

## Minutes 14 JUNE 2011



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 14 June 2011, commencing at 5.30pm.

PRESENT: Councillors R. Westbury (Mayor); G. Dingle; C. De Lyall, G. Francis; P. Kafer; J. Nell; F. Ward; General Manager; Corporate Services Group Manager, Facilities and Services Group Manager; Sustainable Planning Group Manager; Commercial Services Group Manager and Executive Officer.

At the commencement of the Council meeting the General Manager presented the Mayor with the Award Council received for Council's 2009/10 Annual Report – Council received a Bronze Award at the Australasian Reporting Award for Distinguished Achievement in Reporting.

188	<b>Councillor John Nell</b> <b>Councillor Peter Kafer</b>	It was resolved that the apology from Cr Dover be received and noted.
189	<b>Councillor Ken Jordan</b> <b>Councillor Shirley O'Brien</b>	It was resolved that the Minutes of the Ordinary meeting of Port Stephens Council held on 24 May 2011 be confirmed.
		No Declaration of Interest were received.

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# MAYORAL MINUTES

# MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2005-1547

## SHIRES ASSOCIATION – NSW ANNUAL CONFERENCE

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### THAT COUNCIL:

- 1) Receive and note the Mayoral Minute.
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### ORDINARY COUNCIL MEETING – 14 JUNE 2011

190	Councillor Bob Westbury	It was resolved that there being no objection the Mayoral Minute be adopted.
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### BACKGROUND

**The purpose of this report is to provide Council with information from the recent Annual NSW Shires Association Conference.**

The Annual Shires Association conference was held from 30 May to 1 June 2011 in Sydney. The theme of the conference was "Modernisation – it's our time". The President of the Local Government Association of NSW, Cr Keith Rhodes has provided a summary of the conference.

One of the main areas of discussion was around the "One Association" proposal. Attachment 1 shows the principles that have been discussed with agreement being reached on principles 1 to 27, however the Local Government Association are totally opposed to principles 28 and 29, being the issue of divisional structure within regional and rural NSW.

At the conference 16 speakers, ten spoke against the principles being supported while the remainder spoke in support of the divisional structure. At the time of the vote on the matter the results were 61 against and 28 in favour of a divisional structure. The proposal of "One Association" is continuing.

The conference was opened by the Premier of NSW. The Minister for Local Government, Don Page, Minister for Roads, Duncan Gay and Minister for Agriculture, Katrina Hodgkinson also addressed the conference.

The main comments were in relation to:

1. Draft discussion paper and a review of the Code of Conduct.
2. Commitment to addressing and a review of cost shifting.
3. Commitment to addressing and a review of rate pegging.
4. A commitment to allow Councils to conduct their own local government elections or use the Australian Electoral Commission.
5. A commitment to review the 1993 Local Government Act in particular to the removal of the body politic provision.
6. A commitment to conduct a review of the infrastructure – council by council.
7. A commitment to review and re-draft the inter-governmental agreement, especially the section to address cost shifting.
8. Commencement of an economic assessment of mining affected communities.

### **ATTACHMENTS**

- 1) "One Association" principles.

ATTACHMENT 1



Shires Association, Special Conference  
23 February 2011  
Decisions

*The Shires Association resolve the following:*

1. For the purposes of representation, NSW will be broken up into two (2) regions:  
the metropolitan/urban region and  
the rural/regional region
  2. The metropolitan/urban region will be defined as including all councils which fall within the County Cumberland plus Camden Council
  3. The rural/regional region will be defined as including all other councils
  4. For the purpose of voting for the Board of Directors, each region will have an equal number of votes, which will be distributed proportionally on a basis to be determined among those ordinary member councils who fall within that region, with all ordinary member councils receiving at least one vote.
  5. For the purpose of voting on motions at Conference, each region will have an equal number of votes, which will be distributed proportionally among those ordinary member councils who fall within that region, with all ordinary member councils receiving a minimum of at least one vote
  6. The Board of Directors will consist of a maximum of 24 members being:
    - (a) 1 President
    - (b) 1 Metropolitan / Urban Vice President
    - (c) 1 Regional / Rural Vice President
    - (d) 1 Treasurer
    - (e) 10 Board members representing Metropolitan / Urban councils
    - (f) 10 Board members representing Rural / Regional councils
  7. The position of President will be elected at large by all voting delegates
  8. The positions of board members to represent Metropolitan / Urban Councils will be elected by all voting delegates from those councils who are categorised as Metropolitan / Urban
  9. The positions of board members to represent Rural / Regional Councils will be elected by all voting delegates from those councils who are categorised as Rural / Regional councils
  10. The position of Metropolitan / Urban Vice President will be elected by all voting delegates from nominees who are elected Councillors from those councils who are categorised as Metropolitan / Urban councils
  11. The position of Rural / Regional Vice President will be elected by all voting delegates from nominees who are elected Councillors from those councils who are categorised as Rural / Regional councils
  12. The position of Treasurer will be elected at large by all voting delegates
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13. The terms of office for all Board Members and Office Holders will be for a period of two (2) years
  14. A person may hold the position of President for no more than four years (subject to being elected after the first term), before the position must alternate to the other region
  15. There will be no term limits for the positions of Vice Presidents (subject to being re-elected)
  16. There will be no term limits for the position of Treasurer (subject to being re-elected)
  17. There will be no term limits for the positions of Board Members (subject to being re-elected)
  18. The position of President will be alternated between the two regions
  19. It will not be necessary for the position of Treasurer to be alternated
  - 20. There will be two categories of membership: Ordinary and Associate**
  21. All 152 general purpose councils will be eligible for Ordinary membership
  - 22. The 9 Regional Aboriginal Land Councils (at their discretion) will be eligible for Ordinary or Associate Membership of the Association**
  - 23. There will be two types of membership categories; Ordinary and Associate and NSW County Councils will only be eligible for Associate Membership**
  24. Elected Councillors from Ordinary members will be eligible to run for positions on the Board of Directors
  25. Elected Councillors from Ordinary members who are their Council's nominated voting delegates will be eligible to vote for positions on the Board of Directors
  - 26. Elected Councillors from Ordinary members who are their Councils nominated delegates will be eligible to vote for motions at Conference, with the exception of those councils under administration where the Administrator may be the delegate**
  27. Ordinary member councils will be eligible to put motions to Conference
  - 28. That the Rural/Regional Division be broken into 10 Zones for the purpose of the election of members of the Board**
  - 29. That Member Councils within each Zone vote for the Executive Member who will represent that Zone**

(Note the principles outlined in Bold denote amendments from the Convention recommendations.)

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One Association  
Local Government NSW



# MAYORAL MINUTE

ITEM NO. 2

FILE NO: 16-2003-577-2

## MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

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### RECOMMENDATION:

- 1) That pursuant to section 10A(2)(g) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 (Mayoral Minute) on the Ordinary agenda namely **Land and Environment Court Class 1 Appeal – Hotel at No. 37 Ferodale Road, Medowie.**
- 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning the advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers.
- 4) That the report of the closed part of the meeting remain confidential.

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### ORDINARY COUNCIL MEETING – 14 JUNE 2011

191	<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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# MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: A2004-0028

## MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

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### 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 **Newcastle Airport Amenities Upgrade Tender**.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
  - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
  - ii) In particular, the report includes confidential pricing information in respect of the **Newcastle Airport Amenities Upgrade Tender**.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.

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### ORDINARY COUNCIL MEETING – 14 JUNE 2011

192	<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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ITEM NO. 2

FILE NO: T05-2011

## MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER  
GROUP: GENERAL MANAGER'S OFFICE

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### 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 2 on the Ordinary Council agenda namely **T05-2011 Pool Plant Preventative Maintenance Contract**.
- 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 **T05-2011 Pool Plant Preventative Maintenance Contract**.
- 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 – 14 JUNE 2011

193	<b>Councillor John Nell Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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**ITEM NO. 3**

**FILE NO: T02-2011**

**MOTION TO CLOSE MEETING TO THE PUBLIC**

**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
**GROUP: GENERAL MANAGER’S OFFICE**

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**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 3 on the Ordinary Council agenda namely **Asset Protection Zone Maintenance Contract T02-2011**.
  
- 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 **Asset Protection Zone Maintenance Contract T02-2011**.
  
- 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 – 14 JUNE 2011**

<b>194</b>	<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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**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**

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**RECOMMENDATION IS THAT COUNCIL:**

a) 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 – 14 JUNE 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 further considered by Council at its meeting on 12 April 2011, resolving to defer to allow for a 2-way conversation with Councillors.

**COUNCIL COMMITTEE MEETING – 7 JUNE 2011**

**RECOMMENDATION:**

	<p><b>Councillor John Nell</b> <b>Councillor Sally Dover</b></p>	<p>That Council:</p> <ol style="list-style-type: none"><li>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.</li><li>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.</li></ol>
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.



## MINUTES FOR ORDINARY MEETING – 14 JUNE 2011

Those for the motion: Crs Ken Jordan, Bob Westbury, Caroline De Lyall, Glenys Francis, Frank Ward, Geoff Dingle, John Nell, Sally Dover, Shirley O'Brien and Steve Tucker.

Those against the motion: Nil.

### ORDINARY COUNCIL MEETING – 14 JUNE 2011

195	<b>Councillor John Nell Councillor Glenys Francis</b>	It was resolved that the recommendation be adopted.
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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 Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, John Nell and Bob Westbury.

Those against the Motion: Nil.

#### **Please note:**

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

### 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.

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.

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<b>Proposed Development</b>				
<b>Attribute</b>	<b>Proposed</b>	<b>Required</b>	<b>Complies</b>	<b>Variation</b>
<b>NSW Sea Level Rise Policy Statement</b>	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	
	<b>A Proposed non habitable area 2.5 AHD for ground floor and a garage floor level of 2.16 AHD.</b>	<b>Non habitable area of a floor level of 2.8 AHD</b>	<b>No</b>	<b>Garage is 640mm &amp; Ground floor level is 300mm to low</b>
<b>LEP Requirements</b>				
Min. Area Per Dwelling	247m <sup>2</sup>	500m <sup>2</sup>	N/A	<b>Existing</b>
Floor Space Ratio	0.42:1	0.5:1	Yes	
Height	8.910m	9m	Yes	
<b>DCP Requirements</b>				
Number of storeys (except for loft spaces)	2	2	Yes	
<b>Building Line Setback</b>	<b>2.4 m</b>	<b>6m</b>	<b>No</b>	<b>3.6m too close Encroachment is excessive.</b>
<b>Building Frontage</b>	<b>100% Building Frontage is proposed</b>	<b>Maximum 50%</b>	<b>100%</b>	<b>Encroachment is excessive.</b>
<b>Side Setbacks</b>	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	
<b>Rear Setbacks Foreshore</b>	<b>Western Boundary 1.210m for decking, 2.870 garage rear wall, 3.165m upper storey</b>	<b>4.5m</b>	<b>No</b>	<b>3.3m – 1.3m too close.</b>
<b>Bulk &amp; Scale</b>	<b>Should comply with the standards within DCP for Lot Size, floor area</b>	<b>Refer to above</b>	<b>No</b>	<b>Exceeds acceptable standards for Bulk and Scale</b>
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.	<b>No</b>	
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 274m<sup>2</sup> 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 247m<sup>2</sup>.

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 274m<sup>2</sup> 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 19<sup>th</sup> 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.

## **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



**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 <sup>2</sup>
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 – 14 JUNE 2011**

<b>Proposed Development</b>				
<b>Attribute</b>	<b>Proposed</b>	<b>Required</b>	<b>Complies</b>	<b>Variation</b>
<b>NSW Sea Level Rise Policy Statement</b>	Subject to Coastal erosion and flooding risk – Proposed Floor Level of 5.5m AHD for habitable room  <b>A Proposed non habitable area 2.5 AHD for ground floor and a garage floor level of 2.16 AHD.</b>	Flood Planning Level for habitable rooms of 3.4m AHD.  <b>Non habitable area of a floor level of 2.8 AHD</b>	Yes  <b>No</b>	  <b>Garage is 640mm &amp; Ground floor level is 300mm to low</b>
<b>LEP Requirements</b>				
Min. Area Per Dwelling	247m <sup>2</sup>	500m <sup>2</sup>	N/A	<b>Existing</b>
Floor Space Ratio	0.42:1	0.5:1	Yes	
Height	8.910m	9m	Yes	
<b>DCP Requirements</b>				
Number of storeys (except for loft spaces)	2	2	Yes	
<b>Building Line Setback</b>	<b>2.4 m</b>	<b>6m</b>	<b>No</b>	<b>3.6m too close Encroachment is excessive.</b>
<b>Building Frontage</b>	<b>100% Building Frontage is proposed</b>	<b>Maximum 50%</b>	<b>100%</b>	<b>Encroachment is excessive.</b>
<b>Side Setbacks</b>	<b>Northern Boundary (2 Storey) 1.350m Southern Boundary (1 Storey) 200mm Eastern Boundary (2 Storey) 3.160m</b>	<b>2m 0.9m 6m</b>	<b>No No No</b>	<b>650mm too close 700mm too close 2.84m too close</b>
<b>Rear Setbacks Foreshore</b>	<b>Western Boundary 1.210m for decking, 2.870 garage rear wall, 3.165m upper storey</b>	<b>4.5m</b>	<b>No</b>	<b>3.3m – 1.3m too close.</b>
<b>Bulk &amp; Scale</b>	<b>Should comply with the standards within DCP for Lot Size, floor area</b>	<b>Refer to above</b>	<b>No</b>	<b>Exceeds acceptable standards for Bulk and Scale</b>
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.	<b>No</b>	
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 RL5.500mm 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 19<sup>th</sup> 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 – 19<sup>TH</sup> 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 – 12<sup>TH</sup> MAY 2009**

**RECOMMENDATION:**

	<p><b>Councillor Glenys Francis</b> <b>Councillor John Nell</b></p>	<p>That Council:-</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>3) Continue to investigate</li> </ol>
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**ORDINARY MEETING – 19<sup>TH</sup> 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 – 19<sup>TH</sup> 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

### ADOPTION OF A SEA LEVEL RISE PLANNING FIGURE

REPORT OF: DAVID BROYD – GROUP MANAGER SUSTAINABLE PLANNING

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#### 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.

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#### 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 2100'. 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 – 12<sup>TH</sup> 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 – 12<sup>TH</sup> 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 – 12<sup>TH</sup> 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 – 12<sup>TH</sup> 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 – 12<sup>TH</sup> 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**

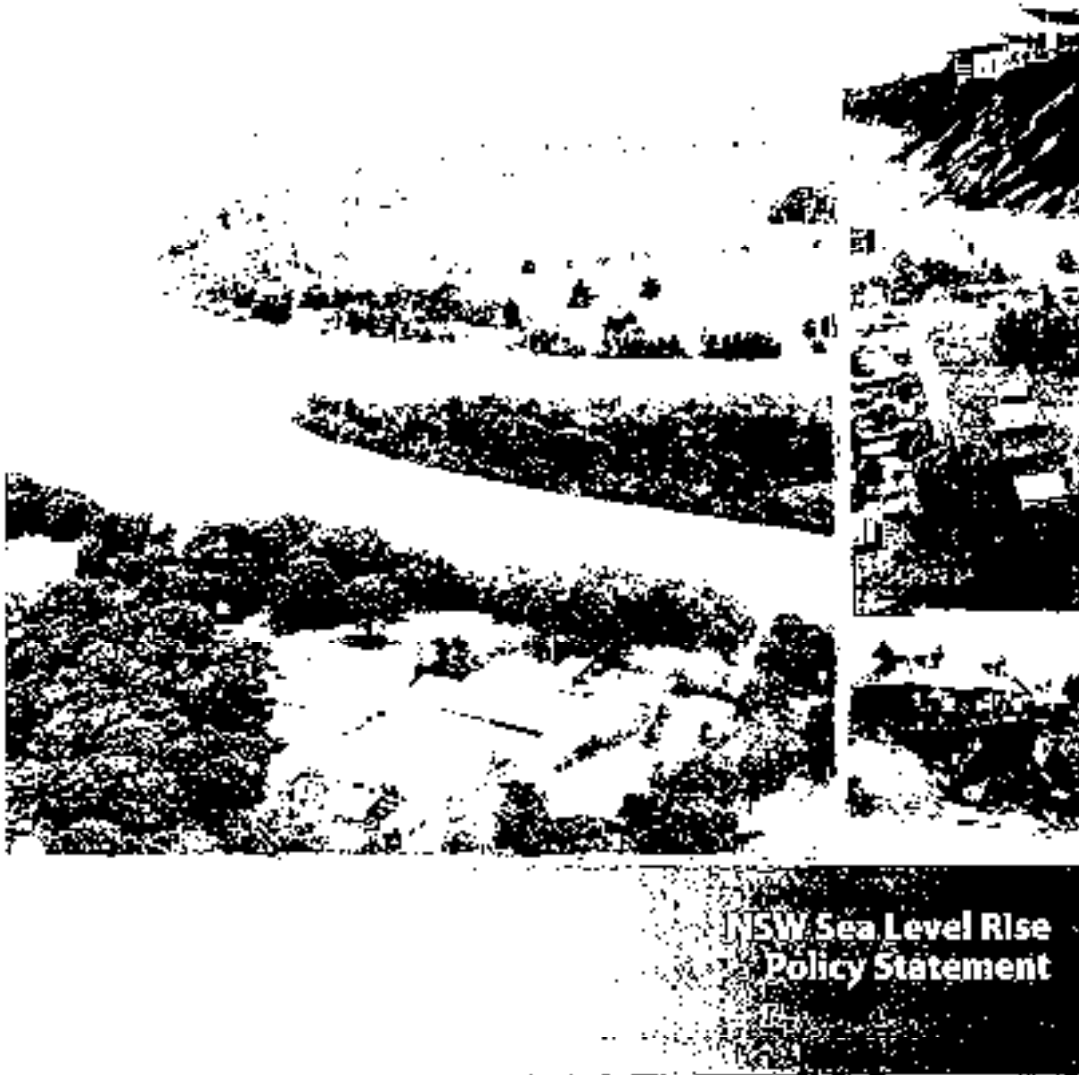
Nil

**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 average<sup>1</sup>. 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 2100<sup>1</sup>. 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

<sup>1</sup> 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 1986 NSW Coastline Hazard Policy and the NSW Flood Prone Land Policy. This Sea Level Rise Policy Statement supersedes the 1986 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.

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 rise<sup>2</sup> 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 at 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

..

<sup>2</sup> 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.<sup>3</sup>

**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

<sup>3</sup>The 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.

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.



**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.

<b>Foreshore Drive street Number</b>	<b>Table Site Area</b>	<b>Foreshore Total Floor Area</b>	<b>Drive, Floor coverage %</b>	<b>Corlette Floor area less garage/store</b>	<b>FSR PSLEP</b>
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 – 14 JUNE 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 308m<sup>2</sup> 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 418m<sup>2</sup> and 360m<sup>2</sup> and were approved prior to the current policies being in force there; not being subject to current measures of site coverage or FSR.

**ITEM NO. 2**

**FILE NO: PSC2011-01080**

**DEVELOPMENT APPLICATION FOR THE REMOVAL OF 10 HECTARES OF VEGETATION AT 711 SEAHAM RD NELSON PLAINS**

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

**GROUP: SUSTAINABLE PLANNING**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Invite the applicant to resubmit the Development Application for determination by Council with all required documentation.

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**COUNCIL COMMITTEE MEETING – 7 JUNE 2011**

**RECOMMENDATION:**

	<b>Councillor Ken Jordan Councillor Glenys Francis</b>	That Item 2 be deferred to allow for a site inspection subject to the General Manager seeking the property owners consent.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Ken Jordan, Bob Westbury, Caroline De Lyall, Glenys Francis, Frank Ward, Geoff Dingle, John Nell, Sally Dover, Shirley O'Brien and Steve Tucker.

Those against the motion: Nil.

**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>196</b>	<b>Councillor Peter Kafer Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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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 Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, John Nell and Bob Westbury.

Those against the Motion: Nil.

## **BACKGROUND**

The purpose of this report is to give the background of Development Application 17-2010-220-1, for the removal of 10 hectares of vegetation at 711 Seaham Rd, Nelson Plains. The matter was called to Council by Councillor Kafer.

Councillor Kafer's request was for Council to determine the Development Application. The application has already been determined. Hence, the applicant would need to submit a new Development Application to enable a review of that determination by Council.

The circumstances of this application is different from other Tree Preservation Order Development Applications whereby reviews by Ward Councillors usually occur prior to determination in circumstances where tree clearing applications are subject of an 'intent to refuse' being issued to applicants. However, in this case a favourable determination was made and an approval was given (subject to conditions), and as such the application has been determined. For this reason the opportunity for Ward Councillor review of the matter did not arise because of the staff were supportive of the application subject to conditions.

The history of the application is outlined below.

In late September 2010 a Development Application for the removal of 10 hectares of vegetation at 711 Seaham Rd was lodged for the purposes of re-establishing the land for agricultural pursuits and to undertake weed control.

Council records indicated that although a substantial infestation of the weed 'lantana' was present the native vegetation amongst the weed was likely to be Lower Hunter Spotted Gum Ironbark Forest which is listed as an Endangered Ecological Community under the Threatened Species Conservation Act 1995, (Attachment 2).

Council officers also have a responsibility to investigate the level of impact on this endangered species and other species known to utilise this vegetation. Due to the presence of vegetation that is likely to be listed on the Threatened Species Conservation Act 1995, staff have little discretion to allow vegetation removal without requiring proper investigations and applying relevant conditions.

In October 2010, in order to assist Council to make its determination, the applicant was asked to provide additional information as to the method of clearing and the vegetation communities that exist on site.

Development Applications proposing to clear large areas of vegetation need to be accompanied by relevant details regarding the vegetation present on the site. This information is necessary to allow Council to make its assessment under section 79C of the Environmental Planning and Assessment Act (EP&A Act).

The applicant's main rationale for why the Development Application should be approved without conditions relates to the exemptions under the Native Vegetation Act 2003. Under the Native Vegetation Act vegetation that has grown since 1990 is

classified as regrowth and is exempt from needing approval under the Native Vegetation Act before being removed. The applicant maintains that the vegetation has grown since 1990 and is exempt from the Native Vegetation Act, however this is not supported by Councils aerial photography (Attachment 1).

In any case, the matter of the Native Vegetation Act is not a determinative consideration for Council as a consent authority as this Act is administered by the Catchment Management Authority and the Act does not override either:

- Council's Local Environment Plan, which requires development consent for the removal of vegetation, or
- Councils obligations under the Threatened Species Conservation Act 1995.

Council staff advised the applicant that the application would be assessed under the provisions of the Port Stephens Local Environmental Plan 2000 (LEP), as required under Section 79C of the EP&A Act, as opposed to the Native Vegetation Act. The applicant was further advised to seek clarification from the Catchment Management Authority about obligations under the Native Vegetation Act 1995 as consent from both authorities may be required; this is potentially a dual consent process.

Councillors should note that the majority of dual consent issues will be removed with the introduction of the standard instrument LEP as Councils will no longer be the determining authority for vegetation removal on rural lands.

In late 2010 the applicant made contact with West Ward Councillors who inspected the property and were of the view that the Development Application should be approved. At that time the development application had not been determined by staff, nor had an 'Intent to Refuse' notice been issued, as staff were still waiting for additional information to be provided from the applicant. Therefore the opportunity for a Ward Councillor review of the development application under section 82A of the EP&A Act was not yet available under Council's processes.

