

Minutes 29 JUNE 2010



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 29 June 2010, commencing at 8.05pm.

PRESENT: Councillors B. MacKenzie (Mayor); R. Westbury (Deputy Mayor); C. De Lyall, G. Dingle; S. Dover, G. Francis; P. Kafer; K. Jordan; S. O'Brien; S. Tucker, F. Ward; General Manager; Corporate Services Group Manager, Facilities and Services Group Manager; Sustainable Planning Group Manager; Commercial Services Group Manager and Executive Officer.

178	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that the apology from Cr John Nell be received and noted.
179	Councillor Ken Jordan Councillor Steve Tucker	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 8 June 2010 be confirmed.

The Mayor welcomed Cr Caroline De Lyall to her first Council.

Cr Kafer declared a non-pecuniary conflict of interest of a personal nature in Item 4.

Cr Jordan declared a non-pecuniary conflict of interest in Item 4 with the nature of the interest being friend.

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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: A2004-0029

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary Council agenda namely **Security Screening Services Tender – Newcastle Airport Limited**.
 - 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 **Security Screening Services Tender – Newcastle Airport Limited**.
 - 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 – 29 JUNE 2010

180	Councillor Bob Westbury Councillor Sally Dover	It was resolved that the recommendation be adopted.
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COUNCIL COMMITTEE RECOMMENDATIONS

ITEM NO. 1**FILE NO: 16-2005-354-3****DEVELOPMENT APPLICATION FOR TOURIST OPERATION – BOAT RIDES
ON THE PORT STEPHENS WATERWAYS****REPORT OF: KEN SOLMAN ACTING MANAGER DEVELOPMENT AND BUILDING
GROUP: SUSTAINABLE PLANNING**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2005-354-3 for to modify consent 16-2005-354-2 so as to remove the requirement for S94 contributions (condition 9) for the following reasons:
- a. The development is not consistent with the Parking Provisions contained within Section 3.8 of Port Stephens Development Control Plan 2007.
 - b. Refund of Contributions would be contrary to the provisions of Section 2.3.7 of the Port Stephens Section 94 Contributions Plan.
-
-

COUNCIL COMMITTEE MEETING – 29 JUNE 2010**RECOMMENDATION:**

	Councillor Bob Westbury Councillor Glenys Francis	That Council approve the Section 96 development application and refund the Section 94 contribution and fees paid, excluding interest.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 29 JUNE 2010

181	Councillor Peter Kafer Councillor Steve Tucker	It was resolved that the Council Committee recommendation be adopted.
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MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

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

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

Those against the motion: Nil.

BACKGROUND

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

This application seeks to modify consent 16-2005-354-2 so as to remove the requirement for S94 contributions (condition 9) to be paid in lieu of a parking shortfall. The applicant is also seeking a refund of S94 contributions paid and fees applicable to the previous S96 amendment.

The applicant asserts that there is an inequity in that they are the only tourist boat to have paid the contribution for parking and that if other operations are not subject to contributions then the contributions subject to this application should be refunded.

Currently there are a number of Tourist Boats operating within Port Stephens that have not paid S94 Contributions. Contributions are levied on Tourist Boats for any car parking shortfalls. There is an inequity in the scenario that some boats are paying the contribution while many are not. Further it is unlikely that the new Port Stephens LEP will require consent for the operation of a Tourist boat and as such future operators will not be charged for parking shortfalls.

The applicant is seeking a refund of \$14,023 and four years of interest at 7.5% being a total of \$18,727.26 along with a refund of both Section 96 modifications, bringing the requested refund to \$18,947.26.

The key issues associated with this proposal are;

- Parking shortfall and compliance with Section 3.8 of Development Control Plan 2007,
- Compliance with section 2.3.7 of the Port Stephens S94 Plan.

An assessment of these issues is provided within Attachment 2.

History of applications for Thundaraff

The original consent, 16-2005-354-1, for the Tourist Boat operation, Thundaraff was issued on 3 June 2005. This application was subject to condition 9 requiring the payment of Section 94 Contributions of \$11,686 being the contribution required for the single space shortfall under the provisions of Development Control Plan PS2.

A subsequent amendment 16-2005-354-2 was issued on 25th November 2005. This application sought to increase the boats capacity from ten (10) passengers to twelve (12). As a result of this increase in passengers the Section 94 Contributions payable due to parking shortfall was amended to \$14,023.

The contributions were paid in full on 23 December 2005.

FINANCIAL/RESOURCE IMPLICATIONS

Approval of the application would result in Council refunding the contribution.

Refusal of the application will leave Council with a significant compliance burden and likely legal costs in pursuing difficult prosecutions. A copy of the Council report for Compliance Investigation into Tourist Boats is available for Councillors upon request from the Executive Assistant, Councillor Support.

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council's Policy. Should Council resolve to approve the application a review should also be undertaken of the Section 94 Contributions Policy in relation to a carpark contributions for Tourist Boats.

The development as currently approved is not consistent with Council's Development Control Plan in terms of the provision of parking spaces for the Tourist Boat operation. In lieu of providing parking, the applicant paid contributions for parking.

Should Council approve this application a precedent may be set restricting Councils ability to levy this contribution in the future.

Further, approval of the amendment and subsequent refund of fees would be contrary to Section 2.3.7 of Councils Contributions Plan.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed development will have economic benefits for the operator of the Tourist Boat.

There are no adverse environmental implications have been identified.

CONSULTATION

In accordance with Council policy the application was not exhibited.

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject or amend the recommendations.
- 3) Defer any decision until the Standard LEP Template removes any requirement for Development Consent for Tourist Boat activities such as this. Hence there will be no ability for Council to levy a S94 contribution on future operators or effectively chase development applications or contributions from existing operators.
- 4) Investigate amendments to the Section 94 Contributions Policy to restrict contributions to land based activities. This would present an opportunity for a future refund.

ATTACHMENTS

- 1) Locality Plan
- 2) Assessment
- 3) Applicants Submission

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

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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

This application seeks to modify consent 16-2005-354-2 so as to remove the requirement for S94 contributions (condition 9) to be paid in lieu of a parking shortfall. The applicant is also seeking a refund of S94 contributions paid and fees applicable to the previous S96 amendment.

The applicant is seeking a refund of \$14,023 and four years of interest at 7.5% being a total of \$18,727.26 along with a refund of both Section 96 modifications, bringing the requested refund to \$18,947.26.

THE APPLICATION

Owner	
Applicant	Mr P Ball
Detail Submitted	Cover Letter

THE LAND

Property Description	Port Stephens Waterways
Address	Waterways Port Stephens
Area	
Dimensions	
Characteristics	

THE ASSESSMENT**1. Planning Provisions**

LEP 2000 – Zoning	7(w) Environmental Protection – Waterways Zone.
Relevant Clauses	32 – Environmental Protection Zones
Development Control Plan	DCP 2007
State Environmental Planning Policies	Nil
Discussion	

Port Stephens Local Environmental Plan 2000

Clause 32 – Environment Protection Zones

The subject site is zoned 7(w) Environment Protection “w” (waterways) Zone. The proposal has been considered against the relevant objectives of the 7(w) zone and Assessment comments are provided below:

Objectives of the 7(w) Environment Protection “w” (waterways) Zone include:

The objectives of the Environment Protection “W” (Waterways) Zone are to minimise the impacts caused by commercial operations on the marine life and ecology of the Port Stephens waterways and to provide for such activities and facilities which:

- (a) are compatible with the existing or planned future character of the waterways and adjoining foreshores, and*
- (b) protect and maintain the viability of the oyster, prawn and fishing industries of the Port whilst enabling a balance of compatible recreational uses, and*
- (c) maintain the integrity of the waterways resource base and provide for its continued use by future generations, and*
- (d) ensure there is provision for multiple use of the waterways of Port Stephens having regard to the use and zoning of adjoining waterfront lands, and*
- (e) protect and enhance the aquatic environment and the significant marine habitats of Port Stephens, and*
- (f) protect and enhance the natural environment based on the principles of ecologically sustainable development including biological diversity and ecological integrity, and*
- (g) do not adversely affect and are not adversely affected by coastal processes, in both the short and long term.*

The Tourist Boat to which this modification is applicable is considered to be consistent with the objectives of the LEP.

Port Stephens Development Control Plan 2007

Section B3.8 – Schedule of Carparking Requirements, sets out the required parking by various forms of development. For Tourist Boat developments parking is required to be provided at a rate of 4.5 spaces per 100m² or 1 space per 10 passengers whichever is the greater.

The applicant has previously elected to pay a development contribution in lieu of providing the required number of physical parking spaces.

The previous amendment, DA 16-2005-354-2, levied the parking at a 1.2 space shortfall.

Port Stephens Council s94 Contributions Plan

The following clauses of Councils Port Stephens S94 Plan are considered to be applicable to this application.

2.3.7 REFUNDING OF SECTION 94 CONTRIBUTIONS

Council at its complete discretion, may consider a refund of a contribution where:

- The development consent lapses, is superseded, is surrendered or the development does not proceed and the Contribution has not been spent.*
- Consideration will be given to the costs incurred by Council in administering the development application under review.*

Approval of this amendment would be contrary to the provisions of Councils Contributions Plan.

2. Likely Impact of the Development

Refund of the development contributions would reduce the pool of contribution funds available for parking in the Nelson Bay Town Centre.

Further this action would result in a development contribution to the amount of on street parking demand, without contribution to the future development of parking spaces.

3. Suitability of the Site

The development is considered to be located at a site that is suitable for the proposed use.

4. Submissions

The application was not exhibited and as such no submissions were received.

5. Public Interest

It is not considered in this instance that waiving and refunding the Section 94 Contributions for parking shortfall is in the Public Interest.

ATTACHMENT 3
APPLICANTS SUBMISSION



THUNDARAFT
87 Rocky Point Road
FINGAL BAY NSW 2315
OFFICE PH / FAX: 02 49 813 187
BOOKINGS: 0400 382 028



Email: office@thundaraft.com.au
Web: www.thundaraft.com.au
ABN: 68 150 065 914

To Whom it May Concern:

Peter Ball on behalf of Thundaraft is seeking a refund of the Section 94 contributions that were paid to Port Stephens Council on the 22/12/2005.

These contributions being \$14023 (Original Section 94), \$110 (Section 96 Modification Application Form fee submitted on the 8/11/2005), and \$110 (this Section 96 Modification Application Form fee), for a total of \$14243 + interest on the original \$14023.

I have been pursuing Council since February 2006 about this matter, that being Thundaraft is the only operator that has ever paid this contribution and even though I provided a great deal of information to Council regarding names of operators that had not made a Development Application or paid the required fees, it appears that Council is very limited in their resources to pursue these people.

It would also appear that it is not a simple open and shut case to prove these operators are doing the wrong thing.

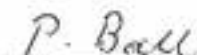
Having had several meetings with Council staff, the Mayor and also addressing a Council meeting on this matter, there seems to be no chance that Council can make other operators pay up.

After my meeting with the Mayor, he was interviewed by Nikki Taylor from the Port Stephens Examiner, and you can read the attached report as to what he thought the outcome should be.

I am also led to believe a new L.E.P. is being drawn up, and that the NSW Government would not support Section 94 Contributions in matters like this.

So in summary, I seek a refund of \$14023 + 4 years interest of 7.5% being a total of \$18727.26, plus 2 Section 96 Modification Applications of \$110 making a total refund of \$18947.26.

Yours Sincerely,


Peter Ball

Car park levy challenge

BY NIKKI TAYLOR
17 Sep, 2009 10:47 AM

THE legality of a car parking tax on Nelson Bay cruise operators is in doubt after a challenge by a businessman over being forced to pay more than \$14,000 to Port Stephens Council.

The owner of jet boat business Thundarati, Peter Ball, said he was required to pay the \$14,000 to the council as a contribution to car parking when he was given development approval (DA) in 2005 to operate from the waterfront.

It was a one-off payment worked out on a per passenger ratio.

Mr Ball said he had since discovered new operators who opened up since 2005 had made no car parking contributions.

"At least three other operators have set up and didn't bother to lodge DAs so they haven't been made to pay the fee and the council doesn't seem to enforce it," he said.

"I have been writing letters for three years and what I want is to either get my money back or for the others to have to pay their share. Port Stephens Mayor Bruce McKenzie said the council was investigating.

"We are persuing the matter and everyone required to pay the fee has been sent out a letter, it's not fair for just one person to have to pay the fee," Cr MacKenzie said.

"Everyone has to pay or his [Mr Ball's] money may have to be handed back."

He expected a decision by the end of the year.

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comments

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UNFAIR: Peter Ball wants \$14,000 refunded.

ITEM NO. 2**FILE NO: PSC2006-0549****DRAFT PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000
AMENDMENT NO. 22****REPORT OF: TREVOR ALLEN - MANGER INTEGRATED PLANNING
GROUP: SUSTAINABLE PLANNING**
-----**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt draft Port Stephens Local Environmental Plan 2000 Amendment No. 22 (**Attachment 1**) and, subject to a Voluntary Planning Agreement being prepared and adopted, forward the Plan to the Minister for Planning requesting that the Plan be made;
 - 2) Note the preparation of a draft Voluntary Planning Agreement with the proponent to fund infrastructure for land affected by the Plan and facilitate the development in accordance with *Anna Bay Strategy and Town Plan 2008*;
 - 3) Note the preparation of a Draft Development Control Plan for the subject land affected by the Plan.
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**COUNCIL COMMITTEE MEETING – 29 JUNE 2010
RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Bob Westbury	That the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 29 JUNE 2010

182	Councillor Ken Jordan Councillor Shirley O'Brien	That the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

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

Those against the motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall and Geoff Dingle.

AMENDMENT:

	Councillor Glenys Francis Councillor Geoff Dingle	That Council agree in principle to the rezoning and defer the decision to allow for a two way conversation on the VPA process.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall and Geoff Dingle.

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

The amendment was put and lost.

Subject Land & Owners:	Lot 901 DP 634550; Lot 902 DP 634550; Lot 1 DP 503876;
Proponent:	Monin and Antcliff;
Date of resolution:	28 th September 2004;
Current Zone:	1 (a) Rural Agriculture;
Proposed Zones:	2(a) Residential & 7(a) Environment Protection.

BACKGROUND

This report advises Council of the public exhibition of a draft Local Environmental Plan (draft LEP) to rezone land at Gan Gan Road, Anna Bay.

Since 2004 there have been ongoing negotiations and revisions of the draft Plan to try and satisfy Council's resolution, views of proponents, Department of Environment, Climate Change and Water and advice from the Department of Planning (DoP). The major issue hindering the preparation of the draft LEP was rural residential lots on the north side of the ridge. DoP advised that it will not support rural residential lots inconsistent with the Lower Hunter Regional Strategy (2006) and issued a Section 65 certificate accordingly on 26th January 2006 allowing Council to exhibit the draft LEP.

The *Anna Bay Strategy and Town Plan* (2008) identifies rural residential lots on the north side of the ridge to compensate for the proponents funding a pipe through the ridge northwards to allow drainage of the land proposed for urban development by the draft LEP and other land identified by the Strategy. However, the DoP has not accepted this as an economic reason to justify inclusion of some 6 rural residential lots north of the ridge. On the 20th April 2010, the proponents advised that they accept the draft LEP confined to that publicly exhibited. This has allowed the matter to now be reported to Council.

FINANCIAL/RESOURCE IMPLICATIONS

Council has spent an inordinate amount of staff time in preparing the draft LEP. However, additional rezoning fees are not being sought due to the period of time that has elapsed since lodgement.

If Council resolves to apply Stage 2 rezoning fees in accordance with Council's current Fees and Charges Schedule 2010, the amount due is \$13,000.

LEGAL, POLICY AND RISK IMPLICATIONS

Lower Hunter Regional Strategy - Anna Bay is identified as a proposed urban area with boundaries to be defined through local planning. Local planning is now reflected in the *Anna Bay Strategy and Town Plan 2008*.

Anna Bay Strategy and Town Plan - identifies part of the subject land for urban development and part rural residential north of the ridge. The draft LEP differs from the Strategy because it identifies land to the north for rezoning from 1(a) Rural Agriculture to 7(a) Environment Protection. No land is identified for Environmental Protection in the Strategy. As well, the draft LEP does not identify large lots to the north of the ridge. These lots were included in the Strategy on the basis that they would provide public benefit by funding the necessary drainage works.

The DoP has consistently advised that it will not support large lots on or beyond the local ridge in the draft LEP or Anna Bay Strategy. Pursuit of large lots has been the primary reason for the delay in progressing the draft LEP.

Voluntary Planning Agreement (VPA) - the landowner has agreed to prepare a VPA to fund the construction of a pipe through the ridge to connect to the existing Anna Bay Main Drain. This infrastructure will service the entire Anna Bay east area.

The cost of the drainage infrastructure is substantial and would be a significant financial commitment for the proponent. The VPA is currently being prepared in with the proponent and will soon be submitted to Council for consideration.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Land Supply - the draft LEP will supply some 50 residential lots and a population of some 130 people (@ occupancy rate of 2.6 persons per dwelling) that will increase the primary trade area population for retail and services for businesses in Anna Bay.

Environmental - some 18 ha. is proposed for rezoning to 7(a) Environmental Protection. It includes Coastal Sand Apple Blackbutt Forest on the local ridge, Swamp Mahogany Paperbark Forest on low lying land to the north and some cleared and to provide a link to Swamp Mahogany Paperbark Forest to the east.

Drainage - Anna Bay east forms a natural basin and has local flooding problems. All stormwater drains south to a depression adjacent to Gan Gan Road and Clark Street. Urban development in this area will require, via the foreshadowed VPA; ensuring existing conditions are improved; and two detention basins - one in the depression and one north of the ridge. Modelling indicates the size of these basins will be large. A pipe linking these basins will need to be placed through the ridge to the north and an open drain linking to the Main Drain.

The drainage requirements for Anna Bay east are detailed in *Anna Bay Catchment Drainage and Flood Study* (SKM 1995) and *Drainage Investigation Report Anna Bay North Structure Plan* (Parsons Brinkerhoff 2004). It is proposed to place one of the detention basins on cleared land to the north of the ridge on Lot 902 DP 634550 proposed to be rezoned to 7(a) Environmental Protection.

CONSULTATION

Government Agencies - have commented on various versions of the draft LEP all of which have greater impact than the current version because they proposed large lots on or over the local ridge. No agencies objected to those versions of the draft LEP that included large lots. Furthermore, no objection has been made to the proposal to rezone land to 2(a) Residential adjacent to Gan Gan Road.

Public Exhibition - the draft LEP exhibited 9/02 to 10/03 2006. No submissions received.

Change to the LEP Post-Exhibition - the proponent has requested that the proposed residential zone be extended eastward some 30m to provide an improved lot layout. The additional land is vegetated with Coastal Sand Apple Blackbutt Forest. This is a minor change and is supported. In accordance with Section 68 (3) and (3A) of the Act, this minor amendment does not require the draft LEP to be re-exhibited.

OPTIONS

- 1) Adopt the recommendations of this report
- 2) Amend the recommendations of this report including the application of Stage 2 rezoning fees in accordance with Council's Fees and Charges Schedule 2010.
- 3) Not adopt the recommendations of this report

ATTACHMENTS

- 1) Draft LEP Amendment No 22 written instrument and map

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Draft LEP Amendment No 22 written instrument and map

Port Stephens Local Environmental Plan 2000 DRAFT (Amendment No 22)

Schedule 1 Amendments

**Port Stephens Local Environmental
Plan 2000 DRAFT (Amendment No 22)**

under the

Environmental Planning and Assessment Act 1979

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

Minister for Planning

Clause 1
No22)

Port Stephens Local Environmental Plan 2000 DRAFT (Amendment

Port Stephens Local Environmental Plan 2000 DRAFT (Amendment No. 22)

1 Name of Plan

This plan is *Port Stephens Local Environmental Plan 2000 (Amendment No 22)*.

2 Aims of the plan

The aims of this plan are to:-

- (a) to rezone part of the land to which this plan applies from Zone No 1(a) (Rural Agriculture "A" Zone) to Zone No 2(a) (Residential "A" Zone) under *Port Stephens Local Environmental Plan 2000*, so as to facilitate the subdivision and residential development of the land, and
- (b) to rezone the remainder of the land from Zone No 1(a) (Rural Agriculture "A" Zone) to Zone No 7(a) (Environmental Protection "A" Zone) under *Port Stephens Local Environmental Plan 2000*, to support and protect significant fauna and vegetation communities and their habitat links.

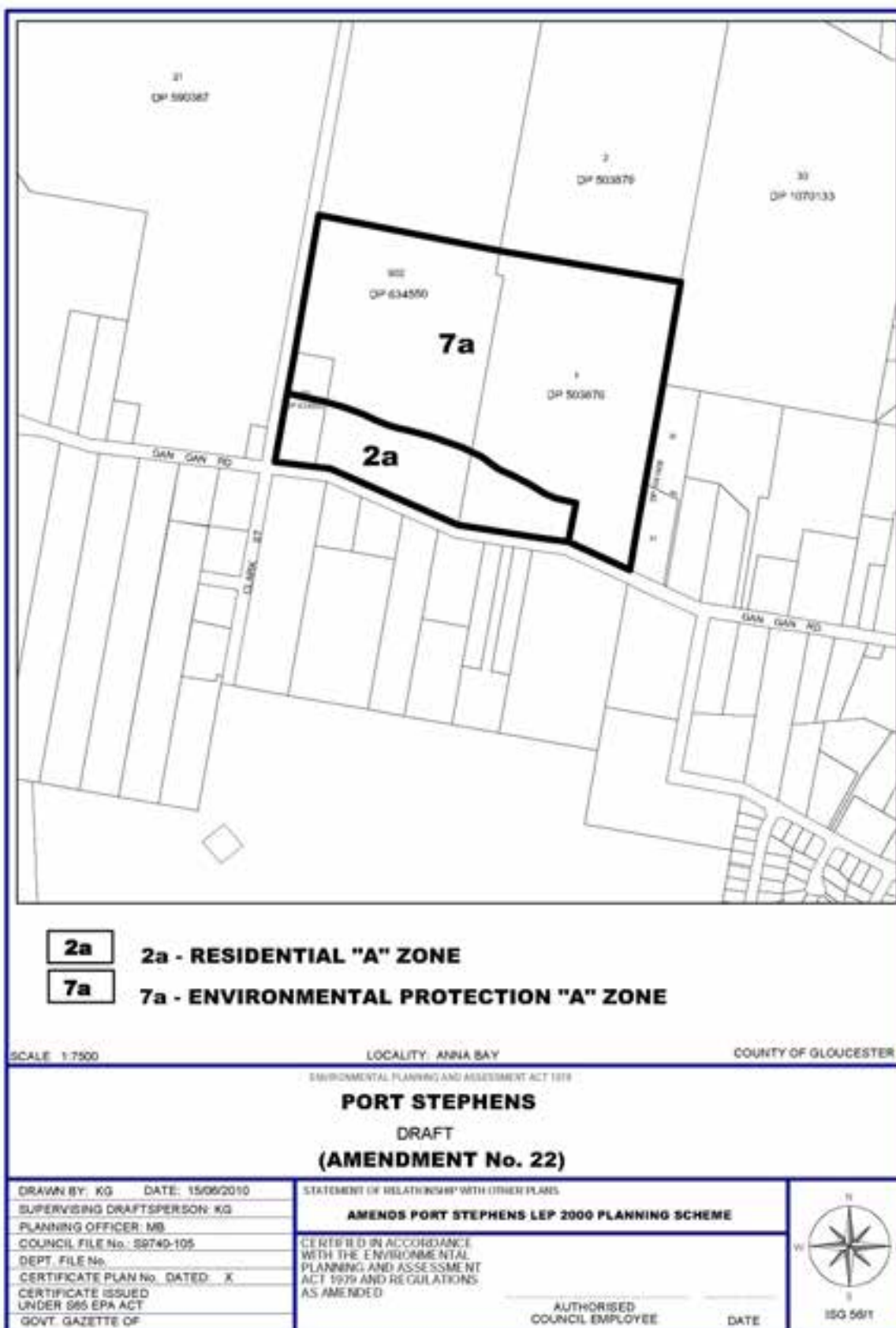
3 Land to which plan applies

This plan applies to Lots 901 and 902, DP 634550, known as No 273 and 293 Gan Gan Road, Anna Bay, and Lot 1 DP 503876, known as No 321 Gan Gan Road, Anna Bay, being land within the local government area of Port Stephens, as shown coloured orange and pink on the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No. 22)" deposited in the office of the Council of Port Stephens.

4 Amendment of Port Stephens Local Environmental Plan 2000

Port Stephens Local Environmental Plan 2000 is amended by inserting the following in appropriate order in the definition of "*the map*" in the Dictionary:

Port Stephens Local Environmental Plan 2000 (Amendment No 22).



ITEM NO. 3**FILE NO: PSC 2009-01038****ACCREDITATION OF COUNCIL'S BUILDING SURVEYORS WITH THE BUILDING PROFESSIONALS' BOARD****REPORT OF: KEN SOLMAN – ACTING MANAGER DEVELOPMENT AND BUILDING
GROUP: SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

- 1) The information contained in the report on Accreditation of Council's Building Surveyors with the Building Professionals Board be received
- 2) In accordance with Section 377 of the Local Government Act, the council's Instrument of Delegation be amended to delegate authority to the General Manager, to make recommendations to the Building Professionals Board in relation to applications by Council Building Surveyors for accreditation under the board's Accreditation Scheme

**COUNCIL COMMITTEE MEETING – 29 JUNE 2010
RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Peter Kafer	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 29 JUNE 2010

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

The purpose of this report is to make council aware of recent changes in respect to the accreditation of council Building Surveyors.

In 2002 the Joint Select Committee on the Quality of Buildings chaired by the Hon. David Campbell, MP, (known as the Campbell Enquiry) recommended significant

changes in the regulation of the building construction process. One recommendation included the accreditation of Council Building Surveyors. The NSW Building Professionals Board (the Board) subsequently released details of draft accreditation schemes for Council Building Surveyors in November 2008 and December 2009.

The Building Professionals Act 2008 was amended on 1st March 2010 to require all staff undertaking building certification work on behalf of a council to be accredited under the Board's accreditation scheme. The scheme provides for a six (6) month transition period after which all Council Building Surveyors undertaking building certification work will be required to be accredited under the scheme.

This means that as from 1st September 2010, all Building Surveyors undertaking certification work will need to be accredited. Such work includes the issue of construction certificates, complying development certificates, act as the Principal Certifying Authority (PCA), the carrying out of critical stage inspections and the issue of occupation certificates.

Overview of the Adopted Accreditation Scheme

The key elements of the amended accreditation scheme are:

1. **Categories of accreditation:** The amended scheme adopts four (4) categories of accreditation being Categories A1, A2, A3 and A4. These are based on the complexity of the work being performed. The general breakdown of work is as follows (Note:- the classes of building are attached to this report):
 - A1 Issue of complying development certificates for building work or change of use, construction certificates and compliance certificates for building work and the issue of occupation certificates for buildings involving all classes and sizes of buildings under the BCA.
 - A2 Issue of complying development certificates for building work or change of use, construction certificates and compliance certificates for building work and the issue of occupation certificates for buildings involving the following classes of buildings under the BCA:
 - (a) Class 1 and class 10 buildings,
 - (b) Class 2 to 9 buildings with a maximum rise in storeys of 3 storeys and a maximum floor area of 2,000m²
 - (c) Buildings with a maximum rise in storeys of 4 storeys in the case of a building that comprises only a single storey of class 7a car park located at the ground floor level or basement level and with 3 storeys of class 2 above and with a maximum floor area of 2000m².
 - A3 Issue of complying development certificates for building work or change of use, construction certificates and compliance certificates for building work and the issue of occupation certificates involving:
 - (a) Class 1 and class 10 buildings, or

- (b) Class 2–9 buildings with a maximum rise in storeys of 2 storeys and a maximum floor area of 500m², that comply with the deemed-to-satisfy provisions of the BCA.
- A4 Carrying out of inspections (except for the last critical stage inspection after the building work has been completed and prior to any occupation certificate being issued) in relation to:
 - (a) Class 1 and class 10 buildings under the BCA, and
 - (b) Class 2–9 buildings with a maximum rise of 2 storeys and a maximum floor area of 500m² under the BCA.

All certificates of accreditation for Council Building Surveyors will be issued subject to a standard condition that they undertake certification work only on behalf of a council.

- 2. **Accreditation requirements:** The scheme recognises a range of qualifications and experience relevant to local government work practices. This range is greater than that recognised for private certifiers and is necessary to cater for the differences between Council and private practice.
- 3. **Accreditation process** - Applications to the Board by individuals cannot be made without the recommendation of the relevant Council. In making a recommendation to the Board, Councils are required to take into account an applicant's qualifications and experience, the Board's Accreditation Scheme and Assessment Guidelines, and whether the applicant is a fit and proper person.
- 4. **Transitional period** - There will be a 3 year transitional period, commencing 1 March 2010, for council staff to become accredited under the scheme. At the end of the transitional period, new applicants must be accredited in the same way as private certifiers. Staff accredited under the transitional arrangements will not require a fresh assessment at the end of the 3 year transition period.
- 5. **Transferability between council areas** - Once accredited, Council Officers will be permitted to carry out work on behalf of all other councils in NSW without further approval from the board.
- 6. **Continuing Professional Development** - Council Accredited Building Surveyors will be required to undertake a limited continuing professional development (CPD) program during the transition period.

