

## Minutes 10 AUGUST 2010



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 10 August 2010, commencing at 6.37pm.

PRESENT: Councillors B. MacKenzie (Mayor); G. Dingle; S. Dover, C. De Lyall, G. Francis; P. Kafer; K. Jordan; J. Nell; 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.

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|-----|--|---|
| 234 | <b>Councillor John Nell</b><br><b>Councillor Peter Kafer</b>   | It was resolved that the apology from Cr Westbury be received and noted.                                      |
| 235 | <b>Councillor Steve Tucker</b><br><b>Councillor Ken Jordan</b> | Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 27 July 2010 be confirmed. |
|     |  | Cr Bruce MacKenzie declared a significant non-pecuniary interest Notice of Motion – Item 1.                   |

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# MOTIONS TO CLOSE

**ITEM NO. 1****FILE NO: PSC T09- 2010****MOTION TO CLOSE MEETING TO THE PUBLIC****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- 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 **T0-2010; Tender Bush Regeneration Services**.
- 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 **T0-2010; Tender Bush Regeneration Services**.
- 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 – 10 AUGUST 2010**

|            |   |   |
|------------|---|---|
| <b>236</b> | <b>Councillor Steve Tucker<br/>Councillor Sally Dover</b> | It was resolved that the recommendation be adopted. |
|------------|---|---|

ITEM NO. 2

FILE NO: PSC2009-00384

## MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

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### RECOMMENDATION:

- 1) That pursuant to section 10A(2)(g) of the Local Government Act, 1993, the Council Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Information Paper Item 1 on the Ordinary Council meeting agenda namely ***Unauthorised Depot : Cabbage Tree Road, Williamtown.***
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.
- 4) That the report of the closed part of the meeting remain confidential.

### ORDINARY COUNCIL MEETING – 10 AUGUST 2010

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|-----|---|---|
| 237 | Councillor Steve Tucker<br>Councillor Sally Dover | It was resolved that the recommendation be adopted. |
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# **COUNCIL COMMITTEE RECOMMENDATIONS**

**ITEM NO. 1**

**FILE NO: 16-2009-324-1**

**DEVELOPMENT APPLICATION FOR 16-2009-324-1 AT LOT 3 DP 1036690 AND LOT 11 DP 1036501 WILLIAMTOWN DRIVE AND LOT 131 AND LOT 132 DP 609165 CABBAGE TREE ROAD**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receive and note the assessment of Development Application 16/2009/324/1 for a 103 lot subdivision for Defence and Airport Related Employment Development at Lot 3 DP 1036690 and Lot 11 DP 1036501 Williamtown Drive and Lot 131 and Lot 132 DP 609165 Cabbage Tree Road, Williamtown and delegate determination of Development Application 16-2009-324-1 to the General Manager to make a determination upon Council receiving certification in writing from the Director General of the Department of Planning that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure pursuant to the requirements of clause 26B(3) of the Port Stephens Local Environmental Plan 2000.

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**COUNCIL COMMITTEE MEETING – 10 AUGUST 2010  
RECOMMENDATION:**

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|--|--|--|
|  | <b>Councillor Bruce MacKenzie<br/>Councillor Shirley O'Brien</b> | <p>That Council:</p> <ol style="list-style-type: none"><li>1. Receive and note the assessment of Development Application 16/2009/324/1 for a 103 lot subdivision for Defence and Airport Related Employment Development at Lot 3 DP 1036690 and Lot 11 DP 1036501 Williamtown Drive and Lot 131 and Lot 132 DP 609165 Cabbage Tree Road, Williamtown and delegate determination of Development Application 16-2009-324-1 to the General Manager to make a determination upon Council receiving certification in writing from the Director General of the Department of Planning that</li></ol> |
|--|--|--|

**MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010**

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|--|--|--|
|  |  | <p>satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure pursuant to the requirements of clause 26B(3) of the Port Stephens Local Environmental Plan 2000.</p> <p>2. Should the General Manager not be in a position to determine the matter, the matter be brought back to Council to be resolved.</p> <p>3. That Council be briefed on the matter prior to the determination being made.</p> |
|--|--|--|

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

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|            |  |   |
|------------|--|---|
| <b>238</b> | <b>Councillor Peter Kafer<br/>Councillor Shirley O'Brien</b> | It was resolved that the council committee recommendation be adopted. |
|------------|--|---|

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

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

Those against the Motion: Nil.

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## **BACKGROUND**

**The purpose of this report is to present a development application to Council for a 103 lot special purpose subdivision for Defence and Airport Related Employment Development (DAREZ) at Williamtown for information as Council is prevented by clause 26B of the Port Stephens Local Environmental Plan from making a determination until Council receives certification in writing from the Director General of the Department of Planning that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure. This issue is discussed further later in the report.**

The owners of the land are Hunter Land Pty Ltd (Lot 3 DP1036690), B&M Ellison Pty Ltd (Lot 11 DP1036501), FE Ciccanti (Lot 132 DP609165) and Port Stephens Council (Lot 131 D 609165).

The subject site adjoins, to the south side of the Department of Defence RAAF base and Newcastle Airport at Williamtown.

The proposed 89 hectare site contains net development area of 55 hectares for Defence and airport-related employment land to be developed in six stages.

The site comprises both SP1 Defence and Airport Related Employment Development Zone and 1(a) Rural Agriculture Zone.

The development application seeks consent for subdivision of 4 lots into 103 lots with access proposed via trunk collector roads from primarily Williamtown Drive at a new roundabout at Stage 1, and a second access roundabout connection to Cabbage Tree Road at Stage 6.

Three rural zoned residual lots are created; Lot 310 adjoining Nelson Bay Road to the south of the site, and Lots 614, and 615 on either side of the Cabbage Tree Road connection to the western end of the subdivision.

The application was lodged on 22 May 2009 by RPS Harper Somers O'Sullivan.

The land was zoned SP1 on 13 February 2009 following execution of a Deed of Agreement between Hunter Land Pty Ltd, Department of Environment and Climate Change and Water (DECCW), and Port Stephens Council. The Deed provide for an offset package for the loss of threatened species and their habitat from the site.

As the Deed of Agreement has no statutory weight in the consideration under Section 79C assessment of the development application, although offset, the planning law requires that a Species Impact Statement be prepared and accompany the Development Application to address the loss of threatened species and their habitats.

Bio-certification, or a voluntary planning agreement, if used instead, would likely otherwise have statutory weight, by in effect "switching-off" the trigger for whether a

significant impact on threatened species occurring as a result of the proposal ought to be considered via a Species Impact Statement.

In this case, concurrence of the DECCW is also required to be provided before Council favourably determines the development application. Concurrence of the DECCW was provided on 5 August 2009.

Council have received correspondence from DECCW advising that the Minister has determined that the proponent's offset offer satisfies the conditions of the Deed of Agreement, being the provision of an environmental offset to compensate for loss of biodiversity and has accepted the offer.

It is 250 hectares of offset land within the Port Stephens LGA and adjacent to lands that are part of the Columby National Parks.

The integrated development provisions of the Environmental Planning and Assessment Act apply to the development due to the constraints of the site with respect to flooding and access, which requires general terms of approval to be issued by relevant agencies before the application can be approved.

General Terms of Approval have been provided by Department of Environment and Climate Change and Water (DECCW) and the NSW Roads and Traffic Authority.

The proposed road network and associated stormwater drainage scheme will be dedicated to Council for its ongoing maintenance and management.

The aboriginal keeping place located on proposed lot 301 will be dedicated to the Local Aboriginal Land Council, and provides the location for long-term storage of cultural heritage artefacts found on and important to the site.

The proposal is also required to pay a levy towards designated public state infrastructure under Clause 26 of the Local Environmental Plan 2000.

Clause 26B of the Port Stephens LEP 2000 prevents the consent authority from determining an application for subdivision that creates lots smaller than those permitted under the zoning that preceded the SP1 zone unless the Director General of the Department of Planning has certified that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure.

This money will contribute to augmentation of the road network connections to Newcastle, Tomago and the F3 largely supporting the development for access to goods and services.

A Section 94A contribution will be levied by condition of consent to augment Council services in maintaining the local road network and associated stormwater drainage systems for the life of the development.

## **MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010**

The levy amounts to 1% of the total construction cost of the development, and are to be paid prior to the issue of the construction certificate to be issued for each stage, based on a valuation supplied by a quantity surveyor.

The proposed drainage discharges all flows to Nelson Bay Road, from a series of two large detention basins within the south eastern corner and adjacent to the southern boundary of the site.

The low lying nature of the site requires up to approximately 720,000m<sup>3</sup> of sand fill to be imported to the site in addition to relocation of sand from the western side of the site to the eastern area for the early stages of the development. This is due to achieving sufficient gradient for water to flow from the west of the site to the east to Nelson Bay Road drains.

## MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010

The six stage subdivision includes development for the following:

|                |                 |  |
|----------------|-----------------|--|
| <b>Stage 1</b> | <b>Stage 1A</b> | 14 Defence and Airport Related Employment Zone (DAREZ) Lots between 1944 m <sup>2</sup> and 9765m <sup>2</sup> in areas. Lot 114 (323.7 m <sup>2</sup> ) containing the Interim Sewage Collection Well and Stormwater Detention Basin No. 2 on Lot 115 (15373 m <sup>2</sup> ) to be dedicated to HWC and PSC respectively.  |
|                | <b>Stage 1B</b> | 18 DAREZ Lots between 1800 m <sup>2</sup> and 5010m <sup>2</sup> in area. Lot 134 (5290m <sup>2</sup> ) containing the stormwater channel connecting to Stormwater Detention Basin No. 2 to be dedicated to PSC.   |
|                | <b>Stage 1C</b> | 9 DAREZ Lots between 1841 m <sup>2</sup> and 34080m <sup>2</sup> in area.  |
| <b>Stage 2</b> |                 | 9 DAREZ Lots between 2160 m <sup>2</sup> and 27413m <sup>2</sup> in area. Lot 211 (12195 m <sup>2</sup> ) containing low lying land and vegetation; and the stormwater channel connecting to Stormwater Detention Basin No. 2 on Lot 210 (3000 m <sup>2</sup> ) to be dedicated to PSC.  |
| <b>Stage 3</b> |                 | 6 DAREZ Lots between 2455 m <sup>2</sup> and 7955m <sup>2</sup> in area. Lot 301 (15053 m <sup>2</sup> ) containing the Aboriginal Keeping Place to be dedicated to the Local Aboriginal Land Council, and Stormwater Detention Basin No. 1 on Lot 301 (45400 m <sup>2</sup> ) and associate spill-way and discharge channel connecting with Nelson Bay Road to be dedicated to PSC. |
| <b>Stage 4</b> |                 | 16 DAREZ Lots between 1718 m <sup>2</sup> and 24446m <sup>2</sup> in area. Lot 418 (12195 m <sup>2</sup> ) containing low lying land and vegetation; and the stormwater channel connecting to Stormwater Detention Basin No. 2 on Lot 417 (6769 m <sup>2</sup> ) to be dedicated to PSC.   |
| <b>Stage 5</b> |                 | 8 DAREZ Lots between 2520 m <sup>2</sup> and 22120m <sup>2</sup> in area. Lot 510 (11057 m <sup>2</sup> ) containing low lying land and vegetation; and the stormwater channel connecting to Stormwater Detention Basin No. 2 on Lot 509 (3089 m <sup>2</sup> ) to be dedicated to PSC.  |
| <b>Stage 6</b> |                 | 12 DAREZ Lots between 2160 m <sup>2</sup> and 45362m <sup>2</sup> in area. The stormwater channel connecting to Stormwater Detention Basin No. 2 on Lot 613 (10373 m <sup>2</sup> ) to be dedicated to PSC.  |

The SP1 Special Purpose zone was based on the comprehensive Land Use Development Strategy prepared for the Department of Planning in December 2007. The Land Use Strategy was based on a comprehensive assessment of the relevant environmental, economic and social issues which provided a justification for the rezoning and development of the land.

The proposed development is considered to be consistent with the zone objectives.

The stages proposed with the development will comprise a mix of Aerospace /aerospace-support precincts and aerospace commercial /aerospace commercial-support precincts.

Infrastructure Servicing of the development involves the construction of reticulated sewer at Stage 2 of the Development. The proposed road network is serviced by a site specific stormwater strategy which discussed within **Attachment 3**.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Lot 131 DP 609165, 178 Cabbage Tree Road is owned by Port Stephens Council.

Following the approval of this application, it is proposed that part of the lot will sold to the developer to allow the development to proceed.

A development application to facilitate the subdivision has also been lodged with Council. The subdivision of Lot 131 DP 609165 into two lots will facilitate a secondary access to Cabbage Tree Road. It is proposed that Council will sell one of these lots to facilitate the development, while retaining ownership of the residual lot.

The development will be subject to developer contributions under Council's Section 94A Plan which will be used to fund Council's augmentation of public services.

The developer objects to the Section 94A contribution (see letter at **Attachment 5**).

The objection indicates that:

"Civil works do not create demand for public amenities and services. A levy should not apply to civil works and it should not be included in this amendment to this plan."

The letter was submitted to Council during the exhibition of a Proposed Amendment to Port Stephens Section 94A Development Contributions Plan in July 2009.

A General Managers Report was considered by Council on 25 August 2009, in relation to the Proposed Amendment to Port Stephens Section 94A Development Contributions Plan to include non-residential subdivisions in the plan.

The response provide by the Manager Integrated Planning to the submission (at **Attachment 5**) by Hunter Land Pty Ltd in the General Managers Report stated:

*While the submission does not define "civil works", it is taken that this refers to all subdivision works excluding the buildings and supporting works for the buildings.*

*No changes recommended. The regulations clearly allow for the costs of engineering, construction or subdivision works as incidental works to the*

overall type of development which place demands for additional public amenities and services:

Section 25J of the Environmental Planning and Assessment Regulation 2000  
Section 94A levy—determination of proposed cost of development provides:

- (1) *The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:*
- (a) if the development involves the erection of a building, or the carrying out of engineering or construction work— the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,*
  - (b) if the development involves a change of use of land— the costs of or incidental to doing anything necessary to enable the use of the land to be changed;*
  - (c) if the development involves the subdivision of land— the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.*

The proposed amendment to the plan to include non-residential subdivisions in the plan was adopted by the Council and came into effect on 5 September 2009.

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

Several issues emerged during the assessment of the application that required legal investigation to ensure Council was not unreasonably exposing its self to legal risks in making a determination of the application.

Legal advice was obtained in relation to:

- The Deed of Agreement;
- The Species Impact Statement compliance with Director General's (DG's) requirements; and
- The Local Drainage.

The advice indicates that:

- In relation to the Deed of Agreement, certain conditions had to be removed (before its execution) that sought to fetter Council's discretion on the consideration and imposition of conditions as consent authority in relation to the Development Application.
- Council's discretion as consent authority, cannot be fettered, by the execution of the Deed, and therefore must consider on merit the impacts of the development on Threatened Species and their habitat under Section 5A of the Environmental Planning and Assessment Act in making its determination of the development application.

- In relation to the adequacy of the Species Impact Statement submission in response to the DG's requirements; that the submission is adequate, as the DG's requirements allow for historical species surveys to be used; and
- In relation to the local drainage, that the drains which have been dug, either, under the Williamstown Drainage Union or by Public Works under the Hunter Valley Flood Mitigation, were modifications or alterations of a natural watercourse known as the Long Bight Swamp, and that Council has no right to drain into the 14ft drain unless a common law right to drain its road network into the downstream water course now the artificially modified channel of the "14ft Drain" accessing Fullerton Cove can be established.

The proposed drainage outcomes in relation to legal implications for the downstream receiving waters, and whether or not there is a right to drain is a significant issue for the development.

The legal right to drain into the 14ft drain which traverses Lot 51 DP1110164, Lot 1 DP 260705, Lot 4 DP 260705, Lot 1332 DP609173, and then into and Fullerton Cove Ring, crossing private lands would either need to:

- be established has a riparian right to drain under common law into artificially modified watercourse; or
- have a condition imposed requiring that an easement be created over the drain to give a right to drain the development, via Nelson Bay Road in to the 14ft Drain.

In both cases, whether a 'nuisance' arises, in relation to the downstream receiving waters, requires further stormwater modelling to investigate the impacts. A condition of consent is proposed to deal with this issue, and will require if a nuisance arises, require that an easement be created.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The social implications of the proposed development provide a range of benefits for the region which have been identified in the application. These include:

Future developments in the subdivision will provide a significant potential source of employment for the local and regional population based on the Williamstown airport.

The special use aerospace precinct will provide a range of specialised aerospace industry and related employment opportunities, including in a range of support functions such as aero education and training, warehousing and light industry and support activities such as retail, recreation and hotel uses.

The development will provide employment opportunities for both highly skilled and less skilled people. This will provide employment opportunities for the local workforce and will also attract highly specialised employees to the region.

The application has addressed safety issues through a safer by design (CPTED) review. This addresses the principles of passive surveillance, access control and the management of space and activities to ensure that the subdivision design and future uses will achieve a safe environment for future employees and visitors to the development.

The economic impact of future defence and airport- related development at the Newcastle airport has been considered as part of Land-use Strategy prepared for the Department of Planning. Direct and indirect economic benefits of the proposed development are considered to be significant, including:

Build on the significant aerospace activities already occurring at Williamstown and in the region, with a range of important activities that will greatly enhance the Williamstown RAAF base and airport as a nationally and internationally significant centre of excellence for aerospace and appropriate support activities.

The Statement of Environmental Effects states that the total direct and indirect impacts of the development in terms of additional employment will result of between 3,700 and 5,650 additional number of employees, making the total number of employees for the WAP and Airport/RAAF site of some 8,500. This would make the WAP one of the most significant employers and drivers of economic activity in the Hunter region. A total of 2,680 jobs could be created from the construction phase alone, while the total value of construction for the subdivision and buildings is anticipated to total up to \$485m.

The Defence and Airport related employment zone (DAREZ) was strategically located adjacent to Australia's largest operating Air Force Base, RAAF Base Williamstown, and Newcastle Airport, Australia's fastest growing regional airport. The subdivision layout achieves the objectives of the DAREZ zone in providing large developable areas adjacent to the most technically feasible location of the upgraded taxiway and expanded tow-way. Sufficient land has been required to be located adjacent to this new airside access land for the development of sizeable aircraft maintenance hangars to the large lots for the various support businesses that typically support large Defence contractors. This land has been provided in the only technically feasible land to the north of the natural vegetated habitat with the challenging ground conditions which lie on the southern boundary of the site.

The environmental impacts of the development comprise the complete loss of all habitats from the site, with the exception of the lot containing the aboriginal keeping place, and the Lots on the southern boundary of the site left vegetated.

Considering the RAAF base importance to the national interest, and the significant social and economic benefits of the proposal, the ecological losses at the site are an unavoidable consequence of the development site location inherently requiring connection to the existing RAAF base, that has state and national strategic implications born out of the Lower Hunter Regional Strategy, and the National Defence White Paper.



The locally significant environmental implications for ecology (all but total loss on-site) arising from the development are outweighed by the state and nationally significant economic and social implications linked to air force defence, and the airport associated with this subdivision development.

The development is commendable, having provided for threatened species offsets, careful and considered archaeological investigation and response, Water Sensitive urban Design principles embodied in a heavily constrained drainage environment, along with a well integrated and planned traffic and access response to the precinct.

The development provides a clear structure plan for a well planned built and landscaped outcome to be managed through a comprehensive Development Control Plan presently being prepared for the site.

Further discussion of the assessment of the detailed social, economic, and environmental implications is provided in **Attachment 3**.

## **CONSULTATION**

The application was required to be exhibited at Threatened Species Development as it is accompanied by a Species Impacts Statement.

Exhibited 4<sup>th</sup> June - 6<sup>th</sup> July 2009.

30 Day Exhibition – Threatened Species Development 123 Lot Subdivision - Three (3) submissions were received

Re-exhibited 24<sup>th</sup> April - 24<sup>th</sup> May 2010.

30 Day Exhibition – Amended Threatened Species Development - 103 Lot Subdivision - One (1) submission were received

Refer to the Section 79C 1(d) – Public Submission section of the Assessment Report at **Attachment 3** and the Response to submissions at Attachment 5.

## **OPTIONS**

- 1) Adopt the recommendation; or
- 2) Reject or amend the Recommendations. Rejection will require Councillors providing reasons for refusal

## **ATTACHMENTS**

- 1) Locality Plan
- 2) Subdivision Plan

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| <b>MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010</b> |
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- 3) Assessment Report
- 4) Response to Submissions
- 5) Objection to Section 94A

### **COUNCILLORS ROOM**

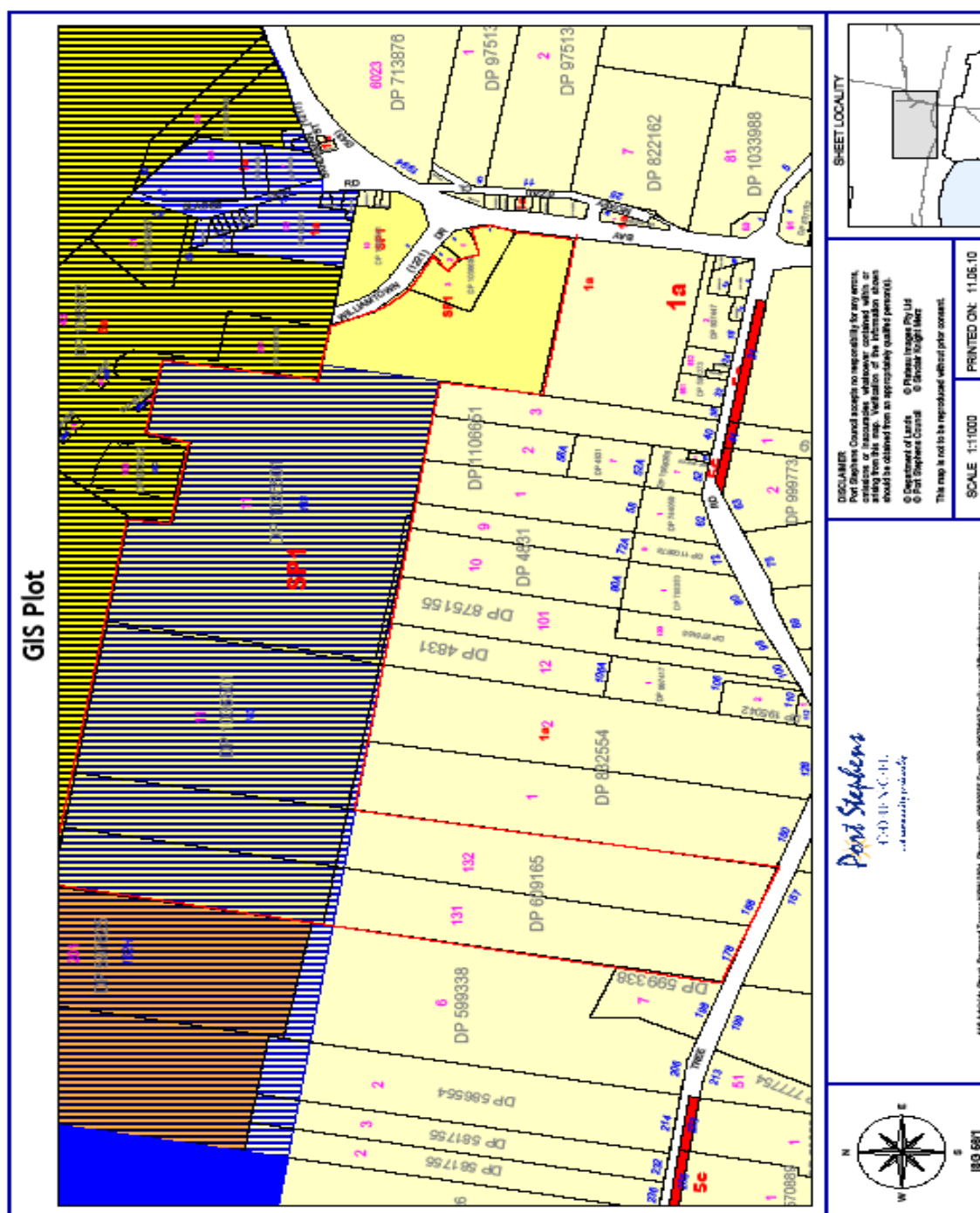
- 1) Development Plans/Site Plan
- 2) Statement of Environmental Effects

### **TABLED DOCUMENTS**

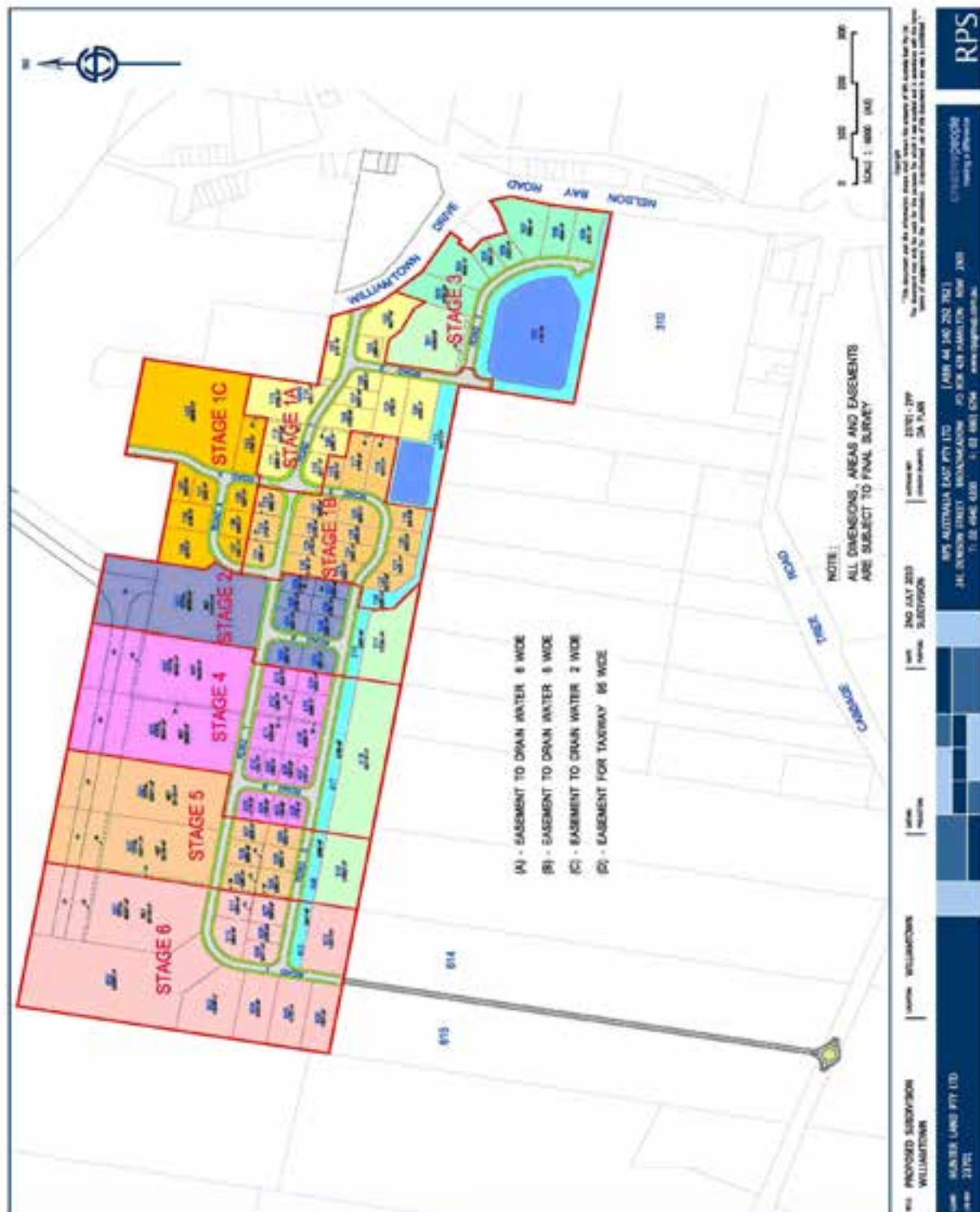
Nil.

## ATTACHMENT 1

### LOCALITY PLAN



## ATTACHMENT 2 SUBDIVISION 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.

**EXECUTIVE SUMMARY**

The subject site adjoins the Department of Defence RAAF base and Newcastle Airport at Williamtown. The property details are Lot 3 DP 1036690 and Lot 11 DP 1036501 Williamtown Drive, Lot 131 and Lot 132 DP 609165 Cabbage Tree Road. The proposed development comprises some 55 hectares for Defence and airport-related employment land over six stages.

The site comprises both SP1 Defence and Airport Related Employment Development Zone and 1(a) Rural Agriculture for the rural residue allotments and secondary access road to Cabbage Tree Road.

The SP1 Special Purpose zone was based on the comprehensive Land Use Development Strategy prepared for the Department of Planning in December 2007.

The Land Use Strategy was based on a comprehensive assessment of the relevant environmental, economic and social issues which provided a justification for the rezoning and development of the land.

The proposed development is considered to be consistent with the zone objectives.

The stages proposed with the development will comprise a mix of Aerospace precinct/aerospace support precincts and aerospace commercial precinct/aerospace commercial support precincts. This mix aims to achieve synergies between the different precincts from the onset of the development; however there will be flexibility in the staging based on market demand and this could result in applications to modify the development consent.

The aerospace precinct will be located on the northern boundary of the development and it will have airside access via the proposed tow-way that will connect to the existing taxiways. The precinct will be occupied by industries with direct links to Defence and civil aerospace activities. Types of industries in this precinct will include aircraft refuelling, maintenance, manufacture and assembly, freight handling and forwarding, logistics, ground service equipment and aerospace industry.

The Aerospace support precinct adjoins the southern boundary of the aerospace precinct and is proposed to contain uses such as freight and storage, administration, aerospace education and training, light industry, mechanical services, and fuel and spare part suppliers.

The aerospace commercial precinct will adjoin the airport terminal with direct access off Williamtown Drive. Potential uses will include customs and other regulatory services, catering, baggage, car parks, transport services, warehousing, offices for airport-related businesses, hotels, motels and restaurants.

The aerospace commercial support precinct will adjoin the southern boundary of the aerospace commercial precinct and will provide sites for uses such as hotels/motels, tourism operations, light industry, conferencing, convenience stores, fitness and health centres, restaurants, car parks, mechanical and business service centres.

There is proposed to be two large detention basins, which in addition to on-site detention devices on individual lots will maintain the post-development flows at pre-development levels.

The proposed Aboriginal keeping place will be retained in its natural state and contain a number of Aboriginal heritage items, including a number moved from other parts of the site. It is proposed that this will be dedicated and subsequently managed by the Worimi Local Aboriginal Land Council.

Vegetation adjoining one of the detention basins and adjoining the southern boundary will be retained.

The development will result in a secondary access from Cabbage Tree Road being constructed prior to stage 5 of the development. The secondary access may however be required at an earlier stage of development, as the RTA has specified that the traffic generation rates from development should be reviewed prior to any subdivision certificate being granted beyond stage 1B, or 9 hectares of development and prior to any subdivision certificate beyond stage 3, or 27 hectares. This is because the range of land uses proposed is varied and it may result in wide variations in future trip generation rates.

The primary access will be off Williamtown Drive with a link also directly with Newcastle Airport. Widening of the Williamtown Drive to four lanes will be a condition of development, as will an upgrade of the intersection of Nelson Bay Road and Medowie Road. A dual lane roundabout will be required at the intersection of Cabbage Tree Road and the new access road.

The key issues associated with this proposal are as follows:

- State and Local Contributions
- Flooding and drainage.
- Ecological impacts.
- Aboriginal heritage impacts.
- Traffic and access implications, including connections with the adjoining Newcastle Airport.
- Economic and employment implications of the development
- Bushfire impacts.

