

Minutes 26 JULY 2011



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 26 July 2011, commencing at 5.34pm.

PRESENT: Councillors R. Westbury (Mayor); S. Dover (Deputy Mayor); G. Dingle; G. Francis; P. Kafer; K. Jordan; B. MacKenzie; 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.

Councillor Dingle entered the meeting at 5.35pm. Councillors Tucker and Kafer entered the meeting at 5.36pm.

240	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that the apology from Councillor Caroline De Lyall be received and noted.
241	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 12 July 2011 and the Extra-Ordinary Council meeting of 19 July 2011 be confirmed.
		Cr Francis declared a significant non-pecuniary conflict of interest in Item 2 – MacDonald Family Restaurant. The nature of the interest is that Cr Francis lives in Port Stephens and may or may not benefit by an approval in a 30-35 aircraft contour zone.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2009-1064

JOINT REGIONAL PLANNING PANEL – ALTERNATE DELEGATE

THAT COUNCIL:

- 1) Nominate an alternate delegate on the Joint Regional Planning Panel.
-

ORDINARY COUNCIL MEETING – 26 JULY 2011

242	Councillor Bob Westbury Councillor Shirley O'Brien	It was resolved that Councillors John Nell and Sally Dover be the alternate delegates in the absence of Councillors Bruce Mackenzie and Bob Westbury on the Joint Regional Planning Panel.
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BACKGROUND

The purpose of this Mayoral Minute is to allow Council to nominate an alternate delegate to sit on the Joint Regional Planning Panel (JRPP).

The current delegates are Cr Mackenzie and Cr Westbury.

At times there is a need for Council to have an alternate delegate to attend JRPP meetings when one or both of the current delegates are unavailable for the panel meetings.

The last JRPP meeting did not proceed due to a lack of a quorum with both Council delegates unable to attend and the Chair having declared a conflict of interest which left the panel without a quorum.

The next JRPP meeting is proposed for Tuesday 9 August 2011, which will be held at Council and I will be an apology due to a prior commitment. Cr Mackenzie will be in attendance.

Council is asked to nominate an alternate delegate to sit on the JRPP in the absence of Cr Mackenzie and/or myself.

MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: PSC2011-01753

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

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

ORDINARY COUNCIL MEETING – 26 JULY 2011

243	Councillor John Nell Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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244	Councillor Bob Westbury Councillor Bruce MacKenzie	It was resolved that Council: 1) Consider Notice of Motion Item No. 1 in confidential session pursuant to section 10A(2)(a) of the Local Government Act, 1993, and that Council resolve to close to the public that part of its meeting. 2) That the reasons for closing the meeting to the public to consider this item be that the discussion will include matters and information relating to personnel matters concerning particular individuals.
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Cr John Nell recorded his vote against the motion.

**COUNCIL
COMMITTEE
RECOMMENDATIONS**

ITEM NO. 1

FILE NO: 16-2010-22-1

DEVELOPMENT APPLICATION FOR TWO STOREY DWELLING AT NO. 227 FORESHORE DRIVE, CORLETTE

REPORT OF: MATTHEW BROWN, DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL HEALTH MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

1) Refuse Development Application for a two storey dwelling at number 227 Lot 340 Foreshore Drive, Corlette DA16-2010-22-1 for the following reasons:

- The development is inconsistent with the provisions and Residential 2(a) zone objectives of Port Stephens Local Environmental Plan 2000 being:-
 - (a) *to encourage a range of residential development providing for a variety of housing types and designs, densities and associated land uses, with adequate levels of privacy, solar access, open space, visual amenity and services, and*
 - (b) *to ensure that infill development has regard to the character of the area in which it is proposed and does not have an unacceptable effect on adjoining land by way of shading, invasion of privacy, noise and the like, and*
 - (c) *to provide for non-residential uses that are compatible with the area and service local residents, and*
 - (d) *to facilitate an ecologically sustainable approach to residential development by minimising fossil fuel use, protecting environmental assets and providing for a more efficient use of existing infrastructure and services, and*
 - (e) *to ensure that the design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk.*
- The development is out of character with the immediate streetscape and does not maintain an acceptable level of residential amenity.
- The development does not comply with the design requirements of Section B6 – Single and Dual Occupancy Dwellings, of Port Stephens Development Control Plan 2007. The development will have an unacceptable impact on the streetscape, visual privacy, amenity, useable open space, and boundary setbacks of the adjoining or adjacent properties.
- The development is an overdevelopment of the site and is incompatible with the immediate streetscape in terms of height, bulk and scale. The

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

development poses an unacceptable residential amenity impact in terms of privacy, solar access. The development is contrary to the public interests and expectations, of an orderly and predictable built environment consistent with Council policies.

- The proposed construction of a dwelling is unsuitable for the proposed development site as it is susceptible to and significantly affected by sea level rise, inundation, erosion and flooding when assessed against Section 79C of the Environmental Planning and Assessment Act 1979. The proposed development is inconsistent with the provisions of Port Stephens Local Environment Plan 2000 - in particular, the Residential 2(A) Zone objectives and considerations for development on land affected by or susceptible to environmental constraints including sea level rise, inundation, and erosion and flooding.
- The Designed Ground Floor Levels for non-habitable rooms are below the minimum acceptable Flood Planning Level (FPL) for this location of 2.8m AHD. NB. Council adopted the Port Stephens Foreshore (Floodplain) Management Plan (2002).

Please note:

Council considered this item on 14 December 2010, resolving to defer to allow for a site inspection. The item was then considered by Council at its meeting on 12 April 2011, resolving to defer to allow for a 2-way conversation with Councillors. The item was further considered by Council at its meeting of 14 June 2011.

COUNCIL COMMITTEE MEETING – 19 JULY 2011

RECOMMENDATION:

	Councillor John Nell Councillor Sally Dover	That Council indicate its support for the proposal as submitted and request the Sustainable Planning Group Manager to bring back draft condition of consent to Council.
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In accordance with Section 375A of the Local Government Act, a division is required for this item.

Those for the motion: Crs Ken Jordan, Bruce MacKenzie, Geoff Dingle, Bob Westbury, John Nell, Shirley O'Brien and Sally Dover.

Those against the motion: Cr Frank Ward.

Cr Peter Kafer and Cr Steve Tucker entered the meeting at 6.18pm following voting on Item 1.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

ORDINARY COUNCIL MEETING – 26 JULY 2011

245	Councillor John Nell Councillor Ken Jordan	It was resolved that Council grant approval for the development application for a two storey dwelling at No. 227 Foreshore Drive, Corlette in accordance with the condition of consent contained in the Supplementary Information dated 21 July 2011.
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Those for the Motion: Crs Peter Kafer, Glenys Francis, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Bob Westbury, Sally Dover and Frank Ward.

Those against the Motion: Cr Bruce MacKenzie.

Council considered this item on 14 December 2010, resolving to defer to allow for a site inspection. The item was then considered by Council at its meeting on 12 April 2011, resolving to defer to allow for a 2-way conversation with Councillors. The item was further considered by Council at its meeting of 14 June 2011.

BACKGROUND

The purpose of this report is to present development application 16-2010-22-1 for a proposed two storey dwelling to replace the existing single storey cottage at No. 227 Foreshore Drive, Corlette to Council for determination at the request Councillor MacKenzie.

Council resolved on 14 June that:

- 1) Indicate its support for the proposal, subject to the minimum floor level being 2.8m AHD and request that the Group Manager of Sustainable Planning provide draft conditions of consent back to Council.
- 2) Although the proposal still has several areas of non-compliance with the Council's Development Control Plan 2007, it is arguable, given the unique nature and small size of the site, achieving full compliance with the DCP provision is immensely difficult.

Further to Councils meeting 14 June 2011, a submission in writing has been received from Gary Millard of Sorensen Design acting on behalf the owner expressing a concern in regards to Councils decision for a RL 2.8 AHD level for the proposed garage and non habitable rooms. The consultant requests that Council reconsider a proposed floor level of RL 2.16 AHD for the garage and RL 2.5 AHD for the non habitable rooms due to the age of his client, the difficulty of gaining access to the garage entrance due the steepness of the driveway to the proposed floor level and not able to obtain compliance with Councils driveway profile plan requirements S105B.

It should be noted that the Applicant's submission now proposes the garage RL of 2.16 AHD which is slightly lower as compared to previously proposed. The remainder of the non habitable rooms at RL 2.5 AHD, is the same as presented to Council on 7 June 2011.

It is the view of the assessing officers that a design can be achieved that ensures compliance with both the required floor levels whilst still achieving a driveway with a complaint grade. Nonetheless, the Applicant has chosen to resubmit the Application to Council as proposed and a determination is needed.

As there is no proposed increase in height as discussed at the Council Committee meeting on 7 June 2011, it is envisaged the environmental (views, amenity and drainage) matters remain unchanged from the assessment report below.

A copy of the submission from Sorensen Design dated 30th June 2011 is in **Attachment 6**.

The report as provided to the Committee meeting on 7 June 2011, is included again below for background purposes.

This report is further to the 2-way conversion with Councillors on 10/5/2011. At this forum the proposal was discussed and Council staff advised of and presented the amended plans. It was noted that the proposed dwelling still has several areas of non-compliance with the Council's Development Control Plan 2007 and it is arguable, given the rare and small size of the site, achieving full compliance with the DCP provision is very difficult.

Consent has been sought for the demolition of an existing single storey house and the construction of a new two storey dwelling on Lot 340 DP: 27845, 227 Foreshore Drive Corlette. The subject site is zoned 2(a) – Residential "A" which is described in Port Stephens Local Environment Plan 2000 (LEP).

The subject site is significantly constrained being:

- a. on a restricted Lot of only 247square metres; and
- b. Identified as potentially and significantly affected by sea level rise, storm surge, wave run-up, inundation and flooding.

The applicants recently lodged amended plans which, relative to the original proposal, sought to reduce the bulk and scale of the building and also re-located all habitable rooms to the upper floor level above the required Flood Planning Level. These amendments varied the original plans such that it is now permissible under the provisions of the Port Stephens Local Environmental Plan 2000 (LEP) and the Council is able to assess the application on merit under its existing policies.

A site inspection was scheduled and completed by Council on Thursday 17 February 2011, per council resolution at the meeting of 14 December 2010.

During the site inspection it was noted that several existing dwellings within the vicinity of the development site appeared to be larger than what would currently be permissible under the Council's policies (Such as the provisions of Clause 19 of the

Port Stephens Local Environmental Plan 2000 (LEP) and the Port Stephens Development Control Plan (DCP)). Accordingly a limited survey of the dwellings and associated buildings within close proximity to 227 Foreshore Drive, Corlette has been undertaken and the results are tabulated at **Attachment 5** to this report. The results serve to inform Council and confirm the observations made at the recent site inspection.

Council held a 2-way conversation on 10 May 2011 and viewed the amended plans submitted by the applicant. It is now appropriate the Council to formally assess the amended plans and determine the application. A full set of lodged plans will be available for viewing in the Councillors' rooms on the day of the Council meeting.

In accordance with Council's notification and advertising policy adjoining owners were renotified of the new amended plans and given the opportunity to comment. To date no submission or objections have been received.

During the inspection of the site and other areas of Port Stephens on 17 February 2011 Council discussed amending/reviewing the Development Control policies in relation to sea level rise and foreshore development. This is already happening so far as the proposed new Local Environmental Plan which is a significant strategic project and will be reported to Council under separate cover in due course by the Sustainable Planning Department.

It is now appropriate that the development application as submitted be determined under the current policies. Should future policy change the applicant may choose to review the design and/or lodge a new development application. The applicant also has the option to redesign the dwelling, reduce the bulk and scale to more closely align with the current policies and then lodge a fresh development application.

The development application for the construction of a detached dwelling

Council's LEP and the provisions of Section B6 of Port Stephens Development Control Plan 2007 (Single Dwellings) identify matters to be assessed during the development assessment process. These matters include; height, bulk and scale; side and rear setbacks; energy efficiency; private open space and privacy; and amenity. The objectives of the DCP are to minimise these impacts upon adjacent dwellings and land.

The table on the following page summarises and compares some key aspects of the proposed dwelling and the relevant Council policies or development standards.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Proposed Development				
Attribute	Proposed	Required	Complies	Variation
NSW Sea Level Rise Policy Statement	Subject to Coastal erosion and flooding risk – Proposed Floor Level of 5.5m AHD for habitable room	Flood Planning Level for habitable rooms of 3.4m AHD.	Yes	
	A Proposed non habitable area 2.5 AHD for ground floor and a garage floor level of 2.16 AHD.	Non habitable area of a floor level of 2.8 AHD	No	Garage is 640mm & Ground floor level is 300mm to low
LEP Requirements				
Min. Area Per Dwelling	247m ²	500m ²	N/A	Existing
Floor Space Ratio	0.42:1	0.5:1	Yes	
Height	8.910m	9m	Yes	
DCP Requirements				
Number of storeys (except for loft spaces)	2	2	Yes	
Building Line Setback	2.4 m	6m	No	3.6m too close Encroachment is excessive.
Building Frontage	100% Building Frontage is proposed	Maximum 50%	100%	Encroachment is excessive.
Side Setbacks	Northern Boundary (2 Storey) 1.350m	2m	No	650mm too close 700mm too close 2.84m too close
	Southern Boundary (1 Storey) 200mm	0.9m	No	
	Eastern Boundary (2 Storey) 3.160m	6m	No	
Rear Setbacks Foreshore	Western Boundary 1.210m for decking, 2.870 garage rear wall, 3.165m upper storey	4.5m	No	3.3m – 1.3m too close.
Bulk & Scale	Should comply with the standards within DCP for Lot Size, floor area	Refer to above	No	Exceeds acceptable standards for Bulk and Scale
Views	Two storey cottage with a ridge height of RL 10.10 AHD.	No objections received after closing date of advertisement. Significant view obstruction from the street frontage.	No	
Resident parking	2	2	Yes	
Retaining Walls	No boundary retaining walls		Yes	
BASIX	Water Score 40 Energy Score 40 Thermal comfort pass	Target 40 Target 40 Target pass	Yes Yes Yes	
Acid Sulphate	Proposed development - Slab on ground.	Class 5.	Yes	

Reference to the table confirms that the areas of non-compliance are front, side and rear boundary setbacks as well as the site being subject to Coastal erosion and flooding risk.

A review of the amended plans has indicated that the new proposed reduced setbacks from the property results in a reduction of overshadowing, loss of privacy and amenity of surrounding residential allotments compared to the original proposal.

The applicant proposes to replace the existing dwelling with a new dwelling which is significantly larger than the existing dwelling. The proposed dwelling must be considered against the applicable current planning controls including the Port Stephens Local Environmental Plan and the Port Stephens Development Control Plan 2007 (DCP 2007).

The total proposed floor area of 274m² is considerable and assists in assessing the bulk and scale of the development. The total floor coverage ratio is 1.11:1 (11% of the site area). This confirms that the size, bulk and scale of the development significantly exceeds the Council's normal policy limits and is an overdevelopment of the existing small lot of only 247m².

Reference to the data supplied on the table at attachment 5 confirms that the bulk and scale of the proposal is well in excess of the average for homes within the area. Most of the buildings are significantly smaller in bulk and scale to the 274m² dwelling proposed. The development site is on the smallest Lot in the vicinity, has a floor area to site coverage of 111% and a FSR (as per the PSLEP provisions) of 0.42:1. It is an unreasonable expectation given the circumstances and the Council's current policies to build a dwelling of the bulk and scale as proposed.

Council's attention is directed to the document "flood policy sea level rise" the purpose of which is:-

"The purpose of this report is to advise Council of the current Government Policy on Sea Level Rise, to update Council's previous resolution on Sea Level Rise and to place on exhibition a draft Development Control Plan Chapter B13 "Areas Affected by Flooding and/or Inundation" of the Port Stephens Development Control Plan 2007, including "Areas Affected by Flooding and/or Inundation" to repeal and replace Council's existing Flood Policy and include a Sea Level Rise component to residential habitable floor levels."

The application was referred to Council's Strategic Engineer for advice on minimum floor levels and compliance with Council's adopted planning benchmark for sea level rise. (Council Resolution 155 dated 19th May 2009).

The Strategic Engineer has advised:

- *"To prevent storm surge inundation all habitable floor levels should be to the Flood Planning Level of RL 3.4m AHD.*
- *The FPL for non habitable rooms, garages and laundry only may proceed to be designed at RL 2.8m AHD (5% AEP flood event in the year 2100).*

- *All construction below 3.4 AHD will be required to consist of flood compatible materials*
- *A collapsible style retaining wall inside the property boundary, adjacent to the public reserve boundary will be required."*

The minimum levels are recommended to minimise the chances of storm surge inundation of the habitable rooms. The proposed floor level for the upper cottage floor for the habitable room areas is located now at reduced Level RL5.540 which is above the flood planning level of RL 3.4 AHD for habitable rooms.

The plans submitted indicate that the proposed ground lower floor area level for non-habitable rooms is RL 2.500 and the garage to be located at RL 2.160, which are both below the flood planning level of 2.8m AHD for non habitable room.

The development application plans are available for the Council in the Councillor rooms and should be referred to prior to the meeting.

FINANCIAL/RESOURCE IMPLICATIONS

The financial/resource implications are difficult to determine as Council may accept a significant legal/financial liability if consent is issued for a dwelling house that on a property that is identified and subject to significant sea level rise, inundation and flooding, over development of the site, and is unacceptable in regards to bulk and scale in relation to the allotment size. Council is best advised to follow due process and complete a full and proper assessment ensuring that all environmental impacts and factors are fully addressed.

LEGAL AND POLICY IMPLICATIONS

Council may increase legal liability in cases of property damage and/or loss of life where approval has been given to construct residential dwellings contrary to policy in flood prone areas whilst being specifically aware of the risks.

To issue consent may also set a further undesirable precedent in regard to flood level, sea level rise and climate change, resulting in difficulty to implement climate change policy at a later date.

Due to the redesign of the building the applicant has placed all proposed habitable rooms above the flood planning level reduces the risks associated with the proposal. The submitted plans have been assessed under Councils Business Risk Matrix has been completed. As a result it has been identified as B-(7) which is an unacceptable risk. This considered, it is still highly recommended Council refuse the Development application due to the legal and financial impacts that may occur in the future.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Approval of this application increases the proposed dwelling's susceptibility to the effects of sea level rise, inundation, flooding and the associated consequences due

to climate change. The cumulative effects of such decisions may have long term adverse social, economic and environmental implications.

The long term social implications directly attributable to flood inundation include, but are not limited to:

- risks to public safety
- community disruption
- direct and indirect damages caused by inundation (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.

The temporary and intermittent impacts of unsuitable development on such land may contribute to long term and incremental environmental pollution through erosion, waterborne debris, residual debris, structural failure of dwellings, fences, outbuildings and other structures.

CONSULTATION

The amended application was exhibited in accordance with Council policy and no submission was received.

Originally, the applicant was advised that in addition to the matter relating to sea level change, the proposed development did not comply with Port Stephens Council Local Environmental Plan 2000 in respect to Floor Space Ratio and did not comply with Council's Development Control Plan 2007 in respect to distances of external walls to adjoining boundary alignments. The applicant was seeking application to vary the requirements subject to Council approval.

Consultant with the building designer resulted in an amended set of plans being submitted to Council. The new design now shows the level for the all habitable portions of the proposed development above the flood planning level of 3.4 AHD. The lower ground floor including the garage will be used for non habitable purposes. However the floor level for the non habitable areas is still below the flood planning level of 2.8 AHD.

In addition, a review of the floor space ratio revealed that the proposed development now complies with Council's Local Environmental Plan 2000 as the FSR calculation does not include the significant non-habitable areas. The building line setbacks and site coverage still does not, however, comply with the requirement of Port Stephens Development Control Plan 2007 controls and principles.

There has been an amendment to the upper floor habitable room layout and the roof profile. However, there remain significant areas of non-compliance with the PSC DCP 2007 and it is considered that the bulk and scale of the building remains unacceptable.

OPTIONS

- 1) Adopt the recommendation to refuse the application;
- 2) Reject the recommendation and approve the application subject to appropriate conditions;
- 3) Amend the recommendation; or
- 4) Council indicate their support for the proposal and request that the Group Manager of Sustainable Planning provide draft conditions of consent back to Council.

Should Council decide to indicate their support for the proposed development, justification for the deviation from adopted Council policy should be appropriately detailed and resolved by Council including:

- Although the proposal still has several areas of non-compliance with the Council's Development Control Plan 2007, it is arguable, given the unique nature and small size of the site, achieving full compliance with the DCP provision is immensely difficult.
- Despite the Designed Ground Floor Levels for non-habitable rooms being below the minimum acceptable Flood Planning Level (FPL) for this location of 2.8m AHD, being proposed at 2.5 AHD, the amended plans present a reduced and acceptable level of risk to Council and has favourable urban design/amenity outcome as the overall building height remains reduced.

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment Notes;
- 3) Council's Resolution of 19 May 2009;
- 4) NSW Sea Level Rise Policy Statement;
- 5) Site Inspection;
- 6) Letter from Sorensen Design including amended lower Finished Floor Level detail.

COUNCILLORS ROOM

- 1) Plans including (Landscape, Site Analysis, Site Roof Plan, Ground Floor/1st Floor and Elevations);
- 2) Photos.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



Google maps

To see all the details that are visible on the screen, use the Print link next to the map.



**ATTACHMENT 2
ASSESSMENT**

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

THE PROPOSAL

The application seeks approval for a Two Storey Dwelling to replace the existing cottage.

THE APPLICATION

Owner	Mr R. G & Goodall.
Applicant	Designed Dimension Pty Ltd.
Detail Submitted	Statement of Environmental Effects Development Application Plans Drawing No DD157 Page 1 to 9 Dated 02-08-10.

THE LAND

Property Description	Lot 340 DP 27845
Address	227 Foreshore Drive Corlette
Area	247.1m ²
Dimensions	The development site is a regular shape having a frontage to Foreshore Drive of 15.240m and a rear width of 15.365m. The site's northern boundary is 15.24m and the southern boundary is 17.19m.
Characteristics	The site currently contains a single Storey weatherboard Dwelling and single storey garage. The existing single storey dwelling on site is proposed to be demolished in the context of this application. The site contains a lawn, and is predominantly clear of vegetation. The site is generally flat at the front and slopes toward the Reserve at the rear.

THE ASSESSMENT

1. Planning Provisions

Environmental Planning and Assessment Act 1979
N.S.W Sea Level Rise Policy Statement
State Environmental Planning Policies SEPP 71
LEP 2000 – Zoning 2(a) Residential
Relevant Clauses 16, 19, 37 & 38

Development Control Plan Port Stephens DCP 2007

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Proposed Development				
Attribute	Proposed	Required	Complies	Variation
NSW Sea Level Rise Policy Statement	Subject to Coastal erosion and flooding risk – Proposed Floor Level of 5.5m AHD for habitable room A Proposed non habitable area 2.5 AHD for ground floor and a garage floor level of 2.16 AHD.	Flood Planning Level for habitable rooms of 3.4m AHD. Non habitable area of a floor level of 2.8 AHD	Yes No	 Garage is 640mm & Ground floor level is 300mm to low
LEP Requirements				
Min. Area Per Dwelling	247m ²	500m ²	N/A	Existing
Floor Space Ratio	0.42:1	0.5:1	Yes	
Height	8.910m	9m	Yes	
DCP Requirements				
Number of storeys (except for loft spaces)	2	2	Yes	
Building Line Setback	2.4 m	6m	No	3.6m too close Encroachment is excessive.
Building Frontage	100% Building Frontage is proposed	Maximum 50%	100%	Encroachment is excessive.
Side Setbacks	Northern Boundary (2 Storey) 1.350m Southern Boundary (1 Storey) 200mm Eastern Boundary (2 Storey) 3.160m	2m 0.9m 6m	No No No	650mm too close 700mm too close 2.84m too close
Rear Setbacks Foreshore	Western Boundary 1.210m for decking, 2.870 garage rear wall, 3.165m upper storey	4.5m	No	3.3m – 1.3m too close.
Bulk & Scale	Should comply with the standards within DCP for Lot Size, floor area	Refer to above	No	Exceeds acceptable standards for Bulk and Scale
Views	Two storey cottage with a ridge height of RL 10.10 AHD.	No objections received after closing date of advertisement. Significant view obstruction from the street frontage.	No	
Resident parking	2	2	Yes	
Retaining Walls	No boundary retaining walls		Yes	
BASIX	Water Score 40 Energy Score 40 Thermal comfort pass	Target 40 Target 40 Target pass	Yes Yes Yes	
Acid Sulphate	Proposed development - Slab on ground.	Class 5.	Yes	

NSW Sea Level Rise Policy

The development in respect to the dwelling site and proposed finished floor level is inconsistent with the objectives of the NSW Sea Level Rise Policy and its intended purpose of safeguarding development from inundation from sea water due to sea level rise and other factors relating to climate change.

Port Stephens Local Environmental Plan 2000

Consent of a two (2) storey dwelling in the form proposed is considered consistent with the provisions of Port Stephens Council Local Environmental Plan 2000 except in the instance of flooding risk in association with Sea Level Rise.

The design fails to adequately take into account the significant environmental constraints of the site.

Clause 19

The proposed development is consistent with the development standards of minimum site area per dwelling, but not consistent with the Port Stephens Council Development Control Plan 2007 Clause B6.C36, as far as site coverage exceeding the 60% control.

The proposal is now consistent for floor space ratio specified within Clause 19 of the Port Stephens LEP 2000.

The proposed development is considered to be consistent with the development standard of height specified within Clause 19 of the Port Stephens LEP 2000

Clause 37

Objectives for development on flood prone land

The objectives for development on flood prone land are:

- (a) to minimise risk to human life and damage to property caused by flooding and inundation through controlling development, and*
- (b) to ensure that the nature and extent of the flooding and inundation hazard are considered prior to development taking place, and*
- (c) to provide flexibility in controlling development in flood prone localities so that the new information or approaches to hazard management can be employed where appropriate.*

It is considered that the development with its proposed finished floor level of RL2.500m is inconsistent with the provisions of this clause and do not satisfy the intent of the objectives. The adoption of a climate change sea level rise increase of .90m with a linear increase till the year 2100 indicates that this development will be unsustainable at its proposed levels within a limited time period.

Clause 38

Development on flood prone land

(1) A person shall not carry out development for any purpose on flood prone land except with the consent of the consent authority.

(2) Before granting consent to development on flood prone land the consent authority must consider the following:

(a) the extent and nature of the flooding or inundation hazard affecting the land,

(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,

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

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

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

In the consideration of (2) of clause 38 it is considered that the proposed development is inconsistent with the objectives of subclauses (a), (c), (d) and (e) given the proposed ground floor level non habitable rooms of RL 2.500m and 2.160m for the garage. The flood planning level (FPL) to accommodate for Climate Change, Sea Level Rise at this location is 2.800m AHD for non habitable rooms.

The applicants proposed figure of RL 2.500m for non habitable rooms does not address the adopted 0.9m increase for Climate Change, Sea Level Rise in the year 2100. The projected increase of sea level rise in the year 2050 of 400mm is well within the expected, assumed life span of the structure. As a result it is expected, based on these figures that the development will be compromised by the increase of sea level and associated climate change phenomenon during its practical lifespan.

It should be noted however, that the new building design provides for habitable rooms to be located on the upper floor level at RL5.500m AHD, well above the flood planning level of 3.400m AHD.

The most practical mitigation measure to offset the effects of Climate Change, Sea Level Rise available to the development is the adoption of the new Flood Planning Level (FPL) of 2.8m AHD for non habitable areas. Given the proposed FFL level of non Habitable rooms RL 2.500m and garage at FFL 2.160m, the safe and flood free floor level of the development will be compromised.

The social impact is hard to quantify however, the effects of flooding and inundation of seawater into dwellings is well documented. Given the level of development within the coastal fringe it would be acceptable to consider that the ability of emergency services to service individual households would be limited at best. The frequency of flooding events is a main factor in the amenity of the occupants. In the context of climate change, predictions would indicate that a sea level rise coupled

with increased storm events and increased severity that flooding events in this location would increase.

The development is inconsistent with the provisions of the NSW Sea Level Rise Policy and adopted sea level rise increase of .91m in the year 2100. This has been recently amended by the New South Wales Government Guidelines to 0.9m

State Environmental Planning Policy No. 71 – Coastal Protection

The development is considered to be contrary to the provisions of Clause 16 SEPP 71.

Clause 16 states:

The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.

Port Stephens Development Control Plan 2007

The application was lodged on 12/01/2010. The performance based design requirements of Port Stephens Development Control Plan 2007 are relevant to the assessment of this application. Assessment of the key design considerations are addressed below:

Streetscape, Building Height, Bulk and Scale

The proposed two (2) storey dwelling is not considered to have a serious impact on the surrounding development and associated land uses that comprise residential occupancies.

This matter has been considered and the development in its current form is unacceptable in regards to bulk, scale and site coverage.

The objectives and control principles of the DCP indicate that the bulk and scale of a dwelling in 2(a) Residential should be sympathetic to the local street content. The development is to take into consideration its design elements to minimise the impact on the amenity of the adjacent dwellings and land.

The proposal now complies with the floor space ratio, but not the site coverage objectives. The new design presents a better outcome and lesser impact on the streetscape and adjoining premises, but does not totally reduce the bulk and scale to an acceptable level that excludes the appearance of a over developed site. Generally the development still does not comply with the intent of Council's Development Control Plan 2007 Clause B6.5 in regards to this issue.

Privacy

There are no issues with privacy as the proposal has allowed privacy screens at each end of the first floor balconies to protect the adjoining properties.

Boundary Setbacks

The boundary setback on the all boundaries is not consistent with the intent of the DCP 2007. However the site is considered to be infill development and as such needs to be considered by Council with the lodgement an Application to vary the requirements of the Development Control Plan 2007 in regards to building line setbacks to all of boundary alignments.

Site Coverage

The development is not compliant with the requirements of site coverage specified in B6 Clause C36 of Port Stephens Development Control Plan 2007. The maximum site coverage permissible is 60%. The site coverage proposed is 82%.

Acoustic Privacy

Whilst external open space forms part of typical residential development, the resulting elevated open space associated with the dwelling and external balcony areas has the potential to have a minor impact on acoustic privacy.

Solar Access

With respect to overshadowing, given the orientation of the allotment and size of the allotment it is considered that the development is not in compliance with the provisions of DCP 2007 in respect to solar access.

Views

The development site and adjacent properties immediately, contain excellent water views of Port Stephens. There were no submissions responding to matters in relation to the reduction of scenic views surrounding the proposed residential development.

Parking & Traffic

The parking and traffic arrangements are in accordance with Council's Development Control Plan 2007.

The development provides garage parking for two (2) cars.

Usable Open Space

The size of the allotment provides extensive ground level open space accessible from living areas.

Landscaping

The proposal provides adequate planter and garden bed landscape areas.

Flora and Fauna

The development site is not identified as containing any threatened flora or fauna or endangered ecological communities. It is not considered that this development will result in adverse impacts to, or pose an unacceptable risk to, threatened flora and fauna.

2. Likely Impact of the Development

The impact of the proposed development on the site is unsuitable as it is susceptible to and significantly affected by sea level rise, inundation and flooding.

The Designed Ground Floor Levels are below the minimum acceptable Australian Height Datum (AHD) benchmark levels for sea level rise for this location (0.91m for the year 2100 for use in developing FPL for AEP flooding events, adopted by Council at its meeting on the 19th May 2009). This has been recently amended by the New South Wales Government Guidelines to 0.9m

The proposed development is inconsistent with the provisions of Port Stephens Local Environment Plan 2000 - in particular, the Residential 2(A) Zone objectives and considerations for development on land affected by or susceptible to by sea level rise, inundation and flooding.

Otherwise, the proposed development is generally consistent with the requirements of Port Stephens Local Environmental Plan 2000 but not compliant with the controls and principles of the Development Control Plan 2007. The two storey dwelling in the form proposed is generally consistent with the intent and objectives of the controls other than bulk, scale and site coverage.

3. Suitability of the Site

The site is constrained as it is susceptible to and significantly affected by likely sea level rise and associated climate change phenomenon, inundation and flooding and hence is unsuitable for the proposed dwelling in its current form.

4. Acid Sulphate Soils

The land is subject to acid sulphate soils Class 5.

5. Submissions

The application was advertised and notified in accordance with Port Stephens Development Control Plan 2007. No submission was received.

6. Public Interest

The proposed building is in keeping with the design characteristics, suitability and appearance within the existing streetscape. However, the proposed dwelling is not consistent with public expectations in relation to the predicted impacts of climate change.

**ATTACHMENT 3
COUNCIL'S RESOLUTION OF 19 MAY 2009**

ORDINARY MEETING – 19TH MAY 2009

ITEM NO. 8

FILE NO: PSC2005-4473

ADOPTION OF A SEA LEVEL RISE PLANNING FIGURE

REPORT OF: DAVID BROYD – GROUP MANAGER SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Council adopt a planning benchmark for sea level rise of 0.91m for the year 2100 with an assumed linear increase from present day levels as the basis for Council staff to proceed with risk assessment, policy development, and planning and development decisions.
- 2) Review these figures on an as needs basis when new information becomes available such as the release of future Intergovernmental Panel on Climate Change assessment reports and guidelines being drafted by the NSW Departments of Planning and Environment and Climate Change.
- 3) Continue to investigate Climate Change impacts on both Council and the community to determine appropriate responses.

COMBINED STRATEGIC & OPERATIONS COMMITTEE – 12TH MAY 2009

RECOMMENDATION:

	<p>Councillor Glenys Francis Councillor John Nell</p>	<p>That Council:-</p> <ol style="list-style-type: none"> 1) Council adopt a planning benchmark for sea level rise of 0.91m for the year 2100 with an assumed linear increase from present day levels as the basis for Council staff to proceed with risk assessment, policy development, and planning and development decisions. 2) Review these figures on an as needs basis when new information becomes available such as the release of future Intergovernmental Panel on Climate Change assessment reports and guidelines being drafted by the NSW Departments of Planning and Environment and Climate Change. 3) Continue to investigate
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ORDINARY MEETING – 19TH MAY 2009

		<p>Climate Change impacts on both Council and the community to determine appropriate responses.</p> <p>4) That Council continue to consult with the community using the Residents Panel and other forums and report back to Council following the consultation.</p>
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ORDINARY COUNCIL – 19TH MAY 2009

155	<p>Councillor John Nell Councillor Glenys Francis</p>	<p>It was resolved that the Operations Committee recommendation be adopted.</p>
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ITEM NO. 8

FILE NO: PSC2005-4473

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REPORT OF: DAVID BROYD – GROUP MANAGER SUSTAINABLE PLANNING

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- 2) Review these figures on an as needs basis when new information becomes available such as the release of future Intergovernmental Panel on Climate Change assessment reports and guidelines being drafted by the NSW Departments of Planning and Environment and Climate Change.
- 3) Continue to investigate Climate Change impacts on both Council and the community to determine appropriate responses.

BACKGROUND

The purpose of this report is to provide Council with information on recent developments involving the management of sea level rise by NSW coastal councils and recommends the adoption of a sea level rise figure to provide a basis for decision-making and future planning associated with climate change adaptation. The report also discusses the advice recently released by the NSW government in relation to planning for sea level rise and outlines the legal and policy implications.

It should be noted that sea level rise is only one aspect of climate change that will affect Port Stephens. More instances of extreme storms, a greater number of extreme hot days and incremental increases in temperature will also have effects on both public and private assets. While there has been a considerable volume of studies undertaken in the area of sea level rise the impact of other climate change variables is yet to be fully understood. More investigations will need to be undertaken in these areas to determine appropriate responses. Given that sea level rise is already occurring Council has a responsibility to undertake a risk management approach to current and future decisions.

In support of the reality of sea level rise the NSW government made the following statement in the February 2009 draft Sea Level Rise Policy Statement which is to be used in planning guidelines being prepared by the NSW Department of Planning. *'Over the 20th Century, global sea levels have risen by 17 cm and are continuing to rise. Sea level rise is a gradual process and will have medium to long term impacts. The best national and international projections of sea level rise along the NSW coast are for a rise relative to 1990 mean sea levels of up to 40 cm by 2050 and 90 cm by 2100¹. There is no scientific evidence to suggest that sea levels will stop rising beyond 2100 or that the current trends will be reversed.'* DECC (2009).

¹ Department of Environment and Climate Change Technical Note: Scientific Basis of the 2009 Sea Level Rise Benchmark.

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

addition to sea level rise. Putting this into perspective the following levels are provided:

Mean Tide level	- RL 0.0 metres AHD (Australian Height Datum)
Mean High Water	- RL 0.5 m AHD
King Tide (eg 12 January 2009)	- RL 1.0 m AHD
Design 1% Water Level	- RL 1.5 m AHD
Design Extreme Water level	- RL 1.6 m AHD
Design 1% Water Level plus 0.91 m sea level rise	- RL 2.4 m AHD
Design Extreme Water level plus 0.91 m sea level rise	- RL 2.5 m AHD

Council's current standard for minimum floor level for Port Stephens is 2.5 metres AHD while that for Fern Bay is 2.3 metres which include 0.5 metre freeboard. These levels may need to be increased to include freeboard above sea level rise.

Council is also undertaking a Climate Change Risk Adaptation project under the Federal Government's Local Adaptation Pathways Program. The project, which will conclude in June 2009, firstly involves undertaking an organisational risk assessment to identify and assign priorities to risks that climate change impacts pose to Council's operations and responsibilities. The second stage involves developing an adaptation action plan that will assist council to plan for the impacts of climate change both within council's businesses and to set in place policies and practices to help the community avoid the major impacts of climate change over the coming decades. This will involve developing strategies for managing risks that are well understood and identifying where further investigation is necessary for risks that are not well enough understood to determine an appropriate management strategy.

The initial stages of the Local Adaptation Pathways Program has highlighted that Port Stephens Council's main areas of exposure in relation to sea level rise are flooding, engineering, infrastructure and planning. A considerable amount of work will need to be undertaken to determine the extent of council's exposure and it is likely that council, and the community, face some difficult decisions in the near future.

The Coastline Management Manual (CMM) lists a number of potential 'Hazard Management Options', which could be adopted/adapted by Council as part of its adaptation response to sea level rise. The appropriate response will vary from location to location, depending in part, on whether the area is in public or private ownership, the level, and form of development, level of affectation etc. Examples of options suggested in the CMM are given below.

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

Hazard Management Options Suggested by Coastline Management Manual

Category	Management Option Examples
Environmental Planning	Restrictive Zonings Planned Retreat Voluntary Purchase
Development Controls	Building Setbacks Relocatable Buildings Planned Retreat
Dune Management	Dune Reconstruction and revegetation Dune Protection and/or Maintenance
Protective Works	Seawalls Groynes Beach Nourishment Offshore Breakwaters

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

SOCIAL SUSTAINABILITY – Council will preserve and strengthen the fabric of the community, building on community strengths.

CULTURAL SUSTAINABILITY – Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.

ECONOMIC SUSTAINABILITY – Council will support the economic sustainability of its communities while not compromising its environmental and social well being.

ENVIRONMENTAL SUSTAINABILITY – Council will protect and enhance the environment while considering the social and economic ramifications of decisions.

BUSINESS EXCELLENCE – Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey

This report also aligns with Goal 7 of the Council Plan: Sustaining the Environment: Mitigate the effects of climate change and population growth on the environment.

FINANCIAL/RESOURCE IMPLICATIONS

The adoption of sea level rise planning benchmarks may have significant implications for Council's current planning legislation. Adaptation strategies relating to sea level rise in floodplain risk management, estuarine risk management, and coastline risk management through out the LGA will need to be considered for incorporation into relevant Council policies.

LEGAL AND POLICY IMPLICATIONS

Climate change and its effects are referred to in a number of State Government policies including the NSW Coastal Policy 1997.

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

The NSW Coastal Policy 1997 which in relation to climate change recommends an approach to minimise risks based on ecologically sustainable development principles. 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 NSW Coastal Policy 1997 is given statutory effect through State Environmental Planning Policy 71 – Coastal Protection and through a Ministerial Direction to local councils under section 117 of the Environmental Planning and Assessment Act 1979.

In February 2009 the NSW Department of Environment and Climate Change released a draft Sea Level Rise Policy Statement which once adopted will supersede the 1988 NSW Coastline Hazard Policy.

The Legal Industry has also suggested that Climate Change has significant implications with respect to Council in its role as a consent authority. Lake Macquarie Council, who has already adopted a sea level rise planning figure, received the following advice from its solicitor:

"In relation to development assessment, the consensus amongst practitioners and academics seems to be that councils will owe a duty of care to landowners in their consideration of individual development applications in coastal areas that are most at risk of climate change."

"A reasonable council located on the coast in an area prone to erosion and storm damage, would foresee that its decisions to approve development may place landholders at risk from the effects of climate change. Scientific evidence and impacts already observed make this clearly foreseeable. In order to meet their duty of care, councils can either refuse consent, or allow the development to proceed with conditions that attempt to reduce the risk. Councils when assessing development should consult the NSW Coastline Management Manual 1990 and the NSW Coastal Policy 1997. It is probably also advisable to create a management plan specific to the locality. As long as a council makes a genuine and serious attempt to alleviate the potential risks of climate change, then it is likely that a council's duty of care will be satisfied."

In addition to suggesting that Council as a consent authority has a duty to consider climate change in its consideration and determination of development applications The Lake Macquarie City Solicitor also recommended that Council consider:

1. Determining a "normal building and component design life" to be used as a guide for estimating the period of time a building will be located at a particular site (in the absence of more detailed or specific data provided by the proponent).
2. Using, without delay, the information currently available on sea level rise projections to assist with determination of development applications upon land likely to be affected by rising sea levels and flooding.

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

3. Making such information available in response to applications for certificates called "Development Restrictions Certificate Flooding/Tidal Inundation" and in relation to certificates under section 149 of the EPA Act 1979.

BUSINESS EXCELLENCE FRAMEWORK

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.
- 2) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 3) **SYSTEMS THINKING** – Continuously improve the system.
- 4) **PEOPLE** – Develop and value people's capability and release their skills, resourcefulness and creativity to change and improve the organisation.
- 5) **CONTINUOUS IMPROVEMENT** – Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.
- 6) **INFORMATION AND KNOWLEDGE** – Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 8) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Sea level rise, and the wider 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. The effects relating to impacts on property can be largely avoided with appropriate planning; however more work will need to be undertaken in relation to planning for the effects of increased instances of extreme heat, particularly on our aging population.

ECONOMIC IMPLICATIONS

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.

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

ENVIRONMENTAL IMPLICATIONS

Climate Change and sea level rise 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. Coastal wetlands are also at risk as are wildlife corridors. While the adoption of a sea level rise planning figure will go some way to recognising these impacts further adaptation initiatives will need to be implemented to counteract the effects of climate change on the regions biodiversity.

CONSULTATION

In the preparation of this report consultation has been undertaken with the Managers of Integrated Planning and Development and Building and Legal Services.

