

Minutes 27 March 2007



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 27 March 2007, commencing at 6.46pm.

PRESENT: Councillors R. Swan (Mayor); H. Brown; G. Dingle; S. Dover; G. Francis; J. Hodges; K. Jordan; J. Nell; G. Robinson; General Manager; Executive Manager – Corporate Management, Facilities and Services Group Manager; Sustainable Planning Group Manager; Business and Support Group Manager.

053	Councillor Josh Hodges Councillor Ken Jordan	It was resolved that the apology from Councillor Westbury, Councillor Baumann and Councillor Tucker be received and noted.
054	Councillor Josh Hodges Councillor Ken Jordan	Resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 27 February 2007 and 13 March 2007 be confirmed, and that the minutes of the Extra Ordinary Meeting of Port Stephens Council held on 1 st and 13 th March 2007, be confirmed.

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MAYORAL MINUTE

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2005-5349

LEASE OF PART LAND AT 36 FERODALE ROAD, MEDOWIE FOR USE AS A TELECOMMUNICATIONS TOWER (PART LOT 22 DP 1021843).

THAT COUNCIL:

- 1) Approve the Lease of Part Lot 22 DP 1021843, known as 36 Ferodale Road, Medowie, to Telstra Corporation Limited for the installation of a telecommunications tower.
 - 2) Authorise the Mayor and General Manager to affix the seal of Council to the Lease documentation and all options exercised under the terms of the Lease.
 - 3) Allocate all income from the leasing of the land to Parks Maintenance.
-

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

055	Councillor Swan	There being no objection it was resolved that the Mayoral Minute be adopted.
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MATTER ARISING:

That Port Stephens Council requires all telecommunication companies to remove redundant or obsolete equipment from all existing sites and that in future, sites be maintained in a clean condition.

RESOLUTION:

056	Councillor Nell Councillor Jordan	That the Matter Arising be adopted.
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BACKGROUND

Telstra Corporation Ltd, recently approached Council seeking to install a telecommunications facility to service the Medowie area. The proposal included the installation of a Telecommunications Base Station requiring an area of approximately 60m² and an appropriate site was identified at Ferodale Park, Medowie (**ATTACHMENT 1 & 2**). A Development Application for the Base Station was lodged and subsequently Development Consent obtained for the construction of the transmission facility. It should be noted that the area in question is Classified Operational Land and the installation of the base station has no impact on the current or future use of Ferodale Oval.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

In order to formalise Telstra's occupancy of the site it is now appropriate to enter into a formal lease agreement of the area. The leasing of the land for the telecommunications tower is consistent with Council's policy on "Telecommunications Facilities in Port Stephens" in that the location of the site is a suitable distance from residential areas. By leasing this land for the installation of a telecommunications tower, Council will be contributing to a substantial upgrade of the phone services to this area, thus creating improved telecommunications with the surrounding Port Stephens community.

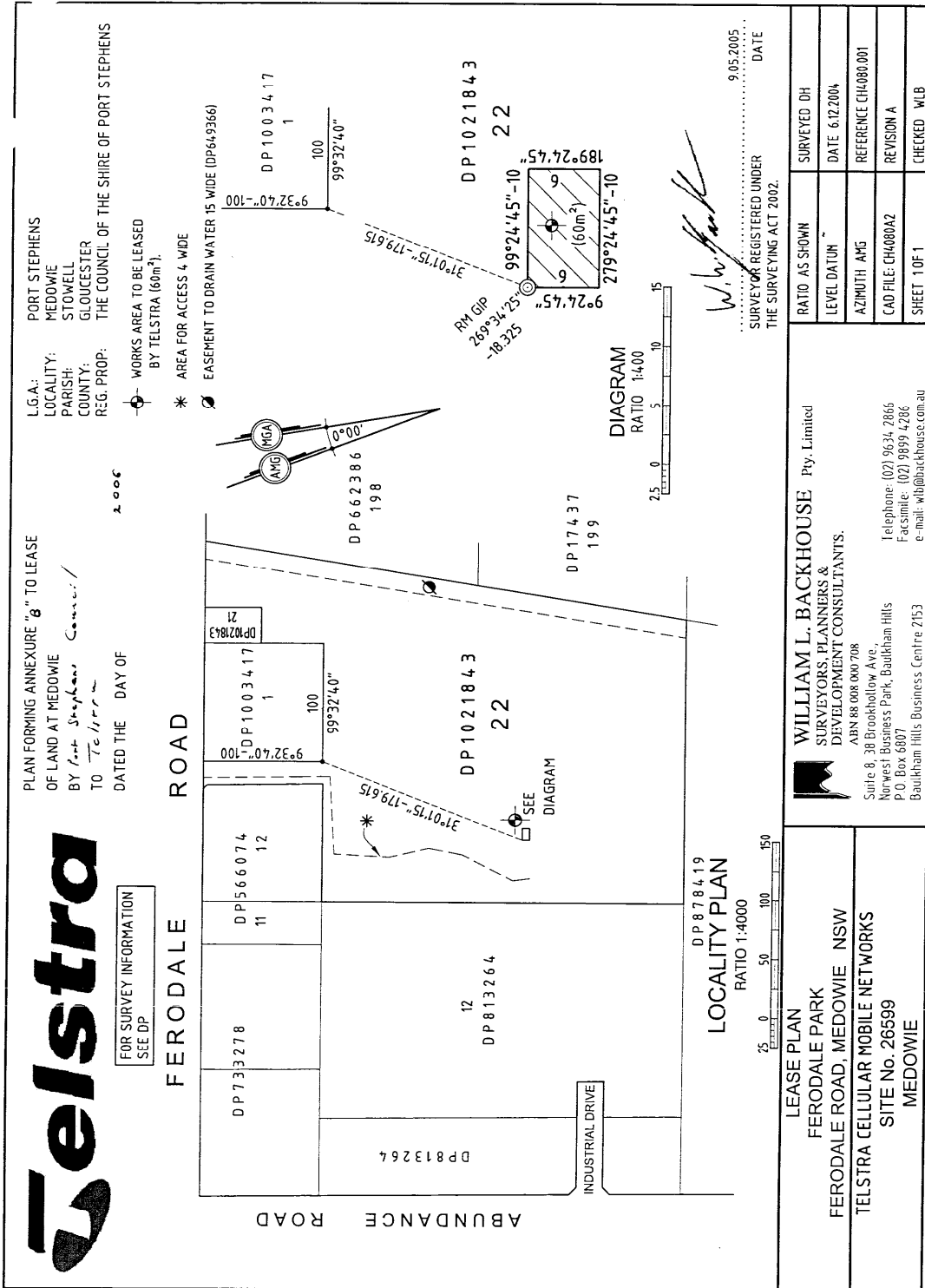
A commercial lease arrangement has been negotiated with Telstra, including a market rental component of \$10,000 per annum subject to annual review. The term of the lease is 5 years, with four options to renew for a further period of five years ie 20 years in total. The fee structure over the life of the Lease is outlined below:

Date	Annual Lease Fee (Incl. GST)
1 st April, 2005	\$11,000.00
1 st April, 2006	\$11,550.00
1 st April, 2007	\$12,127.50
1 st April, 2008	\$12,733.88
1 st April, 2009	\$13,370.57
1 st April, 2010	\$14,039.10
1 st April, 2011	\$14,741.05
1 st April, 2012	\$15,478.10
1 st April, 2013	\$16,252.01
1 st April, 2014	\$17,074.61
1 st April, 2015	\$17,917.84
1 st April, 2016	\$18,813.73
1 st April, 2017	\$19,754.42
1 st April, 2018	\$20,742.14
1 st April, 2019	\$21,779.25
1 st April, 2020	\$22,868.21
1 st April, 2021	\$24,011.62
1 st April, 2022	\$25,212.20
1 st April, 2023	\$26,472.81
1 st April, 2024	\$27,796.45
Total	\$363,735.49

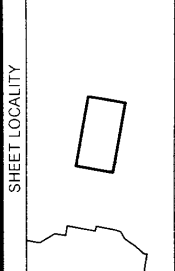
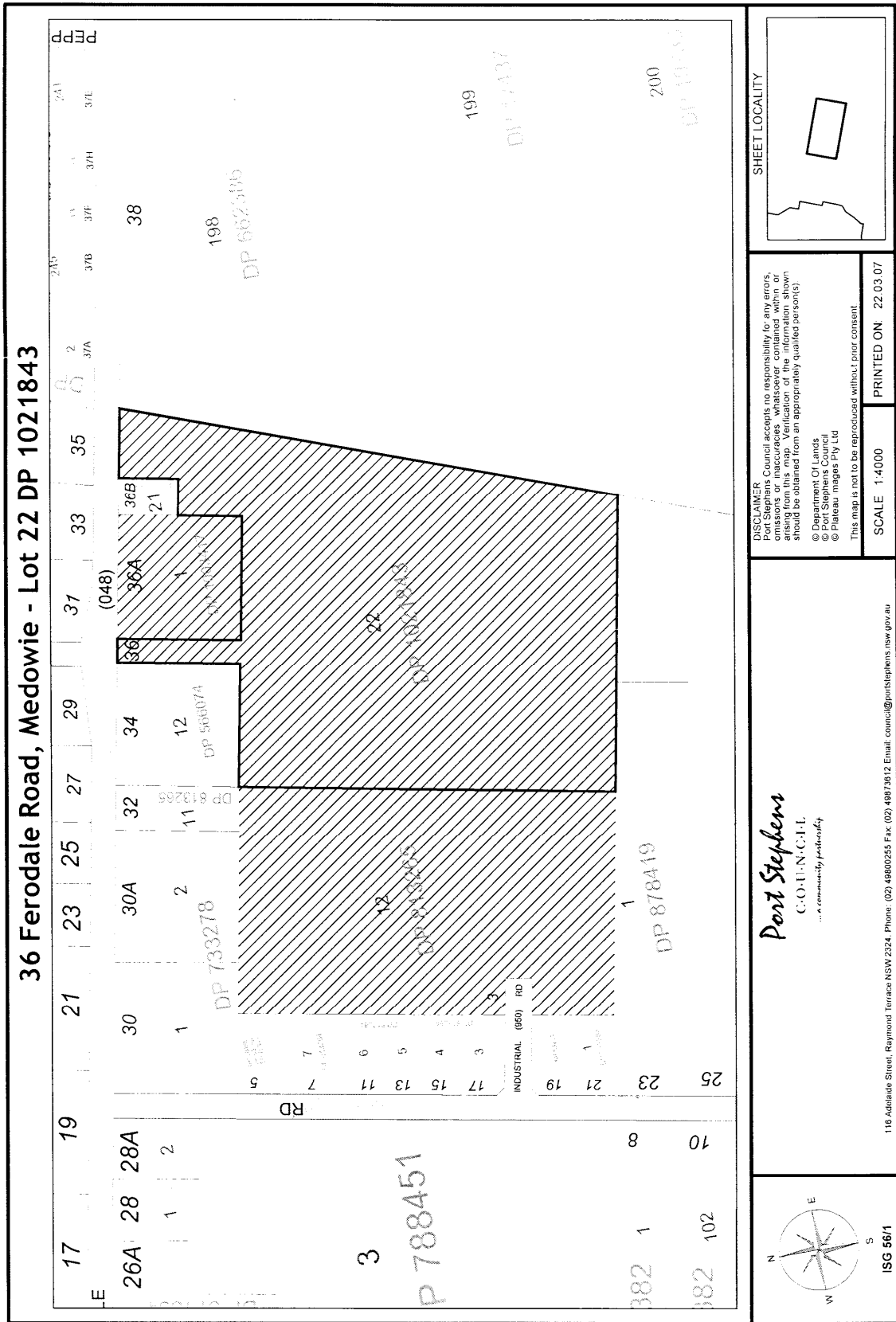
The table represents an incremental scale of five percent (5%) per annum during the term of this Lease and any renewal, extension of, or over-holding of, the Lease on each anniversary of the Commencement Date. All services and utilities required for the installation have been arranged by Telstra at their own expense and are independently supplied and separately metered.

Endorsement of the leasing proposal is now sought in order to formalise the agreement between Council and Telstra.

ATTACHMENT 1



ATTACHMENT 2



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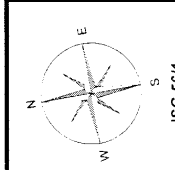
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116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 4980255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au



MOTION TO CLOSE

ITEM NO. 1

FILE NO: FILE NO: PSC2006-0023;
PSC2005-0693

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: JUNE SHINE – EXECUTIVE MANAGER CORPORATE MANAGEMENT

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(g) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 (Mayoral Minute) on the Ordinary agenda namely ***Port Stephens Council v SS & LM Johnston Pty Limited – Proceedings in the Land and Environment Court.***
 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning the legal costs and advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
 - 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.
 - 4) That the report and the minutes of the closed part of the meeting remain confidential until the matter is settled.
-

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

057	Councillor Hodges Councillor Jordan	That the Recommendation be adopted.
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**OPERATIONS
COMMITTEE
RECOMMENDATIONS**

ITEM 1 OF THE OPERATIONS COMMITTEE WAS DEALT WITH AS THE FIRST ITEM IN THE STRATEGIC COMMITTEE.

ITEM NO. 2

FILE NO: PSC 2007-0060

PROPOSAL TO SUBMIT A REQUEST FOR THE RECLASSIFICATION OF COMMUNITY LAND, PETER DRON STREET, KING STREET & BOURKE STREETS, RAYMOND TERRACE

AUTHOR: MALCOLM CAMPBELL – BUSINESS DEVELOPMENT MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Submit the request to consider the reclassification of 1B Bourke Street - Lot 21 DP 788588, 1A Peter Dron Street - Lot 1 DP 250593, 2 Peter Dron Street – Part Lot 1 DP 85666 & 6 Peter Dron Street – Part Lot 84 DP 1106659, Raymond Terrace from Natural Areas (Foreshore) to General Community Use to Operational Land.

OPERATIONS COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

058	Councillor Jordan Councillor Hodges	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to seek Council's consent, as the land owner, to submit a request to reclassify Council owned land. The subject land is 1B Bourke Street (Lot 21 DP 788588), 1A Peter Dron Street (Lot 1 DP 250593), 2 Peter Dron Street (Part Lot 1 DP 85666) & 6 Peter Dron Street (Part Lot 84 DP 1106659), Raymond Terrace. The proposed change is from Community Land to Operational Land. A locality map is contained in the Attachments.

This report seeks to gain Council's support, as the landowner, for the lodgement of the reclassification request. Should the above recommendation be supported then the relevant application will be submitted to the Sustainable Planning Group for consideration and assessment. Following finalisation of the assessment, a report outlining the outcomes and final recommendation will be submitted to Council.

The subject land is currently classified Community Land and further categorised as a Natural Area – Foreshore. The prescribed uses under the category of Foreshore are prohibitive in that they allow only limited activities to take place on the site. A process is presently under

way to recategorise the subject land from Natural Area - Foreshore to General Community Use. Upon the land being recategorised to General Community Use the practical management of the site will be less constrained. The recategorisation will also allow for “structures” to exist within the site, provided they are compatible with the core objectives of the General Community Use category. It is anticipated that this process may be complete by mid April 2007, with a report outlining the process and outcomes to be presented to Council on 10 April 2007.

If successful, one of the objectives of reclassifying the area is to make it available for both public and private vehicle parking. Such an outcome will facilitate the current Development Application on the King/Bourke Street site (commonly known as the Buldev site) by allowing appropriate provision to be made for car parking off their immediate site. This may be achieved under the terms and conditions of an appropriate lease agreement with Council with provision for a market rent return. The additional benefit to Council and the public is that public car parking is also made available to users of the adjoining reserves and sporting facilities.

It should be noted that the area immediately adjacent to the foreshore will remain Community Land – Natural Area – Foreshore, as identified on the attached plan. Its use and classification will remain unaffected by the present proposal and the zoning will remain unchanged. As per the Development Consent issued in relation to the Buldev site, there is a requirement to enhance the natural foreshore area with promenades and boardwalks and the provision of car parking adjacent to this area will further encourage public use of this area.

LINKS TO CORPORATE PLANS

The relevant part of the Council Plan in this instance relates to “Community Services and Facilities”. The proposal to reclassify the subject land through submitting a reclassification request is consistent with the strategic direction to “sustainably manage in a way which allows residents and visitors comprehensive opportunities for recreational activities.” The construction of a car park on the land which is the subject of this proposal supports the utilisation recreational facilities within both the immediate and surrounding area.

FINANCIAL/RESOURCE IMPLICATIONS

There is a financial cost implication in the short term in respect of the fees required for the reclassification application.

LEGAL AND POLICY IMPLICATIONS

The land is currently classified as Community Land and is zoned 5(g) Special Uses (Flood Affected). To facilitate the development as proposed, it will be necessary to change the classification to Operational.

Australian Business Excellence Framework

This aligns with Principles 1, 3, 8 & 11 of the ABEF Framework.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals.
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action.

- 8) Effective use of facts, data and knowledge leads to improved decisions.
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The proposed reclassification is intended to facilitate development on land which is well located with respect to support services such as community facilities, commercial and employment centres and open space.

ECONOMIC IMPLICATIONS

Upon finalisation of appropriate lease documentation and construction of the proposed car park, Council will receive an annual commercial rental from the lessee. The lessee will also maintain the car park area and accordingly the return created is positive.

ENVIRONMENTAL IMPLICATIONS

The reclassification from Community Land to Operational Land reduces the total area of Community Land in the immediate vicinity, however, the reduction is not significant. In return, the community facilities to be provided in accordance the Development Consent for the Buildev site will enhance the natural foreshore environment by providing promenades, boardwalks and additional beautification of the foreshore area.

CULTURAL IMPLICATIONS

Nil

CONSULTATION

Business Development Section
Strategic Planning
Recreation Services

The processing of the request will require formal exhibition of the reclassification and Council will need to engage the services of an appropriate person to conduct a hearing to consider the reclassification.

OPTIONS

- 1) To resolve to submit the reclassification request as detailed above, or
- 2) Defer for further information.

ATTACHMENTS

- 1) Locality Plan

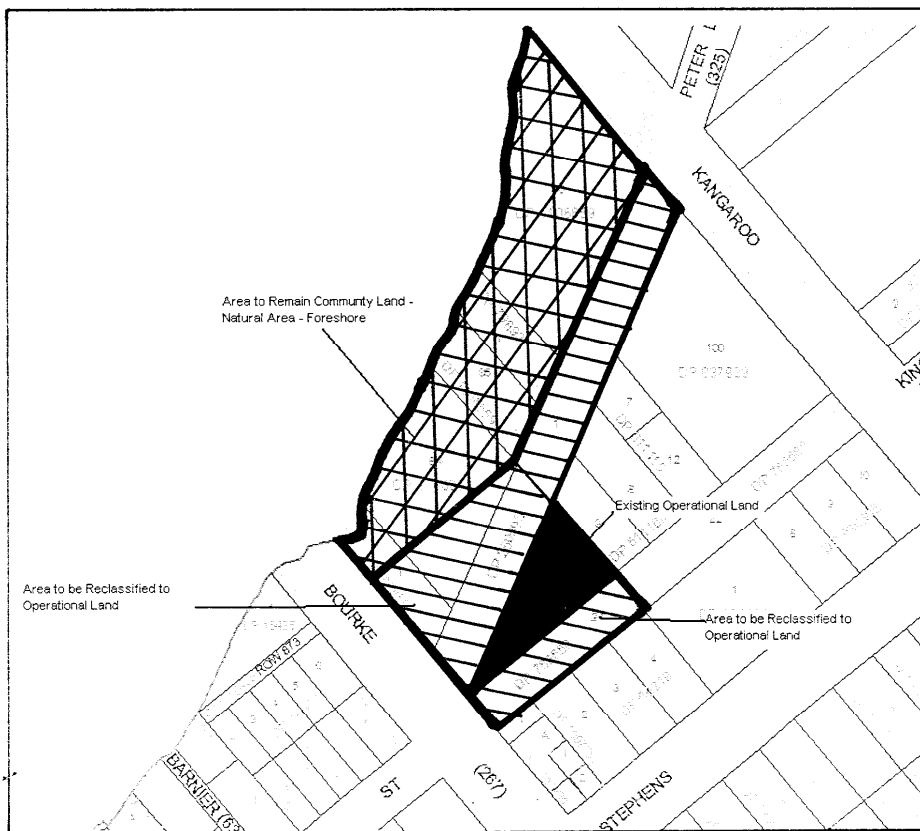
TABLED DOCUMENTS

Nil

ATTACHMENT 1

RECLASSIFICATION PROPOSAL

Lot 21 DP 788588 – 1B Bourke Street, Raymond Terrace
Lot 1 DP 250593 – 1A Peter Dron Street, Raymond Terrace
Part Lot 1 DP 85666 - 2 Peter Dron Street, Raymond Terrace
Part Lot 84 DP 1106659 - 6 Peter Dron Street, Raymond Terrace



ITEM NO. 3

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 14TH NOVEMBER 2006

REPORT OF: JENNIFER SMITH - MANAGER COMMUNITY PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the recommendations contained in the minutes of the Local Traffic Committee meeting held on 14th November 2006.

OPERATIONS COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

059	Councillor Dingle Councillor Jordan	That the Recommendation be adopted.
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MATTER ARISING

That the relocation of the pedestrian crossing in Sturgeon Street, be referred to the Local Traffic Committee to investigate relocating the existing pedestrian crossing north in the vicinity of the former Retravision store.

RESOLUTION:

060	Councillor Francis Councillor Hodges	That the Matter Arising be adopted.
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MATTER ARISING

That Council resolve that until such time as the former Bi-Lo site situate at 42 William Street, Raymond Terrace is reoccupied that time limited parking be suspended.

RESOLUTION:

061	Councillor Francis Councillor Hodges	That the Matter Arising be adopted.
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BACKGROUND

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

Inspections were conducted on 1st November, 2006. In attendance were M Morrison (PSC), Cr Dingle, Ian Jenkins (Roads and Traffic Authority) and Snr Constable Schmidtke (NSW Police).

The Local Traffic Committee met at 9.30am on 14 November, 2006 in Council's Administration Building. In attendance were M Morrison (PSC & chairman), G Orr (PSC Road Safety Officer), Snr Constable Schmidtke (NSW Police), Clr Dingle, G Stewart, and M Newling (Port Stephens Coaches). Also in attendance were invited guests Mr Peter Clough (Nelson Bay Town Management), Cr Westbury and Ms Teresa Squire (Meadowie Children Centre). Apologies were received from Mr R Landers (Hunter Valley Buses) and J Price MP.

LINKS TO CORPORATE PLANS

The items referred to the local Traffic Committee and the subsequent recommendations are linked to Council's current Management Plan 2003 - 2006. In the Urban Settlement section of the "Plan", the Local Traffic Committee contributes to the following strategies:

- 1) Develop and Implement transport initiatives that provide an efficient and effective transport network.
- 2) Foster safe communities.

FINANCIAL/RESOURCE IMPLICATIONS

Council receives an annual grant from the RTA to complete the installation of regulatory traffic controls (signs and markings) recommended by the local Traffic Committee. The construction of traffic control devices and intersection improvements resulting from the Committee's recommendations are not included in this funding. These works will be listed within Council's "Forward Works Program" for consideration in the annual budget process. There were no item recommendations to be listed in the next "Forward Works Program" review. The local Traffic Committee procedure provides a mechanism to respond to and remedy problems in accordance with Council's "Best Value Services" Policy. The recommendations contained within the local Traffic Committee Minutes can be completed within the current Traffic Committee budget allocations and without additional impact on staff or the way Council's services are delivered.

SAFETY PRIORITIES

The installation of regulatory traffic controls or traffic control devices that are noted as having a Safety Priority shall be attended to before other works undertaken by Council. These works are generally of an urgent nature requiring immediate action.

The items with a safety priority are listed as follows:

- C.2 MOUNT KANWARY PUBLIC SCHOOL**
- C.12 STILL STREET, SEAHAM – NO PARKING A.M. ONLY**
- C.13 IRRAWANG STREET, RAYMOND TERRACE – NO PARKING A.M. ONLY**

LEGAL AND POLICY IMPLICATIONS

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

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

AUSTRALIAN BUSINESS EXCELLENCE FRAMEWORK

This aligns with the following ABEF Principles.

- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 6) Continual improvement and innovation depend on continual learning
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

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

SOCIAL IMPLICATIONS

A safer road environment reduces costs to the Council and community by reducing the number and severity of accidents on our roads.

ECONOMIC IMPLICATIONS

Improved transport efficiency assists in the reduction in green house gases and vehicle operating costs.

ENVIRONMENTAL IMPLICATIONS

Transport efficiency and road user safety; contribute positively to the quality of life for residents and visitors to Port Stephens. Improved road user safety distributes benefits to all road users including commercial and private motorists, cyclists and pedestrians. These benefits include improved accessibility, mobility and safer road environment.

CONSULTATION

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

OPTIONS

- 1) Adopt the Recommendation.
- 2) Adopt specific item recommendations contained in the minutes of the local Traffic Committee and refer non-adopted matters back to the next meeting of the local Traffic Committee with suggested amendments.

ATTACHMENTS

- 1) The minutes of the local Traffic Committee meeting held on 14th November, 2006 are contained in ATTACHMENT 1.

TABLED DOCUMENTS

- 1) Nil

PORT STEPHENS LOCAL TRAFFIC COMMITTEE

INDEX OF LISTED MATTERS MEETING HELD TUESDAY 14TH NOVEMBER 2006

-
- A. ADOPTION OF THE MINUTES OF 3RD OCTOBER, 2006**
 - B. BUSINESS ARISING FROM PREVIOUS MEETING**
 - C. LISTED MATTERS**
 - C.1 PORT STEPHENS STREET, RAYMOND TERRACE – REQUEST TO INVESTIGATE 1 HOUR PARKING RESTRICTIONS**
 - C.2 MOUNT KANWARY PUBLIC SCHOOL – REQUEST TO INSTALL BUS ZONE ONLY PARKING SIGNAGE**
 - C.3 OLD PUNT ROAD, TOMAGO – REQUEST TO REDUCE SPEED LIMIT**
 - C.4 BAYWAY VILLAGE, FULLERTON COVE – REQUEST TO REDUCE SPEED LIMIT AND OTHER TRAFFIC WARNING SIGNAGE**
 - C.5 SALAMANDER SHOPPING CENTRE EXIT – REQUEST TO INSTALL ‘LEFT TURN ONLY’ SIGNAGE**
 - C.6 FLEET STREET AND SOLDIERS POINT ROAD, SALAMANDER BAY – PARKING ISSUES OUTSIDE TOMAREE NURSING SERVICE**
 - C.7 NELSON BAY NEW YEARS EVE EVENT**
 - C.8 VICTORIA PARADE, FLY POINT, NELSON BAY – REQUEST TO INSTALL PEDESTRIAN CROSSING**
 - C.9 VICTORIA PARADE, NELSON BAY - APPLICATION FOR TEMPORARY ROAD CLOSURE – CAROLS BY CANDLELIGHT CELEBRATIONS**
 - C.10 BULLECOURT STREET, SHOAL BAY – REQUEST TO INSTALL 15 MIN PARKING SIGNAGE**
 - C.11 MEDOWIE CHILDREN’S CENTRE – TRAFFIC CALMING DEVICES**
 - C.12 STILL STREET, SEAHAM – NO PARKING A.M. ONLY**
 - C.13 IRRAWANG STREET, RAYMOND TERRACE – NO PARKING A.M. ONLY**
 - C.14 YACAABA STREET, NELSON BAY – 1 HOUR PARKING**

**C.15 VICTORIA PARADE, FLY POINT, NELSON BAY – APPLICATION FOR
TEMPORARY ROAD CLOSURE – AUSTRALIA DAY CELEBRATIONS**

D. GENERAL BUSINESS

E. ATTACHMENTS

**LOCAL TRAFFIC COMMITTEE MINUTES
MEETING HELD TUESDAY 14TH NOVEMBER 2006**

A. ADOPTION OF MINUTES OF MEETING OF 3RD OCTOBER 2006

The minutes of the previous Local Traffic Committee Meeting dated 3rd October 2006 have been adopted.

B. BUSINESS ARISING FROM PREVIOUS MEETING

C. LISTED MATTERS

C.1 PORT STEPHENS STREET, RAYMOND TERRACE – REQUEST TO INVESTIGATE PARKING RESTRICTIONS

A resident has requested an investigation and explanation for changes to 1 hour parking restrictions between William Street and Bourke Street.

REQUESTED BY: Resident

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	N/A
ADDITIONAL	ATTACHMENT	No

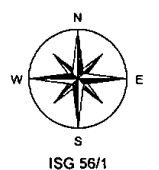
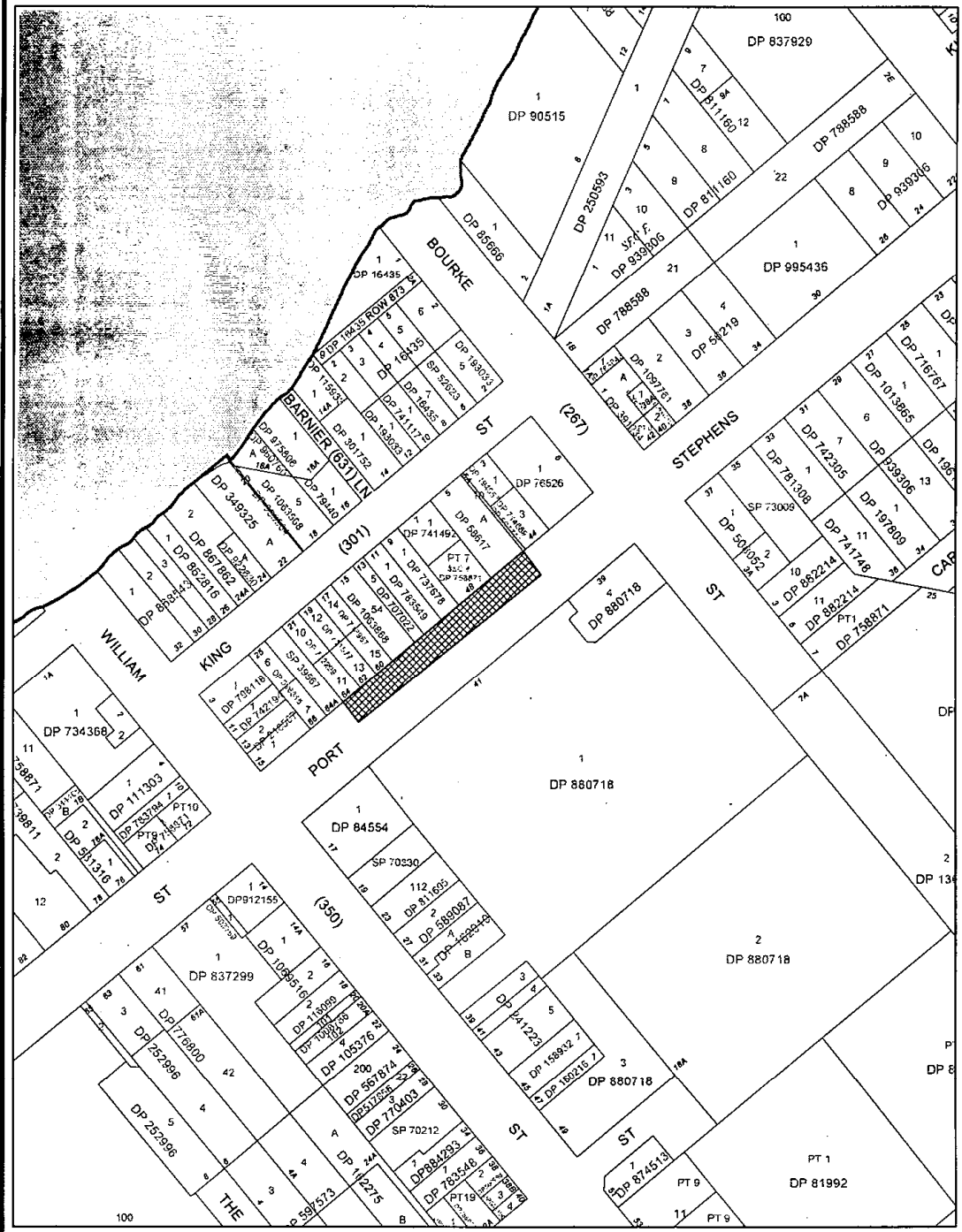
COMMENT 1hour limit was introduced due the to proximity of the parking to the CBD. 1 hour parking limit has not been effective in creating parking turnover and it has not been used because of the lack of direct shop fronts on that section Port Stephens Street.

