes a section of Raymond Terrace which contains the majority of listed heritage items. There has been some new residential development occur in the Melba Crescent/ Bourke Street area, which mostly contains residences that are of a post war period with little or no heritage significance. Likewise there are areas that have had commercial development of an unsympathetic heritage nature that now require removal from the conservation area boundaries.*

#### **Main areas to be deleted:**

*Location: The residential block bounded by Irrawang, Bourke and Melba Crescent. Modern housing development has occurred in this area, which appears to be generally made up of typical post war housing with little or no heritage significance.*

*Location: Properties to the west of Adelaide Street between Glenelg and William Street. This is predominantly vacant commercial land and is located in a commercial precinct that has no heritage significance.*

**Recommendation: Remove existing HCA boundaries to the above 2 areas, and other minor locations in accordance with the attached map.**

Refer to **Attachments** for the existing HCA boundary for Raymond Terrace and for the proposed conservation area boundary.

**5) Tipperary Hill**

*It is recommended that this HCA be deleted due to very recent and dense housing unit development. It is also recommended that the following residences be locally heritage listed due to their local significance, historical and visual qualities - Numbers 2, 4, 6 and 11 Irrawang Street.*

**Recommendation: Delete Tipperary Hill HCA and consider listing of No 2, 4, 6 and 11 Irrawang Street.**

**6) Hinton**

*Currently bounded by Nulla Nulla Street in the east and the Patterson River and bridge to the west. Generally following Hinton Road, and side streets and Patterson Street towards the Patterson River either side. (Refer to map for details)*

*While there has been a considerable amount of development along Hinton Road on the eastern approaches to the village, the former Residential 2(a) zoned land to the north and south of Hinton Road, as far east as Dillin Lane and the western boundaries of the properties fronting Bounty Close, this land is important in the cultural landscape setting of the village. This includes land around Stuart Park and its heritage-listed grandstand, where HCA controls are considered necessary to ensure that new development enhances rather than detracts from the heritage values of Hinton.*

**Recommendation: Retain existing Hinton HCA boundaries.**

Heritage Conservation Area Maps

The Heritage Conservation Areas are identified on a separate map from the zone maps. As a result they are often considered difficult to find. To improve interpretation and allow ease of access the Heritage Conservation Areas will now appear on the zone maps. To allow this to occur an addition clause will be included in LEP 2000 stating the names of the areas and referencing the zoning maps. The relevant definitions have been amended to reflect the change in reference to the specific parts of the LEP. An example being **heritage item means** a building, work, relic tree or place listed in Part 1 of Schedule 2 rather than the reference to Part 1 or 2 of Schedule 2.

Proposed Additional Heritage Item – Lot 2001 DP 1033856 20 Steel Street Williamtown  
On 25 November 2008 a Mayoral Minute resolved:



*To prepare a draft amendment to Port Stephens Local Environmental Plan 2000 to include the silo at Steel Street, Williamtown in the schedule of items of local heritage significance and consult with the Heritage Advisor as part of the process.*

To progress this Resolution a heritage assessment of the silo was required to be undertaken in accordance with the Heritage Office criteria and by a suitably qualified heritage expert. This work has now been completed and the heritage expert has recommended that the silo be listed as an item of local significance in LEP 2000. This Heritage Assessment document will form part of the supporting documentation for the public exhibition period.

#### Administrative Update

In preparation for the Principal LEP, an administrative review of the Heritage Schedule in LEP 2000 was undertaken. This review has allowed for the updating of property information and conversion of the information into the format required by the Department of Planning for the Principal LEP. Excluding the proposed listing of the silo in Williamtown and the reformatting of the document, there are no other changes recommended to the items currently listed in Schedule 2 of LEP 2000.

#### Schedule 3 Exempt development – Signage for sports fields and open space access.

The LEP 2000 Schedule 3 identifies Exempt development. Exempt development, is development that does not require approval under the Environmental Planning and Assessment Act, 1979.

The Schedule identifies several types of relatively minor development including signage. One type of sign listed is for sporting fields which specifies a maximum 5m width and 0.9 height as well as locational restrictions and the need to be in accordance with an adopted Plan of Management. However, this only relates to sporting fields with no provisions included for other open space areas. As a result, an amendment to the Schedule is proposed to allow sponsorship signage in open space areas with a maximum width of 5m and height of 1m, a maximum of 1 sign per site and in accordance with an adopted Plan of Management.

#### Rezoning – Lot 1 DP 874513 51 Williams Street Raymond Terrace

The subject site is the former Raymond Terrace Fire Brigade Station. On 25 August 2009 Council resolved to identify the site as public road. The resolution outlined a series of legal steps the Council would need to undertake to return the site to this status. The final step was to refer the information to the Strategic Planning Section to rezone the site from 3(a) (Business General "A" Zone) to 5(c) Proposed Road Zone under LEP 2000.

#### Rezone part of Lot 61 DP 24364, Johnson Avenue Karuah from 2(a) Residential to 6(a) General Recreation.

The land currently forms part of Aliceton Reserve at Karuah. Most of the land that forms part of the reserve (approx. 3.4 ha) is currently zoned 6(a) while a small proportion is zoned 2(a) (approx. 0.6 ha). The Reserve is well utilised by the residents and visitors to Karuah and is anticipated to be highly utilised in the future.

The proposed rezoning and reclassification of part of Aliceton Reserve was previously included in Council's draft LEP amendment for the rezoning and reclassification of various parcels of Council owned land throughout the LGA, which was considered and recommended by Council at its meeting of 28<sup>th</sup> July 2009. However, in order to expedite the rezoning, it is considered appropriate to remove this rezoning from this draft amendment. The Reserve is currently classified as operational land, therefore it can be reclassified to community land through the Council resolution and therefore only the rezoning component need to be included as part of this LEP amendment.

**2) Is the planning proposal the best means of achieving the objectives of intended outcomes or is there a better way?**

The Planning Proposal is the only means of achieving the intended outcomes as Council is unable to move outside the legislative framework determined by the Environmental Planning and Assessment Act, 1979.

**3) Is there a net community benefit?**

Consideration of net community benefit is not relevant to what is proposed in this Planning Proposal.

**Section B – Relationship to strategic planning framework**

**4) Is the planning proposal consistent with the objectives and actions contained with the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The Planning Proposal is consistent with the Lower Hunter Regional Strategy (LHRS) 2006. The changes proposed are generally minor in nature having regard to the broad strategic context of the LHRS.

**5) Is the planning proposal consistent with the local council's Community Strategic plan or other local strategic plan?**

The Planning Proposal is consistent with Council's adopted Community Settlement and Infrastructure Strategy (CSIS). The proposed Amendment is considered of minor planning significance in the broader strategic context.

**6) Is the planning proposal consistent with the applicable state environmental planning policies?**

The Planning Proposal is consistent with the relevant state environmental planning policies.

**7) Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

Business and Industrial Zones (1.1) – The Planning Proposal is considered to be consistent with the Direction. Although the proposal will result in a minor reduction of commercial zone by one small parcel of land, the new use will facilitate better traffic flow by improving the existing network.

Heritage Conservation (2.3) – The Planning Proposal is generally consistent with this Direction. An additional item is recommended for listing as an item of local significance. A comprehensive review of the Heritage Conservation Areas (HCA) has been undertaken. Changes are in accordance with the Heritage Office Guidelines. It is recommended that Tipperary Hill be removed due to the limited number of contributory items and recent developments which have compromised the integrity of the HCA. The Raymond Terrace HCA had been reviewed and recommended to be reduced in size. There has been limited development in the area, however, a large proportion of this area could not be considered as contributory items for a HCA. As a result the proposal is considered appropriate in this instance.

Implementation of Regional Strategies (5.1) – The proposal is consistent with the Lower Hunter Regional Strategy.

Reserving Land for Public Purposes (6.2) – the proposed rezoning of the site in William Street Raymond Terrace is for the purpose of public road. This site has been the subject of a previous Council Report relating to the implementation of a Road Widening Scheme. The property is owned by the Department of Lands who is aware of the proposal. As a result the proposal is considered to be consistent with this Direction. The proposed rezoning to Public Open Space of land in Johnson Street Karuah is consistent with this direction.

### **Section C – Environmental, social and economic impact**

**8) Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the proposal?**

The Planning Proposal relates mainly to heritage matters with one rezoning being located in an established commercial area. As a result the proposal will not have an impact on critical habitat or threatened species, populations or ecological communities or their habitats.

**9) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No other environmental effects are envisaged as a result of this Planning Proposal.

**10) How has the planning proposal adequately addressed any social and economic effects?**

The Planning Proposal is of minor planning significance and will not result in any adverse social and economic effects. In regard to the proposed listing of the silo at Williamstown, the property owner is the Department of Defence who are aware of

Council's desire to retain the silo. The silo is located on land purchased by the Department as part of their buffer area around the RAAF Base at Williamstown. The Department will be notified as an affected property owner during the exhibition process. A copy of the Mayor Minute is attached for your information.

#### **Section D – State and Commonwealth interests**

##### **11) Is there adequate public infrastructure for the planning proposal?**

The Planning Proposal is of minor planning significance and will not adversely affect public infrastructure demand.

##### **12) What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Excluding the Department of Defence and Department of Lands as property owners no additional consultation has occurred with public authorities at this point in the process. The NSW Heritage Office will be consulted as part of the exhibition process.

#### **Part 4 – Community Consultation**

A 14 day public consultation is suggested having regard to the relatively minor nature of the development and the explanation provided in the Department of Planning's *A guide to preparing local environmental plans*. The property owners affected by the changes to the heritage conservation areas will be notified in writing. The property owners affected as a proposed heritage item and road reserve will also be notified in writing. In addition to these, the Raymond Terrace Business Chamber will be invited to comment on the changes to the heritage conservation areas. Advertisements will be placed in the paper and details will be available on Council's website and local library.

#### **Conclusion**

The Planning Proposal provides an overview of the intent of the amendments, however, for a full disclosure of the proposed changes please refer to the attached draft Instrument.

ATTACHMENT 2  
DRAFT INSTRUMENT

**(draft)**  
**Port Stephens Local Environmental Plan**  
**2000 (Amendment No )**

under the

Environmental Planning and Assessment Act 1979

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

Minister for Planning

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

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Plan**

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

### **2 Commencement**

This Plan commences on the day on which it is published on the NSW legislation website.

### **3 Land to which Plan applies**

This plan applies to all land to which the *Port Stephens Local Environmental Plan 2000* applies.

## Schedule 1      Amendment of Port Stephens Local Environmental Plan 2000

### [1]      Schedule 2, Heritage

Omit Part 1 including title

Insert instead Part 1 Heritage Items

Suburb	Item Name	Address		Property Description	Significance
Anna Bay	Underground water tank (Footrot Flat)	296	Nelson Bay Road	Lot 884 DP 737049	Local
Anna Bay	Birubi Point Cemetery	31A & 30A	Ocean Avenue	DP 753204	Local
Duns Creek	Duninald House Group – Old Duninald and <i>Duninald</i> , including mature plantings, lagoon and landscape setting	110 & 122	Paterson Road	Lot 101 DP 549398 Lot 50 DP 100311	State
Eagleton	Eagleton Shipyard site	57	Newline Road	Lot 2 DP 826917	Local
East Seaham	Road alignment and indigenous roadside vegetation including <i>Corymbia maculata</i> (Spotted Gum), <i>Eucalyptus siderophloia</i> (Iron Bark), <i>Eucalyptus fibrosa</i> (Iron Bark), <i>Eucalyptus tereticornis</i> (Forest Red Gum) and <i>Eucalyptus punctata</i> (Grey Gum)		East Seaham Road and Road Reserve		Local
East Seaham	Seaham Knitting Circle Memorial	126 A	New Line Road	Lot 2 DP 214077	Local
Fingal Bay	Point Stephens Lighthouse Group, including lighthouse station, tower, remains of lighthouse keeper's cottage	1E	Marine Drive	Lot 177 DP 753204	State
Fullerton Cove	<i>Stanley Park House</i>	77 & 77A	Fullerton Cove Road	Lot 2 DP 720679 Lot 108 DP 720695	Local
Glen Oak	Glen Oak School of Arts, including Memorial gates and war memorial plaque	199 8	Clarencetown Road	Lot 227 DP 752497	Local
Heatherbrae	Trees – 2 specimen of <i>Ficus macrophylla</i> (Moreton Bay Fig)		Reserve Road Pacific Highway	Adjacent to Lot 102 DP 807522	Local

<b>MINUTES FOR ORDINARY MEETING – 23 MARCH 2010</b>
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Hinton	Anglican Cemetery	35	Elizabeth Street	Lot 801 DP 881208	Local
Hinton	Baptist Church	42-44	Elizabeth Street	Lots 36 and 38 DP 975910	State
Hinton	Former Police Station	43	Elizabeth Street	Lot 55 DP 975910	Local
Hinton	Wallalong/Bowthorne War Memorial	49	High Street	Lot 1 DP 979470	Local
Hinton	School of Arts, including two large white marble war memorial plaques	1	Hinton Road	Pt Lot 31 DP 752487	State
Hinton	Hinton Pioneer Cemetery	7	Hinton Road	Lot 7002 DP 1052993	Local
Hinton	<i>Rosemount</i> , including outbuildings, landscape settings and Bunya Pine trees	14 & 16 33 & 43 8 & 14	Hinton Road Hunter Street Swan Street	Lots 18-19 DP 1044452 Lots 20-23 DP 1053120	State
Hinton	Hinton Bridge		Hunter River		State
Hinton	<i>Prospect House</i> , including outbuildings and landscape setting	100	McClymonts Swamp Road	Lot 1 DP 65422	State
Hinton	Public School, including main building, shelter sheds, memorial gates	20	Paterson Street	Lot 100 DP 808856	State
Hinton	Victoria Hotel	2	Paterson Street	Lot 1 DP 75465	Local
Hinton	Timber Cottage	13	Paterson Street	Lot 21 DP 770598	Local
Hinton	Timber Cottage	18	Paterson Street	Lot 14 DP 975920	Local
Hinton	Georgian cottage	26	Paterson Street	Lot 70 DP 1045778	Local
Hinton	Former St John the Evangelist Church	29	Paterson Street	Lot 802 DP 881208	Local
Hinton	Grandstand, Stuart Park	17	Swan Road	Reserve Number 10417	Local
Karuah	Karuah Town War Memorial (Memorial Park/Lion Park)	1	Memorial Drive	Lot 6 DP 753196	Local
Karuah	Karuah Cemetery	53C	Tarean Road	Reserve Number 40511	Local
Lemon Tree Passage	<i>Johnson's Cottage</i>	60	Johnson Parade	Lot 1 DP 818801	Local
Nelson Bay	Former oil-burning street lamp	16	Christmas Bush Avenue	On boundary of Lot 1 DP 507368 & Lot 60 DP 24943	Local
Nelson Bay	Apex Park Group, including Cenotaph, well and remains of the memorial steps	1A and 8	Laman Street	Reserve Number 64421 Pt Lot 154 DP 753204	Local
Nelson Bay	Former oil-burning street lamp		Laman Street Road Reserve - corner of Laman		Local



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			Street and Government Road		
Nelson Bay	Point Stephens Lighthouse Group, Nelson Head Lighthouse, cottage and reserve	5A	Lighthouse Road	Lot 427 DP 39728	State
Nelson Bay	The Native Flora Reserve, including site of former migrant camp, foundations of HMAS Assault, Aboriginal scar tree, burial site and below water artefacts and items including Higgins landing barges, army jeeps, various munitions and anchor of <i>USS Henry S Grant</i>	1	Lighthouse Road	DP 753204	Local
Nelson Bay	Gan Gan Army Camp	390	Nelson Bay Road	Lot 11 DP 841401	State
Nelson Bay	Nelson Bay Cemetery	41A	Stockton Street	Reserve Number 82387	Local
Port Stephens	Stockton Beach Dune System, including Aboriginal site and shell middens, ship wrecks, WWII ramparts, tank traps, proofing range, rifle range and tin huts	35-37 80 & 384  40-42	Coxs Lane  Nelson Bay Road  Stockton Bight Track	Lots 216-219 DP 1044608 DP 753204  Reserve Number 51277  Lots 216-219 DP 1044608	State
Raymond Terrace	Old school hall (Raymond Terrace Public School), including WWI school honour board	152	Adelaide Street	Lot 11 DP 1034823	Local
Raymond Terrace	The Free Presbyterian Church of Eastern Australia	155	Adelaide Street	Lot 2 Sec 16 DP 758871	Local
Raymond Terrace	Woodlands – timber cottage	183	Adelaide Street	Lot 76 DP 621767	Local
Raymond Terrace	Tree – specimen of <i>Ficus obliqua</i> (Fig Tree)	193	Adelaide Street	Lot 28 DP 753161	Local
Raymond Terrace	Roslyn, including house, outbuildings, mature trees and landscape setting	12	Binns Street	Lot 4 DP 811055	Local
Raymond Terrace	Raymond Terrace Cemetery and Pioneer Hill Cemetery	1A and 2	Elizabeth Avenue	Pt Lot 20, DP 753161 Lot 7008, DP 1051708	Local
Raymond Terrace	Part of St Johns Anglican Church Group – former school and rectory	6	Glenelg Street	Lot 5 DP 38912	State
Raymond Terrace	Former Ingleburn Private Hospital	12	Glenelg Street	Pt Lot 2 Sec 9	Local