Some courses are run for free and others conducted by the Board are mandatory and do not gain any CPD points at all.

As there are additional accountabilities and responsibilities for staff being accredited, there will be an additional cost associated with this training. It is expected these costs will be met by council in combination of the Departmental and corporate training budgets. Given council must provide

opportunities for training for staff to continue their accreditation then there is a corporate responsibility for the training to occur.

Up to ten (10) staff will be accredited under the scheme. This number has been nominated in recognition of existing staff intending to be accredited and the operational needs of the Department.

7. **Disciplinary procedures** - It is understood the board proposes to exercise a limited range of disciplinary actions against accredited Council Building Surveyors including cautions, reprimands and conditions on accreditation. There is also a possibility of fines and penalties being issued directly to staff particularly if council does not have a disciplinary procedure in place or, they choose not to apply it.

Applications for Accreditation

The accreditation scheme requires individual Council Officers undertaking building certification work to make an application to the board for a particular level of accreditation. However, applications from individuals cannot be made without the recommendation of the relevant Council. In making a recommendation, Clause 7A of the Building Professionals Regulation requires a council to take into account the following:

- a) The category of accreditation being sought by the applicant;
- b) Any assessment guideline produced by the Board.
- c) The qualifications of the applicant;
- d) The experience of the applicant; and
- e) Whether the council is of the opinion the applicant is a fit and proper person.

Council's general power to delegate functions is set out in Section 377 of the Local Government Act. Under Section 377 a council may, by resolution, delegate a number of functions to the General Manager.

At this time, the council's existing Instrument of Delegation does not delegate authority to the General Manager to make recommendations to the board in relation to applications for accreditation. The board recommends that each council pass a resolution delegating authority to the General Manager who can then sub-delegate this to the Development and Building Manager or another appropriate person to make recommendations in relation to applications for accreditation. This has a benefit of streamlining the accreditation of existing staff and also those joining the organisation in the coming three years.

Officers are presently in the process of familiarising themselves with the details and assessing the implications of the scheme. This will involve individual officers compiling the necessary documentation to accompany an application.

Conclusion

The Building Professionals Amendment Act 2008 has now been amended to require Council Building Surveyors undertaking building certification work on behalf of a

Council to be accredited under the Building Professionals Board's accreditation scheme. Under the scheme, applications for accreditation can only be made on the recommendation of the relevant council where they are employed.

It is considered appropriate for the council to amend its current Instrument of Delegation to delegate authority to the General Manager, to make recommendations to the board in relation to applications for accreditation.

FINANCIAL/RESOURCE IMPLICATIONS

1. Additional costs - There are also other hidden costs associated with people being away from work to attend courses and the time required to accredit and re-accredit staff. These costs will initially be absorbed but it will have an impact on the overall service delivery. The Development and Building Section will need to revisit the costs of its services and appropriate adjustments made to the fees and charges for services in the future.
2. Accreditation fees – The initial accreditation will be free. Annual applications for re-accreditation up to March 2013 will be \$250.
3. Council requirements and exemptions - Councils have until 1/9/2010 to employ sufficient accredited Building Surveyors to ensure all "building certification work" in the council area is undertaken by an accredited certifier.
4. Record keeping requirements - Councils are required to keep records of all Council Accredited Building Surveyors they employ and to advise the board of the date the certifier commences and ceases employment. Councils must also keep, for a period of 10 years, copies of all documentation related to the certification work undertaken by Council Accredited Building Surveyors employed by them. This information will be readily available from council's computer records.

LEGAL, POLICY AND RISK IMPLICATIONS

Conflicts of interest - Council Accredited Building Surveyors will be able to provide advice on how to amend plans and specifications to comply with the deemed to satisfy provisions of the BCA once an application has been made. Council Officers will not be prevented from undertaking certification work on developments where they have been involved in the assessment and determination of a related development application or complying development certificate.

Council Accredited Building Surveyors cannot however, give design advice before a DA is lodged (e.g. pre-lodgement meetings and advice given over the telephone and at the front counter) and then assess the application when it is submitted. Council will utilise alternative staff to provide separate pre-lodgement development and building advice other than the assessing officer, where known.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

Nil.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

Cr Peter Kafer left the meeting at 8.23pm prior to Item 4.

ITEM NO. 4

FILE NO: 16-2009-564-1

DEVELOPMENT APPLICATION FOR A 19 LOT SUBDIVISION AT 25 SWAN ST, HINTON – LOT 100 DP 628056

REPORT OF: KEN SOLMAN – ACTING MANAGER DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Approve DA 16-2009-564-1 for a 19 lot subdivision at 25 Swan St, Hinton – Lot 100 DP 628056 subject to the conditions listed in **Attachment 4**.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Geoff Dingle	That the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Bruce MacKenzie, Glenys Francis, Caroline De Lyall, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury and Sally Dover.

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 29 JUNE 2010

184	Councillor Steve Tucker Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Bruce MacKenzie, Glenys Francis, Caroline De Lyall, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury and Sally Dover.

Those against the motion: Nil.

BACKGROUND

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

Council is in receipt of DA 16-2009-564-1, which seeks consent for a 19 lot subdivision of 25 Swan St, Hinton (Lot 100 DP 628056).

The site is zoned 1(c3) Rural Small Holdings and 1(a) Rural Agriculture. Lots 1 to 18 are located on 1(c3) zoned land, and comply with the 1 hectare minimum lot size Clause 13 under LEP 2000. Lot 19 will contain the 1(a) zoned land.

Following assessment of the application, it is considered that the subdivision complies with the requirements of LEP 2000 and DCP 2007 and is unlikely to have a detrimental impact on surrounding properties or the locality in general.

The key issues identified in the assessment and public submissions have been addressed and do not warrant refusal of the application. These include:

- ☐ Stormwater impacts on properties along Hinton Rd and northern catchment
- ☐ Traffic Impact on Hinton Rd intersection
- ☐ Impact on traffic flow through Swan St
- ☐ Impact on rural and heritage character of area

Stormwater: The applicant was required to submit amended stormwater plans, which will require construction and drainage of the access to Lot 1, on-site detention for lots draining to the northern catchment and above-ground detention for stormwater from Road 1. Council's Development Engineers are satisfied that the development will not exceed pre development stormwater flows.

Traffic Impact: The sight distance complies with DCP 2007 and AS2890.1 and a condition will be imposed requiring the Hinton Rd intersection to be upgraded in accordance with Council's S145 standard drawing. Only 3 lots will access Swan St, which is unlikely to have a significant impact, but additional on-street parking will be available for overflow from Stuart Park. The development is unlikely to have a significant impact on the existing traffic conditions and will provide additional on-street parking for the users of Stuart Park.

Impact on rural/heritage character: The development complies with the minimum lot size (1 hectare for 1(c3) zone), which will exceed the average existing lot size along Hinton Rd and Swan St (quarter acre lots, approx 1000sqm). Further, the applicant has also submitted a heritage impact statement, which proposes design measures to ensure that future dwellings do not impact the character of the area (and will be imposed via an 88B Instrument).

FINANCIAL/RESOURCE IMPLICATIONS

The subdivision is unlikely to have any direct financial or resource implications for Council.

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council Policy.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The development is considered to be consistent with the principles of ecologically sustainable development, as it unlikely to have any detrimental social, economic or environmental Implications.

CONSULTATION

The application was advertised and notified in accordance with Council policy and nine (9) submissions were received. These are discussed in the **Attachments**.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan
- 2) Site Plan
- 3) Assessment
- 4) Conditions

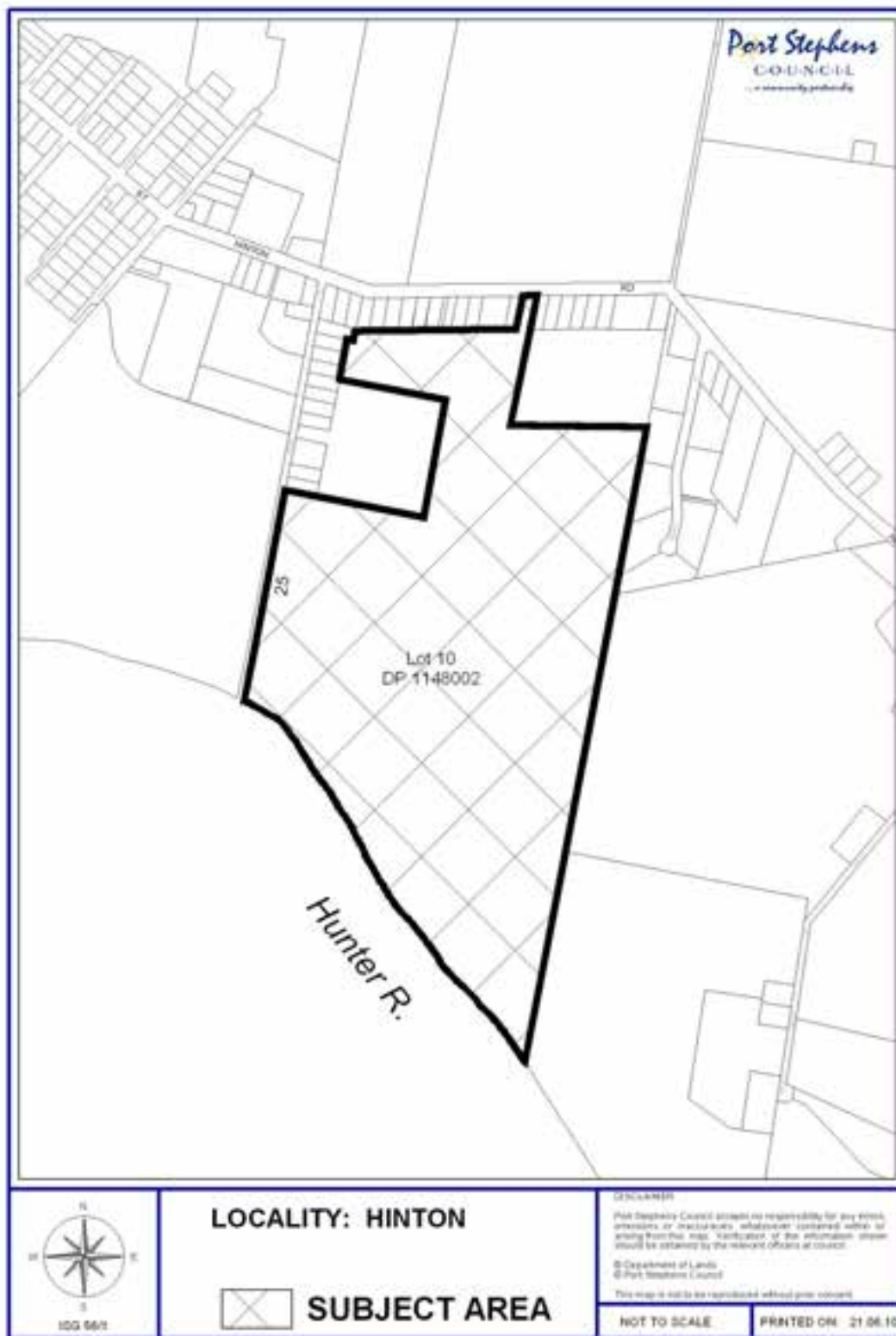
COUNCILLORS ROOM

Nil.

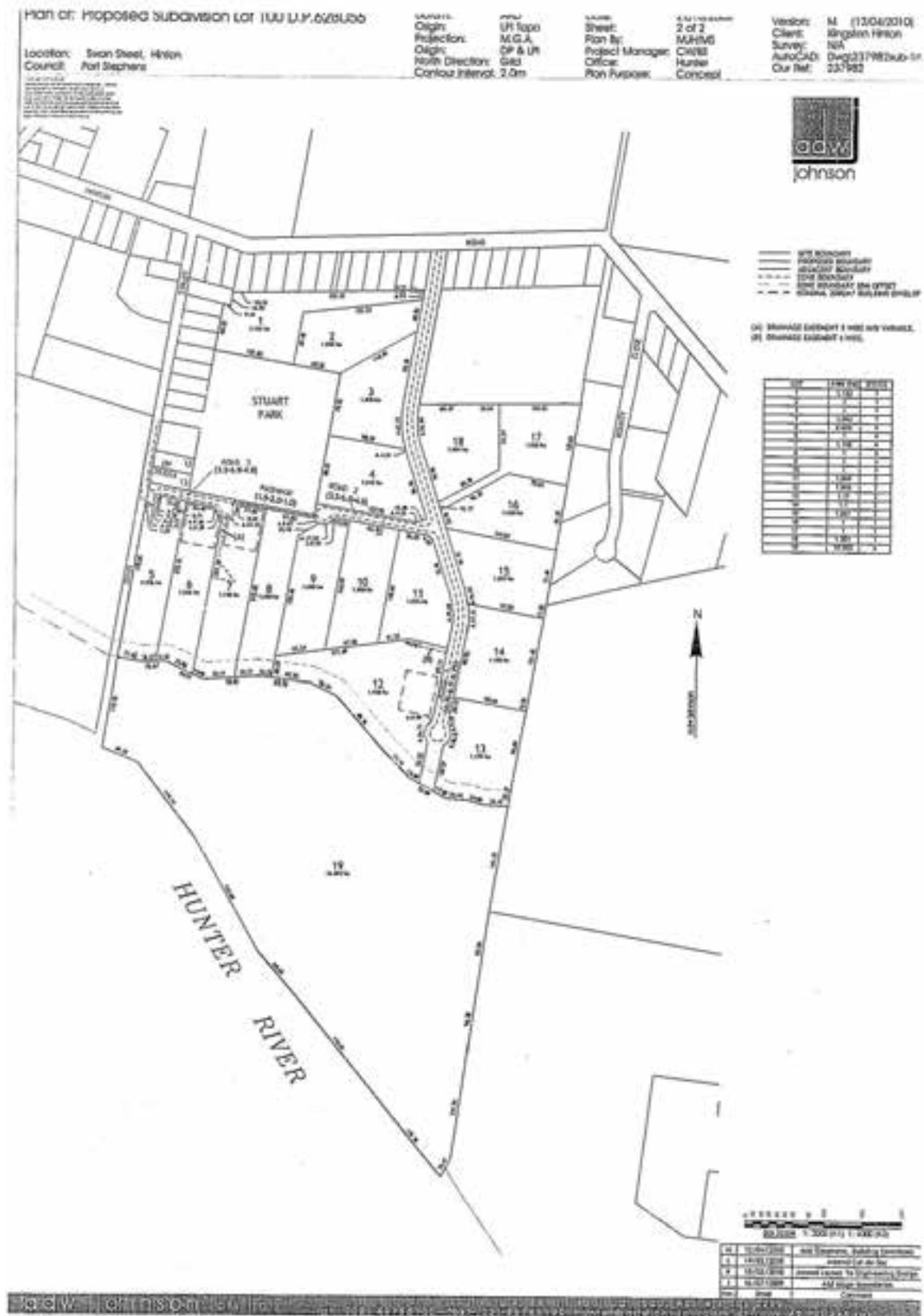
TABLED DOCUMENTS

Nil.

ATTACHMENT 1 - LOCALITY PLAN



ATTACHMENT 2 SITE PLAN



ATTACHMENT 3**ASSESSMENT**

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

THE PROPOSAL

Consent is sought for a nineteen (19) lot torrens title subdivision of Lot 100 DP 628056 and will involve the creation of 3 new roads.

THE APPLICATION

Owner/Applicant	Kingston Hinton Pty Ltd
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THE LAND

Property Description	Lot 100 DP 628056
Address	25 Swan St, Hinton
Area	35.71 hectares

THE ASSESSMENT**1. Planning Provisions**

LEP 2000 – Zoning	1 (a) Rural Agriculture 1 (c3) Rural Small Holdings
Relevant Clauses	Clause 12 Subdivision in rural zones Clause 13 Minimum lot sizes in rural small holding zones Clause 37 Development of flood prone land Clause 40 Minor variation to zone boundaries Clause 44 Appearance of land and buildings Clause 51A Acid sulphate soils Clause 55 Protection of heritage items and conservation areas Clause 59 Development of archaeological sites
Development Control Plan 2007	Section B1 Subdivision Section B2 Construction and environmental management

LEP 2000

The majority of the site is zoned 1(c3) Rural Small Holdings. The southern part of the site is zoned 1(a) Rural Agriculture. Subdivision in both zones is permitted by Clause 12 and 13. Following assessment of the proposal, it is considered to be consistent with the objectives for the 1(a) and 1(c3) zones.

Clause 12 – Subdivision within rural zones

The subdivision will create Lot 19 (16 hectares), which will contain all the 1(a) zoned land. Lots 1 to 18 will be located on 1(c3) zoned land. The proposal is consistent with the requirements of Clause 12, as it will not create additional lots in the 1(a) zone and subdivision in rural small holding zones is permitted subject to compliance with Clause 13.

Clause 13 – Minimum lot sizes for subdivision in rural small holding zones

Lots 1 to 18 will comply with the requirements in Clause 13, as each lot will have:

- ☐ An area greater than 1 hectare,
- ☐ A suitable, flat area for a dwelling outside flood prone areas, and
- ☐ Suitable access to services and infrastructure

Clause 37 – Development of Flood Prone Land

The southern part of the site (which will be completely within Lot 19) is mapped as flood prone. The subdivision will not increase the frequency, severity or risk from flooding on the site or adjoining properties. Lot 19, being the residue lot, will have a suitable building area and access thereto outside the flood prone area.

The application was referred to Council's Strategic Planner, who did not raise any concern with the proposal.

Clause 40 – Minor variation to zone boundaries

The subdivision of land in the rural small holding zone takes into account the 20m offset permitted by Clause 40. This is considered acceptable given the site is not mapped within the area identified by SEPP 71 Coastal Protection, as Clause 13 in SEPP 71 prohibits the use of flexible zone provisions for sites that fall within the coastal zone.

Clause 44 - Appearance of land and buildings

The subdivision will be visible from the Hunter River and Stuart Park. The proposed lots will be greater than 1 hectare, which is generally larger than surrounding lots. Additionally, the proposed design measures (for heritage purposes) will limit future development to 1 dwelling per lot.

The proposed density of the subdivision will not significantly reduce the visual amenity of the area when viewed from the river or park.

Clause 51A – Acid Sulphate Soils

The site is mapped as a Class 5 area, but is within 500m of Class 3 and Class 4 areas. The applicant has submitted a geotechnical report which determined that further testing should be done for any excavation under RL 5. The development will predominately be above RL 10, but a condition will be imposed in this regard.

Clause 55 – Protection of heritage items and conservation areas

The northern part of the site is within the Hinton heritage conservation area. The applicant has submitted a Heritage Impact Statement, which concludes that the development will not unreasonably impact the heritage conservation area or nearby heritage items, subject to proposed design measures.

Future dwellings in the subdivision will need to comply with the design measures, which specify:

- ☐ Limits on building height for proposed Lots 7, 8 and 9
- ☐ Limits development to single dwellings (no dual occupancies)
- ☐ External materials for dwellings, garages and carports
- ☐ Setbacks
- ☐ Construction requirements
- ☐ Fencing

The applicant has proposed to include the design measures as a restriction on the title of the subdivision (via an 88B Instrument).

The application was referred to Council's Heritage Advisor, who had no objection to the proposal subject to compliance with the proposed design measures.

Clause 59 – Development of archaeological sites

The applicant submitted an Indigenous Archaeological Assessment, due to the location and characteristics of the site and the possibility of archaeological sites being affected by the subdivision.

The assessment did not identify any archaeological sites and could not determine whether the development would impact aboriginal artefacts at this stage.

However, it was recommended that conditions be imposed requiring a Section 87 permit from the Department of Environment and Climate Change to be obtained prior to any test excavations and for all site personnel to be made aware of legislative responsibilities under the National Parks & Wildlife Act.

DCP 2007

Section B1 Subdivision

Control	Required	Proposed	Complies
B1.C8	Streets form an interconnected network	See comments below	No
B1.C10	Max length of 75m for cul-de-sacs	Roads 2 & 3 are less than 75m in length	Yes
B1.C14	Each lot must face a street	All lots will have direct street frontage, except for Lot 19 (residue lot) which is at end of cul-de-sac	Yes
B1.C21	Access to parks	Subdivision will provide both road and footpath access to Stuart Park	Yes
B1.C27	All lots must be regularly shaped	Majority of Lots have regular shape, except where dictated by zone boundary	Yes
B1.C35	200m max length for access corridors, min width of 6.5m	Access handles to Lots 1 and 17 less than 200m and width greater than 6.5m	Yes
B1.C38	Lots must drain to road or inter allotment drainage system	See comments below	No

☐ Control B1.C8 (Road connectivity)

Rather than connecting Roads 2 & 3, the applicant has proposed a footpath along the southern side of Stuart Park, arguing that the road connection would not benefit any of the proposed lots and that the footpath would maintain access through the subdivision. This is considered appropriate.

☐ Control B1.C38 (Stormwater)

Following discussions with Council's Development Engineers, the applicant has submitted an amended stormwater plan addressing the impacts on the 3 different catchments affected by the development.

Northern catchment (Hinton Rd): The applicant has proposed on-site detention (5kL) for future development on Lots 1, 2, 3, 4 and 15. A check dam and above ground detention (for 110m³) will be provided along Road 1 to reduce peak flows. The existing drainage along Hinton Rd will also be improved.

North-east catchment: Amended plan reduces the catchment area (limited to Lots 16, 17 and 18) discharging to this catchment.

Southern catchment (Hunter River): Stormwater from the end of Roads 1 and 3 will be directed to existing gullies running through proposed Lots 7 and 12. Easements are shown over the necessary stormwater infrastructure and building envelopes are identified for proposed Lots 7, 8 and 12.

It is considered that the amended plans and calculations provided with them demonstrate that post development flows will be generally consistent with pre development flows. Council's Development Engineers have no further objection to the proposal subject to recommended conditions.

Section B2 Environmental & Construction Management

☐ B2.4 Acid Sulphate Soils

The applicant has submitted a geotechnical report which determines that acid sulphate soils are unlikely to be disturbed by the subdivision.

☐ B2.5 Landfill

The applicant has submitted a geotechnical report which supports the earthworks required for road and drainage works. No significant site regrading is proposed.

☐ B2.12 Wastewater

An amended wastewater report was submitted by the applicant following discussions with Council's Environmental Health Officer. The proposed lots are considered capable of on site sewerage management subject to the recommendations in the amended report.

SECTION 94

The subdivision will create 18 additional lots. Section 94 contributions shall be required prior to issue of subdivision certificate.

2. Likely Impact of the Development

Traffic

The applicant submitted a Traffic Impact Statement, which concluded that traffic generated by 18 additional lots is unlikely to adversely affect traffic safety along Hinton Rd.

The application was referred to Council's Traffic Engineer, who had no objections subject to recommended conditions requiring the intersection to be upgraded to Council's standard S145 drawing, which requires shoulder widening (for deceleration and merging) and road widening (so traffic can overtake right turning vehicles).

Stormwater

As discussed previously, the applicant was required to submit amended stormwater plans and calculations, which are now considered satisfactory. Post development flows for the northern (Hinton Rd), north eastern and southern catchments (Hunter River) 3 will be consistent with pre development flows. Adjoining and downstream properties are unlikely to be significantly affected by the proposed subdivision.

Visual impact

The area surrounding the site has an established rural residential character, with surrounding properties having varying lot sizes.

The subdivision will be visible from adjoining properties, Stuart Park and the Hunter River. The applicant submitted a Heritage Impact Statement which considers the visual context of the site and the significant view lines, the predominant one being the views across the site from Stuart Park.

The proposal includes design guidelines (which will be included in an 88B Instrument), which will minimise the visual impact of future dwellings on the site. Given the density of the subdivision (1 hectare lots), the proposal is unlikely to reduce the visual amenity of the area or significantly impact the existing character.

Adjoining properties

Any future dwellings on the proposed lots will be able to have adequate setbacks to existing dwellings along Hinton Rd, Swan St and Bounty Cl, and are unlikely to reduce the existing amenity or impact on privacy of these residents.

Services

Hunter Water sewerage services are not available to the site. All proposed lots will require on site sewerage management. All other necessary services (water, telecommunications, electricity) are available to the site and will be connected to the proposed lots.

3. Suitability of the Site

The site is considered suitable for the proposed subdivision as it unlikely to have detrimental impacts on the surrounding area, is permissible in the zone, consistent with the objectives and complies with the minimum lot size.

Referrals

The development will require works within 40m of a watercourse and was referred to NSW Office of Water (NOW) as integrated development. NOW provided their general terms of approval on 15 October 2009, subject to recommended conditions, which have been included in Attachment 4.

4. Submissions

The proposal was advertised and notified in accordance with Council policy. Council received 9 submissions (one included a petition signed by 16 people) objecting to the proposed subdivision. Following assessment of the proposal, it is considered that the concerns raised in public submissions have been adequately addressed and do not warrant refusal of the application in this instance.

The issues identified in public submissions are listed below, along with the relevant assessment comments:

Increased stormwater run-off – Impact on properties along Hinton Rd

Submissions were concerned that the development would increase the amount of stormwater directed to existing properties along Hinton Rd. Amendments have been made to the stormwater plans to address this issue. Lot 1 and 2 will have on-site detention for developed areas and the access to Lot 1 will be constructed and drained to Road 1. No additional stormwater will be directed to adjoining properties along Hinton Rd as a result of this development.

Increased stormwater run-off – Impact on northern catchment

Stormwater from Road 1 will be directed to Hinton Rd, which flows to a catchment north/north-west of the site. Following changes to the stormwater plans, Road 1 will include above ground detention for 110m³ (within the swale area). Additionally, the existing drainage along Hinton Rd will be upgraded as part of the subdivision. Council's Development Engineers are satisfied that these measures will restrict the volume of stormwater directed to the northern catchment to pre development levels.

Traffic – Intersection with Hinton Rd

The subdivision will result in 16 additional lots accessing Hinton Rd. The application was referred to Council's Traffic Engineer, who did not object to the proposal subject to recommended conditions.

The available site distance for the intersection is approximately 90m, which complies with the site distances required by DCP 2007 and AS2890.1. Further, a condition of consent will require the Hinton Rd intersection to be upgraded in accordance with Council's S145 standard drawing. This will require tapers on both sides of the road, with some widening on the northern side of the road to allow for vehicles to overtake right-turning cars safely.

Traffic - Impact on Swan St

Submissions raised concern about the current state of Swan St, particularly about cars parking along the street as overflow from Stuart Park. The subdivision will only result in 3 additional lots accessing Swan St, but will provide additional on-street parking areas for overflow from Stuart Park. The subdivision is unlikely to have a

detrimental impact on existing traffic flow, and it is considered that having 3 additional lots access Swan St does not justify its upgrade as part of this development.

Amenity impact from access to Lot 1

Submissions raised concern about the access to Lot 1 impacting residences along Hinton Rd by generating dust and reducing their privacy. This issue was raised with the applicant, who amended the plans so that the access will be constructed, which will prevent dust generation. Secondly, the access will only service one dwelling and will not have a high volume of traffic and given the orientation of the access, headlights will not be directed toward existing houses. It is considered that the access is unlikely to have a significant detrimental impact on nearby properties.

Impact on rural character

The subdivision is permissible in the 1(c3) zone and complies with the minimum lot size (1 hectare). The existing properties along Hinton Rd and around Stuart Park are generally quarter acre (1000sqm) lots. Other lots in the surrounding area vary in size, but it is considered that the proposed lot sizes will be consistent with the existing density. The applicant has also proposed design guidelines so that future dwellings are consistent with the heritage character of the area. It is considered that the subdivision will not significantly alter the existing character of the area.

Loss of prime agricultural land and stock refuge areas

The site is mapped as prime agricultural land. The proposed subdivision will minimise the agricultural potential of the site. However, the total amount of prime agricultural land available in the Hinton, Wallalong, Nelson Plains and Woodville area will not be significantly reduced by the proposed subdivision.

Further, there are a number of large 1(a) zoned lots in Hinton (including proposed Lot 19) that are not in the flood prone area and could potentially provide stock refuge during flood events.

Loss of flora and fauna

The site is predominantly cleared of vegetation. Some remaining vegetation in the southern gully (will be contained in Lot 12) is mapped as Lower Hunter Redgum Forest and Littoral Rainforest, which are Endangered Ecological Communities. However, no vegetation removal is proposed as part of the subdivision.

5. Public Interest

The 19 lot subdivision is unlikely to have any significant impact on the public interest.