Future consultation and education with the community will be vital to making future decisions as to how council responds all aspects of Climate Change. In the meantime it is proposed that council continue to investigate the impacts of climate change on its own operations and carry out work to determine which areas of the LGA will be at risk of coastal inundation from sea level rise. Once this further information is available it is proposed to report back to Council with a view to undertaking community education.

Also, there is an Inter-Group team and consultants (funded by the Commonwealth Government grant) providing extensive input into the Local Adaptation pathways Program.

Also, this issue has been extensively discussed by the Directors of Planning/equivalents of member councils of Hunter Councils.

OPTIONS

- 1) Adopt, reject or amend the recommendation

ATTACHMENTS

Nil

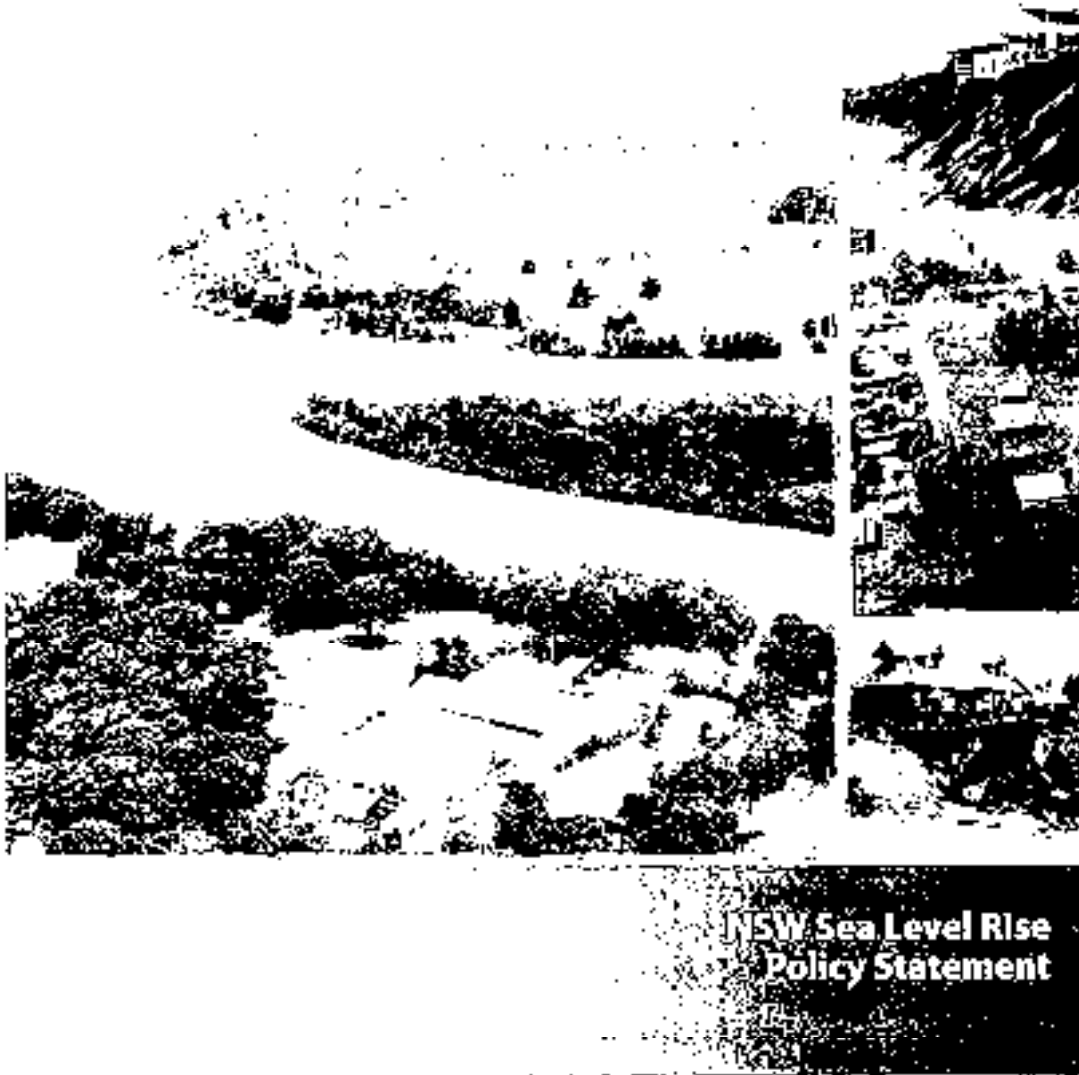
COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

- 1) Position Paper: Adoption of a Regionally Consistent Planning Level in Response to Climate Induced Sea Level Rise (HCCREMS Directors Forum, 26 June 2008).

ATTACHMENT 4
NSW SEA LEVEL RISE POLICY STATEMENT



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Cover (clockwise from main photo):

Bellinger River flooding at Myleston (Coff's Harbour Advocate);
coastal erosion at Old Bar (P. Watson, DECCW);
flooding from the Richmond River at Corak, January 2008 (B. Egghs, Richmond Valley
Council); coastal erosion at Belong Beach, Byron Bay (P. Watson, DECCW)

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Introduction

The NSW Government acknowledges that increased sea levels will have significant medium to long-term social, economic and environmental impacts. As an integral part of the state's response to climate change, the Government is committed to supporting coastal communities in adapting to long-term rising sea levels in a manner that minimises the resulting social disruption, economic costs and environmental impacts. Sea level rise is a global problem that will impact locally on the NSW coastline and will require action by communities, the Government and local councils.

Coastal communities and environments are particularly vulnerable to climate change due to the potential for permanent coastal inundation and increasing coastal hazards associated with changing weather patterns and extreme weather events. This policy statement deals with sea level rise only and represents an important component of the Government's response to climate change.

This policy statement outlines the Government's objectives and commitments in regards to sea level rise adaptation. It outlines the support that the Government will provide to coastal communities and local councils to prepare and adapt to rising sea levels.

The Impacts of rising sea levels

Over the period 1870–2001, global sea levels rose by 20 cm, with a current global average rate of increase approximately twice the historical average¹. Sea levels are expected to continue rising throughout the twenty-first century and there is no scientific evidence to suggest that sea levels will stop rising beyond 2100 or that the current trends will be reversed.

Sea level rise is an incremental process and will have medium to long-term impacts. The best national and international projections of sea level rise along the NSW coast are for a rise relative to 1990 mean sea levels of 40 cm by 2050 and 90 cm by 2100¹. However, the Intergovernmental Panel on Climate Change (IPCC) in 2007 also acknowledged that higher rates of sea level rise are possible.

In simple terms, sea level rise will raise the average water level of oceans and estuaries. As the average water level rises, so too will high and low tide levels affecting the natural processes responsible for shaping the NSW coastline. Exactly how the coast and estuaries will respond is complex and often driven by local conditions but, in general, higher sea levels will lead to:

- increased or permanent tidal inundation of land by seawater
- recession of beach and dune systems and to a lesser extent cliffs and bluffs
- changes in the way that tides behave within estuaries
- saltwater extending further upstream in estuaries

¹ Refer to the Department of Environment, Climate Change and Water 2009 Technical note, *Derivation of the NSW Government's sea level rise planning benchmarks* for further details.

- higher saline water tables in coastal areas and
- increased coastal flood levels due to a reduced ability to effectively drain low-lying coastal areas

These physical changes will have an impact on coastal ecosystems, access to and use of public and private assets, historical and cultural heritage values, arable land used for agriculture, freshwater access, public and private infrastructure, and low lying areas of coastal land that are affected by flooding.

Sea level rise will also affect coastal hazards such as beach erosion during storms and coastal flooding. As the sea level rises, severe erosion of beaches during storms will affect areas further inland, while the depth of floodwaters and the areas affected by flooding will increase due to a reduced ability to effectively drain low lying coastal areas. Climate change will also affect the frequency and intensity of storms, further exacerbating the effects of sea level rise. Such hazards will further impact coastal ecosystems, historical and cultural heritage values, agriculture and infrastructure, and residential and other urban land uses on land around beaches, estuaries, bays and harbours.

Related NSW Government initiatives

The NSW Government currently has in place policies, programs and legislation that allow for ecologically sustainable growth in coastal areas, while reducing the risks to life and property from coastal hazards and flooding. These are also relevant to managing the projected increased risks from sea level rise.

The NSW Coastal Policy 1997 sets the overall strategic direction for coastal management in NSW and is based on the principles of ecologically sustainable development. It aims to facilitate the development of the coastal zone in a way that protects and conserves its values. One of the policy's goals is to recognise and accommodate coastal processes and hazards, including a related objective to recognise and consider the potential effects of climate change in the planning and management of coastal development. The NSW Coastal Policy is given statutory effect through State Environmental Planning Policy 71 – Coastal Protection and through a Ministerial Direction to local councils under section 117 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The State Environmental Planning Policy 71 – Coastal Protection (SEPP 71) also requires that both land use planning and development assessment within the NSW Coastal Zone consider the likely impact of coastal processes and coastal hazards on development and any likely impacts of the development on coastal processes and coastal hazards.

In 2006 the State Government gazetted the new Standard Instrument – Principal Local Environmental Plan. Clause 5.3 of the Standard Instrument prevents the granting of development consent on land that is wholly or partly within the NSW Coastal Zone, unless consideration has been given to the effect of coastal processes and coastal hazards and potential impacts, including sea level rise on the proposed development, and arising from the proposed development.

Two additional NSW Government policies of relevance to sea level rise are the 1988 NSW Coastline Hazard Policy and the NSW Flood Prone Land Policy. This Sea Level Rise Policy Statement supersedes the 1988 NSW Coastline Hazard Policy. Most of the objectives from that policy were included in the NSW Coastal Policy 1997, which remains current. Other objectives from the NSW Coastline Hazard Policy are updated by this Sea Level Rise Policy Statement.

NSW Sea Level Rise Policy Statement

The NSW Flood Planning and Policy remains in effect and has a primary objective to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods.

These policies are supported by the Government's Coastal, Estuary and Floodplain Management programs, which provide technical policy support and grants to local councils in order to identify and manage coastal hazards and flooding risks. The hazards associated with sea level rise have been incorporated into these programs from as early as 1990, and the benchmarks established under this policy statement will support the consistent consideration of sea level rise across these activities.

The NSW Government's objective and commitments for action on adapting to sea level rise

The NSW Government has an objective to see coastal communities adapt to rising sea levels in a manner that minimises the resulting social disruption, economic costs and environmental impacts. To assist in meeting this objective, the Government will support local councils and the community in adapting to sea level rise by:

1. promoting an adaptive risk-based approach to managing the impacts of sea level rise
2. providing guidance to local councils to support their sea level rise adaptation planning
3. encouraging appropriate development on land projected to be at risk from sea level rise
4. continuing to provide emergency management support to coastal communities during times of floods and storms
5. continuing to provide up-to-date information to the public about sea level rise and its impacts

Further details of these commitments are provided below:

1. Promoting adaptive risk-based management

The NSW Government will promote an adaptive, risk-based approach to managing the impacts of sea level rise. The adaptive risk-based approach recognises that there are potentially significant risks from sea level rise and that the accuracy of sea level rise projections will improve over time.

Planning and investment decisions should therefore consider the sea level rise projections over timeframes that are consistent with the intended timeframes of the decision. For example, those decisions should consider likely sea levels over the expected life of an asset in order to decide on how the asset can be located or designed, thereby avoiding or minimising any associated impacts. This early consideration will minimise the initial costs of considering sea level rise and the future costs of adapting to sea level rise, such as through relocation of affected buildings or infrastructure.

The NSW Government has adopted sea level rise planning benchmarks to support this adaptive risk-based approach. These benchmarks will enable the consistent consideration of sea level rise within this adaptive risk-based management approach. The primary purpose of the benchmarks is to provide guidance supporting consistent consideration of sea level rise impacts, within applicable decision-making frameworks. This will include strategic planning and development assessment under the EP&A Act and infrastructure planning and renewal.

specific future obligations to reduce the impacts of coastal hazards and flooding caused by sea level rise on private property.

Landowners affected by current and future coastal hazards may seek approval from their local council to construct works on their land to protect their property. These works may be approved under the EP&A Act where they do not cause adverse impacts on coastal processes beyond the property boundary or on public amenity or the environment. Private landowners will not normally be permitted to construct works on State-owned land to protect their property. All required approvals must be obtained before any works commence and unauthorised works may be removed at the landowner's cost.

4. Community support during emergencies

The Government currently provides emergency management support to coastal communities during and following floods and major storms. This support is normally coordinated by the State Emergency Service, operating under the *State Emergency and Rescue Management Act 1989*. This Government will continue to provide this support to coastal communities likely to be affected by sea level rise.

The Government's direct community support will be focused on emergency management. The Government currently does not provide compensation to the owners or potential developers of land affected by coastal hazards or flood risks, except for some compensation and other payments that may be made in relation to an emergency or disaster. This arrangement will continue and will include land where these hazards or risks are increased by sea level rise. Compensation will not be provided for any impact on property titles due to erosion or sea level rise.

5. Information availability

The Government has provided information to the community on sea level rise projections and the likely impacts of sea level rise on low-lying coastal areas. The Government will continue to provide up to date information on sea level rise and its impacts, and will continue to work with local councils to provide information on the impacts of sea level rise on local flooding and coastal hazards.

Continuing public access to current and credible information on sea level rise is important for various reasons, including:

- supporting community adaptation to sea level rise;
- supporting the community and the private sector to make appropriate investment decisions in coastal areas;
- assisting the insurance industry to price risks from sea level rise in their insurance policies.

NSW Sea Level Rise Policy Statement

The use of the benchmarks will be required when undertaking coastal and flood hazard assessments in accordance with the Coastal Management and Floodplain Development Manuals. It is a necessary statutory requirement that the preparation of local environmental planning give effect to and be consistent with these manuals.

The NSW sea level rise planning benchmarks are an increase above 1990 mean sea levels of 40 cm by 2050 and 90 cm by 2100, with the two benchmarks allowing for consideration of sea level rise over different timeframes. The benchmarks were established by considering the most credible national and international projections of sea level rise² and take into consideration the uncertainty associated with sea level rise projections. The Government will continue to monitor sea level rise observations and projections and will periodically review these planning benchmarks, with the next review likely to coincide with the release of the fifth IPCC report, due in 2014.

The sea level rise planning benchmarks can be used for purposes such as:

- incorporating the projected impacts of sea level rise on predicted flood risks and coastal hazards
- designing and upgrading of public and private assets in lowlying coastal areas where appropriate, taking into account the design life of the asset and the projected sea level rise over this period
- assessing the influence of sea level rise on new development (see below for further details)
- considering the impact of sea level rise on coastal and estuarine habitats (such as salt marshes) and identifying valuable habitats at most risk from sea level rise
- assessing the impact of changed salinity levels in estuaries, including implications for access to fresh water

2. Supporting local councils

The NSW Government recognises that local councils are responsible for many of the land use planning and development assessment decisions made in coastal areas. Local councils prepare studies to identify areas at risk from coastal flooding and coastal hazards through the coastal, estuary and floodplain management programs, and the NSW Government will continue to provide assistance. Priority for funding assistance will be given to areas of greatest current and future risk from flooding and coastal hazards. These studies will provide information on the influence of sea level rise on coastal hazards and flood risk, which can be considered at the land use planning and development assessment stage.

The Government will also continue to provide guidance and assistance to local councils on reducing the risks to private and public property from coastal hazards. The risks from coastal hazards are significant and are projected to increase with sea level rise. Government financial assistance to local councils is unlikely to extend to protecting or purchasing at risk properties at risk from coastal hazards and sea level rise.

When allocating funding assistance to local councils for coastal protection works, the

..

² Refer to the Department of Environment, Climate Change and Water Technical Note: Derivation of the NSW Government sea level rise planning benchmarks.

4

NSW Sea Level Rise Policy Statement

Government will give priority to public safety and protecting valuable publicly-owned assets, and then to private land. The criteria that the Government will use to allocate any funds to local councils to protect or voluntarily purchase private property will include the:

- magnitude of current and future hazards
- cost-effectiveness of management actions
- contribution to the project's costs from the local council and benefiting landowners, taking into consideration genuine hardship for affected coastal residents
- effectiveness of the proposed arrangements for maintaining any proposed works
- ability of the project to accommodate sea level rise.

Where assistance is provided to reduce the impacts of coastal hazards, the Government does not assume any responsibility for these hazards. The Government will continue to provide funding assistance to local councils for coastal hazard studies and management planning.

These criteria will not affect the NSW Coastal Lands Protection Scheme, where the criteria for land purchase under the scheme does not include coastal hazard reduction.³

3. Supporting appropriate coastal development

Provisions under the EP&A Act require consent authorities to consider coastal and flooding hazards in their planning and development approval decisions. The NSW Coastal Policy and coastal regional strategies also require consideration of sea level rise, as does the Standard Instrument for Local Environmental Plans where relevant.

The sea level rise planning benchmarks will support consistent consideration of the influence of sea level rise on any coastal hazards and flooding risks that may influence a development or redevelopment site. The benchmarks are not intended to be used to predict development of and land is projected to be affected by sea level rise. The goal is to ensure that such development recognises and can appropriately accommodate the projected impacts of sea level rise on coastal hazards and flooding over time, through appropriate site planning, design and development control.

Department of Planning guidelines will describe how sea level rise should be considered in land use planning and development assessment. These guidelines will provide assistance to local councils, landowners, infrastructure providers and developers.

Coastal hazards and flooding are natural processes and the Government considers that the risks to properties from these processes appropriately rest with the property owners, whether they be public or private. This will continue where these risks are increased by sea level rise. Under both statute and common law, the Government does not have nor does it accept:

³The Coastal Lands Protection Scheme is used to bring significant coastal lands into public ownership. The criteria for acquisition under the Scheme are to promote public access to the coastal foreshore, to maintain the scenic quality of the NSW coast, and to protect ecological sites of regional, state and/or national significance.

**ATTACHMENT 5
Site Inspection Survey – 227 Foreshore Drive Corlette**

A site inspection was scheduled and completed by Council on Thursday 17 February 2011, per council resolution at the meeting of 14 December 2010. The full report to Council is attached for Council's information together with the professional officer recommendation for refusal of the Development Application for Two Storey Dwelling at No. 227 Foreshore Drive, Corlette.

During the site inspection it was noted that several existing dwellings within the vicinity of the development site appeared to be larger than what would currently be permissible under the Council's policies (Such as the provisions of Clause 19 of the Port Stephens Local Environmental Plan 2000 (LEP) and the Port Stephens Development Control Plan (DCP)). Accordingly a limited survey of the dwellings and associated buildings within close proximity to 227 Foreshore Drive, Corlette has revealed the following data to inform Council and confirm the observations made at the recent site inspection.

Floor Area Survey Table Foreshore Drive, Corlette

Foreshore Drive street Number	Site Area	Total Floor Area	Floor coverage %	Floor area less garage/store	FSR PSLEP
215	444	424	95%	400	0.90:1
217	437	220	50%	156	0.35:1
219	364	126	35%	126	0.34:1
221	336	287	85%	237	0.70:1
223	232	196	84%	150	0.64:1
225	273	186	68%	168	0.61:1
229	306	418	137%	237	0.77:1
231	305	360	118%	280	0.91:1
233	233	143	61%	91	0.39:1
197	276	221	80%	140	0.50:1
197A	279	221	79%	140	0.50:1
199	562	493	88%	288	0.51:1
201	570	494	87%	441	0.77:1
203	578	288	50%	204	0.35:1
205	586	165	28%	137	0.23:1
207	587	320	55%	280	0.47:1
209	548	405	74%	341	0.62:1
211	503	482	96%	418	0.83:1
213	536	480	90%	416	0.77:1
227 Proposed	247	274	111%	104	0.42 ;1
227 Superseded Plan Proposed	247	308	125%	226	0.91:1

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

NB. The areas are estimates only and in most cases have not been truthed by reference to site survey plans or building plans.

Reference to the data supplied on the table confirms that the bulk and scale of the proposal is well in excess of the average for homes within the area. Most of the buildings are significantly smaller in bulk and scale to the 308m² dwelling proposed in the development application. The development site is the smallest Lot in the vicinity, has a floor area to site coverage of 125% and a FSR (as per the PSLEP provisions) of 0.91:1. It is an unreasonable expectation given the circumstances and the Council's current policies to build a dwelling of the bulk and scale as proposed.

The building at No. 229 and No 231 have floor areas respectively of 418m² and 360m² and were approved prior to the current policies being in force there; not being subject to current measures of site coverage or FSR.

ATTACHMENT 6
LETTER FROM SORENSEN DESIGN INCLUDING
AMENDED LOWER FINISHED FLOOR LEVEL DETAIL

Winner 2008, 2009 & 2010 BOA Design Awards!
2010 HIA-CSR Residential Building Designer of the Year™



30th June 2011
Our Reference: 1101055-C3

Attn: Matthew Brown
Port Stephens Council
116 Adelaide Street
Raymond Terrace NSW 2324

c.c. Paul Summergreen, Councillor John Nell, Mayor Bob Westbury

Dear Matthew,

RE: Proposed Dwelling at 227 Foreshore Drive, Corlette
Applicant: Mr R Goodall
DA Number: 22/2011

Plans were submitted to Council with a FFL for the lower level of RL 2.5AHD, the application was subsequently placed on the agenda for discussion at the Council meeting on 7th June 2011.

Councillors subsequently gave approval for the amended plans by Sorensen Design conditional on the lower Finished Floor Level being raised from RL 2.5m AHD to RL 2.8m AHD.

After discussion with Council it has been agreed to resubmit the existing plans for reassessment by Councillors at the next available meeting.

We provide the following as additional justification supporting the reassessment:

- Sorensen Design has discussed with Council that the increase in height of the ground floor will create a steep vehicle access to the garage contrary to Councils standard vehicular driveway crossing profile as detailed on Councils plan no. S105B. The change in RL as proposed by Councillors will make it unable for our client to access the garage with his vehicle due to the steepness of the driveway entry.
- The problem is exacerbated by the existing non-compliant footpath placed by Council as part of the Foreshore Drive upgrade; the footpath originates against the gutter and does not provide any initial rise in level from the road as detailed in Councils plan no. S105B.
- A FFL of RL 2.16m AHD of the garage as detailed on the plans submitted will enable satisfactory vehicle movements to and from the property and will comply with Councils plan no. S105B.
- The applicant is elderly and has lodged a Development Application for this dwelling as his retirement home, an increase in height shall also cause an increase in the number of stairs required to access the dwelling further disadvantaging the owner.



Phone: 02 4951 4000
Fax: 02 4951 4001
116 Adelaide Street
Raymond Terrace NSW 2324
www.sorensendesign.com.au
GPO Box 41171 Sydney NSW

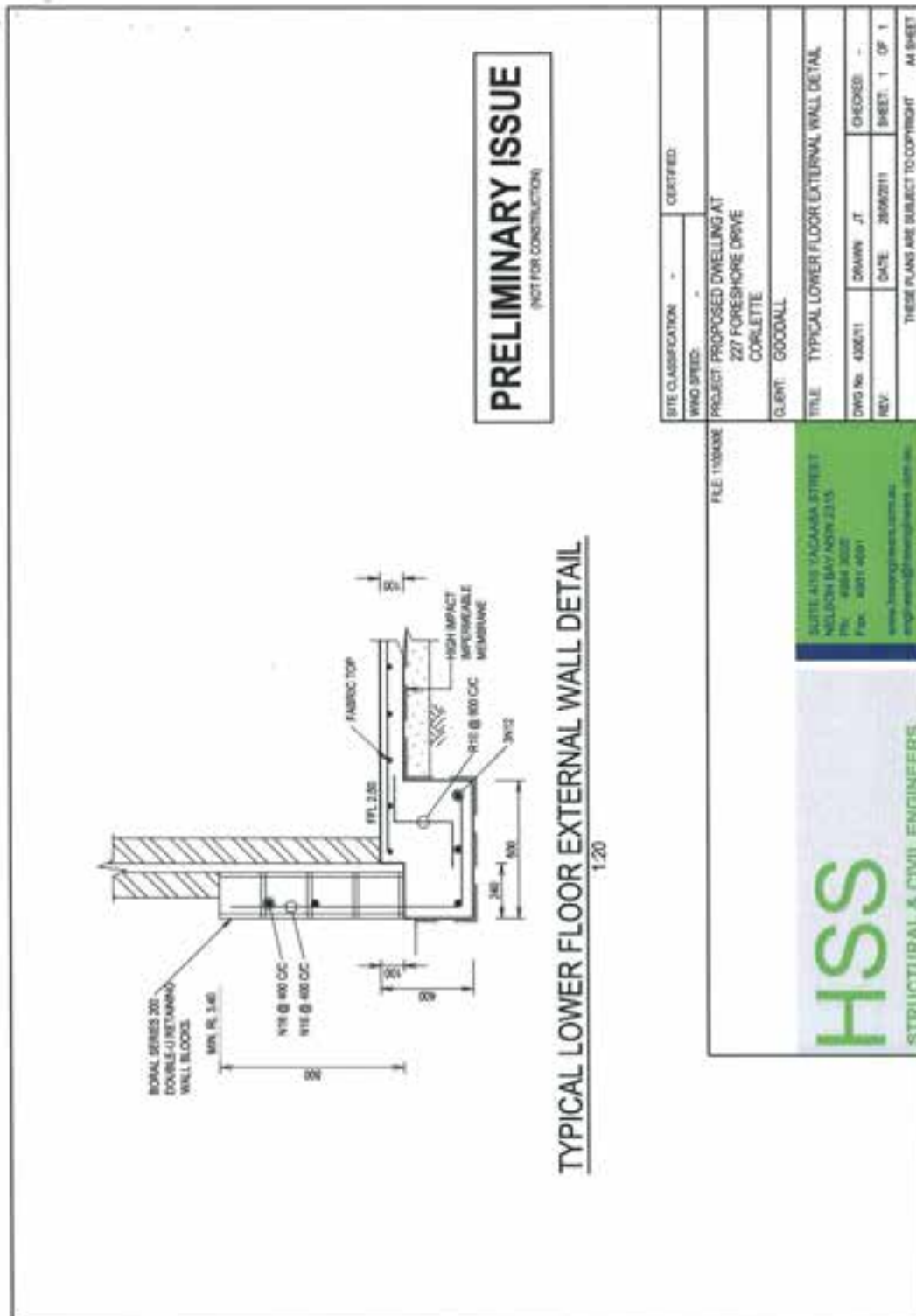
Winner 2008, 2009 & 2010 SDA Design Awards!
2010 HIA-CSR "Residential Building Designer of the Year"

- The increase in height for the non-habitable lower floor of this dwelling would place the dwelling substantially higher than neighbouring properties as previously detailed in the report submitted to Council by Environmental Planning Services.

Yours faithfully



Gary Millard Dip. Arch. Tech. (Dist)
Development Application Manager
Stevenson Design



PRELIMINARY ISSUE
(NOT FOR CONSTRUCTION)

SITE CLASSIFICATION	CERTIFIED
WHO SPEC'D	
PROJECT PROPOSED DWELLING AT 227 FORESHORE DRIVE CORLETTIE	
CLIENT: GOODALL	
TITLE: TYPICAL LOWER FLOOR EXTERNAL WALL DETAIL	
DWG No: 4326/11	DRAWN: JT
REV:	DATE: 26/02/11
	CHECKED: -
	SHEET: 1 OF 1
THESE PLANS ARE SUBJECT TO COPYRIGHT A4 SHEET	

FILE 1104006

HSS
STRUCTURAL & CIVIL ENGINEERS

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MELBOURNE VIC 3000
Ph: 03 9581 3022
Fax: 03 9581 4591
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eng@hss.com.au

Cr Francis declared a significant non-pecuniary conflict of interest in Item 2 and left the meeting at 5.45pm.

ITEM NO. 2

FILE NO: 16-2010-638-1

DEVELOPMENT APPLICATION FOR MCDONALDS FAMILY RESTAURANT AND TOURIST FACILITY (RECREATION) AT NO. 4 LAVIS LANE WILLIAMTOWN

REPORT OF: MATTHEW BROWN – MANAGER DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL HEALTH

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2010-638-1 for the following reasons;
 - i. The development site is located within the 30-35 Aircraft Noise Contour under both the ANEF 2025 and ANEC 2025 Aircraft Noise Maps and as such is classified as "unacceptable" development. The development is inconsistent with the provisions of Australian Standard 2021-2000 and Section B2.13 – Aircraft Noise of Development Control Plan 2007.
 - ii. The development is inconsistent with Clauses 37 and 38 of the Port Stephens Local Environmental Plan, 2000, in that the application has not adequately considered the impacts of Flooding and Sea Level Rise.

COUNCIL COMMITTEE MEETING – 19 JULY 2011

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Shirley O'Brien</p>	<p>That Council approve the development application for the McDonald's Restaurant and Tourist Facility (Recreation) at No. 4 Lavis Lane, Williamtown, in accordance with the conditions contained in ATTACHMENT 3, with an additional condition of consent to be included requiring a litter management plan.</p>
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In accordance with Section 375A of the Local Government Act, a division is required for this item.

Those for the motion: Crs Steve Tucker, Bruce MacKenzie, Ken Jordan, Geoff Dingle, Bob Westbury, Peter Kafer, John Nell, Shirley O'Brien and Sally Dover.

Those against the motion: Cr Frank Ward.

ORDINARY COUNCIL MEETING – 26 JULY 2011

	<p>Councillor Frank Ward Councillor John Nell</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1) Refuse Development Application 16-2010-638-1 for the following reasons: <ol style="list-style-type: none"> i) The development site is located within the 30-35 Aircraft Noise Contour under both the ANEF 2025 and ANEC 2025 Aircraft Noise Maps and as such is classified as "unacceptable" development. The development is inconsistent with the provisions of Australian Standard 2021-2000 and Section B2.13 – Aircraft Noise of Development Control Plan 2007. ii) The development is inconsistent with Clauses 37 and 38 of the Port Stephens Local Environmental Plan, 2000, in that the application has not adequately considered the impacts of Flooding and Sea Level Rise.
--	---	--

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

Those for the Motion: Crs Frank Ward.

Those against the Motion: Crs Peter Kafer, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Sally Dover, Bob Westbury.

<p>246</p>	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1. Approve the development application for the McDonald's Restaurant and Tourist Facility (Recreation) at No. 4 Lavis Lane, Williamtown in accordance with the conditions contained in ATTACHMENT 3, with an additional condition of consent to be included requiring a litter management plan. 2. Amendment condition 25 to read: <ul style="list-style-type: none"> • Monday to Friday, 7am to 6pm;
-------------------	---	---

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

		<ul style="list-style-type: none">• Saturday 7am to 4pm;• No construction work to take place on Sunday or Public Holidays. <p>3. Delete condition 65.</p>
--	--	--

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

Those for the Motion: Crs Peter Kafer, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Sally Dover and Bob Westbury.

Those against the Motion: Crs Frank Ward.

BACKGROUND

The purpose of this report is to present a development application to Council for determination as requested by Councillor McKenzie for the reason, "for Council to make a determination due to slow processing".

The development application proposes a McDonalds Family Restaurant and Tourist Facility (Recreation) at No. 4 Lavis Lane Williamstown.

The development includes the McDonalds Restaurant and McCafe and a Tourist Facility comprising children's recreation activities.

The tourist facility portion of the development has an area of approximately 620m² and will accommodate the following features;

- Several large childrens play equipment stations.
- Picnic Tables and bench seating
- Shades over eating areas
- Barked area surrounding play equipment
- Pedestrian paths and landscaping.

The Restaurant component of the application includes a single storey building with a floor area of some 373m² including:

- Indoor dining area for 59 people and a terraced dining area for 35.
- McCafe
- Party Room for 12 diners
- Fenced Play land facility with associated dining area for 6 diners.
- Toilet facilities
- Kitchen
- Staff Facilities
- Drive through with 2 ordering lanes.
- Carparking for 38 vehicles
- Landscaping including 2 flag poles.

The site is also identified as being affected by Aircraft Noise and is located within the 30-35 Aircraft Noise Contour under both the ANEF 2025 and ANEC 2025 Aircraft Noise Maps. It is noted that development for the purpose of Tourist Facility is "unacceptable development" in this noise contour under both the Development Control Plan 2000 and Australian standard 2021-2000.

The issue of permissibility is a key consideration in the assessment of a Restaurant in conjunction with a Tourist Facility in the 1(a) zone. Upon lodgement of the application, Legal Advice was sought to confirm the permissibility of the proposal. Following the provision of legal advice, additional factual detail was provided by the applicant which lead to acceptance that the relevant jurisdictional fact has been established and that the development is permissible.

The development of a "restaurant" in the 1(a) zone relies on the concurrent site use with a tourist facility. On the subject site, tourist facility is an "unacceptable" form of development due to aircraft noise. Without the tourist facility, development of a restaurant is prohibited development pursuant to clause 14(a) of the Port Stephens Local Environmental Plan 2000.

The Key issues associated with the proposal are;

- Aircraft Noise
- Flooding
- Non Compliance with Councils DCP2007.
- Outstanding Engineering detail.

An Assessment of these issues has been provided in the attachments.

The application was reported to Council on the 19th April 2010 and it was resolved to:

- 1) *Indicate its support for the development application for McDonalds Family Restaurant and Tourist Facility (Recreation) at No. 4 Lavis Lane, Williamtown and request the Sustainable Planning Group Manager to bring forward draft conditions in the event that Council resolve to give consent.*
- 2) *That applicant be advised that Council requires a drainage study to be completed.*

Draft Conditions of consent have been attached within Attachment 3 of this report. Following further assessment of Engineering information submitted by the applicant, conditions of consent were drafted in relation to drainage and a drainage study was not requested of the applicant as the existing drainage detail submitted was deemed adequate for the purposes of the assessment. Given further assessment of the drainage detail and negotiation with the applicant, it was considered the intent of the resolution had been achieved.

Application Chronology

- 17/09/2010 – DA lodged
- 21/10/2010 – DA Distributed
- 04/11/2010 – Building Referral Received

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

- 04/11/2010 – Flooding Referral Received
- 04/11/2011 – Engineering Referral Received
- 16/11/2010 – Wastewater Referral Received
- 16/12/2010 – Environmental Health Referral Received.
- 21/01/2011 – Phase 2 contamination assessment requested.
- 01/02/2011 – Application called to Council by Cr McKenzie "so Council can make a decision due to slow process"
- 03/02/2011 – Additional Engineering Referral Received
- 04/02/2011 – Engineering Information Requested
- 17/02/2011 – Phase 2 Contamination assessment received
- 28/02/2011 – Additional Engineering detail received
- 19/04/2011 – Report to Council

FINANCIAL/RESOURCE IMPLICATIONS

Should Council adopt the recommendation and refuse the development application, the applicant may appeal to the Land and Environment Court. Defending the Council's determination would have financial implications.

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council's Policy.

The development application is inconsistent with Council's Policy with respect to Aircraft Noise and the provisions of Development Control Plan 2007.

A restaurant is prohibited in the Rural 1(a) zone. In this case, the development and Council's capability of granting consent relies upon the extensive playground area and the related legal interpretation that this is a "tourist facility" as the appropriate legal definition for development assessment purposes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Approval of the development as proposed would have the adverse social implication creating an outdoor recreation/tourist facility that is subject to unacceptable levels of aircraft noise exposure. Notwithstanding the above, an outdoor recreation/tourist facility would have favourable socio-economic benefits.

Attenuation of an outdoor area is considered to be unlikely and as such the application should not be supported.

No adverse economic implications have been identified.

No adverse Environmental implications have been identified.

CONSULTATION

The application was exhibited in accordance with Council policy and seventeen (17) submissions were received. Fifteen (15) submissions supported the proposal while two (2) opposed the development. These are discussed in the Attachments.

OPTIONS

- 1) Adopt the recommendation;
- 2) Reject or amend the Recommendations.
Should Council reject the recommendation and ultimately approve the proposal, it is recommended that reasons for the policy departure and subsequent risk impacts be resolved/detailed by Council.

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment;
- 3) Draft Conditions of Consent.

COUNCILLORS ROOM

- 1) DA Plans;
- 2) Statement of Environmental Effects.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

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

THE PROPOSAL

The development application proposes a McDonalds Family Restaurant and Tourist Facility (Recreation) at No. 4 Lavis Lane Williamstown.

The development includes the McDonalds Restaurant and McCafe and a Tourist Facility comprising children's recreation activities.

The tourist facility portion of the development has an area of approximately 620m² and will accommodate the following features;

- Several large childrens play equipment stations.
- Picnic Tables and bench seating
- Shades over eating areas
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- Pedestrian paths and landscaping.

The Restaurant component of the application includes a single storey building with a floor area of some 373m² including;

- Indoor dining area for 59 people and a terraced dining area for 35.
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- Toilet facilities
- Kitchen
- Staff Facilities
- Drive through with 2 ordering lanes.
- Carparking for 38 vehicles
- Landscaping including 2 flag poles.

THE APPLICATION

Owner	Mr D R Gaddes
Applicant	McDonalds Properties
Detail Submitted	Statement of Environmental Effects Development Plans Phase 1 & 2 Contamination Report Aircraft Report

THE LAND

Property Description	Lot 91 DP 837152
Address	4 Lavis Lane Williamstown
Area	9135m ²

Dimensions	Irregular shape with dual frontages to Nelson Bay Road and Lavis Lane.
Characteristics	Flat, cleared land.

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning Relevant Clauses	1 (a) - Rural 11, 14A, 15, 37, 38, 41, 42, 44, 47, 51A
Development Control Plan 2007	B2 – Environmental Construction and Management B3 – Parking, Traffic and Transport B12 – Advertising Signs
State Environmental Planning Policies	SEPP 55 – Remediation of Land SEPP 64 – Signage SEPP 71 – Coastal Protection SEPP (Infrastructure)

Discussion

STATUTORY PROVISIONS

State Environmental Planning Policies (SEPP)

SEPP 55 – Remediation of Land

SEPP 55 provides a state-wide planning approach to the remediation of contaminated land for the purpose of reducing risks to human health and the environment.

Clause 7 states;

7 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land

specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

- (a) land that is within an investigation area,
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Agricultural/Horticultural land uses are identified as activities that may cause contamination (table 1 of Contaminated Land Planning Guidelines) and as such the site is considered to have previously accommodated a potentially contaminating activity. The applicant has submitted a Phase 1 Environmental Investigation.

The phase 1 assessment noted that the site had the potential for contamination due to previous agricultural activities along with the potential for hydrocarbons from the adjacent service station. The investigations recommended a phase 2 Detailed Site investigation.

A Phase 2 Environmental site Assessment was prepared by Environmental Strategies (Ref: 11003RP01_v01, Dated: Feb 2011). The report concluded the following;

The geology of the site generally comprises a thin layer of fill made-up of reworked sand overlying natural clayey sand and sand. Groundwater was encountered in soils during drilling at a depth of approximately 2.5m below grade. The standing water level once the wells had been left to stand for at least 5 days was between 1.1 and 1.5m below grade, indicating a confined aquifer system.

The concentrations of contaminants of concern in soil were reported to be below the commercial/industrial land use criteria as defined under the NEPM (1999) Schedule B (1).

Zinc and copper were detected above the ANZECC (2000) 95% level of protection for freshwater species in the groundwater on the site. The up-gradient well was found to have the greatest concentrations of these metals and therefore it is considered that the site is not contributing to the contaminant load.

The site is suitable for commercial/industrial land use. A more sensitive land use such as residential or open space would require further investigation to ensure the concentration of contaminants does not pose a risk to human health or the environment.

ES considers the site to be suitable for the proposed land use and does not make recommendations for any further investigation at the site.

It is considered that there is no contamination issues that preclude the proposed development from the site and no remediation is considered necessary.

SEPP 64 – Advertising and Signage

SEPP 64 regulates signage including advertising. The policy applies to all signage in NSW that is permissible with or without development consent. Under another environmental planning instrument and that is visible from a public space.

Clause 3 sets out the aims and objectives of the SEPP.

3 Aims, objectives etc

(1) This Policy aims:

- (a) to ensure that signage (including advertising):*
 - (i) is compatible with the desired amenity and visual character of an area, and*
 - (ii) provides effective communication in suitable locations, and*
 - (iii) is of high quality design and finish, and*
- (b) to regulate signage (but not content) under Part 4 of the Act, and*
- (c) to provide time-limited consents for the display of certain advertisements, and*
- (d) to regulate the display of advertisements in transport corridors, and*
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

(2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.

The proposed signage is clearly identified as being associated to the proposed development and is wholly located on the subject site. The general area while rural in nature does contain a localised cluster of development around the Roundabout area. When considered in this context the development is consistent with the character of the area.

Therefore, the signage is considered to be consistent with the aims and objectives of the SEPP.

Schedule 1 of the SEPP outlines the assessment criteria for signage.

1 Character of the area

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The development is consistent with the character of the immediate locality. Directly adjacent to the site across Lavis Lane stands an existing Metro Service Station. The proposed development is consistent with this existing commercial operation on the roundabout.

Given the uses adjacent to the site, and the airport further to the north, it is considered that the proposed signage will not be in consistent with the immediate area.

2 Special areas

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The development signage will not detract from the amenity or scenic quality of the locality. The signage is located on one corner of a roundabout and is consistent with adjacent signage for the Metro Service Station and is also consistent with signage in the nearby airport precinct.

3 Views and vistas

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

It is not considered that the proposed signage will compromise important views, nor will it dominate the sky line.

4 Streetscape, setting or landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*

- *Does the proposal require ongoing vegetation management?*

The scale of the signage is consistent with that on the adjacent Metro Service Station. All signage, except the pylon sign, is integrated into the building bulk which in turn reduces clutter.

The cleared nature of the site reduces the need for vegetation management with management only required for vegetation proposed as site landscaping.

5 Site and building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

It is considered that the proposed pylon signage is consistent and compatible with the built form of the restaurant building.

6 Associated devices and logos with advertisements and advertising structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

No safety devices have been proposed for the signage.

7 Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

The signage is proposed to be illuminated during all hours of darkness. Notwithstanding this, it is not considered that the illuminated sign will impact on any properties or aircraft due to the soft nature of the lighting.

8 Safety

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

It is not considered that the proposed signage constitute a safety hazard.

SEPP 71 – Coastal Protection

Policy 71 aims to protect and manage the New South Wales coast and foreshores and requires certain development applications in sensitive coastal locations to be referred to the Director-General for comment, and it identifies master plan requirements for certain development in the coastal zone.

The site is located within the Coastal Zone. Refer to the following assessment of SEPP 71 and the Coastal Policy.

SEPP 71 – provides a consistent and strategic approach to coastal planning. It provides a clear development assessment framework for development in the NSW coastal zone ensuring development is appropriate and suitably located and managed. In accordance with clause 2 the proposed development satisfactorily meets the aims of the policy. In accordance with clause 8 the development is consistent with the prescribed matters for consideration.

The proposal of a Tourist Facility and Restaurant in a rural location will not impact on the foreshore and it is not seen as the type of development that needs to be assessed under policy 71 at a state level. As such the application is acceptable under Policy 71.

SEPP (Infrastructure) 2007

Division 17 of SEPP (Infrastructure) relates to this proposal. Clause 101 sets out matters to be considered when determining an application fronting a classified road.

