

Minutes 8 FEBRUARY 2011



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 8 February 2011, commencing at 5.31pm.

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

		No apologies were received.
--	--	-----------------------------

001	Councillor Ken Jordan Councillor Shirley O'Brien	<p>It was resolved that the Minutes of the Ordinary meeting of Port Stephens Council held on 14 December 2010 be confirmed with amendments to Items:</p> <p>Item 17 – Internal Reporting Policy</p> <ol style="list-style-type: none"> 1) Draft Internal Reporting Policy shown at ATTACHMENT 2 be placed on public exhibition for 28 days. 2) At the completion of the exhibition period if no submissions have been received Council's Internal Reporting Policy be adopted. 3) Revoke the Internal Reporting Policy – Protected Disclosures Act
-----	---	---

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

		<p>1994 dated 23 December 1997, Minute No. 1466.</p> <p>Item 18 – Complaints Policy</p> <ol style="list-style-type: none">1) Draft Complaints Handling Policy shown at ATTACHMENT 2 be placed on public exhibition for 28 days.2) At the completion of the exhibition period if no submissions have been received Council's Complaints Handling Policy be adopted.3) Revoke the Complaints Handling Policy dated 16 February 1999, Minute No. 69. <p>Item 1 – Information Paper</p> <p>Delete Cr Sally Dover from the Division under the section "Those Councillors for the Motion".</p>
		<p>No Declaration of Interest were received.</p>

Cr Caroline De Lyall entered the meeting at 5.43pm prior to voting on Item 3.
Cr Peter Kafer entered the meeting at 5.49pm prior to voting on Item 3.

INDEX

SUBJECT PAGE NO

MAYORAL MINUTES 5

1. "SAVE OUR SUBURBS" – CAMPAIGN 6

COUNCIL COMMITTEE RECOMMENDATIONS 10

1. DEVELOPMENT APPLICATION FOR DRIVEWAY, ASSOCIATED RETAINING WALLS AND STORMWATER DRAINAGE AT NO. 40 TINGARA ROAD NELSON BAY 11
2. DEVELOPMENT APPLICATION FOR URBAN HOUSING (9 DWELLINGS) AND 9 LOT SUBDIVISION AT NO. 2 AND 2A TANILBA ROAD MALLABULA 19
3. DEVELOPMENT APPLICATION FOR CHANGE OF USE – RESTAURANT TO HOTEL AND ASSOCIATED ALTERATIONS AND ADDITIONS AT MOTTO FARM MOTEL (NO. 2283 & 2285 PACIFIC HWY AND 1, 3, 5 RAINBIRD CL, HEATHERBRAE) 34
4. SECTION 96 APPLICATION 16-2010-327-2 FOR REDUCTION OF DEVELOPER CONTRIBUTIONS AT 52 DEAN PDE LEMON TREE PASSAGE 65
5. PLANNING PROPOSAL – PART LOT 99 DP 1092660, MASONITE ROAD, HEATHERBRAE
6. PLANNING PROPOSAL – PACIFIC DUNES 86
7. SALE OF LAND FOR UNPAID RATES AND CHARGES 99
8. QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2010 105
9. REVISED PORT STEPHENS COMMUNITY AWARDS POLICY 113
10. BEST VALUE SERVICES POLICY 124
11. LOCAL GOVERNMENT & SHIRES ASSOCIATIONS OF NSW – TOURISM CONFERENCE 2011136
12. AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION EVENTS 2011 138
13. REQUEST FOR FINANCIAL ASSISTANCE 140
14. LOCAL GOVERNMENT REMUNERATION TRIBUNAL – COUNCIL CATEGORIES 143
15. INFORMATION PAPERS 146

COUNCIL COMMITTEE INFORMATION PAPERS 147

1. ABORIGINAL STRATEGIC COMMITTEE 148
2. CASH AND INVESTMENTS HELD AT 30 NOVEMBER 2010 152
3. CASH AND INVESTMENTS HELD AT 31 DECEMBER 2010 157
4. MENS SHED GATHERING REPORT NOVEMBER 2010 162
5. PIA CONFERENCE BATHURST SEPTEMBER 2010 163

NOTICES OF MOTION 169

1. STATE PLANNING PANELS..... 170
2. COMMERCIAL LAND AT SALAMANDER 172
3. MOTOR CYCLE NOISE – 4556 NELSON BAY ROAD, ANNA BAY 173
4. SECTION 94 FUNDS 174

RESCISSION MOTIONS..... 175

1. UNAUTHORISED DEPOT: CABBAGE TREE ROAD, WILLIAMTOWN 176

MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO:A2004-0611

"SAVE OUR SUBURBS" – CAMPAIGN

THAT COUNCIL:

- 1) Forward a letter of support to the Lord Mayor of Parramatta City Council for the "Save our Suburbs" campaign.
-

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

002	Councillor Bob Westbury	It was resolved that there being no objection the Mayoral Minute be adopted.
-----	-------------------------	--

BACKGROUND

The purpose of this report is to enable Council to respond to the request from the Office of the Lord Mayor of Parramatta City Council for this Council's support for the "Save our Suburbs" campaign.

I have received an email from Parramatta City Council (from the Senior Advisor to the Office of the Lord Mayor) which seeks Council's support for the "Save Our Suburbs" campaign. The communication from Parramatta City Council is **ATTACHMENT 1** to this Mayoral Minute.

Parramatta City Council are therefore seeking the support of this Council and other Councils to a campaign that seeks to redress what is asserted to be the effects of the NSW Planning System in reducing the planning powers of Local Government, reducing the influence of local communities and causing a range of outcomes across the State which are against the community interest. Certainly this Council has it on record that it opposed the introduction of the Joint Regional Planning Panels and in a number of instances has expressed dissatisfaction with the level of State Government reduction of Local Government planning powers, the centralisation therefore of planning powers increasingly to the Minister for Planning and the way in which the system has become so fragmented, cumbersome, slow and has emphasised administrative processes over and above achieving good outcomes on the ground.

**ATTACHMENT 1
COPY OF EMAIL**

From: [mailto:@parracity.nsw.gov.au]
Sent: Monday, 22 November 2010 3:44 PM
To: bobwestbury@bigpond.com
Subject: Save Our Suburbs - unsupported development campaign

Dear Mayor Westbury

Please find attached artwork and back ground material on Save Our Suburbs – unsupported development campaign.

Please contact me if I can be for further assistance.

Kind regards,

BACKGROUND

1. Over the last ten years, there has been a concerted effort by the State Government to reduce the planning powers of local government and thereby reduce the influence of our local communities.
2. During that period, a system has developed in NSW which has frustrated both the community and developers alike.
3. Information provided by our Council Officers indicates that there are over 50 State Environmental Planning Policies, all of which override local planning instruments, and yet only one of these SEPPs is intended to improve the quality of development (SEPP 65).
4. The State Government's actions have effectively eliminated innovation as well as severely restricted opportunities to develop planning controls to reflect the needs and aspirations of local communities.
5. As a result, the myriad of State Government SEPPs and provisions mean that a significant amount of development now taking place in our local government area will either not comply with local planning instruments, or will not need to comply and not be required to comply with local planning instruments, and may be approved by a body, other than the elected Council.
6. There have been 5 major changes to legislation which have had significant impacts on the approval processes:

- i) Part 3A applications
 - ii) The gazettal of the infrastructure SEPP
 - iii) The gazettal of the Affordable Rental Housing SEPP
 - iv) Joint Regional Planning Panels
 - v) The national Building legislative amendments.
7. The irony of development in NSW is that someone building a carport must comply with all rules and regulations, but someone building a multi-storey residential flat building can avoid local planning controls by having their development declared, 'State significant development'.
 8. Unfortunately, with Part 3A developments, Councils are treated like any other stakeholder, we are often consulted within unreasonable timeframes and often ignored. The Channel 7 site in Epping is an example of where the final approval would fail the design excellence test and resembles a gated community from the 1980's.
 9. Council is now considering a Part 3A application for Telopea, to develop 1900 new dwellings in a local area which has significant social disadvantage. Again the community is being overridden.
 10. Further, the State Government has introduced Joint Regional Planning Panels for developments of greater value than \$5 million, whereby the local planning instruments apply, but the consent authority is not an elected body.
 11. At Council's last meeting, we dealt with another application under the 'Affordable Rental Housing SEPP' which allows the construction of boarding houses in all residential zones, irrespective of local planning powers. This SEPP makes boarding houses a use, which requires consent from Council, and also limits Council's authority on which basis it could refuse such applications.
 12. Further, it also allows private sector developers, who have entered into a joint venture with Housing NSW to develop low rise developments, irrespective of the planning instruments and up to 2 storey in height within the Sydney region, pending availability to public transport, and again without the need of rezoning.
 13. The Infrastructure SEPP is another example of Councils losing its autonomy. Again, multi-unit dwelling houses can be developed by public authorities or social housing providers within 800 metres of all railway stations, irrespective of local planning controls. In these instances, car parking is not required to be provided.
 14. Clearly the planning system in NSW is not focussed on outcomes. Nor is it is focussed on creating sustainable liveable communities, where design excellence is expected. It is a system which overrides the wishes of local communities and leaves Council to manage a situation not of its making and contrary to the views of our communities.

15. It is proposed that Council take the strongest possible action to defend our communities against the community vandalism which is presently taking place.

Office of the Lord Mayor

Parramatta City Council

PO Box 32, Parramatta NSW 2124

((02) 9806 5017 |

7 (02) 9806 5920 | *

Links | www.parracity.nsw.gov.au

Visit <http://www.parracity.nsw.gov.au>

the Loop, Parramatta's Free City Bus, leave the car, take the Loop

Attention: This e-mail is privileged and confidential. If you are not the intended recipient please delete the message and notify the sender. The use, copying or distribution of this message or any information it contains, by anyone other than the intended recipient is prohibited by Parramatta City Council. Any views or opinions presented are solely those of the individual sender, except where the sender specifically states them to be the views of the Council.

**COUNCIL
COMMITTEE
RECOMMENDATIONS**

ITEM NO. 1

FILE NO: 16-2010-501-1

**DEVELOPMENT APPLICATION FOR DRIVEWAY, ASSOCIATED
RETAINING WALLS AND STORMWATER DRAINAGE AT NO. 40
TINGARA ROAD NELSON BAY**

**REPORT OF: KEN SOLMAN - DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL
HEALTH, ACTING MANAGER**

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

1) Refuse Development Application 16-2010-501-1 for the following reasons.

- The Development is inconsistent with the requirements of Australian Standard AS 2890.1 – Parking Facilities, Off Street Carparking.
- The development is inconsistent with Councils standard drawing s105A – Standard Vehicular Crossing Driveway Profiles.
- It is considered that B85 vehicles will experience difficulties in negotiating proposed driveway gradient.
- Vehicles may not hold on grade if pavement is wet. Sufficient details to demonstrate vehicles can come to a stop on the grade during wet conditions have not been provided.
- The proposed gradient cannot be easily negotiated on foot.
- The safety of the occupants and those using the street was not considered by the application.
- A vehicle with a high centre of gravity could tip when reversing from the flat section behind the house to the graded section of the driveway. Sufficient details to demonstrate the appropriateness of this access have not been provided.
- The development is inconsistent with Section B6 and C5 of Development Control Plan 2007 in terms of depth of cutting on site.

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011**COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011****RECOMMENDATION:**

	Councillor John Nell Councillor Glenys Francis	That Council: 1. Defer the report to allow for a site inspection by Councillors. 2. Further information be provided by Sustainable Planning Group Manager with respect to the potential for future subdivision.
--	---	---

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, Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Ken Jordan.

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present a development application to Council for determination as requested by Councillor Mackenzie for the reason, "for Council to make a decision".

The development application seeks consent for the construction of a driveway, associated retaining walls and stormwater drainage.

The site is zoned 2(a) – Residential, with development for a driveway ancillary to a residential dwelling permissible within the zone subject to consent.

The development site is located within an existing residential area and is contained within the Hill Tops Area of the Nelson Bay West planning precinct.

The site has a frontage to Tingara Road and currently contains a single residential dwelling with associated parking adjacent to Tingara Road. The site is bound by vacant residential land to the sides and vegetated open space to the rear. The site is heavily vegetated and steeply sloping having a rise of approximately 25m over the 60m depth of the allotment.

The key issues associated with this proposal are;

- Non compliance with Councils Standard Drawing S105A,
- Non Compliance with Australian Standard AS2890.1 – Parking Facilities, Off Street Carparking,
- Steep site grades,

An assessment of these issues is provided within the attachments.

The development application was submitted to Council on the 29th July 2010 with the notification period extending until the 1st September 2010. Additional detail and justification was sought from the applicant in August 2010, with the amended plans subject to this report being submitted to Council on the 9th November 2010.

FINANCIAL/RESOURCE IMPLICATIONS

Should the development application be refused, the applicant may appeal to the Land and Environment Court. Defending Council's determination would have financial implications for Council.

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council's Policy.

Should the development application be refused, the applicant may appeal to the Land and Environment Court.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Approval of the driveway as proposed is likely to result in safety implications to both the occupants of the allotment and users of the street.

No adverse economic implications have been identified.

No adverse environmental implications have been identified.

CONSULTATION

The application was exhibited in accordance with Council policy and no submissions were received.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Assessment.

COUNCILLORS ROOM

- Plans
- 1) Accessway/Driveway Plan, prepared by HSS Structural and Civil Engineers Sheet: 1, Issue: 2, dated: 8/11/2010, Dwg: 187E/10
 - 2) Centreline Long Section 1, prepared by HSS Structural and Civil Engineers Sheet: 2, Issue: 1, dated: 30/06/2010, Dwg: 187E/10.
 - 3) Centreline Long Sections 2 & 3 and Cross Sections, prepared by HSS Structural and Civil Engineers Sheet: 3, Issue: 2, dated: 8/11/2010, Dwg: 187E/10.
 - 4) Statement of Environmental Effects

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

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

THE PROPOSAL

The development application seeks consent for the construction of a driveway, associated retaining walls and stormwater drainage.

THE APPLICATION

Owner	Mr R A & Mrs K A Napier
Applicant	Le Mottee Group Pty Ltd
Detail Submitted	Driveway Plans, Statement of Environmental Effects

THE LAND

Property Description	Lot 639 DP 9165
Address	40 Tingara Road, Nelson Bay
Area	1151m ²
Dimensions	Generally rectangular in shape, 24.385m frontage, 15.24m width at the rear. Depth of the block ranging from 57.56m to 59.35m
Characteristics	Steeply sloping block having a rise of approximately 25m over the 60m depth of the allotment.

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	2(a) – Residential A Zone
Relevant Clauses	16 – Residential Zonings
Development Control Plan	B3 – Traffic and Parking C5 – Nelson Bay West
State Environmental Planning Policies	71

State Environmental Planning Policy No 71 – Land and Coastal Protection

Policy 71 aims to protect and manage the New South Wales coast and foreshores and requires certain development applications in sensitive coastal locations to be referred to the Director-General for comment, and it identifies master plan requirements for certain development in the coastal zone.

The development for the purposes of a driveway, retaining walls and drainage has been considered against the requirements of clauses 7 and 8 and it is considered that the development is consistent with these requirements and the objectives of SEPP71.

Port Stephens Local Environmental Plan 2000

The development site is zoned 2(a) – Residential and development for the purposes of a driveway ancillary to a residential dwelling is permissible in the zone with the consent of Council.

Port Stephens Development Control Plan 2007

Section B3 – Traffic and Parking

The development is considered to be inconsistent with the following clauses.

B3.C11 – Driveways must be constructed in accordance with Council's standard drawings and approved by council under the Roads Act.

The development has grades of up to 42%. Australian Standard AS2890.1 allows for grades of up to 20% while Council's standard drawing S105A allows for a maximum 25% grade.

The development as proposed exceeds these requirements for maximum grade. The applicant has not demonstrated that the proposed driveway will be able to be negotiated by an 85th percentile vehicle.

B3.C20 – When the access driveway length exceeds 30m sight distance is reduced, or the road frontage is to a collector or distributor road the driveway width must be increased to 5.5m for the 6m inside the property boundary.

The driveway exceeds 30m in length, however does not provide the required increase in trafficable width during the first 6m.

Section B6 – Single and Dual Occupancy Dwellings

B6.C39 – Earthworks for cut and fill must not alter natural ground level by more than 1m at any point.

Cross Section 2, at the top of the access way indicates levels of cut up to 2.81m in depth. The extent of earthworks proposed is excessive and inconsistent with the DCP.

B6.C41 – The height of any retaining wall must not exceed 1.5m

The development has cuts of up to 2.81m and as such is inconsistent with the requirements of B6.C41.

B6.C43 – Within 2m of the site boundary the height of a retaining wall must not exceed 750mm.

The areas of 2.81m cut are located within 2m of the site boundary. The development has not demonstrated it is consistent with this requirement.

C5 – Nelson Bay West

C5.4.4 – Fencing and Retaining Walls

- *The maximum height of any cut or fill at the site boundary shall be 600mm where the development is 1300mm or less from the boundary. This may extend to 900mm where the setback is proposed at a greater distance.*
- *Terracing and Retaining walls are not to be more than 1.2m in height.*

The development has cuts of up to 2.81m and as such is inconsistent with the requirements of section C5.4.4

2. Likely Impact of the Development

Approval of the application as proposed would result in the construction of a driveway that is far in excess of the maximum grades permissible under Australian Standard 2890.1 and Council's Standard Drawing S105A.

Details have not been submitted to demonstrate that an 85th percentile vehicle is capable of negotiating the drive.

3. Suitability of the Site

It is considered that due to the excessive site grades, the site is unsuitable for the construction of a driveway to give access to the rear of the dwelling.

4. Submissions

Nil

5. Public Interest

It is not considered to be in the public interest to approve this application.

ITEM NO. 2

FILE NO: 16-2009-875-1

**DEVELOPMENT APPLICATION FOR URBAN HOUSING (9 DWELLINGS)
AND 9 LOT SUBDIVISION AT NO. 2 AND 2A TANILBA ROAD
MALLABULA**

**REPORT OF: KEN SOLMAN - DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL
REGULATION, ACTING MANAGER**

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2009-875-1 for the following reasons.
- The development application has failed to receive a Bushfire Safety Authority under the provisions of Section 100B of the Rural Fires Act 1997.
 - The applicant does not have owners consent for the use of the adjoining land as an Asset Protection Zone as required by Planning for Bushfire Protection 2006.
 - The development is inconsistent with the requirements of Development Control Plan 2007.
-

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Bob Westbury	That Item 2 be deferred to allow for a site inspection by Councillors.
--	---	--

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, Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover and Ken Jordan.

Those against the Motion: Cr Glenys Francis.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

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

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to present a development application to Council for determination at the request of Cr McKenzie who has been approached by a concerned ratepayer.

The application is for a nine (9) dwelling - urban housing development and 9 lot strata subdivision, pursuant to Clauses 16 and 19 of the Port Stephens Local Environmental Plan 2000 (LEP).

The subject site has frontage to Tanilba Road and proposes direct access to Fairlands Road. To the rear of the site is an area of vegetated Council reserve.

The site is zoned 2(a) – Residential, which is described in the LEP. Urban housing and subsequent subdivision of the allotment is permissible with consent as specified in clauses 16 and 19 of the LEP.

The key issues associated with this proposal are as follows:-

- The proposal is an overdevelopment of a significantly constrained site.
- Reliance on an Asset Protection Zone on adjoining property - Council reserve
- No Bushfire Safety Authority granted from NSW Rural Fire Service
- No owners consent to include Council Reserve in the application.
- The site is flood prone land
- The site is bushfire prone land
- The site is nominated as preferred koala habitat
- Insufficient information was submitted to enable an adequate assessment

- Council received sixteen (16) submissions objecting to the proposal. The main concerns were traffic and parking, drainage, density, koalas and bushfire.

An assessment of these issues is provided within the Attachments.

It is recommended that this application be refused as the proposal is an integrated development and has not received a Bushfire Safety Authority from the NSW Rural Fire Service. The development relies on the use of the adjacent Council reserve for the purposes of the provision of an asset protection zone. However, Council's Facilities and Services Section has not provided owners consent for the inclusion of this land in the development application. It has also been stated that Council will not support the management regimes to the prescription of an Asset Protection Zone for medium density housing within the Council reserve.

There is an existing Asset Protection Zone on the Council reserve however this is managed under the provisions of Section 63 of the Rural Fires Act to reduce the threat of fire escaping from the land. The Asset Protection Zone is not managed to a level required under Section 100B of the Rural Fires Act for the protection of dwellings or medium density housing.

The NSW Rural Fire Service has stated:

"Information submitted by council indicates that the Council would not support management regimes to the prescription of an asset protection zone within the reserve adjoining the site.

The applicant is requested to submit further details demonstrating how proposed building footprints and appropriate asset protection zones required by 'Planning for Bushfire Protection 2006' can be achieved within the proposed subdivision".

Given that the application is Integrated Development under the provisions of the Environmental Planning & Assessment Act 1979 and Section 100B of the Rural Fires Act 1997 and no Bushfire Safety Authority has been granted, and the applicant does not have the owners consent of Council to include the adjoining Council reserve in the application, Council can not legally determine the application by way of approval.

FINANCIAL/RESOURCE IMPLICATIONS

Nil.

LEGAL AND POLICY IMPLICATIONS

Given that the application is Integrated Development under the provisions of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 2000 and no Bushfire Safety Authority has been granted, and the applicant does not have the owners consent of Council to include the adjoining Council reserve in the application, Council can not legally determine the application by way of approval.

Further, the development application is also inconsistent with Council's Policy in that there are multiple departures from the requirements of Development Control Plan 2007.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The development has not been able to provide Asset Protection Zones on the subject property and as a result has not received a Bushfire Safety Authority. The development in its current state represents a threat to life in terms of Bushfire Threat.

The development will generate minor short term economic activity in the locality associated with residential construction.

The proposal is not considered to pose any significant environmental implications.

CONSULTATION

The application was exhibited in accordance with Council policy and sixteen (16) submissions were received in opposition to the proposal. These are discussed in the Attachments.

An integrated referral was made to the NSW Rural Fire Service under the provisions of Section 100B of the Rural Fires Act.

The current development application has been assessed on its merits with due regard to comments from Council's Flooding Engineer, Building Surveyor, Development Engineer, Engineering Services Manager and Recreation Services Manager.

OPTIONS

- 1) Adopt the recommendation.
- 2) Defer the determination to allow the applicant to seek owners consent from Council.
- 3) Defer the determination to allow the applicant to redesign the proposal so as to accommodate the required Asset Protection Zones within the subject site boundaries.

ATTACHMENTS

- 1) Locality Plan.
- 2) Assessment.

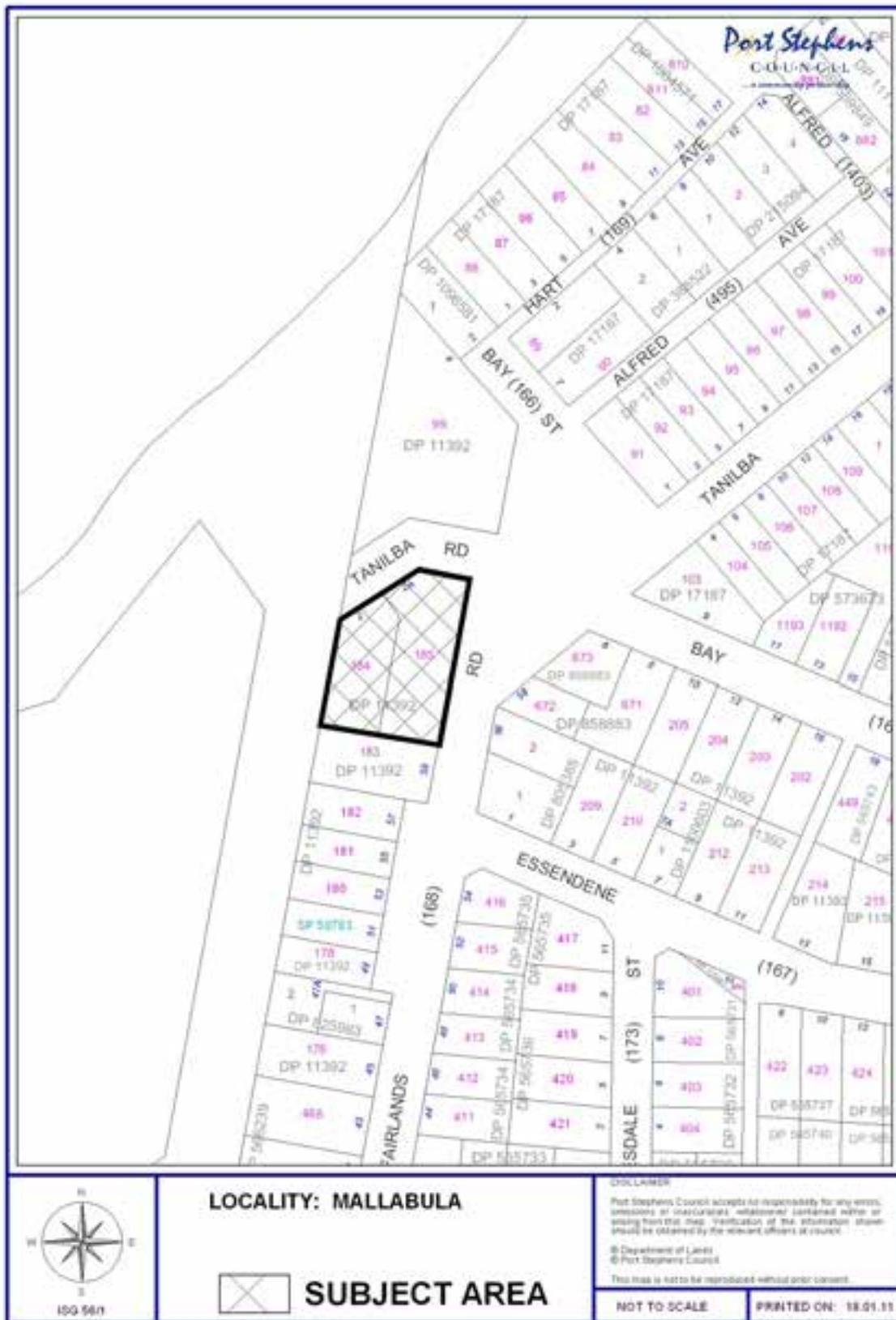
COUNCILLORS ROOM

- 1) Statement of Environmental Effects.
- 2) Development Plans.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

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

THE PROPOSAL

The proposal is for nine dwellings and subsequent nine lot strata subdivision, proposed pursuant to clauses 16 and 19 of the LEP 2000.

The subject site has frontage to Tanilba Road and proposes direct access to Fairlands Road.

THE APPLICATION

Owner	M & E F Statham Pty Ltd
Applicant	Tattersall Surveyors Pty
Detail Submitted	Statement of Environmental Effect including Site Layout Plan, Boundary Elevations, Site Plans, Shadow Diagrams and Draft Strata Plans, Flora and Fauna Assessment and Bushfire Assessment.

THE LAND

Property Description	Lots 184 & 185 DP 11392
Address	2 & 2A Tanilba Road MALLABULA
Area	2890m ²
Dimensions	Width of allotment is 48m. The length of the allotment varies from 41 metres to 68 metres.
Characteristics	The vacant site has a fall of approximately 2% to its flood prone north western portion. The site is also being bushfire prone and contains preferred koala habitat.

THE ASSESSMENT

(f) Planning Provisions

LEP 2000 – Zoning	2(a) Residential “A”
Relevant Clauses	10 Zone objectives and development control table 16 Residential zonings 17 Subdivision in Residential Zones 19 Dwelling-houses, dual occupancy housing and urban housing

- 37 Objectives for development on flood prone land
- 38 Development on flood prone land
- 44 Appearance of land and buildings

Development Control Plan 2007

- B2 – Environmental and Construction Management
- B3 – Parking Traffic and Transport
- B7 – Villa and Townhouse Development

State Environmental Planning Policies

SEPP71 – Coastal Protection

Discussion

Rural Fires Act 1997

The development is considered to be Integrated Development under the requirements of Section 100B of the Rural Fires Act 1997 given that the development involves the subdivision of bushfire prone land.

The application relies on the adjoining Council reserve in order to provide Asset Protection Zones for the proposed dwellings. The applicant has not received owners consent from Council to enable the reserve to be included in the development application and Facilities and Services have indicated that they will not support the management regimes to the prescription of an asset protection zone within the reserve.

There is an existing Asset Protection Zone on the reserve however this is managed under the provisions of Section 63 of the Rural Fires Act to reduce the threat of fire escaping from the land. The Asset Protection Zone is not managed to a level required under Section 100B of the Rural Fires Act for the protection of dwellings.

It is recommended that this application be refused as the proposal has been unable to receive a Bushfire Safety Authority from the NSW Rural Fire Service. The NSW Rural Fire Service has stated;

"Information submitted by council indicates that the Council would not support management regimes to the prescription of an asset protection zone within the reserve adjoining the site.

The applicant is requested to submit further details demonstrating how proposed building footprints and appropriate asset protection zones required by 'Planning for Bushfire Protection 2006' can be achieved within the proposed subdivision".

Given that the application is Integrated Development under the Rural Fires Act 1997 and no Bushfire Safety Authority has been granted, and the applicant does not have the owners consent of Council to include the adjoining reserve in the application, Council can not legally determine the application by way of approval.

LEP 2000

Clause 16 – Residential Zonings

Clause 16 describes the zone objectives and description for the Residential Zones. The development is considered to be generally consistent with the zone objectives and description for the 2(a) – Residential Zone, inconsistencies are discussed below.

(e) to ensure that the design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk.

It is considered that the development is inconsistent with the zone objective described in clause 16(2)(e) in that the application has not adequately considered the environmental constraint of Bushfire. The application does not provide for Asset Protection Zones on the subject site and relies on the adjoining Council Reserve.

The application was not supported by owners consent to include the reserve as a part of the application and has also been unable to obtain a Bushfire Safety Authority from the NSW Rural Fire Service.

