

Minutes 12 APRIL 2011



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 12 April 2011, commencing at 5.34pm.

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

		No apologies were received.
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101	Councillor John Nell Councillor Glenys Francis	It was resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 22 & 25 March 2011 be confirmed.
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		<p>Councillor Ken Jordan declared a less than significant non-pecuniary conflict of interest in General Manager's report Item 1 due to a friendship. Councillor Jordan declared he had sought legal advice on the matter, that the communities best interest may conflict with his public duty and that he is not aware of friends interest.</p> <p>Councillor Steve Tucker declared a less than significant non-pecuniary conflict of interest in General Managers report Item 1 due to a friendship with one of the proponents – Mr D Williams and support of the proponents</p>
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		(Buildev)for the Medowie Sports & Recreation Club of which he is patron. Cr Tucker declared that he believed that it was his duty to the residents of Medowie (and overriding public interest) that he support this commercial enterprise which will provide jobs and prosperity for the people of Medowie.
102	Councillor Peter Kafer Councillor Steve Tucker	It was resolved that the General Manager provide Council with a report on the possibility of recording Council meetings.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: A2004-0259

JAPANESE SISTER CITIES

THAT COUNCIL:

- 1) Endorse to donation by the Port Stephens Sister Cities Committee to provide \$1,000 to each of the Sister Cities – Tateyama, Yugawara and Kushiro.
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103	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 seek Council's endorsement of the Port Stephens Sister Cities Committee's recommendation to provide financial assistance in total of \$3,000 to each of the Sister Cities in Japan.

As Council is aware Port Stephens has a Sister Cities relationship with Tateyama, Yugawara and Kushiro in Japan. Following the recent devastation from the earthquakes and tsunami the Port Stephens Cities Committee felt it appropriate that a donation be made to assist where possible in Japan.

The Sister Cities Committee's recommendation of the 31st March 2011 is:-

"That the committee resolves to break the current term deposit (as has been approved by our financial institution) by the withdrawal of \$3,000 to provide relief funding to persons affected by the earthquakes and tsunami in Japan. Such funding is to be processed through Port Stephens Council in such a manner as to comply with local government regulations.

The application of these monies to be at the discretion of our Japanese sister cities committees or the councils of those cities whether through aid agencies or otherwise."

Council's endorsement of the recommendation is sought to ensure comply with the Local Government Act 1993.

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary Council agenda namely **Newcastle Airport Banking Services 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 Banking Services 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 – 12 APRIL 2011

RESOLUTION:

104	Councillor Ken Jordan Councillor Glenys Francis	It was resolved that the recommendation be adopted.
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ITEM NO. 2

FILE NO: A2004-0028

MOTION TO CLOSE MEETING TO THE PUBLIC

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(c) 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 meeting agenda namely *Expression of Interest for the purchase of Council land*.
 - 2) That the reasons for closing the meeting to the public to consider this item be that it contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council proposes to conduct business.
 - 3) In particular, the information and discussion concerns *Expression of Interest for the purchase of Council land*.
 - 4) On balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as the information and discussion need to be carried out confidentially to protect the interests of both parties. Any breach of such confidentiality could prejudice Council's position.
 - 5) That the minutes relating to this item be made public.
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105	Councillor Ken Jordan Councillor Glenys Francis	It was resolved that the recommendation be adopted.
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ITEM NO. 3

FILE NO: T01-2011

MOTION TO CLOSE MEETING TO THE PUBLIC

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 3 on the Ordinary Council agenda namely **T01-2011 – Hire of Plant & Equipment**.
- 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 **T01-2011 – Hire of Plant & Equipment**.
- 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 – 12 APRIL 2011

106	Councillor Ken Jordan Councillor Glenys Francis	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 & ENVIRONMENTAL HEALTH, MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Not support the State Environmental Planning Policy 1 (SEPP 1) variation to Clause 19 of the Port Stephens Local Environmental Plan 2000 (LEP) for the construction of a two storey dwelling at number 227 Lot 340 Foreshore Drive, Corlette.
- 2) 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 proposed two storey dwelling which is the subject of this application does not comply with the requirements of Clause 19 Port Stephens Local Environmental Plan 2000 and is not permissible.
 - 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.

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- 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 incompatible with the immediate streetscape in terms of height, bulk and scale. The 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 are below the minimum acceptable Flood Planning Level (FPL) for this location of 3.5m AHD. NB. Council adopted the Port Stephens Foreshore (Floodplain) Management Plan (2002).

COUNCIL COMMITTEE MEETING – 5 APRIL 2011

RECOMMENDATION:

	Councillor John Nell Councillor Sally Dover	That Item 1 be deferred to allow for a 2 way conversation with Councillors.
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In accordance with Section 375A of the Local Government Act 1993, a division is required on this item.

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

Those against the motion: Nil.

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107	Councillor Bruce MacKenzie Councillor John Nell	It was resolved that the Council Committee 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, Steve Tucker, Geoff Dingle, John Nell, Frank Ward, Ken Jordan, Bruce MacKenzie, Shirley O'Brien, Sally Dover and Bob Westbury.

Those against the Motion: Nil.

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.

- 1. a request to vary a Development Standard, being Clause 19 of the Port Stephens Local Environmental Plan 2000 (LEP); and**
- 2. a Development Application to Council for the construction of a detached dwelling.**

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 size of 247square metres; and
- b. identified as potentially and significantly affected by sea level rise, storm surge, wave run-up, inundation and flooding.

The request to vary a Development Standard, being Clause 19 of the Port Stephens Local Environmental Plan 2000 (LEP)

The applicant proposes to replace the existing dwelling with a new dwelling which is understandable given the zoning and the location of the development site. The proposed dwelling is significantly larger than the existing dwelling. The new dwelling must be considered against the applicable current planning controls.

The proposed two storey dwelling which is the subject of this Application has a Floor Area of 225.5m², a FSR of 0.91:1, is on a severely constrained lot of 247m² and does

not comply with the requirements of LEP. Hence the development as proposed is not permissible unless Council supports a variation to the Development Standards within Clause 19 of the LEP with extracts summarised below:-

19 Dwelling-houses, dual occupancy housing and urban housing

- a. *Consent must not be granted to the erection of a dwelling-house, dual occupancy housing or urban housing on land in a zone, or on land within a precinct of the Nelson Bay (West) Area, specified in the Table to this subclause, unless:*
- (a) *the allotment on which the building is proposed to be erected has an area of not less than the minimum area for each dwelling specified in the Table in respect of the type of housing, zone or precinct concerned, and*
 - (b) *the ratio of the gross floor area of the building to the site area of the allotment does not exceed the ratio identified for the relevant zone or precinct concerned, and*
 - (c) *the height of the building does not exceed the maximum height identified for the relevant zone or precinct concerned.*

Table

Housing type	Zone	Precinct (where specified)	Minimum site area per dwelling	Floor space ratio	Maximum height
Dwelling house	2 (a),	Unspecified areas	500 m ²	0.5:1	9 m

Council is required to assess the request to vary the standards and determine whether the applicant has demonstrated that the LEP controls are considered unreasonable or unnecessary in this instance.

The applicants' have stated their reasons for the variation by way of a submission which should be referred to and is attached. (Attachment 5).

The table below summarises the statistics relevant to the proposal and the variations to the LEP sought.

Proposed Development (SEPP 1 Variation)				
Attribute	Proposed	Required	Compliance	% Variation
Floor Space Ratio (FSR)	0.91:1 Total Floor Area of Building is 308m ² Total Floor area for purpose of calculating FSR is 225.5m ² approximately (excluding 43.5 m ² garage for two vehicles, staircase of 4m ² and 1st Floor Deck of 35m ²)	0.50:1 123.5m ²	No (LEP)	82% increase in specified FSR (102m ² or 82% over-development)

The floor space ratio of 00.91 is 82% or 102m² larger than the required 0.5:1 or maximum of 102m².

The total floor area of 308m² is relevant and assists in assessing the bulk and scale of the development. The total floor coverage ratio is 1.25:1 when the deck, stairwell and garage are included.

This confirms that the size, bulk and scale of the development significantly exceeds the statutory requirements and would be an overdevelopment of the existing small lot of only 247m².

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 6 to this report. The results serve to inform Council and confirm the observations made at the recent site inspection.

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

The Department of Planning has advised that Council can assume concurrence for SEPP 1 FSR requirements. When considering variations to Lot size and FSR Council must take *'special care when dealing with applications to extend non-conforming development by more than 10 %'*, (as per the requirements of Clause 11 Department of Planning Circular B1). This proposal is a non-conforming development and at a FSR increase of 82% is significant.

The request to vary the LEP development standard is not reasonable in the circumstances. The development application is not permissible and should be refused, unless the Council agrees to support the SEPP1 variation to the LEP standard.

During the recent inspection on 17/2/2011 Council discussed amending/reviewing the Development Control policies in relation to sea level rise and foreshore development. This is a significant strategic project and will be reported to Council under separate cover in due course by the Sustainable Planning Department.

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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

A detailed merit assessment is not required for development that is not permissible, however is discussed for the benefit of Council and to support the recommendations made.

Council's LEP and the Principles and Development Controls contained in 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 and the objectives of the DCP are to minimise these impacts upon adjacent dwellings and land.

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

Proposed Development				
Attribute	Proposed	Required	Complys	Variat'n
NSW Sea Level Rise Policy Statement	Subject to Coastal erosion and flooding risk – Proposed Floor Level of 2.5m AHD.	Flood Planning Level for habitable rooms of 3.4m AHD.	No	900mm
LEP Requirements				
Min. Area Per Dwelling	247m ²	500m ²	Yes	Existing
Floor Space Ratio	0.91:1	0.5:1	No	82% SEPP 1 Variat'n
Height	8.910m	9m	Yes	
DCP Requirements				
Number of storeys (except for loft spaces)	2	2	Yes	
Building Line Setback	2.0m	6m	No	
Side Setbacks	Northern Boundary (2 Storey) 1190m Southern Boundary (1 Storey) 200mm Eastern Boundary (2 Storey) 2.0m	2m 0.9m 6m	No No No	
Rear Setbacks	Western Boundary 1.380m	4.5m	No	

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Foreshore				
Views	Two storey cottage with a ridge height of RL 10.460 with a construction Pad FGL of RL1.550m	No objections received after closing date of advertisement	Yes.	
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 proposed development does not comply with the Floor Space Ratio (FSR) provisions under clause 19 of the LEP. This critical area all indicates an overdevelopment of the site.

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

The proposed reduced setbacks from the property results in an unacceptable level of overshadowing, loss of privacy and amenity of surrounding residential allotments.

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 Councils existing Flood Policy and include a Sea Level Rise component to residential habitable floor levels."

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

The Strategic Engineer has advised:

- *"To prevent storm surge inundation all habitable floor levels should be to the Flood Planning Level of RL 3.4m AHD.*
- *The FPL for non habitable rooms, garages and laundry only may proceed to be designed at RL 2.8m AHD (5% AEP flood event in the year 2100).*
- *All construction below 3.4 AHD will be required to consist of flood compatible materials*
- *A collapsible style retaining wall inside the property boundary, adjacent to the public reserve boundary will be required."*

The plans submitted indicate that the proposed ground lower floor area level for habitable rooms is RL 2.500, which is 900mm below the flood planning level of 3.4m AHD. The proposed floor level for the upper cottage floor is Reduced Level RL5.520 and the garage to be located at RL 1.850. If the reduced levels indicated on the plans are Australian Height Datum Levels, then there are no concerns raised with the upper floors as it stands above the minimum sea level change of 3.4m AHD. This minimum level is recommended to minimise the chances of storm surge inundation of the habitable rooms. A merit assessment, under the provisions of Section 79C of the Environmental Planning and Assessment Act, has confirmed that the site is not suitable for the proposed dwelling design and the application, as submitted, can not be supported.

The applicant has been advised in writing and verbally, of the adopted 3.4m AHD minimum floor level requirements and given the opportunity to redesign the proposed dwelling. Despite this, the applicant has sought a determination by Council without a redesign with the ground floor levels at RL 2.500m.

It is noted that the plans submitted do not comply with the current flood plan level and also, do not comply with the previous adopted flood plan level of 2.8m AHD for the area. Examination of Council's records revealed that the existing development adjoining the property No 227 Foreshore Drive has a habitable room ground floor level of RL 2.120 approved in 1998.

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 exceeds the FSR provisions of the LEP on a property identified as subject to significant sea level rise, inundation and flooding. 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.

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

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

OPTIONS

- 1) Adopt the recommendation.
- 2) Reject the recommendation and approve the application subject to appropriate conditions.
- 3) Amend the recommendation.

ATTACHMENTS

- 1) Locality Plan
- 2) Assessment
- 3) Council's Resolution of 19 May 2009
- 4) NSW Sea Level Rise Policy Statement
- 5) Applicants SEPP 1 submission
- 6) 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 ²
Dimensions	The development site is a regular shape having a frontage to Foreshore Drive of 15.240m and a rear width of 15.365m. The site's northern boundary is 15.24m and the southern boundary is 17.19m.
Characteristics	The site currently contains a single Storey weatherboard Dwelling and single storey garage. The existing single storey dwelling on site is proposed to be demolished in the context of this application. The site contains a lawn, and is predominantly clear of vegetation. The site is generally flat at the front and slopes toward the Reserve at the rear.

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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

ATTRIBUTE	PROPOSED	REQUIRED	COMPLIES
NSW Sea Level Rise Policy Statement			
Minimum Habitable Floor Area	2.500m AHD	3.4m AHD	No
LEP Requirements			
Min. Area Per Dwelling	247m ²	500m ²	Yes
Floor Space Ratio	0.76:1	0.5:1	No
Height	8.910m	9m	Yes
DCP Requirements			
Number of storeys (except for loft spaces)	2	2	Yes
Building Line Setback	2.0m	6m	No
Side Setbacks	Northern Boundary (2 Storey) 1190m	2m	No
	Southern Boundary (1 Storey) 200mm	0.9m	No
	Eastern Boundary (2 Storey) 2.0m	6m	No
Rear Setbacks Foreshore	Western Boundary 1.380m	4.5m	No
Views	Two storey cottage with a ridge height of RL 10.460 with a construction Pad FGL of RL1.550m	No objections received after closing date of advertisement.	Yes.
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

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Acid Sulphate	Proposed development designed to be Slab on ground	The site is classified Acid Sulphate Soils Class 5. No works permitted below 2 metres or more that will structural affect the proposed building.	Yes
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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 take into account the 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 for floor space ratio specified within Clause 19 of the Port Stephens LEP 2000. **Concurrence has been approved from the NSW Department of Planning for the variation to the Floor space Ratio as shown on plans.**

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 of RL 2.500m. The flood planning level (FPL) to accommodate for Climate Change, Sea Level Rise at this location is 3.4m AHD.

The applicants proposed figure of RL 2.500m 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.

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 3.5m AHD. Given the proposed FFL level of RL 2.500m, 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 acceptable in regards to bulk, scale and height.

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 does not comply with the floor space ratio and site coverage objectives. However, due to the size of the allotment, the design presents a compromise with the two neighbouring developments and is it considered generally to comply with the intent of Council's Development Control Plan 2007 Clause B6.5.

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 floor space ratio and site coverage specified in Clause 19 of the LEP.

The proposed development exceeds the floor space Ratio of 0.5:1. Further consideration has been given to the Development Application as the applicant has requested for variation under a SEPP 1 Application to Council. This matter has been forward to the NSW Department of Planning request concurrence in favour of such variation due to the allotment size and existing building precedence within the surrounding area. Written concurrence has been received from the Department given approval for such variation.

Acoustic Privacy

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

Solar Access

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

Views

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

Parking & Traffic

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

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

Usable Open Space

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

Landscaping

The proposal provides adequate planter and garden bed landscape areas.

Flora and Fauna

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

2. Likely Impact of the Development

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

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

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

Otherwise, the proposed development is generally consistent with the requirements of Port Stephens Local Environmental Plan 2000 and Development Control Plan 2007. The bulk and scale of a two storey dwelling in the form proposed is generally consistent with the intent and objectives of the controls.

3. Suitability of the Site

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

4. Acid Sulphate Soils

The land is subject to acid sulphate soils Class 5.

5. Submissions

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

6. Public Interest

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

ATTACHMENT 3

COUNCIL’S RESOLUTION OF 19 MAY 2009

ORDINARY MEETING – 19TH MAY 2009

ITEM NO. 8

FILE NO: PSC2005-4473

ADOPTION OF A SEA LEVEL RISE PLANNING FIGURE

REPORT OF: DAVID BROYD – GROUP MANAGER SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

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

COMBINED STRATEGIC & OPERATIONS COMMITTEE – 12TH MAY 2009

RECOMMENDATION:

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

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

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

FILE NO: PSC2005-4473

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REPORT OF: DAVID BROYD – GROUP MANAGER SUSTAINABLE PLANNING

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- 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.
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- 3) Continue to investigate Climate Change impacts on both Council and the community to determine appropriate responses.

BACKGROUND

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

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

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

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

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

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

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

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

Council is also undertaking a Climate Change Risk Adaptation project under the Federal Government's Local Adaptation Pathways Program. The project, which will conclude in June 2009, firstly involves undertaking an organisational risk assessment to identify and assign priorities to risks that climate change impacts pose to Councils 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 councils 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 adaption response to sea level rise. The appropriate response will vary from location to location, depending in part, on whether the area is in public or private ownership, the level, and form of development, level of affectation etc. Examples of options suggested in the CMM are given below.

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

Hazard Management Options Suggested by Coastline Management Manual

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

LINKS TO CORPORATE PLANS

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

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

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

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

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

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

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

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL AND POLICY IMPLICATIONS

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

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

The NSW Coastal Policy 1997 which in relation to climate change recommends an approach to minimise risks based on ecologically sustainable development principles. This policy also has an objective to recognise and consider the potential effects of climate change in the planning and management of coastal development.

The NSW Coastal Policy 1997 is given statutory effect through State Environmental Planning Policy 71 – Coastal Protection and through a Ministerial Direction to local councils under section 117 of the Environmental Planning and Assessment Act 1979.

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

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

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

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

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

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

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

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

BUSINESS EXCELLENCE FRAMEWORK

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

These outcomes align with the following Business Excellence principles:-

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

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Sea level rise, and the wider impacts of climate change, will impact on the lives and wellbeing of Port Stephens residents, particularly those living in the low lying and coastal areas. The effects relating to impacts on property can be largely avoided with appropriate planning; however more work will need to be undertaken in relation to planning for the effects of increased instances of extreme heat, particularly on our aging population.

ECONOMIC IMPLICATIONS

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

STRATEGIC & OPERATIONS COMBINED MEETING – 12TH MAY 2009

ENVIRONMENTAL IMPLICATIONS

Climate Change and sea level rise has the potential to have significant impacts on the natural environment. Of particular concern is the impact on coastal salt marsh, an Endangered Ecological Community which fringes the estuary and is building block of the ecosystem. Coastal wetlands are also at risk as are wildlife corridors. While the adoption of a sea level rise planning figure will go some way to recognising these impacts further adaptation initiatives will need to be implemented to counteract the effects of climate change on the regions biodiversity.

CONSULTATION

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

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

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

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

OPTIONS

- 1) Adopt, reject or amend the recommendation

ATTACHMENTS

Nil

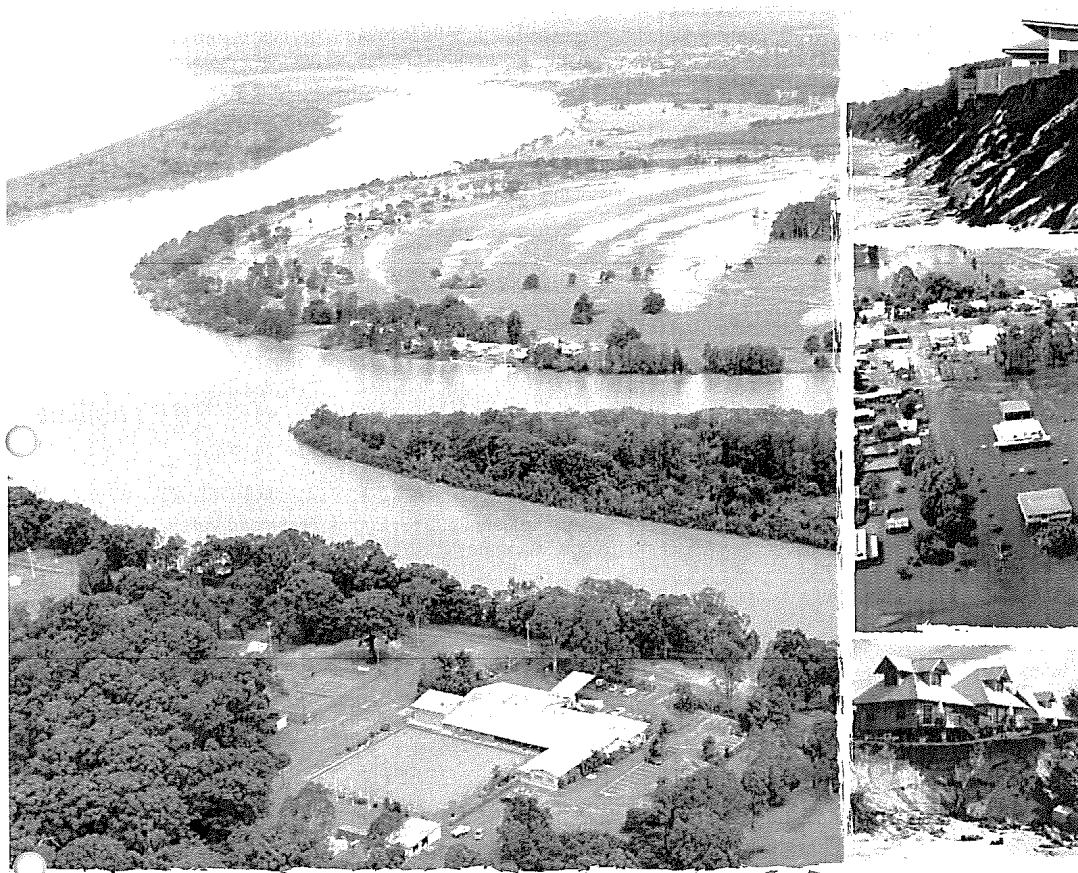
COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

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

ATTACHMENT 4
NSW SEA LEVEL RISE POLICY STATEMENT



NSW Sea Level Rise
Policy Statement



New South Wales
Government

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Cover (clockwise from main photo):

Bellinger River flooding at Myleston (Coffs Harbour Advocate);
coastal erosion at Old Bar (P. Watson, DECCW);
flooding from the Richmond River at Coraki, January 2008 (B. Eiggins, Richmond Valley Council); coastal erosion at Belongil Beach, Byron Bay (P. Watson, DECCW).