**ATTACHMENT 4
CONDITIONS**

1. A Construction Certificate is required **prior to commencement of works** approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
3. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
4. The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.
5. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
6. A Subdivision Certificate must be obtained from Council within five (5) years of the date of this consent, otherwise this approval will lapse. Alternatively, where works are associated with the subdivision, such works must be commenced prior to the expiry of the five (5) year period otherwise this consent will lapse. The applicant must submit completed Subdivision Certificate Application Form (& applicable fee), 6 copies of the Survey Plan, two copies of any 88B Instrument and a check list demonstrating compliance with the conditions of consent.
7. Where a condition of development consent requires the preparation of an instrument under Section 88B of the Conveyancing Act, two (2) copies of the instrument shall be provided to the **Principal Certifying Authority** prior to endorsement of the Subdivision Certificate.
8. All lots in the proposed subdivision shall be serviced by the Hunter Water Corporation with water facilities.
9. A Compliance Certificate under Section 50 of the Hunter Water Corporation Act, 1991 shall be submitted to Council **prior to endorsement of the final survey**

plan. Applications for Section 50 Certificates are to be made direct to the Hunter Water Corporation.

10. **Prior to endorsement of the Subdivision Certificate** written evidence must be submitted from the Hunter Water Corporation, Telstra Australia and Energy Australia that satisfactory arrangements have been made for the provision of their respective services to all lots in the proposed subdivision.
11. The proposed subdivision road names shall be submitted and approved by Council **prior to the issue of any Subdivision Certificate.**
12. All erosion and sediment control measures/works and other pollution control and rehabilitation measures undertaken on the site shall conform to the specifications and standards contained in the current version of;
 - ☐ Erosion and Sediment Control Regional Policy and Code of Practice
 - ☐ Managing Urban Stormwater – Soils and Construction produced by Landcom 2004,

An erosion and sediment control plan shall be submitted for approval with the engineering plans.

13. All trees within the proposed subdivision are protected by Council's **Tree Preservation Order**. This consent permits clearing for survey work; road construction, drainage construction and provision of services.

Tree clearing for any other purpose requires separate approval under the Tree Preservation Order. **A copy of the Tree Preservation Order is attached.**

14. Certification from a registered Surveyor shall be submitted to Council **prior to the issues of the Subdivision Certificate**, stating that no services (including stormwater) or public utility presently connected to the existing building shall straddle any new boundary. Alternatively, an easement shall be created to cover the services, utilities or structures.
15. A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

	Per Lot	Total
Civic Administration	(\$384)	(\$6,912)
Public Open Space, Parks and Reserves	(\$2,083)	(\$37,494)
Sports and Leisure Facilities	(\$4,908)	(\$88,344)
Cultural and Community Facilities	(\$2,468)	(\$44,424)
Roadworks	(\$191)	(\$3,438)
Fire & Emergency Services	(\$1,395)	(\$25,100)

Note:

- a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.
- b) Contributions are to be paid **prior to release of the final survey plan of the subdivision.**
- c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months from the date of original consent.
16. Landscaping shall be carried out in accordance with the details submitted except where amended in red. The landscaping must be completed **prior to issue of Occupation Certificate.**
17. The development has been granted an approval from the NSW Office of Water dated 15 October 2009 under their relevant legislation. The development shall comply with the attached general terms of approval.
18. An intersection upgrade shall be constructed at the Hinton Road intersection with the new access road (Road 1). The upgraded intersection is to comply with Council's standard drawing S145 as the minimum acceptable treatment and is to include shoulder widening to allow a deceleration land for left-turning traffic and to allow for traffic to safely overtake right-turning traffic. Details shall be submitted to, and approved by Council **prior to the issue of the Roads Act Approval.**
19. The developer shall be responsible for the provision of regulatory signage and line markings at the new intersection. All works to be carried out at no cost to Council and in accordance with RTA requirements. Such signage modifications shall be referred to Port Stephens Local Traffic Committee for approval **prior to issue of the construction certificate (allow at least 3 months).**
20. Submission of Works-As-Executed plans and report prepared and certified by a suitability qualified drainage engineer confirming all drainage works (volume, discharge, levels, location, etc) are built in accordance with conditions of consent and the approved plan. Minor variations in height can be certified providing they are clearly identified in the report and the engineer certifies that the overland flow paths are not altered, discharge rates are not increased, and no additional negative effects are imparted on any dwellings or property. Minor variations can only be certified where it can be demonstrated that the ease of maintenance and monitoring of the system has not been negatively affected.

The documents shall be submitted to, and accepted by the Certifying Authority, **prior to issue of the occupation certificate.**

21. The stormwater (i) detention, (ii) infiltration, (iii) water quality, system shall be endorsed on the **Subdivision Certificate** with a positive covenant. Council shall be maintained as the sole authority to modify, vary or release.
22. A registered surveyor is to certify that all stormwater pipeline systems are covered by an easement. Details are to be submitted to Council with the **Subdivision Certificate.**
23. A stormwater drainage strategy, including a contour plan, shall be submitted to an accredited certifier or Council for approval, indicating the proposed pipeline layout, flood levels and overland flow paths for the 1% AEP storm event, and stormwater quality and quantity control measures in accordance with Council's Subdivision & Development Code.
24. The footway verge adjoining the development shall be graded, top-soiled, and provided with full grass cover **prior to the issue of a subdivision certificate.**
25. Provide an access treatment at the junction with the public road in accordance with **Council's Standard Drawing S145** to incorporate a treatment for:
 - i) Access entry/exit.
 - ii) Passing lane.
 - iii) Deceleration lane.
26. Provide kerb & gutter, ancillary drainage and an adjacent sealed road shoulder pavement, making a smooth connection to the existing bitumen seal, for the full street frontage of the development.
27. Where Council is nominated as the Principal Certifying Authority, a separate approval under the Roads Act will be not be required from Council for all works within Council land and Road Reserves.
28. Works associated with the approved plans and specifications shall not commence until:
 - i) a Construction Certificate has been issued, and
 - ii) the Principal Certifying Authority has been nominated, and
 - iii) Council has received two days notice of the commencement date.
29. All civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of Council (with a letter of practical completion issued) **prior to issue of the Subdivision Certificate or Occupation Certificate.**

All works associated with the Roads Act Approval shall be at no cost to Council.

30. Details of any proposed work within a Public Reserve shall be submitted to and approved by Council **prior to commencement of that work within the reserve.**
31. The developer is to provide the following plans and/or CAD files:
- a) Road construction plans in CAD form **prior to commencement of road works**
 - b) Works-as-executed drawings and CAD files of all engineering works **prior to the issue of any Subdivision Certificate(s).**
 - c) CAD files which include all lot and road boundaries, lot numbers and easements, **prior to the issue of the subdivision certificate.** The data is to be supplied to the requirements of Council's GIS Officer.

The data is to be supplied as ACAD or DXF to the requirements of Council's Civil Asset Engineer.

32. Filling shall not obstruct any natural stormwater flowpath or water drainage system. Neither shall the fill encroach any adjoining property.
33. In areas that are disturbed for site filling, all available topsoil shall be stockpiled and re-used at the completion of the earthworks. The topsoil shall be spread evenly and lightly rolled. All disturbed areas shall be stabilised within 14 days of completion of the filling operations with grass cover by either turfing or seeding.
34. Erosion control measures shall be put in place to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with "Managing Urban Stormwater", Volume 1:2004 (Landcom).
35. The developer shall restore, replace or reconstruct any damage caused to road pavements, surfaces, street furniture, roadside drainage, street lighting or underground facilities on the haulage routes used for the construction of the subdivision. The developer will bear all of the associated costs involved in these works.
36. Full details of stormwater drainage, including calculations, shall be approved by an accredited certifier or Council **prior to issue of the Construction Certificate.**
37. Engineering details in accordance with Council's Subdivision & Development Code of proposed road and drainage works shall be submitted to Council for approval **prior to issue of the Construction Certificate.**
38. All works as listed as conditions of development consent, which are located in public roads are subject to approval under section 138 of the Roads Act 1993.

Engineering details in accordance with Council's Subdivision and Development Code, of such works shall be submitted with a Roads Act application form and then approved by Council prior to approval to commence these works and **prior to issue of the Construction Certificates.**

39. The following items are also required to be approved by Council prior to approval being granted to commence works:
- a) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
 - b) Payment of fees and bonds (same Principle Certifying Authority fees, inspection fees and maintenance bonds as relevant to subdivisions);
 - c) Contractors public liability insurances to a minimum value of \$10 million dollars.
40. The following fees and/or bonds are to be paid as part of this consent:
- a) Subdivision construction certificate/plan approval fee, prior to approval of construction certificate or plans.
 - b) PCA/inspection fee, prior to approval of construction certificate or plans.
 - c) Long Service Levy, prior to issue of construction certificate (verification of payment is required if paid directly to Long Service Board)
 - d) Maintenance Bond, prior to release of subdivision certificate.
 - e) Street Tree Bond/Contribution, prior to release of subdivision.

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

41. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
42. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
43. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
- * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L₁₀ level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010
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44. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

Cr Peter Kafer returned to the meeting at 8.25pm following Item 4.

ITEM NO. 5

FILE NO: 16-2010-54-1

DEVELOPMENT APPLICATION FOR A BOUNDARY ADJUSTMENT AND TWO DUAL OCCUPANCIES AT 644 & 650 MARSH ROAD, BOBS FARM

REPORT OF: KEN SOLMAN – ACTING MANAGER DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve DA 16-2010-54-1 for a boundary adjustment and two dual occupancies at 644 & 650 Marsh Road, Bobs Farm subject to conditions contained in **Attachment 4**.
-

COUNCIL COMMITTEE MEETING – 29 JUNE 2010
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Shirley O'Brien	That the matter be deferred to allow for a site inspection on the 3 rd July 2010.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Bruce MacKenzie, Glenys Francis, Caroline De Lyall, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury and Sally Dover.

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 29 JUNE 2010

185	Councillor Bruce MacKenzie Councillor Glenys Francis	It was resolved that the Council Committee recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Bruce MacKenzie, Glenys Francis, Caroline De Lyall, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury and Sally Dover.

Those against the motion: Nil.

BACKGROUND

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

This application is for a boundary adjustment between Lot 21 DP 601402 and Lot 51 519644. Consent is also sought to retain Dwelling C on Lot 21, which is unlawfully on the site as it was supposed to be demolished as part of a previous dual occupancy approval on the site (DA 7-1989-4182-1).

The site contains 3 existing approved dwellings, Dwellings A and B on Lot 21 and Dwelling D on Lot 51. By retaining Dwelling C, both proposed Lots 1 and 2 will contain dual occupancies,

The key issues with this proposal (and over which the applicant has raised concern) are flooding, Section 94 contributions and bushfire protection.

Section 94 for an additional dwelling is considered applicable in this instance, as the total number of approved dwellings on the site is being increased. No contributions were obtained as part of DA 7-1989-4182-1, as Dwelling C was supposed to be demolished.

Bushfire conditions have been imposed by the NSW Rural Fire Service. These conditions require the existing dwellings to have ember protection and to maintain specific areas as Inner Protection Areas. Where these measures are already in place, the applicant only needs to provide confirmation (ie from surveyor while preparing final subdivision plan) that the NSW RFS conditions have been satisfied prior to obtaining a Subdivision Certificate.

With regard to flooding, this application seeks approval to retain Dwelling C at its existing level (1.24m AHD), which is contrary to Council's flood policy. It is considered that Dwelling C should be raised to comply with the flood planning level (which in this instance is 3.0m AHD inclusive of sea level rise policy), as per any new dwelling in this location.

The applicant submitted a Flood Risk Assessment, which suggested raising the level of Dwelling C as a method to reduce the risk of damage from flooding. However, it concluded that the likely flood risk to Dwelling C did not justify the cost of raising the floor level, estimated to be \$20,000.

It is considered that the cost associated with raising Dwelling C to the flood planning level does not justify approving a dwelling that is 1.76m below the flood planning

level. It is recommended that a condition be imposed requiring Dwelling C to be raised to the flood planning level.

FINANCIAL/RESOURCE IMPLICATIONS

The development is unlikely to have any direct financial or resource implications for Council.

LEGAL AND POLICY IMPLICATIONS

Approving the retention of Dwelling C at the existing level may potentially put Council at risk if there is loss of life or damage to property as a result of flooding.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Although retention of the dwelling is unlikely to have any significant impacts, approval of dwellings under the flood planning level is inconsistent with the principals of ecologically sustainable development.

CONSULTATION

The application did not require advertising or notification under Council policy. No public submissions have been received.

The application is integrated development under the Rural Fires Act and was referred to the NSW Rural Fire Service, who provided general terms of approval. The application was also referred to Council's Strategic Engineer, who advised that Dwelling C should be required to meet the flood planning level, which is 3m AHD.

OPTIONS

- 1) Adopt the recommendation and approve the application subject to recommended conditions.
- 2) Amend the recommendation and approve the application subject to amended conditions.
- 3) Reject the recommendation and refuse the application.

ATTACHMENTS

- 1) Locality Plan
- 2) Site Plan
- 3) Assessment
- 4) Conditions

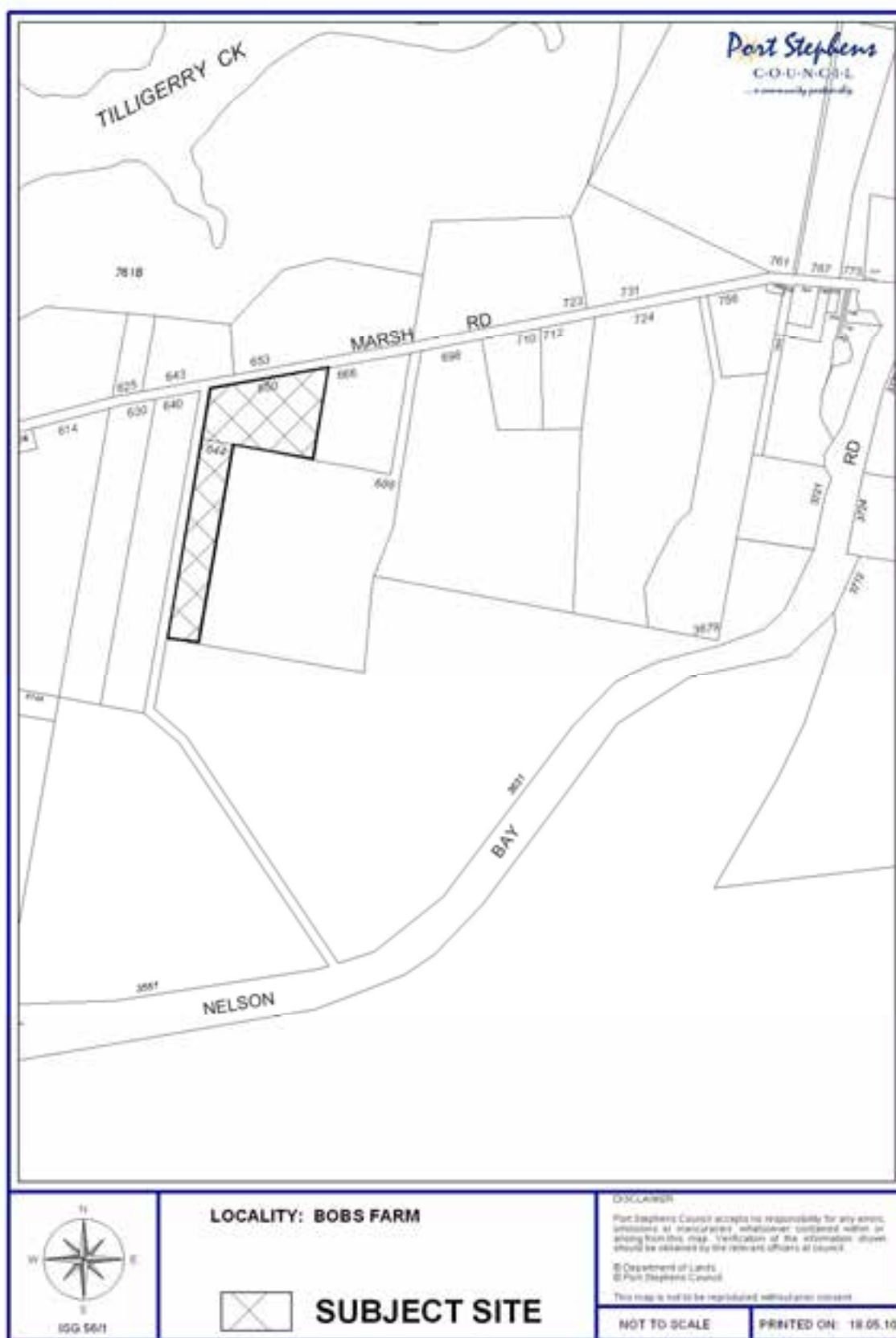
COUNCILLORS ROOM

Nil.

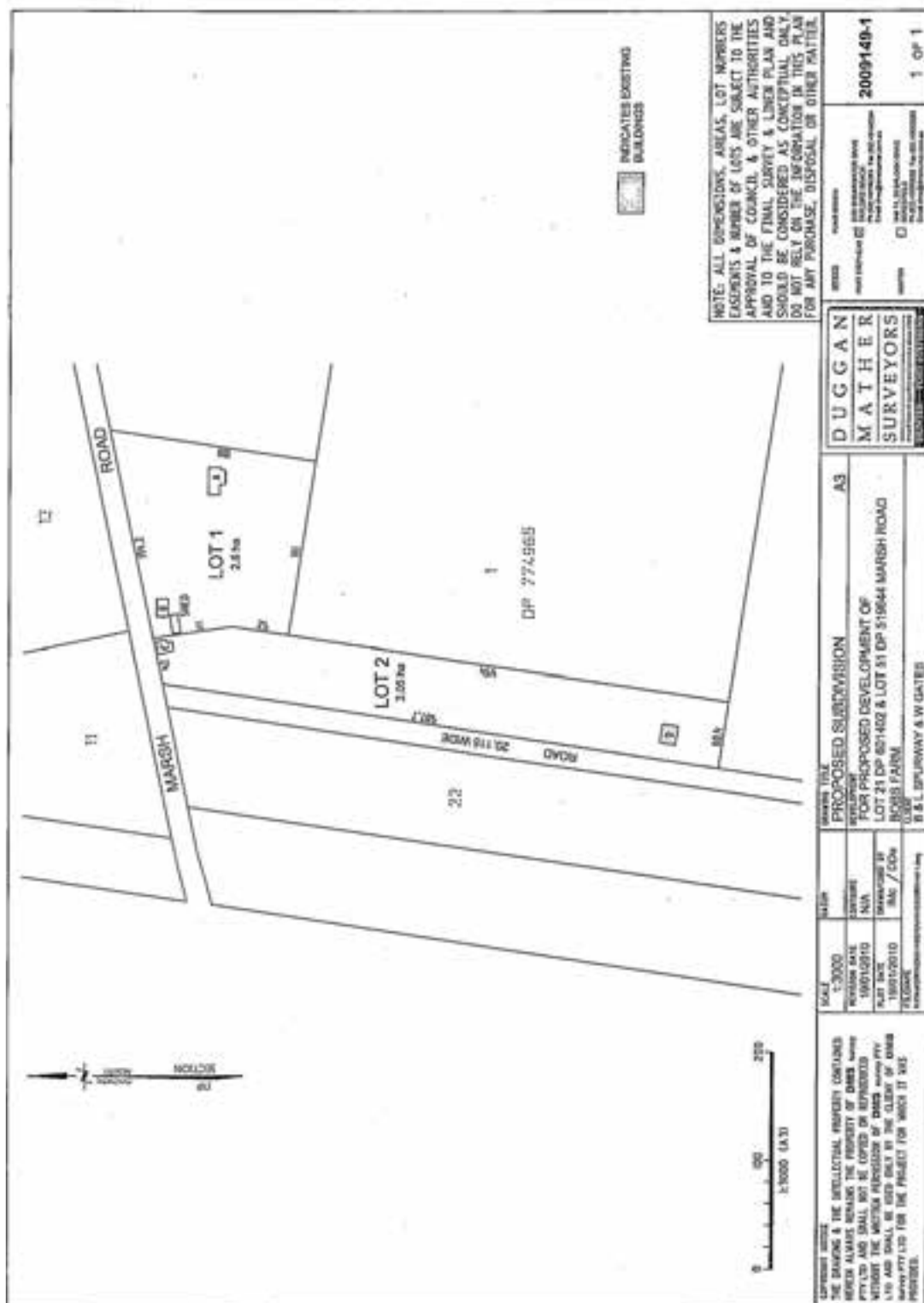
TABLED DOCUMENTS

Nil.

ATTACHMENT 1 LOCALITY PLAN



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ATTACHMENT 3**ASSESSMENT**

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

THE PROPOSAL

Consent is sought for a boundary adjustment between Lot 21 DP 601402 and Lot 51 519644.

Lot 51 contains an approved dwelling. Lot 21 contains an approved dual occupancy and a dwelling (shown as Dwelling C on the plans) which was supposed to be demolished as part of DA 7-1989-4182-1.

This application also seeks approval to retain Dwelling C, which will result in dual occupancies on both proposed Lots 1 and 2.

THE APPLICATION

Owner & Applicant	Mr B F Spurway
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THE LAND

Property Description	Lot 51 DP 5196644 and Lot 21 DP 601402
Address	644 and 650 Marsh Rd, Bobs Farm
Area	5.67 hectares

THE ASSESSMENT**1. Planning Provisions**

LEP 2000 – Zoning	1 (a) Rural Agriculture
Relevant Clauses	Clause 11 Rural Zonings
	Clause 12 Subdivision in rural zones
	Clause 14 Dual Occupancies in rural zones
	Clause 37 Flood prone land

Development Control Plan 2007	Section B2 Environment & Construction Management
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Port Stephens Section 94 Contributions Plan

LEP 2000Clause 11- Rural Zonings

Dual occupancies are permissible in the 1(a) zone. The proposal is consistent with the zone objectives, subject to recommended conditions.

Clause 12 – Subdivision in Rural Zones

The proposed boundary adjustment is considered permissible, as it will not create any additional lots and only involves the change of allotment boundaries.

Clause 14 – Dual Occupancies in Rural Zones

The proposed dual occupancies will not require any additional clearing, increase the number of accesses to Marsh Rd and have existing infrastructure and services. The development is considered consistent with the requirements of Clause 14(4).

Clause 37 – Development on flood prone land

The retention of the 3 approved dwellings (Dwellings A, B & D) is considered acceptable as it will not increase the frequency, severity or risk from flooding on or around the site.

The application also seeks approval to retain Dwelling C, which was required to be demolished as part of DA 7-1989-4182-1. Approval of any additional dwellings under the flood planning level increases the risk of damage to property and increases demand on emergency services, who may be required to evacuate residents.

The applicant submitted a Flood Risk Assessment, which suggested that raising the level of the dwelling was a possible way to reduce the risk from flooding. The cost of doing this was estimated to be \$20,000, which is significantly less than the cost of constructing a new dwelling. The report advised that the flood risk did not justify the cost of raising the dwelling. Further, it should be noted that the age of Dwelling C may present problems with raising its floor level.

However, following consultation with Council's Strategic Engineer, it is considered reasonable to require Dwelling C to be raised to the flood planning level, as would be the case for any new dwelling in that location.

It is recommended that a condition be imposed requiring submission of details on how the dwelling is to be raised prior to the issue of a Construction Certificate.

Development Control Plan 2007

Section B3 – Environment & Construction Management

The development is consistent with the requirements of the DCP. Each dwelling has an existing on-site sewerage management system that will not be impacted by the boundary adjustment, and the development does not trigger specific requirements for acid sulphate soils or aircraft noise.

Section 94 Contributions

The development will increase the number of approved dwellings on Lots 21 and 51. Under Council policy, Section 94 contributions are payable for an additional dwelling.

It should be noted that contributions were not paid as part of DA 7-1989-4182-1, which approved a dual occupancy on Lot 21, because a condition was imposed requiring Dwelling C to be demolished.

2. Likely Impact of the Development

Environment

The proposed boundary adjustment and retention of Dwelling C will not require significant tree removal and is unlikely to have any environmental impacts.

Adjoining properties/existing development

The development is unlikely to have any impact on the amenity or privacy of adjoining properties.

Access/Traffic

The retention of Dwelling C is unlikely to have any significant impact on traffic safety along Marsh Rd.

Services

Hunter Water services are not available to the site. Each dwelling will rely on tank water and on site sewerage management systems which currently exist on site.

3. Suitability of the Site

The development is considered suitable for the site, which is mapped as being bushfire and flood prone.

Bushfire

Because the proposal involves a boundary adjustment, it is integrated development under the Rural Fires Act and required referral to the NSW Rural Fire Service. They provided their general terms of approval, subject to conditions requiring dwellings to be protected against ember attack and for the areas around the dwellings to be maintained as Inner Protection Area.

Flooding

Council policy requires new dwellings in this location to be above the flood planning level of 3m AHD (inclusive of Councils sea level rise policy).

The application seeks approval to retain Dwelling C, which was supposed to be demolished as part of DA 7-1989-4182-1. It is considered appropriate under Council policy to require Dwelling C to be raised above the flood planning level. Any approval of dwellings under the flood planning level is likely to increase demands on emergency services during times of flooding.

It is considered that the proposal will not impact the frequency, severity or risk of flooding on adjoining properties, subject to recommended conditions.

4. Submissions

The development was not advertised or notified in accordance with Council policy. No public submissions were received.

5. Public Interest

The development will not impact any matters of public interest.

**ATTACHMENT 4
CONDITIONS**

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
3. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
4. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
5. Dwelling C (as shown on the approved plans) shall be raised so that all habitable floor areas are above the flood planning level (3.0m AHD) prior to the issue of an Occupation Certificate and Subdivision Certificate. Details shall be submitted to and approved by Council prior to the issue of a Construction Certificate.
6. A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

	Per Lot	Total
Civic Administration	(\$384)	(\$384)
Public Open Space, Parks and Reserves	(\$2083)	(\$2083)
Sports and Leisure Facilities (\$4908)	(\$4908)	
Cultural and Community Facilities	(\$2468)	(\$2468)
Roadworks	(\$191)	(\$191)
Fire & Emergency Services	(\$1395)	(\$1395)

Note:

a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.

- b) Contributions are to be paid prior to the **issue of a construction certificate**.
- c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months from the date of original consent.
7. The development has been granted an approval from the NSW Rural Fire Service dated 12 April 2010 under their relevant legislation. Where conditions are imposed by the authority and included in this consent, the development shall comply with the general terms of approval.
8. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwellings shown as Dwellings A, B and C on the proposed subdivision plan prepared by Duggan Mather Surveyors dated 19/1/2010 and numbered 2009149-1 on proposed Lots 1 and 2 to a distance of 20m, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Services document 'Standards for asset protection zones'.
9. At the issue of Subdivision Certificate and in perpetuity, the land surrounding the existing dwelling shown as Dwelling D on the proposed Lot 2 on proposed subdivision plan prepared by Duggan Mather Surveyors dated 19/1/2010 and numbered 2009149-1 shall be maintained as an inner protection area (IPA) as follows:
- ☐ North for a distance of 35m as an IPA;
 - ☐ East for a distance of 20m as an IPA;
 - ☐ South for a distance of 25m as an IPA;
 - ☐ West for distance of 20m as an IPA as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Services document 'Standards for asset protection zones'.
10. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bushfire Protection 2006'.
11. Property access roads shall comply with section 4.1.3 (2) of "Planning for Bushfire Protection 2006".
12. Existing dwellings on proposed Lots 1 and 2 are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes any sub floor areas, openable windows, doors vents, weepholes and eaves.

13. Roofing on the existing dwelling shown as Dwelling D on the proposed Lot 2 on proposed subdivision plan prepared by Duggan Mather Surveyors dated 19/1/2010 and numbered 2009149-1 shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1530.2 – 1993 'Methods for Fire Tests on Building Materials, Components and Structures – Test for Flammability of Materials'.
14. A Subdivision Certificate must be obtained from Council within five (5) years of the date of this consent, otherwise this approval will lapse. Alternatively, where works are associated with the subdivision, such works must be commenced prior to the expiry of the five (5) year period otherwise this consent will lapse. The applicant must submit completed Subdivision Certificate Application Form (& applicable fee), 6 copies of the Survey Plan, two copies of any 88B Instrument and a check list demonstrating compliance with the conditions of consent.
15. A bushfire report certifying compliance with the Bushfire Safety Authority conditions imposed by the Rural Fire Service shall be submitted to Council **prior to the issue of the Subdivision Certificate**.
16. Certification from a registered Surveyor shall be submitted to Council **prior to the issues of the Subdivision Certificate**, stating that no services (including stormwater) or public utility presently connected to the existing building shall straddle any new boundary. Alternatively, an easement shall be created to cover the services, utilities or structures.
17. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
18. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
19. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
- * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.
- When the construction site is in operation the L₁₀ level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.
20. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond

Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.

21. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the Roads Act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted.
22. No construction or demolition work shall obstruct pedestrian or vehicular traffic in a public place, a hoarding or fence must be erected between the construction site and the public place.
23. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. **Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.**
24. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with AS2601-2001 and Workcover Authority requirements.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

25. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
26. The Principal Certifying Authority shall only issue an occupation certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of consent. No occupational use is permitted until the Principal Certifying Authority issues an occupation certificate. NOTE: If an accredited certifier approves occupation of a dwelling the accredited certifier is to immediately notify Council in writing.
27. **Prior to occupying the approved dwelling(s)**, contact Council's Mapping Section on 49800304 to obtain the correct house numbering. Be advised that any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
28. **Prior to commencement of any works** within the road reserve for the provision of a driveway crossing, the applicant or their nominated contractor shall make application to Council and receive approval for the construction of the driveway.

