

## MINUTES 23 APRIL 2013



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 23 April 2013, commencing at 5.53pm.

PRESENT: Mayor B MacKenzie; Councillors G. Dingle; C. Doohan; S. Dover; K. Jordan; P. Kafer; P. Le Mottee; J. Morello; J. Nell; General Manager; Corporate Services Group Manager; Facilities and Services Group Manager; Development Services Group Manager and Executive Officer.

094	<b>Councillor Ken Jordan</b> <b>Councillor Chris Doohan</b>
	It was resolved that the apology from Cr Steve Tucker be received and noted.
095	<b>Councillor Ken Jordan</b> <b>Councillor Chris Doohan</b>
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 9 April 2013 be confirmed.
	The General Manager declared a non-pecuniary conflict of interest in Item 12. The nature of the interest is that the General Manager is Chairman of Hunter Councils Ltd, a tenderer for this service.

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# COUNCIL REPORTS

ITEM NO. 1

FILE NO: 16-2012-684-1

**DEVELOPMENT APPLICATION FOR CHANGE OF USE FROM INDUSTRIAL WORKSHOP TO VEHICLE SMASH REPAIRS AT NO. 8 WILLIAM BAILEY ST., RAYMOND TERRACE**

REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE  
SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2012-684-1 for Change of Use from Industrial Workshop to Vehicle Smash Repairs on land at Lot 23, DP 813426, 8 William Bailey Street, Raymond Terrace, subject to the conditions contained in **(ATTACHMENT 3)**.

**ORDINARY COUNCIL MEETING – 23 APRIL 2013  
MOTION**

	<b>Councillor John Nell</b> <b>Councillor Geoff Dingle</b>
096	It was resolved that Council move into Committee of the Whole.

**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Nell</b> <b>Councillor Chris Doohan</b>
	That Council: <ol style="list-style-type: none"><li>1) Approve Development Application 16-2012-684-1 for Change of Use from Industrial Workshop to Vehicle Smash Repairs on land at Lot 23, DP 813426, 8 William Bailey Street, Raymond Terrace, subject to the conditions contained in <b>(ATTACHMENT 3)</b>.</li><li>2) The acoustic fence be of a similar colour to the existing fence.</li></ol>

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



## MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Those for the Motion: Mayor Bruce MacKenzie, Crs Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

### MOTION

098	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that Council:  <ol style="list-style-type: none"><li>1. Approve Development Application 16-2012-684-1 for Change of Use from Industrial Workshop to Vehicle Smash Repairs on land at Lot 23, DP 813426, 8 William Bailey Street, Raymond Terrace, subject to the conditions contained in <b>(ATTACHMENT 3)</b>.</li><li>2. The acoustic fence be of a similar colour to the existing fence.</li></ol>

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Peter Kafer, Ken Jordan, Chris Doohan, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

### BACKGROUND

The purpose of this report is to present a development application to Council for determination at the request of Councillor Nell, supported by Councillors Geoff Dingle and Peter Kafer.

At its Ordinary Council Meeting of 26 March 2013, Council resolved to:  
*"defer Item 1, development application 16-2012-684-1 for Change of Use from Industrial Workshop to Vehicle Smash Repairs on land at Lot 23, DP 813426, 8 William Bailey Street, Raymond Terrace, for a site inspection by the Mayor and Councillors."*

A site inspection was subsequently held on the 8<sup>th</sup> April 2013.

This application seeks approval for the Change of Use from the existing Light Industrial Workshop to Vehicle Smash Repairs. The proposal will allow for the expansion of the adjoining, existing Shipton Smash Repairs business located at 1 Carmichael Street, Raymond Terrace.

The key issue identified in the planning assessment relates to:

- Noise impacts on adjoining properties.

One (1) submission was received objecting to the development on the grounds that:

## MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

- Placement of the 3m high acoustic buffer wall would obstruct solar access to adjoining properties;
- Overwhelming fumes from spray booth/s; and
- The potential for noise creation from above the 3m height.

The applicant has provided additional information to address these concerns to the satisfaction of Council. The submission and responses are discussed further in the Assessment (**ATTACHMENT 2**).

The proposal is consistent with the principles and controls of relevant legislation, namely the Port Stephens Local Environmental Plan 2000 and Development Control Plan 2007.

It is considered that the proposed management measures are acceptable and the development is therefore recommended for approval.

### FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		Any ongoing monitoring or compliance action will be met within existing staff & budgetary allocations. The costs associated with any legal appeal may not be met in their entirety.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL AND POLICY IMPLICATIONS

The application is considered satisfactory with regards to Port Stephens Local Environmental Plan 2000 and Port Stephens Development Control Plan 2007.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that the approval may have a noise impact on surrounding residents.	Medium	<ul style="list-style-type: none"><li>• Condition use in accordance with appropriate acoustic conditions</li><li>• Compliance action can be taken if necessary to protect residents amenity</li></ul>	Yes
There is a risk that the decision may be challenged in Land	Low	<ul style="list-style-type: none"><li>• Condition use/development to meet current LEP controls</li><li>• Defend Council's decision</li></ul>	Yes

and Environment Court			
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The objectors have indicated as part of their submission that if the proposal is to go ahead they would like to see specific conditions imposed on the consent, including:

- 1) The proposed acoustic fence to not interfere with the existing fence;
- 2) The acoustic fence be constructed to control noise to 110db;
- 3) That any damage caused to their property as a direct result of proposed construction be borne by the owners; and
- 4) That the acoustic fence be the same colour as the existing fence and that any weed growth between the two (2) fences be kept controlled by the owner.

These conditions have been met, where applicable, by including;

- 1) As the proposed acoustic fence is separate from the existing boundary fence and constructed of different materials (timber /colourbond) it is unreasonable to condition that the acoustic fence be the same colour as the existing boundary fence.
- 2) The Acoustic Report states that the Acoustic fence is to be constructed to an emanating noise level of 102dB, worst case scenario of noise generation. Confirmation of construction levels will be required by Council once the fence has been erected.
- 3) A condition that the acoustic fence and its surrounds are to be maintained by the owner/operator for the life of the business has been included. Once the business ceases to operate the fence is to be removed.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The proposed development is unlikely to have any significant social, economic or environmental implications for the community.

## **CONSULTATION**

The application was exhibited in accordance with Council policy and one (1) submission was received. This is discussed in the Attachments.

## **OPTIONS**

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

**ATTACHMENTS**

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

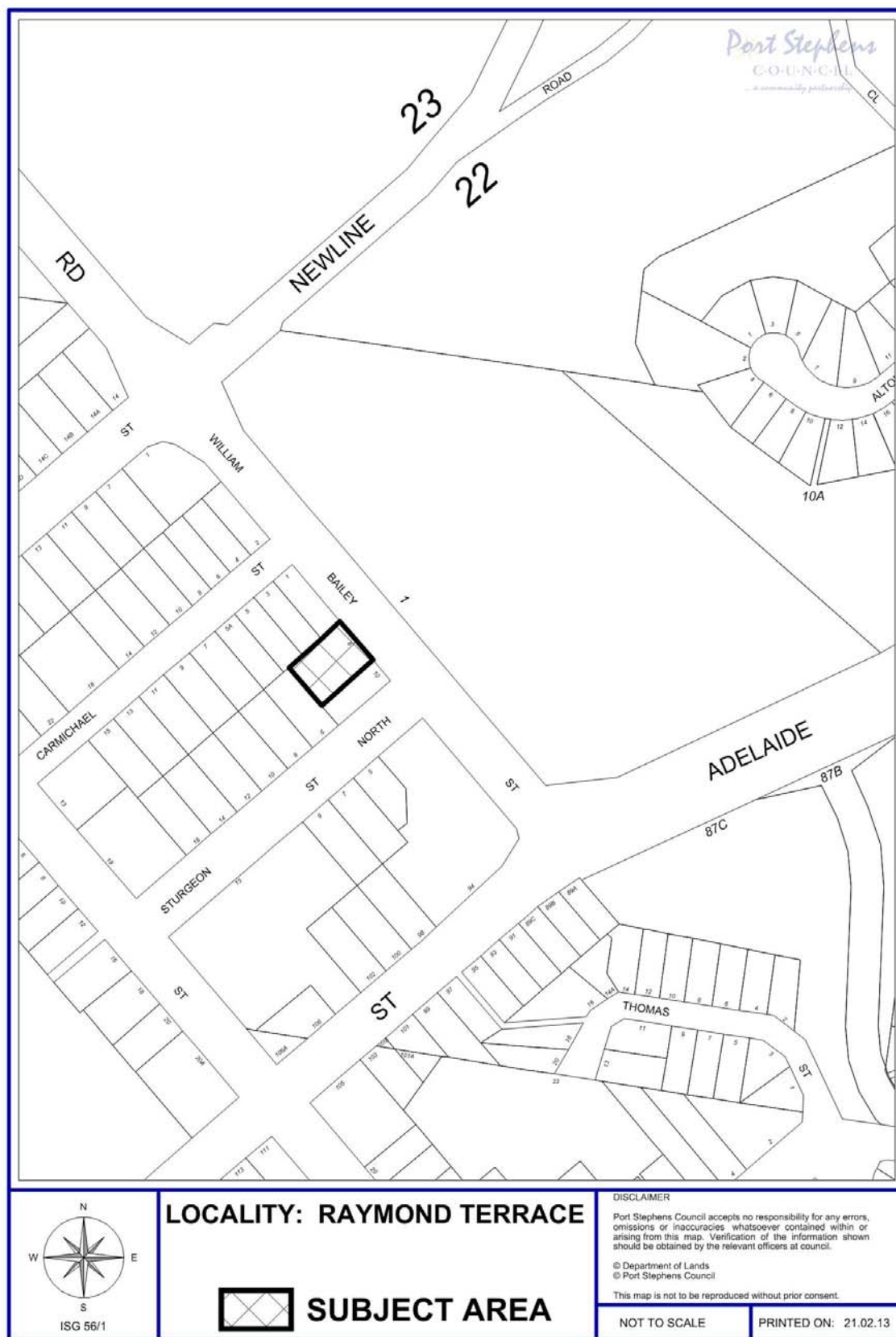
**COUNCILLORS ROOM**

- 1) Statement of Environmental Effects;
- 2) Workshop Noise Assessment;
- 3) Site Plan of proposed Change of Use and location of Acoustic Fence;
- 4) Additional Information Response.

**TABLED DOCUMENTS**

Nil.

# ATTACHMENT 1 LOCALITY PLAN



**ATTACHMENT 2****ASSESSMENT**

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

**THE PROPOSAL**

It is proposed to change the current light industrial workshop use at the site to a smash repair/vehicle repairs workshop. This will enable further expansion of the current business, Shipton Smash Repairs, located at 1 Carmichael Street, Raymond Terrace.

**THE APPLICATION**

Owner	MR A A & MRS M S & MR M W & MRS D M SHIPTON
Applicant	PULVER, COOPER & BLACKLEY
Detail Submitted	Statement of Environmental Effects.

**THE LAND**

Property Description	LOT 23, DP 813423
Address	8 WILLIAM BAILEY STREET, RAYMOND TERRACE
Area	1259m <sup>2</sup>
Dimensions	30.48m frontage
Characteristics	The sites present use is two (2) existing light industrial workshops, and hardstand area, that are presently vacant. The site is located within a flood prone area, and bushfire buffer zone.

**THE ASSESSMENT****1. Planning Provisions**

LEP 2000 – Zoning	5(G) - Special Urban (Flood) / Part In2 Light Industrial (Draft 2012)
Relevant Clauses	Clause 37 – Objectives for Development on flood prone land Clause 38 - Development on flood prone land Clause 47 - Services
Development Control Plan	B2 - Environmental and Construction Management B3 – Parking, Traffic and Transport B5 – Industrial Development

B12 – Advertising Signs

C1 – Raymond Terrace Town Centre

## **1.1 Local Environmental Plan 2000**

### **Clause 26 – Special Urban (Flood Affected) Zone**

The site is located within the existing 5(g) - Special Urban (Flood) zone. This zone allows for the development of commercial, light industrial and residential uses which are compatible with the constraints of the land.

The proposal is permissible development within the current LEP 2000 zoning.

Within the Draft 2012 LEP the site will be zoned 'Part In2 Light Industrial'. This zone allows for the development of light industrial uses which promote employment, minimise adverse impacts on other land uses, and protect industrial land for industrial uses.

The proposed vehicle body repair workshop/vehicle repair stations is a permissible use under the Draft LEP.

### **Clause 37 & 38 - Development on flood prone land**

There is no proposed construction within the flood prone areas identified on-site and as such the construction of the acoustic fence would cause no impediment to the flow of water.

### **Clause 47 – Services**

The subject site has access to existing service provisions. No further infrastructure is required.

The proposal meets the aims and objectives of the above PSLEP clauses.

## **1.2 Development Control Plan 2007**

The application has been assessed against the relevant provisions of Port Stephens Development Control Plan, 2007, as follows:

<b>CONTROL</b>	<b>PROPOSED</b>	<b>REQUIRED</b>	<b>COMPLIES</b>
<b>B2 – Environmental and Construction Management.</b>			
B2.2 General Standards	The expansion of the business does not proposed the moving of polluting activities, these will remain within the existing site where they are approved for operation. The potential for noise pollution on adjoining properties will be mitigated by the construction of an acoustic barrier.	B2.C1 Development must be designed, constructed, operated and maintained so as to prevent or mitigate the effect of any polluting emission.  B2.C2 Development must meet the objectives, and comply with the provisions, of the relevant legislation.	<b>Yes</b>

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	There is no additional legislation from which approval must be sought.		
B2.3 Water Quality Management	A Stormwater Plan has been submitted with the application which has been review by Environmental Services and is considered to be acceptable for the proposed development.	B2.C3Development must comply with the provisions of Council's Urban Stormwater and Rural Water Quality Management Plan.	<b>Yes</b>
<b>B3 – Parking, Traffic and Transport</b>			
The site contains existing access from William Bailey Street, with parking behind the building line. The parking provision is consistent with the requirements of the DCP.			<b>Yes</b>
<b>B5 – Industrial Development.</b>			
The proposal will not require external works to be undertaken and does not alter the developments compliance with the DCP.			<b>Yes</b>
<b>B12 – Advertising signs</b>			
Existing signage will be replaced with simular signage to the existing adjoining business. The sign is to comply with the aims and objectives of the DCP.			<b>Yes</b>
<b>C1 – Raymond Terrace Town Centre.</b>			
Due to the location and zoning of the proposed site, there are no development constraints under this DCP			<b>Yes</b>

### Discussion

The development proposal meets the aims and objectives of the relevant chapters of the Port Stephens's Development Control Plan 2007.

### 1.3 Section 94

The application does not attract Section 94 contributions.

## 2. Likely Impact of the Development

### Access and Traffic

As the proposal is not considered likely to generate significant additional traffic to the existing road network, the development is considered satisfactory with regards to Access, Transport and Traffic.

### Built Environment

The only proposed building works will be the construction of an acoustic barrier wall at the rear of the subject site. There are no construction concerns with the erection of the acoustic barrier wall.



### **Acoustic/Noise Impacts**

Noise sources will occur at levels between 1.0m - 1.5m from the ground floor of the shed with a maximum level of 102dB at worst case. Impact on surrounding properties will be mitigated by the internal retrofitting of acoustic insulation and fibrous cement sheeting, with the external construction of a 3m high acoustic wall with a density of 12kg/m<sup>2</sup>. The wall is to be located at the rear of the site on an existing retaining wall, with the total height approximately 4m from the ground level of the sheds, covering the full opening height of the roller doors. These mitigation measures will reduce noise to 48dB which is less than the daytime residential noise allowance of 52dB.

### **Natural Environment**

The proposed development at the subject site does not propose the removal of any vegetation/trees. There will be no physical change to the site which would impede floodwaters within the area.

Existing stormwater systems will be upgraded to include oil/grease traps to prevent stormwater contamination.

No hazardous materials will be generated, stored or used within the subject site.

### **Social and Economic**

The proposed development at the subject site is considered unlikely to result in any adverse social or economic impacts upon the local community. The proposal will expand an existing business and generate further employment.

### **3. Suitability of the Site**

As the site is currently a light industrial use site, the suitability of the site to be changed to Vehicle Smash repairs is consistent with existing uses.

### **4. Submissions**

One (1) objection to the development was received during the public exhibition period;

Concerns over the placement of 3m high acoustic buffer wall in relation to; solar access, the potential of the fence stopping any breeze access from the North, overwhelming fumes from spray booth/s, and the potential for noise creation from above the 3m height.

As part of the submission it was stated that if the proposal is to go ahead they would like to see specific conditions imposed on the consent, including;

1. The proposed acoustic fence to not interfere with the existing fence,
2. The acoustic fence be constructed to control noise to 110db,
3. That any damage caused to their property as a direct result of proposed construction be borne by the owners, and
4. That the acoustic fence be the same colour as the existing fence and that any weed growth between the two (2) fences be kept controlled by the owner.

### Response

Additional information regarding wall location and shadow impacts showed that the acoustic wall would be positioned on the ground level equivalent to the adjoining site ground level, will not interfere with the existing fence, and that the shadow cast would not impact solar access to northern windows.

As the proposed acoustic fence is separate from the existing boundary fence and constructed of different materials (timber /colourbond) it is unreasonable to condition that the acoustic fence be the same colour as the existing boundary fence. A condition that the acoustic fence and its surrounds are to be maintained by the owner/operator for the life of the business has been included. Once the business ceases to operate the fence is to be removed.

No hazardous materials will be used or generated on-site, spray booths will remain within the existing premises at 1 Carmichael Street, and as sanding is the only air polluting works to be undertaken on-site dust extraction vacuum units will be installed, one (1) per employee. The Workshop noise assessment states that "noise sources will therefore be at a height of approximately 1.0-1.5m, and will be attenuated by the proposed barrier" page 2 Shipton Smash Repairs Building Assessment prepared by VIPAC Engineers and Scientists Ltd.

The Acoustic Report states that the Acoustic fence is to be constructed to an emanating noise level of 102dB, worst case scenario of noise generation. Confirmation of construction levels will be required by Council once the fence has been erected.

### **5. Public Interest**

The proposal is not likely to impact the wider public interest.

ATTACHMENT 3  
CONDITIONS

STANDARD CONDITIONS

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

PLANNING DRAFT CONDITIONS OF APPROVAL

- 3) Hours of operation will be restricted to the following times:
  - a) Monday to Friday – 7:30am to 4:30pm
  - b) No work is to be undertaken on Saturday, Sunday or Public Holidays.
- 4) The development shall be constructed in accordance with the recommendations contained in the Acoustic Report prepared by Vipac Engineers and Scientists Ltd and dated October 2012. The acoustic engineer shall **issue a Compliance Certificate prior to the issue of any Occupation Certificate.**
- 5) Note: The business shall not impact on adjoining properties in terms of offensive noise as defined under the Protection of the Environment Operations Act 1997.
- 6) **Within 18 months of commencement of the operation** of the Vehicle Smash Repairs Workshop, the owner must have prepared, at its cost, a report by a suitably qualified and experienced Acoustic Consultant as nominated and instructed by the Council that measures noise levels against those predicted by Vipac Engineers and Scientists Ltd and dated October 2012. If the actual noise levels exceed those predicted the consultant is to specify measures to reduce noise levels to those predicted and the Owner is to carry out those works within 28 days.
- 7) The acoustic fence is to be maintained by the owner/operator for the life of the development. The area contained within the one (1) metre rear setback and location surrounding the acoustic fence, is to be kept clear of any vegetation and materials at all times.
- 8) In the event that the operation ceases, the acoustic fence is to be removed from site at this time by the owner/operator.
- 9) Any damage occurring to the adjoining properties during construction of the acoustic fence will be required to be rectified by the owners/operator, at no cost to the adjoining owners.

- 10) The area contained in the setback to the front boundary is to be landscaped and kept clear of vehicles and materials at all times.
- 11) Where materials or goods are stored outside the building they should be screened from view from any public place and adjacent premises and should not encroach on the parking, vehicular manoeuvring or landscaped areas.
- 12) All vehicle repairs are to be undertaken within the approved building. No repairs of any sort shall be carried out in the car parking or common areas.
- 13) The development has the potential to generate significant quantities of waste water which cannot be disposed of into the stormwater system. An application needs to be made for a Trade Waste Agreement with the Hunter Water Corporation to allow the waste water to be treated and connected to sewer **prior to commencement of works**. The Hunter Water Corporation may be contacted by calling 1300 657657.
- 14) All stormwater runoff from the site must pass through a pollution control device capable of removing litter, sediment and oil/grease prior to entering Council's stormwater system. **The pollution control device shall be installed prior to the issue of the Occupation Certificate.**

#### STANDARD BUILDING CONDITIONS

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

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

- 18) It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
- 19) The excavated and/or filled areas of the site associated with the acoustic fence construction are to be stabilised and drained to prevent scouring and

the finished ground around the perimeter is to be finished to prevent ponding of water and ensure the free flow of water away from the building.

- 20) A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council; If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
- 21) At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
  - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

#### GENERAL ADVICES

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

ITEM NO. 2

FILE NO: 16-2013-720-1

**DEVELOPMENT APPLICATION FOR THREE (3) LOT COMMERCIAL  
SUBDIVISION AND STOCKPILING OF SAND AT NO. 155 SALAMANDER  
WAY AND 1 DIEMARS ROAD SALAMANDER BAY**

REPORT OF: MATTHEW BROWN - DEVELOPMENT ASSESMENT AND COMPLIANCE  
SECTION MANAGER  
GROUP: DEVELOPMENT SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2012-720-1, for a three (3) lot commercial subdivision and stockpiling of sand at No 155 Salamander Way and 1 Diemars Road Salamander Bay, subject to the conditions contained in **(ATTACHMENT 3)**.
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**ORDINARY COUNCIL MEETING – 23 APRIL 2013**

**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Nell</b> <b>Councillor Peter Kafer</b>
	That Council defer Item 2 to the next Council meeting to be held on 14 May 2013.

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

Those for the Motion: Crs Peter Kafer, Geoff Dingle and John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Paul Le Mottee, Ken Jordan, Chris Doohan, John Morello and Sally Dover.

The motion on being put was lost.

**AMENDMENT**

	<b>Councillor Sally Dover</b> <b>Councillor Ken Jordan</b>
	That Council:  1) Approve Development Application 16-2012-720-1, for a three (3) lot commercial subdivision and stockpiling of sand at No 155 Salamander Way and 1 Diemars Road Salamander Bay, subject to the conditions contained in <b>(ATTACHMENT 3)</b> ;  2) Proposed condition 22 be removed and condition 38 be amended as outlined in the Supplementary Information.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

**MOTION**

<b>099</b>	<b>Mayor Bruce MacKenzie</b> <b>Councillor Ken Jordan</b>
	It was resolved that Council:  1) Approve Development Application 16-2012-720-1, for a three (3) lot commercial subdivision and stockpiling of sand at No 155 Salamander Way and 1 Diemars Road Salamander Bay, subject to the conditions contained in <b>(ATTACHMENT 3)</b> ;  2) Proposed condition 22 be removed and condition 38 be amended as outlined in the Supplementary Information.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Peter Kafer, Ken Jordan, Chris Doohan, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

## **BACKGROUND**

The purpose of this report is to present a development application to Council for determination. The report is being submitted to Council for determination as Council is the Land Owner and Determining Authority to ensure transparency in the assessment process.

The development application proposes to subdivide Lot 284 DP 806310 more commonly known as 155 Salamander Way, into three (3) commercially zoned allotments. The rear of proposed lot two will be excavated to provide a level development site. Soil won from the excavation will be utilised to prepare Lot 1 with the remaining soil being transported off site to Lot 51 DP 803471, 1 Diemars Road to an existing Council Quarry to be stock piled.

The subdivision will create the following allotments;

- Lot 1 – approximately 2.32 hectares in area, to be prepared as a levelled and serviced allotment for future commercial development.
- Lot 2 – approximately 1.97 hectares in area, proposed to facilitate a Big W development (DA 16-2012-349-1).
- Lot 3 – Residue allotment of approximately 5.16 hectares containing the existing library and child care centre.

The development also includes the following components;

- The construction of internal access roads, to be dedicated as public roads, cycleways, public transport improvements, landscaping, footpaths and associated drainage infrastructure.
- The total cost of the development is approximately \$4.37million.

The Key Issues associated with the proposal are;

### **Salamander Bay Urban Planning Principles**

Following lodgement of the application, on the 27<sup>th</sup> November 2012 Council resolved to “adopt the Planning Principles for the Commercial Land bound by Salamander Way and Bagnall Beach Road, Salamander Bay”.

The Salamander Bay Urban Planning Principles were compiled by Port Stephens Council, ADW Johnson and Sutars Architects following a consultation period with the surrounding community. The planning principles were “*designed to inform the future development of the site and to ensure that the needs of the community are met while keeping with Council’s objectives*”. The submitted statement of Environmental Effects states that Council’s objectives for the site are to;

- Facilitate development of the site in such a way that it integrates and complements the surrounding context;
- Ensure appropriate community and recreation facilities are provided as part of the future development;
- Ensure the development is energy efficient and environmentally sustainable; and
- Generate a strong commercial return for ratepayers of Port Stephens.



It is considered that the development application for the three lot subdivision is consistent with the Salamander Bay Urban Planning Principles and will not create a layout that compromises future adherence to these principles.

### **Commercial/Residential Interface**

The existing interface between the Commercial and Residential uses is a vegetated sand mound. The proposal seeks to excavate this area of land to facilitate a level development area on Lot 2. A retaining wall will be constructed with an acoustic barrier and landscaping to be created on top to mitigate against any Noise/Visual impacts of the development.

### **Environmental Constraints**

The major ecological constraints on the site are all located within proposed Lot 3 and are not considered as a part of this development application before Council. These include Preferred Koala Habitat and Endangered Ecological Communities. Given the development proposes no physical works on Lot 3, the ecological constraints will not preclude this development. Any future development of the proposed Lot 3 will need to consider these constraints and the design and location of roads and development respond accordingly.

The development application before Council will not comprise the future development potential of Lot 3.

It is considered however that the development is consistent with the Salamander Bay Urban Planning Principles adopted by Council in November 2012.

### **FINANCIAL/RESOURCE IMPLICATIONS**

There are no foreseeable financial or resource implications for Council that will result from the adoption of the officer's recommendation.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	No		
Reserve Funds	No		
Section 94	No		The development conditions will levy 1% of the development costs through Section 94A contributions.
External Grants	No		
Other	No		

## **LEGAL AND POLICY IMPLICATIONS**

The development application is consistent with Council's Policies and state legislation, including;

- Environmental Planning and Assessment Act, 1979,
- Environmental Planning and Assessment Regulations, 2000,
- State Environmental Planning Policy 14 – Wetlands,
- State Environmental Planning Policy 44 – Koala Management,
- State Environmental Planning Policy 71 – Coastal Protection,
- Port Stephens Local Environmental Plan 2000 including zone objectives and description,
- Port Stephens Development Control Plan 2007

A review of the Development Application against the above planning controls is included in **(ATTACHMENT 2)**.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the proposal may impact on drainage on site and surrounding the subject site.	Low	Appropriate conditions have been included within the recommendation.	Yes
There is a risk that Council's reputation may be impacted due to its dual role as applicant and assessor of the development application	Low	Openly reporting the consideration and recommendation of the development application to Council for determination.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

In terms of Social Impacts, while some submissions raised concerns in relation to noise and visual impact from the adjoining residential areas, it is considered that the proposed landscaping and acoustic barriers will effectively mitigate against these potential impacts. The improvement to pedestrian/cycle connectivity through the site and the upgraded public transport are seen as positive impacts. Overall it is considered that the development will have a positive Social Impact.

No adverse economic implications have been identified. It is considered that the release of additional commercially zoned land on the Tomaree peninsula will have a positive economic impact on the community. This economic benefit will be seen through construction jobs during creation of the allotments and construction of the ultimate approved built form, through increased jobs and retail/commercial opportunities.

Limited adverse Environmental implications have been identified. It is noted that the future development of Proposed Lot 3 will be required to address the ecological constraints that exist on the site.

On balance when considering the social, economic and environmental implications of the development, it is considered that the development will result in a positive net community benefit.

### **CONSULTATION**

The application was exhibited in accordance with Council policy and forty-three (43) submissions were received all opposing the proposal. These are discussed in the Attachments.

### **OPTIONS**

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

### **ATTACHMENTS**

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

### **COUNCILLORS ROOM**

Nil.

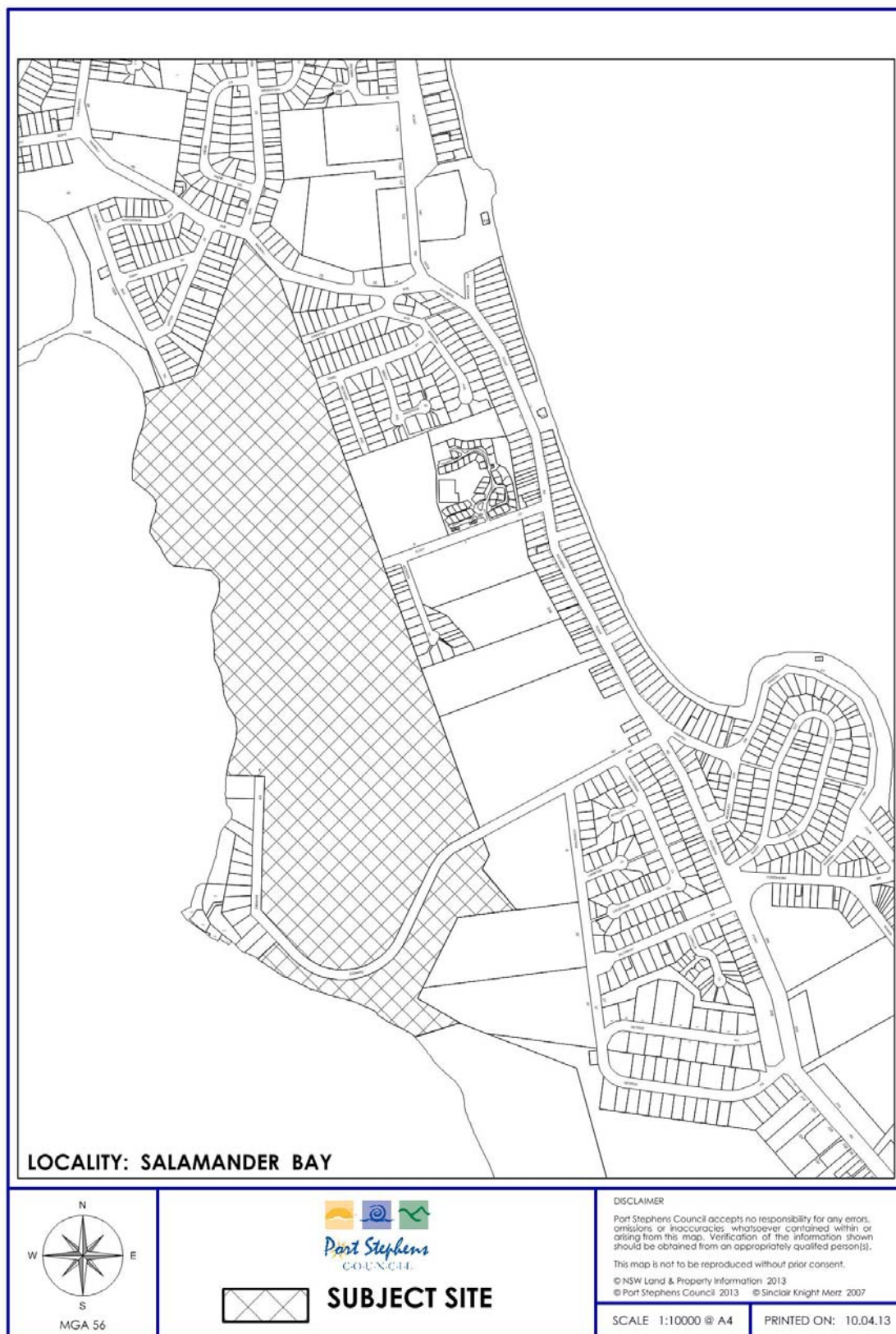
### **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1  
LOCALITY PLAN - SALAMANDER WAY



## LOCALITY PLAN - DIEMARS ROAD



## ATTACHMENT 2

### ASSESSMENT

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

#### THE PROPOSAL

The development application proposes to subdivide Lot 284 DP 806310 into three (3) commercially zoned allotments. The rear of proposed lot two will be excavated to provide a level development site. Soil won from the excavation will be utilised to prepare Lot 1 with the remaining soil being transported off site to Lot DP , 1 Diemars Road to an existing Council Quarry to be stock piled. Specifically the development proposes;

The subdivision will create the following allotments:

- Lot 1 – approximately 2.32 hectares in area, to be prepared as a levelled and serviced allotment for future development.
- Lot 2 – approximately 1.97 hectares in area, proposed to facilitate a Big W development (DA 16-2012-349-1).
- Lot 3 – Residue allotment of approximately 5.16 hectares containing the existing library and child care centre.

#### Road Network

In terms of road and intersection infrastructure, the development proposes the following;

- **Road 1**, (approximately 220m in length, 19m road reserve with 11m pavement and 4m verges). This is an internal access road along the north-eastern boundary with a roundabout interconnecting with road 2 & 3 and a left in left out access to Bagnall Beach Road.
- **Road 2**, (approximately 220m in length, 19m road reserve with 11m pavement and 4m verges). This is an upgrade and extension of Town Centre Circuit from the roundabout near McDonalds north to a new proposed roundabout adjacent to the north-eastern corner of proposed Lot 2.
- **Road 3**, (approximately 320m in length, variable road reserve with 8m pavement increasing to 11m on the western boundary and variable verges). This is an internal access road along the northern boundary of the site servicing proposed Lot 2.
- **Internal Roundabout**, this roundabout will connect roads 1, 2 & 3 and will be constructed with a raised concrete island. The eastern medium will be raised to provide pedestrian refuge and the remaining two entries to the roundabout delineated by painted chevrons to allow truck movements through the roundabout.
- **Traffic Signals**, An upgrade of the intersection of Bagnalls Beach Road and Town Centre Circuit will be undertaken to include traffic signals.

All proposed roads will be dedicated as public roads.