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Introduction

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

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

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

The impacts of rising sea levels

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

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

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

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

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

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

These physical changes will have an impact on coastal ecosystems, access to and use of public and private lands, 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 5.5 of the Standard Instrument prevents the granting of development consent on land that is wholly or partly within the NSW Coastal Zone, unless consideration has been given to the effect of coastal processes and coastal hazards and potential impacts, including sea level rise on the proposed development, and arising from the proposed development.

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

The NSW Flood Prone Land 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, these 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 considerations of sea level rise impacts, within applicable decision-making frameworks. This will include strategic planning and development assessment under the EP&A Act and infrastructure planning and renewal.

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

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

4. Community support during emergencies

The Government currently provides emergency management support to coastal communities during and following floods and major storms. This support is normally coordinated by the State Emergency Service, operating under the *State Emergency and Rescue Management Act 1989*. The 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.

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

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

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

- incorporating the projected impacts of sea level rise on predicted flood risks and coastal hazards
- designing and upgrading of public and private assets in low-lying 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 all properties at risk from coastal hazards and sea level rise.

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

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

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

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

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

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

3. Supporting appropriate coastal development

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

The sea level rise planning benchmarks will support consistent consideration of the influence of sea level rise on any coastal hazards and flooding risks that may influence a development or redevelopment site. The benchmarks are not intended to be used to preclude development of land that 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

³ 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.

ATTACHMENT 5
 APPLICANTS SUBMISSION



116 Adelaide Street
 (PO Box 42) Raymond Terrace NSW 2324
 DX 21406 Raymond Terrace
 T: (02) 4980 0255 F: (02) 4987 3612
 E: council@portstephens.nsw.gov.au
 W: www.portstephens.nsw.gov.au

OFFICE USE ONLY

Application No
 Date of Receipt

Request for Variation to Development Standards
 under State Environmental Planning Policy No. 1 (SEPP 1)

Any application which seeks to vary a development standard of the Port Stephens Local Environmental Plan or any other environmental planning instrument requirement must be supported by a written request. In seeking a variation to one (or more) standard, you must be able to demonstrate the following:

1. Identify the development standard to which the SEPP 1 objection applies.
2. Identify the objectives of the applicable zone.
3. Identify the underlying objectives of the applicable development standard.
4. Whether compliance with the development standard is consistent with the aims in Clause 3 of SEPP 1.
5. Reasons given to support the variation.
6. State why compliance with the development standard is unreasonable to unnecessary in the circumstances of the case.

It is not appropriate to request Council to vary a development standard for economic reasons, to achieve a higher density (which may be out of character with the surrounding area), or to enable a "standard design" to fit on the site. The request must establish the need for the variation based on the objectives of the zone, the constraints and attributes of the site, while considering the underlying objective(s) of the relevant development standard or instrument requirement. Applications that cannot reasonably establish these criteria will not be supported by Council.

This form can be used as the basis of a SEPP1 objection. Before completing this form, you should discuss any variation sought, including the underlying objective, with Council's Assessment and Planning Section. This will assist Council in making a speedy assessment of your request, without the need to seek further information.

Applicant Details

Name DESIGNED DIMENSION
 Address 142 GLEBE RD MERENGETTER Postcode 2291

Development Description

CONSTRUCTION OF 2 STOREY BRICK VENEER RESIDENCE

Property Description

Lot No 340 DP / SP 27845 Section Portion
 House No 227 Street Name FORESHORE DR
 Town CORVETTE

Variation Sought

Identify which development standard is to be varied and by what degree (%)

- Height..... %variation
- Floor Space Ratio %variation
- Density (Lot Size)..... %variation
- Other – Please specify (SEPP or REP)%variation

Variation Justification

Consider the underlying objective(s) of the relevant development standard being varied. Remember, if in any doubt, Council's Assessment and Planning section is available to discuss these or any other matter relating to your request for variation.

Identify the development standard to which the SEPP 1 objection applies

THE SEPP 1 OBJECTION APPLIES TO THE INCREASED FLOOR SPACE RATIO.

Identify the objectives of the applicable zone

0.5:1 IS COUNCILS POLICY

Identify the underlying objectives of the applicable development standard

COUNCIL'S POLICY IS TO HAVE A MAXIMUM FSR OF 0.5:1 TO ALLOW FOR LANDSCAPING AND REDUCE BULK AND SCALE. HOWEVER DUE TO THE SIZE OF OUR SITE WE HAVE ACHIEVED 0.7:1 ON A NORMAL 500m² SITE WE WOULD ACHIEVE COUNCILS REQUEST.

Whether compliance with the development standard is consistent with the aims in Clause 3 of SEPP 1

COMPLIANCE WITH THE DEVELOPMENT STANDARDS IS
CONSISTENT WITH THE AIMS OF THE SEPP 1.

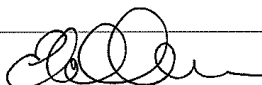
Reasons given to support the variation

DUE TO THE SIZE OF THE PROPOSED LOT IT IS
NEAR IMPOSSIBLE TO MEET COUNCILS POLICY
FOR FLOOR SPACE RATIO.

State why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

THE SIZE OF THE SITE IS ONLY APPROX 245m²
SO TO COMPLY WITH THIS REGULATION WOULD
RESULT IN BUILDING A ONE BEDROOM COTTAGE
WHICH IS NOT PRACTICAL

Applicant's signature



Date 10.08.10

ATTACHMENT 6

Site Inspection – 227 Foreshore Drive Corlette

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

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

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

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

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

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

ITEM NO. 2

FILE NO: 16-2010-769-1

DEVELOPMENT APPLICATION FOR DEMOLITION OF EXISTING UNITS AND CONSTRUCTION OF URBAN HOUSING (4 UNITS) AT NO. 64 SANDY POINT ROAD, CORLETTE

REPORT OF: MATTHEW BROWN - DEVELOPMENT ASSESSMENT & ENVIRONMENTAL HEALTH, MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2010-769-1 for demolition of existing units and construction of urban housing (4 units) at 64 Sandy Point Road, Corlette, subject to the conditions contained in Attachment 3.

COUNCIL COMMITTEE MEETING – 5 APRIL 2011

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Bob Westbury</p>	<p>That the recommendation be adopted.</p>
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In accordance with Section 375A of the Local Government Act 1993, a division is required on this item.

Those for the motion: Crs Bruce MacKenzie, Bob Westbury, Steve Tucker, Sally Dover, Shirley O'Brien and Glenys Francis.

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

ORDINARY COUNCIL MEETING – 12 APRIL 2011

<p>108</p>	<p>Councillor John Nell Councillor Frank Ward</p>	<p>It was resolved that Council refuse the development application for demolition of the exiting units and construction of urban housing (4 units) at No. 64 Sandy Point Road, Corlette for the following reasons:</p> <ol style="list-style-type: none"> 1. Pursuant to Section 79C 1(a)(i) of the Environmental Planning and Assessment Act the proposed development is not supported with the well founded State Environmental
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		<p>Planning Policy (SEPP) No.1 – Objection to Development Standard because the underlying objectives of the development standards contained within Clause 19 of Port Stephens Local Environmental Plan 2000 have not been identified, and therefore whether or not the intentions of the development standard are being met by the proposal has not been adequately addressed.</p> <ol style="list-style-type: none"> 2. Pursuant to Section 79C 1(a)(i) of the Environmental Planning and Assessment Act the proposed development does not comply with the Minimum Site Area of 300 m² per dwelling contained within Clause 19 of Port Stephens Local Environmental Plan 2000, whereas only 152 m² per unit is proposed. 3. Pursuant to Section 79C 1(a)(i) of the Environmental Planning and Assessment Act the proposed development does not comply with the Floor Space Ratio (FSR) of 0.5: 1.0 contained within Clause 19 of Port Stephens Local Environmental Plan 2000, whereas the development proposes an FSR of 0.55: 1.0. 4. Pursuant to Section 79C 1(a)(iii) of the Environmental Planning and Assessment Act the proposal is not considered to comply with Development Control Plan 2007 – Control B7.C33 due to the proposed site coverage is greater than the allowable 60%. 5. Pursuant to Section 79C 1(a)(iii) of the Environmental Planning and Assessment Act the proposal is not considered to comply with Development Control Plan 2007 – Control B7.C47, B7.C49, B7.C52 as the proposed side setbacks and waterfront Reserve setbacks are not met. 6. Pursuant to Section 79C 1(b) of the
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		<p>Environmental Planning and Assessment Act the proposal is considered to present an unreasonable environmental impact because it results in development that is out of character with the existing seaside village due to there being larger homes on the waterfront.</p> <p>7. Pursuant to Section 79C 1(e) of the Environmental Planning and Assessment Act the proposal is not considered to be in the public interest because the proposed density is double that allowable in a residential area. This is an undesirable precedent in a seaside village remote from most services.</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 Peter Kafer, Glenys Francis, Caroline De Lyall, Steve Tucker, Geoff Dingle, John Nell and Frank Ward.

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

BACKGROUND

The purpose of this report is to present a Development Application to Council for determination at the request of Cr Ward.

This Application seeks approval to demolish the existing building at 64 Sandy Point Road, Corlette and construct an urban housing development consisting of four (4) units in 2 buildings.

The key issues identified in the planning assessment were:

Variations sought to minimum site area and FSR requirements in LEP 2000.

The proposal does not comply with the 300sqm minimum site area per dwelling and 0.5:1 maximum floor space ratio requirements under Clause 19 in LEP 2000. The site area is 607m², which would normally provide potential for a maximum of 2 dwellings and 303.5sqm of floor area.

The information submitted with the application states that the existing building contains 4 units with a total floor area of 218.5sqm (FSR of 0.36:1).

The applicant seeks a variation to LEP 2000 on the basis that the development will not increase the existing density of the site, that it will provide a better built outcome and that the additional 30.35sqm of floor area will not result in any adverse impact on adjoining properties, the waterfront or the streetscape character.

A review of Council's records identified an approval for a residential flat building in 1969. This was supported by a site inspection and submission of floor plans for the existing building, which confirmed its use for units. Although the consent is not clear on the number of units approved, there is a notation on the plans referring to 4 units, which is consistent with the information provided by the applicant.

Notwithstanding the above mentioned existing approved and constructed use, a SEPP 1 application was lodged with the DA.

Following consideration of the SEPP 1 variations, the development is unlikely to result in an unreasonable impact on adjoining properties, the waterfront or Sandy Point Road streetscape and should be supported in this instance.

Public Submissions

Four (4) submissions were received objecting to the development on the grounds that it:

Is an overdevelopment of the site

Will be incompatible with existing development

Will have a detrimental traffic impact, particularly for adjoining properties trying to turn onto Sandy Point Rd

Will increase risk to people using the bus stop in front of the site

Any traffic related impacts will be exacerbated by the proximity of the Corlette Community Hall across the road

The issues raised in the submissions were considered during the assessment, but do not warrant refusal of the application in this instance. The submissions are fully discussed further in the report.

The proposal is generally consistent with the principals and controls in DCP 2007. In particular, parking and manoeuvring complies with Section B3 and the design is unlikely to significantly impact the existing street character or unreasonably impact on adjoining properties.

FINANCIAL/RESOURCE IMPLICATIONS

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

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with Council's Policy.

Although the proposal does not comply with the requirements of Council's Local Environmental Plan 2000, the applicant has lodged a request to vary the relevant standards under SEPP 1.

Based on the justification provided, the proposed variation is considered acceptable in this instance and will not undermine the validity or continued application of Council policy.

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 four (4) submissions were received. These are discussed in the Attachments.

OPTIONS

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

ATTACHMENTS

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

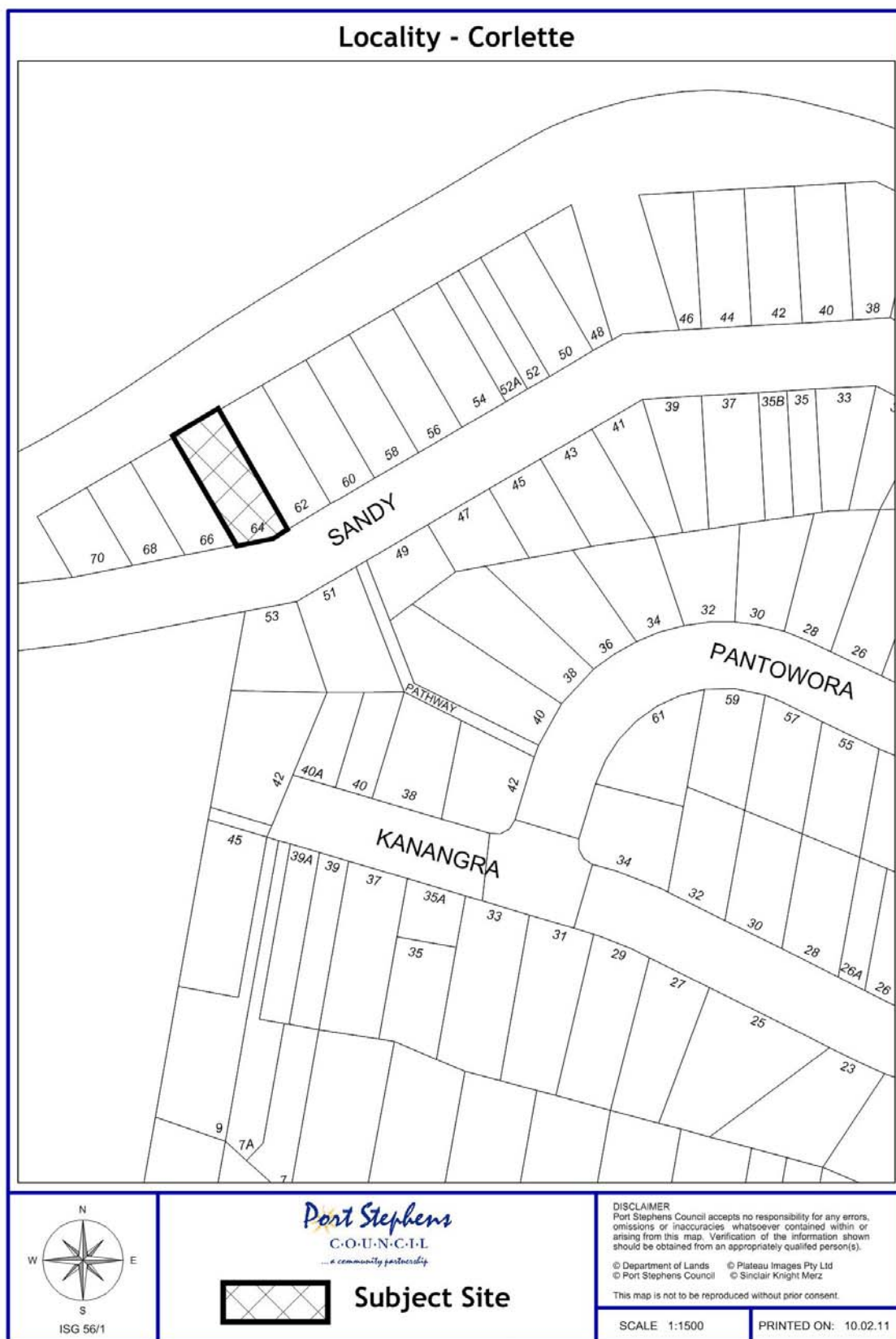
COUNCILLORS ROOM

- 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

Consent is sought to demolish the existing building and construct a 4 unit urban housing development.

The development will consist of 2 buildings. The larger building will contain Units 2, 3 (2 bedroom) and 4 (3 bedroom). The smaller building will contain Unit 1 (1 bedroom).

THE APPLICATION

Owner	P Dibben, G Woolf and S Woolf
Applicant	Webber Architects
Detail Submitted	SoEE, SEPP 1 Objection, Plans

THE LAND

Property Description	Lot 280 DP 27048
Address	64 Sandy Point Road, Corlette
Area	607m ²
Dimensions	15.835m x 41.19m

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	2(a) Residential
Relevant Clauses	19 – Dwellings, dual occupancies & urban housing 38 – Development on flood prone land 44 – Appearance of land & buildings 51A – Acid Sulphate Soils
Development Control Plan	B2 – Environmental & Construction Mgt B3 – Parking & Traffic B7 – Villas & Townhouses
State Environmental Planning Policies	1 – Development Standards 71 – Coastal Protection
Environmental Planning & Assessment Act	79BA - Bushfire Prone Land
Section 94 Development Contributions Plan	

1.1 Local Environmental Plan

The site is within the 2(a) Residential zone. Urban housing developments are permissible in the zone subject to Clause 19. The development is considered to be consistent with the relevant zone objectives, as it will not significantly alter the surrounding character and will not unreasonably impact overshadowing, privacy or flooding around the site.

- Clause 19 - Dwellings, dual occupancies & urban housing

CONTROL	REQUIRED	PROPOSED	COMPLIES
Min Site Area	300sqm	151.75sqm	NO
FSR	0.5:1	0.55:1	NO
Height	8m	7.6m	Yes

The proposal does not comply with the requirements for minimum site area and floor space ratio. The applicant has sought to vary these requirements under SEPP 1. Consideration of the variation is included later in this assessment.

- Clause 38 - Development on flood prone land

In a pre-DA meeting, the applicant was advised by Council's Strategic Engineer that the flood planning level (FPL) including sea level rise was 3.7m AHD. All units will have a ground floor level above the FPL. As such, the development is unlikely to increase the frequency, severity or risk from flooding on and around the site.

- Clause 44 – Appearance of land & buildings

Based on the plans and the perspectives included in the Statement of Environmental Effects, the proposal is considered unlikely to have a significant or detrimental impact when viewed from Port Stephens or Sandy Point Road, as it will have similar bulk and scale to existing development on surrounding properties.

- Clause 51A – Acid Sulphate Soils

The site is shown as part Class 3 and part Class 4 on the acid sulphate soils planning map. The applicant has submitted a geotechnical report with the DA, which included on-site testing and stated that the development is unlikely to disturb acid sulphate soils. A recommended condition will require compliance with the submitted geotechnical report.

1.2 Development Control Plan 2007

The application has been assessed against the relevant provisions of Port Stephens Development Control Plan, 2007. Recommended conditions will require compliance with the general controls of Section B2 Environmental & Construction Management. Compliance, as follows:

MINUTES FOR ORDINARY MEETING – 12 APRIL 2011

CONTROL	PROPOSED	REQUIRED	COMPLIES
B3 – Parking & Traffic			
B3.8	Unit 1, 2 and 3 – 1 space Unit 4 – 2 spaces Visitors – 2 spaces	Unit 1, 2 and 3 – 1 space Unit 4 – 2 spaces Visitors – 2 spaces	Yes
B7 – Villas & Townhouses			
B7.C4	Front setback – 6m	Unit 1 – 3.34m	NO
B7.C6	Dwellings facing the street	Unit 1 will face the street. Units 2, 3 and 4 will also face the street despite larger setback (approx 13.5m)	Yes
B7.C8	Covered entry	All entryways will be covered	Yes
B7.C9	Dwellings to address public reserves	Units 2, 3 and 4 will address the waterfront reserve	Yes
B7.C10	Deck (1.5m deep and 25% wide) for 2 storey dwellings	Units 1 and 4 will have compliant decks facing the street	Yes
B7.C15	Shared vehicular access	All units will share common access point	Yes
B7.C18	Garage/carport no greater than 6m wide or 50%	Parking spaces (visitors are closest to front boundary) will only take up 5.5m of street frontage	Yes
B7.C19	Garage doors setback 1.5m from building alignment	Garage doors for Unit 4 are setback behind Unit 1	Yes
B7.C33	Site coverage 60%	Site coverage greater than 60% if gravel areas included	NO
B7.C36	Max 1m cut/fill	Plans do not show any significant excavation or fillings	Yes
B7.C38	Max 1m retaining wall (600mm if within 2m of bdy)	Plans do not show any retaining walls	Yes
B7.C44	Max 2 storey	2 storey	Yes
B7.C47	Side setback – 900mm for single storey	Units 2, 3 & 4 - 1m	Yes
B7.C48	Side setback – 2m for 2 storey	Unit 1 Units 2, 3 & 4 - 2m	NO Yes
B7.C49	Zero side setback if less than 6m long and 3m high	Unit 1 – 3.6m long and 3.5m high	NO
B7.C52	Waterfront reserve	5.7m for ground floor	Yes

MINUTES FOR ORDINARY MEETING – 12 APRIL 2011

	setback – 4.5m (1m encroachment for lightweight structures)	3.1m for 1 st floor deck	NO
B7.C53	Varying facades	Different facades	Yes
B7.C60	POS – 35sqm and 4m wide	Units 1, 2 and 3 have compliant POS	Yes
B7.C62	POS – Deck greater than 20sqm and 3m wide if no ground floor POS	Unit 4 had deck 21.56sqm	Yes
B7.C66	3 hours sunlight to POS between 9am and 3pm	Due to partial north-south orientation, all POS should receive 3 hours sunlight	Yes
B7.C67	Must allow 2 hours sunlight to 50% of adjoining POS between 9am and 3pm	Shadow diagram submitted Due to partial north-south orientation, the proposal will not unreasonably generate shadows on SW adjoining property	Yes
B7.C68	Privacy – offsets and screens to be used to obscure direct line of sight within adjoining properties	Windows and decks are not directed toward POS and living area windows on adjoining properties	Yes
B7.C99	Garbage storage area	Each unit has available area for bin storage. Unit 4 will have to store bins in garage.	Yes
B7.C101	Clothes drying area	Each unit has available area for clothes drying.	Yes

Discussion

The applicant seeks variations to a number of controls in DCP 2007, the justification for which is detailed below along with the relevant assessment comments.

