

Minutes 8 JUNE 2010



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 8 June 2010, commencing at 7.14pm.

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.

151	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that the apology from Cr Peter Kafer be received and noted.
152	Councillor Steve Tucker Councillor Bob Westbury	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 25 May 2010 be confirmed.
		Nil Declaration of Interest were received.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2006-6753

22 HOMESTEAD STREET, SALAMANDER LOT 598, DP 27382

THAT COUNCIL:

- 1) Re-zoned the parcel of land at 22 Homestead Street, Salamander from rural to 2(a) residential.
-

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

153	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council investigate the whole site to be rezoned to residential and that the applicant have the opportunity to have another ecologist review of the site and potential offsetting.
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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 Glenys Francis, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Crs John Nell.

BACKGROUND

- 1) Port Stephens Council purchased a 3.8ha parcel of land located at 22 Homestead Street, Salamander Bay in late 1996. The land was zoned 6(a) Open Space.

Upon acquisition by Council the land was classified "Operational

It was the intention of Council at the time of the acquisition that the land be consolidated with the adjoining Council owned lot (Lot 599) with a view to extend the light industrial zoning and create 40 industrial allotments.

The previous owner of 22 Homestead Street had made approaches to Council regarding lodging an application to rezone the lot to residential. Adjoining 22 Homestead Street to the north and east is existing residential dwellings and it would be a logical extension of the adjacent residential zoning.

MAYORAL MINUTE

ITEM NO. 2

FILE NO: PSC2009-00382

**STONEY RIDGE – LOT 1, DP1074566, 60 DIEMARS ROAD,
SALAMANDER**

THAT COUNCIL:

- 1) Re-classify a 20M wide strip of land from community to operational at Lot 1, DP1074566, 60 Diemars Road, Salamander Bay.
-

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

154	Councillor Bruce MacKenzie Councillor Frank Ward	It was resolved that the recommendation be adopted.
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BACKGROUND

On the 9th March 2010 a letter requesting a 15 metre wide Asset Protection Zone was submitted to Council for the Salamander Haven aged care facility by Development and Building Consultant Mr Keith Lindsay.

Stoney Ridge Reserve and in particular the area to the rear of the proposed development is Community Land and is zoned Public Recreation 6(A) pursuant to Port Stephens Local Environmental Plan 2000. As per the Local Government Act (1993) and in accordance with a Plan of Management, Community Land must not be sold, exchanged or otherwise disposed of except in the instance of enabling the land to be added to Crown land in accordance with the Crown Lands Act 1989, or a protected area under the National Parks and Wildlife Act 1974. In addition, Council is unable to offer a licence, lease, estate or private benefit on Community Land.

Council's Recreation Services Section is currently developing a Draft Open Space Strategy and has identified Stoney Ridge as a natural area bushland reserve which includes areas of cultural heritage significance. Further, in 2005 an Environmental and Cultural Heritage Study was carried out by Ecological Australia which identified a range of threatened flora and fauna across the site, as well as Aboriginal scar trees which do not appear to be in the area of the requested Asset Protection Zone.

In respect to new development the requirements of the Rural Fire Service's Planning for Bushfire Protection 2006 (Section 3.3 Part (b)) states that easements should not be considered where the adjoining land is used for a public purpose, where vegetation

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management cannot be legally granted (eg. Council Reserve, National Park, SEPP 14 Wetlands and SEPP 26 Critical Habitat).

The process to reclassify the land is a lengthy and will need to be clarified once appropriate investigations have been undertaken on how Council acquired the site

For further information refer to attachments.

ATTACHMENTS

- 1) A formal response letter from Council to Mr Keith Lindsay. dated 3rd June 2010
Re LOT 1 DP 1074566
- 2) Council Report 13th October 2009
SECTION 96 APPLICATION TO MODIFY DEVELOPMENT CONSENT FOR
URBAN HOUSING AT NO. 60 DIEMARS ROAD, SALAMANDER BAY.
- 3) Minute of Meeting 13 October 2009 – re legal implication changes.

ATTACHMENT 1

Telephone Inquiries:
Amanda Gale
Parcel No: 40611

3 June 2010

Mr Keith Lindsay
2 Alton Close
RAYMOND TERRACE NSW 2324

Dear Sir,

Re: LOT: 1 DP: 1074566, 60 Diemars Road SALAMANDER BAY 2317

I refer to your previous meeting with the Mayor, Ken Solman, Len Allen and Reg Longworth and subsequent correspondence dated 9 March 2010 in relation to a proposal to extend the facility on the above mentioned site by the addition of an 80 bed aged care facility on the eastern end of the site adjacent to Soldiers Point Road and an additional 40 self care units on the western end of the site.

Council's advice was sought on two particular points, specifically relating to the additional 40 self care units on the western end of the site, which will require the removal of trees within the koala habitat area and buffer zone south of the area containing endangered flora – 'callistemon linearifolius' as was shown on the prepared Vegetation Communities and Threatened Flora plan provided.

As outlined, to facilitate the development would require Council agreeing to dedicate a portion of Stoney Ridge Reserve adjacent to the western boundary of the site, such area being approximately 15 metres wide as an Asset Protection Zone (APZ).

Advice from Council was sort prior to any further preparation of plans for lodgement under a development application given the costs associated with preparation of a development application for such a proposal. Two specific questions were asked of Council and below is an outline of Council's response to the proposal.

Further, it should be noted that since the meeting with the Mayor and others and subsequent correspondence, the Mayor has called the matter to Council for consideration. A report will be forwarded to full Council from Facilities and Services Group in relation to the use of Council land for a future Asset Protection Zone.

Council's concurrence to the Asset Protection Zone being located on Council land

The following comment is provided in relation to the request for Council to provide a 15 metre wide Asset Protection Zone (APZ) across Council's land for the purposes of protecting a private development.

Stoney Ridge Reserve and in particular the area to the rear of the proposed development is 'community land' and is zoned Public Recreation 6(A) Zone pursuant to Port Stephens Local Environmental Plan 2000.

As taken from the Local Government Act 1993 and in accordance with a plan of management, 'community land' must not be sold, exchanged or otherwise disposed of except in the instance of enabling the land to be added to Crown land in accordance with the Crown Lands Act 1989, or a protected area under the National Parks and Wildlife Act 1974. In addition, Council is unable to offer

a licence, lease, estate or private benefit on 'community land' which also includes land categorised as a natural area – inclusive of bushland, wetland, water course, cultural significance and general community use land.

Council's Recreation Services Section is currently developing a Draft Open Space Strategy and has identified Stoney Ridge as a natural area bushland reserve which includes areas of cultural heritage significance. Further, in 2005 an Environmental and Cultural Heritage Study was carried out by Ecological Australia which identified a range of threatened flora and fauna across the site, as well as Aboriginal scar trees which do not appear to be in the area of the requested Asset Protection Zone.

That said, the only way a lease, licence or estate could be considered would be for the purpose of providing public utilities, public recreation or to provide a public road.

Further, in respect to new development the requirements of the Rural Fire Service's Planning for Bushfire Protection 2006 (Section 3.3 Part (b)) states that, easements should not be considered where the adjoining land is used for a public purpose, where vegetation management cannot be legally granted (eg. Council Reserve, National Park, SEPP 14 Wetlands and SEPP 26 Critical Habitat).

Council's thoughts on the feasibility of the proposal

For the purpose of providing background information, the original Development Consent 16-2004-1681-1 was granted for the original urban housing development (97 units and recreation facility) on 4 August 2005. This original consent was subsequently modified on seven (7) occasions with the last modified consent granted on 23 November 2007.

A separate Development Consent 16-2007-1117-1 was granted on 8 May 2008 for an additional eight (8) dwellings and a community building to form a part of the existing Salamander Retirement Village. This application also involved the relocation of drainage basins to facilitate the siting of the eight dwellings and to accommodate the community facility on-site. A subsequent application 16-2007-1117-2 was lodged in order to modify the proposed size of the underground detention structure and consent was granted on 14 August 2008.

Furthermore, a subsequent Section 96 application 16-2007-1117-3 was lodged in order to modify the development consent by removal of Condition No.11 which stated:-

'The remaining vegetated western portion of the site shall not be the site of further development. The title of these properties shall be endorsed under Section 88B of the Conveyancing Act to give effect to this condition. Council shall be nominated as the sole authority permitted to alter/remove the endorsement prior to issue of the Occupation Certificate.'

This Section 96 modification application was reported to full Council for determination and Council's resolution did not support the recommendation to refuse contained in the report and resolved to support the request to remove Condition 11 from the consent. The modified development consent was granted on 20 October 2009.

The proposal now the subject of enquiry for additional development at both the eastern and western ends of the site is permissible within the zone subject to development consent from Council. However, major concern exists in relation to further development on the western end of the site where it is proposed to seek approval for an additional forty (40) self care units, given ecology and bushfire constraints that exist over the site.

It is advised that further development of the site (within the western end) is considered inconsistent with the original development consent and the mitigation measures that were put in place with that consent to offset the impacts of existing development on the site.

The first development application lodged at the site was DA 16-2000-425-1 proposing 124 dwellings, supported by a Species Impact Statement. This application was refused by Council on 18 December 2001.

The second DA 16-2004-1681- 1 (proposing 97 dwellings and recreation facility/community building and clearing approximately two-thirds of the site) was to be mitigated by the protection of the remainder of the site vegetation through a Vegetation Management Plan determined by Port Stephens Council. Council supported this DA after 26 dwellings were removed to overcome the prior objections from the National Park and Wildlife Service in consideration of the requirements of the Squirrel Glider under the Threatened Species Conservation Act 1995.

Subsequently DA 16-2007-1117-1 was lodged which sought to develop a further eight dwellings and relocation of the community building. Additional clearing was proposed for the relocated community building within the land affected by the Vegetation Management Plan imposed by the Council. Development staff recommended approval of the Development Application only subject to the imposition of the 88B instrument as a condition to offset the impacts of the development through conservation of the remainder of the vegetation and to uphold the intentions of the previous determination in mitigating the impact of the original development. This was accepted and has been acted upon by the applicant.

Throughout Council's assessment of the application Council's Environmental Services Section has consistently sought to respect and acknowledge the decision to protect this part of the site, as a mitigation measure of the development, to protect the local squirrel glider population.

Whilst, a modified consent was granted through Council resolution to remove Condition 11 and the 88B instrument, the major issues in relation to further development on this remaining land do not change. Therefore, on the basis of the above, it is not considered feasible to propose any further development on this remaining portion of the site and impose added impact on the adjoining Council land (due to the need to provide an asset protection zone on this adjoining land).

I hope this advice as been of assistance in responding to your enquiries for future expansion of this development on site and in relation to the use of the adjoining Council land. Please do not hesitate to contact the undersigned for any further enquiries in relation to this matter or report to Council.

Yours faithfully

Amanda Gale
Development Co-ordinator

DA TRACKER

Development & Building has been listening to your suggestions for improvement. Council has now launched its On-line Application Tracking System and a revised Website so you can access key information, forms and application updates anytime, 24 hours, 7 days a week.. Council welcomes your feedback on these new initiatives. Email council@portstephens.nsw.gov.au or write to The Manager Development & Building, Port Stephens Council, PO Box 42, Raymond Terrace NSW 2324

ATTACHMENT 2

ITEM NO. 2

FILE NO: 16-2007-1117-3

SECTION 96 APPLICATION TO MODIFY DEVELOPMENT CONSENT FOR URBAN HOUSING AT NO. 60 DIEMARS ROAD, SALAMANDER BAY.

REPORT OF: ANTHONY RANDALL - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2007-1117-3 for the reasons below:

1. Condition 11 was imposed to ensure that the remaining vegetated portion of the subject site remains undeveloped in perpetuity – reflecting the environmental values of that portion of the site
2. No adequate or substantive justification has been provided to warrant deletion of Condition 11
3. Condition 11 should remain to sustain the integrity of the original rationale for that condition
4. The portion of the subject site which would be adversely impacted upon by deletion of Condition 11 has well substantiated environmental values including the presence of endangered ecological communities.

BACKGROUND

The purpose of this report is to present a Section 96 development application to Council for determination.

Development Application 16-2007-1117-1 related to the development of eight (8) dwellings and a community development to form a part of the existing Salamander Haven Retirement Village. This application involved the relocation of drainage basins to facilitate the siting of the eight units and to accommodate the community facility. This application was approved on 08/05/2008.

A subsequent application 16-2007-1117-2 was lodged in order to modify the proposed size of the underground detention structure. Consent for the modification was granted on 14/08/2008.

