

Minutes 10 November 2009



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 10 November 2009, commencing at 6.46pm.

PRESENT: Councillors B. MacKenzie (Mayor); R. Westbury (Deputy Mayor); G. Dingle; S. Dover, G. Francis; K. Jordan; D. Maher, J. Nell; S. O'Brien; S. Tucker, F. Ward; Acting General Manager; Corporate Services Group Manager, Facilities and Services Group Manager; Sustainable Planning Group Manager; Commercial Services Group Manager and Executive Officer.

358	Councillor Daniel Maher Councillor Steve Tucker	It was resolved that apologies from Cr Peter Kafer be received and noted.
359	Councillor Glenys Francis Councillor Daniel Maher	It was resolved that minutes of the Ordinary Meeting of Port Stephens Council held on 20 October 2009 be confirmed.

Councillor Jordan was not present at the commencement of the meeting due to his conflict of interest.

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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 3200-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGERS OFFICE

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 Item 1 on the 11 November 2009 Council Committee agenda namely **Unauthorised Depot : Cabbage Tree Road, Williamtown.**
 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning the commercial arbitration and legal costs incurred 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 of the closed part of the meeting remain confidential until the matter is settled.
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ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

360	Councillor Glenys Francis Councillor Daniel Maher	It was resolved that the recommendation be adopted.
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ITEM NO. 2

FILE NO: 3200-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(c) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Item 2 on the 11 November 2009 agenda namely ***Sale of Land - Salamander Bay.***
 - 2) That the reasons for closing the meeting to the public to consider this item be that it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
 - 3) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it may prejudice Council's commercial position and Council should have the same protection for its confidential commercial activities as that applying to other persons.
 - 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.
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ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

361	Councillor Glenys Francis Councillor Daniel Maher	It was resolved that the recommendation be adopted.
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**COUNCIL
COMMITTEE
RECOMMENDATIONS**

ITEM NO. 1

FILE NO: PSC2008-2238

PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000 (NO. 32) TO REZONE LAND TO FACILITATE COMMERCIAL DEVELOPMENT - CORNER FERODALE AND PEPPERTREE ROADS, MEDOWIE

REPORT OF: DAVID BROYD - GROUP MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Not proceed with the Draft Port Stephens Local Environmental Plan 2000 (Amendment No. 32) (**Attachment 1**) at this stage given that there is no supporting Infrastructure Plan as required by the Medowie Strategy.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009

	<p>Councillor Bruce MacKenzie Councillor Steve Tucker</p>	<p>That Item 1 – Proposed Amendment to Local Environmental Plan 2000. (No.32) to Rezone Land to Facilitate Commercial Development – Cnr Ferodale & Peppertree Roads, Medowie, being deferred until 24 November 2009.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Bruce MacKenzie, Daniel Maher, John Nell, Bob Westbury, Geoff Dingle, Frank Ward, Glenys Francis, Sally Dover, Shirley O'Brien and Steve Tucker.

Those against the Motion: Nil

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

<p>362</p>	<p>Councillor Bob Westbury Councillor Steve Tucker</p>	<p>It was resolved that the Council Committee recommendation be adopted.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Bruce MacKenzie, Daniel Maher, John Nell, Bob Westbury, Geoff Dingle, Frank Ward, Glenys Francis, Sally Dover, Shirley O'Brien and Steve Tucker.

Those against the Motion: Nil

PROPOSAL DETAILS

Owner	Buildev Development NSW (CM) Pty Ltd
Proponent	Buildev Development NSW (CM) Pty Ltd
Date of Submission	9 th April 2008
Subject Land	Lots 7, 8, 9, 10, 11 DP 19101 Ferodale Road Medowie
Current Zone	2(a) Residential
Proposed Zone	3(a) Business General

BACKGROUND

Following public exhibition and Council's adoption of the Medowie Strategy this report presents the draft LEP for Council's consideration whether to;

- **not proceed with the draft LEP;**
- **proceed with the draft LEP as exhibited; or**
- **alter the draft LEP before proceeding.**

Council resolved on 27th May 2008 to prepare a draft Local Environmental Plan (LEP) to rezone the subject land from 2(a) Residential to 3(a) General Business. At the same time, Council resolved to prepare a Development Control Plan (DCP) over the Medowie 'town centre' including the subject land.

Council resolved at its meeting held on 24th March 2009 as follows:

It was resolved that Council :

- 1) Adopt the Draft Medowie Strategy (Attachment 1 – provided under separate cover) incorporating amendments as outlined in this report to facilitate; existing and future rezoning requests; future development and redevelopment in Medowie; and implementation of the Lower Hunter Regional Strategy;
- 2) Submit to the Director General of the Department of Planning seeking approval of the adopted Strategy;
- 3) Note that the draft Strategy requires the preparation of an Infrastructure Plan to identify public infrastructure and how this will be funded to enable infrastructure provision to be integrated into the planning process associated with current and future rezoning requests;
- 4) Note that the General Manager will consult with the Hunter Development Corporation regarding prospective involvement in infrastructure delivery;
- 5) Insert the strategic directions (Part A) from the draft Medowie Strategy into the Port Stephens Community Settlement and Infrastructure Strategy 2007; and
- 6) Note that background and research information for the draft Medowie Strategy (Parts B and C) will be retitled Medowie Strategy – Technical Report/s.

Council should note that the “concept plan” is not a matter directly relevant to decision-making on the draft LEP.

In accordance with the adopted Medowie Strategy, the proponents were invited to demonstrate that the proposed rezoning, i.e. commercial land use, will not result in insufficient funding and provision of infrastructure to serve the future needs of development under the Strategy Structure Plan. This information has, to date, not been provided by the proponent.

The draft LEP was placed on public exhibition from 21st May to 19th June 2009. Submissions are discussed under the consultation section below.

FINANCIAL/RESOURCE IMPLICATIONS

The draft LEP has been prepared and exhibited by Council staff. Stage 1 of the prescribed rezoning fees in accordance with Council's Fees Charges Schedule 2009 has been paid. However, fees for Stage 2 have not yet been paid.

Specific infrastructure to support the proposed urban development under the Structure Plan e.g. roads and drainage is currently outside the scope of Council's

current Section 94 Plan. The absence of an Infrastructure Plan or information from the proponent that demonstrates the proposed land use will not result in insufficient funding and provision of infrastructure, makes it problematic in recommending to Council that the draft LEP be adopted.

Council would need to rely on contributions sought under S.94A (1% of capital value nominated at Development Application stage) which does not account for the specific infrastructure requirements required under the Strategy and may create a future shortfall. This potential shortfall needs to be considered against other demands for the timely addition of commercial land as proposed by the draft LEP.

It should be noted, that the specific infrastructure needs under the Strategy relate to 'hard' critical infrastructure (drainage and roads) which applies equally to residential and commercial land uses.

LEGAL, POLICY AND RISK IMPLICATIONS

The Medowie Strategy

The draft LEP aims to amend the existing Port Stephens LEP 2000 to rezone the subject land from 2(a) Residential to 3(a) Business General. As such, Council must satisfy itself whether the proposed commercial zone, and the range of land uses permissible, is appropriate for the subject site.

In terms of land use, the proposed draft LEP is consistent with the Medowie Strategy to include the subject land within a proposed expansion of the 'Medowie Town Centre'. However, the draft LEP is inconsistent with the strategy in so far as, in the absence of an Infrastructure Plan or adopted Section 94 Plan, the proponent has failed to provide sufficient information to demonstrate that the proposed rezoning will not result in insufficient funding and provision of infrastructure to serve the future needs of development under the Strategy.

Council therefore does not have sufficient information before it to quantify the nature and extent of any potential shortfall and therefore whether the draft plan has potential to prejudice any future development under the Strategy as a whole. The following specific issues have been identified for Council's consideration:

- **Widening of Peppertree Road** – The proponent has indicated via email the intention to provide the road reserve widening along the frontage to Peppertree Road at the DA stage. Approved engineering plans by the same proponent for Peppertree Road in 2001 clearly indicate that it was always intended to be widened on the eastern side. This public infrastructure issue is critical to the development of the town centre and adjoining lands. There is no binding agreement for this to occur – but the proponent has agreed to dedicate land to fulfil this requirement.
- **Intersection widening at Peppertree and Ferodale Roads** – The Strategy identifies a 4 way intersection in this location. In the absence of a Traffic Study projected traffic capacities to determine a suitable intersection type and timing are unknown

- **Contribution to upgrade of the greater road network** – the future infrastructure and section 94 plans have not been completed to quantify the contributions required from each development identified in the Strategy. This leaves a potential short fall to fund the necessary upgrades to the greater road network
- **Campvale Swamp Flooding** – a Flooding and Drainage Study for Medowie will take approximately 18 months to complete to inform the drainage component of the S94 plan. Council is required to consider any cumulative effects between now and the finalisation of the flood management study. Council may need to consider and justify why one development be allowed to proceed potentially at the expense of another.
- **Catchment drainage capacity (immediate impact)** – rezoning requests that are to precede the infrastructure and S94 plans are being asked to initiate such studies for the drainage catchments they are located in. This is so that council can ascertain what capacity or deficiencies currently exist in the catchment to determine a contribution toward strategic upgrade works within the catchment.
- **Contribution to the greater drainage network** – Contributions under the, existing S.94 plans do not take account of the specific infrastructure needs for Medowie. They are likely to be significantly less than a contribution plan that incorporated the infrastructure works resulting from the Medowie Strategy and would not contribute toward the major drainage network items such as trunk drainage and the town lake/detention basin.

Relationship to Councils' resolution of 28th April 2009

On 28th April 2009 Council resolved to approve 'in principle', subject to appropriate conditions, a concept proposal for a supermarket on the subject land, based upon the rationale submitted by the proponent (the supermarket concept plan).

Council resolution of 27th May 2008 to prepare the draft LEP included a resolution to prepare a DCP. As such Council's resolution to approve in principle the supermarket concept plan in practical terms has the effect of not requiring a DCP prior to a DA.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The sustainability implications of rezoning the land have been addressed in the Medowie Strategy. Proceeding with the rezoning to enable the development of a Woolworths supermarket may have positive social and economic effects. Sustainability of infrastructure and related funding remains a key issue for this proposal.

CONSULTATION

The draft LEP was placed on public exhibition from 21st May to 19th June 2009. Exhibition of the draft plan resulted in 9 submissions received from the public. These are discussed under the consultation section below and summarised with respective planning comments and recommendations in **Attachment 2**. In addition submissions received from relevant Govt authorities are addressed below"

Submission Received from the public

The submissions received from the public are primarily concerned with a concept design for a supermarket on the site. The concept design is inconsistent with the Medowie Strategy and this is a common theme in the submissions. Notwithstanding Councils' approval, in principle, of the supermarket concept plan, the draft LEP itself and rezoning of the land is consistent with the Medowie Strategy with the exception of Infrastructure planning. The approval, in principle, of the supermarket concept plan is a separate matter to the draft LEP currently before Council and not a factor for consideration for the reasons identified earlier in this report.

Submission Received from relevant government agencies

The Department of Environment Climate Change & Water and the Rural Fire Service provided no objection provided the relevant matters are given consideration at development application stage. Energy Australia are currently undertaking investigations regarding current and future load limits and require the relevant considerations be given at development application stage.

The Roads and Traffic Authority have provided no specific objection to this draft LEP. However, they reiterated previous advice provided in relation to a requirement of strategic traffic planning for Medowie including the intersection of Medowie and Ferodale Roads, and the town centre.

The NSW Department of Planning (DOP), when informing Council that it may continue the preparation of the draft LEP, advised that the LEP Review Panel indicated it should not be finalised by Council until "[a] Council has determined a strategic traffic solution for the town centre, [b] completed the Medowie Strategy and [c] assessed the impact of any out of centre commercial development on the Medowie Town Centre."

[a] The strategic traffic solution for the town centre is the proposed extension of Peppertree Road north to allow it to connect with a proposed new street connecting Medowie Road and Wilga Roads. This will provide alternate access into the town centre and avoid the current concentration of access via Ferodale Road. It is uncertain if this will be address the Department's requirements.

The proponent has not addressed the matter as part of the draft LEP and considers it to be best addressed at the development application stage.

[b] The Medowie Strategy has been completed and adopted by Council.

[c] There is no out of centre commercial development proposed in the Medowie Strategy of a size or scale that is likely to impact upon the town centre. All neighbourhood centres identified in the Medowie Strategy are complimentary rather than predatory in terms of both size of area and type of activities proposed.

OPTIONS

Council can:

- 1) Adopt the recommendation and note that a further report will be submitted to Council when adequate information about the related infrastructure plan has been submitted by the proponent;
- 2) Support the draft Local Environmental Plan to be submitted to the NSW Minister for Planning and request the Minister's approval of that draft LEP given the social and economic benefits to Medowie with an indication that Section 94A should apply to any development consent issued for the supermarket development on the site, or

ATTACHMENTS

- 1) Draft LEP instrument and map
- 2) Summary of Public Submissions

COUNCILLORS ROOM

- 1) Submissions Folder
- 2) Medowie Strategy

TABLED DOCUMENTS

Nil

**ATTACHMENT 1
DRAFT INSTRUMENT AND MAP**

**Port Stephens Local Environmental Plan
2000 (Amendment No 32) DRAFT**

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979.

KRISTINA KENEALLY, M.P.,
Minister for Planning

Clause 1

Port Stephens Local Environmental Plan 2000 (Amendment No 32)

Port Stephens Local Environmental Plan 2000 (Amendment No 32)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Port Stephens Local Environmental Plan 2000 (Amendment No 32)*.

2 Aims of plan

This plan aims to rezone land referred to in clause 3 from Zone 2(a) Residential "A" Zone to Zone 3(a) Business General "A" Zone under Port Stephens Local Environmental Plan 2000.

3 Land to which plan applies

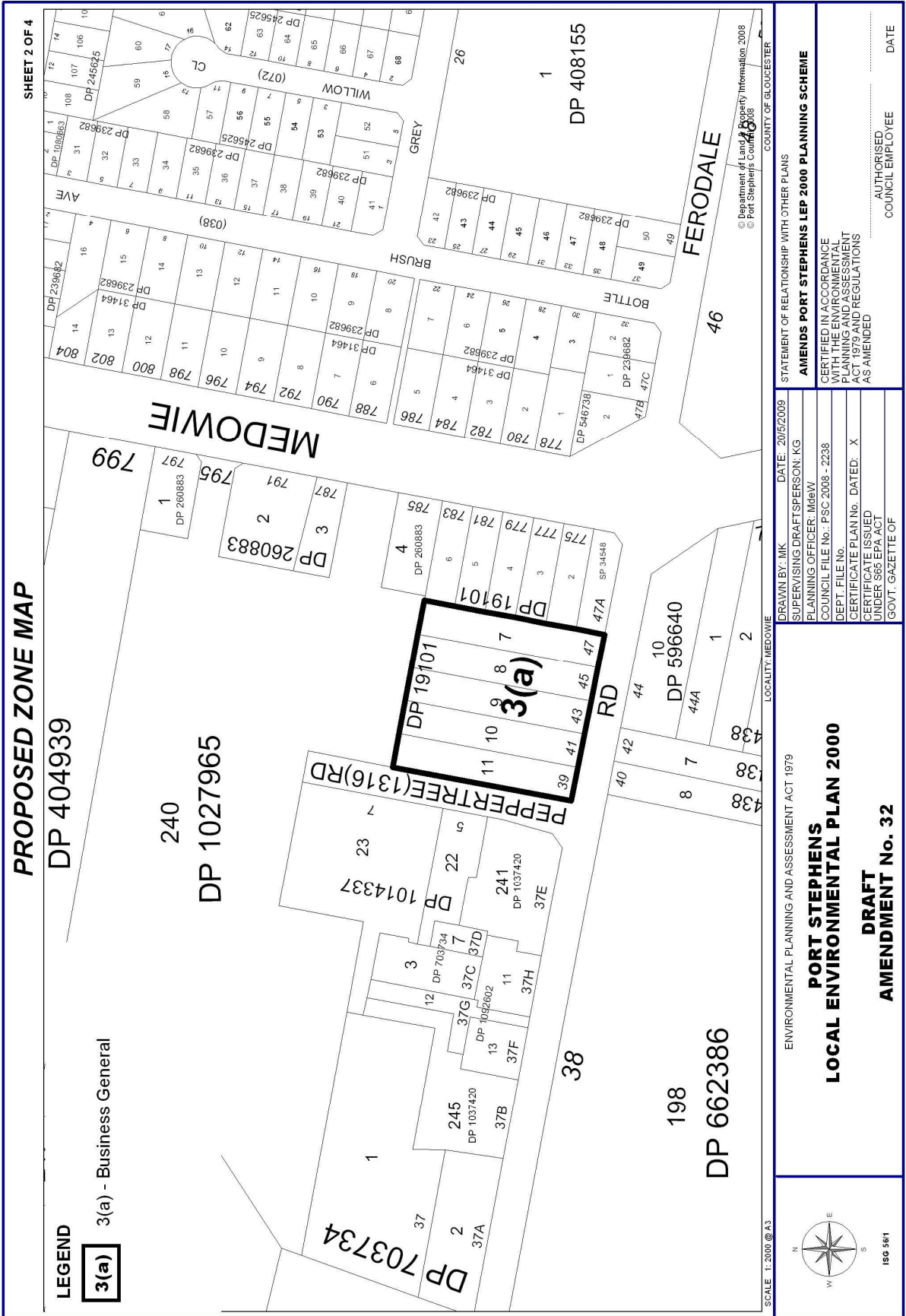
With respect to the aim referred to in clause 2, this plan applies to Lots 7,8,9,10 and 11 DP 19101 as shown edged heavy black and lettered 3(a) on the map marked "Port Stephens Local Environmental Plan 2000 (Amendment No 32)" deposited in the office of Port Stephens Council.

4 Amendment of Port Stephens Local Environmental Plan 2000

Port Stephens Local Environmental Plan 2000 is amended by inserting in appropriate order in the definition of **the map** in the Dictionary the following words:

Port Stephens Local Environmental Plan (Amendment No 32)

Page 2



AMENDS PORT STEPHENS LEP 2000 PLANNING SCHEME

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AND REGULATIONS AS AMENDED

COUNTY OF GLOUCESTER

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

DATE: 20/07/2009

DRAWN BY: MK

SUPERVISING DRAFTSPERSON: KG

PLANNING OFFICER: MdeW

COUNCIL FILE No.: PSC 2008 - 2238

DEPT. FILE No.:

CERTIFICATE PLAN No. DATED: X

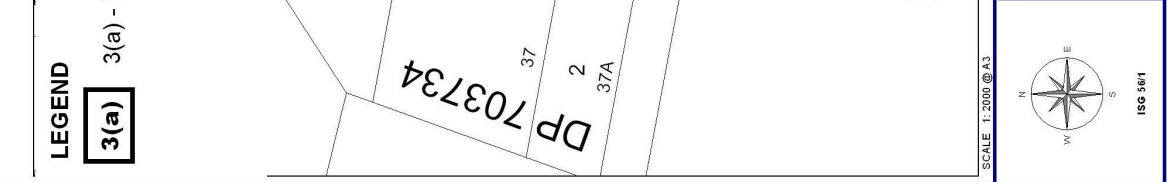
CERTIFICATE ISSUED UNDER S65 EPA ACT

GOVT. GAZETTE OF

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000

DRAFT AMENDMENT No. 32



**ATTACHMENT 2
SUMMARY OF PUBLIC SUBMISSIONS**

SUBMISSION RECEIVED FROM THE PUBLIC			
Submission/ no.	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
1	<p>Objects to the rezoning of the land to allow for the construction of the proposed shopping centre. Council is supporting a development concept that contravenes the fundamentals and spirit of the Medowie Strategy.</p> <p>The development concept jeopardises the Strategy's plan for road works and widening Peppertree road, which is Medowie's nominated future main street.</p> <p>The community helped to create a strategy which would see the development of a town centre with character.</p> <p>Objects to the development concept placing loading bays feeding directly onto Peppertree Road.</p> <p>Objects to any future development that contravenes the guidelines and spirit of the Medowie Strategy.</p> <p>The decision making that has taken place raises issues of trust in local government.</p>	<p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy.</p> <p>The issues raised are principally related to process and a potential development application for a supermarket on the site.</p> <p>Noted. The concept plan is not relevant to the consideration of the LEP</p> <p>It is outside the scope of the LEP process to consider DA issues. It is appropriate to consider the merits of a supermarket design as part of the development application process and after the rezoning of the land.</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General.</p> <p>Council resolve to clarify the concept plan is not relevant to the consideration of the LEP.</p>

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

SUBMISSION RECEIVED FROM THE PUBLIC

Submission/ no.	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
2	<p>Objects to the rezoning. The development concept is contrary to what the Strategy envisions. The Council worked hard with the community to develop the Strategy, and Council I now contravening that Strategy. Objects to the way that Council has bypassed the usual planning process by resolving to approve (in principle) the development. Raises concern that Council's decision to approve a development (in principle) opens the way to possible corruption. Wants a Medowie shopping centre that is linked for pedestrians to walk around safely, with improved streets and appearance. The Strategy proposes a framework to achieve this.</p>	<p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy. The issues raised are principally related to process and a potential development application for a supermarket on the site and outside the scope of the rezoning process. Noted. The concept plan is not relevant to the consideration of the LEP It is outside the scope of the LEP process to consider DA issues It is appropriate to consider the merits of a supermarket design as part of the development application process and after the rezoning of the land.</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General. Council resolve to clarify the concept plan is not relevant to the consideration of the LEP</p>
3	<p>Objects to a rezoning that facilitates a shopping centre that provides no connection to the existing centre and contravenes the Medowie Strategy. Objects to a proposal that doesn't not address the following matters: Road access to Medowie and the two supermarkets, the widening of Peppertree Lane and the continuation of the lane back to Medowie Road, Parking for both supermarkets and smaller shops,</p>	<p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy. The issues raised are principally related to process and a potential development application for a supermarket on the site and outside the scope of the rezoning process. It is appropriate to consider the merits of a supermarket design as</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General. Council resolve to clarify the concept plan is not relevant to the consideration of the LEP</p>

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

SUBMISSION RECEIVED FROM THE PUBLIC

Submission/ no.	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
4	<p>A round-a-bout at the corner of Ferodale Rd and Peppertree Rd once Peppertree has been widened, A bus facility from the main road, Public toilets with pedestrian access, Beautification of the area, Loading and unloading bays should be at the rear of shops, Car parks at the rear of the supermarket, as per the Medowie Strategy. There are examples of supermarkets with parking at the rear, as envisioned by the Strategy. An example is at Stanhope Gardens in western Sydney. The Medowie community spent many hours in consultation with Council during preparation of the Strategy. If the proposed building as supported by Council goes ahead, it is contrary to good governance by Council. To allow a developer to receive approval with only a draft proposal leaves Council open to additional costs.</p> <p>The development concept for the supermarket is contrary to the Medowie Strategy, which was prepared with input from the community. The development concept will create congested roads, no roundabout and no opportunity for social moments.</p>	<p>part of the development application process and after the rezoning of the land. Noted. The concept plan is not relevant to the consideration of the LEP</p> <p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy. The issues raised are principally related to process and a potential development application for a</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General.</p>

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

SUBMISSION RECEIVED FROM THE PUBLIC

Submission/ no.	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
<p>Supports another supermarket in Medowie, but in looking at the development concept the following must be considered: If Peppertree Road is not altered or widened, how will carriers of heavy loads unload their goods at bays. No provision has been made for open space or social interaction, No provision has been made for connection with the existing centre, Car parking facilities should be moved to the rear of the development, All fronts of the shopping centre are faced with car parks – this makes no sense for pedestrians. Councillors who do not live in Medowie have made a decision that is inconsistent with the Medowie Strategy.</p>	<p>supermarket on the site and outside the scope of the LEP process Noted. The concept plan is not relevant to the consideration of the LEP It is appropriate to consider the merits of a supermarket design as part of the development application process and after the rezoning of the land.</p>		
5	<p>Object to the proposed rezoning for the following reasons: A large supermarket should be on the site bound by Ferodale Road, Peppertree Road and Bi-Lo, so as not to split the retail centre of Medowie, By splitting the shopping centre and putting a large car park on the eastern side of Peppertree Road there will be negative impact on traffic, pedestrian and cycle movement, The proposal is contrary to the Medowie Strategy. The site of a second supermarket in Medowie</p>	<p>Rezoning the land to 3(a) Business General is consistent with the Medowie Strategy. The issues raised are principally related to process and a potential development application for a supermarket on the site. It is appropriate to consider the merits of a supermarket design as part of the development application process and after the rezoning of the</p>	<p>Proceed with the draft LEP to rezone the land to 3(a) Business General.</p>

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

SUBMISSION RECEIVED FROM THE PUBLIC

Submission/ no.	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
	should be in the existing shopping area.	land.	

Note: Some community members made more than one submission, on separate dates. They have been consolidated and considered as a single submission for this report.

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

SUBMISSION RECEIVED FROM GOVERNMENT AUTHORITIES

Agency	ISSUES RAISED	PLANNING COMMENT	RECOMMENDATION
Energy Australia	Energy Australia is aware of present and future load growth in the area and is undertaking investigations to allow for future loadings within the area. The applicant/developer will generally be responsible for the electrical reticulation requirements for any proposed development of the subject land.	Noted.	Proceed with the draft LEP to rezone the land to 3(a) Business General.
NSW Roads and Traffic Authority	The RTA provided previous advice to Council on the Medowie Strategy generally, and advise that those comments still apply to any rezoning in Medowie. The RTA has reviewed the information provided for the draft LEP, and has no objection to the rezoning.	Noted.	Proceed with the draft LEP to rezone the land to 3(a) Business General.
Department of Environment, Conservation and Climate Change	No objection to the rezoning.	Noted.	Proceed with the draft LEP to rezone the land to 3(a) Business General.
NSW Rural Fire Service	No objection to the rezoning.	Noted.	Proceed with the draft LEP to rezone the land to 3(a) Business General.

Councillor Jordan entered the meeting following Item 1 at 6.04pm.

ITEM NO. 2

FILE NO: 16-2009-105-1

DEVELOPMENT APPLICATION FOR FOUR (4) LOT SUBDIVISION AT NO. 364 SIX MILE ROAD, EAGLETON

**REPORT OF: ANTHONY RANDALL – ACTING MANAGER, DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2009-105-1 for the reasons listed below.

- 1) The proposal has not demonstrated a future use or that the proposed allotments are capable of sustaining a permissible use in the future.
- 2) The development is inconsistent with Clause 37 and Clause 38 of the Port Stephens Council Local Environmental Plan 2000. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding, impact on occupants, property and impact on adjoining properties. Proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and due to isolation in severe floods accessibility for emergency services would be severely limited.
- 3) Approval of any intensification of land use as a result of the subdivision in high risk flood areas places further demand on already limited SES resources by way of domestic property protection, evacuation and/or resupply.
- 4) The development is considered to be an inappropriate land use under the Floodplain Development Manual, 2005.
- 5) The development is not consistent with the provisions and objectives of Zone No 1 (a) (Rural Agriculture "A" Zone) of the Port Stephens Local Environmental Plan 2000. The proposal will fragment agricultural lands and will not protect the agricultural potential of the land. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 6) Insufficient information was submitted with the application to enable a comprehensive assessment of the use of the proposed allotments under Section 79C of the Environmental Planning and Assessment Act, 1979.
- 7) Insufficient information has been provided to assess the proposal in accordance with Clause 47 of the Port Stephens Local Environmental Plan 2000, in terms of demonstrating that the site has the capability for adequate facilities for water provision and wastewater treatment for any intensification of land use permissible as a result of the subdivision.

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

- 8) Insufficient information has been provided to demonstrate that adequate access can be achieved for all proposed allotments, and in particular proposed Lot 3 has no physical constructed access currently available.
- 9) The development is inconsistent with the principles of State Environmental Planning Policy (Rural Lands) 2008, as the development is not considered to be located in an appropriate location due to extent and nature of flooding.
- 10) It is not possible to implement an evacuation plan for proposed Lots 1-3, that would provide permanent, fail safe, maintenance free measures to ensure the timely, orderly and safe evacuation of any future development on the land, including animal based agricultural activities.
- 11) The development is contrary to the public interests and expectations, of an orderly and predictable built environment.
- 12) The development is inconsistent with the provisions of the Hunter Regional Environmental Plan 1989. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 13) Approval of this application would have an undesirable cumulative effect, having the potential to increase the community's susceptibility to flooding, in terms of social, economic and environmental consequences.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Glenys Francis	That the item be deferred to allow for a site inspection and a further report be submitted to a future Council Committee meeting.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Bruce MacKenzie, Daniel Maher, Ken Jordan, John Nell, Bob Westbury, Geoff Dingle, Frank Ward, Glenys Francis, Sally Dover, Shirley O'Brien and Steve Tucker.

Those against the Motion: Nil

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

363	Councillor Glenys Francis Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Bruce MacKenzie, Daniel Maher, Ken Jordan, John Nell, Bob Westbury, Geoff Dingle, Frank Ward, Glenys Francis, Sally Dover, Shirley O'Brien and Steve Tucker.

Those against the Motion: Nil

BACKGROUND

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

This development application was lodged on 24 February 2009, and proposes a four lot torrens title subdivision, pursuant to Clause 12 (1)(a)(v) of the Port Stephens Local Environmental Plan 2000 (LEP), as the property is divided by public roads in three locations. One of these roads is Newline Road, and two of these roads are currently unformed.