Following assessment of the variations and justification, it is considered that they do not warrant refusal of the application in this instance.

- Front setback (B7.C4)

DCP 2007 requires a front setback of 6m. The development does not comply with this requirement.

The wall of Unit 1 will have a front setback varying from 4m (eastern end) to 5.3m (western end). The 1st floor deck will be setback 3.4m to the front boundary. Two visitor parking spaces will also be located within the 6m setback.

The Sandy Point Rd streetscape is defined by large 2 storey houses generally setback to the rear of the block (which adjoins waterfront reserve). Properties east of the site generally have a single storey garage component located forward of the dwellings, in a similar position to Unit 1.

There is little scope to increase the front setback due to the need for parking and manoeuvring areas.

The setback for Unit 1 will make it a reasonably prominent feature along the streetscape, given its location on a road bend and the fact that western properties do not have any garages in the front setback area.

However, Unit 1 takes up approximately a third of the street frontage and the plans show appropriate articulation and landscaping. It is considered that the front setback variation is unlikely to result in an unreasonable visual impact or be a dominating element on the Sandy Point Rd streetscape and building line.

- Site coverage (B7.C33)

The proposed site coverage is 53.5%, but the calculation does not include gravel areas as specified in DCP 2007. The inclusion of gravel areas will push the development above the 60% maximum requirement of DCP 2007 to approximately 75%.

Council's DA Engineers did not object to the site coverage variation, and the proposal makes adequate provision for drainage, private open space and landscaping throughout the site.

The proposed variation is unlikely to significantly alter the impact of the development and is considered reasonable in this instance.

- Side setback (B7.C48 & B7.C49)

Unit 1 will have a nil side setback, with the encroachment being 3.6m long and 3.5m high.

DCP 2007 does make provision for nil setbacks, providing that the encroachment is no more than 6m long and 3m high and does not impact the adjoining property.

Increasing the setback would be difficult due to the impact on manoeuvring and parking areas, while a different design would likely increase the bulk of the main building and the visual and amenity impacts along the side boundaries.

The adjoining property has a driveway and landscaping area along the area of the proposed encroachment, with the majority of living area and private open space facing the waterfront.

The impact from the encroachment should not be unreasonable, and the design is considered preferable to 1 larger building containing 4 units, which would likely have a greater impact on the amenity of adjoining properties and the waterfront.

- Waterfront setback (B7.C52)

The main building will be setback 5.3m to the waterfront reserve, while the rear 1st floor deck will be setback 3.2m.

DCP 2007 makes a provision for 1m encroachments for lightweight structures. Applying the 1m encroachment is considered reasonable as the deck is not a visually dominant feature and provides cover for the rear doors.

The proposed deck setback is greater than that of the current deck (setback 2.3m) and the 0.3m encroachment is unlikely to impact views or the amenity of adjoining properties or the users of the waterfront reserve.

1.3 State Environmental Planning Policy 1 – Development Standards

The applicant has made an application under SEPP 1 to vary the minimum site area and maximum floor space ratio requirements of Clause 19 in LEP 2000.

Following assessment of the applicant's argument and the likely impacts as a result of the variations, it is considered that they can be supported in this instance and do not require concurrence from the Department of Planning (under 1989 assumed concurrence circular).

Full consideration of the proposed variations is included below:

- Minimum site area

Clause 19 in LEP 2000 sets a minimum site area of 300m² per dwelling. Based on this, the site would have a maximum potential for 2 dwellings.

The proposed 4 unit development will have a site area of 151.75m² per dwelling and does not comply.

The applicant argues that compliance with the density standard is unreasonable in this instance as the existing and approved density of the site will not be increased by the proposal.

A review of Council's records identified approvals for a residential flat building on the site in 1969 (DA 80/69 and BA 148/69). However, the records do not clearly indicate how many units were approved. The most reliable information appears to be a notation on the approved plans referring to 4 units, which is consistent with the information and existing floor plans submitted by the applicant.

The applicant also argues that density variation will not result in any unreasonable impacts and that it will be consistent with the bulk and scale of development in the locality.

It is noted that the size of development on the site will be substantially increased. The existing building has an FSR of approximately 0.36:1, while the proposal will have an FSR of 0.55:1.

But the development is generally consistent with height and setback requirements in LEP 2000 and DCP 2007, and is considered to be consistent with the bulk and scale of development along Sandy Point Road.

It is also agreed that the proposal will provide greater amenity for residents, more parking and manoeuvring area and will have better articulation when viewed from the street. The development will also reduce the number of driveway entries and have a higher floor level than the existing building, which will reduce risks from flooding.

Strict application of the density standard in this instance will encourage keeping the existing 4 unit building, whether renovated or in its current form.

Following assessment of the benefits and likely impacts of the development, it is considered that the density variation is consistent with the aims of SEPP1 and should be supported. Further, the variation is unlikely to create any precedent for future proposals, as it is largely dependant on the 1969 approval for a residential flat building on the site.

- Floor Space Ratio

Clause 19 sets a minimum FSR of 0.5:1 for urban housing, dual occupancy and single dwelling development in the 2(a) zone. The proposed development will have an FSR of 0.55:1 and does not comply. It should be noted that the existing building has an approximate FSR of 0.36:1.

The applicant argues that despite the variation, the development is generally consistent with the controls and principles of DCP 2007 and will not adversely impact the amenity of adjoining properties or alter the character of the streetscape and waterfront reserve.

Following assessment of the proposal, it is noted that variations are sought to the side and rear setback controls in DCP 2007. However, these are minor and unlikely to result in any adverse impact on adjoining properties, and do not appear to be a direct result of the proposed FSR variation. Further, based on elevations and perspectives submitted with the application, it is considered that the bulk and scale of the proposed building will be consistent with existing development within the vicinity of the site.

The proposed FSR variation is considered to be consistent with the aims in SEPP 1 and should be supported in this instance.

1.4 State Environmental Planning Policy 71 – Coastal Protection

The development is consistent with the relevant matters for consideration, which are listed below:

- the aims of this Policy set out in clause 2,

The development is consistent with surrounding residential development and will not contradict the aims of SEPP 71.

- existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved

The development will not impact the public's access to the waterfront reserve.

- opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability

Given the width of the site and nature of the development, it is not reasonable to require additional public access through the site to the foreshore.

- the suitability of development given its type, location and design and its relationship with the surrounding area

The development is considered compatible with surrounding development.

- any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore

The development is unlikely to increase the impact on the coastal foreshore, and will be setback further from the waterfront reserve than the existing building.

- the scenic qualities of the New South Wales coast, and means to protect and improve these qualities

The development will not significantly impact the scenic quality of the NSW coast.

- likely impacts of development on the water quality of coastal waterbodies

Suitable provisions have been made for stormwater management and flooding, and the development is unlikely to impact water quality in Port Stephens.

- only in cases in which a development application in relation to proposed development is determined:
 - (i) the cumulative impacts of the proposed development on the environment

The development is unlikely to add to the cumulative impact of residential development on the natural environment of Port Stephens.

- (ii) measures to ensure that water and energy usage by the development is efficient.

The BASIX certificate submitted with the application proposes measures to ensure that the development meets the legislative water and energy efficiency targets. A condition will be imposed requiring the development to be in accordance with the submitted BASIX certificate.

1.5 Environmental Planning & Assessment Act – 79BA Bushfire Prone Land

The site is mapped as bushfire prone, but is not integrated given the proposal does not have a subdivision component. As such, the proposal has been considered under Section 79BA of the EPA Act. Following assessment, the proposal is considered to comply with Planning for Bushfire Protection 2006 subject to recommended conditions.

The closest bushfire threat is the unmanaged vegetation opposite the site on Sandy Point Road. The vegetation is considered to be best classified as dry sclerophyll forest, and has an upslope of approximately 20° for 140m in a SW direction.

In addition to the front setback, the development will have a further setback to the bushfire threat provided by Sandy Point Road. In total Unit 1 will have a setback of 32m to the vegetation, while the main building containing Units 2, 3 and 4 will have a setback of 37m to the vegetation.

Under Planning for Bushfire Protection 2006 and AS3959-2009, Unit 1 would require construction to BAL 29, while the main building containing Units 2, 3 and 4 would require construction to BAL 19, due to the extra setback available.

These construction levels shall be imposed as conditions. Further, conditions shall be recommended requiring the site to be maintained as an IPA and provision of water, utility services and access in accordance with Planning for Bushfire Protection 2006.

1.6 Section 94 Development Contributions Plan

Council's records indicate a previous approval in 1969 for a 4 unit residential flat building on the site. The proposal will not increase the existing density of the site and does not trigger the need for Section 94 contributions.

2. Likely Impact of the Development

2.1 Built Environment

- Adjoining Properties

The development is considered unlikely to have a detrimental or unreasonable impact on adjoining properties.

The main building complies with setback and height requirements, and will have similar bulk and scale to existing development on the site and surrounding properties. It is noted that Unit 1 will have a nil setback to the eastern boundary, but will be adjacent to the adjoining properties driveway, with their private open space and living areas being directed toward the waterfront.

- Streetscape

The development is considered unlikely to have a detrimental impact on, or significantly alter the character of, the Sandy Point Road streetscape.

Development along Sandy Point Road consists of large 2 storey buildings, generally single dwellings or dual occupancies, with a garage or carparking near the street frontage.

Unit 1 will be a prominent feature of the development, given its location. However, it is considered to be well articulated and its position will not be dissimilar to existing garages along the street. As such, it is not likely to be a dominant feature or detract from the streetscape.

- Landscaping

Landscaping details have been shown on the plans submitted by the applicant. No additional landscaping is considered necessary in this instance.

- Views

The development is unlikely to impact any views around the site. The proposal will have a similar bulk and scale to existing development on the site and adjoining properties, and will increase the existing setback to the waterfront reserve.

2.2 Access and Traffic

The development will share a common access point to Sandy Point Road. Parking is provided as per the requirements of DCP 2007, and the access and manoeuvring has been reviewed by Council's Development Engineers who did not object to the development.

The proposed development will not increase the density of the site, and as such is considered unlikely to significantly increase traffic exiting the site.

2.3 Natural Environment

- Flora and Fauna

The redevelopment of the site will not require significant vegetation removal and on this basis is unlikely to have an impact on local flora and fauna.

- Water

Potential water impacts have been assessed through consideration of stormwater management and flooding. The development is unlikely to contribute to any impact on water quality or flow on and around the site.

- Site Contamination

The site is not on Council's contaminated land register and there is no known history of potentially contaminating uses on the site.

- Noise

The development will continue the residential use of the site and is unlikely to increase noise on adjoining properties.

2.4 Social and Economic Impacts

The proposed development is considered unlikely to result in any adverse social or economic impacts upon the local community.

3. Suitability of the Site

The development is considered suitable for the site.

4. Submissions

The application was advertised and notified in accordance with Council policy. Four (4) submissions were received objecting the development.

Following investigation of the concerns raised in the submissions, it is considered that they do not warrant refusal of the application in this instance. Each of the concerns raised are listed below along with the relevant assessment comments:

- Overdevelopment of the site

Submissions raised concern that the proposal is an overdevelopment of the site.

The term 'over development' itself is very subjective, and should be considered against the applicable statutory hierarchy, as the proposal has been in this case.

The development does not comply with the density standard in LEP 2000, which requires a minimum site area of 300m² per dwelling. Give the site is 607m², a dual occupancy would be the maximum development permitted.

The applicant has sought a variation to LEP 2000, predominantly on the basis of the proposal not increasing the existing and approved density of the site and that it will provide a greater benefit (residential amenity, more parking/manoeuvring, reducing driveway width, reducing flood risk) than retaining or renovating the existing building.

Please note that Council's records identify that a residential flat building for 4 units was approved in 1969.

Following an assessment of the development against DCP 2007, it is considered that the likely impacts should not significantly reduce the amenity of adjoining properties and does not warrant refusal of the application in this instance.

- Incompatibility with surrounding development

Submissions raised concern that the proposal would be incompatible with surrounding development.

Development along Sandy Point Road is characterised by large 2 storey dwellings. Those along the northern side of the road are located toward the waterfront reserve running along the rear boundaries.

The proposed development will consist of a main 2 storey building containing 3 units. This building complies with the required setbacks and is unlikely to have any significant impacts. Unit 1 will be separately located near the front boundary.

Although this feature is unique along the street, existing dwellings tend to have garages located along the street, so the proposal is unlikely to be a dominant feature. Further, Unit 1 provides the development with an aspect that addresses the street. The likely visual impact from Unit 1 is unlikely to make the development incompatible with the existing streetscape.

- Traffic Increase

Submissions raised concern about the traffic impact from the development, particularly any resulting on-street parking and subsequent safety issues for adjoining properties trying to turn onto Sandy Point Rd.

It is agreed that any on street parking could reduce the available sight distance and increase the risk for drivers turning onto Sandy Point Road. However, the proposal makes provision for resident and visitor parking in accordance with DCP 2007, and sufficient manoeuvring area to allow for these vehicles to leave in a forward direction.

The four driveways merging into 1 as part of the proposed development is a significant positive outcome.

As such, there is no basis for requiring additional parking.

- Pedestrian safety

The submissions raised concern that the development would impact the safety of people waiting at the bus stop located along the sites street frontage.

The existing unit development has 4 driveway/parking areas off Sandy Point Road, with no manoeuvring area.

The proposed development will only have a single access and sufficient manoeuvring area to ensure that vehicles can leave the site in a forward direction. Based on the existing situation, it is considered that the proposal will improve traffic safety around the site.

- Proximity to Corlette Community Hall

The submissions raised concern that any traffic impact from the development would be exacerbated by the existing parking issues arising from the Corlette Community Hall across the road.

As previously stated, the development proposes parking in accordance with the requirements of DCP 2007 and is unlikely to contribute to any existing traffic issues. Further, issues arising directly from on-street parking associated with the community hall is outside the scope of the assessment for this application.

5. Public Interest

The development is unlikely to significantly impact the public interest.

**ATTACHMENT 3
CONDITIONS**

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. 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.
3. Unit 1 shall be constructed to **BAL 29**, while the main building shall be constructed to **BAL 19**, under AS3959 – 2009 'Construction of Buildings in bushfire prone areas'.
4. The entire property shall be managed as an 'Inner Protection Area' as outlined within Planning for Bushfire Protection 2006 and Standards for Asset Protection Zones.
5. The development is to be provided with water (5,000L per dwelling for fire fighting purposes) and utilities as per the requirements of Planning for Bushfire Protection 2006.
6. A bushfire report certifying compliance with the Bushfire Safety Authority conditions imposed by the Rural Fire Service shall be submitted to Council **prior to the issue of the Occupation Certificate.**
7. Certification is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority at the following stages of construction:
 - a. On completion of ground floor construction, confirming that the floor levels are in accordance with the Reduced Levels indicated on the approved plan.
 - b. When the roof has been completed, confirmation that the building does not exceed the Reduced Levels, as indicated on the approved plan.
8. Landscaping shall be carried out in accordance with the details submitted. The landscaping must be completed prior to issue of Occupation Certificate.
9. The natural ground level of the useable open space shall not be altered to ensure adjoining properties are not adversely affected in terms of stormwater runoff or privacy.

10. The development shall be undertaken in accordance with the geotechnical report prepared by Douglas Partners dated November 2010.
11. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005).
The Flood Planning Level for this development is 3.7 metres AHD.
Flood Compatible Building Materials are listed in the attached Schedule.

The following design precautions must be adhered to:-

- a. The floor level of any habitable room is to be located at a height not less than the Flood Planning Level. A survey certificate verifying compliance with this condition shall be provided to the Principal Certifying Authority as soon as practical on completion of the floor level.
 - b. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge.
 - c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods.
 - d. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible.
 - e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level.
 - f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed.
 - g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.
 - h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level.
 - i. All ducting below the Flood Planning Level shall be provided with openings for drainage and cleaning.
12. The vehicle driveway from the roadway to the property boundary incorporating the gutter crossing shall have a width of 3m and shall be constructed in concrete or interlocking pavers in accordance with the options shown on **Council's Standard Drawing No. S122A & S105A.**

The construction of the footpath crossing and associated lipless layback must be constructed **prior to the issue of any Interim and Final Occupation Certificate.**

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 north east side. This kerb shall not extent past the property boundary.
14. All redundant lay-backs shall be reinstated to match the adjoining kerb and gutter profile.
15. The driveway levels shall comply with Council's specifications for high/low level driveway construction indicated on **Council's Standard drawing S105A.**
16. Collected stormwater shall be piped from the approved drainage system (ie infiltration or detention system) and connected to the kerb, using a kerb adaptor.
17. The stormwater detention system shall be built in accordance with the approved concept plan.
18. Submission of Works-As-Executed plans and report prepared and certified by a suitability qualified drainage engineer confirming all drainage works (volume, discharge, levels, location, etc) are built in accordance with conditions of consent and the approved plan. Minor variations in height can be certified providing they are clearly identified in the report and the engineer certifies that the overland flow paths are not altered, discharge rates are not increased, and no additional negative effects are imparted on any dwellings or property. Minor variations can only be certified where it can be demonstrated that the ease of maintenance and monitoring of the system has not been negatively affected.

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

19. Works associated with the approved plans and specifications shall not commence until:
 - i) a Construction Certificate has been issued, and
 - ii) the Principal Certifying Authority has been nominated, and
 - iii) Council has received two days notice of the commencement date.
20. All civil engineering works shall be carried out in accordance with the Construction Certificate and Council's Subdivision & Development Code, to the satisfaction of Council or the Certifying Authority **prior to issue of the Subdivision Certificate or Occupation Certificate.**
21. Erosion control measures shall be put in place to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with "Managing Urban Stormwater", Volume 1:2004 (Landcom).

22. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
23. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
24. 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.
25. When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.
26. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
27. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.
28. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the Roads Act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted.
29. No construction or demolition work shall obstruct pedestrian or vehicular traffic in a public place, a hoarding or fence must be erected between the construction site and the public place.
30. Approved toilet accommodation for all tradespersons on the building site is to be provided from the time work commences until the building is complete. The toilet shall not be placed on the road reserve, without separate approval from Council.
31. Retaining Walls, not clearly noted on the approved plans or outside the parameters set in Council's Exempt and Complying Development criteria, are to be subject to a separate development application.

Such application shall be lodged and approved prior to any works relating to the retaining wall taking place

32. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with AS2601-2001 and Workcover Authority requirements.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

33. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.

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

34. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
35. Prior to the commencement of work, provide a 3m wide all weather vehicle access from the kerb and gutter to the building under construction for the delivery of materials & trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
36. All stockpiled materials shall be retained within the property boundaries. Stockpiles of topsoil, sand, aggregate, spoil or other materials shall be stored clear of the all weather vehicle access and drainage lines.
37. The development shall take place in accordance with the stated values of the energy efficiency scorecard or NatHERS assessment and/or the BASIX certificate submitted with the application. **Prior to the issue of any occupation certificate** an appropriately qualified person shall certify compliance with these requirements, as applicable.
38. The principal certifying authority shall only issue an occupation certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of consent. No occupational use is permitted until the principal certifying authority issues an occupation certificate. Note: if an accredited certifier approves occupation, the accredited certifier is to immediately notify council in writing.

39. **Prior to occupying the approved dwelling(s)**, contact Council's Mapping Section on 49800304 to obtain the correct house numbering. Be advised that any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
40. The development shall be carried out in accordance with the Building Sustainability Index (BASIX) certificate number 334579M. Where minor changes to the development occur (eg colours and the like) these changes shall be referred to Council **prior to the changes being made**.

Where approved, a copy of the amended/new BASIX Certificate shall be submitted to Council within fourteen days and will be considered sufficient to satisfy this condition.

41. **Prior to commencement of any works** within the road reserve for the provision of a driveway crossing, the applicant or their nominated contractor shall make application to Council and receive approval for the construction of the driveway.

Application shall be made on Council's Driveway Construction Application form, **a copy of which is attached** to this consent for your convenience. For further information on this condition please contact Council's Facilities and Services Group.

The construction of the footpath crossing must be completed **prior to issue of Final Occupation Certificate**.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

42. The driveway (within the road reserve) shall have a minimum of 0.5 metres clearance from the edge of existing drainage structures, pits, power poles etc. Details shall be approved by the certifying authority **prior to issue of the construction certificate**.

