

MINUTES 9 DECEMBER 2014



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 9 December 2014, commencing at 6.14pm.

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

Cr Paul Le Mottee entered the meeting at 6.22pm, during Item 9 in Committee of the Whole.

325	Councillor Steve Tucker Councillor John Morello
	It was resolved that the apology from be Cr Ken Jordan received and noted.
326	Councillor Steve Tucker Councillor Sally Dover
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 25 November 2015 be confirmed.
	Cr Paul Le Mottee declared a pecuniary conflict of interest in Items 1, 2, 3, 4 and 12. The nature of the interest being the Le Mottee Group has done works on these sites.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2005-4217

ANNUAL FINANCIAL REPORTS 2013-2014

THAT COUNCIL:

- 1) That the submission be noted.
-

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014 MOTION

327	Mayor Bruce MacKenzie
	It was resolved that the submission be noted.

BACKGROUND

As required by the Local Government Act 1993, Council is required to formally adopt its Annual Financial Reports. These reports are also required to be exhibited publically, with public submissions sought. Port Stephens Council formally adopted the 2013-2014 Annual Financial Reports on 25 November 2014. Public submissions were sought and at the close of the exhibition period one submission had been received from the Tomaree Ratepayers and Residents Association.

The submission requested that Council reconsider the past practice of separately reporting on four business units, being the Civil Works, Property Development, Holiday Parks and Newcastle Airport. Council has discretion on the categorisation of business units and had resolved to establish these following the implementation of the 1993 Local Government Act. In a report to Council in April 2014 it was outlined that these business units were no longer applicable and the mandatory format of these units served little purpose. Council formally resolved to discontinue the categorisation of these units.

The TRRA contends that information contained within these reports was useful and served a specific purpose, particularly in relation to the Holiday Parks. It is suggested that contact will be made with the TRRA to provide a high level of financial analysis to assist them in their enquiries.

The submission has been forwarded to Council's external auditor as required by legislation.

A copy of the submission has been provided to Councillors under separate cover.



By email:
The General Manager
Port Stephens Council
council@portstephens.nsw.gov.au
3 December 2014

Dear Mr. Wallis
RE: Submission – Port Stephens Council Annual Financial Statement.

Tomaree Ratepayers and Residents Association Inc. makes the following submission in accordance with Section 420 of the Local Government Act, 1993 submission in respect of the Annual Financial Statements 2013-2014 of Port Stephens Council.

In 2013, Port Stephens Council published their 2013 General Purpose Financial Statements. At the back of the statements was a set of Special Purpose Financial Statements which gave vital information to the community on the Council's various Business Units. For example, they showed that PSC lost \$856,000 running their Holiday Parks in 2013. This is a vital piece of information as is the other information contained in these accounts.

This information and similar data from previous Annual Reports has been scrutinised by the Tomaree Ratepayers and Residents Association Inc. leading to detailed submissions which queried the commercial strategies of PSC and called for specific actions to improve returns to the Port Stephens community from these Businesses. We succeeded in prompting a rethink of the business and operating strategy for Samurai Beach Resort which had been losing up to \$700,000 per annum for a number of years and a restructure of the financial arrangements of the Newcastle Airport Corporation which has resulted in a more favourable delivery of dividends to the Council. We also believe that TRRA's queries also secured major reforms in the management of Holiday Park profits to ensure that the associated Trust Funds were made available for improvements on Crown Reserves and not channelled into in Council's general accounts.

On 8 April 2014, PSC voted to no longer produce Special Purpose Financial Statements for Business Units. TRRA notes that the 2013-2014 Annual Financial Statements have been prepared in accordance with this decision of Council. As a consequence, all of the vital information in these Statements in respect of council's Business Units is now hidden in the General Purpose Financial Statements.



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Accordingly, it is virtually impossible for Councillors or the community to be informed on the performance of the Business Units and to query these operations as TRRA Inc. has done in the past.

We also note that PSC changed auditors in 2014 from Price Waterhouse Coopers to Pitcher Partners. The new auditors report makes no reference to the performance or financial management of its Business Units. Pitcher Partners make no comment on Council's decision to dispense with Special Purpose Financial Statements. TRRA Inc. would appreciate your advice as to:

1. Whether there are separate 2013-2014 Annual Financial Statements for each of the Council's Business Units?
2. Whether these are audited by Pitcher Partners or some other auditor?
3. Whether these Statements (if produced) are reported to Councillors?
4. Whether these Statements are available to the ratepayers and or the general Public?

The 8 April 2014 Agenda Paper recommending the policy to no longer publish the Special Purpose Financial statements on this matter advised Councillors that "one of the main Reasons for preparing the Special Purpose Financial Reports is to satisfy the disclosure requirements under "competitive neutrality" considerations." Council was also reminded it had previously determined under the various guidelines for this obligation to classify the following activities as a "Category 2 business".

- Property Development
- Holiday Parks
- Civil works
- Newcastle Airport

The 8 April advice to Council on competitive neutrality drew attention to the fact that it was open to councils to exercise a degree of discretion in determining whether to provide Special Purpose Financial Statements for its business units. The advice did not provide any analysis of changes in circumstances relating to the criteria for these earlier determinations made by Council. In TRRA's view no justification was offered for the declassification of any of Council's business units as "businesses" under the guidelines on "competitive neutrality".

Having avoided serious discussion of the definitions of "business units," the advice to Councillors supported its recommendation to dispense with annual reporting on Business Unit finances on the grounds that "the Information provided was manual by nature, time consuming to prepare, confusing to the users of the financial statements and when assessed on the whole adds no benefit to the users of Councils Financial Statements".



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TRRA Inc. disputes each of these reasons for not producing the statements on the following grounds:

- *Manual by nature and time consuming to prepare.* Any decent modern accounting program will produce the base information from which to prepare these statements. They may be time consuming to prepare but this is a responsibility of running a Council. Many other Councils with comparable Business Units produce this information for users and PSC must not be allowed to abrogate their responsibility to produce full and fair accounts. Most importantly TRRA would expect that PSC would, in the interests of its own prudent commercial practice, produce separate annual financial statements for each of its business units and submit these to their auditor.
- *Confusing to users.* The Special Purpose Financial Statements are easy to understand by anyone with a good general knowledge. They include individual P&Ls and Balance Sheets for the Business Units. Without these, this information is hidden in the General Purpose Financial Statements and lacks transparency.
- *Adds no benefit to the users of Council's Financial Statements.* Council's executive, all councillors and the community at large should have the opportunity to scrutinise the performance of each Business Unit to ensure that it is making a worthwhile contribution to the financial viability of the Council as a whole and if not, to ask why.

Our concern is that the 8 April 2014 decision denies the community access to critical information and stands in the way of healthy public scrutiny. Lack of transparency leads to corruption and we have seen enough of this from elected representatives in recent time, particularly in the Hunter.

In addition to this submission TRRA Inc. has written to the Minister and Shadow Minister for Local Government advising of its concerns in relation to this serious reduction in transparency of PSC Annual Financial Reports and requesting their action to secure reinstatement of the Business Unit Annual Financial Statements to Council's Annual Reporting.

Recommendations

We ask that PSC revisit its decision of 8 April on the publication of Special Purpose Financial Statements in respect of its Business Units.

Notwithstanding any decision in this regard, we also request that the Annual Financial Statements of Council's Business Units and any associated audit reports be made accessible to the public if requested.

Yours faithfully

Terry Wall
President
Tomaree Ratepayers & Residents Association Inc.



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MAYORAL MINUTE

ITEM NO. 2

FILE NO: PSC2014-01123

CONSTRUCTION OF HELIPAD AT TOMAREE COMMUNITY HOSPITAL, NELSON BAY

THAT COUNCIL:

- 1) That council make representations to the appropriate authorities, including local member Craig Baumann MP, Hunter Area Health and the Hon. Peter Dutton MP - Minister for Health, to build a Heli Pad adjacent to the Tomaree Community Hospital in Nelson Bay.
-

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014

MOTION

328	Mayor Bruce MacKenzie
	It was resolved that Council make representations to the appropriate authorities, including local member Craig Baumann MP, Hunter New England Area Health and the Hon. Jillian Skinner MP - Minister for Health, to build a Heli Pad adjacent to the Tomaree Community Hospital in Nelson Bay.

BACKGROUND

The purpose of this Mayoral Minute is for Council to consider writing to the NSW Minister for Health, The Hon. Jillian Skinner, MP, Craig Baumann MP, Member for Port Stephens, and Michael DiRienzo, Chief Executive of Hunter New England Health, to seek support for the construction of a helipad at the Tomaree Community Hospital, Nelson Bay.

The Tomaree Community Hospital provides health care to the community of the Tomaree peninsula and features 12 beds, as well as two further beds primarily for adult palliative care patients. The hospital provides emergency care for adult and paediatric patients, adult acute medical inpatient care, adult post-acute surgical care, adult emergency respite and postnatal care for women eligible for early discharge from their obstetric hospital.

The Community Hospital provides doctor and nursing services 365 days a year. It currently does not have access to an on-site helipad for use in emergency cases requiring urgent relocation to Newcastle's John Hunter Hospital or to tertiary hospitals

in Sydney, such as Royal North Shore, Westmead, Prince of Wales, Royal Prince Alfred or Concord.

In such cases, patients are required to be transported by Ambulance to Bill Strong Oval, approximately 800 metres away by road, from where airlift can be safely undertaken.

COUNCIL REPORTS

ITEM NO. 1

FILE NO: 16-2014-492-1

DEVELOPMENT APPLICATION FOR AN EARTH MOUND AND SINGLE STOREY DWELLING AT LOT: 5A DP: 9901 NO. 19 HIGH ST, HINTON

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2014-492-1 (earth mound and single storey dwelling) for an earth mound and single storey dwelling for the following reasons.
 - a) The subject land is located entirely in the Floodway, Excessive Depth Floodplain Management Zone and is subjected to a high hazard flood category for smaller events up to 5% AEP (1 in 20 years) and greater. Due to the risk associated with velocities and/or depth which pose a risk to structures and/or the safety of persons the land is deemed unsuitable for residential development;
 - b) The development is inconsistent with the provisions of Clause 7.3 of Port Stephens Local Environmental Plan 2013, in particular the objectives of this clause for development on flood prone land including minimising the flood risk to life and property, allowing development which is compatible with the land's flood risk and avoiding significant adverse impacts on the flood behaviour and environment;
 - c) The floodway definition under the NSW Floodplain Risk Management Guideline (Department of Environment and Climate Change) is considered undesirable land use due to; potential redirection flows, danger to personal safety and significant financial losses due to the damage potential.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014
MOTION

329	Councillor Steve Tucker Councillor Chris Doohan
	It was resolved that Council move into Committee of the Whole.

	Councillor Steve Tucker Councillor Chris Doohan
	<p>That Item 9 and 10 be brought forward and dealt with prior to Item 1 in Committee of the Whole.</p>

COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Paul Le Mottee left the meeting at 6.41pm.

The meeting adjourned at 6.41pm for ten minutes to allow Councillors to read draft conditions of consent for Items 1 to 4.

The meeting resumed at 6.49pm, with all present that were present at the adjournment, with the exception of Cr Paul Le Mottee.

331	Mayor Bruce MacKenzie Councillor Chris Doohan
	<p>That development application 16-2014-492-1 (earth mound and single storey dwelling) for an earth mound and single storey dwelling be approved with the following conditions of consent:</p> <ol style="list-style-type: none"> 1. Prior to the commencement of any works consent from the Minister is to be obtained under Clause 256 of the Water Management Act 2000 for works adjacent levee banks. 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 or is noted in red by Council on the approved plans. 3. All building work must be carried out in accordance with the provisions of the Building Code of Australia. 4. 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. 5. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-

	<ul style="list-style-type: none"> * Monday to Friday, 7am to 6pm; * Saturday, 8am to 1pm; * No construction work to take place on Sunday or Public Holidays.
6.	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.
7.	No construction or demolition work shall obstruct pedestrian or vehicular traffic in a public place, a hoarding or fence must be erected between the construction site and the public place.
8.	A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.
9.	The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats.
10.	Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
11.	<p>Collected stormwater runoff shall be piped to designated onsite stormwater tanks.</p> <p>All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties.</p> <p>The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.</p>
12.	Prior to the issue of any Occupation Certificate the proposed earth mound shall be fully turfed and be maintained for the life of the development.

	<p>13. 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 for land filling purposes, without prior approval of council is prohibited.</p> <p>14. 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. All associated fill and batters are to remain within the property boundaries.</p> <p>15. Prior to the issue of the Construction Certificate a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).</p> <p>16. Prior to the issue of the Occupation Certificate an Approval to Operate shall be obtained by Council in accordance with the Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.</p> <p>17. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005). The Flood Planning Level for this development is 7.1metres AHD. The following design precautions must be adhered to:-</p> <ul style="list-style-type: none"> a. The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level. b. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge. c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods. d. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible.
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	<p>e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level.</p> <p>f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed.</p> <p>g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.</p> <p>h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level.</p> <p>i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.</p>
18.	The Designated flood is the 1 % AEP Flood. A structural engineer shall design and provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood prior to the issue of the Construction Certificate.
19.	A flood management plan which covers evacuation, a demonstrated practical understanding of predicted flood levels and impact to access to/from the site including flood level and duration of inundation, the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc. incorporating the State Emergency Services Business Floodsafe Toolkit, shall be submitted and approved by Council prior to the issue of the Construction Certificate.
20.	Septic and holding tank lids, inspection openings and associated electrical equipment connections and switchgear must be located above the 1% AEP Flood level.
21.	Any on-site effluent on site disposal must be carried out in an area above the 5% AEP flood level.

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

MINUTES FOR ORDINARY MEETING – 9 DECEMBER 2014

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

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

MOTION

Cr Paul Le Mottee left the meeting at 7.26pm prior to Item 1, in Open Council.

	Councillor Chris Doohan Councillor Steve Tucker
	<p>It was resolved that development application 16-2014-492-1 (earth mound and single storey dwelling) for an earth mound and single storey dwelling be approved with the following conditions of consent:</p> <ol style="list-style-type: none">1. Prior to the commencement of any works consent from the Minister is to be obtained under Clause 256 of the Water Management Act 2000 for works adjacent levee banks.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 or is noted in red by Council on the approved plans.3. All building work must be carried out in accordance with the provisions of the Building Code of Australia.4. 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.5. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-<ul style="list-style-type: none">* Monday to Friday, 7am to 6pm;* Saturday, 8am to 1pm;* No construction work to take place on Sunday or Public Holidays.6. 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.

	<p>7. No construction or demolition work shall obstruct pedestrian or vehicular traffic in a public place, a hoarding or fence must be erected between the construction site and the public place.</p> <p>8. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.</p> <p>9. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats.</p> <p>10. Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.</p> <p>11. Collected stormwater runoff shall be piped to designated onsite stormwater tanks.</p> <p>All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties.</p> <p>The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.</p> <p>12. Prior to the issue of any Occupation Certificate the proposed earth mound shall be fully turfed and be maintained for the life of the development.</p> <p>13. 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 for land filling purposes, without prior approval of council is prohibited.</p> <p>14. 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. All associated fill and batters are to remain within the property boundaries.</p>
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	<p>15. Prior to the issue of the Construction Certificate a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).</p> <p>16. Prior to the issue of the Occupation Certificate an Approval to Operate shall be obtained by Council in accordance with the Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.</p> <p>17. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005). The Flood Planning Level for this development is 7.1metres AHD. The following design precautions must be adhered to:-</p> <ul style="list-style-type: none"> a. The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level. b. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge. c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods. d. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible. e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level. f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed. g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.
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	<p>h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level.</p> <p>i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.</p>
18.	The Designated flood is the 1 % AEP Flood. A structural engineer shall design and provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood prior to the issue of the Construction Certificate.
19.	A flood management plan which covers evacuation, a demonstrated practical understanding of predicted flood levels and impact to access to/from the site including flood level and duration of inundation, the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc. incorporating the State Emergency Services Business Floodsafe Toolkit, shall be submitted and approved by Council prior to the issue of the Construction Certificate.
20.	Septic and holding tank lids, inspection openings and associated electrical equipment connections and switchgear must be located above the 1% AEP Flood level.
21.	Any on-site effluent on site disposal must be carried out in an area above the 5% AEP flood level.

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 Chris Doohan, Steve Tucker, John Morello and Sally Dover.

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

BACKGROUND

The purpose of this report is to present a development application to Council for determination. The application has been called to Council by Mayor Bruce MacKenzie with the reason being - Council staff are recommending to refuse the application due to high flooding risks. The call to Council form is attached as **(ATTACHMENT 3)**.

The key issue with the development application is flooding. Apart from that the land use is permissible in the zone and other impacts of the dwelling are suitable and compliant with the relevant Development Control Plan (DCP) requirements.

A site inspection of the property with Councillors was carried out on 26 November 2014.

The Proposal

The proposal is for the construction of a 4 bedroom dwelling and associated earth mound at Lot: 5A DP: 9901, No. 19 High St, Hinton. The dwelling is a single storey structure with a height of 5.77 m. The volume of fill required has not been submitted with the calculations although an average of approximate 2.6m of fill will be required over the nominated pad to achieve the required level. The earth mound and dwelling is located approximately 21m from the top of the levee bank for the Patterson River and 163m from High St.

Draft flood Policy

Council is in the process of drafting a Flood Policy to address future development in flood prone areas. Council subsequently made two resolutions. The first one being 24 June 2014 Notice of Motion 166; it was resolved that Council develop a strategy for building in flood prone land. The second being 12 August 2014 Matter Arising 200; It was resolved that no further development applications where flood prone land is involved be assessed until the flood prone policy is complete and that the draft flood prone policy be fast tracked. This Development Application was made prior to the second resolution on 8 August 2014.

Notwithstanding the fact that Council has resolved to create a policy in relation to dwellings on rural flood prone areas, it is considered unlikely that a future policy would support increased residential occupation in high hazard flood ways on a site such as this.

Flood Mapping

Current mapping locates the development within a designated Floodway zone, the Floodplain Risk Management Guideline (NSW Department of Environment and Climate Change, 2007) states that "Floodway's are generally areas where development is undesirable due to:

- The potential to redirect flows;
- The level of potential danger to personal safety;
- Significant financial losses due to potential damage".

The Role of the Office Environment and Heritage (OEH)

It is worthy to note that this development triggers an additional approval under the Water Management Act (Section 256) for works adjacent the existing levee bank. This approval is sourced from the Office of Environment and Heritage and is required

prior to the commencement of works. This process has not been initiated given the recommendation for determination and it is the applicant's responsibility.

Council can determine the application without the Water Management Act approval in place however the applicant is responsible for obtaining this approval prior to the commencement of any works. This can be achieved via a consent condition deferring works pending the approval, should Council support the application.

The Water management Act approval may lead to additional works that would lead to an amendment (S. 96) to the application as it is presented to Council for determination and it is the applicant's responsibility.

Planning Risk Rationale

The property is classified as a "Low Flood Island" and is considered highly hazardous in terms of Emergency Response Planning Classification of Communities as it will be surrounded by floodwaters in minor and major flooding and significantly inundated in times of extreme flooding.

The proposal is not consistent with Port Stephens Council Local Environmental Plan 2013 for development on flood prone land and the draft Council policy "Areas Affected by Flooding and/or Inundation Policy" in regards to the nature of flooding, social impacts and suitability of the land. Refer to Council's Flooding Report in **(ATTACHMENT 2)** for assessment details of the above.

Council adopted a revised Corporate Risk Management Policy on 27 November 2012. The policy includes Council's risk appetite statement that states:

"Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public."

"Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating."

A decision contrary to the recommendation presents an unacceptable risk to Council as per Council's standard risk management matrix. These unacceptable risks relate to Council and the local community in respect to public safety, Council reputation and legal exposure.

Servicing

The subject site requires an on-site sewerage management system (OSMS) as it is not serviced by the Hunter Water Corporation. The site is classified as a high hazard according to the Port Stephens Council OSMS hazard classifications maps. However due to the following site specific factors it is possible that a suitable system could be provided to service the dwelling:

- The property is a large lot size;
- Sufficient land is available on the proposed earth mound for an OSMS at an adequate height to minimise any impacts from flooding;
- The proposed development does not involve the subdivision of land thus there is no increase in the density of wastewater systems;
- The density of wastewater systems in proximity to the property is currently very low;
- The location of the proposed wastewater disposal area does not achieve prescribed setback distances to sensitive receptors such as the Paterson River. However a Wastewater Management Report prepared by a suitably experienced consultant has concluded, at a high level of certainty, that there is unlikely to be any off-site impacts;
- The proposed wastewater system and disposal method provides a high level of treatment, disinfection and containment.

In conclusion the site is not considered suitable for a dwelling and associated fill, the entire lot is located in a floodway and therefore construction of a mound for residential purposes is not deemed appropriate for this site. This application is considered not suitable due to the exposure to risks associated with flooding as outlined in the flooding assessment detailed in **(ATTACHMENT 2)**, furthermore the development is not in accordance with Council's management plans and policies of Australian best practice for the management of floodplains.

FINANCIAL/RESOURCE IMPLICATIONS

The application could be potentially challenged in the Land and Environment Court. Defending Council's determination could have financial implications.

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

LEGAL AND POLICY IMPLICATIONS

The Development Application is not consistent with relevant planning instruments, Flood development guidelines and studies including but not limited to: EP&A Act 1979, PSC LEP 2013, Floodplain Management in Australia: Best Practice Principles and Guidelines (CSIRO, 2000), NSW Floodplain Development Manual (NSW Department of Infrastructure, Planning and Natural Resources, 2005) and the Draft Port Stephens Council Areas Affected by Flooding and/or Inundation Policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the determination may be challenged in the Land and Environment Court by the Applicant.	Medium	Council is confident the assessment is robust and if required is able to proceed through the legal process.	Yes
There is a risk that the property floods and there is damage/loss to property/life.	Medium	Determine the application as per the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A possible positive socio-economic impact is that the owner is able to building a dwelling on their land.

This is outweighed however by the fact that increasing residential occupation within high hazard floodways does not make good planning sense long term.

Property and life could be compromised as Owner/occupiers/property could potentially be exposed floodwaters and/or isolated on or from the property for long periods time during flooding events imposing further demands on local and SES resources.

CONSULTATION

The application did not require public notification in accordance with Council's policies. The application was referred to Council's flooding engineers as per Council's service level agreements. Appropriate consultation with the applicant has been followed during the assessment process.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment;
- 3) Call to Council Form.

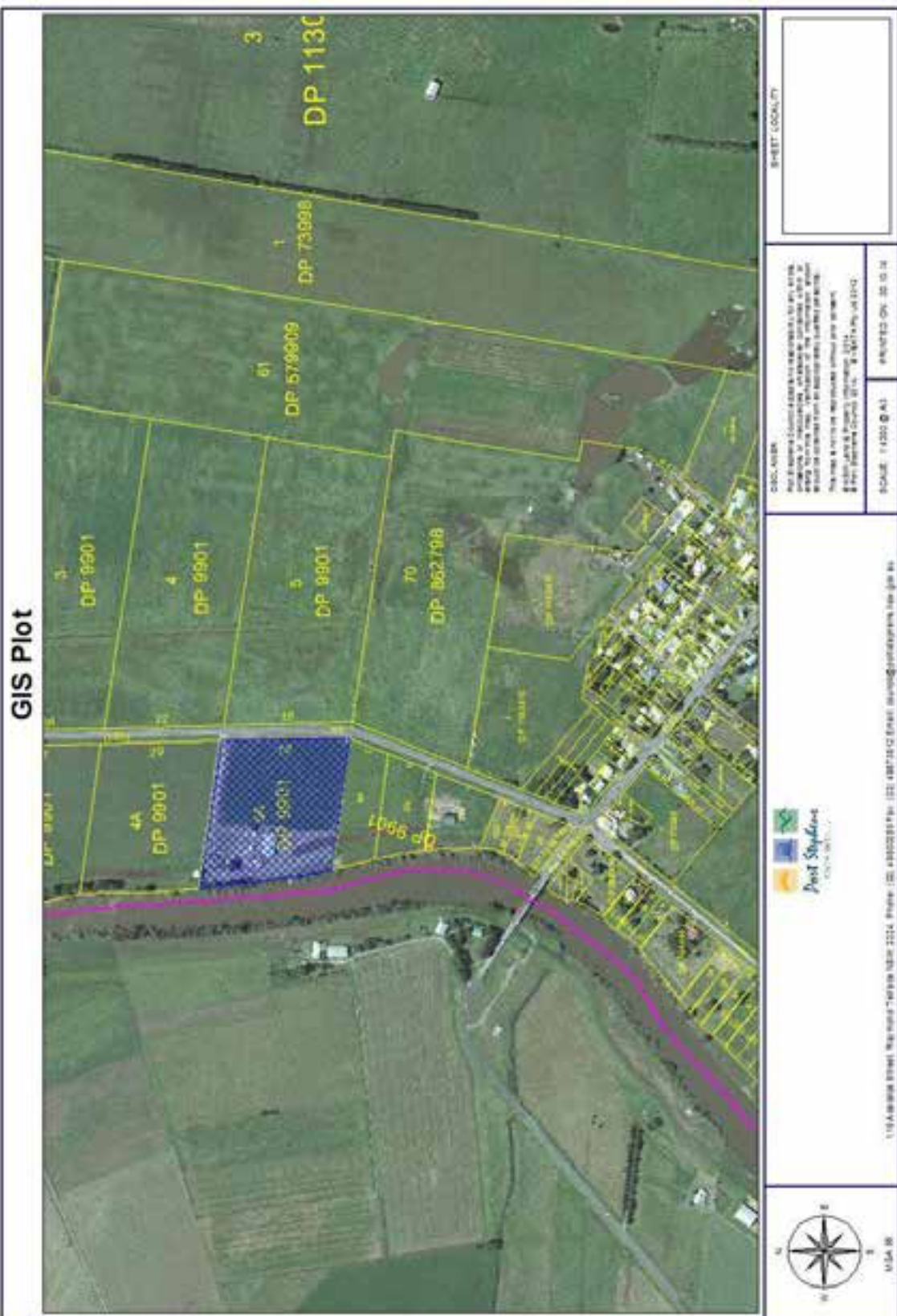
COUNCILLORS ROOM

Items listed below are also provided under separate cover:

- 1) 3418 DA1 Sheet 2 to 4 dated 6/08/2014;
- 2) Statement of Environmental Effect; Prepared by Advantage NSW.

TABLED DOCUMENTS

Nil.



ATTACHMENT 2

ASSESSMENT

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 applicant proposes the construction of single storey dwelling and associated earth mound.

THE APPLICATION

Owner	Mr D V & Mrs S A Redgrove
Applicant	Mr D V Redgrove
Detail Submitted	Development plans including: architectural plans and elevations, Statement of Environmental Effects Flood Evacuation Plan BASIX certificate

THE LAND

Property Description	Lot:5A DP:9901
Address	No.19 High Street, HINTON
Area	Approx 29,555m ²
Site description	The site located adjacent the Paterson river a number of existing sheds located across the site .
Characteristics	Flood prone land Acid Sulfate Soils (class 4)

THE ASSESSMENT

PLANNING PROVISIONS

<i>Environmental Planning and Assessment Act 1979</i>	79C Planning provisions
Port Stephens Local Environmental Plan (2013)	Zone RU1 Rural Primary Production Clause 4.3 Height of buildings Clause 7.1 Acid sulfate soils Clause 7.2 Earthworks Clause 7.3 Flood planning

Clause 7.6 Essential services

Port Stephens Development Control 86 Single and Dual Occupancy Dwellings Plan 2013

Statutory Acts and Regulations

Environmental Planning and Assessment (EP&A) Act 1979

Section 79C – Planning Assessment

An assessment under Section 79C of the Act has been undertaken throughout this report.

Port Stephens Local Environmental Plan (2013)

Zone RU1 Rural Primary Production

Dwellings and associated fill are permissible within the land zoning.

Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base:
Additional fill will reduce potential land for production use.
- To encourage diversity in primary industry enterprises and systems appropriate for the area:
No industry use proposed, application is for residential only, although it appears some current agricultural use is active on site. The owners wish to have livestock and would require a residence on site to monitor the cattle.
- To minimise the fragmentation and alienation of resource lands:
No subdivision is proposed although the use of large fill mounds may introduce fragmentation of the land.
- To minimise conflict between land uses within this zone and land uses within adjoining zones:
N/A adjacent zone are zone similarly and proposed development is permissible under the LEP

Clause 4.3 Height of buildings

Clause 4.3 specifies the maximum height of buildings for development is not to exceed the maximum height shown for the land of the 'height of buildings map'. No specified height is mapped for the property although due to the combination of excessive fill of approx. 2.6m plus 300mm to finished floor and a ridge height of 5.77m, the overall development from natural ground is approximately 8-9m. The height is on the threshold or most residential zoning maps of 8-9m.

Clause 7.1 Acid sulfate soils

The subject site is identified as Class 4 acid sulfate soils (ASS). Accordingly works more than 2 metres below the natural ground surface and works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface, as a result of excavations for footings, utility services and drainage. Due to the amount of fill excavation it is anticipated that ground disturbance kept to a minimum, although if the requirements above are triggered the applicant shall provide an acid sulphate management plan to be submitted to council.