Clause 17 – Subdivision in Residential Zones

Clause 17 states that a person shall not subdivide land in a residential zone except with the consent of the consent authority. Furthermore, consent for the subdivision of land to create an allotment with an area of less than 500m² that is, in the opinion of the consent authority, intended to be used for the purpose of residential housing is to be granted only if consent has been granted, or is granted at the same time, for the erection of a dwelling on that allotment.

It is noted that the development is for the subdivision of land creating allotments with an area of less than 500m², however the application also includes the erection of a dwelling on each allotment.

Clause 19 – Dwelling-houses, dual occupancy housing and urban housing

Pursuant to this clause, consent must not be granted to the erection of urban housing on land in the 2(a) zone, unless:

- (a) the allotment on which the building is proposed to be erected has an area of not less than the 300m² for each dwelling, and
- (b) the ratio of the gross floor area of the building to the site area of the allotment does not exceed 0.5:1, and
- (c) the height of the building does not exceed 8 metres.

The development complies with clause 19 with a minimum area of 321m² for each dwelling, a floor space ratio of 0.5:1 and heights under 8m.

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

Clause 38 states that a person shall not carry out development for any purpose on flood prone land except with the consent of the consent authority. Before granting consent to development on flood prone land the consent authority must consider the following:

- (a) the extent and nature of the flooding or inundation hazard affecting the land,*
- (b) whether or not the proposed development would increase the risk or severity of flooding or inundation affecting other land or buildings, works or other land uses in the vicinity,*
- (c) whether the risk of flooding or inundation affecting the proposed development could reasonably be mitigated and whether conditions should be imposed on any consent to further the objectives of this plan,*
- (d) the social impact of flooding on occupants, including the ability of emergency services to access, rescue and support residents of flood prone areas,*
- (e) the provisions of any floodplain management plan or development control plan adopted by the Council.*

The subject site has a flood planning level of 3.4m AHD. All habitable Finished Floor Levels are located at or above the 3.4m AHD level.

Clause 44 – Appearance of land and buildings

This clause requires the development of land within view of any waterway or adjacent to any main or arterial road, public reserve or land zoned as open space, to take into consideration the probable aesthetic appearance of the proposed building or work or that land when used for the proposed purpose and viewed from that waterway, main or arterial road, public reserve or land zoned as open space.

The subject site is located within view of both Tanilba Bay and Caswell Reserve to the west. It is not considered that the development will adversely impact the visual amenity of the general locality.

Clause 51A – Development on land identified on Acid Sulfate Soils Planning Maps

Clause 51A applies to the application. The site is mapped as Class 4 Acid Sulphate Soils, which requires a preliminary site assessment for works below 2m from the ground surface. The proposed excavation should not exceed 2m. No further consideration is required.

Development Control Plan Port Stephens Development Control Plan 2007

Port Stephens Development Control Plan 2007 applies to the development. Areas of non compliance are referenced below.

Part B7 – Villa and Townhouse Development

The development as proposed contains multiple departures from the requirements of Section B7 – Villa and Townhouse Development within Development Control Plan 2007.

Should the issues surrounding the provision of an appropriate Asset Protection Zone be resolved, these issues will require addressing prior to any determination. Areas of the DCP with areas of non compliance relate to;

- Setbacks to Fairlands Drive and Tanilba Road (Clauses B7.C4, B7.C5).
- Excessive Site Coverage (Clause B7.C33, B7.C83)
- Unit 9 Upper Story Side Setback (Clause B7.C48)
- No Deep Soil Planting area of 50m² on rear boundary (Clause B7.C50)
- Encroachment into 4.5m setback to waterfront reserve (clause B7.C52)
- Minimum Open Space Requirement (Clauses B7.C60, B7.C61, B7.C66)
- Visitor Parking (Clause B7.C78)

SEPP 71 – Coastal Protection

It is considered that the proposed development is consistent with, and does not hinder the attainment of the aims of the policy. There will be no impact on public access to and along the coastal foreshore, and the development is considered suitable given its type, location and design and relationship with the surrounding area. There will be no significant detrimental impact on the amenity of the coastal foreshore, including overshadowing or loss of views, or on the scenic qualities of the New South Wales coast.

There is no impact anticipated on threatened species or their habitats, fish and marine vegetation or their habitats.

Existing wildlife corridors will be unaffected and the development is unlikely to have any significant impact on coastal process, or vice versa.

Development is not anticipated to significantly impact land-based or water based coastal activities.

There is no evidence that the site contains Aboriginal archaeology, however the consent will include an advice condition that should any aboriginal site or relic be

disturbed or uncovered during construction of the development, all work shall cease and NPWS shall be consulted. There is no evidence that the site contains items of heritage, archaeological or historic significance.

No cumulative impact is anticipated, and the development complies with BASIX requirements in relation to efficient water and energy usage.

2. Likely Impact of the Development

Context and Setting

The proposal is unlikely to have any significant impacts on adjoining properties or the existing character of the street. The development will increase the density of dwellings on the site; however will not adversely impact on the existing streetscape.

Access, Transport & traffic

The access to the reserve alongside this property is gravelled and will create a dust problem which the future owners will be unlikely to tolerate. Council's Engineering Services Manager has advised that the developer should reconstruct and seal this access and should prepare detailed road and pavement design plans, including kerb and guttering and concrete footpath paving, as well as appropriate drainage management.

Public Domain

There is no kerb and guttering fronting this property on Tanilba Road. Council's Engineering Services Manager has advised that the developer should undertake road widening including kerb and gutter construction, new concrete footpath paving and appropriate drainage work as part of this project. Detailed road design plans including pavement design need to be prepared and submitted for Council's assessment.

Water

There is little detail on which is proposed to take place to cater for adequate stormwater disposal. Council's Engineering Services Manager has advised that it is anticipated that roof water tanks as well as some detention and details for the disposal of stormwater into the adjacent waterway/infrastructure/or Tanilba Road. Stormwater from driveways and footpaths should be collected and discharged into an infiltration system and overflows should be directed to Tanilba Road or waterways. This requirement can be imposed as a consent condition, with details being provided prior to issue of Construction Certificate.

Flora and Fauna

There are large native trees on the boundary of the adjoining site to the south; one located only one metre from a proposed unit. An arborist report is required to demonstrate that the development can be undertaken without impacting trees on adjoining properties, which can be imposed as a consent condition.

3. Suitability of the Site

Bushfire

The site is mapped as being bushfire prone. The proposal includes subdivision, and is therefore integrated development requiring a Bushfire Safety Authority from NSW Rural Fire Service (RFS) under section 100B of the Rural Fires Act. The NSW Rural Fire Service has been unable to issue a bushfire safety authority as the development relies on an off property APZ.

Sea level rise

Council's Engineering Services Manager has advised that this property is likely to suffer from sea level rise and estuarine wind/wave affects in the future, which could be a serious problem in a few decades.

Council's Strategic Engineer has requested that applicant provide finished levels of ground floor, garages, courtyards, stormwater trenches and any structures that would be built in that area that is currently below 3.4metres AHD. In assessing this additional information, regard will be had to the predicted rise in sea level.

4. Submissions

Council received sixteen (16) submissions objecting to the urban housing development. It should be noted that three (3) submissions were received from the same two (2) people. The issues raised in the submissions are as follows

Traffic

- *The entrance/exit on Tanilba Road in on a near 90 degree bend*
- *Car and buses cut this corner frequently and are often going fast*
- *9 or more vehicles entering at this point will make this part of the road more dangerous*
- *The land borders Caswell Reserve entrance Road – The houses will obscure the reserve entrance/exit point – another unsafe spot*
- *The bus stop is only metres away from this common boundary road as is the children's playground.*
- *Increased traffic*

Council's Development Engineer has no objection to the development in regard to the abovementioned issues.

Visitor Parking

- *...does not appear to make any provision for visitor parking...any proposed development visitor parking on this reserve will tend to severely limit parking for reserve users.*
- *...the road junction of Fairlands Road, Tanilba Road and Bay Street does not lend itself to safe kerbside vehicular parking...*

Council's Development Engineer has advised that the proposed development is required to provide three visitor spaces to comply with the controls of Development Control Plan 2007.

Stormwater

- *Drainage/pollution*
- *Additional housing roof surface area, and driveways also associated runoff caused, will affect the flow of stormwater*
- *...land is VERY WET when we have only a little rain...there has to be a major water problem.*

Council's Development Engineer has no objection to the development in regard to the abovementioned issues.

Vegetation

- *Loss of large mature trees*
- *...large native tree on our side of the fence...site plan shows a gap of only 1000m to Residence 9 – with tree roots, overhanging branches, leaves etc – this is not going to work.*

The development requires the removal of two trees and the applicant has indicated that he is willing to replace these in the adjacent public reserve. This can be reinforced with a consent condition. It is noted however that no consent of the reserve owner has been sought for additional plantings.

An arborist report is required to demonstrate that the development can be undertaken without impacting trees on adjoining properties, as a consent condition. The issue of overhanging branches and leaves will be a civil one.

Development Merit

- *...overdevelopment...*
- *....that area needs only single storey dwellings and one dwellings per block...to blend with existing residence around the area.*
- *...too bulky with 2 storeys and a huge footprint – it overpowers the surrounding park and neighbourhood.*
- *Increased renters – Tiligerry as a whole is not suitable for medium density/mass residential housing with little public transport, no local employment.*
- *To crowd nine dwellings onto two blocks appears to be ludicrous...*
- *This proposed condensed housing could easily become a "ghetto" situation if not properly managed.*
- *Encompassing a panoramic view of the large adjoining council toilet block the proposed dwellings cannot be expected to command an "upmarket" image and or price and the consequences of nine "cheap" dwellings becoming*

available in the development with all of the social problems associated with these developments...

The proposal is permissible in the 2(a) zone. The development is an overdevelopment of a significantly constrained site that is effectively reduced in developable area due to the constraint of Bushfire and the need for statutory requirement to provide asset protection zones on the subject site.

The existence of a Council toilet block on an adjoining parcel of land does not warrant refusal of the proposal.

Flora and Fauna

- Koala habitat, Corridor and Buffer Zone
- ...several dozen native trees...frequently utilized by the local koala population...proposed development will deny koala access to all of these trees with obvious detrimental consequences...

Local Impacts

- *Impact on adjoining residents (car lights, noise)*

The residence from which this objection was received is offset from the access way to the development, so they will not be impacted by car lights. The residence directly opposite the access way has only garaging and living room windows on this elevation.

Noise from the development is not expected to be of significant concern.

Bushfire

- Bushfire risk
- ...firebreak to be made on the proposed dwelling land and NOT ON the adjoining Habitat Land.

The development does not provide for the statutory Asset Protection Zone on site and has not obtained a bushfire safety authority and as such can not be determined by way of approval.

It is considered that relying on adjoining property for the placement of Asset Protection Zones represents an overdevelopment of the site.

5. Public Interest

The development complies with the relevant environmental planning instruments and is unlikely to result in any unreasonable or detrimental impacts on adjoining properties.

ITEM NO. 3

FILE NO: 16-2010-478-1

DEVELOPMENT APPLICATION FOR CHANGE OF USE – RESTAURANT TO HOTEL AND ASSOCIATED ALTERATIONS AND ADDITIONS AT MOTTO FARM MOTEL (NO. 2283 & 2285 PACIFIC HWY AND 1, 3, 5 RAINBIRD CL, HEATHERBRAE)

REPORT OF: KEN SOLMAN - DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL HEALTH, ACTING MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2010-478-1 subject to the conditions contained in Attachment 3.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011

RECOMMENDATION:

	<p>Councillor Glenys Francis Councillor Peter Kafer</p>	<p>That Council defer the report to allow for the following information to be provided and assessments to be undertaken:</p> <ul style="list-style-type: none">a) Refer to the Local Traffic Committee for assessment;b) A copy of the NSW Office of Liquor, Gaming & Racing (OLGR) Social Profile report for Port Stephens from the OLGR website be provided to Councillors;c) Further formal consultation with the NSW Police Service be undertaken and;d) Information be provided to Councillors with regard to strategies that will be introduced regarding the Tomago sand beds.
--	---	--

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

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

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

Those against the Motion: Crs Bruce MacKenzie.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

<p>005</p>	<p>Councillor Glenys Francis Councillor Geoff Dingle</p>	<p>It was resolved that Council refuse the development application for the change use – Restaurant to Hotel and associated alterations and additions at Motto Farm Motel (NO. 2283 & 2285 Pacific Hwy and 1, 3, 5 Rainbird Cl, Heatherbrae for the following reasons:</p> <ol style="list-style-type: none">1. Pursuant to Section 79 1(b) of the Environmental Planning and Assessment Act the proposal is considered to present unreasonable environmental impacts because it results in an unreasonable loss of amenity of a small isolated community.2. Pursuant to Section 79 1(e) of the Environmental Planning and Assessment Act the proposal is not considered to be in the public interest because it would affect police resources , potential for increase of alcohol related crimes and affect the amenity of neighbourhood businesses.3. Pursuant to Section 79 1(b) of the Environmental Planning and Assessment Act the proposal is considered to present unreasonable environmental impacts because it results in an unreasonable potential for traffic conflict due to past head on MVA and access to the Pacific
-------------------	---	---

		<p>Hwy.</p> <ol style="list-style-type: none"> 4. Pursuant to Section 79 1(e) of the Environmental Planning and Assessment Act the proposal is not considered to be in the public interest because there are already a high number of gaming and liquor outlets in Raymond Terrace area. The local liquor accord of which the applicant does not take part in, have discussed concern about this at their meetings. 5. Pursuant to Section 79 1(b) of the Environmental Planning and Assessment Act the proposal is considered to present unreasonable environmental impacts because there is inadequate information in the management plan to control antisocial behaviour. 6. Pursuant to Section 79 1(e) of the Environmental Planning and Assessment Act the proposal is not considered to be in the public interest on the grounds of impact on policing resources. 7. Pursuant to Section 79 1(c) of the Environmental Planning and Assessment Act the proposal is not considered to be compatible with the site development constraints because there inadequate access to public transport. The closest taxi station is at Raymond Terrace and no bus service regularly services the area. This has potential to cause conflict with vehicles travelling along the Pacific Hwy. 8. Pursuant to Section 79 1(e) of the Environmental Planning and Assessment Act the proposal is not considered to be in the public interest because of inconsistency of advice in that the applicant has indicated to police that they did not intend to install and operate an approved gaming room.
--	--	--

		<p>9. Pursuant to Section 79 1(e) of the Environmental Planning and Assessment Act the proposal is not considered to be in the public interest because Council's community planning team have expressed concern about the vulnerability of the local community due to the general indicators of the community such as proximity to two (2) caravan parks with long term accommodation and motels that provide crisis accommodation in very close proximity. Advice form research suggests that vulnerable communities are likely to be disproportionately affected by the problems associated with drug, alcohol and gaming.</p>
--	--	--

Cr Caroline De Lyall entered the meeting at 5.43pm prior to voting on Item 3.
 Cr Peter Kafer entered the meeting at 5.49pm prior to voting on Item 3.

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, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bob Westbury.

Those against the Motion: Nil.

BACKGROUND

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

DA 16-2010-478-1 seeks consent to change the use of part of the existing restaurant to a hotel with associated alterations and additions to the building. The hotel will include gaming facilities and take away liquor sales over the counter.

Council registered 88 submissions regarding the proposed hotel, including form letters from residents and 30 local businesses. Further, Council received a petition with 80 signatures and submissions from Hunter New England Health, Hunter River High School, Hunter River High School Parents & Citizens Association, Raymond Terrace Public School and the Port West Community Drug Action Team (CDAT).

Following consideration of the submissions and assessment of the proposal, the key potential impacts from the proposal were identified as being:

- General social impact relating to alcohol consumption and gambling
- Immediate amenity impact, particularly affecting nearby residents
- Impact from additional traffic generation

The extent and likelihood of these impacts are summarised below and are not considered to warrant refusal of the application, as there are measures available to reduce the extent, frequency and risk of these impacts occurring.

- General social impact

Based on the available information, it is considered that there is potential for the community to be affected by increased social impacts related to alcohol consumption and gambling.

Comments from Council's Community Planning section, Hunter New England Health and Port West Community Drug Action Team (CDAT) have identified the local community being identified as being "vulnerable" due to standard indicators such as socio-economic status, employment, age etc and the proximity of sensitive land uses such as schools, crisis accommodation (provided in nearby motels) and long-term caravan park accommodation.

The application was referred to the NSW Police and Community Planning Section, neither of which objected to the proposal.

The NSW government (particularly through Office of Liquor, Gaming & Racing) has measures in place to manage social impacts from alcohol and gambling. Firstly, an approval is required under the Liquor Act and Gambling Machines Act, which provide a mechanism for comprehensive consideration of the cumulative and broader social impacts of licensed premises.

Further, there are also legislative requirements for responsible service of alcohol, signage and information within the premises regarding problems with alcohol and gaming and ongoing government funded education and public awareness programs.

It should be noted that the locality contains a number of existing hotels and licensed premises. The scale (only 205m²) and nature (no entertainment or extended hours) of the proposal should limit the risk of the local community experiencing an unreasonable increase in alcohol and gambling related impacts.

- Immediate amenity impacts

Adjoining residences could potentially be impacted by patrons leaving the premises, particularly at closing time, and ineffective management would likely result in a reduction of residential amenity.

However, it is considered that these impacts can be managed by measures including conditions of consent requiring fencing around the site and for the licensee to manage behaviour of patrons around the site.

Noise from within the premises is unlikely to have an unreasonable impact on residences, particularly as there will not be any entertainment as part of the hotel.

Further conditions can be imposed as part of the liquor licence, which also provides an avenue for on-going management. Despite this, managing patron behaviour will be a key issue requiring constant monitoring by the licensee, police and Office of Liquor, Gaming & Racing.

- Traffic

The development provides parking in accordance with DCP 2007, and the layout was approved as part of a previous extension to the motel and is noted to comply with road design and safety standards. The additional traffic (estimated worst case scenario is approx 110 cars per day) is considered unlikely to unreasonably impact traffic flow around the Kingston Pde and Pacific Hwy intersection.

FINANCIAL/RESOURCE IMPLICATIONS

The proposal does not have any direct financial or resource implications.

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with Council's Policy and has no specific legal or policy implications.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Any proposal for a premises selling liquor has the potential to have environmental and social impacts. Following assessment of the proposal, it is considered that measures can be implemented (through the DA conditions and ongoing through the liquor license) to manage potential impact to residents in the immediate vicinity and the community in general.

Therefore the proposal is not considered likely to pose unreasonable environmental or social implications.

CONSULTATION

The application was exhibited in accordance with Council policy and 88 submissions were received concerning the proposal, including form letters from a number of residents and 30 local businesses. In addition, Council received petitions with 80 signatures and individual letters from:

- Hunter New England Health
- Hunter River High School
- Hunter River High School Parents & Citizens Association
- Raymond Terrace Public School
- Port West Community Drug Action Team (CDAT)

The issues raised in these submissions are discussed in Attachment 3.

Consultation meeting

A meeting between the Mayor, West ward Councillors, applicant, representatives for the objectors and Council staff is being organised for late January. The purpose of this meeting is:

1. To enable the Mayor and Councillors to be well informed about the content of the Application and Objections.
2. To enable, potentially, some improved mutual understanding between applicants and objectors, therefore leading to modifications in the Application.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Assessment.
- 3) Conditions.

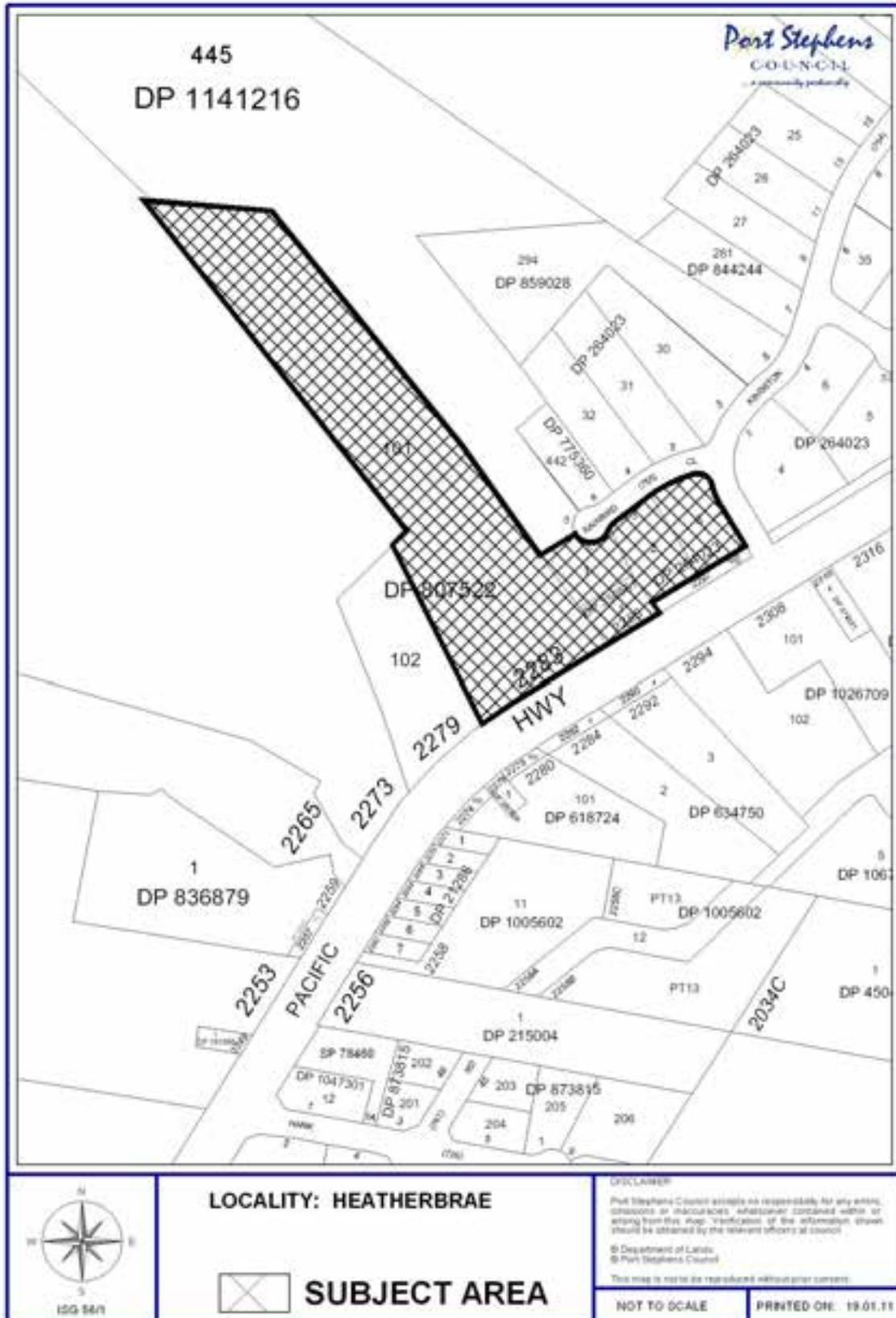
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Site Plan.

LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

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

THE PROPOSAL

DA 16-2010-478-1 seeks consent to change the use of part of the existing restaurant to a hotel, and will include minor alterations and additions to the building.

The proposed activity will include gaming facilities and take away liquor sales.

THE APPLICATION

Owner	Motto Farm Pty Ltd
Applicant	Mr J H Edmonds

THE LAND

Property Description	Lot 1, 2, 3 DP 264023, Lot 1 DP 350551 and Lot 101 DP 807522
Address	2283, 2285 Pacific Hwy and 1, 3, 5 Rainbird Cl, Heatherbrae
Characteristics	Site contains existing motel development

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	1(a) Rural Agriculture
Relevant Clauses	Cl 14A – Hotels in 1(a) zone Cl 44 – Appearance of land & buildings
Development Control Plan	B2 – Environment & Construction Management B3 – Parking & Traffic
State Environmental Planning Policies	71 – Coastal Protection

1.1 LOCAL ENVIRONMENTAL PLAN 2000

The site is zoned 1(a) Rural Agriculture. Hotels are not listed as prohibited development and are permissible on the site subject to Clause 14A.

The proposed change of use is consistent with the relevant zone objectives, as it will not significantly alter the character of the area, impact the agricultural viability of the site or reduce the quality of the natural environment.

Clause 14A – Hotels in 1(a) Zone

Hotels in the 1(a) zone must be in conjunction with tourist facilities. The proposed hotel is intended to be ancillary to the existing motel on the site. Given the proposed size and nature of the hotel (approx 200m² with no public entertainment), it is considered reasonable to accept it as being ancillary to the existing use.

Motels are not specifically defined in LEP 2000, but are consistent with the definition of a tourist facility, which is described as "*an establishment providing primarily for tourist accommodation or recreation, or both.*"

The proposed use is therefore considered permissible under Clause 14A in LEP 2000.

Clause 44 - Appearance of land and buildings

The change of use will not significantly alter the external appearance of the existing reception building and will not have any additional visual impact on the Pacific Hwy.

Clause 51A - Acid Sulphate Soils

The site is shown as Class 4 on the planning maps. The development does not propose any excavation, so there is no trigger for further investigation.

1.2 DEVELOPMENT CONTROL PLAN 2007

B2 – Environment & Construction Management

Wastewater

The proposal will increase the load on the existing on-site wastewater management system, which was recently upgraded to better service the motel development.

Council's Environmental Services have recommended that any consent require an additional 25kL capacity for the primary septic holding tank, bringing the total holding capacity to 50kL.

B3 – Parking & traffic

Existing

The subject area (205 m²) is currently used as a restaurant ancillary to the motel, which requires 30.7 spaces (1 space per 6.7 m² for restaurants outside commercial centres) under DCP 2007.

The SoEE states that there are 204 existing parking spaces on the site. DCP 2007 required 84 spaces for the motel (80 rooms, 4 staff), while the remaining restaurant (168 m²) requires 26 spaces.

Proposed

The proposed use of the subject area (205 m²) as a Hotel requires 58.5 spaces (1 space per 3.5 m² for hotel outside commercial centres). The change of use requires 28 additional spaces under DCP 2007. In total, the proposed motel/restaurant/hotel development will require 169 spaces.

The existing parking is sufficient and complies with the requirements of DCP 2007.

1.3 Section 94 Contributions Plan

Given the proposal will generate additional traffic from the site, it is considered that Section 94 contributions are required. Please see the recommended conditions for the contribution amount payable.

2. Submissions/Consultation

2.1 Community Consultation

DA 16-2010-478-1 was advertised and notified in accordance with Council policy. Residents along Rainbird Cl and Kingston Pde were also notified due to the nature of the development and proximity to the existing residences.

Council registered 88 submissions concerning the proposal, including form letters from a number of residents and 30 local businesses. In addition, Council received petitions with 80 signatures and letters from:

- Hunter New England Health
- Hunter River High School
- Hunter River High School Parents & Citizens Association
- Raymond Terrace Public School
- Port West Community Drug Action Team (CDAT)

Following analysis of the submissions, it is considered that the issues raised can be categorised into general social impacts, immediate amenity impacts (on the nearby residents and community), traffic impacts and processes relating to the application.

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

The issues raised are summarised and responded to below:

General Social Impacts	
Density of liquor premises in locality	<p>Issues</p> <ul style="list-style-type: none"> ▪ Majority of submissions raised concern about the number of liquor premises in the Raymond Terrace area and questioned the need for the proposed hotel. <p>Response</p> <ul style="list-style-type: none"> ▪ Planning legislation and policies do not restrict the number of licensed premises within a certain area. ▪ The DA was referred to Council's Community Planning Section and NSW Police for comment. Neither objected to the proposal. ▪ This assessment has considered the impact of the individual premises as per Section 79C of the Environmental Planning & Assessment Act. ▪ The Liquor Act and Gaming Machines Act provide more comprehensive mechanism for assessing cumulative impacts from licensed premises.
Vulnerability of local community	<p>Issues</p> <ul style="list-style-type: none"> ▪ Majority of submissions raised concern about the vulnerability of the local community. ▪ Particularly concern was raised about local schools. <p>Response</p> <ul style="list-style-type: none"> ▪ Available information indicates that local community is particularly susceptible to alcohol and gambling related impacts. ▪ Advice from Council's Community Planning section and submissions from Hunter New England Health and CDAT confirm vulnerability of local community, due to general indicators such as socio-economic status, age, education, home ownership as well as proximity to caravan parks with long term accommodation and motels providing crisis accommodation. ▪ Expert advice and research accepted by LEC states that vulnerable communities are likely to be disproportionately affected by the problems associated with alcohol consumption and gaming.
Detrimental social impact	<p>Issues</p> <ul style="list-style-type: none"> ▪ Majority of submissions raised concern that the proposed hotel will have a detrimental social impact. <p>Response</p> <ul style="list-style-type: none"> ▪ The planning assessment has considered the potential social impacts, including general impacts from alcohol and gambling relating issues and more direct impacts

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

	<p>(anti-social behaviour, noise) affecting the immediate area.</p> <ul style="list-style-type: none"> ▪ The DA was referred to Council's Community Planning Section and NSW Police. Neither objected to the proposal. ▪ Liquor Act and Gaming Machines Act provides a comprehensive mechanism for assessing cumulative and broader social impacts. ▪ Based on the information available, it is considered reasonable to assume that any hotel in a vulnerable community has the potential to generate social impacts. ▪ Size and nature (minor) of proposal likely to minimise risk of unreasonable impacts being generated. ▪ Suitable measures available, both to the applicant and government agencies (eg OLGR) to minimise potential impacts.
<p>Impact of gaming facilities</p>	<p>Issues</p> <ul style="list-style-type: none"> ▪ A number of submissions raised concern about the provision of gaming facilities and the potential for detrimental social impacts. <p>Response</p> <ul style="list-style-type: none"> ▪ The applicant has confirmed that gaming facilities (poker machines and TAB) will be provided within the hotel. ▪ No information relating to gaming facilities has been provided with the DA. ▪ Gaming Machines Act provides a comprehensive mechanism for considering the number of machines in the locality and the potential for social impacts.
<p>Amenity Impacts on nearby residents and community</p>	
<p>Increase in anti-social and criminal behaviour around site</p>	<p>Issue</p> <ul style="list-style-type: none"> ▪ The majority of submissions raised concern that the proposal would increase anti-social and criminal behaviour in the immediate vicinity of the site. ▪ Particular concern was raised about hotel patrons walking through residential areas, either to parked cars or to Raymond Terrace. <p>Response</p> <ul style="list-style-type: none"> ▪ Behaviour of patrons leaving premises has potential to be a serious issue and will require on-going management by the licensee, OLGR and police. ▪ Parking will be provided on site as per DCP 2007, which will limit the need for parking along Kingston Pde and Rainbird Cl. ▪ A condition of consent is recommended requiring a fence around the site, which further reduces the likelihood of patrons parking along residential streets.

