

Minutes 22 FEBRUARY 2011



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

PRESENT: Councillors; S. Dover (Deputy Mayor & Chair); G. Dingle; C. De Lyall, G. Francis; P. Kafer; B. MacKenzie; 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.

023	Councillor Steve Tucker Councillor Shirley O'Brien	It was resolved that the apologies from Councillors John Nell and Bob Westbury be received and noted.
024	Councillor Glenys Francis Councillor Geoff Dingle	It was resolved that the minutes of the Ordinary meeting of Port Stephens Council held on 8 February 2011 be confirmed.
		No Declaration of Interest were received.

Cr Ken Jordan entered the meeting at 6.05pm prior to voting on General Manager's report Item 1.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2011-00474

LOCAL GOVERNMENT & SHIRES ASSOCIATION – NSW ELECTION PRIORITIES 2011.

THAT COUNCIL:

- 1) That *Port Stephens Council* support the LGSA's *NSW Election Priorities 2011* seek an official response from all political parties contesting the 2011 NSW Election.
 - 2) That *Port Stephens Council* will participate in the LGSA's media campaign during the lead up to the 2011 NSW Election by contacting our local member and writing to our local members of parliament seeking their response to the *NSW Election Priorities 2011*.
-

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

025	Councillor Bruce MacKenzie Councillor Caroline De Lyall	It was resolved that Council: <ol style="list-style-type: none">1) That <i>Port Stephens Council</i> support the LGSA's <i>NSW Election Priorities 2011</i> seek an official response from all political parties contesting the 2011 NSW Election.2) That <i>Port Stephens Council</i> will participate in the LGSA's media campaign during the lead up to the 2011 NSW Election by contacting our local member and writing to our local members of parliament seeking their response to the <i>NSW Election Priorities 2011</i>.3) That the Duty Member of Legislative Councils for both State Electoral boundaries (Maitland & Port Stephens) also be contacted.
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BACKGROUND

The purpose of this report is to inform Council of the Local Government & Shires Associations of NSW launch of NSW Election Priorities 2011.

On Monday 7 February 2011, The Local Government and Shires Associations of NSW (LGSA) launched its *NSW Election Priorities 2011*. The document outlines to all political parties the current issues for councils and the proposed solutions.

The LGSA's *NSW Election Priorities 2011* covers major issues of significance for councils under six key themes, which can be found at www.lgsa.org.au/election2011:

1. Improved Local Government financial viability.
2. Restore the balance to land use planning.
3. Stronger support for communities.
4. Greater natural environment protection.
5. Enhanced infrastructure provision and maintenance.
6. Better local governance.

The LGSA has requested an official response from all NSW political parties contesting the 2011 NSW Election by Monday 28 February 2011 and will be publishing these responses.

The majority of the serious problems facing Local Government in NSW are not new, and the LGSA are seeking the support of all NSW councils for their *NSW Election Priorities 2011* and participation in their campaign at a local level.

The LGSA have written to all councils in NSW encouraging them to review the *NSW Election Priorities 2011* and embark on locally based 'sister' campaigns to strengthen the case for Local Government in NSW. Council has been sent a 'tool kit' of useful information to assist with local media campaigns.

The LGSA have also recommended that we write to our own local members, bringing the *NSW Election Priorities 2011* to their attention and asking for their individual response on the six themes, and issues of particular relevance to our council.

In Port Stephens, the following issues are of particular concern:

- State government cost shifting and rate capping and their impact on our ongoing financial sustainability
- The provision of funding for maintenance of our ageing infrastructure

The LGSA is aiming to strengthen and build a more consultative relationship between the NSW Government, all political parties, independents and Local Government in the future.

ATTACHMENT

- 1) Summary of the LGSA NSW Election Priorities 2011 document.

ATTACHMENT 1

Local Government & Shires Associations of NSW NSW Election Priorities 2011

SUMMARY

This document summarises key issues in each of the six themes outlined in the LGSA's NSW Election Priorities 2011.

The full description of each issue, the current situation and the proposed LGSA solution is available at www.lgsa.org.au/election2011

A copy of the LGSA's NSW Election Priorities 2011 has been sent to all political party leaders on 7 February 2011 for their comment and written response by 28 February 2011.

The Local Government Association of NSW and the Shires Association of NSW (LGSA) are the peak bodies representing Local Government in NSW. Their membership comprise of all 152 NSW general-purpose councils, special-purpose county councils and regions of the NSW Aboriginal Land Council.

The LGSA's NSW Election Priorities 2011 outlines to all parties contesting the 2011 NSW Government Election the issues of significance for councils and the communities they represent, and the LGSA's proposed solutions.

Effective and efficient Local Government is vital to the communities of NSW, and it is essential that our communities get the support they need. Local Government is also central to many of the infrastructure and service offerings of the NSW Government.

Local Government is one of the biggest industries in NSW, spending approximately \$8 billion per year and managing non-financial assets (infrastructure and land) worth \$89 billion, as well as employing more than 50,000 staff.

The LGSA call on all political parties contesting the 2011 NSW Government election to address and respond to the issues of concern to Local Government in the following core themes:

- 1 Improved Local Government financial viability.
- 2 Restore the balance to land use planning.
- 3 Stronger support for communities.
- 4 Greater natural environment protection.
- 5 Enhanced infrastructure provision and maintenance.
- 6 Better local governance.

1. Improved financial viability

To improve Local Government financial viability, the LGSA request that the incoming NSW Government:

- a Abolish rate pegging.
- b Cease the practice of cost shifting and enact legislation that requires Local Government's agreement to take on additional responsibilities. If taken on, provide corresponding funding or allow adequate revenue raising capacity.
- c Provide \$6 million to improve Local Government's capacity to undertake financial planning and asset management to support Community Strategic Planning.
- d Implement a broad based property levy for funding emergency services. If a broad based property levy is rejected, allow councils to recover their contribution through a corresponding increase in their council rates.
- e Introduce competition, transparency and accountability, in providing and costing energy for general electricity and street lighting.
- f Allocate a share of mining royalties to Local Government through a system that provides funding to all councils, with additional funding for councils impacted by the mining industry.

Local Government
Association of NSW



Shires Association
of NSW

2. Restore the balance to land use planning

To restore the balance to land use planning, the LGSA request that the incoming NSW Government:

- a. Undertake a major review and rewrite of the *Environmental Planning and Assessment Act (NSW) 1979* to restore the balance in the NSW planning system, and recognise that councils and the NSW Government each have a role to play in planning for and managing the sustainable development of local communities.
- b. Repeal Part 3A and similar provisions such as the Major Projects SEPP, and in close consultation with Local Government devise and implement a genuine test for matters of state significance.
- c. Abolish Joint Regional Planning Panels (JRPPs).
- d. Revise the Affordable Rental Housing SEPP to include additional assessment provisions relating to consultation, council involvement, access to public transport, residential character, density, site suitability, accessibility and payment of appropriate development contributions.
- e. Treat Local Government as a partner in future reviews of the Metropolitan Plan for Sydney (2038), Regional Strategies and the State Plan.

3. Stronger support for communities

To provide stronger support to communities, the LGSA request the incoming NSW Government:

- a. Guarantee continuing Local Government management of Home and Community Care (for those councils presently involved) in the transfer of control from the NSW Government to the Australian Government. A guarantee of improved local service levels in all areas is also sought.
- b. Provide a \$20 million enhancement to NSW recurrent funding for those councils presently involved in prevention and early intervention services for children.
- c. Increase funding for public libraries by \$5.2 million each year for five years to reach a new recurrent target of \$51.5 million per year by 2015/16.
- d. Create a Local Government arts and cultural development fund, with a key objective being to improve arts infrastructure outside the Sydney CBD.
- e. Scale down the size of the Central West and Murrumbidgee Local Health Networks and give local councils a seat on the governing councils of all country Local Health Networks.
- f. Provide a \$10 million increase to NSW recurrent funding for those councils presently involved in preventative health initiatives.
- g. Work in collaboration with Local Government to ensure the Australian Government carries out proper socio-economic analysis in developing the Murray-Darling Basin Plan, and provides early, well-targeted mitigation and transition measures to help communities adapt to the final Murray-Darling Basin Plan.
- h. Strengthen programs to support population growth and economic development in regional and rural NSW (including programs such as, or similar to, Evocities and PORTS).
- i. Set new requirements for Government strategic planning to address social justice or social inclusion.
- j. Introduce new restrictions on the sale of alcohol at pubs and clubs across NSW as proposed in the *Last Drinks* campaign.
- k. Give due consideration to the five issues for future NSW Government action to reduce the impact of cancer on all NSW communities (as outlined in the Cancer Council of NSW "Saving Life" Campaign).
- l. Provide additional recurrent funding to NGOs offering mental health services in rural areas.
- m. Work in collaboration with Local Government to ensure the Australian Government provides more funding for residential aged care and for ageing in regional and rural NSW.
- n. Reform NSW Police recruitment, transfer and sick leave policies to ensure all regional, rural and remote stations are always staffed at authorised operational levels.

4. Greater natural environment protection

To provide greater natural environmental protection, the LGSA request the incoming NSW Government:

- a Fully hypothecate the waste levy so councils can use alternative waste technologies, joint ventures and education to reduce the waste stream.
- b Endorse the *NSW Climate Change Action Plan* and provide resources to councils to address the significant environmental, economic and social impacts of climate change.
- c Increase funding allocated to weed management to \$20 million and commit to an ongoing role of Local Government in weed management.
- d Fund a "City and Country 2" Environment Restoration Program, including a significant funding allocation to Local Government.
- e Review the NSW Building Sustainability Index (BASIX) to establish whether it is meeting its goals, where improvements can be made (including whether it can be extended to commercial premises) and whether it can be converted to a minimum rather than maximum standard.
- f Support the continuation of Catchment Management Authorities, reviewing their role with the aim of improving their autonomy and enhancing their funding.

5. Enhanced infrastructure provision and maintenance

To enhance local infrastructure provision, and maintenance, the LGSA request the incoming NSW Government to:

- a Create a \$1 billion Local Government Infrastructure Fund.
- b Quarantine town water supplies from the application of sustainable water diversion limits set by the Murray-Darling Basin Authority.
- c Ensure Local Government retains ownership and control of council owned and operated local water and sewerage utilities in regional NSW.
- d Continue to provide capital funding for council owned and operated local water and sewerage utilities in regional NSW, including a remote communities water and sewerage program. Also commit to funding new infrastructure necessary as a result of impacts of climate change on water supplies.
- e Continue the Aboriginal Communities Water and Sewerage Program and widen the program by adding adequate funding for capital works required to upgrade water supply and sewerage systems in Aboriginal communities.
- f Work with Local Government to develop long term solutions for funding community infrastructure requirements in both greenfield and infill areas.
- g Improve road funding assistance to Local Government, with special emphasis on regional roads and timber bridges.

6. Better local governance

To provide better local governance, the LGSA request the incoming NSW Government:

- a Further develop and implement the NSW and Local Government Intergovernmental Agreement to establish a mechanism that will determine which sphere of government should deliver a particular service in a given scenario. Also ensure that the sphere of government which is given the responsibility is also given corresponding adequate funding or revenue raising capacity.
- b Support the national Local Government campaign to recognise Local Government in the Australian Constitution, to ensure the Australian Government can directly fund Local Government nationwide.
- c Create the option for councils to run their elections locally, with an independent returning officer, to save money and restore local confidence.
- d Set up an Intergovernmental Commission for Future Local Government involving representatives from all levels of Government, the LGSA and independents. The aim of the Commission would be to guide a comprehensive program to strengthen Local Government for the coming term and future 40 years, as outlined in the outcomes of LGSA' Modernising Local Government Initiative.
- e Provide legislation or Premier's directive for NSW Government agencies to incorporate local Community Strategic Plans in state planning processes.
- f Provide funding for a significant long-term mentoring program aimed at improving the diversity of councillors (\$800,000 per year for eight years).
- g Remove the concept of a 'body politic' from the *Local Government Act (NSW) 1993*.

Council services and facilities

Local councils in NSW offer a huge variety of services and facilities, including:

- Waste removal, treatment and disposal facilities and services.
- Water and sewerage works and facilities.
- Roads and transport infrastructure, facilities and services.
- Sporting, recreational and entertainment facilities and services.
- Cultural, educational and information facilities, services and programs.
- Community facilities and human services.
- Environment conservation, protection and improvement facilities, services and programs.
- Storm water drainage and flood prevention, protection and mitigation infrastructure and facilities.
- Public health facilities and services.
- Tourism development and assistance.
- Pest control services.
- Housing.

Councils are also involved in strategic and regulatory land use planning and a variety of regulatory functions including animal control, alcohol free zones, food safety, parking, control of public open space and many more.

Local Government & Shires Associations of NSW

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Local Government
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Shires Association
of NSW

MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: PSC2005-3622

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2) (d) (i) 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 agenda namely **Bettles Park Sabre Jet**.
- 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include:
 - a) details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.
- 3) That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as it may prejudice Council's commercial position and Council should have the same protection for its confidential commercial activities as that applying to other persons.
- 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

026	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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**COUNCIL
COMMITTEE
RECOMMENDATIONS**

ITEM NO. 1

FILE NO: PSC2010-05381

DRAFT AMENDMENT TO PORT STEPHENS DEVELOPMENT CONTROL PLAN 2007 CHAPTER C10 – MEDOWIE TOWN CENTRE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Not proceed with the exhibited draft Amendment to Port Stephens Development Control Plan 2007 Chapter C10 – Medowie Town Centre (**ATTACHMENT 1**).
- 2) Continue to use the existing provisions of the Port Stephens Development Control Plan 2007 as a sound policy basis when assessing Development Applications in Medowie Town Centre and any departures considered on their individual merits.

COUNCIL COMMITTEE MEETING – 15 FEBRUARY 2011

RECOMMENDATION:

	Councillor Geoff Dingle Councillor Frank Ward	That the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

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

The motion on being put was carried with the casting vote of the Chair.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

027	Councillor Geoff Dingle Councillor Frank Ward	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, Geoff Dingle and Frank Ward.

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

The purpose of this Report is to review public response to draft Port Stephens Development Control Plan 2007 Chapter C10 – Medowie Town Centre (the Draft DCP). **(ATTACHMENT 1)**

BACKGROUND

On 19th October 2010 Council resolved to exhibit the draft DCP and at the same time, noted the status of Development Application 16-2010-291-1 submitted for a proposed supermarket on the corner of Ferodale and Peppertree Roads, Medowie (proposed Woolworths Supermarket). The draft DCP chapter was exhibited from 28th October 2010 to 25th November 2010. Nineteen (19) submissions were received.

The draft DCP is consistent with Council's earlier resolution on 5th May 2009 that "the concept proposal for a supermarket on the corner of Ferodale and Peppertree Roads (Attachment2) and the rationale submitted by the proponent (Attachment 3) be approved in principle subject to appropriate conditions."

FINANCIAL/RESOURCE IMPLICATIONS

Nil.

LEGAL, POLICY AND RISK IMPLICATIONS

Medowie Strategy

The Medowie Strategy (the Strategy) adopted in March 2009, identified demand for additional commercial development to service the needs of the future residential growth planned for Medowie. The Strategy identified that the additional commercial development should form part of the existing Medowie Town Centre with Peppertree Road forming the 'main' street, typical in character to traditional main streets found in many NSW country towns with buildings built to the street frontage on both sides, car parking and service access to the rear to provide for an active street frontage with improved pedestrian amenity and sense of place.

The draft DCP is inconsistent with the Medowie Strategy in so far as it provides for a supermarket at the corner of Ferodale and Peppertree Roads and future Discount Department Store (DDS) set back by car parking along the eastern length of Peppertree Road divided by a proposed service road. This will prevent the 'main

street' character and amenity sought by the adopted Medowie Strategy from being achieved.

In addition, the staged speciality shops under the draft DCP do not activate the street due to being setback well into the site due to carparking.

There is no strategic planning justification for the Draft DCP to depart from the Medowie strategy principles, adopted by Council following extensive community consultation. Should the draft DCP be adopted as exhibited, an inconsistency will continue to exist between the broader Strategy principles and the DCP. That is, the community's expectations of Council to deliver on its Medowie Strategy principles will continue to be undermined by the DCP. This is not good planning practice.

Port Stephens Development Control Plan 2007

The existing Development Control Plan 2007 Chapter B4 – Commercial and Mixed Use Development applies to commercial development and aims to create and promote an active street environment for pedestrians. To achieve this, buildings are required to be built to a consistent front alignment to define the streetscape with carparking and services located to ensure they do not dominate the streetscape and site. This then allows the development of a traditional main street which is active and vibrant with good pedestrian amenity. These principles of main street development have been applied across the Local Government Area and have been based on broadly accepted and contemporary planning practice which promotes opportunities for quality urban design solutions to support economic growth of centres.

The draft DCP aims to amend the existing Port Stephens DCP 2007 by including site specific provisions for the Medowie Town Centre based on a concept plan submitted by the proponents of the proposed supermarket. If adopted by Council, the site specific draft DCP provisions will prevail over the general commercial provisions of the existing DCP to the extent of any inconsistency. The existing DCP provisions are premised on sound planning principles for a pedestrian friendly main street.

Hence, the draft site specific DCP is a departure from Council's long established adopted principle of the existing DCP that development should be built to a consistent front alignment to define the streetscape and promote active and viable centres. There is no strategic planning justification to depart from this established principle and is likely to result in a poor planning outcome for Medowie town centre. Having no active street frontage which is generally experienced by other centres in the LGA would be the outcome of not complying with the existing requirements. Again, Council would be better placed to consider any variation on its merits as part of the development application process rather than adopt site specific provisions contrary to this established planning practice to activate street frontages in commercial centres.

Practicable implementation and Servicing

The draft DCP is based on a concept plan submitted by the proponents of the proposed supermarket and approved 'in principle' by Council. This has raised some concern from submissions received (refer to consultation section) that Council has not afforded the same opportunities to other landowners.

There are engineering difficulties that make it unlikely that the service lanes proposed by the concept plan can be built in the locations shown due to the gradient of the site. Five (5) metres of cut and associated retaining walls will be required to provide service vehicle access to the eastern site of the Supermarket and indicative Discount Department Store (DDS) Site. This is considered economically and environmentally unrealistic and extremely unlikely to occur.

