

## Minutes 22 March 2011



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 22 March 2011, commencing at 5.30 pm.

PRESENT: Councillors R. Westbury (Mayor); S. Dover (Deputy Mayor); G. Dingle; C. De Lyall, P. Kafer; 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.

078	<b>Councillor Geoff Dingle</b> <b>Councillor Caroline De Lyall</b>	It was resolved that the apology from Cr Glenys Francis be received and noted.
079	<b>Councillor Frank Ward</b> <b>Councillor Sally Dover</b>	It was resolved that the Minutes of the Ordinary meeting of Port Stephens Council held on 8 March 2011 be confirmed.
		Cr Steve Tucker declared a less than significant conflict of interest in Item 3 due to his friendship with a developer and the Buildev Team and support of the developer (Buildev) for the Medowie Sports & Community Club of which Cr Tucker is Patron.  Cr Tucker believed that the public interest

**MINUTES FOR ORDINARY MEETING – 22 MARCH 2011**

		is served by his discussion and support of this item. This commercial development is essential to the future of Medowie.
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Cr Peter Kafer entered the meeting at 5.32pm prior to voting on Item 1.

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# MAYORAL MINUTES

# MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2008-4044

## CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT – "A ROLE FOR COUNCILS"

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### THAT COUNCIL:

- 1) Declares its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new Preamble to the Constitution if one is proposed, and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition.
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### ORDINARY COUNCIL MEETING – 22 MARCH 2011

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

The purpose of this report is for provide Council with the opportunity to consider supporting financial recognition of local government in the Australian Constitution.

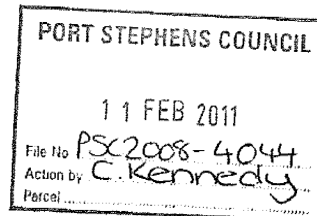
### ATTACHMENT

- 1) Correspondence from the President of the Australian Local Government Association.

ATTACHMENT 1



Cr Bob Westbury  
Mayor  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324



Dear Mayor Westbury,

**Constitutional Recognition of Local Government – A role for Councils**

In June last year, following the 2010 National General Assembly of Local Government, Geoff Lake wrote to you providing an update of progress on the Australian Local Government Association's (ALGA's) campaign for a referendum on the constitutional recognition of local government and providing copies of fact sheets and a brochure designed to highlight the importance of local government to local communities. I am now writing to advise you of further progress and to invite your council to become directly engaged in the campaign for constitutional recognition.

Following the 2010 Federal Election, Prime Minister Gillard committed to holding a dual referendum on the constitutional recognition of local government and the recognition of Indigenous Australians. The referendum will most likely be held in conjunction with the 2013 Federal Election. The challenge for local government is now threefold: to ensure the referendum is held; to ensure that the type of recognition sought meets our requirements; and to make sure we have a positive result in the referendum itself.

ALGA has devoted considerable resources over the past three years to developing the case for constitutional reform and the need for reform. That need was highlighted in stark terms in 2009 by the decision of the High Court in *Pape v Federal Commissioner of Taxation*. In that case the High Court set out the limitations of the Australian Government's powers and, in doing so, clearly indicated that the Australian Government does not have the power to fund local government directly.

It is obviously in the best interests of local communities that Federal Governments, whatever their political persuasion, have the capacity to fund councils directly to achieve national objectives. This is why our preference is for a pragmatic and simple change to the Constitution (most likely to Section 96) which would allow direct funding to continue. ALGA's research shows that this simple and pragmatic change is most likely to garner the necessary public support. ALGA has not ruled out recognition of local government in a Preamble to the Constitution if one is proposed but such limited recognition alone would not meet local government's requirements and address the uncertainty highlighted by the *Pape* case.

The form of financial recognition of local government proposed by ALGA, which will not impact on the relationship between councils and state governments, has been endorsed by your local government association and all other state and territory local government associations. ALGA believes it is now important that this position also be endorsed by all councils to demonstrate to Federal and state governments, oppositions and political parties that the position has widespread support within local government.

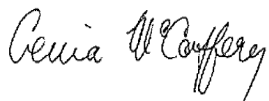
I am therefore writing to all councils to ask them to pass a resolution in council chambers in the first few months of 2011 endorsing the position that a referendum be held by 2013 to change the Constitution to allow direct funding of local government bodies by the Commonwealth Government and also to include local government in any new Preamble to the Constitution if one is proposed. I have attached the draft text of a possible resolution for your assistance.

It is ALGA's intention that a Constitutional Declaration for Councils will be submitted for signature by council representatives at the conclusion of the 2011 National General Assembly of Local Government on 22 June 2011. ALGA's objective is that all councils will be in a position to sign the Declaration supporting financial recognition at that time.

As part of local government's campaign, it is also important to ensure that national political leaders are left in no doubt about our commitment to constitutional recognition. I am therefore also asking that councils write to the Prime Minister, the Leader of the Opposition and their local Federal Member of Parliament to advise them of councils' support for recognition after councils have passed a resolution in council chambers. I have enclosed some suggested text for such letters which you might find useful.

I will be writing to you again in the coming months with further materials which will help council in a campaign to win broad public support for constitutional recognition. While the challenge of reform is substantial, I have no doubt that by working together we can overcome any obstacles and bring about a much more sustainable and secure future for councils and local communities throughout Australia.

Yours sincerely



Cr Genia McCaffery  
President

# MOTIONS TO CLOSE



ITEM NO. 1

FILE NO: T14-2010, PSC2005-3587

## MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

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### RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary Council agenda namely **Karuah Boat Ramp Pontoon Installation**.
- 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 **Karuah Boat Ramp Pontoon Installation**.
- 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 – 22 MARCH 2011

081	Councillor John Nell Councillor Shirley O'Brien	It was resolved that the recommendation be adopted.
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# COUNCIL COMMITTEE REPORTS



Cr Peter Kafer entered the meeting at 5.32pm prior to voting on Item1.

**ITEM NO. 1**

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

**DEVELOPMENT APPLICATION FOR ADDITIONS TO HOTEL AT NO. 37 FERODALE ROAD MEDOWIE**

**REPORT OF: KEN SOLMAN - DEVELOPMENT AND BUILDING, ACTING MANAGER**  
**GROUP: SUSTAINABLE PLANNING**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2003-577-2 for additions to Hotel at No. 37 Ferodale Road Medowie subject to the conditions contained in Attachment 3.
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**COUNCIL COMMITTEE MEETING – 15 MARCH 2011**

**RECOMMENDATION:**

	<b>Councillor Geoff Dingle</b> <b>Councillor Frank Ward</b>	That Council refuse the development application for the following reasons:  1) potential impact on community social welfare;  2) the crime statistics for the area of Medowie for 2010 have not been provided.
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**AMENDMENT**

	<b>Councillor John Nell</b> <b>Councillor Peter Kafer</b>	That Item 1 be deferred to the Ordinary Council meeting.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Bob Westbury, Glenys Francis, Steve Tucker, Peter Kafer, Frank Ward, Geoff Dingle, John Nell and Shirley O'Brien.

Those against the motion: Crs Sally Dover.

The amendment on being put became the motion which was carried.

ORDINARY COUNCIL MEETING – 22 MARCH 2011

<p>082</p>	<p><b>Councillor Geoff Dingle</b> <b>Councillor Peter Kafer</b></p>	<p>That Council refuses the development application 16-2003-557-2 for additions to Bull and Bush hotel at No 37 Ferodale Rd for the following reasons:</p> <ol style="list-style-type: none"> <li>1. Pursuant to section 79 1(b) of the Environment Planning and Assessment Act the proposal is consider to present unreasonable environmental impacts because it results in an unreasonable loss of amenity of an isolated community from a permanent police presence.</li> <li>2. Pursuant to section 79 1(e) of the Environment Planning and Assessment Act the proposal is not considered to be in public interest as it would affect police resources, with a potential for increases in alcohol related crimes and affect the amenity of the neighbourhood residents and business community.</li> <li>3. Pursuant to section 79 1(e) of the Environment Planning and Assessment Act the proposal is not considered to be in the public interest on the grounds of impact on policing resources.</li> <li>4. Pursuant to section 79 1(c) of the Environment Planning and Assessment Act the proposal is not considered to be compatible with site development constraints because there is inadequate access to public transport across the extended hours of operation with bus servicing ceasing at 8.00PM weekdays and 6.00pm Saturdays and 5.00pm on Sundays. There is no taxi service operating out of Medowie the nearest locations are Williamtown airport and Raymond Terrace.</li> </ol>
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## MINUTES FOR ORDINARY MEETING – 22 MARCH 2011

		<p>5. That no evidence has been provided of a thorough twelve month trial of the extended opening hours since development consent was granted by the Land and Environment Court increasing opening hours from 91 hours to 151 hours per week as part of the conditions of consent.</p> <p>6. No detailed statistics have been provided for Alcohol related crime and incidents related the trial extended opening period covering extended opening hours over this period.</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, Caroline De Lyall, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bob Westbury.

Those against the Motion: Nil.

**This item was deferred from the Ordinary Council Meeting of 14 December 2010 (ATTACHMENT 4) to allow for additional information, including crime statistics to be provided to Councillors (ATTACHMENT 5).**

### BACKGROUND

**The purpose of this report is to present the development application to Council for determination. That is an application for additions to Hotel at No.37 Ferodale Road Medowie.**

The Bull and Bush Hotel has been operating on the subject site since March 2009 under temporary development consent 16-2008-57-1 which allowed extended operating hours for a twelve month trial period. The trial period expired on 3<sup>rd</sup> March 2010.

The original approved trading hours under Development Consent 16-2003-577-1 were:

- 10.00am to 10:00pm Mondays and Tuesdays,
- 10:00am to 12:00 midnight Wednesdays to Saturdays inclusive and
- 10:00am to 9:00pm on Sunday.

Development Consent (16-2008-57-1) was granted by the Land and Environment Court with a twelve month consent issues allowing the following trading hours.

- Monday to Saturday: 5.00am to 3.00am
- Sunday: 5.00am to midnight.

The subject application (16-2003-577-2) seeks to permanently approve the modified trading hours.

The amended trading hours equate to a total weekly increase from 91 hours to 151 hours as provided for in the twelve month trial which was given consent by the Land and Environment Court.

The application also seeks to *incorporate as part of the Development Consent, specific conditions, being some, but not all of those conditions of Development Consent 16-2008-57-1 which are already incorporated in the Development Consent for a 12 month trial period by way of the notice.*

The trial conditions sought to be included in the consent for the hotel are conditions 1, 2, 4-12, 16-24, 27 and 28. These conditions relate to;

- 1)Standard Condition
- 2)Environmental Planning and Assessment Act, 1979
- 4)Trading Hours
- 5)Maximum patronage signage
- 6)Requirements for display of consent
- 7)Requirements for alterations to operations
- 8)Restrictions on take away liquor
- 9)Building Code of Australia
- 10)Building Code of Australia
- 11)Noise
- 12)Noise
- 16)Security Plan of Management
- 17)Entertainment Requirements
- 18)Noise
- 19)RSA Register
- 20)Security Person Register
- 21)Patron Numbers Record
- 22)Courtesy Bus Register
- 23)Signage
- 24)Contacts for Community Contact and Consultation Line
- 27)Restrictions on times of entry
- 28)definitions

Conditions 3, 13, 14 and 15 have not been requested to be transferred as they relate to a time limit on the consents validity and the provisions for modifying consent 16-2003-577-1.

Conditions 25 and 26 have not been requested to be transferred as the applicant is seeking to modify these conditions as outlined below.

The applicant has also proposed that the following conditions be incorporated into the amended consent to replace the omitted conditions 25 and 26.

- *No alcohol is to be served 30 minutes prior to the closing time of the premises.*
- *The person entitled to act on this consent must, at no costs to Port Stephens Council, cause an independent audit of compliance with these conditions by an independent security consultant to be lodged with Council by 30 June in each Calendar year. The audit shall include covert surveillance of the Premises at a time when a use is undertaken of the Premises and must include the assessment of any condition requiring the keeping of a register. Each audit report must be provided to Council within 28 days of the publication of the audit.*

The modifications and additional conditions seek to make the extended operating hours approved by DA 16-2008-57-1 permanent and to change the requirement for half yearly covert inspections to an annual obligation.

It is considered that the proposed annual compliance inspection of the hotel be carried out by Council for an annual fee payable by the proprietors of the Bull and Bush Hotel. The above proposed condition of consent has been modified to reflect this.

#### **History of applications for Bull & Bush Hotel**

In respect of previous approvals for the Bull and Bush Hotel. Although there have been a number of minor applications for matters such as garages and carports, following is a summary of major applications;

Substantial alterations and additions to the hotel (DA 16-2003-577-1)- approved 12 August 2003. The submitted documentation included detailing of the requested hours of operation as being;

- 10.00am to 10:00pm Mondays and Tuesdays,
- 10:00am to 12:00 midnight Wednesdays to Saturdays inclusive and
- 10:00am to 9:00pm on Sunday.

These hours of operation were approved.

In January 2008 an application (DA 16-2008-57-1) was lodged for a Place of Public Entertainment and extension to trading hours. The trading hours requested were:

- Monday to Saturday: 5.00am to 3.00am
- Sunday: 5.00am to midnight.

The application was ultimately approved by the Land and Environment Court in March 2009 subject to 28 conditions of consent.

## **FINANCIAL/RESOURCE IMPLICATIONS**

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

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

The development application is consistent with Council's Policy.

Should Council reject the recommendation and refuse the development application, the applicant may appeal to the Land and Environment Court.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications.

The hotel currently has temporary consent to operate at the hours requested. It is not considered that reaffirming the temporary status of these hours to a more permanent entitlement will have any adverse social impacts.

The proposed development will have economic benefits for the licensee of the Bull and Bush Hotel. Other than this aspect, no other economic implications flowing from the proposed development are likely except marginal benefit in terms of retaining customers in Medowie rather than those customers attending similar hotel premises elsewhere.

No adverse environmental implications have been identified.

## **CONSULTATION**

The application was exhibited in accordance with Council policy and two (2) 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
- 4) Ordinary Meeting Resolution of 14 December 2010
- 5) Councillor Memorandum – Crime Statistics for Medowie



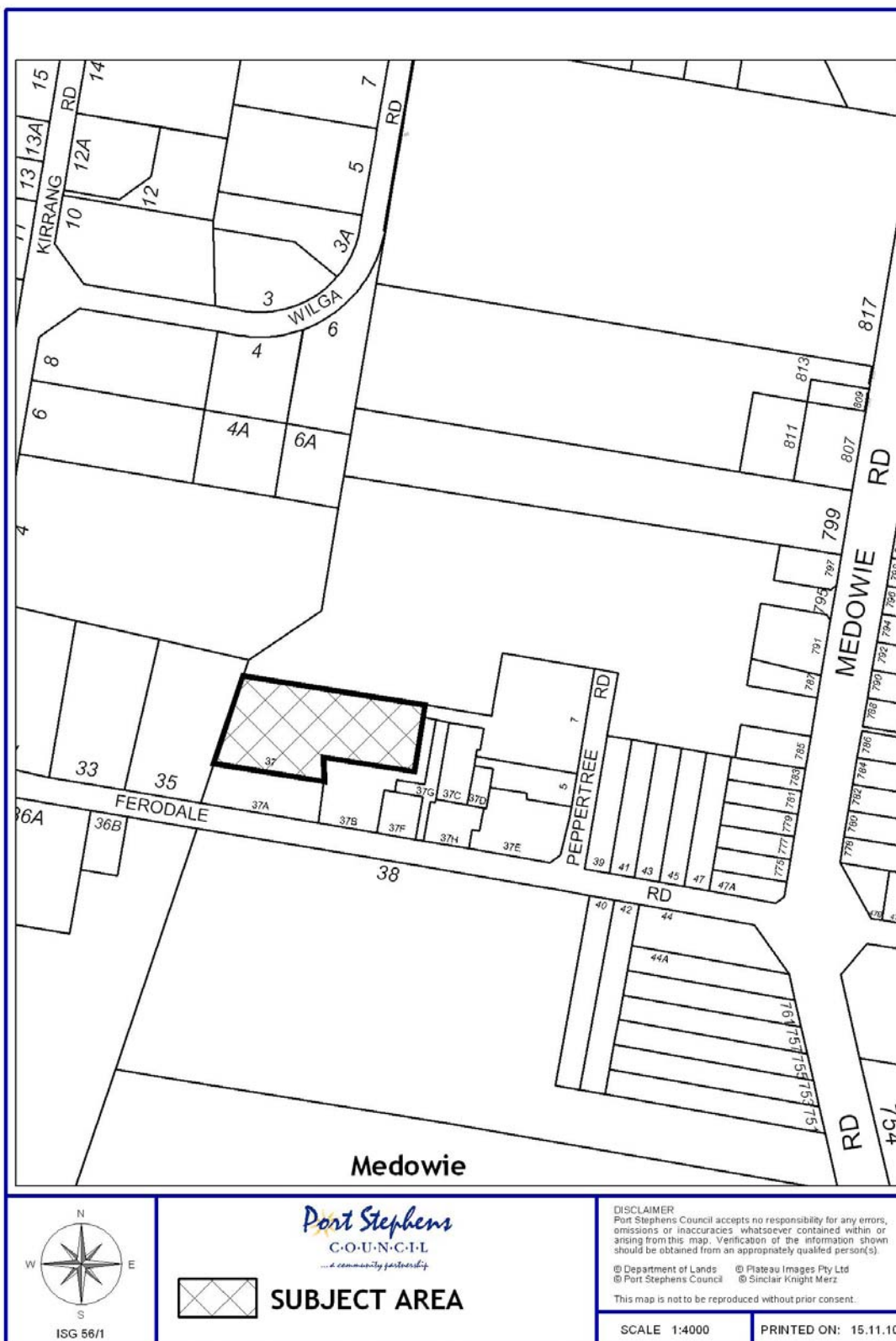
**COUNCILLORS ROOM**

Nil

**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

This application seeks to modify consent 16-2003-577-1 to bring it into line with the trading hours included within consent 16-2008-57-1. The modifications seek to make the extended operating hours permanent and to change the requirement for half yearly covert inspections to an annual obligation.

The extended trading hours approved in 16-2008-57-1 are;

- Monday to Saturday: 5.00am to 3.00am
- Sunday: 5.00am to midnight.

The application also seeks *to incorporate as part of the Development Consent, specific conditions, being some, but not all of those conditions of Development Consent 16-2008-57-1 which are already incorporated in the Development Consent for a 12 month trial period by way of the notice.*

The trial conditions sought to be included in the consent for the hotel are conditions 1, 2, 4-12, 16-24, 27 and 28.

Conditions 3, 13, 14 and 15 have not been requested to be transferred as they relate to a time limit on the consents validity and the provisions for modifying consent 16-2003-577-1.

Conditions 25 and 26 have not been requested to be transferred as the applicant is seeking to modify these conditions as specified below.

The applicant has also proposed that the following conditions be incorporated into the amended consent to replace the omitted conditions 25 and 26.

- *No alcohol is to be served 30 minutes prior to the closing time of the premises.*
- *The person entitled to act on this consent must, at no costs to Port Stephens Council, cause an independent audit of compliance with these conditions by an independent security consultant to be lodged with Council by 30 June in each Calendar year. The audit shall include covert surveillance of the Premises at a time when a use is undertaken of the Premises and must include the assessment of any condition requiring the keeping of a register. Each audit report must be provided to Council within 28 days of the publication of the audit.*

It is considered that the proposed annual compliance inspection of the hotel be carried out by Council for an annual fee payable by the proprietors of the Bull and Bush Hotel. This fee is to be CPI adjusted on an annual basis. The above proposed

condition of consent has been modified to reflect this. The amended condition leaves the responsibility for the audit with Council's Development and Building Section and incorporates the annual compliance inspection fee to be annually indexed.

### **THE APPLICATION**

Owner	Tunwish Pty Ltd
Applicant	Tunwish Pty Ltd
Detail Submitted	Cover Letter

### **THE LAND**

Property Description	Lot: 1 DP: 703734
Address	37 Ferodale Road Medowie
Area	9,674m <sup>2</sup>
Dimensions	The subject site has an irregular shape with general dimensions of 73.3m x 146.67m.
Characteristics	The subject site is located on the western periphery of the township of Medowie and within the towns commercial precinct. Land in the immediate vicinity of the subject site is used for a variety of non-residential uses, including retail, commercial, rural and open space. The site contains a hotel and motel that was erected circa 1984 and the site is devoid of landscaping except for tree plantings along the western and northern boundaries.

### **THE ASSESSMENT**

#### **1. Planning Provisions**

LEP 2000 – Zoning	3(a) – General Business
Relevant Clauses	21
Development Control Plan	N/A
State Environmental Planning Policies	Nil

Discussion

## Port Stephens Local Environmental Plan 2000 (LEP)

### Clause 21 – Business Zones

The subject site is zoned 3(a) Business General “A” Zone, which permits a range of commercial and retail activities as well as tourist developments and industries compatible with a commercial area. The proposal has been considered against the relevant objectives of the 3(a) zone and no areas of non-compliance have been identified.

Assessment comments are provided below:

Objectives of the 3(a) Business Zone include:

*To provide for a range of commercial and retail activities, and uses associated with , ancillary to, or supportive of, retail and service facilities including tourist development and industries compatible with a commercial area.*

The existing hotel, with attached motel, is located within an established commercial area and has operated from this site since approximately 1984.

The proposal to which this modification is associated is considered to be a “hotel” under the LEP and is permissible within the 3(a) zone. The proposal is also considered to be consistent with the zone objectives. There are no specific planning provisions in the LEP relevant to hotels.

### Port Stephens Development Control Plan 2007 (DCP)

There are no specific provisions of the DCP relating to licensed premises.

## 2. Likely Impact of the Development

It is considered that approval of the modification will not result in any additional impacts to the community given that development consent 16-2008-57-1 has allowed the premises to operate as proposed for a period of 12 months.

The Police Licensing Coordinator has advised that the crime statistics for the preceding 12 month period indicate that there have been no increases in alcohol related issues on and around the hotel premises as a result of the extended operating hours afforded by DA consent 16-2008-57-1.

## 3. Suitability of the Site

The subject site is considered to be suitable for the proposed development.

#### **4. Submissions**

During the public exhibition of the proposal two (2) submissions were received. Both submissions were in objection to the proposal.

The submissions state that extending the hours of operation to the hotel will relate in an increase in antisocial behaviour, rubbish and vandalism in the local area.

The application does not seek to extend the hours of operation beyond those currently approved by development consent 16-2008-57-1 and as such it is not considered that this proposal will result in an increase in antisocial behaviour.

The Police Licensing Coordinator has advised that the crime statistics for the preceding 12 month period indicate that there have been no increases in alcohol related issues on and around the hotel premises as a result of the extended operating hours afforded by DA consent 16-2008-57-1.

#### **5. Public Interest**

It is considered to be in the public interest to allow the premises to continue trading in the hours permitted by the temporary approval 16-2008-57-1.

**ATTACHMENT 3**  
**CONDITIONS**

1. The Development Consent No. 16-2003-577-1 has been superseded by this Modified Development Consent No. 16-2003-577-2. The Development Consent No. 16-2003-577-1 must be surrendered to the Council prior to acting on the modified consent.
2. 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.
3. The development shall take place in accordance with the plans and documentation submitted with the application.
4. Landscaping shall be carried out in accordance with the details submitted. The landscaping must be completed prior to issue of Occupation Certificate.
5. The Advices provided by council's Disability Access Officer (enclosed) are to be indicated on the plans, where application, with the application for Construction Certificate.
6. A monetary contribution is to be paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979, towards the provision of the following public facilities in the locality:-

Roads and/or Intersections            (\$2,322)

Note:

- a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan No. 3-Medowie. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.
  - b) Contributions are to be paid prior to commencement of use.
  - c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months.
7. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
  8. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-

- Monday to Friday, 7am to 6pm;
- Saturday, 8am to 1pm;
- No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

9. Occupation of any buildings shall not take place until the building has been completed in accordance with the approved plans, specifications and conditions of this approval unless approval to occupy an incomplete building is granted by Council or an accredited certifier. Approval to occupy will not be given if any health or safety defects exist. NOTE: If an accredited certifier approves occupation of a dwelling the accredited certifier is to immediately notify Council in writing.
10. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a) stating that unauthorised entry to the work site is prohibited, and
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

This clause does not apply to:

- a) work carried out inside an existing building, or
  - b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
11. If the work involved in the erection or demolition of a building:
    - a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
    - b) building involves the enclosure of a public place.

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

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

- a) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.



- b) Any such hoarding, fence or awning is to be removed when the work has been completed.
12. Approval to occupy, close or partially close the footpath adjacent to the property to which this approval relates shall be the subject of a separate application. Without specific approval, storage of materials on or closure of the footpath is prohibited.
13. The building site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is restricted to the site. Council and the Environmental Protection Authority may issue 'on the spot' fines if breaches of the Clean Waters Act 1970 are detected. The applicant/builder will be responsible for restoration of any erosion and removal of sediment from the stormwater drainage system.
14. Vehicular access to the property, during construction of the dwelling is to be via an all weather access for delivery of materials & trades.
15. A waste containment facility to Council's requirements, is to be provided on the building site immediately after the first concrete pour for the building and is to be regularly serviced. Council and the Environmental Protection Authority may issue 'on the spot' fines if breaches of the Environmental Offences and Penalties Act, are detected.

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

16. Approved toilet accommodation for all workmen on the building site is to be provided from the time work commences until the building is complete.
17. Retain all live trees protected by Council's Tree Preservation Order, other than those affected by the location of the building and driveways. Approval for removal of trees is limited to a distance of three (3) metres from the building and a three (3) metre wide driveway strip. A development application must be made to Council for the removal or pruning of any other tree or trees on the property (\$15.00 application fee applies)
18. If the soil conditions require it retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and adequate provision must be made for drainage.

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

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

19. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign is to be displayed for public viewing on the site at the commencement of site works and during

- construction of the development and is to remain in place until completion of works.
20. Occupation of any buildings shall not take place until the building has been completed in accordance with the approved plans, specifications and conditions of this approval unless approval to occupy an incomplete building is granted by Council or an accredited certifier. Approval to occupy will not be given if any health or safety defects exist. NOTE: If an accredited certifier approves occupation of a dwelling the accredited certifier is to immediately notify Council in writing.
  21. Council's Food Surveillance Officer is to be given 48 hours notice for inspection and approval or otherwise of the food preparation, storage and service areas prior to occupation of the premises. Occupation of the premises is not to be approved until approval is given by Council's Food Surveillance Officer.
  22. A fire safety schedule pursuant to Section 168 of the Environmental Planning & Assessment Amendment Regulation 2000 will be attached to the construction certificate which specifies the fire safety measures that should be implemented in the building premises.
  23. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to Council or to an accredited certifier together with a copy to Council ( if not the 'principle certifying authority' , and a copy to the Commissioner of New South Wales Fire Brigades. A further copy of the certificate must also be prominently displayed in the building.
  24. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
    - a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
    - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.
  25. NOTE: The conditions relating to building construction do not represent an exhaustive assessment under the provisions of the Building Code of Australia (BCA) as no construction certificate application has been received by Council. Design amendments may be required for BCA compliance, which may necessitate amendment of this approval under S96 of the Environmental Planning & Assessment Act 1979.
  26. Note: The Commonwealth Disability Discrimination Act introduced in 1992 makes it an offence to discriminate against people on the grounds of

- disability, in the provision of access to premises, accommodation, or services. This applies particularly to new buildings or significant building alterations. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act. Further information can be obtained from Council or the Human Rights and Equal Opportunity Commission on 008 021199.
27. Food preparation, storage and service areas are to be designed and constructed to comply with Council's Food Premises Code. A floor plan and cross-section of the proposed area is to be submitted to Council's Food Surveillance Officer for approval prior to the issue of a construction certificate. Such details should include details of floor, walls and ceiling finishes and of any benches, equipment, fittings and mechanical ventilation.
  28. NOTE: Prior to occupation and/or operation of the proposed altered licensed premises, the Licensee shall make a renewed application to Council for approval to operate a place of public entertainment.
  29. The trading hours of the Premises as a place of public entertainment shall be::  
Monday to Saturday: 5:00 am to 3:00 am  
Sunday: 5:00 am to 12:00 midnight
  30. A sign in letters at least 50mm high is to be displayed in a prominent position with the entertainment area with the following text: "MAXIMUM 240 PEOPLE IN THIS AREA"/
  31. A copy of this consent and a plan showing the entertainment area is to be conspicuously displayed within the place of public entertainment.
  32. Any alterations to the Place of Public Entertainment with respect to size, structure, fittings and arrangement of furnishings that impact on the available floor area or paths of travel to the exits for occupants are to be approved by Council and consent given prior to their implementation.
  33. Patrons of the hotel shall not be permitted to take liquor away from the premises after the bottle shop has closed and removal of liquor on other occasions shall be as provided in the PoM attached as Annexure "B". In particular, no removal of open containers or glasses shall be allowed and there shall be no sale of liquor in unopened containers for consumption off the premises..
  34. The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.
  35. The proposed use of the premises and the operation of all plant and equipment shall not give rise to a sound level at any point on a residential boundary greater than 5dB above the L90 background levels in any octave band with centre frequencies from 31.5Hz to 5kHz inclusive. When the L90

- background levels in the 31.5Hz and the 63 octave bands are below 55dB and 35dB respectively or alternatively acceptable methods of measurement.
36. The use of the premises and the operation of all plant and equipment shall not give rise to any offensive noise as defined in the Protection of Environment Operations Act.
37. That the use of the Premises comply with the Security POM except where inconsistent with these conditions, in which case these conditions shall prevail to the extent of any inconsistency (copy attached as Annexure "B").
38. When entertainment is provided at the Premises after 8pm the Premises must comply with the following:
- a. An RSA Monitor is present at the Premises at all times when there are more than 150 patrons inside the Premises; and
  - b. One (1) Security Persons are present at the Premises when there are less than 99 patrons inside the Premises, and
  - c. Two (2) Security Persons are present at the Premises when there are between 100 and 199 patrons inside the Premises;
  - d. Three (3) Security Persons are present at the Premises when there are between 200 and 299 patrons inside the Premises;
  - e. Four (4) Security Persons are present at the Premises when there are between 300 and 399 patrons inside the Premises;
  - f. Five (5) Security Persons are present at the Premises when there are between 400 and 450 patrons inside the Premises;
  - g. No more than 450 persons (including patrons) are inside the Premises (including outdoor areas) at any time; and
  - h. An adequate Courtesy Bus Service is available to patrons of the Premises at all times after 11.00pm; and
  - i. A Taxicab Booking Service is provided to patrons of the Premises at no charge to those patrons; and
  - j. A Complaints Register is maintained at the Premises; and
  - k. A Complaints Service is provided.
  - l. The Licensee for the Premises remains a current member of the Port Stephens Liquor Accord for such time as that Liquor Accord operates.
39. That noise emitted from the Premises must be inaudible in any habitable room for any residential premises between 12am and 7am on any day.
40. For the purpose of monitoring compliance with condition 38 (a) above, an RSA Monitor Register must be kept at the Premises and must be available for inspection by Police or Council officers at all hours that the Premises are open for trade to the public. The RSA Monitor Register must accurately record the dates and times an RSA Monitor was present at the Premises and the name of each RSA Monitor.
41. For the purpose of monitoring compliance with conditions 38 (b) – 17 (d) (inclusive) above, a Security Person Register must be kept at the Premises and

must be available for inspection at all hours that the Premises are open for trade to the public. The Security Person Register must accurately record the dates and times a Security Person is present at the Premises.

42. For the purpose of ensuring compliance with conditions 38 (a) – 17 (g) (inclusive) above, the number of patrons and other people in the Premises must be estimated when above 100 persons and accurately determined using appropriate measures when numbers exceed 200. Numbers shall be recorded every hour from 10pm to closing time each evening, when numbers exceed 100. For the purpose of this clause, an appropriate measure for accurately determining numbers above 200 is an initial head count followed by the use of hand held mechanical counters operated by Security Persons at points of entry and egress from the Premises.
43. For the purpose of monitoring compliance with condition 38 (f) above, each person driving a Courtesy Bus must maintain an accurate register recording the numbers of patrons transported during each half hour that the Courtesy Bus Service is provided.
44. A sign, not less than 600mm in length and 400mm in width, must be erected on the exterior of the Premises, in a location visible from Ferodale Road, on which the words “Complaints and Reports” followed by number of the telephone service for the Community Contact and Consultation Line.
45. The telephone number for the Community Contact & Consultation Line shall be included in each advertisement for any use at the Premises and must be made available to the Medowie Progress Association and to any community based newsletter or newspaper that is distributed to the Medowie community.
46. That no patron be permitted entry to the Premises after 1.00am and before 5am on any day.
47. In the Consent, the following phrases have the following meanings:

**“adequate Courtesy Bus Service”** means a service as described at page 10 of the PoM attached as Annexure “B” to this Consent.

**“Complaints Register”** means a register maintained and kept at the Premises that is available for inspection by Police or a Council officer at the Premises at any time the Premises are open for trade to the public and that records each of the following details in respect to each complaint of anti-social conduct received about the operation of the Premises:

- (a) Date the complaint was received;
- (b) Time the complaint was received;
- (c) Name of the complainant
- (d) Name of the person recording the complaint in the Register
- (e) The precise terms of the complaint
- (f) The action taken, if any, in respect to the complaint.

**“Complaints Service”** means a telephone service provided at the Premises

that is capable of receiving telephone calls at the Premises;

**“Premises”** means the Bull & Bush Hotel situated at 37 Ferodale Road, Medowie.

**“RSA Monitor”** means a person holding a “recognised RSA certificate”, as defined in cl.39 of the **Liquor Regulation 2008** who at the time of performance of the function of RSA Monitor performs the primary function of identifying and assisting in the management of patrons of the premises who are becoming intoxicated;

**“Security Person”** means a person holding each of the following that is engaged to provide security services at the Premises:

(a) a Class 1A and/or a Class 1C security licence under the **Security Industry Act 1997**; and

(b) a “recognised RSA certificate”, as defined in cl.30 of the **Liquor Regulation 2008**, at the time of performing the function of providing security services, does so as a sole function;

**“Security POM”** means the document titled “BULL & BUSH HOTEL – SECURITY PLAN OF MANAGEMENT - December 2008” that is attached to this Consent as Annexure B;

**“Taxicab Booking service”** means where an employee of the Premises will, on behalf of any patron of the Premises, contact a taxi cab operator, or a co-operative of taxi cab operators, to request a taxi cab attend the Premises to transport the patron from the Premises.

48. No alcohol is to be served 30 minutes prior to the closing of the Premises.
49. The person entitled to act on this Consent must pay an annual fee of \$2100 to be CPI adjusted annually, to Port Stephens Council to allow an independent audit of compliance with the conditions of consent 16-203-577-2 by 30 June in each Calender year. The audit shall include covert surveillance of the Premises at a time when a use is undertaken of the Premises and must include the assessment of any condition requiring the keeping of a register.

ADVICES

The following general information is provided to assist you with the preparation and prompt processing of your Construction Certificate where such application is made to Council.

- a) Plans in respect of an application for a Construction Certificate must be submitted to the Hunter Water Corporation for checking & stamping prior to application for the Construction Certificate being made.
- b) Prior to commencement of work, submit to Council the name and, contract licence number of the builder.
- c) If the value of the work is \$25,000 or more, you will need to pay a levy to the Long Service Corporation prior to issue of the construction certificate. You can either pay the Long Service Levy Corporation direct and show us your receipt OR you can pay us and we'll send your money to them.

Note: Owner builders can ask for a reduction in the levy. For more details contact the Long Service Corporation, Locked Bag 3000, CCDS, Lisarow 2252, phone 131441.

**ATTACHMENT 4**

**MINUTES ORDINARY COUNCIL – 14 DECEMBER 2010**

**ITEM NO. 4**

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

**DEVELOPMENT APPLICATION FOR ADDITIONS TO HOTEL AT NO. 37 FERODALE ROAD MEDOWIE**

**REPORT OF: KEN SOLMAN - DEVELOPMENT AND BUILDING, ACTING MANAGER**  
**GROUP: SUSTAINABLE PLANNING**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application 16-2003-577-2 for additions to Hotel at No.37 Ferodale Road Medowie subject to the conditions contained in Attachment 3.