Proposed lots 1 and 2 have frontage and direct access to Newline Road, similarly proposed lot 4 has frontage and access to Six Mile Road. Proposed lot 3 has frontage to two unformed public roads, one along the western boundary and one along the eastern boundary. The applicant amended the proposal during the assessment to delete a proposed right of way for Lot 3, and is now proposing to rely on the unformed road for access.

The subject site is zoned 1(a) – Rural Agriculture, which is described in LEP. The subdivision of the allotment, by road severance is permissible with consent, as specified by Clause 12 of the LEP.

This proposed development is located in a high flood risk area (High Hazard) as identified by the Lower Hunter Valley Floodplain Risk Management Study (2001), where the 1% Annual Exceedence Probability (AEP) flood level is recorded at 5.5 metres AHD. Even in moderate floods, for example, the 20% AEP (i.e. 1 in 5 year event) the property will be inundated by floodwater. The Flood Planning Level is 5.2 metres AHD. Proposed lots 1, 2 and 3 are substantially flat at a level of approximately RL 1.0, and therefore would be severely affected by flooding of up to 4.2 metres.

In this regard, while consent is not being sought for any post subdivision uses as part of this application, Council officers consider that the likely post subdivision uses are relevant as a matter of public interest under Section 79C of the Environmental Planning and Assessment Act 1979. This is to ensure that the lots could be developed for a range of permissible uses, and that the fragmentation of agricultural land is not occurring without adequate justification.

The applicant has not provided an anticipated use for the resultant allotments, despite numerous requests from Council officers. The applicant has stated, in part:

'As with all subdivisions the future intended use of lots to be created is unknown at this time and the future use of the lots cannot be restricted by the issue of consent to the subdivision. The purpose of the subdivision is to make the lots available for future disposition and sale and their future uses is unknown and more importantly could include any and all of the uses permissible within the zone, subject to the further consent of Council.....'

'...If future applications for inappropriate land uses are received by Council let Council deal with them at the time they are lodged. Trying to consider all possible end uses for the land at this time is tantamount to Council considering the likelihood of meteorite strikes on the land....'

'.... The owner has advised that they will not entertain any further discussion in this matter and will be lobbying Councillors to have the matter brought before Council as soon as possible....'

Council officers have significant concerns with this approach. As stated above, any permissible use in the Rural 1(a) zone could be proposed in a forthcoming development application. In this regard, Council officers consider it necessary to assess all land uses permissible by the LEP, to assess whether these lots being created, would legitimately have any future uses once subdivided noting the flooding issue and other site constraints.

The assessment of these uses has been performed in accordance with Floodplain Development Manual 2005 (FDM). The FDM also provides the framework from which Council has determined the hazard characterisation of land, which is 'high hazard'. High Hazard is defined by situations where there is possible danger to personal safety; evacuation by trucks difficult; able-bodied adults would have difficulty in wading to safety and potential for significant structural damage to buildings.

The assessment revealed that the majority of future potential uses are likely to be unacceptable, and that any appropriate uses, for example agriculture, would be less viable as a result of the subdivision.

It is also noted that Clause 12 (2) of LEP 2000 states:

Subdivision of land for a purpose specified in subclause (1) (a) does not have the effect of precluding development of the land for any purpose for which it might have been developed immediately prior to the subdivision (except in so far as the land has been taken for a road as referred to in subclause (1) (a)).

In this regard, Council would be prevented from conditioning the allotments to have no dwelling entitlements. The three additional allotments would therefore have a dwelling entitlement given that they are larger than 4000m². Accordingly, approval of this application has the potential to create three additional high hazard flood prone allotments, upon which future owner's may seek dwellings or the like.

The applicant states that the subdivision by road severance may also allow for the sale of those lands to adjoining land owners. It is noted that this same outcome could be facilitated by proposing a boundary adjustment in accordance with Clause 12 (1)(a)(ii) of the LEP. A boundary adjustment would be the more desirable option as it would not have the affect of creating additional dwelling potential on flood prone land.

On 26 August 2008 Council refused an identical development application DA 16-2008-388-1 at the property under delegated authority due to the high hazard flooding constraint on the site. The application was relodged with Council without any significant amendments.

The key issues associated with this proposal are as follows:-

- Flooding
- Suitability of the site
- Insufficient information submitted to enable an adequate assessment
- Inconsistent with provisions of environmental planning instruments

An assessment of these issues is provided within the attachments.

It is recommended that this application be refused.

The subject site is considered to be highly constrained with regard to flooding, given the proximity to the Williams River and the likelihood of the river flooding on a regular basis. The grounds for refusal are on the basis of the social and economic impacts of flooding on future occupants of any land use proposed in the future, including the ability of emergency services to access, rescue and support residents in flood prone areas and the precedent set by approving subdivisions in a flood prone area. Further, the rural parcel will become fragmented and accordingly, less agriculturally viable.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

Council may become legally liable in cases of property damage and/or loss of life where approval has been given to intensify development in flood prone areas whilst being specifically aware of the risks.

The Councillors attention is specifically drawn to Sections 733(1) and 733(4) of the Local Government Act 1993 relating to exemption from liability with respect to flood prone land and the basis of “good faith” defence established in legal case law.

The development application is inconsistent with Council's Areas Affected by Flooding and/or Inundation Policy originally adopted on 27 January 1998 and most recently amended by Council on 16 December 2008. The objectives of this policy include:

OBJECTIVES

- To manage the development of land subject to or affected by the likelihood of flooding and/or tidal inundation defined as flood prone land in the Port Stephens Local Environmental Plan 2000.
- To base the nature of the restriction applied to an affected site on the principles of the NSW Floodplain Development Manual 2005, the Port Stephens Foreshore (Floodplain) Management Study and Plan 2002, the Paterson River Floodplain Management Study and Plan 2001, the draft Lower Hunter Valley Floodplain Management Study 2001, the Williamstown Salt Ash Flood Study and any further flooding information available to Council at the time.
- To ensure that decision in relation to the acquisition and development of land are made having regard to the best flooding information available
- To ensure that Council complies with the provision of S733 of the Local Government Act 1993 - Exemption from liability – flood liable land and land in coastal zone.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Approval of this subdivision has the potential to increase the community's susceptibility to the effects of flooding and the associated consequences, by creating additional dwelling entitlements or opportunities to intensify land use. The effects of flooding may be distinguished between social, economic and environmental implications

The social implications directly attributable to flood inundation include but are not limited to risks to public safety, potential loss of human life, community disruption, direct and indirect damages caused by floodwaters, (property damage, loss of goods and personal possessions), emotional, mental and physical health costs, provision of food and accommodation for evacuees, loss of wages and opportunity cost to the public caused by the closure or limited operation of public facilities.

In terms of economic impacts, the subdivision of this land has the potential to result in three additional land owners with an expectation that the land can be developed. As detailed in this assessment, Council officers would not recommend approval of a dwelling or other intensification of the land due to the flooding constraint. This may incur financial hardship to these future owners. Refusal of this application may have an immediate economic impact upon the property owner but, in the long term, reduces private and public economic losses attributed to flooding.

Environmental impacts are likely to be created by the impacts of unsuitable development on flood prone land contributing to environmental pollution through erosion, waterborne debris, residual debris, structural failure of dwellings, fences, outbuildings and other domestic/rural infrastructure, and possible effluent pollution (from onsite sewage treatment systems).

There are no flora and fauna issues associated with this application.

CONSULTATION

As the proposed subdivision is less than 5 allotments, the proposal was not required to be notified, as prescribed in the Port Stephens Development Control Plan 2007.

The current development application has been assessed on its merits with due regard to background information contained in the report from Council's Flooding Engineer.

OPTIONS

- 1) Adopt the recommendation.
- 2) Amend the Recommendation.
- 3) Reject the recommendation and approve the development application. In this instance, reasons for approval will need to be drafted by Councillors including supporting justification as a basis for defence in any potential legal proceedings.

ATTACHMENTS

- 1) Locality Plan
- 2) Flood Extent Mapping – 20% AEP (i.e. the 1 in 5 year flood event)
- 3) Assessment
- 4) Reasons for Refusal

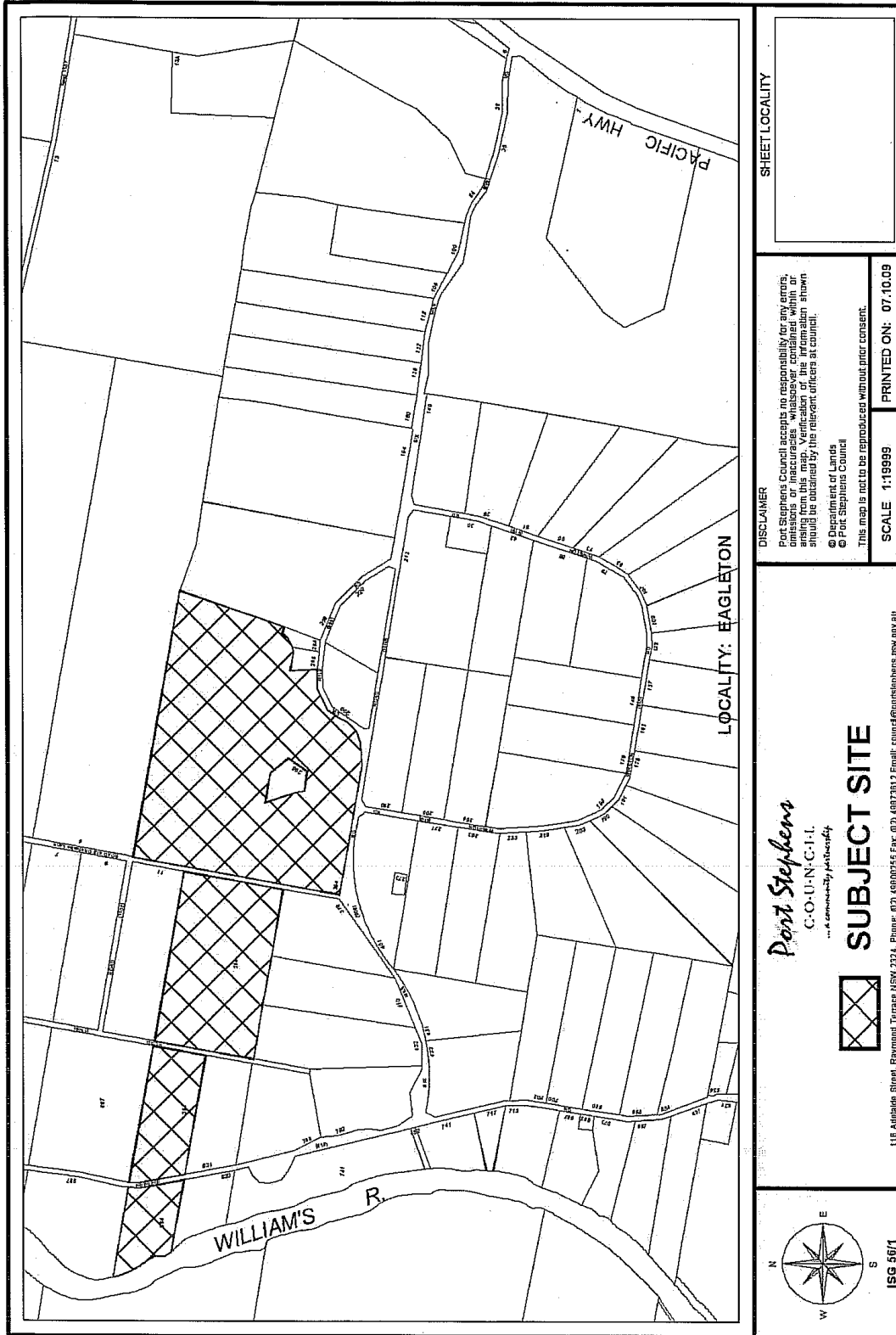
COUNCILLORS ROOM

- 1) Plans and elevations/site plan.
- 2) Council Policy - Areas Affected by Flooding and/or Inundation
- 3) S733(4) Local Government Act 1993 Exemption from liability – flood liable land and land in coastal zone

TABLED DOCUMENTS

Nil

ATTACHMENT 1
LOCALITY PLAN



SHEET LOCALITY

DISCLAIMER

Port Stephens Council accepts no responsibility for any errors, omissions or inaccuracies whatsoever contained within or shown on this map. The Council is not responsible for any errors or omissions which should be obtained by the relevant officers at council.

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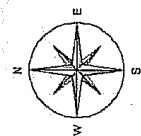
SCALE 1:19999 PRINTED ON: 07.10.09

Port Stephens
COUNCIL
...a community partnership



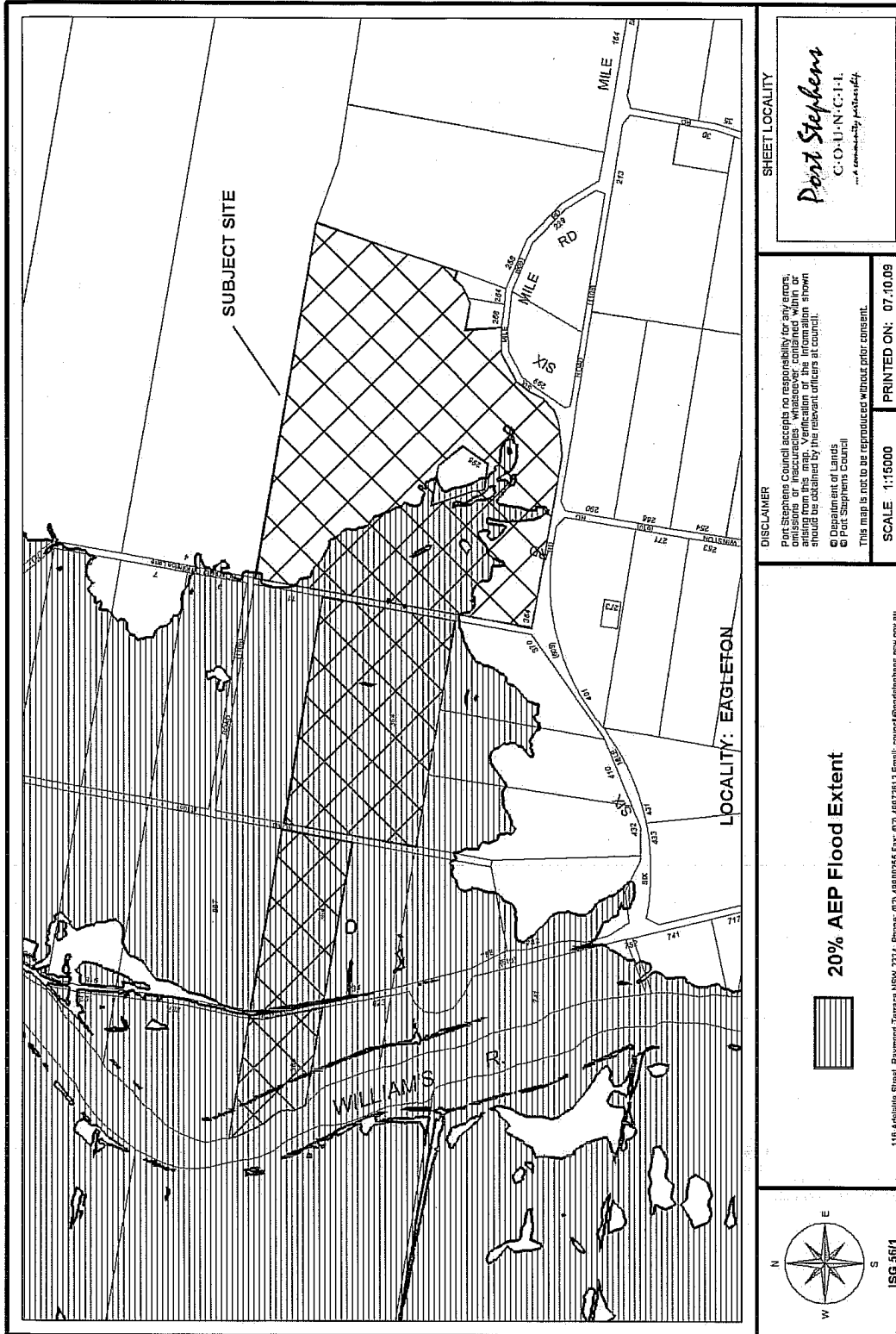
SUBJECT SITE

116 Adelaide Street, Raymond Terrace NSW 2224, Phone: (02) 4900255 Fax: (02) 49073813 Email: council@portstephens.nsw.gov.au



ISG 56/1

ATTACHMENT 2
 FLOOD EXTENT MAPPING – 20% AEP (I.E. THE 1 IN 5 YEAR FLOOD EVENT)



SHEET LOCALITY

Port Stephens
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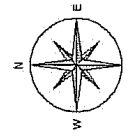
PRINTED ON: 07.10.09

SCALE 1:15000

20% AEP Flood Extent



119 Adelaide Street, Raymond Terrace NSW 2314. Phone: (02) 48802555 Fax: (02) 48873913 Email: council@portstephens.nsw.gov.au



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**ATTACHMENT 3
ASSESSMENT**

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

THE PROPOSAL

The proposal is a four lot torrens title subdivision, proposed pursuant to Clause 12 (1)(a)(v) of the LEP, as the property is divided by public roads in three locations. One of these roads is Newline Road, and two of these roads are unformed.

The proposed lot sizes are:

- Lot 1 – 6.59 hectare
- Lot 2 – 10.66 hectares
- Lot 3 – 26.15 hectares
- Lot 4 – 75.02 hectares

Proposed lots 1 and 2 have frontage and direct access to Newline Road, similarly proposed lot 4 has frontage and access to Six Mile Road. Proposed lot 3 has frontage to two unconstructed dedicated public roads, one along the western boundary and one along the eastern boundary. The applicant amended the proposal during the assessment to delete a proposed right of way for Lot 3, and is now proposing to rely on the unformed road for access.

THE APPLICATION

Owner	N.L. & H.G. HAMMOND
Applicant	Paul Le Mottee Project Management Pty Limited
Detail Submitted	Plan of proposed subdivision and Statement of Environmental Effects (including two addendums)

THE LAND

Property Description	Lot 11 DP 833856
Address	364 Six Mile Road EAGLETON
Area	118.53 hectares
Dimensions	Length of allotment including roads is approximately 2.79 kms. The width of the allotment varies from 240 metres to 585 metres.
Characteristics	The site has varying grades from small hills to flood plain flats. There is an existing dwelling on the highest area of the allotment (i.e. on proposed lot 4).

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning Relevant Clauses	Rural 1(a) RURAL AGRICULTURAL “A” 10 Zone objectives and development control table 11 Rural zonings 12 Subdivision within rural zones generally 37 Objectives for development on flood prone land 38 Development on flood prone land 39 Development near the Williams River 47 Services
Development Control Plan	Port Stephens Development Control Plan 2007
Regional Environmental Planning Policies	Williams River Catchment Regional Environmental Plan 1997 Hunter Regional Environmental Plan 1989 (now superseded but applicable at date of lodgement)
State Environmental Planning Policies	State Environmental Planning Policy (Rural Lands) 2008

Discussion

NSW Floodplain Development Manual 2005 (FDM)

Glossary of terms:

Annual Exceedance Probability (AEP) - When floods do sporadically occur they vary greatly in likelihood of occurrence, as measured by AEP. The AEP of a particular flood discharge at a particular point in a particular catchment is the probability that the discharge will be equalled or exceeded in any one year. Typically, AEP is quoted in terms of percentages, for example, a flood with a 10% AEP has a 10% or one-in-ten chance of occurring in any year.

The 1% AEP flood – this term is a statistical event occurring on average once every 100 years, ie, there is a 1% chance of a flood of this size or greater occurring in any given year.

Flood Planning Level (FPL) - Flood levels selected for planning purposes which should be based on an understanding of the full range of flood behaviour and the associated flood risk, including the social, economic and ecological consequences associated with floods of different severities. Different FPL's may be appropriate for

different categories of land-use and for different flood plans. Accordingly, the advice provided in this report with respect to FPL are only applicable to dwellings.

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

Assessment:

The FDM, prepared by the Department of Infrastructure, Planning and Natural Resources provides the framework from which decisions are made with respect to development affected by flooding. The FDM notes that case-by-case decision making cannot account for the cumulative impacts on flood behaviour and risks, caused by individual developments or works. This form of ad hoc assessment contravenes the principles of the manual.

Under the provisions of the FDM, Council is responsible for managing development on flood prone land. In this regard, Council has adopted specific provisions in the LEP relating to development on flood prone land. Council has also completed a Williams River Flood Study (prepared by BMT WBM Pty Ltd in 2009), which was prepared in accordance with the FDM.

This proposed development is located in a high flood risk area (High Hazard) as identified by the Lower Hunter Valley Floodplain Risk Management Study (2001), where the 1% AEP flood level is recorded at 5.2 metres AHD. Even in moderate floods, for example, the 20% AEP (i.e. 1 in 5 year event) the property will be inundated by floodwater.

All proposed lots are affected by flooding. Proposed lots 1, 2 and 3 are substantially flat at a level of approximately RL 1.0 and severely affected by flooding. The south western half of proposed lot 4 is also affected by flooding. A substantial creek also runs through all properties. Flooding could not be reasonably mitigated for development on the proposed lots 1, 2 and 3. The occupants of proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and isolation in severe floods and emergency services would be severely limited.

In addition, climate change trends towards higher ocean levels and an increase in storm severity with more intense rainfall are likely to increase the prevalence and severity of flooding and associated damage.

Development placed above RL 5.2 m AHD on lot 4 would mitigate flooding and it is noted that a dwelling already exists on this allotment.

It is noted that the applicant has not provided the future land use for the allotments proposed to be created, and has stated that as the LEP allows subdivision by road severance, that consideration of future end uses should be dealt with at such time as development applications are lodged for any future uses. Council officers have significant concerns with this approach, as this subdivision has the potential to create three additional dwelling entitlements on high hazard flood prone land. This developer's insistence that this issue does not have to be addressed therefore has a

significant potential of creating a situation where three new owners will propose dwellings that Council will have to assess. The outcome of these applications would be for planning staff to recommend refusal, which may incur financial hardship to these future owners.

It is also noted that any permissible use in the Rural 1(a) zone could be proposed in a forthcoming development application. In this regard, Council officers considered it necessary to assess all land uses permissible by the LEP, to assess whether these lots being created for no nominated future use, would legitimately have any future uses once subdivided. This assessment is detailed below in the assessment of the LEP.

It is not possible to condition this application to mitigate the effects of flooding on proposed lots 1-3 and therefore the proposed development is likely to increase the community's susceptibility to flooding. There is no permanent, fail safe evacuation plan in place to ensure a timely, orderly and safe evacuation of occupants. In an emergency, evacuation of occupants would only be possible by boat or helicopter, which may place rescuers/operators at risk. Whilst any future uses of this land could prepare an evacuation plan, the SES has advised that private evacuation plans are usually ineffective thereby placing additional demand upon limited SES resources.

On the basis of the above assessment, Council's Flooding Engineer has recommended that the subdivision not be approved due to the severe affectation of flooding.

Local Environmental Plan 2000 (LEP)

Clause 10 Zone objectives and development control table

This clause of the LEP requires Council to consider the likelihood that development would result in increased stormwater run-off, erosion or sedimentation or other significant pollution within the Williams River catchment, or have a significant adverse effect on water quality in the Williams River.

It is noted that the subdivision in itself does not create any physical works.

It is considered that the subdivision has the potential to create additional dwellings entitlements which would require non-reticulated waste water treatment systems, which has the potential to affect the water quality of the Williams River. Many other permissible uses have the potential to create water quality issues, as detailed in Table 1 below.

Clause 11 – Rural Zonings

The objectives of the Rural Agriculture "A" Zone seek to maintain the rural character of the area and to promote the efficient and sustainable utilisation of rural land and resources. The specific objectives are addressed below:

- (a) regulating the development of rural land for purposes other than agriculture by ensuring that development is compatible with rural land uses*

and does not adversely affect the environment or the amenity of the locality, and

It is noted that the subdivision is not in itself incompatible with surrounding rural land uses.

(b) ensuring development will not have a detrimental effect on established agricultural operations or rural activities in the locality, and

It is noted that the subdivision is not in itself incompatible with surrounding rural land uses, however the subdivision will result in fragmentation of rural land, which has the potential to significantly reduce the agricultural potential of the existing holding.

(c) preventing the fragmentation of grazing or prime agricultural lands, protecting the agricultural potential of rural land not identified for alternative land use, and minimising the cost to the community of:

- (i) fragmented and isolated development of rural land, and*
- (ii) providing, extending and maintaining public amenities and services, and*

Applicant's response to this objective:

'...the subdivision in accordance with clause 12 (1)(a)(v) is clearly in recognition that the land is already fragmented by the existence of the public roads and the LEP specifically provides for this subdivision and as such it will not result in further fragmentation of grazing or prime agricultural lands, it will not alter the agricultural potential of rural land not identified for alternative land use, and will not result in any additional cost to the community of isolated development or rural land and the providing, extending and maintaining public amenities and services in that the subdivision will not create the demand for an increase in services and amenities beyond the capacity of Council to provide such services through its S94 Plan and contributions applicable under than plan.'

Council officer assessment:

Whilst the subject site is technically severed by public roads in three locations, only one of these roads is constructed. It is noted that the other two roads would be unlikely to be constructed in the foreseeable future. In this regard, the allotment is able to function as a rural property without significant physical barriers. This is significant as it allows the flood prone land to be contiguous to non-flood prone land, so that in times of flood animals using the site can find refuge above the flood planning level.

The subdivision creates the potential that the property can be sold to four separate owners, accordingly in excess of 40 hectares of flood prone rural land would be without flood refuge, thereby reducing the agricultural potential for the land.

Further, should these allotments be sold to separate users, there is a real potential that these future users would seek to use these properties in a rural residential context, thereby further limiting and fragmenting the rural land.

- (d) *protecting or conserving (or both protecting and conserving):*
- (i) *soil stability by controlling development in accordance with land capability, and*
 - (ii) *trees and other vegetation in environmentally sensitive localities where the conservation of the vegetation is likely to reduce land degradation or biodiversity, and*
 - (iii) *water resources, water quality and wetland areas, and their catchments and buffer areas, and*
 - (iv) *land affected by acid sulphate soils by controlling development of that land likely to affect drainage or lower the water table or cause soil disturbance, and*
 - (v) *valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits, and*

It is noted that the subdivision in itself would not create any physical works.

It is considered that the subdivision has the potential to create additional dwellings entitlements which would require non-reticulated waste water treatment systems. This has the potential to affect the water quality of the Williams River. Many other permissible uses have the potential to create water quality issues, as detailed in Table 1 below.

- (e) *reducing the incidence of loss of life and damage to property and the environment in localities subject to flooding and to enable uses and developments consistent with floodplain management practices.*

Applicant's response to this objective:

'The subdivision will not result in development likely to reduce the incidence of loss of life and damage to property and the environment in localities subject to flooding and will not prevent future uses and development consistent with floodplain management practices.'

Council officer assessment:

As previously discussed in this assessment, Council officers consider that the likely post subdivision uses are relevant as a matter of public interest. As the subdivision, for example, has the potential to create three additional dwelling entitlements on high hazard flood prone land, it is considered that this subdivision may have the potential to increase the incidence of loss of life and damage to property

Discussion of uses permissible in the Rural Agriculture "A" Zone

It is noted that the applicant has not provided the future land use for the proposed allotments, and has stated that as the LEP allows subdivision by road severance, that consideration of future end uses should be dealt with at such time as development applications are lodged for any future uses. As previously stated in this report, Council officers have significant concerns with this approach.

It is noted that the applicant has advised:

'The purpose of the subdivision is to make the lots available for future disposition and sale and their future uses is unknown and more importantly could include any and all of the uses permissible within the zone, subject to the further consent of Council.'

It is therefore considered that any permissible use in the Rural 1(a) zone could be proposed in a forthcoming development application. In this regard, Council officers considered it necessary to assess all land uses permissible by the LEP, to assess whether these lots being created for no future use, would legitimately have any future uses once subdivided.

It is considered that should any of these uses be clearly unacceptable, then this is a reason to refuse the application. Upon completion of this assessment, it became apparent that the majority of permissible uses were inappropriate, or that any potential appropriate uses, such as agriculture, are likely to be made less viable as a result of the subdivision.

The assessment of these uses has been performed in accordance with FDM, and the classification of the land as a 'high hazard', which is defined by situations where there is possible danger to personal safety; evacuation by trucks difficult; able-bodied adults would have difficulty in wading to safety; potential for significant structural damage to buildings.

The significance of the hazard is also a function of the type of development and occupant mobility. The following factors can affect the assessment of hazard:

- the existence of special evacuation needs;
- level of occupant awareness;
- isolated residential development;
- hazardous industries or hazardous storage establishments; and
- potential for damage and danger to personal safety

TABLE 1: Assessment of potential future uses on the proposed allotments

NOTE:

* The above table addresses all land uses identified in the LEP. It is noted that additional uses may exist that are considered to be innominate uses or uses that are exempt development.

** Similar development types have been grouped for the purposes of this assessment.

*** The below assessment relates only to the subject site. It is noted that the above uses may be appropriate on other flood prone land, depending on the specific nature of each site. For example, in relation to the 5(g) zone in Raymond Terrace, certain development may be considered differently taking into account factors including historical land use settlements, proximity to services, evacuation opportunities, level of isolation and the extent and nature of the flooding.

