

# NOTICES OF MOTION

**NOTICE OF MOTION**

**ITEM NO. 1**

**FILE NO: 17/15589**

**RM8 REF NO: PSC2017-00019**

**DEVELOPMENT APPLICATIONS IN FLOOD AFFECTED AREA**

**COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Inform Councillors of Development Applications in flood affected areas prior to notification of intent to refuse.
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**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>016</b>	<b>Mayor Bruce MacKenzie Councillor Ken Jordan</b>  It was resolved that Councillors be informed of Development Applications in flood affected areas prior to notification of intent to refuse.
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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, Sally Dover, Ken Jordan, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Cr Geoff Dingle.

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

**BACKGROUND**

Council has a Development Control Plan (DCP) and Flood Policy that both guide development on flood affected areas within the local government area (LGA).

Council staff assess development applications (DAs) against both the DCP and Flood Policy which is the formal position of Council in relation to development in such areas.

When DAs are lodged that are not consistent with these documents (unless it's a very minor variation), and the assessment of the DAs are complete, applications are typically refused in accordance with s79C of the *Environmental Planning and Assessment Act 1979*. This decision is made by Council staff under delegation.

As part of this process, an 'Intent to Refuse' letter is issued to the applicant. This letter advises the applicant that the DA as submitted does not comply with the policy position the Councillors have adopted, hence staff are obliged to not support the application. This letter gives the applicant and owner time to either amend their application to be compliant or to seek other options eg legal or the 'Call to Council' process, should a Councillor be willing to do this.

Councillors are currently advised of all new DAs that are lodged each week. This notice of motion requests that Councillors be informed when an 'Intent to Refuse' letter is issued in flood affected areas. Councillors would be informed via an email to all Councillors. This would mean that Councillors could call the DA to Council via the 'DAs called to Council Policy' as opposed to waiting for the owner or applicant of the DA to contact them.

#### **MERGER PROPOSAL IMPLICATIONS**

There are no known merger implications.

#### **ATTACHMENTS**

Nil.

**NOTICE OF MOTION**

**ITEM NO. 2**

**FILE NO: 17/15597**

**RM8 REF NO: PSC2013-02079**

**EXPRESSION OF INTEREST FOR THE "GATEWAY" SITE AT RAYMOND TERRACE**

**COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Not proceed with the expression of interest for site1 located at 42-50 William Street, 118-126 Adelaide Street, Raymond Terrace and 27-29 Sturgeon Street and site 2 96-100 Port Stephens Street, Raymond Terrace.
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**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>017</b>	<p><b>Mayor Bruce MacKenzie Councillor Ken Jordan</b></p> <p>It was resolved that Council not proceed with the expression of interest for site1 located at 42-50 William Street, 118-126 Adelaide Street, Raymond Terrace and 27-29 Sturgeon Street and site 2 96-100 Port Stephens Street, Raymond Terrace.</p>
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**BACKGROUND REPORT OF: CARMEL FOSTER – GROUP MANAGER  
CORPORATE SERVICES**

**BACKGROUND**

At the Ordinary Council meeting of 11 October 2016 a Mayoral Minute was adopted to proceed with an Expressions of Interest (EOI) campaign for two Council owned sites in Raymond Terrace, namely 50 William Street and 96-100 Port Stephens Street.

In keeping with Council's desire to encourage economic activity and growth in the Raymond Terrace town centre, the purpose of the campaign was to identify suitably experienced property developers interested in providing development outcomes on these sites, particularly affordable residential development in the short to medium term. Following completion of the campaign, a report would be made to Council on submissions received.

The campaign was expanded under delegated authority to include properties adjoining and adjacent to 50 William Street that collectively make up the "Gateway" site, of some 11,167sqm (**ATTACHMENT 1**). The Gateway site is a mix of vacant land and commercial buildings and expressions were encouraged to include the whole site or selected parts only. Following the recent endorsement of the Raymond Terrace Strategy this inclusive EOI process was intended to also allow an integrated development proposal in keeping with this strategy. The EOI document emphasised that all existing leases must be honoured, and that Council is not bound to accept any proposal and reserves the right to update the EOI.

Council's Acquisition and Divestment of Land Policy notes the following:-

- No formal actions may be commenced in the divestment of land until a report has been considered by Council and an appropriate resolution adopted. However, nothing should prevent the marketing of property for sale provided intending purchasers are advised that a formal resolution of Council will be required to permit a sale to proceed.
- Informal pre-sale discussions/negotiations must always be qualified "subject to resolution of Council" if there is no current resolution of Council to dispose of the land.

It is recommended that the current EOI process continue with the submissions to be considered by the Property Advisory Committee and a report on the outcomes and recommendations of the Property Advisory Committee be presented to Council.

## **MERGER PROPOSAL IMPLICATIONS**

There are no known merger proposal implications.

## **ATTACHMENTS**

- 1) Site Map.

## Aerial View of Sites



**NOTICE OF MOTION****ITEM NO. 3****FILE NO: 17/15599****RM8 REF NO: PSC2017-00351****INFRASTRUCTURE PROJECTS FUNDING****COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Borrow \$6 million for infrastructure projects to be determined by Council and to be repaid at \$1 million per year from Newcastle property investments.
  - 2) The first infrastructure project to be the Yacaaba Street, Nelson Bay extension.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>018</b>	<b>Mayor Bruce MacKenzie Councillor John Nell</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Borrow \$6 million for infrastructure projects to be determined by Council and to be repaid at \$1 million per year from Newcastle property investments.</li><li>2) The first infrastructure project to be the Yacaaba Street, Nelson Bay extension.</li></ol>
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**BACKGROUND REPORT OF: CARMEL FOSTER – GROUP MANAGER  
CORPORATE SERVICES****BACKGROUND**

The Office of Local Government has placed a number of requirements that must be adhered to for a Council to utilise external debt. These requirements include:

- The intention to borrow must be outlined in the Council's draft Operational Plan, which includes the Long Term Financial Plan and Strategic Asset Management Plan.
- Councils must also apply to the Office of Local Government, completing a loan borrowing request issued in May each year.

To include programs in the Strategic Asset Management Plan a number of further details will be required. The list of projects to be completed will need to be determined, with an appropriate scope of works and detailed costing carried out. This will need to be included in the Strategic Asset Management Plan, included in the Community Strategic Plan and placed on public exhibition. Council will then formally resolve the adoption of the Plans. It is acknowledged that the Yacaaba Street extension has been included in the Strategic Asset Management Plan in the Works Plus Program with a preliminary estimate of \$1.5 million.

Details of any proposed loan borrowing would also need to be included in the Long Term Financial Plan. The Office of Local Government notes that:

"Councils are reminded that under their Charter they are to have regard to the long term and cumulative effects of their decisions. Accordingly, Councils must exercise reasonable care and diligence that a prudent person would exercise when borrowing funds. The borrowing of money is not a function that Council can delegate. It is expected that Councillors would have a full understanding of the terms and conditions of borrowing arrangements before entering into any contract."

It is imperative that any additional external loan borrowing be factored into the Long Term Financial Plan with the appropriate repayment schedules. Fit for the Future and other key financial indicators would then need to be recast to ensure that Council maintains its current financial sustainability position.

The repayment schedule of \$1million per year for six years from Newcastle property investments would need to be further modelled. While Council does not have a specific restricted asset for this purpose it does have a Property Restricted Asset where the net annual proceeds from Council's property investment portfolio accumulate. This portfolio includes the overall investment property portfolio, as well as returns from the Council owned or controlled holiday park portfolio. While the repayment of external debt will have an obvious effect on cashflow, it will also impact on the profit/loss statement of Council and reduce the underlying surplus.

The effects on both aspects would need to be further modelled and factored into the Long Term Financial Plan for presentation for Council's consideration.

Historically, Council's policy regarding the use of loan funding has been that loan funding is only available where the proposed expenditure will result in a future revenue stream that will fund the loan repayments. As a result, the majority of Council's existing debt portfolio relates to its commercially related activities.

## **MERGER PROPOSAL IMPLICATIONS**

In December 2015 the Office of Local Government issued a directive "Council Decision Making During Merger Proposal Periods" which highlighted what should be considered by Council during the merger proposal period. This advice stated that:



'....Councils and Council officials should not make decisions during the merger proposal period for the following purposes:

- To seek to damage or impede the operational effectiveness of a new Council including by (but not limited to):
- Making other significant undertakings or commitments that will be binding on a new Council;
- Making decisions that are designed to limit the flexibility or discretion of a new Council.....'

The Guidelines also highlighted a clear process for considering additional projects which involves ensuring these projects are included in Council's Long Term Financial Plan which is then publicly exhibited.

## **ATTACHMENTS**

Nil.

**NOTICE OF MOTION****ITEM NO. 4****FILE NO: 17/15602****RM8 REF NO: PSC2006-0506****ESTABLISHMENT OF A PROPERTY ADVISORY COMMITTEE****COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Form a Property Advisory Committee to work with the Property Section.
  - 2) The Council Committee representatives to include Mayor MacKenzie, Cr Chris Doohan, Cr Paul Le Mottee and Cr Ken Jordan.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>019</b>	<b>Mayor Bruce MacKenzie Councillor Ken Jordan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Form a Property Advisory Committee to work with the Property Section.</li><li>2) The Council Committee representatives to include Mayor MacKenzie, Cr Chris Doohan, Cr Paul Le Mottee, Cr Sally Dover and Cr Ken Jordan.</li></ol>
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**BACKGROUND REPORT OF: CARMEL FOSTER – GROUP MANAGER  
CORPORATE SERVICES****BACKGROUND**

From 2003 to 2009 a Property Advisory Board was established consisting of Councillors and key staff. In 2009 the property market was static and the Property Advisory Board ceased to meet.

As the property market in the region and Council's property development and acquisition activity has increased, there is merit in re-establishing a Property Advisory Committee.

The committee, consisting of the recommended Councillors and key staff, will provide a forum to discuss various aspects of current developments and identify investment or development opportunities worth consideration and feasibility assessment, and will enable political and operational alignment on property matters. In addition to the Property Advisory Committee a quarterly briefing meeting will be established with all Councillors to assist in keeping the Council up-to-date with current property negotiations.

A Property Strategic Meeting is held bi-monthly with Property Services staff, the General Manager and Group Managers to advise the General Manager and the Group Managers of current projects and milestones. The Property Advisory Committee will take a long term view to identifying and initiating suitable development opportunities both within and outside the LGA. A monthly meeting schedule is recommended in the first instance due to the current number of significant property matters and a Terms of Reference will be prepared.

### **MERGER PROPOSAL IMPLICATIONS**

There are no merger implications associated with this recommendation.

### **ATTACHMENTS**

Nil.

**NOTICE OF MOTION****ITEM NO. 5****FILE NO: 17/15604****RM8 REF NO: PSC2017-00046****MAYORAL FUND ALLOCATION****COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Allocate \$30,000 to the Mayor for distribution to the community.
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**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>020</b>	<b>Councillor Ken Jordan Councillor Chris Doohan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Allocate \$30,000 to the Mayor for distribution to the community.</li><li>2) Allocate \$10,000 to each Ward, totalling \$30,000, for distribution to the community.</li></ol>
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**BACKGROUND REPORT OF: TONY WICKHAM – GOVERNANCE MANAGER****BACKGROUND**

The Mayor is provided with \$30,000 annually through the normal budgetary process. These funds will be in addition to the annual funding.

The Section 23A *Guidelines – Council Decision Making During Merger Proposal Periods*, states that Council should only expend monies in accordance with the detailed budget adopted for the purpose of implementing the Operational Plan for the year.

Council can adopt further allocation of funds if there is clear and compelling grounds for further expenditure. The Council resolution is to disclose reasons why the expenditure is required and warranted.

Any funds provided to individuals, should this funding be made available, will require 28 days public exhibition in accordance with the *Local Government Act 1993*.

The allocation of this funding can be included in the March 2017 quarterly budget review.

**MERGER PROPOSAL IMPLICATIONS**

The proposal to allocate an additional \$30,000 to the Mayor Fund will not have a significant impact on any merger proposal.

**ATTACHMENTS**

Nil.