**THE PROPOSAL**

The development application seeks consent for a proposed 103 lot subdivision which includes subdivision for defence and airport-related development including the following:

The six stages include development for the following:

|         |          |  |
|---------|----------|--|
| Stage 1 | Stage 1A | 14 Defence and Airport Related Employment Zone (DAREZ) Lots between 1944 m <sup>2</sup> and 9765m <sup>2</sup> in areas. Lot 114 (323.7 m <sup>2</sup> ) containing the Interim Sewage Collection Well and Stormwater Detention Basin No. 2 on Lot 115 (15373 m <sup>2</sup> ) to be dedicated to HWC and PSC respectively.  |
|         | Stage 1B | 18 DAREZ Lots between 1800 m <sup>2</sup> and 5010m <sup>2</sup> in area. Lot 134 (5290m <sup>2</sup> ) containing the stormwater channel connecting to Stormwater Detention Basin No. 2 to be dedicated to PSC.   |
|         | Stage 1C | 9 DAREZ Lots between 1841 m <sup>2</sup> and 34080m <sup>2</sup> in area.  |
| Stage 2 |          | 9 DAREZ Lots between 2160 m <sup>2</sup> and 27413m <sup>2</sup> in area. Lot 211 (12195 m <sup>2</sup> ) containing low lying land and vegetation; and the stormwater channel connecting to Stormwater Detention Basin No. 2 on Lot 210 (3000 m <sup>2</sup> ) to be dedicated to PSC.  |
| Stage 3 |          | 6 DAREZ Lots between 2455 m <sup>2</sup> and 7955m <sup>2</sup> in area. Lot 301 (15053 m <sup>2</sup> ) containing the Aboriginal Keeping Place to be dedicated to the Local Aboriginal Land Council, and Stormwater Detention Basin No. 1 on Lot 301 (45400 m <sup>2</sup> ) and associate spill-way and discharge channel connecting with Nelson Bay Road to be dedicated to PSC. Lot 310 as a residue rural zoned allotment. |
| Stage 4 |          | 16 DAREZ Lots between 1718 m <sup>2</sup> and 24446m <sup>2</sup> in area. Lot 418 (12195 m <sup>2</sup> ) containing low lying land and vegetation; and the stormwater channel connecting to Stormwater Detention Basin No. 2 on Lot 417 (6769 m <sup>2</sup> ) to be dedicated to PSC.   |
| Stage 5 |          | 8 DAREZ Lots between 2520 m <sup>2</sup> and 22120m <sup>2</sup> in area. Lot 510 (11057 m <sup>2</sup> ) containing low lying land and vegetation; and the stormwater channel connecting to Stormwater Detention Basin No. 2 on Lot 509 (3089 m <sup>2</sup> ) to be dedicated to PSC.  |
| Stage 6 |          | 12 DAREZ Lots between 2160 m <sup>2</sup> and 45362m <sup>2</sup> in area. The stormwater channel connecting to Stormwater Detention Basin No. 2 on Lot 613 (10373 m <sup>2</sup> ) to be dedicated to PSC. Lots 614 and 615 as residue rural zoned allotments.  |

The proposal involves the clearing of vegetation of most of the site and the application of fill to all the proposed development areas.

**THE APPLICATION**

|                  |   |
|------------------|---|
| Owners           | Hunter Land, B&M Ellison, FE Ciccanti and Port Stephens Council   |
| Applicant        | RPS Harper Somers O'Sullivan  |
| Detail Submitted | Subdivision plans<br>Species Impact Statement<br>Statement of Environmental Effects<br>Geotechnical assessment<br>Preliminary Contamination assessment<br>Stormwater and Flood Strategy<br>Traffic Impact Assessment<br>Noise Impact Assessment<br>Ecological Assessment<br>Cultural Heritage Letter<br>Bushfire Threat Assessment<br>Landscape Master plan |

**INTEGRATED DEVELOPMENT**

General Terms of Approval

|  |   |
|--|---|
| Department of Environment and Climate Change and Water (DECCW) | Water Management Act 2000                       |
| NSW Office of Water  | Water Act 1912                                  |
| Cultural Heritage  | Section 90 National Parks and Wildlife Act 1974 |
| Roads and Traffic Authority                                    | Section 138 Roads Act 1993                      |

**THREATENED SPECIES DEVELOPMENT**

|       |                                      |
|-------|--------------------------------------|
| DECCW | Species Impact Statement Concurrence |
|-------|--------------------------------------|

**THE LAND**

|                      |   |
|----------------------|---|
| Property Description | Lot 3 DP 1036690 and lot 11 DP 1036501<br>Williamtown Drive, Lot 131 and lot 132 DP 609165 Cabbage Tree Road  |
| Area                 | 89 hectares   |
| Characteristics      | The land is generally flat and low-lying and partially flood affected. The majority of the site is vegetated. |

**PUBLIC CONSULATION**

|   |  |
|---|--|
| Exhibited 4 <sup>th</sup> June - 6 <sup>th</sup> July 2009. | 30 Day Exhibition – Threatened Species Development 123 Lot Subdivision - Three (3) submissions were received |
|---|--|



Re-exhibited 24<sup>th</sup> April - 24<sup>th</sup> May 2010.      30 Day Exhibition – Amended Threatened Species Development - 103 Lot Subdivision  
- One (1) submission were received

Refer to the Section 79C 1(d) – Public Submission section of the Assessment Report and the Response to submissions at **Attachment 5**.

## **ASSESSMENT SUMMARY**

### **State Strategy**

#### Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy recognises the WAP site as one of the six specialised employment centres in the Lower Hunter and is an important part of the stimulation of future economic development in the region, within the framework of appropriate protection of the Lower Hunter's environmental assets.

A green corridor in close proximity to the WAP site has been preserved from future development.

This is in addition to an offset site for the WAP located at Dunns Creek that has been secured.

The Strategy recognises the need to improve transport links between the airport and Newcastle Port. It is considered that the proposal will assist in the creation of a critical mass of development that will facilitate future transport links.

The proposal is considered to be consistent with the Strategy.

#### Port Stephens Community Settlement and Infrastructure Strategy

The Strategy recognises the WAP as a priority area for future development therefore the proposal is consistent with the Strategy.

#### Williamstown DAREZ Land Use and Development Strategy

The proposal is considered to be consistent with the Strategy, including appropriate offset principles for the proposed development. The Strategy set the broad parameters for planning and development of DAREZ.

The Strategy accentuates the significance of the strategic planning context that identified the potential for DAREZ as well as the regional role such a specialised centre could fulfil.

Based on an assessment of the various competing social, economic and environmental values, the future development potential has been identified in the Strategy.

### Social Impacts

The social implications of the proposed development provide a range of benefits for the region which have been identified in the application. These include:

Future developments in the subdivision will provide a significant potential source of employment for the local and regional population based on the Williamstown airport.

The special use aerospace precinct will provide a range of specialised aerospace industry and related employment opportunities, including in a range of support functions such as aero education and training, warehousing and light industry and support activities such as retail, recreation and hotel uses.

The development will provide employment opportunities for both highly skilled and less skilled people. This will provide employment opportunities for the local workforce and will also attract highly specialised employees to the region.

The application has addressed safety issues through a safer by design (CPTED) review. This addresses the principles of passive surveillance, access control and the management of space and activities to ensure that the subdivision design and future uses will achieve a safe environment for future employees and visitors to the development.

Measures will include provision of specific lighting, CCTV for after hours surveillance, restricting and/or encouraging access to certain areas and managing areas to maximise surveillance and deter crime. Conditions will also be applied to ensure adequate lighting and fencing is constructed as part of the subdivision works.

Individual development applications will require a detailed CPTED assessment in order to ensure that all future development accords with CPTED principles. The proposed DCP for the site will address issues such as building placement, windows, car parking and landscaping, fencing and other security measures to be applied to future development.

### Economic Impacts

The economic impact of future defence and airport- related development at the Newcastle airport has been considered as part of Land-use Strategy prepared for the Department of Planning. Direct and indirect economic benefits of the proposed development are considered to be significant, including:

Build on the significant aerospace activities already occurring at Williamstown and in the region, with a range of important activities that will greatly enhance the Williamstown RAAF base and airport as a nationally and internationally significant centre of excellence for aerospace and appropriate support activities.

The Statement of Environmental Effects states that the total direct and indirect impacts of the development in terms of additional employment will result of between

3,700 and 5,650 additional number of employees, making the total number of employees for the WAP and Airport/RAAF site of some 8,500. This would make the WAP one of the most significant employers and drivers of economic activity in the Hunter region. A total of 2,680 jobs could be created from the construction phase alone, while the total value of construction for the subdivision and buildings is anticipated to total up to \$485m.

#### Environmental Impacts

The Defence and Airport related employment zone (DAREZ) was strategically located adjacent to Australia's largest operating Air Force Base, RAAF Base Williamtown, and Newcastle Airport, Australia's fastest growing regional airport. The subdivision layout achieves the objectives of the DAREZ zone in providing large developable areas adjacent to the most technically feasible location of the upgraded taxiway and expanded tow-way. Sufficient land has been required to be located adjacent to this new airside access land for the development of sizeable aircraft maintenance hangars to the large lots for the various support businesses that typically support large Defence contractors. This land has been provided in the only technically feasible land to the north of the natural vegetated habitat with the challenging ground conditions which lie on the southern boundary of the site.

The environmental impacts of the development comprise the complete loss of all habitats from the site, with the exception of the lot containing the aboriginal keeping place, and the Lots on the southern boundary of the site left vegetated.

Considering the RAAF base importance to the national interest, and the significant social and economic benefits of the proposal, the ecological losses at the site are an unavoidable consequence of the development site location inherently requiring connection to the existing RAAF base, that has state and national strategic implications born out of the Lower Hunter Regional Strategy, and the National Defence White Paper.

The locally significant environmental implications for ecology (all but total loss on-site) arising from the development are outweighed by the state and nationally significant economic and social implications linked to air force defence, and the airport associated with this subdivision development.

The development is commendable, having provided for threatened species offsets, careful and considered archaeological investigation and response, Water Sensitive urban Design principles embodied in a heavily constrained drainage environment, along with a well integrated and planned traffic and access response to the precinct.

The development provides a clear structure plan for a well planned built and landscaped outcome to be managed through a comprehensive Development Control Plan presently being prepared for the site.

#### Traffic and Transport Impacts

Council has assessed the application in relation to local traffic matters. The following traffic/infrastructure information has been provided to justify support for the above application:

A typical plan and section identifies the proposed LATM measures, along with a plan view of proposed locations. Inclusion of pedestrian refuges in the vicinity of proposed bus stops will assist in safe pedestrian movement as well as providing a traffic calming affect. The proposed bus route through the development and linking with the Airport has also been provided.

Comments from the RTA and Regional Traffic Committee on the application have also been provided.

The Development Application has also been reviewed in the context of its relationship with the Newcastle Airport Ltd (NAL) approvals and current application for road/car park works and terminal expansion.

An issue identified in a preliminary assessment is the connection between the two sites at a point adjacent to the BAE complex

The proposed road 3 will link directly with Newcastle Airport through the temporary car park area, which will provide a direct link to the airport. It is proposed that where the link road to the airport adjoins the BAE site, the road will be located wholly on the development site parallel to the BAE-leased land.

#### Aboriginal Cultural Heritage Impacts

Following the completion of an Aboriginal heritage assessment for the land, it was proposed that valuable items of Aboriginal heritage be retained in the Aboriginal keeping place. This place would be dedicated to the Worimi Local Aboriginal Lands Council and will be fenced and left in a natural state.

An Aboriginal heritage assessment has been prepared and an Archaeological Management Plan will be prepared and will be imposed as a condition of consent. An Aboriginal Keeping Place is to be established as part this proposal to protect relics found on the site.

#### Bushfire Impacts

Council considers that the proposed subdivision is not integrated development in relation to bushfire; however the subject land is identified as bushfire prone land on the Bushfire Prone Land map. A local referral was undertaken to the Rural Fire Service.

As the land is bushfire affected, it is noted that a Bushfire Assessment Report is provided pursuant to Section 79BA of the Rural Fires Act 1997. Council has given consideration to bushfire hazard in assessing the subject development application.

## MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010

A 10m asset protection zone is proposed to the west and south-west between the subdivision and open forest. Based on the proposed future uses, open forest vegetation and flat topography; it is considered that a 10m asset protection zone is considered adequate to comply with Section 79C of the EPA Act.

Individual bushfire assessments will be required for future uses, based on the type of use under the Planning for Bushfire Guidelines.

Include conditions of consent as per HSO letter 28<sup>th</sup> July 2009.

### Water and sewer infrastructure Impacts

It is noted in the Statement of Environmental Effects (SEE) that the development will be serviced by reticulated water and ultimately by reticulated sewer.

Until the 14km of reticulation and two (2) pump stations are completed, it is proposed to service the site by effluent pump-out using one of the pump stations as the holding facility.

Management of trade wastes should be considered with respect to the common effluent pump-out system, possibly through a trade waste agreement with HWC.

Information will also be required as part of the S68 application as to who will own, maintain and fund the pump-out system.

It is understood that HWC are taking ownership of the temporary pump-out facility. The DA will be conditioned requiring formal notification from HWC to this regard.

The DA to be conditioned requiring a copy of the bond (tankering) documentation. If HWC take ownership of the storage facility regardless of Hunter land maintaining the pump-out then the system still forms part of the public sewer infrastructure. If this is the case then PSC would not require a S68 application.

As a tankering bond will be held with HWC there is no requirement for PSC to require an additional bond. The DA consent should include a request for a S50 certificate at each stage of the development.

If HWC agree to the proposal for a low pressure sewer system and HWC take ownership of all on-property infrastructures (including tanks and pumps) it would then form part of the public sewer system. Under this scenario, S68 applications would not be required by PSC. As advised in the report the DA should be conditioned to capture the possibility that HWC do not take ownership of the on-property assets. The trade waste application will need to be made to HWC.

If HWC are taking ownership of the pump-out facility, the DA should be conditioned requiring formal notification from HWC to this effect.

The DA has been conditioned to require a copy of the bond (tankering) documentation.

### Electricity Impacts

There is no impact proposed on the electricity easement and infrastructure located on the eastern boundary of the property.

### Contaminated Land Impacts

The preliminary contamination assessment indicates an absence of gross contamination across the proposed site and Council's contaminated Lands register would support this.

However there are some specific areas that are flagged as 'contaminated'- These are

- The Effluent ponds of the existing Sewage Treatment plant
- Other parts of the site where asbestos fragments have been found from dumping.

The preliminary report only identifies these contaminated areas but poses no plan to address remediation. In particular, Council will require details for the proposal for remediation and rehabilitation of the effluent pond area which is quite large and will become part of a number of allotments.

A condition of consent is anticipated to be along the following lines:

The applicant is to prepare a plan for the remediation of contaminated areas as identified in the "Stage 1 Preliminary Contamination Assessment" prepared by Douglass Partners April 2009.

This plan is to be submitted to Council prior to the commencement of subdivision work.

At the completion of remediation works, the applicant is to provide Council with a certificate from an accredited site auditor, which confirms that contaminated areas have been remediated to a level which allows for the construction and occupation of industrial premises.

### Noise Assessment Impacts

Council would anticipate that the consent will include a number of conditions which align with the recommendations of Reverb Acoustics October 2008 report (see pages 35-42 of the report). The recommendations address both noise impacts on the future occupants of the subdivision and also the impacts of the construction of the subdivision and future occupation.

There will need to be further acoustic assessments lodged with each DA for the development of individual allotments in order that noise impact "on and of" can be assessed. This requirement is addressed in the Reverb report.

Clause 26B Restrictions on certain subdivisions

Clause 26B does apply to Zone SP1 Defence and Airport related Development, as under a recent amendment the Port Stephens local government area is not contained within a Special Contributions Area as defined by Section 93C of the EPA Act and the Growth Centres (Development Corporations) Act 1974 Schedule 1. State infrastructure contributions will therefore apply to the development.

Draft Development Control Plan Impacts

Council has received the draft DCP prepared for the site by the applicant. This draft plan is being concurrently reviewed by the Strategic Planning Section of Council. It is proposed that the draft Plan will be placed on public exhibition before being adopted by Council. Timing of the exhibition will depend on when the draft document is at a stage suitable for exhibition. Council has prepared a revised draft DCP and will provide the draft document to the applicant in the near future.

## **THE ASSESSMENT**

### **Environmental Planning Instruments**

Section 79C of the EP&A Act requires that reference be made to the provisions of any environmental planning instrument that would (but for Part 3A of the Act) substantially govern the carrying out of the project.

Consideration of the proposed development in the context of the objectives and provisions of the relevant environmental planning instruments is provided below:

|   |   |
|---|---|
| State Environmental Planning Policies   | SEPP 71 – Coastal Protection<br>SEPP 44 – Koala Habitat Protection<br>SEPP 55 – Remediation of Land<br>SEPP (Infrastructure) 2007 |
| Hunter Regional Environmental Plan 1989 |   |
| Local Environmental Plan 2000 – Zoning  | SP1 Defence and Airport Related<br>Employment Development.<br>1 (a) Rural Agriculture   |
| Relevant Clauses                        | 11,12, 26, 37, 41, 42, 44, 47, 51A  |
| Development Control Plan                | Development Control Plan 2007   |

### Hunter Regional Environmental Plan 1989

The Hunter Regional Environmental Plan 1998 (Hunter REP) aims to promote and provide direction for development in the Hunter region to ensure the economic, social and environmental outcomes are achieved.

The objectives of the Hunter REP largely relate to the strategic planning of the region; however Part 7 (Environmental Protection) sets out the heads of consideration that an approval authority must consider when determining an application.

These objectives require an authority not to grant approval unless it is satisfied that the impacts on air, noise, water and soil local environments are within acceptable levels and would not have an adverse impact.

The Council has considered the project against these objectives within section 4 of this report, and is satisfied that the project satisfies the requirements of the Hunter REP subject to the recommended conditions of consent.

It is considered that the proposal is compatible with the objectives of the HREP, particularly in relation to the stimulation of economic activity in the region as a result of the development. Given that the area proposed for special purpose use is already zoned SP1 Defence and Airport Related Employment Development, it is considered that no further assessment in relation to this policy is applicable.



#### State Environmental Planning Policy No 14—Coastal Wetland

The aim of State Environmental Planning Policy No 14—Coastal Wetland (SEPP 14) is to ensure that coastal wetlands are preserved and protected for environmental and economic reasons.

The policy applies to coastal local government areas outside the Sydney metropolitan area.

Nonetheless, given the proximity and significance (these wetlands form part of the Ramsar listed Hunter Estuary Wetlands) of the nearby SEPP 14 wetlands, the Council staff has considered the provisions of SEPP 14 in its assessment.

The recommended conditions of approval would ensure that the project would have minimal impact on the nearby SEPP 14 wetlands proposal.

#### State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33) aims to identify proposed developments with the potential for significant off-site impacts, in terms of risk and/ or offence (odour, noise etc).

A development is defined as potentially hazardous and/ or potentially offensive if, without mitigating measures in place, the development would have a significant risk and/ or offence impact on off-site receptors.

A preliminary risk screening was undertaken in accordance with the SEPP 33, which found that the quantities and classes of hazardous materials that would be encountered on site and number of vehicle movements required to transport these materials did not reach the threshold to be classified as 'potentially hazardous'.

Therefore, the proposed project is not considered potentially hazardous and/or potentially offensive and no preliminary hazardous analysis is required to be undertaken.

#### State Environmental Planning Policy No. 44 – Koala Habitat Protection

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44) applies to Port Stephens LGA. Under clause 9 of the SEPP, the consent authority is not to grant consent unless it is satisfied that any "potential koala habitat" is not "core koala habitat" as defined under the SEPP.

A Koala Plan of Management (known as the Port Stephens Council Comprehensive Koala Plan of Management or CKPoM) has been prepared for the Port Stephens LGA in accordance with SEPP 44.

The CKPoM identifies preferred, supplementary and marginal habitat for koalas in the Port Stephens LGA.

While the CKPoM indicates that supplementary koala habitat is present on the project site, a survey of the site indicates that there is no preferred or supplementary koala habitat on located on the site (i.e., no core or potential koala habitat).

As such, the project would have minimal impact on koala populations or koala habitat. The Department is satisfied with the consideration of SEPP 44 contained in the Environmental Assessment.

The development application has been assessed pursuant to the Port Stephens Comprehensive Koala Plan of Management, which fulfils the requirements of SEPP 44. The land is also subject to a satisfactory offset arrangement by way of a deed of agreement which addresses the loss of ecology values on site.

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land applies to the site. SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application. Clause 7 of SEPP 55 states that:

7(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state
  - a) (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The preliminary contamination assessment indicates an absence of gross contamination across the proposed site and Council's contaminated Lands register would support this.

However there are some specific areas that are flagged as 'contaminated'. These are:

- The Effluent ponds of the existing Sewage Treatment plant.
- Other parts of the site where asbestos fragments have been found from dumping.

The preliminary report only identifies these contaminated areas but poses no plan to address remediation. In particular, Council will require details for the proposal for remediation and rehabilitation of the effluent pond area which is quite large and will become part of the future development.

State Environmental Planning Policy No. 64 – Advertising and Signage

SEPP 64 aims to ensure signage is appropriately located and designed and to regulate signage within transport corridors.

Conditions are proposed to ensure detailed signage plans are prepared in consultation with Port Stephens Council, and for any signage visible from Nelson Bay or Cabbage Tree Road and to the provisions of the Development Control Plan.

Conditions of consent have been proposed to restrict signage on proposed Lots 307, 308, 309, and 310 abutting Nelson Bay Road through a restriction as to user imposed on the lot. Council will be the authority permitted to alter, modify, or remove the restriction.

The restriction is intended to restrict free-standing signage facing Nelson Bay Road, however, the restriction it does not apply to Lots abutting Williamtown Drive.

The intent is to develop an advertising strategy to integrate signage with the built outcomes proposed on the lots. However, the development control plan has not yet been prepared, and until it does it is appropriate to impose these restrictions to limit the visual impact of the development on Nelson Bay Road.

Draft State Environmental Planning Policy No. 66 – Integration of Land Use and Transport

Draft SEPP 66 aims to ensure that urban structure, building forms, land use locations, development designs, subdivision and street layouts help achieve the following planning objectives:

- a) improving accessibility to housing, employment and services by walking, cycling and public transport,
- b) improving the choice of transport and reducing dependence solely on cars for travel purposes,
- c) moderating growth in demand for travel and distances travelled especially by car,
- d) supporting the efficient and viable operation of public transport services,
- e) providing for the efficient movement of freight.

The proposal is not contrary to the above objectives and the project would help achieve the objectives of draft SEPP 66 by providing employment lands within proximity to residential areas in Newcastle and Raymond Terrace, major transport routes including the Pacific Highway and Newcastle's commercial airport.

The proposed development will be served by public transport. A bus route has been identified in the development to service the site. The adjoining airport is currently serviced by a regular bus service linking Newcastle and Nelson Bay.

State Environmental Planning Policy No.71 – Coastal Protection

State Environmental Planning Policy No. 71 – Coastal Protection applies to the site as it is within the coastal zone. In broad terms SEPP 71 aims to ensure that the natural, cultural, recreational and economic assets of the NSW coast are protected and appropriately managed.

The relevant matters for consideration in clause 8 of the SEPP 71 include:

- the aims of the SEPP 71;
- the suitability of development given its type, location and design and its relationship with the surrounding area;
- the scenic qualities of the New South Wales coast, and means to protect and improve these qualities;
- measures to conserve animals and plants, and their habitats;
- measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals;
- likely impacts of development on the water quality of coastal waterbodies; and
- the conservation and preservation of items of heritage, archaeological or historic significance.

The proposed development is broadly consistent with the aims and other matters for consideration in the SEPP 71.

The site is suitable for the proposal and the project would be compatible with surrounding land uses. It would have a negligible impact on scenic qualities and water quality protection measures would ensure that adequate protection is provided for animals, plants and their habitats, including the Hunter River, Tomago and Fullerton Cove Wetlands and the Hunter Estuary Wetlands Ramsar site.

The recommended conditions of approval would also require DA324-2009 - Subdivision - 103 Lots (previously 123 lots) for future Defence and Airport Related Employment Development - Williamstown Aerospace Park (WAP) to collect and preserve any heritage items identified during the construction activities in the aboriginal keeping place.

SEPP (Rural Lands) 2008

SEPP (Rural Lands) 2008 is a recently gazetted policy providing aims and objectives for development on land zoned rurally. As the rural land is not a component of the industrial subdivision or associated structures, with the exception of the access road and emergency access road to Cabbage Tree Road. Further consideration of this policy is not considered to be applicable.

### SEPP (Infrastructure)

The RTA has confirmed that the development is not integrated, as Council is consent and approval authority for Cabbage Tree Road (refer to Section 91(3) of EPA Act 1979). However, due to the impact of the proposed development on the classified road network, the SEPP (Infrastructure) applies and the comments of the Hunter Regional Development Committee and the RTA have been provided.

Both the HRDC and the RTA have raised a number of issues relating to the review of trip generation rates, access arrangements and timing of works and a number of other matters including the requirement for a works authorisation deed and developer contributions for State road infrastructure by way of a Voluntary Planning Agreement or Deed Containing Agreement. The matters and other traffic matters raised by Council are addressed under the assessment and conditions of consent.

### Port Stephens Local Environmental Plan 2000

Clause 11 – Rural Zonings - Areas of the subject site are zoned 1(a) Rural Agriculture and SP1 Defence and Airport Related Employment Development. It is noted that industrial uses are prohibited in the 1(a) zone, therefore one of the detention basins is not considered to be permissible as it is considered to be ancillary to the industrial development which is prohibited in the 1(a) Rural Agriculture zone. The application has been amended to ensure that the all of the proposed development, with the exception of the Cabbage Tree Road access road, has been included in the SP1 Defence and Airport Related Employment Development zone. The remainder of the development is contained within the SP1 zone, with the exception of the second access road To Cabbage Tree Road which is permissible in the 1(a) zone.

Clause 12 - Subdivision within rural zones generally – It is noted that new boundaries are proposed on the zoning interface between the rural and industrial lands, with the exception of the proposed detention basin located on part of lot 301. It is considered that the subdivision is facilitated by the subdivision provisions of the special purposes zoning, and accordingly no further consideration of this clause applies.

However, it is noted that Clause 12 (1)(b) allows subdivision for permissible uses (excluding dwellings).

Clause 26 – Special Use Zonings - The majority of the subject site is zoned SP1 Defence and Airport Related Employment Development. The proposed special purpose (Defence and Airport Related Employment Development) subdivision is a permissible land use within the zone. An assessment of the development's compliance with the applicable objectives of the zone is provided below.

### Objective

- (a) to provide opportunities for the establishment of employment generating activities supporting the ongoing operation of RAAF Base Williamtown and Newcastle Airport, and

The proposal is consistent with this objective.

- (b) to permit development that is appropriate and supportive to the continued operation of RAAF Base Williamtown and Newcastle Airport in terms of its land use type and location within the employment zone, and

The subdivision's proposed land uses are consistent with this objective. It is considered that this objective will be further assessed at such time that buildings are proposed on the proposed allotments.

- (c) to prevent development that is not compatible with or that may compromise the continued operation of RAAF Base Williamtown or Newcastle Airport, and

The proposed land use activities and future controls will result in this objective being achieved.

- (d) to minimise any adverse impacts on the surrounding land while protecting the inherent natural qualities and groundwater recharge areas, and

The proposal is consistent with this objective; however additional information is required to be consistent with this objective.

- (e) to minimise the impact of the particular characteristics of the site including flooding constraints, groundwater quality and surface drainage, and

The proposal is consistent with this objective; however additional information is required to be consistent with this objective.

- (f) to prevent urban encroachment to airfield operations.

The proposal is consistent with this objective. Defence has advised that access to the airfield via a tow-way will be permitted on a strictly controlled basis.

Based on the above comments, it is considered that the proposal is consistent with the objectives of the SP1 Special Purpose (Defence and Airport Related Employment Development) zone.

Clause 26A Development in the vicinity of RAAF Base Williamtown/Newcastle Airport

- (1) This clause applies to land within Zone SP1 Defence and Airport Related Employment Development.
- (2) Despite any other provisions of this plan, consent to any development on land to which this clause applies must not be granted unless the consent authority is satisfied that:

- (a) it complies with the relevant provisions of Australian Standard AS 2021-2000, Acoustics--Aircraft noise intrusion--Building siting and construction as applicable, and
- (b) it will not compromise the continued operation of RAAF Base Williamtown or Newcastle Airport, and
- (c) the location and type of development supports a focused defence and airport related employment area.

It is considered that the proposed subdivision is consistent with the provisions of this clause, however part (a) of this clause is not considered applicable at this stage as construction of buildings is not proposed. It is considered that the subdivision has been designed and appropriate conditions applied so that buildings subsequently constructed can comply with part (a). The subdivision has been designed to not compromise the operation of both the RAAF base and the airport and will support a focused defence and airport related employment area.

Clause 26B Restrictions on certain subdivisions-infrastructure, facilities and services

Previously, Council considered that this clause did not apply to Zone SP1 Defence and Airport related Development, as Port Stephens local government area was contained within a Special Contributions Area as defined by Section 93C of the EPA Act and the Growth Centres (Development Corporations) Act 1974 Schedule 1.

The EPA Act has been recently amended so that Councils in the Hunter are no longer part of the Special Contributions Area. Council can therefore now levy \$94A contributions for this development. This will amount to 1% of the cost of development.

Clause 26B also allows for the State Government to levy for infrastructure where application is made for subdivision for urban purposes.

*"(2)" The object of this clause is to require assistance towards the provision of designated State public infrastructure to satisfy needs that arise from development on which to land this clause applies, but only if the land is developed intensively for urban purposes.*

*"(3) Despite any other provision of this plan, the consent authority must not grant consent to the subdivision of land to which this clause applies if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the commencement of Port Stephens Local Environmental Plan 2000 (Amendment No 29), unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure referred to in subclause (2) in relation to that lot."*

*"(7) In this clause, designated State public infrastructure means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:*

- (a) State and regional roads,*
- (b) bus interchanges and bus lanes,*

- (c) rail infrastructure and land,*
- (d) land required for regional open space,*
- (e) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes)."*

It is therefore considered that this clause will apply to the development. The RTA has advised that the following State infrastructure levies will be payable for State road infrastructure by the applicant:

\$29,000 per developable hectare (indexed) if subdivision certificate approval is given on or before 30 June 2011, or

\$42,000 per developable hectare (indexed) if subdivision certificate approval is given on or after 1 July 2011.

The format of the contribution would be either a monetary contribution or a works-in-kind contribution. The RTA would prefer a works-in-kind contribution, with the scope of such a contribution to be defined as part of a Deed Containing Agreement (DCA) between Hunter Land and the RTA.

The RTA will provide advice to Council regarding satisfactory arrangements being made in relation to State infrastructure contributions after the execution of the DCA. The provision of satisfactory contributions has therefore been included as a condition of consent.

#### 26C Subdivision of land zoned SP1 Defence and Airport Related Employment Development

- (1) A person must not subdivide land within Zone SP1 Defence and Airport Related Employment Development except with the consent of the consent authority.
- (2) The consent authority may grant consent for a subdivision of land within Zone SP1 Defence and Airport Related Employment Development only if each allotment to be created by the proposed subdivision will be of a size, and will have a ratio of depth to frontage, that the consent authority considers appropriate:
  - (a) having regard to the purpose for which the allotment is intended to be used, or
  - (b) to facilitate the future development of the land for defence and airport related employment development.

It is considered that the dimensions of the proposed allotments to be created in this subdivision application will comply with this clause and will facilitate the future development of the land for defence and airport related employment development.

#### Clause 37 Objectives for development on flood prone land



The objectives for development on flood prone land are:

- (a) to minimise risk to human life and damage to property caused by flooding and inundation through controlling development, and
- (b) to ensure that the nature and extent of the flooding and inundation hazard are considered prior to development taking place, and
- (c) to provide flexibility in controlling development in flood prone localities so that the new information or approaches to hazard management can be employed where appropriate.

Clause 38 Development on flood prone land

The subject site is identified as being flood prone. As significant filling work is proposed to occur in this area, it is considered that flooding and drainage is a significant issue for the proposal, as confirmed by the Strategic Engineer. (Note some works were proposed in this area, but this has been conditioned not to occur).

Clause 40 Minor variation to zone boundaries

This clause is not relevant to this proposal, as the proposed development is contained within the SP1 zone,

Clause 41 Direct access to certain roads is restricted This clause is considered relevant as the application is seeking direct access from Cabbage Tree Road (Main Road 302). It is considered that the access from Cabbage Tree Road is justified to facilitate access to the subdivision and to provide for alternative access to Newcastle airport. There will be no direct access to the subdivision from Nelson Bay Road, with the main access being off Williamstown Drive. An alternative all-weather emergency access road is proposed to Cabbage Tree Road, as the additional access to Cabbage Tree Road is not proposed until Stage 5 of the development.

Clause 42 Development along arterial roads

The proposed development will front Nelson Bay Road, however there will be no direct access to this road as access will be from Williamstown Drive and Cabbage Tree Road. The proposed development will meet relevant noise standards for this type of subdivision. Individual development applications for buildings will be required to satisfactorily address acoustic issues as part of their consent conditions.

Clause 44 Appearance of land and buildings

The proposed subdivision is supported by a landscape master plan which will protect the appearance of the development from adjoining main roads, the airport and rural development. Future buildings to be constructed will be subject to specific development controls (as per a DCP) which will control the form, height, setbacks and structure of future buildings.

Clause 47 Services

Given the location, it is considered that the proposal can be appropriately serviced in terms of water, sewer, electricity and telecommunications. Services are currently available, with the exception that temporary sewerage treatment plant is intended to operate, prior to the sewerage system being connected during Stage 2 of the

development. Agreement is being pursued with Hunter Water in relation to a low pressure sewerage system for the development.

The application has been conditioned to state that a reticulated sewerage transfer system and water system must be constructed prior to the release of a subdivision certificate for Stage 2 of the development and provide connection to all development within Stage 1. This is also stated in the draft DCP.

Energy Australia has commented that the proposed development can be serviced with electricity and confirms that there are no electricity works proposed for the subject area. Energy Australia's electrical infrastructure is located on lot 3 DP 1036690 and any intention to relocate these assets will be at the applicants' expense.

Clause 51A Acid Sulfate Soils

A preliminary ASS assessment indicates that real or potential ASS would be encountered as part of the development. If excavation works disturb at least 3m of soils and disturb acid sulphate soils, an acid sulfate soil management plan (ASSMP) will be required.

Clause 55 Protection of heritage items, heritage conservation areas and relics

Clause 59 Development of known or potential archaeological sites

There are no archaeological sites on the site listed in the LEP. However, as there are a number of archaeological relics on the subject land, the applicant has been working with Aboriginal groups to assess the Aboriginal heritage significance of the area.