Clause 7.2 Earthworks

Clause 7.2 seeks to ensure that earthworks will not have a detrimental impact upon the environment or surrounding properties. The development requires earthworks involving a maximum 1 meter of fill to facilitate services and construction. The proposed earthworks are well in excess of the 1m max required by the DCP and could have a major impact on the visual amenity of the landscape, redirection of potential floodwaters and or inundation patterns. No indication of the amount of fill required was submitted with the application. The area of the top of the pad is unspecified with unclear parameters on the amount of fill required to achieve the desired level. This will introduce a significant amount fill required on site as the average depth required is approximately 2.6m deep.

The current site plan provided with the application shows the extent of fill extending onto the adjoining property; this must be amended to keep the fill pad wholly on the site. It is recommended that the toe of all fill banks be kept 3m clear of property boundaries to allow a natural swale drain for overland flows. Additional to this no clear dimension have been shown nominating the extent of fill required, aging this should be amended to control the fill extent.

Clause 7.3 Flood Planning

Clause 7.3 seeks to minimise the flood risk to life and property associated with the use of land and to allow development only where it is compatible with the land's flood hazard so as to ensure that significant adverse impacts on flood behaviour and the environment are avoided. The application is not acceptable when considered in the context of clause 7.3 as the site is classified as floodway and is located within an area that conveys a significant portion of the flood flow. As such the proposed development may adversely affect other areas and adjoining properties.

Further, the property is affected by very significant flooding in events as frequent as the 20% Annual Exceedance Probability (AEP). AEP refers to the chance or probability of flooding occurring on-site. The AEP rating for the subject site indicates that on average the development would be subject to flooding approximately every five years.

The subject site is also located within the high provisional hazard category for 5% AEP and greater. Therefore there is increased potential for significant structural damage to buildings. The development is not compatible with the lands flood hazard and will result in an unacceptable risk, therefore it cannot be supported.

Clause 7.6 Essential services

Clause 7.6 requires the consent authority to be satisfied that essential services including water, electricity, sewage, stormwater and access are available to the site. The applicant will require onsite waste water treatment system and onsite water supply as the services are not available.

Port Stephens Development Control Plan 2013

Part B6 Single and Dual Occupancy Dwellings

The application has been assessed against the provisions of Development Control Plan 2013 (DCP2013), B6 – Single and Dual Occupancy Dwellings and is considered inappropriate development. The dwelling design is considered satisfactory although the land use inappropriate due to high flooding risk.

- 4.1 Site Coverage** – N/A.
- 4.2 Height** – No Specific height limits are set for the property although the current design reached approximately 8-9m above natural ground due to the amount of fill required to build above the 1% AEP level.
- 4.3 Number of Storeys** – 1 - complies
- 4.4 Setbacks** – N/A
- 4.5 Rural Setbacks** - Compliant, the development is approximately 108m from High Street
- 4.6 Building Form and Streetscape** - The continual approval of large fill mounds to accommodate residential development, sheds and associated infrastructure to support the habitable uses will eventually impacting on the overall landscape. The introduction of isolated mounds/hills will detract from the natural landscape creating an irregular undulating landscape in what is a predominantly flat grazing land. The elevated pockets associated to dwellings could also have an impact on the distant surrounding vistas due to the height of fill required for each development again detracting from the existing scenic outlooks.
- 4.7 Orientation to the Street Frontage** – Well setback from the street, not an issue
- 4.8 Bulk and Scale** - Bulk and scale of mound may have significant impacts on the visual amenity of the properties as mentioned in 4.6 above.
- 4.9 Solar access** – Complies
- 4.10 Privacy** – Complies
- 4.11 Landscaping** – Complies

4.12 Private Open Space – Complies

4.13 Car Parking – Complies

4.14 Earthworks – Earth works are well in excess of the permissible 1m fill in the DCP. It is proposed an approximate 2.6m of fill is required over (excluding the batter banks) to elevate the development to a level outside the 1% AEP. This amount of fill is considered undesirable and could have potential negative impacts on the rural landscape and also alter the flow paths of the flood waters. All could have a negative impact on adjacent properties and potential devaluation of properties.

4.15 Stormwater and Drainage – Stormwater will be conditioned to comply with councils current policies

4.16 Heritage and Conservation Areas – N/A

4.17 Energy Efficiency – Compliant

4.5 Retaining walls – N/A

Community consultation

In accordance with Council's Notification Policy, the proposed development was not required to be notified or advertised.

Internal referrals

Flood Engineer

Date: 19 September 2014

File No: 16-2014-492-1

Property Description: 19 High St HINTON, lot 5A DP 9901

Development Description: Mound and Dwelling

Assessment Outcome: **Recommend assessing officer seek withdrawal or refuse application**

Flood Assessment

Development Description:

- Mound and Dwelling & associated waste water system
- Proposed dwelling FFL: 7.1 m AHD
- Proposed Mound level – 6.57 m AHD
- Local site RL – 3.0- 3.5 – with current building (sheds and older dwelling at approx. 4.5 m AHD) – Levee running north – south adjacent to the river is at approx. 5.5 m AHD Flood prone land mapping (Blue indicated flood prone)

Catchment: Paterson River

Flood study: Paterson River Floodplain Management Study and Plan

5% AEP	2% AEP	1% AEP	0.5% AEP	0.2% AEP	PMP
Flood Level (mAHD)					
6.0	6.6	6.6	6.8	7.0	7.5
FPL (m AHD)		7.1			
Hazard Cat					
High		High	High	High	High
Hydraulic Cat			Floodway		

Notes:

Flood Level – Figure 4.10 to 4.14

Extreme Flood level – Figure 4.9 – Hard to read exactly – no contours only colour gradients.

Provisional Hazard Categories – Figures 5.3 to 5.5

Hydraulic Cat – Figure 5.7

The flood characteristics local to the subject site:

1. Channelised river flows run south adjacent to the subject site.
2. During Flooding events, the floodway runs east-west, across the subject site, in-bank flow direction Flood flow direction (floodway)

Assessment

PSC LEP (section 7.3 – Flood Planning)

Flood Compatibility

- a. PSC LEP (2013) requires development consent must not be granted to development on land which this clause applies unless the consent authority is satisfied that the development;
 - i. is compatible with the flood hazard of the land, and

The subject site is located within a high hazard flood storage area for the Paterson River. High hazard floodway areas are incompatible with all forms of urban development. High velocities and/or depths associated with Paterson River would put occupants in undue danger. Additionally, evacuation routes located at 2.5 to 3.0 m AHD, approximately 2 meters below the 5% AEP event, and approximately 4 meters below the 1% AEP event. During larger events that would put occupants in danger and a safe evacuation route to flood free land would be cut off early in the flooding event. The Paterson River Floodplain Management Study and Plan (Vol 2) identifies that home occupation should be prohibited in high risk areas in and hazardous floodplain area.

- iii. will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties; and

Filling the floodway will have an impact on the flood behaviour.

- iv. incorporates appropriate measures to manage risk to life from flood; and

As noted above, the development is located within a high Hazard floodway, isolation of the property will occur beyond local flood depths of greater than >400, which would occur early on during flood events creating a low flood island.

- v. will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and

The development is located within the Paterson river riparian corridor (RC). Additionally, it is located within the designated vegetated riparian zone (VRZ) (within 30 metres of a 3th order. This development would impede future efforts to rehabilitate the RC/VRZ.

- vi. is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The development would put pressure on emergency services given the location of the subject site in the floodway.

Port Stephens Council Areas Affected by Flooding and/or Inundation Policy

Council must, before granting development consent on flood prone land or on land directly or indirectly affected by flooding, consider the following:

- b. The extent and nature of the flooding or inundation hazard affecting the land,

The subject site is located within a high hazard flood storage area for the Paterson River.

- c. Whether or not the proposed development would increase the risk of or severity of flooding or inundation affecting other land or buildings, works or other land uses in the vicinity,

Filling the floodway will have an impact on the flood behaviour, and may have an impact on other land or buildings. No flood impact assessment was submitted with the development application.

- d. Whether the risk of flooding or inundation affecting the proposed development could be reasonably mitigated and whether conditions should be imposed on any consent to further objectives of this plan,

No mitigation measures are proposed. The Paterson Floodplain Management Study and Plan identified no viable measures that could modify the flood characteristics.

- e. The social impact of flooding on occupants, including the ability of emergency services to access, rescue and support residents of flood affected areas, and

The development would put pressure on emergency services given the location of the subject site in the floodway.

- f. The provisions of any Floodplain Management Plan, Floodplain Study or Development Control Plan adopted by Council or in draft form.

The proposal does not comply with the draft DCP including:

Draft B5.1 – Flood Hazard - High flood hazard is not compatible with the proposal

Draft B5.2 – Flood behaviour – No filling permitted in the floodway;

Draft B5.3 – Risk to life – No flood refuge is available for all events up to and including the PMP.

Assessment Outcome

The Application cannot be supported and it is recommended that the assessing officer seek withdrawal or refuse the application for the following reasons:

The proposed development is located in a high hazard floodway, and as such the development is deemed not compatible with the flood hazard of the land.

- 1. The development does not comply with the following:
 - a. PSC LEP (2013) Section 7.3 Flood Planning.
 - b. Councils Areas Affected by Flooding and/or Inundation Policy
 - c. Draft PSC DCP

Likely impacts of the development

The assessment considered the likely impact of the development by identifying the potential impacts of the proposal, available measures to improve impacts and frequency/severity of the impacts.

The development is not compatible with the flood risks associated with the land and may result in unacceptable impacts to life and property. The development is recommended for refusal for the following reasons.

Suitability of the site

The site is physically constrained by flooding and is considered unsuitable for the proposed development.

Public interest

The development may result in adverse social, economic and environmental outcomes as the development has not been designed in a manner that is compatible with the flood risk of the land. The development poses an unacceptable risk to life and property and may also result in adverse flood impacts to surrounding properties. The development is not within the public interest.

Reasons for refusal

- The subject land is located entirely in the Floodway and Excessive Depth Floodplain Management Zone. Due to the risk associated with velocities and/or depth which pose a risk to structures and/or the safety of persons the land is deemed unsuitable for residential development;
- The development is inconsistent with the provisions of Port Stephens Local Environmental Plan 2013, in particular the objectives and planning considerations for development on flood prone land;
- The development is considered an inappropriate land use under the NSW Floodplain Development Manual 2005;
- The site is located within a high hazard category for smaller events; 5% AEP and greater;
- It is inappropriate to place additional dwelling houses in high risk flood areas and placing further demand on already limited SES resources by way of domestic property protection, rescue/medivac and evacuation.

ATTACHMENT 3
CALL TO COUNCIL FORM

(Note this call up application form relates to DA 16-2014-492-1 at No.19 of Lot 5A DP 9901)



CALL TO COUNCIL FORM
DEVELOPMENT APPLICATION



I, Councillor Mayor Bruce Mackenzie
require Development Application Number 16-2014-492-1
for SINGLE STORY DWELLING
at 18 HIGH STREET, HINTON
LOT 5, DP 9901

to be subject of a report to Council for determination by Council.

Reason:

The reason for this call-up to Council is RECOMMENDING TO
REFUSE THE APPLICATION

Declaration of Interest:

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person. I have a conflict of interest? Yes/No (delete the response not applicable).

If yes, please provide the nature of the interest and reasons why further action should be taken to bring this matter to Council:

Before the meeting a precedent was set for other
buildings in flood prone areas

Signed: _____

17.10.14

ITEM NO. 2

FILE NO: 16-2014-392-1

DEVELOPMENT APPLICATION FOR INCREASED EARTH MOUND AND SINGLE STOREY DWELLING AT LOT: 1 DP: 1193826 NO. 851 NEWLINE RD, EAGLETON

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2014-392-1(increased earth mound and single storey dwelling) for an increased earth mound and single storey dwelling for the following reasons:
 - a) The subject land is located entirely in the Floodway, Excessive Depth Floodplain Management Zone and is subjected to a high hazard flood category for smaller events up to 20% AEP (1 in 5 years) and greater. Due to the risk associated with velocities and/or depth which pose a risk to structures and/or the safety of persons the land is deemed unsuitable for residential development;
 - b) The development is inconsistent with the provisions of Clause 7.3 of Port Stephens Local Environmental Plan 2013, in particular the objectives of this clause for development on flood prone land including minimising the flood risk to life and property, allowing development which is compatible with the land's flood risk and avoiding significant adverse impacts on the flood behaviour and environment;
 - c) The floodway definition under the NSW Floodplain Risk Management Guideline (Department of Environment and Climate Change) is considered undesirable land use due to; potential redirection flows, danger to personal safety and significant financial losses due to the damage potential.

**ORDINARY COUNCIL MEETING – 9 DECEMBER 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Mayor Bruce MacKenzie Councillor Chris Doohan
	That development application 16-2014-392-1(increased earth mound and single storey dwelling) for an increased earth mound and single storey dwelling be approved with the following conditions of consent:

	<ol style="list-style-type: none"> 1. Prior to the commencement of any works consent from the Minister is to be obtained under Clause 256 of the Water Management Act 2000 for works adjacent levee banks. 2. 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. 3. 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. 4. All building work must be carried out in accordance with the provisions of the Building Code of Australia. 5. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:- <ul style="list-style-type: none"> * Monday to Friday, 7am to 6pm; * Saturday, 8am to 1pm; * No construction work to take place on Sunday or Public Holidays. 6. 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. 7. Approved toilet accommodation for all tradespersons on the building site is to be provided from the time work commences until the building is complete. The toilet shall not be placed on the road reserve, without separate approval from Council. 8. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. 9. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats.
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	<p>10. Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.</p> <p>11. The development shall take place in accordance with the stated values of the BASIX certificate submitted with the application. Prior to the issue of any occupation certificate an appropriately qualified person shall certify compliance with these requirements, as applicable. Where minor changes to the development occur (eg. colours and the like) these changes shall be referred to Council prior to the changes being made.</p> <p>12. Collected stormwater runoff shall be piped to designated onsite stormwater tanks.</p> <p>All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties.</p> <p>The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.</p> <p>13. Prior to the issue of any Occupation Certificate the proposed earth mound shall be fully turfed and be maintained for the life of the development.</p> <p>14. 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 for land filling purposes, without prior approval of council is prohibited.</p> <p>15. 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.</p> <p>16. Prior to the issue of the Construction Certificate a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993. The application is to be accompanied by full details of the</p>
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	<p>proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).</p>
17.	<p>Prior to the issue of the Occupation Certificate an Approval to Operate shall be obtained by Council in accordance with the Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.</p>
18.	<p>The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005). The Flood Planning Level for this development is 5.6 metres AHD. The following design precautions must be adhered to:-</p> <ol style="list-style-type: none"> The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.

	<p>19. The Designated flood is the 1 % AEP Flood. A structural engineer shall design and provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood prior to the issue of the Construction Certificate.</p> <p>20. A flood management plan which covers evacuation, a demonstrated practical understanding of predicted flood levels and impact to access to/from the site including flood level and duration of inundation, the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc. incorporating the State Emergency Services Business Floodsafe Toolkit, shall be submitted and approved by Council prior to the issue of the Construction Certificate.</p> <p>21. Septic and holding tank lids, inspection openings and associated electrical equipment connections and switchgear must be located above the 1% AEP Flood level.</p> <p>22. Any on-site effluent on site disposal must be carried out in an area above the 5% AEP flood level.</p>
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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 Chris Doohan, Steve Tucker, John Morello and Sally Dover.

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

MOTION

332	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>It was resolved that development application 16-2014-392-1 (increased earth mound and single storey dwelling) for an increased earth mound and single storey dwelling be approved with the following conditions of consent:</p> <ol style="list-style-type: none"> Prior to the commencement of any works consent from the Minister is to be obtained under Clause 256 of the Water Management Act 2000 for works adjacent levee banks. A Construction Certificate is required prior to commencement of works approved by this application. The person having the
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	<p>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.</p>
3.	<p>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.</p>
4.	<p>All building work must be carried out in accordance with the provisions of the Building Code of Australia.</p>
5.	<p>Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-</p> <ul style="list-style-type: none"> * Monday to Friday, 7am to 6pm; * Saturday, 8am to 1pm; * No construction work to take place on Sunday or Public Holidays.
6.	<p>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.</p>
7.	<p>Approved toilet accommodation for all tradespersons on the building site is to be provided from the time work commences until the building is complete. The toilet shall not be placed on the road reserve, without separate approval from Council.</p>
8.	<p>A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced.</p>
9.	<p>The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats.</p>
10.	<p>Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.</p>

	<p>11. The development shall take place in accordance with the stated values of the BASIX certificate submitted with the application. Prior to the issue of any occupation certificate an appropriately qualified person shall certify compliance with these requirements, as applicable. Where minor changes to the development occur (eg. colours and the like) these changes shall be referred to Council prior to the changes being made.</p> <p>12. Collected stormwater runoff shall be piped to designated onsite stormwater tanks.</p> <p>All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties.</p> <p>The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.</p> <p>13. Prior to the issue of any Occupation Certificate the proposed earth mound shall be fully turfed and be maintained for the life of the development.</p> <p>14. 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 for land filling purposes, without prior approval of council is prohibited.</p> <p>15. 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.</p> <p>16. Prior to the issue of the Construction Certificate a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).</p> <p>17. Prior to the issue of the Occupation Certificate an Approval to Operate shall be obtained by Council in accordance with the</p>
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	<p>Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.</p>
18.	<p>The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005). The Flood Planning Level for this development is 5.6 metres AHD. The following design precautions must be adhered to:-</p> <ul style="list-style-type: none"> a. The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level. b. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge. c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods. d. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible. e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level. f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed. g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply. h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level. i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.
19.	<p>The Designated flood is the 1 % AEP Flood. A structural engineer shall design and provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris</p>

	impact and buoyancy uplift for the 1% AEP Flood prior to the issue of the Construction Certificate.
20.	A flood management plan which covers evacuation, a demonstrated practical understanding of predicted flood levels and impact to access to/from the site including flood level and duration of inundation, the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc. incorporating the State Emergency Services Business Floodsafe Toolkit, shall be submitted and approved by Council prior to the issue of the Construction Certificate.
21.	Septic and holding tank lids, inspection openings and associated electrical equipment connections and switchgear must be located above the 1% AEP Flood level.
22.	Any on-site effluent on site disposal must be carried out in an area above the 5% AEP flood level.

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 Chris Doohan, Steve Tucker, John Morello and Sally Dover.

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

BACKGROUND

The purpose of this report is to present a development application to Council for determination. The application has been called to Council by Mayor Bruce MacKenzie with the reason being - Council staff are recommending to refuse the application due to high flooding risks. The call to Council form is attached as **(ATTACHMENT 3)**.

The key issue with the development application is flooding. Apart from that the land use is permissible in the zone and other impacts of the dwelling are suitable and compliant with the relevant Development Control Plan (DCP) requirements.

A site inspection of the property with Councillors was carried out on 26 November 2014.

The Proposal

The proposal is for the construction of a 4 bedroom dwelling and associated earth mound at Lot: 1 DP: 1193826, No. 851 Newline Rd, Eagleton. The dwelling is a single storey structure with a height of 5.6m. The volume of fill required has not been submitted with the calculations although an average of approximate 3.8m deep of fill will be required over the whole pad area of approximately 3,105m² (excluding batter banks) to achieve the required flood planning level. The earth mound and

dwelling are located approximately 108m from the banks of the Williams River and 180m from Newline Rd.

Draft Flood Policy

Council is in the process of drafting a Flood Policy to address future development in flood prone areas. Council subsequently made two resolutions. The first one being 24 June 2014 Notice of Motion 166; it was resolved that Council develop a strategy for building in flood prone land. The second being 12 August 2014 Matter Arising 200; It was resolved that no further development applications where flood prone land is involved be assessed until the flood prone policy is complete and that the draft flood prone policy be fast tracked. This Development Application was made prior to the second resolution on 30 June 2014.

Notwithstanding the fact that Council has resolved to create a policy in relation to dwellings on rural flood prone areas, it is considered unlikely that a future policy would support increased residential occupation in high hazard flood ways on a site such as this.

Flood Mapping

Current mapping locates the development within a designated Floodway zone, the Floodplain Risk Management Guideline (NSW Department of Environment and Climate Change, 2007) states that "Floodway's are generally areas where development is undesirable due to:

- The potential to redirect flows;
- The level of potential danger to personal safety;
- Significant financial losses due to potential damage.

The Role of the Office Environment and Heritage (OEH)

It is advised that the applicant seek advice from the Office of Environment & Heritage to whether the development triggers an additional approval under the Water Management Act (Section 256) for works adjacent the levee bank. The proposed fill pad is located 10m clear of the existing levee bank although the proximity of the works, being high risk location, potential depths of water and flows may affect structure and/or the stability of the existing levee bank. This approval is sourced from the Office of Environment and Heritage and is required prior to the commencement of works. This process has not been initiated given the recommendation for determination and it is the applicant's responsibility.

Council can determine the application without the Water Management Act approval in place however the applicant is responsible for obtaining this approval prior to the commencement of any works. This can be achieved via a consent condition deferring works pending the approval, should Council support the application.

The Water management Act approval may lead to additional works that would lead to an amendment (S. 96) to the application as it is presented to Council for determination.

The Water management Act approval may lead to additional works that would lead to an amendment (S. 96) to the application as it is presented to Council for determination and it is the applicant's responsibility.

Planning Risk Rationale

The property is classified as a "Low Flood Island" and is considered highly hazardous in terms of Emergency Response Planning Classification of Communities as it will be surrounded by floodwaters in minor and major flooding and potentially inundated in times of extreme flooding.

The proposal is inconsistent with Port Stephens Council Local Environmental Plan 2013 for development on flood prone land and the draft Council policy "Areas Affected by Flooding and/or Inundation Policy" in regards to the nature of flooding, social impacts and suitability of the land. Refer to Council's Flooding Report in Attachment 2 for assessment details of the above.

Council adopted a revised Corporate Risk Management Policy on 27 November 2012. The policy includes Council's risk appetite statement that states:

"Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public."

"Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating."

A decision contrary to the recommendation presents an unacceptable risk to Council when assessed Council's standard risk management matrix. These unacceptable risks relate to Council and the local community in respect to public safety, Council reputation and legal exposure.

Servicing

The subject site requires an on-site sewerage management system (OSMS) as it is not serviced by the Hunter Water Corporation. The site is classified as a high hazard according to the Port Stephens Council OSMS hazard classifications maps. However due to the following site specific factors it is possible that a suitable system could be provided to service the dwelling.

- The property is a large lot size;
- Sufficient land is available on the proposed earth mound for an OSMS at an adequate height to minimise any impacts from flooding;
- The proposed development does not involve the subdivision of land thus there is no increase in the density of wastewater systems;
- The density of wastewater systems in proximity to the property is currently very low;
- The location of the proposed wastewater disposal area achieves prescribed setback distances to sensitive receptors such as the Williams River;

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- The proposed wastewater system and disposal method provides a high level of treatment, disinfection and containment.

In conclusion the site is not considered suitable for a dwelling and associated fill, the entire lot is located in a floodway and therefore construction of a mound for residential purposes is not deemed appropriate for this site. This application is considered not suitable due to the exposure to risks associated with flooding as outlined in the flooding assessment detailed in **(ATTACHMENT 2)**, furthermore the development is not in accordance with Council's management plans and policies of Australian best practice for the management of floodplains.

FINANCIAL/RESOURCE IMPLICATIONS

The application could be potentially challenged in the Land and Environment Court. Defending Council's determination could have financial implications.

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

LEGAL AND POLICY IMPLICATIONS

The Development Application is not consistent with relevant planning instruments, Flood development guidelines and studies including but not limited to: EP&A Act 1979, PSC LEP 2013, Floodplain Management in Australia: Best Practice Principles and Guidelines (CSIRO, 2000), NSW Floodplain Development Manual (NSW Department of Infrastructure, Planning and Natural Resources, 2005) and the Draft Port Stephens Council Areas Affected by Flooding and/or Inundation Policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the determination may be challenged in the Land and Environment Court by the Applicant.	Medium	Council is confident the assessment is robust and if required is able to proceed through the legal process.	Yes
There is a risk that the property floods and there is damage/loss to property/life.	Medium	Determine the application as per the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A possible positive socio-economic impact is that the owner is able to build a dwelling on their land.

This is outweighed however by the fact that increasing residential occupation within high hazard floodways does not make good planning sense long term.

Property and life could be compromised as Owner/occupiers/property could potentially be exposed to floodwaters and/or isolated on or from the property for long periods of time during flooding events imposing further demands on local and SES resources.

CONSULTATION

The application did not require public notification in accordance with Councils policies. The application was referred to Council's flooding engineers as per Councils service level agreements. Appropriate consultation with the applicant has been followed during the assessment process.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment;
- 3) Call To Council Form.

COUNCILLORS ROOM

Items listed below are also provided under separate cover:

- 1) Drawings: 3400-DA1 Sheets 1-6 dated 27/05/2014;
- 2) Statement of Environmental Effect; Prepared by Advantage NSW.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



ATTACHMENT 2

ASSESSMENT

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 applicant proposes the construction of single storey dwelling and associated earth mound.

THE APPLICATION

Owner	Mrs N L & Mr H G Hammond
Applicant	Mr H G Hammond
Detail Submitted	Development plans including: architectural plans and elevations, Statement of Environmental Effects Flood Evacuation Plan BASIX certificate

THE LAND

Property Description	Lot:1 DP:1193826
Address	No.851 Newline Road, Eagleton
Area	Approx. 66,201m ²
Site description	The site is vacant land located to the east of the Williams river.
Characteristics	Flood prone land Acid Sulfate Soils (class 3)

THE ASSESSMENT

PLANNING PROVISIONS

<i>Environmental Planning and Assessment Act 1979</i>	79C Planning provisions
Port Stephens Local Environmental Plan (2013)	Zone RU1 Rural Primary Production Clause 4.3 Height of buildings Clause 7.1 Acid sulfate soils Clause 7.2 Earthworks Clause 7.3 Flood planning Clause 7.6 Essential services

Port Stephens Development Control B6 Single and Dual Occupancy Dwellings Plan 2013

Statutory Acts and Regulations

Environmental Planning and Assessment (EP&A) Act 1979

Section 79C – Planning Assessment

An assessment under Section 79C of the Act has been undertaken throughout this report.

Port Stephens Local Environmental Plan (2013)

Zone RU1 Rural Primary Production

Dwellings and associated fill are permissible within the land zoning.

Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base:
Additional fill will reduce potential land for production use.
- To encourage diversity in primary industry enterprises and systems appropriate for the area:
No industry use proposed, application is for residential only
- To minimise the fragmentation and alienation of resource lands:
No subdivision is proposed although the use of large fill mounds may introduce fragmentation of the land.
- To minimise conflict between land uses within this zone and land uses within adjoining zones:
N/A adjacent zone are zone similarly and proposed development is permissible under the LEP

Clause 4.3 Height of buildings

Clause 4.3 specifies the maximum height of buildings for development is not to exceed the maximum height shown for the land of the 'height of buildings map'. No specified height is mapped for the property although due to the combination of excessive fill of approx. 3.8m plus 300mm to finished floor and a ridge height of 5.6m, the overall development from natural ground is approximately 9.7m. The height is generally inconsistent with the zoning maps of 8-9m.

Clause 7.1 Acid sulfate soils

The subject site is identified as Class 3 acid sulfate soils (ASS). Accordingly any works more than 1 metre below the natural ground surface or works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface as a result of excavations for footings, utility services and drainage. Due to the amount of fill excavation it is anticipated that ground disturbance kept to a

minimum, although if the requirements above are triggered the applicant shall provide an acid sulphate management plan is to be submitted to council.

Clause 7.2 Earthworks

Clause 7.2 seeks to ensure that earthworks will not have a detrimental impact upon the environment or surrounding properties. The development requires earthworks involving a maximum 1meter of fill to facilitate services and construction. The proposed earthworks are well in excess of the 1m max required by the DCP and could have a major impact on the visual amenity of the landscape, redirection of potential floodwaters and or inundation patterns. No indication of the amount of fill required was submitted with the application. The top of the pad is approximately 3.105m² excluding the batter of the bank as well. This will introduce a significant amount fill required on site as the average depth required is approximately 3.7m deep

Clause 7.3 Flood Planning

Clause 7.3 seeks to minimise the flood risk to life and property associated with the use of land and to allow development only where it is compatible with the land's flood hazard so as to ensure that significant adverse impacts on flood behaviour and the environment are avoided. The application is not acceptable when considered in the context of clause 7.3 as the site is classified as floodway and is located within an area that conveys a significant portion of the flood flow. As such the proposed development may adversely affect other areas and adjoining properties.

Further, the property is affected by very significant flooding in events as frequent as the 20% Annual Exceedance Probability (AEP). AEP refers to the chance or probability of flooding occurring on-site. The AEP rating for the subject site indicates that on average the development would be subject to flooding approximately every five years.

The subject site is also located within the high provisional hazard category for 5% AEP and greater. Therefore there is increased potential for significant structural damage to buildings. The development is not compatible with the lands flood hazard and will result in an unacceptable risk, therefore it cannot be supported.

Clause 7.4 Essential services

Clause 7.6 requires the consent authority to be satisfied that essential services including water, electricity, sewage, stormwater and access are available to the site. The applicant will require onsite waste water treatment system and onsite water supply was the services are not available.

Port Stephens Development Control Plan 2013

Part B6 Single and Dual Occupancy Dwellings

The application has been assessed against the provisions of Development Control Plan 2013 (DCP2013), B6 – Single and Dual Occupancy Dwellings and is considered inappropriate development. The dwelling design is considered satisfactory although the land use inappropriate due to high flooding risk.