PROPOSAL

The current Section 96 application for modification of consent, the subject of this report, seeks to remove development consent condition 11 which states:

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"The remaining vegetated western portion of the site shall not be the site of further development. The title of these properties shall be endorsed under Section 88B of the Conveyancing Act to give effect to this condition. Council shall be nominated as the sole authority permitted to alter/remove the endorsement prior to issue of the Occupation Certificate".

In support of the application, the applicant states:

"It is considered that Condition 11 is onerous and unjustified in that it is unnecessary to require the placement of an encumbrance on to the title of the land to achieve the aim of Condition 9 of the consent.

The Vegetation Management Plan which was required under Condition 9 and was subsequently submitted to and approved by Council adequately achieves the intent of the approval.

My client does not wish to seek any amendment to the vegetation management plan at this stage.

It is also considered that the use of the Conveyancing Act as a tool to prohibit any further development is unwarranted as the Environmental Planning and Assessment Act, which the application was made under, contains adequate and appropriate powers to consider any future application relating to the site and by-passing that act is not justified."

In assessing the original application, a major issue was the assessment of the significant impacts upon Flora and Fauna, and in particular relevant to:

- Callistemon linearis;
- Squirrel Glider;
- Koala Habitat (Preferred and supporting area); and
- Endangered Ecological Communities for:
 - a) Swamp Sclerophyll; and
 - b) Nerong Smooth Barked Apple Forest.

The following is an excerpt from the development assessment of 16-2007-1117-1.

"The development site also contains habitat for the Squirrel Glider. The DECC had previously raised concerns with respect to the impact of the development on the habitat available for the squirrel Glider. It is considered that the higher quality habitat is contained on the development site and the habitat on the adjoining reserve is not of as high a quality.

Under Section 79B of the Environmental Planning and Assessment Act, the guidelines for development requiring the concurrence of the DECC is set out.

Section 79B states:

(3) Consultation and concurrence—threatened species

Development consent cannot be granted for:

- (a) development on land that is, or is a part of, critical habitat, or*
- (b) development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat,*

without the concurrence of the Director-General of National Parks and Wildlife or, if a Minister is the consent authority, unless the Minister has consulted with the Minister administering the [Threatened Species Conservation Act 1995](#).

Note. *If a biobanking statement has been issued in respect of the development under Part 7A of the [Threatened Species Conservation Act 1995](#), the development is taken not to significantly affect threatened species, populations or ecological communities, or their habitats.*

It is noted from previous applications that the DECC has had concerns over the continued developments impacts on the viability of the Squirrel Glider population.

It is considered that this development will provide the vehicle to lock up the remaining vegetated spaces to prevent further development of the site. This will be done through a combination of 88B instruments and Vegetation Management Plan.

Given the additional clearing is limited and the opportunity exists to improve the existing habitat through the Vegetation Management Plan and 88B instruments, it is considered that long term there will be a net benefit to the local population so long as no further development occurs.

In light of this, it is not considered that the concurrence of the Director General is required in this instance".

The site was also found to contain areas of preferred Koala habitat and two Endangered Ecological Communities, *Swamp Mahogany* and *Paperbark Forest* and *Nerong Smooth Barked Apple Forest*. The development as proposed and its associated Asset Protection Zones' did not impact upon these communities.

The applicant is not disputing the need for a Vegetation Management Plan, but rather the mechanism for preventing further development of the site, and in particular the remaining vegetated western portion of the site.

It is accepted that in most cases, the comments of the applicant that the provisions of the Environmental Planning & Assessment Act (EP&A Act) contain adequate powers for Council to regulate development is correct. However, it is submitted that the subject site has a range of unusual, if not unique, characteristics, particularly in respect of protection of the viability of the Squirrel Glider population, and accordingly there is a need to reinforce the provisions of the EP&A Act so as to make it abundantly clear to the present owner and to successors in title that no further

development of the vegetated area is possible. Council has the power to alter or remove the Section 88B Instrument, if there is a change in circumstance in the future. Accordingly, there is no creditability to the line of thought that the vegetated area will be sterilised from future development.

Further, the submitted information indicates that the site contains two Endangered Ecological Communities (Sreong Smooth Barked Apple Forest and Swamp Sclerophyll Forest), one Threatened Flora Species (*Callistemon linearis*) and preferred and supplementary koala habitat as defined within Port Stephens Council – Comprehensive Koala Plan of Management. In addition, this area is important foraging and breeding habitat for the endangered fauna species the Squirrel Glider – *Petaurus norfolcensis*.

There are compelling reasons for the retention of a condition of consent that will ensure protection of the environmentally significant portion of the site. Condition 11 as previously imposed, was a reasonable response to the abovementioned flora and fauna situation. There has been no departure from the previously detailed situation and accordingly it is considered fair and reasonable that Condition 11 remains in its current form, which was accepted by the applicant at the time consent was granted in return for development of the site under Consent No. 16-2007-1117.

It is significant to note that the Vegetation Management Plan that applied to the original application was not sufficiently robust to withstand a reduction in the area of retained vegetation, and subsequently a reduction in the vegetation area occurred with a modification to the consent on 14 August 2008. Preservation of the now reduced area of vegetation, is considered to be essential to the well being of the:

- *Callistemon linearis*;
- Squirrel Glider;
- Koala Habitat (Preferred and supporting area); and
- Endangered Ecological Communities for:
 - c) Swamp Sclerophyll; and
 - d) Nerong Smooth Barked Apple Forest.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

The application seeks to remove protections that were put in place as mitigation measures to offset the impacts of existing developments on the site. The land was also considered important as an ecological buffer to the Stony Ridge Reserve to the west.

The original DA 16-2004-1681- 1 (clearing approximately half the site) was to be mitigated by the protection of the remainder of the site vegetation through a Vegetation Management Plan determined by the Land and Environment Court in

support of advice from the National Park and Wildlife Service in consideration of the requirements of the Threatened Species Conservation Act 1995..

Subsequently DA 1117/2007 was lodged which sought to develop eight dwellings and relocation of the community building. Additional clearing was proposed for the relocated community building within the land affected by the Vegetation Management Plan imposed by the Court. Development staff recommended approval of the Development Application only subject to the imposition of the 88B instrument as a condition to offset the impacts of the development through conservation of the remainder of the vegetation and to uphold the intentions of the Land and Environment Court in mitigating the impact of the original development. This was accepted and has been acted upon by the applicant.

Throughout Council's assessment of the application Council's Environmental Services Section has consistently sought to respect and acknowledge the courts decision to protect this part of the site, as a mitigation measure of the development. Alternative offset sites should be provided by the developer to offset the impacts if it is intended to remove the remaining vegetation at the site for future development expansion.

This site history, and decision of the Land and Environment would service as a strong basis of defence of the recommendation for refusal if it were supported by council and then challenged by the applicant in the court.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed modification of the development consent by deletion of Condition 11 is considered to have no identifiable social or economic implications. However, significant adverse natural environment implications are relevant to the proposal. The degree of likely environmental impacts have previously been detailed and it is considered that deletion of Condition 11 would have significant adverse environmental impacts upon the flora and fauna population in the locality. It has been concluded that deletion of Condition 11 would not be in the public interest, and should only be considered after further development of the site area to which the 88B Instrument relates has been assessed and determined by Council, thereby demonstrating that there is no, or limited, work for the 88B instrument in protecting vegetation at the site.

CONSULTATION

In accordance with Council policy, the amendment was not required to be exhibited.

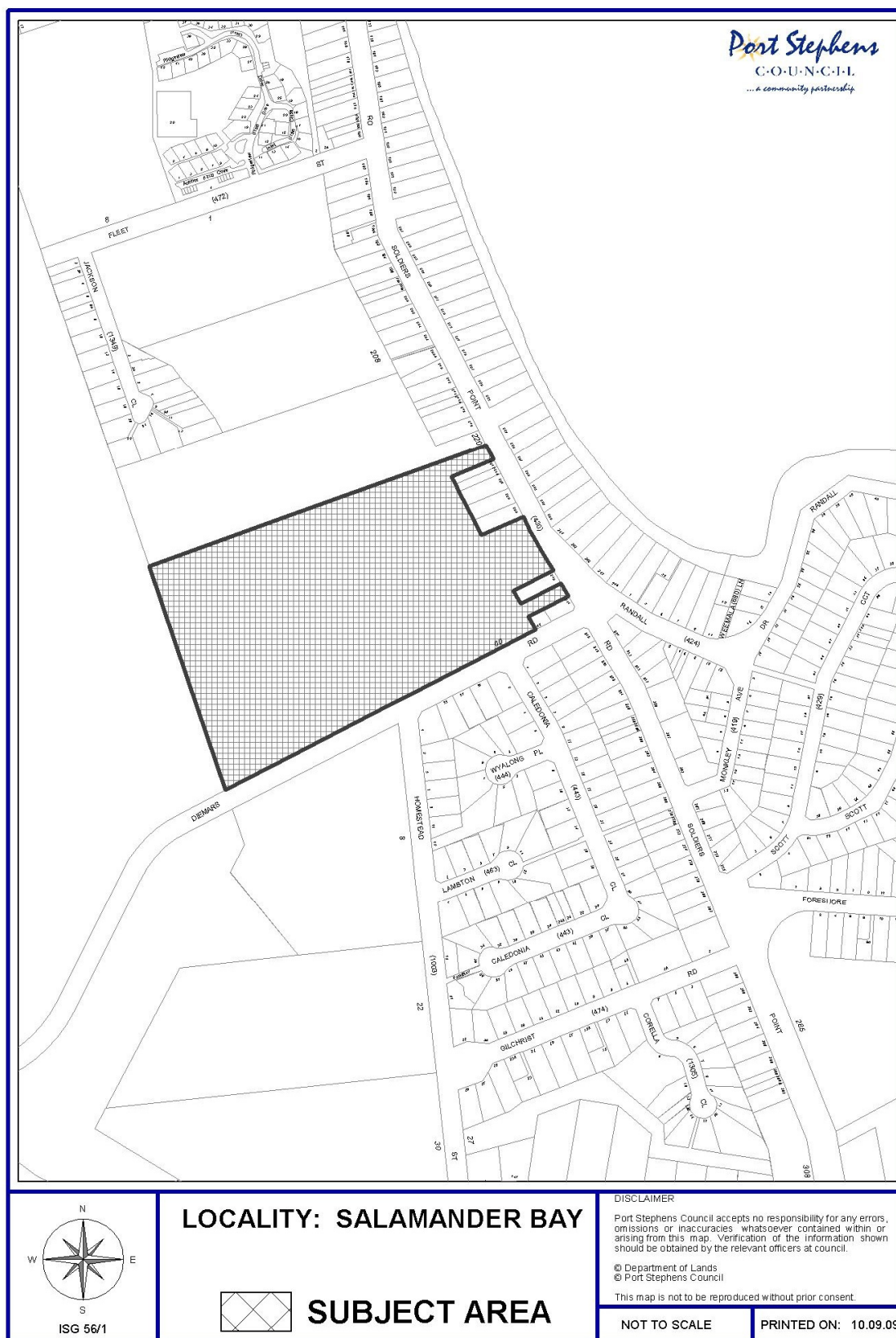
OPTIONS

- 1) Adopt the recommendation.
- 2) Reject or amend the Recommendations.

ATTACHMENTS

- 1) Locality Plan
- 2) Assessment

ATTACHMENT 1 LOCALITY PLAN



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 498 00255 Fax: (02) 498 73612 Email: council@portstephens.nsw.gov.au

ATTACHMENT 2

ASSESSMENT

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

THE PROPOSAL

Deletion of Condition 11 as contained in the Development Consent issued for the subject site on 8 May 2008.

Condition 11 states:

"The remaining vegetated western portion of the site shall not be the site of further development. The title of these properties shall be endorsed under Section 88B of the Conveyancing Act to give effect to this condition. Council shall be nominated as the sole authority permitted to alter/remove the endorsement prior to issue of the Occupation Certificate".

THE APPLICATION

Owner	Port Stephens Veterans and Citizens Aged Care Ltd
Applicant	Port Stephens Veterans and Citizens Aged Care Ltd
Detail Submitted	17 June 2009

THE LAND

Property Description	Lot 1, DP 10741566
Address	60 Diemars Road, Salamander Bay
Area	
Dimensions	Irregular with an area of 7.492ha and frontages to Diemars Road and Soldiers Point Road.
Characteristics	Two thirds developed and one third bushland.

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	2(a) Residential
Relevant Clauses	Nil in respect of proposal.
Development Control Plan 2007	No relevant provisions.

Discussion

Condition 11 as contained in the original consent stated:

"The remaining vegetated western portion of the site shall not be the site of further development. The title of these properties shall be endorsed under Section 88B of the Conveyancing Act to give effect to this condition. Council shall be nominated as the sole authority permitted to alter/remove the endorsement prior to issue of the Occupation Certificate".