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

	<ul style="list-style-type: none"> ▪ There is a laneway between 37 and 39 Kingston Pde, which provides access from the residential street to the highway. Another pedestrian route is also available along the northern side of the highway. ▪ Patrons are unlikely to frequently use the laneway, given the distance to, and availability of other premises in Raymond Terrace. Further, the number of patrons leaving the hotel at the same time will be limited by the lack of entertainment and trading hours. The potential impact as a result of patrons using this laneway is unlikely to be unreasonable. ▪ A condition of consent is recommended requiring the licensee to take appropriate measures to manage patron behaviour around the site and to minimise impacts on the residential area. ▪ Approvals required under the Liquor Act can also require conditions regarding management of patrons and provides an avenue for ongoing management.
Noise	<p>Issue</p> <ul style="list-style-type: none"> ▪ A number of submissions raised concern that the proposed hotel will generate unreasonable noise levels. ▪ Particular concern was raised about entertainment and patron noise within the premises. ▪ Concern was also raised about impacts from the existing motel operation and that the combination of the motel and hotel will exacerbate these impacts. <p>Response</p> <ul style="list-style-type: none"> ▪ The proposed hotel will not provide any entertainment. ▪ The planning assessment indicates that noise from patrons within premises is likely to comply with criteria in noise guidelines due to the existing setback to nearby residences. ▪ Noise from patrons leaving premises has potential to be an issue and will require on-going management by security, hotel operators and police. ▪ Conditions will be recommended requiring compliance with noise criteria and locating main entrance on Pacific Hwy side of premises. ▪ Any issues regarding behaviour of patrons can be further managed through liquor licence.
Impact on local school students	<p>Issue</p> <ul style="list-style-type: none"> ▪ The majority of submissions raised concern about the hotel's proximity to local schools and school bus stops along the highway and potential impact on students. <p>Responses</p> <ul style="list-style-type: none"> ▪ Students waiting for buses or walking past the site will

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

	<p>generally be around 9am and 3pm on school days. Majority of hotel and motel patrons are likely to arrive after these hours, and are unlikely to generate any obvious land use conflicts.</p> <ul style="list-style-type: none"> ▪ The hotel will be subject to standard liquor laws, which require patrons to be over 18yo. ▪ The hotel is unlikely to unreasonably increase the risk of alcohol related issues affecting students over 18yo, as there are already a number of liquor premises in Raymond Terrace that are within walking distance of local schools.
Impact on local businesses and employees	<p>Issue</p> <ul style="list-style-type: none"> ▪ The form letters from local businesses raised concern that the location of the hotel would encourage employees of businesses in the adjacent industrial area to have alcohol at lunch time, raising OH&S issues. <p>Response</p> <ul style="list-style-type: none"> ▪ Given that there are existing licensed premises in Raymond Terrace and other nearby localities, the additional risk to employees is considered minimal.
Traffic and Pedestrian Safety	
Reduced safety of Kingston Pde and Pacific Hwy intersection	<p>Issue</p> <ul style="list-style-type: none"> ▪ The majority of submissions were concerned about the impact of additional traffic on the function and safety of the Kingston Pde and Pacific Hwy intersection. <p>Response</p> <ul style="list-style-type: none"> ▪ Based on traffic/parking generation rates, it is estimated that the hotel could generate an additional 110 car trips per day (10 in peak hour), which is likely to be a worst case scenario given the lack of entertainment. ▪ The DA was referred to the RTA and Council's Traffic Engineer, neither of which had any objections to the proposal. ▪ It was also noted that the current access arrangements, approved by previous DAs to the motel, comply with road design and safety requirements. ▪ Given the existing development using the intersection, the increase is unlikely to significantly alter the existing level of service between Kingston Pde (classified as an access street) and the highway.
Increase in drink driving	<p>Issue</p> <ul style="list-style-type: none"> ▪ The majority of submissions raised concern that the proposal would increase the occurrence of alcohol related traffic accidents.

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

	<p>Response</p> <ul style="list-style-type: none"> ▪ Based on the location of the hotel, it is considered that a significant percentage of patrons will drive to and from the site. ▪ Travel behaviour of patrons can be managed through conditions on the liquor licence (such as responsible serving of alcohol, courtesy buses etc). ▪ There are ongoing measures such as public awareness and education aimed at reducing incidence of drink driving.
<p>Increase in parking problems</p>	<p>Issue</p> <ul style="list-style-type: none"> ▪ A number of submissions raised concern that the hotel would increase parking related problems around the site. ▪ Particular concern was raised regarding patrons parking along Rainbird Cl and Kingston Pde and trucks parking in the vacant site adjacent to the site. ▪ Concern was also raised about existing parking issues with the motel, and parking along the highway in the No Parking area. <p>Response</p> <ul style="list-style-type: none"> ▪ The site will provide on-site parking in accordance with DCP 2007. A suitable number of spaces are also located next to the building subject to the hotel proposal. ▪ Previous approvals on the site made provision for truck parking within the site. ▪ The RTA and Council's Traffic Engineer had no objection to the proposal and noted the current access arrangements comply with road design and safety requirements. ▪ A condition can be imposed requiring a fence around the Motto Farm Motel site, which reduces the likelihood of patrons parking along residential streets.
<p>Pedestrian safety within/around site</p>	<p>Issue</p> <ul style="list-style-type: none"> ▪ A few submissions raised concern about pedestrian safety within and around the site. <p>Response</p> <ul style="list-style-type: none"> ▪ The existing car parking layout is consistent with the requirements of Council's DCP and the Australian Standard, and there are a large number of spaces next to the building to be used for the hotel. ▪ The proposal will also include additional signage around the site and speed humps to regulate traffic and improve pedestrian safety in and around the site. ▪ The change of use is unlikely to significantly increase risk to pedestrian safety within the site.

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

<p>Pedestrian safety when crossing Pacific Hwy</p>	<p>Issues</p> <ul style="list-style-type: none"> ▪ A number of submissions raised concern that hotel patrons would be encouraged to cross the highway due to the McDonalds and Subway restaurants located approximately 500m south of the site. ▪ Concern was raised at the increased risk as a result of intoxicated pedestrians crossing the highway. <p>Response</p> <ul style="list-style-type: none"> ▪ There is a recently constructed set of traffic lights opposite the McDonald's and Subway premises, which provides a safe and appropriately located spot to cross the highway.
<p>Environmental Impact</p>	
<p>On-site wastewater management</p>	<p>Issue</p> <ul style="list-style-type: none"> ▪ A few submissions raised concern that increased loads on the on-site sewerage management system may have an environmental impact, and cited previous difficulties the motel has had with its septic system. <p>Response</p> <ul style="list-style-type: none"> ▪ The DA was referred to Council's Environmental Services, who have no objections subject to conditions requiring an upgrade of the systems storage capacity.
<p>Land use conflict</p>	<p>Issue</p> <ul style="list-style-type: none"> ▪ A few submissions raised concern about the hotel not being consistent with the objectives for the 1(c5) Rural Small Holding Zone, which is adjacent to the Motto Farm Motel site. <p>Response</p> <ul style="list-style-type: none"> ▪ The Motto Farm Motel site is zoned 1(a) Rural Agriculture, which permits hotels in conjunction with tourist facilities. The proposal does not contravene any of the 1(a) zone objectives. ▪ The issue of the developments compatibility has been addressed through consideration of the potential impacts on nearby residences, particularly the amenity and traffic related impacts.

Processes relating to DA

<p>Pre-DA community meeting</p>	<p>Issue</p> <ul style="list-style-type: none"> ▪ A number of submissions raised concern about a meeting held between the applicant and owner of the motel and the residents of Kingston Pde and Rainbird Cl. ▪ Particular concern was raised that the information
---------------------------------	--

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

	<p>provided in that meeting was not consistent with the information lodged with the application.</p> <p>Response</p> <ul style="list-style-type: none">▪ The meeting was not a legislative requirement of the Environmental Planning & Assessment Act.▪ The information provided to the residents should not impact Council's assessment and determination of the application.
Notification of DA	<p>Issue</p> <ul style="list-style-type: none">▪ A few submissions suggested that all the nearby residents and a list of community and government groups should be informed of the DA. <p>Response</p> <ul style="list-style-type: none">▪ The proposal was advertised and notified in accordance with Council policy. In addition, all residents on Rainbird Cl and Kingston Pde were notified due to the nature of the proposal and proximity to these residences.▪ Internal and external referrals required in order to complete the Section 79C assessment (which included the NSW Police and RTA) have also been completed.

2.2 External referrals

- NSW Police

The application seeks consent for a hotel. As per Council's referral protocol, the DA was referred to the NSW Police for comment. No objection was raised subject to recommended conditions relating to operation and management of the hotel.

- RTA

The DA was referred to the RTA under Schedule 3 of State Environmental Planning Policy Infrastructure (2007), as the development is within 90m of an arterial/classified road (Pacific Hwy) and is likely to generate more than 50 vehicle trips per day.

No objection was raised and it was noted that the existing accesses met current road design and safety requirements.

2.3 Internal referrals

- Community Planning (Social)

Commented that the location of the proposed hotel will be within walking distance of vulnerable sections of the community, including:

- existing dwellings along Kingston Pde and Rainbird Cl
- two caravan parks providing long term accommodation
- a motel which provides emergency/crisis accommodation
- Hunter River High School

These vulnerable sections of the community are generally indicated by age, low income, unemployment rates and isolation and it is considered that the proposed development application has the potential to place these groups at greater risk of harm.

- Environmental Services (Wastewater)

Had no objections subject to condition requiring an upgrade of the existing on-site sewerage management system.

- Traffic Engineer

No objections to the proposal.

- Building Surveyor

No objections subject to standard conditions.

- Development Engineering

No objections subject to standard conditions.

- Disability Access

No objections subject to standard conditions.

3. Likely Impact of the Development

The assessment has considered the likely impact of the development by identifying the potential impacts, who they would affect, measures available to reduce the impacts, the individuals/agencies responsible for these measures and the likely frequency and severity of the impacts following application of the measures.

Following this process, it is considered that the key issues are the general social impacts, immediate amenity impacts and traffic impacts.

However, it is considered that the likely impacts do not warrant refusal of the application in this instance. This is largely due to the scale and nature of the proposal, availability of measures to reduce the extent, frequency and risk of potential impacts, although it is noted that the likelihood of any impact is largely dependant on effective management of the premises.

Full consideration of all the potential impacts is included below.

3.1 Social & Economic Impacts

- Economic

The proposed hotel is unlikely to have any significant economic impacts on the general community.

- Social

It is considered that the proposed hotel has potential to affect the local community by generating social impacts relating to alcohol consumption and problem gambling.

Advice from Council's Community Planning Section, Hunter New England Health and Port West Community Drug Action Team (CDAT) identify the local community as being particularly vulnerable to alcohol and gambling related issues due to standard indicators such as socio-economic status, age, education, home ownership etc. Further, the site is in close proximity to a school, caravan parks providing long term accommodation and motels providing crisis accommodation.

Expert advice and research provided in a similar Land & Environment Court matter (Waugh Hotel v Marrickville Council 2007) identifies a relationship between the density of licensed premises and social impacts related to alcohol consumption. Further, there is a strong relationship between the number of gaming machines and increase in spending per adult. It was concluded that vulnerable populations are likely to be disproportionately impacted by alcohol and gambling related problems.

Based on the information available, it is considered that any premises providing alcohol and gambling facilities within the locality has potential for social impacts on the locality.

The DA was referred to the NSW Police and Community Planning Section, neither of which objected to the proposal.

The proposal will require licences under both the Liquor Act and Gaming Machines Act, which require comprehensive assessment of the broader social and cumulative impacts associated with licensed premises in the locality.

There are also legislative requirements regarding signage and information to be displayed within the premises, as well as government funded public awareness and education programs regarding the issues with alcohol consumption and gambling.

However, the locality already contains a number of existing hotels and licensed premises. The size (205m²) and nature (no entertainment, no extended trading hours) of the proposed operation should limit the risk of the local community experiencing an unreasonable increase in alcohol and gambling related impacts.

3.2 Built Environment

▪ Amenity

The hotel has the potential to reduce the amenity of nearby residences as a result of patron noise and behaviour outside the premises.

Given that there is no entertainment being provided, the greatest number of patrons leaving the site at the same time will be at closing time, which is proposed at:

- 12 midnight Friday and Saturday
- 11pm Monday to Thursday
- 10pm Sunday and Public Holidays

In applying the Crime Prevention Guidelines, the DA has been referred to the NSW Police and consideration has been given to the Crime Prevention through Environmental Design (CPTED) principles (detailed below).

Following consideration of the principles, it is considered that the likelihood of any amenity impacts can be minimised through imposing conditions on any development consent, liquor licence and ongoing management by the licensee.

However, it should be noted that patron behaviour will be an ongoing issue, particularly at closing time, and will require close monitoring by the licensee.

Based on the available information and following assessment of the impacts, there are insufficient grounds to justify a condition or requirement to reduce the proposed hours based on the available information.

However, the liquor license provides an ongoing avenue for reducing hours if there are any amenity impacts on nearby residences.

CPTED Principals

Surveillance

The hotel will provide opportunities for both natural and organised surveillance. The car parking area is within clear view of the subject building and within close distance, allowing management and security to better control patrons leaving the premises.

The NSW Police considered the need for CCTV cameras, but in this instance have not been required.

Access Control

The main vehicular access to the site is via Kingston Pde, which will provide access to the car parking area adjacent to the hotel building.

The most likely and severe impacts would be generated by patrons walking through the nearby residential area upon leaving the premises.

This can be controlled by requiring a fence to be erected around the motel site, ensuring the pedestrians access the site via the Kingston Pde or Pacific Hwy entryways. This would result in any hotel patrons parking along Kingston Pde or Rainbird Cl having to walk around the site to gain access to the hotel, which reduces the likelihood of them parking in the residential area.

Another suitable measure is to impose a condition requiring hotel management and security to take appropriate measures to ensure that patrons leaving the premises do not reduce the amenity of surrounding residences.

These matters will also be further considered as part of any liquor licence application.

Territorial Reinforcement

There is likely to be a strong sense of community ownership and responsibility of the immediate area, given the proximity and layout of residences along Rainbird Cl and Kingston Pde.

Any impacts arising from the hotel will likely result in public complaints, which will be an incentive to ensure that hotel patrons are managed appropriately and that any anti-social behaviour is minimised and resolved.

Space Management

Formal supervision of the area will be required by hotel management in order to minimise patrons impacting nearby residences. Although some measures to encourage this will be recommended as conditions of consent, the liquor licence will provide a more appropriate avenue for requiring and monitoring management and supervision of the area around the premises.

- Noise

Standard noise criteria obtained from the Noise Guidelines for Local Government and Industrial Noise Policy recommends that noise at nearby residential boundaries not exceed 5dB(A) above background noise before midnight.

The hotel will operate until 12 midnight on Friday and Saturday, 11pm Monday to Thursday and 10pm on Sundays and public holidays.

The most likely source of noise is from patrons, as no entertainment will be provided and no outdoor areas will be facing the residential area.

Based on general sound levels, background noise in residential areas is generally around 50dB(A), while loud speech can be as high as 85dB(A). Sound levels generally reduce by 6dB(A) when the distance from the noise source is doubled.

As such, noise levels at nearby residences, which are setback at least 85m, should not exceed background noise levels.

The draft conditions will prohibit any entertainment (unless further consent is obtained) and require that no main access or outdoor areas be provided facing the residences. Noise from patrons in and around the establishment can also be minimised through proper management of the hotel and liquor licence.

- Streetscape

The proposed change of use and works are unlikely to significantly alter the streetscape along the Pacific Hwy or Kingston Pde.

- Landscaping

The existing motel is already landscaped. No further landscaping is considered necessary in this instance, except for a recommended condition regarding fencing.

3.2 Parking, Access and Traffic

The main vehicular access to the site is off Kingston Pde, 30m from the Pacific Hwy intersection.

DCP 2007 requires hotels to have twice (approx 1.9) the amount of parking required for restaurants. In the absence of a traffic impact statement or recommended traffic generation rate, it is reasonable to assume that traffic generation by hotels would increase by a similar ratio.

Listed below is a table with the traffic generation rates (obtained from the RTA Guide to Traffic Generating Developments) for development along Kingston Pde:

Development	Traffic Generation Rate	Estimated Vehicles
Peak Hour		
Dwellings (38) Kingston Pde + Rainbird Cl	0.85 per dwelling	32.3

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

Motel (80 units)	0.4 per motel unit	32
Restaurant (168sqm to be retained)	5 per 100sqm GFA	8.4
Restaurant (area to be converted to hotel – 205sqm)	5 per 100sqm GFA	10.25
Existing demand		93.2
Hotel (205sqm)	9.5 per 100sqm GFA	19.48
Traffic Increase		+9.23
Per Day		
Dwellings (38) Kingston Pde + Rainbird Cl	9 per dwelling	342
Motel (80 units)	3 per unit	240
Restaurant (168sqm to be retained)	60 per 100sqm GFA	100.8
Restaurant (area to be converted to hotel – 205sqm)	60 per 100sqm GFA	123
Existing demand		928.8
Hotel (205sqm)	114 per 100sqm GFA	233.7
Traffic Increase		+110.7

Using the RTA Guide to Traffic Generating Developments, the restaurant area (205sqm) is estimated to generate 123 vehicle trips per day (based on a rate of 60 per 100sqm). Thus the traffic generation from the proposed hotel is estimated to be 234vpd. This is an increase of 111vpd.

Kingston Pde is classed as an Access Street. The RTA Guide to Traffic Generating Developments recommends a maximum peak hour volume of 100 vehicles per hour. The AMCORD (Australian Model Code for Residential Development) Guidelines support this by recommending a maximum of between 1000-2000 vehicles per day for access streets with a carriage way of 6m.

Although it is noted that the access to the site is not in an ideal location (only 30m from intersection), the proposed change of use is not likely to increase traffic to an unacceptable level or significantly reduce the existing level of service for the Kingston Pde/Pacific Hwy intersection.

Public Reserve

Part of the manoeuvring area for the carpark is located within public reserve (Lot 46 DP 264023) that runs along the Pacific Hwy. This reserve was intended to reduce further vehicular access to the highway.

The original DA for the motel (DA 7-1979-73-1) was approved prior to creation of the public reserve, and included provision for access and manoeuvring within the area that became part of the public reserve. The motel appears to benefit from existing use rights for the car park area. Since its construction, there have been further applications for alterations and additions to the motel that have been approved on this basis.

3.3 Natural Environment

Wastewater

The hotel will increase the number of people frequenting the site, thus increasing the load on the on-site sewerage management system. The proposed change of use has been assessed by Council's Environmental Services section, and is not considered likely to increase the impact or environmental risk to water quality in the catchment subject to requiring an upgrade of the storage capacity.

Site Contamination

The site is not listed on Council's contaminated site register and has no known history of potentially contaminating uses, with the exception of issues with the on-site sewerage management system. The change of use does not trigger the need for further investigation under SEPP 55 Remediation of Land.

4. Suitability of the Site

The development is permissible on the site. The assessment has identified that the proposal has the potential to impact the existing amenity in the immediate vicinity of the site. However, there are measures, both through recommended conditions and ongoing through the liquor licence that provide avenues for management. Based on the information available to Council, it is considered that the development is suitable for the site subject to conditions.

5. Public Interest

Given that there are measures to reduce the impact of the development, and further approvals that consider the broad social impacts of the proposal, approval of the DA is unlikely to significantly impact the public interest.

ATTACHMENT 3

16-2010-478-1

SCHEDULE 2

STANDARD CONDITIONS

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.

PLANNING DRAFT CONDITIONS OF APPROVAL

3. The development, being the partial use of the subject building as a "hotel", must be operated in conjunction with the existing motel for the life of the development as per the requirements of Port Stephens Local Environmental Plan 2000.
4. The operating hours of the proposed hotel are limited to:
 - Monday – Thursday between 10am – 11pm
 - Friday – Saturday between 10am – 12am
 - Sunday & Public Holidays between 10am – 10pm
5. The use of the premises, and the operation of all plant, equipment and delivery vehicles shall not generate "offensive noise", as defined in the Protection of the Environment Operations Act 1997, at the boundary of adjoining residential properties. In this regard, the proposed activity shall comply with the Industrial Noise Policy and not generate noise (Leq) greater than 5dB(A) above background noise at the nearest receiving boundary.
6. No outdoor drinking or smoking areas are permitted to be on the north-west side of the building, which faces the adjoining residential area.
7. In order to protect the amenity of nearby residences, no entertainment is permitted within the proposed hotel, unless further development consent has been obtained from Council.
8. In order to protect the amenity of residents along Rainbird Close, a fence is to be erected around the site and shall be at least 1m high. It is recommended that the

16-2010-478-1

fence be a dark colour and landscaped (to reduce visual impact) and be similar in style to the existing fence around the Pacific Highway frontage (ie powder coated pool style fencing).

9. The licensee is to take appropriate measures to manage patron behaviour around the site and protect the amenity of nearby residences.
10. A sign is to be erected at the Kingston Parade entry/exit advising patrons to be considerate of the adjoining residential area and to keep noise to a minimum.

WASTEWATER

11. The existing wastewater treatment plant shall be upgraded with the provision of an additional 25kL of primary septic holding capacity over and above the existing capacity. The additional holding capacity shall be utilised for effluent storage and bring the total effluent holding capacity to 50kL (2 x 25kL tanks). The existing holding capacity shall remain at 25kL (1 x 25kL tank). Additional pipe work, hardware and sensors shall be installed as required by a suitably qualified and experienced contractor.

FOOD SAFETY

12. The operational areas in the bar are to be constructed in accordance with AS4674:2000. Details are to be provided to Council prior to the necessary inspection by Council's Environmental Services Section.

POLICE CONDITIONS

13. No alcohol is to be served 30 minutes prior to the closing time of the premises as set out in the conditions of this consent.
14. Patrons of the hotel shall not be permitted to remove open containers or glasses from the premises, and there shall be no sale of liquor in unopened containers for consumption off the premises.
15. An RSA Monitor Register must be kept at the Premises and must be available for inspection by Police or Council officers at all hours that the Premises are open for trade to the public. The RSA Monitor Register must accurately record the dates and times an RSA Monitor was present at the Premises and the name of each RSA Monitor.

Note: "RSA Monitor" means a person holding a "recognised RSA certificate", as defined in cl.39 of the Liquor Regulation 2008 who at the time of performance of the function of RSA Monitor performs the primary function of identifying and assisting in the management of patrons of the premises who are becoming intoxicated.

16-2010-478-1

16. A Security Person Register must be kept at the Premises and must be available for inspection at all hours that the Premises are open for trade to the public. The Security Person Register must accurately record the dates and times a Security Person is present at the Premises.

Note: "Security Person" means a person holding each of the following that is engaged to provide security services at the Premises: (a) a Class TA and/or a Class IC security licence under the Security Industry Act 1997; and (b) a "recognised RSA certificate", as defined in cl.30 of the Liquor Regulation 2008, at the time of performing the function of providing security services, does so as a sole function.

17. The development shall provide a complaints service and register, which are to be kept and maintained for the life of the development.

Note: "Complaints Service" means a telephone service provided at the Premises that is capable of receiving telephone calls at the Premises;

"Complaints Register" means a register maintained and kept at the Premises that is available for inspection by Police or a Council officer at the Premises at any time the Premises are open for trade to the public and that records each of the following details in respect to each complaint of anti-social conduct received about the operation of the Premises:

- (a) Date the complaint was received;
- (b) Time the complaint was received;
- (c) Name of the complainant
- (d) Name of the person recording the complaint in the Register
- (e) The precise terms of the complaint
- (f) The action taken, if any, in respect to the complaint.

18. A sign, not less than 600mm in length and 400mm in width, must be erected on the exterior of the Premises, in a location visible from Kingston Parade, on which the words "Complaints and Reports" followed by number for the Complaints Service.

ENGINEERING DRAFT CONDITIONS

19. Collected stormwater runoff from the proposed structure shall be connected to the existing stormwater drainage system.

DISABILITY ACCESS

20. The proposed development shall be provided with access and facilities for the disabled in accordance with Australian Standard 1428.1 and the relevant provisions of the Building Code of Australia, which are to be maintained for the life of the development.

16-2010-478-1

21. A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1 shall be provided between the entrance to the premises and any disabled parking spaces.

BUILDING CONDITIONS

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

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

25. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
26. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
27. Food preparation, storage and service areas are to be designed and constructed to comply with AS4674-2004 for the construction & fit out of food premises.

Where Council is nominated as the Principal Certifying Authority, Council's Food Surveillance Officer shall be given 48 hours notice to inspect the premise for compliance under AS4674-2004 for the construction & fit out of food premises before operating the business.

Where Council is not nominated as the Principal Certifying Authority, submit certification from an appropriate qualified person confirming compliance with AS4674-2004 for the construction & fit out of food premises **before the issue of the**

16-2010-478-1

occupation certificate.

Note: The business needs to be registered with Council so it can be added to the inspection program.

- 28. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council, if Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
- 29. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
 - a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.
- 30. The demolition and disposal of materials containing asbestos should be carried out in accordance with Workcover Authority Guidelines. The material may be disposed of at Council's waste disposal site by phoning (4987 4524). Details of the materials and twenty-four (24) hours notice is necessary.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

PLANNING

- 31. In order to protect the amenity of the adjoining residential area, the main entry to the hotel is to be from the Pacific Highway side of the building. The entry on the north west side of the building shall be for emergency purposes only. An amended floor plan demonstrating this shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**
- 32. A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

Civic Administration	Total (\$600)
----------------------	------------------

16-2010-478-1

Roadworks (\$17,205)

Note:

- a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.
- b) Contributions are to be paid prior to **issue of construction certificate**.
- c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months from the date of original consent.

BUILDING

- 33. A separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council **prior to the issue of any Construction Certificate** for works associated with this Development Consent. The application is to be accompanied by full details of the proposed system including a site assessment complying with Division 4 of the Local Government (General) Regulation, 2005 and Council requirements.

GENERAL ADVICES

- a) Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
- b) The necessary approvals under the Liquor Act and Gaming Machines Act must be obtained prior to operation of the licensed premises.
- c) This approval relates to **Development Consent** only and does not infer any approval to commence excavations or building works upon the land. **A Construction Certificate should be obtained prior to works commencing.**
- d) The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

ITEM NO. 4

FILE NO: 16-2010-327-2

SECTION 96 APPLICATION 16-2010-327-2 FOR REDUCTION OF DEVELOPER CONTRIBUTIONS AT 52 DEAN PDE LEMON TREE PASSAGE

REPORT OF: KEN SOLMAN - DEVELOPMENT ASSESSMENT & ENVIRONMENTAL HEALTH, ACTING MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Section 96 Application to Modify Consent 16-2010-327-2 as it is not consistent with the requirements of Port Stephens Section 94 Development Contributions Plan.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011

RECOMMENDATION:

	Councillor Steve Tucker Councillor Bruce MacKenzie	That Item 4 be deferred for the Development Assessment and Environmental Health Manager to bring forward a report regarding options to amend the Section 94 Plan on Affordable Housing.
--	---	---

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, Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward Sally Dover and Ken Jordan.

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

006	Councillor Ken Jordan Councillor Bruce MacKenzie	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, Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward Sally Dover and Ken Jordan.

Those against the Motion: Nil.

AMENDMENT

	<p>Councillor Steve Tucker Councillor Bruce MacKenzie</p>	<p>That Council:</p> <ol style="list-style-type: none">1. Accept a 50 % reduction in this case of the Section 94 contribution on the basis of Affordable Housing submission.2. Council amend the Section 94 Plan to formalise this decision.
--	---	---

Cr Steve Tucker withdrew the amendment.

BACKGROUND

The purpose of this report is to present a Section 96 application to modify development consent 16-2010-327-2 to Council for determination.

DA 16-2010-327-1 approved the use of the existing structure, currently used for home employment, as a secondary dwelling under State Environmental Planning Policy (Affordable Rental Housing) 2009.

The consent required payment of developer contributions for an additional dwelling as per Council's current Section 94 Contributions Plan.

Council's current Section 94 Contributions Plan provides an exemption for granny flats, but only for free standing, 1 bedroom mobile home type structures, provided by a family to accommodate an aged parent(s) and temporary for a period of 5 years. The approved secondary dwelling is a permanent structure and thus the exemption is not applicable in this instance.

Further, State Environmental Planning Policy (Affordable Rental Housing) 2009 does not have any provisions that affect the application of Council's Section 94 plan.

This Section 96 application seeks to reduce the developer contributions from \$11,429 to \$5,297, on the basis that the size (60m²), location and nature (no parking or private open space) of the secondary dwelling is likely to result in an occupancy rate more similar to a seniors living unit or permanent manufactured home than that of standard single dwelling.

It is considered that this argument has merit, but staff do not have delegation to vary Council's Section 94 Contributions Plan. The recommendation of this report is to refuse the application in accordance with Council's current Section 94 plan.