- 4.1 Site Coverage** – N/A
- 4.2 Height** – No Specific height limits are set for the property although the current design reached approximately 9.7m above natural ground due to the amount of fill required to build above the 1% AEP level
- 4.3 Number of Storeys** – 1 - complies
- 4.4 Setbacks** – N/A
- 4.5 Rural Setbacks** - Compliant, the development is approximately 108m from Newline Rd
- 4.6 Building Form and Streetscape** - The continual approval of large fill mounds to accommodate residential development, sheds and associated infrastructure to support the habitable uses will eventually impacting on the overall landscape. The introduction of isolated mounds/hills will detract from the natural landscape creating an irregular undulating landscape in what is a predominantly flat grazing land. The elevated pockets associated to dwellings could also have an impact on the distant surrounding vistas due to the height of fill required for each development again detracting from the existing scenic outlooks.
- 4.7 Orientation to the Street Frontage** – Well setback from the street, not an issue
- 4.8 Bulk and Scale** - Bulk and scale of mound will have significant impacts on the visual amenity of the properties as mentioned in 4.6 above.
- 4.9 Solar access** – Complies
- 4.10 Privacy** – Complies
- 4.11 Landscaping** – Complies
- 4.12 Private Open Space** – Complies
- 4.13 Car Parking** – Complies
- 4.14 Earthworks** – Earth works are well in excess of the permissible 1m fill in the DCP. It is proposed an approximate 3.7m of fill is required over approximately 3,105m² (excluding the batter banks) to elevate the development to a level outside the

1% AEP. This amount of fill is considered undesirable and could have potential negative impacts on the rural landscape and also alter the flow paths of the flood waters. All could have a negative impact on adjacent properties and potential devaluation of properties.

4.15 Stormwater and Drainage – Stormwater will be conditioned to comply with council's current policies

4.16 Heritage and Conservation Areas – N/A

4.17 Energy Efficiency – Compliant

4.5 Retaining walls – N/A

Community consultation

In accordance with Council's Notification Policy, the proposed development was not required to be notified or advertised.

Internal referrals

Flood Engineer

Subject: 851 Newline Road EAGLETON – Single Story Dwelling

1. Property Details

- 1.1. Address : 851 Newline Road EAGLETON
- 1.2. DP Details: Lot 1 DP 1193826

2. Application Details

- 2.1. DA / BA number : 16-2014-392-1
- 2.2. Description of application: Single Story Dwelling
- 2.3. Assessing Officer (Planner / Builder):
- 2.4. Date Received by flooding :

3. Site Particulars

- 3.1. Property Map / Location
 - 3.1.1. Flood Prone Mapping Layer
 - 3.1.2. Topography (LiDAR)
 - 3.1.3. Drainage

3.2. Catchment Details

- 3.2.1. Flood Catchment Area : Williams River
- 3.2.2. Current Flood Information source : Williams River Flood Study (2009) – BMT W&M

3.3. Flooding Details

- 3.3.1. Hydraulic Status – Floodway for both 0.5% and 1%
 - Figure 1 - 0.5% Provisional Hydraulic Category
 - Figure 2- 0.5% Provisional Hydraulic Category
- 3.3.2. Flood Hazard – High Hazard for all events from PMP to 20% AEP

Figure 3 - 1% AEP Provisional Hazard Category

Figure 4 - 20% AEP Provisional Hazard Category

3.3.3. Flood levels

1% AEP – 4.8 m AHD

0.5% AEP – 5.4 m AHD

PMP – 9.8 m AHD

Flood Planning level of 5.6m AHD has been confirmed

3.4. Assessment

1. The site has very significant flooding hazard. The site is dominated by high hazard flows during more frequent events (20% AEP/ ~ 5 year ARI).
2. The site is wholly in a floodway for both the 1% & 0.5% AEP events. The land use sought is not compatible with the flood hazard and hydraulic category.
3. Access is of particular concern as occupants could be trapped early during a flood event. Applicant has not demonstrated that safe access route during flood events is available. A flood evacuation plan is submitted. Low flood island are to highly hazardous and should be avoided.

3.5. Conclusion

The development application is not recommended for approval for the following reasons:

- The subject land is located entirely in the Floodway and Excessive Depth Floodplain Management Zone. Due to the risk associated with velocities and/or depth which pose a risk to structures and/or the safety of persons the land is deemed unsuitable for residential development;
- The development is inconsistent with the provisions of Port Stephens Local Environmental Plan 2013, in particular the objectives and planning considerations for development on flood prone land;
- The development is considered an inappropriate land use under the NSW Floodplain Development Manual 2005;
- The site is located within a high hazard category for smaller events: 20% AEP and greater;
- It is inappropriate to place additional dwelling houses in high risk flood areas and placing further demand on already limited SES resources by way of domestic property protection, rescue/medivac and evacuation.

Likely impacts of the development

The assessment considered the likely impact of the development by identifying the potential impacts of the proposal, available measures to improve impacts and frequency/severity of the impacts.

The development is not compatible with the flood risks associated with the land and may result in unacceptable impacts to life and property. The development is recommended for refusal for the following reasons:

Suitability of the site

The site is physically constrained by flooding and is considered unsuitable for the proposed development.

Public interest

The development may result in adverse social, economic and environmental outcomes as the development has not been designed in a manner that is compatible with the flood risk of the land. The development poses an unacceptable risk to life and property and may also result in adverse flood impacts to surrounding properties. The development is not within the public interest.

ATTACHMENT 3
CALL TO COUNCIL FORM



CALL TO COUNCIL FORM
DEVELOPMENT APPLICATION



I, Councillor Mayor Bruce Mackenzie
require Development Application Number 16-2014-392-1
for SINGLE STOREY DWELLING

at 851 NEWLING RD, BARKINGTON
LOT 1, DP: 1193826

to be subject of a report to Council for determination by Council.

Reason:

The reason for this call-up to Council is RECOMMENDATION TO
REFUSE THE APPLICATION

Declaration of Interest:

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or on an associated person. I have a conflict of interest? Yes/No (delete the response not applicable).

If yes, please provide the nature of the interest and reasons why further action should be taken to bring this matter to Council:

Before the moratorium a precedent was set for other
buildings in flood prone areas

Signed:

Date: 17.10.14

ITEM NO. 3

FILE NO: 16-2014-441-1

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING, EARTH MOUND & FARM SHED AT LOT 1 DP: 997568 NO. 13 SWANREACH ROAD, HINTON.

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2014-441-1 for single storey dwelling, earth mound and farm shed for the following reasons:
 - a) The subject land is located entirely in the high hazard flood storage area and in a high hazard floodway. Due to the risk associated with velocities and/or depth which potentially pose a risk to structures and/or the safety of persons the land is considered unsuitable for residential development;
 - b) The development is inconsistent with the provisions of Clause 7.3 of Port Stephens Local Environmental Plan 2013, in particular the objectives of this clause for development on flood prone land including minimising the flood risk to life and property, allowing development which is compatible with the land's flood risk and avoiding significant adverse impacts on the flood behaviour and environment;
 - c) The floodway definition under the NSW Floodplain Risk Management Guideline (Department of Environment and Climate Change) is considered undesirable land use due to; potential redirection flows, danger to personal safety and significant financial losses due to the damage potential.

**ORDINARY COUNCIL MEETING – 9 DECEMBER 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Mayor Bruce MacKenzie Councillor Chris Doohan
	<p>That development application 16-2014-441-1 for single storey dwelling, earth mound and farm shed be approved with the following conditions of consent:</p> <ol style="list-style-type: none">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

	<p>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.</p>
2.	<p>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.</p>
3.	<p>All building work must be carried out in accordance with the provisions of the Building Code of Australia.</p>
4.	<p>Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-</p> <ul style="list-style-type: none"> * Monday to Friday, 7am to 6pm; * Saturday, 8am to 1pm; * No construction work to take place on Sunday or Public Holidays.
5.	<p>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.</p>
6.	<p>Approved toilet accommodation for all tradespersons on the building site is to be provided from the time work commences until the building is complete. The toilet shall not be placed on the road reserve, without separate approval from Council.</p>
7.	<p>A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.</p>
8.	<p>The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats.</p>
9.	<p>Collected stormwater runoff shall be piped to designated onsite stormwater tanks.</p> <p>All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be</p>

	<p>concentrated or create nuisance flows onto any buildings, or neighbouring properties.</p> <p>The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.</p>
10.	<p>Prior to the issue of any Occupation Certificate the proposed earth mound shall be fully turfed and be maintained for the life of the development.</p>
11.	<p>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 for land filling purposes, without prior approval of council is prohibited.</p>
12.	<p>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.</p>
13.	<p>Prior to the issue of the Construction Certificate a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).</p>
14.	<p>Prior to the issue of the Occupation Certificate an Approval to Operate shall be obtained by Council in accordance with the Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.</p>
15.	<p>The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005). The Flood Planning Level for this development is 6.7metres AHD. The following design precautions must be adhered to:-</p> <ol style="list-style-type: none"> The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level.

	<ul style="list-style-type: none"> b. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge. c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods. d. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible. e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level. f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed. g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply. h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level. i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.
	<p>16. The Designated flood is the 1 % AEP Flood. A structural engineer shall design and provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood prior to the issue of the Construction Certificate.</p>
	<p>17. Septic and holding tank lids, inspection openings and associated electrical equipment connections and switchgear must be located above the 1% AEP Flood level.</p>
	<p>18. Any on-site effluent on site disposal must be carried out in an area above the 5% AEP flood level.</p>

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 Chris Doohan, Steve Tucker, John Morello and Sally Dover.

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

MOTION

333	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>It was resolved that development application 16-2014-441-1 for single storey dwelling, earth mound and farm shed be approved with the following conditions of consent:</p> <ol style="list-style-type: none"> 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. 3. All building work must be carried out in accordance with the provisions of the Building Code of Australia. 4. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:- <ul style="list-style-type: none"> * Monday to Friday, 7am to 6pm; * Saturday, 8am to 1pm; * No construction work to take place on Sunday or Public Holidays. 5. 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. 6. Approved toilet accommodation for all tradespersons on the building site is to be provided from the time work commences until the building is complete. The toilet shall not be placed on the road reserve, without separate approval from Council.
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	<p>7. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.</p> <p>8. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats.</p> <p>9. Collected stormwater runoff shall be piped to designated onsite stormwater tanks.</p> <p>All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties.</p> <p>The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.</p> <p>10. Prior to the issue of any Occupation Certificate the proposed earth mound shall be fully turfed and be maintained for the life of the development.</p> <p>11. 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 for land filling purposes, without prior approval of council is prohibited.</p> <p>12. 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.</p> <p>13. Prior to the issue of the Construction Certificate a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be approved by Council. The wastewater management system proposed for the development shall be in accordance with Councils On-site Sewage Management Policy and the Local Government Act, 1993. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework</p>
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	(DAF).
14.	Prior to the issue of the Occupation Certificate an Approval to Operate shall be obtained by Council in accordance with the Local Government Act, 1993 (Section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.
15.	<p>The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005). The Flood Planning Level for this development is 6.7metres AHD. The following design precautions must be adhered to:-</p> <ul style="list-style-type: none"> a. The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level. b. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge. c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods. d. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible. e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level. f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed. g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply. h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level. i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.

	<p>16. The Designated flood is the 1 % AEP Flood. A structural engineer shall design and provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood prior to the issue of the Construction Certificate.</p> <p>17. Septic and holding tank lids, inspection openings and associated electrical equipment connections and switchgear must be located above the 1% AEP Flood level.</p> <p>18. Any on-site effluent on site disposal must be carried out in an area above the 5% AEP flood level.</p>
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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 Chris Doohan, Steve Tucker, John Morello and Sally Dover.

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

BACKGROUND

The purpose of this report is to present a development application to Council for determination. The application is put to Council for determination as staff have recommended refusal of the Development Application on planning merit and several similar Development Applications have been called to Council. As per the similar Development Applications called to Council, Council staff have elected to put four current Development Applications to Council at the same time.

The key issue with the development application is flooding. Notwithstanding the flooding aspects of this site, the land use is permissible in the zone and other impacts are generally compliant with Council's Development Control Plan 2013.

A site inspection of the property with Councillors was carried out on 26 November 2014.

The Proposal

The proposal is for the construction of a 4 bedroom dwelling, farm shed and associated earth mound at Lot 1 DP 997568 No.13 Swanreach Road Hinton. The dwelling is a single storey structure with a total footprint of 302m². The associated shed is 200m² with a height of 5.88m. The earth mound is 88m long x 25m wide including a 12m 1:4 batter around the perimeter. The mound height is approximately 3-3.2m high with a total area of 2200m² at RL 6.2m AHD and the required fill component is approximately 6820m³. The development is located approximately 80-110m from the banks of the Hunter River and 800m from Hinton Rd.

Draft Flood Policy

Council is in the process of drafting a Flood Policy to address future development in flood prone areas. Council subsequently made two resolutions. The first one being 24 June 2014 Notice of Motion 166; it was resolved that Council develop a strategy for building in flood prone land. The second being 12 August 2014 Matter Arising 200; It was resolved that no further development applications where flood prone land is involved be assessed until the flood prone policy is complete and that the draft flood prone policy be fast tracked. This Development Application was made prior to the second resolution on 17 July 2014.

Notwithstanding the fact that Council has resolved to create a policy in relation to dwellings on rural flood prone areas, it is considered unlikely that a future policy would support increased residential occupation in high hazard flood ways on a site such as this.

Flood Mapping

Current mapping locates the development within a designated Floodway zone, the Floodplain Risk Management Guideline (NSW Department of Environment and Climate Change, 2007) states that "Floodway's are generally areas where development is undesirable due to:

- The potential to redirect flows;
- The level of potential danger to personal safety;
- Significant financial losses due to potential damage".

Planning Risk Rationale

The property is classified as within a high hazard flood storage area for the Paterson River and located in the Hunter River floodway. The site is considered highly hazardous in terms of Emergency Response Planning Classification of Communities as it will be surrounded by floodwaters in minor and major flooding and potentially inundated in times of extreme flooding.

The evacuation route via Swanreach Road and Hinton Road to the safety of high ground at Hinton is approximately 2.5km. The Reduce Level (RL) of Swanreach Rd is between 3-3.5m AHD, this road would be 2m below water in a 5% AEP event, and approximately 4m below the 1% AEP event. Therefore, a safe evacuation route to flood free land would be cut off early in a flooding event.

The proposal is inconsistent with Port Stephens Council Local Environmental Plan 2013 for development on flood prone land and the draft Council policy "Areas Affected by Flooding and/or Inundation Policy" in regards to the nature of flooding, social impacts and suitability of the land. Refer to assessment report in Attachment 2 for assessment details of the above.

Council adopted a revised Corporate Risk Management Policy on 27 November 2012. The policy includes Councils risk appetite statement that states:

"Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public."

"Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating."

A decision contrary to the recommendation presents an unacceptable risk to Council when assessed Council's standard risk management matrix. These unacceptable risks relate to Council and the local community in respect to public safety, Council reputation and legal exposure.

Servicing

The subject site requires an on-site sewerage management system (OSMS) as it is not serviced by the Hunter Water Corporation. The site is classified as a medium hazard according to the Port Stephens Council OSMS hazard classifications maps. However due to the following site specific factors it is possible that a suitable system could be provided to service the dwelling.

- The property is a large lot size;
- Sufficient land is available on the proposed earth mound for an OSMS at an adequate height to minimise any impacts from flooding;
- The proposed development does not involve the subdivision of land thus there is no increase in the density of wastewater systems;
- The density of wastewater systems in proximity to the property is currently very low;
- The location of the proposed wastewater disposal area achieves prescribed setback distances to sensitive receptors such as the Hunter River.

In conclusion the site is not considered suitable for a dwelling and associated fill, the entire lot is located within a high hazard flood storage area from the Paterson River and in the Hunter River floodway. This application is considered not suitable due to the exposure to risks associated with flooding as outlined in the engineering flooding assessment contained within the assessment report (Attachment 2). Furthermore, the development is not in accordance with Council's management plans and policies of Australian best practice for the management of floodplains.

FINANCIAL/RESOURCE IMPLICATIONS

The application could be potentially challenged in the Land and Environment Court. Defending Council's determination could have financial implications.

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

LEGAL AND POLICY IMPLICATIONS

The Development Application is not consistent with relevant planning instruments, Flood development guidelines and studies including but not limited to: EP&A Act 1979, PSC LEP 2013, Floodplain Management in Australia: Best Practice Principles and Guidelines (CSIRO, 2000), NSW Floodplain Development Manual (NSW Department of Infrastructure, Planning and Natural Resources, 2005) and the Draft Port Stephens Council Areas Affected by Flooding and/or Inundation Policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the determination may be challenged in the Land and Environment Court.	Medium	Council is confident the assessment is robust and if required is able to proceed through the legal process.	Yes
There is a risk that the property floods and there is damage/loss to property/life.	Medium	Determine the application as per the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A possible positive socio-economic impact is that the owner is able to construct a dwelling on their land.

This is outweighed however by the fact that increasing residential occupation within high hazard floodways does not make good planning sense long term.

Property and life could be compromised as Owner/occupiers/property could potentially be exposed to floodwaters and/or isolated on, or from the property for long periods of time during flooding events imposing further demands on local and SES resources.

CONSULTATION

The application did not require public notification in accordance with Councils policies. The application was referred to Council's flooding engineers as per Councils service level agreements. Appropriate consultation with the applicants has been followed during the assessment process.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment.

COUNCILLORS ROOM

Items listed below are also provided under separate cover:

- 1) Architectural Plans by Tim Hoover-Drawing No: HTP-1410-001-SHT 1/3 REV A -HTP-1410-001-SHT 3/3 REV A;
- 2) Statement of Environmental Effects by Hill Top Planner Pty Ltd- Dated July 2014.

TABLED DOCUMENTS

Nil.

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ATTACHMENT 2 ASSESSMENT

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 applicant proposes the construction of single storey dwelling and associated earth mound.

THE APPLICATION

16-2014-441-1

Owner

Mrs C L & Mr B J Davis

Applicant

Hill Top Planner Pty Ltd

Detail Submitted

Development plans including:
Architectural plans and elevations,
Statement of Environmental Effects,
Flood Evacuation Plan,
BASIX certificate

THE LAND

Property Description

Lot:1 DP:997568

Address

No.13 Swanreach Road, Hinton

Area

12.58 Hectares

Site description

The site is vacant land located to the west of the Hunter river.

Characteristics

Flood prone land
Acid Sulfate Soils (class 3)

**THE ASSESSMENT
PLANNING PROVISIONS**

Environmental Planning and Assessment Act 1979 s.79C Planning provisions

Port Stephens Local Environmental Plan (2013) Zone RU1 Rural Primary Production
Clause 4.3 Height of buildings
Clause 7.1 Acid sulfate soils
Clause 7.2 Earthworks
Clause 7.3 Flood planning
Clause 7.6 Essential services

Port Stephens Development Control Plan 2013 B6 Single and Dual Occupancy Dwellings

Statutory Acts and Regulations

Environmental Planning and Assessment (EP&A) Act 1979

Section 79C – Planning Assessment

An assessment under Section 79C of the Act has been undertaken throughout this report.

Port Stephens Local Environmental Plan (2013)

Zone RU1 Rural Primary Production

Dwellings and associated fill are permissible with the land zoning.

Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. Additional Fill will reduce potential land for production use.
- To encourage diversity in primary industry enterprises and systems appropriate for the area. No industry use proposed, application is for residential only
- To minimise the fragmentation and alienation of resource lands. No subdivision or fragmentation of land is proposed.
- To minimise conflict between land uses within this zone and land uses within adjoining zones. N/A adjacent zone are zone similarly and proposed development is permissible under the LEP

Clause 4.3 Height of buildings

Clause 4.3 specifies the maximum height of buildings for development is not to exceed the maximum height shown for the land of the 'height of buildings map'. No

specified height is mapped for the property. The height of the dwelling including the fill mount will be approximately 7.8m.

Clause 7.1 Acid sulfate soils

The subject site is identified as Class 3 acid sulphate soils (ASS). Accordingly any works more than 1 metre below the natural ground surface or works by which the water table is likely to be lowered more than 1 metre below the natural ground surface. The proposed development is unlikely to be below 1m and impact ground water.

Clause 7.2 Earthworks

Clause 7.2 seeks to ensure that earthworks will not have a detrimental impact upon the environment or surrounding properties. The proposed earthworks are well in excess of the 1m maximum required by the DCP and will have a major impact on the visual amenity of the landscape, and may have a negative impact on the redirection of potential floodwaters and or inundation patterns.

Clause 7.3 Flood Planning

- (1) The objectives of this clause are as follows:
 - (a) to minimise the flood risk to life and property associated with the use of land,
 - (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
 - (c) to avoid significant adverse impacts on flood behaviour and the environment.
- (2) This clause applies to:
 - (a) land identified as "Flood Planning Area" on the Flood Planning Map, and
 - (b) other land at or below the flood planning level.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
 - (a) is compatible with the flood hazard of the land, and
 - (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
 - (c) incorporates appropriate measures to manage risk to life from flood, and
 - (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
 - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- (4) A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.
- (5) In this clause:

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

Clause 7.3 seeks to minimise the flood risk to life and property associated with the use of land and to allow development only where it is compatible with the land's flood hazard so as to ensure that significant adverse impacts on flood behaviour and the environment are avoided. The application is not acceptable when considered against clause 7.3 as the site is classified as high hazard flood storage area and likely a high hazard floodway.

The proposed finish floor level of RL 6.4m AHD is under the Flood Planning Level RL 6.7m (including 500 mm Free Board). In an extreme flooding event the flood level would be 600mm above the finished floor level.

The subject site is located within a high hazard flood storage area for the Paterson River and likely to be located in the Hunter River floodway. High hazard floodways are incompatible with all forms of urban development. High velocities and/or depths associated with both the Hunter and Paterson River would put occupants in undue danger.

The evacuation route via Swanreach Road and Hinton Road to the safety of high ground at Hinton is approximately 2.4km. The Reduce Level (RL) of Swanreach Rd is between 3-3.5m AHD, this road would be 2m below water in a 5% AEP event, and approximately 4m below the 1% AEP event. Therefore, a safe evacuation route to flood free land would be cut off early in a flooding event.

The Development Application was referred to Council Flooding Engineer. Refer to Attachment 4.

Clause 7.6 Essential services

Clause 7.6 requires the consent authority to be satisfied that essential services including water, electricity, sewage, stormwater and access are available to the site.

Port Stephens Development Control Plan 2013

Part B6 Single and Dual Occupancy Dwellings

The application has been assessed against the provisions of Development Control Plan 2013 (DCP2013), B6 – Single and Dual Occupancy Dwellings and is considered inappropriate development. The dwelling design is considered satisfactory although the land use inappropriate due to high hazard flooding risk.

4.1 Site Coverage – N/A

4.2 Height – No Specific height limits are set for the property although the current design reached approximately 7.8m above natural ground due to the amount of fill required to build above the 1% AEP level

- 4.3 **Number of Storeys** – 1 - complies
- 4.4 **Setbacks** – complies
- 4.5 **Rural Setbacks** - The proposed development is Compliant.
- 4.6 **Building Form and Streetscape** - The continual approval of large fill mounds to accommodate residential development, sheds and associated infrastructure to support the habitable uses will eventual impact on the overall landscape. The introduction of isolated mounds/hills will detract from the natural landscape creating an irregular undulating landscape in what is a predominantly flat grazing land. The elevated pockets associated to dwellings could also have an impact on the distant surrounding vistas due to the height of fill required for each development again detracting from the existing scenic outlooks.
- 4.7 **Orientation to the Street Frontage** – The setback is located a sufficient distance from Swanreach Rd complying with requirement.
- 4.8 **Bulk and Scale** - Bulk and scale of mound will have significant impacts on the visual amenity of the properties as mention in 4.6 above.
- 4.9 **Solar access** – Complies
- 4.10 **Privacy** – No major privacy issues are created
- 4.11 **Landscaping** – Complies
- 4.12 **Private Open Space** – Complies
- 4.13 **Car Parking** – Complies
- 4.14 **Earthworks** – Earth works are well in excess of the generally acceptable 1m depth associated with domestic scale developments. It is proposed an approximate 3.0-3.4m of fill is required to elevate the development to a level outside the 1% AEP. This amount of fill is considered undesirable and could have potential negative impacts on the rural landscape and also alter the flow paths of the flood waters. All could have a negative impact on adjacent properties and potential devaluation of properties.
- 4.15 **Stormwater and Drainage** – Stormwater will be conditioned to comply with councils current policies
- 4.16 **Heritage and Conservation Areas** – N/A
- 4.17 **Energy Efficiency** – Compliant
- 4.5 **Retaining walls** – N/A

Community consultation

In accordance with Council's Notification Policy, the proposed development was not required to be notified or advertised.

Internal Referrals

Road Engineer:

File No: 16-2014-441-1
 Property Description: LOT: 1 DP: 997568, 13 Swan Reach Rd HINTON
 Development Description: Dwelling and Mound
 Assessment Outcome: Recommend assessing officer seek withdrawal or refuse application

Information Provided to Engineer

1. Construction plan set HTP-1410-001 Rev A dated 3/7/2014 by Tim Hover
2. ES- 13 Swan Reach Rd Hinton – July 2014

Flood Assessment

Development Description: Dwelling + Mound

- Mound proposed – finished level – 6.2 m AHD
- Proposed finished floor level – 6.7 m AHD for dwelling
- Local topography – 3 to 3.5 m AHD

Catchment: Paterson River

Flood study: Paterson River Flood Management Study and Plan (2001)

	5% AEP	2% AEP	1% AEP	0.5% AEP	0.2% AEP	PMP
Flood Level (m AHD)	5.2	5.8	6.2	6.4	6.6	~ 7.0
FPL (m AHD)			6.7 (500 mm ft)			
Hazard Cat	High		High	High	High	High
Hydraulic Cat			Floodway			

Notes:

Flood Level – Figure 4.10 to 4.14

Extreme Flood level – Figure 4.9 – Hard to read exactly – no contours only colour gradients.

Provisional Hazard Categories – Figures 5.3 to 5.5

Hydraulic Cat – Figure 5.7

1. Assumed flood category- Patterson River FMP&S (2001) only details floodway
2. Based on Hunter River FS 2014 (MCC)

Catchment: Hunter River

Flood study: Hunter River flood study– 2014 (DRAFT –MCC)

Assessment

I. Flood Compatibility

- a. PSC LEP (2013) requires development consent must not be granted to development on land which this clause applies unless the consent authority is satisfied that the development:
 - i. is compatible with the flood hazard of the land, and

The subject site is located within a high hazard flood storage area for the Paterson River. Additionally, the subject site is located within the Hunter River floodway. High hazard floodway areas are incompatible with all forms of urban development. High velocities and/or depths associated with both the Hunter River & Paterson River would put occupants in undue danger. Additionally, evacuation routes at 3.0 to 3.5 m AHD are approximately 2 meters below the 5% AEP event, and approximately 4 meters below the 1% AEP event. Larger events would put occupants in danger (>5% AEP for Paterson). In addition to a safe evacuation route to flood free land would be cut off early in the flooding event.

- ii. will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and

Filling the floodway of the Hunter River will have an impact on the flood behaviour.

- iii. incorporates appropriate measures to manage risk to life from flood, and

As noted above, the development is located within a high Hazard floodway. Isolation of the property will occur beyond local flood depths of greater than >400, which would occur early on during flood events creating a low flood island. With proposed finished floor levels at 6.7, an extreme event would see 300 mm flood water depth above floor level.

Flooding Assessment Outcome

The Application cannot be supported and is recommended that the assessing officer seek withdrawal or refuse the application for the following reasons:

- I. The development does not comply with the PSC LEP (2013) Section 7.3 Flood Planning. The proposed development is located in a high hazard floodway, and as such the development is deemed not compatible with the flood hazard of the land.

Assessment Outcome

The Application cannot be supported and is recommended that the assessing officer seek withdrawal or refuse the application for the following reasons:

1. The development does not comply with the PSC LEP (2013) Section 7.3 Flood Planning. The proposed development is located in a high hazard floodway, and as such the development is deemed not compatible with the flood hazard of the land.

Environmental Health:

Addressed in Report and Assessment.

Conclusion

The development application is not recommended for approval for the following reasons:

Refuse Development Application 16-2014-122-1 for single storey dwelling, earth mound and farm shed subject to the following:

- a. The subject land is located entirely in the high hazard flood storage area and likely high hazard floodway. Due to the risk associated with velocities and/or depth which pose a risk to structures and/or the safety of persons the land is deemed unsuitable for residential development;
- b. The development is inconsistent with the provisions of Port Stephens Local Environmental Plan 2013, in particular the objectives and planning considerations for development on flood prone land;
- c. The development is considered an inappropriate land use under the NSW Floodplain Development Manual 2005;
- d. The proposal is inconsistent with the following best practice guidelines for floodplain management: Floodplain Management in Australia: Best Practice Principles and Guidelines (CSIRO, 2000);
- e. It is inappropriate to place additional dwelling houses in high risk flood areas and placing further demand on already limited SES resources by way of domestic property protection, rescue/medivac and evacuation.