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				DP 758871	
Raymond Terrace	Sandstone Block Timber Clad House	3	Hunter Street	Lot 1 DP 739811	Local
Raymond Terrace	<i>Cadell Cottage</i> (former doctor's house)	7	Hunter Street	Lot 2 DP 522978	Local
Raymond Terrace	Part of St Brigid's Catholic Church Group – St Brigid's Convent	54	Irrawang Street	Lot 13 Sec 15 DP 758871	State
Raymond Terrace	Part of St Brigid's Catholic Church Group – St Brigid's Church Hall	58	Irrawang Street	Lot 16 DP 547042	State
Raymond Terrace	Timber Cottage (former mounted police barracks)	11	Irrawang Street	Lot 6 DP 38088	Local
Raymond Terrace	<i>Boomerang Park</i> , including former stone quarry and mature tree planting	17E	Irrawang Street	Lot 1 DP 1018979	Local
Raymond Terrace	<i>Bailiwick</i> – cottage	70	Irrawang Street	Lot 2 DP 346695	Local
Raymond Terrace	Part of St John's Anglican Church Group – former parish hall	1	Jacaranda Avenue	Lot 11 DP 859130	State
Raymond Terrace	Raymond Terrace War Memorial	2A	Jacaranda Avenue	Lot 1 Sec 23 DP 1014247	Local
Raymond Terrace	Ornamental planting of Jacaranda trees ( <i>Jacaranda mimosifolia</i> )		Jacaranda Avenue Road Reserve (between Glenelg and Swan Streets)		Local
Raymond Terrace	<i>Kia-ora</i> , including mulberry tree beside driveway	13	Kia-ora Street	Lot 13 DP 24939	Local
Raymond Terrace	Part of King Street Group – residence (former hotel)	7	King Street	Lot 1 DP 741492	State
Raymond Terrace	Part of King Street Group – shop (former boot and shoe emporium)	9	King Street	Lot 1 DP 737678	State
Raymond Terrace	Part of King Street Group – shop and residence (former hardware store)	11	King Street	Lot 1 DP 783549	State
Raymond Terrace	Part of King Street Group – shop (former grocery store)	13	King Street	Lot 5 DP 707022	State
Raymond Terrace	Part of King Street Group – hall (former shop and residence)	14	King Street	Lot 1 DP 301752	State
Raymond Terrace	Part of King Street Group – shop (former Princess Café, including leaded glass highlights over front door and windows)	15	King Street	Pt Lot 5 Sec 4 DP 758871	State
Raymond Terrace	Tree – specimens of <i>Ficus macrophylla</i> (Moreton Bay Fig) – <i>The Marriage Trees</i>	16	King Street	Lot 1 DP 79440	Local
Raymond	Part of King Street Group –	17	King Street	Lot 14	State

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Terrace	shop (former drapery)			DP 748967	
Raymond Terrace	Part of King Street Group – brick warehouse (former bond store)	18	King Street	Pt Lot 5 Sec 4 DP 758871	State
Raymond Terrace	Part of King Street Group – residence (former shop and residence)	19	King Street	Lot 12 DP 711577	State
Raymond Terrace	Part of King Street Group – shop (former shop and residence)	21	King Street	Lot 10 DP 712299	State
Raymond Terrace	Ornamental planting of <i>Phoenix canariensis</i> (Canary Islands Date Palm)		Port Stephens Street Road Reserve (Adam Place)		Local
Raymond Terrace	Timber Cottage	34	Port Stephens Street	Lot 4 Sec F DP 939306	Local
Raymond Terrace	Former Post Office	61	Port Stephens Street	Lot 41 DP 776800	Local
Raymond Terrace	Former Schoolhouse	63	Port Stephens Street	Lot 3 DP 252996	Local
Raymond Terrace	Library (former Mayo's Building)	72	Port Stephens Street	Pt Lot 10 Sec 3 DP 758871	Local
Raymond Terrace	Tree – specimen of <i>Ficus rubiginosa</i> (Port Jackson Fig)	1	Sketchley Street (Pacific Highway)	Pt Lot 138 DP 24655	Local
Raymond Terrace	Part of St Johns Anglican Church Group – church	45 and 45A	Sturgeon Street	Lots 3 and 4 Sec 9 DP 758871	State
Raymond Terrace	Part of St Johns Anglican Church group – rectory and ornamental planting of 2 <i>Araucaria heterophylla</i> (Norfolk Island Pine)	48	Sturgeon Street	Council Subdivision 54/536	State
Raymond Terrace	<i>Euripides</i> – stone cottage	28	Sturgeon Street	Lot 22 DP 613174	Local
Raymond Terrace	Roeth House – two storey timber house	12	Swan Street	Lot 23 DP 588932	Local
Raymond Terrace	Sabre Jet fighter aircraft - Bettles Park	8	Wahroonga Street	Pt Lot 138 DP 24655	Local
Raymond Terrace	<i>Kinross</i> , including stone shed and landscape setting	68	Wahroonga Street	Lot 721 DP 805426	State
Raymond Terrace	Fitzgerald Bridge		William Bailey Street, Hunter River		Local
Raymond Terrace	Junction Inn	1A	William Street	Lot 1 DP 734368	Local
Raymond Terrace	Ralston's Building (commercial building)	4	William Street	Lot 1 DP 111303	Local
Raymond	National Australia Bank	14	William Street	Lot 1	Local

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Terrace				DP 912155	
Raymond Terrace	Uniting Church, including bell tower and WWI honour board	56	William Street	Lot 19 DP 770935	Local
Raymond Terrace	Courthouse	57-59	William Street	Lot 10 Sec 11 DP 758871	State
Raymond Terrace	Part of St Brigid's Catholic Church Group – St Brigid's Presbytery	67	William Street	Lot 11 Sec 15 DP 758871	State
Raymond Terrace	Part of St Brigid's Catholic Church Group – St Brigid's Church	69	William Street	Pt Lot 12 Sec 15 DP 758871	State
Seaham	<i>Burrowel</i> Homestead, off Dixon Street	110	East Seaham Road	Lot 2 DP 194920	Local
Seaham	Seaham Cemetery	10	Grape Street	DP 758899	Local
Seaham	<i>Balikera House</i>	325	Italia Road	Lot 1 DP 563430	State
Seaham	<i>Tom McLennan's Cottage</i> –slab cottage	4	Middle Crescent	Lot 1 Sec 31 DP 758899	Local
Seaham	<i>Eskdale House</i>	78A	Seaham Road	Lot 17 DP 881861	Local
Seaham	Porphyry Point site	1	Warren Street	Lot 1 DP 538498	Local
Seaham	School of Arts, including memorial pillars and photographic collection of WWI servicemen, timber war memorial honour board, Friendly Society dispensation and Seaham ferry bell	10	Warren Street	Lot 8 Sec 10 DP 758899	Local
Seaham	Seaham Quarry, including interpretive sign originally installed by Professor Edgeworth David	26 and 26A	Warren Street	Lot 10, DP 258195 Lot 95, DP 42639	State
Seaham	St Andrew's Church	47-53	Warren Street	Lots 4-7 Sec 31 DP 758899	State
Seaham	<i>Brandon</i> , including house, stables and landscape setting	100	Warren Street	Lot 149 DP 1003827	State
Shoal Bay	Remains of WWII fortifications, Fort Tomaree, including gun base and torpedo bases, torpedo tube jetty	2	Shoal Bay Road	Lot 454 DP 705463	State
Shoal Bay	Tomaree Holiday Lodge Precinct	4	Shoal Bay Road	Lot 453 DP 705463	State
Soldiers Point	Grave of Cecilia Cromarty – adjacent to Seaview Crescent	147 A	Soldiers Point Road	Lot 321 DP 595752	Local

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Tanilba Bay	Part of Henry Halloran Group – Portal to the Peerless		Road Reserve – Avenue of the Allies (Foch Forum)		State
Tanilba Bay	Part of Henry Halloran Group – Centenary Gateway (Water Arch), including avenue planting of <i>Araucaria heterophylla</i> (Norfolk Island Pine)		Road Reserve – Avenue of the Allies (Haig Hexagon)		State
Tanilba Bay	Part of Henry Halloran Group – Mosaic Temple of the Stork	31	Admiralty Avenue	Lot 45 DP 16873	State
Tanilba Bay	Part of Henry Halloran Group – Sunset Park, including 2 stone seats, large stone table, stone fireplace and kilns	2B and 2C	Caswell Crescent	Reserve Number 63326	State
Tanilba Bay	Part of Henry Halloran Group – Stone wall west of Tanilba House	30	Caswell Crescent	Lot 2 DP 548644	State
Tanilba Bay	Part of Henry Halloran Group – Palm Circle – specimens of <i>Livistona australis</i> (Cabbage Tree Palm)	30A	Caswell Crescent	Lot 13 DP 16873	State
Tanilba Bay	<i>Tanilba House</i> , including remnants of convict barracks, garden cottage, water tank, stone walls, circular drive, <i>wishing chair</i> , direction finder, olive tree, rustic pergola and wisteria vine and garden setting, including Bunya Pine and fig tree	32	Caswell Crescent	Lot 1 DP 548644	State
Tanilba Bay	Part of Henry Halloran Group – Meridian Park, including 6 <i>Phoenix canariensis</i> (Canary Islands Date Palm), remains of circle planting of <i>Livistona australis</i> (Cabbage Tree Palm), stone seat, relocated barbecue and possible site of 3 burials	37A , 37B and 37C	Caswell Crescent	Lot 2, DP 182666 Lot 1, DP 848809 Lot, 7018, DP 1052527	State
Tanilba Bay	Part of Henry Halloran Group – former summer house, remains of former barbecue and commemorative stone work	44	Caswell Crescent	Lot 36 DP 16873	State
Tanilba Bay	Part of Henry Halloran Group – former bathers'		Road Reserve, Pomona Place		State

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	changing room and circular rock wall				
Taylors Beach	Tree – specimen of <i>Ficus rubiginosa</i> (Port Jackson Fig)	14	Taylor Road	Lot 636 DP 27628	Local
Tomago	<i>Tomago House Chapel</i> and landscape setting	102	Tomago Road	Lot 1 DP 770610	State
Tomago	<i>Tomago House</i> , including pinetum, pleasure garden and landscape setting	106	Tomago Road	Lot 1 DP 111486	State
Wallalong	Former Wallalong Broom Factory	44	McClymonts Swamp Road	Lot 140 DP 836929	Local
Wallalong	<i>Wallalong House</i> , including stables, outbuildings, gardens and landscape setting	76	Wallalong Road	Lot 577 DP 864399	State
Williamtown	<i>Devon House</i> , including former Moxey's slab cottage, dairy, hay shed and slab barn	145	Cabbage Tree Road	Lot 1 DP 832554	Local
Williamtown	St Saviour's Anglican Church, including WWI memorial plaque	199	Cabbage Tree Road	Lot 1 DP 607447	Local
Williamtown	Farm Silo	20	Steel Street	Lot 2001 DP 1033856	Local
Woodville	Former All Saints Church	235	Clarencetown Road	Lot 1 DP 137188	State
Woodville	General Store and Post office	229	Clarencetown Road	Pt Lot 24 DP 10074	Local
Woodville	Dunmore Bridge		Clarencetown Road, Paterson River		State
Woodville	<i>Stradbroke</i> , including stone barn, and landscape setting	80	Paterson Road	Lot 101 DP 546779	State
Woodville	School of Arts	29	Paterson Road	Pt Lot 51 DP 752451	Local
Woodville	<i>Tressingfield</i> (former <i>Carlton Cottage</i> ), including gardens and landscape setting	70	Paterson Road	Lot 1 DP 948190	Local
Woodville	<i>Pomfrett's Cottage</i> – slab cottage	27	Paterson Road	Lot 2 DP 782062	Local

**[2] Schedule 2, Part 2**

Omit the Part including title

Insert instead Part 2 Heritage Conservation Areas

Description	Identification on Zoning Map
Hinton	Shown by a heavy black broken line marked "Hinton Heritage Conservation Area".
Raymond Terrace	Shown by a heavy black broken line marked "Raymond Terrace Heritage Conservation Area".

**[3] Schedule 3 Exempt development**

Insert under Advertising sign in alphabetical order

- (h) Signage for sponsorship in open space areas
- Maximum size 5m length x 1m height  
1 sign per site  
Sponsorship must relate directly to activities held on the site  
Must be in accordance with an adopted Plan of Management.

**[4] Dictionary.**

(a) Omit the definitions "heritage conservation area", "heritage item", and "heritage item of Local significance". Insert instead in alphabetical order:

**heritage conservation area** means an area of land that is shown edged by a heavy black broken line on the zoning map and listed in Part 2 of Schedule 2.

**heritage item means** a building, work, relic tree or place listed in Part 1 of Schedule 2.

**heritage item of Local significance** means a heritage item listed in Part 1 of Schedule 2.

(b) Insert in appropriate order in the definition of **the map**:

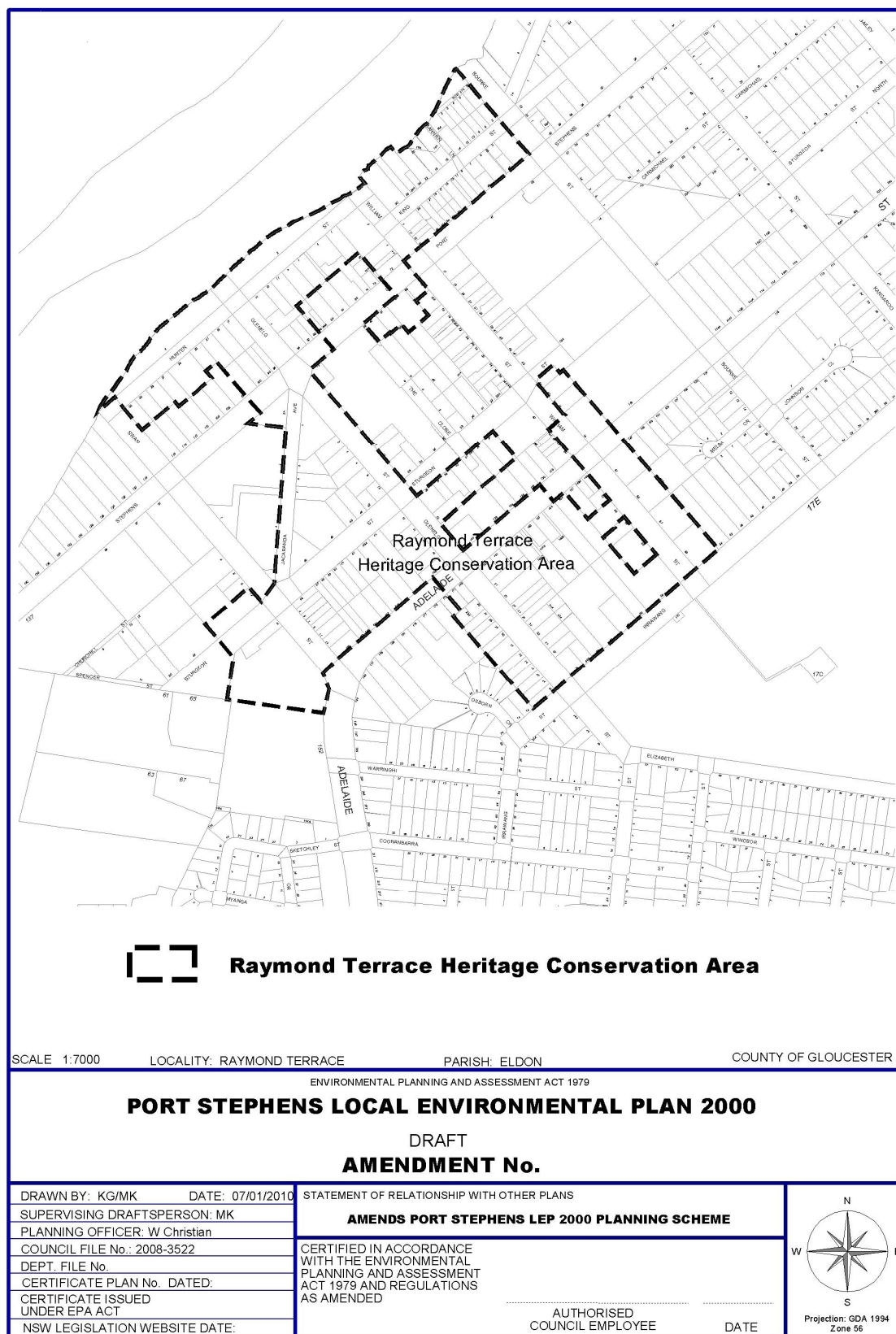
Port Stephens Local Environmental Plan 2000 (Amendment No)