#### Pedestrian Access

Pedestrian access within the development will be provided in the following ways;

- A 2.4m wide pedestrian pathway will be constructed around the entire boundary of proposed Lot 1.
- The traffic signals at the intersection of Bagnall Beach Road and Town Centre Circuit will provide a safe pedestrian crossing of Bagnalls Beach Road.
- The retention of the existing pedestrian crossing adjacent to the roundabout of Bagnall Beach Road, Sandy Point Road and Keel Street.
- The existing bicycle path along the northern boundary near Purser Street and Plimsoll Close will be retained and connected into the site at the north-western boundary of the site and near the proposed roundabout connecting Roads 1, 2, 3. This combined pedestrian and cycleway provides the connection between the western and eastern sides of the subject site.
- A new 2m wide pedestrian pathway will be constructed between the cul-de-sac head of Plimsoll Close and the existing cycleway at the north of the site. This will provide an improved connection through an existing access path which is currently grassed.

#### Bus Interchange

A three bus interchange is proposed within Road 2 adjacent to Lot 1. The applicant has undertaken consultation with Port Stephens Coaches to determine the most appropriate location for the interchange.

The bus bay is 39m in length with a 15m entry and exit area, totalling 69m. While the preferred location for the interchange was between the roundabout near McDonalds and the northern entry/exit of the Salamander Shopping Centre carpark near the K-mart loading dock. The physical space to facilitate this however is not available and the interchange has been sited along the western boundary of Lot 1.

This location allows for a clear visual line of sight for pedestrians to move from the bus to the pedestrian crossing giving direct access to the shopping centre.

#### Excavation/Stockpiling

The development proposal includes the excavation of the sand hill to the north of the site. This ridge is located predominantly within Proposed Lot 2. Some of the sand removed from the hill will be utilised in preparing Lots 1 and 2 with the remainder being transported off site for stockpiling in Diemars Quarry.

**MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013**

The following earthworks are proposed;

Location	Cut	Fill	Notes
Road 1	6,450m <sup>3</sup>	360m <sup>3</sup>	Includes half roundabout
Road 2	5,120m <sup>3</sup>	620m <sup>3</sup>	Excludes roundabout
Road 3	36,940m <sup>3</sup>	790m <sup>3</sup>	Includes half roundabout
Lot 1	3,440m <sup>3</sup>	11,780m <sup>3</sup>	Based on current design regrading
Lot 2	92,680m <sup>3</sup>	900m <sup>3</sup>	Using 7.4m estimated pad level
<b>Totals</b>	<b>144,630m<sup>3</sup></b>	<b>14,450m<sup>3</sup></b>	

The remaining 130,000m<sup>3</sup> of soil will be transported off site to Diemars Quarry. Diemars Quarry is located 5.4km from the site and is owned by Port Stephens Council. The quarry has sufficient capacity to store this volume of soil for future reuse on proposed Lot 3, should this site be developed in the future.

No excavation or filling is proposed on Lot 3 through this application.

The excavate material is to be transported to Diemars Quarry using Salamander way and Diemars Road. Using a single excavator, four trucks can be serviced each day with it anticipated that each truck could make 2 return trips per hour over an eight hour day. This equates to sixty-four (64) return movements.

The submitted Statement of Environmental Effects has flagged that an alternate route can be utilised using George Road and Homestead Street to spread traffic load. This would take traffic of Salamander Way/Soldier Point road and would divert the traffic through an industrial estate and into a residential area. It is not considered appropriate to send trucks through this route and the DA will be conditioned accordingly.

#### Retaining Walls

Due to the excavation required within proposed Lot 2 to provide a level site matching that of the existing Salamander Bay Shopping Centre, a retaining wall will be required to be constructed along the sites northern boundary.

The retaining wall will extend from approximately ground level at the eastern and western extremities with a maximum height of approximately 4.7m. The Sothern side of road 3 will also contain a small retaining wall of approximately 1.2m in height. Road 3 will be approximately 0.5m higher than the carpark proposed of Lot 2.

Construction of the retaining wall is proposed to be of a concrete crib wall. This construction will facilitate enough space at the top of the wall for landscaping adjacent to the existing shared pathway. All retaining walls will have a grade of 4 Vertical:1 Horizontal.



A further retaining wall will be constructed around the southern portion of Lot 2 to allow filling of the proposed allotment without the need for a batter slope protruding into lot 3. This retaining wall will necessitate the removal of 4 Koala feed trees which has been considered in this assessment. No issues are raised with respect to the removal of these trees.

### Landscaping

Landscaping is proposed within the road network, pedestrian cycleway, Bagnall Beach Road and along the rear of the Rigby Centre adjacent to proposed Lot 1.

An acoustic Barrier is also proposed as a part of the landscaping adjacent to the cycleway to mitigate against vehicular noise and to provide a visual buffer in conjunction with the landscaping proposed.

Existing vegetation within proposed Lot 3 will be retained and any removal will be the subject of a future development application.

## **THE APPLICATION**

Owner	Port Stephens Council
Applicant	Steve McCall Environmental Property Service
Detail Submitted	Statement of Environmental Effects DA Plans

## **THE LAND**

Property Description	Lot: 284 DP: 806310, Lot: DP:
Address	155 Salamander Way, Salamander Way, 1 Diemars Road, Salamander Bay
Area	The area of the site subject to the subdivision is approximately 1.24 hectares.
Dimensions	Irregular
Characteristics	155 Salamander Way: Generally flat. Large vegetated sand mound to the rear of the site and low wetland to the west.
	1 Diemars Road: Currently used as a quarry.

## **THE ASSESSMENT**

### **1. Planning Provisions**

LEP 2000 – Zoning	155 Salamander Way: 3(a) 1 Diemars Road: 1(a)
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Relevant Clauses	21 – Business Zones 29 – Recreation Zones 51A – Acid Sulfate Soils
Development Control Plan	B1 – Subdivision and Streets B2 – Environmental And Construction Management
State Environmental Planning Policies	SEPP 14 – Wetlands SEPP 44 – Koala Management SEPP 71 – Coastal Protection

Discussion

### **Environmental Planning and Assessment Act 1979**

#### **Section 91 – What is Integrated Development**

Development for the purposes of a commercial development is not considered to trigger the integrated provisions under Section 91. While the land subject to the subdivision is Bushfire Prone, development for the purposes of a Commercial Subdivision is not captured under Section 100B of the Rural Fires Act 1997 and as such the development is not considered to be integrated under that legislation.

### **Environmental Planning and Assessment regulations 2000**

#### **Schedule 3 – Designated Development**

Schedule 3 of the *Environmental Planning and Assessment Regulation, 2000* specifies what developments are classified as being "Designated Development".

Of relevance to this application are the controls relating to Extractive Industries in Section 19 of Schedule 3. As the proposal seeks to extract greater than 30,000m<sup>3</sup> of sand from the rear of the site, the development triggers the Designated provisions.

Notwithstanding this, clause 37A – Ancillary Development States;

- (1) Development of a kind specified in Part 1 is not designated development if:
  - (a) it is ancillary to other development, and*
  - (b) it is not proposed to be carried out independently of that other development.**
- (2) Subclause (1) does not apply to development of a kind specified in clause 29 (1) (a).*

As the proposed excavations are required in order to provide a level development site, and some of the soil won will be used in preparing Lot 1, it is considered that the extraction of material is consistent with clause 37A(1).

In this instance it is not considered that the development is Designated Development.

**State Environmental Planning Policy 14 – Wetlands**

The development as proposed does not occur within land mapped as containing SEPP14 wetlands. As such the development is consistent with Clause 7.

**State Environmental Policy 44 – Koala Management**

The requirements of the Port Stephens Comprehensive Koala Plan of Management (PSCKPOM) have been discussed in the Environmental section of this report. It is considered that the development is consistent with the requirements of the PSCKPOM and SEPP 44.

**State Environmental Planning Policy 71 – Coastal Protection**

The development site is subject to the provisions of State Environmental Planning Policy 71. Clause 7 and 8 are applicable to the application.

Clause 7 requires that Clause 8 is considered in the assessment of an application.

Clause 8 specifies the matters for consideration.

***8 Matters for consideration***

*The matters for consideration are the following:*

*(a) the aims of this Policy set out in clause 2,*

**Comment:** The development is considered to be consistent with the aims of the policy.

*(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*

**Comment:** The development will not result in the removal of any existing access to the coastal foreshore.

*(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*

**Comment:** The development will not restrict the potential for new access to the coastal foreshore.

*(d) the suitability of development given its type, location and design and its relationship with the surrounding area,*

**Comment:** The development is situated on existing commercially zoned land and is considered to be consistent with the LEP in terms of permissible usage of the site. The development is consistent with other commercial development in the locality and is considered to not result in adverse impacts to the surrounding residential areas.

*(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*

**Comment:** The development will not have a detrimental effect on the coastal foreshore by way of overshadowing or loss of views.

*(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*

**Comment:** The development will not detract from the scenic qualities of the area. The proposal will result in the removal of the northern sand dune and vegetation, however the proposed landscaping is considered to be an adequate replacement for any vegetation to be impacted upon.

*(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*

**Comment:** The development will not impact upon the conservation of animals and plants.

*(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*

**Comment:** The development will not have an adverse impact upon fish stocks or conservation.

*(i) existing wildlife corridors and the impact of development on these corridors,*

**Comment:** The development as proposed will not impact upon existing wildlife corridors. Any future development of proposed Lot 3 will have to have specific regard to wildlife corridors.

*(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*

**Comment:** The development is considered to be unlikely to be impacted upon by coastal processes and hazards.

*(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,*

**Comment:** The development will not result in a conflict between land and water based activities.

*(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*

**Comment:** The development is not known to impact upon any cultural or traditional aboriginal places.

*(m) likely impacts of development on the water quality of coastal waterbodies,*

**Comment:** It is not considered that the development will have an adverse impact upon the water quality of adjacent waterbodies.

*(n) the conservation and preservation of items of heritage, archaeological or historic significance,*

**Comment:** The development will not adversely impact upon the conservation and heritage of significant sites.

*(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*

**Comment:** This clause is not applicable to this application.

*(p) only in cases in which a development application in relation to proposed development is determined:*

*(i) the cumulative impacts of the proposed development on the environment, and*

*(ii) measures to ensure that water and energy usage by the proposed development is efficient.*

**Comment:** The development is not considered to cumulatively result in any adverse impacts on the environment, nor will it prohibit the efficient usage of water and energy.

**Port Stephens Local Environmental Plan 2000**

**Clause 21 – Business Zones**

The subdivision component of the application occurs on existing commercial land.

Clause 21 states;

*(2) Objectives of the zone*

*The objectives of the Business General “A” Zone are:*

- (a) to provide for a range of commercial and retail activities, and uses associated with, ancillary to, or supportive of, retail and service facilities, including tourist development and industries compatible with a commercial area, and*
- (b) to ensure that neighbourhood shopping and community facilities retain a scale and character consistent with the amenity of the locality, and*
- (c) to maintain and enhance the character and amenity of major commercial centres, to promote good urban design and retain heritage values where appropriate, and*
- (d) to provide commercial areas that are safe and accessible for pedestrians, and which encourage public transport patronage and bicycle use and minimise the reliance on private motor vehicles, and*
- (e) to provide for waterfront-associated commercial development whilst protecting and enhancing the visual and service amenity of the foreshores.*

The proposed subdivision is considered to be consistent with the zone objectives and description. The proposal will result in the creation of allotments suitable for a wide variety of commercial uses while providing pedestrian linkages through the site and into the surrounding residential areas.

The subdivision is consistent with the existing adjoining development and will result in an improvement to the vehicular access and pedestrian movement through the site.

**Clause 22 Subdivision in business zones**

Clause 22 states;

- (1) A person shall not subdivide land in a business zone except with the consent of the consent authority.*
- (2) The consent authority may grant consent for a subdivision of land within a business zone only if each allotment to be created by the proposed subdivision will be of a size, and will have a ratio of depth to frontage, that the consent authority considers appropriate:*

*(a) having regard to the purpose for which the allotment is intended to be used, or*

*(b) to facilitate future commercial development of the land.*

It is considered that both proposed Lots 1 and Lot 2 contain an area and dimension suitable for the future use as a commercial allotment. Proposed lot 2 is already the subject of a development application for a Big W and proposed Lot 1 is considered to present a range of commercial options for future development.

Proposed Lot 3 is to be left undeveloped at this stage, other than existing uses such as the library and child care centre. Any future application to develop this allotment will need to have regard to the ecological site constraints which may restrict the allotments development potential.

### **Clause 29 – Recreation Zones**

The component of the application entailing the stockpiling of materials will occur within an existing quarry on land zoned 6(a). The quarry is an existing approved operation.

Clause 29 states;

#### **(1) Description of the zone**

The General Recreation "A" Zone contains land that is currently used or is available to be used for both active and passive recreation. The zone generally relates to recreation reserves, foreshores, bushland and other land reserved for the public. It can include a number of recreational developments, such as playing fields, children's playgrounds and bushland parks, and may include services and facilities catering for users of the reserve.

**Comment:** The land subject to the stockpiling material, while zoned 6(a) Open Space is currently utilised as an existing quarry. The stockpiling of sand material will not alter this use, nor will it compromise the zone description.

#### **(2) Objectives of the zone**

The objectives of the General Recreation "A" Zone are:

- (a) to identify publicly owned land and ensure that it is available for open space recreation, and
- (b) to provide an open space network to serve the present and future recreational needs of residents and visitors, and
- (c) to permit development associated with, or complementary to, open space, and
- (d) to allow development on foreshores where that development is water related and enhances the recreational use or natural environment of the foreshore, and

- (e) to preserve the aesthetics of land which is prominent and visible to the public along foreshore areas, and
- (f) to reserve privately owned land that is essential for future public open space and to provide for its acquisition by the Council.

**Comment:** As previously noted, while the stockpiling of sand material is not consistent with the zone objectives, it is consistent with the existing approved use and operation of the site. The proposal to stockpile soils is not seen as compromising the zone objectives given the quarry has obtained previous approval.

#### **Clause 47 – Services**

This clause requires that a consent authority shall not grant consent unless there is provision for water supply facilities and removal and disposal of sewerage and drainage on the land.

The subject site has access to reticulated water and sewer.

#### **Clause 51A – Acid Sulfate Soils.**

The subject site is identified as containing Class 3 Acid Sulfate Soils (ASS). Accordingly, any works more than 1 metre below the natural ground surface requires consideration under clause 51A of the Port Stephens LEP 2000.

The development involves the removal of the sand dune area to the north of the site within proposed lot 2, as such a geotechnical investigation was undertaken by Baker Harle in 2009.

*"A desktop study was undertaken using the Department of Land and Water Conservations 'Acid Sulfate Soils Risk Map' for Port Stephens. The Department of Land and Water Conservations 'Acid Sulfate Soil Risk Map' for Port Stephens indicated that the site is located across two individual risk categories. The first risk category is an Aeolian Sandplain which has a Low Probability of having actual or potential acid sulphate soil between 1 and 3 metres below the existing surface." (Barker Harle 2009)*

The geotechnical soils testing over 29 sites at depths of 1m and 11.5m found no samples that could be classified as actual or Potential Acid Sulfate Soils. As such an Acid Sulfate Soils Management Plan has not been required.

#### **Port Stephens Development Control Plan 2000**

#### **Chapter B1 – Subdivisions and Streets.**

The development is considered to be consistent with the requirements of this chapter.



## Chapter B2 – Environmental and Construction management

The development is considered to be consistent with the requirements of this chapter.

### Referrals

#### **Environmental**

The portion of the subject site of proposed Lots 1 and 2 are dominated by regrowth Coastal Sand Apple Woodland and heavily infested by Bitou Bush and Lantana. The SEE states that it will:

*"Not undertake any works (other than retaining walls for proposed lot 2) within proposed Lot 3, thereby not disturbing existing vegetation on the proposed allotment until further development is known".*

Lot 3 is a heavily constrained area containing SEPP 14 wetland, Koalas records and the Wallum Frog, as well may contain a number of other threatened flora species. This area would be subject to a separate development application should any be proposed in the future. Given the different ecological qualities of the Lot 1 and 2 to that from Lot 3, it is appropriate that Lot 3 be considered separately should any future DA be received.

It should be noted that due to the heavy constraints associated with the proposed Lot 3, any proposal to develop this lot is likely to result in a significant impact.

The ecological assessments of the proposed lots 1 and 2 (Wildthing 2012) did not identify any significant issues, given the condition of this land is not likely to provide habitat suitable for any threatened species apart from the presence of some Koala feed trees. It is proposed that loss of 4 Koala feed trees (*E. tereticornis*) be removed.

It is recommended this development application should be approved without consideration for any potential development on Lot 3 which may or may not occur and would be subject to a separate DA.

Given the development will occur within a Koala Habitat Buffer as identified in the CKPoM, the replacement of the loss of the red gum with a large number of red gums as part of landscape design is recommended.

#### **Engineering/Drainage**

##### Site Analysis

It is clear that the design of the development has been driven by the scale of the building rather than responding to the topography. This is evident with the 5m retaining wall and creation of landlocked stormwater catchment (roundabout put into a 1m landlocked depression). Council's infrastructure specification and industry practice is to provide overland flowpaths for catchment and this could be achieved by placing the road against the southern boundary as the original subdivisions intended.

Due to commercial pressures and/or the like the proponent has chosen to not provide these flowpaths and has proposed engineering solution to these issues in the form of retaining walls and infiltration systems within the road reserve.

#### Utilities

Proposed water main and/or other services runs along side the proposed infiltration tanks. The utility providers should be made aware of the infiltration tanks and design accordingly. This can occur through the construction phase as a condition of consent allows the road reserve to expand to cater for services/infiltration as required

#### Infrastructure

The development site is located within a bushfire prone area however, this area is mainly located on lot 3 to which no development is to occur at this stage. The remaining area is located on the western side of proposed lot 2 where the construction of road and car parking is proposed. As such there doesn't appear to have any immediate impact on future public infrastructure.

Soils were tested for Actual/Potential Acid Sulphate Soils, the following items are concerns:

Ground Water was found as shallow as 1.1m below surface level, it is recommended that excavation and dewatering practices to be tested during construction and will be conditioned accordingly. Infiltration systems will be conditioned to be a minimum of 300mm above the highest predicted groundwater thus acid sulphates should not be a significant issue to the system.

#### Traffic and Transport

To allow for a continuous pedestrian link along Bagnall Beach Avenue it will be conditioned that all associated pram ramps and pedestrian connections across proposed 'road 1' shall be designed and constructed in accordance with the Australian Standards and Council's Design and Construction Infrastructure specification.

Due to the increase in traffic generated from the proposed development the following will be conditioned:

- A left turn lane is required along Bagnall Beach Avenue for traffic to turn into proposed road 1.
- An upgrade of the round-a-bout at the intersection of town centre circuit is required due to the increase in traffic generated from the proposed development and will be conditioned accordingly.
- An upgrade of the existing pedestrian refuge on Bagnall Beach Avenue is required. The refuge shall be increase to a width of 2.5m and the installation of pedestrian fencing for approximately 10m north and south of the refuge along Bagnall beach avenue in both the north and south bound lanes. Refer to condition below.

Road 2, carriageway width is proposed at 11m. To allow for future bus route Council's DCP states a 13m wide road carriage way is required. A 3.5m wide bus bay is proposed in accordance with AS2890.2 and as such an 11m wide carriageway is deemed acceptable by the traffic engineer.

Comments from traffic engineer

After consultation with the bus company they have requested that provisions be made so that a bus stop can be achieved on the western side of proposed road 2. If provisions are made to accommodate the bus stop within the shoulder it will be considered acceptable.

Discussions need to be held with the owner of the existing shopping centre for provision of covered walkway to connect the proposed bus lay-bys with the existing shopping centre.

At this point in time the existing bus stop is still provided on the shopping centre land and a covered walkway could be conditions should they seek to remove the existing stop.

This assessment does not include the full comments from traffic and LDC

Road 3, road reserve width is proposed 18m with 8m wide carriageway. Figure B1.3 in Section B1 of Council's DCP states minimum 11m wide carriageway is required. It is noted that the majority of the existing Town Centre Circuit pavement is 8m however also noted that traffic congestion will continue to worsen as a result of the insufficient widths. The insufficient widths do not allow for right turning vehicles stopped at a driveway to be passed on the outside by through traffic. The applicant has proposed to widen road 3 to a width of 8.5m between chainage 195 and 240. It will be conditioned that regulatory signage and line marking be approved by Council's traffic Engineers prior to construction. A concrete median has been proposed to restrict the car park to left in/left out only. With an increased width of 8.5m surrounding the car park access this concrete median is not required but also not detrimental to traffic function.

SOEE proposes a 2.4m wide shared path around lot 1 however, drawings show a 2m wide footpath. It will be conditioned that a 2.4m shared path is required.

Applicant has proposed traffic lights at the intersection of Bagnall Beach Avenue and Town Centre Circuit (as per the traffic report). The RMS is the only authority that can approve traffic lights and as such it is recommended that written confirmation should be obtained prior to determination of the DA

It will be conditioned that all retaining walls will be required to be structural certified by a chartered professional engineer prior to CC and in the roads act approval.

The retaining wall proposed on the southern side of proposed road 3 is for the development however the asset owner has agreed that it can be located within the road reserve.

Street lighting has been proposed along all new roads within the site. It will be conditioned a street lighting plan be provided to council under the roads act approval.

The KFC driveway exists in a location that the new road 1 intersection will impact on. Negotiations are in train to have the KFC BAgnall Beach Road driveway relocated onto Road 1. It will be conditioned that the applicant must construct a driveway exit from the southern boundary of 270 Sandy Point Rd, Salamander Bay that connects to proposed road 1 to cater for the relocation of the existing KFC 'drive thru' exit.

The proposed turning head at the end of proposed road 3 will need to accommodate medium rigid vehicle swept paths should the RFS require access to proposed road 3. The applicant has proposed a 'Right of Access' benefiting Port Stephens Council over Lot 2. This is currently positioned at a location too close to the bend if and when the road is extended but has been supported by the Manger of Civil Assets on the proviso the turning head and (future Big W)carpark access point is relocated to a safe sight distance location. Conditions will be provided

#### Water Quality Management

The down stream saltwater wetland is reported to be drowning by freshwater from the developed catchment. The 1% event is to infiltrated thus impacts on the wetland will be minimised. Some additional pre treatment prior to infiltration will also occur.

#### Drainage

The infrastructure Specification requires that subdivision provide a public system for the whole development however the proponent is seeking to provide individual systems for the lots and for the roads. Council's Manager of civil assets is supporting this request

The proposal is creating a landlocked catchment in that the roundabout is proposed to be 1m below any surrounding overland flowpath outlet point (see comments in site analysis). It was requested that infiltration testing and predicted maximum groundwater modelling be conducted prior to determination however the applicant requested to hold this over until construction certificate.

The proponent is proposing atlantis tanks in the road reserve to infiltrate the stormwater. Atlantis tanks are hard to inspect and maintain. It is recommended the system y wholly or practically changed to a system that can be easily flushed out- such as stormtech chambers council used throughout Dowling Street catchment. Condition will be provided to address this

#### Street Trees

The landscape plan submitted by the applicant is not supported due to maintenance, safety and structural integrity concerns and will be conditioned accordingly. The selection of trees and the positioning on top of stormwater structures needs rectification prior to CC

Engineering conditions have been provided and included in the consent schedule contained in Attachment 3.

## Traffic

Issues were identified through the assessment process with regards to the traffic and pedestrian networks, the following conditions are proposed in response.

- A bus stop shall be accommodated on the western side of proposed Road 2 to cater for bus services from Nelson Bay. Alternatively, the proposed roundabout shall be designed and constructed to allow buses to perform a U-turn. **Details to be supplied to Council prior to issue of Construction Certificate**
- The intersection of Road 1 and Bagnall Beach Road shall be shifted further to the south to allow for turning movements out of Road 1 and for a safe pedestrian crossing and connection to Council's shared path. **Details to be supplied to Council prior to issue of Construction Certificate**
- A left-turn lane from Bagnall Beach Road to proposed Road 1 shall be provided. **Details to be supplied to Council prior to issue of Construction Certificate**
- The existing roundabout on Town Centre Circuit shall be enhanced to provide a sufficient level of traffic control for the volumes of traffic that will be using the shopping centre. **Details to be supplied to Council prior to issue of Construction Certificate**
- Pedestrian fencing shall be installed on Bagnall Beach Road at the existing pedestrian refuge to prevent pedestrians crossing in the vicinity of the proposed intersection. **Details to be supplied to Council prior to issue of Construction Certificate**
- Provision shall be made for cyclists through the proposed intersection on Bagnall Beach Road, in accordance with Austroads standards. **Details to be supplied to Council prior to issue of Construction Certificate**

## Community Safety/Social Planning

The following recommendations were made with respect to Community Planning;

- Before considering installation of any lighting solutions, obtain the services of a licensed, qualified Lighting Engineer (AS1158).
- All retaining walls must be designed to avoid foot holes or natural ladders so as to minimise unlawful access to premises.
- Adequate signage and way finding to identify 'entry/exit' etc
- Adequate transition lighting in installations to remove vision impairment.
- Ensure physical and symbolic barriers are used to create transitions between private, semi public and public spaces.
- Ensure pedestrian pathways (particularly on northern side of development) have adequate lighting and natural passive surveillance.
- Ensure areas of site have a designated purpose and definition.

- Ensure walkways, cycleways and carparks have clear connectivity routes/safe routes and landscaping has no concealment opportunities.
- Provide bicycle parking within view of capable guardians.
- Consider and provide maintenance and management of infrastructure; particularly northern cycleway adjoining residential area. Colour bond fence requires green screen and anti graffiti coatings/management.

**Comment:** Where relevant conditions and advices have been included in the draft consent. Those recommendations that relate to built form will need to be considered at such time as individual applications are lodged for development of the new allotments.

## 2. Likely Impact of the Development

It is considered that the development is likely to have a net positive impact upon the community through the creation of allotments suitable for the use for commercial purposes.

Potential adverse impacts on adjoining residential areas to the North West include a reduction visual and acoustic amenity. These impacts have been considered by the applicant and mitigated against through the inclusion of appropriate landscaping buffers and acoustic fencing.

## 3. Suitability of the Site

The site is appropriately zoned for commercial use and does not contain any constraints that would otherwise preclude this type of development. It is considered that the site is suitable for the development in its current form.

## 4. Submissions

There were forty-three (43) submissions received in response to the proposed subdivision. All submissions were in opposition to the proposal. The major themes raised in the submission process are discussed below.

- **Community Consultation** – Concern has been raised that the period of notification was not adequate for the proposal and that it lacked transparency, and that further public consultation should have been undertaken including the drafting of a masterplan for the site.

**Comment:** The application was exhibited in accordance with the requirements of the *Environmental Planning and Assessment Act, 1979*.

- **Financial** – It was raised that it is unacceptable for Council to sell off assets to ease financial burden.

**Comment:** The perceived financial reasons for undertaking a development do not form part of the consideration of assessment of the development.

- **Conflict of Interest** – It was raised in submissions that there is a conflict of interest with Council's Development Services Section assessing a Council Development application and that an Independent Consultant should have been commissioned.

**Comment:** Given the separation of the Development Services and Property Section within Council, it is not considered that there is a conflict in Council assessing the application. Further, to allow increased transparency, the application will be reported to a full Council meeting despite not being formally called to Council.

**Avoidance of JRPP** – It is alleged that the application has been deliberately paired back from the previous application put to the JRPP (DA 16-2009-811-1) so as to avoid the JRPP as a consent authority.

**Comment:** In terms of Development Assessment, the DA is considered to be below the \$5 million threshold for the JRPP. The reasons however for the application being lodged as is, do not form a valid part of the planning process from a regulatory point of view.

**Previous JRPP Hearing.** Assertions have been made that the DA is similar to the previous DA which was "thrown out" by the JRPP in 2010.

**Comment:** The previous application on the site was not "thrown out" by the JRPP. The application was ultimately withdrawn by the applicant prior to the JRPP determination meeting when issues raised in the assessment could not be resolved prior to the meeting.

The proposal currently before Council is a different layout that avoids any works within proposed Lot 3 where the majority of the major site constraints are located. Any future application on this allotment will be required to address these constraints.

**Lack of a Site Masterplan/Development Control Plan** – Concern is raised that the development of the site is accruing in an adhoc manner and that it should not proceed until such time as a MasterPlan/Development Control Plan is developed for the site.

**Comment:** At the time of lodgement there was no adopted masterplan for the site adopted by Council and previously Council had resolved to not prepare a masterplan. Assessment of the application has proceeded utilising the development controls currently in force. It is considered however that the development is consistent with the Salamander Bay Urban Planning Principles adopted by Council in November 2012.

**Connectivity,** Concern is raised about a lack of connectivity for pedestrians/cyclists to connect to the adjacent Rigby Centre. It is also raised that provision for connections to Purser Street should be made in addition to the Plimsoll Connection.

**Comment:** It is considered that the development as proposed provides for suitable pedestrian/cycle connectivity not only through the site, but also into the neighbouring residential and commercial areas.

A condition of consent has been included requiring an upgrading of the footpath leading north to the roundabout across the KFC frontage.

**Safety/Amenity Concerns,** Issue is raised that proposed Road 1 is too close to the existing roundabout on Bagnalls Beach Road and will increase congestion where children cross the road. Further concern is raised about the proximity of Road 1 to the current exit of KFC.

**Comment:** It is considered that the proposed traffic lights introduce a more controlled manner to cross the road. In this sense it is considered that the addition of traffic lights will facilitate safer crossing of Bagnalls Beach Road.

With respect to the KFC exit, negotiations are underway with the owner to have the KFC exit relocated to exit onto road 1.

**Drainage,** Concerns have been raised about the ability of the proposed drainage system to be able to satisfactorily handle storm events.

**Comment:** These concerns have been addressed in the Engineering section of the report.

**Koala/Environmental Concerns.** Submissions raise that there is over 3Ha of Swamp Sclerophyll Forest on the site which will be affected, but the development states that it will only impact on 0.5Ha.

**Comment:** It is acknowledged that there is some 3Ha of Swamp Sclerophyll Forest on the site, the majority of which is located on proposed Lot 3. At this time no development is slated for this allotment and as such the land will not be cleared. Any clearing will be required to be the subject of a future application.

**Future of Community Facilities on Lot 3,** concern has been raised that there has been no guarantee over the future of the Community Facilities (Library and Child Care Centre) in Lot 3.

**Comment:** The application has not proposed to remove these facilities as Lot 3 is proposed to remain undeveloped at this time. As such, the existing facilities did not form part of the assessment of this proposal.

**Movement of Sand to offsite Quarry,** Concern has been raised with respect to the movement of 130,000m<sup>3</sup> of soils off site to be stockpiled at Diemars Quarry, issues raised revolve around vehicle movement while soil is transported. Concern is also raised that the material should not be stockpiled on the subdivision site due to environmental concerns.

Concern is also raised about truck movements on Homestead Street,



**Comment:** It is agreed that Lot 3 is not a suitable location to stockpile solids and as such an off-site location is required if development of Lot 2 is to occur as proposed.

The development is to be conditioned so as to ensure that truck movements do not traverse the residential area off Homestead Street. Truck movements will be required to utilise Salamander Way/Soldiers Point Drive.

**Footprint of Shops,** Concern is raised about the lack of consideration of making the existing centre multi story or extending sideways. The submission states that this would prevent the existing centre from being a long narrow development and more user friendly.

**Comment:** Expansion of the existing shopping centre would involve the development of an allotment not subject to this application and also under different ownership. As such it has not been considered under the scope of this assessment.

## **5. Public Interest**

There are a significant number of objections to the proposal from the community (43).

Many of these objections are based on concerns relating to the location of the rear ring road and the loss of vegetation acting as a buffer between the commercial and residential activities.

Assessment of the application has concluded that the lower relative level of the road compared to the adjoining dwellings, the proposed vegetation and the low finished ground level of the commercial allotment will result in minor impacts to the adjoining properties.

The commercial subdivision will provide the community with employment opportunities, increased access to commercial premises and improved pedestrian linkages from the adjoining residential areas into and around the commercial town centre.

## **Conclusion**

It is considered that the development as proposed is consistent with relevant legislation, Councils codes and policies and will on balance result in a net community benefit.

It is recommended that development application 16-2012-720-1, being a three (3) lot commercial subdivision, be approved subject to the conditions contained within Attachment 3.

## ATTACHMENT 3 CONDITIONS

### STANDARD CONDITIONS

1. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
2. The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.

### PLANNING DRAFT CONDITIONS OF APPROVAL

3. A Subdivision Certificate must be obtained from Council. The applicant must submit a completed Subdivision Certificate Application Form (with applicable fee), six (6) copies of the Survey Plan, four (4) copies of any 88B Instrument and a check list demonstrating compliance with the conditions of this development consent.
4. Where a condition of development consent requires the preparation of an instrument under Section 88B of the Conveyancing Act, four (4) copies of the instrument shall be provided to the **Principal Certifying Authority** prior to endorsement of the Subdivision Certificate.
5. All lots in the proposed subdivision shall be serviced by the Hunter Water Corporation with water and sewerage facilities.
6. A Compliance Certificate under Section 50 of the Hunter Water Corporation Act, 1991 shall be submitted to Council prior to endorsement of the final survey plan. Applications for Section 50 Certificates are to be made direct to the Hunter Water Corporation.
7. Prior to endorsement of the Subdivision Certificate written evidence must be submitted from the Hunter Water Corporation, Telstra Australia and Energy Australia that satisfactory arrangements have been made for the provision of their respective services to all lots in the proposed subdivision.
8. The proposed subdivision road names shall be submitted and approved by Council **prior to the issue of any Subdivision Certificate**.
9. All erosion and sediment control measures/works and other pollution control and rehabilitation measures undertaken on the site shall conform to the specifications and standards contained in the current version of;

“Erosion and Sediment Control Regional Policy and Code of Practice”

“Managing Urban Stormwater – Soils and Construction produced by Landcom 2004”

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

10. Only Virgin Excavated Natural Material (VENM) in accordance with the Environmental Protection Agency NSW statutory definition shall be used for the approved land filling activities. The use of any material other than VENM may require an EPA licence for use as a landfill. The use of any material other than VENM for land filling purposes, without prior approval of council is prohibited. Council will insist on the removal of any prohibited material.
11. Upon completion of the landfill activities, submit a survey plan prepared by a registered surveyor confirming that the landfilling has been undertaken in accordance with the approved plans and documentation. Council will insist on the removal of excessive fill.
12. The following measures shall be implemented to minimise soil erosion:
  - a) All available topsoil shall be stockpiled and re-used at the completion of the earthworks.
  - b) The area of disturbance shall be kept to a minimum.
  - c) All stockpiles shall be spread and compacted within 4 weeks of placement on site.
  - d) The fill shall be progressively rehabilitated and stabilised with any partially completed filling areas being rehabilitated and stabilised if left untouched for more than 3 months.
  - 3) All disturbed areas shall be stabilised within 14 days of completion of the filling operations with topsoil being spread evenly and lightly rolled prior to grass cover by either turfing or seeding.
13. This consent does not authorise any works or clearing on proposed Lot 3.