The approach proposed for the service lanes and supermarket loading dock relocation relies on access from Lot 240 DP 1027965. At this stage there is no established legal mechanism for access over Council's land to occur.

There are other servicing and infrastructure requirements generated by the concept plan that need to be more fully assessed to ascertain whether or not the draft DCP is practicable for implementation.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

To support a sustainable Local Government Area in accordance with Council's Sustainability Policy, Council is required to provide a clear and consistent policy approach.

As part of this, provisions relating to urban design solutions for commercial centres are required to not only allow the developer to achieve a sound economic return on their development but leave the community with a quality development that is pedestrian friendly, active, vibrant and aims to create a sense of place.

The current DCP provides provision to facilitate a sustainable outcome – economically, socially and environmentally. It facilitates an attractive environment for a vibrant town centre that will attract strong investment. The draft DCP delivers a design solution for motor vehicles rather than creating a sense of place for the Medowie community.

The current development application (including siting of the Supermarket at the rear of the property) for the Woolworths Supermarket is asserted by the applicant (Builddev Developments Pty Ltd) to be the only plan acceptable and the only means that Woolworths will agree to proceed with economic, customer service and employment benefits that result for Medowie and the surrounding catchment.

CONSULTATION

In response to the exhibition a total of nineteen (19) submissions were received. A summary of each submission, together with planning comment and recommendation is included in **ATTACHMENT 2**. A copy of submissions has been placed the Councillors' Room.

The majority of the submissions oppose the draft DCP and are highly critical. In summary the key reasoning for this predominately relates to:

- Council's disregard for the adopted Medowie Strategy.
- lack of community consultation (i.e. residents & shop owners) as opposed to the excessive community consultation that went into the formation of the Medowie Strategy;
- the draft DCP is contrary to the general aims of the Medowie Strategy and inconsistent with the existing Port Stephens Development Control Plan 2007;
- inconsistencies raised in the report to Council and non-compliance issues raised by the Roads and Traffic Authority during the assessment of DA 16-2010-219-1; and
- the future layout of the centre should reflect past investment due to the proposed spatial layout (i.e. Ferodale Road as the Main Street with Peppertree Road as a secondary commercial road).

The developer of the Supermarket has stated in their submission that the Stage 2 they had proposed in the concept plan, supported 'in principle' by Council, may no longer be commercially realistic and they would not object to the removal of Stage 2 from the draft DCP. This indicates no future commitment to activate the proposed supermarket with the street.

OPTIONS

- Council not proceed with the exhibited draft DCP as it is inconsistent with the Medowie Strategy and broader policy principles to create active street frontage and pedestrian friendly commercial centres. This is the recommended option.
- Council adopt the draft DCP as exhibited. This would result in a poor urban design outcome with uncertain servicing and infrastructure requirements, but would enable a policy framework for this site more consistent with the site layout design contained in the development application for the Woolworths Supermarket.
- Council make amendments to the exhibited draft DCP.

ATTACHMENTS

- 1) Draft Chapter C10
- 2) Summary of submissions, response and recommendation

COUNCILLORS ROOM

- 1) Copy of all submissions

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
DRAFT CHAPTER C10

DRAFT Port Stephens Development Control Plan 2007
C10
Medowie Town Centre

C10.1 Where this part applies

This section of the DCP applies to 'commercial zoned' land within the Medowie Town Centre area identified in Figure C10:1

Note: This section only applies in circumstance where the land is both identified in Figure C10:1 and is zoned commercial.

C10.2 Relationship to other parts of this plan

This is a site specific section for the Medowie Town Centre and other provisions of this DCP continue to apply, in particular development must also address relevant provisions of the DCP contained in:

- B1 Subdivision & Streets
- B2 Environmental
- B3 Parking Traffic & Transport
- B4 Commercial and Mixed Use Development
- B12 Advertising Signs

Where an inconsistency exists between other sections of the DCP, this section shall prevail only to the extent of the inconsistency.

C10.3 Background

The Medowie Strategy adopted by Council in March 2009 identified additional commercial development to service the needs of the future residential growth planned for the Medowie area. The Strategy identified the additional commercial development that should form part of the existing town centre. Centred around a main street typical in character of traditional NSW coastal towns with Peppertree Rd as the 'main' street. Creation of the main street will require development to be built to the street boundary with rear lane servicing.

Council at its meeting held on 24th April 2009 resolved to support in principle the Medowie Town Centre concept master plan and rationale submitted by the proponent of a supermarket on the corner of Ferndale Rd and Peppertree Rd. The concept plan provided in Figure C10:2 and Development Controls under this section are consistent with the Medowie Town Centre concept master plan and rationale approved in principle by Council.

C10.4 Objective

To provide for the co-ordinated development of the Medowie Town Centre to achieve the desired future character in accordance with Council's resolution of 24th April 2009.

C10.5 Development Controls

- C10.C1 Destination retail premises are to be generally located in accordance with Figure C10:2 and make provision to be faced with staged speciality shops to front Peppertree Rd.
- C10.C2 Specialty retail should be built to the street boundary fronting Peppertree Rd and provide active street frontage with rear lane servicing as provided by Figure C10:2.
- C10.C3 Pedestrian circulation and access is to be provided in accordance with Figure C10:2.
- C10.C4 Streetscape landscaping and public domain treatment is to be incorporated into the design of buildings and submitted as part of a detailed landscape plan.
- C10.C5 Co-ordinated building articulation and roof signage is to be provided in the locations shown Figure C10:2.
- C10.C6 Development should provide an appropriate scale and design quality that supports the town centre as a vibrant and successful town centre with a traditional townscape character.
- C10.C7 Development is to provide for the extension and upgrade of Peppertree Rd (with linkage to Medowie Rd) to form the 'main' street in accordance with Council's engineering and intersection requirements for Peppertree Rd.
- C10.C8 Service access off Peppertree Rd is to be provided with connection through to Medowie Rd, as part of and to the rear of, destination retail development shown in Stage 2 in Figure C10:2.

Service access road and link to Medowie Rd is to be designed and constructed in accordance with Council's engineering requirements.
- C10.C9 Proposed supermarket (Woolworths Stage 1 in Figure C10:2) is to initially provide

C10 Medowie Town Centre

service deliveries off Peppertree Rd.

Service deliveries must be relocated to use the service access road immediately on its completion as part of Stage 2 destination retail development.

- C10.C10 Location of vehicle access and parking is to be provided off Peppertree Rd and Ferodale Rd to centralised car parking areas as shown as shown Figure C10:2.
- C10.C11 Staging shown in Figure C10:2 is only indicative having regard for the logical sequence of adequate road and services, but does not preclude the advancement of stages provided adequate road and servicing is provided as part of the proposed development.

C10 Meadowie Town Centre



Figure C10:1 Meadowie Town Centre

DRAFT Port Stephens Development Control Plan 2007

C10 Medowie Town Centre

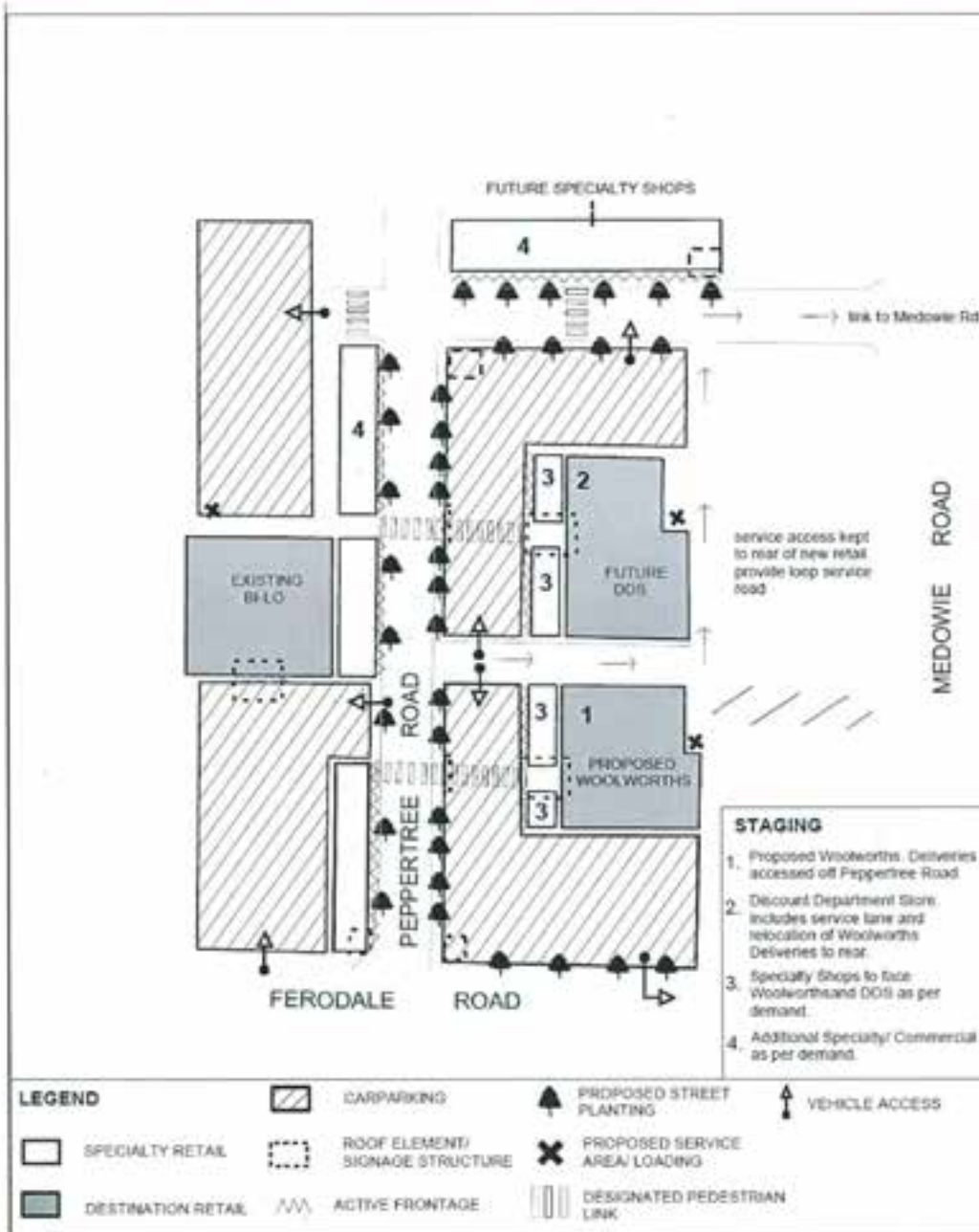


Figure C10:2 Medowie Town Centre Concept Masterplan

**ATTACHMENT 2
SUMMARY OF SUBMISSIONS**

Submission Number	General nature of the issue raised	Response	Recommendation
1 (The Supermarket Applicant)	<p>Considers the development very much feasible, but does not consider a Stage 2 development of the site as being commercially realistic at this point in time. The developer would not object if Council deleted the Stage 2 development option from the site within the DCP.</p> <p>Is of the view that Ferodale Road, which is the existing 'main street', should have been nominated, developed and reinforced as the Main Street of Medowie.</p>	<p>Stage 2 provides for specialty shops fronting the supermarket. This was included in the concept plan submitted by the applicant as a means to demonstrate the supermarket set back from the street would not preclude future activation of the street front by inclusion of the specialty shops. Whether or not the specialty shops occur is outside of Council's control and therefore is not a satisfactory solution to achieving an activated street front.</p> <p>This matter was considered during the preparation of the Medowie Strategy.</p>	<p>Council not support a staged concept plan.</p> <p>Further consultation occurs with the proponent as part of any future Medowie Town Centre Concept Plan.</p>
2 (Bi-Lo)	<p>Refers to the application to extend Bi Lo in 2008 (DA 2008/202). This application was required to meet the current Medowie Town Centre plan. For example, provision of a constructed bus stop on Ferodale Road.</p> <p>The proposed concept plan is a dramatic departure from the current plan. Council appears to have abandoned any commitment to creating active street frontages which, up to now, has been a significant consideration for any commercial development within the Medowie Town Centre. For example, the proposed plan does not require the creation of active street frontages along Peppertree Road, but still requires the creation of active street frontages on the western side of Peppertree Road. This is an inconsistent approach.</p> <p>'Consistency' and 'certainty' are crucial in achieving long-term strategic planning outcomes. Council should stick by its principles of the existing plan and not allow one developer to amend the plan as they see fit.</p>	<p>Agree. The Bi-Lo site was required to meet the existing DCP to provide a consistent streetscape.</p> <p>Agree</p> <p>Agree - Adoption of the draft DCP will result in inconsistencies with existing consents.</p>	<p>Council not support the draft DCP to maintain a consistent approach.</p> <p>Council not support the draft DCP.</p> <p>Council not support the draft DCP.</p>

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

<p>3 (Standard Letter)</p>	<p>The proposed town centre plan is singular in focus; deficient in its content; and poorly supported by Council planning staff. The town centre proposed should be rejected by Council based on two fundamental reasons: 1) The proposal is unsatisfactory when assessed against the Port Stephens DCP; and 2) The draft DCP is contrary to the general aims of the Medowie Strategy.</p> <p>It appears that Council has handed over responsibility for Medowie's Town Centre design to a single developer entity which is totally inappropriate and shows Council total disregard for business owners who have invested in Medowie in the past.</p> <p>Further reasons why council should reject the town centre plan, include: 1) the proposed plan fails to address community needs as the Medowie strategy envisaged (i.e. transport). 2) the proposed plan represents the sole interests of the developer. 3) zero community consultation took place for the proposed plan. 4) Council should only reassign the location and layout of Medowie's main street through consultation. 5) Uncertainty of centre vision due to an array of documents that refer to Medowie's town centre.</p>	<p>Noted. The draft DCP is consistent with the concept plan approved 'in-principle' by Council on 5 May 2009.</p> <p>Noted. The draft DCP is consistent with the concept plan approved 'in-principle' by Council on 5 May 2009.</p> <p>Noted. The draft DCP is consistent with the concept plan approved 'in-principle' by Council on 5 May 2009.</p>	<p>Council not support the draft DCP.</p> <p>Council not support the draft DCP.</p> <p>Council not support the draft DCP.</p>
<p>4</p>	<p>The proposed development is not in line with the Medowie Strategy. Wastes all of the previous planning work that informed the Medowie Strategy.</p> <p>Concern over the list of inconsistencies made by Council staff commencing on page 23 of the Council Committee report dated 19 October 2010.</p> <p>Concern about the lost koala habitat behind Bi Lo in the original Master Plan.</p> <p>Council should also take notice of the non compliances with Councils DCP 2007 raised by the Regional Development Committee of the RTA.</p>	<p>Council has previously resolved to support 'in principle' a concept plan that is inconsistent with the Medowie Strategy.</p> <p>On 19 October 2010 Council resolved to note the status of the DA having considered the report.</p> <p>Use of the site is consistent with the Medowie Strategy and considered during the rezoning process.</p> <p>This is a matter for the assessment of the supermarket development application and outside the scope of this report.</p>	<p>Council not support the draft DCP.</p> <p>No further action.</p> <p>Noted.</p> <p>No further action.</p>

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

	The final point being that there is 'no guarantee' that Woolworths will want to occupy this building once complete.	Speculative.	No further action.
5	<p>The economic feasibility of a second shopping centre is questionable. Example, Tanilba Bay, where the two centres were too much for the community to bear.</p> <p>The community should be consulted. This consultation was thoroughly achieved through the creation of the Medowie Strategy. Therefore, the current centre plan should be supported and the proposed rejected.</p>	<p>This is a market decision.</p> <p>Council has previously resolved to support 'in principle' a concept plan that is inconsistent with the Medowie Strategy.</p>	<p>No further action.</p> <p>The draft DCP is consistent with Council's previous resolution</p>
6	<p>Expresses 'great disappointment' that Development Application 16-2010-291-1 for a commercial development has been approved. It is believed that the DA is inconsistent with the concept of creating a workable commercial hub in Medowie. Discusses a number of traffic issues, such as the proposed DA not allowing for Peppertree Road to be adequately widened to form a main street and for the installation of a round about. The proposed development will result in deactivated street fronts. The RTA Regional Committee has commented that pedestrian safety is a serious concern with the proposed layout.</p> <p>Council should consider rewriting the DCP to fit the approved DA 16-2010-291-1 or forget that they have a responsibility to plan the future layout of the community.</p> <p>Serious consideration must now be given making Ferodale Rd the main commercial street of Medowie.</p> <p>If rear lane is proposed then this should be incorporated with the proposed Woolworths DA to reduce impact on traffic movement and interaction. Council owns the land at the rear of the Woolworths proposal and an agreement should be reached between the two parties for access.</p>	<p>Development Application 16-2010-291-1 has not been granted approval however on 19 October 2010 Council resolved to note the status of the DA having considered the report.</p> <p>Council should be consistent in its approach and provide clear policy direction.</p> <p>Noted.</p> <p>Noted.</p>	<p>No further action. The DA is outside the scope of this report.</p> <p>Council not support the draft DCP and undertake a Medowie Town Centre Concept Plan in consultation with the community. This could occur following consideration of the Supermarket DA.</p> <p>Further consultation occurs with the community as part of any future Medowie Town Centre Concept Plan.</p> <p>Applicant should discuss use of Council owned land with Council's Commercial Property Section.</p>

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

7	<p>The existing spatial structure should form the basis of future planning decisions. Some 20 years ago Ferodale Road was planned as the main street and Peppertree Road was to act as a commercial secondary road. The proposed town centre plan does not do this.</p> <p>This submission discusses how the development controls for the city centre should be revisited. It points out that no provision is made for the Hotel and Village Shopping Centre and its related parking.</p> <p>This submission states that there has been little consultancy or any regard made for any submissions made to Council to date on this issue.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p>	<p>Council not support the draft DCP.</p> <p>Council not support the draft DCP and undertake a Medowie Town Centre Concept Plan in further consultation with the community.</p> <p>Council not support the draft DCP and undertake a Medowie Town Centre Concept Plan in further consultation with the community.</p>
8 (Council Commercial Property Sectin)	<p>Council owned land, Lot 240 DP 1027965, forms part of the proposed centre plan and is identified as containing the main road to service the development (Supermarket) off Pepper Tree Road and an additional access from Medowie Road. Objection to proposed development without remuneration to Council for the supply of land.</p>	<p>Noted.</p>	<p>Further consultation is required with Council's Commercial Property Section and other landowners regarding the practicality of the draft concept plan.</p>
9	<p>Objects to the plan to redesign Medowie Town Centre but welcomes a new shopping centre.</p> <p>Keep car parks hidden and have trucks deliver goods around the back rather than running down shoppers in front of the stores.</p> <p>There is ample space in the current shopping area for all the future shops Medowie will need.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted. The preparation of the Medowie Strategy identified the need for additional commercial zoned land.</p>	<p>Council not support the draft DCP.</p> <p>Council not support the draft DCP.</p> <p>No further action.</p>

ITEM NO. 2

FILE NO: 2008-3522

REVIEW (2010) OF PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000

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

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal to amend Port Stephens Local Environmental Plan 2000 (Amendment No 34) to:
 - Alter the Heritage Conservation Area boundary;
 - Include the Farm Silo Steel Street Williamstown as an additional heritage item of local significance;
 - Make a general administrative update to Schedule 2 of LEP 2000 to reflect changes to lot numbers, deposited plans etc and bring the Schedule into the Standard Instrument format;
 - Provide a minor addition to Schedule 3 Exempt development – signage for sponsorship in open space areas; and
 - Rezone and reclassify part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a).
- 2) In accordance with the provisions of the Local Government Act 1993, reclassify part of Lot 61 DP 24364, Johnson Avenue, Karuah as community land;
- 3) In accordance with the Environmental Planning and Assessment Act (1979), Council submit the draft Planning Proposal with the recommendation it be made to the Minister for Planning.