An Aboriginal heritage assessment has been prepared and an Archaeological Management Plan is currently being prepared. An Aboriginal Keeping Place is to be established as part of this proposal to protect relics found on the site.

Letters from the local Worimi LALC and Nor-Run-Gee Aboriginal groups were submitted with the application, advising that no concerns were raised with the proposal which included the establishment of the Aboriginal keeping place, however, they asked to be present for inspections post-clearing and at the earthmoving stage of the development.

A letter was received from DECCW issuing general terms of approval (GTA) for cultural heritage and confirming that the consultation with the Aboriginal community and archaeological surveys undertaken are adequate and have been undertaken in accordance with DECCW guidelines.

DECCW has determined an application for an Aboriginal Heritage Impact Permit for the site. This includes a requirement that all works are conducted in accordance with a Cultural Heritage Management Plan (CHMP).

DECCW has since advised in an undated letter received via email on 27 July 2010 that the GTA's are not required to be imposed as conditions of consent because the permit has been issued.

It is considered that these Clauses have been satisfactorily addressed.

Clause 60 Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites

The proposed development is in the vicinity of two local heritage items, being Devon House, including former Moxey's slab cottage, dairy, hay shed and slab barn, at 145 Cabbage Tree Road and St Saviour's Anglican Church at 199 Cabbage Tree Road.

It is considered that the proposed development is sufficiently removed to not impact on the heritage significance of these items.

Port Stephens Development Control Plan 2007 (DCP2007)

The proposal has been assessed in accordance with Council's current DCP.

- Chapter B1- Subdivision and Streets
- Section B1.3 Site Analysis  
A comprehensive site analysis has been provided with the application.
- B1.4 Topography and Views

The proposal is generally consistent with the principles and controls contained in this section. It is noted that the proposal involves a significant level of vegetation clearance, earthworks, excavation and application of fill. Implementation of the landscape plan will alleviate the implications of vegetation clearance on the site. This level of earthworks is considered to be a function of the low lying topography of the site, and is considered to be essential in order to provide a functional estate for Defence and Airport Related Employment Development.

It is also noted that the proposed Aboriginal Keeping Place will largely maintain the existing topography and vegetation on this site. Furthermore, the proposed detention basins will retain natural vegetation which will also contribute to the maintenance of areas of vegetation on site.

**B1.5 Street and Block Layout**

The proposed street layout is generally a regular inter-connected grid network that allows for the direct and efficient movement for pedestrians, cyclists, cars and public transport. The proposed street layout does respond to natural features such as the Aboriginal Keeping Place and lower lying areas which are to be utilised as detention basins. The street layout is also influenced by the flat and low-lying nature of the land and the location of drainage infrastructure.

It is noted that a number of blocks are in excess of 120m wide and 200m long which is the specified limit for the size of blocks in Industrial zones in the DCP 2007. There is no specified limit on the size of blocks in the SP1 zone however it is considered that

the control for industrial zones would be a reasonable aim for this subdivision where appropriate.

Due to the size and particular function of the proposed tow-way lots which comprise the aerospace commercial precinct, it is not considered appropriate to impose the DCP 2007 requirement for industrial zones on this precinct.

However the DCP 2007 should be an objective for the other precincts where this is considered reasonable. It is noted that the blocks in the aerospace support precinct do not comply with this control. However the DCP 2007 control is not considered reasonable in this case due to the purpose of the lots and the characteristics of the land and the drainage requirements.

- B1.6 Footpaths and Cycleway

Footpaths and cycleway will be provided in the development. Relevant conditions of consent, as per Traffic Engineer's comments have been imposed.

- B1.7 Parks and Open Space

Public open space areas are not required for industrial-type subdivisions.

It is noted however that the proposed Aboriginal keeping place is proposed to be owned and managed by the Worimi Aboriginal Land Council. This land will not be cleared for open space for the development, but will be managed to ensure that the Aboriginal heritage assets and values will be protected. It is also noted that the proposed ecological corridor including the proposed detention basins will be retained as part of the development.

- B1.8 Lot Layout

The proposed lot layout is considered to be satisfactory for the defence and airport-related uses. The relevant matters relating to access ways and the tow-way link will be imposed as conditions of consent.

- B1.9 Street Trees

Conditions of consent have been imposed in this regard as per the landscape plan. This includes the planting of native trees appropriate to the locality.

- B1.10 Infrastructure

All necessary infrastructure will be provided including stormwater drainage, kerb and gutter, street trees, street lighting, footpath and cycleway as required to Council's standards. Footpaths are to be provided in high pedestrian areas (between the roundabouts on road 1 and all of road 3) while the cycleway is to be marked on the main road (Road 1). Proposed locations for bus stops and shelters have also been shown in a separate plan.

The proposal will be conditioned to provide all essential infrastructure, including satisfactory arrangements for the provision of temporary sewer. A works maintenance bond will also be conditioned as part of the approval. The developer is currently constructing a sewerage connection which will ensure integration with Hunter Water's sewerage scheme.

- Chapter B2 - Environmental and Construction Management

An environmental and construction management plan has been imposed as a condition of development. This will cover a range of issues including:

- B2.2 General standards

The development will be designed to prevent or mitigate against pollution and comply with relevant legislation.

- B2.3 Water Quality Management

Development will comply with relevant Water Quality Plans. The proposed system of water management has been designed so as to comply with relevant water quality standards.

- B2.4 Acid Sulphate Soils

This has been addressed – refer to Clause 51A of LEP outlined above.

- B2.5 Landfill

Relevant conditions of consent to be imposed regarding the provision of fill.

- B2.6 Contaminated Land

Development will comply with SEPP 55 (see above) and Port Stephens Contaminated Land Policy.

- B2.7 Vegetation Management

Refer to assessment detailed in Section 2 of this assessment report

- B2.8 Koala Management

Refer to assessment detailed in Section 2 of this assessment report

#### B2.9 Mosquito Control

Mosquito control measures will be required for all future development within the subdivision.

- B2.10 Weed Control

Conditions of consent relating to weed management within the vegetation corridor will be imposed to ensure that this area remains a suitable area for fauna in the locality.

- B2.11 Tree Management  
Refer to assessment detailed in Section 2 of this assessment report
- B2.13 Aircraft Noise  
A Noise Impact Assessment (report by Reverb) has been undertaken and a number of recommendations will be conditions for this development. The recommendations address both noise impacts on the future occupants of the subdivision (including from aircraft noise) and also the impacts of the construction of the subdivision on adjoining land uses and future occupants of the subdivision.

There will need to be further acoustic assessments lodged with each DA for the development of individual allotments in order that noise impact "on and off" can be assessed. This is covered by the Reverb conditions.

- B2.14 Erosion and Sediment Control  
Relevant conditions of consent to be imposed.
- B2.15 Construction Waste  
A Waste Management Plan will be provided as a condition of development consent. This will be prepared as part of the Construction Environmental Management Plan.
- B2.16 Works in the Public Domain  
The applicant should be made aware that a condition of consent will be required to the effect that a plan of proposed line marking and regulatory signage within the public roads will be required for submission to Port Stephens Local Traffic Committee (via Council) for each stage of works, well in advance of construction to allow for the approval process. The minimum timeframe is three months depending on the timing of the submission.

The development will also be conditioned to ensure that appropriate hoarding or fences are erected between the work site and public place, with the hoarding or fencing to be removed once the development is completed.

- B3 – Parking, traffic and transport
  - ❖ The traffic management measures on page 28 of the SEE for the Williamstown Aerospace Park states that the potential for traffic calming measure has been incorporated into the design. The applicant has specified the location and type of LATM measure(s) to illustrate that these will be incorporated into the design. A typical plan and section has been provided to identify the proposed LATM measures, along with a plan view of proposed locations. Inclusion of pedestrian refuges in the vicinity of proposed bus stops will assist in safe pedestrian movement as well as providing a traffic calming affect.

- ❖ The traffic management measures includes a marked cycling lane incorporated into the main road, along with proposed bus routes and bus stops.
- ❖ The management of on-street parking along the proposed second access road has been addressed in the application. The development has been conditioned to prohibit parking along the access road and parking restrictions on other roads are to be imposed to ensure that adequate parking for short-term visitors to the subdivision.
- ❖ A plan showing swept paths has been provided for the design vehicles through all intersections
- ❖ A condition has been imposed regarding the provision of an emergency access way to Cabbage Tree Road. A condition has also been imposed that requires the emergency access way to be contained within a 30m future road corridor. This will enable a second access road to be constructed for the development at an earlier stage of development should this be required as a result of the review of traffic projections for the development. The current development does not propose the second access way to be constructed prior to Stage 5 or 35 hectares of the development, however the review of trip generation is undertaken prior to Stages 1C and 4, or prior to 9 and 27 hectares of development.

#### Chapter B5 - Industrial Development

Future buildings and development will be addressed against the performance criteria and development controls contained in this chapter. A site-specific development control plan is also being prepared for the site.

Water Management Act - The proposal was referred to the Department of Water and Energy, as it was identified as an 'integrated development' by the applicant due to the potential impact on groundwater. The DWE responded with concerns that the impact on groundwater has not been adequately considered, including addressing groundwater management policies and the relevant provision of the Tomago Tomaree Stockton Groundwater Water Sharing Plan,

Section 94 - The standard section 94A based on industrial land area will be imposed on the consent.

Threatened Species - The proposal was referred to the Department of Environment, Climate Change and Water (DECCW) as threatened species development. DECCW has issued their concurrence.

#### **Section 79C 1(b) Likely Impact of the Development.**

##### Environmental impacts on the natural

Ecological impacts have been considered and assessed through the Ecological assessment, Species Impact Statement and including the provision of an acceptable offset site.

Council have received correspondence from DECC advising that the Minister has determined that the proponent's offset offer satisfies the conditions of the Deed of Agreement, being the provision of an environmental offset to compensate for loss of biodiversity and thus accepts the offer.

#### ASSESSMENT OF SIGNIFICANCE

Due to the impact of the development on threatened species and EECs, an Ecological Assessment and Species Impact Statement (SIS) was prepared as part of the development application.

The Species Impact Statement does not carry out any additional survey work, but relies on previous surveys as a basis for assessment. The Director General's Requirements (DGRs) for an SIS allow for the use of recent surveys to assist in addressing the requirement, and only when these previous surveys use appropriate methodologies and survey in correct seasons and weather conditions. The DGRs specifically state that additional surveys are required, unless it can be demonstrated that additional surveys are likely to have an insignificant impact upon the outcomes of the surveys.

The surveys that were undertaken were undertaken by appropriately qualified and experienced persons using methods considered to be the ones most likely to detect the targeted species. The ecological fieldwork and reporting that informed the WAP rezoning, biodiversity offsets process and the SIS/development application identified that in regards to impact assessment, the three key species for this site were:

- Eucalyptus parramattensis ssp. Decadens
- Long-nosed Potaroo (Potorous tridactylus)
- Wallum froglet (Crinia tinnula)

All of these species were adequately covered by the fieldwork undertaken on site, given that E. parramattensis ssp. Decadens and Long-nosed Potaroo can be surveyed for at any time of the year, regardless of season and that Wallum Froglet surveys were carried out in peak detectability time, coinciding with rainfall events during its late winter breeding period. The surveys relied upon for the SIS were carried out by GHD in February 2007 and December 2007 and by RPS Harper Somers O'Sullivan in June 2008.

#### DETAIL ON OTHER SPECIES

The RPSHSO (RPS Harper Somers O'Sullivan) ecologists responsible for the preparation of the SIS have confirmed that:



- Other relevant threatened species were either recorded on the site (Koala, Little Bentwing-bat, Eastern Freetail-bat, Large-footed Myotis, Greater Broad-nosed bat); or
- Were adequately addressed by the documented field survey effort (*Angophora inopina*, *Diuris arenaria*, *Eucalyptus camfieldii*, *Persicaria elatior*, *Rulingia prostrata*, Green & Golden Bell Frog, Freckled Duck, Blue-billed Duck, necked Stork, Pied Oystercatcher, Wompoo Fruit-Dove, Superb Fruit-Dove, Glossy Black-Cockatoo, Little Lorikeet, Swift Parrot, Powerful Owl, Masked Owl, Grey-crowned Babbler, Brown Treecreeper, Regent Honeyeater, Spotted, tailed Quoll, Brush-tailed Phascogale, Squirrel Glider, Grey-headed Flying-fox, Eastern Bentwing-bat, Yellow-bellied Sheath-tail-bat, Eastern False Pipistrelle); or
- Remaining species were summer migratory wader/maritime species (Lesser Sand Plover, Terek Sandpiper, Little Tern) that would only use parts of the site as marginal foraging habitat at most. Such habitat is limited on site, will for the most be retained within the proposal, and the site occurs near to the habitat in much larger areas, including protected conservation reserves.

In summary, the outcome of any additional survey for such species would have an insignificant impact upon the outcome of the survey and assessment process.

Thus considering that the three key species which triggered the SIS and other relevant species have been adequately surveyed, the requirement for additional ecological field survey work was considered unnecessary because the additional survey would have had an insignificant impact upon the outcomes of the surveys.

Therefore, in both DECC's and Council's opinion, Section 4.1 of the DGR's has been complied with.

#### *OTHER ISSUES*

*Additional species that may need to be targeted as part of the SIS.*

One species (*Lindernia alsinoides*) is not listed on the Threatened Species database for the area and neither species (*Lindernia alsinoides* and *Maundia triglochenoides*) were identified in previous assessments for rezoning the site by GHD, RPS HSO, DECC or Council. As outlined above, DECC have assessed the threatened species and potential impacts and deemed the targeted survey works as suitable for the assessment of the SIS in accordance with the DGR's.

*Mitigation measures as required by Clause 7.1.2 of DGR's*

Clause 7.1.2 of the DGR's state that where significant modification of a proposal is not possible, then offsite compensatory strategies should be considered, and mechanisms of how they might best occur should be evaluated and discussed. The provision of 250 hectares of offset land within the Port Stephens Council LGA and adjacent to lands that are part of the National Parks Estate was an agreed mechanism between DECC and the proponent to provide guidance on how Clause 7.1.2 could be achieved.

The Defence and Airport related employment zone (DAREZ) was strategically located adjacent to Australia's largest operating Air Force Base, RAAF Base Williamtown, and Newcastle Airport, Australia's fastest growing regional airport. The subdivision layout achieves the objectives of the DAREZ zone in providing large developable areas adjacent to the most technically feasible location of the upgraded taxiway and expanded tow-way. Sufficient land has been required to be located adjacent to this new airside access land for the development of sizeable aircraft maintenance hangars to the large lots for the various support businesses that typically support large Defence contractors. This land has been provided in the only technically feasible land to the north of the natural vegetated habitat with the challenging ground conditions which lie on the southern boundary of the site.

In consultation and with the agreement of DECC, Clause 7.1.2 has been actioned and a 250 hectare parcel of offset land has been transferred to DECC as a compensatory outcome along with a \$20,000 fee to facilitate the Plan of Management implementation measures. DECC staff have conducted a walk through of the site with the proponent's offset site ecologists (Eco Hub) and have confirmed with Council that the offset land adjoins the Cumbury National Park and is to be gazetted as National Park under the National Park and Wildlife Act 1974 as part of the State's reserve system.

DECC have also advised that the land will be subject to a Plan of Management prepared under the National Park and Wildlife Act 1974. This is considered the highest order biodiversity offset outcome for the proposal as the land is controlled by DECC and legislative requirements will ensure that a Plan of Management will be prepared for the future operation of the significantly expanded Cumbury Park. The above actions have now substantially complied with the DGR's with respect to mitigation measures and also the requirement for a Plan of Management. Therefore, it is considered that the objectives and outcomes of the DGR's with respect to Clause 7.1.2 have been substantially complied with.

Impacts for the clearing of the site and the removal of documented species have been ameliorated by provision of 250 hectares within the Port Stephens Council LGA which it is considered meets all of the following criteria:

- *The Environmental Offset Land should:*
  - *improve or maintain the biodiversity values of the Lower Hunter region;*
  - *meet the objectives of the Lower Hunter Regional Conservation Plan*
  - *be consistent with the Lower Hunter Regional Conservation Plan 25 Year Investment Strategy, and*
  - *provide habitat for threatened species and one or more endangered ecological communities.*
- *The Environmental Offset Land must be either:*
  - *one parcel of land with an area of not less than 160 hectares.*

- *In decreasing order of acceptability to the Minister, the Environmental Offset Land should be:*
  - one parcel located adjacent to land presently reserved under the NPW Act, and
- *The Environmental Offset Land is located within the Lower Hunter Catchment Management Authority subregions and must be an area identified as a Biodiversity Investment Layer on the Map.*

Based on these outcomes, mitigation of the documented impacts has been provided to the satisfaction of the concurrence authority, DECC.

#### *Plan of Management for the offset site*

As stated above, the offset land has been transferred to DECC as part of the DECC National Park Estate and will have its own Plan of Management for the park prepared under the National Park and Wildlife Act 1974 (as confirmed in the DECC email to Council of 3 September 2009). The DGR's do not explicitly require a Plan of Management to be prepared prior to determination of the Development Application, only that a Plan should be prepared prior to potential approval of the development. It is considered that sufficient certainty that offset land will have a Plan of Management prepared is provided by the binding legislative requirement under the National Park and Wildlife Act 1974.

#### *Adequacy of the offset site*

The offset site is integral to the assessment of the Species Impact Statement, Port Stephens Council requested a copy of the details of the offset package and the methodology outlining that the offsets are valid. This has particular reference to the statement in the SIS (pg 86) where HSO state "The offset package will ensure that the larger and strategically better located parcels of habitat for the affected EEC' swill be conserved in perpetuity, increasing the permanent conservation of these vegetation types"

This request is being made in order to satisfy the Director Generals Requirements for a Species Impact Statement.

Consistent with the DGRs in relation to the requirements of for Ameliorative Measures, an offsite compensation site has been provided. The provision of 250 hectares of offset land with the Port Stephens LGA and adjacent to lands that are part of the National Parks estate was an agreed mechanism between DECCW and the proponent to provide guidance on achievement of appropriate mitigation measures. The offset lands adjoin the Columby National Park and it is proposed they will become part of this National Park.

The Director General requires that “a full description and justification of the measures proposed to avoid or mitigate any adverse effect of the action on the species and populations and ecological community including a compilation of those measures.”

The mitigation measures proposed have been facilitated by way of a Deed of Agreement (DoA) and will be imposed as conditions of consent for the DA. The DoA cannot be used to propose offset methodology and justifications as it does not follow the requirements for a Species Impact Statement set out by the Director General. Council has assessed the offset site and associated reporting against the requirements of the Director General as well as the Deed of Agreement.

*Under the Deed of Agreement, the Environmental offset land should:*

- *Improve or maintain the biodiversity values of the Lower Hunter Region,*
- *Meet the objectives of the Lower Hunter Regional Conservation Plan,*
- *Be consistent with the Lower Hunter Regional Conservation Plan 25 Year Investment Strategy, and*
- *Provide habitat for threatened species and one or more endangered ecological communities.*

*The Environmental offset land must be either:*

- *one parcel of land with an area of not less than 160 hectares, or more than one parcel of land with a total area of not less than 160 hectares*

*In decreasing order of acceptability to the Minister, the Environmental offset land should be:*

- *one parcel located adjacent to land presently reserved under the NPW Act, and*
- *more than one parcel with at least one parcel located adjacent to land reserved under the NPW Act and remaining parcel or parcels of land providing Like for Like Biodiversity Outcomes, and*
- *one parcel providing Like for Like Biodiversity Outcomes, and*
- *more than one parcel providing Like for Like Biodiversity Outcomes.*
- *The Environmental Offset Land must be located within the Lower Hunter Catchment Management Authority subregions and must be an area identified as a Biodiversity Investment Layer on the Map.*

The environmental offset land is located within the Lower Hunter Catchment Management Authority subregions and is an area identified as a Biodiversity Investment Layer on the Map.

Based on these outcomes, mitigation of the detrimental impacts has been provided to the satisfaction of the concurrence authority, DECCW. Council also considers that the mitigation measures have been satisfactorily met.

The adequacy of the site for offset purposes has been addressed against the key criteria outlined above.

The proponent identified a 250 hectare parcel of land for an offset in accordance with the criteria above, located adjacent to the Columby National Park which is situated within the Lower Hunter Catchment Management Authority subregion and within the Port Stephens Local Government Area.

DECC accepted the transfer of the offset land to the National Park estate as substantially complying with the requirements for compensatory offsets under the DGR's. The land is adjacent to an existing National Park and meets the highest order of the "maintain or improve" biodiversity criteria. Whilst not every threatened species on the Williamtown Aerospace Park site will be offset by the provision of the offset land, DECC have assessed that the overall biodiversity value has substantially complied with the "maintain or improve" outcome.

#### **SOCIAL AND ECONOMIC CONSIDERATIONS**

It is also a requirement of the SIS process that the Director-General take into account social and economic considerations as related to the proposal. These issues have been previously outlined in the Port Stephens Council Officer's report of 24<sup>th</sup> June 2008 recommending finalisation of the DAREZ LEP. In this regard, we have provided the relevant excerpts below:

##### **"ECONOMIC IMPLICATIONS"**

*The economic impact assessment submitted with the rezoning estimates that the DAREZ has the direct capacity to create up to 2680 jobs during construction, and 5,600 jobs upon completion with an income effect of \$246.6 Million per annum.*

*These positive economic impacts are significant. Existing the future military investment in the base, the projected continuation of growth in civilian passengers through the airport combined with the proposed draft LEP, is likely to; attract significant and ongoing private investment into the Port Stephens Local Government Area; create local employment opportunities (expected to be mostly highly qualified and skilled jobs plus multiplier effects); reduce the need for Port Stephens residents to travel outside of the LGA for work; and, reduce escape spending.*

##### **"SOCIAL IMPLICATIONS"**

*The economic implications of the draft LEP should be considered against the proposed urban release areas of Kings Hill and Medowie and the associated social implications of developing these areas in relative close proximity to the DAREZ site. Whilst planning for these areas is seeking to provide optimum opportunities for more sustainable employment activities within these areas, their close proximity to the DAREZ site is likely to create a mutually supportive relationship in socio-economic terms.*

It should be noted that the site is identified as "Proposed Employment Land" within the Lower Hunter Regional Strategy 2006 but outside the identified regional green corridor within the same Strategy. As stated within the Council report of 24 June 2008 the rezoning of the site is in accordance with Council's community Settlement and Infrastructure Strategy 2007.

The region has a high level of employment self sufficiency. Creation of employment opportunities such as the Williamstown Aerospace Park will ensure the level of self sufficiency continues into the future within communities such as Medowie, Raymond Terrace, the Tomaree Peninsula and planned communities such as Kings Hill. Continuation of the employment opportunities will maximise the sense of community spirit within these locations and continue to strengthen overall regional identity.

The addition of further conservation lands to the National Park Estate also provides social benefits by increasing the recreational opportunities for residents in the region.

In assessing the submitted SIS, the Director-General must consider the environmental impacts of the development, and weigh these up against the environmental, social and economic benefits of the proposed development and any mitigation measures proposed. Based on this assessment, the Director-General has issued concurrence for the proposal.

*Use of Biobanking methodology for adequate assessment of the development and offset sites.*

Clause 7.1.2 of the DGR's states that Biobanking methodology can be used as a general guide to determine the *adequate assessment of the development and offset sites*.

However the biobanking methodology is not considered to be mandatory to provide adequate justification to the proposed offset.

The DGR's have a number of options for assessment of offset land and the SIS process is considered to be an appropriate avenue for assessment. The SIS process provides the mechanism and actions for determining the offset and Council and DECC have undertaken their own assessment to determine what is suitable. The land is adjacent to a National Park and overall outcome is the highest order of offset as identified in the criteria detailed in clause 5 above, and actioned by the transfer of the land to DECC and the National Park Estate.

It is therefore considered to be a suitable avenue for assessment under the Environmental Planning and Assessment Act 1979

### **Conclusion**

Overall, it is considered that the SIS substantially complies with DGR's in accordance with Section 111 of the Threatened Species Conservation Act 1995. This substantial compliance has been further confirmed by the provision of DECC's Statement of Concurrence of 5 August 2009.

It is considered that the applicant has provided additional information to demonstrate that additional surveys are not required as additional surveys are likely to have an insignificant impact on the outcomes of the surveys. This is consistent with the DGRs for the Species Impact Statement.

The Plan of Management is to be provided for the offset site under the requirements of the National Park and Wildlife Act 1974, which specifies that Plans of Management are to be prepared for National Parks. In this respect, the requirements of the SIS are considered to be met.

A referral to the Department of Environment and Climate Change was sent, given this Department's role as a concurrence authority. DECC wrote to Council on 30 January 2009 stating that it was satisfied that the proposed DAREZ rezoning and subsequent development can proceed subject to the provision of an appropriate offset offer. Furthermore the letter stated that the Deed of Agreement between the land owners, Council and Minister for DECC will deliver a satisfactory biodiversity offset and that the Department raises no objection on biodiversity ground to the subsequent development of the DAREZ (WAP) land.

A response from DECCW dated 5 August 2009 stated that DECCW is satisfied that the Director General's Requirements and the requirements of the EPA Act have been met to a sufficient standard for the purposes of DECCW's statutory responsibilities. It has therefore issued concurrence for the proposed development.

#### Ecological Outcomes

The Defence and Airport related employment zone (DAREZ) was strategically located adjacent to Australia's largest operating Air Force Base, RAAF Base Williamstown, and Newcastle Airport, Australia's fastest growing regional airport. The subdivision layout achieves the objectives of the DAREZ zone in providing large developable areas adjacent to the most technically feasible location of the upgraded taxiway and expanded tow-way. Sufficient land has been required to be located adjacent to this new airside access land for the development of sizeable aircraft maintenance hangars to the large lots for the various support businesses that typically support large Defence contractors. This land has been provided in the only technically feasible land to the north of the natural vegetated habitat with the challenging ground conditions which lie on the southern boundary of the site.

The environmental impacts of the development comprise the complete loss of all habitat from the site, with the exception of the lot containing the aboriginal keeping place, and the Lots on the southern boundary of the site left vegetated.

Considering the RAAF base importance to the national interest, and the significant social and economic benefits of the proposal, the ecological losses at the site are an unavoidable consequence of the development site location inherently requiring connection to the existing RAAF base, that has state and national strategic implications born out of the Lower Hunter Regional Strategy, and the National Defence White Paper.

The locally significant environmental implications for ecology (all but total loss on-site) arising from the development are outweighed by the state and nationally significant economic and social implications linked to air force defence, and the airport associated with this subdivision development.

The development is commendable, having provided for threatened species offsets, careful and considered archaeological investigation and response, Water Sensitive urban Design principles embodied in a heavily constrained drainage environment, along with a well integrated and planned traffic and access response to the precinct.

The development provides a clear structure plan for a well planned built and landscaped outcome to be managed through a comprehensive Development Control Plan presently being prepared for the site.

#### Soil, Water, and Groundwater Assessment

The surface and groundwater attributes of the site and surrounding area and proposed water management measures to be incorporated in the proposed development are described in the following reports and information that have been assessed:

Williamstown Aerospace Park (WAP) Flood Assessment and Stormwater Strategy for for Subdivision Development Application Revision F – prepared for Hunter Land Pty Ltd by Parsons Brinckerhoff and dated June 2010 (hereafter referred to as 'Stormwater Strategy June 2010')

Proposed Industrial Subdivision Williamstown Aerospace Park (WAP) Development Application – (comprising Project No. 2118839A Plans No. 0000 to 0025) prepared for Hunter Land Pty Ltd by Parsons Brinckerhoff and dated June 2010 (hereafter referred to as 'DA Plans June 2010').

The site is located approximately 15 km north of Newcastle and is immediately to the south of Williamstown Airport and forms part of the Defence and Airport Related Employment Zone (DAREZ). The site has been specially zoned SP1 – DAREZ for the purpose of providing support services for the growing regional airport. Development of the site for airport related services is important for the future growth of the airport.

Williamstown Aerospace Park Flood Assessment and Stormwater Drainage For Subdivision Development Application (Stormwater Strategy June 2010) describes the flooding, stormwater and groundwater aspects of the proposed development.

The proposed development involves:

- Clearing of the majority of the 90 hectare site to enable cut and fill earthworks to be undertaken to reshape the site. It is understood that all clearing will be undertaken as part of the first stage of development to provide access to material on elevated sections of the site that will be used to fill lower sections.



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- Development of the site in 6 Stages as shown on DA Plan 0002 over approximately a 20 year period with typically one stage being developed every 2.0 to 2.5 years.
  -
- Reshaping the site to a minimum level of 3.2 mAHD to provide sufficient freeboard above the 1.9 mAHD 100 year Average Recurrence Interval (ARI) flood level for the site (Williamtown Salt Ash Flood Study, WBM April 2005). This will include filling of the existing sewerage treatment dam in the northwest corner of the site within Stage 1C.
  -
- Proposed earthworks involving approximately 150,000 m<sup>3</sup> of cut and filling from material on-site and the importation of up to approximately 700,000 m<sup>3</sup> of fill material over the life of the staged development.
- Subdivision of the site into:
  - - 6 Lots for drainage infrastructure;
    - 1 lot that will be an Aboriginal Keeping Place; and
    - 90 lots that will be subject to future development and a corresponding development assessment process. Six of these lots (Lots 102, 303, 304, 307, 308 and 309 of Figure 5 of PB (June 2010) will require on-site detention systems with the remainder of the lots draining to two detention basins (Basin 1 and Basin 2) before being discharged to the east;
- Creation of road and drainage easements within the perimeter of the site in the locations shown on DA Plans May 2009 (Plan No. 0003 to 0009). The ownership of these easements will be transferred to Port Stephens Council as part of the proposed subdivision upon completion.
  -
- Construction of Roads 1 to 8 in the locations shown on the DA Plans May 2009 (Plan No. 0003 to 0009). This includes a secondary access road that will connect the western part of the site directly to Cabbage Tree Road.
  -
- Upgrading of the existing access track between Cabbage Tree Road and the south eastern boundary of the site as an emergency access.
  -
- Construction of Basin 1 and Basin 2 and associated flow control infrastructure (interallotment drains, pipes, box culverts and open channels) in the locations shown on Williamtown Aerospace Park Development Application Detail Plan Sheets 1 to 7 prepared by PB and dated 03/05/2010;
- Creation of a drainage easement between the outlet of Basin 2 in the south eastern corner of the site and Nelson Bay Road (see Williamtown Aerospace Park Development Application Detail Plan Sheet 2 dated 03/05/2010). This easement is currently shown as being over Hunterland owned land that is adjacent to the southern boundary of the site. The current zoning of this land does not permit this aspect of the proposed development and consequently

the drainage infrastructure will need to be accommodated within the proposed development site.

- 
- Construction of seven SPEL (or equivalent) Gross Pollutant Traps at locations shown on Figure 7 of Stormwater Strategy June 2010 to treat runoff from the developed area prior to it discharging into the open drain and detention basin system.

The site currently drains to adjoining privately owned properties via a series of shallow grassed channels and overland flow paths that generally drain in a southerly direction. At present runoff from approximately 21% of the site drains to the west, 41% to the south and the remaining 38% to the east and south east (estimated from the catchment boundaries provided by the applicant on Figure 4 of the Stormwater Strategy June 2010).

Development consent is sought for the subdivision of the 90 hectare site with the proposed development being undertaken in up to 6 stages as shown on the DA Plans. Development is proposed to commence in the central section of the site (Stages 1A, 1B, 1C and Stage 2) with the eastern section of the site developed in Stage 3. It is proposed that the western section of the 90 hectare site (Stages 4, 5 and 6) will be the last to be developed. The development will remove vegetation from the site, reshape the site and establish roads, drainage easements and land parcels that will be utilised for future airport related development.

Clearing, reshaping and establishment of roads and drainage infrastructure along with future development of the lots will replace the current vegetated pervious surface with impervious hardstand areas that can occupy up to 80% of the area of each lot under current Council limits. This development will result in changes to groundwater levels and quality, surface water quality and the rainfall/runoff regime of the site.

There are no formal easements that provide for drainage from the developed site. Council has indicated that all drainage from the site could be conveyed to the existing Nelson Bay Road drainage system until other drainage easements are in place. This would enable water to be conveyed to the south and west in addition to the east. As these easements are not in place at this time the development application needs to be able to demonstrate that all flows from the developed site can be to the Nelson Bay Road drainage system without having a significant adverse impact on the drainage system or the underlying groundwater aquifer.

The Nelson Bay Road drainage system comprises a grassed channel that has a bank elevation of approximately 1.25 mAHD. Nelson Bay Road drainage channel drains via a culvert under Cabbage Tree Road before flowing into Fullerton Cove via the 14 Foot Drain and Ring Drain.

The combination of clearing the site, reshaping and developing the surface and collecting and conveying runoff from the entire site to the east has the potential to significantly increase the volume of water that is discharged into Nelson Bay Road drainage system. As a result of these changes, the volume of water discharging from

the site to Nelson Bay Road drainage system will approximately triple, potentially increasing peak flows and flow durations in the downstream system.