**NOTICE OF MOTION****ITEM NO. 6****FILE NO: 17/15607****RM8 REF NO: PSC2014-03618****REVIEW OF BUSHFIRE MAPS IN THE PORT STEPHENS LOCAL GOVERNMENT AREA****COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Urgently review the bushfire maps in the Port Stephens local government area.
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Councillor Chris Doohan left the meeting at 06:31pm, prior to voting on the matter. Councillor Chris Doohan returned to the meeting at 06:34pm, prior to voting on the matter.

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>021</b>	<b>Mayor Bruce MacKenzie Councillor Paul Le Mottee</b>  It was resolved that Council urgently review the bushfire maps in the Port Stephens local government area.
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**BACKGROUND REPORT OF: DAVID ROWLAND – SECTION MANAGER  
STRATEGY AND ENVIRONMENT****BACKGROUND**

Current Council bushfire maps can trigger referral to the NSW Rural Fire Service (RFS) and assessment against relevant standards. It does not automatically exclude development but can impact on the timing for an application to be determined.

The existing bushfire maps are out-dated having been certified in 2004.

Council has been in the process of reviewing these maps in accordance with the NSW Rural Fire Service, November 2015, 'A Guide for Bushfire Prone Land Mapping'.

An internal review of the mapping was completed in late 2016. The results from this process will now be referred to the NSW RFS HQ for their consideration.

Subject to NSW RFS HQ's review, the recertification process will be completed by 30 June 2017.

**MERGER PROPOSAL IMPLICATIONS**

There are no known merger proposal implications.

**ATTACHMENTS**

- 1) A Guideline for Bushfire Prone Land Mapping.

ITEM 6 - ATTACHMENT 1      A GUIDELINE FOR BUSHFIRE PRONE LAND  
MAPPING.



## **GUIDE FOR BUSH FIRE PRONE LAND MAPPING**

**VERSION 5b**

November 2015



**ITEM 6 - ATTACHMENT 1      A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.**

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The NSW Rural Fire Service reserves the right to review this guideline. The information contained in this document is subject to change from time to time.

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.**

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**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.****1 Definitions**

**Agricultural land** - A piece of land used for agricultural purposes including, but not limited to, dairying, pig-farming, poultry farming, viticulture, orchards, bee-keeping, horticulture, vegetable growing, the growing of crops of any kind, or any combination of these, but excluding forestry and plantations (e.g. tea tree).

**Bush fire hazard** - The potential for land to carry a bush fire, utilising materials or fuels that can be ignited.

**Bush fire prone area** - An area of land that can support a bush fire or is likely to be subject to bush fire attack, as designated on a bush fire prone land map.

**Bush fire prone vegetation map (BFPV)** - A map prepared in accordance with this guide and defining areas of vegetation by BFPV categories. This map may be prepared by Council or Urban Release Area developers.

**Bush fire prone land map (BFPL)** - A map prepared in accordance with this guide and certified by the Commissioner of the NSW RFS under section 146(2) of the *Environmental Planning and Assessment Act 1979*.

**Bush fire risk evacuation map** - A map developed by council in consultation with the NSW RFS which identifies land that is susceptible to evacuation difficulties in the event of a bush fire. Certain Special Fire Protection Purpose developments may be deemed inappropriate for these areas and may be prohibited. The map will identify these areas via cross-hatching.

The bush fire risk evacuation map is held by the Department of Planning and Environment. A copy of this map also needs to be provided to the NSW RFS.

**Council/s** - The council of a local government area (LGA).

**Designated bush fire prone land** - In relation to an area, means land recorded for the time being as bush fire prone land on a bush fire prone land map for the area.

**Digital data** - The electronic datasets comprising the certified bush fire prone land polygons and the related metadata (in MapInfo TAB or ESRI Shapefile format).

**Grasslands** - Grassed areas capable of sustaining a fire. Under *Australian Standard 3959 Construction of buildings in bushfire-prone areas*, identified as low open shrubland, hummock grassland, closed tussock grassland, tussock grassland, open tussock, sparse open tussock, dense sown pasture, sown pasture, open herbfield, and sparse open herb field. Grass, whether exotic or native, which is regularly maintained at or below 10cm in height (includes maintained lawns, golf courses, maintained public reserves, parklands, nature strips and commercial nurseries) are regarded as managed land.

**LPI** – NSW Land and Property Information

**Managed Land** - Managed land is land that has vegetation removed or maintained to limit the spread and impact of bush fire. It may include existing developed land (i.e. residential, commercial or industrial), roads, golf course fairways, playgrounds or sports fields, vineyards, orchards, cultivated ornamental gardens and commercial nurseries. Most common will be gardens and lawns within curtilage of buildings. These areas will be managed to meet the requirements of an Asset Protection Zone.

ITEM 6 - ATTACHMENT 1      A GUIDELINE FOR BUSHFIRE PRONE LAND  
MAPPING.

**Remnant Vegetation** – For purposes of this guide, remnant vegetation is vegetation that is considered to be of a lower bush fire risk (than Category 1 and Category 3) due to the size and/or shape of the parcel. This includes areas of vegetation greater than one hectare, but less than 2.5 hectares in size.

**Urban Release Area (URA)** – Land that is defined as being located within an urban release area by NSW Department of Planning & Environment.

**ITEM 6 - ATTACHMENT 1      A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.****2 Introduction**

On 1 August 2002, the *Rural Fires and Environmental Assessment Legislation Amendment Act 2002* amended the *Rural Fires Act 1997* and the *Environmental Planning and Assessment Act 1979* (*EP&A Act*) to provide significant improvements in bush fire safety. This included a requirement for the preparation of a bush fire prone land map identifying vegetation within LGAs that has the potential to support a bush fire. The bush fire prone land map is the trigger for the consideration of bush fire protection measures for new development (*Planning for Bush Fire Protection* and Australian Standard 3959-2009 – *Construction of buildings in bush fire prone areas*).

On 1 March 2013, the *EP&A Act* was amended allowing the NSW Rural Fire Service (NSW RFS) to update bush fire prone land maps for urban release areas in a streamlined fashion.

This guide provides the details for the mapping of bush fire prone land as required under section 146 of the *EP&A Act*. It is to be used by the NSW RFS, councils, and those involved in the mapping of urban release areas.

The methodology is one that is to be applied State wide for comparative purposes. The data set created for the purposes of mapping bush fire prone land can also be used by Councils to create other maps like a Bush Fire Property Map and Bush Fire Risk Evacuation Map.

**3 Legislation**

This section outlines the legislative context for the mapping of bush fire prone land and the assessment of Development Applications on such land.

Section 146 of the *EP&A Act* requires councils, where a Bush Fire Risk Management Plan applies, to record a bush fire prone land map after consulting with the Commissioner of the NSW RFS. The Commissioner will designate lands to be bush fire prone within an area and, when satisfied that the lands have been recorded on a map, certify the map as the Bush Fire Prone Land map. Councils are required to make these maps available for public inspection.

Section 149 of the *EP&A Act* requires that a council will, in the planning certificate, include advice on relevant matters affecting a parcel of land of which it may be aware. This includes Bush Fire Prone Land, as specified in Schedule 4 of *Environmental Planning and Assessment Regulation 2000*. The section 149 certificate is an important mechanism for councils to inform people living in or looking to purchase into a bush fire prone area, that bush fire is a consideration.

Section 79BA of the *EP&A Act* requires that where development of bush fire prone land occurs, the consent authority must be satisfied that the development complies with *Planning for Bush Fire Protection 2006* or has consulted with the Commissioner of the NSW RFS.

Complying development is permitted on bush fire prone land for the lower risk bush fire attack levels (Australian Standard 3959 BAL levels 12.5, 19, and 29). Such development is required to meet development standards complying with *Planning for Bush Fire Protection 2006*.

Section 100B of the *Rural Fires Act 1997* requires that a Bush Fire Safety Authority is issued by the Commissioner of the NSW RFS for all residential subdivision or special fire protection purpose developments on Bush Fire Prone Land. A Bush Fire Safety Authority is issued where the Commissioner believes that the development complies with standards that provide the development with appropriate protection measures against bush fire.

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.****4 Limitations**

Bush Fire Prone Land mapping is intended to designate areas of the State that are considered to be higher bush fire risk for development control purposes. Not being designated bush fire prone is not a guarantee that losses from bush fires will not occur.

Changes to the landscape may occur from time to time and therefore the certified bush fire prone land maps may not be a true indication of bush fire risk.

**5 Monitoring and Review**

Council, having had its Bush Fire Prone Land certified by the Commissioner of the NSW RFS, should regularly monitor and review the information to ensure currency and reliability of data depicted.

Monitoring and review of the bush fire prone land should reflect required certification and approval standards within legislative timeframes (i.e. before the end of the period of every five years after the certification date of the map as outlined in section 146 of the EP&A Act).

Notwithstanding, bush fire prone land maps may need to be reviewed and prepared on a more frequent basis depending on the extent of vegetation changes within the LGA (e.g. annually). In its review, council should consider any areas of expanding residential development leading to vegetation loss or areas of vegetation regrowth. Factors to consider in mapping vegetation change include data currency, resolution and availability of air photography/satellite imagery and vegetation maps plus mapping accuracy.

**6 Bush Fire Prone Mapping Process****6.1 Process for Amendments and Certification of a Bush Fire Prone Land Map**

For Urban Release Areas section 6.2 and 6.3 of this document will apply.

The following describes the process for re-certification of Bush Fire Prone Land maps for Council. An amendment is treated as a re-certification.

- Council should initially contact NSW RFS Headquarters (HQ) regarding the review of the map to obtain requirements for re-certifying.
- NSW RFS HQ will notify and liaise with the relevant NSW RFS District Office (or NSW Fire & Rescue section for non NSW RFS districts) to assist in coordinating the recertification process.
- NSW RFS HQ will provide Council a digital copy of the Bush Fire Prone Land map plus 1 kilometre buffer into adjoining Council areas (allowing for consistency along boundaries).
- Council to review bush fire prone vegetation and update then refer back to NSW RFS HQ.
- Once satisfied NSW RFS will forward map to Council
- Once satisfied with the content of the map, Council to provide Bush Fire Prone Land map to NSW RFS HQ for approval and certification as follows:
  - Council to forward the data file to NSW RFS Headquarters for processing. This shall be provided as digital data (e.g. MapInfo Tab File or ESRI Shape File, with the map projection defined).
  - Council shall include with the digital dataset a letter requesting the Commissioner certify Council's map and detail the proposed changes.
  - Council is also to include an accompanying letter from the manager of the local NSW RFS District responsible for that council (or relevant NSW RFS Customer Service Centre in non rural fire districts), confirming the proposed amendments and its concurrence to them.
  - Any contentious issues are to be resolved prior to the recertification and printing of final bush fire prone land maps. Where anomalies or issues are identified during the recertification

**ITEM 6 - ATTACHMENT 1      A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.**

process, the NSW RFS will contact the local council. Any amendments to the map are the responsibility of the council.

- The NSW RFS will commence the recertification process once amendments have been agreed to by NSW RFS district staff (or relevant NSW RFS Customer Service Centre in non rural fire districts) and council, and all information is complete and accepted as being accurate.
- The NSW RFS will endeavour to provide a hard copy of the Bush Fire Prone Land map certified by the Commissioner and accompanying digital data to the council within 28 days of processing the final amendments.

All communication regarding bush fire prone land is to be provided to the NSW RFS by mail or email. Refer to NSW RFS contacts in Section 8.9 of this document.

### **6.2 Process for Amendments and Certification of a Bush Fire Prone Land Map for Urban Release Areas (URA)**

Any proposed amendment to a bush fire prone land map is to be regarded as requiring re-certification. A draft map does not constitute a certified map.

This document is to be used in conjunction with the URA User Guide. The User Guide and other supplementary documentation to assist in the application process will be available on the NSW RFS website.

Before an applicant decides to go through this process, the applicant must confirm the site is located within a defined Urban Release Area. Please check the NSW Department of Planning & Environment website for details.

The following is the process for re-certification of Bush Fire Prone Land maps for those developing urban release.