COUNCIL COMMITTEE MEETING – 15 FEBRUARY 2011

RECOMMENDATION:

	Councillor John Nell Councillor Bob Westbury	That the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

028	Councillor Caroline De Lyall Councillor Geoff Dingle	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, Geoff Dingle, Frank Ward, Bruce MacKenzie, Steve Tucker, Shirley O'Brien and Sally Dover.

Those against the Motion: Nil.

The purpose of the Report is to recommend Council adopt the planning proposal to amend Port Stephens Local Environmental Plan (LEP) 2000 (Amendment No 34). The Planning Proposal has been placed on exhibition in accordance with the provisions of the Environmental Planning and Assessment Act (the Act) 1979. Five submissions were received during the exhibition period. The issues raised in the submissions are addressed in the Consultation Section of this Report.

BACKGROUND

On 23 March 2010 Council resolved to:

- Alter the Heritage Conservation Area boundary;
- Include the Farm Silo Steel Street Williamtown as an additional heritage item of local significance;
- Make a general administrative update to Schedule 2 of LEP 2000 to reflect changes to lot numbers, deposited plans etc and bring the Schedule into the Standard Instrument format;
- Provide a minor addition to Schedule 3 Exempt development – signage for sponsorship in open space areas;
- Rezone Lot 1 DP 874513, 51 William Street Raymond Terrace from 3(a) General Business to 5(c) Proposed Road Zone;
- Remove superfluous provisions from the Exempt and Complying Schedules in accordance with the State Environmental Planning Policy (SEPP) (Exempt and Complying Development Code) 2008;

Rezone and reclassify part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a).

The draft Amendment No 34 is the result of a comprehensive review of the existing Heritage Conservation Areas at Raymond Terrace, Tipperary Hill and Hinton in association with Council's Heritage Advisory Committee, a minor addition to Schedule 3 Exempt development and the actioning of three Council resolutions.

The Department of Planning (DoP) provided a Gateway Determination to Council advising to proceed to exhibition, however, requested that Council not proceed to rezone 51 William Street Raymond Terrace. This was due to the current LEP 2000 not allowing the flexibility to include Council's own areas of road widening but instead only allows the Roads Transport Authority to do this. As a result this matter will be addressed in the new Principal LEP currently being prepared.

Also, due to the timing of the release of the amendments to State Environmental Planning Policy (SEPP) (Exempt and Complying Development Code) 2008 and the expectation that further changes will be made by the DoP, amendments to the Exempt and Complying Schedules did not proceed.

A copy of the amended Planning Proposal and draft Instrument is located at **Attachments 1** and **2** respectively.

FINANCIAL/RESOURCE IMPLICATIONS

The financial impacts associated with this review and the resultant amendments have been funded from the existing operational budget and using current staff resources. No additional funds are being sort to complete this work.

LEGAL, POLICY AND RISK IMPLICATIONS

Adoption of the recommendations of the Report will continue the formal process commenced by Council on 23 March 2010. All aspects of this amended Planning Proposal have been undertaken in accordance with the provisions of the Act. To continue this process Council is required to adopt the amended Planning Proposal and forward this onto the Minister for Planning requesting the making of the Plan

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

To support a sustainable Port Stephens, in accordance with Council's Sustainability Policy, LEP 2000 needs to maintain its accuracy and currency to respond to changes in trends, demands and government policy for land use. The annual review and proposed amendments to LEP 2000 provides Council with the opportunity to make amendments or clarifications which assist in the interpretation and operation of the document for both the community and Council officers.

CONSULTATION

The DoP issued a Gateway Determination on the Planning Proposal advising public exhibition to be a minimum of 28 days. As part of the DoP's internal review of the Planning Proposal, a referral was made to the Heritage Office for comment. The Heritage Office advised that any item listed as an item of State significance in the Heritage Schedule which was not listed on the State Heritage Register was to be listed as an item of Local significance. This direction was reflected in the information available during the public exhibition period.

The amended Planning Proposal was placed on public exhibition from 25 November to 23 December 2010. Five submissions were received during the exhibition period. As all submissions relate to heritage, Council's Heritage Advisor reviewed submissions and provided comments included in **ATTACHMENT 3**. Council's Heritage Advisory Committee, who was involved in the initial review of the heritage conservation areas, were provided with an update on the process of the changes at their meeting of 16 December 2010. No objections were raised.

Of the submissions received two supported the changes to the Raymond Terrace Heritage Conservation Area (HCA) (Refer to **ATTACHMENT 4**). Another submission supported the removal of the Tipperary Hill HCA, however, requested King Street also be removed from the HCA. A number of studies over the years including an urban design analysis has been undertaken for the King Street Precinct which has determined that the heritage value of the area is worthy of retention. Also urban design controls have been developed to assist with redevelopment of the area. These controls are located in Development Control Plan 2007 Chapter C1. The removal of King Street from the HCA is not supported.

The owner of 33 Sturgeon Street Raymond Terrace requested their site be removed from the HCA. The building on the site is residential in appearance and is currently used as a doctor's surgery. The building is not individually listed, however, is considered to be a contributory item within the HCA. The removal from the HCA is not supported.

The final submission relates to the listing as an item of local significance of the silo located in Steel Street Williamstown. The silo was the subject of a Council resolution to undertake a heritage assessment with the intent to list the item in LEP 2000. The silo is located on property which forms part of the 'buffer' lands owned by the Department of Defence (DoD) which surround the RAAF Base Williamstown. Although the DoD are objecting to the listing, the silo is still being recommended for inclusion which is consistent with the recommendation of the Heritage Assessment. As previously advised, land owned by the Commonwealth is subject to commonwealth heritage legislation and as such will prevail over state or local heritage provisions.

No submissions were received relating to the recommendation to reclassify from 'operational' to 'community' land identified as Lot 61 DP 24364, Johnson Avenue Karuah and subsequent rezoning from Residential 2(a) to Public Open Space 6(a) (Refer to **ATTACHMENT 5**).

OPTIONS

- 1) Council resolve to refer the amended Planning Proposal to the Minister for Planning seeking the making of the draft amendment to Port Stephens LEP 2000. This is the recommended option.
- 2) Council make modifications to the amended Planning Proposal which will require a referral to the Department of Planning requesting consideration of changes. This may result in a further public exhibition.

- 3) Not proceed with the amended Planning Proposal. This is not the preferred option and will not assist the improvement in the operation of Port Stephens LEP 2000.

ATTACHMENTS

- 1) Planning Proposal
- 2) Draft Instrument
- 3) Summary of submissions
- 4) Draft Raymond Terrace Heritage Conservation Area
- 5) Map Lot 61 DP 24364, Johnson Avenue Karuah

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
PLANNING PROPOSAL

Planning Proposal – Amendment No 34 to Port Stephens LEP 2000

Part 1 – Objectives or Intended Outcomes

To amend the conservation area boundaries to reflect more appropriately areas to be identified as conservation areas, list an additional heritage item of local significance and undertake a general administrative update of the Schedule to reflect changes to lot numbers, deposited plans etc. The Planning Proposal also recommends a minor addition to Schedule 3 Exempt development – signage for sponsorship in open space and the rezoning of part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a) in order for the land to be maintained as a public park as part of Aliceton Reserve. A recommendation to reclassify the site from 'operational' to 'community' land is also included.

Part 2 – Explanation of Provisions

The intent of the proposal is to:

- Alter the Heritage Conservation Area boundary;
- Include Farm Silo Steel Street Williamtown as a heritage item of local significance;
- Undertake a general administrative update of Schedule 2 of LEP 2000 to reflect changes to lot numbers, deposited plans etc and bring the Schedule into the Standard Instrument format;
- Undertake minor addition to Schedule 3 Exempt development; and
- Rezone and reclassify part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a).

Part 3 – Justification

Section A – Need for the planning proposal

1) Is the planning proposal a result of any strategic study or report?

The Amendment is the result of a comprehensive review of the Heritage Conservation Areas in Port Stephens LEP 2000 in association with Council's Heritage Advisory Committee, a minor addition to Schedule 3 Exempt development and the actioning of two Council resolutions. Part of the amendment relates to updating and reformatting the heritage schedule in readiness for its move across to the Standard Template LEP format.

The following is the detail of what is proposed in the Planning Proposal and the rationale for the Amendment.

Heritage

As part of the preparation of the Principal LEP the current heritage schedule and Heritage Conservation Areas have been reviewed. As the work has been completed it is considered appropriate to progress these amendments now rather than hold them back and wait for the Principal LEP. Council's Heritage Advisory Committee had initially only reviewed the current schedule of heritage items and their associated level of significance with the recommended changes being addressed in the 2008 General Review (Amendment 31). The Committee have now reviewed the existing three Heritage Conservation Areas of Hinton, Tipperary Hill and Raymond Terrace.

The purpose of a heritage conservation area (HCA) is to identify and protect an area recognised as having both important visual and historic qualities. Development within the HCA is required to be monitored to ensure that the areas unique qualities are not compromised in any manner by poorly conceived or unsympathetic acts.

A review of the three HCA, two located within Raymond Terrace and the third at Hinton, was conducted by the Heritage Advisor between August 2008 and February 2009 in consultation with the Committee. The purpose of this review is to ascertain the integrity of the conservation areas and make recommendations for the effective management of each area. Recommendations from the Committee for retaining existing boundaries or contraction of some areas within the HCA's are outlined as follows:

1) Raymond Terrace

The precinct nominated as the Raymond Terrace Conservation Area generally describes a section of Raymond Terrace which contains the majority of listed heritage items. There has been some new residential development occur in the Melba Crescent/ Bourke Street area, which mostly contains residences that are of a post war period with little or no heritage significance. Likewise there are areas that have had commercial development of an unsympathetic heritage nature that now require removal from the conservation area boundaries.

Main areas to be deleted:

Location: The residential block bounded by Irrawang, Bourke and Melba Crescent. Modern housing development has occurred in this area, which appears to be generally made up of typical post war housing with little or no heritage significance.

Location: Properties to the west of Adelaide Street between Glenelg and William Street. This is predominantly vacant commercial land and is located in a commercial precinct that has no heritage significance.

Recommendation: Remove existing HCA boundaries to the above 2 areas, and other minor locations in accordance with the attached map.

Refer to **Attachments** for the existing HCA boundary for Raymond Terrace and for the proposed conservation area boundary.

2) Tipperary Hill

It is recommended that this HCA be deleted due to very recent and dense housing unit development. It is also recommended that the following residences be locally heritage listed due to their local significance, historical and visual qualities - Numbers 2, 4, 6 and 11 Irrawang Street.

Recommendation: Delete Tipperary Hill HCA and consider listing of No 2, 4, 6 and 11 Irrawang Street.

3) Hinton

Currently bounded by Nulla Nulla Street in the east and the Patterson River and bridge to the west. Generally following Hinton Road, and side streets and Patterson Street towards the Patterson River either side. (Refer to map for details)

While there has been a considerable amount of development along Hinton Road on the eastern approaches to the village, the former Residential 2(a) zoned land to the north and south of Hinton Road, as far east as Dillin Lane and the western boundaries of the properties fronting Bounty Close, this land is important in the cultural landscape setting of the village. This includes land around Stuart Park and its heritage-listed grandstand, where HCA controls are considered necessary to ensure that new development enhances rather than detracts from the heritage values of Hinton.

Recommendation: Retain existing Hinton HCA boundaries.

Heritage Conservation Area Maps

The Heritage Conservation Areas are identified on a separate map from the zone maps. As a result they are often considered difficult to find. To improve interpretation and allow ease of access the Heritage Conservation Areas will now appear on the zone maps. To allow this to occur an addition clause will be included in LEP 2000 stating the names of the areas and referencing the zoning maps. The relevant definitions have been amended to reflect the change in reference to the specific parts of the LEP. An example being **heritage item means** a building, work, relic tree or place listed in *Part 1 of Schedule 2* rather than the reference to *Part 1 or 2 of Schedule 2*.

Proposed Additional Heritage Item – Lot 2001 DP 1033856 20 Steel Street Williamtown

On 25 November 2008 a Mayoral Minute resolved:

To prepare a draft amendment to Port Stephens Local Environmental Plan 2000 to include the silo at Steel Street, Williamtown in the schedule of items of local heritage significance and consult with the Heritage Advisor as part of the process.

To progress this Resolution a heritage assessment of the silo was required to be undertaken in accordance with the Heritage Office criteria and by a suitably qualified heritage expert. The heritage expert recommended that the silo be listed as an item of local significance in LEP 2000. This Heritage Assessment document was part of the supporting documentation for the public exhibition period and has previously been provided to the Department.

Administrative Update

In preparation for the Principal LEP, an administrative review of the Heritage Schedule in LEP 2000 was undertaken. This review has allowed for the updating of property information and conversion of the information into the format required by the Department of Planning for the Principal LEP. It should be noted that the changes to the level of significance for several items have been amended as requested by the Heritage Office.

Schedule 3 Exempt development – Signage for sports fields and open space access

The LEP 2000 Schedule 3 identifies Exempt development. Exempt development, is development that does not require approval under the Environmental Planning and Assessment Act, 1979.

The Schedule identifies several types of relatively minor development including signage. One type of sign listed is for sporting fields which specifies a maximum 5m width and 0.9 height as well as locational restrictions and the need to be in accordance with an adopted Plan of Management. However, this only relates to sporting fields with no provisions included for other open space areas. As a result, an amendment to the Schedule is proposed to allow

sponsorship signage in open space areas with a maximum width of 5m and height of 1m, a maximum of 1 sign per site and in accordance with an adopted Plan of Management.

Rezoning part of Lot 61 DP 24364, Johnson Avenue Karuah from 2(a) Residential to 6(a) General Recreation.

The land currently forms part of Aliceton Reserve at Karuah. Most of the land that forms part of the reserve (approx. 3.4 ha) is currently zoned 6(a) while a small proportion is zoned 2(a) (approx. 0.6 ha). The Reserve is well utilised by the residents and visitors to Karuah and is anticipated to be highly utilised in the future.

The proposed rezoning and reclassification of part of Aliceton Reserve was previously included in Council's draft LEP amendment for the rezoning and reclassification of various parcels of Council owned land throughout the LGA, which was considered and recommended by Council at its meeting of 28th July 2009. However, in order to expedite the rezoning, it is considered appropriate to remove this rezoning from this draft amendment. The Reserve is currently classified as operational land, therefore it can be reclassified to community land through the Council resolution and therefore only the rezoning component need to be included as part of this LEP amendment.

2) Is the planning proposal the best means of achieving the objectives of intended outcomes or is there a better way?

The Planning Proposal is the only means of achieving the intended outcomes as Council is unable to move outside the legislative framework determined by the Environmental Planning and Assessment Act, 1979.

3) Is there a net community benefit?

Consideration of net community benefit is not relevant to what is proposed in this Planning Proposal.

Section B – Relationship to strategic planning framework

4) Is the planning proposal consistent with the objectives and actions contained with the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal is consistent with the Lower Hunter Regional Strategy (LHRS) 2006. The changes proposed are generally minor in nature having regard to the broad strategic context of the LHRS.

5) Is the planning proposal consistent with the local council's Community Strategic plan or other local strategic plan?

The Planning Proposal is consistent with Council's adopted Community Settlement and Infrastructure Strategy (CSIS). The proposed Amendment is considered of minor planning significance in the boarder strategic context.

6) Is the planning proposal consistent with the applicable state environmental planning policies?

The Planning Proposal is consistent with the relevant state environmental planning policies.

7) Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Heritage Conservation (2.3) – The Planning Proposal is generally consistent with this Direction. An additional item is recommended for listing as an item of local significance. A comprehensive review of the Heritage Conservation Areas (HCA) has been undertaken. Changes are in accordance with the Heritage Office Guidelines. It is recommended that Tipperary Hill be removed due to the limited number of contributory items and recent developments which have compromised the integrity of the HCA. The Raymond Terrace HCA had been reviewed and recommended to be reduced in size. There has been limited development in the area, however, a large proportion of this area could not be considered as contributory items for a HCA. As a result the proposal is considered appropriate in this instance.

Implementation of Regional Strategies (5.1) – The proposal is consistent with the Lower Hunter Regional Strategy.

Reserving Land for Public Purposes (6.2) – The proposed rezoning to Public Open Space of land in Johnson Street Karuah is consistent with this direction.

Section C – Environmental, social and economic impact

8) Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the proposal?

The Planning Proposal relates mainly to heritage matters. As a result the proposal will not have an impact on critical habitat or threatened species, populations or ecological communities or their habitats.

9) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No other environmental effects are envisaged as a result of this Planning Proposal.

10) How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal is of minor planning significance and will not result in any adverse social and economic effects. In regard to the proposed listing of the silo at Williamtown, the property owner is the Department of Defence who are aware of Council's desire to retain the silo. The silo is located on land purchased by the Department as part of their buffer area around the RAAF Base at Williamtown. The Department was notified as an affected property owner during the exhibition process.

