

## Minutes 24 APRIL 2012



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 24 April 2012, commencing at 5.34pm.

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

071	<b>Councillor Ken Jordan</b> <b>Councillor Bruce MacKenzie</b>
	It was resolved that the apology from Cr Steve Tucker be received and noted.
072	<b>Councillor Caroline De Lyall</b> <b>Councillor John Nell</b>
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 27 March 2012 be confirmed.
	No Declaration of Interests were received.

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# MAYORAL MINUTE

# MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2009-1064

## JOINT REGIONAL PLANNING PANEL - DELEGATE

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### THAT COUNCIL:

- 1) Nominate an alternate delegate to represent Council on the Joint Regional Planning Panel.
- 

### ORDINARY COUNCIL MEETING – 24 APRIL 2012

<b>073</b>	<b>Councillor Bob Westbury</b>
	<p>Councillors Cr Ken Jordan and Cr Geoff Dingle were nominated for the position as delegate.</p> <p>Following voting the results are as follows:-</p> <p>Cr Ken Jordan – 5 votes Cr Geoff Dingle – 6 votes</p> <p>It was resolved that Councillor Geoff Dingle be the alternate delegate on the Joint Regional Planning Panel to consider the Soldiers Point Marina development application.</p>

### BACKGROUND

**The purpose of this Mayoral Minute is to allow Council to nominate a delegate to represent Council on the Joint Regional Planning Panel (JRPP) meeting when the Panel sits to consider the Soldiers Point Marina development application.**

Council's existing delegates are Cr Westbury and Cr Mackenzie, with Cr Dover and Cr Nell as alternates. Cr Dover, Cr Nell and myself, have declared a conflict of interest and therefore are excluded from the Panel.

Council is requested to nominate a further alternate delegate to represent Council when the JRPP considers the development application for the Soldiers Point Marina.

# **COUNCIL COMMITTEE RECOMMENDATIONS**

ITEM NO. 1

FILE NO: PSC2007-1204V2

**NELSON BAY TOWN CENTRE AND FORESHORE STRATEGY**

REPORT OF: DAVID BROYD – ACTING GROUP MANAGER

GROUP: DEVELOPMENT SERVICES

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Nelson Bay Town Centre and Foreshore Strategy including the Nelson Bay Improvement Program (**Attachments 1 and 2** (under separate cover);
- 2) Note the proposed content of a draft Development Control Plan for Nelson Bay Town Centre and Foreshore and resolve to prepare the draft Development Control Plan, pursuant to the Environmental Planning and Assessment Act 1979;
- 3) Resolve to prepare a Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 in respect of development standard variations, floor space ratio, building heights and other related development controls for Nelson Bay, pursuant to the Environmental Planning and Assessment Act, 1979.

**COUNCIL COMMITTEE MEETING – 10 APRIL 2012**

**RECOMMENDATION:**

	<p><b>Councillor John Nell</b> <b>Councillor Sally Dover</b></p>
	<p>That Council:</p> <ol style="list-style-type: none"> <li>1) Adopt the Nelson Bay Town Centre and Foreshore Strategy including the Nelson Bay Improvement Program (<b>Attachments 1 and 2</b> (under separate cover));</li> <li>2) Note the proposed content of a draft Development Control Plan for Nelson Bay Town Centre and Foreshore and resolve to prepare the draft Development Control Plan, pursuant to the Environmental Planning and Assessment Act 1979;</li> <li>3) Resolve to prepare a Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 in respect of development standard variations, floor space ratio, building heights and other related development controls for Nelson Bay, pursuant to the Environmental Planning and Assessment Act, 1979;</li> <li>4) Maximum building heights for Town Centre - Recommend maximum building height to be calculated on the basis of 3.5m height for the ground floor and 3 metres for all other floors, rather than 3.5m for all floors, ie:             <ul style="list-style-type: none"> <li>3 storeys is 9.5 m maximum height</li> <li>5 storeys is 15.5 maximum height</li> <li>7 storeys is 21.5 maximum height;</li> </ul> </li> <li>5) Variation to building heights - The proposed Variations to building Heights in Designated Localities and Centres clause to <u>not</u> include</li> </ol>

**MINUTES FOR ORDINARY MEETING – 24 APRIL 2012**

	<p>the Foreshore area, and a maximum variation of 2 storey (6 m) to apply to the Fisherman's Co-op area;</p> <p>6) Dowling Street Alternative Route - The Implementation Action 3.1 on page 104 of the Appendix 3 Recommendation and Implementation Table of the Strategy, ie the Dowling Street alternative route to destinations east of the Town Centre be shown as a high priority rather than a medium to long term priority because of the importance of the action to the revitalization of Town Centre.</p>
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In accordance with the Section 375A of the Local Government Act 1993, a division is required.

Those for the motion: Crs Glenys Francis, Shirley O'Brien, Caroline De Lyall, Geoff Dingle, John Nell and Sally Dover.

Those against the motion: Crs Peter Kafer, Bob Westbury, Ken Jordan and Bruce MacKenzie.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

	<p><b>Councillor John Nell</b> <b>Councillor Frank Ward</b></p>
	<p>That the recommendation be adopted.</p>

**AMENDMENT**

<b>074</b>	<p><b>Councillor Sally Dover</b> <b>Councillor Ken Jordan</b></p>
	<p>It was resolved that Council:-</p> <ol style="list-style-type: none"> <li>1) Adopt the Nelson Bay Town Centre and Foreshore Strategy including the Nelson Bay Improvement Program (<b>Attachments 1 and 2</b> (under separate cover));</li> <li>2) Note the proposed content of a draft Development Control Plan for Nelson Bay Town Centre and Foreshore and resolve to prepare the draft Development Control Plan, pursuant to the Environmental Planning and Assessment Act 1979;</li> <li>3) Resolve to prepare a Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 in respect of development standard variations, floor space ratio, building heights and other related development controls for Nelson Bay, pursuant to the Environmental Planning and Assessment Act, 1979;</li> <li>4) Variation to building heights - The proposed Variations to building Heights in Designated Localities and Centres clause to</li> </ol>



## MINUTES FOR ORDINARY MEETING – 24 APRIL 2012

	<p><u>not</u> include the Foreshore area, and a maximum variation of 2 storey (6 m) to apply to the Fisherman's Co-op area;</p> <p>5) Dowling Street Alternative Route - The Implementation Action 3.1 on page 104 of the Appendix 3 Recommendation and Implementation Table of the Strategy, ie the Dowling Street alternative route to destinations east of the Town Centre be shown as a high priority rather than a medium to long term priority because of the importance of the action to the revitalization of Town Centre.</p>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Sally Dover and Bob Westbury.

Those against the Motion: Crs Shirley O'Brien, Geoff Dingle, John Nell and Frank Ward.

The amendment became the Motion which was carried.

### MOTION

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, Sally Dover and Bob Westbury.

Those against the Motion: Crs Shirley O'Brien Geoff Dingle John Nell and Frank Ward.

### FORESHADOWED AMENDMENT

	<p><b>Councillor Frank Ward</b> <b>Councillor Geoff Dingle</b></p>
	<p>That Council:</p> <ol style="list-style-type: none"><li>1) Adopt the Nelson Bay Town Centre and Foreshore Strategy including the Nelson Bay Improvement Program (<b>Attachments 1 and 2</b> (under separate cover));</li><li>2) Note the proposed content of a draft Development Control Plan for Nelson Bay Town Centre and Foreshore and resolve to prepare the draft Development Control Plan, pursuant to the Environmental Planning and Assessment Act 1979;</li><li>3) Resolve to prepare a Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 in respect of development standard variations, floor space ratio, building heights and other related development controls for Nelson Bay, pursuant to the Environmental Planning and Assessment Act,</li></ol>

	1979;
4)	Maximum building heights for Town Centre - Recommend maximum building height to be calculated on the basis of 3.5m height for the ground floor and 3 metres for all other floors, rather than 3.5m for all floors, ie: i. 3 storeys is 9.5 m maximum height ii. 5 storeys is 15.5 maximum height iii. 7 storeys is 21.5 maximum height;
5)	Variation to building heights - The proposed Variations only applies to the Opportunity sites shown in Figure 34 of the Strategy;
6)	Dowling Street Alternative Route - The Implementation Action 3.1 on page 104 of the Appendix 3 Recommendation and Implementation Table of the Strategy, ie the Dowling Street alternative route to destinations east of the Town Centre be shown as a high priority rather than a medium to long term priority because of the importance of the action to the revitalization of Town Centre.

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

Those for the Motion: Crs Geoff Dingle, John Nell, Frank Ward and Shirley O'Brien.

Those against the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Sally Dover and Bob Westbury.

The foreshadowed amendment was lost.

## **BACKGROUND**

The purpose of this Report is to provide an overview of the Nelson Bay Town Centre and Foreshore Strategy (the Strategy) and to seek Council's adoption of the Strategy. Council previously considered the draft Strategy on 24 May 2011 and resolved to receive a revised Strategy including consideration of a number of issues raised by Councillors.

The purpose of the Strategy is to guide Nelson Bay towards becoming more attractive to tourists, the business community and residents. The Strategy is largely directed towards physical form, such as building design, street landscaping and transportation networks. It is complemented by a range of other Council strategies.

Nelson Bay is the primary tourist and service centre of the Tomaree Peninsula. Nelson Bay contains a considerable amount of retail and commercial floorspace; however the nearby Salamander Centre has become the focus for weekly retail shopping as well as being the location of a major library and community centre. As a result, Nelson Bay's retail floorspace is refocusing around leisure shopping and hospitality, such as cafes, with a secondary focus on day to day and weekly household and personal needs.

Nelson Bay is the entry point to the Port Stephens waterway for many tourists, and contains the highest concentration of tourist facilities in the area. The Town experiences high seasonal variations in tourism. The low level of activity on winter weekdays contrasts with the large numbers of tourists visiting during the summer and Easter holidays and special event weekends.

Nelson Bay is in competition with coastal centres elsewhere in NSW, Australia and increasingly overseas. In order for Nelson Bay to remain competitive it needs to rejuvenate its suite of tourism products and to provide a unique destination. The visual appearance and amenity of the Town Centre and Foreshore are important elements in providing a unique high quality destination. Diversification of the economy beyond its high reliance on leisure based tourism is also important.

At the same time, Nelson Bay has a substantial residential population. It is important that Nelson Bay offers a high amenity environment to residents in order to maintain its existing population and to attract new residents. Many new residents are former tourists attracted to the relaxed coastal lifestyle of the area.

Over the next 20 years, population and employment are expected to grow in the Tomaree Peninsula including Nelson Bay, which is a main service/tourist centre. The anticipated growth of the area is acknowledged in the Lower Hunter Regional Strategy and Port Stephens Planning Strategy.

Nelson Bay Town Centre and Foreshore Strategy aims to:

- Stimulate and diversify jobs growth;
- Provide guidelines for the design of new buildings and development;
- Ensure adequate transport networks, parking, pedestrian facilities and other infrastructure;
- Ensure Nelson Bay is an attractive place to live, work, visit and shop;
- Manage and develop Nelson Bay as a tourism centre;
- Improve the relationship between the Nelson Bay Town Centre and the Nelson Bay foreshore;
- Facilitate a distinctive Town Centre character;
- Preserve the natural environment, which is critical to Nelson Bay's economy and liveability.

The Strategy document provides a multidisciplinary analysis that results in a vision for change and details the key initiatives and strategies that will guide the Town Centre and Foreshore.

The Strategy not only recommends planning controls for future developments and guidance for the revitalisation of the public domain, it also identifies the critical stages and considerations in delivering the Strategy's vision.

The development of a strategy for Nelson Bay has been an extensive process over several years, and has involved considerable community consultation. A range of studies have been undertaken which have provided substantial background information upon which to base the Strategy.

Late last year a stakeholders forum was established. The Stakeholders Forum has met regularly to discuss issues related to the Strategy and to provide feedback to Council officers as the final Strategy is developed. An innovative program of involving local school students in developing a vision of a future Nelson Bay has helped ensure that the views of younger people (who will inherit the outcomes of the Strategy) has been considered.

The Hunter Valley Research Foundation has also undertaken an independent survey of residents, visitor and business views on aspects of the Strategy. The survey is further discussed in under the consultation heading below, and a copy of the report of the survey results is at Attachment 3 (under separate cover).

Because traffic and parking is a major issue in Nelson Bay, Consultants GHD were engaged to review traffic and parking in the Town Centre and Foreshore, and to provide recommendations for addressing the issues they identified.

Council officers have comprehensively reviewed the studies that have been undertaken, the comments on draft Strategy made by Council in 2011, workshop outcomes, and submissions received during the exhibition of the draft Strategy in 2009. They have also undertaken detailed site inspections.

The outcome is a Strategy which is more finely tuned to Nelson Bay's circumstances than the previous draft. It also has a greater focus on improving the overall ambience and functionality of the Town Centre through such measures as new street tree planting, improved signage, improving access to parking and a better pedestrian network. It also provides incentives and flexibility to encourage incoming investment.

Analysis of the Town Centre reveals that it has several distinct sub-areas deserving of special development controls and public domain treatments in order to enhance their character.

The commercial zoned area of Nelson Bay is too large for a centre with a relatively limited catchment. As a result activity tends to become dispersed and a sense of focus is lost, with a negative impact on business viability. By developing the character and function of specific areas it is possible to focus activity and to overcome the problems of dispersion.

A village area exists around Magnus Street, the northern end of Stockton Street and parts of Donald Street. This area contains many small shops, boutique retail and cafes and needs to be further developed in a way that builds on its character.

A number of larger sized sites and existing premises exist in the area to the south and west of the "village". This area offers the potential to provide more flexibility for new development within a number of Nelson Bay specific urban design controls.

The Strategy provides greater flexibility for new development than the draft Strategy. It also includes incentives that improve the development yield of sites in return for higher quality design and benefits to the public realm (see below).

Key recommendations of this Strategy include new development controls that will be implemented through a proposed new Nelson Bay Town Centre locality chapter in the Port Stephens Development Control Plan (DCP), recommendations for additional clauses to be included in the Port Stephens Local Environment Plan 2000 (and subsequently the Port Stephens Local Environmental Plan 2012 (Standard Instrument Principal LEP)), and a document titled the Nelson Bay Implementation Program. A proposed outline of draft development controls are provided at Attachment 4 (under separate cover).

The treatment of the public domain is absolutely critical to achieving a quality result in Nelson Bay and attracting more residents, tourists and businesses. The public domain strongly influences how people feel and experience the town, and ties the elements of the town together. The Nelson Bay Implementation Program clearly sets out the vision for the major projects necessary to achieve the Strategy's objectives in this regard, including:

- The basis for a public domain strategy for Nelson Bay. This Strategy seeks to improve streetscapes, better define view corridors, improve pedestrian connectivity, and create a strong pedestrian "spine" along Stockton Street to the waterfront;
- A design brief for Apex Park and the wider green linking area between the Town Centre and Foreshore. Apex Park has evolved over time and as a result has lost an overall structure. Many facilities in the Park, such as the War Memorial, are functionally compromised as a result. Tree plantings have grown and obscured important view corridors to the water;
- Directing vehicular and pedestrian movement through improved signage and interpretive material is very important to improving the visitors experience of Nelson Bay and to bring the Town Centre and the waterfront closer together;
- Initiatives to reinforce for the Character Areas identified in this Strategy;
- The Foreshore redevelopment;
- Public art, tree planting, lighting strategy, street furniture, and signage;
- Key staging considerations;
- Implementation responsibilities.

In relation to building heights, it is critical that the wooded ridge and headlands that surround the Bay be visible and not eclipsed by buildings. A maximum of 5 storeys is proposed throughout the Town Centre with the exception of the area south of the Bowling Club (7 storeys) and the Marina area (3 storeys), and Fishermen's Co-op site (4 storeys). It is recommended buildings on sites with a street frontage of less than 20 metres be limited to 3 storeys in order to maintain an acceptable scale and proportion of the buildings.

A requirement for active street frontages and for buildings to be built to the street boundaries is proposed to be applied selectively to certain streets where footpath activity is great and there is a higher intensity of retail, café and restaurant premises (such as Magnus Street).

All development should be required to exhibit design excellence. Should a development exhibit outstanding design excellence, and provide a strategic public

benefit (e.g. an extraordinary public domain improvement or a conference centre facility) it may qualify for up to an additional 2 storeys and an additional 0.5:1 floor space ratio above the 2.0:1 floor space ratio that would normally apply to the Town Centre.

Where appropriate, an urban design advisory panel will provide advice to Council on the urban design merits of a specific proposal.

Developments on identified “opportunity” sites may qualify for a further additional 0.5:1 FSR (i.e. maximum of up to 3.0:1), but only if they meet specific criteria.

The opportunity sites are the Fishermen’s Coop, Sea Breeze Hotel, Nelson Resort and adjacent sites together with the Council car park in Donald Street west, the Council car park and adjacent sites in Donald Street east and the “Coles” site at the intersection of Donald and Stockton Streets (see map in the Strategy for details).

It is proposed that State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, considerations be applied to holiday accommodation in order to ensure they can be reasonably adapted to permanent accommodation when desired. This will also improve their external appearance and relationship to adjoining sites, and better “share the benefits” of such an outstanding location.

The first section of the Strategy provides a discussion as to why the Strategy was prepared, the context in terms of locality and the consultation process involved in the preparation of the strategy.

This is followed by a review of the relevant planning framework documents and provides the statutory context for the Strategy in terms of planning considerations.

Section three provides details of Nelson Bay’s:

- Social context;
- Economy;
- Land ownership and development potential;
- Natural Environment.

Section four provides an analysis of:

- Transport and Accessibility;
- Town Centre and Foreshore Urban Design issues;
- Development Opportunities.

Section five builds on the analysis work discussed within the analysis section by refining and clarifying the guiding principles that were adopted by Council in 2010 to guide the Strategy. The recommendation section provides a discussion on the key challenges and options in addressing the principles before moving onto the final recommendations.

The final section is focused on the implementation of the recommendations and provides a discussion on key issues including; financial opportunities available in implementing the Strategy, and the critical design and delivery stages.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The implementation of the Strategy has several elements. The development controls and guidelines within the Strategy will be implemented as part of Council's normal development assessment process using existing resource allocations. The costs of the proposed Urban Design Advisory Panel would be incorporated into the development application fees applied to relevant development applications.

It is proposed to develop a Section 94 Plan to assist in the implementation of the Nelson Bay Improvement Program. In addition the Nelson Bay Improvement Program would be implemented over time as Council priorities permit, through the reshaping of works that would be carried out in any case, through grant opportunities, and other funding mechanisms discussed in the Strategy. Developments may seek to implement aspects of the Nelson Bay Improvement Program in order to deliver a "strategic public benefit" as a requirement for being able to achieve additional development yield on their site.

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

It is considered that the Nelson Bay Town Centre and Foreshore Strategy has been developed in an open and transparent manner consistent with Council's statutory responsibilities. The proposed development controls and guidelines, development contributions and the Nelson Bay Improvement Program would be implemented consistent with Council policy, the NSW Local Government Act and the Environmental Planning and Assessment Act, 1979.

The major risk to Council is from not implementing the Strategy. Nelson Bay needs clear development guidelines to provide certainty for prospective developers and to allow residents, businesses and investors to understand Council's vision for the area. Nelson Bay is in need of revitalisation, and the Nelson Bay Town Centre and Foreshore Strategy provides a sound basis for this to be achieved.

It is important that Council prioritise works proposed in the Improvement Program in order to manage community expectations and to enable targeted advocacy to other spheres of Government for assistance. The Improvement Program will also enable Council to rapidly respond to grant opportunities as they arise with well targeted projects. In addition the Improvement Program will provide guidance for developments wishing to achieve a "strategic public benefit".

There is a risk inherent in Section 94 Contribution Plans that contributions will be received slower than expected, or less than expected. This is best managed by ensuring that the Plan is realistic in its assumptions, and by regularly reviewing the Plan.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Partial implementation	Medium	Establish clear priorities and a long term program	Yes
Lack of funding for works	Medium	Establish an Improvement Program to provide the basis for well directed advocacy, grant applications and Council works prioritisation	Yes
Lack of new development	Medium	Provide incentives for strategic high quality developments, case manage strategic developments, ensure development controls are not onerous for smaller development	Yes
Nelson Bay declines as a tourist destination	Medium	Ensure new development is high quality, improve the public domain, create a coherent attractive townscape, improve the functionality of the transport network	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Nelson Bay Town Centre and Foreshore Strategy is based on achieving a balance between environmental, economic and social objectives. It seeks to facilitate development in a location of outstanding natural beauty and environmental sensitivity.

## **CONSULTATION**

The previous draft Strategy was exhibited in 2009, and a number of workshops conducted during 2009 and 2010. A Stakeholder Forum has met several times during 2011 and 2012 to discuss aspects of the Strategy. A school student project has been undertaken to provide an insight into the views of young people.

Submissions received during the public exhibition have been considered in the development of the final Strategy. These were previously considered by Council in 2010 and 2011.

During 2012 the Hunter Valley Research Foundation undertook an independent survey based on statistically valid sampling.



The process involved finalising a fact sheet and questionnaire in consultation with Council and stakeholders, and the administration of the questionnaire in a way that provided a statistically valid result.

Owner residents, renters, absentee landlords and business owners were surveyed. Visitors were also surveyed using a different questionnaire. Those surveyed were asked to give their response according to a five point scale of agreement and disagreement; however provision was also made for some open ended questions.

There was consensus and strong support for the objectives and most of the specific proposals in the draft Strategy.

The characteristic of Nelson Bay most liked by community respondents was its sense of place/ atmosphere and lifestyle, followed by waterways/waterfront. Visitors liked the marina, beaches, restaurants and cafes and the Foreshore most. Parking costs and supply was the major dislike of visitors. There was high agreement that the general appearance of Nelson Bay needed to be improved.

There was a high level of community agreement on:

- Redeveloping car parks to increase car parking;
- Better connecting and signposting roads;
- No blank walls;
- Upper levels being setback;
- Maintaining clear views of the ridgeline;
- Having flexible accommodation (conversion of holiday units to permanent residences);
- Limiting the town centre to 5 storeys in height ;
- Not allowing buildings taller than 5 stories on the edge of the Town Centre even if their extra height will not block views;
- More trees and plantings;
- Building to the boundaries;
- New buildings on the Foreshore limited to 3 storeys;
- The Foreshore should be architecturally co-ordinated with the Town Centre;
- Improving the pedestrian route through Apex Park;
- Public places should express local history.

A low number agreed that a road bypass of the Town Centre was unnecessary.

There was lesser agreement between business and residents on allowing taller buildings on the town edge, in the area near the Fishermen's Co-op, that road redevelopment won't improve traffic flow and the need for an upmarket hotel.

Visitors felt that the marina area and low townscape should be maintained, and that the atmosphere of the town, small size and access to water make it more appealing than other tourist destinations.

Discussions were held with the Facilities and Services Group regarding the Strategy, particularly in relation to traffic and parking issues. Discussions were also held with Property Services regarding Council's own sites in Nelson Bay.

### **OPTIONS**

- 1) Adopt the recommendations of this Report;
- 2) Amend one or more of the provisions of the Strategy. The Strategy has been developed to achieve a balance between development, amenity, the natural environment and local character. It is the outcome of a lengthy process of investigation, analysis and consultation;
- 3) Reject the recommendations of the Strategy. This is not recommended because it will impede revitalisation of Nelson Bay by extending a period of uncertainty in relation to applicable development controls and Council's intention for the area. The Strategy has been developed to achieve a balance between development, amenity, the natural environment and local character. It is the outcome of a lengthy process of investigation, analysis and consultation.

### **ATTACHMENTS**

- 1) Nelson Bay Town Centre and Foreshore Strategy –under separate cover;
- 2) Nelson Bay Improvement Program –under separate cover;
- 3) HVRF Community Survey Executive Summary – under separate cover.
- 4) Draft Development Controls for Nelson Bay Town Centre and Foreshore – under separate cover.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

**NELSON BAY TOWN CENTRE AND FORESHORE STRATEGY**

**PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 2**

**NELSON BAY IMPROVEMENT PROGRAM**

**PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 3**

**HVRF COMMUNITY SURVEY EXECUTIVE SUMMARY**

**PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 4**

**DRAFT DEVELOPMENT CONTROLS FOR NELSON BAY TOWN CENTRE AND FORESHORE**

**PROVIDED UNDER SEPARATE COVER**

ITEM NO. 2

FILE NO: PSC2011-04071

**AMENDMENTS TO CHAPTER B6 SINGLE AND DUAL OCCUPANCY DWELLINGS – PORT STEPHENS DEVELOPMENT CONTROL PLAN 2007**

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the exhibited Chapter B6 Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures – Port Stephens Development Control Plan 2007 incorporating proposed amendments pursuant to the Environmental Planning and Assessment Act (**Attachment 1**), and
- 2) Note that discretion will be applied for a period of six months from adoption to enable assessment and determination of relevant applications under the former Chapter B6 of Port Stephens Development Control Plan 2007 when it is demonstrated that:
  - Applicants have entered into contractual and/or financial situations binding them to designs which are in accordance with the former Chapter B6; and/or
  - Applicants have valid, documented justification for having their applications assessed under the former Chapter.

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**COUNCIL COMMITTEE MEETING – 10 APRIL 2012**

**RECOMMENDATION:**

	<b>Councillor Bob Westbury</b> <b>Councillor Peter Kafer</b>
	That the recommendation be adopted.

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

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

Those against the motion: Nil.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>075</b>	<b>Councillor Peter Kafer</b> <b>Councillor Glenys Francis</b>
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the motion: Nil.

**BACKGROUND**

The purpose of this Report is to inform Council of the exhibited draft amendments to Chapter B6 Single and Dual Occupancy Dwellings – Port Stephens Development Control Plan 2007 (PSDCP 2007).

On 18 October 2011 Council resolved to place the draft amended Chapter B6 on exhibition. Details of the exhibition period are included within the consultation section of this Report.

The existing *Chapter B6 Single Dwellings and Dual Occupancy Dwellings* forms part of the PSDCP 2007 and details Council's requirements for single dwellings, dual occupancy dwellings and ancillary structures, which require consent under *Port Stephens Local Environmental Plan 2000* (LEP 2000).

To improve the implementation of existing development controls relating to minor residential and ancillary developments, and assist delivery of timely and effective approvals Council prepared an amended Chapter B6 (**Attachment 1**). During this process, new controls were developed, existing controls were amended or deleted, and the format of the Chapter was updated so as to improve the useability and functionality of the document.



The exhibited draft Chapter aims to reduce the number of existing development 'principles' relating to minor residential development in Port Stephens LGA from 71 to seven general 'objectives'. The existing 113 development controls have been consolidated into three tables (i.e. single dwellings, dual occupancy and ancillary development), with only 32 broad controls.

Three (3) submissions were received as a result of the exhibition. A summary of submissions has been provided below, and a detailed summary of the issues raised is provided within Attachment 2. Submissions were received from local industry representatives.

The issues raised in the submissions were:

#### Control 4.4 – Setbacks

The DCP should be consistent with the garage/front wall setbacks requirements in the NSW State Housing Code.

*Response: The DCP placed on exhibition is consistent with the garage/front wall setbacks of the NSW State Housing Code. It effectively requires garages to be set back 1m from the building line. There was no need to amend the exhibited DCP.*

#### Control 4.12 – Private Open Space

The DCP should be amended to permit private open space within the front setback in some instances such as irregular shaped parcels of land, incorrect orientation or shading, undesirable aspect.

*Response: A higher level of privacy and amenity can be achieved for dwelling house occupants where their primary open space is located at the rear and/or side of a property. To achieve a high level of residential amenity (i.e. no high front fences which reduce casual surveillance) the control should remain. In some instances (e.g. irregular-shaped parcels of land) there may be merit in allowing primary open space to be provided in the front setback. It remains open for Council to consider a variation to the control, having regard for the DCP objectives, on merit. Under the amended DCP Chapter B6 the applicant has the ability to demonstrate that the proposal satisfies the objectives of the control for a merit based variation to be supported. The exhibited DCP has not been amended.*

#### Control 4.13 – Car Parking and Garages

The DCP should be amended to permit a garage width greater than 9m on land zoned 1(a) Rural Agriculture.

*Response: The control does apply to land zoned 1(a) Rural Agriculture. It applies to all lots over 1500 square metres. The control applies to garages for residential purposes. Applicants have the ability to apply for larger garages under a merit assessment. The DCP control has been amended to clarify what land it applies to.*

#### Control 4.1.4 – Earthworks

The DCP should be amended to permit 600mm of fill instead of 300mm.

*Response: An objective of the DCP is to ensure that development responds to both its natural and built context. In this regard it is considered that excessive cut and fill on a site can result in poor environmental, streetscape and amenity outcomes. Within the Vantage Estate development Council has been enforcing a 300mm maximum fill and have seen high quality outcomes on the ground. In some site-specific instances the 300mm maximum fill may not be achievable. In these instances, applications can request variation to the control and a merit based assessment if the objectives of the DCP are achieved. The exhibited DCP has not been amended.*

**Control 4.15 – Stormwater and Drainage**

The DCP should be amended to permit underground water tanks at the front of a dwelling.

*Response: Allowing underground water tanks at the front of a dwelling has merit if there is no negative impact to the street. The exhibited DCP was amended to address this issue.*

**Control 5.1 – Subdivision**

The DCP should be amended to allow earlier release of Subdivision Certificate for a Dual Occupancy development. The current control only allows release of the Subdivision Certificate after Final Inspection Certificate has been issued and this leads to unnecessary delay and has a negative financial impact.

*Response: The timing of release of Subdivision Certificates for dual occupancy development was the main issue raised. The “former” DCP Control B1.C40 only permitted release until a Final Inspection Certificate has been issued for the approved dwellings. Submissions were that this has unintended but serious economic and social impacts as a result of time delays: there is a need to facilitate earlier release of Subdivision Certificates. The relevant DCP control, as exhibited, facilitates this. It allows the release of Subdivision Certificates after satisfactory inspection of building frames has occurred, and will provide Council and future purchasers with reasonable certainty about the completion of the Dual Occupancy dwellings as approved and with services delivered.*

*It should be noted that Council previously experienced the following issues with the premature release of Subdivision Certificates for Dual Occupancy development:*

- *The subdivision and driveways were often built, however services were not laid along the right of carriageway often passing costs onto the purchaser. In some instances Council was finding that insufficient room was provided to lay services alongside the driveway;*
- *The purchaser are often not provided with approved plans, causing copyright issues that Council is then required to manage;*
- *Purchasers were often left with the full cost of providing shared services such as inter-allotment drainage, driveways and the like, rather than the developer or all properties sharing these costs;*
- *Purchasers often wishing to modify their approval and were unable to, as the original DA was over the parent property which was subsequently subdivided*

*into Torrens title lots with independent owners. This created a situation in which the new purchaser was required to lodge a new DA at full cost rather than the half cost of a modification of consent.*

New purchasers were often lodging DAs for a new dwelling, only to be told at lodgement that their land belonged to an integrated parcel, and that they would need to redesign the dwelling to comply with the dual occupancy controls instead of single dwelling controls.

#### Control 6.3 – Outbuildings (Rural)

The DCP should be amended to address the difference between Rural Residential and Rural land.

*Response: The DCP distinguishes between the size of outbuildings on Residential (72 square metres), Rural Residential (108 square metres) and Rural (200 square metres) lots.*

#### Control 6.6 – Retaining Walls

The DCP should be amended to permit retaining walls that are wholly contained within an allotment instead of at least 300mm from a boundary.

*Retaining walls have to be wholly contained within a development site. The intent behind recommending a 300mm separation was to avoid any uncertainty. The exhibited DCP has been amended to remove any reference to a 300mm separation.*

#### Control 7.4 – Driveways

The DCP should be amended to include approval of a driveway within a development application for a dwelling rather than driveways being subject to a separate approval at additional cost.

*The driveway approval process is a separate approval under the Roads Act and is under separate review. A separate driveway application will still be required.*

### **FINANCIAL/RESOURCE IMPLICATIONS**

Adoption of the amended Chapter B6 aims to facilitate the continued efficient processing of development applications. The amended chapter has been prepared to encourage development in Port Stephens, while maintaining a high level of residential amenity within the locality.

There are no significant financial and/or resource implications if Council resolves to adopt the amended Chapter B6. Any associated costs will be met using the existing budget and staff resources.

**LEGAL, POLICY AND RISK IMPLICATIONS**

The amended Chapter B6 *Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures (Attachment 1)* replaces the existing provisions of Chapter B6. As such, a transitional period is recommended in the event that the amendments to Chapter B6 are adopted.

It is considered that a six month transitional period, in which amended Chapter B6 and existing provisions of Chapter B6 would be operational. This will allow the opportunity for applicants and development industry who have already engaged consultants to design proposals under the existing Chapter B6 controls to finalise their design and lodge an application with Council for assessment. During this period applicants will need to nominate under which plan they wish to have their application assessed.

Controls have also been introduced to the DCP post-exhibition to regulate shipping containers on residential, rural residential and rural properties. No local controls are currently in place. Adding controls will provide guidance to applicants on this matter which is a very common planning enquiry. Refer to Development Control 6.7 of the DCP.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
The development and housing industry is generally supportive of the draft Development Control Plan	Low	Continue to consult with the development and housing industry as part of the implementation of the Development Control Plan	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The draft amendments to Chapter B6 address and integrate sustainability issues for the planning, design, assessment and consideration of development applications for single dwellings, ancillary structures and dual-occupancy dwellings within the Port Stephens LGA.

The amended Chapter B6 continues to make provisions for controlling development by managing such requirements as the extent of cut and fill, landscaping, stormwater and runoff, and solar access, to ensure that development is appropriately designed and constructed to achieve maximum yield whilst maintaining the amenity of neighbouring properties and streetscape, and the integrity of the environment.

**CONSULTATION**

The amendment to Chapter B6 Single and Dual Occupancy Dwellings was placed on exhibition from 3<sup>rd</sup> November 2011 until 1<sup>st</sup> December 2011.

The documents were made available at the Council Administration Building, Raymond Terrace Library, Tomaree Library (Salamander) and from Council's website.

The exhibition of the amendments to Chapter B6 Single and Dual Occupancy Dwellings has provided an opportunity for the community, landowners, developers and industry representatives to review and comment on the contents of the Chapter. The exhibition followed consultation with relevant Council Officers from the Development Assessment and Environmental Health Section, in particular the Building Assessment Team.

As part of the exhibition process Council also held an industry forum on 21 November 2011 to brief the industry and gain feedback. Industry representatives in attendance at the forum were generally supportive of the amended Chapter B6. General discussion and comments made by industry representatives are addressed in the table at **Attachment 2**.

### **OPTIONS**

- 1) Adopt the recommendation of this Report, to formally adopt the amended *Chapter B6 Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures*, and to introduce a six (6) month transitional period. This is the recommended option;
- 2) Amend the DCP chapter. This would require additional consultation with the community. Comments from industry have been generally supportive of the amended Chapter B6 in its current form. This option is not recommended; and
- 3) Reject the recommendation, and take no further action. This would maintain the existing and more complex Chapter B6 controls.

### **ATTACHMENTS**

- 1) Chapter B6 Single Dwellings, Dual Occupancy Dwellings, and Ancillary Structures; and
- 2) Detailed summary of submissions received.

### **COUNCILLORS ROOM**

- 1) Submissions.

### **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1

CHAPTER B6 SINGLE DWELLINGS, DUAL OCCUPANCY DWELLINGS, AND ANCILLARY STRUCTURES

Port Stephens DCP 2007

Single Dwellings, Dual Occupancy  
Dwellings and Ancillary Structures

B6

**Chapter B6 - Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures**

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DRAFT

**1. Where this part applies**

This part applies to development applications upon residential and rural zoned land for:

- single detached dwellings
- alterations and additions to single detached dwelling houses
- dual occupancy housing
- ancillary domestic structures including: swimming pools, outbuildings, detached balconies etc, fences, shipping containers,

There are additional general and site specific development controls which need to be considered in conjunction with this part. General controls to also be considered include:

- A1 – Introduction
- B1 - Subdivision and Streets
- B2 - Environmental Management
- B3 – Parking, Traffic and Transport
- B15 – Aircraft Noise for Buildings

Site specific controls include:

- C1 - Raymond Terrace Town Centre
- C4 - Nelson Bay West
- C6 – Tanilba Bay – Koala Bay Estate
- C7 - Medowie (Pacific Dunes)

Note: Site specific controls prevail over this part in the event of any inconsistency.

Development standards for minimum site area per dwelling, floor space ratio and maximum height are provided in the Port Stephens Local Environmental Plan 2000.

For information about lodgement requirements, land constraints and other Council policies that may apply please visit Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au).

**2. How to use this part**

- 2.1. Under Section 79C of the Environmental Planning and Assessment Act 1979, the contents of this Plan must be considered by the Council when determining development applications.
- 2.2. Section 4, 5 and 6, of this part contain the controls which represent minimum standards to meet the objectives of the part.
- 2.3. Within section 8 are listed the defined terms utilised in this part. Defined terms have special meanings and are those which are identified throughout the part in **bold italics**.
- 2.4. Council recognises that in some areas sites are constrained, and it is not always possible or practical to comply with the identified 'development requirements'. To deal with this, Council has outlined a number of 'objectives' to assist applicants in preparing a suitable design solution. Where an application fails to comply with the 'development requirements'

the applicant should demonstrate to Council that the 'objectives' of the plan have been achieved. This is known as a **performance based approach** to the design and subsequent assessment process.

- 2.5. Conversely, strict compliance with the identified 'development requirements' does not necessarily mean that a development application will be approved. Proposals need to be designed so as to properly respond to the constraints and opportunities of the development site.

### 3. Objectives

- 3.1 To ensure residential development has adequate levels of privacy, solar access, open space, visual amenity and services.
- 3.2 To ensure development responds to both its natural and built context, and is of a scale that relates well to local context and streetscape.
- 3.3 To ensure that development has regard to the character of the area in which it is proposed and does not have an unacceptable effect on adjoining land by way of bulk, scale, built form, over-shadowing, unreasonable intrusion of privacy, and noise.
- 3.4 To ensure that the development design takes into account potential environmental constraints including but not limited to; flora & fauna, koala habitat, acid sulphate soils, soil erosion, flooding, aircraft noise, bushfire risk, slope stability, geotechnical conditions, sea-level rise, tidal inundation, archaeology and heritage context.
- 3.5 To ensure development provides convenient, directly accessible and safe parking to meet the needs of residents and minimise the impact on neighbours and the road network.
- 3.6 To conserve and protect the natural, built and cultural heritage significance of Port Stephens, including listed heritage items, conservation areas and encourage development which respects that significance, and
- 3.7 To ensure that development does not adversely alter the quality, quantity or distribution of stormwater flows leaving the site, and to minimise or eliminate point or diffuse source pollution.

### 4. Development requirements dwellings (Single and Dual Occupancy)

Single and dual occupancy dwellings must comply with the development requirements as outlined within Table 1 – Development requirements dwellings and alterations.



Table 1 – Development requirements dwellings and alterations

Control		Requirements
4.1 Site coverage		- maximum 60% including all pavement areas (applies to residential zones only)
4.2 Height		- maximum 9m (Clause 19 of PSLEP 2000)
4.3 Max no. of storeys		- Two (2) storeys - roof top terraces will not be supported.
4.4 Setbacks	4.4.1 Primary front	- minimum of 4.5m for a greenfield site - for <b>infill development</b> the <b>average setback</b> of existing properties, but not less than 4.5m
	4.4.2 Secondary (corner lots)	- minimum 2m
	4.4.3 Side (single storey and/or ground floor)	- minimum 900mm
	4.4.4 Side (upper storey)	- minimum 2m
	4.4.5 Rear (ground floor)	- minimum 2m
	4.4.6 Rear (upper floor)	- minimum 6m
	4.4.7 Garages	- minimum 5.5m greenfield sites - minimum 1m behind the <b>building line</b> for infill sites
	4.4.8 Public reserves/waterfront	- minimum 3m from reserve boundary - minimum 4.5m from waterfront/waterfront reserve - minimum 1m from reserve/waterfront reserve access boundary
	4.4.10 Articulation zone	- 1.5m encroachment to front setback for architectural features (i.e. entry, porch) - 1m encroachment to secondary setback for architectural features
4.5 Setbacks Rural	4.5.1 Primary and secondary front (rural buildings)	- minimum 10m
	4.5.2 Side and rear (rural buildings)	- minimum 5m
4.6 Building form and streetscape		- At least one <b>habitable room</b> such as a living area is to front the street and/or adjoining public spaces

Control	Requirements
4.7 Orientation to Street frontage	<ul style="list-style-type: none"> <li>- maximum length of unarticulated blank wall maximum 6metres</li> <li>- to be sympathetic to existing streetscape <b>character</b> and built form with regard to design, bulk &amp; scale, form, materials and roof configuration</li> </ul>
4.8 Bulk and scale	<ul style="list-style-type: none"> <li>- maximum <b>floor space ratio</b> 0.5:1 (Clause 19 of PSLEP 2000)</li> </ul>
4.9 <b>Solar access</b>	<ul style="list-style-type: none"> <li>- minimum 2hrs to <b>private open space</b> between 9am and 3pm midwinter</li> <li>- ensure that 50% of the private open space of adjoining dwellings remains unaffected by any shadow between 9am to 3pm midwinter</li> </ul>
4.10 Privacy	<ul style="list-style-type: none"> <li>- Balconies located to minimise overlooking of adjoining properties</li> <li>- <b>Privacy screen</b>, high-light windows or opaque glass to windows of habitable rooms (other than bedrooms) which overlook adjoining properties</li> <li>- Privacy screens are required for balconies and patios etc., which potentially result in unreasonable privacy impacts to adjoining properties</li> </ul>
4.11 Landscaping	<ul style="list-style-type: none"> <li>- Minimum 40% of site area must be <b>soft landscape area</b> (applies to residential zones only)</li> <li>- Trees to be maintained where practical in accordance with Council's Tree Preservation Order</li> </ul>
4.12 <b>Private Open Space</b>	<ul style="list-style-type: none"> <li>- minimum 50m<sup>2</sup> comprising a minimum 35m<sup>2</sup> <b>usable open space</b> which;                             <ul style="list-style-type: none"> <li>- has minimum dimension 4m x 4m</li> <li>- is accessible from living areas</li> <li>- is not to be located within front setback</li> </ul> </li> </ul>

Control		Requirements
4.13 Car parking and garages	4.13.1 Parking requirements	<ul style="list-style-type: none"> <li>- northerly aspect private open space to be provided (primary or secondary)</li> <li>- 1 space behind the building line for one or two bedroom dwellings</li> <li>- 2 spaces behind the building line for dwellings with three or more bedrooms</li> <li>- stacked parking will be accepted where demonstrated that it is appropriate and applies to a maximum of 2 spaces.</li> </ul>
	4.13.2 Driveway width	<ul style="list-style-type: none"> <li>- driveway crossing maximum 4m width</li> </ul>
	4.13.3 Garage door width	<ul style="list-style-type: none"> <li>- maximum garage width of 6m upon residential lots or 50% of the site frontage (whichever is the lesser)</li> <li>- maximum garage width of 9m for lots over 1500m<sup>2</sup>.</li> </ul>
	4.13.4 Design	<ul style="list-style-type: none"> <li>- minimum dimension for a single car parking space shall be 5.5 metres (depth) x 2.6 metres (width) where unenclosed</li> <li>- minimum dimension for double car parking space shall be 6 metres x 6 metres, unenclosed</li> <li>- minimum internal dimensions for a single garage shall be 6 metres (depth) x 3 metres (width).</li> <li>- minimum internal dimensions for a double garage shall be 6 metres (depth) x 6 metres (width).</li> </ul>
4.14 Earthworks		<ul style="list-style-type: none"> <li>- maximum 1m <b>cut</b> (other than for swimming pools)</li> <li>- maximum 300mm <b>fill</b></li> <li>- modified ground levels (batter slopes) are not to exceed a gradient of 1 vertical to 2 horizontal</li> <li>-For sandy soils modified ground levels</li> </ul>

Control	Requirements
	<p>(batter slopes) are not to exceed a gradient of 1 vertical to 3 horizontal</p> <ul style="list-style-type: none"> <li>- batter slopes in excess of 1:4 to be heavily planted</li> </ul>
4.15 Stormwater and drainage	<ul style="list-style-type: none"> <li>- Each allotment must be able to drain all roof water and impervious runoff, through the site drainage system to the public drainage system (i.e. the street, an easement or public pipes or by approval to a public drainage reserve).</li> <li>- Allotments without access to the public drainage system or a suitable easement are to manage stormwater onsite to ensure no impact on adjacent properties.</li> <li>- At a minimum stormwater quality and drainage to comply with Council Standard Drawing S136</li> <li>- Drainage systems must be designed to ensure safety and to avoid any potential for inundation of habitable floor areas, outbuildings, garages and sheds.</li> <li>- Pumping of stormwater is not permitted.</li> <li>- Water tanks are to be located at the side or rear of a dwelling, or not visible from the street frontage when above ground.</li> </ul>
4.16 Heritage and heritage conservation areas	<ul style="list-style-type: none"> <li>- be designed to retain and complement the <b>heritage significance</b> of <b>heritage items</b> and their settings, and the heritage significance of <b>heritage conservation areas</b> or heritage items on an adjoining or adjacent property, by using compatible building styles, colours and materials and being of similar bulk and scale</li> </ul>
4.17 Energy efficiency	<ul style="list-style-type: none"> <li>- valid BASIX Certificate to be provided</li> <li>- where BASIX doesn't apply applicants to give consideration to energy efficiency measures in</li> </ul>

Control	Requirements
	building design including: home orientation and layout, solar access, natural ventilation and natural lighting, and use of water sensitive design and rainwater tanks
4.18 Aircraft noise	- development identified within 'aircraft noise planning area' in accordance with chapter B15 – Aircraft Noise

**5. Additional development requirements dual occupancy housing**

In addition to Table 1 – Development requirements dwellings and alterations, Table 2 below provides additional controls for **dual occupancy housing**. In the event of inconsistency between this section and section 4, the requirements of this section will prevail.