FINANCIAL/RESOURCE IMPLICATIONS

This modification has the potential to set a precedent and result in a reduction in the amount of development contributions Council receives from future applications for secondary dwellings.

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is inconsistent with Council's current Section 94 Contributions Policy, but it should be noted that in December 2010, Council resolved to review this policy as a result of the Affordable Rental Housing SEPP. Determination of this application will likely influence the review of the Section 94 plan.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This application may set a precedent that reduces the amount of development contributions obtained by Council. However, the intent of the Affordable Rental Housing SEPP is to reduce the cost of rental housing, which will likely provide a social and economic benefit to the community.

But it should be noted that Council has not received many secondary dwelling applications made under the Affordable Rental Housing SEPP. As such, this application is unlikely to have any significant or long term social, economic or environmental implications.

CONSULTATION

This Section 96 application was not advertised or notified, as per Council policy. No submissions have been received.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan.
- 2) Assessment.

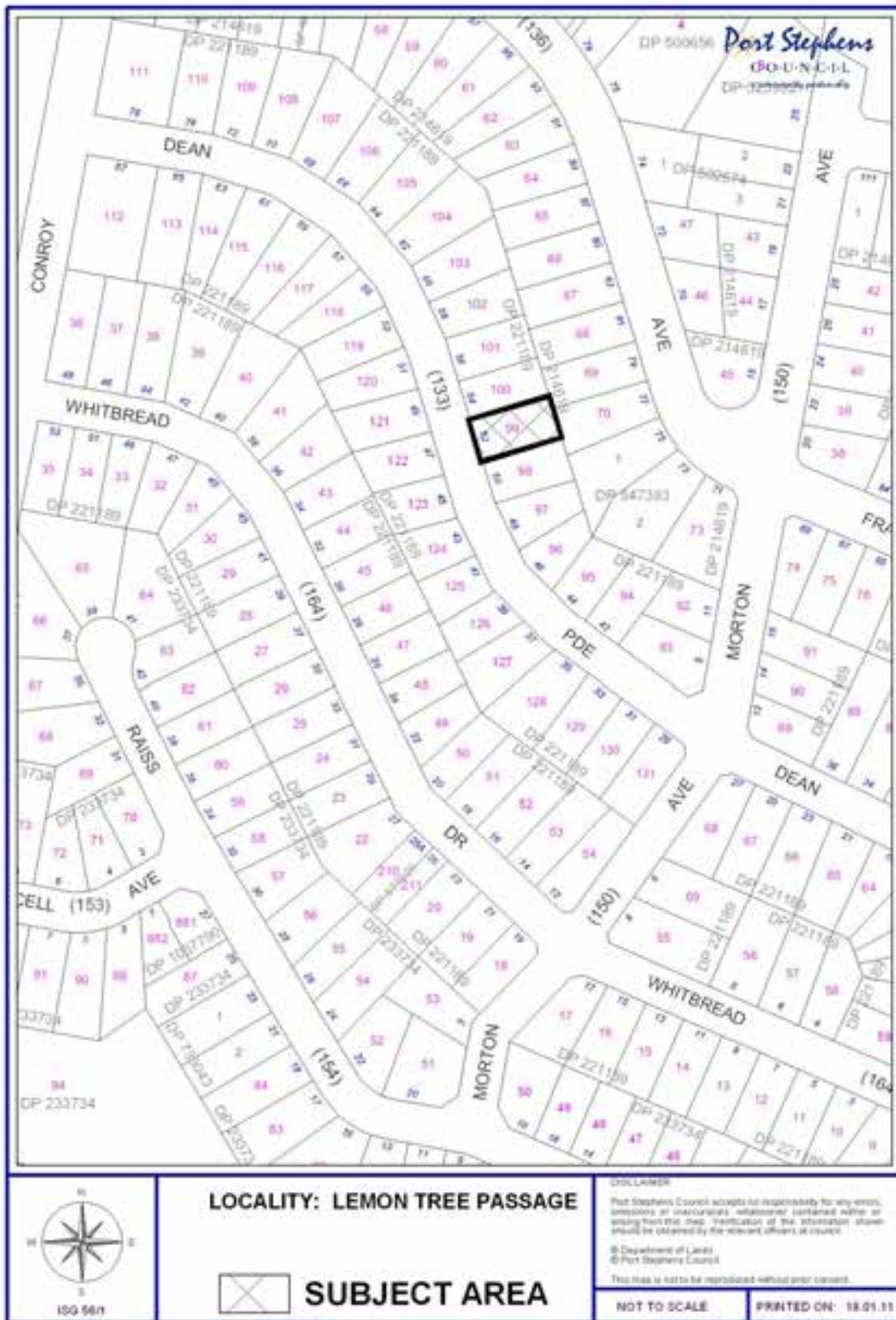
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Site Plan.

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

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

THE PROPOSAL

This Section 96 modification application (DA 16-20010-327-2) seeks to reduce the developer contributions required by the original development consent.

THE APPLICATION

Owner	Mr L Middleby
Applicant	Mr L Middleby
Detail Submitted	Supplementary planning advice

THE LAND

Property Description	Lot 99 DP 221189
Address	52 Dean Pde, Lemon Tree Passage
Area	558 m ²
Dimensions	33.28m x 16.765m

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	2(a) Residential
Relevant Clauses	Nil

Port Stephens Section 94 Development Contributions Plan

State Environmental Planning Policies Affordable Rental Housing 2009

Port Stephens Local Environmental Plan 2000

The proposed modification will not alter the nature of the development nor its permissibility (under provisions of Affordable Rental Housing SEPP) and compliance with the requirements of LEP 2000 or DCP 2007.

Port Stephens Section 94 Development Contributions Plan

Under the provisions of the current Section 94 plan, contributions are required for 1 additional dwelling (less than 3 bedrooms).

The granny flat exemption does not apply to the approved development as it is a permanent structure and not specifically intended for the provision of family accommodation.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The Affordable Rental Housing SEPP does not contain any provisions affecting the application of Council's Section 94 plan.

The proposed modification will not impact the developments permissibility or compliance with the requirements of the SEPP.

2. Likely Impact of the Development

The proposed modification will not alter the approved developments impact on the built or natural environments.

3. Suitability of the Site

The site remains suitable for the approved development.

4. Submissions

No submissions have been received.

5. Public Interest

The development will not have any significant impact on the public interest.

ITEM NO. 5

FILE NO: PSC2010-01705

PLANNING PROPOSAL – PART LOT 99 DP 1092660, MASONITE ROAD, HEATHERBRAE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Prepare a planning proposal under Part 3 of the Environmental Planning and Assessment Act 1979 with respect to part Lot 99 DP 1092660, Masonite Road Heatherbrae to amend Port Stephens Local Environmental Plan 2000 to rezone the land from 7(a) Environment Protection “A” to 4(a) Industrial General “A”.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Bob Westbury	That the 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, Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover and Ken Jordan.

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

007	Councillor Ken Jordan Councillor Bruce MacKenzie	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, Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, John Nell, Geoff Dingle, Frank Ward, Sally Dover and Ken Jordan.

Those against the Motion: Nil.

BACKGROUND

Subject Land	Part Lot 99 DP 1092660, 343 Masonite Road Heatherbrae
Site Area	5.481ha (approx)
Land Owner	CABP Group Pty Ltd
Proponent	ADW Johnson Pty Limited
Existing Zone	7(a) Environment Protection –Port Stephens LEP 2000
Planning Proposal	To enable use of the subject land for industrial purposes as a result of the proposed re-alignment of the Pacific Highway by rezoning the land from 7(a) Environmental Protection to 4(a) Industrial General
Proposed Zone	4(a) General Industrial

The proposal

Council has received a request to prepare a planning proposal to rezone 5.481ha of part Lot 99 DP 1092660 9 (the subject site) at 343 Masonite Road Heatherbrae from 7(a) Environment Protection "A" to 4(a) Industrial General "A" as shown in **Attachment 1**.

Lot 99 DP1092660 (the Lot) is currently 'split' zoned between 4(a) Industrial "A" and 7(a) Environment Protection "A". The remainder of the northern part of the Lot is zoned 4(a) General Industrial which has development consent for an industrial subdivision (DA 16-2006-636-2).

Recently, the NSW Roads and Traffic Authority (RTA) formalised a concept plan for the Pacific Highway corridor for the F3 to Raymond Terrace Upgrade (F3 reserve) as shown in **Attachment 2**. The RTA concept plan confirms that the lot will be 'severed' by the new F3 road reserve alignment south of the approved subdivision. As a result, a 5.481ha portion of the lot within the existing 7(a) zone will be fragmented from the remainder of the 7(a) zoned land to the south and become bound by the existing 4(a) zone to the north and the proposed F3 road reserve to the south (the subject land).

In response to the resultant fragmentation of Lot 99 due to the formalised F3 reserve, the proponent is seeking to rezone the portion of part Lot 99 that will be isolated between the F3 reserve to the south and existing land to the north and east zoned 4(a) Industrial General "A" currently approved for an industrial subdivision under Development Application 16-2006-636-2.

Existing Planning Position

Relevant State Environmental Planning Policies & S.117 Directions under the Environmental Planning & Assessment Act

Relevant State Environmental Planning Policies & S.117 Directions under the Environmental Planning & Assessment Act are addressed in **Attachment 4**.
Lower Hunter Regional Strategy (LHRS)

The site is not identified as employment land within the Lower Hunter Regional Strategy and is located on the edge of the Green Corridor, which is described as an area of high conservation values joining key corridors through the region. However, this Strategy was adopted prior to the finalisation of the F3 Heatherbrae Bypass. In considering whether to rezone the site, Council has taken into consideration the fact that the F3 road Reserve fragments the subject land from the remaining 7(a) land to the south significantly reducing its potential ecological values. The size of the subject land is considered to be of minor planning significance in the context of the regional strategy and having regard to the circumstance will not undermine the LHRS conservation principles.

Lower Hunter Regional Conservation Strategy (LHRCS)

The LHRCS is a companion document to the LHRS. Similar to the LHRS, the LHRCS is being comprehensively reviewed in line with the five year review timeframe. Changes will occur to the LHRCS due to improved knowledge, changing trends and shifting development pressures. It is considered that the formalisation of the F3 reserve will result in the subject site being removed from Green Corridor.

Port Stephens Council Community Settlement and Infrastructure Strategy (CSIS)

The CSIS is aligned with the LHRS in aiming to maximise the economic and employment opportunities within the local government area. The planning proposal will facilitate additional employment lands and economic opportunities within the local government area by integrating with an existing industrial area and maximising the use of existing infrastructure and network connections.

Port Stephens Comprehensive Koala Plan of Management

The subject site is identified as containing Supplementary Koala Habitat however Council's Natural Resources Coordinator is of the opinion that the creation of the F3 Reserve will degrade the environmental values to a point that the land will not support any significant ecological characteristics such as koala habitat.

If this site is rezoned to 4(a) Industrial, future development applications will be required to consider the impacts of clearing and the remainder of the 7(a) land to prevent future eroding of the environmental land.

The Flora and Fauna Assessment provided by the proponent states that the proposed rezoning would result in the potential removal of 10.8% of the Coastal Sand Apple contained within the 7(a) Environment Protection zone. This is considered to be of minor significance as Coastal Sand Apple is well represented in other parts of Lot 99 and in the wider locality.

Bushfire prone – Category 1

The planning proposal for the rezoning of the site is to facilitate an industrial subdivision, which would involve clearing the subject site. A bushfire threat assessment would be required for any future Development Applications.

Acid Sulphate Soil – Class 4 (works beyond 2 metres)

Previous geotechnical assessments for the adjoining industrial subdivisions have identified that a low probability of occurrence of Acid Sulphate Soils exists at depths greater than 3m below the existing surface level. Further detailed reports may be required at consultation stage.

Flood prone land

Consultation with Council's Flood Engineer has identified localised flooding within the proposed rezoning area. The F3 reserve will somewhat landlock the western side of Masonite Road from floodwaters so it is not warranted to consider loss of flood storage area for this site. Proposed development potentially may be managed via site grading and flow management however this will need to be considered at development application stage.

Hunter Water Corporation – Special Areas (2005)

The subject site is wholly contained within the Special Area and will require consultation with the Hunter Water Corporation. Previous consultation with HWC for development within the Special Catchment Area has required that appropriate water quality treatment occurs.

Port Stephens Council Local Environmental Plan 2000 (LEP)

The Environment Protection "A" Zone under the Port Stephens LEP 2000 is comprised of lands, which are environmentally sensitive, or of particular environmental interest. The objectives of the Zone are to encourage the conservation and proper management of environmentally sensitive land and to ensure that existing and future land uses and land management practices do not detract from the environmental values of the land.

The isolation of the site due to the location between the F3 Reserve to the south and the approved industrial subdivisions to the north and the east will result in this site being degraded to a point that the land will not support any significant ecological characteristics and therefore should be rezoned to allow an appropriate land use that is similar to the adjoining properties bounded by the new F3 road reserve.

Port Stephens Development Control Plan (2007)

The relevant chapters of the DCP are B1 Subdivision and Streets, B2 Environment and Construction Management, B3 Parking, Traffic and Transport, B5 Industrial Development and B12 Advertising Signs.

There are no specific principles or controls within the DCP that would prevent the rezoning of the subject site. All future development will need to consider the DCP.

Development consent DA 16-2006-636-2

The proponent has provided an indicative subdivision layout plan submitted demonstrating the logical extension of the existing approved industrial subdivision as shown in **Attachment 3**. The proposed rezoning and concept plan are not inconsistent with any existing conditions of development consent.

FINANCIAL/RESOURCE IMPLICATIONS

The proponent, in accordance with Council's Fees and Charges Schedule, has paid Stage 1 rezoning fees.

If Council resolves to prepare a draft amendment to the LEP, staff time will be allocated to its preparation. If the Department of Planning LEP Review Panel supports the amendment, Stage 2 rezoning fees will apply in accordance with Council's Fees & Charges.

LEGAL, POLICY AND RISK IMPLICATIONS

Policy implications principally relate to the support for this rezoning due to the fragmentation of the Lot, despite the Lot not being identified as employment generating land in the Lower Hunter Regional Strategy (LHRS) and the Community Settlement and Infrastructure Strategy (CSIS). Adequate justification for the rezoning exists as a result of the circumstances created by the proposed new F3 reserve and its implications on the current zones under the Port Stephens LEP 2000.

The key issue for this request is the potential conservation value of the subject site as it is identified in the Lower Hunter Regional Strategy (LHRS) Green Corridor. However, the Lot is located on the very outer edge of the Green Corridor and was included in the LHRS prior to the realisation that the F3 reserve would bisect the Lot. The approved industrial development to the north and east of the subject site and the realignment of the F3 reserve to the south will result in the isolation of vegetation contained within this fragmented parcel of 7(a) Environment Conservation land and will also result in significant increase in edge effects.

The planning proposal represents a logical extension of the 4(a) Industrial General "A" zone to meet the proposed F3 reserve and allows a more appropriate use of the site in keeping with the surrounding industrial character of the locality. The proponent has submitted an indicative subdivision plan for the area subject of the planning proposal. The plan, as shown in **Attachment 3**, identifies that the site will easily integrate with the existing and approved industrial activity surrounding it and will be able to utilise existing services, infrastructure and the transport network.

Rezoning of the subject site from 7(a) Environment Protection to 4(a) Industrial General "A" would be a suitable outcome for this land given the existing and proposed development surrounding the subject site. Having regard for the fragmentation of the site by the proposed F3 reserve, this report recommends the preparation of a planning proposal (attached) to commence the rezoning process.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Amending the LEP to permit industrial land use will enable the site to provide employment land opportunities for the future growth of the population projected within the LHRS and will provide economic opportunities specifically within the local government area.

Due to the realignment of the F3 reserve, the resultant isolation of the subject site will reduce the environmental value of the site. Providing that appropriate conditions of consent are in place during the development application phase, it is considered that the proposed rezoning has manageable environmental impacts.

CONSULTATION

At this stage of the rezoning process only internal consultation has occurred with the following relevant Council officers.

Natural Resources Coordinator

The rezoning of land that is zoned as 7(a) Environment Conservation to a more intensive land use is generally discouraged especially when the proposed zone leaves very minimal scope for retention of environmental values. However, in this case the creation of the RTA F3 reserve will degrade the environmental values to a point that the land will not support any significant ecological characteristics.

Providing that appropriate conditions of consent are in place during the development application phase, it is considered that the proposed rezoning has manageable environmental impacts.

Drainage Engineer

It is considered that the drainage may be dealt with in the same manner as the existing industrial zoned land. In relation to flooding, the F3 reserve will somewhat landlock this side of Masonite Road from the floodwaters so it is not warranted to consider loss of flood storage for this site. The Flood Planning Levels do not currently include increases for Climate Change however this can be considered at Development Application stage as part of a large scale amendment to the existing industrial subdivision.

Infrastructure Planning Coordinator

The insignificant increase of industrial land, additional to the existing approved industrial land, can easily address traffic/transport and utilities matters as they will share both access and infrastructure access points.

Roads and Traffic Authority (RTA)

On 12 October 2010, Council received correspondence from the RTA advising that the Pacific Highway corridor for the F3 to Raymond Terrace Upgrade identification had been completed. It was requested that the concept design displayed publicly between 15 July and 15 September 2008 be included as a proposed road corridor in the Port Stephens Local Environmental Plan. As a result of the RTA advice, Council will amend the Local Environmental Plan 2000 to reflect the new boundary realignment.

External Consultation

If Council resolves to prepare a planning proposal it will be referred to the NSW Department of Planning for a Gateway determination under section 56(1) of the Environmental Planning and Assessment Act (EP&A Act). If it is supported by the Department of Planning, the Gateway determination will specify the consultation to occur under section 34A of the EP&A Act or in accordance with a Ministerial Direction under section 117 of the EP&A Act.

Due to specific characteristics of the subject site, if Council supports this proposal, the following consultation, unless directed otherwise, will occur:

Roads and Traffic Authority,
Hunter Water Corporation,
New South Wales Rural Fire Service, and
Department of Environment, Climate Change and Water.
Energy Australia

OPTIONS

Adopt the recommendation of this report to prepare a planning proposal. This is the recommended option.

Amend the recommendation to consider the planning proposal as part of the Principal Local Environmental Plan. This is not the preferred option, as it would cause the rezoning of the site to be delayed indefinitely.

Not support the recommendation. This is not the preferred option and would result in an isolated portion of 7(a) Environmental Protection zoned land that will eventually lose its environmental value due to the impact of the F3 reserve and the adjoining industrial activity.

ATTACHMENTS

- 1) Aerial photograph (under separate cover).
- 2) Current zones map.
- 3) Indicative lot layout submitted by the proponent (under separate cover).
- 4) Relevant S.117 Directions and State Environmental Planning Policies (SEPP) Assessment.

COUNCILLORS ROOM

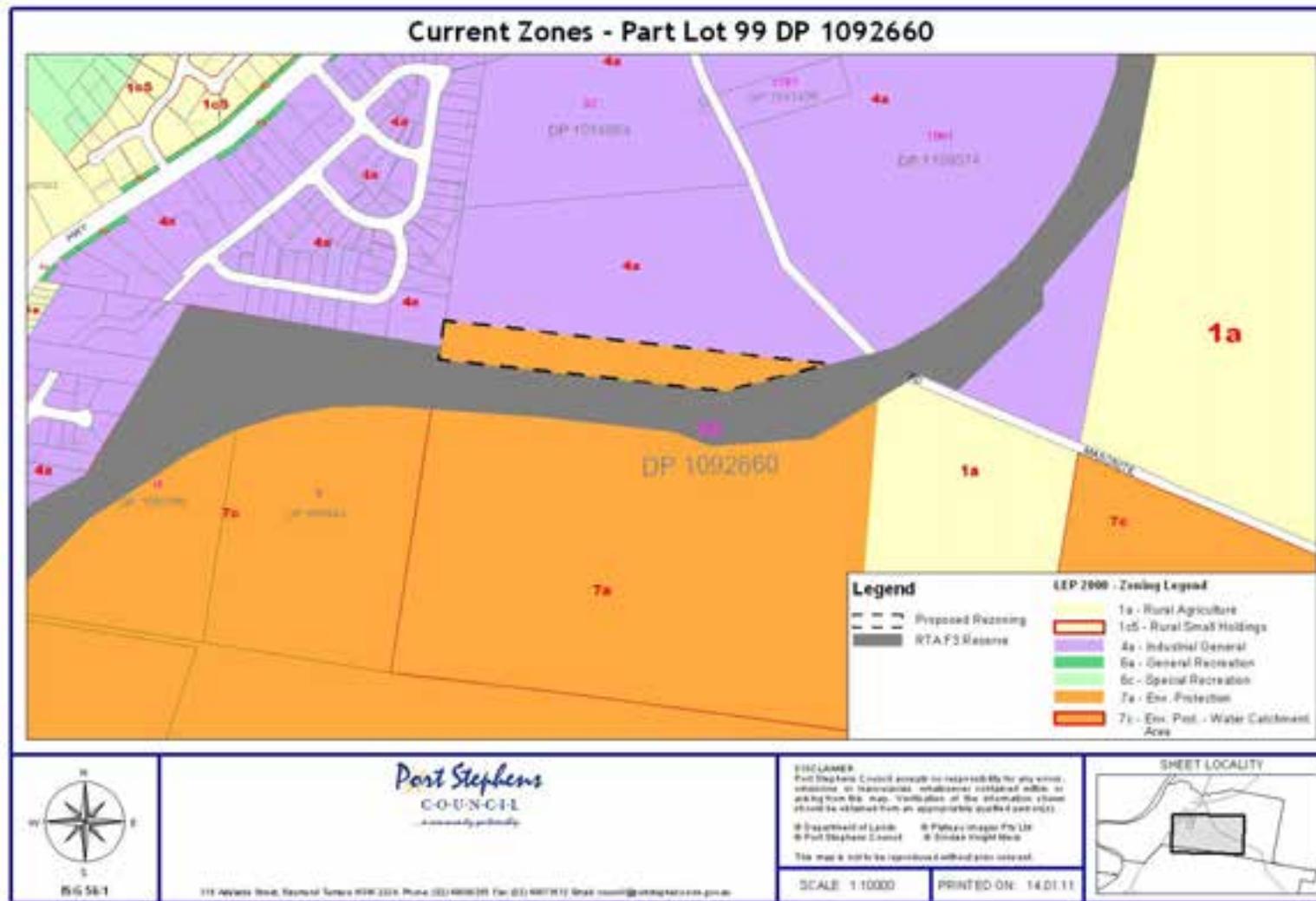
- 1) Proponent Planning Proposal (ADW Johnson, June 2010).

TABLED DOCUMENTS

Nil.

**ATTACHMENT 1
PROVIDED UNDER SEPARATE COVER**

ATTACHMENT 2
CURRENT ZONES MAP



**ATTACHMENT 3
PROVIDED UNDER SEPARATE COVER**

ATTACHMENT 4

RELEVANT S.117 DIRECTIONS AND STATE ENVIRONMENTAL PLANNING POLICIES (SEPP)

The following Section 117(2) Directions are relevant to this rezoning application.

Ministerial Direction	Objectives of the Direction	Consistency and Implications
1.1 Business and Industrial Zones	Encourage employment growth, protect employment land in business zones and support the viability of identified strategic centres.	The subject site is within a larger industrial area with established services to support accessible and varied employment opportunities.
1.5 Rural Lands	The objectives of this direction are to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes. The direction applies to any rural lands or environmental protection lands.	This is considered to be of minor significance, as the isolation of the site occurring as a result of the F3 motorway, will render the parcel of land unviable as environment or agricultural land.
2.1 Environment Protection Zones	The objectives of this direction are to protect and conserve environmentally sensitive areas.	The proposal is consistent with the objectives in that the F3 reserve will sterilise the 5.481 ha of environmentally zoned land, rendering the area unviable as environment land.
3.4 Integrating Land Use or Transport	The objectives of this direction are to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the sustainable transport objectives.	The Heatherbrae area provides for industrial lands within an established industrial area. The Heatherbrae site is in close proximity to the Raymond Terrace township and is connected through the provision of road networks and walking and cycling opportunities. The site is also located within close proximity to the F3 freeway to enable efficient connection to Newcastle and the north coast.
4.1 Acid Sulphate Soils	The objectives of this direction are to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	There is a low probability of Acid Sulphate Soils in this area.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with NSW Government Flood Prone Land Policy.	The development of land will be consistent with the NSW Government Flood Prone Land Policy.
4.4 Planning for Bushfire	The objectives of this direction	The subject site is identified as

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

Ministerial Direction	Objectives of the Direction	Consistency and Implications
Protection	are to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.	bushfire prone. The planning proposal is consistent with this direction in that regard has been given to Planning for Bushfire Protection 2006. The final APZ and other bushfire requirements would not be able to be determined until the detailed subdivision design stage. Consultation with the NSW Rural Fire Service will occur under Section 34(A) of the EP&A Act during the rezoning process.
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The rezoning proposal applies to land adjacent to employment generating land identified in the LHRS. Due to the isolation of the subject site, the proposal represents a logical extension of the industrial land within the Heatherbrae area.
6.1 Approval and referral requirements	The objective of this direction is to ensure that LEP provision encourage the efficient and appropriate assessment of development.	The rezoning proposal is consistent with this direction in that the amendment will not create additional referral requirements and does not conflict with Council's Development Control Plan.

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

A review of relevant State Environmental Planning Policies (SEPPs) is as follows:

SEPP	Relevance	Consistency and Implications
SEPP (Infrastructure) 2007	This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW, along with relevant public authorities during the assessment process.	Development of the land will require referral to relevant public authorities.
SEPP No. 44 – Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	The study area includes supplementary koala habitat. However Council's Natural Resource Coordinator considers the creation of the RTA F3 reserve will degrade the environmental values to a point that the land will not support any significant ecological characteristics. Providing that appropriate conditions of consent are in place during the development application phase, it is considered that the proposed rezoning has manageable environmental impacts.
SEPP No. 64 – Advertising Signs	This SEPP aim to ensure that signage is compatible with the desired amenity and visual character of an area and to regulate the display of advertising in transport corridors.	Any future development applications for signage exceeding a specified size or within 250metres of a classified road will need to be considered against this SEPP and referred to the RTA for concurrence.

ITEM NO. 6

FILE NO: PSC2010-04979

PLANNING PROPOSAL – PACIFIC DUNES

**REPORT OF: BRUCE PETERSON - ENVIRONMENTAL AND DEVELOPMENT PLANNING
MANAGER**

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to forward the Planning Proposal at **Attachment 1** to amend the *Port Stephens Local Environmental Plan 2000* under section 55 of the *Environmental Planning and Assessment Act 1979* to the Department of Planning for exhibition to:
 - a. Rezone Part Lot 11 in DP 1079392, Lots 7, 11 and Part Lot 10 in DP 270438, Part Lot 98 in DP 280007, Part Lot 9 in DP 270438 to 2(a) Residential;
 - b. Apply the minimum allotment size for the above allotments as detailed in the Planning Proposal; and
 - c. Rezone Part Lot 11 in DP 1079392 to part 7(a) Environment Protection.
- 2) Resolve to amend existing clause 54A *Development of land – Medowie Road and South Street, Medowie (Pacific Dunes)* and the relevant zoning map of *Port Stephens Local Environmental Plan 2000* to implement Recommendation 1.
- 3) Resolve to include the site in any future amendment to the *Medowie Strategy* in accordance with the Planning Proposal, subject to Recommendation 1.
- 4) Subject to the Gateway determination, resolve to exhibit the draft Development Control Plan at **Attachment 5** under section 74C *Preparation of development control plans* of the *Environmental Planning and Assessment Act 1979* in concert with the Planning Proposal.
- 5) Resolve to confirm any specific additional infrastructure requirements as a result of the Planning Proposal, and the appropriate mechanism for the developer to fund that infrastructure, prior to finalisation of the Planning Proposal.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011

RECOMMENDATION:

	<p>Councillor Geoff Dingle Councillor John Nell</p>	<p>That Council reject the Planning proposal.</p>
--	--	---

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011**AMENDMENT**

	Councillor Bruce MacKenzie Councillor Ken Jordan	That Council defer Item 6 for a period of three (3) months to allow for Council to facilitate negotiations between the developer and the residents of the Estate.
--	---	---

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

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

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

The Amendment on be put became the Motion and was carried.

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, Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover and Ken Jordan.

Those against the Motion: Crs Caroline De Lyall, Geoff Dingle, John Nell and Frank Ward.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

Cr Bruce MacKenzie left the meeting at 6.32pm prior to voting on Item 6.

Cr Bruce MacKenzie returned to the meeting at 6.33pm prior to voting on Item 6.

008	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that Council defer Item 6 for a period to allow for Council to facilitate negotiations between the developer and the residents of the Estate.
------------	---	---

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

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

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

The Motion on being was carried.

The Mayor exercised his casting vote.

AMENDMENT

	<p>Councillor Geoff Dingle Councillor Frank Ward</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Reject the current Pacific Dunes rezoning application as an over development of the site with potential to reduce the premium quality and value of the site; 2. The developer be advised they should carry out comprehensive public consultation with the residents of the Pacific Dunes Estate to prepare a development plan including the provision of a golf club with a completed club house supporting the viability of the Pacific Dunes golf course and housing estate mirroring the Master Plan.
--	--	---

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, Geoff Dingle, John Nell and Frank Ward.

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

The amendment on being put was lost.

The Mayor exercised his casting vote.

BACKGROUND

Subject Land: Part Lot 11 in DP 1079392, Lots 7, 11 and Part Lot 10 in DP 270438, Part Lot 98 in DP 280007 and Part Lot 9 in DP 270438.

Land owner: Port Stephens Golf and Country Club Pty Ltd

Proponent: SJB Planning

Date of Submission: August 2010

Existing Zoning: Part 1(c4) Rural Small Holdings & Part 6(c) Special Recreation.

Note: The site is subject to site specific clause 54A of the *Port Stephens Local Environmental Plan 2000* that enables residential development of part of the land with consent.