The submitted traffic report concludes that the safety and efficiency of the road will not be adversely impacted upon by the development. Access to the site is provided by an alternate road (Lavis Lane). It is considered that the proposal satisfies SEPP (Infrastructure).

Schedule 3 of SEPP (Infrastructure) outlines the types of developments that require referral to the Roads and Traffic Authority for concurrence. The development access Lavis Lane at a distance of greater than 100m from Nelson Bay Road and as such is not subject to the triggers in Column 3. The development is also considered to not meet any of the triggers within Column 2.

As the development is not identified in either column 2 or 3, referral to the RTA is not considered to be required.

Port Stephens Local Environmental Plan 2000 (PSLEP 2000)

Clause 11 – Zone Aim, Objectives and Description

Objectives of the zone

The objective of the Rural Agriculture “A” Zone is to maintain the rural character of the area and to promote the efficient and sustainable utilisation of rural land and resources by:

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

It is considered that the proposal will not result in the fragmentation of rural land. The subject site by its very nature is currently fragmented from the surrounding rural zoned lands by way of being completely surrounded by road reserve on all sides. The site itself is of a size that is unlikely to support and sustain a viable agricultural usage. As such the use of the site for the proposed development is not considered to contribute to the degradation of incremental loss of valuable agricultural land.

In the immediate locality there is an existing Metro Service Station which serves as a hub for recreational users of the Stockton Sand Dunes. The proposed development will be similar in its tourist and recreation commercial based character and will create a service node focused on the roundabout. It is not considered that this scenario will have a detrimental impact upon the existing amenity of the locality.

It is not considered that the development will impact on the ability of surrounding land holders to undertake a rural activity on their allotments.

It is considered that the development is consistent with the 1(a) – Rural Zone objectives.

Permissibility

Within the Rural 1 (a) zoning developments for the purpose of a restaurant are only permissible when in conjunction with an approved Tourist Facility (refer clause 14A).

The applicants supporting documentation asserts the following;

"Restaurants" and "tourist facilities" are not listed as prohibited or permissible without consent and as such development is permissible with consent.

- *Restaurant is defined as a building or place used principally for providing prepared food to people for consumption on the premises or to take away (or for preparing both kinds of food).*
- *Tourist Facility means an establishment providing primarily for tourist accommodation, recreation or both.*

No specific definition for tourist recreation is provided and as such the applicant has considered the definitions of recreation areas and recreation facilities. Of most relevance to the proposal is the definition of recreation area.

- (a) a children's playground*
- (b) an area used for sporting activities or sporting facilities*
- (c) an area used to provide recreational facilities for the purposes of the physical, cultural or intellectual welfare of the community, and*
- (d) an area used by a body of persons associated for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for the purposes but does not include a racecourse, race track or a show ground.*

The proposal consists of a restaurant and tourist facility. The tourist facility comprising a children's playground.

The definition of Tourist Facility does not require that any proposal demonstrate the sole usage of the facility by tourists. The applicant further provided the following factual material to support the tourist facility and that the recreation facility can provide primarily for tourist recreation once established.

- *It is not envisaged that a Children's Recreation Area by its very nature will be used by commuters and/or business users.*
- *The development is located within 500m of the Newcastle Airport which provides linkages to Melbourne, Brisbane, The Gold Coast and other regional areas. The applicant considers that a number of users with families who will be attracted by the tourist facility.*
- *The development is at a key intersection of Nelson Bay Road which is an arterial route to Nelson Bay. As Nelson Bay is the key tourist destination in the LGA it is considered that many tourists travelling by will utilise the facility.*
- *Lavis Lane provides a primary point of access to the Stockton Sand Dune system, which itself is a popular tourist destination. It is not unreasonable to expect that usage of the tourist facility will occur by this demographic.*

- *The nature of the development incorporates two bus/coach parking bays. It is not McDonalds standard practice to provide any bus/coach parking bays at new store developments. Accordingly, to provide two as proposed is a clear indication of an expectation of high volumes of bus/coach visits to the site. It is expected that overwhelmingly, this will be carrying tourists.*
- *The area surrounding the Recreation Area is very sparsely populated with very few residential properties within the immediate restaurant trade area. McDonald success in operating over 800 Family Restaurants nationally is based upon a 3 minute drive time, creating convenience lines at these three minute boundaries around the site. The Williamtown development would not be near feasible if the trade area within a 3 minute drive was relied upon. The reliance on tourist patronage of the Recreation Area, and the functional nexus that exists between it and the restaurant makes the development feasible.*
- *The Port Stephens Tourism Plan 2010 (Action Plan) supports the notion that the Recreation Area will be heavily used by tourists.*

The applicant considers that the above points provide factual information that demonstrate that the proposed recreation area will be primarily for tourist use and allows Council to establish the relevant jurisdictional fact that the proposal is permissible with consent.

Council obtained legal advice based upon the above justification and factual material and Councils Executive Planner confirmed with the applicant on 18/10/2010 of the permissibility of the application.

Clause 14(a) – Hotels and restaurants in zone 1(a)

Clause 14 states;

- (1) This clause applies to land within Zone No 1 (a).*
- (2) Despite any other provision of this plan, the consent authority must not consent to development of any land to which this clause applies for the purpose of a hotel or restaurant unless the development is in conjunction with a tourist facility.*

The permissibility of the development is discussed above under the heading Permissibility.

Clause 15 – Advertisements in Rural Zones

Clause 15 states;

A person shall not display an advertisement on land within a rural zone other than an advertisement that relates to development on that land, or to premises situated on that land.

The development is consistent with this clause in that the proposed signage relates to the development site.

Clause 37 – Objectives for development on flood prone land

Clause 37 sets the objectives of development on flood prone land;

The objectives for development on flood prone land are:

- (a) to minimise risk to human life and damage to property caused by flooding and inundation through controlling development, and*
- (b) to ensure that the nature and extent of the flooding and inundation hazard are considered prior to development taking place, and*
- (c) to provide flexibility in controlling development in flood prone localities so that the new information or approaches to hazard management can be employed where appropriate.*

The development is considered to be inconsistent with the objectives contained within Clause 37 - Refer to section on flooding.

Clause 38 - Development on flood prone land

Clause 38 states;

- (1) A person shall not carry out development for any purpose on flood prone land except with the consent of the consent authority.*
- (2) Before granting consent to development on flood prone land the consent authority must consider the following:*
 - (a) the extent and nature of the flooding or inundation hazard affecting the land,*
 - (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,*
 - (c) whether the risk of flooding or inundation affecting the proposed development could reasonably be mitigated and whether conditions should be imposed on any consent to further the objectives of this plan,*
 - (d) the social impact of flooding on occupants, including the ability of emergency services to access, rescue and support residents of flood prone areas,*
 - (e) the provisions of any floodplain management plan or development control plan adopted by the Council.*

The development is considered to be inconsistent with the objectives contained within Clause 38 - Refer to section on flooding.

Clause 41 – Direct Access to Certain Roads is Restricted.

This clause requires that no new means of access are created on land fronting Nelson Bay Road. As the development is to be accessed via Lavis Lane, it is considered that the development is consistent with this clause.

Clause 42 – Development Along Arterial Roads.

This clause requires that consent shall not be granted for land with a frontage to a main road unless access is provided by way of an alternate road, and the safety and efficiency of the arterial road will not be affected by the development.

Nelson Bay Road is defined as an Arterial Road and as such this clause is applicable to the development. The site is accessed via an alternate access and as such is considered to be consistent with this clause.

Clause 44 – Appearance of land and buildings

As the site is not affected by bushfire or vegetation constraints the site is considered to be suitable with respect to site suitability.

The proposed structures will not be of high reflectivity and are appropriately set back from the road frontage. The maximum height of the development is approximately 6m and as such it is considered that the development will not present any adverse impacts in terms of visual amenity.

Clause 47 – Services

The site is currently serviced by all essential services other than reticulated sewer. The removal of waste water and drainage has been considered in the application and the proposal is considered to be consistent with this clause.

Clause 51A - Development on land identified on Acid Sulfate Soils Planning Map

The site is identified as being in Class 3 Acid Sulfate Soils. The proposed waste water holding tanks are to be located below ground level and as such an Acid Sulfate Soils Management Plan is required.

An Acid Sulfate Soils Assessment and Management Plan (Douglas Partners, Project 49568.01, September 2010) was submitted with the application. The report concluded that potential Acid Sulfate soils are present on the site.

Based on the report, any excavations below 1m (The water table) should be undertaken with reference to the Acid Sulfate Soil Management Plan. A condition of consent has been included to give effect to this.

Port Stephens Council Development Control Plan 2007

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

B2 - Environmental and Construction Management

The application has been assessed against the applicable provisions of Port Stephens Development Control Plan, 2007 – Environmental and Construction Management, as follows:

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DCP Control	Control	Applicable	Compliance
B2.2	General Standards	Yes	Yes
B2.3	Water Quality Management	Yes	Yes
B2.4	Acid Sulfate Soils	Yes	Yes
B2.5	Landfill	Yes	Yes
B2.6	Contaminated Land	Yes	Yes
B2.7	Vegetation Management	Yes	Yes
B2.8	Koala Management	N/A	N/A
B2.9	Mosquito Control	Yes	Yes
B2.10	Weed Control	Yes	Yes
B2.11	Tree Management	Yes	Yes
B2.12	Waste Water	Yes	Yes
B2.13	Aircraft Noise	Yes	No

Section B2.13 – Aircraft Noise

Clause B2.13 Aircraft Noise stipulates the requirements for developments in Aircraft Noise affected areas.

The subject site is identified as being located within the 30-35 Aircraft Noise Contour under both the ANEF 2025 and ANEC 2025 Aircraft Noise Maps. Under this noise zone, both the DCP2007 and Australian Standard 2021-2000 classify Tourist Facility as "unacceptable" development.

It is noted that Australian Standard 2021-2000 does not recommend development in unacceptable areas. It recommends that should a development be approved that it demonstrate that achieving the aircraft noise reduction (ANR) in accordance with Australian Standard 2021-2000 is possible. Given the Tourist Facility, an outdoor recreation area, is an outdoor facility, attenuation of the noise has not been demonstrated and is considered to be unlikely to be achievable.

The development is contrary to both Development Control Plan 2007 and Australian Standard 2021-2000 and as such should be refused.

Comments

The application is considered unsatisfactory with regards to section B2 – Environmental and Construction Management.

B3 – Traffic and Parking

The application is considered satisfactory with regards to section B3 – Traffic and Parking.

The proposal seeks to provide some 38 parking spaces, a drive through facility with storage for 15 cars, and a bus loading bay. The restaurant provides for 106 seats.

DCP 2007 requires 15 spaces per 100m² or 1 space per 3 seats which equates to 35 parking spaces.

It is considered that the provided parking spaces in conjunction with the queuing capacity of the drive through result in adequate parking for the proposal and consistent with DCP requirements.

B12 – Advertising Signs

Section B12 sets controls for which signage can be implemented without development consent. It is considered that in this instance the signage does require development consent and an assessment of the signage can be found in this report under the heading SEPP 64.

Flooding

Council's Flood Engineer provided the following advice with respect to the proposed development.

The Williamstown/Salt Ash Flood study predicts that the 1% AEP flood level for the site is RL 1.2 m AHD. Nelson Bay Road at this location acts as a flood levy and flood levels on the western side of Nelson Bay Road are significantly higher at RL 1.9 m AHD. With the release of the Department of Planning Guidelines on adapting to sea level rise Council is now required to consider the impacts of sea level rise on flood levels for the property. It is likely that sea level rise will have a significant impact on flood levels in the Williamstown area. As such Council is about to commence a revision of the Williamstown/Salt Ash Flood Study to include modelling for the NSW Governments adopted sea level rise benchmarks of 40 cm by 2050 and 90 cm by 2100. Until then Council is adopting the precautionary principle and adding 0.9 m to the predicted flood levels on the basis it represents the worst case scenario.

On this basis the sea level rise compliant flood levels on the western side of Nelson Bay Road will be RL 2.8 m AHD while on the development side it will be RL 2.1 m AHD. It is however noted that the flood waters overtop Nelson Bay Road in the area when the flood level reaches RL 2.2 m AHD therefore the western side flood level would then be the most appropriate for the site.

Therefore it is considered that on currently available information I consider the 1 % AEP flood level for the site is RL 2.8 m AHD when sea level rise impacts are accounted for. It is noted that even the Worley Parsons Flood Emergency Response Study submitted with the application predicts the 1 % AEP flood level accounting for climate change impacts to be RL 2.71 m AHD.

Council requires a 500 mm freeboard for its flood planning level therefore the appropriate Flood Planning Level for the site is considered to be RL 3.3 m AHD. The floor level for the restaurant will need to be at or above this level. The current plans show the floor level to be at RL 2.7 m AHD therefore the plans will need to be amended to raise this level by 600 mm.

Council has also adopted an Infrastructure Planning Level (IPL) of RL 2.5 m AHD for climate change impacts. This has been set to protect infrastructure from future inundation as a result of the impact of climate change on high tide levels and does not include protection from flooding associated with

storm events. It is noted throughout the submitted documentation that a flood level including climate change impacts of 2.5 m AHD was sourced from Port Stephens Council. Whilst I was not the person to provide this advice I suspect that the recipient of this advice has misunderstood Council's advice.

The impact of the IPL on this application is that the car park area and the playground area will both need to be at or above the IPL. The current plans show the playground at RL 1.9 m AHD and the car park and drive through area at between RL 1.0 m AHD and RL 2.5 m AHD. Therefore these areas also need to be raised to comply with Council's flood requirements.

I have reviewed the Flood Emergency Response Study and deem it satisfactory though some minor amendments will need to be made as a result of the required level changes for the site. A detailed Flood Emergency and Evacuation Plan will be required to be completed and implemented prior to occupation of the premises. I am satisfied however that this study has demonstrated that a suitable flood emergency and evacuation plan could be prepared for the development.

The proposed McDonald's Restaurant and Playground can not be supported in its current format as it does not comply with Council's requirements in regard to flooding and adapting to future sea level rise. To comply the following changes need to be made to the development;

1. The minimum floor level for the building is to be RL 3.3 m AHD.
2. The playground and car park / drive through area are not to be below RL 2.5 m AHD.

The Flood Emergency Response Study though considered satisfactory will need some minor amendment as a result of the design changes required in points 1 & 2 above.

Conditions of consent have been drafted to address the above concerns.

Engineering Issues

Council's development engineer undertook an assessment of the proposal and provided the following comments that were forwarded to the applicant.

Minor Stormwater System

The proposed plans include a large carpark with no minor drainage system. Drainage from a substantial impervious area appears to be by overland flow to a single outlet at the North-Eastern corner of the carpark to Lavis Lane. This is considered by Council to have the potential to generate unnecessary surface flooding in minor events (up to the 10 year ARI). The plans should therefore be amended accordingly.

Stormwater Detention and Minimisation

The amount of impervious are proposed for the site is likely to increase both the peak stormwater discharge and total discharge volume generated from the proposed development. The site is immediately upstream of a known drainage problem area. Therefore every reasonable effort should be made to reduce both runoff volumes and peak discharges to levels that are comparable to the existing conditions to minimise the adverse impacts to downstream land owners by this development. The stormwater plan should be amended to include measures that would reduce the discharge peak and total discharge volume leaving the site. It should be noted that the current zoning of the land (Rural Agriculture) does not permit the use of dedicated stormwater detention basins.

Additional detail was subsequently submitted to Council and conditions of consent have been drafted to address any Engineering Issues.

Wastewater

Councils Wastewater Officer provided the following comments in relation to wastewater disposal.

The wastewater servicing strategy within the Statement of Environmental Effects (Hughes Trueman Report, Appendix 10) proposes 2 solutions for generated sanitary and trade wastes. The 2 solutions include on-site treatment, reuse and disposal and effluent pumpout.

The provided information relating to the 2 solutions is very early stage, conceptual only and very brief. Undertaking an assessment is difficult in this regard but the following comments are made:

- *The DCP (B2.C55) states that development based on effluent pumpout system is not permitted.*
- *The construction of a sewerage system is an activity captured under Schedule 3 designated development, C29(b) Sewerage Systems (Environmental, Planning and Assessment Regulation).*
- *The DAREZ development permits an effluent pumpout as an interim solution for stage 1 only. Progression past this stage is subject to many variables, therefore a timeline for construction of sewer infrastructure is not known and in fact there is no guarantee that sewer infrastructure will ever be available.*
- *Validation data and associated information on waste generation volumes has not been provided.*
- *Information supporting the construction of a treatment system utilising reuse and irrigation is very limited. The reuse (in a public context) of treated effluent is subject to a stringent assessment process.*
- *The provided information does not validate that the size of the allotment is capable of accepting the volume of effluent generated, should the treatment system option be selected (or enforced).*

- *Reference to the statement "Discussions with HWC have indicated they support the removal of waste via tanker rather than treatment and reuse due to groundwater issues". Raising the issue of groundwater is a valid point but a constraint that can be overcome through careful and appropriate system selection and design.*

It is my opinion that the proposal to construct and utilise an "interim" effluent pumpout facility based on the assumption that sewer infrastructure will be constructed as a result of another development is questionable and should not be considered as a viable long term solution based on the limited information provided.

The construction of an effluent treatment system with reuse and irrigation is considered a viable and sustainable solution providing certainty moving forward. That said it is a proposal that due to the site constraints would be subject to a stringent assessment process, on many levels, involving a number of government agencies and stakeholders. As an example the activity would be captured under:

- *Local Government (General) Regulations;*
- *EP&A Regulation - Designated development;*
- *NSW Groundwater Framework policy;*
- *NSW Guidelines for Management of Private Recycled Water Schemes.*

It is important that this matter be considered at the DA assessment stage as it is not an activity that can be dealt with by way of DA conditions.

To move forward in this matter the applicant will need to provide significantly more information covering all the matters raised above. Considering the facts as they currently exist it is unlikely that I would support development based on effluent pumpout.

Due to the "Tourist Facility" being unacceptable on the site as a result of aircraft noise and a stand alone restaurant being prohibited, the wastewater issue was not pursued with the applicant as resolution of the issue would still result in the development being unable to proceed due to aircraft noise impacts.

Following the resolution of Council calling for draft conditions of consent, conditions were drafted based upon the information currently before council.

2. Likely Impact of the Development

Approval of the development will result in the creation of an outdoor recreation area (Tourist Facility) that is subject to high levels of Aircraft Noise Exposure. The levels of Aircraft noise exceed that permissible by Australian Standard 2021-2000 and Development Control Plan 2007, and being an outdoor recreation area attenuation of the Aircraft Noise will not be achievable.

3. Suitability of the Site

Due to the site constraint of Aircraft Noise, the outdoor recreation facility will be subject to high levels of aircraft noise. Being an outdoor facility, any aircraft attenuation is considered to be highly unlikely and as such the development site is considered to be unsuitable for the development.

The site is also subject to flooding and wastewater constraints which have not been adequately addressed by the application.

4. Submissions

The application was exhibited in accordance with Council policy and seventeen (17) submissions were received. Fifteen (15) submissions supported the proposal while two (2) opposed the development.

Issues raised in the two submissions objecting to the proposal include;

- Permissibility of the development
- Roadside Litter
- Stormwater and Flooding

These issues are all discussed elsewhere in this report.

5. Public Interest

It is not considered to be in the public interest to approve this application due to the unacceptable exposure to aircraft noise that users of the "Tourist Facility" would be subjected to.

ATTACHMENT 3
DRAFT CONDITIONS OF CONSENT

STANDARD CONDITIONS

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. Works shall not commence until such time as a construction certificate, where necessary, has been issued for the works approved by this application.
3. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
4. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
5. The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.

PLANNING DRAFT CONDITIONS OF APPROVAL

6. Landscaping shall be carried out in accordance **with the approved Landscape Plan** prepared by Site Image Landscape Architects and dated 19/07/2010. The landscape designer must provide a compliance certificate to the Principal Certifying Authority certifying that the landscaping has been carried out in accordance with the approved plan, **prior to the issue of the Occupation Certificate**. Where Council is not the Principal Certifying Authority, a copy of the certificate must be provided for Council's records.
7. Should the outdoor recreational area cease to operate as a Tourist Facility, the Restaurant component of the development shall also cease to operate.
8. The outdoor recreational area shall be accessible to members of the public at all times.
9. Signage shall be erected in the outdoor recreation area advising of the indoor attenuated play area.
10. The development shall provide 38 on-site car parking spaces, including 1 disabled parking spaces. These spaces shall be separately accessible, clearly

line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with the Section B3 – Parking, Traffic and Transport, of Port Stephens Development Control Plan 2007. Car parking must be provided **prior to the issue of the occupation certificate or use of the development.**

11. The advertisement shall relate to the approved development or premises situated on that land. The advertisement must be maintained in a presentable and satisfactory state of repair.
12. The development shall be constructed in accordance with the recommendations contained in the Acid Sulfate Soils Management Plan prepared by Douglas Partners (project: 49568.01) dated September 2010 prepared in accordance with the Acid Sulfate Soils Manual.
13. The development shall operate in accordance with the Waste Management Plan (McDonalds Australia Limited) contained within Appendix 6 of the Statement of Environmental Effects.
14. Only Virgin Excavated Natural Material (VENM) in accordance with the Environmental Protection Agency NSW statutory definition shall be used for the approved land filling activities. The use of any material other than VENM may require an EPA licence for use as a landfill. The use of any material other than VENM for land filling purposes, without prior approval of council is prohibited. Council will insist on the removal of any prohibited material.
15. Upon completion of any landfill activities, submit a survey plan prepared by a registered surveyor confirming that the landfilling has been undertaken in accordance with the approved plans and documentation. Council will insist on the removal of excessive fill.
16. The following measures shall be implemented to minimise soil erosion:
 - a) All available topsoil shall be stockpiled and re-used at the completion of the earthworks.
 - b) The area of disturbance shall be kept to a minimum.
 - c) All stockpiles shall be spread and compacted within 4 weeks of placement on site.
 - d) The fill shall be progressively rehabilitated and stabilised with any partially completed filling areas being rehabilitated and stabilised if left untouched for more than 3 months.

3) All disturbed areas shall be stabilised within 14 days of completion of the filling operations with topsoil being spread evenly and lightly rolled prior to grass cover by either turfing or seeding.

ENGINEERING DRAFT CONDITIONS

Utilities

17. All adjustments to existing utility services made necessary by the development are to be undertaken by the developer at no cost to Council.

Drainage System

18. The approved constructed stormwater drainage, detention, infiltration and water quality system shall be serviced, maintained and have all necessary measures undertaken in a timely manner to function and perform as to its designed intent for the life of the development.

Cost to the developer

19. Where Council investigation or design is required for any public works the cost is to be met by the developer.

Written permission from neighbours

20. Any works on adjoining properties including discharge of stormwater and disruption of access will require written consent from the affected parties prior to the approval of the engineering drawings.

Retaining Walls

21. Retaining walls shall be designed and certified by a qualified structural engineer in accordance with AS 4678 Earth Retaining Structures code of Australia. The retaining walls shall be located fully within the boundaries of the subject property.

Works within the road reserve

22. All works within the road reserve shall be designed and constructed in accordance with council's Infrastructure Specifications and approved by council.

STANDARD BUILDING CONDITIONS

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

When the construction site is in operation the L₁₀ level measured over a period of not less than 15 minutes must not exceed the background by more

than 10dB(A). All possible steps should be taken to silence construction site equipment.

26. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
27. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
28. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the Roads Act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted.
29. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. **Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.**
30. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.

Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing Urban Stormwater – Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.

31. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
32. The principal certifying authority shall only issue an occupation certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of consent. No occupational use is permitted until the principal certifying authority issues an occupation certificate. Note: if an accredited certifier approves occupation, the accredited certifier is to immediately notify council in writing.
33. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the

implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council. If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.

34. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

FLOODING CONDITIONS

35. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005).
The Flood Planning Level for this development is 2.9 metres AHD.
The Infrastructure Planning Level for this development is RL 2.5 metres AHD.

The following design precautions must be adhered to:-

- a. The floor level of the building is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level.
- b. The level of the carpark area, drive through area and the playground is to be located at a height of not less than the infrastructure planning level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level.
- c. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge.
- d. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods.

- e. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible.
- f. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level.
- g. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed.
- h. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.
- i. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level.
- j. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.

ENVIRONMENTAL HEALTH CONDITIONS

- 36. The fit out of food preparation, storage and service areas are to comply with Australian Standard 4674-2004.

WASTEWATER CONDITIONS

- 37. The development is to be connected to the sewer of Hunter Water Corporation.
- 38. **Prior to release of the construction certificate** written evidence must be submitted from the Hunter Water Corporation that satisfactory arrangements have been made for the provision of sewer services to the proposed development.
- 39. Sewer services for the development shall not be a "non-standard" agreement but shall be a pressure sewer system design meeting the requirements of Hunter Water Corporation and shall be sized to accommodate future development in the area.
- 40. Until the development and completion of the Williamstown Sewerage Transfer Scheme (WSTS) the development may be serviced by an interim pump-out sewerage facility. The interim sewerage pump-out facility will be subject to an Approval to Operate from Port Stephens Council.
- 41. **Prior to release of the Occupation Certificate** an application shall be submitted to Council and an approval issued for an Approval to Operate a System of Sewage Management, being either an interim pump-out

sewerage facility or a pressure sewer system. The application shall be in accordance with sections 68 and 68A of the Local Government Act, 1993.

42. Prior to the completion of the Williamstown Sewerage Transfer Scheme (STS) and **prior to the release of the Construction Certificate** documentary evidence from Hunter Water Corporation must be submitted to Port Stephens Council stating that satisfactory arrangements have been made for the provision and ongoing servicing of an interim pump-out sewerage facility.
43. Documentary evidence from Hunter Water Corporation stating that satisfactory arrangements have been made for the provision and ongoing servicing of an interim pump-out sewerage facility is not required if the Williamstown Sewerage Transfer Scheme (WSTS) is available to the development **prior to completion of construction of the development**.
44. A Compliance Certificate under Section 50 of the Hunter Water Corporation Act, 1991 shall be submitted to Council **prior to the release of the Occupation Certificate**. Applications for Section 50 Certificates are to be made direct to the Hunter Water Corporation.
45. All services in public streets are to be placed underground.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

PLANNING

46. A waste management plan prepared in accordance with Section B2 – Environmental and Construction Management, of Port Stephens Development Control Plan 2007, shall be submitted and approved by the Principal Certifying Authority, which covers waste management of the construction phase of the development **prior to the issue of the Construction Certificate**.
47. A Construction Management Plan shall be submitted and approved by Council, **prior to the issue of the Construction Certificate**. The construction management plan shall specify operational details to minimise any potential impact to adjoining properties. The construction management plan should include but not limited to the following information:- Construction techniques, noise and vibration management, storage of equipment and building materials, hours of work:, primary route for truck movements, etc.
48. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Port Stephens Section 94A Development Contributions Plan, a contribution of 1% of the cost of the development, as determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000, shall be paid to Council.

The amount to be paid is to be determined in accordance with the provisions of the Port Stephens Section 94A Development Contributions Plan. The contribution is to be paid **prior to issue of the Construction Certificate**.

A Quantity Surveyor's Detailed Cost Report (**form attached**) setting out an estimate of the proposed cost of carrying out development in accordance with Schedule 2 of the Port Stephens Section 94A Development Contributions Plan must be approved by Council **prior to issue of the Construction Certificate**.

49. The development shall be constructed in accordance with the recommendations contained in the acoustic report prepared by Atkins Acoustic and dated March 2010. **Prior to the issue of any Occupation Certificate**, submit to the Principal Certifying Authority, certification confirming that the measures recommended in the acoustic report have been fully implemented. This certification should confirm specific details of measures and materials/methods of construction.
50. **Prior to Issue of Construction Certificate**, details shall be submitted to Council in relation to the proposed methods of attenuating the Restaurant and small indoor play area.

ENGINEERING

Drainage Design – Infiltration and Water Quality

51. A stormwater drainage design (prepared by a suitably qualified and experienced person who is eligible for membership to Institute of Engineers Australia) indicating all engineering details relevant to the infiltration and detention of stormwater limited to pre-development flows from the site up to and including a 1% AEP rainfall event is to be submitted to and approved by Council in accordance with Section 68 of the Local Government Act, 1993 **prior to the issue of a Construction Certificate**. Details are to include the following: existing site levels, finished levels, proposed detention tanks/ponds, calculations, water quality measures, pipeline, pit and flow control orifice sizes, grades, provision of stormwater overflows greater than the 1% AEP rainfall from the site to council's drainage system.
52. Stormwater Quality Improvement Devices (SQID's) such as bio-swales, bio-retention systems, rain gardens and constructed wetlands are to be incorporated into the drainage design. In this regard, provision is to be made for best practice Stormwater Quality Improvement Devices (SQIDs) as a treatment train to collect sediment, hydrocarbons, nutrients, pathogens, gross pollutants etc. The treatment train design is to be designed and submitted (along with accompanying model) to Council under Section 68 of the Local Government Act, 1993 for approval with the engineering drainage drawings **prior to the issue of construction certificate**. The design is to be capable of retaining pollutants in accordance with the requirements of Council's Stormwater Management Plan and Australian Runoff Quality (ARQ) and is to be designed in accordance with Water By Design's "Construction and Establishment Guidelines: Swales, Bioretention Systems and Wetlands". A Site specific Operation and Maintenance Manual is to be prepared for the system and submitted to Council for approval **prior to the issue of a Construction Certificate**.

53. All stormwater detention systems, infiltration facilities and stormwater quality improvement Devices (SQID's) shall be contained within the property boundary, details are to be provided prior to the issue of construction certificate.

Verge Crossing

54. Verge Crossing details including site plan drawn to scale showing the location, layout, levels and grades of the access are to be designed in accordance with AS 2890.1 and council's standard drawing S123 are to be submitted to and approved by Council in accordance with Section 138 Roads Act **prior to issue of a Construction Certificate.**

Denied Access

55. Access to and from the laneway to the south of the development is denied and all details relevant to this access is to be removed from the construction plans prior to the issue of construction certificate.

AUR in and Merge Tapers out intersection

56. **Prior to issue of Construction Certificate** the applicant shall submit for council approval plans, reports and details prepared by a suitably qualified and experienced Civil Engineer who is eligible for membership to Institute of Engineers Australia (in accordance with Section 138 Roads Act) for the design and construction of a type "AUR" intersection for access to the development from Lavis Lane to RTA, Councils and AUSTRROADS Standards and specifications, details shall include but not be limited to:

- a) Auxiliary right turn in facility from Lavis Lane
- b) Merge Tapers for ingress from the east and egress to the west
- c) Geotechnical report and pavement design
- d) Construction management Plan
- e) Line Marking
- f) Signage
- g) Street Lighting
- h) Drainage
- i) Landscaping.

Internal Driveway and Car Parking Design

57. Internal driveway and parking area details including site plan drawn to scale showing the location, layout and levels of the parking spaces, driveway grades, vehicle access and manoeuvring areas (swept paths are to be

included), pedestrian access and disabled manoeuvring areas designed in accordance with AS 2890.1 and AS 2890.6, are to be submitted to and approved by Council **prior to issue of a Construction Certificate**.

Screening of Drive thru

58. Prior to the issue of construction certificate the applicant shall provide details on the construction plans which provide for the removal of the opportunity for vehicle headlights array to startle, dazzle or blind vehicles using the adjacent Nelson Bay Rd and Roundabout whilst traversing the "Drive Thru" lane.

Erosion and Sediment Control and Soil Susceptibility Analysis

59. An Erosion and Sediment Control Plan in accordance with 'Managing Urban Stormwater - Soils & Construction', Department of Housing, 2004 Manual is to be (prepared by a suitably qualified and experienced person who is eligible for membership to Institute of Engineers Australia) submitted for Council's approval **prior to the issue of a Construction Certificate**. The plan is to include an analysis of the susceptibility of the soil to erosion and is to detail from the analysis temporary and permanent measures proposed to be installed. All erosion and sediment control measures undertaken on the site are to conform to the specifications and standards contained in the document 'Managing Urban Stormwater - Soils & Construction', Department of Housing, 2004 Manual.
60. **Prior to the issue of Construction Certificate** the following applicable fees shall be paid to council in accordance with Council's Schedule of fees and charges:
- a) 17 d) – Roads Act Miscellaneous Fee
 - b) 18 c) - Stormwater Approval and Inspection Fee.

During Construction

Erosion and Sediment Controls

61. **During construction** no release or flow is permitted from the site, throughout the earthworks and construction period, to any waterway, or stormwater drain or drainage line leading to a waterway or area of native vegetation, unless the level of Total Solids does not exceed a concentration of **50 milligrams per litre**.
62. **During construction** the Sediment and Erosion Control Plan must be updated as required to reflect construction activities which vary site conditions and/or where objectives/targets are not being met. The Sediment and Erosion Control Plan must also be updated as required to incorporate current standards, best practices, and plant modifications, but any modifications with the potential to result in increased environmental impacts shall be approved in advance by Council. All modifications shall be in accordance

with 'Managing Urban Stormwater - Soils & Construction', Department of Housing, 2004 Manual.

63. **During construction** all erosion and sediment control measures must be properly and effectively maintained, and must be in good working order and condition at the completion of each day's work in accordance with 'Managing Urban Stormwater - Soils & Construction', Department of Housing, 2004 Manual.

Traffic Management

64. **During construction** all pedestrian and traffic controls shall be designed, documented and implemented in accordance with the RTA's Traffic Control at Worksites Manual. Where partial closure or complete closure of a road is required council is to be notified 48 hrs in advance and approval must be obtained **prior to commencement of that activity** in accordance with Section 138 of the Roads Act.

Deliveries

65. **During construction** all vehicles being loaded or unloaded are to be parked wholly within the subject land.

Airport Height Limits

66. **During construction** all plant and equipment shall strictly observe the airport height limits and restriction associated with Newcastle Airport and RAAF Base.

Prior to OC Intersection Works

67. Construction of the required intersection and access works are to be completed **prior to the issue of Occupation Certificate**.

Internal Driveway and Car Parking Construction

68. Parking areas, access lanes and vehicle movement areas are to be constructed, drained and concreted or bitumen sealed with the parking spaces permanently and clearly identified. This work shall be completed **prior to the issue of an Occupation Certificate**.
69. Full width reinforced concrete verge crossings are to be provided by the applicant at all approved vehicle entry location points at no cost to Council. A Roads Act Application is to be submitted to Council for approval, with the appropriate fee, prior to the commencement of construction. Vehicular crossings are to be designed and constructed in accordance with Council's standards (Standard Drawing S123 Light Industrial / Commercial driveway crossover) and completed **prior to the issue of an Occupation Certificate**.

WAE

70. **Prior to the issue of Occupation Certificate** work-as-executed (WAE) details from a registered surveyor are to be submitted to council to verify the size and volume of the infiltration/detention storage and water quality system has been constructed in accordance with the design requirements. Any significant variations must be supported by amended calculations.
71. A works-as-executed plan (WAE) from a registered survey is to be submitted showing levels on any driveways, parking areas, floor levels and any changes to the original land levels **prior to the issue of an Occupation Certificate**.

Damage to roads

72. The applicant is to repair any damage to existing roads and concrete foot paving caused during the construction works, in accordance with Council requirements **prior to the issue of an Occupation Certificate**.

ENVIRONMENTAL HEALTH

73. **Prior to the issue of Construction Certificate** plans and specifications are to be submitted to Council showing details of the food preparation and storage area layouts and design. Details and method of installation are to be provided of all fixtures, fittings and equipment including mechanical ventilation together with construction details and finishes of floors, walls and ceilings.

These are to be submitted for assessment and approval of Council's Environmental Health Officer/Food Surveillance Officer. The assessment will incur a fee in accordance with Council's schedule Fees & Charges.

74. **Prior to the issue of an Occupation Certificate** the applicant is to arrange for a Final Inspection and obtain an Approval to Operate from the Council's Environmental Health Officer/Food Surveillance Officer for the food preparation and storage areas of the premises.

FLOODING

75. The Designated flood is the 1 % AEP Flood. A structural engineer shall design provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood **prior to the issue of the Construction Certificate**.
76. A flood management plan which covers evacuation and the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc incorporating the State Emergency Services Business Floodsafe Toolkit, shall be submitted and approved by Council **prior to the issue of the Construction Certificate**.

GENERAL ADVICES

- a) Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
- b) The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. This applies particularly to new buildings or significant building alterations. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act. Further information can be obtained from Council or the Human Rights and Equal Opportunity Commission on 008 021199.
- c) Consent for the removal of any trees should be obtained from Council under the provisions of the Tree Preservation Order applying to the land. **A copy of this Tree Preservation Order is attached.**
- d) This approval relates to **Development Consent** only and does not infer any approval to commence excavations or building works upon the land. **A Construction Certificate should be obtained prior to works commencing.**
- e) Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work shall cease and the **National Parks and Wildlife Service** shall be consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the **National Parks and Wildlife Act 1974.**
- f) The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

SCHEDULE 3 – APPROVED PLANS AND DOCUMENTATION

- Statement of Environmental Effects prepared by Worley Parsons dated 19 October
- Acid Sulphate Soil Assessment and Management Plan, prepared by Douglas Partners, Dated: September 2010, Project: 49568.01
- Flood Emergency Response Study, prepared by Worley Parsons, dated: 14/10/2010
- Phase 1 Environmental Investigation, prepared by Environmental Strategies, Dated: March 2010
- Phase 2 Environmental Assessment, prepared by Environmental Strategies, Dated: Feb 2011, Ref: 11003RP01_v01
- Report on Traffic Implications, prepared by Colston Budd Hunt & Kafes Pty Ltd, Dated: August 2010.
- Geotechnical Investigation, Prepared by Douglas Partners, Dated: May 2010, Project: 49568
- Aircraft Noise Assessment. Prepared by Atkins Acoustic, Dated 16 March 2010
- Waste Management Plan, Prepared by McDonalds Australia Limited
- Section J Energy Efficiency Checklist, Prepared by Philip Chun & Associates Pty Ltd, Ref: 070906 PCA Energy Checklist MOD0801.doc
- Water Saving Solutions for Restaurants, Prepared by McDonalds Australia, Version: 1, Dated: April 2007
- Existing Table Drain Assessment, prepared by Richmond + Ross, Ref: 09/0056, Dated: 13 July 2010
- Waste Water Servicing Solution, prepared by Hughes Trueman

Stamped plans – DA Plans

- Contour Plan prepared by C R Hutchinson, dated: 25/10/2004, Ref: 14827/3
- Site Layout, Prepared by Richmond + Ross, dated: 07/06/2010, Ref: A000, Rev: A
- Overall Site Plan, prepared by Richmond + Ross, dated: 08/07/2010, Ref: A000, Rev: D
- Site Plan Pt 1 of 2, prepared by Richmond + Ross, dated: 08/07/2010, Ref: A002, Rev: C
- Site Plan Pt 2 of 2, prepared by Richmond + Ross, dated: 07/06/2010, Ref: A003, Rev: C
- Vehicle Circulation Plan, Large Car prepared by Richmond + Ross, dated: 07/06/2010, Ref: A004-1, Rev: C
- Vehicle Circulation Plan, Delivery Vehicle, prepared by Richmond + Ross, dated: 07/06/2010, Ref: A004-2, Rev: C
- Vehicle Circulation Plan, Bus, prepared by Richmond + Ross, dated: 07/06/2010, Ref: A004-3, Rev: C
- Signage Plan, Pt 1 of 2, prepared by Richmond + Ross, dated: 08/07/2010, Ref: A010, Rev: C
- Signage Plan, Pt 2 of 2, prepared by Richmond + Ross, dated: 07/06/2010, Ref: A011, Rev: C
- Signage Details, prepared by Richmond + Ross, dated: 23/03/2010, Ref: A020, Rev: A
- Signage Details, prepared by Richmond + Ross, dated: 23/03/2010, Ref: A022, Rev: A
- COD Unit Scope of Works, prepared by Richmond + Ross, Ref: A025
- COD Unit Details, prepared by Richmond + Ross, Ref: A026
- COD Unit Details, prepared by Richmond + Ross, Ref: A027
- Floor Plan, prepared by Richmond + Ross, dated: 08/07/2010, Ref: A100, Rev: C
- Kitchen Equipment Plan, prepared by Richmond + Ross, dated: 08/07/2010, Ref: A101, Rev: C
- Side and Rear Elevations, prepared by Richmond + Ross, dated: 08/07/2010, Ref: A200, Rev: C
- Drive Thru and Front Elevations, prepared by Richmond + Ross, dated: 08/07/2010, Ref: A201, Rev: C
- External Finishes Schedule, prepared by Richmond + Ross, dated: 08/07/2010, Ref: A202, Rev: B

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Stamped Plans - Civil Drawings

- Civil Drawing Register, prepared by Richmond + Ross, dated: July 2010, Ref: C000, Rev: A
- Legend and Notes, prepared by Richmond + Ross, Ref: Coo1
- Overall Stormwater Concept sheet 1 of 2, prepared by Richmond + Ross, dated: 08/07/2010, Ref: C010, Rev: A
- Overall Stormwater Concept sheet 2 of 2, prepared by Richmond + Ross, dated: 08/07/2010, Ref: C011, Rev: A
- Erosion and Sediment Control Plan, prepared by Richmond + Ross, dated: 14/07/2010, Ref: C040, Rev: A
- Sedimentation Control Details, prepared by Richmond + Ross, Ref: C041

Stamped Plans – Landscape Plans

- Landscaping Plan, prepared by Site Image Landscape Architects, dated: 19/07/2010, Ref: ss10-2145, Dwg: 101, Rev: D
- Planting Palette, prepared by Site Image Landscape Architects, dated: July 2010, Ref: ss09-2145, Dwg: 001 (1)
- Landscaping Details, prepared by Site Image Landscape Architects, dated: 19/07/2010, Ref: ss10-2145, Dwg: 501, Rev: D

Stamped Plans – Recreation Area

- Mainstream Plan, prepared by Megatoy, dated: 07/07/2010, Dwg: P503-540
- McDonalds Williamtown View 1, prepared by Megatoy, dated: 2010, Dwg: P503-540
- McDonalds Williamtown View 2, prepared by Megatoy, dated: 2010, Dwg: P503-540
- McDonalds Williamtown View 3, prepared by Megatoy, dated: 2010, Dwg: P503-540
- McDonalds Williamtown View 4, prepared by Megatoy, dated: 2010, Dwg: P503-540

ITEM NO. 3

FILE NO: 16-2011-207-1

DEVELOPMENT APPLICATION FOR A HEALTH SERVICES FACILITY AT 4 JACARANDA AVE RAYMOND TERRACE

REPORT OF: MATTHEW BROWN – MANAGER DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL HEALTH
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the assessment report being forwarded to the Joint Regional Planning Panel (JRRP) for Development Application 16-2011-207-1 for a health services facility at 4 Jacaranda Ave, Raymond Terrace (as contained in Attachment 2). The application has been recommended for approval with conditions.
 - 2) Determine whether a Council submission should be made to the Joint Regional Planning Panel.
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COUNCIL COMMITTEE MEETING – 19 JULY 2011

RECOMMENDATION:

		THIS DEVELOPMENT APPLICATION WAS WITHDRAWN BY THE APPLICANT.
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ORDINARY COUNCIL MEETING – 26 JULY 2011

		THIS DEVELOPMENT APPLICATION WAS WITHDRAWN BY THE APPLICANT.
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BACKGROUND

The purpose of this report is to present a development application to Council for information and potential Council submission as the Joint Regional Planning Panel (JRPP) is the determining authority in this instance.