ITEM NO. 3

FILE NO: 2007-1204

COMPARISON OF NELSON BAY STRATEGIC PLANNING PRINCIPLES AND NELSON BAY BOAT HARBOUR & FORESHORE REVITALISATION PROJECT

REPORT OF: BRUCE PETERSEN - ENVIRONMENTAL AND DEVELOPMENT PLANNING MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Delegate the General Manager to make a submission – based on this report - to the Land and Property Management Authority (LPMA) & Ardent Leisure regarding the Nelson Bay Boat Harbour & Foreshore Revitalisation Project.

COUNCIL COMMITTEE MEETING – 5 APRIL 2011

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Steve Tucker</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Delegate the General Manager to make a submission – based on this report - to the Land and Property Management Authority (LPMA) & Ardent Leisure regarding the Nelson Bay Boat Harbour & Foreshore Revitalisation Project. 2. Any Councillor interested in providing input is able to contact the General Manager.
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ORDINARY COUNCIL MEETING – 12 APRIL 2011

109	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>	<p>It was resolved that the Council Committee recommendation be adopted.</p>
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BACKGROUND

The purpose of this report is to provide Council with a comparison of the Nelson Bay Boat Harbour & Foreshore Revitalisation Project concept currently being undertaken by the Land & Property Management Authority and Ardent Leisure under Part 3A of the Environmental Planning and Assessment (EPA) Act and Council's recently adopted Strategic Planning Principles for Nelson Bay, as a basis for making a submission.

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct financial/resource implications for Council.

LEGAL, POLICY AND RISK IMPLICATIONS

The Nelson Bay Boat Harbour & Foreshore Revitalisation Project is a process being undertaken by the LPMA & Ardent Leisure through Part 3A of the EPA Act, and is on exhibition from 9 March 2011 to 5 April 2011. It should be noted that there is a Concept Land Use Plan only at this stage with further detail to follow.

Council, at its meeting of 24 August 2010 adopted the Nelson Bay Strategic Planning Principles, ten (10) Planning Principles to guide the Foreshore Concept Planning process and support the integration of the Town Centre and Foreshore Planning processes and desired outcomes:

Principle 1: Provide for economic stimulus of Nelson Bay

Rationale: The future of Nelson Bay lies in providing an appropriate planning framework to allow for economic stimulus and development. Enabling opportunities for development and redevelopment of the foreshore to stimulate economic activity and investment in the town is fundamental to a positive economic future for Nelson Bay.

Action:

- Appropriately locating development opportunities such as a Conference centre within easy walking distance of the town centre will provide the catalyst for further development elsewhere in the town centre. Any such facility must be located with strong links to the overall town centre. Sites either west of the existing D'Albora Marina complex and/or the Bowling Club & Tennis Court site are considered appropriate for this type of development.

Outcome:

- The town centre is recognised as providing the greatest focus for traditional retail and commercial activities, with traditional marina and tourism based activities such as restaurants and boutique shopping located at the waterfront.

How the Concept Plan addresses this Principle

The Concept Plan provides for a Tourism/Commercial Precinct (Precinct 1) that will allow for development of a boutique style hotel/conference facility, offices, restaurants/cafes/bars, shops and marine related tenancies in the area north/west of Teramby Road. The manner in which this precinct is linked to the town centre is uncertain as any such links occur through 2 other precincts: Precinct 3 "Public Domain/Passive Recreation and Precinct 5 "Public Entertainment". A public walkway is indicated in Precinct 3 "Public Domain/Passive Recreation however, this walkway does not extend through Apex Park.

Principle 2: Connect the Town Centre and Waterfront precincts

Rationale: At present the town centre and waterfront are relatively separate places (precincts) in economic and pedestrian connection terms:

The waterfront including marina and public open space areas
The commercial activities of the town centre

The future of Nelson Bay lies in the town and water being inextricably linked. Whilst attractive, Apex Park separates the town centre and waterfront and reduces the desire to travel between them. This separation comes at a major economic opportunity cost to the town centre and waterfront, with both struggling to provide an appropriate level of service to its users.

Action:

Opportunities exist for the amenity of Apex Park to be improved and contribute to this connection via properly constructed and activated linkages.
Redevelopment of the Visitor Information Centre to provide for facilities that address Apex Park (such as outdoor dining).

Outcome:

The town centre and waterfront are no longer isolated from each other as separate destination points. Interconnection is encouraged through an attractive and inviting link within Apex Park.

How the Concept Plan addresses this Principle

The Concept Plan provides for a Public Entertainment Precinct (Precinct 5) that will allow for an amphitheatre/outdoor entertainment space, waterside promenade and possible uses such as markets, concerts, display spaces etc. It is conceivable that this will allow for redevelopment of the Visitor Information Centre for outdoor dining however there are no formal linkages provided in either this Precinct plan or in Precinct 3 "Public Domain/Passive Recreation to address the lack of connection across Apex Park.

Principle 3: Improve access links and traffic circulation

Rationale: The current arrival points and access options available to visitors for circulation are limited. Victoria Parade and Donald Street do not effectively channel traffic into the core areas of town. The existing walkway is underutilised. Seasonal "through" traffic adds to congestion of "destination" traffic.

Action:

Investigate creating additional links in and around the town centre to address the lack of functional continuity between the town and water.

Identify the extension of Yacaaba Street in the Comprehensive LEP as "road".

Investigate redesign of the edge interfaces at Government/Laman and Victoria Street edge interfaces to support a functional link with the waterfront.

Investigate the possibility of extending Fingal Street to Victoria Parade.

Outcome:

Strengthening the pedestrian link across Apex Park as an extension to Stockton Street will create a strong link to the foreshore. The implementation of this extension provides the opportunity to consider the creation of informal and formal gathering spaces. This link will eventually be mirrored by the extension of Yacaaba Street to the waterfront.

New connections will improve the network capacity; reduce congestion and slow traffic through the centre area of the town. This will give a higher priority to pedestrians and improve safety.

How the Concept Plan addresses this Principle

There are no formal linkages provided for in the Concept Plan.

Principle 4: Improve Pedestrian Amenity.

Rationale: The quality of the pedestrian experience has been shown to improve the overall economic performance of the town centre and also results in greater social activity and increased use of modes of transport other than the private motor vehicle.

Action:

Slow traffic along Government Road/Laman Street/Victoria Parade before reaching Stockton Street. All development to contribute to a pleasant pedestrian experience through use of appropriate shade/shelter, street furniture and amenity.

Outcome:

The number of people in a street is a key factor in amenity. Currently proximity or ease of parking relative to destination is a factor in the decision to visit. The controls should not be about the ease of parking as close as possible to the chosen destination but the 'joy' of doing something in Nelson Bay. If this 'joy' is a factor in the visit then people will be prepared to walk further (a feature of all successful towns).

How the Concept Plan addresses this Principle

This issue is not currently addressed in the concept plan.

Principle 5: Development to fund public infrastructure provision, upgrading and ongoing maintenance

Rationale: Enable incentives for the provision of contributions from the private sector development towards public facility and infrastructure provision and upgrading.

Action:

Investigate opportunities to establish a "special levy" for Nelson Bay in the Port Stephens Section 94 Development and Contributions Plan.

Outcome:

Public facilities and infrastructure are provided as required and undergo continual maintenance and improvement.

How the Concept Plan addresses this Principle

This issue is not currently addressed in the concept plan.

Principle 6: Create a sense of place through upgrading of streetscape, landscape & public spaces

Rationale: Sense of place requires a design framework that has as its foundation the quality of the public realm and the quality of the buildings as the means by which to control development. The principle of controlling the relationship between buildings and the public realm has as its foundation the need to elevate the quality of the experience for all users of the town centre and in particular the experience of pedestrians.

Action:

- Enhance the streetscape, town landscaping, paving, street furniture and signage in a highly coordinated and distinctive manner.

Outcome:

- Nelson Bay has a distinctive theme and positioning as a tourist attraction.

How the Concept Plan addresses this Principle

This issue is not currently addressed in the concept plan.

Principle 7: Quality Open Space – Apex Park as the focal public space

Rationale: Apex Park forms the critical connection between the waterfront and town centre.

Action:

Provide for redevelopment of the Visitor Information Centre site with low rise (two level) development addressing the park with a preferred use on the ground floor of café/restaurant opportunities.

Outcome:

This space is activated in a manner that preserves view corridors (two (2) view corridors through the carpark to the beach and from Stockton Street through the Marina buildings to the water) and provides for compatible uses that enhance and improve facilities in the park such as a quality playground and amphitheatre for substantial public gatherings.

How the Concept Plan addresses this Principle

The concept plan identifies the land containing Apex Park and the Visitor Information Centre as within Precinct 3 "Public Domain/Passive Recreation" and Precinct 5

"Entertainment Precinct". There is potential for the redevelopment of the Visitor Information Centre within the provisions of Precinct 5 however, the public walkway that is identified in Precinct 3 does not extend to, or navigate across Apex Park.

Principle 8: Quality urban design and architecture

Rationale: Modern architecture has proven to be poor at creating townscapes where buildings contribute to an overall sense of place and where the whole is greater than the sum of the parts. Nelson Bay suffers from poor architecture. Currently the functional edge of the marina is toward the water. The existing buildings back on to town. Blank walls are an amenity and economic issue and reduce spatial intimacy and continuity along streets. The community has expressed a desire for buildings to be highly controlled in order to deliver a quality town.

Action:

Controls are required to shift practice from self-referential architecture to buildings that contribute to the town and increase the viability of all future development in the town centre.

A 'Design Review Panel' is established to oversee architectural outcomes in Nelson Bay.

To successfully integrate with the town centre, waterfront buildings are to provide an inviting address to both the town centre and waterfront.

Outcome:

All buildings enhance the value of other sites and spaces in the town centre and contribute positively to nearby sites.

How the Concept Plan addresses this Principle

This issue is not currently addressed in the concept plan.

Principle 9: Creation of dynamic and adaptable buildings

Rationale: The creation of dynamic and adaptable buildings has proven to be the best way for towns to cater to the dynamics of economic and social change.

Action:

Buildings in the town centre are required to be flexible enough to deliver a range of commercial uses.

Residential components of buildings are designed to accommodate the higher use (i.e. permanent residential accommodation).

Outcome:

The town continues to evolve and change in a positive economic way.

How the Concept Plan addresses this Principle

This issue is not currently addressed in the concept plan.

Principle 10: Building height

Rationale: Current controls have generated a low site cover outcome. A consistent height across the town centre of 5 storeys is proposed. The 8m height limit around the foreshore has not been tested. The relationship of height and topography around the foreshore will be considered through consultation during the Part 3A process however it is acknowledged that in economic terms, increased density and height at the western end of waterfront with a clear connection back to the town centre is a fundamental element in achieving the required critical mass that will act as a catalyst for rejuvenation elsewhere in the town centre.

Action:

Promote low to mid-rise buildings uniformly across the town centre with the potential for additional height if needed at the upper levels of the town centre so as not to block views.

Additional height may be considered at the southern edge of town shielded by the backdrop of Kunara Hill.

Outcome:

Buildings are urban and fully address the street and side boundaries at the ground and first floor levels (zero setback), with a 3.0m setback (front and rear) at level two and above to allow for balconies, view corridors and solar access.

How the Concept Plan addresses this Principle

As the Concept Plan is structured as a land-use plan only, the issue of height is not addressed in a comprehensive manner however, some broad principles regarding height along the foreshore were developed during the workshops which state:

- That the height of buildings on the eastern side of the foreshore precinct are to reflect a low profile built form that does not adversely impact upon views from properties within the vicinity of the site, while providing a sympathetic visual and aesthetic outcome that is appropriate to local amenity; and
- That the height of buildings on the western side of the foreshore precinct reflect the adjacent escarpment.

In order to ascertain the possible building height along the western side of the foreshore, Council's LIDAR information was consulted (Attachment 3). LIDAR is a survey method using aerial laser technology to identify existing ground levels. This information indicates levels generally between 5m and 20m, giving an approximate maximum building height of 15m which equates to 5 storeys. This is consistent with what is proposed for the town centre of Nelson Bay.

CONSULTATION

The Nelson Bay Boat Harbour & Foreshore Revitalisation Project has been the subject of a series of public consultation meetings undertaken by LPMA & Ardent Leisure, which began on Saturday 28 August 2010. Approximately 150 people attended that meeting with a number of key issues being identified. Subsequently, a Stakeholder Group was appointed to consider the possibilities for the redevelopment of the Foreshore and assist in developing the Concept Plan. This group consisted of members from:

- Commercial Fishermans Co-operative
- D'Albora Marinas
- Econetwork
- Magnus Street Concerned Citizens
- Marina Park Authority
- Nelson Bay Town Management
- Nelson Bay Tourist Charter Boats
- Nelson Bay West Park-Care Committee
- New South Wales Maritime
- Port Stephens Business Chamber
- Port Stephens Council
- Port Stephens Tourism
- Tenants of the Marina
- Tomaree Ratepayers & Residents Association
- Worimi Land Council; and
- Five community representatives.

Initially the Stakeholder Group met to expand upon the issues raised at the Public Information Session. The Group subsequently met to prepare a concept plan that addressed the issues that had been raised during the Public Information Session and took into account:

- An overall vision for the redevelopment
- Land use themes and locations
- Intensity of land use and building density
- Streetscape themes and upgrades.

This Concept Plan was evaluated by the Stakeholder Group over 2 workshops to refine land uses, discuss potential relocation of existing uses, and introduce new uses. Discussions were also undertaken between the proponent and marina lease holders including the Commercial Fishermans Co-operative and the Nelson Bay Charter Boats. The final Concept Plan was then presented back to the Stakeholder Group for endorsement.

The Concept Plan for the redevelopment of the Nelson Bay Boat Harbour and Foreshore was placed on exhibition from Wednesday 9 March 2011 for a period of 28 days.

OPTIONS

- 1) Adopt the recommendations
- 2) Not adopt the recommendation
- 3) Amend the recommendations.

ATTACHMENTS

- 1) Under separate cover – Nelson Bay Strategic Planning Principles
- 2) Under separate cover - Nelson Bay Boat Harbour & Foreshore Revitalisation Project Concept Plan
- 3) LIDAR Contours for Teramby Road.
- 4) Building Height Audit for Nelson Bay Town Centre and surrounds

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

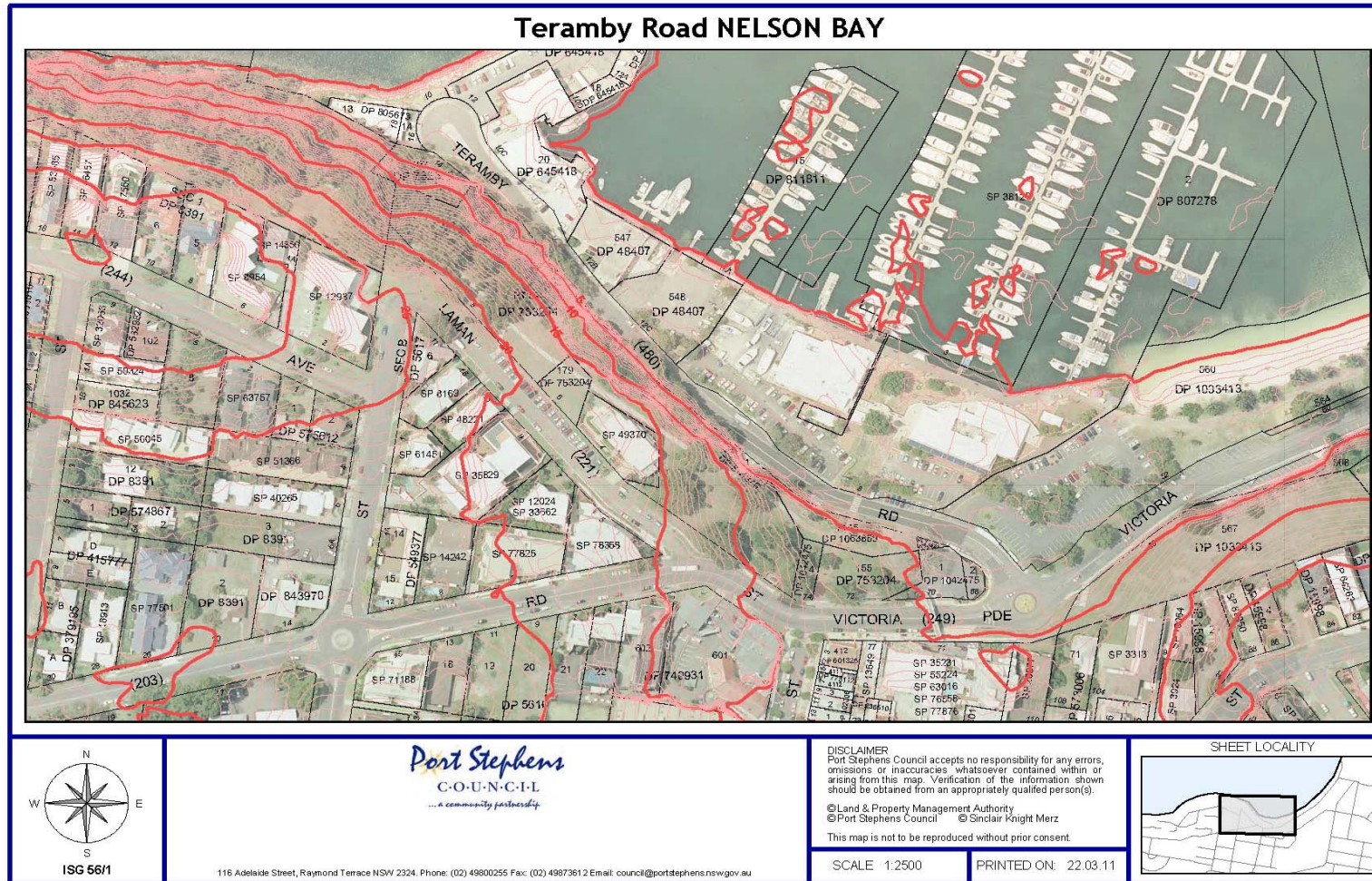
ATTACHMENT 1
NELSON BAY STRATEGIC PLANNING PRINCIPLES
PROVIDED UNDER SEPARATE COVER

ATTACHMENT 2

NELSON BAY BOAT HARBOUR & FORESHORE REVITALISATION PROJECT CONCEPT PLAN
PROVIDED UNDER SEPARATE COVER

ATTACHMENT 3

LIDAR CONTOURS FOR TERAMBY ROAD



ATTACHMENT 4

BUILDING HEIGHT AUDIT FOR NELSON BAY TOWN CENTRE AND SURROUNDS

Audit of Building Heights in Excess of 15m in Nelson Bay Town Centre

DA Number	Description	Address	Consent Authority	Maximum Height Approved
16-1999-2239-1	10 Units	15 Government Rd, Nelson Bay	Council	15.4m
16-2002-666-1	Commercial & 15 Units (5 Storey + basement)	65 & 67 Donald Street, Nelson Bay	Council	16.25m (mostly complies)
16-2004-1606-1	Commercial & 14 Units (5 Storey + basement)	63 Donald Street, Nelson Bay	Council	16.2m (mostly complies)
16-2004-324-1	Mixed Use: Commercial, Tourist (9) Residential (45)	61 Donald Street, Nelson Bay	Council	17.0m (only localised points exceed 15m)
16-2000-380-1	25 Units Tourist (5 Storey + basement)	11 & 13 Church Street, Nelson Bay	Council (LEP 1987)	18.0m
16-2002-1506-1	28 Units (26 Residential & 2 Tourist)	12 & 16 Tomaree Street, Nelson Bay	Council	16.2m (mostly complies)
25-2005-1-1	3 Units (4 storey + basement)	17 Laman Street, Nelson Bay	Dept of Planning	15.5m
16-2000-1014-1	21 Units	15 Church Street, Nelson Bay	Council	15.9m
16-2000-103-1	14 Units (6 Storey)	5 Laman Street, Nelson Bay	Council	15.6m (main building betw 13.1-14.7m)

ITEM NO. 4

FILE NO: PSC2009-0629

ABORIGINAL PROJECT FUND GRANT VARIATION REQUEST

REPORT OF: BRUCE PETERSEN - ENVIRONMENTAL AND DEVELOPMENT PLANNING
MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse a request by Karuah Local Aboriginal Land Council to re-allocate an unexpended grant of \$10,000 they received under the 2008 funding round of Council's Aboriginal Project Fund for the 'Community Sports Court Project', to be expended on replacing the floor of their community hall (as per **Attachment 1**) in lieu of the 'Community Sports Court Project'.

COUNCIL COMMITTEE MEETING – 5 APRIL 2011

RECOMMENDATION:

	<p>Councillor Peter Kafer Councillor Bruce MacKenzie</p>	<p>That the recommendation be adopted.</p>
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ORDINARY COUNCIL MEETING – 12 APRIL 2011

<p>110</p>	<p>Councillor Peter Kafer Councillor Shirley O'Brien</p>	<p>It was resolved that the Council Committee recommendation be adopted.</p>
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BACKGROUND

The purpose of this report is to seek Council endorsement of a request by Karuah Local Aboriginal Land Council (KLALC) to vary the expenditure of an unexpended grant of \$10,000 for the 'Community Sports Court Project' previously received under Council's Aboriginal Project Fund, for the alternate purpose of replacing the floor in their community hall.

At the Ordinary Meeting of Council on 25 March 2008 Council endorsed (as per resolution 061) to:

- 1) Supply funds from Council's Aboriginal Project Fund in accordance with the amounts and purposes prescribed below: -

1.5 A grant of \$10,000 to the Karuah Local Aboriginal Land Council for the 'Community Sports Court Project'.

Since receiving this grant KLALC has undergone a number of changes including the appointment of a new CEO in February 2009 which followed a prolonged vacancy in this role. Since their commencement the CEO has been responsible for implementing a number of reforms under the amended Land Rights Act. These reforms have included the establishment of Local Aboriginal Land Council Boards and the development of a mandatory 'Community & Business Plan'. These changes delayed KLALC in expending their grant for the 'Community Sports Court Project' which is an upgrade to their existing tennis court.