# ATTACHMENT 3 EXISTING RAYMOND TERRACE HERITAGE CONSERVATION AREA BOUNDARY

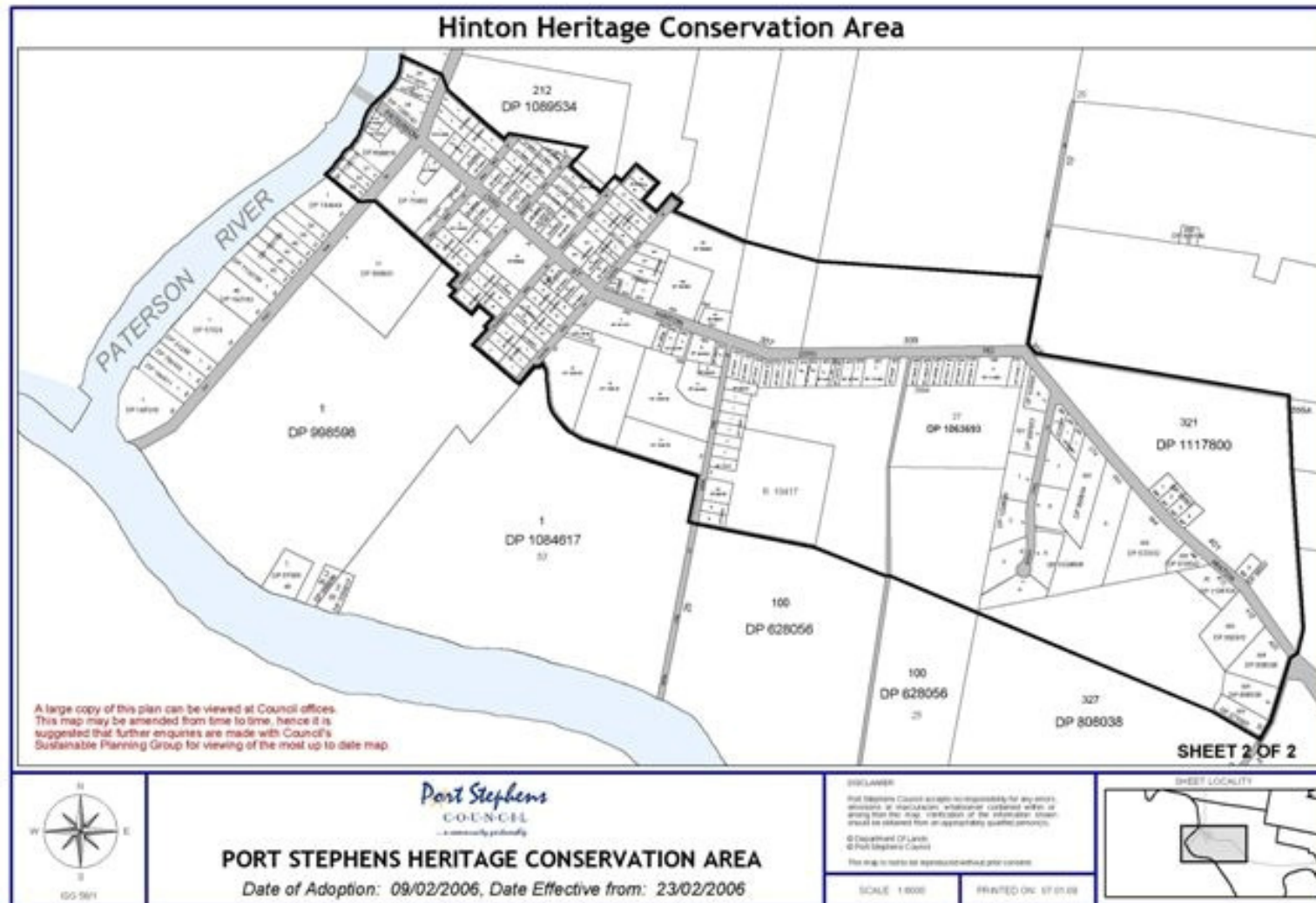




# ATTACHMENT 4 PROPOSED RAYMOND TERRACE HERITAGE CONSERVATION AREA BOUNDARY

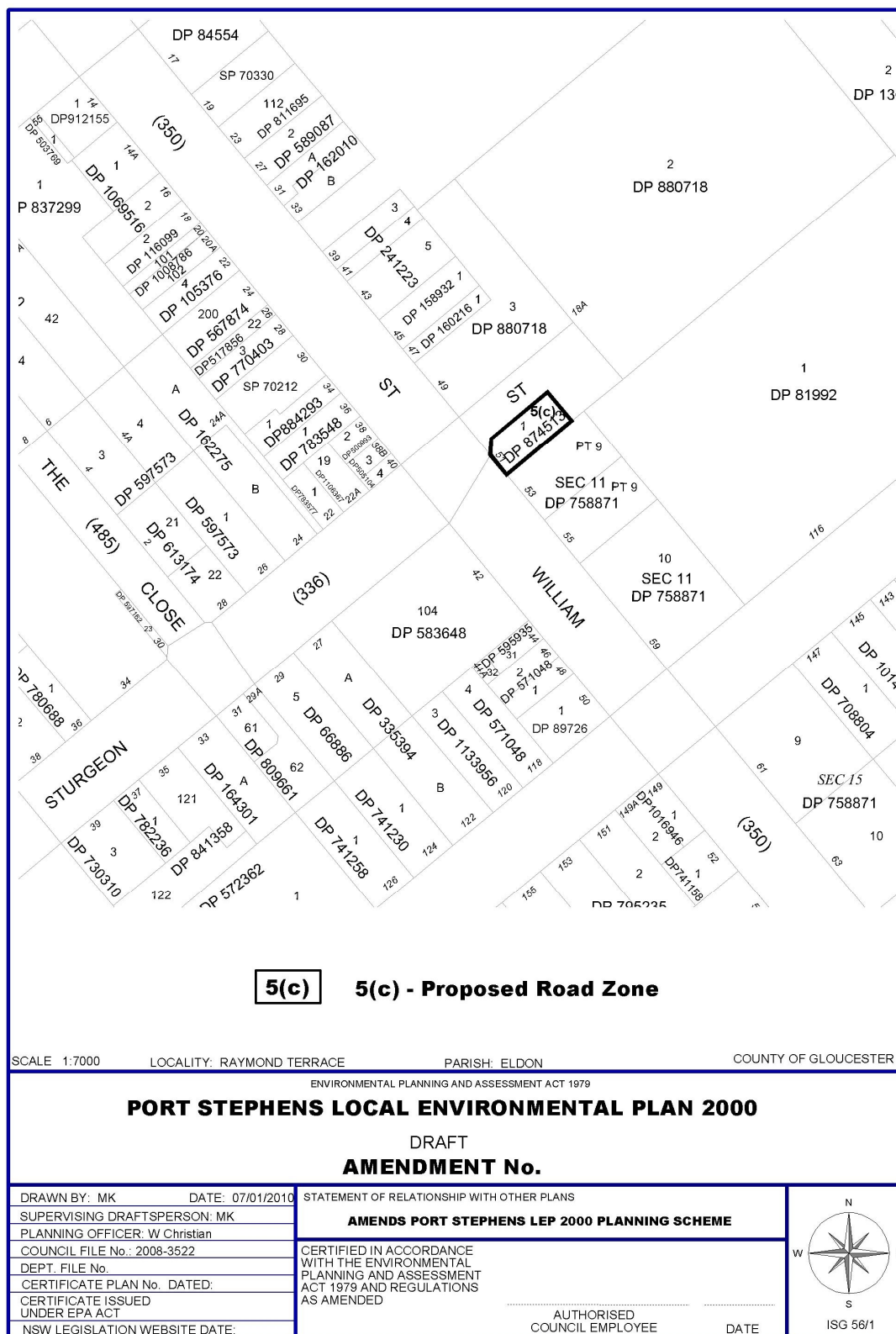


ATTACHMENT 5  
HINTON EXISTING CONSERVATION AREA



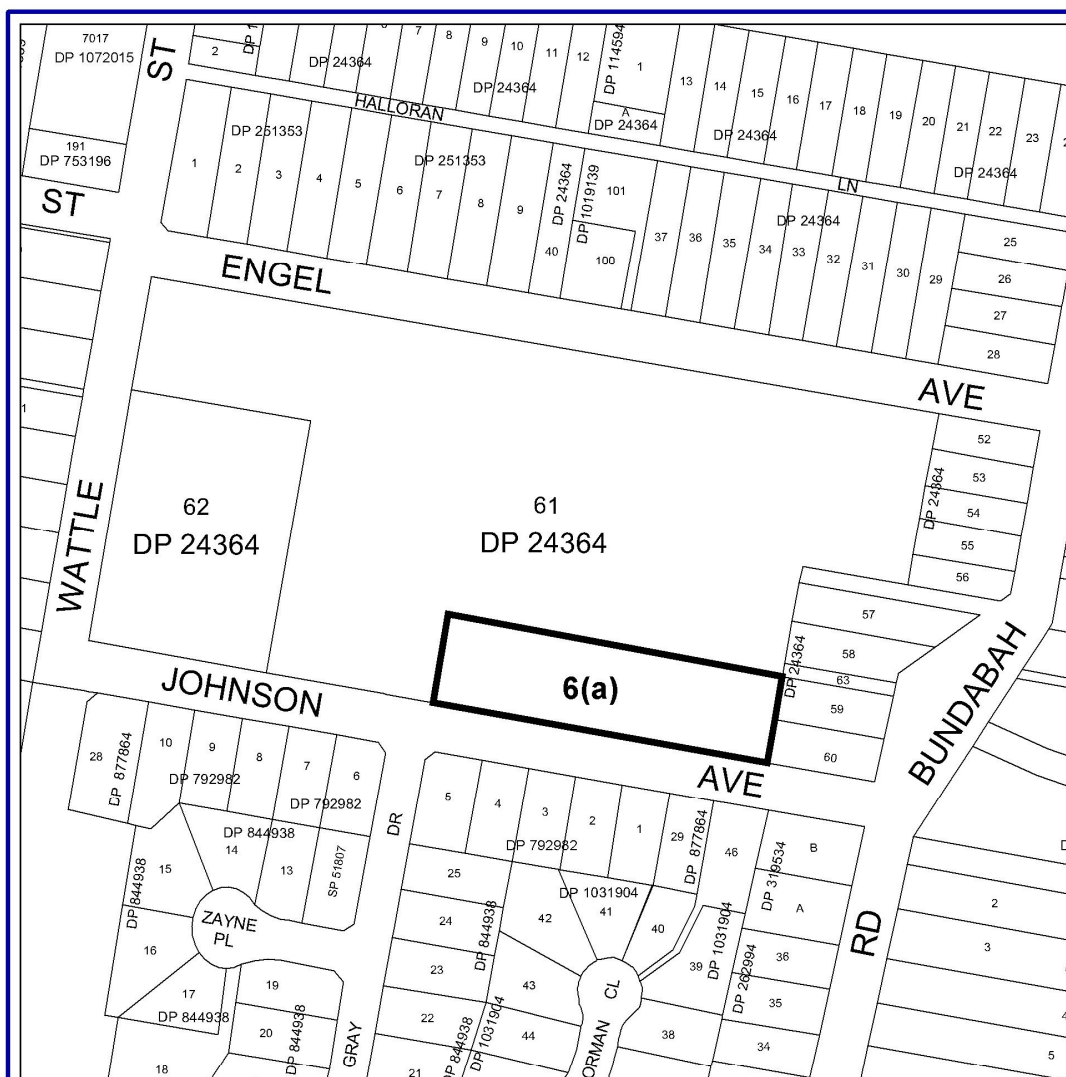
## ATTACHMENT 6

**LOT 1, DP 874513 -51 WILLIAM STREET, RAYMOND TERRACE**



ATTACHMENT 7

DRAFT REZONING MAP LOT 61, DP 24364 -JOHNSON AVE, KARUAH



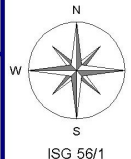
**6(a)** General Recreation "A"

SCALE 1:2500 LOCALITY: KARUAH PARISH: TAREAN COUNTY OF GLOUCESTER

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DRAFT

**PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000  
AMENDMENT - JOHNSON AVE, KARUAH**

DRAWN BY: KG	DATE: 22/01/10	STATEMENT OF RELATIONSHIP WITH OTHER PLANS	
SUPERVISING DRAFTSPERSON: KG		<b>AMENDS PORT STEPHENS LEP 2000 PLANNING SCHEME</b>	
PLANNING OFFICER: IS		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AND REGULATIONS AS AMENDED	
COUNCIL FILE No.: 2008-3522		AUTHORISED COUNCIL EMPLOYEE	
DEPT. FILE No.		DATE	
CERTIFICATE PLAN No. DATED:			
CERTIFICATE ISSUED UNDER S65 EPA ACT			
GOVT. GAZETTE OF			

**ITEM NO. 3****FILE NO: PSC2005-3964****CULTURAL PROJECTS FUND - REVIEW****REPORT OF: TREVOR ALLEN - MANAGER INTEGRATED PLANNING****GROUP: SUSTAINABLE PLANNING**

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**RECOMMENDATION IS THAT COUNCIL:**

1. Endorse the introduction of two categories to the Cultural Projects Fund:
  - a. 'One-off small grants' - one year projects for up to \$1,000
  - b. 'Cultural Partnerships' where the funded project is over \$1,000 and/or spans up to three financial years, with additional application requirements and conditions.
2. Discontinue the practice of allocating \$20,000 to each Ward on an annual basis and note that Council's Cultural Planner will recommend assessment and selection criteria and processes to the Strategic Cultural Committee to ensure equitable distribution of funds.

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**COUNCIL COMMITTEE – 23 MARCH 2010****RECOMMENDATION:**

	<b>Councillor Bruce MacKenzie Councillor Steve Tucker</b>	That Council endorse the introduction of two categories to the Cultural Projects Fund: <ol style="list-style-type: none"><li>a. 'One-off small grants' - one year projects for up to \$1,000</li><li>b. 'Cultural Partnerships' where the funded project is over \$1,000 and/or spans up to three financial years, with additional application requirements and conditions.</li></ol> and the assessment and selection criteria and processes of the Strategic Cultural Committee ensure equitable distribution of funds.
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**ORDINARY COUNCIL MEETING – 23 MARCH 2010**

<b>083</b>	<b>Councillor Glenys Francis Councillor Daniel Maher</b>	It was resolved that the recommendation be adopted.
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## **BACKGROUND**

*This report was submitted to the 9 February Committee and Council Meetings and was deferred for a Two Way Conversation, which occurred on Tuesday 9 March.*

The purpose of this report is to improve the outcomes of Council's Cultural Projects Fund, through a revision of its structure and process. The Fund will operate as a partnership program, supporting projects aligned with Council's Cultural Plan and coordinated through the Strategic Cultural Committee.

The Cultural Projects Fund is currently designed to support projects that:

- Complement Council's own community and cultural objectives, strategies and programs and will contribute to a vibrant cultural and community life for Port Stephens and its permanent and visiting community;
- Extend or diversify knowledge or experience of cultural or artistic programs or skills of practitioners in the community and has the ability to attract new audiences;
- Increase opportunities to extend community capacity for cultural and/or artistic activity; and
- Offer opportunities for employment generation.

The Cultural Projects Fund is key to the new Cultural Framework. The framework is to be guided by a Cultural Plan, lead by the Strategic Cultural Committee, delivered in partnership through a network of community teams and for Council's financial contributions to joint initiatives to be resourced through the Cultural Projects Fund.

In November 2009 it was resolved by Council to 'Endorse that the Cultural Projects Fund' be tied to the Cultural Plan, where the resources assist organisations to address identified cultural priorities' (Council Ordinary Meeting, 24 November 2009, item 6).