Summary

The purpose of this report is to provide Council with an overview of the status of the development application for a health services facility at 4 Jacaranda Avenue Raymond Terrace as requested by Councillors.

The development application was lodged by Hunter New England Health Network on the 24 March 2011. Significant additional information had to be requested during the assessment of the application.

The Application is a significant proposal with a range of important and complex planning considerations. Acknowledging the favourable community implications but without fettering the assessment process staff have sought to assess the application in an expeditious manner. Its worthy of note that the Application was considered in both a quality and timely manner of 53 working days excluding "Stop the Clock" or 105 days including "Stop the Clock".

The development application is for the construction of a two storey health services facility with at grade parking for 69 vehicles, landscaping and associated services. The development is a contemporary building form that is sympathetic to the heritage conservation area and surrounding streetscape. The site is located on the southern edge of Raymond Terrace town centre and is 5283m² in size.

The health care facility will be modelled on the HealthOne NSW model of care which involves the clinical integration of primary and community health care services including GPs, community health and other identified service providers in a 'one stop shop' location. The hours of operation of the facility are 8am to 9pm, seven days a week, with small groups such as ante natal classes operating until 11pm.

The application is to be determined by the Hunter and Central Coast Joint Regional Planning Panel as the capital investment value of the development is over \$5 million and is Crown development, in accordance with the provisions of Clause 13B of *State Environmental Planning Policy - Major Development*. The application will be determined by the Panel on the 21 July 2011. The application is recommended for approval subject to conditions of consent.

It must be noted that the attached conditions of consent are in draft form only and are yet to be reviewed by the applicant. The applicant is a Crown Authority and under Division 4 of the *Environmental Planning and Assessment Act* the consent authority can not impose a condition of consent without the approval of the applicant. It is anticipated that the applicant may not accept all conditions of consent that have been recommended in the assessment report.

KEY ISSUES

The key issues associated with this proposal are as follows:

Zoning

The site is currently zoned 2(a) Residential under Port Stephens Council's Local Environmental Plan 2000.

The applicant has submitted the application with the view that the proposed development is permissible with development consent as a 'health services facility' under clause 57 of *State Environmental Planning Policy (Infrastructure) 2007* (SEPP), if the 2(a) zone is an 'equivalent' land use zone to the R1 General Residential Zone (R1 Zone) identified in the *Standard Local Environmental Planning Instrument*. Clause 6(1)(b) of the SEPP allows the relevant authority to form an opinion about whether equivalent land uses are permitted in each of the zones. Hunter New England Local

Health Network is the public authority proposing the development and in accordance with clause 6(1)(b) of the SEPP, have formed the view that land uses permitted in a 2(a) zone are equivalent to those permitted in the R1 zone.

Council received legal advice on this issue and it was determined that the use is permissible in the current 2(a) residential zone. Accordingly, the application has been assessed as a permissible use, allowing the development application to be received and considered/assessed.

Jacaranda Trees

The impact of the development on the locally heritage listed Jacaranda trees along the street frontage has been considered in the design and assessment of the application. The Jacaranda trees are to be retained and protected during construction with designated tree protection zones. A number of existing trees on site are also to be retained and included as part of the landscaping design.

Access and Road Improvements

Concern was raised over the lack of pedestrian access to the facility. The applicant has agreed to make improvements in this regard by including pedestrian crossing points. Appropriate conditions have been placed on the consent to address this issue.

The applicant has proposed to make improvements to the intersection of Jacaranda Ave, Swan and Sturgeon Street through improved road marking, signposting and a closure at one end of the Swan Street north, one way slip lane. The closure of the slip lane in Swan St is proposed through the use of bollards. The impact on the residential precinct through the closure of this road is considered minimal in comparison to the potential improvement in traffic discipline and safety in this area and a condition has been placed on the consent to ensure that these improvements are in place before the operation of the facility commences.

Public Transport

Concern was raised over the need for a bus stop in close proximity to the development. Although there is no bus service currently past the site there is ample road width in Swan Street and the development provides an excellent opportunity to include provision for public transport for the future with minimal change to existing routes.

The applicant reviewed this request and agreed that public transport is an important design consideration. However, the process for changing bus routes is complicated and needs approval from the relevant government departments. The service provider has identified that alteration of the existing bus routes can only occur with approval from the Minister of Transport and in consultation with the committee attached to the Transport Authority. It has been stated that changes to the existing route are unlikely to be supported at this stage. On this basis, Hunter New England Health may not support any condition of consent in relation to a new bus stop or change in bus route.

It is the view of the assessment staff that although bus routes are difficult to change, theoretically it can occur, and this application poses a reasonable opportunity for the state government to provide such a bus stop.

FINANCIAL/RESOURCE IMPLICATIONS

If the development application is refused by the Joint Regional Planning Panel or conditions are imposed on the consent which are not agreed to by the applicant, the applicant may refer the application to the Minister of Planning for determination.

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council's Policy.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Approval of the health service facility will have positive social and economic results for Raymond Terrace and the surrounding district through the provision of much needed health facilities in close proximity to the town centre. All environmental impacts from the development have been mitigated by appropriate conditions of consent that are recommended.

CONSULTATION

The application was exhibited in accordance with Council policy and no submissions were received.

OPTIONS

- 1) Adopt the recommendation;
- 2) Reject or amend the Recommendations.

ATTACHMENTS

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

COUNCILLORS ROOM

- 1) Statement of Environmental Effects;
- 2) Plans including (Landscape, Site Plan, Floor Plans, Elevations, Sections, Perspectives).

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LOCALITY PLAN



**ATTACHMENT 2
ASSESSMENT**

**JOINT REGIONAL PLANNING PANEL
(Hunter and Central Coast Region)**

JRPP No	2011HCC017
DA Number	16-2011-207-11
Local Government Area	Port Stephens
Proposed Development	Medical Centre (Health Services Facility)
Street Address	4 Jacaranda Avenue, Raymond Terrace
Applicant/Owner	Hunter New England Local Health Network
Number of Submissions	Nil
Recommendation	Approval with Conditions
Report by	Priscilla Emmett, Senior Development Planner

Assessment Report and Recommendation

1.0 APPLICATION DETAILS

Application no:	16-2011-207-1
Property:	4 Jacaranda Avenue RAYMOND TERRACE
Lot & DP:	LOT: 22 DP: 1088281
Description of development:	Medical Centre (Health Services Facility)
Applicant:	Hunter New England Local Health Network
Date lodged:	24/03/2011
Present use:	Vacant site
Zoning:	2(a) - Residential
Issues:	Jacaranda trees in road reserve
Submissions:	Nil
Recommendation:	Approval with conditions
Integrated development:	No

2.0 THE PROPOSAL

The application is for the construction of a two storey health services facility with at grade parking for 69 vehicles, landscaping and associated services.

The building has a maximum height of 9.07m along on the southern elevation facing Swan Street. The height varies along the facades (generally between 8 and 9m) due to the articulation and use of different building elements.

The ground floor of the building includes an entrance, waiting area, public amenities, reception and clerical areas, consulting and treatment rooms for GPs, community health and pathology services, clinical support and storage facilities.

The first floor comprises of a waiting area and reception, meeting rooms for both public and staff use, a dental consulting suite, community health consulting rooms, support and storage facilities, public and staff amenities and general administration areas. A lift and stairway provide access to the first floor.

The parking area is divided into two areas with vehicular access points located on Jacaranda Avenue and Swan Street. The main parking area to the north of the building contains 51 spaces, including 7 disabled spaces. A secure car park of 18 spaces is located to the west of the building and is designed for staff, with a security gate restricting access. A separate entrance with lift is provided to this car

park and a garbage disposal room is also accessed from the secure carpark. The secure carpark is built at basement level.

A designated Ambulance and service bay is located on the southern side of the building with separate access off Swan St.

Access for persons with a disability has been considered in the design of the building through the provision of accessible facilities such as car parking, toilets and lifts.

The applicant provided an Arborist report and design report to accompany the landscape plans for the development. The Arborist report identified 11 trees located within the road reserve of Jacaranda Avenue as *Jacaranda mimosifolia*, which are to be retained and protected during construction with designated tree protection zones. A number of existing trees on site are also to be retained and included as part of the landscaping concept.

The health care facility will be modelled on the HealthOne NSW model of care which involves the clinical integration of primary and community health care services including GPs, community health and other identified service providers in a 'one stop shop' location. It aims to provide a multidisciplinary team based service to:

- Prevent illness and reduce the risk and impact of disease and disability
- Improve chronic disease management in the community
- Reduce avoidable admissions to hospital
- Improve service access and health outcomes for disadvantaged groups
- Build a sustainable model of health care delivery

The facility will operate between the hours of 8am and 9pm, seven days a week. There may also be after hours use by small groups such as ante natal classes but such uses will be small scale and would generally cease prior to 11pm.

3.0 THE SITE AND SURROUNDING AREA

3.1 The Site

Area	5283m ²
Dimensions	Irregular shape with approximate dimensions of 100.71m (E), 57.10m (N), 65.65m (W) and 54.1m (S) with a curved area of 21.81m (S)
Slope	Slight cross fall from east to west
Existing development	Vacant site
DP and B8b Instrument	No restrictions to development

Vegetation	Scattered trees are located on site, 17 will be retained and 9 will be removed
Constraints	Acid Sulphate Soils (Level 4), Flood Prone Land
Stormwater and drainage	Stormwater and drainage plans have been submitted and are acceptable
Access	Vehicular access will be via Swan St and Jacaranda Avenue
Services	Water, sewer, electricity

3.2 Site Description:

The site is located on the south western edge of the Raymond Terrace town centre. It is 5283m² in size and has a dual frontage to Jacaranda Avenue and Swan Street of approximately 100m and 54m respectively.

The site has a gentle fall of approximately 1.3m to the north west and is not constrained by any easements. It contains scattered trees along the eastern and western boundaries and is cleared in the centre of the site.

3.3 Site Constraints:

Acid Sulphate Soils - The subject site is identified as containing Class 4 Acid Sulphate Soils (ASS). Accordingly, any works more than 2 metres below the natural ground surface require consideration under clause 51A of the Port Stephens LEP 2000. Further details on this issue are discussed later in the report.

Flood Prone land – The site is considered to be flood prone. The flood planning level for the site is RL 5.1m AHD (minimum floor level for habitable rooms). The building floor level has been designed at RL 5.7m AHD to meet these requirements. Further details are discussed later in the report.

3.4 Surrounding Development:

The site is located within 200m of the Raymond Terrace commercial centre. The area contains residential uses, commercial uses and education facilities with the Raymond Terrace Public School located on the southern end of Jacaranda Avenue.

Raymond Terrace Bowling Club is located to the north of the site, with bowling greens facing Jacaranda Avenue. An access way separates the bowling club from the site and is used by the club as a vehicle exit from their carpark to Jacaranda Avenue. The carpark adjoins the western boundary of the site.

Two dwellings are located to the east of the site, across Jacaranda Avenue. One dwelling is used as a bed and breakfast and the other is a heritage listed single storey building that forms part of the St Johns Anglican Church group of buildings.

Swan St is located to the south of the site and contains one and two storey detached dwellings.

The vegetation in the area consists of a mix of native and exotic trees. Jacaranda Avenue consists of an established avenue of mature Jacaranda mimosifolia street trees which has local heritage significance.

4.0 SITE HISTORY

The Raymond Terrace War Memorial Pool was constructed on the site in 1960 by the Shire Council. The pool was closed in 2000 and demolished in 2002 after the opening of Lakeside Leisure Centre on the edge of Raymond Terrace. Port Stephens Council subsequently sold the site after the land was cleared.

In 2006 a development application for 21 aged care units was approved on the site. This consent has not been acted on to date. In 2010 Hunter New England Health purchased the site and in 2011 submitted the subject application.

5.0 CONSULTATION – COMMUNITY

In accordance with Council's Notification Policy, adjoining neighbours were notified of the proposed development and an advertisement was placed in the local paper. In response, no submissions were received.

6.0 INTERNAL REFERRALS

6.1 Engineering

Council's Engineers reviewed the application and provided the following comments:

- The existing kerb and road pavement partially intrudes onto the property as a legacy of the site formerly containing a public pool. The road pavement, kerb and verge will need to be relocated and rectified; preliminary concept plans were submitted and the relevant conditions will be placed on the consent.
- Conditions are required for the realignment of a driveway to meet the development standards.
- The site is in a catchment that has special requirements for stormwater detention due to down stream deficiencies. A stormwater detention system has been submitted and will form part of the consent.

6.2 Traffic Engineer

Council's Traffic Engineer reviewed the application and raised several concerns over the development. These include:

- The need for pedestrian connectivity across Sturgeon Street to the entry point of the development. There are no pedestrian crossing points proposed on either Jacaranda Avenue or on Swan Street for pedestrians coming from Sturgeon Street or from Swan Street to the east. The applicant has agreed that a suitable crossing point is desirable on Jacaranda Avenue, near the location of the entrance to the facility. Conditions will be placed on the consent to this effect.
- The need for a bus stop in close proximity to the development and for satisfactory pedestrian connections. Although there is no bus service currently past the site there is ample road width in Swan Street and an excellent opportunity to include provision for public transport for the future with minimal change to existing routes.

The applicant reviewed this request and agreed that public transport is an important design consideration. However, the process for changing bus routes is complicated and needs approval from the relevant government departments. The service provider has identified that alteration of the existing bus routes can only occur with approval from the Minister of Transport and in consultation with the committee attached to the Transport Authority. It has been stated that changes to the existing route are unlikely to be supported at this stage. On this basis, Hunter New England Health would not support any condition of consent in relation to a new bus stop or change in bus route.

- The proposed intersection changes to Swan/Sturgeon/Jacaranda intersection would be a welcome improvement to what is currently a very confusing intersection.

6.3 Flood Engineer

Council's Flood Engineer reviewed the application and provided the following comments.

The flood planning level for the site is RL 5.1m AHD. Council's William River Flood study has identified the 0.5% AEP flood level for the site as RL 5.0m AHD while the PMF flood level for the site is RL 9.5m AHD. Council has adopted the 0.5% AEP flood rather than the 1% AEP flood as the relevant design for flood planning purposes.

Having reviewed the plans for the proposed health facility it is noted that the ground floor level is RL 5.70m AHD and the first floor level is RL 9.6m AHD. Therefore the ground floor areas are provided protection up to a flood event in excess of the 0.5% AEP flood event while the first floor areas are provided flood protection for all probable flood events. This means the first floor areas can be used as a flood refuge during extreme flood events provided the building can withstand the flood forces associated with flooding.

In assessing the flood risk of this proposal it is important to consider the proposed use as a health facility. Under the NSW Government's floodplain management manual as a health facility it could be considered a special evacuation needs development and as such the PMF flood event needs to be considered. It is also likely to house expensive medical equipment and important medical records for which protection against the PMF flooding needs to be considered.

The first floor of the development can be used as a flood refuge being higher than the PMF flood event for the site, therefore provided a flood management plan was put in place to move all patients, staff, valuable machinery and records from the ground floor to either the first floor or away from the site in the event of an extreme flood, then there is no reason why the proposal even as a medical facility could not be supported. This of course relies on sufficient warning times being available to carry out such evacuations. Flood warning systems on both the Hunter and Williams River are currently such that it is likely that at least 6 to 18 hours notice of flooding will occur. This is only likely to increase in future as flood data and technology improves and is considered sufficient to allow an effective flood evacuation plan to be implemented and actioned during an extreme flood event.

In considering the risk associated with flooding of the site it is also noted that the services offered by the facility are not considered critical services that are required to operate during extreme flood events and as there is significant warning times of flood events to ensure evacuation the flood risk with the development is more likely to be property damage than risk to life.

It is noted that the secure parking area is well below the 0.5% AEP event and in fact below the 1% AEP flood event (RL 4.4m AHD). Therefore there is some risk that cars in this area could represent a flood debris risk during flood events. However if the

flood evacuation plan is operating it is unlikely any cars will be in the car park when the flood peak occurs. Therefore this flood risk is considered negligible.

Overall the proposed development has sufficient flood protection and the development is supported subject to conditions relating to the preparation, implementation and actioning of a flood evacuation management plan during extreme flood events.

6.4 Building Services

Council's Building Surveyor reviewed the application and has no concerns subject to a number of conditions being placed on the consent.

6.5 Natural Resources

Council's Vegetation Management Officer has reviewed the application and its impact on the locally significant Jacaranda trees along Jacaranda Avenue. The recommendations for the site discussed in the Arborist and landscape report are supported and need to be adopted during the construction of the development.

No concerns have been raised subject to a number of conditions being placed on the consent that address the following issues:

- The adoption of specific recommendations in the Arborist and landscaping report;
- Tree protection fencing;
- Construction access;
- Works within the tree protection zones;
- Encroachment of the tree protection zones; and
- The location of bollards.

6.6 Heritage Advisor

Council's Heritage consultant reviewed the application and noted that the Statement of Heritage Impact (SOHI) for the project is very comprehensive and detailed and meets the requirement for a SOHI.

The retention of the locally listed Jacaranda trees has been incorporated into the design as a positive streetscape element and is supported. However, concerns were raised about the following issues which are to be included as conditions of consent:

- No details on signage have been included. Any proposed signage for the development should be subject to a separate development application.
- External Colours & Materials:
 - a) The external low level façade of face masonry is not to contain contrasting banding and is to be of small masonry brick units, preferably

a dry pressed brick. Similarly any banding to masonry that addresses the street façades should be in the same material colour etc. This is to enable a transition of the building to occur in context.

- b) The random patterning and colours of external vertical battens on facades to the streetscape is to be kept to neutral tones with stronger colours reserved for internal site facades.

6.7 Community Planner

Council's Community Planner reviewed the application and has no concerns subject to a number of conditions being placed on the consent regarding disabled access and public art.

6.8 Safer by Design

Council's Safety by Design Officer reviewed the application and has no concerns subject to a number of conditions being placed on the consent regarding lighting and graffiti management.

7.0 EXTERNAL REFERRALS

The application was not referred to any external agency.

8.0 STATUTORY PROVISIONS

8.1 State Environmental Planning Policies (SEPP)

SEPP Infrastructure 2007

The *Infrastructure SEPP (ISEPP)* was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency. The SEPP simplifies the process for providing infrastructure in areas such as education, hospitals, roads, railways, emergency services, water supply and electricity delivery.

The application has been submitted as a 'health services facility' under the ISEPP. Division 10, Clause 57 of the ISEPP relates to health services facilities and identifies the type of development permitted with consent as such:

Development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone.

Clause 56 identifies the relevant definitions as such:

health services facility means a facility used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helpads and ambulance facilities,
- (e) hospitals.

prescribed zone means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU4 Rural Small Holdings,
- (b) RU5 Village,
- (c) RU6 Transition,
- (d) R1 General Residential
- (e) R3 Medium Density Residential,
- (f) R4 High Density Residential,
- (g) R5 Large Lot Residential,
- (h) B2 Local Centre,
- (i) B3 Commercial Core,
- (j) B4 Mixed Use,
- (k) B5 Business Development,
- (l) B6 Enterprise Corridor,
- (m) B7 Business Park,
- (m1) B8 Metropolitan Centre,
- (n) SP1 Special Activities,
- (a) SP2 Infrastructure.

The proposed development falls into the definition of a health services facility. Therefore this use must be permissible within a prescribed zone.

The site is currently zoned 2(a) Residential under Port Stephens Council's Local Environmental Plan 2000. The Port Stephens Local Environmental Plan 2000 (LEP) does not define a 'health service facility'. This facility would be defined as a medical centre under the LEP, as such:

medical centre means a building or place used for the purpose of providing professional health services (such as preventative care, diagnosis, medical or surgical treatment or counselling) to out-patients only.

The proposed use is prohibited in the 2(a) residential zone.

In this case, for the use to be permissible, the 2(a) zone must be equivalent to the zones listed in clause 56 of ISEPP. To determine the equivalent zone, Clause 6 of the ISEPP states:

(1) A reference in this Policy to a land use zone that is equivalent to a named land use zone is a reference to a land use zone under an environmental planning instrument that is not made as provided by section 33A (2) of the Act.

(a) that the Director-General has determined under clause 1.6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2006 is a land use zone in which equivalent land uses are permitted to those permitted in that named land use zone, or

(b) if no such determination has been made in respect of the particular zone, that is a land use zone in which (in the opinion of the relevant authority) equivalent land uses are permitted to those permitted in that named land use zone.

(2) An assessment made by a relevant authority under subclause (1) (b) applies only in respect of the particular development that is proposed to be carried out and more than one such assessment may be made in respect of the same land use zone.

(3) In this clause, **relevant authority** means:

(a) the public authority proposing to carry out the development, or on whose behalf the development is proposed to be carried out, or

(b) if the development is to be carried out by or on behalf of a person other than a public authority, the Director-General.

Note. Land use zones that are named in this Policy are those set out in the standard instrument.

With regard to clause 6, the Director General has not made a determination on the equivalent land use zone. Clause 6(1)(b) of the SEPP allows the relevant authority to form an opinion about whether equivalent land uses are permitted in each of the zones. Hunter New England Local Health Network is the public authority proposing the development and in accordance with clause 6(1)(b) of the SEPP, have formed the view that land uses permitted in a 2(a) zone are equivalent to those permitted in the R1 zone. Hunter New England Local Health Network is of the opinion that the development is permissible under clause 57 of the SEPP.

As Port Stephens Council does not have a Standard Template LEP the Department of Planning required Council to review their current LEP zones and determine what the "equivalent" zone will be in the interim period. Strategic Planning reviewed the current 2(a) and 2(c) zones. The uses in the zones are generally similar excluding the prohibition of medical centres in the 2(a), however the "intensity" of the zones, as prescribed in the LEP are quite different. In the LEP the 2(a) zone has a height limit on residential development of either 8/9 metre, whereas the 2(c) zone allows for a height of 15 metres. As a result the density and character of the two zones are significantly different. There is clearly a low and medium density outcome.

Both 2(a) and 2(c) zones have a primary function of facilitating residential outcomes not commercial. With all this in mind, Strategic Planning reviewed the intent of the Standard Template residential zones and determined that the R2 Low Density Residential was equivalent to the 2(a) and the R3 Medium Density Residential was equivalent to the 2(c). This methodology has also been employed when transitioning the current LEP into a new Principal LEP which is currently being developed.

Council is of the view that although the SEPP does override the Port Stephens LEP, medical centres are still prohibited in a 2(a) zone, as the 2(a) zone is the equivalent

of the R2 zone under the *Standard Instrument (Local Environmental Plans) Order 2006*, the effect of which is that medical centres in that zone are not permissible under the ISEPP. However, Council received legal advice on this issue and it was determined that the use is not prohibited in the zone and the decision as to which R-zone under the Standard Instrument is the equivalent of Port Stephens LEP Residential 2(a) zone, is one which is made by the applicant being the public authority, not the consent authority.

In this case, the use is permissible as determined by Hunter New England Local Health Network.

SEPP Major Development 2005

Part 3, Clause 13B of the *Major Development SEPP* identifies classes of regional development to be determined by Regional Panels. The subject application falls under this classification as it has a capital investment value of over \$5 million (\$5.5M) and is Crown development. The application is to be determined by the Regional Panel, which in this case is the Hunter and Central Coast Regional Planning Panel.

The application has been assessed by Port Stephens Council and has been submitted to the Panel for determination on 21 July 2011. Council has recommended the application be approved subject to conditions of consent.

SEPP 71 – Coastal Protection

State Environmental Planning Policy No. 71 aims to protect and manage the New South Wales coast and foreshores and requires certain development applications in sensitive coastal locations to be referred to the Director-General for comment, and it identifies master plan requirements for certain developments in the coastal zone.

The proposal of a health services facility in this location will not impact on the foreshore or the interface with the waterways and related activities and as such is considered to be consistent with Clause 2 and 8 of SEPP 71. As such the application is acceptable under this policy.

SEPP 55 – Remediation of Land

SEPP 55 requires consideration to be given to previous uses on the site and whether the site needs to be remediated for future uses. Council's contaminated land register lists the site as having possible contamination due to the large amount of fill that was installed on the site after the removal of the municipal swimming pool.

The previous development application on the site for the construction of aged housing submitted a Geotechnical and Preliminary Contamination Report. The report concluded that the sand fill placed in the pool excavation area appears to have been uncontaminated controlled fill. As such, no further investigation of the site is required as it is considered to be suitable for the proposed development.

8.2 Port Stephens Local Environmental Plan 2000 (PSLEP 2000)

Clause 16 – Residential zonings

The site is zoned 2 (a) Residential under the LEP and development for the purpose of a medical centre is prohibited in this zone. However, as the provisions of the ISEPP override the LEP to the extent of any inconsistency and as discussed above the proposed development is permissible in this zone and is defined as a health services facility.

Clause 37 and 38 - Development on flood prone land

The site is flood prone and consideration has been made to the risks and extent of potential flooding on the site. Further details on flooding have been discussed in the comments from the flood engineer.

Clause 51A - Development on land identified on Acid Sulphate Soils Planning Map

The subject site is identified as containing Class 4 and Class 5 Acid Sulphate Soils (ASS). Accordingly, any works more than 2 metres below the natural ground surface require consideration under clause 51A of the Port Stephens LEP 2000.

A geotechnical investigation has been carried out on the site and several test pits were used to determine the natural ground level. The applicant has stated that the excavation is unlikely to be more than two metres below natural ground level.

The Beresfield Acid Sulphate Soil Risk Map indicated that there is a low probability of the occurrence of acid sulphate soils at depths greater than 3m below the ground surface. Testing of ground water undertaken as part of the investigations revealed pH values of 8.01 and 6.27 indicating a relative neutral subsoil condition. The report considers the site non-aggressive to steel and concrete. These investigations confirm a low probability of acid sulphate soils.

The application is considered acceptable with regards to Clause 51A of Port Stephens LEP 2000.

Division 3 – Heritage Provisions

The site is located within a Heritage Conservation Area and there are a number of items of individual state significance in the immediate area including:

- 48 Sturgeon St - the St Johns Anglican Church Group rectory and ornamental planting of two Norfolk Island Pines
- 1 Jacaranda Avenue - former Parish Hall, St John's Anglican Church Group.

There are also a number of items of local significance in the vicinity including:

- 12 Swan St – 'Roeth house', two story weatherboard cottage
- 14 Swan St – brick cottage, Former Headmaster's residence

- 2a Jacaranda Ave – Raymond Terrace war memorial
- Jacaranda Ave road reserve – ornamental planting of Jacaranda trees

A Heritage Impact Statement was submitted with the application and has been reviewed by Council's Heritage Consultant. The proposed development is considered to be sympathetic to the Raymond Terrace Heritage Conservation Area and nearby heritage items. As discussed previously concerns were raised by the heritage consultant regarding the colours of battens on the facades to be in neutral tones and the low level façade is to not contain contrasting banding and be of small masonry brick units. These issues are to be addressed via conditions of consent as well as a condition stating that a development application is required for any signage to be installed on the site.

In addition, Council's Vegetation Management Officer has reviewed the impact of the development on the Jacaranda trees. The impacts on these trees are considered to be minimal and appropriate conditions have been placed on the consent to minimise any impacts.

9.0 POLICY PROVISIONS

9.1 Port Stephens Development Control Plan 2007

The application has been assessed against the relevant provisions of *Port Stephens Development Control Plan 2007* (DCP) as follows:

B2 - Environmental and Construction Management

The application has been assessed against the applicable provisions of *Port Stephens Development Control Plan, 2007 – Environmental and Construction Management* and is considered satisfactory as follows:

DCP Control	Control	Applicable	Compliance
B2.2	General Standards	Yes	Yes
B2.3	Water Quality Management	Yes	Yes
B2.4	Acid Sulphate Soils	Yes	Yes
B2.5	Landfill	Yes	Yes
B2.6	Contaminated Land	Yes	Yes
B2.7	Vegetation Management	Yes	Yes
B2.8	Koala Management	No	N/A
B2.9	Mosquito Control	Yes	Yes
B2.10	Weed Control	Yes	Yes
B2.11	Tree Management	Yes	Yes
B2.12	Waste Water	Yes	Yes
B2.13	Aircraft Noise	No	N/A
B2.14	Erosion and Sediment Control	Yes	Yes
B2.15	Construction Waste	Yes	Yes
B2.16	Public Domain	Yes	Yes
B2.17	Neighboring buildings	No	N/A

Landscaping

An Arborist report was submitted with the application and an assessment was made on 11 trees on the road reserve and 32 trees within the subject property. The heritage listed Jacaranda trees were considered to be of good health and condition with minor deadwood only. They range in height from 9 to 14 metres and are to be retained. Four of these trees require protection measures during the construction period as they are located along the site frontage.

In total 26 trees are proposed for removal on site. These trees are to be removed due to their location in relation to the proposed development or for reasons of poor health. A total of 17 trees are proposed for retention and recommendations have been made in the report for various tree protection, setback and pruning measures to minimise the impact of the development on these trees. In this regard, appropriate conditions will be placed on the consent to protect the trees.

The proposed landscaping and treatment of the existing Jacaranda trees sufficiently addresses Council's requirements for landscaping under the DCP.

B3 Parking, Traffic & Transport

Council's DCP requires 4 parking spaces per 100sqm of gross floor area and 1 disabled space per 10 parking spaces. The gross floor area of the building is 1720sqm, requiring 69 spaces with 7 of these being disabled parking spaces. The proposal meets these requirements.

The design of the carpark including driveway access points, widths and turning paths has been reviewed and is considered to be satisfactory. Pedestrian footpaths will be provided along the road frontages of the site to improve pedestrian amenity and access.

Bus stops are required to be located as close as possible to the destination point. As previously discussed Council requested that a bus stop is provided in close proximity to the development. Upon consultation with the applicant it was noted that the process for changing bus routes is complicated and needs approval from the relevant government departments and such changes to the existing route are unlikely to be supported at this stage. In addition, Hunter New England Health would not support any condition of consent in relation to a new bus stop or change in bus route.

B4 Commercial and Mixed Use Development

DCP Control	Control	Applicable	Compliance
B4.2	Site Analysis	Yes	Yes
B4.3	Uses	Yes	Yes
B4.4	Street character and front setback	Yes	No
B4.5	Scale and bulk	No – relates to 3a zone	N/A
B4.6	Building height	No – relates to 3a zone	N/A
B4.7	Side and rear setback	Yes	Yes
B4.8	Building design	Yes	Yes
B4.9	External Lighting	Yes	Yes
B4.10	Energy Efficiency	Yes	Yes
B4.11	Landscape	Yes	Yes
B4.12	Public art	Yes	Yes
B4.13	Access, parking and servicing	Yes	Yes

In relation to B4.4, the building is required to be built to the street property boundary along both frontages, the entrances must be recognisable from the street and a 3m awning must be provided around the street frontage. The building has been setback a minimum of three metres from the street boundaries to provide a landscape buffer and to acknowledge the surrounding residences, rather than adopt the zero setback for commercial premises. The entrance is located internally and accessed from the car park and no awning has been provided. However, these design elements are supported as the provision of awnings in this location and a prominent entrance would further highlight the non residential nature of the development in the residential zoning and may impact on the heritage conservation area. On this basis, the building design is consistent with the controls and the objectives of the DCP.

Public art is required to form part of the development. Sculptural seating is included in the forecourt entrance area to the building. However, for it to meet the requirements of the DCP it is to be designed by an artist or artisan upon consultation with Council. A condition of consent is to be placed on the consent in this regard.

Part C1 – Raymond Terrace

DCP Control	Control	Applicable	Compliance
C1.2	Town Structure	Yes	Yes
C1.3	Streetscape	Yes	No
C1.4	Building height	Yes	Yes
C1.10	Residential Areas	Yes	Yes
Figure C1.23	Heritage Conservation Area	Yes	Yes

The site is located in the Residential precinct of the Raymond Terrace town centre. Clause C1.3 states that development must provide continuous awnings along the entire frontage of new buildings to the public street. The site is located in a residential zone and large awnings would be out of character in this area and would detract from the amenity of the heritage trees along Jacaranda Avenue. The proposed variation to the DCP is supported.

10.0 SECTION 94 CONTRIBUTIONS

The development is subject to the provisions of *Port Stephens S94A Development Contributions Plan*. This plan requires that any consent granted for the development is subject to the applicant paying Council a levy of 1% of the proposed cost of carrying out the development. A condition to this effect has been placed on the consent.

11.0 LIKELY IMPACTS

11.1 Built Environment

Adjoining Properties

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon adjoining properties.

Streetscape and Amenity

The development of a contemporary building on the street will improve the existing amenity and streetscape of the area, in comparison to the existing vacant and somewhat degraded site. The proposed building has been articulated to create an interesting façade to both Jacaranda Avenue and Swan Streets. The proposed development will not have an adverse impact upon the local streetscape and amenity of adjoining properties.

Landscaping

There will be no significant impact on the existing Jacaranda trees as a result of the development and no objections have been raised to the removal of trees on the site. The proposed landscaping concept will provide a buffer to the development and will improve the visual appearance of the site upon completion.

Views

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing views of neighbouring properties.

11.2 Access and Traffic

Council has considered the Traffic Report submitted with the application and is satisfied that the development will not have a significant impact on the existing road network. Vehicular access is provided off Jacaranda and Swan St. In addition, a separate access is provided for loading and emergency vehicles off Swan St.

The applicant has proposed to make improvements to the intersection of Jacaranda Ave, Swan and Sturgeon Street through improved road marking, signposting and closure of one end of the Swan Street north, one way slip lane. The closure of the slip lane in Swan St is proposed through the use of bollards. The impact on the residential precinct through the closure of this road is considered minimal in comparison to the potential improvement in traffic discipline and safety in this area. Council's Traffic Engineer is highly supportive of this proposal and a condition has been placed on the consent for this work to be completed prior to the occupation of the building.

11.3 Natural Environment

Flora and Fauna

The development is considered to have minimal impact on flora and fauna. A number of existing trees are to be removed from the site. To mitigate the removal of these trees the landscape plan includes the planting of trees, scrubs and ground covers on the site.

Water

The flood constraints for the site have been considered and are not a major impediment to the development of the site.

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing water within the locality. Furthermore, appropriate conditions of consent shall be imposed to ensure that the site will be managed appropriately during construction to mitigate any potential environmental impacts.

Site Contamination

Council's contaminated land register lists the site as having possible contamination due to the large amount of fill that was placed on the site after the removal of the municipal swimming pool.

The previous development application on the site in 2006 for the construction of aged housing submitted a Geotechnical and Preliminary Contamination Report. This report concluded that the sand fill placed in the pool excavation area appears to be uncontaminated controlled fill. As such, no further investigation of the site is required as the site is considered to be suitable for the proposed development.

Noise

The construction of the proposed development at the subject site is considered unlikely to result in any adverse acoustic impacts within the locality.

The operation of the health facility is considered to have minimal noise impacts on the surrounding neighbourhood. The hours of operation have been restricted to between 8am and 9pm, with limited use up to 11pm.

11.4 Social and Economic Impacts

The construction of the proposed development at the subject site is considered to have a positive social impact as it will provide much needed health facilities to Raymond Terrace. Hunter New England Health has stated that there is a shortage of and access to medical practitioners in the Hunter Region and the facility will allow for the provision of quality medical facilities in close proximity to existing infrastructure. On this basis, the development is considered unlikely to result in any adverse social or economic impacts upon the local community.

12.0 SUITABILITY OF THE SITE

The site is considered to be suitable for the proposed development. It is located within walking distance to the Raymond Terrace town centre and is of sufficient size to adequately supply parking and associated facilities to the development. The use is also permissible on the site subject to the provisions of the Infrastructure SEPP and the development has been designed with consideration to the site constraints, such as flooding and the Jacaranda trees.

13.0 PUBLIC INTEREST

The approval of the application is considered to be in the public interest.

14.0 ANY OTHER RELEVANT MATTERS

There are no other matters for discussion. However, it is noted that relevant owners consent has been received and all submitted plans have been stamped by Hunter Water Corporation.

15.0 UNAUTHORISED WORKS

None identified.

16.0 CONCLUSION

Having regard to the provisions of section 79C of the *Environmental Planning and Assessment Act 1979*, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

17.0 RECOMMENDATION

THAT the Joint Regional Planning Panel grant development consent to Development Application No. 16-2011-207-1 for the construction of a health services facility on land at Lot: 22 DP: 1088281; 4 Jacaranda Avenue subject to the recommended conditions of consent.

Signed

Officer: Priscilla Emmett

Date

ATTACHMENT 3
CONDITIONS

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1. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
2. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
3. The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.
4. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
5. Landscaping shall be carried out in accordance **with the approved Landscape Plan and Landscape Masterplan Report** prepared by Moir Landscape Architecture dated 23 March 2011.
6. The recommendations contained in the Arborist report prepared by Abacus Tree Services dated 14 March 2011 are to be implemented and include but are not limited to:
 - a) Tree protection measures are to be erected for trees 1 and 2 in accordance with Australian Standards 4970 2009 **prior to commencement of any trucks entering the site and inspected by Council's Vegetation Management Officer.** Tree guards are to be installed to minimise damage to the trees during the construction phase. Tree protection measures are to consist of 2 metre (or similar size) wooden beams installed to the trunk of the tree. Hessian or a similar non abrasive material is to be placed behind the planks to ensure minimal damage occurs to the tree.
 - b) The remaining trees on site are to be retained and are to be protected by chain wire interlocking fencing to be installed **prior to commencement of building works** and inspected by Council's Vegetation Management Officer. The fencing is to consist of 1.8m chain wire interlocking fencing as indicated by Figure 16 in the Arborist report. Tree protection fencing to trees 3, 4, 36-39, 41 and 42 is to be erected a minimum 3 metres on all sides where applicable and three sides to the fence for those trees on the western boundary. This is limited to trees 41 and 42. Trees 3 and 4 are to have protection fencing to the

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edge of the road reserve on the eastern side and to 3 metres on all other sides.

- c) Protection fencing is to be in accordance with AS 4687 and AS 4970 2009 and should include as a minimum shade cloth attached to reduce the transport of dust or liquids into the protected area.
 - d) All workmen entering the site are to be inducted and made aware of the no go area and the Tree Protection Zones. All stockpile sites are to be maintained a minimum 4 metres away from retained trees.
 - e) Accessible deadwood to tree 39 is to be removed. This is to include minor pruning works up to 10% and removing all accessible dead wood in accordance with AS 4373 2007.
 - f) No works are to be undertaken within structural root zones of trees 1-4, 36-39, 41 and 42 as shown in Figure 18 of the Arborist report.
 - g) Trees 1-4, 36-39, 41 and 42 are to have minimum setbacks where no works occur, which is known as the Structural Root Zone. Details of these zones are located in Figure 18 of the Arborist Report. Minor encroachment is allowed in the Tree Protection Zone by no more than 20% as indicated in Figure 18 of the Arborist report.
 - h) The tree protection fencing located within the road reserve shall be approved by the Roads Authority (Council) and demonstrate how pedestrians shall be managed by submitting a traffic control plan. Details shall be approved by the Roads Authority as part of a Roads Act approval **prior to the installation of the fencing.**
- 7. The encroachment of the Tree Protection Zones of trees 2, 3 and 4 is compensated for by increasing the Tree Protection Zone radius by the corresponding encroachment percentage of each tree.
 - 8. Unless otherwise stated all tree protection measures to be conducted in accordance with AS 4970-2009.
 - 9. Construction vehicles are not to park under the existing Jacaranda trees at any time.
 - 10. Bollards are not to be erected within a 50cm radius of significant tree roots.
 - 11. Any roots within the Tree Protection Zone above 50mm diameter that require severing are to be cut cleanly by or under supervision of the project Arborist.

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12. The tree protection fencing as nominated on the landscaping plan must be installed **prior to any construction** and inspected by the Landscape Architect and Council's Vegetation Management Officer. Any excavation within the nominated Tree Protection Zones is to be minimal and supervised by AQF Level 5 Arborist.
13. Construction access for trucks and heavy machinery must be from Swan Street to avoid any damage to the canopy of the Jacaranda trees.
14. The proposed development shall be provided with access and facilities for the disabled in accordance with Australian Standard 1428.1 and the relevant provisions of the Building Code of Australia and should include but not be limited to the following:
 - (a) A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1 shall be provided to and within any building on the site. This accessway shall provide access to all required facilities.
 - (b) External access to the building required to be accessible must be in accordance with the Building Code of Australia Part D and Australian Standard 1428.1, and must be provided:
 - (i) from the allotment boundary at the main points of entry; and
 - (ii) from any accessible carparking space on the allotment; and
 - (iii) from any adjacent and associated accessible building on the allotment; and
 - (iv) through the principal public entrance.
 - (c) The minimum number of accessible car parking spaces shall be provided in accordance with the Building Code of Australia Section D Subsection 3.5 and designed in accordance with Australian Standard 2890.1.

Note: These shall be maintained for the life of the development by existing or future owners.
15. The recommendations listed in the Disability Access Report prepared by Lindsay Perry Access and Architecture, dated March 2011 are to be adopted in the design of the development and details of compliance are to be submitted to Council's Community Planner **prior to commencement of works**.
16. A separate development application is required for any signage to be installed on site, unless the advertisement does not require approval as defined by exempt development provisions of the Port Stephens Council Local Environmental Plan 2000 or any relevant state environmental planning instrument.
17. A colour scheme providing full details of the colours and character of all external building materials and finishes to be used shall be approved by Council's Sustainable Planning Group **prior to commencement of works**. It must be noted that:

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a) The external low level façade of face masonry is not to contain contrasting banding and is to be of small masonry brick units, preferably a dry pressed brick. Similarly any banding to masonry that addresses the street façades should be in the same material colour etc. This is to enable a transition of the building to occur in context.

b) The random patterning and colours of external vertical battens on facades to the streetscape is to be kept to neutral tones with stronger colours reserved for internal site facades.

18. The external walls of the building are to have graffiti proof treatment to a height of 1.8 metres.
19. External lighting to the car park is to be designed to Australian Standard AS 1158 – Lighting for roads and public spaces.
20. The development shall provide 69 on-site car parking spaces, including 7 disabled parking spaces. These spaces shall be separately accessible, clearly line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with the Section B3 – Parking, Traffic and Transport, of Port Stephens Development Control Plan 2007. Car parking must be provided **prior to the occupation of the building**.
21. The hours of operation shall be restricted to between 8am and 9pm, seven days a week. Small group activities/classes may operate until 11pm, seven days a week.
22. The forecourt seating is to be designed by an artist or artisan. Consultation on the design of this seating is to be undertaken with Council's Community Planner and the seating must be **installed before occupation of the building**.
23. A Waste Management Plan prepared in accordance with Section B2 – Environmental and Construction Management, of Port Stephens Development Control Plan 2007, shall be submitted to and approved by Council's Sustainable Planning Group, which covers demolition and building works through to the management of the finished development **prior to the commencement of works**. The applicant shall recycle any material which is able to be salvaged from the demolition of the existing building/structure. Non salvageable material shall be disposed of at Council approved refuse/land fill sites.