**Table 2 – Additional controls for dual occupancy housing**

Control	Requirements
5.1 Subdivision	5.1.1 Design - as per Chapter B1 Subdivision and Streets
	5.1.2 Subdivision certificate - Subdivision certificates for dual occupancy development can be released after satisfactory critical inspection of frames is completed. Evidence of satisfactory inspection is to be provided to Council with subdivision certificate application - This control supersedes Chapter B1 C40
5.2 Minimum lot size	- Varies upon location (refer to Clause 19 of PSLEP 2000)
5.3 Height	- maximum 8 metres (Clause 19 PSLEP 2000)
5.4 Building form and streetscape	- two storey development must include a balcony/deck facing the street on the upper floor, at least 1.5m deep across 25% of the dwelling frontage
5.5 Private open space	- where development cannot provide private open space on the ground floor, provision shall be made for a balcony or the like not less than 20m <sup>2</sup> with a minimum width of 3m for use



Control	Requirements
5.6 Car parking, garages and access	<p>as private open space.</p> <ul style="list-style-type: none"> <li>- Manoeuvring areas are to be provided for dwellings without street frontage so that vehicles can enter and exit the site in a forward direction</li> <li>- Stacked parking for strata-title dual occupancies will only be considered where the parking spaces are attached to the same strata title unit/dwelling</li> </ul>
5.7 Stormwater	<ul style="list-style-type: none"> <li>- The developed site must provide an overland flow path for the 1% AEP storm event. The post development flows of stormwater generated from the development must approximate the pre-development flows.</li> </ul>
5.8 Site facilities and services	<ul style="list-style-type: none"> <li>- Adequately screened <b>waste storage and recycling areas</b> are to be provided for each dwelling behind the building line</li> <li>- Suitable open-air area for clothes drying to be provided.</li> </ul>

**6. Development requirements ancillary structures**

Ancillary structures must comply with the development requirements as outlined within Table 3 – Ancillary development,

**Table 3 – Ancillary development**

Control	Requirements
6.1 Swimming pools	<ul style="list-style-type: none"> <li>- waters edge must be setback at least 1m from the side or rear boundary.</li> <li>- decking to be a maximum width of 1m, if pool is located more than 600mm above the existing ground level</li> </ul>
6.2 Outbuildings (residential)	<ul style="list-style-type: none"> <li>- maximum floor area of 72m<sup>2</sup></li> <li>- maximum height of 3.6m</li> <li>- side and rear setback at 900mm</li> </ul>
6.3 Outbuildings (rural residential and rural lots)	<ul style="list-style-type: none"> <li>- maximum floor area of 108m<sup>2</sup> on rural residential lots</li> <li>- maximum floor area of 200m<sup>2</sup> on rural lots</li> </ul>

Control	Requirements
6.4 Detached balconies, deck, patio, pergolas, terraces and verandahs	<ul style="list-style-type: none"> <li>- maximum height of 4.2m</li> <li>- front setback 10m</li> <li>- side and rear setback 5m</li> </ul>
6.5 Fences	<ul style="list-style-type: none"> <li>- are not to have a floor level that is more than 600mm above existing ground level.</li> <li>- setbacks as per outbuildings</li> <li>- maximum height of 1.2m along the front setback and not to be of solid infill construction</li> <li>- maximum 1.5m in height along main roads and secondary street frontages</li> <li>- maximum 1.8m side and rear boundary fences</li> </ul>
6.6 Retaining walls	<ul style="list-style-type: none"> <li>- maximum height 1m</li> <li>- to be of masonry construction within 900mm of a property boundary and when greater than 600mm in height</li> <li>- be wholly contained within the development site</li> </ul>
6.7 Shipping containers	<ul style="list-style-type: none"> <li>- Residential lots:                             <ul style="list-style-type: none"> <li>- 1 only for storage during construction of a dwelling</li> <li>- 6m standard length</li> <li>- located at rear of proposed dwelling</li> </ul> </li> <li>- Rural residential lots:                             <ul style="list-style-type: none"> <li>- 1 only</li> <li>- 6m standard length</li> <li>- located at rear of dwelling</li> <li>- setback requirements as per rural outbuildings</li> <li>- landscaping provided to reduce impact if visible from neighbouring properties and public space</li> </ul> </li> <li>- Rural lots:                             <ul style="list-style-type: none"> <li>- maximum of 3</li> </ul> </li> </ul>

Control	Requirements
	<ul style="list-style-type: none"> <li>- setback requirements as per rural outbuildings</li> <li>- landscaping provided to reduce impact if visible from neighbouring properties and public space</li> </ul>

## 7. Submission requirements

### Variation to development standard

7.1. Council acknowledges that certain sites are constrained which may limit full compliance with the development requirements stipulated within Section 4, 5 and 6 of this control.

In instances where compliance cannot be achieved the applicant must submit detailed design documentation demonstrating departure from the standard, compliance with the objectives and justify all variations to the 'development requirements'. Justification to support variations to the development requirements must demonstrate that the non-complying proposal will still satisfy the objectives of this control as outlined within Section 3.

To vary a development standard set down in the PSLEP 2000 an application under State Environmental Planning Policy 2000 Development Standards must be submitted.

### Standard lodgement requirements

7.2. The standard lodgement requirements are outlined within Council's Development Application Guide and include:

- owners consent
- Statement of Environmental Effects
- survey plan which must detail: (a) the location, boundary dimensions, site area and north point of the land, (b) existing vegetation and trees on the land, (c) the location and uses of existing buildings on the land, (d) existing levels of the land in relation to buildings and roads, (e) the location and uses of buildings on sites adjoining the land.
- site plan
- floor plans and elevations, including **reduced levels (RL)**.
- Hunter Water stamped plans

Please refer to Council's Development Application Guide accessible at Council's website for further detail regarding these requirements.

### Aircraft Noise



- 7.3. For sites identified within Council's 'aircraft noise planning area' please refer to chapter B15 of this Plan for additional submission requirements.

**Driveways**

- 7.4. A driveway construction application is required for all proposed driveways. Where the difference in level between the kerb and the garage floor is +/- 600mm, or where a steep change in gradient occurs within the road reserve, a driveway construction application will be required prior to approval. For all other circumstances the application will not be required until Construction Certificate stage.

**Stormwater and Drainage**

- 7.5. Stormwater and drainage plans and design must detail the following requirements:
- a) Applicants are required to submit a drainage concept plan. The drainage concept plan shall demonstrate how stormwater is diverted from parking areas, driveways, paths and other impervious areas towards stable vegetated areas to allow filtering and infiltration of water.
  - b) All stormwater from downpipes, including the overflow from rainwater tanks, must be piped to stormwater infiltration/retention measured sized and designed to Council standards.
  - c) The minimum standard for stormwater quality treatment is Council's Standard Drawing S136, specifications and guidelines. All stormwater from downpipes, including the overflow from rainwater tanks, must be piped to a stormwater quality structure measured sized and designed in accordance with Council Standard Drawing S136.
  - d) Council may require alternate or additional stormwater measures in exceedance of Standard Drawing S136, such as on site detention or site infiltration designed for storm events up to the 1% AEP for development which exceed the maximum site coverage requirements, and/or if a particular site or stormwater catchment has drainage problems (please consult with Council's Development Engineering Team for further information).
  - e) The design and use of any infiltration devices, porous paving, retention trenches and other runoff controls must satisfy practical and realistic design and maintenance standards appropriate for any future owners. The placement of infiltration devices such as S136 is not acceptable for maintenance practicalities.

- f) Water tanks for stormwater or roofwater collection must satisfy standards for installation, treatment, water reuse and impact on neighbours.
- g) A statement must be submitted with a development application that outlines the proposed method of draining the site and that incorporates BASIX and Council stormwater management requirements.
- h) Landscaped areas must be integrated with the drainage design. The location of drainage lines, pits and detention areas should not conflict with landscaped areas including proposed and existing trees.

#### **Bushfire**

7.6. Applications within **bushfire prone land** at BAL 29, 40 or Flame zone (FZ) are to provide a landscape plan, prepared by a suitably qualified person, demonstrating compliance with the provisions of *Planning for Bushfire Protection 2006*.

#### **Dual Occupancy - landscaping**

7.7. Applications for dual-occupancy development must include a **landscaping plan** prepared by a suitably qualified person that provides suitable plantings with a similar scale to the development.

#### **Erosion and sedimentation control**

7.8. An Erosion and Sediment Control Plan must be provided in accordance with the requirements of Council Policy *Planning for Erosion and Sediment Control on Single Residential Allotments*.

#### **Shadow diagrams – two or more storeys**

7.9. For all development that is two or more storeys in height or where lot size, orientation, slope, scale or building setbacks create a potential for overshadowing of an adjoining property a shadow diagram prepared by a suitably qualified person must be provided. The shadow diagram must show existing shadows and shadows created by the proposed building on adjoining residential buildings and their private open space.

#### **Heritage items**

7.10. For sites listed as a heritage item under the PSLEP 2000 a comprehensive statement of heritage impact prepared by a suitably qualified person must be submitted. The relevant provisions of PSLEP 2000 need to be addressed.

#### **Heritage conservation areas**

7.11. For sites listed in heritage conservation areas under PSLEP 2000 applicants are required to provide a statement identifying how the proposed development has

been designed to be compatible and complementary to the heritage significance of the locality.

#### 8. Definitions

- 8.1. **articulation zone** means the 1m encroachment to the primary front setback to allow for design features such as front porch, entry or the like.
- 8.2. **average** for the purposes of determining front setback, "average" means the average distance of the setbacks of the nearest 2 dwelling houses having a boundary with the same parallel road and located within 40m of the lot on which the dwelling house is erected.
- 8.3. **building line** means the horizontal distance between the property boundary or other stated boundary and a building wall or the outside face of a balcony, deck or the like, or the supporting posts or a carport or verandah roof.
- 8.4. **bush fire prone land** means land recorded as bush fire prone land on a map for the area certified as referred to in section 146 (2) of the Act.
- 8.5. **character** means the expression of qualities which distinguishes one thing from others, a significant landscape or streetscape feature.
- 8.6. **cut** means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.
- 8.7. **dual occupancy housing** means housing consisting of 2 (but not more than 2) dwellings, whether attached or detached, on a single allotment of land (or which would be on a single allotment were it not for the fact that the allotment is to be subdivided as part of the development that gives rise to the existence of the 2 dwellings on the land concerned).
- 8.8. **earthworks** means excavation or filling.
- 8.9. **fill** means the depositing of soil, rock or other similar extractive material obtained from the same or another site.
- 8.10. **floor space ratio** of buildings on a site is the ratio of the **gross floor area** of all buildings within the site to the **site area**.
- 8.11. **greenfield site** means a site in a locality which has been previously undeveloped other than for agricultural pursuits, Usually semi-rural land.
- 8.12. **gross floor area** means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external closing walls as measured at a height of 1,400 millimetres above each floor level excluding:
- (a) columns, fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external walls, and

- (b) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air-conditioning ducts, and
  - (c) car-parking needed to meet any requirements of the council and any internal access thereto, and
  - (d) space for the loading and unloading of goods.
- 8.13. **habitable room** means a room (other than a bathroom, laundry, water closet or the like) which is designed, constructed or adapted for the activities normally associated with domestic living.
- 8.14. **height**, in relation to a building, means the maximum height of the building measured vertically from the natural ground level or the finished ground level of the completed building, whichever is the lower.
- 8.15. **heritage conservation area** means land shown edged by a heavy black broken line on the map and listed in Part 2 of Schedule 2 of Port Stephens Local Environmental Plan 2000 and includes buildings, works, relics, trees and places situated on or within that land.
- 8.16. **heritage item** means a building, work, relic, tree or place (which may or may not be situated on or within land that is a heritage conservation area) listed in Part 1 of Schedule 2 of Port Stephens Local Environmental Plan 2000.
- 8.17. **heritage significance** means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.
- 8.18. **infill development** means development occurring within an existing residential subdivision and/or locality.
- 8.19. **landscape plan** means a plan or document outlining the extent, type and location of hard and soft landscape works proposed for a development
- 8.20. **outbuilding** means a structure not connected with the primary residence on a parcel of property. This may include a shed or garage.
- 8.21. **performance based approach** is the means of achieving an objective based on the desired outcome, rather than specific numerical standards.
- 8.22. **primary front setback** means the shortest distance from the front property boundary to the first vertical element of the building
- 8.23. **private open space** means an area of land external to a building that is used for private outdoor purposes ancillary to the use of the building.
- 8.24. **privacy screen** means a screen that:
- faces the boundary, and
  - is 1.5m high, measured from the floor level, and
  - has no individual opening more than 30mm wide, and
  - has a total of all openings less than 30 per cent of the surface area of the screen.



- 8.25. **reduced level (RL)** means height above the Australian Height Datum, being the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971.
- 8.26. **residential amenity** is considered as the benefit enjoyed from physical external space which is part of the private home. The benefit enjoyed depends on the quality of space. The level of enjoyment is also dependent on a number of factors, including location, size, orientation, sounds, noise, accessibility and enclosure.
- 8.27. **setback** means the distance between the external wall of a building and boundary that provides an unbuild open space between that boundary and the building within the property. The setback is measured at 90 degrees to the road or reserve boundary.
- 8.28. **site area** means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.
- 8.29. **site coverage** includes the building footprint and all impervious surfaces in direct contact with the ground, i.e. concrete slabs, outbuildings and driveways.
- 8.30. **soft landscape area** means any area that is landscaped by way of planting of gardens, lawns, shrubs or trees in deep soil, but does not include planting on a podium or in planter boxes, or the area of driveways, parking, paths or other hardstand pavement
- 8.31. **solar access** refers to the amount of the sun's energy available to a building.
- 8.32. **storey** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:
- (a) a space that contains only a lift shaft, stairway or meter room, or
  - (b) a mezzanine, or
  - (c) an attic.
- 8.33. **swimming pool** means an excavation, structure or vessel:
- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
  - (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity, and includes a spa pool, but does not include the following:
    - (c) a spa bath,
    - (d) anything that is situated within a bathroom,
    - (e) anything declared by the regulations under the [Swimming Pools Act 1992](#) not to be a swimming pool for the purposes of that Act.

- 8.34. **usable open space** means a space which is open to the sky and which is for the enhancement of the development and the enjoyment of the occupants. It excludes drying areas, garbage collection and handling spaces and any space used for the movement or parking of vehicles.
- 8.35. **waste storage and recycling area** means a designated area or a combination of designated areas upon the site of a building for the housing of approved containers to store all waste material (including recyclable material) likely to be generated by the buildings occupants.
- 8.36. **window** includes a roof skylight, glass panel, glass brick, glass louvre, glazed sash, glazed door, translucent sheeting or other device which transmits natural light directly from outside a building to the room concerned.

DRAFT

ATTACHMENT 2  
DETAILED SUMMARY OF SUBMISSIONS RECEIVED

Submission No.	DCP Control	Issue Raised in Submission/Comment	Planning Response	Recommendations for revised DCP
1	4.12 Private Open Space  Minimum 30m <sup>2</sup> comprising a minimum 35m <sup>2</sup> usable open space which: Has a minimum dimension 4.4m Is accessible from living areas Is not to be located within front setback North facing POS to be provided (primary or secondary)	In some instances private open space within the front setback with appropriate screening would be the best result (e.g. irregular shaped parcels of land, incorrect orientation or shading, undesirable aspect)  The submission requests this control be deleted.	A higher level of privacy and amenity can be achieved for dwelling house occupants where their primary open space is located at the rear and/or side of a property.  To achieve a high level of residential amenity (i.e. no high front fences which reduce casual surveillance) the control should remain.  In some instances (e.g. irregular-shaped parcels of land) there may be merit in allowing primary open space to be provided in the front setback. It remains open for Council to consider a variation to the control, having regard for the DCP objectives, on merit. Under the amended Chapter 8.6 the applicant has the ability to demonstrate that the proposal satisfies the objectives of the control for a merit based variation to be supported.	No change.
1	4.13 Car Parking and Garages  Maximum garage width of 9m or 25% of site frontage (whichever is the lesser) for real lots and residential lots over 1500m <sup>2</sup>	The submission proposes a change of wording to clarify that the control does not apply to land zoned LA Rural Agriculture.	The control does apply to land zoned LA Rural Agriculture. It applies to all lots over 1500m <sup>2</sup> . The control applies to garages for residential purposes. Applicants have the ability to apply for larger garages under a merit assessment.	Reworded and simplified to read as follows:  Maximum garage width of 9m for lots over 1500m <sup>2</sup> .
1	4.14 Earthworks  Maximum 300mm fill	Concern was raised that a maximum of 300mm fill was restrictive and not within the community's best interest as it would result in greater expense in construction and sloping useable yard space.  The submission proposes a maximum of 600mm fill, and submits that this will still result in minor retaining and comply with Council's objectives regarding overshadowing, privacy, solar access and streetscape.	An objective of the DCP is to ensure that development responds to both its natural and built context. In this regard it is considered that excessive cut and fill on site can result in poor environmental, streetscape and amenity outcomes. Within the Vantage Estate development Council staff has been enforcing a 300mm maximum fill and have seen high quality outcomes on the ground.  In some site-specific instances the 300mm maximum fill may not be achievable. In these instances, applications can request variation to the control and a merit based assessment if the Objectives of the DCP are achieved.	No change.
1	4.15 Stormwater and Drainage  Water tanks are to be located at the side or rear of a dwelling	The submission proposes that this control be deleted and replaced with "above ground water tanks are to be located at the side or rear of a dwelling". The effect is to allow underground	Allowing underground water tanks at the front of a dwelling has merit if there is no negative impact on the streetscape.	Amend DCP.

**MINUTES FOR ORDINARY MEETING – 24 APRIL 2012**

Submission No.	DCP Control	Issue Raised in Submission/Comment	Planning Response	Recommendations for revised DCP
1	Existing Chapter B1 C40 Subdivision and Streets  The Subdivision Certificate for allotments approved in conjunction with Dual Occupancy or Urban Housing developments must not be released until such time as a satisfactory final inspection Certificate has been issued for the approved dwellings.	<p>write tanks of the kind of dwelling.</p> <p>Note: This submission is commenting on the existing Control B1 C40 Subdivision and Streets (shown in the column to the left). The exhibited DCP sought to address outstanding concern about the existing control.</p> <p>As a developer it is frustrating, lengthy and costly to finish a development and then have to wait for a Subdivision Certificate to be issued by Council. There are further delays with the mortgagee to sign plans and to lodge plans with NSW Land and Property Information for registration.</p> <p>Proposes that the control release a subdivision certificate after a critical stage inspection (e.g. frame inspection).</p>	<p>The issues raised in the submissions have merit. Amending the Control to allow earlier release of the Subdivision Certificate has positive social and economic impacts by reducing delays for applicants. It is considered that the control (as exhibited) will reduce delays in the release of subdivision certificates.</p> <p>Allowing the release of the Subdivision Certificate at the critical stage frame inspection will provide Council and future purchasers with reasonable certainty about the completion of the Dual Occupancy dwellings as approved and with services delivered.</p>	<p>Adopt DCP as exhibited to read as follows:</p> <p>3.1.2 Subdivision certificates for dual occupancy development can be released after satisfactory critical inspection of frames completed.</p> <p>Evidence of satisfactory inspection to be provided to Council with Subdivision Certificate application.</p> <p>This control repeats Chapter B1 C40.</p>
1	Control 6.3 Outbuildings – rural	The submission proposes a change of wording to clarify that the control does not apply to land zoned IA Rural Agriculture.	<p>The control does apply to land zoned IA Rural Agriculture.</p> <p>It permits outbuildings with a maximum floor area of 200m<sup>2</sup> on rural lots.</p> <p>It permits outbuildings with maximum floor area of 100m<sup>2</sup> on rural residential lots.</p>	No change.
1	Control 4.A Retaining Walls  Be wholly contained within the development site (i.e. minimum 300mm from boundary).	<p>The submission states that the proposed 300mm is wasted space and unnecessary.</p> <p>The submission proposes that this control be amended to state retaining walls should be wholly contained within the development site.</p> <p>The submission is that the retaining wall would be located on the development site therefore avoiding any dispute of ownership in the event of wall failure.</p> <p>Concern was raised the this control requires retaining walls to be constructed wholly within the development site (minimum 300mm from the boundary) and it was suggested that the requirement of 300mm be deleted.</p>	Retaining walls have to be wholly contained within a development site. The intent behind recommending a 300mm separation was to avoid any uncertainty.	Amend DCP to remove any reference to a 300mm separation.



Submission No.	DCP Control	Issue Raised in Submission/Comment	Planning Response	Recommendations for revised DCP
1	Control 7A Driveways  A driveway construction application is required for all proposed driveways. Where the difference in level between the kerb and the garage floor is +/- 600mm, or where a slope gradient occurs within the road reserve, a driveway construction application will be required prior to approval. For all other circumstances the application will not be required until Construction Certificate stage.	Concern was raised with Council's current practice requiring the lodgement of driveway approval applications. The DCP should be amended to include approval of a driveway within a development application for a dwelling. Driveway requirements could be included in a standard condition of consent.	The driveway approval process is a separate approval under the floods Act and is under separate review.	No amendment.  A separate Driveway Application will still be required pending the outcome of a separate review.
2	Existing Chapter B1 C40 Subdivision and Streets  The Subdivision Certificate for allotments approved in conjunction with Dual Occupancy or Urban Housing developments must not be released until such time as a satisfactory final inspection Certificate has been issued for the approved dwellings.	<p>Note: This submission is commenting on the existing Control B1 C40 Subdivision and Streets (shown in the column to the left). The exhibited DCP sought to address outstanding concern about the existing control, and the submission suggest potential improvements.</p> <p>The Control should be within Chapter B6 rather than Chapter B1.</p> <p>The current Council practice requires that an Occupation Certificate is issued prior to the issue of a Subdivision Certificate. This has unintended but serious economic and social impacts as a result of time delays (estimated 13 weeks).</p> <p>The submission suggests separate controls for timing of the release of the certificate based on subdivision type:</p> <p>Torrens Title (detached dwellings): The plans, Deposited Plan Administration Sheet and associated 888 instrument that form the basis of the Subdivision Certificate application depict and/or describe a restriction on the use of the land in accordance with the Development Consent.</p> <p>Torrens Title (attached dwellings): plans for the dwellings have been poured and certified by a surveyor, and information provided by a registered surveyor stating that services are</p>	<p>The issues raised in the submissions have merit, in that an earlier release of the Subdivision Certificate has positive social and economic impacts by reducing delays for applicants. It is considered that the control (as exhibited) will reduce delays in the release of subdivision certificates.</p> <p>Allowing the release of the Subdivision Certificate at the critical stage frame inspection will provide Council and future purchasers with reasonable certainty about the completion of the Dual Occupancy dwellings as approved and with services delivered.</p> <p>Council previously experienced the following issues with early/premature release of subdivision certificates for dual occupancy development:</p> <ul style="list-style-type: none"> <li>The subdivision and driveways were often built, however services were not laid along the right of carriage way often passing costs onto the new purchaser. In some instances Council was finding that insufficient room was provided to lay services alongside the driveway.</li> <li>New buyers are often not provided with approved plans, causing copyright issues that Council is then required to manage.</li> <li>New purchasers were often left with the full cost of providing shared services such as site-allotment drainage, driveways and the like, rather than the developer or oil</li> </ul>	<p>Adopt DCP as it was exhibited to read as follows:</p> <p>5.1.2 Subdivision certificates for dual occupancy development can be released after satisfactory critical inspection of frames completed.</p> <p>Evidence of satisfactory inspection to be provided to Council with Subdivision Certificate application.</p> <p>This control supersedes Chapter B1 C40. It will ensure that the past issues experienced by Council and purchasers in early release of subdivision certificates are addressed, whilst also addressing a 'core' issue of the earlier release of subdivision certificates.</p>

Submission No.	DCP Control	Issue raised in Submission/Comment	Planning Response	Recommendations for revised DCP
		<p>wholly contained within their respective lots or appropriate easements.</p> <p>Strata title: The Strata Plan and associated Administration Sheet are signed by a Registered Surveyor, and driveways, mailboxes and garbage bins/recaplocks (if applicable) have been complete.</p>	<p>properties sharing these costs:</p> <ul style="list-style-type: none"> <li>New purchasers often wishing to modify their approval and were unable to as the original DA was over the parent property which was subsequently subdivided into lotteries title lots with independent owners. This created a situation in which the new purchaser was required to lodge a new DA at full cost rather than the half cost of a modification of consent.</li> <li>New purchasers were often lodging DAs for a new dwelling only to be told at lodgement that their land belonged to an integrated parcel and that they would need to redesign the dwelling to comply with the dual occupancy controls instead of the single dwelling controls, at significant cost.</li> </ul>	
3	<p>Control 4.4 Setbacks</p> <p>4.4.1 Primary front</p> <ul style="list-style-type: none"> <li>- for infill development the average setback of existing properties, but not less than 4.5m</li> <li>- for greenfield development a minimum of 4.5m</li> </ul> <p>4.4.2 Garages</p> <ul style="list-style-type: none"> <li>- minimum 5.5m greenfield sites</li> <li>- minimum 1m behind the building line for infill sites.</li> </ul>	<p>This submission objects to the cost of complying with the garage/roof wall setback controls in the existing DCP.</p> <p>It seeks advice whether Council intends to introduce DCP controls that are consistent with the NSW Housing Code.</p>	<p>The DCP placed on exhibition is consistent with the provision of the NSW State Housing Code. It effectively requires garages to be set back 1m from the building line. The issues raised in the submission have been addressed.</p>	No change.

ITEM NO. 3

FILE NO: PSC2006-0549

**DRAFT PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000  
AMENDMENT NO. 22 VOLUNTARY PLANNING AGREEMENT**

**REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL  
SERVICES MANAGER**

**GROUP: DEVELOPMENT SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Not accept the terms of the draft Voluntary Planning Agreement (drainage scheme) as requested by the proponents in relation to the rezoning of land identified in draft Port Stephens Local Environmental Plan 2000 (Amendment No. 22);
- 2) Advise the proponent that drainage works within the Anna Bay Strategy area cannot be funded under the developer contribution system as established in the *Environmental Planning and Assessment Act 1979*;
- 3) Reaffirm Council's earlier resolution dated 29<sup>th</sup> June 2010 to adopt the Plan with the inclusion of both the 2(a) Residential and 7(a) Environmental Protection zones;
- 4) Amend the resolution of Council dated 29<sup>th</sup> June 2010 to the following:  
Council resolve, subject to agreement being reached between Council, NSW Office of Environment and Heritage and the proponent in relation to the revegetation of a 40m wide corridor of land within the land proposed to be zoned 7(a) Environmental Protection, to forward the Plan to the Minister requesting that the Plan be made;
- 5) Council investigate options to co-ordinate the implementation of drainage works identified in the *Anna Bay Catchment Drainage/Flood Study (1995)* as part of a Development Control Plan.

**COUNCIL COMMITTEE MEETING – 10 APRIL 2012**

**RECOMMENDATION:**

**AMENDMENT**

	<p><b>Councillor Bruce MacKenzie</b> <b>Councillor Peter Kafer</b></p>
	<p>That Council defer Item 3 to allow for a site inspection.</p>

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

## MINUTES FOR ORDINARY MEETING – 24 APRIL 2012

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

Those against the motion: Nil.

### MATTER ARISING

	<b>Councillor Geoff Dingle</b> <b>Councillor Sally Dover</b>
	That a report be provided to Council on how to obtain development contributions within a drainage catchment for multiple landowners for drainage works.

## ORDINARY COUNCIL MEETING – 24 APRIL 2012

<b>076</b>	<b>Councillor Caroline De Lyall</b> <b>Councillor John Nell</b>
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the Motion: Nil.

### MATTER ARISING

<b>077</b>	<b>Councillor Caroline De Lyall</b> <b>Councillor John Nell</b>
	It was resolved that a report be provided to Council on how to obtain development contributions within a drainage catchment for multiple landowners for drainage works.

## BACKGROUND

**Subject Land:** Lot 901 DP 634550; Lot 902 DP 634550; Lot 1 DP 503876  
**Proponent & Owners:** Antcliff  
**Current Zone:** 1(a) Rural Agriculture

**Proposed Zones:** 2(a) Residential & 7(a) Environment Protection

The purpose of the Report is to resolve two current issues in relation to the finalisation of the draft Local Environmental Plan:

Voluntary Planning Agreement (VPA) for drainage works

The developer has requested that Council consider revising the terms of a draft Voluntary Planning Agreement (VPA) for drainage works to waive the requirements to pay general Section 94 Developer Contributions. A decision is required as to whether Council should accept the developer's request.

Amendment to proposed zoning of land

The developer has also requested Council to abandon the part of the rezoning proposal that rezones land from 1(a) Rural Agriculture to 7(a) Environmental Protection. The developer requests that this land remain zoned 1(a) Rural Agriculture. Council is required to revisit this aspect of the draft LEP and decide on the position with regard to this land. A copy of the draft LEP is at **Attachment 1** and an aerial photograph at **Attachment 2**.

The Anna Bay Strategy was adopted by Council in December 2008. The Strategy identifies land for future residential development. The Strategy also recognises that, as the area includes a number of landholdings in separate ownership, some master planning is necessary to identify and design key infrastructure that require a co-ordinated approach in order to adequately service development within the Strategy area.

Stormwater Drainage

At present, stormwater from the catchment naturally infiltrates into the ground. At times of prolonged rainfall events, stormwater runoff will flow into the low-lying properties at the intersection of Gan Gan Road and Clark Street. A pump system currently installed and operated by Council is used to manage the flooding issue at these times. The cost to Council to provide this system is minimal.

Drainage/Flood Study

The Anna Bay Catchment Drainage/Flood Study Masterplan (Sinclair Knight Merz, 1995) was prepared to facilitate the development of land within the Strategy area. The Study recommends a piped drainage system 200m in length, an open channel 590m in length and a drainage collection system including increased culvert capacity under Gan Gan Road.

The estimated cost of the drainage scheme (as recommended in the Study) in 1995 was \$330,000. An updated cost estimate in August 2008 (provided by DMS Survey Pty Ltd for the developer) values the works at \$648,300. Taking into account Consumer Price Index increases, the estimated works would be valued at approximately \$688,000 at present.

Port Stephens Section 94 Contributions Plan

The Port Stephens Section 94 Contributions Plan includes a levy for the recoupment of costs associated with the preparation of drainage/flood studies within the Anna Bay Strategy area (including the Anna Bay Catchment Drainage/Flood Study) only.

It does not include a levy for the development of the drainage works recommended in the Study. The current levy amount is costed at \$682 per additional lot created within the Study area.

#### Planning Proposal

The Planning Proposal requests Council to rezone the land from 1(a) Rural Agriculture under the Port Stephens LEP 2000 to permit residential development. The subject land has the capacity to yield approximately 50 additional lots subject to satisfying flooding/drainage requirements. Approximately 18 hectares of land is proposed to be rezoned from 1(a) Rural Agriculture to 7(a) Environmental Protection.

The Port Stephens LEP 2000 (Amendment No. 22) was reported to Council on 29th June 2010. To facilitate the apportionment of costs associated with the drainage works in this area, a Voluntary Planning Agreement (VPA) was recommended as a mechanism to assist the development process given the fragmented nature of the land ownership in this locality. A VPA was not offered as a substitute for the payment of general Section 94 Developer Contributions. Council resolved, subject to a Voluntary Planning Agreement being prepared and adopted, to forward the Plan to the Minister for Planning requesting that the Plan be made.

#### Voluntary Planning Agreement (VPA)

The developer has proposed, under the terms of a draft VPA, to construct the drainage line as recommended in the Sinclair Knight Merz (1995) and Parsons Brinkerhoff (2004) studies for the entire catchment area, in lieu of paying Section 94 Developer Contributions for the future development of the subject land.

The developer states that construction of the drainage line will accommodate stormwater flows for the entire catchment. As the subject land only occupies 12% of the entire catchment, their position is that it is unreasonable for Council to then levy Section 94 Developer Contributions as it would be economically unviable to develop the land.

PS s94 Contributions Plan	Levy
General s94 (50 lots)	\$604,850.00
Drainage/flood studies (50 lots)	\$34,100.00
Total s94 Contribution	\$638,950.00
Estimated cost of drainage works (2008)	\$648,300.00
Estimated cost of drainage works (2012)	\$688,000.00

#### What is a Voluntary Planning Agreement?

A Voluntary Planning Agreement (VPA) is an agreement entered into by a planning authority (such as Council) and a developer to provide a public benefit. It is one method of funding local infrastructure under the umbrella of the developer contribution system.

#### Practical use of a Voluntary Planning Agreement

A VPA is usually only practical in relation to infrastructure when one large developer is involved and can negotiate directly with the planning authority to achieve an outcome that would be impractical to negotiate with a number of landowners. Where a number of landowners are involved, it is usually more practical to prepare a Section 94 Contributions Plan in order to address cost apportionment issues.

In this instance, the Strategy area contains a number of separate landowners. The draft VPA does not consider the cost apportionment issue relating to the other landowners in the Strategy area. The draft VPA offers no mechanism to recoup funds from other landowners (potential future developers) in the Strategy area who would also benefit directly from this arrangement. As a planning authority cannot coerce a developer to prepare a VPA, nor can it require the preparation of a VPA as a condition of consent, the implementation of the draft VPA becomes impractical and inequitable in this circumstance.

#### Does the draft Voluntary Planning Agreement offer a public benefit?

The answer to this question must be no. The drainage system is not identified in Council's Section 94 Contributions Plan. Accordingly, no funds can be collected for this infrastructure and, therefore, no funds can be reallocated for other purposes should it be constructed in lieu of paying a cash contribution. Essentially, should the terms of the draft VPA be accepted by Council (including the request by the developer to waive general Section 94 Developer Contributions) approximately \$640,000 is lost from the general Section 94 Contribution fund that is earmarked for the provision of public facilities and services to cater for increasing demands placed upon these services in the LGA.

Therefore, it can only be concluded that the terms of the draft VPA do not propose to contribute a public benefit to offset the impacts of the incoming population. Instead, the loss of general funds from section 94 would impact on Council's ability to fund facilities and services for the incoming population within the LGA, including the Anna Bay Strategy area. A negative impact will result.

#### Can the drainage works be funded under Section 94?

This is where the use of this funding mechanism under the developer contribution system has become confused with developer works. Developer works are works that form part of the development. Section 80A in the Act permits the consent authority to impose conditions of consent on a Notice of Determination requiring any works that are 'applicable to the development' to be completed by the developer, regardless of whether they are eventually dedicated to Council. The construction of the road network within a new subdivision is a good example of developer works.

In this situation, a comprehensive drainage/flooding system has been designed to service the overall development within the bounds of the Anna Bay Strategy area. It is effectively a closed catchment with the drainage works identified being required solely to service the proposed development outcome in this area. In short, the construction of the drainage system would be the 'carrying out of works applicable to the development'. The drainage works are not required to be carried out unless the land is developed for more intensive purposes.

Herein lies the issue: the land that is subject to the rezoning request does not include the entire Anna Bay Strategy area. The proponent states that the subject land occupies 12% (in land area) of the catchment area. Therefore, by proposing to construct the entire drainage system for 100% of the catchment area, the draft VPA is offering a public benefit to the community.

This is not the case. The fact remains that construction of drainage works will be required as part of the development within the Strategy area. The drainage works are developer works that are required to be constructed in response to the proposed increase in population within this area. Developer works cannot be funded through the developer contribution system.

#### Construction of the drainage system

A solution is still required to ensure that the drainage system proposed in the masterplan is achievable and that all landowners contribute towards this infrastructure in an equitable way. It is likely that Council will need to take the lead role in this instance. Options need to be explored, including a staged approach to bringing the infrastructure on-line, perhaps articulated through Development Control Plan provisions that can assist Council in formulating equitable conditions of consent for development applications within the Strategy area. Council will need to work with all landowners in this area towards this outcome.

#### Conclusions in relation to the draft VPA

It can only be concluded that the use of the developer contribution system to fund the construction of the drainage system within the Anna Bay Strategy area is inappropriate. The proposed works are developer works and must be provided as part of the development of this land.

#### Amendment to Proposed Zoning of Land

Approximately 18 hectares of land currently zoned 1(a) Rural Agriculture is proposed to be zoned 7(a) Environmental Protection in the draft LEP. This land contains areas of Coastal Sand Apple Blackbutt Forest (Supplementary Koala habitat), Swamp Mahogany Paperbark Forest (Preferred Koala Habitat), some cleared land and a further 40m wide corridor that is recommended to be revegetated with Swamp Mahogany Paperbark Forest (implemented through a Voluntary Planning Agreement or other suitable mechanism). Council adopted the proposed zone footprint at its meeting on 29th June 2010.

The developer is of the view that the land proposed to be rezoned from 1(a) Rural Agriculture to 7(a) Environmental Protection was only agreed to on the basis that this land was an offset against the development of a number of rural-residential lots that were included in the original proposal, but subsequently deleted. This view is not supported. The rezoning proposal was placed on public exhibition in 2006 with no rural residential component.



Council resolved to adopt the draft LEP at its meeting on 29<sup>th</sup> June 2010 with the inclusion of land proposed to be zoned 7(a) Environmental Protection. This Report seeks confirmation of Council's position with regard to the proposed 7(a) Environmental Protection zone. Should Council not support the retention of the 7(a) zone, the planning proposal will need to be referred to the Department of Planning and Infrastructure for a new Gateway determination followed by re-exhibition and referrals to relevant government agencies.

The Draft Port Stephens LEP 2012 also identifies this portion of the subject land as proposed to be zoned E2 Environmental Conservation.

### **FINANCIAL/RESOURCE IMPLICATIONS**

There are significant financial and resource implications should Council resolve to accept the terms of the draft VPA to construct the drainage works in lieu of paying a cash contribution under the Section 94 Contributions Plan. Council would forego \$638,950.00 in funds that would be collected for public facilities and services such as civic administration, public space, parks and reserves, sports and leisure facilities, cultural and community facilities, road works, fire and emergency services and the cost of preparing the flood study for the Anna Bay Strategy area. No mechanism exists in the draft VPA to recoup the lost funds from the other developers in this area.

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

The NSW Department of Planning and Infrastructure has issued Practice Notes on the development of Section 94 and 94A Contributions Plans and the use of Voluntary Planning Agreements. As with all developer contributions, they must be provided for a public purpose; whether they are identified in a Section 94 or 94A Contributions Plan or identified in a VPA.

Accepting the construction of developer works under the framework of development for a public purpose has the potential to establish a precedent that would leave Council with significant shortfalls in funding capacity for public facilities and services.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Acceptance of the terms of the draft VPA for drainage works will result in a loss of funds from Section 94 of \$638,950.00 that cannot be recouped from other developers in the area that would directly benefit.	High	Not accept the terms of the draft VPA (including the request by the developer to waiver general Section 94 Developer Contributions)	Yes

**MINUTES FOR ORDINARY MEETING – 24 APRIL 2012**

Amending the zones in the draft Plan would require the Planning Proposal to go back through the Gateway Determination process and may not be supported by the Dept of Planning and Infrastructure. If supported, the Planning Proposal would require re-exhibition.	High	Retain the current zones as proposed in the Plan adopted by Council on 29 <sup>th</sup> June 2010.	Yes
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**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Councils develop Section 94 and 94A Contributions Plans to ensure that increasing population pressures on land can be managed in a sustainable way by providing public facilities and services to the general public. Any loss of funds from this contribution system will impact on the ability of Council to develop lands across the LGA in a sustainable fashion.

The development of land requires the construction of works associated with that development. These works are funded by the developer as developer works and passed onto the consumer in the pricing of land and resulting development. Market considerations will ultimately determine whether land is developed.

**CONSULTATION**

The developer has been advised in correspondence dated 20<sup>th</sup> October 2011 that the request to substitute the provision of Section 94 Contributions in favour of constructing the drainage works is not acceptable because it would be at significant cost to Council with no demonstrated public benefit.

In response, the developer states that construction of the drainage works would satisfy the public benefit test as Council has underestimated the extent of flooding that occurs from existing development and the potential income to Council from future development of the remainder of the catchment.

This position is not supported for the reasons outlined in the Report.

With regard to the retention of the proposed 7(a) Environmental Protection zone, the position remains unchanged as outlined in the Report. Similarly, Council officers maintain that the proposed zone is appropriate for the land in question and that revegetation of the 40m wide corridor to a standard acceptable to the NSW Office of Environment and Heritage is required.

Staff from the Facilities and Services Group were consulted regarding drainage issues associated with this proposal.

## **OPTIONS**

### **Voluntary Planning Agreement**

- 1) Not accept the requested terms of the draft Voluntary Planning Agreement. This is the recommended option;
- 2) Accept the requested terms of the draft Voluntary Planning Agreement. This is not the recommended option;

### **Amendment to zoning of land**

- 1) Retain the 7(a) Environmental Protection zone in the draft Plan as adopted by Council on 29<sup>th</sup> June 2010. This is the recommended option;
- 2) Remove the 7(a) Environmental Protection zone in the draft Plan and retain the current 1(a) Rural Agriculture zone. This is not the recommended option.

## **ATTACHMENTS**

- 1) Draft Port Stephens LEP 2000 (Amendment No. 22) – provided under separate cover; and
- 2) Aerial of subject site – provided under separate cover.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

**DRAFT PORT STEPHENS LEP 2000 (AMENDMENT NO. 22)**

**PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 2**

**AERIAL OF SUBJECT SITE**

**PROVIDED UNDER SEPARATE COVER**

ITEM NO. 4

FILE NO: PSC2006-0066

**AMENDMENT TO PORT STEPHENS SECTION 94 AND SECTION 94A DEVELOPMENT CONTRIBUTIONS PLANS**

**REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES MANAGER**

**GROUP: DEVELOPMENT SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Place the draft amended Port Stephens Section 94 Development Contributions Plan 2007 (Amendment No. 8) (**Attachment 1**) on public exhibition in accordance with the relevant provisions of the Environmental Planning and Assessment Act, 1979 and associated Regulation.
- 2) Place the draft amended Port Stephens S94A Development Contributions Plan (Amendment No. 4) (**Attachment 2**) on public exhibition in accordance with the relevant provisions of the Environmental Planning and Assessment Act, 1979 and associated Regulation.

**COUNCIL COMMITTEE MEETING – 10 APRIL 2012**

**RECOMMENDATION:**

	<p><b>Councillor Sally Dover</b>  <b>Councillor Bob Westbury</b></p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the motion: Nil.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>078</b>	<p><b>Councillor John Nell</b>  <b>Councillor Ken Jordan</b></p>
	<p>It was resolved that the Council Committee recommendation be adopted.</p>

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

Those for the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, 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 address specific issues in, and recommend relevant amendments to, Council's Development Contributions Plans.

Council currently has two development contributions plans:

- 1) Port Stephens Section 94 Development Contributions Plan, 2007 (Incorporating Port Stephens, Great Lakes and Newcastle Cross Boundary Section 94 Contributions Plans); and
- 2) Port Stephens Section 94A Development Contributions Plan, 2006 generally applies to retail and employment commercial development and is a flat rate levy.

The Report aims to:

Advise Council on a number of proposed draft amendments to the existing Development Contributions Plans, including:

Amendments to both the Section 94 Development Contributions Plan and the Section 94A Development Contributions Plan to clarify the circumstances under which each Plan applies, particularly in relation to non-residential development:

- 1) To implement the resolution of Council of 20 December 2011, which read in part "to remove the provision for Granny Flats [in the section 94 Plan] and replace it with a specific provision to reduce contributions by 50% of the general contribution rate for Secondary dwellings approved under the State Environmental Planning Policy (Affordable Rental Housing) 2009..."
- 2) Amendments to the Section 94 Plan arising from a review of management and administration levies imposed under that Plan, as conducted in November 2010 by external consultants Monteath and Powys;
- 3) Amendments to the works schedules attached to both the Section 94 and Section 94A Plans, to remove completed works and works no longer required to be constructed, add new projects and generally ensure that the works on the program reflect Council's current works delivery agenda;

Consequential amendments and/or minor amendments that assist in the better administration of the Plans allow Council to review the recommended amendments and invite comments from the community, as well as satisfy statutory obligations with respect to the processes required prior to levying contributions.

A comprehensive review of Council's Development Contributions Plans will be the subject of a further report to Council pending the outcome of the NSW Planning Review.

This Report is part of the ongoing review of Council's development contributions processes that are necessary to ensure that provisions remain up-to-date, that work schedules remain current and that development contributions required of developers reflect Council's approach to achieving an equitable balance between encouraging economic activity and providing public facilities and services.

**RECOMMENDED AMENDMENTS TO THE PORT STEPHENS SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN 2007 (INCORPORATING PORT STEPHENS, GREAT LAKES AND NEWCASTLE CROSS BOUNDARY SECTION 94 PLANS).**

The proposed amendments are detailed below:

1) Proposed Retitling of the Plan

The Plan is currently referred to as: *Port Stephens Section 94 Development Contributions Plan incorporating Port Stephens, Great Lakes and Newcastle Cross Boundary Section 94 Development Contributions Plans.*

This has been simplified and the Plan will now be referred to as: *Port Stephens Section 94 Development Contributions Plan 2007 (Amendment No. 8).* This does not change the areas to which the Plan applies, it is only a change in title.