Development allowed with or without development consent	Issues with respect to flooding constraint, or other site specific issues	Likelihood of being appropriate on resulting allotments.
agriculture	<p>The applicant has stated that in their opinion, due to the soil types present, that there are significant issues or limitations for agriculture on the existing holding due to flood hazard, permanently high water tables, seasonal water logging, foundation hazard, ground water pollution hazard, localised tidal inundation, highly plastic potential acid sulphate soils of low fertility and localised shallow soils.</p> <p>Regular flooding enhances agricultural productivity by increasing soil moisture, recharging groundwater and depositing fertile silt across the floodplain. However, flooding can also interfere with production, communication and agricultural practices, destroying high value crops.</p> <p>It is however noted that the subdivision of the land would create further issues, in that it would fragment fully flood prone allotments from the higher land that exists to the east of the site on proposed lot 4. Therefore, should animal based agriculture be proposed, proposed lots 1-3 would not have any flood refuge area for animals. Accordingly, the risk of animal deaths is likely to be significant. It is further noted that any proposed land fill to create a flood refuge has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>In terms of crop based agriculture on proposed lots 1-3, the three allotments have a risk of loss of plantings and property due to flooding.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with high hazard floodwaters.</p>	SIGNIFICANTLY REDUCED POTENTIAL AFTER SUBDIVISION

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<p>flood mitigation works</p> <p>Clearing</p> <p>Dam</p> <p>Earthworks</p> <p>telecommunications facility</p>	<p>It is not considered that there is a nexus between subdivision and these uses.</p>	<p>N/A</p>
<p>abattoir</p>	<p>It is considered that the waste and pollution issues surrounding this form of land use, would create a significant downstream environmental risk in times of flooding. It is further considered that the proximity to existing dwellings may be an issue for this use.</p> <p>Isolation and evacuation issues for staff in times of flooding may also create a risk to human life.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	<p>UNLIKELY APPROPRIATE USE</p>
<p>advertisement</p>	<p>As per Clause 15, no stand alone advertisements are permitted on rural land.</p>	<p>MEDIUM (Only with another approved use)</p>
<p>Airport Race Track</p>	<p>The resultant allotments after the subdivision are likely to be too small/short for such a use. Further the location of the creek further reduces the potential for this use.</p> <p>It is considered that issues including damage to property and evacuation of users during times of flooding are concerns. Fuel or chemicals stored in conjunction with this use, may create a significant downstream environmental risk in times of flooding.</p> <p>It is further noted that any proposed land fill to accommodate such a use has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p>	<p>UNLIKELY APPROPRIATE USE</p>
<p>animal establishment</p>	<p>The subdivision, which would result in the fragmentation of the existing rural holdings, would result in three allotments (i.e. proposed lots 1-3) that do not have any flood refuge area for animals. Accordingly, the risk of animal deaths is likely to be significant.</p> <p>It is further noted that any proposed land fill to create a</p>	<p>UNLIKELY APPROPRIATE USE</p>

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

	<p>flood refuge has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	
aquaculture	The Aquaculture Permit Application Guidelines prepared by the Department of Primary Industries has broad criteria for native freshwater fish/crayfish farms. These criteria include that such farms must be constructed above the 1/100 year flood level. Accordingly, it is not considered that proposed lots 1-3 could accommodate such uses.	UNLIKELY APPROPRIATE USE
bed and breakfast establishment home-based child care or family day care home	<p>Uses would have to be in conjunction with a dwelling, which due to the flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3. The Floodplain Development Manual notes that due to the likely low level of occupant awareness of flooding issues and likely specific evacuation needs, this use is not desirable uses on flood prone land.</p> <p>It is noted that on lot 4 an existing dwelling exists above the flood planning level. These uses are a possibility for this existing dwelling.</p>	UNLIKELY APPROPRIATE USE
Camp/ caravan site club community facility educational establishment health consulting rooms Hospitals hotel Institutions Place of Public Worship tourist facility	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.</p> <p>The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, and likely low level of occupant awareness of flooding issues it is not desirable on flood prone land.</p> <p>It is further noted that any proposed land fill to accommodate such a use has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters. Further, caravan structures can easily wash away during time of flooding and cause risk to life and property down stream.</p>	UNLIKELY APPROPRIATE USE

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child care centre	Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4. The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, it is not desirable on flood prone land.	UNLIKELY APPROPRIATE USE
dwelling-house	Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.	UNLIKELY APPROPRIATE USE
dual occupancy housing	It is noted that on lot 4 an existing dwelling exists above the flood level.	
exhibition home	It is noted that exhibition homes are by industry practice converted to dwellings at a point in time. Due to flooding constraint, it would be inappropriate to propose a dwelling on proposed lots 1-3 and for the majority of proposed Lot 4. It is further noted that due to the isolation from any recent residential subdivisions, that this use would not be appropriate in the location.	UNLIKELY APPROPRIATE USE
extractive industry mine	The subdivision, which would result in the fragmentation of the existing rural holdings, is likely to result in allotments not large enough to sustain an extractive industry. Further it is noted that potential pollution issues from erosion, fuel and chemical storage, waste water ponds created in conjunction with this use, may create a significant downstream environmental risk in times of flooding.	UNLIKELY APPROPRIATE USE
forestry	The subdivision, which would result in the fragmentation of the existing rural holdings, is likely to result in allotments not large enough to sustain such an activity. It is further noted that the risk of flooding creates a significant risk of loss of plantings and property.	UNLIKELY APPROPRIATE USE
helicopter landing site heliport	It is considered that the potential issues surrounding this form of land use, for example storage of fuels and chemicals have the potential to create a significant downstream environmental risk in times of flooding. It is further considered that the proximity to existing dwellings would be a likely issue for this use in terms of noise impacts.	UNLIKELY APPROPRIATE USE
home employment home occupation	Uses would have to be in conjunction with a dwelling, which due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.	UNLIKELY APPROPRIATE USE
intensive agricultural	Regular flooding enhances agricultural productivity by increasing soil moisture, recharging groundwater and	SIGNIFICANTLY REDUCED

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

<p>pursuit intensive animal husbandry</p>	<p>depositing fertile silt across the floodplain. However, flooding can also interfere with production, communication and agricultural practices, destroying high value crops.</p> <p>The applicant has stated that in their opinion, due to the soil types present, that there are significant issues or limitations for agriculture due to flood hazard, permanently high water tables, seasonal water logging, foundation hazard, ground water pollution hazard, localised tidal inundation, highly plastic potential acid sulphate soils of low fertility and localised shallow soils.</p> <p>It is however noted that the subdivision of the land would create further issues, in that it would fragment fully flood prone allotments from the higher land that exists to the east of the site. Therefore, should animal based agriculture be proposed, these three allotments would not have any flood refuge area for animals. Accordingly, the risk of animal deaths is likely to be significant. It is further noted that any proposed land fill to create a flood refuge has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>In terms of crop based agriculture on the flood prone lots, there is a significant risk of loss of plantings and property due to flooding.</p> <p>The Environmental Management Guidelines for the Dairy Industry authored by the Department of Primary Industries in 2008 advises that due to environmental risks to surface and subsurface waters, that sheds and waste or ponding areas should not be sited in areas subject to flooding at 1-in-25-year or more frequent levels, unless adequate safeguards can be incorporated. Such safeguards include systems that are above the flood line or protected from floodwater. Similar standards exist in the Environmental Impact Statement Guidelines for Cattle Feedlots (1996) prepared by the Department of Urban Affairs and Planning and the NSW Meat Chicken Farming Guidelines prepared by DPI in 2004.</p> <p>Lots 1-3 could not comply with these industry standards.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	<p>POTENTIAL AFTER SUBDIVISION</p>
<p>intensive agriculture</p>	<p>Does not apply to the Williams River Catchment.</p>	<p>N/A</p>

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

Marina tourist boats	Not applicable, as subdivision relates only to land, not adjoining waterway.	N/A
mineral sand mine	Given the soil type of the site, it is not considered likely that such a use would be proposed. Further, the subdivision, which would result in the fragmentation of the existing rural holdings, is likely to result in allotments not large enough to sustain a mining activity.	UNLIKELY APPROPRIATE USE
recreation area recreation facility	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4. The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, and likely low level of occupant awareness of flooding issues it is not desirable on flood prone land.</p> <p>It is further noted that any proposed land fill to accommodate such a use has the potential to alter flood movements at the detriment of adjoining or downstream properties, and may create a significant visual impact.</p> <p>It is noted that uses such as sportfields may be appropriate uses on some flood prone land areas, however, given the location of the creek, as well as isolation issues, it is considered unlikely that this site is appropriate.</p>	UNLIKELY APPROPRIATE USE
restaurant	<p>Pursuant to clause 14A of LEP 2000, a restaurant would only be permissible with a tourist facility. Due to the flooding constraint, as discussed below, a tourist facility would not be an appropriate use.</p> <p>The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, and likely low level of occupant awareness of flooding issues it is not desirable on flood prone land.</p>	UNLIKELY APPROPRIATE USE
retail plant nursery Market	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.</p> <p>It is considered that the risk of flooding creates a significant risk of loss or damage to property, and due to the nature of the uses, there are potentially evacuation issues for workers or customers.</p>	UNLIKELY APPROPRIATE USE
roadside stall	Roadside stalls are only permissible if they sell only primary products produced on the property on which the building or place is situated. As detailed in this table, the ability for the fragmented allotments to sustain an primary production activity would be significantly reduced by the subdivision. Accordingly such a use would be unlikely.	UNLIKELY APPROPRIATE USE

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

	It is also noted that damage to property, including debris washing downstream, could result from this form of use.	
rural industry	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.</p> <p>It is considered that the potential pollution issues surrounding this form of land use, for example waste products and fuels/chemicals stored on the site have the potential to create a significant downstream environmental risk in times of flooding.</p> <p>It is further noted that the risk of flooding creates a significant risk of loss or damage to property. In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	UNLIKELY APPROPRIATE USE
utility installation	Not applicable to private development, as these works can only be undertaken by a public authority.	N/A
utility undertaking		
veterinary hospital	<p>Due to flooding constraint, it would be inappropriate to propose such a use on proposed lots 1-3 and for the majority of proposed Lot 4.</p> <p>The Floodplain Development Manual notes that due to the likely specific evacuation needs of this form of use, and likely low level of occupant awareness of flooding issues it is not desirable on flood prone land.</p> <p>Accordingly, the risk of animal deaths is likely to be significant.</p> <p>In terms of buildings or structures ancillary to this use, it is likely that they would sustain structural damage from the forces and impact debris associated with floodwaters.</p>	UNLIKELY APPROPRIATE USE

Clause 12 Subdivision within rural zones generally

The proposed subdivision is proposed in accordance with Clause 12 (1)(a)(v), which states that

- (1) A person must not subdivide land within any rural zone except:
- (a) for any of the following purposes:
- (v) the creation of allotments corresponding to the parts into which a single allotment is divided by a public road

It is also noted that Clause 12 (2) states:

Subdivision of land for a purpose specified in subclause (1) (a) does not have the effect of precluding development of the land for any purpose for which it might have been developed immediately prior to the subdivision (except in so far as the land has been taken for a road as referred to in subclause (1) (a)).

In this regard, Council would be prevented from conditioning the allotments to have no dwelling entitlements. Accordingly, approval of this application has the potential to create three additional high hazard flood prone allotments, upon which future owner's may seek dwellings or the like.

It is noted that the applicant states that the subdivision by road severance may also allow for the sale of those lands to adjoining land owners. It is noted that this same outcome could be facilitated by proposing a boundary adjustment in accordance with Clause 12 (1)(a)(ii) of the LEP. A boundary adjustment would be the more desirable option as it would not have the affect of creating additional dwelling potential on flood prone land.

Clause 37 Objectives for development on flood prone land and Clause 38 Development on flood prone land

The subject site is identified as flood prone land, and accordingly consideration of these clauses is required. These clauses prescribe that before granting consent to development on flood prone land the consent authority must consider certain matters. A more detailed assessment addressing the considerations has been previously provided in this report as part of the assessment of the FDM, however below is a summary of the assessment:

Consideration	Response
<i>(a) the extent and nature of the flooding or inundation hazard affecting the land,</i>	All proposed lots are affected by flooding. The flood planning level is 5.2 metres AHD. Proposed lots 1, 2 and 3 are substantially flat at a level of approximately RL 1.0 and severely affected by flooding. The south western half of proposed lot 4 is also affected by flooding, with a depth of water of up to 4.2 metres above natural ground level. A substantial creek also runs through all properties.
<i>(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,</i>	Whilst the subdivision itself does not propose any physical works, it is noted that any proposed land fill to accommodate future land uses on the land has the potential to alter flood movements at the detriment of adjoining or downstream properties.
<i>(c) whether the risk of flooding or inundation affecting the proposed</i>	Flooding could not be reasonably mitigated for development on the

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

<i>development could reasonably be mitigated and whether conditions should be imposed on any consent to further the objectives of this plan,</i>	proposed lots 1, 2 and 3. Development placed above RL 5.2 m AHD on lot 4 would mitigate flooding.
<i>(d) the social impact of flooding on occupants, including the ability of emergency services to access, rescue and support residents of flood prone areas,</i>	The occupants of proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and isolation in severe floods and emergency services would be severely limited.
<i>(e) the provisions of any floodplain management plan or development control plan adopted by the Council.</i>	Council has not adopted any floodplain management plan or development control plan for this area.

On the basis of the assessment, Council's Flooding Engineer has recommended that the subdivision not be approved due to the severe affectation of flooding.

Clause 39 Development near the Williams River

This clause specifies that development must not result in a significantly increased risk of (a) soil erosion or other environmental degradation, loss of vegetation or habitat, disturbance of sodic or dispersive soils, or degradation of water quality or the quality of groundwater supplies.

The subdivision in itself does not directly create the impacts referred to above.

Many land uses permissible in the Rural 1(a) zone, if undertaken on proposed Lots 1-3, have the potential to have significant environmental impacts to the river system in time of flooding.

Clause 47 Services

It is noted that any future land uses on the subject site may have constraints in terms of servicing. Due to the isolation, the site would not be serviced by reticulated water and sewer. It is further noted that the flood prone nature of the land would likely result in environmental issues with any on-site waste water system, further that substantial costs to install systems on this type of site would be extremely costly.

Hunter Regional Environmental Plan 1989

Division 1 Rural land – Clause 24 Objectives

The objectives of this plan in relation to planning strategies concerning rural land are:

- (a) to protect prime crop and pasture land from alienation, fragmentation, degradation and sterilisation,*
- (b) to provide for changing agricultural practices, and*
- (c) to allow for the development of small rural holdings and multiple occupancy on land capable of such developments in appropriate locations.*

As detailed above in the assessment of the Local Environmental Plan 2000 and Table 1, the proposal is likely to fragment, and potentially hinder the agricultural use of proposed lots 1-3.

Should future purchasers of the land proposed to use the land for rural residential purposes, Council officers would recommend refusal due to the high hazard flood risk.

Division 3 Environmental hazards - 52 Objectives

The relevant objectives of this plan have been considered, including:

(b) control developments on flood liable lands and encourage flood plain management practices which ensure maximum personal safety and appropriate land uses,

As discussed previously in this assessment, the subdivision is not considered to be proposed in an appropriate location given the flooding constraint on the subject site.

Clause 53 Policies for plan preparation and control of development

In determining applications for consent to development for urban, tourist or rural residential purposes, Councils should consider the likelihood of environmental issues including flooding, coastal erosion or storm damage and cumulative catchment-wide impacts, together with the means of controlling and managing such impacts.

Applicant's comment:

...it is advised that as the subdivision is not for the purpose of urban, tourist or rural residential purposes the provisions of this clause do not apply.

Council officer's comments:

It is noted that the applicant's advice with respect to this clause is contrary to the advice provided elsewhere, where the applicant advises that dwelling houses, or other permissible uses that includes tourist facilities, are future potential end uses for the proposed allotments.

In terms of urban, tourist and rural residential uses, the site is not considered to be an appropriate location given the flooding constraint on the subject site.

State Environmental Planning Policy (Rural Lands) 2008

Clause 8 Rural Subdivision Principles

The Rural Subdivision Principles are addressed as follows:

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

Consideration	Response
<i>(a) the minimisation of rural land fragmentation,</i>	As discussed previously, in the assessment of the proposal pursuant to the LEP, and in table 1, it is considered that the proposal has a significant impact on rural land in terms of fragmentation.
<i>(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,</i>	It is noted that the subdivision is not in itself incompatible with surrounding rural land uses.
<i>(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,</i>	It is not considered that the location is an appropriate location to plan future supply of rural residential land due to the flooding constraint.
<i>(d) the consideration of the natural and physical constraints and opportunities of land,</i>	As discussed previously, in the assessment of the proposal pursuant to the LEP, and in table 1, it is considered that the subdivision will limit future opportunities for the land, particularly with respect to agricultural use of proposed lots 1-3, with respect to the flooding constraint.
<i>(e) ensuring that planning for dwelling opportunities takes account of those constraints.</i>	It is not considered that the location is an appropriate location to create additional dwelling opportunities due to the flooding constraint.

Clause 10 Matters to be considered in determining development applications for rural subdivisions or rural dwellings

This clause requires Council to take into account the following matters when considering subdivision of land proposed to be used for the purposes of a dwelling. Whilst it is noted that the application does not include a dwelling at this stage, the subdivision creates an additional three dwelling entitlements on lots 1-3 as they will be greater than 4000m² in area, and accordingly an assessment of this clause is detailed below.

Consideration	Response
<i>(a) the existing uses and approved uses of land in the vicinity of the development,</i>	It is noted that the subdivision is not in itself incompatible with surrounding rural land uses.
<i>(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,</i>	It is noted that the subdivision is not in itself incompatible with surrounding rural land uses.
<i>(c) whether or not the development is</i>	It is noted that the subdivision is not in

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

<i>likely to be incompatible with a use referred to in paragraph (a) or (b),</i>	itself incompatible with surrounding rural land uses.
<i>(d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,</i>	The land is not situated within a rural residential zone.
<i>(e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).</i>	Not applicable.

Development Control Plan 2007

Chapter B1 – Subdivisions and Streets

Insufficient information has been provided to assess the proposal in terms of the vehicular accesses proposed for the resultant allotments.

Chapter B2 – Environment and Construction Management

Insufficient information has been provided to assess the suitability of the proposal in relation to Section B2.12 Waste Water, in terms of demonstrating that the site capability for water provision and wastewater treatment could be provided for any intensification of land use permissible as a result of the subdivision.

2. Likely Impact of the Development

As discussed previously in this assessment, it is considered that the subdivision, which could facilitate intensification of high hazard flood prone land, including at least three additional dwelling entitlements, is likely to increase the community's susceptibility to the effects of flooding in terms of social, economic and environmental consequences.

This impact also include that in a moderate flood, the access roads will be inundated by floodwaters, rendering any future occupants of the lots isolated and reliant upon the SES for property protection, evacuation and/or supplies.

Any development that may result in intensification of flood prone land is undesirable as it increases the number of people and amount of personal property susceptible to flooding, and places an excessive demand on already limited SES resources due to the ineffectiveness of private evacuation plans.

3. Suitability of the Site

Proposed allotments 1-3 are not likely to be suitable for any intensification of land use, as demonstrated in Table 1, including future dwellings. The subject land is considered unsuitable for the majority of land use permissible in the 1(a) zone, with the exception of some agricultural purposes, taking into account the level of flood

risk and likely social, economic and environmental consequences. Future occupants or land uses on proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and isolation in severe floods and emergency services would be severely limited.

It is considered that the subdivision would result in the land being less viable for agriculture due to fragmentation.

The subject site is identified bushfire prone. The proposal is considered to be satisfactory with respect to this constraint.

4. Submissions

No public submissions have been received in relation to the proposal. The application did not require public exhibition pursuant to Council's exhibition policy in DCP2007.

5. Public Interest

The public interest is relevant as it is considered likely that the subdivision will give rise to future development applications for permissible uses of the subdivided lots, which in terms of potential future flooding impacts and the fragmentation of rural lands, would be largely unlikely to be supported due to the site constraints.

The proposal would create an additional three allotments on land that is entirely flood prone. This has the potential to create an expectation that a dwelling or the like could be sought on these newly created allotments.

The assessment revealed that the majority of future potential uses are likely to be unacceptable, and that any appropriate uses, for example agriculture, would be less viable as a result of the subdivision. The subdivision creates the potential that the property can be sold to four separate owners, accordingly in excess of 40 hectares of flood prone rural land would be without flood refuge, thereby reducing the agricultural potential for the land.

This proposal is contrary to the public interest in that it has the potential to further exacerbate the impact of flooding and private and public losses in this locality, the potential to increase demand upon emergency services and an unnecessary and unreasonable demand on limited SES resources.

**ATTACHMENT 4
REASONS FOR REFUSAL**

- 1) The proposal has not demonstrated a future use or that the proposed allotments are capable of sustaining a permissible use in the future.
- 2) The development is inconsistent with Clause 37 and Clause 38 of the Port Stephens Council Local Environmental Plan 2000. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding, impact on occupants, property and impact on adjoining properties. Proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and due to isolation in severe floods accessibility for emergency services would be severely limited.
- 3) Approval of any intensification of land use as a result of the subdivision in high risk flood areas places further demand on already limited SES resources by way of domestic property protection, evacuation and/or resupply.
- 4) The development is considered to be an inappropriate land use under the Floodplain Development Manual, 2005.
- 5) The development is not consistent with the provisions and objectives of Zone No 1 (a) (Rural Agriculture "A" Zone) of the Port Stephens Local Environmental Plan 2000. The proposal will fragment agricultural lands and will not protect the agricultural potential of the land. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 6) Insufficient information was submitted with the application to enable a comprehensive assessment of the use of the proposed allotments under Section 79C of the Environmental Planning and Assessment Act, 1979.
- 7) Insufficient information has been provided to assess the proposal in accordance with Clause 47 of the Port Stephens Local Environmental Plan 2000, in terms of demonstrating that the site has the capability for adequate facilities for water provision and wastewater treatment for any intensification of land use permissible as a result of the subdivision.
- 8) Insufficient information has been provided to demonstrate that adequate access can be achieved for all proposed allotments, and in particular proposed Lot 3 has no physical constructed access currently available.
- 9) The development is inconsistent with the principles of State Environmental Planning Policy (Rural Lands) 2008, as the development is not considered to be located in an appropriate location due to extent and nature of flooding.
- 10) It is not possible to implement an evacuation plan for proposed Lots 1-3, that would provide permanent, fail safe, maintenance free measures to ensure the timely, orderly and safe evacuation of any future development on the land, including animal based agricultural activities.

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

- 11) The development is contrary to the public interests and expectations, of an orderly and predictable built environment.
- 12) The development is inconsistent with the provisions of the Hunter Regional Environmental Plan 1989. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 13) Approval of this application would have an undesirable cumulative effect, having the potential to increase the community's susceptibility to flooding, in terms of social, economic and environmental consequences.

ITEM NO. 3

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 6TH OCTOBER 2009

REPORT OF: TREVOR ALLEN – INTEGRATED PLANNING MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Adopt the recommendations contained in the minutes of the Port Stephens Local Traffic Committee meeting held on 6th October 2009.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009**RECOMMENDATION:**

	Councillor Geoff Dingle Councillor Glenys Francis	That the recommendation be adopted with the exception of C1- Item 37-10/09 being deferred to allow public access.
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MATTER ARISING

	Councillor John Nell Councillor Bruce MacKenzie	That the issue of traffic exiting Laman Street, Nelson Bay at Victoria Parade be referred to the Local Traffic Committee to investigate the possibility of appropriate signage to resolve the traffic queuing issues.
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ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

364	Councillor Glenys Francis Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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MATTER ARISING

365	Councillor John Nell Councillor Bruce MacKenzie	It was resolved 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.

FINANCIAL/RESOURCE IMPLICATIONS

Council has an annual budget of \$41 000 (\$25 000 grant from the RTA and General Revenue) 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 and are listed within Council's "Forward Works Program" for consideration in the annual budget process.

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: NIL

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, 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.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

SOCIAL AND ECONOMIC IMPLICATIONS

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

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

ATTACHMENTS

- 1) The minutes of the local Traffic Committee meeting held on 6th October 2009 are contained in ATTACHMENT 1.

ATTACHMENT 1:

**LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 7TH OCTOBER, 2009
AT 9:30AM**

Present:

Cr Peter Kafer, Senior Constable Simon Chappell – NSW Police, Mr Bill Butler – Roads and Traffic Authority, Mr Brian Mosely – Hunter Valley Buses, Mr Joe Gleeson (Chairperson), Ms Michelle Page - Port Stephens Council

Invited guest: Mr Geoffrey Basser – Rotary Club of Nelson Bay - for Item B1

Apologies:

Mr Craig Baumann MP – Member for Port Stephens, Mr Mark Newling – Port Stephens Coaches

A. ADOPTION OF MINUTES OF MEETING HELD 1ST SEPTEMBER, 2009

B. BUSINESS ARISING FROM PREVIOUS MEETING

**PORT STEPHENS
LOCAL TRAFFIC COMMITTEE AGENDA**

**INDEX OF LISTED MATTERS
TUESDAY 6th October, 2009**

-
- A. ADOPTION OF THE MINUTES OF 1ST SEPTEMBER 2009**
- B. BUSINESS ARISING FROM PREVIOUS MEETING**
- B.1 29_07/09 LILY HILL ROAD NELSON BAY – REQUEST TO INSTALL LOCKABLE BOOM GATES ON THE ENTRANCE ROAD TO GAN GAN LOOKOUT**
- B.2 604_07/09 COOK PARADE LEMON TREE PASSAGE – COMPLAINTS RECEIVED REGARDING VEHICLES SPEEDING**
- C. LISTED MATTERS**
- C.1 37_10/09 REES JAMES ROAD RAYMOND TERRACE – REQUEST FOR RELOCATION OF SCHOOL BUS STOP ADJACENT TO NO.17 PANORAMA CLOSE**
- C.2 38_10/09 VICTORIA PARADE NELSON BAY – REQUEST FOR INSTALLATION OF PARKING RESTRICTIONS TO ALLOW GARBAGE TRUCKS TO SERVICE ANZAC PARK**
- C.3 39_10/09 SHOAL BAY ROAD NELSON BAY – REQUEST FOR REMOVAL OF NO STOPPING RESTRICTIONS ADJACENT TO NO.143 SHOAL BAY ROAD**
- D. INFORMAL MATTERS**
- E. GENERAL BUSINESS**

B. Business arising from previous meetings

B1 Item: 29_07/09

LILY HILL ROAD NELSON BAY – REQUEST TO INSTALL LOCKABLE BOOM GATES ON THE ENTRANCE ROAD TO GAN GAN LOOKOUT

Requested by: Port Stephens Council

File:

Background:

Council's Facilities and Services group received a proposal from the Rotary Club of Nelson Bay in April 2009, seeking to improve the appearance and functionality of the Gan Gan lookout. Part of the proposal is to install lockable boom gates near the roundabout on Lily Hill Road that would prevent unauthorised access to the lookout. The Port Stephens Local Traffic Committee considered this matter in July 2009 and at that time did not support the proposal. The Rotary Club of Nelson Bay have requested that the Traffic Committee reconsider the proposal and have asked to address the Committee to better explain the amendments to the original proposal.

Comment:

During previous inspections members of the Traffic Inspection Committee raised concerns regarding the proposal to close the road. The concerns were:

- The narrow road and lack of road shoulder meaning that anyone opening or closing the gate would be parked on the roundabout or its approaches.
- Danger to vehicles running into the locked gates after dark.
- The poor sight distance available on approach to the roundabout when travelling toward the lookout
- The lack of street lighting

The Rotary Club have since altered the proposal to address these concerns including:

- Use of Pillandra Crescent as the parking area for opening and shutting the gates.
- Install two boom gates five to ten metres up hill from the roundabout.
- Slowing the traffic down with speed humps or other traffic calming prior to the roundabout.
- Install two solar powered street lights at the roundabout.
- Install two signs, one at the bottom of the hill and the other fifty metres from the round about - indicating if the boom gate was opened or closed.

Traffic Committee members raised concerns about this proposal including:

- The restriction of public access to a community facility such as the lookout.
- The fact that the night time views of the Nelson Bay area are almost as popular and spectacular as the day time was raised.
- The question was raised as to who would have responsibility to open and close the boom gates and whether a Council employee would be required to do this. Would this become another cost that Council would have to bear?

- The requirement of other utility authorities to have access to the lookout at all times.

Following discussion the Committee members voiced a unanimous objection to the proposal to install lockable boom gates on the entrance road to Gan Gan Lookout.

Recommendation to the Committee:

For discussion – The revised proposal from Nelson Bay Rotary Club is attached for information

Discussion:

Mr Bassar from Nelson Bay Rotary Club addressed the Committee regarding the revised proposal.

The Traffic Committee members voiced support for the intent of the Rotary Club proposal but again emphasised that the Traffic Committee could only consider the traffic implications of the proposal.

The Committee members agreed that the additional measures included in the proposal by the Rotary Club would address the road safety concerns of the Traffic Committee. These include:

- Use of Pillandra Crescent as the parking area for opening and shutting the gates.
- Installation of speed humps prior to the roundabout.
- Installation of two solar powered street lights at the roundabout.
- Installation of two signs, one at the bottom of the hill and the other fifty metres from the round about - indicating if the boom gate was opened or closed.