RECOMMENDATION

- That the 1 hour parking restriction be removed between No. 64A and 44 Port Stephens Street.

ESTIMATED COST \$100.00
FUNDING SOURCE Traffic Facilities Budget

Item C1



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116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873812 Email: council@portstephens.nsw.gov.au

C.2 MOUNT KANWARY PUBLIC SCHOOL – REQUEST TO INSTALL BUS ZONE ONLY SIGNAGE

Hunter Valley Buses has requested installation of 'Bus Zone' signage to the east of the school driveway on Hinton Road.

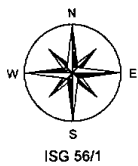
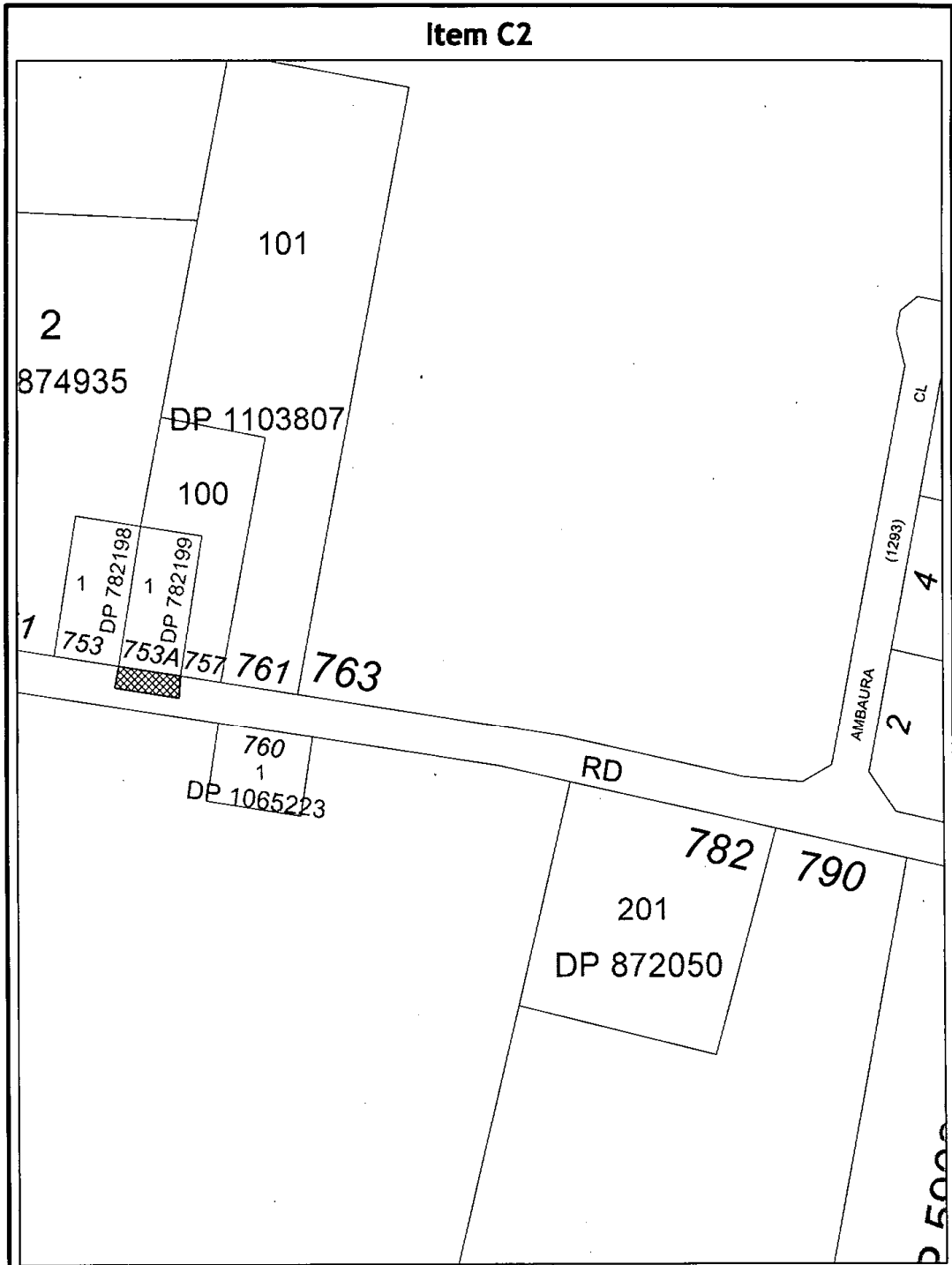
REQUESTED BY:	Hunter Valley Buses		
CONSULTATION:	Nil		
INSPECTION	UNDERTAKEN	Yes	
	AGREE WITH REQUEST	Yes	
ADDITIONAL	ATTACHMENT	No	
COMMENT	Limited parking available for parents drop off and pick up.		

RECOMMENDATION

- That a bus zone school times be provided to cater for 1 bus at the front of the school.

ESTIMATED COST	\$100.00
FUNDING SOURCE	Traffic Facilities Budget

THIS ITEM HAS A SAFETY PRIORITY



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C.3 OLD PUNT ROAD, TOMAGO – REQUEST TO REDUCE SPEED LIMIT

Hengl Transport Pty Ltd has requested a reduction to the speed limit on Old Punt Road, Tomago along the section north east of the roundabout on Tomago Road.

REQUESTED BY: Hengl Transport Pty Ltd

CONSULTATION: Nil

INSPECTION UNDERTAKEN Yes

AGREE WITH REQUEST N/A

ADDITIONAL ATTACHMENT No

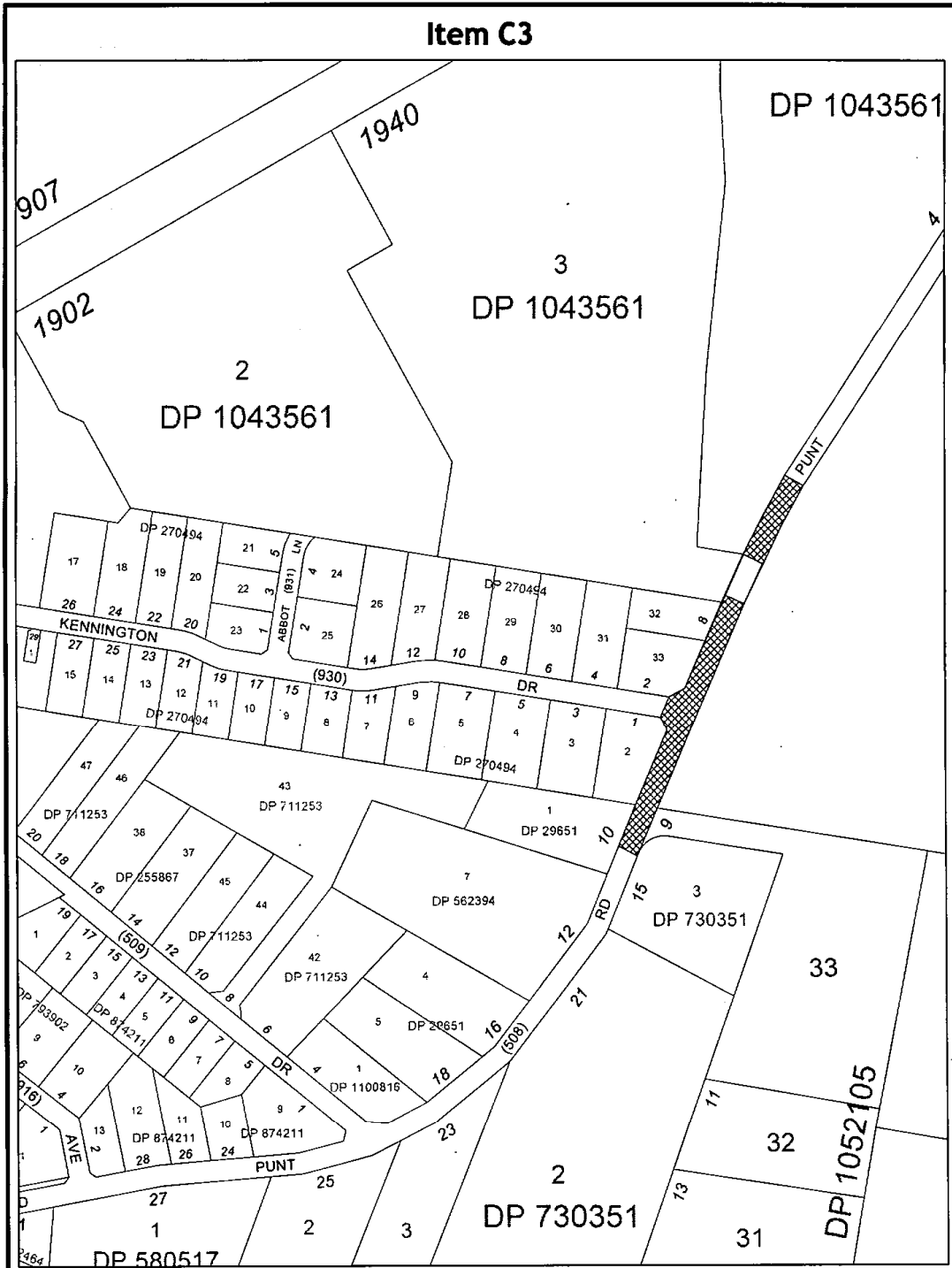
COMMENT Existing 70/80 speed limit change signs missing.
Current industrial estate is expanding.
The Committee would support a review of the speed limit to 60km/h.

RECOMMENDATION

- Refer to RTA for consideration.

ESTIMATED COST N/A

FUNDING SOURCE N/A



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C.4 BAYWAY VILLAGE, FULLERTON COVE – REQUEST TO REDUCE SPEED LIMIT AND OTHER TRAFFIC WARNING SIGNAGE

Hunter Valley Buses have requested an investigation to traffic issues with vehicles leaving Bayway Village, Fullerton Cove, requesting a reduction in speed limit, extending traffic island line markings and installing 'Approaching Vehicles' warning signage.

REQUESTED BY: Hunter Valley Buses

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	N/A
	AGREE WITH REQUEST	N/A
ADDITIONAL	ATTACHMENT	N/A

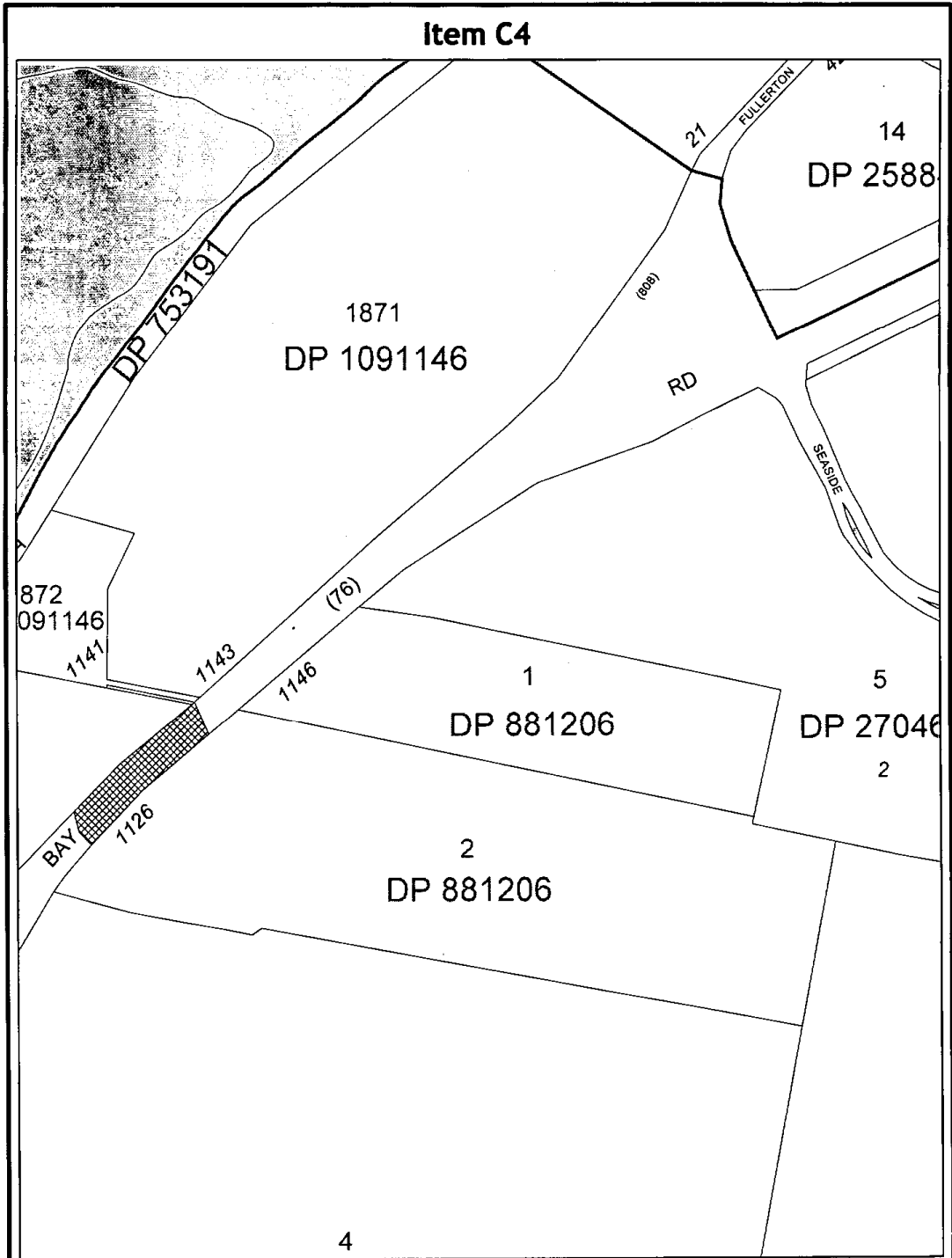
COMMENT

Intersection originally designed for 100km/h speed limit.
Adequate sight distances available at intersection.
Intersection was not developed to accommodate a large vehicle in the centre of the roadway.
If the area is not considered wide enough by the bus operators, then the vehicle should not be placed in that situation, rather wait for an appropriate gap in the traffic.
Current speed limit is 70km/h.

RECOMMENDATION

- That the speed limit remain at 70km/h; and
- That no 'approaching vehicles' signs be provided; and
- That the intersection design issue be referred to RTA for investigation.

ESTIMATED COST N/A
FUNDING SOURCE N/A



	<p style="text-align: center;"><i>Port Stephens</i> C.O.U.N.C.I.L. <i>... a community partnership</i></p>	<p><small>DISCLAIMER Port Stephens Council accepts no responsibility for any errors, omissions or inaccuracies whatsoever contained within or arising from this map. Verification of the information shown should be obtained from an appropriately qualified person(s).</small></p> <ul style="list-style-type: none"> <small>© Department Of Lands</small> <small>© Port Stephens Council</small> <small>© Plateau Images Pty Ltd</small> <p><small>This map is not to be reproduced without prior consent.</small></p> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;"><small>SCALE 1:6000</small></td> <td style="width: 50%;"><small>PRINTED ON: 21.11.06</small></td> </tr> </table>	<small>SCALE 1:6000</small>	<small>PRINTED ON: 21.11.06</small>
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C.5 SALAMANDER SHOPPING CENTRE EXIT – REQUEST TO INSTALL ‘LEFT TURN ONLY’ SIGNAGE

Precinct has requested installation of ‘Left Turn Only’ signage at the Salamander Way exit of Salamander Shopping Centre and also at the McDonalds exit. They have requested to have a representative at the site inspection.

REQUESTED BY: Soldiers Point / Salamander Bay / Taylors Beach Precinct

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	No
ADDITIONAL	ATTACHMENT	No

COMMENT

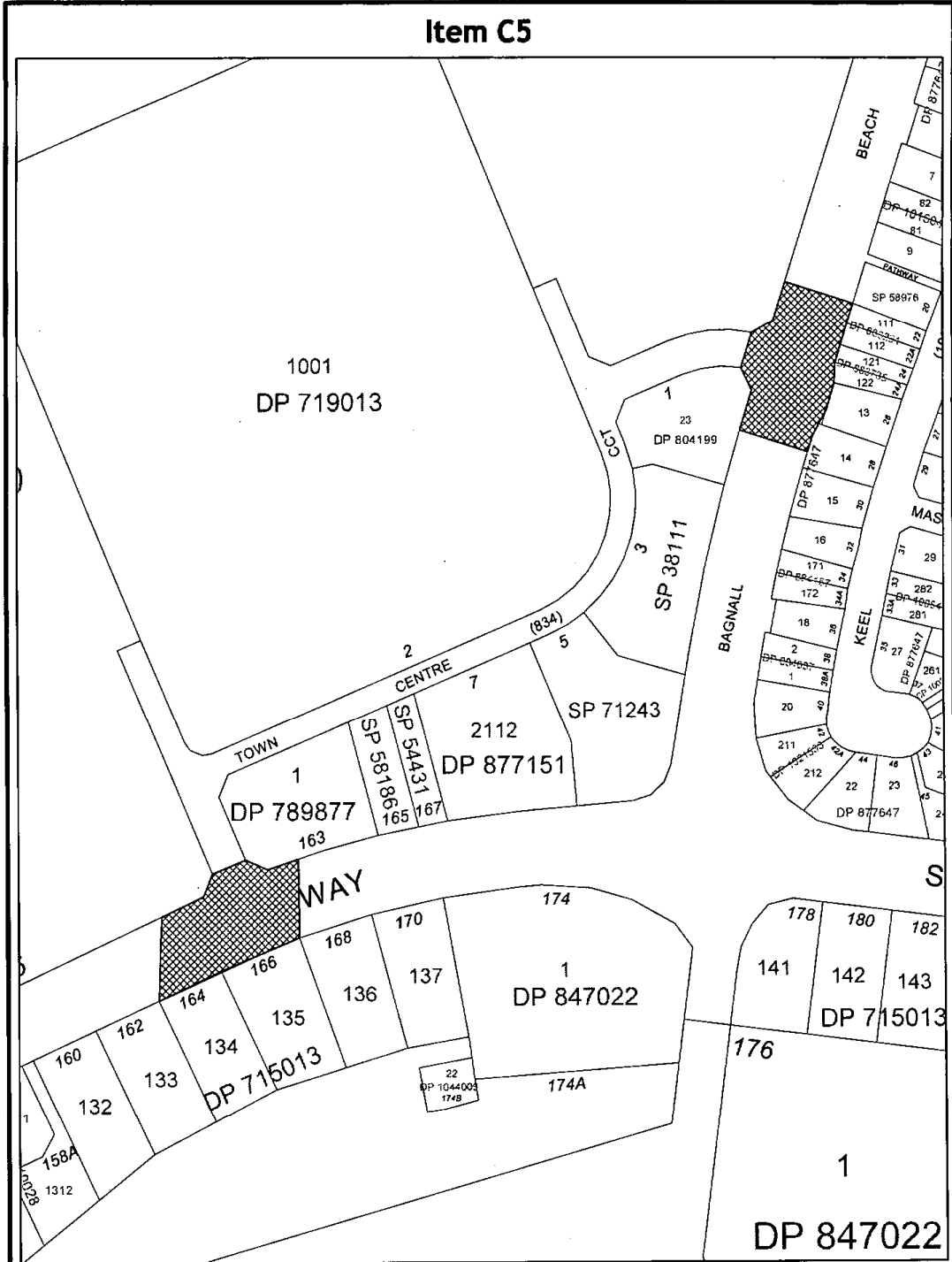
Only peak times require vehicles to turn left out of Town Centre Circuit.
All other times, adequate breaks in the traffic are available.
Imposing left turn only restriction on all traffic all of the time is not appropriate.
In peak times, motorists can make the choice to use left turn and the roundabouts.

RECOMMENDATION

- That no action be taken to restrict to left turn only.

ESTIMATED COST N/A
FUNDING SOURCE N/A

Item C5



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C.6 FLEET STREET AND SOLDIERS POINT ROAD, SALAMANDER BAY – PARKING ISSUES OUTSIDE TOMAREE NURSING SERVICE

Tomaree Nursing Service has requested an investigation into changes to parking restrictions outside their business at Fleet Street and Soldiers Point Road intersection.

REQUESTED BY: Tomaree Nursing Service

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT

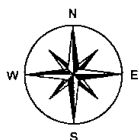
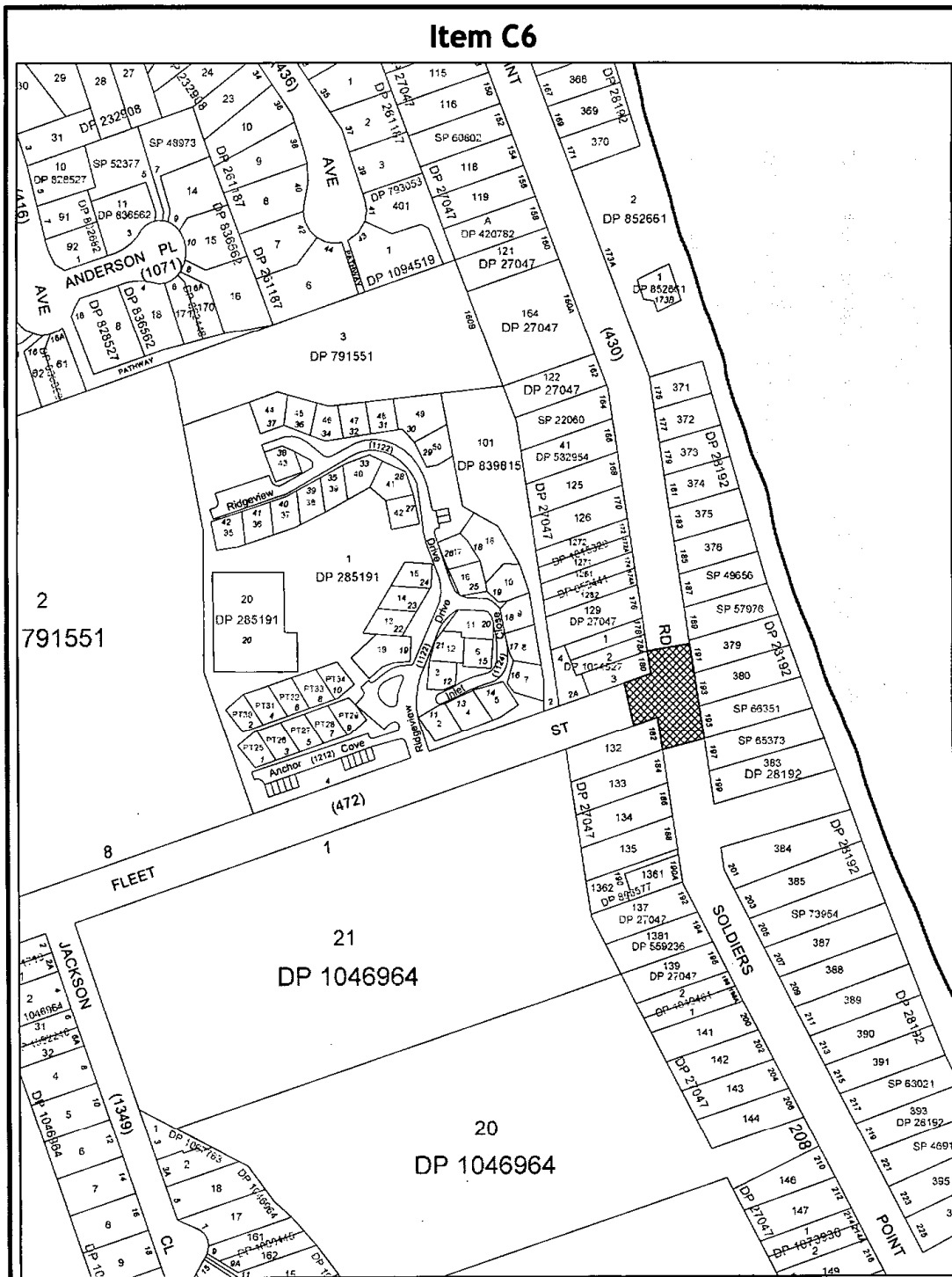
A stop sign has been installed.
Sight distance is achievable if vehicles move out to the edge line of the through traffic lane.
Some vehicles wait too far back and their sight distance is reduced.
Traffic using Fleet Street has increased due to the closure of an access onto Soldiers Point Road by the caravan park.

RECOMMENDATION

- That parking restrictions be placed on Soldiers Point Road approximately 20m north and 20m south of Fleet Street on the western side only; and
- That parking restrictions in Fleet Street be provided for 20m west of Soldiers Point Road.

ESTIMATED COST \$200.00
FUNDING SOURCE Traffic Facilities Budget

Item C6



ISG 56/1

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C.7 NELSON BAY NEW YEARS EVE EVENT

Cattleyard Promotions has requested a temporary road closure of Victoria Parade from Shoal Bay Road to Dixon Drive, Nelson Bay for the New Years Eve celebrations. The closure is to control traffic movement and to provide policing area for management of the event. Closure would be from 6pm 31 December until 2am 1 January 2007. Buses will also be used to transport patrons to and from the event. Event organisers have requested additional bus zones on Shoal Bay Road adjacent to the existing bus stops.

REQUESTED BY:

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT

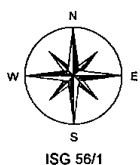
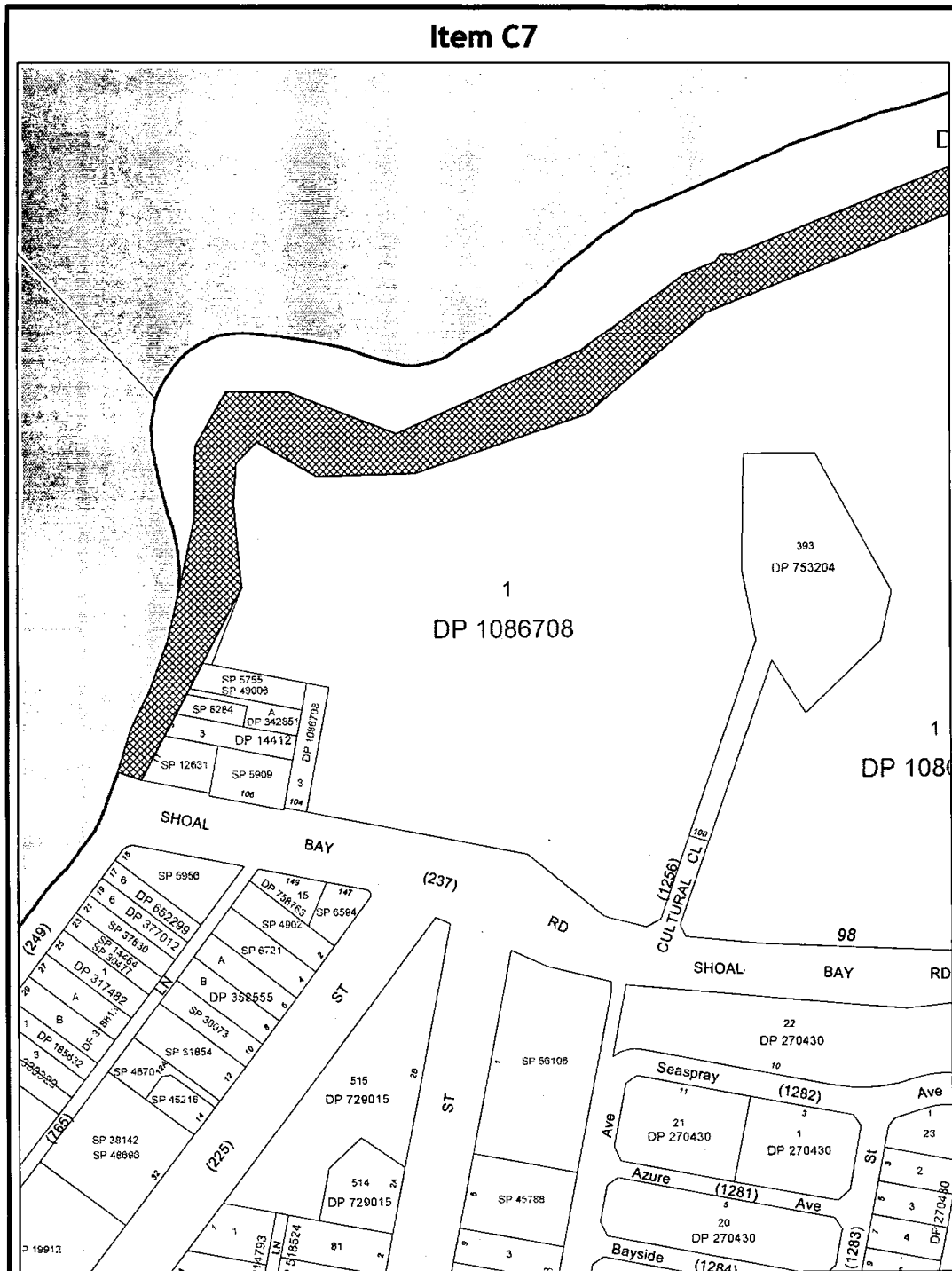
Road shoulders are not wide enough to cater for extra bus stops on Shoal Bay Road.
Hardy Street is suitable for buses to park.
Pedestrian crossing available, lighting is good.
Smartbus to midnight.
2 buses east bound, possibility of 3 for west bound.
40km/h special event speed limit. VMS as additional sign.
RTA required to allow special speed limit.
Best location for bus services, highly visible.
This item was approved under delegated authority prior to event.

RECOMMENDATION

- That a temporary road closure be approved subject to standard conditions; and
- That additional bus stops be provided on Shoal Bay Road; and
- That RTA be requested to consider a 40km/h speed limit; and
- That VMS be provided to enhance the event notification for motorists.

ESTIMATED COST N/A
FUNDING SOURCE N/A

Item C7



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C.8 VICTORIA PARADE, FLY POINT, NELSON BAY – REQUEST TO INSTALL PEDESTRIAN CROSSING

A request has been made to install a pedestrian crossing as it is extremely busy and difficult to cross. Pedestrians trying to cross the road near the Shoal Bay Road area have no facility to cross the road during busy times.