**COUNCIL COMMITTEE MEETING – 7 DECEMBER 2010**

**RECOMMENDATION:**

	<b>Councillor John Nell</b> <b>Councillor Glenys Francis</b>	That Council defer Item 4 to allow for additional information, including crime statistics to be provided to Councillors.
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**ORDINARY COUNCIL MEETING – 14 DECEMBER 2010**

<b>395</b>	<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>	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, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bob Westbury.

Those against the Motion: Nil.



ATTACHMENT 5

Councillor Memorandum – Crime Statistics for Medowie



116 Adelaide Street, Raymond Terrace NSW 2324  
 PO Box 42, Raymond Terrace NSW 2324

DX 21406 | ABN 16 744 377 876



## Councillor Memorandum

To: Councillors  
 From: Ken Solman – Acting Manager Development Assessment and Environmental Health  
 Date: **22 February, 2011**  
 File No: 16-2003-577-2  
 Subject: Crime Statistics for Medowie

### Background

The subject application was presented to Councils Ordinary Meeting on 14 December 2010 with a recommendation for approval. Council resolved to;

*That Council defer Item 4 to allow for additional information, including crime statistics to be provided to Councillors.*

### Crime Statistics

Statistics have been reviewed from the Bureau of Crime Statistics and Research (Hot Spots Maps – 2009) and from Local Police Crime Data, these findings are presented below.

#### **1. Bureau of Crime Statistics and Research (BOCSAR) - Hot Spots maps – 2009:**

These indicate the areas where the offences recorded by the Police during 2009 are mainly occurring (2010 is not yet available). There were no alcohol-related assaults recorded in Medowie for 2009.

#### **2. Local Police crime data:**

Offence	2007	2008	2009	2010
Assault – domestic violence related	153	143	121	80
Assault – not domestic violence related	19	22	18	15
Break and enter dwelling	31	14	18	40
Steal from motor vehicle	32	47	40	53

**Recommendation**

Based on the above information, it is considered that there is no Crime Statistic evidence that would support the refusal of the application. Further, the Bull and Bush is not a "declared premises" (a premises associated with high levels of violence).

ITEM NO. 2

FILE NO: 16-2010-501-1

**DEVELOPMENT APPLICATION FOR DRIVEWAY, ASSOCIATED  
RETAINING WALLS AND STORMWATER DRAINAGE AT NO. 40  
TINGARA ROAD NELSON BAY**

REPORT OF: KEN SOLMAN - DEVELOPMENT AND BUILDING, ACTING MANAGER  
GROUP: SUSTAINABLE PLANNING

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2010-501-1 for the following reasons.
- The Development is inconsistent with the requirements of Australian Standard AS 2890.1 – Parking Facilities, Off Street Car parking.
  - The development is inconsistent with Councils standard drawing s105A – Standard Vehicular Crossing Driveway Profiles.
  - It is considered that B85 vehicles will experience difficulties in negotiating proposed driveway gradient.
  - Vehicles may not hold on grade if pavement is wet. Sufficient details to demonstrate vehicles can come to a stop on the grade during wet conditions have not been provided.
  - The proposed gradient cannot be easily negotiated on foot.
  - The safety of the occupants and those using the street was not considered by the application.
  - A vehicle with a high centre of gravity could tip when reversing from the flat section behind the house to the graded section of the driveway. Sufficient details to demonstrate the appropriateness of this access have not been provided.
  - The development is inconsistent with Section B6 and C5 of Development Control Plan 2007 in terms of depth of cutting on site.

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**COUNCIL COMMITTEE MEETING – 15 MARCH 2011**

**RECOMMENDATION:**

	<b>Councillor Sally Dover</b> <b>Councillor Shirley O'Brien</b>	That Item 2 be deferred to the Ordinary meeting of Council with conditions of consent to approve the development application to be provided.
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## MINUTES FOR ORDINARY MEETING – 22 MARCH 2011

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

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

Those against the motion: Nil.

### ORDINARY COUNCIL MEETING – 22 MARCH 2011

083	<b>Councillor John Nell</b> <b>Councillor Bruce MacKenzie</b>	It was resolved that Council indicate its support for the development application for driveway, associated retaining walls and stormwater drainage at No. 40 Tingara Road, Nelson Bay and request the Sustainable Planning Group Manager to bring forward draft conditions in the event that Council resolve to give consent.
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Cr Frank Ward left the meeting at 5.48pm and returned at 5.48pm prior to voting on Item 2.

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

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

Those against the Motion: Nil.

**This item was deferred from the Ordinary Council Meeting of 8 February 2011 (ATTACHMENT 3) to allow for a Councillor site inspection and for further information to be provided in respect to the potential of future subdivision (ATTACHMENT 4).**

### BACKGROUND

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

The development application seeks consent for the construction of a driveway, associated retaining walls and stormwater drainage.

The site is zoned 2(a) – Residential, with development for a driveway ancillary to a residential dwelling permissible within the zone subject to consent.

The development site is located within an existing residential area and is contained within the Hill Tops Area of the Nelson Bay West planning precinct.

The site has a frontage to Tingara Road and currently contains a single residential dwelling with associated parking adjacent to Tingara Road. The site is bound by vacant residential land to the sides and vegetated open space to the rear. The site is heavily vegetated and steeply sloping having a rise of approximately 25m over the 60m depth of the allotment.

The key issues associated with this proposal are;

- Non compliance with Councils Standard Drawing S105A,
- Non Compliance with Australian Standard AS2890.1 – Parking Facilities, Off Street Car parking,
- Steep site grades,

An assessment of these issues is provided within the attachments.

The development application was submitted to Council on the 29<sup>th</sup> July 2010 with the notification period extending until the 1<sup>st</sup> September 2010. Additional detail and justification was sought from the applicant in August 2010, with the amended plans subject to this report being submitted to Council on the 9<sup>th</sup> November 2010.

## **FINANCIAL/RESOURCE IMPLICATIONS**

Should the development application be refused, the applicant may appeal to the Land and Environment Court. Defending Council's determination would have financial implications for Council.

## **LEGAL AND POLICY IMPLICATIONS**

The development application is inconsistent with Council's Policy.

Should the development application be refused, the applicant may appeal to the Land and Environment Court.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Approval of the driveway as proposed is likely to result in safety implications to both the occupants of the allotment and users of the street.

No adverse economic implications have been identified.

No adverse environmental implications have been identified.

## **CONSULTATION**

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

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Locality Plan.
- 2) Assessment.
- 3) Council Report – 8 February 2011
- 4) Councillors Memorandum – Future Subdivision potential

## **COUNCILLORS ROOM**

Plans

-Accessway/Driveway Plan, prepared by HSS Structural and Civil Engineers Sheet: 1, Issue: 2, dated: 8/11/2010, Dwg: 187E/10

-Centreline Long Section 1, prepared by HSS Structural and Civil Engineers Sheet: 2, Issue: 1, dated: 30/06/2010, Dwg: 187E/10.

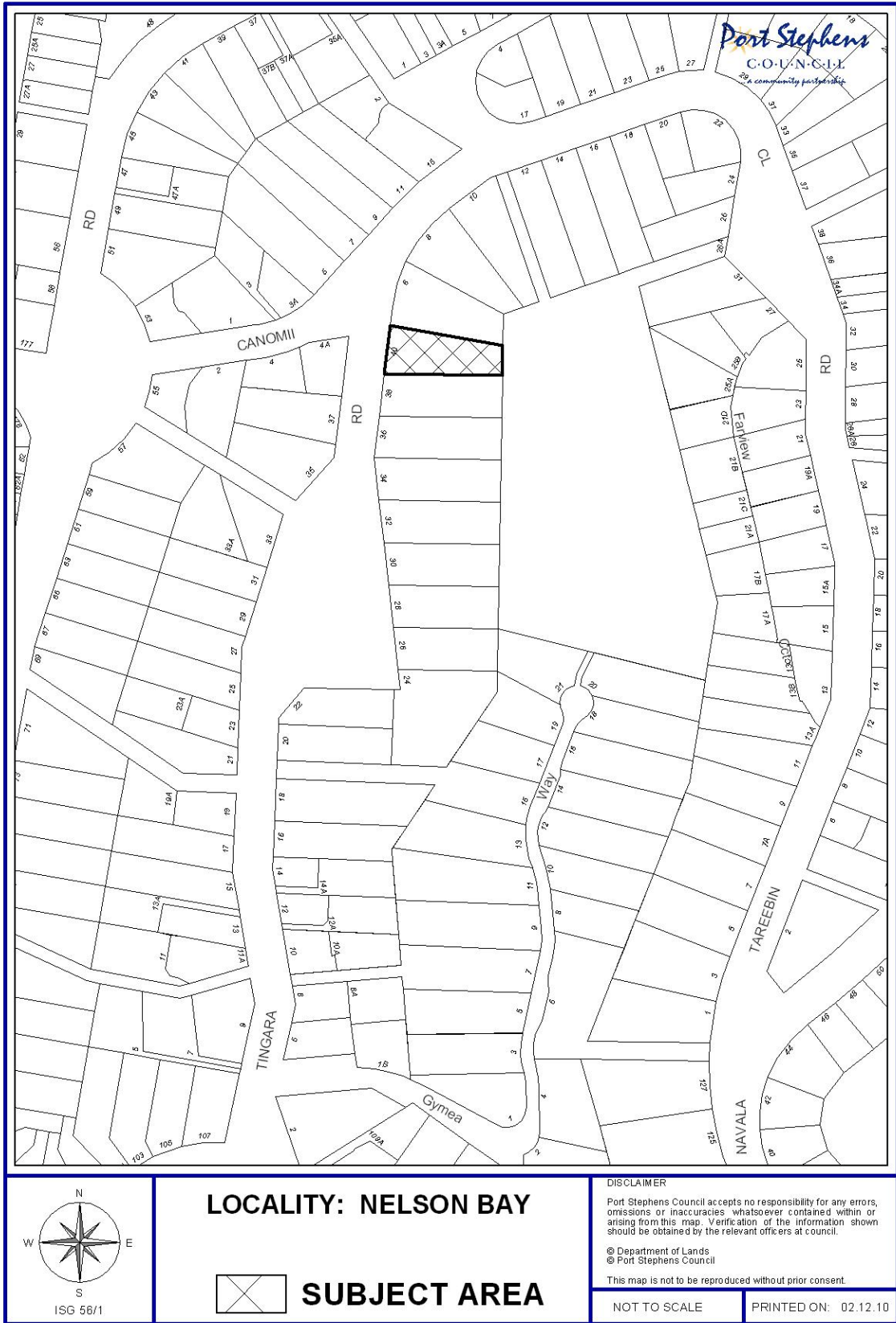
-Centreline Long Sections 2 & 3 and Cross Sections, prepared by HSS Structural and Civil Engineers Sheet: 3, Issue: 2, dated: 8/11/2010, Dwg: 187E/10.

Statement of Environmental Effects

## **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1  
LOCALITY PLAN



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

## ATTACHMENT 2

### ASSESSMENT

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

#### THE PROPOSAL

The development application seeks consent for the construction of a driveway, associated retaining walls and stormwater drainage.

#### THE APPLICATION

Owner	Mr R A & Mrs K A Napier
Applicant	Le Mottee Group Pty Ltd
Detail Submitted	Driveway Plans, Statement of Environmental Effects

#### THE LAND

Property Description	Lot 639 DP 9165
Address	40 Tingara Road, Nelson Bay
Area	1151m <sup>2</sup>
Dimensions	Generally rectangular in shape, 24.385m frontage, 15.24m width at the rear. Depth of the block ranging from 57.56m to 59.35m
Characteristics	Steeply sloping block having a rise of approximately 25m over the 60m depth of the allotment.

#### THE ASSESSMENT

##### 1. Planning Provisions

LEP 2000 – Zoning	2(a) – Residential A Zone
Relevant Clauses	16 – Residential Zonings
Development Control Plan	B3 – Traffic and Parking C5 – Nelson Bay West
State Environmental Planning Policies	71



***State Environmental Planning Policy No 71 – Land and Coastal Protection***

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

The development for the purposes of a driveway, retaining walls and drainage has been considered against the requirements of clauses 7 and 8 and it is considered that the development is consistent with these requirements and the objectives of SEPP71.

***Port Stephens Local Environmental Plan 2000***

The development site is zoned 2(a) – Residential and development for the purposes of a driveway ancillary to a residential dwelling is permissible in the zone with the consent of Council.

***Port Stephens Development Control Plan 2007***

Section B3 – Traffic and Parking

The development is considered to be inconsistent with the following clauses.

*B3.C11 – Driveways must be constructed in accordance with Council's standard drawings and approved by council under the Roads Act.*

The development has grades of up to 42%. Australian Standard AS2890.1 allows for grades of up to 20% while Council's standard drawing S105A allows for a maximum 25% grade.

The development as proposed exceeds these requirements for maximum grade. The applicant has not demonstrated that the proposed driveway will be able to be negotiated by an 85<sup>th</sup> percentile vehicle.

*B3.C20 – When the access driveway length exceeds 30m sight distance is reduced, or the road frontage is to a collector or distributor road the driveway width must be increased to 5.5m for the 6m inside the property boundary.*

The driveway exceeds 30m in length, however does not provide the required increase in trafficable width during the first 6m.

Section B6 – Single and Dual Occupancy Dwellings

*B6.C39 – Earthworks for cut and fill must not alter natural ground level by more than 1m at any point.*

Cross Section 2, at the top of the access way indicates levels of cut up to 2.81m in depth. The extent of earthworks proposed is excessive and inconsistent with the DCP.

*B6.C41 – The height of any retaining wall must not exceed 1.5m*

The development has cuts of up to 2.81m and as such is inconsistent with the requirements of B6.C41.

*B6.C43 – Within 2m of the site boundary the height of a retaining wall must not exceed 750mm.*

The areas of 2.81m cut are located within 2m of the site boundary. The development has not demonstrated it is consistent with this requirement.

### C5 – Nelson Bay West

#### *C5.4.4 – Fencing and Retaining Walls*

- *The maximum height of any cut or fill at the site boundary shall be 600mm where the development is 1300mm or less from the boundary. This may extend to 900mm where the setback is proposed at a greater distance.*
- *Terracing and Retaining walls are not to be more than 1.2m in height.*

The development has cuts of up to 2.81m and as such is inconsistent with the requirements of section C5.4.4

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

Approval of the application as proposed would result in the construction of a driveway that is far in excess of the maximum grades permissible under Australian Standard 2890.1 and Council's Standard Drawing S105A.

Details have not been submitted to demonstrate that an 85<sup>th</sup> percentile vehicle is capable of negotiating the drive.

## **3. Suitability of the Site**

It is considered that due to the excessive site grades, the site is unsuitable for the construction of a driveway to give access to the rear of the dwelling.

## **4. Submissions**

Nil

## **5. Public Interest**

It is not considered to be in the public interest to approve this application.

**ATTACHMENT 3**

**COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011**

**RECOMMENDATION:**

	<p><b>Councillor John Nell</b> <b>Councillor Glenys Francis</b></p>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Defer the report to allow for a site inspection by Councillors.</li> <li>2. Further information be provided by Sustainable Planning Group Manager with respect to the potential for future subdivision.</li> </ol>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011**

<p><b>003</b></p>	<p><b>Councillor John Nell</b> <b>Councillor Bruce MacKenzie</b></p>	<p>It was resolved that the Council Committee recommendation be adopted.</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 Glenys Francis, Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Ken Jordan.

Those against the Motion: Nil.

ATTACHMENT 4



116 Adelaide Street, Raymond Terrace NSW 2324  
PO Box 42, Raymond Terrace NSW 2324

DX 21406 | ABN 16 744 377 876



## Councillor Memorandum

To: Councillors  
From: Matthew Brown – Manager Development Assessment and Environmental Health  
Date: 3 March, 2011  
File No: 16-2010-501-1  
Subject: Subdivision Potential of 40 Tingara Road, Nelson Bay

### Background

The subject application was presented to Councils Ordinary Meeting on 8 February 2011 with a recommendation for approval. Council resolved to;

*2. Further information be provided by Sustainable Planning Group Manager with respect to the potential for future subdivision.*

### Subdivision Potential

#### **Port Stephens Local Environmental Plan 2000**

The following clauses of the Port Stephens Local Environmental Plan 2000 (LEP) apply to the subject allotment in respect to subdivision.

#### Clause 16 – Residential Zones

The subject site is zoned 2(a) – Residential under the provisions of Clause 16. Clause 16 of the LEP states that Subdivision of 2(a) land is permissible with development consent.

#### Clause 17 – Subdivision in Residential Zones

The subject site is located within the "Hill Tops" precinct of the Nelson Bay West Planning Area which has specific controls for development. Clause 17 of the LEP sets the parameters for subdivision in residential zones and states;

*(3) Consent for the subdivision of land in the Hill Tops precinct of the Nelson Bay (West) Area to create an allotment with an area of less than 600m<sup>2</sup> that is, in the opinion of the consent authority, intended to be used for the purpose of residential housing, is to be granted only if consent has been granted for the erection of a dwelling on that allotment.*

The subject allotment contains a site area of 1151m<sup>2</sup>. Subdivision of this subject allotment is permissible, however should an allotment be created under 600m<sup>2</sup> an application for a dwelling would be required on the proposed allotment. This would constitute a Dual Occupancy Development.

Clause 19 – Dwelling Houses, dual occupancy housing and urban housing

Clause 19 sets the controls for Dual Occupancy Development in the 2(a) zone. In the "Hill Tops" precinct, development for the purposes of Dual Occupancy Housing is prohibited.

**Port Stephens Development Control Plan 2007**

The following clauses of the Port Stephens Development Control Plan 2007 (DCP) apply to the subject site in respect to subdivision.

*Clause B1.C7 – Any application to subdivide a lot with a slope greater than 25% must be accompanied by an application for the proposed dwelling or dwellings unless it can be demonstrated that access and building envelopes can be achieved on areas of less than 25% slope.*

The development site is generally steeper than 25% and it is considered that dwelling plans and access would be required to be demonstrated in an area of less than 25% slope. Significant cut/fill would be required to achieve this at the rear of the subject site.

**Recommendation**

Subdivision of the subject allotment is permissible under the provisions of the LEP providing any proposed allotment is greater than 600m<sup>2</sup>.

However, should the slope of the site be determined to be greater than 25%, then the application would be required to include a dwelling. In this instance the application would then be considered a Dual Occupancy which is prohibited on the site.

Cr Steve Tucker declared a less than significant non-pecuniary conflict of interest in Item 3 and remained in the meeting.

ITEM NO. 3

FILE NO: 16-2010-291-1

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

REPORT OF: DAVID BROYD – SUSTAINBLE PLANNING, GROUP MANAGER  
GROUP: SUSTAINABLE PLANNING

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2010-291-1 for the following reasons;
  - a) Non-compliance with Development Control Plan 2007

The proposed development fails to comply with the provisions and general objectives of the Port Stephens Development Control Plan 2007.

**Particulars**

The proposed development has been assessed against the provisions of Development Control Plan 2007, Chapter 4 – Commercial and Mixed Use Development, and was found to be unsatisfactory. In particular, the proposed development fails to a) adequately address the street frontage, b) provide adequate setbacks to adjoining properties, c) provide appropriate articulation and finishes within the design and d) exceeds the maximum height limitation.

- b) Failure to satisfy the objectives of the Medowie Strategy

The proposed development is unsatisfactory when tested against the objectives and provisions of the Medowie Strategy.

**Particulars**

By virtue of its site planning and design the proposed development fails to establish the desired future character planned for the Medowie Town Centre from that which exists and as such fails to satisfy the objectives of the Medowie Strategy. Rather than contributing to substantially improving the urban design of the town centre by fronting the street and providing strong pedestrian connectivity, the applicant has presented a site layout that results in the shopping centre building, which ignores Council's desired future character for the Medowie Town Centre, and a development isolated from the township.

- c) Failure to satisfy the objectives Clause 21 – Business Zone of *Port Stephens Local Environmental Plan 2000*

The proposed development fails to satisfy the general objectives of Clause 21 – Business Zone, under *Port Stephens Local Environmental Plan 2000*

**Particulars**

The proposed development has been considered against the objective of Clause 21 and is found to be unsatisfactory with regards to Clause 21(b) and Clause 21(d). The proposed development is inconsistent with the desired character of the locality, and by virtue of its design enhances reliance upon private motor vehicles.

- d) Failure to satisfy the objectives Clause 44 – Appearance of land and buildings of *Port Stephens Local Environmental Plan 2000*

The proposed development fails to satisfy the general objectives of Clause 44- Appearance of land and buildings, under *Port Stephens Local Environmental Plan 2000*

**Particulars**

Clause 44 of LEP 2000 stipulates that the consent authority may consent to the development of land within view of any main or arterial road, only if it takes into consideration the probable aesthetic appearance of the proposed building or work on that land when used for the proposed purpose and viewed from that main or arterial road, The proposed car parking area fronting Ferodale Road (main road) and Peppertree Road (future main road) combined with the building's setbacks creates undesirable streetscape presentation, heavily dominated by car parking and loading facilities, rather than activated street fronts. In this regard, the proposed building does not respect the prevailing streetscape and townscape, nor does it set new precedent in terms of its alignment in responding to the street edge and building envelope of future neighbouring existing buildings. In this regard, the proposed development is unsatisfactory with regards to Clause 44 of Port Stephens Local Environmental Plan 2000.

Due to the reasons outlined above the proposed development is found to be unacceptable and as such should be refused by Council.

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**COUNCIL COMMITTEE MEETING – 15 MARCH 2011**

**RECOMMENDATION:**

	<b>Councillor John Nell Councillor Steve Tucker</b>	That Item 3 be deferred to allow for a 2 way conversation with Councillors on 22 March 2011.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Bob Westbury, Steve Tucker, John Nell, Bob Westbury, Sally Dover and Glenys Francis.

Those against the motion: Crs Frank Ward, Geoff Dingle and Peter Kafer.

The Motion on being put was carried.

**AMENDMENT**

	<p><b>Councillor Geoff Dingle</b> <b>Councillor Frank Ward</b></p>	<p>That Council:</p> <p>1) Refuse Development Application 16-2010-291-1 for the following reasons;</p> <p>e) Non-compliance with Development Control Plan 2007</p> <p>The proposed development fails to comply with the provisions and general objectives of the Port Stephens Development Control Plan 2007.</p> <p>Particulars</p> <p>The proposed development has been assessed against the provisions of Development Control Plan 2007, Chapter 4 – Commercial and Mixed Use Development, and was found to be unsatisfactory. In particular, the proposed development fails to a) adequately address the street frontage, b) provide adequate setbacks to adjoining properties, c) provide appropriate articulation and finishes within the design and d) exceeds the maximum height limitation.</p> <p>f) Failure to satisfy the objectives of the Medowie Strategy</p> <p>The proposed development is unsatisfactory when tested against the objectives and provisions of the Medowie Strategy.</p> <p>Particulars</p>
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		<p>By virtue of its site planning and design the proposed development fails to establish the desired future character planned for the Medowie Town Centre from that which exists and as such fails to satisfy the objectives of the Medowie Strategy. Rather than contributing to substantially improving the urban design of the town centre by fronting the street and providing strong pedestrian connectivity, the applicant has presented a site layout that results in the shopping centre building, which ignores Council's desired future character for the Medowie Town Centre, and a development isolated from the township.</p> <p>g) Failure to satisfy the objectives          Clause 21 – Business Zone of Port Stephens Local Environmental Plan 2000</p> <p>The proposed development fails to satisfy the general objectives of Clause 21 – Business Zone, under Port Stephens Local Environmental Plan 2000</p> <p>Particulars</p> <p>The proposed development has been considered against the objective of Clause 21 and is found to be unsatisfactory with regards to Clause 21(b) and Clause 21(d). The proposed development is inconsistent with the desired character of the locality, and by virtue of its design enhances reliance upon private motor vehicles.</p> <p>h) Failure to satisfy the objectives          Clause 44 – Appearance of land and buildings of Port Stephens Local Environmental Plan 2000</p> <p>The proposed development fails to satisfy the general objectives of</p>
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		<p>Clause 44- Appearance of land and buildings, under Port Stephens Local Environmental Plan 2000</p> <p>Particulars</p> <p>Clause 44 of LEP 2000 stipulates that the consent authority may consent to the development of land within view of any main or arterial road, only if it takes into consideration the probable aesthetic appearance of the proposed building or work on that land when used for the proposed purpose and viewed from that main or arterial road, The proposed car parking area fronting Ferodale Road (main road) and Peppertree Road (future main road) combined with the building's setbacks creates undesirable streetscape presentation, heavily dominated by car parking and loading facilities, rather than activated street fronts. In this regard, the proposed building does not respect the prevailing streetscape and townscape, nor does it set new precedent in terms of its alignment in responding to the street edge and building envelope of future neighbouring existing buildings. In this regard, the proposed development is unsatisfactory with regards to Clause 44 of Port Stephens Local Environmental Plan 2000.</p> <p>Due to the reasons outlined above the proposed development is found to be unacceptable and as such should be refused by Council.</p>
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

Those for the motion: Crs Geoff Dingle, Frank Ward and Peter Kafer.

Those against the motion: Crs Sally Dover, Shirley O'Brien, John Nell, Steve Tucker, Bob Westbury and Glenys Francis.

The amendment on being put was lost.

ORDINARY COUNCIL MEETING – 22 MARCH 2011

	<p><b>Councillor Geoff Dingle</b> <b>Councillor Frank Ward</b></p>	<p>That Council:</p> <p>1) Refuse Development Application 16-2010-291-1 for the following reasons;</p> <p style="padding-left: 40px;">a) Non-compliance with Development Control Plan 2007</p> <p>The proposed development fails to comply with the provisions and general objectives of the Port Stephens Development Control Plan 2007.</p> <p><b>Particulars</b></p> <p>The proposed development has been assessed against the provisions of Development Control Plan 2007, Chapter 4 – Commercial and Mixed Use Development, and was found to be unsatisfactory. In particular, the proposed development fails to a) adequately address the street frontage, b) provide adequate setbacks to adjoining properties, c) provide appropriate articulation and finishes within the design and d) exceeds the maximum height limitation.</p> <p style="padding-left: 40px;">b) Failure to satisfy the objectives of the Medowie Strategy</p> <p>The proposed development is unsatisfactory when tested against the objectives and provisions of the Medowie Strategy.</p> <p><b>Particulars</b></p> <p>By virtue of its site planning and design the proposed development fails to establish the desired future character planned for the Medowie Town Centre from that which exists and as such fails to satisfy the</p>
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		<p>objectives of the Medowie Strategy. Rather than contributing to substantially improving the urban design of the town centre by fronting the street and providing strong pedestrian connectivity, the applicant has presented a site layout that results in the shopping centre building, which ignores Council's desired future character for the Medowie Town Centre, and a development isolated from the township.</p> <p>c) Failure to satisfy the objectives Clause 21 – Business Zone of <i>Port Stephens Local Environmental Plan 2000</i></p> <p>The proposed development fails to satisfy the general objectives of Clause 21 – Business Zone, under <i>Port Stephens Local Environmental Plan 2000</i></p> <p><b>Particulars</b></p> <p>The proposed development has been considered against the objective of Clause 21 and is found to be unsatisfactory with regards to Clause 21(b) and Clause 21(d). The proposed development is inconsistent with the desired character of the locality, and by virtue of its design enhances reliance upon private motor vehicles.</p> <ul style="list-style-type: none"> <li>• Failure to satisfy the objectives Clause 44 – Appearance of land and buildings of <i>Port Stephens Local Environmental Plan 2000</i></li> </ul> <p>The proposed development fails to satisfy the general objectives of Clause 44- Appearance of land and buildings, under <i>Port Stephens Local Environmental Plan 2000</i></p> <p><b>Particulars</b></p>
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		<p>Clause 44 of LEP 2000 stipulates that the consent authority may consent to the development of land within view of any main or arterial road, only if it takes into consideration the probable aesthetic appearance of the proposed building or work on that land when used for the proposed purpose and viewed from that main or arterial road, The proposed car parking area fronting Ferodale Road (main road) and Peppertree Road (future main road) combined with the building's setbacks creates undesirable streetscape presentation, heavily dominated by car parking and loading facilities, rather than activated street fronts. In this regard, the proposed building does not respect the prevailing streetscape and townscape, nor does it set new precedent in terms of its alignment in responding to the street edge and building envelope of future neighbouring existing buildings. In this regard, the proposed development is unsatisfactory with regards to Clause 44 of Port Stephens Local Environmental Plan 2000.</p> <p>Due to the reasons outlined above the proposed development is found to be unacceptable and as such should be refused by Council.</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, Caroline De Lyall, John Nell, Geoff Dingle Frank Ward.

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

The motion was lost on the casting vote of the Mayor.

<p><b>084</b></p>	<p><b>Councillor Bruce MacKenzie Councillor Steve Tucker</b></p>	<p>It was resolved that Council:</p> <p>1) Indicate it support for the development application for a supermarket (Woolworths) at No 39, 41, 43, 45 and 47 Ferodale Road, Medowie and request the Sustainable Planning Group Manager to bring forward draft conditions in the event that Council resolve to give consent.</p> <p>2) Foreshadow the intention to include a condition to require the provision of public toilets.</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 Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover and Bob Westbury.

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

The motion was carried with the casting vote of the Mayor.

**RESCISSION MOTION**

	<p><b>Councillor Steve Tucker Councillor Bruce MacKenzie</b></p>	<p>That Council rescind its decision of 22 March 2011 on Item 3, of the Ordinary Council meeting, namely Development Application for Supermarket (Woolworths) at No. 39, 41, 43, 45 and 47 Ferodale Road, Medowie.</p>
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Cr Peter Kafer, Geoff Dingle, Frank Ward and Caroline De Lyall left the meeting at 6.33pm. Due to the lack of a quorum the meeting was adjourned at this time in accordance with the Code of Meeting Practice.

The meeting was adjourned to Friday 25 March 6.30pm with the meeting to be held in the Council Chambers, Council's Administration Building, 116 Adelaide St, Raymond Terrace.

## BACKGROUND

The purpose of this report is to present a development application to Council for determination as requested by Councillor Dingle for the reason: *"The development is inconsistent with the Medowie Strategy which requires that the development of the Medowie commercial area have street front pedestrian shopping. The layout plan shows that the Ferodale and Peppertree frontages are both surrounded by tar and cement car parking which effectively creates a barrier to pedestrian movement between shopping elements on the east and western sides of Peppertree Road"* (note extract of full call up documentation only).

The applicant seeks development consent for the construction of a commercial premises, namely a Woolworths supermarket and Woolworths Liquor Store, having a gross floor area of 3,865m<sup>2</sup>. The applicant also proposes an associated car park comprising 160 customer car parking spaces and 16 staff parking spaces.

The site is zoned 3(a) – Business General Zone, having been rezoned from 2(a) – Residential, on 2 March 2011. Development for the purpose of commercial premises is permissible within the 3(a) – Business General Zone, subject to consent from Council. Determination of the application was dependant upon the rezoning being approved by the NSW Minister for Planning and published by the Department of Planning (which occurred on 2 March 2011), and as such the report could not be put before Council for determination at an earlier date.

The development site is located on the corner of Ferodale and Peppertree Roads Medowie, and is within the identified 'Medowie Town Centre' as per Council's adopted 'Medowie Strategy' (refer to Attachment No.1 - locality plan). The site has a frontage of 107.6 metres to Peppertree Road and 100.6 metres to Ferodale Road. The site has a total area of 10887m<sup>2</sup>.

The subject site currently contains four (4) residential dwellings and associated structures, which are proposed for demolition under the subject application. The site is bound by vacant land to the North, being a Council owned site, Residential development to the East, Ferodale Road to the South and Peppertree Road and the existing Medowie Commercial precinct to the West. The site is vegetated to the rear (northern boundary), and has a gradual slope from the north-east towards the south-west property boundary fronting Ferodale Road, having a rise of approximately 4.8 metres over the 108 metre depth of the allotment.

The key issues associated with this proposal are;

- Failure to satisfy Clause 21 and Clause 44 of *Port Stephens Local Environmental Plan 2000*.
- Non-compliance with Council's Development Control Plan 2007, particularly the provisions of Chapter B4 – Commercial and Mixed Use Development
- Non-compliance with the objectives of the Medowie Strategy.

The subject site is a critical site in terms of the development of the Medowie Town Centre, with the development of this site guiding the future character and built form of the locality. Council has worked closely with the community in developing the Medowie Strategy, and approval of this development in its current form would likely undermine Council's ability to achieve the outcomes stipulated within the Strategy.

The proposal has been recommended for refusal, because the proponent has not demonstrated that an alternative superior urban design outcome, which is consistent with Council's plans and policies, cannot be achieved at the site. Justification for Council accepting a sub-standard proposal or a site specific response is not present in this application.

An assessment of these matters is provided within Attachment No. 2 in accordance with Section 79C of the Environmental Planning and Assessment Act (1979 – as amended).

The development application was lodged with Council on 4 May 2010, with the notification period extending until 2 June 2010. Additional detail and justification was sought from the applicant on 12 July 2010, with amended plans being lodged 25 January 2011. It is noted that these plans did not address all matters raised within Council's correspondence dated 12 July 2010 (refer to Attachment No.3).

A report was put before Council on 19 October 2010 advising Council to note the status of the development application 16-2010-291- in relation to the merit assessment matters pertaining to Section 79C of the Environmental Planning and Assessment Act 1979, and recommending Council endorse the exhibition of a draft amendment to Port Stephens Development Control Plan 2007 in accordance with resolutions of Council dated 27 May 2008 and 5 May 2009 (refer to Attachment No.4). On 15 February 2010 a report was again put before Council in relating to draft Development Control Plan 2007 Chapter C10 – Medowie Town Centre, in which Council staff recommended Council not proceed with the exhibited draft amendment.

As such, it is noted that the subject application is assessed against the provisions of Development Control Plan 2007, Chapter B4 – Commercial and Mixed Use Development.



## FINANCIAL/RESOURCE IMPLICATIONS

Should the development application be refused, the applicant may appeal to the Land and Environment Court. Defending Council's determination would have financial implications for Council.

## LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with Council's Policy, including Local Environmental Plan 2000, Development Control Plan 2007 and the Medowie Strategy.

Council's Local Environmental Plan 2000, Medowie Strategy, and Development Control Plan 2007 have been put through due procedural requirements, including extensive public consultation, and are fundamental elements in the decision making processes of Council as a governing body. Any decision by Council to vary the Local Environmental Plan or Development Control Plan, without sufficient justification, reduces the legal weight of the policy documents, and sets undesirable precedent in the future for Council and development assessment staff in trying to implement the provisions of the Council policy.

## SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The site is a fully serviced allotment zoned 3(a) – Business General. The construction of a premise for commercial use and an associated liquor store is not considered likely to have a significant social impact on the community, as liquor is already available from a number of existing liquor outlets and licensed premises within the vicinity of this development. The *Crimes Act 1900* and *Liquor Act 1982* prohibits sale of alcohol to minors or the provision of alcohol to minors. Approving a retail liquor outlet is not considered to be contrary to the public interest on planning merit grounds.

The development may result in some positive social impacts in that it will generate further local employment opportunities. Council should note that these same employment opportunities would be achievable within a development which was compliant with Council's current policy and strategic framework.

However, it is considered that approval of the development in its current form could give rise to indirect social impacts to the general community of Medowie due to the poor urban design outcomes in that it may adversely impact upon the ability for the strong sense of belonging and community identity, to be enhanced within the locality. Town centres are recognised as a crucial element of the built environment; in terms of their contribution to sense of place and belonging. Research, including the study 'Finding Lost Space: Theories of Urban Design' By Roger Trancik, has found that development types such as that proposed, namely stand alone buildings bounded by car parking, have adverse effects upon an individual's positive perceptions of the safety, friendliness, appearance, and helpfulness of the people in their local area.

This concept is a basis for the Principle B4.P5 within Council's Development Control Plan 2007, which states that development should front onto streets, parks and other public spaces and contribute to safety, vibrancy and amenity of the street. The Department of Planning 'Draft Centres Policy of April 2009' further supports this finding and acknowledges that 'stand alone internally focused developments have adverse implications on the viability of the 'Main Street'. The Department of Planning also recognise that town centres, and major retail and commercial development in those centres, play an increasingly important role in the daily life of the community, via the following statement:

"These are the areas where people meet and mix and where local community events take place. Centres with safe, attractive and vibrant spaces are likely to be more valued and used by the community and more commercially successful. Given the importance of retail as the catalyst for visits to centres, it is important that the design of these components of centres contribute to the public domain and provide effective linkages to the wider centre and surrounding community. Safe and efficient access to the centre by foot, public transport or car is vital for a successful centre.