The main issue for Traffic Committee with the proposal is the requirement to close a public road. The Traffic Committee received advice from Council's Property Section that Council does have the power to close a road. There is a procedure that must be followed to allow this to happen which includes a period of public consultation and a report to Council for the final decision.

Traffic Committee Recommendation:

1. Traffic Committee recommended that a report be prepared by Facilities and Services, as the main proponent for the project, to determine Councillor's support prior to a public consultation.
2. Council to install traffic classifiers to determine the number of vehicles using the road and the times of day when it is used.
3. The Committee also recommended that a full costing of the proposal be included in the Council report to assist Councillor's in their decision.

Support for the proposal:

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

Attachment 1:

Redevelopment of Gan Gan Lookout

Sponsored by the Rotary Club of Nelson Bay
In Partnership with Port Stephens Council

This is a clarification of where we have been & where we are going in relation to the understanding of the issues by the Port Stephens Local Traffic Committee.

Summary:

Since a recent Port Stephens Council meeting where the Councillors commended the Rotary Club of Nelson Bay for reacting to the need for action at the Gan Gan Lookout Precinct the Port Stephens Council reviewed a Report from the Port Stephens Traffic Committee.

Based on concerns in this report they agreed to have further consultation with the Rotary Club of Nelson Bay & other stakeholders on site. Once the issues have been addressed then the matter will be returned to the Port Stephens Council for action & possible confirmation by the Local Traffic Committee. There has been a meeting between Mike Triggar & his officers & Rotarians.

We have also made contact with the NSW Police, initially with Chief Inspector Fox & he directed us to John Simmons of the Highway Patrol.

We were told by him that they are reluctant to consider having a locked gate at night unless everything is done to ensure that the closure and opening times are clearly sign posted, the gate is brightly lit and relevant off-road parking for the Port Stephens Council officer attending to the gate are in place.

It seems that these actions highlighted in Nelson Bay Rotary Club's proposal for Phase 1 and the costing done by the Port Stephens Council were not apparent to some, if not all, of those on the Port Stephens Traffic Committee during their deliberations .

Other matters discussed were as to the fact that the top end of Lily Hill Rd is open to traffic during daylight hours and the Phase 1 intended it to be closed at night maybe an issue.

We have identified at least 3 other examples as to local roads that are open to the public and services on a daylight basis and have a locked gate in place at night. These are in the Local Government Area's of Willoughby, Hawkesbury & Broken Hill. In each of these instances the purpose is to restrict entry to these sites at night to stop vandalism though they are freely open to vehicular traffic during daylight hours.

It seems the issue whether it is a local or gazetted road and whether it is one or the other; it is a road that is open to all traffic during daylight hours. There seems to be no difference as to use so that we are then only dealing with semantics.

Further the fact that there is no lighting at night in the Car park & Look Out area Port Stephens Council needs to identify that it is a security risk as far as visitors going there at night. There are issues in relation to OH & S and insurance matters. This is likely to be

unnecessary litigation exposure for Port Stephens Council to consider let alone danger to the public.

I have been told that during summer there are at times a number of Campervans using the Car park as a Caravan Park. There are no toilets up there!!! A cyclist acquaintance regularly rides up Lily Hill Rd to the top early in the morning and sees the aftermath of excessive drinking and drug taking.

Recommendations:

That the East Ward Councillors personally discuss this Report with the Traffic Committee. Determine that all issue raised by the Committee have been addressed and if not ask them to pass on any other issues restricting their agreement to proceed. These will then be addressed so allowing the Committee to ratify the proposal for Phase 1.

Matters identified in the Rotary Club of Nelson Bay's proposal for implementation of Phase 1:

1. Erection of a gate south of the round about on Lily Hill Road to be closed at night.
2. On a daily basis a Port Stephens Council officer will open and shut the gate at the prescribed times.
3. All gates that are locked throughout the LGA are able to be opened with a common key.
4. The Lessees of the Compounds on Gan Gan Hill, Police, Ambulance Service, and the Fire Brigades will be issued with or already have a common key .
5. Signs will be erected clearly indicating the opening and closing times of the gates.
6. These signs will commence at the junction of Nelson Bay Rd & Lily Hill Road, then half way up and then at the roundabout prior to turning left to go up the hill to the car park .

We will also need to consider having a large STOP sign in place prior to the gate.

7. The gate will be brightly lit to ensure it is apparent to drivers it is closed at night.
8. A site has been selected to allow the Port Stephens Council vehicle to be safely parked during the opening and closing process.
9. The majority of compound users have been contacted and they are satisfied with the Rotary Club of Nelson Bay proposal.
10. Research indicates that vandals are inherently lazy and if access to a site is restricted then they are not prepared to walk they go somewhere else.
11. Port Stephens Council has costed the implementation of Phase 1. Due to the publicity we have been approached by Graffiti X to clean up the Graffiti at no charge. The OH & S certified Rotarians offer their services to assist in the Phase 1 clean up of the flora.
12. Once it has been established that vandalism has been controlled the Rotary Club of Nelson Bay & their professional design and flora partners will present the proposal for Phase 2. Potential sources for sponsorship will also be identified.

This will allow the Lookout to be the 5 Star Tourism attraction the Precinct warrants in welcoming visitors to a safe & attractive area.

B2 Item: 604_06/09

COOK PARADE LEMON TREE PASSAGE – COMPLAINTS RECEIVED REGARDING VEHICLES SPEEDING

Requested by: A resident
File: PSC2005-4020/021
Background:

Council received representations from a resident of Cook Parade, Lemon Tree Passage earlier in the year regarding vehicles speeding near his residence. The resident requested Council install traffic calming in Cook Parade to improve safety for road users.

Council installed traffic classifiers in Cook Parade June of this year in order to determine the speed and volume of traffic using the road.

The results of that survey indicated that the volume of traffic is quite low and the average speed is also not considered excessive.

Given the low traffic volumes and moderate speeds detected during the survey any installation of traffic calming in Cook Parade, as requested previously, would receive a very low priority rating and would be unlikely to be funded for the foreseeable future. A summary of the traffic data collected is given below for information:

Annual Average Daily Traffic = 270

85th percentile speed = 58km/h (signposted speed limit = 50km/h)

AM peak = 26 vehicles between 11.30am-12.30pm

PM peak = 28 vehicles between 3.45pm-4.45pm

Comment:

The July Traffic Committee meeting recommended that Council forward a vehicle/speed summary for Cook Parade to Port Stephens LAC for assistance in enforcement. The resident has again contacted Council complaining that the timing of the traffic survey was inappropriate because the road is much busier in the summer months. He requests that another survey be carried out during summer that will give a truer indication of the road use. A copy of the email from the resident is included for information (Attachment 1).

Recommendation to the Committee:

Council to conduct another survey of Cook Parade during the summer months and reassesses the data.

Discussion:

Support for the recommendation:

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

Attachment 1:

Thank you Senior Constable Simmons for your update,

I understand the analysis of the figures from the counter which was placed on our road.

I would however ask why the counter was placed there in mid-winter? The results are obvious for that time of year. Even "Hoon's" stay at home when there is no one about to notice their motoring skills.

I am not concerned about people driving to and from the school bus area which is what, apparently, the counter captured, give or take a few people going to work it seems to correlate closely with the amount of kids that catch the school buses. And not so surprisingly at the same times!

I and my fellow residents are more concerned with the friday/saturday/sunday traffic in the summer months.

I earnestly ask the Police and the Council to recognise the seriousness of the danger on the street during this period and make a realistic survey at a time which is likely to result in realistic figures and capture the rat-bag element we are trying to monitor, not the mum's taking their kids to the school buses.

I acknowledge you thought I had received a letter from the Council, but alas no which is why I asked for an update.

I'm hoping someone will ask why this survey was done at a time unlikely to show anything worthwhile and to schedule something which will use taxpayers money to an advantage and value add to the safety of the community.

Anyone who would like to can come and sit on my balcony any Sunday and monitor the loonies driving along the front.....or Friday nights, or Saturday nights.....

Many thanks for calling me it was appreciated.

C. Listed Matters

C1 Item: 37_10/09

REES JAMES ROAD RAYMOND TERRACE – REQUEST FOR RELOCATION OF SCHOOL BUS STOP ADJACENT TO NO.17 PANORAMA CLOSE

Requested by: A resident
File: 114224 - 2009
Background:

A resident called to complain about the bus stop on Rees James Road adjacent to his property at No.17 Panorama Close. He wants the bus stop relocated further away from his property as he is a shift worker and cannot sleep when up to 25 school children are making noise while waiting for buses in the mornings. He also raised safety concerns about the bus stop as there is no concrete pad where passengers can stand and the road shoulder is breaking up due to the bus traffic. He said that there is a water or sewer valve that is in danger of being broken if the buses continue to stop there.

Hunter Valley Buses have previously advised that they are unwilling to relocate the bus stop.

Comment:

The Inspection Committee noted that there is no other access to Rees James Rd other than via the walkway, in between the street connections. Moving the bus stop further away from the walkway would still mean that school children would access the bus stop by walking along the path beside No.17 Panorama Close.

Traffic Committee Recommendation:

That the Traffic Committee supports the relocation of the bus stop as discussed.

Discussion:

An on-site meeting was held between Hunter Valley Buses and Council staff on 1st October 2009. It was discussed at the meeting to relocate the bus stop 20-30m to the north from the walkway. This was proposed as the terrain at this location is slightly flatter making it safer for the bus passengers and easier for the bus to pull over. Traffic Committee discussed this proposal and supported it while acknowledging that bus passengers would still use the walkway. The Committee also commented that the bus stop only operates for a short time on school days.

Support for the recommendation:

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

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

PORT STEPHENS TRAFFIC COMMITTEE
Tuesday 6 October 2009

ITEM NO. 37_10/09
Street: Rees James Road

ANNEXURE A
Page 1 of 1



Legend

C2 Item: 38_10/09

VICTORIA PARADE NELSON BAY – REQUEST FOR INSTALLATION OF PARKING RESTRICTIONS TO ALLOW GARBAGE TRUCKS TO SERVICE ANZAC PARK

Requested by: Geoff Dan – Parks Coordinator - Port Stephens Council

File:

Background:

Geoff Dan called to discuss requirements for garbage contractors to service the bins in ANZAC park, Nelson Bay. Since the new traffic signals have been installed there is now 'No Stopping' where the trucks need to stop in order to pick up the bins from the park.

Comment:

At an on-site meeting with the garbage contractor and Council staff current servicing procedures were discussed. Currently garbage trucks straddle the kerb in the 'No Stopping' zone (illegally). There are 4-6 bins around the park that have to be wheeled to the truck by the driver to be emptied.

Options discussed included a 'No Parking' zone on approach to the signals but this was deemed impractical as drivers would be unlikely to pull bins up the hill and would possibly continue to park illegally. Instead it was suggested that the existing short-term parking at the visitor centre be modified to include a 'Loading Zone' in the early morning that would allow trucks to legally park and would be convenient for taking the bins to.

Recommendation to the Committee:

Approve the installation of a loading zone adjacent to the VIC to operate from 5am-7am only and for parking to be restricted to 15 minutes at other times.

Discussion:

Staff from the Nelson Bay Visitor Information Centre (VIC) called to request a modification of the recommendation. There is an automatic teller machine at the VIC that is well used in the early morning and it was asked if the proposed loading zone could be reduced to allow continued short-term parking.

Traffic Committee Recommendation:

Approve the installation of a loading zone on the western end of the parking bays adjacent to the Visitor Information Centre. The loading zone would operate from 5am-7am only and the parking would be restricted to 15 minutes outside these times, as shown on the attached modified sketch.

Support for the recommendation:

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



C3 Item: 39_10/09

SHOAL BAY ROAD NELSON BAY – REQUEST FOR REMOVAL OF NO STOPPING RESTRICTIONS ADJACENT TO NO.143 SHOAL BAY ROAD

Requested by: A resident
File: PSC2005-4189/025
Background:

A resident of the 'Sea Spray' development at 143 Shoal Bay Road has contacted Council to request removal of the 'No Stopping' restrictions and the pedestrian crossing on Shoal Bay Road fronting his property.

Currently there are 'No Stopping' restrictions along the full length of Shoal Bay Road between Trafalgar and Dixon Streets, apart from a bus zone on either side of the road.

Shoal Bay Road varies in width along this section with a road narrowing for the pedestrian crossing and widening for the bus zones. There is approximately 5.8-6m between the centre line and the kerb which is sufficient to allow for parking.

Comment:

The Traffic Inspection committee do not support removal of the pedestrian crossing as it services bus stops on either side of road and links the residential developments on the south to the sporting grounds on the north of the road. The pedestrian crossing is one of the few crossing points along Shoal Bay Road.

The Traffic Inspection committee however did support reducing the length of the 'No Stopping' zones to allow some parking to occur on Shoal Bay Road on the approaches to the pedestrian crossing.

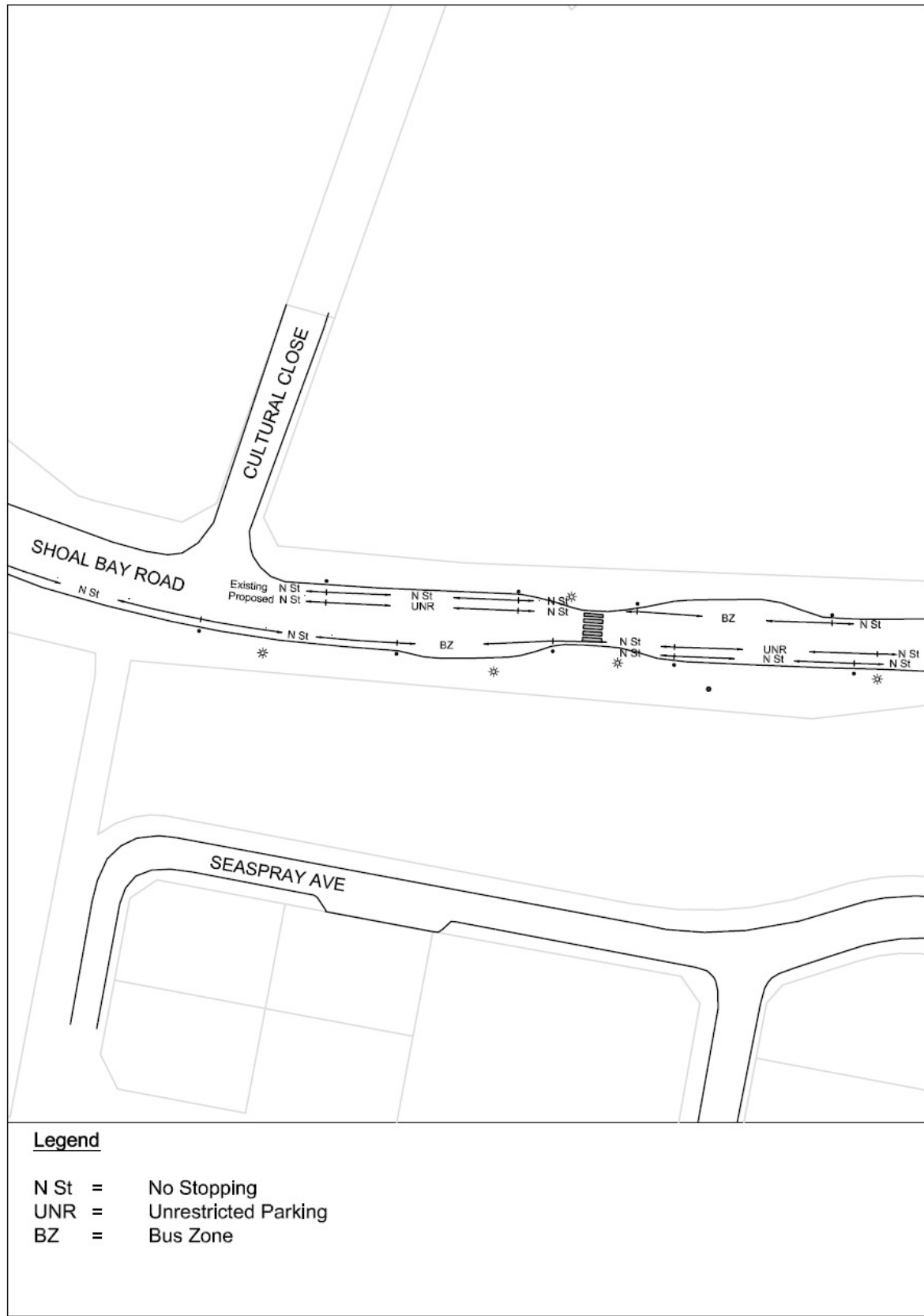
Recommendation to the Committee:

Approve the reductions of 'No Stopping' on Shoal Bay Road between Trafalgar and Dixon Streets, as shown on the attached sketch.

Discussion:

Support for the recommendation:

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



D. General Business

- D1** Mr Mosley requested an update on the provision of a bus stop on Mt Hall Road adjacent to Irawang High School. The bus stop is required for route buses that are currently delayed by traffic if the school bus stop is used. Council will investigate further.
- D2** Cr Kafer raised the issue of the number of speeding vehicles that use Glenelg Street as part of a short-cut through Raymond Terrace. It appears that a large number of drivers use Port Stephens Street and Glenelg Street to avoid the traffic signals on Adelaide Street. The Traffic Committee requested that Council install traffic classifiers to determine the speed and volume of traffic using Glenelg Street.
- D3** Cr Kafer asked about the access arrangements at the Bayway caravan park at Fern Bay. The park has only one entry/exit and if there were an emergency this would become a real bottleneck.

ITEM NO. 4

FILE NO: PSC2009-02013

QUARTERLY REPORT AGAINST COUNCIL PLAN 2009-2013

REPORT OF: WAYNE WALLIS - GROUP MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopts the Quarterly Report against Council Plan 2009-2013.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Sally Dover	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

366	Councillor Steve Tucker Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
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Councillor John Nell requested his name be recorded against the resolution.

BACKGROUND

The purpose of this report is to present to Council the Quarterly Report for September Quarter 2009 against the Council Plan 2009-2013.

The Quarterly Report format has changed from this quarter as a result of a survey of Councillors and the work of a Continuous Improvement Team that recommended to the Executive a change to the style and content arrangement. The new format incorporates the performance measurement charts as so that Councillors have a complete picture of the performance for the quarter.

FINANCIAL/RESOURCE IMPLICATIONS

This streamlined reporting process is more time and cost efficient and the style allows for immediate publication on Council's website for community access.

LEGAL, POLICY AND RISK IMPLICATIONS

The Local Government Act 1993 (as amended – 2009) mandates that a quarterly report is provided to Council not later than 2 months from the end of the quarter. This report meets the legislative requirements.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Quarterly Report addresses performance for the quarter organised to reflect the five pillars of sustainability in the Council Plan 2009-2013.

CONSULTATION

No external consultation is involved in the preparation of this Quarterly Report. It is compiled from inputs across all Groups/Sections within Council and referred to the Executive Team for accuracy and completeness.

OPTIONS

Adopts the Quarterly Report September 2009.
Amends the Quarterly Report September 2009.

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

- 1) Quarterly Report September 2009 Quarter against Council Plan 2009-2013.

ITEM NO. 5

FILE NO: PSC2009-03011

ROAD CLOSURE CORAL STREET, FINGAL BAY**REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER****GROUP: COMMERCIAL SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Consents to the processing of the closure of part of Coral Street separating Lots 6 DP1014371 and 106 DP 1126667 Final Bay.
- 2) Makes application under Section 34 Roads Act 1993 to the Land & Property Management Authority (LPMA) for the closure to be processed.
- 3) Requires the creation of an easement in gross in favour of Council over the existing concrete cycleway to allow the continued public use.
- 4) Requires the creation of an easement for drainage over all existing drainage structures for Councils benefit.
- 5) Create a Restriction on use that will not permit heavy vehicle access over the area with the only heavy vehicle access to Lot 6 DP1014371 being from Farm Road.
- 6) Will receive a further report following responses from the statutory advertising and notification process for a determination on its support or otherwise for the application.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor John Nell	That the recommendation be adopted.
--	--	-------------------------------------

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

367	Councillor Sally Dover Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
------------	--	---

BACKGROUND

The purpose of this report is to recommend the closure of part of Coral Street and consolidation with the applicants land when sold to them, the adjoining owners, for addition to their current land holding.

Council has received an application to close and consolidate the section of road shown in **ATTACHMENT 1** (public road) adjoining the boundary of Lots 6 DP1014371 and 106 DP1126667. The total area of road to be closed is approximately 2488 metres square as shown in **ATTACHMENT 2**. If closed, the parcel will be sold to the applicant being the adjoining owner, Port Stephens Veterans & Citizens Aged Care Ltd.

The land is proposed to be incorporated into the land holdings of the applicant and used by only light vehicles with all heavy vehicles to access the owner's lands from Farm Road. This can be done by the creation of a Restriction on Title.

The proposed closure will be advertised and adjoining owners notified in accordance with LPMA directions under the Roads Act 1993. Service Authorities will be advised of the proposal and requested to advise Council of any objections they may have. A further report will then be presented to Council.

FINANCIAL/RESOURCE IMPLICATIONS

The applicant is required to pay all associated costs and administration fees involved in the processes. The Roads Act requires any sale income to be spent on roads in the vicinity.

LEGAL, POLICY AND RISK IMPLICATIONS

The Roads Act controls the actions and processes and there are no implications at this stage of the applications.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The road is not used by general public vehicles at this time so there will not be a loss of Social, Economic or Environmental matters. The public use of the existing cycleway will be maintained.

CONSULTATION

Owner's Consultant, Land & Property Management Authority, Council's Property Officer and Principal Property Advisor, Civil Assets Engineer.

OPTIONS

Accept the application for processing or reject it. Amend requirements or conditions for proposal.

ATTACHMENTS

- 1) Plan of subject area
- 2) Location sketch

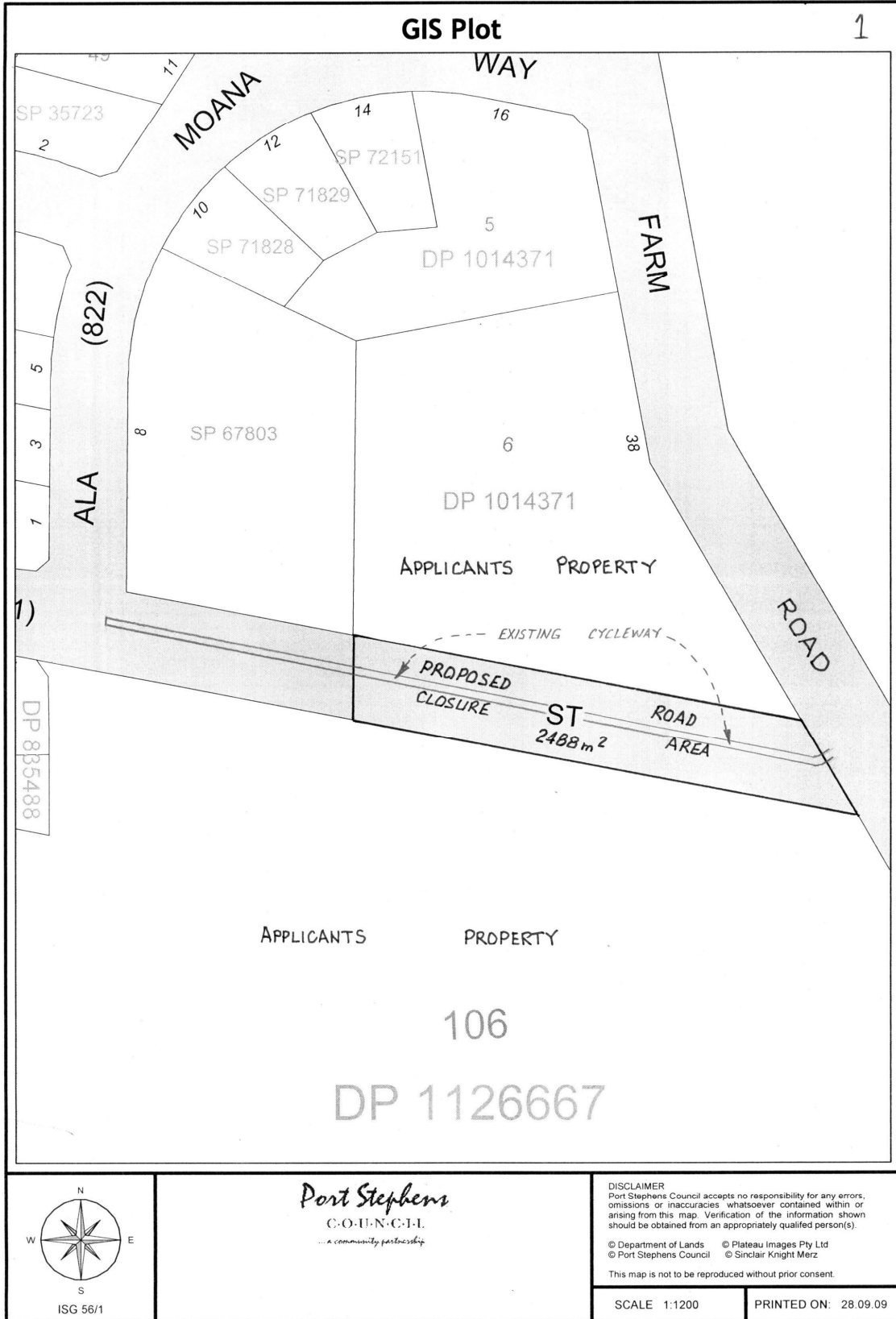
COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1



116 Adelaide Street, Raymond Terrace NSW 2324. Phone: (02) 49800255 Fax: (02) 49873612 Email: council@portstephens.nsw.gov.au

ITEM NO. 6

FILE NO: E5810-013 &
PSC2005-2588**ACCESS TO LEMON TREE PASSAGE FORMER WASTE TRANSFER STATION**REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER
GROUP: COMMERCIAL SERVICES**RECOMMENDATION IS THAT COUNCIL:**

- 1) Following the request to Land & Property Management Authority (LPMA), formerly Department of Land & Water Conservation, Council acts on the negotiations authorised by Council resolution 24th July 2001 (303), as soon as LPMA's new plan is registered.
- 2) Enters into negotiation with LPMA for possible amendments to R89686 for rubbish depot in regards to the boundaries and access.
- 3) Following agreement with LPMA concerning recommendation 2 above Council carries out the necessary notifications in the Government Gazette to formalise the outcome of negotiations with LPMA to create legal access.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

368	Councillor Steve Tucker Councillor Geoff Dingle	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to progress the formalisation of the access to the former waste transfer station.

Council resolution Minute: 303 of the 24th July 2001 **ATTACHMENT 1** required negotiations with the then Department of Land & Water Conservation to allow the creation of a formal access to the site. The request was made and about that same time some aboriginal land claims were lodged in the surrounding areas. This led to determinations being made on the land claims after considerable time and then LPMA commenced surveying work to adjust the necessary property boundaries. The result of this is that plans have been prepared for lodgement at the office of Land & Property Information (LPI) that will allow formal determination of a number of boundaries. As soon as these survey plans **ATTACHMENT 2** are registered LPMA have requested discussions on how the new surveyed boundaries can be related to the existing reserves for various purposes including the formal access to the former waste transfer station. Gazette notices will need to be published to formalise the new boundaries and alter the necessary land holdings. These actions will complete those proposed in the July 2001 resolution and will result in a legal access being available to the former waste transfer station.

FINANCIAL/RESOURCE IMPLICATIONS

A survey plan may be required to formalise the boundaries and road dedication as required by Council. The only resource needs are those within Council's current activities and these will be of a minor nature.

LEGAL, POLICY AND RISK IMPLICATIONS

The only implications rest with LPMA because it is responsible for the parcels of land and they will also be responsible for any actions under the Roads Act.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The general public will not be aware of any formal changes as there is already a constructed access to the former waste transfer station. Environmentally no changes are proposed.

CONSULTATION

LPMA, Council's Engineering Services Manager, Property Officer and Principal Property Advisor.

OPTIONS

Adopt or reject recommendations

ATTACHMENTS

- 1) Minutes of 24th July 2001, LPMA's new plan for registration
- 2) Plan by LPMA to be registered

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1

MINUTES OF 24 JULY 2001 ORDINARY MEETING

ITEM NO. 7

FILE NO: 5810-013

ACCESS TO LEMON TREE PASSAGE WASTE TRANSFER STATION

AUTHOR: CLIFF JOHNSON- PRINCIPAL PROPERTY ADVISOR

RECOMMENDATION IS THAT COUNCIL:

- 1) Requests the Department of Land and Water Conservation (DLAWC) to provide legal access to the Waste Transfer Station at Lemon Tree Passage by including the existing access within the Crown Reserve R89686 for Rubbish Depot.
- 2) Acquires and declares as Public Road the section of the existing access from Lemon Tree Passage Road to the new gates being constructed across the access to the transfer station.
- 3) Negotiates with DLAWC for the acquisition of the residue of land enclosed within the present man-proof fence, excluding the Reserve R89686 and the access, to be acquired, for a possible rehabilitation area for injured koalas.
- 4) Offers no compensation to DLAWC for items 1,2, and 3 above.
- 5) Applies to the Minister for Local Government for Compulsory Acquisition of items 1 and 2 above, if this is necessary.
- 6) Be provided with a further report as the negotiations proceed.

Operations Committee Recommendation: That the recommendation be adopted.