REQUESTED BY: Resident

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
ADDITIONAL	AGREE WITH REQUEST	N/A
	ATTACHMENT	No

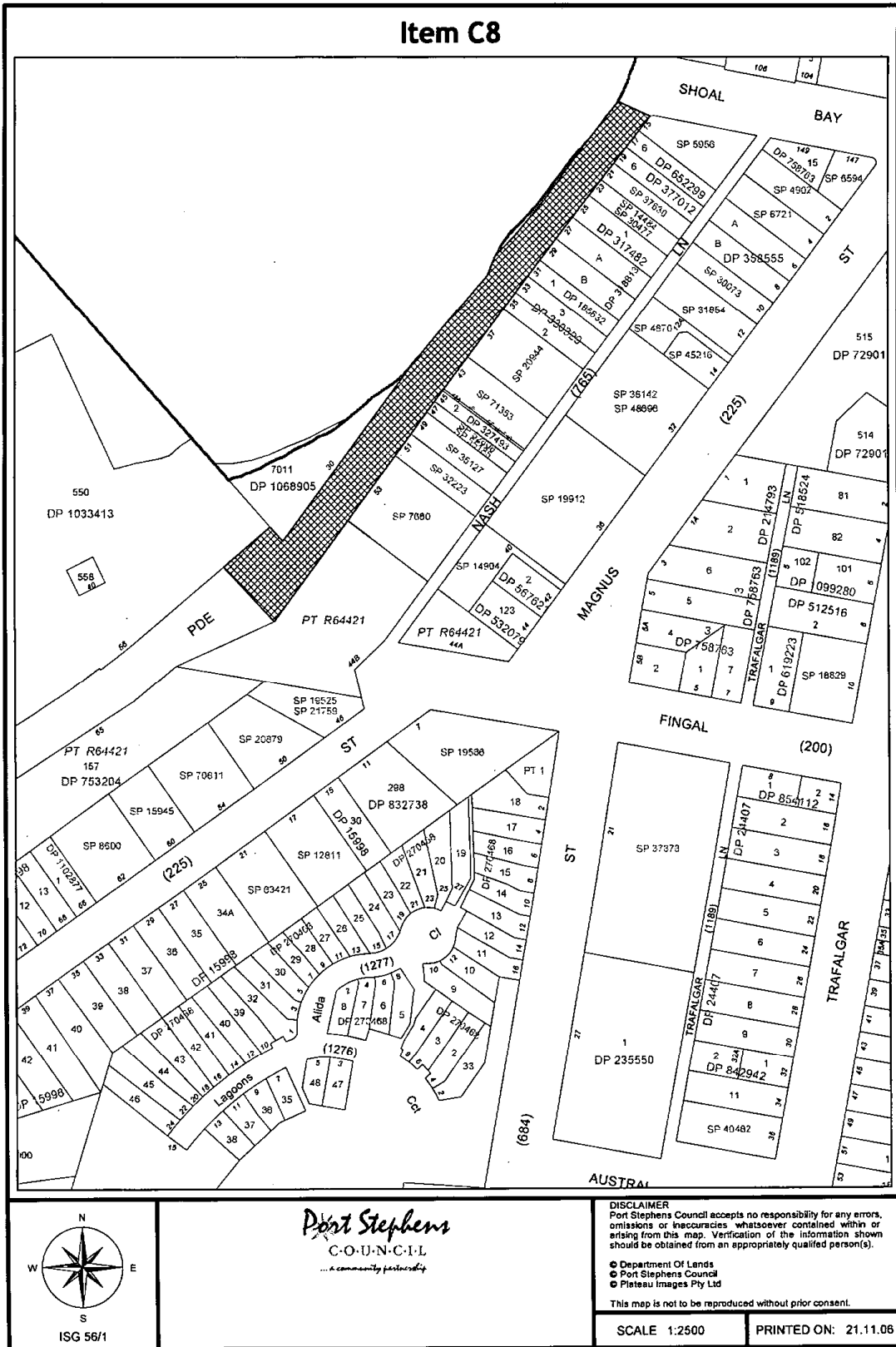
COMMENT

RECOMMENDATION

- That a pedestrian/vehicle count be undertaken and the results returned to the Committee for assessment.

ESTIMATED COST N/A
FUNDING SOURCE N/A

Item C8



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C.9 VICTORIA PARADE, NELSON BAY - APPLICATION FOR TEMPORARY ROAD CLOSURE

Application for road closure to assist with traffic management during Nelson Bay Carols By Candlelight on Saturday 23rd December, 2006.

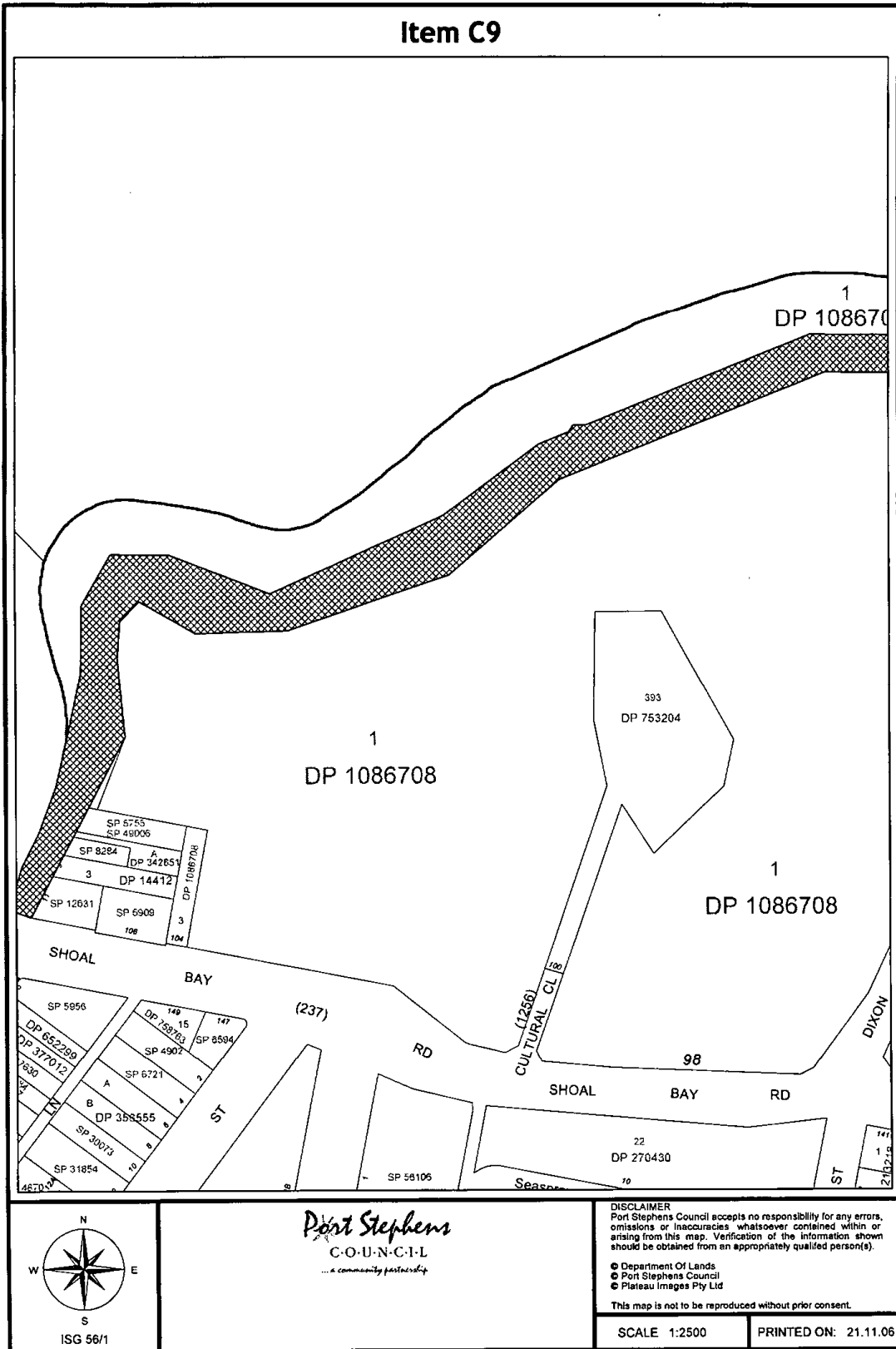
REQUESTED BY:	Nelson Bay Town Management	
CONSULTATION:	Nil	
INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No
COMMENT	This item was approved under delegated authority prior to event.	

RECOMMENDATION

- That the temporary road closure be approved subject to standard conditions.

ESTIMATED COST N/A
FUNDING SOURCE N/A

Item C9



C.10 BULLECOURT STREET, SHOAL BAY – REQUEST TO INSTALL 15 MIN PARKING SIGNAGE

Strata title management company has requested installation of a 15 minute parking area outside residential/commercial unit complex. Staff from the nearby Shoal Bay Resort & Spa regularly park in this area preventing potential customers from entering the complex.

REQUESTED BY:

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	No
ADDITIONAL	ATTACHMENT	No

COMMENT

High incidence of vehicles parking on the footway behind the Loading Zone and No Parking zone. The Loading Zone and No Parking zone are required for servicing the adjoining businesses. Vehicles parked in the western end of Bullercourt Street are parked legally.

RECOMMENDATION

- That no action be taken to provide 15 minute parking in place of the No Parking zone; and
- That the Rangers be requested to patrol this area.

ESTIMATED COST N/A
FUNDING SOURCE N/A

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

Item C10



C.11 MEDOWIE CHILDREN'S CENTRE – TRAFFIC CALMING DEVICES

Medowie Childrens Centre is concerned for the safety of their children using the sandpit adjacent to their front boundary. Medowie Childrens Centre has requested:

- installation of barrier bollards on Centre ground outside the fence line
- placement of traffic calming island in the intersection of Coolabah Road and Brushbox Avenue designed specifically to slow traffic and reduce the ability of drivers to gain required momentum to lose traction and slide
- placement of a pedestrian crossing and suitable warning signs outside the Centre
- placement of a 'School Zone' speed restriction around the Centre with an initial heavy policing period.

REQUESTED BY: Medowie Childrens Centre Parent Panel

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	No
ADDITIONAL	ATTACHMENT	No

COMMENT

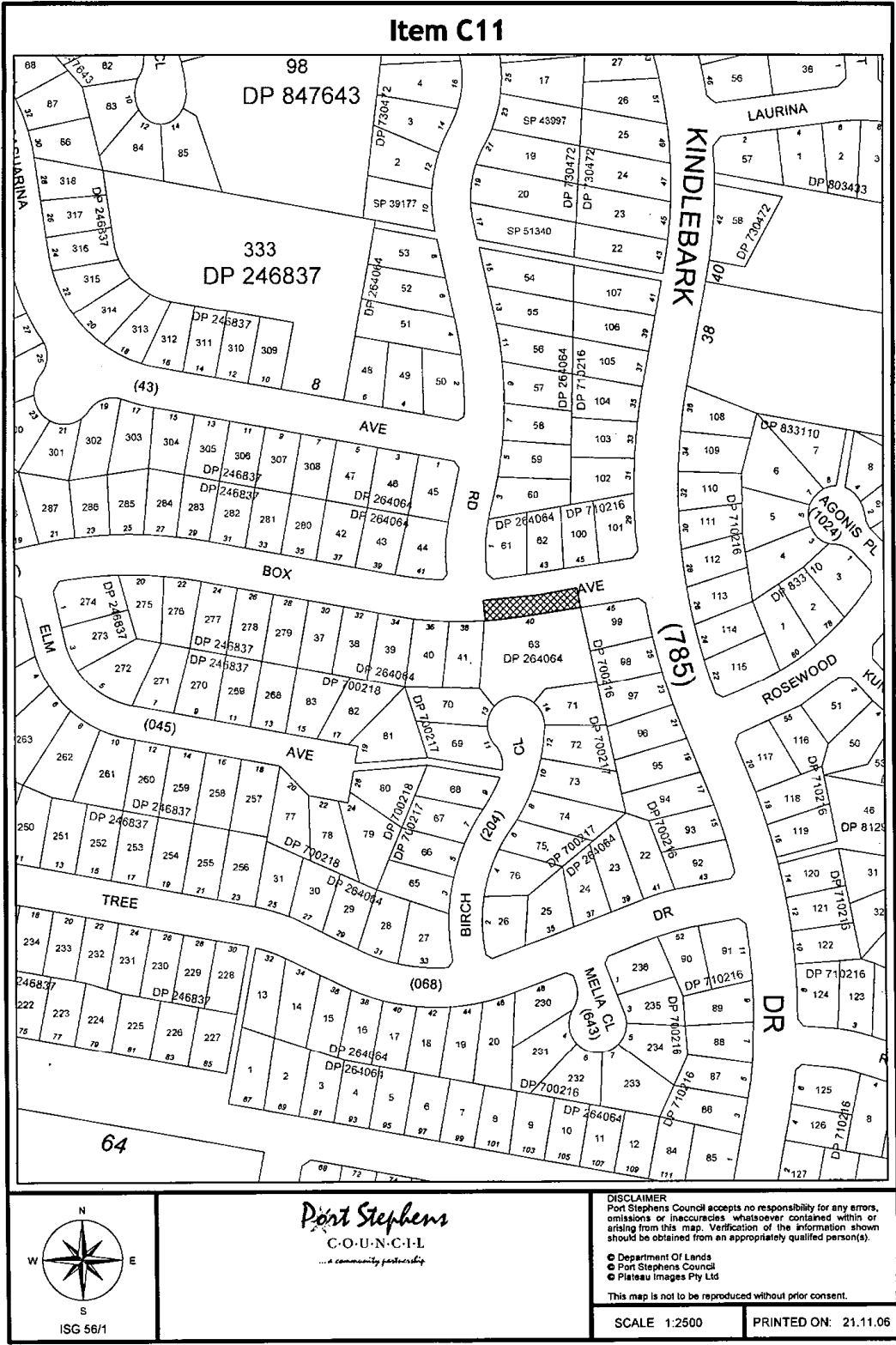
Teresa Squire from Medowie Childrens Centre addressed the Committee with the concerns of the Centre. Barrier bollards are an option to be considered but would not be permitted within the road reserve (must be placed within private property). Other forms of safety fence like guardrail would not be appropriate as design requirements specify minimum lengths of rail to be effective and they are only used for side impact, the length required would restrict all access to and from the site. Traffic calming devices in isolation are not effective in changing driver behaviour. The streets surrounding the Centre are 50km/h. A pedestrian crossing would not be warranted under the guidelines set out by the RTA. Insufficient cars and pedestrian movements. RTA guidelines for school zones does not include preschool/childcare centres. Premises request for no Stopping.

Birch Close could be used to drop children off but street lighting in Birch Close is poor.

RECOMMENDATION

- That no action be taken to provide traffic calming devices; and
- That there is no objection to provision of barrier bollards in private property; and
- That no action be taken to provide a pedestrian crossing; and
- That no action be taken to provide a 'school zone'; and
- That the existing bus shelter be relocated to the bus stop approx. 30m west.

ESTIMATED COST N/A
FUNDING SOURCE N/A



C.12 STILL STREET, SEAHAM – NO PARKING

The school principal has requested a No Parking zone be provided at the school frontage to allow parents to drop off their children in the mornings only. No zone is required for afternoon pick up times.

REQUESTED BY: School Principal

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
ADDITIONAL	AGREE WITH REQUEST	Yes
	ATTACHMENT	No

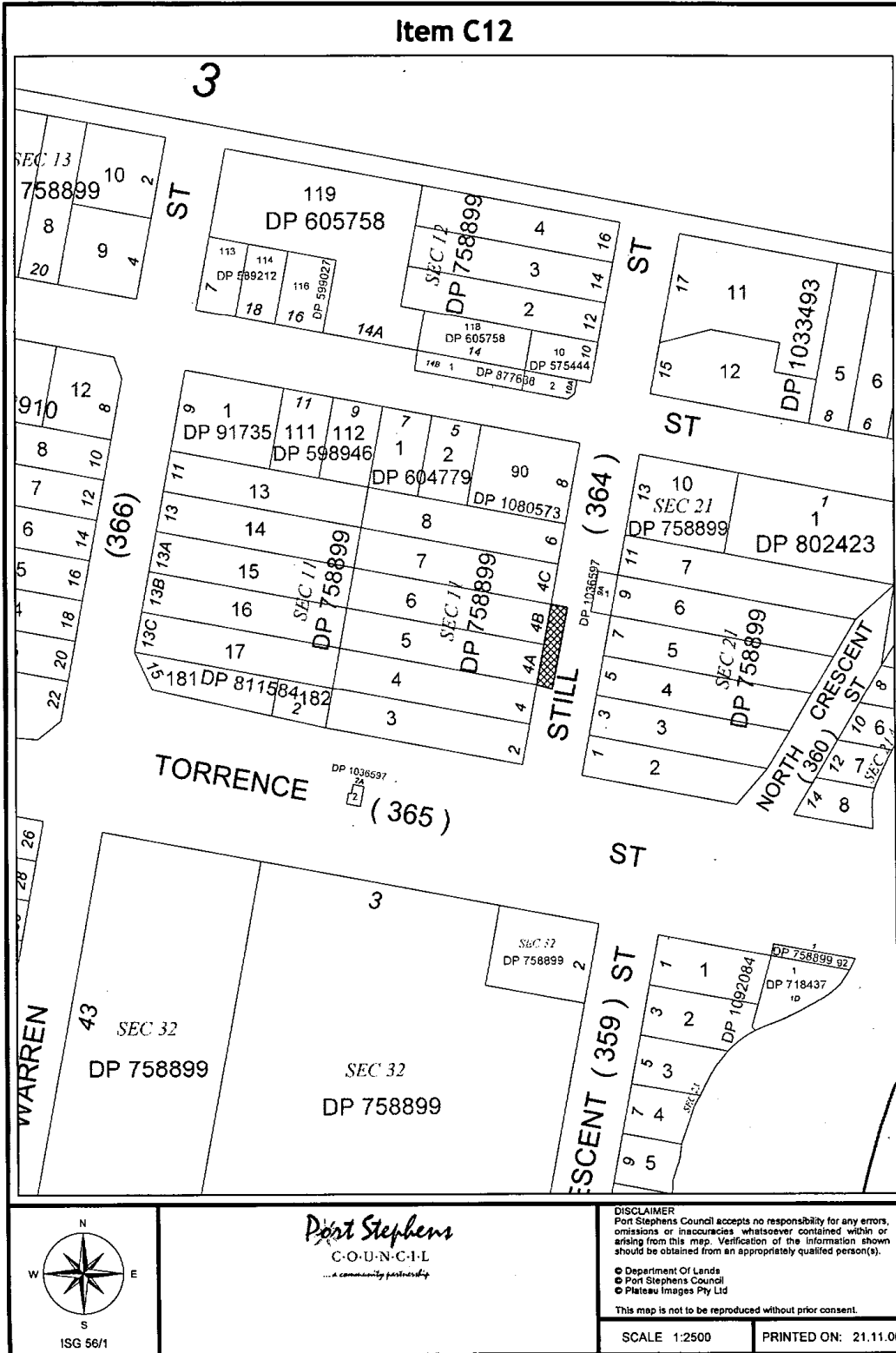
COMMENT

RECOMMENDATION

- That No Parking zone be provided school days and morning times only.

ESTIMATED COST \$100
FUNDING SOURCE Traffic Facilities Budget

THIS ITEM HAS A SAFETY PRIORITY



C.13 IRRAWANG STREET, RAYMOND TERRACE – NO PARKING ZONE

The school principal has requested a No Parking zone be provided at the school frontage to allow parents to drop off their children in the mornings only. No zone is required for afternoon pick up times. Children are not permitted to leave the school grounds without parents and this would mean that a No Parking zone in the afternoon would not be effective.

REQUESTED BY: School Principal

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No

COMMENT

RECOMMENDATION

- That existing 15min parking be replaced with a No Parking zone school days, mornings only.

ESTIMATED COST \$100
FUNDING SOURCE Traffic Facilities Budget

THIS ITEM HAS A SAFETY PRIORITY

C.14 YACAABA STREET, NELSON BAY – 1 HOUR PARKING

Peter Clough, Nelson Bay Town Management and Cr Westbury have requested the Traffic Committee to replace the 15 minute parking restrictions with 1 hour parking restrictions.

REQUESTED BY: Nelson Bay Town Management and Cr Westbury

CONSULTATION: Nil

INSPECTION	UNDERTAKEN	Yes
ADDITIONAL	AGREE WITH REQUEST	Yes
	ATTACHMENT	No

COMMENT

RECOMMENDATION

- That the existing 15 minute parking be replaced with 1 hour parking in Yacaaba Street.

ESTIMATED COST \$100
FUNDING SOURCE Traffic Facilities Budget



C.15 VICTORIA PARADE, FLY POINT, NELSON BAY – APPLICATION FOR TEMPORARY ROAD CLOSURE – AUSTRALIA DAY CELEBRATIONS

Doug Cross, Nelson Bay Australia Day Committee have requested a temporary road closure of Victoria Parade from Shoal Bay Road to Dixon Drive to assist in the traffic management on Friday 26th January, 2007 for Australia Day Celebration from 6.30 am to 4.30 pm.

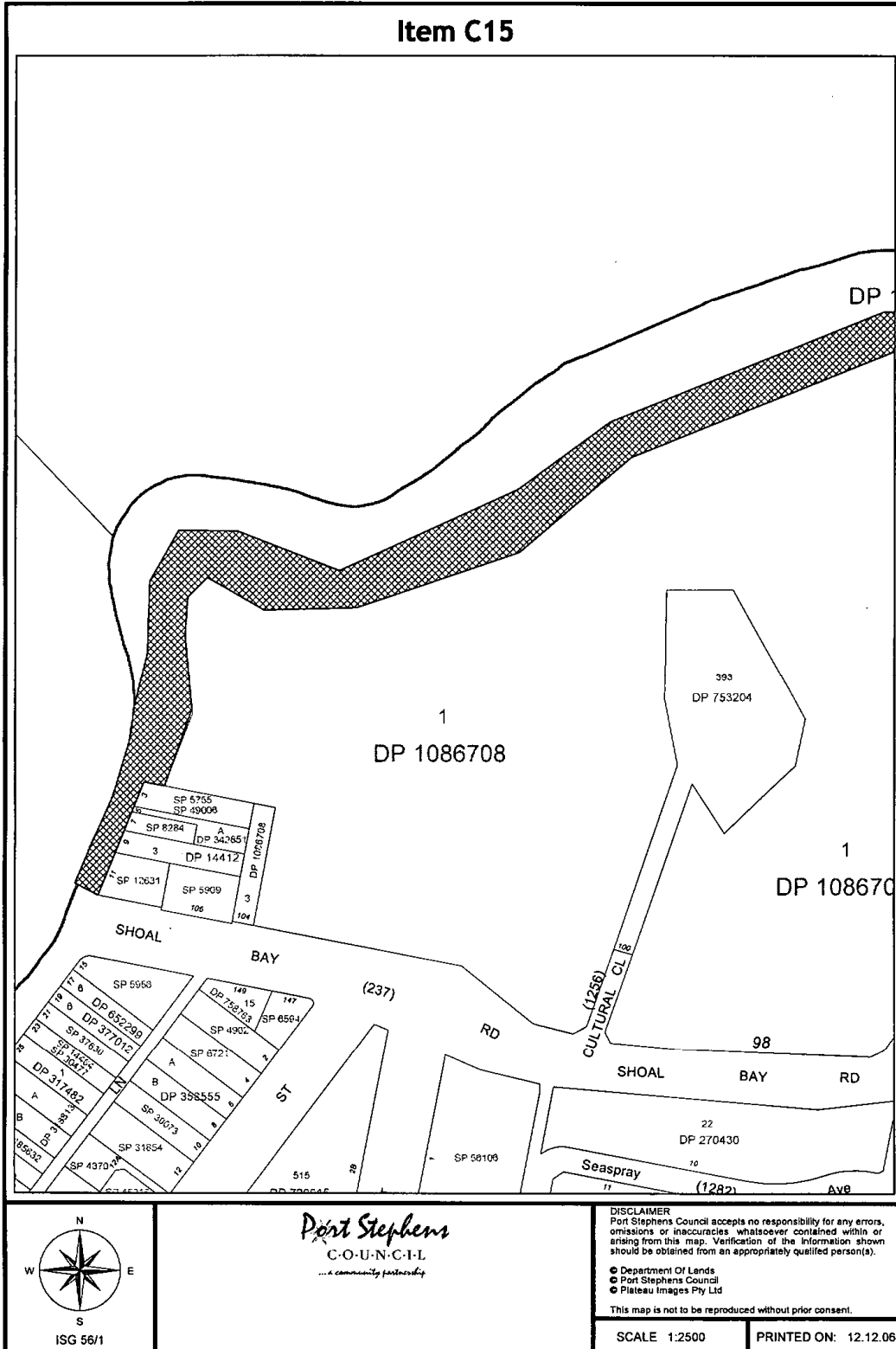
REQUESTED BY:	Nelson Bay Australia Day Committee	
CONSULTATION:	Nil	
INSPECTION	UNDERTAKEN	Yes
	AGREE WITH REQUEST	Yes
ADDITIONAL	ATTACHMENT	No
COMMENT	This item was approved under delegated authority prior to event.	

RECOMMENDATION

- That the temporary road closure be approved subject to standard conditions.

ESTIMATED COST	N/A
FUNDING SOURCE	N/A

Item C15



D. GENERAL BUSINESS

Peter Clough and Cr Westbury address the Committee over a number of issues that were dealt with by the Committee but were not approved by the Committee for the Nelson Bay CBD. These items are listed below:

- Donald Street, Stockton Street – loading zones
- Stockton Street, Donald Street, Yacaaba Street – No Parking zones
- Loading zones in general – time restrictions
- Yacaaba Street – 15 minute parking (item C14)
- Magnus Street/Donald Street intersection – 40km/h high pedestrian activity zone in Nelson Bay and bus stops in CBD and Dowling Street

After discussion of the items, Peter Clough and Cr Westbury gained a better understanding of the amount of research and local knowledge that goes into each decision the Committee makes. The Committee is made up of professionals in their relative fields from the Roads and Traffic Authority, NSW Police and Council. Most members of the Committee have over 20 yrs of experience.

The outcomes from the items listed are as follows:

1. Donald Street – Loading zone

Requested relocation adjacent to bus stop on northern side of Donald Street. (listed for next LTC)

2. Stockton Street – Loading zone

Request to have it removed (no further action).

3. Loading zone times

Request to have 6am to 6pm Monday to Friday and 6am to 2pm Saturday and Sunday (list for next LTC).

4. Donald Street – No Parking

No further action.

5. 40km/h High Pedestrian Activity Zones

Council has submitted an application for funding to the Roads and Traffic Authority and is awaiting feedback on submission.

6. Magnus Street/Yacaaba Street – Left turn lane

No further action.

7. Stockton Street/Donald Street – Intersection

Several traffic studies have been conducted in Nelson Bay with traffic signals recommended as an option at this intersection. Currently it seems as though this is not a preferred option. Further investigation would need to be conducted when Council's Transport Planning team is back to full strength. (No action at present.)

8. Bus Stops – Stockton Street

Requested if the area adjacent to the cemetery could be used as a parking area for buses (listed for next LTC).

ITEM NO. 4

FILE NO: PSC2007-0070

SALE OF LAND FOR UNPAID RATES AND CHARGES

REPORT OF: JEFF SMITH - FINANCIAL SERVICES MANAGER

RECOMMENDATION IS THAT COUNCIL:

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

OPERATIONS COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

062	Councillor Nell Councillor Jordan	That the Recommendation be adopted.
------------	--	--

BACKGROUND

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

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

- (2) A council may, in accordance with this Division:*
- (a) sell any land (including vacant land) on which any rate or charge has remained unpaid for more than 5 years from the date on which it became payable*

The General Manager has certified the rates and charges due on this property of \$7,929.36 as at 2/02/2007. The property is vacant land located at Lemon Tree Passage and the owner of the property has been untraceable since 2002. It appears the only means of recouping monies owing is by selling the land under Section 713.

As there is only one property, it is proposed to engage a local real estate agent in Lemon Tree Passage to handle the sale for Council. The proposed venue for the auction will be on site at the property to be sold. The proposed sale will be advertised in the Port Stephens Examiner and the Government Gazette.

For the particular attention of Councillors and Staff, Section 716(3) of the Local Government Act 1993 states:

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

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

LINKS TO CORPORATE PLANS

This report relates to the 2006-2009 Council Plan, key result area "Our Finances", which states that, "Council will plan and manage its finances to maximise community benefit".

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 9) All systems and processes exhibit variability, which impacts on predictability and performance
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Executive Team
Revenue Coordinator
Senior Rates Clerk

OPTIONS

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

ATTACHMENTS

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

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

ATTACHMENT 1

Assessment Number	Owner	Property Description	Area	Valuer General's Land Value	Balance as at 2/02/07
033332	Brian John Moss	Lot 3 DP 229869 37 Cook Parade Lemon Tree Passage	493.2 sqm	309,000 Base Date 1/07/2004	\$7,929.36

ATTACHMENT 2

Timetable of Events	
Date	Action
24 November 2006	Conduct Title Searches.
2 February 2007	Prepare Certificate for signing by General Manager stating the rates and charges on the land and how and when they were levied.
13 March 2007	Report to Council recommending the sale of properties.
27 March 2007	Council resolution on above report.
30 March 2007	Write to owner advising of Council's resolution to sell the properties.
13 April 2007	Engage local licenced real estate agent to handle sale.
24 April 2007	Set auction date and venue in conjunction with the appointed Auctioneer.
24 April 2007	Place advertisement in the Government Gazette and Port Stephens Examiner.
4 May 2007	Send letter to owners advising of proposed sale by Public Auction. Notify all parties listed on the title search with an interest in the land such as Banks with mortgages.
1 September 2007	Proposed Auction Date.

ITEM NO. 5

INFORMATION PAPERS

REPORT OF: JUNE SHINE – EXECUTIVE MANAGER, CORPORATE MANAGEMENT

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 13 March 2007.

No:	Report Title
1	ACCESS COMMITTEE MINUTES
2.	INDIGENOUS STRATEGIC COMMITTEE MEETING WITH KARUAH LOCAL ABORIGINAL LAND COUNCIL
3.	PETITION – “BURNOUTS” IN CASTAWAY ESTATE, BOAT HARBOUR
4.	COUNCIL WARD FUNDS

OPERATIONS COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

063	Councillor Nell Councillor Jordan	That the Recommendation be adopted.
------------	--	--

INFORMATION ITEM NO. 1

ACCESS COMMITTEE MINUTES

REPORT OF: JENNIFER SMITH, COMMUNITY PLANNING MANAGER

FILE: A2004-0226

BACKGROUND

The purpose of this report is to present to Council the minutes of the Access Committee Meeting held on 6 February 2007.

Key issues addressed at the meeting included: -

- 1). 2007 International Day for People with Disabilities Picnic
- 2). Access Upgrades at Grahamstown Dam Sailing Club

ATTACHMENTS

- 1) Minutes of the Access Committee Meeting held on 6 February 2007.

ATTACHMENT 1

**PORT STEPHENS ACCESS COMMITTEE
MINUTES OF MEETING HELD 6 FEBRUARY 2007
AT THE RAYMOND TERRACE COMMUNITY CARE CENTRE**

Present:

Ken Whiting, Karen Whiting, Liz Harper, David Painter, Valda Painter, Alice De-Carle, Margaret O'Leary, Tony Kean, Joe Delia, Kathy Delia, Deborah Franklin, Michelle Pavy, Michael Elliott, Cathy Lees, Cathy Jennings, Graham Roberts,

Apologies:

Cr. Helen Brown, Cr Sally Dover, Judy Rosier, Susan Rosier, Robert Harper, Bill Bobbins, Tony Kremen, Sue Spleit,

1. CHAIRPERSON'S REPORT

Ken Whiting presented his report to the Committee covering progress with access issues in the area including the International Day of People with Disabilities Picnic and recent media coverage.

2. BUSINESS ARISING FROM PREVIOUS MINUTES

2.1 2006 Disability Picnic

David Painter gave a report on the success of the 2006 International Day of People with Disabilities Picnic.

2.2 Café Premises

Michael Elliott reported that Council was assessing the issue of access on the footpath area around a Medowie Café and he would report on any progress at the next meeting.

2.3 2007 International Day of People with Disabilities Picnic

A 2007 International Day of People with Disabilities Picnic sub-committee was formed comprising Michael Elliott, Tony Kean, Cathy Jennings, Liz Osborne, Graham Roberts, Karen Whiting, Michelle Pavy and Kathy Lees. Ken Whiting was appointed chairperson of the sub-committee. Membership of the sub-committee is open to anyone interested in assisting with the picnic.