The remaining vegetation on the subject site abuts the Stoney Ridge Reserve which is a significant public reserve to the west of the subject site. From an natural environment point of view, the reserve and the remaining vegetation on the subject site function as one and play a significant role in local flora and fauna.

From a natural environment point of view it is vital that the existing vegetation be protected and remains unaltered. To this end Condition 11 was imposed.

The required creation of a Section 88B instrument as detailed in Condition 11 was not imposed lightly, and it is acknowledged that the condition creates an additional impost upon the applicant. Nevertheless, the circumstances of the site are unique in this locality and Condition 11 is a reasonable way of ensuring, in perpetuity, that the remaining vegetation is not removed.

The EP&A Act has provisions relevant to preserving bushland, but the provisions are mostly reactive and permits Council to take action against person(s) who may remove vegetation. In this case if the remaining vegetation was to be removed it would have significant natural environmental impacts. The Section 88B restriction is imposed upon the title of the land and as such becomes more effective and enforceable and reinforces the importance of this vegetation on the site.

In conclusion, as previously detailed, there are compelling reasons for the retention of a condition of consent that will ensure protection of the environmentally significant portion of the site. Condition 11 as previously imposed, was a reasonable response to the abovementioned flora and fauna situation. There has been no departure from the previously detailed situation and accordingly it is considered fair and reasonable that Condition 11 remains in its current form.

It is significant to note that the Vegetation Management Plan that applied to the original application was not sufficiently robust to withstand a reduction in the area of retained vegetation, and subsequently a reduction in the vegetation area occurred with a modification to the consent on 14 August 2008. Preservation of the now reduced area of vegetation, is considered to be essential to the well being of the:

- Callistemon linearis;
- Squirrel Glider;
- Koala Habitat (Preferred and supporting area); and
- Endangered Ecological Communities for:
 - e) Swamp Sclerophyll; and
 - f) Nerong Smooth Barked Apple Forest.

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Retention of Condition 11 is not going to adversely affect development of the site in accordance with the current development consent. It will however protect as far as legally possible the existing substantial amount of vegetation. Accordingly, it is fair and reasonable for Condition 11 to remain in its present form. On this basis it is recommended that the application to delete Condition 11 be refused.

2. Submissions

The proposed modification of consent has not been notified. No submissions were received during assessment of the original application or subsequent modifications to the consent.

ATTACHMENT 3

MINUTES COUNCIL COMMITTEE – 13 OCTOBER 2009

ITEM NO. 2

FILE NO: 16-2007-1117-3

**SECTION 96 APPLICATION TO MODIFY DEVELOPMENT CONSENT FOR
URBAN HOUSING AT NO. 60 DIEMARS ROAD, SALAMANDER BAY.**

REPORT OF: ANTHONY RANDALL - ACTING MANAGER, DEVELOPMENT AND BUILDING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2007-1117-3 for the reasons below:

1. Condition 11 was imposed to ensure that the remaining vegetated portion of the subject site remains undeveloped in perpetuity – reflecting the environmental values of that portion of the site
2. No adequate or substantive justification has been provided to warrant deletion of Condition 11
3. Condition 11 should remain to sustain the integrity of the original rationale for that condition
4. The portion of the subject site which would be adversely impacted upon by deletion of Condition 11 has well substantiated environmental values including the presence of endangered ecological communities.

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

	Councillor Sally Dover Councillor Bruce MacKenzie	That Development Application 16-2007-1117-3 be approved.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil

The Group Manager Sustainable Planning advised Council of changes to the "Legal & Policy Implications Section" of the report. The changes are shown in bold below:

LEGAL AND POLICY IMPLICATIONS

MINUTES COUNCIL COMMITTEE – 13 OCTOBER 2009

The application seeks to remove protections that were put in place as mitigation measures to offset the impacts of existing developments on the site. The land was also considered important as an ecological buffer to the Stony Ridge Reserve to the west.

The original DA 16-2004-1681- 1 (clearing approximately half the site) was to be mitigated by the protection of the remainder of the site vegetation through a Vegetation Management Plan determined by the Land and Environment Court in support of advice from the National Park and Wildlife Service in consideration of the requirements of the Threatened Species Conservation Act 1995..

Subsequently DA 1117/2007 was lodged which sought to develop eight dwellings and relocation of the community building. Additional clearing was proposed for the relocated community building within the land affected by the Vegetation Management Plan imposed by the Court. Development staff recommended approval of the Development Application only subject to the imposition of the 88B instrument as a condition to offset the impacts of the development through conservation of the remainder of the vegetation and to uphold the intentions of the Land and Environment Court in mitigating the impact of the original development. This was accepted and has been acted upon by the applicant.

Throughout Council's assessment of the application Council's Environmental Services Section has consistently sought to respect and acknowledge the courts decision to protect this part of the site, as a mitigation measure of the development. Alternative offset sites should be provided by the developer to offset the impacts if it is intended to remove the remaining vegetation at the site for future development expansion.

This site history, and decision of the Land and Environment would service as a strong basis of defence of the recommendation for refusal if it were supported by council and then challenged by the applicant in the court.

BACKGROUND

The purpose of this report is to present a Section 96 development application to Council for determination.

Development Application 16-2007-1117-1 related to the development of eight (8) dwellings and a community development to form a part of the existing Salamander Haven Retirement Village. This application involved the relocation of drainage basins to facilitate the siting of the eight units and to accommodate the community facility. This application was approved on 08/05/2008.

A subsequent application 16-2007-1117-2 was lodged in order to modify the proposed size of the underground detention structure. Consent for the modification was granted on 14/08/2008.

MAYORAL MINUTE

ITEM NO. 3

FILE NO: PSC2010-03228 001

7 CROMARTY LANE, BOBS FARM - DA 16-2009-981-1 – BOUNDARY ALIGNMENT

THAT COUNCIL:

- 1) Arrange a site inspection for all councillors to attend and prepare a report to be brought before Council for consideration.
-

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

155	Councillor Bruce MacKenzie	It was resolved that there being no objection the Mayoral Minute was adopted.
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MAYORAL MINUTE

ITEM NO. 4

FILE NO: PSC2010-0139

LOT 254, DP 753204 – 3631 NELSON BAY ROAD, BOBS FARM

THAT COUNCIL:

- 1) Arrange a site inspection for all councillors to attend and prepare a report to be brought before Council for consideration.
-

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

156	Councillor Bruce MacKenzie	It was resolved that there being no objection the Mayoral Minute was adopted.
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BACKGROUND

The purpose of this report is to provide Council with the background regarding current compliance action being undertaken at Lot 254, DP 7532014, 3631 Nelson Bay Road Bobs Farm regarding illegal vegetation removal.

Prior to 2002 Patra Holdings Pty Ltd made an application to clear 14ha of vegetation to the Catchment Management Authority under the Native Vegetation Act 1997. The Catchment Management Authority refused the application due to impacts on threatened species, land and water degradation potential, aboriginal heritage values, and lack suitability of the site to grow olives.

Patra Holdings Pty Ltd then applied to Port Stephens Council for a development application to clear 1.95ha of vegetation which was refused by staff because of impacts on threatened species, land and water degradation potential, aboriginal heritage values and social and economic values. The development application was subsequently called to Council where it was approved in October 2002.

In 2002 the Native Vegetation Act 1997 only applied to applications to remove vegetation over 2ha, applications under 2ha were dealt with by Council under the Environmental Planning and Assessment Act 1979. The Native Vegetation Act 2003 has since been revised and all vegetation removal in rural land must be approved by the Catchment Management Authority.

MINUTES FOR ORDINARY MEETING – 8 JUNE 2010

In January 2010 council staff received a complaint regarding illegal land clearing. Council staff investigated the matter and concluded that 4.68ha of vegetation had been removed without consent.

In February 2010 staff sent Patra Holdings Pty Ltd a letter informing them that Council had concluded that illegal vegetation removal had occurred and asked them to provide information as to why Council should not proceed with compliance action. Council did not receive any response to this letter.

In May 2010 Council issued a notice of intent under section 121H of the Environmental Planning and Assessment Act 1979 to give an order under section 121B of the Act to reinstate premises. This notice of intent asks Patra holdings to make submissions to Group Manager Sustainable Planning by the 12th June 2010 as to why Council should not issue the order.

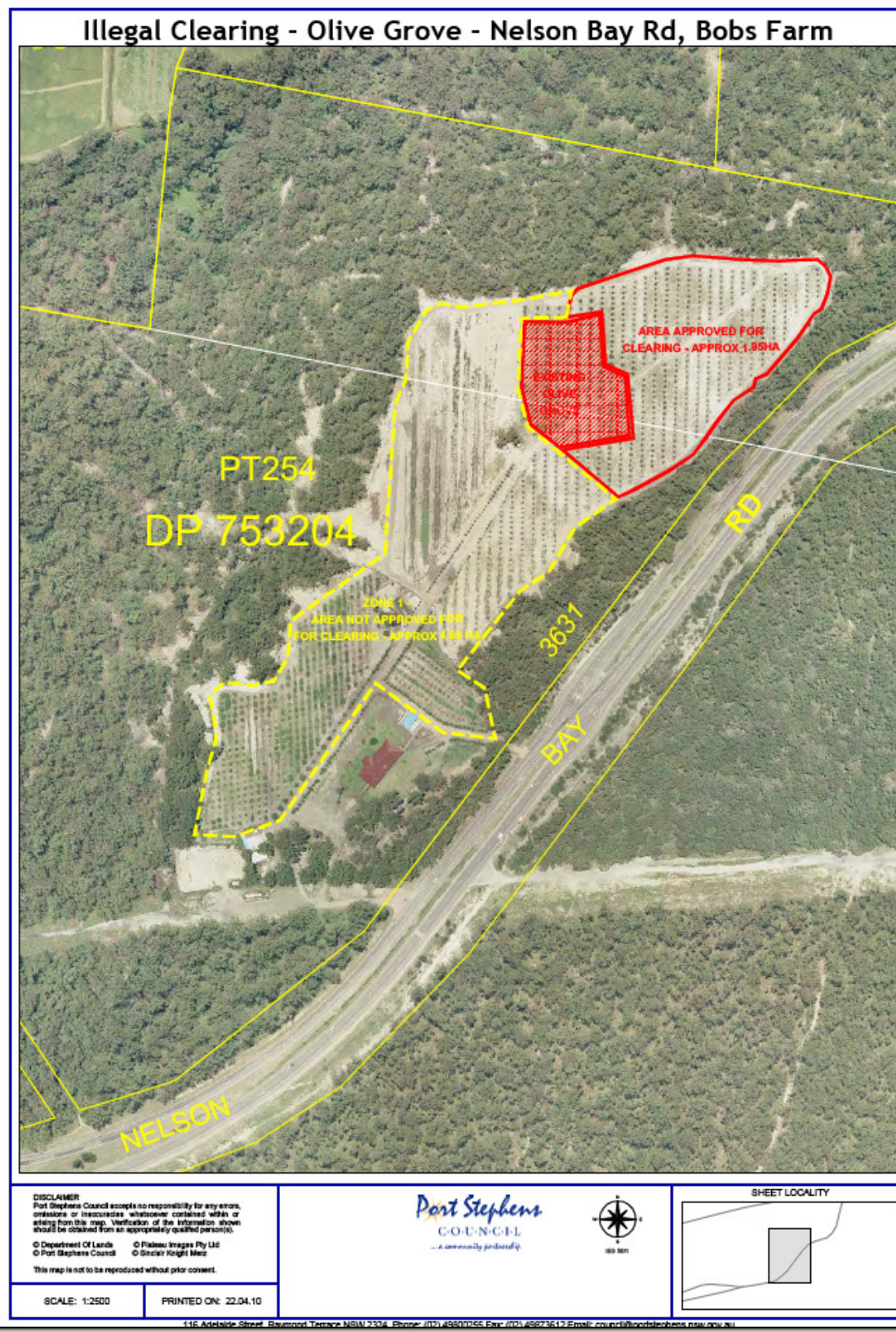
Part of these representations may include any alternative mechanisms to proceed rather than issuing the order.

Staff have not received any communications from Patra Holdings Pty Ltd.

ATTACHMENTS

1) Site Plan.

ATTACHMENT 1



MAYORAL MINUTE

ITEM NO. 5

FILE NO: PSC 2006-0191

MOXEY – NELSON BAY ROAD – DA16-2010-102

THAT COUNCIL:

- 1) Support the construction of a residential property in the ANEF 2025 noise effected area. On receipt of reply from RTA the General Manager under delegated authority approve the DA 16-2010-102.

