

Minutes 25 MAY 2010



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 25 May 2010, commencing at 7.07pm.

PRESENT: Councillors B. MacKenzie (Mayor); R. Westbury (Deputy Mayor); G. Dingle; S. Dover, G. Francis; P. Kafer; K. Jordan; 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.

		No apologies were received. No declaration of interests were received.
137	Councillor Ken Jordan Councillor Glenys Francis	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 11 May 2010 be confirmed.

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SUBJECT

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COUNCIL COMMITTEE RECOMMENDATIONS

Item 7 was brought forward and dealt with prior to Item 1 given the public interest in the gallery.

ITEM NO. 7

FILE NO:PSC2005-3622

SABRE JET, BETTLES PARK, RAYMOND TERRACE

REPORT OF: IAN CRAWFORD - ACTING RECREATION MANAGER

GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Not commit any more staff resources to the project unless Council allocates monies to undertake any of the options outlined in Attachment 1.
- 2) Undertake a public Expression of Interest process to determine any organisation that is willing to remove the asset and display it at their premises.
- 3) Subsequent to recommendation 2 commence negotiations with organisations that provide an EOI and report to Council on recommended preferred options.

COUNCIL COMMITTEE MEETING - 25 MAY 2010

RECOMMENDATION:

	Councillor Glenys Francis Councillor Peter Kafer	<p>That Council:</p> <ol style="list-style-type: none">a. Not commit any more staff resources to the project unless Council allocates monies to undertake any of the options outlined in Attachment 1.b. Remove and/or trim trees behind the plane to prevent further damage.c. Undertake an Expression of Interest to determine if any organisation is willing to restore the plane to retain it in Raymond Terrace.d. Report back to Council in 3 months.
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ORDINARY COUNCIL MEETING - 25 MAY 2010

138	Councillor Glenys Francis Councillor Peter Kafer	It was resolved that the Council Committee recommendation be adopted.
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BACKGROUND

The purpose of this report is to have Council develop a formal position on the rehabilitation and future of the Sabre Jet at Bettles Park, Raymond Terrace.

A number of reports have been provided to Council on this matter. These will be tabled at the meeting and were dated, 5 October 1999, 12 December 2000 and 24 February 2009. The most recent report to Council was 15 December 2009 (see Attachment 2). Since this time, the following meetings/conversations have been held:

- Two-way conversation with Historic Aircraft Restoration Society (HARS) on 30 March 2010
- Sabre Jet Committee meeting with HARS 30 March 2010

All actions required from the Council Resolution dated 15 December 2009 have been undertaken.

Council officers met with HARS representatives Bob Delahunt and Bob Black in relation to their recommended course of action. Their proposal is for the full restoration of the sabre to display condition, storage in a covered area and an annual maintenance program. This would involve the removal of the jet, stripping of paint, removal and restoration of panels, removal and restoration of canopy and repainting and placing the Sabre on display with an ongoing annual maintenance program. Predicted costs of this are in the range of \$400,000. Their alternative course of action is for them to remove the asset and move it to their facility at Albion Park Rail, in the Illawarra Region.

Council has received a number of approaches from organisations including, Historic Aircraft Restoration Society Inc, who have indicated a willingness to provide advice and or take the asset, renew it and display at their site.

This option is something that needs serious consideration due to:

- a) The complex nature of the work required to rehabilitate the asset.
- b) The lack of specialised skills to do the work.
- c) The cost of the proposed works and Council's ability to fund the capital works and their future recurrent costs..
- d) The uncertainty about the longevity of any such works.

Replacement infrastructure to recognise the Air Force history of Raymond Terrace could be provided. This could include scale replicas, sculptures, signage and other interpretive material. All of those may cost substantially less than the cost to restore the current Sabre Jet as well as other lifecycle costs. This alternative proposal is estimated to cost between \$20,000 to \$50,000 depending on the detail and type of sculpture.

Despite concerted efforts by staff and committee members no external source of funds have been established to date. Memorial status has been researched and it has been found that it is not in the best interest of the aircraft to pursue at present due to the protection given and approvals required to undertake restoration work on Memorials.

FINANCIAL/RESOURCE IMPLICATIONS

Attachment 1 contains details of each option and estimated costs on the Financial / Resource implications.

It should be noted that it is now known that external funding is very unlikely should Council wish to keep the asset at its current location.

In forming the recommendation contained within this report, staff have considered Council's ability to fund the capital cost to restore the asset along with future maintenance costs.

LEGAL, POLICY AND RISK IMPLICATIONS

The asset has local historical significance but there are no legal or policy implications as a result of this report.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Some sections of the community have expectations that the aircraft will remain in situ and be maintained by Council for the foreseeable future. These have been voiced in many forums such as the Examiner, Heritage committee, local ward councillors and letters to Council.

Consideration must be given to the means by which any restoration occurs so that there are no negative impacts on the environment.

CONSULTATION

- Sabre Jet Committee
- Historic Aircraft Restoration Society
- Fighter World
- Councillors via Two-way conversation

The Sabre Jet committee was formed in February 2009 and a protocol for its operation and membership was agreed to at its first meeting on 11 March 2009. The committee has now held ten meetings including the recently held meeting with the Historic Aircraft Restoration Society.

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject the recommendation and approve funding for one of the four options.

ATTACHMENTS

- 1) Project Options and Resource implications.
- 2) December 2009 Report to Council

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Council Report Sabre Jet Information Paper 5 Oct.1999
- 2) Council Report Sabre Jet Monument - Bettles Park – 12 Dec. 2000. Item 2.
- 3) Council Report Sabre Jet –Bettles Park 24 Feb. 2009 – Item 4
- 4) Council Report Sabre Jet Bettles Park 15 Dec. 2009 - Item 5

ATTACHMENT 1

Project Options and Approximate Costing

All options would have to be scoped very carefully to control costs and ongoing project deployment. Further, due to the technical and specialised nature of any proposed works there is limited background around the estimates so accuracy is questionable.

1. On site Preventative Maintenance – Approx Cost \$160,000

Proposed Maintenance	Advantages	Disadvantages
<ul style="list-style-type: none"> Scaffolding and covering the air frame Removal of all paint and corroded surfaces Replacement of Cockpit and windscreen Removal and replacement of damaged and corroded aluminium panels Replacing all rivets 	<ul style="list-style-type: none"> Retention of aircraft No transport costs Meet Community expectations Mid -Long term solution 	<ul style="list-style-type: none"> High cost Availability of suitable trades people Material transportation and cost. On-going maintenance costs Difficult work to undertake in external location
<ul style="list-style-type: none"> Bird proofing the air frame Repainting 	<ul style="list-style-type: none"> Meet Community expectations Improved appearance – short term 	<ul style="list-style-type: none"> On-going maintenance costs Limited types of paint could be used - not addressing corrosion costs

General: Costs are very hard to define and it is not known how successful this option would be long term.

2. Insitu Repaint – Approx Cost \$120,000

As recommended by the Sabre Jet Committee.

Proposed Maintenance	Advantages	Disadvantages
<ul style="list-style-type: none"> Scaffold or remove from the plyth and cover the air frame Remove existing paint and surface corrosion. Soda blasting. Bird proof air frame 	<ul style="list-style-type: none"> Retention of aircraft No transport costs Meet Community Expectations 	<ul style="list-style-type: none"> Short term solution Availability of suitable trades people On-going maintenance costs
<ul style="list-style-type: none"> Repainting 	<ul style="list-style-type: none"> Improved appearance – short term 	<ul style="list-style-type: none"> Limited types of paint could be used - not addressing corrosion, cost

General: it is not known how successful this option would be mid-long term.

ATTACHMENT 1
Project Options and Approximate Costing

3. Full Restoration of Aircraft (as recommended by HARS)- Approx Cost \$400,000

Proposed Maintenance	Advantages	Disadvantages
<ul style="list-style-type: none"> Cutting Plynth, crane aircraft to ground Transportation of airframe by road or air to identified repair site Removal of all paint and corroded surfaces Replacement of Cockpit and windscreen Removal and replacement of damaged and corroded aluminium panels Replacing all rivets Bird proofing the air frame Repainting Transport back to site Place the Sabre under shelter for protection. 	<ul style="list-style-type: none"> Aircraft returned to display condition Meet Community Expectations Addresses by areas of asset Retention of Aircraft Long term solution Meet Community Expectations Improved appearance – short term Kept at site Future protection 	<ul style="list-style-type: none"> May not be possible to replace on Plynth Transport Costs Availability of suitable trades people - costs High Cost On-going maintenance costs Difficult work to undertake in external location On-going maintenance costs Limited types of paint could be used - not addressing corrosion Transport costs High costs, aesthetics impacted

General: This option provides most certainty for mid-long term but is very costly

4. Removal and replacement – Approx cost \$20,000

As per the HARS proposal.

Proposed Maintenance	Advantages	Disadvantages
<ul style="list-style-type: none"> Cutting of the Plynth, crane aircraft to ground Disposal of Airframe Replacement with sculpture or monument in the same location 	<ul style="list-style-type: none"> Aircraft returned to display condition Low cost No on-going maintenance 	<ul style="list-style-type: none"> Loss of aircraft Does not meet Community expectations Loss of aircraft

General: Asset is lost to local community but the option is the most affordable.

ATTACHMENT 2

MINUTES ORDINARY COUNCIL – 15 DECEMBER 2009

ITEM NO. 5

FILE NO: PSC2005-3622

SABRE JET, BETTLES PARK, RAYMOND TERRACE

REPORT OF: JASON LINNANE - RECREATION SERVICES MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the concerted effort of the Sabre Jet Committee volunteers over the last six (6) months;
- 2) Continues to pursue grant monies to assist in covering the costs associated with the required works;
- 3) Undertakes further consultation with aircraft restoration specialists to assist in determining the most appropriate means to renew and extend the life of the Sabre Jet;
- 4) Considers a further report in 6 months time and make a decision on the long term future of the asset at that point in time.

COUNCIL COMMITTEE MEETING – 15 DECEMBER 2009

RECOMMENDATION:

Councillor Bruce MacKenzie
Councillor

That Council:

- 1) Undertakes further consultation with aircraft restoration specialists to assist in determining the most appropriate means to renew and extend the life of the Sabre Jet;
- 2) Notes the concerted effort of the Sabre Jet Committee volunteers over the last six (6) months and the report be discussed further with consultation with the Sabre Jet Committee;
- 3) That a report be submitted back to Council in March 2010;
- 4) That Council approach the Historical Aircraft Restoration Society to meet with Council;
- 5) That the report be submitted to the Sabre Jet Committee.

ATTACHMENT 2

COUNCIL COMMITTEE – 15 DECEMBER 2009

ITEM NO. 5

FILE NO: PSC2005-3622

SABRE JET, BETTLES PARK, RAYMOND TERRACE

REPORT OF: JASON LINNANE - RECREATION SERVICES MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the concerted effort of the Sabre Jet Committee volunteers over the last six (6) months.
- 2) Continues to pursue grant monies to assist in covering the costs associated with the required works.
- 3) Undertakes further consultation with aircraft restoration specialists to assist in determining the most appropriate means to renew and extend the life of the Sabre Jet.
- 4) Considers a further report in 6 months time and make a decision on the long term future of the asset at this point in time.

BACKGROUND

The purpose of this report is to have Council:

- a) Review its prior resolution on this matter ([Attachment 1](#))
- b) Understand work completed by the Sabre Jet Sub-Committee
- c) Agree on a process to further this issue

The proposed committee was formed in 13th May 2009 and a protocol for its operation and membership ([Attachment 2](#)) was agreed to at its first meeting on the same day.

The committee has now held six (6) meetings and the minutes of such are available in the Councillor Room.

The committee has developed a scope of works and estimate to complete one (1) form of renewal. This scope of works was estimated to cost over at least \$120k. Research would suggest the cost will be up to 50% more than this once full details are available on what is required if the project is further scoped.

The scope of works are yet to be reviewed by an aircraft restoration specialist. It is believed this is essential prior to committing such a large amount of funds to this project. Brief research has been undertaken and has identified that the works required are of a specialist nature and are very complex. It may be that specialists are required to undertake any works and sourcing of these is an issue that requires further research.

ATTACHMENT 2

COUNCIL COMMITTEE – 15 DECEMBER 2009

Council has received details on how to approach the works from one organisation. This organisation, Historic Aircraft Restoration Society (HARS), have indicated a willingness to provide advice and / or take the asset and renew and display at their site in the Illawarra Region. This option is something that needs serious consideration due to:

- a) The complex nature of the work required.
- b) The lack of specialised skills to do the work.
- c) The cost of the proposed works.
- d) The uncertainty about the longevity of any such works.

Replacement infrastructure to recognise the airforce history of Raymond Terrace could be provided if this option was furthered. This could include scale replicas, sculptures, signage and other interpretive material. All of those may cost substantially less than the cost to restore the current Sabre Jet as well as other life-cycle costs.

Despite efforts by staff and committee members, no external source of funds have been established to date.

Memorial status has been further researched and it has been found that such an approach will not provide any significant advantage. It is understood that a similar aircraft is currently housed at Fighter World.

FINANCIAL/RESOURCE IMPLICATIONS

Attachment 1 contains details on the Financial / Resource implications as per the previous Council report. These remain the same with the exception that it is now known that external funding is very unlikely should Council wish to keep the asset at its current location.

LEGAL, POLICY AND RISK IMPLICATIONS

The asset has local historical significance but there are no legal or policy implications as a result of this report.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Some Sections of the community have expectations that the aircraft will remain in situ and be maintained by Council for the foreseeable future. These have been voiced in many forums such as The Port Stephens Examiner, Heritage Committee, by some Councillors and letters to Council.

Consideration must be given to the means by which any restoration occurs so that there are no negative impacts on the environment

ATTACHMENT 2

COUNCIL COMMITTEE – 15 DECEMBER 2009

CONSULTATION

Port Stephens Council Heritage Committee
Historic Aircraft Restoration Society ("HARS")
Fighter World
Sabre Jet Committee and the organisation represented on the committee

OPTIONS

- 1) Adopt the recommendation
- 2) Reject the recommendation and develop an alternate process

Staff are of the opinion that it is now time for other options.

ATTACHMENTS

- 1) Previous Council report and Resolution, February 2009
- 2) Sabre Jet Committee Protocol

COUNCILLORS ROOM

- 1) Sabre Jet Committee Meeting Minutes

TABLED DOCUMENTS

Nil

ATTACHMENT 2

MINUTES FOR ORDINARY MEETING – 24 FEBRUARY 2009

ITEM NO. 4

FILE NO: PSC2005-3422

SABRE JET, BETTLES PARK, RAYMOND TERRACE

REPORT OF: JASON LINNANE, RECREATION SERVICES MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Continues to pursue grant monies to assist in covering the costs associated with the required works
- 2) Considers a further report in 6 months time and makes a decision on the long term future of the asset at this point in time

OPERATIONS COMMITTEE MEETING – 10 February 2009

RECOMMENDATION:

Councillor Glenys Francis Councillor Ken Jordan	<ol style="list-style-type: none"> 1) Continues to pursue grant monies to assist in covering the costs associated with the required works 2) A further report be submitted to Council determining the long term future of the asset and a restoration/management plan be submitted. 3) Council apply to have the Sabre Jet listed as a memorial. 4) A committee be formed comprising the Heritage Committee, Lions, Tidy Towns, Specialist Aircraft representative and a community representative and to have support from Planning and Community Recreation Staff and they are to facilitate a report to Council. 5) This is to be a Sabre Jet Committee.
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ORDINARY COUNCIL – 24 FEBRUARY 2009

027	Councillor G Francis Councillor P Kafer	It was resolved that the Operations Committee recommendation be adopted.
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ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

ITEM NO. 4

FILE NO: PSC2005-3422

SABRE JET, BETTLES PARK, RAYMOND TERRACE

REPORT OF: JASON LINNANE, RECREATION SERVICES MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Continues to pursue grant monies to assist in covering the costs associated with the required works
- 2) Considers a further report in 6 months time and makes a decision on the long term future of the asset at this point in time

BACKGROUND

The purpose of this report is to have Council develop a formal position on the rehabilitation and desired outcome of any works undertaken on the Sabre Jet.

Information suggests that the aircraft was placed in Bettles Park, Raymond Terrace, in 1982 by the Lions Club of Raymond Terrace. This was done as a community project and to acknowledge the presence of the RAAF in Port Stephens.

Since the installation of the aircraft only minimal maintenance has been undertaken by either the Community or Council. From records available to staff the following is an outline of what has been undertaken:

- Repainting of the aircraft in 1992 by the community.
- Inspection of the aircraft by Hunter Aerospace July 1999.
- Installation of a fence for safety reasons around 2000.
- Cleaning out of debris and structural check (Lindsay & Dynan) in September 2008.

Due to the lack of maintenance the external appearance is becoming poor. A great amount of work is required to restore the appearance to display condition. Future work to maintain this appearance would need to be annual and ongoing.

The structural checks both in 1999 (Hunter Aerospace Corporation) and 2008 (Lindsay & Dynan) have inspected the plinth and internal members supporting the aircraft. These inspections have concluded that the structural condition is in good order. Due to the poor condition of the painted surfaces, corrosion of the external skin of the aircraft is increasing. While these are non structural panels, both the paint and corrosion should be addressed in the near future. The aircraft in its current state will not last nearly as long as compared to having basic maintenance carried out to prevent moisture and debris from coming into direct contact with the surfaces. Observations of the aircraft's condition include:

- The external surface finish is deteriorated and faded.
- The underside of the fuselage has visual evidence of advanced corrosion in some skin panels.
- Visual evidence of water collection in the underside of the fuselage.
- Vandalism of the windshield and panels is evident.

ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

The options which are being considered to address this are as follows and are detailed in attachment one:

- In situ Preventative Maintenance.
- In situ painting.
- Restoration of Aircraft off site.
- Removal and replacement with another suitable monument.
- Give the aircraft to a suitable benefactor to repair.

Any commitment to restore the aircraft must also consider and allow for ongoing maintenance or this will mean the eventual removal of the air frame.

LINKS TO CORPORATE PLANS

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

CULTURAL SUSTAINABILITY – Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.

FINANCIAL / RESOURCE IMPLICATIONS

Attachment 1 has an outline of the options that are available and the capital and recurrent maintenance costs for each option.

These capital costs range from \$5000 to \$250,000. *(The estimates have been sourced through Fighter World and Hunter Aircraft Restoration Society)* Council Officers are presently investigating funding sources through the State and Federal Government.

There will be an ongoing maintenance commitment of \$50,000 every five years.

The skills required to maintain an airframe are not available within Council's present work force. Specialised skills would need to be outsourced so that the airframe could be maintained.

There is no allocation in existing budgets for either the capital or recurrent costs.

LEGAL AND POLICY IMPLICATIONS

The asset has local historical significance but there are no legal or policy implications as a result of this report.

Business Excellence Framework

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

These outcomes align with the following Business Excellence principles:-

ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

- 1) **LEADERSHIP** – Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.
- 2) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 6) **INFORMATION AND KNOWLEDGE** – Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 8) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Sections of the community have expectations that the aircraft will remain in situ and be maintained by Council for the foreseeable future. These have been voiced in many forums such as the Examiner, Heritage committee, local ward councillors and letters to Council.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Consideration must be given to the means by which any restoration occurs so that there are no negative impacts on the environment.

CONSULTATION

- PSC Heritage Advisory Committee
- Raymond Terrace Lions Club
- Raymond Terrace Parks Committee
- Historic Aircraft Restoration Society (HARS)
- Fighter World

OPTIONS

1. Adopt the recommendation.
2. Reject recommendation and approve funds for one of the four options.

ATTACHMENTS

1. Project Options and Resource Implications.
2. Historical Aircraft Restoration Society proposal.
3. History and Significance of Sabre A94-959 by Trevor Boughton 2007.

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

Nil

ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

ATTACHMENT 1

PROJECT OPTIONS AND APPROXIMATE COSTING

All options would have to be scoped very carefully to control costs.

1. **In Situ Preventative Maintenance and Rehabilitation** – Approx Cost \$250,000

Proposed Maintenance	Advantages	Disadvantages
• Scaffolding and covering the air frame	Retention of aircraft	High cost
• Removal of all paint and corroded surfaces.	No transport costs	
• Replacement of Cockpit and windscreen	Meet some community expectations	
• Removal and replacement of damaged and corroded aluminium panels	Long term solution	On-going maintenance required
• Replacing all rivets	Improved appearance – long term	Difficult work to undertake in external location
• Bird proofing the air frame		Limited types of paint could be used - not addressing corrosion issue
• Repainting		5 year maintenance costs of \$50,000
• Remove scaffolding and covering of the air frame		

2. **In Situ Repaint** – Approx Cost \$60,000

Proposed Maintenance	Advantages	Disadvantages
• Scaffold and cover the air frame	Retention of aircraft	Short term solution only. Major works still required within 5 years
• Remove existing paint and surface corrosion	No transport costs	
• Bird proof air frame	Meet some community expectations	On-going maintenance required
• Repainting	Improved appearance – short term	Limited types of paint could be used - not addressing corrosion issue
		5 year maintenance costs of \$50,000

PORT STEPHENS COUNCIL

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ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

ATTACHMENT 1

PROJECT OPTIONS AND APPROXIMATE COSTING

3. Rehabilitation of Aircraft off site - Approx Cost \$220,000

Proposed Maintenance	Advantages	Disadvantages
• Cutting Plyth, crane aircraft to ground	Aircraft returned to display condition	May not be possible to replace on existing plyth
• Transportation of airframe by road or air to identified repair site	Meet some community Expectations	Transport Costs
• Removal of all paint and corroded surfaces		
• Replacement of Cockpit and windscreens	Retention of Aircraft	High Cost
• Removal and replacement of damaged and corroded aluminium panels	Long term solution	On-going maintenance required
• Replacing all rivets	Improved appearance long term	Difficult work to undertake in external location
• Bird proofing the air frame		Limited types of paint could be used - not addressing corrosion issue
• Repainting		
• Transport back to site		5 year maintenance costs of \$50,000

4. Removal of asset - Approx cost \$20,000

Proposed Maintenance	Advantages	Disadvantages
• Cutting Plyth, crane aircraft to ground	Low cost	Loss of aircraft
• Disposal of Airframe	No on-going maintenance	Does not meet some community expectations
• Replacement with sculpture or monument in the same location	Recognition of aircraft association with town is maintained	5 year maintenance costs of \$50,000

ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

ATTACHMENT 1

PROJECT OPTIONS AND APPROXIMATE COSTING

5. Give the airframe to a suitable benefactor to repair – Approx cost – \$5,000

Proposed Maintenance	Advantages	Disadvantages
<ul style="list-style-type: none"> Removal and transport by others 	<ul style="list-style-type: none"> Low cost No maintenance Long term survival of the aircraft 	<ul style="list-style-type: none"> Does not meet some community expectations Loss of aircraft

PORT STEPHENS COUNCIL

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ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

ATTACHMENT 2

HISTORICAL AIRCRAFT RESTORATION SOCIETY PROPOSAL

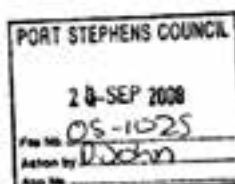


HISTORICAL AIRCRAFT RESTORATION SOCIETY Inc.

ABN 13 294 026 24

18th September 2008

Mr. P. Gesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324



Dear Mr Gesling,

Re: Sabre Jet A94-959 erected on a column in Bettles Park at Raymond Terrace

The Historical Aircraft Restoration Society (commonly called HARS) is deeply concerned at the current condition of this historic aircraft. It is historic primarily as being one of only two surviving Sabres that were part of the Black Panthers Aerobatic team in the 1960's. The other remaining Sabre that participated in the Black Panther team, A94-901, is on display at our Albion Park museum.

HARS is dedicated to recovering, conserving, preserving (and where possible, flying) for future generations, aircraft, both military and civilian, that were significant in Australia's aviation history. This F85 C.A.C Avon Sabre is such an aircraft.

HARS has a membership of over 450 dedicated and skilled volunteers, 70 of whom are or were licensed aircraft maintenance engineers (LAME's), along with all of the workshop facilities and equipment needed to carry out such work.

The Sabre we currently have (A94-901) was recovered from the original C.A.C. complex at Fisherman's Bend in Victoria, in the late 1990's and was in a similar condition to 959. It was restored to display condition and publicly displayed at Bankstown (HARS original home) in November 2000 alongside the Super Constellation which HARS recovered from the aircraft graveyard in Arizona and restored to flying condition.

HARS has a three hanger museum complex at the Illawarra Regional Airport and attracts many tourists to its facilities. We have taken the opportunity to include a copy of our business profile document for your further information.

The external condition of the Bettles Park Sabre is extremely poor with damage to the fin, ailerons and fuselage. There are also corrosion holes in the nose and wingtips. There are extensive rust stains from the many steel fixing screws and all the paintwork on the northwestern side of the aircraft has faded. In addition the starboard windscreen glass panel is cracked. The recent initial report to the council on the condition of the aircraft stated that a panel they removed to facilitate the inspection was so badly corroded the engineering department had to fabricate and fit a replacement.

Mailing Address: c/o Airport Road and Scoones Avenue, Illawarra Regional Airport, Albion Park Rail, NSW 2527

Telephone: (02) 4257 4300 Facsimile: (02) 4257 4386 Website: www.hars.org.au

ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

ATTACHMENT 2
HISTORICAL AIRCRAFT RESTORATION SOCIETY PROPOSAL

This aircraft cannot be restored with an onsite paint job. It needs extensive treatment for corrosion, without which its deterioration will continue.

HARS wishes to place the following proposal before the council.

AT NO COST TO THE COUNCIL (except possibly to remove the existing fence) HARS will remove the aircraft from the column and remove the wings and any other parts necessary to facilitate transport.

We will provide the necessary equipment and personnel to demolish the concrete plinth to remove the column. We will dispose of the rubble and fill in the resulting hole to council satisfaction.

We propose that the aircraft and column be transported to our Albion Park complex (on HARS transport with necessary police permits) where we will restore the aircraft. We estimate it will take 12 to 18 months minimum to complete the restoration.

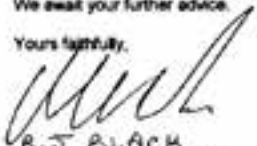
After the restoration of the aircraft and repainting in the "Black Panthers" aerobatic team graphics, it is our intention to re-erect the column and aircraft at the entrance to the HARS museum. HARS will provide appropriate acknowledgements of the history of the aircraft and the participants who put the effort into the original venture on a conspicuous plaque at the base of the column.

HARS have been active participants in displaying our aircraft (Connie and Neptune) at Wollumbet in the past to assist Fighter World raise funds and will continue to do so in the future.

Myself and the project leader, Bob Black are available to attend a meeting of council at a mutually agreed time and place to elaborate where required and answer any questions that might arise.

We await your further advice.

Yours faithfully,


R. J. BLACK
ON BEHALF OF
Historical Aircraft Restoration Society
Robert J. De La Hunty (A.O.M.)
President and Chief Pilot

Mailing Address: c/o Argon Road and Boomerang Avenue, Sowers Regional Airport, Albion Park NSW 2527

Telephone: (02) 4257 4333 Facsimile: (02) 4257 4388 Website: www.hars.org.au

ATTACHMENT 2

OPERATIONS COMMITTEE – 10 FEBRUARY 2009

ATTACHMENT 3

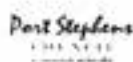
History and Significance

		Michelle Mexon
<i>The Herald</i>	28 Sep 2005 p. 13	"Logistics of restoring Sabre jet rattle council" by Jason Gordon " ... logistical plans expected to be completed by November it was achievable." [clean up for Lions' 50th anniversary next year]. NOTE REASONS GIVEN FOR GIFT
<i>The Herald</i>	21 Mar. 2006 p. 10	"Poor image for the city" letter from Jim Eames on condition of Sabre.
<i>Australian Aviation</i>	March 2007, p. 72	Warbirds column by Dave Prossor IN BRIEF "The Port Stephens Council has reconsidered a decision not to support the restoration of the CAC Sabre A94-955, currently on display in Bettles Park, at Raymond Terrace. On display since 1981 the aircraft is showing the effects of exposure to the elements with faded paint and corrosion showing. \$80,000 had been allocated for the restoration but then deferred. Following lobbying by various groups the council is looking at other sources of funding including grants."
Dave Prossor said on 10 June 2007 this was from a cutting supplied by Bill Hitchcock. Most likely <i>The Herald</i> BUT a check from Dec 2006 to early Feb 2007, NIL result		"Backflip on fighter" by Jacqui Jones

ATTACHMENT 2

COUNCIL COMMITTEE – 15 DECEMBER 2009

ATTACHMENT 2 SABRE JET COMMITTEE PROTOCOL



ESTABLISHMENT OF COMMITTEE SABRE JET - BETTLES PARK, RAYMOND TERRACE

COMMITTEE PROTOCOL

Name of Committee:	Sabre Jet Committee
Council Section:	Recreation Services, Integrated Planning
Council Recommendation:	Minute No. 027, Council Meeting 24 February 2009
Duration of committee:	Six months from the original report February 2009 - a further report to be facilitated by Recreation Services & Integrated Planning
Objectives: (as per above Council Minute)	<p>The committee is:</p> <ol style="list-style-type: none"> 1. To make recommendations to Recreation Services for a further report to be submitted to Council determining the long term future of the asset, including a restoration/management plan. 2. Pursue grant monies to assist in covering the costs associated with the required works. 3. Assist Council apply to have the Sabre Jet listed as a memorial
Membership & makeup of committee:	<p>Representatives to include:</p> <ul style="list-style-type: none"> • Port Stephens Heritage Committee • Lions Club • Raymond Terrace Parks, Reserves & Tidy Towns Committee • Specialist Aircraft representative • Community representative
Council employees:	<ul style="list-style-type: none"> • Parks Facilities Co-ordinator – Recreation Services • Strategic Planner – Integrated Planning (also representative of Port Stephens Heritage Committee & liaison for Heritage Adviser) • Heritage Adviser
Councillors:	Councillors Francis, Kafer, Jordan, Maher
Restrictions on committee function:	All activities undertaken will be with the knowledge and approval of the General Manager or his delegate
Policies, legislation the committee is required to comply with:	<p>Principle policies & legislation including but not limited to:</p> <p>OH&S Act 2000 OH&S Regulations 2001 LGA & Regulations 1993 PPIPA 1988 State Records Act, 1998 Code of Conduct Code of Meeting Practice Accessing Information Policy</p>
Ground Rules:	<ol style="list-style-type: none"> 1. We all participate and contribute with everyone given the opportunity to voice their opinions 2. We actively listen to what others have to say, seeking first to understand, then to be understood

ATTACHMENT 2

COUNCIL COMMITTEE – 15 DECEMBER 2009

	<p>3. We give and receive open and honest feedback in a constructive manner</p> <p>4. We use data to make decisions (wherever possible)</p> <p>5. We will review, follow-up and complete on time the actions we are assigned responsibility for</p>
Council:	<p>1. Will provide secretarial support, agendas, minutes, information as required.</p> <p>2. Will advise members of meetings two weeks prior to meeting</p> <p>3. Staff from Recreation Services will attend every meeting</p> <p>4. As required relevant staff from other areas of Council will attend</p>

PROPOSED AGENDA SABRE JET COMMITTEE

DATE:

VENUE: Committee Rooms, Council Administration Building, Raymond Terrace

PRESENT:

APOLOGIES:

- Adoption of Committee Protocol –the role of the committee
- Discussion on determining a definition of 'Specialist Aircraft Representative'
- Establishing Meeting frequency, time etc
- Development of Action Plan

NOTE: Attach a copy of Council Minute No 027 Council Meeting 24 February 2009

MINUTES FOR ORDINARY MEETING – 24 FEBRUARY 2009

ITEM NO: 4 FILE NO: PSC2005-3622
 SABRE JET, BETTLES PARK, RAYMOND TERRACE
 REPORT OF: JASON LINNANE, RECREATION SERVICES MANAGER

MINUTE NO 027

- 1) Continues to pursue grant monies to assist in covering the costs associated with the required works
- 2) A further report be submitted to Council determining the long term future of the asset and a restoration/management plan be submitted.
- 3) Council apply to have the Sabre Jet listed as a memorial.
- 4) A committee be formed comprising the Heritage Committee, Lions, Tidy Towns, Specialist Aircraft representative and a community representative and to have support from Planning and Community Recreation Staff and they are to facilitate report to Council.
- 5) This is to be a Sabre Jet Committee

ITEM NO. 1**FILE NO: PSC2006-0038****AIRCRAFT NOISE**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Aircraft Noise Policy, draft planning proposal and draft amendment to Port Stephens Development Control Plan 2007 for public exhibition for a minimum of 28 days;
 - 2) Resolve to forward the planning proposal to the NSW Department of Planning which:
 - a) addresses the provisions for aircraft noise management in Port Stephens, and
 - b) amends Clause 26(a) of the Local Environmental Plan for the Defence and Airport Related Employment Zone land adjacent to Newcastle Airport, and
 - 3) Endorse the draft amendment to the Port Stephens Development Control Plan (Attachment 3) to be applied as Council policy in the interim period pending resubmission of that draft amendment to Council following public exhibition.
-

COUNCIL COMMITTEE MEETING - 25 MAY 2010
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Bob Westbury	<p>That Council:</p> <ol style="list-style-type: none">1. Endorse the draft Aircraft Noise Policy, draft planning proposal and draft amendment to Port Stephens Development Control Plan 2007 for public exhibition for a minimum of 28 days;2. Resolve to forward the planning proposal to the NSW Department of Planning which:<ol style="list-style-type: none">i. addresses the provisions for aircraft noise management in Port Stephens, andii. amends Clause 26(a) of the Local Environmental Plan for
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MINUTES FOR ORDINARY – 25 MAY 2010

		<p>the Defence and Airport Related Employment Zone land adjacent to Newcastle Airport, and</p> <p>3. Endorse the draft amendment to the Port Stephens Development Control Plan (Attachment 3) to be applied as Council policy in the interim period pending resubmission of that draft amendment to Council following public exhibition.</p>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Peter Kafer and Glenys Francis.

The Motion on being put was carried.

MATTER ARISING

	<p>Councillor John Nell Councillor Steve Tucker</p>	<p>That Council call upon the Federal Government:</p> <p>1) To provide generous compensation to landholders whose properties have had their development potential reduced or removed because of current and/or future exposure to noise from military aircraft.</p> <p>2) To pay for the noise attenuation required in the renovations of and additions to existing homes and in the construction of new homes, because of current and/or future exposure to noise from military aircraft.</p>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

MINUTES FOR ORDINARY – 25 MAY 2010

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING - 25 MAY 2010

139	Councillor John Nell Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

MATTER ARISING

140	Councillor John Nell Councillor Peter Kafer	It was resolved that the matter arising be adopted.
------------	--	---

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

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

Those against the Motion: Nil.