It was decided to hold sub-committee meetings following the ordinary monthly meetings of the Access Committee to help alleviate any transport issues. The first meeting will be held after the March Access Committee Meeting at the Raymond Terrace Community Care Centre.

2.4 Lakeside Aquatic Centre

Ken Whiting indicated that the improvements to access at the Lakeside Aquatic Centre Raymond Terrace, as identified by the Access Committee had not yet commenced. Michael Elliott will follow up.

3. GENERAL BUSINESS

3.1 Overview of Development Applications Assessed by Council's Disability Access Officer

Michael Elliott reported that he had assessed a total of 79 throughout 2006. A list of recently assessed DA's was circulated with 11 approved with conditions, 1 refused, and 3 approved with conditions after claims for unjustifiable hardship were accepted.

3.2 Meeting with Newcastle Council's Access Officer

Michael Elliott reported that he met last week with Newcastle Council's Disability Access Officer to compare Development Application assessment procedures.

3.3 Promotional Strategy - Access Committee

Michael Elliott stated that a promotional strategy was required for the Access Committee to help raise awareness and increase membership. He asked that members consider this and come up with some ideas. The promotional strategy will be implemented this year.

3.4 Review of the Access Committee

Michael Elliott stated that he was required to conduct a review of the Access Committee. He has commenced the review, which will include the opportunity for members to have input. Among the aspects to be reviewed are the Committee's membership, meeting format, and achievements. The aim of the review is to assess the Committee's effectiveness in fulfilling its stated objectives to identify any possible areas that may require improvement.

3.5 Access Upgrade Grahamstown Dam Sailing Club

Michael Elliott reported that an access upgrade was commenced at the end of 2006 at the Grahamstown Dam Sailing Club. The Council owned site is the venue for Sailability Port Stephens (sailing for the disabled) and existing access provisions required upgrading to cater for the growing number of people with disabilities using the facility. Council has commenced upgrading the facility including the provision of a fully accessible toilet and shower block, and the provision of ramped access to the main building. This work is due to be completed by mid 2007.

3.6 Access Committee Media Officer

Michael Elliott thanked the Committee's Media Officer, Karen Whiting for her ongoing efforts in promoting the Committee and its associated activities. She has been working closely with Council's Media Liaison Officer to produce some great articles (eg; 2006 International Day of People with Disabilities Picnic) that have appeared in the *Port Stephens Examiner* and *Parquad's Northern News*.

Karen Whiting tabled recent media articles printed in the Northern News and Michael Elliott presented some photographs from the 2006 International Day Of People with Disabilities Picnic.

3.7 2007 Annual General Meeting

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

The 2007 Annual General Meeting of the Access Committee will be held on 1 May 2007 at 10.30am at the Raymond Terrace Community Care Centre.

4. CORRESPONDENCE

Nil

5. DETAILS OF NEXT MEETING

The next meeting will be held at the Raymond Terrace Community Care Centre at 10.30am on 6 March 2007

INFORMATION ITEM NO. 2

**INDIGENOUS STRATEGIC COMMITTEE MEETING WITH KARUAH
LOCAL ABORIGINAL LAND COUNCIL**

REPORT OF: JENNIFER SMITH, COMMUNITY PLANNING MANAGER
FILE: PSC2005-0629

BACKGROUND

The purpose of this report is to present to Council the minutes of the Indigenous Strategic Committee meeting held on 12 February 2007 with the Karuah Local Aboriginal Land Council.

Key issues discussed at the meeting included: -

- 1) Tjurunga Arts Project Update
- 2) Aboriginal Project Fund Update
- 3) Stockton Sand Dunes

ATTACHMENTS

- 1) Minutes of Indigenous Strategic Committee Meeting held 12 February 2007 with Karuah Local Aboriginal Land Council.

ATTACHMENT 1

**INDIGENOUS STRATEGIC COMMITTEE MEETING
WITH KARUAH LOCAL ABORIGINAL LAND COUNCIL
HELD ON MONDAY 12 FEBRUARY 2007
AT KARUAH MISSION**

Present:

Bev Manton	Karuah LALC
Colleen Perry	Karuah LALC
Cr Brown	PSC
Cr Dover	PSC
Cliff Johnson	PSC
Paul Procter	PSC

Apologies:

Cr Baumann	PSC
Cr Swan	PSC
Mike Triggar	PSC
Peter Gesling	PSC
David Broyd	PSC
Stewart Murrell	PSC

Cr Brown Chaired and opened the meeting at 1:15pm

1. KARUAH LALC BUSINESS ARISING FROM PREVIOUS MINUTES

ITEM 12: Old Karuah School House

Council's Principle Property Officer has spoken to Council's Development Advisory Panel to seek their advice on the process required to gain Council approval for the proposed re-location of the former schoolhouse building to the Mission. They have advised that the initial step is the preparation and submission to Council of a Statement of Environmental Effects Letter.

Action	1. Council's Principle Property Officer will meet with Bev Manton to formulate letter of Statement of Environmental Effects.
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ITEM 17: Tjurunga Arts Project Update

KLALC has lodged a funding submission to Vocational Educational & Training (V.E.T) for the costs associated with the establishment and fit out of the artefacts facility that will now include a training/meeting room for community use. This includes additional fit out provisions for insulation and air conditioning. KLALC have engaged a consultant to formulate the proposed training program with respect to this facility.

Council has already approved the DA for the artefacts workshop. A variation to the proposed building design and/or footprint would require the issuing of a Section 46 Certificate.

ITEM 19: Aboriginal Project Fund

The recommendations of the ISC in relation to the allocation of Aboriginal Project Funds will be considered by Council in February 2007. Paul Procter also informed the ISC that Hunter River High presented Council with a framed Crocfest T-shirt at the school's end of year presentation, in recognition of Council's financial support of the school's past participation in the annual Crocfest celebrations.

ITEM 22: Tennis Court

Paul Procter assisted KLALC in preparing and submitting a grant application under the 2006/2007 funding round of the Hunter Area Assistance Scheme (HAAS). The grant applications will be assessed by the HAAS Regional Advisory Committee (RAC) in March 2007.

ITEM 24: Foreshore Rehabilitation Works

Bev Manton indicated that the installation of picnic tables/chairs and bins on the foreshore hasn't commenced.

Action:	1. Paul Procter will follow up status of installation of picnic chairs and tables and 3 waste bins on foreshore.
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ITEM 25: Elsa Dixon Employment Program

Bev Manton indicated that the new program funded under the Elsa Dixon Employment Program of working in partnership with the local high schools to include students in the KLALC Boat Building program is going well.

ITEM 26: Boat Building Project

KLALC is still waiting for Council Officers to provide an estimated cost on the purchase of a shipping container for onsite storage.

Action:	1. Paul Procter will follow up estimate cost.
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ITEM 27: Clean Bushland Program

Bev Manton indicated that the planned clean up of various sites will be undertaken as part of this year's 'Clean-Up Australia Day' activities in March.

ITEM 28: Bus Shelter

Bev Manton thanked Council for the prompt work undertaken to rectify the problems associated with rainwater run-off flowing into the Mission's bus shelter.

ITEM 29: Privet Bush

Council's Principle Property Officer has spoken to the Dept of Lands (Taree Office) concerning the problems KLALC is experiencing with noxious privet bush on their land. The

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

Dept of Lands has requested that KLALC write to them outlining the problem and the impacts on local community members (eg; asthma sufferers) for their consideration and response.

Action:	1. Bev Manton will write to the Dept of Lands in relation to the privet bush problem.
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2. GENERAL BUSINESS

2.1 Renovation of Mission's Community Hall

KLALC is actively seeking opportunities for the existing hall to be renovated (eg; water proofing roof) as part of an accredited training program.

2.2 National Local Government Awards

Port Stephens Council was awarded a Commendation under the 2006 National Local Government Awards in the Indigenous Category. Bev Manton asked if both KLALC and WLALC could receive a copy of the Award for display in their offices.

Action:	1. Paul Procter will organise for KLALC and WLALC to receive a copy of the Commendation awarded to Council. 2. Paul Procter will organise for KLALC and WLALC to receive a copy of the photo taken of the Mayor and Bev Manton and Andrew Smith receiving the Commendation from the Minister for Local Government at the National Awards presentation in Canberra in November 2006.
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2.3 Land Rights Act

Bev Manton indicated that the proposed amendments to the Land Rights Act have been given Ministerial approval and the changes will be effective from 1 July 2007.

2.4 Proposed Name Change of Indigenous Strategic Committee

Late last year members of Council's ISC suggested that they would like to see the term Indigenous removed from the name of the ISC and replaced by the term Aboriginal, creating the new name of Aboriginal Strategic Committee. KLALC supports the proposed name change.

Action:	1. Proposed name change will be discussed at next ISC meeting with WLALC and subject to their support, the desired name change will be sought.
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2.5 Stockton Sand Dunes

The State Government and the Worimi people have formalised an agreement in relation to a 4,000 hectare area of the Stockton sand dunes which will now be known as the Worimi Conservation Lands under a shared management arrangement. The land was officially handed back to the Worimi people at a special celebration held on the site on 10 February 2007. A Board will be established to oversee the management of the site. In terms of representation from Port Stephens Council, the ISC recommends that Council's delegate be someone who is well versed in the cultural significance of the site and has forged a strong working relationship with the Worimi people and is well respected. The ISC recommends that Council's Principle Property Adviser be nominated for this role.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

Action:	1. Paul Procter will advise Council's General Manager of the ISC preference for Council's Principle Property Adviser to be nominated for this role.
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2.6 Naidoc Week 2007

KLALC and WLALC have expressed an interest in Council holding a special flag raising ceremony and celebration as part of this year's Naidoc Week celebrations.

Action:	1. Paul Procter will arrange for Council's Cultural Development Officer to convene a working party of interested representatives from KLALC and WLALC to organise this week's Naidoc Week celebrations.
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2.7 2007 Joint ISC Meeting

This year's joint meeting will be held on 17 July 2007. Paul Procter asked for suggestions for a potential guest speaker. The following people were suggested: -

- Dr Bill Jonas as first preference followed by the representative who spoke at the 2006 LGAN Conference on the upcoming 40th Anniversary of the 1967 Referendum.

Action:	1. Paul Procter will liaise with WLALC to seek their suggestions before taking steps to secure the desired guest speaker for the July 2007 Joint Meeting.
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2.8 40th Anniversary of the 1967 Referendum

The ISC would like to hold an event to mark this year's 40th Anniversary of the 1967 Referendum. Subject to the dates of this year's planned celebrations, it may be incorporated into Naidoc Week celebrations.

Action:	1. Paul Procter will confirm dates of proposed anniversary celebrations and will seek support of Council's Cultural Development Officer to work with ISC members in organising an event to mark this occasion.
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2.9 Motions from 2006 NSW Local Government Aboriginal Network Conference

Paul Procter tabled copies of the motions from the 2006 NSW Local Government Aboriginal Network Conference that was held at Gunnedah last October. He would like the ISC to discuss each of the motions. Due to time constraints discussion was deferred until next meeting.

Action:	1. Discussion of the motions arising from the 2006 LGAN Conference deferred until the next ISC meetings with KLALC and WLALC.
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3. NEXT MEETING

The next meeting with KLALC will be held on 16 April 2007, commencing at 1pm at the Karuah Mission.

Meeting closed at 3:15pm

INFORMATION ITEM NO. 3

PETITION - “BURNOUTS” IN CASTAWAY ESTATE, BOAT HARBOUR

REPORT OF: PETER GESLING – GENERAL MANAGER
FILE: PSC 2005-5264

BACKGROUND

The purpose of this report is advise Councillors of a petition received from residents of Castaway Estate, Boat Harbour which states:

“Please find below the signatures of residents of Castaway Estate, Boat Harbour who wish to have Castaway Close cleaned or resealed by Council Order (or court order) – directed to the identified black utility vehicle as witnessed by a resident.

The offender drove this utility up Castaway Close on 9 December 2006 burning out on the residential road with extensive smoke from the front of 10 Castaway Close, Boat Harbour at approximately 5.30 pm, to the top of the road where double lines begin.

The resident who witnessed this verifies the same vehicle had done a burnout in the same location the previous day (8 December 2006). Police have been notified of the vehicle and registration responsible.”

Staff Comment

This matter is listed for Traffic Committee for 6 March, 2007. The inspections for the meeting were conducted on 20 February and the Committee made a draft recommendation that no speed humps be provided.

The Committee believed that the speed humps would not solve the anti-social behaviour and 'speed' was not an issue. The speed humps, in all likelihood, would add to the problem by providing a place to do the burnouts.

This draft recommendation will be put to the full Traffic Committee on 6 March 2007.

ATTACHMENTS

Nil.

TABLED DOCUMENT

Nil.

INFORMATION ITEM NO 4

COUNCIL WARD FUNDS

**REPORT OF: JUNE SHINE – EXECUTIVE MANAGER, CORPORATE
MANAGEMENT
FILE: PSC 2007-0183**

BACKGROUND

The purpose of this report is to provide the current Ward Funds expenditure and the balance as at 26 February 2007.

ATTACHMENTS

- 1) Ward Funds
- 2) Minor Works

ATTACHMENT 1

2006/2007 ALLOCATIONS OF COUNCILLOR WARD

FUNDS

WARDS

EAST CENTRAL WEST

ESTIMATED BALANCE B/FWD FROM 30 JUNE 2006	138,436	1,940	170,927
FUNDS REALISED IN 2005-2006	0	0	0
TOTAL AVAILABLE 1 JULY 2006	138,436	1,940	170,927

ALLOCATED TO:-

From Original Budget

Corlette SES	15,000		
Contribution to RT Comm & Policing Services Rental assistance CM372/05			15,000
Raymond Terrace Senior Citizens Centre			35000
Medowie Skate Park		77000	

From Revotes and Carry Forwards

Shelly Beach Amenities	25000		
King Park Landscaping			7000
Anna Bay Oval Upgrade		1697	
Anna Bay Pony Club		-10251	
Bowthorne Park Upgrade			21000
Tomaree Sports Complex - New Water Service	70000		
Little Beach Disability Access ramp	33904		
Raymond Terracs CCC			19108
Tilligerry Creek Erosion Study		5000	
Cycleway Construction Brockelsby Road Medowie		22744	
Cycleway Construction Mustons Road Karuah			0
Bus Facilities Construction Medowie		18571	
Bus Facilities Construction Anna Bay		11299	
Bus Facilities Construction LTP		3314	
Karuah Main Sreet			7894

From Budget Reviews

Port Stephens Community Arts Centre CM 222/05	10,000		
Salt Ash Sports Ground CM 434/06		35,000	

TOTAL ALLOCATED	153,904	164,374	105,002
BALANCE as at 26.2.07	-15,468	-162,434	65,925

ATTACHMENT 2

2006/2007 ALLOCATION OF MINOR WORKS

WARDS	EAST	CENTRAL	WEST
BALANCE B/FWD FROM 30 JUNE 2006	0	0	0
2006/2007 BUDGET ALLOCATION FROM REVENUE	20,000	20,000	20,000
TOTAL AVAILABLE 1 JULY, 2006	20,000	20,000	20,000
ALLOCATED TO:-			
Previously Allocated funds paid this Financial year			
Tilligerry Lions and Habitat Arts Festival CM 578/06		500	
Glen Oak School of Arts CM 578/06			339
Allocated 2006/2007 Financial Year			
Medowie Scout Group CM 618/06		110	
Rotary Club of Nelson Bay CM 618/06	2,500		
Shoal Bay Public School CM 618/06	869		
Shoal Bay Public School CM655/06	395		
Access Comm of Port Stephens CM 794/06	595		
1st Tilligerry Scout Group CM 794/06		722.5	
P S Fellowship of Australian Writers CM 679/06	1000		
Hunter River High School CM 679/06			200
Irrawang Public School CM 734/06			200
Glen Oak School of Arts CM734/06			2000
Port Stephens Music Festival CM 734/06	93.2		
1st Paterson Bolwarra Scouts Group CM 761/06			200
Nelson Bat Senior Citizens Hall Clr req 05-1181	3000		
TOTAL ALLOCATED	8,452	1,333	2,939
BALANCE AVAILABLE	11,548	18,668	17,061
PLUS Expected Property Profits Funds (30%)	0	0	0
TOTAL AVAILABLE as at 26.2.07	11,548	18,668	17,061

BACKGROUND

STRATEGIC COMMITTEE RECOMMENDATIONS

THIS OPERATIONS COMMITTEE ITEM WAS DEALT WITH IN THE STRATEGIC COMMITTEE DUE TO ITS RELATIONSHIP WITH ITEM 1 OF THE STRATEGIC COMMITTEE

ITEM NO. 1

FILE NO: 16-2000-380-10

POLICY IMPLICATIONS ASSOCIATED WITH SECTION 96 MODIFICATION TO DEVELOPMENT CONSENT FOR AN URBAN HOUSING DEVELOPMENT AT NO.11 – 13 CHURCH STREET, NELSON BAY

REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

1. Not support the Section 96 Modification Application due to excessive height, density, floor space ratio and other non-compliances.
2. Delegate determination of the Section 96 Modification Application 16-2000-380-1 for 11-13 Church Street, Nelson Bay to the General Manager noting the conclusion to the report that the Section 96 modification should be refused based upon the draft reasons for refusal shown in Attachment 3.
3. Note that the review of the *Height of Tall Buildings Study* will form part of a comprehensive Planning Strategy for the Nelson Bay / Shoal Bay districts.

OPERATIONS COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Application be deferred to allow staff to assess the amended plans submitted by the applicant on 13 March 2007, including re-advertising and that the matter be brought back to the April Operations Committee, if possible.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

064	Councillor Jordan Councillor Francis	That the Operations Committee Recommendation be adopted.
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BACKGROUND

This Section 96 application has been called to Council at the request of Councillors Westbury and Dover. Following extensive consultation with East Ward Councillors this report seeks Council's direction on proposed, significant departures from current development standards contained in the Port Stephens Local Environmental Plan 2000 associated with the assessment of this S96 modification.

This report is not a fully comprehensive assessment of the proposed S96 modification under the Environmental Planning and Assessment Act 1979. The purpose of the report is to enable Council to provide clear direction in respect to the key policy issues of height, density and floor space ratio for development on this site and the Nelson Bay Central Business District in general.

Council has closely considered whether the current proposal can be reasonably considered under Section 96 of the EP&A Act 1979 rather than requiring a new development application. Council's current legal advice indicates that Council can determine the current Section 96 application on merit. If a new application was lodged based on the significant departures proposed the Department of Planning would be the consent authority for a new Development Application.

LEGAL/POLICY IMPLICATIONS

There are significant legal and policy implications for Council relating to this Section 96 application. The proposal is inconsistent in a number of areas with established Council Policy. The proposal involves significant departures to all development standards set out in Clause 19 of Local Environmental Plan 2000 (ie. density, floor space ratio and height limit).

The ramifications of supporting the proposal, in particular the height departure alone, will undermine a long standing Council policy adopted and implemented in the mid 1980's known as the *Height of Tall Buildings Study*. The previous Local Environmental Plan 1987 and the current Local Environmental Plan 2000 set down a maximum height limit of 15.0 metres for Residential 2(c) zoned land. The consistent application of the adopted height limit, including some minor variations, has reinforced existing and adopted desired future development patterns in the Nelson Bay area. This current proposal is contrary to Council's consistent approach and is considered an overdevelopment of the site. If the proposal is supported it would set an undesirable precedent for future development outcomes within the Nelson Bay further undermining public expectations of a predictable and orderly built environment.

Original Development Consent and Section 96 Modification Applications

The original Development consent was granted on 29 May 2000 pursuant to the requirements of Local Environmental Plan 1987. The approved development was configured in two separate building blocks – Block A & B with associated services and facilities provided on the site. The approved 25 unit development consisted of 14 x 2 bedroom units and 11 x 3 bedroom units.

Since the original development consent was granted, a total of eight (8) modified consents (ie. Section 102 and Section 96 applications) have been submitted and subsequently approved for this development. Provided in Attachment 4 is a chronology of the major elements previously submitted in these modification applications. The current development consent, as modified, consists of 25 units with maximum height of approximately 18.0 metres.

The current Section 96 application, (Modification No.9) was lodged on 15 February 2006. Notices of Intent to Refuse the application were issued by the Sustainable Planning Group on two occasions, 28 April 2006 and 30 November 2006. During the assessment and the Intent to Refuse process, the application was called to Council for determination. The latest revised proposal generally consists of:-

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

- Density increase from 25 to 42 units;
- Floor Space Ratio increase from 1.9:1 to 2.5:1;
- Height increase from approximately 18.0 metres to 24.0 metres (as measured from Natural Ground Level only);
- Revised design of roofline and upper storey levels of buildings – Block A & B;
- Revised access/carparking arrangements to accommodate additional carparking on-site;
- Minor changes to Site Coverage and Garbage Bin storage;

Key Issues

The key issues associated with this Section 96 modification are as follows:

- Height
- Density
- Floor Space Ratio
- Carparking
- Other (including individual penthouse offices, Construction Certificate, drainage and stormwater management and recommended re-notification).

New Development Application v Section 96 Modification Application

Prior to lodgement of the Section 96 application, the applicant made inquiries with Council in respect to the proposal. Council's initial advice questioned the appropriateness of lodging a Section 96 for the extent of variations proposed and suggested consultation with the Department of Planning in respect to lodgement of a new development application. Council also expressed concern over the extent of departures from Council's planning instrument (ie. LEP 2000), and that it was unlikely these variations would receive support from Council.

Following consultation with the Department of Planning, the applicant proceeded to lodge a Section 96 application on 15 February 2006 with Council, the subject of this report. Upon lodgement of the Section 96 application, Council sought legal advice on two points. Firstly, whether the development is considered substantially the same development and therefore, legally able to be considered under a Section 96 application, and secondly, whether the Department of Planning have a concurrence role in respect to height under the provisions of the Hunter Regional Environmental Plan 1989. The Section 96 application was also referred during assessment to the Department of Planning for their assessment and concurrence.

Given conflicting opinions from both the Department of Planning and Council's legal advisors, the need existed to seek further clarification on these two points. The current position is that both Council's legal advisors and the Department concur that there is no legal requirement for concurrence to be obtained from the Department of Planning for a Section 96 application. However, there remains a difference of opinion in regards to whether it is appropriate to be dealing with such variations under a Section 96 application, rather than requiring lodgement of a new Development application.

Council's legal advisors remain of the opinion that Council is able to deal with the current Section 96 application based on recent Land & Environment Court decisions, and consider there are merit grounds for refusal of the application. The Department of Planning maintain a different opinion in that *"the proposed modification represents a significant departure from the original approved Development application"*, with specific reference to additional storeys

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

and units, and have stated that “the Coastal Assessments Branch has advised that in these circumstances the Department’s normal practice would be to require a fresh DA to be lodged”. The Department also recognised that ultimately it is the consent authority’s decision whether or not to accept the lodgement of a Section 96 application.

In conclusion, Council has proceeded to assess the Section 96 application based on legal advice received, however on-going reservations at the assessment level and the opinion of the Department of Planning, further questions the appropriateness of assessing the magnitude of variation under a Section 96 application. The Department of Planning would be the consent authority for a new Development Application.

Merit Assessment

A comprehensive assessment under Section 79C of the Environmental Planning & Assessment Act 1979 has not been undertaken. This report focuses on the key development standards and proposed variations to these standards. Council has a legal obligation to assess the Section 96 application under the provisions of the current LEP 2000 and not under the provisions of LEP 1987.

In undertaking a merit assessment of the Section 96 application the key areas of non-compliance relate to density, floor space ratio, height and other non-compliances or inconsistencies and are discussed below.

Table - Summary of key areas of non-compliance

Attribute	Proposed	Required	Complies	Variation sought
Height	24.0 metres	15.0 metres	No	+ 9.0 metres Or 60%
Density	1 unit / 60m ² (42 units)	1 unit / 150m ²	No	+ 90m ²
Floor Space Ratio	2.5: 1	1.8:1	No	+ 0.7:1
Carparking	69 spaces	70 spaces	No	- 1 spaces (minimum)

Discussion

Height

Proposed:

The proposal seeks a variation to height and suggests maximum heights of each building, proposed in the order of Block A – 21.4m (northern end) and Block B – 21.8m (south eastern corner) measured from Natural Ground Level (NGL).

Comment:

The current development consent, as modified provides for a maximum height of approximately 18.0 metres. The height limit pursuant to both LEP 1987 and LEP 2000 is a maximum of 15.0 metres. This height limit has been in existence circa 1987 and was determined through the *Height of Tall Buildings Study* commissioned in the mid 1980's.

For the purposes of assessment, the proposed increase in height needs to be considered in the context of the 15.0 metre height limit within the Residential 2(c) Zone pursuant to Clause 19 of LEP 2000, with consideration given to the existing approved height of 18.0 metres. This development has received approval for an incremental creep in respect to the maximum height from 15.0 metres to 18.0 metres (3.0 metres above the limit) and is now proposing a further variation from 18.0 metres to 24.0 metres (9.0 metres above the 15.0m limit).

The assessment does not concur with the documentation submitted with the Section 96 application, which suggests maximum heights of each building, proposed in the order of Block A – 21.4m (northern end) and Block B – 21.8m (south eastern corner) measured from Natural Ground Level (NGL). It is also noted that the justification submitted in support of the height increase is primarily based on how it is measured and viewed from street level, in particular the higher street level taken from the lower side of the lot and between each building and from adjoining properties, with no demonstrated justification as to how it will be viewed from any public place including the waterway. It is also difficult to determine the accuracy of the Shadow/Streetscape Diagram submitted.

The assessment of height (as required), based on the limitations of information submitted to Council has been taken from Natural Ground Level only, (not Finished Ground Level) with maximum heights as follows:-

- Block A – 24.15m (north eastern corner of building), 23.75m (northern ridgeline) and 21.85m (southern ridgeline).
- Block B – 24.15m (north eastern corner of building) and 23.7m (northern ridgeline) and 21.8m (southern ridgeline).

The proposal represents a 60% or 9.0 metre increase/variation to Council's 15.0 metre height limit, and 40% or 6.0 metre increase/variation to the existing approved height of approximately 18.0 metres. Whilst, it is acknowledged that variations to the 15.0 metre height limit have been granted to both the subject development and surrounding developments (including adjoining Commercial 3(a) zoned land), in comparison these variations are considered minor. The proposed height variations currently before Council, in either context are considered significant departures to Council's planning instrument with no sound planning grounds, nor merit to support further increases in height proposed under this application. .

To support these variations will also have ramifications to Council's 15.0 metre height limit requirements within the adjoining Commercial 3(a) zoned land given similar development pressures being experienced within this zone, not unlike development in the Residential 2(c) Zone. The proposal is also considered contrary to the public interests and expectations, of an orderly and predictable built environment.

In conclusion, it is considered that overall, the 15.0 metre height limit has generally achieved acceptable results for Council, the community and developers during this period of time and

whilst it is acknowledged that variations above this 15.0 metre limit have been supported, development has generally occurred within the character of the area. To support this proposal with extensive departure in height is considered contrary to these achievements, with height a contributing factor to unacceptable bulk and scale and an over development of the site. Therefore, it is recommended that the Section 96 application not be supported with height a key reason for refusal as outlined in this assessment. It is also recommended that in the context of the Nelson Bay central area, height has continued to be of major community concern and with continued development pressure to undermine Council's policy, a review of the *Height of Tall Buildings Study* and preparation of a comprehensive Master Plan for the Nelson Bay / Shoal Bay central area is thought necessary to deal with these broader policy issues.

Density

Proposed:

The Section 96 application lodged proposed an increase in density from 25 units to 41 units. During assessment of the application, the density was revised and reduced to 40 units with plans submitted. However, the latest proposal consists of 42 units based on current plans (Block A – 20 & Block B – 22) with floor plans clearly providing for 42 numbered units.

Comment:

The current development consent relates to approval for a 25 unit development. The subject site has a total site area of 2,516m². Based on the density provisions of 1 unit / 100m² pursuant to Local Environmental Plan 1987, the development, as approved, complied with Council's density requirements (gaining approval for the maximum density potential on the site).

A merit assessment of the proposal has been undertaken on the basis of proposed increase from 25 to 42 units (current plans submitted). The density variation is being considered on its merits, based on the current density provisions of 1 unit / 150m² pursuant to the requirements of Local Environmental Plan 2000. Whilst the current Local Environmental Plan 2000 has a different density standard to that under which the original consent was granted (ie. LEP 1987), the development, was approved for the maximum density potential of 25 units, based on total site area. The current requirements of LEP 2000, has a maximum density potential of 16 units, based on total site area. This reduction in density potential between LEP 1987 and LEP 2000 shows a clear decision or policy change introduced in LEP 2000. This policy change should not be undermined without reasonable merit or justification.

The existing approval for 25 units is the maximum density potential under LEP 1987, representing a 9 unit difference between LEP 1987 and current LEP 2000. The proposal represents a 26 unit increase to Council's current density standard, and a 17 unit increase to the existing approved density of 25 units. There is also a proposed Security/Caretaker accommodation unit, which potentially should be considered as an additional unit.

Notwithstanding Council's obligation to assess this proposal under LEP 2000, in either context the proposed variations are considered significant and unacceptable departures to Council's requirements (past and present), with no merit to support the proposal for 42 units. This represents a density proposal of 1 unit / per 60m², where the current maximum density potential under LEP 2000 is 1 unit / 150m².

It is considered that any further variation to density on this site, and to the extent of 42 units, has no sound planning grounds when considering Council's past and present planning instruments, nor merit to support the extent of variation. The density departure is considered a major element contributing to the unacceptable bulk and scale and over development of the site. Further, it is likely to be inconsistent with the densities proposed/approved within the adjoining Commercial 3(a) Zone, where there is no actual density standard existing. In this regard, Council when assessing these developments with residential components above ground level, is guided by the Residential 2(c) density provisions to aid in achieving acceptable forms of development and acceptable residential living standards.

Floor Space Ratio

Proposed:

The Section 96 application, as indicated on plan suggests a maximum FSR of 2.2:1.

Comment:

Council's Floor Space Ratio (FSR) requirement has remained the same in both LEP 1987 and LEP 2000 with a maximum of 1.8:1. The current development consent, as modified provides for a total Floor Space Ratio (FSR) of approximately 1.9:1.

However, an assessment has been undertaken and has identified that this ratio is higher than stated in supporting documentation with FSR calculated at 2.5:1. This variation is considered to be a contributing factor to the unacceptable bulk and scale and over development of the site and therefore, should not be supported by Council.

Access and Carparking Provision on-site

Proposed:

The proposed plans provide for a total of 69 carparking spaces on-site, with access to 59 spaces via the northern access/entry point and access to the remaining 10 spaces via the southern access/entry point.

Comment:

An assessment of carparking provision has been finalised and based on the number of units and bedroom numbers carparking required is calculated as follows:-

Block A: 11 x 2 Beds Units = 11 spaces and 9 x 3 plus Beds Units = 18 spaces (Total = 29)

(Note: Potential of 3 extra spaces required depending on room use)

Block B: 13 x 2 Beds Units = 13 spaces and 9 x 3 plus Beds Units = 18 spaces (Total = 31)

(Note: Potential of 2 extra spaces required depending on room use)

Residential unit occupants parking = 60 spaces;

Security / Caretaker unit = 1 space;

Visitor parking = 9 spaces;

Total = 61 residential spaces and 9 visitor spaces (Overall Total =70 spaces)

Note: These calculations exclude the units that have Study Rooms noted above.