ITEM NO. 4

FILE NO: 16-2014-384-1

**DEVELOPMENT APPLICATION FOR A MACHINERY SHED AT LOT: 1A,
2A & 6A DP: 9901 NO. 7, 9 & 11 HIGH ST, HINTON**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2014-384-1 (Machinery Shed) for an earth mound and machinery shed for the following reasons:
 - a) The subject land is located entirely in the Floodway, Excessive Depth Floodplain Management Zone and is subjected to a high hazard flood category for smaller events up to 5% AEP (1 in 20 years) and greater. Due to the risk associated with velocities and/or depth which pose a risk to structures and/or the safety of persons the land is deemed unsuitable development;
 - b) The development is inconsistent with the provisions of Clause 7.3 of Port Stephens Local Environmental Plan 2013, in particular the objectives of this clause for development on flood prone land including minimising the flood risk to life and property, allowing development which is compatible with the land's flood risk and avoiding significant adverse impacts on the flood behaviour and environment;
 - c) The proposal seeks to develop in close proximity to the Hinton Spillway. Potential Levee damage has been previously identified (OEH) by existing filling and buildings. The proposed development could further impact the levee structure, allowing additional flows into the Hinton area.
-

**ORDINARY COUNCIL MEETING – 9 DECEMBER 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Mayor Bruce MacKenzie Councillor Chris Doohan
	<p>That development application 16-2014-384-1 (Machinery Shed) for an earth mound and machinery shed be approved with the following conditions of consent:</p> <ol style="list-style-type: none">1. Prior to the commencement of any works approval under Part 3 Section 91 of the Water Management Act 2000 is to be attained.2. 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.
3.	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.
4.	All building work must be carried out in accordance with the provisions of the Building Code of Australia.
5.	Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:- <ul style="list-style-type: none"> * Monday to Friday, 7am to 6pm; * Saturday, 8am to 1pm; * No construction work to take place on Sunday or Public Holidays.
6.	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.
7.	A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced.
8.	The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats.
9.	Collected stormwater runoff shall be piped to designated onsite stormwater tanks. All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties.
10.	Prior to the issue of any Occupation Certificate the proposed earth mound shall be fully turfed and be maintained for the life

	<p>of the development.</p> <p>The top of constructed building mound shall not extend more than 3m from the perimeter of proposed structure. A maximum 1 in 4 gradient shall be used in the construction of the batter banks.</p>
11.	<p>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 for land filling purposes, without prior approval of council is prohibited.</p>
12.	<p>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 Condition 13 and the stated flood planning level.</p>
13.	<p>The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005). The Flood Planning Level for this development is 6 metres AHD. The following design precautions must be adhered to:-</p> <ul style="list-style-type: none"> a. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods. b. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible. c. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level. d. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed. e. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply. h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level. i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.
14.	<p>The Designated flood is the 1 % AEP Flood. A structural engineer shall design and provide certification to Council that all building structures and earth mounds are able to withstand the</p>

	hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood prior to the issue of the Construction Certificate.
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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 Chris Doohan, Steve Tucker, John Morello and Sally Dover.

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

MOTION

334	Councillor Chris Doohan Councillor Steve Tucker
	<p>It was resolved that development application 16-2014-384-1 (Machinery Shed) for an earth mound and machinery shed be approved with the following conditions of consent:</p> <ol style="list-style-type: none"> 1. Prior to the commencement of any works approval under Part 3 Section 91 of the Water Management Act 2000 is to be attained. 2. 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. 3. 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. 4. All building work must be carried out in accordance with the provisions of the Building Code of Australia. 5. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:- <ul style="list-style-type: none"> * Monday to Friday, 7am to 6pm; * Saturday, 8am to 1pm; * No construction work to take place on Sunday or Public Holidays.

	<p>6. 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.</p> <p>7. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced.</p> <p>8. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats.</p> <p>9. Collected stormwater runoff shall be piped to designated onsite stormwater tanks.</p> <p>All collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties.</p> <p>10. Prior to the issue of any Occupation Certificate the proposed earth mound shall be fully turfed and be maintained for the life of the development. The top of constructed building mound shall not extend more than 3m from the perimeter of proposed structure. A maximum 1 in 4 gradient shall be used in the construction of the batter banks.</p> <p>11. 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 for land filling purposes, without prior approval of council is prohibited.</p> <p>12. 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 Condition 13 and the stated flood planning level.</p> <p>13. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005). The Flood Planning Level for this development is 6 metres AHD. The following design precautions must be adhered to:-</p>
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	<ul style="list-style-type: none"> a. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods. b. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible. c. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level. d. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed. e. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply. h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level. i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.
14.	The Designated flood is the 1 % AEP Flood. A structural engineer shall design and provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood prior to the issue of the Construction Certificate.

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 Chris Doohan, Steve Tucker, John Morello and Sally Dover.

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

BACKGROUND

The purpose of this report is to present a development application to Council for determination. The application is put to Council for determination as staff have recommended refusal of the Development Application on planning merit and several similar Development Applications have been called to Council. As per the

Development Applications called to Council, Council staff have elected to put four current Development Applications to Council at the same time.

The key issue with the development application is flooding. Although the machinery shed design is outside the DCP requirements in footprint size but is considered generally in context with existing machinery shed in that location. Although the bulk and scale should be considered as the proposed shed is located approximately 140m from Hinton Bridge (State Heritage Item) and adjacent the Hinton Heritage conservation area. The shed in conjunction with the existing may impact on the visual amenity of these areas due to its close proximity. Apart from that the land use is permissible in the zone.

A site inspection of the property with Councillors was carried out on 26 November 2014.

The Proposal

The proposal is for the construction of a Machinery shed and additional earth mound at Lot: 1A, 2A & 6A DP: 9901, No. 7, 9 & 11 High St, Hinton. The machinery shed is a single storey structure with a footprint of 380m² and 6.187m height at the ridge. The volume of fill required has not been submitted although it will continue from the existing fill that has been previously placed on site. The machinery shed will abut the existing shed for increased storage. The earth mound and machinery shed are located approximately 40m from the banks of the Patterson River and 23m from High Street.

Draft Flood Policy

Council is in the process of drafting a Flood Policy to address future development in flood prone areas. Council subsequently made two resolutions. The first one being 24 June 2014 Notice of Motion 166; it was resolved that Council develop a strategy for building in flood prone land. The second being 12 August 2014 Matter Arising 200; It was resolved that no further development applications where flood prone land is involved be assessed until the flood prone policy is complete and that the draft flood prone policy be fast tracked. This Development Application was made prior to the second resolution on 26 June 2014.

Notwithstanding the fact that Council has resolved to create a policy in relation to dwellings on rural flood prone areas, it is considered unlikely that a future policy would support increased residential occupation in high hazard flood ways on a site such as this.

Flood Mapping

Current mapping locates the development within a designated Floodway zone, the Floodplain Risk Management Guideline (NSW Department of Environment and Climate Change, 2007) states that "Floodway's are generally areas where development is undesirable due to:

- The potential to redirect flows;
- The level of potential danger to personal safety;
- Significant financial losses due to potential damage".

The Role of the Office Environment and Heritage (OEH)

It is worthy to note we consider the development is integrated development due to the proximity of the river bank, this is referred to under Clause 91(1) of the EP&A Act 1979 requiring Approval under Part 3 Approvals -Section 91(Activity Approvals) of the Water Management Act 2000 for a controlled activity. This process may be carried out prior to, in concurrence or post determination of an application. Works cannot commence until these approvals are obtained.

Council can determine the application without the Water Management Act approval in place however the applicant is responsible for obtaining this approval prior to the commencement of any works. This can be achieved via a consent condition deferring works pending the approval, should Council support the application.

The integrated approval process may lead to additional works that would lead to an amendment (S. 96) to the application as it is presented to Council for determination.

Planning Risk Rationale

The application provided unclear information regarding existing levels and the proposed amount of fill, the extent of fill and heights of the fill and the machinery shed. The fill site has been previously identified by the Office of Environmental Heritage's floodplain Engineer to potentially have impacts on the levee banks structure. Correspondence was received regarding concerns with erosion and the following comment was made *"During recent June flood erosion has occurred at the edge of the building which in a bigger flood event may have led to the levee failing in that location which would have allowed additional floodwaters into the Hinton Area"*.

Additionally the development is located within the Paterson river riparian corridor (RC) and located within the designated vegetated riparian zone (VRZ). This development may impede future efforts to rehabilitate the RC/VRZ.

The proposal is not consistent with Port Stephens Council Local Environmental Plan 2013 for development on flood prone land and the draft "Areas Affected by Flooding and/or Inundation Policy" in regards to the nature of flooding, social impacts and suitability of the land. Refer to Council's Flooding Report in **(ATTACHMENT 2)** for assessment details.

Council adopted a revised Corporate Risk Management Policy on 27 November 2012. The policy includes Council's risk appetite statement that states:

"Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public."

“Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating.”

A decision contrary to the recommendation presents an unacceptable risk to Council as per Council's standard risk management matrix. These unacceptable risks relate to Council and the local community in respect to public safety, Council reputation and legal exposure.

In conclusion the site is not considered suitable for an additional machinery shed and associated fill, the entire lot is located in a floodway and therefore construction appropriate for this site.

This application is considered not suitable due to the exposure to risks associated with flooding as outlined in the flooding assessment detailed in **(ATTACHMENT 2)**.

Furthermore the development is not in accordance with Council's management plans and policies of Australian best practice for the management of floodplains.

FINANCIAL/RESOURCE IMPLICATIONS

The application could be potentially challenged in the Land and Environment Court. Defending Council's determination could have financial implications.

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

LEGAL AND POLICY IMPLICATIONS

The Development Application is not consistent with relevant planning instruments, Flood development guidelines and studies including but not limited to: EP&A Act 1979, PSC LEP 2013, Floodplain Management in Australia: Best Practice Principles and Guidelines (CSIRO, 2000), NSW Floodplain Development Manual (NSW Department of Infrastructure, Planning and Natural Resources, 2005) and the Draft Port Stephens Council Areas Affected by Flooding and/or Inundation Policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the determination may be challenged in the Land and Environment Court the Applicant.	Medium	Council is confident the assessment is robust and if required is able to proceed through the legal process.	Yes
There is a risk that the property floods and there is damage/loss to property/life.	Medium	Determine the application as per the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A possible positive socio-economic impact is that the owner is able to building a machinery shed on their land.

This is outweighed however by the fact that increasing residential occupation within high hazard floodways does not make good planning sense long term.

Property and life could be compromised as Owner/occupiers/property could potentially be exposed to floodwaters and/or isolated on or from the property for long periods of time during flooding events imposing further demands on local and SES resources.

CONSULTATION

The application did not require public notification in accordance with Councils policies. The application was referred to Council's flooding engineers as per Councils service level agreements. Appropriate consultation with the applicant has been followed during the assessment process.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment;

COUNCILLORS ROOM

Items listed below are also provided under separate cover:

- 1) Site Plan (unnumbered), Existing and proposed fill site plan, JH12591(21464-SS)
Sheets 1-4, Structural Details Sheet 1 & 2 dated 19-05-2010;
- 2) Statement of Environmental Effects.

TABLED DOCUMENTS

Nil.

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ATTACHMENT 2 ASSESSMENT

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 applicant proposes the construction of a Machinery shed and associated earth mound.

THE APPLICATION	16-2014-384-1
THE APPLICATION	
Owner	Mr W B Dark
Applicant	Mr W B Dark
Detail Submitted	Development plans including: Site Plan, Plans and elevations, Statement of Environmental Effects Flood Evacuation Plan BASIX certificate

THE LAND

Property Description	Lot:1A, 2A & 6A DP:9901
Address	No.7,9 & 11 High St, Hinton
Area	Approx 21,780m ² (3 lots combined)
Site description	The site has existing storage sheds and fill and is located to the east of the Patterson River.
Characteristics	Flood prone land Acid Sulfate Soils (class 4)

THE ASSESSMENT

PLANNING PROVISIONS

<i>Environmental Planning and Assessment Act 1979</i>	79C Planning provisions
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Port Stephens Local Environmental Plan (2013) Zone RU1 Rural Primary Production
 Clause 4.3 Height of buildings
 Clause 7.1 Acid sulfate soils
 Clause 7.2 Earthworks
 Clause 7.3 Flood planning
 Clause 7.6 Essential services

Port Stephens Development Control Plan 2013 B6 Single and Dual Occupancy Dwellings

Statutory Acts and Regulations

Environmental Planning and Assessment (EP&A) Act 1979

Section 79C – Planning Assessment

An assessment under Section 79C of the Act has been undertaken throughout this report.

Port Stephens Local Environmental Plan (2013)

Zone RU1 Rural Primary Production

Dwellings and associated fill are permissible within the land zoning.

Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base:
Additional fill will reduce potential land for production use.
- To encourage diversity in primary industry enterprises and systems appropriate for the area:
No industry use proposed in the application, application is for machinery shed only, although it appears some current agricultural use is active on site.
- To minimise the fragmentation and alienation of resource lands:
No subdivision is proposed although the use of large fill mounds may introduce fragmentation of the land.
- To minimise conflict between land uses within this zone and land uses within adjoining zones:
N/A adjacent zone are zone similarly and proposed development is permissible under the LEP.

Clause 4.3 Height of buildings

Clause 4.3 specifies the maximum height of buildings for development is not to exceed the maximum height shown for the land of the 'height of buildings map'. No specified height is mapped for the property although due to the combination of fill and a ridge height of 6.187m, the overall development from natural ground is approximately 8.3m. The height is on the threshold or most residential zoning maps of 8-9m.

Clause 7.1 Acid sulfate soils

The subject site is identified as Class 4 acid sulfate soils (ASS). Accordingly works more than 2 metres below the natural ground surface and works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface. As a result of excavations for footings, utility services and drainage. Due to the amount of fill excavation it is anticipated that ground disturbance kept to a minimum, although if the requirements above are triggered the applicant shall provide an acid sulphate management plan is to be submitted to council.

Clause 7.2 Earthworks

Clause 7.2 seeks to ensure that earthworks will not have a detrimental impact upon the environment or surrounding properties. The development requires earthworks involving a maximum 1meter of fill to facilitate services and construction. The proposed earthworks are in excess of the 1m max required by the DCP and could have a major impact on the visual amenity of the landscape, redirection of potential floodwaters and or inundation patterns. Minimal and unclear information regarding the amount of fill required was submitted with the application. The area of the top of the pad is unspecified with unclear parameters on the amount of fill required to achieve the desired level. This will introduce a significant amount fill required on site as the average depth required is approximately 2m deep

The application lacked clear information regarding existing levels and the proposed amount of fill, the extent of fill and heights of the fill and the machinery shed. The fill site has been previously identified by the Office of Environmental Heritage's floodplain Engineer to potentially have impacts on the levee banks structure. Correspondence was received regarding concerns with erosion and the following comment was made " During recent June flood erosion has occurred at the edge of the building which in a bigger flood event may have led to the levee failing in that location which would have allowed additional floodwaters into the Hinton Area".

Clause 7.3 Flood Planning

Clause 7.3 seeks to minimise the flood risk to life and property associated with the use of land and to allow development only where it is compatible with the land's flood hazard so as to ensure that significant adverse impacts on flood behaviour and the environment are avoided. The application is not acceptable when considered in the context of clause 7.3 as the site is classified as floodway and is located within an area that conveys a significant portion of the flood flow. As such the proposed development may adversely affect other areas and adjoining properties.

Further, the property is affected by very significant flooding in events as frequent as the 5% Annual Exceedance Probability (AEP). AEP refers to the chance or probability of flooding occurring on-site. The AEP rating for the subject site indicates that on average the development would be subject to flooding approximately every five years.

The subject site is also located within the high provisional hazard category for 5% AEP and greater. Therefore there is increased potential for significant structural damage to buildings. The development is not compatible with the lands flood hazard and will result in an unacceptable risk, therefore it cannot be supported.

Clause 7.4 Essential services

N/A

Port Stephens Development Control Plan 2013

Part B6 Single and Dual Occupancy Dwellings

The application has been assessed against the provisions of Development Control Plan 2013 (DCP2013). B6 – Single and Dual Occupancy Dwellings and is considered inappropriate development. The dwelling design is considered satisfactory although the land use inappropriate due to high flooding risk.

4.1 Site Coverage – N/A

4.2 Height – No Specific height limits are set for the property although the current design reached approximately 8.3m above natural ground due building height and the amount of fill required to build above the 1% AEP level.

4.3 Number of Storeys – N/A

4.4 Setbacks – N/A

4.5 Rural Setbacks - Compliant, the development is approximately 23m from High Street.

4.6 Building Form and Streetscape - The continual approval of large fill mounds to accommodate residential development, sheds and associated infrastructure to support the habitable uses will eventually impacting on the overall landscape. The introduction of isolated mounds/hills will detract from the natural landscape creating an irregular undulating landscape in what is a predominantly flat grazing land. The elevated pockets associated to dwellings and shed could also have an impact on the distant surrounding vistas due to the height of fill required for each development again detracting from the existing scenic outlooks.

4.7 Orientation to the Street Frontage – Well setback from the street, not an issue.

4.8 Bulk and Scale - Bulk and scale of mound will have significant impacts on the visual amenity of the properties as mentioned in 4.6 above.

4.9 Solar access – Complies.

4.10 Privacy – Complies.

4.11 Landscaping – Complies.

4.12 Private Open Space – Complies.

4.13 Car Parking – Complies.

4.14 Earthworks – Earth works are well in excess of the permissible 1m fill in the DCP. It is proposed an approximate 2m of fill is required (excluding the batter banks) to elevate the development to a level outside the 1% AEP. No details on showing the extent of the pad and proposed volumes were submitted. This amount of fill is considered undesirable and could have potential negative impacts on the rural landscape and also alter the flow paths of the flood waters. All could have a negative impact on adjacent properties and potential devaluation of properties.

The application proposes to build the shed to the level of the existing shed. A FPL of 6m has been provided by the flooding engineers, no specific details of the existing slab levels are provided (to AHD) and they may differ in height.

4.15 Stormwater and Drainage – Stormwater will be conditioned to comply with councils current policies.

4.16 Heritage and Conservation Areas – N/A

4.17 Energy Efficiency – Compliant.

4.5 Retaining walls – N/A

Existing Approvals

An existing approval exists on site for a Machinery Shed 16-2010-815-1 which has been erected. The proposed development wished to abut this development and expand the storage/workshop area. No flood planning level has been noted on the DA, the current development wants to build to the existing level although a FPL of 6m has been provided although it is difficult to determine if this is in line with existing height. The new development will have to be built to the new FPL.

Community consultation

In accordance with Council's Notification Policy, the proposed development was not required to be notified or advertised.

Integrated development

The development is flagged as integrated development due to the proximity of the river bank, this is referred to under Clause 91 of the EP&A Act 1979 requiring Approval under Part 3 Approvals -Section 91(Activity Approvals)of the Water Management Act 2000 for a controlled activity. Certain exemptions apply to controlled activity

approvals. Clause 39 of the Water Management (General) Regs 2011 refer to a schedule of these works. This can be found in Part 2 Schedule 5 of the same regulations.

It is noted that this development would not meet the requirements of the exemptions as the works would have to be associated to a dwelling to active the exemptions and no existing dwelling approval is noted as well no associated dwelling with current application. The application was submitted as an integrated application therefore these processes would have to be sought concurrently or after an application determination.

Internal referrals

Flood Engineer

Development Description:

- Machinery Shed – Proposed floor level not provided – (same as existing, however no details as to what the existing building level is).
- No description given as to purpose of the development.
- An existing machinery shed is located on the site, for which development was approved in 2010. Cannot see a flood referral completed on TRIM – See (16-2010-815-1).

Catchment: Paterson River

Flood study: Paterson River Floodplain Management Study and Plan

	5% AEP	2% AEP	1% AEP	0.5% AEP	0.2% AEP	PMP
Flood Level (mAHD)	6.0	6.6	6.6	6.8	7.0	7.5
FPL (m AHD)			7.1			
Hazard Cat						
High			High	High	High	High
Hydraulic Cat				Floodway		

Notes:

Flood Level – Figure 4.10 to 4.14

Extreme Flood level – Figure 4.9 – Hard to read exactly – no contours only colour gradients.

Provisional Hazard Categories – Figures 5.3 to 5.5

Hydraulic Cat – Figure 5.7

The flood characteristics local to the subject site:

1. Channelised river flows run south adjacent to the subject site.
2. During Flooding events, the floodway runs east-west, across the subject site.

Assessment

PSC LEP (section 7.3 – Flood Planning)

Flood Compatibility

- a. PSC LEP (2013) requires development consent must not be granted to development on land which this clause applies unless the consent authority is satisfied that the development:

- i. is compatible with the flood hazard of the land, and

The subject site is located within a high hazard flood storage area for the Paterson River. High hazard floodway areas are incompatible with all forms of urban development. High velocities and/or depths associated with Paterson River would put people in undue danger.

- ii. will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and

Filling the floodway and building adjacent to the Hinton Spillway will have an impact on the flood behaviour. This is not addressed in the application. Ian Jackson, flood engineer from OEH, as also noted with reference to the existing building on the subject site:

"During recent June flood erosion has occurred at the edge of the building which in a bigger flood event may have led to the levee failing in that location which would have allowed additional floodwaters into the Hinton Area" (per Com email – Ian Jackson Dated 5 Sept 2011)

Further expansion of the building adjacent to the levee could put the levee at more risk, or in the least further restrict future mitigation works to be carried out to protect the levee

- iii. incorporates appropriate measures to manage risk to life from flood, and

As noted above, the development is located within a high Hazard floodway. No mitigation measures are noted in the development application.

- iv. will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and

The development is located within the Paterson river riparian corridor (RC). Additionally, it is located within the designated vegetated riparian zone (VRZ) (within 30 metres of a 3th order. This development would impede future efforts to rehabilitate the RC/VRZ.

- v. is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Assessment Outcome

The Application cannot be supported and is recommended that the assessing officer seek withdrawal or refuse the application for the following reasons:

- i. The development does not comply with the following:
 - a. PSC LEP (2013) Section 7.3 Flood Planning
 - The proposed development is located in a high hazard floodway, and as such the development is deemed not compatible with the flood hazard of the land.
 - The proposal seeks to develop in close proximity to the Hinton Spillway. Potential Levee damage has been previously identified (OEH) by existing filling and buildings. The proposed development could further place the levee structure, allowing additional flows into the Hinton area. The proposal may significantly modify the flooding behaviour of the Hinton area.

Reasons for Refusal

- The subject land is located entirely in the Floodway and Excessive Depth Floodplain Management Zone. Due to the risk associated with velocities and/or depth which pose a risk to structures and/or the safety of persons the land is deemed unsuitable for further development;
- The development is inconsistent with the provisions of Clause 7.3 of Port Stephens Local Environmental Plan 2013, in particular the objectives and planning considerations for development on flood prone land;
- The site is located within a high hazard category for smaller events: 5% AEP and greater;
- The proposal seeks to develop in close proximity to the Hinton Spillway. Potential Levee damage has been previously identified (OEH) by existing filling and buildings. The proposed development could further place the levee structure, allowing additional flows into the Hinton area. The proposal may significantly modify the flooding behaviour of the Hinton area.

Likely impacts of the development

The assessment considered the likely impact of the development by identifying the potential impacts of the proposal, available measures to improve impacts and frequency/severity of the impacts.

The development is not compatible with the flood risks associated with the land and may result in unacceptable impacts to life and property. The development is recommended for refusal for the following reasons.

Suitability of the site

The site is physically constrained by flooding and is considered unsuitable for the proposed development.

Public interest

The development may result in adverse social, economic and environmental outcomes as the development has not been designed in a manner that is compatible with the flood risk of the land. The development poses an unacceptable risk to life and property and may also result in adverse flood impacts to surrounding properties. The development is not within the public interest.

ITEM NO. 5

FILE NO: PSC2010-03722

REVOKE POLICY: SUSTAINABLE EVENTS MANAGEMENT

REPORT OF: ROSS SMART – COMMUNICATIONS SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the Sustainable Events Management Policy shown at **(ATTACHMENT 1)**.
-

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014**COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Steve Tucker Councillor John Morello
	That Item 12 be brought forward and dealt with prior to Item 5, in Committee of the Whole.

Cr Paul Le Mottee returned to the meeting at 7.04pm, following Item 12 in Committee of the Whole.

	Councillor Steve Tucker Councillor John Morello
	That the recommendation be adopted.

MOTION

335	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council revoke the Sustainable Events Management Policy shown at (ATTACHMENT 1) .

BACKGROUND

The purpose of this report is to recommend that Council revoke the Sustainable Events Management Policy **(ATTACHMENT 1)**.

The Sustainable Events Management Policy was adopted on 14 June 2011 (Minute no. 204) and is overdue for review. The policy was developed to satisfy requirements of the NSW Government's Waste and Sustainability Improvement Payment (WaSIP) program, particularly around areas related to compliance and resource use.

Having an adopted policy position on sustainable event management practices was a requirement in accessing grant funding under the WaSIP program. It is no longer a requirement to have such a position due to the cessation of the WaSIP program in 2013.

Sustainability aspects of events held on Council owned and managed land, particularly in the areas of waste and recycling, energy and water use, bio-diversity and other compliance-related functions, is today managed via Council's event assessment and approval process, by staff within the Tourism & Events unit. This process was established in January 2013 following a review of the way in which Council approves events held on public land within the LGA.

The principles outlined in the Sustainable Events Policy, as well as considerations around Work Health & Safety, insurance and risk management, are administered via this process and therefore the policy is considered obsolete.

A new policy covering how Council attracts, supports and licenses events within the Local Government Area is currently being drafted and will be presented to Council in March 2015.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications related to adoption of the recommendation.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources related to policy review are covered within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in reviewing existing policies and determining the appropriateness of them.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may suffer reputation damage as a	Low	Adopt the recommendation.	Yes

MINUTES FOR ORDINARY MEETING – 9 DECEMBER 2014

result of having in place a policy that does not meet current practices.			
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Tourism & Events Coordinator;
- 2) Waste Management Coordinator;
- 3) Waste Management Officer;
- 4) Environmental Health & Compliance Coordinator.

OPTIONS

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

ATTACHMENTS

- 1) Sustainable Events Management Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Sustainable Events Management Policy



POLICY

Adopted: 14th June 2011
Minute No: 204
Amended:
Minute No:

FILE NO: PSC2010-03722

TITLE: SUSTAINABLE EVENTS MANAGEMENT POLICY

REPORT OF ACTING ECONOMIC DEVELOPMENT MANAGER

BACKGROUND

The NSW Government's Waste and Sustainability Improvement Payment (WaSIP) Program has instituted a requirement that Council adopt a Sustainable Events Management Policy. Compliance of this is a requirement of maintaining grant funds from the WaSIP Program.

OBJECTIVE

This policy is to provide a set of guidelines that event organisers should adhere to ensure their events do not adversely impact on the environmental sustainability of Port Stephens. In particular, this policy is to ensure Event Managers have strategies in place that:

- Minimise waste
- Maximise recycling
- Minimise energy consumption
- Minimise water consumption
- Conserve bio-diversity, and
- Minimise impacts on climate change

Events operated within the Port Stephens Local Government area will ensure they are planned, implemented and reviewed based on the international best practice Sustainable Event Management (SEM) standards as outlined in this policy.

PRINCIPLES

- 1) This Sustainable Event Management (SEM) Policy has been adopted to ensure events delivered in Port Stephens Local Government Area are managed to conform with Quadruple Bottom Line management practices, and consistent with the principles of Ecologically Sustainable Development (ESD) – as required by the Local Government Act.

POLICY STATEMENT

Scope: are those events either run by Council, funded or sponsored by Council, or those run by an external party that has been required to make application to Council for consent to conduct their event in Port Stephens. This policy is designed to clearly identify the minimum requirements for event organisers in relation to the planning, implementation and evaluation of events captured within the Policy scope.

Quadruple Bottom Line Considerations

For the purposes of this Policy, Quadruple Bottom Line (QBL) Considerations encompass the assessable impacts of environmental, social, financial, and cultural (including organisation) outcomes

Sustainable Event Management (SEM) Best Practice:

In addition to the mandatory requirements, event owners that fall under the scope of this Policy will carry out events according to International Best Practice SEM. International Best Practice SEM is based on British Standard BS8901 and identifies that events are carried out using a three-phase framework: planning, implementation, and feedback/review. This framework encourages and facilitates a process of continual improvement, helping to ensure events become iteratively more sustainable over time.

Event Planning (before an event)

1. Venue selection will be selected with consideration of
 - a. public transport accessibility
 - b. accessibility for persons with disability
 - c. allows for the sustainable water management
 - d. accessibility of waste recycling services
 - e. has access to clean energy usage
2. Catering selection will be with consideration of
 - a. use of recyclable cutlery/crockery
 - b. sourcing of local produce
 - c. minimum packaging and/or reusable packaging
 - d. sourcing of local labour and contractors
 - e. uses a minimal supply chain distance
 - f. consideration of commercial competition in the community of the event
 - g. ensure compliance with all safety and food regulations
3. Waste will be managed with consideration of
 - a. minimal packaging from materials sourced from suppliers
 - b. sustainable disposal of food waste
 - c. minimal disposable and non-biodegradable crockery/cutlery
 - d. adequate bins and a strategy for waste management processes
 - e. removal of all event promotional material, use of recyclable or reusable signage, promotional and marketing materials
4. Marketing and promotion will be planned with the consideration of
 - a. reusable or recyclable marketing and promotional materials

- b. use of digital means of communications wherever possible to reduce the use of paper or synthetic materials
 - c. use of existing marketing channels where available
 - d. use of digital administration tools wherever possible
 - e. promotion of event sustainability principles during the event
 - f. the completion of a plan that outlines approach, identifying target audience, messages to be delivered, type of media to be used & materials required
 - g. The local communities are engaged in regards to consultation of the event with volunteer and/or event talent participation opportunities where available
5. Education and training
- a. Event organisers should ensure that all event staff (including volunteers) are appropriately trained in the sustainable event principles to ensure adherence to this Policy is adhered before, during and after the event.