Section D – State and Commonwealth interests

11) Is there adequate public infrastructure for the planning proposal?

The Planning Proposal is of minor planning significance and will not adversely affect public infrastructure demand.

12) What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Excluding the Department of Defence and Department of Lands as property owners no additional consultation has occurred with public authorities at this point in the process. The NSW Heritage Office was consulted as an internal referral prior to the Gateway determination. The Heritage Office advised Council to amend the heritage schedule to show only items list on the State Heritage Register as State significance with all other items to be listed as local. This direction was reflected in the exhibition material, however, no submissions were received relating to this matter. .

Part 4 – Community Consultation

The DoP issued a Gateway Determination on the Planning Proposal advising public exhibition to be a minimum of 28 days. The amended Planning Proposal was placed on public exhibition from 25 November to 23 December 2010. The property owners affected by the changes to the heritage conservation areas were notified in writing. The property owner affected by the listing of a proposed heritage was also notified in writing. Advertisements were placed in the paper and details were made available on Council's website and local library.

Five submissions were received during the exhibition period. As all submissions relate to heritage, Council's Heritage Advisor reviewed submissions and provided comments. Of the submissions received two supported the changes to the Raymond Terrace Heritage Conservation Area (HCA). Another submission supported the removal of the Tipperary Hill HCA, however, requested King Street also be removed from the HCA. A number of studies including an urban design analysis have been undertaken previously which determined that the heritage value of the area is worthy of retention. Urban design controls to assist with redevelopment of the area have also been developed. These controls are located in Development Control Plan 2007 Chapter C1. The removal of King Street from the HCA is not supported.

The owner of 33 Sturgeon Street Raymond Terrace requested their site be removed from the HCA. The building on the site is residential in appearance and is currently used as a doctor's surgery. The building is not individually listed, however, is considered to be a contributory item within the HCA. The removal from the HCA is not supported.

The final submission relates to the listing as an item of local significance of the silo located in Steel Street Williamtown. The silo was the subject of a Council resolution to undertake a heritage assessment with the intent to list the item in LEP 2000. The silo is located on property which forms part of the 'buffer' lands owned by the Department of Defence (DoD) which surround the RAAF Base Williamtown. Although the DoD are objecting to the listing, the silo is still being recommend for inclusion which is consistent with the recommendation of the Heritage Assessment. As previously advised, land owned by the Commonwealth is subject to commonwealth heritage legislation and as such will prevail over state or local heritage provisions.

No submissions were received relating to the recommendation to reclassify from 'operational' to 'community' land identified as Lot 61 DP 24364, Johnson Avenue Karuah and subsequent rezoning from Residential 2(a) to Public Open Space 6(a).

A Public Hearing is not required for the Karuah rezoning as the site is currently "operational land" under the Local Government Act and following the rezoning to open space will revert to "community land".

Conclusion

The Planning Proposal provides an overview of the intent of the amendments, however, for a full disclosure of the proposed changes please refer to the attached draft Instrument.

**ATTACHMENT 2
DRAFT INSTRUMENT**

Draft Instrument

**(draft)
Port Stephens Local Environmental Plan
2000 (Amendment No 34)**

under the

Environmental Planning and Assessment Act 1979

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

Minister for Planning

Port Stephens Local Environmental Plan 2000 (Amendment No 34)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

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

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This plan applies to all land to which the *Port Stephens Local Environmental Plan 2000* applies.

Schedule 1 Amendment of Port Stephens Local Environmental Plan 2000

[1] Schedule 2, Heritage

Omit Part 1 including title

Insert instead Part 1 Heritage Items

Suburb	Item name	Address		Property description	Significance
Anna Bay	Underground water tank (Footrot Flat)	4408	Nelson Bay Road	Lot 884 DP 737049	Local
Anna Bay	Birubi Point Cemetery	31A & 33A	Ocean Avenue	DP 753204	Local
		31B		Lot 7035 DP 1057295	
Balickera Duns Creek	Balickera House	303	Italia Road	Lot 530 DP1128672	Local
	Duninald House Group – Old Duninald and Duninald including mature plantings, lagoon and landscape setting	1525	Paterson Road	Pt 501 DP 1063596	Local
Eagleton	Eagleton Shipyard site	673	Newline Road	Lot 2 DP 626917	Local
East Seaham	Road alignment and indigenous roadside vegetation including <i>Corymbia maculata</i> (Spotted Gum), <i>Eucalyptus siderophloia</i> (Iron Bark), <i>Eucalyptus fibrosa</i> (Iron Bark), <i>Eucalyptus tenicomis</i> (Forest Red Gum) and <i>Eucalyptus punctata</i> (Grey Gum)		East Seaham Road and Road Reserve		Local
East Seaham	Seaham Knitting Circle Memorial	1214	Newline Road	Lot 2 DP 214077	Local
East Seaham	Burrowel Homestead	110	East Seaham Road	Lot 2 DP 194920	Local
Fingal Bay	Point Stephens Lighthouse Group, including lighthouse station, tower, remains of lighthouse keeper's cottage	1E	Marine Drive	Lot 177 DP 753204	Local
Fullerton Cove	<i>Stanley Park House</i>	77 & 77A	Fullerton Cove Road	Lot 2 DP 720679 Lot 108 DP 720695	Local
Glen Oak	Glen Oak School of Arts, including Memorial gates and war memorial plaque	1998	Clarencetown Road	Lot 227 DP 752497	Local
Heatherbrae	Trees – 2 specimen of <i>Ficus macrophylla</i> (Moreton Bay Fig)	2279	Road Reserve Pacific Highway	Adjacent to Lot 102 DP 807522	Local
Hinton	Anglican Cemetery	35	Elizabeth Street	Lot 601 DP 681208	Local
Hinton	Baptist Church	42 & 44	Elizabeth Street	Lots 36 & 38 DP 975910	Local

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

Hinton	Former Police Station	43 & 45	Elizabeth Street	Lot 55 & 57 DP 975910	Local
Hinton	School of Arts, including two large white marble war memorial plaques	279	Hinton Road	Lot 31 DP 1104564	Local
Hinton	Hinton Pioneer Cemetery	289	Hinton Road	Lot 7002 DP 1052993	Local
Hinton	Rosemount, including outbuildings, landscape settings and Bunya Pine trees	296 33 & 43 14	Hinton Road Hurter Street Swan Street	Lot 18 DP 1044452 Lots 22 & 33 DP 1053120 Lot 21 DP 1053120	Local
Hinton	Hinton Bridge		Paterson Street		State
Hinton	Prospect House, including outbuildings and landscape setting	98 108 335A 335	McClymonts Swamp Road McClymonts Swamp Road Hinton Road Hinton Road	Lot 1 DP 1130450 Lot 2 DP 1130450 Lot 4 DP 1130450 Lot 3 DP 1130450	Local
Hinton	Public School, including main building, shelter sheds, memorial gates	20	Paterson Street	Lot 100 DP 608856	Local
Hinton	Victoria Hotel	2	Paterson Street	Lot 1 DP 75465	Local
Hinton	Timber Cottage	13	Paterson Street	Lot 21 DP 770598	Local
Hinton	Timber Cottage	18	Paterson Street	Lot 14 DP 1127761	Local
Hinton	Georgian cottage	26	Paterson Street	Lot 70 DP 1045778	Local
Hinton	Former St John the Evangelist Church	29	Paterson Street	Lot 802 DP 881208	Local
Hinton	Grandstand, Stuart Park	17	Swan Road	Reserve Number 10417	Local
Karuah	Karuah Town War Memorial (Memorial Park/Lion Park)	1 & 11	Memorial Drive	Lot 6 DP 753196 Lot 7009 DP 1050943	Local
Karuah	Karuah Cemetery	2A	Wattle Street	Lot 1 DP 1131256	Local
Lemon Tree Passage	Johnson's Cottage	60	Johnson Parade	Lot 1 DP 818801	Local
Nelson Bay	Apex Park Group, including Cenotaph, well and remains of the memorial steps	8 3	Laman Street Teramby Street	Pt Lot 154 DP 753204 Lot 7145 DP1063859	Local
Nelson Bay	Point Stephens Lighthouse Group, Apex Park Former Oil Burning Street Lamp	5A	Lighthouse Road	Lot 427 DP 39728	Local
Nelson Bay	Point Stephens Lighthouse Group, Christmas Bush Avenue Former Oil Burning Street Lamp	5A	Lighthouse Road	Lot 427 DP 39728	Local
Nelson Bay	Point Stephens Lighthouse Group, Nelson Head Lighthouse, cottage and reserve	5A	Lighthouse Road	Lot 427 DP 39728	State

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

Nelson Bay	The Native Flora Reserve, including site of former migrant camp, foundations of HMAS Assault, Aboriginal scar tree, burial site and below water artefacts and items including Higgins landing barges, army jeeps, various munitions and anchor of USS Henry S Grant	1 98	Lighthouse Road Shoal Bay Road	Lots 1 & 2 DP 1096708	Local
Nelson Bay	Gan Gan Army Camp	4874	Nelson Bay Road	Lot 11 DP 841401	Local
Nelson Bay	Nelson Bay Cemetery	41A	Stockton Street	Lot 2 DP 1128723	Local
		43		Lot 1 DP1155736 Lot 7322	
		43A		DP 1151533 Lot 7323	
Port Stephens	Stockton Beach Dune System, including Aboriginal site and shell middens, ship wrecks, WWII ramparts, tank traps, proofing range, rifle range and tin huts	43B 33 & 37	Coxs Lane	DP1151233 Lots 224 & 226 DP 1097995	Local
		35	Coxs Lane	Lot 216 DP 1044608	
		27,30, 32 & 42	Stockton Bight Track	Lots 224, 225, 227 & 230 DP 1097995	
		40		Lot 218 DP 1044608	
		3006 & 4080A	Stockton Bight Track	Lot 592 DP1097992 Lot 7033	
			Nelson Bay Road	DP 1053720	
Raymond Terrace	Old school hall (Raymond Terrace Public School), including WWI school honour board	14 & 16	Adelaide Street	Lot 2 DP 868750	Local
Raymond Terrace	The Free Presbyterian Church of Eastern Australia	155	Adelaide Street	Lot 11 DP 1034823	Local
Raymond Terrace	Woodlands – timber cottage	183	Adelaide Street	Lot 2 DP 758871	Local
Raymond Terrace	Tree – specimen of <i>Ficus obliqua</i> (Fig Tree)	193	Adelaide Street	Lot 76 DP 621767	Local
Raymond Terrace	Roslyn, including house, outbuildings, mature trees and landscape setting	12	Binns Street	Lot 28 DP 753161	Local
Raymond Terrace	Raymond Terrace Cemetery and Pioneer Hill Cemetery	1A, 2 & 4	Elizabeth Avenue	Lot 4 DP 811065	Local
Raymond Terrace	Part of St Johns Anglican Church Group – former school and rectory	6	Glenelg Street	Pt Lot 20 DP 753161 Lot 7008 DP 1051708 Lot 7009 DP 1051708	Local
Raymond Terrace	Former Ingleburn Private Hospital	12	Glenelg Street	Lot 5 DP 38912	Local
				Lot 1 DP 81854	Local

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

Raymond Terrace	Sandstone Block Timber Glad House	3	Hunter Street	Lot 1 DP 739811	Local
Raymond Terrace	Cadell Cottage (former doctor's house)	7	Hunter Street	Lot 2 DP 522978	Local
Raymond Terrace	Part of St Brigid's Catholic Church Group – St Brigid's Convent	52 & 54	Irrawang Street	Lots 13 & 14 SEC 15 DP 758871	Local
Raymond Terrace	Part of St Brigid's Catholic Church Group – St Brigid's Church Hall	58	Irrawang Street	Lot 16 DP 547042	Local
Raymond Terrace	Timber Cottage (former mounted police barracks)	11	Irrawang Street	Lot 6 DP 38088	Local
Raymond Terrace	Boomerang Park, including former stone quarry and mature tree planting	17E	Irrawang Street	Lot 1 DP 1018979	Local
Raymond Terrace	Bailwick – cottage	70	Irrawang Street	Lot 2 DP 348695	Local
Raymond Terrace	Part of St John's Anglican Church Group – former parish hall	1	Jacaranda Avenue	SP52685, SP 54546, SP 60246	Local
Raymond Terrace	Raymond Terrace War Memorial	2A	Jacaranda Avenue	Lot 1 DP 1014247	Local
Raymond Terrace	Ornamental planting of Jacaranda trees (<i>Jacaranda mimosifolia</i>)		Jacaranda Avenue Road Reserve (between Glenelg and Swan Streets)		Local
Raymond Terrace	Kia-ora, including mulberry tree beside driveway	13	Kia-ora Street	Lot 13 DP 24939	Local
Raymond Terrace	Part of King Street Group – residence (former hotel)	7	King Street	Lot 1 DP 741492	Local
Raymond Terrace	Part of King Street Group – shop (former boot and shoe emporium)	9	King Street	Lot 1 DP 737678	Local
Raymond Terrace	Part of King Street Group – shop and residence (former hardware store)	11	King Street	Lot 1 DP 783549	Local
Raymond Terrace	Part of King Street Group – shop (former grocery store)	13	King Street	Lot 5 DP 707022	Local
Raymond Terrace	Part of King Street Group – hall (former shop and residence)	14	King Street	Lot 1 DP 301752	Local
Raymond Terrace	Part of King Street Group – shop (former Princess Café, including leaded glass highlights over front door and windows)	15	King Street	Lot 54 DP 1063888	Local
Raymond Terrace	Tree – specimens of <i>Ficus macrophylla</i> (Moreton Bay Fig) – <i>The Marriage Trees</i>	16 & 18	King Street	Lot 1 DP 79440 Lot 5 DP1063568	Local
Raymond Terrace	Part of King Street Group – shop (former drapery)	17	King Street	Lot 14 DP 748967	Local
Raymond Terrace	Part of King Street Group – brick warehouse (former bond store)	18 & 18A	King Street	Lot 5 DP 1063568 Lot A DP 960760	Local
Raymond Terrace	Part of King Street Group – shop (former shop and residence)	21	King Street	Lot 10 DP 712299	Local

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

Raymond Terrace	Ornamental planting of <i>Phoenix canariensis</i> (Canary Islands Date Palm)		Port Stephens Street Road Reserve (Adam Place)		Local
Raymond Terrace	Timber Cottage	34	Port Stephens Street	Lot 4 DP DP56219	Local
Raymond Terrace	Former Post Office	61	Port Stephens Street	Lot 41 DP 776800	Local
Raymond Terrace	Former Schoolhouse	63	Port Stephens Street	Lot 3 DP 252996	Local
Raymond Terrace	Library (former Mayo's Building)	72	Port Stephens Street	Pt Lot 10 DP 1128722	Local
Raymond Terrace	Tree – specimen of <i>Ficus rubiginosa</i> (Port Jackson Fig)	1	Sketchley Street (Pacific Highway)	Pt Lot 138 DP 24655	Local
Raymond Terrace	Part of St Johns Anglican Church Group – church	45 and 45A	Sturgeon Street	Lots 3 and 4 Sec 9 DP 758871	Local
Raymond Terrace	Part of St Johns Anglican Church group – rectory and ornamental planting of 2 <i>Araucaria heterophylla</i> (Norfolk Island Pine)	48	Sturgeon Street	Lot 48 DP 1142622	Local
Raymond Terrace	<i>Eurpides</i> – stone cottage	28	Sturgeon Street	Lot 22 DP 613174	Local
Raymond Terrace	<i>Roeth House</i> – two storey timber house	12	Swan Street	Lot 23 DP 588932	Local
Raymond Terrace	Sabre Jet fighter aircraft - Bettles Park	1	Sketchley Street	Lot 1 DP 1093118	Local
Raymond Terrace	Kinross, including stone shed and landscape setting	68	Wahroonga Street	Lot 721 DP 605426	Local
Raymond Terrace	Fitzgerald Bridge		Seaham Road, Hurter River		Local
Raymond Terrace	Courthouse	59	William Street	Lot 10 Sec 11 DP 758871	Local
Raymond Terrace	Part of St Brigid's Catholic Church Group – St Brigid's Presbytery	67	William Street	Lot 11 Sec 15 DP 758871	Local
Raymond Terrace	Part of St Brigid's Catholic Church Group – St Brigid's Church	69	William Street	Lot 12 Sec 15 DP 758871	Local
Raymond Terrace	Junction Inn	2	William Street	Lot 1 DP 1104303	Local
Raymond Terrace	Ralston's Building (commercial building)	4	William Street	Lot 1 DP 111303	Local
Raymond Terrace	National Australia Bank	14	William Street	Lot 1 DP 912155	Local
Raymond Terrace	Uniting Church, including bell tower and WWI honour board	54	William Street	Lot 190 DP 1132724	Local
Seaham	Seaham Cemetery	10	Grape Street	Lot 1 Sec 36 DP 758899	Local
Seaham	Tom McLennan's Cottage – slab cottage	4	Middle Crescent	Lot 1 Sec 31 DP 758899	Local
Seaham	<i>Eskdale House</i>	792 & 794	Seaham Road	Lot 100 DP 1064980	Local
Seaham	Porphyry Point site	1	Warren Street	Lot 1 DP 538498	Local