- a. The applicant is to request a bush fire prone land map dataset for the subject area from NSW RFS Headquarters.
- b. The NSW RFS will electronically provide this in the form of a shape file of the existing BFPV plus buffer and surrounding 200 metres of site.
- c. NSW RFS HQ will notify and liaise with the relevant NSW RFS District Office (or Fire & Rescue NSW section for non NSW RFS districts) to assist in coordinating the recertification process.
- d. Applicant to review dataset and update in accordance with this guide.
- e. The applicant is to submit an application form (Appendix 1) with an amended data set to the NSW RFS Planning and Development at Headquarters for processing. This shall be provided as digital data (e.g. MapInfo Tab File or ESRI Shape File, with the map projection defined).
- f. NSW RFS Headquarters advises relevant council that an application has been received for an amendment to the Bush Fire Prone Land Map.
- g. Liaison will occur if required with the relevant NSW RFS office, which will provide written confirmation of the proposed amendments and its concurrence to NSW RFS Headquarters.
- h. Where anomalies or issues are identified during the recertification process, the NSW RFS will liaise with the applicant. If issues cannot be resolved and the NSW RFS does not support the amendments, the applicant will be contacted to discuss the disparity with NSW RFS. NSW RFS reserves the right to be the absolute arbiter and will advise applicants in writing of determinations.

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.**

- i. The NSW RFS will commence the recertification process once amendments have been agreed to and all information is complete and accepted as being in accordance with the guidelines.
- j. Once certified the NSW RFS will provide a hard copy of the BFPLM and accompanying digital data to the council and a soft copy (pdf) to the proponent as soon as possible after processing the amendments.
- k. All communication regarding bush fire prone land is to be delivered to the NSW RFS by mail or email. Refer to NSW RFS contacts in Section 8.9 of this document.

**6.3 Mapping Category 3 Vegetation**

As part of the introduction of Category 3 into the Bush Fire Prone Land system, a 3 year transition period will occur. During this period councils will need to recertify their bush fire prone land maps and incorporate the new Category 3 layer.

To assist councils with mapping Category 3 vegetation, the NSW RFS has created a Category 3 vegetation layer. This layer could assist councils in mapping Grasslands along with the other Category 3 vegetation types. If Councils are interested in obtaining a copy of this data, please contact the Co-ordinator or NSW RFS HQ GIS section for the dataset. This dataset is intended to be used as a draft for mapping bush fire prone vegetation.

**6.4 Interim Measures for Mapping Urban Release Areas**

Due to the introduction of Category 3, it is necessary to clarify these requirements when mapping urban release areas. Given the URA process is intended to be streamlined; the NSW RFS will liaise with Council in relation to the inclusion of Category 3 and, depending on circumstances, may recertify the application under the 2014 version of the guide (Category 1 and Category 2 vegetation only). Any rectifications outside the URA process will require incorporation of Category 3 as per Section 7.

**6.5 Map for Commissioner's Approval**

The NSW RFS will print the final Bush Fire Prone Land map using the standard NSW RFS template for approval by the Commissioner.

Any contentious issues are to be resolved prior to the recertification and printing of final Bush Fire Prone Land maps.

The NSW RFS will produce three hard copies of the certified Bush Fire Prone Land map (at A0 size for the LGA) to be filed and distributed as follows:

- Copy 1 – for NSW RFS, Planning and Development section;
- Copy 2 – for NSW RFS, District Manager (or Fire and Rescue NSW);
- Copy 3 – for Council records.

The NSW RFS will also distribute a digital version of the map back to Council along with the associated metadata.

The NSW RFS may also display the Bush Fire Prone Land data and maps on the NSW RFS website. Data will also be made available for download from data.nsw (<http://data.nsw.gov.au/>) in alignment with NSW Government Open Government Policy.

The Commissioner shall certify the Bush Fire Prone Land map under section 146 of the *EP&A Act* upon advice of the Manager, Development Planning and Policy.



**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.****7 Steps to Prepare a Bush Fire Prone Land Map**

Bush Fire Prone Land maps are required to be reviewed at least every five years. When preparing a map it should be based on the most up to date aerial photography, or satellite imagery and where necessary field inspection/ground truthing to ensure accuracy.

The methodology for preparing a bush fire prone mapping products is outlined in sections 6.1 - 6.4.

**7.1 Step 1 - Identification of BFPV**

RESPONSIBILITY: Council / Applicant in URA process

CUSTODIAN: NSW RFS DATA BROKER: Council

This section defines the methodology and criteria for determining what is categorised as BFPV. Council may undertake their own vegetation mapping studies, source vegetation information from Local Vegetation Studies, or utilise satellite or air photography. State government agencies such as National Park and Wildlife Services and the Office of Environment and Heritage have also conducted vegetation mapping. Care must be taken when sourcing vegetation information to ensure it is fit for purpose. When undertaking mapping the following considerations are to be taken into account:

- vegetation regrowth and clearing
- likely urban development upon approved development land
- boundary alignment with adjoining councils
- land management practices
- mapping accuracy and quality, refer to section 8; and
- for URAs, land/vegetation should be mapped as bush fire prone where it
  - has been rezoned as environmental protection or
  - areas where a riparian corridor, nature reserve or similar is proposed and management is not guaranteed.
  - this is applied even if the area has not been fully established or the vegetation in its current form is in its infancy.

\*Note: As part of the transition period for Category 3, council should contact the NSW RFS to obtain a copy of the draft Category 3 dataset.

Council may use various sources to build the most current vegetation map including air photography, satellite imagery and vegetation maps. The data sources and methods used to map the BFPV need to be set out in ANZLIC/ISO compliant metadata statement and provided to the NSW RFS.

**7.1.1 Methodology**

The methodology for categorising bush fire prone land is as follows:

Identify and determine vegetation types (Keith, 2005) for all land within the local government area (both private and public tenure), using *Planning for Bush Fire Protection*. Vegetation is to be classified into the following categories based on vegetation types and potential risk:

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.****Vegetation Category 1**

Vegetation Category 1 is considered to be the highest risk for bush fire. It is represented as red on the bush fire prone land map and will be given a 100m buffer. This vegetation category has the highest combustibility and likelihood of forming fully developed fires including heavy ember production. Vegetation Category 1 consists of:

- Areas of forest, woodlands, heaths (tall and short), forested wetlands and timber plantations.

**Vegetation Category 2**

Vegetation Category 2 is considered to be a lower bush fire risk than Category 1 and Category 3 but higher than the excluded areas. It is represented as light orange on a bush fire prone land map and will be given a 30 metre buffer. This vegetation category has lower combustibility and/or limited potential fire size due to the vegetation area shape and size, land geography and management practices. Vegetation Category 2 consists of:

- Rainforests.
- Lower risk vegetation parcels. These vegetation parcels represent a lower bush fire risk to surrounding development and consist of:
  - Remnant vegetation;
  - Land with ongoing land management practices that actively reduces bush fire risk. These areas must be subject to a plan of management or similar that demonstrates that the risk of bush fire is offset by strategies that reduce bush fire risk; AND include:
    - Discrete urban reserve/s;
    - Parcels that are isolated from larger uninterrupted tracts of vegetation and known fire paths;
    - Shapes and topographies which do not permit significant upslope fire runs towards development;
    - Suitable access and adequate infrastructure to support suppression by firefighters;
    - Vegetation that represents a lower likelihood of ignitions because the vegetation is surrounded by development in such a way that an ignition in any part of the vegetation has a higher likelihood of detection.

**Vegetation Category 3**

Vegetation Category 3 is considered to be medium bush fire risk vegetation. It is higher in bush fire risk than category 2 (and the excluded areas) but lower than Category 1. It is represented as dark orange on a Bush Fire Prone Land map and will be given a 30 metre buffer. This category consists of:

- Grasslands, freshwater wetlands, semi-arid woodlands, alpine complex and arid shrublands.

**7.1.2 Exclusions**

Vegetation excluded from being mapped as bush fire prone includes:

- Single areas of vegetation less than 1 hectare in area and greater than 100 metres separation from other areas of Category 1, 2 or 3 vegetation;
- Multiple areas of vegetation less than 0.25 hectares in area and not within 30 metres of each other;
- Strips of vegetation less than 20 metres in width, regardless of length and not within 20 metres of other areas of Category 1, 2 or 3 vegetation;
- Areas of "managed grassland" including grassland on, but not limited to, recreational areas, commercial/industrial land, residential land, airports/airstrips, maintained public reserves and parklands, commercial nurseries and the like;

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.**

- Areas of managed gardens and lawns within curtilage of buildings;
- Non-vegetated areas, including waterways, roads, footpaths, buildings and rocky outcrops.
- Managed botanical gardens;
- Agricultural lands used for annual and/or perennial cropping, orchard, market gardens, nurseries and the likes are excluded;
- Saline wetlands including mangroves.
- Other areas that, due to their size, shape and overall risk are not considered Category 1, 2 or 3 vegetation.

**NOTE:**

- The BFPV dataset must exclude any vegetation identified as an 'Exclusion' (see above).
- NSW RFS has an automated Geographic Information Support process to determine the size and lateral separation of areas of remnant vegetation according to the 'exclusions'. Vegetation may be downgraded by this process.
- Councils will need to concentrate on both the classification of vegetation of and determined land management practices for the vegetated areas being assessed.
- Councils do not need to buffer the vegetation. Buffering is undertaken in step 2, using the NSW RFS automated processes.
- Further advice is available from the NSW RFS GIS Unit.

At the conclusion of this part of the process there will be a spatial dataset named 'BFPV'.

**7.2 Step 2 - Preparation of Bush Fire Prone Land Map**

RESPONSIBILITY: NSW RFS/Council

CUSTODIAN: NSW RFS/Council DATA BROKER: Council/NSW RFS

The BFPLM consists of buffered vegetation (produced in Step 1). Before the BFPV is buffered, NSW RFS will undertake quality checking as outlined in section 8.6, including checking remnant vegetation and compliance to exclusions. Any identified changes to the supplied BFPV map will be confirmed with Council.

**7.3 BFPV Buffer**

This section defines the criteria for determining the BFPV buffer. Once areas of vegetation have been defined and the appropriate bush fire vegetation categories have been applied, it will be necessary to apply the buffering criteria.

The method for the determination of bush fire vegetation buffering is as follows: -

- BFPV Category 1 – apply a 100 metre external buffer to each vegetation polygon.
- BFPV Category 2 – apply a 30 metre external buffer to each vegetation polygon.
- BFPV Category 3 – apply a 30 metre external buffer to each vegetation polygon.

At the conclusion of this process there will be one dataset; comprising of four parts; Vegetation Category 1, Vegetation Category 2, Vegetation Category 3 and Buffer. This will be used to define 'Bush Fire Prone Land' and will be displayed on a map.

**8 Map Publishing, Data Management and Quality**

These map and data requirements are necessary to ensure a coordinated and standardised approach to generating and maintaining Bush Fire Prone Land maps. These requirements apply only to map outputs, not to data structures or formats within local council database environments.

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.****8.1 Copyright and Licensing**

Given that bush fire prone land maps are published under control of the State of NSW (through the NSW RFS, section 146 *EPA Act* and associated guidelines), copyright is owned by the NSW RFS pursuant to sections 176 and 177 of the *Copyright Act 1979*.

AusGOAL and creative commons licensing "provides a framework for government and other organisations affected by Right To Information to give full effect to its underlying policy. It supports open licensing decisions that enable the community to re-use the information as intended by the legislative reforms." (AusGoal, 2011). In NSW this right to information is enacted through the *Government Information (Public Access) Act 2009*, and open data policy.

The NSW RFS applies Creative Commons by Attribution (CC BY) open access licensing to the NSW Bush Fire Prone Land map. To the extent that Creative Commons licensing applies, all data and other material produced by NSW RFS constitutes Crown copyright, save for the logos of Council, NSW RFS, NSW Government and any material protected by a trade mark. NSW RFS has applied the Creative Commons Attribution 3.0 Australia Licence.

NSW RFS asserts the right to be attributed as author of the original material in the following manner:



© NSW Rural Fire Service [Year]

As far as practicable, material for which the copyright is owned by a third party will be clearly labelled and attributed in the metadata statement and on printed / pdf versions of the NSW Bush Fire Prone Land maps. NSW RFS has made all reasonable efforts to ensure that this material reproduced by the NSW RFS with the full consent of the copyright owners.

It is requested that all Council supplied BFPV maps be correctly attributed to source datasets or work from which they may be derived. This may be done within the supplied metadata or printed maps and written documentation.

**8.2 Custodianship and Data Brokerage**



The data custodianship of the various data sets that are produced by the Bush Fire Prone Land mapping process follows the principles outlined in the [NSW Custodianship Guidelines for Spatial Data \(2013\)](#).