BACKGROUND

On Monday 17 May 2010, the Department of Defence announced the downscaling of planned use by the Joint Strike Fighter of the Salt Ash Weapons Range. Consequently, the "footprint" of noise impacts has been reduced and, it is understood, this will benefit landowners and residents at Oyster Cove, Salt Ash, Swan Bay and Medowie East. The revised aircraft noise maps will be provided to Council on 21 May 2010.

The purpose of this report is to present a revised policy approach to land use planning in areas affected by aircraft noise for consideration and public exhibition.

This report follows a previous report to Council in December 2009. The purpose of that report was primarily to advise Council of the adoption of a new Australian Noise Exposure Forecast (ANEF) map for the introduction of the Joint Strike Fighter; the implications of that map for planning and development in Port Stephens LGA and recommended actions in response to the new ANEF map and draft Public Environment Report (PER) for the Operation of the Joint Strike Fighter Aircraft at RAAF Base Williamtown (Department of Defence October 2009).

The Commonwealth Government is planning to purchase just over 100 of the Joint Strike Fighters – 60 of which will be fully operational at Williamtown by 2025 with operations commencing in 2018. It is understood that the Hornet aircraft will be progressively reduced in operation and potentially phased out over the period 2018-2025.

In October 2009, at a meeting of the Williamtown Community Forum, the representatives of the Department of Defence and the RAAF announced the intent to promulgate new noise mapping for Port Stephens Local Government Area as a whole and not just for Kings Hill which was the subject of the North Raymond Terrace Working Party. The promulgation of these maps for areas outside Kings Hill was not previously foreshadowed, and neither was Council consulted about this previously.

The North Raymond Terrace Working Party was established in late 2007 by the then Commonwealth Minister for Defence, Joel Fitzgibbon and the then NSW Minister for Planning, Frank Sartor. The Lower Hunter Regional Strategy refers to the release of Kings Hill as being subject to aircraft noise considerations. The setting up of the Working Party responded to emphatic objections from the Department of Defence about the proposed release of Kings Hill. Council representation on the Working Party was by the previous Mayor, Cr Ron Swan, then Councillor Helen Brown, Group Manager, Sustainable Planning and the Manager, Integrated Planning. The Working Party that comprised representatives of the NSW Department of Planning, the Commonwealth Department of Defence, the RAAF and Council all had to sign confidential agreements initiated by the Department of Defence.

There were major gaps in the promulgation of the ANEF 2025 maps by the Deputy Chief of Staff of the RAAF and in terms of the related communication and announcements by the Department of Defence and RAAF:

Research was not completed about the actual impacts that were newly created or where impacts under ANEF 2012 mapping had now worsened. The adequate research about the effects on the ground as projected from Joint Strike Fighter operations is still not complete. This is essential to any soundly-based policy being recommended to Council and should have been more advanced before promulgation of the maps by the RAAF;

The limited communication by the Department of Defence of the new mapping and the draft Public Environmental Report to the residents and property owners of Port Stephens – with very limited exhibition and presentations in the area in October 2009

The superseding of the ANEF 2012 map – thereby negating any formal planning basis from the Department of Defence for managing the continued noise impact of the Hawk and Hornet aircraft.

Council's historical practice – as reaffirmed in DCP 2007 – has been to apply the Australian Standard 2021. This is soundly based as this is the approach of other Councils in NSW that manage aircraft noise issues and reflects expectations of the Department of Defence and the NSW Department of Planning.

The key issues raised are:

The new areas affected and the areas where impacts are worsened by the ANEF mapping for the Joint Strike Fighter compared to the previous ANEF mapping for the Hawk and Hornet.

Advice from the Department of Defence that the ANEF 2025 mapping (for the Joint Strike Fighter) supersedes the noise mapping for the Hawk and Hornet. Management of the continuing impact of the Hawk and Hornet up to 2025 was raised immediately by Council. It was not until the Department of Defence confirmed in April 2010 a composite map of Hawk, Hornet and Joint Strike Fighter noise impacts that the overall "noise planning map" became clarified

The question of natural justice for property owners newly affected or who have worsened effects – given impacts on property values, health, comfort of living etc.

The legal exposure of Council if it had not immediately acted on the promulgated the aircraft noise mapping and sought to make consistent decisions and provide consistent advice in accordance with ANEF 2025 mapping.

Approximately 3,500 letters were distributed to property owners in Port Stephens on 16 April 2010 after the composite map (noise mapping for the combined impacts of the Hawk, Hornet and Joint Strike Fighter) was confirmed on 1 April 2010 and the content of the letter was subject of consultation with the Department of Defence before dispatch.

It is proposed to take into account all of the above matters and prepare a suitable policy response, including a general policy position, amendments to the Port Stephens Local Environmental Plan 2000 and the Port Stephens Development Control Plan 2000. Principles that should underpin Council's policy on aircraft noise are:

protecting the health, well being and comfort of living of residents and property owners – current and future;

consistency of implementation of the policy which is crucial to the policy's integrity, equity to land owners and applicants affected - and potentially, in terms of ability to defend any future legal proceedings.

Strong consideration of natural justice – that is to give land owners newly affected or more adversely affected particular consideration in terms of applying the "best practice means" to achieve the noise reduction rather than necessarily strictly meeting the Australian Standard.

Managing Council's legal and policy responsibilities as a Planning Authority under State legislation and the Australian Standard

FINANCIAL/RESOURCE IMPLICATIONS

As stated in Council's previous report to Council in December 2009, there are considerable financial implications for those landowners seeking to develop land in areas affected by aircraft noise under new 2025 ANEF. It should be noted that the financial impact of aircraft noise is not new in Port Stephens LGA and there has been ongoing impact under 2012 ANEF. The impact of 2025 ANEF is that the impact footprint and degree of impact has significantly increased or altered from the previous 2012 ANEF map.

The main financial implications for landowners affected by aircraft noise are the deprivation of development entitlement and the cost of attenuating new buildings to meet the indoor sound design levels set down by Australian Standard 2021-2000. Indications are it can cost up to approximately \$40 000 (note: there has been wide variation in estimated cost impacts). Standardised 'deemed to comply' measures for noise attenuation for dwellings in new residential subdivisions are proposed for noise to help address this issue. This measure will save applicants the cost of undertaking subsequent acoustic reports when a development application is lodged.

LEGAL, POLICY AND RISK IMPLICATIONS

Legal

Legal opinion has been provided in the preparation of the recommended noise planning framework and is reflected in Attachment 6 to this report.

Impact of the proposed Policy and related LEP and DCP amendments

The Court of Appeal decision makes it clear that Council should have applied AS2120-2000, and the ANEF 2002 map, when it considered and determined the Swan Bay development application. Council owed the developers and prospective landowners a duty of care when it exercised its statutory functions as consent authority under the EP&A Act, and it breached that duty because of an essential misunderstanding that the extent to which the Swan Bay site was affected by aircraft noise in 1993 was different to the predicted noise impacts for the period from 1993 to 2002 by ANEF 2002.

The recommended Policy, and the related amendments to the LEP and DCP, address the risk that Council might be similarly negligent in the future by ensuring that AS2021-2000 (with ANEF 2012 and ANEF 2025) is the primary policy basis and set of development standards by which aircraft noise impacts are considered, and does so in a manner that is consistent with directions issued pursuant to s.117 of the EP&A Act.

Some land owners will be aggrieved by the proposed policy, and the related amendments to the LEP and DCP, as the requirement to comply with AS2021-2000 will result in certain types of development as being unacceptable or only acceptable where potentially expensive noise attenuation measures are implemented.

Implementing less robust approaches than the recommended Policy, and the related amendments to the LEP and DCP, may leave Council exposed to further negligence claims. Whilst Council had the benefit of an indemnity from Statewide Mutual for the Fisherman's Village proceedings, it is unlikely that similar indemnities would be available to Council where Council knowingly pursues a policy that results in further negligence claims.

General Policy Position

It is proposed to consider the adoption of a revised policy position on land use decision making on aircraft noise to underpin decision making for rezoning and development applications. As stated, the principles that should underpin the policy are:

protecting the health, well being and comfort of living of residents and property owners – current and future;

consistency of implementation of the policy which is crucial to the policy's integrity, equity to land owners and applicants affected - and potentially, in terms of ability to defend any future legal proceedings.

Strong consideration of natural justice – that is to give land owners newly affected or more adversely affected particular consideration in terms of applying the "best practice means" to achieve the noise reduction rather than necessarily strictly meeting the Australian Standard.

In all of this, the positive co-existence of Council, the RAAF and the Port Stephens community is paramount. The Joint Strike Fighter will lead to an increase of \$500M investment with consequent job increases above the current 3,000 employees and wider positive economic multiplier effects.

In considering a policy, it needs to be noted that there are legal matters that should be adhered to reduce legal exposure to Council. These include consistency with AS 2021-2000 and the ANEF mapping system, and the relevant State Planning Direction 3.5 Development Near Licensed Aerodromes. This method is the recognised framework for planning in areas affected by aircraft noise on a national and State level.

The proposed policy is at Attachment 1.

The planning policy is not a stand-alone document and is part of a 'package' that also includes proposed amendments to the Port Stephens Local Environmental Plan 2000 and Port Stephens Development Control Plan 2000.

Port Stephens Local Environmental Plan 2000 (LEP 2000)

It is proposed to introduce into LEP 2000 a clause to deal with aircraft noise in a general and consistent manner, whenever land is mapped as affected by aircraft noise. Introducing such a clause to LEP 2000 will avoid sole reliance on the DCP to control development, and will implement NSW State Planning Direction 3.5 Development Near Licensed Aerodromes.

The LEP 2000 currently contains no provision for addressing aircraft noise, with the exception of a specific provision relating to development within the DAREZ zone at Williamstown.

Compliance with Planning Direction 3.5 is compulsory under section 117 of the Environmental Planning and Assessment Act 1979, and must be complied with in the preparation of Planning Proposals. The Direction implements the ANEF and AS2021-2000 system into a Council's LEP. The matter has to be addressed now, rather than wait for the comprehensive review of LEP 2000.

The planning proposal aims to comprehensively revise the provisions of LEP 2000 relating to development near RAAF Base Williamstown and the Salt Ash Air Weapons Range. The need to review the planning provisions has been prompted largely by the phased replacement of Hawk and Hornet military aircraft by the Joint Strike Fighter from 2018 and the associated changes to flight patterns and variation in the level and incidence of aircraft noise across the Port Stephens LGA. It has also been prompted by relatively recent planning proposals to rezone land that is likely to be impacted by future aircraft noise.

The proposed revision to the LEP 2000 includes:

- A new clause, clause 38A, containing specific provisions relating to public safety areas, obstacle height limits and general provisions for aircraft noise affected areas;
- Changes to the existing clause 26A, relating to land within Zone SP1 Defence and Airport Related Employment Development Zone (DAREZ), to maintain consistency with the above; and
- Changes to clause 49A and schedule 4 relating to complying development standards for housing development (this change is necessary to maintain consistency with the proposed clause 38A).

The planning proposal has been prepared to deliberately provide Council greater discretion, particularly for single dwellings on pre-existing allotments between the 25-30 ANEF contours and to acknowledge the Defence and Airport Related Employment (DAREZ), Newcastle Airport Limited (NAL) development areas and Defence land.

Further detail on development control will be provided through proposed amendments to the Port Stephens Development Control Plan 2007.

Port Stephens Development Control Plan 2007 (DCP 2007)

Council's current planning approach to dealing with aircraft noise is primarily through DCP 2007. The approach undertaken in the DCP is based on AS 2021-2000 and an accompanying ANEF map.

It is proposed to amend the DCP to:

- Address aircraft noise in a stand-alone DCP chapter;
- Refer to the new Aircraft Noise Planning Area Map that takes into account the continued operation of the Hawk and Hornet and the transition to the Joint Strike Fighter;
- Introduce controls that deliberately allow consideration of development in the DAREZ and NAL areas, regardless of 'acceptability';
- Identify circumstances when development will be considered as 'infill' development regardless of 'acceptability' under AS 2021-2000. Particular reference is made towards permitting single dwellings between the 25-30 ANEF contour;
- Require development applications for residential subdivision to provide an acoustic report that will provide 'deemed to satisfy' construction requirements for all subsequent dwellings;
- Introduce a set of 'deemed to satisfy' construction requirements to achieve practicable noise reduction targets for 'infill' development only; and
- Introduce practicable noise reduction targets to the DCP of 35dB(A) for sleeping areas and 30dB(A) for other habitable spaces;

It should be noted that the proposed amendments to the DCP:

- Will maintain that an acoustic report is required for single dwellings on existing allotments;
- Will not recommend approval of a single dwelling above the 30 ANEF contour;
- Will maintain that subdivision of land is 'unacceptable' above the 25 ANEF contour. The intent is to prevent the intensification of residential development and population on land that is substantially affected by aircraft noise; and
- Will maintain the indoor sound design levels set down by AS 2021-2000:
 - Sleeping areas only 50dB(A)
 - Other habitable spaces 55dB(A)
 - Bathrooms, toilets, laundries 60dB(A);

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Draft Public Environment Report

In October 2009 the Department of Defence released a Draft Public Environment Report for the Operation of the JSF Aircraft at RAAF Base Williamstown that sought to address the sustainability implications of introducing the Joint Strike Fighter. It is a precursor to the preparation of a formal Environmental Impact Statement or Public Environment Report that would be directed by the Federal Minister for the Environment, Water, Heritage and the Arts under the Environmental Protection and Biodiversity Conservation Act 1999.

There are social, economic and environmental implications if Council adopts the proposed policy, planning proposal and amends DCP 2007. The general implications

are primarily the same as those that already exist for ANEF 2012, because Council already applies development controls for aircraft noise in these areas. The difference is that the noise 'footprint' has increased with the introduction of ANEF 2025.

The following table, modified from page 109 of the draft Public Environment Report and included in the report to Council in December 2009, summarises the number of lots impacted by the ANEF 2025 map and the ANEF contour in which they are located:

Noise contour	Number of lots affected
20-25	1937
25-30	1224
30-35	229
35-40	42
40-45	24
45-50	5
50-55	10
55-60	2
Total	3473

2025 ANEF has been promulgated or 'adopted' by the Department of Defence and Council has a legal obligation to consider the matter in making land use decisions. The promulgation of 2025 ANEF did not rely on the finalisation of the Draft Public Environment Report.

CONSULTATION

Planning Policy, Planning Proposal and DCP Amendments

If Council resolves to support the planning proposal it will be forwarded to the NSW Department of Planning LEP Review Panel for a 'gateway' determination. It will be recommended to the Department that the proposal be placed on public exhibition for a minimum period of 28 days, and would be referred to the range of government authorities for comment, including the Department of Defence.

The planning proposal will be exhibited as part of a 'package' including the proposed policy and the DCP.

Notification of 2025 ANEF to Landowners

Approximately 3,500 letters were distributed to property owners in Port Stephens on 16 April 2010 after the composite map (noise mapping for the combined impacts of the Hawk, Hornet and Joint Strike Fighter) was confirmed on 1 April and the content of the letter was subject of consultation with the Department of Defence before dispatch. Council was not under any legal obligation to send the letters to

landowners. The Department of Defence did not notify individual landowners that their land was impacted by the introduction of the 2025 ANEF map.

OPTIONS

- 1) Adopt the recommendation of this report
- 2) Adopt the recommendations of this report with amendments
- 3) Not adopt the recommendations of this report

ATTACHMENTS

- 1) Planning Policy
- 2) Planning Proposal
- 3) Development Control Plan 2007
- 4) Aircraft Noise Planning Area Map
- 5) 2025 ANEF Map
- 6) Legal Advice Harris Wheeler

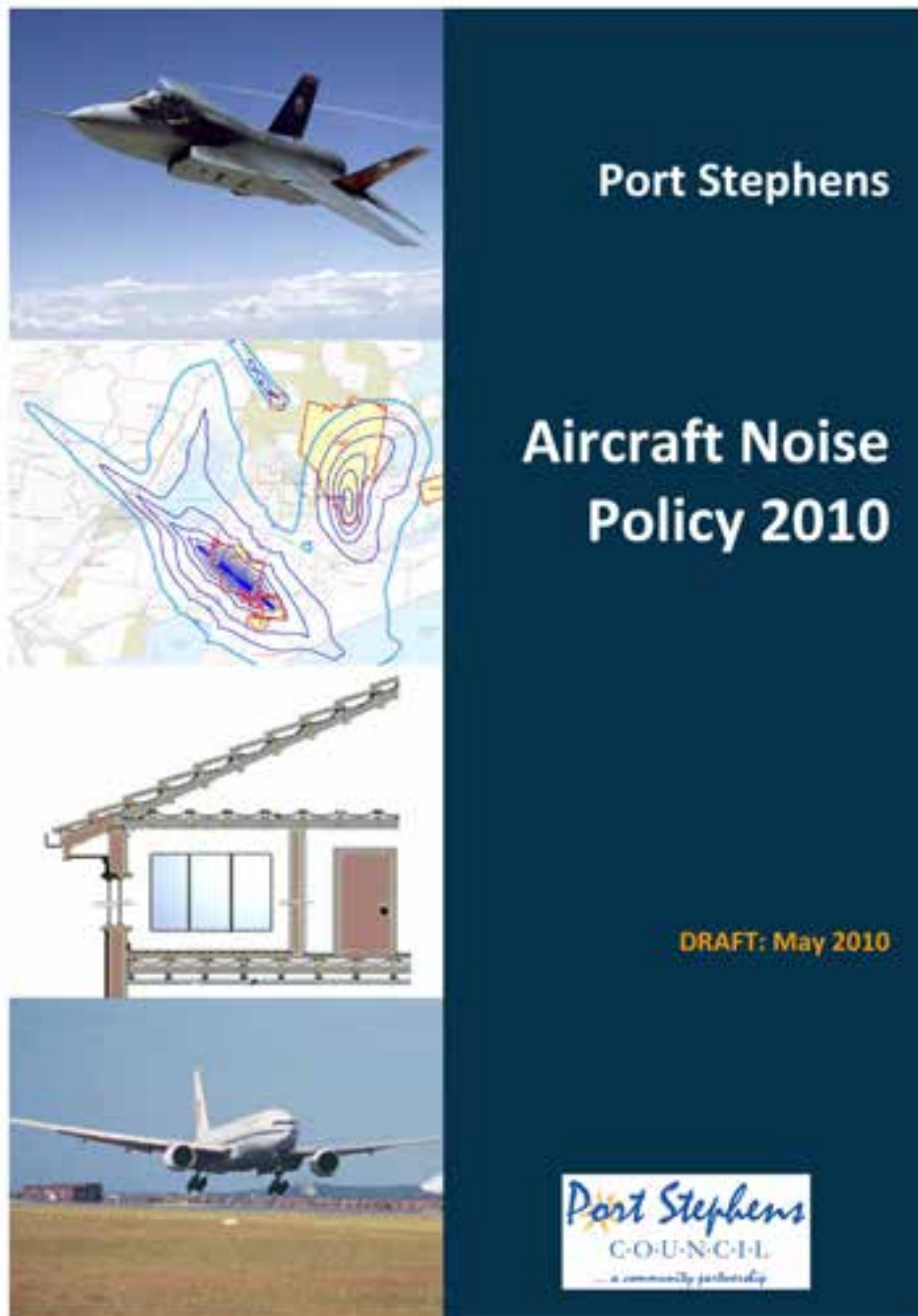
COUNCILLORS ROOM

- 1) Planning Policy
- 2) Planning Proposal
- 3) Development Control Plan 2007
- 4) Aircraft Noise Planning Area Map
- 5) 2025 ANEF Map

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
PLANNING POLICY



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Port Stephens Aircraft Noise Policy 2010

Summary

The Policy provides a framework for planning decisions and other Council programs relating to aircraft noise. It sets out principles that are to guide planning proposals, development assessment, provision of aircraft noise information and efforts to initiate aircraft noise amelioration programs.

The Policy aims to:

- recognise the fundamental significance of RAAF Base Williamtown, Newcastle Airport and Salt Ash Air Weapons Range at the national, State, regional and local levels
- protect the long-term operation of those facilities by preventing encroachment of incompatible activities that are sensitive to aircraft noise
- to ensure that aircraft noise impacts on the community are within acceptable limits
- allow a merit-based framework that is responsive to local expectations, weighs up potential costs and benefits to the community, and promotes approaches that are cost-effective, equitable and affordable
- ensure that planning and information management functions are exercised with a reasonable standard of care and diligence
- facilitate the provision of information to the public about aircraft noise that is accurate and meaningful, and that enables people to make appropriate decisions
- to promote a cooperative framework in which all interested stakeholders can contribute to the future planning of RAAF Williamtown-Newcastle Airport and its environs.

An aircraft noise planning area is defined based on Australian Noise Exposure Forecast (ANEF) maps. Within this area, the Policy establishes principles based on relevant State planning directions, Australian Standards and current best practice aircraft noise amelioration programs. Whilst the Policy seeks consistency with these general principles, it also provides guidance for the application of discretion. This allows decisions to respond to local circumstances and the merits of each case.

Detailed aircraft noise related development controls based on the Policy are set out in Chapter B15 of the Port Stephens Development Control Plan 2007. These controls adopt the Building Site Acceptability principles outlined in AS 2021—2000, but provide more definitive guidance regarding discretionary matters under that Standard.

Part 1: About this Policy

1.1 Purpose

The purpose of this Policy is to guide Port Stephens Council when exercising its planning and other functions as they relate to aircraft noise.

The Policy relates specifically to the following Council functions:

- planning proposals
- development assessment
- information management.

The Policy provides a framework for decision making that is generally consistent with national standards and State planning policies and directions, whilst also responding to local needs and expectations.

1.2 Principal aims

The Policy has the following aims:

- to recognise the fundamental significance of RAAF Base Williamtown, Newcastle Airport and Salt Ash Air Weapons Range at the local, national, State and regional levels—not only in terms of defence and air transport, but as a key generator of economic activity
- to protect the long-term operation of those facilities by preventing encroachment of incompatible activities that are sensitive to aircraft noise
- to ensure that aircraft noise impacts on the community are within acceptable limits
- to allow a merit-based framework that is responsive to local expectations, weighs up potential costs and benefits to the community, and promotes approaches that are cost-effective, equitable and affordable
- to ensure that planning and information management functions are exercised with a reasonable standard of care and diligence
- to facilitate the provision of information to the public about aircraft noise that is accurate and meaningful, and that enables people to make appropriate decisions
- to promote a cooperative framework in which all interested stakeholders can contribute to the future planning of RAAF Williamtown-Newcastle Airport and its environs.

1.3 Contents of this Policy

Port Stephens
COUNCIL
— a community partnership

The Policy is divided into 6 Parts.

- **Part 1 About this Policy** - outlines the Policy's purpose, principal aims, and its relationship to other policies and plans.
- **Part 2 Policy context** - explains why the Policy is necessary, introduces important noise concepts, defines the area within which the Policy should be applied, outlines essential planning criteria and identifies the policy tools that will be used to implement the Policy.
- **Part 3 Planning proposals** - outlines principles for the preparation of planning proposals, such as those relating to the rezoning of land. These principles are essentially concerned with preventing future encroachment of development into areas where it would be incompatible with existing and future airport operations.
- **Part 4 Cooperative mechanisms** - outlines cooperative mechanisms which help to promote mutually satisfactory outcomes for all interested stakeholders and ensure the burden is at the lowest extent possible for the benefit of the existing community.
- **Part 5 Noise information** - outlines principles and procedures relating to the collection and use of aircraft noise information. Whilst managing risk and liability is an important objective, of equal significance is the need to provide meaningful information to the public. This will help people to make decisions appropriate to their needs and sensitivity to aircraft noise.
- **Part 6 Reference material** - contains a glossary of words with special or technical meanings, and a list of relevant publications.

1.4 Relationship to other policies etc.

The Policy:

- outlines principles for planning proposals that are consistent with section 117 Direction 3.5 Development near Licensed Aerodromes (dated 1 July 2009) made by the NSW Minister for Planning under the *Environmental Planning and Assessment Act 1979*
- provides the rationale for aircraft noise related development controls contained in the *Port Stephens Local Environmental Plan 2000* (clause 38A) and the *Port Stephens Development Control Plan 2007* (Chapter B15).

Port Stephens Aircraft Noise Policy 2010

Part 1: About this Policy

- adopts the Building Site Acceptability principles outlined in Australian Standard AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*, but provides more definitive guidance regarding discretionary matters under that Standard

1.5 Explanation of terms

Terms used in the Policy with special or technical meanings are explained in Part 6: Glossary.

Part 2: Policy context

2.1 Introduction

Aircraft noise is not a new issue for the Port Stephens area, due to the community's longstanding co-existence with RAAF Base Williamtown, Newcastle Airport and the Salt Ash Air Weapons Range ('RAAF Williamtown-Newcastle Airport').

The RAAF Base was first established in 1941, and now plays an important role in supporting Australia's air combat capability. Civilian use of the airfield began in 1947, and today Newcastle Airport, which is located within the RAAF Base site, is a major regional airport undergoing rapid growth in passenger numbers. Newcastle Airport is managed by Newcastle Airport Ltd on behalf of Newcastle City Council and Port Stephens Council, which hold a lease over the Airport site.

To limit aircraft noise impacts, Port Stephens Council has for many years applied controls on new development in noise-affected areas. These controls are based on Australian Noise Exposure Forecast (ANEF) maps and compliance with Australian Standard AS 2021–2000, *Acoustics—Aircraft noise intrusion—Building siting and construction* ('AS 2021–2000').

The scheduled introduction of F-35 Lightning II Joint Strike Fighter combat aircraft after 2018 (to replace the current F/A-18 A/B Hornets) prompted the need for a complete review of the ANEF maps by the Department of Defence, as the new aircraft will produce louder noise emissions than their predecessors, and will use the weapons range in different ways.

2.2 Why is the Policy needed?

Protecting the airport

RAAF Williamtown-Newcastle Airport is a facility of fundamental significance at the local, national, State and regional levels. Its importance relates not only to defence and air transport, but also to its role as a key generator of economic activity in the Hunter Region. Investment in military capability, airport infrastructure and the economic opportunities that cluster nearby are a very important and growing element in the regional and local economy.

For example, the Joint Strike Fighter will contribute an additional \$500 million investment in the region, with consequent job increases above the current 3,000 defence-related employees, as well as wider multiplier effects on regional employment and income.

Accordingly, the importance of RAAF Williamtown-Newcastle Airport and its ongoing development need to be appropriately recognised and supported. The enormous public investment in the facility should be protected from factors that would constrain its future operation, performance and competitiveness.

Protecting the community

Whilst airports need to be protected from too close a relationship with the community they serve, so too does the community need to be protected from aircraft noise.

Aircraft noise is an inescapable by-product of aviation. Unless measures are taken to reduce the impacts of aircraft noise on nearby communities, there can be a wide range of undesirable social, economic and environmental consequences. These range between annoyance and irritation, interference with speech and social activities, interference with classroom learning, loss of relaxation and tranquillity, sleep disruption, health impacts and many others. Loss of amenity due to aircraft noise can have significant impacts on the local economy.

Managing the impacts of aircraft noise is a major challenge for the Port Stephens local government area. A clear policy framework is required that can promote aircraft noise outcomes that are acceptable to the community.

Responding to local circumstances and expectations

It is not feasible to exclude all noise-sensitive development from the vicinity of RAAF Williamtown-Newcastle Airport, since existing built-up areas are already subject to major noise issues. These examples emphasise the need for guidance regarding discretionary matters under AS 2021–2000 so as to acknowledge the existing situation.

Exercising due care & diligence

Council has a duty to developers and landowners to exercise proper care when it exercises its planning functions. It is therefore essential that the planning controls intended to manage aircraft noise impacts are based on best practice and the most reliable factual information available.

Consequently, development proposals and requests for information that involve aircraft noise related matters should be considered with particular care and diligence. This requires clear criteria, consistent application of those criteria, and sound record keeping practices.

Informing the public

Successful co-existence between RAAF Williamtown-Newcastle Airport and the local community presupposes that members of the public have access to aircraft noise information that is accurate and meaningful. This will help people make appropriate decisions about where to locate

Port Stephens Aircraft Noise Policy 2010

Part 2: Policy context

their homes and businesses, based on their particular needs and personal sensitivity to aircraft noise. In particular, poor information can lead to false expectations and highly negative responses to aircraft noise. Well thought out information strategies can avoid these problems.

Promoting cooperation

Defence and airport operations are regulated at the Commonwealth level, whilst land use planning is undertaken at the local and regional levels. Because of this division of responsibilities, cooperative mechanisms can help to promote mutually satisfactory outcomes for all interested stakeholders. These include the Department of Defence, Port Stephens Council, NSW Department of Planning and local community interest groups.

2.3 What is aircraft noise?

Australian Noise Exposure Forecasts (ANEF)

Aircraft noise exposure is a measure of the cumulative amount of aircraft noise likely to be experienced at a particular site on an average day, taking into account factors such as noise intensity, duration and tonal qualities, as well as frequency of flights, type of aircraft and time of day. Computational processes are used to derive a single integrated measure that aims to reflect the average community response to aircraft noise. Aircraft noise exposure is widely used to guide decisions about locations that may be suitable for different activities.

The method used in Australia for measuring aircraft noise exposure is known as the Australian Noise Exposure Forecast (ANEF) system. It includes the following noise measures, which are usually illustrated on maps by noise exposure contours.

- ANEF—a noise exposure forecast for a particular time in the future or based on particular circumstances such as ultimate capacity. ANEF maps are the maps that are referenced in the parts of AS 2021-2000 that are applied to land use planning.
- ANEI—a noise exposure index based on data for a previous year where the exact numbers and types of aircraft which used the airport are known. ANEI maps are not referenced in the parts of AS 2021-2000 that are applied to land use planning.
- ANEC—a noise exposure concept depicting possible noise exposure levels based on a predetermined set of assumptions about airport use and operation. ANEC

maps are not referenced in the parts of AS 2021-2000 that are applied to land use planning.

It is important to appreciate that ANEF values represent predicted noise exposure, not predicted noise level or intensity. They do not give any indication of the maximum sound level ($L(A)_{max}$) that may be experienced at a site.

2.4 Aircraft Noise Planning Area

Drawing the line

Many areas of the Port Stephens local government area are subject to some level of aircraft noise. Yet, clearly, some parts experience much more aircraft noise than others. This raises the question as to where to draw the line between those areas where aircraft noise should be considered in planning and other decisions (the 'Aircraft Noise Planning Area'), and those areas where it need not.

Aircraft noise planning thresholds are usually defined in terms of ANEF values. Under AS 2021-2000, all building types are classed as being 'acceptable' where the ANEF value is less than 20. Below this value, there is usually no need for aircraft noise reduction measures. However, even below this threshold level, most complaints about aircraft noise in Australia originate from outside the ANEF 20 contour. (see Figure 1).

ANEFs have certain limitations, and several alternatives have been raised for discussion (Department of Transport and Regional Services, 2003). Not the least of these limitations is that ANEFs tend to reinforce the misconception that aircraft noise magically ends at the ANEF 20 contour, which it does not.

The Commonwealth Government is currently reviewing its policy on development near airports, and is seeking to develop an enhanced national framework (Department of Infrastructure, Transport, Regional Development and Local Government, 2009). Until such time as this is introduced, ANEFs and AS 2021-2000 represent the best available means, and the most commonly applied method, to define a planning threshold.

Part 2: Policy context

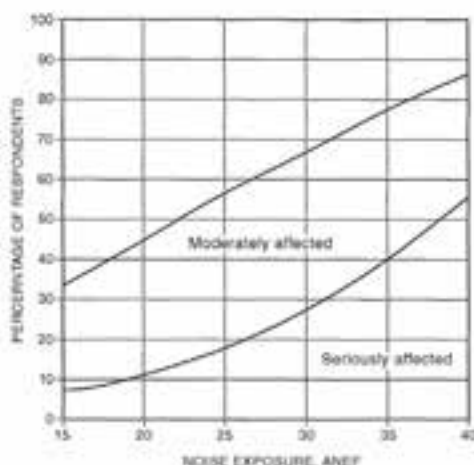


Figure 1: Relationship between ANEF level and community reaction in residential areas
Source: AS 2021-2000.

Available ANEF maps

ANEF maps for RAAF Williamtown-Newcastle Airport are produced by the Department of Defence. The following maps have been published in recent years:

- **RAAF Base Williamtown & Salt Ash Weapons Range 2025 ANEF**—this forecast was made in 2009, and is based on predicted conditions in 2025. It reflects the operation of Joint Strike Fighter combat aircraft after 2018. (See **Appendix 1**).
- **RAAF Base Williamtown & Salt Ash Weapons Range 2012 ANEF**—this forecast was made in 2003, and is based on predicted conditions in 2012. It reflects the operation of existing Hawk, Hornet and FA 18 and This is expected to continue until at least 2018. (See **Appendix 2**).

It is an established convention that there will only be one current ANEF map for a given airport at any one time, this being the latest map endorsed by the relevant authority. However, application of that convention is problematical in the above circumstances. Omitting to have regard to the 2012 ANEF map might amount to a failure to exercise reasonable care, in which case there would be the potential for liability. Accordingly, the Department of Defence have advised the prudent approach is to consider the 2012 ANEF map for such period as it continues to be relevant.

Aircraft Noise Planning Area

The Aircraft Noise Planning Area defines the area within which aircraft noise should always be considered in planning and development decisions, generally in accordance with this Policy.

The ANEF 20 level is adopted as the appropriate minimum planning threshold. The Aircraft Noise Planning Area therefore comprises all properties that are wholly or partly within the ANEF 20 contour on the relevant planning area map, and so includes land within ANEF contours of 20 and higher. The relevant planning area map is a composite of the 2025 ANEF and the 2012 ANEF, as provided by the Department of Defence, as ANEF2025 is the most recent ANEF map, and ANEF2012 is an earlier ANEF map that remains relevant to present or future circumstances. A property-based approach has been adopted in defining the Aircraft Noise Planning Area (See **Appendix 3**). That is, if part of a property falls within the ANEF 20 contour, the entire property is defined to be within the Aircraft Noise Planning Area. This is intended to avoid artificial demarcation of noise considerations across individual development sites.

The information necessary to determine if a particular property is within the Aircraft Noise Planning Area will be recorded on the Council's property database (refer to Part 5 of the Policy).

No inference should be made that land outside the Aircraft Noise Planning Area is not subject to aircraft noise. Such land is merely below the minimum noise exposure threshold adopted for planning purposes.

2.5 Planning criteria

There are three essential planning criteria that should be applied to all planning and development proposals within the Aircraft Noise Planning Area:

- Aircraft noise burden
- Site suitability
- Aircraft noise reduction.

These criteria are critical to attaining progress on the two key objectives of this Policy, namely to protect RAAF Williamtown-Newcastle Airport from encroachment by noise-sensitive activities, and to protect the community from adverse noise impacts.