The 2009-2010 Cultural Projects Fund was brought into line with best practice, with the introduction of a selection process including a Selection Panel. In November 2009 it was resolved by Council to 'Endorse that the Councillors nominated to the new 'Strategic Cultural Committee' serve as the selection panel for the Cultural Project Fund, rather than having an additional separate committee' (Council Ordinary Meeting, 24 November 2009, item 6). As the Strategic Cultural Committee is to partner in the delivery of the cultural plan, it makes sense to link the Cultural Projects Fund with the committee.

Further areas for improvement have been identified as outlined in this report.

Currently, grant applications vary greatly in terms of quality, and the size of projects range from small one-off to large long-term initiatives.

There are some groups that have historically received funding over many years despite the program being for 'one-off' allocations. This has created expectations that the funds are ongoing and established a dependency on the funding for standard operational expenses. This is not in line with the purpose of the fund.

Many initiatives take a number of years to achieve sustainability. While the fund is only committed year by year, it is a challenge for community groups to progress with a project without knowing if the resources will be made available. Being a competitive process, they would not know if they are successful for the second year of a project's development which hinders its success.

The recommendations are designed to group projects into two categories:

- a. 'One-off small grants' - one year projects for up to \$1,000
- b. 'Cultural Partnerships' where the funded project is over \$1,000 and/or spans up to three financial years, with additional application requirements and conditions.

See the attached 'Cultural Projects Fund Eligibility Flowchart' (Attachment 1) which is designed to assist applicants to determine if the project is eligible, their organisation is eligible and to which funding category they would apply.

Those seeking smaller amounts of financial support for short term projects will have a simplified process. Those seeking longer-term and more significant financial support would be required to meet additional criteria and conditions.

Making a financial commitment to a cultural project for up to three years provides an adequate time for projects to become self-sufficient while at the same time having a clear sunset to the financial arrangement. There is then an opening for other new initiatives to receive the same support.

Those seeking longer/greater financial commitment from Council would be expected to demonstrate that they have a plan, their community is involved and that they will participate in Council's Cultural Framework (Council's Strategic Cultural Committee and associated teams). Therefore the following conditions would apply to multi-year / large projects:

- Demonstrate involvement of at least two other community/business groups in the project
- Report each year on the project's progress and expenditure
- Participation in the 'Culture Port Stephens Network'

To be eligible for consideration, applicants to the Cultural Partnerships category would be required to provide the following, in addition to the application form:

- A business plan using a provided template
- Letters from at least two other organisations confirming involvement in the proposed project.
- Evidence that demonstrates the project is meeting a community need – photos, council/community documents and plans

It is a standard condition for all projects to recognise Council as a project partner in all promotional material and associated events.

**FINANCIAL/RESOURCE IMPLICATIONS**

The Cultural Projects Fund is an annual funding program with a \$60,000 budget for the 2010-2011 financial year. The Cultural Projects Fund' is tied to the Cultural Plan, where the resources assist organisations to address identified cultural priorities.

This report recommends that funding applications can be made for projects spanning up to three financial years.

These projects would provide an acquittal on the expenditure of one year allocation before being eligible to receive their allocation from the next year's budget. Therefore, while the funds are committed in a previous year, each year's budget is spent that same year.

There need to be caps on the value of allocations each year to prevent funds being locked up by previous commitments and preventing establishment of new projects. The recommended schedule ensures that each year the previous commitments are honoured and funds also be available for new projects, all within budget.

The proposed formula would be:

	Annual budget allocation
One-off / one year projects	\$15,000 Minimum
1 <sup>st</sup> year of 3 year projects	\$15,000 Maximum
2 <sup>nd</sup> year of 3 year projects	\$15,000 Maximum
3 <sup>rd</sup> year of 3 year projects	\$15,000 Maximum
TOTAL Council budget allocation	\$60,000

This formula provides \$15,000 for one-off / one year projects, and \$45,000 for multi-year / larger projects.

The first two years of the new structure would vary as there would be no projects in their later years. Therefore it is recommended that a two year project timeframe be incorporated for the transition.

The proposed formula for 2010-2011 financial year allocations:

	Annual budget allocation
One-off / one year projects	\$30,000 Minimum
1 <sup>st</sup> year of 2 year projects	\$15,000 Maximum
1 <sup>st</sup> year of 3 year projects	\$15,000 Maximum
TOTAL Council budget allocation	\$60,000

Therefore in the 2010-2011 financial year, \$30,000 for one-off / one year projects, and \$30,000 for multi-year / larger projects.



## MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

The proposed formula for 2011-2012 financial year allocations:

	Annual budget allocation
One-off / one year projects	\$15,000 Minimum
2 <sup>nd</sup> year of 2 year projects	\$15,000 Maximum
2 <sup>nd</sup> year of 3 year projects	\$15,000 Maximum
1 <sup>st</sup> year of 3 year projects	\$15,000 Maximum
TOTAL Council budget allocation	\$60,000

Therefore in the 2011-2012 financial year, \$15,000 for one-off / one year projects, and \$45,000 for multi-year / larger projects.

### LEGAL, POLICY AND RISK IMPLICATIONS

Governance of the fund is improved, therefore decreasing risk.

See the attached 'Cultural Projects Fund Management Process Flowchart' (Attachment 2)

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are currently social equity issues around distribution of the funds, so some groups have received funds year after year while others have not had the opportunity to attract resources. The recommendations will improve access to the funds across all eligible organisations.

Currently the fund is split with \$20,000 budgeted per ward. This measure was introduced to ensure equitable geographic distribution of the funds. Not that we have established a new Cultural Framework, this equity can be achieved without formally dividing the funding pool. The Cultural Framework is to be lead by a Strategic Cultural Committee, with a delegate from each planning district. Four Councillors are currently nominated to this committee. This committee is charged with the responsibility to ensure equitable distribution, assessing the applications and making recommendations to Council.

The fund is designed to build the capacity of cultural groups and their initiatives toward becoming financially self-sufficient. This is achieved through an extended program of support through the establishment phase of the project. This is then phased out as they stand in their own right, as partners with Council rather than dependants.

### CONSULTATION

Feedback and liaison with cultural and community groups has been undertaken on how the program has run in the past, how it is currently structured and potential improvements. These recommendations balance the expectations of those who

## **MINUTES FOR ORDINARY MEETING – 23 MARCH 2010**

have historically received funding and those who would like to be considered for new initiatives.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Cultural Projects Fund Eligibility Flowchart

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1  
Cultural Projects Fund Eligibility Flowchart

## Cultural Project Fund Eligibility flowchart

Follow the flowchart below to determine if the project is eligible, if your organisation is eligible and to which funding category you will apply.

1. Does the project:

- *Extend or diversify knowledge or experience of cultural or artistic programs or skills of practitioners in the community and has the ability to attract new audiences; and/or*
- *Increase opportunities to extend community capacity for cultural and/or artistic activity; and/or*
- *Offer opportunities for employment generation; and/or*
- *Complement Council's own community and cultural objectives, strategies and programs and will contribute to a vibrant cultural and community life for Port Stephens and its permanent and visiting community.*

Yes

No

**The project is not eligible.**

Either:

- Revise the project; OR
- Find an alternative funding program which is more appropriate.

2. Is the applicant:

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

Yes

No

**The applicant is not eligible.**

Find an organisation that may be interested in 'auspicing' the project. This means they would be responsible for governance of the project and accountable for the funds. You could add your original applicant as a 'project partner'.

**Your project and organisation are eligible!**

Now you need to determine what type of application you are submitting, either a one-off small grant or a cultural partnership application.

**3. Is the project requesting less than \$1000?**

(This relates just to the contribution requested from Council, NOT the total project budget which could include other financial sources such as fund-raising, sponsorships, project revenue)

Yes

**Within one financial year**

**Over more than one financial year** (up to three financial years)

No

**4. When will the Council funds be spent?**

(What is the duration of the funded phase of the proposed project?)

**You are applying for a 'one-off small grant'**

This is a simpler application process with fewer conditions on the project.

**Conditions:**

- Recognition of Council as a project partner in all promotional material and at associated events.
- Provide a report on the project and expenditure.

**Essential documents:**

- The 2010-2011 funding round application form

**Optional documents:**

- Letters of support/ participation from community/business groups
- Quotes from providers of goods/services to demonstrate anticipated expenses
- Examples of how such a project has worked somewhere else
- Evidence that demonstrates the project is meeting a community need – photos, council/ community documents and plans.

**You are applying for a 'cultural partnership'**

Being a greater commitment than a 'one-off small grant', there are additional requirements.

**Conditions:**

- Recognition of Council as a project partner in all promotional material & at associated events.
- Involvement of at least two other community/business groups in the project
- Report each year on the project's progress and expenditure
- Participation in the 'Culture Port Stephens Network' (Council's Strategic Cultural Committee and associated teams)

**Essential documents:**

- The 2010-2011 funding round application form
- A business plan using the provided template
- Letters from at least two other organisations confirming involvement in the project.
- Evidence that demonstrates the project is meeting a community need – photos, council/community documents and plans

**Optional documents:**

- Letters of support from community and business groups
- Quotes from providers of goods/services to demonstrate anticipated expenses
- Examples of how such a project has worked somewhere else.

- Submit your application to Council by the closing date for consideration.
- Wait to be notified of the selection process outcome (3-4 months).
- If successful you will be invited to a presentation ceremony.

**ITEM NO. 4****FILE NO: PSC2005-4390****CHANGES TO TREE PRESERVATION ORDER PROCESS****REPORT OF: BRUCE PETERSEN - ENVIRONMENTAL SERVICES MANAGER****GROUP: SUSTAINABLE PLANNING**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Resolve to rescind the Notice of Motion passed on the 22 September 2009 regarding the Tree Preservation Order (TPO);
- 2) Receive and note the changes made to the TPO process that allows medical conditions, and other relevant considerations, to be assessed within the initial assessment phase thereby removing the need for an arborist report, in these circumstances, for reassessments.

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**COUNCIL COMMITTEE – 23 MARCH 2010****RECOMMENDATION:**

	<b>Councillor John Nell Councillor Steve Tucker</b>	That the Item be deferred to the next Council Committee meeting to allow for further information to be provided.
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**ORDINARY COUNCIL MEETING – 23 MARCH 2010**

<b>084</b>	<b>Councillor Daniel Maher Councillor Steve Tucker</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to respond to the Notice of Motion passed on 22 September 2009 regarding the insertion of Routine Agricultural Management Activities (RAMAs) under the *Native Vegetation Act 2003 (NV Act)* as an addition exemption in Councils Tree Preservation Order (TPO). Secondly the report outlines some proposed changes to the TPO reassessment process regarding the need for arborist reports and reassessment in the event that the applicant has a medical condition or other relevant considerations.

The TPO assists Council to achieve Goal 6 of the Council Plan 'to protect the unique environmental heritage of Port Stephens.'

The additional proposed exemption read as follows:

*'The clearing of native vegetation that is authorised by a development consent or Property Vegetation Plan (PVP) under the Native Vegetation Act 2003 or that is a routine agricultural management activity within the meaning of that Act carried out on land to which that Act applies. (Approval under the Native Vegetation Act must be sourced from the Hunter Central Rivers Catchment Management Authority).'*

There is a long list of RAMAs however in essence they allow for the removal of vegetation either side of roads, pipelines, fence lines, dams, and other rural infrastructure.

Legal advice has shown that the requested amendments would not achieve the intended result, that is to totally remove the issue of an applicant needing approval from both Council under the EP&A Act and the Hunter Central Rivers Catchment Management Authority (HCRCMA) under the NV Act for removal of trees plants and shrubs in rural areas.

In essence the TPO only relates to trees and therefore anything besides a tree (i.e vegetation less than 3m in height or less than 300mm circumference) regardless of RAMAs would still require a Development Application for "clearing native vegetation" under the existing LEP. An example of this would be clearing native undergrowth.

The advice concludes that the only way to remove the dual consent issue would be to amend the LEP so it operates to "work around" the NV Act so that there is a single means of regulating approval to remove/modify vegetation of all types and sizes.

However putting forward such an amendment would be inconsistent with the Standard Instrument - Principal Local Environment Plan. The Department of Planning has been clear in its advice that it is unlikely to support amendments inconsistent with the standard LEP.

The State Government has been aware of the issue of dual consent and inconsistencies between many Council LEPs and the NV Act and has corrected the issue in the standard LEP template. The new LEP template better aligns with the NV Act by standardising the definition of clearing and by placing the mechanisms for vegetation management, that are currently controlled by the TPO and Part 2 of the current LEP, within the Development Control Plan (DCP).

Until the adoption of the new LEP it seems prudent to remain with the existing system with the exception of making the modifications regarding the need for an independent arborist for all reassessments.

The need for review the practice of requiring an independent arborist report for reassessments was discussed at a 'two-way conversation' on the 14<sup>th</sup> July 2009.

Following this conversation changes to the process were drafted however were not implemented as the subsequent NOM raised additional changes which needed to be resolved. It was deemed preferable that only one lot of changes were made to the process both for ease of communication to the public and for staff resourcing.

Matters that are currently taken into consideration when assessing a TPO application include:

- Any potential hazard and level of acceptable risk.
- Damage to property
- The health, vigour and safety of the tree.
- Interference with solar devices
- Solar access (reduced amenity due to decreased natural light)
- The need for removal for agricultural uses.
- The visual significance of the tree
- The impact on flora, fauna including threatened species
- Other provided information

It should be noted that future building envelopes are not considered as these are assessed when the DA for the building is submitted.

At the 'two-way conversation' in July 2009 it was agreed that overall the initial application and assessment process was working well but that there were some concerns relating to the reassessment process. It was also discussed that out of the refused applications less than 1% had asked for a re-assessment.

Councillors were concerned that the re-assessment process, and in particular the need for an independent arborist report, was too onerous. It was explained that when Councils arborist assesses trees it is a technical assessment based on the potential for damage to people and property. If an applicant disagrees with a technical assessment then an alternative technical assessment is needed so that the matter can be appropriately reviewed.

It was discussed that the main issue of concern related to applications for tree removal on non technical grounds such as medical conditions etc. It was agreed that in these situations an arborist report would add little value to the situation. Staff then agreed to review the TPO process and come back to Council with a way forward.

As such the matters that are taken into consideration have now been amended (attached) to also include interference with passive solar devices, solar access and the 'other provided information' consideration has been expanded to include medical conditions and other relevant factors. This will allow medical and other related matters to be assessed at the initial assessment phase and relieve the applicant of the reassessment process and

the need for an arborist report. Allowance for discretion by the Environmental Services Section Manager has also been included.

If the applicant disagrees on a technical basis then an arborist report will still be required before an 82A assessment by Councillors can be initiated. This is to ensure that Councillors have the necessary technical information to enable them to make a decision.

It is acknowledged that currently vegetation management is very complex however Council should be aware that as part of the comprehensive Port Stephens Local Environment Plan (PSLEP), and consequential Port Stephens Development Control Plan 2007 review, that the management of vegetation will be reviewed.

Work on the integration of these policies has already commenced. The new DCP is being drafted in line with the new LEP and until this time the existing procedure, with the amendments to allow medical conditions, and other related factors, to be considered at the initial assessment phase, should resolve the majority of issues that Councillors are being contacted about.

As the amended form is not an 'adopted document' and neither the TPO nor the DCP are being amended, Council at this stage is being asked to merely note the new procedure. However Council will, in the future, be asked to consider, (and if in agreement), adopt the amended process that will result as part of the holistic vegetation management review that is occurring as part of the LEP and DCP review.

## **FINANCIAL/RESOURCE IMPLICATIONS**

While the option to wait until the new LEP/DCP is in place will delay the implementation of RAMAs this approach will ensure that the NV Act and the LEP are in alignment. This approach is more streamlined and will require fewer resources.

In addition the proposed amendment will not achieve the desired outcome of removing the need for dual consent for the removal of vegetation under 3m in height and/or 300mm in circumference.

Amending the TPO process to allow medical conditions, and other related factors, to be considered at the initial assessment phase will require only minimal additional staff time however there will be a reduced financial burden on applicants wishing a tree to be removed for medical reasons.



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

On account of the conflicts between the Native Vegetation Act and the Local Environment Plan (LEP) amending the TPO as per the Notice of Motion has the potential to cause confusion and expose the community to compliance actions.

As the suggested amendment results in additional levels of complexity it will also be difficult for Council staff to provide accurate verbal advice and Council staff will have to refer the community to websites and information sheets. Providing incorrect advice could make council liable.

Waiting until the comprehensive LEP review is completed and the conflicts are resolved will remove the negative legal implications.