#### **ENGINEERING DRAFT CONDITIONS**

14. Works within the development site are subject to:
  - a. inspection by Council, or the Certifying Authority
  - b. testing by a registered NATA Laboratory and
  - c. approval by Council or the Certifying Authority at each construction stage as determined by Council's Design and Construction Specification, policies and standards.
- a) Works associated with the Roads Act Approval are subject to:
  - a. inspection by Council,
  - b. testing by a registered NATA Laboratory and
  - c. approval by Council at each construction stage as determined by Council.

15. On physical connection and mutual agreement of the adjoining business owner (KFC establishment) the driveway onto Bagnalls Beach Road shall be removed and reinstated as verge.

#### **TRAFFIC DRAFT CONDITIONS**

16. A bus stop shall be accommodated on the western side of proposed Road 2 to cater for bus services from Nelson Bay. Alternatively, the proposed roundabout shall be designed and constructed to allow buses to perform a U-turn. **Details to be supplied to Council prior to issue of Construction Certificate.**
17. The intersection of Road 1 and Bagnall Beach Road shall be shifted further to the south to allow for turning movements out of Road 1 and for a safe pedestrian crossing and connection to Council's shared path. **Details to be supplied to Council prior to issue of Construction Certificate.**
18. A left-turn lane from Bagnall Beach Road to proposed Road 1 shall be provided. **Details to be supplied to Council prior to issue of Construction Certificate.**
19. The existing roundabout on Town Centre Circuit shall be enhanced to provide a sufficient level of traffic control for the volumes of traffic that will be using the shopping centre. **Details to be supplied to Council prior to issue of Construction Certificate.**
20. Pedestrian fencing shall be installed on Bagnall Beach Road at the existing pedestrian refuge to prevent pedestrians crossing in the vicinity of the proposed intersection. **Details to be supplied to Council prior to issue of Construction Certificate.**
21. Provision shall be made for cyclists through the proposed intersection on Bagnall Beach Road, in accordance with Austroads standards. **Details to be supplied to Council prior to issue of Construction Certificate.**

#### **COMMUNITY/SOCIAL PLANNING DRAFT CONDITIONS**

22. All retaining walls must be designed to avoid footholds or natural ladders so as to minimise unauthorised access.

#### **CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE**

##### **PLANNING**

23. A Construction Management Plan shall be submitted and approved by Council, **prior to the issue of the Construction Certificate.** The construction management plan shall specify operational details to minimise any potential impact to adjoining properties. The construction management plan should include but not limited to the following information:- Construction techniques, noise and vibration management, storage of equipment and building materials, hours of work:, primary route for truck movements, etc.

24. A dilapidation report prepared by a qualified structural engineer shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**. The dilapidation report shall document and photograph the current structural condition of the adjoining dwelling, buildings, infrastructure and roads.

A second dilapidation report prepared by a suitably qualified person shall be submitted to the Principal Certifying Authority **prior to the issue of the subdivision certificate** to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The reports shall be forwarded to Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.

25. "Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Port Stephens Section 94A Development Contributions Plan, a contribution of the cost of development shall be paid to Council, as determined in accordance with clause 25j of the Environmental Planning and Assessment Regulation 2000 and as outlined in Table 1 below.

**Table 1**

Development Cost and Levy Rate

Proposed cost of carrying out the development is up to and including \$100,000

Nil

Proposed cost of carrying out the development is more than \$100,000 and up to and including \$200,000

0.5% of that cost

Proposed cost of carrying out the development is more than \$200,000

1% of that cost

A Cost Summary Report Form (**attached**) setting out an estimate of the proposed cost of carrying out the development in accordance with Schedule 1 of the Port Stephens Section 94A Development Contributions Plan, must be approved by Council and the applicable calculated fee paid **prior to issue of the #Construction Certificate #Subdivision Certificate**. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors."

## ENGINEERING

26. A construction traffic management plan including all proposed haulage routes for all subdivision works shall be submitted to, and authorised by Port Stephens Council **prior to the issue of the Construction Certificate.**
27. A qualified and NATA certified geotechnical engineer shall provide a report and testing on the following:
- Provide an assessment of the soil profile to determine the **steady state infiltration rate for saturated soil conditions.**
  - Test in accordance with "ASTM D3385-09 - Standard Test Method for Infiltration Rate of Soils in Field Using Double-Ring Infiltrometer". Provide charts and/or tables along with the geotechnical assessment to demonstrate that the steady state was achieved. Minimum test duration of 40minutes shall be undertaken for each test site.
  - Provide recommendations on the suitability of the location for infiltration purposes considering road pavements, soil profiles, water table, land slip and other relevant site factors.
  - Provide modelling and report of the highest predicted ground water details so suitability of depth of infiltration system can be determined.
28. .An on-site infiltration system shall be designed and constructed for all road catchments in accordance with the approved plans with amendments in accordance with Australian Standards and Port Stephens Council's Design and Construction Infrastructure Specification to infiltrate all stormwater runoff for storm events up to the 1% ("100 year") AEP, and the following:
- The design shall incorporate:
- All findings and recommendations of the geotechnical reports and conditions of consent.
  - If the infiltration testing and modelling determines that an overflow pipe is required then it will be installed, if the testing determines that an overflow pipe is not required then installation will not be required and this matter will be confirmed prior to issue of the construction certificate
  - The infiltration system design shall incorporate a factor of safety on the infiltration rate as determined by Bettess 1996 or another best practice industry standard

Factors of Safety Table for Infiltration (Bettess, 1996)

Size of area to be drained	Consequence of failure		
	No damage or inconvenience	Minor inconvenience (e.g. surface water on carpark)	Damage to buildings or structures, flooding of major roads, etc
< 100 m <sup>2</sup>	1.5	2	10
100 m <sup>2</sup> to 1,000 m <sup>2</sup>	1.5	3	10
> 1,000 m <sup>2</sup>	1.5	5	10

- Provide detailed engineering plans (including proposed and existing surface levels, invert levels, long sections) for the pipe network and road inlet pits.
- The infiltration system shall not be impacted by the roots of landscaping, (i.e. located outside the mature drip line of species over 1.5m in height).
- The infiltration system shall be installed a minimum of 0.3m above the highest predicted ground water level
- The infiltration system shall use a proprietary infiltration product that is easily and practically maintainable and able to be periodically flushed by a jetvac nozzle or silimar product.
- Exclusion fencing and landscaping shall be design and installed over all infiltration chambers to protect and identify the system from future vehicles and construction impacts.
- All details shall be submitted to or the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**

29. Water quality modelling with a computer program (ie. MUSIC..) shall be undertaken in accordance with Section 8.4 of Council's Urban Stormwater & Rural Water Quality Management Plan and the tables below. A report shall be provided detailing the developments pollutant discharge prior to treatment and pollutant discharge after treatment to demonstrate the pollutants discharge relevant to the development type including hydrocarbons, oil and greece are adequately controlled.

Table 8-2: Post Construction Stormwater Contaminants for Varying Land Uses.

Development Style	Litter	Coarse Sediment	Fine particles	Total Phosphorus	Total Nitrogen	Hydrocarbons, motor fuels, oils and grease
Low Density Residential	☑	☑	☑	☑	☑	☒
High Density Residential	☑	☑	☑	☑	☑	?
Commercial, shopping and retail	☑	☑	☑	☒	☒	?
Industrial	☑	☑	☑	?	?	☑
Fast food outlets and restaurants	☑	☒	☒	☒	☒	?
Carparks, service stations and wash bays	☑	☑	☑	☒	?	☑

☑ = Pollutant needs to be addressed

☒ = Not significant

? = Variable, subject to site specific assessment.

Adapted from Upper Parramatta River Stormwater Management Plan, 1999.

Table 8-3: Post Construction Stormwater Management Objectives for New and Redevelopments.

Pollutant/Issue	Retention Criteria
<i>Quantitative Objectives – applicable to subdivisions and all medium to large scale developments</i>	
Coarse Sediment	80% of average annual load for particles ≤ 0.5mm
Fine Particles	50% of average annual load for particles ≤ 0.1mm
Total Phosphorus	45% of average annual pollutant load
Total Nitrogen	45% of average annual pollutant load
Litter	70% of average annual litter load >5mm
Hydrocarbons (motor fuels, oils and grease)	90% of average annual pollutant load

Details shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

30. All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', and Section B of Development Control Plan 2007.

The required works to be designed are as follows:

- a) A left turn lane shall be designed and constructed along Bagnall Beach Avenue for traffic to turn into proposed road 1 in accordance with



Austrorads guide to road design and Council's design and construction infrastructure specification.

- b) An upgrade of the existing pedestrian refuge on Bagnall Beach Avenue is required due to the increase in traffic generated from the proposed development. The refuge shall be increased to a width of 2.5m and the installation of pedestrian fencing for approximately 10m north and south of the refuge along Bagnall Beach Avenue in both the north and south bound lanes. Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate**.
- c) Upgrade of the Town Centre Circuit and Bagnall Beach Road intersection in accordance with the approved documentation, council and the RMS requirements
- d) Upgrade of the Town Centre Circuit internal roundabout and associated legs in accordance with the approved documentation, and council requirements
- e) 2.4m wide reinforced (SL72 steel fabric, 100mm thick) concrete footpath in an approved location across the full frontage of the site in Bagnall Beach Road and connecting all the way to the Keel Street roundabout.
- f) All redundant vehicular crossings to be removed (kfc) and the footway formation reinstated with turf.
- g) Roadside furniture and safety devices including fencing, signage, guide posts, chevrons, directional arrows and guard rail in accordance with RTA and Australian Standards.
- h) Signage and line marking. The signage and line marking plan shall be approved by the Council Traffic Committee.
- i) Retaining walls shall be designed by a practising Civil/Structural engineer and shall not conflict with services.
- j) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
- k) Payment of applicable fees and bonds; and
- l) Contractor's public liability insurances to a minimum value of \$10 million dollars.

The engineering plans must be approved by Council prior to the issuing of a Construction Certificate required under this consent.

31. Engineering plans for the following subdivision works within the private property must be designed by a suitably qualified professional, in accordance with Council's 'Infrastructure Design Specification – AUS Spec', and Section B of Development Control Plan 2007 prior to the issue of a Construction Certificate.
- b) Internal roads, drainage and pathways.
  - c) 2.4m wide reinforced (SL72 steel fabric, 100mm thick) concrete shared paths in the approved location and around the whole of proposed lot 1.
  - d) Roadside furniture and safety devices including fencing, signage, guide posts, chevrons, directional arrows and guard rail in accordance with RTA and Australian Standards.
  - e) All associated pram ramps and footpaths shall be designed and constructed in accordance with AS1428, AS1742 and Port Stephens design and construction infrastructure specification and standards.
  - f) A driveway exit shall be designed and constructed from the southern boundary of 270 Sandy Point Rd, Salamander Bay that connects to 'road 1' to cater for the relocation of the existing KFC 'drive thru' exit. Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**
  - g) Services conduits (including draw wire) for Power and Phone, within the access corridor in accordance with the relevant authorities specifications and requirements.
  - h) All retaining walls and Acoustic Barriers shall be structural certified by a Chartered Professional Structural Engineer. Details shall be submitted to Port Stephens Council **prior to the issue of the Construction Certificates.**
  - i) The concrete dish drain on top of the retaining wall along road 3 shall be designed and constructed in accordance with Australian Standards and Council's design and construction infrastructure specification to adequately convey water to the road drainage system.
  - j) Safety fencing shall be provided on all retaining walls and ledges in accordance with council specification
  - k) Filling as shown on the consent plan.

The engineering plans and any associated reports for the above requirements must form part of the Construction Certificate.

32. A Soil and Water Management Plan shall be prepared and implemented in accordance with The Blue Book - Managing Urban Stormwater (MUS): Soils and Construction. Details shall be submitted to Port Stephens Council for approval **prior to the issue of the Construction Certificate.**
33. A Street lighting plan in accordance with AS1158 shall be submitted to Port Stephens Council for approval **prior to the issue of the Construction Certificate.**
34. All Regulative signage and line marking for public roads, round-a-bouts and intersections shall be approved by Port Stephens Council Traffic Committee in accordance with RMS delegations **prior to the installation of the works.**

35. Landscaping along the top of the retaining wall along road 3 adjacent to the acoustic barrier shall be of a scale sufficient to screen the acoustic barrier from adjacent residences. Details shall be submitted to Port Stephens Council for approval **prior to the issue of the Construction Certificate.**
36. Landscaping along 'road 1' shall not obstruct the connection of the reconfigured KFC 'drive thru' exit onto 'road 1'. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
37. All landscaping shall be installed so as to comply with all site distance requirements in accordance with Australian Standards. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
38. ,Street tree species shall be one of the following unless approved in writing by Port Stephens Council's civil assets section:
- Acmena smithii
  - Cupaniopsis anacardiodes
  - Elaeocarpus Reticularis
  - Flindersia australis
  - Harpullia pendula
  - Syzygium australa
  - Syzygium Paniculatum
  - Tristaniopsis laurina
  - Waterhousia floribunda
  - Acmena hemilampra
- The number of trees shall be restricted to 1 tree per 15 metres. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
39. Works associated with the approved plans and specifications located within the existing Road Reserve shall not commence until:
- i) a Roads Act Approval has been issued, and
  - ii) all conditions of the Roads Act Approval have been complied with to Council's satisfaction
40. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Subdivision & Development Code, to

the satisfaction of Council or the Certifying Authority **prior to issue of the Subdivision Certificate or Occupation Certificate.**

41. All civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of Council (with a letter of practical completion issued) **prior to issue of the Subdivision Certificate or Occupation Certificate.**

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

42. All civil engineering works associated with the Section 68 Approval shall be carried out to the satisfaction of Council (with a letter of practical completion issued) **prior to issue of the Subdivision Certificate or Occupation Certificate.**

All works associated with the Section 68 Approval shall be at no cost to Council.

43. Prior to any road opening work, a Road Opening Application and accompanying fee must be submitted to and approved by Council's Engineering Services Department.

#### **ENGINEERING CONDITIONS PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

44. Submission of Works-As-Executed plans and accompanying report prepared and certified by a suitability qualified drainage engineer confirming all drainage works (including volume, discharge, levels, location, etc) have been constructed in accordance with conditions of consent and the approved plan. Minor variations can be accepted provided that they are clearly identified in the report and the engineer certifies that the overland flow paths will not be altered, discharge rates will not be increased, and no additional negative effects are imparted on any dwellings or property. Minor variations can only be certified where it can be demonstrated that the ease of maintenance and monitoring of the system has not been negatively affected.

**A Subdivision Certificate cannot be issued** until the Works-As-Executed stormwater drainage plans have been provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

45. Works-As-Executed plans shall be prepared by a suitability qualified person detailing all road works in accordance with Council's Design and Construction Specifications, policies and standards. This shall be submitted to, and accepted by the Certifying Authority, **prior to issue of the Subdivision Certificate.**
46. The developer is to provide the following plans and / or CAD files:
- a) Road construction plans in CAD format prior to commencement of road works;
  - b) Works-as-executed drawings and CAD files of all engineering works prior to the issue of any Subdivision Certificate(s); and

- c) CAD files which include all lot and road boundaries, lot numbers and easements, prior to the issue of the Subdivision Certificate.

All CAD files shall be supplied in AutoCAD or compatible format in a known coordinate system (preferably GDA94 or MGA56).

- 47. All civil engineering works shall be carried out in accordance with the Construction Certificate, Australian Standards and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of Council **prior to issue of the Subdivision Certificate**.
- 48. The applicant shall restore, replace or reconstruct any sections of footpath, cycleway, kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve that occur as a result of construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.
- 49. A **Subdivision Certificate shall not be issued** until all necessary remediation and repair works have been completed to the satisfaction of Council's Development Engineer or Asset Engineer.

#### GENERAL ADVICES

- a) Should groundwater dewatering be required during construction, an aquifer interference license under the Water Management Act 2000 will be required.
- b) Separate approval from the Roads and Maritime Services is required for the installation of Traffic Signals.
- c) Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
- d) This approval relates to **Development Consent** only and does not infer any approval to commence excavations or building works upon the land. **A Construction Certificate should be obtained prior to works commencing.**
- e) Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work shall cease and the **National Parks and Wildlife Service** shall be consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the **National Parks and Wildlife Act 1974**.
- f) The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly

by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

- g) Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.

ITEM NO. 3

FILE NO: PSC2006-0029V2

**AMENDMENT TO MEDOWIE STRATEGY – INCLUSION OF LOT 106 DP 1082077 FERODALE ROAD MEDOWIE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Amend the Medowie Strategy (2009) to include Lot 106 DP1082077 (Site 5 Ferodale Road West – the subject land) to be investigated for large lot residential development (as indicated in **(ATTACHMENT 1)** "Sites as publically exhibited").
- 2) Ensure the appropriate lot size of the subject land be determined by the environmental constraints of the land as part of any future rezoning process.

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**ORDINARY COUNCIL MEETING – 23 APRIL 2013**

**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Geoff Dingle</b> <b>Councillor Peter Kafer</b>
	That Council:  <ol style="list-style-type: none"><li>1. Amend the Medowie Strategy (2009) to include Lot 106 DP1082077 (Site 5 Ferodale Road West – the subject land) to be investigated for large lot residential development (as indicated in <b>(ATTACHMENT 1)</b> "Sites as publically exhibited");</li><li>2. Ensure the appropriate lot size of the subject land be determined by the environmental constraints of the land as part of any future rezoning process;</li><li>3. Proposed lots in the subject land that will adjoin existing properties located in Mahogany Place be a minimum size of 7500 square metres to match the minimum size of lots in Mahogany Place and Jaywood Close.</li></ol>

**AMENDMENT**

	<b>Councillor Ken Jordan</b> <b>Councillor John Nell</b>
	That Council defer Item 3 to allow for a site inspection.

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

Those for the Motion: Crs Peter Kafer, Ken Jordan, Chris Doohan, Geoff Dingle and John Nell.

Those against the Motion: Crs Paul Le Mottee, Bruce MacKenzie, John Morello and Sally Dover.

The amendment on being put became the motion which was carried.

**MOTION**

<b>100</b>	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Amend the Medowie Strategy (2009) to include Lot 106 DP1082077 (Site 5 Ferodale Road West – the subject land) to be investigated for large lot residential development (as indicated in <b>(ATTACHMENT 1)</b> "Sites as publically exhibited");</li> <li>2) Acknowledge that the future lot yield for the subject land is to be determined by the environmental constraints of the land as part of a future planning (rezoning) request by its inclusion within the strategy area. As such, it should not be inferred that a consistent minimum lot size for subdivision can be realised. It is anticipated a balanced approach to developing the land akin to lot size averaging is required to address the environmental constraints of the site.</li> </ol>

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan, Chris Doohan, John Morello and Sally Dover.

Those against the Motion: Crs Peter Kafer, Geoff Dingle and John Nell.



## BACKGROUND

The purpose of this report is to address a deferred matter from Council's resolution of 28 June 2011 relating to the consideration of additional lands to be included in the Medowie Strategy (2009). This report considers the merit of including Site 5 – Ferodale Road West in the Strategy.

### SITE 5 – FERODALE ROAD WEST

<b>Property Description</b>	Lot 106 DP 1082077, 3A Ferodale Road, Medowie
<b>Proponent:</b>	Monteath & Powys
<b>Site Area:</b>	5 hectares
<b>Existing Zoning:</b>	1(c1) Rural Small Holdings, Port Stephens LEP 2000 RU2 Rural Landscape draft Port Stephens LEP 2013
<b>Existing Min Lot Size:</b>	20 ha

#### Related Reports

24 March 2009:	Adoption of Medowie Strategy.
24 November 2009:	Medowie Strategy Review. Seven (7) additional sites. Three (3) sites supported for exhibition. Exhibition: 25/02/10 – 08/04/10 <b>(ATTACHMENT 1)</b> "Subject sites as publically exhibited".
14 June 2011:	Medowie Strategy Review. Post-exhibition report – eighteen (18) submissions received. Report deferred for later meeting.
28 June 2011:	Deferred report. Council resolved to support the inclusion of Site 1 – Boundary Road, but deferred consideration of Site 3 – Waropara Road North and Site 5 – Ferodale Road West for a further report <b>(ATTACHMENT 2)</b> "Subject sites as recommended".

### Medowie Strategy (as adopted in 2009)

The Medowie Strategy is the key guiding document for Council in its consideration of rezoning requests for urban development in Medowie. The Strategy includes the Medowie Structure Plan in which areas for urban growth are identified as well as the retention of habitat vegetation and the establishment of biodiversity corridors.

The Strategy maps the conservation significance of remaining vegetation patches within the Medowie study area derived from broad-scale baseline studies. The status of the vegetation significance rating is based on the presence of Endangered Ecological Communities (EEC), Preferred Koala Habitat, remnant bushland greater than 1ha in size, presence of urban bushland less than 1ha in size and forest patch areas.

The subject land, Site 5 – Ferodale Road West (Lot 106) is mapped as containing vegetation identified as 'Preferred Koala Habitat' (see Figure A1.12 at **(ATTACHMENT 3)**). The conservation significance of the vegetation over the site is rated of both medium and high significance, in recognition of the fact that vegetation with the floristic attributes of the Subtropical Coastal Floodplain Forest EEC has been identified on the site (see Figure A1.13 at **(ATTACHMENT 3)**).

Based on the mapping analysis, the Strategy identified the potential for a wildlife corridor running west through the subject site from the central core habitat area towards Hunter Water Corporation land and Grahamstown Dam (see Figure A1.14 at **(ATTACHMENT 3)**).

#### **Medowie Strategy Review (2009)**

The 24 November 2009 report considered the suitability of including seven (7) additional sites nominated for inclusion in the adopted Strategy through public submissions. Of the seven sites identified, three (3) were supported by Council for exhibition. These sites were:

- Site 1 – Boundary Road
- Site 3 – Waropara Road North
- Site 5 – Ferodale Road West (the subject of this report)

The report recommended that the subject land (Site 5) be included in the exhibited amendments to the Strategy for investigation as ‘Environmental Living’ lots for the following reasons:

- Land Suitability: the site is held in the same ownership as an adjoining parcel fronting Ferodale Road that is identified in the Medowie Structure Plan for development (Lot 92 DP 566432) providing increased opportunities for co-ordinated development,
- Land Suitability: the site lies within a context of rural residential development to the north and south of Ferodale Road,
- Land Capability: an ecological report accompanying the submission (Biolink Pty Ltd) notes that Koala activity is focussed on the very western edge of Lot 106 where two Swamp Mahogany trees are located, with no evidence of significant koala activity elsewhere on the site.

Eighteen (18) submissions were received during the exhibition period, with twelve (12) submissions relating to the subject land (Site 5 – Ferodale Road West), **(ATTACHMENT 4)**. These submissions raised the following key issues:

#### Lot Size

- The creation of small allotments adjacent to an existing acreage estate (Mahogany Acres) and subsequent impact on amenity, property values and character of the area,
- Lots of 1000-1500m<sup>2</sup> are too small.

#### Environmental Impacts

- Lot size is too small to retain any vegetation,
- Removal of an existing wildlife corridor.

Flooding and drainage

- Potential for impact on water quality in Grahamstown Dam.

A summary of the issues raised during the exhibition process was provided to the proponent in July 2010. The proponent's response maintained that the site was considered suitable for development of lots within the indicative range of 1000-1500m<sup>2</sup>.

**Post-exhibition reports (7 June 2011 and 28 June 2011)**

The 7 June 2011 report addressed the public submissions received and made the following recommendation with regard to the subject land (Site 5):

*"It is recommended to amend the Medowie Strategy to include Site 5 – Ferodale Road West as part Large Lot Residential with a reduction in the area placed on public exhibition, as shown in Attachment 1.*

*In the previous report to Council, it was recommended to exhibit the entire site for Environmental Living, primarily because the site provides an opportunity for a coordinated development with adjoining land under the same ownership.*

*It is recommended to reduce the area identified for potential development compared to the potential development as exhibited.*

*Identifying the southern part of the site only for a limited expansion only of Large Lot Residential will acknowledge the development potential of that part of the site that is primarily cleared. This cleared area is a reasonable and logical addition to adjoining land already identified for potential in the development in the Strategy and under the same ownership, and would address concerns raised by submissions regarding impacts on flora and fauna.*

*The recommendation also provides a 100m separation to existing acreage development at Mahogany Acres Estate. It seeks to address the comments made in submissions about maintaining the large-lot amenity of existing development in Mahogany Acres Estate, and to contribute towards maintaining the function of the existing wildlife corridor and vegetation on the site."*

Monteath & Powys Pty Ltd (the proponent) made representation to Council that no opportunity had been provided to them to respond to the proposed recommendation in relation to the subject land (Site 5). Accordingly, Council deferred consideration of the report on 7 June 2011 to a later meeting.

Council further resolved at its meeting on 28 June 2011 to defer consideration of the subject land (Site 5) to another report. This was so that it would provide an opportunity to investigate in more detail some of the issues raised by the proponent in response to some of the submissions.

## CURRENT POSITION

### Proponent submissions

*Monteath & Powys Pty Ltd* has provided additional information in support of the inclusion of the subject land (Site 5) in the Medowie Strategy.

The correspondence responds to the submissions received during the Medowie Strategy Review process and includes a *Preliminary Ecological Constraints Assessment* (Eco Logical Australia Pty Ltd, 6 June 2012).

### Preliminary Ecological Constraints Assessment Report

The report states that its purpose is to identify any ecological constraints within the subject site to inform the process for determining the development potential and the related Medowie Strategy. The process included a review of existing literature and field survey work at a site-specific level.

The report concludes with the following:

*Preferred koala has been mapped by the Medowie-Tilligerry Koala Plan of Management, though detailed surveys should be completed to verify the actual value of the site for Koalas.*

*The vegetation on site comprises two native vegetation types, Blackbutt – Smooth-barked Apple shrubby open forest and Forest Red Gum – Rough-barked Apple Open Forest, the latter is considered to be consistent with Subtropical Floodplain Forest on Coastal Floodplain in the North Coast Bioregion EEC. Both vegetation types were found to be in poor condition, missing mid storey and understorey components and dominated by exotic species in the ground layer.*

*No threatened flora species were observed within the study area or considered likely to occur. Several threatened fauna species were considered potential occurrences and have been listed.*

*The study area is considered to have some development potential, with large lot residential and community title to be considered to retain important ecological and corridor values. The following recommendations are suggested to minimise any potential for impacts on flora and fauna:*

- Manage High Ecological Constraint and Moderate Ecological Constraint for conservation wherever possible within community title, covenants on large lot residential allotments and APZs.*
- In particular, manage EEC for conservation outside of development envelopes and APZs and maintain through management plans*
- Actual corridor width and presence and likelihood of threatened and migratory biodiversity would need to be investigated as part of detailed surveys.*

## **DISCUSSION**

The 7 June 2011 report recommended a reduction in the development footprint of the subject land (Site 5 – Ferodale Road West) due to concerns over the capability of the land to support subdivision in the lot size range indicated in the Structure Plan (identified as 1000m<sup>2</sup> – 1500m<sup>2</sup> in this location) over the vegetated land within the subject land.

However, it is an impractical solution to reduce the proposed 'study area' of the overall site in response to identified constraints. Given that this area lies within a discrete location off Ferodale Road, it would be more appropriate for Council to consider a planning outcome that determines the suitability and capability of the entire holding. Otherwise, the outcome leaves a residual and isolated section of rural land that bears no relationship to the land use zone or its spatial location.

The ecological report provided by the proponent (Eco Logical, June 2012) concludes that the subject site (Site 5) has some development potential, but tempers that comment with a cautionary note that ecological values on the site require further investigation in order to retain important ecological and corridor values.

The ecological report was reviewed internally and the conclusions are supported. Advice received from the relevant council officers reiterates the validity of previous comments in both July and October 2011 that subdivision of lots in the indicative lot size range of 1000 – 1500m<sup>2</sup> over Lot 106 may be overdevelopment of the site.

In response to the proponent's submission, additional work was carried out on corridor mapping in the Medowie area. This work indicates that the land's potential as a wildlife corridor is compromised due to connectivity with other vegetated areas.

In summary, while the logic expressed in the 24 November 2009 report relating to the suitability of the land for development as 'environmental living' lots remains valid, the capability of the land remains to be tested. The ultimate lot yield for the landholding will be determined by the environmental constraints of the land. As such, it should not be inferred from the recommended land use zone that a consistent minimum lot size for subdivision can be realised over the lot. Council will expect a balanced approach to developing the land akin to lot size averaging to achieve a sustainable outcome.

Mechanisms to manage vegetation to be retained on the land should be explored and options provided to Council as part of the subsequent Planning Proposal process.

## **CONCLUSION**

It is a more practical solution to identify the entire landholding of the subject land (Site 5) as a potential site to be developed for large lot residential subdivision in this instance. Council should expect that indicative lot sizes expressed in any request to rezone the land would reflect consideration of lot size averaging to achieve a development outcome that responds to the environmental constraints of the land.

## FINANCIAL/RESOURCE IMPLICATIONS

Implementing the recommendations of this report will require the allocation of staff resources in administering the amendments to the Strategy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$500	Within existing budget allocations.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

## LEGAL, POLICY AND RISK IMPLICATIONS

### Lower Hunter Regional Strategy (LHRS)

Medowie is recognised as a town with the potential for growth as a "Proposed Urban Area" through local planning studies.

### Medowie Strategy (2009)

The Medowie Strategy was subsequently prepared and adopted by Council in 2009. The Strategy is the strategic planning framework for the development of Medowie. By amending the Strategy, Council will be indicating its general support for future changes in land use, subject to detailed investigations as part of the rezoning process in this location.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that the proposed amendment does not proceed	Low	Proponent be advised that any future planning proposal would need to address site capabilities to determine appropriate land use and lot size	yes
There is a risk that future development of the site compromises the principles of the Medowie Strategy	Low	Ensure that any future planning proposals address adequately issues such as vegetation, drainage, lot size and traffic.	yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The social, economic and environmental implications of the Medowie Strategy have been reported to Council during the preparation of the strategy. The recommended amendments are consistent with the strategic sustainability outcomes expressed in the adopted policy.

## **CONSULTATION**

The Medowie Strategy Review included a public exhibition process. Eighteen (18) submissions were received and are summarised in **(ATTACHMENT 4)**.

As outlined in this report, a number of submissions expressed some concern with the inclusion of Site 5 Ferodale Road, Medowie into the Strategy, in relation to environmental impacts, amenity, lot sizes and drainage issues. The report has considered these matters where possible however, specific issues can be resolved at the rezoning stage rather than at the Strategy level.

## **OPTIONS**

- 1) Adopt the recommendation. It acknowledges that the future lot yield for the subject land is to be determined by the environmental constraints of the land as part of a future planning (rezoning) request by its inclusion within the strategy area. As such, it should not be inferred that a consistent minimum lot size for subdivision can be realised. It is anticipated a balanced approach to developing the land akin to lot size averaging is required to address the environmental constraints of the site.
- 2) Amend the recommendation. Amend the recommendation to include only part of the land in the strategy for consideration as large lot residential ie reduction of foot print. However this would leave the future use of part of the site unresolved.
- 3) Reject the recommendation. The subject land would not be included in the Medowie strategy area. It would remain open to the land owner to request a planning proposal (rezoning) over the subject land.

**ATTACHMENTS**

- 1) Subject sites as publically exhibited;
- 2) Subject site as recommended;
- 3) Extract from Medowie Strategy: Figure A1.12 – Preferred Koala Habitat, Figure A1.13 – Vegetation Mapping and Figure A1.14 – Preferred biodiversity corridors;
- 4) Medowie Strategy Review – Summary of public submissions.

**COUNCILLORS ROOM**

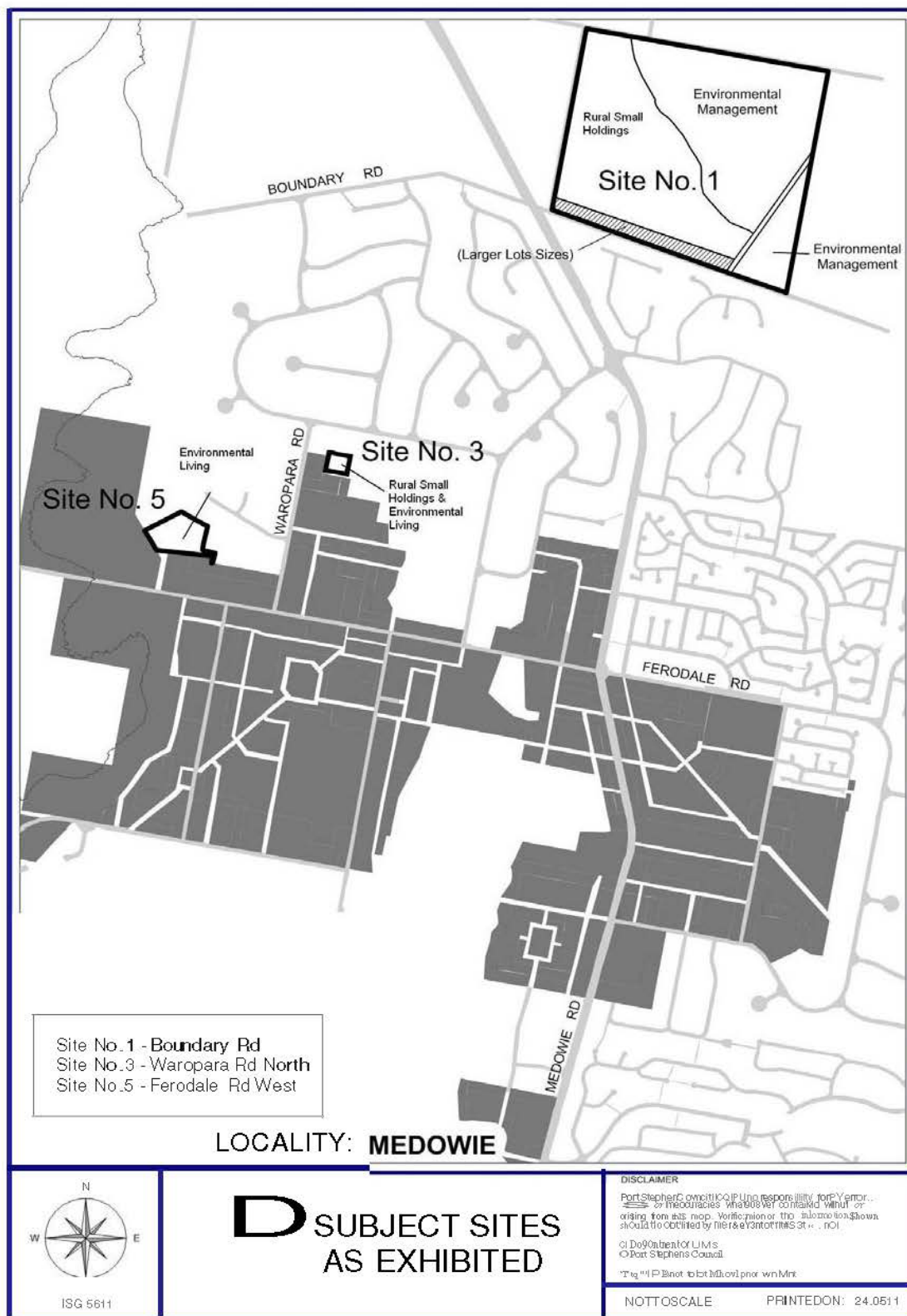
- 1) Medowie Strategy (2009);
- 2) Submissions folder (Medowie Strategy Review).