303 Councillor Yudaeff Resolved that the Operations Committee's
 Councillor Busteed Recommendation be adopted

ATTACHMENT 1

ORDINARY MEETING - 24 JULY 2001

ITEM NO. 7

FILE NO: 5810-013

ACCESS TO LEMON TREE PASSAGE WASTE TRANSFER STATION

AUTHOR: CLIFF JOHNSON- PRINCIPAL PROPERTY ADVISOR

RECOMMENDATION IS THAT COUNCIL:

- 1) Requests the Department of Land and Water Conservation (DLAWC) to provide legal access to the Waste Transfer Station at Lemon Tree Passage by including the existing access within the Crown Reserve R89686 for Rubbish Depot.
- 2) Acquires and declares as Public Road the section of the existing access from Lemon Tree Passage Road to the new gates being constructed across the access to the transfer station.
- 3) Negotiates with DLAWC for the acquisition of the residue of land enclosed within the present man-proof fence, excluding the Reserve R89686 and the access, to be acquired, for a possible rehabilitation area for injured koalas.
- 4) Offers no compensation to DLAWC for items 1,2, and 3 above.
- 5) Applies to the Minister for Local Government for Compulsory Acquisition of items 1 and 2 above, if this is necessary.
- 6) Be provided with a further report as the negotiations proceed.

Operations Committee Recommendation: That the recommendation be adopted.

ATTACHMENT 1

OPERATIONS COMMITTEE - 10 JULY 2001

ITEM NO. 7

FILE NO: 5810-013

ACCESS TO LEMON TREE PASSAGE WASTE TRANSFER STATION

AUTHOR: CLIFF JOHNSON- PRINCIPAL PROPERTY ADVISOR

RECOMMENDATION IS THAT COUNCIL:

- 1) Requests the Department of Land and Water Conservation (DLAWC) to provide legal access to the Waste Transfer Station at Lemon Tree Passage by including the existing access within the Crown Reserve R89686 for Rubbish Depot.
- 2) Acquires and declares as Public Road the section of the existing access from Lemon Tree Passage Road to the new gates being constructed across the access to the transfer station.
- 3) Negotiates with DLAWC for the acquisition of the residue of land enclosed within the present man-proof fence, excluding the Reserve R89686 and the access, to be acquired, for a possible rehabilitation area for injured koalas.
- 4) Offers no compensation to DLAWC for items 1,2, and 3 above.
- 5) Applies to the Minister for Local Government for Compulsory Acquisition of items 1 and 2 above, if this is necessary.
- 6) Be provided with a further report as the negotiations proceed.

BACKGROUND

The purpose of this report is to recommend actions to provide legal access to the new waste transfer station off Lemon Tree Passage Road and declare part of that access Public Road as well commence negotiations for an area of land for a possible koala rehabilitation area. See attachment 1 for areas.

In 1975 DLAWC created Reserve 89686 for a Rubbish Depot at Lemon Tree Passage. The area was used for this purpose until 1998 when the depot was closed and actions commenced to use the area as a waste transfer station. The access, which has been used from Lemon Tree Passage Road to the site since 1975 has no legal standing. DLAWC were remiss in creating the reserve without legal access, even though there have not been any issues over the use of the access as constructed.

With the development of the waste transfer station and contractors for Council using the access it would be unwise for the access to be made official. The easiest way to do this would be for DLAWC to alter R89686 boundaries to include the 20 metre wide access within its boundaries. Formal application for this is required from Council to DLAWC.

The southern section of the access from Lemon Tree Passage Road to the new gates is going to be able to be open to the public at all times. It would therefore make sense to have

ATTACHMENT 1

OPERATIONS COMMITTEE - 10 JULY 2001

this area declared as public road. Such declaration would also ensure the entire intersection falls under the Motor Traffic Act so any traffic movements would have to comply with that Act.

In the 1980's a man-proof fence was erected to encompass the Reserve and all the land south to Lemon Tree Passage Road. There were two main reasons for this, one being the need to prevent people scavenging the waste material and the other to prevent excessive pollution by wind borne papers etc. The fence then and now encloses Crown Land. The Hunter Koala Preservation Society has requested the use of the enclosed, unused Crown Land for use as a rehabilitation area for the animals. Council cannot grant permission for such use because it is Crown Land. Negotiations can be made between Council and DLAWC towards this end, however, more support for such a venture would be required, for example, from the National Parks and Wildlife Service before too much effort is used. The site may not be seen suitable by all those concerned. It should be established from DLAWC if it would consider such a use and if the site could be reserved or acquired for such a purpose.

LINKS TO CORPORATE PLANS

Relates to Transport Infrastructure Goal of safe and effective network to transport goods within Port Stephens as well as Council's Strategy to dispose of waste in accordance with current standards.

FINANCIAL/RESOURCE IMPLICATIONS

The only resource needs are those within Council's current activities. Financial requirements will not be large provided no compensation is payable for the land required. A survey and plan lodgement will be required to finalise the acquisition.

LEGAL AND POLICY IMPLICATIONS

Most of the implication rest with DLAWC because it created a reserve with no access. The Crown Land and Roads Acts will be utilised to overcome the situation.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Ratepayers and contractors will not be aware of any changes required to their activities because of the recommendations.

ECONOMIC IMPLICATIONS

If the recommendations are achieved as proposed there will be no ongoing costs. The anticipated legal costs will be approximately \$1500, which is available in the current budget.

ENVIRONMENTAL IMPLICATIONS

The recommendations will avoid future environmental issues, as they will ensure continued legal access to the site. Currently this access is not legal.

CONSULTATION

ATTACHMENT 1

OPERATIONS COMMITTEE - 10 JULY 2001

DLAWC, Council's Waste Manager, Property Advisor, Engineering Asset Manager and Hunter Koala Preservation Society.

OPTIONS

- 1) Adopt recommendations
- 2) Provide legal access only and not consider the possible koala rehabilitation areas.
- 3) Apply to have the entire area enclosed in the present fence as one reserve.

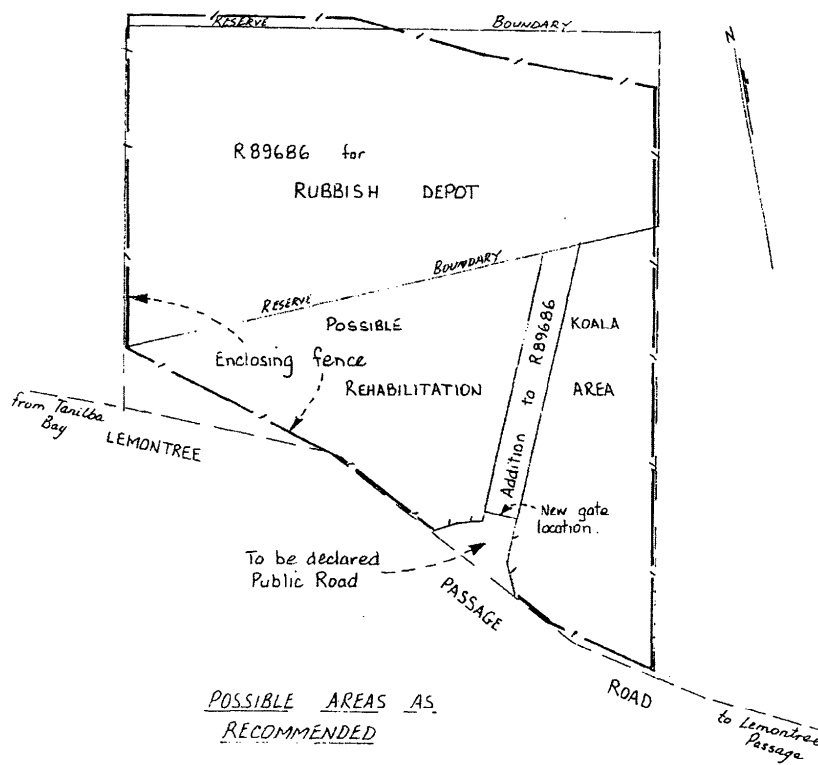
ATTACHMENTS

- 1) Possible areas as recommended.

ATTACHMENT 1

OPERATIONS COMMITTEE - 10 JULY 2001

ATTACHMENT 1



ITEM NO. 7

FILE NO: A2004-0865

**RIGHT OF CARRIAGE WAY OVER COUNCIL LAND LOT 683 D.P.9165
NELSON BAY**

REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER

GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consents to the creation of a Right of Carriage Way variable width over lot 683 D.P.9165 as shown on **ATTACHMENT 1** in favour of lot 152 D.P.9165.
- 2) Requires the owner of lot 152 to be responsible for all costs including, but not limited to, survey, plan lodgement, preparation of necessary documentation and production of Certificates of Title to allow registration at the office of Land & Property Information (LPI) in Sydney.
- 3) Requires the owner of lot 152 D.P.9165 be responsible for any and all construction and maintenance necessary for an up to 4 metre width within the proposed easement, to permit practical use to satisfy the owner's requirements, without interfering with any existing trees.
- 4) Grants authority to affix Councils Seal and Signatures to the Section 88B instrument and plan prior to lodgement of the instruments at LPI.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009

RECOMMENDATION:

	Councillor Glenys Francis Councillor Sally Dover	That the recommendation be adopted.
--	---	-------------------------------------

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

369	Councillor John Nell Councillor Ken Jordan	It was resolved that the recommendation be adopted.
------------	---	---

BACKGROUND

The purpose of this report is to recommend the creation of a Right of Carriage Way variable width, to permit an access of maximum width of 4 metres to be constructed within the area to benefit lot 152 D.P.9165.

A number of years ago the owner of lot 152 entered into a license agreement to use the area of Council land covered by the proposed Right of Carriage Way (R of W), for casual access to the rear of the property. The main reason for Council granting the existing license is that the owner's access off Wahgunyah Road is very dangerous from a traffic point of view. She has to reverse out of the property with extreme caution as the driveway is the lowest part of the street only a short distance from a sharp crest to the east and any parked vehicles between the crest and the driveway block the vision of oncoming vehicles. Another reason for the granting of the existing license is that because the driveway is in the lowest point of Wahgunyah Road and Council cannot provide an outlet for the street water which builds up over the kerb and guttering then into her front yard which is much lower than the street. The stormwater has and will continue to build up to almost one metre in depth. Sometimes the water remains for days.

The safety and comfort aspects created by the license over Councils land have encouraged the owner to request the establishment of a permanent R of W over the area. Councils Facilities and Services staff have inspected the issues on site and agree no improvement can be made to the access off Wahgunyah Road so the establishment of a R of W over lot 683 would be a good outcome.

The property owner will be responsible for all costs associated with the creation of the R of W and the construction and maintenance of the actual new access to a standard to satisfy her needs. No tree growth will be permitted to be interfered with to construct and maintain a maximum 4 metre wide driveway. Consent for the creation of a R of W is recommended.

FINANCIAL/RESOURCE IMPLICATIONS

These are of a very minor nature as the benefiting property owner will be required to pay all costs associated with the matter including approved administration fees. There will be a long term benefit to Council because without the proposed R of W Council could be forced to construct a stormwater sump with a pump to prevent street stormwater from affecting the property.

LEGAL, POLICY AND RISK IMPLICATIONS

Lot 683 D.P.9165 is 'Operational Land' and therefore a R of W can be created over it. The Conveyancing Act 1919 controls the actions required for such creation and the R of W will be registered at LPI.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposal will allow an all weather access to be available to the benefiting property and at the same time making for a much safer access to and from the property as well as passing traffic. The new access will have no impact on the environment on Councils property as this part of the land is currently used under the license agreement. No tree growth is to be disturbed within the easement area. There will not be any impact on neighbours or the general public.

CONSULTATION

Property owner, Councils Civil Assets Engineer, Principal Property Advisor, Senior Planner, Commercial Property Manager, Property Officer and adjoining owners.

OPTIONS

Accept or reject the proposal.

ATTACHMENTS

- 1) Proposed Right of Carriage Way
- 2) Location map

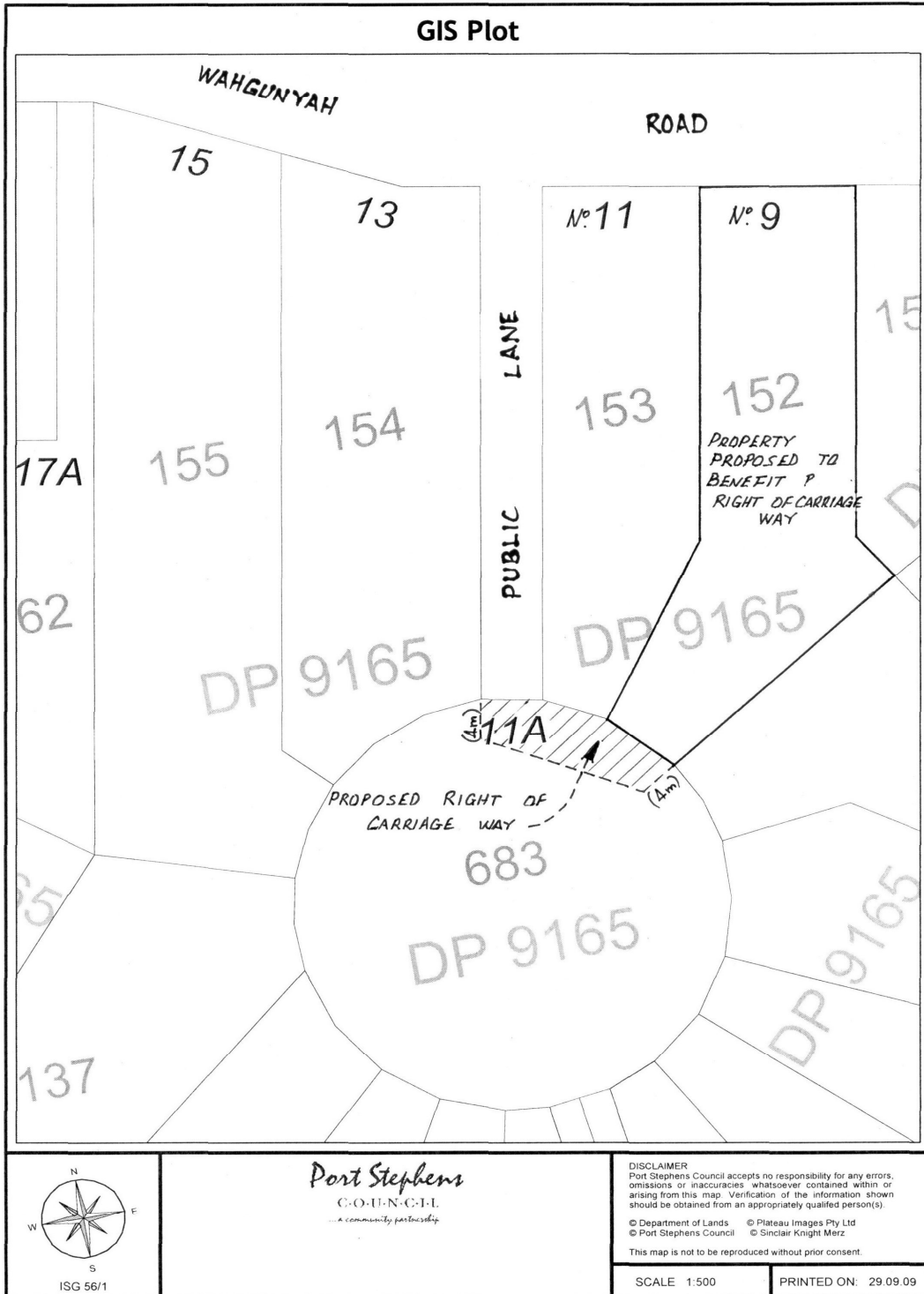
COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

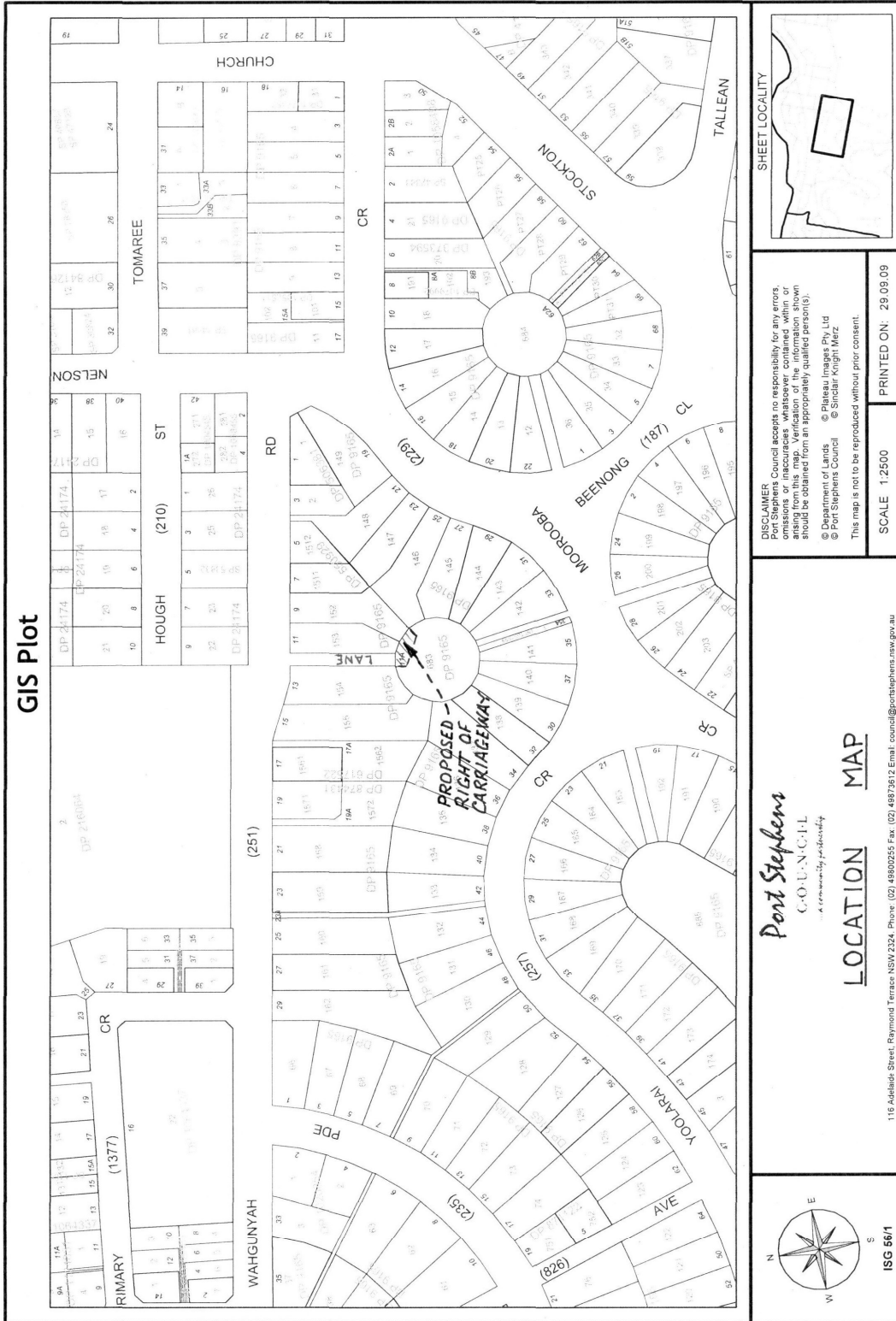
Nil

ATTACHMENT 1



ATTACHMENT 2

2.



ITEM NO. 8

FILE NO: 1600 - 001

RECOGNISED CONTRACTORS LIST

REPORT OF: DAMIEN JENKINS – FINANCE MANAGER
GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the establishment and maintenance of a perpetual Recognised Contractors list.
-

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009

RECOMMENDATION:

	Councillor John Nell Councillor Glenys Francis	That the recommendation be adopted.
--	---	-------------------------------------

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

370	Councillor John Nell Councillor Geoff Dingle	It was resolved that the recommendation be adopted.
------------	---	---

BACKGROUND

The purpose of this report is to facilitate Council's ability to maintain a perpetual Recognised Contractors list. Council has on previous occasions, last being 2007, adopted a list of recognised contractors for the purpose of selective tendering and quotation. The rationale for conducting this process is to minimise the time required to call for tenders by eliminating the need to advertise tenders.

The Recognised Contractors list was then adopted by Council and in place for the nominated period. There was however an inherent fault within this process in that if new suppliers enquired to gain access to placement on the Recognised Contractors list it was closed. By setting up a perpetual list this situation does not arise and works in favour for Council as well as the suppliers. Council is constantly being asked to allow updates to the list by new suppliers.

It also allows Council to support small and large business, both local and regional who have taken the time to complete the documentation and show their interest in Council's upcoming projects.

Council would have in place the same exacting and auditable process for approval to gain placement on the Recognised Contractors list. Example of the documentation enclosed in **ATTACHMENT 1**.

This list encompasses categories such as consultancy services, building trades, design services, survey services, project management, plant & equipment operators, fencing and construction, training services.

As previously conducted, Council will call, via public advertisement, for submissions in response to the new Registration of Interest. The initial response submissions will be reviewed and assessed against selection criteria. The list is then made available to all Council staff. Thereafter any new submissions received will be reviewed by the Procurement and Contracts Co-ordinator against the same criteria.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL, POLICY AND RISK IMPLICATIONS

This proposal complies with the requirements of Clause 166, Local Government (General) Regulations 2005.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

This facilitates an easier process for new suppliers who have moved to the LGA and would like to engage with Council. A large percentage of enquires are from local businesses.

CONSULTATION

Procurement & Contracts Co-ordinator
Executive Officer

OPTIONS

Adopt the new process
Reject the recommendation and Council will proceed with the previous process.

ATTACHMENTS

- 1) Application documentation for Contractors (Reference only).

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1

HROC ROI Schedules



Information Pack & Selection Table

Council is seeking registration of interest for the following services:-

Please tick ✓ the selection boxes appropriate to the type of services you are interested in offering to Council.

CATEGORY	TYPE	DESCRIPTION
Building Trades Sub Contractors	• Material Fabricators	<input type="checkbox"/> Sheet Metal <input type="checkbox"/> Stainless Steel
	• Brick Laying	<input type="checkbox"/> Materials <input type="checkbox"/> Labour
	• Carpentry & Joinery	<input type="checkbox"/>
	• Cement Rendering	<input type="checkbox"/>
	• Concreting	<input type="checkbox"/>
	• Fencing	<input type="checkbox"/> Supply <input type="checkbox"/> Installation
	• Glazing	<input type="checkbox"/> Supply <input type="checkbox"/> Installation
	• Gyprock & Fibrous Plastering	<input type="checkbox"/> Supply <input type="checkbox"/> Installation
	• Painters	<input type="checkbox"/>
	• Plumbing	<input type="checkbox"/>
	• Roof Cladding	<input type="checkbox"/> Supply <input type="checkbox"/> Installation
	• Asbestos Removalists	<input type="checkbox"/>
	• Specialised Coating	<input type="checkbox"/>
	• Tiling	<input type="checkbox"/> Labour <input type="checkbox"/> Materials

ATTACHMENT 1

HROC ROI Schedules

Construction	• Civil	<input type="checkbox"/> Netball & Tennis Courts, Small Carpark <input type="checkbox"/> Sports fields <input type="checkbox"/> Drainage <input type="checkbox"/> Boat ramps <input type="checkbox"/> Major Road works <input type="checkbox"/> Subdivisions
	• Electrical	<input type="checkbox"/> Switchboards <input type="checkbox"/> Domestic <input type="checkbox"/> Commercial
	• Landscaping	<input type="checkbox"/> Soft <input type="checkbox"/> Hard <input type="checkbox"/> Shade Structures
	• Structural	<input type="checkbox"/> Major Commercial Building <input type="checkbox"/> Small Commercial Building <input type="checkbox"/> Bridges <input type="checkbox"/> Jetties <input type="checkbox"/> Retaining structures
	• Demolition	<input type="checkbox"/> Excavation <input type="checkbox"/> Removal <input type="checkbox"/> Demolition <input type="checkbox"/> Asbestos Removal <input type="checkbox"/> Fuel Tank Removal

Consultancy Services	• Development	<input type="checkbox"/> Land Use Planning <input type="checkbox"/> Commercial Planning <input type="checkbox"/> Urban Planning <input type="checkbox"/> Feasibilities <input type="checkbox"/> Concept Design <input type="checkbox"/> Environmental <input type="checkbox"/> Development Applications Management (concept to design completion)
	• Cost Management	<input type="checkbox"/> Quantity Surveys <input type="checkbox"/> Estimating <input type="checkbox"/> Feasibility <input type="checkbox"/> Risk Management

ATTACHMENT 1

HROC ROI Schedules

	<ul style="list-style-type: none"> • Project Management • Environmental 	<ul style="list-style-type: none"> <input type="checkbox"/> Building <input type="checkbox"/> Civil <input type="checkbox"/> Archaeology <input type="checkbox"/> Flora & Fauna <input type="checkbox"/> Geographical
<p>Design Services</p>	<ul style="list-style-type: none"> • Architectural • Civil • Electrical • Landscaping • Geotechnical • Surveying • Structural 	<ul style="list-style-type: none"> <input type="checkbox"/> Urban <input type="checkbox"/> Heritage <input type="checkbox"/> Commercial <input type="checkbox"/> Residential <input type="checkbox"/> Concept <input type="checkbox"/> Full Design & Documentation <input type="checkbox"/> DA & CC Management <input type="checkbox"/> Construction Management <input type="checkbox"/> Boat ramps <input type="checkbox"/> Car parks <input type="checkbox"/> Drafting Services <input type="checkbox"/> Drainage <input type="checkbox"/> Sports fields <input type="checkbox"/> Subdivision <input type="checkbox"/> Construction certificate management <input type="checkbox"/> Engineering <input type="checkbox"/> Switchboards <input type="checkbox"/> Domestic <input type="checkbox"/> Commercial <input type="checkbox"/> Design Review <input type="checkbox"/> Lighting <input type="checkbox"/> Architecture/Design <input type="checkbox"/> Shade Structures <input type="checkbox"/> Exploratory drilling <input type="checkbox"/> Pavement design <input type="checkbox"/> Foundation design for structures <input type="checkbox"/> Retaining structures <input type="checkbox"/> Pile foundation <input type="checkbox"/> Compaction testing <input type="checkbox"/> All Types <input type="checkbox"/> Bridges

ATTACHMENT 1

HRDC ROI Schedules

		<input type="checkbox"/> Buildings <input type="checkbox"/> Concrete <input type="checkbox"/> Drafting Services <input type="checkbox"/> Jetties <input type="checkbox"/> Steel <input type="checkbox"/> Timber
Surveying		<input type="checkbox"/> Cadastral <input type="checkbox"/> Quantity <input type="checkbox"/> Engineering
Training	Nominate area	<input type="checkbox"/> First Aid <input type="checkbox"/> Workcover programs <input type="checkbox"/> OHS <input type="checkbox"/> Other <input type="checkbox"/> Other
Joint Venture	<ul style="list-style-type: none"> • Financial • Planning • Construction 	<input type="checkbox"/> Commercial – full project <input type="checkbox"/> Land Development – full project <input type="checkbox"/> Commercial – full project <input type="checkbox"/> Land Development – full project <input type="checkbox"/> Land Development
Automotive	Nominate area	<input type="checkbox"/> Windscreens <input type="checkbox"/> Phone & Two ways Workcover programs <input type="checkbox"/> Air conditioning repairs <input type="checkbox"/> Vehicle paint spraying <input type="checkbox"/> Waste oil removal <input type="checkbox"/> Hydraulic hose repairs <input type="checkbox"/> Auto electrician
Professional Services	Nominate area	<input type="checkbox"/> Laboratory testing <input type="checkbox"/> Bush regeneration <input type="checkbox"/> Pest and wed management

ATTACHMENT 1

HROC ROI Schedules

Services General	Nominate area	<input type="checkbox"/> Document binding & <input type="checkbox"/> Pest services <input type="checkbox"/> Pool supplies & services <input type="checkbox"/> Carpet cleaning
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ATTACHMENT 1

HROC ROI Schedules

Schedules

CONTENTS

BUSINESS DETAILS & DECLARATION
INSURANCES
MANAGEMENT & TECHNICAL STAFF
RESOURCES

REFEREES
ADDITIONAL INFORMATION & INNOVATION

NOTE

To submit a conforming ROI, the Respondent should complete all the Schedules nominated above (where applicable). If there is insufficient space for any response, please prepare an attachment to the relevant Schedule.

Failure to complete this section may result in rejection of the ROI.

The Contracts Panel of the Hunter Region Organisation of Councils
in association with Gosford City Council

ATTACHMENT 1

HROC ROI Schedules

SCHEDULE

BUSINESS DETAILS & DECLARATION

PROJECT: REGISTRATION OF INTEREST

FULL TRADING NAME: _____

ACN: _____ ABN: _____

GST Registered Yes No

Contact Person: _____ Title: _____

Registered Office Address: _____ Principal Business Address: _____

Telephone: _____ Facsimile: _____ Email: _____

Legal Status: (Refer Clause 3 of the Conditions of Registration) _____

Note: If the Respondent is a Trust or a Trustee of a Trust, then a full copy of the trust deed MUST be submitted with the ROI.

The Respondent named above, has fully acquainted itself with this request for an ROI and all matters relating to the proposed contract and agrees to be bound by the *Conditions of Registration*, and if successful, the contract conditions.

By submitting an ROI, the Respondent warrants and represents that:

- (a) All of the information provided in its ROI is true and correct.