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

157	Councillor Bruce MacKenzie Councillor Glenys Francis	It was resolved that the matter be deferred to the Ordinary Council meeting on 29 June 2010.
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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 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.

BACKGROUND

PROPOSED DEVELOPMENT APPLICATION - FOR THE CONSTRUCTION OF A SINGLE STOREY BRICK VENEER DWELLING WITH A COLORBOND ROOF AT LOT: 7, DP 224476, 2258 NELSON BAY ROAD, WILLIAMTOWN

THAT COUNCIL:

- 1) Consider the background information

The purpose of this document is to present background information for a mayoral minute in respect to a development application currently before Council for

determination at the request of the Mayor. The proposed development consists of a single storey dwelling which is to be located in an area which is significantly affected by noise pollution from the nearby RAAF Base Williamtown. The area is identified as being located within the 25-30 contour of the Australian Noise Exposure Forecast (ANEF) 2025.

Consent is sought for the construction of a single storey brick veneer dwelling with a Colorbond roof at LOT: 7, DP 224476, 2258 Nelson Bay Road, Williamtown. The site is identified as being aircraft noise affected and is mapped within the 25-30 contour of the Australian Noise Exposure Forecast (ANEF) 2025. Section B2.13 (Aircraft Noise) of Port Stephens Development Control Plan (DCP) 2007 and Australian Standard 2021-2000-Acoustics-Aircraft Noise Intrusion-Building Siting and Construction, specify that development within these contours unacceptable.

Australian Standard 2021-2000 does however, make provision for the planning authority (Council) to determine any development that may be necessary within an existing built-up area (an area zoned residential) designated as unacceptable providing that such development can achieve the aircraft noise reduction (ANR) in accordance with this standard. In order to achieve this requirement, the applicant/owner has provided an acceptable acoustic report prepared by Reverb Acoustics dated April 2010 (Report No. 10-1476-R1). This report concludes that the proposed dwelling can comply "providing the recommendations and procedures outlined in this report are followed, internal noise levels will be consistent with the interior noise design levels of AS2021-2000".

The property is not zoned residential (it is zoned 1(a) RURAL AGRICULTURE "A"), however, although it is identified as Prime Agricultural Land, that does not preclude the construction of a residential dwelling. Adjacent properties and the area generally, consist of residential type dwellings.

The property owner, Mr Moxey, presently resides on the adjacent property located at 2234 Nelson Bay Road, Williamtown and has resided in this location for many years.

Council must assess this application under Section 79C of the Environmental Planning and Assessment Act 1979. Accordingly, Australian Noise Exposure Forecast 2025 and the associated impacts and effects upon the health and amenity of property owners must be considered.

To be able to determine the suitability of the site for development there must be an understanding of how the ANEF contour is formed. The ANEF contour takes two main items into consideration to determine the exposure to noise at any particular site. The first is the noise level itself and the second is the amount of occurrences it happens.

When high levels of noise are experienced from the source the amount of times it happens does not need to be high to attract a high ANEF contour and subsequently a lower level of initial noise coupled with a high daily occurrence (or night flights) also attract a higher ANEF contour.

In regard to the subject site, when the submitted acoustic report is assessed the following conclusions must be considered. The acoustic report suggests that compliance with the interior design noise levels contained within the Australian Standard AS2021-2000 can be achieved. Given that the development exists within a 25-30 ANEF contour draws the conclusion that the occurrences of that determined noise level is high.

In considering the suitability of this development the ability to offset the noise should not be the only consideration. An ongoing repetitive noise occurrence is potentially more damaging than a higher noise level intermittently (page 61, Cl. 6.2.2 of the DOD PER). It is for this reason that the 'NA Contour should be considered.

The NA (number above) contour represents the number of movements per day that would result in a nominated L(A)Max level at a given location on an average flying day. This location would experience in the vicinity of 50 flights per day in accordance with the N70 map, in the vicinity of 10 occurrences in respect to the N85 map and less than 10 in regard to the N100.

Simply put these figures mean that this site will expect 50 flights at 70dB(A), 10 flights at 85dB(A) and less than 10 at 100dB(A). This when compared to the expected ambient levels could prove excessive. Quiet rural localities can generally have ambient levels of around 30 to 40dB(A) where adjacent major roads can experience intermittent noise levels as high as 80-90dB(A) (when trucks pass (page 59 Cl. 6.2 DOD PER). The subject site is adjacent a main road and in a rural location so the ambient noise would fluctuate between the above mentioned figures and is expected to experience the higher levels intermittently at peak times.

The Department of Defence Public Environment Report (Oct '09) suggests that the L(A)Max change in the vicinity of Salt Ash will change from 80-90dB(A) with the F/A-18 to 80-97dB(A) with the JSF aircraft (page 87, table 6-10, DOD PER). With the expected aural increase of the JSF aircraft of somewhere in the vicinity of 10dB(A) the perception at the site will be twice as loud as the aircraft already in operation and substantially louder than the expected ambient noise in this location.

At times when traffic is low on the adjacent main road the JSF aircraft will exhibit an increase of ambient noise of up to 30dB(A) 50 times a day when the data from the N70 map is used. This equates to a perceived exponential increase in the realm of 8 times louder than the background noise. It is for this reason that the ANEF2025 map tables this site as within the 25-30 ANEF contour and determining the site unsuitable for a dwelling house in accordance with the Australian Standard AS2021-2000.

This is further reinforced by clause B2.13 of the current DCP2007 that considers those areas defined as 'built-up' areas in the Australian Standard to be zoned residential. As this site is zoned rural agriculture the provisions of Note 4 in the Australian Standard (AS2021-2000) Table 2.1 or Note 1 of B2.C72 of DCP2007 do not apply.

The subject site is also burdened by being identified as flood prone land and is subject to a flood planning level of 3.0m AHD. 3.0m AHD is an increase of 500mm over the previous flood planning level due to a sea level rise increase in this vicinity.

CONSIDERATION OF ASSESSMENT AGAINST THE ADOPTED DRAFT DCP2007 AMMENDMENT

The development has been assessed against the draft DCP2007 amendment (in respect to aircraft noise) adopted by council for consideration at councils meeting of 25 May 2010. The policy is in draft form and under section 79C of the Environmental Planning and Assessment Act does not formally require consideration of any draft policy. However to fully consider the implications of the development and the potential refusal of the development the exhibited draft was considered, as this is considered the policy direction of the elected members in regards to aircraft noise.

The site when assessed with the above document reveals the following issues; site acceptability criteria are still considered unacceptable. The acceptability of the development in regard to this amended DCP and the existing DCP hinges on the interpretation of 'infill development'.

The subject site is considered "unacceptable" for the dwelling proposed by the DA, when the criteria in Table 2.1 of AS2021-2000 are applied. That is, AS2021-2000 considers the construction of new residential type dwellings within these contours as unacceptable.

It is considered that fringe areas of development such as applicable surrounding the subject site do not constitute a trigger of Note 4 of Table 2.1 of AS2021-2000 and as such is deemed as an unacceptable site for the proposed development.

MAYORAL MINUTE

ITEM NO. 6

FILE NO: PSC2005-5514/078

JOINT REGIONAL PLANNING PANEL PROCEDURE

THAT COUNCIL:

- 1) Make representation to the Minister of Planning to allow any items which Mayor MacKenzie & Cr Bob Westbury can not vote on, due to being a Port Stephens Council matter, that the Item be brought in front of the Port Stephens Councillors for a recommendation to the Joint Regional Planning Panel.
- 2) Advise the NSW Minister for Planning that it fully accepts the proposed delegations contained in his letter of 18 May 2010 as follows:
 - a. The determination of regionally significant applications when there have been no objections and the assessment report recommends approval (with or without conditions) – noting that this delegation will not apply to applications when the Chair of the Joint Regional Planning Panel for the Hunter / Central Coast advises Council in advance that the delegation will not apply to a particular application;
 - b. The determination of designated development with a capital investment value of \$5M or less - regardless of whether there have been objections received but provided the assessment report recommends approval (with or without conditions) – noting that the delegation will not apply to applications when the Chair of the Joint Regional Planning Panel for the Hunter / Central Coast advises Council in advance that the delegation will not apply to a particular application;
 - c. The determination of regionally significant applications located in particular areas and precincts where detailed planning has occurred regardless of whether there has been objections received, provided the proposed development is strictly in accordance with identified key planning controls and where the assessment report recommends approval (with or without conditions) noting that the delegation will not apply to applications when the Chair of the Joint Regional Planning Panel for the Hunter / Central Coast advises Council in advance that the delegation will not apply to a particular application;
 - d. The determination of applications in terms of refusal, even though the assessment report recommends approval – however noting that such a refusal in such circumstances is unlikely and will need to be supported by sound planning reasons. The delegation will apply to development applications and Section 96 (2) modifications under the EP&A Act 1979.

MINUTES FOR ORDINARY MEETING – 8 JUNE 2010

- 3) Note that the General Manager will revise appropriate delegations for the Group Manager Sustainable Planning and the Manager Development & Building to enact the above delegations.
 - 4) Note that the proposed delegations will be in place for a twelve month trial period after which they will be reviewed to determine what sort of opportunities and measures may be justified and put into place.
-

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

158	Councillor Bruce MacKenzie Councillor Ken Jordan	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) a) Support Wingecarribee Shire Council with their endeavours to the Local Government & Shires Association.b) Defer Item 1 to the Ordinary Council meeting 29 June 2010.2) Advise the NSW Minister for Planning that it fully accepts the proposed delegations contained in his letter of 18 May 2010 as follows:<ol style="list-style-type: none">a. The determination of regionally significant applications when there have been no objections and the assessment report recommends approval (with or without conditions) – noting that this delegation will not apply to applications when the Chair of the Joint Regional Planning Panel for the Hunter / Central Coast advises Council in advance that the delegation will not apply to a particular application;b. The determination of designated development with a capital investment value of \$5M or less - regardless of whether there have been objections received but provided the assessment report recommends approval (with or without conditions) – noting that the delegation will not apply to applications when the Chair of the
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		<p>Joint Regional Planning Panel for the Hunter / Central Coast advises Council in advance that the delegation will not apply to a particular application;</p> <p>c. The determination of regionally significant applications located in particular areas and precincts where detailed planning has occurred regardless of whether there has been objections received, provided the proposed development is strictly in accordance with identified key planning controls and where the assessment report recommends approval (with or without conditions) noting that the delegation will not apply to applications when the Chair of the Joint Regional Planning Panel for the Hunter / Central Coast advises Council in advance that the delegation will not apply to a particular application;</p> <p>d. The determination of applications in terms of refusal, even though the assessment report recommends approval – however noting that such a refusal in such circumstances is unlikely and will need to be supported by sound planning reasons. The delegation will apply to development applications and Section 96 (2) modifications under the EP&A Act 1979.</p> <p>3) Note that the General Manager will revise appropriate delegations for the Group Manager Sustainable Planning and the Manager Development & Building to enact the above delegations.</p> <p>4) Note that the proposed delegations will be in place for a twelve month trial period after which they will be reviewed to</p>
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		determine what sort of opportunities and measures may be justified and put into place.
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BACKGROUND

- 1) The Minister for Planning, the Hon Tony Kelly MLC has written to the Mayor, Cr MacKenzie requesting *"that Council join in a further initiative that will see a range of applications currently dealt with by the Regional Panels, determined by Council officers under delegation"*. **Attachment 1**
- 2) The Minister has requested that Council provide a written commitment to confer the delegations to an appropriate level of officer and information on applicable precincts and areas as outlined in their letter within 21 days of the date of their letter being 8 June 2010.
- 3) Contact has been made with Director Assessment Systems and Strategies and an extension has been given for Council's response until 18 June 2010.
- 4) A letter from the Mayor of Wingecaribee Shire Council Cr Duncan Gair to the Local Government & Shires Association seeking their support in the protection of planning for Local Government is attached. **Attachment 2**
- 5) The following excerpts are from the Department of Planning's Joint Regional Planning Fact Sheet 3 – *"How are Development Applications Assessed for Regional Panels?"*. **Attachment 3**

"Does the Elected Council Deal with the Assessment Report?"

The elected Council has no role in approving, authorising or endorsing the assessment report.

The Council's planning staff prepares the assessment report for provision to the Panel Secretariat. The *Local Government Act 1993* provides that Council staff cannot be directed about the content of any advice or recommendation.

How does the Elected Council Provide Its Input about a Development to the Regional Panel?

The elected Council has the opportunity to provide a submission to the Regional Panel on matters being determined in its area. Councillors (except any Councillors that have been appointed to the Regional Panel) as members of the Council, can determine to provide a submission to the Regional Panel about the matter to be determined. The council is able to be represented at the Regional Panel meeting to address the meeting about its submission.