The Waste Management Plan for finished development, needs to determine the location and capacity of receptacles, odour and vermin control. Quantities shall be based on industry standards and contractor capability.
24. A Construction Management Plan shall be submitted to and approved by Council's Sustainable Planning Group, **prior to the commencement of works**. The construction management plan shall specify operational details to minimise any potential impact to adjoining properties. The construction management plan should include but not

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be limited to the following information:- Construction techniques, noise and vibration management, storage of equipment and building materials, hours of work, primary route for truck movements, etc.

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

The amount to be paid is to be determined in accordance with the provisions of the Port Stephens Section 94a Development Contributions Plan. The contribution is to be paid **prior to commencement of works.**

A cost summary report (**form attached**) setting out an estimate of the proposed cost of carrying out development in accordance with schedule 1 of the Port Stephens Section 94a Development Contributions Plan must be approved by Council **prior to the commencement of works.**

26. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005). The Flood Planning Level for this development is RL 5.1 metres AHD. The following design precautions must be adhered to:-
- a. The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level.
 - b. In sewerage areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge.
 - c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods.
 - d. All building materials, equipment, ducting, etc below the Flood Planning Level shall be flood compatible.
 - e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level.
 - f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed.

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- g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.
 - h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level.
 - i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.
27. A structural engineer shall design and certify that all building structures and earth mounds are able to withstand the flood forces, debris impact and buoyancy uplift for the PMF Flood **prior to the commencement of works.**
28. A Flood Management Plan for a PMF flood event which covers evacuation and the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc shall be submitted to and approved by Council's Sustainable Planning Group **prior to the commencement of works.**
29. **Prior to commencement of any works** within the road reserve for the provision of a driveway crossing, the applicant or their nominated contractor shall make application to Council and receive approval for the construction of the driveway under section 138 of the Roads Act.
- Note: An application shall be made on Council's Driveway Construction Application form, a copy of which is attached to this consent for your convenience. For further information on this condition please contact Council's Facilities and Services Group.
- The construction of the footpath crossing must be completed to the satisfaction of the Roads Authority **prior to occupation of the building.**
30. All redundant lay-backs shall be reinstated to match the adjoining kerb and gutter profile.
31. The stormwater detention, water quality and infiltration system shall be designed and built in accordance with the approved concept plan/strategy. Impervious surface and roof water shall be disposed to the infiltration drainage system. A drainage design indicating all engineering details relevant to site regrading and the collection and disposal of the stormwater from the site is to be submitted to and approved by the certifying authority **prior to the commencement of works.** Details are to include pit sizes, infiltration system details, existing site levels, finished levels, pipeline sizes, invert levels, pipe grades and calculations.

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32. The stormwater system, including the water quality and quantity components, shall be maintained in perpetuity for the life of the development.
33. Submission of Works-As-Executed plans and report prepared and certified by a suitability qualified drainage engineer confirming all drainage works (volume, discharge, levels, location, etc) are built in accordance with conditions of consent and the approved plan. Minor variations in height can be certified providing they are clearly identified in the report and the engineer certifies that the overland flow paths are not altered, discharge rates are not increased, and no additional negative effects are imparted on any dwellings or property. Minor variations can only be certified where it can be demonstrated that the ease of maintenance and monitoring of the system has not been negatively affected.

The documents shall be submitted to, and accepted by the Certifying Authority, **prior to the occupation of the building.**

34. Erosion control measures shall be put in place to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with "Managing Urban Stormwater", Volume 1:2004 (Landcom).
35. The applicant shall construct kerb extensions on Jacaranda Avenue adjacent to the proposed medical centre entrance to facilitate safe pedestrian access and connectivity. Details shall be submitted to, and approved by the Roads Authority **prior to issue of the Roads Act approval.**
36. The intersection of Swan Street, Sturgeon Street and Jacaranda Avenue shall be realigned in conjunction with the frontage site roadworks. These works shall be generally in accordance with Plan 3001.DA02 by TPK & Assoc dated 17/03/11 and include closure of the portion of Swan Street adjacent to No.12 Swan Street, installation of linemarking and regulatory signage. Details shall be submitted to, and approved by the Roads Authority **prior to issue of the Roads Act approval.**
37. The applicant shall construct a raised median in Swan Street at the intersection of Jacaranda Avenue to prevent turning vehicles from cutting the corner. Details shall be submitted to, and approved by the Roads Authority **prior to issue of the Roads Act approval.**
38. The proposed ambulance and service bay driveway shown on the submitted plans requires realignment to enable connection to Swan Street to be within an angle between 70-110° as per AUSTRROADS guidelines. Details within the road reserve shall be approved by the Roads Authority **prior to issue of the Roads Act approval.**
39. An accessible bus lay-by and continuous pedestrian pathway connections shall be provided on the northern side of Swan Street, adjacent to the Jacaranda Avenue intersection. Details shall be in accordance with Council's standard drawing and be approved by the Roads Authority **prior to issue of the Roads Act approval.**

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40. The developer shall be responsible for the provision of any additional regulatory signage and any adjustments required to existing regulatory signage, as a consequence of the development. All works to be carried out at no cost to Council and in accordance with Council requirements. Details shall be approved by the Roads Authority **prior to issue of the Roads Act approval.**

(Note: Any regulatory signage installations or alterations shall be referred to Port Stephens Local Traffic Committee for approval).

41. A concrete footpath 1.2 metres wide and 100mm thick shall be provided, to Council's Standards, over the full street frontage of the site **prior to occupation of the building.** Details shall be submitted to, and approved by the Roads Authority **prior to issue of the Roads Act approval.**
42. Landscaping works shown within the road reserve are subject to approval by the Roads Authority. Details shall be submitted to, and approved by the Roads Authority **prior to issue of the Roads Act approval.**
43. All works as listed as conditions of development consent, which are located in public roads are subject to approval under section 138 of the Roads Act 1993. Engineering details in accordance with Council's Infrastructure Specification, of such works shall be submitted with a Roads Act application form and then approved by Council **prior to commencement of works** within the Road Reserve.

The following items are also required to be approved by Council prior to approval being granted to commence works within the Road Reserve:

- a) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
 - b) Payment of fees;
 - c) Contractors public liability insurances to a minimum value of \$10 million dollars.
44. Works associated with the approved plans and specifications located within the existing Road Reserve shall not commence until:
- i) a Roads Act Approval has been issued, and
 - ii) all conditions of the Roads Act Approval have been complied with to Council's satisfaction.
45. All civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of the Roads Authority (with a letter of practical completion issued) **prior to the occupation of the building.**

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

46. Works associated with the Roads Act Approval are subject to:
- a. inspection by Council,
 - b. testing by a registered NATA Laboratory and

c. approval by Council at each construction stage as determined by Council.

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

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

50. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the Roads Act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted.
51. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. **Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.**
52. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.

Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing Urban Stormwater – Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.

53. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site of the

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commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.

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

GENERAL ADVICES

- a) Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
- b) The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. This applies particularly to new buildings or significant building alterations. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act. Further information can be obtained from Council or the Human Rights and Equal Opportunity Commission on 008 021199.
- c) Consideration should be given to the following enhanced access and facilities provisions for the proposed development.
 - (i) Australian Standard 1428.3 Design for access and mobility – Requirements for children and adolescents with physical disabilities.
- d) Further information about disabled access obligations can be found at the Human Rights and Equal Opportunities Commission website www.hreoc.gov.au

SCHEDULE 3 – APPROVED PLANS AND DOCUMENTATION

Statement of Environmental Effects prepared by de Witt Consulting dated March 2011
Location & Site Analysis Plan prepared by schreiber hamilton architecture numbered DA01 Revision D and undated
Site Plan prepared by schreiber hamilton architecture numbered DA02 Revision F and undated
Basement & Lower Level Car Park Plan prepared by schreiber hamilton architecture numbered DA03 Revision D and undated
Ground Floor Plan prepared by schreiber hamilton architecture numbered DA04 Revision D and undated
First Floor Plan prepared by schreiber hamilton architecture numbered DA05 Revision D and undated
Roof Plan prepared by schreiber hamilton architecture numbered DA06 Revision D and undated
Elevations prepared by schreiber hamilton architecture numbered DA07 and DA08 Revision D and undated
Sections prepared by schreiber hamilton architecture numbered DA09 Revision D and undated
Entry Perspective prepared by schreiber hamilton architecture numbered DA10 Revision D and undated
Northern Jacaranda Avenue Perspective prepared by schreiber hamilton architecture numbered DA11 Revision D and undated
Southern Jacaranda Avenue Perspective prepared by schreiber hamilton architecture numbered DA12 Revision D and undated
Western Swan Street Perspective prepared by schreiber hamilton architecture numbered DA13 Revision D and undated
Shadow diagrams prepared by schreiber hamilton architecture numbered DA14 Revision D and undated
Landscape Concept Plan prepared by Moir Landscape Architecture numbered LPO1 Issue D dated 23 March 2011
Landscape Perspectives & Elevations prepared by Moir Landscape Architecture numbered LPO2 Issue D dated 23 March 2011
Tree Protection Zones prepared by Moir Landscape Architecture numbered LPO3 Issue D dated 23 March 2011

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Landscape Masterplan Report prepared by Moir Landscape Architecture dated 22 March 2011
Arborist report prepared by Abacus Tree Service dated March 2011
Storm water Management Plan prepared by MPC Consulting Engineers dated March 2011
Disability Access Report prepared by Lindsay Perry Access and Architecture dated 18 March 2011
Traffic Assessment Report prepared by TPK & Associates Pty Ltd dated March 2011
Heritage Impact Statement prepared by Heritas architecture dated 21 March 2011

ITEM NO. 4

FILE NO: 2006-0046

PORT STEPHENS PLANNING STRATEGY

**REPORT OF: BRUCE PETERSEN – MANAGER ENVIRONMENTAL AND DEVELOPMENT
PLANNING**

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the draft Port Stephens Planning Strategy 2011 (as amended) at Attachment 2 – provided under separate cover - and forward a copy to the Director-General Department of Planning and Infrastructure for endorsement with the following changes:
 - Describe Wallalong as "Potential Urban Release Area subject to resolution of infrastructure delivery"
 - Enlarge circle on Planning Strategy Map for Tomago to include area zoned industrial under State Environmental Planning Policy (Major Development) 2006
 - Reference the need for the Fingal Bay Link Road in Section 6
 - Delete from Appendix 1 Nelson Bay reference to Polyclinic and replace with "Tomaree Community Hospital"
 - The addition of the following wording in Appendix 1 for Hinton: "the Hinton Heritage Conservation Area extends over the main residential area. To ensure the continued protection of the village and rural residential character a sub-strategy may be an option as it would consider mechanisms such as the identification of additional potential rural residential land which acts as a barrier to residential growth."
 - Additional wording in Section 6 identifying the need for a rail connection between the airport and Newcastle.
 - 2) Write to the Department of Housing requesting a presentation on the growth and management approach for the provision of housing in Port Stephens.
 - 3) Replace the Proposed Centres Hierarchy Map in the draft Port Stephens Planning Strategy 2011 with a new Centres Hierarchy Map correctly reflecting the role Boat Harbour and One Mile have in the local government area, and not specifically identify Boat Harbour and One Mile as a "significant village" as all communities are significant;
 - 4) Acknowledge in the draft Port Stephens Planning Strategy 2011, the significant role all communities, including Boat Harbour and One Mile play in how Port Stephens functions as an area.
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**COUNCIL COMMITTEE MEETING – 19 JULY 2011
RECOMMENDATION:**

	<p>Councillor Bruce MacKenzie Councillor Steve Tucker</p>	<p>That Council:</p> <p>1) Adopt the draft Port Stephens Planning Strategy 2011 (as amended) at Attachment 2 – provided under separate cover – for a period of 28 days with the following changes:</p> <ul style="list-style-type: none"> • Describe Wallalong as “Potential Urban Release Area subject to resolution of infrastructure delivery”; • Enlarge circle on Planning Strategy Map for Tomago to include area zoned industrial under State Environmental Planning Policy (Major Development) 2006; • Reference the need for the Fingal Bay Link Road in Section 6; • Delete from Appendix 1 Nelson Bay reference to Polyclinic and replace with “Tomaree Community Hospital”; • The addition of the following wording in Appendix 1 for Hinton: “the Hinton Heritage Conservation Area extends over the main residential area. To ensure the continued protection of the village and rural residential character a sub-strategy may be an option as it would consider mechanisms such as the identification of additional potential rural residential land which acts as a barrier to residential growth”; • Additional wording in Section 6 identifying the need for a rail connection between the airport and Newcastle. • Describes the currently
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		<p>proposed primary growth corridor as the 'Western Growth Corridor'; and</p> <ul style="list-style-type: none"> • Includes in the Port Stephens Planning Strategy the proposal for an 'Eastern Growth Corridor' encompassing Medowie, Williamtown, Newcastle Airport and Fullerton Cove/Fern Bay – recognising the growth potential and retail, commercial and infrastructure needs and opportunities within that corridor. • Remove the wording "stand alone shopping centre" under section 6.3.2 with regard to Salamander. <p>2) Review the Anna Bay and Medowie Planning Strategies at the earliest opportunity – particularly in terms of land available for potential development.</p> <p>3) Write to the Department of Housing requesting a presentation on the growth and management approach for the provision of housing in Port Stephens.</p> <p>4) Replace the Proposed Centres Hierarchy Map in the draft Port Stephens Planning Strategy 2011 with a new Centres Hierarchy Map correctly reflecting the role Boat Harbour and One Mile have in the local government area, and not specifically identify Boat Harbour and One Mile as a "significant village" as all communities are significant.</p> <p>5) Acknowledge in the draft Port Stephens Planning Strategy 2011 the significant role all communities, including Boat Harbour and One Mile Play in how Port Stephens functions as an area.</p>
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In accordance with Section 375A of the Local Government Act, a division is required for this item.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Those for the motion: Crs Steve Tucker, Bruce MacKenzie, Ken Jordan, Bob Westbury, Peter Kafer, Sally Dover and Shirley O'Brien.

Those against the motion: Crs Geoff Dingle, Frank Ward and John Nell.

MATTER ARISING

	Councillor Ken Jordan Councillor Bruce MacKenzie	That Council reaffirm its support for Wallalong as an Urban Release Area and that the General Manager should write to the NSW Minister for Planning and the Director General of Department of Planning and Infrastructure requesting advice as to the position of the NSW Government on the proposed Wallalong Urban Release area, advise the inclusion of Wallalong Urban release Area in the Port Stephens Planning Strategy and seek its inclusion in the review of the Lower Hunter Regional Strategy.
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In accordance with Section 375A of the Local Government Act, a division is required for this item.

Those for the motion: Crs Steve Tucker, Bruce MacKenzie, Ken Jordan, Bob Westbury, Peter Kafer, Sally Dover, Shirley O'Brien, Geoff Dingle, Frank Ward and John Nell.

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 26 JULY 2011

247	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council: 1) Endorse the public exhibition of the draft Port Stephens Planning Strategy 2011 (as amended) at Attachment 2 – provided under separate cover – for a period of 28 days with the following changes: <ul style="list-style-type: none">• Describe Wallalong as "Potential Urban Release Area".• Enlarge circle on Planning Strategy Map for Tomago to include area zoned industrial under State Environmental Planning Policy (Major Development) 2006;
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		<ul style="list-style-type: none"> • Reference the need for the Fingal Bay Link Road in Section 6; • Delete from Appendix 1 Nelson Bay reference to Polyclinic and replace with "Tomaree Community Hospital"; • The addition of the following wording in Appendix 1 for Hinton: "the Hinton Heritage Conservation Area extends over the main residential area. To ensure the continued protection of the village and rural residential character a sub-strategy may be an option as it would consider mechanisms such as the identification of additional potential rural residential land which acts as a barrier to residential growth"; • Additional wording in Section 6 identifying the need for a rail connection between the airport and Newcastle. • Describes the currently proposed primary growth corridor as the 'Western Growth Corridor'; and • Includes in the Port Stephens Planning Strategy the proposal for an 'Eastern Growth Corridor' encompassing Medowie, Williamtown, Newcastle Airport and Fullerton Cove/Fern Bay – recognising the growth potential and retail, commercial and infrastructure needs and opportunities within that corridor. • Remove the wording "stand alone shopping centre" under section 6.3.2 with regard to Salamander. <p>2) Review the Anna Bay and Medowie Planning Strategies at the earliest opportunity – particularly in terms of land available for potential development.</p> <p>3) Write to the Department of Housing requesting a presentation on the growth and management approach for the provision of housing in Port Stephens.</p>
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		<p>4) Replace the Proposed Centres Hierarchy Map in the draft Port Stephens Planning Strategy 2011 with a new Centres Hierarchy Map correctly reflecting the role Boat Harbour and One Mile have in the local government area, and not specifically identify Boat Harbour and One Mile as a "significant village" as all communities are significant.</p> <p>5) Acknowledge in the draft Port Stephens Planning Strategy 2011 the significant role all communities, including Boat Harbour and One Mile Play in how Port Stephens functions as an area.</p> <p>6) Identify land on the corner of Nelson Bay Road and Gan Gan Road as a potential site for a Health Precinct (including private hospital and seniors living) and Tourism (including tourism attractions and ecotourism accommodation)</p> <p>7) That the Radiata plantations on Masonite Road, Heatherbrae, be identified as future light industrial development.</p>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover and Bob Westbury.

Those against the Motion: Crs Peter Kafer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

MATTER ARISING

		<p>Crs Jordan and Mackenzie withdrew the matter arising.</p>
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Please note:

Council considered this item on 28 June 2011, resolving to defer for one month and to provide Councillors with a Two Way Conversation on the Strategy.

The draft Port Stephens Planning Strategy (PSPS) was presented to Council on the 21 June (Committee) and 28 June (Ordinary) 2011 at which Council resolved the draft PSPS be deferred for one month to allow a further 2-Way conversation to be held. The 2-Way Conversation was held on the 5 July 2011. Changes to the document are outlined in the recommended resolution. Although at both meetings of Council the issue of re-exhibition was discussed, the recommendation remains for adoption as the changes made to the revised draft from that exhibited in 2010 have been undertaken in response to submissions from the community and comments from the Department of Planning and Infrastructure. The overall intent has not altered from the exhibited document in 2010 as no changes to the urban structure are recommended.

Should Council resolve to include substantial changes, it is recommended that they be included within the Port Stephens Planning Strategy and re-exhibited as a result of the proposed changes.

The purpose of this Report is to consider submissions received during the public exhibition period and present an amended draft Port Stephens Planning Strategy (PSPS) (provided under separate cover) for adoption by Council. As stated above, the draft PSPS has been fully reviewed in response to the submissions received during the exhibition in 2010 and it is recommended the document now be adopted.

The Report also addresses two previous resolutions of Council relating to the inclusion of Wallalong as a new town and Boat Harbour/One Mile being classified as a "significant village".

BACKGROUND

The current *Community Settlement and Infrastructure Strategy* (CSIS) was adopted by Council on the 24 April 2007. The purpose of the CSIS is to guide land use planning and decision making for development and environmental outcomes within the Port Stephens community. The PSPS provides the framework for the broad strategic base to manage growth and is supplemented by the development of sub-strategies to provide an additional level of detail for specific areas or issues. The revised PSPS will ensure greater certainty for the community and development industry with clear direction for growth or conservation of lands in the area. Rationale for the new growth and management of the existing growth is now supported by additional background studies and further refinement of Council's land use planning framework. The PSPS will also assist Council to direct its resources to target more detailed local area strategies to facilitate the release of urban lands supported by timely infrastructure provision such as the emerging Heatherbrae Enterprise Corridor which is located within the Primary Growth Corridor for the area.

The CSIS forms part of Council's land use planning framework, which is shown in the following table:

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State Government (Department of Planning and Infrastructure (DoPI))		
	Current	Status update
Regional Strategic Planning Strategy	Lower Hunter Regional Strategy (2006)	Lower Hunter Regional Strategy (2006) under review 2011.
Port Stephens		
Community Vision/Longer-term planning	Futures Strategy 2009	Complete – used to inform Planning Strategy, and direct Councils Integrated Planning Framework and other Plans
LGA wide Strategic Planning Strategy	Community Settlement and Infrastructure Strategy (2007)	Draft Planning Strategy – subject of this report.
Sub-strategies - place based	Medowie, Anna Bay,	Draft - Karuah, Nelson Bay Commenced – Raymond Terrace/Heatherbrae
Implementation documents	Local Environmental Plan 2000	Standard Template LEP under development 2011
	Development Control Plan 2007	Revised DCP - under development 2011/2012

The existing CSIS is not endorsed by the Department of Planning and Infrastructure (DoPI) The Department declined to endorse the document primarily due to the inconsistencies with the Lower Hunter Regional Strategy (LHRS) having specific regard to the population projections and sustainability principles and criteria.

On the 27 July 2010 Council resolved to exhibit a revised CSIS to be known as the draft *Community Settlement Strategy* (CSS). The revision was in response to Council's resolution to include Wallalong as a proposed new town. The draft CSS was exhibited from 25 August to 23 September 2010. A public workshop was also conducted on 23 September 2010 for the Port Stephens Residents Panel. A total of fifteen (15) submissions were received. Details of the submissions and responses to issues raised are provided at Attachment 1. As a result of the submissions received and comments provided by DoPI, the draft PSPS has been reviewed, however, the original intent of the document has not altered.

Key Amendments to the draft Port Stephens Planning Strategy

Context - provides clarity around its role and its function within the national, state and local government context.

Clear identification of growth areas - a Port Stephens Planning Strategy Map has been prepared to provide a "snapshot" of projected growth and conservation for the area. The Map highlights the Primary Growth Corridor stretching from North Raymond Terrace (Kings Hill), to the regional centre of Raymond Terrace, to the emerging Enterprise Corridor of Heatherbrae and anchored by the Tomago Industrial Precinct.

Heatherbrae – the PSPS identifies Heatherbrae as an Enterprise Corridor and considers its emerging role and relationship to other areas of the Primary Growth Corridor.

Wallalong – the PSPS identifies land at Wallalong as Potential Urban Release subject to resolution of infrastructure delivery.

Tomaree Peninsular – the PSPS identifies the area as Tomaree Tourism and Lifestyle Growth Area to reflect the importance of the dual role the area plays in Port Stephens.

Anna Bay/Medowie Strategies – the PSPS includes only the key land use map from each strategy.

Population Projections – the PSPS provides revised population projections consistent with the LHRS. The projections will be monitored and reviewed if required after the data is released for the Census which is due to be undertaken in August 2011.

Nelson Bay – the PSPS provides clarity around the reference to Nelson Bay accommodating 1200 new dwellings in the LHRS.

Proposed Centres Hierarchy Map – the proposed map has been deleted and replaced with a more accurate representation of both the existing and proposed centres and suburbs.

Revised format - a new format which facilitates readability and improves presentation of the information including maps.

Content of the revised draft Port Stephens Planning Strategy

The draft PSPS has seven (7) sections including an Executive Summary:

Section 1 Purpose

Section 2 Background – provides details of the history of the development of the draft PSPS, the strategic planning framework and the history of development in the Port Stephens area.

Section 3 National, State and Regional Policy Context – provides overview of policy documents which provide direction in the management and development of Port Stephens with particular reference to the LHRS.

Section 4 Local Policy Context – provides overview and status of current plans such as the *Futures Strategy*, *Economic Development Strategy*, LEP, DCP and their role in providing direction for the development and implementation of the draft PSPS.

Section 5 Strategic Information and Key Issues – provides an analysis of the current demographics shaping the LGA. This Section also considers the specific constraints and challenges facing existing development and future growth such as aircraft noise and flooding.

Section 6 Strategic Direction – sets the overall framework to manage the growth of commercial, employment lands and residential development, ensuring

there are sufficient lands to accommodate the growth while continuing to protect the natural values of the area.

Section 7 Implementation – provides detail on what suite of documents is required to ensure the draft PSPS is implemented in an efficient and appropriate manner. Implementation tools include the development of a new Principal LEP and complementary DCP. To ensure the growth is supported with the relevant infrastructure the Section 94 developer contributions plans will also be updated.

FINANCIAL/RESOURCE IMPLICATIONS

The revision of the document has been undertaken within the current budget using existing staff resources.

The draft PSPS will continue to have significant financial and resource implications for Council, the public sector and the private sector in regard to infrastructure provision, long term asset management/maintenance and general development costs. For large developments such as the recently rezoned North Raymond Terrace (Kings Hill) development, it is likely voluntary planning agreements will be utilised to manage infrastructure provision.

Future costs will be incurred in the development of additional place based strategies such as the recently commenced Raymond Terrace/Heatherbrae Growth Strategy. These additional costs will be determined as part of the Council budget process.

LEGAL, POLICY AND RISK IMPLICATIONS

An LGA wide strategy is required to provide broad strategic land use planning to manage growth in a sustainable manner. The strategy must be consistent with the direction set by the State government through the LHRS. Port Stephens is included in the LHRS. Council's local strategies must therefore be consistent with, and facilitate implementation of that Strategy.

The adopted CSIS 2007 was not endorsed by the DoPI because it was inconsistent with the LHRS. The DoPI have requested several times for the document to be amended and have also declined to endorse the place based strategies for Anna Bay and Medowie until the broader Strategy has been amended. The revised CSS did address some of the DoPI's concerns, however, the population projections and the inclusion of Wallalong continue to be issues. In response to the concerns about projections, the initial assumptions used to determine population growth have been reviewed. These assumptions projected a much higher yield of unit development, particularly in the commercial areas than what could be achieved under the current controls. All assumptions have now been reviewed and amended where appropriate. The population projections are now consistent with those in the LHRS.

On the 25th August 2009 Council resolved to include Wallalong as a new town in the CSIS 2007. A copy of the revised CSS was forwarded to Minister for Planning who responded on 5th November 2010. The Minister advised that the Department has previously advised Council that it does not support the identification of land at Wallalong as a major urban release area. The letter also advises that in the review of

the LHRS *"It remains unlikely, however, that the review (due to be completed by November 2011) will identify Wallalong as an appropriate or required location for potential urban release."* A copy of this response was provided to Council who resolved on the 14th December 2010 to invite the Minister for Planning to inspect the site. To date no formal response to the letter has been received, however, meetings between all parties have occurred with further discussions likely. As a result, Wallalong is still included in the revised PSPS. This is now the only inconsistency with the LHRS.

On the 12th October 2010 Council supported a Notice of Motion to identify Boat Harbour/One Mile area as a "significant village" in the CSS. Submissions were also received from residents raising concerns that the proposed commercial hierarchy map identified Boat Harbour/One Mile as having no commercial zoned land. The map appears to have been considered out of context. The proposed commercial hierarchy was developed in the Commercial and Industrial Lands Strategy (CILS). The role of the map was to indicate a proposed concept. SGS consultants proposed Boat Harbour as having no commercial land as they did not believe it was currently viable which appears to be the case with difficulty being experienced by property owners in leasing the commercial component of their property. Further, under the Standard Template LEP, neighbourhood shops are permissible in the residential zones which would allow small scale commercial development to meet the needs of the residents should it become commercially viable in the future. As stated the map was a proposed concept not a statement of the current situation.

To eliminate this confusion the map from the CILS has not been used in the revised PSPS. A new map has been prepared which sets out the commercial hierarchy across the LGA and does not reference zoning. As a result of the map change and clarification of the context of the map Boat Harbour has not been identified as "significant village" as all suburbs play a significant role in how Port Stephens functions as an area.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The draft PSPS provides direction for the future growth of the Port Stephens LGA to be undertaken in an ecologically sustainable manner.

CONSULTATION

The draft CSS was exhibited from 25th August to 23rd September 2010. A presentation of the draft was provided to the Tomaree Residents and Ratepayers Association on the 9th August 2010. A public workshop was also conducted on 23rd September 2010 for the Port Stephens Residents Panel. Four 2-Way Conversations were held with the Councillors on 17th March 2011, 31st May 2011, 21st June 2011 and 5th July 2011. A total of fifteen (15) submissions were received from the exhibition process. The main issues are addressed below with a full list of the submissions received detailed at **Attachment 1**.

The DoPI have provided comments on Council's exhibited draft CSS and have reiterated their concerns regarding the inconsistency with the LHRS. As part of the

review further discussions were held with DoPI to ensure revisions being made to the document would be both satisfactory to Council and the DoPI. Although Wallalong remains in the PSPS, DoPI is aware that discussions are still ongoing. All other aspects of the PSPS are now consistent with the LHRs.

Key Issues

Population projections

Concern was raised over the population projections, in particular the Nelson Bay area. The LHRs includes population projections for an additional 1200 dwellings for Nelson Bay. In practical terms, the projections relates more broadly to the Tomaree Tourism and Lifestyle Growth Area, not the individual suburb of Nelson Bay. This point has been included in the revised draft PSPS. In addition to this, the DoPI raised the broader concern that the projections were not consistent with the LHRs and requested Council's projections be amended which has now occurred.

Commercial and industrial land supply

Concerns were raised regarding the work undertaken by consultants SGS on the *Commercial and Industrial Land Study (CILS)*. The first key issue related to the assumption that industrial land will be developed at a floor space ratio of 1:1. In practice this is not always the case and could result in Council underestimating the future demand. It is agreed that the point is worth investigating further. As a result the issue will be considered in the work being undertaken for the Heatherbrae Enterprise Corridor as part of the recently commenced Raymond Terrace/Heatherbrae Growth Strategy.

The second issue related to the need for bulky goods retailing in the LGA. The CILS reviewed the issue of bulky goods, which included information provided by the proponent of a rezoning proposal for this type of activity at Williamtown. The CILS determined that although the catchment area required for bulky goods provisions was well catered for in adjacent LGA's, Council may wish to have the option for bulky goods retailing in its own LGA. However, should Council wish to encourage this type of development Heatherbrae was considered by the CILS the most appropriate area considering its location in the Primary Growth Corridor, available land and the fact that there is already existing bulky goods outlets in the Heatherbrae area. However, should Council wish to support bulky goods retailing in other locations in the LGA, Council will need to reconsider its recommendation to support increased growth in Heatherbrae as it would be difficult to justify new zonings.

Sub-strategy Inclusion

The draft CSS was exhibited with a full copy of both the Anna Bay and Medowie strategies. Both of these strategies have gone through a comprehensive community consultation process followed by a formal adoption by Council. A table has been added to the appendices stating the status of sub-strategies. Further, as work is completed on each sub-strategy the key map will be inserted into the draft PSPS via a resolution from Council at their time of adoption. Only the relevant key map from both sub-strategies has been included in the revision of the draft PSPS.

Housing

In response to concern raised in submissions regarding the population forecasting and Council's ability to address the issue, additional information has been included which reinforces the good planning practice of allowing increased density around commercial centres where the services are located and then decreasing densities further away from the centres. This principle and associated criteria has been used to identify infill areas in a more strategic way. This approach will not result in a considerable change to the character of the area as infill development would continue to reflect the current low scale medium density development occurring. These principles would be implemented through the zoning regime of the Principal LEP and supported through a revised DCP.

In the most recent discussion with Councillors, concern was raised about the volume of Department of Housing dwellings which have been established in the LGA. It was agreed that public housing is very important for the community; however, the primary concern was the clustering of the housing and the associated social issues. Although the draft PSPS can not address this matter in a comprehensive way as it is not the role of the document, it is considered appropriate to raise the concern and request a presentation by the Department of Housing which outlines what growth is expected in the LGA and what approach the Department would be taking to manage this.

Property Council of Australia

On the Property Council of Australia website comments were made regarding the delay of the revision of the document and the importance of the document for the land use planning and growth of the area. Firstly, Council is aware of the importance of an overarching strategy for land use and growth. There is already an adopted Strategy which remains in place until the revised Strategy is adopted. The review and updating of the document can therefore proceed without holding up development. Secondly, strategies of this nature usually undergo a minor review and update every five years. The review of the current document was scheduled for review in 2012, however as Council resolved to include Wallalong as a new town and the fact that a new Principal LEP was required in the short term, the opportunity was taken to update the document ahead of schedule.

The Property Council also raised concern that the revised document would not be re-exhibited. The changes to the revised draft PSPS are primarily in response to submissions and requirements to ensure the Strategy is consistent with the LHRS and the comments provided by the Department of Planning and Infrastructure. The overall intent of the document has not altered; however, the revised document has addressed many issues raised in submissions and provides a clear direction for the land use in the LGA.

It should be noted that no submission was actually received by the Property Council.

Formatting

Several submissions raised the issue of formatting errors as well as confusion over the role of the document in regard to other Council documents. To eliminate confusion the document has been renamed to the Port Stephens Planning Strategy to reflect clearly what it is and an overall Strategy Map has been included to provide a quick “snapshot” of key growth areas. The document has also been improved in both reformatting and presentation.

Site specific requests

Of the fifteen (15) submissions received seven (7) relate to the request for the inclusion of individual sites in the PSPS. These submissions have been addressed in the Submission Register at **Attachment 1**.

OPTIONS

- 1) Council resolve to adopt the revised draft Port Stephens Planning Strategy (as amended) and forward to the Department of Planning and Infrastructure seeking their endorsement. This is the recommended option;
- 2) Council make modifications to the revised draft Port Stephens Planning Strategy. Depending on the nature of the amendments, this may result in a further public exhibition and delay the implementation of the Strategy. This is not a recommended option;
- 3) Council resolves to place the revised Planning Strategy on exhibition for a period of 28 days. This would result in the delay of implementation of the Strategy. This is not a recommended option;
- 4) Not proceed with the revised draft Port Stephens Planning Strategy. This is not the preferred option as the current document is not endorsed by the Department of Planning and Infrastructure and will not enact the Council resolution to include Wallalong as a new town in the Strategy. This is not a recommended option.

ATTACHMENTS

- 1) Submission Register;
- 2) Provided under separate cover – Port Stephens Planning Strategy 2011.

COUNCILLORS ROOM

- 1) Copy of Submissions.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Submission Register

Submission Register – draft Port Stephens Planning Strategy

Issue groups	Submission categories
A- Introduction	1 Submissions by Commonwealth & State agencies
B- Policy Context	2 Submissions by other councils
C- Local Context	3 Submissions by community organisations*
D- Strategic Directions	4 Submissions by individuals
	5 Submissions by companies
E- Local Strategic Directions	
F- Implementation	
G- Trends and Future Issues	
H- Figures	

* Excludes religious organisations acting as property owners (these are included in »E).

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Issue Group	General nature of the Issue raised	Locality	Sub No.	Sub Cat	Comment	Council Response	Recommendations for revised Strategy
E	<p>The lot yield (1,050) and population increase (2,650) contained in Table 13 are at odds with both page 98 and the proposed Concept Plan for the Walkalong Urban Release Area.</p> <p>This is a relatively unconstrained area and there will be a likely future demand for housing in the UGA.</p> <p>Formatting errors with the headings in section Part E.5 Industrial Areas from pages 96 to 104.</p>	Walkalong	1	5	<p>Table 13 should be amended to reflect the correct figures.</p> <p>Council should consider a higher priority and an earlier timing for Walkalong than that contemplated by Table 13. Alternatively, timing should be flexible in response to changing circumstances.</p> <p>Heading should be changed to infill areas.</p>	<p>The inconsistency is noted, the figures have been reviewed and amended.</p> <p>Significant amount of work will need to be undertaken by the proponent to resolve planning issues for Walkalong. The DoPI have indicated that they do not support Walkalong as an urban release area. Given this issue the timing is considered appropriate. Should the DoPI amend their position in view of the upcoming URS review, the timing could be amended.</p> <p>Formatting has been reviewed and the Strategy redrafted.</p>	<p>Strategy amended to reflect correct figures.</p> <p>No change</p> <p>The Strategy has been reformatted.</p>
D	Lots 131 & 132 DP 609165 (Cabbage Tree Rd, Willamtown) are still zoned SP1 DAREZ and Rural 1(a)	Willamtown	2	5	Request Council to consider the portion of the two lots that are zoned Rural 1(a) for high priority investigation to be rezoned to SP1 DAREZ.	The request is for a rezoning. The Strategy does not rezone land. This proposal has been considered previously and was not included on the basis that sufficient land has been rezoned for the DAREZ proposal. Any rezoning of this land would need to be considered in the context of the DAREZ Strategy. However, it is acknowledged that a component of the area may be required for additional access to the Business Park. The area in question has been added to the relevant Willamtown map.	Include land as "Potential DAREZ investigation Area" on the Willamtown map.
E	Part Lot 2 DP 37430 Newline Road is identified within the Kings Hill Supplementary Rezoning Submission and Environment Management Strategy as a site displaying	Kings Hill	3	5	Request the site be put forward for rezoning consistent with the uses identified in the Kings Hill EMS which is to have the	This proposal is of a minor nature and would require the proponent to lodge a planning proposal. No changes would be required to the PSPS.	No change. The proponent be advised that a planning proposal should be submitted which demonstrates consistency with the overall intent of the North Raymond Terrace (Kings Hill) release area.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Issue Group	General nature of the Issue raised	Locality	Sub No.	Sub Call	Comment	Council Response	Recommendations for revised Strategy
	opportunities for the residential development. The draft LEP 2007 – Kings Hill did not include rezoning of the subject site.				land nominated for rezoning based on an enabling clause to the existing – General Residential zoning to allow Rural Residential style large lot zoning.		
E	<p>The Strategy has relied on conclusions derived from the Port Stephens Commercial and Industrial Lands Study. It is considered that the CILS underestimated future demand and assumptions and conclusions should be reviewed.</p> <p>A detailed review and analysis of the CILS is attached with this submission.</p>	Heatherbrae	4	3	<p>Request Council to review the medium to long term supply of general industrial land in Port Stephens. Request Council to amend Figure 47 – Heatherbrae Industrial Infill Areas to include Part Lot 99 DP 1092660, 343 Masonite Rd, Heatherbrae.</p> <p>FSR 1.1</p>	<p>The submission is premised on a future rezoning proposed to be submitted in the short term. This land is identified in the Lower Hunter Regional Strategy Green Corridor and as such cannot be recommended for inclusion in the Strategy as it would be inconsistent with the Lower Hunter Regional Strategy.</p> <p>A good point is raised regarding the assumption of a FSR 1.1 being used to determine potential long term projection yields. This assumption will be monitored and reviewed when necessary.</p> <p>In regard to Heatherbrae in general terms, the repositioning and review of the area is required. Council has already commenced the Raymond Terrace/Heatherbrae Growth Strategy. This sub-strategy will review in more detail the future capacity and identify areas for potential rezoning.</p>	<p>Heatherbrae has been identified in the PSPS as an Enterprise Corridor. The area will be investigated in more detail to understand what sites should be considered for potential future development. This work will need to occur prior to determining whether this site is appropriate for inclusion considering it currently sits within the LHRS Green Corridor.</p> <p>This assumption will be considered in the context of the Raymond Terrace/Heatherbrae Growth Strategy and considered as part of the monitoring of the long term projections in the Strategy.</p>
D	Unable to locate reference to Council Committee Report of 27 July 2010 that states the draft Strategy is recommending that minor extensions of the rural residential area may be considered on their merits. Individual proposals such as at Seaham would therefore need to be considered as future planning proposals.	Seaham/ Beandy Hill	3	5	Request Council to modify the draft Strategy to be consistent with the intention outlined in the Council report.	The proposal is of minor consequence for the Strategy and as such does not need to be included. The intention of the Council report statement was to clarify that minor rezoning be subject to standard processes and not require amendment of the Strategy.	Include a line in the draft Strategy that states that 'proposals of a minor nature will be considered on their merits as individual planning proposals'.
D	Concerns about several conclusions and recommendations made in the SGS Report and the flow through impact on the Settlement Strategy.	Williamstown	6	3	Request that the 27 hectare site (Lot 6 DP 1110164) corner of Nelson Bay and Cabbage Tree Roads.	Review of the CILS or particular assumptions would be subject to a separate process.	No change