**TABLED DOCUMENTS**

Nil.

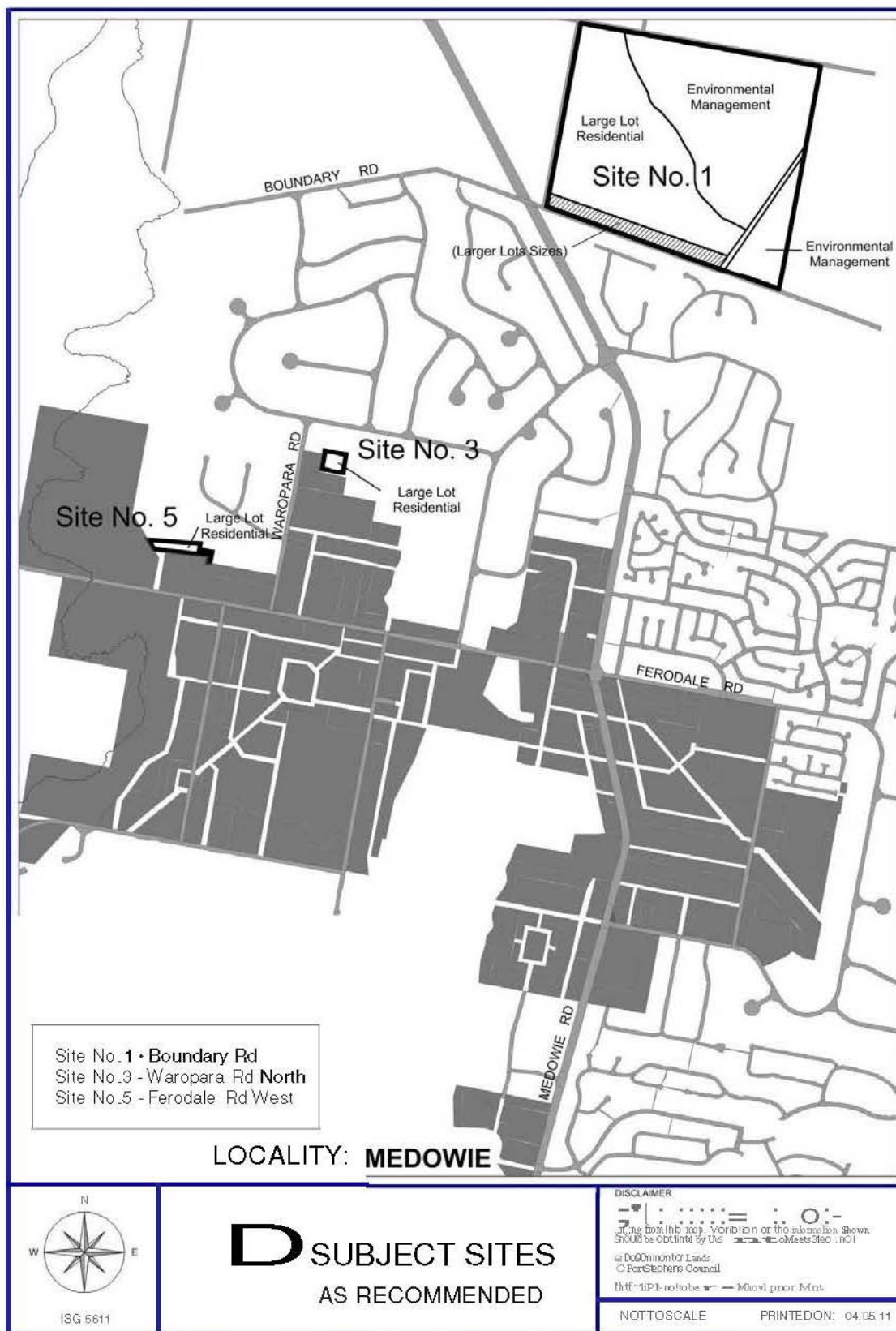


ATTACHMENT 1  
Subject sites as publicly exhibited



## ATTACHMENT 2

Subject sites as recommended





ATTACHMENT 3

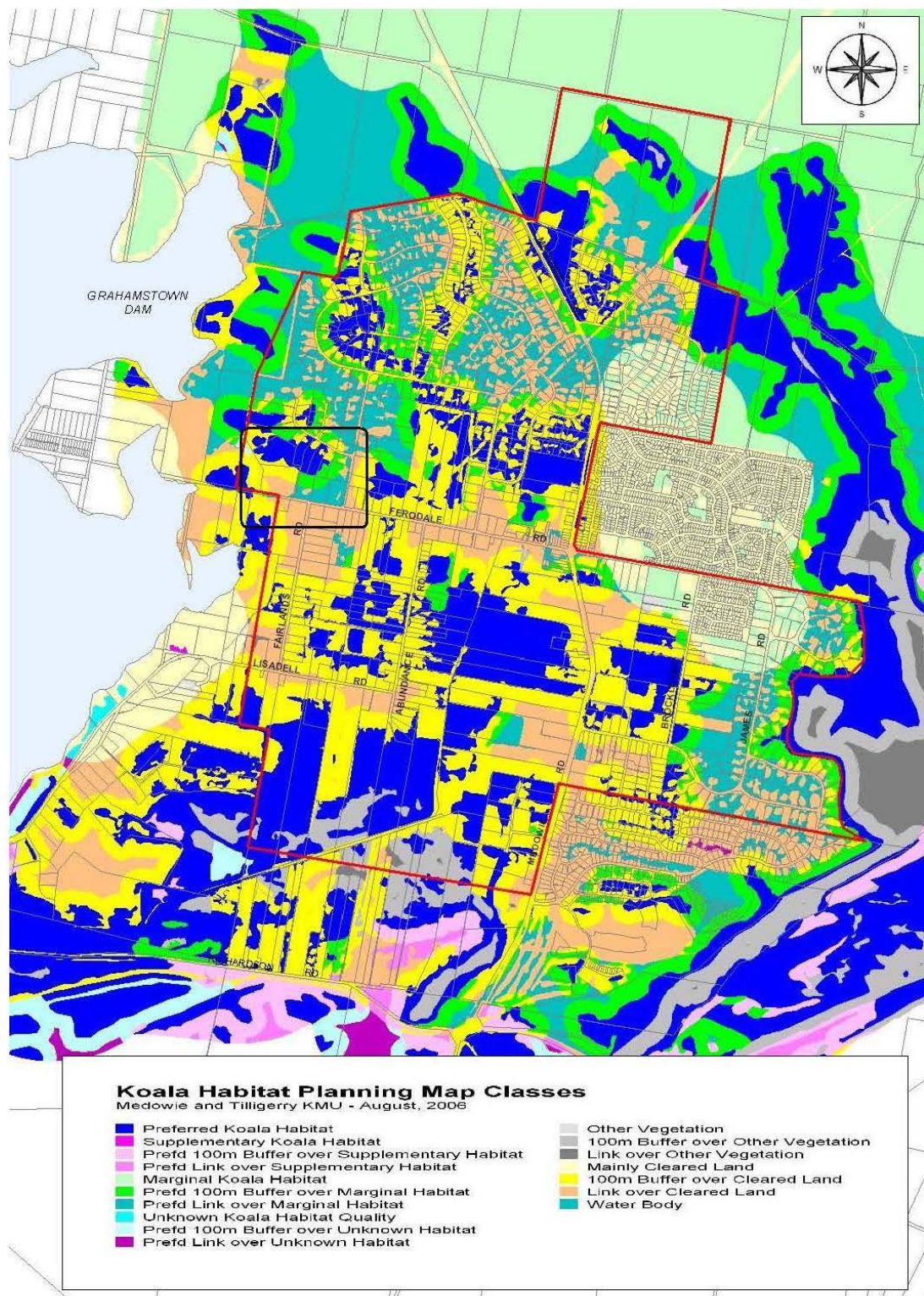


Figure A1. 12: Koala habitat according to the Port Stephens Comprehensive Koala Plan of Management (2002)

EXTRACT: MEDOWIE STRATEGY (2009)



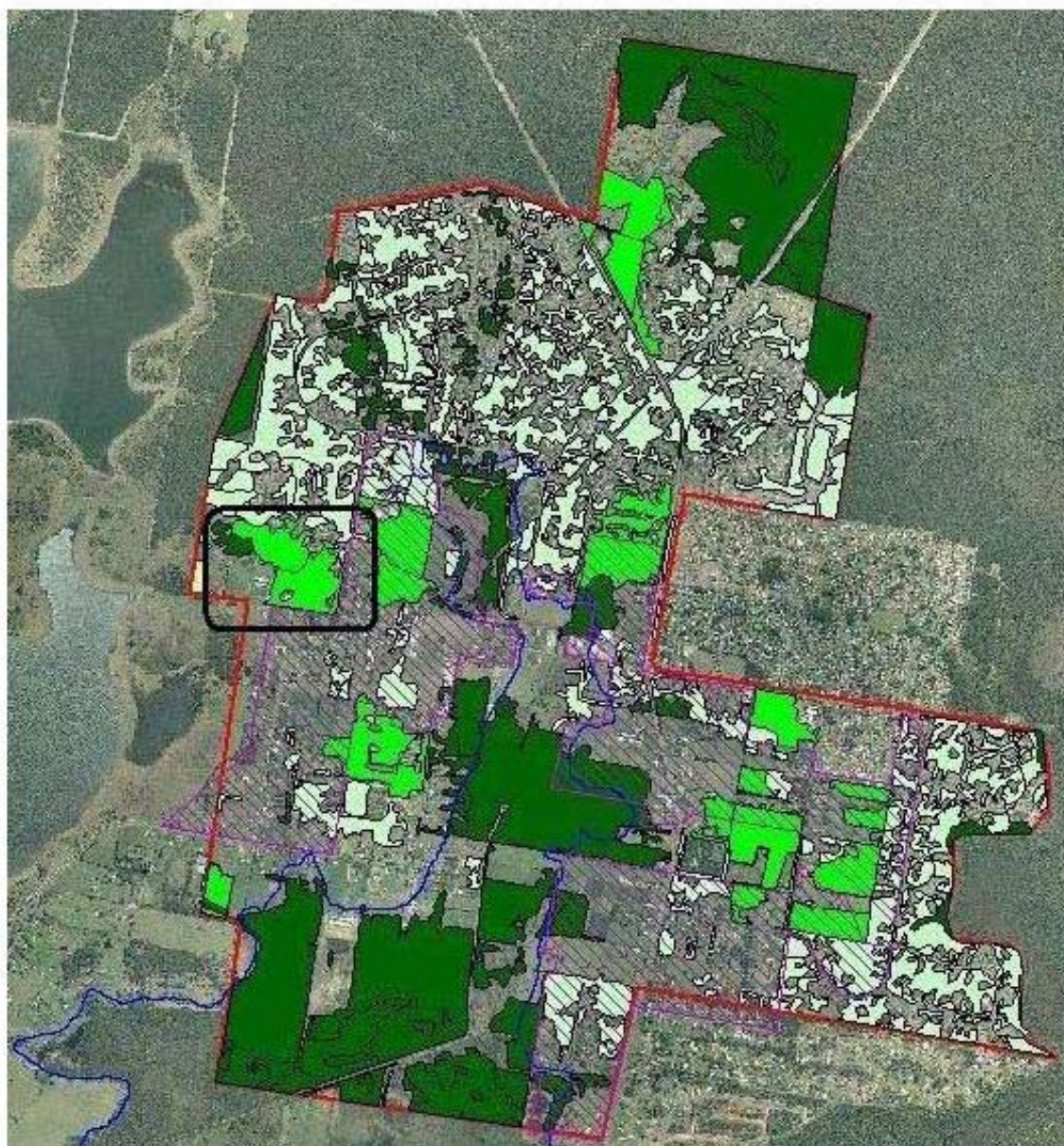


Figure A1. 13: Conservation significance ratings for vegetation across study area  
Note: For flooding information see Figure A 1.9

**EXTRACT: MEDOWIE STRATEGY (2009)**





Figure A1 . 14: Preferred biodiversity corridor opportunity north through Medowie and east from core habitat area Note: For flooding information see Figure A1 .9.

**EXTRACT: MEDOWIE STRATEGY (2009)**

## ATTACHMENT 4

## Submissions Summary Table – Amendments to the Medowie Strategy

Sub No.	Main issues raised	Comments
1 Resident	<p><b>General</b> The proposed amendments will increase population and amplify demand for services. Council should concentrate on resolving existing infrastructure issues.</p> <p><b>Site 1 - Boundary Road</b> Proposed lot size is too small and will create a satellite community. Lot sizes should be 4000m2 consistent with the surrounding area.</p> <p>Not convinced that household rainwater tanks will resolve the drainage problems that will occur.</p> <p>Does not support the placement of a dry detention pond on proposed public environmental land. This will cause environmental damage and is unacceptable.</p> <p>Increased traffic turning onto Medowie Road will create a hazard.</p> <p><b>Site 5 - Ferodale Road West</b> The development will create runoff to Grahamstown Dam.</p> <p>Proposed lot size is too small and will conflict with the existing rural aspect of the area.</p> <p>The area is identified as Koala Habitat. If land is to be developed it should focus on cleared land.</p>	<p><b>General</b> With the exception of Boundary Road, the sites are only very minor additions to the Strategy. If Boundary Road proceeds the proposal will need to demonstrate adequate provision of and contribution to infrastructure, as part of the rezoning process. The purpose of the Strategy is to identify the potential of the land future development.</p> <p><b>Site 1 - Boundary Road</b> Lot size within Boundary Road will vary throughout the site but will generally be 1000-1500m2. Larger allotments (approximate size 4000m2 (1 acre) will front Boundary Road to provide a transition to existing acreage development. Larger allotments may also be provided at locations throughout the site to accommodate retention of vegetation.</p> <p>Rainwater tanks will be part of an overall solution to managing drainage on the site.</p> <p>The proposed detention wall will be subject to the approval of Council and DECCW as part of any future rezoning process.</p> <p>The developer will be required to upgrade the intersection of Boundary Road and Medowie Road to appropriate standards to satisfy the needs of any future development.</p> <p><b>Site 5 - Ferodale Road West</b> Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment.</p> <p>The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p>



# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
2 Resident	<p><b>General</b> A more comprehensive Medowie Strategy should be prepared to avoid continuous amendments.</p> <p>More comprehensive staging criteria for future development are required. Infrastructure needs to precede major developments. A balance of housing density is required to provide for families and individuals of all ages, to provide affordable housing.</p> <p><b>Site 1 - Boundary Road</b> The recommendation to consider the site for inclusion in the Strategy is not consistent with previous recommendations to Council in 2008 and 2009. No concerns in principle provided that it will not create flooding problems and that proper planning is applied. What is the re-forecast urban capacity report? How will the proposals accelerate the town centre growth and other facility development? What is the effect of these proposed developments on existing developments?</p>	<p><b>General</b> It is not intended to undertake further amendments to add additional sites to the Strategy.</p> <p>Council is in the early stages of preparing an infrastructure strategy for Medowie.</p> <p>The Strategy provides for a range of development densities.</p> <p><b>Site 1 - Boundary Road</b> The proposal to include this site is being reconsidered as a new proposal. It has been extensively revised and is significantly different to previous proposals (note: previous proposals were for a standard residential rezoning to facilitate of approximately 1300 allotments, and more recently for a 260 allotment rural residential subdivision across the entire site).</p> <p>The intended lot yield is a maximum of 300 dwellings.</p>
3 Resident	<p><b>Site 1 - Boundary Road</b> Concerned that development in this site will lead to loss of vegetation, habitat and buffer zone to Medowie State Forest, interfere with natural drainage to Moffats Swamp and encroach on existing semi-rural lots to the south.</p> <p>Agrees if any development is to occur it should be rural holdings in the south west and remainder as environment protection as proposed. Agrees with larger lots adjoining Boundary Road.</p> <p>Would generally prefer larger lots.</p> <p><b>Site 3 - Waropara Road North</b> No objection</p> <p><b>Site 5 - Ferodale Road West</b> No objection</p>	<p><b>Site 5 - Boundary Road</b> Lot size within Boundary Road will vary throughout the site but will generally be 1000-1500m2. Acreage allotments will front Boundary Road to provide a transition to existing acreage development. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.</p>

# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
4 Resident	<p><b>General</b> Concerned that after much consultation and changes to the Strategy through due process, changes are being proposed before the original plan has been implemented.</p> <p><b>Site 5 - Ferodale Road West</b> Objects to the proposed changes to the Strategy for this site.</p> <p>Relocated in the area for amenity with expectation that if any further development occurs it would be acreage lots consistent with existing development.</p> <p>The impact of the development on flora and fauna is contrary to the title Environmental Living.</p> <p>Concerned about the impact upon water running to Grahamstown Dam.</p> <p>Concerned about the possibility of other similar development proposals in the future that will change the character of the area.</p> <p>Decline in property value due to the changing nature of the area.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas.</p> <p>The comments about lots of 1000-1500m2 being too small to meet the objectives of Environmental Living are noted. Despite this, it is not a recommendation of this report to make a general amendment to lot sizes in the Strategy.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment.</p>
5 Resident	<p><b>General</b> Constant changes do not help progress.</p> <p>Additional development may assist Medowie provided that it is done using best practice.</p> <p><b>Site 1 - Boundary Road</b> Development may be beneficial provided that it follows best practice development guidelines.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 1 - Boundary Road</b> The development is proposed to be subject to a site-specific DCP and master plan that will ensure a high quality development takes place.</p>
6 Resident	<p><b>General</b> Medowie requires a single comprehensive strategy is required that addresses all matters. If Medowie is to grow it requires better transport, easier access to shops, development of businesses and community infrastructure to support population growth.</p> <p>The Strategy should account for aircraft noise maps.</p>	<p><b>General</b> The Lower Hunter Regional Strategy and the Port Stephens Community Settlement and Infrastructure Strategy provide overall planning direction for Port Stephens. The Medowie Strategy has been prepared to provide additional detailed guidance.</p> <p>The sites proposed for addition are not subject to ANEF mapping.</p>



# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
7 Resident	<p><b>Site 1 - Boundary Road</b> Concerned about potential contamination and suggests following the recommendations for this issue in the consultants (HLA) report.</p> <p>The proposal to dedicate part of the site for Environmental Management is supported. The future governing body for this land would need to agree to the detention basin. There is concern about exacerbating existing drainage problems. Concerned about the impact of development on land downstream that is already flood prone. Suggests waiting for the completion of Council's comprehensive flooding and drainage study.</p> <p>Concerned about impact on flora and fauna. Is there a buffer proposed to the EEC? A no dog or cat policy is near impossible to police. There is no guarantee that properties, post development, will retain vegetation. Does there need to be additional offsetting for the impact of the dry retention basin?</p> <p>Does not support any change to zoning as the site contains so much threatened flora and fauna and will add to incremental habitat loss.</p> <p><b>Site 3 - Waropara Road</b> Comparison of the flood maps shows that part of the land may be flood prone. Inclusion of the site should wait until the comprehensive flooding and drainage study is completed.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is not in keeping with surrounding development. The development may lead to erosion problems if trees are removed. The development will remove a wildlife corridor to Grahamstown Dam.</p> <p>Figure A.11 of the Medowie Strategy shows that an endangered ecological community is located on part of the site and part of a wider corridor.</p> <p>Most existing properties operate septic systems. It is not a good idea to encourage further development that relies on septic systems in proximity to Grahamstown Dam.</p> <p>Are there proposed vegetation offset areas to make up for the loss of vegetation?</p> <p>Suggests waiting for the recommendations of the comprehensive flood and drainage study.</p>	<p><b>Site 1 - Boundary Road</b> The proposed detention wall will be subject to the approval of Council and DECCW as part of any future rezoning process.</p> <p>A buffer is proposed to the EEC, including a ring road.</p> <p>The draft results indicate that drainage impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measureable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area. Under this circumstance, and based on the findings of the Draft Medowie Drainage Study, it would appear that there is no overriding reason not to amend the Medowie Strategy at this time to include the three sites subject of this report.</p> <p><b>Site 3 - Waropara Road</b> The site is not mapped as flood prone Council's flood prone land maps. Any flooding and drainage issues will be further clarified as part of the rezoning process.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>

# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
8 Resident	<p><b>Site 5 - Ferodale Road West</b> Objects to proposal. Concerned about the plight of koalas within Port Stephens and Medowie in particular. It is becoming endangered in this region due to habitat loss. This site is identified as koala habitat and it is essential to preserve this vegetation even though some has already been removed.</p> <p>Koalas have been rescued, then relocated in this area in the past four years and it is an important and necessary corridor.</p> <p>The koala is an important tourist attraction for Port Stephens and an international symbol and should be preserved.</p>	<p><b>Site 5 - Ferodale Road West</b> The recommended development footprint has been reduced to avoid vegetated areas.</p>
9 Resident	<p><b>Site 5 - Ferodale Road West</b> Objects to the proposal.</p> <p>Residents bought land in Mahogany Acres for lifestyle. The proposal for small block sizes is opposite to the design of existing development and will decrease aesthetic appeal and land values.</p> <p>The proposed development is not more desirable compared to existing agriculture on the site.</p> <p>What consideration has been given to the water catchment of Grahamstown Dam? The development is likely to have a negative impact on water quality.</p> <p>If the development proceeds it will encourage other similar developments. Because the site is under single ownership is not sufficient reason on its own to support development.</p>	<p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>
10 Resident	<p><b>Site 1 - Boundary Road</b> Objects to the proposal.</p> <p>Concerned about an increase in stormwater. No decisions should be made until the comprehensive flooding and drainage study is completed.</p> <p>In recent years a significant number of homes in Medowie have been affected by flooding. Council has used significant ratepayer money and resources to address this problem. Any decision should not repeat past mistakes.</p>	<p><b>Site 1 - Boundary Road</b> The draft results indicate that drainage impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measureable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area. Under this circumstance, and based on the findings of the Draft Medowie Drainage Study, it would appear that there is no overriding reason not to amend the Medowie Strategy at this time to include the three sites subject of this report.</p>

# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
12 Resident	<p><b>General</b> Residents are disappointed that within 12 months of adoption and 5 of years consultation the Strategy is already being amended.</p> <p><b>Site 1 - Boundary Road</b> Medium density housing on the outskirts of Medowie is not supported by the Medowie Strategy.</p> <p>Stormwater drainage problems for adjoining land.</p> <p>It is doubtful that the proposal for stormwater on adjoining land is either practical or will be approved.</p> <p>There has been no test of water volumes and flow against the Council flood study.</p> <p><b>Site 3 - Waropara Road</b> Medium density development is out of character with the rural atmosphere.</p> <p>Drainage problems with stormwater directed to Kula Road flood zone.</p> <p>Environmental Living is a contradiction in terms requiring removal of all natural vegetation.</p> <p>Proposal will result in the destruction of koala habitat.</p> <p><b>Site 5 - Ferodale Road West</b> The proposal will create an isolated enclave of medium density development out of character with the rural atmosphere.</p> <p>Environmental living is a contradiction requiring removal of all vegetation.</p> <p>Polluted drainage will be directed towards Grahamstown Dam.</p> <p>Fringe development is against the principles of the Medowie Strategy.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 1 - Boundary Road</b> Lot size within Boundary Road will vary throughout the site but will generally be 1000-1500m2. Acreage allotments will front Boundary Road to provide a transition to existing acreage development. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.</p> <p>The draft results indicate that drainage impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measureable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area. Under this circumstance, and based on the findings of the Draft Medowie Drainage Study, it would appear that there is no overriding reason not to amend the Medowie Strategy at this time to include the three sites subject of this report.</p> <p><b>Site 3 - Waropara Road</b> The site is a minor extension of an area already identified for future land use change under the Medowie Strategy.</p> <p>The site is not mapped as flood prone Council's flood prone land maps. Any flooding and drainage issues will be further clarified as part of the rezoning process.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>



# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
13 Resident	<p><b>Site 5 - Ferodale Road West</b> Purchased acreage land in Mahogany Acres Estate for lifestyle reasons. The original developer was required to leave a 'green belt' at the rear of properties. This land was intended to provide a buffer to future development.</p> <p>Existing acreages range from 2 acres to 8 acres. This is very different to the proposal for 35 x 1000-1500sqm lots. A minimum size of 2 acres is more appropriate.</p> <p>Property values in Mahogany Acres will decrease if the proposal proceeds.</p> <p>If 35 lots are developed there will be significant additional traffic that will be accessed via a 'dog-leg' entrance.</p> <p>Existing properties in Mahogany Acres have retained most of the original vegetation. Any vegetation that is left on the proposed site will be removed by development. Development will not 'meld' with existing Mahogany Acres.</p> <p>Concerned about the impact of runoff from 35 additional homes on water quality.</p>	<p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>
14 Resident	<p><b>Site 5 - Ferodale Road West</b> Objects to the proposal.</p> <p>Purchased property in Mahogany Estate for lifestyle reasons. A 'green belt' was required at the rear of properties for a variety of reasons including separation to HWC land, a wildlife corridor and country lifestyle. The proposal contradicts expectations of protection of the green belt.</p> <p>The proposal will create a suburban area adjoining a country estate. The size of the lots should be no smaller than 2 acres to maintain the character of the area.</p> <p>The proposed lot size of 1000-1500sqm will result in clearing the land. The land has already been cleared of everything but large trees. Review of existing 2000sqm lots in Medowie shows a lack of original trees. Further clearing for bushfire and infrastructure will occur.</p> <p>Any change in zoning should be consistent with surrounding zoning. 4000sqm lots fronting Ferodale Road and remaining 10000sqm. Other land in Medowie is already cleared and should be developed first.</p> <p>Medowie is well known as koala habitat and any significant reduction in vegetation will have an impact. Lot size of 1500sqm will not allow sufficient vegetation for the koala to survive.</p>	<p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>

# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
15 Resident	<p>Site 5 - Ferodale Road West Objects to the proposal.</p> <p>Purchased adjacent land in an acreage estate with a reasonable expectation that future adjoining lots would be similarly developed.</p> <p>The proposal will result in up to four adjoining neighbours.</p> <p>Their property will decline in value as the outlook to mature gum trees will be affected, despite any Council intentions and development controls.</p> <p>Amenity will be decreased as existing trees to the west block afternoon summer sun.</p> <p>Several years ago the proponent removed all natural vegetation below a certain height. Past clearing and actions of the landowner are inconsistent with the Comprehensive Koala Plan of Management and it is not surprising that the landowner's report reveals not much koala activity. A buffer zone should be applied as required by the CKPoM.</p> <p>Environmental Living lots of 1000-1500sqm is a contradiction in terms. Lot size should be increased to 4000sqm to achieve the objectives of Environmental Living.</p> <p>Majority of trees will be removed if development occurs due to: bushfire and infrastructure requirements. Examination of existing 2000sqm lots in Medowie shows a lack of vegetation.</p> <p>There should be a gradual transition of lot sizes adjoining existing development acreage development.</p> <p>The recommendation of Environment Services Section to create a viable wildlife corridor, and its location, needs to be clarified.</p> <p>The views of Hunter Water Corporation on the proposal should be sought.</p> <p>The tree clearing that will be required to build on subsequent lots needs clarification.</p> <p>Council should consider increasing the size of Environmental Living lots to 4000sqm in the Medowie Strategy.</p>	<p>Site 5 - Ferodale Road West</p> <p>The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>

# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
16 Resident	<p><b>General</b> Council should not be considering any more proposals until land already identified in the Strategy is developed.</p> <p><b>Site 1 - Boundary Road</b> The area is under the approach to the Salt Ash Air Weapons Range. Future purchasers should be advised of this if the land is developed.</p> <p>Any electricity supply should be placed underground.</p> <p>The land eventually drains to Moffats Swamp and when developed there will be insufficient land to absorb water. The soil type does not support absorption and consideration should be given to raising the floor level of any dwellings. Reticulated sewerage should be provided.</p> <p>The proposal is for 300-350 lots, less than the 1000 originally proposed. This is reasonable given that part of the site is proposed to a green corridor.</p> <p>Consideration needs to be given to adequate public transport at the site and in Medowie town centre.</p> <p>Intersection safety of Boundary and Medowie Road needs to be a main consideration.</p> <p>The area experiences flooding problems. Due consideration should be given to the Medowie flooding and drainage study being prepared by Council.</p> <p>Due consideration needs to be given to all native animals living in the area.</p> <p><b>Site 5 - Ferodale Road West</b> The development was not included in the original document. The proposed lot size does not blend with the existing development at Mahogany Acres.</p> <p>Stormwater runoff to Grahamstown Dam needs to be considered.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 1 - Boundary Road</b> Although the site may be subject to aircraft noise from time to time, it is not located within ANEF noise contours.</p> <p>The draft results indicate that drainage impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measureable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area. Under this circumstance, and based on the findings of the Draft Medowie Drainage Study, it would appear that there is no overriding reason not to amend the Medowie Strategy at this time to include the three sites subject of this report.</p> <p>The developer will be required to upgrade the intersection of Boundary Road and Medowie Road to appropriate standards.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor. .</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>

# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
17 Resident	<p><b>General</b> Objects to the proposed amendments to the Medowie Strategy.</p> <p>It is important to maintain the integrity of the original Medowie Strategy.</p> <p><b>Site 1 - Boundary Road</b> The proposal is unnecessary and is inconsistent with the aim of the Medowie Strategy to grow the town from the inside then out and avoid sprawl on the edges.</p> <p>The land drains towards Moffats Swamp not Swan Bay as asserted by the developer.</p> <p>There are no guarantees that the number of houses built will be the same as proposed by the developer.</p> <p><b>Site 5 - Ferodale Road West</b> The land is on the fringe of Medowie in a rural area. It is too far from the town centre. Other sites are available for the type of development proposed.</p> <p>The land slopes towards Grahamstown Dam and previous proposals to develop were stopped for this reason. The development is down slope of a ditch that has been dug to manage runoff from existing properties.</p> <p>The proposed development is out of character with existing acreage development.</p> <p>The development is in an area of native bush and will result in its clearing. Other areas of Medowie should be considered for development instead.</p> <p><b>Site 3 - Waropara Road</b> Does not object in principle, however the site must not be koala habitat or important for other wildlife.</p> <p>It should not be used as a precedent for rezoning other unspecified areas of Medowie.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 1 - Boundary Road</b> Lot size within Boundary Road will vary throughout the site but will generally be 1000-1500m2. Acreage allotments will front Boundary Road to provide a transition to existing acreage development. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p> <p><b>Site 3 - Waropara Road</b> Any rezoning request will need to provide a detailed investigation of detailed flora and fauna impacts.</p>



# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Sub No.	Main issues raised	Comments
18 Company (Eureka)	<p><b>Site 1 - Boundary Road</b> Spoken to in excess of 60 households who have been supportive of the amended proposal for Boundary Road.</p> <p>Held a community day on 20<sup>th</sup> February 2010 that was attended by 50 people. The general response from the majority was that they saw the development as a natural extension of Medowie's rural residential footprint.</p> <p>Households adjoining the site in Settlers Close, Squires Close and County Close. Whilst the adjoining owners were supportive of the amended proposal and number of amendments were proposed to lessen impact on these owners. Eureka is supportive of accommodating these changes including:</p> <ul style="list-style-type: none"> <li>• That Boundary Rd is sealed as part of the first stage to control noise and dust;</li> <li>• That Boundary Road is developed as a cul-de-sac, only servicing Boundary Road, with main access via a western road;</li> <li>• County Close owners have had significant flood issues in the past and are concerned about increased flood risk. The proposed dry land detention wall would provide a second level of security in addition to the recently constructed bund wall by Council.</li> <li>• Two owners in Fisher Road may be impacted by car lights from vehicles turning out of Boundary Road. Tree planting can occur to mitigate any impacts.</li> </ul> <p>After explaining the details of the amended proposal to the residents consulted, only one person still objected to the proposal. If there are still residents concerned about the proposal, Eureka would be willing to discuss their proposal with them directly.</p>	<p><b>Site 1 - Boundary Road</b> The consultation undertaken by Eureka is noted, including the proposed detailed measures to mitigate potential impacts.</p> <p>The proposed detention wall will be subject to the approval of Council and DECCW as part of any future rezoning process.</p>



**ITEM NO. 4****FILE NO: 16-2012-154-1****DEVELOPMENT APPLICATION FOR TWO (2) LOT SUBDIVISION – TORRENS TITLE AT NO. 121 NAVALA AVENUE NELSON BAY**

**REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE  
SECTION MANAGER  
GROUP: DEVELOPMENT SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

Refuse Development Application 16-2012-154-1 for a two (2) lot subdivision – torrens title at No. 121 Navala Avenue, Nelson Bay for the following reasons:

- 1) The proposal is integrated development under the Rural Fires Act. The NSW Rural Fire Service have not issued general terms of approval for the development as required by Section 91A(2) of the Environment Planning & Assessment Act 1979.
- 2) The development cannot provide the necessary Asset Protection Zones, and poses an unacceptable risk to people and property from threat of bushfire.