#### SURFACE WATER MANAGEMENT OBJECTIVES

Stormwater Strategy June 2010 sets out the following objectives for management of surface water for the site:

- **Pattern of site discharge:** In accordance with instruction from Port Stephens Council the surface water system is to direct all surface runoff to the east, rather than maintaining the existing pattern of drainage (which includes some discharge to the south).
- **Site discharge and afflux to surrounding lands:** Post development peak flow rates for 1 through to 100 year ARI events should not be greater than the predevelopment flow rates. The design should not result in adverse impacts such as afflux or nuisance flooding on adjacent properties or downstream landholders.
- **Water quality:** Best management practices are required so that post development pollutant export rates should not exceed the estimated pre-development levels.
- **Site flood immunity:** Development lots should be above the 100 year flood level. Floor levels should be assessed at the DA stage for individual lots, with consideration to the estimated 100 year flood level plus appropriate freeboard.
- **Site access and egress:** Site roads should provide safe access during 100 year flood events. Design criteria should include desirable maximum depths of 250-300mm and the velocity-depth product should be less than 0.4 m<sup>2</sup>/s for pedestrian areas, and less than 0.6 m<sup>2</sup>/s for traffic only areas.
- **Site Drainage:** Regrading of the development site should be designed with regard to the final drainage pattern such that all lots drain out. Performance of the site drainage system should not be affected by backwater flooding.
- **Safety:** Overland flow paths other than formal channels should contain the 100 year ARI flow to a depth velocity product of less than 0.4m<sup>2</sup>/s.

To achieve the above objectives the strategy developed for the site broadly involves extensive regrading of site levels to above flood immunity levels, generally so that surface water is directed towards the southern boundary, where it is collected in an open drain which directs flows towards Nelson Bay Road. Two detention basins located along the drain alignment mitigate peak flow rates to pre-development levels. The stormwater management strategy includes elements in the public domain and controls on future developments within lots. These aspects are discussed below.

For subdivision development

- An underground piped drainage system within road alignments, designed to minimum 10 year ARI. This system is to be isolated from groundwater interaction.
- Gross pollutant traps are to be located at the end of the piped drainage system, and prior to discharge to the system of open drains/basins.
- Channels and detention basins to be located within drainage reserves. The detention basins will detain peak stormwater flow rates to less than existing conditions.
- 
- Generally, the design of the drainage infrastructure will be in accordance with Council design manuals except as agreed with Council due to the flat topography.

For future building development

- Water quality controls consistent with the type of development proposed, with demonstrated ability to meet current best practice pollutant retention targets.
- Hardstand area runoff is to be directed toward garden beds and landscaped areas to improve opportunities for passive watering and to provide treatment for runoff generated by these areas.
- On-site detention for some lots in the east of WAP that meets the permissible site discharge criteria, as specified in this report.

In addition to these Stormwater Strategy June 2010 sets the following water management objectives for the proposed development:

Quantity

- The peak flow rates leaving the site should, as closely as possible, match predevelopment characteristics for a range of events from 1 year ARI to 100 year ARI.
- Site discharge hydrographs, when combined with existing flow hydrographs from surrounding catchments, should not cause increases in peak discharge rates in the downstream stormwater system that might exacerbate existing flooding.
- The existing site discharge runoff volumes should match pre-development characteristics, where practical and achievable.

### Quality

The quality of stormwater in events less than 1 year should be in accordance with current best management practices (i.e. with reference to Australian Runoff Quality, Engineers Australia, 2006), with a view to maintaining or improving notional pre-development pollutant levels.

### Total Water Cycle Management

The strategy should consider capturing and reusing stormwater for the purpose of toilet flushing and landscape irrigation. This will reduce the demand for potable water and result in a more sustainable development envelope. Runoff from impervious areas, where possible and practicable and if not captured for re use, should be directed towards landscaped areas to provide opportunities for passive watering and treatment. Some sites may have a future use requiring pre-treatment (GPTs, oil separators or similar), which should be considered as part of future development applications.

### Flood Risk Management

The site should be developed with regard to the likely flood risk. This will result in filling of the site, which also provides an opportunity to manage stormwater in the developed site topography.

For the purpose of this study, the assumed minimum standards for flood inundation are as follows:

- Lot levels; 100 year event plus appropriate freeboard assessed with consideration to sensitivity of the development to inundation, and an assessment of confidence in flood level estimation.
- Road levels; Provision of Safe egress in the 100 year flood event; maximum depth of inundation 250 mm in 100 year event and avoiding flooding of lots; overland flow paths safe for pedestrians and vehicles (generally  $\text{Velocity} \times \text{Depth} < 0.4 \text{ m}^2/\text{s}$ ).

• The development should not adversely impact the flooding regime and increase flood risk of the surrounding areas. It is noted that the achievement of flow 'quantity objectives' (stated earlier) may assist with flood risk management objectives.

### SITE DRAINAGE

The subdivision lot layout and proposed site levels should provide for drainage of the lots to the road/public domain without flooding the lots as a result of stormwater generated from the development site. Where required by design

topography, easements should be provided to allow for piped and overland flows to reach the public domain.

The objectives adopted in Stormwater Strategy June 2010 as set out above, are generally in accordance with best practice and Council's requirements and are considered to be reasonable for the proposed development.

As discussed in the following sections of this report, the proposed development in its current form does not fulfil all of the above objectives. It is considered that by appropriately conditioning any consent granted for the proposed subdivision, the proposed development could comply with the above objectives.

#### NSW OFFICE OF WATER REQUIREMENTS

NSW Office of Water (NOW) issued General Terms of Approval (GTA) for an earlier layout of the proposed development that involved a similar water management scheme on 22 December 2010. The GTA are set out in Appendix O of Stormwater Strategy June 2010.

It is noted that the GTA refer to Statement of Environmental Effects prepared by Harper Somers O'Sullivan dated May 2009 and Supplementary Groundwater Information for Williamstown Aerospace Park prepared by Parsons Brinckerhoff and dated December 2009. It is noted that aspects of the water management system for proposed development have changed since these reports were prepared and since NOW issued the GTA. The letter from NOW dated 22 December 2009 that accompanied the GTA specifically states:

The NSW office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional 'works' on waterfront land (i.e. in or within 40 metres from the highest bank of a watercourse, foreshore or lake). Once notified, the NSW Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed 'works' are part of Council's proposed consent conditions and the 'works' do not appear in the original documentation.

It is understood (Anthony Bryson NOW pers comm. 04/06/10) that NOW has been provided with a copy of the amended plans for the development and will be re-issuing GTAs for the development and that these GTAs are not expected to change apart from being updated to referencing the Stormwater Strategy June 2010 and DA Plans June 2010. Council will need to review the new GTAs when they are provided to confirm this understanding.

GTAs issued by NOW on 22 December 2009 in regard to surface water management requirements are set out in **Table 1**. These GTA's have been updated to include additional information requirements by letter dated 27 July 2010.

**Table 1 – NOW General Terms of Approval for Works requiring a Controlled Activity Approval under the Water Management Act 2000**

| <b>Number</b> | <b>Condition</b>   |
|---------------|--|
| 1             | <p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA 16-2009-324-1 and provided by Council as listed below:</p> <ul style="list-style-type: none"> <li>(i) Statement of Environmental Effects for Subdivision of the Williamstown Aerospace Park, Williamstown Drive, Williamstown. Prepared by RPS Harper Somers O'Sullivan, Job No. 23701, dated May 2009.</li> <li>(ii) Supplementary Groundwater Information for Williamstown Aerospace Park. Prepared by Parsons Brinckerhoff Australia Pty Ltd, Reference No. 2118839A, dated December 2009.</li> </ul> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p> |
| 2             | <p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the shore of the freshwater wetland in the vicinity of Basin 2 of the proposal.</p>  |
| 3             | <p>The consent holder must prepare or commission the preparation of:</p> <ul style="list-style-type: none"> <li>(i) Erosion and Sediment Control Plan</li> <li>(ii) Soil and Water Management Plan</li> <li>(iii) Vegetation Management Plan</li> </ul>  |
| 4             | <ul style="list-style-type: none"> <li>• All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water guidelines located at <a href="http://www.water.nsw.gov.au/water_trade/rights_controlled.shtml">www.water.nsw.gov.au/water_trade/rights_controlled.shtml</a></li> <li>(i) Outlet structures</li> <li>(ii) Riparian Corridors</li> <li>(iii) In-stream works</li> <li>(iv) Vegetation Management Plans</li> </ul>   |
| 5             | <p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.</p>  |
| 6             | <p>The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.</p>  |
| 7             | <p>The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.</p>  |
| 8             | <p>The consent holder must ensure that no materials or cleared vegetation that may obstruct flow, wash into the water body or cause damage to river banks</p>  |

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| <b>Number</b> | <b>Condition</b>   |
|---------------|--|
|               | are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.  |
| 9             | The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water. |

**Table 1 – NOW General Terms of Approval for Works requiring a  
Controlled Activity Approval under the Water Management Act 2000 (Cont)**

|                          |  |
|--------------------------|--|
| 10                       | The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.   |
| 11                       | The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised. |
| <b>END OF CONDITIONS</b> |  |



GTAs issued by NOW on 22 December 2009 in regard to groundwater are set out in **Table 2**.

**Table 2 - NOW General Terms of Approval for Works  
requiring a Licence under Part 5 of the Water Act 1912**

| <b>Number</b>  | <b>Condition</b>  |
|--|---|
| 1  | The approval holder must submit to the NSW Office of Water (NOW) a completed application form for a licence under Part 5 of the <i>Water Act 1912</i> prior to the commencement of any dewatering works.  |
| 2  | The approval holder must provide the following licence application:<br>(i) A copy of the development consent.<br>(ii) A licence fee of \$151 (by cheque made out to NOW).   |
| 3  | <ul style="list-style-type: none"> <li>The approval holder must ensure that development/works are completed in accordance with the following drawings and/or documents:<br/>(i) Statement of Environmental Effects for Subdivision of the Williamtown Aerospace Park, Williamtown Drive, Williamtown. Prepared by RPS Harper Somers O'Sullivan, Job No. 23701, dated May 2009.<br/>(ii) Supplementary Groundwater Information for Williamtown Aerospace Park. Prepared by Parsons Brinckerhoff Australia Pty Ltd, Reference No. 2118839A, dated December 2009.</li> </ul> |
| 6  | <ul style="list-style-type: none"> <li>The approval holder must allow NOW, or any duly authorised officer, unrestricted access to the works either during or after construction, for the purpose of carrying out any inspection or test of the works and its fittings.</li> </ul>   |
| 7  | <ul style="list-style-type: none"> <li>The approval holder must carry out any work or make any alterations deemed necessary by NOW, for the protection or proper maintenance of the works, or for the control of the water extracted or prevention of pollution of groundwater.</li> </ul>  |
| 8  | <ul style="list-style-type: none"> <li>The approval holder must ensure that tailings or other materials are prevented from being washed into any stream, river or lake.</li> </ul>  |
| 9  | <ul style="list-style-type: none"> <li>The approval holder must ensure that water is not pumped from the bore(s) for any purpose other than dewatering.</li> </ul>  |
| <ul style="list-style-type: none"> <li><b>END OF CONDITIONS</b></li> </ul> |   |

### Flooding Considerations

The region surrounding the proposed development is widely prone to flooding. Consequently, only minor changes to the land conditions have the potential to create adverse flooding problems, especially for downstream neighbours. In assessing the development application, Council needs to take into consideration the potential flooding risk and consequences of the proposed development both within the proposed development site and in the context of the wider area and particularly on adjoining and downstream properties.

### Flood Risk to the Proposed Development

As shown on Figure 3 of Stormwater Strategy June 2010, large areas of the site are within the 100 year ARI flood envelope. Consequently, the proposal includes site filling to protect the lots from these rare flood events and to provide sufficient freeboard and cover for the piped drainage system. The proposed level of filling will protect the site from these larger magnitude design flood events. Analysis indicates that additional filling of sections of the site will be required to provide sufficient cover for several sections of storm water pipe and culvert system.

Localised on site flooding issues associated with street and piped drainage are not assessed in Stormwater Strategy June 2010 and will need to be reviewed as part of the detailed design stage and quantified prior to the issue of Construction Certificates for each stage of the development.

### Potential External Flood Impacts of Proposed Development

#### Changes to Existing Flooding Regime

The proposed development has the potential to alter the flooding regime of the area in three principal ways:

- Proposed filling of parts of the floodplain to facilitate development of lowlying sections of the site will remove approximately 15 hectares from the fringes of the Hunter River/Fullerton Cove floodplain and hence will reduce the available flood storage volume of the floodplain. This reduction in flood storage volume is negligible in comparison to the total available flood storage volume is not expected to have a detectable impact on flood levels or flow velocities in the area.
- Development of the site both at subdivision and future development stages has the potential to significantly increase peak discharges and stormwater runoff volumes that will leave the site. At present there are no formal drainage easements to the south or west of the proposed development that could be used to convey discharges from the site to Fullerton Cove. As a result all discharges from the site at this time have to be conveyed to Council's Nelson Bay Road drainage system. This has the potential to increase nuisance flooding in Nelson Bay Road drainage system and the downstream system which comprises the 14 Foot Drain and ring drain which convey flows to Fullerton Cove. In considering this development application, Council needs to ensure that discharges from the site into the Nelson Bay Road drainage

system do not significantly change nuisance flooding downstream. This is addressed further in **Section 2.2.2**.

- 
- The development of the secondary access road between Cabbage Tree Road and the western end of the proposed development site (Road 1 as shown on Plan 0009 of DA Plan June 2010) will potentially create an obstruction to flood flows across a major flood way. This is addressed further in **Section 2.2.3**.

#### PEAK DISCHARGES

Stormwater modelling parameters adopted for the site are discussed in Section 4.0 and Appendices A to H of the Stormwater Strategy June 2010. A comparison of modelled pre and post development (with detention Basins 1 and 2) peak flows in Nelson Bay Road drainage system immediately downstream of the site are set out in Table 4.8 of the Stormwater Strategy June 2010 and reproduced in **Table 3**.

**Table 3 – Comparison of Pre and Post Development Flow Rates in the Nelson Bay Road Channel (North of Cabbage Tree Road)**

| <b>ARI</b> | <b>Pre Development Peak Discharge (m<sup>3</sup>/s)</b> | <b>Post Development Peak Discharge (m<sup>3</sup>/s)</b> |
|------------|---|--|
| 1          | 0.8   | 0.6  |
| 5          | 2.2   | 1.7  |
| 10         | 2.8   | 2.3  |
| 20         | 3.4   | 2.8  |
| 100        | 4.6   | 4.4  |

As shown in **Table 3**, modelling undertaken as part of the Stormwater Strategy June 2010, indicates that potential increases in peak discharges from the site can be largely addressed through the use of on-site detention basins and associated flow control structures for the full range of storm events up to and including the 100 year ARI event.

The design and function of detention Basins 1 and 2 are discussed further in **Section 4.1**.

#### NUISANCE FLOODING AND DOWNSTREAM IMPACTS

Nuisance flooding downstream of the site can be caused by increases in peak discharge from the site and through increased duration of out of bank flows as a result of discharges from the site. As set out in **Section 2.2.1**, modelling indicates that through the use of detention basins as proposed, peak discharges from the developed site can be reduced to be less than or equivalent to that from the existing site. In undertaking this modelling, a best estimate of existing runoff characteristics and a sensitivity analysis has been undertaken to determine a benchmark against which the performance of the proposed development can be considered.

Modelling undertaken as part of the Stormwater Strategy June 2010 also indicates however that total flow volumes discharged from the site will significantly increase as a result of several factors including:

- - Reduced evapotranspiration as a result of vegetation clearing on the 90 hectare site which is estimated to potentially increase runoff from the site by on average approximately 600 ML/year. This will be partially off set by net evaporation from Basins 1 and 2 which will be estimated to be on average approximately 20 ML/year;
  - Reduced infiltration to the underlying groundwater aquifer due to a significant increase in the impervious area on-site as a result of road, hardstand and building construction which is estimated to potentially increase runoff by on average approximately 160 ML/year.
  - Concentration of surface flows from the site through the collection and conveyance of all runoff from the site to the Nelson Bay Road system. This will result in reduction in flows to the west and south and increase in flows to the east. Conveying all runoff to the east will result in runoff from the total 90 hectare site being conveyed to Nelson Bay Road compared to the runoff from approximately 34 hectares or less of the site that currently drains to the east to Nelson Bay Road drainage system. It is estimated that at present during an average year approximately 105 ML/year currently drains from the site to Nelson Bay Road drainage system. This will increase to approximately 285 ML/year through the diversion of runoff from the south and west draining catchments alone.

As a result of these changes, net runoff from the site to Nelson Bay Road drainage system during an average rainfall year could increase from approximately 105 ML/year to approximately 950 ML/ to 1000 ML/year (taking into account reduced evapotranspiration, infiltration and diversion of flows to the east). This is approximately a 9 to 10 fold increase in the volume of runoff from the site that flows to the Nelson Bay Road drainage system.

This increase in runoff may be reduced over the life of the development through:

- - Access to drainage easements to the west and/or south of the site that would enable the volume of runoff conveyed to the east to be reduced;
  - Implementation of rainwater capture and harvesting from the whole of site (i.e. harvesting from Basins 1 and 2) or on an individual lot basis. For capture and harvesting to fully offset the estimated increase in runoff, on average approximately 10 to 12 ML per year would need to be harvested from each lot. This equates to harvesting approximately 200 KL (or 200 m<sup>3</sup>) per week from each lot which is unlikely to be achievable unless a major water harvesting scheme is implemented.
- - Infiltration of suitable quality runoff (i.e. roof runoff) into the underlying groundwater aquifer. It is considered that this will only have limited potential

to reduce total runoff volumes due to the elevated groundwater levels and low hydraulic gradient that exists at the site. In addition, as the direction of groundwater movement from the developed sit will be to the south, groundwater draining from elevated levels on the site as a result on any infiltration system is likely to drain into the open channel system that is proposed to be constructed between Road 2 and the southern boundary of the site. This open channel will convey runoff to Basin 2 and Basin 1 from where it will drain to Nelson Bay Road drainage system.

None of these measures that could reduce the runoff volume are included in the proposed development other than evaporation that will occur from Basins 1 and 2 which represents approximately 2% of the predicted increase in runoff. Some of reduction in runoff volumes may be achieved as part of future development of the site through water harvesting and reuse. Additional reduction will be able to be achieved if additional drainage easements to the west and/or south are obtained.

Modelling undertaken as part of the Stormwater Strategy June 2010 indicates that proposed discharges from the site to the Nelson Bay road drainage system could increase the duration of out of channel flooding upstream of Cabbage Tree Road in 5 year ARI and 100 year ARI events by up to 13 hours and 28 hours respectively.

XP-SWMM modelling detailed in Stormwater Strategy June 2010 indicates that the proposed detention system and discharge controls for the site have the capacity to provide adequate attenuation of the peak discharges, however the modelling indicates that residual impacts in the form of nuisance flooding downstream (i.e. the Nelson Bay Road table drain, 14' Drain and Fullerton Cove ring drain) still potentially exist. Hydraulic parameters used in undertaking this modelling are discussed in Section 4.0 of the Stormwater Strategy June 2010 (Revision F).

Modelling undertaken as part of the Stormwater Strategy June 2010 has been analysed to determine the period of out of bank flooding predicted for the Nelson Bay Road drainage system upstream of Cabbage Tree Road for the existing and developed situations. The results of this analysis is summarised in **Tables 4** and **5** respectively. In undertaking this analysis it has been assumed that the existing Nelson Bay Road drainage channel has sufficient hydraulic capacity to convey a flow of 1.2 m<sup>3</sup>/s.

**Table 4 - Predicted Period of Out of Channel Flooding - Existing Catchment**

| Storm Duration<br>(minutes) | Period of Out of Channel Flooding (Hours) |     |     |     |      |
|-----------------------------|---|-----|-----|-----|------|
| Storm ARI<br>(years)        | 1   | 5   | 10  | 20  | 100  |
| 540                         | 0.0                                       | 2.4 | 2.9 | 3.4 | 5.5  |
| 720                         | 0.0                                       | 3.4 | 4.1 | 4.8 | 5.8  |
| 1440                        | 0.0                                       | 2.6 | 3.1 | 3.8 | 8.9  |
| 1800                        | 0.0                                       | 3.6 | 4.1 | 6.2 | 10.8 |
| 2160                        | 0.0                                       | 5.0 | 6.0 | 6.5 | 8.9  |
| 2880                        | 0.0                                       | 3.4 | 4.6 | 5.8 | 9.1  |

As can be seen from **Table 4**, modelling undertaken as part of the Stormwater Strategy June 2010, indicates that 1 year ARI flows from the existing catchment are contained within the channel with flows from the 5 year to 100 year ARI events being out of channel for periods ranging from 2.4 hours to 10.8 hours.

**Table 5- Predicted Period of Out of Channel Flooding – With WAP Development**

| Storm Duration<br>(minutes) | Period of Out of Channel Flooding (Hours) |      |      |      |      |
|-----------------------------|---|------|------|------|------|
| Storm ARI<br>(years)        | 1   | 5    | 10   | 20   | 100  |
| 540                         | 0.0                                       | 4.6  | 10.3 | 13.9 | 19.0 |
| 720                         | 0.0                                       | 6.2  | 11.5 | 15.8 | 21.1 |
| 1440                        | 0.0                                       | 12.5 | 19.4 | 24.0 | 30.0 |
| 1800                        | 0.0                                       | 13.4 | 17.8 | 21.6 | 32.2 |
| 2160                        | 0.0                                       | 16.1 | 20.9 | 25.2 | 31.7 |
| 2880                        | 0.0                                       | 16.1 | 20.6 | 24.7 | 37.2 |

Modelling of the total WAP development undertaken as part of the Stormwater Strategy June 2010 with all runoff from the 90 hectare site being conveyed to the Nelson Bay Road drainage system, indicates (see **Table 5**) that 1 year ARI flows including from the developed site catchment are contained within the channel with flows from the 5 year to 100 year ARI events being out of channel for periods ranging from 4.6 hours to 37.2 hours.

**Table 6 – Increase in Predicted Period of Out of Channel Flooding after WAP Development**

| Storm Duration<br>(minutes) | Period of Out of Channel Flooding (Hours) |      |      |      |      |
|-----------------------------|---|------|------|------|------|
| Storm ARI<br>(years)        | 1   | 5    | 10   | 20   | 100  |
| 540                         | 0.0                                       | 2.2  | 7.4  | 10.6 | 13.4 |
| 720                         | 0.0                                       | 2.9  | 7.4  | 11.0 | 15.4 |
| 1440                        | 0.0                                       | 9.8  | 16.3 | 20.2 | 21.1 |
| 1800                        | 0.0                                       | 9.8  | 13.7 | 15.4 | 21.4 |
| 2160                        | 0.0                                       | 11.0 | 14.9 | 18.7 | 22.8 |
| 2880                        | 0.0                                       | 12.7 | 16.1 | 19.0 | 28.1 |

Assessment of the model results set out in **Tables 4** and **5**, indicates that development of the site as proposed will not increase nuisance flooding during a 1 year ARI event but will increase the period of out of channel flooding that could occur from between approximately 2.2 hours and 28.1 hours. It is understood that these extended periods of flooding could impact on the grounds of adjoining properties upstream of Cabbage Tree Road, however the extent and level of nuisance caused by this additional flooding has not been quantified.

Similarly, extended duration of flooding as a result of the development could impact on downstream properties and the ability of landholders to utilise accesses that cross the drainage system. Again the magnitude of this potential nuisance downstream of Cabbage Tree Road has not been quantified. Due to the low-lying nature of the downstream area it is considered likely that during events greater than a 10 year ARI, wide spread flooding is likely to exist and the potential nuisance impact of increased duration flows from the proposed development are not likely to be significant. As shown in **Table 5**, the predicted increases in flow duration even during a 100 year ARI event are predicted to be less than 1.5 days and as a consequence unlikely to adversely impact on pasture which can sustain being inundated for approximately a week.

Without additional modelling to assess the likely impacts that this development (and others that are likely in the area) could have on the downstream system, it is considered that the proposed system should be designed to both closely match the existing flood response, and minimise the increase in nuisance flooding caused by increasing the length of time that flows in the downstream system are out of bank.

Development consent conditions that balance the need for the development with minimum change to the flooding regime downstream of the site are required should consent be granted. Ideally, this will involve conditions regarding the attenuation of peak flow and total flow volume, however the constraints of the site mean that there are only very limited opportunities for the reduction in runoff volume by infiltration, evaporation and reuse. As a result, the additional stormwater volume created by

the proposed development should be discharged in a manner that minimises the nuisance to downstream receivers.

Analysis of modelling information provided as part the Stormwater Strategy June 2010 indicates that the proposed design could be adjusted during detailed design phase to firstly limit the peak discharge rate so that there was no increase in peak discharges downstream and then secondly to limit the ongoing discharge rate following a storm event to a rate which would minimise the likelihood of overtopping the downstream channel system (i.e. less than 1.2 m<sup>3</sup>/s). This would thereby minimise the potential for nuisance flooding caused by development of the site whilst still allowing the detention basins to drain following storm events.

A mechanism for controlling the potential for downstream nuisance flooding impacts has been identified and is included as a condition of consent, should consent be granted. The proposed control fundamentally seeks to limit the period of out of bank flooding as a result of full development of the site to being consistent with or less than that of the existing situation for up to the 1 in 10 Year ARI event.

This is considered feasible through utilising the proposed detention basins to detain flows coupled with on-site harvesting. If drainage easements to the south and/or west are obtained in the future, diversion of flows to these easements will also assist in reducing the volume of flow conveyed to the eas and the period of out of nuisance bank flooding. It will be necessary for the developer to demonstrate that the requirements of the consent condition can be met to Council's satisfaction prior to the issue of a Construction Certificate for each stage of construction.

To minimise nuisance flooding impacts downstream of the site it is proposed to limit the duration of out of channel ponding in the Neslon Bay Road drainage system to be consistent with that modelled for the existing catchment.

A suggested consent conditions to address this is provided in **Attachment 4**.

#### Secondary Access Road (Road 1)

The proposed alignment and conceptual water management infrastructure for Road 1 between Cabbage Tree Road and Stage 6 of the proposed development site is shown on Plan 0009 of DA Plans June 2010. It is understood that this section of Road 1 will not be built until the later stages of the development. Plan 0009 shows a series of box culverts at approximately 100 metre intervals along the proposed road alignment however no sizing or indication of the conveyance capacity of these culverts is provided.

It is considered that it is feasible from an engineering perspective to provide adequate flood conveyance capacity under the proposed road without adversely impacting on upstream and downstream flood levels or flow conveyance. Detailed design of the road and associated water management infrastructure will need to be provided to Council and approved prior to the issue of a construction certificate for construction of this section of Road 1.



It is considered that this can be adequately determined through engineering design prior to the roadway being constructed and can be can be conditioned accordingly should consent be granted for the proposed development.

A suggested consent conditions to address this is provided in **Section 8.0**

#### GROUNDWATER LEVELS AND GROUNDWATER QUALITY

Groundwater levels reported in Section 6.3 of Stormwater Strategy June 2010 range from 0.26 m to 1.01 metres below the existing surface of the site with groundwater expected to be at the surface in lowlying sections of the site and across larger sections of the site during prolonged wet periods.

Filling sections of the site to provide adequate freeboard/cover above the 100 ARI flood and piped drainage systems will change the groundwater regime of the site and potentially the adjoining area. In addition, the provision of engineering services and drainage infrastructure will intersect the groundwater table particularly in lowlying areas abd duirng periods when the groundwater table is high after prolonged rainfall. In particular, the proposed drainage channel and detention basins that will be located along the southern boundary of the site will at times intersect the groundwater table of the Tomago Sand Beds. Basin 2 will also pond water at times increasing the hydraulic gradient between the pond and the adjoining land and potentially increasing groundwater levels on the adjoining land parcel.

Modelling of the potential impacts of the proposed Basin 2 on surrounding groundwater levels undertaken for the proposed development (Section 6.5 and Appendix M of Stormwater Strategy June 2010) indicates that temporary ponding of water in Basin 2 has negligible potential to adversely impact on groundwater levels on the adjoining property to the south.

Groundwater modelling was also undertaken (Section 6.5 and Appendix M of Stormwater Strategy June 2010) to explore the potential impact on regional groundwater levels of using sand or clayey sand fill materials on-site. The modelling undertaken indicated that groundwater levels were not sensitive to the fill material used as the fill material to be used was to be emplaced above the modelled groundwater level. It is however noted that the groundwater modelling undertaken did not take into account groundwater levels during prolonged wet periods or determine the maximum predicted groundwater levels for the existing or developed site.

Typically NSW Office of Water (NOW) requires that a development does not intereseect the groundwater table and that an adequate buffer is required between the developed surface and the maximum predicted groundwater level across the site. Due to the close proximity of the groundwater table to the surface and the need to construct channels that have sufficient grade to drain runoff to the east (i.e. Nelson Bay Road drainage system), it is not considered feasible to construct the proposed development without having the drains and basins intersecting the groundwater table in places.

To undertake the development without intersecting the groundwater table would require the importation of a significant volume of fill material in addition to that set out in **Section 6** to raise the landform sufficiently to ensure that all services and drainage systems could be located above the groundwater table and to provide adequate cover over the piped drainage system.

Through discussions with the applicant, Council and NOW it was determined that the most feasible option to protect the underlying groundwater resource in the longer term was to allow the surface drainage system to intersect the groundwater table provided that all stormwater runoff from the developed site was treated to a suitable standard prior to being discharged into the proposed drainage channels and detention basins. It is proposed to achieve adequate levels of water quality treatment through the installation of seven SPEL Gross Pollutant Traps (GPTs) at the end of each of the pipelines conveying runoff from the road and road reserves to each the drainage channel and detention basins as shown on Figure 7 of Stormwater Strategy June 2010. To ensure that adequate quality of stormwater is achieved it will also be necessary for on-site water treatment systems to be installed on each individual lot as part of future development of the site. This will need to be addressed as part of a Development Control Plan controlling future development of individual lots.

It is considered that the potential groundwater impacts of the proposed development can, through appropriate conditions of consent (should consent be granted) be designed and constructed to comply with the specific requirements of NOW GTAs as issued on 22 December 2009.

#### ON-SITE STORMWATER MANAGEMENT

The proposed storm water system contains four main components that are intended to safely convey the storm water off site via a series of pipes, channels and detention basins. The street drainage system will be a traditional pipe and pit design under the road kerb. The road geometry will be such that it will contain the 1% Average Exceedence Probability (AEP) flood event (i.e. the flood that has a 1% likelihood of occurring within any given year). The proponent proposes to provide detailed design at the construction certificate stage.

In the proposal, the minor street system drains into the trunk drainage system, which incorporates the inter-allotment drainage system. This major system will be sized to convey the 1% AEP flood event in underground pipes or box culverts. The proposed major drainage system comprises four trunk drainage lines that run from north to south. Three of the drainage lines flow directly into the open channel that will follow the southern boundary of the site, whilst the fourth flows directly into detention Basin 2. Due to site constraints, it is necessary that these pipes will be laid at longitudinal grades less than the standard 0.5% adopted by Council. Council has agreed that pipes 600 mm in diameter and greater can be laid at grades down to 0.25% provided that adequate access points are provided to enable the pipe system to be maintained.

Most of the trunk drainage system discharges into an open channel that is to be constructed along the southern boundary of the site. The invert level of this channel

for its full length will be at the same level as the invert level of detention Basin 2 (specifically 1.5 mAHD). This will have the effect of increasing the detention capacity of Basin 2.

Two detention basins in series provide the necessary stormwater attenuation for the site. Basin 2 receives water from the open channel and spills into Basin 1 via a series of large culverts and an open channel. Basin 1 provides the main attenuation of discharges leaving the site and appears to be adequately sized to adequately detain flows from the 1% AEP event.

Discharges from Basin 1 are via a spillway, energy dissipator and open channel that connects the site to the table drain adjacent to Nelson Bay Road to the east of the site. The energy dissipator and open channel are shown on the DA Plans as being located on the land parcel that adjoins the southern boundary of the proposed development site. The current land use zoning of this land does not permit the construction of drainage infrastructure to service the proposed development. The locations of the spillway, energy dissipator and open channel have been subsequently amended by Parsons Brinckerhoff (Adam Shaw email 6 June 2010) to be wholly contained on the development site as shown on **Attachment 1**.

#### DETENTION BASINS

To reduce peak flows from the developed site it is proposed to construct two interconnected detention basins adjacent to the southern boundary of the site as shown on Figure 7 of Stormwater Strategy June 2010 (Basin 1 and Basin 2).

#### Basin 1

Unless additional drainage easements are obtained to the west or south of the site, all flows from Stages 1 to 6 of the developed 90 hectare site (except for the 6 lots that discharge directly to Nelson Bay Road/Williamstown Drive at the eastern end of the site) will discharge to Basin 1 before being discharged to the Nelson Bay Road drainage system. It is understood that Basin 1 is to be constructed as part of Stage 3 of the development with detention capacity until that time being provided by Basin 2 which will be constructed as part of Stage 1A..

Outlet details for Basin 1 are shown on DA Plans June 2010 Plans 0004 and 0019 however no information is provided as to invert levels of the outlet control infrastructure or the channel that will convey runoff to the Nelson Bay Road drainage system. The outlet configuration shown on DA Plan 0004 has been amended (Adam Shaw PB email 6 June 2010) to be fully contained within the proposed development site as shown on **Attachment 1**. In addition to this amendment a 4 metre wide access along the edge of the channel for maintenance and a drainage easement in favour of PSC will be required for this channel and access track, should consent be granted.