Council's adopted processes include:

- Ward Councillor inspections being arranged by the General Managers office and this did not occur in this instance; and
- The application being reviewed being determined or have a Notice of Intent to Refuse issued to the applicant before Ward Councillor inspections take place.

Councillors should note that a review of this process is currently underway following the 2 way conversation that occurred on the 3<sup>rd</sup> May 2011.

In February 2011 Council officers advised the applicant that while details on the method of clearing was still required officers could, with the applicant's permission, inspect the site to determine if the vegetation on site was the endangered ecological community as indicated by Councils records. The applicant did not take up the offer for a site inspection by staff.

The applicant advised Council officers that they would not be supplying any more information. The application was then assessed based on the existing information provided by the applicant and gathered by Council officers.

On 1 March 2011 the application was determined by way of approval subject to specific conditions that:

- clearing of vegetation is not to occur from September to December (inclusive) to protect breeding fauna; and
- no vegetation with a diameter at breast height (DBH) greater than 200mm be removed excluding any species listed under the Noxious Weed Act.

These conditions were imposed to satisfy Council's obligations under section 5A of the Environmental Planning and Assessment Act 1979 (EP&A Act) to consider impacts on species listed under the Threatened Species Conservation Act 1995, whilst still allow the applicant to control weeds on the property – which it was understood, as the primary reason for the application.

On 6 March 2011 the applicant then requested a review of determination regarding the condition that limited the size of the vegetation approved to be removed. No additional information was submitted with the request for a review by the applicant to demonstrate that the condition was unnecessary or unreasonable in the context of Council's obligations under Section 79C of the EP&A Act.

On 25 March 2011 the review was carried out and determined by another senior Council officer as required by Section 82A of the EP&A Act.

On 25 March 2011 the applicant was advised that the review had been undertaken and that there was no change to the decision. Throughout the process the applicant was advised of the avenues for appeal to the Land and Environment Court.

On the 19 April 2011 the applicant requested that the Ward Councillors review the application with the main objection still relating to the condition that limited the size of the vegetation approved to be removed. No new information was provided with the applicant's main argument still relating to the provisions of the Native Vegetation Act which as previously explained is not relevant to Council's determination, and based on staff assessment does not provide for the exemptions relevant to regrowth.

Also on the 19 April 2011, Councillor Kafer requested the Development Application come before Council for determination.

As the subject Development Application has been determined by delegated staff subject to conditions, reviewed under Section 82A and finally determined by senior Council staff, neither the ward councillor review nor the determination by Council requested by Councillor Kafer are available to the applicant under the Environmental Planning and Assessment Act.

As already stated this is different from other Tree Preservation Order development application reviews by Ward Councillors as in cases where applications are not

approved by staff an 'intent to refuse' is issued rather than the application being determined. In this case an approval was given and as such the application has been determined.

The way for Council to determine the application is to invite the applicant to resubmit a new development application, and if lodged, Councillors may wish to request the application to be reported to Council for determination, rather than under staff delegations.

### **FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial or resource implications associated with this development, however, Council could be exposed to financial risks associated with potential legal challenges if Council has not reasonably and adequately addressed its obligations under the Threatened Species Conservation Act 1995 or undertaken the statutory process under the Environmental Planning and Assessment Act.

### **LEGAL, POLICY AND RISK IMPLICATIONS**

Councillors should note that staff are undertaking a review of policies and processes for Development Application (Tree Preservation Order) responsibilities.

This is currently underway following the Two-way conversation that occurred on 3 May 2011. This application has highlighted an issue with the Development Application (Tree Preservation Order) Ward Councillor review process that will be the topic of further two way conversations with Councillors.

Council is legally bound to follow due process and complete a full and proper assessment as required under the relevant legislation of all development applications.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The application was lodged to clear the vegetation for the declared purposes of agricultural pursuits. The statutes require Council to take into consideration the impacts on threatened species in considering this land use activity and must balance the legal provisions relevant to the protection and enhancement of endangered ecological communities with the landowners rights to use land in accordance with the Local Environmental Plan.

Clearing the vegetation without any mitigating conditions of consent may cause undue impacts to occur on the threatened species.

### **CONSULTATION**

Council has contacted the Hunter Central Rivers Catchment Management Authority about the applicant's assertions that the vegetation is exempt under the Native Vegetation Act.

The Hunter Central Rivers Catchment Management Authority has advised Council that they have received no application from the applicant to remove the vegetation and as such they have not determined if the vegetation is exempt from the Native Vegetation Act. They routinely give verbal advice about the Native Vegetation Act and advised that they most likely directed the applicant to seek advice as to the age of the vegetation from either the Department of Lands or Council, in addition to directing them to information available on the internet.

The Hunter Central Rivers Catchment Management Authority has advised Council that if Council has clear aerial photography showing vegetation existing prior to 1990 then the vegetation is not considered regrowth and if the applicant clears the site without their approval then compliance action may be considered.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) 1987 and 2006/07 Aerial photography of the site
- 2) Council mapping showing the site as containing the Endangered Ecological Community 'Lower Hunter Spotted Gum Ironbark Forest'.

### **COUNCILLORS ROOM**

- 1) Original Development Application.

### **TABLED DOCUMENTS**

Nil.



ATTACHMENT 1 – AERIAL PHOTOGRAPHY

2006/07 Aerial Photography

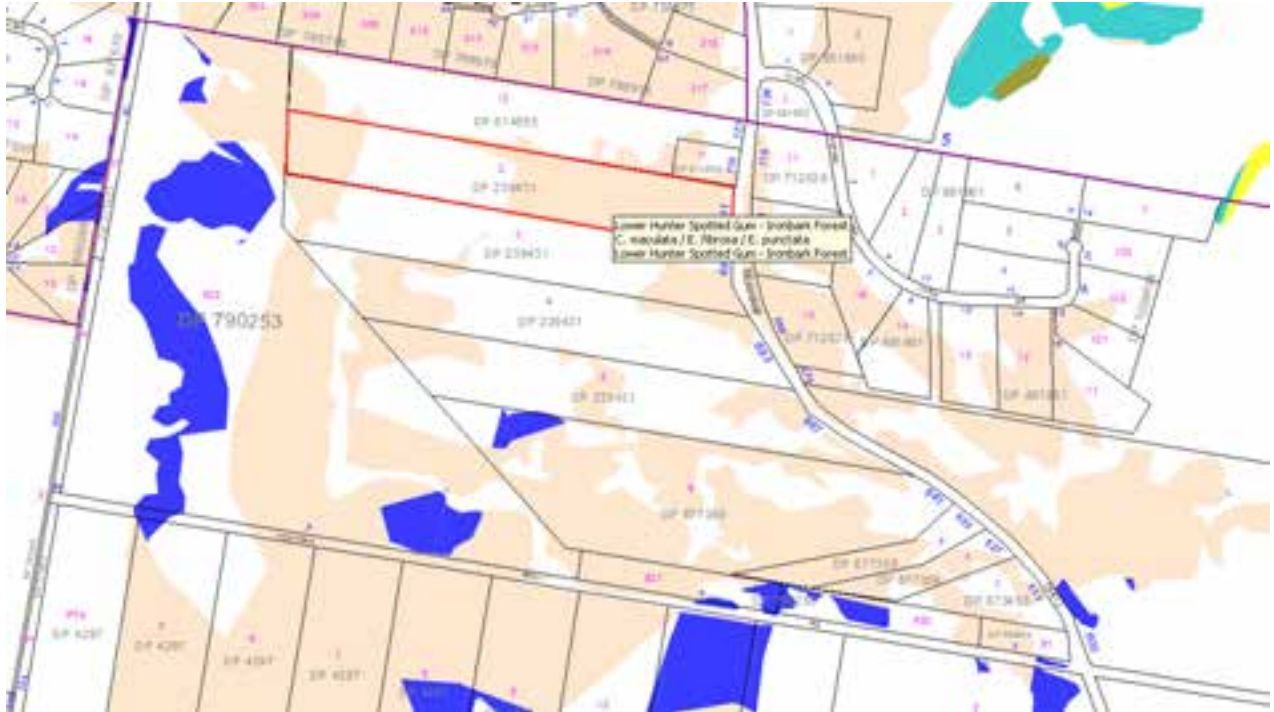


1987 Aerial Photography



ATTACHMENT 2

Council mapping showing the site as containing the Endangered Ecological Community 'Lower Hunter Spotted Gum Ironbark Forest'



**ITEM NO. 3**

**FILE NO: 16-2004-618-3**

**SECTION 96 APPLICATION TO MODIFY THE DESIGN OF A DUAL OCCUPANCY DWELLING AT NO. 9 WAHGUNYAH RD, NELSON BAY**

**REPORT OF: MATTHEW BROWN MANAGER DEVELOPMENT ASSESSMENT & ENVIRONMENTAL HEALTH**  
**GROUP: SUSTAINABLE PLANNING**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Section 96 Modification Application 16-2004-618-3, which seeks to amend the design of the dual occupancy dwelling at 9 Wahgunyah Road, Nelson Bay, subject to the conditions contained in Attachment 3.

**COUNCIL COMMITTEE MEETING – 7 JUNE 2011**

**RECOMMENDATION:**

	<b>Councillor Sally Dover</b> <b>Councillor John Nell</b>	That the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Ken Jordan, Bob Westbury, Caroline De Lyall, Glenys Francis, Frank Ward, Geoff Dingle, John Nell, Sally Dover and Shirley O'Brien.

Those against the motion: Crs Steve Tucker.

**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>197</b>	<b>Councillor John Nell</b> <b>Councillor Shirley O'Brien</b>	It was resolved that the recommendation be adopted.
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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 Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, John Nell and Bob Westbury.

Those against the Motion: Nil.

## **BACKGROUND**

**The purpose of this report is to present a Section 96 application to modify consent to Council for determination at the request of Cr Nell.**

The current Section 96 Application 16-2004-618-3 is for modification to the design of the rear dual occupancy dwelling previously approved at 9 Wahgunyah Road, Nelson Bay.

The amended dwelling have a reduced floor area (99.3sqm to 72sqm) and floor level (RL 30.4 to RL 39.74), and will no longer have a deck facing Wahgunyah Rd.

The original consent DA 16-2004-618-1 approved a dual occupancy and 2 lot subdivision, involving the construction of a new dwelling at the rear of the property (which is the subject of this modification application) and retention of the existing dwelling.

A subdivision certificate for the development was issued on 18 February 2010, but works for the approved dwelling have not yet commenced.

## **KEY ISSUES**

Following consideration of public submissions and Councillor enquiries, the key issues were identified as:

- Access to the rear dwelling
- Car parking for the rear dwelling
- Privacy impacts on adjoining properties

### Access to the rear dwelling

Significant concern has been raised over access for the rear dwelling. Please note that the current Section 96 Application does not relate to the access arrangements in any way.

The current access via a ROW over Council land to a public laneway was approved by a previous Section 96 application. The ROW was created by a separate process (with the consent of the land owner) that was registered with Land Titles before any DA approval for access over the Council land.

However, the following background is provided for information purposes:

Under the original consent DA 16-2004-618-1, the rear dwelling was to be accessed directly from Wahgunyah Road.

A Section 96 Application (16-2004-618-2) was lodged on 30 June 2010, which sought approval to access the rear dwelling via Council land (Lot 683 DP 9165, 11A Wahgunyah Road) and an existing public laneway between 11 and 13 Wahgunyah Road.

The application was supported by documentation showing that the ROW over Council land had been consented to by the land owner (Council resolution passed on 10/11/09) and registered with the Land Titles Office.

It was considered that there was no basis for refusing the modification to the access, given that the ROW had been created and that the additional traffic from one (1) dwelling is unlikely to unreasonably impact the public laneway.

Full discussion of the concerns raised regarding the access over the Council land is included in Attachment 2.

#### Car parking for the rear dwelling

A submission raised concern that informal arrangements are being made to allow the future tenants of the rear dwelling to use the existing garage on 9 Wahgunyah Road, which would result in the residents of the existing dwelling parking on the street and possibly impacting the amenity of adjoining properties and traffic safety.

Please note that the existing garage on 9 Wahgunyah Road has been approved for demolition as part of the original development consent DA 16-2004-618-1. However, there is nothing to prevent the owner from retaining the structure.

No provisions have been made for tenants of the rear dwelling to have access to the existing garage (ie an easement or similar) as part of this development, and the rear dwelling provides a car parking space as per the requirements of Council's DCP, which will be accessed via the Council land and public laneway.

Although Council has no basis for pre-empting non-compliance with the consent, any future problems arising from not parking in designated areas can be investigated as a compliance issue if required.

#### Privacy impacts on adjoining properties

A submission raised concern that the modified rear dwelling may result in privacy impacts on 7 Wahgunyah Road, Nelson Bay.

It is considered that the modified dwelling will have less of an impact on adjoining properties, as it has a lower floor level than the approved dwelling and removes the approved north facing deck.

Full discussion of the concerns raised regarding privacy impacts is included in Attachment 2.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The proposal does not have any direct financial or resource implications.

## **LEGAL AND POLICY IMPLICATIONS**

The development application is consistent with Council's Policy. The proposed modification does not present any direct policy or legal implications.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The development is unlikely to have any significant social, economic or environmental implications for the community.

## **CONSULTATION**

The application was exhibited in accordance with Council policy and two (2) submissions were received. These are discussed in **Attachment 2**.

## **OPTIONS**

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

## **ATTACHMENTS**

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

## **COUNCILLORS ROOM**

- 1) Plans.

## **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**

Section 96 Modification Application 16-2004-618-3, which seeks to amend the design of the approved dual occupancy dwelling at 9 Wahgunyah Road, Nelson Bay.

**THE APPLICATION**

Owner	Mrs D Anderson
Applicant	Cliff Brindle
Detail Submitted	Section 96 Application, Plans

**THE LAND**

Property Description	Lot 152 DP 9165
Address	9 Wahgunyah Road, Nelson Bay
Area	892sqm
Characteristics	6% fall to Wahgunyah Road

**THE ASSESSMENT**

**1. Planning Provisions**

LEP 2000 – Zoning	2(a) Residential
Relevant Clauses	19 – Dwellings, dual occupancies & urban housing 44 – Appearance of land & buildings 51A – Acid Sulphate Soils
Development Control Plan 2007	B2 – Environmental & Construction Mgt B3 – Parking & Traffic B6 – Dwellings & Dual Occupancies
State Environmental Planning Policies	71 – Coastal Protection
Environmental Planning & Assessment Act	79BA - Bushfire Prone Land

**1.1 Local Environmental Plan 2000**

This Section 96 application will not alter the description of the development, being a dual occupancy, which is permissible on the site.

- Clause 19 Dwellings, dual occupancies & urban housing



The modified dwelling will have a floor area of 72sqm, which is significantly less than that of the approved dwelling (99.3sqm). The modified development will have an FSR of approximately 0.2:1, which complies with the maximum of 0.5:1.

The modified dwelling will also comply with the 8m height limit.

- Clause 44 Appearance of land & buildings

The modification will not result in any additional visual impact when viewed from the adjoining Council reserve.

- Clause 51A Acid Sulphate Soils

The site is identified as Class 5 on the planning map. The modified dwelling will not require significant cut or fill and does not trigger the need for further investigation under this clause.

### **1.2 Development Control Plan 2007**

The modified dwelling will have a side setback of 1.5m, and will remain compliant with the relevant requirements of DCP 2007 and DCP PS1 Dual Occupancy Guidelines, which was in place at the time of the original development consent.

### **1.3 State Environment Planning Policy 71 Coastal Protection**

The modified development will remain consistent with the matters for consideration in Clause 8 of SEPP 71.

### **1.4 Environmental Planning & Assessment Act 79BA Bushfire Prone Land**

The site is mapped as bushfire prone, and this modification has been referred to the local Rural Fire Service office under Section 79BA of the Environmental Planning & Assessment Act, as it will involve a significant alteration to the design of the dwelling.

No objection has been raised and it is considered that the conditions imposed by the original bushfire safety authority issued by the RFS are satisfactory.

## **2. Referrals**

- Building

No objections or changes to conditions.

- Engineering

No objections to modification subject to recommended conditions. These have been incorporated into the draft conditions.

### **3. Likely Impact of the Development**

- Built Environment

The modification to the design of the approved dual occupancy dwelling is unlikely to have an additional impact on the built environment.

In particular, the modified dwelling will have reduced floor levels and overall area, and is less likely to have any amenity impacts (such as privacy) on adjoining properties.

This Section 96 application 16-2004-618-3 does seek to amend the approved parking arrangements from a single garage (accessed off the Council land at the rear of the property) to a concrete slab parking space.

The development will remain consistent with Council's DCP, and the deletion of the approved garage and replacement with a open parking space (concrete slab) is considered unlikely to have any significant impact on adjoining properties.

- Natural Environment

The proposed modification to the approved dual occupancy dwelling will not increase the footprint of the development and is unlikely to have any additional impact on the natural environment.

### **4. Suitability of the Site**

The site is considered suitable for the proposed modification.

### **5. Submissions**

The application was exhibited in accordance with Council policy and two (2) submissions were received. The concerns raised in the submissions, which are discussed below, related to access for the rear dwelling, car parking and privacy. However, these are not considered sufficient to warrant refusal of the application.

#### Access to rear dwelling

A submission raised concern about the approved access to the rear dwelling, which is via a ROW over Council land (Lot 683 DP 9165, 11A Wahgunyah Road) and an existing public laneway between 11 and 13 Wahgunyah Road.

In particular, concern was raised over:

- The precedent set by the access over the Council land
- Where the bins would be located
- Reduction on traffic and pedestrian safety

Please note that the access via the Council land and public laneway has already been approved as part of a previous application, and that the current Section 96 Application 16-2004-618-3 does not relate to the access arrangements for the rear dwelling in any way. However, the following information is provided as background.

Under the original consent DA 16-2004-618-1, the rear dwelling was to be accessed directly from Wahgunyah Road.

Council's Development & Building Section received a Section 96 application (16-2004-618-2), which sought approval to access the rear dwelling via the Council land and an existing public laneway off Wahgunyah Road.

The Section 96 application was supported by documentation demonstrating that a ROW had been created over the Council land in favour of 9 Wahgunyah Road and registered with the Land Titles Office.

During the planning assessment of the modified access, it was considered that:

- It would not set a precedent, as further access over the Council land would require the owners consent (from Council's Commercial Services Section)
- Bins can be placed in front of 9 Wahgunyah Road, as the rear dwelling retains a ROW (1m wide) for access and services directly to Wahgunyah Road
- The additional traffic from one (1) dwelling would be unlikely to impact the operation of the public laneway, which already provides access to 11 and 13 Wahgunyah Road.

#### Car parking

A submission raised concern that informal arrangements are being made to allow the future tenants of the rear dwelling to use the existing garage on 9 Wahgunyah Road, which would result in the residents of the existing dwelling parking on the street and possibly impact the amenity of adjoining properties and traffic safety.

Please note that the existing garage on 9 Wahgunyah Road has been approved for demolition as part of the original development consent DA 16-2004-618-1. However, there is nothing to prevent the owner from retaining the structure.

No provisions have been made for tenants of the rear dwelling to have access to the existing garage (ie an easement or similar) as part of this development, and the rear dwelling provides a car parking space as per the requirements of Council's DCP, which will be accessed via the Council land and public laneway.

Although Council has no basis for pre-empting non-compliance with the consent, any future problems arising from not parking in designated areas can be investigated as a compliance issue if required.

Privacy

A submission raised concern that the modified rear dwelling may result in privacy impacts on 7 Wahgunyah Road, Nelson Bay.

It is considered that the modified dwelling will have less of an impact on adjoining properties, as it has a lower floor level RL 29.74 than the approved dwelling (RL 30.4) and removes the approved north facing deck.

There is a north facing window from the living and kitchen area, however it is unlikely to generate any impact that warrants refusal of the application. But in order to address the privacy concern, a condition has been recommended requiring erection of a 1.8m fence between 7 and 9 Wahgunyah Road.

**6. Public Interest**

The proposed modification is unlikely to have any impact on the public interest.

**ATTACHMENT 3  
CONDITIONS**

- 1) The Development Consent No. 16-2004-618-2 has been superseded by this modified Development Consent No. **16-2004-618-3**. The Development Consent No. 16-2004-618-2 must be surrendered to the Council prior to commencement of works associated with the Modified Development Consent or the issue of any Construction Certificate by the Principal Certifying Authority.
- 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) Demolition shall be undertaken in accordance with AS 2601 – 1991 – The Demolition of Structures.
- 5) A Subdivision Certificate must be obtained from Council. The applicant must submit a completed Subdivision Certificate Application Form (with applicable fee), six (6) copies of the Survey Plan, two (2) copies of any 88B Instrument and a check list demonstrating compliance with the conditions of this development consent.
- 6) Subdivision of proposed Lot 1 and Lot 2 has been granted for the purpose of a dual occupancy and development of the land should be in accordance with development consent 16-2004-618-3. If a Subdivision Certificate is sought prior to construction the title of these properties shall be endorsed under Section 88B of the Conveyancing Act to give effect to this condition. Council shall be nominated as the sole authority permitted to alter/remove the endorsement.
- 7) The development shall comply with the requirements of the Rural Fire Services dated 7 September 2004, which are included below:
  - a) Inclusion of "leafless guttering" or other mechanical means to be installed on the proposed structure to prevent the build up of flammable material within the gutters.
  - b) The entire property shall be managed as an "Inner Protection Area" as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
- 8) All lots in the proposed subdivision shall be serviced by the Hunter Water Corporation with water and sewerage facilities.
- 9) A Compliance Certificate under Section 50 of the Hunter Water Corporation Act, 1991 shall be submitted to Council prior to endorsement of the final survey plan. Applications for Section 50 Certificates are to be made direct to the Hunter Water Corporation.

- 10) Each lot within the subdivision is to have a separate electricity service. The service must be installed wholly within the respective lot boundaries unless it is covered by a suitable easement.

Any 'cross property' electrical wiring between lots within the subdivision must be removed or disconnected and made safe in accordance with the relevant electrical standards.

- 11) Landscaping shall be carried out in accordance with the details submitted. The landscaping must be completed prior to issue of Occupation Certificate.
- 12) The main vegetation within the north-western corner of Proposed Lot 2 shall be retained on-site and incorporated into the landscaping plan. Suitable protection measures shall be in place on-site prior to commencement of any works.
- 13) Internal carparking and manoeuvring areas shall have a 100mm concrete kerb along the boundary edge to stop stormwater discharging onto neighbouring properties. This is to be located on eastern side. This kerb shall not extend past the property boundary.
- 14) The driveway shall have a minimum of 0.5 metres clearance from the property boundary.
- 15) Collected stormwater runoff shall be piped to an infiltration trench located in the front landscaped area(s), in accordance with Council's Standard Drawing S 136 (with overflow pipe).
- 16) Details are to be approved by the certifying authority showing a new location for the infiltration trench. A minimum of 1m offset to the boundary is to be provided.
- 17) Occupation of any buildings shall not take place until the building has been completed in accordance with the approved plans, specifications and conditions of this approval unless approval to occupy an incomplete building is granted by Council or an accredited certifier. Approval to occupy will not be given if any health or safety defects exist. NOTE: If an accredited certifier approves occupation of a dwelling the accredited certifier is to immediately notify Council in writing.
- 18) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- a) stating that unauthorised entry to the work site is prohibited, and
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

This clause does not apply to:

- a) work carried out inside an existing building, or

- b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

19) If the work involved in the erection or demolition of a building:

- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- b) building involves the enclosure of a public place.

A hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

- a) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- b) Any such hoarding, fence or awning is to be removed when the work has been completed.

20) Approval to occupy, close or partially close the footpath adjacent to the property to which this approval relates shall be the subject of a separate application. Without specific approval, storage of materials on or closure of the footpath is prohibited.

21) The building site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is restricted to the site. Council and the Environmental Protection Authority may issue 'on the spot' fines if breaches of the Clean Waters Act 1970 are detected. The applicant/builder will be responsible for restoration of any erosion and removal of sediment from the stormwater drainage system.

22) Vehicular access to the property, during construction of the dwelling is to be via an all weather access for delivery of materials & trades.

23) A waste containment facility to Council's requirements, is to be provided on the building site immediately after the first concrete pour for the building and is to be regularly serviced. Council and the Environmental Protection Authority may issue 'on the spot' fines if breaches of the Environmental Offences and Penalties Act, are detected.

Note: Your attention is drawn to your responsibility to control any litter arising from building works associated with this approval.

24) Approved toilet accommodation for all workmen on the building site is to be provided from the time work commences until the building is complete.

25) Retain all live trees protected by Council's Tree Preservation Order, other than those affected by the location of the building and driveways. Approval for removal of trees is limited to a distance of three (3) metres from the building and a three (3) metre wide driveway strip. A development application must

be made to Council for the removal or pruning of any other tree or trees on the property (\$15.00 application fee applies).

- 26) If the soil conditions require it retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and adequate provision must be made for drainage.

Note: Where retaining walls exceed 600 mm in height and/or are adjacent to property boundaries, details of the method of construction are to be submitted to Council for approval prior to erection.

It is recommended that the construction of any retaining walls be carried out prior to the commencement of any other work while the area is readily accessible and to prevent any movement of soil and/or potential damage to adjoining properties.

- 27) A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign is to be displayed for public viewing on the site at the commencement of site works and during construction of the development and is to remain in place until completion of works.

- 28) Note: Kerb & Gutter not damaged.

Site inspection revealed that the allotment proposed to be developed and the adjoining allotments do not have damage to the footpath or kerb & gutter.

You are advised that if damage is noted at final inspection the builder will be held responsible for repairs. If an accredited certifier is the 'Principle Certifying Authority', the certifier is to notify Council of any damage to the street kerb/gutter/footpath at occupation/final inspection stage.

- 29) All building work must be carried out in accordance with the provisions of the Building Code of Australia.

- 30) 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.

- 31) 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.



32) The driveway shall be offset a minimum of 0.5m from the property boundary.

**CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE**

33) A concrete laneway shall be constructed from the boundary of proposed lot 2 to join with the existing laneway construction. All works associated with the laneway construction shall be at no cost to Council. Engineering details in accordance with Council's Subdivision & Development Code, of proposed road and drainage works shall be approved by Council as a separate combined construction certificate/Roads Act Approval **prior to issue of the Construction Certificate for the laneway**. The application shall be signed by the relevant section of council (as the asset owner).

34) The laneway shall be graded as to not shed the water runoff onto adjoining properties. Details are to be approved by the Council **prior to issue of the laneway Construction Certificate**.

35) Provide inter-allotment drainage with sufficient pipe capacity to cater for the development of the site. The drainage pipe shall have a minimum diameter of 150mm, and shall be covered by an easement with a minimum width of 1500mm. Full details, shall be approved by an accredited certifier or Council **prior to issue of the Construction Certificate**.

36) A drainage pit shall be provided in the north-west corner of the rear lot and connected to the interallotment drainage system. Details are to be approved by the Principal Certifying Authority or Council **prior to issue of a Construction Certificate**.

37) A monetary contribution is to be paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979, towards the provision of the following public facilities in the locality:-

	Per Lot	Total
Open Space	(\$687)	(\$687)
Recreation	(\$2197)	(\$2197)
Community Facilities	(\$488)	(\$488)
Emergency Services	(\$231)	(\$231)
Library Book Acquisition	(\$114)	(\$114)
Roads and/or Intersections	(\$738)	(\$738)

Note:

a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan No. 6-Tomaree Peninsula. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.

b) Contributions are to be paid **prior to either issue of construction certificate or the release of the final survey plan of subdivision**, which ever is to occur first.

c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In

accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months.

- 38) Details for the proposed method of tree and root zone protection for all trees to be retained on site, including those trees located in the adjacent reserve, (where appropriate) during construction shall be submitted to and approved by Council **prior to issue of the Construction Certificate.**
- 39) Two copies of fully detailed specifications in respect of the proposed works are to be submitted **prior to issue of the Construction Certificate.**

#### **CONDITIONS RELATING TO ISSUE OF OCCUPATION CERTIFICATE**

- 40) All civil engineering works associated with the laneway construction shall be carried out to the satisfaction of Council (with a letter of practical completion issued) **prior to issue of an Occupation Certificate.**
- 41) A 1500mm wide easement shall be created over lot 1 to provide lot 2 access to Wahgunyah Rd for garbage services and the like, **prior to the issue of an Occupation Certificate.** Council shall be maintained as the sole authority to modify, vary or release. The easement may be positioned between the side fence and the existing garage in the south east corner providing the absolute minimum width is not below 1000mm for the length of the garage, otherwise an alternate route shall be provided.
- 42) In order to maintain residential amenity and privacy, a 1.8m fence shall be erected between the proposed rear dual occupancy dwelling and 7 Wahgunyah Road, Nelson Bay **prior to the issue of an Occupation Certificate.**

#### **GENERAL ADVICES**

- a) 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.**
- b) 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.**
- c) 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.

**MINUTES FOR ORDINARY MEETING – 14 JUNE 2011**

**SCHEDULE 3 – APPROVED PLANS AND DOCUMENTATION**

Amended plans prepared by Beaumont Design, Ref No. 2/2011, Sheets 1 to 4 dated 10/2/2011

Amended access plans stamped, 2 sheets dated 30 June 2010

Bushfire Assessment prepared by Fagan Mather Duggan Pty Ltd reference 2003183 dated 17/6/04

**ITEM NO. 4**

**FILE NO: PSC2005-5165**

**LICENSED PREMISES POLICY**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Re-affirm the in-principle adoption of the Draft Licensed Premises Policy and note that the amendment to the Port Stephens Development Control Plan will be presented to the Ordinary Council meeting on 14 June 2011.

**COUNCIL COMMITTEE MEETING – 7 JUNE 2011  
RECOMMENDATION:**

	<b>Councillor Glenys Francis Councillor John Nell</b>	That Council adopted the recommendation with amendments to the policy to include a glossary of terms and a provision for dispute resolution.
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**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>198</b>	<b>Councillor Glenys Francis Councillor Caroline De Lyall</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

**The purpose of this report is for Council to affirm and activate the Draft Licensed Premises Policy which aims to manage the development of licensed premises in Port Stephens LGA. Licensed premises, if not appropriately designed and managed, have the potential to impact on the amenity of the surrounding area.**

At its meeting of 24 May 2011, Item 1, minute no. 177, Council resolved as follows:

*It was resolved that Council adopt, in principle, the Draft Licensed Premises Policy tabled this evening subject to consultation with statutory authorities and a further review at the Council Committee meeting of 7 June and Ordinary Council meeting of 14 June 2011.*

The policy requires a management plan to be included with all development applications for the establishment of new licensed premises, expansion of an existing

licensed area or extension of trading hours of existing licensed premises. The management plan will detail an applicant's proposed strategies to manage the potential impacts that the licensed premises might have on the amenity and safety of surrounding commercial, retail and residential uses and may form part of the conditions of consent for the development.

It is proposed that the principles of the draft policy be integrated into Council's Development Control Plan 2007 through an amendment which will be presented to Council on 14 June 2011.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Nil.

### **LEGAL, POLICY AND RISK IMPLICATIONS**

The draft policy complies with Council's Policy guidelines and with the requirements for policies to be reviewed at least once in each Council term.

Once adopted, the Licensed Premises Policy would form a consideration pursuant to section 79C of the *Environmental Planning and Assessment Act 1979*, for future Development Applications.

Accordingly, through possible Development Application appeals the policy may be the subject of legal proceedings. It is a reasonable assumption that should Council decide to base its future decision consistently upon the adopted policy, legal and risk implications may be reduced.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Licensed premises such as restaurants and clubs contribute to the attraction of Port Stephens for both residents and visitors. This policy will ensure that all future licensed premises are designed to be compatible with surrounding land uses and help maintain the amenity of the surrounding area by minimising alcohol-related issues.

### **CONSULTATION**

Council's Planners and NSW Police were consulted in the preparation of the policy.

### **OPTIONS**

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

**ATTACHMENTS**

- 1) Draft Licensed Premises Policy

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**  
Draft Licensed Premises Policy



**DRAFT POLICY**

Adopted:  
Minute No:  
Amended:  
Minute No:

**FILE NO: PSC2005-5165**

**RESPONSIBLE OFFICER: COMMUNITY PLANNER CRIME PREVENTION**

**TITLE: LICENSED PREMISES POLICY**

**BACKGROUND**

Licensed premises, if not appropriately designed and managed, have the potential to impact upon the amenity of any locality. Currently Port Stephens LGA has 194 liquor licences registered with the Office of Liquor, Gaming & Racing (OLGR) and 14 of these have authorised extended business hours.

There are many risk factors which contribute to the number and intensity of alcohol-related issues experienced by licensed venues. However, by controlling these factors in development applications for new licensed premises and alterations to existing licensed premises, Councils can reduce the occurrence of alcohol-related issues such as assault and malicious damage.

'Councils can play an important role in influencing the design, conditions and practices of licensed premises to reduce alcohol-related street violence, vandalism and anti-social behaviour.' (Liquor Licensing Laws and Community Impact Statements: Guidelines for Councils', Local Government Shires Association NSW)

Risk factors include the characteristics of the venue and its patrons, the social environment and outlet density. There is also a correlation between outlet density and neighbourhood perceptions of drunkenness as a problem. Port Stephens has a high concentration of liquor licences with 286 per 100,000 population compared with the NSW average which is 220 per 100,000 population.

**OBJECTIVE**

To manage the future and existing development of licensed premises within the Port Stephens Local Government Area in order to reduce the incidence of anti-social behaviour and minimise adverse community impacts,

**PRINCIPLES**

- 1) Development applications for the establishment of new licensed premises, expansion of an existing licensed area or extension of trading hours of existing licensed premises must include a management plan which addresses in detail all the information listed in Attachment A;

- 2) The management plan will detail the applicant's proposed strategies to manage the potential impacts of licensed premises on the amenity and safety of surrounding commercial, retail and residential uses;
- 3) Information provided in the management plan may form part of the conditions of consent for the application if it is approved;

#### **POLICY STATEMENT**

- 1) All development applications for Licensed Premises must include a management plan which addresses all the criteria included in Attachment A;
- 2) Council may seek comment from external agencies such as Port Stephens Local Area Command Licensing Section and Hunter New England Population Health;
- 3) As per the Environmental Planning and Assessment Act 1979 and associated regulations, Council or a member of NSW Police can ask for further information or clarification of information that has been provided;
- 4) If a premises, such as a restaurant or café, where an 'on-premise' licence exists applies for a Primary Service Authorisation, the hours of serving of liquor will be limited to between 12 noon and 11.30pm on any day;
- 5) Provision may be made for an annual review of the licensed premises by NSW Police and the Office of Liquor, Gaming and Racing;

#### **RELATED POLICIES**

- Alcohol in Parks and Reserves Policy
- Social Policy

#### **SUSTAINABILITY IMPLICATIONS**

##### **SOCIAL IMPLICATIONS**

Council acknowledges that licensed premises such as restaurants, cafés, clubs and hotels contribute to the attraction of Port Stephens for residents and visitors. The policy will ensure that licensed premises are designed to minimise alcohol-related issues and ensure compatibility with surrounding land uses such as commercial and residential. It will also help to maintain the amenity of the areas surrounding licensed premises and help reduce perceptions of crime so that all users feel safe and secure.

##### **ECONOMIC IMPLICATIONS**

Reduction of alcohol-related crime and improved amenity of areas may lead to increased economic activity because if people feel safe they are more likely to patronise local businesses. Reduced crime can also lead to reductions in the costs of repairing vandalised premises, replacing stolen goods and insurance premiums.

##### **ENVIRONMENTAL IMPLICATIONS**

A decrease in anti-social behaviour around licensed venues could lead to reductions in the amount of litter and broken glass found in the area.



**RELEVANT LEGISLATIVE PROVISIONS**

- Environmental Planning and Assessment Act 1979
- Liquor Act 2007

**IMPLEMENTATION RESPONSIBILITY**

Sustainable Planning Group

**REVIEW DATE**

12 months from adoption

**ATTACHMENT**

A: Information required for Management Plan

DRAFT

**ATTACHMENT A – Management Plans submitted with development applications must provide the following information:**

1. A floor/site plan describing the primary use of the premises as well as any secondary/ancillary uses of areas within the building or site. 'Active areas' such as areas used for entertainment, queuing or any noise producing activities must be identified;
2. A schedule of proposed trading hours of operation for all areas of the premises (eg. Courtyards, balcony, restaurant, gaming room etc). Existing premises are required to provide a schedule of the current operating hours of the premises;
3. The maximum capacity of the premises and the maximum number of patrons allowable in each identified area (detailed assessment by registered building surveyor);
4. Site context plan showing the nature and uses of developments surrounding the proposed licensed premises (including residential and accommodation) and their hours of operation. Location of other licensed premises and alcohol-free zones within a 1km radius of the proposal to be marked on the plan;
5. Details of staffing arrangements including numbers and working hours of security staff;
6. Details of responsible serving of alcohol training to be provided to staff, including a procedure for notifying staff of new licensing conditions within 14 days after they have been imposed;
7. Mitigation measures proposed to address potential impacts such as noise and light on surrounding land uses and potential impacts resulting from the proximity to existing licensed premises (within a 100m radius of the proposal);
8. Management of patrons moving to other late night premises including potential for incidences and anti social behaviour along these access routes;
9. Details of crowd control procedures and methods to manage intoxicated and/or violent persons;
10. Emergency procedure management plan;
11. Waste management details;
12. Proposed car parking and traffic management to minimise the impact on the local traffic network;
13. The management of incidents and events within a 100m radius of the proposal;
14. A description of actions that the applicant has taken to co-operate with the NSW Police and the local community;
15. Security/safety measures proposed including CCTV cameras which fulfil minimum Police standards (proposed locations indicated on site plan), visual surveillance and security lighting. A detailed Safer By Design evaluation of development;
16. Actions to be taken during 'wind down' periods prior to closing time;
17. A commitment to have a complaint register which can record complaint date and time; name and contact details of the person making the complaint; nature of complaint; staff on duty; and action taken by premises to resolve the complaint;
18. A commitment to membership of the local Liquor Accord;
19. Outline of standard complaint procedures, especially for dealing with complaints from local residents;

*Additional information required for applications to expand the licensed area or extend the trading hours of existing licensed premises:*

1. Proof from the local Police of the adequate management of the existing licensed premises, including records of complaints and/or problems with the premises;
2. Details of any imposed or voluntary licensing conditions;
3. Alcohol-related crime statistics for the locality;
4. Proof of membership of the local Liquor Accord

Note: Council may request further written information if it is considered that the proposal will adversely impact on the amenity of the area or if required by the NSW Police.

DRAFT

ITEM NO. 5

FILE NO: PSC2006-0029

## MEDOWIE STRATEGY REVIEW

REPORT OF: BRUCE PETERSEN –ENVIRONMENTAL & DEVELOPMENT PLANNING  
MANAGER

GROUP: SUSTAINABLE PLANNING

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### RECOMMENDATION IS THAT COUNCIL:

1) Amend the Medowie Strategy in relation to the sites as shown in **Attachment 1** to:

- a. Refer to Rural Small Holdings and Environmental Living as Large Lot Residential;
- b. Identify Site 1 Boundary Road (Lots 93, 94, 95 & 96 in DP 753194) to part Large Lot Residential and part Environmental Management and support this inclusion with the following statement of strategic support:

*"The Boundary Road neighbourhood will be a cohesively-designed large-lot residential estate able to be completed in stages. Where possible, lot design will be integrated with the adjoining land identified for Environmental Management in order to retain the natural character and amenity values of the site for future residents.*

*Lot sizes will vary throughout the site, but will generally be 1000-1500m<sup>2</sup>. Acreage allotments will front Boundary Road to provide a transition to existing acreage development on the southern side of Boundary Road. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.*

*A Voluntary Planning Agreement will be sought that will require the preparation of a site-specific development control plan - incorporating a staged master plan - for the developable land. The development control plan will seek to maximise retention of vegetation and ecological outcomes and minimise ecological impact, and enforce a high level of development design.*

*The land identified as Environmental Management will be retained, enhanced and placed into a conservation zone in recognition of the ecological values of the site. The intent is to transfer this land into public ownership as part of the Voluntary Planning Agreement."*

- c. Identify Site 3 Waropara Road North (Lot 2 in DP 869411) to part Large Lot Residential and Part Environmental Living;

## MINUTES FOR ORDINARY MEETING – 14 JUNE 2011

- d. Identify Site 5 Ferodale Road West (Lot 106 in DP 1082077) to part Large Lot Residential; and
  - e. Delegate to the General Manager to make various administrative amendments to the Medowie Strategy to implement the above changes.
- 2) Make a specific submission to the NSW Minister for Planning and Infrastructure and the Director of the Department of Planning and Infrastructure to advocate inclusion of the Boundary Road site in the Lower Hunter Regional Strategy.
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### COUNCIL COMMITTEE MEETING – 7 JUNE 2011

#### RECOMMENDATION:

	<b>Councillor Geoff Dingle</b> <b>Councillor Frank Ward</b>	That Council:  1) Place the draft amendments to the Medowie Strategy on public exhibition for a 6 week period.  2) Make a specific submission to the NSW Minister for Planning and Infrastructure and the Director of the Department of Planning and Infrastructure to advocate inclusion of the Boundary Road site in the Lower Hunter Regional Strategy.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Ken Jordan, Bob Westbury, Caroline De Lyall, Glenys Francis, Frank Ward, Geoff Dingle, John Nell, Sally Dover, Shirley O'Brien and Steve Tucker.

Those against the motion: Nil.

**MINUTES FOR ORDINARY MEETING – 14 JUNE 2011****ORDINARY COUNCIL MEETING – 14 JUNE 2011**

	<b>Councillor Geoff Dingle</b> <b>Councillor Frank Ward</b>	That Council place the draft amendments to the Medowie Strategy on public exhibition for a 6 week period.
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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: Peter Kafer, Glenys Francis, Frank Ward, John Nell and Geoff Dingle.

Those against the Motion: Caroline De Lyall, Ken Jordan, Steve Tucker, Shirley O'Brien, Bruce Mackenzie, Bob Westbury.

The Motion on being put was lost.

**AMENDMENT**

	<b>Councillor Bruce MacKenzie</b> <b>Councillor Ken Jordan</b>	<p><b>That Council:-</b></p> <p>1) Amend the Medowie Strategy in relation to the sites as shown in <b>Attachment 1</b> to:</p> <p>a) Refer to Rural Small Holdings and Environmental Living as Large Lot Residential;</p> <p>b) Identify Site 1 Boundary Road (Lots 93, 94, 95 &amp; 96 in DP 753194) to part Large Lot Residential and part Environmental Management and support this inclusion with the following statement of strategic support:</p> <p><i>"The Boundary Road neighbourhood will be a cohesively-designed large-lot residential estate able to be completed in stages. Where possible, lot design will be integrated with the adjoining land identified for Environmental Management in order to retain the natural</i></p>
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		<p>character and amenity values of the site for future residents.</p> <p>Lot sizes will vary throughout the site, but will generally be 1000-1500m<sup>2</sup>. Acreage allotments will front Boundary Road to provide a transition to existing acreage development on the southern side of Boundary Road. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.</p> <p>A Voluntary Planning Agreement will be sought that will require the preparation of a site-specific development control plan - incorporating a staged master plan - for the developable land. The development control plan will seek to maximise retention of vegetation and ecological outcomes and minimise ecological impact, and enforce a high level of development design.</p> <p>The land identified as Environmental Management will be retained, enhanced and placed into a conservation zone in recognition of the ecological values of the site. The intent is to transfer this land into public ownership as part of the Voluntary Planning Agreement."</p> <p>c) Delegate to the General Manager to make various administrative amendments to the Medowie Strategy to implement the above changes.</p> <p>2) That a further report be provided in</p>
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**MINUTES FOR ORDINARY MEETING – 14 JUNE 2011**

		<p>relation to Site 3 Waropara Road North (Lot 2 in DP 869411) and Site 5 Ferodale Road West (Lot 106 in DP 1082077).</p> <p>3) That a site inspection be arranged for Councillors to inspect the subject area.</p> <p>4) Make a specific submission to the NSW Minister for Planning and Infrastructure and the Director of the Department of Planning and Infrastructure to advocate inclusion of the Boundary Road site in the Lower Hunter Regional Strategy.</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 and Bob Westbury.

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

The amendment on being put was lost.

<b>199</b>	<b>Councillor John Nell Councillor Peter Kafer</b>	It was resolved that Item 5 be deferred to the next Ordinary Council meeting.
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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 Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Geoff Dingle, John Nell and Bob Westbury.

Those against the Motion: Crs Bruce MacKenzie, Steve Tucker, Shirley O'Brien and Frank Ward.

Cr Peter Kafer left the meeting at 6.08pm following the voting on Item 5.



## BACKGROUND

The purpose of this report is to review submissions received during exhibition of proposed amendments to the Medowie Strategy (the Strategy) and to make recommendations for consequential amendments to the Strategy as shown in Attachment 1.

On 24<sup>th</sup> March 2009 Council adopted the Medowie Strategy.

On 24<sup>th</sup> November 2009 Council considered seven (7) sites as potential amendments to the Strategy and resolved that three (3) of the seven (7) sites be supported as amendments for public exhibition.

Site 1 - Boundary Road as part Rural Small Holdings and part Environmental Management;

Site 3 - Waropara Road North as part Rural Small Holdings and part Environmental Living; and

Site 5 - Ferodale Road West as Environmental Living.

Consistent with its resolution to include Site 1 – Boundary Road, Council also resolved at its meeting on 24<sup>th</sup> November 2009 to formally prepare a planning proposal as follows:

*3. Prepare a planning proposal in accordance with section 55 of the Environmental Planning and Assessment Act 1979 to initiate the rezoning process of the Boundary Road site for Rural Small Holdings and Environmental Management purposes and request the NSW Department of Planning to undertake a 'gateway' determination, with no further action to be undertaken until Council's consideration of the exhibited Medowie Strategy incorporating the proposed draft amendments including Site 1 Boundary Road.*

The proposed amendments to the Strategy were placed on public exhibition from 25<sup>th</sup> February 2010 to 25<sup>th</sup> March 2010 and extended until the 8<sup>th</sup> April 2010.

A map showing each site as exhibited is at **Attachment 2**.

18 submissions were received, together with responses, and are summarised in the table at **Attachment 3**.