**ORDINARY COUNCIL MEETING – 23 APRIL 2013****COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Nell Councillor Ken Jordan</b>
	That Council defer Item 4 to allow for further consideration.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

**MOTION**

<b>101</b>	<b>Councillor Ken Jordan Councillor Sally Dover</b>
	It was resolved that Council defer Item 4 to allow for further consideration.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Peter Kafer, Ken Jordan, Chris Doohan, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

## **BACKGROUND**

The purpose of this report is to present a Development Application (DA) to Council for determination at the request of the Mayor and Councillor Nell.

This DA is for a two (2) lot subdivision of 121 Navala Avenue (Lot 1 DP 1056601).

The key issue with this DA is bushfire protection. The proposal is integrated development, however the NSW Rural Fire Service (RFS) have refused to issue General Terms of Approval due to the development not providing sufficient Asset Protection Zones (20m to west and 35m to south) within the site. The applicant has proposed to provide the majority of the APZs within part of the Navala Avenue road reserve that is not currently constructed.

Council and the RFS generally require that APZs be provided within the development site, and not within any adjoining public land, due to inability to guarantee continual maintenance of the APZ for the life of the development and associated safety and liability issues. Following consultation with Council's Facilities & Services Section, it is considered that providing the APZ within the road reserve is unreasonable in this instance due to on-going maintenance costs and sets a poor precedent.

However, if Council were seeking to support the application, options available for resolving this issue include:

- Council agreeing to maintain an APZ within the Navala Ave road reserve
- The applicant acquiring part of the Navala Ave road reserve for provision of the APZ.

If either of these options were to be explored, any determination of the matter should be deferred until general terms of approval can be obtained from the NSW RFS, to enable a legal consent to be issued by Council.

In addition to concerns regarding bushfire APZs, there are both engineering and environmental issues that remain outstanding. However, there is potential scope to resolve these issues via the imposition of conditions of consent if necessary.

It is noted that the proposal is generally consistent with the requirements of LEP 2000 and DCP 2007. However, Council staff have recommended refusal of the application due to the outstanding bushfire issues and the inability to legally grant development consent without obtaining General Terms of Approval from the NSW Rural Fire Service under the 'integrated development' provisions of the Environmental Planning & Assessment Act and Rural Fires Act.

## FINANCIAL/RESOURCE IMPLICATIONS

The recommendation to refuse the DA will not have any foreseeable financial or resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

If Council does not support the recommendation and seeks to approve the DA subject to NSW RFS approval, there will likely be some on-going cost and resource implications for Council associated with ensuring that any APZ on Council land is maintained in a suitable state in perpetuity.

## LEGAL, POLICY AND RISK IMPLICATIONS

The development application is inconsistent with Council's Policy of not supporting provision of APZs on public land.

Approval of the DA may set an undesirable precedent, and raises serious safety and liability issues if Council approves the development and the APZ is not maintained to the standard required.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that with any refusal of an application of an appeal of the decision.	Low	Adopting recommendation, reasons for refusal are considered sound and defensible.	Yes
There is a risk that if approval was granted providing APZs on public land will create a safety risk if not maintained.	High	Adopting recommendation, or ensuring that APZ is provided wholly within land controlled by developer/owner removes this risk.	Yes
There is a risk that if approval was granted providing APZ's on public land it will create an ongoing financial burden on Council.	Medium	Adopting recommendation, or ensuring that APZ is provided wholly within land controlled by developer/owner removes this risk.	No
There is a risk that	Medium	Adopting recommendation, or	Yes

approving this DA will create an undesirable precedent.		ensuring that APZ is provided wholly within land controlled by developer/owner.	
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**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Following assessment of the application, it is considered that adopting the recommendation is unlikely to have any significant or adverse social, economic or environmental implications for Council or the general public.

If the recommendation is not supported, any approval of the DA could have potential economic and social implications for the Council and ratepayers through increased maintenance costs and liability.

**CONSULTATION**

The application was exhibited in accordance with Council policy and two (2) submissions were received. Concerns raised in submissions related to:

- Impacts on existing shared ROW access
- Potential vegetation removal
- Potential impacts on privacy
- Potential for noise impacts
- Potential for damage to existing driveway and buildings
- Potential for future subdivision.

These are discussed in Section 4 of **(ATTACHMENT 2)**.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Locality Plan;
- 2) Aerial Photo Showing APZ;
- 3) APZ Outline;
- 4) Assessment.

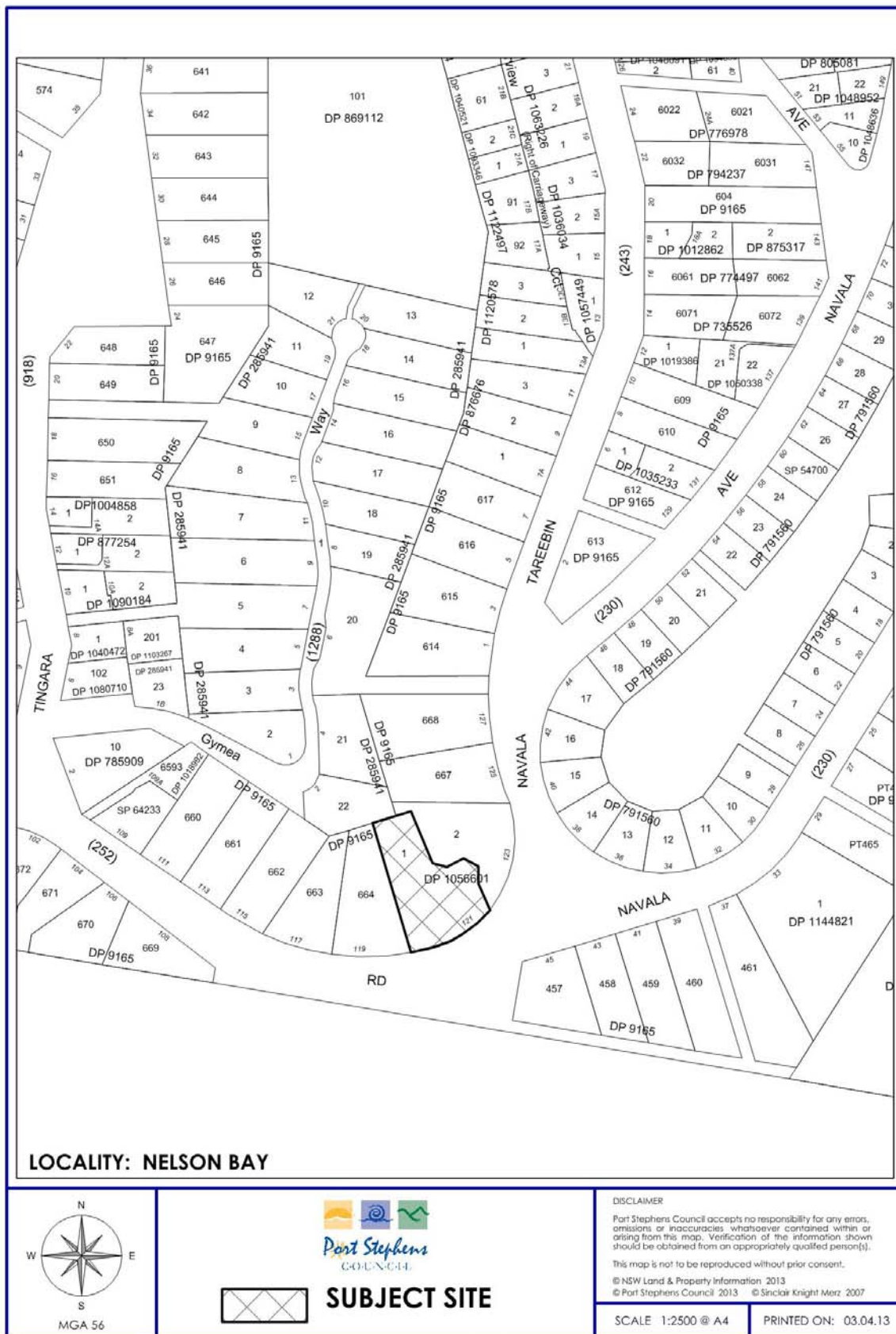
**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

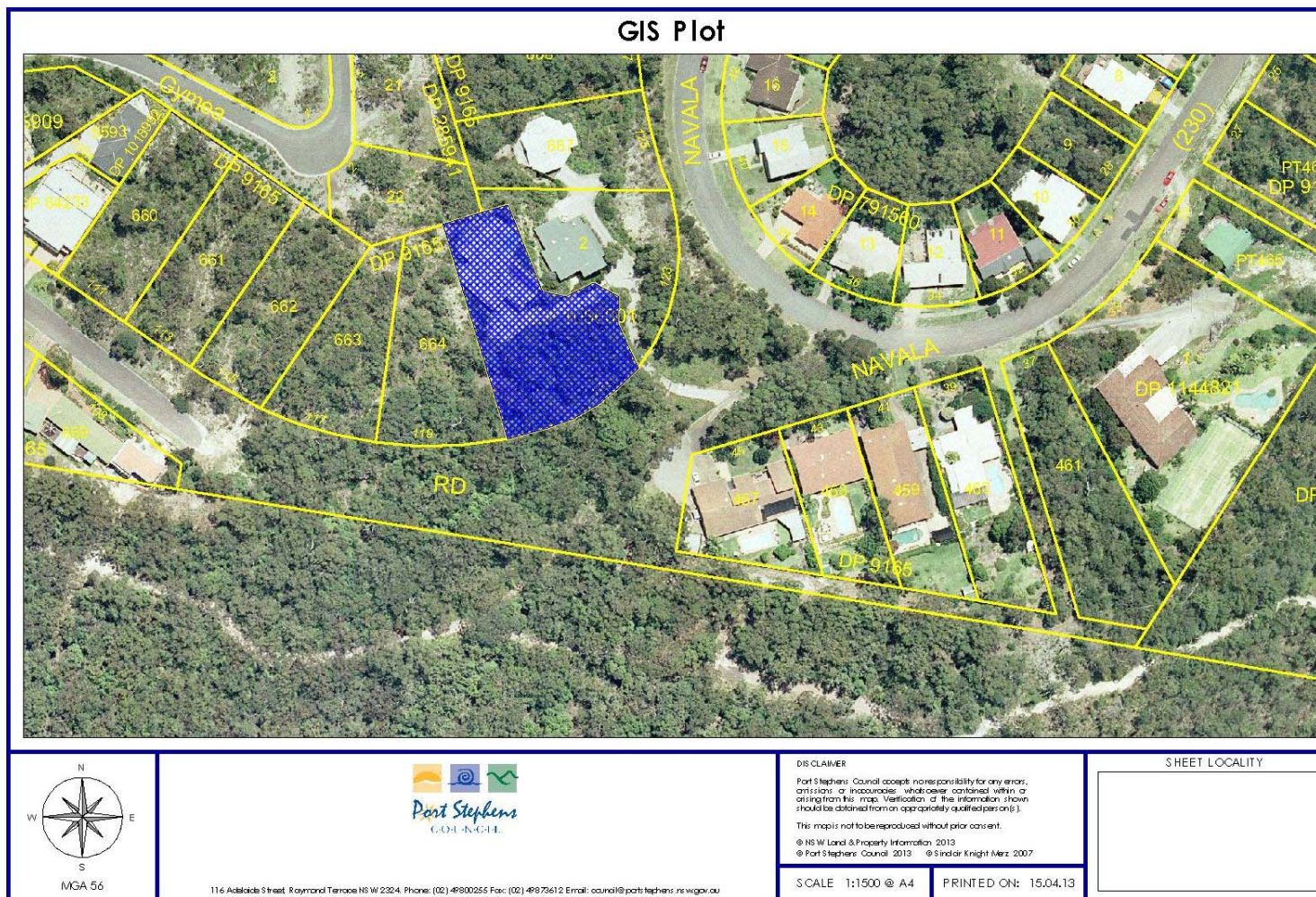
Nil.

# ATTACHMENT 1 LOCALITY PLAN

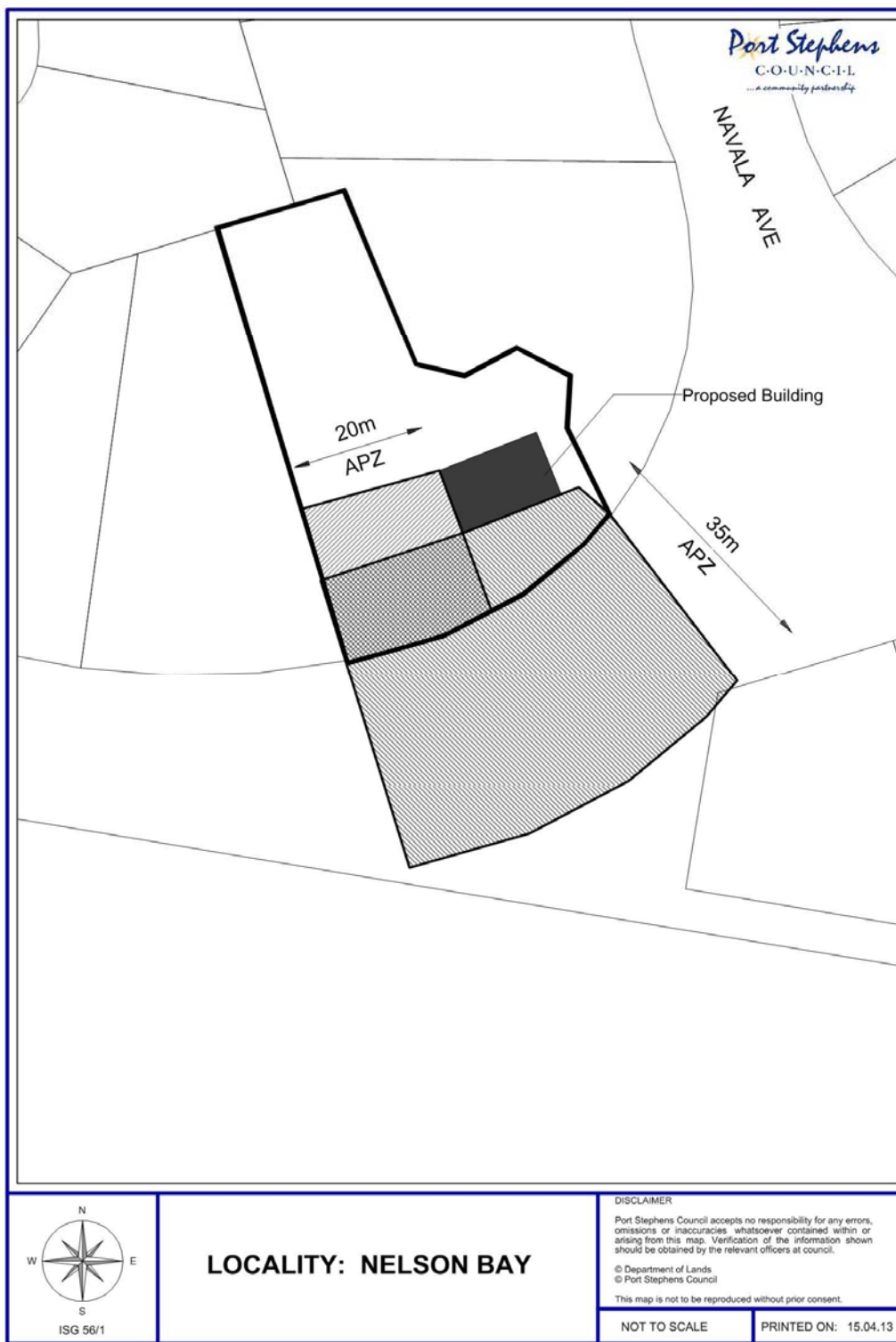




ATTACHMENT 2  
AERIAL PHOTO SHOWING APZ



### ATTACHMENT 3 APZ OUTLINE



**ATTACHMENT 4  
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**

Development consent is sought for a two (2) lot Torrens Title subdivision of 121 Navala Avenue, Nelson Bay (Lot 1 DP 1056601).

The newly created lot is intended to be used for residential purposes, with a future dwelling being subject of a separate Development Application.

**THE APPLICATION**

Owner	Mr K J & Mrs B M Barry
Applicant	Mr K J Barry
Detail Submitted	SoEE, Plans, Flora/Fauna & Bushfire Reports

**THE LAND**

Property Description	Lot 1 DP 1056601
Address	121 Navala Avenue, Nelson Bay
Area	2185sqm
Characteristics	Steep site, with 25% fall to street and is within a mapped Land Slip area. Front half of site is vegetated, consisting of some mature trees and intact understory. Site contains an existing dwelling, which is accessed off Navala Ave via ROW over adjoining property (Lot 2 DP 1056601). GIS shows site constrained by bushfire, landslip, koala habitat (supplementary), Local/Landscape Veg Corridor, Class 5 Acid Sulphate Soils, Nelson Bay West (Hill Tops)

**THE ASSESSMENT****1. Planning Provisions**

LEP 2000 – Zoning	2(a) Residential
Relevant Clauses	16 – Residential Zonings 17 – Subdivision in Residential Zones 44 – Appearance of land and buildings 47 – Services 51A – Acid Sulphate Soils
Development Control Plan	B2 – Environmental & Construction Management



Rural Fires Act  
Port Stephens Section 94 Plan

B3 – Parking & Traffic  
C5 – Nelson Bay West  
Section 100B

### **1.1 Port Stephens Local Environmental Plan 2000**

The site is zoned 2(a) Residential. Following assessment of the DA, it is considered that the proposal is generally consistent with the zone objectives, excluding bushfire provisions.

#### Clause 16 Residential Zonings

Subdivisions are not listed as prohibited under this clause. The proposed is considered to be permissible under LEP 2000, subject to any relevant requirements.

#### Clause 17 Subdivision in Residential Zones

Part 3 of Clause 17 requires subdivision in the "Hill Tops" precinct of Nelson Bay West, which the subject site is within, to have a minimum lot size of 600sqm. Both proposed lots (Proposed Lot 11- 1206sqm and Proposed Lot 12 – 979.6sqm) will have areas greater than 600sqm and comply with this clause.

#### Clause 44 Appearance of land and buildings

The proposed subdivision, or future construction of a dwelling on Proposed Lot 11, is considered unlikely to have any significant or detrimental visual impact when viewed from any waterway, main road or public land.

#### Clause 47 Services

It is considered that necessary services will be available to all proposed lots.

#### Clause 51A Acid Sulphate Soils

The site is shown as Class 5 on the planning map. The development will not require substantial (less than 600mm) excavation, which does not trigger the need for further investigation of potential acid sulphate soils under this clause.

### **1.2 Development Control Plan 2007**

#### Section B1 Subdivision

The proposal will create 2 irregular shaped lots and will result in a potential building area for Proposed Lot 11 on steep land (approx 30%).

Control B1.C7 of DCP 2007 requires that any subdivision creating a building area greater than 25% be accompanied by an application for a dwelling. Although this DA does not propose construction of any dwelling, and does not strictly comply with

this control, plans for a dwelling on site have been provided by the applicant to address this issue.

The proposed dwelling would require approximately 2.5m of cut. However the majority of the dwelling will be backfilled, which greatly reduces the amount of cut associated with the outcome on-site.

As such, it is considered that the proposed building area for Proposed Lot 11 can potentially contain a dwelling, and the non compliance with Council's DCP does not warrant refusal of the application in this instance.

It is considered that the irregular lot shapes are largely impacted by the original lot shape, topography and constraints of the site, including provision of access, bushfire and flora and fauna. Further, the applicant has provided a Geotechnical Report stating that the proposed building area has no significant risk for land slip. It is considered that these variations to Section B1 of DCP 2007 are minor and unlikely to result in any adverse impacts and should be supported in this instance.

#### Section B2 Environmental & Construction Management

The site is mapped as having supplementary Koala Habitat. The applicant has provided a "Response to the Port Stephens Comprehensive Koala Plan of Management" for the development, which stated that the site did not provide significant koala habitat, nor any evidence of use by koalas.

This report was reviewed by Council's consultant Ecologists, who did not raise any particular concerns with the Koala assessment.

It is considered that the development is unlikely to significantly impact koala habitat, feed availability or movement around the site and therefore complies with the requirements of DCP 2007.

#### Section C5 Nelson Bay West

The site is mapped within the "Hilltops" precinct. Although Section C5 does not have any specific controls for subdivision, it is considered that the proposed lot will be capable of containing a dwelling that complies with the relevant design requirements of the DCP.

### **1.3 Rural Fires Act – Section 100B**

The site is mapped as bushfire prone. As such, the proposed subdivision is considered to be integrated development under the provisions of Section 100B of the Rural Fires Act and Environmental Planning & Assessment Act.

The DA has been referred to the NSW Rural Fire Service, who have refused to issue General Terms of Approval for the development, most recently on 24 October 2012.

The reasons for this refusal are:

- Asset Protection Zones (APZs) available within the site do not comply with Planning for Bushfire Protection 2006, which are 20m to the west and 35m to the south.
- Concern was also raised regarding the access and compliance with Planning for Bushfire Protection 2006.

The APZ issue has been discussed with Council's Facilities and Services Section, who do not support provision of the APZ within the Navala Avenue road reserve.

Although options for resolving this matter have been discussed (including Council agreeing to maintain the APZ or the applicant acquiring part of the road reserve for the APZ), they have not currently been included in the DA.

Unless the RFS issues can be resolved, it is considered that the potential bushfire risk warrants refusal of the application in this instance. Furthermore, as the proposal currently stands Council cannot legally grant Development Consent.

#### **1.4 Port Stephens Section 94 Plan**

The development will require Section 94 contributions for the additional lot. If the DA is to be supported, payment of Section 94 would be recommended as part of any draft conditions of consent.

### **2. Likely Impact of the Development**

#### 2.1 Built Environment

The proposed subdivision and future construction of a dwelling is considered unlikely to have a significant or detrimental impact on the existing built environment.

Due to the orientation of the site and Navala Avenue, there will only be 2 dwellings within close proximity to the proposed building area on Proposed Lot 11. Further, the Navala Avenue streetscape is currently inconsistent, due to the road alignment and varying front setbacks which have been influenced by the areas topography.

#### 2.2 Natural Environment

##### *Flora and Fauna*

The proposed subdivision, provision of access and APZs and future construction of a dwelling will require the removal of approximately 10-20 trees and intact understorey.

The site is mapped as supplementary koala habitat. The applicant has provided a "Response to the Port Stephens Comprehensive Koala Plan of Management" and "Flora & Fauna Assessment".

The DA has been reviewed by Council's consultant Ecologists, and the overall assessment has concluded that the documentation provided is insufficient to

determine whether the proposed development will likely have an impact on threatened species.

The principal concern raised was that surveys conducted on the site were not within the orchid flowering period of late August – early September, and that the flora species *Diuris arenaria*, *Diuris praecox* (Newcastle Doubletail) and *Prostanthera densa* (Villous Mintbush) could occur on site and should be assessed with 7 part tests.

However, the Ecological review notes that these species do not flower every year which makes targeted surveys difficult.

Given the site adjoins an 83 hectare site zoned for public recreation owned by the NSW Government, and the size of the proposed development area (approx 30m x 30m), it is considered that the likely impact of the development on any local population of these species identified are likely to be minimal and it is unreasonable to recommend refusal on flora and fauna impacts grounds.

### 2.3 Traffic & Access

Through the assessment of engineering matters, there is concern that the proposed driveway grades do not comply with Australia Standard AS2890.1, and this issue should be resolved prior to any approval being issued for the development.

### 2.3 Social & Economic Impacts

The proposed development is unlikely to have any significant social or economic impacts on the local community.

## **3. Suitability of the Site**

The proposed development is not considered suitable for the site, due to the outstanding bushfire, engineering and flora and fauna issues.

## **4. Submissions**

This application has been advertised and notified in accordance with Council Policy. Council received two (2) submissions from adjoining property owners concerning the proposed development. Following consideration of these concerns, it is considered that they do not warrant refusal of the application in this instance.

The issues raised in the submissions, and relevant assessment comments, are included below:

- Traffic/Access

Both submissions raised concern regarding the developments impact on the existing driveway (ROW) off Navala Avenue, which services a number of properties.

Comment

It is noted that the existing driveway is not ideal with regard to grade or sight distance. However, given the number of existing properties (5) using the access, it is considered unlikely that an additional dwelling would result in an unreasonable impact on traffic safety.

- Vegetation removal

A submission raised concern about the amenity impact resulting from vegetation removal for the development.

Comment

The DA has been assessed, and it is considered that the proposal is unlikely to have a significant impact on the natural environment. It is considered that the development is unlikely to unreasonably impact existing amenity of adjoining properties due to it proposing sufficient setbacks and vegetation retention.

- Privacy

A submission raised concern about privacy impacts from any future dwelling on Proposed Lot 11.

Comment

As mentioned previously, it is considered that the development is unlikely to unreasonably impact the existing amenity or privacy of adjoining properties due to the amount of setbacks and vegetation retention proposed as part of the development.

- Noise

A submission raised concern regarding noise impact as a result of the development.

Comment

It is considered that the intended residential use of the site is not generally considered to be a significant noise source, and any construction on site would be controlled by the relevant noise guidelines.

- Damage to existing driveway and buildings

A submission raised concern that the development might result in damage to the existing driveway and adjoining buildings.

Comment

This is a reasonable concern, given the topography of the site, which is mapped within a landslip area. Any development consent could include a condition requiring a Dilapidation Report.

- Future development

A submission raised concern that future subdivision of proposed Lot 11 may occur.

Comment

Although any speculation of future use of the site is outside the scope of this DA, it is noted that any future application for subdivision of this site would have difficulty in addressing bushfire, access and flora and fauna issues.

Based on the information provided to Council, it is considered that appropriate management measures can be put in place to manage likely impacts from the development. A condition is recommended requiring submission of a detailed management plan prior to the issue of any Construction Certificate.

## **5. Public Interest**

Despite the concerns with the proposal, the development is considered unlikely to significantly impact the wider public interest.

ITEM NO. 5

FILE NO: PSC2006-0073

## PLANNING PROPOSAL TO LIST SKETCHLEY COTTAGE AS AN ITEM OF ENVIRONMENTAL HERITAGE SIGNIFICANCE

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 Planning Proposal at (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2000 or the draft Port Stephens Local Environmental Plan 2013 in order to list the building known as *Sketchley Cottage* as an item of Environmental Heritage;
- 2) Submit the Planning Proposal to the Minister under section 56 of the Environmental Planning and Assessment Act 1979 for a Gateway determination; and
- 3) Request Written Authorisation to Exercise Delegation under section 59 of the Act in the making of the draft Local Environmental Plan.

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### ORDINARY COUNCIL MEETING – 23 APRIL 2013

#### COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Ken Jordan Councillor John Nell
	That the recommendation be adopted.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

**MATTER ARISING**

	<b>Councillor Peter Kafer</b> <b>Councillor Geoff Dingle</b>
	That a report be provided to Council with respect to bringing all documents held by Council relating to Aboriginal significance into one location.

**MOTION**

<b>102</b>	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that the recommendation be adopted.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Peter Kafer, Ken Jordan, Chris Doohan, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

**MATTER ARISING**

<b>103</b>	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that a report be provided to Council with respect to bringing all documents held by Council relating to Aboriginal significance into one location.

**BACKGROUND**

The purpose of the Planning Proposal ("the Proposal") is to amend the Port Stephens Local Environmental Plan 2000 or the draft Port Stephens Local Environmental Plan 2012 (whichever is in force at the time of the making of the plan) in order to list the building known as *Sketchley Cottage* as an item of Environmental Heritage.

**Proposal details**

**Planning Proposal:** To list *Sketchley Cottage* as an item of Environmental Heritage under LEP 2000 or draft LEP 2012 as outlined in **(ATTACHMENT 1)**

**Subject land:** Lot 1 DP 1093118, 1 Sketchley Street, Raymond Terrace

**Proponent:** Raymond Terrace Historical Society

**Current zone:** 6(a) – General Recreation "A" Zone



**Owner:** Port Stephens Council

A locality plan showing the land subject to the Planning Proposal is contained in the Planning Proposal (**ATTACHMENT 1**).

A heritage assessment of the site was undertaken by the Raymond Terrace Historical Society and endorsed by Council's Heritage Advisor in accordance with the Heritage Office requirements and is included in the Planning Proposal (**ATTACHMENT 1**). The building meets the Heritage Office criteria for heritage listing.

The cottage was relocated to its current site in 1976 from Doribank Homestead, near Eagleton. The cottage is an ironbark slab cottage and was built by convicts in 1837 and formed part of the Doribank Homestead complex. *Sketchley Cottage* is named after William Sketchley, a founding convict, pioneer and lay preacher who took ownership of the homestead in 1857.

The cottage has rare cultural, social and historical significance due to its association with William Sketchley and it being convict built. The building also has the potential to provide insight and an understanding of the construction techniques of such buildings of the time. *Sketchley Cottage* is the only one of its type and age in the Raymond Terrace area.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The Planning Proposal will be progressed using existing budget allocations. Rezoning fees were not collected for this planning proposal as it is being done on behalf of the Heritage Advisory Committee.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	\$2,000	Existing budget allocation
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

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

The Planning Proposal is to be progressed in a manner consistent with statutory and policy requirements under the Environmental Planning and Assessment Act 1979. The Planning Proposal was developed at the request of the Raymond Terrace Historical Society, who lease the site from Council for a museum. The proposal will not change the way in which the site is used. Council's Facilities and Services Group Manager, representing the interests of the land owner, has no objection to the planning proposal.

Section 117 Direction No 2.3 – Heritage Conservation

Section 117 Direction No 2.3 – Heritage Conservation states that a draft LEP shall contain provisions that facilitate the conservation of:

- (a) *items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area*

A heritage assessment undertaken on *Sketchley Cottage* indicates that the site is of local heritage significance set out by the NEW Heritage Office criteria. The Planning Proposal is consistent with the s117 Direction, to list the item in the Local Environmental Plan in order to facilitate its conservation.

Port Stephens Local Environmental Plan 2000

The proposal seeks to amend the Port Stephens Local Environmental Plan 2000, and any consequential amendments to the Draft Port Stephens Local Environmental Plan 2012 by amending Schedule 2 – Heritage of the Port Stephens Local Environmental Plan 2000 by including a reference to the land at Lot 1 DP 1093118, 1 Sketchley Street, Raymond Terrace and describing the item as *Sketchley Cottage*.

The LEP contains provisions which seek to protect heritage items by specifying the types of development that require consent, ensuring development in the vicinity of heritage items considers the heritage item and providing conservation incentives for the protection of heritage items.

Draft Port Stephens Local Environmental Plan 2013

Should the Draft Port Stephens LEP 2013 be made prior to this amendment, the plan will be amended by:

- 1) Including a reference to the land at Lot 1 DP 1093118, 1 Sketchley Street, Raymond Terrace and describing the item as *Sketchley Cottage*; and
- 2) Identifying the site at Lot 1 DP 1093118, 1 Sketchley Street, Raymond Terrace on the Port Stephens draft LEP 2013 Heritage Map.

The risks associated with progressing the Planning Proposal are minimal.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that the community may lose a heritage significant building	Low	List the building as an item of Environmental Heritage on the LEP.	Yes

There is a risk that the Planning Proposal does not proceed	Low	Ensure that planning issues are identified during the Planning Proposal process are addressed efficiently and effectively.	Yes
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## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Listing the building as an item of environmental heritage on the Local Environmental Plan:

- formally acknowledges the building's heritage significance;
- provides statutory protection and measures to manage its conservation;
- informs interested parties, as a matter of public record, of the property's heritage status; and
- helps to raise the profile and status of Sketchley Cottage.

The community will benefit from the planning proposal as it will facilitate the protection of a building and site which have been identified as significant at a local level and which is appropriate for listing as a heritage item.

There will be no changes to the use of the site as a result of this Planning Proposal and as such there will be no environmental impacts.

## **CONSULTATION**

Consultation has been undertaken with the Port Stephens Historical Society, the Port Stephens Heritage Advisory Committee and Council's Facilities and Services Group Manager, who is the asset owner. Landowner concurrence is included with the Planning Proposal.

### Government Agency Consultation

Due to the local level of significance of the potential heritage item, it is anticipated that the NSW Heritage Office is the only State Agency who will be consulted with on the Planning Proposal.

### Public consultation

In accordance with part 4.5 of '*A guide to preparing local environmental plans*', an exhibition period of 14 days is considered sufficient.

Exhibition material will be on display at Council's administration building located at 116 Adelaide Street, Raymond Terrace NSW between the hours of 8:30am to 5:30pm Monday to Friday. The exhibition material will also be made available on Council's website and at Council libraries.

Any further consultation shall be indicated within the Gateway Determination.

## OPTIONS

- 1) Adopt the recommendations of this Report to submit the Planning Proposal to the Department of Planning and Infrastructure requesting a Gateway determination. This is the first step in the plan making process;
- 2) Amend one or more of the provisions of the Planning Proposal prior to submitting the Planning Proposal to the Department of Planning and Infrastructure for a Gateway determination;
- 3) Reject the recommendations of this Report and not proceed with the rezoning process. The consequences of this option may be that Council's ability to protect a recognized heritage item will be impeded.

## ATTACHMENTS

- 1) Planning Proposal to list *Sketchley Cottage* as an item of Environmental Heritage.

## COUNCILLORS ROOM

Nil.

## TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Planning Proposal to list *Sketchley Cottage* as an item of Environmental Heritage



## PLANNING PROPOSAL

Proposed amendment to Port Stephens  
Local Environmental Plan 2000 /  
Draft Local Environmental Plan 2013

Proposal to list "Sketchley Cottage" on Schedule  
2 – Heritage as an item of local significance

April 2013

### Contacts

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Strategic Planner

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**Mr Peter Gesling**

General Manager Port Stephens Council

## **PLANNING PROPOSAL – SKETCHLEY COTTAGE**

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**Local Government area:** Port Stephens Council

**Address:** Lot 1 DP 1093118, 1 Sketchley Street, Raymond Terrace

A locality plan and current zoning plan is shown at Attachment 1.

### **Background:**

A heritage assessment of the site was undertaken by the Raymond Terrace historical Society and endorsed by Council's Heritage Advisor in accordance with the Heritage Office requirements and is included as Attachment 2.

The cottage was relocated to its current site in 1976 from Doribank Homestead, near Eagleton. The cottage is an ironbark slab cottage and was built by convicts in 1837 and formed part of the Doribank Homestead complex. *Sketchley Cottage* is named after William Sketchley, a founding convict, pioneer and lay preacher who took ownership of the homestead in 1857.

The cottage has rare cultural, social and historical significance due to its association with William Sketchley and it being convict built. The building also has the potential to provide insight and an understanding of the construction techniques of such buildings of the time. *Sketchley Cottage* is the only one of its type and age in the Raymond Terrace area.