2) Proposed Restructuring of the Contribution Rates Table

The table in section 1.2 of the current Plan provides all the applicable contribution rates. Improvements are recommended to enable easier interpretation of applicable rates.

This table is proposed to be restructured into three tables, which are:

- "Development contribution rates for all dwellings (apart from dwellings in Table 2)" (Table 1);
- "Development contribution rates – discounted rates for certain residential development types" (Table 2); and
- "Development contribution rates – non-residential development" (Table 3).

3) Addition of Table 4 - "Development to which this Plan applies".

One of the objectives of this review was to clearly identify the circumstances in which the section 94 Plan applies and when the s94A levy Plan applies.

Table 4 specifically identifies the development to which the section 94 Plan applies. The section 94A Plan (flat rate levy) has also been amended to apply to all development types that do not fall within the provisions of the section 94 Plan.



With the exclusion of most non-residential development from the section 94 Plan, the civic administration and roadworks sections of the plan required amendment to remove references to non-residential development.

Car-parking contributions remain unchanged. These continue to apply for commercial premises in the Nelson Bay and Raymond Terrace town centres but only where there is a shortfall in parking provision at any development site.

Road haulage contributions generally remain unchanged in regard to the calculation of contributions. The Plan has been amended to clarify that these contributions apply only to development that can be characterised as 'industry', 'rural industry', 'extractive industry' and 'mining'. This is not considered to significantly limit the range of developments that would previously have been captured.

Development in the Heatherbrae industrial precinct will not be levied area-specific contributions in the draft amending section 94 Plan. It was considered that the application of a section 94A levy would yield a better return for Council and therefore, for funding of public infrastructure. Hence, this area is now captured under the section 94A Plan. The Heatherbrae road works however remain in the both Plan's works schedules; allowing future works to be funded by section 94A levies instead of section 94 contributions.

- 4) Delete section relating to discounts for 'granny flats' and insert instead provisions for 'secondary dwellings'.

This matter was addressed in detail in the report to Council of 20 December 2011. The provisions for discounts currently applying to Granny Flats have been removed and replaced by provisions that refer instead to 'secondary dwellings'. Dwellings previously referred to as 'granny flats' are now most likely to be constructed as 'secondary dwellings', pursuant to the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009, to which a 50% reduction in the general contribution rate will apply.

- 5) Addition of Table 5 - "Summary of discounts"

Table 5 has been added at the beginning of the section that provides for discounts so as to provide a clear and concise statement of the adjustments that are applied to various development types.

## **RECOMMENDED AMENDMENTS TO THE PORT STEPHENS S94A DEVELOPMENT CONTRIBUTIONS PLAN**

- 1) Insert "Section 94A levy rates" (Table 1), add section 2.6 land to which this Plan applies and add "Development to which this Plan applies" Table 2.

These amendments arise simply as a consequence of clarifying the application of the two contributions plans.

- 2) Amend section 2.10 – "Are there any exemptions to the levy?"

This amendment has been made to reflect the exemptions required as a result of the Ministerial Direction dated 10 November 2006.

- 3) Include a new and simplified "Cost Summary Report".

This amendment has been made to simplify and facilitate the administration of the Plan.

### **RECOMMENDED AMENDMENTS TO THE WORKS SCHEDULE AND MAPS IN BOTH DEVELOPMENT CONTRIBUTIONS PLANS**

- 1) Insert updated works schedules and associated maps.

The works schedule has been amended to reflect Council's current program. The same schedule has been incorporated in both the section 94 and section 94A Plans. This illustrates that all Council funding mechanisms are geared towards the delivery of a single focused program.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The development contributions system is a key tool for the management of Council's finances and resources. It provides a framework for identifying where development pressures will require additional public services and facilities. It also requires the preparation of a schedule of these works, including identifying their cost and resource implications for Council and it provides for some of those costs to be met by the development activity itself.

As development activity and Council's delivery of works are both ongoing activities it is crucial that the Contributions Plans always remain current.

The key elements of this review relate to keeping the Plan up-to-date so that it accurately reflects Council's current works program and Council's most recent resolutions about payment of contributions including discounts that may apply for certain development types. The key changes, as they relate to financial or resource issues are:

- The deletion of the 'granny flat' provisions and insertion of the 'secondary dwelling' provisions should have no substantial financial/resource implications. This amendment arises as a result of the introduction of the SEPP (Affordable Rental Housing) 2009, which aims to encourage affordable housing such as secondary dwellings. The discount that applies to such dwellings may have a minor financial impact on Council only if there was a substantial increase in secondary dwellings and a consequential reduction in primary dwellings. Council staff will monitor this and advise Council if there is a substantial shift in dwelling preferences of this nature.

- The review of contributions required for Plan management may result in a minor increase in funds received by Council. The cost of Plan management and administration is currently identified as being \$155,715 per annum and this will not change under these amendments. These costs, though, are currently required to be paid by both residential and non-residential development. The current contributions are:
  - a. As calculated in the section 94 Plan
    - i. Residential development: \$195.68 per dwelling; and
    - ii. Non-residential development: \$3.96 per sqm Gross Floor Area.
  - b. Current rates adjusted for Consumer Price Index
    - i. Residential development: \$222.89 per dwelling; and
    - ii. Non-residential development: \$4.51 per sqm Gross Floor Area.

The proposed amendments apportion the same \$155,715 costs for managing the Plan solely to residential development and the relevant contribution will be \$657 per dwelling.

The removal of the contribution payable by non-residential development arises because the section 94 Plan will no longer apply to most non-residential development. That development will be subject to the 0.5-1 percent flat rate levy applicable under the s94A Plan.

The minor increase in revenue may arise because rather than contributing to the costs of Plan management, these costs will be borne fully by residential development and non-residential development will pay an additional and separate levy.

- The review of section 94 and 94A Plans to clarify the circumstances under which each plan applies may result in a minor increase in Council revenues arising mainly from the Plan management adjustments referred to previously as well as the inclusion of the Heatherbrae Industrial Precinct in the section 94A Plan. These changes are primarily intended to ensure there is a clearer and more consistent application of both Plans.
- The review of works schedules and maps to make these current reflects a change in Council's priorities for the delivery of infrastructure. It is considered that if Council does not review its works schedules within the development contributions plans on a regular basis, this would impose a financial risk to Council in relation to the demand for infrastructure generated by future development.

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

It is considered that there are no additional legal, policy and risk implications related to the proposed amendments to the contributions plans. However, it is considered that if the works schedules contained within the development contributions plans are not reviewed and updated regularly, and funds collected under these plans are not allocated in accordance with such works schedules, then this would impose a legal and financial risk to Council.

Council should be aware that any person entitled to act on a development consent that contains a section 94 condition may bring proceedings to the Land and Environment Court on the grounds that such a condition is unreasonable in the particular circumstances of the case. The proposed amendments are, in part, directed at lessening that risk and are generally confined to adding clarity in the operation of the plans.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Any person entitled to act on a development consent that contains a section 94 condition may bring proceedings to the Land and Environment Court on the grounds that such a condition is unreasonable in the circumstances of the case.	High	The proposed amendments to the development contributions plans are, in part, directed at lessening the risk of a s94 condition being challenged.	Yes
If works schedules contained within Council's development contributions plans are not reviewed and updated regularly, and funds collected under these plans are not allocated in accordance with such works schedules, this would impose a legal risk to Council.	High	The proposed amendments to the development contributions plans contain reviewed and updated works schedules to reflect Council's current plans for priority of proposed works and current cost estimates.	Yes

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Applying developer contributions effectively and equitably to facilitate the balanced economic management of Council finances and other resources is the main sustainability implication.

### **CONSULTATION**

One of the purposes and recommendations of this Report is to allow Council to exhibit the amended Development Contribution Plans so as to obtain feedback from the community. Extensive consultation has been conducted with staff from Council's Facilities and Services Group and Finance Section in compiling data for the amended works schedules.

### **OPTIONS**

- 1) Adopt the recommendations of this Report and exhibit the draft Plans inviting community comment;
- 2) Amend one or more of the provisions of the draft amended development contributions plans. The proposed amendments to the development contributions plans contain reviewed and updated works schedules to reflect Council's current plans for priority of proposed works and current cost estimates;  
or
- 3) Reject the recommendations of this Report.

### **ATTACHMENTS**

- 1) Port Stephens Section 94 Development Contributions Plan 2007 (Draft Amendment No. 8) (provided under separate cover); and
- 2) Port Stephens Section 94A Development Contributions Plan (Draft Amendment No. 4) (provided under separate cover).

### **COUNCILLORS ROOM**

- 1) Port Stephens Section 94 Development Contributions Plan 2007 Incorporating Port Stephens, Great Lakes and Newcastle Cross Boundary Section 94 Contributions Plans (provided under separate cover); and
- 2) Port Stephens S94A Development Contributions Plan (provided under separate cover).

### **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

**PORT STEPHENS SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN 2007  
(DRAFT AMENDMENT NO. 8)**

**PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 2**

**PORT STEPHENS SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN 2006  
(DRAFT AMENDMENT NO. 4)**

**PROVIDED UNDER SEPARATE COVER**

**ITEM NO. 5**

**FILE NO: PSC2005-2861**

**WILLIAMTOWN SALT ASH FLOOD STUDY REVIEW**

**REPORT OF: PETER MARLER – ACTING MANAGER COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES**

**GROUP: DEVELOPMENT SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

Adopt the Williamtown/Salt Ash Flood Study Review (BMT WBM 2011) as exhibited.

**COUNCIL COMMITTEE MEETING – 10 APRIL 2012**

**RECOMMENDATION:**

	<p><b>Councillor Geoff Dingle</b> <b>Councillor Bruce MacKenzie</b></p>
	<p>That the recommendation be adopted.</p>

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>079</b>	<p><b>Councillor Bruce MacKenzie</b> <b>Councillor Caroline De Lyall</b></p>
	<p>It was resolved that the Council Committee recommendation be adopted.</p>

**BACKGROUND**

The purpose of this report is to seek Council's adoption of the Williamtown Salt Ash Flood Study Review (BMT WBM 2011) following its public exhibition from Thursday November 3, 2011 to Thursday December 1, 2011. During this exhibition period no submissions were received from the community.

As part of the floodplain management process for the Williamtown Salt Ash catchment area, being managed by Council, BMT WBM was engaged to undertake a review of its 2005 flood study to determine the impacts of sea level rise and climate change on flood levels for the 1 % Annual Exceedance Probability (AEP) design flood event. Whilst initially required to allow Council to provide to developers more informed advice in regard to future sea level rise impacts as per the NSW Governments sea level rise policy this modelling will also be required for the preparation of a floodplain risk management plan for this catchment. Council has received funding for this floodplain risk management plan within the current Floodplain Management Grants Program administered by the NSW Government's Office of Environment and Heritage and further work will commence on this document shortly. Preparation of a floodplain risk management plan does however



take some time and it is anticipated that it will be 18 months – 2 years before a draft document for review would be available.

As no formal public submissions were received during the draft flood study review exhibition period it is recommended that Council adopt the Williamstown Salt Ash Flood Study Review (BMT WBM 2011).

**FINANCIAL/RESOURCE IMPLICATIONS**

The Flood Study has been partly funded by the State Government's Floodplain Management Grants Program with Council's contribution being one third. This study was funded within the 2009/2010 program and Council has already received the grant funding for the project. Funding for the final consultant progress payment will be provided from existing budget allocations. Council's contribution to the study review is \$ 7,830 out of the total project cost of \$ 23,490.

**LEGAL, POLICY AND RISK IMPLICATIONS**

The State Government's Floodplain Development Manual require Council to consider the adoption of flood studies following public exhibition and consideration of public submissions.

The preparation of a Floodplain Risk Management Plan is a vital element in the preparation and adoption of appropriate flood policy for the area covered by the Plan. Failure to adopt this review of the Williamstown Salt Ash flood study is likely to halt further progress in the preparation of the floodplain risk management plan. This could lead in the future to poor flood planning decisions resulting in possible future legal liability should new development or buildings be flooded during major flood events.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Flood Damages Liabilities	High	Future Development Applications assessed in terms of the adopted Flood Study e.g. floor levels.	NA
External Criticism	Med	Adoption of Flood Study may generate some public criticism but would be in accordance with current State Government Policy. Media releases may be required.	Yes
Continued External Funding	High	Adoption of Flood Study would ensure future State Government Support.	NA

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The flood study being part of the floodplain management process seeks to help Council and the state government manage and minimise impacts of future flooding events. In this respect it is expected that a more informed knowledge of the flood risk will result in a reduction in flood losses in future flood events and minimise the social and economic impacts of these events.

### **CONSULTATION**

Public Exhibition and consultation with the Office of Environment and Heritage has occurred. No submissions were received in response to the public exhibition of the Flood Study Review.

### **OPTIONS**

- 1) Adopt the Williamstown/Salt Ash Flood Study Review;
- 2) Do not adopt the Williamstown/Salt Ash Flood Study Review; or
- 3) Propose amendments to content and/or seek further consultation.

### **ATTACHMENTS**

- 1) The draft Williamstown Salt Ash Flood Study Review (BMT WBM 2011) – under separate cover.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

**THE DRAFT WILLIAMTOWN SALT ASH FLOOD STUDY REVIEW (BMT WBM 2011)**

**PROVIDED UNDER SEPARATE COVER**

**ITEM NO. 6**

**FILE NO: PSC2010-04979**

**REVISED PLANNING PROPOSAL – PACIFIC DUNES**

**REPORT OF: PETER MARLER - ACTING MANAGER, COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION**

**GROUP: DEVELOPMENT SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Forward the Planning Proposal (**Attachment 1 - provided under separate cover**) to amend Port Stephens Local Environmental Plan 2000 under Section 55 of the Environmental Planning and Assessment Act 1979 to the Department of Planning and Infrastructure to:
  - a. Rezone Part Lot 98 DP 280007, Lot 7 DP 270438, Lot 10 DP 270438, Part of Lot 9 DP 270438, Part of Lot 11 DP 1079392, Lot 11 DP 1105086 and Lot 14 DP 1079392 to 2(a) Residential;
  - b. Apply the minimum allotment size for the above allotments as detailed in the Planning Proposal; and
  - c. Rezone Part of Lot 11 DP 1079392 to 7(a) Environment Protection.
- 2) 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) Endorse the public exhibition of a site-specific element to Port Stephens Development Control Plan 2007 under Section 74C of the Environmental Planning and Assessment Act 1979 and consequentially amend existing Chapter C7 Medowie – Pacific Dunes Estate where necessary;
- 4) Note that subject to the "Gateway determination" this Planning Proposal will be recommended as an amendment to the Medowie Strategy as part of the regular review process of that Strategy.

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**COUNCIL COMMITTEE MEETING – 10 APRIL 2012**

**RECOMMENDATION:**

	<b>Councillor Bruce MacKenzie</b> <b>Councillor Bob Westbury</b>
	That the recommendation be adopted.

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

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

Those against the motion: Nil.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>080</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Nell</b>
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the Motion: Nil.

**BACKGROUND**

Subject Land: Part 98 DP 280007, Lot 7 DP 270438, Part of Lot 9 DP 270438, Part of Lot 11 DP1079392, Lot 11 DP 1105086 and Lot 14 DP 1079392.

Landowner: Port Stephens Golf and Country Club Pty Ltd.

Proponent: SJB Planning (on behalf of the landowner).

Date of Revised Planning Proposal: February 2012.

Existing Zoning Port Stephens Local Environmental Plan 2000: Part 1(c4) Rural Small Holdings and Part 6(c) Special Recreation (Note: the Site is subject to Clause 54A of the Port Stephens Local Environmental Plan 2000 that enables residential development of part of the land with consent).

Proposed Zoning Port Stephens Local Environmental Plan 2000: 2(a) Residential and 7(a) Environment Protection (Note: That part of the site comprising the golf course will remain in the 6(c) Special Recreation zone). Maps showing the proposed zoning and allotment sizes are at Attachments 2 and 3 (under separate cover).

The purpose of this Report is to advise that a revised Planning Proposal for Pacific Dunes Estate has been lodged for Council's consideration. The revised Planning Proposal follows Council's resolution of 8th February 2011 to defer its consideration of an earlier Planning Proposal, in order to facilitate additional consultation between the Proponent and existing residents of Pacific Dunes Estate. That additional consultation has been undertaken by the Proponent and informs the revised Planning Proposal.

The revised Planning Proposal seeks amendments to the Port Stephens Local Environmental Plan 2000 to:

- Rezone an area of the 'Hillside Lots Precinct' from 1(c4) Rural Small Holdings to 2(a) Residential, with a new minimum allotment size of 720m<sup>2</sup> rather than the current 900m<sup>2</sup>;
- Rezone certain land comprising the 'Fairway Lots Precinct' from 6(c) Special Recreation to 2(a) Residential, with a new minimum allotment size of 450m<sup>2</sup> rather than the current 600m<sup>2</sup>;
- Introduce an extension to the 'Fairway Lots Precinct' at the southern end of the estate, with a minimum allotment size of 450m<sup>2</sup>;
- Rezone part of the existing 6(c) Special Recreation land located to the east and west of the existing community facility to 2(a) Residential, with a minimum allotment size of 200m<sup>2</sup>; and
- Rezone land at the corner of South Street and Sylvan Avenue from 1(c5) Rural Small Holdings, with a new minimum allotment size of 720m<sup>2</sup> rather than the current 2000m<sup>2</sup> (this area was not part of the Planning Proposal considered by Council in February 2011).

The revised Planning Proposal has the potential to provide for 101 additional residential allotments to those already existing or anticipated under the current provisions of the Port Stephens Local Environmental Plan 2000. It also has a different zone footprint compared to the Planning Proposal considered by Council in February 2011 in particular:

- It does not propose to rezone land along Sunningdale Circuit;
- Amends the footprint of the Village Centre and Potmarnock/Links Precincts; and
- Adds land at the corner of South Street and Sylvan Avenue.

A copy of the Planning Proposal is at **Attachment 1** (under separate cover), a copy of the Planning Proposal with all appendices is available in the Councillors Room) and the accompanying Draft Development Control Plan Chapter is at **Attachment 4** (under separate cover).

## **FINANCIAL/RESOURCE IMPLICATIONS**

### **Rezoning Fees**

Stage 1 rezoning fees were paid in 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 revised Planning Proposal under consideration is modifying a previous request no additional Stage 1 fees are being sought from the Proponent.

Stage 2 rezoning fees will be sought if Council resolved to proceed with the Planning Proposal and a positive Gateway determination is received by the NSW Department of Planning and Infrastructure.

## **Section 94 Development Contributions**

The Port Stephens Section 94 Development Contributions Plan has not as yet been amended to account for any additional infrastructure as a result of development under the Medowie Strategy or the Planning Proposal. This infrastructure may include but not be limited to broader infrastructure such as flooding, drainage and road works. Further investigation of this issue is required to determine the appropriate timing and mechanism for the Proponent to contribute towards covering the cost of any additional burden on infrastructure as a result of additional development. This matter will need to be addressed prior to finalising the Planning Proposal.

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

### **Lower Hunter Regional Strategy**

The Lower Hunter Regional Strategy identifies Medowie as a urban release area with boundaries to be defined through local planning. The subject land is already identified for development under Clause 54A of the Port Stephens Local Environmental Plan 2000. The main change being sought by the Planning Proposal is an increased density by allowing smaller allotments and a variation and extension to the development footprint. The land in the Planning Proposal can be considered for additional development under the Lower Hunter Regional Strategy. In any case, a Gateway determination was issued by the then Department of Planning in February 2008 allowing the rezoning of land at Pacific Dunes Estate to proceed.

### **Port Stephens Planning Strategy 2011-2036**

The Port Stephens Planning Strategy was adopted by Council at its meeting 20<sup>th</sup> December 2011. It identifies Medowie as a Regional Centre Support Town and refers to Medowie as a Future Growth Area. Pacific Dunes Estate is not specifically mapped as a Potential Future Residential Area in the Port Stephens Planning Strategy because it is already subject to a development clause in the Port Stephens Local Environmental Plan 2000.

### **Medowie Strategy**

The Medowie Strategy was adopted by Council in March 2009 and provides a concept plan for the future development of Medowie. Pacific Dunes Estate is not specifically identified in the Medowie Strategy because it is an established area where residential development has already occurred under Clause 54A of the Port Stephens Local Environmental Plan 2000. The Planning Proposal therefore represents 'infill' of an established area rather than a new release area.

In the event that Council resolves to adopt the Planning Proposal it is a recommendation of this Report that the subject land is included in any future amendment to the Medowie Strategy to reflect the fact development potential exists on the land.

**Port Stephens Local Environmental Plan 2000**

The Port Stephens Local Environmental Plan 2000 has existing provision for the development of the subject land 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 of land within Zone No 2(a)."*

The revised Planning Proposal is effectively seeking changes to this Clause to facilitate additional development.

**Development Control Plan**

Pacific Dunes Estate is subject to existing Chapter C7 Medowie – Pacific Dunes Estate of the Port Stephens Development Control Plan 2007. It identifies a development footprint, precincts, area per dwelling and building design controls and other relevant detailed design controls.

A site-specific DCP chapter to accompany the Planning Proposal has been submitted by the Proponent to provide building guidelines for each lot size. It will maintain the high standard of building design that already occurs within the Pacific Dunes Estate. To avoid any duplication, to reflect the new proposed zone footprint, and for administrative reasons it will be necessary to review the existing Chapter C7 Medowie - Pacific Dunes Estate with the proposed Development Control Plan. The Planning Proposal should be updated to require the DCP to be in place prior to any rezoning of the subject land.



**Operation Risk Matrix**

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
Minor environmental harm	Low	Follow rezoning process in accordance with the NSW Environmental Planning and Assessment Act 1979. Further investigate potential flooding and drainage impacts post Gateway Determination.	Yes
Insufficient infrastructure in Medowie to support growth	Medium	Confirm any infrastructure requirements as part of the rezoning process.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

**Flora and Fauna**

The Planning Proposal considered by Council at its meeting on the 8<sup>th</sup> February 2011 had manageable environmental impacts and that position remains for the revised Planning Proposal with Council for consideration at this initial stage of the planning process. Amendments may be required following further assessment and progression through the planning process.

A summary of direct and indirect impacts of the revised Planning Proposal submitted by consultants Eco Logical Australia for the Proponent is:

- *"Potential removal of "moderate" ecological constraint vegetation to create an APZ surrounding the residential zone;*
- *Up to 17 hollow-bearing trees may be removed to allow for development/golf course redesign*
- *No E. parramattensis subspecies decadens will be removed and a 5m wide buffer has been provided around the area where this species occurs; and*
- *Existing levels of connectivity through the site will be retained due to preservation of existing fairway buffer vegetation."*

(Eco Logical Australia, February 2012, page 29).

The revised Planning Proposal seeks to permit residential development on the current golf driving range and on some land to the south. It seeks to relocate the driving range and some residential land onto a part of the Site identified as a "High" ecological value. This area comprises Swamp Mahogany Paperbark Forest (an Endangered Ecological Community and Preferred Koala Habitat); hollow bearing trees; koala scat trees; a Koala sighting; Wallum Froglets recorded; Square-tailed Kite recorded and Grey Headed Flying Fox recorded. At this stage in the Planning Process Council should only note the intent of the Proponent to relocate the driving range at a future stage as it is subject to a separate development application process.

The Proponent has undertaken detailed Koala habitat mapping through their consultant Eco Logical Australia and addressed the provisions of the Port Stephens Comprehensive Koala Plan of Management. Rezoning areas of Preferred Koala Habitat for residential development is inconsistent with the Performance Criteria of the Port Stephens Comprehensive Koala Plan of Management.

Vegetated areas of the Site are already zoned for development under existing Clause 54A of the Port Stephens Local Environmental Plan 2000 including the Preferred Koala Habitat near the driving range.

### **Flooding and Drainage**

A Flood Assessment was provided by the proponent with the original Planning Proposal (refer to Pacific Dunes (Medowie) Flood Assessment, DHI Water and Environment Pty Ltd, August 2010). It includes a detailed analysis of the site and established areas appropriate for future residential development, determined a suitable flood planning level, and modelled existing conditions and the proposed development of the site and considered that the 9 hour and 36 hour storm durations were critical at the site.

Since the original Flood Assessment undertaken for the Planning Proposal in August 2010, Council commenced the Medowie Flood Study (Draft Medowie Flood Study, WMA Water 2011). The Draft Medowie Flood Study has determined that storm duration is the critical factor for flooding issues, particularly at the lower parts of the Medowie Catchment including Pacific Dunes Estate. It also determined that the 72 hour storm duration is a critical consideration.

The revised Planning Proposal submitted by the Proponent states that the layout is based on the latest 72 hour flood analysis, however has not submitted an updated Flood Assessment. The Proponent has submitted updated maps showing pre and post-development flood extents for the 1% Annual Exceedence Probability flood 72 hour event that indicate no significant off-site or on-site impact. In the event of a Council resolution and Gateway determination allowing the Planning Proposal to proceed a thorough assessment against the Draft Medowie Flood Study (including against the flood model prepared by WMA Water) will be required at the expense of the Proponent.

## **CONSULTATION**

Council resolved on 8<sup>th</sup> February 2011 to defer the Planning Proposal to facilitate additional consultation between the Proponent and the existing residents of Pacific Dunes Estate. That additional consultation has been undertaken by the Proponent and informed the revised Planning Proposal that is now before Council for consideration.

The Proponent appointed community engagement consultants Straight Talk to assist with the community consultation process and prepare a report - refer to Attachment 5 (under separate cover). It summarises the process as:

- A series of separate meetings with the precinct committees to meet with owners in each precinct and identify issues of concern and the potential implications for the master plan; and
- A 'display and discuss' session open to all owners to present proposed amendments to the master plan made in response to the issues of concern that had been raised and get feedback before finalising the amendments and lodging the Planning Proposal with Council.

The Straight Talk report makes the following summary of consultation outcomes:

- *"Overall there was support from owners for the revised master plan and general consensus that the plans were long overdue and that delivery of a clubhouse was a priority that would assist in securing the long term sustainability of the club and improve property sales;*
- *There was support for the design of the integrated Golf and Country Club. However, the general consensus was that the clubhouse would need to be designed to allow future expansion if necessary;*
- *There was support for the rezoning to enable a diversity of housing and lot sizes including a mix of residential and short stay housing. Support was conditional on design quality being upheld;*
- *The proposed upgrade of Angophora Park was generally supported, albeit some owners felt the upgrade was a lower priority than the clubhouse. Issues to consider include design and security to minimise vandalism to equipment and provision of play equipment for children of all ages; and*
- *Owners noted the need for appropriate traffic management to control vehicle speeds and consideration should be given to the provision of parking for oversize vehicles, such as coaches and minibuses."*

In the event that the Planning Proposal proceeds to the next stage of the planning process a formal period of public exhibition will take place in accordance with a Gateway determination issued by the Department of Planning and Infrastructure. It is recommended that this exhibition occurs for a minimum of 28 days. Adjacent landowners will be notified of the Planning Proposal, including those landowners at the intersection of South Street and Sylvan Avenue that was not included in the previous Planning Proposal considered by Council in February 2011. The public exhibition process provides a formal opportunity for any person to make a submission on the Planning Proposal and any issues will be the subject of a further report for consideration by Council. *(Straight Talk, November 2011, page 9).*

**OPTIONS**

- 1) Adopt the recommendations of this Report, and proceed with the revised Planning Proposal and Draft Development Control Plan as submitted by the Proponent;
- 2) Amend the recommendations of this Report, and proceed with the Planning Proposal and Draft Development Control Plan submitted by the Proponent with amendments; or
- 3) Reject the recommendations of this Report, and not proceed with the Planning Proposal and Draft Development Control Plan submitted by the Proponent.

**ATTACHMENTS**

- 1) Planning Proposal –under separate cover;
- 2) Map showing proposed zones –under separate cover;
- 3) Map showing proposed allotment sizes –under separate cover;
- 4) Draft Development Control Plan – under separate cover; and
- 5) Straight Talk Community Consultation Report – under separate cover.

**COUNCILLORS ROOM**

- 1) Planning Proposal and Appendices.

**TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

**PLANNING PROPOSAL**

**PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 2**

**MAP SHOWING PROPOSED ZONES**

**PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 3**

**MAP SHOWING PROPOSED ALLOTMENT SIZES**

**PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 4**

**DRAFT DEVELOPMENT CONTROL PLAN**

**PROVIDED UNDER SEPARATE COVER**



**ATTACHMENT 5**

**STRAIGHT TALK COMMUNITY CONSULTATION REPORT**

**PROVIDED UNDER SEPARATE COVER**

ITEM NO. 7

FILE NO: PSC2011-00189

**LEASE OF LEVEL 1, 437 HUNTER STREET, NEWCASTLE****REPORT OF: CARMEL FOSTER, PROPERTY SERVICES SECTION MANAGER****GROUP: CORPORATE SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the lease and associated documentation for Level 1, 437 Hunter Street, Newcastle.

**COUNCIL COMMITTEE MEETING – 10 APRIL 2012****RECOMMENDATION:**

	<b>Councillor Bruce MacKenzie</b> <b>Councillor Ken Jordan</b>
	That the recommendation be adopted.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>081</b>	<b>Councillor Glenys Francis</b> <b>Councillor Caroline De Lyall</b>
	It was resolved that the Council Committee recommendation be adopted.

**BACKGROUND**

The purpose of this report is to advise Council that the existing tenant at Level 1, 437 Hunter Street Newcastle has exercised its option under the current lease for a further three year term commencing on 1 March 2012 and have requested a further option term of three years to commence on 1 March 2015. The new rental has been negotiated and agreed (following Market Review) at \$228,303.85 plus GST per annum which includes a percentage of recoverable outgoings.

Harris Wheeler Lawyers is to prepare a new Lease document to reflect the further option term of three years.

**FINANCIAL/RESOURCE IMPLICATIONS**

The aim in leasing of the Commercial Property portfolio is to create a secure Lease for the longest available period to a viable tenant. The outcome is that Council is protected by a secure agreement with known returns over the term, ensuring

ongoing occupation of the Premises and contributing to Council's non-rates income streams thereby reducing the call on rates income.

In having a valid and enforceable Lease, Council is protected and having the ability to recover costs means that the property returns funds to Council as opposed to contributing as a liability for rates, maintenance, asset management and other factors.

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

In accordance with the provisions of the Conveyancing Act, leases in excess of three years total duration, including the option period, are to be registered upon the title of the land to which they apply. Accordingly, if the lease is to be registered the common seal must be affixed upon signing under Clause 400, Local Government (General Regulation) 2005.

The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
With no formalised lease in place a tenant could vacate at short notice and there would be a loss of income as a result	Medium	Formalise the lease document as recommended	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

## **CONSULTATION**

- 1) Property Services Manager;
- 2) Property Investment Coordinator; and
- 3) Tew Property Consultants and Valuers.

## **OPTIONS**

- 1) Accept the recommendation; or
- 2) Reject the recommendation.

## **ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ITEM NO. 8

FILE NO: PSC2011-03519

**INTEGRATED PLANS 2012-2022****REPORT OF: WAYNE WALLIS – GROUP MANAGER****GROUP: CORPORATE SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Agrees to place the draft Delivery Program 2012-2016, the draft Operational Plan 2012-2013, the draft Resource Strategy 2012-2022 and the draft Fees & Charges 2012-2013 on public exhibition for a period from 1 to 31 May 2012.

**COUNCIL COMMITTEE MEETING – 10 APRIL 2012****RECOMMENDATION:**

	<b>Councillor Bruce MacKenzie</b> <b>Councillor John Nell</b>
	That the recommendation be adopted.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>082</b>	<b>Councillor Ken Jordan</b> <b>Councillor Caroline De Lyall</b>
	It was resolved that Council agrees to the amendments detailed in the Supplementary Information and its appendices and places the draft Integrated Plans 2012-2022 and draft Fees and charges 2012-2013 on public exhibition for the period 1 to 31 May 2012.

**BACKGROUND**

The purpose of this report is to seek Council's agreement to the placement of the Delivery Program 2012-2016, the Operational Plan 2012-2013, the Resource Strategy 2012-2022 and the Fees & Charges 2012-2013 on exhibition for a period from 1 to 31 May 2012. The Local Government Act 1993 (as amended) Sections 404(4) and 405(3) require that Council place the Integrated Planning documents on exhibition for a period of not less than 28 days, consider submissions and amend as considered appropriate, then adopt the plans before 30 June each year.

The Community Strategic Plan has not been amended however there has been some refinement of language across the Delivery Program 2012-2016 for clarity and to reflect the changed organisational structure. Such changes require the Delivery Program to be on public exhibition for at least 28 days [Section 404(4)].

The Operational Plan 2012-2013 is required to be placed on public exhibition for at least 28 days [Section 405(3)].

## **FINANCIAL/RESOURCE IMPLICATIONS**

Financial:

The Integrated Plans are enabled by a Resource Strategy that includes the Long Term Financial Plan 2012-2022. Year one of the Long Term Financial Plan comprises the budget for 2012-2013.

The Fees & Charges 2012-2013 form part of the Budget 2012-2013 and are included separately for convenience. Section 5.2.3 of the Operational Plan 2011-2012 requires a review of existing and potential fees and charges to adopt a full cost recovery model. A review has been undertaken this year, and benchmarked against several councils in the region. The Independent Pricing and Regulatory Tribunal (IPART) this year established that the costs to local government in NSW, expressed as an index had increased by 3.6% and this factor was applied in cases where Council has discretion to set fees, in order to meet the Council-approved objective of full cost recovery as set out in 5.2.3. This year the document has been revised to make it more user-friendly for the community by being set out in alphabetical order, rather than in the order of the Groups who are responsible for the fee area.

Resources:

The Integrated Plans are enabled by a Resource Strategy that includes the Workforce Strategy 2012-2016 and the Strategic Asset Management Plan Version 2 (SAMP2) 2012-2022. The documents set out how the outcomes of the plans are to be delivered through the use of Council's assets and its workforce.

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

Sections 402-406 of the Local Government Act 1993 (as amended) require Council to have a Delivery Program and annual Operational Plan adopted by 30 June after a period of public exhibition. The purpose of the Delivery Program and Operational Plan, and the associated Resource Strategy is to set out what Council will do to contribute to achieving the goals established by the community of Port Stephens in the document *Port Stephens 2021*.

The Long Term Financial Plan, the budget for 2012-2013 and the Fees & Charges 2012-2013 have been developed in accordance with Council's *Pricing Policy* and its *Budget Control & Authorisation Policy*.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Failure to adopt Integrated Planning documents, leading to breach of legislation and possible lack of mandate for Council to operate after 30 June 2012.	High (Unlikely but consequences high)	1. Council agrees to place documents on exhibition in accordance with the Act. 2. A process is in place to manage submissions to Council in a timely manner so that Council is in a position to adopt the Integrated Plans and Fees/Charges before 30 June.	Yes

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Integrated Plans have been developed since 2010 on the four pillars of sustainability: Economic, Social/Cultural, Environmental, Governance & Civic Leadership and these are reflected in the document. Required actions in the plans meet the principles of social justice and equity.

### **CONSULTATION**

The Integrated Plans and the Fees & Charges were revised with input from staff across Council and at a workshop with Councillors on 14 February 2012. The recommendation to place all the documents on exhibition from 1 to 31 May 2012 will allow for the community of Port Stephens to have input into these documents and recommend changes to Council for consideration in June 2012.

### **OPTIONS**

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

### **ATTACHMENTS**

Nil.

### **COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Integrated Plans incorporating:
  - Draft Delivery Program 2012-2016;
  - Draft Operational Plan 2012-2013;
  - Draft Resource Strategy 2012-2022 (Long Term Financial Plan 2012-2022; Strategic Asset Management Plan Version 2 (SAMP2); Workforce Strategy 2012-2016);
  - Draft Fees & Charges 2012-2013.



ITEM NO. 9

FILE NO: PSC2012-00281

**CASH HANDLING POLICY****REPORT OF: TIM HAZELL - FINANCIAL SERVICES MANAGER****GROUP: CORPORATE SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the Cash Handling policy as presented to Council.
- 2) Place the Cash Handling policy on public exhibition for 28 days.
- 3) Adopt the Cash Handling policy as presented to Council, should no submissions be received.

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**COUNCIL COMMITTEE MEETING – 10 APRIL 2012****RECOMMENDATION:**

	<b>Councillor Bruce MacKenzie</b> <b>Councillor Shirley O'Brien</b>
	That the recommendation be adopted.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>083</b>	<b>Councillor Ken Jordan</b> <b>Councillor Caroline De Lyall</b>
	It was resolved that the Council Committee recommendation be adopted.

**BACKGROUND**

The purpose of this report is to present to Council the adoption of a Cash Handling policy, which represents Council's commitment to effectively minimise the risk of misappropriation or theft of Council funds.

Port Stephens Council is committed to protecting its revenue from any attempt, by members of staff, contractors or volunteers engaged by Council, to gain by deceit, financial or other benefits. The policy has been developed to protect Council funds and the integrity, security and reputation of Council and its employees, and assist in maintaining high levels of service to the community.

The policy also addresses recommendations made by external auditors in their report to the Audit Committee dated 30 June 2011 in relation to weaknesses in income reconciliations.

**FINANCIAL/RESOURCE IMPLICATIONS**

All costs associated with the development and implementation of the policy are within the existing 2011-2012 budget.

**LEGAL, POLICY AND RISK IMPLICATIONS**

All information received by Council in relation to suspected misappropriation or theft of Council funds will be collected, classified and handled appropriately having regard to privacy, confidentiality, legal professional privilege and the requirements of natural justice.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
The misappropriation or theft of cash	Medium	<ul style="list-style-type: none"><li>▪ It is recommended that it be undertaken to ensure that reconciliations are performed and reviewed on a daily basis and any discrepancy followed up accordingly.</li><li>▪ Development of a Cash Handling policy.</li></ul>	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Cash Handling policy provides the community with assurance of the integrity in the local government system and of Port Stephens Council.

**CONSULTATION**

- 1) Financial Officers team.

**OPTIONS**

- 1) Adopt the recommendation;
- 2) Amend the recommendation; and
- 3) Decline the recommendation.

**ATTACHMENTS**

- 1) Cash Handling Policy.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



POLICY

Adopted:  
Minute No:  
Amended:  
Minute No:

**FILE NO:** PSC2012-00281  
**TITLE:** CASH HANDLING POLICY  
**RESPONSIBLE OFFICER:** FINANCIAL SERVICES MANAGER

**BACKGROUND**

Port Stephens Council recognises that cash handling is a high-risk function, the most serious and obvious risk being that of misappropriation or theft. It is important that these risks are minimised and that proper processes are in place and regularly reviewed.

Definitions

*Cash – is defined as currency, coins, cheques, money orders, electronic and credit card transactions and fund-raising*

*Council official – refers to all employees, contractors and volunteers engaged by Council*

**OBJECTIVE**

- 1) To ensure all monies received by Council are fully accounted for, receipted and deposited into Council's bank account.
- 2) To ensure consistency in standards in cash handling across all Council sites and services.
- 3) To establish and maintain accountability for the flow of cash through Council.
- 4) To provide a framework for cash handling processes and the security of cash.

**PRINCIPLES**

- 1) Cash receipting systems appropriate for each site will be installed and maintained.
- 2) Access to computer systems involved in cash handling will be monitored and restricted to delegated Council officials.
- 3) Cash received at each location shall be adequately safeguarded at all times, and properly receipted and/or documented in accordance with the approved receipting procedure using the installed Council system or official receipt books. Each such receipt is to be dated and numbered in sequential order.
- 4) All cash received must be banked on the next banking day, unless formal prior arrangements have been made.
- 5) All discrepancies as a result of cash handling processes, must be recorded, processed and reported.

- 6) Cash handling errors or eftpos errors of \$20.00 or more will be documented and investigated by a supervisor.
- 7) If continuous cash handling errors or eftpos errors occur, the employee may be warned formally in writing by the appropriate officer of Council and/or counselled.
- 8) Until deposited all cash must be kept secured in a locked drawer, container or safe and not left unattended.
- 9) Only Council cash may be stored in Council's safe keeping devices.
- 10) Safes are to be locked at all times (when not in use) and are to be located in a place not obvious to customers.
- 11) A register with the identity and position of employees with access to safes, cash registers or cash/card operated machines is to be maintained by Council.
- 12) Cash will be collected from specific sites by Council's authorised collection agent and transported in a secure manner to ensure all funds are adequately safeguarded.
- 13) Managers responsible for designated sites must maintain current documentation including a daily record and reconciliation of cash taken and received, including cash register total slips.
- 14) The borrowing or taking of cash from any float, till or safe for personal benefit is prohibited.
- 15) Non-compliance with this cash handling policy or site-specific cash handling procedures may result in disciplinary action.

#### **POLICY STATEMENT**

- 1) The policy intent is to protect Council funds, maintain the integrity, security and reputation of Council and its staff and the mitigation of the risks associated with cash handling.
- 2) This policy applies to all Council officials involved with the handling of cash and/or eftpos.

#### **RELATED POLICIES**

- 1) Code of Conduct – Port Stephens Council
- 2) Fraud and Corruption Control policy – Port Stephens Council

#### **SUSTAINABILITY IMPLICATIONS**

#### **SOCIAL IMPLICATIONS**

Nil

#### **ECONOMIC IMPLICATIONS**

The risk of misappropriation or theft of cash will be reduced.

#### **ENVIRONMENTAL IMPLICATIONS**

Nil

**RELEVANT LEGISLATIVE PROVISIONS**

- 1) Local Government Act 1993 – s439
- 2) Independent Commission Against Corrupt Act 1988

**IMPLEMENTATION RESPONSIBILITY**

- 1) Financial Services Manager

**REVIEW DATE**

- 1) July 2014

**ITEM NO. 10**

**FILE NO: PSC2011-04343**

**SUSTAINABILITY REVIEW – CEMETERIES SERVICE**

**REPORT OF: STEVEN BERNASCONI – COMMUNITY & RECREATION SERVICES MANAGER**  
**GROUP: FACILITIES AND SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes the information contained in the Sustainability Review – Cemeteries Service Strategy.
- 2) Continues its Cemeteries Service.
- 3) Fully fund historic/closed cemeteries from general Council revenue as part of Council's social, cultural and historic responsibilities.
- 4) Fund operational cemeteries from a combination of income generated from their fees and charges and subsidised by funds from general Council revenue.

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**COUNCIL COMMITTEE MEETING – 10 APRIL 2012**  
**RECOMMENDATION:**

	<p><b>Councillor Bruce MacKenzie</b>  <b>Councillor Shirley O'Brien</b></p>
	<p>That the recommendation be adopted.</p>

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>084</b>	<p><b>Councillor Glenys Francis</b>  <b>Councillor Bruce MacKenzie</b></p>
	<p>It was resolved that the Council Committee recommendation be adopted.</p>

**BACKGROUND**

The purpose of this report is to present to Council the outcomes of the sustainability review for the Cemeteries Service and seek endorsement of the recommendations contained in Cemeteries Service Strategy.

The service links to the Community Strategic Plan: 1.5.6 "Review all service levels of cemeteries to ensure sustainable supply".

By way of background, the sustainability reviews currently being undertaken across all Council services comprise three key stages:

Stage 1      Reviewing what is currently delivered – ie service drivers (legal, financial, operational);

- Stage 2      Reviewing what should be delivered – ie service levels (at what standard and at what cost);
- Stage 3      Reviewing how it should best be delivered – ie service delivery method (delivery model).

The findings of all stages of the review are documented into a comprehensive service strategy, with recommendations on the way forward. This is shown in the Cemeteries Service Strategy.

#### Cemeteries Service

Council aims to provide a professional cemetery service which provides equitable access to appropriate places for interment and quiet remembrance.

Council's cemeteries include:

Operational Cemeteries (5) - Raymond Terrace Cemetery, Seaham Cemetery, Karuah Cemetery, Anna Bay Cemetery, Carumbah Memorial Gardens; Historic/Closed Cemeteries (4) - Raymond Terrace Pioneer Cemetery, Hinton Cemetery, Birubi Cemetery, Nelson Bay Cemetery (closed except for existing reservations).

Activities of the service include:

Provision for sale of plots (lawn & monumental) & niches (columbarium walls and gardens).

Customer service & data management with sound administration processes to capture & retain information.

Service Delivery to provide optimum presentation within budget – including the management of contractors, finance, risk management and marketing.

Relationships with funeral industry contractors including annual permit system which assists with compliance to Council requirements for working in Council cemeteries.

Planning, policy & procedures to meet legislative and corporate processes & requirements.

Industry networking & knowledge including membership of professional associations.

Heritage, conservation & cultural responsibilities to the community.

Management of 355c committees to add value to the cemetery service provision

**The key drivers of the provision of cemetery services are:**

That Council is responsible for the cemeteries under its care and is responsible to ensure that the cemeteries are operated according to legislative requirements. Council's cemeteries are a mixture of Crown Land, operational and community land. That Council meet the demand for affordable burials within close proximity to the relatives of the deceased.

That Council holds the heritage, conservation & cultural trusteeship of the cemeteries for the community.

**There are ongoing challenges facing the Cemeteries Service:**

- To provide a level of service within a limited budget that is acceptable to the community.
- Currently only basic maintenance (mowing, gardens, weeding, fertilising and reactive minor repairs) are funded.
- Without further funding for asset rehabilitation (beams, walls) and infrastructure maintenance (fencing, ground repairs etc) the standard of the cemeteries will decline with potential loss of income the result.
- In order to provide improvements and ongoing sustainability of cemetery assets approximately \$25,000 a year extra would be required to make prioritised improvements over time.
- The extension of Anna Bay Cemetery into the land behind the existing cemetery will need to be investigated in the near future as Anna Bay Cemetery moves towards capacity.