There are no policy implications with amending the TPO procedure to take medical issues, and other related factors, into consideration.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The TPO aims to protect and preserve trees throughout the Council area in order to maximise the benefits they provide including sustaining biodiversity; limiting effects of pollution; control of sunlight, shade, and winds; maintenance of water quality; soil enrichment and protection from erosion; and retention and enhancement of natural beauty and scenic values.

Any amendments that are made to existing procedures need to be inline with existing legislation to ensure that neither Council nor the community are put in a tenuous legal position.

Allowing medical and other related matters to be assessed at the initial assessment phase will relieve the applicant of the reassessment process and the need for an arborist report; this could result in a positive social outcome for the applicant.

## **CONSULTATION**

The comprehensive Port Stephens Local Environment Plan (PSLEP), and consequential Port Stephens Development Control Plan 2007 review will have its own consultation process. Amending the way that Council undertakes vegetation management as part of the LEP and DCP review will mean that vegetation management will become one aspect of the wider consultation.

## **OPTIONS**

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

- 3) Amend the recommendation.

**ATTACHMENTS**

- 1) Updated Tree Preservation Order – Development Application Form
- 2) TPO Assessment
- 3) TPO Reassessment Flow Charts

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**  
**UPDATED TREE PRESERVATION ORDER DEVELOPMENT APPLICATION FORM**



116 Adelaide Street  
 (PO Box 42) Raymond Terrace NSW  
 2324  
 DX 21406 Raymond Terrace  
 T: (02) 4980 0255 F: (02) 4987 3612  
 E: council@portstephens.nsw.gov.au  
 W: www.portstephens.nsw.gov.au

**OFFICE USE ONLY**

*Property No*

*Application No*

*Date of Receipt*

**Tree Preservation Order – Development Application**

Council Fee of \$45

Environmental Planning & Assessment Act

Applicant's Details				
Name				
Address				
Email				
Phone			Mobile Phone	
Ownership Details				
Name				
Address				
Property Description				
Lot No	DP / SP	Section	Portion	
House No	Street Name			
Town				

**SITE PLAN:** (Indicate nearest street, buildings, property boundaries and trees. Trees requiring work must be numbered for identification.) Include extra sheet if insufficient room is provided.

**DETAILS OF PROPOSED WORK** (provide detailed information of work eg. Remove 3 overhanging branches, or thin crown by 20%)

Indicate the number of trees, in the appropriate box, for each category of work proposed.

<b>PRUNE</b>	<input type="checkbox"/>	<b>REMOVE</b>	<input type="checkbox"/>	<b>OTHER</b>	<input type="checkbox"/>
(If pruning, circle the type/s of pruning proposed)					
Cleaning out the crown	Thinning the crown	Deadwooding	Selective pruning	Pollarding	
Formative pruning	Lifting the crown	Remedial pruning	Reduction pruning	Line clearance	

**The following factors are considered when assessing your application:**

- The likelihood of damage being caused to any building or utility service
- Interference, or potential interference, with the efficiency of a solar heating appliance or solar access
- Interference with the amenity of a habitable room due to reduction in natural light transmission and ventilation.
- The visual significance of the tree
- The need for removal for agricultural purposes.
- The health, vigour and safety of the tree.
- Potential conflict with Council's Koala Management Plan or any other flora, fauna or conservation strategy.
- The impact on threatened species, populations, ecological communities and/or habitats.
- Any potential hazard and level of acceptable risk.
- Any representation or other information provided by the applicant or the owner.
- If the issue relates to a medical or psychological complaint then a certificate from a doctor must be provided.

In addition to the above factors the Environmental Services Section Manager can apply his/her discretion during the assessment process.

**Outline the reasons for requiring the proposed work to be undertaken. (Add an extra page if required)**

I/We the undersigned hereby make application to Council for permission to develop as above, and as per accompanying plans and specifications, in accordance with the provisions of the relevant Acts, Regulations and Local Environment Plan, and I/we undertake to develop in conformity with such approval and Acts and Codes, IMDEMNIFY the Council of Port Stephens against all claims which may arise whether from negligence or otherwise as a result of my carrying out or instructing a third party to carry out the above work or any other work within the road reservation at the above address.

APPLICANT/S SIGNATURE/S .....

(Please print name) .....

Note: Where applicant is not the owner, the owners must consent to application below.

I/We, the owner/s of the above property hereby give consent to lodgement of this application- **ALL OWNERS MUST SIGN**

OWNERS' SIGNATURE: .....

(Please print names).....

Date: .....

If the owner is a company, a director and an authorised person (eg. Secretary) must sign. Signatures must be followed by the persons title. If Company is a sole trader, the person's title is to indicate ; 'Sole Director'.

## Tree Preservation Order – Development Applications Checklist

Application fee must be paid on submission of this application, for fees please refer to Council's Fees & Charges Schedule (available on Council's Web Page – [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au))

**Please ensure that the following necessary requirements are completed to ensure that your application can be promptly processed.**

- ☐ If you are not the owner of the property that the tree/trees are on, please ensure that the owner/s of that property sign the application.
- ☐ **All owners** of the property **must** sign the application.
- ☐ If the application is made on behalf of a **company** it needs to be signed by two authorised persons and the signatures must be followed by the person's title - eg director, secretary.
- ☐ If your property is part of a **strata title** council requires the signature of the secretary of the body corporate and seal (stamp) of the body corporate.

- ☐ A site plan has been hand drawn on the bottom of the first page identifying the location of the tree on the property.
- ☐ Tree/s requiring work must be identified on the property eg electrical tape or cloth around the trunks of the tree/s.
- ☐ In the boxes for "prune", "remove" or "other" - do not tick or cross. Write the number of trees to be assessed in the relevant category.

**Please note the following:**

- **The time frame, from the date we receive your application to the date you receive approval or intention to refuse, is approximately three (3) weeks.**
- **Council's vegetation management officer does not make appointments for tree inspections.**

If you have any enquiries please contact:

Customer service officer  
Phone: 4980 0169

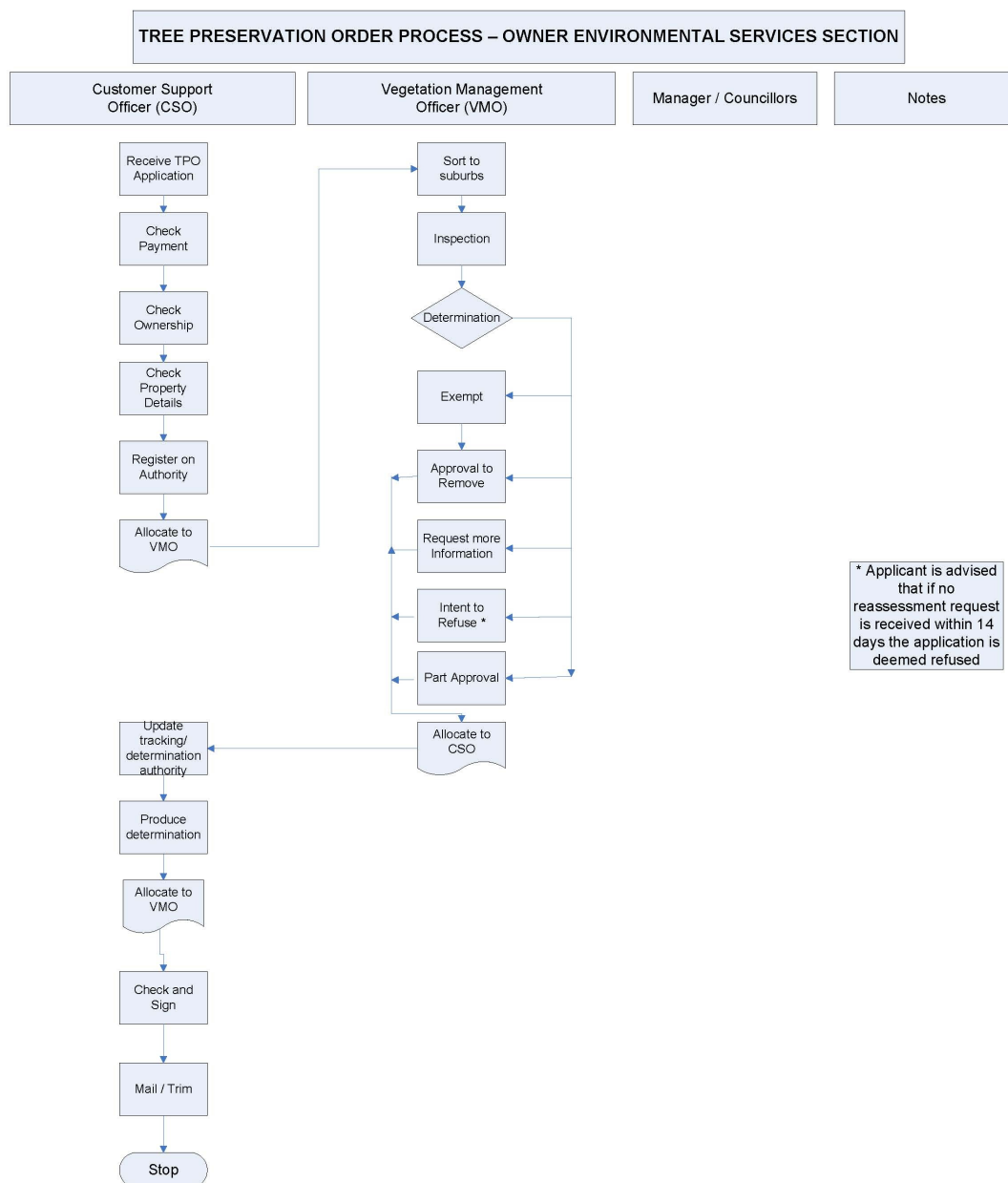
This application is to be used for trees on private property only.

Please contact customer service counter on 4980 0420 for trees on the footpath or public reserves.

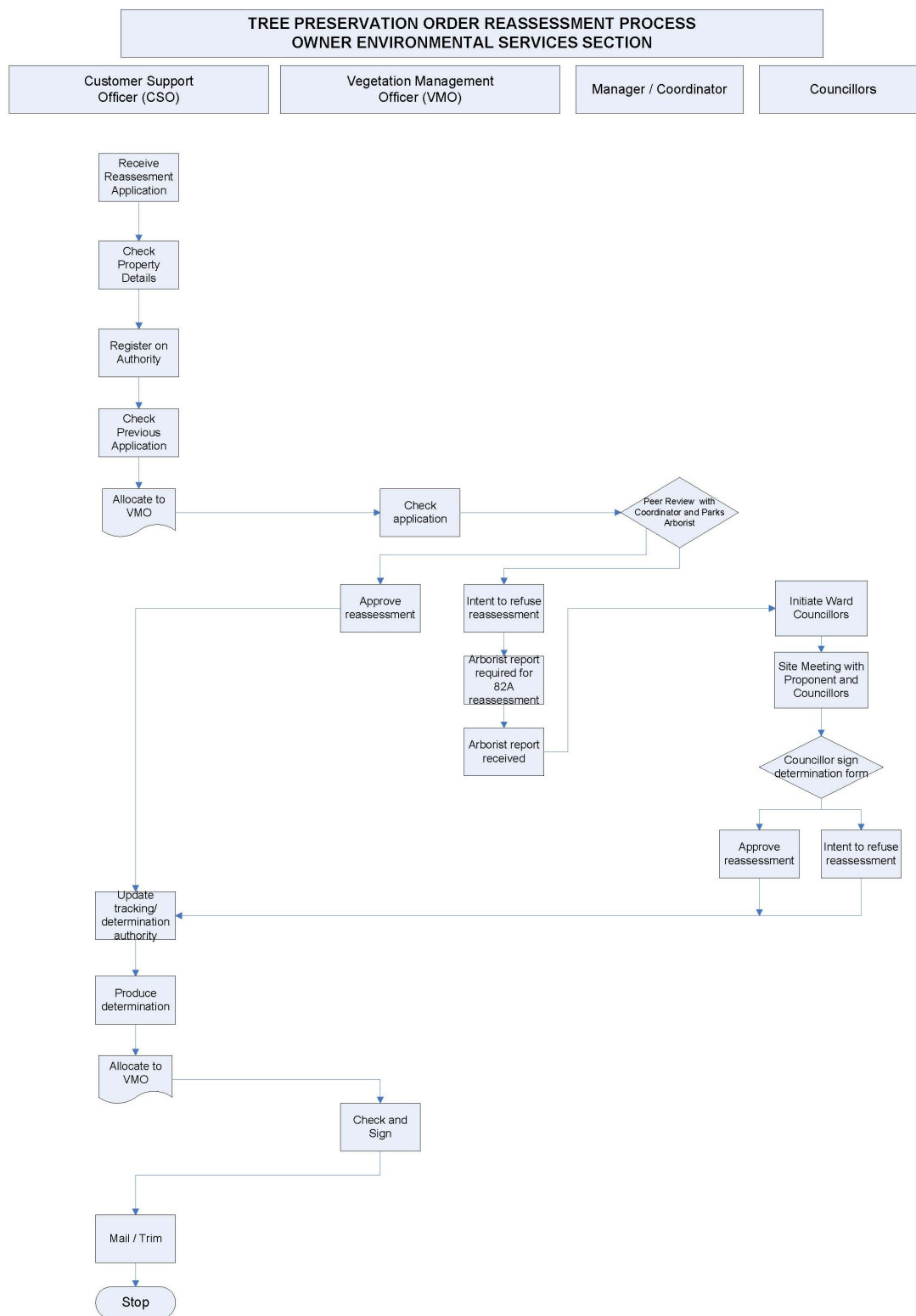
DRAFT

## ATTACHMENT 2

### TREE PRESERVATION ORDER FLOWCHART



### ATTACHMENT 3 TREE PRESERVATION ORDER REASSESSMENT PROCESS



Cr MacKenzie left the meeting at 8.17pm prior to Item 5.



ITEM NO. 5

FILE NO: PSC2010-00372

**ALTERATIONS TO BOUNDARIES OF PUBLIC ROAD KNOWN AS STOCKTON BIGHT TRACK AT WILLIAMTOWN.**

REPORT OF: CARMEL FOSTER - COMMERCIAL PROPERTY MANAGER

GROUP: COMMERCIAL SERVICES

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**RECOMMENDATION IS THAT COUNCIL AS THE ROADS AUTHORITY:**

- 1) Ensures that approximately 1.9km of the public road known as Stockton Bight Track running north-easterly from Lavis Lane at Williamtown is available for public use.
- 2) Under section 107 Roads Act 1993, directs the owners of unauthorised structures causing obstructions within the road reserve to remove them within 60 days from the date of the issues of such direction, and
- 3) Negotiates for consent of the owners of the obstructing structures to permit deviations of the public road, where necessary for safe traffic flow and to avoid the structures, so as to not interfere with the operations of them. See **attachment 1** for the location of the structures.
- 4) If the obstructing structures are not removed or the adjoining owners do not consent to road deviations, prior to the date the structures are directed to be removed, then under section 177 Roads Act 1993 make application to the Minister for Local Government and the Governor, for urgent consent and approval to compulsorily acquire parts:-
  - a) of lots 73, 76 and 101 DP753192 to allow deviations of Stockton Bight Track shown as lots 1, 2 & 3 on **attachment 2** and also
  - b) the sections of Stockton Bight Track shown as lots 4, 5 & 6 on **attachment 2**.
- 5) The application for compulsory acquisition, under the Land Acquisition (Just Terms Compensation) Act 1991 to include all mines and deposits of minerals not previously excluded from the land titles.
- 6) Lots 4, 5 & 6 on attachment 2 will become closed road classified as Operational Land and can be offered to the adjoining owners (obstructing structure owners) as compensation for their land to be acquired.
- 7) Following consent for acquisition, places the acquisition notification in the Government Gazette under section 178 Roads Act 1993, following by notification under section 10 of the Act declaring Lots 1, 2 & 3 acquired, as public road.
- 8) Grants authority to affix Councils Seal and signatures to the Transfer of the closed road parcels 4, 5 & 6 to the adjoining owners on settlement.

## MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

### COUNCIL COMMITTEE – 23 MARCH 2010

#### RECOMMENDATION:

	<b>Councillor John Nell</b> <b>Councillor Sally Dover</b>	That Council: 1) The matter be deferred to allow further consideration with both parties.  2) Should negotiation not be successful the matter be referred to the Local Land Board.
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### ORDINARY COUNCIL MEETING – 23 MARCH 2010

<b>085</b>	<b>Councillor John Nell</b> <b>Councillor Geoff Dingle</b>	It was resolved that the council committee recommendation be adopted.
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Cr Glenys Francis called for a division.