Port Stephens Aircraft Noise Policy 2010

Part 2: Policy context

Criteria

Purpose

Aircraft noise burden

Containing or reducing the aggregate aircraft noise problem

Site suitability

Putting the right activities in the right place ('prevention')

Aircraft noise reduction

Reducing noise through building construction measures ('cure')

Aircraft noise burden

- A. The aircraft noise burden refers to the total number of dwellings or people that are exposed to unacceptable aircraft noise. Ideally, this burden should be reduced, or failing that, should not be permitted to increase.

The aircraft noise burden can be broken down into two distinct components.

- The existing aircraft noise burden comprises housing and other noise sensitive development that is already in existence. For such development, aircraft noise is an historical problem that cannot be dealt with by traditional planning policies. This is largely a Department of Defence problem. Council can, outside of its functions as a consent authority, advocate and call for Co-operation from Department of Defence to achieve any reduction and such areas are kept to a minimum when considering operations.
- The future aircraft noise burden comprises housing and other development that is yet to be built. Aircraft noise is a planning problem that can be dealt with by zoning and other planning controls. Planning decisions should not make the future situation worse than that which currently exists. To do so would be contrary to the principle of intergenerational equity, which binds Council in its role as a consent authority and as a local council.

Site suitability

- B. Site suitability refers to the acceptability of proposed development at a particular site, having regard to actual or forecast aircraft noise conditions at that site, and the sensitivity of that development to those conditions.

Site suitability provides a key criterion for deciding whether or not to permit or encourage particular

activities in particular locations. It is about putting the right kinds of development in the right places, and represents 'prevention' rather than 'cure'. Where possible, achieving site suitability should have priority over aircraft noise reduction.

The currently recognised standard for site suitability is specified by Table 2.1 in AS 2021-2000.

Aircraft noise reduction

- C. This refers to the reduction of indoor noise levels by the application of suitable measures to the design, construction or modification of buildings (for example, building mass, noise insulation or double glazing).

Aircraft noise reduction represents 'cure' rather than 'prevention'. It is the next best option when a development site is conditionally suitable. However, there are theoretical and practical limits to aircraft noise reduction. When applied to highly unsuitable sites, acceptable noise outcomes may not be possible.

The currently recognised standard for aircraft noise reduction is specified by Part 3 of AS 2021-2000.

2.6 Policy tools

The tools or mechanisms that can be used to implement the Policy are as follows:

Planning proposals

Planning proposals involve the preparation of plans relating to the future use and development of land. They are a critical tool for preventing an increase in the future aircraft noise burden.

Development assessment

Development assessment involves the regulation of development proposals under existing planning instruments. It is an important tool for containing growth in the future aircraft noise burden, but is often constrained by the limitations of historical zoning decisions.

Cooperative mechanisms

Cooperative mechanisms involve providing a forum for dialogue and feedback regarding the effects of aircraft operations on the local community, particularly in relation to minimising noise impacts and enable Council to advocate on behalf of the community

Information management

Information management relates to the way that information on aircraft noise is gathered, kept, used and distributed. It can promote a number of important

Part 2: Policy context

objectives, such as ensuring due care and diligence, and providing accurate and useful information to the public.

When considered together, application of the above policy tools forms a holistic aircraft noise policy framework. This is illustrated in **Figure 2**.

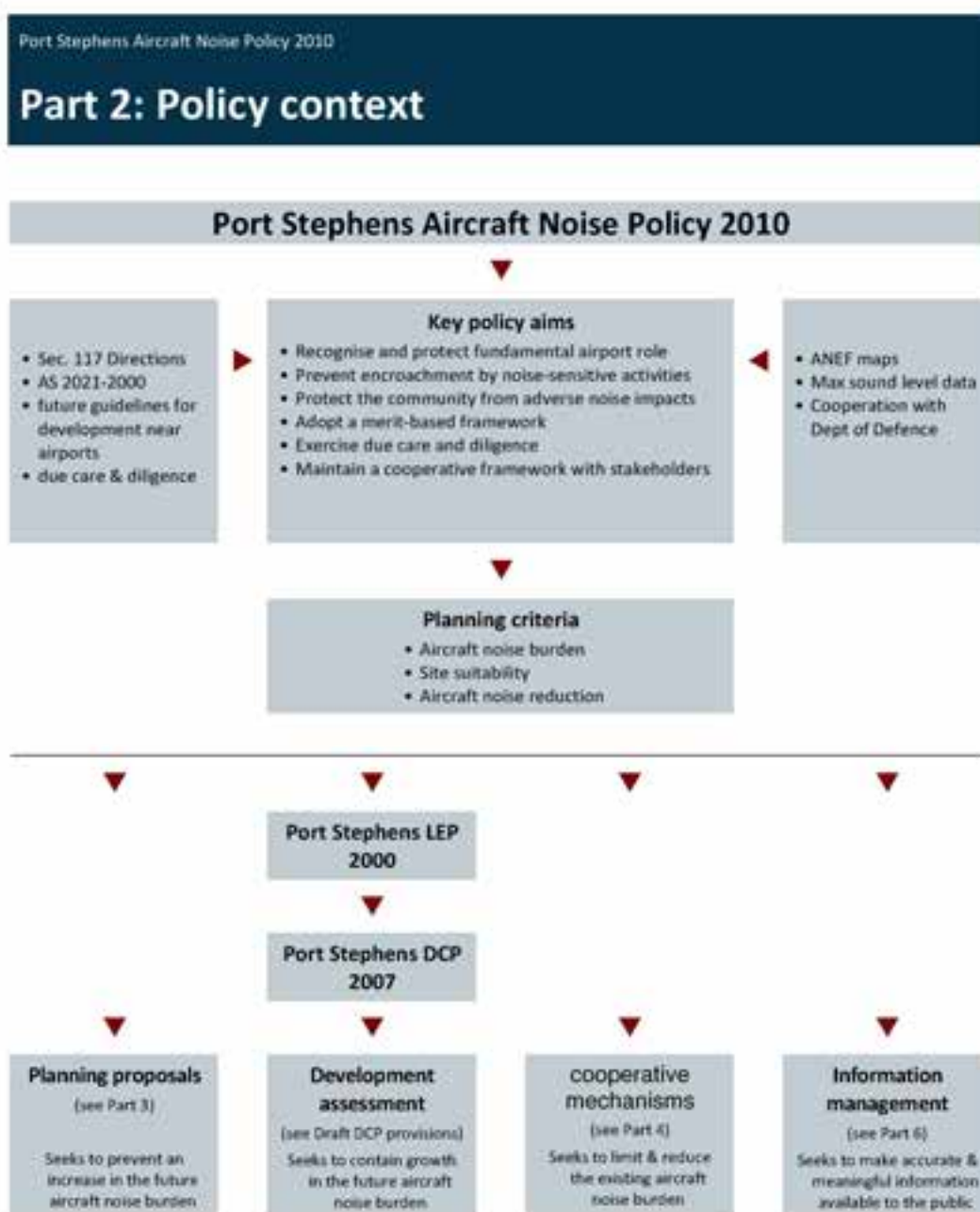


Figure 2: Aircraft noise policy framework

Part 3: Planning proposals

3.1 Role of planning proposals

A planning proposal refers to a proposal to alter the planning controls that operate under the *Port Stephens Local Environmental Plan*. Planning proposals may relate to a broad strategic review of urban structure and settlement pattern within the Port Stephens area, a process commonly referred to as 'strategic planning'. Alternatively, they may involve consideration of a change of zoning for a specific land parcel, typically in response to a landowner's request. This latter type is commonly referred to as a 'rezoning request' or 'spot rezoning'.

Planning proposals usually cannot be used as a tool for reducing the existing aircraft noise burden. This is because the planning legislation allows the continued operation of 'existing uses' and other permitted land uses. However, they are of particular value in preventing an increase in the future aircraft noise burden. That is, planning proposals can be used to promote a future settlement pattern that, relative to the current situation, does not increase the number of people adversely affected by aircraft noise.

3.2 Statutory requirements

Under the (NSW) *Environmental Planning and Assessment Act 1979*, a planning proposal must include documentation setting out the intended effect of the proposal and its justification. It must also be consistent with the *Lower Hunter Regional Strategy*, and any relevant section 117 Directions issued by the Minister for Planning. Alternatively, it must provide suitable justification to support any inconsistency.

Section 117 Direction 3.5, 'Development near Licensed Aerodromes' (dated 1 July 2009) applies to any planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. It includes the objective:

to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

3.3 Strategic approach

Protecting the long-term operation of RAAF Williamtown-Newcastle Airport, whilst also protecting the community from unacceptable aircraft noise impacts, requires a strategy that prevents encroachment of noise-sensitive development into incompatible noise-exposed locations. In some cases there is likely to be conflicts between this strategy and landowners' aspirations for rezoning of land for urban purposes. These conflicts should be resolved in favour of the overriding priority and importance of RAAF Williamtown-Newcastle Airport.

The Aircraft Noise Planning Area (refer to section 2.4) provides the spatial overlay within which planning proposals require detailed scrutiny. Planning proposals within that area need to be assessed in terms of the essential planning criteria identified in section 2.5:

- aircraft noise burden
- site suitability
- aircraft noise reduction.

Site suitability in terms of the acceptability criteria under AS 2021-2000 and ANEF contours are a key consideration. However, this approach can have limitations when applied to military airports, due to the very high maximum sound levels – $L(A)_{max}$ – that can be produced by combat aircraft. In some locations, compliance with aircraft noise reduction levels specified by AS 2021-2000 may not be possible or practicable within ANEF contours that define 'acceptable' and 'conditionally acceptable' locations. This issue needs to be carefully addressed.

Planning proposals outside the Aircraft Noise Planning Area may also require scrutiny. This is because it is based on medium-term noise forecasts (currently 2025), yet planning proposals may initiate land use changes well beyond that planning horizon. Therefore, any foreseeable long-term changes that might have aircraft noise impacts over a wider area should also be considered (for example, changes to aircraft types, flight paths or volume of traffic). This should be considered by way of suitable consultation with the airport operator.

Part 3: Planning proposals

3.4 Principles

Where the principles apply

The following principles apply to planning proposals in respect of land that is:

- within the Aircraft Noise Planning Area, or
- within 2 kilometres of the Aircraft Noise Planning Area which has the potential to increase residential densities or other noise sensitive land uses;
- Where the consent authority has been advised by Department of Defence that aircraft noise has the potential to adversely effect future development.

Aircraft noise burden

- A. A planning proposal should not result in an increase in the future aircraft noise burden. That is, it should not permit any intensification of development within the Aircraft Noise Planning Area that would significantly increase the number of people or dwellings adversely affected by aircraft noise.

Site suitability

- B. In its preparation of broad settlement strategies for the Port Stephens area, the Council should give preference to land uses in the vicinity of RAAF Williamtown-Newcastle Airport that:
- will be compatible with the future long-term operation and growth of that facility
 - have a mutually beneficial relationship with activities undertaken within that facility
 - do not rely on aircraft noise reduction to achieve compatibility.
- C. A planning proposal should permit new development in a manner that is generally consistent with the Building Site Acceptability Criteria in AS 2021-2000. For example, a planning proposal should not:
- rezone land for residential purposes where the ANEF level exceeds 25
 - increase residential densities in areas where the ANEF level exceeds 25
 - rezone land for schools, hospitals, churches and theatres where the ANEF exceeds 20
 - rezone land for hotels, motels, offices or public buildings where the ANEF exceeds 30.

- D. However, a planning proposal should not be supported if there is evidence that it would not be 'possible' or 'practicable' for development permitted under the proposal to meet the level of aircraft noise reduction specified by AS 2021-2000. Such decisions should have regard to an acoustic study prepared by a noise control expert to establish the predicted maximum sound level $[L(A)_{max}]$ for the site in accordance with AS 2021-2000 and level of Aircraft Noise Reduction (ANR) required.

- E. For the purposes of satisfying "D" above Council will have regard for the predicted maximum sound level $[L(A)_{max}]$, as may be provided to Council from time to time by the Department of Defence to assist Council in its planning.

Aircraft noise reduction

- F. A planning proposal should not lessen existing requirements for aircraft noise reduction that apply under the Port Stephens Local Environmental Plan 2000.

Inconsistency with principles

- G. A planning proposal that is inconsistent with any of the above principles should not be prepared unless:
- it is justified by a planning strategy that considers the objectives of this Policy
 - meets requirements under Section 117 Direction 'Development near Licensed Aerodromes'.
 - the Council is satisfied that to do so would be both reasonable and in the public interest.

Consultation

- H. When preparing a planning proposal relating to land:
- within the Aircraft Noise Planning Area, or
 - within 2 kilometres of the Aircraft Noise Planning Area,

the Council should consult with the Department of Defence and any stakeholder having a particular interest in the issue of aircraft noise.

Part 4: Cooperative mechanisms

4.1 Extent of the additional burden

The Public Environment Report for the introduction of the Joint Strike Fighter (Department of Defence, 2009) includes considerable information about the likely noise impacts of the new military aircraft on the existing community, including consideration of likely health, social and economic consequences. As it was prepared as part of the process in promulgating ANEF2025 it references ANEC levels, there being a number of conceptual ANEC maps prepared as part of that process. It should be noted the ANEC concept maps differ from the final ANEC maps on which acceptability is determined under the AS2021-2000

Figure 3 below, which is derived from the Public Environment Report, indicates that almost 3,500 existing lots are located within the area generally equivalent to the Aircraft Noise Planning Area, and that over 1,500 of these are located in areas classed as 'unacceptable' for dwellings under AS 2021-2000 (that is, with an ANEC value exceeding 25).

Of these, 312 lots occur within areas with an ANEC value exceeding 30. Such lots are likely to experience severe noise impacts. The actual extent of impacts would need to be assessed in more detail by reference to other measures of aircraft noise, such as maximum sound levels - $L(A)_{max}$ as this is a critical determinant of the amount of aircraft noise reduction needed, and its practicality.

The extent to which these lots are used for residential or other purposes, or are vacant land, is not known. This and other information would need to be obtained in order to determine the likely extent.

Figure 3 Number of lots within Australian Noise Exposure Concept contours for Joint Strike Fighter Base Case

ANEC	Number of lots	Cumulative lots
55-60	2	2
50-55	10	12
45-50	5	17
40-45	24	41
35-40	42	83
30-35	229	312
25-30	1224	1536
20-25	1937	3473

Source: derived from Dept of Defence (2009), Table 6-14, p. 109.

Note: Australian Noise Exposure Concepts depict possible noise exposure levels based on a predetermined set of assumptions about airport use and operation.

4.2 Promoting cooperation

Defence and airport operations are regulated at the Commonwealth level, whilst land use planning is undertaken at the local and regional levels. Because of this division of responsibilities, cooperative mechanisms can help to promote mutually satisfactory outcomes for all interested stakeholders. These include the Department of Defence, Port Stephens Council, NSW Department of Planning and local community interest groups.

- Members of the Council, acting as community leaders, can play an active role in advocating the case for programs including possible amelioration for the community to parliamentary members and Ministers.
- Studies should be undertaken to more fully document the extent to which existing development is subject to unacceptable levels of aircraft noise. These should be undertaken cooperatively by the Council and the Department of Defence.

Ideally a cooperative framework should be maintained in which all stakeholders can:

- appreciate the strategic importance of the airport and its operational requirements
- appreciate the impacts that aircraft noise has on the local community, and the measures that might be needed to resolve those impacts
- ensure the local community burdened to the minimum extent possible from aircraft noise for the Department of Defence to undertake operations
- contribute to the future planning of RAAF Williamtown-Newcastle Airport and its environs.

Port Stephens Aircraft Noise Policy 2010

Part 4: Cooperative mechanisms

4.3 Model programs

The Sydney and Adelaide Noise Amelioration Programs, which are now completed, are generally considered the best practice approach in Australia. Being civil airports, these programs were funded by an industry levy, and have brought about significant improvements for noise sensitive buildings in high noise exposure zones. Funding for the upgrading of existing housing was set at a maximum of \$57,000 per dwelling.

The approach taken was to provide amelioration at the following thresholds:

Threshold	Land use	Amelioration provided
>25 ANEI	Public buildings	Aircraft noise reduction
>30 ANEI	Dwellings	Aircraft noise reduction by: <ul style="list-style-type: none"> • 35 dB(A) - sleeping areas • 30 dB(A) - living areas
>40 ANEI	Dwellings	Voluntary acquisition of property

Note: Australian Noise Exposure Index (ANEI) is based on data for a previous year where the exact numbers and types of aircraft which used the airport are known.

Subject to appropriate justification, the Council should work with the Department of Defence and the community to frame an appropriate amelioration program based on the above model.

- provide opportunities for all interested stakeholders to contribute to the future planning of RAAF Williamtown-Newcastle Airport and its environs.

4.4 Consultative Committee

To promote the objectives of this Policy in cooperation with the Department of Defence, RAAF, the community and other stakeholders, the Council investigate the benefits of forming a Consultative Committee (or sub-committee of the existing AirPort Consultative Committee):

- provide an interface between the community and the operators of the RAAF Base and Newcastle Airport
- provide a forum for dialogue and feedback regarding the effects of aircraft operations on the local community, particularly in relation to minimising noise impacts
- promote sharing of relevant information, such as that relating to aircraft noise, planning proposals, development trends, noise complaints and so forth

Part 5: Noise information

5.1 Planning certificates

Planning certificates—advice under s.149(2)

D. The following aircraft noise information should be included on planning certificates as prescribed advice under section 149(2):

Where the property is within the Aircraft Noise Planning Area, a statement should be made to the effect that:

- the land is subject to aircraft noise related development controls under the *Port Stephens LEP 2000* and Part B15 of the *Port Stephens DCP 2007*
- relevant principles are set out in the *Port Stephens Aircraft Noise Policy 2010*.

Note: This disclosure relates to the matter as to whether or not the council has adopted a policy to restrict the development of the land because of the likelihood of land slip, bushfire, flooding, tidal inundation or any other risk. (Item 7 of Schedule 4, EP&A Regulation 2000).

Planning certificates—advice under s.149(5)

E. The following aircraft noise information should be included on planning certificates as additional advice [section 149(5)]:

Where the property is not located within the Aircraft Noise Planning Area, a statement should be made to the effect that:

- the land is not located within the Aircraft Noise Planning Area under the *Port Stephens LEP 2000*
- no inference should be made that the land is not subject to aircraft noise—it merely indicates that the level of aircraft noise exposure present on the land is below the threshold adopted for planning purposes
- the land is likely to be affected by some level of aircraft noise, which may cause some persons serious annoyance from time to time, particularly those with a higher sensitivity to noise
- persons with particular noise requirements may need to consider aircraft noise reduction measures for the site.

Where the property is located within the Aircraft Noise Planning Area, a statement should be made to the effect that:

- the land is located within the Aircraft Noise Planning Area under the *Port Stephens LEP 2000*
- this indicates that the level of aircraft noise exposure present on the land is above the threshold adopted for planning purposes
- the likely extent of aircraft noise exposure for the land is shown on Australian Noise Exposure Forecast maps which can be inspected at the office of the Council or on the Department of Defence internet site
- Australian Noise Exposure Forecasts are used for planning purposes in determining the suitability of land for particular purposes (refer to *Port Stephens Aircraft Noise Policy 2010*)
- Australian Noise Exposure Forecasts do not give an indication of 'decibel' sound levels likely to be experienced at the site, and that information on this may be available at the office of the Council
- the land is likely to be affected by aircraft noise that may cause some persons serious annoyance.

Where the land is the subject of aircraft noise related requirements or conditions under a development consent, a statement should be provided to the effect that:

- aircraft noise related requirements or conditions were imposed under a development consent (give details of consent number)
- the consent may be inspected at the office of the Council
- closure of windows and doors is required in order to achieve the benefits of noise control measures
- applicants should consider the need for independent professional advice as to any supplementary aircraft noise reduction measures that might be needed to meet the applicant's particular needs or requirements.

5.2 Aircraft noise community information strategy

G. In collaboration with the Department of Defence, the Council investigate preparing and implementing a community information strategy to provide meaningful aircraft noise information to the community. Such information would be readily interpreted by non-experts, and would be based on communication

Port Stephens Aircraft Noise Policy 2010

Part 5: Noise information

concepts rather than technical parameters. Information may include noise data received from Defence.

The overall aim should be to enable people to make more informed decisions about the noise environment likely to be experienced at particular locations, and how that environment might be compatible or incompatible with their needs or objectives. The strategy could also address possible alternative delivery media. Such approaches have been discussed in the following publications:

- Department of the Environment and Heritage and Department of Transport and Regional Services (2003). *Guidance Material for Selecting and Providing Aircraft Noise Information*. DEH & DOTARS, Canberra.
- Department of Transport and Regional Services (2000). *Expanding Ways to Describe and Assess Aircraft Noise*. DOTARS, Canberra.

Part 6: Reference material

6.1 Glossary

Acceptability

What is acceptable is ultimately a value judgement that reflects community norms and expectations, as well as the level of available resources. AS 2021-2000 provides guidance as to acceptable aircraft noise outcomes, but wider public interest considerations and the particular circumstances of the case may also need to be considered.

Acoustic study

A study undertaken by a noise control expert that describes the noise conditions present at a site and identifies aircraft noise reduction measures required to achieve an acceptable noise environment. The study will also address related issues such as likely cost and practicability. Its purpose is to provide an adequate factual basis for planning and development decisions.

Aircraft noise burden

The total number of dwellings or people that are exposed to unacceptable aircraft noise. Ideally, this burden should be reduced, or failing that, should not be permitted to increase. Two components can be distinguished, each requiring different policy responses:

- the existing aircraft noise burden—housing and other development that is already in existence
- the future aircraft noise burden—housing and other development that is yet to be built.

Aircraft noise information

Information that describes existing or predicted future aircraft noise conditions, or that enables the interpretation of such information.

Aircraft Noise Planning Area

The area of land subject to aircraft noise related development controls. It comprises all properties that are wholly or partly within the ANEF 20 contour on 'relevant ANEF maps' and includes land that is within ANEF contours of 20 and greater.

Aircraft noise reduction

The reduction of indoor noise levels by the application of suitable measures to the design, construction or modification of buildings (for example, building mass, noise insulation or double glazing). The currently recognised standard for aircraft noise reduction is specified by Part 3 of AS 2021-2000.

Australian Noise Exposure Forecast (ANEF)

A single integrated measure of predicted future exposure to aircraft noise that aims to reflect the average

community responses. It takes into account a wide variety of factors, such as noise intensity, duration and tonal qualities, as well as type of aircraft, frequency of flights and time of day. Forecasts are shown by contour lines on ANEF maps, and assist decisions regarding the suitability of development according to its sensitivity to aircraft noise.

AS 2021-2000

Australian Standard AS 2021-2000, Acoustics—Aircraft noise intrusion—Building siting and construction. This is a nationally recognised standard for development affected by aircraft noise.

the Council

Port Stephens Council

dB (decibels)

A logarithmic scale unit used to measure sound pressure levels. A sound level levels as high as 130-140 dB can be felt as pain.

dB(A) (decibels on the A-weighted scale)

Decibels measured using a particular weighting scale that reflects the sensitivity of the human ear across the audible frequency range.

Department of Defence

The Commonwealth agency responsible for administering Australia's defence services.

Development

The use of land, the subdivision of land, the erection of a building, the carrying out of a work, the demolition of a building or work, and certain other regulated activities.

Development control plan (DCP)

A type of plan prepared under the *Environmental Planning and Assessment Act 1979*. DCPs provide more detail than a local environmental plan, and must be considered when development applications are determined.

Local environmental plan (LEP)

A type of planning instrument prepared under the *Environmental Planning and Assessment Act 1979*. LEPs provide the broad local framework for development assessment, including objectives, urban structure, land use controls, approval criteria, and other matters.

Maximum sound level - L(A)_{max}

A measure of aircraft noise, being the highest instantaneous sound pressure level measured at a site during a single aircraft flight. It provides some indication of interference with speech, listening to television, sleeping or other common activities, but does not give any information about how long this level will last or how frequently it will occur.

Part 6: Reference material

Noise

The subjective response to sound, particularly any loud, annoying or unwanted sound. Psychological responses to sound are affected by a wide variety of factors. As these responses vary from person to person, there is no single universal measure of noise.

Planning certificate

A certificate issued under section 149 of the *Environmental Planning and Assessment Act 1979* that provides information about planning and related matters for a specified parcel of land. Under conveyancing laws a planning certificate containing basic information must be attached to any contract for the sale of land.

Planning proposal

Proposals that involve the preparation of plans relating to the future use and development of land. They include both broad strategic reviews and the rezoning of individual properties.

Principle

A rule of conduct or action that is applied when implementing a policy. The principles set out in this Policy serve to guide how decisions should be made.

RAAF

Royal Australian Air Force.

RAAF Williamtown-Newcastle Airport

The interrelated complex of defence, air transport and support facilities comprising RAAF Base Williamtown, Newcastle Airport and the Salt Ash Air Weapons Range.

Relevant ANEF maps

Refers to the most recent ANEF map, and any earlier ANEF map that remains relevant to present or future circumstances. ANEF maps for RAAF Williamtown-Newcastle Airport are published by the Department of Defence, and can be inspected at the office of the Council.

Site suitability

Refers to the acceptability of proposed development at a particular site, having regard to actual or forecast aircraft noise conditions at that site, and the sensitivity of that development to those conditions. The currently recognised standard for site suitability is specified by Table 2.1 in AS 2021-2000.

Sound

A pressure disturbance that travels through air. Sound is a physical phenomenon that can be objectively measured (see decibels). However, the way in which people perceive and react to sound is entirely subjective (see noise).

6.2 Relevant publications

Airservices Australia (1999). *The Australian Noise Exposure Forecast System and Associated Land Use Compatibility Advice for Areas in the Vicinity of Airports*. Airservices Australia, Canberra.

Department of Defence (2009). *Operation of the JSF Aircraft as New Air Combat Capability (NACC) at RAAF Base Williamtown and Salt Ash Air Weapons Range Public Environment Report*. Report prepared by Sinclair Knight Merz.

Department of Defence (2009). *RAAF Base Williamtown & Saltash Air Weapons Range 2025 ANEF Summary Report*. Report prepared by GHD Pty Ltd.

Department of Infrastructure, Transport, Regional Development and Local Government (2009). *Safeguards for airports and the communities around them*. Discussion Paper. DITRDG, Canberra.

Department of Infrastructure, Transport, Regional Development and Local Government (2009). *National Aviation Policy White Paper*. Chapter 14: Minimising the impact of aircraft noise.

Department of the Environment and Heritage and Department of Transport and Regional Services (2003). *Guidance Material for Selecting and Providing Aircraft Noise Information*. DEH & DOTARS, Canberra.

Department of Transport and Regional Services (2000). *Expanding Ways to Describe and Assess Aircraft Noise*. DOTARS, Canberra.

Department of Transport and Regional Services (2003). *Going Beyond Noise Contours: Local Approaches to Land Use Planning Around Smaller Australian Airports*. DOTARS, Canberra.

Newcastle Airport Ltd (2007). *Newcastle Airport Masterplan*. NAL, Williamtown NSW.

NSW Minister for Planning (2009). *Direction 3.5: Development near Licensed Aerodromes*. Made under section 117 of the *Environmental Planning and Assessment Act 1979*, and dated 1 July 2009.

Queensland Government (2002). *State Planning Policy 1/02 Guideline: Development in the Vicinity of Certain Airports and Aviation Facilities*. Dept of Local Government and Planning, Brisbane.

Queensland Government (2002). *State Planning Policy 1/02: Development in the Vicinity of Certain Airports and*

Part 6: Reference material

Aviation Facilities. Dept of Local Government and Planning, Brisbane.

Standards Australia (2000). Australian Standard AS 2021—2000, Acoustics—Aircraft noise intrusion—Building siting and construction. Standards Australia, Homebush NSW.

WA Planning Commission (2004). *Aircraft Noise Insulation for Residential Development in the Vicinity of Perth Airport*. WAPC, Perth.

WA Planning Commission (2004). *Statement of Planning Policy No. 5.1: Land use Planning in the Vicinity of Perth Airport*. WAPC, Perth.

Appendix 1: RAAF Base Williamtown & Salt Ash Weapons Range 2025 ANEF map

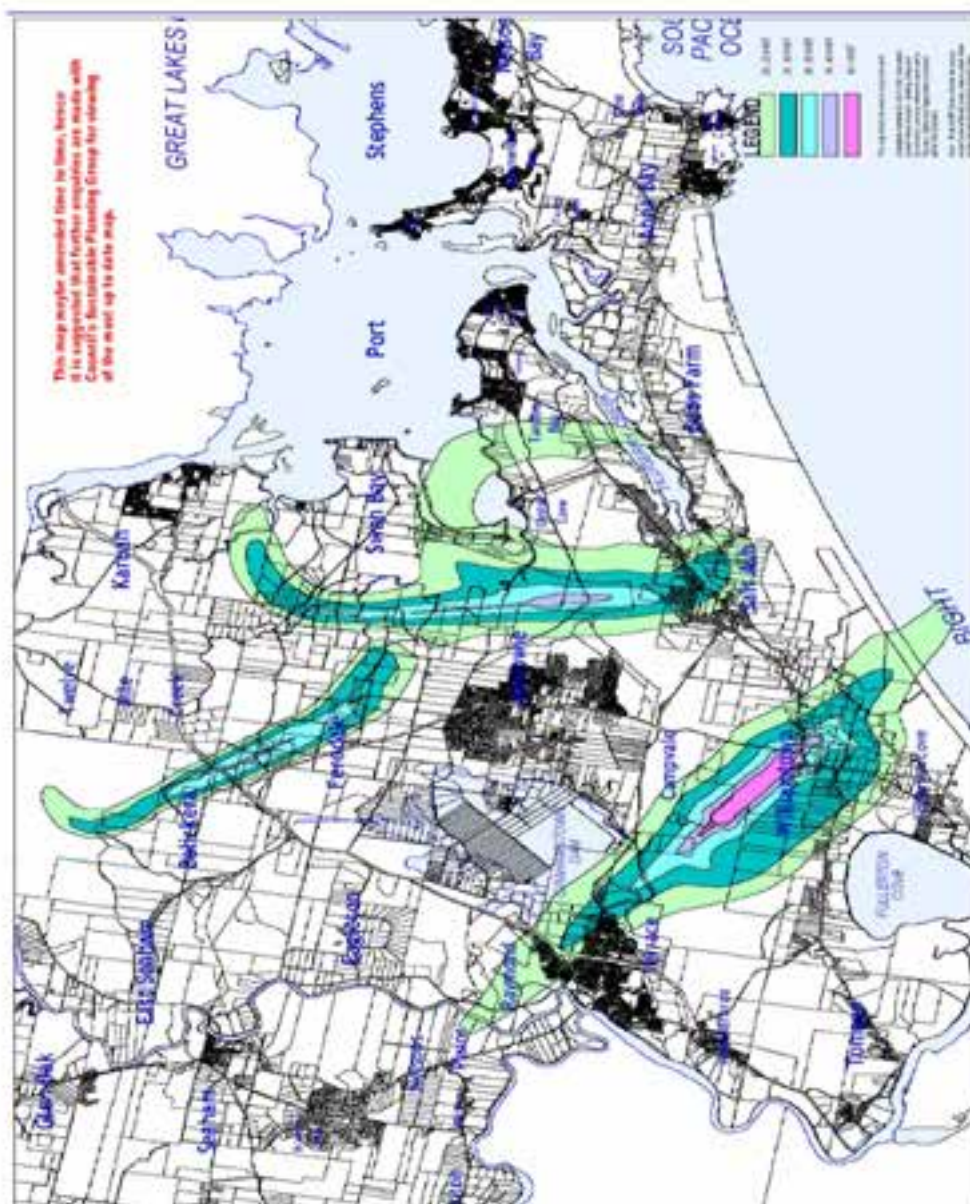
Appendix 2: RAAF Base Williamtown & Salt Ash Weapons Range 2012 ANEF map

Appendix 3: Aircraft Noise Planning Area

Port Stephens Aircraft Noise Policy 2010

Part 6: Reference material

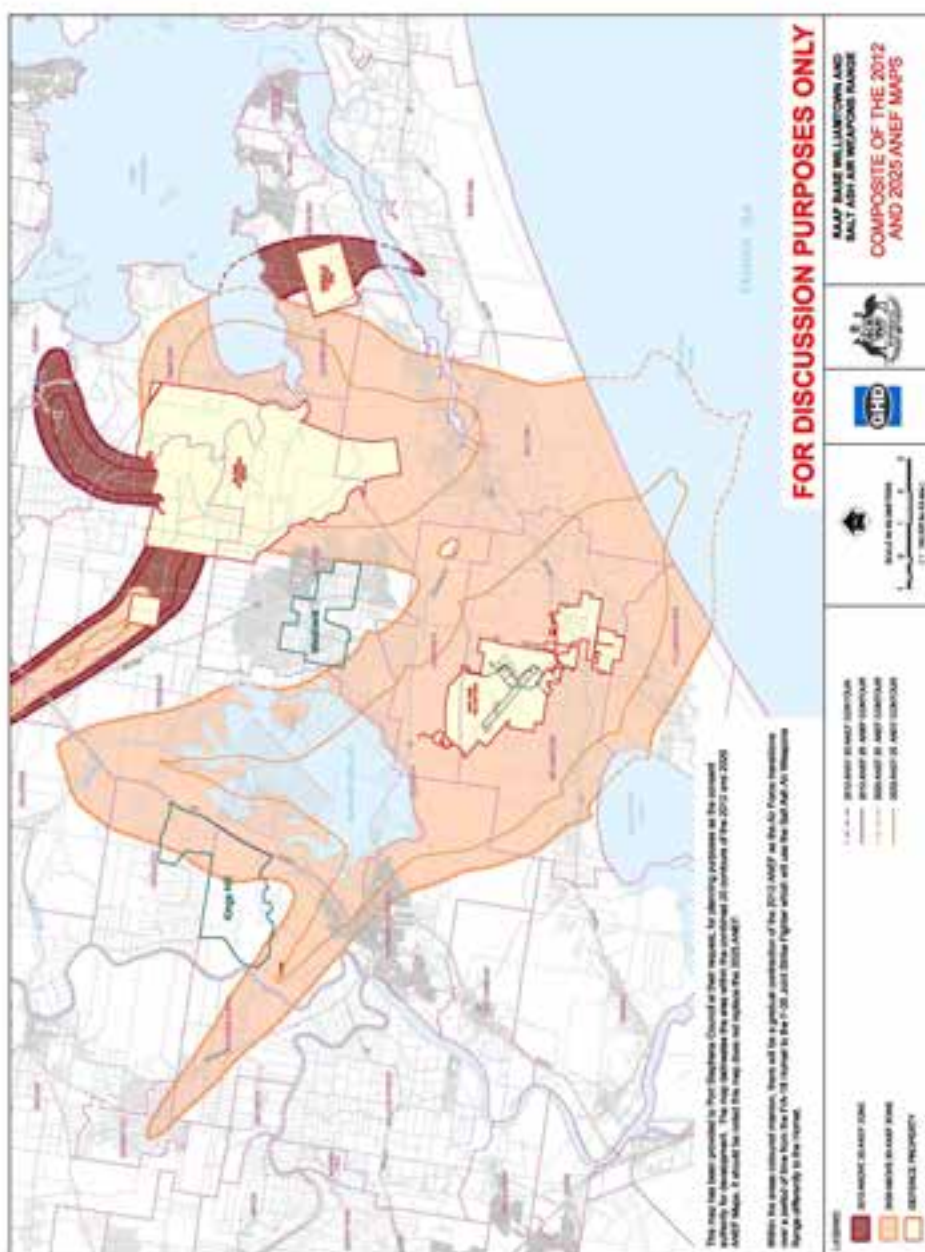
Appendix 2: RAAF Base Williamstown & Salt Ash Weapons Range 2012 ANEF map



Port Stephens Aircraft Noise Policy 2010

Part 6: Reference material

Appendix 3: Aircraft Noise Planning Area



ATTACHMENT 2 PLANNING PROPOSAL

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No. ...)