Proposed Zoning: 2(a) Residential and 7(a) Environmental Protection

Note: That part of the site comprising the golf course will remain in the 6(c) Special Recreation zone.

Council has received a request to rezone the subject land at Pacific Dunes, Medowie (refer to **Attachment 1**). In summary, the proposal is seeking to:

Include 4.7 hectares of land within an environment protection zone;
Introduce a residential development precinct at the Village Centre (approximate increase of 100 residential lots); and
Amend existing minimum residential lot sizes applying to 3 existing but partially undeveloped residential precincts (approximate increase of 45 residential lots).

The proposed zone map is at **Attachment 2** and the proposed lot size map is at **Attachment 3**.

The effect of implementing these changes is an increase of approximately 145 residential lots above those already permitted on the site with consent on the Pacific Dunes Estate under the Port Stephens LEP 2000. The large majority of these additional lots - approximately 100 - are proposed in the existing currently undeveloped Village Centre Precinct. The development footprint of this particular precinct is proposed for relatively minor variation.

Previous Resolution of 26th February 2008

On 26th February 2008 Council resolved to prepare a draft local environmental plan to rezone land on the east and west sides of Medowie Road, to facilitate expansion of the Pacific Dunes golf course and also a mixture of additional residential, commercial and community uses.

The relevant landowners have since lodged separate and revised planning proposals for consideration by Council. The effect is that Council's resolution of 26th February 2008 is no longer applicable.

FINANCIAL/RESOURCE IMPLICATIONS

Rezoning Fees

Stage 1 rezoning fees were paid on 11th February 2008 as part of a previous rezoning request that combined the eastern and western sides of Medowie Road. That request did not proceed past the initial stages of rezoning and the respective landowners have since lodged separate planning proposals. Given that the current proposal under consideration by Council is modifying a previous request, no additional Stage 1 fees are being sought from the proponent.

If the proposal is supported by the Department of Planning LEP Gateway determination Stage 2 rezoning fees will be sought in accordance with Council's *Fees and Charges Schedule 2010-2011*.

Section 94 Development Contributions

Council's *Section 94 Development Contributions Plan* has not been amended at this time to account for any specific additional infrastructure required in Medowie as a result of growth under the Medowie Strategy including the proposal. This may potentially include broader off-site infrastructure such as flooding, drainage or road works. Further investigation is required with a view to determining the appropriate timing and mechanism for the developer to contribute towards covering the cost of any additional infrastructure that may be required, prior to finalisation of the proposal.

LEGAL, POLICY AND RISK IMPLICATIONS

Lower Hunter Regional Strategy

The site has been interpreted as being within an existing urban area where residential development has already occurred, due to the existing zone provisions under clause 54A of the Port Stephens LEP 2000 that specifically facilitate residential development on the site. The proposal seeks a minor variation in the existing area covered by clause 54A.

Further, clarification of the site's location relative to the green corridor under the Lower Hunter Regional Strategy should be provided through the NSW Department of Planning's LEP Gateway determination. It is noted the Department of Planning supported Council's previous proposed rezoning of the land in February 2008 for additional residential land.

Medowie Strategy

The *Medowie Strategy* was adopted by Council in March 2009 and provides a framework for considering rezoning requests in the area.

The site is regarded as an established area where residential development has already occurred and therefore is not identified for rezoning under the *Medowie Strategy*. However, clause 54A of the Port Stephens LEP 2000 provides that development is permitted with consent.

In the event that Council resolves to adopt the proposal, for clarity it is a recommendation of this report that Council includes the site in any future amendment to the Medowie Strategy to reflect the fact development has been permitted for some time under clause 54A, and would be zoned residential.

Port Stephens Local Environmental Plan 2000

The Port Stephens LEP 2000 has existing provision for development of the site under Clause 54A Development of Land – Medowie Road and South Street, Medowie (Pacific Dunes) as follows:

This clause applies to land within and in the vicinity of the Pacific Dunes Golf Course, Medowie Road and South Street, Medowie, as shown edged heavy black and lettered "Fairway Lots" or "Hillside Lots" on the map marked "Pacific Dunes Residential Area".

Despite any other provision of this plan, consent must not be granted to the subdivision of, or the erection of a dwelling-house on, the land to which this clause applies, unless:

Each lot to be created on so much of the land shown edged heavy black and lettered "Fairway Lots" has a minimum area of 600 square metres, and

Each lot to be created on so much of the land shown edged heavy black and lettered "Hillside Lots" has a minimum area of 900 square metres, and

The proposed dwelling houses will comply with the provisions of this plan relating to development on land within Zone No 2(a)

The proposal is seeking to modify the existing development footprint and increase dwelling density under Port Stephens LEP 2000. A comparison of the existing and proposed development footprint is at **ATTACHMENT 4**.

Development Control Plan

A draft development control plan chapter is proposed to apply only to new development in the Pacific Dunes residential areas subject to the rezoning request.

The DCP maintains the high standard of building design that already occurs within the Pacific Dunes Estate. Specifically, it addresses the future development of the Village Centre Precinct and provides revised development controls for the subject Fairway and Hillside precincts.

For all other residential areas in the Pacific Dunes Estate the existing Port Stephens Development Control Plan 2007 Chapter C7 Medowie – Pacific Dunes Estate will continue to apply.

The draft development control plan chapter is at **ATTACHMENT 5**.

Aircraft Noise

Part of the Hillside lots and Village Centre precincts are mapped as affected by noise contours under 2025 ANEF dated 23rd October 2009. However, the proposed residential areas are not impacted by noise contours under 2025 ANEC dated 17th

May 2010 and 2025 ANEC dated 1st September 2010. Accordingly, development on the land proposed for rezoning is not constrained by aircraft noise.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications.

Flora and Fauna

The Planning Proposal provides a summary description of the flora and fauna on the site. It includes mapping showing the environmental characteristics of the site and impacts of the proposal.

The broad potential impacts of future development are:

- Clearing or modification of approximately 4.42 hectares of native vegetation, being primarily Coastal Sand Apple – Blackbutt Forest;
- Potential future removal of 0.44 hectares of Swamp Sclerophyll Forest (Endangered Ecological Community) to allow for golf course redesign, subject to a separate future development application; and
- Rezoning of approximately 4.7 hectares of environmentally sensitive land from 6(c) Special Recreation to 7(a) Environment Protection.

The proponent has reviewed mapping under the *Port Stephens Comprehensive Koala Plan of Management* and suggested that the mapped Preferred Koala Habitat is in fact Coastal Sand Apple - Blackbutt Forest, a Supplementary Koala Habitat. This view is accepted by Council's Environment Services Section.

Environment Services Section advises that a number of issues will need to be addressed at the development application stage however providing adequate measures are implemented at that time and strict conditions of consent are employed, the proposal has manageable environmental impacts.

Flooding and Drainage

A flood study has been provided by the proponents (*Pacific Dunes (Medowie) Flood Assessment* (DHI Water and Environment, August 2010). Council's Engineering Services Section has reviewed the study and has no objection to the proposal.

Engineering Services Section comments are as follows:

- The proposed Village Centre in conjunction with the existing village centre precinct that is to be modified is relatively unaffected by a 1% AEP event. The northern corner of this area is the only exception. This area affected contributed approximately 30% of the proposed development area of this section of the development. It is expected that a development requirement would be that structures be raised to provide adequate free board. As such, detention should be provided to compensate for the decrease in available area for the flood to dissipate;
- The Fairway lots near the existing village centre is shown to be unaffected by the 1% AEP flooding events in the flood mapping provided;

- The Fairway lots located adjacent to the Hillside lots is relatively unaffected as shown by the flood mapping. Only the south-eastern corner is affected. As for the proposed Village Centre detention storage would be required where fill is used in affected areas;
- The developer would need to consider detention to maintain pre-development flows for events up to the 72 hour duration if development were to proceed. This is because the Moffats Swamp and Campvale Swamp catchments have typically large peak durations; and
- The existing ridge between Moffats Swamp catchment and the existing catchment should not at any location be lowered as part of the future development.

CONSULTATION

If the proposal proceeds to public exhibition, it is recommended that it be placed on exhibition for a period of 28 days and relevant government authorities will be consulted.

Adjoining land owners will be notified of the exhibition.

OPTIONS

- 1) Adopt the recommendations of this report.
- 2) Amend the recommendations of this report.
- 3) Reject the recommendations of this report.

ATTACHMENTS

- 1) Pacific Dunes Planning Proposal.
- 2) Pacific Dunes Planning Proposal - Zone Map.
- 3) Pacific Dunes Planning Proposal – Lot Size Map.
- 4) Comparison of Existing and Proposed Development Footprints.
- 5) Pacific Dunes Draft Development Control Plan.

COUNCILLORS ROOM

- 1) Planning Proposal and Appendices (SJB Planning, August 2010).

TABLED DOCUMENTS

Nil.

**ATTACHMENT 1
PACIFIC DUNES PLANNING PROPOSAL
PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 2
PACIFIC DUNES PLANNING PROPOSAL – ZONE MAP
PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 3
PACIFIC DUNES PLANNING PROPOSAL – LOT SIZE MAP
PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 4
COMPARISON OF EXISTING AND PROPOSED DEVELOPMENT FOOTPRINTS
PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 5
PACIFIC DUNES DRAFT DEVELOPMENT CONTROL PLAN
PROVIDED UNDER SEPARATE COVER**

ITEM NO. 7

FILE NO: PSC2010-05324

SALE OF LAND FOR UNPAID RATES AND CHARGES

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Sell by auction or failing auction by private treaty the properties listed in attachment 1 for unpaid rates in accordance with Section 713 of the Local Government Act 1993 unless the overdue rates and charges are paid in full prior to the time of sale.
- 2) Delegate to the General Manager authority to set the reserve or sale price and appoint an agent to conduct the auction.
- 3) Authorise the General Manager and Mayor to affix the Council seal to and sign any transfer documents arising out of the sale.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Shirley O'Brien	That the recommendation be adopted.
--	--	-------------------------------------

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

009	Councillor Ken Jordan Councillor Bruce MacKenzie	It was resolved that the Council Committee recommendation be adopted.
------------	---	---

BACKGROUND

The purpose of this report is to advise Council of properties with rates and charges which have remained unpaid for more than 5 years.

Attachment 1 lists the seven (7) properties which are due to be sold in accordance with Councils Debt Recovery and Hardship Policy and Section 713(2) of the Local Government Act 1993 as stated below:

- (2) A council may, in accordance with this Division:
- (a) sell any land (including vacant land) on which any rate

or charge has remained unpaid for more than 5 years from the date on which it became payable

The General Manager has certified the rates and charges due on each of these properties. The total amount of rates and charges outstanding on these properties as at 25/10/2010 is \$77,403.01. This situation has resulted from the failure of legal action, being untraceable and bankruptcy. In each case the only means of recouping monies is by resolving to sell the land under Section 713.

The seven (7) properties consist of:

3 residences

2 parcels of vacant land

1 vacant development lot within a strata plan

1 parcel of land consisting of tourist accommodation.

Council will liaise with its solicitor in regard to Council's obligations for obtaining vacant possession of the occupied residences.

It is proposed to advertise for expressions of interest for a licensed real estate auctioneer in the Port Stephens Examiner and to recommend the General Manager be delegated authority to select the Auctioneer from those expressions. A date for the auction is required to be set being not more than six (6) months and not less than (3) months from publishing of the proposed notice of sale. The venue for the auction is to be selected in consultation with the Auctioneer.

All owners and interested parties will be notified of Council's intention to sell the property using the last known address or information available. The proposed sale will be advertised in the Port Stephens Examiner and the Government Gazette.

Under Section 715(2) of the Local Government Act 1993 if the ratepayer pays the overdue rates at any point prior to auction time, then Council must not proceed with the sale. It is recommended Council not accept any arrangement for payment unless it is payment of the total of all rates and charges owing to Council.

If the land is not sold at auction, Council may organise another public auction or the property may be sold by private treaty upon a resolution of Council. All costs associated with the sale are to be met by the purchaser. For the particular attention of Councillors and Staff, Section 716(3) of the Local Government Act 1993 states:

Land may be sold under this division to the council, a councillor, a relative of a councillor, a member of staff of the council or any relative of a member of staff of the council in the case of sale by public auction, but may not be sold in the case of sale by private treaty.

Upon settlement of the sale, if the amount is less than the outstanding balance, Council will consider the debt to be paid in full in accordance with Section 719 of the Act. If the amount received is more than the amount outstanding Council will hold the money for persons having estates or interests in the land immediately before the sale according to their respective estates and interests. Section 720 of the Act provides for Council to pay the balance of the purchase money or any part of

the balance to or among the persons who are, in its opinion, clearly entitled to it. The receipt by the person of any payment so made is an effectual discharge of Council's liability.

Upon finalisation, the sale results shall be reported to Council.

Details concerning the individuals affected by this sale will be sent out to Councillors under separate cover.

FINANCIAL/RESOURCE IMPLICATIONS

Where Council has failed to recover rates and charges through debt recovery action, sale of the land for unpaid rates is the last option available to Council. Council has a duty to recover rates and charges and the sale of land provisions in the Local Government Act reflect this.

LEGAL, POLICY AND RISK IMPLICATIONS

The action recommended in this report is in compliance with sections 713 to 726 of the Local Government Act 1993 and Councils Debt Recovery and Hardship Policy.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Recovery of \$77,403.01 in unpaid rates will reduce Council's overall overdue accounts and therefore have a positive impact on the DLG indicator "outstanding rates and annual charges".

CONSULTATION

Revenue Coordinator
Senior Rates Clerk

OPTIONS

- 1) Accept recommendation
- 2) Reject recommendation.
- 3) Amend recommendation.

ATTACHMENTS

- 1) Details of properties with rates and charges overdue for more than 5 years.
- 2) Timeline of critical dates/events.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Assessment Number	Lot/DP
5595	Lot 108 DP 13134
38539	Lot 45 DP 223671
147413	Lot 692 DP 10716
164822	Lot 5 DP 243847
165258	Lot 210 DP 1006778
228734	Lot 29 SP 54294
348631	Lot 137 DP 753192

ATTACHMENT 2

Timetable of Events	
Date	Action
15 October 2010	Letter written to ratepayers advising of the sale of their property for unpaid rates next year.
25 October 2010	Prepare Certificates for signing by General Manager stating the rates and charges on the land and how and when they were levied.
8 November 2010	Conduct Title Searches.
1 February 2011	Report to Council recommending the sale of properties.
8 February 2011	Council resolution on above report.
10 February 2011	Write to owners advising of Council's resolution to sell the properties.
14 February 2011	Call for expressions of interest from licensed real estate agents to be received by 28 February 2011.
14 March 2011	Set auction date and venue in conjunction with the appointed Auctioneer.
14 March 2011	Place advertisement in the Government Gazette and Port Stephens Examiner.
21 March 2011	Send letter to owners advising of proposed sale by Public Auction. Notify all parties listed on the title search with an interest in the land such as Banks with mortgages and persons/organisations mentioned in caveats.
30 July 2011	Proposed Auction Date.

ITEM NO. 8

FILE NO: A2004-0242

QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2010

REPORT OF: DAMIEN JENKINS – FINANCIAL SERVICES, MANAGER

GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the estimated Statement of Cash Position to 30 June 2011 as detailed in **ATTACHMENT 1** to this report.
- 2) Notes the estimated Statement of Restricted Funds Movements to 30 June 2011 as detailed in **ATTACHMENT 2** to this report.
- 4) Approve the discretionary changes to the adopted recurrent budget, (totalling \$284,045 a negative effect on revenue) as detailed under separate cover as TABLE 1 of **DOCUMENT 1** to this report and vote the necessary funds to meet the expenditure.
- 5) Approve the discretionary changes to the adopted capital budget, (totalling \$32,000 a negative effect on revenue) as detailed under separate cover as TABLE 2 of **DOCUMENT 1** to this report and vote the necessary funds to meet the expenditure.
- 6) Notes the identified issues, which may have a future budgetary impact, as identified under separate cover as TABLE 3 of **DOCUMENT 1** to this report.
- 7) Notes the estimated surplus/(deficit) from ordinary activities before capital amounts of \$1,285,492.
- 8) Notes the Quarterly Budget Review comparing Budgets to Actuals as tabled under a separate cover as **DOCUMENT 2** to this report.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011

RECOMMENDATION:

	Councillor John Nell Councillor Bruce MacKenzie	That the recommendation be adopted.
--	--	-------------------------------------

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

010	Councillor John Nell Councillor Shirley O'Brien	It was resolved that the Council Committee recommendation be adopted.
------------	--	---

BACKGROUND

The purpose of this report is to amend the Budget by bringing to Council's attention the proposals and issues that have an impact on the 2010/2011 Budget.

Council adopted its Integrated Strategic Plan 2010/2014 (Council Minute 164) on the 8th June, 2010 this included budget estimates for the 2010/2011 financial year.

The major changes to the Recurrent Budget in this forecast, detailed in Table 1 of Document 1 are:

- Increased income of \$1,357,681 and increased expenditure of \$1,533,505 due to consolidation of all Emergency Management activities across the Lower Hunter (item 22).
- Increased income of \$102,486 from Waste Services (item 29).

The major transfers to the Recurrent Budget in this forecast, detailed in Table 1 of Document 1 are:

- Increased transfer of \$130,000 from revenue to the Environmental Levy Restricted Funds (item 4).
- Increased transfer of \$102,486 to the Waste Restricted Fund (item 29).

The major changes to the Capital Budget in this forecast, detailed in Table 2 of Document 1 are:

- Increased expenditure of \$100,000 for the Raymond Terrace Sports Field Development (item 2).
- Decreased expenditure of \$102,520 for the Gateway Development due to the withdrawal of Hunter New England Health (item 4).
- Increased income of \$650,000 and increased expenditure of \$650,000 for Road Construction (item 5).
- Decreased income of \$300,000 and decreased expenditure of \$300,000 for Road Construction (item 9).
- Increased income of \$147,500 for Coastline Cycleway Grant (item 10).
- Increased income of \$188,321 and increased expenditure of \$211,681 for Road Construction (item 11).
- Increased expenditure of \$284,250 for a Drainage Easement at Tomago Industrial Subdivision Development (item 14).

The major transfers to the Capital Budget in this forecast, detailed in Table 2 of Document 1 are:

- Increased transfer of \$147,500 to Restricted Cash for Coastal Cycleway to be completed next financial year (item 10).
- Increased transfer of \$284,250 from the Business Development Restricted Fund (item 14).

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

FINANCIAL/RESOURCE IMPLICATIONS

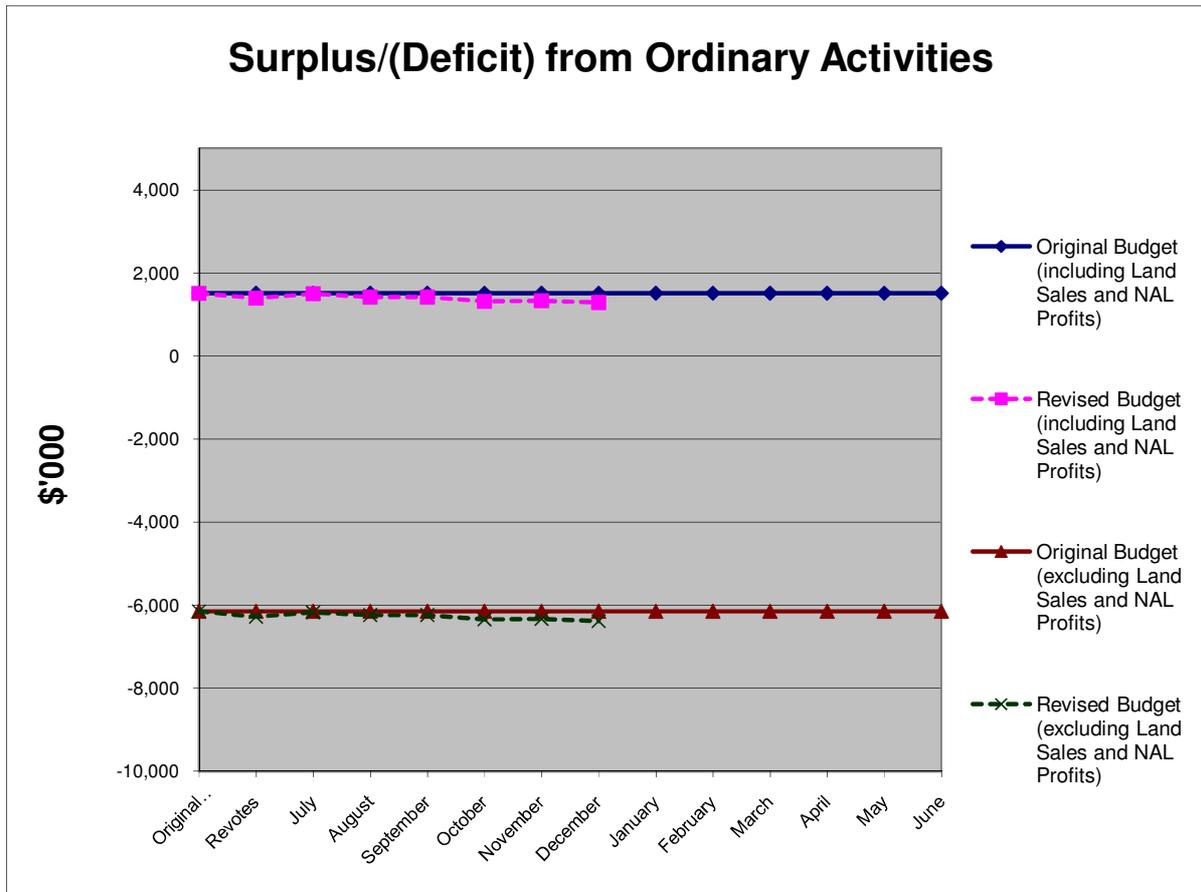
Council's Original 2010/2011 Budget estimate is a \$1,146,765 cash deficit after internal transfers, repayment of Capital lease and before depreciation of \$16.0 million. TABLE 1 of Document 1 of this report details the changes in this review. The net cash result of these changes is a projected cash deficit of \$1,093,960 (Ref N of Attachment 1), after 2011 revotes and carry forwards are taken into account and are shown in the table below;

IMPACT OF QUARTERLY BUDGET REVIEW ON COUNCIL'S ADOPTED BUDGET				
	Recurrent	Capital	Total	Ref
Document 1 Table 1	(\$284,045)	\$0	(\$284,045)	
Document 1 Table 2	\$0	(\$32,000)	(\$32,000)	
Previous Quarterly Budget Reviews	\$224,275	\$0	\$224,275	
Original Budget after transfers and before Revenue Loans and Depreciation	(\$60,108)	(\$263,700)	(\$323,808)	
Repayment of Capital Lease, Loans and Debtors		(\$328,452)	(\$328,452)	
Loan Funds to Revenue				
Net Available Surplus/(Deficit) Funds	(\$119,878)	(\$624,152)	(\$1,238,535)	
Revotes and Carry Forwards from previous year	(\$71,021)	(\$278,909)	(\$349,930)	
Revised 2010/2011 Cash Surplus (after transfers and before Depreciation)	(\$190,899)	(\$903,061)	(\$1,093,960)	N

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

PROJECTED FINANCIAL RESULT FOR 2010/2011

	Ref	After December Review	Original Budget
Total Operating Revenue	A	\$92,959,819	\$89,224,886
Less Total Operating Expenditure	B	(\$75,674,327)	(\$71,711,869)
Less Total Depreciation and Provisions Transferred	C	(\$16,000,000)	(\$16,000,000)
	D=B+C	(\$91,674,327)	(\$87,711,869)
Surplus/(Deficit) From Ordinary Activities Before Capital Amounts	E=A+D	\$1,285,492	\$1,513,017
Net Operating movement for December Review		(\$135,165)	
Total Budgeted Land Sales Profits	F	(\$4,000,000)	(\$4,000,000)
Total Budgeted Newcastle Airport (NAL) Profits	G	(\$3,663,000)	(\$3,663,000)
Surplus/(Deficit) From Ordinary Activities without Land Sale Profits, NAL Profits and Before Capital amounts	H=E-F-G	(\$6,377,508)	(\$6,149,983)



LEGAL, POLICY AND RISK IMPLICATIONS

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

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

The December Quarterly Budget Review Statement indicates that Council's financial position (excluding land sale profits) hasn't changed significantly. Council's financial position needs to be monitored closely with particular regard to those issues contained in TABLE 2 of Document 1. Long-term financial projections will also be reviewed.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

Executive Group.
Section Managers.

OPTIONS

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

ATTACHMENTS

- 1) Attachment 1 Estimated Statement of Cash Position to 30 June 2011.
- 2) Attachment 2 Estimated Statement of Restricted Funds Movements to 30 June 2011.

COUNCILLORS ROOM

- 1) Document 2 of 2010-2011 Quarterly Budget Review for December 2010, comparing Budgets to Actuals.

TABLED DOCUMENTS

- 1) Document 1 of 2010-2011 Quarterly Budget Review for December 2010.
Table 1 - Discretionary Changes to the adopted Recurrent Budget.
Table 2 - Discretionary Changes to the adopted Capital Budget.
Table 3 - Identified issues, which may have a future budgetary impact.

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

ATTACHMENT 1

December 2010 Budget Forecast			
	Ref	December 2010 Budget Forecast	2011 Original Budget Forecast
Total Operating Revenue	A	\$92,959,819	\$89,224,886
Less Total Operating Expenditure	B	(\$75,674,327)	(\$71,711,869)
Less Total Depreciation and Provisions Transferred	C	(\$16,000,000)	(\$16,000,000)
	D=B+C	(\$91,674,327)	(\$87,711,869)
Surplus/(Deficit) From Ordinary Activities Before Capital Amounts			
	E=A+D	\$1,285,492	\$1,513,017
Add Back: Depreciation and Provisions Transferred	C	\$16,000,000	\$16,000,000
Less Councils Share of Newcastle Airport Profit	W	(\$3,663,000)	(\$3,663,000)
Cash Surplus From Operations	F=A+B+W	\$13,622,492	\$13,850,017
Transferred to Restricted Funds	G	\$13,813,391	\$13,910,125
Cash Surplus / (Deficit) From Operations After Transfers	H=F-G	(\$190,899)	(\$60,108)
Total Capital Income	I	\$10,670,705	\$9,984,500
Total Capital Expenditure	J	(\$31,856,741)	(\$29,678,903)
Surplus/(Deficit) From Capital Works	K=I+J	(\$21,186,036)	(\$19,694,403)
Transferred from Restricted Funds	L	(\$20,611,427)	(\$19,430,703)
Cash Surplus / (Deficit) From Capital Works After Transfers	M=K-L	(\$574,609)	(\$263,700)
Total Cash Surplus / (Deficit) After Transfers	N=H+M+X	(\$1,093,960)	(\$1,146,765)
RECONCILIATION OF CASH POSITION			
Estimated Cash Position as at 01/07/2010	O	\$16,702,326	\$16,702,326
Estimated Cash Position as at 30/06/2011	P	\$13,160,794	\$14,385,447
Increase/(Decrease) in Cash Balance	Q=P-O	(\$3,541,532)	(\$2,316,879)
Represented By:			
Estimated Opening Restricted Funds Balance	R	\$30,658,713	\$27,284,292
Closing Restricted Funds Balance	S	\$28,211,141	\$26,114,178
Increase/(Decrease) in Restricted Funds Balance	T=S-R	(\$2,447,572)	(\$1,170,114)
Balance sheet movements for Revenue	X	(\$328,452)	(\$822,957)
Total Cash Surplus/ (Deficit) from Operations & Capital	N=Q-T	(\$1,093,960)	(\$1,146,765)
Principal of Loan Funds Repaid From Reserves	U	(\$3,165,409)	(\$3,165,409)
Increase/(Decrease) in Cash Balance	Q=T+N	(\$3,541,532)	(\$2,316,879)

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

ATTACHMENT 2

ESTIMATED STATEMENT OF RESTRICTED FUNDS MOVEMENTS TO 30/06/2011					
December 2010 Budget Forecast					
RESTRICTED FUNDS	Balance as at 30/06/2010	Recurrent Budget	Capital Budget	Balance Sheet Movements	Estimated balance as at 30/06/2011
SECTION 94	\$11,271,700	\$395,690	\$509,314		\$12,176,704
DOMESTIC WASTE MANAGEMENT	\$1,225,137	\$1,600,339	(\$1,850,000)	(\$460,635)	\$514,841
Sub Total. Externally Restricted	\$12,496,837	\$1,996,029	(\$1,340,686)	(\$460,635)	\$12,691,545
BUSINESS DEVELOPMENT RESTRICTED FUND	(\$2,781,222)	\$2,561,489	(\$8,525,236)	\$6,224,551	(\$2,520,418)
INVESTMENT PROPERTIES DEPRECIATION FUND (INVESTMENT PROPERTIES SINKING FUND)	\$2,747,036	\$1,205,327	(\$17,150)		\$3,935,213
ASSET REHABILITATION RESERVE	(\$93,823)	\$500,000	(\$527,900)		(\$121,723)
FLEET MANAGEMENT (PLANT)	\$4,585,894	\$2,369,597	(\$3,241,003)	\$515,873	\$4,230,361
OTHER WASTE SERVICES	\$3,443,742	\$0	\$0		\$3,443,742
QUARRY DEVELOPMENT	\$742,167	\$12,799	\$0		\$754,966
BUSINESS OPERATIONS RESTRICTED FUND	(\$6,605,613)	\$2,047,993	(\$3,132,199)	(\$1,785,992)	(\$9,475,811)
EMPLOYEE LEAVE ENTITLEMENTS	\$6,542,838	\$0	\$0		\$6,542,838
BEACH VEHICLE PERMITS	(\$53,569)	\$53,569	\$0		\$0
DRAINAGE	\$1,252,972	\$886,280	(\$1,080,000)	(\$143,333)	\$915,919
INTERNAL LOAN	(\$150,203)	\$150,203	\$0		\$0
TRANSPORT LEVY	\$48,774	\$415,000	(\$490,000)		(\$26,226)
ENVIRONMENTAL LEVY	\$271,413	(\$254,678)	\$0		\$16,735
ADMINISTRATION BUILDING SINKING FUND	\$1,090,192	\$415,803	(\$1,234,864)		\$271,131
DEPOT SINKING FUND	\$1,110,811	\$356,444	\$0		\$1,467,255
RTA BYPASS ROADS MTCE RESTRICTED FUND	\$1,846,180	\$0	(\$250,000)		\$1,596,180
RESTRICTED CASH ESTIMATED BALANCE	\$3,532,020	(\$413,986)	(\$741,574)	\$0	\$2,376,460
COUNCILLOR WARD FUNDS	(\$4,604)	\$1,200,000	\$0		\$1,195,396
INFORMATION TECHNOLOGY STRATEGY	\$322,325	\$21,815	(\$30,815)		\$313,325
PROVISION FOR LOCAL GOVT ELECTION	\$98,839	\$49,640	\$0		\$148,479
PARKING METER RESERVE	\$215,707	\$240,067	\$0		\$455,774
Sub Total. Internally Restricted	\$18,161,876	\$11,817,362	(\$19,270,741)	\$4,811,099	\$15,519,596
RESTRICTED FUNDS TOTAL	\$30,658,713	\$13,813,391	(\$20,611,427)	\$4,350,464	\$28,211,141
* Balance Sheet Movements are the repayments of the Principals on Loans and the funds from Loans received and the proceeds for land and fleet sales					

ITEM NO. 9

FILE NO: PSC2010-05074

REVISED PORT STEPHENS COMMUNITY AWARDS POLICY

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

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the revised Port Stephens Community Awards policy; and
- 2) Revoke the current Port Stephens Community Awards policy adopted by Council 27 August 2002, Minute No. 349.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor John Nell	That the recommendation be adopted and that the wording "and after appropriate consultation with all Councillors" contained in the section of the policy titled "Mayor to Make Awards" remain in the policy.
--	--	--

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

011	Councillor John Nell Councillor Bruce MacKenzie	It was resolved that the Council Committee recommendation be adopted.
------------	--	---

BACKGROUND

The purpose of this report is to present recommended amendments to the current Port Stephens Community Awards policy adopted by Council 27 August 2002, Minute No. 349.