The assessment report, after it has been provided to the Panel Secretariat, may be provided to the elected Council to assist it in its deliberations about its submission to the Regional Panel. Any Council submission on behalf of the elected Council should not be prepared by any person that was involved in the assessment of the application."

ATTACHMENTS

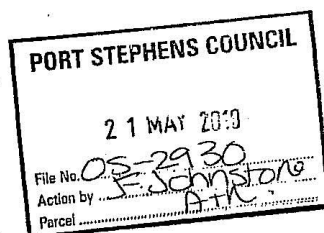
- 1) Letter from The Hon Tony Kelly MLC, Minister for Planning
- 2) Letter from Cr Duncan Gair, Mayor, Wingecaribee Shire Council seeking support for the Protection of Planning for Local Government
- 3) Department of Planning's Joint Regional Planning Fact Sheet 3 – *“How are Development Applications Assessed for Regional Panels?”*

ATTACHMENT 1 - Letter from The Hon Tony Kelly MLC, Minister for Planning



Hon Tony Kelly MLC
Minister for Planning
Minister for Infrastructure
Minister for Lands
Deputy Leader of the Government in the Legislative Council
Leader of the House in the Legislative Council

Clr Bruce MacKenzie
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324



10/07603

18 MAY 2010

Dear Clr MacKenzie

I am pleased to advise that the Joint Regional Planning Panels (Regional Panels), established on 1 July 2009, are now a successful part of the New South Wales planning system. The Government is committed to working collaboratively with Council, industry and the community to build a better planning system for New South Wales.

I am writing to ask your Council to join in a further initiative that will see a range of applications currently dealt with by the Regional Panels, determined by council officers under delegation.

The Department of Planning recently completed an Interim Review of Operation for the Regional Panels, which can be found on the Regional Panels website at www.irpp.nsw.gov.au. As part of the review, the Department is considering opportunities to improve determination times of certain types of applications which currently require determination by a Regional Panel, without compromising the need for an assessment processes based entirely on merit.

Return of Modification Applications to Council

I am pleased to advise that amendments are currently underway for State Environmental Planning Policy (Major Development) 2005, to return to Councils the consent authority role for section 96(1A) modification applications under the EP&A Act, where the relevant development consent has been determined by a Regional Panel. The Department will advise you when this amendment takes place.

Proposed Delegations

I am also proposing that the Regional Panel Chairs delegate Regional Panel applications in three circumstances where your Council has agreed that these applications will be determined by appropriate senior staff and not by the full Council or Council committee, consistent with the theme of depoliticising the planning system.

Level 34, Governor Macquarie Tower
1 Farrer Place, Sydney NSW 2000
T (02) 9228 3999 F (02) 9228 3988

Room 809 Parliament House
Macquarie Street, Sydney NSW 2000
T (02) 9230 2528 F (02) 9230 2530

- **Straightforward Applications**

The proposed delegation will allow Council to determine regionally significant applications where there have been no objections received, and the assessment report recommends approval (either with or without conditions). The delegation will not apply to applications where the Panel Chair advises Council in advance that the delegation will not apply to a particular application.

- **Designated Development**

The proposed delegation will allow Council to determine designated development with a Capital Investment Value of \$5 million or less, which is currently determined by a Regional Panel. The delegation would apply regardless of whether there have been objections received, provided the assessment report recommends approval (with or without conditions). The delegation will not apply to applications where the Panel Chair advises Council in advance that the delegation will not apply to a particular application.

- **Areas and precincts**

The proposed delegation will allow Council to determine regionally significant applications located in particular areas and precincts where detailed planning has occurred, regardless of whether there have been objections received, provided the proposed development is strictly in accordance with identified key planning controls, and where the assessment report recommends approval (with or without conditions). The delegation will not apply to applications where the Panel Chair advises Council in advance that the delegation will not apply to a particular application.

The Department requests Council to identify and provide details on areas within Council's local government area, such as Business Parks, which have detailed planning controls that clearly outline what development is appropriate. Where such controls are in place, the Department will consider delegating regionally significant applications to Council to determine. Council should include details of past and possible future applications in these precincts or areas to illustrate the utility of this delegation.

All regionally significant applications must be registered with the Panel Secretariat within seven days of lodgement at Council. The Panel Secretariat would still need to be informed of notification dates and of any submissions received. The Panel Secretariat would continue to coordinate Panel briefing meetings in some instances.

Delegation to Officer Level

In order to effectively utilise the proposed delegations, consistent with the common goals of depoliticising the planning system and improving determination timeframes, the delegations will only apply to councils which have themselves delegated the authority to make decisions for these classes of applications to an appropriate officer of the Council.

Determination

The delegated Council officers will be able to refuse an application even though the assessment report recommends approval, however a refusal in such circumstances is unlikely and would need to be supported by sound planning reasons. The delegations will apply to Development Applications and section 96(2) modification applications under the Environmental Planning and Assessment Act 1979 (EP&A Act).

Trial Period

It is envisaged that the proposed delegations will be in operation for a 12 month trial period, after which they will be reviewed to determine what further opportunities and measures may be justified and put into place.

Implementation

A written commitment to confer the delegations to an appropriate level of officer, and information on applicable precincts and areas as outlined above, is requested by the Department within 21 days of the date of this letter.

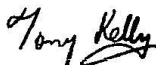
The Chair of Council's Regional Panel will then write to Council with further details on the delegations, such as commencement date.

The Department is seeking to work with Council throughout the finalisation and preparation of these delegations. I look forward to a continued strong working relationship between your Council the Regional Panel, and the Department.

You may call Mr Shayne Watson, Director Assessment Systems and Strategies, directly on (02) 9228 6302 or by e-mail shayne.watson@planning.nsw.gov.au should you require any further information.

Thank you for your co-operation on this important initiative.

Yours sincerely,



Tony Kelly MLC
Minister for Planning

ATTACHMENT 2

**Letter from Cr Duncan Gair, Mayor, Wingecaribee Shire Council
seeking support for the Protection of Planning for Local Government**



Civic Centre, Elizabeth Street, Moss Vale 2577
PO Box 141, Moss Vale 2577
Email: wscmail@wsc.nsw.gov.au
Telephone: (02) 4868 0888 Facsimile: (02) 4869 1203

Office of the Mayor

Our Ref: 102, 5300, 5800/18
Contact: Scott Lee

17 May 2010

Clr Bruce MacKenzie
Mayor of Port Stephens
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324



Dear Clr MacKenzie

Re: THE PROTECTION OF PLANNING FOR LOCAL GOVERNMENT

Please find attached a letter I have sent this week to the Local Government & Shires Associations, seeking their support on this important matter. I believe that it is critical that Local Government stand together if we are to be successful in reclaiming lost ground. I would be appreciative of any support that your Council can offer.

Yours sincerely

Duncan Gair
Mayor

Attach



Civic Centre, Elizabeth Street, Moss Vale 2577
PO Box 141, Moss Vale 2577
Email: wscmail@wsc.nsw.gov.au
Telephone: (02) 4868 0888 Facsimile: (02) 4869 1203

Office of the Mayor

Our Ref: 102, 5300, 5800/18
Contact: Scott Lee

COPY

17 May 2010

Cr Genia McCaffery
President
Local Government Association of NSW
G P O Box 7003
SYDNEY NSW 2001

Cr Bruce Miller
President
Shires Association of NSW

Dear Crs McCaffery & Miller

Re: THE PROTECTION OF PLANNING POWERS FOR LOCAL GOVERNMENT

Council has for some time been concerned at the gradual erosion of Local Government planning powers through the continuous actions of the NSW state government and the Department of Planning. I am sure that this is a matter that many Council's feel strongly about and I know that the Association has been advocating on behalf of Councils for some time. However, I believe we are at a critical stage and unless more concerted efforts can be made to redress the increasing imbalance in responsibilities, local councils and therefore their communities, will be marginalised completely in relation to planning within their own local areas.

At its meeting of 12 May, 2010, Council passed the following resolution:

- "1. ***THAT as a matter of urgency Council seek the immediate support of the Local Government and Shires Association to represent and protect the planning powers of all Local Government areas within New South Wales.***
2. ***THAT the Mayor make representations to other Local Government areas within New South Wales advising them in relation to the correspondence received from Mr Brett Whitworth, Regional Director, Southern Region, NSW Department of Planning dated 11 May 2010, and seeking their support in relation to recommendation 1 above.***

The letter from the Department of Planning of 11 May 2010 relates to a significant rezoning proposal within the Shire that Council is concerned may be taken out of the Council's hands. This is consistent with our concerns on a range of matters such as Part 3A of the *Environmental Planning and Assessment Act*, Joint Regional Planning Panels, Affordable Housing, SEPP and a lack of commitment to necessary infrastructure requirements that arise out of the regional planning strategies that Councils are expected to implement. In this regard it would seem that the State government shows all care and no responsibility. It is also disturbing to see that the Premier has flagged the possibility of further extending the opportunities under the Nation Building and Jobs Plan for projects such as large scale residential and commercial development, of course at the expense of local community input.

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2.

I strongly urge you to support Wingecarribee Shire Council and would be most pleased to meet with you to discuss a way forward.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Duncan Gair', with a stylized flourish at the end.

Duncan Gair
Mayor

ATTACHMENT 3

Department of Planning's Joint Regional Planning Fact Sheet 3 – "How are Development Applications Assessed for Regional Panels?"



Joint Regional
Planning Panels

FACT SHEET – 3

How are development applications assessed for Regional Panels?

How are development applications lodged?

Development applications are lodged with the council of the area where the development is proposed.

An applicant should consult with the respective council as to any specific requirements for lodgement.

If a development is to be located in two (2) or more council areas, a separate development application must be lodged with each council. Each development application should only address that part of the development located on land in the relevant council's area. Neighbouring councils may decide to establish a joint assessment process. The Regional Panel will determine each development application separately.

The Joint Regional Panel Operational Procedures should be consulted if further information is required.

Can a pre-development application meeting be held?

Pre-development application meetings between applicants and council assessment officers about regional developments should be held to clarify and resolve assessment requirements. Often such meetings are of benefit prior to the lodgement of the application.

Members of Regional Panels should not attend pre-development application meetings with applicants or objectors to avoid any apprehension of bias, unless such meetings have been specifically arranged as part of a Regional Panel meeting or process.

What are the notification requirements for regional development applications?

Councils are required to:

1. Provide public notification of the application, and re-notification if required, in accordance with the requirements of the EP&A Act and regulation and any other council requirements.
2. Notify the Panel Secretariat within seven (7) days of receiving a development application that is required to be referred to the Regional Panel so that progress of the assessment of the application can be properly tracked.

Does the Political Donations Legislation apply?

Yes. The requirements of the EP&A Act for the disclosure of political donations apply to Regional Panel applications. An applicant, a person making a submission and a member of a Regional Panel must declare a reportable political donation or gift.

The Code of Conduct for Regional Panels provides guidance to members of Regional Panels if a political donation creates a conflict of interest.

Can representations (or lobbying) be made to Regional Panel Members – and private meetings be held with applicants or objectors?

Private meetings with Regional Panel members should not be held.

Regional Panel members approached about a proposed development by **any** person should advise they are a member of the Regional Panel that is to determine the development application

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and it is not appropriate to have discussions about the development outside the formal Regional Panel process.

Any person approaching a Regional Panel member should be encouraged to make a written submission about the proposal to the council planning staff during the exhibition period. The Council planning staff will assess all submissions received in the assessment report, which will be provided to the Regional Panel. They should also be advised that there may be an opportunity to address the Regional Panel meeting if they wish, and that way all Regional Panel members will be aware of their concerns about the development.

Similarly, the applicant will have the opportunity, if required, to address the Regional Panel meeting.

What are applicants required to provide with their application?

At the time of lodgement, the Applicant must provide adequate information and sufficient technical reports on potential impacts of the proposed development to enable the application to be assessed. Council staff may request the applicant to provide further information or reports.

Requests should:

- be in writing and be made as early as possible after lodgement;
- include all matters in the one request and only be for matters essential for the assessment of the application;
- not include matters that can be dealt with by condition or after the application has been determined;
- specify a clear and reasonable time frame (including a date) for the submission of the information or amendments to council; and
- indicate that should the applicant not meet the deadline, the council will proceed to assess the application in its current form and/or without the requested information.

How are regional development applications assessed?

Local councils are responsible for the assessment of all applications to be referred to the Regional Panels for determination.

Council's planning staff prepare an assessment report in accordance with the EP&A Act and EP&A Regulation addressing all statutory requirements and properly considering all issues. Where a council does not have the required technical expertise, it may engage external expertise in the assessment of aspects or the whole development application. Council nominees to the Regional Panel should not be involved in the assessment process. Councils cannot direct planning staff as to the content of any advice or recommendation made by the staff member in the assessment report.