Notes

4. The building types shown in Column 1 have their ordinary meaning. They do not necessarily correspond to defined planning terms. Proposed development should be categorised according to the building type that most closely characterises or corresponds to the nature and scale of the development.
 5. 'Acceptable' means that special measures are usually not required to reduce aircraft noise. Refer to section 2.3.1 of AS 2021--2000.
 6. 'Conditionally acceptable' means that special measures are required to reduce aircraft noise. Refer to section 2.3.2 of AS 2021--2000.
 7. 'Unacceptable' means that the development should not normally be considered. Refer to section 2.3.3 of AS 2021--2000.
-

planning proposal

**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

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Clause 1

Port Stephens Local Environmental Plan 2000 (Amendment No __)

1 Name of plan

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

2 Aims of plan

This plan aims to comprehensively revise the provisions of Port Stephens Local Environmental Plan 2000 relating to development near defence and air transport facilities, and in particular:

- (a) to insert a new clause relating to public safety areas, obstacle height limits, and aircraft noise, and
- (b) to make consequential amendments to clause 26A (relating to land within Zone SPI), and
- (c) to make consequential amendments to clause 49A and Schedule 4 (relating to complying development).

3 Land to which plan applies

This plan applies to all land in the local government area of Port Stephens.

4 Amendment of Port Stephens Local Environmental Plan 2000

Port Stephens Local Environmental Plan 2000 is amended as set out in Schedule 1.

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Schedule 1 Amendments

Schedule 1 Amendments

[1] Clause 26A

Omit the heading of the clause and insert instead:

Development within Zone SP1 Defence and Airport Related Employment Development

In subclause (2), omit paragraph (a).

[2] Clause 38A

Insert after clause 38 the following clause:

38A Development near defence and air transport facilities

(1) Objectives

The objectives of this clause are:

- (a) to support the role of RAAF Base Williamtown and the Salt Ash Air Weapons Range as defence facilities of national significance, and
- (b) to support the role of Newcastle Airport as a competitive air transport facility of State and regional significance, and
- (c) to ensure the effective and continued operation of those facilities is not compromised by inappropriate development, and
- (d) to prevent a significant cumulative increase in the number of people or dwellings affected by aircraft noise, and
- (e) to ensure that development is located having regard to its sensitivity to aircraft noise, and
- (f) to ensure that aircraft noise impacts on the community are within acceptable limits.

(2) Public safety areas

Development consent must not be granted to carry out development within a public safety area unless the consent authority has:

- (a) given notice of the proposed development to the Department of Defence, and

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Schedule 1 Amendments

- (b) considered any comment made by the Department of Defence within 28 days of its having been given notice of the proposed development.

(3) **Obstacle height limits**

Development consent must not be granted to erect a building if the proposed height of the building would exceed any obstacle height limit.

(4) **Development in areas subject to aircraft noise**

Development consent must not be granted to development within the aircraft noise planning area unless the consent authority:

- (a) has considered whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
- (b) has considered the acceptability of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021-2000, and
- (c) is satisfied that the development will meet the level of aircraft noise reduction specified by section 3.2 of AS 2021—2000.

(5) **Definitions**

In this clause:

aircraft noise planning area means land subject to aircraft noise related development controls, being:

- (a) all land shown on a relevant ANEF map as being subject to an ANEF level of 20 or greater, and
- (b) the remainder of any lot that is partly so affected.

AS 2021—2000 means Australian Standard AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

obstacle height limit means a height limit on development that the Department of Defence has notified to the consent authority as being necessary for the safe operation of RAAF Base Williamtown, Newcastle Airport or the Salt Ash Air Weapons Range.

public safety area means land that the Department of Defence has notified to the consent authority as being subject to public safety requirements relating to:

- (a) hazards arising from the storage or handling of military ordnance, or
- (b) aircraft accident risk near the extremities of runways.

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Schedule 1 Amendments

in relation to RAAF Base Williamtown, Newcastle Airport or the Salt Ash Air Weapons Range.

relevant ANEF map means:

- (a) the most recent edition of a map endorsed by the Department of Defence that shows Australian Noise Exposure Forecasts relating to RAAF Base Williamtown, Newcastle Airport or the Salt Ash Air Weapons Range, and
- (b) an earlier edition of such a map notified to the consent authority by the Department of Defence the forecasts shown thereon continue to be relevant to present or future circumstances.

[3] Clause 49A

In subclause (4) omit paragraph (e) and insert instead the following:

- (e) land shown on relevant ANEF maps referred to in clause 38A as being subject to an ANEF level of 25 or greater.

[4] Schedule 4

In Schedule 4 in the matter relating to new single storey dwellings and alterations/additions to an existing single storey dwelling, omit the complying development standard relating to aircraft noise and insert instead:

- To be complying development on land within the aircraft noise planning area referred to in clause 38A (not being land excluded by clause 49A(4)(e)), the development must be constructed so as to meet the level of aircraft noise reduction specified by section 3.2 of AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Notes

EXPLANATORY NOTE

Draft Port Stephens Local Environmental Plan 2000 (Amendment No ...)

At its meeting on, Port Stephens Council decided to prepare a planning proposal to comprehensively revise the provisions of *Port Stephens Local Environmental Plan 2000* relating to development near defence and air transport facilities. This explanatory note gives a 'plain English' explanation of the planning proposal.

The planning proposal is being exhibited for public comment, and is being referred to relevant agencies. After considering the views of interested persons and agencies, the Council will decide whether or not to proceed with the planning proposal, or whether to make suitable alterations.

If the Council decides to proceed with the planning proposal (with or without alterations), it will be forwarded to the Minister for Planning with the recommendation that the *Port Stephens Local Environmental Plan 2000* be amended accordingly.

The planning proposal is also supported by the following complementary documents:

- draft *Port Stephens Aircraft Noise Policy 2010*
- draft amendments to the *Port Stephens Development Control Plan 2007*.

CLAUSE 1:

Name of plan

This clause gives a name to the plan. The Plan will be called *Port Stephens Local Environmental Plan 2000 (Amendment No. ...)*.

CLAUSE 2:

Aims of plan

This clause states what the plan aims to achieve. The plan aims to comprehensively revise the provisions of *Port Stephens Local Environmental Plan 2000* relating to development near defence and air transport facilities (for example, RAAF Base Williamtown, Salt Ash Air Weapons Range and Newcastle Airport).

The need to review the planning provisions has been prompted largely by the phased replacement of existing Hawk and Hornet military aircraft by the Joint Strike Fighter after

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No)

Notes

2018. Differences between these aircraft and changes to flight patterns will result in significant variations in the level and incidence of aircraft noise across the Port Stephens area.

The proposed revision to the existing planning controls includes the following.

- A new clause will be inserted [clause 38A] containing specific provisions relating to public safety areas, obstacle height limits and aircraft noise.
- Changes will be made to the existing clause 26A relating to land within Zone SP1 Defence and Airport Related Employment Development Zone. This change is necessary to maintain consistency with the proposed clause 38A.
- Changes will be made to the existing clause 49A and Schedule 4 relating to 'complying development' standards for housing development. This change is necessary to maintain consistency with the proposed clause 38A.

CLAUSE 3:

Land to which plan applies

This clause identifies the land to which the plan applies. The plan applies to all land within the Port Stephens local government area.

CLAUSE 4:

Amendment of Port Stephens Local Environmental Plan 2000

This clause specifies how the draft plan will amend the *Port Stephens Local Environmental Plan 2000*, which is the legal plan for controlling development throughout the Port Stephens area. The specific amendments are set out in Schedule 1 to the plan.

SCHEDULE 1:

Amendments

[1] Clause 26A

Development in the vicinity of RAAF Base Williamtown/Newcastle Airport

This is an existing clause that applies to land within Zone SP1 Defence and Airport Related Employment Development.

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Notes

It is proposed to alter the title of this clause to more accurately reflect the application of the clause.

It is also proposed to remove from the clause requirements for development to comply with Australian Standard AS 2021-2000. All noise reduction requirements will instead be contained in the proposed clause 38A (see separate entry below).

When amended, clause 26A would read as follows (matter to be omitted is shown in red and ruled through, matter to be inserted is shown in blue).

**26A ~~Development in the vicinity of RAAF Base~~
~~Williamtown-Newcastle Airport~~ Development within Zone SP1
Defence and Airport Related Employment Development**

- (1) This clause applies to land within Zone SP1 Defence and Airport Related Employment Development.
- (2) Despite any other provisions of this plan, consent to any development on land to which this clause applies must not be granted unless the consent authority is satisfied that:
 - (a) ~~it complies with the relevant provisions of Australian Standard AS 2021-2000, Acoustics—Aircraft noise intrusion—Building siting and construction as applicable, and~~
 - (b) it will not compromise the continued operation of RAAF Base Williamtown or Newcastle Airport, and
 - (c) the location and type of development supports a focused defence and airport related employment area.

[2] Clause 38A

Development near defence and air transport facilities

This is a new clause that is proposed to be inserted in the Port Stephens LEP 2000. The clause brings together a range of considerations relevant to development in the vicinity of defence and air transport facilities, such as public safety areas, obstacle height limits and aircraft noise.

The clause is generally consistent with:

- section 117 *Direction Development Near Licensed Aerodromes*
- proposed clause 23A of State Environmental Planning Policy (Infrastructure) 2007 (See *Review of the Infrastructure SEPP Discussion Paper*, March 2010).

However, the proposed clause differs in the following respects.

- The proposed clause recognises that assessment of the level of aircraft noise exposure may need to consider preceding editions of noise exposure maps where such maps continue to be relevant.

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No)

Notes

- Provision is made for public safety areas, such as those relating to military ordnance. The proposed clause is explained as follows.

(1) Objectives

Subclause (1) sets out the objectives of the clause, which generally relate to:

- supporting the role of the RAAF Base, Newcastle Airport and Weapons Range as facilities of national, State and regional significance.
- ensuring the operation of those facilities is not compromised by inappropriate development
- preventing increases in the number of people or dwellings affected by aircraft noise
- ensuring that development is located having regard to its sensitivity to aircraft noise
- requiring development exposed to significant aircraft noise to meet an acceptable level of indoor noise reduction.

(2) Public safety areas

Subclause (2) sets out arrangements relating to 'public safety areas'. These are defined in subclause (5) generally as land that the Department of Defence has notified to the consent authority as being subject to public safety requirements relating to military ordnance, or to risk of aircraft accidents at runway ends.

Under the proposed clause, the consent authority [normally Port Stephens Council] must refer any development application for land within a public safety area to the Department of Defence, and must take into consideration any comments made within 28 days.

The proposed provision formalises existing arrangements. See Council policy 'Development within the Explosives Safety Zone' (available at www.portstephens.nsw.gov.au/council/1080/1159.html). It is proposed to include provisions within the *Port Stephens Development Control Plan 2007* to replace that policy.

A map showing the Explosives Safety Zone area is shown in **Appendix 1** to this document.

(3) Obstacle height limits

Subclause (3) sets out requirements relating to 'obstacle height limits'. These are defined in subclause (5) generally as height limits that the Department of Defence has notified to the consent authority as being necessary for the safe operation of RAAF Base Williamstown, Newcastle Airport or the Salt Ash Air Weapons Range.

An obstacle height limit takes the form of an imaginary three dimensional surface that defines the lower limit of operational airspace. For safety reasons, buildings and structures should not intrude above that limit.

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No)

Notes

Under the proposed clause, development consent cannot be given to a proposed building if its height would exceed any obstacle height limit.

There is currently a proposed obstacle height limit for RAAF Base Williamtown. If adopted by the Department of Defence, this would be formally declared as an 'obstacle clearance surface' under the *Defence (Areas Control) Regulation 1989*.

(4) Development in areas subject to aircraft noise

Subclause (4) sets out requirements for development within the 'aircraft noise planning area'. This area is defined in subclause (5) generally as all land shown on 'relevant ANEF maps' as having an ANEF level of 20 or greater, as well as the remainder of any lot that is partly affected by that ANEF level. Thus, a lot cannot be partly within the aircraft noise planning area—it is either entirely inside or outside that area.

Australian Noise Exposure Forecast (ANEF) is a measure of predicted aircraft noise exposure that takes into account a wide variety of factors, such as aircraft mix, noise levels, frequency of aircraft movements, time of day and other factors. These forecasts are shown on ANEF maps.

A map showing the proposed aircraft noise planning area is shown in **Appendix 2** to this document.

The aircraft noise planning area defines the area that is subject to aircraft noise related development controls. It does not define the area that is subject to aircraft noise. Significant areas of land within the Port Stephens area is subject to some level of aircraft noise. However, the level of aircraft noise exposure within the aircraft noise planning area is considered sufficiently adverse to warrant controls under AUS 2021-2000 on development, such as by:

- preventing intensification of development that would significantly increase the number of people affected by aircraft noise
- excluding noise-sensitive activities in locations where the level of aircraft noise exposure would be unacceptable (even with the best noise reduction measures)
- requiring noise reduction measures (such as acoustic insulation and special windows) in locations where such measures can achieve acceptable outcomes.

Under the proposed clause, where a development application is received for land within the aircraft noise planning area, the consent authority (normally Port Stephens Council) must consider the following matters before it grants development consent.

- The consent authority must consider whether the proposal would increase the number of dwellings or people affected by aircraft noise. Because of the proposed objective in subclause (1) 'to prevent a significant cumulative increase in the number of people or dwellings affected by aircraft noise', there is a presumption against any substantial intensification of residential accommodation within the aircraft noise planning area.
- The consent authority must consider the acceptability of the development under the Building Site Acceptability Table in Australian Standard AS 2021-2000. This Table sets out whether different types of development are 'acceptable', 'conditionally

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Notes

acceptable' or 'unacceptable' according to the level of aircraft noise exposure at the site. A copy of the Table is included in **Appendix 3** to this document.

- The consent authority must be satisfied that the level of indoor noise reduction achieved is acceptable, as specified by section 3.2 of Australian Standard AS 2021—2000, which is a nationally-recognised standard for buildings in locations affected by aircraft noise.

(5) Definitions

Subclause (5) sets out definitions for special terms used in the proposed clause.

'**aircraft noise planning area**' is a special term used in subclause (4). It serves to identify the area of land subject to aircraft noise related development controls. The term is also used in proposed changes to Schedule 4 (relating to complying development)—see below. The term refers to all land shown on '**relevant ANEF maps**' as having an ANEF level of 20 or greater, as well as the remainder of any lot that is partly affected by that ANEF level. Thus, a lot cannot be partly within the aircraft noise planning area—it is either entirely inside or outside that area.

'**AS 2021—2000**' is an abbreviated reference to Australian Standard AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*. This is a nationally-recognised standard for development affected by aircraft noise.

'**obstacle height limit**' is a special term used in subclause (3). It refers to height limit controls that the Department of Defence has notified to the consent authority relating to the safe operation of RAAF Base Williamtown, Newcastle Airport or the Salt Ash Air Weapons Range.

'**public safety area**' is a special term used in subclause (2). It refers to land that the Department of Defence has notified to the consent authority as being subject to public safety requirements relating to military ordnance, or to risk of aircraft accidents at runway ends.

'**relevant ANEF maps**' is a special term used in the definitions of '**aircraft noise planning area**'. It is also used in the proposed changes to clause 49A (relating to complying development)—see below. The term refers to the most recent edition of a map endorsed by the Department of Defence that shows Australian Noise Exposure Forecasts relating to RAAF Base Williamtown, Newcastle Airport or the Salt Ash Air Weapons Range. Additionally, it may also refer to an earlier edition of such a map if, advised by the

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Notes

Department of Defence, the forecasts shown on that map continue to be relevant to present or future circumstances.

It is an established convention that there will be only be one current ANEF map for a given airport at any one time. The most recently endorsed ANEF map (ANEF 2025) shows forecasts that are based on aircraft types and flight patterns that are not expected to be introduced until at least 2018. In some locations, the ANEF 2025 map shows ANEF levels that are lower than those on the ANEF 2012 map. Consequently, the earlier map continues to be of material relevance in the assessment of aircraft noise impacts.

The significance of the definition is that it allows the 'aircraft noise planning area' to be defined in terms of the most recent ANEF map and earlier editions. However, any (ostensibly) non-current map must, in the opinion of the Department of Defence, remain relevant for planning purposes to existing or future circumstances.

[3] Clause 49A

Complying development

This is an existing clause that specifies particular development to be 'complying development' if it meets predetermined development standards.

Under the existing clause, development on land that is located within the 20 Australian Noise Exposure Forecast contour as identified on the 2012 Australian Noise Exposure Forecast for Salt Ash Air Weapons Range and for RAAF Base Williamtown, is specifically excluded from being 'complying development'.

It is proposed to amend this clause to bring it into conformity with the equivalent excluded land provision in clause 1.19(5) of *State Environmental Planning Policy Exempt and Complying Development Codes* 2008. Additionally, the proposed amendment seeks to achieve consistency with the terminology used in proposed clause 38A of the *Port Stephens LEP 2000*.

Under the proposed amendment, development on land shown on 'relevant ANEF maps' referred to in clause 38A as being subject to an ANEF level of 25 or greater will be excluded from being 'complying development'. Consequently, development on land with an ANEF between 20 and 25 will no longer be excluded.

[4] Schedule 4

Complying development

This is an existing schedule that specifies predetermined development standards for 'complying development'.

Under the existing schedule, new single storey dwellings and alterations/additions to an existing single storey dwelling must satisfy the following requirement in relation to aircraft noise:

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Notes

- Must comply with AS 2021–2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

It is proposed to amend this requirement to bring it into conformity with the equivalent complying development standard under 1.18 (2B) of *State Environmental Planning Policy Exempt and Complying Development Codes* 2008. Additionally, the proposed amendment seeks to achieve consistency with the terminology used in proposed clause 38A of the Port Stephens LEP 2000.

Under the proposed amendment, new single storey dwellings and alterations/additions to an existing single storey dwelling must satisfy the following requirement in relation to aircraft noise:

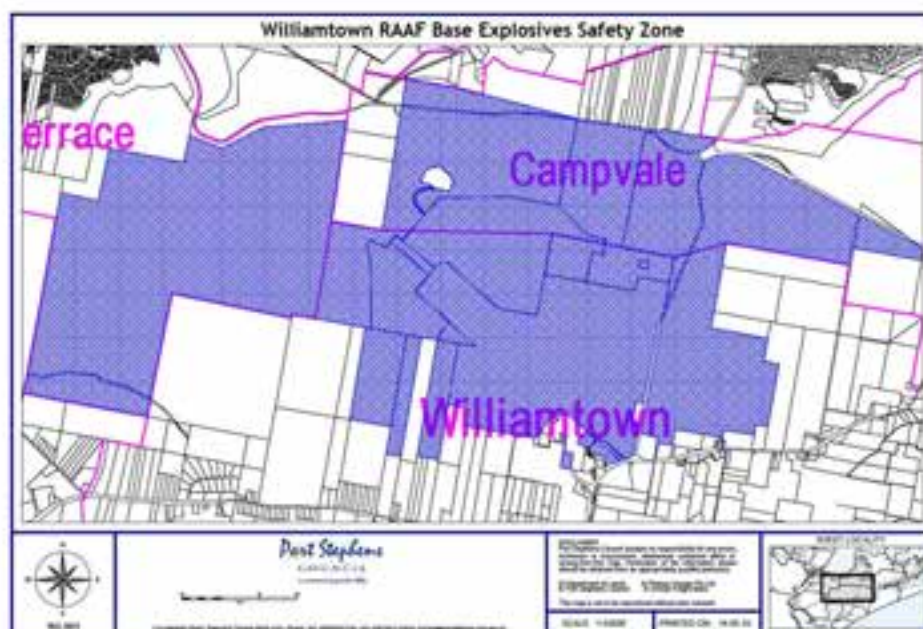
- To be complying development on land within the aircraft noise planning area referred to in clause 38A (not being land excluded by clause 49A(4)(e)), the development must be constructed so as to meet the level of aircraft noise reduction specified by section 3.2 of AS 2021–2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Notes

Appendix 1: Explosive Safety Zone

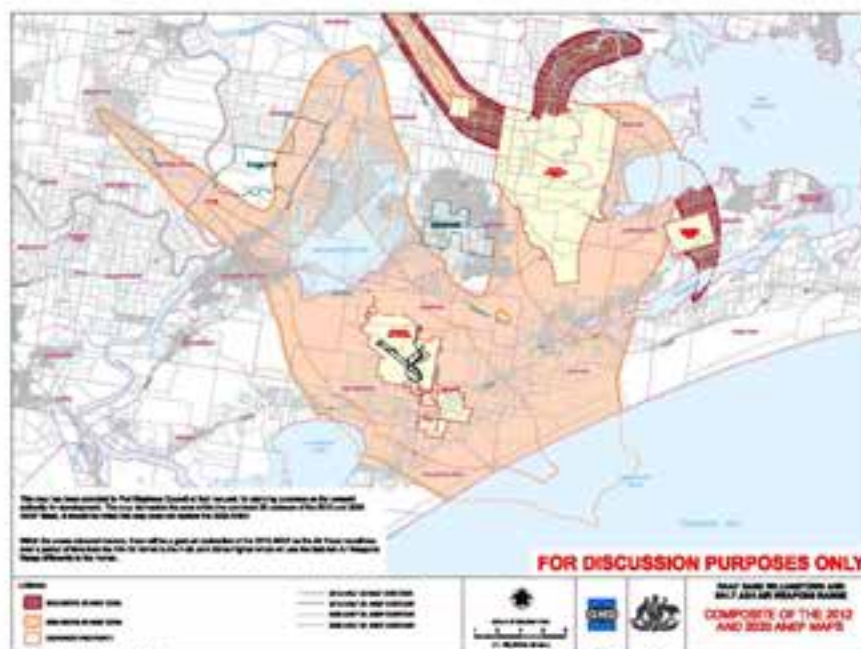


planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No....)

Notes

Appendix 2: Aircraft Noise Planning Area



planning proposal

Port Stephens Local Environmental Plan 2000 (Amendment No ...)

Notes

Appendix 3: Building Site Acceptability Based on ANEF Zones (Australian Standard 2021—2000, Acoustics—Aircraft noise intrusion— Building siting and construction)

BUILDING TYPE [Note 5]	ACCEPTABLE [Note 6]	CONDITIONALLY ACCEPTABLE [Note 7]	UNACCEPTABLE [Note 8]
House, home unit, flat, caravan park	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Hotel, motel, hostel	Less than 25 ANEF	25 to 30 ANEF	Greater than 30 ANEF
School, university	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Hospital, nursing home	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Public building	Less than 20 ANEF	20 to 30 ANEF	Greater than 30 ANEF
Commercial building	Less than 25 ANEF	25 to 35 ANEF	Greater than 35 ANEF
Light industrial	Less than 30 ANEF	30 to 40 ANEF	Greater than 40 ANEF
Other industrial	Acceptable in all ANEF zones		

Notes: [These notes are not reproduced from Table 2.1 in Australian Standard AS 2021—2000].

- This Table shows the acceptability of various activities in terms of their exposure to aircraft noise, expressed in Australian Noise Exposure Forecast (ANEF) levels.
- ANEF levels are shown by contour lines on ANEF maps for RAAF Base Williamtown and the Salt Ash Air Weapons Range prepared by the Department of Defence. At the present time, the following ANEF maps are relevant:
 - the 2025 ANEF map - this reflects the introduction of Joint Strike Fighter aircraft after 2018
 - the 2012 ANEF map - this reflects the continued operation of Hawk and Hornet aircraft until at least 2018.
- When determining the relevant ANEF level for any site, the ANEF map showing the highest ANEF level should be used. This will generally be the 2025 ANEF map. In locations in the vicinity of the Salt Ash Air Weapons Range, the 2012 ANEF map may show a higher ANEF level.

ATTACHMENT 3 - DEVELOPMENT CONTROL PLAN 2007

Port Stephens Development Control Plan 2007

B15 Aircraft Noise

Figure B2.2 Acceptable and unacceptable activities within the Aircraft Noise Planning Area

[Reproduced from Table 2.1 Building Site Acceptability Based on ANEF Zones, in Australian Standard AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.]

BUILDING TYPE [Note 5]	ACCEPTABLE [Note 6]	CONDITIONALLY ACCEPTABLE [Note 7]	UNACCEPTABLE [Note 8]
House, home unit, flat, caravan park	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Hotel, motel, hostel	Less than 25 ANEF	25 to 30 ANEF	Greater than 30 ANEF
School, university	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Hospital, nursing home	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Public building	Less than 20 ANEF	20 to 30 ANEF	Greater than 30 ANEF
Commercial building	Less than 25 ANEF	25 to 35 ANEF	Greater than 35 ANEF
Light industrial	Less than 30 ANEF	30 to 40 ANEF	Greater than 40 ANEF
Other industrial	Acceptable in all ANEF zones		

Notes: [These notes are not reproduced from Table 2.1 in Australian Standard AS 2021—2000].

- This Table shows the acceptability of various activities in terms of their exposure to aircraft noise, expressed in Australian Noise Exposure Forecast (ANEF) levels.
- ANEF levels are shown by contour lines on ANEF maps for RAAF Base Williamtown and the Salt Ash Air Weapons Range prepared by the Department of Defence. At the present time, the following ANEF maps are relevant:
 - the 2025 ANEF map - this reflects the introduction of Joint Strike Fighter aircraft after 2018
 - the 2012 ANEF map - this reflects the continued operation of Hawk and Hornet aircraft until at least 2018.
- When determining the relevant ANEF level for any site, the ANEF map showing the highest ANEF level should be used. This will generally be the 2025 ANEF map. In locations in the vicinity of the Salt Ash Air Weapons Range, the 2012 ANEF map may show a higher ANEF level.
- The building types shown in Column 1 have their ordinary meaning. They do not necessarily correspond to defined planning terms. Proposed development should be categorised according to the building type that most closely characterises or corresponds to the nature and scale of the development.
- 'Acceptable' means that special measures are usually not required to reduce aircraft noise. Refer to section 2.3.1 of AS 2021—2000.
- 'Conditionally acceptable' means that special measures are required to reduce aircraft noise. Refer to section 2.3.2 of AS 2021—2000.
- 'Unacceptable' means that the development should not normally be considered. Refer to section 2.3.3 of AS 2021—2000.

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B2-4

Port Stephens Development Control Plan 2007

B15 Aircraft Noise

B15 Aircraft Noise

WHERE THIS PART APPLIES

This Part applies to land within the 'Aircraft Noise Planning Area'. This comprises all areas in which the level of aircraft noise exposure is considered sufficiently significant as to warrant aircraft noise related development controls.

The Aircraft Noise Planning Area includes:

- all land shown on 'relevant ANEF maps' as being subject to an ANEF level of 20 or greater, and
- the remainder of any lot that is partly so affected.

PRINCIPLES

- P1. Development should achieve an acceptable level of aircraft noise reduction and be sited in accordance with AS 2021-2000.
- P2. Notwithstanding P1 above, in some circumstances strict compliance with AS 2021-2000 is likely to be impracticable, such as development lots subject to 'unacceptable' noise exposure. In such cases a Practicable Noise Reduction Level may be considered as an alternative for 'infill' development defined in C6.

DEVELOPMENT CONTROLS

Site Suitability

- C1. Proposed development should be consistent with the Building Site Acceptability Criteria shown in Table 2.1 of AS 2021-2000 (refer to Figure B2.2).

Internal Noise Standards

- C2. Development must satisfy the level of indoor design sound levels for aircraft noise reduction specified by Table 3.3 of AS 2021-2000. Evidence of compliance must be demonstrated by an acoustic study prepared by a noise control expert. This includes applications for a single dwelling on a pre-existing allotment.
- C3. Regardless of Building Site Acceptability, additions to an existing building are acceptable and should be consistent with the internal noise standard already provided for that building.

Subdivision

- C4. Proposed subdivision within the aircraft noise planning area must demonstrate that the

subsequent the purposes for which it is intended is:

- (1) Acceptable or Conditionally acceptable under Table 2.1 Building Site Acceptability Based on ANEF Zones, in Australian Standard AS 2021-2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*. (refer to Figure B15.2); and
- (2) Capable of satisfying the relevant indoor design sound levels in Table 3.3 of AS 2021-2000 with respect to the development for which the lot(s) is intended

- C5. Subdivision for 'acceptable' & 'conditionally acceptable' development must satisfy C4(2) by demonstrating by an acoustic study prepared by a noise control expert that, having regard for the highest average maximum noise level of the site determined in accordance with AS 2021-2000, that the aircraft noise reduction level (ANR) required is 'practicable and reasonable' to achieve the indoor design sound levels in Table 3.3 of AS 2021-2000 can be satisfied.

Practicable Noise Reduction Level refers to a level of aircraft noise reduction that, in the opinion of the Council, would achieve the indoor design sound level specified by Table 3.3 of AS 2021-2000.

- C6. Probable Maximum Practicable Noise Reduction Levels for residential development are:
- 35 dB (A) for sleeping areas
 - 30 dB (A) for other habitable spaces
 - or as otherwise determined by the Council on a case-by-case basis after examination of an acoustic study prepared by a noise control expert.
- C7. Subdivision for the purposes of residential development Council may require that an acoustic study by a noise control expert prepared for the purposes of C5 includes the following:
- the highest average maximum noise level of the proposed lots determined in accordance with AS 2021-2000; and

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B2-1

B15 Aircraft Noise

- the relevant aircraft noise reduction level (ANR) required for the intended purpose of each lot; and
- 'deemed to satisfy' noise reduction specifications for noise attenuation measures and methods to achieve the relevant ANR
- Development which demonstrates satisfactory compliance with the ANR building requirements may be considered by as satisfying the requirements of C1 & C2 above.

Infill Development

- C8. The following development may be considered as 'infill' development in circumstances where the site suitability requirements under C1 cannot be achieved:
- (1) a single dwelling on a pre-existing allotment with a dwelling entitlement between the 25-30 ANEF contours.
 - (2) replacement of a single dwelling on a pre-existing allotment regardless of ANEF contour.
 - (3) development within the Newcastle Airport precinct that is in Zone S(a) Defence Purposes or Zone SP1 Defence and Airport Related Employment Zone.
- C9. Infill development should satisfy the indoor design sound levels for aircraft noise reduction specified by Table 3.3 of AS 2021-2000.