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

Seaham	School of Arts, including memorial pillars and photographic collection of WWI servicemen, timber war memorial honour board, Friendly Society dispensation and Seaham ferry bell	10	Warren Street	Lot 8 DP 758899	Local
Seaham	Seaham Quarry, including interpretive sign originally installed by Professor Edgeworth David	26 and 26A	Warren Street	Lot 10 DP 258195 Lot 95 DP 42639	State
Seaham	St Andrew's Church	47-53	Warren Street	Lots 4-7 Sec 31 DP 758899	Local
Seaham	Brandon, including house, stables and landscape setting	1106	Seaham Road	Lot 149 DP 1003827	Local
Shoal Bay	Remains of WWII fortifications, Fort Tomaree, including gun base and torpedo bases, torpedo tube jetty	2	Shoal Bay Road	Lot 454 DP 705463	State
Shoal Bay	Tomaree Holiday Lodge Precinct	4	Shoal Bay Road	Lot 453 DP 705463	State
Soldiers Point	Grave of Cecilia Cromarty – adjacent to Seaview Crescent	147A	Soldiers Point Road	Lot 321 DP 595752	Local
Tanilba Bay	Part of Henry Halloran Group – Portal to the Peerless		Road Reserve – Avenue of the Allies (Foch Forum)		Local
Tanilba Bay	Part of Henry Halloran Group – Centenary Gateway (Water Arch), including avenue planting of <i>Araucaria heterophylla</i> (Norfolk Island Pine)		Road Reserve – Avenue of the Allies (Haig Hexagon)		Local
Tanilba Bay	Part of Henry Halloran Group – Mosaic Temple of the Stork	31	Admiralty Avenue	Lot 45 DP 16873	State
Tanilba Bay	Part of Henry Halloran Group – Sunset Park, including 2 stone seats, large stone table, stone fireplace and kilns	2B & 2C	Caswell Crescent	Lot 1 DP 182666 Lot 7017 DP 1052528	Local
Tanilba Bay	Part of Henry Halloran Group – Stone wall west of Tanilba House	30	Caswell Crescent	Lot 2 DP 548644	Local
Tanilba Bay	Part of Henry Halloran Group – Palm Circle – specimens of <i>Livistona australis</i> (Cabbage Tree Palm)	30A	Caswell Crescent	Lot 13 DP 16873	Local
Tanilba Bay	Tanilba House, including remnants of convict barracks, garden cottage, water tank, stone walls, circular drive, wishing chair, direction finder, olive tree, rustic pergola and wisteria vine and garden setting, including Bunya Pine and fig tree	32	Caswell Crescent	Lot 1 DP 548644	State

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

Tanilba Bay	Part of Henry Halloran Group – Meridian Park, including 6 <i>Phoenix canariensis</i> (Canary Islands Date Palm), remains of circle planting of <i>Livistona australis</i> (Cabbage Tree Palm), stone seat, relocated barbecue and possible site of 3 burials	37A, 37B & 37C	Caswell Crescent	Lot 2 DP 182666 Lot 1 DP 848809 Lot 7018 DP 1052527	Local
Tanilba Bay	Part of Henry Halloran Group – former summer house, remains of former barbecue and commemorative stone work	44	Caswell Crescent	Lot 36 DP 16873	Local
Tanilba Bay	Part of Henry Halloran Group – former bathers' changing room and circular rock wall		Road Reserve, Pomona Place		Local
Taylor's Beach	Tree – specimen of <i>Ficus rubiginosa</i> (Port Jackson Fig)	14	Taylor Road	Lot 636 DP 27628	
Tomago	<i>Tomago House Chapel</i> and landscape setting	423	Tomago Road	Lot 1 DP 770610	State
Tomago	<i>Tomago House</i> , including pinetum, pleasure garden and landscape setting	421	Tomago Road	Lot 1 DP 111486	State
Wailalong	Wailalong/Bowthorne War Memorial	49	High Street	Lot 12 DP 1079483	Local
Wailalong	Former Wailalong Broom Factory	44	McClymonts Swamp Road	Lot 140 DP 836929	Local
Wailalong	Wailalong House, including stables, outbuildings, gardens and landscape setting	76	Wailalong Road	Lot 577 DP 864399	Local
Williamstown	<i>Devon House</i> , including former Moxey's slab cottage, dairy, hay shed and slab barn	150	Cabbage Tree Road	Lot 1 DP 832554	Local
Williamstown	St Saviour's Anglican Church, including WWI memorial plaque	12	Cabbage Tree Road	Lot 1 DP 607447	Local
Williamstown	Farm Silo	20	Steel Street	Lot 2001 DP 1033856	Local
Woodville	Former All Saints Church	235	Clarencetown Road	Lot 1 DP 137188	Local
Woodville	General Store and Post office	229	Clarencetown Road	Pt Lot 24 DP 10074	Local
Woodville	Dunmore Bridge		Clarencetown Road, Paterson River		State
Woodville	Stradbroke, including stone barn, and landscape setting	1137	Paterson Road	Lot 17 DP 1104247	Local
Woodville	School of Arts	868 & 870	Paterson Road	Lot 12 DP 1058974 Pt Lot 51 DP 752451	Local
Woodville	<i>Tressingfield</i> (former Carlton Cottage), including gardens and landscape setting	1081	Paterson Road	Lot 1 DP 948190	Local
Woodville	<i>Pomfret's Cottage</i> – slab cottage	862A & 868	Paterson Road	Lot 2 DP 782062	Local

Lot 12
DP 1058974

[2] Schedule 2, Part 2

Omit the Part including title

Insert instead Part 2 Heritage Conservation Areas

Description	Identification on Zoning Map
Hinton	Shown by a heavy black broken line marked "Hinton Heritage Conservation Area".
Raymond Terrace	Shown by a heavy black broken line marked "Raymond Terrace Heritage Conservation Area".

[3] Schedule 3 Exempt development

Insert under Advertising sign in alphabetical order

(h) Signage for sponsorship in open space areas	Maximum size 5m length x 1m height 1 sign per site Sponsorship must relate directly to activities held on the site Must be in accordance with an adopted Plan of Management.
---	---

[4] Dictionary.

(a) Omit the definitions "heritage conservation area", "heritage item", and "heritage item of Local significance". Insert instead in alphabetical order:

heritage conservation area means an area of land that is shown edged by a heavy black broken line on the zoning map and listed in Part 2 of Schedule 2.

heritage item means a building, work, relic tree or place listed in Part 1 of Schedule 2.

heritage item of Local significance means a heritage item listed in Part 1 of Schedule 2.

(b) Insert in appropriate order in the definition of the map:

Port Stephens Local Environmental Plan 2000 (Amendment No)

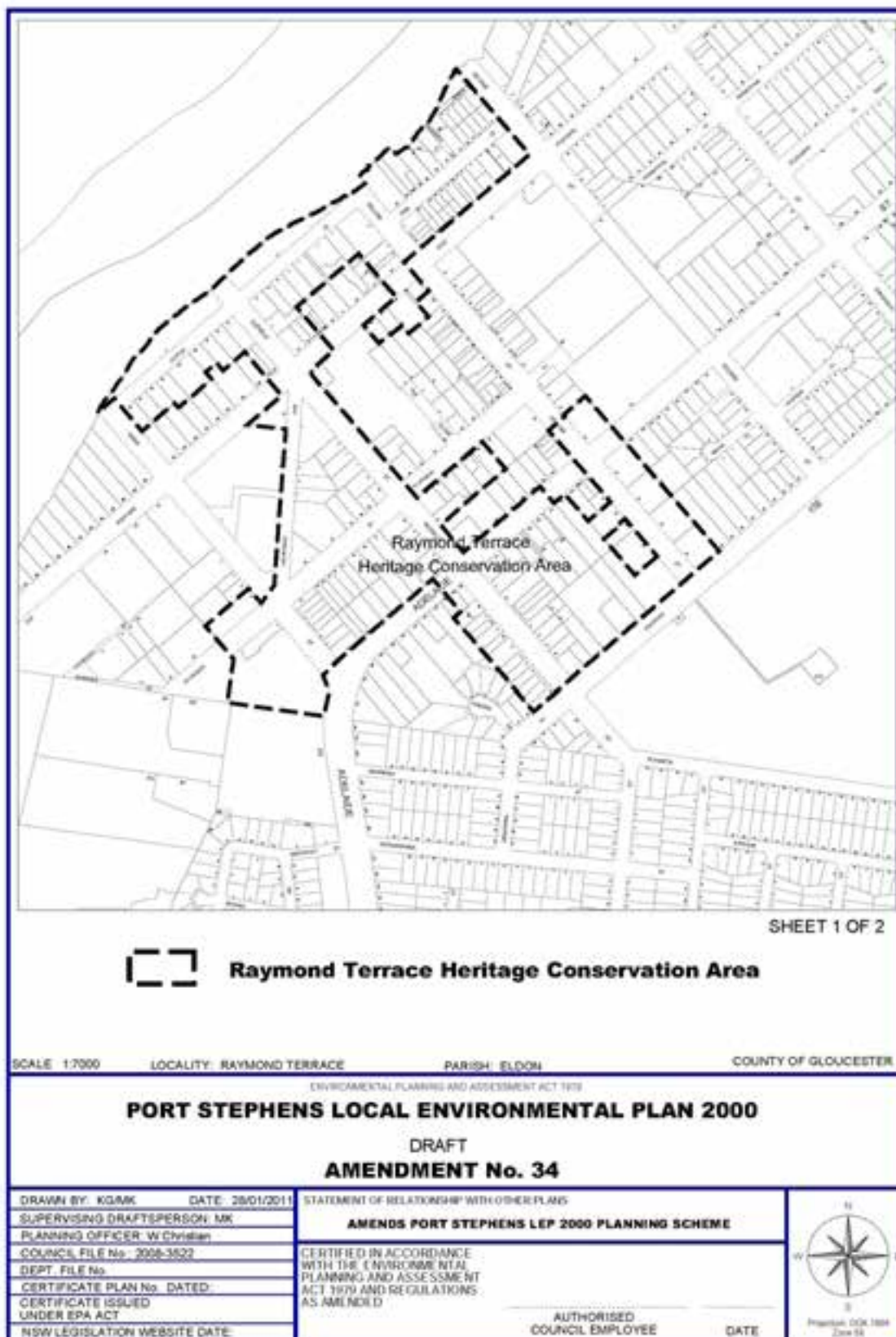
ATTACHMENT 3
SUMMARY OF SUBMISSIONS

Appendix A: Public Submission Register –Planning Proposal to amend Port Stephens LEP 2000

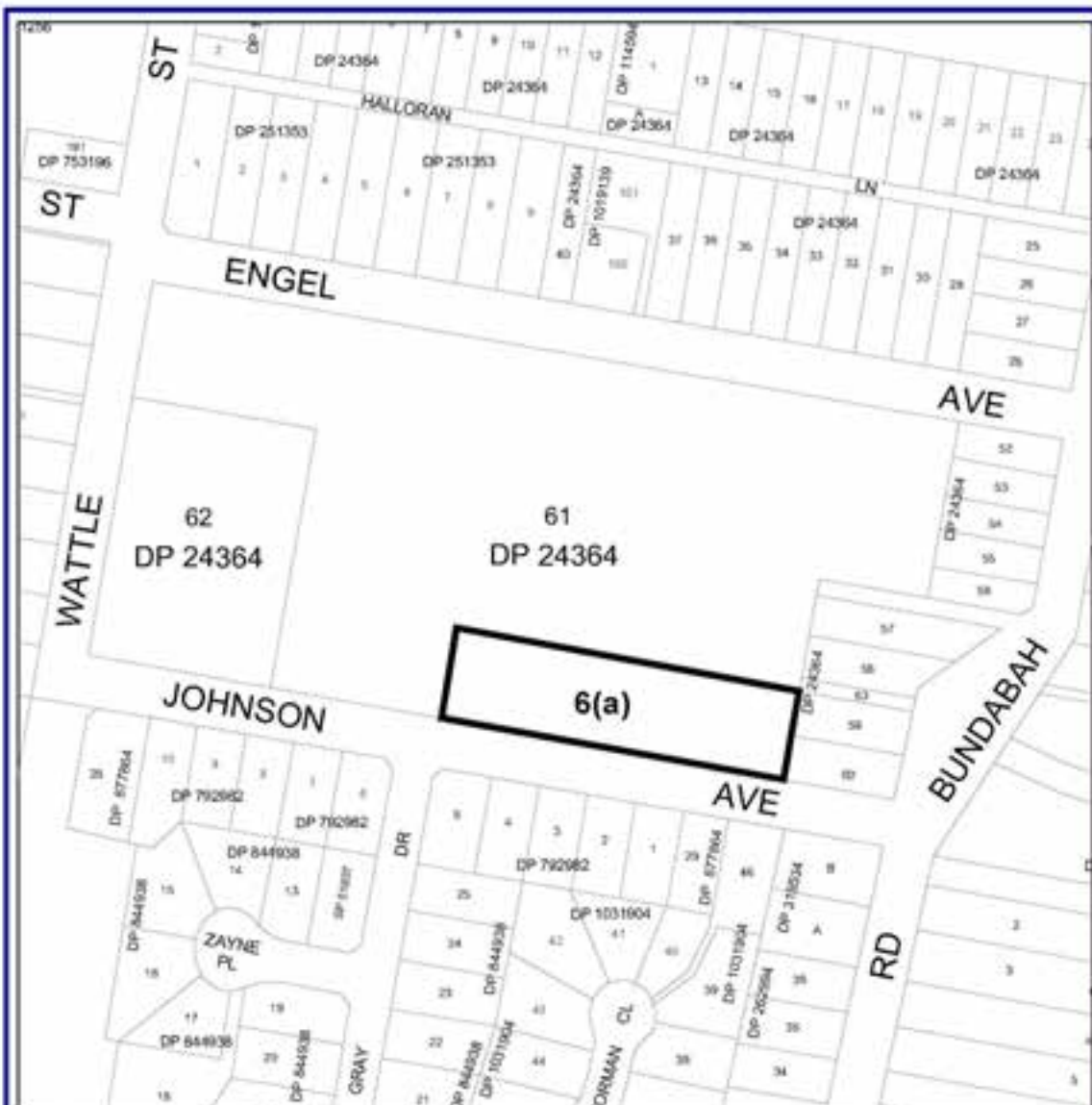
General nature of the issue raised	Locality	Sub No.	Comment	Recommendation for revised LEP
Supports the amendment to Raymond Terrace Heritage Conservation Area.	Raymond Terrace	1	The property owner's site is currently within the Raymond Terrace HCA. The draft amendment recommends the site be excluded from the HCA.	No change to the exhibited draft amendment.
Supports the removal of the Tipperary Hill Conservation Area.	Raymond Terrace	2	Tipperary Hill HCA was reviewed as part of this amendment and recommended to be removed due to the large amount to recent development in the area.	No change to the exhibited draft amendment.
Request Council consider the removal of the Kings Street precinct from the HCA due to the belief that there is no heritage significance and that HCA stops development.	Raymond Terrace	2	There have been a number of studies undertaken that support and encourage the sympathetic redevelopment of the King Street heritage Precinct.	No change to the exhibited draft amendment.
Supports the removal of their modern site from the Raymond Terrace Heritage Conservation Area.	Raymond Terrace	3	The development on the site is relatively new and does not support being included in HCA.	No change to the exhibited draft amendment.
Requests the removal of 33 Sturgeon Street from the Raymond Terrace Heritage Conservation Area.	Raymond Terrace	4	It is noted that this property is of a residential type that is being adaptively reused as a Doctors Surgery. The retention of the property with in the HCA is recommended as it is has a significant heritage aesthetic that contributes to the conservation area. The purpose of a Heritage Conservation Area is to identify and protect an area recognised as having both important visual and historic qualities. It is noted that the owners are desirous of future extensions to the building, and the continued inclusion of the property in the conservation area will not inhibit that process.	No change to the exhibited draft amendment.
Objection to the listing of the silo at Steel Street Williamtown.	Williamtown	5	A heritage assessment report of the Silo has been produced and the item has been found worthy of local listing. Note: Owners agreement is sought only where the item is being recommended for State listing. As the site is owned by the Department of Defence, the management of the site is subject to the relevant Commonwealth legislation which in this instance will override the provisions relating to the listing under NSW legislation.	No change to the exhibited draft amendment.

Attachment 3 - Summary of Submissions

ATTACHMENT 4
DRAFT RAYMOND TERRACE HERITAGE CONSERVATION AREA



ATTACHMENT 5
 MAP LOT 61 DP 24364, JOHNSON AVENUE KARUAH



6(a) General Recreation "A"

SCALE 1:2500 LOCALITY: KARUAH PARISH: TAREAN COUNTY OF GLOUCESTER

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DRAFT

**PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000
 AMENDMENT No. 34 - JOHNSON AVE, KARUAH**

DRAWN BY: KG	DATE: 28/01/2011
SUPERVISING DRAFTSPERSON: KG	
PLANNING OFFICER: IS	
COUNCIL FILE No.: 2008-3522	
DEPT. FILE No.	
CERTIFICATE PLAN No. DATED:	
CERTIFICATE ISSUED UNDER 585 EPA ACT	
GOVT. GAZETTE OF	

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMENDS PORT STEPHENS LEP 2000 PLANNING SCHEME

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

AUTHORISED COUNCIL EMPLOYEE DATE



15G 58/1

ITEM NO. 3

FILE NO: PSC2010-04103

DECEMBER 2010 QUARTERLY REPORT AGAINST OPERATIONAL PLAN 2010-2011

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the December 2010 Quarterly Report against the Operational Plan 2010-2011.

COUNCIL COMMITTEE MEETING – 15 FEBRUARY 2011
RECOMMENDATION:

	Councillor Bob Westbury Councillor Shirley O'Brien	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

029	Councillor Frank Ward Councillor Glenys Francis	It was resolved that the Council Committee recommendation be adopted.
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BACKGROUND

The purpose of this report is to provide to Council a report of progress against the Operational Plan 2010-2011 for the December 2010 Quarter.

FINANCIAL/RESOURCE IMPLICATIONS

This Quarterly Report was prepared by Corporate Strategy & Planning with data gathered from across Council as reported by those Sections/Groups designated responsible.

LEGAL, POLICY AND RISK IMPLICATIONS

The December 2010 Quarterly Report was prepared in accordance with the Local Government (Integrated Planning & Reporting) Act 2009. At this time there are no identified policy or risk implications.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Operational Plan 2010-2011 forms part of the Integrated Plans of Council, which are formulated under the four pillars of sustainability – economic, environmental, social/cultural and governance & civic leadership. In reporting against the Operational Plan 2010-2011 the sustainability implications for Council and its community are indicated.

CONSULTATION

The December 2010 Quarterly Report is a record of facts pertaining to the actions and outcomes of Council operations in the period and consultation is not required.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) December 2010 Quarterly Report against the Operational Plan 2010-2011.

ITEM NO. 4

FILE NO: PSC2011-00191

LEASE OF SHOP 2, 437 HUNTER STREET, NEWCASTLE

REPORT OF: CARMEL FOSTER - COMMERCIAL SERVICES PROPERTY, MANAGER
GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the Mayor and General Manager to sign and affix the seal of the Council to the Lease documentation.