An shortfall of 1 carparking space has been identified. Notwithstanding, this initial shortfall, there are a number of spaces (out of the 69 spaces provided on plan) that do not appear to comply with Council requirements and the Australian Standard: Parking facilities for off-street parking and therefore, the potential for greater than 1 spaces is evident as outlined below (areas of non-compliance):-

- A total of 6 spaces out of the 59 spaces identified as accessible via the northern access/entry point, would appear not to comply and the carparking arrangement in this regard suggests that the 2 way access/traffic flow is no longer achievable, whereby reducing traffic flow to 1 way only being physically achievable.
- A total of 2 spaces out of the 10 spaces identified as accessible via the southern access/entry point, would appear not to comply.
- A further 6 spaces are considered marginal to complying with requirements.
- The northern access/entry-exit is required to be one combined access point.

Therefore, based on an assessment of 42 units and a security/caretaker's area a total of 70 carparking spaces is required to be provided on-site (ie. 61 for occupant carparking / security guard & 9 for visitor parking). Based on the above areas of non-compliance, it is likely that an additional shortfall of up to 14 spaces above the initial 19 space do not comply.

The assessment concludes that due to the increase in density proposed, there has been an inability to provide the required carparking, appropriately located on-site, accessible and without compromise to the two-way traffic flow within the site and vehicles being able to enter/leave the development in a forward direction as required. Therefore, this further suggests that the proposal is an over-development of the site and should be amended accordingly to enable required carparking provision on-site.

It is noted that whilst the Section 94 Contributions Plan - Tomaree Peninsula has a carparking contribution for Nelson Bay, it would be inappropriate to accept payment for any shortfall for residential development. Council's continued efforts of enforcing the need to strictly comply with Council's carparking requirements for residential development demonstrates no sound planning justification for a variation in this instance and suggests an over-development of this site.

Other

There are a number of other issues, which have been identified in finalising assessment and the report to Council. These are discussed below and include the following:-

- Individual Penthouse Unit Office Areas located on Level 2 – Ground Floor Level;
- Construction Certificate;
- Drainage needs to be further explored; and
- Re-notification warranted given extent of changes over time.

- Individual Penthouse Unit Office Areas located on Level 2 – Ground Floor Level

Clarification is required confirming that these individual offices are to be used exclusively as private offices for each Penthouse, without any use as commercial premises or conducting external business activities whereby members of the public attend the premises.

- Construction Certificate

Council was appointed to determine the original Construction Certificate and undertake inspections. An application for an amended Construction Certificate has not been lodged at this stage. Preliminary assessment of the plans submitted to amend the development consent revealed some areas of non-compliance with the deemed to satisfy provisions of the Building Code of Australia and these issues may require further assessment and consideration.

- Drainage needs to be explored further

It would appear that drainage can be achieved regardless of the extent of changes. However, further information is needed to enable a more detailed assessment to be undertaken, prior to any support of the application.

- Re-notification warranted given the extent of changes over time

The Section 96 application has been publicly exhibited with 3 submissions received raising objection to the original proposal in approximately July 2006. The main areas of concern relate to:-

- Is the development substantially the same development, based on current changes proposed and number of previous modifications made to this development;
- increase in height warrants greater setbacks;
- over-shadowing impacts (insufficient information submitted to determine impacts);
- insufficient information provided to enable objectors to respond;
- undesirable precedent if variations are supported by Council;
- extra height only wanted due to loss of water view by surrounding developments, is not good justification to vary the height limit;
- to continue to support variations to density and height will have major impacts on streetscape, traffic and the character of this area of Nelson Bay.

However, it should be noted that during the course of this assessment, the applicant has submitted various sets of revised plans and documentation, which have not all been publicly exhibited, in particular the current revised plans and documentation. Therefore, it is strongly recommended that the current plans and information be publicly exhibited prior to any consideration of support being given to this application in accordance with the requirements of Council's Advertising Policy.

LINKS TO CORPORATE PLANS

This report relates to the Goal in the Assessment and Approvals program of Council's Management Plan, which is an ordered and predictable built environment in Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

The recommendation to undertake a review of the *Height of Tall Building Study* and need for the preparation of a comprehensive Master Plan for Nelson Bay will have both financial and resource implications.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Approving the variations proposed under this Section 96 modification (ie. Height, Density, Floor Space and carparking shortfall) will establish an undesirable precedent whereby future proposed development/modifications will most likely seek similar concessions.

Community concern exists throughout the Local Government Area and in particular the Nelson Bay area, and generally relates to varying any of the development standards contained in Council's planning instrument. However, it is noted that height in particular is of major concern along with the concern that Council are continually pressured by development to support variations to Council policy.

Other non-compliances such as carparking also contribute to an over-development of the site and suggest that the proposed increase in density is unachievable based on site area. Further, it is noted that in supporting such a proposal, is likely to result in an increase in overall community concern for these inconsistencies with Council policy, and in time, will potentially be to the detriment of residential amenity in the Nelson Bay central area. Therefore, the proposal is considered contrary to the public interests and expectations of a predictable and orderly built environment.

ECONOMIC IMPLICATIONS

An orderly and predictable built environment based on consistent application of landuse controls and standards is required to support economic and investment decisions within Nelson Bay central business district and surrounding areas. Variations to policies and

standards can lead to increased speculation and development pressures on Residential 2 (c) zoned land seeking major departures from established planning controls and raised inequities with other developments.

ENVIRONMENTAL IMPLICATIONS

Approving the extensive departures to Council policy will not only undermine these requirements but will set a precedent within the Nelson Bay central area and in other areas of the Local Government Area and create even greater uncertainty of the public interests and expectations, of an orderly and predictable built environment.

CONSULTATION

The Section 96 application has been publicly exhibited with 3 submissions received raising objection to the original proposal in approximately July 2006. However, it should be noted that during the course of this assessment, the applicant has submitted various sets of revised plans and documentation, which have not all been publicly exhibited, in particular the current revised plans and documentation. Therefore, it is strongly recommended that the current plans and information be publicly exhibited prior to any consideration of support being given to this application to ensure compliance with Council's Advertising Policy.

Apart from the public exhibition process there was a need to undertaken consultation with other parties including Sparke Helmore Solicitors, Department of Planning and East Ward Councillors. The reasons for this consultation are outlined below:-

Sparke Helmore solicitors – Council sort legal advice in respect to the appropriateness of a Section 96 application, as opposed to a new Development Application and in relation to the concurrence role of the Department of Planning.

Department of Planning – Council referred the Section 96 application to the Department seeking their concurrence for proposed height pursuant to Clause 58 – Tall Buildings: Hunter Regional Environmental Plan 1989. The Department advised they do not have a concurrence role in respect to a Section 96 application and that in their opinion, a new Development Application would seem more appropriate given the extent of departures to Council's requirements.

East Ward Councillors – several rounds of consultation took place with Ward Councillors to provide information on both this development and surrounding developments in this area of Nelson Bay. Councillors Westbury and Dover called the Section 96 application to Council for determination.

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject or amend the Recommendations to provide "in principle" support of the Section 96 Modification Application.

ATTACHMENTS

- 1) Locality Plan
- 2) Reasons for Refusal

- 3) Extract of Sparke Helmore advice - summary of modifications

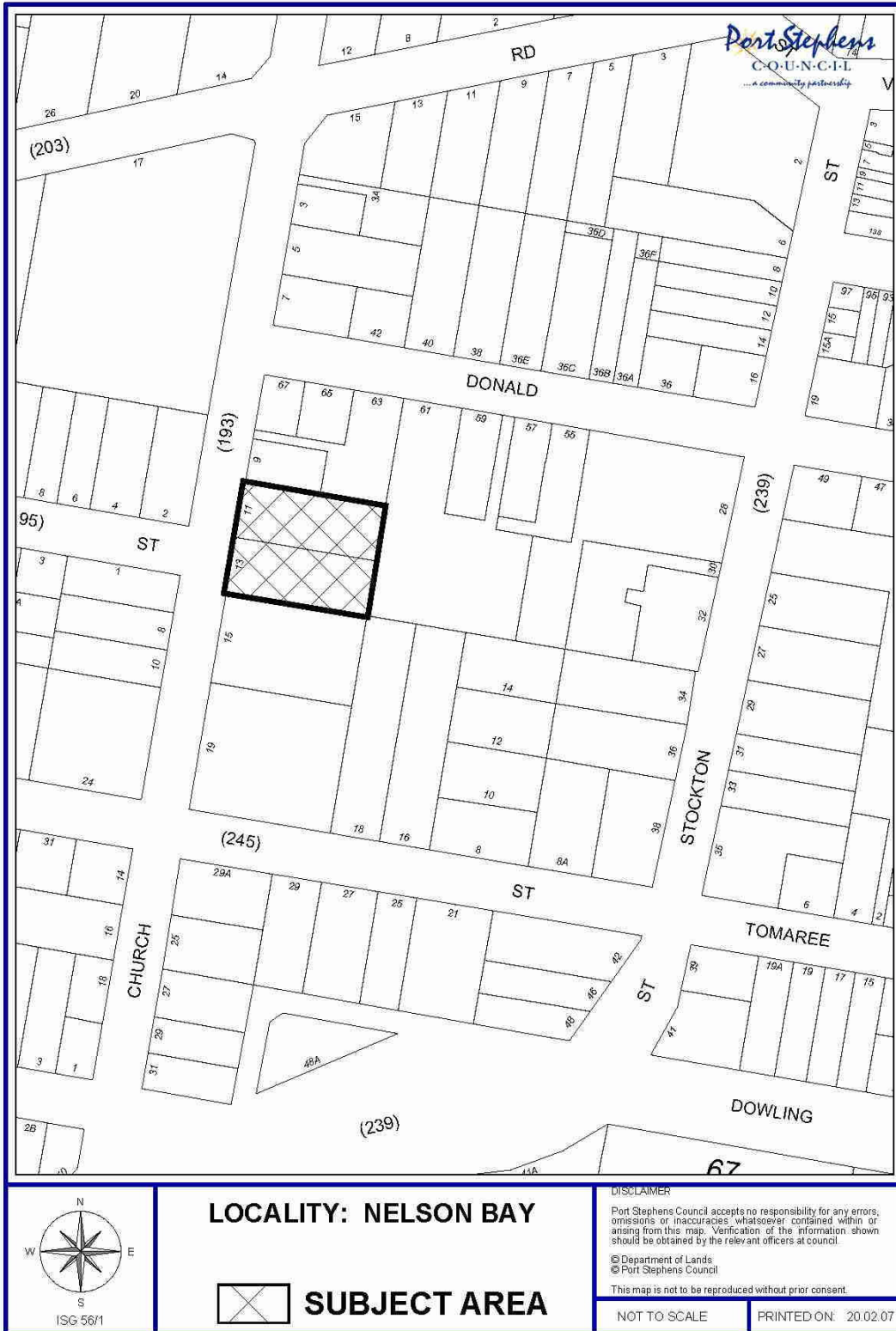
COUNCILLORS ROOM

- 1) Plans
- 2) Statement of Environmental Effects

TABLED DOCUMENTS

NIL

ATTACHMENT 1
LOCALITY PLAN



ATTACHMENT 2

DRAFT REASONS FOR REFUSAL

1. The development does not comply with Council's Height limit development standard pursuant to Clause 19 of Port Stephens Local Environmental Plan 2000, with the extent of variation to the standard considered unacceptable.
2. The development does not comply with Council's Minimum Area per Dwelling (ie. density) development standard pursuant to Clause 19 of Port Stephens Local Environmental Plan 2000, with the extent of variation to the standard considered unacceptable.
3. The development is contrary to the public interests and expectations, of an orderly and predictable built environment.
4. The development does not comply with both Council's Parking and Traffic Development Control Plan PS2 and Australian Standard: Parking facilities for off-street parking. The development does not comply with the required number of access carparking spaces. The development does not provide for carparking, appropriately located and without compromising compliance with adequate turning and passing areas on site.

ATTACHMENT 3

EXTRACT FROM SPARKE HELMORE ADVICE – SUMMARY OF MODIFICATIONS

Modification 1

- On 29 May 2000, an application to modify the Original Consent was lodged.
- The amendments included the provision of additional carparking, addition of ensuites to 12 units, a 500mm increase to the setback at the southern boundary, one apartment changed to a three bedroom apartment, slight extensions to the apartment blocks to the west/south/north, increase in balcony areas for all units, as well as an increase in the roof deck size.
- Council approved the application by notice dated 17 April 2001.

Modification 2

- On 8 June 2001, a further application to modify the Original Consent was lodged with Council. The amendments included a change to the internal layout of the units, alteration to the front radius of Block A and B, the addition of a sauna and spa to three apartments and the addition of a small courtyard area to two apartments.
- Council approved the application by notice dated 18 June 2001.

Modification 3

- On 6 August 2001, a further application to modify the Original Consent was lodged with Council. The amendments included the addition of a green house, sundeck and roof over the pool, 350mm added to the roofline for Block A and B.
- Council approved the application by notice dated 11 October 2001.

Modification 4

- On 7 February 2002, a further application to modify the Original Consent was lodged. The amendments included minor amendments to balconies & sauna areas, lift/foyer areas, as well as the carpark.
- Council approved the application by notice dated 18 February 2002.

Modification 5

- On 7 May 2002, a further application to modify the Original Consent was lodged. The amendments included various internal amendments, minor balcony alterations, and a change in the 25 units from 14 x 2 bedroom units to 7 x 2 bedroom units, and from 11 x 3 bedroom units to 18 x 3 bedroom units.

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- Council approved the application by notice dated 26 August 2002.

Modification 6

- On 3 July 2003, a further application to modify the Original Consent was lodged with Council.
- The amendments included the addition of small balconies to the south, adjustments to the swimming pool, modification to balconies to west/north/east, alteration to common building and a change in the swimming pool shape.
- Council approved the application by notice dated 11 September 2003.

Modification 7

- On 13 November 2003, a further application to modify the Original Consent was lodged with Council.
- The amendments included an alteration to the roof plan, decrease in roof pitch, change in the balcony shape of common areas of two apartments, addition of pergola to an outdoor living area, and the roof plan of the swimming pool was altered.
- Council approved the application by notice dated 10 February 2004.

Modification 8

- On 22 November 2004, a further application to modify the Original Consent was lodged with Council.
- The amendments included the relocation of one unit from Level 5 on Block A to Level 5 on Block B, change to lift shaft, addition of column at the north to increase structural stability, change in shape of front balcony from curved edge to straight edges and the enclosure of the north facing balconies.
- Council approved the application by notice dated 21 April 2005.

Modification 9 – Current Application

- On 15 February 2006, the application to modify the Original Consent which is the subject of this advice was lodged with Council.
- The amendments proposed by this application consist of the following:
 - (a) An increase in the number of units from 25 to 41 units. This will entail an increase in the number of units on levels 4-6 from 1-2 to 3 units per floor.

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- (b) An increase in the height of the buildings by approximately 5 metres (ie from approx 18 metres to 23.5 metres) to accommodate increase in ceiling height of 100mm per floor.
- (c) Conversion of two first floor apartments into parking spaces, resulting in the development increasing from five to seven storeys.
- (d) Addition of balconies to the southern side.
- (e) The building footprint is to remain the same.

ITEM NO. 1

FILE NO:PSC-2006- 1627

CONSOLIDATED PORT STEPHENS DEVELOPMENT CONTROL PLAN 2007

REPORT OF: JENNIFER SMITH - MANAGER COMMUNITY PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the recommended revisions to Draft Port Stephens Development Control Plan 2007 made in response to submissions received during public exhibition;
- 2) Adopt the revised Draft Port Stephens Development Control Plan 2007 – and thereafter be known as the PS DCP 2007, and
- 3) Note that draft amendments to the PS DCP 2007 regarding restricted premises and sex premises and aircraft noise will be submitted to Council in April 2007.

STRATEGIC COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Development Control Plan be adopted with deferral of C4 & C5 of the Development Control Plan.

TABLED DOCUMENT

Revised Draft Port Stephens Development Control Plan 2007

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

065	Councillor Brown Councillor Jordan	That the Strategic Committee Recommendation be adopted.
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BACKGROUND

The purpose of this report is to review submissions made in response to exhibition of the Draft Port Stephens Development Control Plan 2006, which is a consolidation of all existing development control plans in one structured planning instrument. The report seeks Council endorsement to adopt the revised Draft DCP to be known as Port Stephens Development Control Plan 2007.

LINKS TO CORPORATE PLANS

The Revised Draft DCP provides guidelines and controls for development in accordance with the Port Stephens Settlement Strategy.

FINANCIAL/RESOURCE IMPLICATIONS

The Revised Draft DCP has been prepared by Council staff.

LEGAL AND POLICY IMPLICATIONS

- 1) The Revised Draft DCP reinforces the principles of economic, social, parking, traffic and public transport considerations as set out in the Draft Port Stephens Community Settlement and Infrastructure Strategy.
- 2) Preparation of the Revised Draft DCP has allowed an “administrative clean-up” of existing plans. Its format allows ready extraction of one or more ‘chapters’ as required by a user.
- 3) The Revised Draft DCP also provides supplementary controls to address identified gaps for particular types of development; such as dual occupancy sub-division or mixed use development.
- 4) The Revised Draft DCP 2007 provides for future additional chapters (such as local controls for Medowie, Karuah or Lemon Tree Passage or issue specific controls for aircraft noise and sex industry premises)

Port Stephens LEP (2000) Amendments

No amendments are currently required to Port Stephens LEP (2000).

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 4) To improve the outcome, improve the system and its associated processes
- 6) Continual improvement and innovation depend on continual learning
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 9) All systems and processes exhibit variability, which impacts on predictability and performance
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society

- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

The revised Draft DCP addresses a range of sustainability issues for future green field development and for infill sites. The draft Strategy is consistent with Council's Sustainability Policy and puts into effect the sustainability criteria of the Port Stephens Settlement Strategy.

The public exhibition has allowed the community to comment on how Council is proposing to guide and support sustainable development in the Port Stephens Local Government Area. Positive support for the initiatives of the document has been received from several respondents.

SOCIAL IMPLICATIONS

The Revised Draft DCP provides clear direction for development of more socially robust streets and supports opportunity for community interaction

ECONOMIC IMPLICATIONS

The Revised Draft DCP supports better quality mixed use retail, commercial and residential development for neighbourhood and town centres.

ENVIRONMENTAL IMPLICATIONS

The Revised Draft DCP controls have been reinforced in relation to street connectivity, lot layout for sun access, waste management, tree planting in the street and on site, and better design for steeper sites.

CONSULTATION

Public exhibition of the Draft DCP has been undertaken as follows:

- 1) Draft DCP on public exhibition for 6 weeks with copies available at Council administration building, Raymond Terrace, Tomaree and Mobile Libraries and on Council's website inviting written submissions from the public;
- 2) Formal consultation with Department of Planning; Department of State and Regional Development; Department of Environment and Conservation; Catchment Management Authority; Department of Education and Training; Ministry of Transport; Department of Housing; Tourism NSW; Rural Fire Service; NSW Fire Brigade; Department of Natural Resources; Hunter Water Corporation, Newcastle, Maitland, Dungog and Great Lakes Councils, Energy Australia; Port Stephens Marine Park Authority; Department of Energy, Utilities and Sustainability; and Landcom.
- 3) Conduct of a half day summit for members of the development industry and government agencies to ensure that the principles and guidelines of the Draft DCP are clear and achievable.

Submissions

26 submissions have been received and the majority of these have provided thoughtful and constructive responses to the exhibition document (see **Attachment 1**). Several expressed strong support for Council's initiative in the reform of development controls, including Eco-network Group and Landcom.

Several issues were common to a number of submissions including:

- Single dwellings – setbacks, front entries, site coverage, garages, deep soil planting, cut and fill and split level design
- dual occupancy and 2 lot sub-division - impact on streetscape
- seniors living –site location criteria and availability of land

A number of items were overlooked in the transfer of content from existing plans and in particular:

- works in public domain (PS 10 – Building Standards and Notification Procedures for Development Applications)

Amendments to Draft DCP in Response to Submissions

Each of the issues raised in submissions has been addressed in the summary of submissions (see **Attachment 1**). Appropriate amendments have been made in the Revised Draft DCP in consultation with members of the Project Working Group within Sustainable Planning.

In particular the following changes should be noted:

Street Infrastructure B1

Council's Asset Engineers have made recommendations to clarify requirements for street infrastructure, including the type and location for footpaths street lighting, street trees and bus shelters. Changes have been made accordingly in Part B1.

Tomaree East Precinct highlighted the need for street and block layouts as guidelines for industrial sub-division. Principles for industrial and commercial lots have been included under separate heading to residential sub-division.

Environmental and Construction Management – B2

Existing construction management requirements (currently in PS10 Building Standards) such as controls for building over streets and support for neighbouring buildings were overlooked in the transfer of controls from the existing DCP. The provisions may apply to any development site in the LGA and consequently the principles and controls have been included in Part B2 Environmental and Construction Management.

Single Dwellings-B6

Submissions and feedback on the industry summit day highlighted concerns about some controls being too prescriptive and not permitting response to local site conditions. In particular house layout should respond to lot orientation and sun access. As a result the rear

setback and open space controls have been made more flexible to permit L-shaped and courtyard layouts. Acceptable solutions that achieve high amenity private open space and consolidated tree planting areas are now illustrated (see Figure B6.2).

In addition front setbacks are reduced to 4m for verandas, porches or decks. On sloping sites front setback may be reduced to 4m for verandas, porches or decks and habitable living spaces which occupy no more than 50% of the frontage.

Submissions indicated that the controls for garage setbacks were too complex. These have been simplified whilst ensuring that garages are less dominant in the streetscape (see Parts B6.3 and 7.3).

Restrictions on cut and fill and retaining walls were considered to restrictive and could require multi-level houses. Controls encourage use of batter slopes to deal with site slope and have been amended to permit cut or fill in excess of 1m for localised knolls or depressions wholly contained within a development site. This would provide flexibility for integrated proposals that incorporate sub-division and development of housing.

Dual Occupancy Dwellings –B6

For “side by side” dual occupancy the control that limits maximum garage width relative to overall dwelling width also determines minimum site frontage by default. The implications for potential dual occupancy sites is made more explicit by an additional note and example; whereby a lot with say a single 20m street frontage could accommodate a 2B/R dwelling with a single garage and a 3 B/R dwelling with a double garage (see Part B6.3).

Seniors Living-B9

Submissions noted that the locational criteria for seniors living sites (namely proximity to a public bus stop and local shops and services) would restrict the number of acceptable sites, increase the cost of development and reduce affordability of seniors living dwellings.

It is noted that SEPP (Seniors Living) requires that self-contained seniors living dwellings are located on land zoned for urban development (and so excludes sites adjacent to residential zones with less infrastructure or poorer accessibility). It also includes explicit requirements for proximity to shops and services and availability of bus services to shops and services).

In the Revised Draft DCP a number of controls for site location either duplicate or are more onerous than the SEPP provisions and these have been removed (see Part B9.3). In order to improve connectivity and walkability access within a Seniors Living site must be provided via a public street or streets that are well connected to the existing street network(except on small infill sites where it is not possible to provide a through street).

Part B9 Seniors Living also contains design controls for self-contained dwellings (covering setbacks, building design, vehicular access, amenity, open space and landscape). The SEPP (Seniors Living) sets out design principles which must be considered in the design and assessment of development applications for Seniors Living. The Seniors Living Policy Urban Design Guidelines for Infill Development (Department of Infrastructure Planning and Natural Resources 2004) also provides guidelines and design solutions to meet the requirements of the SEPP.

In the Revised Draft DCP any design controls that duplicate provisions of the SEPP (Seniors Living) or the Urban Design Guidelines have been removed (see B9). The remaining

controls generally relate to streetscape, setback requirements and density controls that are appropriate for the Port Stephens LGA. (Parts B9.3, B9.4 and B9.5).

Waste Management

Requirements for wheelie bin and bulk bin storage both on the street and on-site have been included in the Revised Draft DCP at the request of Council's Waste Management Officer (see Parts B6.17, B7.17, B8.22 and B9.10).

Aircraft Noise

Proposed Aircraft Noise policy and appropriate amendments to Part B2 of the DCP will be the subject of a separate report to Council in April. The policy requires more in-depth work than the timeframe for the revision and adoption of the revised draft consolidated DCP has allowed.

Restricted Premises and Sex Premises

The Revised Draft DCP includes an extra provision for notification of development applications for sex premises and restricted premises to churches, schools and community organisations within 400m of the proposed site; in accordance with council resolution of 26 September 2006 (Minute 700).

A further report and recommendations for an additional draft Part B13 Restricted Premises and Sex Premises (and associated LEP Amendment) is being prepared for the April meeting of Council.

King Street Waterfront Heritage Precinct

The Urban Design Study for King Street Raymond Terrace is the subject of a separate report to Council. Following endorsement of the Study the relevant development controls would be included in an amendment to Part C1 Raymond Terrace Town Centre.

Locality Controls- Medowie, Karuah, Anna Bay and Lemon Tree Passage

The strategic planning work being undertaken for the local areas of Medowie, Karuah, Anna Bay and Lemon Tree Passage will include a corresponding chapter Part C: Locality Controls in the consolidated Port Stephens DCP 2007. These would be the subject of separate report to council and the necessary exhibition of the new or amended material.

OPTIONS

- 1) To place the Revised Draft DCP on public exhibition for a further 4 weeks.

ATTACHMENTS

- 1) Summary of submissions

COUNCILLORS ROOM

- 1) Revised Draft Port Stephens Development Control Plan 2007

TABLED DOCUMENTS

Revised Draft Port Stephens Development Control Plan 2007

**ATTACHMENT 1
DRAFT PORT STEPHENS DCP 2006 SUMMARY OF SUBMISSIONS**

Draft Port Stephens DCP 2006 Summary of Submissions

Chapter	Issue	From	Detail	Response
	General	Hunter Water	<i>No comment on DCP</i>	Noted
	General	Eco Network Landcom	<i>General support for built form and environmental controls.</i>	Noted
A1	S96 Modifications to consent	Eco Network	<i>Modification of consent should be more limited and subject to notification.</i>	No change Current procedure requires notification of changes that may have an adverse impact on neighbours and persons who have previously made a submission.
A1	S96 Modifications to consent	Tomaree East Precinct	<i>Notification policy should include advertising of all S96 amendments.</i>	No change. Notification Policy requires advertising of substantial S96 amendments.
B1	Cul de sacs	Councillor Dover	<i>Cul de sacs provide good community interaction and should not be ruled out.</i>	No change. Option for spaced cul-de-sacs are acceptable where street linkages are not possible
B1	State policy on health	Hunter New England health	<i>No objection Note policy on street lighting</i>	Modify B1.10 to clarify street lighting requirements
B1	Road Alignments and Grades	Tomaree East Precinct	<i>Should distinguish between residential streets and industrial subdivision.</i>	Add controls in B1.5 for industrial subdivision and commercial.
B1	Road Alignments and Grades	Tomaree East Precinct	<i>Curved streets should not be discouraged.</i>	No change. Controls in B1.5 allow gently curved streets that maintain vista.
B1	Street and Block Layout	Tomaree East Precinct	<i>Small blocks and regular interconnected streets is costly.</i>	No change. Interconnected streets small blocks have significant social, health and environmental benefits.
B1	Street and Block Layout	Tomaree East Precinct	<i>Cul-de-sac control through traffic</i>	No change. Traffic concentrated on collectors, creates poor residential amenity.

REST OF PAGES MISSING?

ITEM NO. 2

FILE NO: PSC 2006-6461

KING ST RAYMOND TERRACE – URBAN DESIGN STUDY

REPORT OF: JENNIFER SMITH – MANAGER COMMUNITY PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the King Street Waterfront Heritage Precinct, Raymond Terrace, NSW. Urban Design Study by Dickson Rothschild February 2007 for the purposes of incorporation into Council's consolidated DCP.
- 2) Incorporate the recommendations of the Study as a future amendment of part C1 - Raymond Terrace Town Centre of Council's consolidated DCP.
- 3) Amend minute No 682 of the Ordinary Meeting on 26th September, 2006, recommendation No. 6 of the report "Developer Contributions (Section 94) – Program for Allocating Existing Funds and preparing Revised Developer Contribution Plans" by allocating \$18,000 to the King St Urban Design Study from equal amounts of the Raymond Terrace Open Space and Car Parking Categories attachment 1 of that report and reducing attachment 2 projects by the equivalent amount.

STRATEGIC COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

TABLED DOCUMENT

King Street Waterfront Heritage Precinct, Raymond Terrace, NSW. Urban Design Study by Dickson Rothschild February 2007.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

066	Councillor Hodges Councillor Brown	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to advise Council of the completion of the King St Urban Design Study and it's proposed incorporation into Council's Draft Consolidated DCP.

During the assessment of the Buildev commercial development application over 28 to 32 King Street, it became apparent that there was a need to provide a co-ordinated planning approach to all further redevelopment of the King St Precinct. Following discussions with Community Planning Staff, the Group Manager Sustainable Planning and West Ward Councillors, an Urban Design Study brief was prepared and expressions of interest sought in October 2006. The time frame for the study included a maximum of six weeks to ensure the Buildev application was compatible with the study objectives.

Three submissions were received from six potential consultancies. Dickson Rothschild were subsequently selected to undertake the study for the sum of \$39,170. This was reduced to \$35,945 by removing the requirement for a flooding report.

The final report, provided under separate cover to Councillors, is now presented for information and adoption of the recommendations.

SUMMARY OF REPORT RECOMMENDATIONS

The report provides important background information on the historical significance of the King Street precinct as an early example of the evolution of a river port town in which the rise and decline of river transport and the severe effects of flooding affected the prominence and decline of the precinct.

The report builds on the land use and land holdings of the precinct and develops a suitable built form character which takes into account views, vistas and place making elements to enhance and develop the Precinct.

DESIGN PRINCIPLES

The recommended key design principles and strategy for development include:

1. Establish Precinct Character;
2. Create a public urban riverfront park in the open space fronting Barnier Lane and King Street incorporating the Marriage Trees;
3. Create an accessible riverfront boardwalk;
4. Replace the levee/flood wall adjacent to the Bond Store with an operable removable flood gate to open up views to the river;
5. Consider adaptive reuse of the Bond Store associated with adjacent development to the West;
6. Create a special use development site East of Barnier Lane on the river front such as a restaurant or a function centre;
7. Consider a façade restoration of the Masonic Lodge;
8. Identify Key Development Sites as catalyst for revitalizing the precinct;
9. Identify Potential Infill Development Sites to reinstate the existing street character;
10. Reinforce existing views and introduce new vistas / view corridors and pedestrian connections to the river;
11. Minimise vehicular entry points along King Street and consider integrated parking solutions;
12. Consider reduced parking standards and relocate excess parking to the East of Bourke Street.

BUILDING HEIGHTS

The study recommends building heights taking into consideration future development opportunities, the high flood risk and the existing one/ two storey character items in the precinct:

- Most of the development below the Flood level to be car parking and non habitable uses;
- One story above the Flood Level fronting King St;
- Transition to two story above the Flood Level fronting Bourke St, William St, Barnier Lane and the river;
- A setback to three story above the Flood Level in the centre of the developable area between King St and the river.

BUILDING DESIGN GUIDELINES AND BUILDING ENVELOPE CONTROLS

The study makes recommendations for building controls in relation to street and river frontage, heritage, colours and other factors.

LAND USE

The study recommends mixed-use developments with commercial office space and associated retail/ restaurants comprising a large portion of the general land use of the proposed precinct. Residential flats should only be allowed as part of mixed use developments, should not exceed 25% of the floor space in a mixed use building and should only be located on levels 2 and 3 above the Flood Level.

PUBLIC DOMAIN

The study recommends a Public Domain Concept Plan which:

- Provides a publicly accessible boardwalk with night lighting along the riverfront between William and Bourke Streets;
- Creates a riverfront park integrating the Marriage trees and defined by the heritage Bond Store and Masonic Lodge;
- Opens views to river by replacing a part of the levee / flood wall with removable / operable flood gates and reinstating the Bond Store to its original riverfront setting;
- Provides improvements to Bourke, King and William Streets;
- Undertakes a public art and heritage interpretation program.