## **SITE 1 – BOUNDARY ROAD**

**Property Description:** Lots 93, 94, 95 and 96 in DP 753194, Boundary Road

**Proponent:** Eureka Pty Ltd

**Site Area:** 127 hectares

**Existing Zoning:** 1(c1) Rural Small Holdings

**Exhibited Amendment:** Rural Small Holdings (57 hectares) and Environmental Management (70 hectares)

### **Key issues raised by submissions**

Ten (10) submissions were received in respect to the Boundary Road site. The submissions raised the following key issues:

- Lot size;
  - Lots of 1000-1500m<sup>2</sup> are too small;
  - Small lots on the outskirts of Medowie are inconsistent with the principles of the Strategy;
  - Lot size is inconsistent with existing surrounding development;
  - Lot size is too small to retain vegetation;
- Flooding and drainage;
  - Amendments should wait until completion of Council's drainage study for Medowie;
  - The permissibility of the proposed dry-wall detention basin within land proposed for Environmental Management;
  - Potential for stormwater impacts on downstream properties;
- Impacts of development on flora and fauna;
  - Lot size is too small to retain vegetation;
- Traffic;
  - Potential for traffic hazard at the intersection of Boundary Road and Medowie Road.

## **PLANNING PROPOSAL**

### **LEP Gateway Determination**

The planning proposal was referred to the NSW Department of Planning for a "gateway" determination in December 2009. In response, the NSW Department of Planning advised in June 2010 that the planning proposal should not proceed for the following reasons:

- 1) *There is no demonstrated strategic need for the planning proposal to proceed prior to completion of the review of the Lower Hunter Regional Strategy; and*
- 2) *Important consultation needs to be carried out with the Department of Environment, Conservation, Climate Change and Water and the Port Stephens Comprehensive Koala Plan of Management Steering Committee.*

The Department's response did not give specific direction that the site's location is within a regional green corridor under the LHRS precludes urban development.

The Department also advised that:

*"If Council resolved to re-submit this proposal, it should do so only after the review of the Lower Hunter Regional Strategy has been completed. The proposal should address the rezoning within the context of that review and within the context of the existing supply of land for rural residential development and the demand for such development. It appears there is already sufficient land already identified in Port Stephens for rural residential development.*

*The Council should seek the views of the Department of Environment, Conservation, Climate Change and Water, particularly in relation to the impact of the proposal on vegetation communities outlined in Table No. 1 in the Planning Proposal.*

*Any resubmitted Planning Proposal should address the appropriate minimum allotment size proposed within the context of Council's overall expansion strategy. It should also provide details of consultation with the Port Stephens Comprehensive Koala Plan of Management Steering Committee in relation to the impact of the proposal on "Preferred Koala Habitat".*

The proponent is working to address the matters raised.

**Advice from NSW Department of Environment Conservation, Climate Change and Water (DECCW)**

DECCW provided comment on 19<sup>th</sup> October 2010 that they do not support the planning proposal in its current form for the following reasons:

*"...environmental concerns and the location of the land within the Green Corridor identified in the Lower Hunter Regional Strategy and 2009 Update Report. The proposal, in its current form, does not provide adequate biodiversity offsets for the proposed impact of this urban development and the biodiversity offset package offered does not achieve an improve or maintain outcome. Further biodiversity offset measures (for example, modifications to development envelopes or further offsite biodiversity offsets) will be required if this development is to achieve an improve or maintain outcome for biodiversity.*

*It is acknowledged that some parts of the proposed site are of lower biodiversity value and could potentially support some large lot rural residential development. However, the proposed rural residential lot size of between 1000 and 1500 square metres is unlikely to provide meaningful corridor functionality across the proposed residential areas."*

The advice then proceeds to list detailed matters that need to be addressed for further assessment, in the event that it is resubmitted to the Department of Planning for reconsideration. The proponent is working to address the issues raised.

**Advice from the Port Stephens Comprehensive Koala Plan of Management Steering Committee**

The Committee considered the planning proposal for Site 1 Boundary Road at its meeting on 20<sup>th</sup> September 2010. Based upon the minutes of the meeting, the comments of the committee are:

- Acknowledgement that the site has some development potential.
- Bushfire Asset Protection Zones need to be contained within the development and not within the biodiversity offset lands.
- Existing Koala habitat is to be taken into consideration during urban planning stages i.e. 88B instruments, no dogs, appropriate fences and large lots to allow for retention of existing trees.
- It was positive that the Koala habitat in the north eastern section was being preserved and although it would be best to also retain the preferred Koala habitat in the south west, it was acknowledged that this section of the habitat was disturbed.
- It was noted that a number of these issues are points that will be resolved during the development application stage rather than the rezoning stage, if the development proceeds.

**Land Supply Analysis (by Urbis on behalf of the proponent)**

The proponent has submitted information to address questions about the supply of large lot residential/rural residential allotments through a *Port Stephens LGA and Medowie Land Supply Analysis* (Urbis, March 2011). This report does not seek to debate the findings of the submitted analysis in considering Site 1 Boundary Road for inclusion in the Medowie Strategy. It is noted that, if the site is included, it may potentially result in an additional 300 allotments to the existing total of 3105 allotments envisioned under the entire Medowie Strategy, which is intended to be implemented over 20 years. The executive summary of the proponent's submissions provides the following opinion regarding supply and demand:

- *The proposed Boundary Road Medowie residential subdivision should be classified primarily as a large lot residential development with a small component of rural residential;*
- *The projected land supply within Port Stephens LGA will not be sufficient to meet the requirements of the forecast population growth under the Lower Hunter Regional Strategy, and population targets to date have not been met;*
- *Of all locations throughout the Port Stephens LGA, Boundary Road Medowie is proposed to accommodate the only notable content of new Large Lot Residential/Rural Residential supply over the next 25 years;*
- *The subject site comprises a significant development in one ownership which is not constrained like many development areas in Medowie that are impacted by fragmented ownership and environmental constraints that limit their ability to be delivered;*
- *The proposed development will help to address the undersupply of housing in Port Stephens and will provide suitable stock for families who make up the majority of residents that have moved to Medowie in recent years.*

(Urbis March 2011: ii)

### **Recommendation & Discussion**

It is recommended to amend the Medowie Strategy to include Site 1 – Boundary Road as Large Lot Residential (57 hectares) and Environmental Management (70 hectares) as shown in **Attachment 1** (noting the change in terminology of referring to Rural Small Holdings as Large Lot Residential) principally for the following reasons:

- Development of the relatively unconstrained southwest part of the Site for rural residential/large lot residential development is a logical extension of the existing urban footprint and will increase opportunities for future development to meet demand;
- The Site provides the opportunity for a master-planned and coordinated development with a range of lot sizes (including large lot residential allotments along Boundary Road to provide a suitable transition to existing development to the south);
- Significant public benefit is proposed by identifying 70 hectares of land for Environmental Management and transferring that land into public ownership for conservation purposes; and
- Identifying the Site in the Strategy will provide a basis for its potential inclusion in the current review of the *Lower Hunter Regional Strategy* and indicate strategic support for its potential future rezoning and development (including resubmitting the planning proposal for a gateway determination by the NSW Department of Planning at a future date).

In terms of flora and fauna impacts, the south-west part of the Site has a mixture of high, medium and low conservation significance under the current Strategy. It is acknowledged that the development of this part of the site will have some environmental impact; however, biodiversity impacts are primarily proposed to be managed by biodiversity offsets at the rezoning stage and detailed planning and design of the proposed urban land as part of the development process. The proponent is also working to satisfy the outstanding concerns of The Office of Environment and Heritage (previously DECCW) raised in their correspondence dated 19<sup>th</sup> October 2010. The planning proposal has also been reviewed by the Port Stephens Comprehensive Koala Plan of Management Steering Committee, who acknowledge that the site has some development potential. The comments of the Committee indicate that they do not object to the planning proposal, but will require existing Koala habitat to be taken fully into consideration and carefully managed during the planning and development process.

Concern about flooding and drainage was a principal issue raised in submissions. With respect to drainage, early indications from the drainage study for Medowie are that flooding and drainage impacts could be managed (this is discussed further under the 'General Issues' section of this report as the issue applies to all sites). As a matter of additional certainty, the proponent has already submitted a study with their planning proposal that indicates how drainage issues can be managed in the event that the land is rezoned and developed.

It is recommended that Site 1 – Boundary Road is included in the Strategy to indicate strategic support for the site, with the following or similar neighbourhood description to guide its development and to assist in addressing comments raised by submissions:

*"The Boundary Road neighbourhood will be a cohesively-designed large-lot residential estate able to be completed in stages. Where possible, lot design will be integrated with the adjoining land identified for Environmental Management in order to retain the natural character and amenity values of the site for future residents.*

*Lot sizes will vary throughout the site, but will generally be 1000-1500m<sup>2</sup>. Acreage allotments will front Boundary Road to provide a transition to existing acreage development on the southern side of Boundary Road. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.*

*A Voluntary Planning Agreement will be sought that will require the preparation of a site-specific development control plan - incorporating a staged master plan - for the developable land. The development control plan will seek to maximise retention of vegetation and ecological outcomes and minimise ecological impact, and enforce a high level of development design.*

*The land identified as Environmental Management will be retained, enhanced and placed into a conservation zone in recognition of the ecological values of the site. The intent is to transfer this land into public ownership as part of the Voluntary Planning Agreement.*

In making this recommendation, Council is advised that the NSW Department of Planning's gateway determination to refuse the planning proposal does not preclude Council from considering amending the Medowie Strategy to include Site 1 Boundary Road (although whether the Department will endorse the Medowie Strategy is also another separate matter).

As mentioned previously in this report, the proponent is in the process of addressing the concerns raised by DECCW regarding flora and fauna impacts.

### **SITE 3 – WAROPARA ROAD NORTH**

**Property Description:** Lot 2 in DP 869411

**Proponent:** Carman Surveyors

**Site Area:** 1 hectare

**Existing Zoning:** 1 (c3) Rural Small Holdings

**Exhibited Amendment:** Rural Small Holdings and Environmental Living

#### **Key issues raised by submissions**

The Waropara Road site was addressed in three (3) submissions. The submissions raised the following key issues:

- Lot size;
  - Lots of 1000-1500m<sup>2</sup> are too small;
  - Lot size is too small to retain any vegetation;
  - Proposed lot size is out of character with existing development;
- Flooding and drainage;

- Amendments to the Strategy should wait until completion of Council's drainage study for Medowie.

### **Recommendation & Discussion**

It is recommended to amend the Medowie Strategy to include Site 3 - Waropara Road North as Large Lot Residential as shown in **Attachment 1**.

Site 3 – Waropara Road North is a logical and reasonable addition to the development footprint identified in the Strategy for the Waropara Neighbourhood. Including the Site has merit given its proximity to, and ability to make use of, existing community facilities.

The proponent submits that including the land will enable a more regular shaped development area providing additional yield to assist in cost sharing of required infrastructure.

Drainage may be an issue given the low-lying topography at the rear of the site in proximity to known drainage flow paths. A future planning proposal for the site will need to provide detailed information on flooding and drainage issues and this could require the development footprint to be refined.

In terms of impacts on flora and fauna, the site has low conservation significance under the Medowie Strategy. The front third of the site is generally cleared, however the remaining land is vegetated. If clearing is to take place, biodiversity offsets or a refined development footprint may be required. A detailed assessment of flora and fauna impacts will need to be provided with any planning proposal for the site.

### **SITE 5 – FERODALE ROAD WEST**

**Property Description:** Lot 106 in DP 1082077

**Proponent:** Monteath & Powys

**Site Area:** 5 hectares

**Existing Zoning:** 1(c1) Rural Small Holdings

**Exhibited Amendment:** Environmental Living

### **Key issues raised by submissions**

The Ferodale Road West site was raised in twelve (12) submissions. The submissions raised the following key issues:

- Lot size:
  - The creation of small allotments adjacent to an existing acreage estate (Mahogany Acres) and subsequent impact on amenity, property values and character of the area;
  - Lots of 1000-1500m<sup>2</sup> are too small;
- Environmental impacts;
  - Lot size is too small to retain any vegetation;
  - Removal of an existing wildlife corridor;
- Flooding and drainage:

- Potential for impact on water quality in Grahamstown Dam.

### **Recommendation & Discussion**

It is recommended to amend the Medowie Strategy to include Site 5 – Ferodale Road West as part Large Lot Residential, with a reduction in the area placed on public exhibition, as shown in **Attachment 1**.

In the previous report to Council it was recommended to exhibit the entire site for Environmental Living, primarily because the site provides an opportunity for a coordinated development with adjoining land under the same ownership.

It is recommended to reduce the area identified for potential development compared to the potential development as exhibited.

Identifying the southern part of the site only for a limited expansion only of Large Lot Residential will acknowledge the development potential of that part of the Site that is primarily cleared. This cleared area is a reasonable and logical addition to adjoining land already identified for potential development in the Strategy and under the same ownership, and would address concerns raised by submissions regarding impacts on flora and fauna.

The recommendation also provides a 100m separation to existing acreage development at Mahogany Acres Estate. It seeks to address the comments made in submissions about maintaining the large-lot amenity of existing development in Mahogany Acres Estate, and to contribute towards maintaining the function of the existing wildlife corridor and vegetation on the site.

### **GENERAL ISSUES**

#### **Flooding and Drainage**

Flooding and drainage concerns are a common issue raised in submissions. There is particular concern about the impact of development at Site 1 - Boundary Road. The submissions comment that it is prudent to postpone amendments to the Strategy until the drainage study for Medowie is completed, in addition to concerns that Medowie already experiences flooding and drainage problems, and that these may be exacerbated if additional land is developed.

The first draft of Council's *Draft Medowie Drainage Study* (WMA Water, November 2010) has been completed and is under review by the Medowie Floodplain Risk Management Committee, with a view to endorsing it for public exhibition. The study models various scenarios including development that would occur under the Strategy for the 1% flood event. Importantly, it should be noted that the modelled scenarios includes Site 1 - Boundary Road. The draft summary results of the drainage study are as follows:

- Development under the Strategy does not (in most cases) exacerbate peak flood levels during the 1% AEP event. Flood levels are slightly higher in downstream locations where volume issues dominate flood behaviour



characteristics (order of 0.1m during the 1% AEP event) but generally there is no measurable impact (analysis rounded to nearest 100mm). The impact identified (0.1m) does seem to be widespread within the Campvale Drain Inundation Area however. That is, future development as proposed, does, for the model scenario examined, exacerbate peak flood levels by approximately 100mm in the Campvale Drain Inundation Area; and

- It may be that future development (and the impact of it) is better examined through long-term modelling. Certainly this would better target one of the main issues with additional development i.e. whether or not inundation patterns in the Campvale Drain Inundation Area are impacted. Of particular note are those events which residents in the Campvale Drain Inundation Area are most worried about i.e. long sequences of wet weather, typically occurring between February and July, which result in the Campvale Inundation Area being wet for extended intervals and denying property owners' access and use of their land.

(WMA Water, November 2010: 41)

The draft results indicate that impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measurable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area.

In considering whether to amend the Medowie Strategy to include additional sites, a point to consider is whether including or excluding the three sites from the Strategy (and in particular Site 1 Boundary Road) would make any significant difference to the findings of the *Draft Medowie Drainage Study*. The draft findings of the *Draft Medowie Drainage Study* indicate that excluding the sites may not make any significant difference.

Any proposal to rezone and develop each site included under the Strategy will need to demonstrate, via detailed investigations, that any flooding and drainage issues are able to be appropriately managed.

It is recommended that the proposed amendments to the Strategy proceed with respect to flooding and drainage issues, and be addressed at rezoning stage, rather than delay amending the Strategy until the *Draft Medowie Drainage Study* is finalised.

### **Lot Size**

The submissions comment that the aims of Environmental Living land use, as set down in the Strategy, will not be met with a lot size of 1000-1500m<sup>2</sup> because the erection of dwellings and associated infrastructure will require the removal of most, if not all, vegetation. In summary, the issue is that the lot size for Environmental Living is too small to retain vegetation and that Environmental Living is effectively a contradiction in terms. To address this issue a recommendation of this report to amend the Strategy to refer to Rural Small Holdings and Environmental Living as Large Lot Residential, to respond to submissions received, to reflect their true character, and to ensure consistency with their future equivalent zone under the *Standard Instrument – Principal Local Environmental Plan*.

## **FINANCIAL/RESOURCE IMPLICATIONS**

Implementing the recommendations of this report will require the allocation of staff resources in administering the changes and updating the content of the Strategy.

## **LEGAL, POLICY AND RISK IMPLICATIONS**

Includes environmental, social and economic implications

### Lower Hunter Regional Strategy (LHRS)

Medowie is recognised as a town in the LHRS with an area identified as a "Proposed Urban Area" with boundaries to be defined through local planning. The Medowie Strategy was subsequently prepared and adopted by Council and it identifies land for potential rezoning. The merit of including Site 1 Boundary - Road, despite its location within a green corridor, is discussed previously in this report.

### Port Stephens Community Settlement and Infrastructure Strategy 2007 (CSIS)

The CSIS has reviewed and was the subject of a separate public exhibition and report to Council. The exhibited CSIS identified Site 1 - Boundary Road and Site 5 - Ferodale Road West as potential "New Growth Areas". The small land area of Site 3 – Waropara Road makes it difficult to readily identify on the relevant map.

### General Implications

The Strategy is used to provide strategic direction in making planning recommendations and decisions, particularly for rezoning requests. By amending the Strategy, Council will be indicating its general support for future changes in land use, subject to detailed investigations as part of the rezoning process for each site. The Medowie Strategy and CSIS should demonstrate consistency.

### Port Stephens Local Environmental Plan 2000 – Comprehensive Review

A comprehensive review of the *Port Stephens Local Environmental Plan 2000* is being prepared for initial consideration by Council in 2011. The review includes converting existing zones to standard zones under the *Standard Instrument – Principal Local Environmental Plan*. Council is advised that Environmental Living and Rural Small Holding land uses in the Strategy are both likely to be applied as the equivalent zone of R5 Large Lot Residential.

## **SUSTAINABILITY IMPLICATIONS**

The social, economic and environmental implications of adopting the Strategy have been the subject of previous reports to Council. The recommended amendments have similar strategic sustainability implications.

## **CONSULTATION**

The proposed amendments to the Strategy were placed on public exhibition from 25<sup>th</sup> February to 8<sup>th</sup> April 2010. 18 submissions were received and are summarised and responded to in the table at **Attachment 3**.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Subject sites as recommended
- 2) Subject sites as publicly exhibited
- 3) Submissions summary table.

## **COUNCILLORS ROOM**

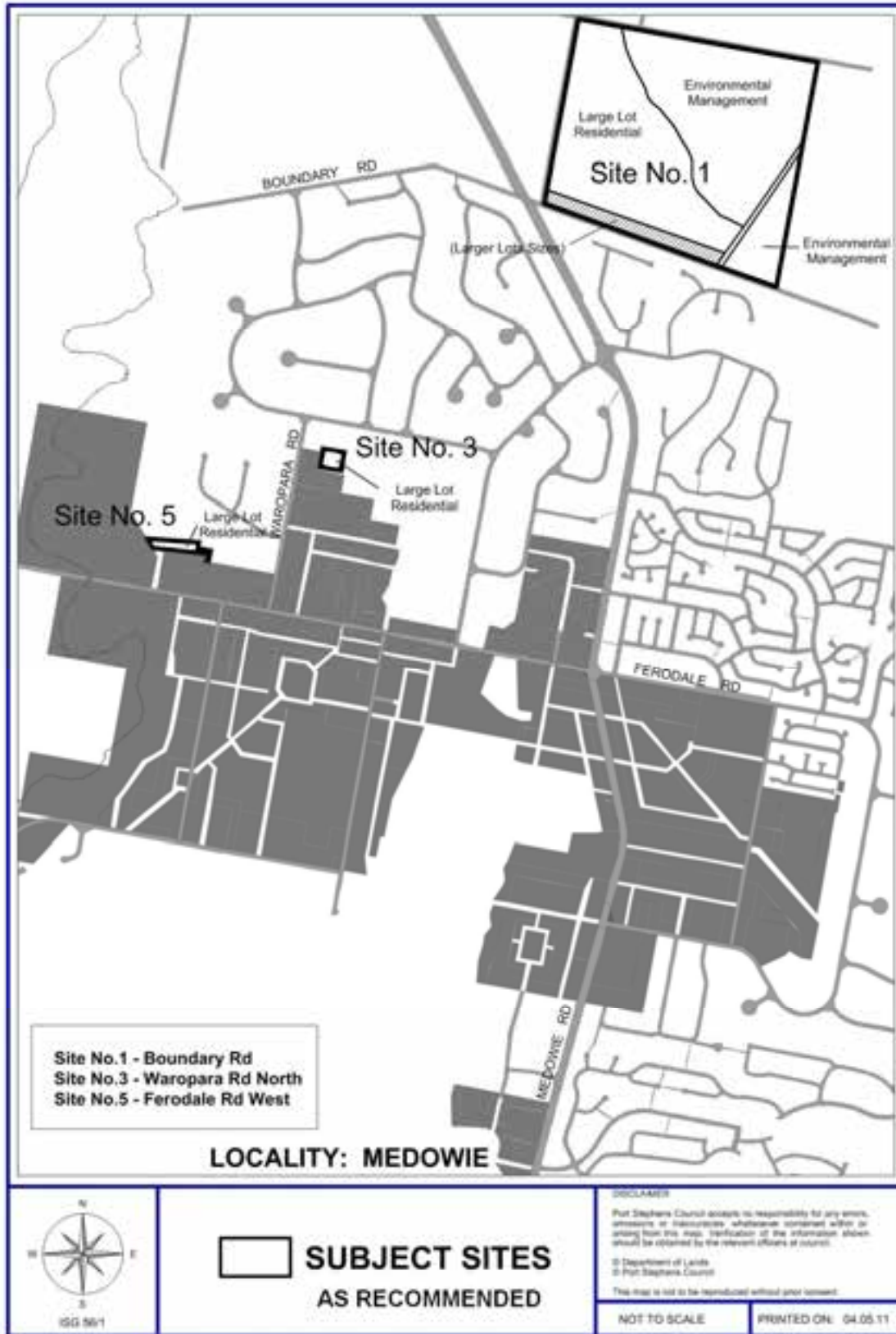
- 1) Medowie Strategy - Amendment Exhibition Folder
- 2) Submission Folder.

## **TABLED DOCUMENTS**

Nil.