On 9 February 2009 Council's Aboriginal Strategic Committee was advised by KLALC that: -

...work is yet to commence on upgrading the tennis court with funds provided through Council's Aboriginal Project Fund. The KLALC Board is in the final stages of formulating a Community & Business Plan which includes recreational facilities such as the tennis court. It is preferred that the plan be completed prior to any funds being spent to ensure that funds are expended in line with the Board's overall vision for the tennis court facility.

Consequently Council's Aboriginal Strategic Committee advised KLALC that any proposed variations to the expenditure of grants allocated under Council's Aboriginal Project Fund would need to be submitted to Council for consideration.

The subsequent development of the KLALC 'Community and Business Plan' provided the newly established KLALC Board with the opportunity to review and reassess their priorities and resource requirements. Consequently Council's Aboriginal Strategic Committee advised KLALC that any proposed variations to the expenditure of grants allocated under Council's Aboriginal Project Fund would need to be submitted to Council for consideration.

At the Ordinary Meeting of Council's Aboriginal Strategic Committee on 1 February 2011: -

KLALC CEO indicated that they he has prepared a proposal for his Board to consider at their next meeting concerning a variation to the funds they have previously received for the 'Sports Court Project'. They will advise the ASC of the outcome. Subject to the KLALC Board endorsing the proposed variation, Council's Social Planning Co-ordinator will submit a report to Council to consider a variation to how the grant can be expended in line with the alternate proposal sought by KLALC.

On 10 February KLALC CEO wrote to Council informing Council that they would like to use the funds to contribute towards the supply and installation of new flooring in their community hall as per option no.3 in **Attachment 1**.

FINANCIAL/RESOURCE IMPLICATIONS

Nil.

LEGAL, POLICY AND RISK IMPLICATIONS

KLALC shall accept full responsibility for the liability of any programs or projects they have received funding for under Council's Aboriginal Project Fund.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed variation to the expenditure of the unexpended grant is closely aligned with the KLALC Community and Business Plan. The proposed re-allocation of the grant to enable the floor in the community hall to be replaced will see the renovations carried out to the hall by the KLALC over the last 18 months move close to being fully completed which continues to be used for various community purposes. The upgrading of the hall will provide locals and community service providers alike with access to a quality venue for the deliver of a range of social, cultural and support programs to be delivered.

CONSULTATION

Council's Aboriginal Strategic Committee has been consulted on this matter over the last 2 years and has advised KLALC on various options and the required processes for seeking a variation to the expenditure of their grant.

OPTIONS

- 1) To accept the recommendation
- 2) To reject the recommendation.

ATTACHMENTS

- 1) Letter from Karuah Local Aboriginal Land Council dated 10 February 2011.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



*Karuah Local Aboriginal
Land Council*

ABN 17 304 066 465

Ph: (02) 49 975733
Fax: (02) 49 975750
Email: karuahaboriginal@bigpond.com

PO Box 30
16 Mustons Rd
KARUAH NSW 2324

Date: 10/02/2011

Paul Procter
Social Planning Co-ordinator
Port Stephens Council
P.O.Box 42
Raymond Terrace NSW 2324



Dear Paul;

Some time ago the karuah Local Aboriginal Land Council had received some funds from the Aboriginal Project Fund of \$ 10,000.00 dollars.

The project was for the upgrade of the Tennis Court but the Land Council at the time needed to find more funds for the upgrade, we did take down the fencing around the Tennis Court.

The Karuah LALC would now like to use the funds to fix the Aboriginal Community Hall at Mustons Road, Karuah.

Please find attached quote from Port Stephens Carpet Choice, the Karuah LALC have board have went for option number (3). At a cost of \$ 10,895.00.

Would Port Stephens Council support this change to move the funds to the Aboriginal Community Hall Project.

Thank you


Dave Feeney
Chief Executive Officer
Karuah Local Aboriginal Land Council

2nd February 2011

Karuah Local Aboriginal Land Council
16 Mustons Road
KARUAH NSW

Attn: Mr Dave Feeney

Re: Refurbishment of Hall
KARUAH

Dear Dave,

Our quotation to supply and install new laminate flooring to be installed to the Community Hall is as follows

OPTION NO 1

- Supply and install " **Loc Floor** " 7mm thick laminate floating floor to be installed upon a 2mm thick foam underlay to cover the interior of the community hall

Includes GST Sum of \$ 7,765.00

OPTION NO 2

- Supply and install " **Visage or Armalock** " 8mm thick laminate floating floor to be installed upon a 2mm thick foam underlay to cover all areas listed above

Includes GST Sum of \$ 8,450.00

OPTION NO 3

- Supply and install either " **Tuf Loc or Titan Select** " 12mm thick laminate floating floor to be installed upon a 2mm thick foam underlay to cover all areas as previously listed

Includes GST Sum of \$ 10,895.00

Port Stephens

CARPET CHOICE

Port Stephens Flooring Centre Pty Ltd ABN 39 108 963 949
Homemaker Centre, 86 Port Stephens Drive, Taylors Beach NSW 2316 P.O. Box 93, Nelson Bay NSW 2315
Phone +61 2 4982 2522 fax +61 2 4982 2900
Email portstephens@carpetchoice.com.au
Website www.carpetchoice.com.au

All prices includes the supply and installation of

- Junior or Senior End threshold trims where necessary
- Scotia beading to be installed to all internal walls where necessary

No allowance has been made to repair or prepare existing timber floor prior to or during installation of materials.

No allowance has been made to remove or replace large island benches or to remove or replace interior/exterior doors

For any further assistance please contact me on either 49822522 or 0412565609

Yours Faithfully

Robert Ryan

Port Stephens

CARPET CHOICE

Port Stephens Flooring Centre Pty Ltd ABN 35 108 968 949
Homemaker Centre, 86 Port Stephens Drive, Taylors Beach NSW 2316 P.O. Box 83, Nelson Bay NSW 2315
Phone +61 2 4982 2522 fax +61 2 4982 2900
Email portstephens@carpetchoice.com.au
Website www.carpetchoice.com.au

ITEM NO. 5

FILE NO: PSC2009-02488

FRAUD AND CORRUPTION CONTROL POLICY

REPORT OF: WAYNE WALLIS – CORPORATE SERVICES, GROUP MANAGER

GROUP: CORPORATE SERVICES GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Fraud and Corruption Control Policy endorsed by the Audit Committee on 24 February 2011.

COUNCIL COMMITTEE MEETING – 5 APRIL 2011**RECOMMENDATION:**

	Councillor Bob Westbury Councillor Peter Kafer	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 12 APRIL 2011

111	Councillor Peter Kafer Councillor Caroline De Lyall	It was resolved that the Council Committee recommendation be adopted.
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BACKGROUND

The purpose of this report is to recommend to Council the adoption of a Fraud and Corruption Control Policy which represents Council's commitment to effective fraud and corruption risk management and prevention.

Port Stephens Council is committed to protecting its revenue, expenditure and property from any attempt, either by members of the public, contractors, elected Councillors or its own employees, to gain by deceit, financial or other benefits. The policy (and supporting management directive) has been developed to protect public funds and other assets, protect the integrity, security and reputation of Council and its employees, and assist in maintaining high levels of service to the community.

This Policy draws together Council's fraud and corruption prevention and detection initiatives into one document. It forms part of Council's Risk Management Framework and has three major components:

Prevention – initiatives to deter and minimise the opportunities of fraud and corruption;

Detection – initiatives to detect fraud and corruption as soon as possible after it occurs; and

Response – initiatives to deal with detected or suspected fraud and corruption.

The desired outcome of this Policy is the elimination of fraud and corruption against Council.

FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the development and implementation of the Policy are within the existing 2010-2011 Budget.

LEGAL, POLICY AND RISK IMPLICATIONS

All information received by Council in relation to suspected fraudulent or corrupt conduct will be collected, classified and handled appropriately having regard to privacy, confidentiality, legal professional privilege and the requirements of natural justice.

The Policy has been developed in accordance with Australian Standard AS8001:2008 Fraud and Corruption Control.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Fraud and Corruption Control Policy provides the community with assurance of the integrity in the Local Government system and of Port Stephens Council. Related policies provide confidence to those who identify potential fraud or corruption to come forward.

Fraud and corruption cost the organisation because they detract from its financial performance and its ability to provide and enhance facilities and services to its community. This policy addresses this risk.

By putting in place mechanisms to detect corruption it allows for a 'level playing field' for promoters of economic development opportunities and the enhanced reputation of Council will underpin other strategies for economic growth in the LGA.

By preventing fraud and corruption, this Policy allows for those other controls and conditions that are in place to protect the environment from being subverted.

CONSULTATION

Council's Audit Committee considered and endorsed the Fraud and Corruption Control Policy at its meeting held on 24 February 2011.

Consultation undertaken with other key stakeholders:

- Forsyths
- Lawler Partners
- Senior Leadership Team
- Legal Services Officer
- Executive Officer
- Corporate Strategy & Planning Coordinator.

OPTIONS

- 1) Adopt the Fraud and Corruption Control Policy
- 2) Amend the Fraud and Corruption Control Policy
- 3) Reject the Fraud and Corruption Control Policy.

ATTACHMENTS

- 1) Fraud and Corruption Control Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted:
Minute No:
Amended:
Minute No:

FILE NO: PSC2009-02488

TITLE: FRAUD AND CORRUPTION CONTROL POLICY

REPORT OF GROUP MANAGER CORPORATE SERVICES

BACKGROUND

Port Stephens Council (Council) recognises that it has a responsibility to develop, encourage and implement sound financial, legal and ethical decision-making and organisational practices.

This Fraud and corruption control policy represents Council's commitment to effective fraud and corruption risk management and prevention. The desired outcome of this commitment is to minimise the potential for fraud and corruption against Council.

This policy draws together Council's fraud and corruption prevention and detection initiatives into one document. It forms part of Council's risk management framework and has three major components:

- Prevention – initiatives to deter and minimise the opportunities of fraud and corruption;
- Detection – initiatives to detect fraud and corruption as soon as possible after it occurs; and
- Response – initiatives to deal with detected or suspected fraud and corruption.

For the purpose of this policy the term "Council officials" refers to all employees, consultants and contractors engaged by Council.

The desired outcome of this policy is the elimination of fraud and corruption against Council involving employees and other persons external to Council. While the elimination of all instances of fraud and corruption may not realistically be achievable, it remains Council's ultimate fraud and corruption prevention objective.

OBJECTIVE

To achieve its fraud and corruption prevention objectives Council will:

- 1) Identify fraud and corruption risks and regularly review and update the Fraud and corruption control policy;
- 2) Provide fraud and corruption awareness training to those staff who are identified as being in positions that require fraud and corruption awareness training;
- 3) Ensure all Councillors, staff, contractors and the public are aware of Council's fraud and corruption control policy;
- 4) Encourage and promote professional and ethical business practice;
- 5) Identify any weaknesses in Council's control processes through regular review of Council's operations;
- 6) Clearly communicate how suspected instances of fraud and corruption can be reported;
- 7) Investigate alleged or suspected instances of fraud or corruption using professionals with experience in investigation techniques;
- 8) Take appropriate action to deal with instances of actual, suspected or alleged fraud or corruption, including by recommending prosecution of persons and/or organisations for fraud or corruption offences where and when appropriate; and
- 9) Use all practicable avenues to recover money or property lost through fraudulent or corrupt activity.

PRINCIPLES

Council is committed to:

- 1) Adopting measures to minimise risk;
- 2) Serving, representing and promoting community needs, interests and aspirations;
- 3) Protecting community assets and resources; and
- 4) Exercising its powers and engage in initiatives that add value to and capitalise on the community's assets and resources.

POLICY STATEMENT

1 Overview

This Fraud and corruption control policy represents the commitment of the Council to effective fraud and corruption risk management. It also requires the commitment, co-operation and involvement of all Councillors, staff, contractors and the public in preventing, detecting and responding to all instances of fraud and corruption.

2 Purpose

Port Stephens Council is committed to protecting its revenue, expenditure and property from any attempt, either by members of the public, contractors, elected Councillors or its own employees, to gain by deceit, financial or other benefits. This policy is designed to protect public funds and other assets, protect the integrity, security and reputation of Council and its employees and assist in maintaining high levels of service to the community.

3 Attitude to fraud and corruption

- (a) The Council has a zero tolerance to fraud and corruption.
- (b) Council is committed to minimising the incidence of fraud and corruption through the development, implementation and regular review of fraud and corruption prevention, detection and response strategies.

4 Council's approach to fraud and corruption

- (a) Council will ensure that Council officials are aware of the fraud and corruption reporting procedures and are actively encouraged to report suspected fraud and corruption through the appropriate channels.
- (b) Council has adopted a clear framework and approach to fraud and corruption detection and prevention, This approach is based on the Australian standard for fraud and corruption control AS 8001:2008. In particular, the following fraud and corruption control strategies are pursued by Council:



Prevention Strategies	Detection Strategies
<ul style="list-style-type: none"> ▪ Integrity framework – Code of conduct 	<ul style="list-style-type: none"> ▪ Council and external agency reviews
<ul style="list-style-type: none"> ▪ Fraud and corruption control management directive (including allocation of fraud and corruption prevention responsibilities) 	<ul style="list-style-type: none"> ▪ Management reports and internal audit reviews
<ul style="list-style-type: none"> ▪ Fraud and corruption awareness training 	<ul style="list-style-type: none"> ▪ Staff induction and fraud and corruption awareness training sessions
<ul style="list-style-type: none"> ▪ Fraud and corruption risk assessments 	<ul style="list-style-type: none"> ▪ Clear reporting channels and internal audit reviews
<ul style="list-style-type: none"> ▪ Robust internal controls 	<ul style="list-style-type: none"> ▪ Protected disclosures and internal reporting
<ul style="list-style-type: none"> ▪ Pre-employment screening 	<ul style="list-style-type: none"> ▪ Police checks and references

(c) All information received by Council in relation to suspected fraudulent or corrupt conduct will be collected, classified and handled appropriately having regard to privacy, confidentiality, legal professional privilege and the requirements of natural justice.

(d) If fraud or corruption against Council is detected, the General Manager will make all decisions on the appropriate communications protocol by nominating one person to be the authorised spokesperson. Any communications relating to a fraud or corrupt incident by a person other than the General Manager or authorised spokesperson will be considered a breach of this policy. Any breach of any policy is dealt with under the provisions of the Enterprise agreement 2008; and/or the terms of contract; and/or the Code of conduct.

5 Reporting

Under the Code of conduct there is an obligation for each Council official to report any improper conduct, which includes suspected fraudulent or corrupt behaviour. An individual may report the matter either internally or externally as outlined below.

Council officials should report any suspicions to only those people who absolutely need to know. This protects people from allegations that may not be proven and prevents the possible destruction of evidence.

5.1 *Internally*

Councillors, Council officials and delegates of Council must report as soon as possible any suspected fraudulent or corrupt behaviour to:

- Executive Officer;
- General Manager; or
- Mayor.

Supervisors and managers or the internal auditors have an obligation to immediately pass on the reports of suspected fraudulent or corrupt behaviour or breaches of the policy to the General Manager.

The only exception to this is where the General Manager is suspected of conduct relating to fraud or corruption, in which case the matter should be reported to the:

- Mayor;
- Executive Officer; or
- The relevant external agency. (See 5.2 below)

5.2 *External Agencies*

Matters relating to suspected fraudulent or corrupt activities can also be reported to the following external agencies:

- The Independent Commission Against Corruption (ICAC) – telephone 8281 5999 (in the case of allegations of fraud or corruption);
- The Division of Local Government – telephone 4428 4100 (in the case of allegations relating to pecuniary interests);
- NSW Police – telephone 9281 0000 (in the case of allegations relating to fraud); and
- NSW Electoral Commission – telephone 9290 5999 (in the case of allegations relating to election fraud).

6 Responsibilities

Council will ensure that:

- Relevant exposure of significant risks to the Council are identified. The evaluation of risk is a critical determinant in Council's approach to fraud and corruption prevention and detection;
- Relevant legal obligations are monitored to ensure that operating procedures and conditions meet these obligations;
- The Code of conduct and associated policies and procedures are developed and publicised;

- Appropriate fraud and corruption prevention and detection controls are incorporated when developing and maintaining computer and/or other systems;
- Employees are properly trained and understand relevant Council policies and the legislative requirements of protection for informants under the Protected Disclosures Act 1994;
- An environment exists in which fraud and corruption related activity is discouraged; and
- Effective investigations of allegations are undertaken, and notified to the NSW Police, the ICAC, the NSW Electoral Commission and/or the Division of Local Government, for investigation and/or prosecution as required.

There are a number of specific responsibilities associated with the prevention of fraud and corruption related activity. These specific responsibilities are to be included in the Fraud and corruption control management directive.

7 Record keeping, confidentiality and privacy

Council will maintain effective record keeping systems to demonstrate due process has been followed for all actions and decisions arising out of the implementation of this policy. All investigative documentation will comply with relevant legislative provisions, will remain strictly confidential and will be retained in accordance with the *State Records Act 1998* and Council's Access to information policy.

RELATED POLICIES

This policy supports existing Council procedures in place to ensure that employees have access to suitable processes to deal with grievances or the decisions of supervisors and provided with safe and healthy working conditions. Refer also to the following key Council documents:

- Code of conduct;
- Protected disclosures internal reporting policy;
- Grievance and dispute resolution process; and
- Access to information policy.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The Fraud and corruption control policy provides the community with assurance of the integrity in the local government system and of Port Stephens Council. Related policies provide confidence to those who identify potential fraud or corruption to come forward.

ECONOMIC IMPLICATIONS

Fraud and corruption cost the organisation because they detract from its financial performance and its ability to provide and enhance facilities and services to its community. This policy addresses this risk.

By putting in place mechanisms to detect corruption it allows for a 'level playing field' for promoters of economic development opportunities and the enhanced reputation of Council will underpin other strategies for economic growth in the LGA.

ENVIRONMENTAL IMPLICATIONS

By preventing fraud and corruption, this policy allows for those other controls and conditions that are in place to protect the environment from being subverted.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993 and Local Government (General) Regulations 2005;
Environmental Planning and Assessment Act 1979
Independent Commission against Corruption Act 1998
Protected Disclosures Act 1994
Crimes Act 1990
State Records Act 1998
Australian Standard AS8001:2008

IMPLEMENTATION RESPONSIBILITY

Group Manager Corporate Services

REVIEW DATE

To ensure the Fraud and corruption prevention policy remains relevant, it will be reviewed every two (2) years. If legislative requirements alter, this policy will be reviewed immediately to accord with these requirements.

ITEM NO. 6

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 1 MARCH 2011

REPORT OF: JOHN MARETICH – CIVIL ASSETS SECTION MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the recommendations contained in the minutes of the local Traffic Committee meeting held on 1st March 2011.

COUNCIL COMMITTEE MEETING – 5 APRIL 2011**RECOMMENDATION:**

	Councillor Peter Kafer Councillor Caroline De Lyall	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 12 APRIL 2011

112	Councillor Peter Kafer Councillor Caroline De Lyall	It was resolved that the Council Committee recommendation be adopted.
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BACKGROUND

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

FINANCIAL/RESOURCE IMPLICATIONS

Council has an annual budget of \$41 000 (\$25 000 grant from the RTA and General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. The construction of traffic control devices and intersection improvements resulting from the Committee's recommendations are not included in this funding and are listed within Council's "Forward Works Plan" for consideration in the annual budget process.

The recommendations contained within the local Traffic Committee minutes can be completed within the current Traffic Committee budget allocations and without additional impact on staff or the way Council's services are delivered.

LEGAL, POLICY AND RISK IMPLICATIONS

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

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

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

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

No additional consultation was undertaken for any of the listed agenda items.