COUNCIL COMMITTEE MEETING – 15 FEBRUARY 2011
RECOMMENDATION:

	Councillor Bob Westbury Councillor Steve Tucker	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

030	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that the Council Committee recommendation be adopted.
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BACKGROUND

The purpose of this report is to advise Council that the Commercial Property Section has successfully secured a lease for the occupancy of the ground floor shop 2 at 437 Hunter Street, Newcastle.

Council with the assistance of Colliers International Newcastle negotiated a two (2) year lease with an option to renew for a period of two (2) years plus two (2) years with Corporate Insurance Brokers Ballina (NSW) Pty Limited. Rental for the premises has been determined at \$23,920 per annum (plus GST) subject to annual review in accordance with CPI.

Harris Wheeler lawyers have prepared the appropriate lease documentation, which is required to be signed under seal.

FINANCIAL/RESOURCE IMPLICATIONS

The aim in commercial leasing is to create a secure Lease for the longest period of time to a viable tenant. In achieving this, the owner Port Stephens council, is protected by known income and the growth rate over the life of the Lease.

In having a valid and enforceable Lease Council gains positive rights in respect of the occupancy of the property. Rental returns are protected and the ability to recover costs means that the property returns funds to Council as opposed to contributing as a liability for rates and maintenance.

This option provides for rental to commence at \$23,920 per annum (plus GST) with reviews to be conducted annually. Council can expect to receive at least \$143,520 over the entire term of the lease.

LEGAL, POLICY AND RISK IMPLICATIONS

Under the Conveyancing Act Leases in excess of three years duration, including the option period, are to be registered upon the land to which they apply. If the lease is to be registered the common seal must be affixed upon signing under Clause 400, Local Government (General Regulation) 2005.

The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Property Investment Coordinator
Colliers International Newcastle
Commercial Property Manager
Harris Wheeler Lawyers

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 5

FILE NO: A2004-1094/ PSC 2008-3373

SUSTAINABLE ENERGY AND WATER RESTRICTED FUND

REPORT OF: DAMIEN JENKINS - FINANCIAL SERVICES, MANAGER

GROUP: COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Establish a new Sustainable Energy and Water Restricted Fund to serve as a source of internal revolving loans for asset owners to invest in energy and water saving projects.

COUNCIL COMMITTEE MEETING – 15 FEBRUARY 2011**RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor John Nell	That the recommendation be adopted.
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ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

031	Councillor Bruce MacKenzie Councillor Caroline De Lyall	It was resolved that the Council Committee recommendation be adopted.
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BACKGROUND

The purpose of this report is to recommend establishment of a Sustainable Energy and Water Restricted Fund from one off draws from other Restricted Funds to invest in resource conservation projects, systems and infrastructure for Council's current and future assets. The Sustainable Energy and Water Restricted Fund would be an internally Restricted Fund and Council would retain the right to spend the funds where ever it decided.

The Sustainable Energy and Water Restricted Fund would provide a more equitable and sustaining regime to invest in energy and water savings infrastructure. Currently there are a number of projects that could result in energy and water savings but because the projects do not necessarily have a funding source and need to be funded from revenue they are not being initiated.

Asset owners would periodically submit projects to the Sustainable Energy Panel to be prioritised notwithstanding the sources of funds needed to complete the

projects. The Sustainable Energy Panel will recommend a slate of projects to be partially or wholly funded by means of loans from the Sustainable Energy and Water Fund. The Panel would also continue to assist Asset Owners with advice regarding securing additional sources of funding such as grants as they become available. The loans would be repaid in full from annual Asset Owners' avoided energy and water expenses. The replenished funds would then be available for additional conservation projects.

FINANCIAL/RESOURCE IMPLICATIONS

It is recommended that Council's current Restricted Funds provide a one off contribution to the Sustainable Energy and Water Restricted Fund which would then be funded by savings in energy and/or water costs resulting from the projects completed under the Sustainable Energy and Water forward works program. The Sustainable Energy Panel recommends moving \$15,000 from each of the following Restricted Funds:-

- Business development Restricted Fund
- Investment property depreciation fund
- Asset rehabilitation Restricted Fund
- Fleet management Restricted Fund
- Other waste Restricted Fund
- Quarry development Restricted Fund
- Business operations Restricted Fund
- Drainage Restricted Fund
- Transport levy Restricted Fund
- Environmental levy Restricted Fund
- Administration building Restricted Fund
- Depot Restricted Fund
- Councillor ward funds Restricted Fund
- Information technology Restricted Fund
- Parking meter Restricted Fund

This would provide a starting Sustainable Energy and Water Restricted Fund of \$225,000 that would be used to fully or partly fund energy and water saving projects. See Attachments 2 and 3 for the Estimated Statements of Restricted Funds Movements to 30/06/2011.

Examples of Potential Projects and Self-Funding Framework

Listed below are examples of how the Sustainable Energy Panel believes the Sustainable Energy and Water Restricted Fund would be self funding. The projects might be funded by means of a combination of revenue sources such as grants, contributions, restricted funds and the Sustainable Energy and Water Restricted Fund. Repayments to the Sustainable Energy and Water Restricted Fund would be costed to the assets running costs annually until the loan was repaid in full.

- 1) **Solar Energy** Evaluations have been made of a number of Port Stephens Council Assets to determine the suitability for solar panel installation to generate electricity. Preliminary estimates predict that such investments would pay for themselves in less than five years. After that time the electricity generated would continue to provide an ongoing financial and environmental benefit to Council. Small solar projects are financially favoured now due to the NSW Gross Solar Feed-in Tariff.
- 2) **Library Infrastructure Improvements** An energy audit of the Tomaree Library and Community Centre identified a slate of projects such as replacement of energy inefficient lighting and hot water dispensing systems that would pay for themselves in 1-3 years and continue to save Council money on electricity bills thereafter. The Library does not have a Restricted Fund or access to other resources for such projects that would save Council money while reducing electricity consumption. The Library would be costed annually to repay the Sustainable Energy and Water Restricted Fund loan.
- 3) **Gross Solar Feedback** If it was decided to provide solar panels for a solid waste and recycling facility and the energy created was actually put back into the state electricity grid and Council received a utility rebate this rebate would be paid into the Sustainable Energy and Water Restricted Fund until the borrowed amount was repaid in full.

The accounting of the savings and transfers would be automatic as the agreed savings would be set up as an automatic transfer at the beginning of each year or when a project was completed. The asset owners would not see an energy cost saving in their budget until the "borrowed" funds were repaid. Funds repaid to the Sustainable Energy and Water Restricted Fund would then be used to fund additional energy and/or water saving projects. The Sustainable Energy and Water Restricted Fund will receive interest on any unused balances at the end of each financial year.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's Restricted Funds Policy states that the "creation of all restricted funds shall be in accordance with this policy". Restricted Funds are maintained to provide funds for future defined events. The Sustainable Energy and Water Restricted Fund would be an internally Restricted Fund and Council would retain the right to spend the funds where ever it decided.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Climate Change and related environmental problems are a growing public concern in Australia and the world with projected significant impacts on Port Stephens communities and ecosystems. This proposal would enable Council Asset Owners to invest in projects to reduce their consumption of electricity which would reduce emission of greenhouse gases and other pollutants at coal-fired power plants. Operation of Council facilities in a more resource efficient manner would leave more

Council resources available in the future for investment in other community needs rather than paying increasingly more expensive utility bills. There would be additional public health and environmental benefits related to lower power plant emission of sulphur oxides, particulate matter, oxides of nitrogen and toxic pollutants.

Council policy is that assets be developed and operated in a sustainable manner to meet the community's social needs, save money, and protect the environment. The new Restricted Fund would help Council invest in energy and water saving projects with ongoing long term financial, environmental and social benefits.

CONSULTATION

The Sustainable Energy Panel has consulted with Council's management team and asset owners regarding the proposed new Sustainable Energy and Water Fund using the Panel's Quarterly Reporting process including recommendations for improvements such as this recommendation.

OPTIONS

- 1) Establish Sustainable Energy and Water Restricted Fund.
- 2) Proceed without Sustainable Energy and Water Restricted Fund leaving few funding options, and in many cases no funding options, for Council's Asset Owners to achieve Council's sustainability goals and reduce consumption of electricity and water.

ATTACHMENTS

- 1) Restricted Fund Form.
- 2) Balance of Restricted Funds Movements till 30/6/2011.
Original Budget Plus Rollovers Forecast.
- 3) Recommended Responsibilities and Process.
- 4) Sustainable Energy and Water Fact Sheet.

COUNCILLORS ROOM

NIL.

TABLED DOCUMENTS

NIL.

ATTACHMENT 1

Name of Fund: Sustainable Energy and Water Fund

Purpose: To establish the Sustainable Energy and Water Fund, a self-funding revolving source of internal loans for energy and/or water saving projects for Council assets.

Source of Funds: One off draw from other Restricted Funds

Cash Backing: 100%

Interest Earned: To be allocated to general revenue

Internal/External Restriction: Internal

Statement: It is intended that the Sustainable Energy and Water Fund be utilized as a source of internal loans to finance in whole or in part projects for Council assets to save energy, water and money. Asset Owners would repay the loans in full over the projected payback period of the investment. The projects would continue to save Council resources and money after the loan is repaid to the fund. Additional energy and water conservation projects would be planned and funded as the loan repayments replenish the Fund.

Management Accountability: Sustainable Energy Panel

Minute No: /2010

Relevant Legislation: There is no current relevant legislation to create the proposed Restricted Fund however Council may be required to provide documented proof of energy and water saving programs in the future.

ATTACHMENT 2

ESTIMATED STATEMENT OF RESTRICTED FUNDS MOVEMENTS TO 30/06/2011					
October 2010 Budget Forecast					
RESTRICTED FUNDS	Balance as at 30/06/2010	Recurrent Budget	Capital Budget	Balance Sheet Movements	Estimated balance as at 30/06/2011
SECTION 94	\$11,271,700	\$395,690	\$664,514		\$12,331,904
DOMESTIC WASTE MANAGEMENT	\$1,225,137	\$1,409,999	(\$1,850,000)	(\$460,635)	\$324,501
Sub Total. Externally Restricted	\$12,496,837	\$1,805,689	(\$1,185,486)	(\$460,635)	\$12,656,405
BUSINESS DEVELOPMENT RESTRICTED FUND	(\$2,781,222)	\$2,546,881	(\$8,240,986)	\$6,224,551	(\$2,250,776)
INVESTMENT PROPERTIES DEPRECIATION FUND (INVESTMENT PROPERTIES SINKING FUND)	\$2,747,036	\$1,205,327	(\$17,150)		\$3,935,213
ASSET REHABILITATION RESERVE	(\$93,823)	\$500,000	(\$527,900)		(\$121,723)
FLEET MANAGEMENT (PLANT)	\$4,585,894	\$2,333,421	(\$3,241,003)	\$515,873	\$4,194,185
OTHER WASTE SERVICES	\$3,443,742	\$0	\$0		\$3,443,742
QUARRY DEVELOPMENT	\$742,167	\$12,799	\$0		\$754,966
BUSINESS OPERATIONS RESTRICTED FUND	(\$6,605,613)	\$2,173,603	(\$3,132,199)	(\$1,785,992)	(\$9,350,201)
EMPLOYEE LEAVE ENTITLEMENTS	\$6,542,838	\$0	\$0		\$6,542,838
BEACH VEHICLE PERMITS	(\$53,569)	\$3,711	\$0		(\$49,858)
DRAINAGE	\$1,252,972	\$886,280	(\$1,080,000)	(\$143,333)	\$915,919
INTERNAL LOAN	(\$150,203)	\$150,203	\$0		\$0
TRANSPORT LEVY	\$48,774	\$350,000	(\$490,000)		(\$91,226)
ENVIRONMENTAL LEVY	\$271,413	(\$338,166)	\$0		(\$66,753)
ADMINISTRATION BUILDING SINKING FUND	\$1,090,192	\$413,079	(\$1,234,864)		\$268,407
DEPOT SINKING FUND	\$1,110,811	\$354,420	\$0		\$1,465,231
RTA BYPASS ROADS MTCE RESTRICTED FUND	\$1,846,180	\$0	(\$250,000)		\$1,596,180
RESTRICTED CASH ESTIMATED BALANCE	\$3,532,020	(\$263,806)	(\$889,074)	\$0	\$2,379,140
COUNCILLOR WARD FUNDS	(\$4,604)	\$1,200,000	\$0		\$1,195,396
INFORMATION TECHNOLOGY STRATEGY	\$322,325	(\$9,000)	\$0		\$313,325
PROVISION FOR LOCAL GOVT ELECTION	\$98,839	\$100,000	\$0		\$198,839
PARKING METER RESERVE	\$215,707	\$240,067	\$0		\$455,774
Sub Total. Internally Restricted	\$18,161,876	\$11,858,819	(\$19,103,176)	\$4,811,099	\$15,728,618
RESTRICTED FUNDS TOTAL	\$30,658,713	\$13,664,508	(\$20,288,662)	\$4,350,464	\$28,385,023
* Balance Sheet Movements are the repayments of the Principals on Loans and the funds from Loans received and the proceeds for land and fleet sales					

ATTACHMENT 3

Recommended Responsibilities and Process for Sustainable Energy and Water Reserved Fund

Recommended Sustainable Energy Panel Responsibility

- The Panel will provide resource conservation support and guidance to Asset Owners and solicit project proposals periodically.
- The Panel will review and prioritise proposals received against established criteria and recommend a slate of forward works projects to be approved by the Executive Team and Financial Analysis Team as eligible for including a loan from the Sustainable Energy and Water Restricted Fund in the funding sources for the specified projects. The recommendations must list proposed projects in priority order and for each project provide:
 - A description of the project,
 - Asset name and asset register number,
 - Asset owner,
 - Estimated date of project commencement and completion,
 - Estimated capital and ongoing maintenance costs,
 - Description of all sources of funds for the project (if grants or other contributions are included all details must be provided),
 - Estimated yearly saving and
 - Other details deemed pertinent.
- The Panel will include in quarterly reports to the Executive Team details of the relevant forward works program listed in recommended priority order. The report will also detail works completed and commenced, the amount “borrowed” for each completed project and the amount repaid. The Panel will track implementation of the project and report their status to the Executive Team quarterly. The report will also provide an estimated Fund balance at the end of each financial year.
- The owner of the Sustainable Energy and Water Restricted Fund will be the Sustainable Energy Panel. The Panel would solicit, review, prioritize and recommend Executive Team approval of projects to be eligible during the next budget cycle to partially or wholly fund with loans from the Fund.

Recommended Asset Owner Responsibilities

- Each Asset Owner seeking a loan from the Sustainable Energy and Water Fund must have performed due diligence with regard to the technical and operational suitability, costs, anticipated energy and/or water savings, benefits and other relevant matters to reasonably assure the success of the proposed project.
- Their application submittal must include details of the anticipated payback period including the underlying assumptions for the projected savings, the projected savings per year over the life of the project, estimates of further cost savings after the project loan has been repaid to the Sustainable Energy and Water Fund and the number of years expected to pay back the loan. In effect this is the Business Case.
- After approval of the loan through the annual budget process, the Asset Owner is responsible for project planning and management, including ongoing operation

and maintenance.

- The project manager will submit quarterly status reports regarding the project to the Power Rangers for inclusion in regular Sustainable Energy Panel reports to the Executive Team.
- Asset Owners are responsible to complete a Sustainable Energy and Water Fact Sheet (Example shown in Attachment 4) on completion of the project.

Recommended Financial Services Section Responsibilities

- Costing repayments on loans to the assets running costs annually until the loans from the Sustainable Energy and Water Restricted Fund are repaid in full would be the responsibility of the Financial Services section.
- Accounting for the Sustainable Energy and Water Restricted Fund will be performed by the Financial Services Section.
- The Financial Services Section will provide the Sustainable Energy Panel with relevant and necessary financial information for Quarterly Reports.

Recommended Eligibility for Sustainable Energy and Water Restricted Fund Loans

- Project must be for a Council owned asset.
- Project must be for an asset for which Council pays for the energy and/or water.
- Project must be recommended by Sustainable Energy Panel to the Executive Team for approval.

ATTACHMENT 4

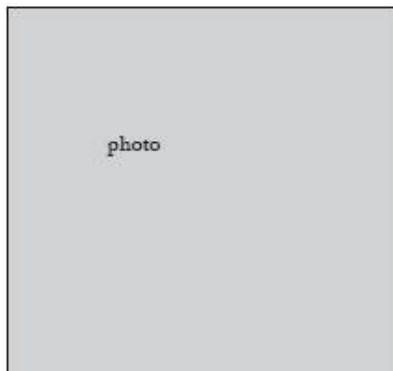
Example of Completed Sustainable Energy and Water Fact Sheet



by the PSC "Power Rangers"

Installation of Programmable Logic Controller (PLC) System

Overseers office, Raymond Terrace Depot



photo



photo

A Programmable Logic Controller (PLC) allows electronic equipment to be automatically switched off at set times to minimise energy waste.

In conjunction with a time-out switch on the lunchroom lights the PLC turns off all power except for essential services (security system, computer hub and fridges).

Electricity consumption for the Overseers building was monitored for one week prior to the project, and for one week at the completion of the project. This provided an accurate measurement of energy savings achieved from the project.

Project Cost	Approximate Energy Saving per year	Approximate Cost Saving per year	Payback Period	Greenhouse Gas (GHG) emission reduction
\$2550	3704kWh	\$370	6.9 years	3.89 tonnes CO ² e

For more information about this factsheet contact:

Alax Alder
Supervisory Licensed
Electrical Tradesperson
02 4980 0135

or
Duncan Jinks
Environmental Education &
Sustainability Officer
02 4980 0469

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Port Stephens
C·O·U·N·C·I·L



GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1

FILE NO: PSC2010-03404

CODE OF CONDUCT INVESTIGATION – CR PETER KAFER

REPORT OF: PETER GESLING –GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the recommendation of the Sole Reviewer's report.

Cr Ken Jordan entered the meeting at 6.05pm prior to voting on Item 1.

Cr Peter Kafer left at 6.23pm prior to voting on Item 1.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

	Councillor Frank Ward Councillor Caroline De Lyall	<p>That Council:</p> <ol style="list-style-type: none"> 1. Find that there has been no breach of the Code of Conduct. 2. The General Manager be censured for conducting the investigation under the Code of Conduct and further not consulting Cr Peter Kafer with regard to the matter. 3. Council be provided with a report of the costs of the investigation and further information be provided on the potential costs for other investigations.
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AMENDMENT

032	Councillor Bruce MacKenzie Councillor Shirley O'Brien	It was resolved Council receive and note the report and that no further action be taken.
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The amendment on being put became the motion which was carried.