The Guidelines for Custodianship also set out the principles of: trusteeship, standard setting, maintenance of information, authoritative source, accountability, information collection and maintenance of access.

Brokerage of data refers to the exchange of data and information. A data broker in each organisation would arrange the provision and receipt of data and information in an organisation. When data is owned by one organisation (or custodian) permission must be given to a second organisation to broker the data or information, on the custodian's behalf. This arrangement is set out in a data license agreement.

Under these principles, responsibilities are split between Council and NSW RFS for the Bush Fire Prone Land mapping digital datasets and components of the Bush Fire Prone Land maps. These responsibilities are summarised below:

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.**

<b>Dataset</b>	<b>Custodian</b>	<b>Data Broker</b>	<b>Data Licence / Copyright</b>
Bush Fire Prone Vegetation	NSW RFS	Council	 © NSW Rural Fire Service [Year]
Bush Fire Prone Land Map (Dataset)	NSW RFS	NSW RFS and Council	 © NSW Rural Fire Service [Year]
Cadastre	LPI, Council or Developer (three possible sources)	LPI or Council	© NSW Government
Bush Fire Prone Property Map This is a selection of the cadastre lots that intersect Bush Fire Prone Land Map. This map could be remade at various points in time as the cadastre changes.	Council or Developer	Council Provided as separate digital data sets (BFPLM and Cadastre) The certified printed maps or PDF versions can be supplied by both organisations. Maps may be made available on both organisations' websites as PDF documents or via web maps.	Council Determined, with attribution in regard to the BFPL dataset to © NSW Rural Fire Service [Year]

**The NSW RFS responsibilities with regard to copyright and ownership are as follows:**

Provide, manage and maintain a central repository for all bush fire prone land mapping data across NSW.

The NSW RFS will manage data held within the central repository in accordance with the NSW Metadata Element Set User Guidelines for Vector Datasets (NSW Govt 2012) and NSW Custodianship Guidelines for Spatial Data (2013)

Individual Council Bush Fire Prone Land map metadata statements will be compiled in consultation with the council, for information on broker details, lineage, maintenance, and citation information.

Copyright and ownership of the end output digital Bush Fire Prone Land data and certified hardcopy Bush Fire Prone Land map, will reside with the NSW RFS. However, the NSW RFS will allow each council the authority to broker (release) their BFPLM data for whichever purpose that they deem to be appropriate.

Where the NSW RFS produces Bush Fire Prone Land maps (printed or PDF) on behalf of councils, the NSW RFS will provide the Bush Fire Prone Land map dataset to councils.

**Council responsibilities with regard to data brokerage are as follows:**

Council will ensure Bush Fire Prone Land map (printed or PDF) outputs are in accordance with this Guide.

Council is to have the Bush Fire Prone Land map available for public inspection during normal business hours pursuant to section 146 of *EP&A Act*.

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.**

Council is a broker of the Bush Fire Vegetation Map.

Councils are given permission under CC BY open data licensing to broker the data, printed map and PDF version.

### 8.3 Metadata Requirements

Metadata provides the means for discovering spatial information by identifying the 'what', 'where', 'who', 'when' and 'how' the data behind the information is constructed. Metadata is the means to disclose what the spatial data describes, as well as how it should and can be used (NSW Govt 2012).

Metadata must be provided by all organisations in the MS Word and/or XML format abiding by ISO19139 standard and ANZLIC/NSW profiles. This can be done by adhering to the NSW Metadata Element Set for Vector Datasets User Guidelines (NSW Govt 2012).

Organisations may use any of the metadata creation software available that conforms to the ISO19139 standard and ANZLIC/NSW Guidelines.

Once the NSW Bush Fire Prone Land map is updated the metadata will be made available on the [NSW Spatial Data Catalogue](#) and linked to [data.nsw.gov.au](#).

### 8.4 Data Format and Structure

When councils send BFPV and property map layers to the NSW RFS the data must be in accordance with the following:

BFPV map

- a. One data set is required, consisting of the Vegetation Categories;
- b. The Council cadastre layer may be provided otherwise the NSW RFS will use the latest LPI cadastre as an overlay layer to the BFPLM;
- c. Data can be supplied in the following proprietary formats: ESRI Arc Geodatabase (Personal or File), ESRI shape or MapInfo tab/mid/mif;
- d. Supplied data must include all files that are required for display and storage of the data. Eg. MapInfo tab file includes files with the suffix: .tab/.dat/.id/.map/.ind. Arcview Shape includes files with the suffix: shp, dbf, shx, prj, xml. See: [http://webhelp.esri.com/arcgisdesktop/9.2/index.cfm?TopicName=Shapefile\\_file\\_extensions](http://webhelp.esri.com/arcgisdesktop/9.2/index.cfm?TopicName=Shapefile_file_extensions);
- e. All data provided must be in the datum GDA 94 and in either of the following map projections: Geographics, Lamberts or Transverse Mercator Projection (MGA54, 55 or 56). This must clearly be identified in the meta-data statement or file name;
- f. The data must not be password protected or locked in any way that denies the NSW RFS full and complete access to the data; and
- g. The required attribute fields for the bush fire vegetation dataset are: -

Field Name	Type	Size	Example
Vegetation Category	Character	1	1, 2, 3
BFP_DESC	Character	32	Vegetation Category 1
LGA_NAME	Character	50	Central Darling
Date Certified	Character	8	ddmmyyyy

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.**

**Note:** *Date Certified* Field will be filled in by the NSW RFS once the map has been certified by the Commissioner of the NSW RFS.

### **8.5 File Naming Conventions**

When sharing datasets between the organisations it is recommended that the following conventions are used.

BFPV dataset files are to use the following naming convention:

- BFPV\_CouncilName\_DateSaved
- BFPV – This designates Bush Fire Vegetation.
- CouncilName – sentence case: if more than one word do not leave spaces (e.g. CentralDarling).
- Date Saved – formatted as YYYYMMDD.

Where produced, the bush fire prone land dataset is to use the following naming convention:

- BFPL\_CouncilName\_DateSaved
- BFPL – This designates bush fire prone land.
- CouncilName – sentence case: if more than one word do not leave spaces.
- Date Saved – formatted as YYYYMMDD.

### **8.6 Data Quality**

All data will be checked by the NSW RFS Headquarters for quality, including a visual check against the most recent air photos or satellite imagery available and against data quality checks.

Visual checks will check for presence and absence of the correct vegetation types, holes and gaps in the data along Council boundaries.

Quality checking will check both the completeness of the attributing, topological errors such as overlapping polygons, gaps between polygons and overlapping council boundaries. National Park and State Forest boundaries will also be used where necessary. Further information is available from the NSW RFS GIS unit.

### **8.7 Depiction**

It is important to maintain a consistent presentation to the maps. The depiction as stated here is not software specific; however it is generic and can be applied to all GIS software. The colour definitions for each Category of vegetation are as follows:-

- Vegetation Category 1 polygons shall be coloured solid red without a borderline.
- Vegetation Category 2 polygons shall be coloured solid light orange without a borderline.
- Vegetation Category 3 polygons shall be coloured solid dark orange without a borderline.
- BFPV Buffer polygons shall be coloured solid yellow without a borderline.

### **8.8 Provision of Source Data**

If Council utilised different procedures or source data to develop the vegetation map please provide documentation or data with submitted Bush Fire Vegetation dataset. Council will need to provide details such as: the data source, date, currency, projection. This should be recorded in the metadata statement with the BFPV dataset.

**ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.**

For example: Vegetation interpretation was derived from Spot 5 Satellite data captured on August 2005.

**8.9 Delivery of BFPV Data to the NSW RFS**

The mechanisms for delivering datasets to the NSW RFS are as follows:

**8.9.1 Files Sent Electronically**

Files sent electronically (i.e. email) shall have all files saved into WinZip files and attached to the email. Each WinZip file will include all applicable files. The attached WinZip files shall be named in accordance with 8.5 – File Naming Conventions.

Files sent electronically with a subject title of XX Council Bush Fire Prone Land map dataset to: [bushfireprone.mapping@rfs.nsw.gov.au](mailto:bushfireprone.mapping@rfs.nsw.gov.au)

Files may also be transferred via file transfer protocol (ftp) sites (either Council's site or NSW RFS ftp site), contact [gis@rfs.nsw.gov.au](mailto:gis@rfs.nsw.gov.au) for further information.

**8.9.2 Files Sent by Post**

Files may be sent to the NSW RFS via normal postal service. Files sent in this way shall be copied to a standard compact disc (CD). The CD shall be posted in a package that has been specifically designed for CD postage. CDs should be a closed session and written for standard CD reader access. The NSW RFS will not accept any other delivery mechanism without prior approval.

Files sent by post to:

The Commissioner  
NSW Rural Fire Service  
Attn Manager Development Planning & Policy  
Locked Bag 17  
GRANVILLE NSW 2142

**9 References**

ANZLIC (1998) Guidelines for Custodianship, ANZLIC, ACT, Australia.

ANZLIC (2007) ANZLIC Metadata Profile Guidelines, ANZLIC – the Spatial Information Council, ACT, Australia.

NSW Government (2010) NSW Spatial Metadata Policy, CS2i, NSW.

NSW Government (2012) ver. 2.8 NSW Metadata Element Set for Vector Datasets User Guidelines, NSW LPI, NSW.

NSW Government (2013) ver. 1.5 NSW Custodianship Guidelines for Spatial Data, online <http://www.finance.nsw.gov.au/ict/sites/default/files/NSW%20Government%20Custodianship%20Guidelines%20for%20Spatial%20Data.pdf>.

Additional reference material for vegetation classification can be found in *Planning for Bush fire Protection 2006* (or subsequent versions).

NSW Government (2012) M2012-10 Open Government, online <http://arp.nsw.gov.au/m2012-10-open-government>.

NSW Government (2013) NSW Government Open Data Policy, online <http://www.finance.nsw.gov.au/ict/sites/default/files/NSW%20Government%20Open%20Data%20Policy%201.0.pdf>.



ITEM 6 - ATTACHMENT 1 A GUIDELINE FOR BUSHFIRE PRONE LAND MAPPING.

Appendix 1 – URA Application Form



**Urban Release Area (URA) –  
Bush Fire Prone Land Map (BFPLM)  
Amendment Application Form**

APPLICATION

Name
Company
Telephone
Mobile
Email

PROPERTY DETAILS

Lot/s		DP/SP	
URA NAME		STAGE No/s	
SUBURB/s:			
LOCAL GOVERNMENT AREA/s:			

DETAILS OF PROPOSED AMENDMENTS


CHECKLIST

<input type="checkbox"/>	Amended shapefile
<input type="checkbox"/>	Lot Layout / Matserplan
<input type="checkbox"/>	Extract of existing BFPLM
<input type="checkbox"/>	Aerial photography of site (if available)

**NOTICE OF MOTION**

**ITEM NO. 7**

**FILE NO: 17/15745**

**RM8 REF NO: PSC2017-00019**

**NOTIFICATION OF REZONING APPLICATIONS OR SUBDIVISION  
DEVELOPMENT APPLICATIONS**

**COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Notifies the relevant/appropriate neighbours when doing one, two or any lot subdivision.
  - 2) Notification should be given to either rezoning applications or subdivision development applications.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>022</b>	<b>Councillor Ken Jordan Councillor Steve Tucker</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Notifies the relevant/appropriate neighbours when doing one, two or any lot subdivision.</li><li>2) Notification should be given to either rezoning applications or subdivision development applications.</li></ol>
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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 Geoff Dingle, Chris Doohan, Sally Dover, Ken Jordan, Paul Le Mottee, John Nell and Steve Tucker.

Those against the Motion: Nil.

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

**BACKGROUND**

Neighbour notification – DA subdivisions

Neighbour notification requirements for development applications are set by the Port Stephens Development Control Plan 2014 and for the purpose of subdivision are based on the number of proposed lots. The requirements are:

- Four (4) lots or less – no notification requirements.
- Five (5) to ten (10) lots – written notice to immediately adjoining landowners (at the discretion of Council, written notice may also be additionally provided to those landowners not immediately adjoining).
- Eleven (11) or more lots – written notice to immediately adjoining landowners (at the discretion of Council written notice may also be additionally provided to those landowners not immediately adjoining). Newspaper notice in the Port Stephens Examiner.