Implementation (during an event)

1. Ensure adequate staffing/systems/procedures are in place to deliver Policy goals, and monitor and record data to feed into review and continual improvement.
2. Checklists and guidelines are used to ensure event meets stated goals and targets.

Post Event (after the event)

The following reviews will be carried out and reported back to council:

1. Implementation checklists (catering, venue, waste, marketing and promotion and education / training) will be evaluated according to Q&L objectives.
2. A list of suggested improvements will be made for future events.

RELATED POLICIES

Sustainability Policy

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Positive implications of well-being and event based entertainment being available to the community on a sustainable basis.

ECONOMIC IMPLICATIONS

Positive implications in the economic benefit derived from increase in visitation to our region on an ongoing and sustainably delivered basis.

ENVIRONMENTAL IMPLICATIONS

Positive implications on the reduction of event carbon footprint in the region, the preservation of our natural environment, and the reduction in non-biodegradable waste.

RELEVANT LEGISLATIVE PROVISIONS

Adopting this policy is a requirement of the Waste and Sustainability Improvement Program which is described in Part 5A of the Protection of the Environment and Operations (Waste) Regulation 2005.

IMPLEMENTATION RESPONSIBILITY

Event owners and managers falling under the scope of the Policy

REVIEW DATE

2 years from the adoption of the Policy

ITEM NO. 6

FILE NO: PSC2010-03626

POLICY REVIEW: MEDIA LIAISON

REPORT OF: ROSS SMART - COMMUNICATIONS SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Media Liaison policy shown at **(ATTACHMENT 1)**;
- 2) Place the Media Liaison policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Media Liaison policy dated 29 June 2010 (Min No. 189), should no submissions be received.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Geoff Dingle Councillor Paul Le Mottee
	That the recommendation be adopted.

MOTION

336	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council: <ol style="list-style-type: none"> 1) Endorse the amendments to the Media Liaison policy shown at (ATTACHMENT 1); 2) Place the Media Liaison policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council. 3) Revoke the Media Liaison policy dated 29 June 2010 (Min No. 189), should no submissions be received.

BACKGROUND

The purpose of this report is to review the Media Liaison Policy, adopted by Council on 29 June 2010 (Min. No. 189).

Port Stephens Council is committed to keeping its local and wider community well informed about its activities. To achieve this outcome Council recognises that a good working relationship with the media is essential. The electronic and print media are principal means by which Council can inform and consult effectively with its community.

The purpose of the Policy is to encourage community understanding and informed judgement about Council's actions and decisions by:

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

Changes made in this most recent review are minor in nature, and predominately serve to update job titles to match current organisational structure. The word 'digital' has also been added to the background of the policy to reflect the changing nature of the media landscape.

The need for Council to maintain a working relationship with the media is identified in item 18.1.1.4 (Manage Council's relationship with the media) and 18.1.1.1 (Manage external communications) of Council's 2014-2015 Operational Plan.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal financial implications related to adopting the recommendation.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources related to policy review are covered within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal, policy and risk implications in adopting the revised policy. The policy will assist in sustaining a positive working relationship between Council and the media to encourage and facilitate communication to the community on behalf of Port Stephens Council.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that without the Media Liaison Policy in place, Council may not maintain a positive relationship with the media, which may have an effect on how Council is perceived within the community.	Low	Adopt the revised Media Liaison Policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Public Relations and Marketing Coordinator.

OPTIONS

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

ATTACHMENTS

- 1) Amended Media Liaison Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Amended Media Liaison Policy



POLICY

Adopted: 28 May 2002
Minute No: 206
Amended: 29 June 2010
Minute No: 189

FILE NO: PSC2010-03626

TITLE: MEDIA LIAISON POLICY

REPORT OF: COMMUNICATIONS SECTION MANAGER

BACKGROUND

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

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

OBJECTIVE

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

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

PRINCIPLES

- 1. The media are an economical, accessible and effective means by which the Council can communicate with the community.
- 2. Communication between nominated Council

Changes

Delete:
Report of
Insert:
Responsible Officer

Insert:
digital (after the word
electronic)

Delete:
The space (before
establishing)

spokespersons and the media will always be subject to freedom of speech considerations and open to:
a) analysis and question; and
b) interpretation by the media and the public as accurately conveying the Council's knowledge or position on a particular matter

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

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

POLICY STATEMENT

1. Port Stephens Council is committed to open communication with its community through the media. Council will be open and honest in its dealing with the media, notwithstanding that Council will comply with its duty of care to protect confidential or personal information and does not infringe any laws in providing information.
2. Council representatives will not knowingly provide information to the media which is untruthful or inaccurate.
3. Council will make all reasonable attempts to deal with media inquiries promptly and accurately. Council will also try at all times to have relevant Council or staff representatives available to respond to the media in a timely manner.
4. As elected community representatives, Councillors may express their personal view on any matter to the media.
5. As the elected leader of the Council, the Mayor is Council's spokesperson on matters of policy and interpretation of Council's position or decisions. In the absence of the Mayor, the Deputy Mayor will be Council's spokesperson on these matters.
6. When authorised to do so by the Mayor, Councillors may also represent Council to the media in respect of:
 - I. Matters of interest to their Ward that they have been personally involved in;

- ii. Matters related to the activities of committees, which they chair or are involved in.
7. In addition to operational issues, the General Manager may also represent Council to the media on matters of policy.
 8. Staff may represent Council to the media on matters of factual information only if approved to do so by the General Manager, their Group Manager or the Communications and Customer Relations Manager. Staff must not express personal views regarding Council matters and in general should only provide information in respect of their area of responsibility.
 9. From time to time, the General Manager may also authorise individuals other than staff or Councillors to represent Council to the media, for example Chairperson of Audit Committee
 10. Written statements to the media on behalf of Council must be issued through the Communications Unit and approved by the Communications and Customer Relations Manager. Where appropriate, they will seek approval from the Mayor, General Manager or relevant Group Manager. Where other staff have been quoted in written statements, approval will be sought from the individual(s) prior to distribution to the media.
 11. All Council staff contact with the media is to be co-ordinated through Council's Communications Unit. Council will use agreed protocols and procedures to guide staff and Councillors to ensure that this policy is followed.

RELATED POLICIES AND DOCUMENTS

1. Code of Conduct
2. Communication Plan

REVIEW DATE

30 June 2012

IMPLEMENTATION RESPONSIBILITY

This policy is to be implemented by all areas of the Council

Delete:
and Customer Relations
Insert:
Section

Delete:
and Customer Relations
Insert:
Section

Delete:
And Documents (in heading)

Insert:
(New headings after Related Policies)

SUSTAINABILITY IMPLICATIONS SOCIAL IMPLICATIONS

1) The media influences and reflects how Council is perceived by the public. Fostering a healthy

organisation.

Responsibility for monitoring and reviewing the policy is with the Communications and Customer Relations Manager

relationship between Council and the Media will ensure accurate messages from Council are disseminated into the community and that Council's reputation is protected in the eyes of those it serves.

ECONOMIC IMPLIATIONS

Nil.

ENVIRONMENTAL IMPLICATIONS

Nil.

RELEVANT LEGISLATIVE PROVISIONS

Nil.

Delete:

(In text under heading Implementation Responsibility)
Communications and Customer Relations Manager

Insert:

Communications Section Manager and the Public Relations and Marketing Coordinator

Insert:

(New heading after the heading Implementation Responsibility)

PROCESS OWNER

1) Communications Section Manager.

Delete:

(Review date)
30 June 2012

Insert:

December 2016

ITEM NO. 7

FILE NO: PSC2014-03911

POLICY REVIEW: MULTICULTURAL AFFAIRS

REPORT OF: ROSS SMART - COMMUNICATIONS SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Cultural Diversity Policy shown at **(ATTACHMENT 1)**;
- 2) Place the Cultural Diversity Policy, as amended on public exhibition for a period of 28 days and should no submissions be received adopt the policy as amended;
- 3) Revoke the Multicultural Affairs policy shown at **(ATTACHMENT 2)** dated 26 March 2002 (Minute No. 104) should no submissions be received.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014
COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Steve Tucker Councillor John Morello
	That the recommendation be adopted.

MOTION

337	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council: <ol style="list-style-type: none"> 1) Endorse the Cultural Diversity Policy shown at (ATTACHMENT 1); 2) Place the Cultural Diversity Policy, as amended on public exhibition for a period of 28 days and should no submissions be received adopt the policy as amended; 3) Revoke the Multicultural Affairs policy shown at (ATTACHMENT 2) dated 26 March 2002 (Minute No. 104) should no submissions be received.

BACKGROUND

The purpose of this report is to recommend that Council revoke the existing Multicultural Affairs policy **(ATTACHMENT 2)** and adopt the amended and renamed Cultural Diversity policy **(ATTACHMENT 1)** to assist in the provision of equitable access to Council services and facilities for people of all backgrounds.

At the last Census (2011), the Port Stephens Local Government Area (LGA) had a population of 64,807. The Census identified that:

- 16.9% of the Port Stephens community were born overseas, compared to a NSW figure of 31.4%.
- The three main countries of birth (besides Australia) are the United Kingdom (3.9%), New Zealand (1.2%), and Scotland (0.5%).
- 1% of the Port Stephens population speaks a language other than English at home. These languages are: Italian (0.3%), German (0.2%), Greek (0.2%), and Croatian (0.2%).
- 4.6% of the Port Stephens population speaks two or more languages at home.

The NSW Government has estimated that by 2031 over 91,000 people will live within these boundaries. Although culturally and linguistically diverse residents constitute a small portion of the Port Stephens population, the potential contributions such residents make within their community is acknowledged.

The development of the Cultural Diversity policy is in accordance with Council's Charter, under Section 8 (1) of the Local Government Act which specifies that Council will:

- Exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- Exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights; and
- Keep the local community and the State government (and through it, the wider community) informed about its activities.

Item 7.1.1 of the Port Stephens Community Strategic Plan 2013-2023 also states that Council will Plan for and promote multiculturalism and Port Stephens' Heritage, arts and culture.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal financial/resource implications related to adopting the recommendation.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources related to policy review are covered within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in updating this policy to make it more accurate and reflective of the Port Stephens community.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the poor decisions will be made as a result of the out-dated/obsolete policy.	Low	Adopt the Cultural Diversity policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Part of Council's role is to provide services and make decisions to enhance quality of life, our economy and our natural environment. The Cultural Diversity policy supports Council's values and celebrates the social, economic and educational value of cultural diversity. A diverse community is a strong and sustainable community.

CONSULTATION

- 1) Consultation has been undertaken with relevant internal staff.

OPTIONS

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

ATTACHMENTS

- 1) Cultural Diversity policy;
- 2) Multicultural Affairs policy (Minute no. 104).

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Cultural Diversity Policy



POLICY

Adopted: 26 March 2002
Minute No: 104
Amended:
Minute No:

FILE NO: PSC2014-0391
TITLE: CULTURAL DIVERSITY POLICY
RESPONSIBLE OFFICER: COMMUNICATIONS SECTION MANAGER

BACKGROUND

Port Stephens Council recognises the social, economic and educational benefits cultural diversity offers the local community. A diverse community is considered to be a strong and sustainable community. Council plays an important role in ensuring that people from all backgrounds have equitable access to community services, facilities and resources, and that everyone can take part in community life.

The NSW and Federal governments have policies to respond to the changing composition of the Australian people. The People of Australia–Australia's Multicultural Policy (2011) is the primary vehicle for ensuring that Australian government programs and services are responsive to the needs of Australia's culturally and linguistically diverse population.

Similarly agencies in NSW, as one of the most culturally diverse states, are guided by the Community Relations Commission and Principle of Multiculturalism Act (2000). The legislative frameworks provided by the NSW and Federal governments inform this policy and guide Port Stephens Council's service delivery.

This policy affirms Port Stephens Council's commitment to supporting this cultural diversity as it enriches the lives of all people in our community.

OBJECTIVE

- 1) To ensure the provision of Council information, services and facilities does not discriminate those from culturally and linguistically diverse backgrounds through the provision of key principles to guide Council's decision making.

PRINCIPLES

The following principles will support Council to achieve its objective to support people from culturally and linguistically diverse backgrounds.

- 1) Council will endeavour to ensure all residents have equitable access to Council services and facilities regardless of race, language, religion or culture.
- 2) Council's consultative and decision making processes will recognise and encourage the participation and contribution of residents from culturally and linguistically diverse backgrounds.
- 3) Council will seek to develop appropriate communication strategies to inform people from culturally and linguistically diverse backgrounds about participation in its services, programs and facilities.
- 4) Council will ensure that community, social, recreation, environmental and infrastructure planning shall incorporate the needs of people from culturally and linguistically diverse backgrounds as required.
- 5) Council will work collaboratively where appropriate with fellow members of the Hunter Region of Councils (HROC), regional multicultural, interagency and government organisations to ensure an integrated and strategic approach is taken to the planning and delivery of services for residents from culturally and linguistically diverse backgrounds.
- 6) Council will encourage and promote opportunities for residents and visitors from culturally and linguistically diverse backgrounds to participate in the economic and cultural life of the Port Stephens community.

POLICY STATEMENT

This policy affirms Port Stephens Council's commitment to three key concepts:

- 1) cultural identity: the right of all Australians, within defined limits, to express and share their individual cultural heritage, including their language and religion;
- 2) social justice: the right of all Australians to equality of treatment and opportunity, and the removal of barriers of race, ethnicity, culture, religion, language, gender or place of birth; and
- 3) economic efficiency: the need to maintain, develop and utilize effectively the skills and talents of all Australians, regardless of background.

RELATED POLICIES

- 1) Social Impact Policy, minute no. 241;
- 2) Tenancy Policy, minute no. 212;
- 3) Community Engagement Policy, minute no. 318;
- 4) Disability Access and Inclusion Policy, minute no. 321;

- 5) The People of Australia–Australia's Multicultural Policy, Australian Government, 2011.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The Cultural Diversity Policy provides the framework for acknowledging, valuing and celebrating the social, economic and educational value of cultural diversity in the Port Stephens. It ensures that residents from culturally and linguistically diverse backgrounds have equitable access to Council services and facilities and are provided with opportunities to participate and contribute in Council's decision making processes.

The policy encourages communication and the community understanding that the rights and responsibilities of people from culturally and linguistically diverse backgrounds are recognised as an integral part of the Port Stephens community.

ECONOMIC IMPLICATIONS

Effectively utilizing the skills and talents of all Australians, regardless of background, has significant economic benefits for the region.

ENVIRONMENTAL IMPLICATIONS

There are no significant environmental implications.

RELEVANT LEGISLATIVE PROVISIONS

- 1) Ethnic Affairs Commission Amended Act (1997);
- 2) Local Government Act (1993);
- 3) Local Government Amendment (Community and Social Plans) Regulation (1998);
- 4) NSW Anti-Discrimination Act (1977);
- 5) The Community Relations Commission & Principles of Multiculturalism Act (2000);
- 6) Nationality & Citizenship Act (1948).

IMPLEMENTATION RESPONSIBILITY

The policy shall be implemented on an organisational wide basis.

PROCESS OWNER

Communications Section Manager

REVIEW DATE

December 2016

ATTACHMENT 2
Multicultural Affairs policy



Adopted: 26 March 2002
Minute No: 104
Amended:
Minute No:

FILE NO: 7250-01

TITLE: MULTICULTURAL AFFAIRS POLICY

BACKGROUND

According to the 1996 ABS Census 10.6% of the Port Stephens community were born overseas. This comprised of 6.7% residents born in English Speaking Countries (eg: United Kingdom) and 3.9% from non-English speaking Countries (eg: Germany, Netherlands, Malaysia, Italy, Philippines).

Although these culturally and linguistically diverse residents only constitute a small proportion of the Port Stephens community, Council recognises and values these residents as being an integral part of the Port Stephens community.

Council therefore desires to identify and address any barriers which may exist for these residents in accessing Council's services and facilities to ensure equitable access for all.

Consequently the 'Culturally and Linguistically Diverse' component of the 'Port Stephens Council Community Plan 1999' recommends:-

- 'Council develop an Ethnic Affairs Policy Statement to articulate its role and responsibilities and co-ordinate action with respect to residents of culturally and linguistically diverse backgrounds'.

(Source: Port Stephens Community Plan 1999)

The development of this Ethnic Affairs Policy Statement is in accordance with Council's Charter which specifies that Council will:-

- 'Exercise its functions in a manner that is consistent with and actively promotes the principles of cultural diversity of its community'
- To keep the local community and the State Government (and through it the wider community) informed about its activities

(Source: Port Stephens Management Plan 2001 – 2004)

OBJECTIVE

To ensure that residents from culturally and linguistically diverse backgrounds have equitable access to Council services and facilities and are provided with opportunities to participate and contribute in Council's planning and decision making processes.

PRINCIPLES

- Council values cultural diversity.
- Council values community harmony and mutual respect.
- Council values and respects the rights of all individuals.
- Council values community participation and contribution.
- Council values access and equity.
- Council values the dignified and fair treatment of all individuals.
- Council values opportunities for all individuals to participate in the economic and cultural life of the Port Stephens community.

POLICY STATEMENT

- Council will endeavour to ensure all residents have equitable access to Council services and facilities regardless of race, language, religion or culture.
 - Council will be responsive to the needs of residents from culturally and linguistically diverse backgrounds.
 - Council will support anti-discrimination policies and practices.
 - Council's consultative and decision-making processes will recognise and encourage the participation and contribution of residents from culturally and linguistically diverse backgrounds.
 - Council services, plans and facilities will be promoted (where possible) in a culturally appropriate manner.
 - Council will identify gaps and barriers in the delivery of Council services and facilities to residents from culturally linguistically diverse backgrounds and (where possible) will develop strategies in response to the issues identified.
 - Council will foster a climate of community harmony and mutual respect.
 - Council will work collaboratively with fellow members of the Hunter Region of Councils (HROC) and regional ethnic organisations to ensure an integrated and strategic approach is taken to the planning and delivery of services for residents from culturally and linguistically diverse backgrounds.
-
-

- Council will encourage and promote opportunities for residents and visitors from culturally and linguistically diverse backgrounds to participate in the economic and cultural life of the Port Stephens community.

RELATED POLICIES

- Community Services Policy
- Equal Employment Opportunity Policy
- Tenancy Policy
- Community Information & Communication Policy

REVIEW DATE

December 2003

RELEVANT LEGISLATIVE PROVISIONS

- Ethnic Affairs Commission Amended Act (1997)
- Local Government Act (1993)
- Local Government Amendment (Community and Social Plans) Regulation (1998)
- NSW Anti-Discrimination Act (1977)
- The Community Relations Commission & Principles of Multiculturalism Act (2000)
- Nationality & Citizenship Act (1948)

IMPLEMENTATION RESPONSIBILITY

The policy shall be implemented on an organisational wide basis.

ITEM NO. 8

FILE NO: PSC2005-1876

NSW COASTLINE CYCLEWAY GRANTS – SANDY POINT ROAD

REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Not construct a shared path (**Path 1 in ATTACHMENT 1**) on Sandy Point Road from Foreshore Drive to Conroy Park.
- 2) Return \$167,500 grant funding originally obtained for Sandy Point Road from Foreshore Drive to Conroy Park (**Path 1 in ATTACHMENT 1**).
- 3) Place the headland path route (**Path 2 in ATTACHMENT 1**) from Foreshore Drive to Conroy Park into Council's Forward Works Plan.
- 4) Construct the shared path on Sandy Point Road from Worimi Drive to Foreshore Drive (**Path 3 in ATTACHMENT 1**) as planned utilising Council funds to match the received NSW Coastline Cycleway grant funding.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014**COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Sally Dover Councillor John Morello
	That the recommendation be adopted.

MOTION

338	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council: <ol style="list-style-type: none"> 1) Not construct a shared path (Path 1 in ATTACHMENT 1) on Sandy Point Road from Foreshore Drive to Conroy Park. 2) Return \$167,500 grant funding originally obtained for Sandy Point Road from Foreshore Drive to Conroy Park (Path 1 in ATTACHMENT 1). 3) Place the headland path route (Path 2 in ATTACHMENT 1) from Foreshore Drive to Conroy Park into Council's Forward Works Plan. 4) Construct the shared path on Sandy Point Road from Worimi Drive to Foreshore Drive (Path 3 in ATTACHMENT 1) as planned utilising Council funds to match the received NSW Coastline Cycleway grant funding.

BACKGROUND

The purpose of this report is to outline the history of the NSW Government's Coastline Cycleway Grants program funding and to seek Councils approval to allocate NSW coastline cycleway grant funding as recommended.

This report refers to 3 sections of concrete path with similar names. For the purpose of this report to differentiate between each path, they shall be labelled:

'Path 1' – Sandy Point Road from Foreshore Drive to Conroy Park;

'Path 2' – Foreshore Drive to Conroy park via the headland;

'Path 3' – Sandy Point Road from Worimi Drive to Foreshore Drive.

These paths are shown in **(ATTACHMENT 1)**.

The NSW Government's Coastline Cycleway Grants program provided funding for a continuous 1,400km cycle route from the Queensland border to the Victorian border, linking coastal communities to provide economic stimulation and avoiding main roads where possible.

The route of the Coastline Cycleway within Port Stephens Council's area starts at Fern Bay and ends at the ferry wharf at Nelson Bay. The route follows Nelson Bay Road, Fullerton Cove Road, Marsh Road, Port Stephens Drive, Salamander Way, Bagnall Beach Road, Sandy Point Road, Bagnall Beach Reserve and Burbong Street, where it connects to the existing concrete cycleway along Dutchmans Beach.

In 2008 Council submitted a grant application to the Department of Planning under the NSW Coastline Cycleway Grants Program for the path along Sandy Point Road from Foreshore Drive to Conroy Park (Path 1) for \$165,000 and \$2,500 for signage. In April 2009 the Minister for Planning, The Hon Kristina Keneally MP, announced a \$167,500 grant to Port Stephens Council.

In addition to the above grant, in 2009 Council submitted another application to the Department of Planning for a path along Sandy Point Road from Worimi Drive to Foreshore Drive (Path 3). In May 2010 the Minister for Planning, The Hon Tony Kelly MLC, announced a \$147,500 grant to Port Stephens Council under the same NSW Coastline Cycleway Grants Program.

The path routes as proposed in the NSW Coastline Cycleway Grants Program applications are shown in **(ATTACHMENT 1)**.

Survey and design for Path 1 was completed mid 2010 for a September 2010 construction. Following some community concern about the proposed shared paths, Council considered a Notice of Motion at the Ordinary Council Meeting 28 September 2010 Minute No. 315 that Council:

"1) Not commence the construction of the cycleway link between Conroy Park and Foreshore Drive, Corlette.

2) That an urgent meeting be held with staff and East Ward Councillors to reconsider the safety aspect of this route alongside the road.

3) The alternate route alongside the waterfront be investigated and costed. This route would provide a safe cycleway with no danger of intersecting driveways and although it may be more expensive it will provide the residents and visitors of Port Stephens with a superior, safe and scenic cycleway of which we can all be proud."

Construction did not commence and a meeting with Councillors and staff was held 28 September 2010, and a follow up meeting 12 November 2010 to progress the investigation of an alternative route. An alternative route around the Corlette headland (Path 2) was proposed and investigation commenced.

A further resolution from Council at the ordinary Council meeting 23 August 2011 Minute No. 300 Allocation of Ward Funds – East and West Wards considered this issue. It was resolved to:

"4) Defer the following cycleway projects:

a) between Conroy Park, Corlette and Roy Wood Reserve, Corlette

b) between Foreshore Drive, Corlette and Worimi Drive, Salamander Bay

5) Re-allocate Council funds from these two projects to Apex Park, Nelson Bay and;

6) That staff consult with the organisations who have provided grants to the cycleway projects to discuss future implementation."

Council's own contributions for these projects were reallocated in accordance with the above resolution and the monies from the Department of Planning were placed in a Council account for future use. These funds would be called upon once additional funds and grants were made available.

A report was put to Council on the 24 July 2012 outlining the initial costs of Path 2. As a result of the costs and limited ability to fund this project at that time, staff recommended to hold off construction of the alternative route until adequate funds for the projects could be obtained and to construct the routes as per the NSW Coastline Cycleway Grants Program funding agreement through Corlette.

The Ordinary Council Meeting 24 July 2012 Minute No. 203 resolved that:

"1) That this matter be deferred until a report is submitted to the next Council;

2) That the staff make representations to the NSW Coastline Cycleway Project to allow Council to review the program having regard to the changing pattern of development;

3) That the staff confer with the local groups as the Corlette Committees, the local cycling groups and Landcom in order to ensure that the development of the pathways network is constructed in a coordinated manner to get the greatest value for the funds spent and for the best use by the residents."

Path 1 (Sandy Point Road from Foreshore Drive to Conroy Park)

Feedback from NSW Coastline Cycleway Grants Program Project Manager has indicated that the NSW Coastline Cycleway Grants Program has ceased with no future allocation budgeted from State or Federal Government. If Council chose not

to construct Path 1 as originally planned, the grant would need to be returned. Only minor amendments to the original Path 1 route will be accepted by the funding body. Constructing Path 2 is considered too far outside the original scope for Path 1. Council should either construct Path 1 as originally planned or return the grant funding.

Path 1 was not commenced due to concerns with the path being located alongside Sandy Point Road. Community feedback in regards to issues with entering and exiting driveways safely was of great concern due to the narrow verge area and the number of high brick fences and steep driveways. Many residents were worried about how cyclists would interact with driveways and smaller children in front of properties. Council civil projects and traffic staff share the same opinion.

Matching funds would be required to construct Path 1 which still requires additional paths to link Path 1 to the existing path network such as from Conroy Park to Pantowora Street and Path 3. These paths would be required to ensure that Path 1 is not built in isolation.

Path 2 (Foreshore Drive to Conroy Park via Corlette headland)

The revised preliminary costs for the Path 2 is in excess of \$2,500,000. The Coastline cycleway grant funding cannot be utilised for this project. Substantial funds would be required to construct Path 2 which still requires additional paths to link Path 2 to the existing path network such as from Conroy Park to Pantowora Street and Path 3. These paths would be required to ensure that Path 2 is not built in isolation. As Path 2 presents a unique and desirable route, this option will be placed in Council's Forward Works Plan and Pathways Plan. The Port Stephens Pathways Plan will ensure that the development of the path network is constructed in a coordinated manner to get the greatest value for the funds spent. The Pathways Plan is included in Council's Infrastructure Plan that is currently being prepared.

Path 3 (Sandy Point Road from Worimi Drive to Foreshore Drive)

Constructing Path 3 can be undertaken with minimal disruption to businesses and residents as the majority of the path is adjacent to the Mambo wetlands. This also opens up the possibility of future tracks into the wetlands for viewing platforms, information stations and other (eco) tourism generating ventures. Path 3 also creates a link to Foreshore Drive that will support Path 2 when built in the future as well as existing path links along Foreshore Drive towards Soldiers Point.

Recent Landcom estate works have also produced a number of paths through the area, but gaps still exist to connect to our existing path network. The Path Plan will be used to document and prioritise works to fill these gaps. The NSW Coastline Cycleway Grants Program cannot be used to fund these works as they are outside the original scope of works as applied for.

FINANCIAL/RESOURCE IMPLICATIONS

If the route is to change from what was originally proposed in the grant applications, the grant funds are unable to be utilised and therefore must be returned. This will result in additional funding required to construct an alternative route.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No	Path 1 167,500 Path 3 147,500	Path 1 will require a minimum of \$167,500 of Council funds to match grant funding. Path 3 will require a minimum of \$147,500 of Council funds to match grant funding. Matching funds will be sourced through the Capital Works Process.
Reserve Funds	Yes	Path 1 167,500 Path 3 147,500	Currently grant funding received for Path 1 and Path 3 are in Council reserves.
Section 94	No		
External Grants	Yes		NSW Coastline Cycleway grant funding has already been received and is held in Reserve Funds.
Other	No		Potential for community fundraising, private funding or other ventures are feasible. However, the level of funding required to construct the Path 2 route may be difficult to obtain in this economic climate.

LEGAL, POLICY AND RISK IMPLICATIONS

In accepting the grants Council is required to construct the paths as per the original funding application. Whilst the funding agency understands there is now an alternative route for Path 1, any change to the application will result in the funds being withdrawn as it is clearly beyond the original scope of the grant.

The Department of Planning does not accept any legal obligation for the projects and as such Council will be responsible for all legal obligations and liabilities during construction and the ongoing maintenance of these facilities.

MINUTES FOR ORDINARY MEETING – 9 DECEMBER 2014

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that constructing the Path 1 adjacent to driveways and high fences along Sandy Point Road could lead to accidents resulting in legal action towards Council.	High	Return Grant funding and not construct the Path 1.	Yes
There is a risk that proceeding with Path 2 and constructing a non-typical structure in a marine environment may lead to under budgeting the works.	High	Place the Path 2 project Councils Forward Works Plan. Undertake detailed project scoping, survey and design to compile an accurate project estimate.	No. The project is not in the current works program.
There is a risk that not being able to secure adequate funds to construct Path 2 may result in Council being required to fund a substantial shortfall.	High	Undertake detailed project scoping, survey and design to compile an accurate project estimate. Continue to apply for suitable grants and other funding avenues to secure adequate funding before commencing construction.	No. The project is not in the current works program.
There is a risk that constructing a path which sections of the community oppose, or deem to be a hazard to use will be a hit to Councils' reputation.	Medium	Prepare plans and associated documentation for all suggested routes as part of the Infrastructure Plan.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Implications with utilising the NSW Coastline Cycleway Grants Program for Path 2 should not deter nor deny that the path on its own could become its own tourist attraction. As a region we have a lack of suitable paths for users. Providing the major backbone links between communities will benefit all users of the path system.