The current policy provides for Council to recognise groups and individuals that contribute to the achievement of Council's vision. In particular, the awards recognise outstanding service, effort and achievements to groups and individuals that contribute to the Council's sustainability goals.

The objective of this policy remains current within the document and the proposed changes recommended in keeping the content clear and concise and in line with Council's vision.

FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with policy review are covered in the 2010/2011 budget.

LEGAL, POLICY AND RISK IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Group Manager Corporate Services.

OPTIONS

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

ATTACHMENTS

- 1) Revised Port Stephens Community Awards Policy.
- 2) Current Port Stephens Community Awards Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Port Stephens
C.O.U.N.C.I.L
POLICY

Adopted: 28/11/2000
Minute No: 657
Amended: 27/08/2002
Minute No:349

FILE NO: 3440-002

TITLE: PORT STEPHENS COMMUNITY AWARDS

BACKGROUND

Port Stephens Council has previously recognised outstanding contributions through the Freeman of Port Stephens Award. It is also involved in other awards such as the Citizen and Young Citizen of the Year, which is judged and awarded by the Port Stephens Australia Day Committee. Council believes that these Community Awards will provide further opportunity to recognise those people who selflessly provide service to the community.

OBJECTIVE

The objective of this policy is to recognise groups and individuals that contribute to the achievement of Council's vision of

"Port Stephens – For a Better Lifestyle in a Great Environment".

In particular, the Awards will recognise outstanding service, effort and achievements to groups and individuals that contribute to the Council's sustainability goals in the areas of:

- ***Social well-being;***
- ***Sustainable economic development;***
- ***Protecting and enhancing the natural environment.***

PRINCIPLES

- Council's vision can only be achieved through the voluntary contribution of its citizens;

Replace with 'PSC2010-0.5074'

Replace with '*Port Stephens – A great lifestyle in a treasured environment*'

- Council should provide recognition of the service that these groups and individuals make to the community.
- Eligibility for the awards should be based on objective criteria to ensure they are properly perceived by the community as based on merit and not bias of any description;

POLICY STATEMENT

Port Stephens Council relies ~~heavily~~ on members of the general community to achieve its vision for Port Stephens. Council has instituted a system of Community Awards to recognise individuals and groups who, through outstanding effort, service and achievement, have contributed to the promotion of the community values of Port Stephens.

Under this Policy there will be three (3) categories of Community Awards:

Freeman of Port Stephens

This honour is awarded to recognise distinguished persons and citizens who have contributed eminent services to the community of Port Stephens or the wider community.

It may be awarded for ~~eminent~~ achievement ~~and merit~~ in the highest order for service to Port Stephens, Australia or humanity in generally. A distinguished person who is not a citizen of Port Stephens may be appointed an Honorary Freeman.

Retired Councillors with 10 years or more service (continuous or otherwise) as an elected Councillor, shall automatically be granted the honorary title of Freeman of Port Stephens.

The General Manager shall keep a recorded list called the Freeman's' Roll which shall be placed on display in the public area of the Council Chamber.

The Council will provide a suitable insignia, badge or prestigious identification, which may be worn by the recipient on formal occasions.

Delete 'heavily'

Replace 'eminent' with 'outstanding'
Delete 'and merit'

The Port Stephens Medal

The Port Stephens Medal is awarded to individuals for distinguished service of a high degree to the community of Port Stephens.

A distinguished person who is not a citizen of Port Stephens may be awarded an honorary medal.

~~This category of award is limited to no more than five awards each calendar year.~~

Delete this sentence

The Port Stephens Service Award

The Port Stephens Service Award is awarded to individuals, organisations or groups for services to a specific locality, field of activity or group within the community.

~~This category of award is limited to ten awards each calendar year.~~

Delete this sentence

Honorary Citizen of Port Stephens

This is a special award for persons who are ~~non-~~Australians and who have contributed to the Port Stephens Local Government Area in the areas of:

Replace with 'not residents of Port Stephens'

- > Exercising community leadership;
- > Promoting the principles of cultural diversity;
- > Promotion of international understanding, world peace culture and sustainability.

Judging Criteria and Conditions of Entry

Outstanding achievement or contribution towards Port Stephens's community values will be the principle basis for the awards. The community values are:

- > Honesty;
- > Safety;
- > Fairness;
- > Community Spirit;
- > Friendliness;
- > Having a say;
- > Support and connectedness;
- > Tolerance of difference;
- > Sustainability;
- > Life choices;

Award recipients will be individuals or groups who through their efforts espouse these values and show that individually and together we can make a difference. Their contribution may be at a local, national or international level. They will be seen as role models for the community.

The awards will recognise people who contribute in any area of endeavour including social justice and welfare, arts and cultural activities, education and youth development, the environment, business and sustainable economic development, sport, science and technology and academic achievement.

Above all the recipients will be able to demonstrate their contribution through results, focus, determination, creativity, commitment, enthusiasm and the pursuit of excellence.

To be eligible for nomination nominees must be:

- 1) Residents of Port Stephens except in exceptional circumstances;
- 2) Nominated by others and not themselves;

The Port Stephens Community Awards Panel

The Port Stephens Community Awards Panel is comprised of The Mayor of Port Stephens, The General Manager of Port Stephens Council and three distinguished persons nominated by Council.

The role of the Panel is to receive and consider nominations in accordance with the criteria and to make recommendations to the Mayor in respect of each category of award.

Mayor to Make Awards

The Mayor has delegated authority under this policy to make the awards on the recommendation of the Community Awards Panel, ~~and after appropriate consultation with all Councillors.~~

Presentation Ceremony

The Port Stephens Community Awards will be presented annually at a civic function organised by the Council.

Remove 'and after appropriate consultation with all Councillors'

RELATED POLICIES

~~Freeman of Port Stephens Policy~~

REVIEW DATE

~~September 2001~~

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act, 1993

IMPLEMENTATION RESPONSIBILITY

~~Mayor's Office~~

Replace with 'Nil'

Replace with
'November 2013'

Replace with
'Communications &
Customer Relations
section'

ATTACHMENT 2



Adopted: 28/11/2000
Minute No: 657
Amended: 27/08/2002
Minute No: 349

FILE NO: 3460-002

TITLE: PORT STEPHENS COMMUNITY AWARDS

BACKGROUND

Port Stephens Council has previously recognised outstanding contributions through the Freeman of Port Stephens Award. It is also involved in other awards such as the Citizen and Young Citizen of the Year, which is judged and awarded by the Port Stephens Australia Day Committee. Council believes that these Community Awards will provide further opportunity to recognise those people who selflessly provide service to the community.

OBJECTIVE

The objective of this policy is to recognise groups and individuals that contribute to the achievement of Council's vision of

"Port Stephens – For a Better Lifestyle in a Great Environment".

In particular, the Awards will recognise outstanding service, effort and achievements to groups and individuals that contribute to the Council's sustainability goals in the areas of:

- *Social well-being;*
- *Sustainable economic development;*
- *Protecting and enhancing the natural environment.*

PRINCIPLES

- Council's vision can only be achieved through the voluntary contribution of its citizens;
- Council should provide recognition of the service that these groups and individuals make to the community.
- Eligibility for the awards should be based on objective criteria to ensure they are properly perceived by the community as based on merit and not bias of any description;

POLICY STATEMENT

Port Stephens Council relies heavily on members of the general community to achieve its vision for Port Stephens. Council has instituted a system of Community Awards to recognise individuals and groups who, through outstanding effort, service and achievement, have contributed to the promotion of the community values of Port Stephens.

Under this Policy there will be three (3) categories of Community Awards:

Freeman of Port Stephens

This honour is awarded to recognise distinguished persons and citizens who have contributed eminent services to the community of Port Stephens or the wider community.

It may be awarded for eminent achievement and merit in the highest order for service to Port Stephens, Australia or humanity generally. A distinguished person who is not a citizen of Port Stephens may be appointed an Honorary Freeman.

Retired Councillors with 10 years or more service (continuous or otherwise) as an elected Councillor, shall be automatically be granted the honorary title of Freeman of Port Stephens. The General Manager shall keep a recorded list called the Freeman's' Roll which shall be placed on display in the public area of the Council Chamber.

The Council will provide a suitable insignia, badge or prestigious identification, which may be worn by the recipient on formal occasions.

The Port Stephens Medal

The Port Stephens Medal is awarded to individuals for distinguished service of a high degree to the community of Port Stephens.

A distinguished person who is not a citizen of Port Stephens may be awarded an honorary medal.

This category of award is limited to no more than five awards each calendar year.

The Port Stephens Service Award

The Port Stephens Service Award is awarded to individuals, organisations or groups for services to a specific locality, field of activity or group within the community.

This category of award is limited to ten awards each calendar year.

Honorary Citizen of Port Stephens

This is a special award for persons who are non-Australians and who have contributed to the Port Stephens Local Government Area in the areas of:

- Exercising community leadership;
- Promoting the principles of cultural diversity;
- Promotion of international understanding, world peace culture and sustainability.

Judging Criteria and Conditions of Entry

Outstanding achievement or contribution towards Port Stephens's community values will be the principle basis for the awards. The community values are:

- Honesty;
- Safety;
- Fairness;
- Community Spirit;
- Friendliness;
- Having a say;
- Support and connectedness;
- Tolerance of difference;
- Sustainability;
- Life choices;

Award recipients will be individuals or groups who through their efforts espouse these values and show that individually and together we can make a difference. Their contribution may be at a local, national or international level. They will be seen as role models for the community.

The awards will recognise people who contribute in any area of endeavour including social justice and welfare, arts and cultural activities, education and youth development, the environment, business and sustainable economic development, sport, science and technology and academic achievement.

Above all the recipients will be able to demonstrate their contribution through results, focus, determination, creativity, commitment, enthusiasm and the pursuit of excellence.

To be eligible for nomination nominees must be:

- 1) Residents of Port Stephens except in exceptional circumstances;
- 2) Nominated by others and not themselves;

The Port Stephens Community Awards Panel

The Port Stephens Community Awards Panel is comprised of The Mayor of Port Stephens, The General Manager of Port Stephens Council and three distinguished persons nominated by Council.

The role of the Panel is to receive and consider nominations in accordance with the criteria and to make recommendations to the Mayor in respect of each category of award.

Mayor to Make Awards

The Mayor has delegated authority under this policy to make the awards on the recommendation of the Community Awards Panel and after appropriate consultation with all Councillors.

Presentation Ceremony

The Port Stephens Community Awards will be presented annually at civic function organised by the Council.

RELATED POLICIES

Freeman of Port Stephens Policy

REVIEW DATE

September 2001.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act, 1993.

IMPLEMENTATION RESPONSIBILITY

Mayor's Office.

ITEM NO. 10

FILE NO: PSC2009-02488

BEST VALUE SERVICES POLICY**REPORT OF: ANNE SCHMARR – ORGANISATION DEVELOPMENT, MANAGER**
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the current Best Value Services policy adopted by Council 24 August 1999, Minute No. 421.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011
RECOMMENDATION:

	Councillor John Nell Councillor Shirley O'Brien	That the recommendation be adopted.
--	--	-------------------------------------

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

012	Councillor John Nell Councillor Shirley O'Brien	It was resolved that the Council Committee recommendation be adopted.
------------	--	---

BACKGROUND

The purpose of this report is to revoke the Best Value Services policy adopted by Council 24 August 1999, Minute No. 421.

The objective of this policy has been absorbed into the revised Business Excellence management directive endorsed by the Executive Leadership Team on 8 December 2010.

FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with policy review are covered in the 2010/2011 budget.

LEGAL, POLICY AND RISK IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Executive Leadership Team.

OPTIONS

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

ATTACHMENTS

- 1) Revised Business Excellence management directive.
- 2) Current Best Value Services policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



MANAGEMENT DIRECTIVE

Adopted: 8th December 2010

TITLE: BUSINESS EXCELLENCE

RESPONSIBLE OFFICER: BUSINESS EXCELLENCE COORDINATOR

BACKGROUND

Port Stephens Council is committed to improving the way we go about our daily work and how we deliver our many programs and projects in order to meet the numerous challenges facing us. These challenges include:

- Government reform agenda
- Growing community expectations on service standards
- High public scrutiny
- Technological revolution
- Global skilled worker shortages
- Rate cap & fiscal constraints
- Complex legislative environment
- Mandate to achieve more for less, etc

Our organisation has a history of providing quality services to our customers however a consistent approach to continuous improvement strengthens our ability to deliver more efficient and effective services to our community. We are doing this by pursuing the philosophy within the International Business Excellence Framework, specifically using the Australian Business Excellence Framework (ABEF). This philosophy provides a holistic approach to business improvement.

The ABEF is based on a set of 8 proven principles of leadership and management that constitute world's best understanding of the foundation upon which good organisations are built. The principles are:

- **Leadership:** values based leadership which sets clear direction
- **Customers and Market:** understand what markets and customers value now and in the future
- **Systems Thinking:** continuously improve the system
- **People:** develop and value people's capability
- **Continuous Improvement:** focus of becoming a learning organisation
- **Information & Knowledge:** improve performance through the use of data, information and knowledge
- **Corporate & Social Responsibility:** behave in an ethically, socially and environmentally responsible manner

- **Sustainable Results:** focus on sustainable results, values and outcomes

These principles are translated into the following key areas of organisational capability, which are described in the categories and items of the Australian Business Excellence Framework:

- **Leadership:** develop a culture of values based leadership
- **Strategy and Planning:** establish a system to set strategic direction and deploy plans to meet these strategies
- **Information and Knowledge:** focus on collecting and analysing the right information to create value through applying this knowledge
- **People:** create a great place to work by attracting the right people, developing their skills, engaging them and retaining them
- **Customer and Market Focus:** analyse customers and markets and use this knowledge to improve relationships and deliver increasing value
- **Process Management, Improvement and Innovation:** focus on the processes the organisation uses to supply value to stakeholders
- **Success and Sustainability:** review how the organisation demonstrates how well it is performing both now and into the future

Council is progressing a business excellence journey which will be for the benefit for its stakeholders, the organisation (including its people), suppliers and the community.

The Business Excellence philosophy supports Port Stephens Council's approach to providing **Best Value**, an initiative that enables councils to determine the most effective means of providing a service to the community.

Best value is about providing quality services at a level the community expects and at a price they are willing to pay. It involves working with stakeholders to provide services that best suit their needs in an open and accountable way, taking into account quality, cost and access factors.

Port Stephens Council is committed to working together in order to drive quality and value up and keep costs down.

OBJECTIVE

- 1) To develop a high performing organisation that has a strong culture of "working together to do the right things the best way"
- 2) "Working together to do the right things the best way" includes providing a range of services that are appropriate to the current and future needs of to the Port Stephens community that are both efficient and effective and that are delivered by a means that represents true value for money;
- 3) To be recognised by our community as a leading local government authority and as an employer of choice

PRINCIPLES

- 1) Business Excellence will be led by the Senior Leadership Team ie the General Manager, Group Managers and Section Managers. The Senior Leadership Team is committed to and accountable for applying the philosophy of ABEF in all aspects of Council's operations.
- 2) Implementation of the Business Excellence philosophy and ultimately Council's successful delivery of its services and programs is the responsibility of every staff member. All staff are accountable for conducting themselves in accordance with the ABEF philosophy and actively contributing to the improvement of the system, its associated processes and relationships.
- 3) The key steps for implementing ABEF across the organisation include the following activities:
 - i) Understand and Live the Principles of Business Excellence
 - ii) Commit to understanding and improving the whole system
 - iii) Self assess the current state
 - iv) Improve using the PDSA improvement process and tools
 - v) Capture the Memory: Document, Train, Coach

An action plan with key activities, responsibilities and milestones will be developed by SMT annually. The weekly SMT meeting will include a standing agenda item to review the organisation's progress. The PSC Business Excellence Network will be integral in providing support and guidance to assist the organisation strive towards increased quality and value and lower costs.
- 4) Council's membership and participation in the National Local Government Business Excellence Network will ensure continual learning and best practice on implementing excellence in local government.
- 5) By applying the Business Excellence philosophy to everything we do, we will enhance our performance and create a better future for the organisation and our community. Using a Best Value approach we will continuously improve the way we work to ensure that local services are a reflection of the local community needs and expectations, both in terms of quality and cost. Specifically, Port Stephens Council takes into account:
 - i) reviewing the services against the best on offer in both the public and private sector;
 - ii) assessing value for money in service delivery;

- iii) community expectations and values;
- iv) balancing affordability and accessibility to the community;
- v) value of partnerships with councils, state and federal government;
- vi) potential environmental advantages for the community

There are a number of Service Delivery Options available to us to ensure that we provide Best Value to our customers:

Internal Staff:	Council employees on a permanent, temporary or casual basis in accordance with the organisation structure provide policymaking, funding, administration, supervision and service delivery.
Volunteers:	Council internal staff performs the policy making, funding, day to day administration and supervision. Volunteers from business, public institutions or the general public provide and assist with Service delivery.
Commercial Contractors/Consultants:	Council enters into an agreement with a private company to manage a public program, provide a service or construct a public project with public funds. Council maintains the policy making and funding responsibility, while the contractor administers and provides supervision of day to day operations and delivers the service. Council also maintains on-going contract management responsibility.
Other Non-Commercial Agencies:	Council enters into an agreement with a non-commercial or government body for the delivery of services. Council's internal staff performs policy making and funding. Administration and supervision vary depending on circumstances. For example the Council currently has an agreement with the PCYC and the Neighbourhood Centre to provide components of its youth program.
Joint Venture/Strategic Alliances:	Council conducts public projects in co-operation with the private sector or other government bodies with varying degrees of responsibility for policy making, funding, administration and supervision and service delivery. Council most often retains the asset or some portion of it. For example Newcastle Airport or the provision of waste services.
Regional Council Provision:	Council enters into an agreement with a regional council for the delivery of service. Council maintains the policy making and funding responsibility, while the regional council provides supervision of day to day operations and delivery the service. PSC supports the approach of Hunter Councils to achieve this aim.

STATEMENT

Port Stephens Council is committed to applying the ABEF as a tool to continuously improve processes and relationships in order to deliver quality services that exceed our stakeholder's expectations and to achieve high levels of staff engagement. Council is committed to accomplishing a level of excellence which will set the pace in terms of value and customer service.

RELATED POLICIES &/OR MANAGEMENT DIRECTIVES

Nil

REVIEW DATE

- 1) July 2011

RELEVANT LEGISLATIVE PROVISIONS

- 1) Australian Business Excellence Framework

IMPLEMENTATION RESPONSIBILITY

Senior Leadership Team

ATTACHMENT 2



POLICY NO: Adopted 24 August 1999 (Minute 421)

TITLE: BEST VALUE SERVICES

POLICY OBJECTIVES:

- To provide a range of services that are appropriate to the current and future needs of the Port Stephens community that are both efficient and effective and that are delivered by a means that represents true value for money.
- To meet the requirements of the NSW Government Policy Statement on the application of National Competition Policy to Local Government.

PRINCIPLES

1. Port Stephens Council is constituted under the Local Government Act, 1993 and under its Charter is responsible:-
 - To facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and coordination of local government;
 - To provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services are managed efficiently and effectively;
 - To bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible; and
 - To be a responsible employer.

2. Council's vision for Port Stephens is:-

Port Stephens – For a Better Lifestyle

3. Council's mission is:-

To foster a network of people that focuses on achieving best value services and facilities for our community.

POLICY STATEMENT

In carrying out its responsibilities, Council will provide a range of services that represent "best value" for the community as a whole. These services will be appropriate to meet the present and future needs of the Port Stephens community. Council will involve the community in planning for the future and determining what services are appropriate to achieve its vision, mission and goals.

<http://www.portstephens.nsw.gov.au/Policies/Best Value Services.doc>

WHAT IS "BEST VALUE"

Best Value is a way of continuously improving the way we work to ensure that our services are:

- What the community wants, when they want them and how they want them;
- Of acceptable quality; and
- At a price they are prepared to pay for them.

In essence "Best Value" will put in place principles and mechanisms to continuously improve Council's services and make them more responsive to the needs of the users. These will include:

- The setting, monitoring and publishing of explicit measurable standards;
- Providing full readily available information about services;
- Providing choice where practical and appropriate;
- Ensuring courteous and helpful service from Council staff and agents;
- A mechanism to promptly respond to and remedy problems;
- Ensuring value for money by choosing the most effective and efficient method of service deliver.

WHAT COUNCIL WILL DO TO OBTAIN BEST VALUE

1. Planning

Council will plan to achieve our vision for the future of Port Stephens. This will include identifying those services needed for our community. We will involve the community in this planning process.

2. Consult

In planning and delivering our services Council will consult with all stakeholders including:

- Current and potential service users;
- Businesses;
- Contractors and partners;
- Voluntary community organisations;
- General public;
- Councillors
- Employees.
- Other Councils including HROC.

Such consultation will be carried out under Council's Community Consultation Policy.

3. Service Agreements

In consultation with the community and service users, Council will document service agreements which detail the quality and cost of its services and will ensure systems are in place to monitor and report to the community on actual performance. Where improvements are identified than performance targets will be set to reach the agreed standards.

4. Consideration of Feasible Options

<http://syport/Policies/Best Value Services.doc>

Staff, managers, team members will confer on the best possible method for delivering services. This will include consideration of the advantages and disadvantages of competition. All decisions relating to the selection of service delivery methods will be made by elected representatives, and implemented co-operatively by staff and management.

5. Working in Partnership

Council's success is heavily reliant on working in partnership with our community. We value teamwork and building networks of people to forge strategic alliances and partnerships to help provide services for our community.

6. Measure Performance

- Collect baseline data that gives us a clearer picture of the current level for quality and costs of our services against which we can measure future changes;
- Benchmark our performance by comparing, where appropriate, the cost, efficiency and quality of our services against those provided by other Councils or private organisations to see if there are better, more cost-effective ways of doing it.
- Use other management tools to improve, monitor and report on the quality and costs of our services

7. Service Delivery Reviews

Council will review its services regularly to ensure:

- That it is still appropriate to meet preset and future community needs;
- That there is a demand for it;
- That it is satisfying the needs of the people who use it;
- That the method of delivery is cost effective (ie it is what people are prepared to pay for it);
- Whether there are better and more cost-effective ways of doing it.

SERVICE DELIVERY OPTIONS

When deciding how to deliver services to obtain Best Value Council will look at all options including:

Internal Staff:	Council employees on a permanent, temporary or casual basis in accordance with the organisation structure provide policymaking, funding, administration, supervision and service delivery. Council adopts the organisation structure.
Business Unit Staff:	Council employees on a permanent, temporary or casual basis provide policymaking, funding, administration, supervision and service delivery. Generally business units are seen as internal "contractors" operating on a competitive basis, capable of generating income.
Community Management:	Council employees provide policy making, funding, administration and supervision. The community group provides Service delivery.
Volunteers:	Council internal staff performs the policy making, funding, day to day administration and supervision. Volunteers from business, public institutions or the general public provide Service delivery.
Commercial Contractors/Consultants:	Council enters into an agreement with a private company to manage a public program, provide a service or construct a public project with public funds. Council maintains the policy making and funding responsibility, while the contractor administers and provides supervision of day to day operations and delivers the service. Council also maintains on-going contract management responsibility.

<http://wpport/Policies/Best Value Services.doc>

Other Non-Commercial Agencies:	Council enters into an agreement with a non-commercial or government body for the delivery of services. Council internal staff performs policy making and funding. Administration and supervision vary depending on circumstances.
Joint Venture/Strategic Alliances:	Council conducts public projects in co-operation with the private sector or other government bodies with varying degrees of responsibility for policy making, funding, administration and supervision and service delivery. Council most often retains the asset or some portion of it.
Regional Council Provision:	Council enters into an agreement with a regional council for the delivery of service. Council maintains the policy making and funding responsibility, while the regional council provides supervision of day to day operations and delivers the service.

Issues for Consideration

When deciding what option of service delivery represents Best Value, Council will consider the following factors

- (a) That it satisfies its strategic vision and mission for Port Stephens;
- (b) That Council's values and image will not be compromised;
- (c) Compliance with its Charter under the Local Government Act 1993
- (d) Council's capacity to provide core services is maintained;
- (e) The competitiveness of the market and vulnerability to anti-competitive practices;
- (f) That probity considerations are satisfied;
- (g) That it can ensure compliance with all statutory, legal and government policy considerations including occupational health and safety and ecologically sustainable development;
- (h) In particular, that Council complies with its responsibilities under National Competition Policy and competitive neutrality guidelines issued by the NSW Government for its business activities.
- (i) Council will not contract out enforcement, regulatory and governance functions that it is required by law to provide through an employee or that cannot be delegated.
- (j) That the full cost of the different options is taken into consideration;
- (k) That the impact on Council employees is assessed and that Council meets its statutory obligation to be a responsible employer;
- (l) That the agreed quality standards of services can be met including, timeliness, consistency, reliability, responsiveness, safety, courtesy and customer service;

<http://myport/Policies/Best Value Services.doc>

- (m) That Council can take advantage of innovation, specialist expertise and best practice in delivering services
- (n) That the service provision is flexible and able to respond quickly to changing needs and expectations;
- (o) That Council can fulfil its obligation to be accountable to the community for its performance; and
- (p) That Council's community service and equity of access obligations are met, including environmental, social and economic considerations.

ITEM NO. 11

FILE NO: PSC2005-2892

LOCAL GOVERNMENT & SHIRES ASSOCIATIONS OF NSW – TOURISM CONFERENCE 2011**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**
GROUP: GENERAL MANAGER'S OFFICE**RECOMMENDATION IS THAT COUNCIL:**

- 1) Nominate delegates to attend the 7th Tourism Conference from 9-11 March 2011.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Caroline De Lyall	That the recommendation be adopted.
--	--	-------------------------------------

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

013	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that Cr Bob Westbury be Council's delegate at the 7 th Tourism Conference.
------------	---	---

BACKGROUND

The purpose of this report is to inform Council of the up coming Local Government & Shires Association of NSW, 7th Tourism Conference to be hosted by Sutherland Shire Council from 9-11 March 2011.

The theme of the conference will be *Gone Fishing. Back Soon...*

The conference sessions will deal with topics including:

Changing markets and tourism trends
Integrating tourism into strategic planning
Maximising community dividends from tourism
Destination marketing
Financing tourism promotion and development

As Councillors would be aware the new Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for all travel outside of the Hunter Councils area.

Council is requested to nominate delegates to attend this conference.

FINANCIAL/RESOURCE IMPLICATIONS

Registration costs for the conference will be \$660 per delegate. Registration, accommodation and travel costs would be covered in the current budget for Councillors.

LEGAL, POLICY AND RISK IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

In the past, Councillors that have attended this conference have gained benefits through networking with other delegates at the conference and also through the program of different presenters. This informs Councillors on the tourism industry and provides Councillors with an insight into the emerging trends that would have benefits for Port Stephens.

CONSULTATION

Mayor.
General Manager.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 12

FILE NO: PSC2005-01826

AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION EVENTS 2011

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominate delegates to attend the National General Assembly of Local Government and the National Local Roads & Transport Congress.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Caroline De Lyall	That the recommendation be adopted.
--	--	-------------------------------------

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

014	Councillor John Nell Councillor Ken Jordan	It was resolved that Cr Bob Westbury be Council's delegate at the National General Assembly of Local Government and that Cr Sally Dover be Council's delegate at the National Local Roads & Transport Congress.
------------	---	---

BACKGROUND

The purpose of this report is to inform Council of upcoming events convened by the Australian Local Government Association (ALGA).

ALGA will convene two national events during 2011, being:

National General Assembly of Local Government (NGA) to be held on 19-22 June 2011 in Canberra, and;

National Local Roads and Transport Congress to be held on 16-18 November 2011 in Mount Gambier.