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Issue Group	General nature of the Issue raised	Locality	Sub No.	Sub Cat	Comment	Council Response	Recommendations for revised Strategy
	LEP and DCP Limiting bulky goods to this area (Williamtown) only a poor planning policy and runs counter to the stated objective in the Settlement Strategy LHs administrative errors				Williamtown (subject of a current Planning Proposal) be identified as a site for employment generating uses to complement and support the surrounding land uses including the Airport, RAAF Base and DAREZ. Seek amendment to the Strategy that include Williamtown as a preferred area for bulky goods and states that the planning proposal of Williamtown should be considered as part of the Lower Hunter Regional Strategy due for review in 2011.	The submission is premised on a current planning proposal. The site is not identified in the DAREZ Strategy or the Lower Hunter Regional Strategy as required for employment lands. Furthermore, this land is identified in the LHRS as being within the Waggon Stockton Green Corridor and is constrained by significant strategic flooding and drainage issues in the Williamtown/Fulerton Cove area. As such, there is limited 'growth' potential and support of this would be inconsistent with the Lower Hunter Regional Strategy. The rezoning proposal will be considered on its merits. Review administrative errors.	The CLS identifies Heatherbrae as being more suited for bulky goods development and is part of the LGA Primary Growth Corridor. Williamtown is positioning itself as a specialised aviation Business Park. Between the large amounts of commercial/ industrial lands in the Airport Precinct and the DAREZ Business Park a future release of employment lands would potentially have an adverse impact in the immediate locality as well as in the Primary Growth Corridor Raymond Terrace and Heatherbrae Enterprise Corridor. Further, until all lands under investigation for the DAREZ Business Park has been explored it would be inappropriate to compromise surrounding lands should they be required in the longer term for this specialised area. Change administrative corrections.
	Disagrees with the projections for population and business and industrial development The submission is focussed primarily on Nelson Bay and seeks additional data. Requests sustainability criteria.		7 & 8	3	Need for soundly based projections of populations and business and industrial development. There should be a comprehensive SWOT of their locality. A clear statement of sustainability criteria should be provided as the basis for strategies.	Population projections are provided on a planning area basis. SGS have modelled commercial and industrial floorspace demand in accordance with accepted economic practices. The PSPS is broad in focus. A SWOT analysis is often undertaken in various forms in sub-strategies. The PSPS is based on the sustainability framework of the Integrated Strategy Plan and LHRS.	The population projections have been reviewed to allow for the PSPS to be consistent with the LHRS. The Strategy is based on the best available information, however, it is noted that the Census is due to occur in August 2011. All projections will be reviewed when the new data becomes available. Comment noted and will be considered for inclusion on its merits in future sub-strategies. No change required. The PSPS is based on higher level documents.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Issue Group	General nature of the issue raised	Locality	Sub No.	Sub Cat	Comment	Council Response	Recommendations for revised Strategy
	Request for additional economic analysis.				An analysis of market preferences should be provided.	This level of detail is not undertaken for a strategy which is as broad as the PSPS.	This information is always good to have, however, would need to be factored in to the budget of a work program for a sub-strategy. This type of data will likely be sourced for the Raymond Terrace/Heatherbrae Growth Strategy.
	Requests more consultation.				Full consultation with the community should occur.	There has been consultation for PS Futures, the Integrated Strategic Plan and the CSIS (PSPS). The latest document is an outcome of these consultations.	No change. Extensive consultation has been undertaken. Additional consultation will be undertaken as part of the normal local area planning process.
	Request more information be included from State and national documents.				A review of State and National legislation, policies and guidelines which "impose" of the framework for local strategies should be undertaken.	This was undertaken as part of PS Futures, through the key documents summary. Further, additional information is provided in the PSPS.	This has been addressed in the revised PSPS
	Requests sub-strategies be undertaken prior to overarching strategy.				The CSIS should not be undertaken in the absence of these building blocks, Raymond Terrace Growth Strategy, Nelson Bay Strategy, Erarah Growth Strategy, Local Area Strategy for the Tomaree and Tilgory Peninsulas, an Integrated Transport Strategy for Port Stephens.	The PSPS provide the framework within which these detailed local strategies are undertaken.	No change
	Requests the Strategy provide direction for sub-strategies.				The overall CSIS should provide provisional or interim guidance for the above areas.	The PSPS provides this framework.	No change
	Request for more sub-strategies to be undertaken.				Local Area Strategies for Nelson Bay, Salamander Bay centre and Anna Bay are needed.	A local area strategy already exists for Anna Bay and a draft Nelson Bay strategy is currently being finalised.	Anna Bay Strategy adopted by Council on 16 December 2008. Nelson Bay Strategy currently underway. A Strategy for Salamander Bay could be considered in the context of future work programs as resources become available.
	Disputes data.				Data used in the CSIS is inaccurate, inconsistent and not well referenced.	There are some inconsistencies in data due to it being undertaken at different times; referring to different spatial areas and being produced for different purposes.	Referencing has been improved. Some inconsistency of data is due to the different underlying assumptions of certain data sources. Other inconsistencies have been addressed.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Issue Group	General nature of the Issue raised	Locality	Sub No.	Sub Cat	Comment	Council Response	Recommendations for revised Strategy
	Disputes data.				P2 CSIS Exec Summary shows demand for additional commercial land. This should be total projected commercial land.	Referencing could be more comprehensive. Agreed	This has been addressed in the PSPS.
	Seeks clarification of special areas.				P123 CSIS shows 1318 additional dwellings for Nelson Bay. What special area is being used – Nelson Bay suburb or the DoPT explanation of the LHRs "Soldiers Point for Fingal Bay?"	Dwelling projections have been reviewed in line with the LHRs. Additional wording has been added to provide clearer understanding of dwelling projections and areas included.	This matter has been clarified in the PSPS.
	Identifies inconsistency in data.				Inconsistencies in source documents SGS Commercial and Industrial Lands Study 2010 P33 2001 demand 67,293 m ² , P33 62,164 m ²	These figures do not need to be included in the PSPS.	These figures are not quoted in the PSPS.
	Disputes population data.				CSIS projected LGA population of 117,764 by 2031; 2010 CSIS projects 94,200 – why the difference?	These figures have been reviewed.	This has been addressed in the PSPS.
	Concern that projected growth has to be met in the area.				There is an underlying presumption that projected growth and demand for expanded settlement must be met – growth prospects and needs to be evaluated against sustainability criteria and environmental impacts.	The PSPS identifies broad areas for potential growth based on the LHRs and preliminary site analysis. More detailed assessment of local areas would be made at a local area plan/structure plan stage.	No changes. The PSPS is based on the sustainability framework provided by higher level documents such as the LHRs.
	The document must comply with state requirements.				CSIS should heed State level planning principles, eg. Coastal planning and Sea Level Rise Policy.	The PSPS considers these issues, however, since policy responses to climate change are still being developed, the PSPS is unable to provide further detail at this stage.	No change, however this issue needs to be monitored closely as policy develops.
	More information is required on infrastructure.				CSIS needs to include an assessment of infrastructure needs.	Infrastructure is discussed, however, not at a comprehensive level. In the future as resources	Consider possibility of infrastructure study in the context of the forwards works program. Continue to pursue infrastructure needs through the current

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Issue Group	General nature of the Issue raised	Locality	Sub No.	Sub Cat	Comment	Council Response	Recommendations for revised Strategy
	Disagree with the description of Salamander as a stand alone shopping centre.				Salamander is becoming a comprehensive centre, not just a stand alone shopping centre eg. library and community centre located there.	become available an infrastructure analysis would be of benefit.	management plan and Council's advocacy role.
	Request for master plan of Salamander shopping centre.				Salamander centre needs a master plan to integrate its function and ensure pedestrian connectivity amongst other matters.	When considered in the broader context of a centres hierarchy, Salamander has the dominant features of a stand alone shopping centre.	No change.
	Insufficient direction for Nelson Bay.				Draft CSS does not provide much direction for Nelson Bay.	The request is noted however, is not a part of a broad strategy consideration.	No change. Council may wish to consider the need for a master plan when considering the forward works program.
	CSS does not address vacancy of dwellings in the Tamarua Peninsula.				CSS fails to recognise the under occupancy of dwelling stock in the Tamarua Peninsula, particularly Nelson Bay.	The PSFS is a broad strategic document which provides direction for sub-strategies such as the one currently underway for Nelson Bay.	No change to the PSFS.
	CSS should address the need for more permanent residents on the Tamarua Peninsula.				CSS should contain proposals to achieve a higher proportion of permanent residents, and fully commercial tourism occupation.	The PSFS consider this issue.	No change
	Requires housing market analysis.				A future housing market analysis is needed.	Agreed that this is of concern. The scope of addressing this issue is beyond the PSFS, and is very difficult to address.	No change.
	Requires more detail on aged housing.				Aged housing including supported accommodation should be included in the CSS.	A housing market analysis from a land economics/market perspective would be very useful to inform the planning process and to identify areas more likely to be market ready for change.	No change. If lands are available in the future a project of this nature would be of benefit.
						Ageing is a major issue in Port Stephens. The issue should be identified in the PSFS and incorporated into the concept of more intensive centres. It is noted	The next review of the Social Plan could provide a more detailed response to the aged accommodation issue.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Issue Group	General nature of the Issue raised	Locality	Sub No.	Sub Cat	Comment	Council Response	Recommendations for revised Strategy
	<p>Question the need to increase commercial space.</p> <p>Objection to use of term "unzoned land".</p>				<p>Proposals for increased commercial floorspace should be justified against the potential to attract these businesses.</p> <p>CSS P37 - Use of the term "unzoned" land is misleading. All land is zoned.</p>	<p>that the provision of supported accommodation is dependent on Commonwealth funding formula and not driven from a local level.</p> <p>The SGS study uses accepted modelling to identify likely business demand. While this approach does not identify individual businesses, it provides a good indication of the amount of floorspace required in a specific area. Ongoing monitoring is required to understand actual floorspace take up and to make adjustment to policy as a result. Consumer trends change over time.</p> <p>This term is often used in planning strategies and refers to land not zoned for a future potential purpose being discussed. It is understood that the term may confuse people and has been amended.</p>	<p>No change. The PSPS provides flexibility to cater for anticipated changes in market demand.</p> <p>References amended.</p>
B	<p>Doesn't consider it to be a strategy. Needs to discuss potential and desirability of all new developments – commercial, industrial, residential, recreational, Greenfield or infill. Requires triple bottom line assessment of the viability of identified proposals.</p>	General	9	4	<p>Needs to state what the vision for the LGA is. Need definitions and assumptions perhaps as an Appendix.</p>	<p>The amended Strategy addresses a greater analysis of land supply and demand. The vision for the LGA is addressed through the PSPS and the Futures Strategy.</p>	No change
B	<p>Too much emphasis is placed on reliable structures than the importance of trees.</p> <p>Little thought is given to the health of the ratepayers that live under the flight path of the ever increasing air traffic movement.</p>	General	10	4	<p>Concern for trees in the LGA and emphasis on structures.</p> <p>Concern for health of those under flight path.</p>	<p>The PSPS is a broad strategy. Trees are addressed through other Council documents such as the Tree Preservation Order, DCP landscape provisions, heritage schedule etc.</p> <p>This is a broad land use strategy. There are specific regulations to deal with health, airport and air craft management. Aircraft noise is considered by Council through the rezoning and development assessment process.</p>	<p>Noted. No change</p> <p>No change.</p>

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Issue Group	General nature of the issue raised	Locality	Sub No.	Sub Call	Comment	Council Response	Recommendations for revised Strategy
	Nelson Bay and Shoal Bay areas are becoming another Surlers Paradise, only difference being the height of buildings.				Statement.	using 117 Directions from the Minister and Australian Standards' policy and DCP. Council is discussing the impact of aircraft noise through separate forums, such as the recently formed Aircraft Noise Reference Panel. Comments are noted. The PSPS does not address the issue of height of buildings.	No change.
D	Council must have guidelines that described areas as high or low or medium density urban. So it would not be unreasonable to assume that Council would consider lots under 800m ² as high density urban.	Boat Harbour/ One Mile	11	4	Believe Council can only describe the Boat Harbour and One Mile Community as a village.	Council has no such guidelines relating to densities of residential allotments. There appears to be confusion as to the role of the centres hierarchy. The commercial centres hierarchy map was prepared by SGS who noted that Boat Harbour has no currently functioning commercial land and the needs of the area can be met by neighbourhood shops being permissible in residential zones. To eliminate the concerns the draft map has been removed.	The draft map has not been used in the revised PSPS. An amended map has been included which identifies all areas.
D	Results of Public meeting held at Boat Harbour Recreation Club, Boat Harbour /One Mile residents are deprived of facilities because village has been regarded as a 'non' area with 'no commercially zoned land'.	Boat Harbour/ One Mile	12	3	The community is concerned that no commercial land will equate to less services such as recreational facilities being made available in the area or even loss of existing facilities.	Council is undertaking a separate Strategic Review of its recreational lands. A copy of this submission has been forwarded to that department for consideration. There appears to be confusion as to the role of the centres hierarchy. The commercial centres hierarchy map was prepared by SGS who noted that Boat Harbour has no currently functioning commercial land and the needs of the area can be met by neighbourhood shops being permissible in residential zones. To eliminate the concerns the draft map has been removed.	The draft map has not been used in the revised PSPS. An amended map has been included which identifies all areas.
E	Does not like shop-top housing and 3 storey townhouses and villas on	Anna Bay	13	4	Residents want minimum lot sizes of 600m ²	Smaller lots, mixed-use, townhouse and villa development	No change.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Issue Group	General nature of the Issue raised	Locality	Sub No.	Sub Cat	Comment	Council Response	Recommendations for revised Strategy
	300m ² lots. Want to sustain the lifestyle they now enjoy.					are encouraged in the town centre neighbourhood. Some of this development is already occurring under existing controls. Larger lots are still encouraged in other neighbourhoods and new release areas. Good urban design should always be sort through DCP 2007. This is market driven. A variety of housing is being encouraged in the town centre neighbourhood to facilitate greater choice. Planning controls do not discriminate or determine what kind of people are acceptable in a community.	Noted.
	Climate Change				Are any precautions being taken to combat this effect of global warming on the coastal areas?	Council is currently collecting data and determining what is the most appropriate way to manage impacts of climate change. That project is ongoing and will inform documents such as the PSPS, LEP, and DCP.	No change. It should be noted that the Anna Bay Strategy will not form part of the revised PSPS.
	Relocation of small industrial area East of the town centre to the Western entrance of Anna Bay				Who will cover these costs and how will it be achieved?	Rezoning and developing land is carried out at the expense of the developer. There are numerous stakeholders involved in rezoning land and it may take years to occur.	These comments relate to the adopted Anna Bay Strategy. No change is recommended to the adopted Strategy.
	New urban area at Walkalong and Meadowe should cater for needs of future residents.	Walkalong/ Meadowe			Meadowe should retain its semi-rural ambiance.	Meadowe will be developed in accordance with the adopted Meadowe Strategy. Walkalong has been included in the PSPS as urban contingency to allow for future growth.	These comments relate to the adopted Meadowe Strategy and no changes are recommended through the PSPS. It should be noted that the Meadowe Strategy will not be included in the revised PSPS but will remain a sub-strategy to the PSPS.
	Nelson Bay is relatively unspoilt environment which appeals to tourists. There are places which restrict the intake of population and visitors because of spatial limitation and environmental protection.	Nelson Bay			Population needs to be restricted. Statement	Population has been revised to comply with the LHRS. Agree that this is the case and is reinforced through the variety of land use zones across the LG-A.	Population projections have been amended. No Change.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

Issue Group	General nature of the issue raised	Locality	Sub No.	Sub Cat	Comment	Council Response	Recommendations for revised Strategy
	Harbour /One Mile residents are deprived of facilities because village has been regarded as a 'non' area with 'no commercially zoned land'	Boat Harbour/ One Mile	14		Believe that Council can only describe the Boat Harbour and One Mile Community as a village...	There appears to be confusion as to the role of the centres hierarchy. The commercial centres hierarchy map was prepared by SGS who noted that Boat Harbour has no currently functioning commercial land and the needs of the area can be met by neighbourhood shops being permissible in residential zones. To eliminate the concerns the draft map has been removed.	The draft map has not been used in the revised PSPS. An amended map has been included which identifies all areas.
D	Request to include Boundary Road rezoning in the revised Strategy.	Meadowle	15	4	Meadowle is a key growth area and Council has already endorsed the site to proceed for a Gateway determination.	The site has been included in the revised Strategy to reflect Council's endorsement of a planning proposal. This rezoning has not been finalised to date.	Map amended in the revised PSPS.

**ATTACHMENT 2
PORT STEPHENS PLANNING STRATEGY 2011**

PROVIDED UNDER SEPARATE COVER

ITEM NO. 5

FILE NO: PSC2007-3118

WATER QUALITY IN TILIGERRY CREEK – AN UPDATE**REPORT OF: BRUCE PETERSEN – ENVIRONMENTAL AND DEVELOPMENT PLANNING
MANAGER****GROUP: SUSTAINABLE PLANNING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Write to the Regional Coordinator of the Department of Premier and Cabinet requesting their assistance to determine new approaches to address the ongoing water quality problems in Tilligerry Creek.

COUNCIL COMMITTEE MEETING – 19 JULY 2011**RECOMMENDATION:**

	Councillor John Nell Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 26 JULY 2011

248	Councillor John Nell Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to update Council on the results of the water quality monitoring at Tilligerry creek and gain agreement as to future actions.

Although overall water quality in Tilligerry creek has improved, there remains areas of concern that impact on oyster harvesting and the health of the creek. The internationally adopted standards that relate to water quality in oyster harvesting areas are extremely stringent and require good catchment and land management practices. The on going water quality problem was discussed at the last Tilligerry Catchment Committee that was held in May 2011.

The Committee was of the view that the major problem is one of engagement with, and involvement of, the management and operators of agricultural pursuits in the catchment and it was resolved to put a report to Council outlining the problem with a recommendation that Council approach the State Government regarding assistance. Areas of assistance could include funding for educational workshops,

additional water quality monitoring to accurately identify the pollution source, and targeted extension programs for farmers.

The Committee is made up of representatives from the Tilligerry community and relevant government departments. The Committee was established to finalise and implement the Tilligerry Creek Management Plan and provide a link back to the community.

The drafting of the Tilligerry Creek Management Plan was initiated in 2005 as an initiative of the Port Stephens Myall Lakes Estuary Management Plan to address the diverse pressures impacting on that part of the estuary. This was before the detection of human viruses in oysters in 2005. The plan was ultimately adopted by Council in August 2008 and while the on site sewage management issues were resolved there remains an underlying water quality problem which is believed to be caused by run off from agricultural land in the upper reaches of Tilligerry Creek.

Council, with the support of various state agencies, began approaching landholders regarding improved property management and rehabilitation works in 2007. Improved management of agricultural land is directly related to an improved catchment. The maze of drains criss-crossing the Tilligerry Catchment means that in many cases horse, cattle and chicken faecal matter comes into direct contact with waterways. Monitoring by Council and the University of Newcastle shows that horse, cattle and chicken faecal contamination is a significant problem within the Tilligerry catchment.

In previous years funding was received from the State and Federal governments to undertake farm improvement projects such as fencing off Tilligerry Creek and related drains; planting buffer strips; wind breaks and corridors; off-stream watering sources for cattle; and weed removal for biodiversity outcomes. Educational workshops were also undertaken and covered topics such as Wet Pasture Management, Soil Health, Improved Horse Management, Alligator Weed, and Fertiliser and Soil Improvement.

Council still has funding available for land management programs however the level of interest from the agricultural community has declined and Council recently returned unspent funds back to the State Government. Council still has grant funds available and is seeking a variation from the State Government to shift some of the funds from on ground action to educational activities; Council has been advised that this variation is unlikely to be approved.

Council's regular water quality testing found that faecal coliform levels in upper Tilligerry Creek increased through December 2010 with a substantial spike recorded on the 20th of January. Previously spikes have occurred and passed quickly, rarely lasting over more than two sample periods. This is the highest and longest high reading that we have experienced since 2005 with the levels consecutively rising over a four week period. The medium level of faecal coliforms through February was 3,600 per 100mL, which is higher than the limit of <1,000 per 100mL prescribed by the Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000 (ANZECC) guidelines for safe secondary contact such as boating and fishing. A graph of the results is attached.

Council conducted additional faecal sterol analysis to try and determine the source of the pollution and found that the source was neither, large herbivores or human in nature. Council staff believe that the source was top dressing or fertilising paddocks with chicken manure. Staff sent out a letter to all properties along the creek and major drains along with fliers about workshops on appropriate fertiliser use being held at Total. Council did not get any enquiries after the letters were sent out.

Although the creek was reopened for oyster farming in December 2008 the use of this area changed dramatically with the area now predominantly used to grow juvenile oysters. For oyster farmers to prosper, agricultural faecal contamination of the waterways must be addressed. The oyster farmers are very supportive of the on-ground works and are hopeful that more land holders will take advantage of funding to improve land management practices.

It should be noted that the issue is not believed to be caused by a lack of knowledge as the communication plan has included stories in the Examiner and the Newcastle Herald, direct mail outs of newsletters, workshops, one on one discussions with landholders, and articles in 'Your Port Stephens'.

FINANCIAL/RESOURCE IMPLICATIONS

Council has invested substantial amounts of staff time and resources in the project and has administered a number of grants that are available to the community.

There is a crucial need for the Department of Premier and Cabinet to make more resources available to the problem.

LEGAL, POLICY AND RISK IMPLICATIONS

There are no known legal issues resulting from writing to the Department of Premier and Cabinet asking for assistance.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The on going water quality issues affect economic prosperity through the decline in oyster farming, however the recreational and environmental values of the creek are also affected.

Improvements in the quality of the Tilligerry Creek catchment will lead to economic improvements, including a positive impact on oyster farming and tourism. Often negative issues within Tilligerry Creek can have impacts outside the catchment area including negative media coverage, which then affects tourism and oyster harvesting in other parts of Port Stephens.

CONSULTATION

This recommendation has come from the Tilligerry Catchment Committee which has equal members of the community and government representatives.

OPTIONS

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

ATTACHMENTS

- 1) Graph of water quality results at Tilligerry Creek.

COUNCILLORS ROOM

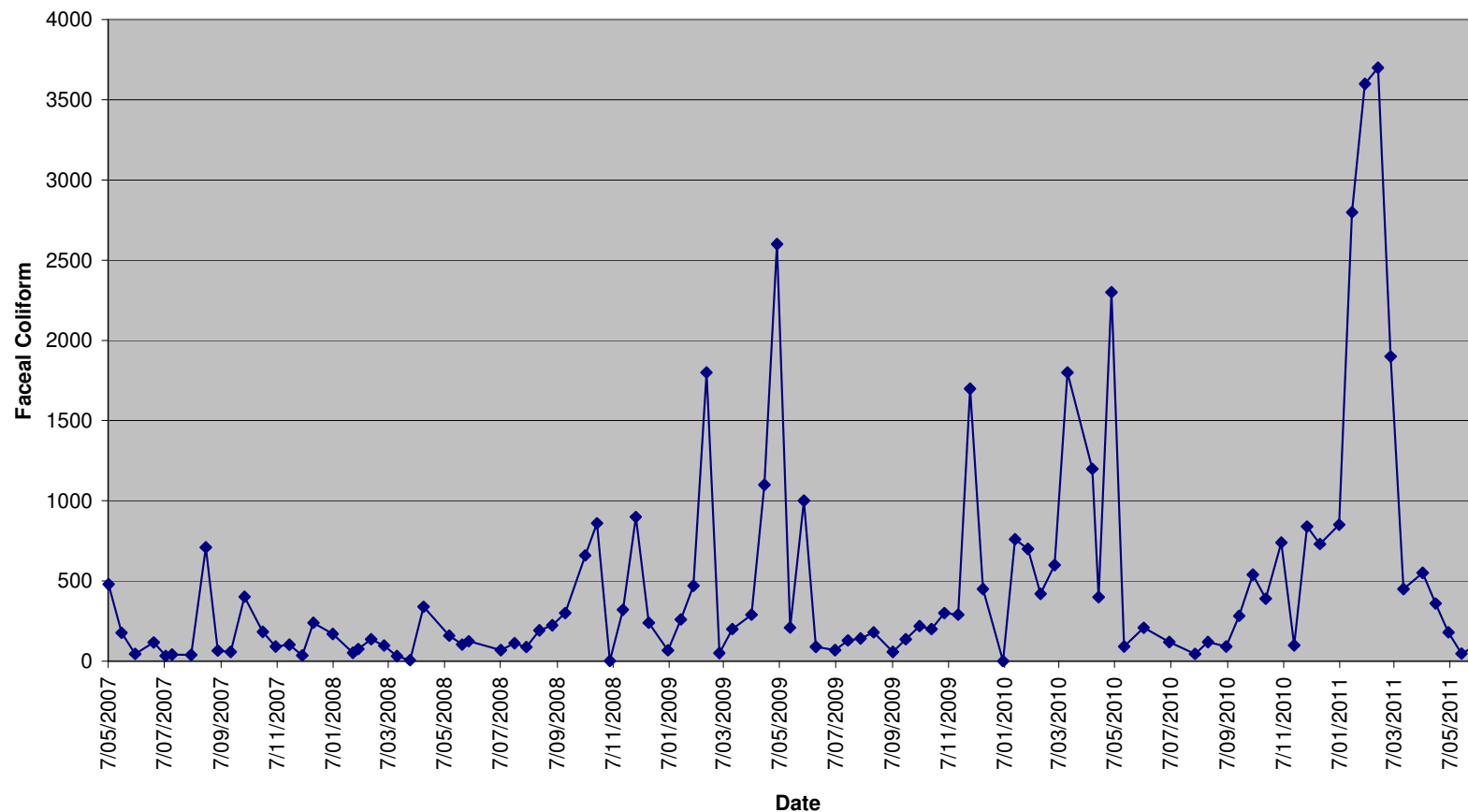
Nil

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Results of Water Quality Monitoring in Tilligerry Creek

Upper Tilligerry Creek F9 - 2007 till present



ITEM NO. 6

FILE NO: PSC2010-04896

CULTURAL PROJECTS FUNDING ALLOCATIONS 2011/2012

REPORT OF: BRUCE PETERSEN, MANAGER ENVIRONMENTAL AND DEVELOPMENT
 PLANNING
 GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) In accordance with Council's Cultural Project Fund Guidelines, supply funds from Council's Cultural Project Fund for the amounts, purposes and conditions as per **Attachment 1**;
 - 2) That the 10 projects endorsed for multi year funding last year be allocated their second instalment on successful reporting of the first year's project delivery and acquittal of the previous funds as per **Attachment 2**;
 - 3) Return to general revenue \$25,070 which is the balance of the Cultural Projects Fund not allocated to external groups under 2011/2012 funding round.
-

COUNCIL COMMITTEE MEETING – 19 JULY 2011
RECOMMENDATION:

	<p>Councillor Bob Westbury Councillor Geoff Dingle</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. In accordance with Council's Cultural Project Fund Guidelines, supply funds from Council's Cultural Project Fund for the amounts, purposes and conditions as per Attachment 1; 2. That the 10 projects endorsed for multi year funding last year be allocated their second instalment on successful reporting of the first year's project delivery and acquittal of the previous funds as per Attachment 2; 3. Return to general revenue \$25,070 which is the balance of the Cultural Projects Fund not allocated to external groups under 2011/2012 funding round.
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ORDINARY COUNCIL MEETING – 26 JULY 2011

249	Councillor Steve Tucker Councillor Glenys Francis	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to recommend that Council allocate available Cultural Projects Funds in accordance with the recommendations of Council's Strategic Arts and Cultural Committee as per Attachments 1 and 2 of this report.

The Cultural Projects Fund closed for applications on 2 May 2011. A total of 21 applications were received. Internal assessment of eligibility found all new applications were eligible for consideration by the Strategic Arts and Cultural Committee. 16 have been recommended for funding. See **Attachment 1** for a summary of all applications and recommendations from the Committee.

Last year a new funding category was introduced where projects could be supported for up to three years. Therefore Council has existing financial commitments, pending their successful completion of reporting on their first year. Ten multi-year projects commenced in the 2012-2011 totalling a commitment of \$19,650 for the 2011-2012 financial year and \$19,400 in 2012-2013. This year there one project recommended for multi-year funding. See **Attachment 3** to for a breakdown of how the multi-year funding allocations draw on each year's budget.

See **Attachment 4** for a summary of the multi year funded projects that have already been endorsed by Council.

The recommended allocation of available Cultural Projects Funds for 2011/2012 left a balance of \$25,070 unallocated. Council's Strategic Arts and Cultural Committee recommended that the unallocated funds be utilised for Council's cultural development program and establishment of the Strategic Cultural Committee and its networks. There are sufficient funds however elsewhere within Council's cultural budget to meet any appropriate costs pertaining to Council's cultural program. Consequently it would be more appropriate for the unallocated funds totalling \$25,070 to be returned to general revenue.

The application process

Applications for Cultural Projects Fund were sought over a two month period. With the extended application period and established cultural network to facilitate collaboration, communities have been able to build on their ideas.

With the introduction of a new 'Cultural Partnerships' category, applicants have been able to apply for larger and longer term projects. Projects could secure up to three years of support from Council which helps groups with their forward planning.

An online application system helped both Council and applicant to keep track of where each project is up to, throughout the duration of the funding process.

Four grant writing workshops were held to assist applicants in how to put together strong applications and in how to use the new online system.

Alignment with Council's strategic priorities

Applications were assessed on merit and against the cultural priorities identified in Council's Community Strategic Plan 2021 as follows:

- 6.1 Community partnerships where organisations work together on cultural projects
- 6.2 Community participation in cultural event and activities
- 6.3 Employment opportunities in cultural tourism & the creative industries
- 6.4 Promote and foster Worimi Aboriginal culture
- 6.5 Preserving and promoting the heritage of Port Stephens
- 6.6 Places to experience culture - buildings (such as libraries, halls, galleries, museums) & public spaces (reflecting local identity and character).

FINANCIAL/RESOURCE IMPLICATIONS

A total of \$60,000 is currently available in Council's 2011/2012 budget for the Cultural Project Fund. A total of \$19,650 has already been committed by previous resolution of Council.

All funded projects will be supported and monitored by a member of Council's Social Planning Team. Recipients will provide acquittal reports on completion of their projects.

LEGAL, POLICY AND RISK IMPLICATIONS

Recipients of funding under the Cultural Projects Fund shall accept full responsibility for the liability of any programs or projects funded.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The cultural projects recommended for funding will collectively assist to enhance community identity, sense of belonging and provide the opportunity for residents to develop their skills and creativity.

Some of the projects recommended will contribute to generating employment opportunities for local artists and industry practitioners. Funded projects may also positively impact on local businesses and suppliers (eg; catering, accommodation, venue hire, printing, and advertising). Cultural activities not only enhance the lives of our existing permanent community but they also attract new community members, and visitors to the area.

CONSULTATION

The opportunity to apply for Cultural Projects Funding was promoted across the community through local press, Council's website and through various community and cultural networks and forums.

Briefing sessions were held as part of six cultural forums including: 'three ward based Local Lifestyle Forums', Performing Arts Network Forum, Visual Arts Network Forum and Events Network Forum.

Four Grant writing workshops were held in Raymond Terrace and Salamander.

The process was open to applications for approximately two months to maximise the opportunity for groups to prepare and lodge their application.

All applications have been developed in consultation with Council's Community Planner – Cultural Development.

Staff responsible for administering other Council funding programs were consulted to ensure there was no 'double dipping' (multiple allocations to a single project) and no allocations to community groups with outstanding reports on their spending of public funds.

The Strategic Arts and Cultural Committee is the assessment panel for the grants. It consists of Councillors Francis, Nell, and Tucker, delegates from the Cultural Networks, other Council committees that relate to culture and peak cultural organisations. The Committee met on 6 June 2011 to assess the applications based on merit. The minutes of this meeting are shown in **Attachment 6** of this report.

OPTIONS

- 1) To accept the recommendations;
- 2) To amend the recommendations;
- 3) To reject the recommendations.

ATTACHMENTS

- 1) Port Stephens Council Strategic Arts & Cultural Committee Recommendations on the allocation of 2011/2012 Cultural Projects Funds;
- 2) Port Stephens Council Strategic Arts & Cultural Committee Recommendations on the allocation of Multi Year Funded 2011/2012 Cultural Projects;
- 3) Summary of Cultural Projects Fund applications and committee recommendations;
- 4) Table summarising schedule of multi year funding allocations;
- 5) Summary of multi year funded projects adopted by Council 28 September 2010;
- 6) Minutes of the Strategic Arts and Cultural Committee Meeting held 6 June 2011.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

**Port Stephens Council Strategic Arts
& Cultural Committee**

Recommendations on the allocation of 2011/2012 Cultural Projects Funds

- a. Progress Association Inc. for "Karuah Christmas carols", to the value of \$700.
- b. KARUAH WORKING TOGETHER INC for "KWT CULTURAL WALL MURAL", to the value of \$1000.
- c. Port Stephens Art Prize 2012 for "Port Stephens Art Prize 2012", to the value of \$1200 in 2011-12; \$1500 in 2012-13; and \$1750 in 2013-14; on the condition that "While previously the funds have been tied to a 'works on paper' category, Council's Strategic Arts and Cultural Committee may advise a new category theme/medium based on advice from the Visual Arts Network (VAN)"
- d. PORT STEPHENS HISTORICAL SOCIETY, INC. for "INNER LIGHT MUSEUM - Visual Display Equipment", to the value of \$1000 in 2011-12 on the condition that "Three quotes to be provided to Council's Cultural Planner, with Council allocating up to \$1000 toward the best quote."
- e. Raymond Terrace Neighbourhood Centre for "Kitty Hawk Park Ceramic Installation", to the value of \$1000 in 2011-12; in 2012-13; and in 2013-14; on the condition that "While the tiles were originally created for Kitty Hawk Park, years have passed therefore the tiles would not need to be tied to that location. The committee advised that Riverside Park would be more appropriate. The applicant is to consult with the park asset owner".
- f. TILLIGERRY ARTS GROUP INC for "EN PLEIN AIR AT MUROOK", to the value of \$400; on the condition that "Council's Aboriginal Strategic Committee to be advised and kept informed of the project's delivery."
- g. Mad Monday Quilters based at Tomaree Community College for "Quilt stands", to the value of \$1000; on the condition that "Three quotes to be provided to Council's Cultural Planner, with Council allocating up to \$1000 toward the best quote."
- h. Karuah Preschool Association Inc for ""Making our own fabric"", to the value of \$1000; on the condition that "Council's Aboriginal Strategic Committee to be advised and kept informed of the project's delivery."

- i. Nelson Bay Town Management Inc for "Arts Unmasked", to the value of \$1000.
- j. Nelson Bay Town Management Inc for "Nelson Bay and Tomaree Interpretative Signs", to the value of \$1000; on the condition that "A proposal needs to be developed identifying the proposed sites and outlining the significance / stories / concepts for those sites. The proposal would be submitted to the Cultural Projects Fund in the following round to attract funding for implementation".
- k. Tilligerry Tidy Towns - a Port Stephens Council 355B committee for "Tilligerry (pelican) logo on new mps/stage", to the value of \$1000; on the condition that "Council's Economic Development Unit is undertaking brand for Tilligerry and there is already an approved 'pelican' logo. The applicant is to utilise the funds for consistent branding for the stage. The applicant is to be guided Council's stage asset owner".
- l. Tilligerry Tidy Towns for "Tilligerry community groups project 2011", to the value of \$1000; on the condition that "Creating tiles about each community group will become dated as groups come and go and therefore is not the approved concept. These funds are tied to a community art project which engages the community to enhance the stage. The applicant is to be guided Co".
- m. Karuah Working Together for "We Share A Story 2011: An international literacy/art connection", to the value of \$1580 in 2011-12.
- n. Tilligerry Community Association for "Summer of Music in Henderson Park", to the value of \$1000.
- o. Nelson Bay Town Management Inc for "Festival of the Sea/Whalefest", to the value of \$1000.
- p. TILLIGERRY ARTS GROUP INC for "Pottery Workshop", to the value of \$400.

ATTACHMENT 2

**Port Stephens Council Strategic Arts
& Cultural Committee**

**Recommendations on the allocation of Multi Year Funded 2011/2012 Cultural
Projects**

- a. Tilligerry Lions Club for the 'Tilligerry Community Australia Day Breakfast' project, to the value of \$2000 during 2010-2011, \$1750 during 2011-2012 and \$1500 during 2012-2013;
- b. Hunter Region Botanic Gardens Ltd for the 'The Gardens Sculpture Prize' project, to the value of \$ 2400 during 2010-2011, \$2400 during 2011-2012 and \$2400 during 2012-2013, on the condition that: "Council receives naming rights";
- c. Medowie Baptist Community Church- Medowie Carols Committee for the 'Medowie Carols at the Dunes' project, to the value of \$1000 during 2010-2011, \$1000 during 2011-2012, and \$1000 during 2012-2013;
- d. Tilligerry Community Association for the 'Tilligerry Festival - Foreshore Fun Day' project, to the value of \$3000 during 2010-2011, \$3000 during 2011-2012 and \$3000 during 2012-2013, on the condition that: "funding does not contribute to the fireworks";
- e. Nelson Bay Town Management Inc for the 'Sculptures by the Bay' project, to the value of \$4000 during 2010-2011, \$4000 during 2011-2012 and \$4000 during 2012-2013, on the condition that:
 - i. That the money is tied to the main prize, being acquisitive with the sculpture being installed on the foreshore. Foreshore asset owner approval to be granted and DA approved if assessed as required.
 - ii. The winning sculpture becomes part of Council's art collection;
- f. Tilligerry Art, Craft and Quilting Show Committee for the 'Annual Tilligerry Art, Craft and Quilting Show' project, to the value of \$1500 during 2010-2011, \$2000 during 2011-2012 and \$2000 during 2012-2013, on the condition that:
 - i. Funds are tied to the main prize.
 - ii. The main prize becomes 'acquisitive from the second year onwards, with the winning painting to become part of the Council art collection."
- g. Tilligerry Adult & Community Education Inc. for the 'Port Stephens Examiner Literature Award' project, to the value of \$500 during 2010-2011, \$500 during 2011-2012 and \$500 during 2012-2013, on the condition that:

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- i. Council has joint naming rights with the Examiner. 'The Port Stephens Council and Examiner Literature Award'.
 - ii. The winning entry is published on the Culture Port Stephens website.

- h. Nelson Bay Town Management Inc for the 'Christmas and Holiday Entertainment in Nelson Bay' project, to the value of \$1000 during 2010-2011, \$1000 during 2011-2012 and \$1000 during 2012-2013, on the condition that:
 - i. Sustainability of the program be developed, toward becoming an annual / ongoing program.
 - ii. To be promoted on the Tourism, Culture Port Stephens and other websites."

- i. Raymond Terrace Annual Art Show Committee. for the 'Raymond Terrace Annual Art Show' project, to the value of \$2000 during 2010-2011, \$2000.

- j. A 'Port Stephens Choir Development Program', to be jointly managed by choirs from across Port Stephens, with funds to be held by Council. Funding is the total value of two application received from Port Stephens Community Choir and Sea Side Singers Inc. to the value of \$1700 during 2010-2011, \$2000 during 2011-2012 and \$2000 during 2012-2013.

ATTACHMENT 3

SUMMARY OF CULTURAL PROJECTS FUND APPLICATIONS AND COMMITTEE RECOMMENDATIONS

Cultural Projects Funding Recommendations for 2011-2012.

App ID	Organisation Name	Project Name	What will the project do?	Wards	Committee Recommendations	Conditions	Feedback to applicant	2010-2011	2011-2012	2012-2013
CP11-112-0016	Hands On Youth Events (Tilgerry) Inc	Tilgerry Youth Recognition and Participation Awards	Recognising young people's contribution to their community. An awards event which includes the youth of the Tilgerry peninsula. The young people who participate in their community as positive role models will be formally recognised. Included at the event will be awards ceremony, music, food to celebrate what is happening within our community.	Central	Unsuccessful		Council already has a youth recognition program through the 'Young Citizen of the Year' associated with Australia Day. The applicant is encouraged to promote nominations from young people in the area. Also, the budget shows that the project makes a profit.	0		
CP11-112-0017	Port Stephens Legacy (Newcastle Legacy)	Army Band Concert	Port Stephens Legacy is a division of Newcastle Legacy. The Army Band Concert is a unique cultural experience for over 300 Legacy advocates, their families, friends and the wider Port Stephens community. The 2011 Army Band Concert will be held on Saturday 12th August at The Tamarine Education Centre. The proposed program is an afternoon of live entertainment by the Army Band Newcastle, The Royal Australian Corps of Transport Pipes and Drums, local leaders and Irish Dancers. We're also hoping to engage the talents of a very well known and regarded Sydney-based vocalist, Sarah Cullen.	East	Unsuccessful		This event is already operating at a profit and therefore does not warrant public funds. You are invited to promote the event on the Culture Port Stephens Website.	0		
CP11-112-0018	Port Stephens Community Choir	Port Stephens Choral Conducting Workshop	1. Provide choral conducting education at all levels. 2. Provide information about choral organisation, management and staging. 3. Develop the sight reading and aural perception skills of attending conductors and chorists. 4. Provide information about choral repertoire and arranging, with a particular emphasis on Australian compositions. 5. Involve choral conductors from throughout the Port Stephens LGA (including community choirs, school choirs and private singing teachers), thus strengthening relationships within the Port Stephens Performing Arts Network. 6. Provide a strong basis for continuing choral development in Port Stephens and surrounding areas. There is potential for this workshop to become an annual event, providing training in all aspects of choral development.	Central West	Unsuccessful		The applicant is already receiving support for the type of activity through the Choral Development Program which has funds committed for the next two years. You are invited to discuss the proposed activity with the other choirs. Its inclusion in the 2011.	0		
CP11-112-0019	Milson Bay Town Management Inc	Arts Unmasked	Arts Unmasked will expose the arts community to the business and wider community. It will offer a range of arts experiences on one evening into an arts spectacular. It will give the arts community a focal point and provide an opportunity for the wider community to experience art being undertaken up close with personal involvement.	East	Support in full		As the project being shown it would have been completed prior to the funding decision, the funds are tied to act as fees for the following years (2012).	1000		

Cultural Projects Funding Recommendations for 2011-2012.

App ID	Organisation Name	Project Name*	What will the project do?	Ward's	Committee Recommendations from the Council	Conditions	Feedback to applicant	2010-2011	2011-2012	2012-2013
CPFI 112-0020	Nelson Bay Town Management Interpretative Signs	Meloon Bay and Tomaree Signs	The project will deliver a set of signs which will be built on over a period of years which will note places and items of cultural significance to the community which will also be of interest to tourists and visitors. The signs will highlight the aspects of our landscapes, our fauna, flora and marine creatures and things of cultural significance such as place names, original uses and recognise indigenous aspects of our history and culture.	East	Support in part	A proposal needs to be developed identifying the proposed sites and outlining the significance / stories / concepts for those sites. The proposal would be submitted to the Cultural Projects Fund in the following round to attract funding for implementation		1000		
CPFI 112-0021	Tilgerry Tidy Towns - a Port Stephens Council 3508 committee	Tilgerry (pelican) logo on new mps stage	The new mps stage is finished end April by council building the roof. It was planned to have a pelican logo above the stage but it seems the funds are exhausted. The pelican is accepted as our community logo on council town signage etc. The project will look at various designs, develop agreement on which pelican logo is preferred, refine the design, order the art work and install it above the stage on the facade.	Central	Support in full	Council's Economic Development Unit is undertaking brand for Tilgerry and there is already an approved 'pelican' logo. The applicant is to utilise the funds for consistent branding for the stage. The applicant is to be guided Council's stage artist owner		1000		
CPFI 112-0022	Tilgerry Tidy Towns - a Port Stephens Council 3508 committee	Tilgerry community groups project 2011	Now that the mps stage is finished the project will give community groups a fee and access to paint to put their logo on the stage. The fees once painted will be glued in place so the stage will be decorated with logos of those groups that qualify meet in anonymity a stake in our community.	Central	Support in full	Creating sites about each community group will become dated as groups come and go and therefore is not the approved concept. These funds are led to a community art project which engages the community to enhance the stage. The applicant is to be guided Co		1000		
CPFI 112-0023	Karuah Working Together	We Share A Story 2011: An International Literacy/Art connection	Today WSAS is about comparing cultures through photography, art and literature. WSAS 2011 will provide opportunity for Port Stephens' primary students to interact, learn about and donate much needed basic school supplies to Brindland School students in Lusaka, Zambia. Brindland School is a long time WSAS participant (see attached). WSAS 2011 will encourage our students to participate in the current Port Stephens Sister City project "Face of a Star City", their photos will find further use in a WSAS 2011 "Comparison of Cultures" exhibit planned for November 2011 during the United Nations International Education Week. WSAS 2011 will encourage all Port Stephens schools to exchange (via email) letters and artwork with Brindland School, Zambia. WSAS 2011 will work to assist the creation of Early Literacy Skill kit by Karuah students. These kits will be implemented by young children, their parents, teachers and caregivers in the Karuah School and Brindland School communities.	West	Support in full			1500		

Cultural Projects Funding Recommendations for 2011-2012.

App ID	Organisation Name	Project Name*	What will the project do?	Ward's	Committee Recommendation to Council	Conditions	Feedback to applicant	2010-2011	2011-2012	2012-2013
CP11-112-0024	Tilgerry Community Association	Summer of Music in Henderson Park	Fund local musicians to perform in Henderson Park in Nov 2011, Dec, Jan, Feb 2012 as part of a regular event that be published as a program of events.	Central	Support in full			1500		
CP11-112-0026	Melton Bay Town Management Inc	Festival of the Sea/Whalefest	The Festival of the Sea / Whalefest (name TBC) brings together business and the community to celebrate all aspects of the diverse marine environment which we enjoy. Locals celebrate the migration of the whales which brings employment and economic stability to the region in the low to shoulder season.	East	Support in full			1000		
CP11-112-0027	TILGERRY ARTS GROUP INC	Pottery Workshop	Participants in April's pottery workshop will refine their pots ready for the next step in the process. It will provide income and publicity for the Tilgerry Habitat Association	Central	Support in full			400		
TOTAL								15200	1500	1750

Cultural Projects Funding Recommendations for 2011-2012.