LINKS TO CORPORATE PLANS

The King St Urban Design Study addresses the strategic and future directions of Council's Plan 2006-2009 in particular:

8.5.2 Ensure that our planning framework provides appropriate levels of housing, transport, infrastructure, human services and community facilities across all of our communities.

8.6.2 Manage facilities and services to meet community needs in a way that protects and enhances the environment and community values.

8.6.3 Ensure Council's forward planning framework for infrastructure matches development.

8.6.4 Encourage government, business and community partnerships for effective planning, maintenance and renewal of facilities and services.

FINANCIAL/RESOURCE IMPLICATIONS

Council's Strategic Engineer (Wal Mills) and Senior Strategic Planner (Susan Young) have managed the project.

As the study provides benefits to both existing and future development it is considered reasonable that 50% of the funding for the study be provided by S94 funds. It is therefore recommended that \$18,000 be recouped from the Open Space and Car Parking components of the proposed repeal to the S94 Plan for Raymond Terrace. The Community Planning Strategic Studies budget has sufficient funds to provide for the balance of \$17,945.

The implementation of the recommendations will require Development and Building staff and Private Certifiers to ensure development follow the guidelines.

The construction of the boardwalk is intended to be required as part of development consent with the funding by Developer Agreements or offsets to other S94 payments.

The projects for the enhancement of the foreshore and street works will be included in the respective Forward Works Program in consultation with Facilities and Services.

LEGAL AND POLICY IMPLICATIONS

The Study outcomes will be incorporated into the Consolidated DCP (as presented to Council in September 2006) as a future amendment to part C1 - Raymond Terrace Town Centre. The study and DCP will provide direction and development controls for the King Street precinct.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 5) The potential of an organisation is realised through its people's enthusiasm, resourcefulness and participation
- 6) Continual improvement and innovation depend on continual learning
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society

- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders
- 12) Senior leadership's constant role-modelling of these principles, and creating a supportive environment in which to live these principles will help the enterprise and its people to reach their full potential

SUSTAINABILITY IMPLICATIONS

The following implications will be developed into criteria and incorporated into Council's consolidated DCP. The DCP will provide a framework for future development based on those criteria.

SOCIAL IMPLICATIONS

The study identifies how to:-

- Integrate the heritage characteristics of King St with safe public accessibility to river views and amenities, framing a small high quality park around the heritage trees, while providing economic viability in the form of retail, office and other uses;
- Respond to the heritage character of individual items and the conservation area, and develop an urban design framework, integrated with heritage issues to establish built form controls and to allow King St to redevelop over time in a socially acceptable and sustainable manner;

ECONOMIC IMPLICATIONS

The study proposes to provide economic viability for the precinct in the form of retail, office and other uses while complementing social and environmental requirements. The study recommendations will require development to conform to new guidelines and contribute through Developer Agreements or S94 to the public facilities.

ENVIRONMENTAL IMPLICATIONS

Environmental implications are addressed by the study in providing for:-

- River view access, management and use;
- Strategies for car parking and flooding;
- Creation of opportunities for high quality built form and public domain design and strategies

CONSULTATION

The study brief and preparation of the study by the Consultant involved consultation with Community Planning staff, Raymond Terrace Historical Society and West Ward Councillors. A number of briefings were held at Council, between the Consultant, staff and West Ward and other Councillors. In addition a meeting was held with Council staff, the Consultant and the Buildev Company to negotiate an outcome to their development on the corner of King and William's streets.

OPTIONS

- 1) Adopt the Study and recommendations

- 2) Amend the recommendations

ATTACHMENT

This document will be provided under separate cover.

- 1) King Street Waterfront Heritage Precinct, Raymond Terrace, NSW. Urban Design Study by Dickson Rothschild February 2007

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 3

FILE NO: PSC 2006-006

DEVELOPER CONTRIBUTIONS (SECTION 94) – PROGRAM FOR REPEAL AND REVISED SECTION 94 DEVELOPER CONTRIBUTION PLAN

REPORT OF: DAVID BROYD – GROUP MANAGER SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Report: “Standards Guiding the Provision of Council’s Community and Recreational Facilities” by the AEC Group dated 20 December 2006 as the basis of preparing the revised draft Section 94 Developer Contributions Plan for Port Stephens.
- 2) Note the full copy of the draft new Section 94 Developer Contributions Plan will be submitted to the Ordinary Meeting of Council on 27 March 2007.

STRATEGIC COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

TABLED DOCUMENT

Standards Guiding the Provision of Council’s Community and Recreational Facilities – AEC Group 20 Dec 2006

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

067	Councillor Nell Councillor Brown	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to advise Council of progress with the review of the new Section 94 Developer Contributions Plan and Standards and to seek concurrence to its principles.

Council resolved at its meeting of 26 September 2006 to repeal the eight current Section 94 Plans concurrently with the implementation of new Section 94 Plans and to note the Standards approach being developed for the new Section 94 Plans.

The final report on the review of the Standards Guiding the Provision of Council's Community and Recreational Facilities has now been received from the AEC Group. A copy has been provided under separate cover to all Councillors and is also tabled. These standards will form the basis of the new draft Section 94 Plan for Port Stephens.

The new S94 Plans propose that except for site specific facilities, there will be a single method of calculating the S94 Levy for Community and Recreation Facilities for all development using the Standards document above. The expenditure of the S94 collected will still be spent in the serviced/catchment area from which it has been collected. For example S94 monies collected in the Western S94 Plan Area for local parks and reserves will be spent in the Western Plan Area, whereas S94 collected for Libraries from the Western S94 Plan Area will be spent on the new Raymond Terrace library as it will service that area as well as others.

An outline of the comparison between the current and proposed approach to calculate and expend the S94 levy is shown in the Attachment.

A copy of the "work-in-progress" new consolidated draft Section 94 Plan has also been provided to all Councillors.

Council's Development Contributions Panel met on 8 February 2007 and has recommended the proposed methodology and exhibition of the new S94 Plans.

It is proposed to place the new S94 Plan on exhibition for a period of six weeks (2 April to 14 May) subject to Council's endorsement at its Ordinary meeting of 27 March 2007. A report would then be presented to Council in June advising of the outcomes of the exhibition and to consider adoption of the new S94 Plans.

LINKS TO CORPORATE PLANS

The new draft Section 94 Plan addresses the strategic and future directions of Council's Plan 2006-2009 in particular:

8.1.3 Build the capacity of the community to be involved with Council's activities and decision-making.

8.2.1 Provide a range of quality, affordable and accessible facilities and services.

8.2.3 In partnership with the community, Council will enhance the capacity and opportunities for all members of the community to participate in social, economic, recreational and cultural interaction.

8.5.2 Ensure that our planning framework provides appropriate levels of housing, transport, infrastructure, human services and community facilities across all of our communities.

8.6.1 Deliver facilities and services to meet community needs now and in the future.

8.6.2 Manage facilities and services to meet community needs in a way that protects and enhances the environment and community values.

8.6.3 Ensure Council's forward planning framework for infrastructure matches development.

8.6.4 Encourage government, business and community partnerships for effective planning, maintenance and renewal of facilities and services.

FINANCIAL/RESOURCE IMPLICATIONS

The Standards Guiding the Provision of Council's Community and Recreational Facilities study has been funded from Section 94. Staff from several sections of Council have been extensively involved during all stages. Strategic Planning staff are preparing the new Section 94 Plan and there are no additional revenue costs to Council. The draft Section 94 Plans are crucial to affordability and equity in providing services and facilities demanded by new development.

LEGAL AND POLICY IMPLICATIONS

Selection of projects and imposing a levy on developers must follow the requirements of Section 94 of the Environmental Planning and Assessment Act (1979) and Regulation as amended from time to time. The new draft S94 Plan is required to be exhibited for a period of 28 days.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 4) To improve the outcome, improve the system and its associated processes
- 5) The potential of an organisation is realised through its people's enthusiasm, resourcefulness and participation
- 6) Continual improvement and innovation depend on continual learning
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 9) All systems and processes exhibit variability, which impacts on predictability and performance
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders
- 12) Senior leadership's constant role-modelling of these principles, and creating a supportive environment in which to live these principles will help the enterprise and its people to reach their full potential

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The new Section 94 Plan will provide an equitable level of facilities for the increased population within the Council area including community and open space/recreational facilities.

ECONOMIC IMPLICATIONS

The new Section 94 Plan will enhance the ability to provide facilities when funds are available and reduce the burden on Council's finances.

ENVIRONMENTAL IMPLICATIONS

All projects will be assessed by Council staff for environmental implications prior to construction.

CONSULTATION

Consultation has been undertaken with:

- Land Use Planning staff, Social Planning Co-ordinator
- The Community Planning Manager
- The Group Manager, Sustainable Planning
- Council's Developer Contributions Panel (Crs Westbury, Tucker and Jordan; staff representatives from each of Sustainable Planning, Business and Support, Facilities and Services)

OPTIONS

- 1) Adopt the recommendations
- 2) Amend the recommendations and adjust Council's approach to Developer Contributions.

ATTACHMENTS

- 1) Comparison Of Current S94 And Proposed Standards Approach
– Report to Development Contributions Panel

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Standards Guiding the Provision of Council's Community and Recreational Facilities- AEC Group 20 Dec 06.

**ATTACHMENT 1
REPORT TO DEVELOPMENT CONTRIBUTIONS PANEL**



**DEVELOPMENT CONTRIBUTIONS PANEL
8 February 2007**

COMPARISON OF CURRENT S94 AND PROPOSED STANDARDS APPROACH

CURRENT METHODOLOGY

S94 is about levying each development for that development's share of the cost of providing a public facility that has been provided for the benefit of that development. This is calculated in the case of residential development, by dividing the estimated cost of a new facility or the actual cost of a facility provided previously, by the total number of residents served by the facility when at full capacity. In practice many S94 Plans estimate a cost to provide a specific facility to service a projected population at a future date. The S94 share is then determined by dividing the increase in population by the projected total population. This S94 share is then divided by the increase in population to determine the S94 levy per person.

**EXAMPLE OF CALCULATIONS FOR S94 INCOME
PROPOSED RAYMOND TERRACE LIBRARY**

Council adopted a report on the proposed new library on 27 July 2004. The outcome of the report was incorporated into the S94 Plans at that time and provided for a total cost of \$5million (2004) to service the Western; Raymond Terrace; Medowie; Karuah/Swan Bay; Fern Bay and Rural East S94 Plan areas.

The library report proposed a complex to service 74,000 people by the year 2032. The S94 share of the total cost is determined by dividing the increase in population (42,770) from the date of the S94 Plan (1994) to the projected population (74,000) in 2032. The S94 share is then 57.8% or \$2.9million (2004) collecting at a rate of \$110,000 per year to the year 2032

The contribution levy is then the S94 share (\$2.9million) divided by the increase in population (42,770), being \$68. The S94 Plan was amended to introduce this levy in Oct 2004. With CPI the current S94 levy is \$72 per person.

Based on the current Urban Settlement Strategy (which includes North Raymond Terrace etc) we would not reach that population target till about 2036. North Raymond Terrace would provide S94 income of about \$900,000 (2006 dollars) (12,000 population x \$72) by 2031.

ACTUAL S94 INCOME

Last financial year we collected \$90,000 in total for Community Facilities from these S94 Plan Areas of which approximately \$20,000 was for the new library, compared to the S94 Plan calculation of \$110,000.

Except for greenfield sites, the practice of suggesting that the calculations reflect actual S94 income is erroneous. There are many reasons whereby actual income from S94 does not produce the expected income:-

- A swing in the type of developments that occur over time (Tourism and other types paying lesser contributions than normal residential subdivision);
- Rate of development;
- Staged development (approval for a significant number of lots which are then developed several years later, when S94 Plans have changed and contribution rates may have increased considerably but the approved rates apply).
- Material Public Benefit and Works in Kind constructed in lieu of cash contribution.
- Downturn in residential subdivision development, (the main contributor of S94);
- Projection of S94 income in the Plans based on the supposition that new lot release is the sole basis for population increase;
 - This gives much greater projected lot numbers than will actually occur that contribute S94. Examples where no S94 is paid include:
 - New dwellings on existing lots;
 - Housing Commission and Defence Service new homes;
- Lag between subdivision approval and lot release (payment of S94);
- The high proportion of tourist and other developments at a lower contribution rate;
- Reduced development of land due to increased areas of National and State Parks (eg Fern Bay and Fingal Bay).

In summary while population figures are used to determine apportionment between the new population and existing residents, unless the facility is for the new residents only, then it is quite complex and difficult to project actual income from S94 for each facility.

PROPOSED METHODOLOGY

The proposed standards approach uses the same basis as current methodology without the complexity. Unlike the current practice there is no attempt to either determine population projections or relate each calculation to individual projects in the works schedule. This new approach is simply equating the population served by a baseline set of public facilities. Council may have already provided these facilities or must construct them in the future and included in the Work schedule (Note: Council cannot collect for a facility it does not intend to provide). The cost per person is then a simple division of the cost of the facility by the population served by that facility. An additional advantage of this method is the simplicity in administering the Plan and adding in new projects.

New or changes to projects will not require recalculation of levies and are simply added to the S94 Plan schedules (with required exhibition process). The projects for these schedules will be extracted from Councils Forward Works Program where they comply with S94 legislation.

Under the proposed standards approach the proposed levy for branch libraries is \$132 per person compared to the current \$72.

Income received from S94 will be allocated to the category rather than the individual projects. A cash flow analysis will then be undertaken to relate the expected S94 income to the cost of the projects in the S94 schedule which are taken from Councils Forward Works Program. This has not previously been undertaken and will reflect a more realistic appraisal of Council's financial status and ability to fund projects. For this method to work a disciplined approach of priorities of future projects is required. This method requires adoption of a long term Forward Works Program with limited variation. Any short term Integrated 3 Year Rolling

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

Works Program which substantially departs from the Forward Works Program will affect this method and cash flow opportunities.

Wal Mills
Strategic Engineer
8 February 2007

ITEM NO. 4

FILE NO: PSC 2006-0073

HERITAGE ADVISORY COMMITTEE CONSTITUTION

REPORT OF: JENNIFER SMITH – MANAGER COMMUNITY PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) **Adopt the Committee Constitution Schedule of the Heritage Advisory Committee in accordance with Section 355(b) of the Local Government Act 1993;.**
- 2) **Nominate two Councillors as representatives on the Heritage Advisory Committee.**

STRATEGIC COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

068	Councillor Jordan Councillor Brown	It was resolved: 1. Adopt the Committee Constitution Schedule of the Heritage Advisory Committee in accordance with Section 355(b) of the Local Government Act 1993;. 2. Councillor Francis and Councillor Brown be nominated as representatives on the Heritage Advisory Committee.
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BACKGROUND

The purpose of this report is to recommend to Council the adoption of the Heritage Advisory Committee Constitution.

In accordance with Section 355(b) of the Local Government Act, 1993, Council may exercise its functions itself or by delegation to another person or persons. Forming a Committee under

Section 355(b) for a specific function enables Council to delegate its functions and involve the community. While exercising functions of Council, it is a requirement that Council provide public liability and professional liability insurance for the Committee. For these reasons, it is recommended that Council's Heritage Advisory Committee be endorsed as a 355(b) committee.

The proposed Heritage Advisory Committee constitution is customised to suit the current operations of the Heritage Advisory Committee. The standard format of 355(b) Committee constitutions consists of the standard 355(b) Committee constitution, adopted by Council on 24th June 2003, Minute No. 251, and a customised schedule of each Committees' individual activities. Council must approve a Committee's constitution schedule.

The Heritage Advisory Committee currently operates outside of the formal framework for committees formed under section 355(b). The Heritage Advisory Committee was formed to prepare the Shire Wide Community Based Heritage Study and associated Heritage Inventory for Port Stephens. The role of the Heritage Advisory Committee has widened to primarily include undertaking comparative analysis of items for inclusion on the State Heritage Register.

Members of the Committee became concerned that they are not insured for work they undertake on behalf of the Council. This principally includes carrying out site inspections for research on items to be included on the State Heritage Register.

Existing reporting and funding arrangements, and basic operation of the Committee will not change if the Heritage Committee formalises its role and constitution schedule under Section 355(b).

The Committee resolved to request Council consider the adoption of the committee as a 355(b) committee at a meeting on 28th September 2006. A draft constitution schedule was developed and distributed to the Committee for input and comment. The draft constitution schedule has subsequently been amended particularly in respect to the ownership of intellectual property that members bring to the Committee.

Adopting the Heritage Advisory Committee as a 355(b) committee of Council will clearly define its relationship with Council and provide a framework for it to work within.

LINKS TO CORPORATE PLANS

This report relates to the provision of management and support to 355(b) committees, which facilitate community participation in many programs in Council's Management Plan.

FINANCIAL/RESOURCE IMPLICATIONS

There is no proposal to alter current funding arrangements. As indicated in the schedule, the Heritage Advisory Committee does not require the standard administration funding issued by Council.

LEGAL AND POLICY IMPLICATIONS

Under section 355(b) of the Local Government Act, 1993, Council may exercise its functions itself or by delegation to another person or persons. Council must approve the constitution of such delegated committees.

The constitution of the Heritage Advisory Committee consists of the Standard 355(b) committee constitution adopted by Council, 24 June 2003, Minute No. 251, and a customised schedule of the Committee's individual activities.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 4) To improve the outcome, improve the system and its associated processes
- 5) The potential of an organisation is realised through its people's enthusiasm, resourcefulness and participation
- 8) Effective use of facts, data and knowledge leads to improved decisions

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Council establishes community committees to undertake projects and to provide a link between Council and the community. This is part of Council's commitment to community partnerships.

The Heritage Advisory Committee provides social benefit through valuable expertise on heritage matters within the Port Stephens Local Government Area and by carrying out work that contributes to the protection of heritage items within Port Stephens. By adopting the Heritage Advisory Committee as a 355(b) Committee, Council is providing a legal framework for the Committee to carry out its functions.

ECONOMIC IMPLICATIONS

The activities and projects undertaken by committees are often those not financially possible for Council to maintain without volunteer assistance.

ENVIRONMENTAL IMPLICATIONS

The Heritage Advisory Committee operates under direction from Council staff to ensure their activities are performed in accordance with recognised practices that may often provide long-term benefits to the environment.

CONSULTATION

Heritage Committee
Community Facilities Coordinator
Legal Officer
Risk Management Coordinator
OH & S Coordinator

OPTIONS

- 1) Adopt the recommendations
- 2) To reject or amend the recommended Constitution Schedule and potentially to have a Heritage Committee operating as it has since inception and as it currently operates.

ATTACHMENTS

- 1) Heritage Advisory Committee Constitution Schedule

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

**ATTACHMENT 1
SCHEDULE TO CONSTITUTION**

Item 1	Name of Committee	Port Stephens Heritage Advisory Committee
Item 2	Name of Council Group	Sustainable Planning
Item 3	<p>Functions delegated by Council to committee</p> <p>(Objectives)</p>	<ol style="list-style-type: none"> 1. To undertake research of the built, natural and cultural heritage of the Local Government Area (LGA) and to make recommendations for additions to the Port Stephens Local Environmental Plan (LEP) schedule. 2. To act as a forum for knowledge of the built, natural and cultural environment within the LGA. 3. To alert Council to possible threats to potential and listed heritage items. 4. To promote the cause for conservation, ongoing education and enhancement of the built, natural and cultural environment throughout the LGA. 5. To make recommendations to Council on policies and plans concerning conservation of the built, natural and cultural environment covering issues such as amendment, revision or additional information to current documents. 6. To provide comment on the heritage implications of draft Council policies and plans. 7. To assess applications for funding from the local heritage fund. 8. To assist Council's Heritage Advisor in local knowledge. 9. To undertake activities and site inspections as deemed appropriate.
Item 4	Restrictions on functions delegated	All works and activities undertaken will be with the knowledge and approval of the Strategic Planner appointed by the Group Manager Sustainable Planning in consultation with Council's Heritage Advisor
Item 5	Policies, legislation the committee is required to comply with	<p>Principle policies & legislation including but not limited to:</p> <p>OH&S 2000 OH&S Regulations 2001 Local Government Act 1993 & Regulations PPIPA 1988 Code of Conduct Code of Meeting Practice Accessing Information Policy Child Protection Policy Volunteers Policy Disability Access Policy 2003 (Draft) Environmental Planning and Assessment Act 1979 Port Stephens Local Environmental Plan 2000 Heritage Act 1977</p>

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

Item 6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	Maximum number of committee members twenty five (25) - comprising <ul style="list-style-type: none"> • Two (2) Councillors with an interest in heritage issues • Representatives from the community including individuals and organisations with an interest in the history of the Port Stephens Local Government Area. • Individuals and organisations that reside outside of the Port Stephens LGA are eligible to be on the Committee on the provision that they can demonstrate the ability to carry out the Functions of the Committee, and contribute specialist knowledge in a particular field of interest.
Item 8	Councillors	As resolved by Council.
Item 9	Council employees	Strategic Planner appointed to Committee Administration Assistant appointed as Secretary Council's Heritage Advisor as appointed by Council
Item 10	Name of financial institution and type of account	N/A
Item 11	Name of any account operated by the committee	N/A
Item 12	Area assigned to committee and/or map	Port Stephens Local Government Area and areas of interest in adjoining local government areas which may have an impact upon the Port Stephens Local Government Area.
Item 13	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full - body of constitution not to be altered.	<p>AMENDMENTS TO STANDARD CONSTITUTION</p> <p>The Port Stephens Heritage Advisory Committee has been an advisory committee since inception. The constitution should reflect the operating structure of the committee. Council's Strategic Planning Officer undertakes the general operating functions of the Port Stephens Heritage Advisory Committee.</p> <p>Clause 10 Finances Clause 10 Finances is not applicable.</p> <p>Clause 11 Records and Record Keeping Clause 11 is not applicable.</p> <p>Clause 12 Reports Clause 12.1 is not applicable. Clause 12.2 is not applicable.</p> <p>Clause 13 Intellectual Property Delete 13.1(c) and replace with "Individual members of the Committee bring intellectual property to the Committee which they have prior claims over. Decisions on the use of this property including who retains intellectual property and whether permission is granted for the Committee (Council) to use this information are to be made by the Committee in a transparent manner and recorded in the minutes of the committee.</p>

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

		As a minimum, members who bring intellectual property to the Committee grant to the Committee a non-exclusive licence to use that intellectual property. The Committee will remain cognisant of any moral or proprietary rights attaching to such intellectual property.
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As a minimum, members who bring intellectual property to the Committee grant to the Committee a non-exclusive licence to use that intellectual property. The Committee will remain cognisant of any moral or proprietary rights attaching to such intellectual property.

Item 14	Changes to constitution or Schedule – Adopted by Council: Meeting Date: Minute No: Resolution:	
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ITEM NO. 5

FILE NO: PSC 2005-2853

MOSQUITO MANAGEMENT POLICY

REPORT OF: BRUCE PETERSEN – MANAGER ENVIRONMENTAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Port Stephens Mosquito Management Policy (Attachment 1).
-

STRATEGIC COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

069	Councillor Brown Councillor Hodges	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to seek Council’s adoption of the new Mosquito Management Policy.

On 28 March 2006, Council endorsed the Regional Strategy “Living with Mosquitoes in the Lower Hunter and Mid North Coast Region of NSW” and included a recommendation (No.460) that Council develop a Local Mosquito Management Policy reflecting the principles of the Regional Strategy.

LINKS TO CORPORATE PLANS

This report relates to the strategic directions including ‘Preserve and enhance our heritage biodiversity and environmental health’ and ‘Mitigate risks from natural occurrences by maintaining effective community and environmental health services’ that are included in the Council Plan 2005-2008.

FINANCIAL/RESOURCE IMPLICATIONS

The objectives and actions included in the policy are largely consistent with mosquito management initiatives already being implemented by Council. The contribution of Council to implementation of the policy will largely be through existing staff resources and current budget allocations. However, some additional funding may need to be allocated to contribute

to actions including the development and distribution of educational materials and as a contribution to research projects. Environment levy funding is currently available in the 2006/07 financial year to contribute to these initiatives, however ongoing financial commitments will need to be evaluated in relation to overall budget priorities.

LEGAL AND POLICY IMPLICATIONS

Mosquitoes represent a serious public nuisance and health risk, as well as a potential liability risk to Council should it continue to permit urbanisation in areas known to be affected by mosquitoes without requiring the implementation of appropriate ameliorative measures.

The Mosquito Management Policy reflects the principles of the regional mosquito strategy and Port Stephens Council Consolidated Development Control Plan to ensure mosquito management issues are considered during land use planning, rezoning and development assessment processes. The policy provides a consistent framework via which to address these mosquito management issues and therefore will contribute to reducing the legal risks to which Council may be exposed.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 4) To improve the outcome, improve the system and its associated processes
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The nuisance and public health risks associated with mosquitoes can have a significant negative impact on the health and lifestyle of residents and visitors to the area and a detrimental impact on cultural events and activities via the nuisance they cause to participants. Implementation of the policy will contribute to reducing the negative impact of mosquitoes on such events and activities.

ECONOMIC IMPLICATIONS

Public health and nuisance problems associated with mosquitoes may detrimentally impact local economies through deterring tourists and visitors and potentially reducing residential property values. Implementation of the policy will contribute to reducing negative economic impacts associated with mosquitoes.

ENVIRONMENTAL IMPLICATIONS

Mosquitoes are an important component of the wetland ecosystem, providing food for some birds, bats, amphibians, fish and macro invertebrates. The environmental values of wetlands also mean that modification of such environments (eg draining or filling) to control mosquito breeding may be no longer acceptable due to environmental legislation and community attitudes. The policy recognises the importance of protecting these environments in attempting to implement mosquito management initiatives.

CONSULTATION

Consultation during development of the policy has included a range of stakeholders including representatives from the Premiers Department, Department of Primary Industries- Fisheries, Hunter New England Health, Port Stephens, Newcastle, Great Lakes, Maitland and Lake Macquarie Councils, Hunter Central Rivers Catchment Management Authority, Department of Environment and Conservation and the Australian Quarantine and Inspection Service.

OPTIONS

- 1) Adopt, reject or amend the recommendation

ATTACHMENTS

- 1) Port Stephens Mosquito Management Policy

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil



Adopted:
Minute No:
Amended:
Minute No:

FILE NO: PSC2005-2853

TITLE: MOSQUITO MANAGEMENT POLICY

RESPONSIBLE OFFICER: GRAHAM PRICHARD

BACKGROUND

Mosquitoes are not only nuisance biting pests but also have the potential to spread disease causing pathogens such as Ross River virus and Barmah Forest virus. While the number of reported cases fluctuates from year to year depending on factors such as seasonal conditions, Port Stephens Council area has on average 31 known cases of arbovirus per year. It is accepted this figure is an under representation of the situation due to the high numbers of visitors to the region and unreported cases.

Mosquitoes are an important component of wetland ecosystems, recycling nutrients and providing food for birds, bats, amphibians, fish and macroinvertebrates. The management and control of mosquitoes is a concern for council and the community, however any management strategies need to minimise adverse impacts on the environment and people. In Port Stephens mosquitoes are an integral part of the environment and regardless of control strategies, will always be locally active during the warmer months.

There are many different types of mosquito, each closely associated with particular habitats and representing a range of nuisance and public health risks. In Port Stephens and along the NSW coast, the Saltmarsh Mosquito (*Ochlerotatus vigilax*) is the major nuisance biting pest and vector of arthropod borne viruses (arboviruses). This particular mosquito breeds mainly in saltmarsh and mangrove areas where population increases are associated with summer high tides and moderate rainfall.

Port Stephens is the largest estuary (133 km²) of any type in New South Wales, contains the largest area of mangrove forest in New South Wales (27 km² or 21% of the state total) and has the largest area of saltmarsh in the state (14 km² or 13% of the state total) (Reference: Breen, D.A. Avery, R.P. and Otway N.M. 2004. Broad-scale biodiversity assessment of the Manning Shelf Marine Bioregion. NSW Marine Parks Authority). Saltmarsh and other coastal wetlands, which are the dominant mosquito breeding habitats in Port Stephens Council, are protected by the NSW Threatened Species Conservation Act 1995 and the control of mosquitoes in those

habitats by any means requires approval by the NSW Department of Environment and Conservation.

Another complicating factor is that extensive breeding habitats that contribute to seasonal mosquito plagues are present in neighbouring council areas. With Salt Marsh mosquitoes able to fly up to twenty kilometres in pest numbers this means that even if Port Stephens Council were able to control or minimise the breeding of mosquitoes within Port Stephens, mosquitoes would remain an issue because of these neighbouring breeding areas.

In addition to these estuarine environments, mosquitoes also breed in and occupy freshwater and brackish water habitats. The Port Stephens Wetland Mapping Identification and Prioritisation Study identified and classified over 17,820 Hectares (or 18.3 % of the Local Government Area) as wetland.

Given the extent of breeding habitats and the social, economic, environmental, legal and other constraints, mosquitoes will always be present and will continue to cause seasonal plagues regardless of the intent and control activities that Council may implement.

OBJECTIVE

To work closely with the State government, regional councils and the community to raise awareness of mosquitoes, their role in the environment, the issues of nuisance biting and to minimise public health risks and to investigate sustainable methods of mosquito management.

PRINCIPLES

1. Continue to encourage regional involvement and cooperation in the implementation of the regional strategy.
2. Implement Port Stephens Council consolidated Development Control Plan mosquito control requirements and provide mosquito related information to state agencies regarding significant projects as appropriate.
3. Monitor both adult and larval mosquito populations in conjunction with the NSW Arbovirus Monitoring Program.
4. Develop and implement a community education program to raise awareness of mosquitoes role in the environment, their potential to affect public health and amenity and the personal measures recommended to reduce the impacts of mosquitoes.
5. Continue to research sustainable and progressive management options to reduce the impacts of mosquitoes.
6. Conduct control programs (pending obtaining required approvals).

POLICY STATEMENT

Council will adopt procedures that align with the ‘Living With Mosquitoes in the Lower Hunter and Mid North Coast Region of NSW’ strategy 2005, and the Port Stephens Council consolidated Development Control Plan 2006. This includes undertaking regional community education, mosquito monitoring and research, cost effective control programs that are in accordance with the principles of sustainability.

A three year action plan will be developed to implement priority actions from the regional strategy. This will incorporate components from the mosquito awareness program subgroup which has been formed to develop and oversee a regional community awareness program.

RELATED POLICIES

This policy is in accordance with the “Living With Mosquitoes in the Lower Hunter and Mid North Coast Region of NSW” strategy 2005, the Port Stephens Council consolidated Development Control Plan 2006 and the Statement of Cooperation 2006 developed with the Prescribed Ports Sub-group of the Living With Mosquitoes focus group.

SUSTAINABILITY IMPLICATIONS

Community education programs offer a sustainable, effective method of ameliorating the negative impacts of mosquitoes without disrupting the ecosystems in which they play a keystone role.

SOCIAL IMPLICATIONS

The nuisance and public health risks associated with mosquitoes can have an impact on the health and lifestyle of residents and visitors to the area. Implementation of the policy will contribute to reducing negative social impacts associated with mosquitoes.

ECONOMIC IMPLICATIONS

Public health and nuisance problems associated with mosquitoes may detrimentally impact local economies through deterring tourists and visitors and potentially reducing residential property values. Implementation of the policy will contribute to reducing negative economic impacts associated with mosquitoes.

ENVIRONMENTAL IMPLICATIONS

Mosquitoes are an important component of the wetland ecosystem, providing food for birds, bats, amphibians, fish and macro invertebrates. The environmental values of wetlands also mean that modification of such environments (eg draining or filling) to control mosquito breeding may be no longer acceptable due to community attitudes and environmental legislation. The policy recognises the importance of protecting these environments in attempting to implement mosquito management initiatives.