CONFLICTS OF INTEREST

The Respondent shall confirm whether there exists any interests, relationships (including those of family members and employees) or clients that may or do give rise to a conflict of interest Yes No

If "Yes", as an attachment to this declaration, the Respondent shall detail the area in which that conflict or potential conflict does or may arise and provide details of strategies for preventing conflicts of interest.

DECLARATION

Name: _____

Title: _____

Date: _____

ATTACHMENT 1

HROC R01 Schedules

SCHEDULE
INSURANCES

If at any time your company is short-listed for tendering, the Respondent will be required to provide evidence at the time of tendering of those policies of insurance relevant to the respective tender.

In reference to the specific types of insurance policies noted below, please indicate which policies are currently maintained by your organisation.

Confirm willingness to provide this information: Yes ✓ No x

INSURANCE OF EMPLOYEES

Workers Compensation or Personal Accident and Illness Insurance:

Insurance against any death of or injury to persons employed by the Service Provider as required by the Workers Compensation Act 1987.

ALTERNATIVELY: Where the Service Provider has no employees and in lieu of Workers Compensation Insurance, insurance for personal accident and illness under a policy that provides:

Weekly benefits of at least 75% of weekly income; Death and capital benefits of at least \$250,000; and
Minimum benefit period of 24 months.

	YES	NO
Amount of coverage: <i>As detailed above</i>	<input type="checkbox"/>	<input type="checkbox"/>

PUBLIC LIABILITY INSURANCE

Insurance against the death or injury to any third party or parties or loss of or damage to any property including loss of use of property whether it is damaged or not whatsoever caused during the course of the contract. The policy shall contain a cross liability clause and a "principal's clause" and shall have a limit of indemnity of not less than the amount indicated for any one occurrence, but shall be unlimited in the aggregate.

	YES	NO
Amount of coverage: <i>\$10 million</i>	<input type="checkbox"/>	<input type="checkbox"/>

MOTOR VEHICLE INSURANCE (IF APPLICABLE)

In the case of any motor vehicle used in the performance of the contract, a Motor Vehicle Insurance covering accidental damage, fire and theft. The policy shall be for a sum not less than the full market value of the vehicle, noting the Principal as joint insured. In addition, where such vehicles are:

Registered Vehicles

- a) Insurance against any injury to any third party or parties under a Compulsory Third Party Insurance as required by the *NSW Motor Accidents Act, 1988* and
- b) Insurance against loss of or damage to any property whatsoever caused by the use of the vehicle when being driven by the Service Provider, its employees or any person not employed by the Service Provider. The policy shall have a limit of indemnity of not less than \$20,000,000 and shall be extended to include "Bodily Injury Gap" cover and shall note the interest of the Principal as an insured.

	YES	NO
Amount of coverage: <i>\$20 million</i>	<input type="checkbox"/>	<input type="checkbox"/>

Unregistered Vehicles (Plant)

Note: Any damage arising as a result of the plant being used as a "tool of trade" is to be covered by either an extension of the Service Provider's Comprehensive Motor Vehicle Insurance or the liability endorsed onto the Service Provider's Public Liability Insurance.

ATTACHMENT 1

HROC ROI Schedules

SCHEDULE

INSURANCES

(Continued page 2 of 2)

PROFESSIONAL INDEMNITY INSURANCE (if applicable) Professional Indemnity insurance for a limit for any one claim of not less than the amount indicated. The policy shall be maintained from the completion of the contract for the period indicated.

The policy shall include the following extensions:

Unlimited retroactive date; Automatic reinstatement clause; Libel and slander;
 Consultants clause; Cross liability clause; Principal's" clause; and
 Trade Practices Act (Commonwealth) and Equivalent Fair Trading Acts (State) Clause.

Please nominate the amount of insurance held if less than \$10 million _____

	YES	NO
Amount of coverage: \$10 million	<input type="checkbox"/>	<input type="checkbox"/>

INSURANCE OF THE WORKS (if applicable)

Insurance against loss or damage to the Works, temporary Works and all materials and other things brought onto a site by or on behalf of the Service Provider. The policy shall include a cross-liability clause and a "principal's" clause.

	YES	NO
Amount of coverage: Contract sum + 20%	<input type="checkbox"/>	<input type="checkbox"/>

OTHER INSURANCES

Where the scope of work is such that it requires other appropriate insurances, it shall consist of one or more of the following:

Marine Liability Insurance

If the contract includes the use of water-borne craft in excess of 8 metres in length, a Marine Liability Insurance that shall be for an amount not less than \$10,000,000 for any one occurrence and shall include a cross-liability clause and a "principal's" clause.

Aviation Liability Insurance

If the contract includes the use of aircraft, an Aviation Liability Insurance that shall be for an amount not less than \$10,000,000 for any one occurrence and shall include a cross-liability clause and a "principal's" clause.

Product Liability Insurance

A Product Liability Insurance for an amount of not less \$10,000,000, maintained for three years commencing from the completion of the contract.

Fidelity Insurance

Insurance against the loss of monies or other property belonging to the Principal because of dishonesty or fraud of the Service Provider or any other entity or persons for whose actions the Service Provider is liable.

Asbestos Liability Insurance

If the contract includes building work on existing buildings, an Asbestos Liability Insurance that shall be for an amount not less than \$5,000,000 for any one occurrence and shall include a cross-liability clause and a "principal's" clause.

	Name of Insurance Required
Amount of coverage:	<input type="text"/>

ATTACHMENT 1

HROC ROI Schedules

SCHEDULE
MANAGEMENT & TECHNICAL STAFF RESOURCES

Provide a management organisation chart and /or information regarding the personnel and expertise of organisation in the tables below. This information maybe supplied in an alternative format such as a printed company profile etc.

NAME 1: _____ Position: _____

Reporting to: _____ Years of relevant experience: _____

Line responsibilities: _____

NAME 2: _____ Position: _____

Reporting to: _____ Years of relevant experience: _____

Line responsibilities: _____

NAME 3: _____ Position: _____

Reporting to: _____ Years of relevant experience: _____

Line responsibilities: _____

(Attach extra page(s) if insufficient space together with the organisation chart and résumés.)

ATTACHMENT 1

HROC ROT Schedules

SCHEDULE
REFEREES

Provide at least three referees who can attest to the Respondent's capabilities in undertaking the contract:

Note: Council reserves the right to make its own independent enquires.

FIRST REFEREE:

Company name (if applicable)

Address: _____

Contact Person: _____

Telephone: _____

Facsimile: _____

SECOND REFEREE:

Company name (if applicable)

Address: _____

Contact Person: _____

Telephone: _____

Facsimile: _____

THIRD REFEREE:

Company name (if applicable)

Address: _____

Contact Person: _____

Telephone: _____

Facsimile: _____

FOURTH REFEREE:

Company name (if applicable)

Address: _____

Contact Person: _____

Telephone: _____

Facsimile: _____

ITEM NO. 9

FILE NO: PSC2009-02008

PORT STEPHENS NOMINATION TO BE A GROUP ONE COUNCIL FOR INTEGRATED PLANNING PROGRAM

REPORT OF: WAYNE WALLIS - GROUP MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolves to nominate to the Department of Local Government to be a Group 1 Council under the provisions of the Local Government Amendment (Planning and Reporting) Act 2009.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009**RECOMMENDATION:**

	Councillor Bob Westbury Councillor John Nell	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

371	Councillor Bob Westbury Councillor John Nell	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to seek Council's approval to nominate as a Group 1 Council for the purposes of integrated planning and reporting under the provisions of the Local Government Amendment (Planning and Reporting) Act 2009.

Under the provisions of this Act, Council is required to develop a long term (10 + years) Community Strategic Plan, a four year Delivery Program and an annual Operational Plan. In addition it is required to develop a long term Resource Strategy comprising financial, asset management and workforce plans.

The Act requires that councils undertake extensive community consultation and inform the discussions with the community with relevant research.

The Act provides transitional arrangements for phasing in the new legislative requirements over a three-year period. The timeframe for each of the Groups (so designated for implementation purposes) is:

- Group 1: Community Strategic Plan and Delivery Program adopted by 30 June 2010;
- Group 2: Community Strategic Plan and Delivery Program adopted by 30 June 2011;
- Group 3: Community Strategic Plan and Delivery Program adopted by 30 June 2012.

A resolution of Council is required to nominate which Group it wishes to belong to for the purposes of implementation.

Port Stephens Council has undertaken extensive consultation through the Port Stephens Futures project, and as part of that process conducted extensive research on long term issues and challenges. Reports relevant to the future of Port Stephens were made available to the community and informed the Port Stephens Futures Strategy which was adopted by Council on 13 October 2009. From that Strategy, a draft Community Strategic Plan – Port Stephens 2022; and a Delivery Program have been developed for consideration by Council in December 2009. The Workforce Plan has been developed and new long term asset and financial plans – the elements that form the Resource Strategy – will also be considered by Council in December 2009.

Councils must have a Social/Community Plan in place as at November 2009 in order to nominate for Group 1. From that point, Group 1 councils are no longer required to produce this Plan as it is incorporated into their Community Strategic Plan and Delivery Program. Port Stephens Council's Social and Community Plan is current, and expires in May 2010.

Councils wishing to nominate for Group 1 must have a comprehensive State of the Environment Report submitted to the Department of Local Government by 30 November 2009. Port Stephens Council's comprehensive State of the Environment Report will be considered for adoption by Council at its 24 November 2009 meeting.

As Port Stephens Council has met the criteria for inclusion in Group 1, and in order that Council has the opportunity to implement the Delivery Program in its remaining term, nomination as a Group 1 council is considered appropriate.

FINANCIAL/RESOURCE IMPLICATIONS

There are no additional financial costs in deciding to nominate for Group 1 as the major expenditure – research and community engagement – are already completed. The move to a longer term planning framework is already in train through the Port Stephens Futures Strategy and there are no further resource requirements outside Council's normal planning cycle.

LEGAL, POLICY AND RISK IMPLICATIONS

References:

1. Local Government Amendment (Planning and Reporting) Act 2009.
2. Department of Local Government Circular 09-37 – 14 October 2009.

Some time before 2012 Council will have to implement the integrated planning regime mandated in the legislation. Existing policies are not impacted by a decision to move to Group 1 status. There is a slight risk that when all three levels of plans (Community Strategic Plan, Delivery Program, Operational Plan) and the Resource Strategy are put on public exhibition in May 2010 that some amendments will be required as a result of submissions received. This will not, however delay implementation to the extent that Council could not meet its Group 1 commitments.

Should the Department of Local Government not formally recognise Port Stephens Council as being in Group 1 there is nothing to prevent Council from proceeding with the implementation timetable set down for Group 1.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

All levels of the integrated planning framework are based on sustainability pillars – Social/Cultural, Economic, Environmental and Governance. The consultation carried out by Port Stephens Futures project is current and the comprehensive State of the Environment Report will also be fresh at the time of adopting these plans if Council agrees to nominate for Group 1.

CONSULTATION

The draft legislation was discussed in a conversation with Councillors in June 2009 and there was no objection at that time to the intention of Council to nominate to implement the provisions in the Group 1 timeframe.

OPTIONS

Council adopts the recommendation to nominate for Group 1;
Council amends the recommendation to nominate for another timeframe.

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 10

FILE NO: PERSONNEL

GENERAL MANAGER'S PERFORMANCE REVIEW JUNE 2008 TO JULY 2009

REPORT OF: PETER GESLING – GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and accept the record of the Performance Management Committee.

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Bob Westbury	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

372	Councillor Shirley O'Brien Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is for Council to receive and accept the outcome of the Performance Feedback process.

Council has established a Performance Feedback process for the General Manager that aligns with the Department of Local Government guidelines. This includes:

- 1) Establishment of a Performance Feedback Committee to review the General Manager's performance against the agreed Individual Work and Development Plan (IWDP) This Committee meets in February and August each year and provides a report to Council.

- 2) Undertaking an assessment of the statutory quarterly performance report against the Council Plan. This is done in the first week of November, February, May and August.

A further element is available to Council, that any concern should be raised when it occurs. It should include written notification to the Mayor and General Manager. After assessment, the General Manager will respond to the council to ensure a review in the bi-annual meeting of the Performance Feedback Committee. The IWDP for the next year has been agreed by the Committee and endorsed by the Mayor.

The next review is scheduled for February, 2010.

FINANCIAL/RESOURCE IMPLICATIONS

Included in operating budget.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's charter requires it

- To have regard to the long term and cumulative effects of its decisions.
- To be a responsible employer.

Participation in this formal process allows Council to demonstrate these elements of the Charter and models behaviour for the organisation that performance management is important to ensure Council objectives are achieved. Council's workforce policies are met in this process.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Participation in the Performance Feedback Process enhances the overall sustainability of the organisation by modelling behaviours expected of other supervisors within the organisation and building more effective working relationships.

CONSULTATION

John Pala, Facilitator

OPTIONS

Accept the recommendation

ATTACHMENTS

- 1) Flow Chart for the General Manager's Performance Review Process
- 2) GM Performance Plan Review – file note of John Pala dated 18th August 2009.

COUNCILLORS ROOM

Nil

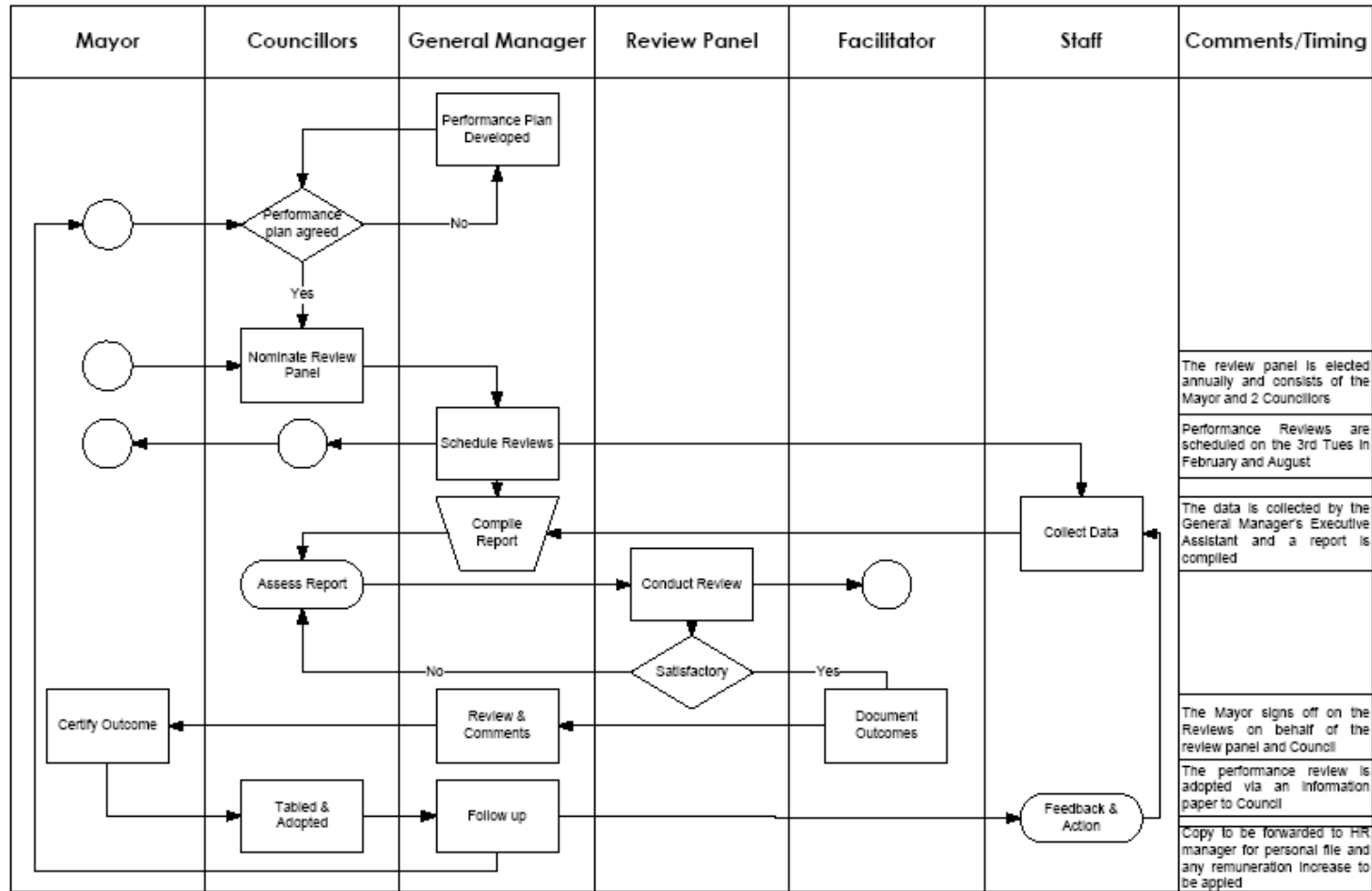
TABLED DOCUMENTS

- 1) Individual Work and Development Plan (IWDP) for 2009/2010.

ATTACHMENT 1



Review of General Manager's Performance- Port Stephens Council



ATTACHMENT 2

File Note

Port Stephen Council

Performance Management meeting for General Manager

Date: 18 August 2009

Attendees

General Manager: Peter Gesling

Councillors: full council meeting

Facilitator: John Pala (Polaris)

General Items

- (i) Recap of previous meeting with Sub-committee- focus for General Manager expected to be in 6 key areas as follows:
 - a. Financial Management
 - b. Service delivery/ asset management
 - c. Organisational effectiveness
 - d. Risk Management
 - e. Marketing/ Public perception
 - f. Continuous improvement

- (ii) A review of the general performance was discussed based on the June 2009 Quarterly report and the performance management system indicators (as noted above)
 - a. Financial management – pages 4,5 &6
 - b. Services delivery – page 7
 - c. Organisational effectiveness – pages 8 & 9
 - d. Risk Management – pages 12,13,15,15 & 16
 - e. Marketing and public perception- pages 10 & 17
 - f. Continuous improvement page 11

- (iii) General performance expectations were satisfied in all areas except project performance and motor vehicle indicators. Overall the performance Vs plan would be regarded as very good.
- (iv) The individual performance plan was still in a draft form and needs to be finalised and signed off by Peter and the Major.
- (v) It was agreed that this would be discussed at the next sub-committee meeting.
- (vi) The individual performance plan was still in a draft form and amendments were discussed with the committee.
- (vii) It was agreed that the proposed changes would be circulated to the sub committee and signed off by the Mayor

Date: 7 September 2009 Sub- committee meeting

Attendees

General Manager: Peter Gesling

Councillors (Sub- committee): Bruce Mackenzie, Glenys Francis, Shirley O'Brien

Facilitator: John Pala (Palaris)

General Items

- (i) Confirmation that the individual performance plan for the GM was to be read in conjunction with the 'system view'
- (ii) Key issue reinforced with Peter by sub-committee, is an responsibility for holding direct report accountable for agreed performance measures
- (iii) Specific comments in relation to reinforcing 'key business' relationships in LGA. Accountable both for effective links with Government Departments and fostering relationships with 'key businesses
- (iv) Committee re-iterated that consultation should be proactive and an integral part of the community process.
- (v) Final plan to be ready for sign off by 14 September

Note: A final copy of the performance plan has been sighted

ITEM NO. 11

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 10 November, 2009.

No:	Report Title	Page:
1.	WILLIAMTOWN DEFENCE AND AIRPORT RELATED EMPLOYMENT ZONE (DAREZ) REMAINING LAND	
2.	ALTERNATIVE DISPUTE RESOLUTION POLICY	
3.	CLIMATE CHANGE ADAPTATION ACTION PLAN	
4.	PETITION AGAINST CONSTRUCTION OF PATHWAY TANILBA BAY	
5.	CASH AND INVESTMENTS HELD AT 30 SEPTEMBER 2009	
6.	ELECTORAL COMMISSION NSW – REPORT ON THE LOCAL GOVERNMENT ELECTION FOR PORT STEPHENS	

COUNCIL COMMITTEE MEETING – 10 NOVEMBER 2009

RECOMMENDATION:

	Councillor Bob Westbury Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

373	Councillor Bob Westbury Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
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COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

WILLIAMTOWN DEFENCE AND AIRPORT RELATED EMPLOYMENT ZONE (DAREZ) REMAINING LAND

REPORT OF: TREVOR ALLEN – INTEGRATED PLANNING MANAGER

GROUP: SUSTAINABLE PLANNING

FILE: PSC2008-0006

BACKGROUND

The purpose of this report is to update Council on the progress of investigations regarding the proposed rezoning of the remaining land identified for potential development in the adopted Williamstown Defence and Airport Related Employment Zone Strategy (the DAREZ Strategy).

Approximately 90 hectares of land was zoned SP1 Defence and Airport Related Employment Development in February 2009. That land is currently the subject of a development application and is not the subject of this report.

The planning status of land identified in the DAREZ Strategy is shown in **Attachment 1**.

Remaining land identified for potential rezoning in the DAREZ Strategy

There is approximately 50 hectares of remaining land identified for potential rezoning in the DAREZ Strategy subject to further investigation of flooding, drainage and geotechnical issues (this land is identified as 'Remaining DAREZ Land Being Investigated' in **Attachment 1**) Council relevantly considered rezoning requests from Buildev and Hunter Land at its ordinary meeting on 26th August 2008 where it was resolved to investigate its rezoning subject to:

Further information being provided by the proponents to address flooding, geotechnical and biodiversity issues...that demonstrates satisfactory resolution of these constraints;

Council seeking independent advice on the economic impact of rezoning the subject lands upon the staging and implementation of "High, Medium and Low Proximity" land identified in the DAREZ Strategy and Draft Port Stephens LEP 2000 Amendment No. 29 that Council adopted on the 24th June 2008;

Consultation is undertaken with relevant landowners;

Resolve that the results of the investigations and resolution of constraints be reported to Council for further investigation prior to having the matter potentially subject to a resolution under Section 54 of the Environmental Planning and Assessment Act (1979 as amended) and submitted to the NSW Department of Planning LEP Review Panel; and

Acknowledge, and express in principle support for, the inclusion of the additional investigation area zone on the map submitted by Hunter Land in Public Access plus Lot 3(i) being included in the DAREZ and for the submissions to be made by the landowners included in this additional investigation area and for Lot 3(i), such submissions to be made to the Project Control Group through the Department of Planning.

An update on these matters is provided in the following sections of this report.

Flooding and Drainage Issues

The flooding and drainage issues that need to be resolved to rezone and develop the remaining DAREZ land are substantial and complex. The Williamstown area is low lying and generally identified as being flood prone. Furthermore, Council receives numerous complaints from local residents concerning drainage and the impact, real and perceived, of the capacity of the existing drainage system to accommodate any additional development. Council also has ongoing concerns relating to the function of, and access to, existing drains in the area including Middle Drain on Cabbage Tree Road. For these reasons Council needs to be satisfied that the flooding and drainage issues are able to be resolved as part of the rezoning process.

Information submitted to date has shown that any proposal for development on one property or holding has significant flooding and drainage implications or impacts on adjoining or nearby landowners due to required fill. One major landowner has submitted three reports that investigate the flooding and drainage issue. However, those reports do not satisfactorily demonstrate that the issue can be resolved without having significant implications for, or impact upon, surrounding land.

It has become apparent that the flooding and drainage issues are unable to be addressed on a case by case basis for individual landholders and developers, and that a study is required that addresses the rezoning of the remaining DAREZ land comprehensively. Accordingly, a letter has been circulated to the main developers that are active in the DAREZ area (Buildev and Hunter Land) that sets out the requirements for a comprehensive flooding and drainage study. The study is to be funded and completed by the developers of the remaining land and submitted to Council for consideration.

Council is not under any obligation to progress with rezoning land, particularly in a circumstance where it cannot be certain that the constraints are able to be addressed with no risk to either Council or landowners. Council should not expose itself to potential litigation over flooding and drainage issues and it is prudent to be satisfied that such issues can be addressed.

Biodiversity/Environmental

The environmental attributes of the land will be investigated in more detail in the event that Council resolves to prepare a draft LEP to rezone the land. Buildev has substantial interests in the remaining DAREZ land and has met with the Department of Environment Climate Change and Water to achieve an acceptable outcome for

the site as part of any rezoning. As a result of the meeting it is likely that a biodiversity offset package will be required where alternative sites are placed into conservation to offset biodiversity lost to development. A biodiversity offset package should be subject to public exhibition with any associated draft LEP.

Economic

The resolution required independent advice to be sought on the economic impact of rezoning the remaining DAREZ land upon the development of land proposed for rezoning as part of Port Stephens Draft LEP 2000 (Amendment No 29). Buchan Consulting was appointed to provide the advice and specifically carry out the following tasks:

Review the Investigation and Economic Analysis Report (Castlecrest Consultants) contained within the DAREZ Strategy;

Review the DAREZ Strategy and its application to ensure an understanding objective of creating a focused defence and airport related employment precinct by applying the SP1 Special Activities – Defence and Airport Related Employment Development Zone;

Determine the impact of demand of an additional 50 hectares for the already proposed 90 hectares given its status as Precinct 3 low proximity land and the type of land uses to occur in that precinct; and determine if there is likely to be demand for additional Precinct 3 low proximity land and the likely timing of its provision; and

The effect of zoning the additional 50 hectares of land on the orderly and staged development of the already proposed 90 hectares.

The advice provided by Buchan Consulting is summarised as follows:

The areas proposed for commercial development with the NAL lease are compatible with the overall development of the high and medium proximity areas within the Hunter Land holdings;

The inclusion of the additional 50 hectares (the remaining DAREZ land) will improve the overall accessibility of the DAREZ; improve the overall design of the industrial zone; and increase the capacity to achieve the long term employment targets for the zone;

In overall terms, the inclusion of the additional land will not undermine the orderly development of DAREZ having too large a supply of land on the market;

The defined DAREZ uses should be enforced in the medium to long term, to ensure orderly development of all core areas of the DAREZ. This will ensure that the uses proposed in these areas reflect the overall objectives of the DAREZ, and that it does not become a general industrial estate;

Given the nature of the defence and aviation related market, the current joint marketing activities to these sectors involving Council, the State Government and the main developer will be an important part of the planned marketing and development of the DAREZ;

Consideration will be given to completing the investigations of the balance of the DAREZ area, as part of developing an overall long term mater plan for the whole of the DAREZ area.

Based on the economic advice received, and excluding other constraints that may apply to the land including but not limited to flooding and drainage, it is appropriate for Council to continue with investigations into rezoning the remaining land identified in the DAREZ Strategy.

A copy of the economic advice is available in the Councillor's room (Economic Analysis – Defence and Airport Related Employment Zone – Newcastle Airport, Buchan Consulting, February 2009).

Consultation with landholders

Owners of the remaining DAREZ land were invited to a meeting on 6th November 2008. The purpose of the meeting was to:

Discuss the background to planning for DAREZ;
Discuss the process for rezoning remaining DAREZ land; and
Provide an opportunity for landowners to express their views.

14 landholders attended and were, generally, of the view that they would like to see investigations proceed into the rezoning of the land. These investigations are ongoing and principally refer to the need for a comprehensive flooding and drainage study. Following the receipt of additional flooding and drainage information it is intended to contact the landowners to inform them of any progress.

Inclusion of Additional Land Following 'Public Voice' Public Voice Representations

In addition to the consideration of the remaining land identified in the DAREZ Strategy, at its meeting on 26th August 2008 Council resolved to express in principle support for the inclusion of further land for investigation following 'public voice' representations from Hunter Land and the owner of Devon House.

The location of the additional land following 'public voice' representations is shown in **Attachment 1**.

The proposal to investigate the additional land following 'public voice' representations was forwarded to the NSW Department of Planning, who advise that its inclusion in current investigations is unlikely to be supported for the following reasons:

Land to the west, east and south of the current employment zone, including the subject land, was considered for inclusion as part of the preparation of the DAREZ Strategy but ultimately excluded;

Independent land demand analysis undertaken as part of the DAREZ Strategy confirmed that the current planning approach and the amount of land identified to establish the DAREZ is appropriate for the medium term (i.e. 15 years plus);

The analysis cautions against rezoning more land on the DAREZ periphery which could put at risk the orderly development of land in the DAREZ;

The Lower Hunter Regional Strategy confirmed that there is adequate supply of industrial land in the Port Stephens LGA to meet projected demand for industrial development which includes land in relative proximity to the DAREZ; and The Project Control Group (PCG) of which a representative of Council is present, endorsed the DAREZ Strategy and the area identified for possible development at its meeting of 13th December 2007. This position was reaffirmed at a PCG meeting held on 24th July 2008.