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B2-2

B15 Aircraft Noise

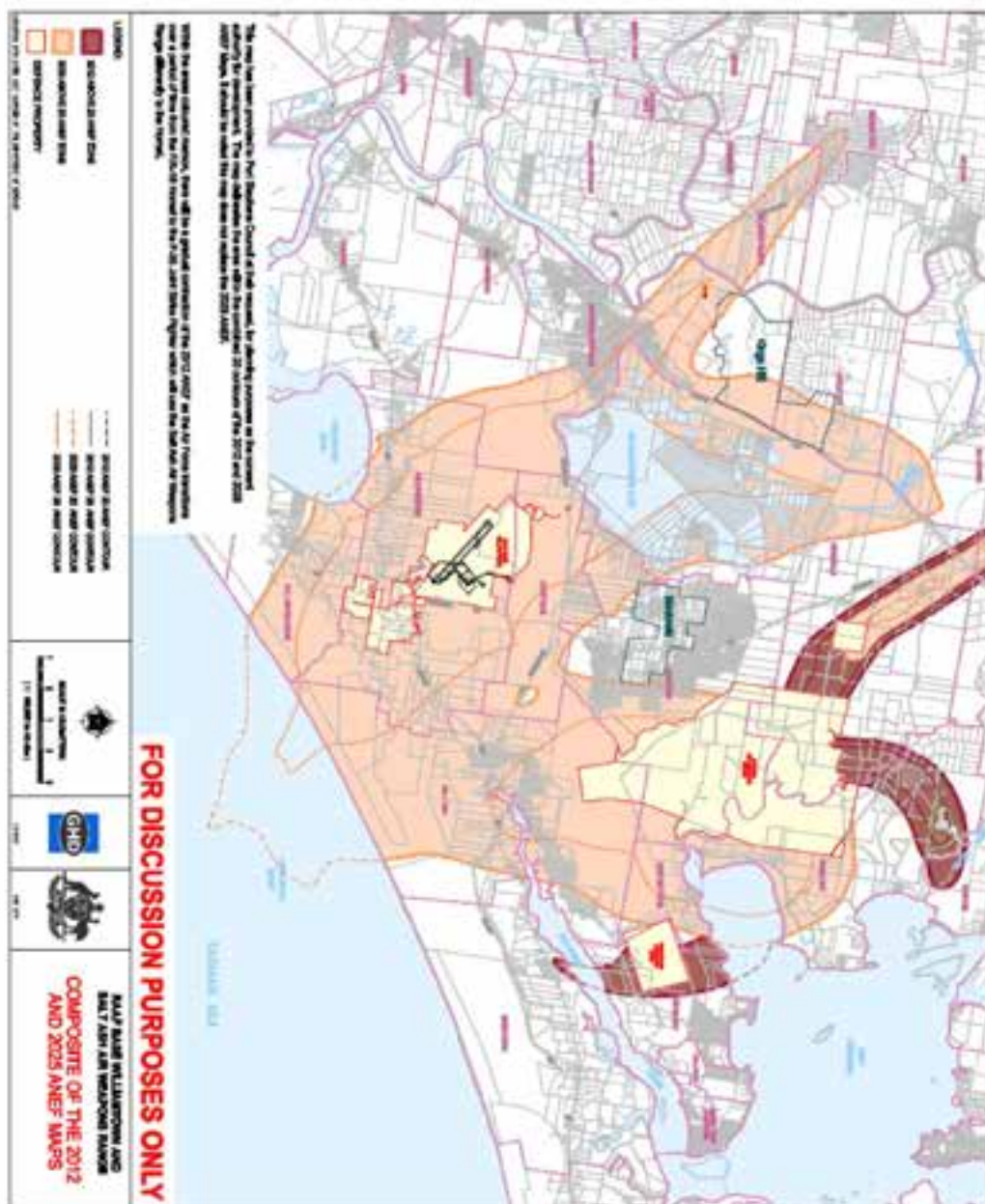
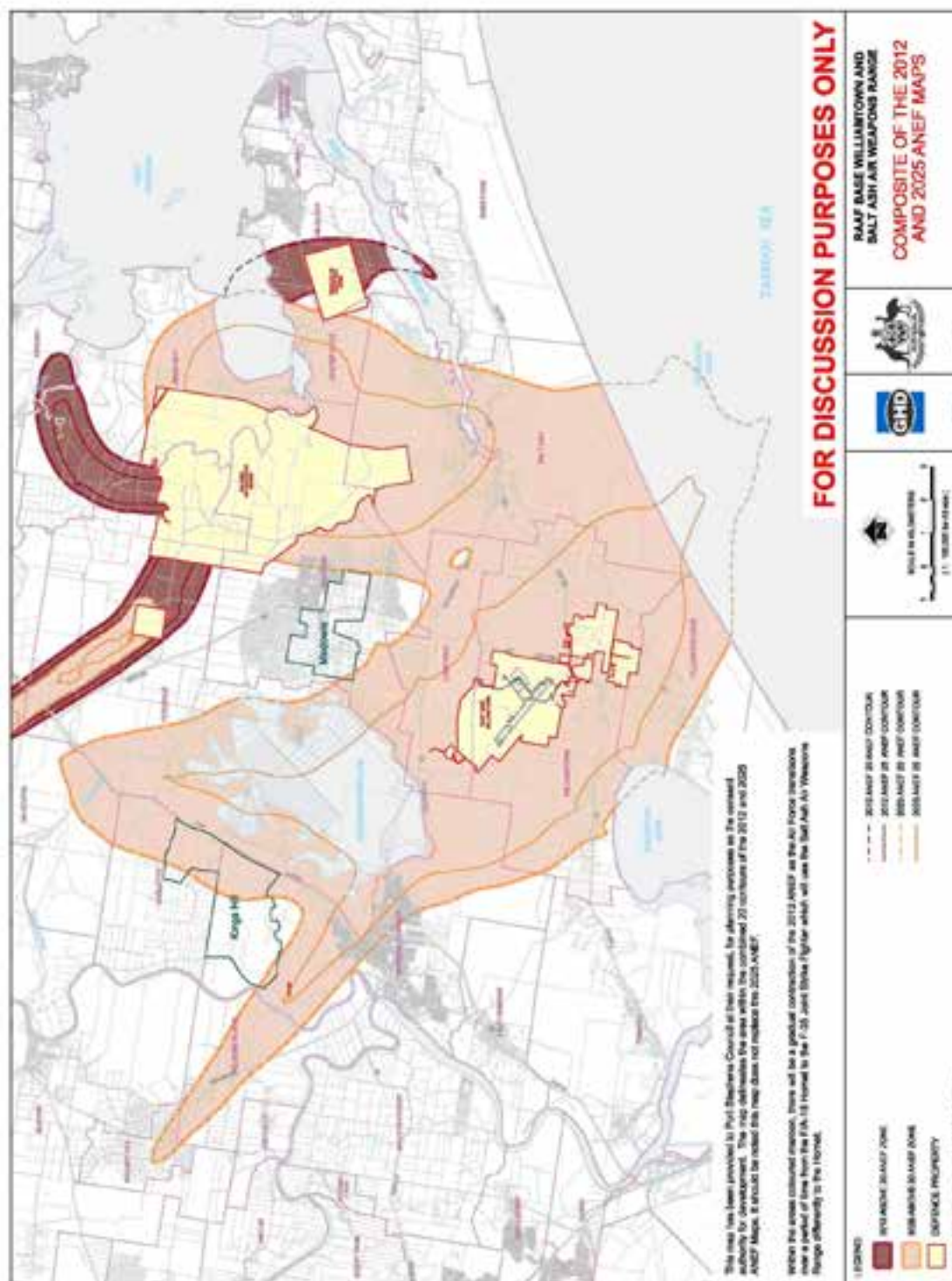


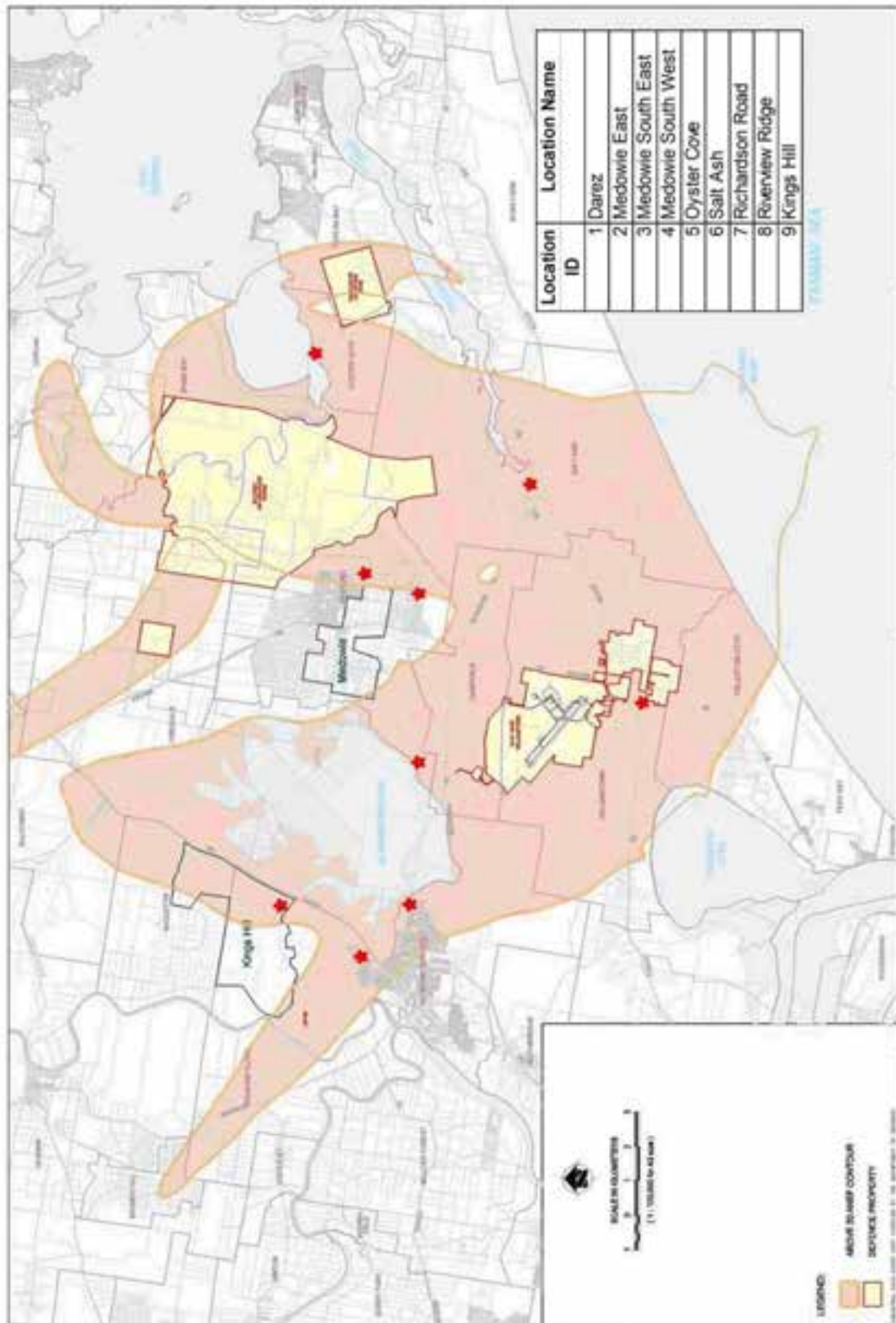
Figure B2.1 Aircraft Noise Planning Area.

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ATTACHMENT 5 2025 ANEF MAP





Australian Government
Department of Defence
Defence Support Group

2005/1112532/7
LPS1/OUT/2010/52

David Broyd
Group Manager, Sustainable Planning
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Dear David,

Re: Aircraft Noise Management

I refer to your letter of 2 March 2010 and to the workshops held on 12 April 2010 to work through a number of aircraft noise management issues associated with the proposed introduction into service of the Joint Strike Fighter (JSF) to RAAF Base Williamtown and Salt Ash Weapons Range (SAWR) and the promulgation of Australian Noise Exposure Forecast 2025 (ANEF 2025).

I also refer to Council's request on 1 March 2010 for more specific noise level information in relation to 9 development sites in your Council's Local Government Area.

Aircraft Noise Levels

At the workshops, Defence presented average maximum noise level information for each development site. Enclosed please find this information which identifies the arithmetic average of maximum noise levels for current and future military aircraft at each development site.

In considering the impacts of the F/A-18 Hornet, Hawk Lead-In Fighter and JSF military aircraft at each development site, Defence determined the calculated and forecasted noise level for each aircraft operation on each of the separate flight tracks (for example, flights down the Instrument Landing System, Initial and Pitch tracks, "Touch and Go" circuits around the base and other standard arrival and departure tracks) that may impact each site, then arithmetically averaged the results for each operation/mode. In accordance with Australian Standard AS2021-2000 - 2000 - *Acoustics, Aircraft Noise Intrusion - Building Siting and Construction* (AS2021) the highest average maximum level for the various operation/mode becomes the external aircraft noise level at each site.

Defence understands the average maximum noise levels for the various operation/modes is the only concept that can be used to determine the aircraft noise levels and in turn, the appropriate noise control measures defined as the Aircraft Noise Reduction in AS2021. At the afternoon workshop, local acoustic consultants noted this is the information they require to determine the degree of aircraft noise reduction in order to comply with AS2021.

In the near future, Defence intends to provide Council with additional noise data for land along Rees James Road (development site 8) to assist Council and the NSW Department of Planning in the determination of this rezoning proposal.

Defending Australia and its National Interests

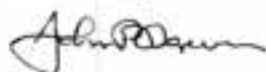
Aircraft Noise Reduction

Defence noted Council's desire to work towards a more standardised approach to noise attenuation, design and construction in accordance with AS2021. Accordingly, Defence engaged an acoustic consultant to identify the outcome of two conceptual noise control measures that could be used, in conjunction with the average maximum noise levels, to assess whether or not the indoor design sound levels given at Table 3.3 in AS2021-2000 can be achieved.

Enclosed please find information relating to aircraft noise reduction and indicative noise control measures that can be used to assess compliance or otherwise with the indoor design sound levels given at Table 3.3 in AS2021-2000. Also enclosed is a table identifying the external average maximum noise levels at each of the development sites and corresponding indoor design sound levels that are obtained firstly from typical residential construction and secondly by using either of the acoustic upgrade alternatives given. The spectral data for the JSF, which is required to be considered in instances where the average maximum noise levels exceed 85dBA has now been declassified and is also included. This information can be made available to the local acoustic consultants.

I trust this information will be of assistance to Council. Please do not hesitate to contact me if you wish to discuss the information further.

Yours sincerely



John Kerwan
Director Land Planning & Spatial Information
Department of Defence
BP3-1-A052
Brindabella Park
Canberra ACT 2600

30 April 2010

Cc: Michael Leavey, Regional Director, Hunter and Central Coast Region, NSW Department of Planning.

Indicative Aircraft Noise Levels

	2012 ANEF		
Development Hot-Spots	Hornet	Hawk	JSF
1. DAREZ (Industrial)	88	78	94
2. Medowie East	79	66	87
3. Medowie South East	76	61	83
4. Medowie South West	77	61	84
5. Oyster Cove	83	74	89
6. Salt Ash	89	77	91
7. Richardson Road	95	84	101
8. Riverview Ridge	92	76	96
9. Kings Hill (Riding School)	81	76	79
		2025 ANEF	

NOISE CONTROL CONCEPTS

AS2021 requires use of the external noise level (average maximum) as the basis of determining the building constructions to achieve compliance with recommended internal levels set out in Table 3.3.

For bedrooms of a residence the internal design level is not exceeding 50 dB(A).

If doors and windows are required to be closed to achieve the internal noise target then mechanical ventilation is required.

For consideration of Noise Control measures assume the following"

- A bedroom 3.5m x 3m x 2.5m
- The bedroom has two external walls. The other two walls adjoin other rooms in the residence (attenuation via other rooms of residence to the bedroom is 10 dB).
- 1 external wall has a 2m² window
- Aircraft above the building, a 3 dB attenuation due to directivity is allocated for the external window

The starting point refers to a **typical** brick veneer construction but with the assumption of thicker glass than normal:

- Pitched tile roof with sisalation + 14 kg/m³ batts + 10 mm plasterboard ceiling
- Brick veneer construction (internal plasterboard 10mm)
- 6.4 mm thick laminated glass
- 1 bed + 1 bookcase + 1 adult
- Carpet on floor

For noise control concepts there are two alternatives assessed. Acoustic upgrade 1 is upgrading the walls and ceiling with more plasterboard and double glazing, whilst alternative 2 is a much more significant construction.

Acoustic upgrade 1:

- Pitched roof ceramic tiles + 100 insulation + 2 x 13mm layers of plasterboard
- Brick veneer with 100mm insulation + 1 layer of 16 mm plasterboard
- Double glazed window being - 3mm glass + 125mm gap + 6.38mm glass

Acoustic upgrade 2:

- Pitched roof with ceramic tiles + easiboard + 100 R2.5 + 10mm plasterboard ceiling (Rw56)
- 230 extruded double brick 100mm cavity with 13 mm render inside (Rw 60)
- Double glazed window - 10.7mm glass + 200 air gap + 10.7mm glass (Rw55)

Where the ANR is greater than 30 (i.e. for a bedroom an external level greater than $50 + 30 = 80$ dB(A)) the Standard recommends use of spectral (frequency) data.

Different modes of aircraft flight produce different spectrums, i.e. overflights have less low frequency sound than take off or landing.

External noise spectra for Hornet from file from NoiseMap. JSF spectra from DoD recently publicly released,

NoiseMap data @ 1000ft

	dB(A)	31.5Hz	63	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz
Hornet F18A/C										
Landing	106	85	87	100	102	104	101	98	86	80
Take off	107	85	88	102	105	105	102	99	95	92
AB	114	100	101	114	113	112	108	106	104	102
JSF results										
JSF										
Landing	97	86	86	100	98	95	93	87	76	71
Take off MIL	115	90	94	110	111	110	108	107	109	104
75%	107	92	94	108	107	104	102	100	98	96
AB	120	98	107	116	114	112	113	116	111	108
cruise 35%	94	80	81	96	93	92	91	85	72	67

Noise spectra in all cases were normalised to INM derived external noise level for each residential location.

Normalised to 85 dB(A)

	dB(A)	31.5Hz	63	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz
Hornet F18A/C										
Landing	85	64	66	79	81	83	80	77	65	59
Take off	85	63	66	80	83	83	80	77	73	70
AB	85	71	72	85	84	83	79	77	75	73
JSF results										
JSF										
Landing	85	74	74	88	86	83	81	75	64	59
Take off MIL	85	60	64	90	81	80	78	77	79	74
75%	85	70	72	86	85	82	80	78	76	74
AB	85	63	72	81	79	77	78	81	76	73
cruise 35%	85	71	72	87	84	83	82	76	63	58

MINUTES FOR ORDINARY – 25 MAY 2010

Location	Movement	Hornet				JSF			
		External Level	Typical	Building Construction upgrade		External Level	Typical	Building Construction upgrade	
				1	2			1	2
1	Landing	88	64	56	47	94	74	68	61
2	Strafing (take off)	79	54	47	38	87	72	65	58
3	Strafing (take off)	75	51	43	35	83	68	61	53
4	Take off	77	53	45	36	84	58	51	43
5	overflight	83	59	51	42	89	58	52	44
6	Strafing (landing)	89	55	57	50	91	71	65	57
7	Landing ILS	95	71	63	51	101	81	75	68
8	Landing ILS	92	68	61	54	96	76	70	62
9	Departure 30	81	57	49	42	79 (MIL 100%)	64	57	50

ATTACHMENT 6

Council is in the unfortunate position of having been successfully sued for the manner in which it exercised its functions as a consent authority under the *Environmental Planning and Assessment Act 1979* ("EP&A Act") in respect to land affected by aircraft noise. It is useful to provide a summary of those proceedings, as it is likely that at least some of the councillors do not have detailed knowledge of the proceedings.

The Fisherman's Village proceedings

Sidis DCJ found that negligence on the following grounds:

- "(1) *The defendant failed prior to the determination of the development application and building application to inform itself sufficiently of the extent of the risk of likely exposure of the land to aircraft noise in order to make any proper assessment of whether the development proposed was suitable for land within the 2002 ANEF 25-30 contours and ought to be approved;*
- (2) *the same failure led the defendant to determine that the development consent and building approval should be issued in the absence of conditions directed at the attention [sic: attenuation] of the effects of aircraft noise and*
- (3) *the result was that the determinations to grant the development consent and the building approval were ill informed and ill considered and the defendant acted in an entirely improper manner".*

Her Honour heard remaining aspects of the proceedings in June and November 2003. Council was ordered to pay substantial damages and costs.

Council appealed to the NSW Court of Appeal. The Court of Appeal heard those appeal proceedings on 16 June 2005 and delivered its judgment on 27 September 2005 (*Port Stephens Shire Council v Booth & Ors; Port Stephens Shire Council v Gibson & Anor* [2005] NSWCA 323). The Court of Appeal dismissed Council's appeal. The Court of Appeal judgment includes the following:

- The Court recognized that AS2120-2000, with its use of ANEF maps, was a "valuable tool for planning land use around airports" by "providing guidelines for determining whether the extent of aircraft noise intrusion made acceptable the activities to be accommodated on a site and the extent of noise reduction and type of building construction required to provide acceptable indoor noise levels for the activities".
- The Court upheld certain findings of the District Court concerning the extent to which Council, by its delegate (the Development Approvals Committee), considered the issue of aircraft noise whilst determining the Swan Bay development application. Those findings were made as a result of evidence given to the District Court by Mr Warnes, who was the only person on the Development Approval's Committee to give evidence in the District Court.

The Court of Appeal Judgment includes the following concerning the evidence given by Mr Warnes:

- *"In his affidavit Mr Warnes accepted that noise affectation was relevant to his assessment, but said that AS2021 was not a mandatory consideration and noise attenuation measures were not essential if the site was a tourist facility. He maintained that, because he knew of the site and its surrounds and that the Range was only used "intermittently", it was unnecessary for him to obtain advice to address the impact of existing and potential noise...Although he knew that the site was "largely within the 25 ANEF contour", he took into account that the site was not to be used for permanent occupation and that a condition was to be imposed restricting operation; that as a tourist facility the occupancy was unlikely to exceed 60 per cent; that as a tourist facility with a focus on outdoor activities noise attenuation measures "were unlikely to make a difference to the occupants of the cabins from time to time"; that the use of the Range at the time was and was forecast to be intermittent; that alternative flight paths were available; that he was not aware of complaints from Swan Bay residents in relation to the operations of the Range; and that Mr Moffat had not raised "any concern about the viability of the proposed development by reason of aircraft noise" (per Giles JA at [49]).*

"Mr Warnes' overall position was that, although he knew that the Fisherman's Village site was largely between the 25 and 30 contours and was regarded as unacceptable for residential development and acceptable only on appropriate conditions for hotels, motels and hostels, it was a matter for the Council's discretion whether conditions would be imposed, and " ... I did make a decision and I believe that I was acting competently when I made the decision in looking at all of the issues relating to the application and my knowledge of the ANEF as shown on the plans." (per Giles JA at [55]).

- Council had misinformed itself as to the extent to which the Swan Bay site might be affected by aircraft noise. That arose because of an essential misunderstanding, which was *"equating the noise exposure as Mr Warnes understood it in 1993 – the intermittent use not generating complaints – with the forecast noise exposure... Mr Warnes...did not appreciate that the conditions which prevailed in 1993 were not those which were forecast to apply in 2002. Hence there was the under-estimation... because the Panel failed to address the 2002 ANEF on its own merits...The Council knew that the site was largely between the 25 and 30 contours, and was only conditionally acceptable for the building type Mr Warnes considered appropriate...Any exercise of reasonable care required that AS2021 be followed through, with attention to construction for noise level reduction and the imposition of noise attenuation conditions"* (per Giles JA at [105 -106]).
- The Court of Appeal considered that the failure by Council to apply AS2021-2000 was an essential element in the negligence of the Council: *"Had the Council exercised reasonable care, Mr Moffatt would have been told of the ANEF zoning and required to submit a professionally backed follow-through of the steps in AS2021, or the development would have been approved only on*

conditions having the consequence that the steps in AS2021 were taken. Perhaps the conditions need not have spelled out the construction for noise attenuation, but they should have made the consent subject to LMI constructing the cabins to achieve the requisite noise level reductions and satisfying the Council on that matter" (per Giles JA at [110]).

Developers and landowners will be entitled to make objection to the development standard under State Environmental Planning Policy No 1—Development Standards on the ground that compliance with AS2120-2000 is unreasonable and/or unnecessary. Persons who make such an objection have the onus of establishing the standard is unreasonable and/or unnecessary, and if they are dissatisfied with any decision of Council then have the right to appeal to the Land and Environment Court. Council is, of course, not liable for decisions made by the Land and Environment Court.

ITEM NO. 2

FILE NO: PSC 2006-0191

DRAFT LOCAL ENVIRONMENTAL PLAN - KINGS HILL 2010

REPORT OF: TREVOR ALLEN - MANAGER, INTEGRATED PLANNING

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the draft Local Environmental Plan - Kings Hill 2010 (**Attachment 1**) for the purpose of forwarding to Minister for Planning for finalisation and gazettal, pursuant to the Environmental Planning and Assessment Act 1979;
- 2) Note the preparation and submission of the Kings Hill Local Environmental Study 2007 with the draft Local Environmental Plan 2007 Kings Hill to the Department of Planning under Section 64 of the Environmental Planning and Assessment Act and that the Local Environmental Study was publicly exhibited with the draft Plan;
- 3) Note that the zoning map for the recommended draft Plan may be amended by the Minister for Planning to reflect further advice requested by Council from the Department of Defence regarding aircraft noise impacts;
- 4) Note that a submission has been made to the Department of Planning to convert the draft Plan to a "Planning Proposal" under changes to the Environmental Planning and Assessment Act to ensure smooth transition of the draft Plan to the new provisions of the Act;
- 5) Note that Council will be requested to consider another draft Plan (Planning Proposal) which will address a range of detailed outstanding matters in relation to Kings Hill within the next 12 months;
- 6) Note the advice from the Department of Environment, Climate Change and Water (DECCW) in relation to the conservation of lands of environmental significance and in relation to biodiversity offsets being determined at the development application stage;
- 7) Request the Minister for Environment to finalise the Biodiversity Plan and associated implementation measures referred to in the draft LEP in co-operation with Council, as a matter of urgency.
- 8) Request the Minister for Environment and the Chair of the Hunter Central Coast Rivers Catchment Management Authority to include offsets which may be required under the Native Vegetation Act for infrastructure which cross non urban zoned land in the Kings Hill biodiversity offsets package, to ensure a single offsets approval, and improve the efficiency of land use planning and development and government administration;
- 9) Resolve to prepare a draft Development Control Plan and a draft Section 94 Contributions Plan for Kings Hill, pursuant to the Environmental Planning and Assessment Act.

COUNCIL COMMITTEE MEETING - 25 MAY 2010
RECOMMENDATION:

	<p>Councillor Geoff Dingle Councillor John Nell</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1) Adopt the draft Local Environmental Plan (LEP) - Kings Hill 2010 (Attachment 1 to the Council report) with the amendments shown in Attachment 1 to this Supplementary Report, with the exception of 4.1A (7) referencing 2ha to replace 5ha and the draft LEP be amended accordingly, for the purpose of forwarding to Minister for Planning for finalisation and gazettal, pursuant to the Environmental Planning and Assessment Act 1979; 2) Designate Clause 7.2 and the Potential odour affectation map be a deferred matter pursuant to the Environmental Planning and Assessment Act, in order to permit further discussions between Council, the Department of Planning, the Department of Environment, Climate Change and Water and landowners, and delegate the subsequent finalisation of this clause to the General Manager; 3) Note the preparation and submission of the Kings Hill Local Environmental Study 2007 with the draft Local Environmental Plan 2007 Kings Hill to the Department of Planning under Section 64 of the Environmental Planning and Assessment Act and that the Local Environmental Study was publicly exhibited with the draft Plan; 4) Note that the zoning map for the recommended draft Plan may be amended by the Minister for Planning to reflect further advice requested by Council from the Department of Defence regarding aircraft noise impacts; 5) Note that a submission has been made to the Department of Planning to
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MINUTES FOR ORDINARY – 25 MAY 2010

		<p>convert the draft Plan to a "Planning Proposal" under changes to the Environmental Planning and Assessment Act to ensure smooth transition of the draft Plan to the new provisions of the Act;</p> <p>6) Note that Council will be requested to consider another draft Plan (Planning Proposal) which will address a range of detailed outstanding matters in relation to Kings Hill within the next 12 months;</p> <p>7) Note the advice from the Department of Environment, Climate Change and Water (DECCW) in relation to the conservation of lands of environmental significance and in relation to biodiversity offsets being determined at the development application stage;</p> <p>8) Request the Department of Environment, Climate Change and Water to work closely with Council and the landowners in order to finalise a Conservation Plan or Plans and associated implementation measures referred to in the draft LEP in cooperation with Council, as a matter of urgency;</p> <p>9) Resolve to prepare a draft Development Control Plan and a draft Section 94 Contributions Plan for Kings Hill, pursuant to the Environmental Planning and Assessment Act.</p>
--	--	---

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

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

Those against the Motion: Nil.

MINUTES FOR ORDINARY – 25 MAY 2010

MATTER ARISING

	Councillor Bob Westbury Councillor Ken Jordan	That the Draft Local Environmental Plan for the Moxeys land and adjacent ten lots be forwarded to the NSW Department of Planning requesting that the Minister approve the re-zoning.
--	--	--

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

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

Those against the Motion: Cr Frank Ward.

ORDINARY COUNCIL MEETING - 25 MAY 2010

141	Councillor John Nell Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

MATTER ARISING

142	Councillor John Nell Councillor Peter Kafer	It was resolved that the matter arising be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

MINUTES FOR ORDINARY – 25 MAY 2010

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

Those against the Motion: Nil.

PROPOSAL DETAILS

Site ownership:

Lot 41	DP 1037411	407.6 ha
Lot 51	DP 839722	8.28 ha
Lot 4821	DP 852073	113.4 ha
Lot 4822	DP 852073	40.3 ha
Lot 481	DP 804971	28.39 ha
Lot 3	DP 1098770	16.9 ha
Lot 31	DP 554875	10.1 ha
Lot 32	DP 554875	117 ha
Pt Lot 2	DP 37430	18.4 ha
Lot 42	DP 618892	11.51ha
Lot 41	DP 618892	2.0 ha
Lot 31	DP 255228	10.1 ha
Lot 32	DP 255228	10.1 ha
Lot 33	DP 255228	10.1 ha
Lot 42	DP 1037411	2.1 ha
Lot 5	DP 234521	9.9 ha
	Total	816.18 ha

Existing zoning: Rural 1(a) – Rural Agriculture
Proposed zoning: R1 General Residential
B4 Mixed Use
E2 Environmental Conservation
E3 Environmental Management

BACKGROUND

The purpose of this report is to seek Council's endorsement to forward the draft Kings Hill Local Environmental Plan (LEP) to the Department of Planning for finalisation and gazettal.

Planning and infrastructure delivery for Kings Hill is one of the most important projects for Council in the short, medium and long term.

Kings Hill was identified in the Port Stephens Community Settlement and Infrastructure Strategy (CSIS, 2007) and the Lower Hunter Regional Strategy (LHRS, 2006), to provide a major contribution to Port Stephen's supply of urban land. Both strategies identify Kings Hill accommodating urban development "subject to detailed consideration of airport noise constraints". The development is projected over 25 years to provide some 4500 dwellings with a population of 11,700 residents, and complement and support the future growth of Raymond Terrace as a regional centre.

The planning of the new town is based around 6 mixed use villages with more intensive housing, surrounded by low intensity largely detached housing. As a result, King Hill aims to be more supportive of public transport, be more self sufficient and have a greater sense of community than conventional suburban development.

In mid 2002 Council resolved to prepare a draft LEP for Kings Hill. An Environmental Management Strategy (EMS) prepared by the proponent was submitted to Council in 2005. The EMS identifies the constraints and opportunities of the site and a structure plan identifying how the site can be developed in a way that is responsive to constraints and topography and facilitate public transport, walking and cycling.

A Local Environmental Study (LES) (based on Council's review of the EMS including a third party review commissioned by Council) and a draft LEP were completed in 2006. Following Department of Planning endorsement in February 2007, the draft LEP accompanied by the EMS and the LES was publicly exhibited in May and June 2007.

Outstanding issues

Since the exhibition, considerable work has been undertaken to resolve issues raised during the exhibition. Of these, the most significant include; transport infrastructure; biodiversity; and, military aircraft noise.

Transport Infrastructure

The proponent(s) and the RTA have yet to finally agree on the details and staging of an interchange to Kings Hill from the Pacific Highway. However, a solution has been negotiated to enable the RTA to agree to a "satisfactory agreements" clause in the LEP which will enable development to receive consent if the RTA is satisfied with the agreements reached at that time. This has lead to the RTA withdrawing their objection.

A number of other clauses in the LEP address; flood free access from the site; the closure of existing accesses on the Pacific Highway as development proceeds; and, internal connections within the site including from Newline Road to the Pacific Highway. Conditions of subdivision approval, Section 94 and a potential Voluntary Planning Agreement (VPA) will address upgrades to Council transport infrastructure. This includes cycleway and pedestrian links, including those to Raymond Terrace.

Biodiversity impacts

Following objections raised by DECCW, the CMA, Hunter Bird Observers and Dr Max Maddock, the previous ecological investigations were reviewed and supplementary ecological assessment was undertaken in 2009. This assessment identified a range of ecological issues, including those which may require a species impact statement at the development application stage, and potential offsets. It is likely that the initial offsets will be met on site; and that over the 25 year development of Kings Hill, additional off site offsets will be secured. A VPA(s) or similar agreement between the proponent(s) and DECCW would formalise the offset arrangements, and is likely to include a voluntary conservation agreement (VCA) secured against the title of the conservation offset lands. DECCW has orally advised that these matters will be formally addressed at the development application stage. The draft LEP places an E2 Environmental Conservation zone over the bulk of the conservation lands and an E3 Environmental Management zone over 3 parcels of land on Winston Road. DECCW have verbally indicated their willingness to withdraw their objection to the draft LEP because they are of the view that the ecological issues can be resolved in the manner discussed above.

A clause is included in the draft LEP to require a Biodiversity Plan to be developed and associated measures to be agreed prior to subdivision consent. This clause aims to ensure that any biodiversity impacts of development are managed to achieve and “maintain or improve outcome”. These measures could include offsets outside of the entire Kings Hill site.

This approach seeks to ensure a holistic approach to biodiversity management across the entire Kings Hill site.

In addition to an offset agreement with DECCW for the biodiversity impacts of development on urban zoned land, negotiations will be necessary with the Hunter Central Coast Rivers Catchment Management Authority (CMA) for additional offsets for native vegetation removal within the environmental zoned land. This would be necessary in such cases such as when a road is required to cross a narrow environmentally zoned riparian corridor to link two residential areas. To achieve an equivalent environmental outcome and be administratively more efficient, a single agreement should be reached for offsets related to urban zoned land and for roads and utilities on environmentally zoned land. Consequently, this report recommends that representations be made to the Chair of the CMA and the Minister for the Environment to achieve a single agreement which includes vegetation removal for public roads and utilities.

A major issue is the long term ownership and management of the conservation lands. These lands are not of sufficient conservation significance to warrant becoming part of the national park estate. Whilst having conservation value and could be used as a place for low intensity informal recreation, the cost to Council of managing the lands exceeds the benefit. Consequently, it is not desirable for Council to own the lands without an adequate ongoing funding source. It may be that an additional “special rate” applying to Kings Hill could be an option. Other options are continuing private ownership or ownership by a community trust/ association. For the

latter to be successful, this would require an ongoing funding source in perpetuity for land management. The proponents are not pursuing community title as an option, and their proposal for community trust management (that may only provide funding surety for 10-15 years) with eventual transfer of the Reserve to National Parks and Wildlife Service or some other government agency. As a result, private ownership is the favoured option for the conservation lands, provided the lands are also subject to a voluntary conservation agreement.

The biodiversity impacts of the draft LEP are described further under “Environmental Implications” below.

Aircraft Noise Impacts

A North Raymond Terrace Working Party consisting of Department of Planning (DoP), Department of Defence (DoD) and Council officers was established to consider the noise impacts of the Joint Strike Fighter (JSF) on Kings Hill. Two expert reviews were undertaken by DoP including the Airbiz report which was reported to Council in June 2009. DoD promulgated new Australian Noise Exposure Forecast 2025 (ANEF) in October 2009. ANEF 2025 affects around one third of the eastern side of Kings Hill between the ANEF 20 and 25 contours. Housing and other noise sensitive land uses are classified as “conditionally acceptable” by Australian Standard 2021 between ANEF 20-25 provided measures are taken to reduce interior noise levels to those specified in the standard. The draft LEP contains a clause requiring development to comply with AS2021 unless Council deems otherwise in the public interest. Compliance with AS2021 will affect housing affordability because of the cost of the additional noise attenuation measures.

The south-western corner of Kings Hill appears to be also subject to high LA Max, and DoD are undertaking further detailed work to more accurately determine the noise environment in this location, which may lead to the Minister for Planning adjusting the zoning map as reflected in Recommendation No. 5.

Winston Road

The draft LEP includes three lots adjacent to the intersection of Winston and Six Mile Roads. The landowners propose “rural conservation” lots on this land. The exhibited draft LEP showed these lots are zone E2 environmental conservation, in common with the core conservation lands on Kings Hill. The 2009 ecological assessment identified that these lots are of some environmental significance, and that provided a maximum of 10 per cent of the land was cleared, some 6-10 large rural conservation lots could exist. Accordingly, the recommended draft LEP proposes an E3 Environmental Management zone and a minimum lot size of 5 ha, consistent with the ecologist's recommendations. The extent of clearing of native vegetation would be managed by a foreshadowed Development Control Plan and the provisions of the Native Vegetation Act.