Cr Peter Kafer returned to the meeting at 6.23pm after the voting on Item 1.

MATTER ARISING

033	Councillor Glenys Francis Councillor Caroline De Lyall	It was resolved that Council be provided with a report on the costs of the investigation and that further information be provided on the potential costs for other investigations.
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BACKGROUND

The purpose of this report is to provide Council with the findings of the investigation following a matter brought to the General Manager's attention under the Code of Conduct with respect to Cr Peter Kafer.

The matter involved the non disclosure of a potential conflict of interest by Cr Kafer and his involvement as a Secretary of the Raymond Terrace Aquajets Swim Club, when considering a tender before Council involving the Lakeside Leisure Centre.

The Sole Reviewer's report is shown at ATTACHMENT 1 for consideration by Council.

FINANCIAL/RESOURCE IMPLICATIONS

The 2010/11 budget does not provide for investigations under the Code of Conduct however additional funds will only be sought from Council if the costs associated with the investigation cannot be provided for within the existing budget.

Council should note that an average investigation costs Council between \$8,000 to \$15,000 dollars dependant upon the scale of investigation.

LEGAL, POLICY AND RISK IMPLICATIONS

The investigation has been conducted in accordance with the Local Government Act 1993 and the Code of Conduct.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil

CONSULTATION

General Manager
Bernard Smith – Vestion Consulting (Sole Reviewer)
Councillor Peter Kafer

OPTIONS

Adopt the recommendation of the Sole Reviewer's report.
Amend the recommendation of the Sole Reviewer's report.
Reject the recommendation of the Sole Reviewer's report.

ATTACHMENTS

Sole Reviewer's report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

PORT STEPHENS COUNCIL

Code of Conduct Complaint – Councillor Peter Kafer

Report by Sole Reviewer: Bernard Smith-Vestion Consulting

INTRODUCTION

This report has been prepared in accordance with Part 3 of the Port Stephens Council Code of Conduct 2008.

BACKGROUND

On the 20th September 2010, Port Stephens Council forwarded correspondence and documentation to the Sole Reviewer relating to a complaint against Cr Peter Kafer and requesting that the matter be reviewed in accordance with Council's Code of Conduct.

THE COMPLAINT

The alleged breach of the Code of Conduct relates to a possible non-pecuniary conflict of interest relating to Cr Kafer's role as Secretary of the Raymond Terrace Aquajets Swim Club at a time when Council awarded a contract to operate the Leisure Centre where the Club operated from.

INITIAL REVIEW BY SOLE REVIEWER

On the 26th September, the Sole Reviewer, in accordance with Clause 12.19 (c) of the Port Stephens Council Code of Conduct, advised the Port Stephens Council Executive Officer that he had made a determination to proceed with making enquiries into the complaint following a consideration of the documentation which had been forwarded against the following grounds outlined in Clause 13.1 of the Code of Conduct.

(a) whether there is any prima facie evidence of a breach of the Code of Conduct;

The initial information provided to the reviewer including Council records provided prima facie evidence of a breach of the Code of Conduct.

(b) whether the subject matter of the complaint relates to conduct that is associated with the carrying out of the functions of civic office or duties as General Manager;

The subject matter does relate to conduct that is associated with the functions of civic office.

(c) whether the complaint is trivial, frivolous, vexatious or not made in good faith;

It is not considered that the complaint is trivial, frivolous or vexatious.

(d) whether the conduct the subject of the complaint could reasonably constitute a breach of the Code of Conduct;

The conduct the subject of the complaint, if substantiated, would comprise a breach of Clauses 6.1 and 6.2 of the Code of Conduct.

(e) whether the complaint raises issues that require investigation by another person or body, such as referring the matter to the Department of Local Government, the NSW Ombudsman, the Independent Commission Against Corruption or the NSW Police;

It is not considered that the matter needs to be referred to another person or body.

(f) whether there is an alternative and satisfactory means of redress;

It is considered that the Code of Conduct process is the most appropriate mechanism to deal with the matter.

(g) how much time has elapsed since the events the subject of the complaint took place;

The complaint has been lodged in a timely manner.

(h) how serious the complaint is and the significance it has for Council,

The matter of Councillor conduct and the proper declaration of conflicts of interest have a direct bearing on the respect the community has for its elected officials and the regard it has for the Council as a whole.

(i) whether the complaint is one of a series indicating a pattern of conduct,

There is no evidence of a pattern of conduct

Following the determination to proceed with enquiries, Councillor Kafer was formally advised of the matter on the 8th October 2010.

PROCESS USED

The information contained in this report and the conclusions made have been drawn from:

- Correspondence and emails provided by Council.
- Council Meeting minutes and Council documents

BACKGROUND INFORMATION

1. Councillor Kafer was Secretary of the Raymond Terrace Aquajets Swim Club during April of 2010.
2. The Club uses the Lakeside Leisure Centre Raymond Terrace.
3. At its meeting of the 13th and 27th April 2010, Council considered the matter of the contract to operate the Lakeside Leisure Centre.
4. At the meeting of the 27th April 2010, a contract for the operation of the Centre was awarded to YMCA Sydney.
5. Councillor Kafer did not declare an interest in the matter at either meeting.
6. Clause 11.5 of Council's Code of Meeting Practice states:
A Councillor who has a non-pecuniary interest in any matter in which the council is concerned is required to disclose the nature of the interest to the meeting of the Council or Committee of the Council as soon as practicable.
7. Clause 11.12(a)v of Council's Code of Meeting Practice states that the following interest does not need to be disclosed for the purposes of the Code:
An interest as a member of a club or other organisation or association, unless the interest is as a holder of an office in the club or organisation (whether remunerated or not)

8. Clause 7.1 of Council's Code of Conduct states:

A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.

9. Clause 7.16(c) of Council's Code of Conduct states:

As a general rule, a non-pecuniary conflict of interest will be significant where a matter does not raise a pecuniary interest but it involves:

c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

10. Councillor Kafer was first elected to Council at the election held on 13 September 2008. Councillor Kafer attended the initial Councillors Code of Conduct training held on the 17 November 2008 which was facilitated by Jeff Williams of Governance & Fraud Prevention Services. He also attended the DLG Councillor Seminars held in Maitland on 15 October 2008, which included the topics of Pecuniary and Non-pecuniary interests. He did not attend refresher training in the Code of Conduct provided by Council in April 2010.

OBSERVATIONS AND CONCLUSIONS

What needs to be considered is whether Cr Kafer had a non pecuniary interest of a private nature which should have been declared when Council considered and let the contract for the operation of the Lakeside Leisure Centre

Conflicts of interest are not wrong in themselves – public officials are also private individuals and there will be occasions when their private interests come into conflict with their duty to put the public interest first at all times – but such conflicts must be disclosed and effectively managed

A perceived or apparent conflict of interest can exist where it could be perceived, or appears, that a public official's private interests could improperly influence the performance of their duties – whether or not this is in fact the case.

It is not always easy to decide when private interests and public duty are, or might be, in conflict with each other. The key test is whether an individual public official could be influenced, or appear to be influenced, by a private interest in carrying out their public duty. If there is any doubt regarding the outcome of such a test, then the most prudent course of action is to always declare an interest in order to maintain an environment where totally impartial decision making is the norm.

On the basis of the information, the Reviewer has formed the view that Cr Kafer should have declared a non pecuniary interest when Council considered and let the contract for the operation of the Lakeside Leisure Centre for the following reasons:

- Cr Kafer as a member of the Council, was presented with the situation of making a decision on who should operate the Leisure Centre where the Swim Club of which he was Secretary operated from.
- It would be assumed that the usage of the Leisure Centre by the Swim Club would have required operational dialogue between the YMCA and the Club.
- Cr Kafer advised that he did not participate in any operational discussions in his role as Secretary of the Swim Club, with the YMCA.
- Whilst the relationship between the parties is likely to be harmonious there is always potential for issues to arise which require negotiation.
- The fact that one of the office-bearers of a user club of the Leisure Centre is also a party to the letting of the contract for the Centre could lead to the perception that the public interest is not being protected and the ability to resolve issues impartially, between the club and the Leisure Centre operator has been compromised.
- A reasonable and informed person could perceive that Cr Kafer could be influenced by his private interest when carrying out his public duty in being part of a Council resolution to let the contract.

It must be stressed that this matter is about addressing perceptions and ensuring public confidence in decision making is upheld. There is no evidence whatsoever to suggest that any dealings between the Club and the Leisure Centre Operator has been anything but professional and proper.

PROCEDURAL FAIRNESS

The Port Stephens Council Code of Conduct states:

14.7 Procedural Fairness

In conducting enquiries, the conduct review committee/reviewer or the person engaged to do so should follow the rules of procedural fairness and must:

- (a) provide the person the subject of the complaint with a reasonable opportunity to respond to the substance of the allegation;*
- (b) provide the person the subject of the complaint with an opportunity to place before the conduct review committee/reviewer or person undertaking the enquiry any information the person considers relevant to the enquiry;*
- (c) provide the person the subject of the complaint with an opportunity to address the conduct review committee/reviewer in person;*
- (d) hear all parties to a matter and consider submissions before deciding the substance of any complaint;*
- (e) make reasonable enquiries before making any recommendations;*
- (f) act fairly and without prejudice or bias;*
- (g) ensure that no person decides a case in which they have a conflict of interests, and*
- (h) conduct the enquiries without undue delay.*

Where the person the subject of the complaint declines or fails to take the opportunity provided to respond to the substance of the allegation against them, the conduct review committee/reviewer should proceed to finalise the matter.

Cr Kafer was forwarded the details regarding the nature and particulars of the complaint on the 8th October 2010. In that correspondence Cr Kafer was invited to respond to the allegations and meet the reviewer to discuss the matter further.

Cr Kafer was forwarded a draft of the report to Council by the reviewer on 29th November 2010 for comment and the reviewer met with Cr Kafer on the 21st December 2010.

FINDINGS OF THE SOLE REVIEWER

That Cr Kafer had a non pecuniary interest of a private nature which should have been declared when Council considered and let the contract for the operation of the Lakeside Leisure Centre at its meetings of the 13th and 27th April, 2010, and hence in the view of the reviewer, was in breach of Clause 6.1 and 6.2 of Council's Code of Conduct.

RECOMMENDATION

Council is required to determine whether or not a breach of the Code of Conduct has occurred by Cr Kafer following its consideration of this report. Should Council find that a breach has occurred, it is recommended:

1. That Councillor Kafer be counselled regarding his actions in not declaring a non-pecuniary interest in the matter.

ITEM NO. 2

FILE NO: PSC2010-03684

CODE OF CONDUCT INVESTIGATION – CR GEOFF DINGLE

REPORT OF: PETER GESLING –GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the findings of the Sole Reviewer's report.
-

Cr Caroline De Lyall left the meeting 6.29pm prior to voting on Item 2.

Cr Caroline De Lyall returned to the meeting at 6.33pm prior to voting on Item 2.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

	Councillor Geoff Dingle Councillor Glenys Francis	It was resolved that Council consider the findings of the Sole Reviewer's report.
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AMENDMENT

034	Councillor Bruce MacKenzie Councillor Peter Kafer	It was resolved that Council receive and note the report and that no further action be taken.
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The amendment was put and became the motion which was carried.

BACKGROUND

The purpose of this report is to provide Council with the findings of the investigation following a matter brought to the General Manager's attention under the Code of Conduct with respect to Cr Geoff Dingle.

The matter involved a booking at the Medowie Community Centre and Cr Dingle's approach to a Centre User and a potential conflict of interest.

The Sole Reviewer's report is shown at ATTACHMENT 1 for consideration by Council.

FINANCIAL/RESOURCE IMPLICATIONS

The 2010/11 budget does not provide for investigations under the Code of Conduct however additional funds will only be sought from Council if the costs associated with the investigation cannot be provided for within the existing budget.

Council should note that an average investigation costs Council between \$8,000 to \$15,000 dollars dependant upon the scale of investigation.

LEGAL, POLICY AND RISK IMPLICATIONS

The investigation has been conducted in accordance with the Local Government Act 1993 and the Code of Conduct.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

General Manager
Bernard Smith – Vestion Consulting (Sole Reviewer)
Councillor Geoff Dingle
Centre Booking Officer
Complainant

OPTIONS

Adopt the recommendation of the Sole Reviewer's report.
Amend the recommendation of the Sole Reviewer's report.
Reject the recommendation of the Sole Reviewer's report.

ATTACHMENTS

1) Sole Reviewer's report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

PORT STEPHENS COUNCIL

Code of Conduct Complaint – Councillor Geoff Dingle

Report by Sole Reviewer: Bernard Smith-Vestion Consulting

INTRODUCTION

This report has been prepared in accordance with Part 3 of the Port Stephen's Council Code of Conduct 2008.

BACKGROUND

On the 20th September 2010, Port Stephens Council forwarded correspondence and documentation to the Sole Reviewer relating to a complaint against Cr Geoff Dingle and requesting that the matter be reviewed in accordance with Council's Code of Conduct.

THE COMPLAINT

The alleged breach of the Code of Conduct relates to Cr Dingle's role as a member of the Port Stephens Council Section 355(b) committee for the Medowie Community Centre.

In particular, the alleged breach involves a potential conflict of interest in his role as a Committee member and his role as a Councillor when dealing with users of the Medowie Community Centre and his behaviour towards members of the community when acting as a Council official in relation to the booking of the Centre by the Tiny Tutus dance Class.

INITIAL REVIEW BY SOLE REVIEWER

On the 26th September, the Sole Reviewer, in accordance with Clause 12.19 (c) of the Port Stephens Council Code of Conduct, advised the Port Stephens Council Executive Officer that he had made a determination to proceed with making enquiries into the complaint following consideration of the documentation which had been forwarded against the following grounds outlined in Clause 13.1 of the Code of Conduct.

(a) whether there is any prima facie evidence of a breach of the Code of Conduct;

The initial information provided to the reviewer including Council records provided prima facie evidence of a breach of the Code of Conduct.

(b) whether the subject matter of the complaint relates to conduct that is associated with the carrying out of the functions of civic office or duties as General Manager;

The subject matter does relate to conduct that is associated with the functions of civic office.

(c) whether the complaint is trivial, frivolous, vexatious or not made in good faith;

It is not considered that the complaint is trivial, frivolous or vexatious.

(d) whether the conduct the subject of the complaint could reasonably constitute a breach of the Code of Conduct;

The conduct the subject of the complaint, if substantiated, would comprise a breach of Clauses 6.1 and 6.3 of the Code of Conduct.

(e) whether the complaint raises issues that require investigation by another person or body, such as referring the matter to the Department of Local Government, the NSW Ombudsman, the Independent Commission Against Corruption or the NSW Police;

It is not considered that the matter needs to be referred to another person or body.

(f) whether there is an alternative and satisfactory means of redress;

It is considered that the Code of Conduct process is the most appropriate mechanism to deal with the matter.

(g) how much time has elapsed since the events the subject of the complaint took place;

The complaint has been lodged in a timely manner.

(h) how serious the complaint is and the significance it has for Council,

The matter of Councillor conduct has a direct bearing on the respect the community has for its elected officials and the regard it has for the Council as a whole.

(i) whether the complaint is one of a series indicating a pattern of conduct.

There is no evidence of a pattern of conduct

Following this assessment a determination to proceed with enquiries was made as provided for in Clause 12.19(c) of the Code of Conduct. Councillor Dingle was formally advised of the matter on the 23rd October 2010.

PROCESS USED

The information contained in this report and the conclusions made have been drawn from:

- Interviews with a number of parties.
- Correspondence and emails provided by Council.

BACKGROUND INFORMATION AND OUTCOMES OF ENQUIRIES MADE

1. The Medowie Community Centre is managed by a Port Stephens Council Section 355(b) Committee. Cr Dingle has been its President for over 25 years. Prior to Cr Dingle's election to Council in 2004 he was a community representative on the committee. Until early November 2010, Mr Laurie Bowen was the Booking Officer for the Centre.
2. Ms Simone Cadell is the owner of the Tiny Tutus Preschool Ballet Studio.
3. Heartmoves is an exercise program developed by the Heart Foundation which has been operating at the Community Centre for 5 years.
4. In July 2009 Ms Cadell contacted the Booking Officer to determine if it was possible to make a booking to run morning classes from 9.30-11.30 am. Following advice that there was a vacancy, Ms Cadell made a tentative booking for Mondays and Wednesdays for 2010.
5. In January 2010, Ms Cadell contacted the Booking Officer to confirm the booking and advised the booking officer that it was only required for Wednesdays for a class to be run from 9.30 am to 10.15 am. The class to be run in the Acacia room.
6. According to correspondence from the Community Centre Committee to Council (dated 10th June 2010).

"In the early summer of 2009/2010 the Heartmoves Group, originally booked from 12.00 NOON to 1.00PM each Wednesday in the Banksia Room, changed their booking to an earlier time-slot, 9.00AM to 10.00AM. This was to avoid the heat later in the day. However, to avoid a clash with the Probus Club on the third Wednesday of each month, they agreed to use the Acacia Room on that day each month, thus using 30 minutes of the time slot earlier requested by Ms Cadell."

7. In the same correspondence of the 10th June 2010, it was stated:

"Ms Cadell again contacted the Booking Officer in January 2010 to accept the earlier offer and was advised that 30 minutes of the Wednesday slot was now taken by Heartmoves on the third Wednesday of each month, but the Monday period was still available. She did not want the Monday vacancy but requested the Wednesday one. She was again advised at the time of her confirmation of the booking that she may have to start late (10.00 AM instead of 9.30AM) on the third Wednesday each month because of the later Heartmoves booking. Ms Cadell reluctantly verbally accepted this proviso at the time."