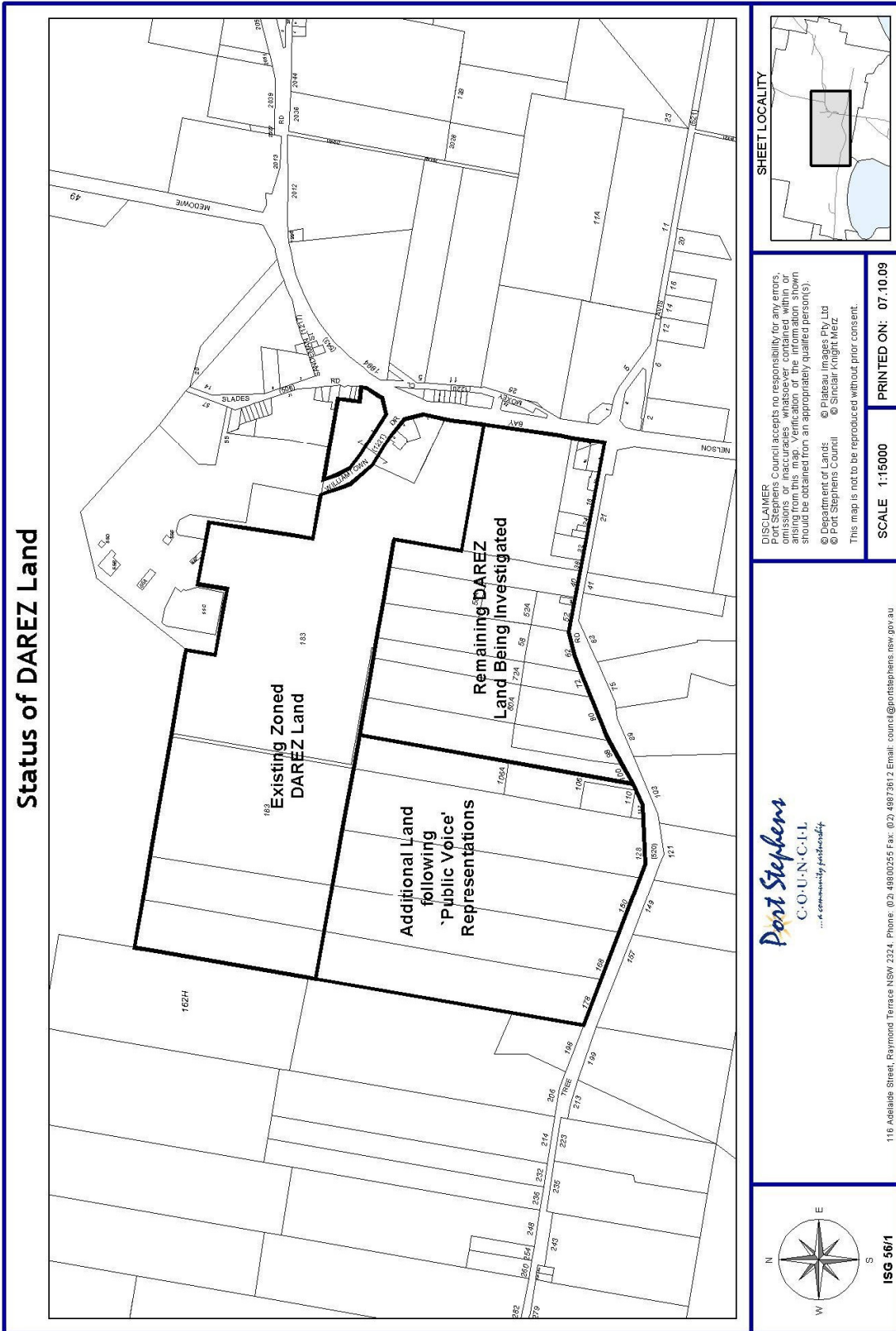
The Department notes that, depending on land take up rates and the speed of industry development, consideration may need to be given to expanding the DAREZ at some future time and this would involve Council undertaking a review of the DAREZ Strategy, in consultation with PCG members and other relevant government agencies, to identify and assess the suitability of the areas best located to accommodate a future expansion of the DAREZ. For these reasons the Department recommends that Council do not pursue the inclusion of any additional land beyond the adopted DAREZ Strategy in its current investigations.

A copy of the Department's advice is at **Attachment 2**.

ATTACHMENTS

- 1) Status of DAREZ Land
- 2) Advice from the NSW Department of Planning

ATTACHMENT 1



ATTACHMENT 2



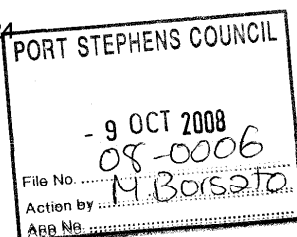
NSW GOVERNMENT
Department of Planning

Contact: Brian Murphy
Phone: 02 4904 2712
Fax: 02 4904 2701
Email: brian.murphy@planning.nsw.gov.au

Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Our ref: NEW/0003822-5
Your ref: PSC2008-0006

Attn: Matthew Borsato



7 October 2008

Dear Mr Gesling

RE: Defence and Airport Related Zone (DAREZ) – Additional Lands

I refer to your letter of 9 September 2008 advising that council has resolved to investigate rezoning the remainder of land identified for investigation in the DAREZ Strategy and depending on the outcome of these investigations will give further consideration to formally resolving under s54 of the Environmental Planning and Assessment Act to rezone this land SP1 Special Activities – Defence and Airport Related Employment Development.

It is also noted that council resolved to give in principle support for the inclusion of additional lands to the west, outside the current endorsed Strategy area. As you are aware land to the west, east and south of the current employment zone, including the subject land, was considered for inclusion as part of the site investigations undertaken during the development of the DAREZ strategy. However, these lands were ultimately excluded from the main area identified for the establishment of a focussed DAREZ adjoining the existing RAAF Base Williamtown and Newcastle Airport facilities.

Independent land demand analysis undertaken as part of the Strategy's land capability /suitability assessment has confirmed that the current planning approach and the amount of land identified to establish the DAREZ is appropriate for the medium term (i.e. 15 years plus). This assessment also cautions against rezoning more land on the periphery which could put at risk the orderly development of land in the DAREZ. The Lower Hunter Regional Strategy also confirmed that there is adequate supply of industrial land in the Port Stephens LGA to meet projected demand for industrial development which includes land in relative proximity to the DAREZ.

The Project Control Group (PCG) of which council is a member endorsed the final Strategy and the area identified for possible development at its meeting of 13 December 2007. This position was reaffirmed at the PCG meeting, held on the 24 July 2008, to consider the proposal to bring forward the possible rezoning of the remainder of the DAREZ Strategy area.

Having regard to the above, and also considering the amount of land in the already committed Stages 1 & 2 (approximately 150 ha) and the need to not delay planning for Stage 2, it is

Hunter & Central Coast Region PO Box 1226 Price Waterhouse Coopers Centre,
Level 2, 26 Honeysuckle Drive, NEWCASTLE NSW 2300
Phone (02) 4904 2700 Fax (02) 4904 2701 Website www.planning.nsw.gov.au

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unlikely that a further expansion to the DAREZ would be supported at this stage. However, it is recognised, depending on the land take up rates and the speed of industry development, consideration may need to be given to expanding the DAREZ at some future time. This would of course involve council in undertaking a review of the Strategy, in consultation with PCG members and other relevant government agencies, to identify and assess the suitability of the areas best located to accommodate a future expansion of the DAREZ.

If you would like to discuss this matter further please contact Mr Brian Murphy, at the Department's Newcastle office on (02) 4904 2712.

Yours sincerely

pv 

Michael Leavey
Regional Director
Hunter & Central Coast Region

INFORMATION ITEM NO. 2

ALTERNATIVE DISPUTE RESOLUTION POLICY

REPORT OF: BRUCE PETERSEN – MANAGER ENVIRONMENTAL SERVICES
GROUP: SUSTAINABLE PLANNING

FILE: PSC2008-9962

BACKGROUND

The purpose of this report is to advise Council of the final outcome of the public exhibition of the Alternative Dispute Resolution (ADR) Policy. Alternative Dispute Resolution plays a critical part in managing regulatory functions (Goal 17 Council Plan – Success and Sustainability – Management of Regulatory Functions).

The draft Policy was considered at a full meeting of Council in April 2009 and it was resolved:

“That Council place the Alternative Dispute Resolution policy on public exhibition and that there being no substantiative submissions that the policy be adopted.”

Only one submission was received from Newcastle City Council. That submission was supportive of the ADR Policy and congratulated this Council for it's initiative in this regard.

The term “alternative dispute resolution” (ADR) is used to describe a wide variety of dispute resolution mechanisms that are alternative to litigation. ADR systems generally include negotiation, mediation or arbitration systems.

The NSW Ombudsman encourages NSW councils to use Alternative Dispute Resolution as an alternative to litigation and as a means to help resolve disputes between members of the community involving councils.

A number of NSW councils have developed Mediation /Alternative Dispute Resolution Policies which focus on the use of mediation to address a broad range of disputes including Warringah, Blue Mountains, Newcastle, Ashfield, Clarence Valley and Lismore Council's.

The overriding purpose of these policies is to:

- Establish a clear, consistent and fair process to help address disputes.

- Provide an alternative dispute handling mechanism that is more informal and cooperative than litigation.
- To save time and costs and reduce conflict in the dispute handling process.

The purpose of the Policy is to provide a process to help resolve disputes that relate to Port Stephens Council. The Policy framework sets out a clear, consistent and fair means to address disputes in an effective and cooperative manner. The Policy also provides an alternative dispute handling process that is less formal and less costly than litigation.

The Policy relates to planning, development, environment, enforcement issues, land management, customer, business, and staff and industrial relations disputes.

Now that the Policy has been adopted, the following will occur:

- 1 The community will be advised of the Policy via a media release and an update on Council's website.
- 2 Staff training will commence and all relevant staff that have any involvement in Alternative Dispute Resolution will be provided with appropriate training.

The Policy will be provided to Councillors under separate cover.

INFORMATION ITEM NO. 3

CLIMATE CHANGE ADAPTATION ACTION PLAN

REPORT OF: BRUCE PETERSEN – ENVIRONMENTAL SERVICES MANAGER
GROUP: SUSTAINABLE PLANNING

FILE: PSC2007-4164

BACKGROUND

The purpose of this report is to inform Council about the completion of the Port Stephens Climate Change Adaptation Action Plan.

Bounded by the Pacific Ocean to the east, Paterson River to the west, Hunter River to the south and Karuah River to the north, the Port Stephens LGA is dominated by coastal low lying areas and flood plains that contain the majority of development and infrastructure and as such are highly susceptible to climate change.

The area also contains significant natural assets that are also at risk. The Port Stephens Estuary covers an area of approximately 140 square kilometres and the Hunter Estuary around 26 square kilometres. In addition to their environmental values, both estuaries are extremely valuable to the economy and lifestyle of Port Stephens with industries in tourism, professional fishing and oyster growing and the Port Stephens Great Lakes Marine Park. The Port Stephens LGA also contains 91.4% of the Hunter region's drinking water supply.

It is recommended that Council takes a well founded risk management approach to climate change and adaptation planning. Climate Change is one of the most significant risk management issues to be tackled by governments, business and industry.

Predicted changes to temperature, rainfall patterns and the frequency and intensity of storms may result in new or expanded risks and while some impacts are predicted to be widespread over large regional areas, other impacts from climate change are likely to intensify at the local scale. This is especially the case for Port Stephens where the developed areas are concentrated near the coast and are most threatened by natural processes such as coastal storms and flooding.

The Local Adaptation Pathways Program (LAPP) was created by the Commonwealth Government to provide grants to allow local councils to obtain the tools necessary to plan and implement adaptation actions to address risks arising from climate change.

The Program firstly involved undertaking an organisational risk assessment and assigning priorities to risks that climate change impacts pose to Councils operations and responsibilities. Risks were identified and refined into categories aligning with

Climate Change parameters. These categories and number of associated risks were:

- Risks due to sea level rise – 23 risks;
- Risks due to reduced and increased annual rainfall – 25 risks;
- Risks due to increased storm frequency and intensity – 14 risks;
- Risks due to increased average temperature – 19 risks; and
- Risks due to increased number of hot days per year – 9 risks.

Using Council's Enterprise Risk Assessment Framework the identified risks were evaluated by grading the likelihoods and consequences. The outcomes of these evaluations resulted in a prioritised list of fifteen (15) climate change risks which were selected for responses during the adaptation action identification phase.

The second stage involved developing an adaptation action plan that will assist council to plan for the predicted impacts of climate change both within Council's businesses and to set in place policies and practices to help the community adapt to the likely impacts of climate change over the coming decades based on the risk assessment.

Strategies were identified and developed for managing risks that are well understood and while the need for further investigation was identified for risks that could not be accurately evaluated, timeframes, responsibilities and opportunities for funding and collaboration have also been drafted.

In summary the project has produced 35 treatment actions predominately in areas relating to flooding from predicted sea level rise and stormwater, impacts on existing infrastructure, bushfires, impacts on biodiversity, and the need to look at existing engineering and planning standards. The project also highlighted that accurate data is not yet available and that a considerable amount of work will need to be undertaken to determine the extent of council's risk exposure.

Links to Hunter Councils

Hunter Councils is still continuing with the project titled 'Understanding and Adapting to the Effects of Climate Change across Key Land Uses in the Hunter Central and Lower North Coast Region'. The project aims to:

- Research and collate regionally specific climate data;
- Identify possible impacts of climate change in the region;
- Raise awareness by local governments, industry and community;
- Promote and facilitate climate change adaptation strategies.

The project has four main stages:

- Identify the key synoptic patterns relevant to the study region
- Determine how the synoptic patterns (identified in Stage 1) drive climate and climate related variability in the region
- Downscale CSIRO Global Climate Model (GCM) predictions for NSW to the study region

- Determine the potential impacts of climate change to the study region based on the statistical downscaling conducted in Stage 3

Stage 4 is currently being finalised and a summary sheet of the predicted changes to various climate variables (i.e. rainfall, storm intensity, temperature) for each LGA is being produced. This information will be useful to further inform the Adaptation Action Plan and will be helpful in undertaking community consultation.

Hunter Councils has also recently submitted a grant to round 2 of the Local Adaptation Pathways Program in order to undertake a regional risk assessment following a similar process to what was undertaken by Port Stephens Council. Council will participate in the project in order to help facilitate a regional response to adaptation planning.

Resource and Policy Implications

The Adaptation Action plan contains 35 treatment actions/responses that will now need to be incorporated into Councils existing work plans and budgets. Implementing the Plan will in some cases only require the updating of Council policies and standards and the gradual improvement of assets and infrastructure to new standards as the assets require renewal. However in some cases there is, at this stage, not enough information to reliably predict, assess or manage risks and further investigation is necessary; this will require funds for additional studies and will be prioritised during the budget process.

Climate change and its effects are referred to in a number of State Government policies including the NSW Coastal Policy 1997. This policy also has an objective to recognise and consider the potential effects of climate change in the planning and management of coastal development.

The legal, insurance and risk management professions are advising that Climate Change has significant implications with respect to Councils in their roles as Consent Authorities. Given that the scientific evidence of the impacts from Climate Change is clearly foreseeable Council has a duty to manage the risks from Climate Change when assessing Development Applications.

Climate change has the potential to significantly impact on the financial resources of the Council and the broader community. Such impacts are likely to be considerably greater if left unaddressed as Council could be seen as not fulfilling its duty of care and could be left open to future litigation.

Impacts of climate change, will impact on the lives and wellbeing of Port Stephens residents, particularly those living in the low lying and coastal areas. Climate Change also has the potential to have significant impacts on the natural environment. Of particular concern is the impact on coastal salt marsh, an Endangered Ecological Community which fringes the estuary and is building block of the ecosystem. These impacts can be decreased with appropriate long term adaptation planning.

CONSULTATION

Given the Programs' funding and time frame constraints that were dictated by the Australian Government there was little opportunity to undertake community consultation as part of the project. It is also important to note that as part of the funding agreement the Australian Government approved the plan in September which means there is now little scope to change the plan. However the plan takes a broad brush approach and the real detail will come when Council updates planning controls and when more information becomes available via focused studies.

Given the extent of Councils exposure it is likely that Council, and the community, will face some difficult decisions in the near future. It is recommended that a comprehensive community consultation exercise is undertaken when the current project to update the Port Stephens flooding mapping is complete, this should be within the next 12 months. Two way conversations with Councillors will also be part of this process.

ATTACHMENTS

Adaptation Action Plan Risk Treatment Actions

COUNCILLORS ROOM

Port Stephens Climate Change Assessment - Adaptation Action Plan

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

Attachment 1: Port Stephens Council Adaptation Action Plan Risk Treatment Actions

Treatment Action ID	Options / Actions	Description / Comments	Locations	Risks Addressed (indirect in italics)	Responsibility	No Regrets	Statutory Limitations	Community Limitations	Budget Required	Effectiveness	Time-frame	Synergies, partnerships, external funding opportunities
TR1	Preliminary Climate Change Policy	Preliminary or Interim Policy will indicate the political will / strategic direction of Council in accepting climate change. Policy may adopt levels for the relevant climate change parameters. Policy may state intention to conduct detailed studies of climate change impacts to Port Stephens, including local impacts to property, roads, services, assets etc	Port Stephens Local Govt Area (LGA)	ALL	CCT, SP	✓				✓	Short	If it is decided to state climate change scenario values within the policy, it will be necessary to consult with other agencies as to climate change scenarios to be adopted for the various climate change parameters (ie, changes to extreme rainfall, average rainfall, temperature, hot days and so on), namely DECC, DEC, CSIRO, HROC, HCCMA, HWC, and other State and Federal departments.
TR2	Detailed policy / position statement regarding climate change	Detailed, over-arching policy for climate change, that will outline likely impacts (based on detailed studies), key messages to community regarding Councils responsibilities and limits to liability	Port Stephens LGA	ALL	CCT		✓	✓		✓	Medium	HROC, HCCMA, HWC, State and Federal government departments, other utilities and councils

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

TR3	Investigate key knowledge gaps	This involves reviewing existing data to identify where knowledge is lacking for all climate change parameters to identify hot spots and to guide further detailed studies/investigations for local climate change impacts	Port Stephens LGA	ALL	CCT, F+S				✓	✓	Short	Best practise review with utilities, state government, statutory authorities, HROC, other councils
TR4	Undertake detailed studies	Undertaking detailed studies / impact assessments to determine local impacts from the climate change parameters (ie, SLR, storms, rainfall, temperature etc)	Port Stephens LGA	ALL	CCT				✓	✓	Medium	State or federal government funding may evolve. To determine climate change scenarios to be adopted for detailed studies, consult with DECC, DEC, CSIRO, HROC and other state and federal departments, for best practise scenarios and assessment methods
TR5	Communications strategy for Preliminary climate change policy	Communicate to public and stakeholders Council's position as stated in the preliminary policy, eg acceptance of climate change, adopted climate change parameters, seeking further detailed studies etc	Port Stephens LGA	ALL	CCT			✓	✓	✓	Short	HROC, communication section
TR6	Community consultation during climate change studies	Consult with stakeholders and public during development of over-arching policy, to engender community support for outcomes	Port Stephens LGA	ALL	CCT	✓				✓	Short	HROC, communication section

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TR7	Community education for over-arching climate change policy	Defining key messages, eg outlining Councils responsibility and accepted actions and how this may affect each area of the Port Stephens community	Port Stephens LGA	ALL	CCT			✓	✓	✓	Medium	HROC, communication section
TR8	Adopt 0.9 m sea level rise by 2100 as policy by Council	The NSW Government advice is to adopt a sea level rise of 0.9 m by 2100 for planning purposes. This action is consistent with this advice	Port Stephens LGA	ALL SLR risks; ALL ST risks	SP	✓				✓	Short	
TR9	Use ALS data to map sea level rise impacts across LGA	Preliminary mapping to delineate likely areas of sea level rise impact across the LGA	Port Stephens LGA	SLR1, SLR15, SLR7, SLR10, SLR3, SLR11, SLR12, SLR13, SLR17, SLR2, SLR6, SLR9, SLR14, SLR16, SLR18, SLR20, SLR21, SLR22, SLR8, SLR23, ST2, ST7	SP	✓				✓	Short	Other utilities, neighbouring councils, funding for soft/hardware/ma npower

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

TR10	Undertake preliminary assessment of SLR impacts to roads, assets and infrastructure and take appropriate actions	This involves undertaking an initial 'back of envelope' analysis and review of current mapping / ALS data to outline likely roads/access, assets and infrastructure to be impacted by sea level rise, then developing interim actions, pending detailed studies.	Roads and Access: Bobs Farm, Anna Bay, Lemon Tree Passage, Salamander Bay and roads along foreshores Assets: stormwater infrastructure; sewage infrastructure (pumping stations), on-site systems in low lying areas, foreshore infrastructure such as recreation facilities, revetments, seawalls, buildings (eg, surf clubs), boat ramps, wharfs, jetties etc. Includes Council-owned and those owned/operated by others.	SLR1, SLR15, SLR7, SLR3, SLR10, SLR5, SLR6, SLR22, ST8	F+S, SP	✓				✓	Short	Other utilities, neighbouring councils, funding for soft/hardware/manpower
TR11	Ensure adequate insurance for assets deemed at risk (through preliminary or detailed studies)	There already exists a sound process for the review and update of insurance of assets. All council groups are responsible for informing Corporate Services what assets are deemed to be at greater risk (as determined through preliminary or detailed studies/mapping, eg TR3 and TR8), to ensure insurance details are updated promptly and reduce the liability risk of Council.	All assets owned and managed by Council, including future assets	SLR15, SLR10, SLR5, SLR6, SLR22, SLR14, ST1, ST8, MR1, MR10	Corp, Com, F+S	✓				✓	Short	

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

TR12	Modelling of impact to stormwater due to sea level rise	Sea level rise may compromise flow from outlets (ie, due to tailwater levels). Would be most effective if undertaken in concert with Strategy TR13	Port Stephens LGA stormwater network	SLR1, SLR3, SLR5, SLR10, SLR2, ST3, ST8	SP				✓	✓	Short	Consultants
TR13	Modelling of impact to stormwater from increased storm activity	Undertake modelling of the existing stormwater network, to assess the capacity for increased flows under a future climate. The modelling will require scenarios for extreme rainfall to be adopted, either using advice of chosen consultants as based upon best practise from the DECC and other government agencies, or the preliminary policy (TR1) scenarios adopted. Would be most effective if undertaken in concert with Strategy TR12	Port Stephens LGA stormwater network	SLR3, SLR5, SLR10, SLR14, ST3, ST1, ST8, ST4, ST6, MR2, MR1, MR10	F+S				✓	✓	Medium	Consultants
TR14	Modelling of flooding impacts due to combined impact of changed storms, rainfall and sea level rise	There are already known flooding 'hot spots' which need to be addressed at present and in future due to increased storm intensity / frequency, rainfall and sea levels	In particular, Salt Ash, Williamtown, Bobs Farm, foreshores and other areas of known poor drainage / flooding impact	SLR1, SLR5, SLR7, SLR10, SLR14, ST4, ST8, ST1, ST2, ST5, ST9, ST6	SP	✓				✓	Short	Consultants
TR15	Detailed mapping of roads and access routes affected by SLR and storms / flooding	As an output of detailed flood modelling, mapping of roads and accessways affected by SLR and storms / flooding should be undertaken, for use in community education and evacuation planning, and future maintenance activities for roads / accessways.	Roads would likely included Bobs Farm, Anna Bay, Lemon Tree Passage, Salamander Bay, foreshores and elsewhere as found during flood modelling	SLR1, SLR5, SLR2, SLR12, ST4, ST8, ST2, ST9, MR2, MR3	F+S, SP				✓	✓	Medium	Other utilities, neighbouring councils, funding for soft/hardware/ma npower

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

TR16	Detailed mapping of assets (including survey of location and depth) impacted by SLR and storms / flooding	Following detailed stormwater and flood modelling, assets at risk should be accurately surveyed (location and height), to ensure accurate records exist for at risk assets	Assets would include stormwater infrastructure; sewage infrastructure (pumping stations), on-site systems in low lying areas, foreshore infrastructure such as recreation facilities, revetments, seawalls, buildings (eg, surf clubs), boat ramps, wharfs, jetties etc. Will definitely include Council owned/managed assets, but may also include assets owned/operated by others as required.	SLR5, SLR10, SLR7, SLR3, SLR15, SLR2, SLR6, SLR22, ST3, ST1, ST8, MR1, MR3	F+S				✓	✓	Medium	Other utilities, neighbouring councils, funding for soft/hardware/manpower
TR17	Feasibility study for engineering solutions for assets, roads, buildings, and other infrastructure or areas at risk	Assets, areas, roads determined through studies above, to determine feasible solutions for mitigating impacts (eg, retrofitting, upgrades, relocation etc)	All assets, infrastructure, roads, facilities and so on found to be at risk of impact in other studies.	SLR1, SLR3, SLR4, SLR5, SLR7, SLR10, SLR15, SLR6, SLR14, SLR16, ST3, ST4, ST1, ST8, ST2, ST9, ST6, MR2, MR1	F+S				✓	✓	Medium	HWC and state or federal government funding may evolve

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

TR18	Develop a robust, staged plan to treat at risk PSC assets	Following feasibility studies, determine priorities for staged mitigation and 'rationalisation' of assets to be impacted (eg, retrofit, upgrade, relocation, and retreat strategies for assets at risk)	Applies to those assets, infrastructure, roads, facilities etc detailed within the feasibility study (TR17)	SLR1, SLR3, SLR4, SLR5, SLR7, SLR10, SLR15, SLR6, SLR14, SLR16, ST3, ST4, ST1, ST8, ST2, ST9, ST6, MR2, MR1	F+S, Com		✓	✓	✓	✓	Medium	State or federal government funding may evolve, HWC
TR19	Retrofit and upgrade Council assets to reduce bushfire risks	For assets located in bushfire prone regions, consider retrofit and upgrade to reduce damage from bushfires	Bushfire risk areas include Tilligerry/Tomaree, Medowie/Seaham, Karuah.	LR1, HT1, HD1	F+S, Com				✓		Medium	State or federal government funding may evolve
TR20	Identify, investigate and monitor potential hot spots for coastal erosion, at present and evolving	Current foreshore erosion hotspots are at present being addressed through erosion studies. The existing studies could be varied to include climate change	Foreshore and coastal erosion hot spots, both current and future.	SLR4, SLR15, SLR9, SLR19, ST1, ST8, ST6	F+S	✓				✓	Short	Statutory authorities, state and federal government
TR21	Investigate rehabilitation of coastal dune systems and foreshore dune systems	Revegetation and rehabilitation of these habitats additionally has the benefit of increasing the volume of sediments stored in dune systems along the beach / foreshores, due to the capture and retention of wind blown sediments. This builds resilience to storms.	Coastal beach dune systems, such as Fingal Beach, and foreshore dune systems throughout the LGA	SLR4, SLR15, SLR9, SLR19, SLR21, ST6	F+S			✓	✓	✓	Medium	NCC, government agencies

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

TR22	Review and update planning instruments / controls and building guidelines	As an outcome from detailed studies regarding climate change impacts and over-arching climate change policy, environmental planning instruments will require review and modification. This will reduce risk of liability and cost to Council, by ensuring new developments, infrastructure (especially stormwater), roads and assets are sited appropriately to avoid impact. Review should be for all climate change parameters (eg, flooding as well as bushfire risks) as outcomes from studies become available.	Port Stephens LGA	SLR4, SLR5, SLR10, SLR3, SLR1, SLR9, SLR6, SLR2, SLR12, SLR11, SLR13, SLR17, ST3, ST4, ST1, ST8, ST2, ST6, ST9, ST14, MR2, MR3, LR1, HT1, HT10, HD1, HD5	SP	✓	✓	✓	Medium	HROC, DP
TR23	Incorporate climate change requirements into design guidelines for stormwater	In addition to changes to planning, guidelines for the design of stormwater will also need to be modified to account for climate change	Port Stephens LGA stormwater network	SLR3, SLR10, ST3, ST8, MR2	F+S, SP	✓		✓	Medium	Websites and other resources
TR24	Review building codes for bushfires	This involves reviewing existing building codes in bushfire prone regions, to ensure protection for people and property	Bushfire risk areas include Tilligerry/Tomaree, Medowie/Seaham, Karuah.	LR1, HT1, HD1	SP	✓	✓	✓	Medium	Government agencies, RFS, also from websites and other councils.
TR25	Review standards and guidelines for on-site waste water management	Revising Council guidelines for OSSM for new and existing systems, based on SLR [and rainfall] impacts, and which may result in OSSM in certain areas becoming unfeasible. Community would need to be advised of new guidelines. [NB for sewerage infrastructure, Hunter Water has already adopted 1 m SLR].	On-site waste water and unsewered regions of Port Stephens LGA, now and future	SLR7, ST10, ST12, ST13, HT3	SP	✓		✓	Medium	Consultants, HROC

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

TR26	Monitor change in sea levels	This involves developing a monitoring program to assess changes in SLR overtime. The aim should be for the program to monitor SLR specifically for Port Stephens	Monitoring location could be associated with existing programs in Port Stephens	ALL SLR Risks, ST4	CCT	✓				✓	Medium	Monitoring program could involve use of or collaboration with existing data or monitoring programs by other government agencies
TR27	Investigate and monitor climate change impacts to eco-systems	Habitats should be assessed for potential adverse impact due to climate change, then mapped and triggers for action developed. Habitats should be monitored over time to assess changes, and trigger actions to reduce adverse impacts.	Mangroves, saltmarsh seagrass along estuary foreshores, coastal dune habitats, other EECs within Port Stephens LGA	SLR15, SLR9, SLR13, SLR17, SLR21, ST13, MR7, LR4, LR5, HT3	SP				✓	✓	Medium	Government funding and state agencies
TR28	Undertake a study of impacts to economy from climate change impacts	The economic study should be regional in focus, and particularly assess climate change impacts to tourism, as well as agriculture and oyster farming, all of which were highlighted during the risk assessment phase.	Industries considered important to the long term prosperity of Port Stephens, such as tourism, agriculture and oysters.	SLR5, SLR10, SLR15, SLR8, SLR16, SLR20, ST8, ST5, ST12, ST11, MR8, MR6, MR9, MR10, LR3, LR5, LR10, LR13, HT9	Com				✓	✓	Medium	HROC, tourism government departments
TR29	Liase with department of health re: position for managing warning of heat stress	Prior to developing a warning system, determining responsibilities for heat wave warnings	Port Stephens LGA	HT4, HD2	SP, F+S	✓				✓	Medium	LHEMCC

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

TR30	Investigate feasibility and costs of weather warning system	This would be an integrated weather warning system to warn community about storms, flooding, and also, hot days / heat waves and bushfire risks	Port Stephens LGA	ST4, MR2, LR1, HT1, HT4, HD1, HD2, HD4	F+S, Corp	✓			✓	Medium	David Gibbons (NCC); Central Coast warning system (heat fatigue): Department of Health, RFS, SES, BOM, ARR.
TR31	Gather data and present the business case to increase Council resources to deal with natural disasters	During storms (and other disasters), great stress is placed on Councils resources to answer phone calls and provide other assistance. Data gathering to confirm the need for more resources at such times would assist in a successful business case.	Port Stephens LGA	ST4, ST1, ST5, ST7, MR2, MR4, LR1, HT1, HD1	Corp, F+S	✓			✓	Short	
TR32	Review access arrangements and resource provision for firefighting	Strategic review of capability to react to fires, in terms of available resources and access to bushfire prone areas, in liaison with RFS.	Bushfire risk areas include Tilligerry/Tomaree, Medowie/Seaham, Karuah.	LR1, HT1, HD1	F+S	✓			✓	Short	LHEMCC
TR33	Audit compliance with Asset Protection Zone clearing	This action would simply involve checking the existing APZ standard has been implemented correctly in areas at risk of bushfires	Bushfire risk areas include Tilligerry/Tomaree, Medowie/Seaham, Karuah.	LR1, HT1, HD1	F+S	✓			✓	Short	
TR34	Improve bush fire awareness and preparedness in the community	Liaison with RFS and SES to create new or assist with existing methods (eg information packages) to increase community awareness of bush fire risks, ways to minimise risks and preparedness for bushfires	Bushfire risk areas include Tilligerry/Tomaree, Medowie/Seaham, Karuah.	LR1, HT1, HD1	F+S	✓			✓	Short	RFS, Emergency services
TR35	Water efficiencies on parks and reserves	A more efficient means of water use should be investigated, including using soil moisture probes, automated sprinkler systems, and non-potable water supplies.	Port Stephens Parks and Reserves	ST8, LR7, MR6	F+S	✓			✓	Medium	Sport and Recreation government authorities and groups

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

CCT – Climate Change Team	BOM – Bureau of Meteorology
Com – Commercial Services Group	DECC – NSW Department of Environment and Climate Change
Corp – Corporate Services Group	DCC – Federal Department of Climate Change
F+S – Facilities and Services Group	DP – NSW Department of Planning
SP – Sustainable Planning Group	HCRCMA – Hunter-Central Rivers Catchment Management Authority
ARR – Australian Rainfall & Runoff	HROC - Hunter Regional Organisation of Councils
HWC – Hunter Water Corporation	NCC – Newcastle City Council
LHEMCC – Lower Hunter Emergency Management Coordinating Committee	RFS – Rural Fire Service
SES – State Emergency Services	

INFORMATION ITEM NO. 4

PETITION AGAINST CONSTRUCTION OF PATHWAY TANILBA BAY

REPORT OF: PETER GESLING, GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2005-5622

BACKGROUND

The purpose of this report is to advise Council of a petition with approximately signatures has been received. The petition states:

"We the undersigned strongly oppose the construction of an above- ground gravel/timber pathway on the Peace Parade waterfront reserve, west of the sailing club."