OPTIONS

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

ATTACHMENTS

- 1) Local Traffic Committee Minutes – 1st March 2011.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

PORT STEPHENS
LOCAL TRAFFIC COMMITTEE MEETING
HELD ON TUESDAY 1ST MARCH 2011
AT 9:30AM

Present:

Cr Bob Westbury – Mayor, Cr Geoff Dingle, Snr Cnst John Simmons NSW Police, Mr Bill Butler – RTA, Mr Joe Gleeson (Chairperson), Mr Graham Orr, Ms Lisa Lovegrove, Ms Michelle Page – Port Stephens Council,

Apologies:

The Hon. Mr Frank Terenzini MP, Mr Craig Baumann MP, Cr Peter Kafer - Port Stephens Council, Mr Brian Moseley – Hunter Valley Buses, Mr Mark Newling – Port Stephens Coaches,

A. ADOPTION OF MINUTES OF MEETING HELD 1ST FEBRUARY, 2011

B. BUSINESS ARISING FROM PREVIOUS MEETING

C. LISTED MATTERS

D. INFORMAL MATTERS

E. GENERAL BUSINESS

**PORT STEPHENS
LOCAL TRAFFIC COMMITTEE AGENDA**

**INDEX OF LISTED MATTERS
TUESDAY 1ST MARCH, 2011**

- A. ADOPTION OF THE MINUTES OF 1ST FEBRUARY, 2011
- B. BUSINESS ARISING FROM PREVIOUS MEETING
- C. LISTED MATTERS
- C.1 06_03/11 FERODALE ROAD MEDOWIE - INSTALLATION OF DROP OFF ZONES AT MEDOWIE PUBLIC SCHOOL
- C.2 07_03/11 MARINE DRIVE FINGAL BAY - RELOCATION OF NO STOPPING RESTRICTIONS AT FINGAL BAY SURF CLUB CAR PARK
- C.3 08_03/11 LEISURE WAY RAYMOND TERRACE – REQUEST FOR RELOCATION OF NO STOPPING RESTRICTIONS TO IMPROVE PEDESRTIAN SAFETY IN THE SWIMMING POOL CAR PARK
- C.4 09_03/11 SALAMANDER WAY SALAMANDER BAY - INSTALLATION OF 'NO PARKING' BETWEEN THE DRIVEWAYS OF THE NEW AMBULANCE STATION IN SALAMANDER WAY
- C.5 10_03/11 NEWLINE ROAD EAGLETON - INSTALLATION OF BARRIER LINE AS PART OF ROAD TOLL RESPONSE PLANNING
- D. INFORMAL MATTERS
- E. GENERAL BUSINESS
- E.1 601_03/11 FERODALE ROAD MEDOWIE – COMPLAINT REGARDING BUSES USING THE NEW BUS STOP AT THE COMMUNITY CENTRE AS A LAY-OVER
- E.2 602_03/11 WILLIAM STREET RAYMOND TERRACE – REQUEST FOR CONSIDERATION OF POLICE PARKING REQUIREMENTS AT THE NEW POLICE STATION

C. Listed Matters

C.1 Item: 06_03/11

FERODALE ROAD MEDOWIE - INSTALLATION OF DROP OFF ZONES AT MEDOWIE PUBLIC SCHOOL

Requested by: Lisa Lovegrove - Port Stephens Council

File:

Background:

Medowie Public School has requested that Traffic Committee consider the installation of No Parking signage to allow pick-up and drop-off on Ferodale Road.

Comment:

The existing part-time 'No Stopping' signs are not appropriate for a children's crossing as a children's crossing may operate at any time of day as required by the school. Without full-time 'No Stopping' restrictions there may be vehicles parked on the crossing, reducing sight distance and making it unsafe.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule167 – No Stopping signs, Rule168 – No Parking signs

RTA signs database – R5-400, R5-41

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

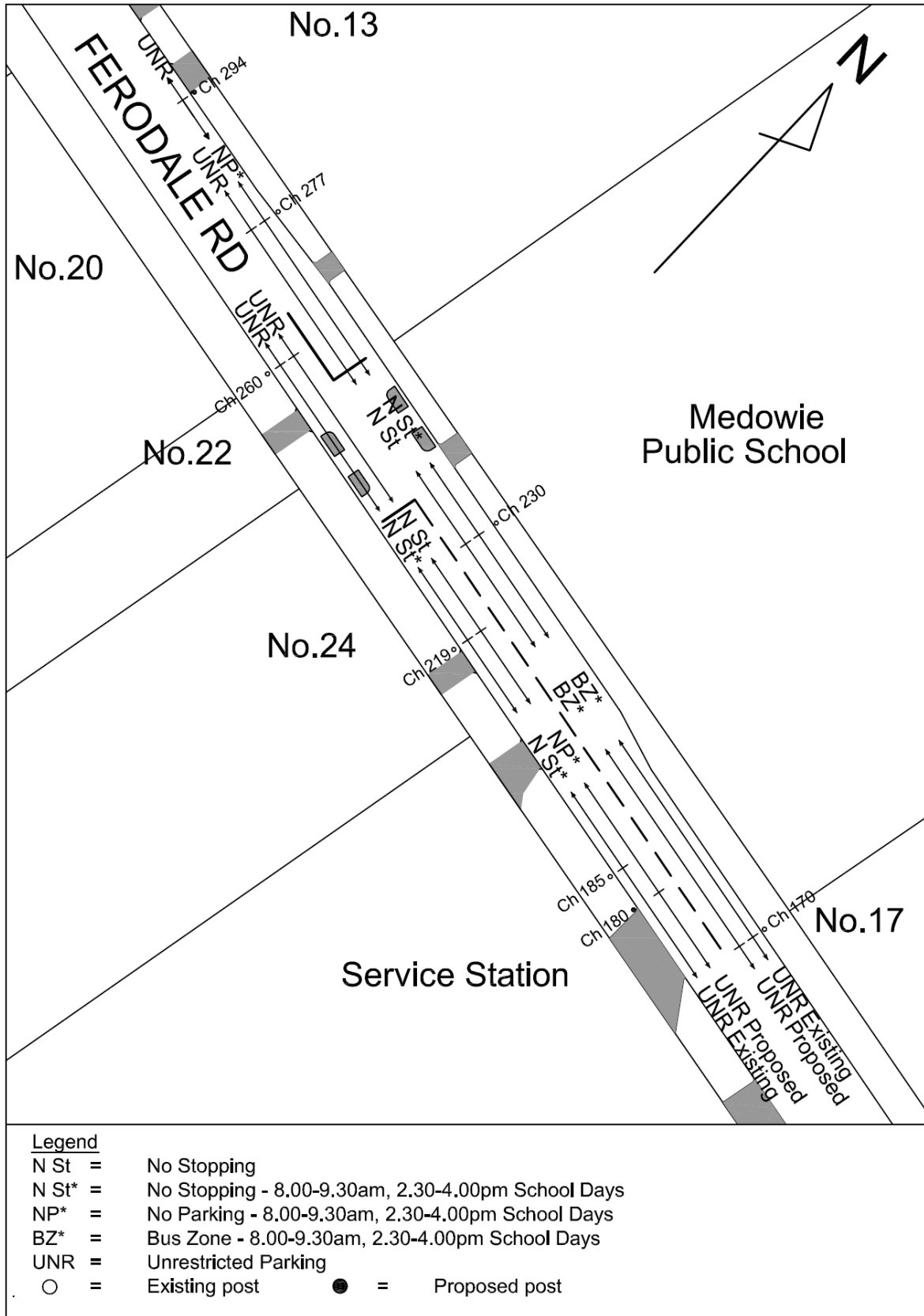
Recommendation to the Committee:

Approve installation of part-time 'No Parking' restrictions and alteration of part-time 'No Stopping' restrictions to become full-time, in Ferodale Road Medowie, as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

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



C.2 Item: 07_03/11

MARINE DRIVE FINGAL BAY - RELOCATION OF NO STOPPING RESTRICTIONS AT FINGAL BAY SURF CLUB CAR PARK

Requested by: Cr Ward

File:

Background:

Safety concerns have been raised regarding restricted sight distance at the exit from the Fingal Bay Surf Club car park when vehicles park right up to the existing 'No Stopping' sign.

Comment:

The Traffic Inspection Committee noted that parking is in high demand on weekends and when vehicles park on-street that this does reduce the sight distance available. It was also recommended that Council mark the northern driveway as the entry and the southern driveway as exit only. This would improve traffic flow and reduce congestion at the driveways.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule167 – No Stopping signs, Rule 100 – No entry signs

RTA signs database – R5-400, R2-4

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

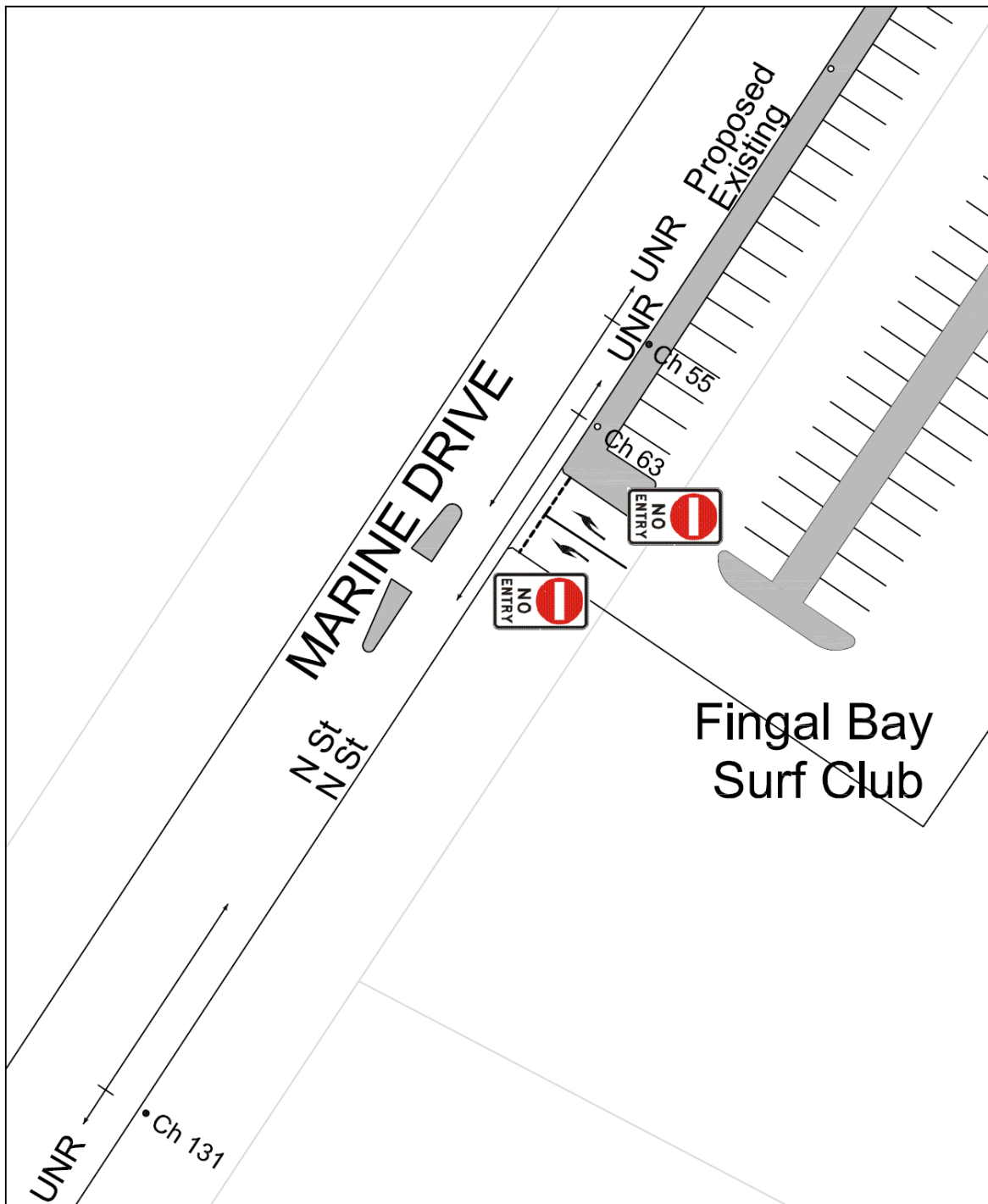
Approve relocation of the 'No Stopping' sign a further 10m to the north, as shown on the attached sketch

Approve installation of 'No Entry' signs at the southern driveway and pavement arrows as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

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



Legend

- | | | | |
|------|---|----------------------|-----------------|
| N St | = | No Stopping | |
| UNR | = | Unrestricted parking | |
| = | | Existing post | = Proposed post |

C.3 Item: 08_03/11

LEISURE WAY RAYMOND TERRACE – REQUEST FOR RELOCATION OF NO STOPPING RESTRICTIONS TO IMPROVE PEDESRTIAN SAFETY IN THE SWIMMING POOL CAR PARK

Requested by: A resident

File:

Background:

Concerns have been raised regarding parking adjacent to the pedestrian crossing at the Lakeside swimming pool car park. The resident says that when vehicles park up to the crossing it is dangerous with children running out onto the crossing.

Comment:

Cr Dingle raised the issue of vehicles entering the car park and ignoring the 'left-turn only' signage to drive straight ahead.

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule167 – No Stopping signs

RTA signs database – R5-400

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

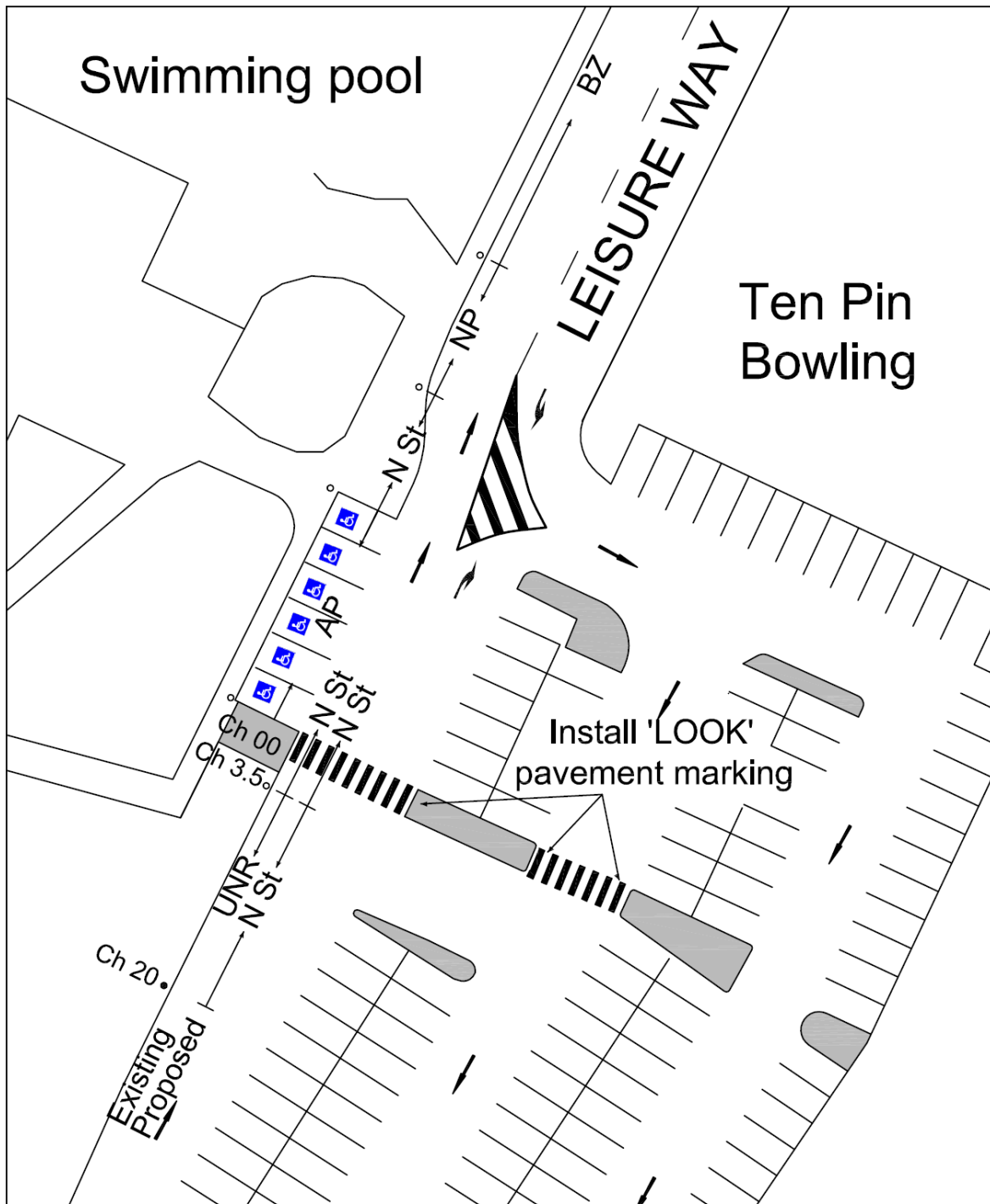
Recommendation to the Committee:

Install 'No Stopping' restrictions 20m from the pedestrian crossing, as shown on the attached sketch, Annexure A.

Discussion:

Support for the recommendation:

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



Legend

- | | | | |
|------|---|----------------------|-----------------|
| NP | = | No Parking | |
| AP | = | Accessible Parking | |
| N St | = | No Stopping | |
| BZ | = | Bus Zone | |
| UNR | = | Unrestricted Parking | |
| | = | Existing post | = Proposed post |

C.4 Item: 09_03/11

SALAMANDER WAY SALAMANDER BAY - INSTALLATION OF 'NO PARKING' BETWEEN THE DRIVEWAYS OF THE NEW AMBULANCE STATION IN SALAMANDER WAY

Requested by: David Fairbrother - ADCO Constructions

File: 16-2009-867-1

Background:

Installation of 'No Parking' between the driveways of the new ambulance station in Salamander Way was conditioned as part of the development consent.

Comment:

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule168 – No Parking signs

RTA signs database – R5-41

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

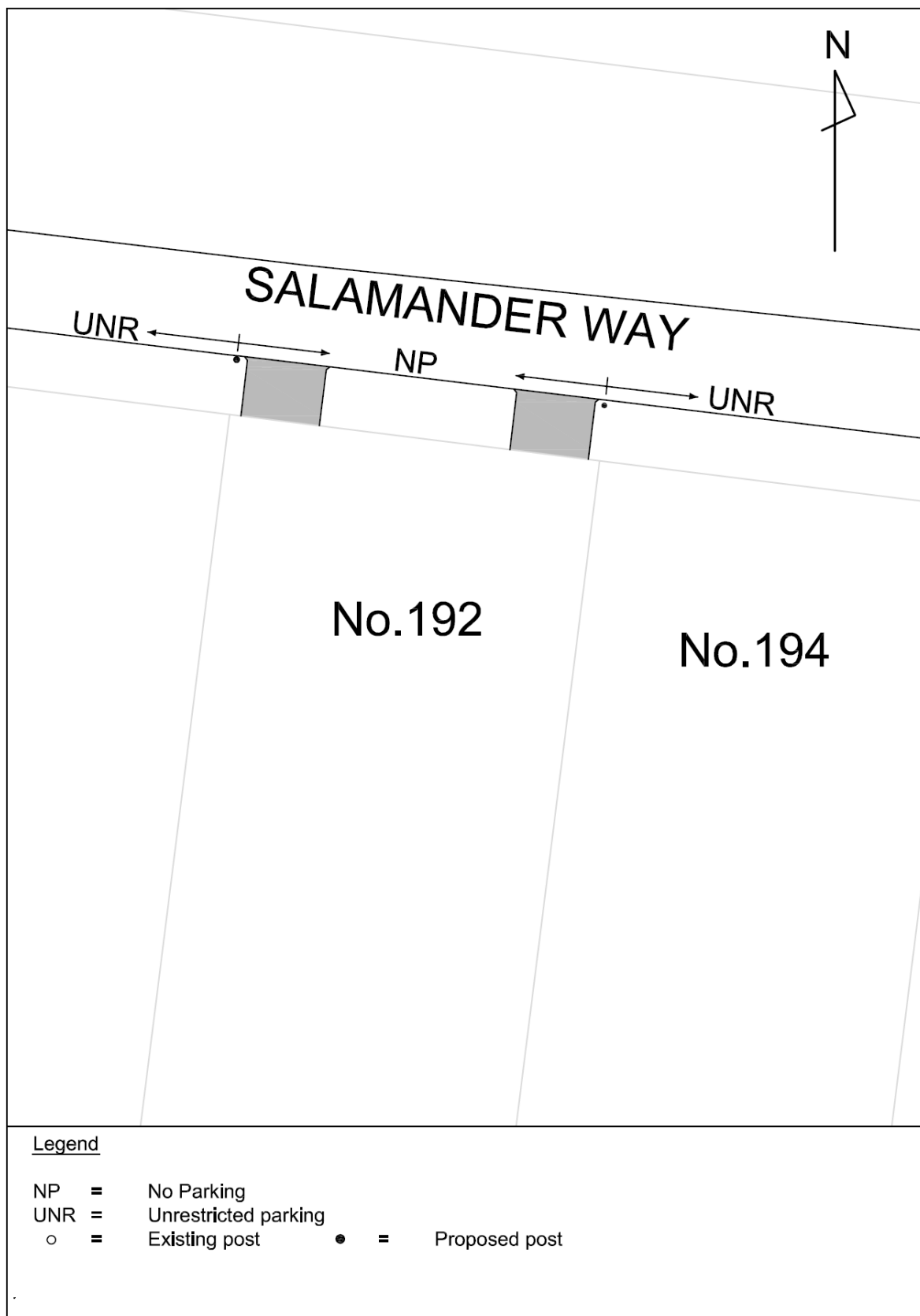
Recommendation to the Committee:

Approve installation of 'No Parking' in Salamander Way Salamander Bay, as shown on the attached sketch, Annexure A. Full cost of the installation to be met by the developer.

Discussion:

Support for the recommendation:

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



C.5 Item: 10_03/11

NEWLINE ROAD EAGLETON - INSTALLATION OF BARRIER LINE AS PART OF ROAD TOLL RESPONSE PLANNING

Requested by: Port Stephens Council

File:

Background:

Port Stephens Council has received funding for road safety works on Newline Road as part of the state governments Road Toll Response planning. This funding aims to target accident locations to provide specific safety improvements to address particular crash characteristics.

Comment:

Inspection Committee noted that the 100km/h speed limit is inconsistent with surrounding roads such as Richardson Road and Grahamstown Road .

Legislation, Standards, Guidelines and Delegation:

NSW Road Rules – Rule132 – Keeping to the left of a dividing line

RTA Delineation Guidelines – Section 4, Longitudinal markings

Traffic control devices installed under Part 4 Div. 1 Road Transport (STM) Act

Recommendation to the Committee:

Approve installation of barrier line marking at the locations as specified on the plan to be tabled at the Traffic Committee meeting

Discussion:

Traffic Committee noted that the existing 100km/h speed limit on Newline Road is not an appropriate speed given the sub-standard bends and the number of property entrances along the road length. The Traffic Committee recommended that Council request a review of the speed limit by the Roads and Traffic Authority.