Application shall be made on Council's Driveway Construction Application form, **a copy of which is attached** to this consent for your convenience. For further information on this condition please contact Council's Facilities and Services Group.

The construction of the footpath crossing must be completed **prior to issue of Final Occupation Certificate.**

ITEM NO. 6**FILE NO: 16-2010-102-1****DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 2258 NELSON BAY ROAD, WILLIAMTOWN****REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP:
SUSTAINABLE PLANNING GROUP**

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2010-102-1 for the construction of a single storey brick veneer dwelling at LOT: 7, DP 224476, 2258 Nelson Bay Road, Williamtown for the reasons contained below.

The development represents an unacceptable level of exposure to aircraft noise and does not meet the acceptability criteria under the Australian Standard AS2021-2000 or DCP2007.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Shirley O'Brien	That the matter be deferred to allow for a site inspection on the 3 rd July 2010.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Bruce MacKenzie, Glenys Francis, Caroline De Lyall, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury and Sally Dover.

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 29 JUNE 2010

186	Councillor Bruce MacKenzie Councillor Glenys Francis	It was resolved that the Council Committee recommendation be adopted.
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MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

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

Those for the motion: Crs Bruce MacKenzie, Glenys Francis, Caroline De Lyall, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury and Sally Dover.

Those against the motion: Nil.

BACKGROUND

The purpose of this report is to present a development application to 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".

Council concedes that 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.

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.

FINANCIAL/RESOURCE IMPLICATIONS

Nil.

LEGAL AND POLICY IMPLICATIONS

Approval is sought for Council to approve a dwelling within the 25-30 contours of Australian Noise Exposure Forecast 2025. This is inconsistent with Section B2.13 of Port Stephens Development Control Plan 2007 which addresses aircraft noise and considers residential development within these contours as unacceptable.

Consent of this application may represent a precedent which has the potential to be referred to in future development applications as a reason for consent noting fairness, consistency and equity in the application of Council's planning provisions.

In March 2010, Council sought legal advice from its lawyers, Harris Wheeler, regarding the matter of aircraft noise and Council's role as a consent authority. The advice received was:

Council's role as consent authority is quite narrow – it is to consider and determine applications as provided for in the EP&A Act. This applies to Council, whether that role is exercised by the Elected Council or by a Council employee under delegation. Subsection 79C(1) of the EP&A Act sets out the matters that Council is required to consider when determining a development application. Those matters include but are not limited to DCP2007 and “*the suitability of the site for the development*”. Council should exercise great caution when it takes into account matters that are not prescribed by 79C(1) of the EP&A Act. Consideration of irrelevant matters may invalidate any consent issued by Council.

1. The relevance of ANEF 2012 and ANEF 2025 to Council's consideration of a DA

1.1 ANEF maps, such as ANEF 2012 and ANEF 2025, are an essential part of the operation of AS2021-2000. AS2021-2000 can be summarised as follows:

1.1.1 The purpose of AS2021-2000 is expressed as follows:

This Standard is concerned with land use planning and building treatments in the vicinity of an airport. The objective is to provide guidance to regional and local authorities, organisations, communities and others associated with urban and regional planning and building development on the siting and construction of new buildings against aircraft noise intrusion and on the acoustical adequacy of existing buildings in areas near aerodromes.

1.1.2 AS2021-2000 provides guidance on land use planning to local authorities, such as Council, by providing a mechanism for predicting aircraft noise exposure to occupants of certain types of buildings on land in the vicinity of airports.

1.1.3 AS2021-2000 predicts aircraft noise exposure using ANEF maps which are described as follows:

This is a contour map showing the forecast of noise exposure levels that will exist in a future year. It may be for a particular year, generally about 10 years from the date of issue, or, in some busier civil airports, it may represent the airport operating at "ultimate capacity". It is based on a firm forecast of aircraft movement numbers and operating times, aircraft types, destinations, flight paths and a given use of runways at the airdrome.

1.1.4 ANEF maps are created using a complex formula. It is sufficient, for the purposes of this advice, to state that the ANEF formula takes into account survey evidence of the reaction of Australian communities to certain types and frequency of aircraft movements at different times of the day and night, and does so in a manner that is consistent with overseas practice.

The formula forecasts noise exposure in ANEF units, with higher unit numbers having increased projected aircraft noise exposure. The ANEF units are collated into ANEF zones or contours.

1.1.5 Clauses 2.32 and 2.3.3 of AS2021-2000 in conjunction with Table 2.1 determine the acceptability of types of buildings on certain sites by reference to the ANEF contours for the relevant development site.

1.1.6 Clause 2.3.3 and table 2.1 of AS2021-2000 determine that the subject site is unsuitable for the following reasons:

1.1.6.1 The development proposed in the development application is a "House" for the purposes of Table 2.1 of the Standard.

1.1.6.2 ANEF 2025 was developed in accordance with AS2021-2000, to predict aircraft noise exposure in locations about RAAF Base Williamtown and the Salt Ash Weapons Range up to 2025. It specifically accounts for the introduction of the Joint Strike Fighter. The site, the subject of this DA has an ANEF of between 25 and 30 under ANEF 2025

1.1.6.3 ANEF 2025 was prepared in accordance with AS2021-2000, to predict aircraft noise exposure in locations surrounding RAAF Base Williamtown and the Salt Ash Weapons Range up to the year 2025. It specifically accounts for the proposed introduction of the Joint Strike Fighter towards the year 2017-2018. The site, subject of this DA is affected by an ANEF.

The subject site is "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.

This is further reinforced by clause B2.13 of 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.

- 1.1.7 Part B2.13 of Port Stephens Development Control Plan 2007 effectively adopts AS2021-2000 as it relates to the promulgated ANEF map. ANEF 2025 is the promulgated map that should be legally used as the reference template for all assessments referring to AS2021-2000 or DCP2007. The superseded ANEF2012 map must be considered pursuant to Section 79C (1)(a)(iii) of the EP&A Act due to the impacts of that map and the planes in use, remaining present until the introduction of the JSF aircraft.
- 1.1.8 Council is also required to consider the suitability of the development site for the development proposed by the DA (Section 79C (1)(d) of the EP&A Act). Aircraft noise is one element of determining the suitability of the development site for the proposed dwelling.
AS2021-2000 is the appropriate method of assessing the suitability of the subject land for the proposed dwelling for the following reasons:
- 1.1.9 AS2021-2000 has been described by the NSW Court of Appeal as "*a valuable tool for planning land use about airports*".
- 1.1.10 AS2021-2000 has been applied in numerous merit appeals in the Land and Environment Court.
- 1.1.11 Directions were issued by the then Minister for Planning pursuant to s.117 of the EP&A Act that referred to ANEF contours and specifically included the following restraint on the content of local environmental plans:

Draft Local Environmental Plans that rezone land:

- (a) for residential purposes or to increase residential densities in areas where the ANEF is between 20 and 25, or*
- (b) for hotels, motels, offices or public buildings where the ANEF is between 25 and 30, or*
- (c) for commercial or industrial purposes where the ANEF is above 30, shall include a provision to ensure that development meets AS2021 regarding interior noise levels.*

- 1.1.12 AS2021-2000 is the only comprehensive and widely accepted means of predicting aircraft noise exposure and site suitability. It is consistent with measures adopted in other jurisdictions.

2. Potential legal consequences of granting consent to the DA

- 2.1 For the following reasons, Council may expose itself to potential liability for damages to occupants or owners of the subject site if the Elected Council determines the DA by way of approval:
- 2.1.1 Council owes a duty of care to the applicants and to subsequent owners/occupants of the development land, to exercise its functions as the consent authority with reasonable care, and may be liable for damages if it fails to exercise that care.

One aspect of that duty of care is to properly assess the suitability of the development site for the development proposed by the DA (s.79C(1)(d) of the EP&A Act).

AS2021-2000 and ANEF2025 provide a well established and scientific based means of assessing the suitability of the development site for the development proposed by the DA. AS2021-2000 has been applied by, or referred to with approval of, various Courts; been referenced in various local environmental plans; and referenced in directions issued by the Minister for Planning pursuant to s.117 of the EP&A Act.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The social implications directly attributable to the impacts of aircraft noise and increased land-use conflicts include reduced residential amenity and the potential restriction of the military operations of RAAF Base Williamstown and domestic/international operations of Newcastle Airport.

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

Aircraft noise has the potential to adversely impact upon residential amenity. To permit the erection of dwellings in areas identified as “unacceptable” on ANEF maps may unreasonably restrict the lawful ongoing military operations of RAAF Base Williamstown and domestic/international flights into and out of Newcastle Airport.

The site is also subject to being intermittently flooded due to the low lying nature of the block. While a building area can be filled to promote flood free land under most circumstances the fact of the site having to be filled to an assumed depth of 1-1.5m should be considered in the context of site suitability.

CONSULTATION

Only certain types of development are required to be advertised or notified. The application was not required to be exhibited as there was no trigger of Clause A1.9 DCP2007 (Advertising and Notification) due to the type of development under consideration.

OPTIONS

Council has three options to consider regarding this application:

- 1) Refuse the application as recommended.
- 2) Conditionally approve the application.
- 3) Defer a decision until such time as Council has considered and adopted a revised planning framework which addresses aircraft noise impacts.

ATTACHMENTS

- 1) Locality Plan
- 2) Site Plan
- 3) Preliminary Assessment
- 4) Draft Conditions of Consent

COUNCILLORS ROOM

Development plans and elevations.

Statement of Environmental Effects.

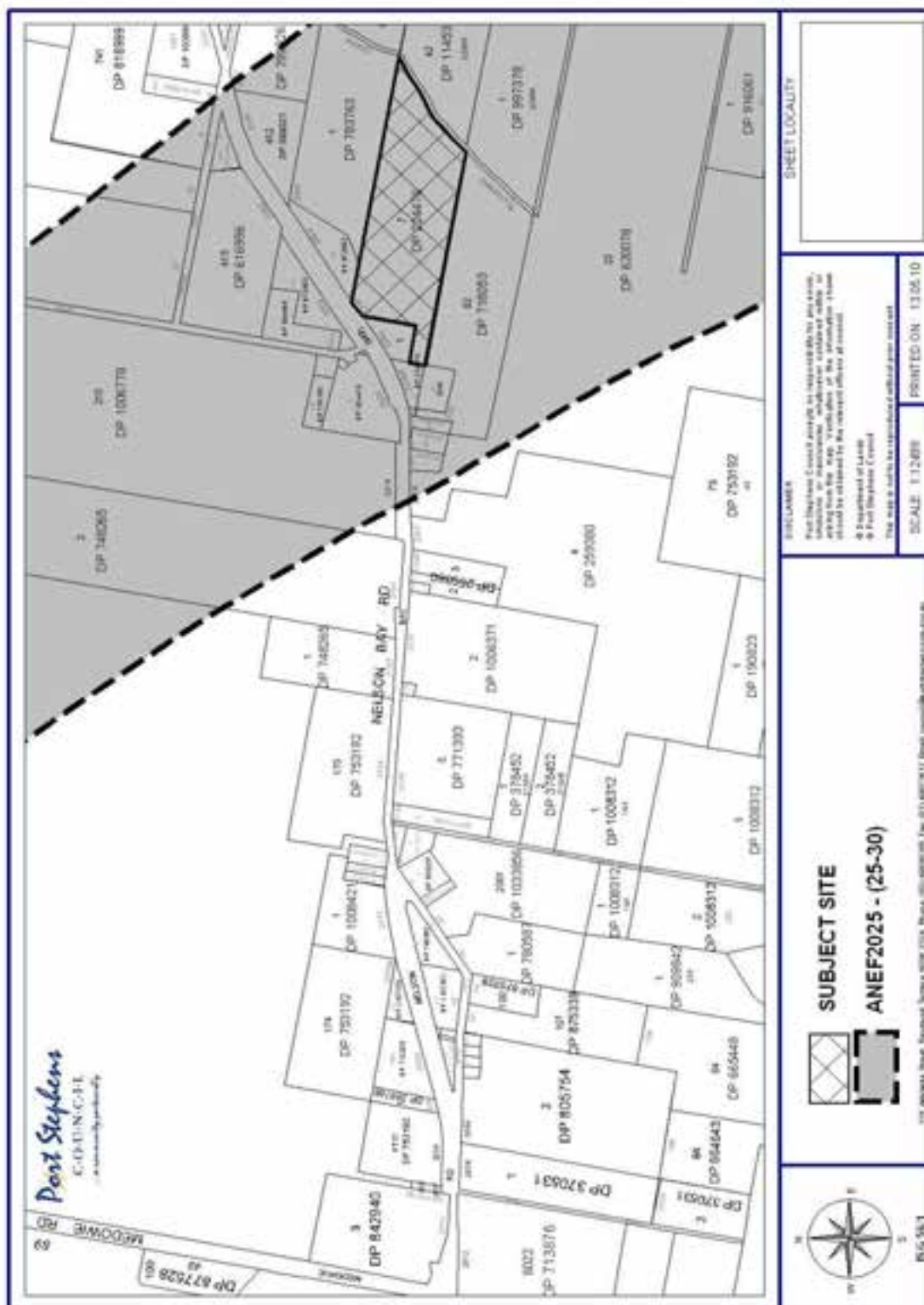
Aircraft Noise Impact Statement prepared by Reverb Acoustics dated April 2010 (Report No. 10-1476-R1).

TABLED DOCUMENTS

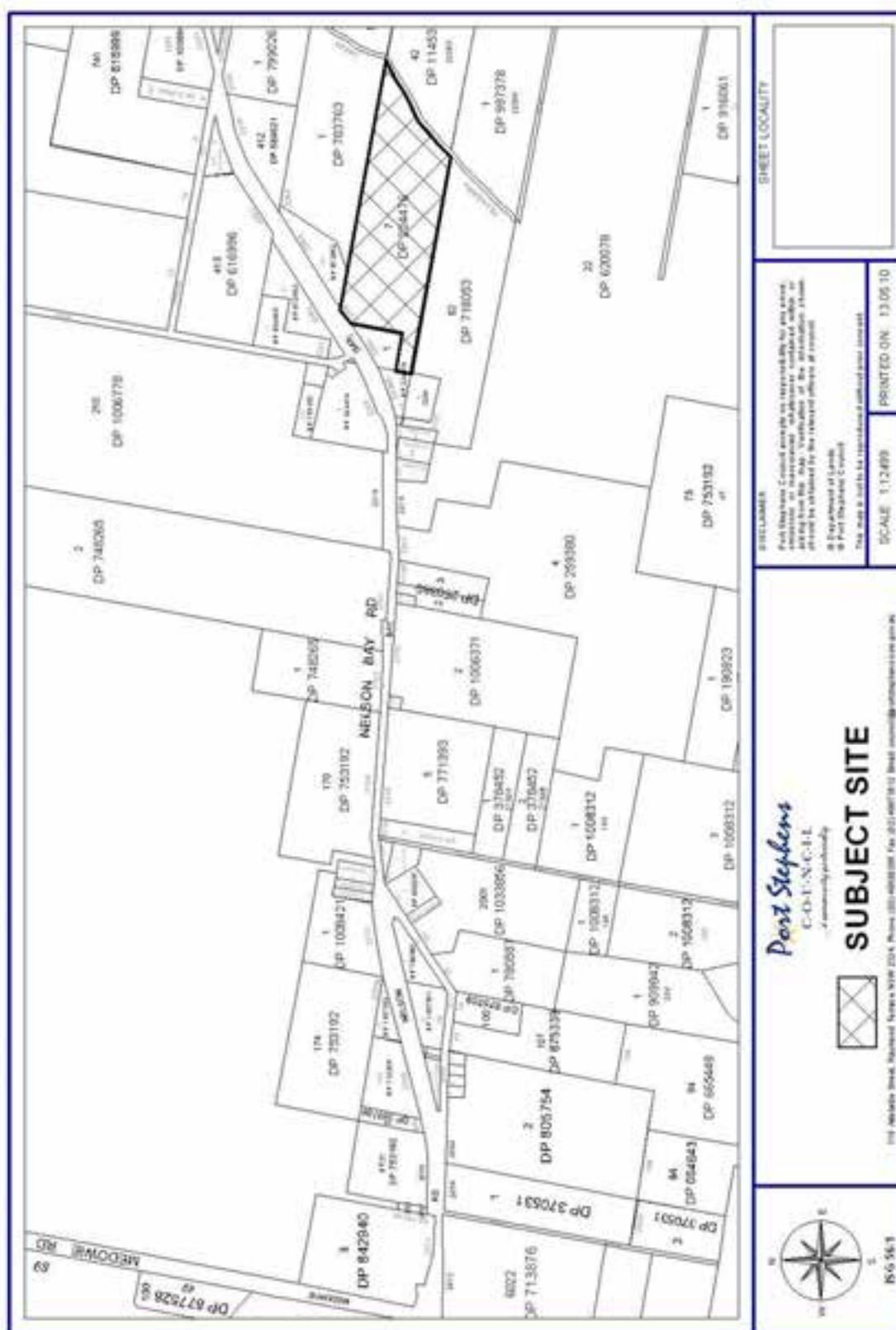
Nil.

ATTACHMENT 1

LOCALITY PLAN



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**ATTACHMENT 3
PRELIMINARY ASSESSMENT**

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

THE PROPOSAL

The proposal is to erect a single storey brick and tile dwelling upon an earthen mound.

THE APPLICATION

Owner	Mr N W Moxey
Applicant	Newcastle Quality Constructions (McDonald Jones Homes)
Detail Submitted	Development Plans Statement of Environmental Effects Acoustic Report

THE LAND

Property Description	Lot 7, DP 224476
Address	2258 Nelson Bay Road, Williamtown
Area	11.50 Hectares
Dimensions	North Boundary 640 metres (Approx) South Boundary 560 metres (Approx) East Boundary 300 metres (Approx) West Boundary irregular in shape
Characteristics	The allotment is generally flat and floodprone. It is proposed to erect the dwelling upon an existing mound in order to achieve a suitable flood free finished habitable floor level of three (3) metres AHD. The property is identified as being within the 25-30 ANEF 2025 contours.

THE ASSESSMENT**1. Planning Provisions**

LEP 2000 – Zoning	1 (a) Rural Agriculture “A”
Development Control Plan	Port Stephens Development Control Plan 2007 – B2.13 Aircraft Noise

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

ATTRIBUTE	PROPOSED	REQUIRED	COMPLIES
LEP Requirements			
Floor to Space Ratio	378m ²	N/A	Yes
Height	6.220m	9m	Yes
DCP Requirements			
Number of Storeys	1	Generally maximum of 2	Yes
Building Line Setback	85m	18m	Yes
Side Setback	60m to North Boundary 80m to nearest adjacent property boundary 120m to South Boundary	900mm 900mm 900mm	Yes Yes Yes
Rear Setback	400m	900mm	Yes
Resident Parking	2	2	Yes
BASIX	New dwelling valued at \$269,605	Yes	Yes
Privacy	N/A	N/A	Yes

1. Discussion

The proposed dwelling is permissible on this allotment and generally complies with Port Stephens Development Control Plan 2007 (DCP) with the exception of Section B2.13 Aircraft Noise.

Council's DCP advises that ANEF contour charts must be considered in conjunction with Australian Standard 2021-2000 – Acoustics – Aircraft Noise Intrusion – Building Siting and Construction.

ANEF contour charts provide a broad-scale planning tool for identifying areas affected by aircraft noise and the degree to which areas are affected. Depending on the degree of impact, development may be acceptable, conditionally acceptable or unacceptable.

This property was not identified on the ANEF 2012 contour chart as being affected by aircraft noise, however, on the recently adopted ANEF 2025 contour chart, it falls within the 25-30 ANEF contour. Australian Standard 2021-2000 identifies the proposed construction of dwelling houses within these contours as unacceptable.

An acoustic report, prepared by an acoustic engineer, has been submitted by the applicant. The report demonstrates that Australian Standard 2021-2000 has been

considered in the design of the building and identifies those measures which must be incorporated into the construction to provide a reasonable level of noise attenuation.

An appropriate driveway plan for submission to the RTA for concurrence in accordance with Cl.42 of LEP2000.

The applicant has not provided sufficient information to date in this regard. <-This is a note only.

The site is subject to a Flood Planning Level (FPL) of 3.0m AHD, this incorporates a 500mm increase due to sea level rise (SLR). This requires an anticipated 1-1.5m of fill for the building pad.

2. Likely Impact of the Development

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

3. Suitability of the Site

The proposed dwelling site is unsuitable in regard to its location within the 25-30 contours of ANEF 2025. Other aspects of the development are considered acceptable.

Intermittent flooding of the site is anticipated from time to time however the increase of the building pad to the FPL will safeguard occupants for anticipated flooding events up to the 1% AEP.

4. Submissions

The application was not required to advertised/notified under Port Stephens Development Control Plan 2007.

5. Public Interest

This proposal, if approved, will have major ramifications on how Council is perceived to assess development applications which are contrary to the principles and controls of its DCP. Section B2.13 of Port Stephens Development Control Plan 2007 and Australian Standard 2021-2000 consider the construction of dwellings within the 25-30 contour to be unacceptable. Approval of this application will set a precedent within the Port Stephens Local Government Area and compromise the effectiveness of the DCP.

ITEM NO. 7**FILE NO: A2004-0511****LOCAL TRAFFIC COMMITTEE MEETING – 1 JUNE 2010****REPORT OF: TREVOR ALLEN – INTEGRATED PLANNING MANAGER****GROUP: SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the recommendations contained in the minutes of the local Traffic Committee meeting held on 1 June 2010.
-

COUNCIL COMMITTEE MEETING – 29 JUNE 2010**RECOMMENDATION:**

	Councillor Bob Westbury Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 29 JUNE 2010

187	Councillor Steve Tucker Councillor Caroline De Lyall	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to bring to Council's attention traffic issues raised and detailed in the Traffic Committee minutes and to meet the legislative requirements for the installation of any regulatory traffic control devices associated with Committee recommendations.

FINANCIAL/RESOURCE IMPLICATIONS

Council has an annual budget of \$41 000 (\$25 000 grant from the RTA and General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. The construction of traffic control devices and intersection improvements resulting from the Committee's recommendations are not included in this funding and are listed within Council's "Forward Works Program" for consideration in the annual budget process.

The local Traffic Committee procedure provides a mechanism to respond to and remedy problems in accordance with Council's "Best Value Services" Policy. The recommendations contained within the local Traffic Committee minutes can be completed within the current Traffic Committee budget allocations and without additional impact on staff or the way Council's services are delivered.

LEGAL, POLICY AND RISK IMPLICATIONS

The local Traffic Committee is not a Committee of Council; it is a technical advisory body authorised to recommend regulatory traffic controls to the responsible Road Authority. The Committee's functions are prescribed by the Transport Administration Act with membership extended to the following stakeholder representatives; the Local Member of Parliament, NSW Police, the Roads & Traffic Authority and Port Stephens Council.

The procedure followed by the local Traffic Committee satisfies the legal requirements required under the Transport Administration (General) Act furthermore there are no policy implications resulting from any of the Committee's recommendations.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The recommendations from the local Traffic Committee aim to improve traffic management and road safety.

CONSULTATION

The Committee's technical representatives are the Police, RTA, and Council Officers; they investigate issues brought to the attention of the Committee and suggest draft recommendations for further discussion during the scheduled meeting. One week prior to the local Traffic Committee meeting copies of the agenda are forwarded to the Committee members, Councillors, Facilities and Services Group Manager, Integrated Planning Manager and Road Safety Officer. During this period comments are received and taken into consideration during discussions at the Traffic Committee meeting.

No additional consultation was undertaken for the items contained in this report

OPTIONS

- 1) Adopt all or part of the recommendations.
- 2) Reject all or part of the recommendations.
- 3) Council may choose to adopt a course of action for a particular item other than that recommended by the Traffic Committee. In which case Council must first notify both the RTA and NSW Police representatives in writing. The RTA or Police may then lodge an appeal to the Regional Traffic Committee.

ATTACHMENTS

- 1) Local Traffic Committee Meeting Minutes – 1 June 2010

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

**ATTACHMENT 1 – LOCAL TRAFFIC COMMITTEE MINUTES
1 JUNE 2010**

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 1st JUNE, 2010
AT 9:30AM**

Present:

Cr Peter Kafer, Ms Michelle Moxon – representing Craig Baumann MP, Mr Joe Gleeson (Chairperson), Mr Graham Orr, Ms Lisa Lovegrove - Port Stephens Council

Apologies:

The Hon. Frank Terenzini MP – Member for Maitland, Mr Bill Butler – RTA, Brian Moseley – Hunter Valley Buses, Mr Mark Newling – Port Stephens Coaches

- A. ADOPTION OF MINUTES OF MEETING HELD 6th APRIL 2010**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- C. LISTED MATTERS**
- D. INFORMAL MATTERS**
- E. GENERAL BUSINESS**

**PORT STEPHENS
LOCAL TRAFFIC COMMITTEE AGENDA**

INDEX OF LISTED MATTERS
TUESDAY 1st June, 2010

- A. ADOPTION OF THE MINUTES OF 6TH APRIL, 2010
- B. BUSINESS ARISING FROM PREVIOUS MEETING
- 601_04/10 WIGHTON STREET SEAHAM – REQUEST FOR SPEED LIMIT REDUCTION
AND IMPOSITION OF LOAD LIMITS
- C. LISTED MATTERS
- 09_06/10 ADELAIDE STREET RAYMOND TERRACE - REQUEST TO REVIEW THE
SAFETY OF THE ENTRY AND EXIT TO THE COUNCIL ADMINISTRATION
BUILDING CAR PARK
- 10_06/10 VICTORIA PARADE NELSON BAY - REQUEST FOR INSTALLATION OF
A PEDESTRIAN REFUGE NEAR THE EASTERN GROIN
- 11_06/10 TREGENNA STREET RAYMOND TERRACE - REQUEST TO REVIEW
SAFETY AT THE ALTON ROAD INTERSECTION
- 12_06/10 SLADES ROAD WILLIAMTON – REQUEST FOR INSTALLATION OF
PARKING RESTRICTIONS TO PREVENT VEHICLES PARKING ON-
ROAD FOR THE PROPOSED WILLIAMTOWN AIRSHOW
- 13_06/10 VARDON ROAD FERN BAY – REQUEST TO REVIEW SAFETY OF BUS
PICK-UP AT FERN BAY PUBLIC SCHOOL
- D. INFORMAL MATTERS
- 08_04/10 TAREAN ROAD KARUAH – REQUEST FOR A REDUCTION OF THE
SPEED LIMIT TO 50KM/H IN THE TOWN CENTRE
- E. GENERAL BUSINESS

B. Business arising from previous meeting

Item: 601_04/10

WIGHTON STREET SEAHAM – REQUEST FOR SPEED LIMIT REDUCTION AND IMPOSITION OF LOAD LIMITS

Requested by: Cr Francis

File:

Background:

Wighton Street is a gravel road on the outskirts of Seaham. It connects between Clarence Town Road and Warren Street and provides access to approximately 17 properties.

Traffic Committee considered this item in April 2010 and recommended that Council undertake traffic surveys to determine the type and number of vehicles using the road. A summary of the survey is provided below.

	Cars	Light trucks/buses	Mid size trucks	Truck & dog /semi trailers
Monday	71	7	0	2
Tuesday	91	12	0	2
Wednesday	66	9	1	2
Thursday	85	10	1	2
Friday	100	8	1	3
Saturday	83	5	1	1
Sunday	52	6	0	0

Average number of vehicles using Wighton Street

- There are no reported accidents over the most recent 5 year period.
- The road is gazetted as a B-double route from the Warren Street end to the entrance to property No.15.

The Traffic Inspection Committee noted that a load limit would have little effect due to the low numbers of heavy vehicles that would be excluded considering that buses, garbage trucks and all other heavy vehicles with an origin or destination within Wighton Street would all be exempt from the restriction.

Discussion:

The Traffic Committee members considered the average traffic volumes indicated by the traffic survey and that the numbers of heavy vehicles observed do not justify imposing weight restrictions on the road.

The Traffic Committee also noted that the Roads Act 1993 – Part 8, Division 1, Section 115, states: "A roads authority may not restrict the passage of heavy vehicles or

animals along the roadway of an earth road unless clear side tracks have been provided for their passage”

The RTA has indicated that there is a possibility to reconsider a reduction of the speed limit.

Committee's Advice:

1. That Council advise the resident that weight restrictions are not appropriate on Wighton Street due to the small number of trucks that would be excluded.
2. That Council request a review of the speed limit by the RTA.

PORT STEPHENS TRAFFIC COMMITTEE
TUESDAY 1 JUNE 2010

ITEM NO. 601_04/10
STREET: WIGHTON STREET

ANNEXURE A
PAGE 1 OF 1



C. Listed Matters

Item: 09_06/10

ADELAIDE STREET RAYMOND TERRACE - REQUEST TO REVIEW THE SAFETY OF THE ENTRY AND EXIT TO THE COUNCIL ADMINISTRATION BUILDING CAR PARK

Requested by: Port Stephens Council OH & S Committee

Background:

A submission to the OH& S Committee raised the issue of near misses at the entrance/exit to the Council car park on Adelaide Street and suggested that it be made either an entrance only or an exit only. The submission stated that often people speed up to get through the traffic lights before they turn red and then suddenly turn left into the car park. The mix of buses and trucks going past, pedestrians and vehicles exiting and entering is sometimes very hazardous.