Odour from Bedminster Waste Transfer Station

Advice has been received from DECCW (who licence the operation of the Bedminster station) stating no objection to another draft LEP to rezone land for additional urban development between the Kings Hill land that is the subject of this report and the waste transfer station. DECCW's advice recognises and is dependent upon a private agreement between the waste station owner and the rezoning proponent (EWT/Newline Resources who also own land affected by the Kings Hill draft LEP) that stipulates that EWT or any other future land owner has recourse to a contractual agreement if the waste transfer station owner breaches licence conditions concerning odour. A clause has been included in the draft LEP to safeguard the interests of future landowners from this potential affectation by requiring consideration by Council of any affectation at the development application stage. Legal advice was obtained on the matter and the clause is proposed on the basis of Council's duty of care to future landowners / residents and to the SITA operation. The licence does not in itself cover Council's legal responsibilities.

The land affected by the LEP clause is mainly proposed open space and a smaller area of proposed residential land.

Additional lands

In their submissions to the exhibition of the draft LEP, Hunterland and EWT have requested the inclusion of additional lands to the south of exhibited draft LEP boundary (Newline Resources) and to the west of Newline Road (Newline Resources and Hunter Land) in the draft LEP. It is considered that the inclusion of these lands requires further planning assessment and would also contribute to the quantum of changes to the exhibited draft LEP that could trigger a re-exhibition of the draft LEP. These requests are outside the area subject to Council's 2002 resolution to prepare the draft LEP. They will be the subject of a future report/s to Council.

FINANCIAL/RESOURCE IMPLICATIONS

There are major costs to all stakeholders in developing Kings Hill and certainly potentially major implications for Council in delivering and maintaining infrastructure. The development of a new town will require a range of community, recreational, transport and environmental infrastructure. The majority of this infrastructure will be provided by developers, either directly, or indirectly via developer contributions. Most of this infrastructure will become Council owned requiring ongoing maintenance and eventual replacement costs and responsibilities. It is important that new revenue streams resulting from Kings Hill, such as rates, are sufficient to Council's additional ongoing costs. An additional "special rate" applying to Kings Hill may be an option if more conventional Council funding requires supplementation, although the implementation of this may be problematic.

The potential financial implications of the long term ownership and management of the conservation lands were discussed earlier in this Report. The draft LEP does not

stipulate private, community or council ownership options of this land and will be further investigated and resolved during the implementation of the draft Plan.

The preferred approach is to retain the conservation lands under private ownership with Voluntary Planning and Voluntary Conservation Agreements.

Council has developed standards for community and recreation facilities, which are reflected in Council's Section 94 Plan. These standards are a balance between community need and Council's ability to financially maintain. Should the developers propose variations to the standards, it is important that the variations are tested against the standards to ensure that all community infrastructure needs are still able to be met, and that Council can afford the variation over the long term.

Local facilities and services, such as a community facility, will be provided at Kings Hill, and district level facilities and services, such as a swimming pool and a library, will be provided by upgrading existing facilities at Lakeside and Raymond Terrace respectively. The management of community facilities will need to be considered in terms of the appropriateness of Council managing a specific facility relative to leasing to a community organisation.

An infrastructure scoping paper has been produced as a preparatory step towards a comprehensive approach to infrastructure provision, and has been placed in the Councillors work room. A summary of the infrastructure scoping paper is at **Attachment 6**. In addition, Council officers have undertaken a corporate risk assessment of infrastructure required as a result of the development of Kings Hill and have identified actions to reduce high risks to more manageable levels.

Kings Hill will also require substantial planning resources for implementation and management of future development. The development of a "foreshadowed" LEP to deal with unresolved detailed implementation matters such as those discussed elsewhere in this report, a Section 94 Plan, negotiations for a Voluntary Planning Agreement, and a Development Control Plan are all matters which will consume substantial planning resources. Issues associated with the infrastructure needed by a new community will require considerable attention from Council officers. Means of providing additional resources are being negotiated with the landowners / proponents.

LEGAL, POLICY AND RISK IMPLICATIONS

The draft LEP is consistent with the Community Settlement and Infrastructure Strategy and the Lower Hunter Regional Strategy.

The draft LEP is being made under the provisions of the Environmental Planning and Assessment Act (EPA Act). In making the Plan, Council must consider any submissions made during the exhibition of the LEP. A summary of submissions is provided in **Attachment 2** (with full submissions provided in the Councillors' Room for viewing).

Consistency of the draft LEP with State Government Section 117 directions is outlined at **Attachments 3**.

The recommended draft LEP has a number of differences to the draft LEP exhibited in 2007 (**Attachment 4**). The main differences, (see **Attachment 5**), have arisen as a result of submissions, advice from Government agencies, changes in the Standard LEP instrument and additional planning investigations. The EPA Act and Regulations are not specific on the extent to which a draft LEP can change from the exhibited draft without triggering a requirement to re-exhibit the LEP.

The intent and much of the detail of the recommended draft LEP is consistent with the exhibited draft. Any changes have been kept to the minimum necessary to permit the land to be rezoned for urban and conservation purposes, while ensuring that the resolution of any outstanding issues are not compromised. It is concluded that the draft LEP does not require re-exhibition.

It is proposed to submit a “foreshadowed LEP” to Council within the next 12 months to address the outstanding issues.

The draft LEP contains a number of “satisfactory arrangements” clauses. These clauses seek to ensure that the interests of Council and certain Government agencies (such as the RTA) are maintained concerning a number of matters which are unable to be finalised at this stage. The success of “satisfactory arrangements” clauses is very dependent on the ability of the relevant authority to ensure that the desired outcome is being achieved prior to confirming they are “satisfied”. As a result, there is a higher level of risk involved relative to resolving the outstanding matters prior to finalisation of the LEP. This risk needs to be balanced against the delay in finalising the draft LEP while matters are being resolved, with impacts on the supply of land for housing and the landowners’ ability to do more detailed planning (which in part will resolve some of the outstanding matters).

The section of the EPA Act dealing with the making of LEPs has recently been amended. Existing draft LEPs are required to be converted to “planning proposals” under the new legislation by 31 July 2010. A submission has been made to the DoP to convert the Kings Hill LEP into a planning proposal. It is understood that this will allow the draft LEP to continue towards finalisation and the existing status of the LEP (i.e. it is at the finalisation stage) will be retained.

Council is preparing an LGA wide standard LEP. The draft Kings Hill LEP, which is in standard LEP format, has been prepared to maximise its consistency with the draft LGA wide LEP.

Council sought legal advice in 2008 regarding the consideration and incorporation of aircraft noise provisions into the draft LEP for Kings Hill. The legal advice states that AS2021 contains well recognised standards to be applied to development affected by noise from aircraft, and that “there is no warrant for applying a standard other than AS 2021-2000 and for using the 20 ANEF as the criteria for application of the standard”. The clause in the draft LEP is consistent with this advice.

Odour

Legal advice has been provided concerning DECCW's advice on odour concerning a draft LEP to rezone land for residential development around the Bedminster Waste Transfer Station by the former owners of the plant who also own some 17 hectares of land within the Kings Hill draft LEP (see Odour from Bedminster Waste Transfer Station under Background section of this report). The advice is that, notwithstanding the operational licensee conditions of the Bedminster plant, and the existence of a restrictive covenant burdening Lots 1 and 2, given the history of odour complaints from the plant, Council should be cautious, and have a responsibility to prepare a draft LEP that provides an appropriate regulation of development on the subject land.

A 2007 review of Odour and Noise Impacts of the Bedminster plant by (Air Noise Environment Pty Ltd) concluded that "a 400 metre buffer is not considered appropriate. A larger buffer seems warranted based on the available data and observations." On this basis a 1000 metre buffer from the Bedminster plant was recommended to Council in December 2008. Council resolved that a buffer (if required) would be determined through the rezoning process for that draft LEP. Based on DECCW's advice, the recommended draft LEP that is the subject of this report, contains a clause requiring Council as a consent authority to take into account various matters on land potentially affected by odour (as per such a map in the draft LEP) when determining development applications for odour sensitive land uses on this land.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Kings Hill will increase the supply of land for housing near Raymond Terrace. It will provide greater housing choice. The size (4500 dwellings) and topography of Kings Hill will also provide housing choice within the development area. Kings Hill is being planned to provide a range of housing densities, with the most intense development being located around the town and neighbourhood centres. The draft LEP contains both minimum and maximum lot sizes for detached housing to encourage residential densities that reflect the proximity to the town or neighbourhood centre, and to facilitate a more efficient use of land.

Retail Centres Structure

The town centre and neighbourhood centres are planned as mixed use centres- with both residential and economic activities. It is hoped this will encourage a greater range of activity and community life than is found in conventional suburban development.

Local services and retail will be provided at Kings Hill. However, higher order services and retail needs will be located at Raymond Terrace. This will support the regional centre role of Raymond Terrace.

The exhibited draft LEP specified a maximum of 2200 square metres of retail floor space in the town centre and a number of smaller local centres of between 200-650 square metres. These maximums were based on retail analysis by Hirst Consulting in 2004, who stated that a larger town centre of 5,500 square metres may have a negative impact on Raymond Terrace. Council is undertaking a more comprehensive study of all retail and commercial floor space in the LGA. This study will provide a more current and comprehensive analysis than Hirst, and the result will be available in the next few months. Consequently the recommended draft LEP is taking a prudent approach of retaining maximum retail floor space as the exhibited LEP, with the option of amending the maximum figure should the new LGA study recommend a higher figure.

Increased patronage of the Raymond Terrace regional centre from Kings Hill will support more businesses and services and create employment.

Public Transport

It will be important for all Kings Hill residents to be able to access Raymond Terrace. The early provision of public transport services and a cycleway link to Raymond Terrace is of critical importance to mitigate a high dependence on motor car usage and to ensure that people can get to the services they need. Whilst the provision of public transport infrastructure and services is the responsibility of the State Government, Council can directly influence the feasibility and successful operation of public transport by determining the location of urban development and the subsequent street layout. The Kings Hill structure plan provides mixed use centres connected by a street network that supports a direct bus route, walking and cycling.

Aircraft Noise

A requirement for urban developments to meet AS 2021 (aircraft noise) will increase construction costs and will mainly occur where this development is within the 20-25 ANEF contours. Locating schools and other noise sensitive uses within the ANEF 20-25 contours may lead to a reduction in the quality of the learning environment and the amenity of outdoor spaces. Alternatively these land uses may be located outside of the 20-25 ANEF contour to avoid these impacts.

Economic Benefit

The development of Kings Hill will provide a stimulus to the local construction industry over the 25 years of development.

Council will receive additional revenue through land rates and user fees and charges. It will need to spend additional funds on providing services to Kings Hill residents and businesses, as well as on maintaining new assets at Kings Hill.

Kings Hill, and the growth of Medowie, will need nearby employment to reduce commute times and transport costs. The implementation of the Port Stephens Economic Development Strategy is very important, and in particular that increased

employment occurs at Raymond Terrace, Heatherbrae, Tomago and around the airport/airbase.

The town centre and neighbourhood centres will provide some employment for residents. Kings Hill is being planned to support a high level of small and home based businesses, however this will only partly address the need for additional employment.

Environmental Management

Kings Hill contains areas of environmental significance. These have been identified in ecological assessments, and are mentioned in a number of public submissions. Generally, the areas of environmental significance are located on the higher lands, along riparian corridors, and include SEPP 14 wetlands. The eastern section of Kings Hill drains into the Irawang wetlands, a SEPP14 wetland.

Whilst Kings Hill is not within the “green corridor” shown in the Lower Hunter Regional Strategy, it is identified in the Lower Hunter Conservation Plan as including an indicative wildlife corridor. DECCW mapping shows the indicative wildlife corridor passing from Tomago through the eastern and northern urban areas of Raymond Terrace, across the Irawang wetlands, through Kings Hill, and heading north to the Wallaroo National Park and beyond. This corridor is impeded by the urban areas of Raymond Terrace, and wildlife would also need to need to cross the dual carriageway of the Pacific Highway, just to the south of Kings Hill. The development of Kings Hill will impede this corridor further, despite the provision of wildlife corridors in the draft LEP, from the core of the conservation area on Kings Hill to the Irawang wetlands. The development of Kings Hill will also remove some of the habitat for a number of threatened species, particularly in the south eastern and south western corners.

For these reasons, the most recent ecological report identifies that a species impact statement would be necessary for development proposals which affect the habitat of the Koala, Grey Crowned Babbler and Phascogale. These matters are the subject of discussions between the proponents and DECCW in relation to an offset package (see “biodiversity impacts”). DECCW advises that additional ecological investigations and offsets will be required at the development application stage.

All SEPP14 wetlands, much of the higher lands, and the riparian corridors, are included in an environmental zone in the draft LEP. The DCP for Kings Hill will contain controls to ensure that the quantity and quality of urban runoff does not have a significant impact on the riparian corridors and wetlands.

CONSULTATION

Consultation with the following public authorities has been undertaken under with Section 62 of the EPA Act:

- Hunter Water Corporation
- Roads and Traffic Authority
- Department of Primary Industries – Agriculture

- Department of Mineral Resources
- Department of Defence
- NSW Fisheries
- Department of Environment, Climate Change and Water
- Department of Natural Resources
- Department of Planning
- Coastal Council
- NSW Fire Brigades
- Rural Fire Service
- Newcastle Airport Limited
- Department of Housing
- Department of Education and Training

The draft LEP was exhibited in accordance with Section 66 from 29th March to 10th May 2007 and re exhibited from 11th May to 12th June 2007 due to a notification problem with the initial exhibition. Details of the exhibition were published on Council's website and in the Port Stephens Examiner newspaper in accordance with the Regulations. Two information sessions were held during the exhibition period on 19th April 2007 and 28th April 2007 at Council's administration building. Some 15 persons and 8 persons attended the information sessions respectively.

The draft LEP, explanatory information, the Local Environmental Study and the Environmental Management Strategy were available at the exhibition. The documents were available for viewing at Council's Administration Building, Tomaree and Raymond Terrace Libraries.

The exhibition in 2007 resulted in 23 submissions. A summary of these submissions and those received in April/ May 2010 are in **Attachment 2**. A copy of these submissions is provided in the Councillors workroom.

Two meetings have been held with all landowners since the public exhibition – most recently on 19th April 2010. The major issues raised by landowners in their recent submissions (provided in full in the Councillors workroom) include:

- The importance of finalising the environmental zones, rather than treating them as a “deferred matter” in the LEP.
- Support for an E2 zone over the most of the conservation area, with an E3 zone over the three lots fronting Winston Road.
- The importance of co-ordinating infrastructure across landowners and precincts, and Council's key role in this process.
- Resolution of the Pacific Highway access, and its relationship to the timing of development on the western side of Kings Hill.
- Flood free access being required to the 5% AEP level only, and the importance of a temporary east west route to achieve this in the interim until a permanent road links the Pacific Highway to Newline Road.
- The quantum of retail floor space.
- The importance of the early preparation of a DCP, infrastructure plans and a Section 94 Plan.
- There is no need for an “odour buffer area”.

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- Flexibility in the route of east west and inner Precinct road links until detailed investigations have been done.
- Permissibility of dual occupancy development

OPTIONS

Council has the following options to the recommendation:

- 1) Defer finalisation of the draft LEP until outstanding matters have been resolved -the consequent changes to the draft LEP would probably trigger a re-exhibition and would be reported to Council in approximately 6-12 months.
- 2) Resolve to re-exhibit the draft LEP - re-exhibition would involve another report to Council in approximately 2-3 months, and the outstanding matters are likely to still remain unresolved at that time, resulting in no real gain other than additional public exposure and opportunity to comment on the recommended draft LEP at this stage.

ATTACHMENTS

- 1) Draft Port Stephens Local Environmental Plan 2010 – Kings Hill **(under separate cover)**
- 2) Summary of submissions received during the exhibition period, and landowners' submissions since 19 April 2010
- 3) Response to Section 117 Directions and State Environmental Planning Policies
- 4) Draft Local Environmental Plan – Kings Hill 2007 publicly exhibited
- 5) Table identifying main changes to the draft LEP 2010 to that publicly exhibited during 2007
- 6) Summary of the Infrastructure Scoping Paper

COUNCILLORS' ROOM

- 1) Kings Hill Local Environmental Study 2007
- 2) Kings Hill Infrastructure Scoping Paper 2010
- 3) Submissions received during public exhibition of Port Stephens Draft Local Environmental Plan – Kings Hill 2007.
- 4) Submissions received from landowners since the landowners meeting of 19 April 2010

TABLED DOCUMENTS

Nil.

**ATTACHMENT 1
DRAFT PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2010 – KINGS HILL
PROVIDED UNDER SEPARATE COVER**

ATTACHMENT 2

SUMMARY OF SUBMISSIONS RECEIVED DURING THE EXHIBITION PERIOD,
AND LANDOWNERS' SUBMISSIONS SINCE 19 APRIL 2010

	Date of Submission	Approve/ Object	Issues Raised
1	19/04/2007		Requests upgrade of adjoining boundary fencing.
2		Object	<ul style="list-style-type: none"> Residents will be affected by aircraft exhaust fallout Trees will be removed with consequent greenhouse impacts
3	10/05/2007		Requests consistency of treatment of aircraft noise issues for Kings Hill and authors land
4	04/06/2007	Object	Requires: grade separated interchanges to Pacific Highway; Section 117 direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast be adhered to; development is oriented to excessive increase local traffic on the Pacific Highway; Pacific Highway traffic noise is mitigated in the new development; all existing at grade connections and Six Mile Road be closed at their intersection with the Pacific Highway
5	08/06/2007	Support	The proposed Windeyer Village (W side of Kings Hill) is complementary to the rest of the development and should proceed early; seeks inclusion of land to the W of Newline Road in the proposal.
6	12/06/2007	Object	Concerned that the residential nature and scale of the proposal will compromised the development and operation of RAAF base Williamstown; because its proximity to the flight paths of RAAF Base Williamstown is significantly affected by noise impacts of military aircraft activities.
7	13/06/2007	Object	The 'improve or maintain' principle has not been demonstrated in relation to native fauna and flora- even though the Native Vegetation Act does not apply to urban land the principles of that Act should be applied.

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8	12/06/2007	Support	Lives in the area and is not disturbed by aircraft noise.
9	25/05/2007	Object in relation to Winston Road properties	<ul style="list-style-type: none"> • Lack of consultation with land owners in the LEP process • Propose an E3 zone apply to Winston Road, not E2 • Suggest E2 land zone is inappropriate for Winston Road. • Land is suitable for "environmental large lot residential" • Winston Road land is much less constrained than some other parts of the site, where constraints include: slope, visual importance, koala habitat, Grey Crowned Babbler Habitat, Phascogale habitat, aircraft and highway noise, flooding, drainage, archaeological significance, proximity to odour hazards, sensitive catchments and a SEPP 14 wetland. • The Environmental Conservation Zone is not justified by the environmental information, and furthermore, it is not likely to achieve habitat management. The very restrictive uses allowed in the E2 zone are not likely to achieve any development. • The whole of the Winston Road land is not required for a wildlife corridor • A range of other matters advocating limited development of the Winston Road land were raised.
10	25/05/2007	Object	As above
11	25/05/2007	Object	As above
12	28/05/2007	Approve	Zoning of land nominated as B4 should make provision for privately owned community use, such as a church, Christian school and community services.
13	06/06/2007	Suggest conditions	<ul style="list-style-type: none"> • RAAF base Williamtown, Newcastle Airport and DAREZ are important employers and of benefit to the Region • Give consideration to noise issues, a requirement for noise assessments and attenuation in buildings is strongly supported. Suggest a third party to certify noise impact assessments prior to development consent. • Need to ensure operation of the Pacific Highway without impediments from intersections

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14	03/07/2007	Object	<ul style="list-style-type: none"> • Significant negative impact on biodiversity. • Significant negative impact on the high conservation value of Irrawang Wetland. • Destruction of a significant area of woodland, a habitat that has already been decimated by cumulative degradation from inappropriate over development state-wide.
15	29/05/2007	Object	<ul style="list-style-type: none"> • Biodiversity and cultural heritage constraints. • Proposal does not achieve a improve or maintain outcome • Inadequate offsets are proposed • The proposal is unlikely to ensure the long-term viability of populations of threatened species and other protected wildlife • Aboriginal cultural heritage issues are inadequately addressed • Noise and odour from the Bedminster plant should be considered • Council should demonstrate that water cycle management is appropriate
16	07/05/2007		<ul style="list-style-type: none"> • Mineral title affects the land (petroleum exploration lease). • Resources are currently being extracted from Seaham Hill and potential mineral resources are also identified at Hamburger Hill further to the north, north east of this site. Council should ensure when determining the development of this land that consideration is given to potential impacts on future residents from heavy truck movements.
17	7/05/2007		<ul style="list-style-type: none"> • Issue of potential contamination of the proposed Open Space on Lot 51 DP 839722. • It is essential that the Council's waste management area is remediated to a suitable statement rehabilitated and leachate monitoring is undertaken.
18	24/05/2007		<ul style="list-style-type: none"> • Open Space and Access Road concerns. Any large scale open space area should be provided with passive surveillance. • Lot 104 DP 1016640. Newline Resources supports the potential inclusion of part of that land (W of Newline Road) for the creation of public access to the River. • Needs to ensure that lots potentially created by the LEP amendment are adequately serviced by roads. The existing boundary is the most logical location for such a main road due to difficult terrain within the Kings Hill site.
19	25/05/2007		<ul style="list-style-type: none"> • Support for the inclusion of Lot 3 DP 1098770 and Lot 11 DP 37430 as part of a minor LEP boundary change.

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			<ul style="list-style-type: none"> • Positioning of the main access road to the site from Newline Road on the common boundary is the best solution. • The suggested staging is probably developer driven rather than Councils preference. • Newline Resources rezoning request would play a substantial part in the production of "less isolated" residential land • Development of residential land in this additional area (south east corner of Kings Hill) would allow for the establishment of McPherson Village to be commenced earlier. • Additional areas to the northwest of Lot 3 DP 1098770 and Lot 11 DP 37430 are crucial to the main road access to Raymond Terrace and supervision of the playing fields.
20	25/05/2007		<ul style="list-style-type: none"> • Covenants require PSWVG to ensure that impacts from all offensive detectable odours emanating from the operations of the processing facility, waste stockpiles or landfill are such that they are fully contained within its own boundaries. • PSWVG has undertaken a major overhaul of its operations including rebuilding of the biofilters. Odour experts indicate that the compliance requirements are achievable and practicable. • Current documentation put forward by Kings Hill has not recognised the extent of improvements • It is essential for Council to acknowledge that the proposed buffer zones indicated in Section 2.7 and Figure 14 are incorrect, based on out of date investigations and we request that these be withdrawn. • The Odour Unit reports show a significant improvement on the current out dated LEP documentation.
21	25/05/2007		<ul style="list-style-type: none"> • Covenants require PSWVG to ensure that all impacts generated by noise emanating from the Bedminster Facility are fully contained within its own boundaries. • Changes to the noise mounds around the current exhaust fans are in place, with the enhancement of the 4m high earth mound to the north of the Bedminster facility buildings. • Compliance with the appropriate noise guidelines are addressed within the contractual conditions and DECC licence. • Authoritative noise experts indicate that noise compliance is achievable and practicable. • Current documentation put forward by Kings Hill has not recognised the extent of

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			<p>works by PSWMG to ensure that noise cannot affect adjoining land.</p> <ul style="list-style-type: none">• It is suggested that the incorporation of the attached Reverb Acoustics report into the current LEP documentation will enable Council and community to be fully informed.
22	10/10/2007	Object	<ul style="list-style-type: none">• Referred to the incremental environmental degradation of the Lower Hunter.• Irrawang wetland is one of the most important in the Lower Hunter.• Concerned with impacts of urban development on the Irrawang wetland.• Concerned with the fragmentation of woodland habitat.• Concerned with peripheral impacts of urban development on environmental areas – changes in ground water, impacts of domestic animals, etc.
23	7 May 2007		<ul style="list-style-type: none">• Information provided with the rezoning package is based on the 2001 Planning for Bushfire Protection Guidelines, which have been superseded by the 2006 Guidelines

**ATTACHMENT 3
RESPONSE TO SECTION 117
DIRECTIONS & STATE ENVIRONMENTAL PLANNING POLICIES**

SEPP (Affordable Rental Housing) 2009

The proposal provides for additional land to which the SEPP applies, and accordingly has the potential to increase the supply of affordable housing.

SEPP (Exempt and Complying Development Codes) 2008

The proposal provides for additional land to which the Exempt and Complying Development Code may be applied.

SEPP (Rural Lands) 2008

The then Department of Agriculture confirmed in 2003 that the land has limited agriculture value, and has raised no objection to the proposal.

SEPP (Housing for Seniors and People with a Disability) 2004

The proposal will provide for additional lands upon which housing for seniors and people with a disability may be developed.

SEPP 71 (Coastal Protection)

The land is not within the coastal zone.

SEPP 65- Design Quality of Residential Development

The proposal and foreshadowed DCP are consistent with the objectives of SEPP 65.

SEPP 55 Remediation of Land

A geotechnical study by Douglas Partners in 2005 found that the land is generally unlikely to contain gross contamination, with the exception of the former Council landfill in the southwest of the site. It is proposed to provide a buffer between the former landfill and development, and to undertake any remediation necessary to allow the former landfill site to be used for open space, and to manage any other impacts to acceptable levels.

Douglas Partners conclude that any other potential localised contamination sources can be readily investigated and remediated at each stage of the development.

SEPP 44 Koala Habitat Protection

An ecological assessment by Ecobiological (2009) concluded that while the master plan design, removes some areas of preferred and supplementary habitat for the Koala, it does leave habitat that can be used by this species for dispersal corridors and feeding areas. Notwithstanding the low population density of this species the combined impacts of a reduction in Koala habitat and a restriction of movement may mean a significant impact upon the ability of this species to use the subject area. Impacts upon the dispersal of the Koala though the subject area can be minimised by southerly and westerly corridors. This

matter is currently the subject of discussions with DECCW in relation to biodiversity offsets and other measures.

SEPP 14 Coastal Wetlands

The proposal places SEPP 14 wetlands within the Site in an appropriate zone in order to protect their environmental values. A DCP will ensure that the impact of urban runoff will not significantly affect the environmental values of the SEPP 14 wetlands on site and those nearby.

SEPP 9 Group Homes

The proposal provides for additional land on which group homes may be developed.

SEPP 1 Development Standards

The proposal adopts Standard instrument clause 1.9, such that SEPP 1 will not apply to the land. The proposal adopts clause 4.6 of the Standard Instrument- Exceptions to Development Standards.

RELEVANT SECTION 117 DIRECTIONS

1.1 Business and Industrial Zones

Objectives

The objectives of this direction are to:

- encourage employment growth in suitable locations,
- protect employment land in business and industrial zones, and
- support the viability of identified strategic centres.

The proposal does not reduce business or industrial zones. It provides for a modest increase in business zoned land (B4 Mixed Use) in order to provide local and neighbourhood services and employment. The residential population of Kings Hill will provide patronage to the nearby regional centre of Raymond Terrace.

Direction 1.2 Rural Zones

The objective of this direction is essentially to protect the agricultural production value of rural land.

The then Department of Agriculture confirmed in 2003 that the land has limited agriculture value, and has raised no objection to the proposal.

1.3 Mining, Petroleum Production and Extractive Industries

Objective

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

The Department of Mineral Resources in 2003 raised no objection to the proposal.

1.4 Oyster Aquaculture

Not relevant

Direction 1.5 Rural Lands

The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.

The then Department of Agriculture confirmed in 2003 that the land has limited agriculture value, and has raised no objection to the proposal.

2.1 Environment Protection Zones

Objective

The objective of this direction is to protect and conserve environmentally sensitive areas.

A number of ecological investigations have been undertaken. The proposal seeks to rezone land of conservation significance within the site to Zone E2 Environmental Conservation. Discussions are underway with DECCW in relation to biodiversity offsets.

The proposal is not located within the green corridor identified in the Lower Hunter Regional Strategy.

2.2 Coastal Protection

Objective

The objective of this direction is to implement the principles in the NSW Coastal Policy.

The land is not within the coastal zone

2.3 Heritage Conservation

Objective

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The proposal contains the Standard Instrument clause 5.10 Heritage Conservation. Studies of the land indicate that there are places of aboriginal heritage significance. It is proposed to locate these within the E2 Environmental Conservation zone, and to introduce management arrangements acceptable to the local aboriginal community.

The land does not contain items of European heritage significance.

2.4 Recreation Vehicle Areas

Objective

The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

It is not proposed to enable a recreational vehicle area to be developed on land to be zoned E2 Environmental Conservation

Direction 3.1 Residential Zones

Objective

The objectives of this Direction are:

- To encourage a variety and choice of housing types to provide for existing and future housing needs

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- To make an efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services
- To minimise the impact of residential development on the environment and resource lands.

The proposal provides for additional land for housing, and permits a variety of dwelling types. The proposal contains provisions to ensure adequate infrastructure can be made available prior to development being approved.

3.2 Caravan Parks and Manufactured Home Estates

Objectives

The objectives of this direction are:

- to provide for a variety of housing types, and
- to provide opportunities for caravan parks and manufactured home estates.

The proposal does not affect existing provisions that permit the development of a caravan park or affect the existing zoning of a caravan park. There are no existing caravan parks on the land, and it is not currently a permissible land use.

It is not proposed to establish a manufactured home estate on the land.

3.3 Home Occupations

Objective

The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.

The proposal provides for home occupations in all zones where a dwelling is permissible.

Direction 3.4 Integrating Land Use and Transport

The objective of this Direction is to ensure that development:

- Improves access to housing, jobs and services by walking, cycling and public transport;
- Increases the choice of available transport and reducing dependence on cars;
- Reduces travel demand including the number of trips generated by development and the distances travelled, especially by car;
- Supports the efficient and viable operation of public transport services; and
- Provides for the efficient movement of freight.

The proposal has been developed in the context of a settlement pattern for the land focussed on a local and several neighbourhood mixed use centres, and the intensity of development will progressively intensify closer to these centres. Studies undertaken as part of the Environmental Management Strategy and Local Environmental Study have identified ways of ensuring the resultant development can be effectively served by public transport, and that an effective cycleway and pedestrian footpath network can be established. This will be formalised in the foreshadowed DCP.

3.5 Development Near Licensed Aerodromes

Objectives

The objectives of this direction are:

to ensure the effective and safe operation of aerodromes, and

to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

The proposal will not create an obstruction to flying aircraft.

Part of the land is within a noise contour of greater than ANEF 20 and is affected by aircraft noise. A clause has been included in the proposed LEP to ensure all aircraft noise affected development is compliant with AS2021.

Direction 4.1 Acid Sulphate Soils

Objective

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.

Douglas Partners have identified that part of the site is likely to contain acid sulphate soils, but not such as to prevent urban development. A model local provision will be included in the proposed LEP to ensure that adverse impacts do not result from development because of acid sulphate soils

Direction 4.2 Mine Subsidence and Unstable Land

Objective

The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

The land is unaffected by mine subsidence.

Douglas Partners have investigated land stability issues and concluded that slope stability issues do not preclude development. However, mitigation measures would be necessary prior to development on steeper slopes, due to exposure of boulders during earthworks, and in relation to rock faces on a quarry on Lot 4821.

Direction 4.3 Flood Prone Land

The objectives of this Direction are:

- To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005
- To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The proposal is proposed to contain provisions to ensure development will not adversely affect flood behaviour, create significant environmental impacts as a result of flood, and that safety of occupants is maintained. The proposal will also contain a clause to ensure that all parts of the site have relatively flood free access to the Pacific Highway.

Direction 4.4 Planning for Bushfire Protection

The objectives of this Direction are to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and to encourage sound management of bushfire prone areas.

A bushfire assessment has been carried out and the proposed development will be undertaken consistent with the publication Planning for Bushfire Protection. The foreshadowed DCP will contain appropriate provisions. The Rural Fire Services was consulted during the exhibition process.

The proposal will contain the Standard Instrument clause to ensure that bushfire hazard reduction can be carried out.

Direction 5. Implementation of Regional Strategies

The proposal implements the Lower Hunter Regional Strategy. The land is identified in the LHRs as a potential urban area.

5.2 Sydney Drinking Water Catchments

Not applicable

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

Not applicable

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

Objectives

The objectives for managing commercial and retail development along the Pacific Highway are:

- to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;
- to prevent inappropriate development fronting the highway
- to protect public expenditure invested in the Pacific Highway,
- to protect and improve highway safety and highway efficiency,
- to provide for the food, vehicle service and rest needs of travellers on the highway, and
- to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.

Where this Direction applies:

This Direction applies to those council areas on the North Coast that the Pacific Highway traverses, being those council areas between Port Stephens Shire Council and Tweed Shire Council, inclusive.

The proposal seeks to rezone land to B4 Mixed Use for commercial and retail development adjacent to the Pacific Highway. The purpose of this zoning is to provide for a local centre to service the day to day needs of the residents of Kings Hill. It is located at the main entry to Kings Hill in order to provide convenience for most residents. The proposed centre will be accessed from the Highway by a grade separated interchange (to the RTA's requirements) and will be buffered from the highway, in part by a landscaped mound. It is not proposed to address the highway.

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The proposal limits the maximum amount of retail floorspace in the B4 zone in order to protect the regional role of nearby Raymond Terrace.

5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)

No applicable

5.6 Second Sydney Airport: Badgerys Creek

Not applicable

6.1 Approval and Referral Requirements

Objective

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

The proposal is consistent with this direction.

6.2 Reserving Land for Public Purposes

Objectives

- The objectives of this direction are:
- to facilitate the provision of public services and facilities by reserving land for public purposes, and
- to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

The proposal does not create, alter or reduce zonings or reservations of land for public purposes. No requests have been received from the Minister or public authority to include provisions to reserve land, rezone land or remove a reservation for public purposes.

However the proposal does include Standard Instrument compulsory clause 5.1 in relation to relevant acquisition authorities.

6.3 Site Specific Provisions

Objective

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

The proposal is consistent with this direction.