Community feedback has been mixed, with many requesting the Path 2 route, and others against due to cost or worry about higher speed cyclists around young children and the elderly. Many have highlighted other sections along the coastline which they would prefer to see constructed first such as Path 3 or extend the existing

path from Pantowora Street. Council staff and residents have also highlighted existing routes already in place which just require the missing links filled which are being addressed in Council's Path Plan.

The potential for a network of linked paths to become an economic stimulator are high with paths being an additional tourist attraction, as visitors both young and old can utilise the path network. Increasing the path network allows for community wellbeing and health benefits through additional places to exercise and interact with others. The paths also enable users a safe off-road route for commuter use.

Environmental issues with the Path 2 project have yet to be formally assessed, but initial conversations with Marine Parks and ecologists have occurred. Additional paths to link to Path 2 such as from Conroy Park to Pantowora will also contain environmental issues that have not yet been assessed. Other routes may only require minor alterations to the existing terrain and/or verge area.

CONSULTATION

- 1) Mayor;
- 2) East Ward Councillors;
- 3) Staff of Facilities and Services;
- 4) Members of the public during design of Path 1 and initial concept scoping of Path 2.

OPTIONS

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

ATTACHMENTS

- 1) Map of NSW Coastline Cycleway Paths along Sandy Point Road.

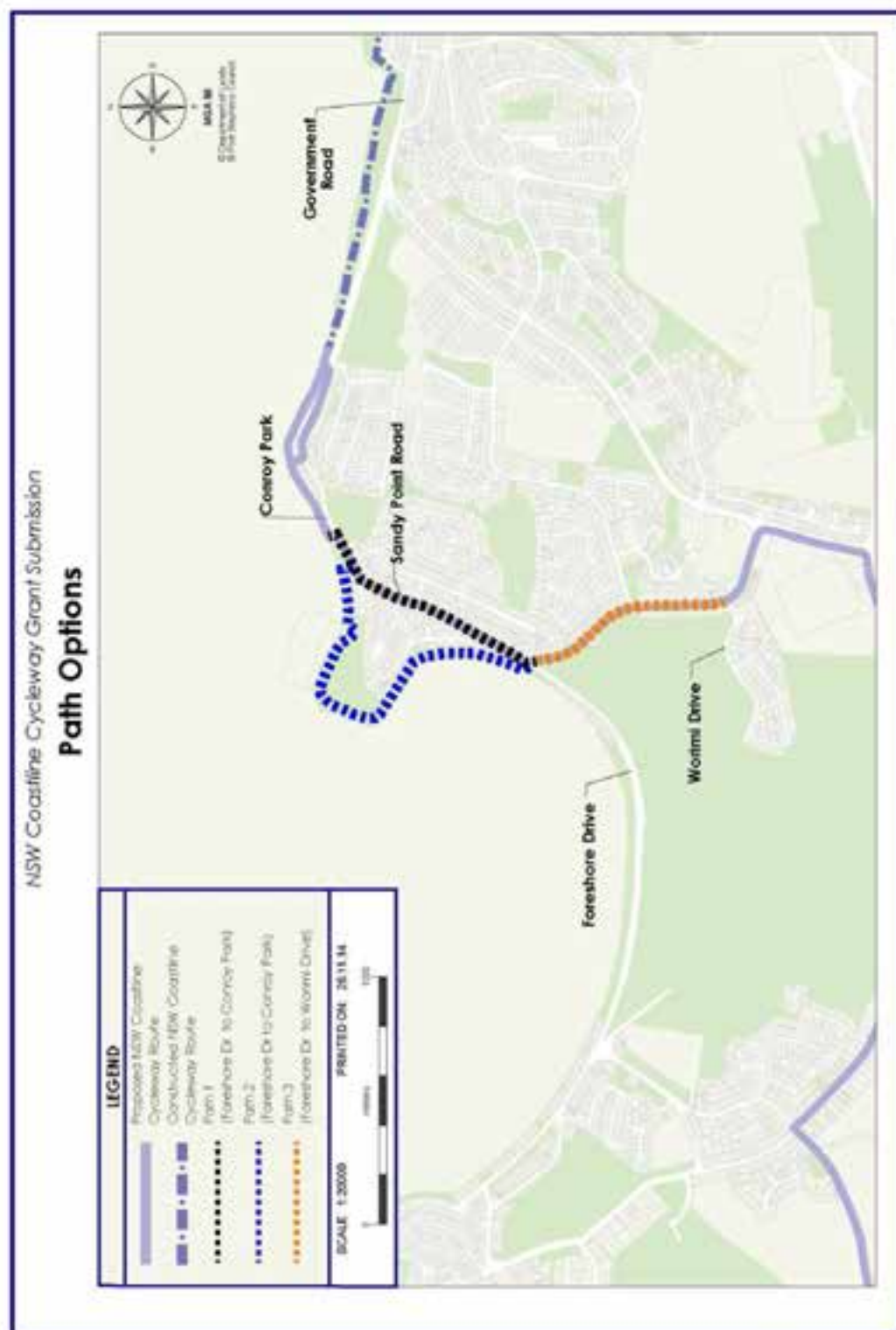
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

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ITEM NO. 9

FILE NO: PSC2005-4030/205

SALAMANDER WAY SALAMANDER BAY – REQUEST FOR RELOCATION OF THE CHILDRENS CROSSING AT ST PHILIPS CHRISTIAN COLLEGE

REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Support the relocation of the children's crossing at St Philips College, Salamander Bay.
- 2) Notify NSW Police and Roads and Maritime Services of Council's position.

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COMMITTEE OF THE WHOLE RECOMMENDATION**

Cr Paul Le Mottee entered the meeting at 6.22pm, during Item 9 in Committee of the Whole.

Items 9 and 10 were dealt with prior to Item 1 in Committee of the Whole.

	Councillor Geoff Dingle Councillor Sally Dover
	That the recommendation be adopted.

MOTION

339	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council: <ol style="list-style-type: none">1) Support the relocation of the children's crossing at St Philips College, Salamander Bay.2) Notify NSW Police and Roads and Maritime Services of Council's position.

BACKGROUND

The purpose of this report is provide information relevant to Item 51_10/14 of the October Local Traffic Committee being the Salamander Way Salamander Bay – Request for School Crossing and installation of bus zone. This item was presented at the Local Traffic Committee and a recommendation was made by Local Traffic Committee to not support the relocation of the children's crossing at St Philips

Christian College at Salamander Bay. Through the Local Traffic Committee approval process it has been requested by Councillor Dover that this item be brought before Council.

At present school bus services at the St Philips Christian College enter into the school grounds for drop-off and pick-up, resulting in congestion from the mixture of buses and light passenger vehicles. This congestion in turn spills onto the nearby roundabout at the intersection of Salamander Way and Bagnall Beach Road, resulting in the roundabout becoming blocked at times. Non-school related traffic is also blocked at the roundabout as a result.

St Philips Christian College has approached Council to move the school bus service from within the school grounds to Salamander Way to reduce this traffic congestion. To enable the buses to be moved requires the relocation of an existing children's crossing on Salamander Way approximately 70m to the east, away from the proposed bus pick-up and drop-off area. The relocation of the crossing will allow the required number of buses to be able to queue safely along Salamander Way without impacting other traffic. **(Refer ATTACHMENT 1).**

The Roads and Maritime Services representative to the Local Traffic Committee is opposed to the proposal and has given the following comments: *"I am concerned with the relocation of the buses onto Salamander Way and relocating the children's crossing further east. The bus movements would only create further congestion on Salamander Way and pose a safety risk if the bus movements are not separated from the through traffic. The relocation of the children's crossing would potentially promote children crossing at an unsupervised crossing point because I believe the proposed location is too remote from the destination. Roads and Maritime Services would not support the proposal to relocate the buses to Salamander Way in its current form."*

The NSW Police representative to the Local Traffic Committee is also opposed to the proposal and has given the following comments: *"I agree with the comment given from Roads and Maritime Services on this item. A site for buses should be a layby on the school property and positioned away or separate from the Salamander Way roadway. The alteration that the school proposes should be developed in accordance with Goal 10 of the NSW State Plan to improve Road Safety with any new works, addressing crash risks. We know too well (from past history) the potential of young people leaving buses and being hit by vehicles. Risk is reduced by having the bus drop off and pickup in a layby, and that would be the best action in this matter."*

The concerns of Police and RMS are understandable. The relocation of buses to Salamander Way will not solve all traffic congestion issues at the school however, separation of buses and vehicles is a desirable outcome. The school has indicated that they have the capability to control the movement of students to and from the school and to prevent any students from crossing other than at the children's crossing. All bus movements will occur on the school side of the road so there will be no need for bus passengers to cross the road. A separate layby for bus operations would be preferable and may be an improvement that should be required as part of future building works at the school along with fencing to prevent crossing of the road

at hazardous locations. The width of Salamander Way at this location allows good separation between the through-traffic and buses. There is already a short bus zone at this location which needs to be increased to cater for all potential bus services to the school.

FINANCIAL/RESOURCE IMPLICATIONS

The proposed relocation of the children's crossing and bus stops will be at the expense of the applicant and will not impact Council finances.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes		Capital works would be undertaken by the applicant under a Roads Act approval.

LEGAL, POLICY AND RISK IMPLICATIONS

Roads and Maritime Services (RMS) is legislated as the organisation responsible for the control of traffic on all roads in NSW. RMS has delegated certain aspects of the control of traffic on local and regional roads to Local Councils. Under the delegation from RMS, Council is required to seek the advice of the NSW Police and RMS, through the Local Traffic Committee (LTC), prior to exercising its delegated functions. The LTC is primarily a technical review committee which is required to give advice to Council on matters referred to it. The LTC has no decision making powers and must consider the technical merits of a proposal and ensure that proposals meet current guidelines.

Council is not bound by the advice of the LTC. The delegation to Council's, under the Transport Administration Act, requires that where a Council decides to implement a decision contrary to the recommendation of the LTC, that this decision must be conveyed to the NSW Police and Roads and Maritime Services who may then elect to lodge an appeal to the Regional Traffic Committee. The Regional Traffic Committee has the authority to make the final decision.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that safety of school children may be compromised by not following advice of RMS and Police representatives resulting in injury to pedestrians.	Low	Council Officers have reviewed the proposal and are satisfied that school policy will ensure the safety of children crossing the road.	Yes

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There is a risk that traffic congestion will not be improved by this proposal resulting in continued traffic issues at the school.	Medium	This proposal will not remove all traffic congestion at the school however there is potential to significantly improve it.	Yes
There is a risk that the Regional Traffic Committee will uphold the recommendation of the Local Traffic Committee resulting in reputational damage to Council.	High	The proposal will be assessed on its merits by independent members of the Committee.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Support for the St Philips proposal will assist to relieve traffic congestion at the school. Separation of buses and private vehicles is a desirable outcome at all schools and will improve safety for all road users.

Improvement of traffic conditions will allow the school to grow in a sustainable fashion without adversely impacting non-school road users.

CONSULTATION

- 1) East Ward Councillors;
- 2) Local Traffic Committee members and advisors;
- 3) St Philips Christian College;
- 4) Port Stephens Coaches.

OPTIONS

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

ATTACHMENTS

- 1) Minutes of the Local Traffic Committee meeting held 7 October 2014 – Item 51_10/14.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Item: 51_10/14

SALAMANDER WAY, SALAMANDER BAY - REQUEST FOR RELOCATION OF SCHOOL CROSSING AND INSTALLATION OF BUS ZONE

Requested by: St Phillips Christian College
File: PSC2005-4030/203

Background:

Council has received a proposal to relocate the existing children's crossing on Salamander Way and have bus services use Salamander Way only.

Comment:

Traffic Inspection Committee Members are not in support of moving the children's crossing unless it is done for the purposes of relocating to a better location with a safer facility. Pedestrians will choose more desirable crossing points and the proposed location of the crossing is considered too far to travel away from their destination. If buses are to be relocated to Salamander Way, better separation of buses and through traffic is required and this should be done by creation of a layby on the school properties on Salamander Way. The Police representative would like to see buses off the roadway and within the school property as it is safer for passengers.

Legislation, Standards, Guidelines and Delegation:

Committee Recommendation:

No support for relocation of the existing Children's Crossing and no support for relocation of bus zones to Salamander Way.

Discussion:

Roads and Maritime Services do not support the proposal to relocate buses to Salamander Way in the plans current form. The bus movements would only create further congestion on Salamander Way and pose a safety risk if the bus movements are not separated from the through traffic. The relocation of the children's crossing would potentially promote children crossing at an unsupervised crossing point because the proposed location is too remote from the destination.

NSW Police do not support the proposal to relocate buses to Salamander Way. A site for buses should be a layby on the school property and positioned away or separate from the Salamander Way road way. This alteration that the school proposes should be developed in accordance with Goal 10 of the NSW State Plan to improve Road Safety with any new works addressing crash risks. We know too well from past history the potential of young people leaving buses being hit by vehicles. We reduce the

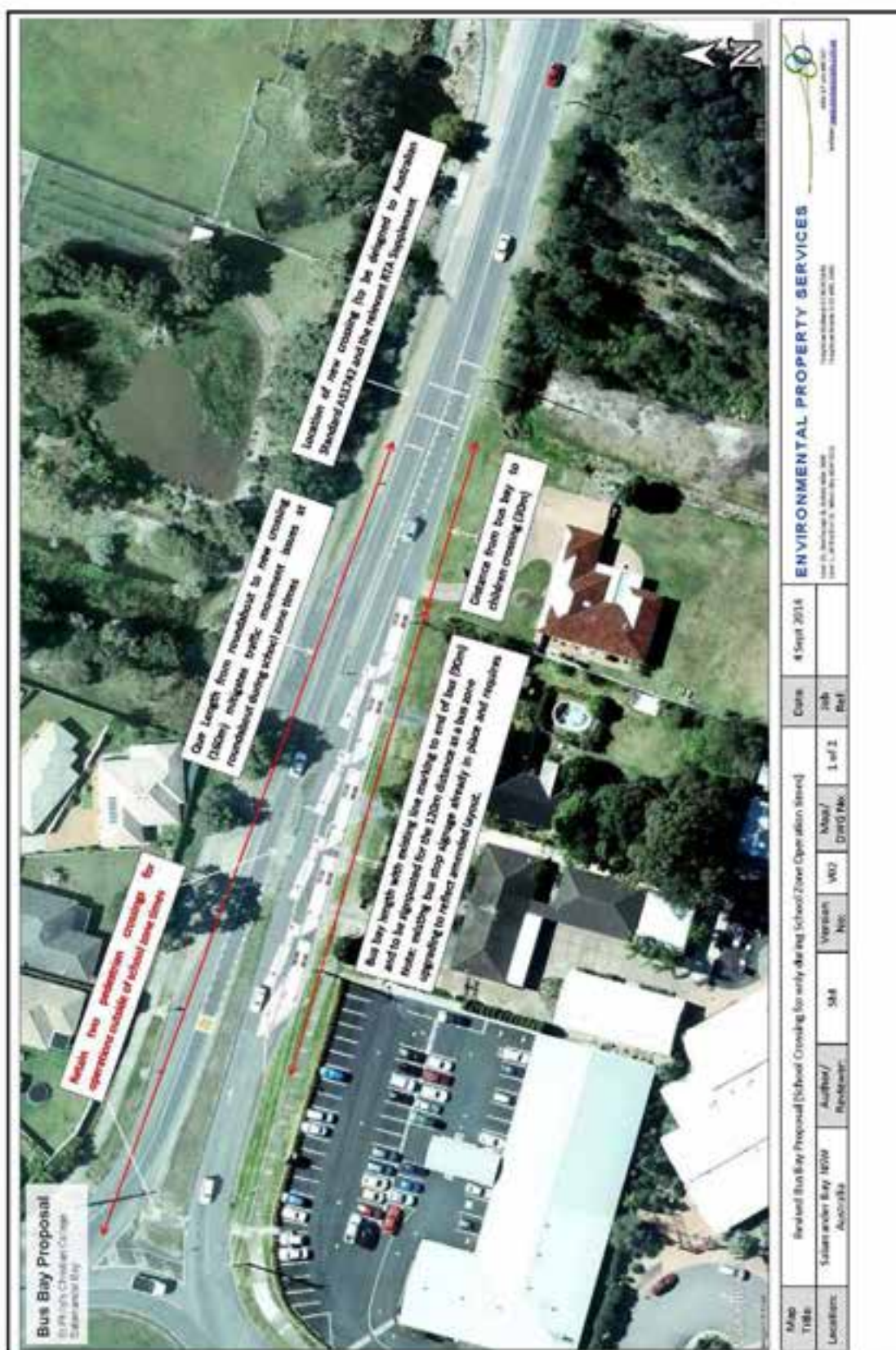
risk by having the bus drop off and pick up in a layby, and that would be the best action in this matter.

Port Stephens Coaches are concerned with the amount of vehicle pick up and drop offs in the current bus zone and would rather the vehicles be removed from the current bus circulation area, leaving the area only for buses.

Councillor Nell commented that there is a large amount of cars at school start and finish times which is creating a problem on the roundabout.

Support for the recommendation:

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



ITEM NO. 10

FILE NO: PSC2005-3695

REVIEW OF DOG EXERCISE AREAS IN PORT STEPHENS COUNCIL

REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the public submissions received during the public exhibition period.
 - 2) Adopt the draft Dog Exercise Area Mapping as per **(ATTACHMENT 1)**.
-

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Chris Doohan Councillor Sally Dover</p>
	<p>That Council:</p> <ol style="list-style-type: none"> 1) Consider the public submissions received during the public exhibition period. 2) Adopt the draft Dog Exercise Area Mapping as per (ATTACHMENT 1) with exception of Birubi Beach. 3) That Birubi Beach (as shown in attachment 1a) be: <ol style="list-style-type: none"> a) Off lead area time restricted to outside 9am-5 pm in day light saving period; b) Off lead area time restricted to outside 10am-4pm outside of daylight savings period; c) On lead area all times but not within 100m of the beach patrol areas; d) Request staff to hold negotiations with Birubi Surf Club and commercial operator with a view to have a "dog safe on lead" area around the surf club and café; and e) That all other areas outlined in attachment 1a be adopted as shown. 4) That Council staff provide a further report on possible "off lead" areas in Soldiers Point.

MOTION

340	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Consider the public submissions received during the public exhibition period. 2) Adopt the draft Dog Exercise Area Mapping as per (ATTACHMENT 1) with exception of Birubi Beach. 3) That Birubi Beach (as shown in attachment 1a) be: <ol style="list-style-type: none"> a) Off lead area time restricted to outside 9am-5 pm in day light saving period; b) Off lead area time restricted to outside 10am-4pm outside of daylight savings period; c) On lead area all times but not within 100m of the beach patrol areas; d) Request staff to hold negotiations with Birubi Surf Club and commercial operator with a view to have a "dog safe on lead" area around the surf club and café; and e) That all other areas outlined in attachment 1a be adopted as shown. 4) That Council staff provide a further report on possible "off lead" areas in Soldiers Point.
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BACKGROUND

The purpose of this report is to consider submissions made during the public exhibition period and to adopt the draft Dog Exercise Area mapping.

At Council's meeting on 8 April 2014, Council resolved to:

- 1) Place the draft Dog Exercise Area maps on public exhibition for 28 days. If no submissions are received , the maps are to formally adopted by Council immediately;
- 2) An additional area to be included for the Fishermans Bay area on the reserve at Parks and Pacific Streets, Fishermans Bay;
- 3) Receive and note the Supplementary Information; and
- 4) If submissions are received at the conclusion of the exhibition period, a further report to be prepared for Council's consideration.

The exhibition period was extended a further 28 days following public request for more time to lodge submissions. The total exhibition period ran from 16 April 2014 to 11 June 2014. Council received a total of two hundred and twenty six (226) submissions which are detail in **(ATTACHMENT 2)**.

The submission provided a variety of points of view and varied from supporting to objecting to the proposed maps. The submissions were used to refine the draft Dog Exercise Area mapping to ensure they meet the requirements of the users of the areas as well as the community as a whole.

The proposed changes to the draft Dog Exercise Area Mapping following the public exhibition period are:

- Reduce the prohibited period on the Birubi Beach Reserve time restricted Off Leash Area from between 8am and 6pm to between 9am and 5pm. This will allow further access during daylight hours, particularly in the winter months, for dog exercise;
- Change a section of the Birubi Beach Reserve to be prohibited to avoid an area of the gazetted Aboriginal Place north of the top and bottom car parks;
- Reduce the size of the off leash section at Fingal Bay Foreshore Reserve and installation of a fully fenced off leash area to limit potentially hazardous interactions with other users of the reserve;
- Change the Off Leash Area on the eastern end of Shoal Bay Foreshore Reserve to be time restricted with dogs prohibited between 9am and 5pm to preserve the area for boating and swimming but still allow early morning and late afternoon access for dog walkers; and
- Change the proposed off leash areas at Kangaroo Point Headland and Soldiers Point Foreshore Reserve to on leash due to the area being located in close proximity to adjoining residences.

The draft dog exercise area mapping provides additional off leash facilities to those currently provided in Mallabula, Raymond Terrace, Fingal Bay, Shoal Bay and Anna Bay. This proposal will raise the number of off leash areas provided through the Port Stephens local government area from 11 to 15. The proposal will also make all Council reserves, which are not designated prohibited areas, to be on leash dog exercise areas.

The proposal also enables an area that is prohibited for dogs to be traversed by a person with a dog on leash on a formalised pathway. As large sections of Council's foreshores have been designated prohibited, this provision will allow dog walkers to use walking paths along the foreshore areas.

FINANCIAL/RESOURCE IMPLICATIONS

The implementation of the draft Dog Exercise Area mapping will require the installation of signage at all off leash and prohibited areas to ensure that the public is fully aware of the designation of the areas they are entering.

Following the public submission period it was deemed appropriate to construct a fully fenced off leash area in the Fingal Bay Foreshore Reserve. The reserve is very popular for people to run or bike along the shared pathway. There is community concern that the dog off leash section will cause potentially hazardous interactions between the various user groups and the off leash dogs. As a means of negating this concern, a fully fenced off leash area has been proposed for this location. It is

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proposed that \$15,000 will be allocated as part of the 2015-2016 Operational Plan process to be able to complete this project.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	23,000	<ul style="list-style-type: none">• \$8,000 for signage already allocated in the recurrent budget.• \$15,000 for the construction of fenced off leash area in Fingal Bay which is proposed to be part of the 2015/16 Capital Works Program.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The NSW Companion Animal Act is the overall guide and statutory basis which must be abided by when providing dog exercise areas. This Act sets down a guide for the provision of exercise areas, where Companion Animals exercise areas are permitted and also prohibits companion animals from certain areas eg. Schools and playground areas.

The risks associated with adopting the recommendations are detailed in the table below.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that failure to comply with policy, standards and legislation may affect Council's objective to provide a safe environment for people to enjoy their lifestyle leading to damage to reputation damage.	Low	Educate the community of the designated areas for dog exercise. Implementation of appropriate signage at each of the sites.	Yes

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that failure to prohibit dogs from the identified parcel of the Birubi Beach Reserve may result in harm to this gazetted Aboriginal Place leading to legal and reputation damage.	Medium	Adopt the recommendation.	Yes
There is a risk that usage of reserves as dog exercise areas may have an adverse impact on other users of the facility leading to conflict between user groups.	Low	Educate the community of the designated areas for dog exercise. Implementation of appropriate signage at each of the sites. Enforcement of regulations in the allocated areas.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Dogs form an integral part of many households throughout the Port Stephens Council area. Dog owners are looking for areas where they can let their dogs exercise and safely socialise. The implementation of this draft mapping will provide an increased number of on leash and off leash areas for dog exercise. The formalisation of the draft Dog Exercise Area mapping will also ensure Council has the ability to better manage the interactions between dogs and other user groups on our public reserves.

This new mapping will also protect areas that have wildlife, such as koalas and birdlife, by ensuring that sensitive locations are mapped as either prohibited or on leash. This will ensure the interaction between dogs and these animals does not have an adverse impact on the local wildlife.

CONSULTATION

The review of the Dog Exercise Areas has taken place over an extended timeframe which began in July 2013 with a number of consultations being completed to ensure that the community has been able to contribute to the process. Consultation has included:

- 1) Extensive consultation was completed with Port Stephens Council Staff to ensure that the mapped areas were realistic to manage including:
 - Development Assessment and Compliance Section
 - Community Services Section
 - Communications Section
 - Strategy and Environment Section

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- 2) Public exhibition period from 16/04/2014 to 11/06/2014 including advertising in local media and displays in Councils Administration Building and Libraries.
- 3) Online community forum (Facebook) which had 254 members and was open from 22/07/2013 to 19/08/2013.
- 4) A number of Community Consultation Meetings were held. These include:
 - 05/08/13 - Raymond Terrace – 15-20 interested parties attended
 - 07/08/13 – Nelson Bay – 50-60 interested parties attended
 - 08/08/13 – Lemon Tree Passage – 30-40 interested parties attended
 - 12/08/13 – Nelson Bay – consulted Tomaree Residents and Ratepayers Association
 - 14/08/13 - Medowie – 5-10 interested parties attended.
- 5) Councillor two way conversation on the 19/11/2013.
- 6) Birubi Point Cultural Heritage Advisory Panel – 5 August 2014.