Comment:

The Traffic Inspection Committee noted that although the request was more about traffic issues at the driveway entrance/exit, that these issues were not apparent to the Inspection Committee. The sight distance for vehicles exiting the car park is good with adequate clearance to parked vehicles to allow on-coming traffic to be seen. Pedestrian safety is less clear with the gradient of the driveway and obstructions adjacent to the footpath making it more difficult to see pedestrians when exiting.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules Part 11 – Rule 132 – Keeping to the left of a dividing line
NSW Road Rules Part 7 Div.1 – Rule 68 Stopping and giving way at a stop sign or stop line at other places
RTA signs database – R1-1, R2-10
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

1. Approve installation of a 'Stop' sign, R1-1 and hold line and 'Give Way to pedestrians' sign, R2-10, prior to the footpath crossing for exiting vehicles.
2. Approve installation of 5m of 'BB' barrier line on the entry/exit ramp to improve delineation for drivers.

Discussion:

The Committee supports the recommendation.

Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 1 June 2010

ITEM NO. 09_06/10
Street: Adelaide Street

ANNEXURE A
Page 1 of 1



Item: 10_06/10

VICTORIA PARADE NELSON BAY - REQUEST FOR INSTALLATION OF A PEDESTRIAN REFUGE NEAR THE EASTERN GROIN

Requested by: Cr Neil

File:

Background:

Councillor Neil originally requested that a pedestrian crossing be installed to improve safety for pedestrians crossing Victoria Parade. A pedestrian survey was conducted to determine if the warrant for a pedestrian crossing can be met. The survey indicated that there were a significant number of people crossing the road in this area however the numbers are well short of those required for a pedestrian crossing. There are existing pedestrian linkages in this area and kerb extensions do exist to assist in crossing the road. The problem is that with constant streams of traffic in both directions, as occurs in holiday periods, it is very difficult for pedestrians to get across.

Comment:

A pedestrian refuge on Victoria Parade will be of more assistance to pedestrians in being able to safely cross the road than the existing kerb extensions alone. A pedestrian refuge has the advantage of allowing pedestrians to be able to pause safely in the middle of the road, crossing one direction of traffic at a time. Installation of a pedestrian refuge would require that the northern kerb extension would have to be removed to allow sufficient road width to allow for a refuge to be constructed. There would also be kerb and gutter works and pavement re-instatement required which would increase the cost of this project.

Legislation, Standards, Guidelines and Delegation:

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act
Austroads Guide to Traffic Management Part 6

Recommendation to the Committee:

Approve installation of a pedestrian refuge in Victoria Parade Nelson Bay, at the eastern groin, as indicated on the attached sketch (Annexure A). This work is to be placed on the Council's Forward Works Plan to await allocation of funding.

Discussion:

The Committee supports the recommendation

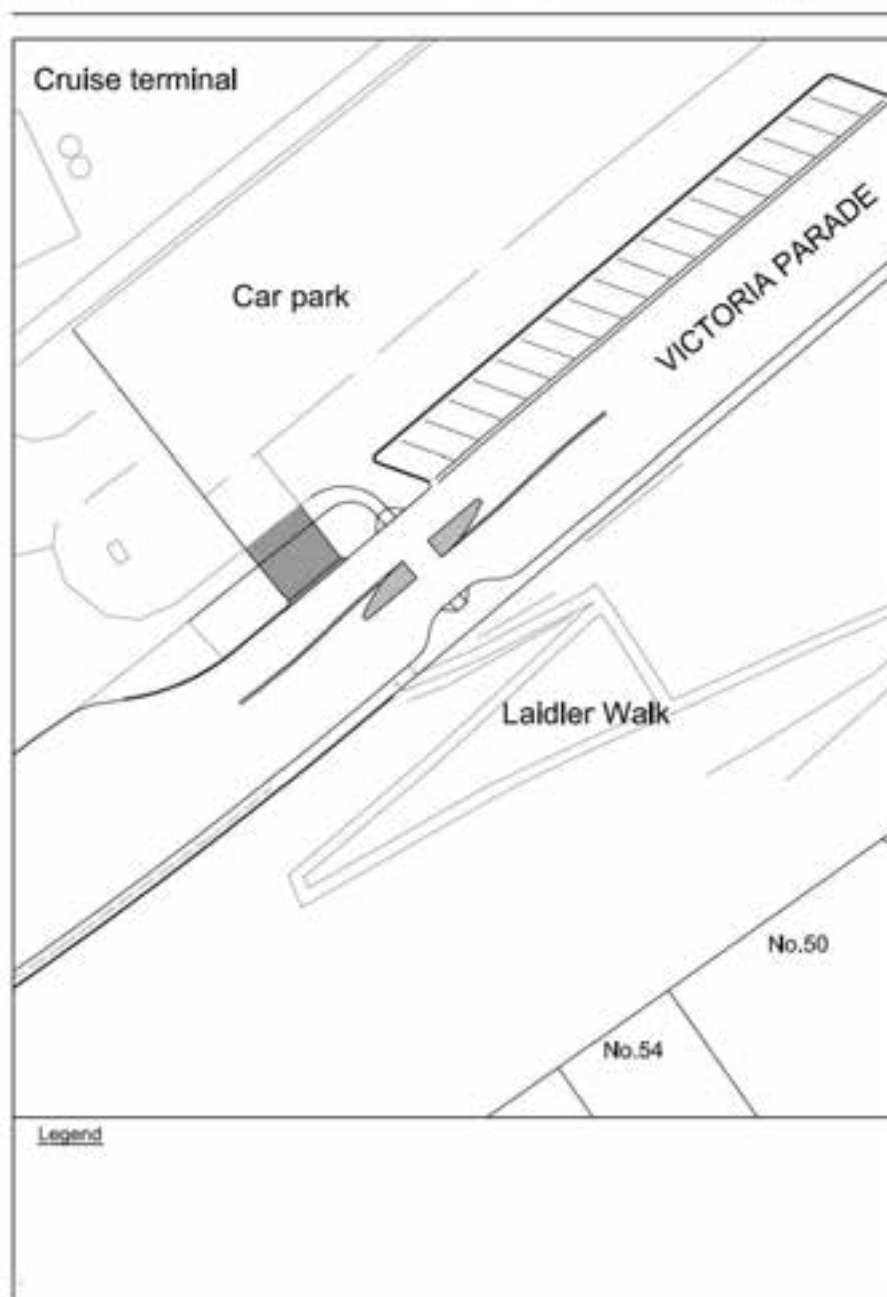
Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 1 June 2010

ITEM NO. 10 6/10
Street: Victoria Parade

ANNEXURE A
Page 1 of 1



Item: 11_06/10

TREGENNA STREET RAYMOND TERRACE - REQUEST TO REVIEW SAFETY AT THE ALTON ROAD INTERSECTION

Requested by: A resident

File:

Background:

A local resident contacted Council to request a review of safety at the intersection of Tregenna Street and Alton Road. The major issue is that traffic turning from Alton Road into Tregenna Street tends to cut the corner, endangering vehicles waiting at the intersection.

Comment:

The Traffic Inspection Committee noted that there is no delineation in Tregenna Street and that installation of barrier lines may improve driver behaviour.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules Part 11 Div.2 – Rule 132 – Keeping to the left of a dividing line
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

Approve installation of 10m of 'BB' barrier line in Tregenna Street Raymond Terrace at the Alton Road intersection, to improve delineation for drivers.

Discussion:

The Committee supports the recommendation

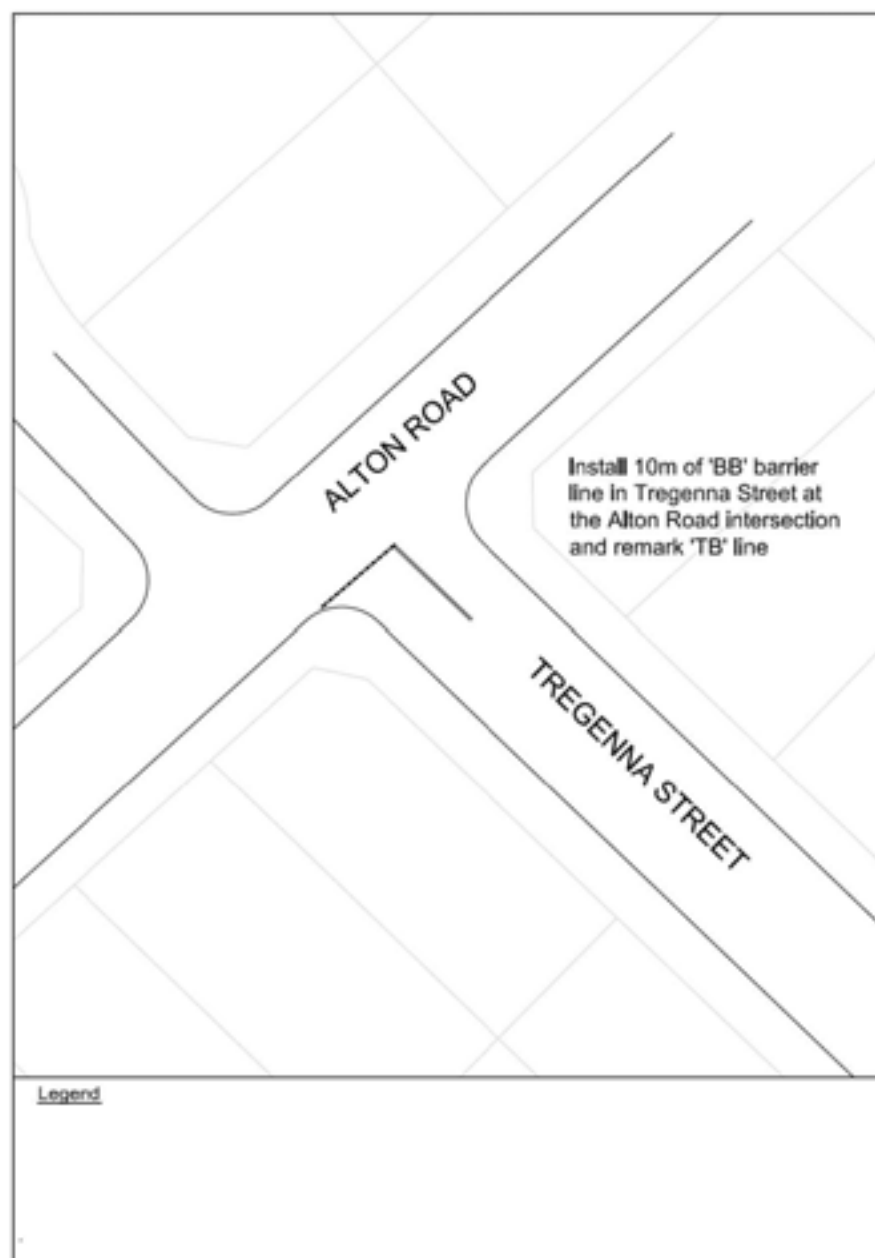
Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 1 June 2010

ITEM NO. 11_06/10
Street: Tregenna Street

ANNEXURE A
Page 1 of 1



Item: 12_06/10

SLADES ROAD WILLIAMTOWN – REQUEST FOR INSTALLATION OF PARKING RESTRICTIONS TO PREVENT VEHICLES PARKING ON-ROAD FOR THE PROPOSED WILLIAMTOWN AIR SHOW

Requested by: Williamtown Defence Force Air Show Organising Committee

Background:

The Australian Defence Forces are proposing to hold an air show at the Williamtown RAAF base in September 2010. Air shows traditionally attract large crowds and as part of the planning for this show there will be a number of additional entry points to car parking areas within the base, which will have capacity to cater for up to approximately 18 000 vehicles. One of the planned parking areas is adjacent to the northern end of Slades Road accessing through an existing crash gate to the base. Currently some vehicles are being parked along Slades Road on a long-term basis. The air show organisers have requested that parking restrictions be put in place to prevent vehicles being parked along Slades Road to ensure that traffic flowing into and out of the air base can do so as smoothly as possible.

Comment:

The Traffic Inspection Committee noted that the airport precinct has restricted parking area signs at the adjacent access road and that the northern end of Slades Road could easily be covered by erecting 'No Parking' area signs.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules Part 12 – Rule 168 – No Parking signs
AS 1742.11 – Parking controls
RTA signs database – R5-81 & R5-83
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

Approve the installation of 'No Parking' area and 'End No Parking' area signs at the northern end of Slades Road Williamtown as shown on the attached sketch (Annexure A). The 'No Parking' area is to operate only for the duration of the Williamtown Defence Force Air Show and the signs are to be removed afterward.

Discussion:

The Committee supports the recommendation

Support for the recommendation:

1	Unanimous	✓
2	Majority	
3	Split Vote	
4	Minority Support	
5	Unanimous decline	

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 1 June 2010

ITEM NO. 12_06/10
Street: Slades Road

ANNEXURE A
Page 1 of 1



Item: 13_06/10

VARDON ROAD FERN BAY – REQUEST TO REVIEW SAFETY OF BUS PICK-UP AT FERN BAY PUBLIC SCHOOL

Requested by: Fern Bay Public School Principal

File:

Background:

The school principal contacted Council to request a review of the safety of the afternoon bus pick-up at the school and to request installation of a 'No Stopping' area adjacent to the school gate. The warrant for a children's crossing would not be met due to the small number of children attending the school. The 'No Stopping' area is proposed to improve safety for children and carers crossing the road from the school gate. Currently vehicles can park unrestricted, past the school gate, meaning that children crossing the road emerge from between parked cars.

The school buses currently drop off children on the school side of Vardon Road in the morning but travel in the opposite direction in the afternoon meaning that children have to cross the road to catch the bus.

Comment:

The Traffic Inspection Committee noted that the safety of children should take precedence over the operational expediency issues. It was also noted that the intersection of Taylor Road and Nelson Bay Road provides better sight distance for traffic entering Nelson Bay Road compared to the Vardon Road intersection.

Legislation, Standards, Guidelines and Delegation:

ARR Part 12 Div.2 – Rule 167 – No Stopping signs

ARR Part 12 Div.2 – Rule 168 – No Parking signs

AS 1742.11 – Parking controls

RTA signs database – R5-400, R5-41

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

1. Approve installation of 'No Stopping' and 'No Parking' areas, to operate at school zone times, adjacent to the school gate, as shown on the attached sketch (Annexure A).
2. For discussion regarding the bus zone request.

Discussion:

The Committee supports recommendation 1.

The Committee recommended further discussion with Hunter Valley Buses to facilitate the pick-up of students on the school side of Vardon Road in the afternoon. The Committee members noted that Fern Bay is a quite compact area and that there would be minimal additional distance travelled or inconvenience to passengers if

the afternoon bus direction were reversed. Council has worked extensively with all other schools in the Port Stephens LGA to achieve drop-off and pick-up facilities on the school side of the road in order to improve safety for school children and this could be quite easily achieved in Fern Bay.

Support for the recommendation:

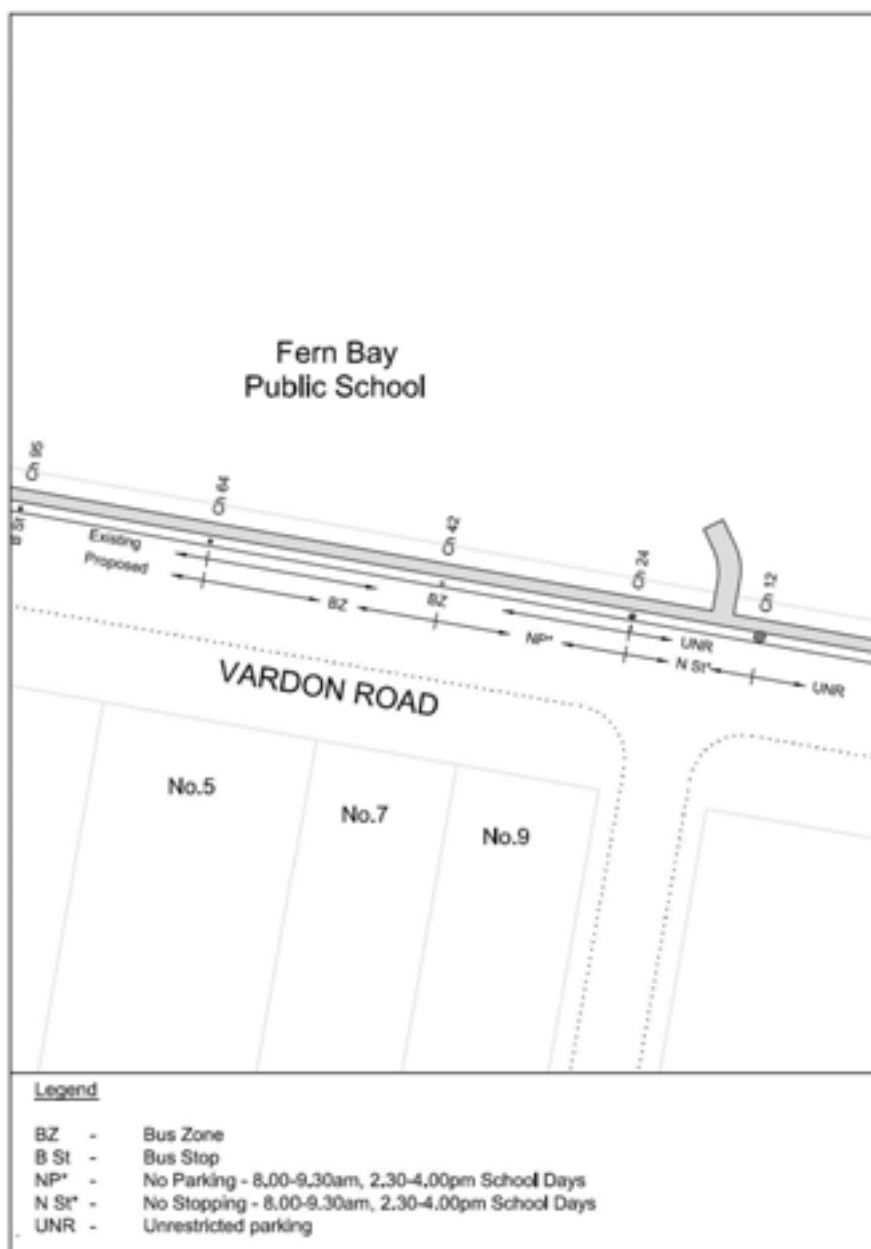
1	Unanimous	<input checked="" type="checkbox"/>
2	Majority	<input type="checkbox"/>
3	Split Vote	<input type="checkbox"/>
4	Minority Support	<input type="checkbox"/>
5	Unanimous decline	<input type="checkbox"/>

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 1 June 2010

ITEM NO. 13_06/10
Street: Vardon Road

ANNEXURE A
Page 1 of 1



D: Informal Matters

Item: 08_06/10

TAREAN ROAD KARUAH – REQUEST FOR A REDUCTION OF THE SPEED LIMIT TO 50KM/H IN THE TOWN CENTRE

Requested by: Aboriginal Strategic Committee

File:

Background:

Karuah Local Aboriginal Land Council has asked Council if the current speed limit of 60km/h on Tarean Road through the town centre can be lowered to 50km/h. This will ensure ongoing pedestrian safety taking into account the changes to driver sight lines as a result of tree planting along the median strip.

Comment:

The Traffic Inspection Committee noted that the main street area of Karuah appears to meet the criteria for a 50km/h area. Introducing 50km/h speed limit would improve consistency with other town centres.

Committee's Advice:

Refer the request to the RTA for consideration of reducing the posted speed limit in Karuah town centre to 50km/h, with support from Port Stephens Council.

Discussion:

The Committee discussed the desire to have consistent speed zoning in the Karuah town centre in line with most other built-up areas in NSW. There are also significant numbers of heavy vehicles using Tarean Road and a '50' speed zone would be more appropriate.

ITEM NO. 8**FILE NO: PSC2007-2863****MAHOGANY RIDGE DEVELOPMENTS PTY LTD (IN LIQUIDATION) – JUDGMENT DEBT****REPORT OF: WAYNE WALLIS - GROUP MANAGER**
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Write off the outstanding judgment debt for court awarded legal costs owed by Mahogany Ridge Developments Pty Ltd (in Liquidation) in the amount of \$29,608 as it is not viable for Council to pursue the debt.
- 2) Reverse the 2008 provision for this doubtful debt.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Shirley O'Brien	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 29 JUNE 2010

188	Councillor Ken Jordan Councillor Bruce MacKenzie	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to obtain Council approval to write off a debt that is not viable to recover.

The judgment debt, originating from costs awarded to Council in former Land and Environment Court proceedings brought by Mahogany Ridge Developments, has been owed to Council since early 2008. Despite Council attempts to recover the debt through court and liquidation processes, the amount remains unpaid.

It is no longer commercially viable for Council to continue to try to recover the debt.

FINANCIAL/RESOURCE IMPLICATIONS

Council's Executive Team, Manager Legal Services and external lawyers as well as the Liquidator have come to the conclusion that recovery of any part of the debt would be likely. The judgment debt is entered on Council's sundry debtors system.

A provision for this doubtful debt was made and brought to account in Council's financial statements in 2008 therefore this write-off will not impact the current budget.

LEGAL, POLICY AND RISK IMPLICATIONS

A Council resolution is required in order to write off this debt under Clause 213 of the Local Government (General) Regulation 2005.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Executive Team, Harris Wheeler Lawyers, Lawler Partners (Liquidators), Manager Legal Services.

Councillors were provided with a detailed briefing on this issue at the Two Way Conversation held on 1 June 2010.

OPTIONS

- 1) Accept the recommendation
- 2) Modify the recommendation
- 3) Reject the recommendation

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 9**FILE NO: PSC2010-03626****REVISED MEDIA LIAISON POLICY****REPORT OF: STEPHEN CROWE - MANAGER COMMUNICATIONS & CUSTOMER RELATIONS****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current Media Liaison Policy adopted 28 May 2002, Minute No: 208.
 - 2) Adopt the proposed amendments to the Media Liaison Policy (Attachment 1).
-

COUNCIL COMMITTEE MEETING – 29 JUNE 2010**RECOMMENDATION:**

	Councillor Steve Tucker Councillor Shirley O'Brien	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 29 JUNE 2010

189	Councillor Steve Tucker Councillor Ken Jordan	It was resolved that the recommendation be adopted.
------------	--	---

BACKGROUND

The purpose of this report is to present recommended amendments to the Media Liaison Policy which was adopted by Council on 28 May 2002.

A review of the Policy determined that there was insufficient flexibility in terms of seeking and providing approval for media comment.

Specifically it is proposed that the current policy be amended by allowing approval for media comment to be provided by the Manager Communications and Customer Relations and Group Managers in certain circumstances.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications in the proposed amendments.

LEGAL, POLICY AND RISK IMPLICATIONS

It should be acknowledged that there is an element of risk inherent with any comment made to the media.

Further, there is a degree of subjectivity required when deciding which issues should be referred to the General Manager for approval prior to speaking/writing to the media.

The Manager, Communications and Customer Relations is best positioned to gauge the level of risk involved in these circumstances and the appropriateness of seeking such approval.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There is a degree of reputation risk at stake when Council makes public statements on issues of a contentious nature. How Council might best manage this risk is covered in this policy.

There are no economic implications in the proposed policy amendments.

There are no environmental implications in the proposed policy amendments.

OPTIONS

- 1) Adopt the draft revised Media Liaison Policy;
- 2) Amend the draft revised Media Liaison Policy;
- 3) Reject the draft revised Media Liaison Policy.

ATTACHMENTS

- 1) Draft revised Media Liaison Policy

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Adopted :28 May 2002
Minute No. 208
Amended:
Minute No.

FILE NO: 1545-019

TITLE: MEDIA LIAISON

BACKGROUND

Port Stephens Council is committed to keeping its local and wider community well informed about its activities.

To achieve this outcome Council recognises that a good working relationship with the media is essential. The electronic and print media are principal means by which Council can inform and consult effectively with its community.

OBJECTIVE

To encourage community understanding and informed judgement about Council's actions and decisions by:

- i) establishing and maintaining a good working relationship between Council and the media; and
- ii) establishing consistent methods for managing communications between Council and the media to ensure accurate, timely, balanced and reliable information reaches the community.

PRINCIPLES

1. The media is an economical, accessible and effective means by which the Council can communicate with the community.
2. Communication between nominated Council spokespersons and the media will always be subject to freedom of speech considerations and open to:
 - a) analysis and question; and
 - b) interpretation by the media and the public as accurately conveying the Council's knowledge or position on a particular matter.

Delete:

This commitment is confirmed in Council's mission: *"Partnerships sustaining our well being, our economy and our environment,"* and is supported by the statement that we will strive to achieve this through a process of public judgement and ensuring our community is well informed, considers the whole picture and has ownership of collective decisions.

Insert:

balanced

3. The media influences and reflects what the public think and know about the Council.

4. Council recognises the independence of the media and the key role it plays in ensuring Council is accountable to its community.

POLICY STATEMENT

1. Port Stephens Council is committed to open communication with its community through the media. Council will be open and honest in its dealing with the media, notwithstanding that Council will comply with its duty of care to protect confidential or personal information and does not infringe any laws in providing information.
2. Council representatives will not knowingly provide information to the media which is untruthful or inaccurate.
3. Council will make all reasonable attempts to deal with media inquiries promptly and accurately. Council will also try at all times to have relevant Council or staff representatives available to respond to the media in a timely manner.
4. As elected community representatives, Councillors may express their personal view on any matter to the media.
5. As the elected leader of the Council, the Mayor is Council's spokesperson on matters of policy and interpretation of Council's position or decisions. In the absence of the Mayor, the Deputy Mayor will be Council's spokesperson on these matters.
6. When authorised to do so by the Mayor, Councillors may also represent Council to the media in respect of:
 - i. Matters of interest to their Ward that they have been personally involved in;
 - ii. Matters related to the activities of committees, which they chair or are involved in.
7. In addition to operational issues, the General Manager may also represent Council to the media on matters of policy.
8. Staff may represent Council to the media on matters of factual information only if approved to do so by the General Manager, their Group Manager or the Communications and Customer Relations Manager. Staff must not express personal views regarding Council matters and in general should only provide information in respect of their area of responsibility.

Delete:

4. In dealing with the media Council will treat organizations and their representatives equally and without bias

Insert:

In addition to operational issues

Insert:

their Group Manager or the Communications and customer Relations Manager

9. From time to time, the General Manager may also authorise individuals other than staff or Councillors to represent Council to the media, for example Chairperson of Audit Committee
10. Written statements to the media on behalf of Council must be issued through the Communications Unit and approved by the Manager Communications and Customer Relations. Where appropriate, they will seek approval from the Mayor, General Manager or relevant Group Manager. Where other staff have been quoted in written statements, approval will be sought from the individual(s) prior to distribution to the media.
11. All Council staff contact with the media is to be co-ordinated through Council's Communications Unit. Council will use agreed protocols and procedures to guide staff and Councillors to ensure that this policy is followed.

Insert:

From time to time, the General Manager may also authorise individuals other than staff or Councillors to represent Council to the media, for example Chairperson of Audit Committee

Insert:

approved by the Communications and Customer Relations Manager. Where appropriate, they will seek approval from the Mayor, General Manager or relevant Group Manager. Where other staff have been quoted in written statements, approval will be sought from the individual(s) prior to distribution to the media.

RELATED POLICIES AND DOCUMENTS

1. Code of Conduct
2. Communications Plan

REVIEW DATE

30 June 2012.

IMPLEMENTATION RESPONSIBILITY

This policy is to be implemented by all areas of the Council organisation.
Responsibility for monitoring and reviewing the policy is with the Manager Communications and Customer Relations

ITEM NO. 10**FILE NO: PSC2005-2561 & 2570****IMPROVEMENTS TO TILLIGERRY FIRE STATION FACILITIES****REPORT OF: PETER MURRAY - OPERATIONS MANAGER****GROUP: FACILITIES & SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Acknowledge the sustained efforts of the volunteers of both Lemon Tree Passage and Tanilba Bay NSW Rural Fire Brigades and the contribution they make to the community of Port Stephens.
- 2) Supply all necessary approvals, materials and specialist trades to assist the members of Lemon Tree Passage Brigade to complete improvements to their facility to permit the garaging of a Category 1 Urban Pumper at this location. All reasonable costs to improve this facility shall be funded from Section 94 Developer Contributions
- 3) Place on public exhibition for a period of two (2) months the option to establish a new four bay Tanilba Brigade facility, including landscaping improvements at RAF Park, Tanilba Bay.
- 4) Consider all issues identified from the public consultation period in a subsequent report to finally determine the location of the improved Tanilba Bay Brigade station facility.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010**RECOMMENDATION:**

		This item was withdrawn from the agenda.
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ORDINARY COUNCIL MEETING – 29 JUNE 2010

		This item was withdrawn from the agenda.
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BACKGROUND

The purpose of this report is to adopt a comprehensive approach to achieve the provision of improved fire station facilities on the Tilligerry Peninsula.

capacity" with limited training and meeting facilities that effectively discourages the recruitment of additional Brigade volunteers.