ATTACHMENT 4
DRAFT LOCAL ENVIRONMENTAL PLAN – KINGS HILL 2007 PUBLICLY EXHIBITED
PROVIDED UNDER SEPARATE COVER

ATTACHMENT 5

TABLE IDENTIFYING MAIN CHANGES TO DRAFT LEP 2010 TO THAT PUBLICLY EXHIBITED DURING 2007

Exhibited LEP		Recommended draft LEP	
Clause	Details	Clause	Details
			Preface has new SI wording
1 Name of Plan	1	1.1	Year updated to 2010 Name includes "North Raymond Terrace"
2(d) Aims	Refers to EMS		Deleted
3 Lands to which Plan applies		1.3	Uses SI wording
7 Maps	Lists: Land Application Map, Land Zoning Map, Precinct Map	1.7	No list of maps shown- can include as a "note"
8 Repeal of Environmental Planning instruments		1.8(3)	Includes reference to "North Raymond Terrace"
		1.8A Savings Provision relating to DAs	Now included- model local provision
9 Application of SEPPS and REPS	9	1.9	HREP –Heritage REP does not apply
		1.9A Suspension of Covenants	Now included- model local provision
10 Land Use Zones		2.1	E3 Environmental Management now included
15A Determination of Development Applications	Requires consent authority to consider EMS when approving development		Deleted: relevant provisions of EMS to be included in the DCP
		2.6A Demolition requires consent	New clause- model local provision
		Temporary Use of Land	clause added- model local provision. Temporary Use of land
Zone R1 General Residential	Objectives: third dot point refers to development being guided by the Environmental Management Strategy	Zone R1 General Residential	Objectives: exhibited draft dot point deleted. New third dot point: "To provide for a variety of housing types and densities which exhibit a high standard of urban design and environmental sustainability"
Zone R1 Land Use table- permitted without consent		Zone R1 Land Use table	Permissible uses deleted in recommended draft: Exempt development, complying development, bush fire hazard reduction Note: Exempt and Complying development is addressed by Clause 3.1 and 3.2 of the recommended draft. Bush fire hazard reduction now addressed by Clause 5.11 of the recommended draft. Permissible uses permitted in

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			<p>recommended draft: Home occupations, home based child care, environment protection works, roads</p> <p>Note: home based child care and roads were permitted with consent in the exhibited draft</p>
Zone R1 Land Use table	<p>Permissible uses deleted in recommended draft: Backpackers accommodation, Dual occupancy dwellings, Public hall, Public reserve, Schools, Utility installation (note: "public hall" included under "community facilities", "public reserves" included under "Recreation area, "schools included under "educational establishments", "utility installation" included under "public utility undertakings" and public utility infrastructure")</p>	Zone R1 Land Use table	<p>Permissible uses added in recommended draft: Attached dwellings, Building identification signs, Business identification signs, Clearing native veg, Drainage, Earthworks, Electricity generating works, Environmental facilities, Exhibition homes, Exhibition villages, Filming, Flood mitigation works, Health consulting rooms, Nurseries, Public utility infrastructure, Secondary Dwellings, Semidetached dwellings, Shop top housing, Water bodies.</p>
Zone R1 Land Use table- Prohibited land uses	Prohibited: A list plus any development not in item 2 or 3	Zone R1 Land Use table- Prohibited land uses	<p>Any development not in item 2 or 3</p> <p>Note: sewerage treatment works not prohibited (public utility)</p>
Zone B4 Land Use Table Mixed Use- Objectives	Exhibited fourth dot point refers to development being guided by the Environmental Management Strategy	Zone table B4 Mixed Use Objectives	<p>Exhibited third dot point deleted referred to "to identify land for urban development, employment and recreation purposes".</p> <p>New third dot point "to provide for developments which exhibit a high standard of urban design and environmental sustainability"</p> <p>Exhibited fourth dot point deleted</p>
Zone B4 Land use table - Permitted without consent		Zone B4 Land use table - Permitted without consent	<p>Permissible uses deleted in recommended draft: Exempt development, complying development, bush fire hazard reduction</p> <p>Note: Exempt and Complying development is addressed by Clause 3.1 and 3.2 of the recommended draft. Bush fire hazard reduction now addressed by Clause 5.11 of the recommended draft</p> <p>Additional uses: home occupations, home based child care, environmental protection works, roads</p>
Zone B4 Land	Permissible deleted in	Zone B4 Land	Attached dwellings, car parks,

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use table - Permitted with consent	recommended draft: Backpackers accommodation, Bed and breakfast accommodation, Dual occupancy dwellings, Light industry, Neighbourhood shops, Public reserve, (Note: all of these except light industry are included in definitions in the recommended LEP)	use table - Permitted with consent	clearing native veg, Drainage, Dwelling houses, Earthworks, Emergency Services Facilities, Environmental facilities, Exhibition homes, Exhibition villages, Filming, Flood mitigation works, Funeral Homes, <i>Permanent</i> Group homes, Health services facilities, Hospitals, Nurseries, Places of public entertainment, Public administration buildings, Public utility infrastructure, Secondary dwellings, Signage, Take away food and drink premises, Utility installations, Veterinary hospitals
Zone B4 Land use table - Prohibited	Prohibited: A list plus any development not in item 2 or 3	Zone B4 Land use table - Prohibited	Any development not in item 2 or 3
Zone E2 Environmental Conservation Land Use Table Objectives	Exhibited fourth dot point refers to development being guided by the Environmental Management Strategy	Zone E2 Environmental Conservation Land Use Table Objectives	Exhibited fourth dot point deleted. New fourth dot point refers to "to ensure the long term sustainability of the natural environment"
Zone E2 Land use table Permitted without consent		Zone E2 Land use table Permitted without consent	Additional uses: home occupations, home based child care
Zone E2 Land Use Table Permitted with consent	Permissible uses deleted in recommended draft : Bushfire hazard reduction work, horticulture, function centre, centre, Funeral Chapel, Telecommunication facilities, utility installation (Note: Bush fire hazard reduction now addressed by Clause 5.11 of the recommended draft)	Zone E2 Land Use Table Permitted with consent	Additional uses: Dwelling houses, Bed and Breakfast accommodation, Ecotourist facilities, Environmental Protection Works, Flood mitigation Works, Home businesses, Home industries, Home occupations, Kiosks, Public utility undertaking, Public utility infrastructure, Research stations, Telecommunication networks, Water bodies, Water recreation structures, Wetlands.
Zone E3 Environmental Management	Zone not included	Zone E3 Environmental Management	Zone included- see recommended LEP for full details
16 Exempt Development		3.1 Exempt Development (compulsory):	Additional compulsory sub clauses: 3.1(4) – BCA and fire safety cert and 3.1 (4A) – clarification of Schedule references- added
17 Complying Development		3.2 Complying Development (Compulsory)	Various changes/additions in 3.2(2) – removes reference to Section 76(A) 6 of the Act- ; 3.2(4) – adds need to comply to conditions in Part 2 of the LEP: 3.2(4A) clarification of references to Schedules
18 Environmentally Sensitive lands excluded		3.3 Environmentally Sensitive lands excluded (compulsory)	Deletion of (a) sensitive coastal location; addition of (b) a coastal lake; Addition of (f) land within 100 metres of (c), (d) or (e) – SEPP 14, SEPP 26, aquatic reserve, Ramsar

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			wetlands or World Heritage Area.
19A Minimum Lot Size	For a dwelling house: 300 sq m for R1, 250 sq m for B4, clause exempt from SEPP 1	4.1A Minimum Lot Size	For a dwelling house: R1 450 sq m (300 sq m with rear lane access), B4 400 sq m (300 sq m with rear lane access) E2 40 ha E3 5ha Does not apply to community title or strata (except in E2, and E3)
		4.1B Lot Size	Applies in B4 Zone – Not between 450-2000 sq m for dwelling house
		4.2A Erection of Dwelling hothouses in certain rural and environmental zones	Seeks to manage rural residential development in E2 and E3 zones by regulating the erection and replacement of dwelling houses
21A Building Heights	Contains three objectives to provide a diversity of building types and heights reflective of the centre hierarchy and land use structure R1 maximum of 9 metres or 2 storeys (10.5 metres or 3 storeys in R1 within 50m metres of the B4 zone). B4 13.5 metres or 4 storeys.	4.3A Building Heights	Simplified, single, objective objectives to provide a diversity of building types and heights reflective of the centre hierarchy and land use structure. R1 9 metres or 2 storeys. B4 15 metres or 4 storeys.
22A Retail Floor Space Area		7.9 Development in the B4 Zone	Simplified objective. Neighbourhood shops and kiosks excluded from Maximum allowed retail floorspace.
22B Office Premises	Seeks to limit office floorspace to the ground floor and second level of buildings	Deleted from recommended draft	
24 Exceptions to Development Standards		4.6 Exceptions to Development Standards (compulsory)	Replaces SEPP 1. Some compulsory wording changes; additional local requirements for consistency and compatibility with certain specified matters
25 Land acquisition within certain zones		5.1 Relevant acquisition standards	Compulsory clause. Changes to comply with changes in the standard instrument
26 Development on proposed classified land	Refers to development on land reserved for a classified road, before the land becomes a classified road		Deleted. Unnecessary.
28 Development near zone boundaries	Permits zone boundary “flexibility” by 50 metres	5.3 Development near zone boundaries	Reduced to 20 metres
29 Community	Permits use of		Deleted.

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Use of Educational Establishments	education establishment land for any other community purpose		
30 Classified Roads	Aims to ensure the operation of classified roads is not impaired, and that noise sensitive new development is not affected by road noise		Deleted. Can be dealt with by DCP
31 Development in proximity to a rail corridor	Aims to ensure noise sensitive development is not affected by rail noise		Deleted. Rail access to Kings Hill is not yet available.
31A Development potential affected by unacceptable aircraft or road noise		7.8 Development in areas affected by aircraft noise 7.9 Development in areas affected by road noise	Changed clauses reflect current drafting of similar clauses and legal advice.
34 Preservation of Trees		5.9 Preservation of Trees	Changed clauses reflect changes in the standard instrument clause (optional)
37 Development for Group Homes			Deleted. Group homes including in R1 (all- required by standard instrument) and B4 zones (permanent only). Group Homes SEPP applies
38 Crown Development and Public Utilities	Plan does not restrict use of existing buildings of the Crown by the Crown. Plan does not restrict public utility undertakings as defined.	5.12 Existing Buildings of the Crown	Plan does not restrict use of existing buildings of the Crown by the Crown. Remainder of clause deleted: Otherwise Public utility undertakings are contained in land use tables. Infrastructure SEPP applies
38B Restriction on certain subdivisions	Requires contributions towards regional transport infrastructure and services	6.1 Arrangements for designated public infrastructure	Model local clause which broadens the nature of State infrastructure towards which contributions are required.
		5.2 Classification and reclassification of public land (compulsory)	Enables the classification of public land as community or operational land.
		5.4 Controls relating to miscellaneous permitted uses (compulsory)	Specifies development standards for a range of uses including Bed and Breakfast accommodation, home businesses, home industries, industrial retail outlets, farm stay accommodation, kiosks, neighbourhood shops, roadside stalls, and secondary dwellings.
		5.6 Architectural roof features	Permits certain architectural roof features to exceed the building height limit.
		5.8 Conversion of fire alarms (compulsory)	Relates to monitored fire alarm systems.
		5.11 Bush fire	Permits authorised bush fire hazard

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		hazard reduction (compulsory)	reduction without consent.
		6.2 Public Utility Infrastructure	Requires Council to be satisfied that essential public utility infrastructure is available and can be sustainably managed.
		6.3 Community Infrastructure	Requires Council to be satisfied that community infrastructure is available and can be sustainably managed.
		6.4 Relationship between Part and remainder of Plan	Clauses in Part 6 prevail over other Parts of the Plan if there is inconsistency
		7.1 Acid Sulphate soils	Seeks to prevent exposure etc of acid sulphate soils
		7.2 Development within an area of potential odour	New development within a specified area must consider from possible Bedminster odours.
		7.3 Flood Planning Areas	Seeks to avoid impacts of 1:100 ARI flood events.
		7.7 Road links	Seeks to achieve a road link between Pacific Hwy and Newline Rd as well as direct links between Precincts, also seeks to ensure flood free access to all residents to 1:20 ARI
		7.8 Infrastructure-Pacific Highway access	Requires “satisfactory arrangements” with the RTA for access to the Pacific Highway, also requires progressive closure of existing accesses to the Pacific Highway.
		7.9 Development Control Plan	Requires preparation of a DCP prior to any development consent. Specifies minimum content of the DCP
		7.10 Mixed Use development	Ensures all uses are otherwise permissible in the zone
		7.11 Ecotourist facility	States considerations for development consent of an ecotourist facility

ATTACHMENT 6
SUMMARY OF THE INFRASTRUCTURE SCOPING PAPER

Executive Summary

The concept planning for Kings Hill aims to provide much of the day to day needs for residents within Kings Hill itself, with higher order services being provided at Raymond. The infrastructure requirements of Kings Hill need to be determined in this context. Importantly, there is an existing infrastructure planning and funding system in place in Port Stephens LGA which must be considered and adapted to respond to the demands arising from the development of Kings Hills.

Kings Hill is estimated to have around 4,500 dwellings at completion. The development of Kings Hill will take some 25 years, at an average development rate of 180 dwellings per year.

Over 25 years the occupancy rates of the earliest occupied stages of the development will decline below their initial peak as children grow up and leave home. This will spread over time the demand for some infrastructure (such as schools and child care), as well as lead to a lower peak population than if the area was to be developed more rapidly.

At an occupancy rate of 2.6 people per dwelling, Kings Hill can be expected to have a population of around 11,700 people at full development.

Kings Hill will be structured around precincts. A sequencing plan will be developed so the Precincts are developed sequentially in a manner which permits efficient infrastructure provision.

Principles of Infrastructure Provision for Kings Hill

A number of principles have been developed to guide the provision of infrastructure at Kings Hill. These principles will provide the basis for the infrastructure provision program, including allocating responsibility for infrastructure provision and for managing the short, medium and long term implications of infrastructure provision. The principles are:

1. All infrastructure needs arising from the development will be funded by the developer(s)
2. Council and other infrastructure agencies will clearly identify to the developer(s) their requirements for infrastructure provision, including the standard of provision
3. Council will develop a 30 year "urban budget" which incorporates all capital and operational funding implications relating to Kings Hill, and incorporate this information into its forward financial projections and budgeting

4. Council will undertake a risk analysis relating to the capital and recurrent implications of the infrastructure provision program for Kings Hill
5. All infrastructure (including land) to be required and/or accepted by Council is to be reviewed consistent with Council's Asset Management Guideline and any other relevant Council relating to that infrastructure type
6. Any works in kind or material public benefits provided by the developer(s) must be of at least equal value to that of the contribution that otherwise might apply, and must not prejudice the timing or the manner of the works program listed in the Section 94 Plan, particularly
7. Development is to be phased to maximise the efficiency of infrastructure provision and utilisation
8. Infrastructure should be provided to meet Council's adopted minimum standards of provision, and where it is provided in excess of Council's normal standards stated in the Port Stephens Council Design Code, Development Control Plan and/or other relevant Council policies, a source of revenue must be identified by the developer to enable the long term maintenance of the infrastructure at the higher standard
9. Where possible infrastructure should lead, rather than lag, the demand arising from the new development.

Development Staging

It is proposed that the development of Kings Hill proceed in a number of sequential stages to ensure that infrastructure can be provided as efficiently as possible. Staging will reduce development costs as well as assist residents to have a full array of urban services as rapidly as possible. Focusing growth will also assist retail and other commercial services to reach viability more rapidly than if growth was dispersed across the entire urban release area. Notwithstanding this, there is a likelihood of initial development proceeding on two fronts; in the west off Newline Road on land controlled by Hunter Land, and in the east off the Pacific Highway on land controlled by Mondel/Excel.

Critical staging issues include stormwater management, the delivery of sewer and water to the site, access from the Pacific Highway to the site and the development of an east-west route across Kings Hill from Newline Rd to the Pacific Highway. A major issue is a mechanism to sequence and share the costs of the provision of utilities and infrastructure across several developments with different proponents and/or landholders (e.g. legal access to the water reservoir, stormwater trunk routes and floodways).

Infrastructure matters requiring early resolution

Drainage and Water Quality Management

The concept plan for Kings Hill shows a series of riparian corridors from the higher areas of the proposed Conservation Lands to the receiving areas, such as the SEPP 14 Irrawang Wetlands. These corridors perform a dual purpose- the conveyance of environmental flows and stormwater, as well as the provision of corridors along which wildlife can move.

The Water Management strategy must ensure that the water treatment train manages water volumes and water quality in a manner which protects the conservation values of the corridors as well as the avoiding any adverse impacts on the receiving waters (a number of which are SEPP 14 wetlands).

Road and Traffic Study

A traffic study is required to supplement the “Assessment of Transport Implications” undertaken by Dobinson and Associates in 2004 in order to determine the “trigger points” for the augmentation of the external road system adjacent to Kings Hill, such as Newline Road and to ensure adequacy of the internal road system. Similarly, trigger points will need to be determined for the staged provision and/or upgrading of new arterial roads as the site develops.

“Conservation Lands”

A Conservation Area of some 200ha is proposed for the land which has relatively high conservation value located generally in the elevated hilly land of Kings Hill. The land is subject to grazing and will require rehabilitation. A number of threatened species are known to inhabit the proposed conservation reserve. A number of locations in the proposed conservation reserve are of cultural significance to the local aboriginal people.

Several ownership options exist:

1. State Government ownership
2. Council ownership
3. community ownership
4. large lot private ownership.

The most appropriate model for the ownership of the conservation lands needs to be determined, together with a funding mechanism for the rehabilitation and ongoing management of the land. It is unlikely that the State Government will accept ownership of the land. Council will not accept ownership of all of the land without guarantees of long term funding of its management. Some of the conservation reserve will be required to meet Council's standard of 2.5 ha of undeveloped natural areas/ open space per 1,000 residents (i.e. around 30 ha total). Private ownership may provide the most acceptable solution for the balance of the “conservation reserve”.

Infrastructure Funding and Financing

Infrastructure within Kings Hill will need to be funded and financed. As a general policy Council requires the developer to fund or provide all infrastructure needed as a result of new development.

Infrastructure funding

The Port Stephens Section 94 Plan 2007 describes the development contributions required by Port Stephens Council.

A detailed works program is included in a schedule to the Plan. In addition to local (Kings Hill) based items, a number of the works shown in Raymond Terrace will benefit Kings Hill residents, including library facilities, sporting facilities, road works, and a multipurpose childrens services centre.

The Review of Standards Guiding the Provision of Council's Community and Recreational Facilities (AEC, 2007) forms the basis of the community and recreational facilities standards specified in Council's Section 94 Plan.

The standards have been set with a view to meet community needs as well as being affordable to Council in terms of the long term asset preservation and operational costs of these facilities.

Should a developer wish to provide facilities in excess of these standards, agreement would have to be reached with Council, and/or alternative long term resources identified for the additional asset preservation and operational costs of the facilities.

The proponents of the Kings Hill development have indicated that they may wish to provide facilities in excess of Council's standards.

The Port Stephens Section 94A Development Contribution Plan 2006 runs parallel to the Port Stephens Section 94 Development Contributions Plan 2007. The plan allows Council to levy a maximum of 1% of the cost of development for commercial, retail and other employment based.

The Schedule of works in the Section 94A Plan relevant to Kings Hill includes library resources and library related works at Raymond Terrace, rehabilitation works to the Raymond Terrace Community Care Centre, a new Senior Citizens Centre at Raymond Terrace, a Multipurpose Childrens Centre at Raymond Terrace, improvements to Newline Rd (roundabout at Beaton Avenue and various rehabilitation works), various open space improvements in Raymond Terrace, sports facilities improvements (various) and recreation facilities (further development of the Lakeside Leisure Centre) at Raymond Terrace.

Landowners have foreshadowed that they may wish to enter into a Voluntary Planning Agreement (VPA) with Council for the provision of urban infrastructure. A voluntary planning agreement would provide more flexibility than Section 94 in

relation to infrastructure items and timing. However, it is important that Council ensures that any VPA does not reduce the basic level of provision of infrastructure items in exchange for a higher standard of a limited number of items.

Given the complexity and size of the Kings Hill development, some form of complete infrastructure requirements listing needs to be developed. It should provide a consistent co-ordination and reference point for requirements under Section 94, as well as the contents of Voluntary Planning Agreements and the like.

The precincts within Kings Hill are owned by a number of different parties, and a mechanism needs to be developed to equitably share the costs of common infrastructure (such as the Pacific Highway interchange) across these parties. An agreement (s) amongst landowners is an important step in developing a cost sharing mechanism. Council may need to assume a role of managing a "reimbursement" system for landowners, reimbursing the developer responsible for the capital outlay from contributions from other developers as development proceeds. A similar system operates at Fern Bay. This requires further discussion and risk management.

Ongoing funding

A number of options exist for the provision of ongoing funding for services and facilities at Kings Hill:

1. Council general revenue, particularly rates
2. User pays fees and charges
3. A "special rate" in addition to Council general rates, should there be a higher level of services and facilities provided to Kings Hill
4. An annual fee paid by lot owners to assist in the ongoing costs of facilities and services, which would be held in community title, should this model be preferred, if there was a higher level of services and facilities provided to Kings Hill
5. A capital fund established by the developer, which would provide a funding stream in perpetuity to meet ongoing costs, should there be a higher level of services and facilities provided to Kings Hill

Council's preference is for a transparent, fair and equitable funding mechanism which carries a minimum of future risk.

The ongoing costs of infrastructure provided to meet Council's standards are usually met using a combination of Council's general revenue, such as rates, and user pays fees and charges.

If infrastructure is provided to a higher standard than Council's adopted standards, additional revenue is required. If this is the case, options 3 and 4, above, are preferred. They both operate in a similar way, i.e. an annual charge on lot owners,

however option 4 minimises the risk to Council because it is not an actively involved party.

Specifications for Community Facilities

The community buildings of Kings Hill will need to be designed to be flexible enough to support a range of activities and to accommodate to needs of disparate uses. During the development of Kings Hill, the nature of the activities being undertaken in the community facilities will change as the community matures. By focussing on a multi purpose community facility, it will be possible to achieve greater value for money and to provide a higher level of service than if a number of single use facilities were provided (e.g. youth centre, community centre and senior centres centre).

Because Kings Hill will have a relatively small population and is close to Raymond Terrace, residents of Kings Hill will use some community facilities in Raymond Terrace, such as the library. Raymond Terrace will also provide the more specialised and higher order community facilities.

Street furniture and landscaping

A public domain master plan and design manual will be needed to provide an overall strategy as well as detailed specifications for planting species, paving materials and street furniture etc. The standards of street furniture and landscaping will need to be agreed with Council to ensure their suitability for a public environment and that their ongoing costs can be met.

A public art strategy is needed to provide a consistent and place based approach to the treatment of public spaces, facilities and street furniture.

MINUTES FOR ORDINARY MEETING – 25 MAY 2010

Infrastructure Items

This list provides an indicative list of infrastructures that will need to be quantified, designed, financed and provided at Kings Hill. Most of the items will be Council's ongoing responsibility.

Item	Responsible Authority (infrastructure approvals and ongoing)
Water to site	Hunter Water Corporation
Water supply reservoir	Hunter Water Corporation
Water to each stage	Hunter Water Corporation
Sewer to site	Hunter Water Corporation
Sewer to each development site	Hunter Water Corporation
Stormwater management system	Council
Telecommunications	Telstra
Gas	Agility
Noise barrier/fence to Pacific Highway	Council/ RTA
Connection to Pacific Highway	RTA/Council
Closure of existing accesses to Pacific Highway	RTA/Council
Six Mile Road/ Pacific Highway intersection	RTA/Council
Connection(s) to Newline Road	Council
Upgrading of Newline Rd south for increased traffic	Council
Upgrading of Newline Rd south to improve flood access (if an alternative is not available)	Council
Upgrade to Newline Rd/ Six Mile to Pacific Highway to improve flood access	Council
Internal traffic capacity study (Rd widths and intersections)	Council
Internal intersection capacity study	Council
Distributor roads within site	Council
Road from Precinct 3 to Precinct 6	Council
Collector roads within site	Council
Local roads within site	Council
Roadworks external to site as per Section 94 Plan	Council
Shared Cycleway/Pedestrian path to Raymond Terrace	Council
Shared Cycleway/Footpaths within site	Council
Footpaths within site	Council
Bus bays and shelters	Council
LATM – pedestrians & for wildlife protection	Council
Easements	Council and others
Cemetery-Burial	Council
Cemetery-Niches	Council
Multipurpose Childrens Centre	Council or private provider
Multipurpose Community Space	Council
Branch Library	Council
Library Lounge	Council
Exhibition Space	Council
Leisure Centre	Council
Surf Lifesaving Club	Council
Boat ramps	Council
Wharves	Council
Local parks and playgrounds	Council
Neighbourhood and District Parkland	Council
Tidal pools	Council
Undeveloped natural areas/open space	Council

Item	Responsible Authority
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MINUTES FOR ORDINARY MEETING – 25 MAY 2010

Foreshore open space	Council
Netball Facilities	Council
Skate parks	Council
BMX tracks	Council
Sports fields	Council
Tennis courts	Council
Croquet courts	Council
Swimming facilities	Council
Primary Schools	DET
High School	DET
“Community” School	Private provider
Fire and Emergency Services	Council
NSW Fire Brigade	NSW Fire Brigade
Other off-site Community Facilities, Roads and Open Space	Council
Ambulance	Ambulance Service of NSW
Community Health Centre	Hunter and New England Health Service
Medical Ctr (GP's)	Private sector
Hospital	Hunter and New England Health Service

ITEM NO. 3**FILE NO: A2004-0242****QUARTERLY BUDGET REVIEW AS AT 31 MARCH 2010**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the estimated Statement of Cash Position to 30/6/2010 as detailed in ATTACHMENT 1 to this report.
- 2) Notes the estimated Statement of Restricted Funds Movements to 30/06/2010 as detailed in ATTACHMENT 2 to this report.
- 4) Approve the discretionary changes to the adopted recurrent budget, (totalling \$210,761, a positive effect on revenue) as detailed under separate cover as TABLE 1 of DOCUMENT 1 to this report and vote the necessary funds to meet the expenditure.
- 5) Approve the discretionary changes to the adopted capital budget, (totalling \$0 a nil effect on revenue) as detailed under separate cover as TABLE 2 of DOCUMENT 1 to this report and vote the necessary funds to meet the expenditure.
- 6) Notes the identified issues, which may have a future budgetary impact, as identified under separate cover as TABLE 3 of DOCUMENT 1 to this report.
- 7) Notes the estimated surplus/(deficit) from ordinary activities before capital amounts of (\$529,201).
- 8) Notes the Quarterly Budget Review comparing Budgets to Actuals as tabled under a separate cover as DOCUMENT 2 to this report.

COUNCIL COMMITTEE MEETING - 25 MAY 2010
RECOMMENDATION:

	Councillor John Nell Councillor Ken Jordan	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 25 MAY 2010

143	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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BACKGROUND

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

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

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

- Increased income of \$1,805,060 for Newcastle Airport Limited (item 3).
- Increased expenditure of \$2,210,286 for Newcastle Airport Limited (item 3).
- Decreased expenditure of \$150,150 due to orders rolled forward not paid (item 10).
- Decreased expenditure of \$220,000 due to unfunded road rehabilitation works taken out of the budget (item 20).
- Increased expenditure of \$400,000 due to increased open drain maintenance (item 21).
- Decreased expenditure of \$200,000 due to decreased regional roads maintenance (item 22).
- Increased income of \$114,301 due to increased waste charge (item 28).

The major changes to the Capital Budget in this Review are detailed in Table 2 of Document 1 and are summarised as follows:

- Decreased expenditure of \$2,154,989 due to property development costs put back to next financial year (item 3).
- Decreased expenditure of \$527,260 due to savings in relocating RFS Operations Control Centre (item 7).
- Decreased expenditure of \$200,000 due to deletion of Newline Road works (item 8).
- Increased expenditure of \$300,000 due to fit out of Raymond Terrace Senior Citizens (item 11).
- Increased expenditure of \$160,000 due to changes in Nelson Bay Foreshore Improvements (item 13).
- Increased expenditure of \$100,000 due to changes in Fingal Bay Surf Club works (item 14).

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

FINANCIAL/RESOURCE IMPLICATIONS

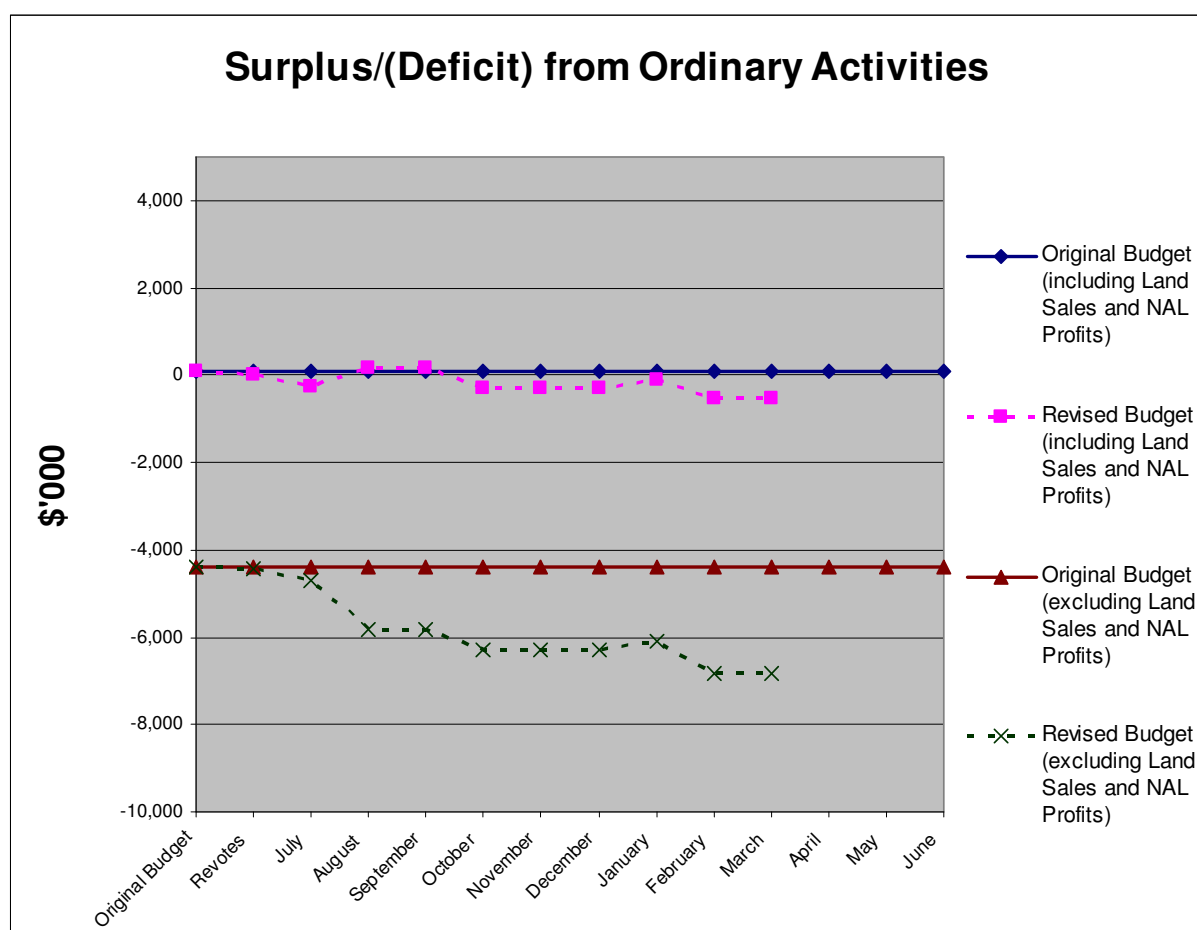
Council's Original 2009/2010 Budget estimate is a \$1,557,806 cash deficit after internal transfers, repayment of Capital lease and before depreciation of \$14.0 million. TABLE 1 of Document 1 of this report details the changes in this review. The net cash result of these changes is a projected cash deficit of \$1,450,696 (Ref N of Attachment 1), before 2010 revotes and carry forwards are taken into account and are shown in the table below;

IMPACT OF QUARTERLY BUDGET REVIEW ON COUNCIL'S ADOPTED BUDGET				
	Recurrent	Capital	Total	Ref
Document 1 Table 1	\$210,761	\$0	\$210,761	
Document 1 Table 2	\$0	\$0	\$0	
Previous Quarterly Budget Reviews	(\$266,210)	(\$40,250)	(\$306,460)	
Original Budget after transfers and before Revenue Loans and Depreciation	(66,704)	(\$3,783,059)	(\$3,849,763)	
Repayment of Capital Lease, Loans and Debtors		(123,846)	(\$123,846)	
Loan Funds to Revenue	\$1,433,027	\$1,433,600	\$2,866,627	
Net Available Surplus/(Deficit) Funds	\$1,310,874	(\$2,513,555)	(\$1,202,681)	
Revotes and Carry Forwards from previous year	(\$53,890)	(\$194,125)	(\$248,015)	
Revised 2009/2010 Cash Surplus (after transfers and before Depreciation)	\$1,256,984	(\$2,707,680)	(\$1,450,696)	N

MINUTES FOR ORDINARY MEETING – 25 MAY 2010

PROJECTED FINANCIAL RESULT FOR 2009/2010

	Ref	After March Review	Original Budget
Total Operating Revenue	A	\$87,378,900	\$83,600,490
Less Total Operating Expenditure	B	(\$73,908,101)	(\$69,515,247)
Less Total Depreciation and Provisions Transferred	C	(\$14,000,000)	(\$14,000,000)
	D=B+C	(\$87,908,101)	(\$83,515,247)
Surplus/(Deficit) From Ordinary Activities Before Capital Amounts	E=A+D	(\$529,201)	\$85,243
Net Operating movement for March Review		(\$240,594)	
Total Budgeted Land Sales Profits	F	(\$3,000,000)	(\$3,000,000)
Total Budgeted Newcastle Airport (NAL) Profits	G	(\$3,288,774)	(\$1,476,242)
Surplus/(Deficit) From Ordinary Activities without Land Sale Profits, NAL Profits and Before Capital amounts	H=E-F-G	(\$6,817,975)	(\$4,390,999)



LEGAL, POLICY AND RISK IMPLICATIONS

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

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

Executive Group
Section Managers

OPTIONS

- 1) That Council accepts the discretionary changes to the adopted budget.
- 2) That Council rejects some or all of the discretionary changes to the adopted budget.

ATTACHMENTS

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

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Document 1 of 2009-2010 Quarterly Budget Review for June 2010.
Table 1 - Discretionary Changes to the adopted Recurrent Budget.
Table 2 - Discretionary Changes to the adopted Capital Budget.
Table 3 - Identified issues, which may have a future budgetary impact.
- 2) Document 2 of 2009-2010 Quarterly Budget Review for March 2010,
comparing Budgets to Actuals.