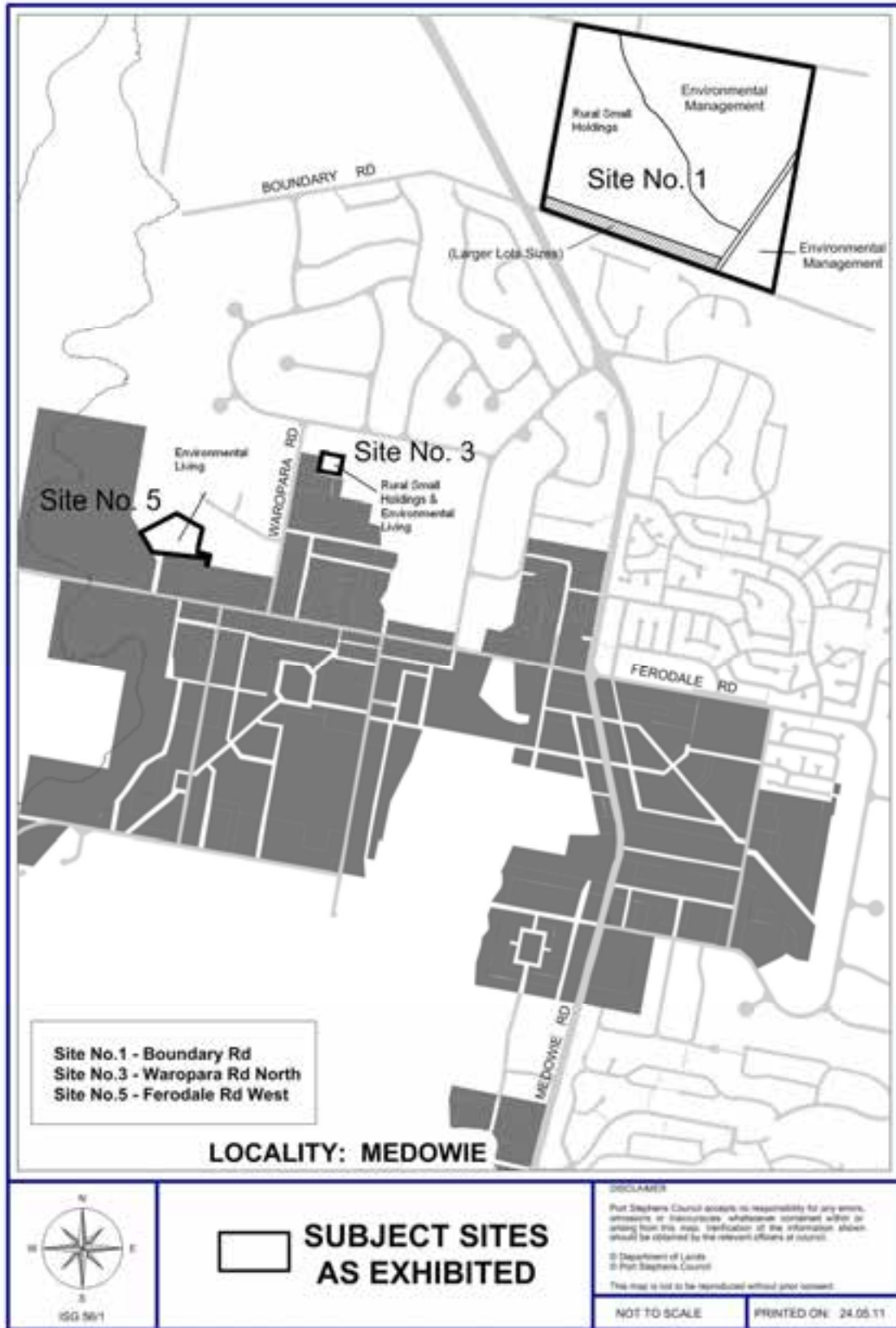
ATTACHMENT 1

Subject sites as recommended



ATTACHMENT 2

Subject sites as publicly exhibited



**ATTACHMENT 3**

Submissions summary table

**Submissions Summary Table – Amendments to the Medowie Strategy**

Sub No.	Main issues raised	Comments
<p>1 Resident</p>	<p><b>General</b> The proposed amendments will increase population and amplify demand for services. Council should concentrate on resolving existing infrastructure issues.</p> <p><b>Site 1 - Boundary Road</b> Proposed lot size is too small and will create a satellite community. Lot sizes should be 4000m<sup>2</sup> consistent with the surrounding area.</p> <p>Not convinced that household rainwater tanks will resolve the drainage problems that will occur.</p> <p>Does not support the placement of a dry detention pond on proposed public environmental land. This will cause environmental damage and is unacceptable.</p> <p>Increased traffic turning onto Medowie Road will create a hazard.</p> <p><b>Site 5 - Ferodale Road West</b> The development will create runoff to Grahamstown Dam.</p> <p>Proposed lot size is too small and will conflict with the existing rural aspect of the area.</p> <p>The area is identified as Koala Habitat. If land is to be developed it should focus on cleared land.</p>	<p><b>General</b> With the exception of Boundary Road, the sites are only very minor additions to the Strategy. If Boundary Road proceeds the proposal will need to demonstrate adequate provision of and contribution to infrastructure, as part of the rezoning process. The purpose of the Strategy is to identify the potential of the land future development.</p> <p><b>Site 1 - Boundary Road</b> Lot size within Boundary Road will vary throughout the site but will generally be 1000-1500m<sup>2</sup>. Larger allotments (approximate size 4000m<sup>2</sup> (1 acre) will front Boundary Road to provide a transition to existing acreage development. Larger allotments may also be provided at locations throughout the site to accommodate retention of vegetation.</p> <p>Rainwater tanks will be part of an overall solution to managing drainage on the site.</p> <p>The proposed detention wall will be subject to the approval of Council and DECCW as part of any future rezoning process.</p> <p>The developer will be required to upgrade the intersection of Boundary Road and Medowie Road to appropriate standards to satisfy the needs of any future development.</p> <p><b>Site 5 - Ferodale Road West</b> Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HVC for comment.</p> <p>The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p>

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Sub No.	Main issues raised	Comments
2 Resident	<p><b>General</b> A more comprehensive Medowie Strategy should be prepared to avoid continuous amendments.</p> <p>More comprehensive staging criteria for future development are required. Infrastructure needs to precede major developments. A balance of housing density is required to provide for families and individuals of all ages, to provide affordable housing.</p> <p><b>Site 1 - Boundary Road</b> The recommendation to consider the site for inclusion in the Strategy is not consistent with previous recommendations to Council in 2008 and 2009. No concerns in principle provided that it will not create flooding problems and that proper planning is applied. What is the re-forecast urban capacity report? How will the proposals accelerate the town centre growth and other facility development? What is the effect of these proposed developments on existing developments?</p>	<p><b>General</b> It is not intended to undertake further amendments to add additional sites to the Strategy.</p> <p>Council is in the early stages of preparing an infrastructure strategy for Medowie.</p> <p>The Strategy provides for a range of development densities.</p> <p><b>Site 1 - Boundary Road</b> The proposal to include this site is being reconsidered as a new proposal. It has been extensively revised and is significantly different to previous proposals (note: previous proposals were for a standard residential rezoning to facilitate of approximately 1300 allotments, and more recently for a 260 allotment rural residential subdivision across the entire site).</p> <p>The intended lot yield is a maximum of 300 dwellings.</p>
3 Resident	<p><b>Site 1 - Boundary Road</b> Concerned that development in this site will lead to loss of vegetation, habitat and buffer zone to Medowie State Forest, interfere with natural drainage to Moffats Swamp and encroach on existing semi-rural lots to the south.</p> <p>Agrees if any development is to occur it should be rural holdings in the south west and remainder as environment protection as proposed. Agrees with larger lots adjoining Boundary Road.</p> <p>Would generally prefer larger lots.</p> <p><b>Site 3 - Waropara Road North</b> No objection</p> <p><b>Site 5 - Ferodale Road West</b> No objection</p>	<p><b>Site 5 - Boundary Road</b> Lot size within Boundary Road will vary throughout the site but will generally be 1000-1500m<sup>2</sup>. Acreage allotments will front Boundary Road to provide a transition to existing acreage development. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.</p>

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Sub No.	Main issues raised	Comments
4 Resident	<p><b>General</b> Concerned that after much consultation and changes to the Strategy through due process, changes are being proposed before the original plan has been implemented.</p> <p><b>Site 5 - Ferodale Road West</b> Objects to the proposed changes to the Strategy for this site.</p> <p>Relocated in the area for amenity with expectation that if any further development occurs it would be acreage lots consistent with existing development.</p> <p>The impact of the development on flora and fauna is contrary to the title Environmental Living.</p> <p>Concerned about the impact upon water running to Grahamstown Dam.</p> <p>Concerned about the possibility of other similar development proposals in the future that will change the character of the area.</p> <p>Decline in property value due to the changing nature of the area.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas.</p> <p>The comments about lots of 1000-1500m<sup>2</sup> being too small to meet the objectives of Environmental Living are noted. Despite this, it is not a recommendation of this report to make a general amendment to lot sizes in the Strategy.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment.</p>
5 Resident	<p><b>General</b> Constant changes do not help progress.</p> <p>Additional development may assist Medowie provided that it is done using best practice.</p> <p><b>Site 1 - Boundary Road</b> Development may be beneficial provided that it follows best practice development guidelines.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 1 - Boundary Road</b> The development is proposed to be subject to a site-specific DCP and master plan that will ensure a high quality development takes place.</p>
6 Resident	<p><b>General</b> Medowie requires a single comprehensive strategy is required that addresses all matters. If Medowie is to grow it requires better transport, easier access to shops, development of businesses and community infrastructure to support population growth.</p> <p>The Strategy should account for aircraft noise maps.</p>	<p><b>General</b> The Lower Hunter Regional Strategy and the Port Stephens Community Settlement and Infrastructure Strategy provide overall planning direction for Port Stephens. The Medowie Strategy has been prepared to provide additional detailed guidance.</p> <p>The sites proposed for addition are not subject to ANEF mapping.</p>



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Sub No.	Main issues raised	Comments
7 Resident	<p><b>Site 1 - Boundary Road</b> Concerned about potential contamination and suggests following the recommendations for this issue in the consultants (HLA) report.</p> <p>The proposal to dedicate part of the site for Environmental Management is supported. The future governing body for this land would need to agree to the detention basin. There is concern about exacerbating existing drainage problems. Concerned about the impact of development on land downstream that is already flood prone. Suggests waiting for the completion of Council's comprehensive flooding and drainage study.</p> <p>Concerned about impact on flora and fauna. Is there a buffer proposed to the EEC? A no dog or cat policy is near impossible to police. There is no guarantee that properties, post development, will retain vegetation. Does there need to be additional offsetting for the impact of the dry retention basin?</p> <p>Does not support any change to zoning as the site contains so much threatened flora and fauna and will add to incremental habitat loss.</p> <p><b>Site 3 - Waropara Road</b> Comparison of the flood maps shows that part of the land may be flood prone. Inclusion of the site should wait until the comprehensive flooding and drainage study is completed.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is not in keeping with surrounding development. The development may lead to erosion problems if trees are removed. The development will remove a wildlife corridor to Grahamstown Dam.</p> <p>Figure A.11 of the Medowie Strategy shows that an endangered ecological community is located on part of the site and part of a wider corridor.</p> <p>Most existing properties operate septic systems. It is not a good idea to encourage further development that relies on septic systems in proximity to Grahamstown Dam.</p> <p>Are there proposed vegetation offset areas to make up for the loss of vegetation?</p> <p>Suggests waiting for the recommendations of the comprehensive flood and drainage study.</p>	<p><b>Site 1 - Boundary Road</b> The proposed detention wall will be subject to the approval of Council and DECCW as part of any future rezoning process.</p> <p>A buffer is proposed to the EEC, including a ring road.</p> <p>The draft results indicate that drainage impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measurable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area. Under this circumstance, and based on the findings of the Draft Medowie Drainage Study, it would appear that there is no overriding reason not to amend the Medowie Strategy at this time to include the three sites subject of this report.</p> <p><b>Site 3 - Waropara Road</b> The site is not mapped as flood prone Council's flood prone land maps. Any flooding and drainage issues will be further clarified as part of the rezoning process.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>

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Sub No.	Main issues raised	Comments
8 Resident	<p>Site 5 - Ferodale Road West</p> <p>Objects to proposal. Concerned about the plight of koalas within Port Stephens and Medowie in particular. It is becoming endangered in this region due to habitat loss. This site is identified as koala habitat and it is essential to preserve this vegetation even though some has already been removed.</p> <p>Koalas have been rescued, then relocated in this area in the past four years and it is an important and necessary corridor.</p> <p>The koala is an important tourist attraction for Port Stephens and an international symbol and should be preserved.</p>	<p>Site 5 - Ferodale Road West</p> <p>The recommended development footprint has been reduced to avoid vegetated areas.</p>
9 Resident	<p>Site 5 - Ferodale Road West</p> <p>Objects to the proposal.</p> <p>Residents bought land in Mahogany Acres for lifestyle. The proposal for small block sizes is opposite to the design of existing development and will decrease aesthetic appeal and land values.</p> <p>The proposed development is not more desirable compared to existing agriculture on the site.</p> <p>What consideration has been given to the water catchment of Grahamstown Dam? The development is likely to have a negative impact on water quality.</p> <p>If the development proceeds it will encourage other similar developments. Because the site is under single ownership is not sufficient reason on its own to support development.</p>	<p>Site 5 - Ferodale Road West</p> <p>The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>
10 Resident	<p>Site 1 - Boundary Road</p> <p>Objects to the proposal.</p> <p>Concerned about an increase in stormwater. No decisions should be made until the comprehensive flooding and drainage study is completed.</p> <p>In recent years a significant number of homes in Medowie have been affected by flooding. Council has used significant ratepayer money and resources to address this problem. Any decision should not repeat past mistakes.</p>	<p>Site 1 - Boundary Road</p> <p>The draft results indicate that drainage impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measureable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area. Under this circumstance, and based on the findings of the Draft Medowie Drainage Study, it would appear that there is no overriding reason not to amend the Medowie Strategy at this time to include the three sites subject of this report.</p>

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Sub No.	Main issues raised	Comments
11 Resident	<p>Site 1 - Boundary Road Objects to the proposal.</p> <p>Environmental Living lots of 1000-1500sqm is a contradiction in terms. The lot size would need to be at least 4000sqm to achieve the aims of the Environmental Living zone. Existing 2000sqm lots in Medowie show a lack of trees; bushfire requirements will create additional clearing; due to soil type any trees near dwellings will create a hazard and will need to be cleared; clearing will be required for services.</p> <p>The proposal for a dry detention basin needs to be agreed to be DECCW. Its permissibility needs to be confirmed.</p> <p>The applicant's drainage study implies no increase in water flow to Moffats Swamp. This issue should be confirmed by the comprehensive flooding and drainage study.</p> <p>Consideration should be given to increasing lot size of Environmental Living to 4000m2.</p>	<p>Site 1 - Boundary Road</p> <p>The comments about Environmental Living lot size have merit. However, it is not a recommendation of this report to change the lot sizes already adopted for the Strategy.</p> <p>Lot size within Boundary Road will vary throughout the site but will generally be 1000-1500m2. Acreage allotments will front Boundary Road to provide a transition to existing acreage development. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.</p> <p>The proposed detention wall will be subject to the approval of Council and DECCW as part of any future rezoning process.</p> <p>The draft results indicate that drainage impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measureable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area. Under this circumstance, and based on the findings of the Draft Medowie Drainage Study, it would appear that there is no overriding reason not to amend the Medowie Strategy at this time to include the three sites subject of this report.</p>

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Sub No.	Main issues raised	Comments
12 Resident	<p><b>General</b> Residents are disappointed that within 12 months of adoption and 5 of years consultation the Strategy is already being amended.</p> <p><b>Site 1 - Boundary Road</b> Medium density housing on the outskirts of Medowie is not supported by the Medowie Strategy.</p> <p>Stormwater drainage problems for adjoining land.</p> <p>It is doubtful that the proposal for stormwater on adjoining land is either practical or will be approved.</p> <p>There has been no test of water volumes and flow against the Council flood study.</p> <p><b>Site 3 - Waropara Road</b> Medium density development is out of character with the rural atmosphere.</p> <p>Drainage problems with stormwater directed to Kula Road flood zone.</p> <p>Environmental Living is a contradiction in terms requiring removal of all natural vegetation.</p> <p>Proposal will result in the destruction of koala habitat.</p> <p><b>Site 5 - Ferodale Road West</b> The proposal will create an isolated enclave of medium density development out of character with the rural atmosphere.</p> <p>Environmental living is a contradiction requiring removal of all vegetation.</p> <p>Polluted drainage will be directed towards Grahamstown Dam.</p> <p>Fringe development is against the principles of the Medowie Strategy.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 1 - Boundary Road</b> Lot size within Boundary Road will vary throughout the site but will generally be 1000-1500m<sup>2</sup>. Acreage allotments will front Boundary Road to provide a transition to existing acreage development. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.</p> <p>The draft results indicate that drainage impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measureable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area. Under this circumstance, and based on the findings of the Draft Medowie Drainage Study, it would appear that there is no overriding reason not to amend the Medowie Strategy at this time to include the three sites subject of this report.</p> <p><b>Site 3 - Waropara Road</b> The site is a minor extension of an area already identified for future land use change under the Medowie Strategy.</p> <p>The site is not mapped as food prone Council's flood prone land maps. Any flooding and drainage issues will be further clarified as part of the rezoning process.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>

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Sub No.	Main issues raised	Comments
<p>13 Resident</p>	<p>Site 5 - Ferodale Road West Purchased acreage land in Mahogany Acres Estate for lifestyle reasons. The original developer was required to leave a 'green belt' at the rear of properties. This land was intended to provide a buffer to future development.</p> <p>Existing acreages range from 2 acres to 8 acres. This is very different to the proposal for 35 x 1000-1500sqm lots. A minimum size of 2 acres is more appropriate.</p> <p>Property values in Mahogany Acres will decrease if the proposal proceeds.</p> <p>If 35 lots are developed there will be significant additional traffic that will be accessed via a 'dog-leg' entrance.</p> <p>Existing properties in Mahogany Acres have retained most of the original vegetation. Any vegetation that is left on the proposed site will be removed by development. Development will not 'meld' with existing Mahogany Acres.</p> <p>Concerned about the impact of runoff from 35 additional homes on water quality.</p>	<p>Site 5 - Ferodale Road West The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>
<p>14 Resident</p>	<p>Site 5 - Ferodale Road West Objects to the proposal.</p> <p>Purchased property in Mahogany Estate for lifestyle reasons. A 'green belt' was required at the rear of properties for a variety of reasons including separation to HWC land, a wildlife corridor and country lifestyle. The proposal contradicts expectations of protection of the green belt.</p> <p>The proposal will create a suburban area adjoining a country estate. The size of the lots should be no smaller than 2 acres to maintain the character of the area.</p> <p>The proposed lot size of 1000-1500sqm will result in clearing the land. The land has already been cleared of everything but large trees. Review of existing 2000sqm lots in Medowie shows a lack of original trees. Further clearing for bushfire and infrastructure will occur.</p> <p>Any change in zoning should be consistent with surrounding zoning. 4000sqm lots fronting Ferodale Road and remaining 10000sqm. Other land in Medowie is already cleared and should be developed first.</p> <p>Medowie is well known as koala habitat and any significant reduction in vegetation will have an impact. Lot size of 1500sqm will not allow sufficient vegetation for the koala to survive.</p>	<p>Site 5 - Ferodale Road West The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>

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Sub No.	Main issues raised	Comments
15 Resident	<p>Site 5 - Ferodale Road West Objects to the proposal.</p> <p>Purchased adjacent land in an acreage estate with a reasonable expectation that future adjoining lots would be similarly developed.</p> <p>The proposal will result in up to four adjoining neighbours.</p> <p>Their property will decline in value as the outlook to mature gum trees will be affected, despite any Council intentions and development controls.</p> <p>Amenity will be decreased as existing trees to the west block afternoon summer sun.</p> <p>Several years ago the proponent removed all natural vegetation below a certain height. Past clearing and actions of the landowner are inconsistent with the Comprehensive Koala Plan of Management and it is not surprising that the landowner's report reveals not much koala activity. A buffer zone should be applied as required by the CKPoM.</p> <p>Environmental Living lots of 1000-1500sqm is a contradiction in terms. Lot size should be increased to 4000sqm to achieve the objectives of Environmental Living.</p> <p>Majority of trees will be removed if development occurs due to bushfire and infrastructure requirements. Examination of existing 2000sqm lots in Meadowe shows a lack of vegetation.</p> <p>There should be a gradual transition of lot sizes adjoining existing development acreage development.</p> <p>The recommendation of Environment Services Section to create a viable wildlife corridor, and its location, needs to be clarified.</p> <p>The views of Hunter Water Corporation on the proposal should be sought.</p> <p>The tree clearing that will be required to build on subsequent lots needs clarification.</p> <p>Council should consider increasing the size of Environmental Living lots to 4000sqm in the Meadowe Strategy.</p>	<p>Site 5 - Ferodale Road West The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>

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Sub No.	Main issues raised	Comments
<p>16 Resident</p>	<p><b>General</b> Council should not be considering any more proposals until land already identified in the Strategy is developed.</p> <p><b>Site 1 - Boundary Road</b> The area is under the approach to the Salt Ash Air Weapons Range. Future purchasers should be advised of this if the land is developed.</p> <p>Any electricity supply should be placed underground.</p> <p>The land eventually drains to Moffats Swamp and when developed there will be insufficient land to absorb water. The soil type does not support absorption and consideration should be given to raising the floor level of any dwellings. Reticulated sewerage should be provided.</p> <p>The proposal is for 300-350 lots, less than the 1000 originally proposed. This is reasonable given that part of the site is proposed to a green corridor.</p> <p>Consideration needs to be given to adequate public transport at the site and in Medowie town centre.</p> <p>Intersection safety of Boundary and Medowie Road needs to be a main consideration.</p> <p>The area experiences flooding problems. Due consideration should be given to the Medowie flooding and drainage study being prepared by Council.</p> <p>Due consideration needs to be given to all native animals living in the area.</p> <p><b>Site 5 - Ferodale Road West</b> The development was not included in the original document. The proposed lot size does not blend with the existing development at Mahogany Acres.</p> <p>Stormwater runoff to Grahamstown Dam needs to be considered.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 1 - Boundary Road</b> Although the site may be subject to aircraft noise from time to time, it is not located within ANEF noise contours.</p> <p>The draft results indicate that drainage impacts from urban development under the Strategy – which includes consideration of Site 1 Boundary Road - are generally of no measureable impact, with the apparent exception of some impact on the Campvale Drain Inundation Area. Under this circumstance, and based on the findings of the Draft Medowie Drainage Study, it would appear that there is no overriding reason not to amend the Medowie Strategy at this time to include the three sites subject of this report.</p> <p>The developer will be required to upgrade the intersection of Boundary Road and Medowie Road to appropriate standards.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p>

MINUTES FOR ORDINARY MEETING – 14 JUNE 2011

Sub No.	Main issues raised	Comments
17 Resident	<p><b>General</b> Objects to the proposed amendments to the Medowie Strategy.</p> <p>It is important to maintain the integrity of the original Medowie Strategy.</p> <p><b>Site 1 - Boundary Road</b> The proposal is unnecessary and is inconsistent with the aim of the Medowie Strategy to grow the town from the inside then out and avoid sprawl on the edges.</p> <p>The land drains towards Moffats Swamp not Swan Bay as asserted by the developer.</p> <p>There are no guarantees that the number of houses built will be the same as proposed by the developer.</p> <p><b>Site 5 - Ferodale Road West</b> The land is on the fringe of Medowie in a rural area. It is too far from the town centre. Other sites are available for the type of development proposed.</p> <p>The land slopes towards Grahamstown Dam and previous proposals to develop were stopped for this reason. The development is down slope of a ditch that has been dug to manage runoff from existing properties.</p> <p>The proposed development is out of character with existing acreage development.</p> <p>The development is in an area of native bush and will result in its clearing. Other areas of Medowie should be considered for development instead.</p> <p><b>Site 3 - Waropara Road</b> Does not object in principle, however the site must not be koala habitat or important for other wildlife.</p> <p>It should not be used as a precedent for rezoning other unspecified areas of Medowie.</p>	<p><b>General</b> Concern about the changes to the Strategy so soon after its adoption are noted.</p> <p><b>Site 1 - Boundary Road</b> Lot size within Boundary Road will vary throughout the site but will generally be 1000-1500m<sup>2</sup>. Acreage allotments will front Boundary Road to provide a transition to existing acreage development. Larger allotments may also be provided at locations throughout the site to encourage retention of vegetation.</p> <p><b>Site 5 - Ferodale Road West</b> The proposed lot size is retained but the recommended development footprint has been reduced to provide a buffer to existing acreage allotments.</p> <p>The recommended development footprint has been reduced to avoid vegetated areas and maintain a wildlife corridor.</p> <p>Water quality will need to be managed as part of any future development. Any rezoning will also be referred to HWC for comment. Future development will need to be connected to the reticulated sewer system.</p> <p><b>Site 3 - Waropara Road</b> Any rezoning request will need to provide a detailed investigation of detailed flora and fauna impacts.</p>