Extensive investigation of 25 possible sites, consultation with the NSW Rural Fire Service and recently with the Brigades' steering committee members themselves identified possible solutions and the criteria by which these options should be objectively assessed. (ATTACHMENT 1 & ATTACHMENT 2)

The option of amalgamating the Brigades into one combined "Tilligerry Brigade" was canvassed early with the Brigades but this proposal was found to neither have the support of the majority of Brigade members nor deliver significant operational cost savings as first anticipated. The limited cost saving available are the result of the existing buildings being low value, largely maintained by the Brigade volunteers themselves, consuming limited utilities and the locations having low annual Council rates. Consequently the options to improve fire station facilities on the Tilligerry Peninsula were assessed on the basis that the two Brigades continue to co-exist.

Using the agreed assessment criteria, the feasible options in order of preference were identified as: The Tilligerry Peninsula is currently serviced by the Brigades of Salt Ash, Tanilba Bay and Lemon Tree Passage with secondary response from other available NSW Rural Fire Brigades of the Lower Hunter Zone and if necessary, other "out of area" resources including those from interstate.

An extensive program of facility improvements have been completed over the last 7 years. This program has resulted in the existing stations of Salt Ash and Anna Bay being replaced and by working collaboratively with the volunteers, the stations of Medowie, Duns Creek, Wallalong, Soldiers Point and Seaham have also been significantly improved.

The current facilities of Lemon Tree Passage and Tanilba Bay are unsatisfactory, with both facilities unable to house the modern larger fire tankers unless the buildings are modified and extended. This size restriction has now resulted in the Brigades of Lemon Tree Passage and Tanilba Bay having the oldest tankers in the Port Stephens fleet. This will eventually result in these tankers having to be replaced by lower "Category" tankers that have smaller water carrying capacity than is desirable unless improvements are completed. These facilities are also operating "at

- Option 1: Construct a new Tanilba Bay facility at RAF Park & extend the existing Lemon Tree Passage station.
- Option 2: Construct a new Tanilba Bay Facility on the existing site & extend the existing Lemon Tree Passage station.
- Option 3: Extend both existing Tanilba Bay and Lemon Tree Passage Stations at there current locations.

All feasible options identified that immediate work is required on the existing station at Lemon Tree Passage to enable the tasking of a modern Category 1 Urban fire appliance to the Tilligerry Peninsula. An appliance of this specification provides improved capability over the traditional bushfire appliances when suppressing structure fires.

With regard to Tanilba Bay Brigade, the preferred option to build a new station at RAF Park is primarily to provide better access, visibility and time response than that

offered by the current site. However these improvements must be balanced against the loss of open recreational space and residential amenity to residents that adjoin RAF Park and importantly, the need to identify a means of funding this project fully. For this reason, this report recommends that further comment be canvassed through a public consultation process prior to Council considering all aspects of each option and adopting the final preferred solution.

However the construction of a new fire station on RAF Park is feasible as the subject site is zoned 6(a) General Recreation under the Port Stephens Local Environmental Plan 2000 and such use is permissible with consent under this zoning. Whilst the Tilligerry area has significantly greater than the minimum standard open space available, it is acknowledged that the partial loss of passive recreation space at RAF Park needs to be mitigated by improvements to the area, such as further plantings of native trees, shrubs and grasses. These landscaping improvements could be undertaken as part of the building works, if this proposal is subsequently adopted.

FINANCIAL/RESOURCE IMPLICATIONS

If the RAF Park option was to be adopted, the estimated cost of improved fire station facilities on the Tilligerry Peninsula would be approximately \$640,000. It is anticipated that the project would be staged:

Stage 1: Immediately improve the existing Lemon Tree Passage NSW Rural Fire Station at Lemon Tree Passage. The Brigade have offered to provide labour and draw on their business networks and other expertise that reside in their membership to complete this work conditional on Council organising and supplying all necessary designs, approvals, safe work processes, materials and specialist trades. The estimated cost to Council of this contribution is approximately \$10,000. Since this improvement adds fully to existing capacity, the entire works can be funded legitimately from the "Section 94" developer contributions reserve for Emergency Services improvements.

Stage 2: Construction of a new facility, including car park and landscaping improvements to RAF Park for an estimated cost of approximately \$600,000. Since this project would only partially extend the existing fire station "capacity" at Tanilba Bay, only a proportion of the new work could be funded from Section 94 reserves with the greater part having to be funded from general revenue or some other sources. The option of funding the new station through the NSW government Rural Fire Fighting Fund is also a possibility.

Stage 3: Decommission and demolish existing fire station facilities at Tanilba Bay and surrender the control of land back to the NSW Government as the owner of the land. Estimated cost \$30,000.

However available funding options for Stages 2 & 3 will be subject of a future report to Council once the proposed consultation process for the RAF Park option is completed. It is proposed that this report will present all aspects for consideration in determining the best overall location of the improved Tanilba Bay station facilities.

LEGAL, POLICY AND RISK IMPLICATIONS

Under the Rural Fires Act 1997, Council has the responsibility to provide facilities for our volunteers to carry out their fire suppression duties safely and effectively.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The further loss of approximately 20% of the current recreational area of RAF Park and some loss of residential amenity to those adjoining residents is inherent in the preferred option.

However, improvements to Lemon Tree Passage station along with the replacement of Tanilba Bay station with an improved facility that has capacity to service future population growth and other demands, provides a positive economic sustainability advantage.

CONSULTATION

NSW RFS, Zone Manager - Lower Hunter

NSW RFS Captain – Tanilba Bay Brigade

NSW RFS Captain – Lemon Tree Passage Brigade

Facility Improvement Steering Committees of Lemon Tree Passage and Tanilba Bay Rural Fire Brigades

NSW RFS Group Captain – East

Council's "Bushland & Vegetation Team Leader"

Tanilba Bay Parks, Reserves & Halls Committee

OPTIONS

The only feasible options available are:

- 1) Demolish existing and build a new facility on RAF Park, Tanilba Bay and extend the existing Lemon Tree Passage Facility in McCann Park.
- 2) Demolish existing and build a new facility on the existing fire station site at Tanilba Bay and extend the existing Lemon Tree passage Facility in McCann Park.
- 3) Demolish existing and build a new facility on the existing fire station site at McCann Park, Lemon Tree Passage.
- 4) Extend the existing Tanilba Bay station.
- 5) Extend the existing Lemon Tree Passage station.
- 6) Combinations of the above options to provide a comprehensive solution to fire fighting facility needs on the Tilligerry Peninsula.
- 7) Do nothing.

ATTACHMENTS

- 1) Assessment Criteria.
- 2) Summary of Options.
- 3) Proposed Community Consultation.
- 4) Community consultation Communiqué.

COUNCILLORS ROOM

Map of Options for new Tilligerry Fire Station Facility – map shows the location of all 25 locations considered and includes notes on zonings, classifications and other restrictions.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

FACILITY IMPROVEMENT CRITERIA

To ensure consistency in the assessment of each of the available options, the following criteria were established:

Critical

1. Permissible under current environmental, planning and land classifications.
2. Endorsed by Brigade Members
3. Option has Potential for Councillor Support
4. Affordable – Both initial capital cost and ongoing.

Important

1. Speed of Implementation/Commissioning
2. Residential & Community Amenity – Impact on non-Brigade member stakeholders. ie surrounding residents and effected community groups.
3. Safe Clearance Provided Around Garaged Vehicles – Unobstructed and sufficient clearance around perimeter of vehicles to allow easy & safe movement, ingress/egress and servicing.
4. Meeting/Training & Office Facilities

Desirable

1. Proximity – minimise the travel distance incurred by existing volunteers not under “lights and sirens”. Minimise turn out times.
2. Road Access – Minimise turn out times and consider road safety implications
3. Visible – Assists with the recruitment of new members and the control of vandalism.

ATTACHMENT 2

SUMMARY OF FEASIBLE OPTIONS TO IMPROVE FIRE STATION FACILITIES ON THE TILLIGERRY PENINSULA

Option 1: New Tanilba Bay Facility at RAF Park & Improve Existing Lemon Tree Passage Station.

- ☐ Construct a new station on Lot 2 DP 1048126 adjacent to the existing ambulance station at Tanilba Bay and improve landscaping of park.
- ☐ Improve the existing facility at Lemon Tree Passage to permit the tasking of a Category 1 Urban appliance to this station to improve structure fire suppression capability.
- ☐ Demolish the decommissioned station at Tanilba Bay and surrender the existing site to the State Government since land use limitations prevent further alternative uses for this building.

Advantages:	Disadvantages:
<ol style="list-style-type: none"> 1. Permissible under current environmental, planning and land classifications. 2. Endorsed by Brigade Steering Committee Members as the preferred solution. 3. Has Potential for Councillor Support 4. Extension to LTP fire station can be fully funded from Section 94. 5. Implementation/Commissioning of a new station at RAF Park is assisted by land being immediately available and level, with minimal preparation and all services available. 6. Improvements can commence immediately on Lemon Tree Passage station. 7. Provides Safe Clearance within garage area. 8. Provides Meeting/Training & Office Facilities of a high standard. 9. Proximity to existing volunteers satisfactory. 10. Road Access satisfactory 11. Visible 	<ol style="list-style-type: none"> 1. Residential & Community Amenity – This option does potentially adversely impact the adjoining residents of Success Street and President Wilson Walk and those community groups active in RAF Park. Consequently proposal will require a community consultation process to occur to establish impact and possible mitigating remedies. 2. As only a proportion of the new Tanilba Bay station could be funded by Section 94 the financial viability is conditional on other matching funding sources being found or alternatively the whole project being funded through the NSW Rural Fire Fighting fund.

Comments: The RAF Park location has been subject to much attention since 1996 when it was first proposed as the location for the new ambulance station to service the Tilligerry Peninsula. The original proposal in 1998 to rezone and reclassify this lot to allow the creation of residential lots in addition to that created for the ambulance station was abandoned in 1999.

The costs of constructing a new station only attracts partial funding from Section 94 resulting in the remaining amount having to be funded from other sources such as general revenue.

ATTACHMENT 2

Option 2: Construct new Tanilba Bay Facility on existing site & Improve Existing Lemon Tree Passage Station.

- ☐ Consolidate Lots 1 & 2 DP 1065330, demolish existing station and build a new facility at Tanilba Bay.
- ☐ Improve the existing facility at Lemon Tree Passage to permit the tasking of a Category 1 Urban appliance to improve structure fire suppression capability.

Advantages:	Disadvantages:
<ol style="list-style-type: none"> 1. Permissible under current environmental, planning and land classifications. 2. Endorsed by Brigade Steering Committee Members as the "runner up" solution. 3. Option has Potential for Councillor Support 4. Extension to LTP fire station is fully funded from Section 94 developer contributions. 5. Improvements can commence immediately on Lemon Tree Passage station. 6. Provides Safe Clearance within garage area. 7. Provides Meeting/Training & Office Facilities of a high standard. 8. Proximity to existing volunteers satisfactory. 	<ol style="list-style-type: none"> 1. Road access continues to be compromised due to location off arterial road. 2. Whilst the construction of a new station at the existing Tanilba Bay site is assisted by land being level and serviced, the commissioning will be delayed by the consolidated of the two lots and the demolition of the existing building. 3. As only a proportion of the new Tanilba Bay station could be funded by Section 94 the financial viability is conditional on other matching funding sources being found or alternatively the whole project being funded through the NSW Rural Fire Fighting fund.
<p>Comments: Whilst the proposal makes full use of crown land that has significant restrictions to other uses - dedicated exclusively for "fire fighting purposes", it does not offer the best long term solution in terms of access. In addition, the costs of constructing a new station only attracts partial funding from Section 94 resulting in the remaining amount having to be funded from other sources such as general revenue.</p>	

ATTACHMENT 2

Option 4: New Lemon Tree Passage Facility on McCann Park and Improve Existing Tanilba Bay Station.

- ☐ Demolish the existing Lemon Tree Passage station at McCann Park and construct new station at this same location.
- ☐ Consolidate Lots 1 & 2 DP 1065330 at Tanilba Bay and construct a new shed to house the fire tankers adjacent the existing facility.
- ☐ Renovate the existing Tanilba Bay building to provide meeting, training and office facilities.

Advantages:	Disadvantages:
<ol style="list-style-type: none"> 1. Permissible under current environmental, planning and land classifications. 2. Option has Potential for Councillor Support 3. Provides Safe Clearance within garage area. 4. Provides Meeting/Training & Office Facilities of a high standard. 5. Proximity to existing volunteers satisfactory. 6. Visible 	<ol style="list-style-type: none"> 1. Road Access compromised to existing Tanilba Bay location. 2. Residential & Community Amenity – This option does potentially adversely impact the adjoining residents of the Tanilba Bay station as housing development continues in the immediate area. 3. The construction and commissioning of a new facility at Lemon Tree Passage will be delayed by the demolition of the existing building. 4. Only approximately 26% of the new station costs could be funded by Section 94 resulting in the remainder having to be funded by revenue. Alternatively the project could possibly be funded through the NSW Rural Fire Fighting fund. 5. The renovation of the existing Tanilba Bay station building is a satisfactory medium term solution to addressing the limited office and meeting facilities. 6. McCann Park is located away from the future population centre of Tilligerry Peninsula.

Comments: Whilst this option makes use of existing lands, it does not offer the best long term solution in terms of access for Tanilba Bay Brigade. In addition, the costs of constructing a new station only attracts partial funding from Section 94 resulting in the remaining amount having to be funded from other sources such as general revenue. It has been confirmed that this proposal would not affect the habitat of the migrating bird ("Curlew – bush stone") nesting at the rear of McCann park.

ATTACHMENT 2

Option 7: Construct New Facility on Crown Land at the end of President Wilson Walk, Tanilba Bay near RAF Park. <ul style="list-style-type: none"> <input type="checkbox"/> Construct new station on Lot 2 DP 1093606 and demolish the decommissioned station of Tanilba Bay. <input type="checkbox"/> Improve the existing facility at Lemon Tree Passage to permit the tasking of a Category 1 Urban appliance to improve structure fire suppression capability. <input type="checkbox"/> Demolish the decommissioned station of Tanilba Bay and surrender the existing site to the State Government. 	
Advantages:	Disadvantages:
	1) Not permissible due to unavailability of site
Comments: State government have advised that any request to dedicate land would be refused.	

ATTACHMENT 3

Proposed Community Consultation

Prior to initiating community consultation, it is proposed that the attached programme would be first workshopped with Councils' Community Engagement Panel as required by adopted Council Policy. However it is anticipated that community consultation for this project would be similar to that completed with previous fire station projects and would likely consist of:

1. Distribution of a detailed communiqué to those residents within a 0.5km radius of the proposed location that consisting of:
 - ☐ Cover Letter inviting interested parties to submit written comments within the community consultation period of one (1) month.
 - ☐ Plan showing location of proposed fire station facility.
 - ☐ Drawing of the proposed fire station structure.
 - ☐ "Frequently Asked Questions" style information brochure detailing the likely topics of interest for residents.
2. Advertisements in the Examiner advising of the proposal and the availability of detailed communiqué (See ATTACHMENT 4) that can be requested by telephoning Council or alternatively, accessed on Councils' website.
3. Media release detailing the need for improved fire station facilities and the consultation process underway.
4. Arrange site discussions with those stakeholder committees and volunteer groups of the Tilligerry Peninsula that have invested effort into the RAF Park.
5. Acknowledge all written comments received.
6. At the completion of the consultation period, a report will be presented to Council detailing the concerns raised by the community, including discussion of the amendments that could be implemented to mitigate these concerns where this is practical. This report will also include a recommendation on whether to proceed or not with the proposal.

ATTACHMENT 3

Telephone Inquiries:
Mr Peter Murray
Facilities & Services

Residents
In the Vicinity of RAF Park
Tanilba Bay.

Re: Proposed New NSW Rural Fire Station for Tanilba Bay.

Dear Resident

You may be aware that the existing facility used by Tanilba Bay Brigade of the NSW Rural Fire Service is inadequate for current needs. The Brigade consists of volunteers who perform an essential service to the local community as the primary fire brigade for bush fires, building fires as well as motor vehicle accidents. They are also called on regularly to assist other rural brigades and agencies such as State Emergency Service, NSW Fire Brigade and NSW Ambulance.

The current RFS fire station located in Pershing Place, Tanilba Bay is now too small to safely house modern fire tankers and Council is investigating all practical options to provide "state of the art" facilities on the Tilligerry Peninsula.

Currently the preferred option involves the construction of a new 4 bay fire station on land adjoining the Tanilba Bay Ambulance Station in President Wilson Walk in addition to completing some improvements to the existing Lemon Tree Passage Brigade facility located on McCann Park at Lemon Tree Passage.

However before any decision is made to proceed with the proposal to build a new station on RAF Park, I am seeking comment from any interested party on the proposal. I have enclosed further details of the proposal if you are interested in a "Frequently Asked Questions" style format attached. If you wish to discuss the proposal further, please feel free to contact me on 49 800 275. Any comments you wish to have formally considered, please e-mail to Peter.Murray@portstephens.nsw.com.au or alternatively write to me at this postal address:

General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE 2324.

It would be appreciated if you would forward all comments by **Monday 23 August 2010**. All correspondence will be acknowledged.

Yours faithfully

Peter Murray
Operations Manager
Encl.

ATTACHMENT 4

Proposed New NSW Rural Fire Station for Tanilba Bay.

To inform residents of the proposal to consider construction of a modern 4 bay fire station next to the existing ambulance station on RAF Park and to provide factual information on the likely impact of this development on adjoining residents and park users. The following information is presented in a “frequently asked question” format:

“Where do you want to build it?”

On the lot known as lot 2 of DP 1048126, Lemon Tree Passage Road, Tanilba Bay that currently contains a NSW Ambulance facility and open space. The location is known locally as RAF Park. It is proposed that the new station would be built on the southern side of the ambulance station in the open area so that no or very few trees would be affected. The attached site plan shows the position of the fire station relative to surrounding buildings and streets.

“Why is Council involved with Rural Fire Service?”

Under State legislation Council is required to provide suitable facilities for the various volunteer Rural Fire Service Brigades to operate from.

“What does the Tanilba Bay Brigade do for the residents of the Tilligerry Peninsula?”

The Brigade provide the primary fire fighting response for building and bush fires in the peninsula area and provide support to the Brigades of other locations when required.

Importantly the Brigade also provide fire protection to victims of serious motor vehicle incidents and the attending Police, Ambulance and other road crash rescue workers while the victims are being freed from the vehicle wreckage.

“How often does the Tanilba Brigade response to calls for assistance?”

In the 4 years since 1 January 2006 the Brigade has responded to a total of 335 calls for assistance consisting of: 81 calls in 2006, 122 calls in 2007, 73 calls in 2008 and 59 calls in 2009.

ATTACHMENT 4

“Why does this Brigade require improved facilities?”

The current building, located in Pershing Place is inadequate in size and functionality. The inadequate size prevents the allocation of modern but larger fire tankers that are now common. Consequently this space restriction has led to the tankers stationed on the Tilligerry Peninsula being the oldest in the district.

Further, to attract and retain volunteers, it is a reasonable expectation that modern conveniences such as toilets and showers and a comfortable facility for Brigade meetings and training will be provided.

“Why is this location in RAF Park so good for a fire station?”

The site is ideal for the following reasons:

- o Being adjacent to Lemon Tree Passage Road, the Brigade can respond quickly to all incidents.
- o Conveniently accessible and visible site assists with the ongoing recruitment of fire fighters that is necessary for an organisation that relies on volunteers.
- o Site is Council owned and the zoning permits the construction of a fire station.
- o Available immediately.
- o Site is sufficiently large enough to allow landscaping and off street parking.

The attached drawings show the proposed building and how it would be situated on the site.

“Won’t the building cause extra noise disruption to surrounding residents?”

Not necessarily for the following reasons:

- o The station is “unmanned” or unoccupied except for when the Brigade is called out or is completing equipment maintenance or training. Consequently, the period that the station would be occupied is in the order of only a few hours every week.
- o The building would be insulated.
- o The building is located away from property boundaries so that an arboreal (large shrubs) screen could be installed.
- o The majority of the Brigades’ members are local residents themselves and are aware of the advantages of maintaining a good relationship with adjoining property owners.

“The construction of the station next to the ambulance station at Tanilba Bay would result in a loss of open space?”

The construction of the fire station on RAF Park, if it was to occur would result in approximately 20% reduction of open space at this location. The remaining area

would still allow the remaining open space area in Tanilba Bay to exceed the minimum permissible open space standards required by Councils' Subdivision Code.

“Won’t it be dangerous having fire engines racing up and down Success Street and President Wilson Walk?”

Whilst the Tanilba Bay Brigade is an active unit when compared to other Rural Fire Service Brigades, it on average responds to 1.6 jobs per week, with the majority of cases resulting in only one fire tanker being deployed.

The drivers of fire tankers are no different to other drivers where they are required to drive safely at all times and comply with speed limits. So “no”, the relocation of the Brigade will not necessarily impinge on the safety of local residents and motorists.

“How about the impact of the increased traffic?”

The relocation of the Brigade to RAF Park would increase the traffic on Success Street and President Wilson Walk. However the increase in traffic would be equivalent to that generated by approximately 3 to 7 additional houses in that area.

This assertion is based on the Brigade responding to an average of 1.6 jobs per week, 4 volunteer vehicles attending the station and one fire tanker attending the incident and weekly training and station administration generating another 10 vehicle movements resulting in approximately 26 vehicle movements per week. Traffic studies indicate that one dwelling generates between 4 and 12 vehicles per day movements per residency (Schofield, Mulholland and Morris 1984).

The additional traffic on these roads because of the relocation of the Brigade to RAF Park would have a negligible effect on the existing traffic conditions.

“Will the building be an “eyesore”?”

The structure is imposing and consequently efforts have been made to break the bulky appearance of the structure. The building will incorporate a pergola at the entry to the building and the planting of screening trees/scrubs would occur to assist in breaking up the visual bulk of the building.

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ATTACHMENT 4

“What is the timeframe?”

If Council determines to proceed with this proposal after considering all comments submitted during the public consultation period, it is expected that the development approval process could be completed by late 2010 and funding permitting, contracts let and construction commence in 2011.

“What happens if the fire station doesn’t go ahead on the RAF Park site?”

Council, the NSW Rural Fire Service, the volunteers and the community will need to either accept the limitations of the location of the existing station at Tanilba Bay and proceed with either enlarging the existing facility or alternatively, identify and purchasing land specifically for the new station elsewhere on the Peninsula. The alternative of purchasing suitable land elsewhere or more likely, the reclassification of an existing Crown Land parcel would delay the project some years.

“Isn’t it easier just to extend the existing Tanilba Bay Fire?”

That is true but the purpose of this project is to provide a modern facility that will serve the Tilligerry Peninsula for the next 50 years. Unfortunately, the limitations with the access to the existing Tanilba Bay fire station site along with the existing building itself prevents this option being the best long term practical solution available.

“What alternative sites have been investigated before RAF Park was selected as the preferred location?”

Investigations completed the following possible locations for the new Tilligerry Fire Station:

- ☐ **Existing Tanilba Bay Station site** – As discussed above.
- ☐ **Crown Land at the southern end of President Wilson Walk** – Dismissed as not practical as advice from the State land management agency that this land would not be available.
- ☐ **Crown Land at the corner of Lemon Tree Passage Road and Oyster Farm Road** – Again dismissed as not practical as advice from the State land management agency that this land would not be available, as well as issues with the need to extensively clear Koala feed trees in a well documented known Koala migration path.
- ☐ **Crown Land known as Lemon Tree Passage Waste Depot** – The State land management agency classification of this land prevents this land from being used for anything but waste management purposes.
- ☐ **McCann Park, Lemon Tree Passage** – Whilst viable, it is located remote from the future anticipated area of growth on the Tilligerry Peninsula.

ATTACHMENT 4

“So what do you want me to do?”

Nothing, if you are comfortable with this proposal. The purpose of this letter was simply to provide factual information on the fire station proposal. However, if you have comments or concerns that you wish to have formally considered, please e-mail to Peter.Murray@portstephens.nsw.com.au or alternatively write to me at this address:

General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE 2324.

It would be appreciated if you would forward all comments by **Monday 23 August 2010**.

“Who do I ask if I have any more questions?”

You can call me, Peter Murray on 49 800 275 OR e-mailed your enquiry to:
peter.murray@portstephens.nsw.gov.au

ITEM NO. 11**FILE NO: PERSONNEL****GENERAL MANAGER'S PERFORMANCE REVIEW****REPORT OF: PETER GESLING - GENERAL MANAGER****GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and accept the record of the Performance Management Committee.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010**RECOMMENDATION:**

	Councillor Geoff Dingle Councillor Bob Westbury	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 29 JUNE 2010

190	Councillor Ken Jordan Councillor Geoff Dingle	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is for Council to receive and accept the outcome of the Performance Feedback process.

Council has established a Performance Feedback process for the General Manager that aligns with the Department of Local Government guidelines. This includes:

- 1) Establishment of a Performance Feedback Committee to review the General Manager's performance against the agreed Individual Work and Development Plan (IWDP). This Committee meets in February and August each year and provides a report to Council.
- 2) Undertaking an assessment of the statutory quarterly performance report against the Council Plan. This is done in the first week of November, February, May and August.

A further element is available to Council, that any concern should be raised when it occurs. It should include written notification to the Mayor and General Manager. After assessment, the General Manager will respond to the council to ensure a review in the bi-annual meeting of the Performance Feedback Committee. This review included a discussion with all Councillors at Council on Tuesday 16th March 2010 where it was agreed by Council that, due to John Pala being overseas and therefore unavailable, to allow for the deferral of the Performance Feedback Committee until 21st April 2010. The meeting was held and the notes from that meeting are attached for the half-yearly assessment.

FINANCIAL/RESOURCE IMPLICATIONS

Included in operating budget.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's charter requires it

- To have regard to the long term and cumulative effects of its decisions.
- To be a responsible employer.

Participation in this formal process allows Council to demonstrate these elements of the Charter and models behaviour for the organisation that performance management is important to ensure Council objectives are achieved. Council's workforce policies are met in this process.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Participation in the Performance Feedback Process enhances the overall sustainability of the organisation by modelling behaviours expected of other supervisors within the organisation and building more effective working relationships.

OPTIONS

- 1) Accept the recommendation.

ATTACHMENTS

- 1) GM Performance Plan Review – file note of John Pala dated 21st April 2010.

TABLED DOCUMENTS

- 1) Individual Work and Development Plan (IWDP) for 2009/2010

ATTACHMENT 1

File Note

Port Stephen Council

**Performance Management meeting for General Manager
Sub-committee meeting**

Date: 21 April 2010

Attendees

General Manager: Peter Gesling

Councillors: Geoff Dingle, Peter Kafer

Facilitator: John Pala (Palaris)

Apologies: Bruce Mackenzie

General Items

- (i) General discussion regarding memorandum sent to council on 12 March 2010 re: GM's performance.

Project performance -

Discussion regarding an example of project issues with the Medowie Community facility; Cr Dingle raised a number of concerns with poor cost control and schedule delays with the project. Major concern was lack of consultation with stakeholders. General belief is that 'Project Management' requirements are not well understood by some parts of council.

Actions

- ☐ An independent review of the engineering group is scheduled to take place – project management will be one of the areas to be assessed- PG end April 2010.
- ☐ Need to develop a corporate approach to Project Management which includes communications with stakeholders- PG end August 2010.

Occupational Health and Safety

OH&S performance

Some frustration experienced in the retention of professional staff ; concern at the impact this maybe having on general safety performance.

Actions

Consider the introduction of random workplace audits- PG and Senior Leadership Team end June 2010.

Motor Vehicle and Property Insurances

Discussed issues with continuing increases in MV costs

Actions

Consider the introduction of a positive reinforcement policy where people get rewarded/ acknowledged for maintaining vehicles to a high standard- PG

Other

Department of Defence- continue process of positive engagement

Community meetings- consider community engagement on a ward-by-ward basis to try and address issues at a community level.

GM performance plan

GM's current performance plan is generally on track with no significant issues raised.

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

Cr Ken Jordan left the meeting at 8.32pm prior to Item 12.

ITEM NO. 12

FILE NO: PSC2008-2238

VPA FOR PROPOSED REZONING OF LAND AT PEPPERTREE ROAD, MEDOWIE

REPORT OF: PETER GESLING – GENERAL MANAGER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Accept the Draft Voluntary Planning Agreement for the proposed re-zoning at Peppertree Road (**Attachment 2**)
- 2) Endorse the draft Port Stephens Local Environmental Plan 2000 Amendment No. 32 to be submitted to the NSW Department of Planning.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Shirley O'Brien	That the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Bruce MacKenzie, Sally Dover, Steve Tucker, Glenys Francis, Bob Westbury and Shirley O'Brien.

Those against the motion: Crs Frank Ward, Caroline De Lyall, Peter Kafer and Geoff Dingle.

ORDINARY COUNCIL MEETING – 29 JUNE 2010

	Councillor Geoff Dingle Councillor Frank Ward	That the developer be required to complete traffic and drainage studies prior to the rezoning being submitted to the Department of Planning.
--	--	--

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

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

Those for the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Geoff Dingle and Frank Ward.