In addition, new buildings and other structures should make a positive contribution to an area's character (either existing or preferred future character) by protecting or contributing to the valued natural, built or community qualities. An understanding and appreciation of the local character, public setting and strategic planning issues relating to the area must be considered at the outset" (Department of Planning, 2009)

Within the Draft Centres Policy the Department of Planning identify that policies should be developed to accommodate new growth on or adjacent to the 'Main Street', to facilitate the growth of the existing centre, and to enhance the amenity and community cohesion of the centre. In effect this is what Council have achieved through the adoption of the Medowie Strategy. The proposed development is inconsistent with the Strategy and these strong planning and urban design principles.

Development of a focused town centre can achieve enhanced environmental design and pedestrian-friendly areas. In this regard, a walkable neighbourhood has been found to enhance health, well-being and produce increased independence for growing segments of the population, namely the elderly and children. Principle B4.P7 and B4.P9 within Council's Development Control Plan 2007 seeks to achieve this by requiring an active interface between commercial premises and the street. Further, the objectives of the Business zone as outlined within Council's Local Environmental Plan 2000 seek to encourage this form of development by placing emphasis upon the need to reduce reliance on the use of private motor vehicles.

It is acknowledged that the proposed development is in keeping with the existing settlement pattern within the locality having regard to the Medowie commercial centre, Supermarket, and Bull and Bush, which are all located to the rear of the respective sites and bounded by car parking. The poor quality urban design of these existing developments is evident in the lack of active street fronts, poor pedestrian connectivity, limited landscaping, and visual domination of car parking areas.

Whilst the design of the development supports the applicants preferred business model, it is contrary to the desired outcomes endorsed by the local community in finalising the Medowie Strategy. There are several examples across the State in which Woolworths have provided developments with appropriate site planning and design. For example a recently approved Woolworths Supermarket in Cardiff located upon a corner site, provides address to both street frontages, to activate the street. Yass Shire Council has also granted approval to a Woolworths Supermarket on a cornerstone site, which was designed to front the both street frontages resulting in an improved urban design outcome to that which Woolworths have proposed at Medowie. Photographs of the Woolworths Development at Cardiff and Yass are included at Attachment No.6.

Careful consideration of the urban design qualities of the development should be made by the Council in relation to the contribution the proposal makes to both the direct social impacts, and the opportunities for improved social benefits to the community of Medowie that are not achieved in the design, especially considering the corporate depth and exposure of Woolworths in the Australian retail market and the fact that they have built developments at Cardiff and Yass that achieve the urban design outcomes that Councils current LEP, DCP and Medowie Strategy envisage.

Site planning is the cornerstone in achieving good urban design outcomes, and is a fundamental consideration in ensuring that future developments are located appropriately on site with regards to; organisation of land use and zoning, access, circulation, privacy, security, shelter, land drainage, and other factors. Good site planning is achieved by arranging the compositional elements of landform, planting, water, buildings and paving on site. The application has been considered to be unsatisfactory with regards to site planning, not only due to its non-compliance with Council's controls and policies, but due to the lack of justification put forward to Council so as to demonstrate that the proposed development should be supported. The applicant has failed to provide alternative designs to Council, or illustrate reasons as to why the proposed design is the only option available for the development of Woolworths on the subject site. Council considers that there are alternative design options available to the developer which would achieve the same development footprint and commercial outcome, whilst addressing the concerns raised within this report (such as site planning and urban design impacts).

The subject development is located on a cornerstone site as identified within the Medowie Town Centre and as such any proposed development on this site should have been designed with due regard to site planning and the desired urban design outcomes of the locality. Whilst in principle support was given to the proposal by a previous Council, this undertaking was not a determination and should be disregarded. Council should seek that the applicant redesign the proposed supermarket to ensure the future development of Medowie occurs in accordance with the Medowie Strategy and community desires. The community of Medowie deserves the same standard of development that Woolworths have provided to Cardiff and other localities across the state.

This additional outlet may increase competition to existing supermarkets and liquor stores in the immediate vicinity. Furthermore, the proposed development will provide for up to 60 jobs during construction, and 120 jobs on an ongoing basis (within correspondence dated 19 August 2010, and held at Attachment No.5).

These employment opportunities would be at a similar level if the supermarket was designed in accordance with the provisions of DCP 2007.

The proposed development will result in vegetation removal and excavation on site. Council's Natural Resource Section has raised no objection to the proposal subject to the inclusion of conditions of consent upon any determination issued. In this regard, the proposed development is considered acceptable with regards to its environmental impacts.

## **CONSULTATION**

The application was exhibited in accordance with Council policy on 18 May 2010, in response seven (7) submissions were received in opposition to the proposal, along with one (1) petition (comprising twelve (12) letters) in support of the application which was received outside the exhibition period.

The application was then re-notified with the closing date for submissions being 8 September 2010, following site inspection. One (1) additional submission was received at this time. These are discussed within Attachment No. 2.

A referral was made to the NSW Roads and Traffic Authority (RTA) under the provisions of Schedule 2 of State Environmental Planning Policy (Infrastructure) 2007, to which the RTA raised no objection to the proposal. '

The development application has also been assessed on its merits with due regard to comments from Council's Development Engineer, Coordinator Building Services, Natural Resource Officer (Ecology), Natural Resource Officer (Vegetation Management), Engineer (Traffic), Infrastructure Planning Co-ordinator, Community Projects Officer (Social), Community Projects Officer (Ageing and Disability), and Council's Fire Safety Officer.

Details of these internal referral comments have been provided at Attachment No.2. However, it is noted that Council's Infrastructure Planning Section and Engineer (Traffic) have raised concerns with the proposal which have not been adequately addressed by the applicant to date.

**OPTIONS**

- 1) Adopt the recommendation.
- 2) Seek the applicant to redesign the proposed development.
- 3) Reject or amend the Recommendations.

**ATTACHMENTS**

- 1) Locality Plan
- 2) Assessment
- 3) Correspondence dated 12 July 2010
- 4) Council Resolutions 5 May 2009 and 28 May 2008
- 5) Applicants response to Council (dated 19 August 2010)
- 6) Images of Woolworths Developments; Cardiff and Yass

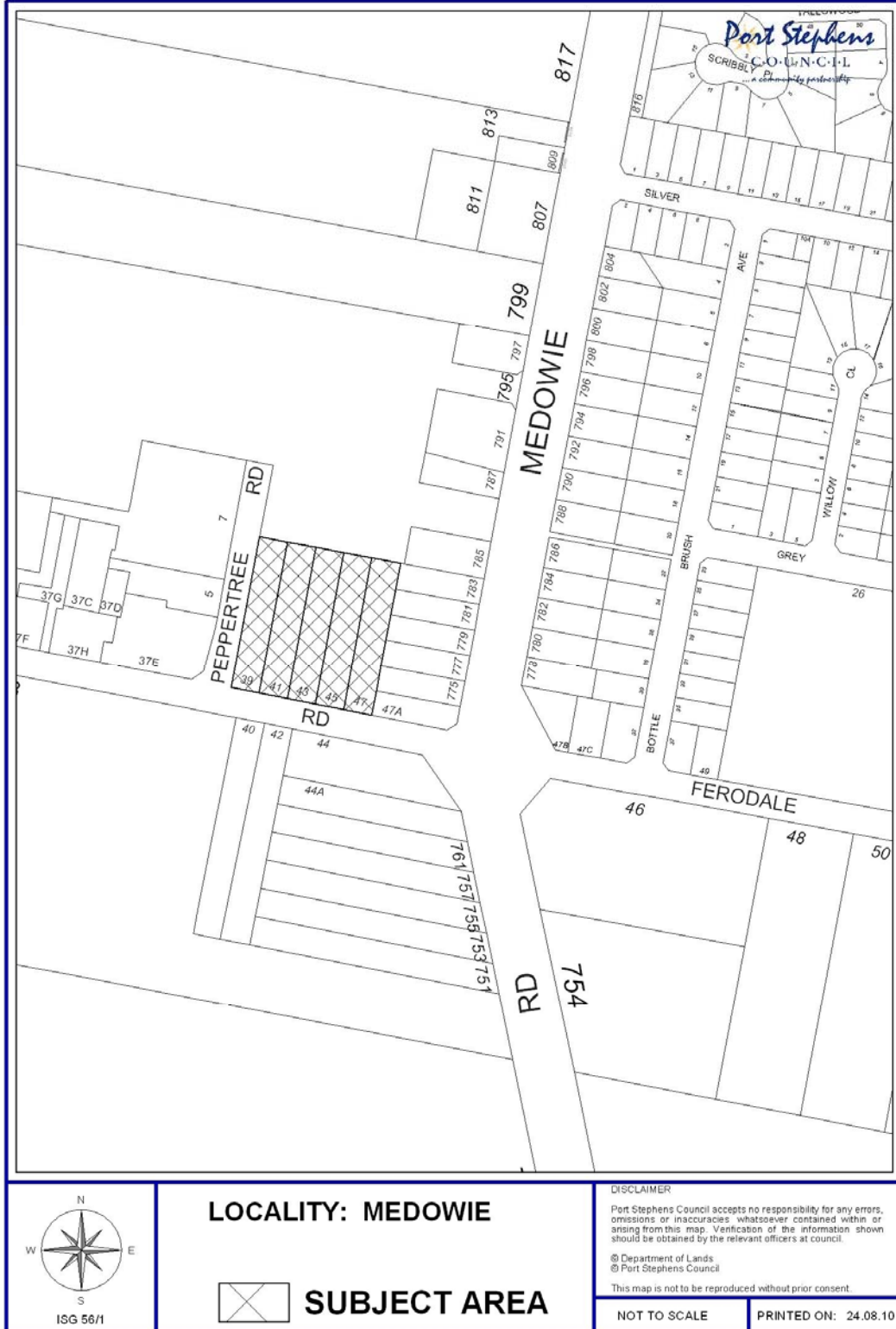
**COUNCILLORS ROOM**

Statement of Environmental Effects  
Development 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

The proposal is for a commercial premises, namely a Woolworths supermarket and Woolworths Liquor Store, having a gross floor area of 3,865m<sup>2</sup>. The applicant also proposes an associated car park comprising 160 customer car parking spaces and 16 staff parking spaces.

The subject site has frontage to Ferodale and Peppertree Roads Medowie.

#### THE APPLICATION

Owner	MR R A & MRS J M WEST
Applicant	BUILDEV DEVELOPMENT (NSW) PTY LTD
Detail Submitted	Statement of Environmental Effects, Flora and Fauna Assessment Report, Traffic Assessment Report, Acoustic Assessment Report, Site Grading and Stormwater Management Plan, Waste Management Plan, Plans and Elevations including; Floor Plan, Site Plan, Elevations, Detailed Survey, Landscaping Plan, Benching and Levelling Plan and Elevation Perspective Views.

#### THE LAND

Property Description	LOTS: 7,8,9,10, &11 DP: 19101
Address	39, 41, 43, 45 & 47 Ferodale Road, MEDOWIE
Area	10887 square metres
Dimensions	Average depth 108.1, width 100.6 metres.
Characteristics	The site is vegetated to the rear (northern boundary), and has a gradual slope from the north-east towards the south-west property boundary fronting Ferodale Road, having a rise of approximately 4.8 metres over the 108 metre depth of the allotment.
Development Constraints	Bush Fire Prone Land (buffer and vegetation category 2), Acid Sulfate Soils (Level 5), Koala Habitat (Preferred Habitat Linking Area over Marginal Habitat, Preferred Habitat Linking Area over

cleared land, Preferred Habitat Buffer over cleared land), Hunter Water Corporation Special Area (Grahamstown Dam),

## THE ASSESSMENT

### 1. Planning Provisions

LEP 2000 – Zoning  
Relevant Clauses

3(a) – Business General  
21 – Business Zonings  
44 – Appearance of Land and buildings  
47 – Services  
51(a) – Development of land identified on Acid Sulfate Soils Maps

Development Control Plan

B2 – Environmental and Construction Management  
B3- Parking Traffic and Transport  
B4 – Commercial and Mixed Use Development  
B12 – Advertising Signs

Other Policies

Medowie Strategy

State Environmental Planning Policies

State Environmental Planning Policy No. 44 – Koala Habitat Protection (and Port Stephens Comprehensive Koala Plan of Management)  
State Environmental Planning Policy No.55 – Remediation of Land  
State Environmental Planning Policy No. 64 – Advertising and Signage  
State Environmental Planning Policy (Infrastructure) 2007

#### 1.1 State Environmental Planning Policies

##### **State Environmental Planning Policy No. 44—Koala Habitat Protection and Port Stephens Comprehensive Koala Plan of Management (CKPoM)**

State Environmental Planning Policy No.44 – Koala Habitat Protection, aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

The site is mapped as Preferred Habitat Linking Area over Marginal Habitat, Preferred Habitat Linking Area over cleared land, Preferred Habitat Buffer over cleared land



within Council's mapping system. As such, the application was referred to Council's Natural Resource Section who, in response advised, that the proposed development is considered acceptable with regards to SEPP. 44 and CKPoM, subject to the inclusion of appropriate conditions on any consent issued (refer to internal referral discussion elsewhere within this report).

### **State Environmental Planning Policy No. 55 – Remediation of Land**

The provisions of SEPP No.55 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use and as such, it is unlikely to contain any contamination and further investigation is not warranted in this case. Furthermore, the subject site is not identified within Council's contaminated lands register.

### **State Environmental Planning Policy No.64—Advertising and Signage**

State Environmental Planning Policy – No. 64, Advertising and Signage, was introduced so as to ensure that signage (including advertising), is compatible with the desired amenity and visual character of an area, and is of high quality design and finish.

The signage proposed as part of the development application is to be located within the buildings upper façade and includes two (2) signs along the buildings western elevation to Peppertree Road being a 'Woolworths Liquor Sign' and Woolworths logo sign, and the same two (2) signs to the southern elevation to Ferodale Road.

The proposed signage has been considered against Council's DCP Chapter 12 Advertising and Signage and has been found unsatisfactory. The proposed signage exceeds the maximum allowable size, and number of signs as controlled under Council's DCP.

In this regard, the proposed development is also contrary to the objectives of State Environmental Planning Policy No. 64 – Advertising and Signage, in that the proposal fails to comply with Council's policy which demonstrates a development which is incompatible with the existing or desired further character of the locality.

Furthermore, the proposed signage does not respect important features of the building or site, nor does it show innovation and imagination in its relationship to the site or building. As such, the signage associated with the proposed development is considered contrary to the objectives and provisions of State Environmental Planning Policy – No. 64, Advertising and Signage.

### **State Environmental Planning Policy (infrastructure) 2007**

#### **1.2 Port Stephens Local Environmental Plan 2000**

### **Clause 21 – Business Zonings**

The subject site is located upon land zoned 'Business General "A" Zone. The Business General "A" Zone covers both the major commercial centres of Port Stephens and the smaller neighbourhood shopping centres. It is characterised by a mix of commercial uses and some associated tourist accommodation and residential uses. Small, low impact industrial activities that involve retailing or direct service to the public may be appropriate in this zone.

The objectives of the 'Business General "A" Zone are to;

- a) to provide for a range of commercial and retail activities, and uses associated with, ancillary to, or supportive of, retail and service facilities, including tourist development and industries compatible with a commercial area,
- b) to ensure that neighbourhood shopping and community facilities retain a scale and character consistent with the amenity of the locality,
- c) to maintain and enhance the character and amenity of major commercial centres, to promote good urban design and retain heritage values where appropriate,
- d) to provide commercial areas that are safe and accessible for pedestrians, and which encourage public transport patronage and bicycle use and minimise the reliance on private motor vehicles, and
- e) to provide for waterfront-associated commercial development whilst protecting and enhancing the visual and service amenity of the foreshores.

The proposed development has been considered against these objectives and is found to be unsatisfactory with regards to Clause 21(b) and (d). These matters are fully explored elsewhere within this report, but in summary;

- a) it is considered that the siting and design of the proposal are inconsistent with the desired character of the locality having a detrimental impact upon streetscape amenity, and
- b) the proposed development by virtue of its design enhances reliance on private motor vehicles and discourages utilisation of alternative modes of transport (i.e. walking and cycling).

### **Clause 44 - Appearance of land and buildings**

Clause 44 of LEP 2000 stipulates that the consent authority may consent to the development of land within view of any waterway or adjacent to any main or arterial road, public reserve or land zoned as open space, only if it takes into consideration the probable aesthetic appearance of the proposed building or work or that land when used for the proposed purpose and viewed from that waterway, main or arterial road, public reserve or land zoned as open space.

The documentation provided with the development application demonstrates that the visual impact to both Ferodale Road and Peppertree Road will be unacceptable (refer to discussions pertaining to the assessment of the application against Council's

Development Control Plan elsewhere within this report for detail). As such, the proposed development fails to satisfy Clause 44 of LEP 2000.

In this regard, the appearance of the proposed building is considered acceptable with regards to its colours and finishes. The site layout and design are the elements considered unacceptable on the basis of the future desired character of the Medowie Town Centre as dictated within the Medowie Town Centre, and as governed by the Development Control Plan 2007. Should Council proceed to determine the application by way of approval, the proposed development could be conditioned to achieve an improved relationship and visual appearance to Peppertree Road and Ferodale Road, by way of introducing covered walkways from the street frontage to the building façade, as well as introducing sandstone facing to proposed retaining walls. The applicant has also provided an innovative landscape plan, in which mature height achieving trees shall be established within the proposed car park. It is considered that these proposed plantings will soften the visual impact of the car park when viewed from Peppertree Road and Ferodale Road, but are not sufficient to overcome the site planning issues that are the primary reason for refusal because they contribute to providing active street frontage.

#### **Clause 47 - Services**

Clause 46 of LEP 2000 identifies that Council shall not grant approval to a development unless; (a) a water supply and facilities for the removal or disposal of sewage and drainage are available to that land, or (b) arrangements satisfactory to it have been made for the provision of that supply and those facilities.

The proposed development is considered satisfactory with regards to Clause 47, having access to both sewer and water.

#### **Clause 51A - Development on land identified on Acid Sulfate Soils Planning Maps**

The subject site is identified as contained Class 5 Acid Sulfate Soils (ASS). Accordingly, any works within 500 metres of Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD on the adjacent Class 1, 2, 3 or 4 land require consideration under clause 51A of the Port Stephens LEP 2000.

The proposed development is not located within 500m of an adjacent ASS class, nor are the proposed excavation works likely to lower the watertable below 1 metre AHD on adjoining lands. As such an ASS Management Plan is not required in this instance. The development is considered to satisfy Clause 51A of LEP 2000.

### 1.3 Medowie Strategy

The Medowie Strategy guides the management of future population growth and the building of neighbourhoods in Medowie. It establishes a context and policy direction for future rezoning requests and development controls in the Medowie area. It also integrates the location, timing and funding for community facilities and infrastructure.

The Medowie Strategy requires that Peppertree Road will fulfil the main street function, acting as an 'off-line' main street, drawing traffic movements away from Ferodale Road. Furthermore the Strategy identified that the creation of the main street will require development to build to the street boundary and use rear lanes running parallel with Peppertree Road to access unsightly loading docks and vehicle parking areas which would otherwise detract from the amenity and character of a vibrant town centre.

The proposed design fails to satisfy these objectives of the Strategy, in that the proposed supermarket is set back towards the rear of the site, and the entrance to the premises is directed towards Ferodale Road.

The development further contradicts the overlying objectives of the Strategy in that it proposes loading docks to Peppertree Road, which will derogate the relationship of the site to the town centre by isolating pedestrian linkages. The following quote of the Strategy demonstrates the Council's intention for the loading docks of key sites to be located away from Peppertree Road – "use rear lanes running parallel with Peppertree Road to access unsightly loading docks and vehicle parking areas which would otherwise detract from the amenity and character of a vibrant town centre".

The proposed development turns its back upon the Medowie Town Centre and objectives of the Medowie Strategy by virtue of its design. Rather than contributing to the vibrancy of the town centre by fronting the street and providing strong pedestrian connectivity, the proposed development ignores Council's desired future character for the Medowie Town Centre, and will result in isolation from the township.

The subject site is considered to be a cornerstone site in achieving the desired future outcomes for the town centre as outlined within the Medowie Strategy. The precedent that approval of this development will set would have detrimental and irreversible impacts upon the development of the Medowie Township, and upon future development opportunities to adjoining sites within the town centre.

The proposed development is therefore considered contrary to the Medowie Strategy as adopted by Council on 24 March 2009.

Notwithstanding the above, it is noted that the proposed development is consistent with the strategy in that it is a commercial premise located on a site deemed appropriate for commercial use. It is suggested that the following design changes could be considered so as to achieve compliance with the Medowie Strategy;

- o Proposed loading dock relocated to Ferodale Road frontage
- o Proposed building relocated to front Peppertree Road, with car parking accessible at rear of building and fronting Ferodale Road.

Reference is made to Woolworths Developments located at Cardiff and Yass (refer to Attachment No.6), in which Woolworths have provided a design which activates the street frontage by way of appropriate site planning. It is this type of development which Council's controls and policies seeks to achieved, and which the community of Medowie deserve.

These suggestions have been put to the applicant, who at this stage has not taken the opportunity to amend their design in accordance with the objectives of the Medowie Strategy.

#### **1.4 Development Control Plan 2007**

##### **B2 – Environment & Construction Management**

The application has been assessed against the provisions of Development Control Plan 2007, Chapter B2 – Environment and Construction Management and is considered to be satisfactory.

##### **B3 – Parking & Traffic**

The application has been assessed against the provisions of Chapter B3 - Parking and Traffic and is considered to be satisfactory on its merits. In this regard it is noted that the application does not strictly comply with the parking requirements outlined within the DCP but the proposed deviation from these controls have been accepted. Particular consideration has been given to the need to encourage use of alternative transport modes (i.e. cycling and provision of bike racks). For further detail, refer to internal referral comments from Councils Infrastructure Planning, Development Engineering and Engineering – Traffic Sections, held elsewhere within this report.

##### **B4 – Commercial and Mixed Use Development**

<b>B4 – Commercial and Mixed Use Development</b>		<b>Compliance</b>
<b>C1 - C3</b>	Site Context Analysis	<b>YES</b> - Details have been submitted
<b>C4</b>	Photo montage submitted	<b>YES</b> - Details have been submitted
<b>C5</b>	Commercial Use on street	<b>NO</b> - The proposed development does not adequately address either the primary or secondary street frontages. The applicant proposes a setback of approximately 35 metres to Peppertree Road, and 38.7 metres to Ferodale Road.
<b>C8</b>	Built to street boundary	<b>NO</b> - The proposed development fails to satisfy

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		this control. The development is significantly setback from both frontages so as to enable the provision of car parking on site.
<b>C9</b>	Entry recognisable to street, entry from car park	<b>NO</b> - The entry does not adequately address the street due to the extent of car parking. However it is noted that entry from car parking areas is clearly defined
<b>C10</b>	Display windows/ upper level windows	<b>NO</b> - Display windows have not been provided. The elevation fronting Peppertree Road is dominated by a blank wall and the proposed loading bays. This is not an appropriate design response to addressing a main street frontage.
<b>C11</b>	Location of service areas and parking to be at basement level or behind building	<b>NO</b> - The loading dock and garage area fronts Peppertree Road. This is identified as the townships 'Main Street' within the Medowie Strategy and thus the proposal is unacceptable in this regard.
<b>C12</b>	Continuous awning along frontage	<b>YES</b> - Awnings provided to the proposed supermarket entrance.
<b>C13</b>	Avoid dead edges	<b>NO</b> - The development creates dead edges to both street frontages as discussed above. The extent of car parking, location of loading and garbage collection areas, and siting of the proposal fail to satisfy the requirements of Council's DCP.
<b>C14</b>	'big box' development sleeved	<b>NO</b> - The proposed development is located 'within' the lot. However, it is a stand alone supermarket and no consideration has been given to the inclusion of smaller shops within the development which could potentially activate the street frontage.
<b>C15</b>	Permeable security screens and gates	<b>NO</b> - Details of security screens and gates have not been provided by the applicant. Nevertheless, this matter could be addressed via <b>condition of consent</b> .
<b>C16</b>	Location of restaurants	<b>NO</b> - The applicant proposes a 'stand alone' supermarket. No cafes or restaurants have been provided.
<b>C17</b>	Maximum FSR in 3(a) <b>1.8:1</b>	<b>YES</b> - 0.35:1
<b>C18</b>	Minimum commercial FSR on ground floor <b>0.3:1</b>	<b>YES</b> - 0.35:1
<b>C21</b>	Height – maximum <b>8 metres</b>	<b>NO</b> - Portions of the development exceed the maximum allowable height in the DCP being approximately 8.6 – 9.3 metres in height.
<b>C22</b>	Number of storeys – <b>2</b>	<b>YES</b> – 2 storeys proposed

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	<b>storeys maximum</b>	
<b>C24</b>	Entire building form to be contained within the height limit	<b>NO</b> - The condenser deck will exceed the maximum height limit and as it shall be visible from the street is not considered to be an acceptable variation.
<b>C25</b>	Commercial floor to ceiling height	<b>YES</b> - The proposal has a minimum floor height of 3.5 – 4.2 metres at the ground floor and thus complies with this control.
<b>C26</b>	Commercial Finished Floor Level (FFL) a maximum of <b>100-500mm</b> above footpath	<b>NO</b> - The proposed development has a FFL of 14.8RL, the footpath to Peppertree road has a RL of 13. The development is 1.8metres above the existing footpath. To achieve the development the applicant proposes extensive cut, fill and retaining on site.
<b>C28</b>	Development to be built to the street with higher floors setback	<b>NO</b> - The proposed development is not built to the street. The development is setback approximately 38.7 metres from Ferodale Road, and approximately 35 metres from Peppertree Road. The applicant does not propose higher floors which require setback.
<b>C29</b>	Building setback to rear to be 5 metres plus 0.5 metres to for each metre the development exceeds 8metres (i.e. <b>5.5metres</b> with consideration given to height).	<b>NO</b> - The proposed development proposes a setback of 1.5 metres to both the Northern and Eastern property boundaries. The eastern boundary adjoins residential properties. The development fails to provide an adequate rear setback, and setback to residential properties, as required under Councils DCP.
<b>C30</b>	Minimum side setback of 1.5 metres to any residential lot.	<b>NO</b> - As suggested above the development provides 1.5metres to the property boundaries adjoining residential lots. However, as Peppertree Road is identified as a main street the eastern property boundary is considered to be the rear, and thus the 5 metre minimum setback should apply. The development is considered unsatisfactory in this regard.
<b>C33-35</b>	Façade design, articulation and building treatment.	<b>NO</b> - The proposed development appears to be of standard design for a Woolworths shopping centre, little thought has been given to street façade or neighbouring buildings. There is little to no articulation provided within the design. Furthermore, due consideration does not appear to have been given to the impacts of the proposal to surrounding residential properties, in particular those fronting Medowie Road and backing on to the development site.
<b>C36</b>	Length of blank walls	<b>NO</b> - Approximately 28 metres of blank wall addresses Peppertree Road. Approximately 43

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		metres of blank wall is proposed to the northern elevation.
<b>C39</b>	Entrance design	<b>NO</b> – The proposed entrance has not been enhanced by way of articulation or recessed doorways.
<b>C40-41</b>	Lighting design	<b>YES</b> – Subject to <b>conditions of consent</b>
<b>C43</b>	Energy Efficiency principles	<b>YES</b> – The proposed development will be required to comply with part J of the BCA, this matter would be further addressed at construction certificate stage.
<b>C45 - 51</b>	Landscaping in 3(a) zone	<b>YES</b> - The landscape plan submitted by the applicant is acceptable.
<b>C52</b>	Footpath provision	<b>YES</b> – Subject to <b>conditions of consent</b>
<b>C53 &amp; C55</b>	Public domain improvements and Public art provision	<p><b>NO</b> – The applicant has been requested to address public domain improvements and provision of public art, and as yet has not adequately satisfied the requirements of Council staff.</p> <p>Given the significance of the site within the Medowie Town Centre, and as identified within the Medowie Strategy and the current design failure to adequately address Peppertree Road (as per DCP 2007), the provision of ‘public art’ within this elevation was considered to be an opportunity for the developer to provide a development which better contributes to the Medowie Town Centre.</p>
<b>C56</b>	Bicycle facilities	<b>YES</b> – Subject to <b>conditions of consent</b>
<b>C59</b>	Parking not located on primary street frontage	<b>NO</b> – The applicant proposes car parking within primary street frontage, both at Peppertree Road and Ferodale Road.
<b>C60</b>	Vehicle access less than 25%of primary frontage	<b>YES</b> – The proposed access to Peppertree Road occupies approximately 27% of the primary frontage. Access for both private vehicles and delivery trucks is proposed along this frontage.
<b>C61-62</b>	Design of access – maximum of one driveway	<b>NO</b> – The applicant proposes multiple driveway accesses to the site. Separate access ways are provided to staff parking, loading bay and the car park proper from Peppertree Road, whilst an additional access is proposed to Ferodale Road.
<b>C63 &amp; 65</b>	Parking area screening	<b>NO</b> – Parking areas will be visible from Peppertree Road and Ferodale Road. Due to the extent of car parking proposed, together with its location, there is limited opportunity to address this matter via landscape screening. In this regard the proposal is not acceptable.
<b>C64</b>	Landscaping in car	<b>YES-</b> The landscaping plan submitted with the



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	parking areas	application has been assessed by Council's Natural Resource Officer- Vegetation Management and has been considered satisfactory. In this regard the proposed development satisfies this control.
<b>C66</b>	Parking layouts provide pedestrian access	<b>YES</b> – Pedestrian linkages to the proposed premises are provided. However, it is noted that the development will result in poor connectivity to the buildings located elsewhere within the town centre.
<b>C68-69</b>	Location and storage of loading areas	<b>NO</b> - Storage and loading areas visible to Peppertree Road.

**Planning Assessment – Chapter B4 Commercial and Mixed Use Development.**

The proposed development has been assessed against the provisions of Council's Development Control Plan – Chapter B4 Commercial and Mixed Use Development and is considered unsatisfactory.

The car parking area located to Peppertree Road and Ferodale Road, combined with the building's setbacks creates a large inappropriate void in the streetscape. The proposed building does not respect the prevailing streetscape and desired future townscape in terms of its alignment to the street edge and building envelope of neighbouring existing buildings.

Case law suggests (*Pafburn v North Sydney Council [2005] NSWLEC 444*) that; 1) that even a small impact should be avoided if a more skilful design can reduce or eliminate it, and 2) an impact that arises from a proposal that fails to comply with planning controls is much harder to justify than one that arises from a complying proposal. People affected by a proposal have a legitimate expectation that the development on adjoining properties will comply with the planning regime.

It has been seen through the assessment of the application and by way of public submissions that the proposal will result in adverse impacts to surrounding properties (by way of acoustic impacts), unacceptable urban design and built form outcomes, as well as negative social implications for the township of Medowie. When considered against the findings of *Pafburn v North Sydney Council [2005] NSWLEC 444* it is determined that a more skilful design could indeed eliminate the adverse impacts arising from the proposal. In this regard the deviation from Council's Development Control Plan is not considered acceptable based on merits in this instance.

**B12 – Advertising Signs**

The signage proposed as part of the development application is to be located within the buildings upper façade and includes two (2) flush wall signs along the buildings western elevation to Peppertree Road being a 'Woolworths Liquor Sign' and Woolworths logo sign, and the same two (2) signs to the southern elevation to Ferodale Road. The applicant has identified that a pole or pylon sign is proposed to

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be located within the south-western corner of the site under a separate approval. The proposed signage is considered under B12 – Advertising Signs as follows:

<b>B12 – Advertising Signs</b>		<b>Compliance</b>
<b>C17</b>	Only one sign per building elevation in the 3(a) Business zone	<b>NO</b> – The applicant proposes two (2) signs within each building elevation.
<b>C18</b>	Flush wall signs must be attached flush to the wall and must not protrude more than 200mm from the wall	<b>YES</b> - deemed to satisfy subject to conditions of consent.
<b>C19</b>	Flush wall signs must have an area no greater than 2.5 square metres.	<b>NO</b> - The proposed signage has dimensions as follows: Woolworths liquor signage to both Peppertree and Ferodale Roads: 14.4m x 2.4m with a total area of 33.6sqm. Woolworths Logo signage to both Peppertree and Ferodale Roads: 2.4m x 2.4m with a total area of 5.7sqm.
<b>C23- C26</b>	Larger flush walls permissible if they meet the following provisions: <ul style="list-style-type: none"> <li>a) One sign per elevation</li> <li>b) Signs must not project more than 300mm</li> <li>c) Signs must have an area no greater than 20sqm or 10% of the above ground elevation whichever is the lower</li> </ul>	<b>NO</b> – The proposed development fails to satisfy controls C23 to C26 in that: <ul style="list-style-type: none"> <li>a) the applicant proposes two (2) signs per elevation.</li> <li>c) two (2) of the proposed signs have an area greater than 20sqm.</li> </ul> <p>It is noted that the proposal could be considered to satisfy point b) and control C25 by way of condition of consent.</p>
<b>B12.18</b>	Illumination	<b>YES</b> – deemed to satisfy subject to conditions of consent.

## Planning Assessment – Chapter 12 Advertising and Signage.

The proposed signage has been considered against Council's DCP Chapter 12 Advertising and Signage and is considered unsatisfactory. The proposed signage exceeds the maximum allowable size, and number of signs as control under Council's DCP.

The proposed development is considered contrary to the objectives of State Environmental Planning Policy No. 64 – Advertising and Signage, in that the proposal fails to comply with Council's policy which demonstrates a development which is incompatible with the existing or desired future character of the locality.

However, it is noted that the proposed signage is not inconsistent with the surrounding developments, nor signage located within the greater local government area. The signage proposed under the application is considered to be typical of that associated with this form of commercial premises. Had the applicant addressed the primary matters for concern raised within this assessment, namely the location of the proposed building to properly address the street and town centre, Council staff would have supported the deviation from Council's Advertising and Signage Controls.

As such, should Council choose to support the application the proposed signage is not considered to be reason alone to refuse the development.

### 1.5 Other Matters

#### Bush Fire

The subject site is identified as bush fire prone land within Council's GIS System. The proposal, being a commercial premise, does not require an integrated referral to the Rural Fire Service under Section 100B of the *Rural Fires Act 1997*. Nevertheless, the proposed development has been assessed against the general provisions of 79B (a) of the *Rural Fires Act 1997* and has been found to be satisfactory.

Sufficient buffers have been provided on site by way of the proposed car park, the level of construction of the proposed premises is deemed acceptable and appropriate access to the site is available for emergency services. However, it is noted that increased setbacks to the northern and eastern boundaries would improve provision of defensible space on site. Nevertheless, there are no proposed windows or openings within these elevations (north and east), and thus the construction materials will provide sufficient protection to the building.

#### Safer by Design Considerations

The proposal has been referred to Council's Community Safety Officer who has made recommendations in terms of conditions of consent (refer to Section 2.3 within this report for further detail). These conditions have the intention of reducing the risk of theft and harm to employees, patrons and surrounding residents. Subject to the inclusion of recommended conditions of consent on any determination issued, the

proposed development has been found to be satisfactory with regards to safer by design considerations.

**Disability Access**

The proposal has been assessed by Council's Disability Access Officer who has advised that subject to relevant conditions of consent, the proposal is able to comply with the relevant requirements pertaining to disability access (refer to Section 2.3 within this report for further detail).

**1.6 Section 94 Contributions Plan**

The applicant proposes construction of a commercial premise at the subject site. As such, and pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Port Stephens Section 94A Development Contributions Plan, a contribution of 1% of the cost of the development, as determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000, shall be paid to Council. This shall be achieved by way of condition of consent.

**2. Submissions/Consultation**

**2.1 Community Consultation**

The application was exhibited in accordance with Council policy on 18 May 2010, in response seven (7) submissions were received in opposition to the proposal, along with one (1) petition (comprising numerous letters) in support of the application which was received outside the exhibition period.