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

Those against the Motion: Nil

### BACKGROUND

The purpose of this report is to allow Council to comply with the Roads Act 1993 requirements, as the Roads Authority and to allow safe public access along Stockton Bight Track while permitting the continued use of obstructing structures, by consenting to road deviations as described.

The road boundaries were marked by a registered surveyor and it was found from Lavis Lane 353 metres of the existing haul road falls outside the public road reserve. It was then confirmed that substantial structures were constructed within the existing road reserve causing obstructions to any road user. A site inspection in early December 2009 confirmed these findings and suggestions were put forward as to how the obstructing structures could be protected so their existing use could be maintained. One of these suggestions was possible deviations of the existing public road to cater for safety while maintaining the structures.

The registered surveyor provided a plan of possible deviations along the lines discussed at a site inspection. As the Roads Authority, Council could see some benefits, which would preserve the existing structures so their current use in association with the adjoining property could remain. The proposed deviations are over previously sand extracted and disturbed areas so it appears there would be minor environmental implications. Any future construction will require planning assessment.

Stockton Bight Track provides the only legal access to lots 1 & 2 DP916061 and lot 122 DP753192 which have recently been sold and the new owners have been advised that this road is their only legal access. It is therefore important Council carries out actions so the objectives of section 3(a) of the Roads Act can be maintained, that is the rights of members of the public to pass along public roads.

Council's duties and powers to issue a direction for the structures to be removed should be enacted under the Roads Act, to provide a catalyst to arrive at a satisfactory outcome for all. The adjoining owners have been requested to give some consideration as to how to achieve an outcome. The time allowed for the structures to be removed will be used as a negotiation period to arrive at a solution. The adjoining property is owned by seven owners under Tenants in Common title and each owner may want to achieve different outcomes. This is why a recommendation is in place to go to the compulsory acquisition process, if that is necessary to finalise the matter. All involved are in support of the existing structures not being destroyed and seek an alternative solution.

Compulsory acquisition cannot commence without the consent of the Minister for Local Government and the approval of the Governor. Requests for such consent and approval do take considerable time to be processed and because of the need for the access to be regularised it is recommended an application be made for urgent processing by the authorities. It will take about 90 days for the application to be processed by Division of Local Government (DLG).

If the application is approved the notification to be published in the Government Gazette is prepared by DLG for Council to publish under the General Managers name. On publication the acquired lands come under Council ownership as Operational Land and are able to be transferred as compensation to the adjoining owners for their land acquired by the same Government Gazette notification. The area of their land being acquired for road deviation contains a total area of approximately 10,000sq metres and the total area of the road to be closed is approximately 14,300sq metres. These areas are subject to survey. The closed road area is proposed to be

offered to the adjoining owners as compensation for the land acquired from them.

The Valuer General is required to provide a valuation for compensation of the acquired land if agreement is not reached between Council and the owners. All details of the proposed lots acquired and the closed road areas proposed to be included in compensation must be presented to the Valuer General for his/her consideration. If the owners do not accept the compensation determined by the Valuer General the dispossessed owners may appeal to the Land and Environment Court for a decision. Such action will have no impact on the acquisitions as gazetted or the date of the notice. Once compensation is arrived at the closed road areas can be transferred to the adjoining owners. Council's Seal and Signatures are required to execute the Transfer of the lands for registration at the office of Land and Property Information.

### **FINANCIAL/RESOURCE IMPLICATIONS**

These are of minor nature as other aspects of the proposal fall within normal staff duties.

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

All actions relative to road activities by Council must fall under the Roads Act 1993. Section 107 under that Act provides for Councils ability to make a direction on the adjoining owners to remove unauthorised or authorised structures from a road, to make it accessible for public use. Section 177 provides for acquisition of land for road purposes with section 178 providing ability for this to be done under the compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991. Section 41 Roads Act provides that a road acquired by compulsory acquisition ceases to be a public road. It will then remain in Councils name as Operational Land and can be disposed of.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

In a practical sense nothing will change with the road continuing to be used by sand haulage trucks and the new owners of the 3 properties lots 1 & 2 DP916061 and lot 122 DP753192.

The recommendation will have little economic impact on Council as it is already the Roads Authority for the road.

The proposed acquisition areas for road are over sections of the affected lots that have been previously mined for bulk sand or otherwise disturbed and therefore it seems there will be minor environmental impacts. The new project will increase the number of vehicles using the road each day. The recommendations will preserve the existing business on the adjoining land.

## **CONSULTATION**

The affected property owners, consultant for the approved project as well as a director, Councils Acting General Manager, Group Manager Facilities as well as the Acting Group Manager for a time, Group Manager Commercial Services, Civil Assets Engineer and Principal Property Advisor.

## **OPTIONS**

- 1) Accept recommendation
- 2) Modify recommendations

## **ATTACHMENTS**

- 1) Locations of structures on road
- 2) Areas proposed to be acquired

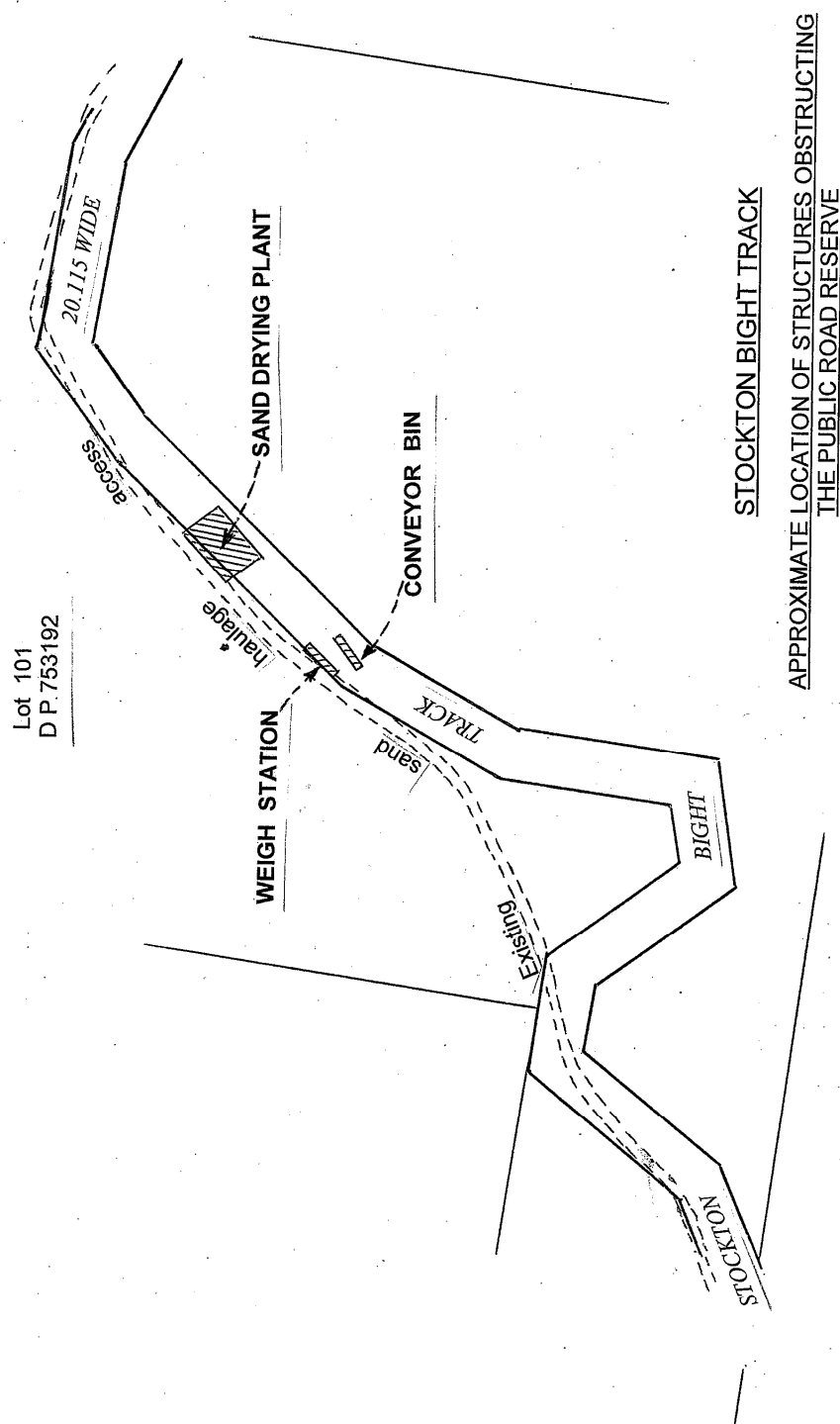
## **COUNCILLORS ROOM**

Nil.

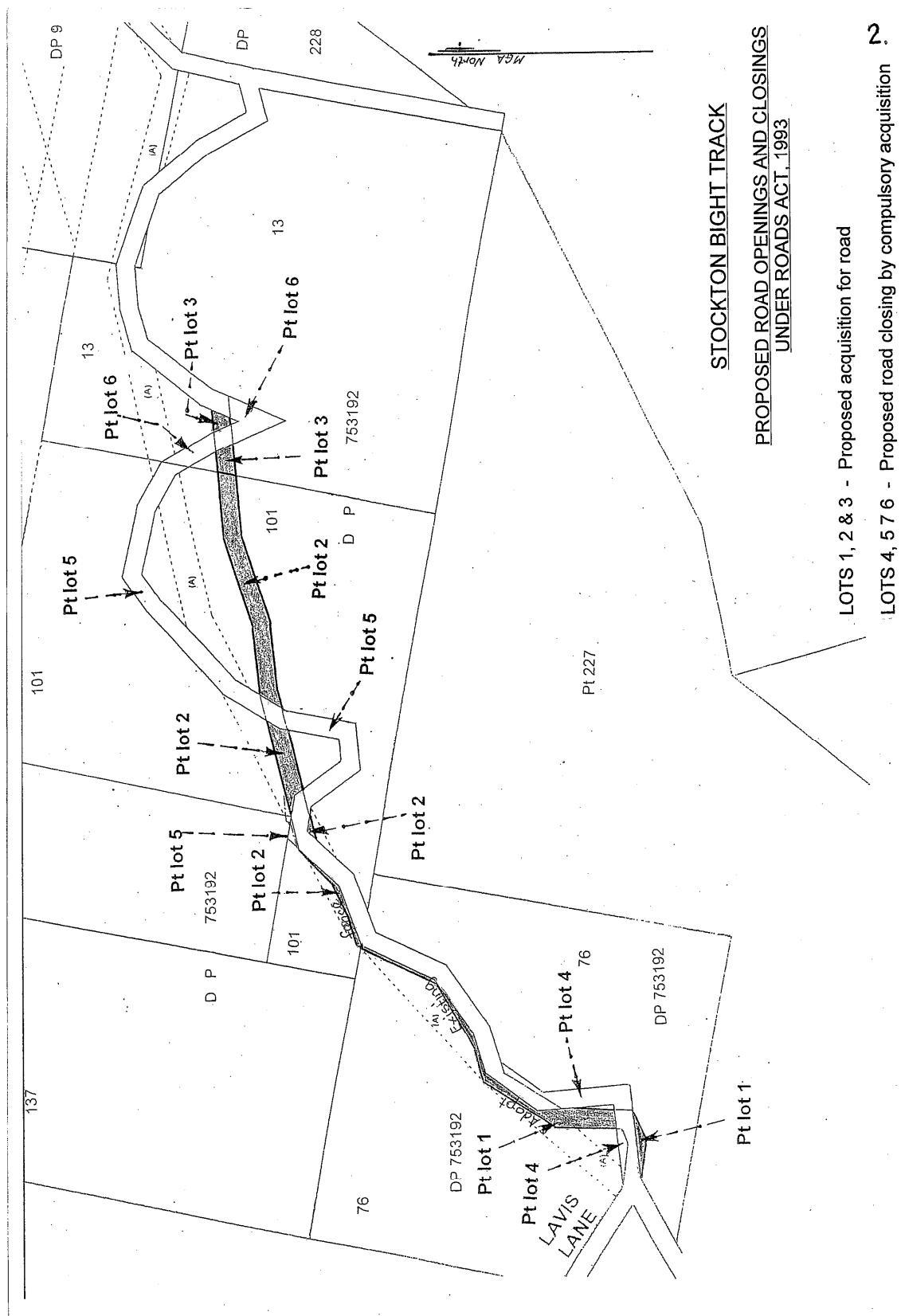
## **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



ATTACHMENT 2



Cr MacKenzie returned to the meeting at 8.19pm following Item 5.

**ITEM NO. 6****FILE NO: A2004-0372****COUNCIL AND COMMITTEE MEETINGS CYCLE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) That Council continue with the current Council and Committee meetings cycle in **ATTACHMENT 1**.

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**COUNCIL COMMITTEE – 23 MARCH 2010****RECOMMENDATION:**

	<b>Councillor Glenys Francis Councillor Peter Kafer</b>	That the matter be deferred to the next Council Committee meeting.
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**ORDINARY COUNCIL MEETING – 23 MARCH 2010**

<b>086</b>	<b>Councillor Glenys Francis Councillor Peter Kafer</b>	It was resolved that the Council Committee recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to provide Council with the opportunity to review the current Council and Committee meetings cycle.

Council at its meeting on the 22<sup>nd</sup> September 2009 resolved to adopt the current meeting cycles where Committee and Council meetings are held on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesdays of each month.

The current meeting practice has allowed a significant improvement in the decision making process and allows for the community to be informed of matters before Council up to 4 weeks sooner than under the previous meeting cycles.

As Councillors are aware the current practice provides two (2) opportunities per month for Council to consider matters removing the need to utilise the General Manager's Report to inform Council of matters. There has been a



significant improvement in the use of Mayoral Minutes which the greater opportunities to submit reports to Council.

Councillors previously were concerned with the volume of Supplementary Information given to Councillors at short notice. The current practice has reduced this significantly. In the 12 months prior to September 2009, 36 items (3 per month) were provided to Council. Since the change to the current meeting cycle only 2 items have been provided.

### **FINANCIAL/RESOURCE IMPLICATIONS**

All financial implications are provided for within the existing budget.

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

All financial implications are provided for within the existing budget. Option 3 has less resource implications than options 1 and 2 and also would reduce the budget allocation required.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

### **CONSULTATION**

General Manager

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Current meeting cycle

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1

**Meeting Cycle for Tuesdays – Current cycle**

**Week 1**

**Inspections and/or 2 way Conversation Program.**

4.00 – 5.30 pm	2 way Conversation Program
5.30pm	Presentations and Workshops as required.
Followed by	Dinner with Councillors & Staff

**Week 2**

**Inspections and/or 2 way Conversation Program as required followed by an Ordinary Council meeting.**

4.00 – 5.00 pm	2 way Conversation Program
5.30pm	Public Access, if required
5.30pm	Council meeting to consider Mayoral Minutes, Agenda items and General Manager's reports. To be preceded by any formal presentations.
Followed by	Dinner with Councillors & Staff

**Week 3**

**4.30pm Inspections and/or 2 way Conversation Program**

4.00 – 5.30 pm	2 way Conversation Program
5.30pm	Presentations and Workshops as required.
Followed by	Dinner with Councillors & Staff

**Note:** Several meetings will be scheduled to occur on this Tuesday throughout the 12 month period.

**Week 4**

**2 way Conversation Program if required followed by Council meeting.**

4.00 – 5.00 pm	2 way Conversation Program
5.30pm	Public Access, if required
5.30 pm	Council meeting to consider Mayoral Minutes, Agenda items and General Manager's reports. To be preceded by any formal presentations.
Followed by	Dinner with Councillors & Staff

**Week 5**

**2 way Conversation Program if and when required.**

**ITEM NO. 7****FILE NO: 1190-001****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
  - a) Community Transport Group, Salamander Bay – Donation to assist with transport service – East Ward - \$3,700.00
  - b) Tanilba Bay & District Golf Club Limited – Donation for Wooden Signs – Rapid Response – Cr Tucker - Central Ward - \$189.00

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**COUNCIL COMMITTEE – 23 MARCH 2010****RECOMMENDATION:**

	<b>Councillor Sally Dover</b> <b>Councillor Steve Tucker</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING – 23 MARCH 2010**

<b>087</b>	<b>Councillor Glenys Francis</b> <b>Councillor Peter Kafer</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

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

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

## MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

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

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

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

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

Community Transport Group, Salamander Bay	Donation to assist with transport service	\$3,700.00
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### **CENTRAL WARD – Councillors MacKenzie, Tucker, O'Brien, Dingle**

Tanilba & District Golf Club Ltd	Donation to wooden signs	\$189.00
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### **MAYORAL FUND**

Community Transport Group, Salamander Bay	Donation to assist with transport service	\$300.00
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## **FINANCIAL/RESOURCE IMPLICATIONS**

Council Ward, Minor Works and Mayoral Funds are the funding source for all financial assistance.