The assessment report will include a recommendation on the proposed development. If the recommendation is for approval of the application the report is to include recommended conditions of consent. If it is for refusal, the report will include reasons for refusal based on the assessment in the report. The assessment report should also clearly identify if there are any outstanding issues and steps to be taken to address such issues.

When completed, the assessment report and relevant attachments are sent to the Panel Secretariat for provision to the Regional Panel for determination of the application.

The person responsible for the assessment report is required to attend the Regional Panel meeting to outline the assessment report and provide information to the Regional Panel if required.

All costs associated with the preparation of the assessment report are to be covered from the relevant application fees which are paid to and retained by the council.

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Does the elected council deal with the assessment report?

The elected council has no role in approving, authorising or endorsing the assessment report.

The Council's planning staff prepares the assessment report for provision to the Panel Secretariat. The *Local Government Act 1993* provides that Council staff cannot be directed about the content of any advice or recommendation.

How does the elected council provide its input about a development to the Regional Panel?

The elected Council has the opportunity to provide a submission to the Regional Panel on matters being determined in its area. Councillors (except any councillors that have been appointed to the Regional Panel) as members of the council, can determine to provide a submission to the Regional Panel about the matter to be determined. The Council is able to be represented at the Regional Panel meeting to address the meeting about its submission.

The assessment report, after it has been provided to the Panel Secretariat, may be provided to the elected council to assist it in its deliberations about its submission to the Regional Panel. Any council submission on behalf of the elected council should not be prepared by any person that was involved in the assessment of the application.

How do councillors that are members of the Regional Panel deal with any regional significant development proposals that are considered at a council meeting?

Any councillors that are members of the Regional Panel should refer to the Joint Regional Planning Panels Code of Conduct to address this situation. Generally, they should declare an interest in the matter at the council meeting and step aside from the council's decision making process so that they are independent when considering the development application at the Regional Panel meeting.

An alternative option is for the councillor to stand down from the Regional Panel in relation to the proposed development and have an alternate Regional Panel member appointed by the council. If the alternate member is a councillor, that person would also be required to similarly address the above situation by declaring an interest and stepping aside from any council decision about the development.

When will the assessment report be available to the applicant and others?

Once it is provided to the Panel Secretariat, the assessment report is placed on the council's website and the Regional Panel website prior to the Regional Panel meeting.

Does the Regional Panel consider the payment of development contributions (section 94 and 94A)?

The Council's Assessment Report should address any required contributions in accordance with the council's adopted section 94 and 94A plans applicable to the proposed development.

The Regional Panel cannot impose any additional section 94 charges or 94A levy that is not consistent with a plan adopted by the council.

When will site visits occur?

Formal site visits by the Regional Panel may be arranged prior to a Regional Panel meeting at the discretion of the Chairperson. The Chairperson will also invite the council assessment officer and other persons engaged in the assessment to attend. The site visit may be conducted on the same day as the Regional Panel meeting or at some other time depending on circumstances such as location and available time.

Other parties, including the applicant and persons who made submissions, may also be invited to attend at the discretion of the Chairperson. At site visits Regional Panel members may identify issues that require clarification or further information, however, Panel Members should not make any comment that would indicate pre-judgement of the application.

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What are briefing meetings?

The Chairperson may authorise the holding of a briefing about a regional application for the information of the Regional Panel. At a briefing, Council staff will provide a presentation of the proposed development, its key elements and the planning controls that affect it, together with an overview of issues of concern arising through the assessment process or raised in submissions.

At this stage, the Regional Panel should not offer an opinion on the overall merits of the proposal or direct the persons undertaking the assessment in relation to the content of any advice or recommendation provided in the report. The Regional Panel may identify issues that they expect to be addressed or clarified in the assessment report.

To avoid any apprehension of bias, generally no other parties should be involved in the briefing. However, there may be situations where it is desirable for a Regional Panel to meet with key stakeholders to discuss unresolved issues and where appropriate to facilitate resolution of outstanding issues. If these meetings are held in public, the applicant and all persons that have made a submission are invited to attend the meeting as observers.

Can Regional Panel Members attend any public meetings held about the proposed development?

Regional Panel members should avoid attending public meetings about a proposed development to avoid a perception that they have been influenced by the meeting.

Regional Panel members should advise meeting organisers to make a written submission to the council during the exhibition period so that their position is included in the assessment report. Members should also advise that there may be an opportunity to address the Regional Panel meeting to ensure that all members of the Panel can hear their concerns as part of the determination of the application.

In circumstances where the application attracts significant community interest, the Regional Panel may consider the holding of a pre-determination meeting to hear submitters in a public forum prior to considering the application in the Regional Panel meeting.

What happens if the development requires a rezoning of the land?

It is the responsibility of the council to process any proposed rezoning of land should a proposed development require the approval of a "rezoning application".

Applicants may lodge a development application prior to the rezoning process, however, it is recommended that the development application not be lodged until there is adequate certainty about the likely outcome of the rezoning process. The Regional Panel will not determine the development application until the rezoning process has been completed and gazetted.

Further Information

- Joint Regional Regional Panel website – <http://jrpp.nsw.gov.au>
- Joint Regional Planning Panels – Operational Procedures (available on the Regional Panel website -these provide the principles to direct every aspect of Regional Panel activities)
- Joint Regional Planning Panels Code of Conduct (available on the Regional Panel website – the Code outlines the standards of behaviour which all members of a Regional Panel must comply with)
- Joint Regional Planning Panels Complaints Handling Policy
- Joint Regional Planning Panel Facts Sheets: No.1, No.3 and No. 4

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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 3200-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(b) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary agenda namely ***Sale of Land for Unpaid Rates.***
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning the personal hardship associated with unpaid rates of individuals.
- 3) That the report of the closed part of the meeting is to remain confidential.

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

159	Councillor Ken Jordan Councillor John Nell	It was resolved that the recommendation be adopted.
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ITEM NO. 2

FILE NO: 3200-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Item 2 on the 8 June 2010 Confidential Committee Meeting agenda namely **Karuah Boat Ramp Reconstruction**.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **Karuah Boat Ramp Reconstruction**.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

160	Councillor Ken Jordan Councillor John Nell	It was resolved that the recommendation be adopted.
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COUNCIL COMMITTEE RECOMMENDATIONS

ITEM NO. 1**FILE NO: 16-2010-152-1****DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 24 REFLECTIONS DRIVE ONE MILE**

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

RECOMMENDATION IS THAT COUNCIL:

1) Refuse Development Application 16-2010-152-1 for the following reasons:

- i) The proposed construction of a dwelling is unsuitable for the proposed development site as it is susceptible to and significantly affected by sea level rise, inundation and flooding when assessed against Section 79C of the Environmental Planning and Assessment Act 1979;
 - ii) The Designed Ground Floor Levels are below the minimum acceptable Flood Planning Level (FPL) for this location of 3.0m AHD;
 - iii) The proposed development is inconsistent with the provisions of Port Stephens Local Environment Plan 2000 - in particular, the Residential 2(A) Zone objectives and considerations for development on land affected by or susceptible to environmental constraints including sea level rise, inundation and flooding.
-

COUNCIL COMMITTEE MEETING – 8 JUNE 2010
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Sally Dover	That Council support the development application at a level of 2.5 AHD and delegate full determination to the General Manager.
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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, Shirley O'Brien, Bob Westbury, Sally Dover and Bruce MacKenzie.

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

The Motion on being put was carried.

MINUTES FOR ORDINARY MEETING – 8 JUNE 2010

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

161	Councillor Ken Jordan Councillor Bob Westbury	It was resolved that Council support the development application at a level of 2.5 AHD and delegate full determination to the General Manager.
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Those for the Motion: Crs Ken Jordan, Shirley O'Brien, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Crs Glenys Francis, Geoff Dingle, John Nell and Steve Tucker.

The Motion on being put was carried.

	Councillor Glenys Francis Councillor John Nell	That Council defer to allow for a site inspection by Councillors.
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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 Glenys Francis, Steve Tucker, Geoff Dingle and John Nell.

Those against the Motion: Crs Ken Jordan, Shirley O'Brien, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

The amendment on being put was lost.

ITEM NO. 2**FILE NO: : 16-2010-146-1****DEVELOPMENT APPLICATION FOR TWO STOREY DWELLING AT NO. 193 SOLDIERS POINT ROAD, SALAMANDER BAY****REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2010-146-1 for the following reasons:
- i) The proposed construction of a dwelling is unsuitable for the proposed development site as it is susceptible to and significantly affected by sea level rise, inundation and flooding when assessed against Section 79C of the Environmental Planning and Assessment Act 1979;
 - ii) The Designed Ground Floor Levels are below the minimum acceptable Flood Planning Level (FPL) for this location of 3.5m AHD;
 - iii) The proposed development is inconsistent with the provisions of Port Stephens Local Environment Plan 2000 - in particular, the Residential 2(A) Zone objectives and considerations for development on land affected by or susceptible to environmental constraints including sea level rise, inundation and flooding.

**COUNCIL COMMITTEE MEETING – 8 JUNE 2010
RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Ken Jordan	That Council support the development application at a level of 2.90 AHD and delegate full determination to the General Manager.
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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 Glenys Francis, Ken Jordan, Steve Tucker, Shirley O'Brien, John Nell, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Cr Geoff Dingle.

Geoff Dingle abstained from voting.

MINUTES FOR ORDINARY MEETING – 8 JUNE 2010**ORDINARY COUNCIL MEETING - 8 JUNE 2010****RESOLUTION:**

162	Councillor Ken Jordan Councillor John Nell	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 Glenys Francis, Ken Jordan, Steve Tucker, Shirley O'Brien, John Nell, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Crs Geoff Dingle

ITEM NO. 3**FILE NO: 16-2009-257-1****DEVELOPMENT APPLICATION FOR 229 SITE CARAVAN PARK,
MANAGERS RESIDENCE, COMMUNITY HALL, RECREATION FACILITIES
AT NO. 19 & 20 ROAD 580 OFF PORT STEPHENS DRIVE, ANNA BAY****REPORT OF: KEN SOLMAN – MANAGER, DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING**
-----**RECOMMENDATION IS THAT COUNCIL:**

1) Refuse DA 16-2009-257-1 for the following reason:

The site is not considered suitable for 229 caravan sites providing long term accommodation, because:

- The development is inconsistent with the objectives of the 1(a) Rural Agriculture Zone.
 - The site is not considered suitable for the proposed development following assessment of the matters for consideration in Clause 10 of State Environmental Planning Policy 21 Caravan Parks.
 - The development is not consistent with the Lower Hunter Regional Strategy.
-
-

**COUNCIL COMMITTEE MEETING – 8 JUNE 2010
RECOMMENDATION:**

	Councillor John Nell Councillor Glenys Francis	That the matter be deferred to allow for a site inspection by Councillors.
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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 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 MEETING – 8 JUNE 2010**ORDINARY COUNCIL MEETING - 8 JUNE 2010****RESOLUTION:**

163	Councillor Glenys Francis Councillor John Nell	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 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.

ITEM NO. 4**FILE NO: PSC2009-02008****DRAFT INTEGRATED PLANS: COMMUNITY STRATEGIC PLAN – PORT STEPHENS 2022; DELIVERY PROGRAM 2010-2014; RESOURCE STRATEGY 2010-2020; OPERATIONAL PLAN 2010-2011; FEES & CHARGES 2010-2011**

REPORT OF: WAYNE WALLIS - GROUP MANAGER, CORPORATE SERVICES
GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Receives and notes the information contained in this Report;
- 2) Considers the recommendations contained in the Supplementary Report on submissions received during the exhibition period for the Integrated Plans.