**Resources available during the current financial year for the Cemeteries Service comprise**

Operating expenditure	\$237,178
Operating income (Fees and Charges)	\$116,500 (49% of total cost)
Operating subsidy (General Revenue)	\$120,678 (51% of total cost)
Staffing EFT	0.9

Note: One off funding was made in 2011-2012 from West Ward funds for \$ 45,000 for replacement of fences at Raymond Terrace Cemetery and Pioneer Hill Cemetery.

**SERVICE REVIEW FINDINGS****Benchmarking:**

As part of Stage 3 of the review, a survey was undertaken of all Hunter Council cemeteries, one Crown Land Trust cemetery and one private cemetery.

Due to the varied approaches to staffing, funding and limited similarities in data systems, contract vs staff ground maintenance and grave digging it is difficult to compare between Councils.



## MINUTES FOR ORDINARY MEETING – 24 APRIL 2012

To compare cemeteries provision the cost of a basic plot (without grave digging) was used as a measure of Council's provision against other cemeteries.

Port Stephens Council fees sit midway in the range of other Councils.

Service item – cost of burial plot

<b>Cemetery</b>	<b>Cost of Burial Plot</b>
Great Lakes Council	\$500
Maitland City Council	\$658
<b>Port Stephens Council</b>	<b>\$740</b>
Newcastle City Council	\$845
Lake Macquarie City Council	\$950
Sandgate Cemetery (Crown Land Trust)	\$1735
Private	\$1716

### Internal Efficiencies and Options:

- Administration and data management is currently being upgraded with the implementation of the cemetery module for Authority. This new system will provide a fully integrated system in which data can be linked to other Council systems in Authority such as general ledger and Trim and the mapping systems available through GIS. This will speed up the retrieval of data and other administrative processes, improve the storage and use of data (cemetery records/registers management is dictated by legislation).
- Given the importance and sensitivity of dealing with customers using this service, cemetery administration will be embedded in overall administration and customer service of the group. This will provide 100% back up cover for cemetery services and processes at all times to facilitate a responsive service to customers and lessen the impact on limited staff. This will be undertaken with the implementation of the new module and restructure of Facilities and Services administration. It will be done within current resources.
- Best value has been sought for all aspects of the cemeteries service. Cemetery mowing is contracted with a tender process of two years plus two year option. This process has ensured the best value for money. A number of cemetery operational processes are provided by internal service providers such as installation of ashes and plaques by Building Trades and Parks Staff who provide horticultural advice and services. The development of service level agreements with these providers will ensure the best outcomes for cemeteries.
- Volunteers add value to cemetery provision including the existing West Ward Cemeteries Committee and the recently established the Tomaree Cemeteries Committee. These groups assist Council in adding value to cemetery provision by improving presentation of grounds. Support and encouragement of volunteers will continue using existing resources.

### Alternate Service Delivery Options:

Cemeteries are generally managed by Councils, Crown Lands (trustees) or private enterprise.

Council is responsible for the cemeteries under its care and is responsible to ensure that the cemeteries are operated according to legislative requirements. Council outsources where it is appropriate and financially beneficial. Grounds maintenance is currently undertaken by a contractor where administration and data management activities are not suitable to outsource.

There is little scope for sharing resources as Councils tend to manage cemeteries in different ways and the distance between Council cemeteries means there are limited opportunities for economies of scale.

However, the Hunter Council Cemetery Taskforce provides opportunities for sharing of resources particularly information, policies, procedures, networking and developing skills and knowledge of staff. Any opportunities that arise for sharing resources and contracts between Councils are explored through this group. Council is member of the Hunter Councils Cemetery Taskforce, which as part of its charter, looks at future provision of cemeteries in the Hunter and explores any opportunities for a regional approach.

As part of its role the Hunter Council Cemetery Taskforce has raised concern about a proposed discussion paper for a Hunter Cemetery Strategy for cemeteries on Crown Land. This has been issued by NSW Crown Lands Division raises concerns about possible cost shifting.

This proposal would involve Councils handing over the control of their cemeteries (on Crown Land) with Crown Lands Division setting policy and fees. Income would not come back to Council for maintenance and management costs but Councils would still be required to fund and undertake the maintenance of cemeteries. Hunter Council Cemetery Taskforce and GMAC will be providing Crown Lands Division with a reply to the proposal in 2012.

There is no provision for Crown Land cemeteries to be fully returned to Crown Lands relieving Council of its responsibilities.

Any options for alternative delivery methods such as public/private partnerships would be limited due to the small and localised nature of Council's cemeteries. There is a limited customer base (current population of 67,800) which would not be considered a big enough pool to sustain a profitable cemetery operation. Sales are generally limited to those who live or have family ties in the local government area, not from outside areas. To be attractive to a private organisation the fees would need to be at least doubled. This would seriously affect demand.

While the area may have an ageing (and be a sea change retirement location) population this does not automatically translate into increased sales. A large number of residents who come to the area have pre paid funeral plans with final resting places close to their children or their pre retirement location. Families who organise funerals for their parents also tend to return their parents to their pre retirement locations.

Community run services or enterprises would find it a challenge to have access to the skills, knowledge and resources needed to manage cemeteries in a demanding legislative environment. The legislative knowledge requirements and data management are not generally found in the community and while it is a possible option, there are potential financial, legal and reputation risks. There is a role for community groups in adding value that is more appropriate than managing cemetery facilities.

The option of developing new cemetery services as an avenue for developing a new income stream for Council is not viable. Investment in additional cemeteries would not provide potential for generating income for Council. New cemetery services are not core business of Council and a population of 67,800 residents (even considering future population increases) with little or no capacity to attract sales from other areas would not provide a large enough customer base. A crematorium would not be viable as the supply of this service is high with cremators at Tomago, Beresfield, Ryhope and Cessnock.

Alternative delivery options would increase the fees and charges by double or treble the current costs.

#### **Funding Efficiency Options:**

Fees and charges have previously been very low compared to the overall market. In recent years fees have been gradually increased as a result of benchmarking against other local government areas. This ensures that annual increases adequately cover rising costs and are based on the market. We increase our fees & charges as much as the market will pay. If we increase our fees and charges beyond the market we may lose business rather than increase our customer base.

To market Council's cemeteries two main strategies are in place:

- 1) Provision of excellent customer service to funeral industry and customers to maximise word of mouth and referrals; and
- 2) Passive advertising based on cemeteries being available from Council, so that when facilities are needed Council cemeteries are considered.

It is not considered common practice or 'good form' to actively increase the usage of cemeteries

#### **Current Cemetery Financial Strategy:**

Council has nine cemeteries with a budget of \$237,000 which is derived from 49% fees and charges and 51% from general Council revenue. Only three of the operational cemeteries (Anna Bay Cemetery, Raymond Terrace Cemetery and Carumbah Memorial Gardens) provide income over \$5,000 pa from fees and charges means they are covering the maintenance costs of the other six cemeteries (Seaham Cemetery, Karuah Cemetery, Raymond Terrace Pioneer Cemetery, Hinton Cemetery, Birubi Cemetery, Nelson Bay Cemetery).

There is an asset management plan & capital works have been identified but funding is not available currently as has been the case in the past. Note: Ward funds have become available 2011-2012 for fencing at Raymond Terrace and Pioneer Hill Cemeteries.

That extension of Anna Bay Cemetery into the land behind the existing cemetery be investigated in the near future as Anna Bay Cemetery moves towards capacity.

### **Proposed Future Financial Strategy**

Create two divisions of cemeteries. Consider separating the funding of historic/closed cemeteries and operational cemeteries.

- Historic/closed cemeteries (non income producing) to be funded fully from general Council revenue. These cemeteries to be considered in the same way as parks and reserves as part of Council's social, cultural and historic responsibilities. Presentation to be basic level.
- Operational cemeteries (income producing) to be funded from a combination of income generated from their fees and charges and subsidised by funds from general Council revenue. Presentation to be of a standard to attract customers.

That funding be made available from asset rehabilitation and capital works to assist in maintaining essential infrastructure (beams, walls) and maintenance (fences etc) which will enhance presentation and improve the experience of customers and provide potential for increased income.

That extension of Anna Bay Cemetery into the land behind the existing cemetery be investigated in the near future as Anna Bay Cemetery moves towards capacity.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Current EFT for cemeteries service is 0.9.

Should Council adopt a recommendation to cease the operation of cemeteries (close cemeteries except for existing reservations) Council would still be responsible for the cemeteries and its legislative obligations. Existing reservations (pre paid reservations) and second interments would still continue and Council would need to maintain a sufficient level of mowing & maintenance as people would still continue to be buried. This would mean that there would be no further income (or very limited) to cover costs. Staff would still be required to provide service for pre sold plots.

The current service delivery is subsidised (51%) from general Council revenue. Other alternate service delivery options would most likely increase the fees and charges to customers to double or possibly treble current prices or Council would need to subsidise the provider as the customer base is not sufficient to sustain a profit making venture.

**LEGAL, POLICY AND RISK IMPLICATIONS**

Council is responsible for the cemeteries under its care and is responsible to ensure that the cemeteries are operated according legislative requirements. This responsibility remains Councils and cannot be delegated.

The cemeteries service is managed according to Port Stephens Cemeteries Policy, relevant legislation, guidelines published by NSW Government Departments and the funeral/cemetery industry.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Error in provision of cemetery service – resulting in incorrect placement of human remains.	Medium	Documented procedures, processes including data management, training of staff and implementation of Cemetery module of Authority.	Yes
Breach of legislation including work, health and safety by funeral contractors.	Medium	Management of Annual Permit system for funeral contractors working on Port Stephens Council land.	Yes
Causing emotional distress to families of deceased.	Medium	Provision of professional and sensitive cemetery service supported by clear processes to manage issue resolution	Yes
Financial and reputation risk from shortfalls in funding to maintain cemeteries to basic levels resulting in falling presentation standards if Council does not increase fees and charges.	Medium	As part of annual budget process Fees and charges are assessed to ensure they adequately cover costs. If funding is not sufficient decisions would be required to determine if service levels need to drop.	Yes
Financial and reputation risk from Council not planning for expansion of cemetery sites resulting in shortage of plots and niches available for sale.	Medium	The extension of Anna Bay Cemetery into the land behind the existing cemetery to be investigated in the near future.	Yes
Financial risk from Council not allocating funding for asset renewal resulting in deterioration of assets which could lead to drop in sales (and thus revenue) and no plots and niches being available for sale.	Medium	There is an asset management plan for cemeteries and cemetery assets can be funded from asset rehabilitation funds in Council annual budget process.	Yes
Financial risk from Council resolving to increase	Medium	Where service levels are to be increased extra alternative	Yes

<p>service levels beyond current funding provision without extra alternative revenue or reducing service levels elsewhere resulting in increase to underlying deficit.</p>		<p>revenue streams to be confirmed or other service levels within council to be reduced to balance the effect on the underlying deficit.</p>	
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## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Council's provision of cemeteries meets the demand for affordable burials within close proximity to the relatives of the deceased. While there are other providers in the market they are more expensive and/or located some distance from the local government area. We match service levels to the customer willingness/ability to pay.

Council management of cemeteries includes the trusteeship of heritage, conservation & cultural values for the community.

Council's cemeteries provide a place of work for funeral industry contractors. The majority of funeral directors who use the service are based in the local government area.

Council cemeteries are managed to standards that take into consideration environmental requirements some of which are legislated and others based on Council practices.

## **CONSULTATION**

- 1) Cemeteries Co-ordinator:
- 2) Consultation was carried out with customers and stakeholders by direct survey, community survey results and focus group to determine if Council should continue to delivery cemetery service in the future, at what level and at what cost.

The majority response was for Council to continue the service at a slightly higher level but with only small increase in fees and charges.

There was support for historical cemeteries to be considered as historical and cultural assets of the community in Council's care.

Customers were surveyed direct:

- Funeral Industry Contractors - Funeral Directors, Monumental Masons, Grave Digger – survey;
- Ratepayers & Residents – Community Survey Results; and
- Families of deceased who have used the service – anecdotal via Funeral Industry survey. Not appropriate to survey or question families of deceased directly.

Stakeholders were invited to participate in a Focus Group:

- Community – invited through advertisement in Examiner;
- West Ward Cemeteries Committee;
- Raymond Terrace Historical Society;
- Port Stephens Family History Society Inc; and
- Tomaree Family History Group.

### **OPTIONS**

- 1) Adopt the recommendations;
- 2) Amend the recommendations;
- 3) Reject the recommendations.

### **ATTACHMENTS**

Nil.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

- 1) Sustainability Review – Cemeteries Service Strategy; and
- 2) Sustainability Review – Cemeteries Service Strategy Annexure.

**ITEM NO. 11**

**FILE NO: PSC2011-0431**

**LEASE OF 57-59 PORT STEPHENS STREET, RAYMOND TERRACE**

**REPORT OF: STEVEN BERNASCONI - COMMUNITY AND RECREATION SECTION  
MANAGER**

**GROUP: FACILITIES AND SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the occupancy by Integratedliving Australia Ltd of 57-59 Port Stephens Street Raymond Terrace (Part Lot 1 DP 837299, Raymond Terrace Community Care Centre) for a period of three (3) years with an option to renew and that this occupancy includes an area under a sub licence for the development of a landscaped garden for use in dementia therapy.
- 2) Authorise the Mayor and General Manager to sign and affix the seal of the Council to the lease and sub licence documentation.

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**COUNCIL COMMITTEE MEETING – 10 APRIL 2012  
RECOMMENDATION:**

Cr Peter Kafer left the meeting at 7.20pm.

	<b>Councillor Bob Westbury Councillor Shirley O'Brien</b>
	That the recommendation be adopted.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>085</b>	<b>Councillor Glenys Francis Councillor Caroline De Lyall</b>
	It was resolved that the Council Committee recommendation be adopted.

**BACKGROUND**

The purpose of this report is to formalise the occupancy of Integratedliving Australia Ltd within the Raymond Terrace Community Care Centre and on the grounds of the same land parcel and to request the affixing of Council's seal to the lease and sub licence documentation.

Integratedliving Australia Ltd (formerly known and operated as Port Stephens Community Care Inc.) has occupied a large portion of ground floor space and some first floor space within the Raymond Terrace Community Care Centre for a number of



years. In recent times they have also gained approval to lodge a D.A. over part of this land for the development of a landscaped garden for use in dementia therapy.

The terms of the lease and sub licence have been negotiated with Integratedliving Australia Ltd and agreement has been reached to enter into a new lease for a period of three (3) years with an option to renew for three (3) years. Rental has been determined and agreed at \$33,716.00 per annum (GST exclusive) subject to annual review in accordance with CPI. The costs of outgoings are the responsibility of the Lessee.

Harris Wheeler Lawyers have reviewed the appropriate lease and sub licence documentation, which is required to be signed under seal.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The new lease will provide Council with an annual return of \$33,716.00 subject to annual review. This new revenue will be directed towards asset management for community and recreation assets.

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

It is a requirement of the Real Property Act that leases in excess of three years duration must be registered upon the title of the land to which they apply. If the lease is to be registered the seal must be affixed upon signing. The seal of a Council must not be affixed to a document unless the document relates to the business of a Council and the Council has resolved (by way of a resolution specifically referring to the document that the seal be affixed).

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a safety risk associated with having tenants without clearly defined formal agreements.	Medium	Clearly defined responsibilities are included in the lease and sub licence agreement	Yes
There are financial risks associated with tenants exiting an agreement early and failing to pay their lease payments.	Low	Secure all tenants to lease or licence agreements	Yes
There is a financial risk that the tenant may go elsewhere if the lease is not accurate and fairly valued.	Low	Adopt the recommendation and execute the draft lease and sub licence.	Yes
There is a financial risk in not generating a financial return on the available tenancy space and thus not providing a revenue source for asset management.	Low	The draft lease and sub licence have been valued using the draft Community Tenancy Policy	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no environmental implications linked to the adoption of the recommendation.

Accepting the recommendation will secure the tenure for Integratedliving Australia Ltd which in turn adds to the local economy through this business continuing to operate within Port Stephens local government area.

Council has a social responsibility to improve access to a broad and diverse range of support services for people with disabilities and the ageing population. Securing tenure for a large provider for 'social support services' adds to this variety and access.

## **CONSULTATION**

There has been extensive consultation with the IntegratedLiving Australia Ltd and others involved in this lease specifically:

- 1) Integratedliving Australia Ltd officers and their legal advisors;
- 2) Council's Commercial Investment Coordinator and Community and Recreation Assets Coordinator; and
- 3) Harris Wheeler Lawyers.

## **OPTIONS**

- 1) Adopt the recommendation
- 2) Amend the recommendation and either increase or decrease the rental amount.
- 3) Reject the recommendation and pursue other tenants for the site.

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ITEM NO. 12**

**FILE NO: A2004-0511**

**LOCAL TRAFFIC COMMITTEE MEETING – 6 MARCH 2012**

**REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER**

**GROUP: FACILITIES AND SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the recommendations contained in the minutes of the Local Traffic Committee meeting held on 6<sup>th</sup> March 2012.

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**COUNCIL COMMITTEE MEETING – 10 APRIL 2012**

**RECOMMENDATION:**

	<b>Councillor Ken Jordan</b> <b>Councillor John Nell</b>
	That the recommendation be adopted.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>086</b>	<b>Councillor Caroline De Lyall</b> <b>Councillor Geoff Dingle</b>
	It was resolved that the Council Committee recommendation be adopted.

**MATTER ARISING**

<b>087</b>	<b>Councillor Geoff Dingle</b> <b>Councillor Peter Kafer</b>
	It was resolved that Council write to the Secretary of Defence expressing concern on the current intersection proposal that would result in queuing of traffic on Williamtown Road.

**BACKGROUND**

The purpose of this report is to bring to Council's attention traffic issues raised and detailed in the Traffic Committee minutes and to meet the legislative requirements for the installation of any regulatory traffic control devices associated with Traffic Committee recommendations. (Community Strategic Plan Section 5.4)

**FINANCIAL/RESOURCE IMPLICATIONS**

Council has an annual budget of \$41 000 (\$25 000 grant from the RMS and General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. This allocation has remained unchanged since the 2007/08 financial year. The construction of capital works such as traffic control devices and intersection improvements resulting from the Committee's recommendations are not included in this funding and are to be listed within Council's "Forward Works Plan" for consideration in the annual budget process.

Approximately \$39 000 of the annual budget allocation has been spent for 2011/2012 requiring that some Traffic Committee recommendations may have to be prioritised or deferred to ensure that the Traffic Committee budget is not exceeded in the current financial year.

**LEGAL, POLICY AND RISK IMPLICATIONS**

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

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

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Recommendations may not meet community expectations	Medium	Ensure proper consultation is carried out when required, prior to meetings	Yes
Recommendations may not meet required standards and guidelines	Medium	Traffic Engineer to ensure that all relevant standards and guidelines are applied	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

## **CONSULTATION**

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

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Local Traffic Committee Minutes – 6/3/2012.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

**LOCAL TRAFFIC COMMITTEE MEETING  
HELD ON TUESDAY 6<sup>TH</sup> MARCH 2012  
AT 9:30AM**

**Present:**

Cr Bob Westbury – Mayor, Cr Geoff Dingle, Snr Const John Simmons - NSW Police, Mr Joe Gleeson (Chairperson), Mr Graham Orr, Ms Lisa Lovegrove – Port Stephens Council

**Apologies:**

Craig Baumann MP, Cr Peter Kafer, Mr Bill Butler – RMS, Mr John Meldrum – Hunter Valley Buses, Mr Dave Davies – Busways, Mr Mark Newling - Port Stephens Coaches, Ms Michelle Page – Port Stephens Council

**A. ADOPTION OF MINUTES OF MEETING HELD 7<sup>TH</sup> FEBRUARY, 2012**

The minutes of the previous Local Traffic Committee Meeting were adopted.

**B. BUSINESS ARISING FROM PREVIOUS MEETING**

**C. LISTED MATTERS**

**D. INFORMAL MATTERS**

**E. GENERAL BUSINESS**

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**PORT STEPHENS  
LOCAL TRAFFIC COMMITTEE AGENDA**

**INDEX OF LISTED MATTERS  
TUESDAY 6<sup>TH</sup> MARCH, 2012**

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**A. ADOPTION OF THE MINUTES OF 7<sup>TH</sup> FEBRUARY, 2012**

**B. BUSINESS ARISING FROM PREVIOUS MEETING**

**C. LISTED MATTERS**

**05\_03/12 FAME AVENUE CORLETTE – REQUEST FOR 'NO STOPPING' AT INTERSECTION**

**06\_03/12 TOWN CENTRE CIRCUIT SALAMANDER BAY - REQUEST FOR 'NO STOPPING' OPPOSITE MCDONALDS**

**07\_03/12 STOCKTON STREET NELSON BAY - REQUEST FOR 'NO STANDING' RESTRICTIONS**

**08\_03/12 STURGEON STREET RAYMOND TERRACE - REQUEST FOR REMOVAL OF TRAFFIC ISLAND IN THE COUNCIL CAR PARK AREA**

**D. INFORMAL MATTERS**

**503\_03/12 HARWOOD AVENUE SHOAL BAY – COMPLAINTS REGARDING ANTI-SOCIAL ACTIVITIES**

**504\_03/12 MEDOWIE ROAD WILLIAMTOWN – PLANNED UPGRADE OF WILLIAMTOWN RAAF BASE**

**E. GENERAL BUSINESS**

**C. Listed Matters**

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**Item:** 05\_03/12

**FAME AVENUE CORLETTE – REQUEST FOR 'NO STOPPING' AT INTERSECTION**

**Requested by:** A resident

**File:**

**Background:**

Residents of Fame Avenue have complained that when vehicles are parked in Fame Avenue near the Corrie Parade intersection the crest in the road makes it difficult to see oncoming traffic until you are on top of them.

**Comment:**

The Traffic Inspection Committee members noted that Fame Avenue narrows abruptly past the corner lot and that there is width for parking below the crest.

**Legislation, Standards, Guidelines and Delegation:**

NSW Road Rules – Rule 169 - No stopping on a road with a yellow edge line  
RTA Delineation Manual – Section 13 – Pavement markings for kerbside parking restrictions  
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

**Recommendation to the Committee:**

Install 'No Stopping' lines in Fame Avenue and Corrie Parade Corlette, as shown on the attached sketch, Annexure A.

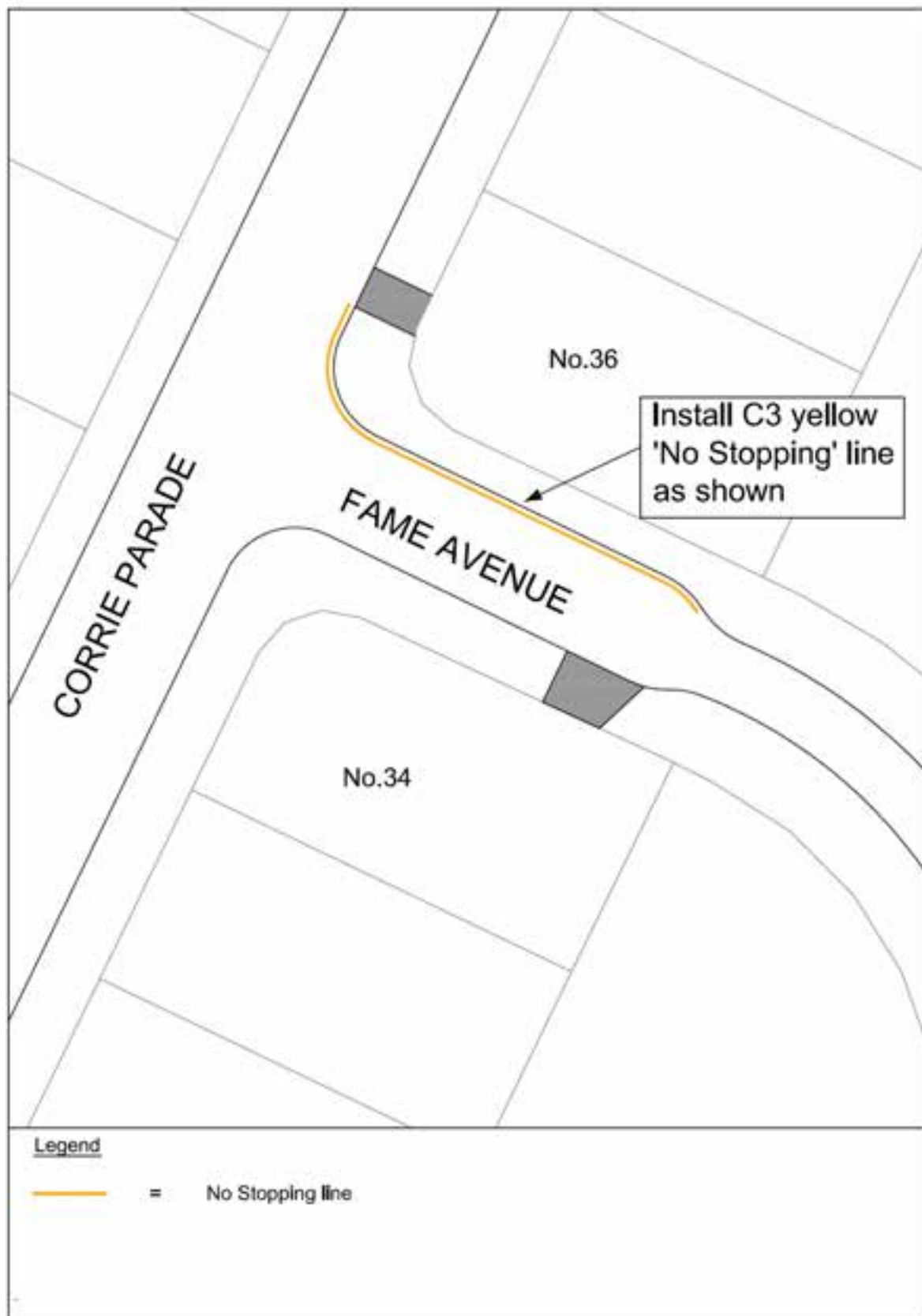
**Discussion:**

Cr Westbury raised concerns about the installation of parking restrictions in residential areas. He requested that Council contact the resident of No.36 to request that they park elsewhere which may remove the need for installation of parking restrictions.

**Support for the recommendation:**

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





**Item:** 06\_03/12

**TOWN CENTRE CIRCUIT SALAMANDER BAY - REQUEST FOR 'NO STOPPING' OPPOSITE MCDONALDS**

**Requested by:** Mr Mark Newling - Port Stephens Coaches

**File:**

**Background:**

During the recent circus event at Salamnder Bay, some vehicles were stopping on Town Centre Circuit opposite McDonalds causing traffic congestion.

**Comment:**

Traffic Inspection Committee members noted that Town Centre Circuit is relatively wide at the Bagnall Beach Road intersection. However, when vehicles park on the northern side, traffic becomes congested with left-turners unable to by-pass traffic waiting to turn right.

**Legislation, Standards, Guidelines and Delegation:**

NSW Road Rules – Rule167 – No stopping signs, Rule 169 - No stopping on a road with a yellow edge line

RTA signs database – R5-400, RTA Delineation Manual – Section 13 – Pavement markings for kerbside parking restrictions

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

**Recommendation to the Committee:**

Install 'No Stopping' signs and lines in Town Centre Circuit Salamander Bay, as shown on the attached sketch, Annexure A.

**Discussion:**

**Support for the recommendation:**

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



**Item:** 07\_03/12

**STOCKTON STREET NELSON BAY - REQUEST FOR 'NO STANDING' RESTRICTIONS**

**Requested by:** A business operator

**File:**

**Background:**

The service road off Stockton Street Nelson Bay is quite narrow and cannot accommodate parking on-street. The business operator has contacted Council to complain about service vehicles to the neighbouring property being parked on-road and blocking access to the property at No.81 Stockton Street.

**Comment:**

Traffic Inspection Committee members noted that any parking on-road could potentially block access to the property at No.81. Any service vehicles or deliveries to properties in this area need to be accommodated off-street.

**Legislation, Standards, Guidelines and Delegation:**

NSW Road Rules – Rule167 – No stopping signs,

RTA signs database – R5-400

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

**Recommendation to the Committee:**

Install 'No Stopping' signs in the service road off Stockton Street Nelson Bay, as shown on the attached sketch, Annexure A.

**Discussion:**

**Support for the recommendation:**

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



**Item:** 08\_03/12

**STURGEON STREET RAYMOND TERRACE - REQUEST FOR REMOVAL OF TRAFFIC ISLAND IN THE COUNCIL CAR PARK AREA**

**Requested by:** Raymond Terrace MarketPlace Management

**File:** PSC2005-4189/063

**Background:**

Raymond Terrace MarketPlace management has complained to Council that the old concrete island situated in the Council-owned car park area behind No.43 William Street is a traffic hazard and performs no worthwhile purpose. It should be removed and 'No Stopping' restrictions installed to deter unloading in this area.

**Comment:**

Traffic Inspection Committee members noted that the island acts as a refuge to allow delivery vehicles to park while blocking access to William Street properties. Removal of the concrete island will require capital works by the asset owner – Council's Property section. Installation of 'No Stopping' restrictions will assist by deterring unloading activities.

**Legislation, Standards, Guidelines and Delegation:**

NSW Road Rules – Rule 169 - No stopping on a road with a yellow edge line  
RTA Delineation Manual – Section 13 – Pavement markings for kerbside parking restrictions  
Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

**Recommendation to the Committee:**

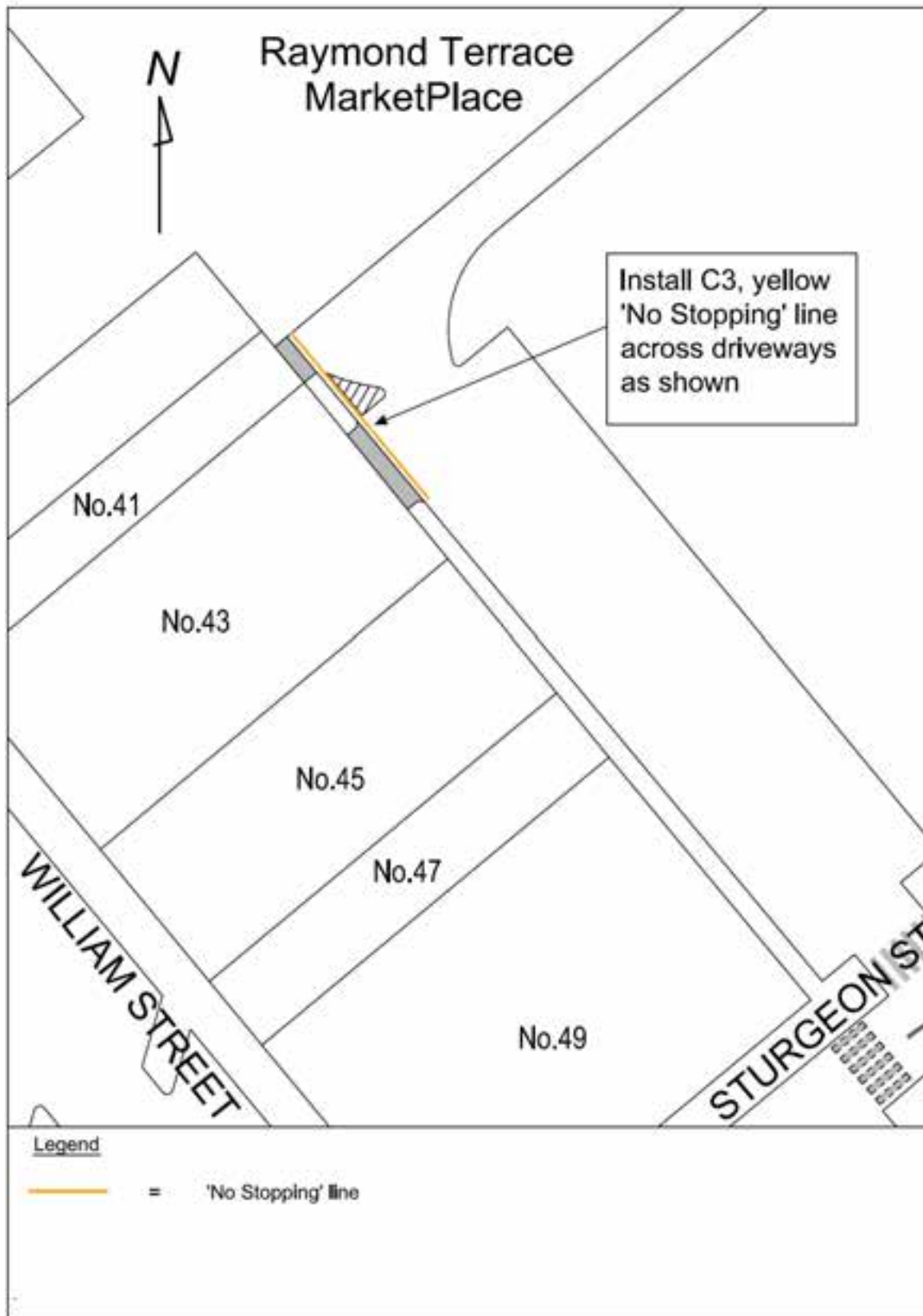
Install a 'No Stopping' line in the Council car park area adjacent to Sturgeon Street Raymond Terrace, as shown on the attached sketch, Annexure A.

**Discussion:**

Committee members discussed whether the traffic island should be removed. It was agreed that the original intent of the traffic island was to reduce traffic speeds and that removing it could lead to increased speeds entering the MarketPlace car park. It was recommended that the island be re-painted to improve its prominence.

**Support for the recommendation:**

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



**D. Informal Items**

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**Item:** 503\_03/12

**HARWOOD AVENUE NELSON BAY – COMPLAINTS REGARDING ANTI-SOCIAL ACTIVITIES**

**Requested by:** Local residents

**File:**

**Background:**

Residents of Harwood Avenue Nelson Bay have requested action by Council to deter anti-social behaviour occurring in Harwood Avenue and Beach Road Shoal Bay.

**Comment:**

Beach Road is an unsealed track running through Anzac Park, which gives access to the Shoal Bay Foreshore reserve. Residents complain about anti-social driver behaviour creating dust and noise to nearby residences. This also occurs at the northern end of Harwood Avenue. Port Stephens Council last year placed log barriers at the northern end of Beach Road to improve the amenity for residents. However, Council received complaints about the loss of parking during the busy summer period and removed the logs.

Residents have again complained to Council about the anti-social activities and requested that the log barriers be re-instated. An on-site meeting was held recently between resident representatives and Council officers that agreed on a compromise trial to replace the log barriers at adjusted locations that will hopefully reduce the anti-social activities and improve safety for beach goers without adversely impacting on available parking.

The proposed location of log barriers is shown on the attached sketch, Annexure A.

**Committee's advice:**

For discussion

**Discussion:**

Traffic Committee members noted that log barriers would not solve the anti-social behaviour issues but may contribute to improved amenity for residents.



**MINUTES FOR ORDINARY MEETING – 24 APRIL 2012**

**PORT STEPHENS TRAFFIC COMMITTEE**  
Tuesday 6 March 2012

**ITEM NO.503\_03/12**  
Street: Harwood Avenue

**ANNEXURE A**  
Page 1 of 1



**Item:** 504\_03/12

**MEDOWIE ROAD WILLIAMTOWN – PLANNED UPGRADE OF WILLIAMTOWN RAAF BASE**

**Requested by:**

**File:**

**Background:**

The RAAF Base at Williamtown is to undergo major upgrade works to accommodate the Joint Strike Fighter capabilities. These works are to include major upgrades to the base access roads which will impact on Medowie Road.

**Comment:**

Mr Craig Baumann MP, member for Port Stephens has contacted the Minister for Roads and Ports regarding this matter and the attached letter from the Minister is provided for the information of Traffic Committee members and advisors.

**Committee's advice:**

For discussion

**Discussion:**

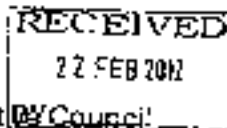
It was noted that Port Stephens Local Traffic Committee should submit a formal response to the project managers for the RAAF Base upgrade stressing that all traffic queuing to enter the RAAF Base needs to be accommodated within the RAAF Base land and clear of the public road reserve. In addition, the requirements for safe and efficient pedestrian and cyclist movements into and past the base must be considered in the final design.

It was requested that Council's Traffic Engineer prepare a letter to the proponents stating these points.



**The Hon. Duncan Gay MLC**

Deputy Leader of Government in the Legislative Council  
Minister for Roads and Ports



M118226

Mr Craig Baumann MP  
Member for Port Stephens  
PO Box 82  
RAYMOND TERRACE NSW 2324

Dear Mr Baumann

Thank you for your letter about the planned upgrade of the Williamtown RAAF Base and the effect the work will have on motorists using Medowie Road.

On 1 November 2011 a new organisation called Roads and Maritime Services (RMS) was formed to replace the Roads and Traffic Authority and NSW Maritime. RMS will focus on service delivery, concentrating on delivering the key tasks of building and maintaining road infrastructure and the day-to-day compliance and safety for roads and waterways.

I am advised that representatives from RMS Hunter Region met with the proponents of the Williamtown RAAF Base upgrade on 14 December 2011.

Medowie Road is a Regional Road managed by Port Stephens Council. I am further advised that RMS is involved as the consent authority for the traffic lights which are proposed at the relocated northern access to the base on Medowie Road.

I understand that RMS will review the traffic impact assessment and preliminary design for the signalised access as part of the approval process.

RMS will review the detailed proposal as due course and will ensure that appropriate provision is made for queuing vehicles, pedestrians, cyclists and access to public transport as part of the design and construction of the intersection.

I hope this has been of assistance. For more information please contact Mr Jim Peachman, Regional Manager, Hunter, at RMS on (02) 4924 0218.

Yours sincerely

15 FEB 2012

Duncan Gay MLC  
Deputy Leader of Government in the Legislative Council  
Minister for Roads and Ports

**ITEM NO. 13****FILE NO: PSC2009-00476****MAYORAL CHAIN****REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER****GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Consider the proposal of the design and production of a Mayoral Chain.

**COUNCIL COMMITTEE MEETING – 10 APRIL 2012****RECOMMENDATION:**

	<b>Councillor John Nell</b> <b>Councillor Bruce MacKenzie</b>
	That Council commission the design and production of Design No. 3 for the Mayoral Chain.

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>088</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Nell</b>
	It was resolved that the Council Committee recommendation be adopted.

A division was moved by Cr Peter Kafer and seconded by Cr Glenys Francis.

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

Those against the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall and Sally Dover.

**BACKGROUND**

The purpose of this report is to allow Council to consider the production of a Mayoral Chain.

During 2011, Council engaged students from Newcastle University to develop an insignia for the Mayoral Chain. The design was to incorporate the heritage and culture of the area and its people, past and present and also consider the environment both build and physical of Port Stephens.

## MINUTES FOR ORDINARY MEETING – 24 APRIL 2012

In total, three (3) final designs were presented to Council. The designs are shown at ATTACHMENT 1. All designs are subject to copyright laws.

The Mayoral insignia would be 70mm in diameter, gold plated for designs 1 and 2 with the 3rd design antique silver (silver oxidized).

### FINANCIAL/RESOURCE IMPLICATIONS

Indicative prices have been sought with regard to the production of the Mayoral Chain. The prices range from \$9,450 to \$26,000. These prices are a combination of prices from three companies. Council are advised that the total cost from the preferred supplier would be approximately \$12,000.

Council should be aware that these costs are not budgeted for in the 2011-12 budget. Should Council wish to proceed with the Mayoral Chain the funds would come from general revenue.

### LEGAL, POLICY AND RISK IMPLICATIONS

There is no legal requirement for Council to proceed with the production of the Mayoral Chain. The Mayoral Chain would only be used for ceremonial purposes.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is limited risk associated with this report, however Council should be aware that many Council do have a mayoral chain for ceremonial purposes and to provide a level of recognition to the Office of the Mayor.	Low	Purchase of a Mayoral Chain.	Yes

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Mayoral Chain would provide a level of recognition to the Office of the Mayor. The Chain would be available for events such as citizenship ceremonies, Australia Day events, VIP visits and other community events where the Mayor is representing Council.

**CONSULTATION**

- 1) Mayor;
- 2) Councillors; and
- 3) University of Newcastle.

**OPTIONS**

- 1) Resolve to produce a selected design from ATTACHMENT 1; or
- 2) Resolve not to proceed with the production of a Mayoral Chain.

**ATTACHMENTS**

- 1) Mayoral Chain designs.

**COUNCILLORS ROOM**

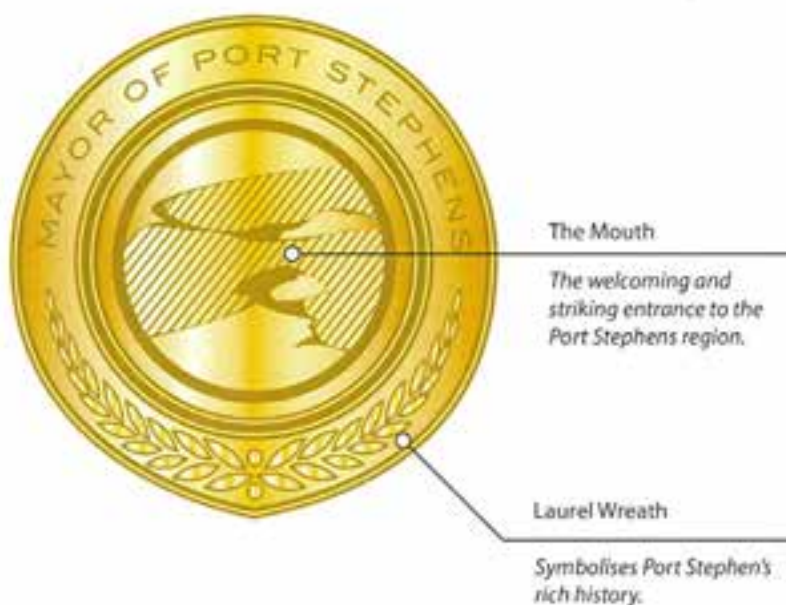
Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1  
DESIGN 1

Mayoral Chain Concept - Ben Pickles



Rationale

The Mouth of Port Stephens symbolises an open and welcoming community that not only reside in and around the coves and bays of the Port herself, but also spread deep into the region, via its many spectacular waterways.

It is for this reason that the remarkable landmarks of Tomaree and Yacaaba feature on the design for the Mayoral chain, as shown above. The dramatic beauty of the two heads serves to create a striking first impression and welcome to the Port Stephens region.

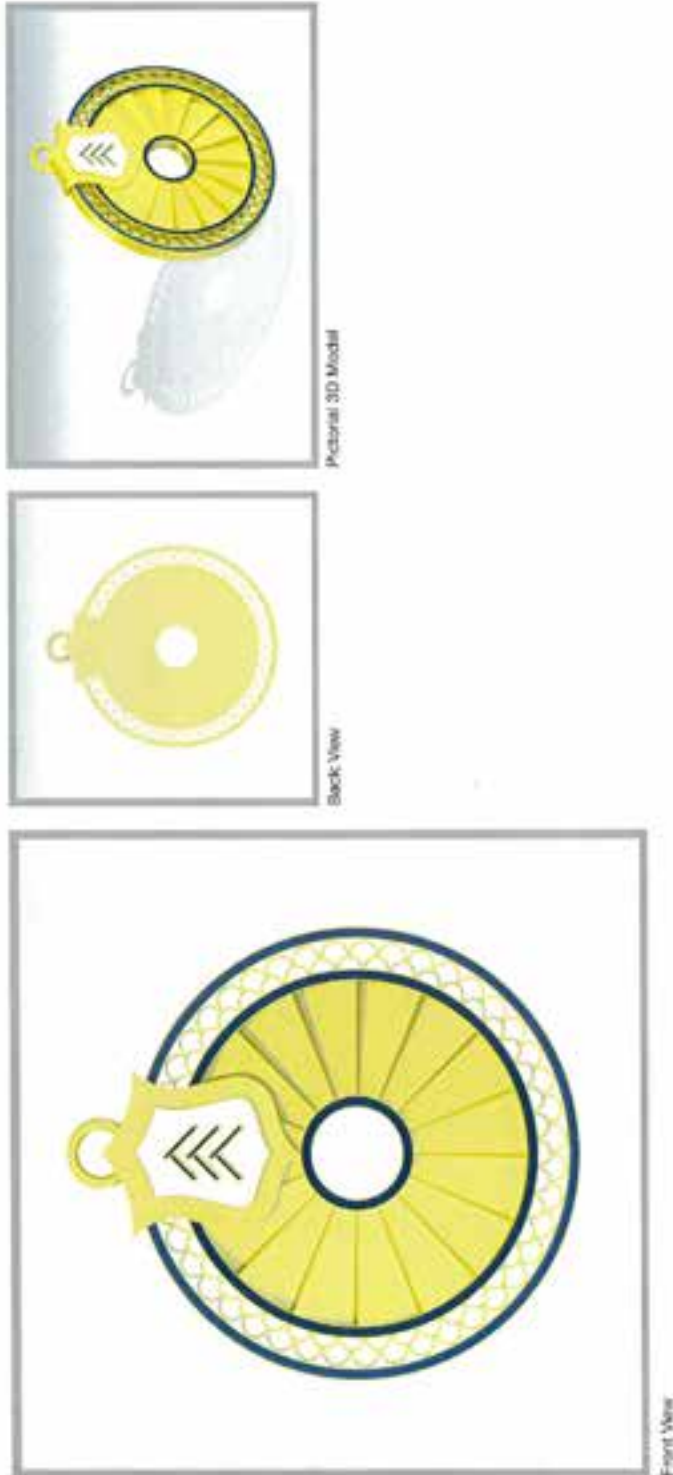
The mouth represents land and water, the rural and coastal. Known as "Australia's blue water paradise" the waters of Port Stephens are the hub of her strong tourism industry, attractive for recreational boating, fishing as well as whale and dolphin watching.