## **PART 1 – Objective of the proposed Local Environmental Plan Amendment**

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The objective of the planning proposal is to recognise the local heritage significance of the building known as *Sketchley Cottage* and provide statutory protection for its conservation under the Port Stephens Local Environmental Plan 2000 or the draft Port Stephens LEP 2013.

## **PART 2 – Explanation of the provisions to be included in proposed LEP**

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The objective of the planning proposal will be achieved by:

1. Amending Schedule 2 – Heritage of the Port Stephens Local Environmental Plan 2000 by including a reference to the land at 1 Sketchley Street, Raymond Terrace and describing the item as *Sketchley Cottage*.

OR should the draft LEP 2013 be gazetted prior to the finalisation of the planning proposal, by:

2. Amending Schedule 5 Environmental Heritage of the draft Port Stephens LEP 2013 by including a reference to the land at 1 Sketchley Street, Raymond Terrace and describing the item as *Sketchley Cottage*; and
3. identifying the site at 1 Sketchley Street, Raymond Terrace on the draft Port Stephens LEP 2013 Heritage Map.

**Note:** The item will be inserted in alphabetical order, with a number being issued upon final adoption of the plan.

**PART 3 – Justification for the Planning Proposal**

**SECTION A – Need for the Planning Proposal**

*1. Is the planning proposal a result of any strategic study or report?*

The planning proposal is the result of intensive historical research undertaken by the Port Stephens Historical Society in conjunction with Port Stephens Council.

A copy of the Statement of Significance for the *Sketchley Cottage* is at Attachment 3.

*2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The planning proposal is the only way of recognising the heritage status of the building and achieving the objective of the Planning Proposal, which is to secure statutory protection for the building in order to protect its heritage value.

Listing the building as an item of environmental heritage on the Local Environmental Plan –

- formally acknowledges its heritage significance,
- provides statutory protection and measures to manage its conservation, and
- informs interested parties of the property's heritage status.

*3. Is there a community benefit?*

Yes. The community will benefit by the protection of a building and site which have been identified as significant at a local level and appropriate for listing as a heritage item.

**SECTION B – Relationship to Strategic Planning Framework**

*4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

**Lower Hunter Regional Strategy**

The Lower Hunter Regional Strategy promotes the conservation of significant heritage items and directs Councils to ensure that all items of significance are included in the heritage schedules of the local environmental plans.

*5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?*

**Community Strategic Plan**

The Community Strategic Plan seeks to "preserve and promote multiculturalism and Port Stephens' heritage, arts and culture". The listing of a significant heritage building is consistent with this objective.

**Port Stephens Planning Strategy**

The Port Stephens Planning Strategy recognises the importance of listing sites of heritage significance in the Local Environmental Plan.

Planning Proposal (Sketchley Cottage) – April 2013

3

6. Is the planning proposal consistent with applicable state environmental planning policies?

#### State Environmental Planning Policies

The planning proposal involves listing *Sketchley Cottage* as a heritage item. It does not involve a change in land use zone nor is it intended to facilitate a particular development. Numerous state environmental planning policies apply to the land for the purpose of development. No State Environmental Planning Policy applying to the land prevents or restricts the listing of heritage items.

The listing of buildings as heritage items and sites is consistent with state environmental planning policies.

#### Section 117 Ministerial Directions

7. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

**Table 1: Relevant s.117 Ministerial Directions**

Ministerial Direction	Aim of Direction	Consistency and Implications
<b>1. EMPLOYMENT AND RESOURCES</b>		
<b>1.1 Business and Employment Zones</b>	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Not applicable
<b>1.2 Rural Zones</b>	The objective of this direction is to protect the agricultural production value of rural land.	Not applicable
<b>1.3 Mining, Petroleum Production and Extractive Industries</b>	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Not applicable
<b>1.4 Rural Lands</b>	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	Not applicable
<b>2. ENVIRONMENT AND HERITAGE</b>		
<b>2.1 Environmental Protection Zones</b>	The objective of this direction is to protect and conserve environmentally sensitive areas.	The planning proposal does not apply to land within an environmental protection zone.
<b>2.2 Heritage Conservation</b>	The objective of this direction is to ensure that items with identified heritage value are listed on a LEP in order to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The planning proposal aims to list the building as a heritage item. This will require amendments to Schedules 2 of the Port Stephens Local Environmental Plan 2000, or Schedule 5 of the draft Port Stephens Local Environmental Plan 2013. The existing heritage provisions within the LEP 2000



		and the draft LEP 2013 will not be altered and will assist with the conservation of the proposed item.  The Planning Proposal meets the objectives of this Direction.
<b>2.3 Recreation Vehicle Areas</b>	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i> ).	Not applicable
<b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>		
<b>3.1 Residential Zones</b>	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	Not applicable.
<b>3.2 Caravan parks and Manufactured Home Estates</b>	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	Not applicable
<b>3.3 Home Occupations</b>	The objective of this direction is to encourage the carrying out of low impact small businesses in dwelling houses.	Not applicable.
<b>3.4 Integrating Land Use and Transport</b>	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	The planning proposal will not alter or remove the 6(a) General Recreation "A" Zone. The planning proposal is not inconsistent with the aims, objectives of this SEPP.
<b>3.5 Development Near Licensed Aerodromes</b>	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Not applicable.
<b>3.6 Shooting Ranges</b>	The objectives of this direction are to maintain appropriate levels of public safety and amenity, to reduce land use conflict and to identify issues that must be addressed when rezoning land adjacent to an existing shooting range,	Not applicable.
<b>4. HAZARD AND RISK</b>		
<b>4.1 Acid Sulfate Soils</b>	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils	Not applicable.

4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Not applicable.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	Not applicable.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	Not applicable.
<b>5. REGIONAL PLANNING</b>		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The planning proposal is consistent with the Lower Hunter Regional Strategy, which promotes heritage conservation in the Lower Hunter.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	The objectives for managing commercial and retail development along the Pacific Highway.	Not applicable.
<b>6. LOCAL PLAN MAKING</b>		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Not applicable.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The land on which this item is located is currently zoned 6(a) – General Recreation "A" Zone and is owned by Port Stephens Council. The planning proposal does not seek to rezone this land.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Not applicable.

**SECTION C – Environmental, Social and Economic Impact**

*8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The proposal does not apply to land nor is it in the vicinity of land that has been identified as containing critical habitats or threatened species, populations or ecological communities, or their habitats.

*9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The planning proposal will not result in any environmental effects.

*10. Has the planning proposal adequately addressed any social and economic effects?*

A positive social effect is expected as the planning proposal aims to protect a building of local heritage significance.

**SECTION D – State and Commonwealth interests**

*11. Is there adequate public infrastructure for the planning proposal?*

The planning proposal will not result in any additional demand for public infrastructure.

*12. What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?*

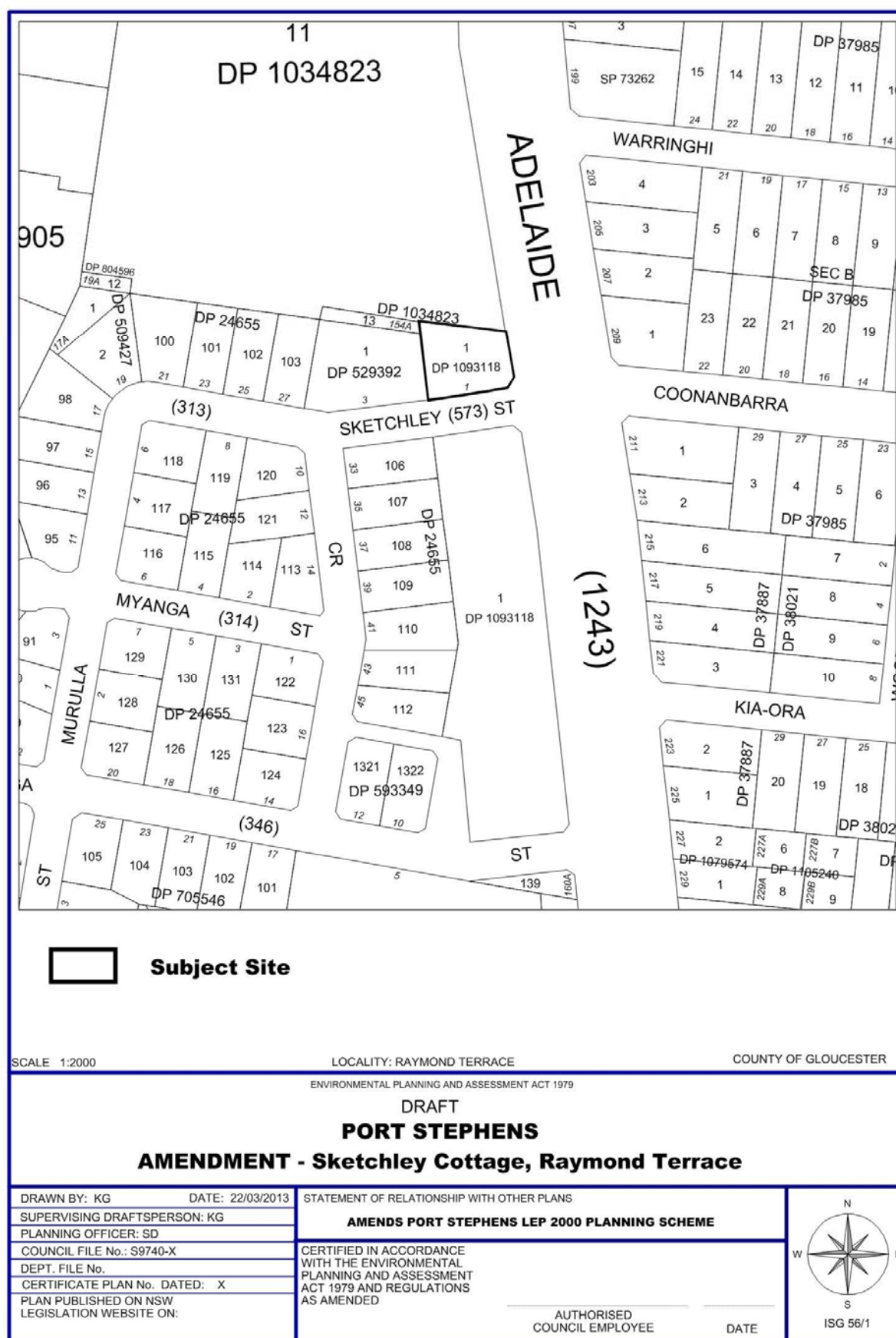
Due to the local level of significance of the potential heritage item, it is anticipated that the NSW Heritage Office is the only State Agency who will be consulted with on the Planning Proposal.

**Part 4 – Details of Community Consultation**

In accordance with part 4.5 of *A guide to preparing local environmental plans*, an exhibition period of 14 days is considered sufficient.

Exhibition material will be on display at Councils administration building located at 116 Adelaide Street, Raymond Terrace NSW between the hours of 8:30am to 5:30pm Monday to Friday. The exhibition material will also be made available on Council's website and at Council libraries.

Any further consultation shall be indicated within the Gateway Determination.




# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

## ATTACHMENT TWO

Sketchley Cottage Statement of Significance

Port Stephens Council: Community Heritage Assessment Form for Items of Local Significance

Local name(s) of item/ tree (species) <i>Sketchley Cottage</i>		SHI number
Address of item <i>1 Sketchley Street, Raymond Terrace</i>		Lot / DP
Owner of item <i>Port Stephens Council</i>		GPS coordinates
Photo – Google Earth only	Street Directory or photo	Attachments eg photos
		Office Use Only

Category of Item			
<input type="radio"/> Large home <input checked="" type="radio"/> Small home <input type="radio"/> Government building <input type="radio"/> School <input type="radio"/> Commercial building <input type="radio"/> Industrial building or site	<input type="radio"/> Church <input type="radio"/> School of Arts/Public Hall <input checked="" type="radio"/> Moveable object <input type="radio"/> Monument <input type="radio"/> Architectural style <input type="radio"/> Archaeological Site	<input type="radio"/> Natural feature <input type="radio"/> Tree <input type="radio"/> Garden <input type="radio"/> Place <input type="radio"/> Precinct <input type="radio"/> Chronological era	<input type="radio"/> Indigenous <input type="radio"/> Relic <input type="radio"/> Ruin <input type="radio"/> Other (give details)

Property of			
<input type="radio"/> Freehold/private <input type="radio"/> Crown Land <input type="radio"/> State government <input type="radio"/> RTA <input type="radio"/> Dept Lands	<input type="radio"/> NP&WS <input checked="" type="radio"/> Local government <input type="radio"/> Forestry <input type="radio"/> Church property <input type="radio"/> Dept Education	<input type="radio"/> Energy provider <input type="radio"/> Dept of Defence <input type="radio"/> Maritime <input type="radio"/> Community Managed <input type="radio"/> Waterboard	<input type="radio"/> Other (give details)

<b>Description of item, uniqueness &amp; context</b> Ironbark Slab Cottage. Originally the barn for the Homestead owned by William Sketchley, and a portion of the "Doribank" Homestead. <b>Context</b> Local Historical Museum. Managed by the Port Stephens Historical Society.
<b>When built, designer/builder, for whom</b> Convict Built as part of the "Doribank" Homestead. William Sketchley took ownership in 1854. Building The home and kitchen buildings were destroyed in a fire in 1857. This building was thought to be the barn. There are 2 theories on the construction and age of the building: 1) That William Sketchley erected the buildings in order to provide a home for his wife in 1837. 2) That Convicts assigned to Col. Snodgrass, neighbour of Sketchley, erected the buildings to provide a home for he and his sons, while they erected Eagleton House. The building was relocated in 1976 from the New Line Road, Doribank, to Council owned land at Brennan Park, Raymond Terrace, for use as a local Museum.
<b>Materials used</b> Local timber, split slab (hand adzed) construction using hand made nails. Corrugated iron roof (present) may have been originally timber shingles. 12 glass panes, double hung, timber framed windows. Ledged and braced, timber panelled front door.
<b>Original purpose</b> Family Home/ Barn as part of Homestead Complex

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# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Port Stephens Council: Community Heritage Assessment Form for Items of Local Significance

<b>Present use</b> Museum			
<b>Modifications</b> An annex was constructed on the site in 1981 to house the Raymond Terrace Historical Society Records. Annex constructed from timber slabs (sourced from a Hinton Barn) and timber shingled roof.			
<b>Reason for nomination</b> This cottage is the only one of its type and age still in use in the Raymond Terrace Area. The cottage has early convict connections. An historical theme is one of Pioneer Living.			
<b>Heritage themes represented by the item</b>			
<input type="radio"/> Aboriginal Culture/Contact <input type="radio"/> Exploration/survey/land tenure <input checked="" type="radio"/> Convict Era <input type="radio"/> Agriculture (cultivation) <input type="radio"/> Pastoral (grazing) <input type="radio"/> Defence, war memorials	<input type="radio"/> Mining, Quarrying <input type="radio"/> Environment/biophysical change <input type="radio"/> Use/misuse of resources <input type="radio"/> Economic cycles <input type="radio"/> Housing/building change	<input type="radio"/> Townships/streetscapes <input type="radio"/> Transport/networks <input type="radio"/> City/rural divide <input type="radio"/> Government/Administration <input type="radio"/> Law and Order <input type="radio"/> Cultural/social/religious life	<input type="radio"/> Migration <input type="radio"/> Industrial cycles <input type="radio"/> Life Cycle <input type="radio"/> Manufacturing
<b>Historical notes/ Trees:</b> Reason for nomination: <input type="radio"/> Botanical <input checked="" type="radio"/> Heritage <input type="radio"/> Other (give reason) William Sketchley was born on the 4 <sup>th</sup> December in Hinckley Leicestershire. His trade was as a stockinger (weaver). On 11 <sup>th</sup> January 1830 Sketchley was tried at Leicester for Stealing and having a previous conviction of 9 months, was sentenced to 7 years and transported to Australia, arriving on the <i>Marquis of Huntley</i> in August 1830. He was assigned to John Richardson on the Hunter River and appears to have remained in the area. He received his Ticket of Leave in July 1835 and his Certificate of Freedom in October 1842. In March 1837 he was married in Newcastle to former convict Mary Shutt (Nee Cross). He and Mary had six children, four of whom survived. In the same year he was assigned two convicts to work for him. He is listed in the 1841 Hunter River Directory (Eliz. Guildford 1987) as "farmer Seaham". In 1854 William Sketchley purchased Lot 4, comprising 85 acres as part of the Doribank Estate, on which was erected dwelling house, large barn and granary. In April 1857, the homestead burnt down. In June 1857 over 70 residents and friends subscribed to aid William Sketchley in his time of need. The total amounted to £43/15/6. With this money Sketchley was able to convert the barn, which had been saved "only with great difficulty", to a liveable condition. It was this building that the family remained in until the late 1960's. In 1975 the cottage was donated to the Raymond Terrace Historical society and moved to its present site in 1976.			
<b>Categories of heritage significance</b>			
<input checked="" type="checkbox"/> Historic Significance, cultural or natural <input checked="" type="checkbox"/> Historical associations <input type="checkbox"/> Aesthetic or technical significance <input checked="" type="checkbox"/> Social significance	<input checked="" type="checkbox"/> Research potential or educational significance <input type="checkbox"/> Rarity <input type="checkbox"/> Representative significance		
<b>Statement of heritage significance of item</b>			
Associated with founding convict, Pioneer and lay preacher in the Wesleyan Church: William Sketchley. The cottage has rare cultural, social and historic significance. The building also has the potential to provide in insight into the construction of such buildings of the time and provide an understanding of construction techniques of the time. An important educational facility for schools and researchers alike.			
<b>Does the item have heritage significance beyond the present local government boundaries? Explain</b>			
Nil			
<b>References used and bibliography pertaining to the item</b>			
<a href="http://www.sketchleycottage.org.au/">http://www.sketchleycottage.org.au/</a> NSW Heritage Branch State Heritage Inventory			

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## MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Port Stephens Council: Community Heritage Assessment Form for Items of Local Significance

Person making nomination...*Moiri Saunderson*  
Supported by Lillian Cullen, Port Stephens Council Heritage Advisor  
Signature...*L.Cullen*..... Date...21/03/2013  
Address & Phone Number (BH)  
Relationship to nominated item. ie owner, neighbour etc

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**ATTACHMENT THREE**

Land owner (Port Stephens Council) concurrence



116 Adelaide Street, Raymond Terrace NSW 2324  
PO Box 42, Raymond Terrace NSW 2324

DX 21406 | ABN 16 744 377 876



## Memo

From: Jason Linnane  
Date: 28 March 2013  
File No: PSC2006-0073  
Subject: Sketchley Cottage heritage listing

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**Details:**

As landowner, the Planning Proposal to list Sketchley Cottage as an item of Environmental Heritage on the Port Stephens Local Environmental Plan 2000 is supported, subject to the heritage listing applying only to the portion of the lot on which the cottage is located.

  
Jason Linnane  
Facilities & Services Group Manager

Ext:222

**Communication method**

- ☐ Post on myPort
- ☐ Post on PSC website
- ☐ Memo to section managers
- ☐ Presentation to SLT
- ☐ Snapshot article
- ☐ All staff memo from General Manager
- ☐ 2 way conversation with Councillors
- ☐ Councillors weekly PS newsletter
- ☐ Report to Council
- ☐ Media release
- ☐ Other \_\_\_\_\_

Document12

1



ITEM NO. 6

FILE NO: A2004-0511

**LOCAL TRAFFIC COMMITTEE REPORT – 5 MARCH 2013**

REPORT OF: JOHN MARETICH – CIVIL ASSETS 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 5 March 2013.

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**ORDINARY COUNCIL MEETING – 23 APRIL 2013****COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Sally Dover</b> <b>Councillor Bruce MacKenzie</b>
	That the recommendation be adopted.

**MOTION**

104	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that the recommendation be adopted.

**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 \$44 000 (\$25 000 grant from RMS and the balance from General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. 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.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$25,904.00	Annual budget allocation unchanged since 2007/08
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

## **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, 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.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that the recommendations may not meet community expectations	Medium	Ensure proper consultation is carried out when required, prior to meetings	Yes
There is a risk that the 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) 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;
- 3) Reject all or part of the recommendations.

## **ATTACHMENTS**

- 1) Local Traffic Committee minutes – 5/3/2013.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

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**LOCAL TRAFFIC COMMITTEE MEETING  
HELD ON TUESDAY 5<sup>TH</sup> MARCH, 2013  
AT 9:30AM**

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**Present:**

Ms Michelle Mexon representing Craig Baumann MP, Cr Peter Kafer, Cr Geoff Dingle, Mr Mark Morrison, Mr Nick Trajevski – Roads and Maritime Services, Mr Joe Gleeson (Chairperson), Mr Graham Orr, Ms Lisa Lovegrove - Port Stephens Council

**Apologies:**

Senior Constable John Simmons – NSW Police, Mr John Meldrum – Hunter Valley Buses, Mr Mark Newling – Port Stephens Coaches

**A. ADOPTION OF MINUTES OF MEETING HELD 5<sup>TH</sup> FEBRUARY, 2013**

**B. BUSINESS ARISING FROM PREVIOUS MEETING**

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## PORT STEPHENS LOCAL TRAFFIC COMMITTEE AGENDA

INDEX OF LISTED MATTERS  
TUESDAY 5<sup>TH</sup> MARCH, 2013

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- A. ADOPTION OF THE LOCAL TRAFFIC COMMITTEE MINUTES OF 5<sup>TH</sup> FEBRUARY, 2013
- B. BUSINESS ARISING FROM PREVIOUS MEETING
- C. LISTED MATTERS
  - C.1 05\_03/13 WILLIAM STREET RAYMOND TERRACE - REQUEST FOR LINEMARKING TO PREVENT PARKING ACROSS THE DRIVEWAY
  - C.2 06\_03/13 GOVERNMENT ROAD NELSON BAY - REQUEST FOR SPEED HUMPS, PEDESTRIAN CROSSINGS OR INCREASED NUMBER OF SPEED SIGNS
  - C.3 07\_03/13 MARINE DRIVE FINGAL BAY - REQUEST FOR REVIEW OF PARKING AT FINGAL BAY SURF CLUB
- D. INFORMAL MATTERS
  - D.1 501\_03/13 ABUNDANCE ROAD MEDOWIE - REQUEST FOR SPEED ZONE REVIEW
- E. GENERAL BUSINESS
  - E.1 603\_03/13 TANILBA AVENUE TANILBA BAY – PEDESTRIAN ACCESS ISSUES AT TANILBA BAY HALL
  - E.2 604\_03/13 CLARENCETOWN ROAD WOODVILLE – SAFETY CONCERNS AT THE DUNMORE BRIDGE APPROACH
  - E.3 605\_03/13 DUNS CREEK ROAD DUNS CREEK – SAFETY CONCERNS AT THE BUTTERWICK ROAD INTERSECTION

## C. Listed Matters

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### C.1 Item: 05\_03/13

#### **WILLIAM STREET RAYMOND TERRACE - REQUEST FOR LINEMARKING TO PREVENT PARKING ACROSS THE DRIVEWAY**

**Requested by:** Magnolia Gardens Retirement Home

**File:**

**Background:**

At school times parents sometimes park across the driveway and block access to the property. Some form of linemarking or signage is needed to make it more obvious not to park there.

**Comment:**

Traffic Inspection Committee members noted that there is some linemarking present but that this is not always effective in preventing parking. 'No Stopping' restrictions are required to remove the possibility of parking across the driveway.

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

NSW Road Rules – Rule167 – No stopping signs

RMS signs database – R5-400

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

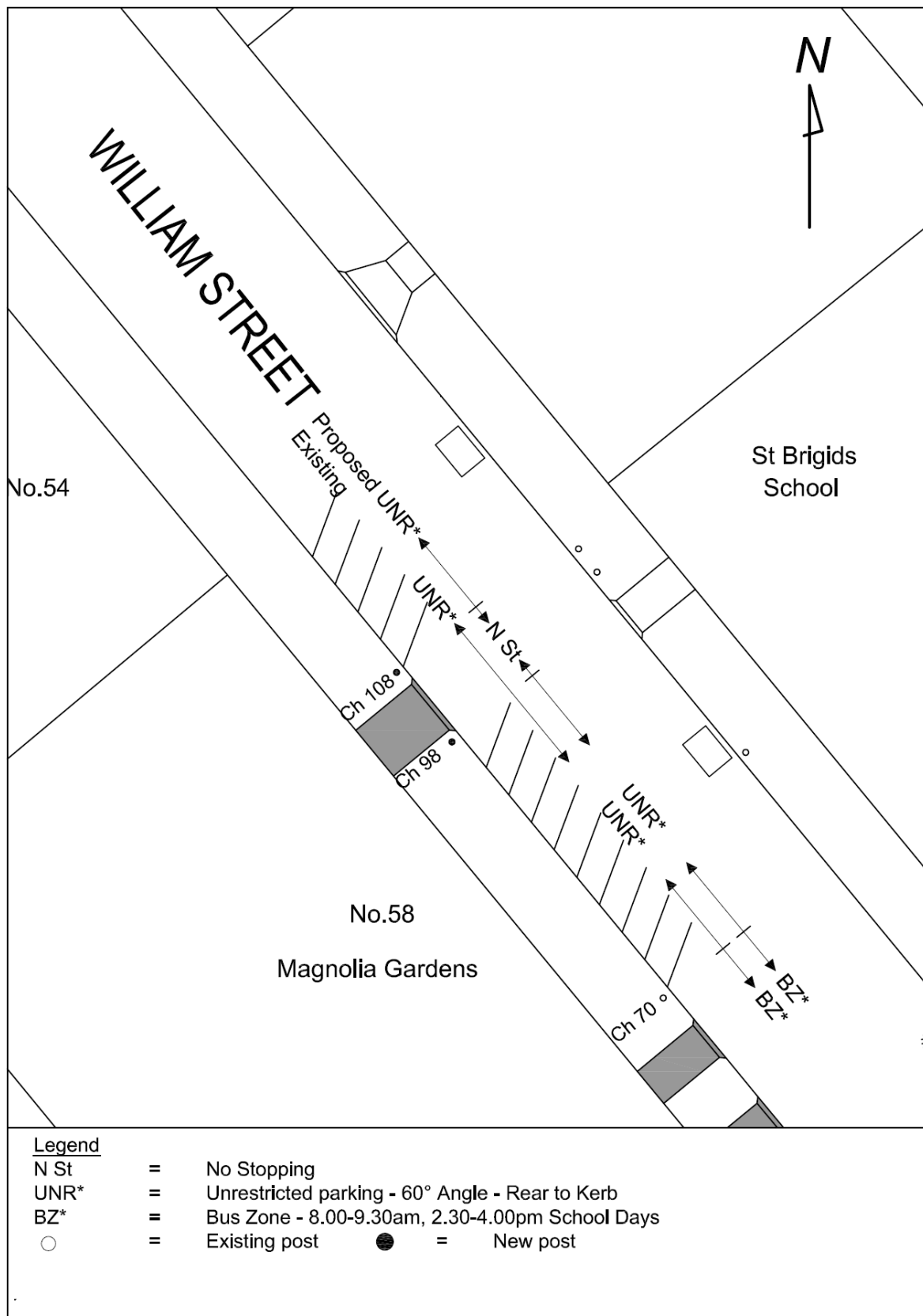
**Recommendation to the Committee:**

Install 'No Stopping' restrictions at No.58 William Street, 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	



**C.2    Item:   06\_03/13****GOVERNMENT ROAD NELSON BAY - REQUEST FOR SPEED HUMPS, PEDESTRIAN CROSSINGS OR INCREASED NUMBER OF SPEED SIGNS**

**Requested by:**    A resident  
**File:**                PSC2005-4031/147  
**Background:**

The resident's concern is about the speed at which motorists travel down (east to west) the Government Road hill due to its very steep decline. There are safety concerns for pedestrians, public transport users, schoolchildren, residents and road users alike. Residents have identified difficulty reversing out of their driveways onto Government Road because of the speed at which motorists are travelling down the hill.

**Comment:**

Traffic Inspection Committee members requested that traffic classifiers be installed to gather data for the speed and volume of traffic. It was also discussed that Council is currently negotiating with Landcom with regard to a shared path connection to the Vantage Estate. There may be opportunity to include a pedestrian refuge on Government Road, closer to Bagnall Beach Road, as part of these works.

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

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act  
Austroads Guide to Traffic Management Part 6  
RMS Technical Direction TDT2011/01a

**Recommendation to the Committee:**

Include a pedestrian refuge on Government Road in Council's Forward Works Plan, as shown on the attached concept sketch, Annexure A.

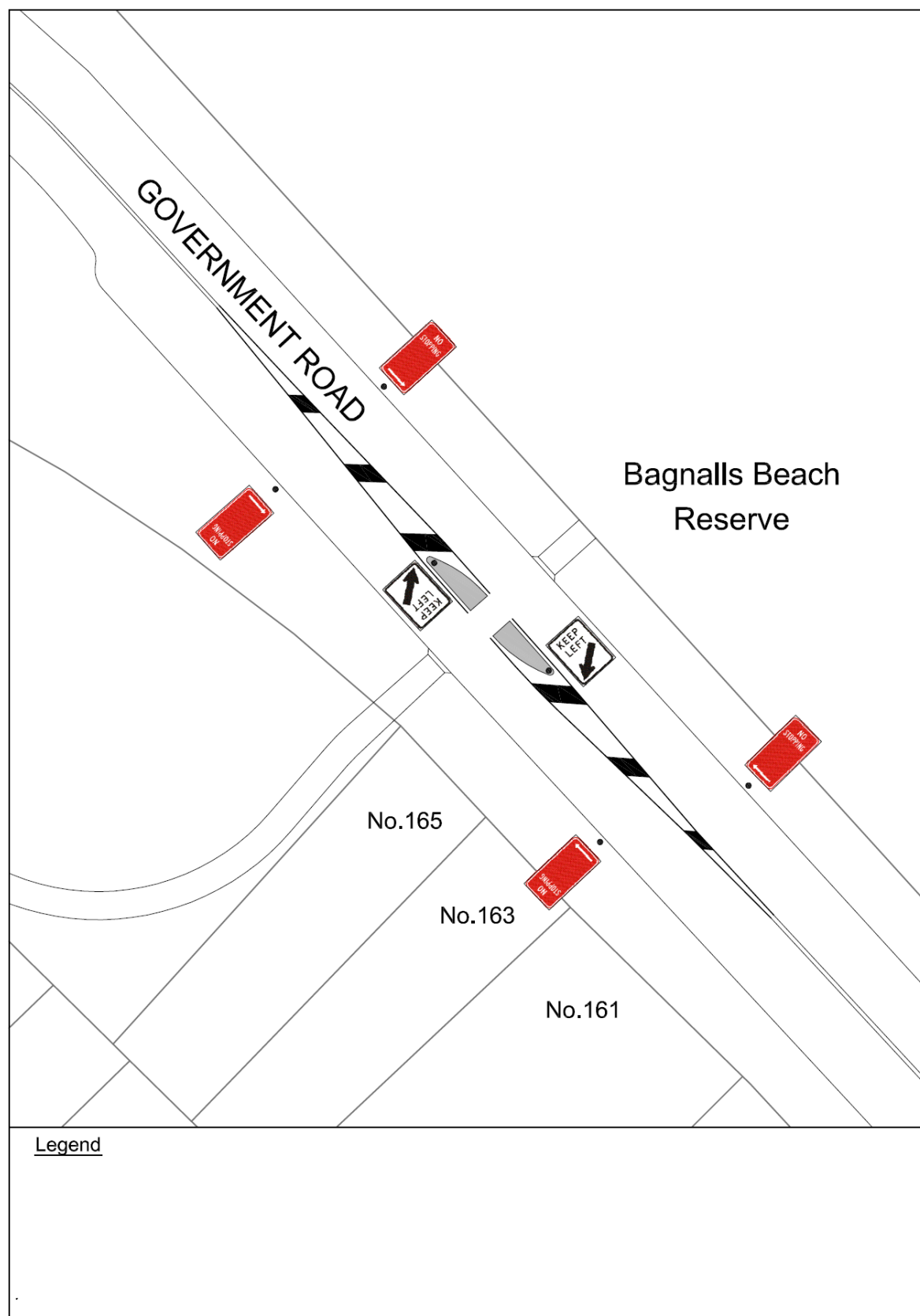
**Discussion:**

Traffic Committee members noted that Council has received more and more of this type of request in recent months. Police acknowledge that Highway Patrol resources are directed at Highways and major roads leaving the local Council roads virtually unpatrolled.

**Support for the recommendation:**

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





C.3 Item: 07\_03/13

**MARINE DRIVE FINGAL BAY - REQUEST FOR REVIEW OF PARKING AT FINGAL BAY SURF CLUB**

Requested by: Port Stephens Council

File:

Background:

The new Fingal Bay surf club is now in operation and some formalisation of parking is required. A loading zone and signage to prevent vehicles blocking the vehicle access to the beach is needed. There is also scope to look at removal of 'No Stopping' along Marine Drive, north of the entry driveway and relocation of the bus stop to improve connectivity and parking.