COUNCIL COMMITTEE MEETING – 8 JUNE 2010**RECOMMENDATION:**

	Councillor Ken Jordan Councillor Bob Westbury	That Council: <ol style="list-style-type: none">1. Receives and notes the information contained in this Report;2. Considers the recommendations contained in the Supplementary Report on submissions received during the exhibition period for the Integrated Plans.3. Notes the submissions received and resolves to accept the recommendations related to each submission;4. Adopts the Integrated Plans with any adopted amendments: Port Stephens 2022; Delivery Program 2010-2014; Operational Plan 2010-2011; Resource Strategy 2010-2020;5. Adopts the Fees & Charges 2010-2011 with any adopted amendments;6. That, as a result of adopting the Integrated Plans Council revokes the 30 Year Plan policy (adopted 20 October 1998 (Minute 502) and amended on 18 July 2000 (Minute 365)).
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MINUTES FOR ORDINARY MEETING – 8 JUNE 2010

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

164	Councillor John Nell Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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ITEM NO. 5**FILE NO: PSC2010-02880****AUDIT COMMITTEE MEMBERSHIP****REPORT OF: WAYNE WALLIS - GROUP MANAGER, CORPORATE SERVICES****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Appoint Mr Bob Urry as an independent external representative to the Audit Committee for a three year term, expiring 30 June 2013.
 - 2) Appoint Mr David Wheeler as an independent external representative to the Audit Committee for a three year term, expiring 30 June 2013.
-

COUNCIL COMMITTEE MEETING – 8 JUNE 2010**RECOMMENDATION:**

	Councillor Ken Jordan Councillor Geoff Dingle	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 8 JUNE 2010**RESOLUTION:**

165	Councillor Glenys Francis Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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ITEM NO. 6

FILE NO: PSC2010-03457

REVOKE POLICY – EQUAL EMPLOYMENT OPPORTUNITY

REPORT OF: ANNE SCHMARR – MANAGER, ORGANISATION DEVELOPMENT
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke Equal Employment Opportunity (EEO)) Policy adopted 16 May 2000 contained in **attachment 1** of this report.

COUNCIL COMMITTEE MEETING – 8 JUNE 2010 RECOMMENDATION:

	Councillor Bob Westbury Councillor Ken Jordan	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 8 JUNE 2010 RESOLUTION:

166	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
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ITEM NO. 7**FILE NO: PSC2008-4270**

TO ESTABLISH LEGAL ACCESS TO AN ISOLATED PUBLIC ROAD (LOT 2 DP 842285) NEAR HALLORAN WAY, RAYMOND TERRACE, TO RELEASE THE CURRENT RIGHTS OF WAY AND EASEMENTS FOR SERVICES OVER EXISTING PUBLIC ROADS (LOTS 2 & 4 DP 842285) BEING THE ISOLATED PUBLIC ROAD AND HALLORAN WAY AND RE-ESTABLISH NEW EASEMENTS FOR SERVICES OVER THOSE EXISTING PUBLIC ROADS.

REPORT OF: MICK LOOMES – MANAGER, ENGINEERING SERVICES
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consents to the creation of a right of access over Lot 3 DP 842285 for the benefit of Lot 2 DP 842285 (public road).
- 2) Consents to the release of an easement for services and right of way from Lots 2 & 4 DP 842285 (public road).
- 3) Consents to and grants authority to affix Council's Seal and signatures to the Plan and Section 88B instrument creating the right of access over Lot 3 DP 842285 for the benefit of Lot 2 DP 842285 (public road) and the release of easement for services and right of way from Lots 2 & 4 DP 842285 (public road).
- 4) Consents to the creation of an easement for services over Lot 2 DP 842285 (public road) for the benefit of Lot 1 DP 842285 and Lot 11 DP 828802.
- 5) Consents to and grants authority to affix Council's Seal and signatures to the Plan and Section 88B instrument creating the easement for services over Lot 2 DP 842285 (public road) for the benefit of Lot 1 DP 842285 and Lot 11 DP 828802.
- 6) Consents to the creation of an easement for services over Lot 4 DP 842285 (public road) for the benefit of Lots 1 & 3 DP 842285 and Lot 11 DP 828802.
- 7) Consents to and grants authority to affix Council's Seal and signatures to the Plan and Section 88B instrument creating the easement for services over Lot 4 DP 842285 (public road) for the benefit of Lots 1 & 3 DP 842285 and Lot 11 DP 828802.

COUNCIL COMMITTEE MEETING – 8 JUNE 2010

RECOMMENDATION:

	Councillor Bob Westbury Councillor Ken Jordan	That the recommendation be adopted.
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MINUTES FOR ORDINARY MEETING – 8 JUNE 2010

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

167	Councillor Shirley O'Brien Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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ITEM NO. 8**FILE NO: 1190-001****REQUEST FOR FINANCIAL ASSISTANCE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
- a) Robyn Yvette School of Dance – Funding to assist with costs of Sister Cities Tour from USA Events – Mayoral Funds - \$500.00.
 - b) Port Stephens Sister Cities – Funding to assist with costs of Sister Cities Delegate attending Annual Conference 2010 – Mayoral Funds - \$500.00.
 - c) 1st Tilligerry Scout Group – Reimbursement of costs associated with submitting DA 16-2010-198-1 – Mayoral Funds - \$792.60.
 - d) Raegan Williams – Funding to assist with costs associated with trip to New York for Dance Auditions – Central Ward - \$200.00.
 - e) Port Stephens Council – Environmental Services for Lemon Tree Passage RSL – Reimbursement for Council Costs for recycling bins for event – Mayoral Funds - \$360.00.
 - f) Relay for Life – Cancer Council – Reimbursement of fees associated with holding charity events on the Tomaree Peninsula – Mayoral Funds - \$400.00.
 - g) Relay for Life – Cancer Council – Reimbursement of fees associated with holding charity events on the Tomaree Peninsula – Rapid Response – Cr Westbury - \$200.00.

COUNCIL COMMITTEE MEETING – 8 JUNE 2010**RECOMMENDATION:**

	Councillor Ken Jordan Councillor Bob Westbury	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 8 JUNE 2010**RESOLUTION:**

168	Councillor Glenys Francis Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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ITEM NO. 9**FILE NO: A2004-0266****MAYOR AND COUNCILLOR FEES 2010/11**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Determine the fees for the Mayor and Councillors for the period 1 July 2010 to 30 June 2011.
-

COUNCIL COMMITTEE MEETING – 8 JUNE 2010
RECOMMENDATION:

	Councillor John Nell Councillor Ken Jordan	That Mayor and Councillors fees be determinate at the maximum level.
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ORDINARY COUNCIL MEETING - 8 JUNE 2010
RESOLUTION:

169	Councillor Geoff Dingle Councillor John Nell	It was resolved that the recommendation be adopted.
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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 8 June, 2010.

No:	Report Title	Page:
1	CASH AND INVESTMENTS HELD AT 30 APRIL 2010	

COUNCIL COMMITTEE MEETING – 8 JUNE 2010 **RECOMMENDATION:**

	Councillor Bob Westbury Councillor John Nell	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING - 8 JUNE 2010 **RESOLUTION:**

170	Councillor Geoff Dingle Councillor John Nell	It was resolved that the recommendation be adopted.
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COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

CASH AND INVESTMENTS HELD AT 30 APRIL 2010

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

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 30 April 2010.

ATTACHMENTS

- 1) Cash and investments held at 30 April 2010.
- 2) Monthly cash and investments balance May 2009 – April 2010.
- 3) Monthly Australian term deposit index May 2009 – April 2010.

MINUTES FOR ORDINARY MEETING – 8 JUNE 2010

ATTACHMENT 1

CASH & INVESTMENTS HELD AS AT 30 APRIL 2010										
INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value February	Market Value March	Market Value April	Current Mark to Market Exposure
GRANGE SECURITIES										
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	1,000,000.00	5.08%	5.69%	\$788,700.00	\$788,771.00	\$888,100.00	-\$111,900.00
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO		23-Jun-15	412,500.00	2.10%	0.00%	\$231,412.50	\$257,812.50	\$249,768.75	-\$162,731.25
HERALD LTD "QUARTZ AA"	Floating Rate CDO	CCC-	20-Dec-10	450,000.00	2.29%	5.69%	\$388,395.00	\$388,395.00	\$388,395.00	-\$61,605.00
STARTS CAYMAN LTD "BLUE GUM AA"	Floating Rate CDO	NR	22-Jun-13	1,000,000.00	5.08%	5.72%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
HELIUM CAPITAL LTD "ESPERANCE AA+""	Floating Rate CDO	NR	20-Mar-13	1,000,000.00	5.08%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
HOME BUILDING SOCIETY	Floating Rate Sub Debt	NR	25-Jul-11	500,000.00	2.54%	5.54%	\$446,885.00	\$449,535.00	\$452,345.00	-\$47,655.00
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note	NR	18-Oct-11	500,000.00	2.54%	6.84%	\$502,750.00	\$505,050.00	\$507,250.00	\$7,250.00
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	CCC	20-Mar-14	1,000,000.00	5.08%	5.29%	\$303,900.00	\$303,900.00	\$351,400.00	-\$648,600.00
GRANGE SECURITIES "COOLANGATTA AA+""	Floating Rate CDO	NR	20-Sep-14	1,000,000.00	5.08%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
TOTAL GRANGE SECURITIES				\$6,862,500.00	34.88%		\$2,662,042.50	\$2,693,463.50	\$2,837,258.75	(\$4,025,241.25)
ABN AMRO MORGANS										
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	A+	20-Sep-11	\$1,000,000.00	5.08%	0.00%	\$900,400.00	\$900,200.00	\$904,200.00	-\$95,800.00
TOTAL ABN AMRO MORGANS				\$1,000,000.00	5.08%		\$900,400.00	\$900,200.00	\$904,200.00	(\$95,800.00)
ANZ INVESTMENTS										
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA"	Floating Rate CDO				0.00%		\$452,500.00	\$487,000.00		\$0.00
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000.00	5.08%	0.00%	\$747,600.00	\$744,000.00	\$774,700.00	-\$225,300.00
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876.98	5.17%	0.00%	\$601,626.36	\$604,853.03	\$600,150.40	-\$417,726.58
TOTAL ANZ INVESTMENTS				\$2,017,876.98	10.26%		\$1,801,726.36	\$1,835,853.03	\$1,374,850.40	(\$643,026.58)
RIM SECURITIES										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		8-Oct-11	\$2,000,000.00	10.17%	0.00%	\$1,224,000.00	\$1,500,000.00	\$1,381,002.00	-\$618,998.00
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		5-Apr-11	\$1,000,000.00	5.08%	5.16%	\$935,174.00	\$946,393.00	\$952,149.00	-\$47,851.00
TOTAL RIM SECURITIES				\$3,000,000.00	15.25%		\$2,159,174.00	\$2,446,393.00	\$2,333,151.00	(\$666,849.00)
WESTPAC INVESTMENT BANK										
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt				0.00%		\$491,690.00	\$497,595.00		
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		21-Nov-11	\$500,000.00	2.54%	5.25%	\$480,890.00	\$481,950.00	\$482,760.00	-\$17,240.00
TOTAL WESTPAC INV. BANK				\$500,000.00	2.54%		\$972,580.00	\$979,545.00	\$482,760.00	(\$17,240.00)
LONGREACH CAPITAL MARKETS										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000.00	2.54%	0.00%	\$439,650.00	\$440,000.00	\$443,950.00	-\$56,050.00
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	A+	7-Sep-12	\$500,000.00	2.54%	0.00%	\$424,500.00	\$425,650.00	\$427,200.00	-\$72,800.00
TOTAL LONGREACH CAPITAL				\$1,000,000.00	5.08%		\$864,150.00	\$865,650.00	\$871,150.00	(\$128,850.00)

MINUTES FOR ORDINARY MEETING – 8 JUNE 2010

ATTACHMENT 1

COMMONWEALTH BANK										
EQUITY LINKED DEPOSIT	Equity Linked Note	AA	20-Sep-11	\$500,000.00	2.54%	3.00%	\$483,050.00	\$482,200.00	\$482,500.00	-\$17,500.00
EQUITY LINKED DEPOSIT GH100	Equity Linked Note	AA	03-Aug-10	\$500,000.00	2.54%	3.00%	\$501,350.00	\$501,350.00	\$496,100.00	-\$3,900.00
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	AA	05-Nov-12	\$500,000.00	2.54%	3.00%	\$470,600.00	\$466,850.00	\$470,900.00	-\$29,100.00
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	BBB	09-Nov-12	\$500,000.00	2.54%	5.35%	\$481,300.00	\$489,000.00	\$491,085.00	-\$8,915.00
BANK OF QUEENSLAND	Term Deposit		12-Aug-10		0.00%		\$1,000,000.00	\$1,000,000.00		
BANK OF QUEENSLAND BOND	Bond	BBB+	16-Mar-12	\$1,000,000.00	5.08%	5.35%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
TOTAL COMMONWEALTH BANK				\$3,000,000.00	15.25%		\$3,936,300.00	\$3,939,400.00	\$2,940,585.00	(\$59,415.00)
FIG SECURITIES										
CREDIT SUISSE PRINCIPAL PROTECTED NOTE AQUADUCT AA-	Principal Protected Note		21-Jun-10	\$1,000,000.00	5.08%	0.00%	\$975,400.00	\$978,700.00	\$981,100.00	-\$18,900.00
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note		30-Nov-14	\$500,000.00	2.54%	5.17%	\$470,100.00	\$460,650.00	\$460,650.00	-\$39,350.00
TOTAL FIG SECURITIES				\$1,500,000.00	7.62%		\$1,445,500.00	\$1,439,350.00	\$1,441,750.00	(\$6,250.00)
MAITLAND MUTUAL										
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	30-Jun-13	500,000.00	2.54%	5.49%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
MAITLAND MUTUAL	Term Deposit				0.00%		\$574,519.99	\$500,000.00		
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	31-Dec-14	500,000.00	2.54%	5.49%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
TOTAL M'L AND MUTUAL				\$1,000,000.00	5.08%		\$1,574,519.99	\$1,500,000.00	\$1,000,000.00	\$0.00
TOTAL INVESTMENTS				\$19,880,376.98	101.04%		\$16,316,392.85	\$16,599,854.53	\$14,185,705.15	(\$5,694,671.83)
AVERAGE RATE OF RETURN ON INVESTMENTS						2.71%				
CASH AT BANK				(\$205,518.24)	-1.04%	4.45%	\$3,488,795.83	\$1,311,047.08	(\$205,518.24)	\$0.00
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH						2.69%				
TOTAL CASH & INVESTMENTS				\$19,674,858.74	100.00%		\$19,805,188.68	\$17,910,901.61	\$13,980,186.91	(\$5,694,671.83)
BBSW FOR PREVIOUS 3 MONTHS						5.37%				