OPTIONS

- 1) Adopt the recommendations;
- 2) Amend the draft Dog Exercise Area Mapping and re-exhibit for further comment;
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Dog Exercise Area maps:
 - a. Anna Bay – Boat Harbour
 - b. Corlette – Nelson Bay
 - c. Fingal Bay
 - d. Karuah
 - e. Medowie
 - f. Nelson Bay – Shoal Bay
 - g. Raymond Terrace
 - h. Seaham
 - i. Soldiers Point – Salamander Bay
 - j. Tilligerry Peninsula
- 2) Submissions Summary Table – *provided under separate cover.*

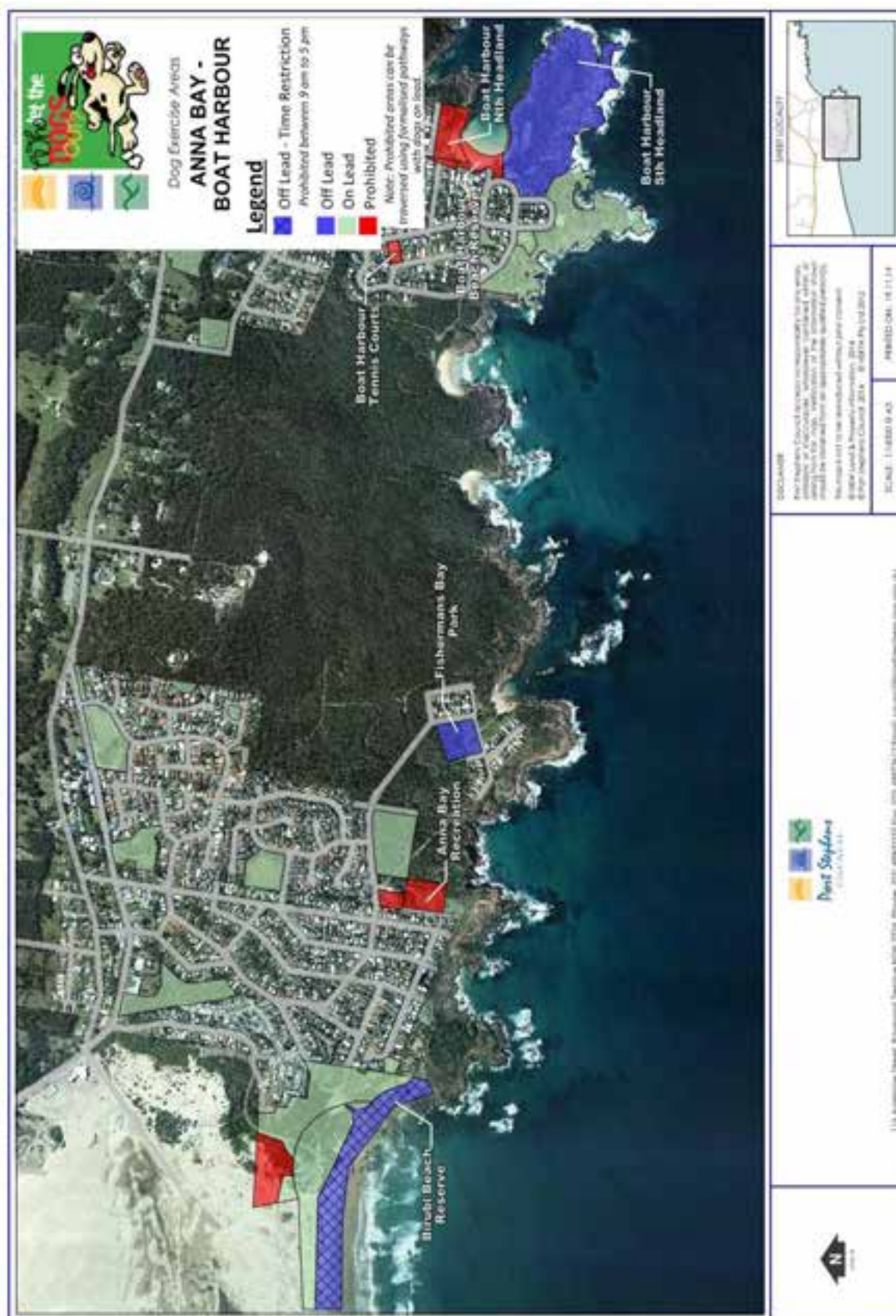
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1 a. Anna Bay – Boat Harbour



ATTACHMENT 1 b. Corlette – Nelson Bay



ATTACHMENT 1 c. Fingal Bay



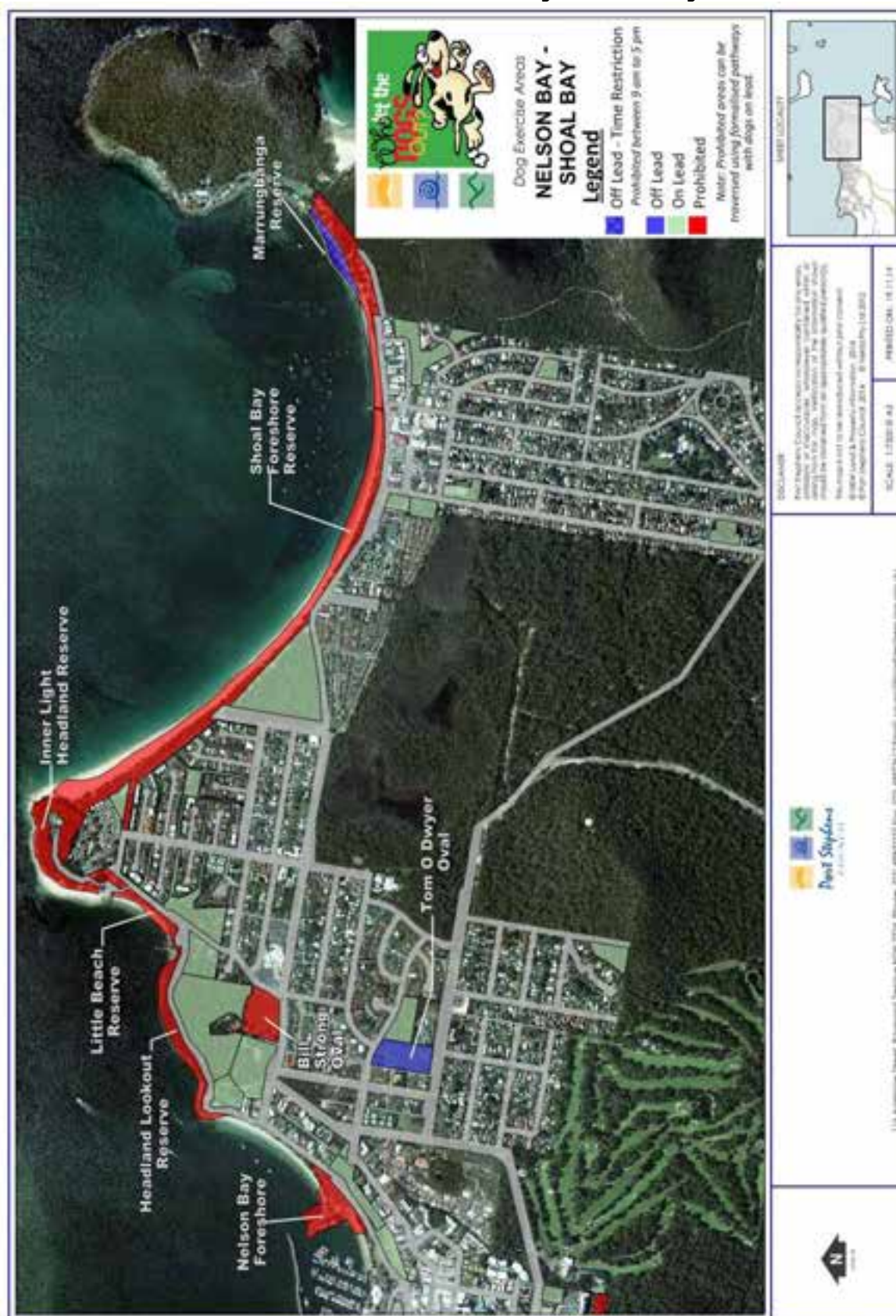
ATTACHMENT 1 d. Karuah



ATTACHMENT 1 e. Medowie



ATTACHMENT 1 f. Nelson Bay – Shoal Bay



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ATTACHMENT 1 h. Seaham



ATTACHMENT 1 i. Soldiers Point – Salamander Bay



ATTACHMENT 1 j. Tilligerry Peninsula



ITEM NO. 11

FILE NO: PSC2005-3540

KARUAH COMMUNITY HALL – HALL HIRE FEE INCREASE

REPORT OF: STEVEN BERNASCONI – COMMUNITY SERVICES SECTION MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the proposed main hall hire fee for the Karuah Community Hall on public exhibition for a period of 28 days and invite written submissions from the public; and
- 2) Adopt the proposed main hall hire fee for the Karuah Community Hall without a further report to Council, should no submissions opposing the proposed fee be received during the exhibition period.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	Mayor Bruce MacKenzie Councillor Geoff Dingle
	That the recommendation be adopted.

MOTION

341	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council: <ol style="list-style-type: none"> 1) Place the proposed main hall hire fee for the Karuah Community Hall on public exhibition for a period of 28 days and invite written submissions from the public; and 2) Adopt the proposed main hall hire fee for the Karuah Community Hall without a further report to Council, should no submissions opposing the proposed fee be received during the exhibition period.

BACKGROUND

The purpose of this report is to seek Council's support to place a revised fee for the Karuah Community Hall on public exhibition for a period of 28 days, and should no submissions opposing the revised fee be received, apply that fee immediately without a further report to Council.

MINUTES FOR ORDINARY MEETING – 9 DECEMBER 2014

The main hall hire fee for this facility in 2013-2014 was \$13.80 per hour. However, an error occurred in setting this fee for 2014-2015, and as such the adopted fee is currently \$8.00 per hour. Consequently the Hall Committee have suffered a reduction in revenue derived from the hire of the facility and would like that situation be rectified as soon as possible.

The Karuah Community Centre Committee has written to Council requesting that the main hall hire fee be adjusted to \$14.10 per hour (including GST), to enable workability of hall finances (**ATTACHMENT 1**).

This recommendation links to Goal 6.1.1 in the Community Strategic Plan namely that Council will engage its citizens in developing plans for the future.

FINANCIAL/RESOURCE IMPLICATIONS

The exhibition will by way of Council's notices page in the Port Stephens Examiner.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Public Notice advertising cost within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy impediments from adopting the recommendations. The proposed fee is required to be placed on public exhibition under Section 610F of the Local Government Act 1993 for a period of 28 days. The proposed fee complies with Council's Pricing policy.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the fee is not in place, Council's Section 355 Committee could suffer financial loss.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Karuah Community Hall is a popular facility conveniently located in the heart of Karuah. The Hall is able to cater for a diverse range of community and private functions.

The Section 355 Committee that manages this facility need this increase in the main hall hire fee to ensure that it provides a return on the investment of the community in that facility to enable ongoing maintenance and operations.

CONSULTATION

- 1) Karuah Community Centre Committee;
- 2) Volunteer Coordinator.

OPTIONS

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

ATTACHMENTS

- 1) Letter from the Chair of Karuah Community Centre Committee, requesting adjustment of mail hall hire fee.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Letter from Karuah Community Centre Committee

Karuah Community Hall Committee
2 Engel Ave Karuah NSW 2324

3rd October 2014

Wayne Wallis
The General Manager
Port Stephens Council
P.O. Box 42
Raymond Terrace 2324



Dear Sir,

Re: Request hall fee adjustment.

The Karuah Community Hall Committee requests that usage of the main hall hire fee be adjusted from the advertised 2014/15 fees of \$8.00 to \$14.10 per hour.

As the previous fee set for 2013/14 was \$12.55 GST \$1.25 Total Fee \$13.80 per hour, adding a modest increase of approximately 2.4% would give a figure of \$14.13 rounding down to a total fee of \$14.10 p/h.

We seek this fee be adjusted to enable workability of hall finances as future usage in this category is in the pipeline.

Faithfully,

John King
Chair

ITEM NO. 12

FILE NO: PSC2014-02058

DEFINITION OF PART TAYLORS BEACH ROAD, TAYLORS BEACH**REPORT OF: BRETT FIELD – ACTING PROPERTY SERVICES SECTION MANAGER****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) As owner of adjoining properties being Lot 636 DP 27628 & Lot 4 DP1117732 at Taylors Beach endorse and grant authority to affix Council Seal to the survey plan (surveyors reference 5936) prior to lodgement and registration at Land & Property Information by registered Surveyor;
- 2) Prepare Government Gazette notice for publication declaring the Public Road.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014**COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Steve Tucker Councillor Sally Dover
	That the recommendation be adopted.

MOTION

342	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council: <ol style="list-style-type: none">1) As owner of adjoining properties being Lot 636 DP 27628 & Lot 4 DP1117732 at Taylors Beach endorse and grant authority to affix Council Seal to the survey plan (surveyors reference 5936) prior to lodgement and registration at Land & Property Information by registered Surveyor;2) Prepare Government Gazette notice for publication declaring the Public Road.

BACKGROUND

The purpose of this report is to recommend actions by Council necessary to define the boundaries of a section of Taylors Beach Road which has not yet been formalised.

A section of Taylors Beach Road at Taylors Beach as depicted at **(ATTACHMENT 1)** which traverses two Council owned properties, known as Lot 636 DP27628 and Lot 4 DP1117732. In practical terms the section identified forms part of Taylors Beach Road, however, it has never been legally formalised. DP27628 was registered in 1957 which created Taylor Road and Albert Street **(ATTACHMENT 2)**.

The section of Taylors Beach Road physically traversing Council's land has now been defined by survey plan **(ATTACHMENT 3)**. Upon registration, the land (marked X & Y) will be dedicated as Public Road.

As Council owns the land being subdivided there are no requirements for compensation to be paid.

As the Roads Authority, Council is required to consent to the executed survey plan being registered at Land & Property Information.

FINANCIAL/RESOURCE IMPLICATIONS

Limited requirements to finalise this matter including; preparation, lodgement and registration of Survey Plan at Land & Property Information are the only costs.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	8,700	No compensation payable.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The Roads Act 1993 makes provision for such actions and controls the process. The legal definition between the boundaries of Council land and Taylors Beach Road is essential to avoid future doubt of road location.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if left undefined confusion may be caused in future.	Low	Registration of Survey Plan at LPI.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Facilities & Services – Civil Assets Engineer;
- 2) Le Mottee Group;
- 3) Property Officer;
- 4) Land Acquisition & Development Manager.

OPTIONS

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

ATTACHMENTS

- 1) Aerial photo;
- 2) Deposited Plan 27628;
- 3) Survey Plan.

COUNCILLORS ROOM

Nil.

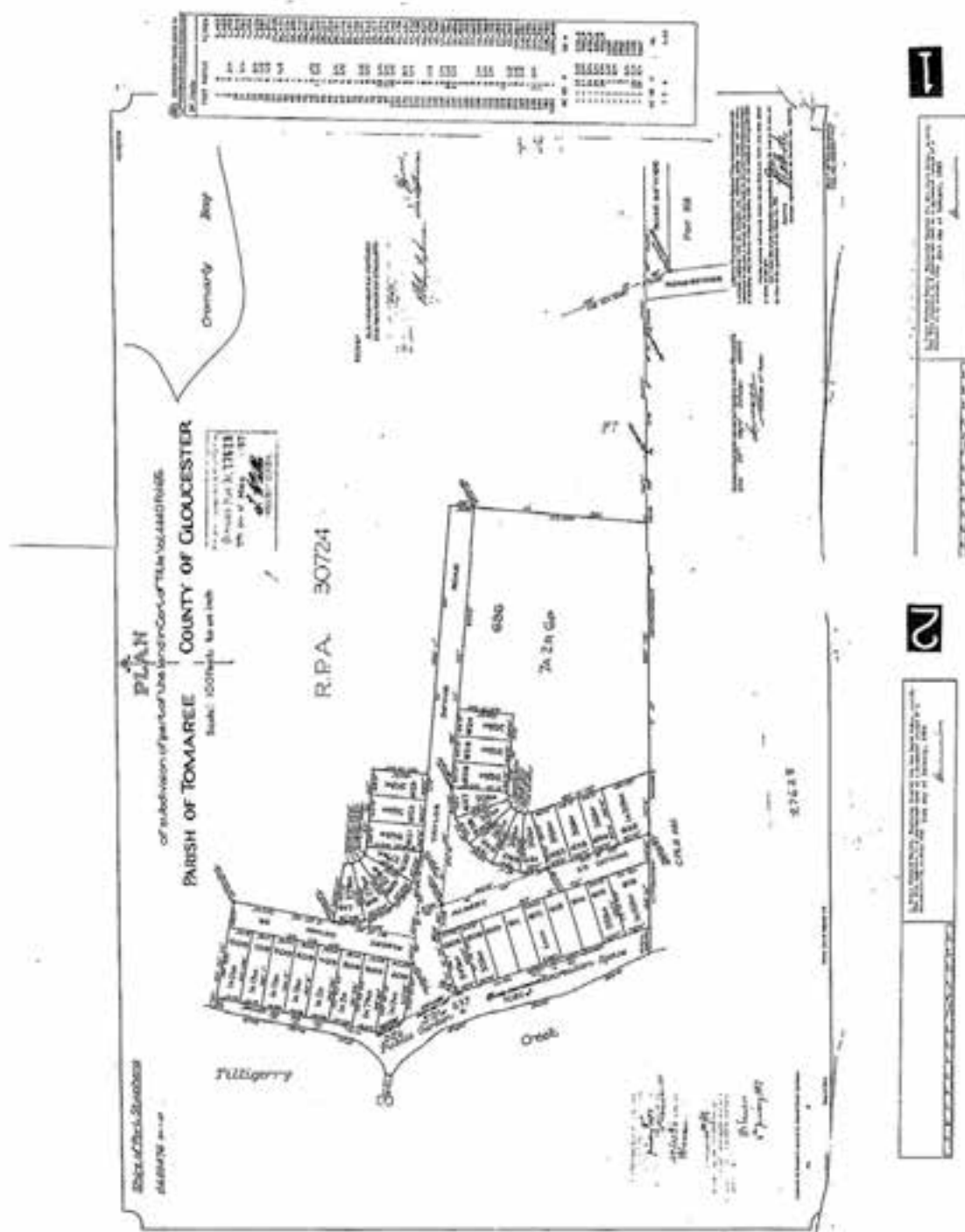
TABLED DOCUMENTS

Nil.

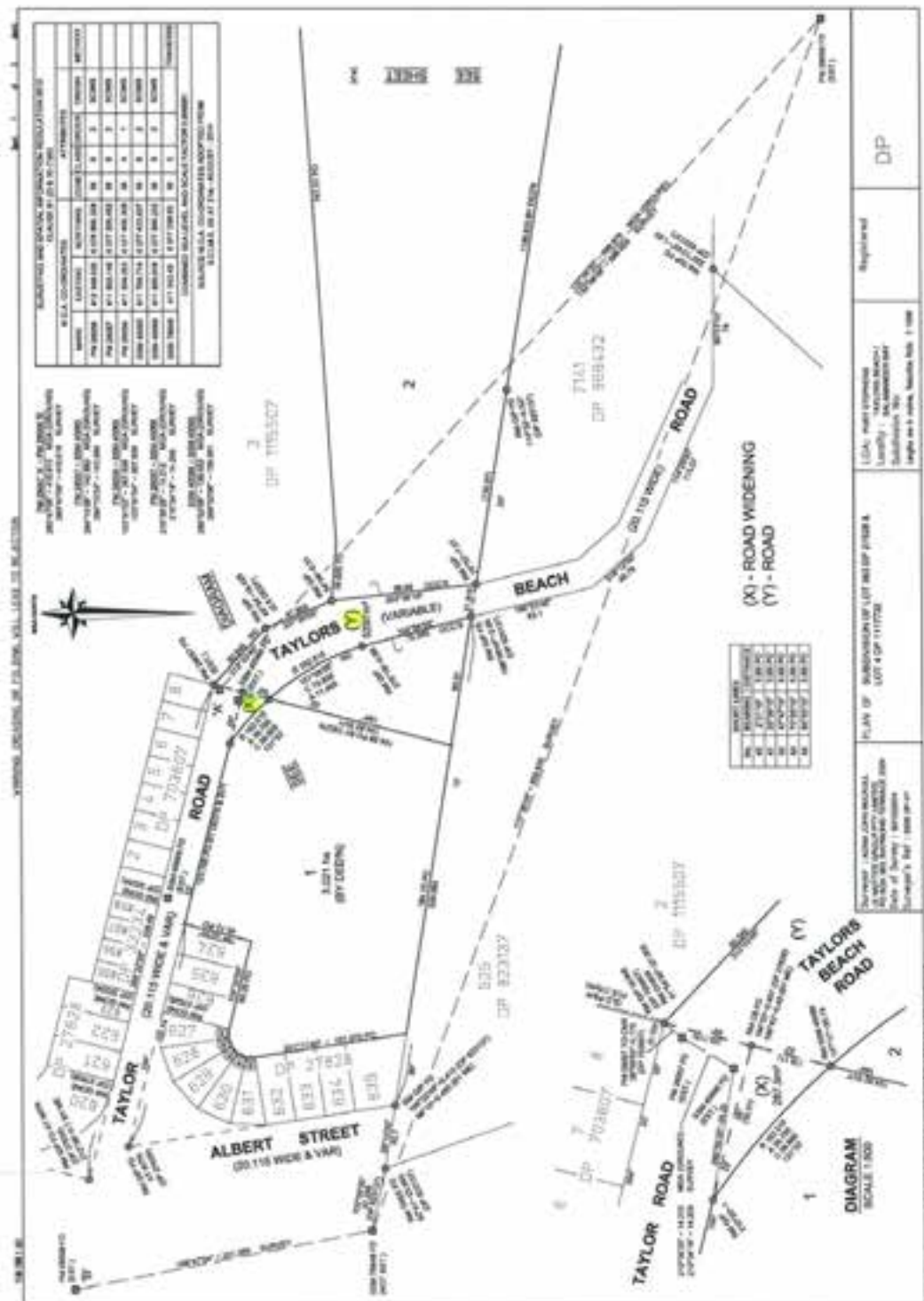
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ATTACHMENT 2



ATTACHMENT 3



ITEM NO. 13

FILE NO: PSC2011-01491

TENDER T17-2013 – COUNCIL WEBSITE REDEVELOPMENT

REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

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 Item 13 on the Ordinary Council agenda namely **T17-2013 Council Website Redevelopment Tender**.
- 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 **T17-2013 Council Website Redevelopment Tender**.
- 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 submission of Squiz Australia Pty Ltd which offered the best value, experience and level of service in the provision of website providers to Port Stephens Council into the future.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	Mayor Bruce MacKenzie Councillor John Nell
	That Council accept the tender submission of Squiz Australia Pty Ltd which offered the best value, experience and level of service in the provision of website providers to Port Stephens Council into the future.

MOTION

343	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council accept the tender submission of Squiz Australia Pty Ltd which offered the best value, experience and level of service in the provision of website providers to Port Stephens Council into the future.

BACKGROUND

The purpose of this report is to recommend to Council the preferred tenderer for the provision of a redeveloped Port Stephens Council corporate website.

Council's website (www.portstephens.nsw.gov.au) is a critical piece of infrastructure aimed at facilitating Council's interaction with its customers online. Management of Council's website, including its redevelopment, and the ongoing provision of online services are covered in items 19.1.1.7 (Review and update Council's website) and 18.1.1.3 (Manage Council's digital and social media channels) of the 2014/15 Port Stephens Council Operational Plan.

Currently, Council's website is managed via the Local-e collective, a template-based, multi-Council platform originally provided by the Local Government & Shires Association of NSW (or LGSA, now known as LGNSW) in 2007. Local-e was established by the LGSA to provide low-cost website solutions for small and regional Councils, with an early enrolment of over 70 organisations across the state. Today, 32 Councils remain in the collective, of which Port Stephens Council is the largest.

While providing a low cost solution, Council's current website is unable to provide the functionality required to meet modern day customer requirements around online services, transactional capacity, or responsive design, which is key to providing a seamless experience on mobile devices. Furthermore, Council's current provider cannot provide the functionality Council has deemed essential on the platform currently used.

As such, the decision was made to conduct a tender for a redeveloped web services solution. Tender development, submission and review processed occurred in the latter half of 2013 early 2014. Progress of the tender process was delayed in mid-2014 by the sustainability review conducted into the Communications section of Council, and related staff resourcing issues.

A total of eight (8) tender submissions were received, a summary of which is included (**ATTACHMENT 1**). These tender submissions were assessed by Council staff in conjunction with representatives of iPlatinum who assisted with the Request for Tender (RFT) Process. The weightings agreed for this Tender evaluation were:

Criteria	Weighting
Company Experience	20%
Functional	35%

MINUTES FOR ORDINARY MEETING – 9 DECEMBER 2014

Marketing/Communication	10%
Technical	15%
Support and Maintenance	10%

Out of this process three (3) organisations were shortlisted to present detailed proposals to a working party of stakeholders across Council. These presentations were conducted in December 2013, after which further evaluation was undertaken, which included a detailed comparative analysis of costs included as **(ATTACHMENT 2)**.

At the end of this evaluation process, Squiz Australia Pty Ltd was determined as the preferred tenderer. Squiz, from its bases in Sydney and Melbourne, has a vast amount of experience in the local government, state government and education sectors within Australia, New Zealand and the UK.

Reference checks have returned positive responses from the supplied referees. Further informal reference checks have taken place with a number of Squiz local government clients.

FINANCIAL/RESOURCE IMPLICATIONS

Adoption of the recommendations will result in:

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	344,600	Within existing budget \$344,600 is the total cost of the project.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The tender has been conducted according to Port Stephens Council's Procurement Guideline – Tendering.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's reputation will be damaged if Council's website is unable to deliver online services.	Medium	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adoption of the recommendations will result in:

- Improved capacity for the delivery of services online, with the website improvement project a key enabler for the directions outlined in the Digital Services Strategy, the Business Systems Support program of works, Customer Request Management remediation project, and the ePlanning and eServices approaches in development;
- The provision of an online customer service portal that is integrated with Council's record management system;
- A vastly improved customer service experience with a more transparent, authentic and accessible service delivery model on any device e.g. mobile, tablet and personal computer;
- Online self-service capability, which will allow in the creation of efficiencies to via a reduction in face to face customer service;
- Increased flexibility to restructure website architecture and content in the future, in order to meet changing customer needs as they arise.

CONSULTATION

- 1) Website Focus Team members;
- 2) Business Improvement Analysis Team;
- 3) Digital & Website Coordinator;
- 4) Communications Section Manager;
- 5) Development Services Group Manager;
- 6) Business Systems Support section manager and team members;
- 7) Executive Leadership Team;
- 8) Procurement & Tender Officer.

OPTIONS

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

ATTACHMENTS (CONFIDENTIAL – provided under separate cover)

- 1) Summary of tender and evaluation process;
- 2) Summary comparative costs.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 14

FILE NO: PSC2014-02350

TENDER T221415HUN – REGIONAL PROCUREMENT INITIATIVE TENDER – PROVISION OF LINE MARKING

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

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 Item 14 on the Ordinary Council agenda namely **Tender T221415HUN – Regional Procurement Initiative Tender – Provision of Line Marking**.
 - 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 T221415HUN – Regional Procurement Initiative Tender – Provision of Line Marking**.
 - 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 following tenders on a best fit for purpose basis as a panel source supplier for the tender period of 21 months from 1 January 2015 to 30 September 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension:
 - a. Workforce Road Services;
 - b. Combined Traffic Management;
 - c. Complete Line Marking;
 - d. Whiteline Road Services.
-

**ORDINARY COUNCIL MEETING – 9 DECEMBER 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor John Morello
	That Council accept the following tenders on a best fit for purpose basis as a panel source supplier for the tender period of 21 months from 1 January 2015 to 30 September 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension: <ul style="list-style-type: none">a. Workforce Road Services;b. Combined Traffic Management;c. Complete Line Marking;d. Whiteline Road Services.

MOTION

344	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council accept the following tenders on a best fit for purpose basis as a panel source supplier for the tender period of 21 months from 1 January 2015 to 30 September 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension: <ul style="list-style-type: none">a. Workforce Road Services;b. Combined Traffic Management;c. Complete Line Marking;d. Whiteline Road Services.

BACKGROUND

The purpose of this report is for Council to consider and determine the preferred panel of tenderers for the provision of line marking.

Council purchases these services as part of our roads maintenance and construction activities. Council is currently committed to a line marking contract that was sourced through Hunter Procurement that will be replaced when the new contract is accepted. The contract will run for 21 months from 1 January 2015 to 30 September 2016 with a 12 month option in favour of Port Stephens Council to extend based on satisfactory performance by the successful tenderers.

This process is conducted in accordance with Councils Procurement Policy.

Regional Procurement Initiative, a division of Hunter Councils Inc. has been established in response to a need for a collaborative approach to regional tendering and contracting. It is estimated the Regional Procurement Initiative members contribute upwards of \$200 Million to the region through their tenders and contracts. By utilising Regional Procurement Initiative to facilitate the tender process Council

supports the Memorandum of Agreement signed by the General Managers of each of the Hunter Council's that agrees to support Regional Procurement Initiative and accept the outcomes of tenders where there is an equal to or better outcome than alternative sources.

Regional Procurement Initiative called Tenders for the supply of these services across a number of member LGA'S that included Mid-Western Regional Council, Dungog Shire Council, Cessnock City Council, Upper Hunter Shire, Singleton Council, Muswellbrook Shire Council, Maitland City Council, Lake Macquarie City Council, Port Stephens Council and The City of Newcastle.

Each bid was evaluated against a "Value Selection" criteria and allocated a weighted score for each assessed criteria. This evaluation allows each bid to be ranked according to its performance against a pre-determined set of criteria. The "Value Selection" method for the provision of line marking services were assessed against criteria that included price, WH&S, ESD, referees, customer service, previous experience and quality assurance. Evaluation for Port Stephens Council is shown in **(ATTACHMENT 1)** and the scenario used is based on the line marking work carried out on a road rehabilitation. This scenario included the provision of both water borne and thermo plastic services. The weightings agreed for this tender evaluation were:

Criteria	Weighting (%)
Price	55
Referees	10
Quality Assurance	10
WHS	10
Customer Service	5
Ecologically Sustainable Development	5
Previous Experience	5

Council will only be awarding the contract to four (4) of the evaluated tenderers based on "best fit for purpose". See the successful tenderers highlighted in **(ATTACHMENT 1)**.

FINANCIAL/RESOURCE IMPLICATIONS

This tender represents a budget expenditure of approximately \$200,000 per annum for the Facilities & Services Group. The actual annual expenditure varies year to year and is dependent on the extent of line marking required for road maintenance on the Local, Regional and State Roads, the reseal program and the road construction capital works program. The procurement of the "best value for money" services is critical to providing sustainable services to the community.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	200,000	Works funded by existing budget.
Reserve Funds	No		

MINUTES FOR ORDINARY MEETING – 9 DECEMBER 2014

Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

This tender process complies with the *Local Government Act 1993* and Local Government (tendering) Regulations. Each bid was assessed using a "Value Selection" method with weighted selection criteria.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that supply and delivery of road line marking services may not be available as required which may lead to works being delayed or cancelled.	Medium	Appoint multiple providers as part of panel tender.	Yes
There is a risk that the provision of line marking services may not be completed to approved standard which may result in work delays and/or costly rework.	High	Appoint only suitably qualified tenders from the panel.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A 21 month contract allows Council to program works with known road line marking costs and thereby provides for improved project scheduling, cost accuracy and budget management.

All supplied services are undertaken to current industry risk management standards and legislation to mitigate possible environmental impacts.

There are no economic, environmental implications from adopting this recommendation.

Community safety will be improved through the use of suitably qualified line marking providers.

CONSULTATION

- 1) Procurement & Contracts Co-ordinator;
- 2) Roads and Construction Co-ordinators;
- 3) Group Manager Facilities and Services.

OPTIONS

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

ATTACHMENTS (CONFIDENTIAL – provided under separate cover)

- 1) Line marking tender evaluation results for Port Stephens Council.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 15

FILE NO: PSC2014-02351

**TENDER T221415HUN – REGIONAL PROCUREMENT INITIATIVE TENDER
– PROVISION OF ROAD BASE MATERIAL**

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

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 Item 15 on the Ordinary Council agenda namely **Tender T221415HUN – Regional Procurement Initiative Tender – Provision of Road Base Material**.
- 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 T221415HUN – Regional Procurement Initiative Tender – Provision of Road Base Material**.
- 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 following tenders on a best fit for purpose basis as a panel source supplier for the tender period of two (2) years from 1 January 2015 to 30 December 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension:
 - a. Boral Resources (NSW) Pty Ltd;
 - b. Buttai Gravel Pty Ltd (t/a Daracon Quarries).

**ORDINARY COUNCIL MEETING – 9 DECEMBER 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor Paul Le Mottee
	That Council accept the following tenders on a best fit for purpose basis as a panel source supplier for the tender period of two (2) years from 1 January 2015 to 30 December 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension: <ul style="list-style-type: none">a. Boral Resources (NSW) Pty Ltd;b. Buttai Gravel Pty Ltd (t/a Daracon Quarries).