Information to all developments being notified or advertised is also available on Council's website through the DA tracker.

Neighbour notification – planning proposals (rezoning requests)

Written notice is given to immediately adjoining landowners during public exhibition for planning proposals to rezone land that would then facilitate subdivision.

NSW Department of Planning and Environment guidelines state that a gateway determination will specify the community consultation that must be undertaken and that consultation will be tailored to specific proposals.

Public exhibition of a planning proposal is generally undertaken as follows:

- 1) Notification in the Port Stephens Examiner;
- 2) Notification on Council's website; and
- 3) Notification in writing to adjoining landowners.

The first two actions are usually conditioned in the gateway determination. The third action usually is not and in turn neighbour notification is not a statutory requirement.

The Strategy and Environment Section is currently reviewing its internal process for planning proposals, which will continue to include a step for neighbour notification.

**MERGER PROPOSAL IMPLICATIONS**

There are no known merger proposal implications.

**ATTACHMENTS**

Nil.

**NOTICE OF MOTION**

**ITEM NO. 8**

**FILE NO: 17/15760**

**RM8 REF NO: PSC2016-00031**

**PERMANENT MEMORIAL FOR RETURN SOLDIERS FROM WW1 - BOOMERANG PARK, RAYMOND TERRACE**

**COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) In consultation with the Raymond Terrace Historical Society and appropriate members of the community install a permanent memorial in Boomerang Park to honour the Soldiers that returned from World War 1 and met at Boomerang Park.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>023</b>	<b>Mayor Bruce MacKenzie Councillor Chris Doohan</b>  It was resolved that Council in consultation with the Raymond Terrace Historical Society and appropriate members of the community install a permanent memorial in Boomerang Park to honour the Soldiers that returned from World War 1 and met at Boomerang Park.
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**BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER**

**BACKGROUND**

The purpose of this report is to provide information regarding a Notice of Motion on the potential development of a memorial in Boomerang Park in honour of the soldiers who used the park as a meeting place after returning from World War I.

Boomerang Park has an historic military connection, with the site being used for light horse training and marshalling for the Boer and First World War and serving as a training camp prior to World War II.

The adopted Boomerang Park Plan of Management and Landscape Masterplan does not feature a World War I memorial. The implementation of a World War I memorial would be considered consistent with the aims, objectives and development of

signage and information as set out within the Plan of Management, with no formal amendment being required.

Council staff are currently developing a Signage and Interpretation Strategy for Boomerang Park which will be presented to the Council for endorsement. The intent of this document is to design an attractive, consistent and informative signage strategy for the park. This will ensure that park users are provided with relevant information as to the parks layout and facilities whilst also acting as an educational tool by detailing the historical significance of certain areas of the park and Boomerang Park as a whole.

The document is in draft form at present while consultation with the Raymond Terrace Historical Society, Worimi Local Aboriginal Land Council and Raymond Terrace Parks and Reserves Committee is carried out. It is considered that a World War I Memorial (or war memorial in general) could be incorporated into this strategy.

It is to be noted that the Boomerang Park Signage and Interpretation Strategy forms an overall design strategy only. Funding for the signage and any memorial or sculpture is not a Council sanctioned project in Council's Community Strategic Plan, Long Term Financial Plan or 10 Year Capital Works Program. To include a war memorial project in the Council's 10 Year Capital Works Program would require Councillors to agree that this project is a priority and adequate funding would need to be allocated.

## **MERGER PROPOSAL IMPLICATIONS**

There are no known merger implications.

## **ATTACHMENTS**

Nil.

**NOTICE OF MOTION****ITEM NO. 9****FILE NO: 17/16002****RM8 REF NO: PSC2005-2640****FEES AND CHARGES - FOOTWAY DINING LICENCES****COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Rescind all fees and charges relating to Footway Dining licences.
- 

Councillor Geoff Dingle left the meeting at 06:49pm, prior to voting on the matter. Councillor Geoff Dingle returned to the meeting at 06:53pm, prior to voting on the matter.

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>024</b>	<b>Mayor Bruce MacKenzie</b> <b>Councillor Sally Dover</b>  It was resolved that Council rescind all fees and charges relating to Footway Dining licences.
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**BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER****BACKGROUND**

The purpose of this report is to provide information in relation to the fees charged for footway dinning.

Footway dinning is governed under the Outdoor Trading Policy adopted by Council on the 25th November 2014, Minute Number 321 (**ATTACHMENT 1**). This policy also provides governance for street trading and casual street stalls. Through the implementation of the policy:

- Port Stephens Council seeks to create a cosmopolitan, alfresco dining/café atmosphere in appropriate areas of Port Stephens and to increase the tourism potential of the local government area.

- Port Stephens Council provides the opportunity for local charitable and community organisations to operate casual street stalls, while ensuring that pedestrians and local businesses are not adversely affected.
- Port Stephens Council regulates the use of temporary structures on the footway, providing retailers with an opportunity to integrate commercial activities into pedestrian areas. This will increase exposure of specific commercial activities and gives the opportunity for improved business viability.

Fees are charged for the provision of outdoor dining in accordance with this Policy and the Council adopted Fees and Charges. The fee charged is based on a square meter rate. The income varies annually and is in the order of \$18,000. This income is used to contribute funding for:

- Maintenance cleaning of the CBD pavers.
- Slip resistance coating on the Nelson Bay CBD pavers.
- Street sweeping of CBD's.

This income is only a contribution in comparison to the overall expenditure for these maintenance activities. The deletion of footway dining income would result in a reduction of cleaning CBD's such as Nelson Bay and Raymond Terrace.

## **MERGER PROPOSAL IMPLICATIONS**

There are no merger implications associated with this Notice of Motion.

## **ATTACHMENTS**

- 1) Outdoor Trading Policy.



# *Port Stephens*

## C·O·U·N·C·I·L

### POLICY

Adopted: 25/11/2014

Minute No: 321

Amended:

Minute No:

**FILE NO:** PSC2005-2640

**TITLE:** OUTDOOR TRADING POLICY

**RESPONSIBLE OFFICER:** CIVIL ASSETS MANAGER

#### **BACKGROUND**

Council has authority to regulate the use of footways within Council road reserves. This policy replaces 3 separate, existing policies covering the use of footways for footway/alfresco dining, for street trading by organisations and casual street stalls and for the installation or erection of temporary structures.

The policies replaced are:

1. Footway dining areas in Port Stephens
2. Street trading by local, charitable and community organisations
3. Temporary structures on the footway (Road Reserve)

The policy must be read in conjunction with:

- *The Footway Dining: Procedures and Guidelines Manual and the related Deed of Licence.*
- *The Conditions and Procedures Manual: Temporary Structures on the Footway (Road Reserves) in Port Stephens*
- *Casual Street Stalls – General Conditions*

Approval may also be subject to local or specific Development Control Plan conditions or to agreements and conditions formed by the local Chamber of Commerce and Industry or other organisations and approved by Council.

#### **OBJECTIVE**

- 1) To ensure that Council acts consistently and without bias to regulate the use of the public footway area to avoid nuisance, inconvenience or reduction of safety to the public.
- 2) To ensure that safe access is maintained on footpaths at all times for pedestrians including the users of wheelchairs and mobility aids.

**ITEM 9 - ATTACHMENT 1 OUTDOOR TRADING POLICY.**

- 3) To facilitate the appropriate use of footpaths and public areas for the purposes of outdoor trading including outdoor dining activities and the promotion of business activity

**PRINCIPLES**

- 1) Council has authority to grant approval and regulate the use of the footway in accordance with the Roads Act 1993 and the Local Government Act 1993

**POLICY STATEMENT**

Through implementation of this policy:

- 1) Port Stephens Council seeks to create a cosmopolitan, alfresco dining/café atmosphere in appropriate areas of Port Stephens and to increase the tourism potential of the local government area.
- 2) Port Stephens Council provides the opportunity for local charitable and community organisations to operate casual street stalls, while ensuring that pedestrians and local businesses are not adversely affected.
- 3) Port Stephens Council regulates the use of temporary structures on the footway, providing retailers with an opportunity to integrate commercial activities into pedestrian areas. This will increase exposure of specific commercial activities and gives the opportunity for improved business viability.

**RELATED POLICIES**

- 1) Advertising signs in road reserves policy
- 2) Smoke free outdoor areas policy
- 3) Footway Dining – Procedures and Guidelines
- 4) Conditions and Procedures Manual – Temporary structures on the footway (road reserve) in Port Stephens
- 5) Port Stephens Council Development Control Plan

**SUSTAINABILITY IMPLICATIONS**

Council will continue to charge an annual fee for outdoor dining licences and for temporary structures on the footway, in order to cover the cost of administering approvals and monitoring these activities. These fees are contained in Council's Fees & Charges. No fee is charged by Council for the approval process for casual street stalls for charitable and community organisations.

**SOCIAL IMPLICATIONS**

Appropriate use of footways makes a significant contribution to the quality of public places. Council seeks to assist in the creation of a vibrant business community by implementation of a fair and equitable outdoor trading policy.

**ECONOMIC IMPLICATIONS**

**ITEM 9 - ATTACHMENT 1      OUTDOOR TRADING POLICY.**

Appropriate use of the footway assists the viability of business and allows business operators to display goods for sale and information for potential customers.

**ENVIRONMENTAL IMPLICATIONS**

Appropriate regulation of footway trading activities will ensure that the footway is available for safe pedestrian access and is free of obstructions and hazards.

**RELEVANT LEGISLATIVE PROVISIONS**

- 1) Local Government Act 1993
- 2) Roads Act 1993
- 3) Commonwealth Disability Discrimination Act 1992
- 4) Companion Animals Amendment (Outdoor Dining Areas) Act 2010
- 5) Smoke Free Environment Act 2000
- 6) Liquor Act 2007
- 7) Food Act 2003
- 8) Work Health and Safety Act and Regulations 2011
- 9) Port Stephens Council Development Control Plan 2013

**IMPLEMENTATION RESPONSIBILITY**

- 1) Civil Assets Section

**PROCESS OWNER**

- 1) Civil Assets Engineer

**REVIEW DATE**

- 1) Once in a term of Council

**NOTICE OF MOTION****ITEM NO. 10****FILE NO: 17/16885****RM8 REF NO: PSC2017-00019****REVIEW OF ENVIRONMENTAL FACTORS****COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Ask the General Manager to submit a report to Council on reasons why the review of environmental factors (REFs) are done by outside consultants instead of Council staff.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>025</b>	<b>Mayor Bruce MacKenzie Councillor Chris Doohan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Ask the General Manager to submit a report to Council on reasons why the review of environmental factors (REFs) are done by outside consultants instead of Council staff.</li><li>2) Advise Council what the trigger to require REFs is.</li></ol>
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**BACKGROUND REPORT OF: DAVID ROWLAND – SECTION MANAGER  
STRATEGY AND ENVIRONMENT****BACKGROUND**

Historically it has not been cost effective for Council to maintain all the specialist skills and capacity required to prepare all the environmental assessments for all its scheduled activities in house. Section Managers retain the flexibility of implementing their own business models to deliver activities in compliance with legislative requirements and the management of environmental risk in accordance with Council's policies, management directives and procedures.

Consultant use has multiple benefits for Section Managers including but not limited to:

- Resource capacity flexibility and alignment with scheduling

- Cost effective way to access specialist skills
- Transparent management of reputational and social risk

A Review of Environmental Factors (REF) is the common term used to describe an environmental assessment under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) that is required as part of the assessment of activities needing approval under NSW legislation. The REF commonly documents consideration and compliance with a range of environmental legislation relevant to the proposed activity, and the term REF reflects the environmental factors that must be considered as prescribed by clause 228 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation).

Council conducts a diverse range of activity with varying levels of risk. Environmental assessments are therefore quite diverse in content and documentation. Checklists associated with standard operating procedures for routine activities can be used to document exclusion of risk and demonstrate legislative compliance. Conversely multi volume assessment reports incorporating extensive specialist studies and enabling further permits and approvals may be required reflecting management of greater risks.

Council's Environmental Management System (EMS) addresses Part 5 matters under the EP&A Act. A best practice tiered environmental assessment approach is in place to improve consistency and efficiency of environmental assessments and minimise environmental risk. Operational staff have been involved in development of the new approach. Prioritised staff have received further internal training and have successfully piloted preparing lower risk assessments internally rather than requiring external consultants. The revised approach is being comprehensively deployed in early 2017 to all relevant staff.