Port Stephens has a rich history: from her indigenous inhabitants of the Worimi Tribe; to Captain James Cook in 1770, who named the Port after a Sir Philip Stephens; and the growth of the fishing industry, started by the Chinese in the 1800s and continued by the Europeans in the 1880s.

The wreath symbolises the history of Port Stephens, while indicating respect to the Mayor, the elected representative of the Port Stephens community.

DESIGN 2

Port Stephens Council Mayoral Chain Design - Lauri Teo



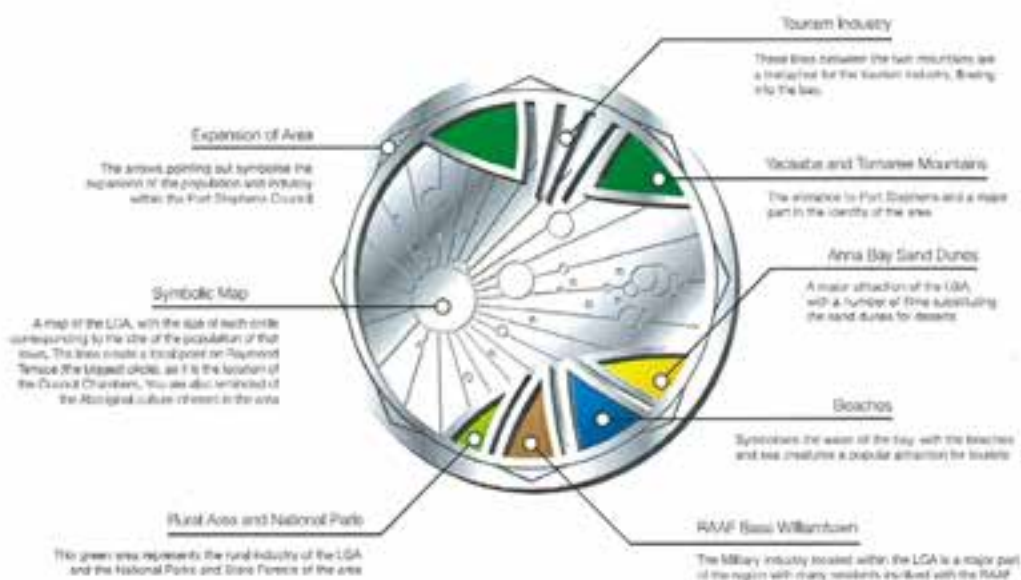
**Rationale**

The designer's main aim was to create a visual solution that would allow the individual to create his or her own meaning in the design. It incorporates elements of the heritage and culture of the area, through the aerial view of the colonial houses (radiating panels), but also its people past and present, through the abstract interpretation of the Aboriginal symbol for group (scallop pattern). It also considers the environment both built and physical, with symbols such as the aerial view of the lighthouse (inner circle) and waves of the ocean (scallop pattern). The insignia encapsulates the importance of all aspects of Port Stephens representing not only its iconic coastal landscape, but also its residential and rural areas.



DESIGN 3

Mayoral Chain Concept - Ben Sheather



Rationale

How do you represent an area that is diverse in culture, industry and people? That is the question this designer asked himself many times before creating this solution you see before you.

Each section of the Mayoral Insignia incorporates an important part of the Local Government Area of the Port Stephens Council, whether it is the two mountains, Yacaaba and Tomaree, the Anna Bay sand dunes or the RAAF Base at Williamtown.

The most important part of the Medallion was to incorporate the population, the people of Port Stephens. The circle pattern in the centre, while seemingly random, are actually a symbolic map of Port Stephens, with each circle representing a town, with the size of the circle corresponding to it's population.

The insignia as a whole, represents the environment, the residents and the industry of Port Stephens.

**ITEM NO. 14**

**FILE NO: PSC2010-04382**

**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) Rapid Response – Cr Dingle – 1<sup>st</sup> Medowie Scout Group - Donation to assist in the purchase of replacement of equipment including Canadian canoes, stolen from storage facilities at Medowie Community Centre, and to assist members who are working towards attending the Australian Jamboree in Brisbane in early 2013 - \$500.00;
  - b) Rapid Response – Mayoral Funds – PCYC Nelson Bay – Donation towards charity fundraiser - Time 4 Kids - \$500.00; and
  - c) Requisition for Funds – Mayoral Funds - Nelson Bay District Business Chamber - Requisition for Funds – Mayoral Funds – Donation towards the cost of additional garbage bins and food stall inspection fees in respect of the Tastes of the Bay event - \$500.00
  - d) Requisition for Funds – West Ward – Raymond Terrace Men's Shed – Donation to assist with painting, shelving, gardening and the opening of the Shed - \$1,000.00.

**COUNCIL COMMITTEE MEETING – 10 APRIL 2012**

**RECOMMENDATION:**

	<p><b>Councillor Ken Jordan</b> <b>Councillor Bob Westbury</b></p>
	<p>That the recommendation be adopted.</p>

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>089</b>	<p><b>Councillor John Nell</b> <b>Councillor Ken Jordan</b></p>
	<p>It was resolved that the Council Committee recommendation be adopted.</p>

**The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public**

**funding. The Financial Assistance Policy gives Councillors a wide discretion to either grant or to refuse any requests.**

The 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); and
4. Community Capacity Building.

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

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

**CENTRAL WARD – Councillors Dingle, MacKenzie, O’Brien & Tucker**

1 <sup>st</sup> Medowie Scout Group	Rapid Response - Donation to assist in the purchase of replacement of equipment including Canadian canoes, stolen from storage facilities at Medowie Community Centre, and to assist members who are working towards attending the Australian Jamboree in Brisbane in early 2013	\$500.00
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**MAYORAL FUNDS**

PCYC Nelson Bay	Rapid Response – Mayoral Funds – Donation towards charity fundraiser - Time 4 Kids	\$500.00
Nelson Bay District Business Chambers	Requisition for Funds – Mayoral Funds – Donation towards the cost of additional garbage bins and food stall inspection fees in respect of the Tastes of the Bay event	\$500.00

**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**

- 1) Mayor;
- 2) Councillors; and
- 3) 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. 15

## INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

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### RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 10 April 2012.

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No:	Report Title	Page:
1	155 SALAMANDER WAY, SALAMANDER BAY	
2	MEDIA & SOCIAL MEDIA QUARTERLY REPORT	
3	2011 NATIONAL LOCAL ROADS AND TRANSPORT CONGRESS IN MOUNT GAMBIER, SOUTH AUSTRALIA	

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### COUNCIL COMMITTEE MEETING – 10 APRIL 2012

#### RECOMMENDATION:

	<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>
	That the recommendation be adopted.

### ORDINARY COUNCIL MEETING – 24 APRIL 2012

090	<b>Councillor Geoff Dingle</b> <b>Councillor Caroline De Lyall</b>
	It was resolved that the Council Committee recommendation be adopted.

# COUNCIL COMMITTEE INFORMATION PAPERS



**INFORMATION ITEM NO. 1**

**155 SALAMANDER WAY, SALAMANDER BAY**

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**REPORT OF: CARMEL FOSTER - PROPERTY SERVICES MANAGER**

**GROUP: CORPORATE SERVICES**

**FILE: A2004-0217**

**BACKGROUND**

The purpose of this report is to inform Council of the process and outcome of the negotiations with Tinklercorp to purchase 155 Salamander Way, Salamander Bay. The terms of the offer were very broad with no regard given to the improvements on the site or the existing contracts with proposed end users. The terms were as follows:

1. A purchase price of \$ \$22,050,000.
2. Deposit payable upon exchange of contracts of 0.5% of the purchase price (refundable) rising to 5% of the purchase price once the contract becomes unconditional.
3. Settlement to take place within 120 days of the conditions of the contract becoming unconditional.
4. The Purchaser to be Tinklercorp Pty Ltd or its nominee.
5. Purchase is subject to a 120 days Due Diligence period.

After Council had resolved to sell Council's commercial land holding at 155 Salamander Way, Salamander Bay on 16 August 2011, the Property Section provided Tinklercorp with all the information/studies/reports Council had obtained pertaining to 155 Salamander Way and submitted full copies of the proposed contract for the sale of the land.

During initial discussions with Tinklercorp representatives prior to Council resolving to sell the site Council specified the need for a long-term concessional lease for the community facilities that occupy the site. Tinklercorp asked Council to outline acceptable lease terms and this was forwarded to Tinklercorp in late August.

A Notice of Motion to prepare a report to Council detailing the terms and conditions of the sale contract and lease conditions for community facilities associated with the sale of 155 Salamander Way prior to the exchange of contracts was adopted on 13 September 2011.

After numerous phone calls and emails from Council to Tinklercorp it was not until 18 November 2011 (some three months after the contract was submitted) that Council received a response from Tinklercorp on the terms of the contract and proposed lease of the community facilities. This response materially changed the proposed commercial terms of the transaction between the parties. It was also conveyed to

Council at this time that a concessional lease for the community facilities would not be acceptable.

On 23 November 2011, Council wrote to Tinklercorp expressing its concerns regarding the change in Tinklercorp's position, which was to introduce a condition making settlement conditional upon approval of development consent from the Joint Regional Planning Panel.

Notwithstanding the above, on 25 November 2011 the General Manager and Group Manager Commercial Services met with Tinklercorp representatives to discuss the change in position. It was conveyed at the meeting that the contract for the sale of the land would need to be unconditional (not subject to development consent). The parties agreed in principle as follows:

- The lease of the community facilities was not viable so the community facilities should be subdivided off from the site.
- The deposit would be refundable.
- The due diligence period would be 4 month's from exchange of contracts.

On the 29 November 2011, a follow up meeting was held between Tinklercorp representatives, Group Manager Corporate Services and Commercial Property Manger to further discuss the subdivision of the community facilities from the remaining commercial land.

Further follow up phone calls were made to Tinklercorp representatives during the following three weeks to further the proposed subdivision plans and sale contract.

On 20 December 2011 Council's legal representatives wrote to Tinklercorp seeking confirmation that they would not require settlement to be conditional on development consent and would agree to the subdivision of the community facilities and pro rata reduction of the purchase price to reflect that reduction in land. A response was requested by 22 December 2011 however, Tinklercorp advised that due to the change in its management structure and the closedown over the Christmas holidays that they would not be able to respond to Council in this timeframe but requested a meeting early February 2012.

Council's Property Section continued to have difficulty obtaining any clarity from Tinklercorp as to its intentions in connection with the proposed transaction and was unable to secure a meeting with Tinklercorp in early February 2012. During this time, Tinklercorp representatives met with Group Manager Sustainable Planning, Natural Resources Co-ordinator and the Strategic Co-ordinator from Council's Sustainable Planning Section to discuss planning and environmental outcomes on the site. Council then received a response in the form of a letter on 15 March 2012. The letter indicates that Tinklercorp is prepared to move forward only on the basis of its original CBRE offer of 15 February 2011. This letter of offer does not contemplate the subdivision of the community facilities from the remainder of the site nor does it consider a concessional rent of the community facilities therefore Council is unable to accept the proposed offer.



## **MINUTES FOR ORDINARY MEETING – 24 APRIL 2012**

Due to the uncertainty and time constraints due to the extended negotiations between Council and Tinklercorp, both Aldi and Tomaree Health have rescinded the contracts for sale of land however Fabcot (Woolworths) have continued to progress the purchase of the site and have also continued to negotiate with Colonial (owners of the shopping centre) for a connection into the existing centre. This connection has now been agreed to and secured by a Heads of Agreement.

On 23 February 2010, Council resolved to formally enter into an 'Option to Purchase' with Fabcot to purchase some two ha of land located to the north of the existing shopping centre.

As a consequence of Fabcot securing the connection Fabcot have now exercised the Option to purchase the land. Under the terms of the Option Deed Council will now be required to use its best endeavours to provide Fabcot with a parcel of land. Council is now working towards subdividing the land. Workshops to develop design guidelines for the land will progress over the next few months.

A Two Way Conversation will be held with Councillors to consider the subdivision strategy in addition to being discussed at the next Property Advisory Panel meeting.

### **ATTACHMENTS**

Nil.

**INFORMATION ITEM NO. 2**

**MEDIA AND SOCIAL MEDIA QUARTERLY REPORT**

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**REPORT OF: STEPHEN CROWE - ACTING MANAGER BUSINESS AND COMMUNITY RELATIONS**

**GROUP: DEVELOPMENT SERVICES**

**FILE: A2004-0634**

**BACKGROUND**

The purpose of this report is to provide Council with a three (3) month review of all media coverage referring to Port Stephens Council and a summary of Council's current social media activities.

As a result of the Communications & Customer Relations Section sustainability review, Port Stephens Council has engaged the services of Media Monitors to monitor and evaluate all media coverage relevant to the Council and its facilities, services, and business units.

A daily media report is issued to Councillors and Senior Staff via email to provide an instant update of what is being reported in the media on that day.

The Media Monitors service also provides detailed information and data to allow Council to evaluate its media presence as a reputation management tool.

The communications unit has also put in place a social media strategy and management directive to effectively manage multiple social media sites across the organisations.

The graphs shown at Attachment 1, 2 and 3 relate to media coverage referring to Port Stephens Council between 01/01/12 – 20/03/12. The table in Attachment 4 provides an overview of Council's social media presence. Specifically, they provide information on the following aspects of this coverage:

1. Which media outlets are covering Port Stephens Council news, and to what degree (in terms of the number of articles or mentions, audience size and equivalent advertising dollar value);
2. The amount of time spent in the media by Councillors and the General Manager (in terms of the amount of articles or mentions and equivalent advertising dollar value);
3. The breakdown between positive, negative and neutral media coverage (in terms of the number of each and the equivalent advertising dollar value); and
4. An overview of Council's social media presence.

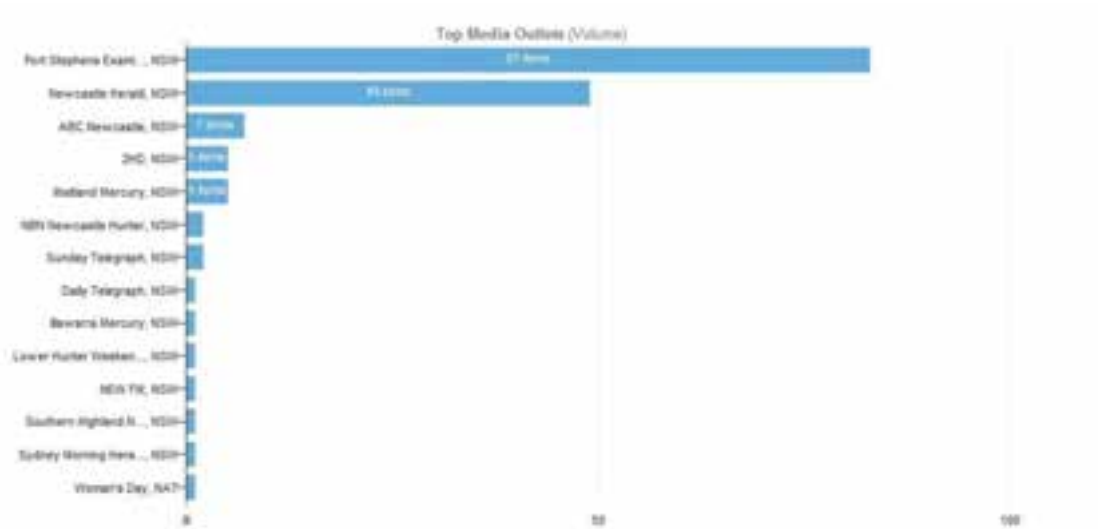
**ATTACHMENTS**

- 1) Graph showing All Coverage Mentioning Port Stephens Council;
- 2) Graph showing Media Coverage Mentioning or 'Quoting' Councillors & General Manager;
- 3) Graph showing Breakdown between positive, negative and neutral media coverage; and
- 4) An overview of Council's social media presence.

ATTACHMENT 1

GRAPH 1 - ALL COVERAGE MENTIONING PORT STEPHENS COUNCIL

WHICH MEDIA OUTLETS ARE COVERING PORT STEPHENS COUNCIL NEWS, AND TO WHAT DEGREE (IN TERMS OF THE NUMBER OF ARTICLES OR MENTIONS, AUDIENCE SIZE AND EQUIVALENT ADVERTISING DOLLAR VALUE)



<b>Total Media Outlets</b>	<b>Total items</b>	<b>Total audience</b>	<b>Total ASR (in AUD)</b>
<b>14</b>	<b>160</b>	<b>8,555,141</b>	<b>\$464,618</b>

An Analysis of coverage produced in the 82 days between 01 Jan 2012 and 22 Mar 2012 found 160 items. This coverage reached a cumulative audience of 8,555,141 and had an advertising space rate of AUD 464,618.

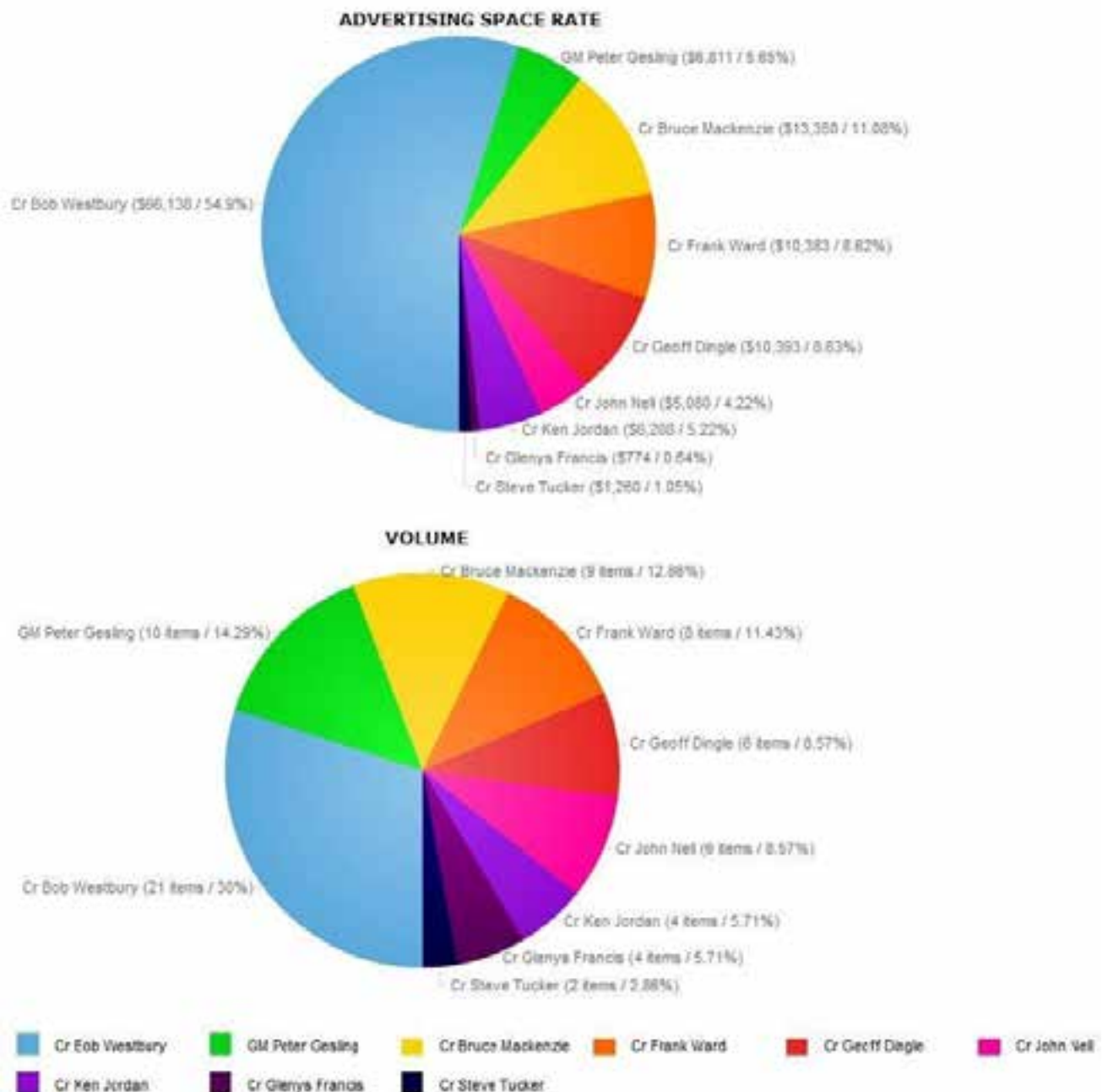
- \* The highest volume of coverage (83) was provided by Port Stephens Examiner, NSW
- \* The highest cumulative audience (2,835,500) was reached by coverage provided by Port Stephens Examiner, NSW
- \* Content produced by Woman's Day, NAT had the highest advertising space rate (AUD 157,890)

Media Outlets	Volume	Audience	ASR (in AUD)
Port Stephens Exami..., NSW	83	2,835,500	\$50,235
Newcastle Herald, NSW	49	2,768,349	\$129,634
ABC Newcastle, NSW	7	125,000	\$13,718
3HD, NSW	5	85,000	\$710
Maitland Mercury, NSW	5	29,834	\$4,769
NBN Newcastle Hunter, NSW	2	156,000	\$5,175
Sunday Telegraph, NSW	2	1,212,202	\$70,384
Daily Telegraph, NSW	1	347,934	\$15,864
Barracks Mercury, NSW	1	25,943	\$940
Lower Hunter Weeken..., NSW	1	0	\$0
NEW FM, NSW	1	16,000	\$64
Southern Highland N..., NSW	1	2,770	\$341
Sydney Morning Hera..., NSW	1	199,808	\$14,876
Woman's Day, NAT	1	790,816	\$157,890

ATTACHMENT 2

GRAPH 2 - MEDIA COVERAGE MENTIONING OR 'QUOTING' COUNCILLORS & GENERAL MANAGER

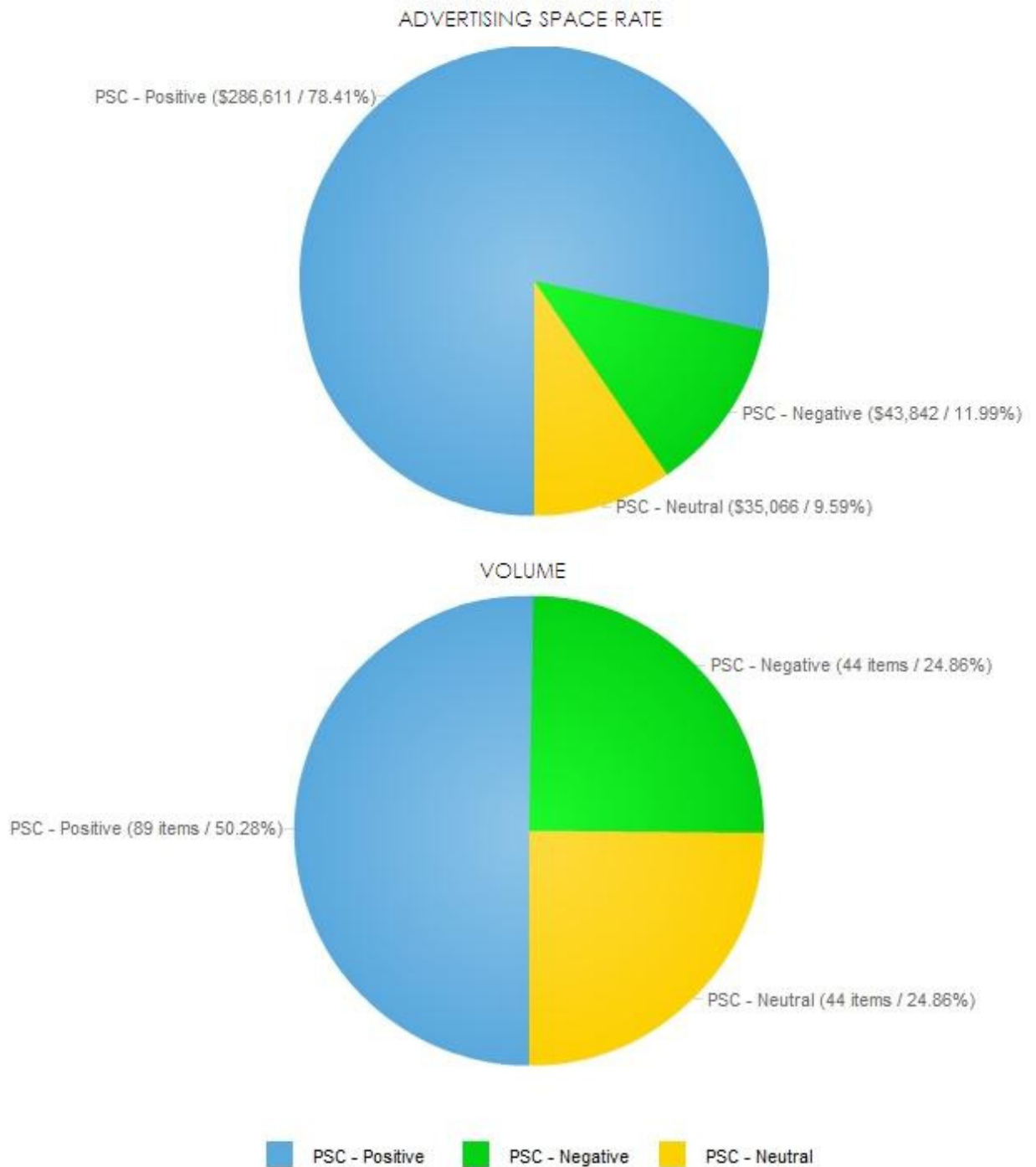
The amount of time spent in the media by Councillors and the General Manager (in terms of the amount of articles or mentions and equivalent advertising dollar value)



ATTACHMENT 3

GRAPH 3

THE BREAKDOWN BETWEEN POSITIVE, NEGATIVE AND NEUTRAL MEDIA COVERAGE (IN TERMS OF THE NUMBER OF EACH AND THE EQUIVALENT ADVERTISING DOLLAR VALUE)



**ATTACHMENT 4****AN OVERVIEW OF COUNCIL'S CURRENT SOCIAL MEDIA PRESENCE**

Port Stephens Council currently hosts the following Social Media accounts:

<b>FACEBOOK</b>	<b>STARTED</b>	<b>FANS/FOLLOWERS (approx)</b>
Your Port Stephens	Dec 2011	45
Australia Day – Raymond Terrace	Dec 2011	20
Australia Day – Nelson Bay	Dec 2011	19
Business Port Stephens	March 2009	68
Port Stephens (tourism)	January 2009	1940
<b>TWITTER</b>		
PSCouncil	July 2011	428
BizPort Stephens	July 2009	949

Social media delegations have been given to relevant staff members to access and administer social-networking pages on behalf of Council. Our social media policy and management directive provide guidelines for staff on how to use the sites, appropriate language and tone to use on behalf of council and dealing with inappropriate comments/posts.

INFORMATION ITEM NO. 3

**2011 NATIONAL LOCAL ROADS AND TRANSPORT CONGRESS IN  
MOUNT GAMBIER, SOUTH AUSTRALIA**

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

**FILE:** PSC2005-2930V2

**BACKGROUND**

The purpose of this report is to provide background to Council on the National Local Roads and Transport Congress in Mount Gambier, South Australia, that was attended by Cr Sally Dover.

The conference was held on 16 - 18 November 2011 and the venue was the Sir Robert Helpmann Theatre, Mount Gambier. The Congress was arranged and paid for by Council.

Attached for your information is a copy of the Program for the Congress and the comments expressed by Cr Dover in respect of her attendance.

**ATTACHMENTS**

- 1) Cr Dover's Conference report;
- 2) Conference Program.



**ATTACHMENT 1**

I thank Council for the opportunity to attend as your representative at the 2011 National Local Roads and Transport Congress held at Mount Gambier from 16 to 18 November 2011. It was a privilege to meet Councillors from all over Australia and listen to their comments and solutions to their local problems.

After a very interesting drive south we attended the Welcome Reception on the Wednesday evening at the Mount Gambier Town Hall meeting many of the delegates who reside all over Australia.

The Thursday session commenced with the Indigenous Welcome followed by Australian Local Government Association's President, Mayor Genia McCaffery's Address. Mayor McCaffery discussed how local government and local roads play a key role in road safety. She strongly supported the Road to Recovery Program, which has been so successful in improving local roads, and how it is now time for local government to mount a campaign for an increase in this vital funding as well as making it permanent. Unfortunately Congress figures show that the national shortfall in the level of funding for local roads amounts to about \$1.2billion annually.

Mayor McCaffery was followed by Professor Ian Johnson of the National Transport Commission who gave a challenging speech by raising the questions of "Why is there under investment in safe roads and how can we bring change".

Professor Johnson's was followed by an open forum "Community and Economic Impacts of Road Safety" with important questions asked. Mrs. Janet Shane of the South Australian Country Womens' Association spoke on how regional roads were the lifeblood of Central Australia and how heavy vehicle traffic was impacting these local roads. Cr Harold Flett, grain grower and Chairman of Wimmera Regional Transport Group, and David Eltringham, of Horsham Rural City Council, answered questions about the impact of poor roads on industry. Dr. Matthew Baldock of the University of Adelaide gave us many statistics then spoke of how most crashes and fatalities on road are made by ordinary people making ordinary mistakes.

Mr Gerrard Waldron, Managing Director of Australian Road Research Board, together with Mayor McCaffery, then signed the Memorandum of Understanding Agreement. The Agreement's purpose is to ensure that the Roads to Recovery funding becomes a part of each annual Federal Budget as well as to establish a framework of co-operation to undertake research of national importance on all local, State and Territory roads.

In addition to the excellent speakers, a meeting with the local Council workers, on a site inspection in Mt. Gambier, was an eye opener. They too have an extensive series of water retention basins which carefully filter the run-off water into the precious aquifers below. The water supply for the whole area comes from the Blue Lake which is one of the lakes within the three craters of the extinct volcano located very close to the city. It exposes the crystal clear water that has filtered underground through the limestone passing slowly beneath the city. The water flows into the lake

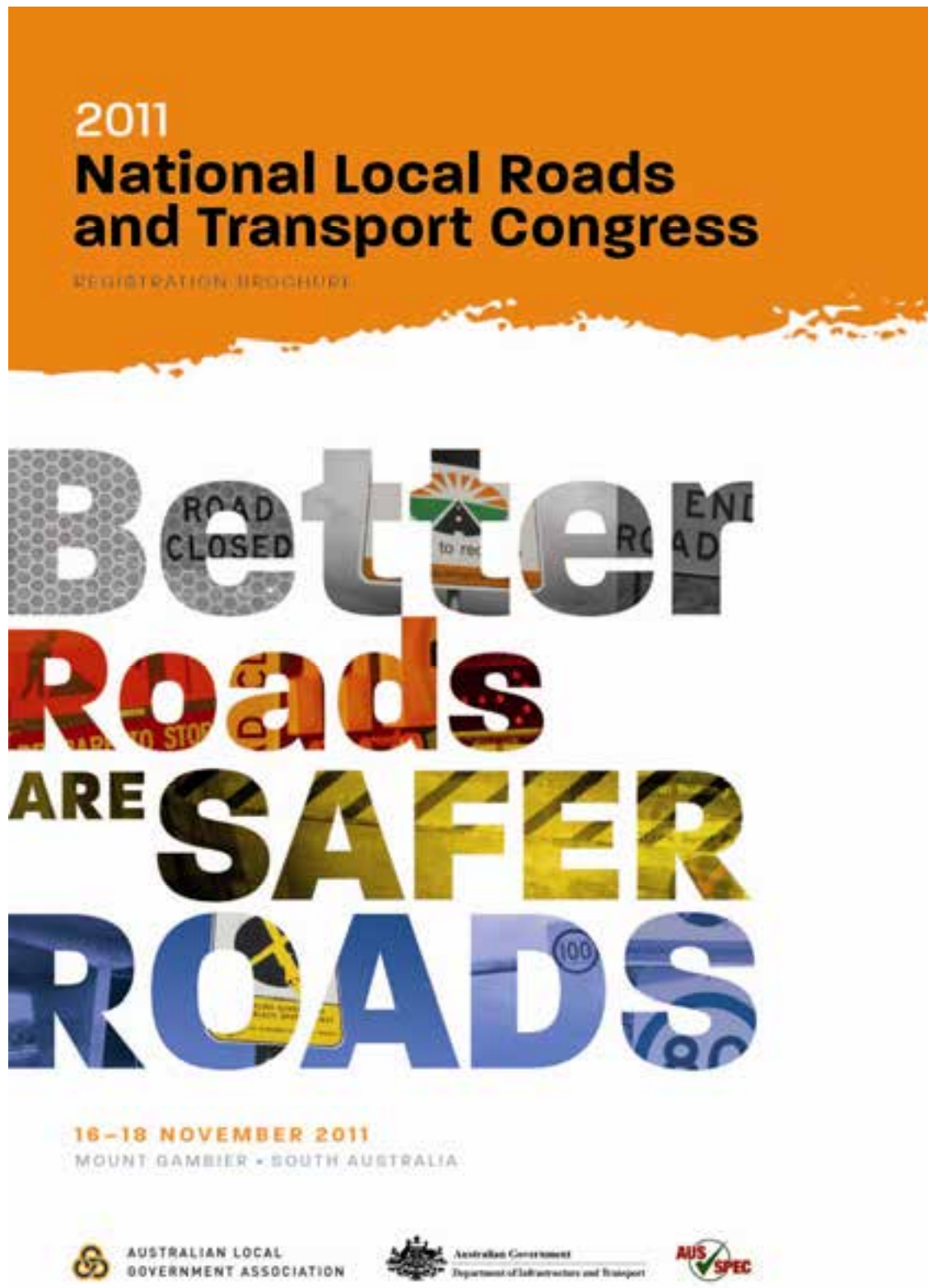
through limestone rocks as a result of which the water contains lots of dissolved limestone. Each year in November the lake starts its colour change from winter steel blue to brilliant turquoise blue during summer. Formed millions of years ago under the ocean, the limestone is made up of fossils and corals and extends from Bordertown down to the coast at Port MacDonnell where it is more than 300 meters thick. Rainfall soaks down through the surface into the limestone which acts like a huge sponge. It is called an unconfined aquifer. The abundance of water in the Mount Gambier area supports a wonderful array of food and wine production as rural industries draw underground water from bores sunk into the limestone. The abundance of groundwater contributes greatly to the beauty of the city's parks and gardens as well as to the rural sector.

Of course this aquifer system parallels so closely with the wonderful aquifers we have here in Port Stephens which are one of our most valuable natural assets.

The limestone itself is a major building stone for domestic and industrial buildings and is used extensively for road construction.

All in all it was a great Congress where I learned to greater understand the importance of local roads and the vital need for the Government to expand the funding to make them safer.

ATTACHMENT 2



2011  
National Local Roads  
and Transport Congress

## Provisional Program

### Wednesday 16 November

5.00 PM **WELCOME DRINKS**

### Thursday 17 November

- 9.00 AM Opening
- 9.05 AM Indigenous Welcome
- 9.30 AM ALGA President's Address:  
Mayor Genia McCaffery
- 9.40 AM Political Address: Federal Transport Agenda
- 10.00 AM International Speaker, Grant Brennan, Manager,  
Canada/Nova Scotia Infrastructure Secretariat
- 10.30 AM **MORNING TEA**
- 11.00 AM Keynote speaker: National Road Safety Strategy
- 11.40 AM State of the Asset Report
- 12.30 PM **LUNCH**
- 1.30 PM Facilitated session: Road Safety
- 2.00 PM **AFTERNOON TEA**
- 2.30 PM Australian Road Research Board (ARRB):  
Local Road Safety
- 4.00 PM Western Australian Local Government  
Association: Road Wise Campaign
- 4.30 PM Road Traffic Safety Management Standard:  
Martin Small, Department for Transport, Energy  
and Infrastructure
- 5.00 PM Close
- 7.00 PM **DINNER – THE BARR**

### Friday 18 November

- 9.00 AM Political Address
- 9.30 AM Council of Australian Governments (COAG) Road  
Reform Plan (CRSP)
- 10.00 AM Australian National Audit Office (ANAO) Audit  
of the R2R Program
- 10.50 AM **MORNING TEA**
- 11.00 AM Political Address: Opposition Transport Policy
- 11.30 AM National Heavy Vehicle Regulator (NHVR)
- 12.00 NOON Bull Barn
- 12.30 PM **LUNCH**
- 1.40 PM Debate on communication
- 5.00 PM Close

THE PROGRAM  
IS PROUDLY  
SUPPORTED BY



# GENERAL MANAGER'S REPORT

PETER GESLING  
GENERAL MANAGER

ITEM NO. 1

FILE NO: 2009-06567

## DRAFT PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2012

REPORT OF: BRUCE PETERSEN - MANAGER COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES

GROUP: DEVELOPMENT SERVICES

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### RECOMMENDATION IS THAT COUNCIL:

- A) For land located in the West Ward as defined on the Land Application and Ward Boundaries Map (**Attachment 11** - provided under separate cover):
- 1) Adopt the Planning Proposal at **Attachment 1** (provided under separate cover) and the draft Port Stephens Local Environmental Plan 2012 (Instrument provided under separate cover) at **Attachments 2 and 3** (Maps provided under separate cover) to commence the process in accordance with the provisions of Section 55 of the Environmental Planning and Assessment Act, 1979 (as amended).
  - 2) Refer the draft Planning Proposal and draft Port Stephens Local Environmental Plan 2012 to the Department of Planning and Infrastructure to issue a Gateway determination under Section 56 that would allow Council to proceed to public exhibition and formal government agency consultation.
  - 3) Request the Department of Planning and Infrastructure to endorse both the Port Stephens Futures Strategy and Port Stephens Planning Strategy the Local Environmental Study to underpin the draft Port Stephens Local Environmental Plan 2012 under the Environmental Planning and Assessment Act, 1979 (as amended).
  - 4) Seek the Director-General's opinion that inconsistencies between the draft Local Environmental Plan 2012 and certain Section 117 Ministerial Directions are justified either by an approved strategy or as being of minor significance.
  - 5) Delegate to the General Manager authority to make any minor amendments to the adopted draft Local Environmental Plan 2012 that arise after the formal adoption of this Report or as conditions placed on the Gateway determination Authorisation from the Department of Planning and Infrastructure.
  - 6) Note that a report will be resubmitted to Council if significant amendments are required by the Department of Planning and Infrastructure to the adopted draft Local Environmental Plan 2012.
  - 7) Delegate to the General Manager the authority to incorporate any separate Planning Proposal running concurrently with the draft Local Environmental Plan 2012 at any stage in the plan making process where the separate proposal amends the current Port Stephens Local Environmental Plan 2000 or Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010.

- 8) Acknowledge that the Memorandum of Understanding between Council and the Department of Planning and Infrastructure for funding associated with the preparation of the draft Local Environmental Plan 2012 is contingent upon compliance with the agreed milestones explained in this report.
  - 9) Delegate to the General Manager the authority to amend any anomalies identified for open space zones (RE1 Public Recreation) prior to referral to the Department of Planning and Infrastructure.
- B) For land located in the Central Ward as defined on the Land Application and Ward Boundaries Map (**Attachment 11** - provided under separate cover):
- 1) Adopt the Planning Proposal at **Attachment 1** (provided under separate cover) and the draft Port Stephens Local Environmental Plan 2012 (Instrument provided under separate cover) at **Attachments 2 and 3** (Maps provided under separate cover) to commence the process in accordance with the provisions of Section 55 of the Environmental Planning and Assessment Act, 1979 (as amended).
  - 2) Refer the draft Planning Proposal and draft Port Stephens Local Environmental Plan 2012 to the Department of Planning and Infrastructure to issue a Gateway determination under Section 56 that would allow Council to proceed to public exhibition and formal government agency consultation.
  - 3) Request the Department of Planning and Infrastructure to endorse both the Port Stephens Futures Strategy and Port Stephens Planning Strategy the Local Environmental Study to underpin the draft Port Stephens Local Environmental Plan 2012 under the Environmental Planning and Assessment Act, 1979 (as amended).
  - 4) Seek the Director-General's opinion that inconsistencies between the draft Local Environmental Plan 2012 and certain Section 117 Ministerial Directions are justified either by an approved strategy or as being of minor significance.
  - 5) Delegate to the General Manager authority to make any minor amendments to the adopted draft Local Environmental Plan 2012 that arise after the formal adoption of this Report or as conditions placed on the Gateway determination Authorisation from the Department of Planning and Infrastructure.
  - 6) Note that a report will be resubmitted to Council if significant amendments are required by the Department of Planning and Infrastructure to the adopted draft Local Environmental Plan 2012.
  - 7) Delegate to the General Manager the authority to incorporate any separate Planning Proposal running concurrently with the draft Local Environmental Plan 2012 at any stage in the plan making process where the separate proposal amends the current Port Stephens Local Environmental Plan 2000 or Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010.
  - 8) Acknowledge that the Memorandum of Understanding between Council and the Department of Planning and Infrastructure for funding associated with the preparation of the draft Local Environmental Plan 2012 is

contingent upon compliance with the agreed milestones explained in this report.

- 9) Delegate to the General Manager the authority to amend any anomalies identified for open space zones (RE1 Public Recreation) prior to referral to the Department of Planning and Infrastructure.
- C) For land located in the East Ward as defined on the Land Application and Ward Boundaries Map (**Attachment 11** - provided under separate cover):
- 1) Adopt the Planning Proposal at **Attachment 1** (provided under separate cover) and the draft Port Stephens Local Environmental Plan 2012 (Instrument provided under separate cover) at **Attachments 2 and 3** (Maps provided under separate cover) to commence the process in accordance with the provisions of Section 55 of the Environmental Planning and Assessment Act, 1979 (as amended).
  - 2) Refer the draft Planning Proposal and draft Port Stephens Local Environmental Plan 2012 to the Department of Planning and Infrastructure to issue a Gateway determination under Section 56 that would allow Council to proceed to public exhibition and formal government agency consultation.
  - 3) Request the Department of Planning and Infrastructure to endorse both the Port Stephens Futures Strategy and Port Stephens Planning Strategy the Local Environmental Study to underpin the draft Port Stephens Local Environmental Plan 2012 under the Environmental Planning and Assessment Act, 1979 (as amended).
  - 4) Seek the Director-General's opinion that inconsistencies between the draft Local Environmental Plan 2012 and certain Section 117 Ministerial Directions are justified either by an approved strategy or as being of minor significance.
  - 5) Delegate to the General Manager authority to make any minor amendments to the adopted draft Local Environmental Plan 2012 that arise after the formal adoption of this Report or as conditions placed on the Gateway determination Authorisation from the Department of Planning and Infrastructure.
  - 6) Note that a report will be resubmitted to Council if significant amendments are required by the Department of Planning and Infrastructure to the adopted draft Local Environmental Plan 2012.
  - 7) Delegate to the General Manager the authority to incorporate any separate Planning Proposal running concurrently with the draft Local Environmental Plan 2012 at any stage in the plan making process where the separate proposal amends the current Port Stephens Local Environmental Plan 2000 or Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010.
  - 8) Acknowledge that the Memorandum of Understanding between Council and the Department of Planning and Infrastructure for funding associated with the preparation of the draft Local Environmental Plan 2012 is contingent upon compliance with the agreed milestones explained in this report.



## MINUTES FOR ORDINARY MEETING – 24 APRIL 2012

- 9) Delegate to the General Manager the authority to amend any anomalies identified for open space zones (RE1 Public Recreation) prior to referral to the Department of Planning and Infrastructure.
- 

Cr Bruce MacKenzie left the meeting at 7.11pm prior to voting on Item 1.

091	<b>Councillor John Nell</b> <b>Councillor Sally Dover</b>
	It was resolved 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, Ken Jordan, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bob Westbury.

Those against the Motion: Nil.

### BACKGROUND

On the 20 March 2012 Council resolved to defer further consideration of the draft Port Stephens Local Environmental Plan 2012 (LEP 2012) to *"allow Councillors to meet on a Ward basis to discuss the Draft LEP 2012 and that the matter be reported to Council at the next available opportunity."* The Ward meetings were held:

West Ward     28 March 2012  
Central Ward   29 March 2012  
East Ward      3 April 2012.

A key matter raised at the Ward meetings was the importance of community engagement. As outlined under the Consultation section of this Report, extensive engagement is proposed during the public exhibition period. A 2-Way Conversation will be held to discuss the options for consultation and the way Councillors would like to be involved. Also 2-Way Conversations will continue with Councillors as discussions progress with the Department of Planning and Infrastructure prior to Council receiving a Gateway determination.

Additional comments were also provided by the Group Manager Facilities and Services regarding open space zonings on Council owned land such as lands transferred to Council at Corlette for open space. To ensure that maps are as accurate as possible, an additional recommendation has been added to delegate to the General Manager the authority to allow any open space related anomalies to be amended prior to the draft LEP 2012 being referred to the Department of Planning and Infrastructure.

The purpose of this Report is to recommend Council formally resolve to commence the legal process for the draft Port Stephens Local Environmental Plan (LEP) 2012 under section 55 of the Environmental Planning and Assessment Act, 1979 (the Act).

As part of the NSW Planning Reform Agenda, all councils are required to prepare a new LEP to comply with the Standard Instrument (Local Environmental Plans) Order, 2006. The current Port Stephens LEP 2000 is now 12 years old and has undergone almost 40 amendments. Although Council is legally required to move to the Standard Template format it is also considered timely to review and update the planning instrument to ensure it remains current and flexible in the ever changing planning environment.