The application was then re-notified with the closing date for submissions being 8 September 2010, following site inspection and review of file which resulted in the need to undertake re-notification. One (1) additional submission was received at this time

The issues raised are summarised and responded to below:

<b>Objection</b>	<b>Response</b>
Increased anti-social behaviour - resulting from Liquor Store	It is considered than an additional liquor retail liquor retail outlet is unlikely to exacerbate any existing crime issues in the community, as liquor is already available to the community from a number of existing liquor outlets and licensed premises within the vicinity of this development.  It is also considered that the proposal will be required to be complaint with the requirements of the Liquor Act 1982 and Crimes Act 1900.
Fear of damage to property and	The application has been assessed by

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<p>fears of safety &amp; security of surrounding land owners.</p>	<p>Councils Community Planner – Social, and tested against the design principles pertaining to 'Safer by Design' subject to conditions of consent, the application has been found to be satisfactory.</p> <p>1.8 metre high fencing is proposed to the eastern elevation under the subject application which will deter entry from the subject site into the adjoining properties. This preventative measure is enhanced by the level of proposed cut to the north-east and eastern property boundary.</p> <p>Furthermore, should Council give support with determination by way of approval it is suggested that conditions of consent; including semi-permeable fencing to prevent entry behind the building line, shall be imposed to mitigate any potential adverse safety and/or security impacts.</p>
<p>Loss of privacy</p>	<p>It is not considered likely that the proposed development will result in any loss of privacy to the properties adjoining. The proposed development does not have any windows or openings fronting the adjoining properties.</p> <p>Furthermore, the applicant proposes significant cut to the eastern elevation and 1.8 metre fencing which will further mitigate any adverse privacy impacts which may have resulted from the proposed development.</p>
<p>Impacts upon property value</p>	<p>There is no evidence that the proposed development shall result in any adverse impacts to property values in the locality. Nevertheless, it is noted that this is not a valid matter for consideration under Section 79(c) of the <i>Environmental Planning and Assessment Act</i>.</p>
<p>Noise impacts arising during operation including from loading of vehicles, general trade, waste removal and car park.</p>	<p>The applicant has submitted an acoustic report with the proposed application. The findings of the acoustic report confirm that the proposed development will be acceptable in terms of noise impacts to surrounding properties subject to recommended conditions of consent.</p>

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	<p>However it is considered likely that the proposed development would have reduced acoustic impacts to adjoining residential properties should the development comply with Council's DCP controls in relation to required setbacks and location of loading docks. As discussed elsewhere within this report Land and Environment case law has established that an impact that arises from a proposal that fails to comply with planning controls is much harder to justify than one that arises from a complying proposal. People affected by a proposal have a legitimate expectation that the development on adjoining properties will comply with the planning regime. In this regard it is established that the noise impacts which will result to adjoining properties could be ameliorated by a more skilful and compliant design.</p>
Waste generation and litter.	<p>Appropriate measures for waste removal has been proposed on site. This matter can be further addressed by way of conditions should the Council elect to approve the proposed development.</p>
Traffic impacts to Ferodale and Medowie Road	<p>The RTA has advised Council that they raise no objection to the proposal with regards to its impacts to Medowie Road.</p> <p>However, it is noted that the proposed development will result in adverse impacts to the intersection of Ferodale and Peppertree Road. This matter has not been adequately addressed by the applicant.</p>
Lack of Traffic Study undertaken for the proposal	<p>Council's Engineering Department and Infrastructure Planning Section hold no objection to the proposal on these grounds, refer to comments elsewhere within this report for further detail.</p>
Impacts to native flora and fauna and vegetation removal	<p>Council's Natural Resource Section raised no objection to the proposal in relation to the proposed development subject to appropriate conditions of consent being imposed upon any consent issued. As such, the proposed development is considered satisfactory with regards to environmental impacts.</p>
Impacts to the economic viability of	<p>There is no evidence that the proposed</p>

<p>the surrounding commercial businesses.</p>	<p>development shall result in any adverse impacts to the economic viability to existing commercial premises within locality. Nevertheless, it is noted that this is not a valid matter for consideration under Section 79(c) of the <i>Environmental Planning and Assessment Act</i>.</p>
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## **2.2 External Referrals**

### **NSW Police**

The proposed development was informally referred to NSW Police, in response NSW Police advised that they held no objection to the proposed development. Note: NSW Police were consulted in accordance with current referral procedures to Council's Community Planning (Social) Officer, as such for further detail please refer to Section 1.5 and Safer by Design Considerations and Section 2.3 internal referral comments held elsewhere within this report.

### **NSW Roads and Traffic Authority (RTA)**

The proposed development relates to a 'shop and/or commercial premises' in excess of 1000m<sup>2</sup>. As such, the application was referred to the RTA for comment in accordance with Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007.

In response, the following advice from the RTA was received:

*"I refer to your email dated 1 September 2010 (Your reference 16-2010-291-1) and the attached Statement of Environmental Effects dated April 2010 regarding the subject development which was forwarded to the Roads and Traffic Authority (RTA) for consideration at the Hunter Regional Development Committee (HRDC).*

*The subject development application was considered by the HRDC under the requirements of Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 at the meeting held on 23 September 2010. HRDC advice will be provided separately, when the minutes of the meeting are finalised. The RTA response is as follows:*

#### *RTA Responsibilities and Obligations*

*The RTA's primary interests are in the road network, traffic and broader transport issues, particularly in relation to the efficiency and safety of the classified road network, the security of property assets and the integration of land use and transport.*

*In accordance with the Roads Act 1993, the RTA has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. Peppertree Road and Ferodale Road are local roads. Council is the*

roads authority for these roads and all other public roads in the area including Medowie Road (MR 518) which is a classified (regional) road.

RTA Response and Requirements

*The RTA has reviewed the information provided and has no objections to, or requirements for the proposed development as it is considered that there will not be a significant impact on the classified road network. However, there were issues raised by the HRDC which will have significant impact on the local road network. This will require additional information and referral back to the RTA for further consideration by the HRDC."*

Planning comment:

The RTA holds no objection to the proposed development subject to addressing the matters raised by the Hunter Regional Development Committee. The minutes pertaining to the Hunter Regional Development Committee (HRDC) as referred to above are included as follows:

**Hunter Regional Development Committee (HRDC)**

*"The Committee considered a Traffic Report prepared by TPK and Associates Pty Ltd dated April 2010 for the proposed Woolworths supermarket development at Medowie.*

*The Committee objects to the proposed development and requests that the following matters be addressed to the satisfaction of the RTA / Council and referred back to the HRDC for further consideration:*

- 1. Traffic generation rates considered in the Traffic Report should be in accordance with the RTA's Guide to Traffic Generating Developments. If these rates are applied it is expected that there would be a significant increase in the traffic generated than that predicted in the report (about 100 vehicles per hour).*
- 2. Trip generation is discounted by 30 % due to competing retail amenity and the undeveloped catchment area. This should be 20% in accordance with RTA's Guide to Traffic generating Developments.*
- 3. While the SIDRA modelling analysis shows that the intersection of Ferodale Road / Peppertree Road will operate with no significant impact, issues of road safety have not been addressed in the report. From a road safety point of view the intersection of Ferodale Road / Peppertree Road the existing intersection should be upgraded to a roundabout.*
- 4. The Committee noted that intersection traffic surveys were conducted on Tuesdays and Wednesdays only. For a development such as this, the surveys should have been conducted on Thursday and Saturday, the peak traffic periods.*
- 5. The Committee has concerns with the potential conflict and interaction between the service vehicles exiting the loading dock and accesses on the*



*opposite side of Peppertree Road. This should be addressed to Council requirements.*

- 6. The Committee has concerns with the location of the pedestrian refuge on Ferodale Road within the existing painted chevron area of the back to back right turn bays - potential conflict with vehicles entering the right turn bay and pedestrians crossing. The crossing should be either be incorporated into the revised Ferodale Road / Peppertree Road intersection arrangements or located mid-block, taking into account pedestrian desire lines.*
- 7. Safe pedestrian crossing facilities should be provided on Peppertree Road connecting development on both sides of the road.*
- 8. Street lighting should be provided at intersection, access and pedestrian crossing in accordance with Australian Standard AS 1158.*
- 9. 176 on-site car parking spaces are proposed. 192 spaces are required under Council's requirements. Car parking must be to Council requirements.*
- 10. The off street car and truck parking associated with the subject development including aisle widths, parking bay dimensions, and loading / unloading bays are to be in accordance with AS 2890.1-2004 and AS 2890.2-2002.*
- 11. Unobtrusive lighting should be provided on-site.*
- 12. All the above should be to Council requirements.*

Planning comment:

It is noted that subsequent to the HRDC meeting, Council staff and the RTA met with the applicant to discuss potential solutions to address the matters as raised by the HRDC within points 1 to 12 above. In this regard it was determined that items 4, 7, 8, 9, 10 and 11 were considered suitable for address by way of condition of consent.

Matters raised within 1, 2, 3, 5 and 6 required amended plans and additional information to be provided by the applicant. The main area of contention remains over the provision of a safe intersection at the Peppertree and Ferodale Road intersection. In this regard, Council shall note that staff requires a full size roundabout which would have required a splay corner that the proponent was not willing to provide. The proponent has stipulated that they would agree to a 'fried egg' roundabout with raised concrete medians would be capable of satisfying the short to medium term safety concerns but not necessarily fulfil the desired long-term safety and amenity concerns.

The applicant has failed to provide sufficient detail to address these concerns to Council's satisfaction. However, Council's Infrastructure Coordinator and Traffic Engineer consider that the outstanding matter can be addressed adequately by way of condition should the Council choose to support the application.

### **2.3 Internal Referrals**

#### **Development Engineering**

The application was referred to Council's Development Engineer for comment. Subsequent to provision of further information and amended plans, the proposed development was deemed to be satisfactory. It is noted that Council's Development

Engineer has recommended approval of the application, subject to the inclusion of conditions of consent if Council resolved to support the proposal.

### **Building Surveying**

The application was referred to Council's Building Surveyor for comment. In response Council's Building Surveyor raised no objection to the proposed development, subject to the inclusion of conditions of consent on any consent issued.

### **Infrastructure Planning**

The application was referred to Council's Infrastructure Planning Section for comment. In response the following advice was received:

#### **Infrastructure Planning**

The application was referred to Council's Infrastructure Planning Section for comment. In response the following advice was received:

#### *"Advice - Meadowie Strategy*

*The Meadowie Strategy stipulates that 'Peppertree Road will fulfil the main street function, acting as an 'off-line' main street, drawing traffic movements away from Ferodale Road', and 'The creation of the main street will require development to build to the street boundary and use rear lanes running parallel with Peppertree Road to access unsightly loading docks and vehicle parking areas which would otherwise detract from the amenity and character of a vibrant town centre.'*

*Therefore Peppertree Road is considered the Front Street and loading docks should address rear service lanes or Ferodale Road. The Developer has been able to comply with this requirement in the past when looking at their BiLo joint venture at Tea Gardens. The requirement to face the loading dock to Ferodale Road was discussed with Buildev, Council officer's and the Mayor at a meeting on 19th June 2009. The following quote of the strategy further demonstrates the requirement not to put the loading dock onto Peppertree Road – 'use rear lanes running parallel with Peppertree Road to access unsightly loading docks and vehicle parking areas which would otherwise detract from the amenity and character of a vibrant town centre.'*

*The Strategy also states that 'It is desirable that the two (existing and new) supermarkets be located as close as possible to encourage centralised parking, walking and convenience' The four driveways proposed to front Peppertree act to dislocate connectivity on Peppertree Road for pedestrians. The loading dock location acts as a barrier to disassociate the supermarket from the existing and future development within Peppertree Road. Relocating the loading dock to Ferodale Road off a service lane would integrate the supermarket with neighbouring commercial/retail areas to create a vibrant and prosperous town centre.*

*Through the rezoning process the proponent voiced concerns that the road widening on Peppertree Road would reduce the on-site parking by 14 spaces.*

*The Infrastructure Planning Team has given support to the 14 space reduction as provision for public transport, cycle and pedestrian options would be provided as part of the DA to offset other transport modes".*

#### Planning Comment

The applicant was given the opportunity to address the matters raised by Council's Infrastructure Planning team in July 2010. Whilst the applicant has not fully addressed the matters raised by Council staff in this regard, it is noted that Council's Infrastructure Planning Coordinator considers that the outstanding matters could be satisfactorily addressed by way of conditions should Council choose to support the application.

#### **Engineering – Traffic**

The application was referred to Council's Traffic Engineer for comment. In response, the following comments were received:

*"The following report is provided by me to assist in the assessment of the subject application:*

##### *Traffic*

- *Demand modelling for the development application indicates that acceptable levels of service will be maintained at the major intersections following development.*

##### *Public Transport*

- *The recent Transport NSW bus review proposes an alteration of bus routes in Medowie that will take buses along the proposed development frontage. As a major attractor within the Medowie town centre it is therefore required that this development proposal is conditioned to provide a bus stop within convenient walking distance of the property, on Ferodale Road.*
- *A drop-off and pick-up area is required to be provided close to the building entrance to cater for taxis and community transport to the development. Please provide amended plans.*

*Heavy vehicles*

- *Swept paths are to be provided to demonstrate accessibility for heavy vehicles*

*Footpaths/cycleways*

- *A 2m wide shared footpath is required along the property frontage on Peppertree Road. Please provide amended plans.*
- *Pedestrian sight triangles are to be considered in accordance with AS2890.1, the landscaping on the corner of the site shall be designed to provide adequate sight distance. Please provide details.*
- *Parking for bicycles shall be provided adjacent to the main building entry, at a location that provides passive surveillance and good security, to assist and promote sustainable transport options. Bike racks sufficient for 12 bike spaces shall be provided. Please provide amended plans showing details.*

*Regulatory signs*

- *Parking restrictions will be required in Peppertree Road along the frontage of the property to minimise disruptions to traffic flow.*
- *A 'Stop' sign and hold line is required within the car park prior to the footpath crossing onto Ferodale Road.*
- *The applicant shall provide detailed plans indicating all required regulatory signage and line marking to enable approval by the Port Stephens Local Traffic Committee. At least 3 months lead time is required to allow for the approvals process. All regulatory signs and line markings required as a result of this proposed development are to be supplied and installed at no cost to Council*

Planning Comment

The applicant was requested to provide additional information and amended plans addressing the matters raised by Council's Traffic Engineer in July 2010. To date the applicant has failed to adequately address all the outstanding matters raised. However, as stated elsewhere within this report (refer to Infrastructure Planning Comments), the matters outstanding in regards to infrastructure and traffic could be satisfactorily addressed via conditions of consent, should Council elect to support the application.

**Natural Resources – Ecology**

The application was referred to Council's Natural Resource Section for comment, in regards to potential ecological impacts pertaining to the proposed development, response the following advice was received:

*"The advice from Orogen on the determination of the vegetation being largely marginal with an isolated patch of preferred in lots 8 and 9, rather than preferred link over marginal habitat, as mapped by AKF (2006) is accepted.*

*Although technically the proposal is not line with the CKPoM (as no effort has been made to retain preferred Koala Habitat) I am satisfied that the trees are not being*

*used by Koalas and that the loss of the trees will not have an adverse effect on the local population.*

*Although the compensatory offset proposal to plant trees is accepted it is not considered appropriate to plant them off site in a location that is yet to be determined. The landscape plan should be amended to include the trees within the development site. The rationale for this is as follows:*

- the trees will most likely require regular maintenance to ensure their long term survival, planting them on public land will transfer this cost to Council*
- planting them within the development ensures the habitat is returned to the site. Although no Koala's were found to be using the trees they would still be provided habitat for a range of other species. Following on from this, and in recognition that some Koala feed trees species are not appropriate for planting in carparks and commercial areas, the species of trees that are to be planted is left to applicants discretion as long as they comply with the Port Stephens Council Tree Planting guidelines.*
- Environmental Services has been attempting to find locations for tree plantings within the Medowie township for some time and has had minimal success due to the need to retain access for drainage requirements.*

*In addition the ecological report refers to 17 Koala feed trees however figure 5.2 that maps the trees depicts 20 koala trees. This has been confirmed with the ecologists field assessment sheet and as such the number of offset trees to be planted needs to be increased to 40.*

*In addition the clearing restrictions and vegetation management options as outlined in the mitigations measures should be enforced to decrease the impact on species using the site.*

*Recommendation/Conclusion:*

*If the following conditions are imposed the development should have manageable environmental impacts:*

- 40 trees 80Litre trees are to be planted within the development, the landscape plan will need to be amended to accommodate this. Given that no Koalas were using the trees the species of the trees that are to be planted is left to applicants discretion as long as they comply with the Port Stephens Council Tree Planting guidelines.*
- Vegetation cleared for the development should be mulched on site and re-used in landscaping areas.*
- Weeds must be disposed of appropriately, i.e. at a local council waste facility, or elsewhere if negotiated with Council.*
- An Erosion and Sediment Control Plan (ESCP) must be prepared prior to issue of a Construction Certificate.*
- Clearing activities should be restricted to between April to September and preferably between April and May.*

- *A fauna ecologist will be present on the site at all times during clearing operations to inspect felled trees for wildlife. Fauna that are found within felled trees that are suspected of injury would be captured, held and forwarded to a local wildlife care organisation for rehabilitation. Once rehabilitation has been achieved, the individual should be released into appropriate and proximate forested habitats in Medowie township."*

#### Planning Comment

The proposed development has been found to be satisfactory with regards to ecological and environmental considerations, subject to the inclusions of the recommended conditions of consent being imposed upon any consent issued. Should Council determined to approve the application; it is recommended that the conditions outlined above be included upon the determination.

#### **Natural Resources – Vegetation Management**

The application was referred to Council's Vegetation Management Office for comment in relation to the proposed landscape plan. The applicant provided amended plans to address issues raised by Council and subsequently Council's Vegetation Management Officer determined that the proposed landscaping plan was suitable, and thus the development application deemed satisfactory, subject to inclusion of conditions of consent upon any determination issued.

#### **Community Projects Officer (Community Safety)**

The application was referred to Council's Community Projects Officer (Community Safety) for comment. In response the following advice was received:

"General Comments:

- Development is located in an alcohol-free zone which prohibits consumption of alcohol. All surrounding streets and car parks have been declared alcohol-free under section 646(1) of the Local Government Act 1993 – the principle aim of an alcohol-free zone is to prevent alcohol related anti-social behaviour and improve public safety.
- Council's Graffiti Management Plan recommends a policy of rapid removal of graffiti. Free graffiti removal kits are available for private property owners.

Recommendations:

1. The car park must be designated as an alcohol-free area with signage prohibiting the consumption of alcohol.
2. All boundary fencing to be visually permeable to enhance natural surveillance and minimise ambush and entrapment opportunities and discourage criminal activity.
3. Graffiti – proof surface to the height of 2 metres on exterior walls – Graffiti-proof treatment on all signs.

4. CCTV camera coverage to include car park
5. All large trees to be regularly under scrubbed to 1 metre to maximise visibility - suggest use of spiky/thorny species near entrance.
6. Bollards or large planters to be located outside liquor shop and glass frontage to prevent ram-raids."

#### Planning Comments

Referral to Council's Social Planner has identified that the application is satisfactory with regards to social impacts and safer by design principles, subject to the inclusion of relevant conditions upon any consent issued.

#### **Community Projects Officer (Ageing and Disability)**

The application was referred to Council's Community Planner (Ageing and Disability) for comment. In response it was identified that the provision of low cash register points for employment of people with disabilities. In short it was determined that the proposed development is considered satisfactory subject to the inclusion of conditions of consent on any determination issued.

#### **Fire Safety**

The application was referred to Council's Fire Safety Officer, who in response held no objection to the application.

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

The assessment has considered the likely impact of the development by identifying; 1) the potential impacts of the proposal, 2) those parties affected by these impacts, 3) available measures to ameliorate impacts, and 4) likely frequency and severity of the impacts following application of amelioration measures.

Following this process, it is considered that the key issue resulting from the proposal are the impacts upon the desired built environment, streetscape and character of the Medowie Town Centre. The proposal also results in detrimental infrastructure and traffic, as well as social implications for the broader locality.

These matters have been discussed at length elsewhere in this report, in which it has been identified that the proposed use, being a commercial premises, is acceptable within the locality. However, the 79C assessment has detailed it is the siting and design of the proposal which is unacceptable in respect to a desirable and functional commercial precinct. It is considered that a more skilful design could ameliorate the potential adverse impacts associated with the subject development.

The applicant elected not to address the impacts identified through the assessment by way of an amended design. In this regard it is thus considered that the proposed development will result in impacts which are unacceptable, and accordingly has been recommended for refusal by staff.

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

The proposed development is permissible within the subject zone. The site is fully serviced and there are no physical constraints on the site that would make the land unsuitable for this development.

The proposed development is inconsistent with Council's codes and policies governing development of the site while being compatible and sympathetic with existing and envisaged residential streetscape. The assessment has identified that the proposed development will impact upon the amenity in the immediate vicinity of the site, as well as the greater Medowie Town Centre locality. As such, the development is not considered to be suitable for the subject site.

However, it is noted that the applicant could employ simple design amendments such as; the relocation of the building to front Peppertree Road, as well as the relocation of the proposed loading dock to Ferodale road, which would address the concerns raised within this report.

#### **5. Public Interest**

The subject site is a critical site in terms of the development of the Medowie Town Centre, with the development of this site guiding the future character and built form of the locality. Council has worked closely with the community in developing the Medowie Strategy, and approval of this development in its current form would likely undermine Council's ability to achieve the outcomes stipulated within the Strategy.

The proposal has been recommended for refusal because the proponent has not demonstrated that an alternative superior urban design outcome (such as at Yass and Cardiff), which is consistent with Council's plans and policies, cannot be achieved at the site. Therefore justification for Council considering an otherwise inferior, outdated, and socially irresponsible site planning response, is not present in this application.

For these reasons the proposed development is not considered to be in the public interest.



ATTACHMENT 3  
CORRESPONDANCE DATED 12 JULY 2010

Telephone Inquiries:  
MS A K STONE  
File No:  
16-2010-291-1  
Parcel No: 1358, 1356, 1355, 1353, 1351

12 July, 2010

BUILDEV DEVELOPMENT (NSW) PTY LTD  
CARE INSITE PLANNING  
PO BOX 93  
CESSNOCK NSW 2325

Dear Sir/Madam

**Re: Proposal: Commercial Premises (Woolworths Supermarket)**  
**Property: LOT: 7 DP: 19101, LOT: 8 DP: 19101, LOT: 9 DP: 19101, LOT: 10 DP: 19101,**  
**LOT: 11 DP: 19101, 47 Ferodale Road MEDOWIE, 45 Ferodale Road MEDOWIE, 43**  
**Ferodale Road MEDOWIE, 41 Ferodale Road MEDOWIE, 39 Ferodale Road MEDOWIE**

Reference is made to the abovementioned development application lodged with Council. Please be advised that a planning assessment of your application has been undertaken.

It is noted that the assessment of the submitted application has been undertaken in accordance with Clause 72J of the *Environmental Planning and Assessment Act 1970* (EP&A Act). Clause 72J of the Act permits a development application (DA) and Local Environmental Plan (LEP) to be processed concurrently.

A planning proposal seeking to rezone the subject site to "Zone No 3 (a) (Business General "A" Zone)", is currently before the Department of Planning for consideration and it is on this basis that the application has been assessed.

As a result of the planning assessment the application was found to be unsatisfactory. When tested against Council's Development Control Plan 2007 the development design is fundamentally flawed such that it is unlikely to be supported (refer to Schedule 1 – Planning Review Comments).

You are therefore given the opportunity to significantly redesign the proposal so as to ensure compliance with Council's policy and so as to improve the urban design outcome for the subject site and locality. To assist you in the redesign of the proposal, please refer to the attached Schedule - Planning Review Comments, which has been provided based upon the application submitted to date. When considering the redesign of your proposal Council also recommends that you make reference to Development Control Plan 2007, section B4, which is available for download at Council's website ([www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)). Please note any amended plans submitted to Council must be stamped by Hunter Water.

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Alternatively, should you wish to withdraw the current application, please be advised that you may request a proportion of the application fee to be returned to you. Please advise Council in writing within **14 days** of the date of this correspondence as to your intentions for the application. If you elect not to withdraw the application, or if Council does not receive correspondence from you outlining your intention, within the specified timeframe, Council will proceed to determine the application based upon the information provided to date.

Please note that the assessment and processing of this application cannot proceed until the requested information has been submitted to Council. This means the clock has stopped counting the statutory assessment days and will restart from the point where it stopped on receipt of all required information and amended plans.

Should you have any further inquiries or wish to discuss the above application please do not hesitate to contact Amy Stone between the hours of 9.00 am – 12.00pm.

Yours faithfully

**Amy Stone**  
SENIOR DEVELOPMENT PLANNER

Phone: 49800369 (9.00am – 12.00 noon)  
[amy.stone@portstephens.nsw.gov.au](mailto:amy.stone@portstephens.nsw.gov.au)

DA TRACKER

Development & Building has been listening to your suggestions for improvement. Council has now launched its On-line Application Tracking System and a revised Website so you can access key information, forms and application updates anytime, 24 hours, 7 days a week. Council welcomes your feedback on these new initiatives. Email [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au) or write to The Manager Development & Building, Port Stephens Council, PO Box 42, Raymond Terrace NSW 2324.

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## Schedule 1 – Planning Review Comments

### 1. Street Character and Front Setback -

Section B4.4 of Council's Development Control Plan 2007 (DCP 2007), stipulates that development that is built to a consistent front alignment is effective in defining the street space and establishing street character.

The proposed development fails to comply with both the principles and development controls within Section B4.4 of DCP 2007 in that;

- (a) The proposed development does not adequately address either the primary or secondary street frontages (Peppertree Road and Ferodale Road).
- (b) The development has not been appropriately sited or designed in relation to the surrounding residential properties, nor the existing commercial precinct.
- (c) The dominance of the car parking area in relation to street eliminates any potential for the proposal to provide an 'active interface' between the shopping centre and the street.
- (d) The applicant proposes a stand alone supermarket only; no consideration has been given to the inclusion of smaller shops within the development which could potentially activate the street frontage.
- (e) The elevation fronting Peppertree Road is dominated by blank walls and the proposed loading bays.

Thus, the applicant is invited to provide an amended design which complies with the Development Controls outlined within DCP 2007.

### 2. Building Height

Section B4.6 of Council's Development Control Plan 2007 (DCP 2007), stipulates that development should achieve a scale and height in keeping with the existing and desired future character of the street.

The proposed development fails to comply with the maximum allowable height provided within DCP 2007, (8 metres), being approximately 8.6 – 9.3 metres in height.

The applicant is invited to provide an amended design which achieves compliance with the maximum allowable height of 8.0 metres.

### 3. Side and Rear Setback

Section B4.7 of DCP 2007 identifies the desired side and rear setbacks for all commercial/retail developments within the Port Stephens Local Government Area (LGA). The proposed development fails to comply with these provisions in that:

- The proposed development is not built to the street. The development is setback approximately 36.0 metres from Ferodale Road, and approximately 35.0 metres from Peppertree Road.

- The development fails to provide a rear setback of 5.0 metres (5.5metres with consideration given to height), to the eastern property boundary

The applicant is invited to provide an amended design which achieves compliance with Section B4.7 of DCP 2007.

#### **4. Building Design Elements**

Section B4.8 of Council's Development Control Plan 2007 (DCP 2007), stipulates that development should provide building design which includes façade articulation, window and door openings, shading elements, rooflines and materials and colours. The proposed development fails to comply with these provisions in that:

- There is negligible articulation provided within the design.
- Approximately 47.0 metres of blank unarticulated wall addresses Peppertree Road.

The applicant is requested to provide an amended design which ensures compliance with Section B4.8 of DCP 2007.

#### **5. Landscaping and Public Domain Improvements**

Section B4.11 and B4.12 of Council's Development Control Plan 2007 specify the requirements for the provision of landscaping and public domain improvements to commercial/retail developments.

It is considered that insufficient landscaping and public domain improvements have been provided to the site.

In this regards Council requests the following:

- (a) The applicant is required to submit a plan which clearly indicates the extent of landscaping provision to the site (i.e. shaded plans with calculations for landscaped and built upon areas, drawn to a useable scale).
- (b) An amended landscaping plan providing additional landscaping is to be provided along the front building setback, side and rear setbacks, perimeter of storage areas and car park. In this regard, native species including evergreen trees which shall provide shade to 50% of open-air parking spaces in 5 years should be utilised. Please note that the landscaping plan is to be drawn to scale, and proposed landscaping illustrated on the landscape plan must be drawn to reflect their actual scale/dimensions.
- (c) The applicant is to provide public domain improvements along its frontage such as street furniture. The development must also incorporate a public artwork located in a visually prominent area, of a culturally significant place within the public domain.

#### **6. Access, Parking and Servicing**

Section B4.13 of DCP 2007 identifies that development should provide adequate on-site parking, loading and servicing areas for its occupants, users, visitors and employees as well as delivery and waste removal services. DCP 2007 also stipulates that development should provide essential car parking and access while encouraging the use of public transport as well as walking and cycling.

The proposed development fails to satisfy the principles and controls within Section B4.13 in that:

- The proposed development does not maximise the retail frontage to Peppertree Road.
- On-site car parking dominates the streetscape, and is not appropriately located or screened by landscaping.
- The proposed storage and loading areas to service the supermarket are visible to Peppertree Road.

The applicant is invited to provide an amended car parking design which satisfies the provisions of Section B4.13 of DCP 2007.

#### **7. Meadowie Strategy**

Council's Infrastructure Planning Team has considered the development against Council's Meadowie Strategy, and in response the following advice is provided:

- (a) Peppertree Road is identified within the Meadowie Strategy as the focal point of the shopping precinct. The Meadowie Strategy requires that 'Peppertree Road will fulfil the main street function, acting as an 'off-line' main street, drawing traffic movements away from Ferodale Road'. Council recommends that the proposed development be appropriately redesigned so as to address the Peppertree Road frontage.
- (b) The Meadowie Strategy identifies that the creation of the main street will require development to build to the street boundary and use rear lanes running parallel with Peppertree Road to access unsightly loading docks and vehicle parking areas which would otherwise detract from the amenity and character of a vibrant town centre. As such, it is suggested that the applicant relocate the proposed loading dock, to another location not visible from Peppertree Road.
- (c) It is noted that the four driveways proposed to front Peppertree Road, act to dislocate connectivity for pedestrians. The applicant is requested to consider an amended design which minimises access from Peppertree Road.
- (d) The applicant is advised that the frontage to both streets should have a shared path (2.0m pathway) constructed with the landscaping taking a secondary function. The landscaping plan should be amended accordingly.

#### 8. Loading Hours

It is noted that the application proposes loading hours of 6am to midnight (12pm), 7 days per week. Given the sites proximity to residential areas this is considered to be excessive. Council suggests the following loading hours to be acceptable - Mon-Fri 7am-10pm, Sat 7am-9pm, Sun and Public holidays 8am-8pm, and advises that the applicant's documentation should be amended accordingly. Alternatively, this matter can be addressed via a condition of consent.

#### 9. Accessibility

Council's Community Planner (Ageing and Disability) has assessed the proposed development and provides the following advice:

- (a) Low cash register points are to be provided to enable the employment and service of people with disabilities. The applicant is requested to provide amended plans accordingly

#### 10. Traffic Matters:

Council's Traffic Engineer has assessed the proposed development and raises the following matters and requirements for consideration:

- (a) Public Transport - A drop-off and pick-up area is required to be provided close to the building entrance to cater for taxis and community transport to the development. The applicant is requested to provide amended plans accordingly.
- (b) Heavy vehicles - The applicant is advised that swept paths are to be provided to demonstrate the sites accessibility for heavy vehicles.
- (c) Footpaths/cycleways -
  - i. A 2.0 metre wide shared footpath is required along the property frontage on Peppertree Road. The applicant is requested to provide amended plans accordingly.
  - ii. Pedestrian sight triangles are to be considered in accordance with AS2890.1. The landscaping on the corner of the site shall be designed to provide adequate sight distance. In this regard, the applicant is requested to provide additional details.
  - iii. Parking for bicycles shall be provided adjacent to the main building entry, at a location that provides passive surveillance and good security, to assist and promote sustainable transport options. Bike racks sufficient for twelve (12) bike spaces shall be provided. The applicant is requested to provide amended plans accordingly.
- (d) Regulatory signs - The applicant is advised of the following matters with regards to regulatory signage:

- Parking restrictions will be required in Peppertree Road along the frontage of the property to minimise disruptions to traffic flow.
- A 'Stop' sign and hold line is required within the car park prior to the footpath crossing onto Ferodale Road.

The applicant is required to provide detailed plans indicating all required regulatory signage and line marking to enable approval by the Port Stephens Local Traffic Committee. All regulatory signs and line markings required as a result of this proposed development are to be supplied and installed at no cost to Council.

#### **11. Infrastructure Matters:**

It is noted that the Infrastructure Planning Team have provided advice to Buldev through the rezoning process of the subject site. Throughout this process Buldev have been advised of likely requirements of Council at the DA stage including:

- (a) The need to provide stormwater detention on-site to restrict flows to 80% of the natural site – at DA stage (outlined within correspondence dated 3 September 2009),
- (b) The applicant is required to address water quality for runoff eventually entering into Grahamstown Dam (outlined within correspondence dated 3 September 2009).

It is noted that the 80% reduction was negotiated by Buldev in lieu of providing a stormwater study for the whole of the catchment to quantify the existing capacity of the network. It appears that the 80% reduction has not been adhered to. The applicant is therefore required to either comply with the 80% reduction, OR provide the additional study. The applicant is requested to provide written advice as to their intentions in this regard.

#### **12. Inadequate/Insufficient Information:**

In addition to the amended plans and documentation as requested elsewhere within this correspondence, the following information is also required to facilitate the assessment of the proposed development:

1. Statement of Environmental Effects –Should the applicant wish to amend the proposed design, a revised Statement of Environmental Effects (SEE) should be submitted to Council. Should the applicant seek any variations to Development Control Plan 2007 (DCP 2007), justification for these variations should be clearly articulated within the SEE.
2. External Colours and Finishes – Details of the colour, finish and substance of all external materials for the proposed development are to be submitted, which includes a schedule/brochure of the proposed colours. Please note that Council requires that external building colours and materials must be sympathetic to the

natural environment and the existing street context. Reflective surfaces and fluorescent colours are not acceptable for buildings or signage.

3. Benching and Levelling Plan – The applicant is requested to provide a benching and levelling plan to show the extent of cut and fill resulting from the proposed development. The plan should detail RL levels across the site, both existing and proposed. Due to the extent of cut that appears to be proposed, Council also requests further information as to the treatment of these areas (i.e. landscaping and/or finishing).
4. Reduced Levels (RLs) - Please submit amended plans and advertising copies showing the RLs of the site, (ie. existing/natural ground) finished ground, each floor level and roof ridgeline of the proposed building. RL information is to be clearly indicated on the architectural plans for all built elements (including architectural features).

Please note that this is not a comprehensive list of issues. It should be noted that during the assessment process, further information may be required and additional matters may be raised.



ATTACHMENT 4

COUNCIL RESOLUTIONS 5 MAY 2009 and 28 MAY 2008

EXTRA-ORDINARY MEETING – 5 MAY 2009

**RECISSION MOTION**

ITEM NO. 1

FILE NO: PSC2008-2238

**DEVELOPMENT CONTROL PLAN, DRAFT LOCAL ENVIRONMENTAL PLAN AND MEDOWIE STRATEGY ISSUES FOR MEDOWIE TOWN CENTRE.**

**COUNCILLORS: JOHN NELL, GEOFF DINGLE & FRANK WARD**

That Council rescind its decision of 28 April 2009 on Item 3 of the General Manager's Report, namely Development Control Plan, Draft Local Environmental Plan and Medowie Strategy Issues for Medowie Town Centre.