Support for the recommendation:

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

D. INFORMAL MATTERS

E. GENERAL BUSINESS

E.1 Item: 601_03/11

FERODALE ROAD MEDOWIE – COMPLAINT REGARDING BUSES USING THE NEW BUS STOP AT THE COMMUNITY CENTRE AS A LAY-OVER

Requested by: Cr Dingle

File:

Background:

Cr Dingle raised concerns regarding the practice of buses using the newly-created bus stop at the Medowie Community Centre, as a lay-over. Currently, buses are stopping for long periods while making use of the facilities at the park and waiting for the allotted time to begin the bus run.

Discussion:

The Traffic Committee noted that when a bus is parked at the bus stop, sight distance for vehicles exiting the Community Centre car park is severely restricted. If the buses were only stopping to drop-off or pick-up passengers, this would not be an issue.

Committees Advice:

The Traffic Committee recommend that Port Stephens Council contact Hunter Valley Buses to request that a different bus stop be used for lay-overs.

Support for the recommendation:

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

E.2 ITEM: 602_03/11

WILLIAM STREET RAYMOND TERRACE – REQUEST FOR CONSIDERATION OF POLICE PARKING REQUIREMENTS AT THE NEW POLICE STATION

Requested by: NSW Police

File:

Background:

The new Police station is now nearing completion and Police have requested that parking restrictions be considered that will allow the proper operation of the station.

Discussion:

The Traffic Committee noted that the current arrangements at the temporary police station are working satisfactorily. There is a requirement for operational vehicles to be parked on-street as well as a need for short-term parking for visitors to the police station.

Committees Advice:

Police are to discuss further with Council the specific parking requirements to allow an operational plan to be formulated.

Support for the recommendation:

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

ITEM NO. 7

FILE NO: PSC2005-3540

KARUAH COMMUNITY CENTRE COMMITTEE

REPORT OF: STEVEN BERNASCONI - COMMUNITY AND RECREATION SERVICES
MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Constitution Schedule for the Karuah Community Centre Committee (Attachment 1).
- 2) Consider nomination for Councillor representation on the Karuah Community Centre Committee.

COUNCIL COMMITTEE MEETING – 5 APRIL 2011

RECOMMENDATION:

	Councillor Peter Kafer Councillor Caroline De Lyall	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 12 APRIL 2011

113	Councillor Caroline De Lyall Councillor Peter Kafer	It was resolved that the Council Committee recommendation be adopted and that Cr Peter Kafer be Council's delegate on the Karuah Community Centre Committee with Cr Ken Jordan as the alternate delegate.
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BACKGROUND

The purpose of this report is to seek Council endorsement of the Karuah Community Centre Committee Constitution.

This links to Council's Community Strategic Plan (15.3. Community Involvement & Engagement). "Involve the community in service delivery where appropriate through volunteer and community groups".

The previous Committee at Karuah Community Centre had a long history of achievements, however, during 2008/2009 the Committee was not able to function in line with Council requirements for a 355 Committee. This Committee was

subsequently wound down at the Council Meeting on 29 September 2009, Minute 325.

The proposed new Committee is entirely separate to the previous Committee. The focus of the proposed Committee is on:

- a partnership with Council
- to assist with the management and enhance the use of Karuah Community Centre
- as a member of the Halls Forum
- in line with Council's Volunteer Strategy.

These measures provide the framework for a successful Committee. By formally adopting the Karuah Community Centre Committee Constitution Schedule, Council will be clearly defining the Committee's relationship with Council and will provide a framework for the Committee to work within.

Prospective Committee members have attended a 355 Committee Information Evening, Code of Conduct and Occupational Health and Safety Training. This training is compulsory prior to approval of membership.

The Constitution Schedule of the Karuah Community Centre Committee (Attachment 1) has been developed in consultation with members of the proposed Committee. It complies with current 355 Committee standards and relevant legal and insurance requirements.

FINANCIAL/RESOURCE IMPLICATIONS

355 Committees are provided with a \$1,000 annual subsidy. There is no current budget allocation for this Committee. This allocation can be covered in existing Recreation Services Budget allocation.

There will be little impact on current resources for the support of the proposed Karuah Community Centre Committee as management procedures are in place for community hall committees.

LEGAL, POLICY AND RISK IMPLICATIONS

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

The constitution of the Karuah Community Centre Committee consists of the Standard 355 Committee Constitution adopted by Council, 24 June 2003, Minute No 251, and a customised schedule of the Committee's individual activities.

The Committee will be managed and provided with support as outlined in the Volunteer Strategy Framework which includes involvement in the Halls Forum.

SUSTAINABILITY IMPLICATIONS

Adoption of the recommendation will result in an increase in social capacity to provide baseline services to the Karuah community. Partnerships through 355 committees help communities to sustain their own unique way of life thus fulfilling Council's vision of a "great lifestyle in a treasured environment".

CONSULTATION

Volunteer Strategy Co-ordinator
Community & Recreation Assets Co-ordinator
Building Assets Co-ordinator
Community members, who have expressed interest in joining the Committee.

OPTIONS

- 1) Adopt the recommendations
- 2) Reject the recommendations & research alternative methods of managing Karuah Community Centre
- 3) Amend the recommendations.

ATTACHMENTS

- 1) Karuah Community Centre Committee Constitution Schedule.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

SCHEDULE TO CONSTITUTION

Item 1	Name of Committee	Karuah Community Centre Committee
Item 2	Name of Council Section	Community and Recreation Services
Item 3	Functions delegated by Council to committee (Objectives)	<ol style="list-style-type: none"> 1. To co-operate with Council to ensure that facilities are provided and maintained at an acceptable standard. 2. Undertake the functions of: <ul style="list-style-type: none"> • arranging bookings for hire of facility • receiving and banking fees & charges • arranging cleaning • providing reports to Council on maintenance requirements. 3. To make recommendations to Council as to the development, planning and management of Karuah Community Centre. 4. To make recommendations to Council on appropriate charges for the use of Karuah Community Centre. 5. To refer requests for additional work to Council for consideration and setting of priorities. 6. Encourage and support the community and/or community groups, to participate in programs benefiting the community at Karuah Community Centre. 7. In co-operation with Council, Government Departments and other bodies/organisations ensure that wherever possible optimum use is made of existing facilities. 8. Provide a community link to assist Council staff in consulting with the community on management plans
Item 4	Restrictions on functions delegated	All works undertaken will be with the knowledge and approval of Building Assets Co-ordinator, Volunteer Strategy Co-ordinator
Item 5	Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to: OH&S 2000 OH&S Regulation 2002 Local Government Act, 1993 & Regulations Government Information Public Access Act, 2009 Port Stephens Council Code of Conduct

MINUTES FOR ORDINARY MEETING – 12 APRIL 2011

		Port Stephens Council Code of Meeting Practice Port Stephens Council Accessing Information Policy Port Stephens Council Child Protection Policy Port Stephens Council Volunteer Strategy
Item 6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	Up to 16 (sixteen) members comprising of user group representatives and community members
Item 8	Councillors	As resolved by Council
Item 9	Council employees	Building Assets Co-ordinator Volunteer Strategy Co-ordinator
Item 10	Name of financial institution and type of account	
Item 11	Name of any account operated by the committee	Karuah Community Centre Committee a 355 committee of Port Stephens Council
Item 12	Area assigned to committee and/or map	Karuah Community Centre
Item 13	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full - body of constitution not to be altered.	Clause 16 – Halls The committee will be required to meet the following expenses from income received from the hire of the hall: Water Usage Charges Electricity charges Cleaning Costs Agreed contribution to repairs & maintenance Council will meet the following expenses Council Rates Standing Charges for Water Sewerage Charges Structural Maintenance & Repairs
Item 14	Changes to constitution or Schedule – Adopted by Council: Meeting Date: Minute No: Resolution:	

ITEM NO. 8

FILE NO: PSC2005-3568,
PSC2008-9565**355 COMMITTEE CONSTITUTION SCHEDULE AMENDMENTS**REPORT OF: STEVEN BERNASCONI - COMMUNITY AND RECREATION SERVICES
MANAGER

GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the amendment to the Seaham Park Committee Constitution Schedules (Attachment 1).
- 2) Adopt the amendment to the Tilligerry Community Centre Committee Constitution Schedules (Attachment 2).

COUNCIL COMMITTEE MEETING – 5 APRIL 2011**RECOMMENDATION:**

	Councillor Bob Westbury Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 12 APRIL 2011

114	Councillor Steve Tucker Councillor Peter Kafer	It was resolved that the Council Committee recommendation be adopted and that the Committee name be changed to the Seaham Park and Wetlands Committee.
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BACKGROUND

The purpose of this report is to seek Council endorsement of amendments to the Constitution Schedules of the Seaham Park Committee and Tilligerry Community Centre Committee.

This links to Council's Community Strategic Plan (15.3. Community Involvement & Engagement). Involve the community in service delivery where appropriate through volunteer and community groups.

Seaham Park Committee and Tilligerry Community Centre Committee have requested changes to their committee names. This requires an amendment to their Constitution Schedules (Attachment 1).

355 Committee Constitutions consist of the Standard 355 Committee Constitution, adopted by Council, 24 June 2003, Minute No 251, and a customised Constitution Schedule of each committee's individual activities. Council must approve any amendments to a committee's Constitution Schedule.

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL, POLICY AND RISK IMPLICATIONS

Under Section 355 of the Local Government Act, 1993, Council may exercise its functions itself or by delegation to another person or persons. Council must approve the constitution and any amendments to the constitution of such delegated committees.

The constitutions of the Seaham Park Committee and Tilligerry Community Centre Committee consist of the Standard 355 Committee Constitution adopted by Council 34 June 2003, Minute No 251 and a Customised Schedule of the committee's individual activities.

Amendments to individual committee constitution schedules do not affect the Standard 355 Committee Constitution, which remains in place unless amended by Council.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no sustainability implications from the adoption of the recommendations.

CONSULTATION

Seaham Park Committee
Tilligerry Community Centre Committee
Volunteer Strategy Co-ordinator

OPTIONS

Adopt the recommendations

- 1) Reject the recommendations
- 2) Amend the recommendations.

ATTACHMENTS

- 1) Proposed Change to Seaham Park Committee Constitution Schedule
- 2) Proposed Change to Tilligerry Community Centre Committee Constitution Schedule.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Proposed Change to Seaham Park Committee Constitution Schedule

Item to be amended	Item 1 Name of Committee
Proposed amendment	Seaham Park and Wetlands Committee
Reason for amendment	The Seaham Park Committee have requested their committee name be changed to Seaham Park and Wetlands Committee to enhance their chances of success with grant applications by having an environmental focus in their committee name.

ATTACHMENT 2

Proposed Change to Tilligerry Community Centre Committee Constitution Schedule

Item to be amended	Item 1 Name of Committee
Proposed amendment	Lemon Tree Passage Old School Centre
Reason for amendment	The Tilligerry Community Centre Committee have requested their committee name changed to Lemon Tree Passage Old School Centre to better reflect the location and history of the centre.

ITEM NO. 9

FILE NO: PSC2010-3404
& PSC2010-03684**CODE OF CONDUCT COSTS**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGERS OFFICE**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receive and note the information.

**COUNCIL COMMITTEE MEETING – 5 APRIL 2011
RECOMMENDATION:**

	Councillor Bob Westbury Councillor John Nell	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 12 APRIL 2011

115	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to provide Council with the costs of the recent Code of Conduct investigation.

Council at its meeting of 22 February 2011 considered two Code of Conduct reports involving Councillors Dingle and Kafer. At this meeting it was resolved that a report be provided to Council on the cost of conducting these investigations.

The costs for the investigation involving Cr Dingle were \$3,780 (inc. GST).

The costs for the investigation involving Cr Kafer were \$2,205 (inc. GST).

These costs do not include the costs of Council staff who coordinate the Code of Conduct process.

FINANCIAL/RESOURCE IMPLICATIONS

Nil.

LEGAL, POLICY AND RISK IMPLICATIONS

The Code of Conduct requires the assessing officer to consider complaints against the complaint assessment criteria under Section 13 and the follow the complaint handling procedures under Section 12.8 and 12.9 of the Code.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Nil.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

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 5 April 2011.

No:	Report Title	Page:
1	ABORIGINAL STRATEGIC COMMITTEE	
2	CASH AND INVESTMENTS HELD AT 28 FEBRUARY 2011	

COUNCIL COMMITTEE MEETING – 5 APRIL 2011

RECOMMENDATION:

	Councillor John Nell Councillor Bob Westbury	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 12 APRIL 2011

116	Councillor Peter Kafer Councillor Sally Dover	It was resolved that the Council Committee recommendation be adopted.
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COUNCIL COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

ABORIGINAL STRATEGIC COMMITTEE

REPORT OF: BRUCE PETERSEN - ENVIRONMENTAL AND DEVELOPMENT PLANNING
MANAGER

GROUP: SUSTAINABLE PLANNING

FILE: PSC2005-0629

BACKGROUND

The purpose of this report is to present to Council the minutes of the Aboriginal Strategic Committee Meeting held with Worimi Local Aboriginal Land Council on 1 March 2011.

The role of Council's Aboriginal Strategic Committee is:

- 1) To advise Council in relation to issues of concern between Council and the Aboriginal community,
- 2) To promote a positive public image with respect to issues for Aboriginal people in Port Stephens,
- 3) To provide a consultative mechanism with respect to development issues,
- 4) To improve relations between the Aboriginal and non Aboriginal community of Port Stephens,
- 5) To exchange information between the Aboriginal community and Council on issues affecting Aboriginal people,
- 6) To promote mutual awareness and respect for the cultures of both Aboriginal and non Aboriginal communities, and
- 7) To promote an increased awareness of the needs of Aboriginal communities and to assist with the development of programs to address those needs where possible and appropriate.

ATTACHMENTS

- 1) Minutes of Aboriginal Strategic Committee meeting held 1 March 2011.

ATTACHMENT 1



Aboriginal Strategic Committee
Meeting with Worimi Local
Aboriginal Land Council



MINUTES

Minutes of meeting held on 1 March 2011 at Murrook Cultural & Leisure Centre

Acting Chair: Cr Sally Dover

Minute taker: Paul Procter

Present:

Cr Sally Dover
Cr Shirley O'Brien
Andrew Smith
Elaine Larkins
Val Merrick
Jason Linnane
Paul Procter

Port Stephens Council
Port Stephens Council
Worimi Local Aboriginal Land Council
Worimi Local Aboriginal Land Council
Worimi Local Aboriginal Land Council
Port Stephens Council
Port Stephens Council

Apologies:

Cr Bob Westbury
Cr Peter Kafer
Cr Bruce MacKenzie
Chloe Beevers
Jamie Tarrant
Grace Kinsella

Port Stephens Council
Port Stephens Council
Port Stephens Council
Port Stephens Council
Worimi Local Aboriginal Land Council
Worimi Local Aboriginal Land Council

1. WELCOME TO COUNTRY

Aunty Elaine Larkins on behalf of Elders past and present welcomed everyone to the land of the Worimi Nation.

2. DECLARATION OF CONFLICTS OF INTEREST

Nil

3. MINUTES OF PREVIOUS MEETING

The minutes of previous meeting held 7 Dec 2010 were adopted.

4. BUSINESS ARISING FROM PREVIOUS MINUTES

The following items of business arising from the meeting held on 7 Dec 2011 were discussed:

Item 1: Birbui Point Surf Club Update:

Council's Group Manager Facilities & Services indicated that no preferred option has been determined. A Development Application is in Council's system, but has not been actioned.

Six months or so ago following some concerns within the community that the cultural heritage issues had not been duly considered, an independent consultant was engaged to give further consideration to these issues. The Consultant's report which was completed late last year reported that there are still significant cultural concerns pertaining to the potential visual and spiritual impacts. Council has asked the independent consultant to undertake more

MINUTES FOR ORDINARY MEETING – 12 APRIL 2011

work on these issues. This work should be commencing in the very near future, if it has not already.

WLALC CEO indicated that the Birbui Point Headland is one of the most culturally significant, highly regarded cultural places on the east coast. All in attendance fully concurred. WLALC have attended a meeting with members of Birbui Point Surf Club and there is a mutual understanding of the issues. WLALC are planning to hold an onsite meeting with key stakeholders to gain an understanding of the issues of all stakeholders and the process for how things will be done.

Council's Group Manager Facilities & Services clearly articulated that despite comments by some others in meetings that he was not in attendance at, neither he nor Council has a closed mind about what a future design will look like and nor is there any ulterior motive for him not attending any meetings on the matter. In fact, he can't remember being invited to any meetings over the last 4-6 months on this matter. He explained that what he and Council were trying achieve was a thorough and proper assessment of the cultural heritage impacts of the design in line with DECCW guidelines. This is evidence by the fact that the DA has not been progressed. It was Council's view that the consultation process would have more integrity if it was completed external to Council so that is why staff have been absent from the consultations between the consultant and the community.

The Council's Group Manager Facilities & Services also advised the meeting that both he and the General Manager had met with senior NPWS staff to discuss ways to try and rebuild relationships with the Aboriginal community around the Birubi headland and other sites such as Soldiers Point.

Council's Group Manager Facilities & Services suggested that it would be of value for the architect to meet (eg; hold a workshop) with all stakeholders (eg; WLALC, Surf Club, NPWS, Council) to enable them to gain a greater understanding of all of the issues and constraints of all stakeholders.

Action:	1. WLALC CEO to advise Council's Group Manager Facilities & Services of details of onsite meeting with Worimi Conservation Lands Board.
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Item 2: Soldiers Point Midden:

Council's Group Manager Facilities & Services indicated that he has asked relevant Council Officer to speak to WLALC CEO about options for providing a more permanent solution to protect the middens.

WLALC CEO mentioned need to ensure management and staff of Soldiers Point Caravan Park are informed of significance of the middens and the measures required to ensure there ongoing protection.

Actions:	<ol style="list-style-type: none">1. Meeting to be held between relevant Council Officer/s and WLALC CEO to discuss options for providing more permanent solution to protect the middens.2. Joint meeting be held between relevant Council Officers and WLALC representatives to discuss issues.3. Council's Social Planning Co-ordinator to discuss with Council's Group Manager Commercial Services and Manager Commercial Enterprises issues associated with Soldiers Point Caravan Park.
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MINUTES FOR ORDINARY MEETING – 12 APRIL 2011

Item 3: Aboriginal Project Fund Update:

Recommendations considered at committee meeting of Council on 1 March 2011. Council committee recommendations will be considered at ordinary meeting of Council on 8 March 2011.

WLALC CEO informed the ASC of outcomes of recent meeting they attended at Council with Karuah Local Aboriginal Land Council CEO and relevant Council Officers to discuss the guidelines of Aboriginal Project Fund and Cultural Project Funds to ensure that purpose and role of two programs is clearly clarified.

Outcomes of this meeting was that consideration be given to amending guidelines of Cultural Project Fund. This would ensure that future grant applications which are for cultural projects which include an Aboriginal component but benefit the whole community would be considered under Cultural Project Fund, whereas applications which will primarily benefit the Aboriginal community will be considered under Aboriginal Project Fund.

Also KLALC and WLALC CEOs will both sit on Council's Strategic Cultural and Arts Committee and will advise on grant applications as part of this role.

Aboriginal Strategic Committee suggested consideration be given to inclusion of a preamble in the guidelines of Cultural Project Fund defining culture as lifestyle of cultures, people, place, music, arts and drama. The Committee resolved that the reference '*Promote and Foster Local Aboriginal Culture*' be removed altogether from the Cultural Project Fund Guidelines.

Action:	1. Council's Social Planning Co-ordinator will discuss with Council's Community Planner – Cultural Development.
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Item 4: Local Government Cultural 2011 Awards:

Deferred until next meeting.

5. GENERAL BUSINESS

2011 Joint Meeting:

Council's Social Planning Co-ordinator indicated that he has extended an invitation to the Port Stephens Local Area Command Aboriginal Community Liaison Officer to attend as guest speaker for this year's joint meeting on 19 July 2011.

Boat Request:

WLALC CEO indicated that they are still seeking a boat to enable inspections and monitoring to be carried out of various remote sites. Any form of Council assistance would be appreciated.

6. DETAILS OF NEXT MEETING

3 May 2011 at Murrook commencing at 1pm

INFORMATION ITEM NO. 2

CASH AND INVESTMENTS HELD AT 28 FEBRUARY 2011

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

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's Schedule of Cash and Investments held at 28 February 2011.

ATTACHMENTS

- 1) Cash and Investments held at 28 February 2011
- 2) Monthly Cash and Investments Balance February 2010 – February 2011
- 3) Monthly Australian Term Deposit Index February 2010 – February 2011.