### **Existing Planning Position**

#### Lower Hunter Regional Strategy (2006)

In October 2006, the NSW State Government Cabinet endorsed the Lower Hunter Regional Strategy (LHRS). The Strategy identifies that Port Stephens will be required to accommodate a significant increase in population (by 2031). The Strategy provides that 60% of new dwellings will be provided in new release areas and 40% will be provided within the existing urban areas. The targets proposed by the Strategy for Port Stephens are 12,500 new dwellings and 6,100 additional jobs. The LHRS is currently under review by the Department of Planning and Infrastructure (DoPI).

#### Port Stephens Futures Strategy (2009)

The Futures Strategy engaged with the community - residents, businesses and stakeholders - to identify how they would like Port Stephens to look in the future. The development of the Strategy commenced in October 2008 with a series of workshops across the LGA, followed by a Forum in May 2009, which brought the community together to develop a set of values and a vision for the future. Council adopted the Strategy on the 13 December 2009. The Overarching Strategic Directions from this Strategy have been used to develop the Aims of the draft LEP 2012.

#### Port Stephens Planning Strategy (2011)

The primary purpose of the Port Stephens Planning Strategy (PSPS) is to guide land use planning and decision making for development and environmental outcomes. The PSPS provides the framework for the broad strategic base to manage growth and is supplemented by the development of sub-strategies to provide an additional level of detail for specific areas or issues. These sub-strategies facilitate the release of urban lands supported by timely infrastructure provision such as the new release areas of Kings Hill (North Raymond Terrace), Anna Bay and Medowie, the emerging Heatherbrae Enterprise Corridor and Defence and Airport Related Employment Zone Business Park, and the continued development of Raymond Terrace as the major regional centre.

Port Stephens Local Environmental Plan 2000

The current LEP has been in force since 29 December 2000. Over the years there have been almost 40 amendments to the document. The LEP 2000 has been translated across to the draft LEP 2012 where practicable and appropriate.

Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010

This LEP 2010 was published in the standard template format and has generally been translated across to the draft LEP 2012. There are currently three planning proposals

submitted with Council to amend LEP 2010. They will be the subject of separate reports.

Port Stephens Development Control Plan 2007

Development Control Plan (DCP) 2007 was the result of consolidating Council's existing DCP's at the time into one single document and updating a range of provisions and controls. As this DCP references and supports the current practices and policies established in LEP 2000, several consequential amendments will need to occur to ensure the DCP is consistent with the draft LEP 2012. Also this review is a timely opportunity to consider how the document has operated over the last five years and consider feed back from the community on its application and quality of outcomes. Work on this project has already commenced with such amendments as the draft Single Dwelling and Dual Occupancy Chapter. The revised principal DCP will be exhibited with the draft LEP 2012 and will be the subject of a further Council report.

Port Stephens Sustainability Policy

The Port Stephens Sustainability Policy provides Council with a clear mandate to undertake all of its operations in a sustainable manner. This Policy is a major consideration in the preparation of all Council documents including LEP's. This Policy is currently under review; however, the principles are sound and will be used to inform the development of the Principal LEP.

**Supporting Studies**

Rural Lands Study and Rural Lands Strategy (2011)

The Rural Lands Study (RLS) reviewed the existing activities on rural zoned land, considered both the current and future role of the rural areas, identified contributory values of the rural landscape and developed an understating of the role of the rural areas in the local economy. This Study has informed the selection of appropriate zones from the Standard Instrument Template and relevant DCP provisions. A copy of the Study and Strategy are located at **Attachment 8**.

Commercial and Industrial Lands Study (2010)

The existing LEP 2000 only has one commercial zone. This does not provide a clear distinction between the roles performed by the commercial centres. The Standard Instrument Template provides an opportunity to reinforce the commercial hierarchy to complement the hierarchy outlined in the LHRS and PSPS. The Commercial and Industrial Lands Study (CILS) was completed in 2010. Additional work was also undertaken by Leyshon Consulting to provide clear direction for the role and location of bulky goods retailing in the LGA. This review supported Heatherbrae as the preferred location in the short term and the draft LEP 2012 has reflected this direction by way of a B5 Business Development zone. A copy of the CILS and Review of Bulky Goods Floorspace Demand Leyshon Consulting 2011 are located at **Attachments 9** and **10** respectively.

Residential Density Review

The existing LEP 2000 has two residential zones – 2(a) Residential and 2(c) Residential. The main distinction between the two zones is that the 2(c) zone allows for increased density, height and additional activities such as tourist facilities. The PSPS identifies the need for greater diversity of housing located in and around commercial centres. As the LHRS identifies increased population for the area and the PSPS has established sound principles for growth, the next step is to implement a more strategic approach to the location of unit development in the LGA. The review has resulted in the recommended two zone approach with a medium density zone to be located either 400 or 800 metres around centres depending on their functions and constraints such as flood affect/aircraft noise/isolation and a low density zone for the remaining residential area. The Kings Hill Urban Release Area has a general residential zone that attempts to promote increased density through lot size controls, however, like the remainder of the LGA, there is no high density development anticipated.

**Consistency of Draft Local Environmental Plan with Plan Making Requirements.**

State Environmental Planning Policies (SEPPs)

In general, SEPPs prevail over LEPs regardless of what the sequencing of gazettal is. Therefore, drafting directions have instructed councils not to duplicate provisions already contained elsewhere in the planning system. This has implications for both the Land Use Tables and Exempt and Complying Development. The Land Use Tables in the draft LEP 2012 only contain those land uses where permissibility is not addressed elsewhere such as in a SEPP. As a result these tables can not be read as an exhaustive list of all permissible uses. Apparently this approach is to assist with the streamlining of the planning system, however, it actually creates increased confusion for the community as the tables appear incomplete. The Land Use Table Matrix does attempt to assist in clarifying this matter (Refer to **Attachment 4**).

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 came into force on 27 February 2009. Additional provisions relating to both exempt and complying development have been progressively included in the SEPP since it came into force. As a result, the Schedules in the draft LEP 2012 do not

contain any items listed in the SEPP. The only matters listed in Schedule 2 relate to signage as this is not addressed in the SEPP.

#### Section 117 Ministerial Directions

All draft LEPs are required to be consistent with the various directions under Section 117(2) of the Act. Each Direction sets out how minor inconsistencies with the directions may be justified and where the Director-General's approval is required. As part of the appendix to the Planning Proposal, (**Attachment 1**) all Section 117 Directions have been addressed.

The draft LEP 2012 is considered to be inconsistent with the following directions:

- 1.1 Business and Industrial Zones;
- 1.2 Rural Zones;
- 2.1 Environmental Protection Zones;
- 2.3 Heritage Conservation;
- 2.4 Recreation vehicle Areas;
- 3.5 Development near licensed Aerodromes; and
- 4.3 Flood Prone Land.

Point 4 of the Recommendation of this Report requests Council's support to seek the Director-General's opinion that these inconsistencies are, for the reasons identified in the appendix to the Planning Proposal, either consistent with an approved strategy or of a minor significance.

#### LEP Practice Notes and Planning Circulars

As stated previously, there are several Practice Notes and Circulars produced by the DoPI to instruct councils on the preparation of a Principal LEP using the Standard Template. Where practical these instructions have been followed. However, it should be noted that some practices have now been superseded and changes reflected in recently published LEPs rather than the reissuing of practice notes.

#### **Overview of Provisions of draft LEP 2012**

The draft LEP consists of the written instrument and the associated map layers. In combination, they form the legal Environmental Planning Instrument. Once the LEP is finalised, both the written instrument and the map layers will be published on the NSW Legislation website.

#### Written instrument

The draft LEP has been prepared in accordance with the Standard Instrument Order. The instrument is a template of standard compulsory and optional clauses, with provision for the inclusion of additional specific local clauses where they reflect issues relevant to Port Stephens. The provisions of LEP 2000 and LEP 2010 (Kings Hill) have been translated into the draft LEP 2012. **Attachments 5** and **6** compare the relevant LEP and draft LEP 2012.

PART 1: PRELIMINARY

This Part contains the administrative clauses which are fairly straight forward. As a result, individual clauses have only been addressed below where supplementary information is relevant.

Clause 1.2 – Aims of Plan

This clause identifies nine specific aims which have been draw from the overarching Strategic Principles developed by the community in the Futures Strategy.

Clause 1.3 – Land to which Plan applies

This clause clarifies that the LEP applies to all land identified on the Land Application Map. There are currently two LEPs applying to this local government area – LEP 2000 and LEP (Kings Hill, Raymond Terrace North) 2010. The land affected by both LEPs has been included on the Land Application Map.

PART 2: PERMITTED OR PROHIBITED DEVELOPMENT

This Part outlines what development types are permitted or prohibited in each zone.

**LAND USE ZONES**

The Standard Instrument includes a suite of land use zones. Council is not required to adopt all the zones, but cannot add any new zones. These zones also contain mandated zone objectives. Council may provide a limited number of additional objectives to tailor the zone to local circumstances provided they do not undermine the intent of the zone.

**Rural Zones**

The Standard Instrument provides for six (6) rural zones: RU1 Primary Production, RU2 Rural Landscape, RU3 Forestry, RU4 Primary Production Small Lots, RU5 Village and RU6 Transition. The draft plan does not propose to adopt the RU4 or RU6 zone.

**RU1 Primary Production**

Part land currently zoned 1(a) Rural Agriculture under LEP 2000.

This zone has been adopted for rural land that is classified primary agricultural land by the Department of Primary Industry. The zone proposes to permit the greatest range of agricultural uses. Currently subdivision is prohibited. A 40 hectare minimum lot size is now recommended.

**RU2 Rural Landscape**

Part land currently zoned 1(a) Rural Agriculture and 1(c1) Rural Small Holdings under LEP 2000.

This zone has been adopted for rural lands where land is generally fragmented and constrained by environmental matters such as flooding or vegetation that limit the ability of landowners to use the land for more intensive agricultural uses. This land also makes a significant contribution to the visual amenity of the area.

**RU3 Forestry**

Land currently zoned 1(a) Rural) under LEP 2000.

This zone has been adopted for all State Forests, regardless of their conservation values.

**RU5 Village**

Land currently zoned 1(c3) Rural Small Holdings (Hinton only).

This zone has been adopted for the village of Hinton. The boundary of the RU5 zone extends further than the boundary of the heritage conservation area. The complying development provisions relating to dwelling-houses in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* do not apply to the heritage area, however, will apply to the small number of properties outside of the boundary.

**Residential Zones**

The Standard Instrument provides for five (5) residential zones: R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential and R5 Large Lot Residential. The draft LEP does not propose to adopt the R4 zone.

**R1 General Residential**

Land currently zoned R1 General Residential under LEP 2010.

This zone is a direct translation of the area of R1 zone in LEP 2010. This zone has not been extended beyond the Kings Hill Urban Release Area.

**R2 Low Density Residential**

Part of land currently zoned 2(a) Residential, three areas in 3(a) Business General and part 5(g) Special Urban (Flood Affected) under LEP 2000.

The majority of the LGA residential land is zoned 2(a) and has been translated across to the R2 Low Density Zone. Remaining 2(a) zoned land has moved across to the R3 Medium Density Residential zone. Land zoned 5(g), which has a prevailing residential character, has been moved to R2 Low Density Residential Zone. R3 Medium Density Residential Zone was not supported due to the constrained nature of the sites (ie flooding). Three areas (Mallabula, Tanilba Bay and Boat Harbour) in the LGA currently have small commercial areas zoned as 3(a) Business General. These areas have been moved across to R2 Low Density Residential Zone where neighbourhood shops are permissible with consent.

**R3 Medium Density Residential**

Land currently zoned 2(c) Residential and small sections of 2(a) Residential around centres under LEP 2000.

This zone has been applied to the 2(c) zone in Nelson Bay and Shoal Bay. Also additional land has been added around centres such as Raymond Terrace and Tanilba Bay.

**R5 Large Lot Residential**

Land currently zoned 1(c2) 1(c3) 1(c4) 1(c5) Rural Small Holdings and 1(a) Rural Agriculture at Brandy Hill and Seaham under LEP 2000.

## MINUTES FOR ORDINARY MEETING – 24 APRIL 2012

This zone has been adopted to accommodate the various lot sizes of the current 1(c2) - 1(c5) zones which has created a very fragmented low density character often constrained by environmental factors such as flooding. Areas such as Brandy Hill were created under an enabling clause to allow the small lot subdivision but retained their 1(a) zoning. Moving this land across to a R5 zone simply reflects the large lot and non intensive agricultural nature of the area.

### Business Zones

The Standard Instrument provides for eight (8) business zones: B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, B4 Mixed Use, B5 Business Development, B6 Enterprise Corridor, B7 Business Park and B8 Metropolitan Centre. The draft LEP does not propose to adopt the B6 or B8 zones.

#### **B1 Neighbourhood Centre**

Part land currently zoned 3(a) Business General under LEP 2000.

This zone is for small village centres such as Fern Bay, Lemon Tree Passage, Fingal Bay, Austral Street Nelson Bay, Lakeside Raymond Terrace and Soldiers Point.

#### **B2 Town Centre**

Part land currently zoned 3(a) Business General under LEP 2000 and LEP 2010.

This zone is for town centres that provide more choice in services or provide for a broader catchment. This zone applies to Karuah, Medowie, Tanilba Bay and Nelson Bay. There is a small area of B2 in LEP 2010 that has moved across to the B2 zone.

#### **B3 Commercial Core**

Part land currently zoned 3(a) Business General and 5(g) Special urban (Flood Affected) under LEP 2000.

This zone is for commercial areas that provide for a variety of either retail or commercial services. This zone applies to Raymond Terrace and Salamander Bay Shopping Centre. A small section of the 5(g) zone has moved to a B3 zone to reflect the prevailing uses.

#### **B4 Mixed Use**

Land currently zoned B4 Mixed Use under LEP 2010.

The B4 zone has been used at Raymond Terrace North (Kings Hill) which has been translated across but not extended to other areas.

#### **B5 Business Development**

Part land currently zoned 4(a) Industrial General under LEP 2000.

This zone includes land currently zoned for industrial purposes in Heatherbrae primarily along the Pacific Highway. This zone is responding to the repositioning of Heatherbrae as an Enterprise Corridor with a focus on bulky goods retailing.

#### **B7 Business Park**

Land currently zoned SP1 Defence and Airport Related Employment Development Zone under LEP 2000.

This SP1 zone utilised the standard template number for the zone, however, did not



use the SPI zone objectives, uses or title. The intent of the zone is to produce a business park that has a character, which is a mix of light industrial, commercial/research facility uses. The B7 is considered a more appropriate zone with an additional zone objective included to relate specifically to its relationship to the RAAF Base Williamstown.

### **Industrial Zones**

The Standard Instrument provides for four (4) industrial zones: IN1 General Industrial, IN2 Light Industrial, IN3 Heavy Industrial and IN4 Working Waterfront. The draft LEP does not propose to adopt the IN3 Heavy Industrial zone.

#### **IN1 General Industrial**

Part land currently zoned 1(a) Rural Agriculture and 4(a) Industrial General under LEP 2000.

This zone is to apply to the Tomago area only. This zone was selected to maintain consistency with the SEPP Major Development which prevails over the 1(a) zone under LEP 2000.

#### **IN2 Light Industrial**

Some land currently zoned 4(a) Industrial General and 5(g) Special Urban (Flood Affected) under LEP 2000.

This zone is proposed for more low scale industrial areas such as Taylors Beach, Medowie and Raymond Terrace. The area of 5(g) which has primarily light industrial activities has been moved across to the IN2 zone also.

#### **IN4 Working Waterfront**

Part land currently zoned 4(a) Industrial General under LEP 2000.

This zone has been applied to waterfront industrial areas which are predominantly related to the oyster industry. These sites are at Karuah, Oyster Cove, Salamander Bay and Lemon Tree Passage.

### **Special Purpose Zones**

The Standard Instrument provides for two (2) special purpose zones: SP1 Special Activities and SP2 Infrastructure. The draft LEP proposes to adopt both the SP1 and SP2 zones.

**SP1 Special Activities**

Part land currently zoned 1(a) Rural Agriculture and 7(c) Environmental Protection (Water Catchment) under LEP 2000.

This zone is to apply only to land owned or operated by the Hunter Water Corporation (HWC). Unlike other infrastructure providers, HWC has large holdings of environmentally significant land such as sand beds and aquifers. The environmental values of much of this land are currently reflected in the 7(c) zone, which does not allow the HWC to access the provisions of the Infrastructure SEPP. It is also considered inappropriate to zone these lands SP2 Infrastructure. To address both issues, the zone of best fit is the SP1 zone, which recognises the unique nature of the activities, their environmental value and still allows the HWC to use the provision of the SEPP.

**SP2 Infrastructure**

Some land currently zoned 2(a) Residential, 1(a) Rural Agriculture, 5(a) Defence Purposes, 5(c) Proposed Road and 7(c) Environment Protection (Water Catchment) under LEP 2000.

State Environmental Planning Policy (Infrastructure) 2007 came into force on January 1, 2008. The planning provisions of this Policy are outlined in Planning Circular PS 08-001 and LEP Practice Note PN 10-001. The Policy was introduced to "facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency in that it provides a consistent planning regime under the Environmental Planning and Assessment Act 1979". As a result of the SEPP the majority of the activities such as sub-stations, RAAF Base, land required for road widening, waste management facilities and council depots have been zoned SP2. Where an activity such as a school is permissible in the adjacent zone i.e. residential, then an SP2 zone is not applied. All cemeteries have been zone SP2.

**Recreation Zones**

The Standard Instrument provides for two (2) recreation zones: RE1 Public Recreation and RE2 Private Recreation. The draft LEP proposes to adopt both zones.

**RE1 Public Recreation**

Land currently zoned 6(a) General Recreation and 1(a) Rural Agriculture under LEP 2000.

This zone is to apply to land predominantly either owned or managed by Council as open space, parks, reserves or community facilities. Additional sites have been added including Medowie Sports Complex on Ferodale Road which is currently zoned 1(a) Rural Agriculture.

**RE2 Private Recreation**

Part land currently zoned 6(c) Special Recreation, 2(a) Residential and 1(a) Rural Agriculture under LEP 2000.

This zone is to apply to private recreation activities such as golf courses and caravan parks. Areas within the Pacific Dunes precinct which are currently subdivided for residential purposes have been converted to a residential zone.

**Environment Protection Zones**

The Standard Instrument provides for four (4) environment protection zones: E1 National Parks and Nature Reserves, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living. The draft LEP proposes to adopt all four zones.

**E1 National Parks and Nature Reserves**

Land currently zoned 1(a) Rural Agriculture, under LEP 2000.

This zone is based on ownership. All land currently on the National Parks Estate have been zoned E1.

**E2 Environmental Conservation**

Some land currently zoned 7(a) Environmental Protection and 1(a) Rural Agriculture under LEP 2000 and E2 under LEP 2010.

This zone is proposed as a high order conservation zone. Specific sites in Anna Bay and adjacent to Tilligerry Creek zoned 1(a) have been transferred to reflect the high environmental values of the area such as SEPP 14 Wetlands. Although zoned 1(a) some areas of the sites have virtually no development potential due to other legislative requirements which protect the values (ie Native Vegetation Act, SEPP 14). All current E2 zoned land has been transferred across without change to the boundaries.

**E3 Environmental Management**

Some land currently zoned 1(a) Rural Agriculture and 7(f1) Environment Protection (coastal lands) under LEP 2000 and additional specific sites. Land zoned E3 in LEP 2010.

This zone has been adopted for private land that is currently zoned 1(a) which has environmental values but is appropriate to retain development potential such as Duns Creek. All current E3 zoned land have been transferred across with out change to the boundaries.

**E4 Environmental Living**

Land currently zoned 7(f3) Environment Protection (Urban Conservation) under LEP 2000.

This zone is the best fit for a residential activity in an area of high environmental value. The provisions are essentially the same between the current 7(f3) zone and the E4 zone. Dual occupancy development will now be a permissible use in the area known as Hill Tops at Nelson Bay due to there being no equivalent zone provisions, however, the land is generally developed and constrained.

**Waterways Zones**

The Standard Instrument provides for three (3) waterways zones: W1 Natural Waterways, W2 Recreational Waterways and W3 Working Waterways. The draft LEP does not propose to adopt the W3 zone.

**W1 Natural Waterways**

Land currently unzoned under LEP 2000.

This zone is to apply to the Williams River only due the high environmental values and the limited recreational access permitted on the River currently.

**W2 Recreational Waterways**

Land currently zoned 7(w) Environment Protection (Waterways) under LEP 2000.

This zone is to apply to Port Stephens which reflects the mix of uses currently being undertaken.

PART 3: EXEMPT AND COMPLYING DEVELOPMENT

This Part contains all the standard compulsory clauses relating to exempt and complying development. The types of development that are considered to be either exempt or complying development are then listed in Schedule 2 (exempt development) or Schedule 3 (complying development).

PART 4: PRINCIPAL DEVELOPMENT STANDARDS

This Part contains a number of clauses that relate to development standards, such as minimum lot sizes for subdivision and dwelling entitlements in rural and environmental protection zones.

Clause 4.1 - Minimum Lot Sizes

This clause is an optional standard clause for adoption where Council requires minimum lot sizes to be regulated by application of a development standard.

The development standard is indicated on the Lot Size Map, rather than written into the clause. This is a significant change in how development standards are applied, as this process eliminates the need to apply one minimum lot size to a land use zone. The Lot Size Map does identify different minimum lot sizes within various land use zones.

The Lot Size Map includes a minimum lot size for the following zones only:

- All adopted rural zones;
- All adopted residential zones;
- All adopted environmental zones excluding E1; and
- RE2 Private Recreation.

Where a minimum lot size has not been indicated on the Lot Size Map, then land can be subdivided with consent under the provisions of clause 2.6 in the draft LEP, subject to any other provisions of Council, such as the DCP. In this circumstance, greater flexibility is afforded to Council in determining an appropriate lot size for a particular development outcome such as in the commercial zones.

The current LEP 2000 prohibits subdivision in the 1(a) Rural Agriculture zone. With this zone being split (RU1 and RU2) two lots sizes are proposed - RU1 40 hectares and RU2 20 hectares. The 1(c2) has a minimum of 20 hectares. This zone has been moved to the RU2 zone with the same minimum lot size. All 1(c 3), 1(c 4) and 1(c 5) lot sizes have been translated across to the draft LEP 2012 under the R5 zone. E2 and E3 zones have been drawn from the 1(a) and 7(a) zones which prohibit subdivision. A 40 hectare minimum is now proposed.

Clause 4.1AA - Minimum Lot Sizes for community title schemes

This optional standard clause ensures that community title subdivision can not occur in RU1, RU2, RU5, R5, E2, E3 and E4 which would compromise the intent of the zone.

Clause 4.1B - Minimum Lot Sizes for dual occupancy, multi dwelling and residential flat buildings

This clause requires a minimum lot size for certain forms of residential development (expressed as a minimum site area per dwelling).

Clause 4.1C – Exceptions to Minimum Lot Sizes for certain residential developments

This clause functions with clause 4.1 to allow subdivision of certain lots below the minimum lot size identified on the Lot Size Map.

Clause 4.2 – Rural subdivision

This standard clause incorporates rural subdivision provisions introduced through *State Environmental Planning Policy (Rural Lands) 2008*. The clause permits subdivision below the minimum lot size for the purposes of primary production, without creating any additional dwelling entitlements.

Clause 4.2A – Lot size exceptions for certain rural and environmental zones

The clause proposes to retain current provisions from the 2000 LEP that permit subdivision of land below the minimum subdivision lot size for uses permitted in these zones (other than residential or tourist and visitor accommodation).

Clause 4.2B – Minimum subdivision of strata or community title subdivision in certain zones

This local provision clause supplements the provisions contained in clause 4.1. The clause proposes to prohibit the subdivision of land under a strata or community title scheme which would create additional dwelling entitlements. This Clause applies to RU1, RU2, RU5, R5, E2, E3 and E4.

Clause 4.2C – Erection of dwelling houses on land in certain rural, residential and environmental protection zones

This clause links the erection of dwelling houses on certain land to a development standard and makes additional exceptions to these standards.

Clause 4.3 – Height of Buildings

This clause links to a map which identifies the height of buildings in the commercial areas and where the current 2(c) zone is in Nelson Bay and Shoal Bay.

Clause 4.6 – Exceptions to development standards

Variation of any development standard is controlled through clause 4.6 in this Part. As clause 4.6 reflects the provisions in SEPP 1 – Development Standards, clause 1.9 in the draft LEP states that SEPP 1 will no longer apply.

PART 5: MISCELLANEOUS PROVISIONS

This Part contains a collection of unrelated standard compulsory clauses. A brief discussion is provided below where necessary to explain the intention of the clause.

Clause 5.1 – Relevant acquisition authority

This clause identifies the relevant acquiring authority for any land that is intended to be purchased for a public purpose. The land identified is mapped on the Land Reservation Acquisition Map.

Clause 5.2 – Classification and reclassification of public land

This clause outlines the requirements for councils to classify or reclassify public land. Schedule 4 then lists the land so affected. It is not proposed to include any land classifications or reclassifications in the draft LEP, so Schedule 4 is left intentionally blank.

Clause 5.3 – Development near zone boundaries

LEP Practice PN 10-001 instructs councils to adopt this optional standard clause where the LEP adopts the SP2 Infrastructure zone, to allow flexibility across zone boundaries for unforeseen development.

Clause 5.4 – Controls relating to miscellaneous permissible uses

This clause enables Council to insert numerical standards for certain types of development to reflect local circumstances.

Clause 5.9 – Preservation of trees or vegetation

This compulsory standard clause will function in place of the Tree Preservation Order in association with a chapter in the DCP. The draft LEP does not propose to adopt the optional clause 5.9(9).

Clause 5.10 – Heritage conservation

This compulsory standard clause outlines the requirements for heritage conservation across the LGA. Schedule 5 lists the various heritage items, heritage conservation areas and archaeological sites that relate to this clause. The Heritage Map then identifies the properties affected.

Schedule 5 in the draft LEP has transferred the LEP 2000 across without adding any new items.

Clause 5.13 – Eco-tourist facilities

This clause is compulsory if the Land Use Tables permit eco-tourist facilities within any land use zone. As the draft LEP proposes to permit this development type within the RU1 Primary Production, RU2 Rural Landscape, RE1 Public Recreation, RE2 Private Recreation, E2 Environmental Conservation, E3 Environmental Management zones it has been included.

The clause includes additional matters for consideration that must be satisfied in order for consent to be granted for an eco-tourist facility.

#### PART 6: URBAN RELEASE AREAS

This Part relates only to significant land releases where satisfactory arrangements must be made with various state authorities for the provision of infrastructure to service the development. In order to trigger Part 6 clauses, the land must be identified on the Urban Release Area Map. The relevant sites included on this map layer in the draft LEP are the Kings Hill and Moxey's lands at Raymond Terrace North. The land in the B7 Business Park (DAREZ) has also been included.

#### PART 7: ADDITIONAL LOCAL PROVISIONS

This Part contains specific local clauses that relate to the Port Stephens LGA and do not logically belong in earlier parts in the written instrument.

##### Clause 7.1 Acid sulphate soils

This clause is similar to the LEP 2000 clause, however, the mapping now forms part of the draft LEP 2012.

##### Clause 7.2 Earthworks

This clause is a new local provision clause and provides greater clarity around the requirements for earthworks such as ensuring clean fill is required which is particularly important in this LGA due to the large drinking water catchment.

##### Clause 7.3 Flood planning

This clause adopts the model local provision clause issued by DoPI. The requirements will not change beyond what the current process is, however, the Flood Planning Map will now form part of the LEP.

##### Clause 7.4 Airspace Operations

This clause reflects the current provisions in the Kings Hill LEP 2010.

##### Clause 7.5 Development in areas subject of aircraft noise

This clause addresses the relevant *Section 117 Ministerial Direction 3.5: Development near Licensed Aerodomes* relating to the ANEF mapping produced by the Department of Defence and the associated restrictions it places on developments. This clause does not alter the way the ANEF maps are interpreted.

##### Clause 7.6 Essential services

This clause is required to comply with *Section 117 Ministerial Direction 3.1: Residential Zones* that directs councils to include provisions that residential development is not permitted unless land is adequately serviced (or satisfactory arrangements made to service the land). The provisions have been extended in this clause to relate to all land (other than land to which Part 6 applies) to retain existing provisions in the LEP 2000 at clauses 14B, 18 and 47.

**Clause 7.7 Drinking Water Catchment**

This clause is a new local provision clause adopted from the natural resource management clauses issued by DoPI. The clause includes specific heads of consideration when assessing any development within the catchment area. The Drinking Water Catchment Map identifies the hydrological catchment identified by the Hunter Water Corporation.

**Clause 7.8 Wetlands**

This clause is a new local provision clause adopted from the natural resource management clauses issued by DoPI and is supported by a map. This clause provides clarity around the additional considerations required when assessing development in or near these areas.

**Clause 7.9 Williams River Catchment**

This clause reflects the current provisions in LEP 2000 at clause 10(3)-(6) only.

**Clause 7.10 Development within a designated buffer area**

This clause addresses the deferred matter in the Kings Hill LEP due to unresolved issues of odour. As an interim, draft LEP 2012 includes a 1km buffer around the waste management facility adjacent to the Kings Hill Urban Release Area. This distance is the current policy position. However it should be noted that as part of a planning proposal for LEP 2010, the matter is being further considered with any changes to the buffer area being translated across to the draft LEP 2012.

**Clause 7.11 Location of sex services premises**

This clause is a new local provision clause adopted from the model local provision clauses issued by DoPI. It includes specific locational restrictions on where sex services premises can be located.

**Clause 7.12 Serviced apartments**

This clause is a new local provision clause that has been included to ensure the same provisions apply to the building design as residential flat buildings which requires a quality urban design outcome.

**Clause 7.13 Restriction on retail premises in Zone B4 Mixed Use**

This clause reflects the current provisions in the Kings Hill LEP 2010. The only change to the clause is that if applies to all B4 zones should any additional areas be added in the future.

**Clause 7.14 Dual occupancy developments in certain rural and environmental zones**

This clause reflects the current provisions in LEP 2000 (clause 14(4)) which establishes design requirements for dual occupancy development in rural or environmental areas.

**Clause 7.15 Certain development at Salamander Way, Salamander Bay (Horizons)**

This clause reflects the current provisions which allow subdivision for the purpose of dual occupancy only.



### **Additional policy changes**

#### Subdivision in the RU1 and RU2 zones

The current 1(a) Rural Agriculture zone under LEP 2000 prohibits subdivision. As part of the Rural Lands Study and the need to map lot sizes it was determined that the traditional 40 hectare lot size for agriculture land would be used in the RU1 Primary Production. The 1(a) zoned land that is being moved across to the RU2 Rural

Landscape zone is a mix of lot sizes currently and is generally constrained by environmental matters such as flooding or vegetation that limit the ability of landowners to use the land for more intensive agricultural purposes. These areas also play a significant role in the visual amenity of the LGA. The recommended lot size for this area is 20 hectares.

#### Environmental Review

When the LEP 2000 was prepared there was limited information regarding the environmental values of the area with the result of large sections of the LGA remaining in a 1(a) zone. Since this time, Council and other agencies have undertaken a range of studies and developed the Conservation Assessment Tool to assist in drawing all the available information together. Also more detailed environmental legislation is now in place such as the Native Vegetation Act which has significant impacts on the ability of land owners to clear land even for agricultural purposes. As a result there are three areas identified to transition to either an E2 Environmental Conservation or E3 Environmental Management zone. These areas are part of Duns Creek, land adjacent to Tilligerry Creek and a section of sites at Anna Bay. **Attachment 7** identifies the general environmental values identified in each area and the legislation currently constraining development. As part of the consultation process the immediately affected property owners will be advised of the change. It should be noted that property owners may have additional or contrary information to that available to Council and will be encouraged to submit this during the exhibition process.

#### Neighbourhood shops

There are three areas in the LGA currently zoned 3(a) Business General. The sites would have been originally identified to provide small scale commercial functions for the surrounding residential area such as a general store. Common planning practice has always been to allow general stores in residential areas rather than identification of small lots due to the volatility of the market driving the economic viability and timing. At the time of the LEP 2000 the thinking was to zone the areas commercial and prohibit general stores. Unfortunately, this has resulted in issues of high vacancy rates and sites being commercially unviable. The draft LEP residential zones list neighbourhood shops as a permissible use with consent. As a result, the three small commercial areas at Mallabula, Tanilba Bay and Boat Harbour have been zoned R2 Low density residential.

## **RELATIONSHIP OF DRAFT LEP WITH SEPARATE PLANNING PROPOSALS**

In preparing the draft LEP 2012, the approach was taken not to include current planning proposals to ensure they were not unwittingly delayed due to the complexities involved when preparing and finalising a Principal LEP.

Point 7 in the Recommendation seeks Council's support for the streamlining of separate Planning Proposals running concurrently with the draft LEP 2012 should they be published prior to the completion of the draft LEP 2012.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The development of a new Principal LEP is generally quite resource intensive in both financial and staff allocation terms. In previous budget cycles Council has committed funds to the preparation of background studies and development of community strategic plans such as the Futures Strategy. The Department of Planning and Infrastructure (DoPI) have also assisted with funding from a grant program serviced by a State Government levy imposed on development application fees. This money is then distributed to councils; although the returned amount is not equivalent to the amount levied from each LGA. Council recently received approval for funding of \$84,000 from the DoPI LEP Acceleration Fund. The funding is dependant on two milestones. Council can apply for the first half of the funding on referral of the draft LEP to the DoPI for a Gateway determination. The second milestone will be completion of the draft LEP. Should Council choose not to proceed with the draft LEP funding will not be received.

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

Adoption of the recommendations of this Report will formally commence the process towards a new Principal LEP in accordance with the provisions of the Act. The legal framework around the preparation of LEPs is extensive. The Reform Agenda of the DoPI has further increased the requirements with the introduction of the Standard Instrument Template, additional Section 117 Directions, changes to the Act, new state environmental planning policies (SEPPs), practice notes and planning circulars all of which are undergoing constant additions and changes/clarification in interpretation. The Standard Instrument Template, in particular, controls the content and format of the Principal LEP.

The Template provides:

- Specific definitions - no additional definitions are to be added to the Dictionary;
- List of standard zones – no additional zones to be added;
- Zone objectives – each zone has a set of core objectives. Councils may provide a limited number of additional objectives to tailor the zone to the existing area;
- Permitted and prohibited uses – the land use table mandates specific prohibited and permitted land uses. Councils may add to this list of land uses providing they remain consistent with the zone objectives and are taken from the specified definitions in the Dictionary;

**MINUTES FOR ORDINARY MEETING – 24 APRIL 2012**

- Clauses – almost 40 clauses are mandated and listed as either compulsory or optional;
- Model clauses – optional clauses developed and approved by the DoPI;
- Local provisions – councils may address specific circumstances by adding local provisions as a new clause provided they do not undermine the intent of the mandated clauses;
- Principal Development standards – clauses which address such matters as minimum lot sizes and height of buildings;
- Schedules – there are currently five schedules e.g. Environmental Heritage.

A Local Environmental Study (LES) is required under the Act to support the development of the Principal LEP. As recommended, the DoPI will be requested to confirm that the Futures Strategy and Planning Strategy be endorsed as the LES, which is further supported by existing adopted Council documents such as the Karuah, Medowie and Anna Bay Strategies.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Not proceed with the draft LEP. May result in Department of Planning and Infrastructure directing Council to finalise a Standard Instrument LEP.	High	Proceed with a draft LEP for exhibition for Council's further consideration.	No
Resolve to make changes to mandated clauses, including variation to the TPO Clause.	High	Ensure the draft LEP is consistent with the legislative requirements of the Act	Project delayed which moves resources from other projects identified on the work program
Resolve to rezone additional sites without relevant studies being prepared.	High	Additional sites proceed as separate planning proposals	No
Resolve to rezone land and prepare relevant studies at Councils cost	High	Supporting studies for potential financial gain (ie rezoning) to be paid for by developers	No
Resolve to exclude land for environmental zone.	High	Land of high conservation value appropriately zoned	No

Councillors are required to declare any interest in land owned personally, in partnerships, by family and/or friends.

While the *Local Government Act 1993*, has been amended to allow participation after declaration, this change has not yet been activated. Councillors will still be required to abstain where a conflict of interest occurs.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Principal LEP will be developed in accordance with the fundamental objective of developing/enhancing and supporting a sustainable Port Stephens community.

## **CONSULTATION**

In accordance with the Act exhibition and consultation is now determined by the DoPI and outlined in the Gateway determination (Section 56). Council can not seek public comment of the draft instrument until this Authorisation is given. However, the community engagement process for the development of the Futures Strategy, Planning Strategy and a review of the common issues raised through the development assessment process has provided information to inform the draft document. It should be noted that the document is draft and this is just the beginning of the planning proposal process.

### **Internal Consultation**

Significant internal discussion has occurred with Council officers from various Groups for particular themes such as flooding, waste, roads, parks and in particular with area who utilise the current LEP. Information obtained from these discussions has informed the draft document.

### **External Consultation**

On receipt of Authorisation to exhibit a comprehensive community consultation process is proposed with community members, industry representatives, Residents Panel and specific interest groups such as the heritage committee. Consultation will take various forms such as workshops, presentations, informal and formal discussions, correspondence and attendance at events such as the Industry Forum. Frequently asked question sheets (FAQs) will be developed to assist in providing a plain English explanation of the document and its implications.

Discussions have also occurred with representatives of the Karuah and Worimi Land Councils who have large holdings in the LGA. Further comments will be sort during the exhibition process.

The exhibition period will be advertised in the local paper in accordance with the Act. Documents will be available at all libraries, Administration Building, Council website and venues such as a general store in areas with limited access to the other locations.

### **Government Agencies**

Informal discussions have occurred with several government agencies such as but not limited to, Roads and Maritime Services, Hunter Water Corporation, Office of Environment and Heritage, Lands and Property Management Authority, NSW

Housing, Department of Primary Industry, Fisheries and DoPI. Formal consultation can only occur once the Gateway determination Authorisation is received.

### **Councillor Consultation**

In preparation of the draft LEP 2012, Councillors have been involved in 11 Two-Way Conversations, 12 Workshops, one full day workshop, and one full day bus trip. Further workshops will occur as comments are received from DoPI prior to the exhibition process and throughout the remainder of the process as issues are raised by the community.

### **OPTIONS**

- 1) Proceed with the draft Local Environmental Plan 2012 in accordance with the nine recommendations. This is the preferred option;
- 2) Make changes to the draft Local Environmental Plan 2012 resulting in noncompliance with the Standard Order. It should be noted that this would delay the progress toward finalising a new Principal LEP. This is not the recommended option;
- 3) Make changes to the draft Local Environmental Plan 2012. Depending on changes this would delay the progress toward finalising a new Principal LEP; or
- 4) Not proceed with the draft Local Environmental Plan 2012. Should this be Councils Resolution, DoPI have legislative authority to prepare and finalise a Principal LEP without Council. Council would no longer have access to LEP Acceleration Fund money.

**ATTACHMENTS** – all listed below are provided under separate cover

- 1) Planning Proposal;
- 2) Draft Port Stephens Local Environmental Plan 2012 (Written Instrument);
- 3) Draft Port Stephens Local Environmental Plan 2012 Maps;
- 4) Land Use Matrix;
- 5) Comparison Table – LEP 2000 and LEP 2012;
- 6) Comparison Table – LEP 2010 (Kings Hill) and LEP 2012;
- 7) Environmental summary of three key areas;
- 8) Rural Lands Strategy and Rural Lands Study;
- 9) Commercial and Industrial Lands Study;
- 10) Review of Bulky Goods Floorspace Demand Leyshon Consulting 2011; and
- 11) Land Application and Ward Boundaries Map.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

ITEM NO. 2

FILE NO: 16-2011-543-1

**DEVELOPMENT APPLICATION FOR THE COMPLETION OF THE PARTLY CONSTRUCTED RURAL SHED AND ONGOING USE**

**REPORT OF: MATTHEW BROWN- MANAGER DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL HEALTH**

**GROUP: DEVELOPMENT SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Consider this matter.

Cr Bruce MacKenzie returned to the meeting at 7.20pm, prior to voting on Item 2.

<b>092</b>	<p><b>Councillor Glenys Francis</b> <b>Councillor John Nell</b></p> <p>It was resolved that Council refuse the development application for the following reasons:-</p> <ul style="list-style-type: none"> <li>1) The development is inconsistent with the provisions and 1 (a) Rural zone objectives of Port Stephens Local Environment Plan 2000;</li> <li>2) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity;</li> <li>3) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses an unacceptable impact on adjoining premises in terms of solar access.</li> </ul>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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

**BACKGROUND**

The purpose of this report is to respond to Councils resolution of 27 March 2012 that:-

***It was resolved that Council indicate its support for the development and request the Development Services Group Manager to provide draft conditions of consent to Council.***

The draft conditions are presented below as are the findings of the building certificate review for Councils information as requested.

The lodgement on 22 March 2012 of a Building Certificate application for the illegally built structure was discussed at the Council meeting of 27 March 2012. The assessment of this application has been completed by Council's authorised Building Surveyor and the recommendation is that the Building Certificate be refused as there are discernable matters that by the exercise of reasonable care and skill may entitle Council to order the building to be demolished, altered, added to or rebuilt for the following reasons:-

The works currently constitute a breach of S76A of the EP&A Act and may be the subject of future legal proceedings.

The works are not consistent with the provisions of the zone objectives contained in the *Port Stephens Local Environmental Plan 2000* for the Rural (1a) zone and present an unacceptable impact on adjoining properties.

There have been no critical stage inspections of the concrete floor slab or the concrete wall panels. Despite engineering certification being submitted, this was not carried out during at the critical stages during construction (i.e. prior to pouring etc) and no exploratory works completed ie the certification is simply from a non invasive, visual observation.

Section 149D of the *Environmental Planning and Assessment Act 1979*, is included below for Councillors information. This advises of Councils obligations when issuing a building certificate. It is arguable given the potential incompatibility of the structure, lack of critical stage or invasive inspections and the possibility of a legal challenge, Council should reserve its right to issue orders for the structure if needed (irrespective of a favourable DA determination).

**149D Obligations of council to issue building certificate**

- (1) *The council must issue a building certificate if it appears that:*
  - (a) *there is no matter discernible by the exercise of reasonable care and skill that would entitle the council, under this Act or the [Local Government Act 1993](#):*
    - (i) *to order the building to be demolished, altered, added to or rebuilt, or*
    - (ii) *to take proceedings for an order or injunction requiring the building to be demolished, altered, added to or rebuilt, or*
    - (iii) *to take proceedings in relation to any encroachment by the building onto land vested in or under the control of the council, or*
  - (b) *there is such a matter but, in the circumstances, the council does not propose to make any such order or take any such proceedings.*
- (2) *If the council refuses to issue a building certificate, it must inform the applicant, by notice, of its decision and of the reasons for it.*

- (3) *The reasons must be sufficiently detailed to inform the applicant of the work that needs to be done to enable the council to issue a building certificate.*
- (4) *The council must not refuse to issue or delay the issue of a building certificate by virtue of the existence of a matter that would not entitle the council to make any order or take any proceedings of the kind referred to in subsection (1) (a).*
- (5) *Nothing in this section prevents the council from informing the applicant of the work that would need to be done before the council could issue a building certificate or from deferring its determination of the application until the applicant has had an opportunity to do that work.*

The resolution of Council to support the Development Application for the ongoing use and completed construction of the shed, enables Council to potentially resolve that the Building Certificate also be approved. It should be noted, that the Development Approval can exist without the building certificate, essentially the building certificate just restricts Council from issuing any orders against the structure for its removal or remedy for the subsequent 7 years.

The draft conditions are presented below for Council consideration. Please note ordinarily for a development such as this landscaping would be a requirement to soften the visual appearance of the structure to adjoining properties. However given the location of the structure from the southern boundary and the aspect, it is not considered a practical option in this instance.

### **FINANCIAL/RESOURCE IMPLICATIONS**

There is a foreshadowed legal appeal by objectors should Council approve this development application. There is therefore the likelihood of significant costs - legal and Council resources - given the circumstances.

In this context of the overall sustainability review of the organisation its worthy of note that development applications following illegal works cause a lot of re-work for Council development assessment and compliance sections of Council which often requires additional legal advice, additional reports, political involvement and reports to Council. Such extra works cost Council significantly and take development assessment officers away from the prompt assessment of lawfully submitted applications. The costs to Council are significant although difficult to quantify. Acknowledging that some resolution to the matter is required, it is not generally sustainable financially to be seen to condone the retrospective approval of illegal works.



<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Third party (adjoining owner) litigation	High	Adopt recommendation to refuse the application. Follow-up the illegal works in accordance with Council's Compliance Policy.	Yes
Applicant appeal against refusal	Medium	Adopt recommendation	Yes

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

Council has received significant objections from the adjoining property owners solicitor indicating that " *should your Council permit the proposal to proceed then our client will seek any remedy available to it to prevent the proposal including a Application to the Land & Environment Court if appropriate.*" There is therefore, a significant likelihood of a legal appeal should Council approve this development application.

Further email correspondence was received from the solicitors on 30 March 2012 that stated; "*Should the Council approve the proposed development on the above land then it is our client's intention to immediately commence proceedings in the Land and Environment Court together with a claim for costs against the Council*".

In the Council report tabled on 27 March 2012 staff have made a recommendation to refuse the application. If Council does proceed to approve the development application it may set an undesirable precedent.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Refer to the financial and legal sustainability implications listed above.

### **CONSULTATION**

Refer to report dated 13 March 2012.