EXTRA-ORDINARY COUNCIL – 05<sup>TH</sup> MAY 2009

	<p><b>Councillor John Nell</b> <b>Councillor Geoff Dingle</b></p>	<p>That Council rescind its decision of 28 April 2009 on Item 3 of the General Manager's Report, namely Development Control Plan, Draft Local Environmental Plan and Medowie Strategy Issues for Medowie Town Centre.</p>
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<p>137</p>		<p>The Rescission Motion on being put was lost.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Peter Kafer Glenys Francis Geoff Dingle John Nell Frank Ward

Those against the Motion: Daniel Maher Steve Tucker Shirley O'Brien Bob Westbury Shirley O'Brien Bruce MacKenzie

EXTRA-ORDINARY MEETING – 5 MAY 2009

ITEM NO. 3

FILE NO: PSC2008-2238

**DEVELOPMENT CONTROL PLAN, DRAFT LOCAL ENVIRONMENTAL PLAN AND MEDOWIE STRATEGY ISSUES FOR MEDOWIE TOWN CENTRE.**

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Confirm its resolution dated 27<sup>th</sup> May 2008 (**Attachment 1**) to prepare a Development Control Plan over land on the corner of Ferodale and Peppertree Roads for a supermarket and the surrounding town centre in the form of a site specific chapter of the Port Stephens Development Control Plan 2007 (DCP);
- 2) Note that Council funds have been allocated to prepare a DCP and that a consultant will be appointed in the near future to undertake the required work and that this will occur parallel to the processing of the draft LEP;
- 3) Resolve that the concept proposal for a supermarket on the corner of Ferodale and Peppertree Roads (**Attachment 2**) and the rationale submitted by the proponent (**Attachment 3**) is not consistent with the principles and intended outcomes of the Medowie Strategy and does not provide a compelling argument to depart from this and other relevant planning policies;
- 4) Pursuant to Section 54 of the Environmental Planning and Assessment Act (1979) resolve to prepare a draft LEP to rezone council owned land Lot 4 DP 813A, Lot 5 DP 809A; Lot 240 DP 1027965; and privately owned land Lot 2 DP 632334; Lot 32 DP 1045148; Lot 31 DP 1045148; Lot 1 DP 553784; Lot A DP 404939; Lot 1 DP 260883; Lot 2 DP 260883; Lot: 3 DP 260883; and Lot 195 DP 17437 in the Medowie town centre (**Attachment 4**) to facilitate development of this land, provide flexibility to resolving pedestrian and vehicular access design issues raised by the super market site and devise a traffic solution to the town centre as required by the Department of Planning prior to finalising the supermarket site draft LEP; and
- 5) Consult with land owners affected by Recommendation 4 prior to the draft LEP being forwarded to the LEP Review Panel.
- 6) Through Council's Integrated Planning Section, engage an independent consultant to peer review the assessment of the proposed rezoning of land under Recommendation 4 that is in council ownership.

**ORDINARY COUNCIL – 24 APRIL 2009**

	<p>Councillor Dingle Councillor Francis</p>	<p>That the recommendation be adopted.</p>
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EXTRA-ORDINARY MEETING – 5 MAY 2009

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AMENDMENT:

124	Councillor Steve Tucker Councillor Shirley O'Brien	<p>It was resolved that Council:-</p> <ol style="list-style-type: none"> <li>1. Confirm its resolution dated 27<sup>th</sup> May 2008 (Attachment 1) to prepare a Development Control Plan over land on the corner of Ferodale and Peppertree Roads for a supermarket and the surrounding town centre in the form of a site specific chapter of the Port Stephens Development Control Plan 2007 (DCP);</li> <li>2. Note that Council funds have been allocated to prepare a DCP and that a consultant will be appointed in the near future to undertake the required work and that this will occur parallel to the processing of the draft LEP;</li> <li>3. Resolve that the concept proposal for a supermarket on the corner of Ferodale and Peppertree Roads (Attachment 2) and the rationale submitted by the proponent (Attachment 3) be approved in principle subject to appropriate conditions.</li> </ol> <hr/> <ol style="list-style-type: none"> <li>4. Pursuant to Section 54 of the Environmental Planning and Assessment Act (1979) resolve to prepare a draft LEP to rezone council owned land Lot 4 DP 813A, Lot 5 DP 809A; Lot 240 DP 1027965; and privately owned land Lot 2 DP 632334; Lot 32 DP 1045148; Lot 31 DP 1045148; Lot 1 DP 553784; Lot A DP 404939; Lot 1 DP 260883; Lot 2 DP 260883; Lot: 3 DP 260883; and Lot 195 DP 17437 in the Medowie town centre (Attachment 4) to facilitate development of this land, provide flexibility to resolving pedestrian and vehicular access design issues raised by the super market site and devise a traffic solution to the town centre as required by the Department of Planning prior to finalising the supermarket site draft LEP; and</li> </ol>
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EXTRA-ORDINARY MEETING – 5 MAY 2009

- |  |  |   |
|--|--|---|
|  |  | <p>5. Consult with land owners affected by Recommendation 4 prior to the draft LEP being forwarded to the LEP Review Panel.</p> <p>6. Through Council's Integrated Planning Section, engage an independent consultant to peer review the assessment of the proposed rezoning of land under Recommendation 4 that is in council ownership.</p> |
|--|--|---|

In accordance with the Local Government Act 1993, a division is required.

Those for the motion: Councillors Daniel Maher, Steve Tucker, Shirley O'Brien, Sally Dover, Bob Westbury and Bruce MacKenzie.

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

The amendment on being put became the Motion, which was put and carried.

**PURPOSE OF THE REPORT**

Buildex and Woolworths have asserted to the Mayor and Council staff that the project for a second supermarket in the town centre may be discontinued unless Council gives a favourable and prompt answer to planning and design issues raised by the proposed supermarket. This has led to the submission of this report with the purpose of seeking resolution of the following:

1. Council to consider if a Development Control Plan is still required in conjunction with the proposed rezoning of land for a supermarket on the corner of Ferodale and Peppertree Roads.
2. Council to consider if the concept proposal for a supermarket in the town centre is acceptable given the inconsistency with the recently adopted Medowie Strategy.
3. Council to resolve to prepare a draft Local Environmental Plan for other town centre lands, including council owned land, to facilitate the development of the town centre as the social and economic centre for the Medowie community and to assist in resolving the constraints of the proposed supermarket site on the corner of Peppertree and Medowie Roads and achieve better public outcomes.

**BACKGROUND**

MINUTES FOR ORDINARY MEETING – 27 MAY 2008

ITEM NO. 1

FILE NO: PSC2008-2238

**PROPOSED AMENDMENT TO LOCAL ENVIRONMENTAL PLAN 2000  
TO REZONE LAND TO FACILITATE ADDITIONAL COMMERCIAL  
LAND IN THE MEDOWIE TOWN CENTRE**

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Pursuant to Section 54 of the Environmental Planning and Assessment Act, Council resolve to prepare a Draft Local Environmental Plan to amend the zoning of Lot 7 DP 19101, Lot 8 DP 19101, Lot 9 DP 19101, Lot 10 DP 19101, Lot 11 DP 19101 Ferodale Road, Medowie to 3(a) General Business (**Attachment 1**);
- 2) Resolve to prepare a development control plan over the subject land and the surrounding town centre in the form of a site specific chapter of the Port Stephens Development Control Plan 2007 (DCP)

**STRATEGIC COMMITTEE MEETING – 06 May 2008**

**RECOMMENDATION:** That the recommendation be adopted.

**MATTER ARISING:**

**RECOMMENDATION:** That Council request the Group Manager Sustainable Planning bring forward a report to the Ordinary Council Meeting on the potential rezoning of the existing hardware business in Medowie from Rural 1(a) to 3a business.

**ORDINARY MEETING – 27 May 2008**

**RESOLUTION:**

114	Councillor Dingle Councillor Tucker	It was resolved that the Strategic Committee recommendation be adopted.
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Note: Matter Arising completed and included in report dated 27/5/08.

ATTACHMENT 5

APPLICANTS RESPONSE TO COUNCIL (DATED 19 AUGUST 2010)

Our Ref.: 09181

19 August 2010

GENERAL MANAGER  
PORT STEPHENS COUNCIL  
PO Box 42  
RAYMOND TERRACE NSW 2324

Attention: Ms Amy Stone

Dear Amy,

**RE: 16/2010/291/1 – Proposed Supermarket Cnr Ferodale Road and Peppertree Drive,  
Medowie**

Reference is made to your letter dated 12 July 2010, our meeting last Monday 9 August, recent phone conversations between your Mr Broyd and Mr Daniels from my client's office and the e-mail from Mr Broyd received Monday evening 16 August regarding the above matter. The purpose of this letter is to formally respond to design and DCP non compliance issues (items 1 – 9) raised in your correspondence as well as canvass the other items your planning assessment has raised.

**Summary of Current Situation**

The situation in respect to this project as we currently understand is as follows:

- We received your 8 page letter dated 12 July setting out numerous issues arising from the planning assessment of the above development application. The letter sets out six (6) areas of non compliance in respect to the Port Stephens DCP 2007. The letter also identifies issues in respect to the Medowie Strategy, loading hours, accessibility, traffic, infrastructure and insufficient information.

- From our meeting on Monday 9 August 2010 to discuss your initial assessment, I understood that based on the concept plan adopted by Council in April 2009 (EJE Concept plan), Council officers wished to see the loading dock moved from the Peppertree Road frontage to the north eastern corner of the subject land, and the Peppertree Road facade redesigned so that it better addressed the street frontage; this would effectively require the turning of the proposed building 45° degrees on its centre so that the frontage currently facing Ferrodale Road fronted Peppertree Road and the loading dock was repositioned into the north eastern corner.
- Since our 9 August meeting it has come to light that none of us present at the meeting realise that the EJE concept plan allowed for the staged development of the development. Specifically it allows for *“Proposed Woolworths Deliveries accessed off Peppertree Road”*. This was brought to our attention by Mr Daniels.
- Going back in history, on 28 **May 2008** Council resolved to prepare a DCP over land on the corner of Ferrodale and Peppertree Roads (the subject land).
- On 28 **April 2009** Council reaffirmed the 28 May 2008 resolution to prepare a DCP over the subject land.
- On 28 April 2009 Council further resolved to support in principle a concept proposal for the development of the subject land which was put forward by the proponent and prepared by EJE. It would therefore seem logical that this concept plan would form the basis and framework for the DCP that was to be prepared in respect to the subject land.
- Since the 28<sup>th</sup> of May 2008, some 2 years 2 months ago, Council officers have not taken any action, as far as we are aware, to action either of these resolutions and consequently no DCP has been prepared as required by the Council resolution.
- Given no DCP has been prepared for the subject land, there is a conflict in planning policy for the site. While Council has made it clear that they accept that the EJE concept plan on a policy basis, at this point in the process it has not been incorporated into the DCP. Therefore Council assessment officers have to deal with the current DCP 2007 as well as the Council resolution to support the EJE concept plan.

- It has been suggested by Mr Broyd that in order to address this planning framework conflict and move the matter forward, that the current proposal be presented to Council on a “policy basis”. The purpose of this report would be to determine if Council accepts that the proposed development layout as submitted in the DA is consistent with the Concept Masterplan it adopted for the subject land in April 2009 and that it is an acceptable planning/design outcome notwithstanding the provisions of the DCP 2007 provisions.

It is also noted that Council and the developer entered into a VPA on the 26<sup>th</sup> of July 2010. In respect to that VPA it is noted that it required the developer to lodge a development application by May 10 2010 which was achieved. It is also noted that the VPA made no allowance for access to a loading dock in the north eastern corner of the site via an access arrangement over Council land which would have been the appropriate vehicle to achieve such an outcome.

There would also appear to be strong community support for the establishment of a Woolworths supermarket by local residents. It is also noted that the development will generate up to 60 jobs during construction and 120 jobs on an ongoing basis. These are all very strong social, economic and public interest considerations that need to be weighed up by Council against the design issues and it is my view that these significant benefits outweigh the design issues.

#### **Councils Planning Assessment (12 July 2010 PSC correspondence)**

Since Council adopted the EJE concept plan for the subject land, our client has prepared detailed DA drawings and lodged a development application with Council to assess and determine. These DA drawings are, of course, detailed in comparison to the EJE concept plan as adopted by Council. Consequently there is a need to accept any other perceived inconsistencies between the proposal and the PSC DCP 2007 and these, as identified by Council, are detailed as follows:

##### **1. Street Character and Front Setback**

The design and layout of the proposed development is consistent with the EJE concept plan adopted by Council. Consequently we request that Council resolve that the development application as submitted (Council ref.: 16/2010-291-1):

- Adequately addresses the primary (Peppertree Road) and secondary (Ferodale Road) road frontages.
- Is appropriately sited and designed in respect to surrounding residential properties and the existing commercial precinct.



- Is satisfactory in terms of carparking design.
- Is satisfactory as a supermarket only.
- That the Peppertree Road elevation is satisfactory.

In respect to these design related points we note that the tenant for the site, Woolworths, operates on a commercial basis where they have standard floor plans that allow for the efficient operation of the business unit. It should also be noted that the design, including external treatments, is their latest and most modern design. It allows for a variety of architectural treatments to address the respective road frontages including both horizontal and vertical articulation, a variety of materials including glazing and a variety of complimentary colours.

In short while my client and Woolworths will work with Council to fine tune design elements to achieve a better outcome, the fundamental principles of the design, which are underpinned by the EJE concept plan, are very much not negotiable; in this regard the development is what it is, a standalone supermarket in Medowie, which is a secondary commercial centre supporting a satellite residential community. The Council adopted EJE concept plan for the site has been followed and therefore we seek Council endorsement of the Development Application design in terms of the “street character and front setback” issues raised in Councils July 12 correspondence.

## **2. Building Height**

The PSC DCP 2007 has a height limit of 8m while the proposal has a height of 8.6m – 9.3m. An 8m height limit is not a realistic height limit for a modern supermarket where ceiling height is essential to create a comfortable environment for shoppers with area on top to house services. It is also not realistic if vertical articulation is to be achieved in the external design. This is precisely what has been done with the proposed development to improve the treatment of facade of the development to the streetscape. Consequently Council is requested to:

- Endorse a height limit of up to **9.3m** on the subject site.

### **3. Side and Rear Setbacks**

This issue is largely covered by point 1 above. The development is consistent with the Council adopted EJE concept plan for the site in terms of setbacks from the adjoining streets as well as side and rear boundaries.

In terms of side and rear setbacks we note that the development will be cut into the eastern boundary and therefore the impact of the overall height of the development on adjoining properties will be significantly reduced. Further, a 5m setback is not necessary when one considers the significant depth of the adjoining residential properties along the western boundary. Consequently, in policy terms, we request that Council:

- Endorse the proposed setbacks as detailed in the DA drawing prepared by EJE Architecture for the proposed Woolworths development on the subject land.

### **4. Building Design Elements**

Council's letter of July 12 contends that the development does not comply with the PSC DCP 2007 in respect to this element (Section B4.8) and specifically that the development has 'negligible articulation' and has 'approximately 47m of blank unarticulated wall'. The first statement I strongly disagree with and the second statement is factually incorrect. The building at both the Peppertree Road and Ferodale Road elevations provides a variety of architectural treatments that provide an attractive, modern stand alone supermarket building, which is what the proposal represents. Specifically the Peppertree Road elevation has variety in terms of height, materials, colour and horizontal articulation.

- Consequently we seek Council endorsement of the design elements as put forward in the development drawings prepared by EJE Architecture.

### **5. Landscaping and Public Domain Improvements**

It is noted that the application already seeks a slight variation in terms of carparking numbers on the site and that the building footprint is a non negotiable element in terms of the tenant. Indeed as Council is aware, a reduced number of parking spaces was accepted by Council in lieu of the developer providing road widening along Peppertree Road as part of the VPA and

rezoning. Consequently if there is to be additional landscaping there will have to be a further reduction in the carparking on site. If that is acceptable to Council the developer is prepared to provide additional landscaping on site.

This point also highlights a weakness in the Council's overall strategy for the site that needs to be resolved at a strategic level. If it is essential that there be a sleeve of shops along the front of the supermarket fronting Peppertree Road, then carparking is going to have to be provided elsewhere in the Medowie town centre as such additions to the development would reduce carparking numbers and there will be no additional areas on site to provide carparking.

#### **6. Access, Parking and Servicing**

The design of the development is consistent with the EJE concept plan adopted by Council for the site. Consequently it is requested that Council resolve to endorse the design in terms of the issues raised under this point in respect to maximising retail frontage to Peppertree Road, the location and design of carparking on site and the location and design of the loading and service area.

#### **7. Other issues**

In respect to the other issues raised in Councils correspondence the following response/advice is provided:

- Council has previously adopted the EJE concept plan for the site and therefore the issues raised in respect to the Medowie Strategy are largely irrelevant. It is also noted that 'strategy' documents, especially where there is conflict with other more specific Council resolution (as is the case in respect to this site), should hold limited weight in the assessment. Notwithstanding my client is considering issues related to pedestrian access to and within the site but requires clarification on how it wishes to proceed in terms of the landscaping v carparking issue in the first instance.

- Loading hours are not considered excessive given that:
  - the loading area is located on the opposite side of the proposed building from the adjoining residences on the eastern side of the development;
  - the loading dock is on the western side of the development behind an 8m+ high building so noise will be projected west over the adjacent commercial area not east towards the residential area; and
  - the nearest house is located approximately 100m from the loading dock.
  
- Low cash register points is an internal detail design issue which can be conditioned as part of any consent.
  
- Traffic and infrastructure matters are currently under consideration and will be responded too separately.
  
- The issue of insufficient information will be further addressed following Councils consideration and determination of the policy related issues in respect to this development.

#### **Conclusion**

The assessment process for this development application is unfortunate as policy issues should preclude DA assessment; instead we are now debating policy issues in the middle of the DA process; and it is not like there has not been ample opportunity for Council to prepare the necessary policy (DCP). As part of the VPA process the developer was required to lodge a development application by May 10 2010. Before this date Council resolved in **May 2008** to prepare a DCP (over two years ago) for the site and surrounding area and in April 2009 endorsed/adopted a concept for the development of the subject land. However to date nothing appears to have been done to prepare the DCP and clarify development issues related to the site. Consequently Councils assessment officers have been placed in the situation of complete policy confusion.

The only definitive policy direction from Council to the developer is the adopted EJE concept plan. The developer had to use that as the basis of the Development Application design.

I would also urge Council not to forget the significant social and economic benefits of the proposal in terms of jobs in an area which has higher than average unemployment rates, especially amongst the young. Furthermore, the public also appear to be largely in support of the proposal so there is significant public interest benefit in the proposal as well. These issues need to be weighed up against any perceived design flaws when Council assesses the DA.

It is understood that a report will be put to Councils September 14 meeting clarifying the relevant policy issues. To that extent this submission has sought to specifically address the items raised by Council in its letter dated July 12 seeking specific support in respect to those elements of the design where there is an actual or perceived inconsistency between the proposal currently before Council and the PSC DCP 2007.

We request that the report to Council on September 14 resolve Council's position on the DA design so as to ensure there is no further confusion prior to final determination for the DA once the rezoning of the site is gazetted.

Should you wish to discuss this issue further please do not hesitate to contact me.

Regards,

Stephen Leathley  
**PLANNING DIRECTOR**

ATTACHMENT 6

WOOLWORTHS DEVELOPMENT: CARDIFF AND YASS

Woolworths - Cardiff





Woolworths – Yass









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 – 15 MARCH 2011**

**RECOMMENDATION:**

	<p><b>Councillor Sally Dover</b> <b>Councillor Peter Kafer</b></p>	<p>That the recommendation be adopted.</p>
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**ORDINARY COUNCIL MEETING – 22 MARCH 2011**

	<p><b>Councillor</b> <b>Councillor</b></p>	<p>Note: Meeting adjourned due to lack of quorum.</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 advice 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

Letter from Karuah Local Aboriginal Land Council dated 10 February 2011



**Karuah Local Aboriginal  
Land Council**  
ABN 17 304 066 465

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

PORT STEPHENS COUNCIL  
*JP*  
11 FEB 2011  
File No. PSC2005-0889  
Action by P. Procter  
Parcel .....

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 fine 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

2<sup>nd</sup> 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 38 108 968 949  
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 38 108 966 949  
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*



ITEM NO. 5

FILE NO: PSC2009-09538

**DRAFT KARUAH GROWTH STRATEGY**

REPORT OF: BRUCE PETERSON – ENVIRONMENTAL AND DEVELOPMENT PLANNING,  
MANAGER

GROUP: SUSTAINABLE PLANNING

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Place the draft Karuah Growth Strategy (**Attachment 1**) and associated draft Development Control Plan Chapter (**Attachment 2**) on public exhibition for a minimum period of 28 days.
- 2) Write to all affected landowners advising them of the draft Karuah Growth Strategy and draft Development Control Plan Chapter, inviting comment during the exhibition period.
- 3) Consult with key stakeholder groups such as Karuah Working Together seeking comment on the draft Karuah Growth Strategy and draft Development Control Plan.

**COUNCIL COMMITTEE MEETING – 15 MARCH 2011**

**RECOMMENDATION:**

	<p><b>Councillor Frank Ward</b> <b>Councillor Peter Kafer</b></p>	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Place the draft Karuah Growth Strategy (<b>Attachment 1</b>) and associated draft Development Control Plan Chapter (<b>Attachment 2</b>) on public exhibition for a minimum period of 28 days.</li> <li>2. Write to all affected landowners advising them of the draft Karuah Growth Strategy and draft Development Control Plan Chapter, inviting comment during the exhibition period.</li> <li>3. Consult with key stakeholder groups such as Karuah Working Together and the Karuah Aboriginal Land Council seeking comment on the draft Karuah Growth Strategy and draft Development Control Plan.</li> </ol>
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Cr Steve Tucker left the meeting at 8.27pm.

## MINUTES FOR ORDINARY MEETING – 22 MARCH 2011

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

Those for the motion: Crs Bob Westbury, Glenys Francis, Peter Kafer, Frank Ward, Geoff Dingle, John Nell, Sally Dover and Shirley O'Brien.

Those against the motion: Nil.

### ORDINARY COUNCIL MEETING – 22 MARCH 2011

	<b>Councillor Councillor</b>	Note: Meeting adjourned due to lack of quorum.
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### BACKGROUND

The purpose of this report is to inform Council of the Planning Reform Funded project for the development of the Karuah Growth Strategy (in association with Great Lakes Council) and place the draft Karuah Growth Strategy and associated Draft DCP Chapter on exhibition.

Karuah is a small township of just under 1000 residents, located on both sides of the Karuah River, on the boundary of the Port Stephens and Great Lakes Local Government Areas. In 2004 the Pacific Highway bypassed Karuah, removing large volumes of cars and trucks. This had a positive impact on the amenity of the main street however, the removal of this passing highway trade had a negative economic impact on businesses which relied upon this trade.

Council resolved on 28 July 2009 to carry out a Karuah Planning Strategy. Subsequently, in September 2009 Council received funding for the development of a growth strategy for the future development of Karuah, to enable sufficient growth opportunity to lift the population base to a level able to sustain a viable range of services and facilities to maintain a functional community.

The Karuah Growth Strategy area includes land both within Port Stephens (south of the Karuah River including the town centre) and Great Lakes (north of the Karuah River) Local Government Areas. As such, it was recognised that a cross boundary co-ordinated approach to manage future growth was required. An outcome of the draft Strategy is to provide an integrated growth footprint for Karuah, which addresses both sides of the river as the basis of an agreed Growth strategy across the LGA boundary that is aligned with the Lower Hunter Regional Strategy and the Mid North Coast Regional Strategy.

Karuah is currently growing by 11 dwellings per year, with 100 vacant lots. The Karuah Growth Strategy conservatively identifies the potential for an additional 500 lots. These lots will provide sufficient housing for the doubling of Karuah's population (460 occupied dwellings at present). There is sufficient land identified to satisfy

demand to 2030 at the current growth rate of 11 dwellings per year and even a much higher modelled demand of 30 dwellings per year. As such, there is no need to identify additional land as having urban potential beyond that identified in the draft Strategy however, Council should monitor take up rates and demand to ensure that sufficient land is available and to allow additional potential urban land to be identified and rezoned if required.

Karuah will remain a relatively small community of just over 2900 people even at the highest predicted growth rates and has a small wider catchment of perhaps another 500 people. The size of its commercial centre will be limited due to its close proximity to Raymond Terrace and the retail "leakage" that occurs to Raymond Terrace. There is potential for Karuah to play a major role in servicing the recreational needs of residents of Kings Hill, as the boat launching facilities at Karuah provide the closest mechanism for access to the Port Stephens estuary. This will provide economic benefit for the town centre and opportunities for Karuah to reposition itself in the tourist market.

A small light industrial area is suggested to the west of the village, on the land occupied by the timber mill and adjacent land as this will provide opportunities for small light industrial enterprises to establish and provide services and employment to the residents of Karuah.

The draft Development Control Plan contains locally specific development guidelines which implement aspects of the draft Growth Strategy, such as the relationship of the proposed new residential areas to the existing township, and maintaining environmental corridors to keep the town's unique setting and character.

### **FINANCIAL/RESOURCE IMPLICATIONS**

There are no significant financial/resource implications associated with the exhibition of the draft Karuah Growth Strategy. Increased urban development of Karuah will result in an increase in Council's Section 94 Plan funds.

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

The adoption of the Karuah Growth Strategy will enable Council to fulfil the future growth expectations of the Lower Hunter Regional Strategy and the Port Stephens Settlement Strategy, as they relate to Karuah, in an orderly economic and sustainable manner. The Karuah Growth Strategy builds on previous work undertaken in Karuah by Council and key stakeholder groups.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Whilst improving the amenity of the main street, the removal of the passing highway trade following the implementation of the Karuah bypass has had a short term negative economic impact on the township of Karuah. The income of most Karuah

residents is modest, as Karuah has a relatively high proportion of aged people relative to Port Stephens, the Lower Hunter or Australia generally. Karuah has a higher employment rate and education levels are lower than these other areas.

Building local education levels and skills are very important to local prosperity. Currently, there is not a large local economic base from which businesses and local employment can grow. Attracting customers from other places and increasing the local population in Karuah are key drivers toward economic prosperity.

There are some significant environmental constraints for development of Karuah. These constraints include the river, wetland systems and endangered ecological communities. Whilst these constraints may reduce some development possibilities, the environmental areas make a major contribution to the charm and character of the town and provide opportunities for tourism market.

There are a number of areas close to the town centre within which new urban development can occur without impacting significantly on the environmental attributes of the locality. The Strategy identifies sufficient land for urban development to meet growth needs until at least 2035. It is important to note that this growth is likely to be steady, allowing the community to build on its existing relaxed character and continue the close-knit nature of the village.

## **CONSULTATION**

The draft Karuah Strategy was prepared from a collaboration of stakeholders including the Department of Planning, Great Lakes Council, Strategy Hunter Consultants and various representatives of Port Stephens Council. It must be noted that the community has not been consulted during the preparation of the draft Strategy and draft DCP. This is due to the exhaustive consultation that has taken place with the Karuah community prior to preparation of the draft strategy and DCP. It was considered that previous consultations with the community were adequate and the outcomes of these consultations informed the development of the draft strategy and DCP.

## **OPTIONS**

- 1) Council resolve to exhibit the draft Karuah Growth Strategy and accompanying draft Development Control Plan Chapter for a period of 28 days.
- 2) Not adopt the recommendation and proceed to finalisation of the draft Karuah Strategy for exhibition.

**ATTACHMENTS**

- 1) Draft Karuah Growth Strategy
- 2) Draft Development Control Plan Chapter Karuah

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1

Draft Karuah Growth Strategy

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DRAFT  
Karuah  
Growth  
Strategy

Strategy Hunter consultants  
and Port Stephens Council

August 2010

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### **Executive summary**

Karuah is a village of 858 residents (2006 census) It is located on the shore of the Karuah River, at the western end of the Port Stephens waterway.

In 2004 a highway bypass of the town severely affected local businesses. However it dramatically improved the amenity of the town. The town is still recovering from the economic shock of the bypass, but local businesses have repositioned themselves and are reporting improved trade. The town is growing by around 11 dwellings per year.

The draft Karuah Growth Strategy seeks to provide a spatial and land use plan for the growth of the town. It aims to identify growth scenarios, infrastructure constraints and land for new urban development.

The draft Strategy is based on the advantages of Karuah's natural setting and relaxed ambience. It identifies sufficient land for urban development close to the town to meet growth needs until at least 2035.

The draft Strategy aims to further underpin local business and employment creation through residential growth. While local businesses will expand and others will establish, the commercial centre is likely to remain a village centre in scale, due to the relatively small local population and the closeness of Raymond Terrace as an alternative shopping venue. The village scale and character is likely to be attractive to visitors and new residents.

Karuah is fortunate in that relatively little infrastructure investment is required to cater for growth in the medium term. Recent investments in community facilities by Council, the community and others have upgraded the capacity and standard of many facilities. Some recreation facilities are being upgraded (such as the boat ramp) and others may require upgrading over the short to medium term.

Two incremental upgrades of the sewer treatment facility are required before a critical capacity constraint is encountered. However, the incremental upgrades will provide sufficient capacity for at least 20 years and possibly much longer.

The growth of Karuah is likely to be steady and not rapid. This will allow the community to build on its existing relaxed character and continue the close knit nature of the village.

An important aspect of the draft Growth Strategy is capitalising on the national parks that surround the village by linking them with habitat corridors to environmentally significant areas within the village. This will help to define the urban areas and provide residents with a unique natural rural environment.

It should be noted that the draft Growth Strategy is based on existing information and did not involve detailed site investigations. As a result the potential new urban areas are indicative and require detailed site studies to confirm their suitability.

### **Purpose**

The purpose of the Karuah Growth Strategy is to provide strategic level guidance for the future development of Karuah. The focus of the Strategy is spatial and land use planning; however it also addresses aspects of economic and social development, as well as environmental management.

Karuah is a relatively small village which has suffered adverse economic impacts as a result of the construction of a highway bypass. At the same time, the bypass has improved the amenity of the village by removing large volumes of traffic from the main road that bisects the village. Freed from the busy highway traffic, Karuah now has the opportunity to grow in a way which takes full advantage of its relaxed leafy riverside ambience.

The Karuah Growth Strategy aims to respond to the policy directions of the Lower Hunter Regional Strategy, the Port Stephens Community Settlement and Infrastructure Strategy and its successor, the draft Port Stephens Community Settlement Strategy.

The Strategy has been funded with the assistance of the NSW Department of Planning's Planning Reform Fund.

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### **Structure**

The Karuah Growth Strategy is structured as follows:

**1. Background**

This part documents and summarises the ecological, social, economic, aesthetic and structural context, and the general opportunities for growth in Karuah.

**2. Planning and Policy Context**

This part provides the policy and legislative framework for the Strategy including state legislation, state planning policies and the Port Stephens Local Environmental Plan.

**3. Issues and Options**

This part details the issues associated with future urban growth, and includes discussion of strategic objections and options for growth.

**4. Strategic Directions**

This part identifies a proposed growth strategy and complementary economic and community development actions.

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## Background

Karuah is a village of just under 1000 residents located 27 km by road to the northeast of Raymond Terrace. It is located on both sides of the Karuah River, on the boundary of the Port Stephens and Great Lakes Local Government Areas, and at the western end of the Port Stephens Waterway. Most of the village is located on the western side of the river, within Port Stephens Local Government Area, with a small settlement on the eastern side of the river in Great Lakes Shire. The village is around 27 kilometres, or 20 minutes by car, north of Raymond Terrace via the dual lane Pacific Highway.

Figure 1: Karuah location map



Source: Lower Hunter Regional Strategy

In 2004 the Pacific Highway bypassed Karuah, removing large volumes of cars and trucks which made life in the village's main street unpleasant. However, the bypass also deprived the village of most of its passing highway trade, from which many businesses received considerable income. Since then, the village has been enjoying a main street with greater amenity while its businesses reposition themselves to cater more for the local market and the lower volume of highway travellers who are seeking a break.

Since the early 2000's a range of studies have been undertaken in an attempt to assist business and the wider community adapt to life without the bypass, and to identify areas for urban expansion, social development and business growth; and strategies to improve the amenity of the area, particularly the main street.

There is not an existing large local economic base from which businesses and local employment can grow. A key to economic growth is attracting customers from other places, and increasing the local population. This strategy can build on the existing economic strengths of the village in hospitality and food services, small scale retailing, and oyster growing and processing. It can also capitalise on

the natural assets of the village (the wetlands and the river) and other assets such as the foreshore parks and the ready access to the waters of Port Stephens (boat ramp).

Karuah has some significant environmental assets which interact with the potential expansion of the urban area. These environmental assets (e.g. the river and wetlands) make a major contribution to the charm and character of the village, although they restrict some of the development options. Nonetheless there are a number of areas which appear suitable for further investigation for residential development.

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**Social Profile**

Karuah village had a population of 858 in the 2006 census (not including Karuah (Great Lakes), a decrease of 211 or 20% since the 2001 census. Most of this decrease seems to be due to the number of unoccupied dwellings increasing from 5 in 2001 to 73 in 2006, and the total number of dwellings decreasing from 448 to 410 in 2006 (most of this decrease was caravans, cabins or houseboats).

Because the population of Karuah is relatively low, small changes in numbers can significantly change the proportion of residents with a specific characteristic. Accordingly, care needs to be taken when interpreting census statistics for Karuah.

There were 339 occupied dwellings in Karuah in 2006, with an average occupancy of 2.52 people/dwelling.

93.8% of dwellings were separate houses, with 4% being other dwellings (such as caravans, cabins or houseboats). 43.8% of dwellings are fully owned relative to 37.8% for Port Stephens, with another 21.9% in the process of being purchased, relative to 29.2% for Port Stephens. 26.9% of dwellings are rented, relative to 26.2% for Port Stephens.

Karuah is a less mobile community than Port Stephens as a whole, with 66.5% of residents having than same address as 5 years ago, with another 13.3% having lived elsewhere in Port Stephens and moved to Karuah. In Port Stephens 52.5% of residents had the same address 5 years ago and another 17.4% moved within Port Stephens.

Some 86.1% of Karuah’s population was born in Australia, and 17% (146) identified themselves as being of indigenous descent. A much higher proportion of Karuah’s population is of indigenous descent than Port Stephens overall (2.9%).

Relative to Port Stephens, the age structure of Karuah has:

- a lower proportion of children aged 0-4 years,
- a higher proportion of young people aged between 5 and 14 years,
- a lower proportion of adults aged 25-54 years,
- a higher proportion of those aged over 55 years and
- a slightly lower proportion of those aged over 75 years.

Table 1: Age Profile of Karuah village

<i>Age Group</i>	<i>Number</i>	<i>Karuah %</i>	<i>Port Stephens %</i>
0-4	54	6.3%	6.2%
5-14	140	16.4%	14.6%
15-24	91	10.7%	11.7%
25-39	120	14.1%	16.6%
39-54	166	19.4%	20.8%
55-64	117	13.7%	13.1%

64-74	108	12.6%	9.5%
75+	58	6.8%	7.4%
Total	854	100%	99.9%

Source: ABS Census 2006

The median household income of \$526 per week was much lower than the \$813 per week for Port Stephens. Of those in the labour force, 49.3% were employed full time, 30.1% part time and 11.6% were unemployed. The occupation of employed residents was dominated by labourers, technicians and trades workers, and machinery operators. Professionals comprise only 7.4% of the employed.

Of those no longer at school 16.5% completed school to Year 12, relative to 29.3% of Port Stephens, while 75% completed school at least to Year 9, relative to 83.4% for Port Stephens .

Karuah has a SEIFA Index of relative socio economic advantage and disadvantage score of 831, relative to 970 for Port Stephens. Karuah is in the lowest 10% of suburbs in Australia, while Port Stephens is within the highest 70% of Local Government Areas. SEIFA is calculated by ABS bringing together a number of factors which indicate long term social and economic advantage and disadvantage.

37.2% of families were couple families with children, 19.7% were one parent families and 43.1% were couple families without children, relative to 41.1%, 16.3%, and 41.8% respectively, for Port Stephens. 27.2% of households in Karuah are lone person household.

In summary, Karuah is a settled community. It has a high proportion of Australian born residents and a high proportion of residents of indigenous descent. There is a higher proportion of young people (5-14) and seniors in Karuah than Port Stephens as a whole, and a high degree of home ownership. On average there is a relatively low average household income. Karuah residents are generally in lower skilled jobs than Port Stephens residents generally, and on average they have engaged in less schooling. The combination of lower skilled jobs, and a high aged population each contribute to the relatively low household income.

Informed Decisions (id.) produced population projections of the Karuah - Swan Bay - Twelve Mile Creek Planning District for Port Stephens Council in 2009. These projections incorporate a wider spatial area than the village centre, and approximate the core retail and services catchment for the village centre. The population of this wider area is projected to increase by 647, from 1455 in 2006 to 2102 in 2031, or an average of 26 people per year. In contrast to many areas in Port Stephens, id. project that the number of people aged under 15 will increase more than the number of people aged over 65 years. Both the younger (under 15 years) and the older (over 65 years) age groups are projected to increase in number and proportion relative to other age groups. Id's projections assume that younger families will be strongly attracted to the area, whereas older age groups will move elsewhere. In other words, in the future many of the young families will move to Karuah from elsewhere, and many of the older residents will have resided in Karuah for some time.