Comment:

Traffic Inspection Committee members expressed concerns regarding the safety of pedestrians using the shared path adjacent to the Surf Club with the possibility of service vehicles and garbage trucks reversing across the path. It was recommended that a Road Safety Audit be undertaken to ensure that all required signs and barriers are in place.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule179 – Stopping in a Loading Zone

RMS signs database – R5-23

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

Recommendation to the Committee:

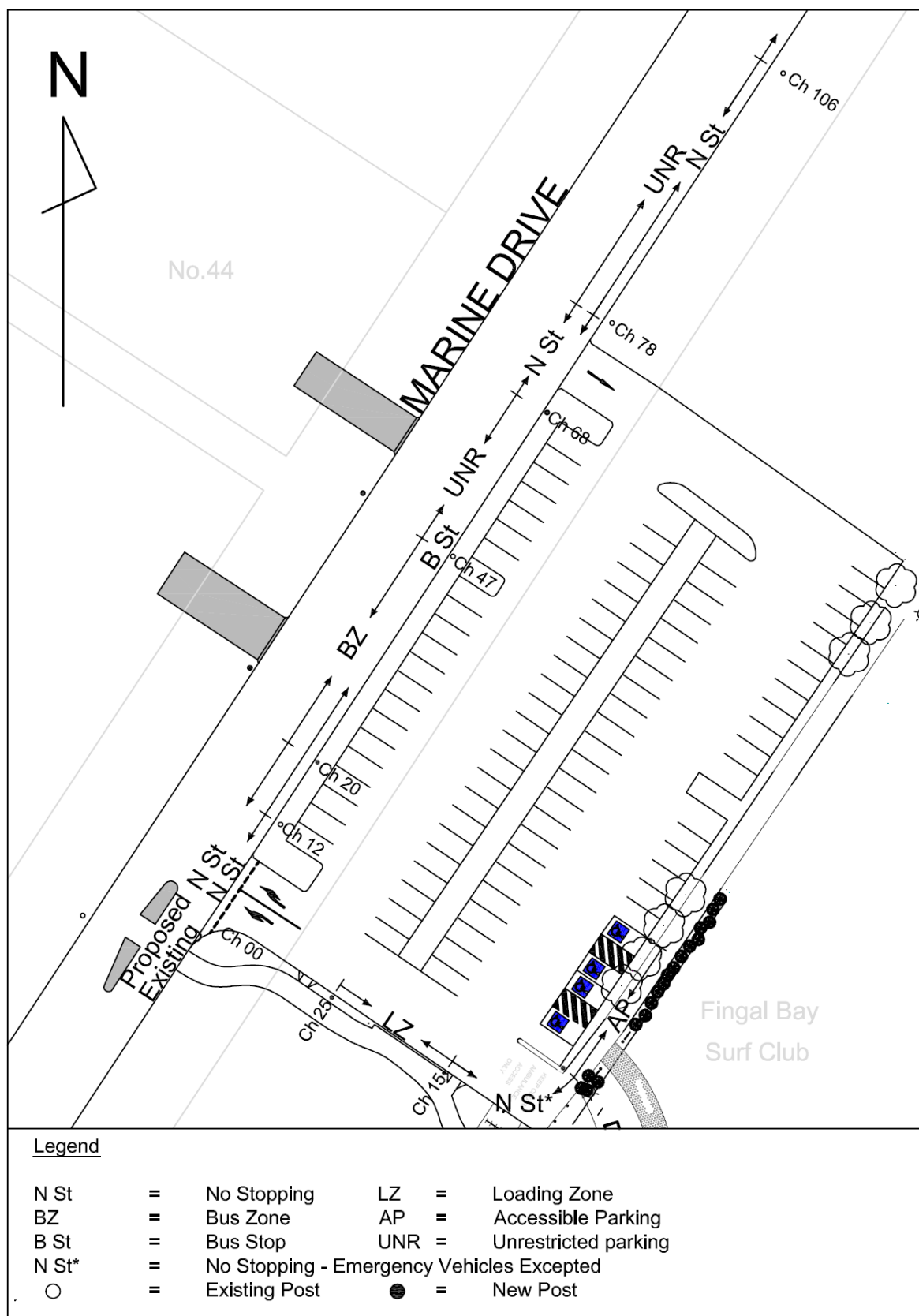
Install a loading zone in the car park, remove 'No Stopping' and relocate the existing bus stop on Marine Drive, as shown on the attached sketch, Annexure A.

Discussion:

Traffic Committee members discussed the need for an improved safety outcome at the new Surf Club for pedestrians and users of the shared path which crosses the driveway. The recommendation from the Committee is for a road safety audit to be undertaken to ensure all aspects are covered.

Support for the recommendation:

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



#### D. Informal Items

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##### D.1 Item: 501\_03/13

#### ABUNDANCE ROAD MEDOWIE - REQUEST FOR SPEED ZONE REVIEW

**Requested by:** A resident

**File:** PSC2010-01372/016

**Background:**

A Medowie resident has complained to Council regarding the speed and volume of heavy vehicles using the local road network rather than the main roads of Medowie Road and Richardson Road. The resident raised concerns about the safety of residents entering and exiting properties along Lisadell, Abundance and Fairlands Roads.

**Comment:**

Traffic Inspection Committee members recommended referring a request to Roads and Maritime Services for a speed zone review of the above mentioned roads.

**Recommendation to the Committee:**

Request a speed zone review by Roads and Maritime Services of Abundance, Fairlands and Lisadell Roads, Medowie.

**Discussion:**

**Support for the recommendation:**

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

## E. General Business

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### E.1 Item: 603\_03/13

#### TANILBA AVENUE TANILBA BAY – PEDESTRIAN ACCESS ISSUES AT TANILBA BAY HALL

**Requested by:** Cr Dingle

**File:**

**Background:**

Local residents have contacted Cr Dingle regarding the possibility of access improvements to the Community Hall on Tanilba Avenue.

**Discussion:**

Council is currently undertaking a major rehabilitation of Tanilba Avenue in the vicinity of the hall and some improvements have been included in the plans.

**Committee's recommendation:**

The Traffic Committee recommended including this in the next round of Traffic Committee inspections.

---

### E.2 Item: 604\_03/13

#### CLARENCETOWN ROAD WOODVILLE – SAFETY CONCERNS AT THE DUNMORE BRIDGE APPROACH

**Requested by:** Road Safety Officer

**File:**

**Background:**

Council's Road Safety Officer raised concerns identified in the recent recreational motorcycle route audit.

**Discussion:**

The approaches to the Dunmore Bridge need to be better signposted to alert riders and drivers to the narrow bridge and reduced speed environment.

**Committee's recommendation:**

List for Traffic Inspection Committee

E.3 Item: 605\_03/13

**DUNS CREEK ROAD WOODVILLE – SAFETY CONCERNS AT THE BUTTERWICK ROAD INTERSECTION**

**Requested by:** Road Safety Officer

**File:**

**Background:**

Council's Road Safety Officer raised concerns identified in the recent motorcycle route audit.

**Discussion:**

The delineation at the intersection appears to be inadequate and there are reports of vehicles missing the turn and continuing through the intersection.

**Committee's recommendation:**

List for Traffic Inspection Committee

ITEM NO. 7

FILE NO: PSC2005-3705

## REDEVELOPMENT OF BIRUBI POINT SURF LIFE SAVING CLUB BUILDING – FUNDING STRATEGY

REPORT OF: STEVEN BERNASCONI – COMMUNITY AND RECREATION SERVICES  
MANAGER

GROUP: FACILITIES AND SERVICES

---

### RECOMMENDATION IS THAT COUNCIL:

- 1) Acknowledge that the total cost of the redevelopment of Birubi Point Surf Life Saving Club building and headland based on the EJE Architecture design is estimated at \$4,700,000.
  - 2) Acknowledge that the Federal Government election promise of 2010 is \$2,200,000 which requires \$2,500,000 to be funded from other sources.
  - 3) Endorse and allocate the full funding model for Birubi Point Surf Life Saving Club redevelopment as detailed in this Council report and being:
    - a) Federal Government 2010 Election Promise: \$2,200,000
    - b) Internal borrowings from Section 94: \$1,179,750
    - c) Asset Rehabilitation Reserve: \$505,250
    - d) Crown Reserve Holiday Park Funds: \$500,000
    - e) Grants: \$315,000
  - 4) Acknowledge the confirmed grant of \$15,000 from the New South Wales Department of Primary Industries for a contribution towards the Observation Deck area of the proposed new building.
  - 5) Make funding submissions and representation to Surf Life Saving New South Wales for grant investment of \$300,000 once development approval has been provided for the Birubi Point Surf Life Saving Club building.
  - 6) Make funding submissions and representation to the New South Wales Government for the release of \$500,000 from Crown Reserve Holiday Park Funds as a contribution to the:
    - a) cultural heritage conservation;
    - b) car parking improvements; and
    - c) landscape works at Birubi Point headland.
  - 7) Make funding submissions and representation to the New South Wales Government for the release of Crown Reserve Holiday Park Funds for asset rehabilitation and capital improvement projects on Crown Lands in Trust of Port Stephens Council in order to redirect pre-existing funding to the Birubi Point Surf Life Saving Club redevelopment.
-

**MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013****ORDINARY COUNCIL MEETING – 23 APRIL 2013****COMMITTEE OF THE WHOLE RECOMMENDATION**

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

Cr Peter Kafer left the meeting at 6.35pm during Item 7.

Cr Peter Kafer returned to the meeting at 6.36pm during Item 7.

Cr Paul Le Mottee left the meeting at 6.41pm during Item 7 and did not return to the meeting.

Councillors Nell and Dover called for a division.

Those for the Motion: Mayor Bruce MacKenzie, Crs Peter Kafer, Ken Jordan, Chris Doohan, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

**MATTER ARISING**

	<b>Councillor Geoff Dingle</b> <b>Councillor Peter Kafer</b>
	That Council extend an invitation to Mr Veitch of the Department of Lands to meet with Council.

**MOTION**

<b>105</b>	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that the recommendation be adopted.

**MATTER ARISING**

<b>106</b>	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that Council extend an invitation to Mr Veitch of the Department of Lands to meet with Council.



## **BACKGROUND**

The purpose of this report is to (1) acknowledge the completion of actions from Council Minute 330 made 11 December 2012 and to (2) recommend a funding strategy for the redevelopment of Birubi Point Surf Life Saving Club building. The responses to the three recommendations from Minute 330 made 11 December 2012 are shown in Table 1 below.

Minute 330, 11 December 2012	Response at 23 April 2013
1. Acknowledge that there is a funding shortfall for the redevelopment of the Birubi Point Surf Life Saving Club building estimated at \$1,685,000.	<ul style="list-style-type: none"> <li>No action required.</li> </ul>
2. Develop a funding strategy by March 2013 that fully funds the redevelopment of the Birubi Point Surf Life Saving Club building.	<ul style="list-style-type: none"> <li>Submitted as the recommendations of this report (23 April 2013).</li> </ul>
3. Prepare and submit a development application for the Birubi Point Surf Life Saving Club building without delay based on EJE Architecture's proposal which is acceptable to all parties."	<ul style="list-style-type: none"> <li>Development application was lodged on 7 March 2013.</li> <li>Structural design work has commenced under external contract.</li> </ul>

Table 1: Responses to items from Minute 330, 11 December 2012.

In order to progress Council's resolutions from 11 December 2012, external consultants have been engaged to project manage the design for development application stage and detailed design work for construction certificate stage.

In order to progress the project to stage three (prepare and release tender for construction) and stage four (building, commissioning and hand over) by the desired project completion date of November 2013, full commitment to funding the project is required by May 2013. This May 2013 deadline will enable the tenders to be called in May in the confidence that works will proceed soon thereafter.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The EJE Architecture design (**TABLED DOCUMENT 1**) is the final design that has been subject to a detailed cost estimation process (**ATTACHMENT 1**).

In order to fully fund the project without the need to enter into a loan that could not be fully serviced from any revenue returns from the new development, a number of concessions have been made on funding sources for other Council projects in the 2012/13 and 2013/14 years. The financial implications for this proposal are shown in Table 2 below.

<b>MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013</b>
---

Source of Funds	Confirmed Yes/No	Funding (\$)	Comment
Federal Government 2010 Election promise	Yes	\$2,200,000	Dept. Regional Australia. Election promise is confirmed however the legal funding agreement is not finalised at the time of preparing this report. Value assessment of the project is underway by the funding body. Funding agreement is expected to be executed in June 2013.
External Grants	Yes	\$15,000	Dept. Primary Industries. Confirmed and receipted.
Asset Rehabilitation Reserve (2013/14)  Revotes from Operational items (2012/13)  Capital Works (2012/13)	Yes	\$505,250	The concession made is to change the funding model in 2012/13 and 2013/14 for asset improvement projects on Crown Reserves in Trust to Council by directing the originally planned Asset Rehabilitation Reserve funds from these projects to Birubi Point SLSC and reimburse these projects with funding from Crown Reserve Holiday Parks Funds subject to ratification by the Port Stephens Holiday Park Trust.
Internal borrowings from Section 94	Yes	\$1,179,750	<p>The concession made is to borrow internally from Section 94 and repay from future developer contributions and levies. This borrowing will also be reviewed during the scheduled review of the Section 94 Plan which is scheduled over the next eighteen months.</p> <p>The second concession made is to change the funding model in 2012/13 for asset improvement projects on Crown Reserves in Trust to Council by directing the originally planned S94 funds from these projects to Birubi Point SLSC and reimburse these projects with funding from Crown Reserve Holiday Parks Funds subject to ratification by the Port Stephens Holiday Park Trust.</p>
External Grants	No	\$300,000	Make submission and

## MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

			representation to New South Wales Surf Life Saving for Capital Infrastructure Program once DA is approved.
Crown Reserve Holiday Parks Funds	No	\$500,000	Make submission and representation to New South Wales Government for the release of this funding for cultural heritage conservation, car parking improvements and landscaping earthworks for Birubi headland reserve subject to ratification by the Port Stephens Holiday Park Trust. Noting that this source of funds is not permitted to be used on the built infrastructure of the surf club, café or care takers residence as that is not core business of NSW Trade and Investment - Crown Lands.
<b>TOTAL</b>		<b>\$4,700,000</b>	

Table 2: Financial implications and sources of funds for Birubi Point Surf Life Saving Redevelopment.

### LEGAL, POLICY AND RISK IMPLICATIONS

The use of Section 94 funds in the proposed manner does differ from Council's policy on the use of Section 94.

Supporting the case to deviate from policy, by creating an internal loan, and thereby reducing the legal, financial and governance risks around use of Section 94 are:

- the significance of the site to the Worimi community and the general acceptance and support of this community with the project;
- the benefit to the local tourism industry through provision of better quality facilities;
- the size and scale of redevelopment;
- the community support for the project;
- the community benefit to the entire local government area and the lower Hunter (as users of Birubi Beach and headland);
- The endorsement of the funding model by the Section 94 Analysis Team.

Adopting the recommendation does however have some risks which are detailed below in Table 3.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk of financial short falls in the project if a submission for grant funding to NSW Surf Life Saving Infrastructure Program is not successful during the project resulting in Council having to fully fund the remainder of the project to the tune of some \$300,000.	High	<p>Adopt the recommendation and make representation to State Member for Port Stephens and the Minister for the Hunter for support.</p> <p>If not successful in sourcing these funds, scale back the finishes on the building to align with available funds.</p> <p>If scaling back the finishes to the reduced budget is not palatable, allocate the funding shortfall from within Council funds by removing or scaling back other 2013/14 projects.</p>	<p>Yes</p> <p>Yes</p> <p>No</p>
There is a risk that Council's reputation could be damaged if it declines the Federal Government funding promise and does not redevelop the site resulting in short term significant negative media attention and long term questions over Councils ability to attract significant external funding promises again.	High	Adopt the recommendation.	Yes
There is a risk that the existing surf club assets and surrounds could fall into disrepair if redevelopment is not pursued resulting in a greater draw on maintenance and Asset Rehabilitation Reserve funds for the site with no significant increase in site usage.	Medium	Adopt the recommendation.	Yes
There is a risk to	High	Liaise with the local Federal	Yes

**MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013**

governance of the Federal Government 2010 Election Promise if there is a change to Federal Government before there is a legal funding agreement in place for the project resulting in potential loss of \$2,200,000.		Member of Parliament to determine bi-partisan government support for this project should there be a change in Federal government.  Complete the legal funding agreement with the Federal Government as soon as possible and before the Federal Government entered caretaker mode prior to the election on 14 September 2013.	
There is a risk to human safety by not redeveloping the site resulting in the volunteer surf life saving club ending its services to the area.	Medium	Adopt the recommendation.  Extend the professional life guard service to Birubi beach at the annual <u>extra cost</u> of around \$55,000.	Yes  No. This would require extra annual general rate funding.
There is a risk to financing the project if the funding model for the use of Crown Reserve Holiday Parks Funds is not endorsed by NSW Trade and Investment – Crown Lands resulting in significant funding shortfall and the stopping of all work on the project.	High	Senior Council Managers have been in discussion with senior Managers of NSW Trade and Investment – Crown Lands as recently as 5 April 2013 and have found common ground on the appropriate and legal use of Crown Reserve Holiday Park Reserve Funds. Should however the results of these discussions not be delivered on then representation should be made to the Member for Port Stephens and the Minister for the Hunter to resolve any unresolved funding issues.	Yes
There is a risk that a challenge may be put against the use of S94 funds now through an internal borrowing arrangement resulting in reputation and financial consequences.	Low	Adopt the recommendation in the context that the deviation from the S94 Plan for Birubi Point Surf Life Saving Club is justifiable on the basis of the: <ul style="list-style-type: none"><li>• The project is making provision for future</li></ul>	Yes

		<p>demand at Birubi headland and beach;</p> <ul style="list-style-type: none"> <li>• significance of the site to the Worimi community and the general acceptance and support of this community with the project;</li> <li>• benefit to the local tourism industry through provision of better quality facilities;</li> <li>• size and scale of redevelopment;</li> <li>• overall community support for the project and;</li> <li>• community benefit to the entire local government area and the lower Hunter (as users of Birubi Beach and headland).</li> </ul>	No
--	--	---	----

Table 3 – Risks assessment table for funding of Birubi Point Surf Life Saving Club building.

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no new sustainability risks associated with adopting the recommendations in this report compared to the adopted recommendations of this matter on 26 June 2012 (**TABLED DOCUMENT 3**).

## CONSULTATION

The project has been consulted on widely over many years (**TABLED DOCUMENT 3**).

Recent consultation includes:

17 April 2013 – Project Control Group meeting 3 - Council staff, Project Management consultant, Surf Club representative, EJE Architecture representatives – Port Stephens Room Council Administration Building.

8 April 2013 – Section 94 Analysis Team – reviewed and endorsed project funding model.

27 February 2013 – Project Control Group meeting 2 – Council staff, Project Management consultant, Surf Club representative, EJE Architecture representatives – Port Stephens Room Council Administration Building.

11 February 2013 – Birubi Point Surf Life Saving Club redevelopment Project Consultation Team meeting 5 – Cr Dover, Council staff, Worimi LALC, Worimi Elders,

## MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Project Management consultant, Surf Club representative, EJE Architecture representatives - Port Stephens Room Council Administration Building.

30 January 2013 - Project Control Group meeting 1 – Mayor, Cr Dover, Council staff, Project Management consultant, Surf Club representative, EJE Architecture, RPS consultants representatives – Port Stephens Room Council Administration Building.

29 November 2012 - Birubi Point SLSC development Project Management Consultation Team meeting 4 - Cr Dover, Council staff, Worimi LALC, Worimi Elders, Worimi Traditional Owners, Project Management consultant, Surf Club representative, EJE Architecture - Gynea Lilly Room Tomaree Library.

22 November 2012 - Meeting with Mayor Cr MacKenzie, Cr Dover, Council Staff, members of the Birubi Point Surf Life Saving Club and the Club's project consultant Peake Project Services Pty Ltd - Christmas Bush Room Tomaree Library

Consultation on funding models has also been conducted with Council staff specifically:

- General Manager;
- Group Manager Facilities and Services;
- Group Manager Corporate Services;
- Group Manager Development Services;
- Financial Services Manager.

Consultation has also occurred (on Friday 5 April 2013) with the Department of Trade and Investment – Crown Lands on the appropriate allocation and use of Crown Reserve Holiday Park Funds on specific aspects of the Birubi Point SLSC redevelopment project.

**OPTIONS**

- 1) Accept the recommendations;
- 2) Amend the recommendations to recommend other funding sources;
- 3) Reject the recommendations and cease work on the project.

**ATTACHMENTS**

- 1) Detailed cost estimate (as at 7 April 2013) – Birubi Point Surf Life Saving Club redevelopment.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) EJE Architecture design for Birubi Point Surf Life Saving Club as submitted in the development application on 7 March 2013;
- 2) Copy of Council report Item 9 of 11 December 2012 "Redevelopment of Birubi Point Surf Live Saving Club Building- Update";
- 3) Copy of General Managers Report Item 5 of 26 June 2012 "Redevelopment of Birubi Point Surf Live Saving Club Building".



## ATTACHMENT 1

## DETAILED COST ESTIMATE AS AT (7 APRIL 2013) – BIRUBI POINT SURF LIFE SAVING CLUB REDEVELOPMENT

<b>Stage 1</b>	<b>Development design and development application</b>	
	Project management services	\$42,800
	Design and certification services	\$101,421
	<b>Sub Total</b>	<b>\$144,221</b>
<b>Stage 2</b>	<b>Detailed design, construction certification, tender documents</b>	
	Project management services	\$32,000
	Design and certification services	\$132,575
	<b>Sub Total</b>	<b>\$164,575</b>
<b>Stage 3</b>	<b>Call and assess construction tenders, prepare recommendations to Council</b>	
	Project Management services	\$27,000
	<b>Sub Total</b>	<b>\$27,000</b>
<b>Stage 4</b>	<b>Construction contract, superintendence, contract administration, building fit out, hand over and defects liability</b>	
	Building works	\$2,134,435
	Site works	\$430,000
	Landscaping	\$337,805
	Builders overhead and margin	\$288,713
	Site establishment and supervision	\$386,669
	Retaining wall and stairs	\$190,000
	Demolition work	\$50,000
	Road and car park	\$40,000
	Temporary surf life saving facilities	\$40,000
	Project management, contingency and design	\$466,582
	<b>Sub Total</b>	<b>\$4,364,204</b>
	<b>TOTAL</b>	<b>\$4,700,000</b>
	<b>Cost per square metre</b>	<b>\$4662/m<sup>2</sup></b>

ITEM NO. 8

FILE NO: T07-2013

## RAYMOND TERRACE COMMUNITY CARE CENTRE UPGRADES TO AIR CONDITIONING SYSTEMS

REPORT OF: JOHN MARETICH – CIVIL ASSETS MANAGER

GROUP: FACILITIES AND SERVICES

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### RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 8 on the Ordinary Council agenda namely **Tender T07-2013 Raymond Terrace Community Care Centre Upgrade to Air Conditioning Systems**
  - 2) That the reasons for closing the meeting to the public to consider this item be that:
    - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
    - ii) In particular, the report includes confidential pricing information in respect of the **Tender T07-2013 Raymond Terrace Community Care Centre Upgrade to Air Conditioning Systems**
  - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
  - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
  - 5) Accept the tender from East Coast Air for replacement of the Raymond Terrace Community Care Centre's air conditioning upgrade.
-

ORDINARY COUNCIL MEETING – 23 APRIL 2013

COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>
	That Council accept the tender from East Coast Air for replacement of the Raymond Terrace Community Care Centre's air conditioning upgrade.

MOTION

107	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that the Committee of the Whole recommendation be adopted.

BACKGROUND

The purpose of this report is to have Council consent and approve the Tender for the Raymond Terrace Community Care Centre Upgrade to Air Conditioning Systems.

The tender was advertised and closed on the 26th March 2013. Tenders received and listed in order of cost (inclusive of GST) are detailed below:

- Coles Refrigeration and Air Conditioning +
- East Coast Air
- Church Air Conditioning and Refrigeration
- Axis Air Solutions +
- Attack Air Conditioning +
- Atlas Air Conditioning
- Air Conditioning Industries

*+ Tenders from Coles Refrigeration and Air Conditioning, Axis Air Solutions and Attack Air Conditioning were not considered as they failed to attend the compulsory pre-tender site meeting to discuss job requirements and constraints.*

The "Value Selection Methodology" (**ATTACHMENT 1**) was used to evaluate each tender. East Coast Air was assessed as the preferred tender under this system and is recommended for approval.

## FINANCIAL/RESOURCE IMPLICATIONS

This project is funded from two sources of income and has no call on revenue. The two grants were specifically for energy efficiency projects.

The units have passed their useful life and would have needed replacing in the next coming year funded from general revenue. Successfully gaining these grants has reduced the call on revenue. There will also be a saving in recurrent budget by approx. \$15K per annum in energy bills as the new plant is more energy efficient.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	\$165K	Waste and Sustainability Improvement Program
Section 94	No		
External Grants	Yes	\$165K	Community Energy efficiently Program
Other	No		

## LEGAL, POLICY AND RISK IMPLICATIONS

The process followed has met all Local Government Act requirements for procurement.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that the successful contractor will not undertake works in accordance with required compliance and maintenance schedules.	Low	Agreement sets scheduling for maintenance and compliance works. This risk is transferred to the successful contractor through the agreement	Yes
There is a risk that the air conditioning assets will fail without increased maintenance and servicing.	High	Accept successful contractor to fulfil maintenance and servicing of the assets.	Yes
There is a risk of losing tenants if we do not undertake works.	Medium	Accept successful contractor to undertake replacement of units.	Yes
There is a risk of not meeting Council's energy reduction targets.	Medium	Accept successful contractor to undertake replacement of units.	Yes
There is a risk that	Medium	Relationship and performance	Yes

contractor will not perform as required in the contract.		monitoring of the contractor is undertaken so that all understand what is expected of each other.	
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**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

To maintain well controlled air handling systems for Council staff and users within the Raymond Terrace Community Care Centre.

All refrigerant gas is to be controlled via reclaim units and vacuum pumps. All disused equipment to be controlled and disposed off site to approved disposal sites. All new plant will use the latest R410 refrigerant (non-ozone depleting).

New plant will represent approx 35% power saving from the existing AC plant. Once new AC equipment and BMS control strategies are implemented savings will equate to an estimated 42,705 kWhr/pa or 45.3 – 62.6 tons per annum of Carbon Dioxide Emissions.

**CONSULTATION**

Buildings Asset Co-ordinator has consulted Optimal Consulting Engineers, Community and Recreation Assets Co-ordinator, Community and Recreation Services Manager, User Groups and Council's Sustainable Energy Panel.

**OPTIONS**

- 1) As per recommendation;
- 2) Alternative recommendation.

**ATTACHMENTS** – Confidential listed below is provided under separate cover

- 1) Confidential – Value Selection Methodology Spreadsheet.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ITEM NO. 9

FILE NO: PSC2011-00603

**ACQUISITION BY AGL OF EASEMENT OVER OLD PUNT ROAD  
TOMAGO UNDER THE PIPELINES ACT 1967**

REPORT OF: JOHN MARETICH – CIVIL ASSETS MANAGER

GROUP: FACILITIES AND SERVICES

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Consents to the creation of an easement over Old Punt Road Tomago under the Pipelines Act 1967 for the purpose of a natural gas pipeline.
- 2) Consents to \$30,000 as the agreed amount of compensation for the acquisition of the easement over Old Punt Road Tomago under the Pipelines Act 1967 for the purpose of a natural gas pipeline.
- 3) Authorise the Mayor and the General Manager to sign and affix the Seal of the Council to the relevant documents.

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**ORDINARY COUNCIL MEETING – 23 APRIL 2013****COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Nell</b> <b>Councillor Geoff Dingle</b>
	That the recommendation be adopted.

**MOTION**

<b>108</b>	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that the recommendation be adopted.

**BACKGROUND**

The purpose of this report is for Council as the Roads Authority for Old Punt Road Tomago to consent to the creation of an easement over Old Punt Road under the Pipelines Act 1967 for a natural gas pipeline by AGL Energy Limited.

AGL requested a meeting with Council Officers in October 2011 where the proposal for a natural gas pipeline was presented. The route of the proposed pipeline and the acquisition under the Pipelines Act were discussed.

## MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

AGL requested Council to consider the acquisition by agreement rather than by the Compulsory Process in the Pipelines Act.

Council Officers considered the request and consulted with Newcastle City Council whose roads were also affected by the acquisition.

Comprehensive discussions and negotiation have occurred since the initial meeting. These discussions focussed on the route, method of construction, safety measures, traffic control, and provision of work as executed plans, terms of the easement, the acquisition process, compensation and public notifications/consultation.

The proposed easement plan is shown in **(ATTACHMENT 1)**.

### FINANCIAL/RESOURCE IMPLICATIONS

Council will receive \$30,000 compensation as assessed by a Registered Valuer for the easement over the road plus disbursements being legal costs. The proposed compensation has been considered by Council's qualified valuer and found to be fair and reasonable. All costs for the project will be the responsibility of AGL.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

The acquisition of the easement would take place as a compulsory acquisition under the Pipelines Act even if Council did not agree to the acquisition. In agreeing to the acquisition Council is able to negotiate the terms of the easement.

The actions necessary for this matter fall under the Pipelines Act 1967, Local Government Act 1993, Roads Act 1993, Land Acquisition (Just Terms Compensation) Act 1991, Conveyancing Act 1919 and the Real Property Act 1900. There is no Council Policies Involved.

It is necessary to have a resolution of the Council for this acquisition because under the Local Government Act 1993 Section 377 a Council cannot delegate to the general manager or others the function of acquisition of any land (or dealing with land).

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that road users may be affected if there is a problem with the pipeline.	Medium	The risk to road users will be minimised by the depth of the pipeline when installed.	Yes
There is a risk that other service authorities and Council Staff may not be aware of the pipeline in the road unless the easement is registered.	Medium	Create Easement, provide work as executed plans and dial-before-you-dig notification	Yes
There is a risk that if the acquisition is not approved it will take place through the compulsory process and Council may not be able to influence the terms of the easement.	High	The acquisition be approved.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are social implications in that the provision of gas will allow designated development to occur and hence provide jobs to the area.

There are economic implications that will benefit Council with the payment of compensation and implications that will affect the Tomago industrial area through the disruption of traffic during construction.

There are environmental implications through the installation of the pipeline by the effects of construction from removal or damage to vegetation and fauna.

## CONSULTATION

Consultation has involved the public, the occupiers/property owners in the Tomago industrial estate, consultants, Newcastle City Council Officers, Legal Counsel and Council's Staff.



**OPTIONS**

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

**ATTACHMENTS**

- 1) Plan of Proposed Easement.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

## 150

PLAN FORM 6		WARNING: Creasing or folding will lead to rejection		Sheet 1 of 2 sheet(s)	
<b>DEPOSITED PLAN ADMINISTRATION SHEET</b>					
SIGNATURES, SEALS AND STATEMENTS of intention to dedicate public roads, public reserves and drainage reserves or create easements, restrictions on the use of land and positive covenants			Office Use Only		
			Office Use Only		
			Registered:		
			Title System:		
			Purpose:		
<b>PLAN OF PROPOSED EASEMENT OVER ROAD TO BE ACQUIRED UNDER THE PIPELINES ACT 1967</b>					
			LGA: Port Stephens		
			Locality: Tomago		
			Parish: Stockton		
			County: Gloucester		
<b>Survey Certificate</b>					
I, Benjamin John Belfield of Monteath & Powys Pty Ltd a surveyor registered under the Surveying and Spatial Information Act 2002, certify that the survey represented in this plan is accurate, has been made in accordance with the Surveying and Spatial Information Regulation 2006 and was completed on: 23 June 2011					
The survey relates to proposed easement					
(specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)					
Signature: <span style="background-color: black; color: black;">[REDACTED]</span> Dated: 23-06-11 Surveyor registered under the Surveying and Spatial Information Act 2002					
Datum Line: 'X' - 'Y'					
Type: Urban/Rural					
<b>Plans used in the preparation of survey/compilation</b>					
DP 46729		DP 1138643		DP 32464	
DP 441524		DP 389889		DP 580517	
DP 1152084		DP 558481		DP 874211	
DP 1151103		DP 339737		DP 1155512	
DP 605461		DP 407584		DP 1100816	
DP 538678		DP 793902		DP 29651	
DP 786142		DP 231169			
(If space is insufficient use PLAN FORM 6A annexure sheet)					
Surveyor's Reference: 10-256DPC 2011 M7100(1023) - Additional Sheets					

**Subdivision Certificate**

I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:

the proposed ..... set out herein

(insert 'subdivision' or 'new road')

.....

\* Authorised Person/General Manager/Accredited Certifier

Consent Authority: .....

Date of Endorsement: .....

Accreditation no: .....

Subdivision Certificate no: .....

File no: .....

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Consent Authority: .....

Date of Endorsement: .....

Accreditation no: .....

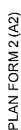
Subdivision Certificate no: .....

File no: .....

**Subdivision Certificate**

I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:

the proposed



ITEM NO. 10

FILE NO: A2004-0960

**ACQUISITION FOR EASEMENTS FOR SEWER MAIN (4 METRES WIDE)  
OVER LOT 153 DP 753196 AT KARUAH****REPORT OF: STEVEN BERNASCONI – COMMUNITY AND RECREATION SERVICES  
MANAGER****GROUP: FACILITIES AND SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Consents to the creation of an easement for sewer main services (4 metres wide) over Lot 153 DP753196 at Karuah.
- 2) Consents to, and grants authority to affix Council's Seal to the Transfer Granting Easement attached to the plan which will create the easement for sewer main services over Lot 153 DP753196 at Karuah.

**ORDINARY COUNCIL MEETING – 23 APRIL 2013****COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**MOTION**

<b>109</b>	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that the recommendation be adopted.

**BACKGROUND**

The purpose of this report is to recommend Council's consent to the creation of an easement for sewer main services (4 metres wide) over Lot 153 DP753196 at Karuah **(ATTACHMENT 1)** and authorises the Council's Seal to be placed on the relevant documents to achieve this.

Hunter Water Corporation identified the need for an upgrade to their infrastructure in 2003 and therefore requires an easement over the subject property. Council has the authority to grant an easement for essential services under Section 46 (1) (g) of the Local Government Act 1993.

The plan of the proposed easement has been registered at Land and Property Information and is known as DP1057485.

Construction of the works has been completed and the remaining action to be taken is lodgement and registration of the Transfer Granting Easement.

### **FINANCIAL/RESOURCE IMPLICATIONS**

There are no resource implications. Council will be compensated \$3500 by Hunter Water Corporate for the easement.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	(\$3500)	New one off revenue to be directed to Community and Recreation Planning budget.

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

Actions in this matter fall under the Local Government Act 1993, Conveyance Act 1919 and the Real Property Act 1900.

There are no Council policies involved.

The following risks have been identified.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that by not formalising the property easement approvals where works have already been completed Council may be exposed to legal damages for failure to act.	Low	Adopt the recommendation	Yes
There is a risk that by not formalising the property easement, future land uses may be in conflict	Low	Adopt the recommendation	Yes

with the actual sewer main in place resulting in asset damage to a third party and legal damages.			
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**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no significant social or economic implications that could arise from adopting the recommendation.

The easement is on a Council reserve. The sewer main is underground. It is not considered likely that the ecological systems of the area will be significantly affected.

**CONSULTATION**

Hunter Water Corporation, Skelton Valuers (acting for Hunter Water Corporation), Councils Principal Property Advisor, Property Officer.

**OPTIONS**

Nil.