### **OPTIONS**

- 1) Adopt the drafted conditions in the event the application is supported and Council proceed to endorse the issuing of the building certificate;
- 2) Adopt the proposed conditions in the event the application is supported however not issue the building certificate and reserve Councils right to take further action in regards to the unlawful structure if deemed appropriate in the future (this may be dependent on future legal action);

## **MINUTES FOR ORDINARY MEETING – 24 APRIL 2012**

- 3) Amend proposed conditions in the event the application is supported and Council proceed to issue the building certificate;
- 4) Amend the proposed conditions in the event the application is supported however not issue the building certificate and reserve Councils right to take further action in regards to the unlawful structure if deemed appropriate in the future (this may be dependent on future legal action);
- 5) Refuse the Development Application should Council no longer wish to support the development application;
- 6) Refuse the Development Application should Council no longer wish to support the development application in accordance with the former Council resolution and not issue the building certificate;
- 7) Refuse the Development Application should Council no longer wish to support the development application in accordance with the former Council resolution, not issue the building certificate and issue and notice of intent for the illegal structure to be removed or altered.

### **ATTACHMENTS**

- 1) Draft Conditions of Consent;
- 2) Copy of the report to Council Committee dated 13 March 2012.

### **COUNCILLORS ROOM**

- 1) Attachment 1 – Draft Conditions of Consent.

### **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1

DRAFT CONDITIONS OF CONSENT.

1. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. **Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.**
2. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.

Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing Urban Stormwater – Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.

3. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
4. The principal certifying authority shall only issue an occupation certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of consent. No occupational use is permitted until the principal certifying authority issues an occupation certificate. Note: if an accredited certifier approves occupation, the accredited certifier is to immediately notify council in writing.
5. Collected storm water runoff shall be piped to an infiltration trench located in the landscaped area(s) in accordance with **Council's Standard Drawing S 136**, with an overflow pipe connected to the existing easement/system.
6. The structure, the subject of this application shall not be used for any purpose other than that prescribed in the consent document and as defined under the provisions of Port Stephens Local Environmental Plan 2000.
7. A colour scheme providing full details of the colours and character of all external building materials and finishes to be used shall be approved by the Private Certifier **prior to the issue of the Construction Certificate.**

ATTACHMENT 2

COPY OF THE REPORT TO COUNCIL DATED 13 MARCH 2012

COUNCIL COMMITTEE – 13 MARCH 2012

ITEM NO. 1

FILE NO: 16-2011-543-1

**DEVELOPMENT APPLICATION FOR THE COMPLETION OF A PARTLY  
CONSTRUCTED RURAL SHED AND ONGOING USE AT 2209 PACIFIC  
HIGHWAY, HEATHERBRAE**

**REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE  
MANAGER**  
**GROUP: DEVELOPMENT SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

The development application 16-2011-543-1 for the completion of the partly constructed rural shed and ongoing use is refused for the following reasons:

- 1) The development is inconsistent with the provisions and 1(a) Rural zone objectives of Port Stephens Local Environmental Plan 2000;
- 2) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity;
- 3) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses and unacceptable impact on adjoining premises in terms of solar access.

**BACKGROUND**

This application has been called to Council by Councillor Jordan "to have Councillors look at this DA".

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

Consent has been sought for the completion of construction and ongoing use of machinery shed on Lot 512 DP: 587997, 2209 Pacific Highway Heatherbrae. The subject site is zoned 1(a) – Rural Agriculture "A" which is described in Port Stephens Local Environment Plan 2000 (LEP). The subject site is identified as flood prone land on the lower portions of the block.

The Applicant has constructed the machinery shed to frame stage, including a significant concrete floor slab without seeking prior consent for the works.

The illegal works were originally referred to Council's Compliance Officer through Council's CRM system after an adjoining property owner had lodged a complaint about the bulk and scale and general size of the structure, it's location in respect to the property boundary and the resultant use of the structure.

In the context of the compliance investigation it was noted that the structural frame of a shed had been erected 0.2m from the boundary to an eave height of approximately six (6) metres and ridge height of approximately seven (7) metres. The area of the shed is noted as twenty seven and a half (27.5) metres in length with a

**COUNCIL COMMITTEE – 13 MARCH 2012**

width of twelve (12) metres. This results in a floor area of three hundred and thirty (330m<sup>2</sup>) square metres

In addition to the above the owner's consultant also advised that there were other structures on the site where prior consent had not been obtained. A large shed to the rear of the dwelling was said to be constructed under state exempt provisions, and a Studio building that was unauthorised. A carport was also erected next to the Studio building which was said to be consistent with exempt development provisions by the consultant.

In responding to the Consultant on the matter of the unauthorised shed and Studio (accepting that the other shed and carport could be exempt development) the following advice was provided:

*In regards to the unauthorised shed and studio building Council will not request the owners to lodge an application for a building certificate as this is not seen as an appropriate means of remedying the breaches of the Environmental Planning and Assessment Act 1979. The burden of finding a remedy will rest with the owners in the first instance. If no remedy is found Council may require the structures to be removed.*

A meeting was arranged at the site with the consultant, owners and Council staff. During the meeting the owners advised that they would lodge an application regarding the large unauthorised shed seeking consent to use and complete its construction. The prohibited land use (storage of materials associated with the home occupation and shed erection) issue was discussed and the owners advised that the use of the land was now scaled back to that of "Home Occupation" restricted to office activities. The vehicles located at the premises would be restricted to those used by the occupants only (no other employees come to the site to collect work vehicles).

**home occupation** means an occupation carried on in a dwelling-house or in a dwelling in urban housing by the permanent residents of the dwelling-house or dwelling which does not involve:

- (a) registration of the building under the Factories, Shops and Industries Act 1962, or
- (b) the employment of persons other than those residents, or
- (c) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste waters, waste products or grit or oil or otherwise, or
- (d) the display of goods, whether in a window or otherwise, or
- (e) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house, dwelling, front fence or a pole within the property boundary such that the height of the sign is not more than 1.5m, to indicate the name and occupation of the resident), or
- (f) the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail.

**COUNCIL COMMITTEE – 13 MARCH 2012**

The owners advised that they had intentions to remove the Studio building from the site and would not include this in their application to council. The owners and their consultant were advised that if they could not regularise the unauthorised shed Council would take steps to require the unauthorised structures to be removed in accordance with Council's compliance policy.

An application was received by Council to complete the partially constructed structure and ongoing use as a private Rural Shed. NB. The *Environmental Planning and Assessment Act 1979* does not provide for the retrospective approval of illegal building works hence this development application is for the completion of the illegal built building and the ongoing use of that building as a private rural shed.

The development application is inconsistent with Council Policy and it is inconsistent with the objectives of the Rural 1(a) zoning within the *Port Stephens Local Environmental Plan 2007*.

In the context of assessing this application the assessing officer applied the principles of Council's Development Control Plan in determining whether a structure of this size and location from boundaries would be considered appropriate. There are no specific "development controls" contained with the PSC DCP 2007 to restrict the construction of a rural Shed, hence this application is assessed on its merits with due and proper consideration of the Principles as listed in B6.18 of the DCP and the objectives of the Rural 1(a) zoning within the *Port Stephens Local Environmental Plan 2007*.

*PSC DCP 2007 PRINCIPLES*

*B6.C103 Sheds in a residential or rural residential area should be located and designed to minimise adverse impacts on street or landscape character, neighbouring amenity, and stormwater drainage.*

*B6.C104 Sheds in a residential area should be located and designed to retain deep soil planting areas and existing vegetation at the rear of the lot.*

Given the bulk and scale of the structure as proposed and partially illegally erected and its proximity to the adjoining property boundary it is considered to have an unacceptable environmental impact on the landscape character of the area and an adverse impact upon the amenity of the adjoining property.

The owner has been advised in writing and verbally from a practitioner/professional perspective on several occasions that the application as submitted can not be supported and given the opportunity to redesign the current proposal to bring it into line with more conventional dimensions and boundary setback of private rural sheds in close proximity to residential buildings. (Likely acceptable dimensions would be in the order of 4.2 metres overall height, maximum floor area of 200m<sup>2</sup> and a minimum side boundary setback of 5 metres – source the draft PSC DCP currently under exhibition and the underlying intent of the current DCP2007 in regards to similar structures.).

**COUNCIL COMMITTEE – 13 MARCH 2012**

To address this, the applicant has submitted sketch plans showing only a minor and insignificant reduction in the ridge height of one (1) metre, with no reduction in overall floor area or increase of boundary setback. The applicant has indicated that they do not wish to modify the design any further and would like Council to determine the application as submitted.

**FINANCIAL/RESOURCE IMPLICATIONS**

In the context of a submission, the adjoining property owner has strongly objected to the proposal and also expressed an intention to challenge any approval through the provisions of a Land and Environment Court appeal. Should the decision be contrary to the recommendation there must be consideration given to the financial implications of defending such a decision possibly in the Land and Environment Court context.

Conversely, consideration should also be given to the applicant challenging any refusal. However, the risk is considered less and in the context of the works being largely illegally constructed without prior lawful consent. Furthermore such works as illegally erected, if a development application were to have been lodged prior to works commencing, would be unlikely to have gained consent under delegation without significant amendment to reduce bulk, scale and impact upon adjoining premises.

**LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is inconsistent with Council Policy and it is inconsistent with the objectives of the Rural 1(a) zoning within the *Port Stephens Local Environmental Plan 2007*.

No specific numerical standard exists within the LEP2000 or DCP2007 in the context of addressing overall size of sheds in this zoning. The assessment falls in the category of merit assessment with the principles in the existing controls used to guide and inform this assessment.

In this regard, consideration has been given to the parameters set within the draft DCP currently under exhibition and the underlying intent of the current DCP2007 in regards to similar structures. The draft policy indicates that a floor area of 200m<sup>2</sup> with a maximum height of 4.2m with a side boundary setback of 5m. Further, the proposal is also well in excess of the provisions of the State Housing Code for complying development.

The works have been constructed without lawful consent and proper regard to the amenity of adjoining property owners. The merit based assessment considering amenity, bulk and scale, height and solar access, coupled with the potential risk indicated in the below table identify a decision contrary to the recommendation presents an unacceptable risk to Council as per Council's risk management matrix.

COUNCIL COMMITTEE – 13 MARCH 2012

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
Third party (adjoining owner) litigation	High Risk	Adopt recommendation to refuse the application. Follow-up the illegal works in accordance with Council's Compliance Policy.	Yes
Applicant appeal against refusal	Medium Risk	Adopt recommendation	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental implications

It is considered that there may be potential impacts given the reduction of amenity to adjoining property owners. The current proposal is akin to an industrial size and design, which in turn can erode the character of the zoning in the immediate vicinity.

The objectives of the rural zone is to provide land for present and future agricultural activities while preserving the sense of space which remains a key attribute of these zonings. The current proposal (with consideration to other development on the site and the size of the lot) does not present a true need for a structure of this size given the limited agricultural activity being undertaken on this site.

The implications lead to a potential redesign of the use of the site from agricultural land to a pseudo industrial site. This promotes the fragmentation of agricultural land for uses contrary to the objective of the zone.

Should the Development application be approved there may be a possible economic benefit for the existing landowners which is largely offset by the likely adverse impacts on the adjoining property.

If the application is refused as recommended the illegally constructed works are likely to be fully or partially demolished which, as a compliance function, will be determined by staff under delegation.

**CONSULTATION**

The application was exhibited in accordance with Council policy and one (1) submission was received. The illegal works were also bought to Councils by an adjoining property owner.

The formal submission was received from an adjoining property owner who objects to the overall bulk and scale of the development, stating an overdevelopment of the land with a resultant lowering of property values and an impact on amenity; going further to discuss the structure being out of character with the adjoining development.



**COUNCIL COMMITTEE – 13 MARCH 2012**

The terms of the objections with the exception of the comment regarding overdevelopment of the site are agreed with by the assessing officer. The site has sufficient space to adequately support this proposal and existing sheds with minimal impact on adjoining property. This proposal is in the wrong location to maintain the area amenity. It is however noted that with the prime use of this land being agriculture use it is questionable that sufficient agricultural activities are taking place on site to justify the amount of overall shed space on this property.

The public interest considerations are activated in the context of a large proportion of this development has been erected with no appropriate consent in place. If Council were to support this development it may be seen to be condoning illegal activities, giving those in the community that wish to break the laws encouragement. It appears that the applicants efforts to effort to reconcile this has only come about because of the non-compliances being raised and the owners of this land being caught in the act of the erection of an illegal structure.

This development would have been unlikely to gain support in the first instance had it been presented to Council prior to construction. It could be reasonably assumed that public expectation would warrant that the application for approval after construction be refused and appropriate compliance action implemented.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Locality Plan;
- 2) Photographs taken from the Statement of Environmental Effects;
- 3) Assessment;
- 4) Conditions / Reasons for Refusal

**COUNCILLORS ROOM**

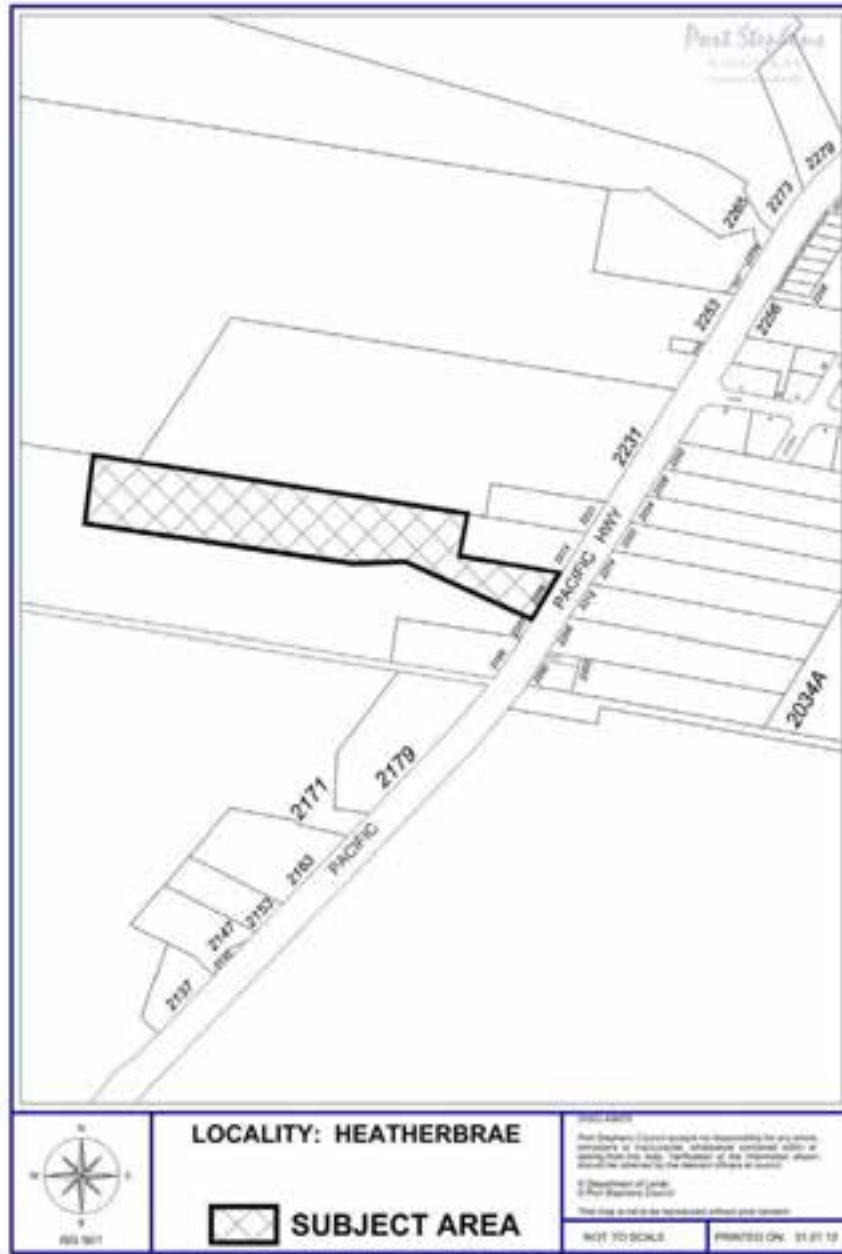
- 1) Plans, specifications and Statement of Environmental Effects as submitted with the Development Application; and
- 2) Copy of the letter of objection.

**TABLED DOCUMENTS**

Nil.

COUNCIL COMMITTEE – 13 MARCH 2012

ATTACHMENT 1  
LOCALITY PLAN



COUNCIL COMMITTEE – 13 MARCH 2012

ATTACHMENT 2  
PHOTOGRAPHS TAKEN FROM THE STATEMENT OF ENVIRONMENTAL EFFECTS

Statement of Environmental Effects – 2209 Pacific Highway Heatherbrae



Photo 1 – The steel framework of the partially constructed rural shed viewed from the rear of the existing residence.



Photo 2 – Close-up view of the partially constructed shed.

**COUNCIL COMMITTEE – 13 MARCH 2012**

**ATTACHMENT 3**

**ASSESSMENT**

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

**THE PROPOSAL**

The development application seeks consent for ongoing use of an already erected structure and the completion of the unauthorised works. The completed works will consist of a 28m long, 12m wide (336m<sup>2</sup> of floor area) with an overall height of 7m situated 0.2m off the side boundary.

It should be noted that the applicant has submitted sketch plans that consist of a 1m reduction in overall height only. It is considered to not be a significant reduction in the context of the bulk and scale or overall impacts as discussed.

**THE APPLICATION**

Owner	MR A M & MRS A L DUHRING
Applicant	MR A M DUHRING
Detail Submitted	Development plans Statement of environmental effects

**THE LAND**

Property Description	Lot 512 DP 587997
Address	2209 Pacific Highway HEATHERBRAE
Area	4.79ha
Dimensions	88.75m wide x 462.91m long (and variable)
Characteristics	Existing developed residential dwelling, swimming pool, home office (associated with home occupation business) and six (6) machinery sheds (not including this structure)

**THE ASSESSMENT**

**1. Planning Provisions**

LEP 2000 – Zoning	1 (a) (Rural Agriculture)
Relevant Clauses	10 and 11
Development Control Plan	82 – Environmental and Construction Management
State Environmental Planning Policies	Nil.

**COUNCIL COMMITTEE – 13 MARCH 2012**

Discussion

The area occupying the current structure has had previous approval of many smaller sheds (3 in total) occupying the same area. The applicant has built 1 shed covering the total area of the three sheds.

While this has some minor aesthetic benefits in reducing the visual clutter of three (3) sheds with 1, the applicant has increased the height contrary to the original consent of 3.6m to 7m in total height. This prompted adjacent property owners to advise Councils Compliance section of the structure.

In assessing all the relevant information contained in this application, compliance investigations on the site and reviewing previous applications (16-2000-1309-1; 16-2001-35-1) the proposal is considered inappropriate for the following reasons:

- The applicant has sought to apply for the development after substantial amounts of the works were completed.
- The proximity to the boundary (200mm) of the structure in conjunction with the height and overall area is such, that it is considered contrary to the zone objectives, not in the public interest and exhibits an undesirable impact on adjacent property owners.
- The structure as presented would not be considered appropriate if presented prior to any works being undertaken. The height, boundary setback and overall size would have been considered inappropriate.
- Adjoining property owners' complaints regarding the bulk and scale of the structure are well founded.
- It is considered that the height presents as a major factor in this structures domination of the space.

**2. Likely Impact of the Development**

The development is considered excessive in regards to height bulk and scale and its proximity to the boundary exacerbates this impact. It is considered that the adjoining owner would be negatively impacted in regards to the amenity of his use of his land, the outlook to the rural pastureland and overshadowing.

The development is akin to an industrial shed in appearance and dimension.

**3. Suitability of the Site**

While large rural sheds are a commonality within this zoning the impacts are greatly reduced by more skilful orientation of the structures within the landscape. The site is suitable for the proposed development but its current placement has given no consideration to adjoining property owners and as such in a refusal recommendation.

COUNCIL COMMITTEE – 13 MARCH 2012

**4. Submissions**

One (1) submission was received from the adjoining property owner. This same owner also brought to Council's attention the erection of the structure without the prior consent of Council. The owner objects to the overall bulk and scale of the development, stating an overdevelopment of the land with a resultant lowering of property values and an impact on amenity; going further to discuss the structure being out of character with the adjoining development.

Comment:

The terms of the objections with the exception of the comment regarding overdevelopment of the site are agreed with by the assessing officer. The site has sufficient space to adequately support this proposal and existing sheds with minimal impact on adjoining property. This proposal is in the wrong location to maintain the area amenity. It is however noted that with the prime use of this land being agriculture use it is questionable that sufficient agricultural activities are taking place on site to justify the amount of overall shed space on this property.

**5. Public Interest**

The public interest considerations are activated in the context of a large proportion of this development has been erected with no appropriate consent in place. If Council were to support this development it may be seen to be condoning illegal activities, giving those in the community that wish to break the laws encouragement. Any effort to reconcile this has only come about because of the non-compliances being raised and the owners of this land being caught in the act of the erection of an illegal structure.

This development would have been unlikely to gain support in the first instance had it been presented to Council prior to construction it could reasonably be assumed that public expectation would warrant that the application for approval after construction to be inappropriate.

COUNCIL COMMITTEE – 13 MARCH 2012

ATTACHMENT 4

REASONS FOR REFUSAL

1. The development is inconsistent with the provisions and 1(a) Rural zone objectives of Port Stephens Local Environmental Plan 2000.
2. The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity.
3. The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses an unacceptable impact on adjoining premises in terms of solar access.

ITEM NO. 3

FILE NO: PSC2011-01024

**LGMA NATIONAL CONGRESS AND BUSINESS EXPO**

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the attendance of Cr Bob Westbury at the LGMA National Congress & Business Expo;
  - 2) Allow a "one-off" increase of the conference allowance under the Policy for Cr Westbury to attend the Expo.
- 

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

093	Councillor Bruce Mackenzie Councillor John Nell
	It was resolved that the recommendation be adopted.

**BACKGROUND**

The purpose of this report is to inform Council of the Local Government Managers' Australia (LGMA) National Congress & Business Expo to be held in Perth.

The Expo will be held from 20-23 May 2012 in Perth.

The Expo Programme is shown at **ATTACHMENT 1**.

The Conference is open to all Councillors.

As Councillors would be aware the 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, subject to an individual Councillor not exceed the conference budget limits in the Policy.



**LEGAL, POLICY AND RISK IMPLICATIONS**

The Payment of Expenses and Provision of Facilities to Councillors Policy requires Council to approve all Councillor conference attendances outside the Hunter Region. Councillors' conference costs are limited to \$3,500.00 per year under the Policy.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
Potential for injury whilst attending at the conference.	Low	Attendees to observe appropriate safety measures to avoid injury.	Yes
Negative impact on Council's reputation.	Low	Attendees to observe Council's Code of Conduct.	Yes

**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**

1) Expo Programme.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



20TH – 23RD MAY 2012 • PERTH CONVENTION & EXHIBITION CENTRE

LGMA NATIONAL  
**Congress**  
& BUSINESS EXPO

Perth 2012

**REFRAMING LOCAL FUTURES** from stewardship to leadership

LGMA NATIONAL CONGRESS & BUSINESS EXPO

LOCAL GOVERNMENT MANAGERS AUSTRALIA

CIVICA

INTERNATIONAL COUNCIL

**KEYNOTE SPEAKERS**

PHILIP ADAMS

MONICA BARONE

JUDE MUNRO

CATHERINE FOX

GLENYS BEAUCHAMP

KEVIN CROMPTON

# CONGRESS AT A GLANCE

## Sunday 20th May

11.30am	Congress registration opens
12.00pm	* Political masterclass (includes lunch)
12.00pm	* Low Carbon Futures workshop (includes lunch)
5.00pm	LGMA Annual General Meeting (Meeting Room 1)
6.00pm	Welcome Reception (Exhibition hall)
8.00pm	Evening free

All congress sessions will be held at the Perth Convention and Exhibition Centre. Partners are welcome to attend the plenary sessions.

## Monday 21st May

7.15am	* ICLEI breakfast (Perth Convention and Exhibition Centre – See Congressplus Supplementary Program page 6 for details)
8.00am	Congress registration opens
9.00am – 5.00pm	Delegates' program – includes official opening and welcome sessions and plenary and concurrent sessions.
10.30am – 3.00pm	* Partners Tour – Perth and Fremantle Tour 'n' Cruise – See Congressplus Partners Program page 13 for details
6.45pm	Pre dinner drinks and Congress gala dinner – See Congressplus Social Program page 6 for details

## Tuesday 22nd May

7.00am – 8.30am	* International/ICMA member's breakfast meeting (Parnell Hilton – See Congressplus supplementary program page 8 for details)
9.00am – 5.00pm	Delegates Program – plenary and concurrent sessions
9.30am – 4.30pm	* Partner's Tour - Swan Valley and Perth Mint – See Congressplus Partners Program page 13 for details
7.00pm – 10.30pm	* Social Event – Fraser's Restaurant, Kings Park – See Congressplus Social Program page 8 for details

## Wednesday 23rd May

7.00am – 8.30am	* Women in Local Government Networking Breakfast (Parnell Hilton – See Congressplus Supplementary Program page 10 for details)
9.00am – 5.00pm	Delegates program – plenary and concurrent sessions and official close.
1.30pm – 3.00pm	* Workshop session – Facilitated by Phillip Adams AO - See Congressplus Supplementary Program page 10 for details.

## Thursday 24th May

9.00am – 4.30pm	* Study tours - City of Mandurah and Cities of Wanneroo and Joondalup See Congressplus Supplementary Program page 12 for details.
9.00am - 4.30pm	* LGMA International Master Class - Climate Change

\* These events are optional and require separate registration and the payment of an additional fee.

### Sunday Afternoon Workshops

Sunday, 20 May 2012 • 12.00pm - 4.30pm (includes lunch)  
Perth Convention and Exhibition Centre  
Cost: \$115 per workshop

#### Political Master class - Meeting Room 8

Mayors and CEOs of local governments work in what could be described as the political space. And, we are not always talking about party politics. It could be:

- politics of place
- politics of community
- politics of personality, or
- politics of ideology.

The Political master class will explore the influence of politics on consultation, decision-making and outcomes and provide the participants with some tools to understand and deal with politics in local government.

#### Low Carbon Futures Workshop - Meeting Room 6

The Low Carbon Futures Workshop will address the implications of the Clean Energy Future legislation for local government. The workshop will be designed to provide participants with an understanding of:

- The Clean Energy Future legislation
- The legislative implications for Australian local government
- The benefits of integrating climate policy and action into corporate planning.
- Opportunities to implement climate change programs to alleviate exposure to the carbon tax - through local government case studies.

### LGMA International Master Class - Climate Change

Thursday, 24 May 2012 • 9.30 - 4.30pm  
The Marquee Perth, see page 15 for hotel details  
Cost: \$150

For the first time LGMA will be running an international master class as part of the LGMA National Congress. "The theme for the 2012 master class is climate change." This inaugural event in Perth will be attended by some of the participants of LGMA's international programs, including:

- ICMA Climate Change Fellowship
- Pacific Local Government Climate Change Fellowship
- Technical Twinning Partnership Program, and the Commonwealth Local Government Forums Pacific Project (CLGF Pacific) Good Practice Scheme.

Participants will come together to share best practice, disseminate learnings and workshop a way forward for the ongoing knowledge exchange and capacity building around common challenges and opportunities faced by local government.

The master class will also include an information session for councils wishing to know more about our international program, our partner programs, what is involved in participating in an international program and how they can be involved.

These events are optional and requires separate registration and payment of the additional fee.

**ITEM NO. 4**

**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 24 April 2012.

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	CASH AND INVESTMENTS HELD AT 31 MARCH 2012	
2	CHANGES TO POLITICAL DONATION LAWS	
3	BUSINESS IMPROVEMENT	

**ORDINARY COUNCIL MEETING – 24 APRIL 2012**

<b>094</b>	<b>Councillor John Nell</b> <b>Councillor Caroline De Lyall</b>
	It was resolved that the recommendation be adopted.

# GENERAL MANAGERS INFORMATION PAPERS



**INFORMATION ITEM NO. 1**

**CASH AND INVESTMENTS HELD AT 31 MARCH 2012**

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**REPORT OF:** TIM HAZELL – ACTING FINANCIAL SERVICES MANAGER  
**GROUP:** CORPORATE SERVICES

**FILE:** PSC2006-6531

**BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 31 March 2012.

**ATTACHMENTS**

- 1) Cash and investments held at 31 March 2012
- 2) Monthly cash and investments balance March 2011 – March 2012; and Monthly
- 3) Australian term deposit index March 2011 – March 2012.

ATTACHMENT 1

CASH & INVESTMENTS HELD

AS AT 31 March 2012

INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Interest Rate	Market Value January	Market Value February	Market Value March	Current Mark to Market Exposure
<b>GRANITE SECURITIES</b>										
MADROLA FINANCE LTD 2008 12 "RMBS08 1A"	Floating Rate COO	AAA	28-Jun-15	\$412,000	1.84%	0.01%	\$392,000	\$393,000	\$394,000	-\$18,000
WELLS BOND LTD "RMBS08 1A"	Floating Rate COO	AAA	28-Jun-15	\$1,200,000	5.70%	0.20%	\$105,200	\$106,200	\$107,000	-\$140,000
WELLM CAPITAL LTD "RESPERANCE AAA"	Floating Rate COO	CCC	30-Mar-14	\$1,200,000	5.70%	0.01%	\$120,000	\$120,000	\$120,000	-\$100,000
SPRUE SECURITIES "COOLARNTA AAF"	Floating Rate COO	A	04-Jun-14	\$1,200,000	5.70%	0.01%	\$0	\$0	\$0	-\$1,000,000
<b>TOTAL GRANITE SECURITIES</b>				<b>\$3,412,000</b>	<b>15.74%</b>		<b>\$1,505,000</b>	<b>\$1,506,000</b>	<b>\$1,498,000</b>	<b>-\$2,000,000</b>
<b>ANZ INVESTMENTS</b>										
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-12	\$1,207,000	5.60%	0.00%	\$100,000	\$100,000	\$100,000	-\$1,107,000
<b>TOTAL ANZ INVESTMENTS</b>				<b>\$1,207,000</b>	<b>5.60%</b>		<b>\$100,000</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>-\$1,107,000</b>
<b>RAM SECURITIES</b>										
COORANGA FV LTD LIBERT UNION	Term Deposit	AAA		\$1,000,000	4.62%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
SUNCOOP METWAY	Term Deposit	A1	28-Apr-12	\$1,000,000	4.70%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
WELLS CREDIT UNION LIMITED	Term Deposit	AA	31-Mar-12	\$1,000,000	4.70%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
WIDE BAY AUSTRALIA LTD	Term Deposit	AAA		\$1,000,000	4.70%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
NATIONAL AUSTRALIA BANK LIMITED	Term Deposit	A1+	18-Apr-12	\$1,000,000	4.70%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
INVESTED BANK AUSTRALIA LIMITED	Term Deposit	AAA		\$1,000,000	4.70%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
THE ROCK BUILDING SOCIETY LTD	Term Deposit	A3/BBB-	1-Jun-12	\$1,200,000	5.70%	0.04%	\$1,200,000	\$1,200,000	\$1,200,000	\$0
SUNCOOP METWAY	Term Deposit	A1	17-Jul-12	\$1,200,000	5.60%	0.01%	\$1,200,000	\$1,200,000	\$1,200,000	\$0
<b>TOTAL RAM SECURITIES</b>				<b>\$8,000,000</b>	<b>37.04%</b>		<b>\$8,000,000</b>	<b>\$8,000,000</b>	<b>\$8,000,000</b>	<b>\$0</b>
<b>CURVE SECURITIES</b>										
BANK OF QUEENSLAND FINANCIAL LIMITED	Term Deposit	AAA		\$1,000,000	4.62%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
DEFENCE FORCE CREDIT UNION	Term Deposit	AA/BBB		\$1,000,000	4.62%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
WIDE BAY AUSTRALIA	Term Deposit	A1+	18-Apr-12	\$1,000,000	4.70%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
RECORDER CREDIT UNION	Term Deposit	AA/BBB		\$1,000,000	4.62%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
AMP BANK LTD	Term Deposit	A1+	18-Apr-12	\$1,000,000	4.70%	3.62%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
WIDE BAY	Term Deposit	A3/BBB-	17-Jul-12	\$1,000,000	4.70%	0.01%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
AMP BANK LTD	Term Deposit	A1+	22-Jul-12	\$1,000,000	4.70%	0.01%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
THE ROCK BUILDING SOCIETY LTD	Term Deposit	A3/BBB-	4-Jun-12	\$1,200,000	5.70%	0.01%	\$1,200,000	\$1,200,000	\$1,200,000	\$0
<b>TOTAL CURVE SECURITIES</b>				<b>\$8,000,000</b>	<b>37.04%</b>		<b>\$8,000,000</b>	<b>\$8,000,000</b>	<b>\$8,000,000</b>	<b>\$0</b>
<b>LONGREACH CAPITAL MARKETS</b>										
LONGREACH SECURITIES 18 MONTHLY LINKED NOTE	Property Linked Note	AA/BBB		\$400,000	1.80%	0.01%	\$400,000	\$400,000	\$400,000	\$0
LONGREACH SECURITIES 36 MONTHLY LINKED NOTE	Property Linked Note	A+	3-Sep-11	\$100,000	4.50%	0.01%	\$95,000	\$95,000	\$95,000	-\$5,000
<b>TOTAL LONGREACH CAPITAL</b>				<b>\$500,000</b>	<b>2.28%</b>		<b>\$495,000</b>	<b>\$495,000</b>	<b>\$495,000</b>	<b>-\$5,000</b>
<b>COMMONWEALTH BANK</b>										
EQUITY LINKED INVESTMENT PLAN SERIES 2	Equity Linked Note	AA	08-Sep-10	\$300,000	1.36%	0.01%	\$402,200	\$404,200	\$406,200	-\$4,200
BENCOCK BANK 30 DAY OVERNIGHT DEPOSIT	Floating Rate Sub Debt	AAA	08-Sep-12	\$300,000	1.36%	0.01%	\$300,000	\$300,000	\$300,000	-\$0,000
<b>TOTAL COMMONWEALTH BANK</b>				<b>\$1,000,000</b>	<b>4.55%</b>		<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$0,000</b>
<b>EQO SECURITIES</b>										
EQO 18 MONTHLY LINKED NOTE	Principal Protected Note	A+	30-Jun-14	\$900,000	4.00%	0.44%	\$900,000	\$900,000	\$900,000	\$0
<b>TOTAL EQO SECURITIES</b>				<b>\$1,000,000</b>	<b>4.55%</b>		<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$0</b>
<b>ISLAND MUTUAL</b>										
MUTUAL MUTUAL SUB DEBT	Floating Rate Sub Debt	A1	30-Jun-13	\$900,000	4.00%	0.01%	\$900,000	\$900,000	\$900,000	\$0
MUTUAL MUTUAL SUB DEBT	Floating Rate Sub Debt	A1	31-Dec-14	\$900,000	4.00%	0.01%	\$900,000	\$900,000	\$900,000	\$0
MUTUAL MUTUAL	Term Deposit	A1	30-Jun-12	\$1,200,000	5.70%	0.01%	\$1,200,000	\$1,200,000	\$1,200,000	\$0
<b>TOTAL ISLAND MUTUAL</b>				<b>\$3,000,000</b>	<b>13.68%</b>		<b>\$3,000,000</b>	<b>\$3,000,000</b>	<b>\$3,000,000</b>	<b>\$0</b>
<b>PARQUERSON SECURITIES</b>										
PARQUERSON 18 MONTHLY LINKED	Term Deposit	AA/BBB		\$1,000,000	4.62%	0.00%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
BANK OF QUEENSLAND	Term Deposit	A3/BBB-	15-Apr-12	\$1,000,000	4.70%	0.01%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
BENCOCK BANK ACHIEVE (BANK LTD)	Term Deposit	A1	18-Apr-12	\$1,000,000	4.70%	0.01%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
MYSTATE FINANCIAL LTD	Term Deposit	A3/BBB-	5-Jun-12	\$1,000,000	4.70%	0.01%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
MYSTATE FINANCIAL LTD	Term Deposit	A3/BBB-	11-Jul-12	\$1,000,000	4.70%	0.01%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
BANK OF QUEENSLAND	Term Deposit	A3/BBB-	10-Jul-12	\$1,000,000	4.70%	0.01%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
<b>TOTAL PARQUERSON SECURITIES</b>				<b>\$6,000,000</b>	<b>27.64%</b>		<b>\$6,000,000</b>	<b>\$6,000,000</b>	<b>\$6,000,000</b>	<b>\$0</b>
<b>TOTAL INVESTMENTS</b>										
				<b>\$26,430,376</b>	<b>100.00%</b>		<b>\$21,760,830</b>	<b>\$22,707,120</b>	<b>\$22,468,000</b>	<b>-\$2,062,356</b>
<b>CASH &amp; BANK</b>										
AVERAGE WAY OF BETHUNE (MUTUAL INVEST)				\$1,990,849	7.53%	0.01%	\$1,990,849	\$1,990,849	\$1,990,849	\$0
ACCOUNTS OF THE PORT STEPHENS FINANCIAL SERVICES TRUST				\$0	0.00%	0.01%	\$0	\$0	\$0	\$0
<b>TOTAL CASH &amp; INVESTMENTS</b>				<b>\$28,421,225</b>	<b>107.53%</b>		<b>\$23,751,679</b>	<b>\$24,697,969</b>	<b>\$24,458,849</b>	<b>-\$3,962,376</b>

\*Liquidity Risk: In the event of a liquidity crisis, the Council may not be able to meet its obligations if it is unable to raise funds. No liquidity information is available.

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

I, Peter Giesling, 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. GIESLING

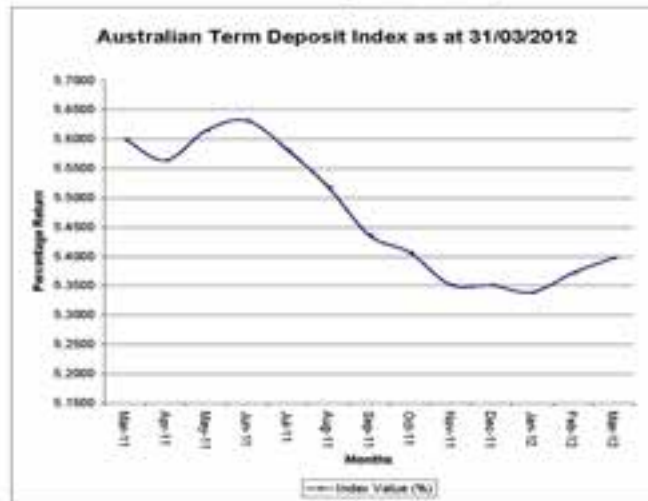
ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Mar-11	1,604	24,430	26,035
Apr-11	6,375	21,430	28,406
May-11	4,976	21,430	26,406
Jun-11	2,792	21,430	24,182
Jul-11	1,657	17,930	19,589
Aug-11	5,747	20,930	26,677
Sep-11	1,676	24,430	26,106
Oct-11	2,476	21,430	23,906
Nov-11	7,240	23,930	31,171
Dec-11	2,101	26,930	29,032
Jan-12	3,909	24,930	27,839
Feb-12	6,372	25,930	32,303
Mar-12	1,391	25,430	26,821

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Mar-11	5.6000
Apr-11	5.5637
May-11	5.6167
Jun-11	5.6372
Jul-11	5.5814
Aug-11	5.5179
Sep-11	5.4358
Oct-11	5.4065
Nov-11	5.3510
Dec-11	5.3004
Jan-12	5.2889
Feb-12	5.2715
Mar-12	5.2872





INFORMATION ITEM NO. 2

CHANGES TO POLITICAL DONATION LAWS

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REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER  
GROUP: GENERAL MANAGERS OFFICE

FILE: PSC2012-01230

**BACKGROUND**

The purpose of this report is to inform Council and the community of changes to political donation laws.

From 9 March 2012, amendments were made to the *Election Funding, Expenditure and Disclosures Act 1981*.

The changes are outlined in **ATTACHMENT 1**.

The Election Funding Authority has requested that all enquiries from Councillors and candidates for the 2012 Local Government election be directed to the Authority, not to the Returning Officer or Council staff.

Council will be hosting a candidates seminar in partnership with the Division of Local Government and the Election Funding Authority on Thursday 14 June 2012, at the Council's Administration Building, 116 Adelaide Street, Raymond Terrace. Advertisements will be placed in the local newspaper prior to the date.

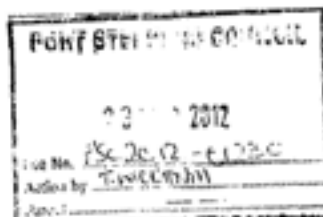
**ATTACHMENTS**

1. Letter from the Election Funding Authority dated 20 March 2012.

ATTACHMENT 1



Mr Peter Gesling  
General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 23242324



Ref: General Mgr Advice New Legislation

20 March 2012

Dear Mr Gesling,

**Re: Advice of changes to political donations laws commencing 9 March 2012**

I am writing to advise you of recent amendments that have been made to the *Election Funding, Expenditure and Disclosures Act 1981*.

A copy of the attached advice has been sent to all current local government councillors however you may wish to include this matter on the agenda for a future council meeting.

The information contained in this letter is general in nature in respect of recent changes to the *Election Funding, Expenditure and Disclosures Act 1981*. Local government councillors and candidates should know and understand their obligations and responsibilities under the Act. To assist the Election Funding Authority will soon publish revised guidebooks and information on its website ([www.efa.nsw.gov.au](http://www.efa.nsw.gov.au)).

The Authority will be conducting information seminars in May, June and July this year for candidates, groups and political parties throughout NSW ahead of the 2012 local government elections. Details of the seminars will be available in the near future on the Authority's website.

If you have any questions in respect of any information contained in the attachment please contact the Authority on 1300 022 011.

Yours sincerely,

Brian DeCelle  
Director Funding and Disclosure



**Advice of changes to political donations laws commencing 9 March 2012**

The NSW Parliament recently enacted amendments to election campaign funding and disclosure laws.

I feel it appropriate to bring these changes to your attention as the laws affect all political parties (registered and non-registered), candidates, groups of candidates, elected members and third-party campaigners in NSW. The laws also affect donors including corporations and other entities and individuals on the roll of electors for Federal, State or local government elections.

The amendments came into force on 9 March 2012 and were inserted into the *Election Funding, Expenditure and Disclosures Act 1981* (available for viewing at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).

A summary of the amendments are as follows:

1. Prohibition of political donations other than by individuals on the electoral roll

It is unlawful for a political donation to a party, elected member, group, candidate or third-party campaigner to be accepted unless the donor is an individual who is enrolled on the roll of electors for State elections, the roll of electors for Federal elections or the roll of electors for local government elections: s.96D(1).

It is unlawful for an individual to make a political donation to a party, elected member, group, candidate or third-party campaigner on behalf of a corporation or other entity: s.96D(2).

It is unlawful for a corporation or other entity to make a gift to an individual for the purpose of the individual making a political donation to a party, elected member, group, candidate or third-party campaigner: s.96D(3).

It is unlawful for an industrial organisation or other entity to pay an annual or other subscription to a party for affiliation with the party. Such subscriptions are gifts by virtue of s.85(3) of the Act and are therefore political donations: s.96D(4).

It is *not* unlawful for branches of parties or associated parties to dispose of property between one another: s.96D(5); however, such dispositions remain gifts and, accordingly, political donations for the purposes of disclosure: s.85(3A).

It is unlawful for a person to receive a reportable loan (other than a loan from a financial institution) from an entity: s96G(1).

Political donations are those in relation to State elections and elected members of the NSW Parliament, local government elections and elected members of councils or matters unconnected to any election or elected member (e.g. political donations made to a State Party administration account). Political donations are not those made exclusively for the purpose of Federal elections or elected members of the Australian Parliament.

2. Meaning of "electoral expenditure" and "electoral communication expenditure"

The amendments modify the definition of electoral expenditure and electoral communication expenditure as they apply to an entity or other person not being a registered party, elected member, group or candidate. Electoral expenditure and

electoral communication expenditure **does not** include expenditure incurred by an entity or other person (not being a registered party, elected member, group or candidate) if the expenditure is not incurred for the dominant purpose of promoting or opposing a party or the election of a candidate or candidates or influencing the voting at an election: s.87(4).

3. Aggregation of expenditure caps in respect of State election campaigns

The applicable caps on electoral communication expenditure for a party for a State election campaign now includes the aggregation of electoral communication expenditure incurred by the party and any other electoral communication expenditure incurred by an affiliated organisation of that party: s.95G(6).

An affiliated organisation of a party means a body or other organisation, whether incorporated or unincorporated, that is authorised under the rules of that party to appoint delegates to the governing body of that party or to participate in pre-selection of candidates for that party (or both): s95G(7).

.....  
I remind you that a political donation includes (but is not limited to) a gift made to or for the benefit of a political party, candidate, group of candidates, elected member or third-party campaigner and may be monetary or non-monetary (gift in kind).

The information contained in this letter is general in nature in respect of recent changes to the *Election Funding, Expenditure and Disclosures Act 1981*. You should know and understand your obligations and responsibilities under the Act. To assist you the Election Funding Authority will soon publish revised guidebooks and information on its website ([www.efa.nsw.gov.au](http://www.efa.nsw.gov.au)).

The Authority will be conducting information seminars in May, June and July this year for candidates, groups and political parties throughout NSW ahead of the 2012 local government elections. Details of the seminars will be available in the near future on the Authority's website.

If you have any questions in respect of any information contained in this letter please contact the Authority on 1300 022 011.