CULTURAL IMPLICATIONS

Mosquitoes can have a detrimental impact on cultural events and activities via the nuisance they cause to participants. Implementation of the regional strategy will contribute to reducing the negative impact of mosquitoes on such events and activities.

RELEVANT LEGISLATIVE PROVISIONS

Environmental Planning and Assessment Act 1979
Threatened Species Conservation Act 1995
Marine Parks Act 1997
Pesticides Act 1999
Protection of Environment operations Act 1997
Fisheries Management Act 1994
National Parks and Wildlife Act 1974
Public Health Act 1991
State Environmental Planning Policy 14 – Coastal Wetlands

IMPLEMENTATION RESPONSIBILITY

Sustainable Planning
Facilities and Services

REVIEW DATE

2009

ITEM NO. 6

FILE NO: PSC 2005-5343

TREE PRESERVATION ORDER

REPORT OF: BRUCE PETERSEN - ENVIRONMENTAL SERVICES MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the 2007 Port Stephens Council Tree Preservation Order, (Attachment 1) as stated in Clause 50, Sub Clauses 1 and 2 of the Port Stephens Local Environmental Plan 2000.
-

STRATEGIC COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

070	Councillor Hodges Councillor Jordan	That the Recommendation be adopted.
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BACKGROUND

The current Tree Preservation Order (TPO) was adopted by Council at its meeting on 17th November 1998 in accordance with the Environmental Planning and Assessment Act Model Provisions 1980, as adopted by Port Stephens Local Environment Plan 1987.

Part of the validation process of the TPO required Council to publish the TPO in a newspaper circulated in the Port Stephens Local Government Area. Preparation for the recent legal action against Harbourside Haven revealed the validity of the TPO adopted in 1996 and amended in 1998 as being uncertain, partly on the basis that Council could not locate records evidencing its proper notification in either the Newcastle Herald or the Port Stephens Examiner. In addition, in December 2000, the Port Stephens Local Environmental Plan (PSLEP 2000) was gazetted and the PSLEP 1987 was repealed. Saving provisions were not included in the PSLEP 2000 to ensure continued validity of the existing TPO.

Clause 50 of the PSLEP 2000 states that Council may, by resolution, make, revoke or amend a tree preservation order that will come into effect after it has been published in a newspaper circulating the local government area.

Adopting a new TPO will resolve the validity issues of the existing TPO and provide a legally enforceable framework for the protection of trees within the Port Stephens local government area.

Minor changes to the TPO since last adoption

It is proposed that the current TPO be updated to form the Port Stephens Tree Preservation Order 2007. In doing so two minor changes will be made to the exemptions section of the TPO as follows.

1 - *Syagrus romanzoffianum* (Cocus Palms), to be included into the list of species which does not require Council consent to be removed.

2 - *Any tree or shrub within three (3) meters of an external boundary fence on lands zoned 1(a)*

Including these exemptions will align the Port Stephens TPO with recent changes to legislation, namely exemptions within the Native Vegetation Act 2003 and the Rural Fires Act 1997.

LINKS TO CORPORATE PLANS

The adoption of a Tree Preservation Order contributes to the achievement of Strategic Directions 2 and 3 within Key Result Area 3 (Environment) in the Council Plan 2006-2009: 'Preserve and enhance our heritage, biodiversity and environmental health' and 'Maintain and improve the quality of environment and recreation facilities'.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

To ensure legal validity, it is recommended that Council adopt a new TPO as a matter of urgency. Adoption of a new TPO will remove debate about the validity of the existing TPO and allow Council to protect existing vegetation as defined under the TPO. In the event of illegal land clearing Council will be able to prosecute the offender under the TPO instead of having to rely solely on the PSLEP.

Clause 50 of the PSLEP 2000 states:

- (1) *The Council may, by resolution, make, revoke or amend a tree preservation order.*
- (2) *A tree preservation order, and any revocation or amendment of such an order, does not have effect until it has been published in a newspaper circulating in the Port Stephens local government area.*
- (3) *A tree preservation order must specify the types or sizes of trees, or identify the locations of the trees, that are covered by the order.*
- (4) *While a tree preservation order is in force a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree covered by the order without development consent.*
- (5) *Subclause (4) does not apply where it can be demonstrated to the satisfaction of the consent authority that the tree is dying or dead or has become dangerous.*

- (6) *A tree preservation order does not apply to or in respect of:*
- (a) *trees within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or*
 - (b) *action required or authorised to be done by or under the Electricity Supply Act 1995, the Electricity Safety Act 1945, the Roads Act 1993 or the Surveyors Act 1929, or*
 - (c) *plants declared to be noxious weeds under the Noxious Weeds Act 1993.*
- (7) *A tree preservation order made, and in force immediately before the appointed day, under an interim development order relating to land within the Port Stephens local government area shall be deemed to be a tree preservation order made by the Council under this clause and may be revoked or amended in accordance with this clause.*

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 4) To improve the outcome, improve the system and its associated processes
- 7) All people work IN a system; outcomes are improved when people work ON the system
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Vegetation in Port Stephens is key to the local character of the area as recognised in the phrase 'A great life style in a treasured environment.' The TPO assists in preserving the image of Port Stephens where the residents are able to have a great lifestyle while surrounded by areas of great natural beauty.

ECONOMIC IMPLICATIONS

Current research has shown that a 30% canopy coverage of trees over a residential area will:

- Significantly reduce maintenance of road and asphalt areas from 8 slurry seals to 2 slurry seals over 30 yrs
- Appropriately positioned trees can reduce cooling cost to a residential dwelling by 25% – 50% thus reducing carbon loading into the atmosphere. This cooling effect will reduce peak cooling demand of 2-10%.

ENVIRONMENTAL IMPLICATIONS.

The conservation, restoration and management of vegetation in the landscape of Port Stephens is essential to arrest declining levels of natural biodiversity, soil loss and degradation, deteriorating ground and water surface quality and increased levels of greenhouse gases production which also have impacts upon social and economic values. A TPO is key to protecting these attributes within the Port Stephens Environment.

Current research has shown that a 30% canopy coverage of trees over a residential area will

- Reduce hydrocarbon pollution by 2% (which accounts for 16% of total vehicle emission) from vehicles by reducing the temperature within the fuel tanks by 4 degrees
- 6 million trees will absorb 238,000 tones of carbon each year
- 6 million trees will absorb 148 tonnes of nitrogen dioxide pollution each year

CONSULTATION

Harris Wheeler Lawyers has been consulted about the state of the existing TPO and has recommended that Council adopt a new TPO as a matter of urgency.

Clause 50 of the PSLEP 2000 does not require Council to publicly exhibit the TPO but does require it to be published. The adopted TPO will be advertised in the local newspapers and copies will be available at Councils administration building and on Council's website.

OPTIONS

- 1) Adopt, reject or amend the recommendation

ATTACHMENTS

- 1) Tree Preservation Order (TPO) 2007

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1

PORT STEPHENS TREE PRESERVATION ORDER 2007

1. OBJECTIVES

To protect and preserve trees throughout the Council area in order to maximise the benefits they provide, particularly in regard to:

- a) sustaining the biodiversity of our ecosystems;**
- b) limiting the effects of pollution and adverse changes in global atmospheric gasses;**
- c) provide economic benefit;**
- d) control of sunlight, shade, winds and beautification of urban/commercial areas;**
- e) maintenance of ground water levels and water quality;**
- f) soil enrichment and protection from erosion; and**
- g) retention and enhancement of natural beauty and scenic values.**

2. POLICY STATEMENT

This Tree Preservation Order prohibits the ringbarking, cutting down, topping, lopping, pruning, removing, injuring or wilful destruction of any tree or trees specified below, except with the consent of Council, and any such consent may be given subject to conditions as the Council thinks fit.

The Tree Preservation Order applies to:-

- I. All species of trees and shrubs (other than those referred to in the exemptions) where:-
 - a) the girth of the tree or shrub exceeds 300mm when measured one (1) metre above the ground; and/or
 - b) the height of the tree or shrub exceeds three (3) metres;
- II. Mangroves (all species), NSW Christmas Bush, and Cabbage Tree Palm (all species), regardless of their height or girth; and
- III. All trees or groups of trees which have been listed in Council's Register of Significant Trees regardless of their height or girth,

on all land in the Council area of Port Stephens.

Exemptions

The Tree Preservation Order does not apply to:-

- I. Trees or shrubs in a State Forest or on land reserved as a timber reserve within the meaning of the Forestry Act 1916;
- II. Trees or shrubs required to be pruned in accordance with Regulation 38 or 39 of the Overhead Line Construction and Maintenance Regulation 1962;
- III. Any tree or shrubs within three (3) metres of an external boundary fence on lands zoned Rural 1(a)
- IV. The removal of trees which is necessary to carry out works in accordance with an approved construction certificate a building approval or development consent (where construction certificate building approval is not required). These may include:
 - a) Trees situated within the physical perimeter of any building for which a construction certificate or building approval has been issued and/or within three (3) metres of the perimeter of such building (measured to the outside trunk of the tree);
 - b) Trees which need to be removed in order to carry out an approved development not including building (eg. sand extraction), except as provided for by any condition of the approval or consent.
- V. Trees or shrubs removed to protect human life, building or other property from imminent danger from a bush fire burning in the vicinity;
- VI. Trees which have been the subject of an application to construct an asset protection zone or clearing permitted by a bush fire hazard reduction certificate under the Rural Fires Act 1997;
- VII. The removal of plants of any species which have been declared as noxious plants under the Noxious Weeds Act 1993;
- VIII. Any tree within three (3) metres of the wall of a building measured from the wall to outside trunk of the tree. (It is recommended that pruning of trees covered by this exemption be undertaken by a qualified arborist in a manner consistent with the Australian Standard for the Pruning of Amenity Trees - AS 4373)
- IX. Any tree harbouring fruit fly or grown for its edible fruit;

- X. The removal of any of the following species irrespective of height or girth:-
- Cotoneaster – All species within the genus *Cotoneaster* .
 - Coral trees - All species within the genus *Erythrina*
 - Camphor Laurel (except those having important historical significance)
Cinnamomum camphora
 - Oleander - *Nerium oleander*
 - Privet - *Ligustrum spp.*
 - Radiata Pine - *Pinus radiate, Pinus elliotii*
 - Rubber Tree – *Ficus elastica*
 - Rhus Tree - *Toxicodendron seccedaneum*
 - Cocus Palm - *Syagrus romanzoffianum*
 - Tree of Heaven - *Ailonthus altissima*
 - Umbrella trees - All species within the genus *Schefflera*
 - Willow -All species within the genus *Salix*
- XI. The removal of any tree which is dead, dying or dangerous. The onus of proof in this regard is on the landholder;
- XII. Trees removed or pruned by, or with written authority of Council or other relevant statutory authorities for maintenance works in parks and reserves;
- XIII. Trees removed or pruned by, or with written authority of, Council or other statutory authorities in accordance with Section 88 of the Roads Act 1993;
- XIV. Regular maintenance of trees and shrubs where less than either twelve months' growth or ten percent of the foliage is pruned in accordance with the Australian Standard for the Pruning of Amenity Trees - AS 4373 - 1996.

3. Offence

Any person who contravenes or causes or permits to be contravened this Tree Preservation Order shall be guilty of an offence.

This Tree Preservation Order is made in accordance Clause 50 as adopted by Port Stephens Local Environmental Plan 2000.

P Gesling, General Manager, Port Stephens Council, PO Box 42, Raymond Terrace, NSW, 2324.

ITEM NO. 7

FILE NO: PSC2007-0131

DRAFT COUNCIL PLAN 2007-2011 AND BUDGET

REPORT OF: JUNE SHINE, EXECUTIVE MANAGER CORPORATE MANAGEMENT

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolves to place on exhibition the Draft Council Plan 2007-2011 including the budget, as tabled together with the associated fees and charges document, also tabled.

STRATEGIC COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That Council resolves to place the draft Council Plan 2007-2011 including the budget, with the associated fees and charges document, also tabled, on exhibition from 2 to 30 April 2007, as outlined in the Supplementary Information of 13 March 2007.

TABLED DOCUMENT

1. Draft Council Plan 2007-2011 including budget 2007-2008
2. Schedule of Fees and Charges 2007-2008

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:		
071	Councillor Brown Councillor Hodges	That the Recommendation be adopted.

BACKGROUND

The purpose of this report is to provide information related to the compilation of the Draft Council Plan 2007-2011 and budget, and to highlight key elements that particularly require Councillors' consideration, so that Council's Strategic Committee can resolve to recommend that it, together with the fees and charges, be placed on exhibition in accordance with the provisions of the Local Government Act (NSW) 1993.

The Draft Council Plan 2007-2011 (the Draft Plan) has been prepared using the Integrated Planning Model to incorporate the outcomes of the Councillors' planning workshop on 4 November 2006. The Draft Plan is premised on a strong sustainability platform and comprises five Directional Statements – Social, Cultural, Economic and Environmental Sustainability and Business Excellence. The Draft Plan is a strategic document with goals,

strategies, objectives and key performance indicators that cover a four year period, unlike the three-year period of previous plans.

The Draft Plan also contains a budget summary for the year 2007-2008 and should be considered along with its companion document, the Fees & Charges Booklet 2007-2008.

A key feature of the Draft Plan is the proposed new Mission Statement that encapsulates the definition of Council's core activities and embodies its sustainability aspirations.

The Draft Plan commences with a Situation Analysis of the trends, issues and challenges of the Port Stephens Council Local Government Area and this provides the context and background which informed the planning process.

An intention of the Draft Plan is also to make the document accessible to members of the public by streamlining the content so far as the legislation allows. The format comprises the Situation Analysis, the strategic plans and the Statutory Statements, including the budget summary.

Fees & Charges

Exhibition

Under the requirements of the Local Government Act 1993, the Draft Council Plan 2007-2011 with the budget and the fees and charges, are to be available to the community for a period of one month to enable the community to evaluate the Plan, and to make submissions to Council in relation to the Plan.

Should Council agree to the recommendation, the Draft Council Plan 2007-2011 and the Fees and Charges booklet would be made available at libraries, post offices and Council premises for the period 2 – 29 April 2007. In addition, these would be placed on the Council's website. An advertisement in local media would highlight the process, the key elements of the Draft Plan and how to access copies and make submissions.

In addition it is proposed to seek input from a survey of a statistical sample of ratepayers who will be asked to provide feedback on the Draft Plan.

At the conclusion of the exhibition period, the submissions will be collated and a brief provided to Councillors on 8 May 2007. After taking account of the submissions the Draft Council Plan 2007-2011 and attendant documents would be presented to Council for formal adoption at the meeting of Council 22 May 2007.

Performance Review of Council Plans

As required by the Local Government Act 1993, a quarterly report is required to be provided to Council on the progress of the Plan; and the Annual Report – also provided to Council – documents the performance of the plan for the first year ie 2007-2008.

LINKS TO CORPORATE PLANS

State of the Environment Report 2004 and Supplementary Reports 2005 & 2006
Budget 2007-2008 as detailed in the tabled document
Cultural Plan 2005 – 2008

Social Plan 2005-2010
Forward Works Program November 2006

FINANCIAL/RESOURCE IMPLICATIONS

The cost of production of the documents for distribution in hard copy (as part of the exhibition process and then in final copy to relevant stakeholders) as well as consultations to the community scheduled for April is funded in the 2006-2007 budget allocations.

LEGAL AND POLICY IMPLICATIONS

This document is the strategic framework for the operations of Port Stephens Council, including resources and revenue/expenditure parameters.

Australian Business Excellence Framework

This aligns with the following principles of the ABEF Framework.

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

Social Implications

The Draft Council Plan 2007-2011 provides the resources and directions to enable implementation of the Social Plan 2005-2010, and contributes to the overall enhancement of the lifestyle of the citizens of Port Stephens.

Economic Implications

The Draft Council Plan 2007-2011 drives the businesses of Council and contributes through budget and other indicators to the overall economic leadership of the LGA.

Environmental implications

The Draft Council Plan 2007-2011 provides the resources and directions to enable implementation of the recommendations in the State of the Environment Report. In this way it contributes to the protection and enhancement of the natural environment, and the heritage (indigenous and non-indigenous) of Port Stephens.

CULTURAL IMPLICATIONS

The Draft Council Plan 2007-2011 provides the resources and directions to enable implementation of the Cultural Plan 2005-2008, and foreshadows the development of a

Cultural Plan 2007-2011 to contribute to the enrichment of the experience of living in Port Stephens.

CONSULTATION

1. The Draft Council Plan 2007-2011 was developed under the auspices of Council, by initial consultation with Councillors in November 2006.
2. Should Council adopt the Draft Council Plan 2007-2011, under the provisions of the Local Government Act 1993, it, together with the fees and charges document, will be on public exhibition from 2 to 29 April 2007, to allow for further input in the form of submissions, from the community of Port Stephens.

OPTIONS

- 1) Council may accept the recommendation
- 2) Council may amend the recommendation
- 3) Council may reject the recommendation

Attachments

Nil

Tabled documents

- 1) Draft Council Plan 2007-2011 including budget 2007-2008
- 2) Schedule of Fees and Charges 2007-2008

ITEM NO. 8

INFORMATION PAPERS

REPORT OF: JUNE SHINE – EXECUTIVE MANAGER, CORPORATE MANAGEMENT

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 13 March 2007.

No: Report Title

1 REVIEW OF DRAFT ON-SITE SEWAGE MANAGEMENT SPECIFICATION

STRATEGIC COMMITTEE MEETING – 13 March 2007

RECOMMENDATION:

That the Recommendation be adopted.

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

072	Councillor Francis Councillor Nell	That the Recommendation be adopted.
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Add info paper !

RESCISSION MOTION

RESCISSION MOTION

ITEM NO. 1

FILE NO: 16-2006-813-1

DEVELOPMENT APPLICATION FOR A DUAL OCCUPANCY AND TWO (2) LOT SUBDIVISION AT NO. 116 PORT STEPHENS STREET, RAYMOND TERRACE

COUNCILLOR: BROWN, FRANCIS & NELL

That Council rescind its decision of 13 March 2007 on Item 1 of the Ordinary Meeting Report, namely Development Application for a Dual Occupancy and Two (2) Lot Subdivision at No 116 Port Stephens Street, Raymond Terrace.

ORDINARY MEETING OF COUNCIL – 27 March 2007

MOTION :		
	Councillor Francis Councillor Nell	That on being put the Motion was lost

Councillors Francis & Brown were recorded as voting against this matter.

MATTER ARISING

Council to review, update and adopt its draft Flood Plain Policy as a matter of priority

MATTER ARISING:		
073	Councillor Jordan Councillor Dingle	That the Matter Arising be adopted.

ORDINARY COUNCIL MEETING – 13 MARCH 2007

ITEM NO 1

FILE NO: 16-2006-99-1

DEVELOPMENT APPLICATION FOR A DUAL OCCUPANCY AND TWO (2) LOT SUBDIVISION AT NO. 116 PORT STEPHENS STREET, RAYMOND TERRACE

REPORT OF: SCOTT ANSON - MANAGER, DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

- 1) Refuse Development Application 16-2006-99-1 for the reasons below:
- The development is inconsistent with the provision of Port Stephens Local Environmental Plan 2000, in particular the 5(g) Special Urban (Flood Affected) Zone objectives and planning considerations for development on flood prone land.
 - The development is categorised as being a very high flood hazard by the draft Lower Hunter River Floodplain Management Study, which recommends that no additional dwellings should be permitted in this location.
 - Approval of this application would have an undesirable cumulative effect of increasing the community's susceptibility to flooding, in terms of social, economic and environmental consequences.

OPERATIONS COMMITTEE MEETING – 13 February 2007

RECOMMENDATION:

That Council expressed its support for the Development Application and requests the Group Manager, Sustainable Planning draft Conditions of Consent to the Ordinary Council meeting in February.

ORDINARY MEETING OF COUNCIL – 27 February 2007

RESOLUTION:

011	Councillor Robinson Councillor Jordan	That the matter be deferred to the Ordinary Meeting of Council on 13 March 2007
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ORDINARY MEETING OF COUNCIL – 13 March 2007

RESOLUTION:

045	Councillor Hodges Councillor Jordan	That Council approve the Development Application Number - 16 -2006-99-1 in line with the Conditions of Consent, Items 1-51, contained in Supplementary Information of 13 March 2007.
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Councillors Nell, Francis and Brown recorded their vote against the Motion.

OPERATIONS COMMITTEE – 13 FEBRUARY 2007

ITEM NO 2

FILE NO: 16-2006-99-1

DEVELOPMENT APPLICATION FOR A DUAL OCCUPANCY AND TWO (2) LOT SUBDIVISION AT NO. 116 PORT STEPHENS STREET, RAYMOND TERRACE

REPORT OF: SCOTT ANSON - MANAGER, DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2006-99-1 for the reasons below:
 - The development is inconsistent with the provision of Port Stephens Local Environmental Plan 2000, in particular the 5(g) Special Urban (Flood Affected) Zone objectives and planning considerations for development on flood prone land.
 - The development is categorised as being a very high flood hazard by the draft Lower Hunter River Floodplain Management Study, which recommends that no additional dwellings should be permitted in this location.
 - Approval of this application would have an undesirable cumulative effect of increasing the community's susceptibility to flooding, in terms of social, economic and environmental consequences.
-

BACKGROUND

DA 16-2006-99-1 was submitted to the Council Meeting on 19 December 2006 and was subsequently deferred until February 2007.

This Development Application is therefore resubmitted for further consideration.

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

This application seeks consent for a detached dual occupancy and 2 lot Torrens title subdivision at Lot 13 DP 846114 (No. 116) Port Stephens St, Raymond Terrace. The site is within the 5(g) Special Urban (Flood Affected) Zone and dual occupancy development is permissible in the zone.

This site is identified as flood prone, so the application was referred to Council's Strategic Engineer who recommended that the application be refused based on the site being identified as a very high flood hazard in the *Draft Lower Hunter Flood Management Study (Paterson Britton)*. This document recommends that habitable dwellings be prohibited in this location.

The proposal does not comply with the objectives of the 5(g) zone or the requirements of Clauses 28 and 37 of LEP 2000, which applies to development on flood prone land. It is considered that increasing the residential density of the site will increase the risk of loss of life and damage to property during flood events.

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

The applicant was informed of Council's flooding concerns on 5 April 2006. The applicant provided justification for the proposal, stating that 2 single dwellings and a dual occupancy have recently been constructed in the immediate vicinity of the site.

The subject dwellings identified by the applicant were approved on existing lots with dwelling entitlement and do not increase the residential density of the area. The dual occupancy example was approved in 1996, prior to the current flooding regulations. The justification submitted by the applicant is not supported in light of the recommendation of the *Draft Lower Hunter Flood Management Study (Paterson Britton)*.

The applicant was advised on 14 June 2006 and 8 August 2006 that the justification was insufficient and that it was recommended that the application be withdrawn. A Notice of Intent to refuse the application was sent to the applicant on 28 August 2006.

A meeting was held on 9 October 2006 involving the applicant, AcroPlan Consultants and Council's Strategic Engineer, Group Manager Sustainable Planning and Manager Development & Building. The applicant's consultant requested an opportunity to respond to Council's flooding concerns.

The applicant was advised that Council was willing to consider additional information, but that the flooding concerns were a significant impediment to supporting the proposal. To date, no additional information or justification has been received.

Although the proposal complies with the requirements of DCP PS1 – Dual Occupancy & Urban Housing Guidelines, approval of this application would create an undesirable precedent for development in this locality and similar areas subject to flooding identified in the *Draft Lower Hunter Flood Management Study (Paterson Britton)*.

Increased residential densities in very high flood hazard areas will have an unacceptable social and economic impact on existing future residents. Increased demands will be placed on emergency services assisting additional dwellings during flood events.

Council received one (1) submission during the submission period, which did not object to the development but raised concern about location of the clothes drying area for Unit 2.

It is recommended that this application be refused as it, does not comply with Council's flooding policies including the objectives of the 5(g) Special Urban "Flood Affected" Zone, Clause 28s and 37 of LEP 2000 and the *Draft Lower Hunter Flood Management Study (Paterson Britton)*, which identifies the site as being in the floodway and a very high flood hazard area. The application also poses an unacceptable risk to existing and future residents and emergency services due to the flood prone nature of the subject land.

LINKS TO CORPORATE PLANS

This report relates to the Goal in the Assessment and Approvals program of Council's Management Plan, which is an ordered and predictable built environment in Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council's Policy, as it contravenes the principals and objectives of the 5(g) Special Urban (Flood) Zone and the provisions of Port Stephens Local Environmental Plan 2000 for development on flood prone land.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The proposed dual occupancy is located on flood prone land in close proximity to the Hunter River. The proposal will have the effect of increasing residential density in a flood prone area.

The proposal is likely to have a significant and detrimental social impact on future occupants of the development due to flooding.

ECONOMIC IMPLICATIONS

Any future flooding of the site is likely to have a significant and detrimental economic impact on the future residents of the development.

ENVIRONMENTAL IMPLICATIONS

The proposal is likely to increase the risk of loss of life and damage to property during flood events. In addition to the increased risk, the design of the proposal is not compatible for the flood zone and is likely to divert flood waters onto adjacent properties.

CONSULTATION

The application was exhibited in accordance with Council policy. One (1) submission was received during the submission period. These are discussed in the Attachments.

OPTIONS

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

ATTACHMENTS

- 1) Locality Plan
- 2) Assessment

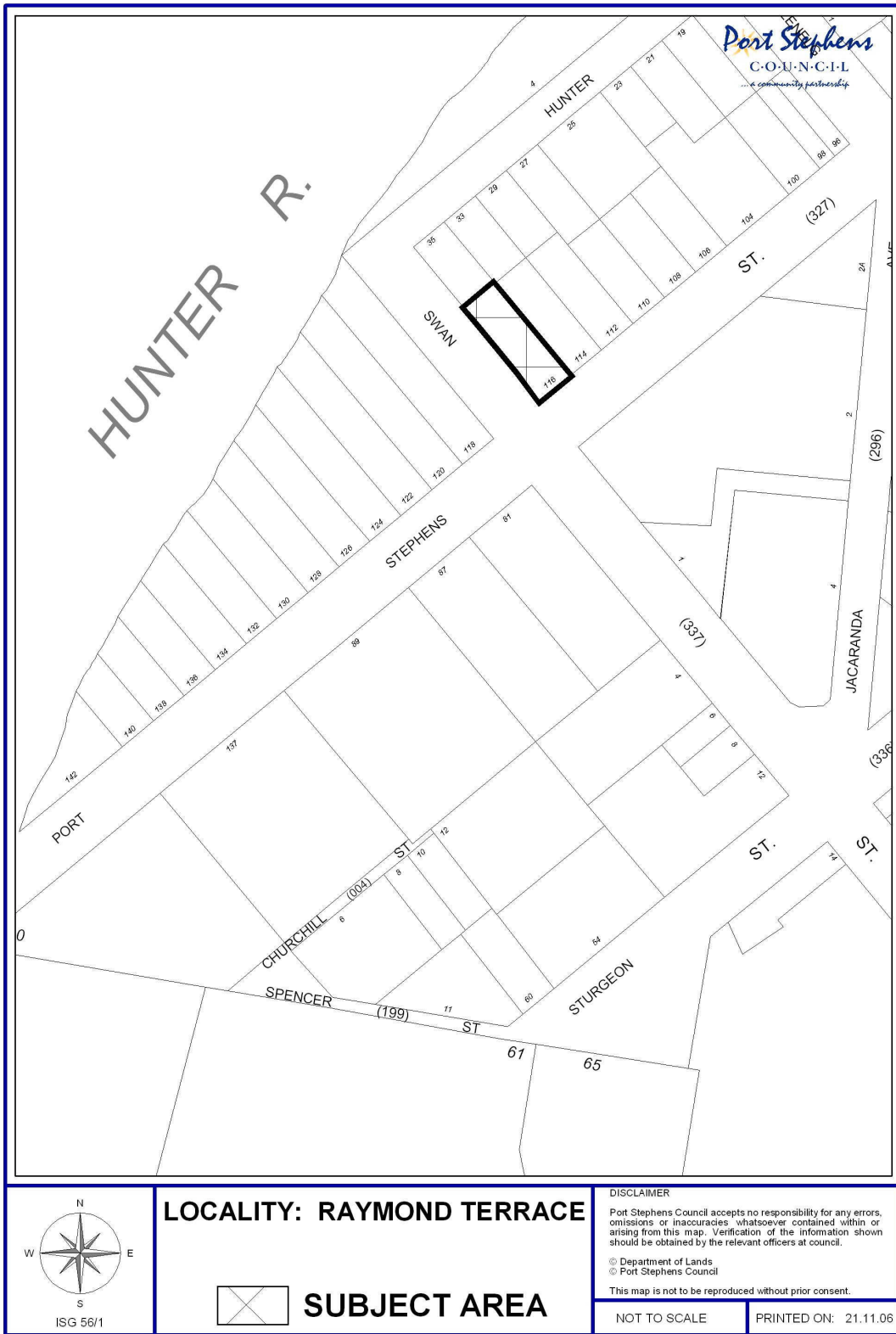
COUNCILLORS ROOM

Development Plans (Site Plan, Floor Plan and Elevations)

Justification submitted by applicant and received by Council on 31 May 2006

Advice provided from Council's Strategic Engineer dated 28 March 2006

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

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

THE PROPOSAL

The proposal is for a detached dual occupancy and two (2) lot Torrens title subdivision.

THE APPLICATION

Owner	Malone Enterprises (NSW)
Applicant	Anthony Malone
Detail Submitted	Development Plans (including a Site Plan, Stormwater Plan, Sediment Control & Shadow Diagram Plan, Floor Plan and Elevations Plan) Statement of Environmental Effects BASIX Certificate

THE LAND

Property Description	Lot 13 DP 846114
Address	116 Port Stephens St, Raymond Terrace
Area	1197sqm
Dimensions	20.1m x 59.6m
Characteristics	Regularly-shaped corner lot at intersection of Port Stephens and Swan Street

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning Relevant Clauses	5(g) Special Urban (Flood) Zone Clauses 28, 37
Development Control Plan	LD1 - Development Guidelines for the Raymond Terrace Town Centre PS1 – Dual Occupancy & Urban Housing Guidelines PS2 – Parking and Traffic Guidelines PS10 – Building Standards and Notification Procedures for Development Applications
State Environmental Planning Policies	Hunter REP NSW Floodplain Development Manual

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

ATTRIBUTE	PROPOSED	REQUIRED	COMPLIES
DCP LD1 Requirements (Residential Precinct)			
Design	Complies with specified controls or can be conditioned to comply	Pitched roof, good façade articulation, garage design and front fencing	Yes
DCP PS1 Requirements			
Floor Space Ratio	0.25:1	0.5:1	Yes
Minimum Site Area per Dwelling	598.5sqm	300sqm	Yes
Site Coverage	37%	60%	Yes
Building Line Setback	6m to primary and 4.99m to secondary	6m to primary and 3m to secondary	Yes
Setbacks	3.585m and 1.35m	1.8m and 1m	Yes
Height	7.63m	8m	Yes
Carparking	House 1 – 2 spaces House 2 – 3 spaces	2 spaces per dwelling	Yes
Open Space	Open Space exceeds required amounts	35sqm principal and 50sqm total	Yes

The following flooding abbreviations have been described below:

AHD = Australian Height Datum – refers to metres above mean sea level (or mean tide)

RL = Reduced level –normally to AHD datum

AEP = Annual Exceedance Probability (eg 2% AEP flood has a 2% chance of happening in any one year)

PMF = Probable Maximum Flood.