The population projection assumes an additional 259 dwellings over the 24 years 2007- 2031 or an additional 11 dwellings per year. This growth rate is close to the current medium term trend. Specifically, the projection assumes 2006-9 dwelling additions follow building approvals, lagged by 9-



18 months, an additional 123 dwellings being developed over 2010-2029 around Holdom and Wattle Rd (draft LEP amendment 24), and a low level of infill development (3 to 8 dwellings per annum). Net migration is projected to be a much greater, albeit reducing, contributor to population growth than natural increase.

Table 2 compares the projections produced by id in 2006 with those shown in the Community Settlement and Infrastructure Strategy (2007) (CSIS). The CSIS assumed a growth rate in dwellings of almost 3 times that of the 2009 id projections. In retrospect, this assumed growth rate appears quite optimistic. The successor of the CSIS- the draft Port Stephens Community Settlement Strategy (2010)-adopts the 2009 id projections.

**Table 2: Future population projections for the Karuah - Swan Bay - Twelve Mile Creek Planning District**

	2006	2011	2016	2021	2026	2031	Change 2006-2031	Av ann. Change %
<b>CSIS</b>	1530 (2005)	1810 (2010)		2860 (2020)		3680		
<b>Id 2009</b>	1456	1609	1738	1872	2001	2102	646	1.5

Source: id 2009, CSIS 2007

Assuming reasonable success of efforts to promote growth in Karuah, the actual growth rate is likely to be between the optimistic CSIS estimates and the 2009 id estimates. This could result in an increase in 20 dwellings per year (double current trends) or between 48 and 54 additional residents per year (based on 2.4 and 2.7 persons/dwelling respectively for id and the CSIS). However, this increased growth rate is very dependent on market conditions, the availability of land and housing products which meet market needs, the existence of alternative competitor locations in the housing market, and the attractiveness of Karuah to its target markets. The local community can only influence these factors to a limited extent.

**Karuah Commercial Centre**

The economic and social wellbeing of Karuah is closely aligned to the health of its village centre. Not only does the village centre provide employment and a place to buy goods and services, it is an important place for residents to meet and socialise.

The Karuah Bypass- Economic and Social impacts- Five Year Report 2009 (University of Sydney) found that the number of businesses in Karuah had increased slightly since the bypass, and the business mix had shifted away from its previous highway service orientation. Employment had decreased with a loss of 35 jobs (full time and part time jobs). It should be noted that these jobs are direct counts and not converted to “full time equivalent” numbers. Most jobs lost were part time, and mainly at petrol stations and their related cafe/takeaway premises. Most businesses expected trading to improve slowly, and the majority of major businesses still reported a decrease in profit relative before the bypass.

The 2010 Port Stephens Commercial and Industrial Study (SGS) provides information about economic activity in Karuah, particularly in relation to the village centre.

The results of a site survey of the 8.5 ha village centre undertaken by SGS are shown in Figure 2. The village centre is relatively low intensity with retail activity interspersed with residential and other land uses. It should be noted that the survey did not include the largest commercial activity in Karuah- the RSL Bowling Club- because it lies outside the 3(a) Business zone (shaded mid blue). All commercial activity is located on Tarean Road, ensuring that the function and appearance of the main street is critical to the economic health of the village centre.

**Figure 2: Karuah Village Centre business types**



Source: SGS 2010

SGS identified 5090 square metres of occupied commercial and retail floorspace within the zone 3(a) Business area (the village centre). Almost one third of the available floorspace is vacant- 1700 square metres.

SGS found that various forms of retail make up around half the available floorspace, with personal services and short term accommodation (“other”) making up the balance. The former more significant role of Karuah as a highway service centre and short term stop over is evident from the relatively high proportion of short term accommodation as a component of total floorspace. SGS estimated the retail turnover of Karuah as follows:

**Table 3: Karuah Village Centre retail turnover 2008 (\$'000's)**

Supermarkets	Department Stores	Other Food	Clothing	Household Goods	Other Retail	Hospitality and Services	Total
365	-	975	-	2,190	1,908	351	5,789

Source: SGS 2010

Karuah suffers from considerable retail “leakage” to larger centres, such as Raymond Terrace because of the small number of shops and the restricted variety of goods for sale. Previous studies have identified that the growth of the Karuah village centre is restricted because:

- the high leakage of sales to larger centres
- a small variety of goods are available
- the small customer base- Karuah has a population of around 1000, and services a catchment of around 1500 people
- the low income of residents
- the reduced highway trade since the construction of the bypass.

Any strategy to support the growth of the village centre should aim to address the above factors.

Based on the population projections produced by id. for Port Stephens Council, SGS estimate that floorspace demand will increase by 1500 square metres by 2031. Assuming that existing floorspace is “fit for purpose”, vacant floorspace is sufficient to accommodate this level of demand. Even if additional commercial floorspace is required, the low intensity of development in the village centre means that new buildings can be easily accommodated without having to increase the area of 3(a) zoned land. Table 4 shows the projected progressive increase in floorspace demand in the Karuah village centre, based on id population projections. Assuming no change in the existing retail space allocations, this increase would allow for a small IGA style supermarket and a number of speciality shops or services. The id population projections largely reflect current growth rates, and any increase in the growth rate would either improve the viability of businesses, or support additional businesses, or both.

**Table 4: Karuah Village Centre floorspace demand**

2009 Floorspace Demand (sq m)	2016 Floorspace Demand (sq m)	2031 Floorspace Demand (sq m)
5,090	5,623	6,617

Source: SGS 2010

### **Township marketing and the growth strategy**

The Karuah Township Marketing Plan 2006 (Linda Hailey) provides a good overview of strategies to tap the tourism potential of Karuah and to ensure that local expenditure is captured rather than leaking to other centres.

From a tourism perspective Hailey found that Karuah had market recognition because of its former location and role on the highway. The three motels and two caravan parks provide a wide well priced accommodation range. Accommodation is most suited for the family market, older travellers and budget conscious travellers. Hailey found that Karuah is not a tourist destination as such but there is potential to expand the average spend while visitors are in town.

Tourists are becoming more demanding consumers, expecting more than the stereotypic hamburger or pie and chips. New residents also bring some of the same expectations of the business offering of Karuah. Initiatives to retain and expand the existing market include a more innovative range of take away/dine in product, tailoring shopping hours, improving product mix and display, and improving customer service. Cafes and coffee outlets can play an important role in building local loyalty, including targeting specific groups such as a coffee club for young mums etc. There may be the potential for a small IGA style supermarket.

An upgrade of the main streets appearance including the removal and/or replacement of old/poorly co-ordinated or redundant signs was seen by Hailey as very important to the village's rejuvenation. A painting program of the commercial shopfronts and facades could be instituted based around a palette of shop front colours, perhaps co-ordinated with the village's corporate colours.

Improved billboard and gateway signage, together with clean toilet facilities in the village were also seen as important. Directional signage within the village could be upgraded, such as to the Wetlands Walk. Oysters were seen as being under-marketed as a local product by Hailey.

In order to reduce retail leakage to larger centres and to attract tourists, Hailey felt that local business needed to ensure good customer service, and that they could further enhance their profitability by participating in additional training in:

- Financial analysis and business development strategy
- Retail marketing, merchandising, window displays and product mix
- Food consulting, including product mix, marketing, positioning and promotion

The repositioning of the image of the village centre and its product offerings is a very important part of the Karuah growth strategy. A lively and attractive village centre will attract new residents. In turn, new residents will build the business base of the village centre to improve its viability and vitality.

**Population growth- the Karuah Local Area Plan**

Port Stephens Council’s 2003 Karuah Local Area Plan (LAP) identified three areas for residential expansion. LAP Areas 1 and 2 were incorporated into the Council’s 2007 Community Settlement and Infrastructure Strategy. LAP Area 3 is in Great Lakes Shire. The three areas are shown in figure 3.

The areas are:

**LAP Area 1:**

Land on the western edge of the existing settlement and to the south of Tarean Road. The western section of Area 1 has been zoned 2(a) Residential A, and partly developed as the “Riverside Glades” estate. Part of this estate has been subdivided, and a number of detached houses have been constructed. The balance of Riverside Glades still requires the provision of roads and utilities to permit housing development. The southeastern section of Area 1 is the subject of a rezoning proposal (Holdom Road- discussed later) which is close to finalisation.

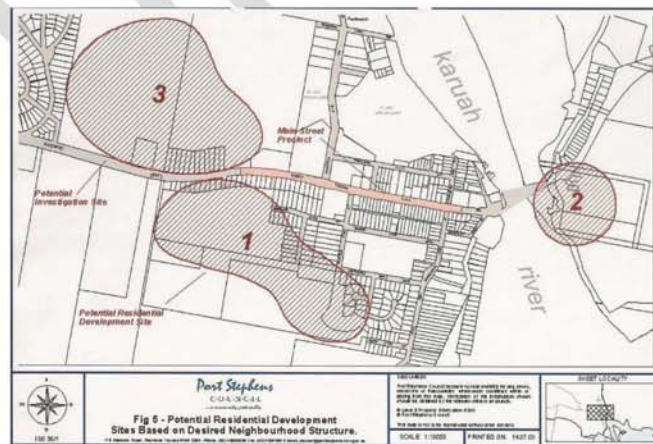
**LAP Area 2:**

Land to the east of the Karuah River and to the south of Tarean Road, which is zoned 2 Village (under the Great Lakes Local Environmental Plan 1996). This land is largely undeveloped, consisting of grassland and scattered woodland, with several detached houses.

**LAP Area 3:**

Land on the western edge of the existing settlement and to the north of Tarean Road. This largely is largely undeveloped, consisting of grassland in the west, woodland in the east, and on its southern edge a number of detached houses on large suburban lots fronting Tarean Road.

Figure 3: Karuah Local Area Plan proposed urban expansion areas



Source: Karuah Local Area Plan PSC 2003

### The Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy (LHRS) aims to guide the growth of the Lower Hunter for the next 25 years by identifying future development areas, principal land use types, settlement patterns and conservation outcomes. It is complemented by the Lower Hunter Conservation Plan (LCP), which identifies conservation priorities for the Lower Hunter

A key component of the LHRS is that the majority of new development within the Region should be located in close proximity to existing centres and employment lands, maximising access to services and employment opportunities. Figure 4 from the LHRS shows that Karuah is identified for a small amount of additional urban development on land immediately adjacent to the existing settlement to the north and south of Tarean Road, subject to planning investigations. The number of lots within the proposed new residential areas is not specified in the Strategy. Karuah is also shown at the northern end of the Watagan, Stockton and Wallarah Green Corridor. Lands within the green corridor surround the village and are proposed to be managed for conservation purposes.

Figure 4: Lower Hunter Regional Strategy Karuah details



Source: Lower Hunter Regional Strategy, 2006

In the LHRS, the nearest proposed urban areas to Karuah are located at Kings Hill/ North Raymond Terrace, to the north of Raymond Terrace regional centre, and Medowie to the east of Raymond Terrace; all of which are between 15-20minutes by road distant from Karuah. No specific dwelling or employment target is set for Karuah.

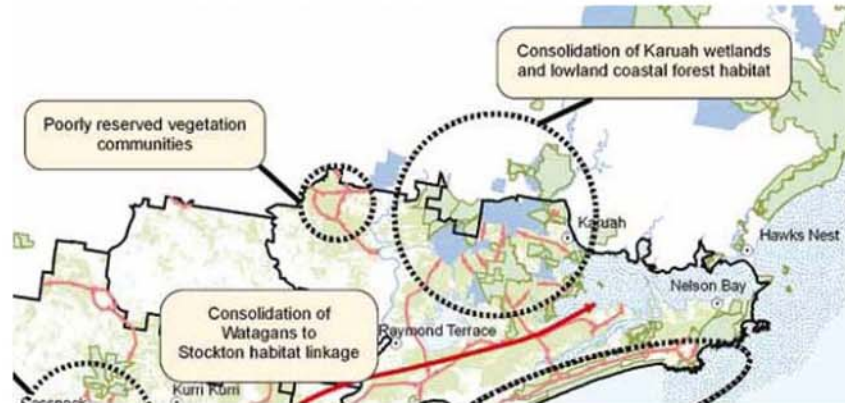
### Lower Hunter Conservation Plan

The Lower Hunter Conservation Plan 2009 aims to direct conservation planning in the Lower Hunter over the next 25 years. It includes the identification of high conservation Government lands, including some 3000 hectares in the Karuah area, as the backbone of major conservation corridors. Guidelines for managing regional conservation, including offsets for development impact, are provided in the Plan.

The figure below shows the relationship of Karuah to the Plan. Karuah is close to a number of areas of environmental sensitivity (e.g. saltmarsh and SEPP14 wetlands) as well as forest habitat. These characteristics provide Karuah with the opportunity to grow in a setting of high environmental quality, but will also constrain the extent of development. The areas of interest to the Conservation

Plan appear to lie to the west of the town, and will constrain urban growth in that direction over the long term.

Figure 5: Karuah's role in the Lower Hunter Conservation Plan



Source: Lower Hunter Conservation Plan 2009 DECCW

Further discussion with DECCW indicates that a regional corridor runs in a generally north south direction linking the Medowie State Conservation area with Karuah National Park, just to the east of the highway bypass interchange. Local conservation/habitat corridors also run north south- one corridor to the east of the golf course, the timber mill and HWC dam and irrigation area; and another corridor from the wetlands located just to the north of the town centre to the Karuah National Park.

Subject to further discussion, may be possible to provide some flexibility in biodiversity offset arrangements if further development of the village is able to contribute towards securing the long term viability of these local habitat corridors.

### Great Lakes Rural Living Strategy

The aim of the Rural Living Strategy is to provide direction for the land use of the rural areas of the LGA, i.e. those areas outside Forster, Tuncurry, Hawkes Nest, Tea Gardens, Pacific Palms and Smiths Lake. It incorporates a discussion of settlement hierarchy, settlement and rural land use needs and rural land use capability study.

Under the Strategy Karuah is classified as a “town”, the tier of settlement below “regional centre”. A town is defined as having a range of local services and has shopping for weekly and convenience needs, but relies on a regional centre for other opportunities.

The Strategy proposes an urban expansion area as an addition to the existing village rezoning, as well as a large lot urban area (rural residential) further to the north. It found the urban expansion area and the large lot were not heavily constrained, apart from some drainage issues.

5.5 ha of land was identified for urban expansion (5ha developable) to the east of Tarean Road, and was estimated to have an indicative yield of 35 residential lots. Around 44 ha of land (Lot 51 DP

613870) on the western side of Tarean Road and north of the existing settlement was identified for rural residential development, of which 35 ha was likely to be developable with an indicative yield of 70 lots at 5000 sq m/lot.

The issues identified in the Strategy in relation to urban expansion at East Karuah were proximity to the Karuah River, impact on Karuah (main township), native vegetation, and impact on the Pacific Highway (now bypassed). The main benefit of the land identified for urban expansion is its opportunity to provide for a different market because of its elevated views overlooking the river.

### Mid North Coastal Regional Strategy

The Mid North Coast Regional Strategy aims to guide the growth and development of the mid north coast of NSW. Because the Karuah River/ Port Stephens is the boundary between the Lower Hunter Region and the mid North Coast, Karuah (Great Lakes) across the river is subject to the Strategy, while the main township is subject to the Lower Hunter Regional Strategy. In practice, this is not significant because the guidance provided by both Strategies for the Karuah area is similar.

The Mid North Coast Strategy proposes an extension (Lot 42) to the east of the existing urban area at Karuah (Great Lakes) (as shown in Figure 6 below). However some flexibility is inferred by Appendix 2 to the Strategy which states “the extent of development potential is to be based on joint strategic planning undertaken by both Port Stephens and Great Lakes Councils to address the wider extent and footprint of development and infrastructure provision in the Karuah locality”. No specific dwelling or employment target is set for Karuah.

Figure 6: Karuah (Great Lakes) urban growth boundary and urban expansion area



Source: Mid North Coast Regional Strategy, 2009, DoP



### **State Environmental Planning Policy No 71- Coastal Protection**

Karuah is located within the “coastal zone”. Accordingly, State Environmental Planning Policy (SEPP) No 71- Coastal Protection applies. It aims to ensure that:

- development in the NSW coastal zone is appropriate and suitably located;
- there is a consistent and strategic approach to coastal planning and management; and
- there is a clear development assessment framework for the Coastal Zone

The Policy identifies State significant development in the coastal zone, and requires certain matters to be considered by a council when it prepares an Local Environmental Plan (LEP), or taken into account by a consent authority when it is determining a development, and also specifies some requirements to refer certain matters to the Department of Planning (in conjunction with the Major Projects SEPP (2005)), particularly those in “sensitive coastal locations”, as well as identifying master plan requirements for certain development in the coastal zone.

### **Coastal Design Guidelines**

A complementary tool to SEPP 71 is a Section 117 direction by the Minister of Planning which requires local councils to include provisions that give effect to, and are consistent with, the Coastal Design Guidelines when preparing a Local Environmental Plan (LEP) unless that inconsistency is justified by an environmental study or strategy.

The Coastal Design Guidelines embody many of the objectives of the State Coastal Policy and SEPP 71.

The Coastal Design Guidelines (CDG) describes a hierarchy of coastal settlements, from coastal cities to coastal towns, villages and hamlets. The CDG provide guidelines to assist the development of these settlements and their relationship to the surrounding area to be sensitive to the “unique natural and urban settings of coastal places in NSW”.

Within the hierarchy of settlements of the CDG, Karuah would have the characteristics of a “coastal village”.

The Coastal Design Guidelines provide details of issues and a generic desired future character for types of coastal settlement which should be considered in the development of development control plan (DCP) provisions for Karuah.

### **Climate Change and Sea Level Rise**

The low lying nature of some parts of Karuah means that sea level rise and other effects of climate change (such as an increased frequency of storms) will have an impact on the village. However, broad scale assessment indicates that few structures are affected, and that the main impact of sea level rise will be inundation of, and possibly greater storm impacts on, the low lying portions of some lots along the river in the southern part of the village.

The NSW Government has released its Sea Level Rise Policy Statement, and a Coastal Planning Guideline: Adapting for Sea Level Rise. The Sea Level Rise Policy Statement adopts mean sea level rise planning benchmarks of 40cm above existing by 2050 and 90cm by 2100. The Coastal Planning Guideline states that “ *sea level rise planning benchmarks are not intended to be used as a blanket prohibition on development of land projected to be affected by sea level rise. New LEPs and development applications will continue to be assessed on their merits using a risk-based approach to determine whether the impacts of sea level rise and other coastal processes can be mitigated and managed over time. relative to 1990 levels, which are now NSW Government policy*”.

Accordingly it is important that detailed assessment is carried out in conjunction with any development application or local environmental plan (LEP) that affects low lying property.

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### Rezoning Proposals

Since the adoption of the Karuah Local Plan, four rezoning proposals have been received by the Councils, 3 in Port Stephens LGA and 1 in Great Lakes LGA. These proposals can be seen in Figures 7 and 8. The proposals are:

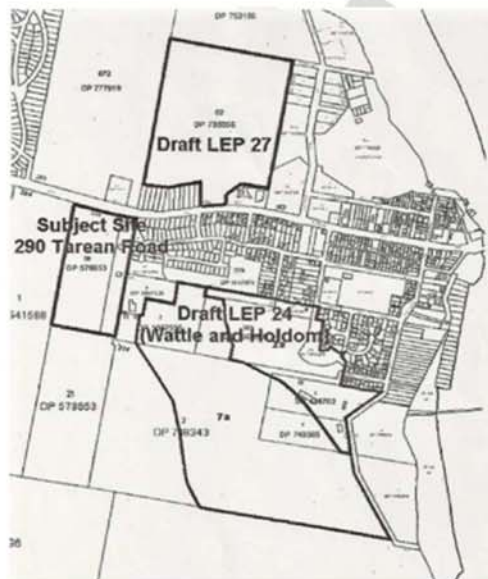
#### Within LAP Area 1:

##### Draft Amendment 24- various lots, Wattle and Holdom Road.

This proposal embraces the southwestern corner of LAP Area 1, and extends the residential area proposed by the Local Area Plan further to the southwest. The proposal aims to rezone land to 2 (a) Residential and 7(a) Environmental Protection. A yield of approximately 166 dwellings/lots is likely.

A draft LEP has been publically exhibited, and Council resolved in 2010 to submit the draft LEP to the Minister for finalisation. One key issue remains outstanding for the draft LEP that of resolution of a suitable biodiversity offset for vegetation loss. Department of Planning has recommended that the portion of the site be made where a suitable biodiversity offset has been agreed with DECCW. It is also recommended that the remaining portion of the draft LEP be deferred until such time that a suitable off-set arrangement can be agreed.

**Figure 7: Proposed rezonings - Karuah (Port Stephens)**



Source: PSC

#### Within LAP Area 2:

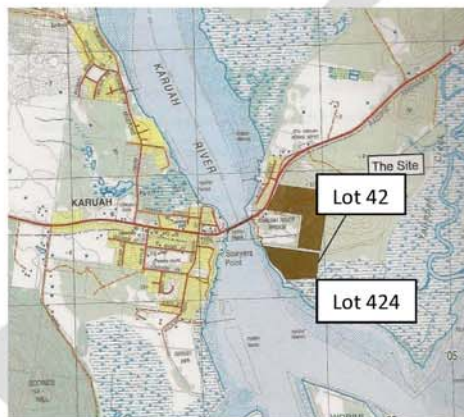
##### Lots 42 DP 835833 and 424 DP 95438, 500 Tarean Road (north) Karuah.

This proposal embraces land beyond the eastern and southern boundaries of LAP Area 2. The Great Lakes Rural Living Strategy and the Mid North Coast Regional Strategy extend the area proposed for

residential development beyond that proposed by the Local Area Plan. This rezoning proposal extends the area for development further again, to the south and east.

An ecological assessment has been undertaken by the applicant but no other studies have been received by the Council. Following a review of the ecological assessment by Great Lakes Council, Council officers advised in 2009 that any urban development should be restricted to the area identified for urban expansion in the Mid North Coast Regional Strategy (see Figure 6), and that the balance of the land proposed for rezoning by the applicant is likely to be required for ecological offsets.

**Figure 8: Proposed rezoning- Karuah (Great Lakes)**



Source: GLSC

**LAP Area 3:**

Draft Amendment 27 -Lot 52 DP735066 44A Tarean Road.

This proposal embraces land, North of Tarean Road, to the East of LAP Area 3, and seeks to expand the proposed residential area of the Karuah Local Area Plan further to the east. The land is generally covered by woodland and drains into a nearby SEPP14 wetland. The proposal seeks to rezone land to 2(a) Residential (10.97 ha), B1 Neighbourhood Centre (0.41 ha), and 7(a) Environmental Protection. It proposes a small neighbourhood shopping centre and mixed use on Tarean Road, and residential development of approximately 170 dwellings on the western side of the site, with the balance being rezoned for conservation purposes.

In 2006 Council resolved to prepare an amendment to the Port Stephens LEP 2000. The Department of Planning advised in 2007 and again in 2008 that it would not support the proposal because it was within the Watagan Stockton Green Corridor of the Lower Hunter Regional Strategy, and because there appeared to be ample residential land already available in LEP amendments underway (i.e. Draft Amendment 24). The proposal has not progressed as a result.

**Not included in the Local Area Plan:**

Lots 20 and 21 DP 579653, 290 Tarean Road. This proposal is to the west of Area 1, west of the existing urban area, and to the south of LAP Area 3. It is located on the southern side of Tarean Road. Lot 20, fronting the Tarean Road, is largely cleared, with some woodland in its southern section, and Lot 21 is largely woodland. The proposal seeks to rezone Lot 20 to 2(a) Residential and Lot 21 7(a) Environmental Protection (20 ha). A yield of approximately 127 dwellings/lots could occur. In 2007 Council resolved to prepare an amendment to the Port Stephens LEP 2000 to provide 25 lots in the Northern part of the site. In response the Department of Planning advised in 2009 that it did not support the proposal because it was outside of the nominated urban release areas of the LHRS, and that there was a need for a wider review of potential urban development and conservation outcomes in Karuah. The proposal has not progressed as a result.

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**Sewer and Water supply capacity**

The Hunter Water Corporation provides sewerage treatment services to Karuah. The treatment facility is located to the west of the village, north of Tarean Road, and consists of a treatment plant, storage dam for the treated water and an irrigation/transpiration area. Its location is shown in Figure 11.

The sewerage system currently caters for 460 ET (water connections). There is capacity for an additional 100-150 dwelling connections before an upgrade is required to the transpiration area. This upgrade will increase the capacity of the system to 840 ET, or by around 280 ET and is likely to occur in 2014.

An additional upgrade, to the storage dam, would theoretically increase the capacity to 1300 ET. However, limitations to the treatment plant would prevent the system managing more than 1140 ET.

Expansion of the system beyond 1140 ET requires an expensive upgrade to the treatment plant, and shortly after another upgrade to the irrigation/transpiration area would be required to provide capacity beyond 1300 ET. These two constraints may provide an economic and environmental limit on the ability of the sewerage treatment system to expand further (it is surrounded by national park on two sides, and the highway on another. At the current population growth rates, this issue will not be critical for another 25-30 years.

**Table 5: Sewerage system capacity**

	ET (dwellings)	Upgrade cost	Upgrade timing	Estimated population at infrastructure capacity	Population increase from 2006 to reach capacity	Year to reach capacity (approximate)		
						@ 10 dwellings / year	@ 20 dwellings / year	@ 30 dwellings / year
<b>Current connections</b>	460	-	-	-	-			
<b>Current capacity</b>	570	-	-	1368	510	2021	2016	2010
<b>After irrigation upgrade</b>	840	\$1.5-2 million	2014 (notional)	2016	1158	2048	2029	2022
<b>After storage dam upgrade</b>	1140 (limit of treatment plant)	\$1.5-2 million	Not programmed yet	2736	1878	2078	2044	2032
<b>Major upgrade required</b>	Above 1140	Unquantified-many millions	Not programmed yet					

\* additional population estimated at 2.4 people/dwelling (id projection occupancy ratio for 2031, also s94 Plan)

The sewerage system is not a constraint to the growth of Karuah in the medium term. Two upgrades can provide sufficient capacity to meet the needs of around triple the current population. This assumes a slightly younger incoming population with larger households). In the long term, the sewerage system may require substantial investment, and/or innovative solutions to provide services to a larger population in a cost effective and environmentally acceptable manner.

The water supply system has sufficient capacity to meet the needs of the above population, provided incremental upgrades occur.

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### Issues

A number of issues were identified from the Karuah Strategy Key Document Summary. These issues have been used to provide a framework within which the preliminary growth strategy could be developed. Each of the issues/characteristics of the local area was assessed and a response was developed. These are shown in the table below:

Table 6: Issues assessment

Issue/Characteristic	Response
The existing settlement is a linear form along the river and Tarean Road.	New development should aim to achieve a more compact and connected settlement pattern.
Additional population will assist economic recovery.	Land should be available for urban development to meet demand in a variety of markets.  Marketing strategies will be needed to attract target markets.  Complementary economic drivers also need to be explored.
National Parks are present to the north and south of the village.	Habitat links should be maintained to link the national park system.
SEPP 14 wetlands exist to the south, and adjacent to the village.	Development should maintain a buffer to the wetlands and runoff quality should be well managed.  The wetlands should be linked to the habitat corridors to facilitate their ecological functions.
Substantial areas of endangered ecological communities exist.	These areas should form the basis of the habitat corridors.
The village has a rural "leafy" appeal.	Development should seek to maintain and enhance this characteristic, particularly on the approaches to the village by avoiding outwards sprawl.
Natural areas are visible from most parts of the village	Development should maintain visual access to natural areas.  Identify visual corridors.
The "core" of the village is located close to the western bank of the river.	Development should seek to reinforce the core of the village, i.e. the village centre.  There is scope for additional commercial and mixed use development in the village centre.
The settlement along the river to the north of the village is relatively isolated.	New development should seek to better link this area to the rest of the village. Through cycleways and shared paths.
Many areas surrounding the village are low lying and flood prone.	Development should avoid these areas.
The sewerage system can be progressively upgraded to cater for substantial growth.	Provided timely staged upgrading occurs, the capacity of the sewerage system is not a constraint in the medium term (25 years+).



Issue/Characteristic	Response
More local employment is needed, and needs to diversify.	<p>Additional urban development will provide increased local demand for goods and services. The development of a small light industrial area will help diversify jobs.</p> <p>Marketing strategies will be needed to attract potential businesses.</p>
Community facilities must meet local needs.	<p>The community centre has recently been upgraded and a child care centre constructed. The surrounding land has space for the expansion of these facilities if required, and new development will provide funding to undertake upgrading, through appropriate s94 contributions</p>
The environmental constraints will limit growth.	<p>Land needs to be identified for new urban development outside of environmentally sensitive areas. The environmental characteristics of Karuah contribute to its appeal as a place to live.</p> <p>The LHRS green corridor boundaries should be reviewed when more detailed environmental information is available.</p>
New development will require biodiversity offsets.	<p>The habitat corridor system will provide greater certainty as to which land could be developed. It also provides a framework for land to be dedicated to achieve biodiversity goals- which makes the identification of suitable offsets easier.</p>
Land further west and east of the village should be developed	<p>Local and State Government policy is to reinforce existing settlements by encouraging new development within or adjacent to these settlements. Development located further from an existing settlement increases capital and recurrent infrastructure and servicing costs. It also does not contribute to the development of a coherent settlement and generates excessive travel trips.</p>
Additional land should be rezoned for urban development	<p><b>A broad staging plan is necessary to ensure that infrastructure can be provided efficiently and to prevent isolated settlement.</b></p> <p>Excessive "rationing" of land should be avoided.</p>

### Strategic objectives for Karuah

The above assessment of issues has highlighted a number of priorities which should be reflected in the planning of Karuah. These include:

- Village character and amenity
- Viability of the village centre
- Access to retail and community services
- Housing choice and diversity to meet market needs
- Employment, and opportunities for economic development
- Avoidance of risk (land use conflict, physical constraints)
- Protecting natural resources and assets
- Infrastructure provision and capacity

The achievement of the listed priority issues should direct the planning and development of Karuah if the future village and its surroundings are to meet the needs of the community and protect its environmental assets. Accordingly, a series of objectives have been developed to provide the basis for a growth strategy, as follows:

1. Future development should maintain the relaxed “rural” appeal of the village.
2. New development should reinforce the existing village by contributing to a compact and connected settlement pattern.
3. The retail and community services functions of the existing village centre should be reinforced by ensuring these services locate within this “core” area.
4. Population growth should be sufficient to support viable retail and community services which meet local needs.
5. Land supply and housing choice should be adequate to meet potential demand from a range of target markets.
6. Employment opportunities for existing and new residents should be nurtured.
7. The natural assets of the area should be protected.
8. Habitat corridors should link important natural assets.
9. The future settlement pattern of Karuah should respond to the natural assets of the area
10. Development should avoid natural hazards such as flood prone land, low lying land and bushfire prone land
11. The growth of the village should be co-ordinated with infrastructure capacity and improvements

These objectives, together with the issues and characteristics discussed in the “issues” table above, have been used to identify and test various land use options.

### Land Use Options

A number of urban growth options were developed by using the 2003 Karuah Local Area Plan as a reference point. The proposed settlement pattern of the Local Area Plan and other identified opportunities for development were tested against the objectives listed above, and a modified growth strategy developed as a result.

This evaluation was informed by information on topographic and environmental conditions and development constraints held by Port Stephens Council, information contained in planning studies and rezoning reports, and notional habitat corridors provided by the Department of Environment, Climate Change and Water. In addition the policy framework provided by the Port Stephens Community Settlement and Infrastructure Strategy, the Karuah Local Area Plan, the Lower Hunter Regional Strategy, the Lower Hunter Conservation Plan and the Mid North Coast Regional Strategy was considered.

Environmental factors, such as the presence of flood prone lands, SEPP 14 wetlands, waterways, and endangered ecological communities were used as a framework within which land suitable for urban development could be identified.

The presence of national parks, and the sewerage treatment facility constrained the available land on the periphery of the village.

The Lower Hunter Regional Strategy and Mid North Coast Regional Strategy encourage new urban development to occur within, or adjacent to existing settlements. Social considerations such as ensuring easy access to schools, shops and services also support the reinforcement of existing centres. Consequently, the land evaluation process focussed on land close to the existing village, and on ensuring that new development functioned as an extension of the existing village, rather than as an isolated settlement on its outskirts.

A number of options arose from this analysis, and Table 7 provides a rationale for these.

**Table 7: Assessment of land use options**

	Option	Reason
1	LAP Area 1 be extended to the south west in order to incorporate all land included in Draft Amendment 24- various lots, Wattle and Holdom Road.	This option recognises that the "Riverside Glades" subdivision is underway and partially developed, and that Draft Amendment 24 is close to finalisation.
2	LAP Area 2 be expanded on the eastern side of the river.	This option would include the land identified for land release in the Mid North Coast Regional Strategy and Great Lakes Rural Living Strategy. The land adjacent to the existing settlement is mainly cleared.

	Option	Reason
3	LAP Area 3 include land on both sides of Tarean Road.	This land is adjacent to the existing settlement. The land is mainly cleared. It is relatively close to the village centre. The wooded part of the existing LAP Area 3 has been categorised for further investigation because of possible biodiversity impacts.
4	The eastern part of the existing Area 3 which affects wooded land adjacent to the SEPP 14 wetland has been categorised as “insufficient information (biodiversity and land capability)”	The land proposed for further ecological investigation before land use options other than conservation can be considered, (i.e. it is no longer included in LAP Area 3). This is consistent with the Lower Hunter Regional Strategy which identifies this land as part of the “Green Corridor”. Ecological investigations will determine an appropriate boundary for urban development and habitat corridors.
5	A larger area of mainly cleared land to the north of LAP Area 3 be retained as large acreage rural land.	This land is not currently needed for urban development. It is recommended that it be maintained as a large rural holding.
6	A major north-south habitat corridor be designated to the east of LAP Area 3.	The proposed corridor will link the national park and wetlands to the south of the village with the national park to the north. This habitat corridor also provides a long term growth boundary for residential development because all the identified medium-long term land releases are located to the east of the corridor.
8	A second north south habitat be designated to the west of the golf course and sewerage treatment facility. It also links to the national park and wetland in the south, and to the national park in the north.	It links to the national park and wetland in the south, and to the national park in the north.
9	Between the two habitat corridors is an area which contains the sewerage treatment facility, golf course and land which requires further land capability and environmental assessment before its development potential can be assessed.	<p>There is insufficient available information on the land “requiring further assessment” to determine a potential land use. In any case it is unlikely to be required for urban purposes for a very long time because of the quantum of identified potential land release further to the east, and because of its distance from the village.</p> <p>The golf course is potentially constrained by habitat corridors to the east, west and south. However expansion may be possible pending ecological and land capability assessment.</p> <p>The sewerage treatment facility occupies a significant amount of land and its expansion is constrained by national parks to the north and south, as well as a habitat corridor to the east.</p>

		This has implications for its ability to service Karuah in the long term (20+ years).
10	The land around the timber mill has potential as the focus of a small light industrial area for the village.	The timber mill is effectively an industrial land use. The area is located sufficiently far from potential residential areas to operate as a light industrial area without being unduly constrained by operational impacts on residents. It has good access to Tarean Road. It should be noted that a number of rural residential properties exist in the area which may restrict this option.

If these options are pursued the Karuah Local Area Plan could be revised to deliver the following lot yields:

Modified LAP Area 1 (Table 7 Item 1)- rezoning underway estimated yield 166 lots

Modified LAP Area 2: Karuah (east): south of Tarean Road including the undeveloped existing village zone (Table 7 Item 2) approximately 200 ha, however this land is significantly constrained by steeper slopes and some vegetation, estimated yield 100 lots.

Modified LAP Area 3:

- North of Tarean Road approx. 12 ha, estimated yield 120-180 lots (Table 7 Item 3)
- South of Tarean Road approx. 10 ha, estimated yield 100-150 lots (Table 7 Item 3)

In total, these options could potentially deliver 486-596 lots. Taking a conservative approach based on the considerable environmental constraints in the area, potential exists for around 500 lots. There are approximately 100 vacant or potential lots in the urban zoned area of Karuah, making a total of 600 potential lots available on urban zoned land or on land identified as having development potential within the modified LAP areas. This number of lots could provide sufficient housing for a doubling of Karuah's population (there are 460 occupied dwellings at present).