ATTACHMENT 1

ESTIMATED STATEMENT OF RESTRICTED FUNDS MOVEMENTS TO 30/06/2010 2010 March Quarterly Forecast			
	Ref	2010 March Quarterly Forecast	2010 Original Budget Forecast
Total Operating Revenue	A	\$87,378,900	\$83,600,490
Less Total Operating Expenditure	B	(\$73,908,101)	(\$69,515,247)
Less Total Depreciation and Provisions Transferred	C	(\$14,000,000)	(\$14,000,000)
	D=B+C	(\$87,908,101)	(\$83,515,247)
Surplus/(Deficit) From Ordinary Activities Before Capital Amounts	E=A+D	(\$529,201)	\$85,243
Add Back: Depreciation and Provisions Transferred	C	\$14,000,000	\$14,000,000
Less Councils Share of Newcastle Airport Profit	W	(\$3,288,774)	(\$1,476,242)
Cash Surplus From Operations	F=A+B+W	\$10,182,025	\$12,609,001
Transferred to Restricted Funds	G	\$8,925,041	\$12,675,705
Cash Surplus / (Deficit) From Operations After Transfers	H=F-G	\$1,256,984	(\$66,704)
Total Capital Income	I	\$12,965,694	\$11,084,740
Total Capital Expenditure	J	(\$44,774,104)	(\$31,482,956)
Surplus/(Deficit) From Capital Works	K=I+J	(\$31,808,410)	(\$20,398,216)
Transferred from Restricted Funds	L	(\$29,224,576)	(\$16,615,157)
Cash Surplus / (Deficit) From Capital Works After Transfers	M=K-L	(\$2,583,834)	(\$3,783,059)
Total Cash Surplus / (Deficit) After Transfers	N=H+M+X	(\$1,450,696)	(\$1,557,806)
RECONCILIATION OF CASH POSITION			
Cash Position as at 01/07/2009	O	\$28,843,000	\$28,843,000
Estimated Cash Position as at 30/06/2010	P	\$15,498,934	\$26,019,972
Increase/(Decrease) in Cash Balance	Q=P-O	(\$13,344,066)	(\$6,100,269)
Represented By:			
Estimated Opening Restricted Funds Balance	R	\$38,648,212	\$34,923,774
Closing Restricted Funds Balance	S	\$26,754,842	\$38,648,212
Increase/(Decrease) in Restricted Funds Balance	T=S-R	(\$11,893,370)	(\$4,542,463)
Balance sheet movements for Revenue	X	(\$123,846)	\$2,291,957
Total Cash Surplus/ (Deficit) from Operations & Capital	N=Q-T	(\$1,450,696)	(\$1,557,806)
Principal of Loan Funds Repaid From Reserves	U	(\$3,259,943)	(\$2,912,234)
Increase/(Decrease) in Cash Balance	Q=T+N	(\$13,344,066)	(\$6,100,269)

MINUTES FOR ORDINARY MEETING – 25 MAY 2010

ATTACHMENT 2

ESTIMATED STATEMENT OF RESTRICTED FUNDS MOVEMENTS TO 30/06/2009 2010 March Quarterly Forecast					
RESTRICTED FUNDS	Balance as at 30/06/2009	Recurrent Budget	Capital Budget	Balance Sheet Movements	Estimated as at 30/06/2010
SECTION 94	\$14,540,114	\$368,142	(\$4,876,886)		\$10,031,370
DOMESTIC WASTE MANAGEMENT	\$2,023,955	\$1,210,321	(\$1,731,000)	(\$432,480)	\$1,070,796
Sub Total. Externally Restricted	\$16,564,069	\$1,578,463	(\$6,607,886)	(\$432,480)	\$11,102,166
BUSINESS DEVELOPMENT RESTRICTED FUND	(\$605,937)	\$2,026,177	(\$8,243,514)	\$5,132,727	(\$1,690,547)
INVESTMENT PROPERTIES DEPRECIATION FUND (INVESTMENT PROPERTIES SINKING FUND)	\$1,589,855	\$1,082,603	(\$17,150)		\$2,655,308
ASSET REHABILITATION RESERVE	\$247,779	\$500,000	(\$629,490)		\$118,289
FLEET MANAGEMENT (PLANT)	\$3,852,363	\$2,047,002	(\$2,824,541)	\$369,481	\$3,444,305
OTHER WASTE SERVICES	\$3,304,180	\$0	\$0		\$3,304,180
QUARRY DEVELOPMENT	\$741,576	\$12,533	\$0		\$754,109
BUSINESS OPERATIONS RESTRICTED FUND	(\$2,521,719)	\$1,643,039	(\$3,962,180)	\$566,044	(\$4,274,816)
EMPLOYEE LEAVE ENTITLEMENTS	\$6,246,556	\$0	\$0		\$6,246,556
BEACH VEHICLE PERMITS	(\$53,569)	\$3,500	(\$18,000)		(\$68,069)
DRAINAGE	\$495,415	\$821,000	(\$660,000)	(\$96,234)	\$560,181
INTERNAL LOAN	(\$394,533)	\$250,000	\$0		(\$144,533)
TRANSPORT LEVY	\$40,460	\$387,500	(\$380,000)		\$47,960
ENVIRONMENTAL LEVY	\$376,929	(\$7,500)	(\$60,000)		\$309,429
ADMINISTRATION BUILDING SINKING FUND	\$815,325	\$266,608	(\$1,245,238)		(\$163,305)
DEPOT SINKING FUND	\$1,066,838	\$335,899	(\$439,285)		\$963,452
RTA BYPASS ROADS MTCE RESTRICTED FUND	\$1,857,359	\$45,078	(\$450,000)		\$1,452,437
RESTRICTED CASH ESTIMATED BALANCE	\$3,738,267	(\$3,186,614)	(\$2,844,952)	\$2,866,627	\$573,328
COUNCILLOR WARD FUNDS	\$177,516	\$900,000	(\$225,340)		\$852,176
INFORMATION TECHNOLOGY STRATEGY	\$351,117	(\$60,000)	(\$150,000)		\$141,117
PROVISION FOR LOCAL GOVT ELECTION	\$0	\$100,000	\$0		\$100,000
PARKING METER RESERVE	\$758,366	\$179,753	(\$467,000)		\$471,119
Sub Total. Internally Restricted	\$22,084,143	\$7,346,578	(\$22,616,690)	\$8,838,645	\$15,652,676
RESTRICTED FUNDS TOTAL	\$38,648,212	\$8,925,041	(\$29,224,576)	\$8,406,165	\$26,754,842
* Balance Sheet Movements are the repayments of the Principals on Loans and the funds from Loans received and the proceeds for land and fleet sales					

ITEM NO. 4**FILE NO: PSC2006-1228****GOODS AND SERVICES TAX CERTIFICATE****REPORT OF: DAMIEN JENKINS, FINANCIAL SERVICES MANAGER****GROUP: COMMERCIAL SERVICES GROUP**

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the submission to the Division of Local Government of the Goods and Services Tax Certificate at **ATTACHMENT 1**.
-

COUNCIL COMMITTEE MEETING - 25 MAY 2010**RECOMMENDATION:**

	Councillor Ken Jordan Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 25 MAY 2010

144	Councillor Ken Jordan Councillor Glenys Francis	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to assist compliance with Section 114 of the Commonwealth Constitution; Council is required to provide a Goods and Services Tax Certificate certifying the following:

Voluntary GST has been paid by Port Stephens Council for the period 1 May 2009 to 30 April 2010. Adequate management arrangements and internal controls were in place to enable the Council to adequately account for its GST liabilities and recoup all GST input tax credits eligible to be claimed. No GST non-compliance events by the Council were identified by or raised with the Australian Taxation Office.

By 8 June each year, the Commonwealth seeks from members of the GST Administration Subcommittee (GSTAS) advice on voluntary GST payments by local government bodies. The timing of this request is to allow the Commonwealth

Commissioner of Taxation to make a determination concerning the amount of GST collected in the financial year in question. Information sought by the Commonwealth is simply instances of where voluntary payments should have been, but were not, paid by local government bodies.

Accordingly, Councils are requested to provide the Division of Local Government with this Certificate before 1 June 2010 to enable the Division to provide the advice to NSW Treasury for confirmation with the Commonwealth Commissioner of Taxation.

Regarding the use of the term "voluntary" in the certificate, Section 5 of A New Tax System (Commonwealth-State Financial Arrangements) Act 1999, subsection 3 (d) refers to "amounts of voluntary GST payments". It follows from this Act that Treasury has requested on behalf of the Taxation Office to include the term voluntary.

FINANCIAL/RESOURCE IMPLICATIONS

Nil.

LEGAL, POLICY AND RISK IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

Accept the recommendation and sign the Goods and Services Tax Certificate
Reject the recommendation and not sign the Goods and Services Tax Certificate

ATTACHMENTS

- 1) Goods and Services Tax Certificate.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

PORT STEPHENS COUNCIL

GOODS AND SERVICES TAX CERTIFICATE

Payment of Voluntary GST 1 May 2009 to 30 April 2010

To assist compliance with Section 114 of the Commonwealth Constitution, we certify that:

- Voluntary GST has been paid by Port Stephens Council for the period 1 May 2009 to 30 April 2010.
- Adequate management arrangements and internal controls were in place to enable the Council to adequately account for its GST liabilities and recover all GST input tax credit eligible to be claimed.
- No GST non-compliance events by the Council were identified by or raised with the Australian Taxation Office.

Signed in accordance with a resolution of Council made on 25 May 2010

P Gusling
General Manager/
Responsible Accounting
Officer

B Mackenzie
Mayor

B Westbury
Councillor

ITEM NO. 5**FILE NO: PSC2009-2013****QUARTERLY REPORT – MARCH QUARTER 2010 AGAINST COUNCIL PLAN 2009-2013****REPORT OF: WAYNE WALLIS - GROUP MANAGER CORPORATE SERVICES**
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopts the Quarterly Report - March Quarter 2010 against the Council Plan 2009-2013
-

COUNCIL COMMITTEE MEETING - 25 MAY 2010
RECOMMENDATION:

	Councillor Glenys Francis Councillor Peter Kafer	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 25 MAY 2010

145	Councillor Glenys Francis Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to provide to Council and the community a report of progress in the achievement of goals and actions set out in the Council Plan 2009-2013.

FINANCIAL/RESOURCE IMPLICATIONS

The Quarterly Report contains information pertaining to progress against the financial and human resource plans for 2009-2013, including budget performance against target; capital works and projects; asset management plans; occupational health and safety performance and workforce planning.

LEGAL, POLICY AND RISK IMPLICATIONS

Under the Local Government Act 1993 a quarterly report of progress against the Council (Management) Plan is required to be made to Council and the community. The Quarterly Report March 2010 complies with that provision.

The report also contains information pertaining to Council's legal expenditure and recovery of legal costs; legal matters across the jurisdictions; its performance against insured and self-insured risks; progress in implementing the corporate risk management strategies; community compliance with regulations; and customer service requests from the community.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Quarterly Report March 2010 contains details of environmental works and initiatives carried out during the quarter; progress on social and cultural planning; and highlights of events and meetings held in the social/cultural area.

The Report also details progress during the Quarter in relation to economic development across the LGA and significant events and/or initiatives that contribute to the economic sustainability outcomes.

CONSULTATION

The Quarterly Report March 2010 was compiled in cooperation with staff across the whole of Council's operations.

OPTIONS

- 1) Adopt the Quarterly Report March 2010 against the Council Plan 2009-2013;
- 2) Rejects the Quarterly Report March 2010 against the Council Plan 2009-2013.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Quarterly Report March 2010 against the Council Plan 2009-2013.

ITEM NO. 6**FILE NO: PSC2006-6848****CORPORATE RISK MANAGEMENT POLICY**

REPORT OF: ANNE SCHMARR - ORGANISATION DEVELOPMENT MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current Enterprise Risk Management Policy adopted 24 March 2009, Minute no. 075 (Attachment 1)
- 2) Adopt the proposed Corporate Risk Management Policy (Attachment 2)

COUNCIL COMMITTEE MEETING - 25 MAY 2010
RECOMMENDATION:

	Councillor John Nell Councillor Sally Dover	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 25 MAY 2010

146	Councillor Peter Kafer Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to revoke the existing Enterprise Risk Management Policy and seek to adopt an updated Corporate Risk Management Policy.

In 2009 a Corporate Risk Management Team was established to bring together the various disciplines of risk management into the Organisation Development Section. Integrating Occupational Health and Safety, Risk Financing and Claims management will provide a more effective outcome for risk and safety management by ensuring a coordinated corporate and systematic approach to risk. Following the appointment in September 2009 of a specialist Corporate Risk Manager, Council has now embarked on the implementation of a more contemporary and highly beneficial Corporate Risk Management System. The

Corporate Risk Management Policy is one of the key reference documents within this system.

The present Enterprise Risk Management policy was drafted with reference to the Australian Standard 4360:2004 for risk management. In December 2009 this was replaced with a new International Standard ISO 31000:2009. The new standard provides organisations with much clearer guidance on the design and implementation of a more sophisticated risk management system that better aligns with today's greater governance expectations – an aspect that was not adequately addressed in the Australian Standard. The new standard is reflected in the proposed new policy.

The changes to the policy are many and, as such, Council's usual practise of highlighting changes on the old policy is redundant. Both the current and proposed policies are attached to this report.

FINANCIAL/RESOURCE IMPLICATIONS

Sound project and program planning and implementation based on risk management principles will reduce the exposure of the community to losses. A more structured approach to managing the risks associated with provision of services and facilities will reduce the cost of claims and optimise the economic benefit to Council.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's proposed Corporate Risk Management System will be compliant with ISO 31000:2009 and the Local Government Act 1993 (NSW).

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Part of Council's mission is to provide services and make decisions to enhance our quality of life, our economy and our natural environment. The identification, measurement and control of risks to protect the community, the Council and its assets against loss will help to ensure the sustainability of Council services and facilities.

The principles of risk management require staff to make informed judgements concerning the level and cost of risk involved in achieving cost-effective outcomes.

Council's focus on environmental sustainability and addressing the impacts of climate change are supported by the Corporate Risk Management system that includes consideration of environmental impacts as part of the risk assessment process.

CONSULTATION

Executive Team
Group Manager, Corporate Services
Organisation Development Manager
Corporate Risk Manager
Risk Management Co-ordinator

OPTIONS

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

ATTACHMENTS

- 1) Enterprise Risk Management Policy
- 2) Corporate Risk Management Policy

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted: 24/03/2009
Min No: 075

FILE NO: PSC2006-6848

TITLE: ENTERPRISE RISK MANAGEMENT

BACKGROUND

Enterprise Risk Management (ERM) is a structured, consistent and integrated approach that aligns strategy, processes, people, technology and knowledge to minimise risks to corporate goals and maximise the achievement of objectives. Its purpose is to evaluate and manage the uncertainties Council faces to maximise opportunities.

At present, Council's approach to risk management can be fragmented and capture of data can be infrequent and this lack of consistency inhibits Council's ability to manage its risks effectively. This policy sets out Council's intention regarding Enterprise Risk Management and how it will become embedded into our culture.

Port Stephens Council's enterprise risk management culture will become part of Council's practices and business processes, align with our Business Excellence Framework to anticipate opportunities for continuous improvement and become integral to the way Council does business.

DEFINITIONS

Risk is the chance of something happening that will have an impact upon objectives. It is measured in terms of consequence and likelihood. (AS/NZ 4360:2004)

Risk Management is the culture, processes and structures that are directed towards the effective management of potential opportunities and adverse effects. (AS/NZ 4360:2004).

Risk Portfolio is your risk identification captured in a risk register.

Risk Optimisation is risk mitigation. This embodies the concept of choice.

Risk Appetite is how we determine the level of risk acceptable to Council. This facilitates benchmarking in future reviews.

Risk Matrix is the central reference document used for determining the rating of a risk. Any risk must be rated in order to enact the appropriate measures to manage the nominated risk.

Risk Categories are the key areas of Council which all activities can be aligned to.

RAP is the risk advisory panel. This group is made of key members of staff who will monitor, review and report to the Executive Team.

Risk Framework can also be referred to as a risk structure or a risk model.

Strategic Risk is the capture of risks as defined by the senior management team. This data will be reviewed and reported on quarterly and aligns with the Council planning process.

Corporate Risk is the assessment of everyday situations encountered by any staff member and captured in the risk portfolio.

OBJECTIVE

The purpose of this policy is to promote a standard approach to enterprise risk management at Port Stephens Council and to ensure that all risks that could affect our people, reputation, business processes and systems, financial and environmental performance are identified, assessed and treated to an acceptable level.

Specifically, this includes the following areas:

- Business Processes & systems
- Financial
- Environmental
- People
- Reputation

PRINCIPLES

Australian Business Excellence Framework

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – *Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.*
- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
- 4) **PEOPLE** – *Develop and value people's capability and release their skills, resourcefulness and creativity to change and improve the organisation.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.*
- 6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

POLICY STATEMENT

Council is committed to excellence in Enterprise Risk Management in order to benefit the community and manage the cost to Council. To meet this commitment, risk management is to be the responsibility of all employees, councillors, contractors and volunteers.

Implementation of Enterprise Risk Management will be a Council priority and will be implemented through consultation with the General Manager, Executive Team and all employees.

Managers, at all levels, will create an environment where managing risk is accepted as the personal responsibility of every employee and where every employee is encouraged to be actively involved in the management of risk within their area of responsibility.

The designated Enterprise Risk Management Co-ordinator will be responsible for the facilitation of advice, training and service assistance to all areas on risk management matters.

Enterprise Risk Management will be integrated into Council's existing planning and operational process including the Business Excellence Framework, internal audit program, self assessment process and integrated planning process. It will also become embedded into Council's culture through opportunities such as the planning panel (TP²), PDSA teams and special projects.

RELATED DOCUMENTS

Enterprise Risk Management Framework
[Enterprise Risk Assessment Matrix](#)
[Corporate Risk Register](#)

RELATED POLICIES

OH&S Management Directive
Records Management Directive

REVIEW DATE

February 2010

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act, 1993
NSW Occupational Health & Safety Act, 2000
Civil Liability Act, 2002

IMPLEMENTATION RESPONSIBILITY

Implementation of this policy is the responsibility of the Risk Management Co-ordinator.

ATTACHMENT 2



POLICY

Adopted: 24/03/2009

Minute No: 075

Adopted:

Minute No:

Amended:

Minute No:

FILE NO: PSC2006-6848

TITLE: CORPORATE RISK MANAGEMENT

REPORT OF: ORGANISATION DEVELOPMENT MANAGER

BACKGROUND

Port Stephens Council is committed to managing risk on a systematic, organisation-wide basis consistent with International Standard ISO 31000:2009 *Risk Management*. This approach will create sustainable value by both minimising risks to the achievement of our objectives and by identifying potential opportunities.

Our corporate risk management system will comprehensively integrate all risks, including safety, environmental risks and business risks (financial, property, security, commercial, etc), into our decision making, business planning and reporting at all levels. A consistent, holistic approach to risk management strengthens our ability to deliver more efficient and effective services to our community.

Our system will also align with Council's Business Excellence Framework by facilitating continuous improvement.

OBJECTIVE

The purpose of this policy is to promote an integrated, holistic approach to corporate risk management and to ensure that all risks that could affect the achievement of our objectives are identified, assessed and treated to an acceptable level. The integration of corporate risk management into our decision making process helps us to make informed choices for the benefit of Council and our stakeholders.

PRINCIPLES

- 1) Corporate Risk Management will be led by the Senior Management Team, ie the General Manager, Group Managers and Section Managers with support from the Corporate Risk Management Team. The Senior Management Team is committed guiding effective risk management by the application of the principles detailed in ISO 31000:2009 *Risk Management*.
- 2) Every staff member is responsible to implement and embed Corporate Risk Management by:
 - identifying, managing and monitoring risks in their areas of accountability
 - communicating these areas of risk to their manager or supervisor; and by
 - taking measures to ensure their own safety, that of other employees, customers and other workers.
- 3) The key steps for implementing Corporate Risk Management across the organisation include:
 - i. Establishing Corporate Risk Registers
 - ii. Establishing Group and Corporate Risk Management Committees
 - iii. Developing a communication strategy for the Corporate Risk Management Framework
 - iv. Reporting on Cost of Risk
 - v. Completing the development of an Occupational Health and Safety Management System
- 4) By implementing Corporate Risk Management throughout Council, we will be better positioned to meet our objectives and deliver services and infrastructure in a way that is sustainable and meets our customers' needs.

POLICY STATEMENT

Port Stephens Council is committed to developing an effective Corporate Risk Management system that clearly considers all major risks integrated into one common framework. Our system will focus on continually improving comprehensive risk management processes consistent with ISO 31000:2009 *Risk Management*.

Council is committed to empowering employees to assume accountability and responsibility for risk management in the workplace by creating and promoting a culture of participation and by providing a robust process to monitor and review the effectiveness of risk management across Council.

RELATED POLICIES

OH&S Management Directive

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Our mission includes the provision of services and the making of decisions to enhance our quality of life, our economy and our natural environment. The identification, measurement and control of risks to protect the community, the Council and its assets against loss helps to ensure the sustainability of Council services and facilities and ensure the safety of residents, visitors and employees alike.

ECONOMIC IMPLICATIONS

The principles of risk management require staff to make informed judgements based on best available information concerning the level and cost of risk involved in achieving cost-effective outcomes.

ENVIRONMENTAL IMPLICATIONS

Our focus on environmental sustainability is supported by the Corporate Risk Management system that includes consideration of environmental impacts as part of the risk assessment process.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act, 1993
NSW Occupational Health & Safety Act, 2000
Civil Liability Act, 2002

IMPLEMENTATION RESPONSIBILITY

Implementation of this policy is the responsibility of the Corporate Risk Manager.

REVIEW DATE

1 April 2012

ITEM NO. 7

FILE NO:PSC2005-3622

SABRE JET, BETTLES PARK, RAYMOND TERRACE

REPORT OF: IAN CRAWFORD - ACTING RECREATION MANAGER

GROUP: FACILITIES & SERVICES

Item 7 was brought forward and dealt with prior to Item 1.

ITEM NO. 8**FILE NO: PSC2006-0359****COMMERCIAL VESSELS ASSOCIATION WHARF FEES**

REPORT OF: JASON LINNANE – ACTING GROUP MANAGER FACILITIES & SERVICES
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Write off the outstanding debt owed from the Commercial Vessels Association of NSW Incorporated in the amount of \$8,250.00 (inc GST) as not lawfully recoverable.
-

COUNCIL COMMITTEE MEETING - 25 MAY 2010
RECOMMENDATION:

	Councillor John Nell Councillor Frank Ward	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 25 MAY 2010

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

The purpose of this report is to obtain Council approval to write off a debt that is not recoverable.

The Commercial Vessels Association of NSW Incorporated represents three of the approximately fifteen commercial vessels that use the wharf in Nelson Bay boat harbour. In May 2008 Council negotiated with the Association a methodology acceptable to both the Association and Council for charging wharf usage fees to contribute towards the costs of maintaining the Nelson Bay wharf.

Council adopted fees and charges in 2008/2009 for the first time for "Use of Wharves by Commercial Operators":

- a) Up to 80 passengers \$9.10 (inc GST) per use of wharf

MINUTES FOR ORDINARY MEETING – 25 MAY 2010

- b) 81-150 passengers \$18.20 (inc GST) per use of wharf
- c) 150 or more passengers \$27.30 (inc GST) per use of wharf

An amount of \$8,250 (inc GST) was agreed as a minimum amount to be paid by the Association subject to examination of operator's log books to confirm actual usage numbers.

This method was preferred due to the difficulty in collecting fees at the time of wharf usage in a cost effective manner.

Unfortunately the representative of the Association who was the party with whom Council negotiated the agreement has since passed away and the Executive Officer of the Association has taken a different view of the agreement. Specifically the Commercial Vessels Association is now taking the view that as they only have three paid members it would be appropriate for Council to collect wharf usage fees directly from operators.

Council has not yet identified an economical and reliable way to collect per use wharf fees.

FINANCIAL/RESOURCE IMPLICATIONS

Council's Recreation Services Section has satisfied itself that Council cannot recover the wharf usage fees levied on the Association as the Association does not use the wharf, rather some of its member operators use the wharf. No provision has been made for the bad debt which will result in a bad debt expense of \$7,250.00 in 2009/2010.

LEGAL, POLICY AND RISK IMPLICATIONS

A Council resolution is required in order to write off this debt under Clause 213 of the Local Government (General) Regulation 2005.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This agreement was the first attempt to recoup costs of operating the four wharves managed by Council. Recreation Services Section will endeavour to identify and implement a reliable and economical fee collection system for wharf usage fees included in Council's adopted fees and charges.

CONSULTATION

Parks Facilities Coordinator, Revenue Coordinator, Financial Services Manager, Commercial Vessels Association

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9**FILE NO: 1190-001****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 3) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
- a) Facilities & Services – Funding to install picnic furniture to Rudd Reserve – Mayoral Funds - \$2,400.00.
 - b) RSL Australia Raymond Terrace Sub Branch – Funding to re-furbish the sandstone steps at the War Memorial in ANZAC Park, Raymond Terrace – West Ward Funds - \$4,000.00.

COUNCIL COMMITTEE MEETING - 25 MAY 2010**RECOMMENDATION:**

	Councillor Peter Kafer Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 25 MAY 2010

148	Councillor Peter Kafer Councillor Steve Tucker	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.

MINUTES FOR ORDINARY MEETING – 25 MAY 2010

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

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

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

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

WEST WARD – Councillors Francis, Kafer, Jordan

RSL AUSTRALIA RAYMOND TERRACE SUB BRANCH	FUNDING TO RE-FURBISH THE SANDSTONE STEPS AT THE WAR MEMORIAL IN ANZAC PARK, RAYMOND TERRACE	\$4,000.00
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MAYORAL FUND

FACILITIES & SERVICES PORT STEPHENS COUNCIL	FUNDING TO INSTALL PICNIC FURNITURE TO RUDD RESERVE	\$2,400.00
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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. 10

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 25 May 2010.

No:	Report Title	Page:
1	Designated persons – Pecuniary Interests	169

COUNCIL COMMITTEE MEETING - 25 MAY 2010 **RECOMMENDATION:**

	Councillor John Nell Councillor Ken Jordan	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 25 MAY 2010

149	Councillor John Nell Councillor Bob Westbury	It was resolved that the recommendation be adopted.
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COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

DESIGNATED PERSONS – PECUNIARY INTERESTS

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

FILE: A2004-0030

BACKGROUND

The purpose of this report is to advise Council of the persons designated for the submission of Pecuniary Interest Returns.

Councillors (past and present)

Cr Bruce MacKenzie
Cr Shirley O'Brien
Cr Daniel Maher
Cr Peter Kafer
Cr Frank Ward
Cr Steve Tucker
Cr Geoff Dingle
Cr Bob Westbury
Cr John Nell
Cr Sally Dover
Cr Ken Jordan
Cr Glenys Francis

General Manager's office

General Manager
Executive Officer

Commercial Services

Group Manager Commercial Services
Principal Property Advisor
Commercial Property Manager
Commercial Enterprises Manager
Tourism Manager
Financial Services Manager
Fleet Management Supervisor

Finance & Assets Coordinator
Financial Accountant
Economic Development Manager
Procurement & Contracts Coordinator
Property Development Coordinator

Facilities & Services

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

Corporate Services

Group Manager Corporate Services
Legal Services Manager
Communications & Customer Relations Manager
Information Management Manager
Organisation Development Manager

Sustainable Planning

Group Manager Sustainable Planning
Development and Building Manager
Building Coordinator
Integrated Planning Manager
Strategic Planning Coordinator
Senior Land Use Planner
Strategic Planner (3)
Customer Support Coordinator
Engineering Coordinator
Development Coordinator
Senior Development Planner (3)
Development Planners (2)
Assistant Development Planner
Senior Building Surveyors (3)
Senior Fire Safety Officer
Health and Building Surveyors (5)
Section 94 Engineer
Social Planning Coordinator
Senior Development Engineer

MINUTES FOR ORDINARY MEETING – 25 MAY 2010

Student Development Engineer (2)
Infrastructure Planning Coordinator
Traffic Engineer
Environmental Services Manager
Coordinator Environmental Health & Regulation
Coordinator Natural Resources
Compliance Officer
Executive Planner
Environmental Health Team Leader
Rangers (5)
Vegetation Management Officer
Environmental Health Officer (3)

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217
16-2007-565-1 & 40-2010-9-1

25 WEATHERLY CLOSE, NELSON BAY

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Development and Building Staff undertake:
- a site safety audit at 25 Weatherly Close, Nelson Bay; and
 - investigate whether physical commencement of DA 1988-61637-1 for Three Units has occurred; and
 - investigate with the developer their response to and Order No. 16 issued to complete the building site at 25 Weatherly Close, Nelson Bay; and
 - provide and Information Report to Council regarding the outcomes of the audit and investigation.
-

ORDINARY COUNCIL MEETING - 25 MAY 2010

150	Councillor John Nell	There being no objection the Notice of Motion was adopted.
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BACKGROUND REPORT OF: DAVID BROYD – GROUP MANAGER SUSTAINABLE PLANNING

BACKGROUND

A Notice of Motion which provided a progress report on the clean up of the derelict building site at 25 Weatherly Close was considered by Council in February 2007. Council's resolution of 27 February 2007 was that Council:-

- 1. Request the owner to remove the site shed and any building material from the public road at 25 Weatherly Close, Nelson Bay.*
- 2. Investigate demolition of the partially completed three unit development at 25 Weatherly Close, Nelson Bay.*

A copy of this previous Notice of Motion is provided in Attachment 1.

Subsequent to the above and discussions with the owner, on 28 June 2007 a Development Application 16-2007-565-1 was lodged by Mr C & Mrs M Poulakas seeking consent to Demolish the existing partially constructed building and erect an Urban Housing development – 3 Dwellings (over 4 Storeys) on the property. Development Consent was granted subject to conditions on 15 January 2009.

As part of this development consent and proposed re-development of the site, the partially constructed building works (associated with the previous development consent 7-1988-61637-1) were to be demolished effectively addressing the on-going concerns around the derelict building site.

Conditions of development consent 16-2007-565-1, specifically relevant include:-

Condition 12 *Within one (1) year from the date of this consent or prior to the issue of the Construction Certificate (whichever occurs first), the current structures on the site shall be completely demolished and removed from the site, and any construction site offices shall be located at least 6 metres of the front property line.*

Condition 13 *No temporary building or construction offices shall be permitted on the site unless an active period of construction is taking place. Any such offices shall be removed from the site if no construction has taken place within a period of 6 months. Such offices shall not be placed within six metres of the front property line.*

A site inspection was undertaken on 18 January 2009 where it was observed that the existing building at the premises remained on site and had not been demolished. This shows a breach of Condition 12 as the demolition was to be undertaken within one year from the date of consent (prior to 15 January 2010).

During the site inspection it was also observed that there was a construction site office (demountable) type building positioned within six metres of the property boundary. Condition 12 also requires any construction site office to be placed no closer than six metres from the front property line. In addition, Condition 13 prohibits a temporary building or construction office from being on the site other than during a period of active construction.

Conclusions drawn from both site inspection and from on-going complaints were that the visual appearance of the construction site office and the disused building at the site are considered to have an adverse impact on the visual amenity in the proximity of the premises.

As a result, on the 20 January 2010 Council's Compliance Officer issued a Notice of Council's Intention to Serve an Order. Subsequent to this, the Order under Section 121B (15) of the Environmental Planning & Assessment Act 1979 was issued on 16 March 2010.

MINUTES FOR ORDINARY MEETING – 25 MAY 2010

The terms of the order were essentially to carry out the works required under Condition 12 and 13 of Development Consent 16-2007-565-1. A period of two (2) calendar months from the date of the Order was given to complete these actions.

This period has recently lapsed in May 2010 and therefore, consideration will need to be given as to what further action is to be undertaken in relation to failing to comply with the requirements of the Order as outlined in the Order and pursuant to relevant Sections of the Environmental Planning & Assessment Act 1979.

The works that have been undertaken are in relation to the original development approved under Consent No. 7-1988-61637-1 for Three Units.

The Order which has been issued cannot be enforced as the Consent No. 16-2007-565-1 has not been acted upon.

The action Council can take to resolve the appearance of the site is to issue an order to demolish if any building is considered to be unsafe or to become unsafe. An inspection of the works by Council's Building Surveyor will need to be undertaken to do a site safety audit, to determine whether this action is warranted.

The site construction commenced under a valid development consent and a valid building consent. The works which have been undertaken are therefore lawful, and the site remains in the construction phase for the approved development, albeit, no physical works have occurred for some time.

Council staff should also investigate whether Consent No. 1988-61637-1 for Three Units has physically commenced, to determine whether that consent has lapsed. Evidence on file suggests that the physical commencement has occurred, but this should be verified through a site inspection by Council's Building Surveyor.

Council could also issue an Order requiring that the developer complete the DA1988-61637-1 for Three Units. However, the developer's financial capacity to complete the development may mean enforcement of the condition is problematic.

ATTACHMENTS

- 1) Notice of Motion Item 1 from Minutes of Ordinary Meeting 27 February 2007 - Derelict Building Weatherly Close, Nelson Bay

ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 27 FEBRUARY 2007

NOTICE OF MOTION

ITEM NO. 1

FILE NO: 3150-029 + 7-1988-61637

DERELICT BUILDING WEATHERLY CLOSE, NELSON BAY

COUNCILLOR: NELL

THAT COUNCIL:

- 1) Prepare a progress report on the clean up of the derelict building site in Weatherly Close, Nelson Bay.

ORDINARY MEETING OF COUNCIL – 27 February 2007

MOTION:

025	Councillor Nell Councillor Baumann	That Council: 1. Request the owner to remove the site shed and any building material from the public road at 25 Weatherly Close, Nelson Bay 2. Investigate demolition of the partially completed three unit development at 25 Weatherly Close, Nelson Bay.
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The Motion on being put was carried.

BACKGROUND REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING

BACKGROUND

The matter relates to a partially completed three unit development at 25 Weatherly Close Nelson Bay and key issues are as follows.

- Development consent was granted in 1988.
- Building approval was given in 1990 and work commenced the same year with brickwork for the ground floor completed, after which all work ceased.
- The matter was reported to Council in November 2002, with the outcome being to ensure public safety and to speak to the owner about future intentions.

MINUTES FOR ORDINARY MEETING – 25 MAY 2010

MINUTES FOR ORDINARY MEETING – 27 FEBRUARY 2007

- The owner subsequently attended a Development Assessment Panel meeting in February 2005, advising that consideration was being given to lodgement of a new development application.
- An Information Paper was placed before Council in September 2005, advising that the owner had engaged a local design consultant to prepare plans and lodge a new development application for an upgraded design for three units.
- Numerous requests to the owner have not resulted in either work on the existing building or lodgement of a new development application.

Practical enforcement options seem limited to maintenance of public safety through site fencing, consideration could be given to requiring removal of the builder's site shed until work recommences.

To require demolition, Council would need to be able to prove that the building is likely to become a danger to the public or that the building is so dilapidated as to be prejudicial to neighbouring properties and/or public safety.

To enforce completion of the development in the current circumstances appears problematic and further legal advice would be necessary before proceeding with this option.

MINUTES FOR ORDINARY MEETING – 25 MAY 2010

There being no further business the meeting closed at 7.20pm.

I certify that pages 1 to 178 of the Open Ordinary Minutes of Council 25 May 2010 were confirmed by Council at its meeting held on 8 June 2010.

.....
Cr Bruce MacKenzie
MAYOR