DA Plan 0004 as modified indicates that Basin 1 will have invert level of 1.0 mAHD and a Peak Water Level (100 yr ARI) of RL 2.3 mAHD. Top of Bank is shown as 2.7 mAHD (nominal) along the southern and western boundaries of the basin. Basin 1 as shown has Peak Volume of 73,000 m<sup>3</sup> at the Peak Water Level (100 yr ARI) of 2.3 mAHD indicating that the basin has a nominal 0.4 m of freeboard above Peak Water

Level. An emergency spillway at an elevation of 2.55 mAHD is provided for flows from flood events in excess of the 100 year ARI event.

The basin is to be constructed with 1H:4V internal and external batters with a 5 metre wide gravel access road at a nominal elevation of 2.7 mAHD located on the top of the western and southern embankments. Access to the northern and eastern edge of Basin 1 is via Road 07 which is sealed.

#### Basin 2

Basin 2 is to be constructed at the eastern end of the major diversion channel that will convey runoff from the western and northern parts of the site to the east (see **Section 4.2**). The basin will be constructed over an existing wetland that is underlain by sand, clay and peat layers.

A small diversion channel is proposed to be constructed along the southern boundary of Basin 2 to convey flows from the wetland that is straddles the southern boundary of the site and extends south of Basin 2. The proposed diversion channel will convey flows around a low ridge and back to the property to the south. Detailed design of this diversion channel will be required to be approved by Council prior to the Construction Certificate for Stage 1 being issued (see **Section 8**) should development consent be granted.

Construction of the embankment that will form the basin and adjoining channel has the potential to disturb Acid Sulphate soils. An Acid Sulphate Soil Management Plan will be required to be prepared by the applicant and approved by PSC prior to the issue of a Construction Certificate for Stage 1A should development consent be granted.

Construction of Basin 2 and the diversion channel has the potential to impact on the adjoining property to the south. A Construction Management Plan will be required to demonstrate the works can be undertaken without adversely impacting the adjoining property to the south. The Plan will need to be approved by Council prior to the issue of a construction certificate for Stage 1A (see **Section 8**) should development consent be granted.

The DA Plans June 2010 (Plan No. 0006) show that Basin 2 has an Inlet Level (IL) of 1.5 mAHD and will have a Peak Water Level (100 yr ARI) of RL 2.7 mAHD. Top of Bank is shown as 3.2 mAHD indicating that the basin has a nominal 0.5 m of freeboard above Peak Water Level. Basin 2 as shown in the DA Plans June 2010, has a Peak Volume at 2.7 mAHD of 10,500 m<sup>3</sup>.

The basin is to be constructed with 1H:4V internal batters and and 1H:3V external batters with a 4 metre wide access track at an elevation of 3.2 mAHD on the southern boundary of the basin. The access track connects to Road 03 (see DA Plan 0004).

No access has been provided to the western, northern or eastern edges of the basin which will significantly restrict the ability to maintain the basin. A 4 m wide easement

for access needs to be provided along the western, northern and eastern boundaries of the site should consent be granted.

No outlet details are provided for Basin 2 as part of the DA Plans June 2010. These will be required as part of Construction Certificate for first stage of development (Stage 1 A) should development consent be granted (see **Section 8**).

#### DRAINAGE CHANNEL

Drawing 0015 of DA Plans shows a cross section of the southern open channel with side batter slopes of 1(V):1(H), with rock lining. This contradicts the slopes specified on Drawing 0006 (1:4) and is well in excess of the Councils standard requiring 1V : 6H maximum side batters for grass lined channels. The channel lining should be stable for peak velocities expected in the channel for all events up to and including the 5% AEP (20 year ARI) flood. If the expected velocities in the proposed channel are too high for grass lining to be stable, and the design cannot be altered to increase the cross sectional shape of the channel to achieve this criteria, then alternative linings and geometry may be considered. Side slopes greater than 1(v):4 (h) will not however be acceptable. If batters steeper than 1 H : 4V are to be constructed, the edge of the top of the bank of the channel will need to be fenced to meet pool fence specifications.

The channel batter grades into Road 2 along the northern boundary. An earth embankment is to be constructed along the southern boundary of the channel. Construction of the embankment along the southern boundary of the channel has the potential to disturb Acid Sulphate Soils.

An Acid Sulphate Soil Management Plan will be required to be approved by Council prior to the issue of a Construction Certificate for Stage 1A should development consent be granted. (see **Section 8**)

Channel batter slopes, lining and fencing will need to be determined and approved by Council prior to the issue of a Construction Certificate for Stage 1A should development consent be granted. (see **Section 8**).

#### TRUNK DRAINAGE

The locations of the proposed piped trunk drainage system are shown in overview on Figure 5 of Stormwater Strategy June 2010. Details of the proposed pipes are provided in the DA Plans June 2010. Indicative Hydraulic Grade Lines for Lines 1 and 2 of the trunk drainage system are provided in **Attachment 1**.

Review of the DA Plans indicates that there are several outstanding issues that need to be addressed prior to the issue of any Construction Certificates for the development. Those are:

#### Depth of cover

The long section for Line 1 (Plan No 0022 of DA Plans June 2010) indicates that the depth of cover proposed is as little as 50 mm (at Pit 01/02). Similarly, the section for Line 2 indicates (Plan No 00023 of DA Plans June 2010) that the minimum depth of cover is just 140 mm. This is insufficient and cannot be supported.

A minimum depth of cover of 500 mm is required for inter-allotment drains in non-trafficable areas, subject to manufacturers or structural engineer's advice. In trafficable areas, the design of the culverts will need to be designed by a suitably qualified structural engineer assuming loads that are appropriate for the location.

#### Main pipe / culvert capacities

Hydraulic Grade Line analysis provided (see **Attachment 1**) indicates that the hydraulic capacity of all trunk drains will need to be reviewed and demonstrated to be adequate taking into consideration maximum tailwater conditions in Basins 1 and 2 prior to the issue of any Construction Certificates for the proposed development, should consent be granted

#### Inspection points

PSC's requirement for allowing pipes at a lower grade than the standard 0.5% is that sufficient inspection pits be placed along the pipe alignment to allow for easier maintenance due to the increased propensity for sedimentation build up to occur in pipes laid at lower grade than 0.5%. The long sections provided show up to 200 m between inspection pits. It is required that inspection points should be placed at least every 50 m to allow for easy inspection without the need to specialist equipment and safety measures. A suggested condition addressing this is provided in **Section 8** should consent be granted.

#### Emergency overland flow paths

Hydraulic Grade Line Analysis (see **Attachment 1**) indicates that it will be necessary to provide overland flow paths within drainage easements that will contain the trunk and inter-allotment drainage system.

A set out in the additional information provided by the applicant (see **Attachment 1**), 8 metre wide overland flow paths are proposed for Lines 1 and 2 and are likely to be required for all trunk drains. Overland flow paths are also likely to be required for interallotment drains. Modelling indicates (see **Attachment 1**) that the maximum flow depth in the overland flow paths will be less than 0.3 m with a velocity x depth product of less than 0.4 m<sup>2</sup>/s.

Details of all over land flow paths including surface treatments will be required to be submitted and approved by Council prior to the issue of any

Construction Certificates for the proposed development. A suggested condition addressing this is provided in **Section 8**, should consent be granted.

#### STREET DRAINAGE

The concept design for the street drainage system for the proposed development as set out in the DA Plans includes kerb and guttering that collects and conveys street runoff and runoff from adjacent lots into the underground trunk drainages system.

The conveyance of flood waters through the site via the road system need to be contained within the road cross section, with maximum depths of 0.3 m and a maximum velocity-depth product of 0.4 m<sup>2</sup>/s to ensure the site remains safe for people leaving the flood affected area. The road geometry should be capable of conveying water only on the public road network and prescribed easements, without flooding private property, into the two receiving detention basins.

The piped system is proposed to be sized and constructed to have adequate capacity to convey runoff from the 10% AEP critical duration storm event, whilst the street geometry is to be designed to safely convey the 1% AEP flood event. The street drainage system is proposed to discharge into the trunk drainage system before being routed through the two detention basins and discharged into the Nelson Bay Road table drain.

The Stormwater Strategy June 2010 does not include sufficient details of how the road network will safely convey the 1% AEP flood event through the site and into the two detention basins. Details demonstrating the capacity of the street drainage system to convey the 10% AEP and 1% AEP events for each stage of development will need to be provided and approved before any Construction Certificates are issued, should development consent be granted.

#### On-site Detention Requirements

Due to the topography of the developed site, several lots that are adjacent to Williamstown Drive and Nelson Bay Road to the in the north eastern corner of the proposed development will drain directly to the Williamstown Drive/Nelson Bay Road drainage system.

Permissible site discharges from each of these lots are set out in Appendix G of Stormwater Strategy June 2010 and an example on-site detention arrangement is set out in Section 4.2.7 of Stormwater Strategy June 2010. Analysis undertaken as part of the Stormwater Strategy June 2010 indicates that to comply with permissible site discharges, a detention storage on each allotment equivalent to 500 m<sup>3</sup> per hectare of developed land will be required.

On-site detention will be required for any allotment that does not drain to detention Basins 1 or 2 as part of any future development consent that may be granted.

#### WATER QUALITY

##### Site Water Quality Objectives

## MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010

As set out in **Section 2.0**, Stormwater Strategy June 2010 sets the following water quality objective:

The quality of stormwater in events less than 1 year should be in accordance with current best management practices (i.e. with reference to Australian Runoff Quality, Engineers Australia, 2006), with a view to maintaining or improving notional pre-development pollutant levels.

The Stormwater Strategy June 2010 states that water quality from the developed site will be controlled through future provision of on-site waste quality treatment systems to control water quality of runoff from each individual lot and the provision of seven SPEL Stormceptor Class 1 water quality control systems (or equivalent) to control runoff from the road drainage system.

### In-Line treatment (SPEL)

SPEL Stormceptor Class 1 units are proposed to be installed at the downstream end of each of the pipe/culvert systems that make up the trunk drainage network as described in **Section 4.3**. The SPEL Stormceptor Class 1 units are required at these locations to treat stormwater to a level that NOW has indicated through the issue of its GTAs is suitable for interaction/mixing with groundwater as may occur in the open diversion channels and detention basins.

Pollutant removal performance of the SPEL Stormceptor Class 1 as set out in Table 5.8 of the Stormwater Strategy June 2010 that has been adopted as the standard for the proposed development is summarised in **Table 7**.



**Table 7 – SPEL Stormceptor Performance**

| <b>Pollutant</b>             | <b>Removal Performance</b>                            |
|------------------------------|---|
| Total Suspended Solids       | >96% from 9 µm particle size                          |
| Total Petroleum Hydrocarbons | <1.87 mg/L or 99.99% from tested ingress of 5000 mg/L |
| Total Phosphorus (TP)        | >45% particulate                                      |
| Total Nitrogen (TN)          | >45% particulate                                      |
| Heavy Metals                 | >90%  |
| Gross Pollutants             | 99.9% > 3mm   |

Modelling of the proposed development using MUSIC as set out in Section 5.0 of the Stormwater Strategy June 2010 indicates that the proposed development will result in significant increases in pollutant export from the site as set out in **Table 8**.

**Table 8 – Modelled Pollutant Export from Proposed Development**

| <b>Outfall</b> | <b>Parameter</b>         | <b>Existing</b> | <b>Developed</b> | <b>Mitigated</b> | <b>Mitigated Increase above Existing</b> |
|----------------|--------------------------|-----------------|------------------|------------------|--|
| Total Site     | Suspended Solids (kg/yr) | 8600            | 134,000          | 16100            | 187%                                     |
|                | Total Phosphorus (kg/yr) | 8.8             | 254              | 81               | 920%                                     |
|                | Total Nitrogen (kg/yr)   | 95.4            | 1850             | 671              | 700%                                     |

It is apparent from **Table 8** that the proposed water quality controls as modelled do not meet the water quality objectives adopted in the Stormwater Strategy June 2010 with Suspended Solids exported from the site predicted to increase by 187%, Total Phosphorus by 920% and Total Nitrogen by 700%.

NOW has reviewed the information provided in Stormwater Strategy June 2010 and has issued GTAs for the proposed development which place no further water quality requirements on the proposed development than those set out in the Stormwater Strategy.

A suggested condition to control water quality from the developed site during subdivision stage and during future development of individual lots is provided in **Section 8**.

The number and type of SPEL Class 1 units required to meet the water quality requirements of the development will need to be re-assessed and specified by the applicant at detailed design stage for each development stage. This is required to ensure that at each stage of development the NOW approved discharge water quality level is maintained.

#### Lot-Scale treatment

Each lot is expected to treat its own storm water prior to being discharged into the public system. It will be necessary for each lot to achieve at least the same level of treatment as what NOW has approved for the trunk drainage system.

Section 3.3 of the Stormwater Strategy June 2010 states:

The quality of surface runoff from allotments will be addressed on each lot. Future development applications will be required to demonstrate appropriate management of runoff water quality. This will be industry-dependant. It is expected that all off-street car park areas, in particular, will need to pass through water quality treatment devices prior to entering any on-site infiltration system and/or being discharged to the street drainage system.

## MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010

It is noted that the water quality performance modelling discussed in **Section 5.2** is based on the assumption that runoff from each allotment has been appropriately treated prior to discharge to groundwater or the street drainage system. This will need to be required as part of any development consent that may be granted for individual allotments in the future.

### Filling and Regrading

Filling and regarding across the site is necessary to create uniform levels suitable for the proposed uses of the lots, provide sufficient fall in the drainage system to allow for adequate drainage across the site without pumped system, and protect the lots from inundation during flood events.

The shallow groundwater table in the region means that during prolonged wet periods, the groundwater table can be at surface level. Due to potentially elevated groundwater levels, additional control on the quality and type of fill brought onto site is required. Only material that is of a similar nature to the existing soil types should be used. For most of the site this would restrict the type of fill to free draining sandy soils with some clay. This is essential in minimising the impact to the behaviours of the groundwater in the area. Creating artificial lenses of clayey fill may restrict the horizontal and vertical movement of groundwater across the site. The high probability of interaction between the fill material and the groundwater also means that the quality of fill material is important. As such, it is required that any imported fill be certified as Virgin Excavated Natural Material (VENM). This is necessary to protect the water quality of the underlying groundwater table.

As set out in **Table 9**, the volume of fill material that may potentially need to be imported to the site was revised by Parsons Brinckerhoff (see **Attachment 1**) from 378,200 m<sup>3</sup> to 691,834 m<sup>3</sup> (i.e. approximately 1.2 million to 1.3 million tonnes) to ensure that the pipe/culvert system draining the site had sufficient cover and hydraulic conveyance capacity.

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- **Table 9 – Indicative Cut and Fill Earthworks and Volumes to be Imported**
- 

| Stage          | Previous Cut (m <sup>3</sup> ) | Previous Fill (m <sup>3</sup> ) | Previous Volume to be Imported (m <sup>3</sup> ) | Average Additional Depth ( m ) | Additional Fill (m <sup>3</sup> ) | Revised Volume to be Imported (m <sup>3</sup> ) |
|----------------|--------------------------------|---------------------------------|--|--------------------------------|-----------------------------------|---|
| 1A             | -48,900                        | 73,400                          | 24,500   | 0.25                           | 16,750                            | 41,250  |
| 1A             | 0                              | 10,500                          | 10,500   | 0.00                           | 0                                 | 10,500  |
| 1B             | -1,600                         | 56,900                          | 55,300   | 0.20                           | 13,000                            | 68,300  |
| 1C             | 0                              | 58,900                          | 58,900   | 0.75                           | 52,500                            | 111,400   |
| 2              | -200                           | 46,100                          | 45,900   | 0.50                           | 34,000                            | 79,900  |
| 3              | -12,100                        | 70,000                          | 57,900   | 0.00                           | 0                                 | 57,900  |
| 4              | -40,300                        | 46,500                          | 6,200  | 0.50                           | 57,500                            | 63,700  |
| 5              | -26,600                        | 37,300                          | 10,700   | 0.50                           | 64,884                            | 75,584  |
| 6              | -22,600                        | 130,900                         | 108,300  | 0.50                           | 75,000                            | 183,300   |
| <b>Totals:</b> | <b>-152,300</b>                | <b>530,500</b>                  | <b>378,200</b>                                   |                                | <b>313,634</b>                    | <b>691,834</b>                                  |

This has the potential to significantly change the final landform contours from those shown on DA Plans June 2010 with up to 1 metre of additional fill potentially required across the site.

**Due to the hydrologic and hydraulic constraints of the site and the highly inter-related and integrated nature of water management on the site details of all road levels, pipe inverts and allotment finished levels across the full development site (i.e. Stages 1 to 6) will need to be reviewed, revised where necessary and approved by PSC prior to the issue of any Construction Certificates for any stage, should consent be granted.**

An indicative schedule setting out when fill materials are likely to be imported to the site is set out in **Table 10**. It is not known at this time the composition of this material or where it will be accessed from.

**Table 10 – Indicative Timing and Staging of Volumes to be Imported**

| <b>Year from first CC</b> | <b>Stage</b> | <b>Volume to be imported (m<sup>3</sup>)</b> | <b>Average import volume per annum (m<sup>3</sup>)</b> |
|---------------------------|--------------|--|--|
| 2.0                       | 1A (both)    | 51,750                                       | 25875  |
| 4.0                       | 1B           | 68,300                                       | 34150  |
| 6.5                       | 1C           | 111,400                                      | 44560  |
| 9.0                       | 2            | 79,900                                       | 31960  |
| 11.5                      | 3            | 57,900                                       | 23160  |
| 14.0                      | 4            | 63,700                                       | 25480  |
| 16.5                      | 5            | 75,584                                       | 30233  |
| 19.0                      | 6            | 183,300                                      | 73320  |

Potential traffic impacts and logistics of bring this fill material to the proposed development site have not been considered as part of this assessment.

#### Roads and Footpaths

The road network included in the proposed development is broadly in line with the requirements laid out in the Development Control Plan and Council's Subdivision Guidelines. The road geometry should be adequate to safely convey the types of vehicles expected to pass through the development. Details of the road design, including construction materials and methods, cross sectional geometry, locations of kerb inlets, redundant laybacks and so on will be required for assessment by Council as part of the Construction Certificate assessment process.

It is re-emphasised that the road network must be capable of safely conveying the 100 year ARI critical storm event through the site (refer to **Section 4.5.6**). This will need to be demonstrated prior to the issue of any Construction Certificates for the proposed development, should consent be granted.

### Visual Landscape

The application will be screened by a 5 metres landscape buffer along Nelson Bay Road. This is considered a reasonable outcome in dealing with the requirements of the Local Environmental Plan to consider visual impacts from arterial roads.

The subdivision will be elevated above natural ground level as discussed in the soil and water comments of the report above.

The amendment to the application to allow for additional filling to come to the site to provide sufficient hydraulic gradient, was not readvertised or exhibited because the additional impact of the filling will allow the development to be elevated vertically by another 0.25 to 1.0 metres in height from the east side to the west side of the site respectively.

The visual impacts arising are considered to be not significantly greater than that which has been exhibited, and the submissions received did not raise visual impacts as a concern. The visual impact is considered reasonable in the context of an DAREZ subdivision and adjoining the existing airport and RAAF base. The development is considered to be visually compatible in this context with the application of landscape and built form outcomes to be managed by the development control plan being prepared for the site.

For this reason the amendment was only re-referred to the government agencies to update their comments and conditions if necessary.

No additional conditions were proposed by the agencies in relation to the amendment.

### Environmental impacts on the built environments - traffic and access

The submitted traffic impact assessment has outlined the traffic impacts of the development, including requirements for traffic management within the development and proposed links to Newcastle Airport, Williamstown Drive and Cabbage Tree Road. Upgrades to a number of existing roads and intersections, including duplication of Williamstown Drive between Nelson Bay Road and the access to the development and upgrades to the intersections of Williamstown Drive and Nelson Bay Road the intersection of Nelson Bay Road and Medowie Road, are also proposed as a condition of consent to cater with the increase in traffic.

It is considered that the location of the second access is the preferred location for both the development and as an additional access to Newcastle Airport. The access (road 1) facilitates access to the development and the airport and has an appropriate proposed width and landscape treatment. It is however recognised that this will remain the secondary and not primary access to the airport. The impact of construction traffic on adjoining roads will also be addressed through conditions of consent.

It is considered that the proposed development will facilitate access to both the development and adjoining Newcastle Airport. The development will provide a second access to both the development and Newcastle Airport at a later stage of the development. In the interim an emergency access can be provided by the applicant direct to Cabbage Tree Road. This temporary access has been conditioned in the report. This will be contained within a 30m wide road corridor, should an additional access be required at an earlier stage of the development.

Reviews of traffic generation will be undertaken at key stages of the development, which could result in altering the timing for the upgrading of infrastructure and the construction of the link to Cabbage Tree Road.

If the revised traffic forecasts, taking into account future cumulative growth in the airport result in the need for a further additional access to Cabbage Tree Road, such as through or adjoining the Buildev Pty Ltd land, then that could be considered at a later stage.

#### Social impacts on the locality.

The social implications of the proposed development provide a range of benefits for the region which have been identified in the application. These include:

Future developments in the subdivision will provide a significant potential source of employment for the local and regional population based on the Williamstown airport.

The special use aerospace precinct will provide a range of specialised aerospace industry and related employment opportunities, including in a range of support functions such as aero education and training, warehousing and light industry and support activities such as retail, recreation and hotel uses.

The development will provide employment opportunities for both highly skilled and less skilled people. This will provide employment opportunities for the local workforce and will also attract highly specialised employees to the region.

The application has addressed safety issues through a safer by design (CPTED) review. This addresses the principles of passive surveillance, access control and the management of space and activities to ensure that the subdivision design and future uses will achieve a safe environment for future employees and visitors to the development.

Measures will include provision of specific lighting, CCTV for after hours surveillance, restricting and/or encouraging access to certain areas and managing areas to maximise surveillance and deter crime. Conditions will also be applied to ensure adequate lighting and fencing is constructed as part of the subdivision works.

Individual development applications will require a detailed CPTED assessment in order to ensure that all future development accords with CPTED principles. The proposed DCP for the site will address issues such as building placement, windows,

car parking and landscaping, fencing and other security measures to be applied to future development.

#### Economic impacts in the locality

The economic impact of future defence and airport- related development at the Newcastle airport has been considered as part of Land-use Strategy prepared for the Department of Planning. Direct and indirect economic benefits of the proposed development are considered to be significant, including:

Build on the significant aerospace activities already occurring at Williamstown and in the region, with a range of important activities that will greatly enhance the Williamstown RAAF base and airport as a nationally and internationally significant centre of excellence for aerospace and appropriate support activities.

The Statement of Environmental Effects states that the total direct and indirect impacts of the development in terms of additional employment will result of between 3,700 and 5,650 additional number of employees, making the total number of employees for the WAP and Airport/RAAF site of some 8,500. This would make the WAP one of the most significant employers and drivers of economic activity in the Hunter region. A total of 2,680 jobs could be created from the construction phase alone, while the total value of construction for the subdivision and buildings is anticipated to total up to \$485m.

The proposed development is consistent with the requirements of the Port Stephens Local Environmental Plan 2000 and generally consistent with the requirements of DCP 2007.

The proposed development will have ecological impacts, although these impacts are considered to be satisfactory due to appropriate offset lands that have been obtained by the Department of Environment and Climate Change as part of the Deed of Agreement. Other impacts including flooding and drainage and traffic have been satisfactorily dealt with as part of the application.

#### **Section 79C 1(c) Suitability of the Site for the Development**

The SP1 Special Purpose zone was based on the comprehensive Land Use Development Strategy prepared for the Department of Planning in December 2007. The Land Use Strategy was based on a comprehensive assessment of the relevant environmental, economic and social issues which provided a justification for the rezoning and development of the land.

The proposed development is considered to be consistent with the zone objectives.

The stages proposed with the development will comprise a mix of Aerospace /aerospace-support precincts and aerospace commercial /aerospace commercial-support precincts.

#### Sewage management

Infrastructure Servicing of the development involves the construction of reticulated sewer at Stage 2 of the Development. The proposed road network is serviced by a site specific stormwater strategy which discussed within **Attachment 3**.

Conditions of consent to ensure the appropriate management of the temporary pump-out system will be imposed. It is understood that HWC are taking ownership of the temporary pump out facility. The DA will be conditioned requiring formal notification from HWC to this regard.

#### Flooding

The subject site is identified as being flood prone. As significant filling works occur in this area is proposed, it is considered that flooding is a significant issue for the proposal, as confirmed by the Strategic Engineer. (Note some works were proposed in this area, but this has been conditioned not to occur).

#### Bushfire

The subject site is identified as bushfire prone. It is noted that there are no required referrals to the Rural Fire Service for industrial subdivision (as per Clause 45 of the Rural Fires Regulations); however, a Section 79BA assessment has been performed for the proposal.

The Vegetation Management Plan conditioned for the proposal will be required to manage the bushfire issue for the reserve to the west of the site.

#### Noise attenuation

A noise assessment has been provided with the major recommendations of this assessment to be imposed as conditions of consent .

#### Extraneous lighting

Conditions on appropriate lighting will be imposed as part of the conditions of consent .

#### Crime Prevention through Environmental Design

Measures will include provision of specific lighting, CCTV for after hours surveillance, restricting and/or encouraging access to certain areas and managing areas to maximise surveillance and deter crime. Conditions will also be applied to ensure adequate lighting and fencing is constructed as part of the subdivision works.

Individual development applications will require a detailed CPTED assessment in order to ensure that all future development accords with CPTED principles. The proposed DCP for the site will address issues such a building placement, windows, car parking and landscaping, fencing and other security measures to be applied to future development.



**Section 79C 1(d) Submissions**

Submissions

The development was initially advertised and notified from the 4<sup>th</sup> June until the 6<sup>th</sup> July 2009. In the process three (3) submissions were received offering overall support but raising issues with the proposal.

The key issues raised in these submissions are as follows (refer also to **Attachment 5** for issues and response):

The Department of Defence (18.12.09) – as an adjoining property owner, the Department provided a letter of support for the proposed development but raised the following:

1. Access to the airfield
2. Noise attenuation
3. Stormwater management
4. Extraneous lighting
5. Sewage management

These concerns have been addressed, as outlined above, and will be conditions of consent or advices on the consent.

Buildev Pty Ltd Pty Ltd, as an adjoining landowner, stated that it wished to see the following issues adequately addressed:

1. Stormwater and flooding
2. Traffic and access
3. Ecology
4. DAREZ Strategy

The proposed Buildev Pty Ltd Pty Ltd development can provide a further additional future link to Cabbage Tree Road which will act as a strategic and emergency link to the DAREZ and Airport Precinct. This link has the support of the RTA and Newcastle Airport and will remove the need for Hunter Land and Council to provide an additional access to the DAREZ site. The RTA has stated that they wish Council to determine which the preferred access to Cabbage Tree Road is.

The Buildev Pty Ltd Pty Ltd submission attaches advice from the Newcastle Airport providing support and a separate attachment outlines the basic concept of development of the Buildev Pty Ltd Pty Ltd land provided.

In relation to stormwater and flooding, Buildev Pty Ltd wishes to ensure that adjoining lands to the south are not adversely affected or prejudiced in any way. These issues have been satisfactorily addressed in the application.

In relation to traffic and access, Buildev Pty Ltd state that they have a preferred secondary access through their land to Cabbage Tree Road which will provide

preferable and timely access to the defence and employment land in addition to emergency access for the airport also.

Buildev Pty Ltd also referred to the economic assessment undertaken as part of the DAREZ Strategy, which indicated that a total of 100 hectares would be required to satisfy future demand for defence and airport related employment land, while only 55 hectares of developable land is being provided as part this application. The DAREZ Land Use Development Strategy states that a minimum of 50 hectares should be located in a position of direct proximity with the airport site. The report found that additional land should also be made available (i.e. at least 100 hectares in total) if free from constraints.

Council is currently considering a rezoning request from Buildev Pty Ltd to rezone additional lands to the SP1 zoned WAP site. Should these lands be found to be suitable for future development, then the rezoning application could be supported and additional lands may become available. However this issue is outside the scope of the DA assessment and is not considered being grounds for objection.

Newcastle Airport Ltd (NAL) as an adjoining leaseholder raised the following issues:

1. Stormwater management and flood assessment
2. Tow way concept plan
3. Development control plan
4. Sewer management
5. Roads: existing intersection, alternate access and internal road network
6. Construction traffic
7. Future transport links.

The RTA has commented the location of the preferred access road to Cabbage Tree Road is a matter for Council. The RTA considers that Council should nominate the preferred access in relation to the internal road hierarchy and future emergency access for the airport. Council accepts that the proposed access to Cabbage Tree Road in the submitted DA provides a level of certainty about the second access, although recognising that this additional access will not be provided until Stage 5.

It is noted that the applicant has committed to provide an emergency access by way of the existing coal-chitter track between Cabbage Tree Road and the area around the Aboriginal Keeping Place until the secondary access is constructed. Council would consider this arrangement acceptable as a temporary arrangement, however a condition has been imposed on the developer to maintain the emergency access road within a 30m wide road corridor, should the secondary access is required at an earlier stage of the development.

These issues have all been satisfactorily addressed.

Access to the airfield

The applicant has provided sufficient information to address this issue. This will be addressed and controlled through strict security measures as part of the conditions of consent. Airside access will be for Defence-related purposes and will be controlled with a single sentry point, in accordance with the Department of Defence Airside Access Policy. It is considered that these arrangements will be consistent with NAL's and BAE's lease arrangements regarding airfield access. Individual security measures will be addressed in detail as part of the DA process for each site.

Defence has developed a policy position on airside access that has been signed off by the Chief of Air Force to its bases, as follows:

*Defence does not support any increase in direct airside access, except in very limited circumstances. The only circumstance where Defence would consider permitting direct airside access is where such access is granted to a specified contractor, and where such access is specifically required in order to fulfil core obligations in Defence contract(s). It is intended that once the contract(s) expires or is otherwise terminated, airside access would be revoked. Separate written approval from Defence would be required for each contractor to Defence, seeking airside access. It is intended that the access requirements would be dealt with within the terms of the contract.*

*With respect to RAAF Base Williamtown, Defence would only consider limited access along the southern boundary of the base. Multiple points of access to the base would be unacceptable as this would pose additional security risks. It would also place a burden on Defence in terms of monitoring and administering non-Defence access. Consequently, security arrangements for access would be by way of a single secured gate that is controlled by Defence.*

Please note that the above has been provided to proponent and we would not envisage that it would form part of a condition of consent for the subdivision of the DAREZ. As it relates only to the Aerospace Precinct (which includes the tow way) it need not be applied to the whole subdivision as a condition, but would be included as advice to the applicant.

### **Section 79C 1(e) Public Interest**

#### **DAREZ Strategy**

The WAP proposal is considered to be consistent with the DAREZ Strategy. Future development beyond the existing proposal is the subject of further rezoning proposals. This will assess proposals for additional airport related employment land, based on a thorough analysis of economic, social and environmental issues.

Overall

The proposed development is considered to be in the public interest. The development has demonstrated that it satisfies relevant planning considerations and will provide the opportunity to realise substantial economic and employment benefits for the region. The development responds to site constraints, provides for excellence in design and will facilitate access to the adjoining road network and adjacent Newcastle Airport. The environmental impacts of the development, including the provision of offset lands, have been dealt with satisfactorily.