MINUTES FOR ORDINARY MEETING – 14 JUNE 2011

Sub No.	Main issues raised	Comments
<p>18 Company (Eureka)</p>	<p>Site 1 - Boundary Road Spoken to in excess of 60 households who have been supportive of the amended proposal for Boundary Road.</p> <p>Held a community day on 20<sup>th</sup> February 2010 that was attended by 50 people. The general response from the majority was that they saw the development as a natural extension of Medowie's rural residential footprint.</p> <p>Households adjoining the site in Settlers Close, Squires Close and County Close. Whilst the adjoining owners were supportive of the amended proposal and number of amendments were proposed to lessen impact on these owners, Eureka is supportive of accommodating these changes including:</p> <ul style="list-style-type: none"> <li>• That Boundary Rd is sealed as part of the first stage to control noise and dust;</li> <li>• That Boundary Road is developed as a cul-de-sac, only servicing Boundary Road, with main access via a western road;</li> <li>• County Close owners have had significant flood issues in the past and are concerned about increased flood risk. The proposed dry land detention wall would provide a second level of security in addition to the recently constructed bund wall by Council.</li> <li>• Two owners in Fisher Road may be impacted by car lights from vehicles turning out of Boundary Road. Tree planting can occur to mitigate any impacts.</li> </ul> <p>After explaining the details of the amended proposal to the residents consulted, only one person still objected to the proposal. If there are still residents concerned about the proposal, Eureka would be willing to discuss their proposal with them directly.</p>	<p>Site 1 - Boundary Road The consultation undertaken by Eureka is noted, including the proposed detailed measures to mitigate potential impacts.</p> <p>The proposed detention wall will be subject to the approval of Council and DECCW as part of any future rezoning process.</p>

ITEM NO. 6

FILE NO: PSC2010-04964

**REGIONAL RESPONSE TO OFFSHORE MINING****REPORT OF: BRUCE PETERSEN – ENVIRONMENTAL AND DEVELOPMENT PLANNING  
MANAGER****GROUP: SUSTAINABLE PLANNING**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the draft letter regarding: "Offshore Mining Exploration – Coal and Petroleum Gas – PEP11" (Attachment 1) to be signed by the Mayor, Councillor Westbury.
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**COUNCIL COMMITTEE MEETING – 7 JUNE 2011****RECOMMENDATION:**

	<b>Councillor Bob Westbury Councillor Shirley O'Brien</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>200</b>	<b>Councillor John Nell Councillor Caroline De Lyall</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

**The purpose of this report is to gain Councils endorsement for a joint response from Hunter coastal councils to the relevant State and Federal Ministers responsible for offshore mining.**

At Lake Macquarie's Ordinary Council meeting of 18 October 2010 it was resolved that other potentially impacted coastal councils be invited to a joint meeting to consider the implications of offshore gas exploration, in particular the offshore gas exploration under Petroleum Exploration Permit (PEP) 11. It was also discussed that a joint response to the responsible government authorities may be possible and may yield an improved outcome for local government.

A meeting of staff from Lake Macquarie, Wyong, Shire, Port Stephens, Newcastle City and Gosford City was held on 22 March 2011 to consider the project and discuss a collaborative approach. The key recommendations to come out of the meeting were to send a joint response from the mayor of each Hunter coastal council to the relevant Federal and State Ministers. The letter would request changes be made to,

(and information that is more detailed provided on), the current consultation, emergency response, compliance and legislative requirements for offshore petroleum exploration and mining. It is hoped this will increase knowledge and transparency and allow for public scrutiny.

As a result the correspondence included as attachment 1 has been drafted and is intended for the Federal Minister for Resources and Energy, Martin Ferguson, the State Minister for Resources and Energy, Chris Hartcher, and the State Minister for Primary Industries – Katrina Hodgkinson.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Due to the technical nature of the documentation associated with offshore mining proposals Council has found the timeframes allowed for comment, the process for submissions, and the transparency and feedback provided on submissions for offshore mining activities in PEP 11 unreasonable.

It is hoped that a joint response by Hunter coastal councils will allow councils more time to review these technical documents and allow the community and technical experts access to the documents during the submission period.

### **LEGAL, POLICY AND RISK IMPLICATIONS**

At present Council is unable to distribute the project documentation to other interested parties due to the 'commercial in confidence' arrangements in the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009.

It is hoped that a joint response by Hunter coastal councils will result in an amendment to the legislation and increased transparency.

There are no legal, policy or risk implications to being a signature to the letter.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

If an incident was to occur at an offshore mining facility it has the potential to cause long term damage to the Port Stephens environment (and the Port Stephens tourism industry). The attached letter asks for more details regarding emergency response plans, contingency plans and compliance by the current proponents and relevant authorities.

### **CONSULTATION**

Lake Macquarie, Wyong, Shire, Port Stephens, Newcastle City and Gosford City have discussed the project and opportunities for a collaborative approach. One of the main points of discussion was the restrictions in the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 that does not allow for the release of studies and relevant documents to the public. Contribution is stifled due to current legislative constraints around 'commercial in confidence' that prohibits the

release of Environmental Impact and Management Statements to the general public.

This has been addressed in the letter shown in attachment 1.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Draft Letter to the Federal and State Ministers regarding offshore mining.

This letter will be on Lake Macquarie Council letterhead and an original forwarded to each Mayor for signing.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

**ATTACHMENT 1**

Draft Letter to the Federal and State Ministers regarding offshore mining

To: Federal Minister for Resources and Energy – Martin Ferguson  
State Minister for Resources and Energy, Chris Hartcher  
State Minister for Primary Industries – Katrina Hodgkinson

Dear

**Subject: Offshore Mining Exploration - Coal and Petroleum (Gas) - PEP 11**

We write on behalf of Gosford City, Wyong Shire, Lake Macquarie City, Newcastle City and Port Stephens Councils in relation to our collective concerns about the public consultation processes, compliance and environmental issues relating to offshore mining activities and future proposals in PEP 11.

Previously, in Councils' role to support our elected representatives, written responses addressing proposals from Energie Future and Asset Energy for coal gasification and gas exploration, have been separately submitted to relevant government agencies.

We have found the timeframes provided to local Councils, the process for submissions, the transparency and feedback provided on submissions for offshore mining activities in PEP 11 have been unsatisfactory to date.

In an attempt to rectify this situation, we jointly request the following:

1. That the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 be amended to allow for the release of studies and relevant documents to the public.

During the public submission phase 'Useful' contribution is stifled due to current legislative constraints around 'commercial in confidence' that prohibits Department of Primary Industries from releasing Environmental Impact and Management Statements to the general public

2. That the minimum time for local government to respond to proposals be extended to eight weeks.

This would allow Local Government to review these technical documents and engage experts, if needed, to interpret the documents prior to making a submission.

3. That direction be provided on the Community Consultative Committee (CCC) process. If a CCC is formed then:
  - The community (including indigenous) need to be adequately represented.

- Minutes should be recorded by an independent administrator, not Asset Energy or any other major proponent or stakeholder.
  - The committee be provided with the opportunity to have input and to comment on the agenda.
  - The chair of the committee be fully independent. While there was no evidence that this was not the case, the perception amongst some members of the community was that the Association of Mining Related Councils was not able to present as independent in this instance.
4. That Industry & Investment, as the Department approved to assess proposals, does not advise that the general public send submissions to the proponent (Asset Energy in this case). It is known that at least one of the Councils, was advised by Department of Primary Industries to direct public submissions to Asset Energy. This is of major concern and we need assurance that this is not the procedure promoted by Industry & Investment for public submissions in the future.

With regard to emergency response, contingency plans and compliance by current proponents Asset Energy and Energie Futures, we would like:

1. An outline of how an offshore mining emergency response system operates. In your response could you please include the following:
  - What is the warning system for an oil spill or gas leak?
  - How long will it take from the time of an oil spill or gas leak to implement emergency response actions on site?
  - What material and personnel are needed to be deployed in the event of an oil spill or gas leak?
  - Where is the material sourced from? Is it stored somewhere in readiness? If not how long will it take to get the material on-site?
  - Are adequate personnel on call to respond to an emergency?
  - What measures are in place to relocate wildlife and people that may be effected by an offshore oil spill.
  - A statement on how compliance with standardised and agreed environmental and safety measures be monitored and resourced.
2. The five Councils also have major concerns regarding environmental impacts from offshore mining activities specifically in PEP 11 and do not support offshore mining on a number of grounds including:
  - Effects on the northern whale migration that typically occurs between June and August and their southern return that typically occurs during September and October. Any negative impacts on whales directly impact tourism and the local economy.
  - Concern regarding the ability of local governments to meet greenhouse gas emission reduction targets for their local government areas. For example, Lake Macquarie City Council has adopted a 3% per annum carbon pollution reduction target for activities conducted within the City of Lake Macquarie.
  - The impacts on Marine Parks and adjacent coastal ecosystems in the event of a major oil spill, or gas leak.

We look forward to hearing from you in relation to the specific matters raised above. Should you require further information, please contact Dr Alice Howe, Manager Sustainability, Lake Macquarie City Council on 4921 0337.

Yours faithfully

Cr Greg Piper  
Mayor of Lake Macquarie

Cr Laurie Maher  
Mayor of Gosford City Council

Cr Bob Westbury  
Mayor of Port Stephens Council

Cr Doug Eaton  
Mayor of Wyong Shire Council

Cr John Tate  
Mayor of Newcastle City Council

ITEM NO. 7

FILE NO: PSC2005-4161

**RE-ESTABLISHMENT OF NELSON BAY, ANNA BAY AND RAYMOND TERRACE ALCOHOL FREE ZONES****REPORT OF: BRUCE PETERSEN – MANAGER ENVIRONMENTAL & DEVELOPMENT PLANNING****GROUP: SUSTAINABLE PLANNING****RECOMMENDATION IS THAT COUNCIL:**

- 1) Re-establishes the Nelson Bay, Anna Bay and Raymond Terrace Alcohol-Free Zones for another four years, effective 1 September 2011.

**COUNCIL COMMITTEE MEETING – 7 JUNE 2011****RECOMMENDATION:**

	<b>Councillor John Nell Councillor Glenys Francis</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>201</b>	<b>Councillor Caroline De Lyall Councillor Glenys Francis</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

The purpose of this report is to:

Inform Council of the consultation outcomes in connection with the proposed re-establishment of the alcohol-free zones in Nelson Bay, Anna Bay and Raymond Terrace.

Recommend the re-establishment of the alcohol-free zones in Nelson Bay, Anna Bay and Raymond Terrace.

At the Ordinary Meeting on 8 March 2011 Council resolved to undertake a public consultation process for the re-establishment of the existing Nelson Bay, Anna Bay and Raymond Terrace alcohol free zones.

Council undertook a public consultation process that included forwarding the proposal to relevant stakeholders and advertising the proposal in the local press. This



consultation process complied fully with the Department of Local Government's *Ministerial Guidelines on Alcohol-Free Zones*.

A letter of support for the re-establishment of the alcohol-free zones was received from the Licensing Co-ordinator, Port Stephens Local Area Command, who stated that '*Police ... fully support the re-establishment of the Raymond Terrace, Anna Bay and Nelson Bay Alcohol-Free Zones.*'

No written submissions against the proposal were received.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The cost of re-establishing an alcohol-free zone includes replacing and amending street signs. Funds will be sourced from within the existing Social Planning budget.

### **LEGAL, POLICY AND RISK IMPLICATIONS**

The re-establishment of an alcohol-free zone is governed by Section 646 (1) of the Local Government Act 1993 and by the Local Government Amendment (Alcohol-Free Zones) Act 1995. An Alcohol-Free Zone can only be established for a maximum period of four years, after which it must be re-established following the procedure prescribed by the Department of Local Government's *Ministerial Guidelines on Alcohol-Free Zones* (as amended February 2009).

### **SUSTAINABILITY IMPLICATIONS**

Alcohol free zones are effective tools for local police to deal with alcohol-related offences in an effort to eliminate anti-social behaviour and provide a safer street environment for the community. The re-establishment of the alcohol-free zones in Nelson Bay, Anna Bay and Raymond Terrace will continue to improve public perceptions of safety in the area and reduce fear of crime. These alcohol-free zones have helped to change patterns of alcohol consumption and associated anti-social and criminal behaviour.

Reductions in alcohol-related criminal incidents and improved perceptions of safety may lead to increased economic activity, as more people may be willing to patronise local businesses. Reduced crime can also lead to reductions in the costs of repairing vandalised premises, replacing stolen goods and insurance premiums.

### **CONSULTATION**

All relevant stakeholders as prescribed by the Department of Local Government guidelines.

**OPTIONS**

- 1) Accept the recommendation;
- 2) Reject the recommendation.

**ATTACHMENTS**

- 1) Map - Alcohol Free Zone: Raymond Terrace CBD
- 2) Map – Alcohol Free Zone Anna Bay
- 3) Map – Alcohol Free Zone Nelson Bay.

**COUNCILLORS ROOM**

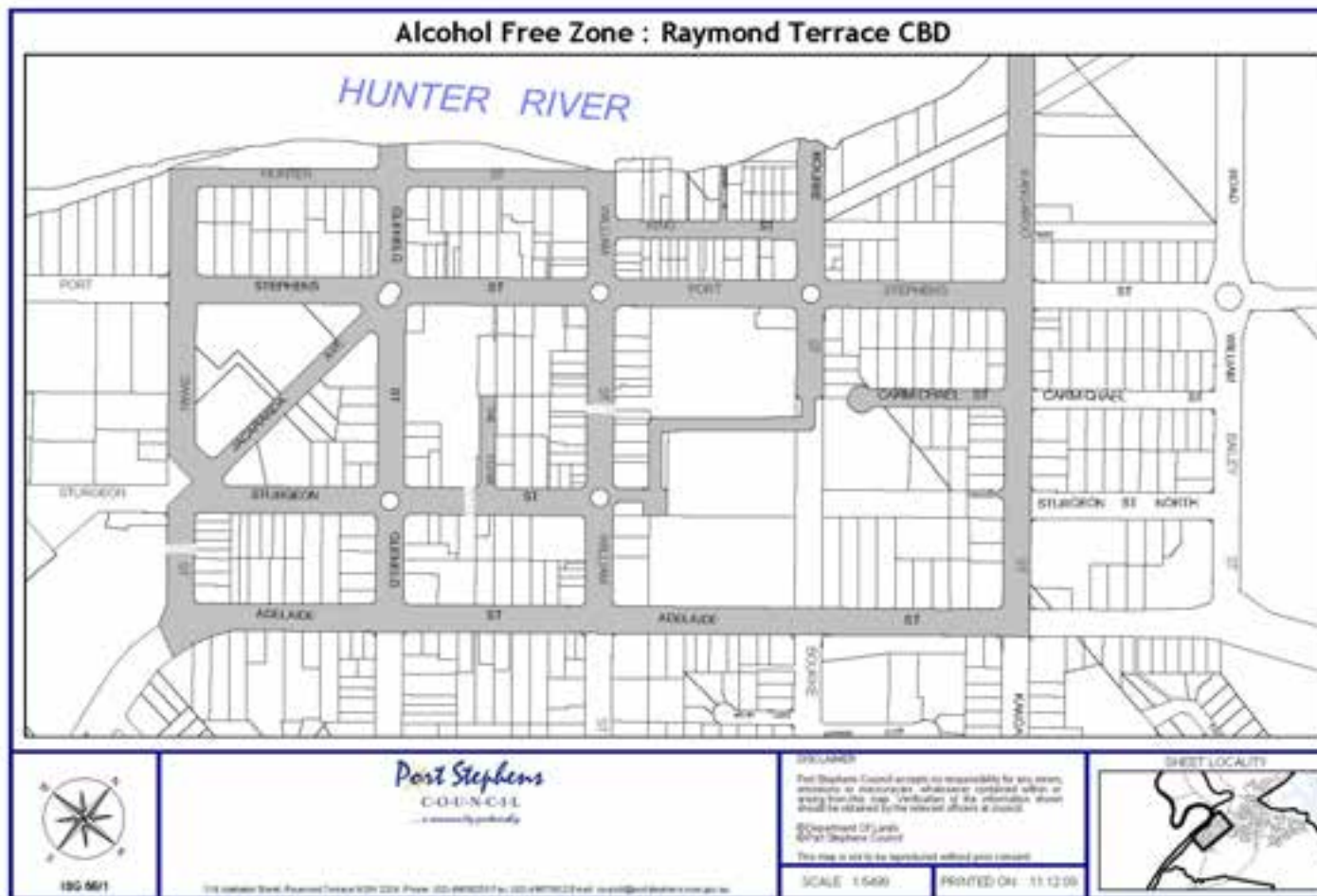
Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1

Map - Alcohol Free Zone: Raymond Terrace CBD



**ATTACHMENT 2**  
Map – Alcohol Free Zone Anna Bay



ATTACHMENT 3

Map – Alcohol Free Zone Nelson Bay



ITEM NO. 8

FILE NO: PSC2010-03722

**SUSTAINABLE PROCUREMENT POLICY**

REPORT OF: DAMIEN JENKINS – FINANCIAL SERVICES MANAGER

GROUP: COMMERCIAL SERVICES

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Resolve to place the Sustainable Procurement Policy on exhibition for a period of 28 days and should Council receive no submissions consider the Sustainable Procurements Policy as adopted.

**COUNCIL COMMITTEE MEETING – 7 JUNE 2011****RECOMMENDATION:**

	<b>Councillor Bob Westbury Councillor Shirley O'Brien</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>202</b>	<b>Councillor Caroline De Lyall Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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Cr Peter Kafer returned to the meeting at 6.10pm prior to voting on Item 8.

**MATTER ARISING**

<b>203</b>	<b>Councillor Geoff Dingle Councillor John Nell</b>	It was resolved that a report be provided on the invoicing arrangements with respect to 355C Committees, including exploring the option of annual invoices which detail the facility location and time of service.
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**BACKGROUND**

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

This policy complements Council's Sustainability Policy, the Council Plan and Procurement Guidelines it sets out Council's commitment to sustainability through its procurement principles. We recognise that it is our responsibility to encourage our suppliers and contractors to minimise any negative effect, environmental, economic or social associated with the products and services they provide.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Failure to comply with this requirement in WaSIP program of the NSW State Government will result in the requirement for the forward payment to be reimbursed to the State Government and redistributed between the remaining eligible Councils.

### **LEGAL, POLICY AND RISK IMPLICATIONS**

The Sustainable Procurement Policy is a guiding policy requesting suppliers to show consideration to sustainable principles.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Provide communication of this policy and its objectives to allow Council to meet future requirements of managing and measuring sustainable procurement. This should have positive implications in the reduction of our carbon footprint.

### **CONSULTATION**

Natural Resource Co-ordinator  
Community & Recreation Co-ordinator.

### **OPTIONS**

- 1) Accept the recommendation;
- 2) Reject the recommendation.

### **ATTACHMENTS**

- 1) Sustainable Procurement Policy.

### **COUNCILLORS ROOM**

Nil.

### **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



POLICY

Adopted:  
Minute No:  
Amended:  
Minute No:

**FILE NO:**

**TITLE: SUSTAINABLE PROCUREMENT POLICY**

**REPORT OF FINANCIAL SERVICES MANAGER – DAMIEN JENKINS**

**BACKGROUND**

This policy complements Council's Sustainability Policy, the Council Plan and Procurement Guidelines, it sets out Council's commitment to sustainability through its procurement principles. We recognise that it is our responsibility to encourage our suppliers and contractors to minimise any negative effect, environmental, economic or social associated with the products and services they provide.

Currently within New South Wales Councils have begun to embrace sustainable purchasing practices and Port Stephens Council sees this an excellent opportunity to work with other Councils to further our regional approach to procurement.

**DEFINING SUSTAINABILITY**

Council shall define Sustainable procurement as "a process whereby Council will meet its needs for goods, works and utilities in a way that achieves value for money on a whole life basis. It shall generate benefits not only for the Council but also to the community and the economy, whilst minimising damage to the environment."

Sustainability is a state in which activities provide good quality of life for all through a just and healthy community, without jeopardising the environmental system that enables our survival. The transition towards this state includes social, economic and environmental components.

Procurement therefore has a broader meaning than purchasing, buying or commissioning. It is about securing purchases and products that best meet the needs of users and the local community in its widest sense. The Council takes sustainability as well as cost and quality into account when choosing suppliers.

Local government expenditure on goods, works & services can have significant economic, social and environmental impacts. Minimising any negative impact in



these areas and, where possible having a positive influence helps to improve local quality of life & promote sustainable development. The cornerstone of sustainability is achieving development & progress that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Finally, Council recognises that improving our procurement performance is an ongoing process and that our suppliers, both large and small, are important partners in our journey to become more sustainable.

## **OBJECTIVE**

Council will endeavour to:

- Develop clear guidelines and tools, with all our stakeholders, to minimise the environmental, social and economic effects associated with the products and services we purchase.
- Identify the mechanisms that we intend to use to incorporate environmental, social and economic factors into our procurement process.
- Develop a process to measure our progress.
- Clearly specify the role that procurement will play in the identification and selection of sustainable products and services.
- Identify and implement necessary changes to the procurement process and specifications to ensure non-discrimination against smaller and/or local suppliers.

## **PRINCIPLES**

- 1) Encourage all internal purchasers to review their consumption of goods and services in order to reduce usage where possible and develop business cases based on sustainable principles.
- 2) Give preference to products and services that can be manufactured, used, and disposed of in an environmentally and socially responsible way.
- 3) Ensure that sustainability criteria are included in specifications to suppliers and encourage alternative offers from Suppliers, which take into account principles of sustainability.
- 4) Ensure that sustainability criteria are used in the award of contracts.
- 5) Adopt a life cycle (total cost of ownership or whole of life) costing approach when assessing quotations/tenders and in the award of contracts.
- 6) Enhance employee awareness of relevant environmental and social effects of purchases through appropriate training exercises.
- 7) Provide guidance and relevant product information to staff members to allow them to select sustainable products and services.
- 8) Encourage and persuade existing and potential suppliers to investigate and introduce environmentally friendly processes and products.

- 9) Ensure that suppliers' environmental credentials are considered in the Supplier Appraisal process.
- 10) Work with other bodies to share experiences and adopt best practice.

## **POLICY STATEMENT**

The sustainable procurement policy is a public statement of the Council's commitment to environmental, economic and socially sustainable procurement. This policy has been produced to meet the Council's commitment to sustainable procurement.