## **MERGER PROPOSAL IMPLICATIONS**

There are no known merger proposal implications.

## **ATTACHMENTS**

Nil.

**NOTICE OF MOTION****ITEM NO. 11****FILE NO: 17/16886****RM8 REF NO: PSC2005-2680****INVESTIGATE ALTERNATIVE WAYS OF PUMPING WATER OUT OF CAMPVALE DRAIN****COUNCILLOR: MAYOR BRUCE MACKENZIE**

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**THAT COUNCIL:**

- 1) Ask the Hunter Water Corporation (HWC) to investigate alternative ways of pumping water out of Campvale drain instead of into the dam.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>026</b>	<b>Mayor Bruce MacKenzie Councillor Chris Doohan</b>  It was resolved that Council ask the Hunter Water Corporation (HWC) to investigate alternative ways of pumping water out of Campvale drain instead of into the dam.
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**BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER****BACKGROUND**

The purpose of this report is to provide information to the notice of motion to ask Hunter Water Corporation to investigate alternative ways to pump water from Campvale drain to another outlet other than Grahamstown Dam.

The Campvale drain is the open channel that removes stormwater from the suburb of Medowie catchment. The stormwater discharges into the Hunter Water's Grahamstown Dam via a large pump station. Noting that Grahamstown Dam is a major drinking water source for Newcastle/Hunter Region and hence water quality is a concern for Hunter Water, Council and residents who use this water.

Hunter Water is completing a scoping study to review what options are available to improve water quality upgrades and the Medowie stormwater discharge issues. This scoping study does include alternatives to pumping water directly into Grahamstown Dam. This scoping study is not yet complete.

**MERGER PROPOSAL IMPLICATIONS**

There are no known merger implications.

**ATTACHMENTS**

Nil.

**NOTICE OF MOTION****ITEM NO. 12****FILE NO: 17/15757****RM8 REF NO: PSC2016-00754****MERGER PROPOSAL: PORT STEPHENS COUNCIL AND DUNGOG SHIRE COUNCIL****COUNCILLOR: KEN JORDAN**

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**THAT COUNCIL:**

- 1) Reiterate its support for the submitted merger proposal between Port Stephens Council and Dungog Shire Council and request the Hon. Gabrielle Upton, Minister for Local Government to proclaim this proposal as a matter of urgency.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>027</b>	<b>Councillor Ken Jordan</b> <b>Councillor Chris Doohan</b>  Councillor Ken Jordan requested consent of the Chair to withdraw the Notice Motion, which was granted.
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**BACKGROUND REPORT OF: WAYNE WALLIS – GENERAL MANAGER****BACKGROUND**

At its meeting held on 8 March 2016, Council resolved to make formal application to the Minister for Local Government for a merger between Port Stephens Council and Dungog Shire Council (Minute No.048).

Port Stephens Council is a financially sustainable, community focused organisation which is committed to doing the right things, the best way possible. This commitment was recognised by being declared 'Fit' for the future by the Independent Pricing and Regulatory Tribunal (IPART), which deemed that Council met all financial criteria (now and into the future) as well as having the 'scale and capacity' to deliver services, manage assets and meet its strategic obligations for the community it serves.

Port Stephens Council's stated preferred position is to stand alone. However, Council has also recognised the objectives of the Fit for the Future process, which may be briefly summarised as:



- To increase the financial sustainability of councils; and
- In some areas to reduce the number of councils to achieve planning and service delivery goals between State and local government agencies.

While Council notes those NSW Government-initiated merger proposals relating to it and its neighbouring Councils (namely; Newcastle-Port Stephens merger proposal; and Maitland-Dungog merger proposal), it is Port Stephens Council's position that its alternative proposal – a merger between Dungog Shire Council and Port Stephens Council – will achieve the goals of the government in a more financially sustainable fashion, for government and residents, than any other proposed option. Furthermore, it will do so in a way that is largely accepted by the communities most impacted by the change.

Evidence included in Council's merger proposal submission confirms that a merger with Port Stephens Council is a better outcome for Dungog Shire Council and its communities than a merger with Maitland City Council. By similar token, a merger with Dungog Shire Council is a far better outcome – financially, socially and in public opinion terms – for Port Stephens residents than the government's deeply unpopular merger proposal with Newcastle City Council.

Key features of the Port Stephens – Dungog merger proposal submitted in June 2016 are:

#### Name

It is proposed that the name of the new Council be called 'Dungog-Port Stephens Regional Council' to reflect the historic identities of each former local government area.

#### Overall affordability

Cost to merge of \$2.4 million (over nine years) is less than a Dungog/Maitland merger (\$4.9 million) and Port Stephens/Newcastle (\$7.4 million), and can be absorbed by the new entity without adversely affecting 'Fit for the Future' financial criteria and service delivery.

#### Infrastructure funding

Combined backlog of \$41.7 million can be funded over time without drawing on rates revenue, through a series of funding strategies well within the capacity of the proposed new council to manage.

#### Rates impact minimised

Impact on ratepayers is smaller than a merger of Port Stephens and Newcastle, and a merger of Dungog with Maitland.

#### Increased services

Opportunity exists to increase service levels to the Dungog community immediately at small or no cost, as well as to leverage tourism strengths.

#### Like-minded communities

Linking small rural and coastal communities, with similar outlooks, values and ways of life, as opposed to tying small communities to cities.

#### Popular

The proposed merger is supported by 95.3% of Port Stephens residents. 21.6% of all Dungog residents have signed petitions in favour of the merger, while 77.5% of those polled by the Dungog Chronicle were also in favour.

#### Respectful

The proposed name reflects shared identity and values, acknowledges the increased size, scale and capacity, and reflects the economic and social value already established by the two names.

Merging Port Stephens Council with Dungog Shire Council will also:

- Increase community benefit to areas that otherwise would experience increased costs and decreased service delivery.
- Recognise the wants of Dungog Shire resident to become part of the Port Stephens Local Government Area.
- Increase scale and capacity of Dungog Shire Council through access to those areas of impact identified by IPART as being factors in Port Stephens Council having 'scale and capacity'.
- Reduce the number of councils in the area without decreasing the ability for Hunter Councils to deal effectively with state agencies by limiting the impact on that body through decreased representation of communities in the region.

It is understood that the Dungog Shire Council's preferred position is to remain a stand-alone local government area.

### **MERGER PROPOSAL IMPLICATIONS**

The Minister for Local Government has initiated a proposal under S218E of the *Local Government Act 1993*, for the amalgamation of the council areas of Port Stephens Council and Dungog Shire Council.

Formal determination on the proposal has not yet been announced by the State Government.

### **ATTACHMENTS**

Nil.

**NOTICE OF MOTION**

**ITEM NO. 13**

**FILE NO: 16/467555**

**RM8 REF NO: PSC2005-4125**

**YACAABA STREET TO VICTORIA PARADE ROAD CONSTRUCTION - FUNDING OPTIONS**

**COUNCILLOR:** JOHN NELL  
SALLY DOVER  
JOHN MORELLO

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**THAT COUNCIL:**

- 1) Provide a report on funding options for the Yacaaba Street to Victoria Parade Road construction.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>028</b>	<b>Councillor Ken Jordan</b> <b>Councillor Chris Doohan</b>  Councillor John Nell requested consent of the Chair to withdraw the Notice Motion, which was granted.
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**BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER**

**BACKGROUND**

The purpose of this report is to provide the Councillors with information on funding for the Yacaaba Street, Nelson Bay extension project.

The Yacaaba Street road extension project is in the detail design stage and is based on the Council endorsement of the concept design Option 5, being one way north without pedestrian crossing (**ATTACHMENT 1**).

The detail estimate based on this design will be completed by the end of March 2017. Until the detail estimate is completed the quantum of funding required is uncertain. Also, the acquisition of the required Crown Land is still in progress and may take some 12 months before this land is formally acquired and becomes dedicated public road (**ATTACHMENT 2**).

Without knowing the total quantum of costs associated with this project, comments on funding options can only be generalised. However, based on initial estimates that the works will cost between \$1.2M and \$1.8M, the funding sources available to complete this work may include:

- Reallocation of existing program of works with some works delayed for several years. Given the quantum of funding required for this project the delays and changes to the existing Capital Works Program will be substantial.
- Realignment of current operational activities, that is stop doing another service provided to the community to fund this project.
- Sale of existing assets.
- Additional external loan funding, though this requires the Office of Local Government concurrence and is not available until the medium to long term.
- Rate variation though this requires the Office of Local Government concurrence following extensive community consultation and is not available until the medium to long term.
- Generate additional income from either an increase in fees/charges or an increase in rates/charges.
- Section 94 – Yacaaba Street project is in the Section 94 Plan though there are no monies available for construction once the design, survey and investigation have been paid.

Without changing project priorities and the associated allocated funding, adding another project within the existing program would have a negative impact on the organisation's financial position.

Further discussion will be held with councillors when the detail estimate is available.

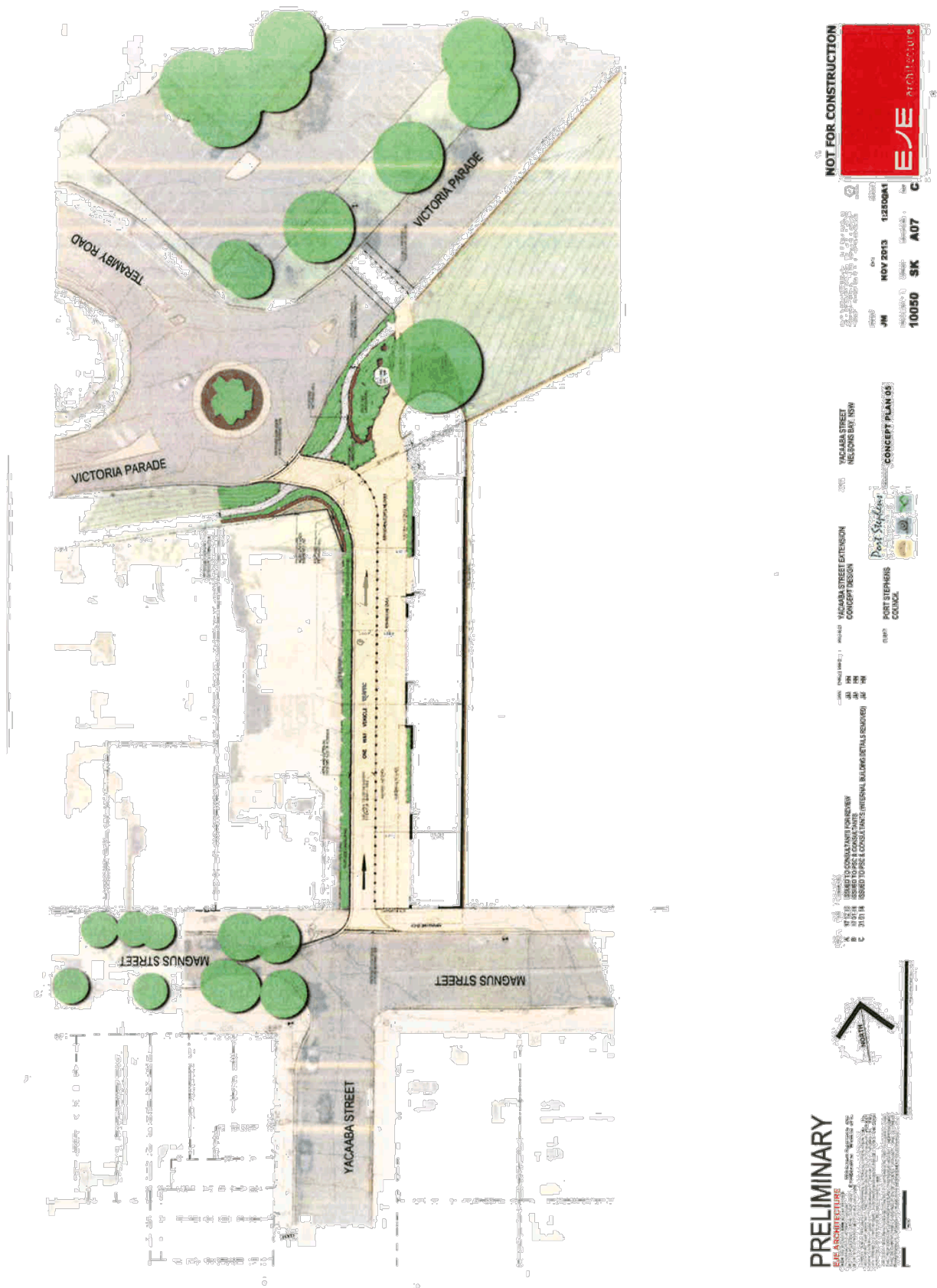
## **MERGER PROPOSAL IMPLICATIONS**

There are no known merger implications.