**ATTACHMENT 4  
RESPONSE TO SUBMISSIONS**

| <b>Submission/issue</b>      | <b>Issue outline</b>   | <b>Proposed response</b>  |
|------------------------------|--|---|
| <b>Department of Defence</b> |  |   |
| Access to the airfield       | Airside access will be for Defence-related purposes only and will be strictly controlled with a single sentry point, in accordance with the Department of Defence Airside Access Policy. It is envisaged that future occupants of the aerospace precinct will be engaged by Defence for support services such as aircraft maintenance. | It is considered that the proposed arrangements will be consistent with NAL's and BAE's lease arrangements regarding airfield access. This will be addressed and controlled through strict security measures as part of the conditions of consent. Individual security measures will also be addressed in detail as part of the DA process for each site. |
| Noise attenuation            | Area is a high noise environment. Noise attenuation for buildings to comply with appropriate standard AS 2021-2000 which is consistent with Clause 26A (2)(a) of LEP 2000.   | A noise assessment has been provided with the application. Council accepts the major recommendations of this assessment and they are proposed to be imposed as conditions of consent.<br><br>Noise attenuation to be also considered at building DA stage.  |
| Stormwater management        | Seeks assurance that no stormwater or floodwaters will be diverted back onto the RAAF Base.  | DA to ensure that post-development flows do not exceed pre-development flows, through a combination of on-site detention, detention basins and managed stormwater flows off the site.   |
| Extraneous lighting          | Defence recommends that any street lighting include no upward light component to minimise conflict with aircraft operations. Non-reflective cladding on buildings to minimise glare during the day.  | Conditions on appropriate lighting will be imposed as part of the conditions of consent.<br><br>Building materials & lighting also to be controlled through DCP and building DAs.   |
| Sewage management            | Defence currently has easements over two existing  | Conditions of consent to ensure the appropriate management of the   |

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|                        | water detention ponds on WAP land. Defence is willing to remove the ponds provided satisfactory alternative arrangements for sewer management are in place. Defence considers that the proposed interim pump out solution is acceptable. This needs to be operating satisfactorily before easements over existing ponds are extinguished. | temporary pump-out system will be imposed. It is understood that HWC are taking ownership of the temporary pump out facility. The DA will be conditioned requiring formal notification from HWC in this regard.   |
| <b>Buildev Pty Ltd</b> |   |   |
| Stormwater & flooding  | Ensure that adjoining lands to the south are not adversely affected or prejudiced in any way by flooding or stormwater. Seeks details of management of impacts on adjoining land.   | DA to ensure that post-development flows do not exceed pre-development flows, through a combination of on-site detention, detention basins and managed stormwater flows off the site.   |
| Traffic and access     | By approving the Buildev Pty Ltd rezoning, Buildev Pty Ltd can provide a safe & secure secondary access through their land to Cabbage Tree Road which will provide preferable and timely access to the defence and employment land in addition to emergency access for the airport also.  | <p>Council &amp; RTA accepts that based on the traffic impact assessment the link to Cabbage Tree Road will be provided at Stage 5 of the development. However, reviews of traffic generation will be undertaken at key stages of the development, which could result in altering the timing for the upgrading of infrastructure and the construction (and possible location) of the link to Cabbage Tree Road.</p> <p>If the revised traffic forecasts, taking into account future cumulative growth in the airport result in the need for a further additional access to Cabbage Tree Road, such as through Buildev Pty Ltd land, then that could be considered at a later stage (outside this DA process). This alternative access could occur</p> |

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|                |   | <p>without the rezoning proceeding as roads are permissible on 1(a) land.</p> <p>It is considered that the location shown in the DA of the proposed second access is the preferred location for the WAP development. The access (road 1) facilitates access to the development and has an appropriate proposed width and landscape treatment. It is considered that this will remain the secondary and not primary access to the airport and is primarily being constructed to service the WAP development.</p> <p>Emergency access or additional road link can be provided on existing coal chitter road by the applicant direct to Cabbage Tree Road as an interim or future solution.</p> <p>It is also considered that if the Buildev Pty Ltd rezoning and development was to proceed, then an additional second access point on Cabbage Tree Road would be required to service this development.</p> |
| Ecology        | No detail provided but issues need to be adequately addressed.  | Address through Council assessment, SIS & deed of agreement   |
| DAREZ Strategy | States that 100 ha required to meet economic demands, therefore further land needs to be rezoned to provide for long-term requirements. | Buildev Pty Ltd & other rezoning can potentially provide additional land but this outside the WAP DA process. However need to holistically consider the impacts of issues at rezoning & DA stage e.g. drainage on adjoining lands.  |

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| <b>Newcastle Airport Ltd (NAL)</b>         |   |   |
| Stormwater management and flood assessment | <p>NAL concerned about potential of stormwater to divert back to NAL lease area. &amp; impact on NAL flood mitigation plans.</p> <p>NAL: wished to know if &amp; how following issues will be addressed:</p> <ul style="list-style-type: none"> <li>• Stormwater reuse.</li> <li>• Infiltration &amp; void storage options.</li> <li>• Stormwater runoff quality improvement.</li> <li>• No net worsening of catchment flooding south &amp; west of airport site.</li> </ul>      | DA to ensure that post-development flows do not exceed pre-development flows, through a combination of on-site detention, detention basins and managed stormwater flows off the site. |
| Tow way concept plan                       | <p>Consider following issues need to be addressed:</p> <ul style="list-style-type: none"> <li>• Security provisions in &amp; out of Defence airfield.</li> <li>• Physical infrastructure needed to comply with Defence &amp; NAL.</li> <li>• Access controls &amp; operational management.</li> <li>• Impact on NAL's operating agreement with Defence.</li> <li>• Staging of the proposed tow way &amp; management of security.</li> <li>• Future maintenance issues.</li> </ul> | Security issues to be considered as part of conditions of consent (in consultation with Defence & NAL).   |



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| Development control plan   | DCP must adopt excellence in urban design principles in relation to the specialised type of development.   | Review of DCP underway by Council. Council considers that urban design & built form issues need greater attention in DCP.  |
| Sewer management   | <p>NAL supports the interim pump-out solution, provided that:</p> <p>The interim solution is operating satisfactorily.</p> <p>NAL is part of consultation process.</p> <p>Final system delivers on stakeholder expectations &amp; outcomes.</p>  | Conditions of consent to ensure the appropriate management of the temporary pump-out system will be imposed. It is understood that HWC are taking ownership of the temporary pump out facility. The DA will be conditioned requiring formal notification from HWC to this regard.  |
| Roads: existing intersection, alternate access, emergency access and internal road network | <p>NAL has fully funded Nelson Bay Rd &amp; Williamtown Dr intersection and NAL seeks assurance that NAL will not need to fund further upgrades to the intersection.</p> <p>NAL seeks second access off Cabbage Tree Road (extension of road 2) at Stage 1A due to traffic volumes, expansion of NAL &amp; need for emergency access. This will improve circulation &amp; surrounding network capacity for future growth.</p> <p>Emergency services representatives have reinforced need for alternative access at early stage of development.</p> <p>Independent traffic studies have recommended a second access would</p> | <p>Upgrades to a number of existing roads and intersections, including duplication of Williamtown Drive between Nelson Bay Road and the access to the development and upgrades to the intersections of Williamtown Drive and Nelson Bay Road the intersection of Nelson Bay Road and Medowie Road, are also proposed as a condition of consent to cater with the increase in traffic as a result of the development.</p> <p>Also see response to Buildev Pty Ltd submission on traffic issues in relation to second access.</p> <p>It is noted that the applicant has committed to provide an emergency access by way of the existing coal/chitter track between Cabbage Tree Road and the area adjoining the Aboriginal Keeping Place until the secondary access is constructed. Council considers this arrangement to be acceptable as</p> |

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|                        | <p>improve traffic circulation as traffic volumes grow.</p> <p>Road 3 does not align with NAL's internal road design.</p>  | <p>a temporary arrangement (any upgrade required e.g. sealing?).</p> <p>Council aware of independent studies &amp; emergency access representations? Has NAL considered other emergency access arrangements?</p> <p>Applicant has agreed to align road 3 with NAL subdivision &amp; contain road alignment on WAP land.</p>   |
| Construction traffic   | <p>NAL concerned about level of activity, noise &amp; volume of construction traffic associated with development &amp; impacts on airport traffic.</p> <p>Alternative for construction traffic access is suggested as part of this DA (no details suggested but presume this refers to extension of road 2 to Cabbage Tree Road).</p>  | <p>The impact of construction traffic on adjoining roads will be addressed through conditions of consent.</p> <p>A Construction Traffic Management Plan will be required as a condition of consent.</p> <p>Alternative access up front not considered reasonable given Hunter Land contribution to upgrade of Williamtown Drive.</p>  |
| Future transport links | <p>Strategic consideration of transport links to facilitate efficient and effective access to WAP &amp; Airport (e.g. road upgrades, light rail networks, dedicated rail corridors &amp; transit lanes for bus services) should be considered as both WAP and airport expand &amp; the Williamtown Aerospace Centre (WAC) evolves.</p> | <p>It is considered that this should be addressed as a wider strategic issue primarily beyond the scope of this DA. However, it is noted that road upgrades to Williamtown Drive &amp; intersections on Nelson Bay Road are proposed as conditions of consent as outlined above. These upgrades may allow for transit lanes or light rail in future within existing road corridors.</p> <p>Council is not aware of any plans to</p> |

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|  |  | provide additional strategic infrastructure and there is no indication of provision for such infrastructure on NAL or other nearby land (apart from a possible bus route & stops). Note however that State Government is seeking Regional Infrastructure Contributions for potential road/transport upgrades. |
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ATTACHMENT 5  
OBJECTION TO SECTION 94A



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28 July 2009

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

By Email: [Council@portstephens.nsw.gov.au](mailto:Council@portstephens.nsw.gov.au)

Dear Sir,

Re: SUBMISSION TO PROPOSED AMENDMENT TO PORT  
STEPHENS S94A DEVELOPMENT CONTRIBUTIONS PLAN

I refer to the proposed amendment to Port Stephens S94 Development Contributions Plan currently on exhibition. This proposed amendment refers to non residential development. The draft plan proposes a S94A levy for commercial, retail, industrial and non-residential subdivisions.

Section 2.6 of the draft amendment to the plan refers to Development to which this plan applies. The draft amendment states:

*This Plan applies to the following development types:*

- *Commercial, Retail and other Employment based Development, or non residential development or subdivision, including mixed use that would create a demand for public amenities and services where the proposed cost of carrying out the development is greater than \$100,000.*

The above development type includes mixed use development that would create a demand for public amenities and services. Civil works do not create a demand for public amenities and services. A levy should not apply to civil works and it should not be included in this amendment to this plan.

Further, Section 2.8 of the Plan refers to how the proposed cost of carrying out of the development determined. This section allows the Council to seek independent advice to review the valuation of works. Any costs associated with obtaining such advice will be at the expense of the Applicant. These costs need to be determined prior to the issuing of a development application. This section is not clear as to when these costs need to be determined and paid particularly if a private certifier issues the Construction Certificate.

Yours faithfully,  
Hunter Land Pty Ltd

BRAD EVERETT  
Land Use Director

ITEM NO. 2

FILE NO: 2007-1204

## NELSON BAY PLANNING STRATEGY - STRATEGIC PRINCIPLES

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

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Note the broadening of the Nelson Bay Planning Strategy area to include the Nelson Bay Foreshore;
- 2) Endorse the Nelson Bay Strategic Principles (**Attachment 1 – provided under separate cover**); for purposes of
  - a. Forwarding to Ardent Leisure, the NSW Department of Land & Property Information and the NSW Department of Planning as Council's strategic statement for consideration under the Part 3A concept planning processes for the Nelson Bay foreshore; and
  - b. Presenting as appropriate at community workshops to be convened by Consultants on behalf of Ardent Leisure and the NSW Department of Land & Property Information for consultation purposes in relation to the preparation of a concept plan for the Nelson Bay Foreshore in accordance with Part 3A of the Environmental Planning & Assessment Act as amended

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### COUNCIL COMMITTEE MEETING – 10 AUGUST 2010

#### RECOMMENDATION:

|  |  |   |
|--|--|---|
|  | <b>Councillor John Nell</b><br><b>Councillor Bruce MacKenzie</b> | That the matter be deferred to allow for consultation with East Ward Councillors and reported back to Council at the Council Committee on 24 August 2010. |
|--|--|---|

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

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

Those against the Motion: Nil.

## MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010

### ORDINARY COUNCIL MEETING – 10 AUGUST 2010

|            |  |   |
|------------|--|---|
| <b>239</b> | <b>Councillor John Nell<br/>Councillor Shirley O'Brien</b> | It was resolved that the council committee recommendation be adopted. |
|------------|--|---|

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

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

Those against the Motion: Nil.

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### BACKGROUND

The purposes of this report are:

- 1) To seek Council's endorsement of strategic principles to be significant input in the consultation processes about to be initiated under Part 3A of the Environmental Planning & Assessment Act by consultants on behalf of Ardent Leisure and the NSW Department of Land & Property Information.
- 2) Form a foundation for the subsequent finalisation of the Nelson Bay Planning Strategy and related planning documents (to be submitted to Council in late 2010).

The principles will:

- 1) be considered during consultations proposed by NSW Land and Management Authority and Ardent Leisure to draft a Concept Plan as part of the Nelson Bay Boat Harbour and Foreshore Revitalisation process; and
- 2) guide the finalising of the draft Nelson Bay 2030 Strategy and draft Development Controls for reporting to Council.

### Nelson Bay 2030 Strategy

Following exhibition of the draft Nelson Bay Strategy (2007) (draft Strategy) Patrick Partners and Design Urban consultants were engaged to evaluate submissions and provide urban design advice. The consultants submitted a draft Design Code and Background Report (draft Patrick Partners Report) to Council in October 2009 that included possible development outcomes on the Nelson Bay Foreshore – an area that the project brief for the Nelson Bay Strategy did not include.

In accordance with Council's resolution on 15 December 2009, the draft Code was placed on Council's website, copies were provided to community groups upon

request and a consultation workshop was held on 12<sup>th</sup> March 2010 with *Patrick Partners* and *Design Urban*. A key issue from this consultation was concern that foreshore controls were not being considered as part of the draft Strategy.

### **Nelson Bay Strategic Principles**

The Nelson Bay Strategic Principles have been drawn from the detailed urban design work undertaken to date for the draft Nelson Bay Strategy plus consultation with Councillors on the 6<sup>th</sup> July 2010. These Principles are proposed to guide the Foreshore Concept Planning process and support the integration of the Town Centre and Foreshore Planning processes and desired outcomes.

The Patrick Partners Report concluded that the future of Nelson Bay lies in the town and foreshore being connected. The Report concluded that the following issues need to be addressed to achieve this connection and deliver a town that inspires visitation:

- The lack of investment attraction and the sustainability of the Nelson Bay economy in the future
- Lack of Critical Mass of Facilities at the Waterfront that generates pedestrian activity and inspire the journey from the town centre.
- Lack of connection between functions carried out in the Town and on the Water front – people do different things at the waterfront to the town centre.
- The Open Space between the Town and Waterfront – whilst attractive, it separates the two places and reduces the desire to travel between them.
- Orientation of Waterfront Buildings – the buildings back on to the Town Centre.
- The behaviour of Traffic and the Design of Street Interfaces – slow traffic down before reaching Stockton Street.
- The location of the primary Retail and Commercial Core of the Town Centre two to three blocks back from the waterfront.
- Lack of Major Anchors (& using consolidated car parking as an anchor)
- No ability to directly access the Waterfront from the Town Centre by car.

### **Current Development Controls**

The Nelson Bay Town Centre is zoned 3(a) Business General under Port Stephens LEP 2000 (**Attachment 2**) and subject to, amongst other controls, a maximum height of 15m for some sectors under Port Stephens DCP 2007 Section C4. Section C4 of DCP 2007 is subject to review as part of the Nelson Bay Strategy process.

The Nelson Bay foreshore area is also zoned 3(a) Business General and is subject to, amongst other controls, a maximum height of 8m under Port Stephens DCP 2007 Section B4.6. The historical decision to zone the marina and foreshore to the 3(a) zone was intended to allow commercial development to occur in this location and take advantage of the amenity of the Port and as a place of social and economic exchange. Extending the scope of the Nelson Bay Strategy 2030 is therefore, a logical extension of and consistent with the 3(a) land use zone.

### **Revitalisation of Nelson Bay Foreshore**

NSW Land and Management Authority (NSW LAPM), formerly NSW Lands, has been consulting with Council and the community to revitalise the Nelson Bay foreshore. A Vision and Plan of Management (see **Attachment 3** for coverage) for the Foreshore was finalised in 2008. Expressions of Interest for the Lease and Redevelopment Opportunity of the Foreshore area closed in July 2008. Ardent Leisure has been appointed by NSW LAPM as the preferred partner.

### **Process under Part 3A of the Environmental Planning and Assessment Act**

Under Part 3A Ardent Leisure has lodged an application with the Department of Planning seeking the Minister's authorisation to prepare and lodge a Concept Plan within the area identified in **Attachment 4** and to seek the Director General's requirements for the Concept Planning process.

It is NSW LAPM and Ardent Leisure's intention that the Concept Plan be prepared in consultation with the community and Council. This is anticipated to be a requirement of any approval from the Department of Planning to accept the Concept Plan as a Part 3A project. Therefore, opportunity exists for Council to work with NSW LAPM and Ardent Leisure in reviewing, designing and developing controls for the Nelson Bay foreshore. The final Concept Plan requires approval by the Minister for Planning.

### **Integrating Nelson Bay Strategy (Council) and Part 3A (NSW LAPM) Processes**

Broadening the scope of the revised draft Nelson Bay 2030 Strategy to include the Foreshore was suggested during the consultation with the community. Doing so will enable the Nelson Bay Foreshore Concept Planning process to integrate with the draft Strategy process and desired outcomes.

### **Finalising the Draft Strategy and DCP controls**

While the Concept Planning process is being undertaken work in expanding and refining the draft Nelson Bay Strategy will include:

A land economics feasibility review to quantify the floor area achieved under proposed controls and Infrastructure implications;  
Infrastructure Study: Expressions of Interest will be sought and a detailed Infrastructure (including Traffic and Parking) will be undertaken. Discussions will be held with LAPM to consider the Foreshore area as part of this brief.  
Meetings with key landholders in conjunction with Council's Economic Development Unit to discuss Strategic Principles for Nelson Bay.  
Incorporate all additional information into the revised draft Nelson Bay 2030 Strategy documents



## **Reporting to Council**

The revised draft Nelson Bay 2030 Strategy and draft development controls are anticipated to be reported back to Council in late September 2010 in conjunction with the completion of the Part 3A Concept Planning process.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The recommendations of this report will utilise staff resources more effectively. They will provide direction staff involvement in the NSW LAPM Concept Planning process and enable the integration of additional information into the draft Nelson Bay Strategy process.

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

The Principles provide Council with a policy position for consideration as part of the proposed Nelson Bay Foreshore Concept Planning process.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Nelson Bay Strategic Principles are based upon sustainability and are consistent with those of the current draft Nelson Bay Strategy and the Community Settlement and Infrastructure Strategy 2007.

## **CONSULTATION**

Facilitated Workshops with the community were conducted on 22 June 2009 by Council's consultants to review the comments made in submissions to the draft Strategy and to provide information for additional urban design work.

Two way conversations with Councillors were held on 20 October 2009, March 2010 and 6<sup>th</sup> July 2010. The latter specifically discussed the principles and the comments and feedback has been included into the document that is the subject of this report.

A presentation was provided to the Bay Business Breakfast meeting on Wednesday 21 October and the Codes were discussed at the Nelson Bay Business Breakfast on 12<sup>th</sup> March 2010. A workshop with community group representatives, Council staff and consultants was also held on 12<sup>th</sup> March 2010. Council staff also met with the Nelson Bay Advisory Group to discuss the Codes.

## **OPTIONS**

- 1) To adopt the recommendations and direct that the Nelson Bay Strategic Planning principles be submitted to Ardent Leisure, the NSW Department of Land & Property Management and the NSW Department of Planning as Council's strategic position in relation to the Part 3A consultation process about to be initiated for the Nelson Bay Foreshore.
- 2) Defer any adoption of the recommended strategic planning principles pending the finalisation of a Draft Nelson Bay Planning Strategy and related draft Development Control Plan.
- 3) Direct that the background report and draft Design Code prepared by Patrick & Partners be applied as Council's main statement of position for the development outcomes on the Nelson Bay Foreshore.

## **ATTACHMENTS**

- 1) Nelson Bay Strategic Principles – under separate cover
- 2) Current land use zoning under the Port Stephens LEP 2000
- 3) Area covered by NSW LAPM Plan of Management for Foreshore.
- 4) Area subject to Part 3A application

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

**Nelson Bay Strategic Principles**

PROVIDED UNDER SEPARATE COVER

ATTACHMENT 2  
Land use zones applying to Nelson Bay town centre and foreshore.





ATTACHMENT 3

NSW LAPM Plan of Management area for Nelson Bay Foreshore.



ATTACHMENT 4

Area subject to Part 3A Planning Concept proposal



Figure 1.1 – Concept Planning Area

**ITEM NO. 3****FILE NO: PSC2005-4161****TEMPORARY SUSPENSION OF SECTION OF NELSON BAY ALCOHOL-FREE ZONE (AFZ)**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves the temporary suspension of a section of the Nelson Bay Alcohol-Free Zone on 5 November 2010 between 12.30pm and 11.00pm, 6 November 2010 between 9.00 am and 11.00 pm and 7 November 2010 between 9.00 am and 11.00 pm in the area shown in heavy line in **Attachment 1** of this report, for the facilitation of the 10th Annual Tastes at the Bay Food, Wine and Jazz Festival.

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**COUNCIL COMMITTEE MEETING – 10 AUGUST 2010**  
**RECOMMENDATION:**

|  |   |                                     |
|--|---|-------------------------------------|
|  | <b>Councillor Bruce MacKenzie</b><br><b>Councillor Geoff Dingle</b> | That the recommendation be adopted. |
|--|---|-------------------------------------|

**ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|            |  |   |
|------------|--|---|
| <b>240</b> | <b>Councillor Ken Jordan</b><br><b>Councillor Glenys Francis</b> | It was resolved that the recommendation be adopted. |
|------------|--|---|

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**BACKGROUND**

The purpose of this report is to inform Council that a request has been received from Nelson Bay Town Management Inc. to temporarily suspend a specific area of the Nelson Bay Alcohol-Free Zone (AFZ) during this year's Annual Tastes of the Bay Food, Wine and Jazz Festival.

The area for which approval is sought is:



## **MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010**

The d'Albora Marina foreshore area to Noakes Boat & Shipyard on the west side and to 'Cruise In' east of the Marina boundary on the foreshore;  
Apex Park;

The hours of suspension would be between 12.30pm and 11.00pm on 5 November 2010, between 9.00am and 11.00pm on 6 November 2010 and between 9.00am and 11.00pm on 7 November 2010. At all other times the area would operate as an AFZ.

Nelson Bay Town Management Inc and d'Albora Marinas have undertaken to employ security staff to patrol these areas during the suspension of the AFZ. These staff will also supervise the exiting of the areas at the end of the requested times to ensure that people are aware that AFZ conditions are to be observed. All staff and volunteers involved in the handling of alcohol will be required to have Responsible Service of Alcohol training.

As required, Council will inform the public of the proposed area and hours of the suspension by notice published in the local paper at least 7 days before the event.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Nil.

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

Suspensions of AFZ are guided by Section 645 of the Department of Local Government's Ministerial Guidelines on AFZ, which state: -

*A Council is not limited in the reasons for which it may suspend... an alcohol-free zone. A suspension would not usually be appropriate for any period longer than one month, and generally would be of a much shorter duration (eg. to accommodate a specific event).*

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Temporary suspension of the Nelson Bay AFZ will support the *Annual Tastes of the Bay Food, Wine and Jazz Festival* and hence will have positive economic implications.

### **CONSULTATION**

The local Police have been notified and support the proposal subject to the presence of security guards who will monitor the event for the duration of the suspension.



**OPTIONS**

- 1) To accept the recommendation
- 2) To reject the recommendation

**ATTACHMENTS**

- 1) Map provided by Nelson Bay Town Management identifying proposed areas affected by the temporary suspension of the Nelson Bay AFZ

**Note:** Map depicts last year's AFZ zone which is proposed again this year

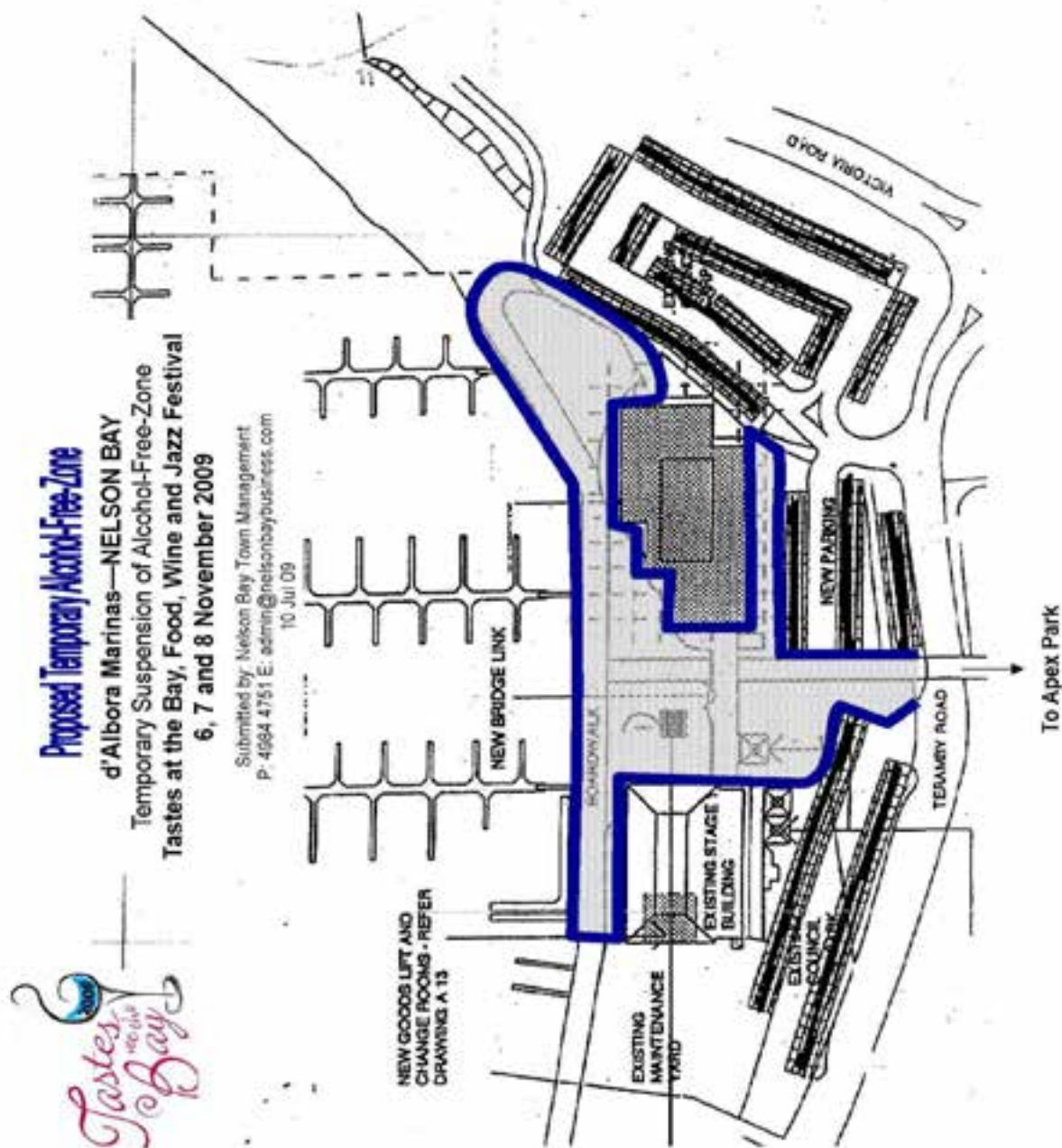
**COUNCILLORS ROOM**

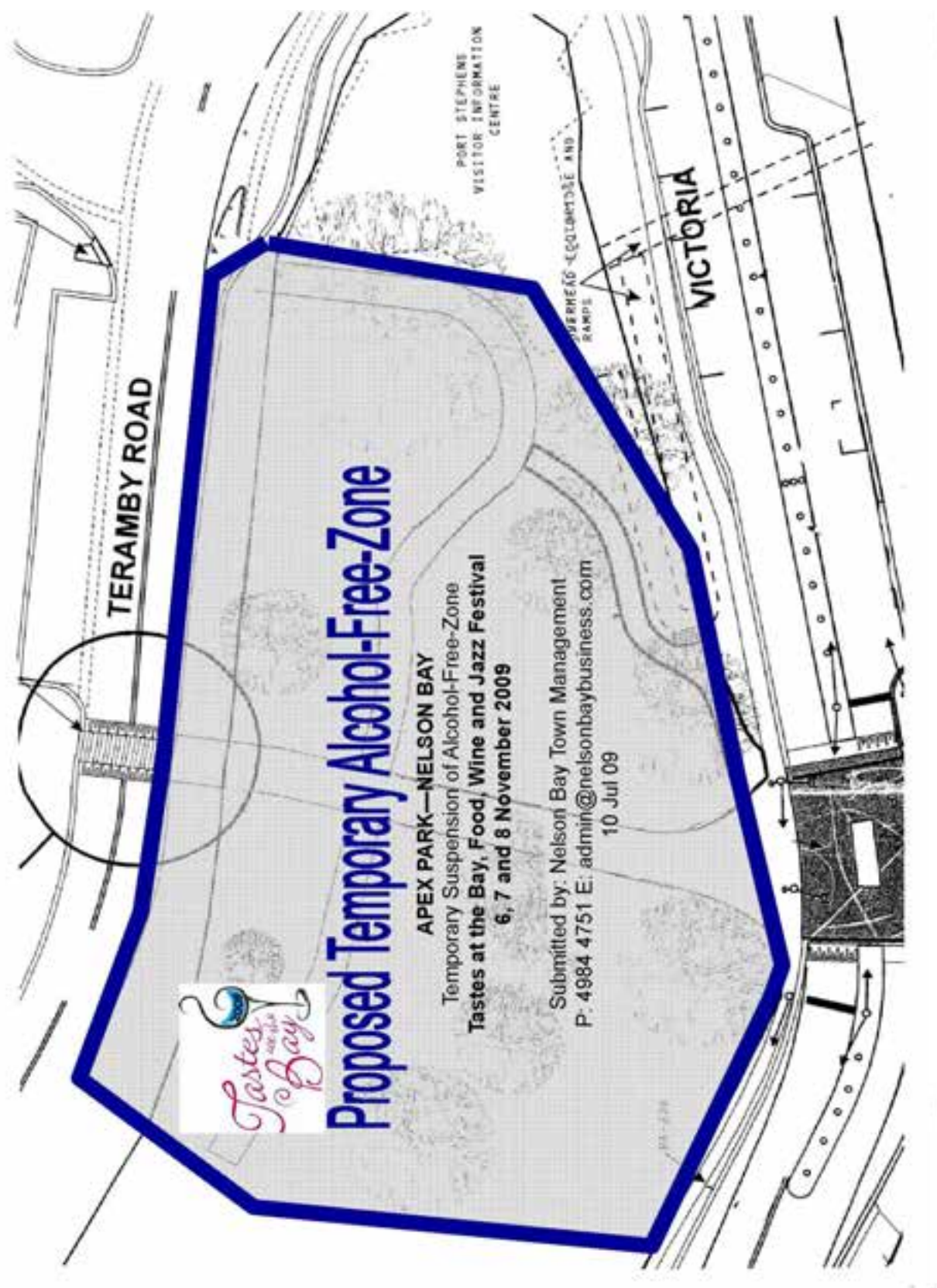
Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1





**ITEM NO. 4****FILE NO: PSC2005-4161****RE-ESTABLISHMENT OF SHOAL BAY AND MEDOWIE ALCOHOL-FREE ZONES (AFZ)****REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING**  
**GROUP: SUSTAINABLE PLANNING**

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Conclude the Shoal Bay Alcohol-Free Zone from 7 September 2010 in lieu of the current expiration date of 23 December 2010.
- 2) Re-establishes the Shoal Bay and Medowie Alcohol-Free Zones for another four years, effective 7 September 2010.

---

**COUNCIL COMMITTEE MEETING – 10 AUGUST 2010**  
**RECOMMENDATION:**

|  |   |                                     |
|--|---|-------------------------------------|
|  | <b>Councillor Bruce MacKenzie</b><br><b>Councillor Geoff Dingle</b> | That the recommendation be adopted. |
|--|---|-------------------------------------|

**ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|            |  |   |
|------------|--|---|
| <b>241</b> | <b>Councillor Ken Jordan</b><br><b>Councillor Glenys Francis</b> | It was resolved that the recommendation be adopted. |
|------------|--|---|

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**BACKGROUND**

The purpose of this report is to:

inform Council of the consultation outcomes in connection with the proposed re-establishment of the Alcohol-Free Zones in Shoal Bay and Medowie  
recommend the re-establishment of the Alcohol-Free Zones in Shoal Bay and Medowie for another four years

Council resolved on 27 April 2010 to undertake a public consultation process for the re-establishment of the Shoal Bay and Medowie Alcohol-Free Zones.

In June 2010, Council undertook on a public consultation process that included forwarding the proposal to relevant stakeholders and advertising the proposal in the local press. This consultation process complies fully with the Department of Local Government's *Ministerial Guidelines on Alcohol-Free Zones*.

A letter of support for the re-establishment of the alcohol-free zones was received from Licensing Co-ordinator Senior Constable Nick Kaluski, Port Stephens Local Area Command, who stated that 'Police within Port Stephens Local Area Command fully support the re-establishment of the Shoal Bay and Medowie Alcohol Free Zones.'

Currently, the Medowie AFZ expires on 6 September 2010 and the Shoal Bay AFZ expires on 23 December 2010. Due to the time and costs involved in following the Ministerial Guidelines, it is proposed to bring the expiration dates of these two AFZs into line with each other. This will involve the cancellation of the Shoal Bay AFZ from 7 September in lieu of current expiration date of 23 December and the re-establishment of both AFZs for another four years, effective 7 September 2010.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The cost of re-establishing an Alcohol-Free Zone includes replacing and amending street signs and advertising. Funds will be sourced from within the existing Integrated Planning budget.

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

The re-establishment of an Alcohol-Free Zone is governed by section 646 (1) of the Local Government Act 1993 and by the Local Government Amendment (Alcohol-Free Zones) Act 1995. An AFZ can only be established for a maximum period of four years, after which it must be re-established following the procedure prescribed by the Department of Local Government's *Ministerial Guidelines on Alcohol-Free Zones* (as amended February 2009).

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Alcohol-Free Zones are effective tools for local police to deal with alcohol-related offences in an effort to eliminate anti-social behaviour and provide a safer street environment for the community. The re-establishment of the AFZs in Shoal Bay and Medowie will continue to improve public perceptions of safety in the area and reduce fear of crime. These Alcohol-Free Zones have helped to change patterns of alcohol consumption and associated anti-social and criminal behaviour.