Sustainable procurement should be seen as part of the process of managing business risk. In introducing environmental, social and economic assessment criteria to the process of acquiring goods and services, Council needs to integrate these issues as closely as possible into routine business practice.

Success will only be achieved when all of Council is working towards meeting this policy's objectives.

## **RELATED POLICIES**

Sustainability Policy;  
Procurement Guidelines;  
Community Strategic Plan.

## **SUSTAINABILITY IMPLICATIONS**

### **SOCIAL IMPLICATIONS**

Without positive communication of this policy and its objectives Council will not meet the future requirements of managing and measuring sustainable procurement. This will have a direct effect on community confidence in the ability of Council and its management to meet Council Plan objectives in regards to sustainability.

### **ECONOMIC IMPLICATIONS**

Council will endeavour to work with suppliers at a local level, with the intention of improving their ability to bid for Council contracts. In particular providing direction and understanding of Council's focus towards 'whole of life' cost analysis.

### **ENVIRONMENTAL IMPLICATIONS**

Environmental criteria will be a key component of any specification. It can be classified as having a high or low 'environmental risk' in terms of:

- Sustainability of the raw materials used
- Energy consumed in the conversion process
- Environmental impact 'in use'
- Ability to be reduce, reused or recycled
- Biodegradability at the end of its useful life.

**RELEVANT LEGISLATIVE PROVISIONS**

Local Government (General) Regulation 2005.

**IMPLEMENTATION RESPONSIBILITY**

Procurement & Contracts Co-ordinator  
Section Managers.

**REVIEW DATE**

June 2012.

ITEM NO. 9

FILE NO: PSC2010-03722

**SUSTAINABLE EVENTS MANAGEMENT POLICY****REPORT OF: BRENDAN BROOKS – ACTING ECONOMIC DEVELOPMENT MANAGER**  
**GROUP: COMMERCIAL SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Resolve to place the Sustainable Events Management Policy on exhibition for a period of 28 days and should Council receive no submissions consider the Sustainable Events Management Policy as adopted.
- 

**COUNCIL COMMITTEE MEETING – 7 JUNE 2011****RECOMMENDATION:**

	<b>Councillor Bob Westbury</b> <b>Councillor Caroline De Lyall</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>204</b>	<b>Councillor Steve Tucker</b> <b>Councillor Glenys Francis</b>	It was resolved that the recommendation be adopted.
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**BACKGROUND**

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

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

## **FINANCIAL/RESOURCE IMPLICATIONS**

Failure to comply with this requirement in WaSIP program of the NSW State Government will result in the requirement for the forward payment to be reimbursed to the State Government and redistributed between the remain eligible Councils

## **LEGAL, POLICY AND RISK IMPLICATIONS**

Nil in the policy is a guiding policy requesting event organisers to show consideration to sustainable principles

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

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

There are also positive implications of well-being and event based entertainment being available to the community on a sustainable basis, in the economic benefit derived from an increase in visitation to our region on an ongoing and sustainably delivered basis, and in the reduction of event-based carbon footprint in the region, the preservation of our natural environment, and the reduction in non-biodegradable waste.

## **CONSULTATION**

Consultation among Event exposed staff within Council and with other Councils has been undertaken.

## **OPTIONS**

- 1) Accept the recommendation;
- 2) Modify the recommendation.

## **ATTACHMENTS**

- 1) Sustainable Event Management Policy.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



POLICY

Adopted:  
Minute No:  
Amended:  
Minute No:

**FILE NO:**

**TITLE: SUSTAINABLE EVENTS MANAGEMENT POLICY**

**REPORT OF ACTING ECONOMIC DEVELOPMENT MANAGER**

**BACKGROUND**

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

**OBJECTIVE**

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

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

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

**PRINCIPLES**

- 1) This Sustainable Event Management (SEM) Policy has been adopted to ensure events delivered in Port Stephens Local Government Area are managed to conform with Quadruple Bottom Line management practices, and consistent

with the principles of Ecologically Sustainable Development (ESD) – as required by the *Local Government Act*.

## **POLICY STATEMENT**

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

### **Quadruple Bottom Line Considerations**

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

### **Sustainable Event Management (SEM) Best Practice:**

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

### **Event Planning (before an event)**

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

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

#### **Implementation (during an event)**

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

#### **Post Event (after the event)**

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

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

#### **RELATED POLICIES**

Sustainability Policy.

#### **SUSTAINABILITY IMPLICATIONS**

#### **SOCIAL IMPLICATIONS**

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



### **ECONOMIC IMPLICATIONS**

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

### **ENVIRONMENTAL IMPLICATIONS**

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

### **RELEVANT LEGISLATIVE PROVISIONS**

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

### **IMPLEMENTATION RESPONSIBILITY**

Event owners and managers falling under the scope of the Policy

### **REVIEW DATE**

2 years from the adoption of the Policy.

**ITEM NO. 10**

**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 7 June 2011.

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	COMMUNITY STRATEGIC PLAN – ROLE & RESPONSIBILITIES OF A COUNCILLOR & CODE OF CONDUCT	
2	CASH AND INVESTMENTS HELD AT 30 APRIL 2011	

**COUNCIL COMMITTEE MEETING – 7 JUNE 2011**

**RECOMMENDATION:**

	<b>Councillor Bob Westbury Councillor John Nell</b>	That the recommendation be adopted.
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**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>205</b>	<b>Councillor John Nell Councillor Ken Jordan</b>	It was resolved that the recommendation be adopted.
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# COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

**COMMUNITY STRATEGIC PLAN – ROLE & RESPONSIBILITIES OF A  
COUNCILLOR & CODE OF CONDUCT**

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**REPORT OF:** TONY WICKHAM – EXECUTIVE OFFICER  
**GROUP:** GENERAL MANAGER'S OFFICE

**FILE:** A2004-0984

**BACKGROUND**

The purpose of this report is to provide Council with the publications that have been produced in accordance with the Community Strategic Plan.

Section 14.1.4 and 14.4.1 required the following to be produced as part of the Community Strategic Plan:

14.1.4 – Develop an easy to read guide for publication and release to the community increasing the awareness of Council's role and responsibilities;

14.4.1 – Increase the public awareness of Council's Code of Conduct – how it is administered and the follow up process.

Two easy to read guides have been produced for distribution on Council's website, to the Residents Panel and to be made available from the libraries and Administration Building.

The attachments show the "Role and responsibilities of a Councillor" and a "Code of Conduct – General Guide".

**ATTACHMENTS**

- 1) Role and responsibilities of a Councillor;
- 2) Code of Conduct – General Guide.

ATTACHMENT 1



**Port Stephens COUNCIL**

**Role and Responsibilities of a Councillor**

Port Stephens Council

call: 02 4980 0255  
fax: 02 4987 3612  
visit: Council Administration,  
116 Adelaide Street Raymond Terrace  
email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)  
web: [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)

**Port Stephens COUNCIL**

Port Stephens Council (PSC) local government area is divided into three (3) Wards – West, Central and East.

The Council currently has four (4) councillors elected to each Ward. The Mayor is currently elected by the council.

In 2012 the local government election will see the community of Port Stephens elect its first popularly elected Mayor. This election will also see the number of councillors reduce to three (3) councillors elected from each Ward.

Port Stephens Council

### The role of the Mayor

The mayor is commonly regarded as the leader of the community.

In addition to having responsibilities as a councillor, the mayor can represent the council and exercise urgent policy making functions between council meetings.

The mayor usually acts as a spokesperson for council, carries out certain civic and ceremonial functions, and presides at important council meetings. The council may also delegate other functions to the mayor.

### The Role & Responsibilities of a Councillor

The role and responsibilities of a councillor can be divided into two main categories:

- as a member of the governing body of the council
- as an elected representative of the community.

### Councillor as a member of the governing body

Each council is a body public with its councillor as a member of the council. As a member of the governing body, each councillor is required to participate in the decision-making processes that guide and govern the affairs of the council. In particular, a councillor is required to participate in:

- establishing the policy framework for the council's programs and activities
- deciding on financial resources to be used by council for delivery of the determined programs
- ensuring that the council is fulfilling its regulatory functions in an appropriate manner
- developing a Community Strategic Plan for the conduct of the council's activities
- regularly reviewing the council's performance.

### Councillor as elected representative

Councillors are elected by the community to represent the interests of the community and are representative. As an elected representative, a councillor is required to:

- represent the interests of the residents and ratepayers
- provide leadership and guidance to the community
- facilitate communication between the council and the community
- promote the overall interests of the council to the other spheres of government and other relevant bodies.

As an elected representative a councillor may be concerned with a wide range of important issues, such as level of investment in community infrastructure, provision of community services, direction of social change and support of particular political values.

Councillors must find a balance between the mandate provided at their election and these very important requirements of their role. Councillors must seek the balance between:

- the obligation to represent the interests of their constituents and
- the need to make decisions on behalf of the community, taking into account the competing interests of various stakeholders.

Councillors are accountable to the community and are held accountable for their decisions, action and behaviour. Councillors must take care to exercise their powers properly, otherwise their decisions, and any resultant actions, may be declared void by a court, often with consequent financial loss.

Councillors are bound by the Code of Conduct. Councillors cannot direct staff on day to day administration functions of the council. This is the role of the General Manager.

#### Acknowledgements

LOSA, "Becoming a Councillor" Division of Local Government, "So you're thinking of becoming a local government councillor"



ATTACHMENT 2



**Code of  
conduct**  
General Guide

Port Stephens Council

**Code of Conduct:  
Port Stephens Council**

Port Stephens Council (PSC) is required to comply with the Model Code of Conduct (Code) which was developed by the NSW Division of Local Government in 2004. The current Model Code of Conduct was reviewed and a new version was released in June 2008.

Council is required to review the Code on an ongoing basis and is able to provide additions to the Code but cannot lessen the strength of the Model Code.

Port Stephens Council

call: 02 4980 0255  
fax: 02 4987 3612

visit: Council Administration,  
116 Adelaide Street Raymond Terrace  
email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)  
web: [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



**Who is accountable under the Code?**

All council officials are accountable under the Code. The Code defines a "council official" as a councillor, including the mayor, the general manager, council staff, contractors, delegates of council (this includes volunteers), and administrators.

**Who can make a complaint under the Code?**

A complaint can be lodged by a member of the community, a councillor, a staff member or any other person.

**Who assesses complaints made under the Code?**

The General Manager is responsible for assessing all complaints made under the Code, except complaints made about the General Manager. Complaints made about the General Manager are assessed by the Mayor.

No other council staff member can assess complaints made under the Code, unless they are the Acting General Manager.

**How are complaints assessed?**

The General Manager or the Mayor is required to assess the complaint in accordance with sections 12 & 13 of the Code.

**How are complaints made about councilors, administrators or the general manager investigated?**

If a decision is made to formally investigate a complaint then the matter is required to be referred to a sole reviewer or a conduct review committee. The General Manager or council staff are not permitted under the Code to investigate councilors or general manager complaints.

**How are complaints made about council staff, contractors, volunteers or other council delegates investigated?**

If a decision is made to formally investigate a complaint then the matter can be investigated either by council staff or an external party can be engaged to undertake the investigation.

**If I make a complaint will I hear anything further about my complaint?**

The General Manager and the Mayor are required to advise the complainant of the outcome of their complaint. If it is determined that no further action will be taken on the complaint then the complainant is required to be informed in writing of the reason why no further action will be taken.

**What happens after an investigation has been completed involving a councilor, administrators or the general manager?**

The appointed sole reviewer or the conduct review committee, is required to provide a written report to be tabled at a council meeting.

The council are then required to consider the findings/recommendation of the report and can adopt a number of outcomes.

**These range from censuring the councillor requiring a public apology or in some instances referring the matter to the Chief Executive or the Division of Local Government and/or the Minister for Local Government.**

**What happens after an investigation has been completed involving council staff, a volunteer, contractor or a delegate of council?**

A report is provided to the General Manager for consideration of the findings/recommendations. There are a number of outcomes which may include:

- Council staff be counselled, given a warning, required to attend training or employment terminated.
- A volunteer may be given a warning, offered training or removed from the committee or group.
- A contractor may be given a warning or have the contract terminated.
- Delegates of council may be given a warning or removed from the committee or group.





**INFORMATION ITEM NO. 2**

**CASH AND INVESTMENTS HELD AT 30 APRIL 2011**

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**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 April 2011.

**ATTACHMENTS**

- 1) Cash and investments held at 30 April 2011
- 2) Monthly cash and investments balance April 2010 – April 2011
- 3) Monthly Australian term deposit index April 2010 – April 2011.

ATTACHMENT 1

CASH & INVESTMENTS HELD AS AT 30 APRIL 2011											
INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Value February	Market Value March	Market Value April	Current Mark to Market Exposure	
<b>GRANGE SECURITIES</b>											
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	\$1,000,000	3.52%	6.34%	\$855,000	\$865,000	\$865,000	-\$135,000	
NEXUS BONDS LTD "TOPAZ AA-"	Floating Rate CDO		23-Jun-15	\$412,500	1.45%	0.00%	\$274,560	\$278,438	\$280,706	-\$131,794	
HELIUM CAPITAL LTD "ESPERANCE AA+" *	Floating Rate CDO	NR	20-Mar-13	\$1,000,000	3.52%	0.00%	\$0	\$0	\$0	-\$1,000,000	
HOME BUILDING SOCIETY	Floating Rate Sub Debt	NR	25-Jul-11	\$500,000	1.76%	5.89%	\$478,235	\$485,275	\$485,275	-\$14,725	
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	CCC	20-Mar-14	\$1,000,000	3.52%	6.24%	\$369,000	\$468,900	\$468,900	-\$531,100	
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate CDO	NR	20-Sep-14	\$1,000,000	3.52%	0.00%	\$0	\$0	\$0	-\$1,000,000	
<b>TOTAL GRANGE SECURITIES</b>				<b>\$4,912,500</b>	<b>17.29%</b>		<b>\$1,976,795</b>	<b>\$2,097,613</b>	<b>\$2,099,881</b>	<b>-\$2,812,619</b>	
<b>ABN AMRO MORGANS</b>											
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	A+	20-Sep-11	\$1,000,000	3.52%	0.00%	\$940,800.00	\$944,800	\$949,200	-\$50,800	
<b>TOTAL ABN AMRO MORGANS</b>				<b>\$1,000,000</b>	<b>3.52%</b>		<b>\$940,800</b>	<b>\$944,800</b>	<b>\$949,200</b>	<b>-\$50,800</b>	
<b>ANZ INVESTMENTS</b>											
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000	3.52%	0.00%	\$849,800	\$889,200	\$889,200	-\$110,800	
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876	3.58%	0.00%	\$640,163	\$671,595	\$671,595	-\$346,281	
<b>TOTAL ANZ INVESTMENTS</b>				<b>\$2,017,876</b>	<b>7.10%</b>		<b>\$1,489,963</b>	<b>\$1,560,795</b>	<b>\$1,560,795</b>	<b>-\$457,081</b>	
<b>RIM SECURITIES</b>											
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		8-Oct-11	\$2,000,000	7.04%	0.00%	\$1,850,000	\$1,865,000	\$1,873,000	-\$127,000	
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt	withdrawn					\$995,230	\$995,230		\$0	
COMMUNITY CPS CREDIT UNION	Term Deposit	N/R	9-May-11	\$1,000,000	3.52%	6.15%	\$1,000,000	\$1,000,000	\$1,000,000	\$0	
SUNCORP METWAY	Term Deposit	withdrawn					\$1,000,000			\$0	
QUEENSLAND COUNTRY CREDIT UNION	Term Deposit	N/R	1-Jun-11	\$1,000,000	3.52%	6.07%		\$1,000,000	\$1,000,000	\$0	
<b>TOTAL RIM SECURITIES</b>				<b>\$4,000,000</b>	<b>14.08%</b>		<b>\$4,845,230</b>	<b>\$4,860,230</b>	<b>\$3,873,000</b>	<b>-\$127,000</b>	
<b>WESTPAC INVESTMENT BANK</b>											
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		21-Nov-11	\$500,000	1.76%	6.00%	\$490,845	\$491,685	\$492,680	-\$7,320	
<b>TOTAL WESTPAC INV. BANK</b>				<b>\$500,000</b>	<b>1.76%</b>		<b>\$490,845</b>	<b>\$491,685</b>	<b>\$492,680</b>	<b>-\$7,320</b>	
<b>CURVE SECURITIES</b>											
RAILWAYS CREDIT UNION	Term Deposit	withdrawn					\$1,000,000			\$0	
BANK OF CYPRUS AUSTRALIA LIMITED	Term Deposit	N/R	30-May-11	\$1,000,000	3.52%	6.16%		\$1,000,000	\$1,000,000	\$0	
QANTAS STAFF CREDIT UNION	Term Deposit	N/R	6-Jun-11	\$1,000,000	3.52%	5.90%	\$1,000,000	\$1,000,000	\$1,000,000	\$0	
<b>TOTAL CURVE SECURITIES</b>				<b>\$2,000,000</b>	<b>7.04%</b>		<b>\$2,000,000.00</b>	<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$0</b>	
<b>LONGREACH CAPITAL MARKETS</b>											
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000	1.76%	0.00%	\$472,300	\$477,440	\$477,440	-\$22,560	
NOTE	Property Linked Note	A+	7-Sep-12	\$500,000	1.76%	0.00%	\$453,000	\$456,050	\$456,050	-\$43,950	
<b>TOTAL LONGREACH CAPITAL</b>				<b>\$1,000,000</b>	<b>3.52%</b>		<b>\$925,300</b>	<b>\$933,490</b>	<b>\$933,490</b>	<b>-\$66,510</b>	

**MINUTES FOR ORDINARY MEETING – 14 JUNE 2011**

**ATTACHMENT 1**

<b>LONGREACH CAPITAL MARKETS</b>										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000	1.76%	0.00%	\$472,300	\$477,440	\$477,440	-\$22,560
NOTE	Property Linked Note	A+	7-Sep-12	\$500,000	1.76%	0.00%	\$453,000	\$456,050	\$456,050	-\$43,950
<b>TOTAL LONGREACH CAPITAL</b>				<b>\$1,000,000</b>	<b>3.52%</b>		<b>\$925,300</b>	<b>\$933,490</b>	<b>\$933,490</b>	<b>-\$66,510</b>
<b>COMMONWEALTH BANK</b>										
EQUITY LINKED DEPOSIT	Equity Linked Note	AA	20-Sep-11	\$500,000	1.76%	3.00%	\$490,200	\$490,150	\$492,900	-\$7,100
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	AA	05-Nov-12	\$500,000	1.76%	3.00%	\$480,150	\$478,950	\$479,950	-\$20,050
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	BBB	09-Nov-12	\$500,000	1.76%	6.13%	\$491,365	\$492,500	\$494,055	-\$5,945
BANK OF QUEENSLAND BOND	Bond	BBB+	16-Mar-12	\$1,000,000	3.52%	5.35%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
COMMONWEALTH BANK	Term Deposit	withdrawn	21-Apr-11					\$1,000,000		
<b>TOTAL COMMONWEALTH BANK</b>				<b>\$2,500,000</b>	<b>8.80%</b>		<b>\$2,461,715</b>	<b>\$3,461,600</b>	<b>\$2,466,905</b>	<b>-\$33,095</b>
<b>FIG SECURITIES</b>										
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note		30-Nov-14	\$500,000	1.76%	5.97%	\$484,285	\$484,285	\$492,660	-\$7,340
ING BANK AUSTRALIA LIMITED	Term Deposit	withdrawn					\$1,000,000			\$0
<b>TOTAL FIG SECURITIES</b>				<b>\$500,000</b>	<b>1.76%</b>		<b>\$1,484,285</b>	<b>\$484,285</b>	<b>\$492,660</b>	<b>-\$7,340</b>
<b>MAITLAND MUTUAL</b>										
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	30-Jun-13	\$500,000	1.76%	6.43%	\$500,000	\$500,000	\$500,000	\$0
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	31-Dec-14	\$500,000	1.76%	6.43%	\$500,000	\$500,000	\$500,000	\$0
<b>TOTAL M'LAND MUTUAL</b>				<b>\$1,000,000</b>	<b>3.52%</b>		<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$0</b>
<b>FARQUHARSON SECURITIES</b>										
QUEENSLAND POLICE CREDIT UNION	Term Deposit	N/R	19-May-11	\$1,000,000	3.52%	5.87%		\$1,000,000	\$1,000,000	\$0
NEW ENGLAND CREDIT UNION	Term Deposit	withdrawn					\$1,000,000	\$1,000,000		\$0
TEACHERS CREDIT UNION	Term Deposit	N/R	20-Jun-11	\$1,000,000	3.52%	6.07%		\$1,000,000	\$1,000,000	\$0
<b>TOTAL FARQUHARSON SECURITIES</b>				<b>\$2,000,000</b>	<b>7.04%</b>		<b>\$1,000,000</b>	<b>\$3,000,000</b>	<b>\$2,000,000</b>	<b>\$0</b>
<b>TOTAL INVESTMENTS</b>				<b>\$21,430,376</b>	<b>75.44%</b>		<b>\$18,614,933</b>	<b>\$20,834,498</b>	<b>\$17,868,611</b>	<b>-\$3,561,765</b>
<b>AVERAGE RATE OF RETURN ON INVESTMENTS</b>										<b>3.53%</b>
<b>CASH AT BANK</b>				<b>\$6,975,141</b>	<b>24.56%</b>		<b>\$4,988,333</b>	<b>\$1,604,206</b>	<b>\$6,975,141</b>	<b>\$0</b>
<b>AVERAGE RATE OF RETURN ON INVESTMENTS + CASH</b>										<b>3.81%</b>
<b>TOTAL CASH &amp; INVESTMENTS</b>				<b>\$28,405,517</b>	<b>100.00%</b>		<b>\$23,603,266</b>	<b>\$22,438,704</b>	<b>\$24,843,752</b>	<b>-\$3,561,765</b>
<b>BBSW FOR PREVIOUS 3 MONTHS</b>										<b>4.89%</b>

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

**CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER**

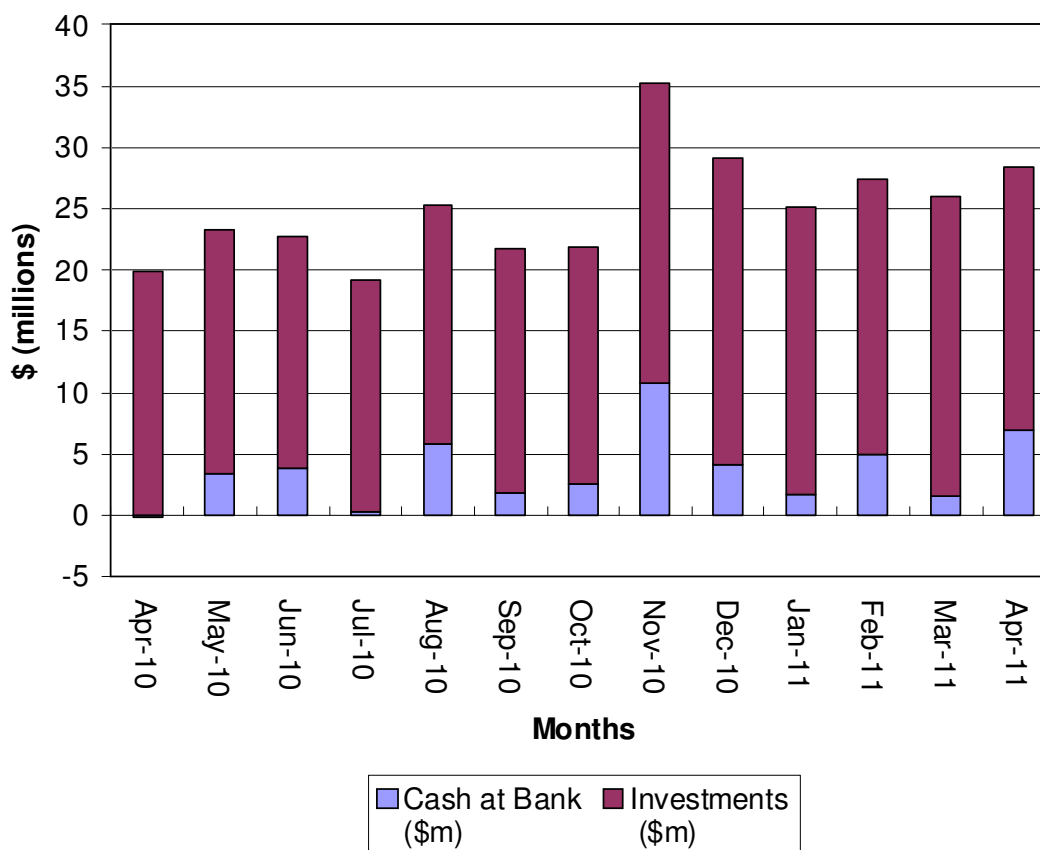
I, Peter Gesling, being the Responsible Accounting Officer of Council, hereby certify that the Investments have been made in accordance with the Local Government Act 1993, the Regulations and Council's investment policy.