MOTION

345	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council accept the following tenders on a best fit for purpose basis as a panel source supplier for the tender period of two (2) years from 1 January 2015 to 30 December 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension: <ul style="list-style-type: none">a. Boral Resources (NSW) Pty Ltd;b. Buttai Gravel Pty Ltd (t/a Daracon Quarries).

BACKGROUND

The purpose of this report is for Council to consider and determine the preferred panel of tenderers for the provision of road base material.

Council purchases these services as part of our roads maintenance and construction activities. Council is currently committed to a road base contract that was sourced through Hunter Procurement that will be replaced when the new contract is accepted. The contract will run for 2 years from 1 January 2015 to 30 December 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension based on satisfactory performance by the successful tenderers.

This process is conducted in accordance with the requirements of Councils Procurement Policy.

Regional Procurement Initiative, a division of Hunter Councils Inc. has been established in response to a need for a collaborative approach to regional tendering and contracting. It is estimated the Regional Procurement Initiative members contribute upwards of \$200 Million to the region through their tenders and contracts. By utilising Regional Procurement Initiative to facilitate the tender process Council

supports the Memorandum of Agreement signed by the General Managers of each of the Hunter Council's that agrees to support Regional Procurement Initiative and accept the outcomes of tenders where there is an equal to or better outcome than alternative sources.

Regional Procurement Initiative called Tenders for the supply of these services across a number of member LGA'S that included Mid-Western Regional Council, Dungog Shire Council, Cessnock City Council, Upper Hunter Shire, Singleton Council, Muswellbrook Shire Council, Maitland City Council, Lake Macquarie City Council, Port Stephens Council and The City of Newcastle.

Each bid was evaluated against a "Value Selection" criteria and allocated a weighted score for each assessed criteria. This evaluation allows each bid to be ranked according to its performance against a pre-determined set of criteria. The "Value Selection" method for the provision of road base materials were assessed against criteria that included price, WH&S, ESD, referees, customer service, previous experience and quality assurance. Evaluation for Port Stephens Council is shown in **(ATTACHMENT 1)** and the scenario used is based on a sliding scale representing best value for Council. The weightings agreed for this tender evaluation were:

Criteria	Weighting %
Price	55
Referees	10
Quality Assurance	10
WHS	10
Customer Service	10
Ecologically Sustainable Development	5

Council will only be awarding the contract to two (2) of the evaluated tenderers based on "best fit for purpose". Whilst SCE Resources Pty Limited presented a tender with all conforming materials the tender was submitted a considerable amount of time after the closing date, therefore a non-confirming tender. See the successful tenderers highlighted in **(ATTACHMENT 1)**.

FINANCIAL/RESOURCE IMPLICATIONS

This tender represents a budget expenditure of approximately \$820,000 per annum for the Facilities & Services Group. The actual annual expenditure varies year to year and is dependent on the extent of pavement rehabilitation and construction works required based on Councils Capital Works Program within the Strategic Asset Management Plan on local, Regional and State Road networks. The procurement of the "best value for money" services is critical to providing sustainable services to the community.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	820,000	Works funded by existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

This tender process complies with the Local Government Act 1993 and Local Government (tendering) Regulations. Each bid was assessed using a "Value Selection" method with weighted selection criteria.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that supply and delivery of road base material may not be available as required which may lead to works being delayed or cancelled.	Medium	Appoint multiple providers as part of panel tender.	Yes
There is a risk that the provision of road base material may not be supplied to approved relevant standards which may result in work delays and/or costly rework.	High	Appoint only suitably qualified tenders from panel.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A two (2) year contract allows Council to program works with known road base costs and thereby provides for improved project scheduling, cost accuracy and budget management.

All supplied services are undertaken to current industry risk management standards and legislation to mitigate possible environmental impacts.

CONSULTATION

- 1) Procurement & Contracts Co-ordinator;
- 2) Capital Works F&S Officer;
- 3) Group Manager Facilities and Services.

OPTIONS

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

ATTACHMENTS (CONFIDENTIAL – provided under separate cover)

- 1) Road Base Material tender evaluation results for Port Stephens Council.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 16

FILE NO: PSC2014-02352

T211415HUN - REGIONAL PROCUREMENT INITIATIVE TENDER – PROVISION OF TRAFFIC CONTROL SERVICES

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

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 Item 16 on the Ordinary Council agenda namely **T211415HUN – Regional Procurement Initiative Tender – Provision of Traffic Control Services**.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information in respect of the **T211415HUN – Regional Procurement Initiative Tender – Provision of Traffic Control Services**.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5) Accept the following tenders on a best fit for purpose basis as a panel source supplier for the tender period of 21 months from 1 January 2015 to 30 September 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension:
 - a. Openshore Pty Limited;
 - b. Watchout Training and Traffic Control;
 - c. Workforce Road Services Pty Limited;
 - d. Evolution Traffic Control Pty Limited.

**ORDINARY COUNCIL MEETING – 9 DECEMBER 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Steve Tucker
	<p>That Council accept the following tenders on a best fit for purpose basis as a panel source supplier for the tender period of 21 months from 1 January 2015 to 30 September 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension:</p> <ul style="list-style-type: none">a. Openshore Pty Limited;b. Watchout Training and Traffic Control;c. Workforce Road Services Pty Limited;d. Evolution Traffic Control Pty Limited.

MOTION

346	Councillor Chris Doohan Councillor Steve Tucker
	<p>It was resolved that Council accept the following tenders on a best fit for purpose basis as a panel source supplier for the tender period of 21 months from 1 January 2015 to 30 September 2016, with an option, in favour of Port Stephens Council, of a further 12 month extension:</p> <ul style="list-style-type: none">a. Openshore Pty Limited;b. Watchout Training and Traffic Control;c. Workforce Road Services Pty Limited;d. Evolution Traffic Control Pty Limited.

BACKGROUND

The purpose of this report is for Council to consider and determine the preferred panel of tenderers for the provision of traffic control services.

Council purchases these services as part of our roads maintenance and construction activities. Council is currently committed to a traffic control services contract that was sourced through Hunter Procurement that will be replaced when the new contract is accepted. The contract will run for 21 months from 1 January 2015 to 30 September 2016 with a 12 month option, in favour of Port Stephens Council, to extend based on satisfactory performance by the successful tenderers.

This process is conducted in accordance with Councils Procurement Policy.

Regional Procurement Initiative, a division of Hunter Councils Inc. has been established in response to a need for a collaborative approach to regional tendering and contracting. It is estimated the Regional Procurement Initiative members contribute upwards of \$200 Million to the region through their tenders and contracts. By utilising Regional Procurement Initiative to facilitate the tender process Council supports the Memorandum of Agreement signed by the General Managers of each of the Hunter Council's that agrees to support Regional Procurement Initiative and accept the outcomes of tenders where there is an equal to or better outcome than alternative sources.

Regional Procurement Initiative called Tenders for the supply of these services across a number of member LGA'S that included Mid-Western Regional Council, Dungog Shire Council, Cessnock City Council, Upper Hunter Shire, Singleton Council, Muswellbrook Shire Council, Maitland City Council, Lake Macquarie City Council, Port Stephens Council and The City of Newcastle.

Each bid was evaluated against a "Value Selection" criteria and allocated a weighted score for each assessed criteria. This evaluation allows each bid to be ranked according to its performance against a pre-determined set of criteria. The "Value Selection" method for the provision of traffic control services were assessed against criteria that included price, WH&S, ESD, referees, customer service, previous experience and quality assurance. Evaluation for Port Stephens Council is shown in **(ATTACHMENT 1)** and is based on engaging a three (3) person crew including site establishment. The weightings agreed for this tender evaluation were:

Criteria	Weighting %
Price	55
Referees	5
Quality Assurance	10
WHS	10
Customer Service	10
Previous Experience	10

Council will only be awarding the contract to four (4) of the evaluated tenderers based on "best fit for purpose". See the successful tenderers highlighted in **(ATTACHMENT 1)**.

FINANCIAL/RESOURCE IMPLICATIONS

This tender represents a budget expenditure of approximately \$680,000 per annum for the Facilities & Services Group. The actual annual expenditure varies year to year and is dependent on the extent of traffic control services required within the Capital Works and Public Domain & Services sections. The procurement of the "best value for money" services is critical to providing sustainable services to the community.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	680,000	Works funded by existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

This tender process complies with the *Local Government Act 1993* and Local Government (tendering) Regulations. Each bid was assessed using a "Value Selection" method with weighted selection criteria.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that supply and delivery of traffic control services may not be available as required which may lead to works being delayed or cancelled.	Medium	Appoint multiple providers as part of panel tender.	Yes
There is a risk that the provision of traffic control services may not be completed to approved standard which may lead to work delays and/or costly rework.	High	Appoint only suitably qualified tenders from panel.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

A 21 month contract allows Council to program works with known traffic control services costs and thereby provides for improved project scheduling, cost accuracy and budget management.

All supplied services are undertaken to current industry risk management standards and legislation to mitigate possible environmental impacts.

There are no economic, environmental implications from adopting this recommendation.

Community safety will be improved through the use of suitably qualified traffic control providers.

CONSULTATION

- 1) Procurement & Contracts Co-ordinator;
- 2) Roads and Construction Co-ordinators;
- 3) Group Manager Facilities and Services.

OPTIONS

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

ATTACHMENTS (CONFIDENTIAL – provided under separate cover)

- 1) Traffic Control services tender evaluation results for Port Stephens Council.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 17

FILE NO: PSC2013-00927

PROPOSED ACQUISITION BY AGL OF EASEMENT OVER PACIFIC HIGHWAY TOMAGO UNDER THE PIPELINES ACT 1967

REPORT OF: BRETT FIELD – ACTING PROPERTY SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consents to a licence and agreements to grant an easement over part of the Pacific Highway at Tomago under the Pipelines Act 1967 for the purpose of a natural gas pipeline.
- 2) Consents to \$2,000 as the agreed amount of compensation for the acquisition of the easement and licence fee for the road reserve.
- 3) Authorises the Mayor and General Manager to sign and affix the Council Seal to the relevant documents.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Geoff Dingle Councillor Sally Dover
	That the recommendation be adopted.

MOTION

347	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council: <ol style="list-style-type: none">1) Consents to a licence and agreements to grant an easement over part of the Pacific Highway at Tomago under the Pipelines Act 1967 for the purpose of a natural gas pipeline.2) Consents to \$2,000 as the agreed amount of compensation for the acquisition of the easement and licence fee for the road reserve.3) Authorises the Mayor and General Manager to sign and affix the Council Seal to the relevant documents.

BACKGROUND

The purpose of this report is for Council as the Roads Authority for the road reserve on the Pacific Highway at Tomago to consent to grant of a licence and an easement over the road reserve under the Pipelines Act 1967 for a natural gas pipeline by AGL Energy Limited. Compensation of \$1,000 for the licence and \$1,000 for the easement has been offered. The licence fee will be paid upfront, with the acquisition compensation to be paid at the time of registration of easement (which could be in a few years' time).

AGL has requested Council to consider the acquisition by agreement rather than by process of compulsory acquisition. NSW Roads and Maritime Services will also be a party to the proposed agreement as the roads authority for the Pacific Highway.

In addition, and in view of the fact the highway may eventually be vested by RMS in Council following construction of a proposed upgrade nearby, AGL and RMS have requested Council be a party to a licence and agreement to grant easement for part of the highway itself. The proposed compensation for the acquisition of that easement is an additional \$1,300 which would only be paid to Council if the highway is vested in Council at the time the easement is registered.

The proposed licence area is 100 metres wide and would be current during the testing, design and construction phase for the pipeline only. The proposed easement is 20 metres wide and would be finalised following completion of the pipeline construction. The proposed easement plan is shown in **(ATTACHMENT 1)**.

The pipeline will be placed approximately 30 metres below the highway and road reserve. As such agreement to the licence and proposed grant of easement is considered low risk to Council.

FINANCIAL/RESOURCE IMPLICATIONS

Council has received copies of valuations undertaken by AGL. These have been reviewed and, although the compensation amount is minimal, it is considered appropriate in the circumstances.

Council will receive \$2,000 compensation for the easement over the road reserve plus disbursements being legal costs. 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

Should Council not agree to the proposed acquisition by agreement, the acquisition of the easement would take place as a compulsory acquisition under the Pipelines Act. In agreeing to the acquisition by agreement, Council is able to negotiate the terms of the easement.

The matter is governed by 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.

Under s377 of the Local Government Act 1993, a Council resolution must be obtained for agreement to this proposed voluntary acquisition.

Risk	<u>Risk Ranking</u>	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-you0dig 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 development to occur and hence provide jobs to the area.

CONSULTATION

- 1) Consultation has involved RMS, AGL and relevant Council officers.

OPTIONS

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

ATTACHMENTS

- 1) Plan of proposed easement.

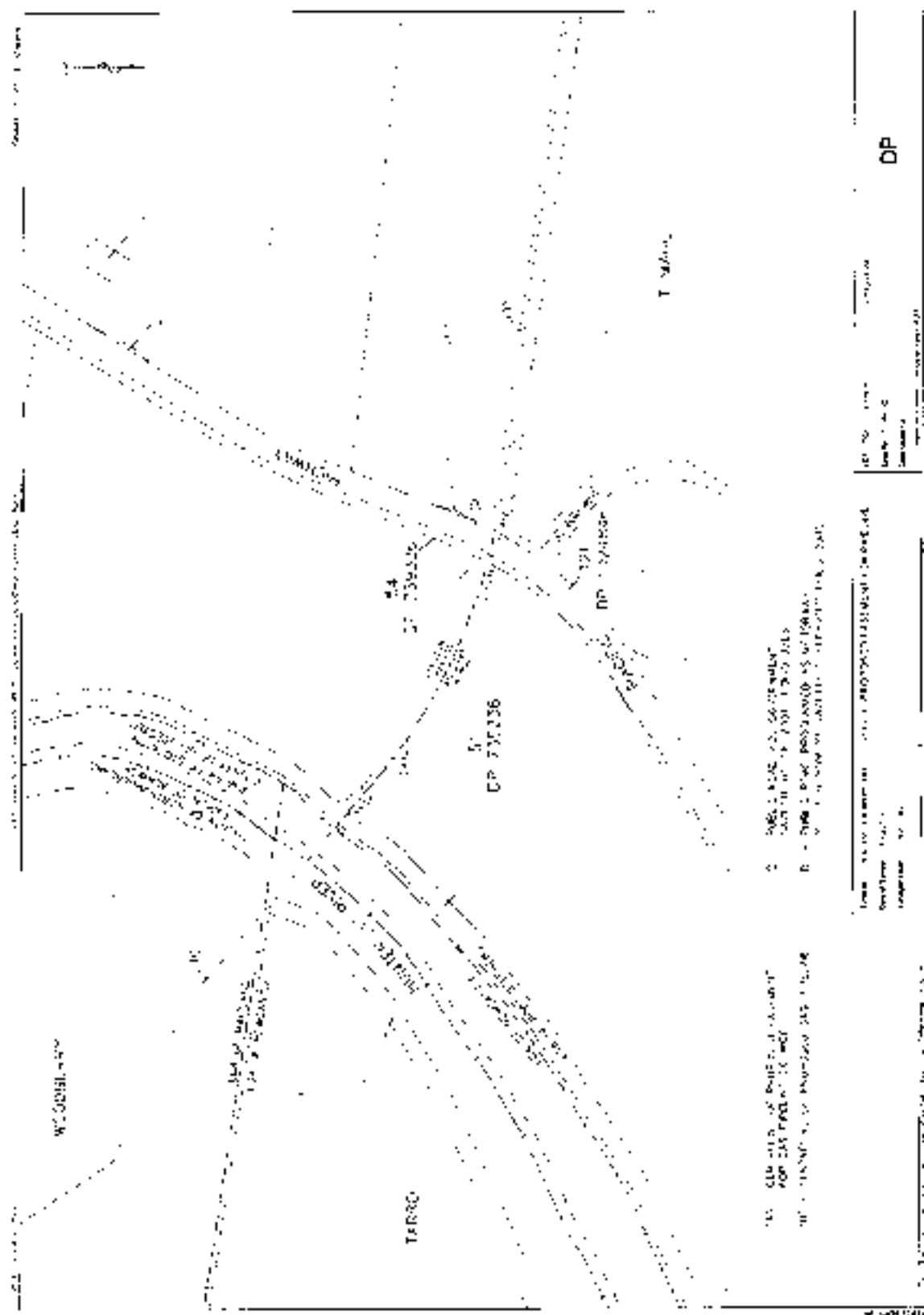
COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



ITEM NO. 18

FILE NO: 1190-001

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: TONY WICKHAM – GOVERNANCE MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:
 - a) Mayoral Funds – Mayor Bruce MacKenzie - Grahamstown Sailing Club & Sailability Port Stephens event - \$500.00;
 - b) Mayoral Funds – Mayor Bruce MacKenzie – Riding for the Disabled – Payment toward account at Rural Traders - \$1,000.00;
 - c) Mayoral Funds – Mayor Bruce MacKenzie – Raymond Terrace Early Education Centre – Donation toward Christmas raffle - \$250.00;
 - d) Mayoral Funds – Mayor Bruce MacKenzie – Rotary Club of Nelson Bay – Donation to Christmas Party for needy children - \$500.00;
 - e) East Ward Funds – Cr John Nell – Boat Harbour Village Collective – Start-up cost - \$500;
 - f) East Ward Funds – Cr Sally Dover – Nelson Bay Cinema – 50% of cost of repositioning of light - \$676.67;
 - g) West Ward Funds – Cr Peter Kafer – Karuah Working Together Inc. – Karuah Centre floor maintenance & asbestos removal - \$2,715.00.
 - h) West Ward Funds – Cr Peter Kafer – Karuah Progress Association Inc. – Contribution towards Christmas Carols - \$600.

**ORDINARY COUNCIL MEETING – 9 DECEMBER 2014
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Steve Tucker Councillor Peter Kafer
	That the recommendation be adopted.

MOTION

348	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council approve provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:

	<ul style="list-style-type: none"> a. Mayoral Funds – Mayor Bruce MacKenzie - Grahamstown Sailing Club & Sailability Port Stephens event - \$500.00; b. Mayoral Funds – Mayor Bruce MacKenzie – Riding for the Disabled – Payment toward account at Rural Traders - \$1,000.00; c. Mayoral Funds – Mayor Bruce MacKenzie – Raymond Terrace Early Education Centre – Donation toward Christmas raffle - \$250.00; d. Mayoral Funds – Mayor Bruce MacKenzie – Rotary Club of Nelson Bay – Donation to Christmas Party for needy children - \$500.00; e. East Ward Funds – Cr John Nell – Boat Harbour Village Collective – Start-up cost - \$500; f. East Ward Funds – Cr Sally Dover – Nelson Bay Cinema – 50% of cost of repositioning of light - \$676.67; g. West Ward Funds – Cr Peter Kafer – Karuah Working Together Inc. – Karuah Centre floor maintenance & asbestos removal - \$2,715.00. h. West Ward Funds – Cr Peter Kafer – Karuah Progress Association Inc. – Contribution towards Christmas Carols - \$600.
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BACKGROUND

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

The 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.

MINUTES FOR ORDINARY MEETING – 9 DECEMBER 2014

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

WEST WARD – Councillors Jordan, Kafer & Le Mottee

Karuah Working Together Inc.	Karuah Centre floor maintenance & asbestos removal	\$2,715.00
Karuah Progress Association Inc.	Karuah Christmas Carols	\$600.00

EAST WARD – Councillors Dover, Morello & Nell

Boat Harbour Village Collective	Start Up Cost	\$500.00
Nelson Bay Cinema	50% cost of repositioning lights	\$676.67

MAYORAL FUNDS – Mayor MacKenzie

Grahamstown Sailing Club & Sailability Port Stephens	Donation toward Event	\$500.00
Riding for the Disabled account at Rural Traders	Donation to replace feed lost in burglary	\$1,000.00
Raymond Terrace Early Education Centre	Donation toward Christmas raffle	\$250.00
Rotary Club of Nelson Bay	Donation to Christmas Party for needy children	\$500.00

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	6,141.67	West Ward \$2,715.00; East Ward \$1,176.67; Mayoral Funds \$2,250.00.
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.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation that funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor;
- 2) Councillors;
- 3) Port Stephens Community.

OPTIONS

- 1) Adopt the recommendations;
- 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. 19

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – GOVERNANCE MANAGER
GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 9 December 2014.

No:	Report Title	Page:
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1.	Report on the 2014 Coastal Conference
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ORDINARY COUNCIL MEETING – 9 DECEMBER 2014 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Chris Doohan Councillor Sally Dover
	That the recommendation be adopted.

330	Councillor Paul Le Mottee Councillor John Morello
	It was resolved that Council move out Committee of the Whole.

MOTION

349	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council receive and note the Information Papers listed below being presented to Council on 9 December 2014.

INFORMATION PAPERS



INFORMATION ITEM NO. 1

REPORT ON THE 2014 COASTAL CONFERENCE

REPORT OF: CR JOHN NELL

FILE: PSC2014-01993

BACKGROUND

The purpose of this report is to provide information to Council on the Coastal Conference which has been held annually for the past 22 years and has grown to become one of the most successful coastal industry events in Australia. This year it was held from 11-14 November 2014 in Ulladulla. The conference attracts over 220 delegates who are interested in or working within the field of coastal and estuary management research, education, service provision and policy, as well as representatives from government, user groups and community volunteer organisations. Past conferences have been held in Port Macquarie (2013), Kiama (2012), Tweed (2011), Batemans Bay (2010), Ballina (2009), Wollongong (2008), Yamba (2007), Coffs Harbour (2006) and Narooma (2005). Next year (2015), the conference will be held in Foster and hopefully the year after (2016) in Nelson Bay.

DISCUSSION

The Panel Discussion “Our coast: is it a sustainable resource for everyone?” agreed that we should all strive to maintain the coast as a sustainable resource for everyone. However, that concept is challenged in many locations along the NSW coast with the problem of having buildings too close to the shore and coastal erosion. The problem of coastal erosion and regression was extensively discussed. It was noted, that it is generally a problem where buildings are too close to the shore. The dune and beach systems need space for the perfectly natural processes of erosion and accretion, by far the cheapest method to let the beach and dune system adjust its natural alignment to the foreshore. In addition, it was noted that excessive beach nourishment smothers all living organism, essential for the nutrition of fish and birds.

The issue of insurance for coastal inundation and erosion was discussed, highlighting that property owners should be aware of the lack of insurance cover for coastal erosion and inundation; these events are not covered by insurances in any country (NRMA 2014). Sea level rise is not a weather event like a storm or a flood; it is a gradual, background process that will occur over a long period of time, with changes only becoming obvious over several decades (NRMA 2014). It is a certainty to occur rather than a probability (NRMA 2014).

ACKNOWLEDGMENT

I would like to thank Port Stephens Council for facilitating my participation at the NSW Government and Office of Environmental & Heritage sponsored Conference.

Reference

- DPCM 2011. Reforming flood insurance – Standard definition of flood Regulation Impact Statement. Department of the Prime Minister and Cabinet. Canberra, ACT. Retrieved November 21, 2014 from <http://ris.dpmc.gov.au/files/2011/12/03-Reforming-flood-insurance-standard-defintion-of-flood-RIS.pdf>.
- Karagiannakis, G. 2014. Letter re: Draft Planning Circular on Coastal hazard notations on Section 149 planning certificates. NRMA, Sydney, NSW. NRMA 2014, 42 pp. http://www.nrma.com.au/sites/default/files/NRMA-Documents/NRMA_Coastal_Hazards_Draft_10_March_2014.pdf.

ATTACHMENTS

Nil.

NOTICE OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

CALL FOR TENDERS TO CONSTRUCT THE EXTENSION OF PEPPERTREE ROAD, MEDOWIE

MAYOR: BRUCE MACKENZIE, COUNCILLORS CHRIS DOOHAN AND STEVE TUCKER

THAT COUNCIL:

- 1) That Council proceed with the call for tenders to construct the extension of Peppertree Road.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014 MOTION

Cr Paul Le Mottee returned to the meeting at 7.30pm during Notice of Motion No. 1, in Open Council.

350	Councillor Steve Tucker Mayor Bruce MacKenzie
	It was resolved that Council proceed with the call for tenders to construct the extension of Peppertree Road.

BACKGROUND REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER

BACKGROUND

The proposed extension of Peppertree Road, Medowie provides a northern missing link from the existing Peppertree Road onto Medowie Road. Peppertree Road will intersect onto Medowie Road just 260m north of the Medowie Road/Ferodale Road roundabout. The proposed extension is located on Council's operational land at 795 Medowie Road Medowie and is zoned part "R2 Residential" and part "RE1 Public Recreation" under the current LEP. This zoning allows for the road extension to be constructed now.

The proposed Peppertree Road extension aligns with the Medowie Strategy adopted by Council in 2009. This strategy is currently under review and the proposed extension of Peppertree Road is to be maintained. Future zoning of this land will be required if this land is to be utilised as commercial land as denoted in the existing Medowie Strategy. A preliminary lot layout for Council's land has been designed around the Peppertree Road extension, and proposes lot sizes from 1,850sqm to 18,000sqm

however as is usual for commercial land development, these areas will not be subdivided initially but will be ready to be created to meet the needs of developers/occupants when they discuss their individual requirements with Council. The property development industry is often constrained by a lack of suitably zoned and serviced land that is ready for construction so the proposed extension and subsequent rezoning will provide immediate opportunity for commercial development.

Ferodale Road, Peppertree Road and Medowie Road are owned and managed by Council. This proposed extension will reduce traffic congestion on Ferodale Road and provide alternative access to the Medowie town centre.

The design for the proposed extension will be finalised by the middle of December. The tender documentation to supplement the design will be completed by February 2015 allowing the tender process to commence early March 2015. It is expected that the tender process will take six weeks. This will allow a contractor to commence construction after May 2015.

A preliminary estimate has been based on the design details to date. Funds to construct the extension have been sourced to supplement the already allocated \$400,000. This \$400,000 was received through the Medowie Woolworths Voluntary Planning Agreement. The final budget will only be known once the tender process is completed.

NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217

BAN WITCHES HATS AND WIDE-MOUTH TRAPS TO SAVE ENDANGERED SEA TURTLES

COUNCILLOR: CR J NELL

THAT COUNCIL:

- 1) Call upon the State Minister for Primary Industries Katrina Hodgkinson MP and the Minister for the Environment and Heritage Rob Stokes MP for an immediate ban on the use of witches hats and wide-mouth traps in Port Stephens for the protection of our endangered Sea Turtles.

ORDINARY COUNCIL MEETING – 9 DECEMBER 2014 MOTION

351	Councillor John Nell Councillor Paul Le Mottee
	It was resolved that Council call upon the State Minister for Primary Industries Katrina Hodgkinson MP and the Minister for the Environment and Heritage Rob Stokes MP for an immediate ban on the use of witches hats and wide-mouth traps in Port Stephens for the protection of our endangered Sea Turtles.

BACKGROUND REPORT OF: TIM CROSDALE – STRATEGY AND ENVIRONMENT SECTION MANAGER

BACKGROUND

In August 2013 the state government sought community feedback to recreational fishing rules in NSW. A discussion paper '*Review of NSW Recreational Saltwater & Freshwater Fishing Rules*' was on public exhibition and Port Stephens Council put in a submission focusing on the impacts of passive crabbing equipment such as witches hats/hoop/lift nets. The review resulted in the number of witches hats allowed per person to be reduced from 5 to 4, however discussions are still ongoing about making further changes to the style of traps to change them from a passive trap to an active trap that results in less entanglements.

Port Stephens is known for its abundance of aquatic life such as turtles, marine mammals, fish, sharks, rays and sea birds. These animals are being accidentally

injured or killed by lost, abandoned and unattended fishing and crabbing gear. Of particular concern is the impact on threatened turtle species found in Port Stephens, including Green, Hawksbill and Loggerhead turtles.

Marine Parks staff have stated that at least 10 turtles die each year in Port Stephens from entanglement or entrapment in witches hats and crab traps, and those are just the ones that are found. Over the 2012-2013 Summer, Marine Parks and DPI cleaned up 177 lost, discarded and illegal crabbing devices in the Port. Witches hat traps are an inverted, passive fishing device and are usually left unattended for long periods.

Issues associated with passive crabbing devices in Port Stephens include:

- Long periods of time passive crabbing gear such as witches hats and crab traps are left unattended - increases likelihood of entanglement/entrapment of non-target species.
- Capture and subsequent drowning of turtles in crab traps due to size of openings.
- Ghostfishing - incidental capture of marine species by lost or abandoned fishing gear, more common with "*passive fishing gear such as entangling nets*".
- Witches hats are inverted when set allowing the net to sit up in the water column.
- Light weight nature of witches hats allows them to move with tidal currents and winds.
- Light gauge mesh used in witches hats easily entangles non-target species and breaks apart contributing to the issue of marine debris.
- Impact on seabed plant and animal communities.
- Potential hazard to navigation and boating posted by drifting devices.

The use of witches hats have been phased out in Queensland since 2010 to combat ghostfishing and reduce the entanglement and death of non-targeted species. In Queensland a less harmful, active fishing device is still allowed where the ring and net lay on the bottom when set.

The Mayor wished Councillors and their families a Merry Christmas at the conclusion of the meeting.

There being no further business the meeting closed at 7.47pm.

I certify that pages 1 to 202 of the Open Ordinary Minutes of Council 9 December 2014 were confirmed by Council at its meeting held on 10 February 2015.

.....
Bruce MacKenzie
MAYOR