Those against the Motion: Crs Steve Tucker, Shirley O'Brien, Bob Westbury, Sally Dover and Bruce MacKenzie.

The motion on being put was lost.

The Mayor exercised his casting vote.

MOTION

191	Councillor Bruce MacKenzie Councillor Steve Tucker	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 Steve Tucker, Shirley O'Brien, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Geoff Dingle and Frank Ward.

The Motion on being put was carried.

The Mayor exercised his casting vote.

Cr Ken Jordan returned to the meeting at 8.49pm following Item 12.

BACKGROUND

The purpose of this report is to seek councils consideration to progress the re-zoning request as delegated authority could not be exercised.

Council considered a report to rezone land at its meeting on 24 November 2009. **(Attachment 1)** It was resolved that:-

That

Council

Endorse the Infrastructure Agreement as contained in Attachment 1 (letter from Group Manager, Sustainable Planning to Build Pty Ltd) and require the General

Manager to put into place a legal mechanism to bind any successive owners; and

Endorse the draft Port Stephens Local Environmental Plan 2000 Amendment No. 32 to be submitted to the NSW Department of Planning.

A number of alternatives were considered to identify a "legal mechanism to bind any successive owner". An agreement was reached with Builddev on 30 March 2010 that achieves binding outcomes on the traffic and drainage studies but does not completely deliver that some assurances for dedication of land for road widening

The agreement on dedication of land which has now been exhibited (**Attachment 2**) is contained in Clause 6(h-c) as follows:

Dedication of Land for Road Widening Purposes

The developer acknowledges that the dedication of the road widening land for the purpose of widening Peppertree Road is integral to the rezoning of the subject land and the development.

The development application will include a provision for the dedication of the road widening land for the purpose of widening Peppertree Road in its statement of environmental effects.

Should development consent be granted in respect of the development application the developer consents to and will not challenge the imposition of a condition requiring the dedication of the road widening land at no cost to Council for the purpose of widening Peppertree Road.

The developer will ensure that the development application is lodged with Council on or before 14 May 2010.

If the development of the subject land is undertaken by a third party the developer will ensure that that third party adheres to the provisions of this agreement in relation to the dedication of the road widening the land.

As items j) and l) are future commitments, they are only binding on the signatories to the VPA. Three (3) alternatives are possible to Council.

Council to resolve to accept the existing Draft VPA and accept the risk of it not being enforceable on a future owner.

Seek an amendment to Draft VPA and re-exhibit it to;

i) include the current land owner of the affected lot.

OR

ii) request a bond from the proponent to the value of the land to be dedicated.

Two (2) submissions were received to the exhibition of the draft VPA. These are provided separately (**Attachment 3**). These support that the matter should be further considered by Council.

FINANCIAL/RESOURCE IMPLICATIONS

The current form of the Draft VPA could result in the Council having to fund the land purchase by acquisition if the land is transferred and that owner successfully challenges a DA condition for the proposed development or if a new DA is submitted over the land.

LEGAL, POLICY AND RISK IMPLICATIONS

Legal advise confirms a risk to Council proceeding with the current Draft VPA. No process is without risk and the level of risk is considered low.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed VPA seeks to address Councils concerns for land being recommended for re-zoning. These proposals are aimed at managing suitability issues by completing capacity studies and seeking to identifying land required for road access.

Progressing the application is in the community interest for both economic and social sustainability due to increased competition and great commercial amenity in Medowie.

CONSULTATION

Sustainable Planning Group Manager
Integrated Planning Manager
Harris Wheeler Lawyers
Buldev Development Pty Ltd

OPTIONS

- 1) Accept recommendation
- 2) Negotiate a variation to VPA.

ATTACHMENTS

- 1) Council Report of 24 November 2009
- 1) Voluntary Planning Agreement
- 2) Submissions

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1**COUNCIL COMMITTEE – 24 NOVEMBER 2009**

ITEM NO. 2

FILE NO: PSC2008-2238

**PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000
(NO. 32): COMMERCIAL DEVELOPMENT, CORNER FERODALE &
PEPPERTREE ROADS, MEDOWIE – INFRASTRUCTURE AGREEMENT****REPORT OF: DAVID BROYD – GROUP MANAGER, SUSTAINABLE PLANNING
GROUP: SUSTAINABLE PLANNING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the Infrastructure Agreement as contained in Attachment 1 (letter from Group Manager, Sustainable Planning to Buildex Pty Ltd) and
- 2) Endorse the draft Port Stephens Local Environmental Plan 2000 Amendment No. 32 to be submitted to the NSW Department of Planning requesting that the Plan be made by the NSW Minister for Planning.

COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009**RECOMMENDATION:**

	Councillor Daniel Maher Councillor Steve Tucker	That Council: <ol style="list-style-type: none">1) Endorse the Infrastructure Agreement as contained in Attachment 1 (letter from Group Manager, Sustainable Planning to Buildex Pty Ltd) and require the General Manager to put into place a legal mechanism to bind any successive owners; and2) Endorse the draft Port Stephens Local Environmental Plan 2000 Amendment No. 32 to be submitted to the NSW Department of Planning requesting that the Plan be made by the NSW Minister for Planning.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Frank Ward.

PORT STEPHENS COUNCIL**21**

COUNCIL COMMITTEE – 24 NOVEMBER 2009**MATTER ARISING:**

	Councillor Glenys Francis Councillor Peter Kafer	That Council be provided with a briefing from the consultants on the Medowie Flood Study.
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BACKGROUND

The purpose of this report is to recommend Council's endorsement of the Infrastructure Agreement reached between the Group Manager, Sustainable Planning and the Directors of Buildev Pty Ltd in relation to the draft LEP amendment No. 32 and thereby enable that draft LEP amendment to be recommended to the NSW Department of Planning and NSW Minister of Planning for approval and gazettal.

This report compliments Item 1 – report to the Council Committee of 10 November 2009 which was deferred by Council to enable an Infrastructure Agreement to be reported upon prior to the submission of the Draft Local Environmental Plan to the NSW Department of Planning.

Following the initial recommendation for the draft Local Environmental Plan to not proceed, management representatives from Buildev Pty Ltd met with the Group Manager, Sustainable Planning and Coordinator, Infrastructure Planning on Monday 9 November 2009 with the resulting negotiation of an agreement on infrastructure provision associated with the draft LEP amendment. The key issues here were:

1. Fulfilment of the adopted Medowie Strategy in terms of commitment to infrastructure planning, funding and provision in relation to applications for rezoning;
2. This draft Local Environmental Plan being facilitated for endorsement prior to the completion of a comprehensive Infrastructure Plan and Flood Management Study and Plan by Council;
3. Ensuring equitable contributions from developments in the short term prior to the Infrastructure Plan and Flood Plain Management Study and Plan being completed relative to the anticipated contributions from all future developments in accordance with the Medowie Strategy and
4. Getting clear and legally sound bases for the Infrastructure Plan and differentiating between liability for infrastructure planning and commitment at draft LEP and development application stages.

COUNCIL COMMITTEE – 24 NOVEMBER 2009

It is submitted that the Agreement that is contained in the letter from the Group Manager, Sustainable Planning which is Attachment 1 to this report responds appropriately to the above key issues.

FINANCIAL/RESOURCE IMPLICATIONS

The Infrastructure Agreement has been negotiated to fulfil the infrastructure planning requirements contained in the Medowie Strategy and in terms of seeking to achieve relatively equitable approach for this short-term development relative to the longer term developments and contributions in accordance with the Medowie Strategy.

LEGAL, POLICY AND RISK IMPLICATIONS

The Infrastructure Agreement has been negotiated on a legally sound basis to implement the Medowie Strategy, based upon Section 94A contributions and seeking to ensure clear differentiation between the draft Local Environmental Plan stage and the development application stage.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The sustainability Implications of rezoning the land have been addressed in the Medowie Strategy. Proceeding with the rezoning to enable the development of a Woolworths supermarket may have positive social and economic effects. Sustainability of infrastructure and related funding remains a key issue for this proposal.

CONSULTATION

Meeting with Buldev Pty Ltd.

OPTIONS

1. Council can adopt the recommendation and endorse the Infrastructure Agreement and thereby enable the submission of the draft Local Environmental Plan Amendment No. 32 to the NSW Department of Planning and NSW Minister For Planning;
2. Seek renegotiation of certain elements of the Infrastructure Agreement before endorsing the draft Local Environmental Plan to be submitted to the State Department of Planning or;
3. Not accept the recommended Infrastructure Agreement and not proceed with the draft Local Environmental Plan No. 32.

ATTACHMENTS

COUNCIL COMMITTEE – 24 NOVEMBER 2009

- 1) Letter from Group Manager Sustainable Planning to the Directors of Buildev Pty Ltd proposing the finally negotiated Infrastructure Agreement
- 2) Letter from Buildev Pty Ltd confirming the Company's endorsement of the Infrastructure Agreement proposed on Council's behalf by the Group Manager, Sustainable Planning.

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1
GROUP MANAGER SUSTAINABLE PLANNING LETTER

TO BE PROVIDED UNDER SEPARATE COVER

**ATTACHMENT 2
BUILDEV LETTER**

TO BE PROVIDED UNDER SEPARATE COVER

Cr Maher requested Cr Dingle to withdraw and apologise for the comments that asserted staff had subverted the process by creating a smokescreen to provide support for the Boundary Road site.

Cr Dingle agreed and apologised, then reworded his comments.

ATTACHMENT 2

BUILDEV DEVELOPMENT (NSW) PTY LIMITED
ABN 31 115 089 122
("THE DEVELOPER")

AND

PORT STEPHENS COUNCIL
("THE COUNCIL")

REZONING REQUEST
MEDOWIE

VOLUNTARY PLANNING AGREEMENT

Harris Wheeler Lawyers
3rd Floor, Hunter Mail Chambers
175 Scott Street
NEWCASTLE NSW 2300
DX 7814 NEWCASTLE
PH: 02 4907 6300
FAX: 02 4907 6333

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VOLUNTARY PLANNING AGREEMENT

BETWEEN: BUILDDEV DEVELOPMENT (NSW) PTY LIMITED, ABN 31 155 069 122 of Suite 1,
Level 3, Honeysuckle House, Sparke Helmore Building, Honeysuckle Drive,
Newcastle NSW 2300 ("the developer")

AND: PORT STEPHENS COUNCIL of 116 Adelaide Street, Raymond Terrace, NSW
("the Council")

BACKGROUND

- A. The subject land is situated in the Port Stephens Local Government Area and is subject to the LEP 2000.
- B. The developer has made a rezoning request to the Council for the subsequent purpose of making the development application.
- C. The subject land is within the area covered by the Strategy adopted by Council on 24 March 2009.
- D. The Strategy requires the preparation of an infrastructure plan to identify the hard critical infrastructure (including drainage and roads) which will be required to support the rezoning under the Strategy.
- E. The infrastructure plan has not yet been developed. A flooding and drainage study for Medowie has yet to be completed.
- F. The developer wishes to progress the rezoning and development of the subject land prior to the finalisation of the Strategy and has offered as part of its contribution to the wider infrastructure needs of the area and for other public purposes to:
 - (a) pay \$20,000.00 towards the cost of a strategic traffic study to be undertaken by consultants engaged by Council for the area around the subject land
 - (b) provide \$36,960.00 towards the cost of the drainage report
 - (c) dedicate part of lot 11 in DP 19101 being the land contained in Volume 5466 Folio 6 for the purpose of widening Peppertree Road.
- G. The parties have agreed to enter into a voluntary planning agreement to document this agreement.

OPERATIVE PROVISIONS

THE PARTIES AGREE:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this agreement:

"Act" means the *Environmental Planning and Assessment Act 1979*.

"business day" means any day excluding Saturdays, Sundays and public holidays.

"development" means the construction of a Woolworths Supermarket or any other proposal to develop the subject land.

"development application" means a development application in respect of the development.

"drainage report" means an assessment and report to be undertaken by consultants engaged by Council identifying the local sub-catchment within which the subject land is located and the drainage and water quality works required for future development in that catchment as outlined in the Strategy.

"explanatory note" has the same meaning as it has in clause 25E of the Regulation.

"GST" has the same meaning as in the GST Law.

"GST Law" has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other act or regulation relating to the imposition or administration of the GST.

"LEP 2000" means the Port Stephens Local Environmental Plan 2000.

"local sub-catchment" means the area in which the subject land is located as identified in the plan which forms annexure "B" to this agreement.

"Regulation" means the *Environmental Planning and Assessment Regulation 2000*.

"rezoning request" means the request to rezone the subject land from 2(a) residential to 3(a) business general by way of amendment no 32 to the LEP 2000.

"road widening land" means that part of lot 11 in DP 19101 being the land contained in Volume 5466 Folio 6 which is required for the widening of Peppertree Road as identified in the plan which forms annexure "C" to this agreement being an area tapering from zero to 5 meters in width over 74.27 meters in length before running parallel with the existing boundary at 5 meters in width.

"strategic traffic study" means a traffic study of current and future intersection capacities based on the footprint in the Strategy, together with a recommendation for required upgrades.

"Strategy" means the Meadowie Strategy.

"subject land" means lot 7 in DP 19101 being the land contained in certificate of title folio identifier 7/19101; lot 8 in DP 19101 being the land contained in certificate of title folio identifier 8/19101; lots 9 and 10 being the land contained in certificate of title volume 7087 folio 171; and lot 11 in DP 19101 being the land contained in certificate of title volume 5466 folio 6 as shown in annexure "A" to this agreement.

"tax invoice" has the meaning given to it in GST Law.

"traffic consultant" means the traffic engineer appointed by Council to carry out the strategic traffic study.

1.2 Interpretation

In this agreement, unless the context indicates a contrary intention:

- (a) If the day on which any act, matter or thing is to be done under this agreement is not a business day, the act, matter or thing must be done on the next business day.
- (b) A reference in this agreement to dollars or \$ means Australian dollars and all amounts payable under this agreement are payable in Australian dollars.
- (c) A reference to any law, legislation or provision of legislation includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (d) Clause headings and the table of contents are inserted for convenience only and do not affect the interpretation of this agreement.
- (e) A reference to a corporation includes its successors and permitted assigns.
- (f) A reference to a statutory corporation includes its successors and permitted assigns.

2 PLANNING AGREEMENT

This agreement constitutes a planning agreement within the meaning of section 93F of the Act and is governed by Subdivision 2 of Division 6 of Part 4 of the Act.

3 APPLICATION OF SECTIONS 94, 94A AND 94EF OF THE ACT TO THE DEVELOPMENT

- 3.1 This agreement does not exclude the application of sections 94, 94A and 94EF of the Act to the development.
- 3.2 The benefits under this agreement are a contribution to the broader infrastructure needs of the area consequent on the rezoning of the subject land and are not to be taken into consideration in determining a development contribution under sections 94, 94A or 94EF.

4 REZONING CONTRIBUTIONS

The developer will make the following contributions to the wider infrastructure needs of the area in which the subject land is located and for other public purposes.

Strategic Traffic Study

- (a) The developer will pay \$20,000.00 towards the cost of the strategic traffic study.

Local Drainage

- (b) The developer will pay \$36,960.00 towards the cost of the drainage report.

Dedication of Land for Road Widening Purposes

- (c) The developer will at its cost dedicate to Council the road widening land.

5 ACKNOWLEDGEMENTS

- 5.1 The parties acknowledge that the provision of the drainage report, strategic traffic study and the dedication of the road widening land relate only to the broader infrastructure needs of the area and do not relate to the specific impacts of the development which will be assessed and appropriate conditions imposed at the development application stage.
- 5.2 The specific impacts of the development may, inter alia, require further works based upon a merit assessment of the development.

6 TIMING AND METHOD OF PAYMENTS

Strategic Traffic Study

- (a) The developer will pay to Council an amount of \$20,000.00 at the time of signing this agreement, this amount to be held in trust by Council to pay for the strategic traffic study.

- (b) Should the rezoning request not be approved or not proceed for any reason Council will refund this amount to the developer.
- (c) Following gazettal of the rezoning Council will engage the traffic consultant to carry out the strategic traffic study and is authorised to use the funds held in trust to pay for the cost of the study.
- (d) If the cost of the strategic traffic study exceeds \$20,000.00, any amount over \$20,000.00 will be paid for by Council.
- (e) If the cost of the strategic traffic study is less than \$20,000.00, any surplus funds will be used for infrastructure planning or works in the area covered by the Strategy.
- (f) Council will use its best endeavours to complete the strategic traffic study as soon as practicable after gazettal of the rezoning.

Local Drainage

- (g) The developer will pay to Council an amount of \$36,960.00 at the time of signing this agreement, this amount to be used by Council to contribute to the cost of the drainage report.

Dedication of Land for Road Widening Purposes

- (h) The developer acknowledges that the dedication of the road widening land for the purpose of widening Peppertree Road is integral to the rezoning of the subject land and the development.
- (i) The development application will include a provision for the dedication of the road widening land for the purpose of widening Peppertree Road in its statement of environmental effects.
- (j) Should development consent be granted in respect of the development application the developer consents to and will not challenge the imposition of a condition requiring the dedication of the road widening land at no cost to Council for the purpose of widening Peppertree Road.
- (k) The developer will ensure that the development application is lodged with Council on or before 14 May 2010.
- (l) If the development of the subject land is undertaken by a third party the developer will ensure that that third party adheres to the provisions of this agreement in relation to the dedication of the road widening land.

7 COUNCIL NOT BOUND BY STUDIES

Council will take into account the contents of the strategic traffic study and drainage report but is not bound to accept any facts or recommendations contained in them or to take any specific action in relation to them.

8 COUNCIL ENDORSEMENT OF REZONING REQUEST

Following the execution of this agreement by both parties and provided that the developer has fully complied with its obligations under sub-clauses 6(a), 6(g) and 6(k) Council will endorse the rezoning request and request that the proposed amendment no 32 to the LEP 2000 be made by the NSW Minister for Planning.

9 REVIEW OF THIS AGREEMENT

This agreement may be reviewed or modified by agreement providing any variation must be in writing and be expressed to be supplemental to this agreement and must be executed by the parties.

10 DISPUTE RESOLUTION

10.1 A party may not commence any court proceedings relating to a dispute of any matter under this agreement ("a dispute") unless it complies with this clause 10.

10.2 Written Notice of Dispute

A party claiming that a dispute has arisen under or in relation to this agreement must give notice to the other party specifying the nature of the dispute.

10.3 Attempt to Resolve

On receipt of notice under clause 10.2, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or other techniques agreed by them.

10.4 Mediation

If the parties do not agree within 7 days of receipt of notice under clause 10.2 (or any further period agreed in writing by them) as to:

- (a) the dispute resolution technique and procedures to be adopted;
- (b) the timetable for all steps in those procedures; and
- (c) the selection and compensation of the independent person required for such technique,

the parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales (or any replacement). The parties must request the President of the Law Society of New South Wales or the President's nominee to select the mediator and determine the mediator's remuneration.

10.5 Court Proceedings

If the dispute is not resolved within 42 days after notice is given under clause 10.2, then any party which has complied with the provisions of this clause 10 may in writing terminate any dispute resolution process undertaken pursuant to this clause 10 and may then commence court proceedings in relation to the dispute.

10.6 Not Use Information

The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause 10 is to attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken pursuant to this clause 10 for any purpose other than in an attempt to settle the dispute.

10.7 No Prejudice

This clause 10 does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this agreement.

11 ACKNOWLEDGEMENT OF COMPLIANCE

The parties acknowledge that this agreement together with the explanatory note were publicly exhibited as required by section 93G of the Act for a minimum of 28 days before this agreement was entered into.

12 NOTICES

12.1 Giving Notice

Any notice, consent, information, application or request that must or may be given or made to a party under this agreement is only given or made if it is clearly readable, in writing and is sent in one of the following ways:

- (a) Delivered or posted to that party at its address as set out below.
- (b) Faxed to that party at its fax number set out below.
- (c) Emailed to that party at its email address set out below.

THE DEVELOPER

Attention: David Sharpe
Address: Suite 1, Level 3, Honeysuckle House, Sparke Heimore Building, Honeysuckle Drive, Newcastle NSW 2300
Fax Number: (02) 4926 2766
Phone Number: (02)4929 3299
Email:

THE COUNCIL

Attention: The General Manager
Address: 116 Adelaide Street, Raymond Terrace, NSW
Fax Number: (02)
Email:

12.2 Change of address

If a party gives the other party ten (10) business days' notice of a change of its address, email or fax number, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted or faxed to the latest address, email or fax number.

13 COSTS

13.1 Each party will bear its own costs of negotiating, preparing and executing this agreement.

13.2 Any costs of stamping and registering this agreement will be borne by the developer.

14 ENTIRE AGREEMENT

This agreement contains everything to which the parties have agreed in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by another party, or by a director, officer, agent or employee of that party, before this agreement was executed, except as permitted by law.

15 FURTHER ACTS

Each party must promptly execute all documents and do all things that another party from time to time reasonably requests to effect, perfect or complete this agreement and all transactions incidental to it.

16 GOVERNING LAW AND JURISDICTION

This agreement is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

17 REPRESENTATIONS AND WARRANTIES

The Parties represent and warrant that they have the power to enter into this agreement and comply with their obligations under the agreement and that entry into this agreement will not result in the breach of any law.

18 SEVERABILITY

If a clause or part of a clause of this agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this agreement, but the rest of this agreement is not affected.

19 WAIVER

The fact that a party fails to do, or delays in doing, something the party is entitled to do under this agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

20 GST

- (a) If the Council reasonably decides that it is liable to pay GST on any development contribution made by the developer, the developer will, within 90 days of a receipt of a tax invoice, pay the amount of that tax invoice to the relevant Council.
- (b) Any tax invoice must comply with the GST Law.

EXECUTED as an agreement on the day of 2010.

The Common Seal of
BULDEV DEVELOPMENT (NSW)
PTY LIMITED
 ACN 81 115 089 122
 was affixed in the presence of:

)
)
)
) Director
)
) Print Name

.....
 Secretary/Director

.....
 Print name

Executed for and on behalf of
PORT STEPHENS COUNCIL
 Under delegated authority:

)
)
) General Manager
)
) Print Name

.....
 Witness

.....
 Print name



ANNEXURE C

Plan of the Road Widening Land
(Catchment defined by hatched area)



ATTACHMENT 3

STAFF COMMENTS SHALL BE PROVIDED VIA A SUPPLEMENTARY MEMO TO FOLLOW.

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

File No: PSC2008-2238

43 Kirrang Dr
Medowie NSW 2318
7th June 2010

Noted
David B
Travis A

**SUBMISSION ON PROPOSED VOLUNTARY PLANNING AGREEMENT
BETWEEN BUILDEV DEVELOPMENT & PORT STEPHENS COUNCIL. REZONING
OF LOTS 7, 8, 9 & 10 OF DP19101**

Dear Sir

I wish to submit the following comments in relation to the voluntary planning agreement between Builddev Development (NSW) Pty Ltd and Port Stephens Council in relation to an amendment to Port Stephens LEP 2000 to amend zoning the zoning of lots 7, 8, 9 and 10 of DP 19101 known as 39 to 47 Ferodale Rd Medowie.

While I have no objection to the proposed rezoning from the current 2(a) residential to 3 (a) business I make the following comments about the voluntary agreement content and its intent.

While the developer wishes to progress his application for rezoning in advance of an infrastructure plan the following issues must be taken into account before progressing to the next stage of this rezoning application:

Drainage and flooding:

PSC has just spent considerable funds and effort through its flood drainage panel to prepare a flood drainage model with the assistance of WMA Water and financial assistance from DECCW and Hunter Water. This project has now reached a critical point with the release of the calibration and data report on the 23rd April 2010 and the consultant is looking to test this model by inserting data in the form of volumes and flow rates for various development sites in Medowie to assess what impact they will have on the flood zones in Medowie.

I note that the recent installation of a car park at the Medowie community centre required that considerable drainage works had to be carried out to provide for large in ground storage tanks and infiltration trenches installed to manage storm water flow from both the community centre and the car parks hard surfaces in storm and rain events to:

- a) Slowly release water into the lower catchment via Campvale drain and the swamp
- b) Provide opportunity for reuse of captured water resources for use in watering parkland and to be used for Council operational works etc.

It is essential that the developer complete a flood drainage study in advance of their application for rezoning being progressed to allow the flow rates and volumes be plugged into the Medowie

Flood Drainage model for assessment of how the developer might deal with storm water from the property. It is a fact that any supermarket development will have considerable roof and hard surface areas with very little open space and therefore limited opportunity for infiltration. The comment in the background notes item E, page 3, states that the flood drainage study has yet to be completed, this is not entirely correct as the calibration model is complete and ready for testing. The developer should put forward his own drainage study in advance of the rezoning application and this result should be plugged into the Calibration model for assessment of local flooding impacts.

Traffic /Pedestrian Movement and Road Works

The amount of land being offered to allow for the widening of Peppertree Rd is entirely inadequate and will therefore potentially not support the recommendations from the Medowie Strategy that Peppertree Rd is to become Medowie's "Main St" and this street will have curb side parking and street fronting shopping as its feature. It is noted that Peppertree Rd already services the Bi Lo shopping centre which has approval for a 50% increase in size and therefore traffic flow which includes extra deliveries. This, combined with traffic feeding a second supermarket, makes Peppertree an enormously busy and congested traffic and pedestrian thoroughfare. A traffic plan would have been completed for the Bi Lo DA expansion so it is essential that the traffic study is completed in advance of the rezoning application to assess what actual road width treatment and intersection treatment at the corner of Peppertree and Ferodale is required.

Land Allocation.

The strip of land to be provided by the Developer shows a tapering along Peppertree towards the intersection of Ferodale and Peppertree and the concern is that this will not allow for a suitable intersection treatment as this will potentially require a roundabout to handle the volume of traffic mirroring the treatment of Main Rd and Ferodale Rd's. I note that the Bi Lo approval requires entry of traffic to a car park at the front of the existing shops in Ferodale this further complicates traffic movement in this area necessitating a traffic study in advance of rezoning not after the event. The intersection of Peppertree and Ferodale Rd's has already reached strangle point and the construction of the recreation park on the bottom of the Medowie Community Centre adds to the movement of pedestrians between the Medowie Community Centre, future shopping centres and the bulk of the residential property to the north of Medowie. The tapered strip of land allocated fronting Peppertree directs the proposed shopping centre frontage to Ferodale Rd which is counter to the Medowie strategy calling for shop frontage facing Peppertree, if this is not achieved Medowie' shopping centre will become divided and have poor dangerous pedestrian links between shopping centre elements.

It is essential that we have a plan in advance of this rezoning application being forwarded. The Developer should carry out their own traffic study and flood drainage report at their expense and this report should be part of the application for rezoning. By suggesting that money is allocated if rezoning is achieved allows the Developer to hedge their bets without taking any financial risk, the small amount of money allocated potentially mean that Council could end up wearing a substantive part of the future cost.

Yours Faithfully

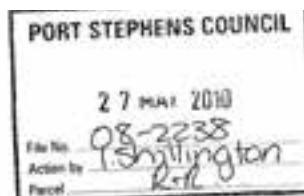
Councillor Geoff Dingle



25/05/2010

General Manager
Port Stephens Council
PO Box 42
Raymond Terrace 2324

PSC 2008-2238



Dear Sir,

With reference to the above file regarding the rezoning of the 30-47 Ferrodale Road we would make the following submission.

We do not know which legal identity gave the Council advice but it would seem that the wording...the Voluntary Planning Agreement with regard to the developer would hold no legal standing whatsoever in the future. The word voluntary would need to be changed to mandatory to hold any binding meaning in future dealings with the developer or any future owner if the land holdings are on-sold.

Yours Faithfully,

ITEM NO. 13**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) Children's Cancer Institute Australia – Donation - \$100.00 – Mayoral Funds – Rapid Response.
 - b) Host Plus Pedal 4 Prostate – Donation for Firefighters Around Australia Ride from October 31 – November 24, 2010 - \$100.00 – Mayoral Funds – Rapid Response.
 - c) Camp Quality Newcastle – Reimbursement for Temporary Food Premises Application Fee - \$125.00 – Mayoral Funds – Rapid Response.
 - d) Tilligerry Habitat Association – Donation to carry out repairs to tanks - \$200.00 – Cr Tucker - Rapid Response.
 - e) Port Stephens Family Support – Reimbursement Fees King Park Venue Training Day - \$180.00 – Mayoral Funds – Rapid Response.
 - f) Tilligerry RSL Sports Club – Donation for Fundraising event for Cancer Council - \$200.00 – Mayoral Funds Rapid Response.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010**RECOMMENDATION:**

	Councillor Steve Tucker Councillor Sally Dover	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 29 JUNE 2010

192	Councillor Bob Westbury Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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BACKGROUND

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

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

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

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

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

CENTRAL WARD – Councillors Dingle, Tucker, MacKenzie, O'Brien

TILLIGERRY HABITAT ASSOCIATION	DONATION TO CARRY OUT REPAIRS TO TANK	\$200.00
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MAYORAL FUND

CHILDREN'S CANCER INSTITUTE AUSTRALIA	DONATION	\$100.00
HOST PLUS PEDAL 4 PROSTATE	DONATION FOR FIREFIGHTERS AROUND AUSTRALIA RIDE FROM OCTOBER 31 – NOVEMBER 24, 2010	\$100.00
CAMP NEWCASTLE QUALITY	REIMBURSEMENT FOR TEMPORARY FOOD PREMISES APPLICATION FEE	\$125.00
PORT STEPHENS FAMILY SUPPORT	REIMBURSEMENT FEES KING PARK VENUE TRAINING DAY	\$180.00
TILLIGERRY RSL SPORTS CLUB	DONATION FOR FUNDRAISING EVENT FOR CANCER COUNCIL	\$200.00

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil

CONSULTATION

Mayor
Councillors
Port Stephens Community

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 14**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	ABORIGINAL STRATEGIC COMMITTEE	
2	PORT STEPHENS COUNCIL SENIORS GOLD PROGRAM	
3	CASH AND INVESTMENTS HELD AT 31 MAY 2010	
4	PETITION FOR TOILET BLOCK IN BARRY PARK, FINGAL BAY	

COUNCIL COMMITTEE MEETING – 29 JUNE 2010
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Peter Kafer	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 29 JUNE 2010

193	Councillor Peter Kafer Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

ABORIGINAL STRATEGIC COMMITTEE

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

FILE: PSC2005-0629

BACKGROUND

The purpose of this report is to present to Council the minutes of the Aboriginal Strategic Committee meeting with Worimi Local Aboriginal Land Council on 4 May 2010.