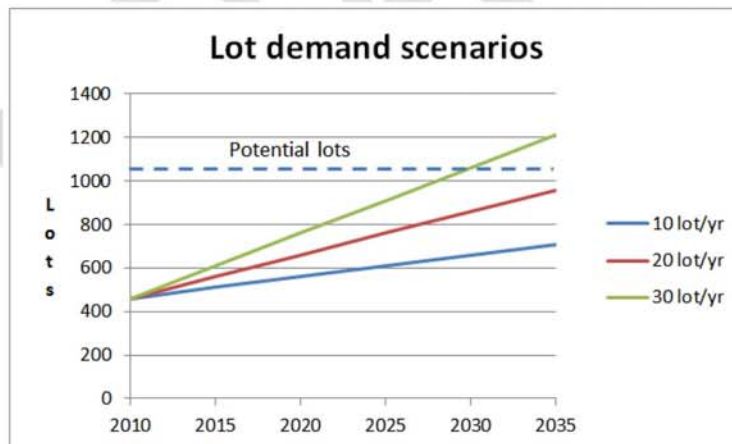
**Growth rates and land demand**

Using id’s projection of 11 additional dwellings per year, it will take approximately 54 years for demand to take up the 600 identified potential lots around Karuah. It is unlikely that Karuah’s growth rate will decrease below an average of 11 dwellings per year, and it is more likely that a higher growth rate will be achieved. This is because Karuah is a more attractive place to live since the construction of the highway bypass, there has been considerable recent investment in community infrastructure, the business community is beginning to rebound after a dramatic reduction in highway trade, and there is likely to be new land developments which will offer greater housing choice than previously.

Figure 8 shows the lot take up until 2035 at average demand levels of 10, 20 and 30 lots per year respectively. The identified potential lots would be more than sufficient to satisfy demand to 2030 even if demand is triple (30 lots/yr) the current level. However, if land demand was triple the current level, rezoning investigations to provide additional land for housing would need to commence at least 5 years prior to the anticipated full take up of available supply.

Until at least 2025 there does not appear to be a need to identify additional land as having urban potential beyond that already identified. However, there is a need to monitor land take up and demand to ensure that sufficient urban zoned land is available, and to allow additional potential urban land to be identified and rezoned should this be required.

Figure 9: Lot demand scenarios

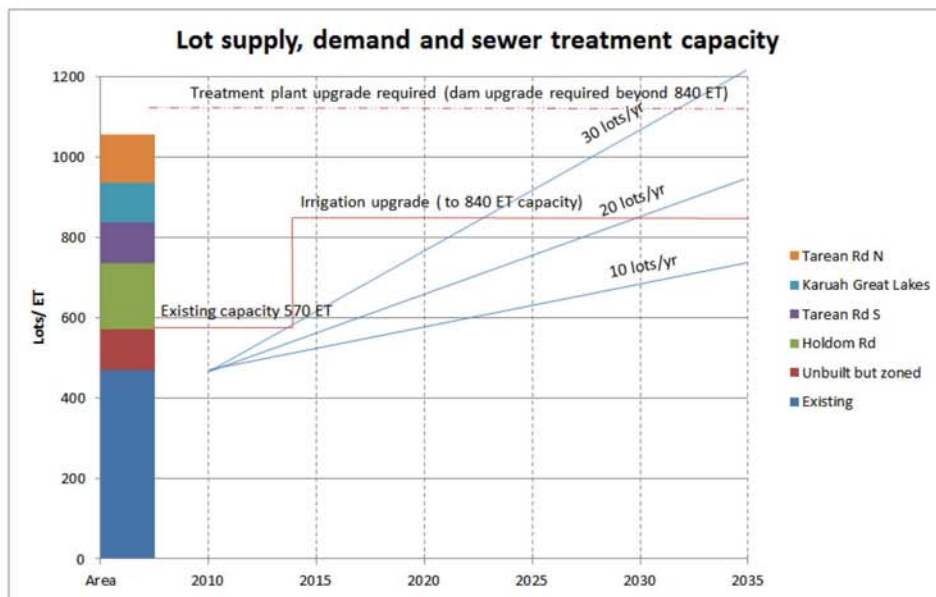


The sewerage scheme will require a significant upgrade of the treatment plant at 1140 ET (dwellings). This capacity constraint is unlikely to be experienced until after 2030 even if land demand triples to 30 lots/year as shown in Figure 9. Consequently, other than the need to undertake incremental upgrades to the dam and irrigation system, the capacity of the sewer system does not appear to pose a constraint on development for the several decades. The 1140 dwelling/lot capacity constraint involves a major upgrade for the treatment plant, as well as the need to find

additional dam storage and/or irrigation areas (which may be difficult). As a result, solutions to this issue would need to be addressed well in advance of reaching the capacity constraint (preferably by 2025, at high land demand levels), reinforcing the need to closely monitor land take up and demand.

It should be noted that the sources of land shown on the left hand side of Figure 9 are for illustrative purposes and not necessarily indicative of development sequencing or timing.

Figure 10: Lot supply, demand and treatment capacity



### **Sustaining Community and Economic Services and Facilities**

It is important that there are sufficient residents in Karuah to support viable community and commercial services in the village. As the village grows, adequate facilities also need to be available to meet the needs of new residents. The following discussion is based on the growth scenarios which were outlined in the previous section.

At growth rates of 10, 20 or 30 dwellings/year, Karuah could have a population of 1704, 2304 or 2904 respectively in 2035. Id forecast a population of the larger Karuah/Swan Bay/Twelve Mile Creek Planning District of 2102 in 2031 (based on a continuation of existing growth rates of 11 dwellings/year and 2.4 persons/dwelling).

Even at an upper growth rate of 30 dwellings/ year, Karuah will be a relatively small community of just over 2900 people, with a services and retail catchment of perhaps another 500 people. Because of the closeness of Raymond Terrace (20 minutes by car), considerable "leakage" of retail and service patronage will occur from Karuah to Raymond Terrace, meaning that the village will provide less patronage of local shops and services than if it were a more isolated settlement.

This means that transport to larger settlements is important, particularly to Raymond Terrace. Public transport to Karuah has a relatively low frequency, although there are 14 services passing through the village each day. Most services are long distance coaches rather than local bus services. Port Stephens Community Transport provides a service to Raymond Terrace every Friday and every second Wednesday, and at other times subject to the availability of vehicles.

The number of students at Karuah Public School was 140 in 2005, however this progressively declined to 78 in 2009, and has now increased to 83. Increased Kindergarten enrolments indicate that the school population will continue to grow. The school can expand its enrolments to at least its previous level of 140, an increase of 75% or around 60 students, without significant new capital investment.

Health care is a concern of many communities, particularly those with a relatively small population. Karuah is fortunate is having secured the services of a general practitioner. Community health care professionals visit Karuah and use community buildings as their base when this occurs. Other than an expansion of GP services, Karuah is unlikely to grow its population sufficiently to attract a health facility, such as a community health centre. As a result, Karuah residents will continue to access community health services at Raymond Terrace, and hospital based services at Buladelah, Newcastle and Maitland.

Karuah has a recently updated community hall, several church owned halls and buildings, the Karuah Centre (former BP service station), a community hall at the Aboriginal community, and the RSL Bowling Club. All these buildings provide a range of community spaces, and based on the Port Stephens Council adopted community facility standards (AEC), they have substantial capacity to meet community needs arising from population growth before additional space is required.

The newly constructed multipurpose child care centre provides accommodation for the preschool, and has capacity to meet community needs arising from population growth for some time.



Sporting facilities at Karuah include 4 tennis courts, 2 basketball courts, and an informal BMX track, located adjacent to the community hall on Engle Avenue; and the Lionel Morten oval which includes a cricket pitch and amenities.

While the land occupied by Lionel Morton oval complies with Council's minimum of 3 ha for a sportsfield, part of the land cannot be used for sporting purposes because it contains a wetland and associated buffer vegetation. Because there is no room for expansion on the existing site, it is likely that a site for an additional sportsfield, or preferably an alternative site for a new integrated complex to replace the existing facility, will ultimately need to be obtained to cater for the growing population. In the meanwhile, the existing sportsfield complies with the Council's numerical standards even if the population of the village increases by 50%.

The Memorial and Longworth Parks contain a swimming enclosure, BBQs, shelters and a playground. There is also a boat ramp which is being upgraded. Notwithstanding the use of these facilities by visitors, they meet the Council's standards of provision.

In summary, the provision of community and recreation facilities in Karuah is generally sufficient to support a considerably increased population and still meet Council's numerical standards for the provision of such facilities. As the population increases there may be a need to upgrade and improve the existing facilities; however no substantial additional capital investment appears necessary. The exception is sporting facilities which will require new facilities on another site in the medium term, due to the inability to expand the existing oval. Development contributions levied by Port Stephens Council should provide most of the capital funding for any required upgrading of social and recreational facilities to meet demand, depending on State Government restrictions on development contributions.

It should be noted that the above assessment did not consider the condition or quality of the commercial or recreational facilities, and is limited to compliance with Council's numerical standards for the size or quantity of the facilities.

In relation to commercial and retail facilities, population growth in the short term is likely to lead to increased viability of the existing businesses, and some investment in new businesses in anticipation of continued growth. According to SGS, over the medium to long term (to 2031) the vacant floorspace in the village will be occupied by new or expanded businesses but there will be no need for additional floorspace. The SGS estimates are based on population projections produced by id. which in turn are based on a continuation of existing growth levels. Should growth occur at a more rapid pace, additional business activity will occur and more floorspace will be required. There is already sufficient land zoned for business purposes to enable this expansion to occur. Karuah is unlikely to have sufficient residents to support a full line large supermarket by 2030; however a smaller IGA style supermarket is likely to be viable much sooner.

In conclusion, population growth in Karuah in the short to medium term will provide additional activity and support for existing community and commercial services and facilities. Generally, there appears to be generally sufficient capacity in social and community facilities to meet additional demand at least over the short to medium term; and over that time population growth will tend to improve the viability of existing businesses rather than lead to the establishment of a large number of new businesses.

### Advantages and disadvantages of development options

A previous section of this report identified land with potential for urban development. It found that sufficient land appears to be available to cater for anticipated demand for twenty years, even if demand increases dramatically. It also found that sewerage treatment infrastructure should be adequate for at least twenty years, subject to incremental upgrades for the system.

This section aims to assess the desirability of a number of development options. In order to achieve efficiencies in the provision of infrastructure it is important to achieve a balance between an adequate supply of land for new urban development to meet demand and the immediate rezoning of every piece of land that is suitable for urban development. It is also important to facilitate the development of a compact and interconnected urban settlement pattern, consistent with the objectives of the Port Stephens Community Settlement Strategy and Great Lakes Rural Living Strategy, and their regional equivalents.

Table 8 below identifies the advantages and disadvantages of the main development options for Karuah, and proposes an appropriate response for each.

**Table 8: Advantages and disadvantages of development options:**

Option	Advantage	Disadvantage	Response
Do not expand the existing urban zoned area	<ul style="list-style-type: none"> <li>Encourages the development of vacant land in the existing urban area.</li> <li>Ensures a compact urban settlement.</li> <li>Ensures development does not impinge on ecologically significant areas.</li> </ul>	<ul style="list-style-type: none"> <li>Does not provide choice of housing location and limits target markets.</li> <li>Very restricted growth will occur under this option.</li> <li>Limited economic benefits.</li> <li>Lack of market competition in land and housing</li> </ul>	<p>It will not provide sufficient opportunities for the growth of Karuah or support for existing community and commercial facilities and services.</p> <p>This option is not preferred.</p>
Expand the existing urban area by Modified Area 1 (Holdom Road) only	<ul style="list-style-type: none"> <li>Area 1 is a logical extension of the existing urban area.</li> <li>Ensures a compact urban settlement.</li> <li>Encourages development of vacant land in the existing urban area.</li> <li>Largely cleared, limited impact on ecologically significant areas.</li> </ul>	<ul style="list-style-type: none"> <li>Provides limited choice of housing location and limits target markets.</li> <li>Limited growth likely under this option.</li> <li>Limited economic benefits.</li> <li>Limited market competition in land and housing</li> </ul>	<p>It provides for growth within a compact settlement pattern and increased housing choice.</p>
Expand the existing urban area by rezoning Modified Areas 1 (Holdom Road) and 2 (Karuah Great Lakes) only	<ul style="list-style-type: none"> <li>Areas 1 and 2 are a logical extension of the existing urban area.</li> <li>Provides an opportunity to appeal to wider</li> </ul>	<ul style="list-style-type: none"> <li>Area 2 is perceived as being distant from the village centre even though it is very close.</li> <li>Limited growth</li> </ul>	<p>Relative to expanding the village by Area 1 alone, this option provides for greater housing choice within a settlement pattern which is only slightly less compact.</p>

	<p>land and housing markets.</p> <ul style="list-style-type: none"> <li>• Greater market competition.</li> <li>• Ensures a compact urban settlement.</li> <li>• Largely cleared, limited impact on ecologically significant areas.</li> </ul>	<p>likely under this option over the medium term.</p> <ul style="list-style-type: none"> <li>• Limited economic benefits.</li> </ul>	
<p><b>Expand the urban area by rezoning Modified Areas 1 (Holdom Road), 2 (Karuah Great Lakes) and 3 (Tarean Road)</b></p>	<ul style="list-style-type: none"> <li>• Areas 1 and 2 are logical extensions of the existing urban area.</li> <li>• Area 3 is adjacent to existing urban zoned land.</li> <li>• Provides an opportunity to appeal to wider land and housing markets.</li> <li>• Greater market competition.</li> <li>• Largely cleared, limited impact on ecologically significant areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Area 3 extends the urban settlement a greater distance from the village centre.</li> <li>• Rezoning of all of these areas may deliver land for housing in excess of market demand for several decades.</li> <li>• Provides certainty of the medium term growth strategy (10-15+ years) for Karuah.</li> <li>• Increased land supply potentially increases market risk to land developers and may inadvertently reduce the actual supply of developed land.</li> </ul>	<p>Relative to expanding the village by Area 1 alone, or by Areas 1 and 2, it provides for greater housing choice within a settlement pattern which is less compact.</p> <p>It is likely that landowners will develop their land in stages to avoid oversupplying the market.</p>
<p><b>Expand the urban area by rezoning Modified Areas 1, 2,</b></p>	<ul style="list-style-type: none"> <li>• Area 1 is a logical extension of the existing urban area.</li> <li>• Areas 2 and 3 are adjacent to the existing urban zoned land.</li> <li>• Provides an opportunity to appeal to wider land and housing markets.</li> <li>• Greater market competition.</li> <li>• Limited impact on ecologically significant areas.</li> <li>• More growth likely under this option.</li> <li>• Greater economic benefits than a</li> </ul>	<ul style="list-style-type: none"> <li>• Extends the urban settlement a greater distance from the village centre.</li> <li>• <b>Urban expansion would concurrently occur in four locations, leading to infrastructure inefficiencies.</b></li> <li>• If developed all four areas will exceed the likely market demand for housing until the long term (25+ years).</li> <li>• Increased land supply potentially increases market risk to land</li> </ul>	<p>Relative to expanding the village by Areas 1, 2 and 3, it provides for even greater housing choice within a settlement pattern which is less compact.</p> <p>It provides certainty as to the settlement pattern and the location of new urban land for at least the next 25+ years.</p>

	<p>lesser expansion of the urban area.</p>	<p>developers and may inadvertently reduce the actual supply of developed land</p> <ul style="list-style-type: none"> <li>• Karuah may acquire a "half finished" appearance due to market demand being spread across a number of subdivisions.</li> <li>• Provides certainty of the long term growth strategy (25+ years) for Karuah</li> </ul>	
<p><b>Expand the urban area by rezoning all identified potential urban areas and the areas identified for "conservation status unclear"</b></p>	<ul style="list-style-type: none"> <li>• Increased market choice.</li> <li>• Increased market competition.</li> <li>• More growth may occur.</li> <li>• More growth may occur under this option.</li> <li>• Greater economic benefits may occur under this option.</li> </ul>	<ul style="list-style-type: none"> <li>• The ecological significance of these lands has not been determined, and may be high.</li> <li>• <b>Infrastructure inefficiencies are likely to arise from development occurring on multiple fronts.</b></li> <li>• Increased land supply potentially increases market risk to land developers and may inadvertently reduce the actual supply of developed land</li> <li>• <b>It is highly unlikely that the urban growth of Karuah will require such a larger area of land for many decades.</b></li> <li>• There is sufficient land for future residential development without using this land.</li> </ul>	<p>This option relies on progressing a rezoning process for land whose ecological significance is unknown, thus creating uncertainty as to the rigour underlying the Growth Strategy. <b>This option would raise expectations about the development potential of land which may not be met.</b></p> <p><b>There is no need to rezone such a large area of land for urban development. It is highly likely that much of the land will not be needed for housing for many decades in the future.</b></p>
<p><b>Delete the north south habitat corridors</b></p>	<ul style="list-style-type: none"> <li>• Potentially increases land for residential development.</li> </ul>	<ul style="list-style-type: none"> <li>• Part of the corridor is affected by physical constraints such as flood prone lands, and is undevelopable.</li> <li>• It is highly unlikely</li> </ul>	<p>This option weakens a fundamental premise of the strategy- to achieve a balance between development and the ecological values of the land.</p> <p>Development is unlikely to be permitted on</p>

		<p>that development would be permitted on much of the corridors lands because of its environmental significance.</p> <ul style="list-style-type: none"> <li>• There is sufficient land for future residential development without using this land.</li> <li>• Provides a clear framework for biodiversity offsets related to other development areas.</li> </ul>	<p>environmentally significant land- this option will raise expectations for development which are unlikely to be met.</p> <p>The corridors provide the ability to undertake a substantial expansion of Karuah while maintaining functional habitat and biodiversity links between national parks and other areas of ecological significance.</p>
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The table above indicates that the preferred option for the future development of Karuah should be the expansion of the village by progressively rezoning modified Local Area Plan areas 1, 2 and 3. This option will enable sufficient land to be made available for new development while ensuring the efficient use of infrastructure, and maintaining the areas of environmental value which provide the character and setting of the village. This option will provide market choice and certainty, while providing flexibility for the private sector to stage the release of urban land in response to market demand.

### **Growth Options Staging**

Figure 10 shows the suggested staging of the release of new urban land in Karuah. The staging plan is based on initially releasing land adjacent to the existing urban area (shown red) and progressively moving outwards. Environmentally significant land is avoided, and a biodiversity corridor will define the medium term western limit of the village (the red dashed line). There is sufficient land to accommodate urban development in Karuah until beyond 2030 at accelerated rates of growth in the identified future urban release areas.

Ultimately, the availability of land for urban development is dictated by the capacity of the sewerage treatment plant, which is provided for a series of staged upgrades. The full development of the proposed land releases in Stages 1, 2 and 3 are anticipated to consume the full capacity of the sewerage treatment plant to the point of requiring a major upgrade (1140 ET). Ultimately it will be the timing of the progressive sewerage treatment upgrades combined with market supply and demand issues that will govern the desired pace of the rezoning and development of land for urban purposes.

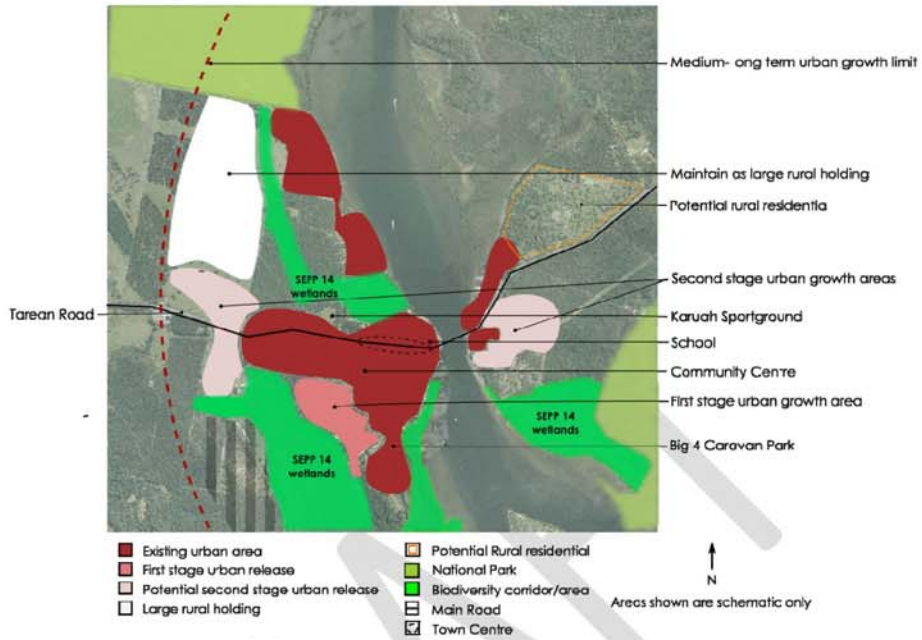
Stage 1 involves the finalisation of Draft Amendment 24 (Wattle and Holdom Road), to the southwest of the existing urban area. This land is in the final stages of the rezoning process. To provide market choice, development should commence soon after the rezoning of the land.

Stage 2 involves land on the eastern side of the Karuah River, and land to the west of the existing urban area on either side of Tarean Road. As previously discussed, rezoning proposals have commenced for parts of Stage 2. These proposals could progress through the rezoning process on the basis that modifications are made to avoid significant vegetation and that the Green Corridor issues are resolved on the northern site (other issues may arise as the rezoning process progresses). It should be noted that the Draft Amendment 27 rezoning proposal (north of Tarean Road) included vegetated land to the east of that proposed in this Growth Strategy.

There is a large area of largely rural cleared land to the northwest of the village. This land should remain as a large rural holding. There is no infrastructure capacity available to support this growth area. In conclusion, land can be released for urban development at Karuah in a logical sequence. However, it is difficult to develop a preferred timing for land release. At current rates of land development, a more conservative approach to land release would be appropriate relative to that proposed in this Growth Strategy. This Growth Strategy has assumed that improvements to the village centre, other area improvements, and improved marketing of Karuah, combined with greater market choice would boost demand to double, or even triple current rates (i.e. to 20-30 lots/dwellings per year). As a result, a more "market driven" approach to new residential is proposed.

It should be noted that as Stage 2 develops there will be an improved knowledge of the demand for land for housing, enabling consultations to be held with service providers such as the Department of Education and Training to ensure service delivery is adequate (e.g. school size and site).

Figure 11: Staging of land release



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### **Proposed Growth Strategy – building on the Karuah Local Area Plan**

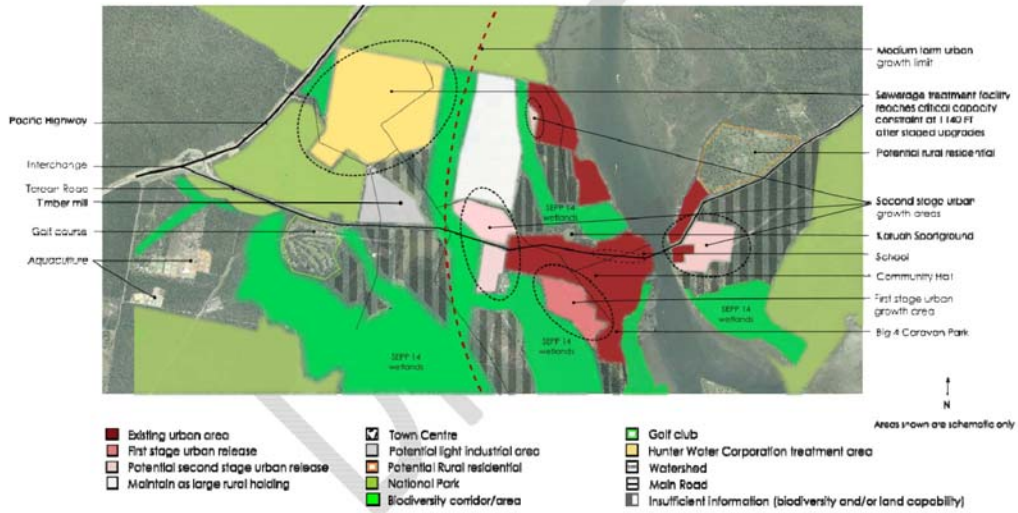
The proposed growth strategy for Karuah is shown in Figure 12. It aims to provide a clear strategy for the future development of Karuah in the context of both local and regional strategic plans.

The main elements of the growth strategy are:

- The spatial extent of Karuah is defined by the national parks and waterways that surround the town.
- A network of conservation areas and habitat corridors provides links between the national parks that surround the town, the wetlands and the river; and define the urban area.
- A staged approach to urban expansion based on progressively extending the existing urban area and reinforcing the existing village centre.
- The areas for urban expansion are located so that they make efficient use of infrastructure, and can be developed in stage in response to market demand.
- An area of rural land for large holdings is retained to the north west of the village. This land should not be developed for smaller rural holdings (rural residential), but rather continue its existing land uses for the foreseeable future. Should this land be required for urban development beyond 2030, this change of land use will not be hampered by fragmented land ownership and more intensive rural development.
- A small light industrial area is suggested to the west of the village, on the land occupied by the timber mill and adjacent land. This will permit small light industrial enterprises to establish and provide services and employment to the residents of Karuah.
- The part area of Karuah east of the river, within Great Lakes Shire, is identified for limited urban development and rural residential development consistent with the Great Lakes Rural Living Strategy. This land will provide greater market choice for new residents and is close to the village centre.
- No urban development, other than the light industrial area, is proposed to the west of a “medium term growth limit”. There appears to be no need to provide additional land for urban development east of the “growth limit” for the foreseeable future. In addition, urban expansion beyond the “growth limit” would not be consistent with the strategic objective of maintaining a compact village.
- A greater number of residents in Karuah will provide greater patronage of retail, private and community services and generate greater local employment than at present.
- New developments should explore the potential markets and offer appropriate products; otherwise growth will be very limited. The strategy aims to provide for new urban land in a variety of settings to appeal to a variety of markets.
- The identified conservation areas and corridors provide opportunities for targeted biodiversity offsets which achieve wider conservation objectives.



Figure 12: Draft Karuah Land Use Strategy



### **Complementing land use strategy with economic and community development**

It is critical the urban development strategy be accompanied by economic and community development strategies, including place making and cultural development. The Karuah Strategic Plan Beyond 2008 is intended to build upon and update the Karuah Community and Economic Redevelopment Plan, and was developed by Business Port Stephens in conjunction with the Karuah Working Together Committee and a range of other local stakeholders. It provides the basis for a forward plan to build the village's economic and community capital.

The top identified priorities are:

- Keep Main Street open and uncluttered
- Karuah Town and Business Development Strategy
- A person to promote/co-ordinate tourism and marketing
- Waterfront promotion: boat hire, coffee shop, oyster sheds/industry
- Develop historical points of interest
- Longworth Park redevelopment

Strategies identified within 5 theme areas were:

- Marketing:
  - Upgrade Visual Karuah (e.g. style guide and planning controls): short term
  - Develop festivals and events: short/medium term
  - Develop Karuah attractions: medium term
  - Develop marketing opportunities: medium term
- Tourism:
  - Implement and monitor tourism development activities, e.g. form a working party, target markets, adopt and promote Karuah brand and positioning: short/medium term
  - Develop opportunities for co-operative tourism e.g. information pack for accommodation compendiums, develop the web site, investigate highway billboard: short/medium term
  - Develop the Karuah Product Base e.g. further develop and promote the wetland , opportunities to further develop river parks, aboriginal tourism product: short/medium term
  - Activate market and promote tourism, e.g. build positive local support for tourism, information to selected target areas, external tourism partnerships, interpretive signage: short/medium term
- Infrastructure:

- Improve and maintain local infrastructure, e.g. remove visual clutter and upgrade the Main Street streetscape, improve the entrance to the wetlands, improve community facilities e.g. oval, parks, BMX track, public toilets: short/medium term
- Develop major infrastructure, e.g. link the riverside parks and wetlands to the Main Street, improve the foreshore, underground electricity cables, further develop the playground at Longworth and Memorial Parks: short to long term
- Business Development:
  - Promote business development, e.g. identify gaps in the business mix, fill gaps, develop shop local campaign: short to medium term
  - Develop identified opportunities with local food producers, e.g. co-operative marketing, local growers market: medium term
  - Develop the Karuah Centre with a sustainable plan, create opportunities for business development and jobs growth within the Centre: short to medium term
  - Establish a Business Development Assistance Program e.g. business “can do” culture, business skills development, networking: short to medium term
  - Develop Local Aboriginal Business: short term
- Community Development:
  - Create opportunities for youth, e.g. youth group, employment opportunities, revitalise BMX track, skate park short to medium term
  - Enhance cultural assets, e.g. aboriginal cultural recognition in the Main Street, cultural development and awareness such as local history, cultural events and activities, art and craft opportunities short to medium Term
  - Opportunities for community development, e.g. school’s role as a community hub, church involvement with the community, walking school bus, child friendly communities program, integrated school and community activities, community capacity building such as adult computer classes, community forums and gatherings short to medium term
  - Environmental development e.g. further development of the wetlands, increase environmental awareness.

### **Conclusion and Development Staging**

The assessment of opportunities and constraints for Karuah has identified that there is considerable potential to expand the village of Karuah.

A number of areas adjacent to the existing village appear to be suitable for urban development. The assessment of growth options has refined the growth areas identified in the Karuah Local Area Plan, but maintained its basic approach of three growth areas- to the east, west and southwest of the village. One of these sites is in the final stages of rezoning, and at least three others have requested rezoning.

There is spare capacity in the sewer system for 5 years of growth at double current growth rates, and an upgrade is notionally programmed for 2014, which will provide sufficient capacity to cater at least 20 years growth. The system is capable of a further incremental upgrade which would permit the village to grow around triple its current population, after which a major upgrade and/or a solution will be necessary.

In order to provide market competition and land/housing choice there is merit in Stage 1 and Stage 2 of the land release program progressing. While this could lead to an excess of land theoretically available for development, the closeness of these sites to the existing village, combined with the staging of subdivision development in response to market demand, means this should not create difficulties. Because of the advanced stage of Area 1 ("Stage 1") in the rezoning process, this is likely to develop before new development in modified Areas 2 and 3 ("Stage 2") in any case.

Where biodiversity offsets may be necessary as a result of the development of these areas, the proposed habitat corridors provide a suitable location for the acquisition of land as a biodiversity offset. Preference for offsets should be directed to these corridors in order to achieve the strategic balanced approach to development described in the preliminary growth strategy.

Population growth will underpin the local business community which in turn will be able to provide an increased range of good and services. The spatial area of the existing 3(a) Business zone is sufficient to meet the needs of the business community for the foreseeable future.

The increased availability of land for housing in a variety of locations around the village should increase the attractiveness of Karuah to new residents. This should increase growth rates above existing levels. However, even if growth rates triple Karuah will remain a relatively small settlement of under 3000 residents at least until 2035.

ATTACHMENT 2

Draft Development Control Plan Chapter Karuah

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**B99  
Karuah**

**C99.1 Where this part applies**

This DCP applies to land within the area shown edged in a solid black line in Figure 1.



Figure 1: Land application map

**C99.2 Background**

Karuah is a relatively small village which has suffered adverse economic impacts as a result of the construction of a highway bypass. At the same time, the bypass has improved the amenity of the village by removing large volumes of traffic from the main road that bisects the village. Freed from the busy highway traffic, Karuah now has the opportunity to grow in a way which takes full advantage of its relaxed leafy riverside ambience.

The Karuah locality provisions of the Port Stephens Development Control Plan (DCP) aims to implement the Karuah Growth Strategy by providing development guidelines specific to Karuah, and which supplement the general development guidelines of the DCP.

The Lower Hunter Regional Strategy and Port Stephens Community Settlement Strategy identify potential urban development land to

the south and west of Karuah. In addition, the Mid North Coast Regional Strategy and the Great Lakes Rural Living Strategy identify potential urban development land to the east of Karuah.

Should this potential urban land be zoned from its current non urban zoning, this will lead to a substantial growth of Karuah. However, this growth will not occur rapidly unless there is a dramatic change in the demand for housing in the township.

These locality provisions describe the land for urban expansion, and contain a sequencing plan for their rezoning and development (subject to detailed site investigation and market demand).

**C99.3 Objectives**

1. Future development should maintain the relaxed "rural" appeal of the village.
2. New development should reinforce the existing village by contributing to a compact and connected settlement pattern.
3. The retail and community services functions of the existing village centre should be reinforced by ensuring these services locate within this "core" area.
4. Population growth should be sufficient to support viable retail and community services which meet local needs.
5. Land supply and housing choice should be adequate to meet potential demand from a range of target markets.
6. Employment opportunities for existing and new residents should be nurtured.
7. The natural assets of the area should be protected.
8. Habitat corridors should link important natural assets.

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Karuah**

- 9. The future settlement pattern of Karuah should respond to the natural assets of the area
- 10. Development should avoid natural hazards such as flood prone land, low lying land and bushfire prone land
- 11. The growth of the village should be co-ordinated with infrastructure capacity and improvements
- 12. The design of development should aim to minimise ongoing infrastructure costs and optimise development potential, including neighbouring potential development sites.

C99.P7 An area of rural land for large holdings is retained to the north west of the village. This land should not be developed for smaller rural holdings (rural residential), but rather continue its existing land uses for the foreseeable future. Should this land be required for urban development beyond 2030, this change of land use will not be hampered by fragmented land ownership and more intensive rural development. This is shown in Figure 7.

C99.P8 A small light industrial area could potentially be located to the west of the village, on the land occupied by the timber mill and adjacent land. This will permit small light industrial enterprises to establish and provide services and employment to the residents of Karuah. This is shown in Figure 7.

**C99.4 Main elements**

**PRINCIPLES**

- C99.P1 New development builds Karuah's character as coastal riverside village.
- C99.P2 The mainstreet character of village centre in Tarean Road is maintained and enhanced.
- C99.P3 Urban expansion is staged and based on progressively extending the existing urban area and reinforcing the existing village centre. This is shown in Figure 6.
- C99.P4 The areas for urban expansion are located so that they make efficient use of infrastructure, and can be developed in stage in response to market demand.
- C99.P5 Potential extensions of Karuah township are identified to the south and to the west of the existing urban area. These are shown in Figure 7.
- C99.P6 A potential extension of Karuah township to east of the river, within Great Lakes Shire, is identified for limited urban development and rural residential development consistent with the Great Lakes Rural Living Strategy. This is shown in Figure 7.

C99.P9 No urban development, other than the light industrial area, should occur to the west of a "medium term growth limit". Urban expansion beyond the "growth limit" would not be consistent with the strategic objective of maintaining a compact village.

C99.P10 New developments should explore the potential markets and offer appropriate products; otherwise growth will be very limited. The locality provisions aim to provide for new urban land in a variety of settings to appeal to a variety of markets.

C99.P11 A network of conservation areas and habitat corridors provides links between the national parks that surround the town, the wetlands and the river; and define the urban area. This is shown in Figure 5.

C99.P12 The identified conservation areas and corridors provide opportunities for targeted biodiversity offsets which achieve wider conservation objectives.

C99.P13 The design of roads and parking infrastructure in the town centre and adjacent open space should provide for ease of access by boating, caravanning and recreational vehicle (RV) users, in

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**B99  
Karuah**

recognition of those important tourism markets of Karuah.

**C99.5 Town Centre**

The town centre has two precincts- the primary pedestrian precinct and the secondary commercial area. These precincts are shown in Figure 2.

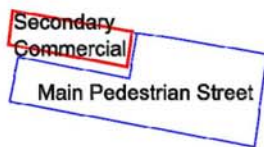


Figure 2: Commercial Area Precincts

**PRIMARY PEDESTRIAN STREET as shown in Figure 2**

**PRINCIPLES**

C99.P14 The primary pedestrian area of the main street shown in Figure 2 is the location of most retail and pedestrian activity.

C99.P15 A greater sense of enclosure of the main street is created by building form.

C99.P16 Footpath tree planting assists in enclosing the main street and creating a pleasant human scale environment.

C99.P17 Buildings overlook and address the street.

**DEVELOPMENT CONTROLS**

C99.P18 Ground floor uses must be commercial and/or retail, with residential uses or commercial uses on the upper floor.

C99.C1 Car parking must be located at the rear of the building.

C99.C2 Upper floor balconies of residential uses on the upper floor must have a balcony of a minimum of 75% of front facade length.

C99.C3 Buildings must be articulated and have timber and/or masonry external finishes.

C99.C4 Roof sheeting must be metal with a pitch between 15° and 33.5°. A roof pitch of 22.5° is preferred.

C99.C5 Curved roof forms are not permitted.

C99.C6 Timber and masonry parapets are acceptable where facing the principal street frontage.