App ID	Organisation Name	Project Name*	What will the project do?	Ward's	Committee Recommendation to Council	Conditions	Feedback to applicant	2010-2011	2011-2012	2012-2013
CPF1112-0024	Tilligerry Community Association	Summer of Music in Henderson Park	Fund local musicians to perform in Henderson Park in Nov 2011, Dec, Jan, Feb 2012 as part of a regular event that be published as a program of events.	Central	Support in full			1000		
CPF1112-0026	Hendon Bay Town Management Inc	Festival of the Sea Whales	The Festival of the Sea / Whalesfest (name TBC) brings together business and the community to celebrate all aspects of the diverse marine environment which we enjoy. Locals celebrate the migration of the whales which brings employment and economic stability to the region in the low to shoulder season.	East	Support in full			1000		
CPF1112-0027	TILLGERRY ARTS GROUP INC	Pottery Workshop	Participants in April's pottery workshop will refine their pots ready for the next step in the process. It will provide income and publicity for the Tilligerry Historical Association.	Central	Support in full			400		
TOTAL								15200	15000	17500

Attachment 4

Cultural Projects Fund Multi-year funding distribution

Funding Round Decision	2011-2012	2012-2013	2013-2014
Council Ordinary Meeting 28 September 2010, Decision:	\$19,650	\$19,400	NA
Council Ordinary Meeting July 2011 SAAC Committee Recommendations	\$15,280	\$1,500	\$1,750
Total Allocations	\$34,930	\$20,900	\$1,750
Yet to be allocated	\$25,070	\$39,100	\$58,250
		Remaining for allocation to 2012 funding round applications	

**ATTACHMENT 5
SUMMARY OF MULTI YEAR FUNDED PROJECTS ADOPTED BY COUNCIL
28 SEPTEMBER
2010**

Multi year funded projects, with second installements due for payment in 2012-12 funding round on successful reporting on thrise year project delivery

Applicant ID	Project Name	Description	Why is this project a priority for your community?	Applicant	2010-2011 budget education	2011-2012 budget education	2012-2013 budget education	Conditions	Feedback to applicants (if the other Australian City events in Port Stephens.
2009	Community Breakfast	To engage and conduct an annual Australia Day breakfast for the members of the Illigera Community. To take the form of an Australia Day Breakfast and associated entertainment and arrangements in Henderson Park, Larmor Ave. Portage.	The Illigera Community Breakfast has continued to grow each year. It not only achieves its intended outcomes but exceeds them, treating an ongoing trend in our community. The community has respect it to happen and we have to amend. The event now regularly attracts 200+ locals and visitors and is valued by the community being the only form of celebration of Australia Day on the Peninsula and therefore easily accessible. It provides a social and participative for all ages. It is conducted in a true sense of community spirit and members and provides the value and value of our national identity, living services and resources are used exclusively and local business support the event with resources given and support in a public holiday as that we can stress values plus additional supplies of food. The event provides the ideas and objectives of the Port Stephens Council and local ward council and value over appreciation and pride in the number attending and for the manner in which they conduct is successful celebration of our national history. The positive	Illigera Community Breakfast	\$2,000	\$1,750	\$1,000/NA		at the other Australian City events in Port Stephens. Participants pay for the amusement rides with 20% going to the organizers. They are a lot of fun expense not an expense, taking the approach should help your sustainability. Also Zambco Stores should be paying for their residents in U/wh.
2008	Mulwarrigah Community Breakfast	The Mulwarrigah Community Breakfast is a community event held at the Mulwarrigah Community Centre. It is a day of fun and entertainment for the community. It includes a breakfast, entertainment, and a raffle. The event is held in Henderson Park, Larmor Ave. Portage.	Over the past few years the event has grown with our community. We have seen other areas take up the opportunity to be successful and we are happy to see the community. The event has been running for two years at Pacific Drive and is the largest single gathering of community members in Mulwarrigah. The event is held in Henderson Park, Larmor Ave. Portage. It is a day of fun and entertainment for the community. It includes a breakfast, entertainment, and a raffle. The event is held in Henderson Park, Larmor Ave. Portage. It is a day of fun and entertainment for the community. It includes a breakfast, entertainment, and a raffle. The event is held in Henderson Park, Larmor Ave. Portage.	Mulwarrigah Community Breakfast	\$1,000	\$1,000	\$1,000/NA		NA

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<p>CH2011-0000</p>	<p>Choir Development Program</p>	<p>A project to continue, enhance and develop community music in Port Stephens including the professionalisation and expertise of the SeaSide Singers Community Choir. 1. An Annual Vocal Competition (local talent) and using local technicians and businesses. 2. A Choir tour of all major and Port Stephens choirs to train, promote, learn and sing together and increase the profile of choirs in Port Stephens. 3. A Choir Workshop... musical educational talk... development for all choirs and singers in the area</p>	<p>This is a priority because there is no organising body in the Peninsula to encourage and coordinate choirs and other types of singing groups or to offer them ongoing musical development and opportunities to perform. The project planned will develop skills, enhance culture and provide entertainment and employment for the Port Stephens Community. See additional information in the Business Plan</p>	<p>Choir Network Inc SeaSide Singers Inc Community Choir & Pt Stephens Choir</p>	<p>Support in full</p>	<p>\$1,000</p>	<p>\$2,000</p>	<p>\$2,000</p>	<p>N/A</p>
<p>CH2011-0001</p>	<p>Sculptures in the Bay</p>	<p>Initiatives for the Bay to provide an ongoing growing art resource in terms of public sculpture in the Port Stephens foreshore areas. Starting in the Nelson Bay area and expanding throughout the foreshore. The program will encourage local and national artists to create a sculpture that speaks of the natural environment, and in turn furthmore the program will see it growth in access to touring workshops and the opportunity for well recognized and talented artists to visit the region to work with local artists. Sculptures by the Bay is an acquisition based art program designed to develop the cultural aspects of the community creating a focal point for arts, tourism and to develop a role of sculpture throughout the area into time. Currently, the program is one which will go on based to the community, and the tourism industry. In order to acquire the sculptures for the community we plan to hold annual sculpture competitions offering realistic prize monies for a range of categories and to return the winning artists</p>	<p>The community of Nelson Bay is made up of people who enjoy the natural aspects of our environment having an art focal in public places will enhance the environment and create talking points. It will create further opportunities for tourism and arts tourism which will inject money into the local economy and create jobs. The creation of art tourism is important to the region as it can support local opportunities. Art in the community is very important in helping us to improve the local economy stability and help give us a voice in our community. We hope many local artists and many other people who participate in art activities keeping them a part of the community addressing isolation and health issues.</p>	<p>Nelson Bay Tourism Management Inc</p>	<p>Support in full</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>N/A</p>
<p>CH2011-0002</p>	<p>Choir Development Program</p>	<p>A project to continue, enhance and develop community music in Port Stephens including the professionalisation and expertise of the SeaSide Singers Community Choir. 1. An Annual Vocal Competition (local talent) and using local technicians and businesses. 2. A Choir tour of all major and Port Stephens choirs to train, promote, learn and sing together and increase the profile of choirs in Port Stephens. 3. A Choir Workshop... musical educational talk... development for all choirs and singers in the area</p>	<p>This is a priority because there is no organising body in the Peninsula to encourage and coordinate choirs and other types of singing groups or to offer them ongoing musical development and opportunities to perform. The project planned will develop skills, enhance culture and provide entertainment and employment for the Port Stephens Community. See additional information in the Business Plan</p>	<p>Choir Network Inc SeaSide Singers Inc Community Choir & Pt Stephens Choir</p>	<p>Support in full</p>	<p>\$1,000</p>	<p>\$2,000</p>	<p>\$2,000</p>	<p>N/A</p>
<p>CH2011-0003</p>	<p>Sculptures in the Bay</p>	<p>Initiatives for the Bay to provide an ongoing growing art resource in terms of public sculpture in the Port Stephens foreshore areas. Starting in the Nelson Bay area and expanding throughout the foreshore. The program will encourage local and national artists to create a sculpture that speaks of the natural environment, and in turn furthmore the program will see it growth in access to touring workshops and the opportunity for well recognized and talented artists to visit the region to work with local artists. Sculptures by the Bay is an acquisition based art program designed to develop the cultural aspects of the community creating a focal point for arts, tourism and to develop a role of sculpture throughout the area into time. Currently, the program is one which will go on based to the community, and the tourism industry. In order to acquire the sculptures for the community we plan to hold annual sculpture competitions offering realistic prize monies for a range of categories and to return the winning artists</p>	<p>The community of Nelson Bay is made up of people who enjoy the natural aspects of our environment having an art focal in public places will enhance the environment and create talking points. It will create further opportunities for tourism and arts tourism which will inject money into the local economy and create jobs. The creation of art tourism is important to the region as it can support local opportunities. Art in the community is very important in helping us to improve the local economy stability and help give us a voice in our community. We hope many local artists and many other people who participate in art activities keeping them a part of the community addressing isolation and health issues.</p>	<p>Nelson Bay Tourism Management Inc</p>	<p>Support in full</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>N/A</p>
<p>CH2011-0004</p>	<p>Choir Development Program</p>	<p>A project to continue, enhance and develop community music in Port Stephens including the professionalisation and expertise of the SeaSide Singers Community Choir. 1. An Annual Vocal Competition (local talent) and using local technicians and businesses. 2. A Choir tour of all major and Port Stephens choirs to train, promote, learn and sing together and increase the profile of choirs in Port Stephens. 3. A Choir Workshop... musical educational talk... development for all choirs and singers in the area</p>	<p>This is a priority because there is no organising body in the Peninsula to encourage and coordinate choirs and other types of singing groups or to offer them ongoing musical development and opportunities to perform. The project planned will develop skills, enhance culture and provide entertainment and employment for the Port Stephens Community. See additional information in the Business Plan</p>	<p>Choir Network Inc SeaSide Singers Inc Community Choir & Pt Stephens Choir</p>	<p>Support in full</p>	<p>\$1,000</p>	<p>\$2,000</p>	<p>\$2,000</p>	<p>N/A</p>
<p>CH2011-0005</p>	<p>Sculptures in the Bay</p>	<p>Initiatives for the Bay to provide an ongoing growing art resource in terms of public sculpture in the Port Stephens foreshore areas. Starting in the Nelson Bay area and expanding throughout the foreshore. The program will encourage local and national artists to create a sculpture that speaks of the natural environment, and in turn furthmore the program will see it growth in access to touring workshops and the opportunity for well recognized and talented artists to visit the region to work with local artists. Sculptures by the Bay is an acquisition based art program designed to develop the cultural aspects of the community creating a focal point for arts, tourism and to develop a role of sculpture throughout the area into time. Currently, the program is one which will go on based to the community, and the tourism industry. In order to acquire the sculptures for the community we plan to hold annual sculpture competitions offering realistic prize monies for a range of categories and to return the winning artists</p>	<p>The community of Nelson Bay is made up of people who enjoy the natural aspects of our environment having an art focal in public places will enhance the environment and create talking points. It will create further opportunities for tourism and arts tourism which will inject money into the local economy and create jobs. The creation of art tourism is important to the region as it can support local opportunities. Art in the community is very important in helping us to improve the local economy stability and help give us a voice in our community. We hope many local artists and many other people who participate in art activities keeping them a part of the community addressing isolation and health issues.</p>	<p>Nelson Bay Tourism Management Inc</p>	<p>Support in full</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>N/A</p>
<p>CH2011-0006</p>	<p>Choir Development Program</p>	<p>A project to continue, enhance and develop community music in Port Stephens including the professionalisation and expertise of the SeaSide Singers Community Choir. 1. An Annual Vocal Competition (local talent) and using local technicians and businesses. 2. A Choir tour of all major and Port Stephens choirs to train, promote, learn and sing together and increase the profile of choirs in Port Stephens. 3. A Choir Workshop... musical educational talk... development for all choirs and singers in the area</p>	<p>This is a priority because there is no organising body in the Peninsula to encourage and coordinate choirs and other types of singing groups or to offer them ongoing musical development and opportunities to perform. The project planned will develop skills, enhance culture and provide entertainment and employment for the Port Stephens Community. See additional information in the Business Plan</p>	<p>Choir Network Inc SeaSide Singers Inc Community Choir & Pt Stephens Choir</p>	<p>Support in full</p>	<p>\$1,000</p>	<p>\$2,000</p>	<p>\$2,000</p>	<p>N/A</p>
<p>CH2011-0007</p>	<p>Sculptures in the Bay</p>	<p>Initiatives for the Bay to provide an ongoing growing art resource in terms of public sculpture in the Port Stephens foreshore areas. Starting in the Nelson Bay area and expanding throughout the foreshore. The program will encourage local and national artists to create a sculpture that speaks of the natural environment, and in turn furthmore the program will see it growth in access to touring workshops and the opportunity for well recognized and talented artists to visit the region to work with local artists. Sculptures by the Bay is an acquisition based art program designed to develop the cultural aspects of the community creating a focal point for arts, tourism and to develop a role of sculpture throughout the area into time. Currently, the program is one which will go on based to the community, and the tourism industry. In order to acquire the sculptures for the community we plan to hold annual sculpture competitions offering realistic prize monies for a range of categories and to return the winning artists</p>	<p>The community of Nelson Bay is made up of people who enjoy the natural aspects of our environment having an art focal in public places will enhance the environment and create talking points. It will create further opportunities for tourism and arts tourism which will inject money into the local economy and create jobs. The creation of art tourism is important to the region as it can support local opportunities. Art in the community is very important in helping us to improve the local economy stability and help give us a voice in our community. We hope many local artists and many other people who participate in art activities keeping them a part of the community addressing isolation and health issues.</p>	<p>Nelson Bay Tourism Management Inc</p>	<p>Support in full</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>N/A</p>
<p>CH2011-0008</p>	<p>Choir Development Program</p>	<p>A project to continue, enhance and develop community music in Port Stephens including the professionalisation and expertise of the SeaSide Singers Community Choir. 1. An Annual Vocal Competition (local talent) and using local technicians and businesses. 2. A Choir tour of all major and Port Stephens choirs to train, promote, learn and sing together and increase the profile of choirs in Port Stephens. 3. A Choir Workshop... musical educational talk... development for all choirs and singers in the area</p>	<p>This is a priority because there is no organising body in the Peninsula to encourage and coordinate choirs and other types of singing groups or to offer them ongoing musical development and opportunities to perform. The project planned will develop skills, enhance culture and provide entertainment and employment for the Port Stephens Community. See additional information in the Business Plan</p>	<p>Choir Network Inc SeaSide Singers Inc Community Choir & Pt Stephens Choir</p>	<p>Support in full</p>	<p>\$1,000</p>	<p>\$2,000</p>	<p>\$2,000</p>	<p>N/A</p>
<p>CH2011-0009</p>	<p>Sculptures in the Bay</p>	<p>Initiatives for the Bay to provide an ongoing growing art resource in terms of public sculpture in the Port Stephens foreshore areas. Starting in the Nelson Bay area and expanding throughout the foreshore. The program will encourage local and national artists to create a sculpture that speaks of the natural environment, and in turn furthmore the program will see it growth in access to touring workshops and the opportunity for well recognized and talented artists to visit the region to work with local artists. Sculptures by the Bay is an acquisition based art program designed to develop the cultural aspects of the community creating a focal point for arts, tourism and to develop a role of sculpture throughout the area into time. Currently, the program is one which will go on based to the community, and the tourism industry. In order to acquire the sculptures for the community we plan to hold annual sculpture competitions offering realistic prize monies for a range of categories and to return the winning artists</p>	<p>The community of Nelson Bay is made up of people who enjoy the natural aspects of our environment having an art focal in public places will enhance the environment and create talking points. It will create further opportunities for tourism and arts tourism which will inject money into the local economy and create jobs. The creation of art tourism is important to the region as it can support local opportunities. Art in the community is very important in helping us to improve the local economy stability and help give us a voice in our community. We hope many local artists and many other people who participate in art activities keeping them a part of the community addressing isolation and health issues.</p>	<p>Nelson Bay Tourism Management Inc</p>	<p>Support in full</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>\$4,000</p>	<p>N/A</p>

CP1021-2011-0028	Port Stephens Literature Award	To build an opportunity for authors of high quality literature and showcase Port Stephens as a multi-arts destination.	These awards fill a much needed cultural gap in our area, to provide for the diverse cultural needs of the community these awards are a critical first. As previous awards have shown, a wide array of styles are submitted from all around Australia, we have a very high percentage of the winners. Our recent "Scope" of the award we found submitting the placement in the "prestigious" Port Stephens Grammar Creative Awards. This proved to us that there is a need for awards. The awards also provide a way for people in our community to volunteer for becoming a reader of choice. Our community has a high level of volunteering but there are still people who report finding it more challenging to find people who will support and we find that we receive more enquiries finding readers. Our award judging panel's role is to make up of community members with an interest in literature.	Triggery Arts & Community Education Inc.	Support in full	\$500	\$500	Staff Council has joint naming rights with the Business, The Port Stephens Council and Stammers Library. The winning award is published on the Culture Port Stephens website.	While Council contributes significantly to the prize money, the organisation with naming rights does not make a financial contribution. This needs to be addressed.
CP1021-2011-0042	Christmas and Holiday Entertainment in Nelson Bay	A program of entertainment to be held on the Nelson Bay Centre Stage in the lead up to Christmas and in the peak season for tourism.	The project is a priority as there is no activity to celebrate Christmas in the township of Nelson Bay and the proximity of the town and lack of cultural input in relation to the festive season will see local residents feel left out from the centre and to other events where music and activities occur. For those who are unable to drive Nelson Bay is the location where the Christmas activity needs to occur. Youth needed a vibrant community with activity in the township the program will deliver to this expectation. The children's program will specifically cater to this request.	Nelson Bay Town Management Inc.	Support in full	\$1,000	\$1,000	\$1,000 (sustainability of the program is developed, forward thinking program, / ongoing program, to be promoted on the Tourism, Culture Port Stephens and other websites)	Please provide details of program, dates etc.
CP1021-2011-0022	The Gardens Sculpture Prize	Other artists, experienced and young age inclusion an opportunity to exhibit their work in the Annual Gardens Sculpture Prize of the Hunter Region Botanic Gardens. Prize money will be given for first and second prizes in each category, large works, for outdoor display on the Ecological Learning and exhibition is open to works in all mediums.	The Hunter Region Botanic Gardens is an ideal setting for the display of works by artists. In being held at the Gardens the event becomes part of the Gardens' Calendar of Events and administrative support is provided by the Hunter Region Botanic Gardens staff. This is a vibrant partnership between artists and the Gardens while giving a community partnership in cultural events and activities. To mark the Hunter Region Botanic Gardens' 100th anniversary, the youth section.	Hunter Region Botanic Gardens (Suzanne Stephens LM)	Support in part	\$2,400	\$2,400	\$2,400 (Council receives naming rights)	The funds awarded are based on the expenditure last income = 240000 net 200000 at requested.
CP1021-2011-0045	Triggery Festival - Triggery Fun Day	Everyone Fun Day provides an opportunity for the community to participate in a programme even that celebrates the Triggery Festival. It focuses on family and child friendly activities, it gives the local community a day they can look forward to, participate in and promote local pride.	It's about building "togetherness" within the Triggery community, it day to showcase our community groups, it gives our community a chance to come together to bring about an event that's a positive for the Triggery Peninsula. For the nation that comes for the day and for the business that trade in our community. Each year the festival project provides the Triggery Peninsula together with local business and services. It is a collective celebration of local maritime history and environment. It is an event that encourages whole community integration between all diverse groups, specifically children and youth, either by participation or attendance. The festival is a showcase local talent and it also encourages visitors from other areas within the Port Stephens LGA thereby contributing to economic development.	Triggery Community Association	Support in part	\$1,000	\$1,000	\$1,000 (Council does not contribute to the festival)	without the \$1000 expenditure on the festival the support would be viable and the support would not be needed.

<p>ICW 2011-0005</p> <p>Annual Tilgerry Art, Craft and Quilting Show</p>	<p>This is a major art, craft and quilting show which promotes the talents of local, arts and crafts artists and artists in areas of 300 art works and 70 quilts as well as craft are displayed for 4 days as part of the Tilgerry Festival.</p>	<p>With the fact of a cultural centre in Port Stephens the project promotes, attracts and presents a quality cultural experience to the local community. It provides an opportunity for local artists craft persons and quilts to display their talents and skills and to have them recognised. It is a celebration of the arts for the local and wider community. It has become accepted as a prestige event in the arts calendar and Port Stephens Council has recognised it with and promoted by being a major sponsor.</p>	<p>Tilgerry Art, Craft and Quilting Show Committee</p>	<p>Support is per art</p>	<p>\$1,500</p>	<p>\$2,000</p>	<p>\$1,200</p>	<p>Funds are led to the main prize. The main prize becomes accessible from the second year onwards, with the winning painting to become part of the Council art collection.*</p>	<p>In future, please make the budget clearer as to what the items are for. Council's Strategic Cultural Committee will be considering the philosophy of what Council would acquire for the Art Collection, to future acquisitions, including those through art shows.</p>
<p>DP 2011-0064</p> <p>Raymond Terrace Annual Art Show</p>	<p>The Raymond Terrace Annual Art Show celebrates its 42nd year this year. Arts are held in what were with the understanding that all works will be for sale. We had Arts for year on the South as Sydney and as for North as Byron. Proceeding their work as well as local talent. We received 200 paintings this year which will be on our next year's Art Show. Thanks to our sponsors we are able to make prize money available and we now will have 8 sections competing all mediums for 2011.</p>	<p>The Raymond Terrace art show raises our only awareness in the community of the fine arts that we have, but the profits raised from the Art Show are placed amongst three local schools. These schools being Raymond Terrace, Invermay and Grahamsburn Public schools. The Art Show is growing every year. We have a public section and as of 2011, we will have a new section for Senior Citizens, giving a total of 8 sections.</p>	<p>Raymond Terrace Annual Art Show Committee</p>	<p>Support is per art</p>	<p>\$2,000</p>	<p>\$2,000</p>	<p>\$2,000</p>	<p>Council's Strategic Cultural Committee will be considering the philosophy of what Council would acquire for the Art Collection, to future acquisitions, including those through art shows.</p>	
<p>TOTALS</p>									
					<p>\$18,400</p>	<p>\$18,400</p>	<p>\$18,400</p>		

ATTACHMENT 6
 MINUTES - THE STRATEGIC ARTS AND CULTURAL
 COMMITTEE MEETING 6 JUNE 2011

Attachment 6



Port Stephens Strategic Arts & Cultural Committee
 MINUTES 6 June 2011
 Port Stephens Council Administration Building

To set the benchmark in local government customer relations through the building of quality relationships and professional communication standards

- I will be prepared and contribute
- I will communicate openly and honestly
- I will choose my attitude - be positive
- I will care for my colleagues' well being
- I will have fun.

Attendance

Delegate Network	Delegate Organisation	Delegate Name
Council Staff Representative / Convenor	Port Stephens Council	Chloe Beverets
East Ward Lifestyle Network	Port Stephens Council	Councillor John Nell
West Ward Lifestyle Network	Port Stephens Council	Councillor Glenys Francis
Port Stephens Sister Cities Committee		Elaine Feraday
East Ward Lifestyle Network / Events Network / Visual Arts Network	Nelson Bay Town Management	Marion Sampson
East Ward Lifestyle Network / Visual Arts Network	Port Stephens Community Care / Seaside Singers	Jeanette Anthony
Heritage Advisory Committee	Tilligerry Tidy Towns	Fran Corner (Interim/alternate)
West Ward Lifestyle Network & Events Network	Hunter Regional Botanic Gardens	Kerry Bobson
West Ward Lifestyle Network	Karuah Working Together	Semliq Parker
Performing Arts Network, music, dance & theatre groups/venues	Port Stephens Community Choir	Robyn Culpitt
Central Ward Lifestyle Network	Tilligerry - Hands on Youth Events	Brian McLennaghan
Observer	Port Stephens Community Choir	Brian Iles

Apologies

Delegate Network	Delegate Organisation	Delegate Name
Central Ward	Port Stephens Council	Councillor Steve Tucker
Performing Arts Network, music, dance & theatre groups/venues	Seaside Singers	Diana Souler
Central Ward Lifestyle Network	Anna Bay Arts Action Hub	Richard Pettit
Events Network	Port Stephens Celtic Association Inc (clans on the coast)	Ron Swan
Visual Arts Network - covering galleries, art shows, groups	Tilligerry Arts Group	Mervyn Iles
Aboriginal Strategic Committee	Karuah Local Aboriginal Land Council	Dave Feeney
	Warimi Local Aboriginal Land Council	Andrew Smith
	Octopod Association	Greer Allen (Christina Robberds as alternate)
	PS Fellowship of Australian Writers	Christine Gregory

By email to Council members, 2011. For email records, 6 of 2011, Attachment 6 Minutes of Strategic Arts & Cultural Committee.doc

Screen Hunter Central Coast		Annette Hubber, Manager
Delegate positions vacant / To be nominated:		
Delegate Network		
Cultural Economy Team	P... Chamber of Commerce P... Chamber of Commerce P... Hal Committee	Delegate Name To be nominated To be nominated To be nominated
Halls Forum (network of Halls Committees) Parks and Tidy Towns Forum (network of related Committees)	Youth service provider Youth representative	To be nominated To be nominated
REGIONAL REPS:	Newcastle Conservatorium TAFE Hunter, Creative Industries Faculty Port Stephens FM	To be nominated To be nominated To be nominated
Topic	Time	Responsible Officer
1. Welcome / Introducing the new Committee / framework	5m	Chloe Beavers
		Action/Decision <ul style="list-style-type: none"> Initial functions of the network: <ul style="list-style-type: none"> Establish the 'Port Stephens Galleries' framework (as identified in the Community Strategic Plan, point 6.1.1) for rotating exhibitions and cross promotion. Advise Council on the development and management of the Council Art Collection Advise on development of a Public Art Framework and Policy (as identified in the Community Strategic Plan, point 6.6.3 & 6.6.4) Advise Council on the design of public space toward activating areas through public art (as identified in the Community Strategic Plan, point 6.6.3) Mapping of existing venues/sites (as identified in the Community Strategic Plan, point 6.6.2) and the current / projected needs for related infrastructure. Maintain contact with organisations supported through the Cultural Projects Fund This sub-committee to the Port Stephens Strategic Arts and Culture Committee will involve/invide <ul style="list-style-type: none"> Community run exhibition spaces (currently 7 across Port Stephens) Art Show management committees Visual Arts Groups including: photography clubs, painting groups, Private galleries School visual arts programs Training organisations including community colleges, Newcastle University and TAFE Art School Other visual arts venues such as studios, workshop spaces, commercial sites, public space
2. Minutes of previous meeting		
		Date to be Completed Status

Topic	Time	Responsible Officer	Action/Decision	Date to be Completed	Status
3. Recommendations from sub-committees / other representatives		Cultural Planner	<ul style="list-style-type: none"> • The Networks deliver under the auspice of Council's Cultural Development Program: <ul style="list-style-type: none"> o Visual Arts Network: Galleries Network Funding application to Arts NSW. There are nine community run exhibition spaces and many small private open studios and exhibition spaces across Port Stephens. These predominantly work in isolation and would benefit from collaboration and cross promotion. Application to support galleries across Port Stephens through cross promotional cultural tourism material and potential for events (Lovedale Long Lunch style weekend with each gallery hosting their own event with the overall weekend promoted through the Network). <ul style="list-style-type: none"> • Action: Cultural Planner to work with the Visual Arts Network to approach Galleries to form a network and agree upon how the collaboration could work. Once a critical mass of galleries have signed up to the initiative a funding application could be made. o Develop a program of capacity building workshops: survey of organisations to identify training needs and training providers – utilising expertise from within the network and council. <ul style="list-style-type: none"> • How to organise an event • How to manage a community organisation – committees skills, etc • Culture Port Stephens website • Media skills • Managing risk o Public art forum to be held at Nelson Bay in conjunction with 'Sculptures by the Bay', toward development of the Port Stephens Public Art Policy / framework. Funding already acquired from CASP through Nelson Bay Town Management for a technical forum on how to develop public art in the area. <ul style="list-style-type: none"> o Performing Arts Network – availability of appropriate and affordable venues: Council's integrated plans identify the intent to mapping performance needs and identify gaps to what is available. Given there are challenges finding appropriate (EG: Storage required for sets and props for duration of rehearsals and performances) and affordable venues, the key venues would be the hosts of future network forums. Forums will include a tour and workshop with the venue operator to explore/negotiate how to make it more accessible to community groups. <ul style="list-style-type: none"> • To have next forum hosted at the new St Philips Performing Arts Centre to workshops access to the facility. Date to be set after the school holidays. Events network also to be invited. • The Multi-purpose centre at the Tomaree education centre / public school also funded with Council money and required to provide community access. • Another meeting at council halls to look at how the halls could be 	As funding opportunities arise	
		Nelson Bay Town Management & Cultural Planner		August 2011	
				August 2011	
				July 2011	
				Dates to be set by PAN chair.	

Topic	Time	Responsible Officer	Action/Decision	Date to be Completed	Status
4. Cultural Planning	15	Cultural Planner	<ul style="list-style-type: none"> Planning so far: <ul style="list-style-type: none"> Port Stephens Futures Forum (May 2009) Survey of organisations with an interest in Arts and Culture (August/September 2009) Cultural Futures Forum (September 2009) Cultural Priorities reflected in the Port Stephens Futures Strategy (Adopted by Council October 2009) Cultural Priorities reflected in the Port Stephens Integrated Plans (adopted June 2010) Local Lifestyle Workshops (June/July 2010) Planning Workshops conducted at Inaugural Network Forums (February 2011) Other research, EG: Australian Bureau of Statistics Planning to go: <ul style="list-style-type: none"> Cultural priorities integrated into a Port Stephens Strategic Cultural Plan (2011-2022) with line of sight to Council's Port Stephens Community Strategic Plan (2011-2022) Negotiate community/government partnerships in the delivery of the actions – organisations signing off to confirm their participation. The Port Stephens Strategic Cultural Plan (2011-2022) put to Council for consideration Cultural Priorities/actions to be linked with Council's Community Strategic Plan, Delivery Program, Operational Plan and Resourcing Strategy Launch and promote Apply for funding and resources to deliver the plan [Arts NSW closing Max/June 2011] Committee to oversee delivery of the plan Annual Culture Port Stephens Report, linked to Council's Annual Reporting 	<p>End 2011</p> <p>End 2011</p> <p>Early 2012</p> <p>As opportunities arise</p> <p>July/August 2011 / annual</p>	

Topic	Time	Responsible Officer	Action/Decision	Date to be Completed	Status
5. Port Stephens in Context: State, Regional, National scene		Cultural Planner	<ul style="list-style-type: none"> • NSW <ul style="list-style-type: none"> • New Arts and Cultural Accord between Local Government and Shires Association & NSW Government (Arts NSW). NSW Arts Minister, Virginia Judge, has signed a three-year accord to ensure continued growth of the arts & cultural sector across the State. • NSW Local Government Cultural Awards – keep in mind projects to nominate next year as this is a way of gaining state recognition for local initiatives. • Regional <ul style="list-style-type: none"> • Port Stephens Council co-hosted cultural forum with Lower Hunter Councils • Lower Hunter Cultural Network establishment - formalising collaboration between the council for arts and cultural development. Draft Memorandum of Understanding with other Lower Hunter Councils to be signed by General Manager. 	July 2011	

Port Stephens Council meeting 26 July 2011, Attachment A: Minutes of Standing Arts & Cultural Committee.doc

Topic	Time	Responsible Officer	Action/Decision	Date to be Completed	Status
<p>6. Building the Culture Port Stephens Network.</p>	<p>25</p>	<p>Cultural Planner</p>	<ul style="list-style-type: none"> • Culture Port Stephens Website (10m) <ul style="list-style-type: none"> • Promoting participation to potential contributors • Chloe to provide Octapod with contact details of funded projects/orgs to support their participation in the website • Training for contributors to be conducted as per last year, with sessions held in Raymond Terrace and Tomaree Library computer labs. Previous participants would still benefit given the significant improvements and additional features provided by the site. • Promote participation by our networks networks • Re-launch to mass audience & sector • Further development of the site – how can it improve? <ul style="list-style-type: none"> • Identified at previous meeting and update on progress: <ul style="list-style-type: none"> • Multiple administrator logins for the page – this has been investigated but is not possible. Each network page created by Chloe in the website will be transferred to the nominated network representative to keep their network page up to date with news, events and opportunities. • Octapod to explore provision for subscription to directory entries / accounts / Newsletter for each network- this has been investigated however what has been resolved is that all the networks maintain their entries to the site. Council's Cultural Planner will produce a monthly newsletter for the whole of the Culture Port Stephens Network which draws on all the entries to the site. Therefore all network members encouraged to subscribe through the site. The first issue of the newsletter was published / circulated 25 May to a subscription list of about 60. All requested to spread the word as this is the main way for people to be kept informed. 	<p>July Aug/Sep 2011-06-20 Aug/Sep 2011-06-20</p>	
			<ul style="list-style-type: none"> • Promotion of Arts and Culture in Port Stephens through: (5m) <ul style="list-style-type: none"> • Port Stephens Examiner • PS FM • Other media • Development of the Networks (5m) <ul style="list-style-type: none"> • Branding for each network – to be consistent with the culture port Stephens brand. • Cultural Development program / Capacity building workshops (5m). Call for: <ul style="list-style-type: none"> • Training needs – topics to be covered • Training facilitators – topics they can cover 	<p>Late 2011</p>	

Topic	Time	Responsible Officer	Action/Decision	Date to be Completed	Status
7. Committee Operational matters How will we build this network?		Cultural Planner	<ul style="list-style-type: none"> Youth Delegate – call for nominations through the 'snack and rap forums' through existing organisations memberships. Delegate to be aged between 18-24yrs old who is interested in the arts and active in the community. Review/address constitution and documents relating to rights and responsibilities Build participation: <ul style="list-style-type: none"> All members extend the information / opportunities through their networks Culture Port Stephens Website Organisations newsletters – a column with updates from the network Condition of cultural funding to participate – ACTION: Email funding recipients advising obligation to participate in the network/s, acknowledge council and invite council reps to related events. Better Ward based showcase event: each ward 	July For next AGM – early 2012 All ongoing	
8. Nominations: <ul style="list-style-type: none"> Delegates to the Strategic Arts and Culture Committee: 2 (from different localities) Executive: Chair, Deputy Secretary and Treasurer General committee members: min of 3 	15m	Cultural Planner	<p>Chloe Beavers served as returning officer for the election process.</p> <p>Chair: Jeanette Anitum (moved; Marian Sampson, Seconded; Elaine Fereday)</p> <p>Deputy Chair:</p> <ul style="list-style-type: none"> Marian Sampson (moved; Brian McClenaghan, Seconded; Bernita Parker) Fran Corner (moved; Bernita Parker, Seconded; Kerry Bacon) <p>Secretary: Kerry Bacon (moved; Elaine Fereday, Seconded; Fran Corner)</p> <p>Treasurer: Vacant – deemed unnecessary at this point in time as the Council's cultural development budget is managed by the Council's cultural planner. Members: As per nominations by associated networks and committees which have seats at the table. There remain delegate positions to be filled.</p> <p>Action: Delegate positions to be filled.</p> <p>Action: Council to be advised of committee membership and executives</p> <p>NOTE: Network meetings are open to the public for broader participation.</p> <p>NOTE: All to extend invitations to build participation in the network. This is a grass-roots and community-driven network!</p>	Council meeting July 2011	
9. Year schedule: key agenda items and timing			<ul style="list-style-type: none"> Early June: Selection process for Cultural Projects Fund – host at Murrumbidgee Late August: Presentation Ceremony & Annual Cultural Report November: Promotions & Planning for 2012-2013 Early March: AGM & Planning for 2012-2013 		

2011-2012 Cultural Committee Report 2011 Prepared December 2011. Attachment 4. Minutes of Strategic Arts & Cultural Committee 2011

Topic	Time	Responsible Officer	Action/Decision	Date to be Completed	Status
10 Cultural Projects fund – open for applications from community groups	10m	Cultural Planner	<ul style="list-style-type: none"> Review multiyear projects for continued funding (10 projects) <ul style="list-style-type: none"> Assess acquittal reporting from year one – on track? Second instalment only to be transferred on successful completion of year one project and acquittal report on use of the public funds. Apply comments to the applicant from the committee Recommend to Council, conditions on the project/applicant Recommendations for second instalments <p>Decision: That the 10 projects endorsed for multi year funding last year be allocated their second instalment on successful reporting of the first year's project delivery and acquittal of the previous funds.</p> <p>Moved: Marian Sampson; Seconded: Kerry Bacon.</p> <ul style="list-style-type: none"> Review new applications (21 projects) <p>The committee assessed the merit of project, credibility of applicant, partnerships. The deliberations and recommendations are confidential. Any committee member with a conflict of interest left the room during the deliberations of associated applications.</p> RECOMMENDATION TO COUNCIL: In accordance with Council's Cultural Project Fund Guidelines, supply funds from Council's Cultural Project Fund for the amounts, purposes and conditions as prescribed in the attached table. Allocation of surplus funds <ul style="list-style-type: none"> As there are funds remaining after applications have been recommended for allocations, the committee considered a range of options: <ol style="list-style-type: none"> Return funds to general revenue Open a second funding round – council does not have the human resources to conduct this a second time and there would be insufficient time for the process to run and projects to be delivered by July 2012. Retain in the cultural development budget for priority cultural projects. RECOMMENDATION TO COUNCIL: That the cultural budget not allocated to external groups be utilised for Council cultural development program and establishment of the Strategic Cultural Committee and its networks. 	As projects are completed. Reminder notification to be send in July. Council meeting July 2011 Council meeting July 2011	

Topic	Time	Responsible Officer	Action/Decision	Date to be Completed	Status
11		Cultural Planner	<ul style="list-style-type: none"> Where to from here <ul style="list-style-type: none"> i. Report of recommendations put to the July Council meeting ii. All applicants advised of the decision late in July iii. Funding agreements detailing terms and conditions – to be signed and returned prior to transfer of funds iv. Presentation ceremony in August v. Acquittal reports on completion of the project Evaluation of the funding program – to be conducted as part of a continuous quality improvement process. Some feedback from the committee: <ul style="list-style-type: none"> Funding recipients need to be held accountable for following the terms and conditions eg: acknowledging Council, using the Culture Port Stephens banner logo, delivering the project and reporting. Need to manage the levels of multi-year projects, allocated funding, so to retain an adequate New business plan template to be created / provided Standard conditions: <ul style="list-style-type: none"> Participation in the Culture Port Stephens Network meetings. Use of the Culture Port Stephens Website to promote organisations, events and news Additional criteria need to be developed: <ul style="list-style-type: none"> Refining who is eligible (churches, schools, big organisations) Ask, if you do not get the funding, will the project go ahead Not a small equipment fund – this is for projects. Equipment can be included as an expense item in the project budget but not to be more than 50% of the fund applied for. Attendance at a funding briefing / training session to ensure the applicants know what it is about and how to put together a quality application – in particular addressing the lack of adequate business plans and budgets in the applications to date. 	June July Aug June 2012 Reviewed at next meeting	

Meeting Code of Cooperation

- We start on time and finish on time.
- We all participate and contribute – everyone is given opportunity to voice their opinions.
- We use improvement tools that enhance meeting efficiency and effectiveness.
- We actively listen to what others have to say, seeking first to understand then to be understood.
- We follow up on the actions we are assigned responsibility for and complete them on time.
- We give and receive open and honest feedback in a constructive manner.
- We use data to make decisions (whenever possible).
- We determine issues arising by consensus or refer to the GM for consideration.
- We strive to continually improve our meeting process and build time into each agenda for reflection.
- We will promote best practice, keeping open minds, combining our experiences and shared learnings to inform our deliberations.

ITEM NO. 7

FILE NO: PSC2005-1826

NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT JUNE 2011

**REPORT OF: COUNCILLOR WESTBURY, MAYOR
PETER GESLING, GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT COUNCIL:

- 1) That Council endorse the approach proposed by the Australian Local Government Association (ALGA) for the recognition of Local Government in the Australian Constitution;
- 2) Authorise the General Manager to use existing resources to commence a local campaign in support of the Referendum proposal.

COUNCIL COMMITTEE MEETING – 19 JULY 2011

RECOMMENDATION:

	Councillor Bob Westbury Councillor Shirley O'Brien	That Council endorse the approach proposed by the Australian Local Government Association (ALGA) for the recognition of Local Government in the Australian Constitution.
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ORDINARY COUNCIL MEETING – 26 JULY 2011

250	Councillor Ken Jordan Councillor Geoff Dingle	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to brief Councillors on the National General Assembly of Local Government (NGA) held from 19 to 22 June 2011.

The theme of the 2011 National General Assembly was "Growing our Community" with three themes of Place, Position and Partnership. Over 400 Councils were represented with over 900 delegates registering for the Assembly.

The key conversation related to the recognition of Local Government in the Australian Constitution. A panel of James O'Loughlin (ABC Radio and host of the New Inventors), Jane Caro (Gruen Transfer), John Hewson former Federal Politician and Annabel Crabb, Journalist were engaged to canvass the question "The Pitch, How

We Sell Local Government". The session was hosted by James O'Loughlin and included some proposed advertisements developed by media/communication students at the Australian National University (ANU) to address this theme. (See *Attachment 1*).

The Congress featured seven senior Federal Politicians:

- The Prime Minister, The Hon. Julia Gillard, MP who opened the Congress
- Opposition Leader, The Hon. Tony Abbott, MP
- Hon. Simon Crean, Minister for Regional Australia, Regional Development and Local Government, The Hon. Simon Crean
- Minister for Climate Change and Energy Efficiency, The Hon. Greg Combet
- Leader of the Australian Greens, Senator Bob Brown
- Shadow Minister for Regional Development, Local Government and Water, Barnaby Joyce
- Minister for Broadband Communication Senator Steve Conroy.

All speakers affirmed their own and their party's support for the recognition of Local Government in the Australian Constitution and spoke of their areas of responsibility within Government and within Parliament.

A Keynote Speaker introduced each of the three themes:

- Place: The Mayor of Auckland Council, Len Brown, who outlined his experience in the establishment of a new super Council in Auckland which amalgamated 7 Councils and a number of district Councils to form a Local Government Authority larger than Brisbane City Council that represents about a third of the New Zealand population.
- Position: Robert Gottliebsen, Economist and Commentator, who provided an analysis of the global, national and regional economies.
- Partnership: Grant O'Brien, CEO of Woolworths, who presented an overview of their partnership with suppliers, shareholders and the community.