Reductions in alcohol-related criminal incidents and improved perceptions of safety may lead to increased economic activity, as more people may be willing to patronise local businesses. Reduced crime can also lead to reductions in the costs of repairing vandalised premises, replacing stolen goods and insurance premiums.

## **CONSULTATION**

All relevant stakeholders as prescribed by the Department of Local Government guidelines

## **OPTIONS**

Accept the recommendations.  
Reject the recommendations.

## **ATTACHMENTS**

- 1) AFZ Map – Shoal Bay.
- 2) AFZ Map – Medowie.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.



ATTACHMENT 1

AFZ MAP – SHOAL BAY



ATTACHMENT 2 AFZ – MEDOWIE





**ITEM NO. 5****FILE NO: PSC2009-02013****JUNE 2010 QUARTERLY REPORT AGAINST COUNCIL PLAN 2009-2013****REPORT OF: WAYNE WALLIS - GROUP MANAGER, CORPORATE SERVICES****GROUP: CORPORATE SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the June 2010 Quarterly Report against Council Plan 2009-2013
- 

**COUNCIL COMMITTEE MEETING – 10 AUGUST 2010****RECOMMENDATION:**

|  |  |                                     |
|--|--|-------------------------------------|
|  | <b>Councillor John Nell<br/>Councillor Sally Dover</b> | That the recommendation be adopted. |
|--|--|-------------------------------------|

**ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|            |   |   |
|------------|---|---|
| <b>242</b> | <b>Councillor John Nell<br/>Councillor Ken Jordan</b> | It was resolved that the recommendation be adopted. |
|------------|---|---|

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**BACKGROUND**

The purpose of this report is to present to Council the Quarterly Report for June Quarter 2010 against the Council Plan 2009-2013.

This Quarterly Report is the last report addressing the four year management plan (Council Plan 2009-2013) which was developed and adopted under the previous Section 402 of the Local Government Act prior to its amendment as part of the Integrated Planning and Reporting framework, which came into law on 1 October 2009.

**FINANCIAL/RESOURCE IMPLICATIONS**

Hard copies of the June 2010 Quarterly Report are limited and supplied only to Councillors and executive staff, and a reference copy is placed in Council's libraries. The Quarterly Report is made available to the public electronically on Council's web site and this limited distribution of hard copies has considerably reduced the cost to produce the Quarterly Report whilst improving its readability and accessibility.

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

The Local Government Act 1993 (as amended – 2009) mandates that a quarterly report is provided to Council not later than 2 months from the end of the quarter. This report meets the legislative requirements.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Quarterly Report addresses performance for the quarter organised to reflect the five pillars of sustainability in the Council Plan 2009-2013.

## **CONSULTATION**

No external consultation is involved in the preparation of this Quarterly Report. It is compiled from inputs across all groups/sections within Council.

## **OPTIONS**

Adopt the Quarterly Report June 2010.  
Amends the Quarterly Report June 2010.

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

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

**ITEM NO. 6****FILE NO: PSC2005-2892****LOCAL GOVERNMENT ASSOCIATION OF NSW CONFERENCE****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Nominate four (4) delegates for the Local Government Association of NSW Conference.
  - 2) Consider lodging Motion for consideration by the conference delegates in line with the criteria in **ATTACHMENT 1**.
- 

**COUNCIL COMMITTEE MEETING – 10 AUGUST 2010****RECOMMENDATION:**

|  |  |  |
|--|--|--|
|  | <b>Councillor John Nell<br/>Councillor Sally Dover</b> | That this item be deferred to the Ordinary Council meeting held on 10 August 2010. |
|--|--|--|

**ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|     |  |  |
|-----|--|--|
| 243 | Councillor Glenys Francis<br>Councillor Ken Jordan | That the matter be deferred to the meeting 24 August 2010. |
|-----|--|--|

---

**BACKGROUND**

The purpose of this report is to inform Council of the 2010 Local Government Association Annual Conference which will be held in Albury from 24 to 27 October 2010.

This year the themes for this conference are:

1. Modernising the Financing of Local Government
2. Modern approaches to Community Wellbeing, and
3. Modern approaches to the Natural & Built Environment.

## **MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010**

This Conference establishes policy of the Local Government Association, which is the principle advocate for Port Stephens Council in the State sphere of government.

Councillors are requested to consider any matter/s that Council may wish to submit as Motions to the conference. All Motions must be within the criteria as shown at **ATTACHMENT 1**.

Councils may submit any motion, however, to be considered a Category 1 motion, and placed before the Conference for consideration, a motion:

- MUST relate to one of the identified conference issues/themes, and,
- MUST NOT attempt to enforce one council's position on other councils, and
- MUST NOT cause detriment to one council over another, and
- MUST deal with the issues/themes at a regional/state or national level (ie: the motion must not be a single council issue)
- MUST address the conference theme of "Modernising Local Government"

As a member of the Association, Council is eligible to have four voting delegates attend. Council has four (4) registrations available for Councillors to attend this years conference and is asked to consider the nomination of four Councillors to attend.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Councillors attendance at this conference is provided for in the 2010-11 budget.

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

Nil.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Council's involvement in this conference allows Port Stephens Council to have a voice in policy matters for the Local Government industry. Based on this years themes there maybe implications for Council and attendance by Councillors allows Port Stephens to be represented.

### **CONSULTATION**

General Manager

**OPTIONS**

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

**ATTACHMENTS**

- 1) Criteria for Motions for the Conference.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

## **ATTACHMENT 1**

### **1. Modernising the Financing of Local Government**

Motions should deal with the proper and adequate financing of local government into the future. Motions must aim to extend, enhance or replace current policy positions.

Note: motions should not deal the removal of rate pegging, a fairer share of national taxation revenue or banning cost shifting as these are already established LGA policy positions).

Topics could include:

- New revenue raising mechanisms (fees, charges, taxes);
- Rating reform (other than removing rate pegging);
- More effective mobilisation of local revenues;
- Land valuation methodology options;
- Alternative financing models;
- More cost effective ways of delivering infrastructure and services;
- Removal of fiscal impediments (other than rate pegging);
- Reform of intergovernmental fiscal relationships;
- Improvements to long term financial planning and asset management;
- Identifying future financial requirements;
- Funding structures to support a modernized local government sector.

### **2. Modern Approaches to Community Wellbeing**

Motions under this theme should cover innovations to NSW Local Government's legislative, administrative or program settings that support local communities. They should relate to significant changes to:

- Social planning and cultural planning (integrating social justice with community strategic plans, social impact assessment);
- Community development and community cultural development (developing vibrant involved communities; sustaining a sense of neighbourhood in living suburbs);
- Community services (welfare or development services for various age or target groups like community halls and neighbourhood centres, ageing and disability services, women's services, youth services and children's care and education services; access for Aboriginal and Torres Strait Islander Peoples);

- Cultural services (contemporary public libraries, art galleries, performing arts centres, museums, public art, community arts, celebrations, new media and digital arts);
- Health protection and promotion (regulatory activities reducing public health risks; promoting healthy lifestyles; immunisation, early childhood health centres or rural medical services);
- Recreation facilities and services (open space; gardens, playgrounds, sports facilities);
- Safe and secure environments (crime prevention activities, crime prevention through environmental design in council plan making);
- Community economic development; and
- Social policies and programs of other spheres of government that impact Local Government.

3. **Modern Approaches to the Natural & Built Environment:**

Motions under this theme should cover environmental, natural resource management and land-use planning issues which come within the charter of Local Government. They include:

- Minimising the negative impacts of consumption and waste generation, and bringing about a more equitable allocation of responsibility for these impacts to organizations in the production chain;
- Pursuing more responsible, sustainable management of natural resources;
- Furthering the efforts of local councils to enhance the ecological, social and economic sustainability of their communities, and natural and built environments;
- Resourcing councils adequately to enable them to fulfil their charter under the Local Government Act (section 8.1) "to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which (they are) responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development";
- Preparing and equipping councils to deal with the challenges posed by climate change;
- Improve the planning system so that it is better informed, transparent and more reflective of local and regional aspirations;
- Improve the planning system to achieve superior social, economic and environmental outcomes (i.e. including social justice; equitable access to housing, employment);

|  |
|--|
| <b>MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010</b> |
|--|

- Reform the relationships between Australian, NSW and Local Government in relation to local and regional planning (applying the principle of subsidiarity); and
- Better integrate land use and infrastructure planning.



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

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**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) The Rotary Club of Nelson Bay – Donation Neil Carroll Rotary Park at Fly Point works to Irrigation System – Requisition for Funds - \$2,000.00 – Mayoral Funds.
  - b) Lemon Tree Passage & Districts Garden Club – Donation for Annual Flower Show 2010 – Rapid Response - \$150.00 – Mayoral Funds.

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**COUNCIL COMMITTEE MEETING – 10 AUGUST 2010****RECOMMENDATION:**

|  |  |                                     |
|--|--|-------------------------------------|
|  | <b>Councillor Glenys Francis<br/>Councillor Steve Tucker</b> | That the recommendation be adopted. |
|--|--|-------------------------------------|

**ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|            |   |   |
|------------|---|---|
| <b>244</b> | <b>Councillor Ken Jordan<br/>Councillor Peter Kafer</b> | It was resolved that the recommendation be adopted. |
|------------|---|---|

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**BACKGROUND**

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The Financial Assistance Policy gives Councillors a wide discretion to either grant or to refuse any requests.

The 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:-

**MAYORAL FUNDS**

|  |   |            |
|--|---|------------|
| The Rotary Club of Nelson Bay              | Donation Neil Carroll Rotary Park at Fly Point works to Irrigation System | \$2,000.00 |
| Lemon Tree Passage & Districts Garden Club | Donation for Annual Flower Show 2010                                      | \$150.00   |

**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. 8****FILE NO: PSC2007-02386****FINANCIAL ASSISTANCE POLICY****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Continue with the current policy which provides an open and transparent approach with established criteria, to all members of the community on an equal basis.
  - 2) Not provide reimbursement to school canteens for food inspection costs.
- 

**COUNCIL COMMITTEE MEETING – 10 AUGUST 2010****RECOMMENDATION:**

|  |  |  |
|--|--|--|
|  | <b>Councillor Steve Tucker<br/>Councillor Glenys Francis</b> | <p>That Council:</p> <ol style="list-style-type: none"><li>1. Continue with the current policy which provides an open and transparent approach with established criteria, to all members of the community on an equal basis.</li><li>2. Defer the matter of reimbursement to school canteens for food inspection costs to allow for further information to be provided to Council.</li><li>3. That the Rapid Response fund be increased from \$200 to \$500 with the limited of \$2000 remain in place.</li><li>4. That the Community Grants Policy be placed on exhibition for 28 days.</li></ol> |
|--|--|--|

**ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|            |   |   |
|------------|---|---|
| <b>245</b> | <b>Councillor Peter Kafer<br/>Councillor Steve Tucker</b> | It was resolved that the council committee recommendation be adopted. |
|------------|---|---|

---

## **BACKGROUND**

The purpose of this report is to provide Council with the opportunity to consider potential groups and organisations that maybe suited to an annual financial contribution from Council.

Council at its meeting on 13 April 2010 resolved:-

“A report be provided to Council with respect to groups/organisations that Council provides contributions to annually for possible inclusion in the Financial Assistance Policy.”

At **ATTACHMENT 1** is a listing showing regular annual contributions made to various groups/organisations totalling \$13,600. This information was extracted from information over the past 3 years where the event was held on an annual basis.

It should also be noted that on a regular basis not for profit organisations and charities make application to Council for a refund of fees, such as food inspection fees or park hire fees. Council could also consider adding charities to the annual listing at **ATTACHMENT 1** or continue with the current policy arrangements where applications for such reimbursements are made under Rapid Response.

School Canteens have also recently applied to have the food inspection fees waived or reimbursed. If Council was of the mind to waive/reimburse food inspection fees for school canteens it would do so with a loss of income to Council of approximately \$4,800 across all schools.

## **FINANCIAL/RESOURCE IMPLICATIONS**

Currently Council provides \$36,000 per annum through the Community Assistance Grants and a further \$24,000, under Rapid Response, under the existing Financial Assistance Policy.

If Council were to adopt an annual contributions listing similar to **ATTACHMENT 1**, those costs would be funds from Ward funds and would directly reduce the funds available through the above funding opportunities.

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

The current policy and its associated procedures and processes ensure that Council remains compliant with Section 356 of the Local Government Act 1993.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The current policy provides significant opportunity for Council to support building the capacity of its community and improving its amenity. It provides equitable access to financial assistance for all across Port Stephens LGA.

The opportunity for projects that have previously been supported annually to be mainstreamed, thereby gaining access to expertise and assurance of continued support once the merit to the community and/or capacity building attributes are attested.

Council practice has provided funds to initiate or contribute to significant community contributions from fund raising or in kind.

## **CONSULTATION**

Nil

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Listing of current annual contributions.
- 2) Current Financial Assistance Policy.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

| <b>No.</b> | <b>GROUP/ORGANISATION</b>                   | <b>PURPOSE</b>  |
|------------|---|---|
| 1          | Raymond Terrace & Districts Tennis Club Inc | Annual Easter Open Tennis Event (\$2,000)   |
| 2          | Port Stephens Community Care                | Annual Seniors Expo (\$1,000)   |
| 3          | Port Stephens RAAF Williamtown              | RAAF Citizens of the Year (\$500)   |
| 4          | Rotary Club Nelson Bay                      | Rotary Youth Driver Awareness program (\$2,250)   |
| 5          | Rotary Club Nelson Bay                      | Annual Charity Golf Day (\$1000)  |
| 6          | Breast Cancer Australia                     | AVON Race (\$500)   |
| 7          | Carries Place Womens and Childrens Service  | Annual Christmas Party (\$200)  |
| 8          | St John's Anglican Church                   | Costs for Christmas lighting (\$250)  |
| 9          | Life Education                              | Towing costs of the Life Education vehicle whilst in Port Stephens (\$4200)                   |
| 10         | Port Stephens Veterans Golfer Association   | Annual Golf Week (\$1000)   |
| 11         | Port Stephens Family Support Service        | Annual visit to leisure centre entry costs for families affected by domestic violence (\$200) |
| 12         | Tomaree Peninsula School Challenge          | Annual School Challenge (\$500)   |

Total contribution \$13,600 as at 2010.

ATTACHMENT 2



POLICY

Adopted: 19/05/2009  
Minute No: 151  
Amended:  
Minute No:

FILE NO: PSC2007-2386

TITLE: FINANCIAL ASSISTANCE UNDER SECTION 356 OF THE LOCAL GOVERNMENT ACT 1993

RESPONSIBLE OFFICER: EXECUTIVE OFFICER

BACKGROUND

Since the Department of Local Government's Better Practice Review of Port Stephens Council in 2005 and its Circular 06-32, Council has been aware that its existing policy (adopted in 1997 and amended in 2004 – titled Request for Financial Assistance) has been inadequate to meet the needs of Council to support its community and build capacity.

This policy replaces the previous policy Request for Financial Assistance. The terms 'Minor Works' and Profit from Land Sales (formerly "Ward Funds") are also rescinded for the purposes of this policy and the term Financial Assistance Program describes the methods of distribution of Council funds prescribed by this policy.

OBJECTIVE

- To provide an equitable, transparent, accountable and coordinated approach for providing financial assistance to community groups in accordance with the terms of Section 356 of the Local Government Act 1993.
- To provide equitable financial assistance to people and organisations, bearing in mind that the Council is trustee and custodian of public assets and is bound by its charter to effectively account for and manage those assets.
- To promote a sense of community, community harmony and social cohesion,
- To assist communities under stress.
- To ensure fair distribution of activities and services throughout Port Stephens.



## **PRINCIPLES**

- 1) Funds provided for financial assistance to any part of the community are available through the whole community's contribution via rates, taxes and the sale of its assets.
- 2) Equity of opportunity to apply for financial assistance by all groups within the community.
- 3) Accountability to the community for equitable, transparent processes to dispense financial assistance is the responsibility of Council.
- 4) Accountability of the recipients of financial assistance to use those funds in accordance with the conditions of the assistance, and to be prepared to acquit them if necessary.
- 5) Projects for which financial assistance is provided by Council should benefit and/or build the capacity of the Port Stephens LGA community and/or its constituent communities.

## **POLICY STATEMENT**

Port Stephens Council provides grants to non-profit community groups through a Financial Assistance Program. Council's goal in offering this program is to support local activities and projects which improve its community's capacity and meet the needs of its residents.

The Mayoral funds are provided annually to allow the Mayor to respond to contingent requirements that may arise from time to time. The funds may only be used at the discretion of the Mayor.

### **(a) Financial Assistance Program Components**

The four components of the Financial Assistance Program are:

1. Community Financial Assistance Grants: a bi-annual process of competitive applications for financial assistance from a fund totalling \$36,000. See Appendix 1 of this Policy for detailed process and documentation. Maximum grants of \$2000; to be spent within Port Stephens LGA; successful applicants determined through a sub-committee of Council. General Business Rules for this grant apply – see Requirements section below for full details.

*Examples of this type of grant could include Heritage : repair of heritage assets, acquire heritage item, publication of local history; Sports & Community Service: team uniforms, upgrade amenities, purchase of equipment; Anniversaries: local group – significant celebrations eg 80th anniversary; General: purchase of equipment for halls, parks, playgrounds.*

2. Rapid Response Financial Assistance – an annual allowance of \$2000 for each Councillor, with a discretionary limit of \$200, which can be

dispensed at the request of the Councillor and requiring only the signature of the Mayor and the General Manager. Rapid Response Financial Assistance must subsequently be endorsed by Council. See Appendix 2 of this Policy for process and documentation. General Requirements apply – see below.

*Examples could include: Specific occasion refund of hall fees (not ongoing); Donation to charity (one off); Inscription on a commemorative plaque; Purchase of cutlery for Council or Community facility; Other one-off small items not requiring acquittal.*

3. Community Capacity Building Grants – special projects (excluding events) that provide specific benefits to the community of Port Stephens. Grants are not competitive, maximum \$10,000 and are determined by Council after completion of an application. See appendix 3 of this Policy for process and documentation. General Requirements apply, and in addition detailed project plans, outlines of community benefit to be gained, and acquittal are required.

*Examples could include: Upgrades to community facilities; Security lighting at sporting grounds, parks; Fencing a facility or repairs to a heritage asset; Provision of sun protection at schools.*

4. Special Purpose Resolution of Council for financial relief. This could be a policy, such as the Financial Assistance for Disposal of Waste in Port Stephens Policy adopted in 2005; or by way of a specific resolution of Council related to a class of persons.

The following requirements apply to all components, however some may be waived in the case of the Special Purpose Resolution of Council component.

#### **Requirements – Financial Assistance Program**

- 1) Funding must be spent within the LGA of Port Stephens, with reasonable provision for equity between Wards, although all requests should be treated on their merits.
- 2) Funding for a group or individual or project will be made once only in any three year period. Grants to individuals are subject to 28 days' public notice prior to a decision of Council and the legislation precludes funding being made and later ratified.
- 3) Funding for events are excluded from the Financial Assistance Program, and are the responsibility of the Council's Economic Development Unit.
- 4) Funding must be made to an incorporated association or other formally constituted body. Funding to individuals is allowed under Section 356 subject to there being no objections after a 28-day public exhibition process. Funding for an individual or individuals may not be available under the second component – Rapid Response Financial Assistance – as the exhibition requirement would make it impractical to achieve the quick turnaround that this component is designed to meet.

- 5) Funding must be expended in accordance with the functions of Council.
- 6) Assistance would not be available to groups from more than one Councillor. Attempts to seek multiple small amounts from different Councillors under any component of the Financial Assistance Program would automatically disqualify a group from any financial assistance.
- 7) Council funding may be used in conjunction with funding from other sources (outside Council) provided that such funding is disclosed at the time of application for financial assistance to Council.
- 8) In all components, funding must be used for the purpose for which it is granted.
- 9) Applications for financial assistance for sums greater than \$500 should be accompanied by details of the project, any additional funding to be obtained from sources other than Council, and details of proposed expenditure.
- 10) Funding amounts over \$500 must be acquitted using Council's Financial Assistance Acquittal form, and provide a report on the outcome of the project to Council. Council may waive the requirement for a report, however the funds must still be accounted in the acquittal process.
- 11) Where the project to be funded is of a capital nature and is not on a Council-owned or operated facility or land, a statement from the proposed asset owner that Council will not be held responsible for on-going maintenance should accompany a request for financial assistance.
- 12) Generally, projects that ordinarily would fall within the Council's capital works program at a low priority will only be funded through the Financial Assistance Program if there is no impact on higher priority projects and associated resources, and if such funding is not to the detriment of other projects of merit. It is the responsibility of the Group Manager Facilities & Services to determine potential impacts and make a recommendation to the General Manager and Council accordingly.
- 13) 'Matching funds' from existing budgeted items cannot be appropriated away from the purpose for which they were approved to support low priority capital works.

#### **Community Financial Assistance Component – Adjudication**

Where competitive grants are advertised and applications received, these will be considered by a sub-committee of Council, comprising the Mayor, the General Manager and one Councillor from each Ward. The Executive Officer would convene the sub-committee once grant applications are closed.

The sub-committee would adjudicate the applications on the basis of the criteria and business rules, and make recommendation to Council on those to be funded. Where applications are not funded, the sub-committee should provide reasons that can be conveyed to applicants to assist in future grant proposals.

The General Manager is responsible for reporting to Council annually and certifying that expenditure under the Financial Assistance Program meets the necessary probity and transparency required by the Act. The Financial Assistance Program expenditure is reported in the Annual Report (Statutory Statements) as part of the requirements for s356.

**(b) Mayoral Fund**

The Mayoral Fund is provided annually to allow the Mayor to respond to contingent requirements that may arise from time to time. The Fund may only be used at the discretion of the Mayor.

Mayoral funds must be used to provide benefits that reflect the whole of Port Stephens LGA, but are not geographically confined to the LGA. Examples include donations on behalf of the Port Stephens community to other communities suffering hardship through natural disasters etc.

Mayor Fund expenses are related to non-personal matters associated with the Mayor's office such as small mayoral donations, ceremonies, wreaths, overseas visitors, luncheons related to Council business, civic ceremony expenses, promoting community relations (eg Sister Cities).

Provision of memorabilia is the responsibility of the Communications & Customer Relations Section of Council. That Section will ensure that there is a stock of suitable merchandise for ceremonial and associated purposes.

The General Manager is responsible for reporting to Council annually and certifying that the Mayoral Fund expenses meet the necessary probity and transparency required by the Act. Mayor Fund expenditure is reported in the Annual Report (Statutory Statements) as part of the requirements for s356.

**RELATED POLICIES**

Port Stephens Council Code of Conduct  
Financial Assistance for Disposal of Waste  
Community Groups Loans Policy  
Corporate Sponsorship Policy  
Debt Recovery & Hardship Policy  
Rate Donation for Community Groups Policy  
Council Charter

**SUSTAINABILITY IMPLICATIONS**

**SOCIAL IMPLICATIONS**

This policy contributes to the capacity building of the Port Stephens Community.

**ECONOMIC IMPLICATIONS**

This policy contributes to the economic capacity of the Port Stephens Community.

**ENVIRONMENTAL IMPLICATIONS**

This policy enables Council to contribute to projects that actively protect or revitalise the environment of Port Stephens.

**RELEVANT LEGISLATIVE PROVISIONS**

Section 356, Section 8, Local Government Act 1993  
Department of Local Government Circular 06-32  
The Independent Commission against Corruption Act 1988

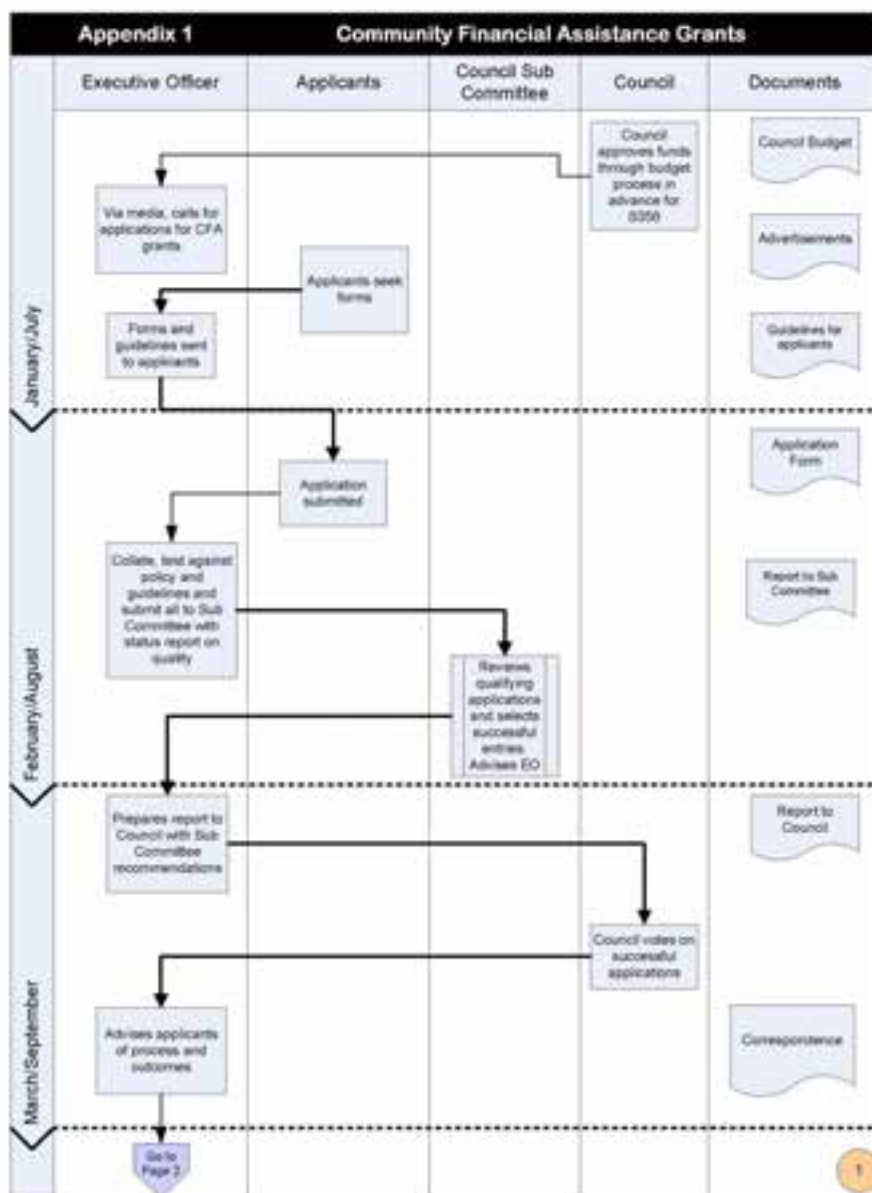
**IMPLEMENTATION RESPONSIBILITY**

Executive Officer

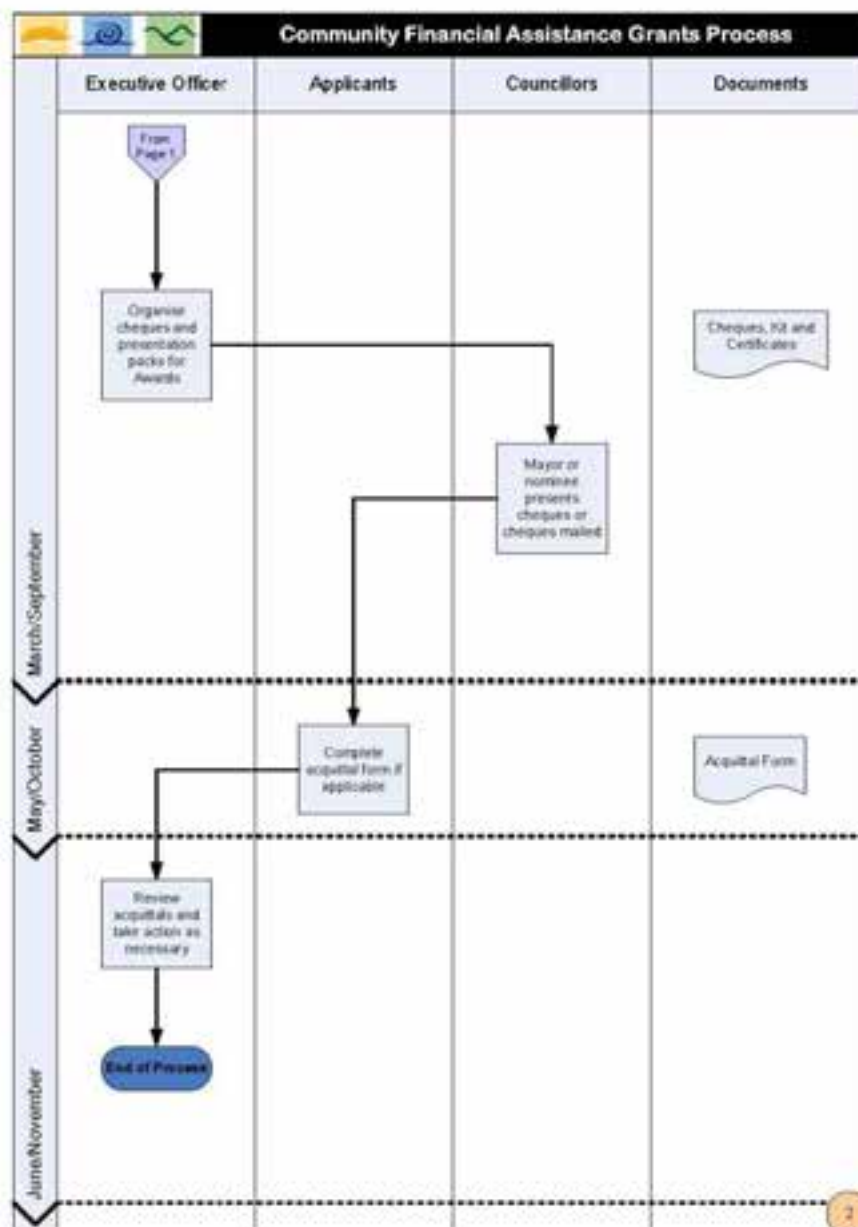
**REVIEW DATE**

One year from the date of adoption of the policy.