**Secondary Commercial area as shown in Figure 2.**

**PRINCIPLES**

C99.P19 The secondary commercial area of the main street is less intensive than the primary pedestrian area.

C99.P20 Footpath tree planting assists in enclosing the main street and creating a pleasant human scale environment.

C99.C7 Car parking is preferred to be located at the rear of the building; however car parking can be located at front of buildings where a landscaping area of a minimum 2 metres width, with low understorey landscaping (maximum height 600mm) with frequent pedestrian crossings and higher canopy trees, provided at the front property boundary.

C99.C8 Service vehicle access and loading bays must be provided at the side or rear of buildings.

C99.C9 Awnings must be provided at customer entry points.

C99.C10 Entry points to buildings on corner allotments should be provided at that corner.

C99.C11 Entrances must be visible from the street and are expressed as such in the building form and facade.

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Karuah**

C99.C12 Signage is integrated into the facade of the building.

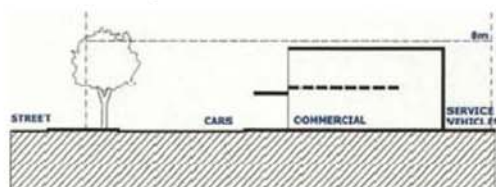


Figure 3: Schematic development concept of setback building option

**C99.6 Waterfront Industry**

This Section applies to land adjacent to the Karuah River that is occupied by industrial or commercial uses, such as those related to oyster farming, marine repairs and the like.

PRINCIPLES

C99.P21 Marine related waterfront industry, such as oyster farming related industry should remain and retain its rustic appeal, however the attractiveness of outdoor storage areas should be improved.

C99.P22 The access road to the waterfront industry premises to the south of Barclay Street should be formalised.

DEVELOPMENT CONTROLS

C99.C13 Structures must be single storey.

C99.C14 Simple rectilinear forms must be used.

C99.C15 Buildings must be clad in metal and/or timber.

C99.C16 Buildings must be articulated using simple rectilinear stepping and exposed portals and framing.

C99.C17 Roof pitches should be generally less than 10 degrees.

**C99.7 Residential**

PRINCIPLES

C99.P23 Lower density residential development occurs in areas further away from the town centre.

C99.P24 Development is consistent with the coastal village theme of Karuah.

DEVELOPMENT CONTROLS

C99.C18 Balconies and terraces must face the street for a minimum of 50% of facade length.

C99.C19 Buildings have a physical appearance of 2 storeys in height.

C99.C20 Buildings must have a lightweight "coastal" appearance as depicted in the NSW Coastal Design Guidelines.

C99.C21 Curved roof forms are not encouraged on buildings.

**C99.8 Connectivity**

PRINCIPLES

C99.P25 It is easy to get around Karuah by motor vehicle, bicycle and foot.

C99.P26 Buses access to enable people to live no more than 400m from a bus stop.

C99.P27 New urban areas are well connected to the existing town.

C99.P28 Walk and cycling is convenient and safe.

C99.P29 Residential streets are low speed.

DEVELOPMENT CONTROLS

C99.C22 The positioning and design of movement networks must give priority to:

- Walking cycling and public transport networks before private motor vehicles.
- Natural topography ,such as views and drainage.
- Important destinations and activity centres.



*DRAFT Port Stephens Development Control Plan 2007*

**B99  
Karuah**

C99.C23 New subdivisions must contribute towards the development of a town wide pedestrian and cycling network.

C99.C24 New urban areas must have a road network generally consistent with that shown in Figure 4.

C99.C25 Subdivisions must be designed to achieve connectivity internal and external to the subdivision, and no dead end streets (unless unavoidable).

C99.C26 Where possible, new urban areas must have at least one, and preferably multiple connections, to the existing township.

C99.C27 Off road shared pedestrian cycle paths should be generally developed as shown in Figure 4 (dotted black line).

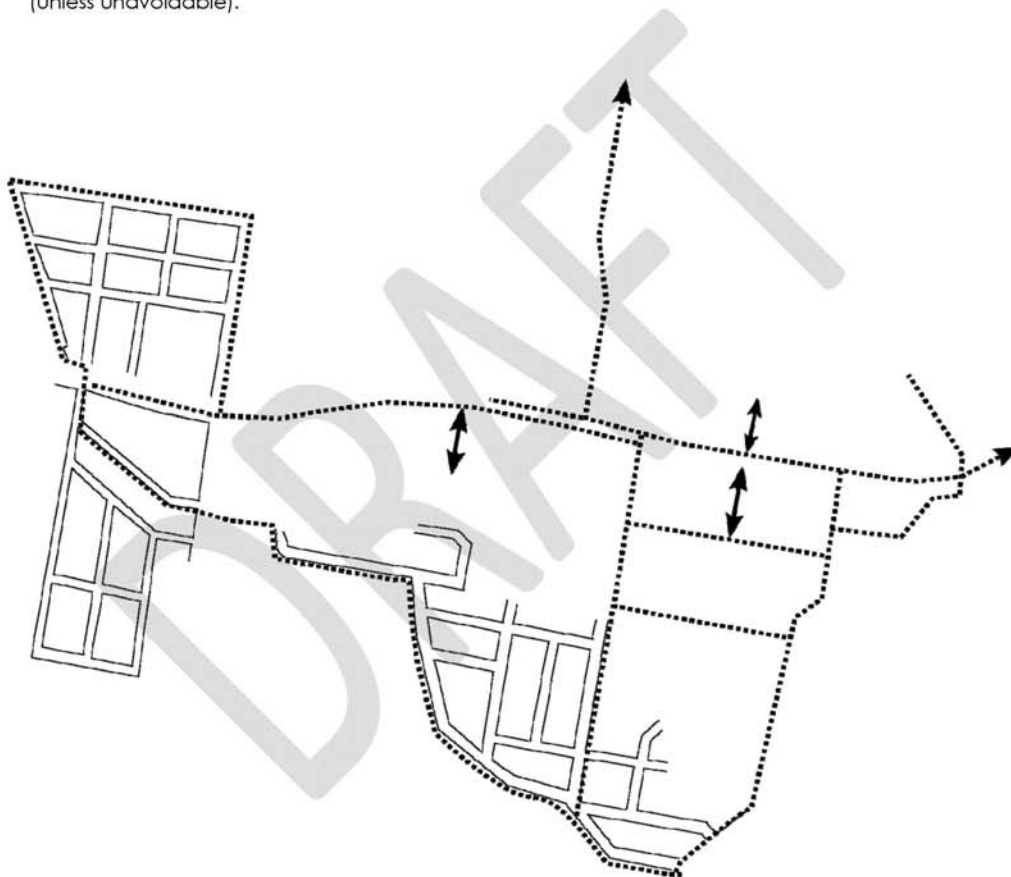


Figure 4: Connectivity Priorities

Showing:

- Conceptual new road layout
- Potential intrablock connections (arrows)
- Off road shared pedestrian cycleways (dashed line)

Note: this is a schematic map and locations are indicative only



*DRAFT Port Stephens Development Control Plan 2007*

**B99  
Karuah**

**C99.10 Staging of Land Release**

PRINCIPLES

- C99.P33 New urban land is an extension of the existing urban area.
- C99.P34 There is sufficient vacant land zoned for urban purposes to meet community needs.
- C99.P35 Land is rezoned for urban purposes in a staged manner in order to ensure the efficient use of community infrastructure.
- C99.P36 The growth of Karuah is able to be adequately serviced by urban infrastructure, such as water and sewerage services.

DEVELOPMENT CONTROLS

- C99.C34 Land must be rezoned consistent with the staging shown in Figure 6.
- C99.C35 Land which is not immediately adjacent to the existing urban area will not be considered for rezoning for residential uses.
- C99.C36 Land for potential urban development in Figure 6 must not be considered for rural residential or large lot "lifestyle" subdivision unless environmental studies demonstrate that higher residential densities are an undesirable use of the land.
- C99.C37 Land should not be developed for urban purposes unless adequate pedestrian and cycle links are provided to the existing urban area as part of the initial development of that land.

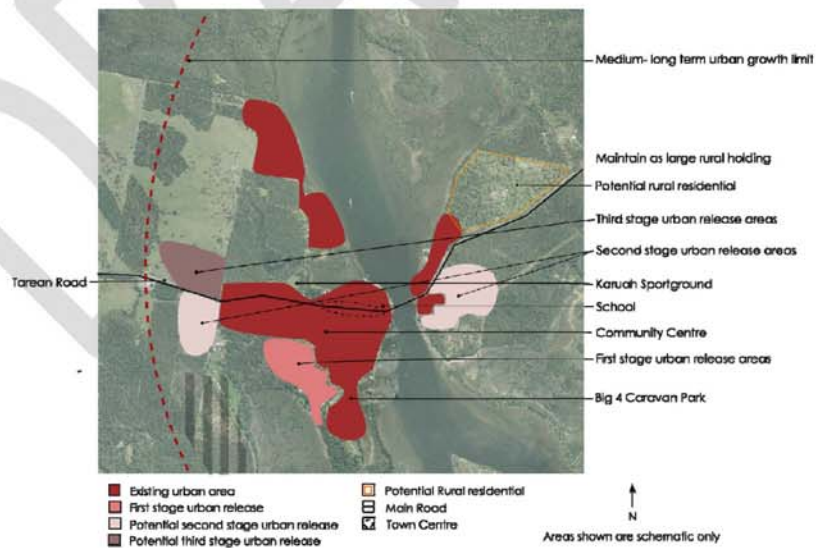


Figure 6: Staging plan

DRAFT Port Stephens Development Control Plan 2007

**B99  
Karuah**

**C99.11 Overall land use strategy**

PRINCIPLE

C99.P37 Karuah develops consistent with an integrated strategy for the growth of the town.

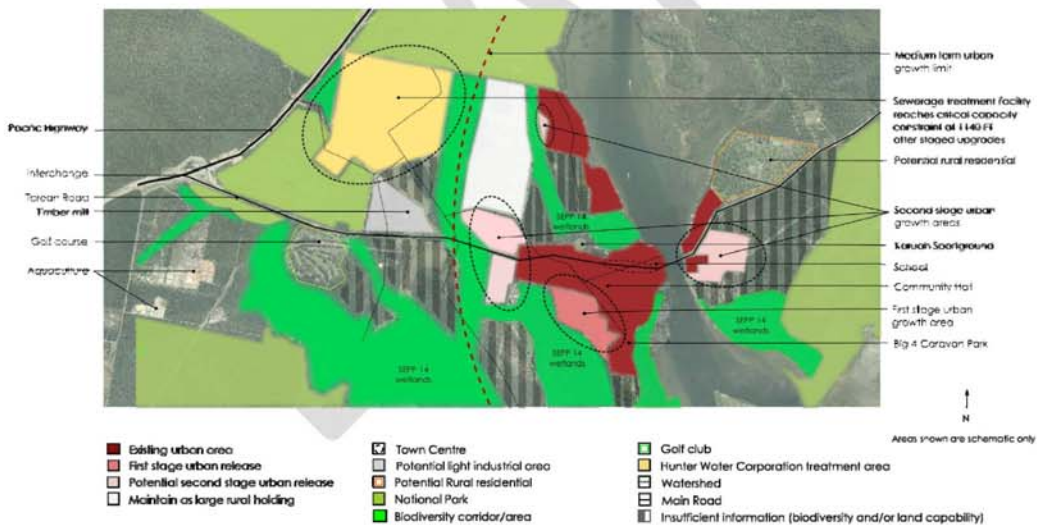
DEVELOPMENT CONTROLS

C99.C38 Consent will not be granted for development which is not generally consistent the Growth Strategy summarised with Figure 7, and outlined in detail in the Karuah Growth Strategy.

C99.C39 Infrastructure provision should be optimised at a catchment level in order to maximise sharing and ease of expansion of infrastructure, and utilities.

C99.C40 Subdivision layout must not prejudice the ability of neighbouring sites to deliver the outcomes sought by this Plan, including infrastructure efficiencies, housing yield, and connectivity.

Figure 7: Karuah Growth Strategy



*DRAFT Port Stephens Development Control Plan 2007*

**B99  
Karuah**

DRAFT

ITEM NO. 6

FILE NO: PSC2005-2861

**RAYMOND TERRACE FLOOD STUDY**

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

-----  
**RECOMMENDATION IS THAT COUNCIL:**

- 1) Place the draft Raymond Terrace Flood Study (BMT WBM 2010) on public exhibition for a period of a minimum 28 days (35 days if the Christmas New Year period falls within the exhibition period) and accept public submissions on the document.
- 

**COUNCIL COMMITTEE MEETING – 15 MARCH 2011**

**RECOMMENDATION:**

	<p><b>Councillor John Nell Councillor Peter Kafer</b></p>	<p>That Council place the draft Raymond Terrace Flood Study (BMT WBM 2010) on public exhibition for a period of a minimum 35 days and accept public submissions on the document.</p>
--	---	--

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

Those for the motion: Crs Glenys Francis, Bob Westbury, Geoff Dingle, Frank Ward, Peter Kafer, John Nell, Shirley O'Brien and Sally Dover.

Those against the motion: Nil.

**ORDINARY COUNCIL MEETING – 22 MARCH 2011**

	<p><b>Councillor Councillor</b></p>	<p>Note: Meeting adjourned due to lack of quorum.</p>
--	---	---

**BACKGROUND**

The purpose of this report is to seek Council's approval to place the draft Raymond Terrace Flood Study (BMT WBM 2010) on public exhibition and seek comment from the community on the document.

As part of the floodplain management process for the Williams River being managed by Council, BMT WBM have been engaged to undertake a flood study of the local Raymond Terrace catchments draining to the Williams River. This study focuses on the flooding impacts associated with local catchment flooding up to the point when the Williams River flood levy is overtopped.

BMT WBM have now completed the flood study and prepared a draft report. This draft report has been reviewed by both Council officers and the Department of Environment, Climate Change and Water and deemed suitable for public exhibition. The purpose of the public exhibition is to provide the community with an opportunity to review and make formal submissions on the document before it is adopted by Council.

It is recommended that the document be exhibited for a minimum 28 days however as it is likely this exhibition period will include the Christmas New Year period the exhibition period should be extended by a further 7 days to 35 days.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The Flood Study has been partly funded by the state governments Floodplain Management Grants Program with Council's contribution being only one third. This study was funded within the 2009/2010 program and Council has already received the grant funding for the project. Public exhibition costs are already covered within the project budget.

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

The state governments Floodplain Development Manual recommends public participation and community consultation within the floodplain management process and the public exhibition of this document is considered recommended practice.

The Raymond Terrace Flood Study is one of a number of background studies currently being undertaken which will inform the draft Raymond Terrace / Heatherbrae Growth Strategy. A traffic and carparking study has also commenced and is due for completion at the end of June 2011.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The flood study being part of the floodplain management process seeks to help Council and the state government manage and minimise impacts of future flooding events. In this respect it is expected that a more informed knowledge of the flood risk will result in a reduction in flood losses in future flood events and minimise the social and economic impacts of these events.

**CONSULTATION**

Consultation with the Department of Environment, Climate Change & Water has occurred.

**OPTIONS**

Nil.

**ATTACHMENTS**

- 1) Draft Raymond Terrace Flood Study (BMT WBM 2010) – Under Separate Cover.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



ATTACHMENT 1  
PROVIDED UNDER SEPARATE COVER

ITEM NO. 7

FILE NO: PSC2008-9159

**MOTORCYCLE NOISE AT 4556 NELSON BAY ROAD ANNA BAY**

REPORT OF: KEN SOLMAN - DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL HEALTH, ACTING MANAGER

GROUP: SUSTAINABLE PLANNING

-----  
**RECOMMENDATION IS THAT COUNCIL:**

- 1) The report be received and noted.

-----  
 Cr Steve Tucker returned to the meeting at 8.35pm.

**COUNCIL COMMITTEE MEETING – 15 MARCH 2011**

**RECOMMENDATION:**

	<p><b>Councillor John Nell</b>  <b>Councillor Shirley O'Brien</b></p>	<p>That the recommendation be adopted.</p>
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**ORDINARY COUNCIL MEETING – 22 MARCH 2011**

	<p><b>Councillor</b>  <b>Councillor</b></p>	<p>Note: Meeting adjourned due to lack of quorum.</p>
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**BACKGROUND**

Council at its meeting of 8<sup>th</sup> February 2011 resolved (Resolution 19) "that Council be provided with a full report and all correspondence in regard to this matter". This is in relation to motorcycle noise at 4556 Nelson Bay Road Anna Bay.

On 21<sup>st</sup> December 2010, a Prevention Notice was served on the owner of 4556 Nelson Bay Road, Anna Bay under Section 96 of the Protection of the Environment Operations Act. The Notice required the owner of the property to take the following Preventative action –

- *Not to cause, permit or allow the operation of motorcycles or similar recreational vehicles on the property known as 4556 Nelson Bay Road Anna Bay for a period in excess of one (1) hour per day,*
- *Not to cause, permit or allow Motorbikes or similar recreational vehicles to be operated on the property between the hours of 5pm and 9am.*

- *Not to cause, permit or allow the one (1) hour period referred to in 1. above to be utilised in more than two (2) sessions during any day ie for the purposes of 1. above, the one hour period may be used at one time or during two (2) sessions which added together do not exceed 1 hour, but not more than two sessions.*
- *Not to cause, permit or allow the operation of motorcycles or similar recreational vehicles on the property known as 4556 Nelson Bay Road Anna Bay with an engine capacity exceeding 200cc.*
- *Not to cause, permit or allow the operation of more than two (2) motorcycles or similar recreational vehicles on the property known as 4556 Nelson Bay Road Anna Bay at any one time.*

### **Why was the Prevention Notice served?**

The Prevention Notice was served having regard to regular complaints about offensive noise from one neighbour which commenced in 2006. Council officers have attended the site and assessed the noise as offensive by definition under the POEO Act and many attempts have been made to address the offensive noise issue. Noise abatement directions were served on the owner on 19/11/09, 13/04/10, 20/07/10 and have been effective in controlling the noise however these notices only remain in force for 28 days and effectively prohibit all offensive noise from subject property.

In late 2010, after Councillors visited the site and further discussions were held by staff with the complainant and the property owner, it was considered that the best approach to resolve the issue would be for conditions to be set which would enable the riding of motorbikes by the owners' family whilst recognising the neighbours right to a quiet environment.

Approaches had been made to the owner (see correspondence 10/12/09, 13/04/10, 03/06/10, 11/06/10) requesting her to indicate a strategy that included defined times when bikes would be ridden. The intent of this was to enable a compromise where motorbikes could be ridden reasonably on the property under conditions known to the complainant. These conditions would recognise the complainant's reasonable right to peace and quiet.

The owners reply to this was received on 13/8/10 and it was not co-operative. Further complaints were received towards the end of 2010 and the Prevention Notice in its current form was prepared.

### **Time Limits of the Notice**

The stipulation of one hour's riding time is not prescribed in legislation. Authorised Officers may stipulate conditions based on merits to resolve offensive noise matters. The issuing officer has stipulated this time period in Notices in a number of similar instances in Port Stephens and it has been effective in appeasing the intentions of all parties. Experience has shown that children will not routinely ride motorbikes in a defined area for periods exceeding 20- 30 minutes. The owner has continually

claimed that it is only her grandchildren that ride on the property on small trail bikes and Council officers have not objected to this.

From a complainant's viewpoint, if they are assured that noise will only occur for a period of one hour, it is usually considered reasonable. This is conditional on the one hours riding time not consisting of many small periods throughout the day eg 12 x 5 minute periods, as this effectively represents a noise intrusion for a large portion of the day.

#### **Why stipulate engine capacity?**

The complainants regularly refer to "larger" bikes being brought to the property as the ones that cause the offensive noise issues. Conversely, the owner has advised that her grandchildren are the only riders and their bikes are smaller than 200cc, hence this requirement of the Notice is not considered to be onerous.

#### **Why stipulate numbers of bikes permitted?**

There have been allegations that the track is used by many riders who visit the property from elsewhere. The owner has recently advised that the track is only used for training by her grandchildren. Whilst complainants do not have issue with the smaller bikes, there is a cumulative noise effect from multiple bikes riding together so it was deemed necessary to restrict bike numbers.

### **FINANCIAL/RESOURCE IMPLICATIONS**

The investigation of complaints in this matter date back to 2006 and have included responses to noise complaints and also development compliance issues. Staff resources expended on the matter have been considerable however the Noise pollution complaints continue.

In the past, the service of Noise Control related Notices has been effective in resolving the situation for the time periods applicable under the Notices. The Notices are considered to be an appropriate response with negligible impacts on resources in respect to the need for noise monitoring and after hours responses.

Staff resources would be required to gather evidence in relation to breaches of notices if enforcement action was required however this has not been deemed necessary to date.

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

The following points are pertinent to action taken in this matter –

- Council has received complaints regarding offensive noise from the riding of motorbikes on this property since 2006.
- Authorised officers of the Council have responded to complaints and assessed the noise as offensive under the definition provided in the POEO Act.

- Council, and its authorised officers have a duty of care to reasonably address complaints received.
- Action has been taken by way of the service of noise abatement notices (3), and a Prevention Notice. The Prevention Notice addresses the rights of the property owner and the complainant.
- Council's authorised officers have delegated authority to take enforcement action under the Protection of the Environment Operations Act, and may issue Penalty Notices or commence legal proceedings should the Prevention Notice not be complied with.
- The action taken to date has been in accordance with Councils Compliance Policy as well as the NSW Ombudsman's Enforcement Action guidelines.
- Complainants in this matter have the option of taking their own action under Section 268 of the Protection of the Environment Operations Act and they have been duly informed of this and have at one stage commenced these proceedings. Having regard to the history of the site however, where Council considered a development application for a motor sport facility and refused such application, it is considered that Council should approach the matter with a reasonable duty of care to address ongoing noise impacts from the use of motorbikes on the property.

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Action to date has focused on achieving an environmentally sustainable outcome whereby motorbikes may be used on the property whilst respecting the rights of neighbours to a reasonable environment.

## **CONSULTATION**

Council staff – Co-ordinator Environmental Health and Regulation, Compliance Officer, Manager Environmental and Development Planning, Group Manager Sustainable Planning, Executive Planner.

Property owner and family members

Complainants

## **OPTIONS**

Receive and note.

## **ATTACHMENTS**

- 1) Summary of Correspondence received.

## **COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Hard copies of correspondence provided to Councillors under confidential cover.

**ATTACHMENT 1**

Summary of Correspondence in chronological order

Please note that having regard to the bulk of this correspondence, copies will be provided to Councillors under separate cover.

Date	Type	Content
14/07/06	letter	Informing of first noise complaint
3/08/06	letter	Notification of alleged illegal development
24/10/06	File note	Complaint from complainant
27/10/06	letter	Requesting time for a site inspection
27/10/06	letter	Advice regarding complaint
13/11/06	letter	Request for DA lodgement
2/01/07	letter	Further request for DA lodgement
10/01/07	Fax	Confirmation that DA will be lodged
30/10/08	Letter	Noise abatement direction to visitor to property
30/10/08	Letter	Noise abatement direction to visitor to property
11/11/08	Letter	Request Council to enforce EP&A Act and POEO Act responsibilities on behalf of complainant
2/12/08	Letter	Complaint against Council Officer
3/12/08	Letter	Request for intentions to remove fill
3/12/08	email	Advice regarding development compliance
9/12/08	letter	Response to complaint about Council Officer
13/03/09	Fax	Response to request to remove fill
17/09/09	Letter	Notice of intention to serve Order to remove fill
18/09/09	email	Advice from Ombudsman
21/09/09	email	Ombudsman's advice
24/09/09	fax	Response to proposed Order
13/11/09	email	Report of noise assessment of 13/11/09
19/11/09	letter	Noise abatement direction and covering letter
23/11/09	email	Report of offensive noise
10/12/09	letter	Follow letter after site inspection and discussion on 19/11/09
13/04/10	letter	Noise Abatement Direction and covering letter
03/05/10	Letter	Complaint about Council Officer and noise abatement direction
3/06/10	Letter	Response to letter of 3/5/10- Council Officer
11/06/10	Letter	Further response re letter of 03/05/10- Council Officer
05/07/10	File note	Note re phone conversations with complainant and property owner
20/07/10	Letter	Noise Abatement Direction
28/07/10	email	Request for copies of noise abatement directions to respond to complaint from complainant
13/08/10	letter	Response to request for strategy to minimise noise
13/08/10	email	Request for review of property owners letter of 13/08/10
13/08/10	email	Request that Council Officer postpone service of Noise notice
13/08/10	email	Advice re Noise abatement notice

**MINUTES FOR ORDINARY MEETING – 22 MARCH 2011**

16/08/10	email	Response to email 13/08/10
09/09/10	letter	Information re complaint and request for inspection
17/09/10	email	Requesting action over illegal fill
23/09/10	email	Explanation of action to date
24/09/10	email	Request for response to concerns
24/09/10	letter	Clarification of Councils action
24/09/10	email	Advice that Council Officer would do a noise assessment
10/10/10	email	Advice re attendance at Property on 9/10/10
11/10/10	email	Advice re attendance by Council Officer on 8/10/10
13/12/10	File Note	Phone conversation with complainant re noise
21/12/10	Notice	Prevention Notice under POEO Act
04/01/11	email	Advice re breaches of Prevention Notice
04/01/11	email	Further advice re breaches of Prevention Notice
06/01/11	email	Advice re breaches of Prevention Notice
07/01/11	Letter	Advising that breaches of Notice had been reported
07/01/11	File Note	Phone discussion with Cr MacKenzie regarding Prevention Notice
13/01/11	email	Advice of phone call from property owner lodging complaint about Council Officer
18/01/11	email	Background information re complaint



**ITEM NO. 8**

**FILE NO: PSC2006-1939**

**RAYMOND TERRACE SPORTS FIELD MASTER PLAN**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Master Plan for the Raymond Terrace CBD.

**COUNCIL COMMITTEE MEETING – 15 MARCH 2011**

**RECOMMENDATION:**

	<p><b>Councillor Peter Kafer</b>  <b>Councillor Geoff Dingle</b></p>	<p>That Council:</p> <ul style="list-style-type: none"> <li>1) Defer Item 8 to the next Council Committee meeting.</li> <li>2) Note the information provided by the Raymond Terrace Business Association.</li> <li>3) Invite the Raymond Terrace Business Association to meet with Councillors.</li> </ul>
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**ORDINARY COUNCIL MEETING – 22 MARCH 2011**

	<p><b>Councillor</b>  <b>Councillor</b></p>	<p>Note: Meeting adjourned due to lack of quorum.</p>
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**BACKGROUND**

The purpose of this report is to submit the Master Plan for the former Raymond Terrace Sports fields (RTSF) to Council for adoption.

In 2005 approximately 6.8 hectares of land located to the north of the Council Administration Building and Council Chambers was rezoned and reclassified to 3(a) General Business in response to economic studies indicating that Raymond Terrace was underserved in respect to overall retail space and supermarket competition.

A "Call for Detailed Proposal" to redevelop the site commenced in August 2006 and thirteen proposals were received. Council entered discussions with 3 preferred respondents and a Heads of Agreement for lease was entered into with the preferred respondent in April 2007.

The financier of the project withdrew in late 2008 due to the Global Financial Crises, the Project Group tried unsuccessfully to source alternate funding therefore Council resolved on the 24<sup>th</sup> February 2009 to terminate the agreement for lease.

At Council's 15<sup>th</sup> December 2009 Ordinary Meeting Council resolved to  
Authorise the Mayor and the General Manager to initiate a procurement process to facilitate the development of the Raymond Terrace Sports fields  
Authorise the Councillors and the General Manager to identify and inspect innovative and sustainable retail/commercial developments.

Council appointed APP Corporation to as Project Manager of the process.

An initial Expression of Interest was advertised in March/April 2010 with Council receiving 24 submissions. A Project Control Group comprising The Mayor and Deputy Mayor, Commercial Services Group Manager, Commercial Property Manager, Commercial Property Development Coordinator, and APP Corporation interviewed the respondents to develop a short list to progress to the next stage.

The shortlist comprises:

Watpac Property  
Charter Hall  
Grocon Property Group  
Lend Lease  
Alba Capital.

Councillors and Council staff inspected three retail developments, Springfield "Orion" Town Centre Ipswich "Rouse Hill Town Centre" Western Sydney and the "Village Centre" Batemans Bay. All developments displayed aspects of environmental, energy saving initiatives and design features that could be incorporated into Council's retail/commercial development.

Suters Architects were appointed in September 2010 to undertake the development of a Master Plan. Workshops were organised with the Councillors, Council Planning and Social Planning Staff, Council technical staff, the Community and the Raymond Terrace Business Community.

An economic assessment has been prepared by experienced retail/development Consultant Bob Hawes, ADWJohnson. The Economic Assessment identified the Primary, Secondary and Tertiary Trade Areas and measured the capability and capacity for retail development of Raymond Terrace. The Assessment identified that the LGA population is forecast to increase by 46% from 2006-2031 and household growth of 51.8% for the same period. This has a significant effect on the capacity of the Primary Trade Area. The growth estimates for the Secondary Trade Area and Tertiary Trade Area are more conservative. The economic assessment concluded that "Raymond Terrace clearly sits in the context of a significant trade area with an enormous capacity to generate retail expenditure. However, Raymond Terrace is

punching below its weight in terms of trade capture. It is lacking particular forms of retail services found in other locations and centres in the Lower Hunter".

The report indicated that a development of 20,000sqm staged in delivery and commencing 3-4 years from now would have a significant opportunity to provide support for Raymond Terrace and facilitate the attraction and inclusion of traders not currently present in the town or trade area.

The Master Plan document outlines a development footprint of 35,000sqm which is 15,000sqm in excess of the 20,000sqm outlined in the report however there is the potential to include residential (medium density) that could absorb the residual area. The Master Plan is consistent with Council current Development Control Plan and additionally identifies open space, public domain, connections to William Street and other nodes of Raymond Terrace, identifies an area for a library and streetscape. The extension of Sturgeon and Bourke Streets provide development quadrants making the potential staging of the development easier to manage. The intent of the Master Plan document is to provide guiding principles and a flexible framework to assist potential developers when they are preparing their design documentation. Council's "Call for Detailed Proposals" documentation calls for an A3 Concept Plan to be provided as part of their submission. It is likely that Council will Publically Exhibit the shortlisted proposals.

The Business Association have been provided with a copy of the Master Plan and the Economic Assessment and were given a two week period to respond to Council with comments/feedback. No responses were received.

### **FINANCIAL/RESOURCE IMPLICATIONS**

Council's Property Reserve is financing the research, economic assessment and Master Plan. All other development costs will be financed by the selected Developer. The financial returns will be analysed by the Commercial Services Group Manager, Financial Services Manager, Commercial Property Manager, Commercial Property Development Coordinator and APP Corporation. The analysis results and recommendation will be submitted to Council for review and approval.

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

Council will be required to enter into a legal agreement with the preferred proponent. The format of the agreement will not be determined until analysis of the financial models and the Call for Detailed Proposals submitted is completed.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Council is committed to ensuring the development of the former sports fields has minimal impact on the existing businesses in Raymond Terrace in particular the main strip businesses (William Street). The Economic Assessment enables informed decisions to be made in the timing/staging of the development so that the trade area can mature sufficiently to absorb the retail development and recover. The Economic

Analysis highlighted that there are currently deficiencies in services and commercial offerings in the Raymond Terrace CBD. This was exacerbated by the closure of Bi-Lo. Additionally the Commercial Property Section instructed Suters to have regard to the connectivity of the proposed development to the existing retail/commercial nodes within the Raymond Terrace CBD.

## **CONSULTATION**

Councillors  
General Manager  
Suters Architects  
APP Corporation  
ADWJohnson  
Group Manager Commercial Services  
Integrated Planning staff  
Social Planning staff  
Civil Assets staff  
Community and Recreation staff  
Principle Property Advisor  
Commercial Property Development Coordinator  
Raymond Terrace Business Community  
Port Stephens's Council residents and ratepayers

## **OPTIONS**

- 1) Adopt the Master Plan.
- 2) Reject the Master Plan.

## **ATTACHMENTS**

Nil.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

- 1) Economic Assessment
- 2) Master Plan

ITEM NO. 9

FILE NO: PSC2005-01244

**LOCAL GOVERNMENT MANAGERS AUSTRALIA (LGMA) – NATIONAL CONGRESS & BUSINESS EXPO**

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Nominate delegates to attend the Local Government Managers Australia National Congress & Business Expo.
- 

**COUNCIL COMMITTEE MEETING – 15 MARCH 2011**

**RECOMMENDATION:**

	<p><b>Councillor John Nell</b>  <b>Councillor Sally Dover</b></p>	<p>That item 9 be deferred to the Ordinary Council meeting.</p>
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**ORDINARY COUNCIL MEETING – 22 MARCH 2011**

	<p><b>Councillor</b>  <b>Councillor</b></p>	<p>Note: Meeting adjourned due to lack of quorum.</p>
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**BACKGROUND**

The purpose of this report is to inform Council of the Local Government Managers Australia National Congress & Business Expo to be held in Cairns.

The 2011 Local Government Managers Australia National Congress & Business Expo, theme will be *"Best Practice to Next Practice"*.

The Congress will be held at the Cairns Convention Centre from 22 – 25 May 2011.

The Congress will explore how local government leaders in Australia have developed innovative and cutting edge solutions to some of the sector's most pressing issues whilst navigating restraint in their communities.

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.

ITEM NO. 10

### INFORMATION PAPERS

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

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#### RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 15 March, 2011.

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No:	Report Title	Page:
1	PETITION – MASONITE ROAD, TOMAGO	187

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#### COUNCIL COMMITTEE MEETING – 15 MARCH 2011 RECOMMENDATION:

	<b>Councillor Bob Westbury</b> <b>Councillor Peter Kafer</b>	That the matter be deferred to the Local Traffic Committee.
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#### ORDINARY COUNCIL MEETING – 22 MARCH 2011

	<b>Councillor</b> <b>Councillor</b>	Note: Meeting adjourned due to lack of quorum.
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# COUNCIL COMMITTEE INFORMATION PAPERS





INFORMATION ITEM NO. 1

PETITION - MASONITE ROAD, TOMAGO

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REPORT OF: PETER GESLING – GENERAL MANAGER  
GROUP: GENERAL MANAGERS OFFICE

FILE: PSC2011-00642

**BACKGROUND**

The purpose of this report is to advise Council of a petition with 11 signatures received from the residents of Masonite Road, Tomago.

**ATTACHMENTS**

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

ATTACHMENT 1

**RESIDENT PETITION**

**Attention: General Manager Port Stephens Shire Council** EB 2011

<b>PORT STEPHENS COUNCIL</b>
File No. ....
Action by .....
Parcel .....

We the residents of Masonite Road Tomago, request that Port Stephens Shire Council address the noise problems that are arising from the increased traffic, particularly the large trucks, which continually cause pot holes and road surface damage on our road.

We refer, in particular, to the section of road in the 80km zone, where several residents reside. From around 5.30am, the constant banging and shaking of the trucks hitting uneven road surfaces is absolutely unfair and annoying. They are in convoy at times and our houses shudder. It also concerns us that very few vehicles adhere to the 80km speed limit in front of the houses. Drivers are often guilty of speeding and overtaking in this zone.

Our road is a main arterial road and when previous complaints have been made to Council by some of our residents, we have been informed that it is checked weekly and no problems can be seen.

We have also been informed that these trucks are too heavy for this road and should be using the highway. It is interesting to note that the use of the road by huge trucks has increased threefold.

There have been a few occasions when large rocks have bounced off the trucks presenting dangerous situations. A couple of months ago a truck carrying rainwater tanks, lost its load outside of 80 Masonite Road because the truck hit the concave surface out the front and its cargo bounced off the truck.

Thank you for your consideration. We await your reply.

The residents of Masonite Road Tomago.

21-2-11

<b>PORT STEPHENS COUNCIL</b>
22 FEB 2011
File No. ....
Action by .....
Parcel .....

ATTACHMENT 2

PETITION

NAME	ADDRESS	SIGNATURE	COMMENT
		<i>[Handwritten signature]</i>	

# 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 – 22 MARCH 2011

	<b>Councillor Councillor</b>	Note: Meeting adjourned due to lack of quorum.
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I certify that pages 1 to 204 of the Open Ordinary Minutes of Council 22 March 2011 and the pages 205 to 209 of the Confidential Ordinary Minutes of Council 22 March 2011 were confirmed by Council at its meeting held on 12 April 2011.

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