ATTACHMENT 1

CASH & INVESTMENTS HELD - AS AT 28 FEBRUARY 2011

INVESTED WITH	INV. TYPE	CURRENT RATING	MATURITY DATE	AMOUNT INVESTED	% of Total Portfolio	Current Int Rate	Market Value			Current Mark to Market Exposure
							December	January	February	
GRANGE SECURITIES										
MAGNOlja FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	NR	20-Mar-12	\$1,000,000	3.65%	6.45%	\$855,000	\$855,000	\$855,000	-\$145,000
NEXUS BONDS LTD "TOPAZ AA"	Floating Rate CDO		23-Jun-15	\$412,500	1.50%	0.00%	\$274,313	\$274,313	\$274,560	-\$137,940
HELIUM CAPITAL LTD "ESPERANCE AA+ "	Floating Rate CDO	NR	20-Mar-13	\$1,000,000	3.65%	0.00%	\$0	\$0	\$0	-\$1,000,000
HOME BUILDING SOCIETY	Floating Rate Sub Debt	NR	25-Jul-11	\$500,000	1.82%	5.97%	\$475,060	\$478,235	\$478,235	-\$21,765
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	CCC	20-Mar-14	\$1,000,000	3.65%	6.35%	\$332,000	\$369,000	\$369,000	-\$631,000
GRANGE SECURITIES "COOLANGATTA AA" *	Floating Rate CDO	NR	20-Sep-14	\$1,000,000	3.65%	0.00%	\$0	\$0	\$0	-\$1,000,000
TOTAL GRANGE SECURITIES				\$4,912,500	17.92%		\$1,936,373	\$1,976,548	\$1,976,795	-\$2,935,705
ABN AMRO MORGANS										
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	A+	20-Sep-11	\$1,000,000	3.65%	0.00%	\$932,200.00	\$935,700	\$940,800	-\$59,200
TOTAL ABN AMRO MORGANS				\$1,000,000	3.65%		\$932,200	\$935,700	\$940,800	-\$59,200
ANZ INVESTMENTS										
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	B	30-Dec-11	\$1,000,000	3.65%	0.00%	\$823,800	\$849,800	\$849,800	-\$150,200
ANZ ZERO COUPON BOND	Zero Coupon Bond	AA	1-Jun-17	\$1,017,876	3.71%	0.00%	\$645,384	\$640,163	\$640,163	-\$377,713
TOTAL ANZ INVESTMENTS				\$2,017,876	7.36%		\$1,469,184	\$1,489,963	\$1,489,963	-\$527,913
RIM SECURITIES										
GENERATOR INCOME NOTE AAA (2011)	Floating Rate CDO		8-Oct-11	\$2,000,000	7.29%	0.00%	\$1,760,000	\$1,835,000	\$1,850,000	-\$150,000
ELDERS RURAL BANK (2011)	Floating Rate Sub Debt		5-Apr-11	\$1,000,000	3.65%	5.62%	\$981,180	\$991,470	\$995,230	-\$4,770
COMMUNITY CPS CREDIT UNION	Term Deposit	N/R	9-May-11	\$1,000,000	3.65%	6.15%	\$1,000,000.00	\$1,000,000	\$1,000,000	\$0
SUNCORP METWAY	Term Deposit	A-1	15-Mar-11	\$1,000,000	3.65%	5.57%	\$1,000,000.00	\$1,000,000	\$1,000,000	\$0
TOTAL RIM SECURITIES				\$5,000,000	18.24%		\$4,741,180	\$4,826,470	\$4,845,230	-\$154,770
WESTPAC INVESTMENT BANK										
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt		21-Nov-11	\$500,000	1.82%	6.00%	\$489,990	\$489,990	\$490,845	-\$9,155
TOTAL WESTPAC INV. BANK				\$500,000	1.82%		\$489,990	\$489,990	\$490,845	-\$9,155
CURVE SECURITIES										
RAILWAYS CREDIT UNION	Term Deposit	N/R	11-Mar-11	\$1,000,000	3.65%	5.68%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
BANK OF CYPRUS AUSTRALIA LIMITED	Term Deposit	Withdrawn					\$1,000,000	\$1,000,000		
QANTAS STAFF CREDIT UNION	Term Deposit	N/R	7-Mar-11	\$1,000,000	3.65%	6.02%	\$1,000,000	\$1,000,000	\$1,000,000	\$0
TOTAL CURVE SECURITIES				\$2,000,000	7.29%		\$3,000,000.00	\$3,000,000	\$2,000,000	\$0
LONGREACH CAPITAL MARKETS										
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	A+	7-Mar-12	\$500,000	1.82%	0.00%	\$469,050	\$469,050	\$472,300	-\$27,700
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	A+	7-Sep-12	\$500,000	1.82%	0.00%	\$449,500	\$449,500	\$453,000	-\$47,000
TOTAL LONGREACH CAPITAL				\$1,000,000	3.65%		\$918,550	\$918,550	\$925,300	-\$74,700

MINUTES FOR ORDINARY MEETING – 12 APRIL 2011

ATTACHMENT 1

COMMONWEALTH BANK											
EQUITY LINKED DEPOSIT	Equity Linked Note	AA	20-Sep-11	\$500,000	1.82%	3.00%	\$487,750	\$489,850	\$490,200		-\$9,800
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	AA	05-Nov-12	\$500,000	1.82%	3.00%	\$475,900	\$474,550	\$480,150		-\$19,850
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	BBB	09-Nov-12	\$500,000	1.82%	6.13%	\$488,365	\$473,580	\$491,365		-\$8,635
BANK OF QUEENSLAND BOND	Bond	BBB+	16-Mar-12	\$1,000,000	3.65%	5.35%	\$1,000,000	\$1,000,000	\$1,000,000		\$0
TOTAL COMMONWEALTH BANK				\$2,500,000	9.12%		\$2,452,015	\$2,437,980	\$2,461,715		-\$38,285
FIG SECURITIES											
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note		30-Nov-14	\$500,000	1.82%	6.04%	\$459,805	\$459,805	\$484,285		-\$15,715
ING BANK AUSTRALIA LIMITED	Term Deposit	A1	21-Mar-11	\$1,000,000	3.65%	5.78%	\$1,000,000	\$1,000,000	\$1,000,000		\$0
TOTAL FIG SECURITIES				\$1,500,000	5.47%		\$1,459,805	\$1,459,805	\$1,484,285		-\$15,715
MAITLAND MUTUAL											
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	30-Jun-13	\$500,000	1.82%	6.54%	\$500,000	\$500,000	\$500,000		\$0
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	N/R	31-Dec-14	\$500,000	1.82%	6.54%	\$500,000	\$500,000	\$500,000		\$0
TOTAL M'LAND MUTUAL				\$1,000,000	3.65%		\$1,000,000	\$1,000,000	\$1,000,000		\$0
FARQUHARSON SECURITIES											
QUEENSLAND POLICE CREDIT UNION	Term Deposit	withdrawn					\$500,000				\$0
SGE CREDIT UNION	Term Deposit	withdrawn					\$1,000,000				\$0
NEW ENGLAND CREDIT UNION	Term Deposit	N/R	11-Apr-11	\$1,000,000	3.65%	5.97%			\$1,000,000		\$0
TOTAL FARQUHARSON SECURITIES				\$1,000,000	3.65%		\$1,500,000	\$0	\$1,000,000		\$0
TOTAL INVESTMENTS				\$22,430,376	81.81%		\$19,899,297	\$18,535,006	\$18,614,933		-\$3,815,443
AVERAGE RATE OF RETURN ON INVESTMENTS											3.59%
CASH AT BANK				\$4,988,333	18.19%		\$4,175,476	\$1,689,512	\$4,988,333		\$0
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH											3.79%
TOTAL CASH & INVESTMENTS				\$27,418,709	100.00%		\$24,074,773	\$20,224,518	\$23,603,266		-\$3,815,443
BBSW FOR PREVIOUS 3 MONTHS											5.01%

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

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

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

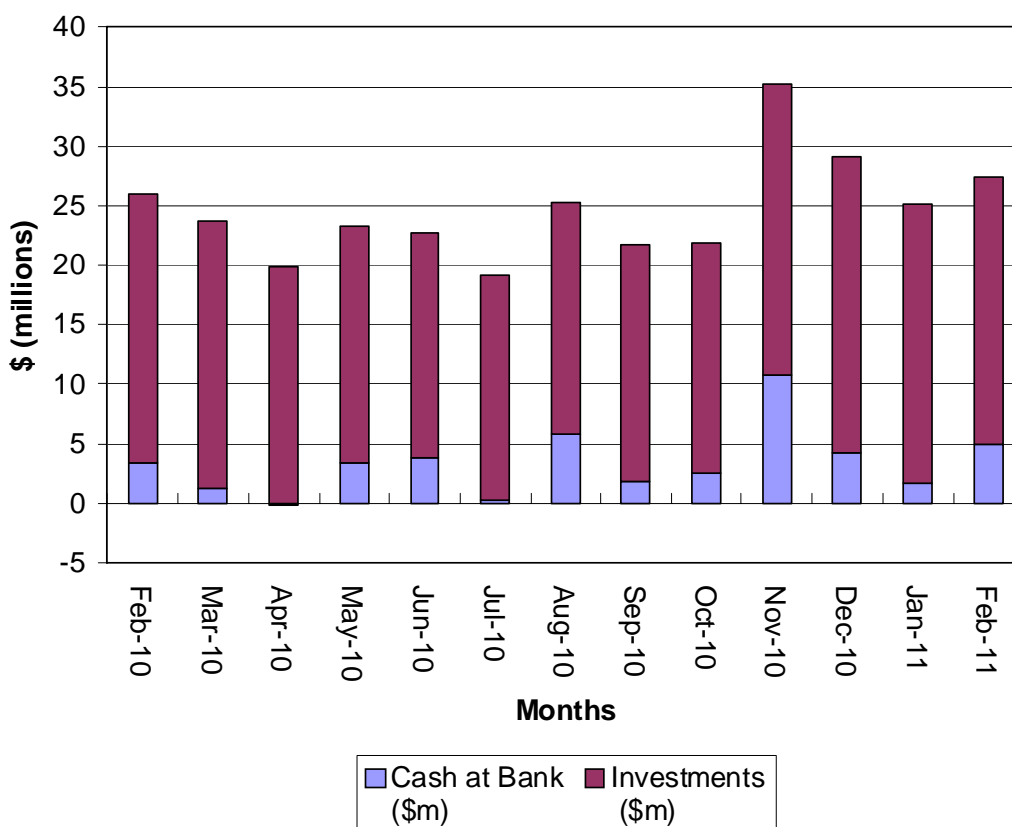
P GESLING

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Feb-10	3.489	22.455	25.944
Mar-10	1.311	22.380	23.691
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

Cash and Invested Funds for the Period ended 28/02/2011

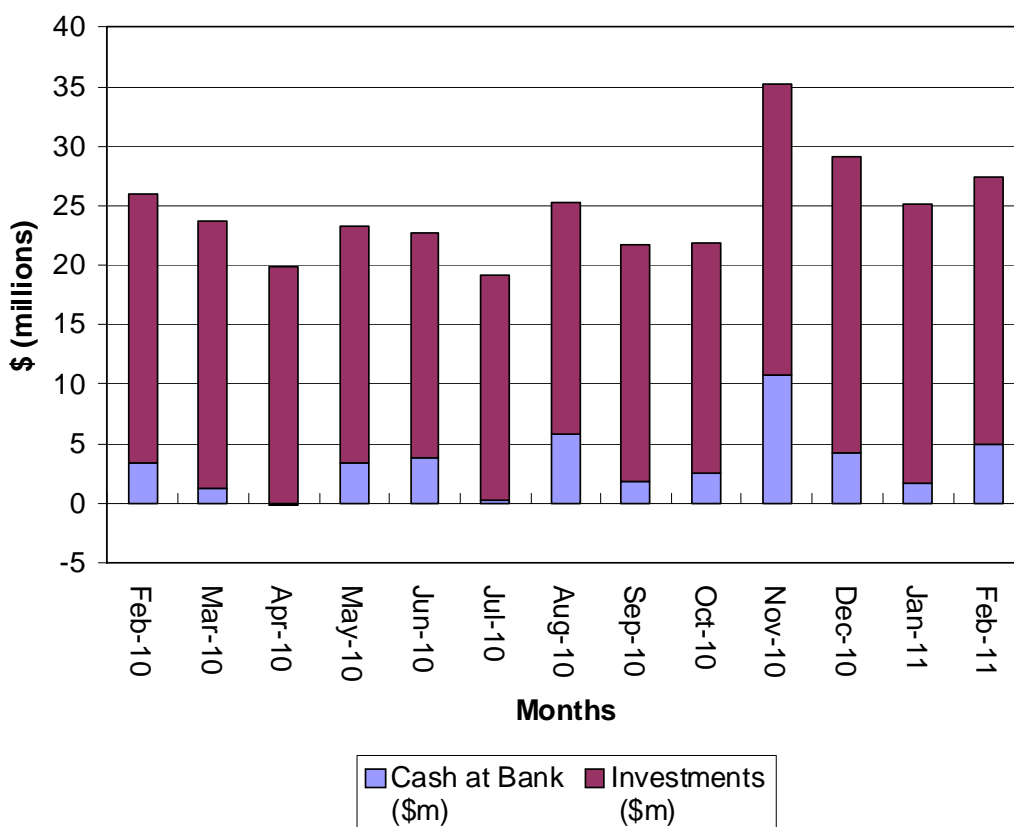


ATTACHMENT 2

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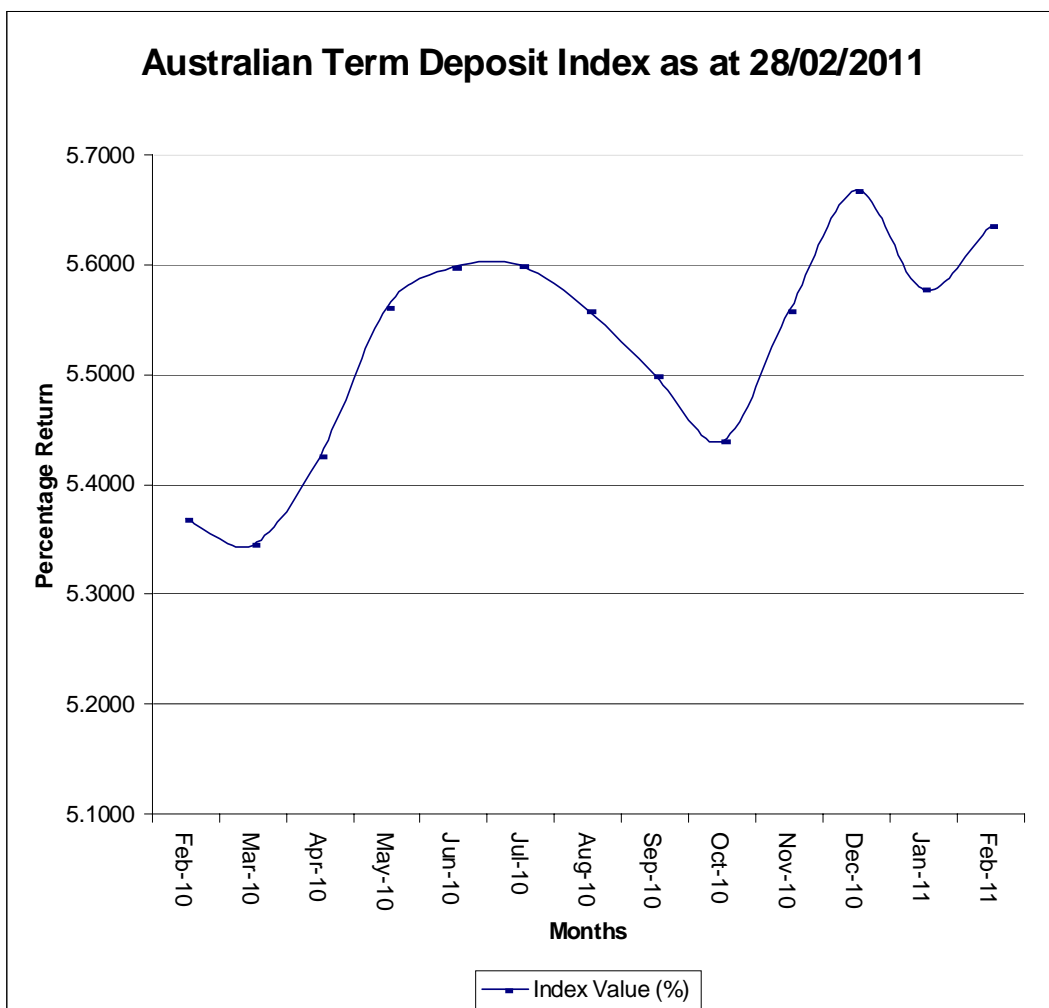


ATTACHMENT 2

Australian Term Deposit Accumulation Index

Date	Index Value (%)
Feb-10	5.3685
Mar-10	5.3452
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	5.5774
Feb-11	5.635

Australian Term Deposit Index as at 28/02/2011



GENERAL MANAGER'S REPORT

**PETER GESLING
GENERAL MANAGER**

ITEM NO. 1

FILE NO: 16-2010-291-1

DEVELOPMENT APPLICATION FOR SUPERMARKET (WOOLWORTHS) AT NO. 39, 41, 43, 45, AND 47 FERODALE ROAD, MEDOWIE

REPORT OF: DAVID BROYD – GROUP MANAGER SUSTAINBLE PLANNING

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) That Council consider the draft Conditions that are **ATTACHMENT 1** to this report and which is to be supplied under separate cover.
-

ORDINARY COUNCIL MEETING – 12 APRIL 2011

117	Councillor Glenys Francis Councillor Peter Kafer	It was resolved that Council move into Committee of the Whole.
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	Councillor Steve Tucker Councillor Bruce MacKenzie	That Council resolve to grant Development Consent for the development of a Woolworths Supermarket at No's 39, 41, 43, 45, and 47 Ferodale Road, Medowie based upon the conditions contained in ATTACHMENT 1 to this report as amended.
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The motion moved by Cr Steve Tucker was withdrawn.

AMENDMENT

Committee of the Whole Recommendation:

	Councillor John Nell Councillor Glenys Francis	It was resolved that Item 1 be deferred to the next Council Ordinary meeting to allow Council staff to assess the amendments tabled by Cr Steve Tucker.
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The amendment on being put became the motion which was carried.

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

MINUTES FOR ORDINARY MEETING – 12 APRIL 2011

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

Those against the Motion: Nil.

118	Councillor Glenys Francis Councillor Caroline De Lyall	It was resolved that Council move out of Committee of the Whole.
119	Councillor John Nell Councillor Glenys Francis	It was resolved that the Committee of the Whole recommendation be adopted.

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

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

Those against the Motion: Nil.

ITEM NO. 2

FILE NO: PSC2010-06053

**AUSTRALIAN LOCAL GOVERNMENT WOMEN'S ASSOCIATION
CONFERENCE (ALGWA)**

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominate delegates to attend the Australian Local Government Women's Association Conference.
-

ORDINARY COUNCIL MEETING – 12 APRIL 2011

120	Councillor Ken Jordan Councillor Steve Tucker	It was resolved that Councillors Glenys Francis and Caroline De Lyall be Council's delegate at the Australian Local Government Women's Association Conference.
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BACKGROUND

The purpose of this report is to inform Council of the Australian Local Government Women's Association Conference to be held in Blacktown.

The Diamond Jubilee State Conference will be held from 26-28 May 2011. The theme of the conference is *"Strong Women Influencing Future Trends"*.

The conference will provide valuable networking opportunities that should be an essential part of professional development. An exceptional program of recognised experts in areas concerning women and women's issues within local government has been established.

Speakers include:

- Robyn Moore – Australia's most versatile female Voice-Over Artist, Presenter and Key Note Speaker.
- Liz Ellis – one of Australia's most successful commentators and netballers.
- Deborah Wallace – Detective Superintendent, an inspirational speaker to all women.

As Councillors would be aware the new Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for all travel outside of the Hunter Councils area.

FINANCIAL/RESOURCE IMPLICATIONS

The costs associated with registration, travel and accommodation would be covered from the budget.

LEGAL, POLICY AND RISK IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Councillors attending the congress to ensure Councillors are across the developments in the local government industry.

CONSULTATION

Nil.

OPTIONS

Nil.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

CONFIDENTIAL ITEMS



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

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

ORDINARY COUNCIL MEETING – 12 APRIL 2011

121	Councillor Ken Jordan Councillor Glenys Francis	It was resolved that Council move into Confidential Session.
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ITEM NO. 1

FILE NO: A2004-0028

NEWCASTLE AIRPORT BANKING SERVICES TENDER

REPORT OF: JEFF SMITH – GROUP MANAGER COMMERCIAL SERVICES

GROUP: COMMERCIAL SERVICES GROUP

ORDINARY COUNCIL MEETING – 12 APRIL 2011

122	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council award Westpac the tender for banking services for Newcastle Airport Limited (NAL) for a period of 3 years.
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CONFIDENTIAL

ITEM NO. 2

FILE NO: PSC 2009 – 02408V2

EXPRESSION OF INTEREST FOR THE PURCHASE OF COUNCIL LAND

REPORT OF: CARMEL FOSTER - COMMERCIAL PROPERTY MANAGER

GROUP: COMMERCIAL SERVICES

ORDINARY COUNCIL MEETING – 12 APRIL 2011

123	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that Council: 1) Note the offer received for 155 Salamander Way. 2) Seek Expression of Interest to purchase the Commercial Land excluding the Community Facilities legally described as Lot 284 in Deposited Plan 806310 located at 155 Salamander Way, Salamander Bay.
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CONFIDENTIAL

ITEM NO. 3

FILE NO: T01-2011

TENDER T01-2011 – HIRE OF PLANT & EQUIPMENT

REPORT OF: PETER MURRAY – OPERATIONS MANAGER

GROUP: FACILITIES & SERVICES

ORDINARY COUNCIL MEETING – 12 APRIL 2011

124	Councillor John Nell Councillor Frank Ward	It was resolved that Council accept all conforming tender submissions for the supply of hired plant & equipment until the 30 th June 2013 with an option to renew for a further 2 years.
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There being no further business the meeting closed at 8.04pm.

I certify that pages 1 to 152 of the Open Ordinary Minutes of Council 12 April 2011 and the pages 153 to 173 of the Confidential Ordinary 19 April 2011.

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Cr Bob Westbury
MAYOR