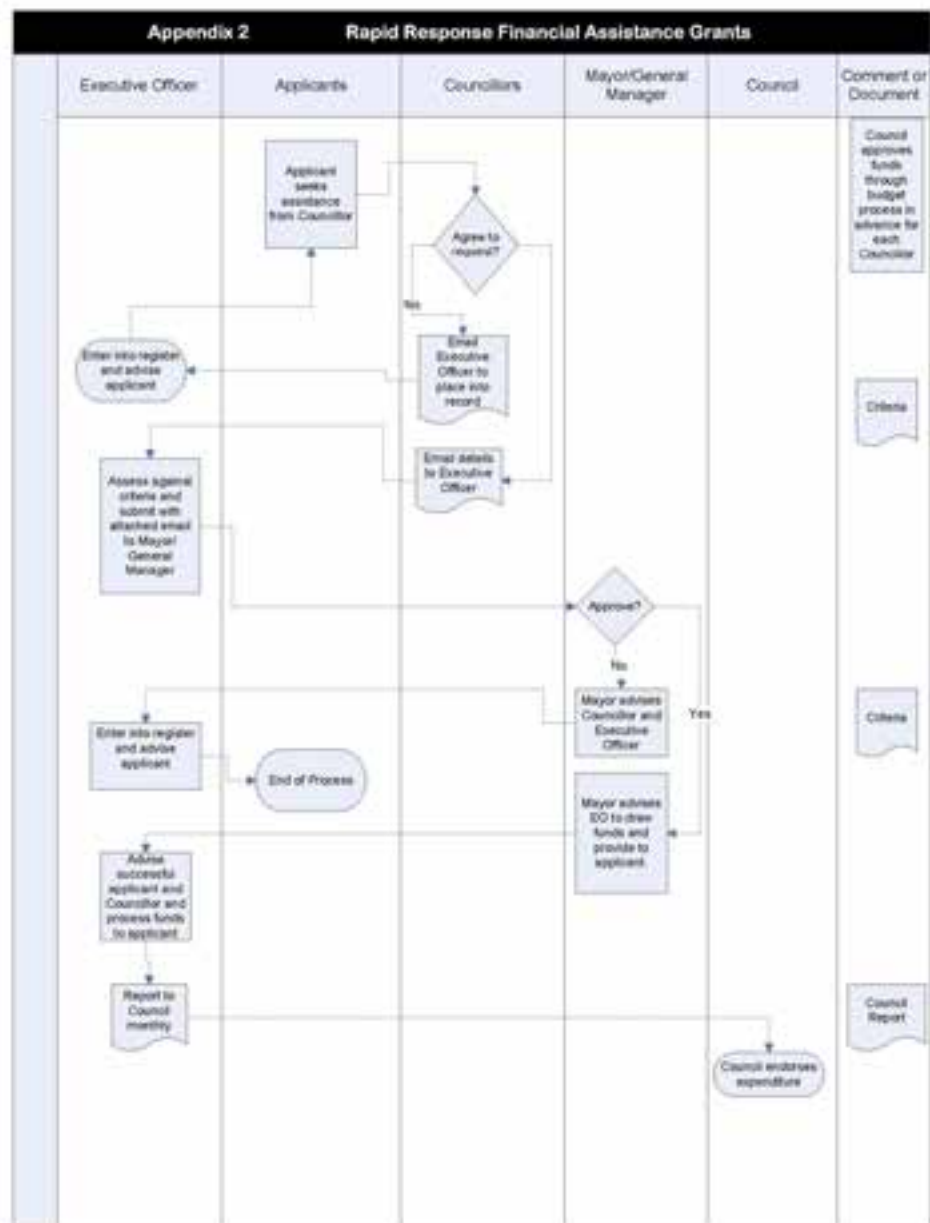
APPENDIX 1



APPENDIX 1 (cont)

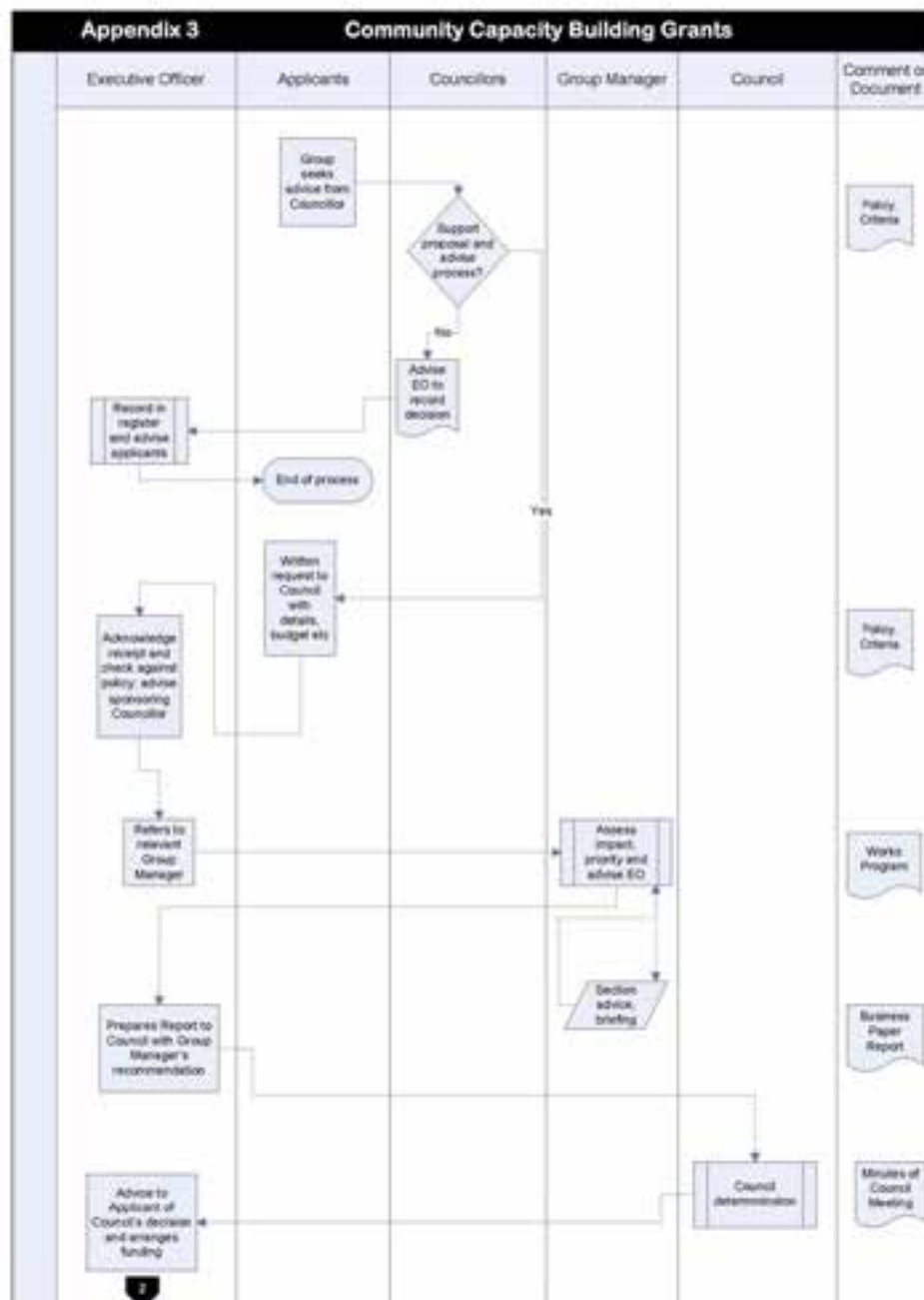


APPENDIX 2

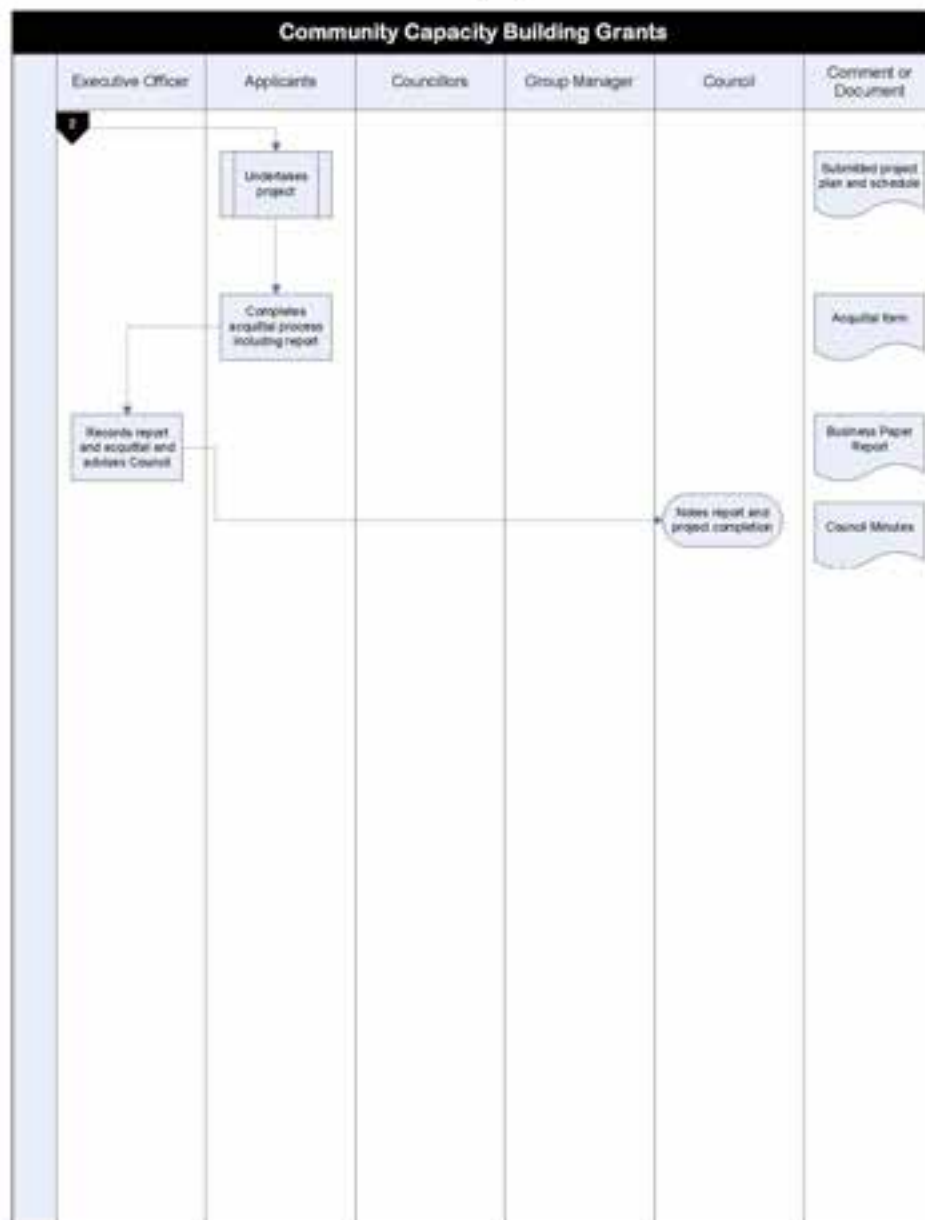




APPENDIX 3



APPENDIX 3 (cont)



**ITEM NO.     9**

## **INFORMATION PAPERS**

**REPORT OF:    TONY WICKHAM – EXECUTIVE OFFICER**  
**GROUP:        GENERAL MANAGERS OFFICE**

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

Receives and notes the Information Papers listed below being presented to Council on 10 August 2010.

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| <b>No:</b> | <b>Report Title</b>   | <b>Page:</b> |
|------------|---|--------------|
| 1          | JOINT STANDING COMMITTEE ON ELECTORAL MATTERS REPORT TITLED 2008 LOCAL GOVERNMENT ELECTIONS |              |

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### **COUNCIL COMMITTEE MEETING – 10 AUGUST 2010** **RECOMMENDATION:**

|  |  |                                     |
|--|--|-------------------------------------|
|  | <b>Councillor Bruce MacKenzie</b><br><b>Councillor John Nell</b> | That the recommendation be adopted. |
|--|--|-------------------------------------|

### **ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|            |  |   |
|------------|--|---|
| <b>246</b> | <b>Councillor Peter Kafer</b><br><b>Councillor Sally Dover</b> | It was resolved that the recommendation be adopted. |
|------------|--|---|

# COUNCIL COMMITTEE INFORMATION PAPERS



**INFORMATION ITEM NO. 1**

**JOINT STANDING COMMITTEE ON ELECTORAL MATTERS REPORT  
TITLED “2008 LOCAL GOVERNMENT ELECTIONS”**

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

**FILE:** PSC2007-2662

**BACKGROUND**

The purpose of this report is to provide Council with the recommendations from the Joint Standing Committee (the Committee) which was established following the 2008 Local Government elections.

The Committee was established by the State Government following the 2008 elections due to concerns raised by various Councils and community members.

Council will recall that a submission was made by Council to the Joint Standing Committee and the General Manager also gave evidence at the sitting of the Committee with respect to Council's submission.

Council's submission generally addressed five (5) areas:

Delay with election results;  
Group voting method;  
Electoral office/staffing;  
Electoral Funding Authority and;  
Funding

Extracts from the report are shown at ATTACHMENT 1. The full report is tabled and also is available from [www.parliament.nsw.gov.au/electoralmatters](http://www.parliament.nsw.gov.au/electoralmatters)

**ATTACHMENTS**

- 1) Executive Summary & Recommendations.

**TABLED DOCUMENT**

- 1) 2008 Local Government Elections Report.

## ATTACHMENT 1

Joint Standing Committee on Electoral Matters

### Executive Summary

On Saturday 13 September 2008 elections were held for 148 council areas across NSW. This electoral event involved 332 individual elections for councillors in 187 wards, 84 undivided councils and 27 mayoral elections. Thirty nine uncontested elections were conducted for 36 wards, two undivided councils and one mayoral election. In addition to these elections of people to office, 17 council referenda and 17 polls were conducted.<sup>1</sup>

The NSW Electoral Commission (NSWEC) has reported that there were no successful court challenges to the election results and two recounts were conducted with no change to the outcome in either election.<sup>2</sup> Twelve recounts were undertaken for the 2004 local government elections.<sup>3</sup> The lack of any successful legal challenge or disputed results is one clear demonstration that the elections were conducted professionally, impartially and fairly.

The former Premier referred the 2008 local government elections to the Committee for inquiry, following a request from the Local Government and Shires Association (LGSA) for a Parliamentary Inquiry.<sup>4</sup> The Committee's inquiry was conducted in the context of significant concern and anxiety on the part of councils across the State in relation to the conduct and administration of the 2008 local government elections. The inquiry resulted from efforts by the Local Government and Shires Association (LGSA) to convey to the Government and the public the level of dissatisfaction on the part of individual councils about the cost of the election and the implementation of full cost recovery. In particular, Councils strongly objected to the costs that were well above what they had paid to the NSWEC in relation to the conduct of the previous local government elections.

In the lead up to the inquiry, media reports on the local government elections focused on the increase in charges<sup>5</sup> and the fairness of the increase in light of 'rate pegging' by the government, which limits councils' capacity to increase income. Councils raising this issue included Tamworth, Maitland, Bathurst, and Armidale Dumaresq.<sup>6</sup> Complaints regarding the conduct of the election also were raised in the media, including:

<sup>1</sup> NSW Electoral Commission, *Report on the 2008 Local Government Elections*, June 2008, p. 10.

<sup>2</sup> NSW Electoral Commission, *NSWEC Annual Report 2008/2009*, October 2009, p. 12.

<sup>3</sup> NSW Electoral Commission, *Report on the 2008 Local Government Elections*, June 2008, p. 113.

<sup>4</sup> Local Government and Shires Association of NSW, *Local Government Election Expenses*, <http://www.lgssa.org.au/news/html/3639-local-government-election-expenses.asp>, accessed 10 May 2010.

<sup>5</sup> 'Our \$280,000 election', *Manning River Times*, 27 June 2008, <http://taree.yourguide.com.au/news/local/news/general/four-280000-election-799050.aspx>, accessed 18 March 2009; L. Ashworth, 'Commission's ballot box rot', *Lithgow Mercury*, 24 June 2008, <http://lithgow.yourguide.com.au/news/local/news/general/commissions-ballot-box-rot/795378.aspx>, accessed 16 March 2009; P. Barrett, 'The price of democracy', *Armidale Express*, 23 June 2008, <http://armidale.yourguide.com.au/news/local/news/general/the-price-of-democracy/794658.aspx>, accessed 18 March 2009.

<sup>6</sup> D. Gregory, 'Revolt by councils – we won't pay up', *The Sun-Herald*, Sunday 8 March 2009, p. 35; B. Snedden, 'Cost to count your vote', *Maitland Mercury*, 3 September 2008, <http://www.maitlandmercury.com.au/news/local/news/general/cost-to-count-your-vote/1261208.aspx>, accessed 17 March 2009; Wood, B. 'Election bill soars by 349pc', *Western Advocate*, 6 June 2008, <http://www.westernadvocate.com.au/news/local/news/general/election-bill-soars-by-349pc/783642.aspx>, accessed 17 March 2009; P. Barrett, 'The price of democracy', *Armidale Express*, 23 June 2008, <http://armidale.yourguide.com.au/news/local/news/general/the-price-of-democracy/794658.aspx>, accessed 18 March 2009.

- understaffing of polling booths<sup>7</sup>;
- polling places running out of ballot papers<sup>8</sup>;
- too little or poor advertising of the date of elections and of the location of polling places<sup>9</sup>; and
- incorrect information provided to candidates on election results.<sup>10</sup>

The Committee ensured that all of these issues were examined carefully when inviting submissions and hearing from witnesses, including the NSW Electoral Commission.

All councils were invited by the Committee to make a submission to the inquiry and submissions were received from 45 local councils. In addition, the Riverina and Murray Regional Organisation of Councils and the Local Government and Shires Association also made submissions. Twenty-three of the councils who made submissions were represented at the hearings. Of the total 24 local councils that gave evidence, thirteen were from outside the Sydney Metropolitan area. Unfortunately, three of the local councils invited by the Committee to give evidence were unable to do so and one regional council declined the Committee's invitation to give evidence. The Local Government Association and the Shires Association also gave evidence to the Committee. The Electoral Commission was given the opportunity to participate and respond to issues raised during the inquiry through answers to questions on notice and evidence before the Committee.

The Committee was clear that its role in the inquiry process was not to pass judgement about the competing interests of inquiry participants but rather to balance these interests with reference to the responsibilities, roles, expectations and performance of key stakeholders. The Committee notes the scale and complexity of the considerable logistical exercise involved in conducting and administering the local government elections and the challenges faced by the NSWEC in undertaking full responsibility for these elections for the first time. The Committee also notes that this change was one of the factors which may have affected the expectations of the local government sector.

The Committee regards the NSWEC's role as particularly significant in terms of securing the integrity of the election process and the observance of consistent standards in election processes at both the state and local levels of government. The relationship between the NSWEC and its stakeholders is critical to the success of the Commission and its credibility in performing this role.

The Committee's report contains a number of recommendations and findings that aim to enhance and develop the degree of accountability and transparency around the conduct and administration of the elections and foster the relationship between the NSWEC and key

<sup>7</sup> 'NSW council elections under scrutiny', *Government News*, Thursday 12 March 2009, <http://www.governmentnews.com.au/2009/03/12/article/ZNIWKTHOWY.html>, accessed 18 March 2009.

<sup>8</sup> 'NSW council elections under scrutiny', *Government News*, Thursday 12 March 2009, <http://www.governmentnews.com.au/2009/03/12/article/ZNIWKTHOWY.html>, accessed 18 March 2009; and 'Election bill row', *The Sunday Telegraph*, Sunday 14 December 2008, p. 24.

<sup>9</sup> 'Mayor says council should run election', *Liverpool Champion*, 5 November 2008, <http://liverpool.yourguide.com.au/news/local/news/general/mayor-says-council-should-run-election/1351676.aspx>, accessed 18 March 2009; 'A vote of no confidence', *The Sydney Morning Herald*, 4 November 2008, p. 24.

<sup>10</sup> 'A vote of no confidence', *The Sydney Morning Herald*, 4 November 2008, p. 24.

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Joint Standing Committee on Electoral Matters

Executive Summary

stakeholders in the election process, such as councils, candidates and the public. The proposals recommended by the Committee include:

- Ongoing parliamentary committee review of the conduct and administration of local government elections (as currently occurs in relation to state elections);
- Inclusion in the parliamentary committee review of the budgeted and actual costs for the 2012 local government elections, as considered necessary;
- Mandatory reporting by the NSWEC on local government elections (the NSWEC currently reports on a voluntary basis); and
- Development and implementation by the NSWEC of a local government elections Service Charter, in consultation with relevant stakeholders.

It was claimed during the course of the inquiry that the costs passed on to councils by the NSWEC were more than mere cost recovery. Evidence gathered in the course of the inquiry would indicate that this is not the case. The Committee has concluded that the costs recovered by the NSWEC from councils were reasonable and accurate. However, there were a number of areas in relation to the elections that the Committee considers should be subject to further examination and consultation in the lead up to the 2012 local government elections.

The Committee is confident that most of the issues raised by participants during the inquiry can be addressed administratively, without the need for significant policy changes or legislative amendment. In some cases, the Committee has identified areas where the NSWEC should undertake further investigation, which may subsequently lead to legislative change, for instance, in relation to random sampling. Significantly, the NSWEC has recently identified several of these areas as particular challenges on which it will continue to work:

- timeliness of results;
- cost estimates and cost recovery;
- Council visits programme;
- location of voting venues and staffing levels;
- electors with vision impairment (including the examination of electronic voting);
- legislative amendments (dealt with by the Committee in its previous inquiry into the public funding of state election campaigns).<sup>11</sup>

The Committee welcomes initiatives by the NSWEC in these areas and looks forward to reviewing the outcomes of the Commission's efforts as part of the proposed parliamentary review of the conduct and administration of the 2012 local government elections.

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<sup>11</sup> NSW Electoral Commission, *NSWEC Annual Report 2008/2009*, October 2009, p. 42.



## List of recommendations

### RECOMMENDATION 1: ..... 11

The Committee recommends that:

(a) each House of Parliament amend the resolution establishing the Joint Standing Committee on Electoral Matters to include a *standing reference* to inquire into and report upon:

- i. the conduct and administration of local government elections, and
- ii. any matter connected with the following laws as they pertain to local government elections -
  - the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*;
  - the *Parliamentary Electorates and Elections Act 1912*; and
  - the *Election Funding and Disclosures Act 1981*.

(b) the Committee is to report upon the outcome of any such inquiry as soon as practicable after 12 months from the date on which the local government elections are held.

(c) each House consider passing a resolution to clarify that the Joint Standing Committee on Electoral Matters may inquire into and report upon any matter relating to local government elections as referred to it by either House of the Parliament or a Minister.

### RECOMMENDATION 2: ..... 11

The Committee recommends that:

(a) the *Local Government Act 1993* be amended to require the Electoral Commissioner to provide a report to the appropriate Minister on each set of local government elections, within nine months of the election, and for the report to include details of the following:

- i. the role of the NSWEC;
- ii. electoral services provided to:
  - electors
  - councils
  - candidates, groups and political parties
- iii. recruitment and training of election staff, and the management of polling places;
- iv. counting and the provision of the election results;

Joint Standing Committee on Electoral Matters

List of recommendations

- v. funding arrangements and the costs associated with the local government elections;
- vi. benchmarking of the conduct and administration of the local government elections; and
- vii. any relevant legislative amendments affecting the conduct and administration of the local government elections.

(b) consistent with Recommendation 2a, an amendment be made to the *Parliamentary Electorates and Elections Act 1912* to require the Electoral Commissioner to provide a report to the Premier in respect of each state general election, within nine months of the election.

(c) the relevant statutes be amended to provide that the reports by the Electoral Commissioner in respect of each state general election and local government election be tabled in Parliament within 14 days of receipt by the Minister.

RECOMMENDATION 3: .....22

The Committee recommends that the Joint Standing Committee on Electoral Matters externally review the operation of the full cost recovery model for the 2012 local government general elections and, in light of the findings of that review, consider the necessity for engaging consultants to conduct any subsequent external reviews of the model.

RECOMMENDATION 4: .....27

The Committee recommends that the NSW Electoral Commissioner ensure that detailed information about the budgeted and actual costs for the 2012 local government elections be provided to all council General Managers. Such detailed information should provide explanations as to what each line item covers, and how it has been calculated and allocated.

RECOMMENDATION 5: .....45

The Committee recommends that a higher proportion of the NSW Government's advertising budget be spent advertising the next local government election in the fortnight preceding polling day.

RECOMMENDATION 6: .....47

The Committee recommends that:

- (a) the NSW Electoral Commission continue to conduct stakeholder surveys on the conduct of the election;
- (b) detailed information on the survey responses be provided to the Committee as part of the material examined during the proposed review of the 2012 local government elections, in addition to any statistical compilation of survey results;
- (c) in conducting the surveys the Electoral Commission give particular attention to stakeholder views on the following issues, raised with the Committee during the course of this inquiry:
  - the Regional Returning Officer model;
  - resourcing, staffing and location of pre-poll and polling booths;

- transportation of ballot papers;
- arrangements for scrutineering;
- election advertising;
- the Elector Inquiry Centre; and
- the counting of the vote.

**RECOMMENDATION 7: ..... 50**

The Committee recommends that:

- (a) the NSW Electoral Commission consider formulating a 'Service Charter for local government elections', to be developed in consultation with relevant stakeholders and modelled on the Commonwealth and State Government Service Charters for departments and agencies dealing with the public.
- (b) the proposed Service Charter be aligned to the corporate values of the NSW Electoral Commission around their four key result areas, as they relate to local government general elections.
- (c) the NSW Electoral Commission include in its report on the local government elections information on its performance in providing services for local government elections, benchmarked against the proposed Service Charter.

**RECOMMENDATION 8: ..... 54**

The Committee recommends that the following aspects of the Regional Returning Officer (RRO) model be given consideration by the NSW Electoral Commission in preparation for the 2012 local government elections:

- (a) the accessibility of RROs to the residents, candidates and staff of those councils not hosting the returning officer, including the possibility of the returning officer making visits to those other councils during the election period.
- (b) the use of a landline or free call contact number for all returning officers.
- (c) ballot paper transportation.
- (d) arrangements for pre-poll voting for those councils not hosting the RRO, including the possibility of employing part time electoral officials to cover those councils not hosting the RRO.

**RECOMMENDATION 9: ..... 57**

The Committee recommends that:

- (a) councils should continue to be responsible for the maintenance of the non-residential roll for local government general elections;
- (b) the NSWEC and Department of Local Government work to clarify the appropriate authority for providing advice to councils on inclusions and exclusions to the non-resident roll;
- (c) as part of the consultations with General Managers prior to the 2012 local government general elections, the Electoral Commissioner provide information to

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councils on strategies to improve enrolment levels in relation to non-residential electors; and

(d) the NSW Electoral Commission continue to provide support for publication of information relating to the non-residential roll via the NSWEC website.

RECOMMENDATION 10: .....57

The Committee recommends that the requirement that a candidate's signature on a local government election nomination form be witnessed by a Justice of the Peace be discontinued.

RECOMMENDATION 11: .....66

The Committee recommends that:

(a) the *Local Government Act 1993* be amended to allow elections with universal postal voting for those councils who opt to use that method of election, in time for the 2012 local government elections.

(b) the Government undertake consultation on the best method for councils to use to decide to opt into a universal postal voting system.

(c) the NSWEC provide advice to the General Manager of local councils interested in universal postal voting as to the costs involved in taking up this option.

RECOMMENDATION 12: .....69

The Committee recommends that prior to the 2012 local government elections, the NSWEC:

(a) review the methodology used to calculate projected voting figures and allocate ballot papers for polling places.

(b) review the policies and procedures in place to deal with any shortage of ballot paper that may occur on election day.

(c) review the method for determining staffing levels for polling booths on election day, including multi-ward and multi-council polling places.

RECOMMENDATION 13: .....69

The Committee recommends that the Electoral Commissioner examine multi-council how-to-vote cards for multi-council polling places, with a view to allowing multi-council how-to-vote cards.

RECOMMENDATION 14: .....74

The Committee recommends that more priority be given to disability access for polling places.

RECOMMENDATION 15: .....85

The Committee recommends that the Electoral Commissioner:

(a) provide advice to General Managers as part of the consultation process in the lead up to the 2012 local government elections on the option of a local computerised count where required, including detailed information about the costs and resourcing issues.

(b) report on any initiatives undertaken by the NSW Electoral Commission toward improving counting and publication of results in the Commission's next report on the local government elections in 2012.

RECOMMENDATION 16: ..... 88

The Committee recommends that the NSW Electoral Commission investigate the feasibility of abolishing the random sampling method for preference distribution and the alternative fractional methods currently available, and calculate the costs associated with moving to technology that would support an alternative method.

FINDING 1: ..... 91

The Committee finds that changes to the above the line preferential voting system in use for local government elections would require further examination, including wider canvassing of stakeholder opinion, such as that of political parties, candidates and electors.

# NOTICES OF MOTION

# **NOTICE OF MOTION**

**ITEM NO. 1**

**FILE NO: A2004-0217**

## **WOMEN AND CHILDRENS REFUGE IN RAYMOND TERRACE**

**COUNCILLORS: FRANCIS, DINGLE**

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### **THAT COUNCIL:**

- 1) Port Stephens Council write to lobby the relevant Minister and or Department to fund co-ordinator portion for the proposed Women's and Children's Refuge in Raymond Terrace for the Port Stephens Local Government Area.
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### **BACKGROUND REPORT OF: PAUL PROCTOR – SOCIAL PLANNING CO-ORDINATOR**

#### **ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|            |  |   |
|------------|--|---|
| <b>247</b> | <b>Councillor Glenys Francis<br/>Councillor Geoff Dingle</b> | It was resolved that Port Stephens Council write to lobby the relevant Minister and or Department to fund co-ordinator portion for the proposed Women's and Children's Refuge in Raymond Terrace for the Port Stephens Local Government Area. |
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### **BACKGROUND**

Since 1998 the Port Stephens Domestic Violence Committee has been advocating for a Women's and Children's Refuge to be established in Port Stephens. The nearest refuge is 30km away at Maitland which turns away an average of 150 women and children on a quarterly basis. Port Stephens Family Support Service has been operating for almost 20 years in the LGA consistently finds that over 90% of the families they meet are experiencing domestic violence with 47% of those families seeking safe and secure accommodation. On a weekly basis the Raymond Terrace Neighbourhood Centre sees at least one family which is affected by domestic violence that is named, each week. The Centre's Emergency Relief Program sees many more families with indications of some form of domestic violence. In 2008/2009 the Yacaaba Centre (at Nelson Bay) reports that 295 (61.2%) of their clients met with the service because of domestic violence with 36 (7.5%) of these clients were seeking accommodation due to domestic violence, of which 25 (5.2%) more were homeless during that period.

Given the dire need for access to a safe and secure local accommodation for women and children experiencing domestic violence, the Port Stephens Domestic Violence Committee has developed in collaboration with local service providers and the police an interim model based on establishing one or more domestic violence safe houses throughout Port Stephens. It is proposed that each safe house would accommodate one family at a time and would be supported and serviced by a network of government and non government agencies to provide victim support, information, active referrals and case management as required. It will operate with police identifying victims of Domestic Violence whose circumstances are appropriate for the safe house, at the time they go out to an incident. They will check to see if the house is available and organise their safe arrival to the house through a support agency. The client's immediate crisis issues will be addressed and then they will be linked into the various longer term support and housing options. A house has been offered by Housing NSW to the Port Stephens Domestic Violence Committee to be auspiced by the Raymond Terrace Neighbourhood Centre as part of their housing portfolio under Community Housing as a Domestic Violence Safe House.

To assist in the establishment and Co-ordination of this domestic violence safe house model the Port Stephens Domestic Violence Committee has been seeking for the last 12 months approximately \$50,000 a year in government funding to employ a part-time project coordinator to establish the service to operate as a multi-agency partnership. The Project Co-ordinator will responsible for: -

- Development and implementation of Port Stephens Safe House policies and procedures
- Development of practical strategies, links and communication networks between partner agencies regarding the operation of the Safe House and the support of the clients
- Identification of pathways for the client to have her needs met
- Development of practical links and communication between the clients and the partner agencies
- Development of mechanisms for the women and their children to receive crisis and ongoing support
- Establishment and set up of an evaluation process for the project
- Establishing ongoing relationships with sponsors and investigating funding opportunities so that the program is sustainable



## **MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010**

Cr Bruce MacKenzie declared a significant non-pecuniary conflict of interest in Notice Motion Item 1 and left the meeting at 6.51pm.

In the absence of the Mayor and Deputy Mayor the meeting required a Chairperson to be elected. Nominations were called and a nomination for Cr Glenys Francis was moved by Cr Kafer and seconded by Cr Nell. Cr Francis was elected as Chairperson.

At 7.00pm the fire alarms were activated and emergency procedures were followed. Warden was the Executive Officer. The NSW Fire Brigades were called and a faulty fire alarm was the cause. All persons in the meeting were evacuated safely. The meeting re-convened at 7.17pm. All Councillors present prior to the evacuation were present.

# NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217

## PROPOSED DEVELOPMENT OF THE EXTENSION OF LAVIS LANE

COUNCILLORS: WARD, DINGLE, KAER

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### THAT COUNCIL:

- 1) In order that Councillors' may be able to consider the public disquiet on the matter the General Manager is requested to prepare a report to Council as soon as possible on the proposed development of the extension of Lavis Lane as required by the developers of the sand mining by Macka Sands.
  - 2) The report should give complete details of all actions by Council staff in the matter including copies of all correspondence between any council staff and the parties involved and notes of all conversations between any Council staff and any member of the Tower family and representatives of Macka Sands and their solicitors and surveyors.
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### ORDINARY COUNCIL MEETING – 10 AUGUST 2010

|     |  |   |
|-----|--|---|
| 248 | <b>Councillor Frank Ward</b><br><b>Councillor Geoff Dingle</b> | <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1. In order that Councillors' may be able to consider the public disquiet on the matter the General Manager is requested to prepare a report to Council as soon as possible on the proposed development of the extension of Lavis Lane as required by the developers of the sand mining by Macka Sands.</li><li>2. The report should give complete details of all actions by Council staff in the matter including copies of all correspondence between any council staff and the parties involved and notes of all conversations between any Council staff and any member of the Tower family and representatives of Macka Sands and their solicitors and surveyors.</li><li>3. That the report be made available within 4 weeks.</li></ol> |
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| <b>MINUTES FOR ORDINARY MEETING – 10 AUGUST 2010</b> |
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Cr Ken Jordan left the meeting at 7.31pm prior to voting on the item.

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

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

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

# CONFIDENTIAL ITEMS



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

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

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| 249 | <b>Councillor Peter Kafer<br/>Councillor Steve Tucker</b> | It was resolved that Council move into Confidential Session. |
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**CONFIDENTIAL**

**ITEM NO. 1**

**FILE NO: PSC T09- 2010**

**T09-2010; TENDER; BUSH REGENERATION SERVICES**

**REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES**

**GROUP: SUSTAINABLE PLANNING**

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**ORDINARY COUNCIL MEETING – 10 AUGUST 2010**

|            |   |  |
|------------|---|--|
| <b>250</b> | <b>Councillor John Nell<br/>Councillor Geoff Dingle</b> | It was resolved that Council accept both BARRC & TIN Services as the preferred tenderers based on the value selection process. |
|------------|---|--|

**CONFIDENTIAL**

**ITEM NO. 2**

**INFORMATION PAPERS**

**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
**GROUP: GENERAL MANAGERS OFFICE**

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|            |   |   |
|------------|---|---|
| <b>251</b> | <b>Councillor Steve Tucker</b><br><b>Councillor Peter Kafer</b> | It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 10 August 2010. |
| <b>252</b> | <b>Councillor Peter Kafer</b><br><b>Councillor Geoff Dingle</b> | It was resolved that Council seek information, in writing, from the owner on the intention of the site including a timeframe.     |

Cr Ken Jordan and Cr Bruce MacKenzie did not return to the meeting.

There being no further business the meeting closed at 7.45pm.

*I certify that pages 1 to 166 of the Open Ordinary Minutes of Council 10 August 2010 and the pages 167 to 231 of the Confidential Ordinary Minutes of Council 10 August 2010 were confirmed by Council at its meeting held on 24 August 2010.*

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