## **ATTACHMENTS**

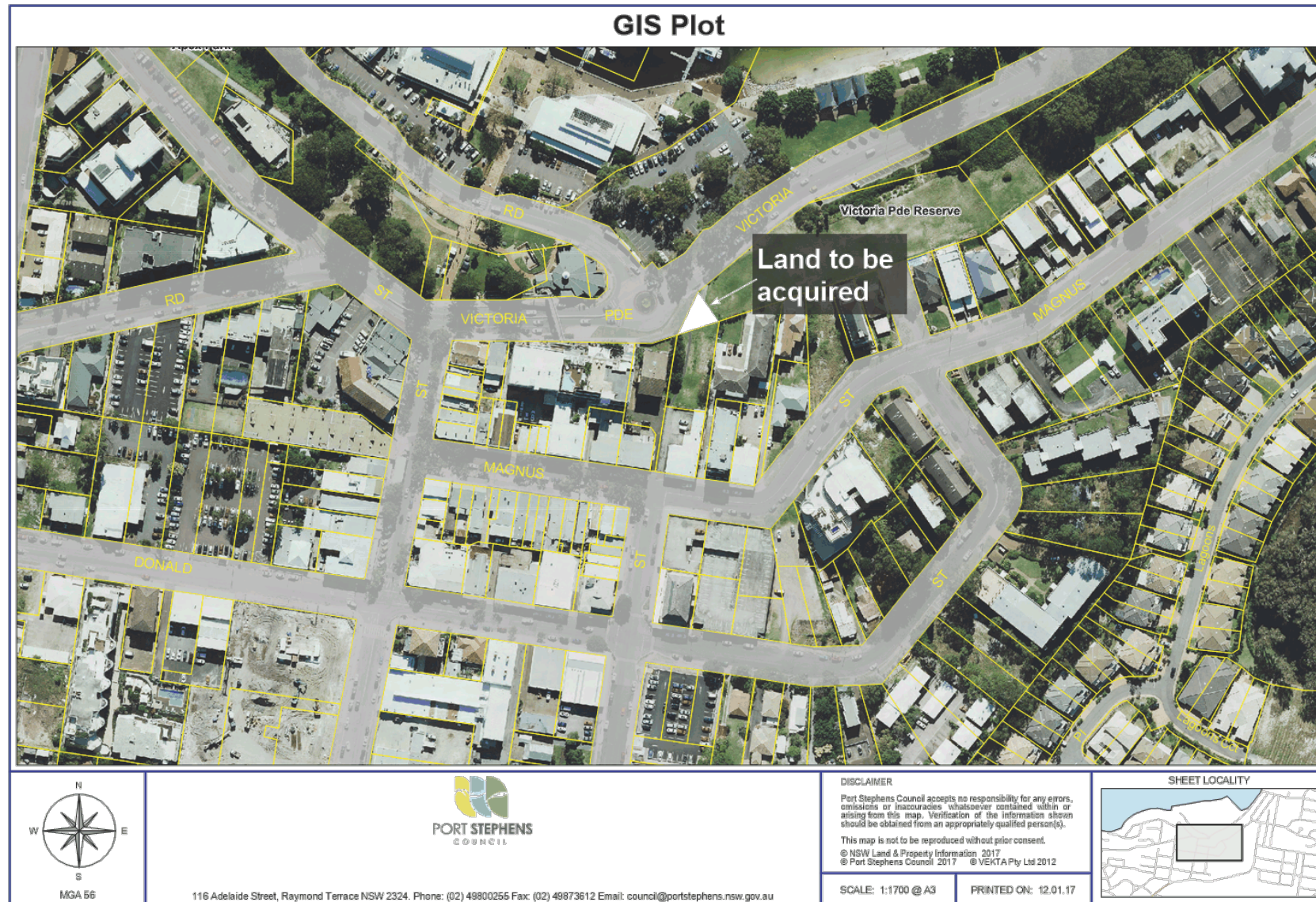
- 1) Yacaaba Street Extension Option 5 One Way North.
- 2) Crown Land to be Acquired.

ITEM 13 - ATTACHMENT 1 YACAABA STREET EXTENSION OPTION 5 ONE WAY NORTH.





ITEM 13 - ATTACHMENT 2 CROWN LAND TO BE ACQUIRED.



**NOTICE OF MOTION**

**ITEM NO. 14**

**FILE NO: 16/467560**

**RM8 REF NO: PSC2005-3658V2**

**REPLACEMENT OF THE FOOTBALL (SOCCER) AND TOUCH FOOTBALL AMENITIES BUILDING AT THE TOMAREE SPORTS COMPLEX.**

**COUNCILLOR:** JOHN NELL  
JOHN MORELLO  
SALLY DOVER

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**THAT COUNCIL:**

- 1) Provide a report on funding options for the replacement of the Football (Soccer) and Touch Football amenities building at the Tomaree Sports complex.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>029</b>	<p><b>Councillor John Nell</b> <b>Councillor Sally Dover</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1. In consultation with the Tomaree Sports Council, review the proposed location of the building from a strategic context to ensure that the building will be constructed in the most suitable location.</li><li>2. Develop staging options for the replacement of the Amenities Building.</li><li>3. Council estimates the cost of construction for Stage 1 building.</li><li>4. Council develops funding options for the Stage 1 building.</li></ol>
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**BACKGROUND REPORT OF: JOHN MARETICH, ASSET SECTION MANAGER**

**BACKGROUND**

The purpose of this report is to provide information on funding options for the replacement of the football (soccer) and touch football amenities building at the Tomaree Sports Complex, Salamander Bay.

Council has received draft plans from the Tomaree Sports Council and respective clubs including touch football and soccer. The Council prepared estimate, based on these draft plans, is in the order of \$3,134,119. It should be noted that the Tomaree

Sports Council has also undertaken a preliminary cost estimate and believe the project is more likely to be \$2,300,000.

The Tomaree Sports Council and respective clubs have a combined \$300,000 to contribute to the project. East Ward Councillors have also allocated \$50,000 to this project from the Tarrant Road land sales at the 28 June 2016 Council meeting. The available funding to date falls significantly short of the estimates provided.

It should be noted that the allocation for Sport and Leisure Section 94 funding within the Tomaree catchment is currently at a deficit. Notwithstanding this, the Section 94 apportionment would not bridge the current funding gap noted above.

Based on the initial design and estimate, it appears that the design could be modified to meet the needs of the end users and reduce the cost of the project. In order to progress this project, the following options have been identified:

1. Redesign the concept plans to reduce the overall cost of the proposed new amenities building.
2. Redesign the concept plans and seek to stage the proposed new amenities building to allow for the partial construction of a new building using the current level of funding available.

Following finalisation of the design, possible funding options are below.

- Reallocation of existing program of works with some works delayed for several years. Given the quantum of funding required for this project the delays and changes to the existing Capital Works Program will be substantial.
- Realignment of current operational activities, that is stop doing another service provided to the community to fund this project.
- Sale of existing assets.
- Additional external loan funding, though this requires the Office of Local Government concurrence and is not available until the medium to long term.
- Rate variation though this requires the Office of Local Government concurrence following extensive community consultation and is not available until the medium to long term.
- Generate additional income from either an increase in fees/charges or an increase in rates/charges.

It should be noted that without changing project priorities and allocating an associated funding source, adding another project within the existing program would have a negative impact on the organisation's financial position.

## **MERGER PROPOSAL IMPLICATIONS**

There are no known merger implications.



**ATTACHMENTS**

Nil.

## NOTICE OF MOTION

ITEM NO. 15

FILE NO: 16/475303

RM8 REF NO: PSC2011-02312V3

### FINGAL BAY ROCK POOL

COUNCILLOR: JOHN NELL  
SALLY DOVER

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#### THAT COUNCIL:

- 1) Prepare a report on the feasibility of construction of a rock pool at the southern headland of Fingal Bay beach.
- 

### ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017 MOTION

030	<b>Councillor John Nell</b> <b>Councillor Sally Dover</b>  It was resolved that Council note the Notice of Motion.
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<b>BACKGROUND REPORT OF: JOHN MARETICH, ASSET SECTION MANAGER</b>
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#### BACKGROUND

The purpose of this report is to provide Councillors with further information on the community proposed Fingal Bay Beach Rock Pool.

An Information Paper was presented to Council on 13 December 2016 "*Community Request for an Ocean Pool/Baths at Fingal*" that was instigated by a Community petition request. This request was made by a community group called the Fingal Bay Beach Pool Committee. The group had requested construction of an ocean pool/baths at the southern end of Fingal Bay Beach (**ATTACHMENT 1**). This location is colloquially known as 'Kiddies Corner'. The desired outcome from the group is to provide a 50 metre by 30 metre ocean pool/baths for people to swim in the ocean that is free of rips and sharks.

Following the above noted information paper, a Notice of Motion was raised to further investigate the feasibility of constructing the rock pool at the southern headland of Fingal Bay beach. As this proposed project is not a Council sanctioned project in Council's Community Strategic Plan, Long Term Financial Plan or 10 Year Capital

Works Program, no detailed planning has been undertaken outside of preliminary investigation.

The Department of Primary Industries has provided preliminary initial advice that suggests that there are significant environmental constraints to deliver such a proposal. At a minimum the following environmental assessments would be required in the initial planning phase:

- Policy and guidelines for fish habitat conservation and management – update 2013.
- *Marine Estate Management Act 2014* No72.
- Marine Estate Management Regulation 2009.
- Marine Estate Management (Management Rules) Regulations 1999.

Given the environmental sensitivity of the location of the proposed pool, the initial environmental assessment would no doubt trigger a separate Environmental Impact Statement. As the scope of the Environmental Impact Statement is determined after the initial environmental assessments are completed, the costs to complete the Environmental Impact Statement are unknown but anecdotal costs would be well in excess of a \$100,000. The timeframe to complete all of the environmental assessments would be measured in years to capture all of the required data.

In addition to the environmental issues, consideration would also need to be given to the mixed use of water craft and swimmers at this location adjacent to the existing boat ramp.

For this proposed pool project to proceed would require the Councillors to place this project in the Strategic Asset Management Plan before any Council funds can be allocated for the planning, investigation and environmental assessments to be completed.

## **MERGER PROPOSAL IMPLICATIONS**

There are no known merger implications associated with this proposal.

## **ATTACHMENTS**

- 1) Petition from Fingal Bay Beach Pool Committee.

**ITEM 15 - ATTACHMENT 1 PETITION FROM FINGAL BAY BEACH POOL COMMITTEE.**

*copy for Council.*

FINGAL BAY BEACH POOL COMMITTEE.

Hon Secretary: Pat Hall. J.P. Ph.49810681



10<sup>th</sup> November, 2016-11-14

The Manager,

PORT STEPHENS COUNCIL.

Application to have a tidal pool built at southern end of Fingal Bay beach.

Dear sir,

We the Committee wish to apply to have a saltwater tidal swimming pool, situate on the southern end of Fingal Bay beach, commonly called "kiddies corner".

We consider the project will consist of a rock pool with small openings to allow the pool water to be refreshed by the tidal flow, the shallow end will join the natural sand of the beach.

The area requested is sheltered by a small cliff at the northern end of Barry Park.

We consider the pool will make a safe area for children to swim, free of rips and sharks found along the beach.

We wish to mention that building the pool will be carried out in a way to reduce any damage to marine life by using natural rock lined inside with concrete.

We require the pool to be 50 metres in length X 30 metres in width and consider the pool will enhance the beauty and use of the area.

A large number of residents and visitors have informed us that they come to this area to swim in salt water and if they wanted to swim in fresh water they would go to an inland area.

We noted that there was a general fear of attack by sharks by the people spoken to.