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

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

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

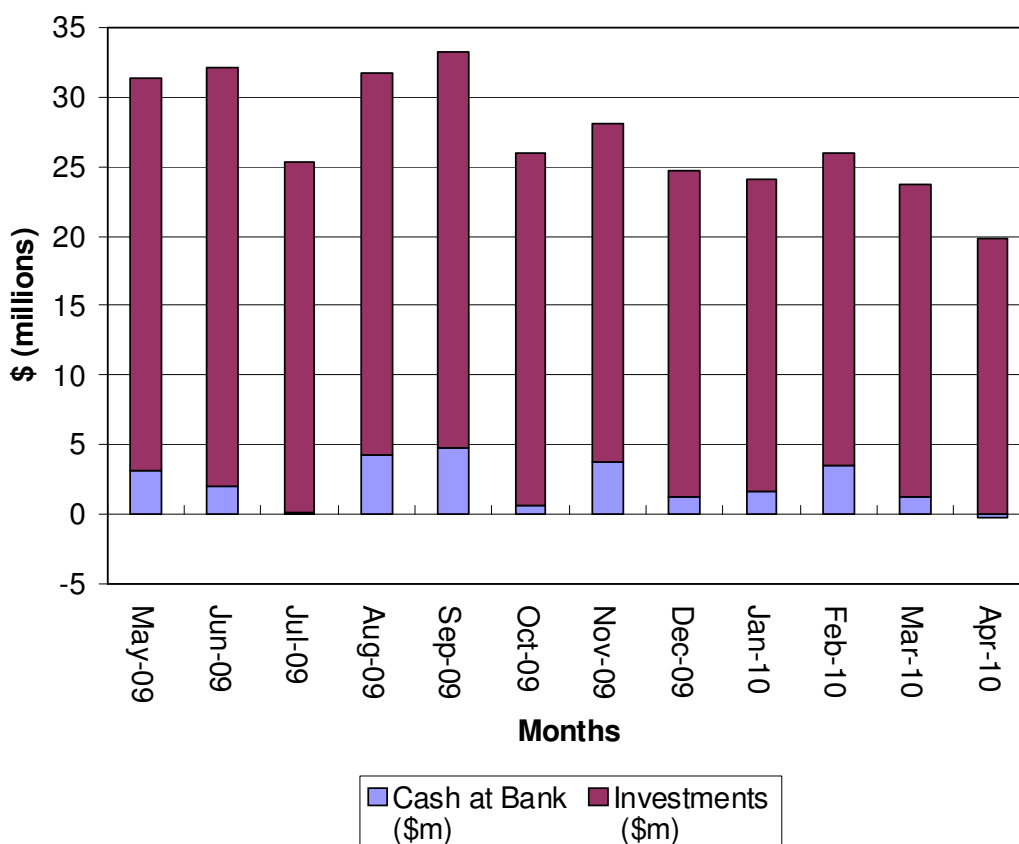
P GESLING

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
May-09	3.160	28.193	31.353
Jun-09	1.947	30.193	32.140
Jul-09	0.127	25.193	25.320
Aug-09	4.298	27.448	31.747
Sep-09	4.801	28.448	33.250
Oct-09	0.579	25.448	26.028
Nov-09	3.691	24.448	28.140
Dec-09	1.277	23.448	24.726
Jan-10	1.670	22.455	24.125
Feb-10	3.489	22.455	25.944
Mar-10	1.311	22.380	23.691
Apr-10	0.206	19.880	19.675

**Cash and Invested Funds for the Period ended
30/4/2010**

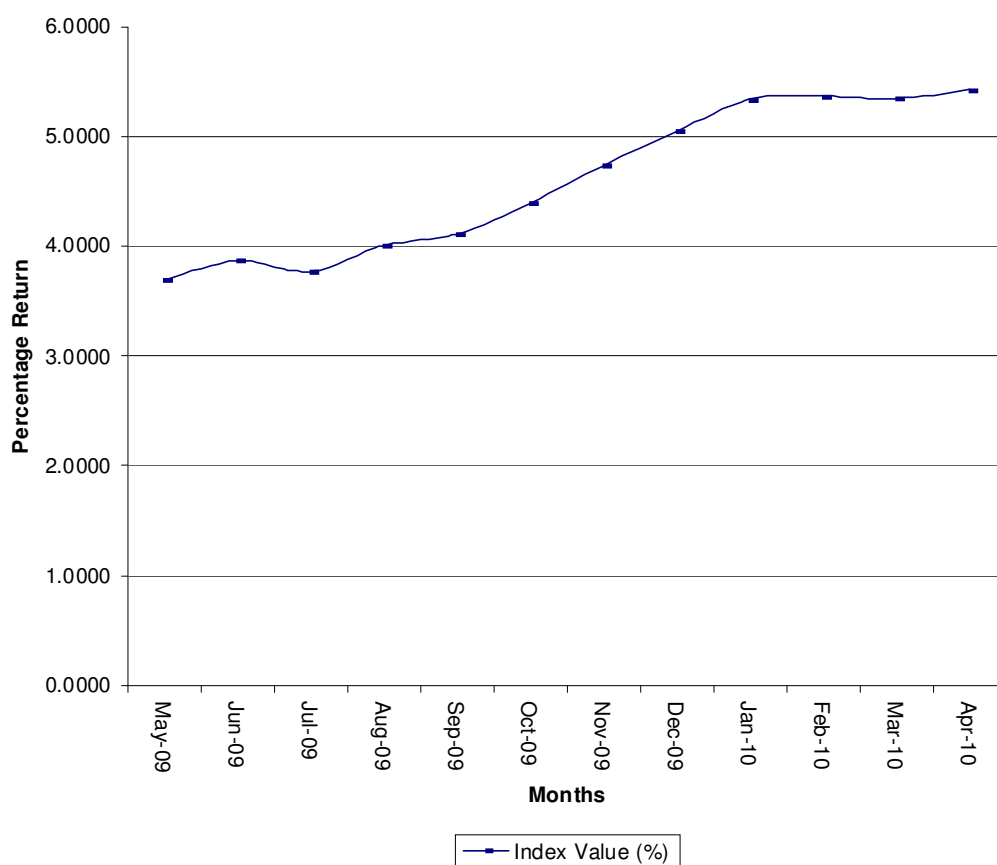


ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	Index Value (%)
May-09	3.6960
Jun-09	3.8699
Jul-09	3.7701
Aug-09	4.0082
Sep-09	4.1080
Oct-09	4.3946
Nov-09	4.7356
Dec-09	5.0488
Jan-10	5.3373
Feb-10	5.3685
Mar-10	5.3452
Apr-10	5.4259

Australian Term Deposit Index as at 30/4/2010



NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217, PSC2005-3531

BUS TRANSFER STATION

COUNCILLOR: SALLY DOVER

THAT COUNCIL:

- 1) Investigate and approach the Department of Lands to obtain a lease over part of the land on the corner of Gan Gan Road and the four wheel access road in order to develop a bus transfer station for tourist buses.
 - 2) Then prohibit tourists coached from parking at Birubi Headland.
-

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

171	Councillor Sally Dover	It was resolved that there being no objection the Notice of Motion be adopted.
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BACKGROUND REPORT OF: JASON LINNANE – ACTING GROUP MANAGER, FACILITIES AND SERVICES

BACKGROUND

The issue of bus access on the headland is subject to ongoing conversations between staff and officers of NPWS and Property and Land Management Authority.

Staff will formalise the matter and provide advice back to Council in due course.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217

LAND FOR MOTORCROSS PARK – MEDOWIE / ANNA BAY

COUNCILLOR: SHIRLEY O'BRIEN

THAT COUNCIL:

- 1) Approach the Hunter Water Corporation, NSW Forests and the Property and Land Management authority to obtain a parcel of land in the Medowie or Anna Bay area for a motorcross Park to be developed.
-

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

172	Councillor Shirley O'Brien Councillor Steve Tucker	It was resolved that the Notice of Motion be adopted.
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BACKGROUND REPORT OF: JASON LINNANE – ACTING GROUP MANAGER - FACILITIES AND SERVICES

BACKGROUND

Staff will initiate discussions with the names agencies on the proposal. Subsequent to these initial conversations a memorandum to provide status report will be prepared for Councillors.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: A2004-0217

ALLOCATE PART OF LOT 530 DP 822120 – AQUATIC CLOSE, SALAMANDER BAY

COUNCILLOR: SALLY DOVER

THAT COUNCIL:

- 1) Investigate the allocation of part of Lot 530 DP 822120, fronting Aquatic Close, between Tomaree High School and the tennis courts, Salamander Bay for a Tomaree Youth Centre.

A new committee has just been incorporated in conjunction with James Campbell, Youth Co-ordinator for Port Stephens Council, called TYCA, Tomaree Youth Community Action Inc. Seven young men and women under the age of 25 and four mature residents make up this eleven person committee. This is an exciting combination of residents with a vision to apply for funding, to see a Youth Centre on this site which will empower the youth on the Tomaree Peninsula to fulfil their potential.

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

173	Councillor Sally Dover	It was resolved that there being no objection the Notice of Motion be adopted.
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BACKGROUND REPORT OF: JASON LINNANE – ACTING GROUP MANAGER, FACILITIES & SERVICES

BACKGROUND

The subject land, Lot 530 DP 822120 is Crown Land under the care, control and management of Council. It is a reserve (R91548) established for the purposes of public recreation.

The investigation will need to establish if the proposed development on the site is one consistent with allowable usage of public recreation reserves by the Land and Property Management Authority.

The investigation should also take into account any other proposals for future development of allowable facilities on the site by Council to ensure effective integration of all development proposals.

CONFIDENTIAL ITEMS



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

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

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

174	Councillor Steve Tucker Councillor John Nell	It was resolved that Council move into Confidential Session.
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CONFIDENTIAL

ITEM NO. 1

FILE NO: PSC2005-2881

SALE OF LAND FOR UNPAID RATES

REPORT OF: DAMIEN JENKINS – MANAGER, FINANCIAL SERVICES

GROUP: COMMERCIAL SERVICES

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

175	Councillor Glenys Francis Councillor John Nell	It was resolved that Council advise the ratepayers of assessment numbers 5595 and 164822 that Council will consider passing a resolution to sell their properties for unpaid rates unless they negotiate a repayment plan to the satisfaction of the General Manager.
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CONFIDENTIAL

ITEM NO. 2

FILE NO: T04-2010, PSC2005-3587

KARUAH BOAT RAMP RECONSTRUCTION

REPORT OF: PETER AVIS – MANAGER, PROJECT SERVICES

GROUP: FACILITIES AND SERVICES MANAGER

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

176	Councillor John Nell Councillor Bob Westbury	It was resolved that Council accepts the tender offered by Marijan Constructions Pty Ltd for \$155,600 (ex GST) for the structural design, certification and reconstruction of the existing Karuah Boat Ramp.
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ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

177	Councillor John Nell Councillor Bob Westbury	It was resolved that Council move out of Confidential Session.
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There being no further business the meeting closed at 8.20pm.

I certify that pages 1 to 76 of the Open Ordinary Minutes of Council 8 June 2010 and the pages 77 to 84 of the Confidential Ordinary Minutes of Council 8 June 2010 were confirmed by Council at its meeting held on 29 June 2010.

.....
Cr Bruce MacKenzie
MAYOR