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

“SOCIAL RESPONSIBILITY - DIRECTIONAL STATEMENT

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

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

CULTURAL RESPONSIBILITY - DIRECTIONAL STATEMENT

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

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

ATTACHMENTS

- 1) Minutes of Aboriginal Strategic Committee meeting with Worimi LALC on 4 May 2010

ATTACHMENT 1



**Aboriginal Strategic Committee
Meeting with Worimi Local
Aboriginal Land Council**



MINUTES

Minutes of meeting held on 4 May 2010 at Murrook Cultural & Leisure Centre

Chair: Cr Peter Kafer

Minute taker: Paul Procter

Present:

Cr Peter Kafer
Cr Sally Dover
Cr Shirley O'Brien
Cliff Johnson
Paul Procter
Andrew Smith
Elaine Larkins

Port Stephens Council
Port Stephens Council
Port Stephens Council
Port Stephens Council
Port Stephens Council
Worimi Local Aboriginal Land Council
Worimi Local Aboriginal Land Council

Apologies:

Cr Bruce MacKenzie
Peter Gesling
Jason Linnane
Val Merrick
Jamie Tarrant
Grace Kinsella

Port Stephens Council
Port Stephens Council
Port Stephens Council
Worimi Local Aboriginal Land Council
Worimi Local Aboriginal Land Council
Worimi Local Aboriginal Land Council

Meeting opened at 1:20pm

1. WELCOME TO COUNTRY

Elaine Larkins on behalf of Elders past and present welcomed everyone to the land of the Worimi Nation.

2. DECLARATION OF CONFLICTS OF INTEREST

Nil

3. MINUTES OF PREVIOUS MEETING

The minutes of previous meeting held 23 March 2010 were adopted.

4. BUSINESS ARISING FROM PREVIOUS MINUTES

The following items of business arising from the meeting held on 23 March 2010 were discussed:

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

Item 1: NAIDOC WEEK 2010

NAIDOC Week 2010 is being held from the 4th – 11 July 2010.

The tentative program for local celebrations is as follows:

Monday 5 July	Raymond Terrace (Flag Raising & March), followed by Waterfront BBQ (only) at the rainbow serpent. (Combined Celebration to kick off the week). Commencing at 10am.
Tuesday 6 July	Karuah street celebration march and celebration fun day
Wednesday 7 July	Nelson Bay street celebration march and celebration fun day on the waterfront. Location to start marching from to be nominated.
Friday 8 July	Murrook Fun Day and celebration. Commencing at 10am.

Note:

- Proposed dates are supported by Karuah Local Aboriginal Land Council.
- Aboriginal Strategic Committee(ASC) endorse the proposed dates.

Actions:	<ol style="list-style-type: none">1. Council's Social Planning Co-ordinator to provide WLALC CEO with a hard copy of Council's application forms for temporary road closures and hire of parks and reserves.2. WLALC CEO and KLALC CEO to formulate a proposal for consideration by Council's Social Planning Co-ordinator on the allocation of Council's NAIDOC Week budget of \$2000 with reference to the above activities.3. Council's Social Planning Co-ordinator to liaise with Nelson Bay Town Management to ascertain foreshore location details of where July school holiday amusement rides will be sited, and advise WLALC CEO accordingly.
-----------------	---

Item 2: 2010 JOINT MEETING

Council's Social Planning Co-ordinator indicated that the proposed guest speaker is unavailable. Subsequent discussion resulted in ASC recommending (subject to agreement from KLALC) an invitation be extended to Ray Kelly from You-la-ta to be the meeting's guest speaker. He has extensive knowledge on the history of local Aboriginal Land Councils and traditional languages.

Action:	<ol style="list-style-type: none">1. Council's Social Planning Co-ordinator to liaise with KLALC CEO pertaining to guest speaker suggestion and subject to agreement, extend an invitation to Ray Kelly.2. Council's Social Planning Co-ordinator to extend an invitation to Bev Manton, Chairperson of NSW State Aboriginal Land Council to attend and address this year's meeting.
----------------	---

Item 3: Birubi Point Surf Club Update:

Council's Acting Group Manager Facilities & Services asked Social Planning Co-ordinator to advise the ASC in their absence that he met again this week with a working party comprising key stakeholders including WLALC, traditional owners and conservation land board members to look at alternate options for the surf club. The members took away the plans and plan to meet again on 25 May 2010 to discuss these options along with the previous ones.

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

Item 4: PSC Draft Local Environmental Plan (LEP):

Council is in the final stages of drafting Council's new LEP.

Action:	1. WLALC CEO will organise a meeting with relevant Council Officer/s to discuss new draft LEP.
----------------	--

5. GENERAL BUSINESS

5.1 Murrook Centre Future Plans:

WLALC CEO gave an overview of proposed plans including creation of a children's playground, installation of additional premises (eg; temporary buildings) and proposed decommissioning of redundant fire hydrant.

Actions:	<ol style="list-style-type: none">1. Council's Social Planning Co-ordinator organise for Council's Recreation Services to liaise with WLALC CEO concerning playground designs and specifications.2. Council's Social Planning Co-ordinator to seek assistance from Council's Development & Building Section for a relevant Council Officer to meet onsite with WLALC CEO to discuss ideas for onsite development (eg; temporary premises).3. WLALC CEO liaise with relevant Council Officer/s to seek advise on gaining approval to decommission redundant fire hydrant.
-----------------	--

5.2 Café:

WLALC CEO indicated that café has closed but will continue to act as a kiosk for their sand dune tours.

5.3 Green Team:

WLALC commended Council's Senior Weeds & Pest Manager on the recent training they conducted for WLALC Green Team and hopes that they can continue to provide this assistance on an ongoing basis in the future.

6. DETAILS OF NEXT MEETING

Joint meeting on 20 July 2010 at 6pm.

Meeting closed 2:45pm

INFORMATION ITEM NO. 2

PORT STEPHENS COUNCIL SENIORS GOLD PROGRAM

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

FILE: PSC2010-00003

BACKGROUND

The purpose of this report is to inform Council of the commencement of Council's newly developed Seniors GOLD Program.

Council's new Seniors GOLD Program which commenced on 17 May 2010 is aimed at local senior residents. The GOLD (Growing Older and Living Dangerously) Seniors Program is based on a Brisbane City Council initiative which focuses on promoting to local residents 50 years and over a range of non-Council local activities and programs offered either freely or at low cost which promote an active and healthy lifestyles.

The GOLD Seniors Program incorporates health, fitness, education and social activities. The program promotes social participation and networks, employment training and technology skills, health education and fitness, interest groups and ongoing information opportunities. To date the program has had positive support by the community and is an initiative which the community have embraced.

The GOLD Seniors Program is accessible on Council's website. Plans are underway to promote the program on a broader scale within Port Stephens over the next few months. This program is an initiative of Council's Social Planning Team which is a first for Port Stephens with Council leading the way forward in supporting our ageing community. The program partners are local private and public sector businesses and local community groups. It is envisaged that the Seniors Program will continue to grow and strengthen over the next 12 months.

A future initiative of the Seniors Program will be the development and inclusion of the 'Gold n Kids program'. This initiative is aimed at children aged four years and over and their grandparents recognising the important role that grandparents play in children's lives.

ATTACHMENTS

Nil.

INFORMATION ITEM NO. 3

CASH AND INVESTMENTS HELD AT 31 MAY 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 31 May 2010.

ATTACHMENTS

- 1) Cash and investments held at 31 May 2010
- 2) Monthly cash and investments balance June 2009 – May 2010
- 3) Monthly Australian term deposit index June 2009 – May 2010

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010
ATTACHMENT 1
CASH & INVESTMENTS HELD - AS AT 31 MAY 2010

INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Value March	Market Value April	Market Value May	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	4.29%	5.74%	\$788,771.00	\$888,100.00	\$888,100.00	-\$111,900.00
NEXUS BONDS LTD "TOPAZ AA-"	Floating Rate CDO		23-Jun-15	412,500.00	1.77%	0.00%	\$257,812.50	\$249,768.75	\$254,306.25	-\$158,193.75
HERALD LTD "QUARTZ AA"	Floating Rate CDO	CCC-	20-Dec-10	450,000.00	1.93%	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	4.29%	5.64%	\$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	4.29%	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	2.15%	5.54%	\$449,535.00	\$452,345.00	\$452,345.00	-\$47,655.00
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note	NR	18-Oct-11	500,000.00	2.15%	6.47%	\$505,050.00	\$507,250.00	\$507,250.00	\$7,250.00
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	CCC	20-Mar-14	1,000,000.00	4.29%	5.64%	\$303,900.00	\$351,400.00	\$351,400.00	-\$648,600.00
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate CDO	NR	20-Sep-14	1,000,000.00	4.29%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
TOTAL GRANGE SECURITIES				\$6,862,500.00	29.45%		\$2,693,463.50	\$2,837,258.75	\$2,841,796.25	(\$4,020,703.75)
ABN AMRO MORGANS										
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	A+	20-Sep-11	\$1,000,000.00	4.29%	0.00%	\$900,200.00	\$904,200.00	\$904,200.00	-\$95,800.00
TOTAL ABN AMRO MORGANS				\$1,000,000.00	4.29%		\$900,200.00	\$904,200.00	\$904,200.00	(\$95,800.00)
ANZ INVESTMENTS										
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA-"	Floating Rate CDO				0.00%		\$487,000.00			\$0.00
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000.00	4.29%	0.00%	\$744,000.00	\$774,700.00	\$774,700.00	-\$225,300.00
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876.98	4.37%	0.00%	\$604,853.03	\$600,150.40	\$600,150.40	-\$417,726.58
TOTAL ANZ INVESTMENTS				\$2,017,876.98	8.66%		\$1,835,853.03	\$1,374,850.40	\$1,374,850.40	(\$643,026.58)
RIM SECURITIES										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		8-Oct-11	\$2,000,000.00	8.58%	0.00%	\$1,500,000.00	\$1,381,002.00	\$1,381,002.00	-\$618,998.00
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		5-Apr-11	\$1,000,000.00	4.29%	5.16%	\$946,393.00	\$952,149.00	\$952,775.00	-\$47,225.00
TOTAL RIM SECURITIES				\$3,000,000.00	12.87%		\$2,446,393.00	\$2,333,151.00	\$2,333,777.00	(\$666,223.00)
WESTPAC INVESTMENT BANK										
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt				0.00%		\$497,595.00			
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		21-Nov-11	\$500,000.00	2.15%	5.77%	\$481,950.00	\$482,760.00	\$483,610.00	-\$16,390.00
TOTAL WESTPAC INV. BANK				\$500,000.00	2.15%		\$979,545.00	\$482,760.00	\$483,610.00	(\$16,390.00)
LONGREACH CAPITAL MARKETS										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000.00	2.15%	0.00%	\$440,000.00	\$443,950.00	\$449,600.00	-\$50,400.00
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	A+	7-Sep-12	\$500,000.00	2.15%	0.00%	\$425,650.00	\$427,200.00	\$429,850.00	-\$70,150.00
TOTAL LONGREACH CAPITAL				\$1,000,000.00	4.29%		\$865,650.00	\$871,150.00	\$879,450.00	(\$120,550.00)

MINUTES FOR ORDINARY MEETING – 29 JUNE 2010

COMMONWEALTH BANK										
EQUITY LINKED DEPOSIT	Equity Linked Note	AA	20-Sep-11	\$500,000.00	2.15%	3.00%	\$482,200.00	\$482,500.00	\$482,500.00	-\$17,500.00
EQUITY LINKED DEPOSIT GI100	Equity Linked Note	AA	03-Aug-10	\$500,000.00	2.15%	3.00%	\$501,350.00	\$496,100.00	\$496,100.00	-\$3,900.00
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	AA	05-Nov-12	\$500,000.00	2.15%	3.00%	\$466,850.00	\$470,900.00	\$470,900.00	-\$29,100.00
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	BBB	09-Nov-12	\$500,000.00	2.15%	6.05%	\$489,000.00	\$491,085.00	\$491,085.00	-\$8,915.00
BANK OF QUEENSLAND	Term Deposit		12-Aug-10		0.00%		\$1,000,000.00			
BANK OF QUEENSLAND BOND	Bond	BBB+	16-Mar-12	\$1,000,000.00	4.29%	5.35%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
TOTAL COMMONWEALTH BANK				\$3,000,000.00	12.87%		\$3,939,400.00	\$2,940,585.00	\$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	4.29%	0.00%	\$978,700.00	\$981,100.00	\$986,000.00	-\$14,000.00
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note		30-Nov-14	\$500,000.00	2.15%	5.13%	\$460,650.00	\$460,650.00	\$460,650.00	-\$39,350.00
TOTAL FIG SECURITIES				\$1,500,000.00	6.44%		\$1,439,350.00	\$1,441,750.00	\$1,446,650.00	(\$53,350.00)
MAITLAND MUTUAL										
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	30-Jun-13	500,000.00	2.15%	5.49%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
MAITLAND MUTUAL	Term Deposit				0.00%		\$500,000.00			
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	31-Dec-14	500,000.00	2.15%	5.49%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
TOTAL M'LAND MUTUAL				\$1,000,000.00	4.29%		\$1,500,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
TOTAL INVESTMENTS				\$19,880,376.98	85.30%		\$16,599,854.53	\$14,185,705.15	\$14,204,918.65	(\$5,675,458.3)
AVERAGE RATE OF RETURN ON INVESTMENTS				2.74%						
CASH AT BANK				\$3,424,828.31	14.70%	4.45%	\$1,311,047.08	(\$205,518.24)	\$3,424,828.31	\$0.00
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH				3.00%						
TOTAL CASH & INVESTMENTS				\$23,305,205.29	100.00%		\$17,910,901.61	\$13,980,186.91	\$17,629,746.96	(\$5,675,458.3)
BBSW FOR PREVIOUS 3 MONTHS				4.61%						

* 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.

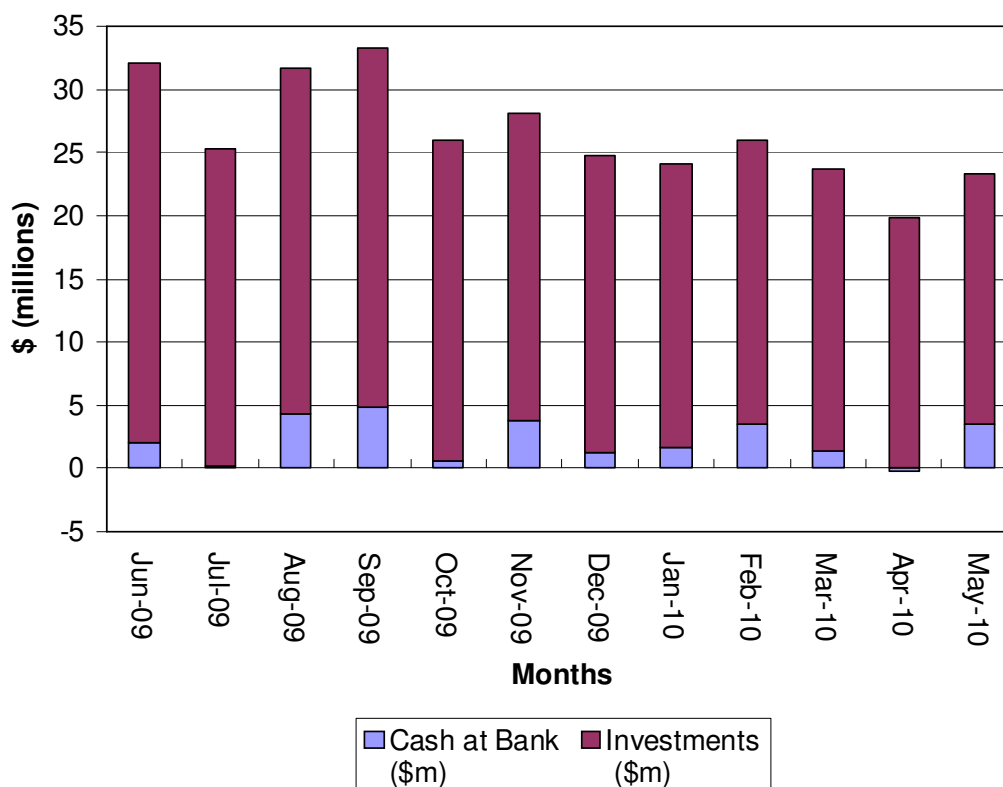
P GESLING

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
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
May-10	3.425	19.880	23.305

Cash and Invested Funds for the Period ended 31/5/2010

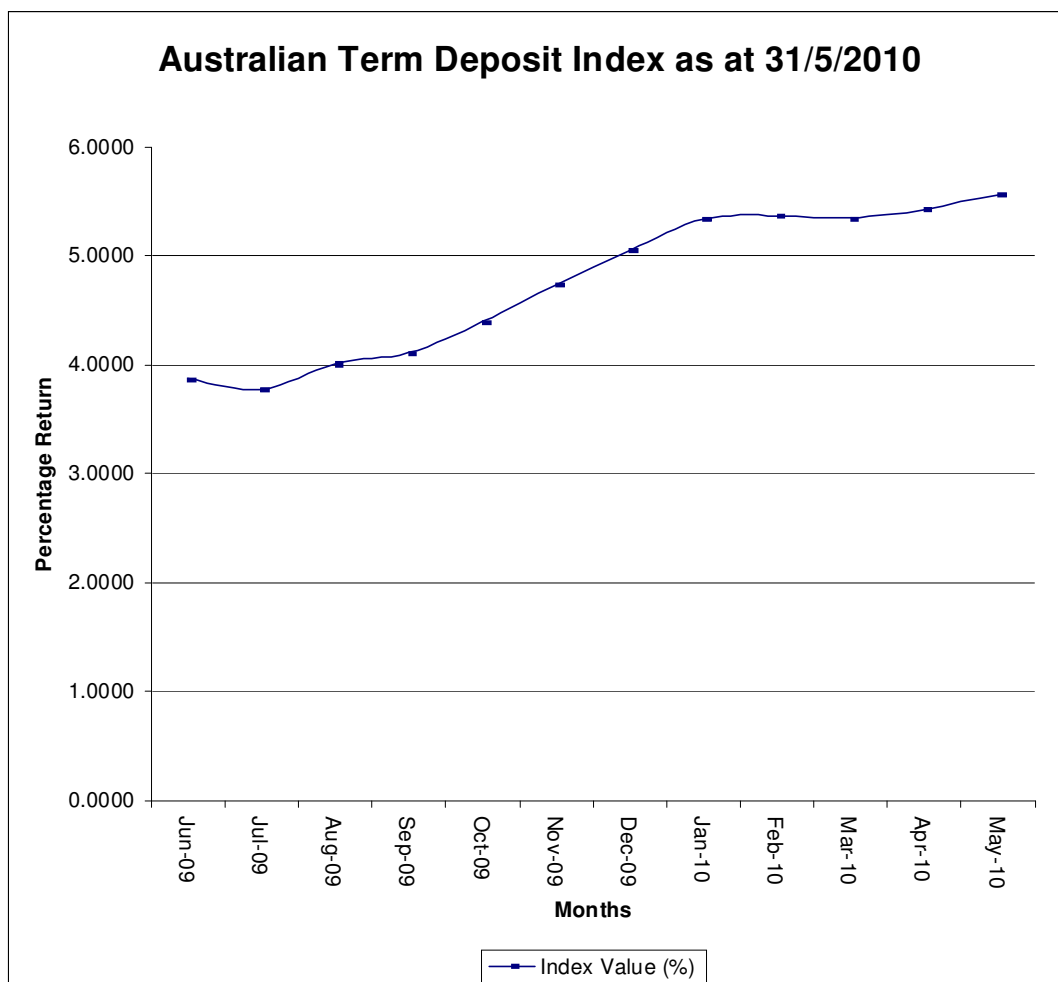


ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	Index Value (%)
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
May-10	5.5615

Australian Term Deposit Index as at 31/5/2010



INFORMATION ITEM NO. 4

PETITION FOR TOILET BLOCK IN BARRY PARK, FINGAL BAY

REPORT OF: PETER GESLING – GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2005-3614

BACKGROUND

The purpose of this report is to advise Council that a petition has been received with approximately one thousand and thirty one (1031) signatures and reads as follows:

Twenty years ago, Barry Park was infested by the pest weed "bitou bush". Through the voluntary efforts of local residents, the park has been transformed into what it is today; a beautiful recreation area that is admired and used by thousands of locals and visitors. Whale watches, picnics, barbeques, weddings and various functions are held in Barry Park.

Many amenities have been added to the park for your convenience, except perhaps the most necessary A FUNCTIONAL TOILET BLOCK. Your signature will add the necessary weight to our demand that Council provide same as soon as possible.

ATTACHMENTS

- 1) Covering Letter
- 2) Petition

ATTACHMENT 1

COUNCIL REPRESENTATIVES:

John Noll, Councillor,
Sally Dwyer, Councillor
Geoff Dunn, Parks Coordinator,
Treasurer.

COMMITTEE EXECUTIVE OFFICERS:

Chairman - Arthur Butler
Vice Chairman - Ron Woolley
Secretary - Margaret Heller
Treasurer - Ian Rawlings

TECHNICAL CONSULTANTS:

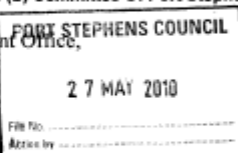
Lee McKelroy, Indigenous Flora
George Hillman, Native Orchids



FINGAL BAY PARKS AND RESERVES COMMITTEE.

A 3355 (b) Committee Of Port Stephens Council.

To
Bryce Cammeron
Recreation Services Improvement Office,
Port Stephens Council.
26th May, 2010
Dear Sir,



Address All Correspondence To:
The Committee Secretary,
172 Rocky Point Road,
FINGAL BAY NSW 2315

Over a period of some twenty years, Barry Park at Fingal Bay has been improved by voluntary labour and assisted by Council to a stage where it has become a show piece recreational area patronized by thousands of locals and tourists each year. From an area over-run by bitou bush and other noxious weeds, the site has been transformed into a park boasting one of the best views on the peninsula. It boasts a barbecue area, walking paths, raised board walk, whale viewing lookout and beautiful bush. A set of steps was built by voluntary labour leading to the foreshore and rock-pools.

It's popularity is such that in 2009, nineteen weddings were held in the park and we believe that already 19 have been booked for 2010. A church group uses the park regularly for religious studies and as well as the "Pink Ribbon Women" support group hold their yearly fund raising function in Barry Park attracting as many as 70 supporters who raise hundreds of dollars for cancer research.

We mention these facts to indicate the increasing popularity and functioning of the Park which lacks public toilet amenities, the nearest facility being at least 800 metres down a rather steep hill leading to and from Barry Park. The provision of this amenity was discussed years ago with Brad Horan (then in charge of Parks and Gardens) and it was verbally agreed that this should be undertaken. It was included in the forward plan of the 355b Committee of Volunteers sometime ago but we believe, for all of the above reasons, a public toilet at Barry Park is urgently required.

We forward a petition supporting this request signed by 708 locals and by 323 tourists who patronized the park over the last couple of months.

We would be pleased if you and the East Ward Councillors could meet with us at Barry Park at time convenient to all to discuss this request in person.

We have investigated the automatic toilet at Soldier Point boat launching ramp and believe this would be an ideal solution for Barry Park.

We have also included a sketch of where we feel would be an ideal position for the Toilet at Barry Park.

The petition and a copy of this letter is being sent to the East Ward Councillors.

Thanking you in anticipation

Sincerely

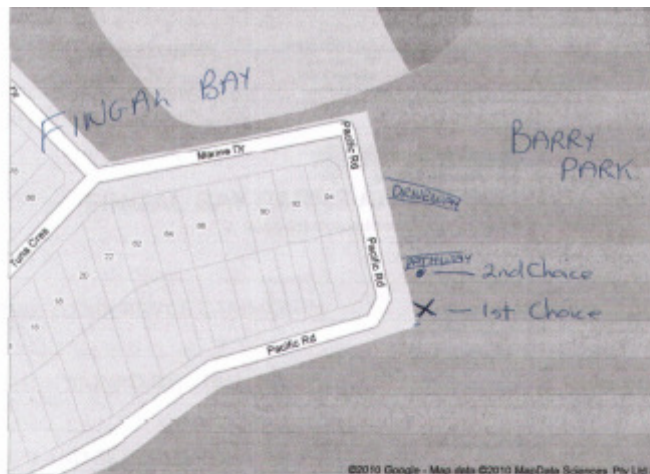
Chairman, Fingal Bay 355b Committee

Volunteer

Founding Member

[Signature]
[Signature]
[Signature]

ATTACHMENT 2



AUTOMATIC TOILET AT SOLDIERS POINT





Wedding



Visitors



Toilet
1st Choice

Toilet
1st Choice

15 Eastward
PETITION
FOR TOILET BLOCK IN BARRY PARK

TWENTY YEARS AGO, BARRY PARK WAS INFESTED BY THE PEST WEED "BITOI BUSH."
 THOUGH THE VOLUNTRY EFFORTS OF LOCAL RESIDENTS, THE PARK HAS BEEN TRANSFORMED INTO WHAT IT IS TODAY ---- A BEAUTIFUL RECREATION AREA THAT IS ADMIRERD AND USED BY THOUSANDS OF LOCALS AND VISITORS.
 WHALE WATCHERS, PICNICS, BARBECUES, WEDDINGS AND VARIOUS FUNCTIONS ARE HELD IN BARRY PARK.

MANY AMENITIES HAVE BEEN ADDED TO THE PARK FOR YOUR CONVENIENCE ---- EXCEPT PERHAPS THE MOST NECESSARY

A FUNCTIONAL TOILET BLOCK

YOUR SIGNATURE WILL ADD THE NECESSARY WEIGHT TO OUR DEMAND THAT COUNCIL PROVIDE SAME AS SOON AS POSSIBLE

NAME	ADDRESS	SIGNATURE
------	---------	-----------

32
PETITION
FOR TOILET BLOCK IN BARRY PARK

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PRINT NAME	ADDRESS	SIGNATURE
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30 Eastward
 2 other
PETITION
FOR TOILET BLOCK IN BARRY PARK

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PRINT NAME	ADDRESS	SIGNATURE
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(15) ^{1st 2nd 3rd 4th 5th 6th 7th 8th 9th 10th 11th 12th 13th 14th 15th 16th 17th 18th 19th 20th 21st 22nd 23rd 24th 25th 26th 27th 28th 29th 30th 31st} PETITION (17)
FOR TOILET BLOCK IN BARRY PARK

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NAME	ADDRESS	SIGNATURE
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CONFIDENTIAL ITEMS



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

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

ORDINARY COUNCIL MEETING – 29 JUNE 2010

194	Councillor Peter Kafer Councillor Steve Tucker	It was resolved that Council move into Confidential session.
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CONFIDENTIAL

ITEM NO. 1

FILE NO: A2004-0029

SECURITY SCREENING SERVICES TENDER – NEWCASTLE AIRPORT LIMITED

REPORT OF: PETER GESLING - GENERAL MANAGER

GROUP: GENERAL MANAGERS OFFICE

ORDINARY COUNCIL MEETING – 29 JUNE 2010

195	Councillor Peter Kafer Councillor Steve Tucker	It was resolved that Council appoint SNP Security the Security Screening contract based on the value assessment of price, service levels and experience, at a cost of \$4,857,898.50 excluding GST for the 3 year contract.
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195A	Councillor Peter Kafer Councillor Steve Tucker	It was resolved that Council move out of Confidential session.
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There being no further business the meeting closed at 8.55pm.

I certify that pages 1 to 176 of the Open Ordinary Minutes of Council 29 June 2010 and the pages 177 of 181 the Confidential Ordinary Minutes of Council 29 June 2010 were confirmed by Council at its meeting held on 13 July 2010.

.....
Cr Bruce MacKenzie
MAYOR