A Regional Development and Cooperation Forum will be conducted in conjunction with the NGA on 19 June 2011.

Both these events provide important forums for local government to discuss policy and initiatives, and create a platform for local government to call on the Australian Government with a united voice.

The 2011 NGA, with the theme "*Growing with our Community – Partnership, Place and Position*", aims to stimulate ideas about new ways of doing business to meet the needs of local people and their communities.

As Councillors would be aware the new Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for all travel outside of the Hunter Councils area.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration, travel and accommodation would be covered from the budget.

LEGAL, POLICY AND RISK IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Councillors attending this conference to ensure the local government area has a voice in the national development of policy and initiatives.

CONSULTATION

Nil.

OPTIONS

Nil.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 13

FILE NO: 1190-001

REQUEST FOR FINANCIAL ASSISTANCE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
- a) Hunter River High School – Donation towards trophies - Rapid Response – Mayoral Funds - \$200.00
 - b) Port Stephens Council Employees Picnic Day – Donation towards catering for children – Rapid Response – Mayoral Funds - \$300.00
 - c) Irrawang High School – Donation towards prize giving and support citizenship awards – Rapid Response – Cr Francis - \$200.00
 - d) Grahamstown Public High School – Donation towards prize giving and support citizenship awards – Rapid Response – Cr Francis - \$50.00

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011
RECOMMENDATION:

	Councillor John Nell Councillor Shirley O'Brien	That the recommendation be adopted.
--	--	-------------------------------------

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

015	Councillor John Nell Councillor Ken Jordan	It was resolved that the Council Committee recommendation be adopted.
------------	---	---

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

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

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

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

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

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

MAYORAL FUNDS

Hunter River High School	Donation towards trophies	\$200.00
Port Stephens Council Employees Picnic Day	Donation towards catering for children	\$300.00

WEST WARD (Crs Francis, Kafer, Jordan, De Lyall)

Grahamstown Public School	Donations towards prize giving and support of citizenship awards	\$50.00
Irrawang High School	Donations towards prize giving and support of citizenship awards	\$200.00

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Mayor
Councillors
Port Stephens Community

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 14

FILE NO: A2004-0266

LOCAL GOVERNMENT REMUNERATION TRIBUNAL – COUNCIL CATEGORIES**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**
GROUP: GENERAL MANAGER'S OFFICE**RECOMMENDATION IS THAT COUNCIL:**

- 1) For consideration of Council.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Bob Westbury	That the information be received and noted.
--	---	---

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

016	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that the Council Committee recommendation be adopted.
------------	---	---

BACKGROUND

The purpose of this report is to inform Council of the opportunity to make a submission to the Local Government Remuneration Tribunal (LGRT) on categories of Councils.

The LGRT is seeking comment from Councils across NSW on the categories of Councils. The LGRT is required to review the categories of Councils at least once every 3 years in accordance with Section 239 of the Local Government Act 1993. Generally for a change in category there would need to be a significant change in the role and responsibility of Council.

Council is requested to consider any change of category of Council and provide reasons for any change should it wish to do so.

The LGRT also advise that the annual determination of Councillors and Mayors fees has commenced and will be determined to take effect on 1 July 2011.

FINANCIAL/RESOURCE IMPLICATIONS

Should Council seek to change the category of Council there maybe a budgetary impact should the re-categorisation be successful.

LEGAL, POLICY AND RISK IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There is no impact.

CONSULTATION

General Manager.

OPTIONS

- 1) Receive and note the information.
- 2) Resolve to make a submission.

ATTACHMENTS

- 1) Letter from the Local Government Remuneration Tribunal – 8 November 2010.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Local Government
Remuneration Tribunal

Clr Bob Westbury
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

11/11
A2009-0206
of Schmitz

8 November 2010

Dear Clr Bob Westbury

Pursuant to s. 243 of the *Local Government Act 1993*, the Tribunal is required to make an annual determination, by no later than 30 April 2011, on the fees payable to Councillors and Mayors to take effect from 1 July 2011. The purpose of this letter is to advise that the Tribunal has commenced its review for the 2011 determination.

Fees

The Tribunal will be undertaking a review of the minimum and maximum fee levels for each Category. The Tribunal would welcome submissions from individual councils or joint submissions in regard to the quantum and/or structure of fees.

Categorisation

Categories of councils and mayoral offices were last determined by the Tribunal in 2009. In accordance with Section 239 of the Act, the Tribunal is required to determine the categories of councils and mayoral offices at least once every 3 years. The Tribunal does not intend to undertake a further review of categories during the 2011 review. The Tribunal will review the categories of Councils again as part of the 2012 review. Until then the Tribunal would not expect to move councils within categories unless there is a significant change in the role and responsibilities of individual councils.

Submissions should be received by no later than 18 February 2011 and should be forwarded to:

Local Government Remuneration Tribunal
Level 12, Bligh House
4-6 Bligh Street
SYDNEY NSW 2000.

Enquiries should be directed to Sandra Scacciotti on 02 9228 4057 or email at sandra.scacciotti@lgrt.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "E Sklavounos".

Emanuel Sklavounos
Executive Director

ITEM NO. 15

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 1 February 2011.

No:	Report Title	Page:
1	ABORIGINAL STRATEGIC COMMITTEE	
2	CASH AND INVESTMENTS HELD AT 30 NOVEMBER 2010	
3	CASH AND INVESTMENTS HELD AT 31 DECEMBER 2010	
4	MENS SHED GATHERIN REPORT NOVEMBER 2010	
5	PIA CONFERENCE BATHURST SEPTEMBER 2010	

Cr Geoff Dingle left the meeting at 6.59pm prior to voting on Item 15.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011

RECOMMENDATION:

	Councillor John Nell Councillor Sally Dover	That the recommendation be adopted.
--	--	-------------------------------------

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

017	Councillor Shirley O'Brien Councillor John Nell	It was resolved that the Council Committee recommendation be adopted.
------------	--	---

COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

ABORIGINAL STRATEGIC COMMITTEE

REPORT OF: BRUCE PETERSEN - ENVIRONMENTAL AND DEVELOPMENT PLANNING,
MANAGER
GROUP: SUSTAINABLE PLANNING
FILE: PSC2005-0629

BACKGROUND

The purpose of this report is to present to Council the minutes of the Aboriginal Strategic Committee meeting held with Worimi Local Aboriginal Land Council on 7 December 2010.

The role of Council's Aboriginal Strategic Committee is:

To advise Council in relation to issues of concern between Council and the Aboriginal community,
To promote a positive public image with respect to issues for Aboriginal people in Port Stephens,
To provide a consultative mechanism with respect to development issues,
To improve relations between the Aboriginal and non Aboriginal community of Port Stephens,
To exchange information between the Aboriginal community and Council on issues affecting Aboriginal people,
To promote mutual awareness and respect for the cultures of both Aboriginal and non Aboriginal communities, and
To promote an increased awareness of the needs of Aboriginal communities and to assist with the development of programs to address those needs where possible and appropriate.

ATTACHMENTS

- 1) Minutes of Aboriginal Strategic Committee meeting held 7 December 2010.

ATTACHMENT 1



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



MINUTES

Minutes of meeting held on 7 December 2010 at Murrook Cultural & Leisure Centre

Acting Chair: Cr Peter Kafer

Minute taker: Paul Procter

Present:

Cr Peter Kafer	Port Stephens Council
Cr Sally Dover	Port Stephens Council
Cr Shirley O'Brien	Port Stephens Council
Andrew Smith	Worimi Local Aboriginal Land Council
Elaine Larkins	Worimi Local Aboriginal Land Council
Val Merrick	Worimi Local Aboriginal Land Council
Paul Procter	Port Stephens Council
Cliff Johnson	Port Stephens Council

Guest Attendees required for specific agenda items:

Chloe Beevers	Port Stephens Council
Kristy Murphy	Port Stephens Council

Apologies:

Cr Bob Westbury	Port Stephens Council
Cr Bruce MacKenzie	Port Stephens Council
Jason Linnane	Port Stephens Council
Jamie Tarrant	Worimi Local Aboriginal Land Council
Grace Kinsella	Worimi Local Aboriginal Land Council

1. WELCOME TO COUNTRY

Val Merrick behalf of Elders past and present welcomed everyone to the land of the Worimi Nation.

2. DECLARATION OF CONFLICTS OF INTEREST

Nil

3. MINUTES OF PREVIOUS MEETING

The minutes of previous meeting held 26 October 2010 were adopted.

4. BUSINESS ARISING FROM PREVIOUS MINUTES

The following items of business arising from the meeting held on 26 October 2010 were discussed:

Item 1: Birbui Point Surf Club Update:

No further news to report at present.

Item 2: Murrook Centre Future Plans:

Council's Recreation Services will be contacting WLALC CEO concerning playground designs and specifications.

WLALC CEO has asked that their request to have a site visit from a member of Development & Building Section to advice on proposed plans be placed on hold due to WLALC reviewing their own plans for the site.

Item 3: Aboriginal Project Fund Update:

Council's Community Development Officer indicated that stage 1 applications closed on 3 December 2010 with four applications received. After discussing the applications it was agreed that these four applicants be invited to proceed to submitting a stage 2 application to be prepared with regard to feedback from Council's Community Development Officer.

Also due to time constraints proposed meeting between WLALC CEO and KLALC CEO and relevant Council Officers to discuss and review guidelines of Council's Aboriginal Projects Fund and the Cultural Projects Fund has not progressed and will be postponed until first quarter of 2011.

Action:	<ol style="list-style-type: none">1. Council's Community Development Officer to advise and invite all stage 1 applicants to prepare and submit a stage 2 application.2. Council's Social Planning Co-ordinator to organise a meeting with the CEOs of KLALC, WLALC and Council's Community Development Officer, and Community Planner Cultural Development to review and amend guidelines of Cultural Project Fund and the Aboriginal Project Fund to ensure clear differentiation between the programs.
---------	---

5. CLOSING THE GAP REPORT

Recent Indigenous Report published by 'Newcastle Herald' has reportedly received significant praise for showcasing work being undertaken in relation to Aboriginal Affairs including Port Stephens. Newcastle Herald is planning to run a second report due to demand and opportunity for local input exists if desired. It was agreed that the Aboriginal Strategic Committee would not submit an article on this occasion; however individual organisations can still approach the paper directly if they wish to still contribute.

6. GRANTS FOR ILLEGAL DUMPING

State Government is currently offering grants to NSW Local Aboriginal Land Councils towards cleaning up illegal dumping activities occurring on their land. WLALC are in the process of preparing a funding submission with in-kind assistance from Council.

7. ABORIGINAL ARTS & CULTURAL STRATEGY

Council's Community Planner – Cultural Development gave an overview of State Governments Aboriginal Arts & Cultural Strategy. They indicated how it aligns with Council's Community Strategic Plan and will provide the opportunity to assist in seeking additional grant funding for various partnership based initiatives.

8. 2011 MEETING SCHEDULE

Next year's meeting schedule for the Aboriginal Strategic Committee has been distributed to all members.

9. GENERAL BUSINESS

Port Stephens Arts & Culture Committee:

Council's Community Planner – Cultural Development mentioned that Council is considering a report on establishment of an Arts & Culture Committee. Subject to the Committee up to two representatives from the Aboriginal Strategic Committee will be invited to join the membership of this new Committee.

Retirement of Committee Member:

Council's Principle Property Adviser who has been a long term member of Council's Aboriginal Strategic Committee indicated that this would be their last meeting before retiring from Council. The whole Committee thanked them for their years of service and wished them well for the future.

Soldiers Point Midden:

Cr Dover mentioned a midden at Soldiers Point which requires works to protect it.

Action:	1. Council's Social Planning Co-ordinator to refer to relevant Council Officer for consideration.
---------	---

Proposed Aboriginal Arts & Cultural Exhibition:

Council's Community Planner – Cultural Development indicated opportunity exists to exhibit at Council's mezzanine gallery (Administration Building) during NAIDOC Week 2011.

Local Government Cultural 2011 Awards:

Council's Community Planner – Cultural Development indicated that there is an Aboriginal category under the awards program.

Action:	1. Place this item on agenda for next meeting.
---------	--

10. DETAILS OF NEXT MEETING

1 February 2011 (Special Meeting: Aboriginal Project Fund 1pm at Council's Administration Building) and;

1 March 2011 normal meeting 1pm at Murrook)

INFORMATION ITEM NO. 2

CASH AND INVESTMENTS HELD AT 30 NOVEMBER 2010

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

FILE: PSC2006-6531

BACKGROUND

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

ATTACHMENTS

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

ATTACHMENT 1

CASH & INVESTMENTS HELD - AS AT 30 NOVEMBER 2010

INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value	Market Value	Market Value	Current Mark to Market
							September	October	November	Exposure
GRANGE SECURITIES										
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	1,000,000.00	2.84%	6.24%	\$835,000.00	\$835,000.00	\$857,000.00	-\$143,000.00
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO		23-Jun-15	412,500.00	1.17%	0.00%	\$264,825.00	\$273,281.25	\$278,437.50	-\$134,062.50
HERALD LTD "QUARTZ AA"	Floating Rate CDO	CCC-	20-Dec-10	450,000.00	1.28%	6.24%	\$436,095.00	\$442,575.00	\$447,525.00	-\$2,475.00
STARTS CAYMAN LTD "BLUE GUM AA"	Floating Rate CDO	NR	22-Jun-13	1,000,000.00	2.84%	3.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
HELIUM CAPITAL LTD "ESPERANCE AA+" *	Floating Rate CDO	NR	20-Mar-13	1,000,000.00	2.84%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
HOME BUILDING SOCIETY NOTE	Floating Rate Sub Debt Yield Curve Note	NR	25-Jul-11	500,000.00	1.42%	5.79%	\$466,445.00 \$506,650.00	\$469,355.00	\$472,265.00	-\$27,735.00 \$0.00
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	CCC	20-Mar-14	1,000,000.00	2.84%	6.14%	\$288,500.00	\$315,500.00	\$354,100.00	-\$645,900.00
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate CDO	NR	20-Sep-14	1,000,000.00	2.84%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00
TOTAL GRANGE SECURITIES				\$6,362,500.00	18.07%		\$2,797,515.00	\$2,335,711.25	\$2,409,327.50	(\$3,953,172.50)
ABN AMRO MORGANS										
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	A+	20-Sep-11	\$1,000,000.00	2.84%	0.00%	\$924,000.00	\$929,400.00	\$932,200.00	-\$67,800.00
TOTAL ABN AMRO MORGANS				\$1,000,000.00	2.84%		\$924,000.00	\$929,400.00	\$932,200.00	(\$67,800.00)
ANZ INVESTMENTS										
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000.00	2.84%	0.00%	\$800,600.00	\$831,000.00	\$852,500.00	-\$147,500.00
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876.98	2.89%	0.00%	\$664,836.52	\$650,494.64	\$643,186.28	-\$374,690.70
TOTAL ANZ INVESTMENTS				\$2,017,876.98	5.73%		\$1,465,436.52	\$1,481,494.64	\$1,495,686.28	(\$522,190.70)
RIM SECURITIES										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		8-Oct-11	\$2,000,000.00	5.68%	0.00%	\$1,601,000.00	\$1,721,000.00	\$1,750,000.00	-\$250,000.00
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		5-Apr-11	\$1,000,000.00	2.84%	5.62%	\$967,040.00	\$971,452.00	\$976,110.00	-\$23,890.00
COMMUNITY CPS CREDIT UNION	Term Deposit	N/R	6-Dec-10	\$1,000,000.00	2.84%	5.60%	\$1,000,000.00		\$1,000,000.00	\$0.00
SUNCORP METWAY	Term Deposit	A-1	9-Dec-10	\$1,000,000.00	2.84%	5.57%			\$1,000,000.00	\$0.00
TOTAL RIM SECURITIES				\$5,000,000.00	14.20%		\$3,568,040.00	\$2,692,452.00	\$4,726,110.00	(\$273,890.00)
WESTPAC INVESTMENT BANK										
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		21-Nov-11	\$500,000.00	1.42%	6.10%	\$487,220.00	\$487,965.00	\$489,025.00	-\$10,975.00
TOTAL WESTPAC INV. BANK				\$500,000.00	1.42%		\$487,220.00	\$487,965.00	\$489,025.00	(\$10,975.00)
CURVE SECURITIES										
RAILWAYS CREDIT UNION	Term Deposit	N/R	10-Jan-11	\$1,000,000.00	2.84%	5.81%			\$1,000,000.00	\$0.00
BANK OF CYPRUS AUSTRALIA LIMITED	Term Deposit	N/R	9-Feb-11	\$1,000,000.00	2.84%	6.13%			\$1,000,000.00	\$0.00
TOTAL CURVE SECURITIES				\$2,000,000.00	5.68%		\$0.00	\$0.00	\$2,000,000.00	\$0.00
LONGREACH CAPITAL MARKETS										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000.00	1.42%	0.00%	\$461,485.00	\$460,755.00	\$467,165.00	-\$32,835.00
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	A+	7-Sep-12	\$500,000.00	1.42%	0.00%	\$443,700.00	\$442,100.00	\$447,550.00	-\$52,450.00
TOTAL LONGREACH CAPITAL				\$1,000,000.00	2.84%		\$905,185.00	\$902,855.00	\$914,715.00	(\$85,285.00)

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

ATTACHMENT 1

COMMONWEALTH BANK										
EQUITY LINKED DEPOSIT	Equity Linked Note	AA	20-Sep-11	\$500,000.00	1.42%	3.00%	\$487,250.00	\$487,600.00	\$488,050.00	-\$11,950.00
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	AA	05-Nov-12	\$500,000.00	1.42%	3.00%	\$479,250.00	\$474,050.00	\$474,500.00	-\$25,500.00
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	BBB	09-Nov-12	\$500,000.00	1.42%	6.23%	\$484,520.00	\$487,440.00	\$487,890.00	-\$12,110.00
BANK OF QUEENSLAND BOND	Bond	BBB+	16-Mar-12	\$1,000,000.00	2.84%	5.35%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
TOTAL COMMONWEALTH BANK				\$2,500,000.00	7.10%		\$2,451,020.00	\$2,449,090.00	\$2,450,440.00	(\$49,560.00)
FIG SECURITIES										
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note		30-Nov-14	\$500,000.00	1.42%	6.04%	\$461,955.00	\$463,635.00	\$459,145.00	-\$40,855.00
ING BANK AUSTRALIA LIMITED	Term Deposit	A1	07-Dec-10	\$1,000,000.00	2.84%	5.66%			\$1,000,000.00	\$0.00
TOTAL FIG SECURITIES				\$1,500,000.00	4.26%		\$461,955.00	\$463,635.00	\$1,459,145.00	(\$40,855.00)
MAITLAND MUTUAL										
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	30-Jun-13	500,000.00	1.42%	6.51%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	31-Dec-14	500,000.00	1.42%	6.51%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
MAITLAND MUTUAL	Term Deposit					0.00%				\$0.00
TOTAL M'LAND MUTUAL				\$1,000,000.00	2.84%		\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
FARQUHARSON SECURITIES										
QUEENSLAND POLICE CREDIT UNION	Term Deposit	N/R	14-Dec-10	\$500,000.00	1.42%	5.55%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
SGE CREDIT UNION	Term Deposit	N/R	27-Jan-11	\$1,000,000.00	2.84%	5.79%			\$1,000,000.00	\$0.00
TOTAL FARQUHARSON SECURITIES				\$1,500,000.00	4.26%		\$500,000.00	\$500,000.00	\$1,500,000.00	\$0.00
TOTAL INVESTMENTS				\$24,380,376.98	69.26%		\$14,560,371.52	\$13,242,602.89	\$19,376,648.78	(\$5,003,728.20)
AVERAGE RATE OF RETURN ON INVESTMENTS						3.61%				
CASH AT BANK				\$10,822,057.33	30.74%	4.70%	\$1,879,264.41	\$2,511,760.42	\$10,822,057.33	\$0.00
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH						3.95%				
TOTAL CASH & INVESTMENTS				\$35,202,434.31	100.00%		\$16,439,635.93	\$15,754,363.31	\$30,198,706.11	(\$5,003,728.20)
BBSW FOR PREVIOUS 3 MONTHS						4.93%				

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

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

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

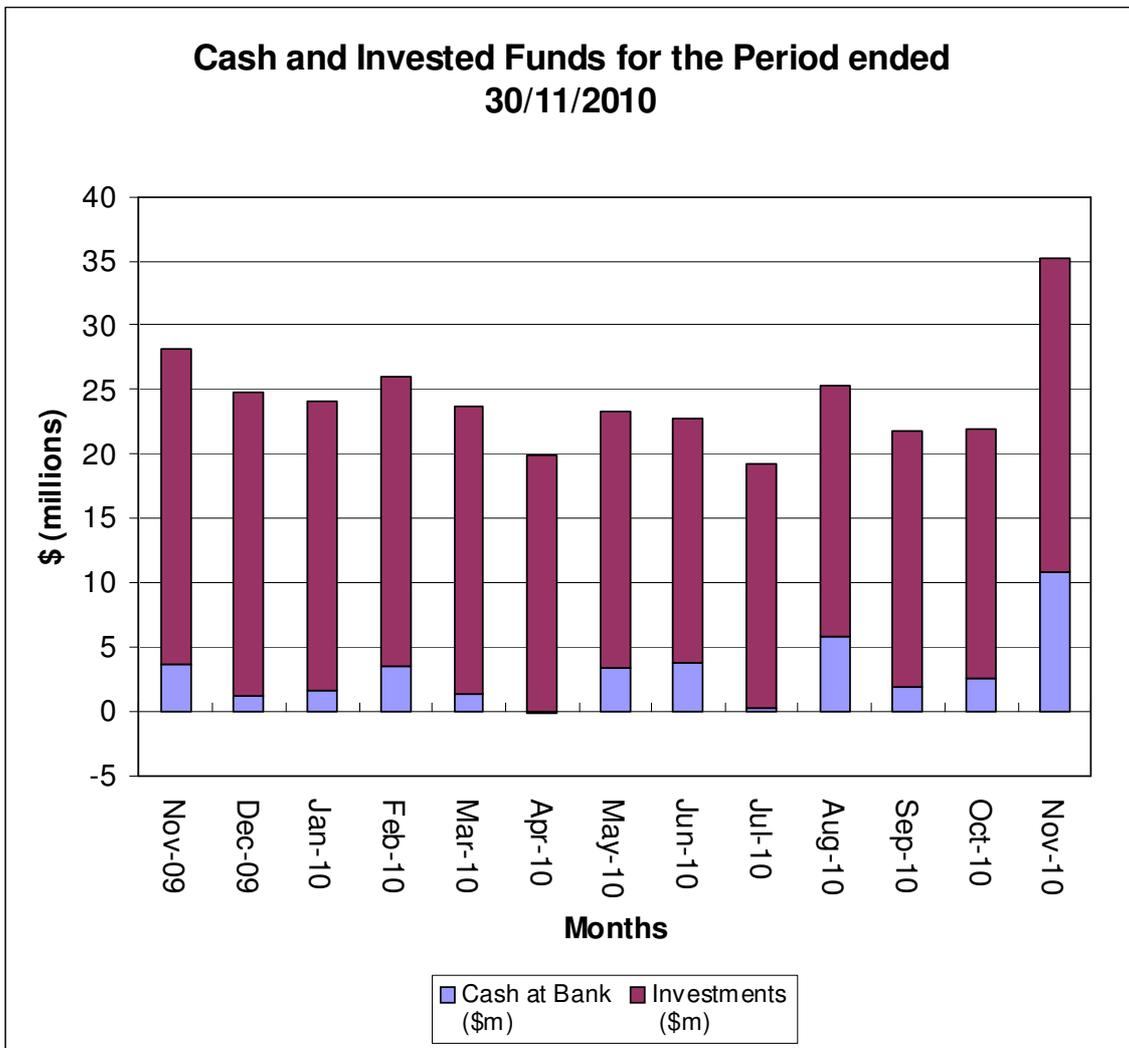
P GESLING

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Nov-09	3.691	24.448	28.140
Dec-09	1.277	23.448	24.726
Jan-10	1.670	22.455	24.125
Feb-10	3.489	22.455	25.944
Mar-10	1.311	22.380	23.691
Apr-10	0.206	19.880	19.675
May-10	3.425	19.880	23.305
Jun-10	3.847	18.880	22.728
Jul-10	0.285	18.880	19.165
Aug-10	5.888	19.380	25.268
Sep-10	1.879	19.880	21.759
Oct-10	2.512	19.380	21.892
Nov-10	10.822	24.380	35.202

Cash and Invested Funds for the Period ended 30/11/2010

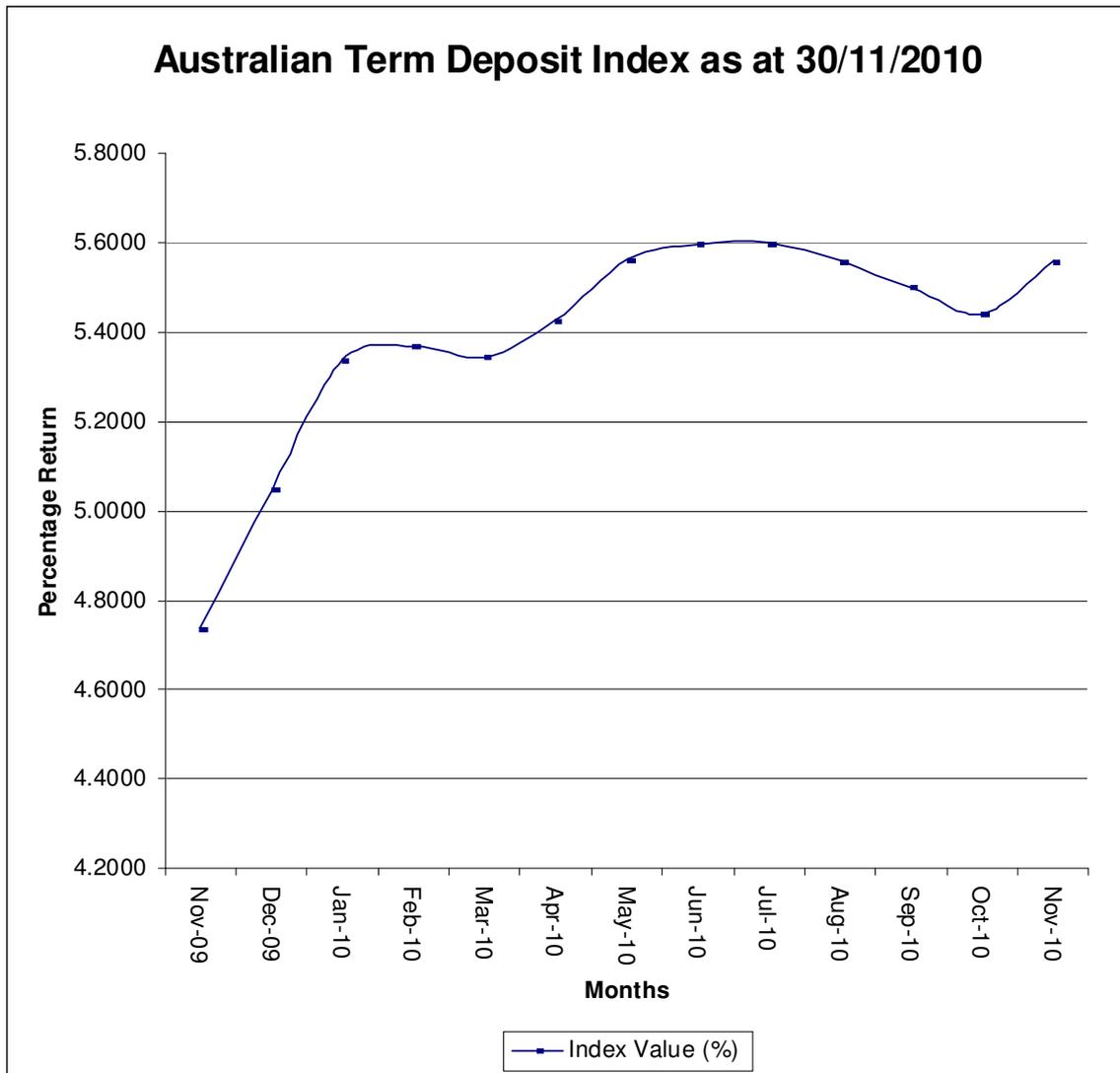


ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Nov-09	4.7356
Dec-09	5.0488
Jan-10	5.3373
Feb-10	5.3685
Mar-10	5.3452
Apr-10	5.4259
May-10	5.5615
Jun-10	5.5974
Jul-10	5.5992
Aug-10	5.5587
Sep-10	5.4991
Oct-10	5.4396
Nov-10	5.5583

Australian Term Deposit Index as at 30/11/2010



INFORMATION ITEM NO. 3

CASH AND INVESTMENTS HELD AT 31 DECEMBER 2010

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

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 31 December 2010.