## **LEGAL AND POLICY IMPLICATIONS**

To qualify for assistance under Section 356(1) of the Local Government Act, 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

Mayor  
Councillors  
Port Stephens Community

**OPTIONS**

- 1) Adopt the recommendation.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund all the requests.

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 8****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 23 March. 2010.

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	ABORIGINAL STRATEGIC COMMITTEE	92
2	REMOTE COUNCIL KIOSK – TOMAREE LIBRARY	95
3	PETITION - OBJECTING TO PORT STEPHENS COUNCIL'S DECISION TO PUT THE MANAGEMENT OF TOMAREE AQUATIC CENTRE TO TENDER	98
4	PETITION - PROPOSED ROAD CLOSING PATHWAY SECTION OF CORAL STREET FINGAL BAY	101
5	CASH AND INVESTMENTS AS AT 28 FEBRUARY 2010-03-11	103

**COUNCIL COMMITTEE – 23 MARCH 2010**  
**RECOMMENDATION:**

	<b>Councillor John Nell</b> <b>Councillor Peter Kafer</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING – 23 MARCH 2010**

<b>088</b>	<b>Councillor Peter Kafer</b> <b>Councillor John Nell</b>	It was resolved that the recommendation be adopted.
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# COUNCIL COMMITTEE INFORMATION PAPERS



**INFORMATION ITEM NO. 1**

**ABORIGINAL STRATEGIC COMMITTEE**

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

**FILE: PSC2005-0629**

**BACKGROUND**

**The purpose of this report is to present to Council the minutes of the Aboriginal Strategic Committee meeting with Karuah Local Aboriginal Land Council on 2 February 2010.**

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

**SOCIAL RESPONSIBILITY - DIRECTIONAL STATEMENT**

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

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

**CULTURAL RESPONSIBILITY - DIRECTIONAL STATEMENT**

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

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

**ATTACHMENTS**

- 1) Minutes of Aboriginal Strategic Committee meeting with Karuah LALC on 2 February 2010.



ATTACHMENT 1



116 Adelaide Street, Raymond Terrace NSW 2324  
PO Box 42, Raymond Terrace NSW 2324

DX 21406 | ABN 16 744 377 876



**ABORIGINAL STRATEGIC COMMITTEE MEETING  
WITH KARUAH LOCAL ABORIGINAL LAND COUNCIL  
HELD ON TUESDAY 2 FEBRUARY 2010  
AT KARUAH RESERVE**

**Present:**

David Feeney	Karuah LALC
Sharon Feeney	Karuah LALC
Carl Simms	Karuah LALC
Cr O'Brien	PSC
Cr Dover	PSC
Cliff Johnson	PSC
Paul Procter	PSC

**Apologies:**

Kevin Manton	Karuah LALC
Cr MacKenzie	PSC
Cr Kafer	PSC
Peter Gesling	PSC
Mike Triggar	PSC

Meeting opened at 1:15PM

**1. WELCOME**

KLALC CEO acknowledged elders past/present and welcomed everyone to the traditional lands of the Worimi Nation.

**2. BUSINESS ARISING FROM PREVIOUS MINUTES**

**ITEM 1: Old Karuah School House**

KLALC Board is currently seeking quotes on the cost of re-locating to the former school house.

**ITEM 2: Replacement Bus Shelter**

KLALC CEO advised that RTA have agreed to replace existing bus shelter.

**ITEM 3: NAIDOC Week 2010**

Council's Social Planning Co-ordinator briefed ASC of WLALC desire to market this year's NAIDOC Week celebrations more widely to the broader community along with their desire to run celebrations again at Murrook, with possibility of week long celebrations commencing at Karuah and finishing at Raymond Terrace, subject to discussions with KLALC.

## MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

KLALC CEO expressed support for this idea along with the idea of holding a 'celebratory walk' from Karuah town centre to the Aboriginal Reserve (details to be confirmed).

Action	1. Council's Social Planning Co-ordinator will organise planning meeting for NAIDOC Week 2010 with key stakeholders.
--------	--

### 3. ABORIGINAL PROJECT FUND UPDATE

KLALC CEO advised ASC that they have expended grants received under Council's Aboriginal Project Fund in accordance with the aims of the 'Community Hall' and 'Winter Warming' projects.

### 4. GENERAL BUSINESS

#### 2010 Joint Meeting:

Council's Social Planning Co-ordinator asked ASC to consider suggestions for potential guest speakers for this year's joint meeting which will be held in July at KLALC Community Hall. Need to finalise arrangements in coming months.

### 5. NEXT MEETING

6 April 2010 at 1pm at Karuah LALC Office

Meeting closed at 2:25pm

**INFORMATION ITEM NO. 2**

**REMOTE COUNCIL KIOSK – TOMAREE LIBRARY**

---

**REPORT OF:** STEPHEN CROWE - MANAGER COMMUNICATIONS & CUSTOMER  
RELATIONS

**GROUP:** CORPORATE SERVICES

**FILE:** PSC2009 - 08248

**Background**

In December 2008, Council staff were asked to investigate the viability of establishing a Council office on the Tomaree Peninsula.

Records show that Council has previously explored such a venture, tabling a report in 1995. The report asserted that the establishment of a Council office on the Tomaree was not a viable option. The financial cost of such a venture was estimated at between \$150,000 and \$200,000 at that time.

**2009 Approach**

In looking to establish the viability of a Tomaree office in 2009, the following questions were asked:

1. What are the needs, with regard to Council services, of residents on the Tomaree?
2. What services are currently being offered?
3. What gaps exist and what are the options to close them
4. What are the costs of these options?

**What are the likely needs?**

After surveying Council's customer service staff it appears that the most likely needs of customers would be:

- Queries regarding development applications and the ability to lodge applications
- Making formal customer requests
- Paying fees in person, including pet registrations, rates etc

**What services are currently offered?**

- Website
  - DA's can be tracked via Council's website
  - Fees and rates can be paid via website
- Other technology
  - Customer requests can be made by phone and email.
  - Fees and rates can be paid by phone
- Tomaree library.
  - Free internet access is provided.
  - Council plans and documents which are required to be put on exhibition can be viewed at the library

**What are the gaps?**

- Face to face interaction with planning and building development staff
- Ability to personally lodge applications
- Pay rates or other fees in person with an ability to be personally receipted

**Findings:**

There is an apparent gap in services provided to residents on the Tomaree. However, given the information outlined above and taking into consideration the current budgetary pressures Council is facing, it is impossible to mount an economic argument for the establishment of a Tomaree office five days per week.

There is, however, an opportunity to upgrade the existing Council space at the Tomaree library so that it meets the requirements of a larger number of Peninsula residents.

**Option under consideration:**

Firstly, maintain current arrangements at Council's Raymond Terrace administration office, i.e. as the primary 'one stop shop' for Port Stephens Residents.

Secondly, increase the level and standard of information available for residents at Tomaree library. This would see the establishment of a dedicated Port Stephens Council 'station' or 'kiosk.' The station would be maintained and updated by a Customer Relations staff member once per fortnight.

Included in the area would be a direct phone link to the Raymond Terrace admin building (point to point only) and a computer workstation with a document sharing capability (via cameras at Tomaree and Raymond Terrace). This would allow residents at Tomaree Library to view plans, DA's etc which are housed at the Raymond Terrace office.

<b>MINUTES FOR ORDINARY MEETING – 23 MARCH 2010</b>
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Estimated cost of setting up this kiosk, including necessary furniture, and IT would be approximately \$18,000.

This concept has been discussed with East Ward Councillors and received their in principle support. Implementation would be subject to finding sufficient funding in the current budget, or alternatively allowing for increased expenditure in the 2010/11 budget.

INFORMATION ITEM NO. 3

**PETITION OBJECTING TO PORT STEPHENS COUNCIL'S DECISION TO  
PUT THE MANAGEMENT OF TOMAREE AQUATIC CENTRE TO TENDER**

---

**REPORT OF:** PETER GESLING - GENERAL MANAGER

**GROUP:** GENERAL MANAGER'S OFFICE

**FILE:** PSC2005-3579

**BACKGROUND**

**The purpose of this report is to advise councillors that a petition with approximately 313 signatures has been received. The petition states:**

We, the undersigned, as patrons of the Tomaree Aquatic Centre, wish to express our objections regarding Port Stephens Council's decision to put the management of Tomaree Aquatic Centre to tender.

We believe this decision has been made without regard to the current management's tireless efforts in promoting and maintaining the Tomaree Aquatic centre as the premier aquatic venue for Port Stephens.

Tammy and Anthony Kelly together with a dedicated staff, have been the foundation of this centre since 1987 and are constantly striving to uphold its excellent reputation and patronage.

Management are constantly reviewing the needs of user groups by way of personal contact, and avail themselves at all times, in every capacity, to ensure the continued success of the Centre.

For a management team to be able to uphold this degree of accessibility is a rare thing indeed. They are the Tomaree Aquatic Centre's most valuable assets.

Thanks to the current managements' attention to detail and their ability to relate to all patrons, the Tomaree Aquatic Centre has become much more than just a swimming pool. It is a social hub for young and old who share a common interest in enjoying all the best that Port Stephens has to offer.

**ATTACHMENTS**

- 1) Covering letter dated 16<sup>th</sup> February 2010.
- 2) Petition without signatory pages.

**ATTACHMENT 1**

Port Stephens Council

116 Adelaide Street

RAYMOND TERRACE NSW 2324

16/2/10

To Mayor Bruce Mckenzie and all Councillors,

We the patrons and visitors at the Tomaree Aquatic Centre have on our accord started a petition expressing our support for TAC MANAGEMENT to continue managing the Tomaree Aquatic Centre.

We have received standard responses to our mailed concerns pointing out the tender process, We, the community, want our elected Councillors to be our voice and ensure that our Management doesn't change at the Tomaree Aquatic Centre.

As stated we are extremely satisfied with Anthony, Tammy and their staff, we look forward to a continued relationship with them at Tomaree Aquatic. The original petition has been sent to the Mayor, please view this petition.

Yours in numbers,

The patrons and Visitors at Tomaree Aquatic Centre

**ATTACHMENT 2**

**TO PORT STEPHENS COUNCIL,**

**WE, THE UNDERSIGNED, AS PATRONS OF THE TOMAREE AQUATIC CENTRE, WISH TO EXPRESS OUR OBJECTIONS REGARDING PORT STEPHENS COUNCIL'S DECISION TO PUT THE MANAGEMENT OF TOMAREE AQUATIC CENTRE TO TENDER.**

**WE BELIEVE THIS DECISION HAS BEEN MADE WITHOUT REGARD TO THE CURRENT MANAGEMENT'S TIRELESS EFFORTS IN PROMOTING AND MAINTAINING THE TOMAREE AQUATIC CENTRE AS THE PREMIER AQUATIC VENUE FOR PORT STEPHENS.**

**TAMMY AND ANTHONY KELLY, TOGETHER WITH A DEDICATED STAFF, HAVE BEEN THE FOUNDATION OF THIS CENTRE SINCE 1987 AND ARE CONSTANTLY STRIVING TO UPHOLD ITS EXCELLENT REPUTATION AND PATRONAGE.**

**MANAGEMENT ARE CONSTANTLY REVIEWING THE NEEDS OF USER GROUPS BY WAY OF PERSONAL CONTACT, AND AVAIL THEMSELVES AT ALL TIMES, IN EVERY CAPACITY, TO ENSURE THE CONTINUED SUCCESS OF THE CENTRE.**

**FOR A MANAGEMENT TEAM TO BE ABLE TO UPHOLD THIS DEGREE OF ACCESSIBILITY IS A RARE THING INDEED. THEY ARE THE TOMAREE AQUATIC CENTRE'S MOST VALUABLE ASSETS.**

**THANKS TO THE CURRENT MANAGERMENTS' ATTENTION TO DETAIL AND THEIR ABILITY TO RELATE TO ALL PATRONS, THE TOMAREE AQUATIC CENTRE HAS BECOME MUCH MORE THAN JUST A SWIMMING POOL. IT IS A SOCIAL HUB FOR YOUNG AND OLD WHO SHARE A COMMON INTEREST IN ENJOYING ALL THE BEST THAT PORT STEPHENS HAS TO OFFER.**

NAME	ADDRESS	SIGNATURE	GROUP/CLUB (eg: lap swimmer, aqua, squad etc.)
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**INFORMATION ITEM NO. 4**

**PROPOSED ROAD CLOSING - PATHWAY SECTION OF CORAL STREET,  
FINGAL BAY**

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

**FILE:** PSC2009-03011

**BACKGROUND**

**The purpose of this report is to advise Council that a petition with approximately 46 signatures have been received. The petition states:**

Reference is made to the above and we the undersigned strongly object to the proposed closing.

Our reasons for the objection are as follows:

This pathway is used by numerous residents both in the immediate area and other streets of Fingal Bay on foot (including walking dogs), prams, cycle and motorised scooters to access Farm Road and to access other streets from Farm Road. The pathway is a short-cut to the beach, shops, garage, Post Office and mobile library when in the area.

Both residents, tourists and the elderly from Fingal Haven will be severely disadvantaged by having to travel via Rocky Point Road (both directions) encountering much more traffic, including buses or Ala Moana Way.

This walkway is a safer option for residents and tourists as no footpaths are provided via the alternative streets.

**ATTACHMENTS**

- 1) Petition without signatory pages

ATTACHMENT 1

26.2.2010

The General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Dear Sir

PORT STEPHENS COUNCIL	
- 3 MAR 2010	
File No.	PSC2009-03011
Action By	D. Jha
Parcel	AJR

PROPOSED ROAD CLOSING - PATHWAY SECTION OF CORAL STREET, FINGAL BAY  
Council Ref PSC2009-003011, Land & Property Management Authority Ref 10/00056

Reference is made to the above and we the undersigned strongly object to the proposed closing.

Our reasons for the objection are as follows:

This pathway is used by numerous residents both in the immediate area and other streets of Fingal Bay on foot (including walking dogs), prams, cycle and motorised scooters to access Farm Road and to access other streets from Farm Road. The pathway is a short-cut to the beach, shops, garage, Post Office and mobile library when in the area.

Both residents, tourists and the elderly from Fingal Haven will be severely disadvantaged by having to travel via Rocky Point Road (both directions) encountering much more traffic, including buses or Ala Moana Way.

This walkway is a safer option for residents and tourists as no footpaths are provided via the alternative streets.

Yours faithfully

**INFORMATION ITEM NO. 5**

**CASH AND INVESTMENTS HELD AT 28 FEBRUARY 2010**

---

**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 28 February 2010**

**ATTACHMENTS**

- 1) Cash and Investments held at 28 February 2010.
- 2) Monthly Cash and Investments Balance March 2009 - February 2010.
- 3) Monthly Australian Term Deposit Index March 2009 – February 2010.

# MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

## ATTACHMENT 1

CASH & INVESTMENTS HELD AS AT 28 FEBRUARY 2010										
INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value December	Market Value January	Market Value February	Current Mark to Market Exposure
<b>GRANGE SECURITIES</b>										
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	1,000,000.00	3.85%	5.02%	\$788,770.00	\$788,770.00	\$788,700.00	-\$211,300.00
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO		23-Jun-15	412,500.00	1.59%	0.00%	\$231,412.50	\$231,412.50	\$231,412.50	-\$181,087.50
HERALD LTD "QUARTZ AA"	Floating Rate CDO	CCC-	20-Dec-10	450,000.00	1.73%	5.52%	\$373,770.00	\$373,770.00	\$388,395.00	-\$61,605.00
STARTS CAYMAN LTD "BLUE GUM AA"	Floating Rate CDO	NR	22-Jun-13	1,000,000.00	3.85%	5.49%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
HELIUM CAPITAL LTD "ESPERANCE AA+" *	Floating Rate CDO	NR	20-Mar-13	1,000,000.00	3.85%	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	1.93%	5.43%	\$444,105.00	\$444,105.00	\$446,885.00	-\$53,115.00
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note	NR	18-Oct-11	500,000.00	1.93%	6.68%	\$508,600.00	\$508,600.00	\$502,750.00	\$2,750.00
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	CCC	20-Mar-14	1,000,000.00	3.85%	5.07%	\$319,300.00	\$319,300.00	\$303,900.00	-\$696,100.00
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate CDO	NR	20-Sep-14	1,000,000.00	3.85%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
<b>TOTAL GRANGE SECURITIES</b>				<b>\$6,862,500.00</b>	<b>26.45%</b>		<b>\$2,665,957.50</b>	<b>\$2,665,957.50</b>	<b>\$2,662,042.50</b>	<b>(\$4,200,457.50)</b>
<b>ABN AMRO MORGANS</b>										
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note		17-Sep-11	\$1,000,000.00	3.85%	0.00%	\$882,800.00	\$894,900.00	\$900,400.00	-\$99,600.00
<b>TOTAL ABN AMRO MORGANS</b>				<b>\$1,000,000.00</b>	<b>3.85%</b>		<b>\$882,800.00</b>	<b>\$894,900.00</b>	<b>\$900,400.00</b>	<b>(\$99,600.00)</b>
<b>ANZ INVESTMENTS</b>										
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA"	Floating Rate CDO	CCC-	6-Apr-10	\$500,000.00	1.93%	5.38%	\$424,500.00	\$424,500.00	\$452,500.00	-\$47,500.00
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000.00	3.85%	0.00%	\$712,900.00	\$712,900.00	\$747,600.00	-\$252,400.00
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876.98	3.92%	0.00%	\$581,553.83	\$581,553.83	\$601,626.36	-\$416,250.62
<b>TOTAL ANZ INVESTMENTS</b>				<b>\$2,517,876.98</b>	<b>9.71%</b>		<b>\$1,718,953.83</b>	<b>\$1,718,953.83</b>	<b>\$1,801,726.36</b>	<b>(\$716,150.62)</b>
<b>RIM SECURITIES</b>										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		29-Jul-13	\$2,000,000.00	7.71%	0.00%	\$1,060,000.00	\$1,300,000.00	\$1,224,000.00	-\$776,000.00
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		8-Oct-11	\$1,000,000.00	3.85%	4.81%	\$936,434.00	\$930,765.00	\$935,174.00	-\$64,826.00
<b>TOTAL RIM SECURITIES</b>				<b>\$3,000,000.00</b>	<b>11.56%</b>		<b>\$1,996,434.00</b>	<b>\$2,230,765.00</b>	<b>\$2,159,174.00</b>	<b>(\$840,826.00)</b>
<b>WESTPAC INVESTMENT BANK</b>										
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt		27-Apr-10	\$500,000.00	1.93%	5.50%	\$483,190.00	\$487,510.00	\$491,690.00	-\$8,310.00
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		20-Nov-11	\$500,000.00	1.93%	5.23%	\$479,210.00	\$480,075.00	\$480,890.00	-\$19,110.00
<b>TOTAL WESTPAC INV. BANK</b>				<b>\$1,000,000.00</b>	<b>3.85%</b>		<b>\$962,400.00</b>	<b>\$967,585.00</b>	<b>\$972,580.00</b>	<b>(\$27,420.00)</b>
<b>LONGREACH CAPITAL MARKETS</b>										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000.00	1.93%	0.00%	\$433,950.00	\$437,300.00	\$439,650.00	-\$60,350.00
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	A+	7-Sep-12	\$500,000.00	1.93%	0.00%	\$413,500.00	\$420,850.00	\$424,500.00	-\$75,500.00
<b>TOTAL LONGREACH CAPITAL</b>				<b>\$1,000,000.00</b>	<b>3.85%</b>		<b>\$847,450.00</b>	<b>\$858,150.00</b>	<b>\$864,150.00</b>	<b>(\$135,850.00)</b>

# MINUTES FOR ORDINARY MEETING – 23 MARCH 2010

## ATTACHMENT 1

<b>COMMONWEALTH BANK</b>									
EQUITY LINKED DEPOSIT	Equity Linked Note	20-Sep-11	\$500,000.00	1.93%	3.00%	\$481,750.00	\$482,450.00	\$483,050.00	-\$16,950.00
EQUITY LINKED DEPOSIT GI100	Equity Linked Note	03-Aug-10	\$500,000.00	1.93%	3.00%	\$501,400.00	\$501,350.00	\$501,350.00	\$1,350.00
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	05-Nov-12	\$500,000.00	1.93%	3.00%	\$466,550.00	\$468,600.00	\$470,600.00	-\$29,400.00
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	09-Nov-12	\$500,000.00	1.93%	4.52%	\$476,780.00	\$480,735.00	\$481,300.00	-\$18,700.00
BANK OF QUEENSLAND	Term Deposit	12-Aug-10	\$1,000,000.00	3.85%	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	3.85%	5.35%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
<b>TOTAL COMMONWEALTH BANK</b>			<b>\$4,000,000.00</b>	<b>15.42%</b>		<b>\$3,926,480.00</b>	<b>\$3,933,135.00</b>	<b>\$3,936,300.00</b>	<b>(\$63,700.00)</b>
<b>FIG SECURITIES</b>									
CREDIT SUISSE PRINCIPAL PROTECTED NOTE									
AQUADUCT AA-	Principal Protected Note	21-Jun-10	\$1,000,000.00	3.85%	0.00%	\$968,700.00	\$971,700.00	\$975,400.00	-\$24,600.00
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note	30-Nov-14	\$500,000.00	1.93%	5.13%	\$455,750.00	\$470,100.00	\$470,100.00	-\$29,900.00
<b>TOTAL FIG SECURITIES</b>			<b>\$1,500,000.00</b>	<b>5.78%</b>		<b>\$1,424,450.00</b>	<b>\$1,441,800.00</b>	<b>\$1,445,500.00</b>	<b>(\$54,500.00)</b>
<b>ALLIED IRISH BANKS</b>									
AIB TERM DEPOSIT									
<b>TOTAL ALLIED IRISH BANK</b>			<b>\$0.00</b>	<b>0.00%</b>		<b>\$1,000,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>MAITLAND MUTUAL</b>									
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	30-Jun-13	500,000.00	1.93%	5.78%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
MAITLAND MUTUAL TERM DEPOSIT	Term Deposit	25-Mar-10	574,519.99	2.21%	5.25%	574,519.99	574,519.99	574,519.99	\$0.00
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	31-Dec-14	500,000.00	1.93%	5.78%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
<b>TOTAL M'LAND MUTUAL</b>			<b>\$1,574,519.99</b>	<b>6.07%</b>		<b>\$1,574,519.99</b>	<b>\$1,574,519.99</b>	<b>\$1,574,519.99</b>	<b>\$0.00</b>
<b>TOTAL INVESTMENTS</b>									
<b>TOTAL INVESTMENTS</b>			<b>\$22,454,896.97</b>	<b>86.55%</b>		<b>\$16,999,445.32</b>	<b>\$16,285,766.32</b>	<b>\$16,316,392.85</b>	<b>(\$6,138,504.12)</b>
AVERAGE RATE OF RETURN ON INVESTMENTS					2.91%				
<b>CASH AT BANK</b>			<b>\$3,488,795.83</b>	<b>13.45%</b>	<b>3.95%</b>	<b>\$1,277,251.32</b>	<b>\$1,670,475.57</b>	<b>\$3,488,795.83</b>	<b>\$0.00</b>
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH					3.05%				
<b>TOTAL CASH &amp; INVESTMENTS</b>			<b>\$25,943,692.80</b>	<b>100.00%</b>		<b>\$18,276,696.64</b>	<b>\$17,956,241.89</b>	<b>\$19,805,188.68</b>	<b>(\$6,138,504.12)</b>
BBSW FOR PREVIOUS 3 MONTHS					4.21%				

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

### CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

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

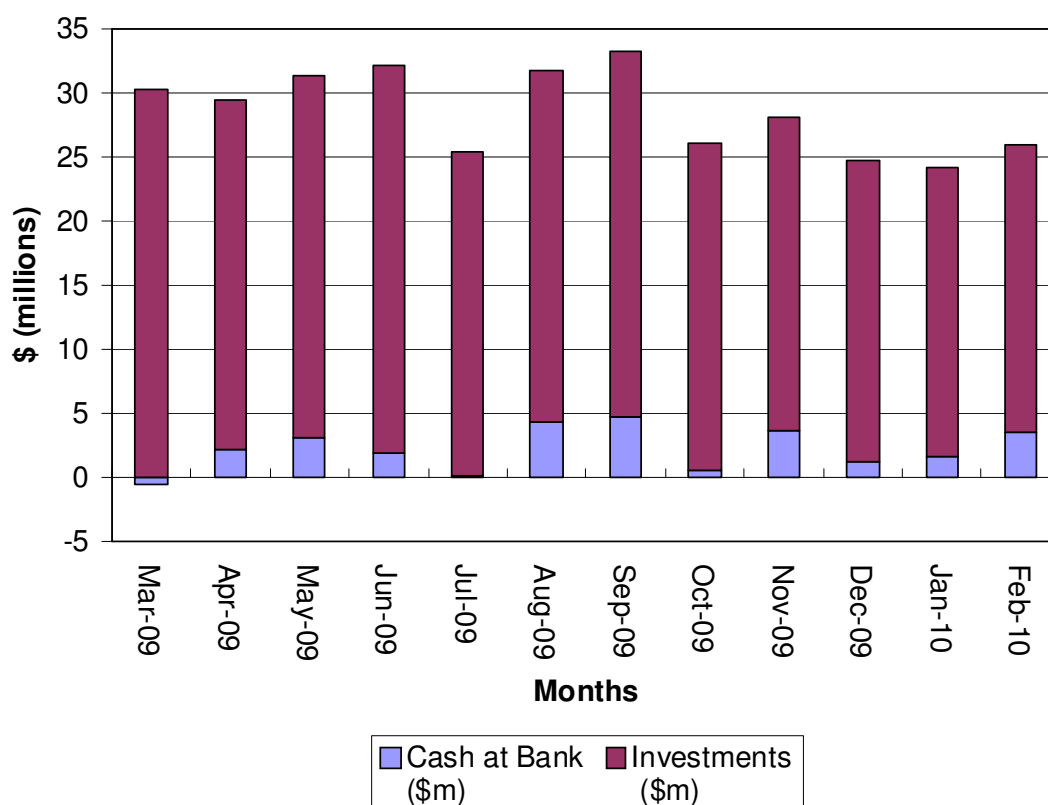
**P GESLING**

## ATTACHMENT 2

### Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Mar-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
Nov-09	3.691	24.448	28.140
Dec-09	1.277	23.448	24.726
Jan-10	1.670	22.455	24.125
Feb-10	3.489	22.455	25.944

### Cash and Invested Funds for the Period ended 28/2/2010

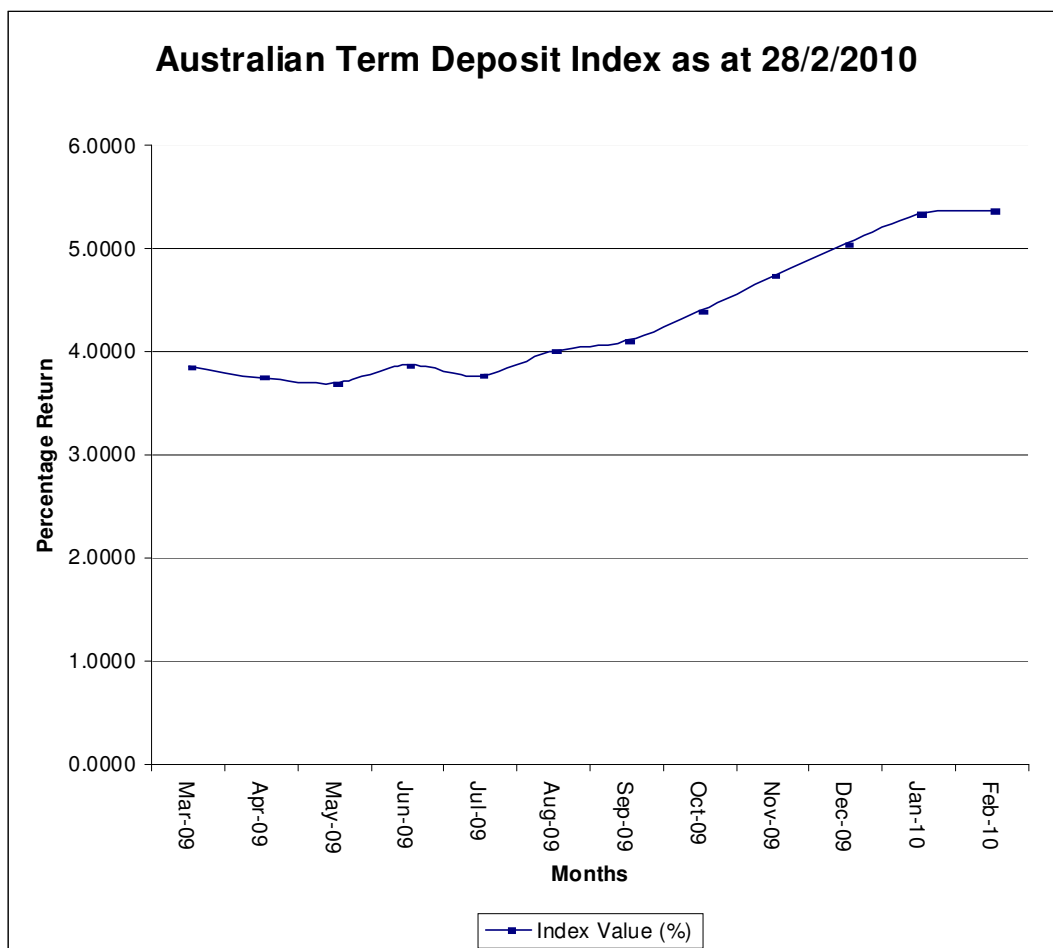


ATTACHMENT 2

Australian Term Deposit Accumulation Index

Date	Index Value (%)
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
Nov-09	4.7356
Dec-09	5.0488
Jan-10	5.3373
Feb-10	5.3685

Australian Term Deposit Index as at 28/2/2010



# NOTICES OF MOTION



# NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217, PSC2009-07013

## MEDICAL CENTRE AT 2 KEEL STREET, SALAMANDER BAY

COUNCILLOR: JOHN NELL

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### THAT COUNCIL:

- 1) Review its decision of 9 February 2010, which essentially means that the medical centre must reduce operations and staff to meet current development consent requirements, and defer compliance action to implement this Resolution until Council has reconsidered the matter on 2 April 2010.
- 

		The Notice of Motion was ruled Out of Order by the Mayor as a Rescission Motion was required not a Notice of Motion.
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### BACKGROUND REPORT OF: DAVID BROYD – GROUP MANAGER, SUSTAINABLE PLANNING

#### BACKGROUND

At its meeting on 9 February 2010, Council resolved as follows:

That Council:

1. Not proceed with the Planning Proposal to permit a medical centre at 2 Keel Street, Salamander Bay;
  2. That the applicant be directed to operate in accordance with the Council approval “professional consulting rooms” and all the conditions that were attached to the approval and
  3. That the applicant be advised that if they wish to build a Medical Centre as indicated in the business paper, the applicant can acquire a suitable site in the commercial zone area in accordance with the Council's Plan.
-

# CONFIDENTIAL ITEMS



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

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

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## ORDINARY COUNCIL MEETING – 23 MARCH 2010

089	Councillor John Nell Councillor Peter Kafer	It was resolved that Council move into Confidential Session.
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**CONFIDENTIAL****ITEM NO. 1****FILE NO: T19-2009****TOMAREE AQUATIC CENTRE – ACCESS RAMP CONSTRUCTION AND POOLS SURFACING UPGRADE**

**REPORT OF: PETER AVIS – PROJECT SERVICES MANAGER**  
**GROUP: FACILITIES AND SERVICES**

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**ORDINARY COUNCIL MEETING – 23 MARCH 2010**

<b>090</b>	<b>Councillor Peter Kafer Councillor Daniel Maher</b>	<p>It was resolved that in accordance with Clause 178 of the Local Government (General) Regulation 2005 for tendering that Council:</p> <ol style="list-style-type: none"><li>1. Declines to accept any of the tenders received.</li><li>2. Enters into negotiation with any person (whether or not the person was a tenderer) with a view of entering into a contract in relation to the subject matter of the tender, and;</li><li>3. Approves the funding regime as per Table 3 of this report.</li></ol>
<b>091</b>	<b>Councillor John Nell Councillor Peter Kafer</b>	<p>It was resolved that Council move out Confidential Session.</p>

There being no further business the meeting closed at 8.20pm.

*I certify that pages 1 to 111 of the Open Ordinary Minutes of Council 23 March 2010 and the pages 112 to 116 of the Confidential Ordinary Minutes of Council 23 March 2010 were confirmed by Council at its meeting held on 13 April 2010.*

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