ATTACHMENTS

- 1) Letter of submission.
- 2) Petition without signatory pages

ATTACHMENT 1

The General Manager,

Port Stephens Council,

Raymond Terrace 2324

21.Oct 09.

Petition: Re Tanilba Bay Foreshore Pathway

Dear Sir,

We the undersigned, strongly oppose the construction of an above the ground gravel/timber pathway on the Peace Parade Waterfront Reserve, west of the sailing club:

ATTACHMENT 2

The General Manager,

Port Stephens Council,

Raymond Terrace 2324.

Petition: Re Tanilba Bay foreshore Pathway.

Dear Sir,

We, the undersigned, strongly oppose construction of an above-ground gravel/timber pathway on the Peace Parade waterfront reserve, west of the sailing club:

Name.

Address.

Signature.

Tanilba Bay Petition Page 2

Name	Address	Signature
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The General Manager,

Port Stephens Council,

Raymond Terrace 2324 21 OCT 09

Petition: Re Tanilba Bay Foreshore Pathway

Dear Sir,

We the undersigned, strongly oppose the construction of an above the ground gravel/timber pathway on the Peace Parade Waterfront Reserve, west of the sailing club:

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Tanilba Petition

<i>Name</i>	<i>Address</i>	<i>Signature</i>
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INFORMATION ITEM NO. 5

CASH AND INVESTMENTS HELD AT 30 SEPTEMBER 2009

REPORT OF: DAMIEN JENKINS – FINANCIAL SERVICES MANAGER

GROUP: COMMERCIAL SERVICES

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of Cash and Investments Held at 30 September 2009.

ATTACHMENTS

- 1) Cash and Investments Held at 30 September 2009.
- 2) Monthly Cash and Investments Balance October 2008 – September 2009
- 3) Monthly Australian Term Deposit Index October 2008 – September 2009

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

ATTACHMENT 1

CASH & INVESTMENTS HELD As at 30 September											
INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value July	Market Value August	Market Value September	Current Mark to Market Exposure	
GRANGE SECURITIES											
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	1,000,000.00	3.01%	4.78%	\$699,000.00	\$710,000.00	\$732,100.00	-\$267,900.00	
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO		23-Jun-15	412,500.00	1.24%	5.74%	\$231,000.00	\$231,000.00	\$231,412.50	-\$181,087.50	
HERALD LTD "QUARTZ AA"	Floating Rate CDO	B+	20-Dec-10	450,000.00	1.35%	4.78%	\$203,130.00	\$199,710.00	\$317,565.00	-\$132,435.00	
STARTS CAYMAN LTD "BLUE GUM AA"	Floating Rate CDO	NR	22-Jun-13	1,000,000.00	3.01%	4.68%	\$100.00	\$16,000.00	\$10,500.00	-\$989,500.00	
HELIUM CAPITAL LTD "ESPERANCE AA+" *	Floating Rate CDO	NR	20-Mar-13	1,000,000.00	3.01%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00	
HOME BUILDING SOCIETY	Floating Rate Sub Debt		25-Jul-11	500,000.00	1.50%	4.11%	\$428,180.00	\$430,745.00	\$436,290.00	-\$63,710.00	
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note	NR	18-Oct-11	500,000.00	1.50%	5.36%	\$500,000.00	\$503,100.00	\$536,550.00	\$36,550.00	
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	NR	20-Mar-14	1,000,000.00	3.01%	4.28%	\$248,200.00	\$277,500.00	\$311,700.00	-\$688,300.00	
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate CDO	NR	20-Sep-14	1,000,000.00	3.01%	0.00%	\$0.00	\$0.00	\$0.00	-\$1,000,000.00	
TOTAL GRANGE SECURITIES				\$6,862,500.00	20.64%		\$2,309,610.00	\$2,368,055.00	\$2,576,117.50	(\$4,286,382.50)	
ABN AMRO MORGANS											
REMBRANDT ISOSCELES SERIES 1	Floating Rate CDO						\$1,971,000.00	\$1,969,000.00			
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note		17-Sep-11	\$1,000,000.00	3.01%	0.00%	\$863,600.00	\$866,300.00	\$868,000.00	-\$132,000.00	
BANK OF QLD TERM DEPOSIT	Term Deposit						\$750,000.00				
TOTAL ABN AMRO MORGANS				\$1,000,000.00	3.01%		\$3,584,600.00	\$2,835,300.00	\$868,000.00	(\$132,000.00)	
ANZ INVESTMENTS											
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA"	Floating Rate CDO	CCC-	6-Apr-10	\$500,000.00	1.50%	4.32%	\$319,000.00	\$345,000.00	\$423,650.00	-\$76,350.00	
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000.00	3.01%	0.00%	\$370,300.00	\$503,000.00	\$691,000.00	-\$309,000.00	
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876.98	3.06%	0.00%	\$593,401.92	\$594,867.66	\$608,690.43	-\$409,186.55	
TOTAL ANZ INVESTMENTS				\$2,517,876.98	7.57%		\$1,282,701.92	\$1,442,867.66	\$1,723,340.43	(\$794,536.55)	
RIM SECURITIES											
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		29-Jul-13	\$2,000,000.00	6.02%	0.00%	\$680,006.00	\$969,998.00	\$1,000,000.00	-\$1,000,000.00	
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		8-Oct-11	\$1,000,000.00	3.01%	3.94%	\$859,703.00	\$868,966.00	\$910,185.00	-\$89,815.00	
TOTAL RIM SECURITIES				\$3,000,000.00	9.02%		\$1,539,709.00	\$1,838,964.00	\$1,910,185.00	(\$1,089,815.00)	
WESTPAC INVESTMENT BANK											
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt		27-Apr-10	\$500,000.00	1.50%	4.26%	\$453,835.00	\$465,475.00	\$470,205.00	-\$29,795.00	
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		20-Nov-11	\$500,000.00	1.50%	4.42%	\$432,240.00	\$433,925.00	\$476,735.00	-\$23,265.00	
TOTAL WESTPAC INV. BANK				\$1,000,000.00	3.01%		\$886,075.00	\$899,400.00	\$946,940.00	(\$53,060.00)	
CURVE SECURITIES											
MYSTATE FINANCIAL CREDIT UNION	Term Deposit		21-Dec-09	\$1,000,000.00	3.01%	4.60%			\$1,000,000.00	\$0.00	
SAVINGS AND LOANS CREDIT UNION	Term Deposit		28-Oct-09	\$2,000,000.00	6.02%	4.33%			\$2,000,000.00	\$0.00	
TOTAL CURVE SECURITIES				\$3,000,000.00	9.02%		\$0.00	\$0.00	\$3,000,000.00	\$0.00	
LONGREACH CAPITAL MARKETS											
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	AA	7-Mar-12	\$500,000.00	1.50%	0.00%	\$408,245.00	\$419,470.00	\$425,980.00	-\$74,020.00	
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note		7-Sep-12	\$500,000.00	1.50%	0.00%	\$395,950.00	\$402,200.00	\$409,800.00	-\$90,200.00	
TOTAL LONGREACH CAPITAL				\$1,000,000.00	3.01%		\$804,195.00	\$821,670.00	\$835,780.00	(\$164,220.00)	

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

ATTACHMENT 1

COMMONWEALTH BANK									
EQUITY LINKED DEPOSIT	Equity Linked Note	20-Sep-11	\$500,000.00	1.50%	3.00%	\$481,550.00	\$478,750.00	\$480,050.00	-\$19,950.00
EQUITY LINKED DEPOSIT GH100	Equity Linked Note	03-Aug-10	\$500,000.00	1.50%	3.00%	\$500,100.00	\$500,100.00	\$505,350.00	\$5,350.00
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	05-Nov-12	\$500,000.00	1.50%	3.00%	\$464,350.00	\$462,200.00	\$462,650.00	-\$37,350.00
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	09-Nov-12	\$500,000.00	1.50%	4.52%	\$467,550.00	\$474,940.00	\$478,345.00	-\$21,655.00
BANK OF QUEENSLAND	Term Deposit	12-Aug-10	\$1,000,000.00	3.01%	4.80%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
BANK OF QUEENSLAND BOND	Bond	16-Mar-12	\$1,000,000.00	3.01%	5.35%	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	\$0.00
TOTAL COMMONWEALTH BANK			\$4,000,000.00	12.03%		\$3,913,550.00	\$3,915,990.00	\$3,926,395.00	(\$73,605.00)
FIG SECURITIES									
CREDIT SUISSE PRINCIPAL PROTECTED NOTE AQUADUCT AA-	Principal Protected Note	21-Jun-10	\$1,000,000.00	3.01%	0.00%	\$957,300.00	\$956,300.00	\$960,100.00	-\$39,900.00
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note	30-Nov-14	\$500,000.00	1.50%	4.49%	\$478,370.00	\$494,765.00	\$422,600.00	-\$77,400.00
TOTAL FIG SECURITIES			\$1,500,000.00	4.51%		\$1,435,670.00	\$1,451,065.00	\$1,382,700.00	(\$117,300.00)
ALLIED IRISH BANKS									
AIB TERM DEPOSIT		18-Nov-09	1,000,000.00	3.01%	4.63%		\$1,000,000.00	\$1,000,000.00	\$0.00
AIB TERM DEPOSIT		27-Oct-09	1,000,000.00	3.01%	4.30%		1,000,000.00	\$1,000,000.00	\$0.00
AIB TERM DEPOSIT		26-Nov-09	1,000,000.00	3.01%	4.67%		\$1,000,000.00	\$1,000,000.00	\$0.00
TOTAL ALLIED IRISH BANK			\$3,000,000.00	9.02%			\$3,000,000.00	\$3,000,000.00	\$0.00
MAITLAND MUTUAL									
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	30-Jun-13	500,000.00	1.50%	4.88%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
MAITLAND MUTUAL TERM DEPOSIT	Term Deposit	23-Nov-09	568,076.60	1.71%	4.60%	562,420.35	568,076.60	568,076.60	\$0.00
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	31-Dec-14	500,000.00	1.50%	4.88%	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00
TOTAL M'LAND MUTUAL			\$1,568,076.60	4.72%		\$1,562,420.35	\$1,568,076.60	\$1,568,076.60	\$0.00
TOTAL INVESTMENTS									
			\$28,448,453.58	85.56%		\$17,318,531.27	\$20,141,388.26	\$21,737,534.53	(\$6,710,919.05)
AVERAGE RATE OF RETURN ON INVESTMENTS						3.06%			
CASH AT BANK									
			\$4,801,314.09	14.44%		\$126,821.10	\$4,298,414.79	\$4,801,314.09	\$0.00
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH						3.11%			
TOTAL CASH & INVESTMENTS									
			\$33,249,767.67	100.00%		\$17,445,352.37	\$24,439,803.05	\$26,538,848.62	(\$6,710,919.05)
BBSW FOR PREVIOUS 3 MONTHS						3.32%			

* Lehman Brothers is the swap counterparty to these transactions and as such the deals are in the process of being unwound. No valuation information is available.

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

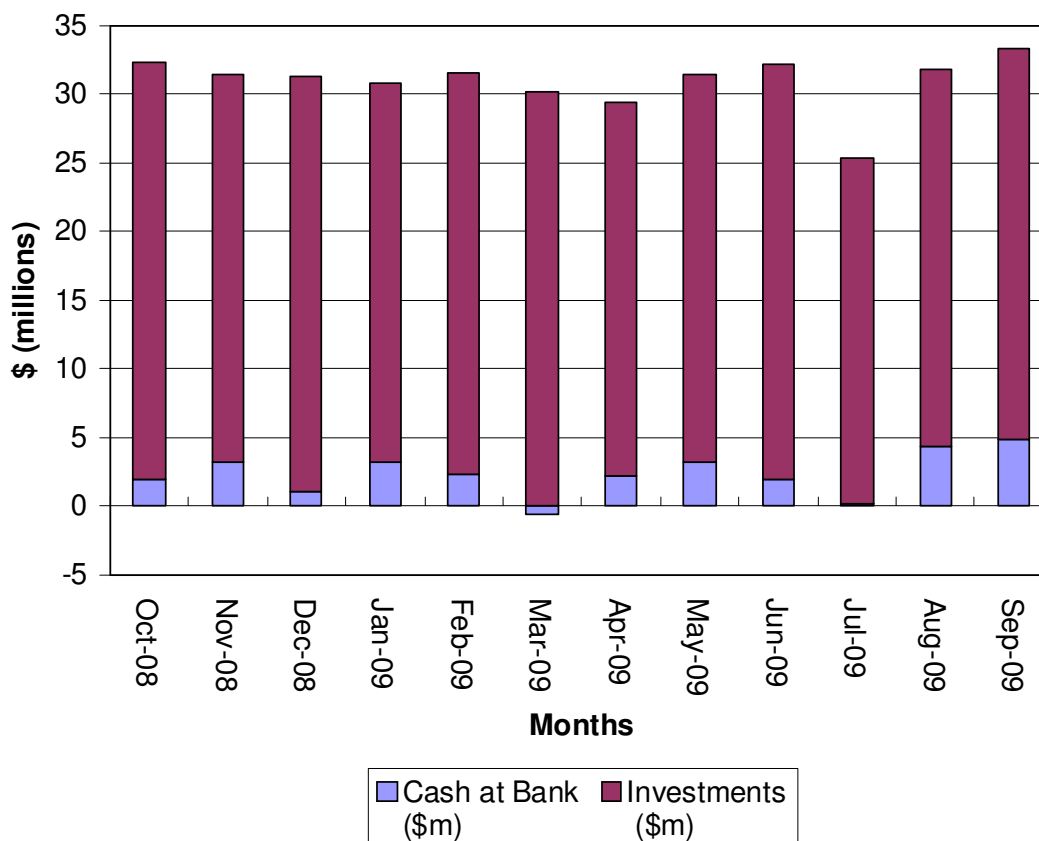
I, Peter Gesling, being the Responsible Accounting Officer of Council, hereby certify that the Investments have been made in accordance with the Local Government Act 1993, the Regulations and Council's investment policy.

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Oct-08	1.934	30.418	32.352
Nov-08	3.234	28.179	31.412
Dec-08	1.031	30.179	31.210
Jan-09	3.147	27.683	30.830
Feb-09	2.364	29.187	31.551
Mar-09	0.531	30.187	29.656
Apr-09	2.234	27.187	29.421
May-09	3.160	28.193	31.353
Jun-09	1.947	30.193	32.140
Jul-09	0.127	25.193	25.320
Aug-09	4.298	27.448	31.747
Sep-09	4.801	28.448	33.250

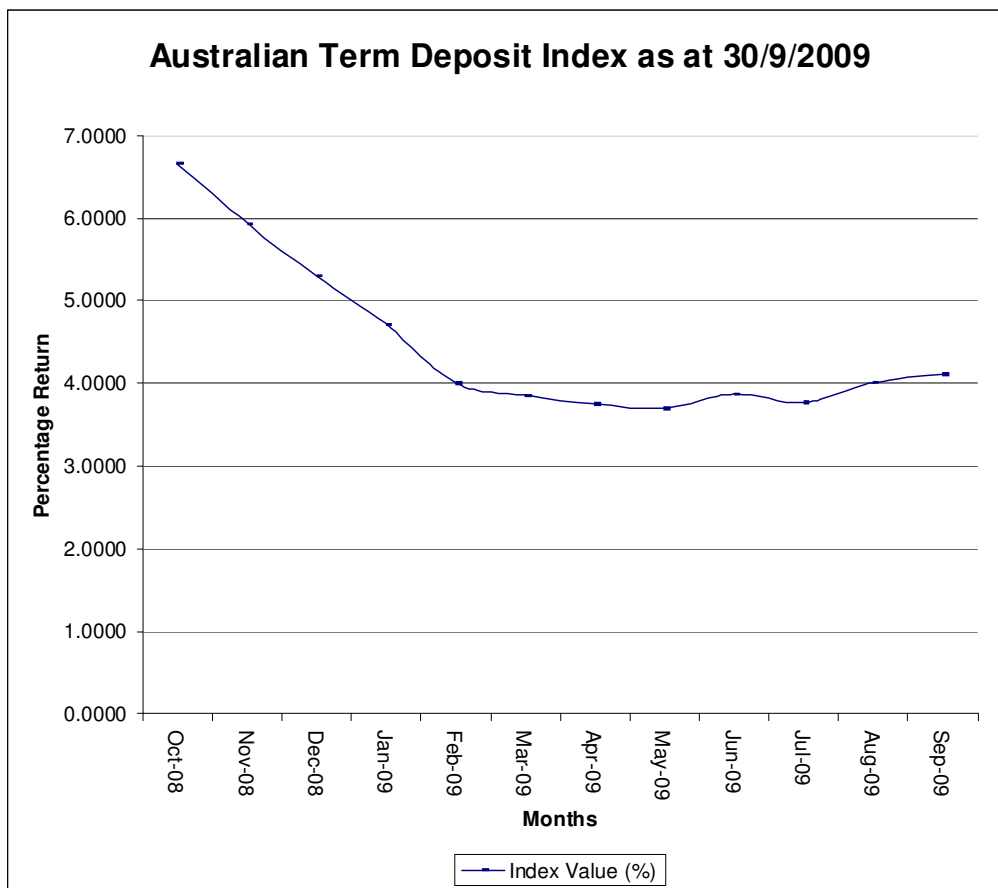
Cash and Invested Funds for the Period ended 30/9/2009



ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Oct-08	6.6626
Nov-08	5.9328
Dec-08	5.2972
Jan-09	4.7113
Feb-09	4.0024
Mar-09	3.8542
Apr-09	3.7513
May-09	3.6960
Jun-09	3.8699
Jul-09	3.7701
Aug-09	4.0082
Sep-09	4.1080



INFORMATION ITEM NO. 6

**ELECTORAL COMMISSION NSW – REPORT ON THE LOCAL
GOVERNMENT ELECTION FOR PORT STEPHENS**

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER'S OFFICE
FILE: PSC2007-2662

BACKGROUND

The purpose of this report is to advise Council of the Report on the Local Government Elections for Port Stephens.

The Electoral Commission NSW has provided Council with a Report on the Local Government Election for Port Stephens. Each NSW Council has received a report from the Commission as part of the finalisation of the 2008 Local Government Elections.

The Report covers the following areas:

- Background on Local Government Elections in NSW
- 2008 Port Stephens Council Election
- Election Preparation
- Conduct of the Election
- Election Conclusion
- Future Directions

The Report also provides all the statistical data for the election, the budget costs, the election candidates and the result of the election.

TABLED DOCUMENT

- 1) Port Stephens Council – Report on the Local Government Elections by the Electoral Commission NSW.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217, PSC2005-3645

PROPOSED NAMING OF A PARK IN TANILBA BAY

COUNCILLOR: STEVE TUCKER

THAT COUNCIL:

- 1) Name the park located between Clemenceau Crescent, President Poincare Parade, Lloyd George Grove and Poilus Place, Tanilba Bay "Halloran Park".
-

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

374	Councillor Steve Tucker Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
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BACKGROUND REPORT OF: JASON LINNANE – RECREATION SERVICES MANAGER

BACKGROUND

The subject site is Council owned Community Land.

Recreation Services are not aware of any reason why the proposed naming could not be supported. Upon approval of the Notice of Motion staff would formally apply to the Geographical Names Board to have the site formally recognised.

Recreation Services staff will arrange signposting of the site if the Notice of Motion is successful

NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217 PSC 2009-02408

MASTER PLAN FOR SALAMANDER SHOPPING CENTRE

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Develop a Master Plan for its land surrounding Salamander Shopping Centre, in consultation with the community, to facilitate a successful mix of retailers, service providers and community services.
-

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

		The Notice of Motion was lost.
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MATTER ARISING

375	Councillor Glenys Francis Councillor Ken Jordan	It was resolved that Council be provided with a report on the land surrounding the Salamander Shopping Centre not subject to the confidential report of 10 November 2009.
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BACKGROUND REPORT OF: CARMEL FOSTER – MANAGER, COMMERCIAL PROPERTY

BACKGROUND

The land surrounding the Salamander Bay shopping centre known as 155 Salamander Way is zoned 3 a) – Business General “A “ Zone. There is limited business zoned land on the Peninsula able to accommodate current and future growth in retail activities and little possibility of more to be rezoned due predominately to the environmental characteristics of the area.

The land is owned by Council and has been the subject of various studies and concept plans over the past six years. The majority of these reports have been commissioned by the Commercial Property Section as the asset owner and have been utilised and updated to form, in part, the current subdivision application. Further studies have been undertaken this year (2009) to finalise the documentation to enable the subdivision of the land to proceed. These reports include environmental, traffic, drainage, geotechnical, survey and engineering.

A two way conversation on the 11th August 2009 showed the proposed subdivisional layout and street network and identified three potential end users for proposed lots 1, 4 and 6. Additionally the planned development of the land has been discussed on numerous occasions with Council's Property Advisory Panel. Council's Commercial Property Section and consultants attended a Development Assessment Panel meeting on 7th August 2009. The panel required further geotechnical and drainage information to be prepared before lodgement of the DA. Those requirements have been met and the DA has now been submitted to Council. The DA will be assessed by Development and Building (guided by LEP and DCP 2007), publicly exhibited and subsequent determination and conditions of consent will be made accordingly. Public Exhibition will identify the community's views. Changes/refinements to the subdivision can be made through the DA process. This process plus review by relevant sections across Council providing advice to Development and Building Section is expected to deliver outcomes commensurate with a "masterplan".

Currently there are two significant issues that need attention in the short term - the untreated stormwater flowing from the shopping centre car park onto Council's land, including the Mambo Wetlands, and traffic congestion around the entrance/exits of the existing shopping centre. The traffic and drainage reports have identified solutions to both these problems.

Market and economic studies undertaken by Arcadia Advisory in 2003 have identified the need for another discount department store (DDS) to be located on the Tomaree Peninsula in competition to Kmart in the existing centre. The study showed that mini majors (retail outlets between 600 and 1,500 sq mtrs) were occupying a limited amount of floor space of 1,449 sq mtrs and were generating sales in excess of six million dollars annually indicating that there is an opportunity for an additional DDS. Property is negotiating with a DDS to be located on proposed Lot 6.

Property is also negotiating with Aldi to be located on proposed Lot 1. Aldi stores market to a different demographic/socio economic group than Woolworths and Bi-Lo and provide consumer choice and mix. The Arcadia study stated a robust supermarket sales performance of some 19.3% above the industry average for performance of the Woolworths and Bi-Lo supermarkets at Salamander.

Lot 4 has been identified as a suitable location for a Medical Centre with legal agreements between a medical group and Council currently being prepared. The

MINUTES FOR ORDINARY MEETING – 10 NOVEMBER 2009

remaining allotments are not proposed to be developed in the short term. The community facilities are currently located on a 1.75ha site (proposed Lot 3).

A report by Integrated Planning is intended to be submitted to Council during November 2009 in response to Council's resolution of 22nd May 2007 requiring, amongst other things, the development of a concept plan to define the boundaries of a "community precinct".

Upon approval of the DA and obtaining the Construction Certificate, construction will commence on the site. Upon completion of the construction enhanced facilities such as footpaths, cycle ways, additional roads to alleviate vehicle congestion, new bus bay, roundabout, new entrance, landscaping, open space and drainage system will be provided.

CONFIDENTIAL ITEMS



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

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

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

376	Councillor Steve Tucker Councillor Shirley O'Brien	It was resolved that Council move into Confidential Session.
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CONFIDENTIAL

ITEM NO. 1

FILE NO: PSC2009-00384

UNAUTHORISED DEPOT: CABBAGE TREE ROAD, WILLIAMTOWN

**REPORT OF: ANTHONY RANDALL – ACTING MANAGER, DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING**

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

377	Councillor John Nell Councillor Daniel Maher	It was resolved to issue an order on the owner of Lot 5 DP747925, H/No. 645 Cabbage Tree Road, Williamtown pursuant to Section 121B of the Environmental Planning and Assessment Act 1979 requiring that, within 1 month from the date of issue of the order, the unauthorised Depot cease operating at the site as this land use is prohibited by Port Stephens Local Environmental Plan 2000. The unauthorised increase in the number of cranes using the existing access poses significant and unacceptable risks to road users.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Glenys Francis, Ken Jordan, Daniel Maher, Steve Tucker, Geoff Dingle, Frank Ward and John Nell.

Those against the Motion: Councillors Shirley O'Brien, Bob Westbury, Sally Dover and Bruce MacKenzie.

ITEM NO. 2

FILE NO: PSC2009-02408

SALE OF LAND – SALAMANDER BAY

REPORT OF: CARMEL FOSTER – COMMERCIAL PROPERTY MANAGER
GROUP: COMMERCIAL SERVICES

ORDINARY COUNCIL MEETING – 10 NOVEMBER 2009

<p>378</p>	<p>Councillor Bob Westbury Councillor John Nell</p>	<p>It was resolved to:</p> <ol style="list-style-type: none"> 1. Rescind Council Resolution, Minute No 095 Item 5 of Ordinary Meeting of Council – 10 April 2007 to enter into non-binding Heads of Agreement including enter into negotiations for Agreements to Lease part of Lot 284 DP806310 2. Rescind Council Resolution, Minute No 370 Item 7 of Ordinary Meeting of Council – 11 December 2007 to enter into non-binding Heads of Agreement including enter into negotiations for Agreements to Lease the Pad Sites part of Lot 284 DP806310. 3. Formally enter into a Contract for the sale of Land of proposed Lot 1 and Proposed Lot 4 4. Authorise the Mayor and General Manager to affix the seal of Council and execute the Contract for Sale for proposed Lot 1 and proposed Lot 4
<p>379</p>	<p>Councillor Daniel Maher Councillor Steve Tucker</p>	<p>It was resolved that Council move out Confidential Session.</p>

There being no further business the meeting closed at 7.42pm.

I certify that pages 1 to 165 of the Open Ordinary Minutes of Council 10 November 2009 and the pages 166 to 216 of the Confidential Ordinary Minutes of Council 10 November 2009 were confirmed by Council at its meeting held on 24 November 2009.

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Cr Bruce MacKenzie
MAYOR