ATTACHMENTS

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

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

ATTACHMENT 1

CASH & INVESTMENTS HELD AS AT 31 DECEMBER 2010											
INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value October	Market Value November	Market Value December	Current Mark to Market Exposure	
GRANGE SECURITIES											
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	\$1,000,000	3.44%	6.45%	\$835,000	\$857,000	\$855,000	-\$145,000	
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO		23-Jun-15	\$412,500	1.42%	0.00%	\$273,281	\$278,437	\$274,313	-\$138,187	
HERALD LTD "QUARTZ AA"	Floating Rate CDO	matured	20-Dec-10		0.00%		\$442,575	\$447,525			
STARTS CAYMAN LTD "BLUE GUM AA"	Floating Rate CDO	NR	22-Jun-13	\$1,000,000	3.44%	3.08%	\$0	\$0	\$0	-\$1,000,000	
HELIUM CAPITAL LTD "ESPERANCE AA+" *	Floating Rate CDO	NR	20-Mar-13	\$1,000,000	3.44%	0.00%	\$0	\$0	\$0	-\$1,000,000	
HOME BUILDING SOCIETY	Floating Rate Sub Deb	NR	25-Jul-11	\$500,000	1.72%	5.79%	\$469,355	\$472,265	\$475,060	-\$24,940	
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	CCC	20-Mar-14	\$1,000,000	3.44%	6.35%	\$315,500	\$354,100	\$332,000	-\$668,000	
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate CDO	NR	20-Sep-14	\$1,000,000	3.44%	0.00%	\$0	\$0	\$0	-\$1,000,000	
TOTAL GRANGE SECURITIES				\$5,912,500	20.31%		\$2,335,711	\$2,409,327	\$1,936,373	-\$3,976,127	
ABN AMRO MORGANS											
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	A+	20-Sep-11	\$1,000,000	3.44%	0.00%	\$929,400.00	\$932,200	\$932,200	-\$67,800	
TOTAL ABN AMRO MORGANS				\$1,000,000	3.44%		\$929,400	\$932,200	\$932,200	-\$67,800	
ANZ INVESTMENTS											
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000	3.44%	0.00%	\$831,000	\$852,500	\$823,800	-\$176,200	
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876	3.50%	0.00%	\$650,494	\$643,186	\$645,384	-\$372,492	
TOTAL ANZ INVESTMENTS				\$2,017,876	6.93%		\$1,481,494	\$1,495,686	\$1,469,184	-\$548,692	
RIM SECURITIES											
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		8-Oct-11	\$2,000,000	6.87%	0.00%	\$1,721,000	\$1,750,000	\$1,760,000	-\$240,000	
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		5-Apr-11	\$1,000,000	3.44%	5.62%	\$971,452	\$976,110	\$981,180	-\$18,820	
COMMUNITY CPS CREDIT UNION	Term Deposit	N/R	7-Feb-11	\$1,000,000	3.44%	5.85%		\$1,000,000	\$1,000,000	\$0	
SUNCORP METWAY	Term Deposit	A-1	10-Jan-11	\$1,000,000	3.44%	5.52%		\$1,000,000	\$1,000,000	\$0	
TOTAL RIM SECURITIES				\$5,000,000	17.18%		\$2,692,452	\$3,847,611	\$4,741,180	-\$258,820	
WESTPAC INVESTMENT BANK											
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		21-Nov-11	\$500,000	1.72%	6.10%	\$487,965	\$489,025	\$489,990	-\$10,010	
TOTAL WESTPAC INV. BANK				\$500,000	1.72%		\$487,965	\$489,025	\$489,990	-\$10,010	
CURVE SECURITIES											
RAILWAYS CREDIT UNION	Term Deposit	N/R	10-Jan-11	\$1,000,000	3.44%	5.81%		\$1,000,000	\$1,000,000	\$0	
BANK OF CYPRUS AUSTRALIA LIMITED	Term Deposit	N/R	9-Feb-11	\$1,000,000	3.44%	6.13%		\$1,000,000	\$1,000,000	\$0	
QANTAS STAFF CREDIT UNION	Term Deposit	N/R	7-Mar-11	\$1,000,000	3.44%	6.02%			\$1,000,000	\$0	
TOTAL CURVE SECURITIES				\$3,000,000	10.31%		\$0.00	\$2,000,000	\$3,000,000	\$0	
LONGREACH CAPITAL MARKETS											
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000	1.72%	0.00%	\$460,755	\$467,165	\$469,050	-\$30,950	
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	A+	7-Sep-12	\$500,000	1.72%	0.00%	\$442,100	\$447,550	\$449,500	-\$50,500	
TOTAL LONGREACH CAPITAL				\$1,000,000	3.44%		\$902,855	\$914,715	\$918,550	-\$81,450	

MINUTES FOR ORDINARY MEETING – 8 FEBRUARY 2011

ATTACHMENT 1

COMMONWEALTH BANK										
EQUITY LINKED DEPOSIT	Equity Linked Note	AA	20-Sep-11	\$500,000	1.72%	3.00%	\$487,600	\$488,050	\$487,750	-\$12,250
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	AA	05-Nov-12	\$500,000	1.72%	3.00%	\$474,050	\$474,500	\$475,900	-\$24,100
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	BBB	09-Nov-12	\$500,000	1.72%	6.23%	\$487,440	\$487,890	\$488,365	-\$11,635
BANK OF QUEENSLAND BOND	Bond	BBB+	16-Mar-12	\$1,000,000	3.44%	5.35%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
TOTAL COMMONWEALTH BANK				\$2,500,000	8.59%		\$2,449,090	\$2,450,440	\$2,452,015	-\$47,985
FIGI SECURITIES										
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note		30-Nov-14	\$500,000	1.72%	6.04%	\$463,635	\$459,145	\$459,805	-\$40,195
ING BANK AUSTRALIA LIMITED	Term Deposit	A1	18-Jan-11	\$1,000,000	3.44%	5.75%		\$1,000,000	\$1,000,000	\$0
TOTAL FIGI SECURITIES				\$1,500,000	5.15%		\$463,635	\$1,459,145	\$1,459,805	-\$40,195
MAITLAND MUTUAL										
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	30-Jun-13	\$500,000	1.72%	6.54%	\$500,000	\$500,000	\$500,000	\$0
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	31-Dec-14	\$500,000	1.72%	6.54%	\$500,000	\$500,000	\$500,000	\$0
TOTAL M'LAND MUTUAL				\$1,000,000	3.44%		\$1,000,000	\$1,000,000	\$1,000,000	\$0
FARQUHARSON SECURITIES										
QUEENSLAND POLICE CREDIT UNION	Term Deposit	N/R	13-Jan-11	\$500,000	1.72%	5.47%	\$500,000	\$500,000	\$500,000	\$0
SGE CREDIT UNION	Term Deposit	N/R	27-Jan-11	\$1,000,000	3.44%	5.79%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
TOTAL FARQUHARSON SECURITIES				\$1,500,000	5.15%		\$1,500,000	\$1,500,000	\$1,500,000	\$0
TOTAL INVESTMENTS				\$24,930,376	85.65%		\$14,242,602	\$18,498,149	\$19,899,297	-\$5,031,079
AVERAGE RATE OF RETURN ON INVESTMENTS						3.69%				
CASH AT BANK				\$4,175,476	14.35%		\$2,511,760	\$10,822,057	\$4,175,476	\$0
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH						3.84%				
TOTAL CASH & INVESTMENTS				\$29,105,852	100.00%		\$16,754,362	\$29,320,206	\$24,074,773	-\$5,031,079
BBSW FOR PREVIOUS 3 MONTHS						5.01%				

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

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

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

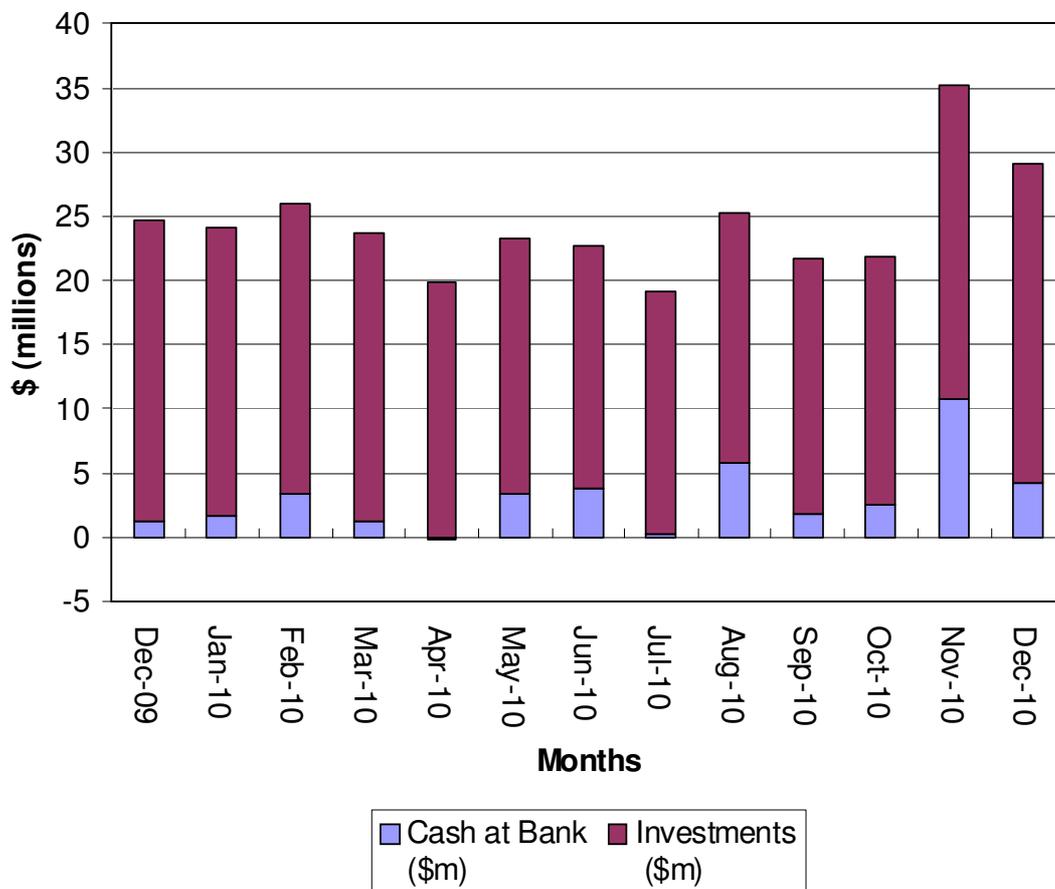
P GESLING

ATTACHMENT 1

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Dec-09	1.277	23.448	24.726
Jan-10	1.670	22.455	24.125
Feb-10	3.489	22.455	25.944
Mar-10	1.311	22.380	23.691
Apr-10	0.206	19.880	19.675
May-10	3.425	19.880	23.305
Jun-10	3.847	18.880	22.728
Jul-10	0.285	18.880	19.165
Aug-10	5.888	19.380	25.268
Sep-10	1.879	19.880	21.759
Oct-10	2.512	19.380	21.892
Nov-10	10.822	24.380	35.202
Dec-10	4.175	24.930	29.106

Cash and Invested Funds for the Period ended 31/12/2010

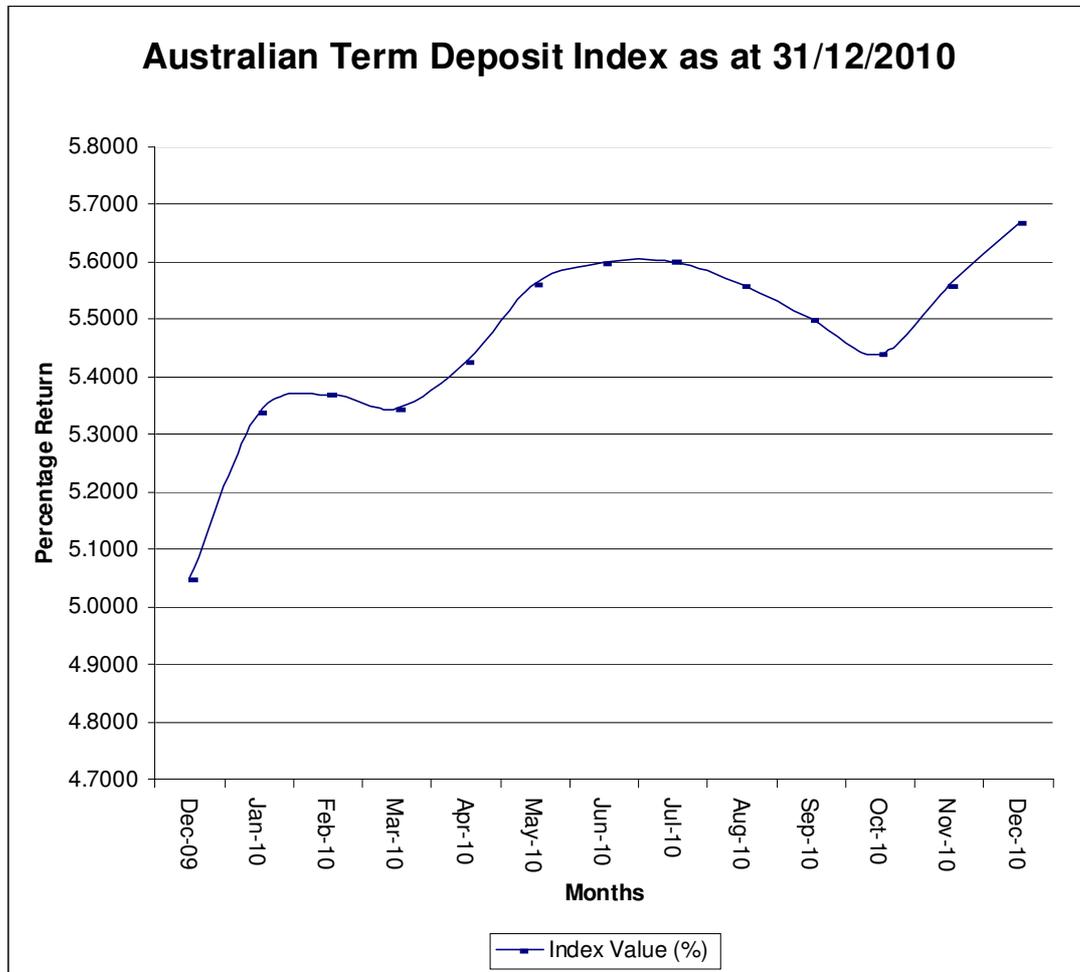


ATTACHMENT 1

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Dec-09	5.0488
Jan-10	5.3373
Feb-10	5.3685
Mar-10	5.3452
Apr-10	5.4259
May-10	5.5615
Jun-10	5.5974
Jul-10	5.5992
Aug-10	5.5587
Sep-10	5.4991
Oct-10	5.4396
Nov-10	5.5583
Dec-10	5.6675

Australian Term Deposit Index as at 31/12/2010



INFORMATION ITEM NO. 4

MENS SHED GATHERING REPORT NOVEMBER 2010

REPORT OF: CR GLENYS FRANCIS – WEST WARD COUNCILLOR
GROUP: GENERAL MANAGERS OFFICE

FILE: PSC2010-05526

BACKGROUND

The purpose of this report is to inform council on the Mens Shed Gathering Event 26/27 November 2010 held at Myuna Bay.

I attended this from the Friday night until the Sunday morning. Besides me, Port Stephens was represented by Salamander Men's Shed at waste and recycling, Raymond terrace Senior Citizens and Port Stephens Community Care.

I am disappointed that with all of the marketing and all of the emails that went out to Local Governments in NSW that I was the only Local Government Councillor, Greg Piper and Mathew Morris representing State Government. I felt very welcome entering this domain and with a gathering of around 200 men and approx 5 women we discussed topics such as engagement with others, forming sheds, how to lobby for funding, banking opportunities, depression, men's health.

The accommodation was different with everyone being housed in lodges which reminded me of school camp days. We had a bonfire and a sing-along in the evening.

I am not sure if our libraries have "a-z guide to men's health and wellbeing." But I strongly recommend we obtain this as it is a very interesting book.

One of the take-home messages for me was" women speak face to face, men speak shoulder to shoulder".

I am looking forward to our 355b committee to be formed and the eventual building of a shed in the Raymond Terrace area. I was thrilled to see that we have such an active "shedders" movement with 4 in this area and more coming.

The next Australian Men's Shed Association meeting is in Brisbane 21-23 August, 2011.

ATTACHMENTS

Nil.

INFORMATION ITEM NO. 5

PIA CONFERENCE BATHURST SEPTEMBER 2010

REPORT OF: CR GEOFF DINGLE – CENTRAL WARD COUNCILLOR
GROUP: GENERAL MANAGERS OFFICE

FILE: PSC2010-05525

BACKGROUND

The purpose of this report is to inform council on the PIA Conference 2 September 2010 held at Bathurst.

Report by Councillor Geoff Dingle re the Planning Institute of Australia (PIA) NSW State Conference.

Location/Host: Bathurst City Council

Venue: Citigate Hotel Mt Panorama.

Dates: Thursday Friday 2nd & 3rd September 2010

I appreciated the opportunity to attend the NSW PIA Conference having attended the 2009 conference in Newcastle which I found both very interesting and thought provoking. The Bathurst venue was ideal from my perspective as my son lives in Bathurst and this was an opportunity to visit him and spend the following weekend in his company. Bathurst was an excellent venue having retained its wonderful architectural culture and is well laid out with second to none sporting, recreational and cultural facilities.

The conference chose the Citigate hotel venue located within the Mount Panorama circuit, home of the Bathurst 500 a \$50 million dollar income generator for this region. The Chairperson, Tony McNamara, current PIA NSW President was very personable and competent facilitator with a background in Local Government and currently working for Canada Bay Council. I also note that our Strategic Planning Manager David Broyd who attended the conference, has previously been the President of PIA completing a total of two terms as the NSW President (four years) so he has made a substantive contribution to PIA NSW. No other PSC Staff members attended the conference and I think it is very important that Staff should be given every opportunity and encouragement to attend these events in future, the 2011 conference will be held in Wollongong.

Following is a summary of the key presenters and some comments:

Green Travel Planning: A new bridge between transport and land use development by Dr Michele Zeibots.

Focused on the development of green travel planning, obviously making use of walking cycling and public Transport options as part of the planning process. I was pleased to talk later with Dr Zeibot and expand on a question about the conundrum of Newcastle city and the balance between a city starved of visitor numbers and the dying retail sector balanced with the pressure by developers for the removal of rail links to create green links to the foreshore, there are also some similarities with the Nelson Bay CBD experience less the rail line.

Opening Address by the Honourable Bob Carr gave an expected colourful and interesting presentation with a focus on the sustainable population issue verses a big Australia and the inevitable planning problems for Sydney and its surrounds, notably the western suburbs of Sydney which have been so much in the news of late. Bob Carr pointed out the substantive amounts of money spent and invested in some of these areas on infrastructure over the past decade and he noted criticism from the media about the levels of expenditure at that period and now of course the reverse complaint of to little too late. Regardless of your political position you could hardly ignore the incredible number of National parks gazetted in Bob Carr's time preserving the green corridor that surrounds the outer Sydney metropolitan area and the green corridors up and down the coast, most of us who care about a sustainable environment especially considering the explosive development along our coastal towns are pleased that this visionary protection has delivered.

Transition to a new sustainable economy by Georgina Legoe provided food for thought in areas of how we might achieve changes from the current unsustainable commodity based economy to where we are both the custodians as well as the beneficiaries of our social and natural capital. Georgina spoke as an advocate of increasing the number of woman in managerial positions in Local government and her arguments where compelling.

Sam Haddad the Director General of NSW Dept of Planning gave a somewhat stereotypical bureaucratic presentation which meant you couldn't really put our finger on anything substantive and an his focus was on an overview of where we are heading with planning in NSW. He sighted that the Department has approved 25 LEPS to date and has another 60 on the books and that's where the Departments emphasis will be on the short term.

Site visits.

The Thursday afternoon program gave options of bus trips to inspect outer development and small communities and rural business development. I choose the option of a bicycle tour of the Bathurst city area along with David Broyd. This tour provided an opportunity to get some fresh air and exercise and meet some interesting people on route and visit some of the key historical infrastructure including the local railway station, Chifley's historical home, the Bathurst Gaol to name few. We managed to stop for a break at one of the local hotels for a refreshing drink, water and lemonade no alcohol since we where effectively on the

job and riding through city streets. During the break we had a presentation on the program “**Development and Active Living**”, **designing Projects for active living**, an excellent initiative to engage our communities in more active life styles to have a net benefits of improved lifestyles and reduced health care costs. A seminar is scheduled for Newcastle to outline this program and supporting documents with guidelines will be issued on the 3rd November 2010 in Newcastle. I urge Council Staff and Councillors to attend this forum.

Fridays program commenced with A presentation **by Bob Meyer on Sydney beyond the green belt learning from London**, a fascinating presentation on the use of public transport notably rail to move 800,000 residents from the outer suburbs of London into the city each day but more important 300,000 from the city to work in the satellite suburbs. The Australian argument being the use of current Australian NSW railways rolling stock quoted as capable of 160KM per hour travel provided the rail infrastructure is up to scratch with upgrade current rail curves and gauging allowing the city to continue to support jobs in regional area including the Hunter to provide the dormitories for residents to have a better lifestyle.

Australian Settlement Futures, the role of the Commonwealth in Urban and Regional Planning by Pat Fenshaw was a stimulating conversation in potential options for support of infrastructure to develop regional centre development. One of his more interesting proposals was the use of superannuation funds with Commonwealth guarantee of a 5% return (higher than current average of around 3.5%) which would release much needed funds to support rail and road and community infrastructure.

Planning is it really a risky business by David Laing of Cardno was based on his experience and frustration working for clients having difficulty in getting development approved based on risk aversion, also citing issue with the insurance industry who are risk adverse. He used statistics on health related deaths of Australians linked back to stress on mortgage payments and difficulty to funding development with risk of low success rates as his justification for an argument to lower the risk barriers. While his presentation was interesting the statistics were conveniently overstated to argue for lowering the barriers which I don't believe can be supported.

An Address from the Minister for Planning the Honourable Tony Kelly was incisive into the future of planning in NSW and he detailed some of the recent changes to section 94 funding and tipped cold water on a total review of the Planning act in the short term suggesting it would happen but it was a 4 to 5 year project.

Western Sydney 2030 from Jermamy Golf focused on an interactive campaign to inform State and federal government Western Sydney people about how they want to live in 2030 and beyond with nothing a significant to report.

Economic Development is Small Business by Dr Roy Powell was an interesting and stimulating presentation arguing the case for support of small business as the real engine in local economies and generating far more local retention of generated profits as expenditure in the local economy. He sited examples of how local business sold to multi-nationals where at real risk of closure and relocation with precious little

concern for the local economy. I was pleased to speak with Roy over lunch and establish that his base is now Port Macquarie where he spends lot of time working with small businesses. We spoke about the Glass house which I had a chance to visit several weeks ago and attended a concert with local people and my overall perception was while it was a beautiful building with great acoustics it is small relative to investment with a seating capacity of 600 max and no allocated car parking. Roy pointed out the big failure was really the fact the no economic evaluation was carried out prior to development concept and no consultation was carried out with the community both key points to be managed. Roy also pointed out that he has been the principle consultant in the Williamtown Aerospace economic element of the application by Hunter Lands.

The key note address by Rob Stokes MP Member for Pittwater was a typically political speak pre-selection presentation suggesting that a coalition in State Government would tear up the Planning Act and rewrite the script and rules to the satisfaction of everyone, something you could say in opposition but far more difficult in government.

The afternoon sessions where a series of concurrent speakers on a range of interesting practical planning issues.

The notable session where some **recent cases presented by Gadsden Lawyers** and notably a case in which the DA applicant had to pay the court costs of the property owner who made an application for variation with L&E to argue against a Council decision to refuse his planning application without the applicants approval. Having left it too late to intervene the resulting costs where directed to the applicant and not the owner leaving limited options for this to be reversed. The warning goes out to consultants who regularly sign up as the applicant on DA's,

The Manager of Strategic Planning Bathurst Council, Janet Bingham gave a very interesting presentation on the use of exempt planning approval process for sheds, pergolas, carports etc as a means of speeding up the approval process and reducing administrative costs to Bathurst Council.

Gosford Planning Staff gave an excellent presentation on "The Gosford Challenge" a State funded project centring on the revitalization of Gosford's CBD and an intensive negotiation and communication exercise with the community. A key message to keep the minority agitators and complainants in the tent as the community will eventually sort these groups out. This was my experience with the Medowie Strategy and is good advice with many of the initial complainants eventually becoming some of the strategy's strongest supporters.

The final session by PIA President Tony McNamara on the use of VPA's to achieve public infrastructure outcomes was an excellent insight into the problems of housing the rapidly growing Sydney metropolitan population when available land space is limited for infill and redevelopment.

Overall a very enjoyable and informative event and I again thank Port Stephen Council for the opportunity attend. Many of these presentations are available online if anyone wishes to review them.

ATTACHMENTS

1) Photos.

ATTACHMENT 1



Historic Chifley Cottage



Bathurst gaol façade and entrance

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

STATE PLANNING PANELS

COUNCILLOR: MACKENZIE

THAT COUNCIL:

- 1) Write to the leader of the opposition Barry O'Farrell and request he inform Port Stephens Council of his intentions in regard to the Joint Regional Planning Panels as a matter of urgency as a State Election is only weeks away and further request an answer prior to the Election.
-

Cr Geoff Dingle returned to the meeting at 7.02pm prior to voting on Notice of Motion 1.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

Cr Peter Kafer objected to the Notice of Motion to allow discussion on the matter.

018	Councillor Bruce MacKenzie Councillor Peter Kafer	It was resolved that the Notice of Motion be adopted.
------------	--	---

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

BACKGROUND:

The NSW State Government initiated Joint Regional Planning Panels on 1 July 2009 with the stated objectives of creating more efficiency in the processing and decision making for development applications of regional significance and to de-politicise the decision making on such development applications. This Council, through a number of resolutions, expressed opposition to the establishment of these Joint Regional Planning Panels – reflecting general Local Government view points as expressed through the Local Government Association / Local Government Shires Association.

Each Joint Regional Planning Panel comprises three (3) "State members" appointed by the Minister, and two (2) local representatives appointed by the local Council. The representatives of this Council on the Hunter / Central Coast Panel are Mayor Councillor Bob Westbury and Councillor Bruce MacKenzie.

The classes of Regional Government for which the Joint Regional Planning Panels are the consent authority include:

- a. Designated development;
- b. Development with a capital investment value of more than \$10 million;
- c. Subdivisions over 250 lots;
- d. Certain coastal development and coastal subdivisions that were previously part 3A projects;
- e. The following developments given as a capital investment value of more than \$5 Million:
 - i. Public and private infrastructure;
 - ii. Crown development;
 - iii. Eco tourism development;
 - iv. Where Councils are the proponents or have a conflict of interest.

This Council has had two (2) development applications to be considered by the Hunter / Central Coast Joint Regional Planning Panel: The development application for subdivision at the Salamander Shopping Centre site; And the Marina Resort in Nelson Bay. Both of these development applications are yet to be determined and the DA for the Salamander Shopping Centre is due to be determined by the Panel on 16 February 2011.

The NSW Coalition has indicated that the substantial return of decision making powers on planning matters will occur to Local Government and that a review of the Joint Regional Planning Panels will be undertaken.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217 +

COMMERCIAL LAND AT SALAMANDER

COUNCILLOR: MACKENZIE

THAT COUNCIL:

- 1) Should Councils Application for a subdivision presently before the planning panel be refused, Council place on the market all the commercial land at Salamander.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

Cr Ken Jordan objected to the Notice of Motion to allow discussion on the matter.

	Councillor Bruce MacKenzie Councillor Ken Jordan	That the Notice of Motion be adopted.
--	---	---------------------------------------

The Notice of Motion on being put was lost.

BACKGROUND REPORT OF: JEFF SMITH – GROUP MANAGER COMMERCIAL SERVICES

BACKGROUND

Council's subdivision development application is scheduled to be considered by the Joint Regional Planning Panel on Wednesday 16th February 2011.

Cr Peter Kafer left the meeting at 7.05pm prior to voting on Item 2.

Cr Peter Kafer returned to the meeting at 7.06pm prior to voting on Item 2.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: A2004-0217 + PSC2008-9159

MOTOR CYCLE NOISE – 4556 NELSON BAY ROAD, ANNA BAY

COUNCILLOR: MACKENZIE

THAT COUNCIL:

- 1) Be provided with a full report and all correspondence in regard to this matter.
-

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

Cr Ken Jordan objected to the Notice of Motion to allow discussion on the matter.

019	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that the Notice of Motion be adopted.
------------	---	---

NOTICE OF MOTION

ITEM NO. 4

FILE NO: A2004-0217

SECTION 94 FUNDS

COUNCILLOR: MACKENZIE

THAT COUNCIL:

- 1) Request a full report to explain what happened to the balance of repealed section 94 funds of \$750,000 that was available when Council met for a workshop at the senior citizens centre in 2010.
-

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

Cr Peter Kafer objected to the Notice of Motion to allow discussion on the matter.

020A	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that the Notice of Motion be adopted.
------	---	---

MATTER ARISING

020	Councillor Bruce MacKenzie Councillor Peter Kafer	It was resolved that a panel of Councillors comprising of the Mayor, Crs Tucker and Jordan be convened to examine the balance of repealed Section 94 funds.
-----	--	---

RESCISSION MOTIONS

RECISSION MOTION

ITEM NO. 1

FILE NO: PSC2009-00384

UNAUTHORISED DEPOT: CABBAGE TREE ROAD, WILLIAMTOWN

COUNCILLOR: MACKENZIE, DOVER, TUCKER

That Council rescind its decision of 14 December 2010 on Confidential Item No 4 (Information Paper Item 1) of the Information Papers Report, namely Unauthorised Depot : Cabbage Tree Road, Williamtown.

A Copy of the Confidential Item 4 - Information Paper Report Item 1 shall be provided under separate cover.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

021	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that Council move into Confidential Session.
------------	---	--

Stephen Crowe, Communications and Customer Relations was present for the confidential session of the meeting.

Cr Frank Ward left the meeting at 7.53pm prior to voting on Item 1.

Cr Frank Ward returned to the meeting at 7.55 pm prior to voting on Item 1.

022	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council move out of Confidential Session.
------------	---	--

023	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that the Committee of the Whole recommendation to adopt the Rescission Motion be adopted.
------------	---	---

MINUTES FOR ORDINARY COUNCIL – 8 FEBRUARY 2011

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

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

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

The Committee of the Whole recommendation on being put was carried.

The Mayor exercised his casting vote.

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

I certify that pages 1 to 177 of the Open Ordinary Minutes of Council 8 February 2011 and the pages 178 to 178 of the Confidential Ordinary Minutes of Council 8 February 2011 were confirmed by Council at its meeting held on 22 February 2011.

.....
Cr Bob Westbury
MAYOR