I have also conferred with the President of the Nelson Bay Winter Swimming Club, Terry O'Brien and he informed me that the members of that club were very keen on the idea of swimming in salt water again since their baths at Nelson Bay had been demolished.

It is unfortunate that the highly populated area of Nelson Bay, Shoal Bay and Fingal Bay did not have a saltwater ocean pool.

**ITEM 15 - ATTACHMENT 1     PETITION FROM FINGAL BAY BEACH POOL COMMITTEE.**

-2-

If this project gets under way we intend requesting the New South Wales State Government for funding.

If allowed we intend that all work carried out on the pool will be in accordance with the Environmental Planning and Assessment Act, 1979.

I also ask that you forward attached copies of this application to your three East Ward councillors.

If your approval is forthcoming, please forward to me any requirements necessary to the below address.

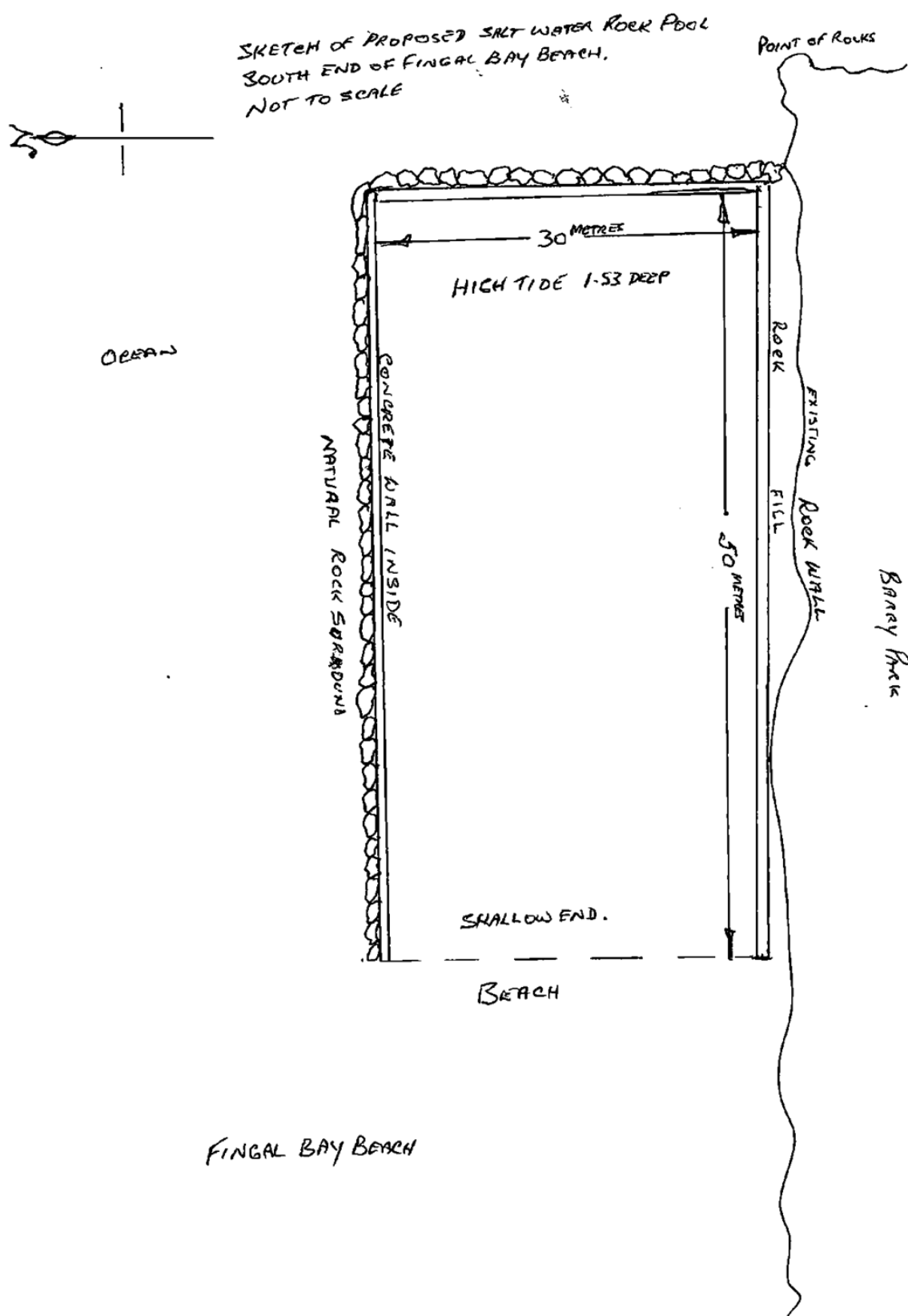
Yours faithfully,



Patrick R. Hall, J.P.



ITEM 15 - ATTACHMENT 1 PETITION FROM FINGAL BAY BEACH POOL COMMITTEE.



**NOTICE OF MOTION****ITEM NO. 16****FILE NO: 17/6987****RM8 REF NO: PSC2016-00031****SPLASH PAD - BOOMERANG PARK, RAYMOND TERRACE****COUNCILLOR: PETER KAFER**

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**THAT COUNCIL:**

- 1) Call upon the General Manager to install a Splash Pad in Boomerang Park adjacent to and part of the current playground for the benefit of everyone.
- 

**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>031</b>	<b>Mayor Bruce MacKenzie Councillor Paul Le Mottee</b>  It was resolved that Council defer Notice of Motion No. 16 to allow Cr Peter Kafer to be in attendance.
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**BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER****BACKGROUND**

The purpose of this report is to provide information on the potential development of a splash pad adjacent to the recently constructed playground at Boomerang Park. This information has been instigated by a Notice of Motion. The justification provided in support of the project relates to the recent high temperatures experienced and resulting decline in use of the Boomerang Park playground facilities.

It is to be noted that the adopted Boomerang Park Plan of Management and Landscape Masterplan does not feature a splash pad development. It is considered that should this Notice of Motion be supported, Council could be satisfied that the aims, objectives and intent of the proposed development would be generally consistent with the adopted Plan of Management. The implementation of a splash pad would be considered consistent with the development of active and passive recreation opportunities and no formal amendment to the adopted plan of management would be required.

As this proposed project is not a Council sanctioned project in Council's Community Strategic Plan, Long Term Financial Plan or 10 Year Capital Works Program, no detailed planning has been undertaken. To include the splash pad project in the Council's 10 Year Capital Works Program would require Councillors to agree that this project is a priority and adequate funding would need to be allocated.

#### **MERGER PROPOSAL IMPLICATIONS**

There are no known merger implications.

#### **ATTACHMENTS**

Nil.



**NOTICE OF MOTION****ITEM NO. 17****FILE NO: 17/7128****RM8 REF NO: PSC2016-00031****PETANQUE RINK IN BOOMERANG PARK, RAYMOND TERRACE****COUNCILLOR: PETER KAFER**

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**THAT COUNCIL:**

- 1) Call upon the General Manager to look at building of a Petanque Rink in Boomerang Park, Raymond Terrace.
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**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>032</b>	<b>Mayor Bruce MacKenzie Councillor Paul Le Mottee</b>  It was resolved that Council defer Notice of Motion No. 17 to allow Cr Peter Kafer to be in attendance.
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**BACKGROUND REPORT OF: JOHN MARETICH – ASSET SECTION MANAGER****BACKGROUND**

The purpose of this report is to provide information on the potential development of a petanque rink at Boomerang Park. This information has been instigated by a Notice of Motion.

It is to be noted that the adopted Boomerang Park Plan of Management and Landscape Masterplan does not feature a petanque rink. It is considered that should this Notice of Motion be supported, Council could be satisfied that the aims, objectives and intent of the proposed development would be generally consistent with the adopted plan of management. The implementation of a petanque rink would be considered consistent with the development of outdoor recreational facilities and no formal amendment to the adopted plan of management would be required.

As this proposed project is not a Council sanctioned project in Council's Community Strategic Plan, Long Term Financial Plan or 10 Year Capital Works Program, no detailed planning has been undertaken. To include the petanque rink project in the Council's 10 Year Capital Works Program would require Councillors to agree that this project is a priority and adequate funding would need to be allocated.

**MERGER PROPOSAL IMPLICATIONS**

There are no known merger implications.

**ATTACHMENTS**

Nil.

**NOTICE OF MOTION**

**ITEM NO. 18**

**FILE NO: 17/7608**

**RM8 REF NO: PSC2008-1575**

**INVESTIGATE FINANCIAL ASSISTANCE FOR BUSINESS OWNERS IN  
RAYMOND TERRACE**

**COUNCILLOR: PETER KAER**

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**THAT COUNCIL:**

- 1) Call upon the General Manager to investigate a financial assistance program for business owners in Raymond Terrace who look at beautifying the shopfronts of their premises.
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**ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>033</b>	<b>Mayor Bruce MacKenzie Councillor Paul Le Mottee</b>  It was resolved that Council defer Notice of Motion No.18 to allow Cr Peter Kaer to be in attendance.
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**BACKGROUND REPORT OF: DAVID ROWLAND – STRATEGY AND  
ENVIRONMENT SECTION MANAGER**

**BACKGROUND**

Council plays a leadership role as a major employer and enabler to support economic growth. This includes Council utilising investment tools, such as business levies, as seed funding that can assist local business organisations to promote and advance local business activity.

The Economic Development Unit of Council administers the grant funding associated with the Special Rate Variation, which has in the past been used to support business initiatives and activities undertaken by local Trader Associations.

The Raymond Terrace Chamber of Commerce ceased operating during 2015 which removed a potential means for local businesses in the area to submit business activity initiatives to Council that could be potentially supported by these funds. It is

worth noting that Council Officers are meeting with West Ward Councillors in early 2017 to discuss options around this matter in further detail.

Council Officers have made preliminary investigations into funding options that could potentially fund the proposed program, as detailed below:

- Rate Rebate: Initial investigations indicate that there are no legislative provisions which would allow Council to offer a rate rebate for this purpose therefore other options would need to be considered.
- Special Rate Variation: In 2008, the Minister for Local Government granted to Port Stephens Council a special rate variation to the business category of rates to be applied for economic development within the LGA.

A more detailed review of these options and others will be undertaken should this Notice of Motion be endorsed.

It is proposed that the Economic Development Unit investigate a financial assistance program for business owners in Raymond Terrace who look at beautifying shopfronts in the Raymond Terrace town centre. This investigation will:

- Examine funding options including the use of the Special Rate Variation, Ward Funds and or other options to potentially fund the initiative.
- Evaluate the value, project scope, guidelines and timing of the potential program.

## **MERGER PROPOSAL IMPLICATIONS**

There are no foreseeable merger implications arising from this Notice of Motion.

## **ATTACHMENTS**

Nil.

# CONFIDENTIAL ITEMS

In accordance with Section 10A, of the *Local Government Act 1993*, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.

Councillor Geoff Dingle left the meeting at 07:20pm, prior to Council moving into confidential session and did not return to the meeting.

## ORDINARY COUNCIL MEETING – 14 FEBRUARY 2017 MOTION

034	<b>Councillor Ken Jordan</b> <b>Councillor Chris Doohan</b>  It was resolved that Council move into confidential session.
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The following Council officers were present for the Confidential Session:

Communications Section Manager  
Public Relations and Marketing Coordinator

**MINUTES ORDINARY COUNCIL - 14 FEBRUARY 2017****CONFIDENTIAL****ITEM NO. 1****FILE NO: 17/11281  
RM8 REF NO: PSC2015-01018****CODE OF CONDUCT****REPORT OF: TONY WICKHAM - GOVERNANCE MANAGER  
GROUP: GENERAL MANAGER'S OFFICE****ORDINARY COUNCIL MEETING - 14 FEBRUARY 2017  
MOTION**

<b>035</b>	<b>Mayor Bruce MacKenzie Councillor Chris Doohan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Note the correspondence from the Office of Local Government.</li><li>2) Defer a decision on the Office of Local Government's correspondence.</li><li>3) Seek a supplementary report from the Conduct Reviewer.</li></ol>
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**ORDINARY COUNCIL MEETING – 14 FEBRUARY 2017  
MOTION**

<b>036</b>	<b>Councillor Steve Tucker Councillor Ken Jordan</b>  It was resolved that Council move out of confidential session.
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There being no further business the meeting closed at 7.42pm.