**ATTACHMENTS**

1) Locality map – Lot 153 DP 753196 at Karuah.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



ATTACHMENT 1

LOCALITY MAP – LOT 153 DP 753196 AT KARUAH



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM NO. 11

FILE NO: PSC2009-02163

**QUOTATION FOR ELEVATOR REFURBISHMENT WORKS AT COUNCIL OWNED INVESTMENT PROPERTY, 437 HUNTER STREET, NEWCASTLE****REPORT OF: CARMEL FOSTER – PROPERTY SERVICES SECTION MANAGER****GROUP: CORPORATE SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) In accordance with Section 55 (3) (i) of the Local Government Act 1993, seek a proposal and quotation for the refurbishment of the elevators at Council owned investment property at 437 Hunter Street, Newcastle directly from the lift manufacturers, Otis Elevator Company Pty Limited('Otis').
- 2) The reason for this decision is due to extenuating circumstances, being the difficulties associated with obtaining competitive quotations for elevator upgrade works as detailed in this report, and consideration that a satisfactory result would not be achieved by calling for tenders for these works.

**ORDINARY COUNCIL MEETING – 23 APRIL 2013****COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	That the recommendation be adopted.

**MOTION**

<b>110</b>	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that the recommendation be adopted.

**BACKGROUND**

The purpose of this report is to recommend to Council to seek a proposal and quotation for the upgrade of the elevators at Council owned investment property at 437 Hunter Street, Newcastle from the lift manufacturers, Otis Elevator Company Pty. Limited by a request for quotation and not by the tender process.

The two passenger lift cars at 437 Hunter Street, Newcastle were originally manufactured and installed in the building and have been continuously serviced by



## MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

Otis since 7 May 1992. In 2009, Property Services established that significant upgrade works to the elevator system would be required in 2013.

This work has become necessary as a result of the ageing infrastructure (now in excess of 20 years) and also as a result of increased requirements specifically in relation to remaining compliant under Work Health and Safety legislation.

The works proposed represent a significant undertaking to improve the reliability of the elevators which service the building and also to improve the safety of both passengers and contractors servicing the elevators cars, systems and shafts.

Elevators (or vertical transport systems) are a highly specialised area of operation and manufacturers generally, will only tender to provide complete replacement systems, not upgrade of or adaptation of other manufacturer's infrastructure. This is due to reasons of liability and risk to reputation, together with inherent incompatibility between aspects of the different proprietary systems.

Accordingly there is no competitive advantage in going to tender in this case. Manufacturers other than the original manufacturer (OTIS) are most likely to discard the original infrastructure in place and quote to provide a total new system including lift cars, braking systems, and controllers. Total replacement of the vertical transport system is not warranted.

### FINANCIAL/RESOURCE IMPLICATIONS

\$173,000 in funding for the project is secured through Council approved capital expenditure budget.

In 2009 Council engaged Assetera Pty Ltd to prepare an asset condition report and life cycle costing projections for Council's key investment property assets. At this time the lift upgrade project was costed at \$173,000.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$173,000	Included in the Council approved capital budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

## LEGAL, POLICY AND RISK IMPLICATIONS

Section 55 of the Local Government Act sets out the requirements for Council to follow in respect of tenders. Section 55 deals with a wide and varied range of matters pertaining to tenders Council undertakes in the normal course to carry out the business of Council.

Relief is provided under Section 55 of the Act in certain circumstances and specifically s. 55 (3) (i) states:

*(3) This Section does not apply to the following contracts:*

- (i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenders, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.*

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that if tenders were required, the result would be unnecessary delay due to competing manufacturers quoting for total system replacement and not refurbishment.	High	Adopt the recommendation.	Yes

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Endorsement of the recommendation will result in the following outcomes:

- 1) Avoid delay in carrying out necessary upgrade works which are within the current budget.

## **CONSULTATION**

Consultation in this matter has been sought from both internal and external sources:

- 1) Assetera Pty Ltd (external asset consultants);
- 2) Property Services Manager;
- 3) Property Investment Coordinator;
- 4) Facilities Officer.

## **OPTIONS**

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

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

ITEM NO. 12

FILE NO: T02-2013

## T03-2013 – ARCHIVE RECORDS PHYSICAL STORAGE

REPORT OF: DUNCAN BURNS – BUSINESS SYSTEMS SUPPORT SECTION MANAGER  
GROUP: CORPORATE SERVICES GROUP

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### RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 12 on the Ordinary Council agenda namely **T03-2013 Archive Records Physical Storage**.
  - 2) That the reasons for closing the meeting to the public to consider this item be that:
    - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
    - ii) In particular, the report includes confidential pricing information in respect of the **T03-2013 Archive Records Physical Storage**.
  - 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
  - 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
  - 5) That Safedoc Pty Limited be awarded tender T03-2013 Archive Records Physical Storage for a period of three (3) years with the option (at Council's sole discretion) to extend the contract for a further three (3) year period in accordance with the schedule of rates submitted.
-

ORDINARY COUNCIL MEETING – 23 APRIL 2013

COMMITTEE OF THE WHOLE RECOMMENDATION

General Manager left the meeting at 6.58pm.

	<b>Councillor Ken Jordan</b> <b>Councillor Chris Doohan</b>
	That Council: <ol style="list-style-type: none"><li>1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 12 on the Ordinary Council agenda namely <b>T03-2013 Archive Records Physical Storage</b>.</li><li>2) That the reasons for closing the meeting to the public to consider this item be that:<ol style="list-style-type: none"><li>i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and</li><li>ii) In particular, the report includes confidential pricing information in respect of the <b>T03-2013 Archive Records Physical Storage</b>.</li></ol></li><li>3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.</li><li>4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.</li></ol>

MOTION

General Manager left the meeting at 7.04pm at the commencement of confidential session.

## BACKGROUND

Port Stephens Council owns a significant quantity of physical records that are required under the *NSW State Records Act 1998* to be kept for specified timeframes. As Council does not own suitable accredited storage facilities, it is necessary to use a third party specialist service provider.

Council's physical records are presently stored by SafeDoc Pty Ltd at their facility in Heatherbrae under a 5 + 2 year contract that commenced in June 2005. This contract expired in May 2012 and has been operating on a month by month basis since then.

The purpose of this report is to recommend the appointment of a service provider for the storage of Council's archival records on a three (3) year fixed rate contract with the option for a three (3) year extension.

Two tenders were submitted by the following businesses:

- Safedoc Pty Ltd (current provider)
- Hunter Records Storage (Hunter Councils)

The major assessment criteria were:

- Price
- Physical Storage Compliance under the *State Records Act 1998*

The tender evaluation panel assessed that both suppliers met the criteria requirement for tender submission. Details are listed in the attachments.

## FINANCIAL/RESOURCE IMPLICATIONS

Acceptance of the preferred supplier will achieve a financial saving of approximately 40% (\$17k p.a.) based on the current contract fees.

The current provider Safedoc Pty Ltd pricing for storage and retrieval is slightly lower (approx. \$800pa) than Hunter Records Storage.

The one-off cost of approximately \$120k that would be incurred for the permanent retrieval of all records from Safedoc Pty Ltd is a significant impediment to moving from the current supplier.

A comparison of the actual usage costs for major services per month show that Safedoc Pty Limited represents the best value archival storage option to Council and the community.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$84,000	Funding is for three (3) years - details in <b>(ATTACHMENT 1)</b> .
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

## LEGAL, POLICY AND RISK IMPLICATIONS

The preferred supplier storage facilities meet with the relevant sections of the Standard on the Physical Storage of Records under the *State Records Act 1998* in relation to storage and retrieval or archival material.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that non-compliance with the State Records Act may affect Council's objective to ensure good governance and partnerships in a climate of open and effective communication, accountability and trust by leading to loss of corporate knowledge and potential fines and penalties.	Medium	That the recommendation be endorsed to award Safedoc Pty Ltd Council's tender T03-2013 Archive Records Physical Storage.	Yes.

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Safedoc Pty Ltd is a local business operating in the Port Stephens local government area.

Hunter Records Storage is owned by Hunter Council's of which Port Stephens Council is a member and derives benefit through Hunter Council's commercial operations.

## **CONSULTATION**

The Tender Evaluation Panel consisted of four staff members:

- 1) Corporate Services Group Manager;
- 2) Information Services Coordinator;
- 3) Records Management Remediation Programme Manager;
- 4) Information and Communication Technologies Coordinator.

A site visit was not considered necessary as the preferred supplier is already known to comply with the 2012 Standard No.11 – Physical Storage of State Records.

## **OPTIONS**

- 1) Approve the recommendation;
- 2) Amend the recommendation;
- 3) Reject the recommendation.

**ATTACHMENTS** – Confidential Items 1&2 are provided under separate cover

- 1) Confidential Item 1 - Tender Evaluation Report;
- 2) Confidential Item 2 - Tender Price Spreadsheet;
- 3) Physical Storage Compliance Checklist.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.



## ATTACHMENT 3

## PHYSICAL STORAGE COMPLIANCE - SAFEDOC – PREFERRED SUPPLIER



	Principle & Compliance Requirement	Yes	No	Comment
<b>1</b>	<b>Authorisation</b> <i>Records are stored only in authorised areas and facilities.</i>	n/a <b>*YES</b>	n/a	Compliance with this Principle is subject to review and approval by Port Stephens Council's Nominated Senior Officer <b>*Noted. Safedoc has been previously approved as an authorised facility.</b>
1.1	The Nominated Senior Officer or appropriate agency representative has authorised all records storage areas and facilities.	<b>*YES</b>		Subject to compliant tender bid and site visit
1.2	All State records are stored in storage areas or facilities, including records stored by service providers, that have been assessed as being compliant with this standard.	<b>*YES</b>		Subject to compliant tender bid and site visit
1.3	Storage areas and facilities are regularly inspected and assessed for compliance.	<b>*YES</b>		Subject to compliant tender bid and site visit
<b>2</b>	<b>Location and Buildings</b> <i>Records are stored in appropriate storage areas and facilities located away from known and unacceptable risk.</i>	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and the attached "Counter Disaster Plan" pages 6 and 7.
2.1	The location of each records storage area and facility has been subject to risk assessment to identify and mitigate possible risks to records.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and the attached "Counter Disaster Plan" pages 6 and 7.
2.2	The storage facilities have been assessed as being suitable for the storage of records.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and the attached "Counter Disaster Plan" pages 6 and 7.
2.3	Records storage facilities built since 2011 need to be compliant with the Building Code of Australia and associated codes at the time of construction.	<b>N/A</b>	<b>N/A</b>	
2.4	Buildings used for records storage are weatherproof and have good drainage.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION".
2.5	Storage areas and facilities are dedicated to either records or records / library storage.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and specifically section "(iv) point four".
2.6	Each storage area and facility has a current disaster reaction and recovery plan which is regularly revised and equipment / supplies to assist in the recovery of records after a disaster.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and the attached "Counter Disaster Plan".
2.7	Storage areas and facilities have appropriate and comprehensive fire detection and protection systems and equipment, in compliance with the Building Code of Australia and Australian Standards.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION", the attached "Counter Disaster Plan" and building certification.

Signature of Authorised Officer of Tenderer: \_\_\_\_\_

# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013


 Tender Schedules  
 Hunter Councils (Edition 5, October 2008)

	Principle & Compliance Requirement	Yes	No	Comment
<b>3</b>	<b>Environmental Controls</b> <i>Records should be stored in environmental conditions that are appropriate to their format and retention period and integrated pest management controls are implemented to ensure that records are not damaged by pest activity.</i>	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and the attached Pest Management System.
3.1	Records of short term value are stored in conditions which ensure preservation until they are no longer required.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION".
3.2	Records of long term and archival value are stored in conditions which will ensure their preservation; maximum temperature of 25 degrees and maximum Relative Humidity of 60%.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION".
<del>3.3</del>	<del>Records of archival value are transferred to archival storage once they are no longer active.</del>	n/a	n/a	PSC Responsibility
3.4	Temperature and humidity levels within storage areas and facilities are monitored for stability and action taken to minimise any significant fluctuations.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION".
3.5	Records are stored away from direct light, including sunlight.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION".
3.6	The air in records storage areas circulates freely and there is an intake of fresh air.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and specifically section "(iv) point one" noting airflow is increased by up to 75% achieved through strategic design.
3.7	Magnetic media is protected from magnetic fields.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and specifically "OTHER SERVICES PROVIDED" on page 4 of Part B of this Tender.
3.8	Records storage areas and facilities have an integrated pest management system.	<b>YES</b>		Please refer to the attached Pest Management System.
<b>4</b>	<b>Shelving and Packaging</b> <i>Ensure that shelving, equipment and containers for records storage are secure, accessible and protected from deterioration.</i>	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and specifically "(vi) point one" noting no electrical, gas or petrol materials handling equipment utilised by Safedoc.
4.1	Shelving and handling equipment is clean, in good condition and appropriate to the format and retention period of the records.	<b>YES</b>		Please refer to "ADDITIONAL INFORMATION/INNOVATION".
4.2	<del>Item containers are clean, in good condition, and appropriate to the format and retention period of the records they hold.</del>	n/a	n/a	PSC Responsibility

Signature of Authorised Officer of Tenderer: \_\_\_\_\_

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# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013



	Principle & Compliance Requirement	Yes	No	Comment
4.3	Records storage facilities, shelving, equipment, and containers meet workplace health and safety requirements.	YES		Please refer to "ADDITIONAL INFORMATION/INNOVATION".
5	<b>Maintenance</b> <i>A maintenance program, including regular inspection, review and monitoring of records and storage areas should be implemented.</i>	YES		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and the attached example of Safedoc's "Monthly Site Inspection" form.
5.1	Records storage areas and facilities are maintained as part of the organisation's building maintenance program.	YES		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and the attached example of Safedoc's "Monthly Site Inspection" form.
5.2	Regular checks of records and containers in records storage areas and facilities are undertaken to identify signs of pest infestation, mould, or other deterioration.	YES		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and the attached example of Safedoc's "Monthly Site Inspection" form.
5.3	Mould or pest infestation is treated promptly and appropriately.	YES		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and the attached example of Safedoc's "Monthly Site Inspection" form and also Safedoc proudly has had no issues arise to date.
5.4	Appropriate conservation action is undertaken as required but repairs to records do not damage the records further.	n/a	n/a	PSC Responsibility
6	<b>Identification and control</b> <i>Records are controlled so that they can be identified and retrieved.</i>	YES		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and also Safedoc proudly has achieved 100% accuracy in retrievals to date.
6.1	Records are controlled in a system which allows them to be identified, located, retrieved quickly and easily, and returned to storage after use.	YES		Please refer to "ADDITIONAL INFORMATION/INNOVATION" and specifically section "(iv) point two" noting retrieval rates are potentially increased by up to 75%.
6.2	Procedures for the appropriate handling and use of records are defined and communicated to all users.	n/a YES	n/a	PSC Responsibility Please refer to the attached "Safe Handling, Transportation & Storage of Documents & Media Guideline"
6.3	Procedures for the safe transport of records are defined and communicated to all staff and contractors.	n/a YES	n/a	PSC Responsibility Please refer to the attached "Safe Handling, Transportation & Storage of Documents & Media Guideline".
6.4	Policies and procedures are implemented to ensure that records of long term value and archives are handled with care.	YES		Please refer to the attached "Safe Handling, Transportation & Storage of Documents & Media Guideline"
6.5	Records are converted or digitised according to recognised standards.	n/a	n/a	PSC Responsibility

Signature of Authorised Officer of Tenderer: \_\_\_\_\_

	Principle & Compliance Requirement	Yes	No	Comment
7	<b>Security</b> <i>Records are protected against theft, misuse, and unauthorised access.</i>	YES		<i>Please refer to "ADDITIONAL INFORMATION/INNOVATION" and specifically the entirety of section "(v) noting Safedoc's unique and market leading security provisions.</i>
7.1	Storage areas and facilities are intruder resistant and access controlled.	YES		<i>Please refer to "ADDITIONAL INFORMATION/INNOVATION" and specifically the entirety of section "(v) noting Safedoc's unique and market leading security provisions.</i>
7.2	Records which are identified as critical, sensitive or containing in confidence material, are appropriately protected.	YES		<i>Please refer to "ADDITIONAL INFORMATION/INNOVATION" and specifically the entirety of section "(v) noting Safedoc's unique and market leading security provisions.</i>

**\*Further details of facilities advantages set out in the annexure hereto**

Signature of Authorised Officer of Tenderer: \_\_\_\_\_

**ITEM NO. 13****FILE NO: 1190-001****REQUEST FOR FINANCIAL ASSISTANCE**

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

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
    - a) MS Society QLD – Reimbursement of fees paid to PSC in association with the hire of the Senior Citizens Hall for a fund raising dinner – Mayoral Funds - \$188.00;
    - b) Port Stephens Athletics Club – Reimbursement of team members levy fees to assist with contribution of team preparations and championships for the Australian Little Athletics Championships in Canberra April 2013 – Mayoral Funds - \$500.00;
    - c) Black Dog Ride Pty Ltd – Reimbursement of Hire Fee for Fly Point Park for the Black Dog Motorcycle Event held 24 March 2013 – Mayoral Funds - \$491.00.
- 

**ORDINARY COUNCIL MEETING – 23 APRIL 2013****COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Chris Doohan</b> <b>Councillor Sally Dover</b>
	That the recommendation be adopted.

**MOTION**

<b>111</b>	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	It was resolved that the recommendation be adopted.

**BACKGROUND**

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

## MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

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)
4. Community Capacity Building

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

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

### MAYORAL FUNDS – Mayor MacKenzie

MS Society QLD	Reimbursement of fees paid to PSC in association with the hire of the Senior Citizens Hall for a fund raising dinner	\$188.00
Port Stephens Athletics Club	Reimbursement of team members levy fees to assist with contribution of team preparations and championships for the Australian Little Athletics Championships in Canberra April 2013	\$500
Black Dog Ride Pty Ltd	Reimbursement of Hire Fee for Fly Point Park for the Black Dog Motorcycle Event held 24 March 2013	\$491.00

### FINANCIAL/RESOURCE IMPLICATIONS

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

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	\$1,179	Mayoral Funds
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**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.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the reputation of Port Stephens Council may be affected.	Low	Adopt the recommendation	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

- 1) Mayor;
- 2) Councillors;
- 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. 14

## 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 23 April, 2013.

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No:	Report Title
-----	--------------

- |   |   |
|---|---|
| 1 | Quarterly Report of Mayor and Councillor Expenses |
| 2 | Cash and Investments held at 31 March 2013        |

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### ORDINARY COUNCIL MEETING – 23 APRIL 2013

#### COMMITTEE OF THE WHOLE RECOMMENDATION

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

General Manager returned to the meeting at 6.59pm.

097	Councillor Sally Dover Councillor Ken Jordan
	It was resolved that Council move out of Committee of the Whole.

#### MOTION

112	Councillor Ken Jordan Councillor Sally Dover
	It was resolved that the recommendation be adopted.



# INFORMATION PAPERS



INFORMATION ITEM NO. 1

**QUARTERLY REPORT OF MAYOR AND COUNCILLOR EXPENSES**

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REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER  
GROUP: GENERAL MANAGERS GROUP

FILE: PSC2010-04205

**BACKGROUND**

The purpose of this report is to provide the quarterly expenses of the Mayor and Councillors which have been incurred in accordance with the Payment of Expenses and Provision of Facilities to Councillors policy.

The table at **(ATTACHMENT 1)** also includes the total number of meetings attended during the period.

**ATTACHMENTS**

- 1) Quarterly Report of Mayor and Councillor Expenses.

# MINUTES FOR ORDINARY COUNCIL – 23 APRIL 2013

## ATTACHMENT 1 QUARTERLY REPORT – JANUARY 2013 TO MARCH 2013

			Cr Bruce MacKenzie	Cr Chris Doofan	Cr Geoff Dingle	Cr John Morello	Cr John Neil	Cr Ken Jordan	Cr Paul Le Moille	Cr Peter Kaser	Cr Sally Doyer	Cr Steve Tucker	TOTALS
Total Council Meetings Attended (5held)			3	3	3	2	2	3	3	3	3	3	
		Limits as per policy	1280	1287	1275	1288	1286	1283	1289	1281	1282	1278	
Councillor Mobile Rental	802.123	\$200 per month	\$110.00	\$300.00	\$196.00	\$364.00	\$134.00	\$145.00	\$0.00	\$219.00	\$298.00	\$144.00	\$1,910.00
Councillor Mobile Calls	803.123		\$131.00	\$0.00	\$0.00	\$0.00	\$0.00	\$133.00	\$0.00	\$0.00	\$0.00	\$0.00	\$264.00
Councillor Landline Phone Rental	804.123		\$0.00	\$0.00	\$186.00	\$95.00	\$164.00	\$91.00	\$0.00	\$0.00	\$180.00	\$38.00	\$754.00
Councillor Landline Phone Calls	805.123		\$0.00	\$0.00	\$61.00	\$46.00	\$0.00	\$139.00	\$0.00	\$0.00	\$159.00	\$0.00	\$405.00
Councillor Fax Rental	807.123		\$0.00	\$0.00	\$0.00	\$0.00	\$16.00	\$36.00	\$0.00	\$0.00	\$0.00	\$0.00	\$52.00
Councillor Fax Calls	808.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Internet	806.123	\$60 per month	\$0.00	\$67.00	\$164.00	\$164.00	\$164.00	\$164.00	\$0.00	\$0.00	\$55.00	\$55.00	\$833.00
Councillor Intrastate Travel Expenses	801.123	\$6,000 per year	\$0.00	\$208.00	\$633.00	\$201.00	\$1,139.00	\$289.00	\$0.00	\$0.00	\$1,319.00	\$173.00	\$3,962.00
Councillor Intrastate out of pocket expenses	809.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate Travel (out of NSW)	810.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$354.00	\$0.00	\$0.00	\$0.00	\$0.00	\$354.00
Councillor Interstate out of pocket expenses	813.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate Accommodation (out of NSW)	811.123	\$3,500 per year	\$502.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$502.00
Councillors Intrastate Accommodation	812.123		\$480.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$480.00
Councillor Conferences	814.123		\$3,876.00	\$0.00	\$0.00	\$0.00	\$463.00	\$1,614.00	\$0.00	\$0.00	\$635.00	\$0.00	\$6,588.00
Councillor Training	815.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Partner Expenses	816.123	Mayor \$1,000 per term Cts \$500 per term	\$217.00	\$0.00	\$0.00	\$0.00	\$136.00	\$459.00	\$0.00	\$0.00	\$0.00	\$0.00	\$812.00
Councillor Computers	817.123	\$3,000 per term	\$0.00	\$2,727.00	\$53.00	\$0.00	\$0.00	\$2,727.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,507.00
Councillor Stationary	818.123	No limit.	\$42.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$42.00
Councillor Awards/Ceremonies/Diners	819.123	\$100 per day	\$910.00	\$0.00	\$0.00	\$114.00	\$139.00	\$136.00	\$25.00	\$20.00	\$530.00	\$20.00	\$1,894.00
Councillor Child Care Costs	820.123	\$2,000 per term	\$0.00	\$73.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$73.00
Councillor Allowances		Mayor \$54,380 per annum. Cts \$17,060 per annum	\$14,322.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$4,798.00	\$57,504.00
TOTALS			\$20,590.00	\$8,173.00	\$6,091.00	\$5,782.00	\$7,153.00	\$11,085.00	\$4,823.00	\$5,037.00	\$7,974.00	\$5,228.00	\$81,936.00

INFORMATION ITEM NO. 2

**CASH AND INVESTMENTS HELD AT 31 MARCH 2013**

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**REPORT OF:** TIM HAZELL – FINANCIAL SERVICES SECTION 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 2013.

**ATTACHMENTS**

- 1) Cash and investments held at 31 March 2013;
- 2) Monthly cash and investments balance March 2012 to March 2013;
- 3) Monthly Australian term deposit index March 2012 to March 2013.

ATTACHMENT 1

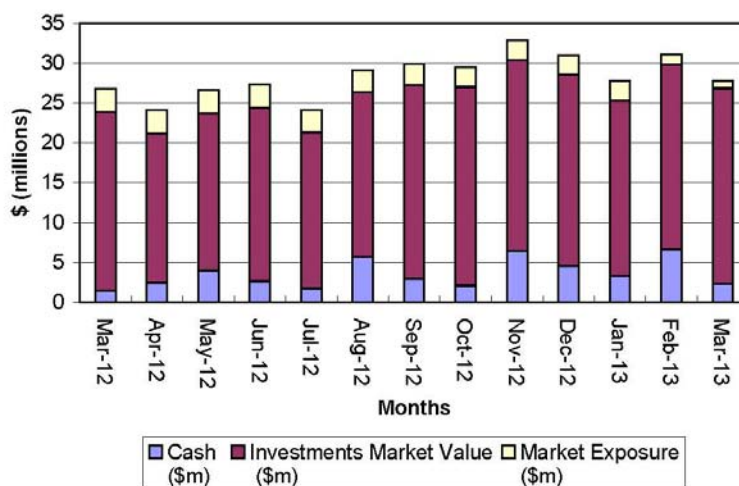
CASH AND INVESTMENTS HELD AS AT 31 MARCH 2013								
ISSUER	BROKER	RATING	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
SUNCORP-METWAY LTD	SUNCORP	A1/A+	TD	4.60%	91	8-Apr-13	1,000,000	1,000,000
PEOPLES CHOICE CREDIT UNION	CURVE	A2/BBB+	TD	4.41%	120	10-Apr-13	1,000,000	1,000,000
BANK OF QUEENSLAND LTD	CURVE	A2/BBB+	TD	4.76%	150	19-Apr-13	1,000,000	1,000,000
POLICE CREDIT UNION LTD	RIM	N/R	TD	4.67%	150	22-Apr-13	1,000,000	1,000,000
B & E LTD	RIM	N/R	TD	4.40%	90	22-Apr-13	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	4.53%	120	7-May-13	1,000,000	1,000,000
SUNCORP-METWAY LTD	SUNCORP	A1/A+	TD	4.52%	92	7-May-13	1,000,000	1,000,000
POLICE CREDIT UNION LTD	FARQUHARSON	N/R	TD	4.45%	120	14-May-13	1,000,000	1,000,000
ING BANK (AUSTRALIA) LTD	CURVE	A1/A	TD	4.31%	122	27-May-13	1,000,000	1,000,000
ME BANK	ME BANK	A2/BBB	TD	4.40%	93	19-Jun-13	1,000,000	1,000,000
ING BANK (AUSTRALIA) LTD	FIIG	A1/A	TD	4.30%	122	26-Jun-13	1,000,000	1,000,000
WAW CREDIT UNION COOPERATIVE LTD	FIIG	N/R	TD	4.38%	100	3-Jul-13	2,000,000	2,000,000
PEOPLES CHOICE CREDIT UNION	FARQUHARSON	A2/BBB+	TD	4.30%	128	17-Jul-13	1,000,000	1,000,000
BEIRUT HELLENIC BANK LTD	BHB	N/R	TD	4.50%	127	17-Jul-13	1,000,000	1,000,000
BEIRUT HELLENIC BANK LTD	BHB	N/R	TD	4.50%	121	17-Jul-13	1,000,000	1,000,000
ME BANK	ME BANK	A2/BBB	TD	4.40%	173	7-Aug-13	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	RIM	P-3/Baa3	TD	4.30%	181	28-Aug-13	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	FIIG	P-3/Baa3	TD	4.42%	184	11-Sep-13	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	4.37%	184	15-Sep-13	1,000,000	1,000,000
BANK OF QUEENSLAND LTD	BOQ	A2/BBB+	TD	4.50%	278	18-Dec-13	1,500,000	1,500,000
SUB TOTAL (\$)							21,500,000	21,500,000
OTHER INVESTMENTS								
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99%	10yrs	30-Jun-13	500,000	500,000
GRANGE SECURITIES "KAKADU AA"	GRANGE	CCC	CDO	4.35%	7yrs	20-Mar-14	1,000,000	330,100
DEUTSCHE BANK TELSTRA LNK DEP. NTE	FIIG SECURITIES	A+	FRN	4.43%	7yrs	30-Nov-14	500,000	485,000
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99%	10yrs	31-Dec-14	500,000	500,000
NEXUS BONDS LTD "TOPAZ AA-"	GRANGE	A+p	CDO	0.00%	10yrs	23-Jun-15	412,500	358,879
ANZ ZERO COUPON BOND	ANZ	AA	BOND	0.00%	9yrs	1-Jun-17	1,017,876	850,883
SUB TOTAL (\$)							3,930,376	3,024,862
INVESTMENTS TOTAL (\$)							25,430,376	24,524,862
CASH AT BANK (\$)							2,300,640	2,300,640
TOTAL CASH AND INVESTMENTS (\$)							27,731,016	26,825,502
CASH AT BANK INTEREST RATE				2.95%				
BBSW FOR PREVIOUS 3 MONTHS				3.04%				
AVG. INVESTMENT RATE OF RETURN				4.22%				
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE			
CDO = COLLATERALISED DEBT OBLIGATION					FRSD = FLOATING RATE SUB DEBT			
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
P GESLING								

ATTACHMENT 2

Cash and Investments Held

Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Mar-12	1.391	22.465	2.965	26.821
Apr-12	2.441	18.722	2.959	24.121
May-12	3.931	19.700	2.981	26.611
Jun-12	2.597	21.774	2.906	27.277
Jul-12	1.724	19.576	2.854	24.154
Aug-12	5.655	20.655	2.775	29.086
Sep-12	2.945	24.263	2.667	29.875
Oct-12	2.066	24.918	2.512	29.496
Nov-12	6.388	23.962	2.468	32.818
Dec-12	4.524	24.003	2.427	30.955
Jan-13	3.291	21.993	2.438	27.721
Feb-13	6.608	23.191	1.240	31.038
Mar-13	2.301	24.525	0.906	27.731

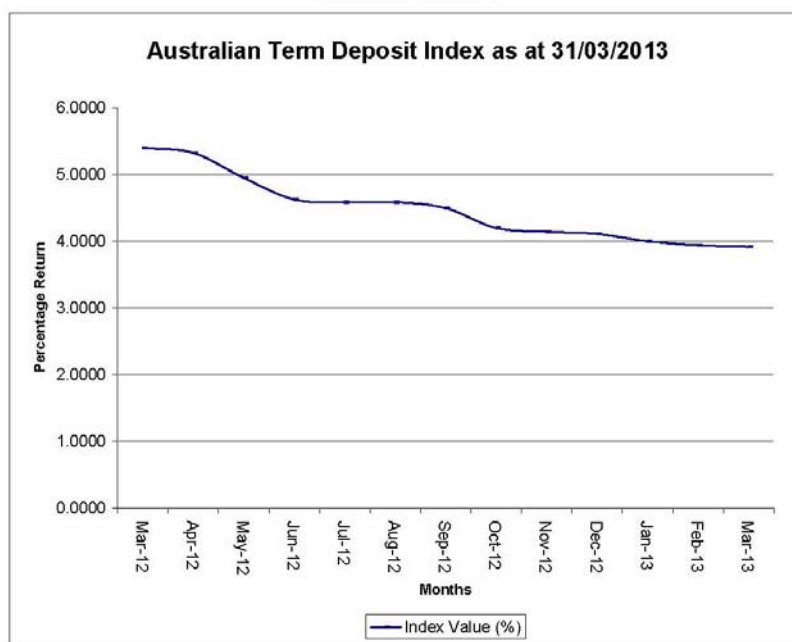
Cash and Invested Funds for the Period ended 31/03/2013



ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	Value (%)
Mar-12	5.3972
Apr-12	5.3227
May-12	4.9508
Jun-12	4.6252
Jul-12	4.5808
Aug-12	4.5858
Sep-12	4.4974
Oct-12	4.1994
Nov-12	4.1428
Dec-12	4.11
Jan-13	4.0025
Feb-13	3.94
Mar-13	3.9185



# NOTICE OF MOTION



# NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217 PSC2012-01190

## SECTION 94 FUNDS REALLOCATION – FERN BAY COMMUNITY SHIPPING CONTAINER (BAYWAY VILLAGE)

COUNCILLOR: STEVE TUCKER

### THAT COUNCIL:

- 1) Reallocate the Section 94 funds that were approved for the purchase of a community shipping container for the Fern Bay (Bayway Village) Men's Shed to allow the Men's Shed Committee to purchase fit-out items for the current shed in lieu of purchasing a container.

### ORDINARY COUNCIL MEETING – 23 APRIL 2013

### MOTION

113	<b>Mayor Bruce MacKenzie</b> <b>Councillor Ken Jordan</b>
	It was resolved that Council reallocate the Section 94 funds that were approved for the purchase of a community shipping container for the Fern Bay (Bayway Village) Men's Shed to allow the Men's Shed Committee to purchase fit-out items for the current shed in lieu of purchasing a container.

### BACKGROUND REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING & ENVIRONMENTAL SERVICES SECTION MANAGER

### BACKGROUND

Council considered a notice of motion on the 11th December 2012 to allocate repealed S.94 funds to a number of projects. This included an allocation for Fern Bay Van Village community shipping container of \$4,000.

The background report provided by Community and Recreational Resources at the time provided the following:

The projects listed for funding in this Notice of Motion contribute to community and recreation capital infrastructure. The allocation of these funds will:

(a) match other sources of funds and allow some projects listed to be completed out right and

(b) provide seed funds for other projects to enable plans and matching grant funding to be pursued.

Following legal advice the allocation of repealed funds was exhibited for 28 days in accordance with the Local Government Act. The Council considered a report on submission received during the exhibition from the Community and Recreational Services Section Manager on the 26th March 2013 and resolved to adopt the allocation in accordance with its previous resolution of 11th December 2012.

Should Council wish to re-allocate the funds, re-exhibition will not be required.

# CONFIDENTIAL ITEMS



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

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

## ORDINARY COUNCIL MEETING – 23 APRIL 2013 MOTION

114	Councillor Chris Doohan Councillor Ken Jordan
	It was resolved that Council move into confidential session.

ITEM NO. 12

FILE NO: T02-2013

**T03-2013 – ARCHIVE RECORDS PHYSICAL STORAGE**

REPORT OF: DUNCAN BURNS – BUSINESS SYSTEMS SUPPORT SECTION MANAGER

GROUP: CORPORATE SERVICES GROUP

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ORDINARY COUNCIL MEETING – 23 APRIL 2013

**MOTION**

115	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that Safedoc Pty Limited be awarded tender T03-2013 Archive Records Physical Storage for a period of three (3) years with the option (at Council's sole discretion) to extend the contract for a further three (3) year period in accordance with the schedule of rates submitted.

There being no further business the meeting closed at 7.11pm.

*I certify that pages 1 to 184 of the Open Ordinary Minutes of Council 23 April 2013 were confirmed by Council at its meeting held on 14 May 2013.*

.....  
**Bruce MacKenzie**  
**MAYOR**