Yours sincerely



Brian DeCelis  
Director Funding and Disclosure

**INFORMATION ITEM NO. 3**

**BUSINESS IMPROVEMENT**

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**REPORT OF: PETER GESLING - GENERAL MANAGER**  
**GROUP: GENERAL MANAGER'S OFFICE**

**FILE: PSC2011-04300**

**BACKGROUND**

The purpose of this report is for Council to receive and note the Business Improvement Process Quarterly Report January-March 2012.

Council has a long history of continuous improvement of its activities and issues. Data over the period 2004-2010 showed a trend of \$700,000 per annum improvement to Council's financial position.

To record this a database was created in February 2011 where staff are encouraged to record all improvement delivered.

Attached for information is January-March 2012 listing. Further information is available from the nominated Section Manager of the relevant section shown on the data base.

**ATTACHMENTS**

- 1) Business Improvement Quarterly Report January – March 2012.

ATTACHMENT 1

Group	Section	Service or Function	Improvement Cause	Improvements result	Created
Corporate Services	Organisation Development	Corporate Risk Management	A process improvement	An improved, expanded or more efficient service	5/01/2012
	<p>The Corporate Risk Management Framework was revised to make it more user friendly, less complex and less technical. Improvements include:</p> <ul style="list-style-type: none"> <li>- adoption of a continuous improvement approach to risk management</li> <li>- a logical guide to risk management procedures and practice</li> <li>- clear description of responsibilities and reporting requirements</li> <li>- 60% reduction in length</li> <li>- replacement of numerous attachments with hyperlinks</li> </ul>				
Corporate Services	Organisation Development	Business Paper Template	A process improvement	An improved, expanded or more efficient service	5/01/2012
	<p>The business paper report template was amended to include specific consideration of the risks associated with the subject the basis of the report. The amendment allows staff to provide Councilors with clear and consistent information.</p>				
Corporate Services	Organisation Development	Insurance	A process improvement	An improved, expanded or more efficient service	5/01/2012
	<p>An "Insurance Manual 2011/2012" was developed and uploaded to Myfort to provide staff with a one stop shop for all insurance related processes and enquiries.</p>				
Corporate Services	Organisation Development	Insurance & Risk Management	A process improvement, A people/relationship improvement	A saving in time, A financial saving, An improved, expanded or more efficient service	5/01/2012
	<p>A new procedure was developed for complying with Subpoenae to Produce Documents in insurance matters. The procedure clearly identifies what needs to be done and who needs to do it to help ensure that the appropriate documents are produced within the allocated timeframes.</p>				
Corporate Services	Organisation Development	Corporate Risk Management	A process improvement	An improved, expanded or more efficient service	5/01/2012
	<p>The monthly Corporate Risk Management EPI report was redesigned to provide more succinct and relevant data and meaningful executive summary for ELT, ERMC and Section Managers.</p>				
Corporate Services	Organisation Development	Corporate Risk Management	A process improvement	An improved, expanded or more efficient service	5/01/2012
	<p>A Corporate Risk Management brochure was developed to provide an overview of Council's revised Corporate Risk Management Framework and for use by participants in risk management workshops. The brochure effectively replaces the complex business risk workshop briefing notes.</p>				
Corporate Services	Organisation Development	Corporate Risk Management	A process improvement	An improved, expanded or more efficient service	5/01/2012
	<p>The "Gathering Information for Incident Management" policy was revised and updated. The revision means that compliance with the policy ensures a clear audit trail for investigators as they attempt to reconstruct Council's response to a particular event or incident. The collection and retrieval of accurate information is critical when defending public liability and professional indemnity claims.</p>				

Group	Section	Service or Function	Improvement Cause	Improvements result	Created
Corporate Services	Office of the Group Manager - Corporate Services	Applications for community grant assistance	A process improvement, A people/relationship improvement	A financial saving, An improved, expanded or more efficient service	9/01/2012
Corporate Services	Office of the Group Manager - Corporate Services	Reporting against Internal Audit Report Actions	A process improvement	A saving in time, An improved, expanded or more efficient service	9/01/2012
Corporate Services	Communications & Customer Relations	Advertising	A process improvement	A saving in time, An improved, expanded or more efficient service	13/01/2012
Corporate Services	Communications & Customer Relations	Media monitoring	A process improvement	A saving in time, A financial saving, An improved, expanded or more efficient service	31/01/2012
Corporate Services	Communications & Customer Relations	Advertising	A process improvement	A financial saving	31/01/2012
Corporate Services	Communications & Customer Relations	Sponsorship	A process improvement	A financial saving	31/01/2012

Replacement of SmartyGrants software with Survey Monkey addresses several areas: firstly many community grant applicants found to SmartyGrants software difficult to use and acqitl processes onerous compared to the size/nature of the grant. Secondly, the licence renewal is coming up and would be \$14,500 per annum. (By comparison Survey Monkey is \$250 and has many applications across Council.) So a more user-friendly solution for customers and a cost saving of \$14,500.

This improvement resulted from an OFI from Manager Information Management regarding cross-referencing Internal Audit Actions with the context contained in the Internal Audit report. This has been implemented in Performance Manager and when the new version is released in March/April 2012 will have the ability to further contextualise the actions. This is a saving in time for responsible officers and is more efficient than having to report against the action after searching hard copy reports to ascertain what the action related to.

The way we prepare booking sheets and record advertising was standardised and simplified using Excel spreadsheets rather than a combination of Word and Excel in a variety of formats. Spreadsheets now provide a calculation of relevant costs and the data is now interchangeable and consistent with the ordering system in Authority. The authority ordering system will now be used for monthly advertising payments rather than credit card. This decreases time spent breaking up advertising costs from credit card payments at end of month and will speed up payments to our media suppliers.

We have implemented a new, improved service for monitoring any media activity referring to Port Stephens Council and Port Stephens Tourism. This service allows us to more accurately evaluate our media coverage and provide data to show how positive or negative our media presence is. Saving approximately \$3000pa

This new service will result in a significantly enhanced ability for Council to report on and react to our media coverage. Given that we are now sharing costs with Port Stephens Tourism (and avoiding a doubling up of services) it also comes with cost reductions in both budget and staff time.

As a result of efficiency measures adopted by the Communications Unit, the Section has ceased a temporary 7 hour pw advertising assistant role. Whilst this may result in a slightly modified advertising and publications service being provided, it will save Council in the vicinity of \$10,000 p.a.

As a direct result of feedback from customers during the section's sustainability review, the Comms unit has tightened the criteria for sponsorship recipients and reduced the amount of money allocated to sponsorship for 2012/13. Whilst Council's genuine sponsorship commitments will still be met, a saving of \$5000 has been made.

Group	Section	Service or Function	Improvement cause	Improvement result	Created
Corporate Services	Communications & Customer Relations	Printing	A people/relationship improvement	A financial saving	31/01/2012
			After benchmarking against other Council's during the Comms Unit's sustainability review, it was discovered that significant savings could be made by shifting our printing requirements to Lake Macquarie Council's printing service. It is estimated that this will result in a saving of approximately \$6000 p.a. across Council.		
Corporate Services	Communications & Customer Relations	Community newsletter preparation and delivery	A process improvement	A saving in time, An improved, expanded or more efficient service	31/03/2012
			We are now using an external provider (Action Mail) to prepare 35000 copies of the community newsletter for distribution each quarter. This saves at least 2 full time staff 1.5 days of sorting and bundling (Communications and information services)and ensures a more efficient outcome.		
Corporate Services	Organisation Development	Business Excellence	A process improvement	A saving in time	28/02/2012
			PDSA templates available in both word and powerpoint. This allows teams to complete the information as they work on improvement projects and present the results in a consistent manner.		
Corporate Services	Communications & Customer Relations	Outgoing Correspondence	A process improvement, A people/relationship improvement	An improved, expanded or more efficient service	7/03/2012
			Review & provide advice regarding outgoing community correspondence or if the subject matter is potentially contentious, if the distribution is greater than 50. Ensure information provided is easily understood & in plain english.		
Commercial Services	Commercial Property	Electricity over Easter	A process improvement, A people/relationship improvement	A financial saving, An improved, expanded or more efficient service	27/03/2012
			Due to switching off power points over the Christmas period resulted in a dramatic decrease of energy used. As a result of the dramatic decrease in energy use it has been discussed on completing the same procedure over the Easter period.		
Commercial Services	Commercial Property	Identification of Exit and Emergency Detectors	A process improvement, A people/relationship improvement	A saving in time, A financial saving, An improved, expanded or more efficient service	27/03/2012
			Kath Lister and I have been working on an identification system for the Admin exit and emergency lights and extinguisher.		
			The ground floor was completed last year and the first floor was done February this year.		
			Total fire recently did their 6 monthly inspections and found 14 ext and 5 emergency lights that were faulty.		
			In the past Andrew from Total Fire would walk around the building with me to identify the one's that weren't working.		
			Then I would have to do the same with our electricians to replace them.		
			Now Andrew just emails identification numbers. I CRM building trades electricians with a copy of the floor plan.		



# NOTICES OF MOTION

# NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

## SALT ASH HALL IMPROVEMENT WORKS

COUNCILLOR: MACKENZIE

---

### THAT COUNCIL:

- 1) Allocate \$40,000 from Rural Balance Repealed Section 94 Funds to Salt Ash Hall for improvement works outlined below.
- 

Cr Geoff Dingle left the meeting at 7.34pm.

### ORDINARY COUNCIL MEETING – 24 APRIL 2012

095	<b>Councillor Bruce MacKenzie</b> <b>Councillor Ken Jordan</b>
	It was resolved that Council allocate \$40,000 from Rural Balance Repealed Section 94 Funds to Salt Ash Hall for improvement works outlined below.

### BACKGROUND REPORT OF: JOHN MARETICH - CIVIL ASSETS MANAGER, FACILITIES & SERVICES

#### BACKGROUND

Salt Ash Hall was built in 1996 and is located on Michael Drive, Salt Ash. Council has a total portfolio of over thirty (30) community halls/centres assets, most of which were built before 1980 with an average asset condition of either satisfactory or poor. Salt Ash Hall is relatively new in comparison and is considered to be in good condition. The amount of minor repairs, as well as minor works has been minimal since the hall was opened.

From an asset management perspective, Council has two (2) distinctive Levels of Service it must consider when developing an asset management plan. The first is a Technical Level of Service, which consists of providing the community safe, functional, practical, cost effective and sustainable Community and Recreation Assets. In order to deliver these outcomes, Council has the responsibility of enforcing regulatory and statutory compliances, which it must abide by when undertaking operating expenditure/capital expenditure of its assets. Guidelines of compliance are provided to Council from Federal/State Acts, Building Code of Australia (BCA), Australian Standards (AS) and best practice agencies such as the Institute of Public Works Engineering Australia (IPWEA).

The second is a Community Level of Service, which is predominantly proposed from and developed in conjunction with the; community/public, user groups and other stakeholders. Project proposals for an asset usually include, but are not limited to, day to day maintenance requests, planned/scheduled maintenance or Capital improvements which sometimes are driven by the changing needs of user groups.

The challenge for Council is to balance the needs of both Technical & Community Levels of Service. A task made difficult given Council's amount of asset maintenance backlog and limited budget.

A site meeting was conducted at the hall on Wednesday, 4 April, and was attended by Council staff and Salt Ash Hall Committee members. The main purpose of the meeting was to discuss outstanding asset related items from their General Meeting. Each item from the meetings minutes "points on list" was discussed. As a result of the meeting, clarity and an understanding of processes around maintenance requests, Capital improvements and Council's risks were identified. Day to day items such as missing stair handrails, leaking roof, cracked concrete paths, lack of signage, etc need to be addressed via Council's Customer Request Management System (CRM). Other items such as replacement of playground equipment and a lack of storage is a Capital improvement which involves greater discussions in order to determine both Levels of Service. It was agreed that the following Capital improvements be prioritised and tabled for this report:

1. playground/shade shelter replacement
2. repair/replace front concrete access path
3. repair/replace rear and side concrete access path
4. repair/replace fence around front garden
5. replace/install storage cupboards

Detailed scope of works and estimates have not been determined.

While these proposed Capital works have been listed here, they have not been assessed against other Community and Recreation projects already placed in Council's Capital Works register. Given the volume and priority of other worthy Community projects also competing for funds from a limited annual budget, these proposed projects, at present, have not yet been scheduled in the near future.

The Salt Ash Hall Committee propose to use voluntary labour and donations to minimise the direct cost of these works.

# NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217

## CONTROL OF PAMPAS GRASS IN THE TOMAGO WETLANDS

COUNCILLOR: NELL

---

### THAT COUNCIL:

- 1) Prepares a report on the development of a regional strategy for the control of the Pampas Grass, with the aim of preventing it from spreading into the Tomago Wetlands.
- 

Cr Geoff Dingle returned to the meeting at 7.40pm, prior to voting on Item 2.

Cr Ken Jordan left the meeting at 7.40pm, prior to voting on Item 2.

### ORDINARY COUNCIL MEETING – 24 APRIL 2012

096	<b>Councillor John Nell</b> <b>Councillor Caroline De Lyall</b>
	It was resolved that Council prepare a report on the development of a regional strategy for the control of the Pampas Grass, with the aim of preventing it from spreading into the Tomago Wetlands.

### BACKGROUND REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING & ENVIRONMENTAL SERVICES MANAGER, DEVELOPMENT SERVICES

#### BACKGROUND

Pampas grass is a declared noxious weed in the lower Hunter (and the remaining coastal areas of NSW). Local weed authorities are aware of pampas grass issues at Fern Bay, Fullerton Cove and Stockton and pampas grass is identified in the top 20 weeds in the Hunter Central Coast Regional Weeds Strategy. Without removing the seed source on Kooragang Island, which is the responsibility of Newcastle City Council, Tomago/Fern Bay, Fullerton Cove will continue to have significant pampas grass issues. Council Weeds Officers are continuing to undertake weed control on our land and are liaising with land holders in our local government area in an effort to minimise its spread.

ATTACHMENT 1



## Pampas grass

### Jim Dellow

Former Weeds Agronomist,  
Orange Agricultural Institute

### Annette McCaffery

Communications Officer (Weeds)  
Orange Agricultural Institute

### Introduction

Pampas grass (*Cortaderia* species) belongs to the Poaceae (grass) family. There are 24 species, with most native to South America and four indigenous to New Zealand.

In NSW, only *Cortaderia selloana* (common pampas grass) and *Cortaderia jubata* (pink pampas grass) are present. *Cortaderia richardii* (New Zealand pampas grass, toe toe) has been recorded in Tasmania.

In many areas, pampas grass was used as a garden plant, for windbreaks and in soil stabilisation work. It has spread from these areas and become a major weed in urban areas and coastal bushland.

### Impact

Pampas grass has become a major threat to national parks in and around Sydney and the Central Coast. Once established, the plant is very competitive, restricting the establishment of native trees, and can become a fire hazard and harbour vermin. Because of this, the Department of Environment, Climate Change and Water NSW has undertaken appropriate control programs in NSW.

Pampas grass is of greatest potential weed significance to forestry operations. However, it has not yet become a major problem in NSW forests.



Figure 1. Pampas grass can quickly establish in disturbed urban and bushland areas. Photo: N. Monaghan



Pampas grass is not considered an agricultural weed, because young plants are readily grazed by stock and it shows no ability to establish in cropping systems.

**Habitat**

Pampas grass appears to have no particular habitat preference, and is found in a wide range of ecosystems. It prefers open, sunny conditions, but also does particularly well in wetter conditions, making mangrove areas along rivers and inlets and wet, disturbed heathlands especially vulnerable to infestation.

Common sites of infestation are roadsides, road cuttings, quarry faces, sand dunes, mine spoil, new forest plantations and burnt and mechanically disturbed bushland. It can thrive in low-fertility situations and also tolerate waterlogged conditions.

**Distribution**

In NSW pampas grass has mainly become naturalised in bushland on the Central Coast and in some areas of the Central Tablelands. In Sydney, it is considered a major environmental weed by many local councils and is subject to intensive control campaigns. Evidence suggests it is spreading quickly across land disturbed by coal mining to the west of Newcastle, with numerous small populations on the coastal plains of the north coast of NSW.

**Description**

Pampas grass is a robust, long-lived perennial plant. It generally takes the form of a large tussock, approximately 1–1.5 m across, with attractive, plumed flower heads carried on tall stems.

**Life cycle**

Pampas grasses have the ability to reproduce from seed and rhizomes (root segments).

*Cortaderia setoana* (common pampas grass), the most common species in NSW, is gynodioecious. That means there are separate female and hermaphrodite or bisexual plants. The two types vary slightly in their appearance. The female plants are prolific seeders if pollinated by a hermaphrodite plant.

It is commonly thought that many of the cultivated plants in Australia are female clones, and fail to produce seed because of the lack of hermaphrodite plants to pollinate them. This could be why pampas grass has failed to naturalise in many parts of Australia where only individual plants are cultivated.

*Cortaderia jubata* (pink pampas grass) plants are always female and apomictic. That is, they can reproduce without the need for fertilisation. It is important that this be taken into account if control programs are to be effective.

Established plants have a large root system up to 3.5 m deep, and the tussock produces large quantities of flammable material. It is very competitive with other more desirable plants. It is the more aggressive species in NSW.

Table 1. Comparison of *Cortaderia* species.

	Common pampas <i>Cortaderia setoana</i>	Pink pampas <i>Cortaderia jubata</i>	* New Zealand pampas grass <i>Cortaderia richardii</i>
Flower heads appear	Mid-March to late May	January to late March	October to January
Flower head colour	Generally white but can be pink or mauve	Always pink when young, fading to dark brown	Straw to gold
Height of tussock	2 metres	1.5-2 metres	2-3 metres
Height when in flower	Up to 6 metres	Up to 4 metres, held high above arching leaves	Up to 5 metres
Leaves	<ul style="list-style-type: none"> <li>• Erect and arching towards tip</li> <li>• Margins finely serrated</li> </ul>	<ul style="list-style-type: none"> <li>• Arching with leaf tips touching the ground</li> <li>• Margins finely serrated</li> </ul>	<ul style="list-style-type: none"> <li>• Arching with tips touching the ground</li> <li>• Margins finely serrated</li> </ul>
Leaf sheath	<ul style="list-style-type: none"> <li>• No distinctive midrib</li> <li>• Smooth to sparsely hairy</li> </ul>	<ul style="list-style-type: none"> <li>• No distinct midrib</li> <li>• Very hairy</li> </ul>	<ul style="list-style-type: none"> <li>• Distinct midrib</li> <li>• Covered with white-waxy bloom</li> </ul>

\* *Cortaderia richardii* is currently not present in NSW, however, early identification is critical for effective control.





Figure 2. Pink pampas grass (*C. jubata*). Note the pinkish flower head. Photo Sainy and Associates.

**Spread**

Individual plants have the ability to produce vast quantities of windborne seed – up to 100,000 per flower head – which can infest areas within a 25 km radius. In many cases, garden plants are the seed source for infestations.

**Control and management**

The method of control for pampas grass depends on the site on which it occurs and the potential risk for causing new infestations. Permanent mechanical removal is recommended wherever possible.

Mechanical removal of plants (permanent removal, used in high-risk areas)

Grubbing of plants, particularly when small, is the best method of control in urban and bushland areas. This can be difficult with large plants because of their extensive root system and the abrasive nature of the leaves.

Control of large plants is easier and more effective if any seed heads are removed first and the plant is slashed before grubbing the crown and roots. Seed heads should be placed in a plastic bag and destroyed in an appropriate way.

The best conditions for grubbing are when the soil is moist so removal is easier. The crown and roots must be completely removed from contact with the soil. Suitable disposal methods for plant material are necessary to prevent re-establishment.



Figure 3. Common pampas grass (*C. setacea*). Note the white flower head. Photo: M.J. Milvain.

Pampas grass is known to be an important summer egg-laying site for wildlife such as the diamond python. Timing of control methods such as slashing should be considered carefully to avoid the destruction of important habitats at critical times.

**Use of herbicides (low-risk areas)**

Only a registered herbicide used according to the direction on the label should be used to control a weed. Refer to *Noxious and Environmental Weed Control Handbook* (available from Industry & Investment NSW) for registered herbicides to control pampas grass.

Smaller plants (less than 40 cm) can be controlled using a wiper applicator with the recommended herbicide. For larger plants, slash the plant to reduce the foliage, taking care to dispose of any plant material in the appropriate way to prevent re-establishment, and then spray with the recommended herbicide.

Alternatively, the plant can be burnt (if local conditions allow), allowed to recover, and any new growth sprayed with the recommended herbicide.

Do not spray plants stressed by drought or frost, and ensure there is thorough wetting of larger plants with the herbicide. Follow-up treatment may be required if regrowth occurs.



Figure 4. Areas of NSW where pampas grass is declared a noxious weed. A. Maguire.

Prevention of seeding (temporary, used in low-risk areas)

Pampas grass is a prolific seeder. Its potential spread can be prevented by removing the flowering plumes before the pollen and seeds develop and are dispersed by the wind.

If removal is left until after the seed has developed, the seed head should be handled with care to prevent the seed shaking out. Any seed head containing viable seed should be burnt or rendered non-viable before discarding.

Grazing (temporary, used in low-risk areas)

Pampas grass is readily grazed by stock when it is young, before it becomes too abrasive. This prevents the development of flowers and seed set.

### Legislation

Pampas grass is a noxious weed under the *NSW Noxious Weeds Act 1993* in many areas of NSW (Figure 4).

Class 3 control requirements are that 'the plant must be fully and continuously suppressed and destroyed'.

Class 4 control requirements are that 'the growth and spread of the plant must be controlled according to the measures specified in a management plan published by the Local Control Authority'.

The responsibility for the control of noxious weeds on private land rests with the owner or occupier of the land.

A full list of noxious weeds and requirements under the *NSW Noxious Weeds Act 1993* can be found at [www.dpi.nsw.gov.au/weeds](http://www.dpi.nsw.gov.au/weeds)

### Acknowledgements

Information for this Primefact was taken from:

Dellow, J. and McCaffery, A. (2003) Pampas Grass. *Agfact P7.6.40*. NSW DPI, Orange.

Parsons, W.T. and Outhbertson, E.G. (1992) *Noxious Weeds of Australia*, 2nd ed. CSIRO publishing.

Publication prepared by Annie Johnson and Annette McCaffery.

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Updates of this Primefact are available at [www.dpi.nsw.gov.au/primefacts](http://www.dpi.nsw.gov.au/primefacts)

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (July 2008). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of Industry & Investment NSW or the user's independent adviser.

Job number 9610



# NOTICE OF MOTION

ITEM NO. 3

FILE NO: A2004-0217

## ALLOCATION OF PARCEL OF LAND AT BOOMERANG PARK

COUNCILLOR: FRANCIS

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### THAT COUNCIL:

- 1) That Council allocate a parcel of land within the community land section of Boomerang Park (in consultation with the Ward Councillors and Men's Shed Committee) for the purpose of "Raymond Terrace Men's Shed". This would allow them to fundraise and organise grant funding for the building.
- 

Cr Ken Jordan returned to the meeting at 7.44pm, prior to voting on Item 3.

### ORDINARY COUNCIL MEETING – 24 APRIL 2012

097	<b>Councillor Glenys Francis</b> <b>Councillor Peter Kafer</b>
	It was resolved that Council allocate a parcel of land within the community land section of Boomerang Park (in consultation with the Ward Councillors and Men's Shed Committee) for the purpose of "Raymond Terrace Men's Shed". This would allow them to fundraise and organise grant funding for the building.

### BACKGROUND REPORT OF: JASON LINNANE – GROUP MANAGER, FACILITIES & SERVICES

#### BACKGROUND

Council staff have initiated meetings with representatives from Raymond Terrace Men's Shed Committee with the view to planning the facility proposed. In the near future Council staff will develop an action plan to progress the matter in consultation with West Ward Councillors.

# NOTICE OF MOTION

ITEM NO. 4

FILE NO: A2004-0217

## POSSIBLE CO-LOCATION OF ALESCO LEARNING CENTRE

COUNCILLOR: FRANCIS

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### THAT COUNCIL:

- 1) Receive delegation and have presentation from Alesco (a private learning group for young people with learning needs) for co-location with another facility. Council could receive information from them and decide if we are able to assist them and co-locate them with another organisation.
- 

### ORDINARY COUNCIL MEETING – 24 APRIL 2012

098	<b>Councillor Glenys Francis</b> <b>Councillor Peter Kafer</b>
	It was resolved that Council receive delegation and have presentation from Alesco (a private learning group for young people with learning needs) for co-location with another facility. Council could receive information from them and decide if we are able to assist them and co-locate them with another organisation.

### BACKGROUND REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING & ENVIRONMENTAL SERVICES MANAGER, DEVELOPMENT SERVICES

#### BACKGROUND

*Alesco Learning Centre* is a registered and accredited school specifically designed to include young people who may not have found success within a traditional schooling system. *Alesco Learning Centre* is also a registered Special Assistance School due to its ability to meet the individual needs of its students. Based in an adult learning environment, Alesco is better suited to those young people who are unable to complete mainstream schooling due to challenges they may face in a large school environment.

WEA Hunter developed and manages Alesco and is now looking to establish a campus of the Newcastle Alesco School in Raymond Terrace. A working party including representatives from Council and WEA Hunter have been working on this initiative over the past 12 months. At this stage WEA are very confident that funds for the operations of educational activity, including teaching resources and staff, can be secured for a 2013 start however there are no funds to secure a suitable premises.

## **MINUTES FOR ORDINARY MEETING – 24 APRIL 2012**

On Monday 26<sup>th</sup> March the working party made a presentation to State Member Craig Baumann, Port Stephens Councillors in attendance and local business representatives. The presentation focused on a draft Communication Plan developed by the working party with assistance of Stephens Crowe (PSC). WEA highlighted operational matters including the requirements in terms of a facility. Local high school principals also provided supporting material.

WEA Hunter's Alesco School is the only publicly funded independent school program of its kind in the Hunter. To secure a local Alesco campus would be significant and a stepping stone to establishing a greater community education hub in Raymond Terrace. What is needed is a suitable premises.

# NOTICE OF MOTION

ITEM NO. 5

FILE NO: A2004-0217

## INFRASTRUCTURE REQUIRED FOR KINGS HILL

COUNCILLOR: MACKENZIE

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### THAT:

- 1) A delegation consisting of the Mayor and General Manager contact the Member for Port Stephens, Craig Baumann MP, seeking his assistance for an urgent meeting with the Minister for Planning and the Minister for Roads and Ports to see if the infrastructure required for Kings Hill can be staged in a more economic manner.
- 

Cr Peter Kafer left the meeting at 8.00pm, prior to voting on Item 5.

### ORDINARY COUNCIL MEETING – 24 APRIL 2012

099	<b>Councillor Bruce MacKenzie</b> <b>Councillor Ken Jordan</b>
	It was resolved that a delegation consisting of the Mayor and General Manager contact the Member for Port Stephens, Craig Baumann MP, seeking his assistance for an urgent meeting with the Minister for Planning and the Minister for Roads and Ports to see if the infrastructure required for Kings Hill can be staged in a more economic manner.

### BACKGROUND REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING & ENVIRONMENTAL SERVICES MANAGER, DEVELOPMENT SERVICES

#### BACKGROUND

The main access to the Kings Hill Precinct is to be provided by direct access to the Pacific Highway. The Roads and Maritime Services require that this be constructed as a grade separated "interchange" at full cost to the developers. Being a significantly high up-front expense (estimated to cost upwards of \$20 million) the RMS / Council have agreed that this interchange does not have to be constructed until such time that 350 lots have been released, provided these initial lot releases are accessed via Newline Road, with no direct access to the Pacific Highway.

Given the cost associated with the construction of the interchange, and concerns raised by the landholders regarding the impact that it may have on the viability of developing Kings Hill, alternative access arrangements are currently being investigated as part of a Traffic Study being undertaken for the site. Such alternative access options include temporary arrangements for a 'left-in/left-out' access to the

**MINUTES FOR ORDINARY MEETING – 24 APRIL 2012**

Pacific Highway. Consultation on this issue will be undertaken with the RMS during the Traffic Study on this issue.

Following a recent meeting with the Department of Planning & Infrastructure and Roads and Maritime Services, the Acting Group Manager Development Services forwarded a letter to the Roads & Maritime Services (**Attachment 1**).

ATTACHMENT 1



116 Adelaide Street, Raymond Terrace NSW 2324  
PO Box 42, Raymond Terrace NSW 2324  
DX 21406 | ABN 16 744 377 876

Telephone Inquiries  
David Boyd  
49 800 319  
Please quote file no:  
PSC2006-0197

David Young  
Roads and Maritime Services  
Locked Bag 30  
NEWCASTLE NSW 2300

Dear David

**Re: Kings Hill – outcomes of meeting – 26 March 2012**

Below I seek to confirm the main outcomes of the discussion that relate to the specifications, planning and funding of the intersection of the access road to the Kings Hill Urban Release area from the Pacific Highway – in the context of overall traffic planning at Kings Hill:

1. Subject to the resolution of access to Newline Road and other recommendations of the traffic study for the overall Kings Hill Urban Release Area currently being prepared by Gutteridge Haskins & Davey (and due for completion in approximately 4 weeks), the minimum requirement for the intersection with the Pacific Highway is a first stage 'left turn in' only but with a commitment to a staged funding and construction of an intersection that enables 'left in left out' and a bridge across the current Pacific Highway to enable connections to the north and to the south or the eastern side of the Highway;
2. This minimum requirement has a very indicative cost associated with it of approximately \$6 Million which may place it in a margin of greater feasibility for Mondell / Morgan & Banks to proceed with the first stages of residential development; and
3. Further discussions will need to be held about who will own the asset of the bridge that will traverse the Pacific Highway when it is constructed in the longer term.

Could you please confirm that my summary of the outcomes above is agreed and I assure you that the details of the recommendations on the GHD Traffic Study will be made available to you as soon as possible. This matter has had over 2 years of negotiation and planning and needs to be brought to conclusion as soon as our organisations can reasonably achieve it.

Yours faithfully

**DEVELOPMENTS**

5 April 2012

CC: Michael Leavey, Department of Planning  
Chris Russel, Mondell & Morgan Banks  
Peter Marler, Port Stephens Council

[ Page 1 ]

Telephone: 02 4950 0255 | Facsimile: 02 4987 3612

Email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au) | Web: [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)

# NOTICE OF MOTION

ITEM NO. 6

FILE NO: A2004-0217

## CONTACT THE MINISTER FOR PLANNING RE REZONING OF LAND AT WALLALONG

COUNCILLOR: MACKENZIE

---

### THAT COUNCIL:

- 1) Contact the Minister for Planning as a matter of urgency to reinforce Council's unanimous support for the rezoning of land at Wallalong and in doing so point out to him that the only other major development within Port Stephens is the Kings Hill development and Council is very wary as to whether or not it will proceed with the prohibitive infrastructure that is required;
  - 2) Forward a copy to the State Member for Maitland, the Hon. Robyn Parker, MP.
- 

Cr Peter Kafer returned at 8.02pm, prior to voting on Item 6.

### ORDINARY COUNCIL MEETING – 24 APRIL 2012

<b>100</b>	<b>Councillor Bruce MacKenzie</b> <b>Councillor Ken Jordan</b>
	It was resolved that Council:- <ol style="list-style-type: none"><li>1) Contact the Minister for Planning as a matter of urgency to reinforce Council's unanimous support for the rezoning of land at Wallalong and in doing so point out to him that the only other major development within Port Stephens is the Kings Hill development and Council is very wary as to whether or not it will proceed with the prohibitive infrastructure that is required;</li><li>2) Forward a copy to the State Member for Maitland, the Hon. Robyn Parker, MP, and State Member for Port Stephens, Craig Baumann, MP.</li></ol>

### BACKGROUND REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING & ENVIRONMENTAL SERVICES MANAGER, DEVELOPMENT SERVICES

#### BACKGROUND

Council resolved on 25 August 2009 to support Wallalong as a new release area. It has been identified as a Potential Urban Release Area in the Port Stephens Planning Strategy, adopted by Council at its meeting in December 2012.

Development constraints for Wallalong identified in the Port Stephens Planning Strategy include a range of issues that are manageable e.g. drainage, ecological assessment (minor constraint), bushfire prone land, agricultural land capability, infrastructure provision (also access to health and community facilities) and coordination and staging of development. Infrastructure has been identified as the most significant issue.

The timing is identified as 2015 commencement and development timing of 20-25 years.

The estimated dwelling yield is approximately 3,200 dwellings.

The NSW Government has been in the process of undertaking a review of potential housing opportunities on landowner nominated sites. The NSW Department of Planning and Infrastructure wrote to Council on 12 December 2012 seeking comment on Wallalong. Council made a submission based on the Port Stephens Planning Strategy and information provided by the Proponent. A copy of the submission is attached.

There are significant infrastructure issues associated with the delivery of dwellings at Kings Hill despite it being rezoned. A very significant issue is road infrastructure. The main access to the Kings Hill Precinct is to be provided by a grade separated interchange and direct access to the Pacific Highway. The Roads and Maritime Services require that this be constructed as a grade separated "interchange" at full cost to the developers. Being a significantly high up-front expense (estimated to cost over \$20 million) the RMS / Council have agreed that this interchange does not have to be constructed until such time that 350 lots have been released, provided these initial lot releases are accessed via Newline Road, with no direct access to the Pacific Highway.

Given the cost associated with the construction of the interchange, and concerns raised by the landholders regarding the impact that it may have on the viability of developing Kings Hill, alternative access arrangements are currently being investigated as part of a traffic study being undertaken for the site. Such alternative access options include staged construction arrangements including an initial 'left-in/left-out' access only to/from the Pacific Highway. Consultation with the RMS will be undertaken during a traffic study on this issue.

Another substantial issue to be addressed by proponents at Kings Hill is the provision of biodiversity offsets to compensate for the loss of vegetation as a result of development.



ATTACHMENT 1



116 Adelaide Street, Raymond Terrace NSW 2324  
PO Box 42, Raymond Terrace NSW 2324

DX 21406 | ABN 16 744 377 876

Telephone enquiries  
Matthew Sarafa  
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PSC2007-2737

Mr Sam Haddad  
Director General  
NSW Department of Planning and Infrastructure  
GPO Box 39  
SYDNEY NSW 2001

Dear Sir

**Re: NSW Land Review - Wallalong**

I refer to the Department's letter of 12<sup>th</sup> December 2011 seeking Council's comments in relation to a site in Wallalong as part of the Department's review into potential housing opportunities on landowner nominated sites. It is understood the review aims to identify sites, in appropriate locations, that will increase dwelling production in the short term.

It is noted that the estimated total lot yield for the Wallalong Urban Release Area, over the life of the project, is approximately 3,000 to 3,500 dwellings.

**Council's opinion in relation to the prospects of the site delivering housing in the short term**

The ability of the site to deliver housing "in the short term" depends on existing capacity of hard infrastructure particularly sewer, water, energy and road, to service development. The Developer has provided information to both the Department and Council on the capacity of existing infrastructure to service development in the short-term based upon their own investigations and liaison with relevant infrastructure providers. Based upon the information provided by consultants for the Developer and/or the relevant service provider at this stage, that capacity is summarised as follows:

- Water: Up to 1000 Equivalent Tenements by 2013
- Wastewater: Up to 700 Equivalent Tenements by 2013
- Energy: Up to 700 allotments
- Road: Reference to the capacity of existing heritage listed timber bridge structures at Hinton and Morpeth present a potential constraint for development. Short term capacity constraints require further investigation and consultation with Council and the RTA. It is noted that in the medium to long term it will be necessary to consider an additional (4<sup>th</sup>) crossing of the Hunter River.

Based upon the above advice and subject to further detailed analysis, indications are that there is capacity to deliver up to 1,000 allotments (approximate) "in the short term". Beyond that the information submitted indicates that there is the need for very significant investment in

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infrastructure that requires substantial planning. Regardless of the size of any land release the provision of adequate "hard" and "soft" infrastructure must be appropriately provided for.

The potential for additional housing opportunities in the short term at Wallalong is aided by the positive characteristics of the Site particularly large existing landholdings controlled by a small number of landholders and significant areas of cleared land (unlike a number of other development sites in Port Stephens).

**The local infrastructure requirements, broad order of costs and implications for the Council**

Council has not investigated in detail the local infrastructure requirements or broad order of costs associated with the release of land "in the short-term" at Wallalong. Its focus has been on the planning and delivery of urban release areas identified in the Lower Hunter Regional Strategy and particularly Kings Hill and Medowie.

Council needs to ensure that "soft" infrastructure issues are addressed to ensure a sustainable settlement at Wallalong. Being located in the Rural West of Port Stephens Local Government Area Wallalong is comparatively isolated from existing services. Further investigation of this matter is required and necessarily depends on the scale of land released. This matter is referred to further under "Social Planning Issues".

In the event of a planning proposal proceeding Council would necessarily look at these issues in more detail including appropriate Section 94 development contributions and Voluntary Planning Agreements for "hard" and "soft" infrastructure requirements.

There may be opportunity to accommodate a limited release of land with appropriate local infrastructure "in the short term" subject to a relevant planning proposal being prepared.

Any land release in the Rural West of Port Stephens local government area will require liaison with Maitland City Council to ensure any cross-boundary infrastructure issues are suitably addressed. Cross boundary planning issues will need investigation given the proximity of Wallalong to Maitland LGA.

**Consistency with Council's planning framework**

Council has been in the process of reviewing its local planning strategy (the former Community Settlement and Infrastructure Strategy 2007) culminating in the adoption of the Port Stephens Planning Strategy (PSPS) at its meeting in December 2012. The PSPS is currently with the Department for consideration and endorsement.

The PSPS acknowledges and identifies the need to provide additional housing opportunities in the Port Stephens Local Government Area. Although sites have been identified, due to the highly constrained nature of most of the LGA, predicted dwelling yields may not always be achievable within a reasonable timeframe. As a result the Strategy identifies investigating Wallalong as an urban release area (a copy of the PSPS attached).

Wallalong is not identified in the LHRIS as a proposed urban area; however, the LHRIS is under review which provides the opportunity for proponents and Council to consider additional sites particularly when considering the needs of the timely delivery of new dwellings for the increasing population. Following Wallalong's inclusion in the PSPS, it is appropriate that Council also seeks its inclusion in the Lower Hunter Regional Strategy.

Council's position on potential housing opportunities at Wallalong is best summarised in the following extracts from the Port Stephens Planning Strategy (PSPS) adopted by Council in December 2011:

*"Port Stephens LGA is highly constrained for residential development due to environmental factors, flooding and aircraft noise. It is important that any areas with urban potential be protected from premature development which may affect that land's urban development in the medium to long term. Council's resolution on the 25<sup>th</sup> August 2009 to support the identification of Wallalong as a new town is important because it signals an intention to develop new urban land at Wallalong as well as intensify the existing development, as appropriate. It is critical that premature development such as large lot or rural residential development does not occur at Wallalong in the interim.*

*It is estimated that, excluding the Wallalong Potential Urban Release Area, the total land supply for residential land in Port Stephens over the period 2011 to 2036 will be 12,991 dwellings. The spatial distribution of this supply is shown in Figure 32. This figure assumes all prospective release areas are rezoned. It also assumes that the forecast estimates of infill within existing urban areas will be achieved. Based on these dwellings being constructed over this period, this would result in an average dwelling gain of 520 dwellings per annum.*

*Given that the current average annual (7year) demand is expected to continue to be in the order of 560 dwellings per annum, this supply is not considered to be sufficient. However, the availability of additional dwellings within the Potential Urban Release Area and new release areas means that additional land stocks are available to be brought forward to make up for the shortfall in demand. Total land supply for residential land could increase from 12,991 to 14,191 by simply utilising land set aside as Wallalong Potential Urban Release Area which would increase the average dwelling gain from 520 to 568."*

(Port Stephens Planning Strategy page 94)

*"Council resolved on 25 August 2009 to include Wallalong as a new town. The site is not currently identified in the Lower Hunter Regional Strategy, however, has been identified as a Potential Urban Release Area for the LGA in the PSPS subject to resolution of infrastructure delivery. Any rezoning proposal would need to address the Sustainability Criteria in Appendix 1 of the Lower Hunter Regional Strategy. Development constraints include:*

- Drainage
- Ecological assessment
- Bushfire Prone Land
- Sloping Lands
- Agricultural land capability
- Infrastructure provision – also includes access to health and community facilities
- Coordination and staging of development

*Timing: 2015 for approximately 20-25 years.*

*Residential zoned land (green field) potential 3,167 dwellings (1,200 dwellings 2015-2036)  
Estimated yield 10+ dwellings/ha*

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*If it is considered that the inclusion of Wallalong creates an additional urban development opportunity in the western part of the LGA, it will also provide more options in the future for residents wishing to reside in close proximity to both Maitland and Raymond Terrace.*

[Port Stephens Planning Strategy page 133]

From the above it can be determined that Council open to the consideration of potential housing opportunities in Wallalong and doing so is consistent with its strategic planning framework.

#### Any other issues or matters of relevance to the review

##### Other Existing Urban Release Areas

An issue of relevance to the review is the delivery of land for housing opportunities in other parts of the local government area. Under the Lower Hunter Regional Strategy North Raymond Terrace (Kings Hill) and Medowie are the two main proposed urban areas. Considerable progress has been made towards the release of these areas for housing but as yet no land has been delivered as summarised below:

- North Raymond Terrace (Kings Hill): Rezoned in 2010 with an estimated dwelling yield of 4,500 dwellings. The timing for land release is by 2014 for approximately 25 to 30 years. No land has yet been developed and released for housing at Kings Hill. The landowners are responsible for infrastructure delivery and Council is actively facilitating this.
- Medowie: Council adopted the Medowie Strategy in 2009 to provide a more detailed local planning framework for the Town. The Medowie Strategy identifies land for 2,421 dwellings. The timing for land release was from 2009 for approximately 20 to 25 years. No land has been rezoned, developed and released for housing at Medowie. Infrastructure delivery and flooding studies are being undertaken and a number of planning proposals under assessment.

The progress of rezoning and developing land at Kings Hill and Medowie may add to the desirability of progressing with the rezoning of land at Wallalong.

##### Social Planning Issues

The current combined population for Wallalong, Hinton and Seaham is 1,604 persons.

Any planning proposal for Wallalong will result in a substantial increase in the local population. Based on an average Port Stephens occupancy rate of 2.6 persons per dwelling an additional 700-1000 dwellings at Wallalong would see a population increase in the range of 1820 to 2600 persons. An additional 3,000 to 3,500 dwellings would see a population increase in the order of 7,800 to 9,100 people.

The subject area is physically isolated.

There is potential for the development to create an increase in the supply of affordable housing stock in Port Stephens subject to market forces. However, the potential for financial savings realised through affordable home purchase or rental may be offset through increased cost of living such as additional fuel costs associated with longer trips to access employment, schools, shops, services and facilities in the short to medium term at least.

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References in the document pertaining to employment creation are likely to be realised in the short to medium term as a direct result of the construction jobs generated by the development. However any long term employment gains beyond the construction phase of the development are not certain at this point.

Reference is made to the current supply of services and facilities (e.g. schools, GP's, hospitals, community health centres) in Port Stephens and Maitland. Analysis is required of their existing capacity to cope with the additional demands arising from the proposed population increase.

The proposed (yet to be approved) school at Medowie is intended to cater for demand primarily from Medowie, along with demands from surrounding areas of Karuah, Salt Ash and the Tilligerry Peninsula. It is highly unlikely that the proposed Medowie High School would have any capacity to cater for additional demands from Wallalong. Given that the Wallalong site is in close proximity to Maitland, it is envisaged that households would be looking to schools in the Maitland area to meet their needs, but again capacity of these schools needs to be addressed.

Reference is made to the community facilities available in the area as follows:

- Wallalong Preschool/Multipurpose Community Centre
- Hinton School of Arts
- Seaham Community Hall

In addition to these facilities the following two facilities are in reasonable proximity to the site:

- Glen Oak Community Centre
- Woodville School of Arts

Whilst the facilities at Glen Oak, Woodville and Hinton do have additional capacity to cater for some increase in demand, the Seaham Community Hall has very limited capacity as it is already well utilised, and the Wallalong Preschool/Multipurpose Community Centre has no capacity as it functions primarily as a preschool.

There is currently limited to no available social infrastructure, capacity or regional transport networks and accessibility of human services. Further research and investigation is required to first ascertain the capacity of existing facilities and services within the area's catchments of Raymond Terrace, Port Stephens West and the central and eastern areas of Maitland LGA.

In summary clarification is required regarding the capacity of existing social infrastructure to accommodate additional growth, together with clarification of the staged delivery of social infrastructure, at various stages of the project.

#### Summary

Based on information to date, and subject to the detailed rezoning and planning process and infrastructure planning, indications are there is existing "hard" infrastructure capacity to support rezoning and development of a limited amount of allotments (up to 1000) at Wallalong "in the short term" with the option, at an appropriate stage in the future, of further settling out the suitability and capacity of Wallalong to deliver housing over the long term. It may be suitable to stage a planning proposal.

Any rezoning would need to provide the appropriate planning framework and tools (e.g. Local Environmental Plan, Development Control Plan, Section 94 Development Contributions Plan,

Voluntary Planning Agreements) to provide for the orderly coordination of the lands development and deliver all infrastructure in a timely manner.

If the Department wishes to proceed with any proposal for Wallalong the relevant roles and responsibilities will need to be clarified.

Yours faithfully,

Bruce Petersen

Manager Environmental and Development Planning  
Sustainable Planning

3<sup>rd</sup> February 2012

There being no further business the meeting closed at 8.00pm.

*I certify that pages 1 to 239 of the Open Ordinary Minutes of Council 24 April 2011 were confirmed by Council at its meeting held on 29 May 2012.*

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**Cr Bob Westbury**  
**MAYOR**