Example – At this site, if the ground is RL 0.8 metres AHD this will have a 10% chance of a flood matching this level in any one year and 5% or less chance of a flood exceeding this level in any one year. The chance of a particular size flood happening in the following years is not reduced because that flood did not occur in that year.

Discussion

The proposed development is permissible in the 5(g) Special Urban (Flood) Zone and complies with the relevant controls for requirements of both DCP LD1 – Raymond Terrace Town Centre Guidelines and PS1 – Dual Occupancy & Urban Housing. The proposal also complies with the number of parking spaces required by DCP PS2.

The proposal does not comply with all the requirements of LEP 2000, as it contravenes the relevant objectives of the 5(g) Special Urban (Flood) Zone, being (a), (c), and (d) and the requirements of Clauses 28 and 37, which are applicable to development on flood prone land.

The application was referred to Council's Strategic Engineers, who recommended refusal of the application on flooding grounds. The comments below relating to the development's non-compliance with flooding requirements were provided:

The application was advertised and notified in accordance with DCP PS10. One submission was received which is discussed below.

Port Stephens Local Environmental Plan 2000

Objectives of the 5(g) Special Urban (Flood) Zone

- (a) *to enable a range of urban development compatible with the constraints of the land such as flood water inundation*

The proposal is not compatible with the constraints of the land such as floodwater inundation.

- (c) *to allow only development of a kind that is, or can be rendered to be, compatible with inundation by flood waters*

The proposed development is not compatible with inundation by flood waters.

- (d) *to reduce the incidence of loss of life and damage to property and the environment in areas subject to flooding*

The proposal development is likely to increase the incidence of loss of life and damage to property and the environment in areas subject to flooding.

Clause 28 – Subdivision in the Special Urban (Flood) Zone

The site is mapped as being within the Raymond Terrance residential precinct. Although the proposed lots to be created are capable of supporting residential development, the draft Lower Hunter Floodplain Management Study lists this site as a very high flood hazard and that dwellings should be prohibited. The proposed subdivision is considered non-compliant with the matters for consideration of Clause 28.

Clause 37 Development on flood prone land

Clause 37 lists matters that must be considered before granting consent to development on flood prone land. Council's Strategic Engineer provided the following assessment comments:

- (a) *The extent and nature of the flooding or inundation hazard affecting the land*

The site is severely affected by flooding. The existing ground level is approximately 1.4m to 2.2m AHD. The Lower Hunter Flood Study (Lawson and Teloar 1994) indicates flood levels of 2.7m AHD for a 10% AEP flood with velocities of 0.8m/s to 1.6m/s. The 1% AEP flood shows a level of 4.7m AHD and velocity of 1.8m/s to 2.3m/s.

This means that this property would be flooded in relatively small floods. Given such depths and velocities the draft Lower Hunter Floodplain Management Study (Paterson Britton 2001) has classified this location as Floodway and subject to very high flood hazard in a 1% AEP Flood and an Extreme Flood Hazard in a 0.2% AEP Flood.

- (b) *Whether or not the proposed development would increase the risk or severity of flooding or inundation affecting other land or buildings, works or other land uses in the vicinity*

The fully enclosed ground floors will divert flood waters and may affect other land and buildings in the vicinity.

- (c) *Whether the risk of flooding or inundation affecting the proposed development could be reasonable mitigated and whether conditions should be imposed on any consent to further the objectives of this plan*

Due to the floodway and very high flood hazard nature of the site, the flood risk could not be mitigated.

- (d) *The social impact of flooding on occupants, including the ability of emergency services to access, rescue and support residents of flood prone areas*

Due to the very high flood hazard nature and distance of the evacuation route to high ground, support, access and emergency rescue would be stretched by the additional residences.

- (e) The provisions of any floodplain management plan or development control plan adopted by the Council

Whilst not adopted by Council, the *Draft Lower Hunter Floodplain Management Study (Paterson Britton)* recommends that habitable dwellings should be prohibited on land in the floodway or below the 2% AEP flood (3.5m AHD). This information has been given determining weight in the assessment of this dual occupancy development.

Section 94 Contribution Plan 6 – Tomaree Peninsula

The proposed development will result in an increase in residential density of the subject site and therefore would require payment of Section 94 contributions for an additional dwelling.

Hunter Regional Environmental Plan 1989

The proposal is considered to be inconsistent with Clause 52 of the HREP 1989, being an inappropriate land use, increasing the number of people susceptible to the effects of flooding.

NSW Floodplain Development Manual 2005

Under the provisions of the Floodplain Manual, Council is responsible for managing development on flood prone land. In this regard, Council has adopted specific provisions in LEP 2000 relating to development on flood prone land and has considered the *Draft Lower Hunter Floodplain Management Study (Paterson Britton)* in the assessment of this application. Following a planning merit assessment of the proposal against those documents, it is considered that it is unsuitable for the site and should be refused.

It is considered that the proposal does not comply with Council's flooding requirements, as it will increase residential density in a very high flood hazard area.

The applicant has stated that Council has recently approved other development in the immediate vicinity of the site, quoting the construction of three (3) nearby developments as justification. These developments are listed below:

- 16-2000-583-1 for a two storey dwelling at 108 Port Stephens St, Raymond Terrace
- 16-2000-1960-1 for a two storey dwelling at 106 Port Stephens St, Raymond Terrace
- 7-1996-1428-1 for an attached dual occupancy at 110 Port Stephens St, Raymond Terrace

The dwellings approved by 16-2000-583-1 and 16-2000-1960-1, on 29 May 2000 and 31 January 2001 respectively, were located on existing allotments that had dwelling entitlement and did not increase the residential density of the area.

The dwellings were designed so that the ground floor levels only consisted of garage space that could be opened to allow flood water to pass through the building unobstructed, reducing minimising the potential for diverted flood waters onto adjoining properties.

The dual occupancy approved by 7-1996-1428-1, on 24 March 1997, occurred prior to the current flooding information becoming available.

This application is distinctly different from the above-mentioned dwellings as it seeks to construct 2 dwellings and subdivide the existing allotment into 2 lots. This will increase the residential density of the site and could have a significant cumulative impact if other dual occupancies are approved in the area.

Councillor's attention is specifically drawn to Section 733(1) and Section 733 (4) of the Local Government Act 1993 relating to exemption from liability with respect to flood prone land and the basis of a "good faith" defence established in legal case law.

If Council approves the subject application, Council will be establishing a significant planning and environmental precedent in this locality effectively encouraging dual occupancy development in an area known as a very high flood hazard.

To date Council has assessed applications for single dwelling houses on existing, lawfully created allotments in this locality, mindful of the risk management considerations encapsulated in the NSW Floodplain Development Manual.

The proposal dual occupancy cannot be supported in this instance on either sound planning or environmental grounds.

2. Likely Impact of the Development

Although the proposal is unlikely to have any direct impacts on surrounding properties, Council is concerned about increase residential density in flood affected areas due to likely detrimental impacts on both the future occupants of the development and the subsequent increase demand on emergency services in times of flooding. The additional dwellings and their design will also increase the risk of flood waters being diverted to adjoining properties.

3. Suitability of the Site

Although the proposed development is permissible on the subject site, it is considered unsuitable due to it increasing the residential density of the site, which is considered to be a very high flood hazard. The proposal is likely to increase the risk of loss of life and damage to property.

4. Submissions

One (1) submission was received during the submission period. The submission raised concern about the location of the clothes drying area for unit 2, but did not object to the development in general.

5. Public Interest

The development is not in accordance with Council's requirements for development on flood prone land and is considered likely to increase the risk of loss of life and damage to property. It is considered that refusing this application is in the public interest.

GENERAL MANAGER'S REPORTS

ITEM NO. 1

FILE NO: PSC2005-5185

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: JUNE SHINE – EXECUTIVE MANAGER, CORPORATE MANAGEMENT

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
 - a) Port Stephens Family Support Service - \$968.00 – Reimbursement costs of DA Fees
 - b) Port Stephens Family History Society - \$500.00 – Donations towards Genealogical Expo
 - c) Hunter Singers - \$200.00 – Donations towards Hunter Singers
 - d) Life Education - \$4200.00 – Contribution towards the towing costs for the vehicles in Port Stephens between schools
 - e) Karuah Patchwork & Quilters - \$60.00 – Reimbursement of hall hire.
 - f) Port Stephens Veteran Golfers Assoc - \$1000.00 – Donation towards 2007 Golf Tournament
 - g) Onegiantwalk - \$200 – Donation towards Climate Change Walk
-

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:		
074	Councillor Hodges Councillor Nell	That the Recommendation be adopted.

BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The Council’s policy gives Councillors a wide discretion to either grant or to refuse any requests.

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

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

Council's policy for financial assistance has been developed on the basis it is "seed" funding and that there is benefit to the broader community. Funding under Council's policy is not intended for ongoing activities.

The requests for financial assistance are shown below:-

MAYORAL DONATIONS

Port Stephens Family Support Service	Reimburse Costs of DA Fees	\$968.00
Port Stephens Family History Society	Donation towards Genealogical Expo	\$500.00
Hunter Singers	Donation towards Hunter Singers	\$200.00
Port Stephens Veterans Golf Assn	Donation towards 2007 Golf Tournament	\$1000
Onegiantwalk	Donation to Climate Change Walk	\$200.00

WEST WARD – Crs Brown, Francis, Hodges & Jordan

Life Education	Cost of Towing Life Education Vehicle to Schools in Port Stephens	\$1400.00
Karuah Patchwork & Quilters	Hall Hire for Quilting weekend	\$60.00

EAST WARD – Crs Nell, Dover, Westbury & Robinson

Life Education	Cost of Towing Life Education Vehicle to Schools in Port Stephens	\$1400.00
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CENTRAL WARD – Crs Baumann, Swan, Dingle & Tucker

Life Education	Cost of Towing Life Education Vehicle to Schools in Port Stephens	\$1400.00
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LINKS TO CORPORATE PLANS

The Council's Management Plan does not have any program or stated goal or objective for the granting of financial assistance.

FINANCIAL/RESOURCE IMPLICATIONS

Council Ward Funds are the funding source for all financial assistance.

LEGAL AND POLICY IMPLICATIONS

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

The policy interpretation required is whether the Council believes that:

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

The policy has other criteria, but these have no weight as they are not essential. These criteria are:

- a) a guarantee of public acknowledgment of the Council's assistance
- b) the assistance encouraging future financial independence of the recipient
- c) the assistance acting as 'seed' funding with a multiplier effect on the local economy.

Australian Business Excellence Framework

This aligns with the following ABEF Principles. (Please delete what is not applicable)

- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Mayor
Councillors

OPTIONS

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

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 2

FILE NO: PSC2006-6737

LEASE OF UNIT 1, 29 STOCKTON STREET, NELSON BAY**REPORT OF: MALCOLM CAMPBELL – BUSINESS DEVELOPMENT MANAGER & PHIL BUCHAN - BUSINESS OPERATIONS MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Notes the occupancy of Lot 1 & 10, 29 Stockton Street, Nelson Bay by Business Operations Section.
- 2) Grant the authority to the Mayor and the General Manager to sign the Lease and the authority to affix Council's Seal, to the Lease documents.

ORDINARY MEETING OF COUNCIL – 27 March 2007**RESOLUTION:**

075	Councillor Robinson Councillor Dover	That the Recommendation be adopted.
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BACKGROUND

The purpose of this report is to request the authority of the Mayor and the General Manager to sign the Lease and the authority for the affixing of Council's Seal, to the Lease documents.

As a result of the restructure of the Business & Development Section, Council's Business Operations Manager identified a benefit to Council and the Community if office space for components of the Section could be found in the Tomaree area. This office space would support the Section's current business enterprises through the co-location of functions of the newly formed Business Operations team. These functions include, management, administration & finance, marketing and Corporate Clean.

At present staff are located in three (3) separate locations, Corporate Clean at Salamander Bay, Marketing at Samurai Beach Resort and the Management & Support Functions at Council's Administration Building in Raymond Terrace.

Corporate Clean entered into a private Lease in May 2005, situated at Unit 1, 27 George Street, Salamander Bay. Their Lease is to terminate in May of this year, thus eliminating this cost to Council through the relocation to the Business Operations Offices. These costs are indicative of a saving of \$19,300 per annum and as demonstrated in the operational costs for 2006, as below;

Rental	\$10,400.00 (Excl. GST)
Leases Expenses	\$1,303.60
Insurance - Premium Transferred	\$33.89
Electricity Usage Charges	\$521.16

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

Telephone Usage Charges	\$5,928.93
Internet Charges	<u>\$1,115.41</u>
TOTAL	\$19,302.99

Marketing are currently working from Reception at the Samurai Beach Resort and while this carries no direct cost to the business unit there are space deficiency issues.

The Business Operations Manager, Administration Assistant and the Finance Assistant are currently occupying office space in the Council's Administration building that can be allocated to other staff. The relocation will reduce the Business Operations Section's corporate overheads in relation to Council office space rental, the amount this year is \$12,122. These overheads do not include such utilities as electricity, phone and water usage charges.

The three (3) financial components above are in excess of \$31,425 p.a. (i.e. \$19302.99 + \$12,122 and exclusive of the utilities for the total Management & Support Functions component that currently occupies space at the Council Administration building).

The Business Operations Manager, with the assistance of the Property Unit, has investigated numerous premises in the Tomaree area. The search for suitable office space revealed few options to accommodate the eight staff represented in the team. The search also included the possibility of housing the team internally in one of Council's facilities, however, no suitable space was available. The best alternative was to establish an office that accommodates the team's operational requirements at 29 Stockton Street, Nelson Bay.

Accordingly, Council's Property Unit has, in principle, entered into a Lease for private premises situated at 29 Stockton Street, Nelson Bay on behalf of the Business Operations Manager – Phil Buchan. The Lease details are as follows;

Gross Rent:	\$23,400pa (Excl GST)
Term:	3 Years
Option 1:	3 Years
Further Option:	Option to Purchase
Commencement Date:	15 th March 2007
Termination Date:	14 th March 2010
Rental Increase:	CPI Annually

During the Lease negotiations consideration was given to the "Lease v's Acquisition" potential and it was determined by the Financial Services Manager that the best strategy at this point is to Lease the premises with an option to purchase if the asset is deemed a viable acquisition at that time.

The terms and conditions of the Lease are in accordance with Council's standard requirements and provide security of tenure for the Business Operations Office. The Lease also includes an option to purchase at councils discretion thereby providing flexibility in the current agreement and greater financial options at the end of the Lease term.

Under the Conveyancing Act Leases in excess of three (3) years duration, including the option period, are to be registered upon the land to which they apply. If the lease is to be registered the Seal must be affixed upon signing under the Local Government (Meeting) Regulation 1999, section 48.

LINKS TO CORPORATE PLANS

The report relates to the corporate objectives of the 30 year plan for Port Stephens – Stage One under:

“Appropriate industries will be encouraged in order to facilitate job creation and employment opportunities”.

FINANCIAL/RESOURCE IMPLICATIONS

The agreement provides for rental to commence at \$23,400 per annum (plus GST), with annual increases in line with the Consumer Price Index (CPI). The current estimated outgoings for the property are as follows;

Rental Fee	\$23,400.00 p.a.
Council Rates:	\$3,476.00 p.a.
Strata Levies:	\$4,480.00 p.a.
Water Rates:	\$160.00 p.a. (Fixed Charges)
Water Usage:	As Charged
Management Fee:	<u>\$1,801.80 p.a.</u>
TOTAL	\$33,317.80 p.a.

Therefore the total annual cost excluding operational expenditure such as electricity, telephone and water usage would be \$33,317.80.

In comparison, if Council continued with the current organisational structure as mentioned in the locations above, the impact financially would slightly increase with the Lease Option. The offset of this marginal increase is realised in the practicality of having staff and resources centralised and the obvious efficiencies that this will inevitably create by a co-location.

As discussed, Lease negotiations have considered the possibility of acquisition, now incorporated as an option to purchase. This gives Council the exclusive right to negotiate with the Landlord/Agents once Council has investigated the viability or potential of the asset at the end of the term. These negotiations will be subject to the criteria of the Property Investment and Development Policy.

In addition, the aim in commercial leasing is to create a secure lease for the longest period of time to a viable tenant. When this has been achieved the owner is protected by known income and a growth rate over the life of the Lease. In having a valid and enforceable lease Council gains positive rights in respect of the occupancy of the property.

LEGAL AND POLICY IMPLICATIONS

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

Australian Business Excellence Framework

This aligns with the following ABEF Principles. (Please delete what is not applicable)

- 1) Clear direction allows organisational alignment and a focus on the achievement of goals
- 2) Mutually agreed plans translate organisational direction into actions
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Group Manager – Business & Support
Business Operations Manager
Financial Services Manager
Business Development Manager

OPTIONS

- 1) Adopt the recommendation
- 2) Reject the recommendation

ATTACHMENTS

- 1) Commercial Lease Acceptance Form

COUNCILLORS ROOM

- 1) N/A

TABLED DOCUMENTS

N/A

ATTACHMENT 1

02/03/2007 15:00

0249841405

WATERLAND REAL ESTATE

PAGE 02/02

COMMERCIAL LEASE ACCEPTANCE FORM

Property: Lots 1 & 10, 29 Stockton Street Nelson Bay 2315

Lessees: Port Stephens Council

Lessee's Solicitor: Harris Wheeler

We agree to lease the above property based on the following terms and conditions:

Rent	\$450 per week (exclusive of GST)
Rent Increase	CPI annually
Outgoings	Lessee to pay 100% of the following estimated outgoings
	Council Rates \$3476
	Strata Levies \$4480
	Water Rates \$160p.a fixed charges
	Water Usage as charged
	Management Fee \$1801.80
Term	3 year with a 1 x 3 year option
Commencement Date	15 th March 2007
Special Conditions	2 month rent free period 3 remotes and keys to be supplied Application for signage to be made to strata (upon council supplying dimensions and exact location of proposed sign)
Bond	\$1950
GST	Lessee to reimburse Lessors any GST applicable to the rent and the collection of outgoings.
Public liability	\$10,000,000.00

Name: Port Stephens Council

Signed: 

Date: 2/3/07

ITEM NO. 3

INFORMATION PAPERS

REPORT OF: PETER GESLING –GENERAL MANAGER

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 27 March, 2007.

No: Report Title Page:

1. Film Hunter Half Yearly Production Report
 2. Hunter Councils Inc – Minutes of Board Meeting 30 November 2006
-

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

076	Councillor Nell Councillor Hodges	That the Recommendation be adopted.
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GENERAL MANAGER'S INFORMATION PAPERS

INFORMATION ITEM NO. 1

FILM HUNTER – HALF-YEARLY PRODUCTION REPORT

REPORT OF: PETER GESLING – GENERAL MANAGER
FILE: A2004-0026

BACKGROUND

The purpose of this report is to provide Council with a copy of Film Hunter's Half-Yearly Production Report for 1 July to 31 December 2006.

ATTACHMENTS

- 1) Half-Yearly Production Report – 1 July to 31 December 2006.
-

ATTACHMENT 1



REGIONAL FILMING – HALF YEARLY PRODUCTION REPORT
1 July – 31 December 2006

Key Achievements

Film Hunter pitched locations from 11 LGAS for productions in this six month period, eventuating in filming taking place in 9 LGAs in total. These were Upper Hunter, Singleton, Lake Macquarie, Great Lakes, Port Stephens, Newcastle, Cessnock, Dungog. and Maitland.

- This period saw **42 film and television productions** happen in the Hunter Region.
- This period saw a total of **83 days** filming in the Hunter Region.
- This translated into **\$1,163,400** worth of filming happening in the Hunter Region. (Direct expenditure with no multipliers applied.)
- There were an additional **36 enquiries** that may or may not result in filming in the Hunter in the future.
- **559 film and TV practitioners visited** the Hunter from outside the region during this period.
- **394 local film practitioners** were employed by productions during this period.

Key Events

- Around 30 visiting cast and crew from TV Series **Home and Away** spent four days in the Hunter, filming at Maitland Gaol in November.
- The producers of **the independent feature film Newcastle** with a budget of \$2.8million committed to filming in the Hunter to start in April 2007. The feature has pre-sales in Australia, New Zealand and Japan. Barry Otto will star and Andrew Johns of the Knights has agreed to take a small role, with this facilitated by Film Hunter.
- Local producers Greg Hall and Diane Michaels produced **the documentary Lock Out** about the 1929 Rothbury Riots in the Hunter coalfields. Around 35 cast and crew were involved in the production in November 2006, which has since had pre-sales with Foxtel's History Channel.
- **USA production** of a TVC for fruit punch Capri Sun filmed in the Hunter 8-15 December 2006. Over \$50,000 in Hunter accommodation was booked for a visiting crew of 75 people with total regional spend of \$150,000.

Film Hunter is funded by the Department of State and Regional Development and Hunter Councils with proud support from Newcastle City Council and the NSW Film and Television Office. 1

- **Film Hunter provided multiple locations to the producers of the NSW Dept of Commerce TVC** promoting the work of the Dept throughout NSW and filmed predominantly in the Hunter. Feedback from NSW Dept of Commerce **TVC producer** Kevin McGrath (October '06 shoot).
It was really a pleasure and immensely helpful having you arrange so many things for our shoot for the Dept. of Commerce. You run an excellent "One Stop Shop" to service and encourage productions.
- Film Hunter and NSW FTO pitched locations for the **Stephen Spielberg**-produced 10 part World War 11 TV series **The Pacific**. Producers are still interested in the Hunter as a location for this production.
- Film Hunter was approached by the **Central Coast film industry network** regarding the concept of Film Hunter also representing the Central Coast.
- **Film Hunter helped organise the Newcastle Film Festival** (sponsored by Film Hunter) and assisted with the Australian premiere of **Suburban Mayhem** in conjunction with **Greater Union**.
- **Film Hunter co-ordinated a meeting of 16** council reps & the CEO of Hunter Councils to review Film Hunter protocols and prepare the Film Hunter office for self-sustainability.
- Worimi Local Aboriginal Land Council has agreed that all **film permitting for the Stockton sand dunes happens through Film Hunter**. The Stockton Dunes host an average of one production a week.
- With National Parks and Wildlife Services taking over and managing other portions of the Stockton Dunes including access points to the dunes, Film Hunter and the ranger from NPWS developed a **protocol for film shoots on this land**.
- Film Hunter distributed a **bi-monthly e-news** to stakeholders in the Hunter as well as national film production houses, networks and advertising agencies.
- The Film Hunter Production Directory has 265 local practitioners and businesses listed on the Directory. The new Film Hunter website allows those listed to update their details instantly online.
- Film Hunter hosted a joint function for the film industry and 35 media students from the Hunter Institute at which TAFE students had the opportunity to show their multi-media works. **Seventy people in total attended the function**.
- The Film Hunter Manager serviced **50 community enquiries** regarding careers, business development and training in film and television during this period. This liaison was undertaken via phone, email and face-to-face meetings.

Film Hunter is funded by the Department of State and Regional Development and Hunter Councils with proud support from Newcastle City Council and the NSW Film and Television Office. 2

INFORMATION ITEM NO. 2

**HUNTER COUNCILS INC
MINUTES OF BOARD MEETING – 30 NOVEMBER 2006**

**REPORT OF: PETER GESLING – GENERAL MANAGER
FILE: A2004-0026**

BACKGROUND

The purpose of this report is to provide Council with a copy of the Hunter Councils Inc Board Meeting Minutes of 30 November 2006.

ATTACHMENTS

- 1) Hunter Councils Inc Board Meeting Minutes of 30 November 2006.
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ATTACHMENT 1

Item 2 Minutes from Previous Meeting



Hunter Councils Inc

**Draft minutes of
Thursday 30**



**Board Meeting
November 2006**

**Hunter Councils Inc Board
Thursday 30 November
59 Bonville Avenue, Thornton**

MINUTES

Item 1.

Attendance

Mr David Evans	Maitland City Council	Cr Vicki Woods	Maitland City Council
Mr Norm McLeod	Gloucester Shire Council	Cr Keith Parsons	Newcastle City Council
Cr Leigh Vaughan	Great Lakes Council	Cr John Byrne	Greater Taree City Council
Cr Peter Blackmore	Maitland City Council	Cr Margaret Flannery	Dungog Shire Council
Cr Greg Piper	Lake Macquarie City Council	Mr Brian Bell	Lake Macquarie City Council
Cr Helen Brown	Port Stephens Council	Mr Wayne Cossens	Upper Hunter Shire Council
Cr Nat Doonan	Upper Hunter Shire Council	Cr Sonia Hornery	Newcastle City Council
Cr John Douglas	Muswellbrook Shire Council	Cr Russell Esdale	Muswellbrook Shire Council
Cr John Dugas	Gloucester Shire Council	Cr Jeff Maybury	Cessnock City Council
Mr Bernie Mortomore	Cessnock City Council	Cr Julie Lyford	Gloucester Shire Council
Cr Geoff Robinson	Port Stephens Council	Cr Ron Swan	Port Stephens Council

Apologies

Mr Daryl Dutton	Upper Hunter Shire Council	Mr Peter Gesling	Port Stephens Council
Mr Steve McDonald	Muswellbrook Shire Council	Ms Janet Dore	Newcastle City Council
Mr Phil Pinyon	Greater Taree City Council	Mr Keith O'Leary	Great Lakes Council
Cr Catherine Parsons	Cessnock City Council	Cr Bruce Scott	Cessnock City Council
Cr Barry Ryan	Gloucester Shire Council	Cr Mercia Buck	Lake Macquarie City Council
Cr Barry Rose	Upper Hunter Shire Council	Cr Ian Shaw	Gloucester Shire Council
Cr Eddie Loftus	Greater Taree City Council	Cr John Colvin	Muswellbrook Shire Council
Cr John Tate	Newcastle City Council	Cr Ian McKenzie	Newcastle City Council
Cr Fred Harvison	Singleton Shire Council	Cr Tony McNamara	Singleton Shire Council
Michael Valentine	Muswellbrook Shire Council	Mr Craig Deasey	Dungog Shire Council
Cr Steve Low AM	Dungog Shire Council	Cr Glenn Wall	Dungog Shire Council
Cr John Clarence	Cessnock City Council	Mr Steven McGrath	Singleton Shire Council

Staff Dr Barbara Penson

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

The Chairman, Cr John Chadban welcomed Delegates to the meeting and recommended that the apologies be accepted.

Item 2 Acceptance of Minutes from 31 August 2006

With amendment, delete second report of Cr Glenn Wall at Upper Hunter Shire Council.

Moved: Cr Leigh Vaughan Seconded: Cr Jeff Maybury Carried

Item 3 Presentations

i) Mr Colin Nunn, from the Roads and Traffic Authority

Gave a presentation to the Delegates on the extension to the F3, funding arrangements and estimated timing.

ii) Games Councils of NSW

Stephen Hunt and Craig Henderson presented to the meeting on the requirements for hunters in State and National Parks.

iii) Hunter Region Sports Advisory Panel

Mr Ted Atchison and Mr Ken Clifford spoke of their desire to form a regional alliance with the goal of attracting major sporting events to the region.

The meeting endorsed the concept in principle and welcomed further information to be presented to the next meeting. The CEO was requested to liaise with the organisers to determine the representation they may require and also request that the group liaise with Hunter Tourism.

Cr Vaughan requested that the brief should be broadened to include more activities than sport eg cultural events and that a name reflective of this broad brief be considered.

Moved: Cr Leigh Vaughan Seconded: Cr Geoff Robinson Carried

Item 4. Business arising from Minutes of meeting 31st August 2006

4.1 Protocol for nomination of Board representatives to community positions

The protocol was discussed and endorsed.

Moved: Cr Greg Piper Seconded: Cr Leigh Vaughan Moved

4.2 Community Relations Commission

Noted

4.3 Roads to Recovery

Noted

4.4 Regional Migration

4.5 Noted

Item 5 Community Updates

5.1 HNEAH Advisory Group

Cr Piper advised that despite comments from Mr Terry Clout of HNEAH, he had not received any information with regard to a meeting of this Advisory Group. The CEO was requested to make enquiries regarding the status of this Advisory Group.

5.2 Hunter Tourism

Mr David Evans advised that the AGM had been postponed until December 14. A recommendation will be considered by the AGM with regard to the structure of the Board of that organisation. The proposal encompasses a representative of each of the five product zones in the Hunter Region. The Chair will be the Chair or Nominee of Hunter Councils, plus the Chair of GMAC holding the Deputy Chair position.

Cr Chadban acknowledged his potential conflict of interest given his role within the North Coast Tourism Authority. He would consider an appropriate nominee and will report to the next Hunter Councils Board meeting.

5.3 Westpac Helicopter Report

Cr Margaret Flannery thanked the Board for its continued support for the role of representative to the Westpac Board. She reported to the Board on the operations and activities of the Westpac Helicopter service including fund raising activities.

Item 6 Financial Report

The CEO spoke to the Financials, pointing out that many projects are affected by timing issues with regard to contributions, management fees or government payments however all targets are on track and no concerns were highlighted.

The financial report was accepted.

Moved:Cr Peter Blackmore Seconded: Cr Jeff Maybury Carried

Item 7 Hunter Councils Ltd

The CEO reported on the commercial activities of the Hunter Records Storage (HRS) facility. Whilst the details are commercial-in-confidence she reported that growth was steady and positive, a new service of Secure Destructions Bins had been introduced and several new clients had utilised our service. In particular one major Newcastle entity is moving a considerable quantity from their current storage into HRS.

The Report was accepted with congratulations to all staff who have contributed to the development and growth of this business.

Moved:Cr Greg Piper Seconded: Cr John Dugas Carried

Item 8 General Business

8.1 Board Review

The Chairman expressed his disappointment at not being able to be present at the recent review and expressed his desire to consider the role of the Board and ensuring it utilises its

MINUTES FOR ORDINARY MEETING – 27 MARCH 2007

representative power to gain benefit for members. He requested that councils consider the issues that impact on Local Government and bring them forward to the next Board meeting for consideration. The Chair expressed his desire for GMAC to play a role in providing support and direction to the Board on such issues.

The meeting discussed the recent enquiry from the Minister for Local Government into the future of Local Government, sustainability and cluster concepts. It was recommended that Hunter Councils consider a collective response. The CEO was directed to canvass members for input.

Cr Julie Lyford encouraged Delegates to actively disseminate information about Hunter Councils back to the members' council floor.

The meeting recommended the adoption of the Advocacy Protocol

Moved: Cr Julie Lyford Seconded: Cr Leigh Vaughan Carried

8.2 Meetings 2007

The meeting dates were endorsed. Preferred timing, eg morning or afternoon meetings was to be resolved by a majority vote of the delegates to be conducted by the CEO.

Moved: Cr Geoff Robinson Seconded: Cr. Greg Piper Carried

8.3 Tillegra Dam

Cr Margaret Flannery gave a presentation on the recently announced Tillegra Dam to be built in the Dungog region. The Dam will be the size of Sydney Harbour and double the storage capacity for Hunter Water. It will also have a significant impact on prime agricultural land and the families currently working that land. The State Government has not provided sufficient details to Council to enable it to deal with community concerns.

The meeting discussed the matter and gave approval to the Executive to support Dungog Shire Council's endeavours to gain adequate assistance to deal with the social impacts of the dam and its current and future impacts on the resources and infrastructure of the Council.

Moved: Cr Peter Blackmore Seconded: Cr Greg Piper Carried

Meeting closed at 1.00pm

Next meeting; Thursday 22nd February Cessnock
Time to be advised

CONFIDENTIAL ITEMS



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

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

ORDINARY MEETING OF COUNCIL – 27 March 2007

RESOLUTION:

077	Councillor Hodges Councillor Jordan	That Council move into Confidential Session
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I certify that pages 1-172 of the Ordinary Meeting of Council dated 27 March 2007 were confirmed by Council at its meeting held on Tuesday 24 April 2007.

**Cr Ron Swan
MAYOR**