A separate session was held to debate submitted motions on each theme. A copy of the business paper and handbook from the conference contains those motions and the program. They are available in the Councillors Room or the General Manager's Office. Port Stephens Council's motions on the theme of "Place" were accepted by the Congress (See *Attachment 2*).

Other featured sessions were:

- "Local Government and Community Resilience - 2011 Floods" with the Mayors from Queensland and Victoria Councils. Recovery operations are still ongoing.
- Launch of two documents developed by the Australian Local Government Association for Local Government: "Developing Indigenous Land Use Agreements".
- A Best Practice Guide for Councils When Initially Dealing with NBN Co.

The associated Expo provided an opportunity to discuss current programs for all agencies and network with other exhibitors. *Attachment 3* provides a list of those organisations represented.

FINANCIAL/RESOURCE IMPLICATIONS

Existing resources will be used in the current year. Further resources may be required but will be the subject of separate reports.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's future capability to manage its responsibilities will most likely be compromised if constitutional recognition is not achieved.

SUSTAINABILITY IMPLICATIONS

Council's future capability to manage its responsibilities will most likely be compromised if constitutional recognition is not achieved.

CONSULTATION

Not applicable at this stage.

OPTIONS

- 1) Adopt the recommendations;
- 2) Reject or amend the recommendations.

ATTACHMENTS

- 1) Discussion Paper: Recognition of Local Government in the Australian Constitution;
- 2) Port Stephens Council's Motions on the theme of "Place";
- 3) List of organisations represented at the Expo.

COUNCILLORS ROOM

- 1) Copy of the NAG Business Paper and Handbook.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Recognition of Local Government in the Australian Constitution

This proposal has been the subject of two previous referendums and had been rejected by the Australian electorate. In 2008 ALGA held a Constitutional Convention following public support for the proposal from both major political parties. Reasons for previous rejection were analysed and the Convention supported a campaign to have another referendum by the Federal Government. Further, it endorsed research on 4 options:

- 1) Acknowledgment in the preamble of the Constitution
- 2) Inclusion in Section 51(?) of the Constitution. This would provide equal status to State Government.
- 3) Inclusion in Section 98 of the Constitution. This would allow the Australian Government to continue to make direct payment to Local Government.
- 4) All, or a combination, of the above.

Since the Constitutional Convention, ongoing advocacy and discussion with Government political parties, constitutional lawyers, lobbyists, marketing agents and the industry has continued. However, High Court has recently questioned the legal right of the Federal Government to make direct payments to Local Government eg; Roads to Recovery.

At the recent National General Assembly all political parties supported the general proposition and determined to proceed to specifically advocate for Option 3 ie; power to make financial payment to Local Government. This was seen to guarantee that the Australian Government can continue to make direct payments to Local Government while not challenging the power of State Government to manage Local Government as they do now.

Media and advertising students at the Australian National University were briefed and engaged to develop a Brand option for the proposition. This impressive collateral will be made available to all councils to advocate in their local area.

The expert panel supported a the development of a Brand Campaign similar to the students' work and secondly, the development of a longer term "Yes" case. It was recommended that individual Councils resolve to support the current proposal and immediately commence conversation in their own communities for the supply of materials.

ATTACHMENT 2

Summary of Key Arguments

The principles of true partnership and what it really means to work with Local Government needs to be improved. The partnership between Federal and Local Governments can be more parent/child and this approach often means that Local Government is not involved in the planning stages of projects and policy development. This raises issues when local concerns need to be retro-fitted to a policy already approved by the Federal Government which can undermine the policy intent and means local issues are not addressed. A primary example of this is the lack of Local Government inclusion in Medicare Locals.

Strategic Motion Number: 3

Council: Port Stephens Council, NSW

Motion

That the National General Assembly call on the Commonwealth Government to lead the preparation of a National Settlement and Infrastructure Strategy based upon a Governance Structure that engages strongly with the Governments of States and Territories and with representatives of Local Government.

National Objective

This is a national objective because the projected growth of the population of Australia is projected to increase from the current 22 million to 36 million by the year 2050 – placing major demands on the capacity to plan and deliver settlement patterns and infrastructure which meet fundamental social, economic and environmental criteria.

Summary of Key Arguments

Never before has there been a compelling case for the Commonwealth Government to be involved in leading the planning of future settlement patterns and related infrastructure delivery. Australia is projected to increase its population from 22 million to 36 million by 2050. Sydney is projected to grow from 4.5 million to 7 million.

The Hunter region is anticipated to grow from approximately 545,000 to over 800,000 with significant consequences for Newcastle, the lower Hunter and Port Stephens. Port Stephens could have to plan for an increase from approximately 67,000 to over 120,000 to 2050.

Currently 85% of Australia's population live on the coast – 18.7 million out of 22 million. If this proportion continues, 31.5 million will seek to live in that coastal sector; an increase of 12.8 million – over the next 40 years. This will place huge demands on State and Local Government as well as the Commonwealth Government, to deliver infrastructure and manage the social, economic and environmental implications of that scale of growth in that sector.

Hence, the Commonwealth Government should lead the preparation of a National Settlement and Infrastructure Strategy – establishing a pattern of managed growth of capital cities, major regional centres and Coastal Settlement which is fundamentally based upon infrastructure capacities and needs. The Commonwealth Government should therefore play a strong leadership role in coordinating, advocating and directing consistent planning legislation and

ATTACHMENT 2

practices across the States and Territories to deliver the future outcomes for our cities, major regional centres and coastal settlements.

To "get the planning right" and integrate the infrastructure delivery with future growth and settlement patterns, the coordinated approach between the three levels of Government is critical.

Associated Motion

Motion Number: 3.1

Council: Port Stephens Council, NSW

Motion

That the National General Assembly call on the Australian Government to establish a Governance Model that enables the engagement of political and senior management / professional representatives in the preparation of a National Settlement and Infrastructure Strategy and that that Governance Model be based upon:

- The Council of Australian Governments;
- The reestablishment of a Ministerial Council of Ministers for Planning or equivalents from all States and Territories; and
- The establishment of a Forum which is a support network of Senior Management in planning and infrastructure delivery from the Major Cities Unit, all States and Territories and from the Australian Local Government Associations / equivalents of all States and Territories.

National Objective

To increase the national allocation of resources and funding for priority infrastructure needs and priorities associated with national growth.

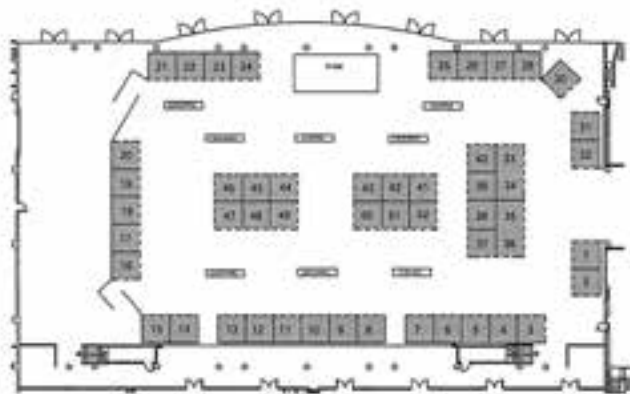
Summary of Key Arguments

With the projected growth of the Australian population from the current 22 million to 36 million in the next 40 years, not only is there a compelling case for the Commonwealth Government to lead a National Strategy for Planning and Infrastructure, but for there to be a well established Governance Structure encompassing all of the three levels of Government in the planning and coordination of growth of metropolitan areas, planning for Regional Centres and the Coastal Sector and the related planning, funding and delivery of infrastructure required to support that locational distribution of growth resulting from this enhanced strategic approach at the national level.

ATTACHMENT 3



LOCAL GOVERNMENT EXPO



EXPO FLOOR PLAN
NATIONAL CONVENTION CENTRE

LIST OF EXHIBITORS

BOOTH	ORGANISATION	BOOTH	ORGANISATION
18	Atlas of Living Australia	8	Department of Regional Australia, Regional Development and Local Government
23	Australian Business Register	40	DrumMUSTER/ChemClear
39	Australian Centre of Excellence for Local Government	37	Elasto Plastic Concrete
32	Australian Library and Information Association	26	EZY Sandbag Solutions
33 & 34	Australian Local Government Association	2	Government Skills Australia
31	Bannerconda/Bannerjib	27	Green Building Council of Australia
52	BlackBerry	50	Heart Foundation
44	Bosch Communications Systems	49	Hills SVL
36	Campervan and Motorhome Club of Australia Ltd	39 & 34	ICDN Software Solutions
49	Commonwealth Bank	14 & 17	Ingenius Labs
7	Complete Office Supplies	47	Jardine Lloyd Thompson Pty Ltd
41 & 42	Defence Youth Futures/Defence Reserves Support	3	Komatsu Australia Pty Ltd
13	Department of Broadband, Communications and the Digital Economy	1	Local Government Focus
28	Department of Climate Change and Energy Efficiency	17 & 29	McArthur
9	Department of Education, Employment and Workplace Relations	POWER	Mitsubishi Motors Australia Limited
11 & 12	Department of Families, Housing, Community Services and Indigenous Affairs	44 & 45	Mobile Carriers Forum and MobileMuster
14	Department of Health and Aging	38	National Economics
48	Department of Immigration and Citizenship	29	National Timber Councils Association
19	Department of Infrastructure and Transport	39	Royal Life Saving Society - Australia
		51	Western Australian Local Government Association

ITEM NO. 8

FILE NO: A2004-0162

**AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1993 –
CONSTITUTIONAL ARRANGEMENTS FOR COUNCILS**

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note Circular 11-12;
 - 2) Determine the number of councillors for the next term of Office.
-

**COUNCIL COMMITTEE MEETING – 19 JULY 2011
RECOMMENDATION:**

	<p>Councillor Bruce MacKenzie Councillor John Nell</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1) Receive and note Circular 11-12. 2) Reaffirm the results of the 2008 Council Referendum with nine (9) councillors and a popularly elected mayor to be elected at the 2012 local government election.
--	--	--

ORDINARY COUNCIL MEETING – 26 JULY 2011

251	<p>Councillor Steve Tucker Councillor Ken Jordan</p>	<p>It was resolved that the recommendation be adopted.</p>
-----	--	--

BACKGROUND

The purpose of this report is to inform Council of recent amendments to the Local Government Act 1993.

The Division of Local Government have provided Council will a Circular advising of recent amendments to the Local Government Act 1993 associated with Council elections and other related matters.

Circular No 11-12 shown at **ATTACHMENT 1** provides a summary of amendments to the Local Government Act 1993 with respect constitutional arrangements for Councils.

The Local Government Act now:

- enables councils, in certain circumstances, to make an application to the Minister for Local Government for approval to reduce the number of their councillors without the need for approval at a constitutional referendum;
- enables councils, in certain circumstances, to make an application to the Minister for approval to abolish all wards in their areas without the need for approval at a constitutional referendum;
- provides that a by-election need not be held to fill a casual vacancy in the office of a councillor (but not a mayor elected by the electors) if a constitutional referendum has been approved a reduction in the number of councillors for the council area but the reduction has not yet taken effect;
- enables councils to apply to the Minister for an order dispensing with the requirement to hold a by-election where a casual vacancy in the office of a councillor (including a mayor elected by the electors of an area) occurs within 18 months before an ordinary election, and
- contains provisions of a consequential, savings and transitional nature.

As Councillors are aware at the 2008 election a constitutional referendum was held which passed that at the 2012 councillor numbers at Port Stephens Council will reduce to 3 councillors within each Ward, and an election for a popularly elected Mayor.

Under the current Ward structure Council is required to have a minimum of 3 councillors in each Ward area. Therefore the amendments to reduce the number of councillors recently introduced would not apply unless Council was to abolish the Ward structure.

Should Council be of the mind to abolish the Ward structure, an application would need to be lodged with the Minister by 28 November 2011 to avoid the need for a constitutional referendum. The process for this to occur is outlined in the circular at ATTACHMENT 1.

The minimum number of councillors required in a local government where a Ward structure does not exist is 5. A maximum of 15 councillors is allowable.

In accordance with Section 224(2) of the Local Government Act 1993, a Council must determine, not less than 12 months before the next ordinary election, the number of councillors for the next term of office.

FINANCIAL/RESOURCE IMPLICATIONS

All costs are provided in the 2011/12 budget.

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to consider the number of councillors for the next term of office, not less than 12 months before the next ordinary election.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

General Manager.

OPTIONS

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

ATTACHMENTS

- 1) DLG Circular 11-12 dated 29 June 2011.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



Premier & Cabinet
Division of Local Government

Circular to Councils

Circular No. 11-12
Date 29 June 2011
Doc ID. A249154 (B)

Contact David Rolls
02 4428 4210
david.rolls@dlg.nsw.gov.au

CONSTITUTIONAL ARRANGEMENTS FOR COUNCILS – AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1993

The NSW Parliament has passed the *Local Government (Amendment) Elections Act 2011* (the *Amending Act*). The *Amending Act* was assented to by the Governor on 27 June 2011 and its provisions commenced on that date. The purpose of this circular is to advise councils of the resulting changes to the *Local Government Act 1993* (the *Act*) concerning constitutional arrangements for councils.

A copy of the *Amending Act* can be found on the NSW Parliamentary Counsel's Office legislation website at www.legislation.nsw.gov.au.

The *Local Government Act 1993* now:

1. enables councils, in certain circumstances, to make an application to the Minister for Local Government for approval to reduce the number of their councillors without the need for approval at a constitutional referendum
2. enables councils, in certain circumstances, to make an application to the Minister for approval to abolish all wards in their areas without the need for approval at a constitutional referendum
3. provides that a by-election need not be held to fill a casual vacancy in the office of a councillor (but not a mayor elected by the electors) if a constitutional referendum has approved a reduction in the number of councillors for the council area but the reduction has not yet taken effect
4. enables councils to apply to the Minister for an order dispensing with the requirement to hold a by-election where a casual vacancy in the office of a councillor (including a mayor elected by the electors of an area) occurs within 18 months before an ordinary election, and
5. contains provisions of a consequential, savings and transitional nature.

Ministerial approvals for reduction in number of councillors without constitutional referendum

Section 224A of the *Act* now provides councils with a further limited opportunity to make application to the Minister for approval to reduce their councillor numbers without the need for approval at a constitutional referendum.

Applications must be made no later than 5 months after the commencement of the *Amending Act*, that is, no later than 28 November 2011.

Division of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E dlg@dlg.nsw.gov.au W www.dlg.nsw.gov.au ABN 99 567 863 195

Section 224A now requires a council to give not less than 42 days public notice of its proposal to resolve to apply to the Minister for Local Government for approval to reduce its councillor numbers. Formerly, not less than 21 days notice was required. In all other respects the procedure for making an application remains the same.

The procedure can now be summarised as follows:

- A council must give not less than 42 days public notice of its proposal to resolve to apply to the Minister for approval to reduce its councillor numbers
- The public notice must:
 - state the place at which, the dates on which, and the times during which the public may inspect the proposed resolution, and
 - invite public submissions on the proposal
- The council must bring the notice to the attention of as many people in its area as possible. This is commonly done by doing all of the following:
 - advertising in a newspaper regularly circulating in the council area
 - exhibiting the notice in public areas such as community centres, libraries and public notices boards, and
 - posting the notice on the council's website
- After passing the resolution the council must forward to the Minister:
 - a copy of the resolution
 - a summary of any submissions received by it, and
 - its comments concerning those submissions.

Councils are reminded that section 224A still prevents such applications being made where:

- the reduction would result in the council having less than 5 councillors
- the council is divided into wards and the reduction would result in the number of councillors for each ward being fewer than 3.

Further, as was the case before the amendment:

- where a council receives approval to reduce the number of councillors, the reduction will not take place until the next ordinary elections, however
- by reason of section 294A of the Act, any casual vacancies that occur during this period will not be required to be filled unless the number of councillors on the council would become less than the reduced number approved by the Minister.

Ministerial approvals for abolition of wards without constitutional referendum

Section 210B of the Act allows councils a one-off opportunity to resolve to apply to the Minister to approve the abolition of all wards of their council areas.

Applications must be made no later than 5 months after the commencement of the Amending Act, that is, no later than 28 November 2011.

The steps in the application process are generally the same as those required for the application to reduce councillor numbers as noted above.

Casual vacancies need not to be filled where approval has been obtained at a constitutional referendum to reduce councillor numbers

Section 294B of the Act provides that a by-election is not to be held to fill a casual vacancy in the office of a councillor (but not a mayor elected by the electors) if a constitutional referendum has approved a reduction in the number of councillors for the council area but the reduction has not yet taken effect.

Increase of period before an ordinary election during which by-elections may be dispensed with

Section 294 of the Act now provides that a council may apply to the Minister to dispense with the requirement to hold a by-election for a casual vacancy in the office of a councillor (including a mayor elected by the electors of an area) that has occurred during the 18 months immediately before an ordinary election of the councillors.

Previously, such applications could only be made during the 12 months immediately before an ordinary election of the councillors.

Other amendments concerning the administration of elections

The Amending Act has made councils responsible for the administration of their elections, constitutional referendums and polls. Details of these amendments are provided in Circular to Councils No 11-11.

ITEM NO. 9

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 19 July 2011.

No:	Report Title	Page:
1	CASH AND INVESTMENTS HELD AT 30 JUNE 2011	

COUNCIL COMMITTEE MEETING – 19 JULY 2011

RECOMMENDATION:

	Councillor John Nell Councillor Shirley O'Brien	That the recommendation be adopted.
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Cr Bruce MacKenzie left the meeting at 7.03pm prior to voting on Item 9.
Cr Bruce MacKenzie returned to the meeting at 7.04pm prior to voting on Item 9.

ORDINARY COUNCIL MEETING – 26 JULY 2011

252	Councillor Ken Jordan Councillor Geoff Dingle	It was resolved that the recommendation be adopted.
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COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

CASH AND INVESTMENTS HELD AT 30 JUNE 2011

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 June 2011.

ATTACHMENTS

- 1) Cash and Investments Held at 30 June 2011;
- 2) Monthly Cash and investments Balance June 2010 – June 2011;
- 3) Monthly Australian Term Deposit Index June 2010 – June 2011.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

ATTACHMENT 1

CASH & INVESTMENTS HELD as at 30 June 2011

INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value April	Market Value May	Market Value June	Current Mark to Market Exposure
GRANGE SECURITIES										
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	\$1,000,000	4.14%	6.49%	\$865,000	\$875,480	\$871,990	-\$128,010
NEXUS BONDS LTD "TOPAZ AA-"	Floating Rate CDO		23-Jun-15	\$412,500	1.71%	0.00%	\$280,706	\$282,769	\$284,254	-\$128,246
HELIUM CAPITAL LTD "ESPERANCE AA+" *	Floating Rate CDO	NR	20-Mar-13	\$1,000,000	4.14%	0.00%	\$0	\$0	\$0	-\$1,000,000
HOME BUILDING SOCIETY	Floating Rate Sub Debt	NR	25-Jul-11	\$500,000	2.07%	5.89%	\$485,275	\$491,200	\$494,170	-\$5,830
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	CCC	20-Mar-14	\$1,000,000	4.14%	6.39%	\$468,900	\$454,600	\$431,300	-\$568,700
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate CDO	NR	20-Sep-14	\$1,000,000	4.14%	0.00%	\$0	\$0	\$0	-\$1,000,000
TOTAL GRANGE SECURITIES				\$4,912,500	20.31%		\$2,099,881	\$2,104,049	\$2,081,714	-\$2,830,786
ABN AMRO MORGANS										
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	A+	20-Sep-11	\$1,000,000	4.14%	0.00%	\$949,200.00	\$953,000	\$953,000	-\$47,000
TOTAL ABN AMRO MORGANS				\$1,000,000	4.14%		\$949,200	\$953,000	\$953,000	-\$47,000
ANZ INVESTMENTS										
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000	4.14%	0.00%	\$889,200	\$898,000	\$890,000	-\$110,000
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876	4.21%	0.00%	\$671,595	\$663,412	\$692,757	-\$325,119
TOTAL ANZ INVESTMENTS				\$2,017,876	8.34%		\$1,560,795	\$1,561,412	\$1,582,757	-\$435,119
RIM SECURITIES										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		8-Oct-11	\$2,000,000	8.27%	0.00%	\$1,873,000	\$1,890,000	\$1,910,000	-\$90,000
COMMUNITY CPS CREDIT UNION	Term Deposit	withdrawn					\$1,000,000			
SUNCORP METWAY	Term Deposit	A1	21-Sep-11	\$1,000,000	4.14%	6.13%			\$1,000,000	\$0
QUEENSLAND COUNTRY CREDIT UNION	Term Deposit	N/R	29-Sep-11	\$1,000,000	4.14%	6.15%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
TOTAL RIM SECURITIES				\$4,000,000	16.54%		\$3,873,000	\$2,890,000	\$3,910,000	-\$90,000
WESTPAC INVESTMENT BANK										
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt	N/R	21-Nov-11	\$500,000	2.07%	6.09%	\$492,680	\$493,570	\$494,640	-\$5,360
TOTAL WESTPAC INV. BANK				\$500,000	2.07%		\$492,680	\$493,570	\$494,640	-\$5,360
CURVE SECURITIES										
BANK OF CYPRUS AUSTRALIA LIMITED	Term Deposit	N/R	27-Sep-11	\$1,000,000	4.14%	6.15%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
QANTAS STAFF CREDIT UNION	Term Deposit	withdrawn					\$1,000,000	\$1,000,000		
TERRITORY INSURANCE OFFICE	Term Deposit	N/R	6-Jul-11	\$1,000,000	4.14%	5.80%			\$1,000,000	
DEFENCE FORCE CREDIT UNION	Term Deposit	N/R	19-Aug-11	\$1,000,000	4.14%	5.95%			\$1,000,000	\$0
TOTAL CURVE SECURITIES				\$3,000,000	12.41%		\$2,000,000.00	\$2,000,000	\$3,000,000	\$0
LONGREACH CAPITAL MARKETS										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000	2.07%	0.00%	\$477,440	\$478,710	\$480,805	-\$19,195
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	A+	7-Sep-12	\$500,000	2.07%	0.00%	\$456,050	\$462,400	\$462,400	-\$37,600
TOTAL LONGREACH CAPITAL				\$1,000,000	4.14%		\$933,490	\$941,110	\$943,205	-\$56,795

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

ATTACHMENT 1

COMMONWEALTH BANK										
EQUITY LINKED DEPOSIT	Equity Linked Note	AA	20-Sep-11	\$500,000	2.07%	3.00%	\$492,900	\$492,750	\$492,700	-\$7,300
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	AA	05-Nov-12	\$500,000	2.07%	3.00%	\$479,950	\$483,250	\$482,150	-\$17,850
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	BBB	09-Nov-12	\$500,000	2.07%	6.24%	\$494,055	\$498,840	\$495,620	-\$4,380
BANK OF QUEENSLAND BOND	Bond	BBB+	16-Mar-12	\$1,000,000	4.14%	5.35%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
TOTAL COMMONWEALTH BANK				\$2,500,000	10.34%		\$2,474,840	\$2,474,840	\$2,470,470	-\$29,530
FIGI SECURITIES										
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note		30-Nov-14	\$500,000	2.07%	6.02%	\$492,660	\$492,690	\$493,020	-\$6,980
TOTAL FIGI SECURITIES				\$500,000	2.07%		\$492,690	\$492,690	\$493,020	-\$6,980
MAITLAND MUTUAL										
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	30-Jun-13	\$500,000	2.07%	6.43%	\$500,000	\$500,000	\$500,000	\$0
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	31-Dec-14	\$500,000	2.07%	6.43%	\$500,000	\$500,000	\$500,000	\$0
TOTAL M'LAND MUTUAL				\$1,000,000	4.14%		\$1,000,000	\$1,000,000	\$1,000,000	\$0
FARQUHARSON SECURITIES										
QUEENSLAND POLICE CREDIT UNION	Term Deposit	withdrawn					\$1,000,000			
TEACHERS CREDIT UNION	Term Deposit	withdrawn					\$1,000,000	\$1,000,000		
TEACHERS CREDIT UNION	Term Deposit	N/R	18-Jul-11	\$1,000,000	4.14%	5.98%		\$1,000,000	\$1,000,000	\$0
TOTAL FARQUHARSON SECURITIES				\$1,000,000	4.14%		\$2,000,000	\$2,000,000	\$1,000,000	\$0
TOTAL INVESTMENTS				\$21,430,376	88.62%		\$17,876,576	\$16,910,671	\$17,928,806	-\$3,501,570
AVERAGE RATE OF RETURN ON INVESTMENTS							3.27%			
CASH AT BANK				\$2,751,975	11.38%	4.70%	\$6,975,141	\$4,975,652	\$2,751,975	\$0
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH							3.68%			
TOTAL CASH & INVESTMENTS				\$24,182,351	100.00%		\$24,851,717	\$21,886,323	\$20,680,781	-\$3,501,570
BBSW FOR PREVIOUS 3 MONTHS							4.93%			

* 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.

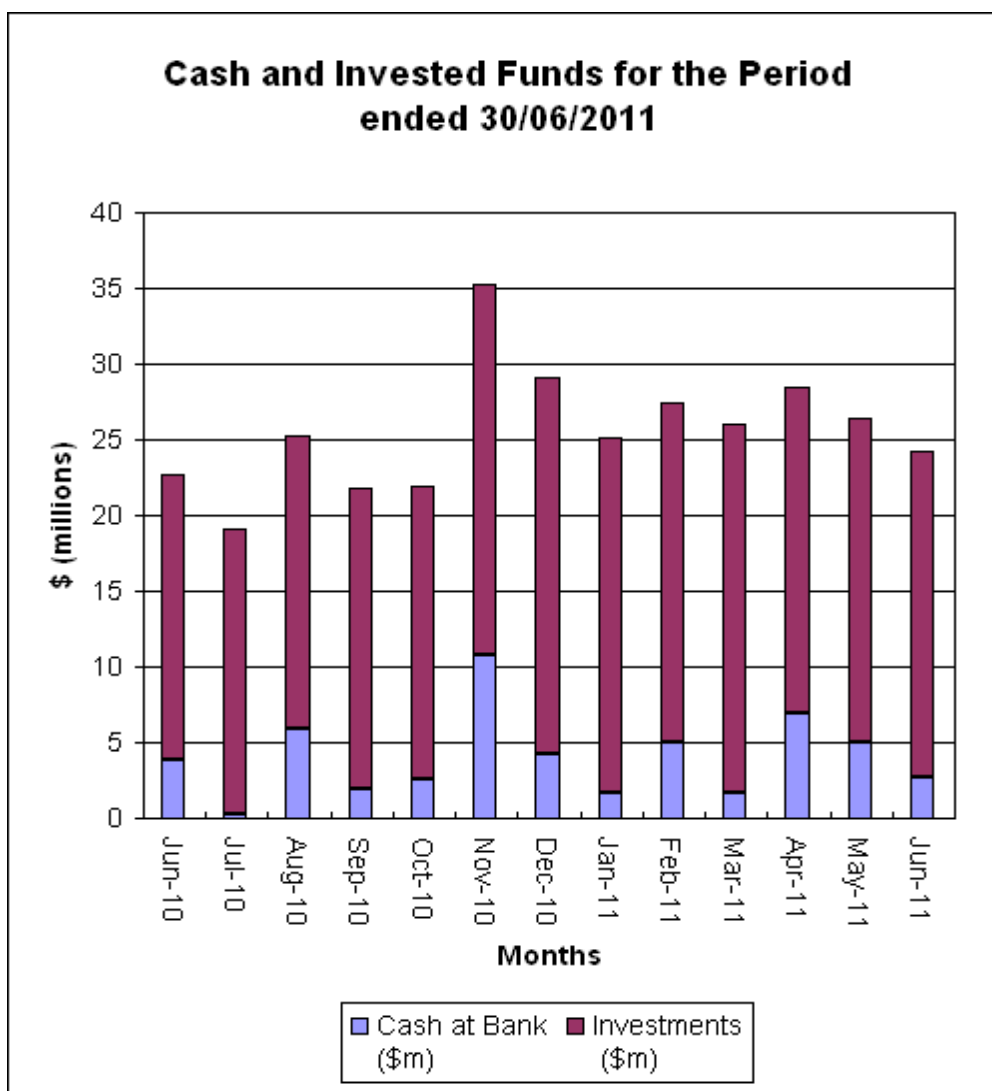
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

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.

P GESLING

**ATTACHMENT 2
Cash and Investments Held**

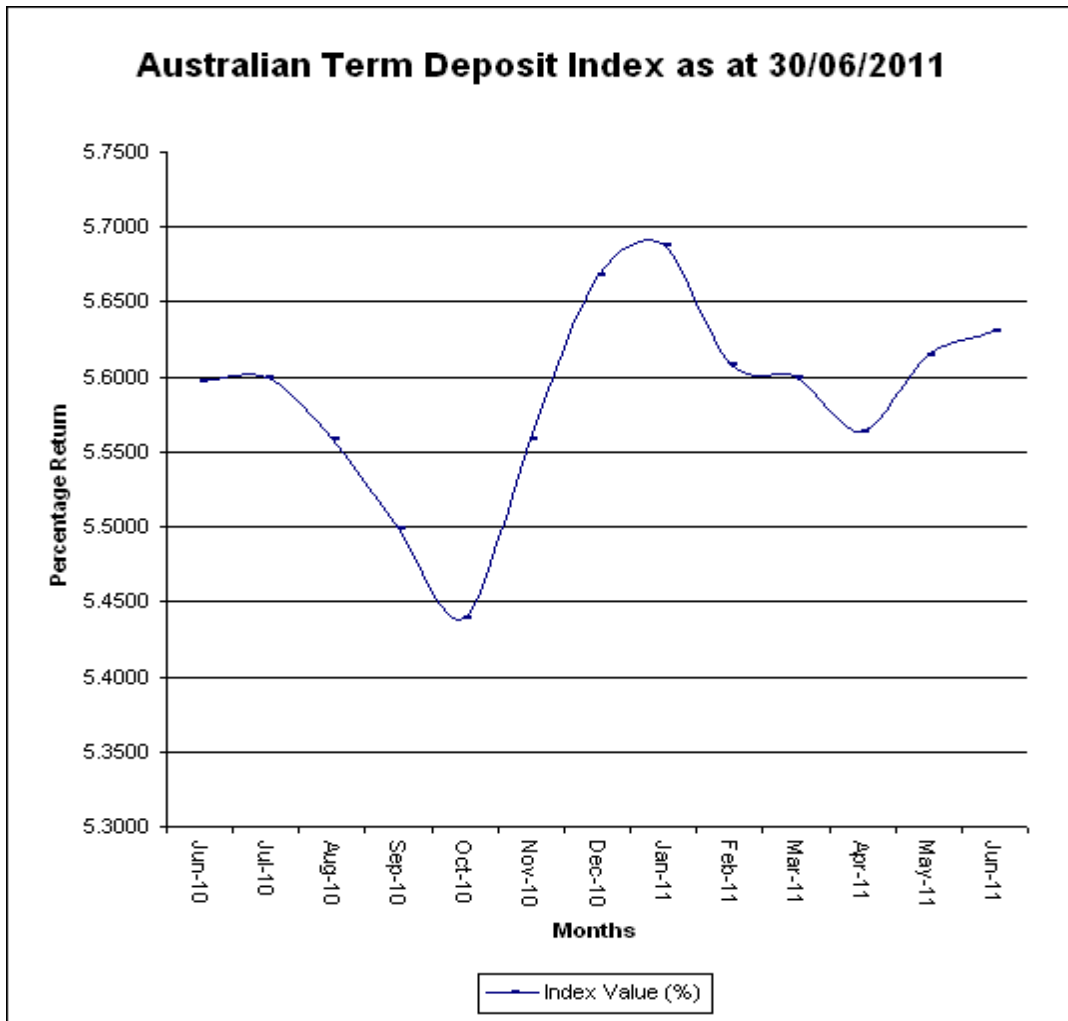
Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Jun-10	3.847	18.880	22.728
Jul-10	0.285	18.880	19.165
Aug-10	5.888	19.380	25.268
Sep-10	1.879	19.880	21.759
Oct-10	2.512	19.380	21.892
Nov-10	10.822	24.380	35.202
Dec-10	4.175	24.930	29.106
Jan-11	1.690	23.430	25.120
Feb-11	4.988	22.430	27.419
Mar-11	1.604	24.430	26.035
Apr-11	6.975	21.430	28.406
May-11	4.976	21.430	26.406
Jun-11	2.752	21.430	24.182



ATTACHMENT 2

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Jun-10	5.5974
Jul-10	5.5992
Aug-10	5.5587
Sep-10	5.4991
Oct-10	5.4396
Nov-10	5.5583
Dec-10	5.6675
Jan-11	5.6877
Feb-11	5.6079
Mar-11	5.6
Apr-11	5.5637
May-11	5.6147
Jun-11	5.6312



NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

REDUCTION IN SALARIES EXPENDITURE ON (INDOOR) STAFF IN COUNCIL'S MAIN ADMINISTRATION BUILDING

COUNCILLOR: TUCKER, DINGLE, KAHER, WESTBURY, O'BRIEN, DOVER, FRANCIS, JORDAN

THAT COUNCIL:

- 1) Instruct the General Manager to reduce the salaries expenditure on (indoor) staff normally resident in Council's main Administration Building by a minimum of \$750,000.00 over the 2011 – 2012 financial year.

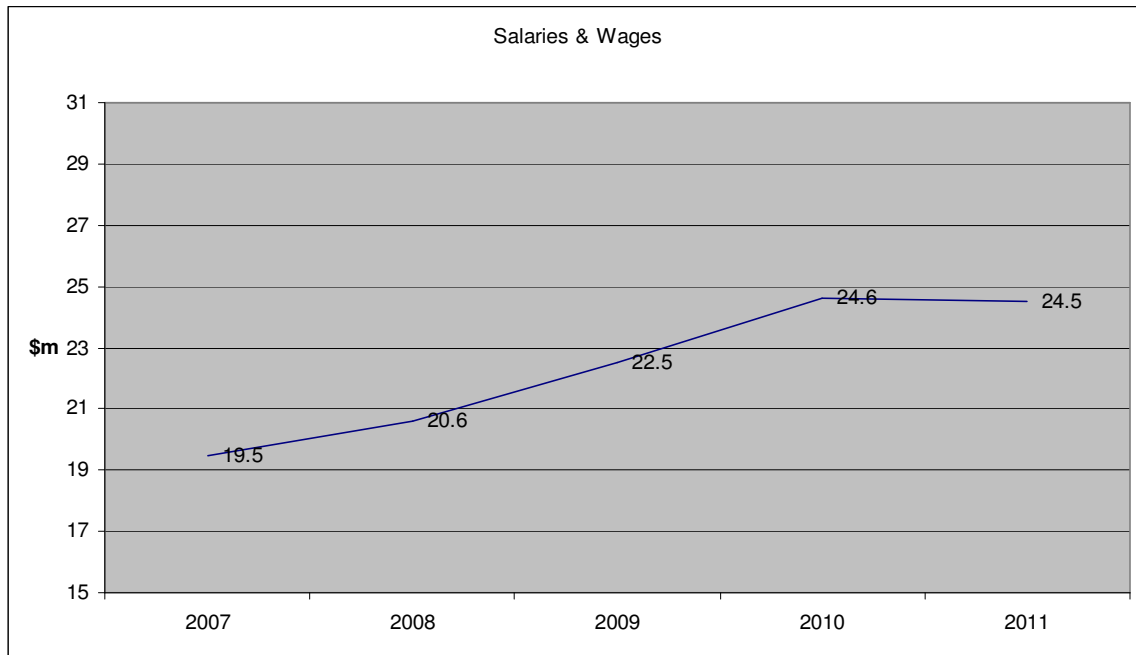
BACKGROUND REPORT OF: JEFF SMITH – GROUP MANAGER COMMERCIAL SERVICES

ORDINARY COUNCIL MEETING – 26 JULY 2011

		Council considered this Notice of Motion in Confidential session.
--	--	---

BACKGROUND

In response to Council's underlying deficit, management has been identifying opportunities to reduce Council's Salaries budget. The below graph demonstrates our success with these efforts. Based on the information that is available at this point in time for the 2011 financial year, Council's Salaries expenditure reduced by \$0.1m from 2010 to 2011. This is compared to historical increases of approximately \$2m per annum and despite a salary increase of 4% being paid in accordance with Council's Enterprise Agreement.



NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217, PSC2005-3610

APEX PARK IMPROVEMENTS

COUNCILLOR: DOVER

THAT COUNCIL:

- 1) Give priority to planning and construction improvements to Apex Park, Nelson Bay, to create a town square;
 - 2) Improve the cenotaph area.
-

ORDINARY COUNCIL MEETING – 26 JULY 2011

253	Councillor Sally Dover Councillor John Nell	It was resolved that Council: <ol style="list-style-type: none">1. Give priority to planning and construction improvements to Apex Park, Nelson Bay, to create a town square;2. Improve the cenotaph area; and3. Staff to arrange a site inspection with East Ward Councillors to arrange the process.
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The Motion on being put was carried.

AMENDMENT

	Councillor Frank Ward Councillor John Nell	That the matter be deferred to allow for a discussion between East Ward Councillors and Council staff.
--	---	--

The amendment on being put was lost.

BACKGROUND REPORT OF: PETER AVIS, A/GROUP MANAGER FACILITIES AND SERVICES

BACKGROUND

This is one of the projects being considered for approval by East Ward Councillors for allocation of Ward funds. If not approved it would need to be placed in the Forward Works Plan for consideration in future.

A concept of the proposal can be undertaken to provide an estimate of the work. Reallocation of approved projects in the Community Strategic Plan would require exhibition of the changes in accordance with the Local Government (Integrated Planning & Reporting) Act 2009. The risks and impacts of any proposed changes to approved Community Strategic Plan projects would need to be analysed.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: A2004-0217

ADDITIONAL PARKING AT SALAMANDER SHOPPING CENTRE

COUNCILLOR: DOVER

THAT COUNCIL:

- 1) That Council take all necessary steps to prepare signage and access to the Council block of land on Bagnalls Beach Road, Salamander Bay, opposite McDonalds, to provide additional car parking to the Salamander Shopping Centre which is desperately needed during holiday seasons.

ORDINARY COUNCIL MEETING – 26 JULY 2011

	<p>Councillor Sally Dover Councillor John Nell</p>	<p>That Council take all necessary steps to prepare signage and access to the Council block of land on Bagnalls Beach Road, Salamander Bay, opposite McDonalds, to provide temporary additional car parking to the Salamander Shopping Centre which is desperately needed during holiday seasons.</p>
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AMENDMENT

<p>254</p>	<p>Councillor John Nell Councillor Frank Ward</p>	<p>That Council defer the Notice of Motion and request a report on the matter.</p>
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The amendment on being put became the motion which was carried.

**BACKGROUND REPORT OF: CARMEL FOSTER, COMMERCIAL PROPERTY
MANAGER**

BACKGROUND

Council owns an eleven hectare parcel of near level vacant commercially zoned land located at 155 Salamander Way, Salamander Bay, legally described as Lot 284 in Deposited Plan 806310. The allotment adjoins the Salamander Shopping Centre to the south, east and west.

A large portion of the land has frontage to Bagnalls Beach Road and has been recently underscrubbed and had rubbish and other materials removed from the site.

The land is sometimes utilised as an informal car park however Council has not given any official approval for shopping centre visitors to utilise the land for that purpose.

If formal approval is given, consideration will be required in respect of appropriate access to the area. In addition, the site will need to have a form of barrier constructed to restrict access from Bagnalls Beach Road and the formed road that separates McDonalds and Council's land due to the existing traffic congestion problems when entering and exiting the shopping centre from Bagnalls Beach Road.

Signage will need to be erected onsite to address any liability that may occur from Council allowing vehicles to utilise the land.

NOTICE OF MOTION

ITEM NO. 4

FILE NO: A2004-0217, PSC2005-2538

REGULAR PLANTING AND MAINTENANCE OF TREES ON URBAN AND WATERFRONT RESERVES

COUNCILLOR: NELL

THAT COUNCIL:

- 1) Prepare a report on the regular planting and maintenance of trees on urban and waterfront reserves.
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Cr Frank Ward left the meeting at 7.41pm prior to voting on Item 4.

Cr Frank Ward returned to the meeting at 7.42pm prior to voting on Item 4.

ORDINARY COUNCIL MEETING – 26 JULY 2011

255	Councillor John Nell Councillor Shirley O'Brien	It was resolved that a report be prepared on the regular planting and maintenance of trees on urban and waterfront reserves.
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BACKGROUND REPORT OF: PETER AVIS, A/GROUP MANAGER FACILITIES AND SERVICES

BACKGROUND

Maintenance of trees in urban and waterfront reserves is carried out using a risk approach where trees are trimmed or removed based on safety to persons or property. Trimming is carried out as required by trained Operations staff to ensure longevity of the tree. Where a tree is reported as unsafe, a tree hazard evaluation is undertaken by a qualified person and the tree is only removed after this evaluation deems it necessary for removal.

Trees are replaced where it is appropriate and with a tree species that will not be detrimental to safety and is aesthetically pleasing. All maintenance trimming and removal is carried out within budgetary constraints.

MINUTES FOR ORDINARY MEETING – 26 JULY 2011

There is no real tree planting program to cover lost trees due to storms. We do not have an offset program for developers however street tree planting is required. Replacement of trees by the owner as a result of the TPO is usual.

Time does not permit a full and comprehensive report about this topic and a full report will be provided if required.

The Mayor adjourned the meeting at 7.53pm for five minutes for a short break.

The Mayor reconvened the meeting at 7.58pm with all those present prior to the adjournment being present.

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 – 26 JULY 2011

256	Councillor John Nell Councillor Bruce Mackenzie	It was resolved that Council move into Confidential session.
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CONFIDENTIAL

ITEM NO. 1

FILE NO: PSC2011-01753

SUPPLY OF ELECTRICITY – SMALL SITES

REPORT OF: DAMIEN JENKINS – FINANCIAL SERVICES MANAGER

GROUP: COMMERCIAL SERVICES

257	Councillor John Nell Councillor Glenys Francis	It was resolved that Council accept Powerdirect as the supplier of electricity to Port Stephens Council for a period of 36 months.
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NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

REDUCTION IN SALARIES EXPENDITURE ON (INDOOR) STAFF IN COUNCIL'S MAIN ADMINISTRATION BUILDING

COUNCILLOR: TUCKER, DINGLE, KAHER, WESTBURY, O'BRIEN, DOVER, FRANCIS, JORDAN

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260	Councillor Glenys Francis Councillor Geoff Dingle	It was resolved that the Notice of Motion be deferred for an Extra-Ordinary Council meeting on Tuesday 2 August 2011.
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		Council considered this Notice of Motion in Confidential session.
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There being no further business the meeting closed at 8.50pm.

I certify that pages 1 to 215 of the Open Ordinary Minutes of Council 26 July 2011 and the pages 216 to 222 of the Confidential Ordinary Minutes of Council 26 July 2011 were confirmed by Council at its meeting held on 9 August 2011.

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Cr Bob Westbury
MAYOR