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Apr-10	0.206	19.880	19.675
May-10	3.425	19.880	23.305
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

Cash and Invested Funds for the Period ended 30/04/2011

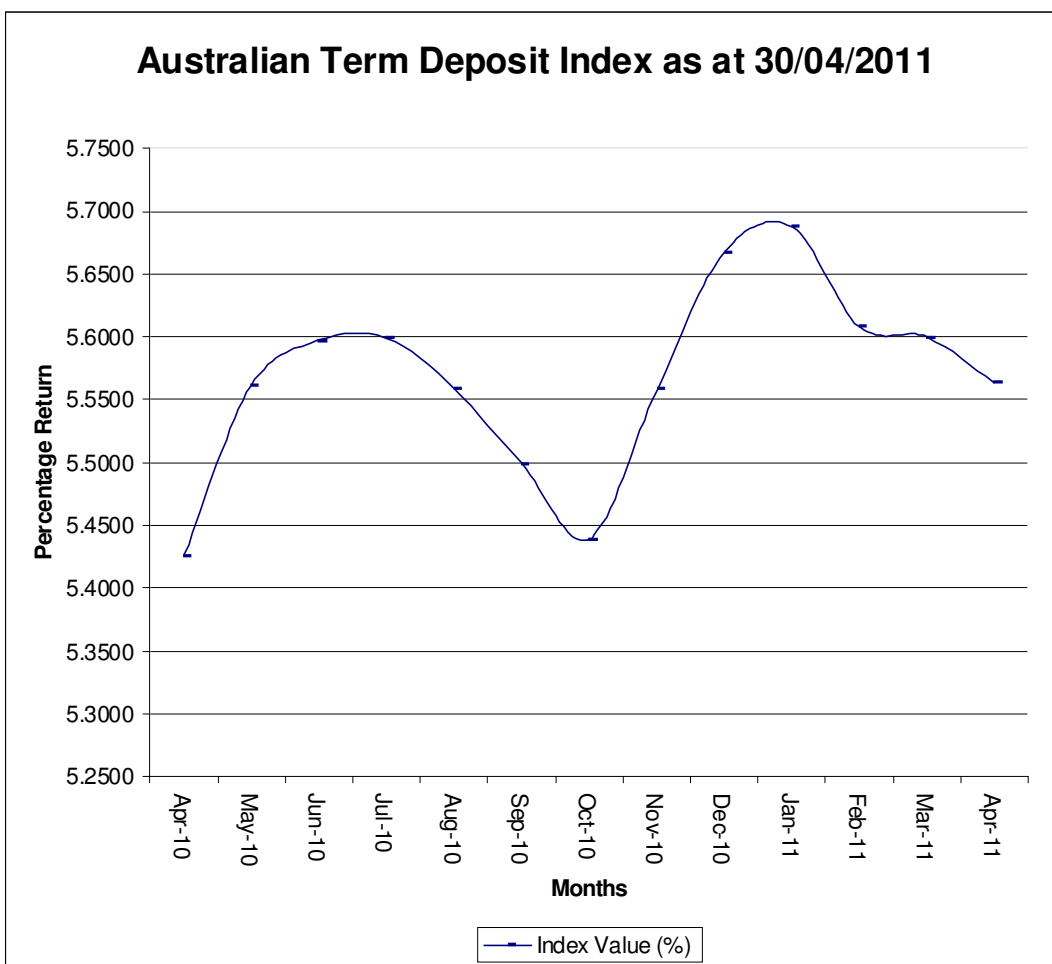


ATTACHMENT 2

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Apr-10	5.4259
May-10	5.5615
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

Australian Term Deposit Index as at 30/04/2011



# GENERAL MANAGER'S REPORT

PETER GESLING  
GENERAL MANAGER

**ITEM NO. 1**

**FILE NO: PSC2005-5165**

**DRAFT AMENDMENT TO COUNCIL'S DEVELOPMENT CONTROL PLAN TO INCLUDE LICENSED PREMISES MANAGEMENT PLAN**

**REPORT OF: BRUCE PETERSEN, MANAGER ENVIRONMENTAL & DEVELOPMENT PLANNING**

**GROUP: SUSTAINABLE PLANNING**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Places on public exhibition for 28 days the draft amendment to Port Stephens Development Control Plan 2007 requiring Licensed Premises Management Plans, in accordance with Attachment 1 of this report, for relevant development applications.

**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>206</b>	<b>Councillor Ken Jordan Councillor Caroline De Lyall</b>	It was resolved that the recommendation be adopted.
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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 Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, John Nell and Bob Westbury.

Those against the Motion: Nil.

**BACKGROUND**

**The purpose of this report is to recommend that Council exhibits a proposed amendment to Port Stephens Development Control Plan 2007 to make it a requirement for development applications for the establishment of new licensed premises, expansion of an existing licensed area or extension of trading hours of existing licensed premises to include a management plan at the time of lodging their development application.**

There are many risk factors which contribute to the number and intensity of alcohol-related issues experienced by licensed venues. However, by controlling these factors in development applications for new licensed premises and alterations to existing

licensed premises, Council can reduce the occurrence of alcohol-related issues and minimise the impact on the local community.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Nil.

### **LEGAL, POLICY AND RISK IMPLICATIONS**

Nil.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Council acknowledges that licensed premises such as restaurants, cafés, clubs and hotels contribute to the attraction of Port Stephens for residents and visitors. The Development Control Plan will ensure that licensed premises are designed to minimise alcohol-related issues, ensure compatibility with surrounding land uses and help maintain the amenity of the areas surrounding licensed premises. This will reduce perceptions of crime and make users feel safer and more secure. If people feel safe, they are more likely to patronise local businesses and help increase their economic viability.

### **CONSULTATION**

Council's Social Planning Team has formulated this proposed amendment to the Development Control Plan in consultation with relevant Council Officers from the Development & Building Section and the Environmental & Development Section.

Community comment will be sought by placing the proposed draft amendment on public exhibition for 28 days. This will be advertised and will be available for viewing through various outlets including Council's website, administration building and branch libraries. Comments will also be sought from the NSW Police Licensing Section.

### **OPTIONS**

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



**ATTACHMENTS**

- 1) Draft Amendment 'Licensed Premises' Port Stephens Development Control Plan 2007.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1

Draft Amendment 'Licensed Premises' Port Stephens Development Control Plan 2007

*DRAFT Port Stephens Development Control Plan 2007*

**C11  
Liquor Licensed Premises**

**1 INTRODUCTION**

**1.1 Name of plan**

This development control plan is called the *Port Stephens Council Licensed Premises Development Control Plan 2011* herein referred to as DCP.

**1.2 Area to which the plan applies**

This DCP applies to the land which the *Port Stephens Local Environmental Plan 2000 (PSLEP 2000)* applies.

**1.3 Commencement**

The DCP was adopted on ..... The DCP commenced operation on .....

**1.4 Relationship to other Environmental Planning Instruments and Development Control Plans**

This DCP generally complements the provisions of the PSLEP2007. Where there is any inconsistency between this DCP and the PSLEP2000, the PSLEP2000 will prevail.

**1.5 Definitions**

Licensed Premises – includes but is not limited to hotels, clubs, bottle shops, nightclubs, restaurants and vineyards including all premises which have a liquor licence.

**2 STRATEGY**

**2.1 Aims and objectives**

The aims and objectives of the DCP are to:

- Assist in the management of the impacts of licensed premises in Port Stephens LGA;
- Regulate activities and design of licensed premises to increase safety, and discourage anti-social behaviour and crime, and preserve the amenity of surrounding land uses;
- Provide greater certainty to the community and proponents of licensed premises with respect to locations and management strategies;
- Ensure a consistent approach to the assessment of applications for licensed premises;
- Ensure on-going commitment by operators of licensed premises to good management through

the adoption of Management Plans which may be reviewed annually.

**2.2 What type of development does this development control plan apply to?**

This DCP applies to development applications for new and existing premises which are located within the Port Stephens LGA that:

- a. Intend to apply for any category of Liquor Licence; or
- b. Seek an expansion of an existing licensed area; or
- c. Seek an extension of existing trading hours; or
- d. Apply for a Primary Service Authorisation where an 'on-premise' licence exists.

**2.3 Consultation**

Applications for licensed premises will be notified in accordance with Council's notification policy and referred to the NSW Police. Applicants are advised to consult with the NSW Police prior to lodgement and any recommendations should be included in the Management Plan.

**3 CONTROLS**

**3.1 Trading Hours**

Appropriate trading hours are dependent on the nature and location of the proposal, the proximity of residential land uses, and potential safety, social or other impacts on the locality.

This DCP identifies standard and extended trading hours:

***Standard Liquor Licence Trading Hours***

- Monday-Saturday: 5am - midnight
- Sunday: 10am -10pm
- Christmas Day: noon-10pm in dining room only with a meal (no takeaway sales)
- Good Friday: noon-10pm (no takeaway sales)

***Extended Hours (Maximum Trading Hours)***

Council may consider extended trading hours but only where Council has determined that the

Effective:



A1-1

## C11 Liquor Licensed Premises

premises have been (or will be) well-managed, including compliance with a Management Plan. A Management Plan is required to be submitted with any application requesting an extension to the standard trading period.

### **Licensed Premises with existing extended trading hours**

Licensed premises which have existing liquor licence agreements which allow those premises to sell liquor beyond the trading hours prescribed above may continue to operate in accordance with existing liquor licence agreements. However, Council and the Police will have regard to the above controls for new and extended liquor licence applications.

### **Primary Service Authorisation**

If a premises, such as a restaurant or café, where an 'on-premise' licence exists applies for a Primary Service Authorisation, the hours of serving of liquor will be limited to between 12 noon and 11.30pm on any day;

### **3.2 Location and Character**

- Licensed premises are not supported where the primary surrounding land use is residential in character.
- Licensed premises are therefore encouraged / supported in locations where:
  - The safety of patrons and others is protected;
  - Where public transport is frequent and accessible at night; and
  - Where no adverse impact is placed on any nearby / surrounding residential development.

### **3.3 Management Plans**

Management Plans must identify strategies to manage potential social, safety and other impacts of licensed premises and must supply the following information:

1. A floor/site plan describing the primary use of the premises as well as any secondary/ancillary uses of areas within the building or site. 'Active areas' such as areas

used for entertainment, queuing or any noise producing activities must be identified;

2. A schedule of proposed trading hours of operation for all areas of the premises (eg. courtyards, balcony, restaurant, gaming room etc). Existing premises are required to provide a schedule of the current operating hours of the premises;
3. The maximum capacity of the premises and the maximum number of patrons allowable in each identified area (detailed assessment by registered building surveyor);
4. Site context plan showing the nature and uses of developments surrounding the proposed licensed premises (including residential and accommodation) and their hours of operation. Location of other licensed premises and alcohol-free zones within a 1km radius of the proposal to be marked on the plan;
5. Details of staffing arrangements including numbers and working hours of security staff;
6. Details of responsible serving of alcohol training to be provided to staff, including a procedure for notifying staff of new licensing conditions within 14 days after they have been imposed;
7. Mitigation measures proposed to address potential impacts such as noise and light on surrounding land uses and potential impacts resulting from the proximity to existing licensed premises (within a 100m radius of the proposal);
8. Management of patrons moving to other late night premises including potential for incidences and anti social behaviour along these access routes;

Effective:

*Port Stephens*  
COUNCIL  
...community partnership

A1-2

*DRAFT Port Stephens Development Control Plan 2007*

**C11**

**Liquor Licensed Premises**

9. Details of crowd control procedures and methods to manage intoxicated and/or violent persons;
10. Emergency procedure management plan;
11. Waste management details;
12. Proposed car parking and traffic management to minimise the impact on the local traffic network;
13. The management of incidents and events within a 100m radius of the proposal;
14. A description of actions that the applicant has taken to co-operate with the NSW Police and the local community;
15. Security/safety measures proposed including CCTV cameras which fulfil minimum Police standards (proposed locations indicated on site plan), visual surveillance and security lighting. A detailed Safer By Design evaluation of development;
16. Actions to be taken during 'wind down' periods prior to closing time;
17. A commitment to have a complaint register which can record complaint date and time; name and contact details of the person making the complaint; nature of complaint; staff on duty; and action taken by premises to resolve the complaint;
18. A commitment to membership of the local Liquor Accord;
19. Outline of standard complaint procedures, especially for dealing with complaints from local residents;

*extend the trading hours of existing licensed premises:*

1. Proof from the local Police of the adequate management of the existing licensed premises, including records of complaints and/or problems with the premises;
2. Details of any imposed or voluntary licensing conditions;
3. Alcohol-related crime statistics for the locality;
4. Proof of membership of the local Liquor Accord

*Note: Council may request further written information if it is considered that the proposal will adversely impact on the amenity of the area or if required by the NSW Police.*

*Additional information required for applications to expand the licensed area or*

Effective:



A1-3

**ITEM NO. 2**

**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 14 June 2011.

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	DESIGNATED PERSONS – PECUNIARY INTERESTS	

**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>207</b>	<b>Councillor John Nell</b> <b>Councillor Caroline De Lyall</b>	It was resolved that the recommendation be adopted.
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# GENERAL MANAGERS INFORMATION PAPERS



INFORMATION ITEM NO. 1

**DESIGNATED PERSONS – PECUNIARY INTERESTS**

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

**FILE:** A2004-0030

**BACKGROUND**

The purpose of this report is to advise Council of the persons designated for the submission of Pecuniary Interest Returns.

**Councillors**

Cr Bruce MacKenzie  
Cr Shirley O'Brien  
Cr Peter Kafer  
Cr Frank Ward  
Cr Steve Tucker  
Cr Geoff Dingle  
Cr Bob Westbury  
Cr John Nell  
Cr Sally Dover  
Cr Ken Jordan  
Cr Glenys Francis  
Cr Caroline De Lyall

**General Manager's office**

General Manager  
Executive Officer

**Corporate Services**

Group Manager Corporate Services  
Legal Services Manager  
Communications & Customer Relations Manager  
Information Management Manager  
Organisation Development Manager

**Sustainable Planning**

Group Manager Sustainable Planning  
Manager Development Assessment and Environmental Health  
Manager Environmental & Development Planning  
Manager Building Assessment

Strategic Planning Coordinator  
Senior Strategic Planners (3)  
Strategic Planner (2)  
Urban Release Planner – Kings Hill  
Senior Strategic Engineer  
Business Support Coordinator  
Development Assessment Coordinator  
Senior Development Planner (3)  
Student Development Planner  
Development Planners (2)  
Building Surveyor  
Health & Building Surveyors (4)  
Senior Fire Safety Officer  
Section 94 (Developer Contributions) Planner  
Social Planning Coordinator  
Coordinator Environmental Health and Regulation  
Coordinator Natural Resources  
Compliance Officer  
Executive Planner  
Environmental Health Team Leader  
Rangers (5)  
Vegetation Management Officer  
Environmental Health Officer (3)

**Commercial Services**

Group Manager Commercial Services  
Principal Property Advisor  
Commercial Property Manager  
Commercial Enterprises Manager  
Tourism Manager  
Financial Services Manager  
Fleet Management Supervisor  
Finance & Assets Coordinator  
Financial Accountant  
Economic Development Manager  
Procurement & Contracts Coordinator  
Property Development Coordinator  
Property Investment Coordinator  
Corporate Clean Business Manager  
Fleet and Depot Services Coordinator

**Facilities & Services**

Group Manager Facilities & Services  
Community & Recreation Services Manager  
Civil Assets  
Project Services Manager



Operations Manager  
Recreation Planning & Development Coordinator  
Parks & Waterways Coordinator  
Community & Recreation Assets Coordinator  
Recreation Operations Coordinator  
Works Manager (2)  
Drainage Engineer  
Civil Assets Engineer  
Design and Development Engineer  
Coordinator – Construction  
Coordinator – Roads  
Coordinator – Roadside & Drainage (2)  
Coordinator – Parks (2)  
Project Management Coordinator  
Development Engineering Coordinator  
Senior Development Engineer Coordinator  
Library Services Manager  
Children's Services Coordinator  
Community Options Coordinator  
Waste Management Coordinator

**TABLED DOCUMENTS**

Nil.

# NOTICES OF MOTION

# NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217

## CODE OF CONDUCT

COUNCILLOR: MACKENZIE

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### THAT COUNCIL:

- 1) Write to the Division of Local Government seeking an amendment to the Code of Conduct allowing Council officials to participate in a "game of chance" at conferences without the need to surrender the prize to Council.
- 

### ORDINARY COUNCIL MEETING – 14 JUNE 2011

208	<b>Councillor Bruce MacKenzie</b> <b>Councillor Peter Kafer</b>	It was resolved that Council:-  1) Write to the Division of Local Government seeking an amendment to the Code of Conduct allowing Council officials to participate in a "game of chance" at conferences without the need to surrender the prize to Council.  2) Write to the Member for Port Stephens with respect to the matter.
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### BACKGROUND REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

#### BACKGROUND

The current Code of Conduct requires Council officials to surrender any gift or benefit of value to Council where the gift or benefit is obtained through their position as a Council official.

The Division of Local Government (DLG) has released a discussion paper on the review of the Model Code of Conduct to Councils on 1 June 2011. This discussion paper will be distributed to Councillors and staff seeking their comments. The General Manager will then prepare a submission to be forwarded to the DLG.

Submissions close on 15 July 2011.

# NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217

## INTERNET BROADCASTING OF MEETINGS

COUNCILLOR: KAFER, DINGLE

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### THAT COUNCIL:

Call on the General Manager to investigate and report to Council on the following matters:

- 1) The broadcasting of Committee and Council meetings via the internet (podcasting) in real time using the Council's website;
  - 2) The timeframe needed to allow this to occur.
- 

### ORDINARY COUNCIL MEETING – 14 JUNE 2011

<b>209</b>	<b>Councillor Peter Kafer Councillor Geoff Dingle</b>	It was resolved that Council call on the General Manager to investigate and report to Council on the following matters:  1) The broadcasting of Council meetings via the internet (podcasting) in real time using the Council's website;  2) The timeframe needed to allow this to occur.
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# 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.*

210	<b>Councillor Steve Tucker</b> <b>Councillor Shirley O'Brien</b>	It was resolved that Council move into Confidential session.
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Also present during the confidential session were Anthony Randall, Executive Planner, Lisa Gowing, Harris Wheeler, and Stephen Crowe, Manager Communications and Customer Relations.

**CONFIDENTIAL**

## **MAYORAL MINUTE**

**ITEM NO. 1**

**FILE NO: 16-2003-577-2**

### **LAND AND ENVIRONMENT COURT CLASS 1 APPEAL - HOTEL AT NO. 37 FERODALE ROAD MEDOWIE**

**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

<b>211</b>	<b>Councillor Bob Westbury Councillor Geoff Dingle</b>	It was resolved that Council endorse settlement of the Tunwish Pty Ltd Land and Environment Court Appeal No. 10297 of 2011 based on the negotiated outcomes comprising: <ul style="list-style-type: none"><li>▪ Trading hours 7:00 am to 12:30 am - Monday to Thursday;</li><li>▪ Trading hours 7:00 am to 1:30 am - Friday and Saturday;</li><li>▪ Trading hours 10:00 am to 10:00 pm – Sunday;</li><li>▪ Condition 25 (of the court order conditions) be amended to provide for last drinks to be 15 minutes before the close of trade, instead of 30 minutes; and</li><li>▪ Condition 26 (of the court order conditions) the consent will not require any on going audit of the premises.</li></ul>
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CONFIDENTIAL

ITEM NO. 1

FILE NO: A2004-0028

**NEWCASTLE AIRPORT AMENITIES UPGRADE TENDER**

REPORT OF: JEFF SMITH – GROUP MANAGER COMMERCIAL SERVICES

GROUP: COMMERCIAL SERVICES GROUP

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**ORDINARY COUNCIL MEETING – 14 JUNE 2011**

212	<b>Councillor Bruce MacKenzie</b> <b>Councillor John Nell</b>	It was resolved that Council award BOLKM Pty Ltd the tender for the amenities upgrade at the tendered price of \$748,742.
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CONFIDENTIAL

ITEM NO. 2

FILE NO: PSC2010-03285

**T05-2011 POOL PLANT PREVENTATIVE MAINTENANCE CONTRACT**

REPORT OF: JOHN MARETICH – CIVIL ASSEST MANAGER

GROUP: FACILITIES & SERVICES

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ORDINARY COUNCIL MEETING – 14 JUNE 2011

213	<b>Councillor Bruce MacKenzie</b> <b>Councillor Ken Jordan</b>	It was resolved that Council Award the contract to Trisley's Hydraulic Services for the provision of undertaking pool plant preventative maintenance services to all three (3) of Council's Leisure/Aquatic Centres.
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CONFIDENTIAL

ITEM NO. 3

FILE NO: PSC2009-02181

**ASSET PROTECTION ZONE MAINTENANCE CONTRACT T02 -2011**

REPORT OF: STEVEN BERNASCONI - COMMUNITY AND RECREATION SERVICES  
MANAGER

GROUP: FACILITIES AND SERVICES

ORDINARY COUNCIL MEETING – 14 JUNE 2011

214	<b>Councillor John Nell</b> <b>Councillor Steve Tucker</b>	It was resolved that Council award the tender offered by Pacific Facilities Management Systems for \$92,348.00 (excluding GST) for the asset protection zone maintenance contract T02-2011.
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There being no further business the meeting closed at 7.02pm.

*I certify that pages 1 to 169 of the Open Ordinary Minutes of Council 14 June 2011 and the pages 170 to 229 of the Confidential Ordinary Minutes of Council 14 June 2011 were confirmed by Council at its meeting held on 28 June 2011.*

.....  
**Cr Bob Westbury**  
**MAYOR**