8. Both the Booking Officer and Simone Cadell disagree with the contents of the correspondence referred to in items 7 and 8 in that they both stated that the first they were aware of the issue with Heartmoves was after the first Tiny Tutus class.
9. The first Tiny Tutus class took place on Wednesday February 3rd, 2010.
10. After the first Tiny Tutus class had taken place, the Booking Officer stated that Heartmoves had approached him and indicated their needs regarding changing to the Acacia room on the 3rd Wednesday of each month and not finishing until 10am. According to the booking officer this was the first he was aware of the issue. He advised them that on every 3rd Wednesday Heartmoves would need to alter their times due to the Tutus booking.
11. The Community Facility Use Agreement was signed by Heartmoves on Wednesday February 10th 2010 for the use of the Banksia room between 9am and 10am. The Tiny Tutus signed a similar agreement on the same day for the use of the Acacia room between 9.30am and 10.15am.
12. The amended Heartmoves booking made no reference to them needing to start later every 3rd Wednesday.
13. Cr Dingle indicated in an email to the Manager Community and Library Services of the 5th May 2010 that the Hall Booking Officer "failed to record that a change in times once per month had been made to suit the Probus group" and that "this had been agreed to by all the parties including the booking officer however he has made a mistake offering the booking in the old hall every week from 9.30am". It was Councillor Dingle's belief that it was a genuine mistake on behalf of the Booking Officer.

14. When the instructor went to pick up the key for the second Tiny Tutus class she was advised of the matter. The Booking Officer indicated that he was attempting to resolve the matter and asked her to start late the following week as an interim measure. Ms Cadell rang the Booking Officer and he advised her similarly.
15. Following the 3rd class which had to start late, Ms Cadell rang the Booking Officer again. He stated he may have mentioned that Cr Dingle's wife was part of the Heartmoves group. Simone Cadell was advised that the Heartmoves booking was going to stand. The Booking Officer stated that he advised Ms Cadell to write to the Committee regarding the matter.
16. In April Council's Community and Library Services Manager, Phillip Crowe contacted Ms Cadell after becoming aware of the matter and being requested to do so. He explained to her that the Committee was responsible for managing the facility but undertook to write to the Committee seeking clarification.
17. On the 28th April he wrote to the Community Centre Committee seeking an explanation regarding the decision (Attachment 1)
18. On the 1st May the Secretary of the Committee forwarded a copy of the letter to the Committee members.
19. On the 5th May Cr Dingle emailed the Manager Community and Library Services requesting that complaints made by hall users be forwarded to the Committee in the first instance. Cr Dingle also stated that the matter would be discussed at the next Committee meeting. He provided some further comments regarding the matter.
20. The Manager Community and Library Services responded agreeing that complaints should go to the Committee however the initial complaint had come through the Council complaints management system and he wrote to the Committee in order to respond to the matter.
21. The matter was discussed at the Community Centre Committee meeting of the 12th May 2010. At that meeting it was decided that Cr Dingle as President should contact Ms Cadell directly to offer options including meeting with the Community Centre Committee to negotiate and alternative time.
22. On the 20th May Cr Dingle rang Simone Cadell.

23. Cr Dingle's view of the phone call was that Ms Cadell was cool , aggressive, not prepared to listen and not concerned that a mistake had been made. He also noted that she had suggested that he had a conflict of interest since a family member was involved in the Heartmoves group. Cr Dingle also stated that Ms Cadell threatened legal action. Cr Dingle categorically denies being abusive towards Ms Cadell.
24. Ms Cadell described the call from Cr Dingle as "angry and aggressive". One of Cr Dingle's key concerns was the fact she had contacted Council regarding the matter rather than the Committee. She stated that Cr Dingle told her it was not a Council matter and that the Booking Officer had made a mistake and that the change to the Heartmoves group time had been an arrangement made before her booking was in place. Ms Cadell acknowledged asking Cr Dingle if his wife was a member of the Heartmoves group. Ms Cadell stated that she indicated to Cr Dingle she may take the matter further but did not specifically mention legal advice.
25. Following the phone call she rang the Manager Community and Library Services, his observation was that she was upset by the phone call with Councillor Dingle and he advised that anyone who wished to make a complaint regarding a Councillor should contact the General Manager.
26. On the 20th May Simone Cadell emailed the General Manager regarding the phone call with Cr Dingle.
27. The Community Centre Committee further discussed the matter at its meeting on the 9th June 2010.
28. The Committee forwarded correspondence to the Council on 10th June 2010. (Attachment 2)
29. The Tiny Tutus dance classes have been continuing with a delayed start every 3rd Wednesday of the month.

OBSERVATIONS AND CONCLUSIONS

It is important in a matter such as this that the focus remain on the key elements of the complaint and the surrounding facts of the matter not confuse the issue. The events and observations detailed above provide context and background which are important but are not all directly relevant to the core of the matters being considered which will be addressed

separately. It is also important to keep things in perspective noting the issue revolves around 30 minutes of Hall hire time once a month notwithstanding that in matters like this, there can often be important underlying issues relating to processes, procedures, and the conduct of individuals.

A potential conflict of interest in his role as a Committee member and his role as a Councillor when dealing with users of the Medowie Community Centre.

Cr Dingle was appointed to the Medowie Community Centre Committee by resolution of Council and was subsequently elected President of the Committee. Councillor Dingle has been involved in the Community Centre for over 25 years. In terms of this particular matter and dealing with users of the Community Centre, the committee decided that Cr Dingle should contact Ms Cadell in his role as President. At the commencement of the conversation in question it appears he introduced himself as a Councillor as well as President of the Community Centre Committee. Both statements of fact.

In terms of there being a conflict of interest in his role as a Committee member and his role as a Councillor there is nothing to support this with regard to this particular issue. Cr Dingle is currently a member of the Committee by virtue of his appointment by Council. He provides a link between the owner of the facility being the Council and the Committee charged with managing the Centre. The Centre is run by the Committee, not any individual and there is no evidence to suggest otherwise. The Council decisions regarding the Centre are made by the full Council of which Cr Dingle is one member.

The reviewer has been asked to address the matter of a "potential conflict of interest". In many situations there is the potential for a conflict of interest or there will in fact exist a conflict of interest, this cannot be avoided. The important consideration is how those conflicts are managed and dealt with.

With regard to the matter of Cr Dingle's wife being a member of the Heartmoves group, it would appear this was a matter raised by either the Booking Officer or Ms Cadell or both, not Cr Dingle. Whilst there can easily be speculation about this particular point, there is nothing to suggest it had any impact on the matter or that Cr Dingle dealt with the matter of the booking inappropriately because of his wife's involvement.

It would appear that the booking officer had responsibility for handling all bookings though there is a discrepancy regarding when the initial enquiry from Heartmoves to change their booking occurred. This matter has not been further investigated as it is not pivotal to the review.

His behaviour towards members of the community when acting as a Council official in relation to the booking of the Centre by the Tiny Tufus dance Class.

With regard to Cr Dingle's behaviour towards members of the community when acting as a Council official in relation to the booking of the Centre by the Tiny Tufus dance Class, it is not possible to draw definitive conclusions regarding this matter. Specifically, this refers to the phone conversation between Ms Cadell and Cr Dingle on the 20th May 2010. Ultimately there were 2 parties to the conversation whose opinions of the conversation are a reflection of their particular standpoints, perspectives on the matter, and their own interpretation of the conversation. Cr Dingle is representing a facility with which he has had a long involvement and no doubt has a degree of ownership. Ms Cadell has a financial investment and a sincere interest in the dance classes and the children involved and is new to the facility. The matter is also clouded by Cr Dingle and Ms Cadell having different understandings of when the Heartmoves issue initially arose.

There is no doubt that Ms Cadell was upset after the phone call in question and this is a reflection of the fact that the phone call was obviously tense and emotive. However on the basis of the information the reviewer has, it cannot be definitively stated that either party was improper or unethical in their behaviour.

It would appear that both Phillip Crowe and the Booking Officer advised Ms Cadell to contact the Committee regarding her concerns although at the same time it was not unreasonable of Ms Cadell to contact Council given the nature of the facility. Ultimately the matter ended up back with the Committee for consideration.

PROCEDURAL FAIRNESS

The Port Stephens Council Code of Conduct states:

14.7 Procedural Fairness

In conducting enquiries, the conduct review committee/reviewer or the person engaged to do so should follow the rules of procedural fairness and must:

(a) provide the person the subject of the complaint with a reasonable opportunity to respond to the substance of the allegation;

(b) provide the person the subject of the complaint with an opportunity to

place before the conduct review committee/reviewer or person undertaking the enquiry any information the person considers relevant to the enquiry;

(c) provide the person the subject of the complaint with an opportunity to address the conduct review committee/reviewer in person;

(d) hear all parties to a matter and consider submissions before deciding the substance of any complaint;

(e) make reasonable enquiries before making any recommendations;

(f) act fairly and without prejudice or bias;

(g) ensure that no person decides a case in which they have a conflict of interests, and

(h) conduct the enquiries without undue delay.

Where the person the subject of the complaint declines or fails to take the opportunity provided to respond to the substance of the allegation against them, the conduct review committee/reviewer should proceed to finalise the matter.

Cr Dingle was forwarded the details regarding the nature and particulars of the complaint on the 23rd October 2010. In that correspondence Cr Dingle was invited to respond to the allegations and meet the reviewer to discuss the matter further. Following this correspondence Cr Dingle forwarded some further comments on the matter to the reviewer but advised that he did not see the need to meet with the reviewer.

FINDINGS OF THE SOLE REVIEWER

1. That there were no aspects of the matter which constituted a conflict of interest between his role as a Committee member and his role as a Councillor when dealing with users of the Medowie Community Centre.
2. That there is no substantiated evidence to suggest that Cr Dingle was improper in his behaviour towards members of the community when acting as a Council Official in relation to the booking of the Centre by the Tiny Tutu's dance class.

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217 +
PSC2009-02408

MASTERPLAN FOR SALAMANDER SHOPPING CENTRE

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Prepare a Master plan for the Whole of the Salamander Commercial Precinct.
-

Cr Ken Jordan objected to the Notice of Motion to allow discussion.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

035	Councillor Bruce MacKenzie Councillor Peter Kafer	It was resolved that the Notice of Motion be defer to the next Ordinary Council meeting.
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NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217 +
A2004-0947

CAMPVALE DRAIN - WEEDS

COUNCILLOR: BRUCE MACKENZIE

THAT COUNCIL:

- 1) Provide Councillors with all information, any emails, correspondence etc. in regards to the protected weed in the Campvale Drain.
-

Cr Peter Kafer objected to the Notice of Motion to allow discussion.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

036	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that Councillors be provided with all information, any emails, correspondence etc. in regards to the protected weed in the Campvale Drain.
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BACKGROUND REPORT OF: JASON LINNANE, FACILITIES AND SERVICES, GROUP MANAGER

BACKGROUND

Following an environmental assessment of the maintenance activity Open Drain cleaning through the Review of Environmental Effects (Part 5 Assessment and Seven Part Tests), Council discovered several species of flora and fauna that are protected under the Threatened Species Conservation Act (TSC Act) in the Campvale Drain. One vegetation species in particular is commonly known as Maundia and grows at the base of the drain.

Leaving Maundia in the drain will result in sedimentation build up and reduction in the drain's capacity to fully function. Removing Maundia without further environmental assessment will result in Council and personnel being subject to prosecution under the Threatened Species Conservation Act.

To avoid a full Environmental Impact Study that attracts a typical \$40K consultancy cost, a Vegetation Management Study was commissioned at the end of 2010. This

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

study is due for completion at the end of February 2011. The report is not lengthy but has required sample testing to be trialled and grown which has taken time.

The Vegetation Management Study is then required to be submitted to DECCW for comment and approval as the report will more than likely recommend that we need to destroy a threatened species.

This Vegetation Management Study is for the whole of the Council area to cover the other open drains that Maundia has recently been reported in.

NOTICE OF MOTION

ITEM NO. 3

FILE NO: A2004-0217 +
A2004-0947

ADDRESS – CAMPVALE DRAIN

COUNCILLOR: BRUCE MACKENZIE

THAT COUNCIL:

- 1) Provide Councillors with all documentation and correspondence in regards to the resumption of Lot 84 DP 259434 and Lot 1433 DP 716004 for the purpose of the Campvale Drain.
-

Cr Ken Jordan objected to the Notice of Motion to allow discussion.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

037	Councillor Bruce MacKenzie Councillor Shirley O'Brien	It was resolved that Councillors be provided with all documentation and correspondence in regards to the resumption of Lot 84 DP 259434 and Lot 1433 DP 716004 for the purpose of the Campvale Drain.
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BACKGROUND REPORT OF: JEFF SMITH – COMMERCIAL SERVICES GROUP MANAGER

BACKGROUND

There are in total 14 properties of which the owners have been contacted regarding PSC needs for either access or acquisition of their property for the registration of Transfer Granting Easement documents.

Five of the acquisitions are complete and the easement is registered on the title. Two property owners have agreed in principle and are waiting on all other property owners to finalise their negotiations.

Hunter Water Corporation and National Parks and Wildlife have agreed to the acquisitions of the easements through their land holdings.

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A further three property owners are negotiating with the Engineering Section regarding final details of drainage requirements. Once those requirements are satisfied the Transfer Granting Easements will be endorsed and registered at LPI.

One property owner has not yet been contacted as his property actually forms part of the Medowie Strategy and Sustainable Planning will notify Facilities and Services when negotiations will be required. All easement have been acquired without the requirement of Council to compensate the land owners.

The land required for the Campvale Drain was to be dedicated on the registration of the Plan of Subdivision. Since the advice that the subdivision of the land is no longer proceeding there has been no further correspondence between the land owner and Council regarding the compulsory acquisition of the easement.

NOTICE OF MOTION

ITEM NO. 4

FILE NO: A2004-0217

CARAVAN PARK PROFIT REPORT

COUNCILLOR: BRUCE MACKENZIE

THAT COUNCIL:

- 1) Provide Councillors with all correspondence to the Lands Department in regards to Caravan Park profits as a matter of urgency.
-

Cr Ken Jordan objected to the Notice of Motion to allow discussion.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

038	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that Councillors be provided with all correspondence to the Lands Department in regards to Caravan Park profits as a matter of urgency.
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MATTER ARISING

039	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Councillors be provided with all correspondence to the Lands Department in regards to Caravan Park profits as a matter of urgency.
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040	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council seek a meeting with the LPMA through the local member regarding access to caravan parks profits.
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NOTICE OF MOTION

ITEM NO. 5

FILE NO: A2004-0217 + PSC

SPEED RAMPS - WALLAWA ROAD, NELSON BAY

COUNCILLOR: JOHN NELL

THAT COUNCIL:

- 1) Immediately replace the dangerous temporary speed ramps in Wallawa Road, Nelson Bay with full road width permanent ramps.
-

Cr Ken Jordan objected to the Notice of Motion to allow discussion.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

041	Councillor Peter Kafer Councillor Ken Jordan	It was resolved that the Notice of Motion be deferred to the next Ordinary Council Meeting.
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BACKGROUND REPORT OF: JOHN MARETICH – CIVIL ASSETS MANAGER

BACKGROUND

Following community concerns regarding speeding and road safety concerns, Wallawa Road was assessed by the Port Stephens Local Traffic Committee and a recommendation was made to trial speed cushions and traffic dividing bollards.

Port Stephens Councillor's approved a 6 month trial installation of speed cushions in Wallawa Road Nelson Bay in April 2010. This followed extensive consultation with residents and other stakeholders. Following the trial another evaluation survey was conducted to determine the attitude of residents to the speed cushions. Questions put to the residents included:

- Would you like to see the speed cushions made permanent in Wallawa Road? The response to this question was 30% of respondents said yes, 70% said no
- Do you think more traffic calming is required in Wallawa Road e.g. full width speed humps? The response to this question was 47% said yes, 53% said no

A subsequent meeting of the Port Stephens Local Traffic Committee in November 2010, recommended that the speed cushions should remain indefinitely. This

decision was based on the good results that have been achieved in terms of speed reduction and reduced numbers of vehicles recorded in Wallawa Road since the speed cushions were installed.

Since the installation of the speed cushions and separation bollards, the bollards have been repeatedly vandalised. Without the bollards a percentage of drivers have chosen to drive down the centre of the road, attempting to minimise the impact of the cushions. Council has trialled different treatments without success and is currently consulting with a manufacturer to achieve a more permanent solution to this problem.

It has been suggested that full width, permanent speed humps be considered to overcome the issue of traffic driving down the centre of the road. While full width speed humps would prevent this they may result in increased noise impacts on local residents. In addition, Wallawa road is situated on a sand hill and it has been known that large vehicles travelling over bumps in the road may cause vibration into the residential dwellings. Before full-width speed humps are considered in Wallawa Road there needs to be an investigation of geotechnical issues that may impact on properties in the area.

RESCISSION MOTIONS

RECISSION MOTION

ITEM NO. 1

FILE NO: PSC2010-04979

PLANNING PROPOSAL – PACIFIC DUNES

COUNCILLOR: DINGLE, WARD, NELL

That Council rescind its decision of 8 February 2011 on Item 6 of the Ordinary Council Report, namely Planning Proposal – Pacific Dunes.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

<p>042</p>	<p>Councillor Geoff Dingle Councillor Bruce MacKenzie</p>	<p>It was resolved that Council rescind its decision of 8 February 2011 on Item 6 of the Ordinary Council Report, namely Planning Proposal – Pacific Dunes.</p>
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Cr Bruce MacKenzie left the meeting at 6.58pm prior to voting on Item 1.
Cr Bruce MacKenzie returned to the meeting at 6.59pm prior to voting on Item 1.

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, Geoff Dingle, Frank Ward, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Ken Jordan and Sally Dover.

Those against the Motion: Nil.

<p>043</p>	<p>Councillor Geoff Dingle Councillor Steve Tucker</p>	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1. Reject the current Pacific Dunes rezoning application as an over development of the site with potential to reduce the premium quality and value of the site; 2. The developer be advised they should carry out comprehensive public consultation with the residents of the Pacific Dunes Estate to prepare a development plan including the provision
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MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

		of a golf club with a completed club house supporting the viability of the Pacific Dunes golf course and housing estate mirroring the Master Plan.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward and Sally Dover.

Those against the Motion: Crs Bruce MacKenzie and Ken Jordan.

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

ITEM NO. 6

FILE NO: PSC2010-04979

PLANNING PROPOSAL – PACIFIC DUNES

**REPORT OF: BRUCE PETERSON - ENVIRONMENTAL AND DEVELOPMENT PLANNING
MANAGER**

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to forward the Planning Proposal at **Attachment 1** to amend the *Port Stephens Local Environmental Plan 2000* under section 55 of the *Environmental Planning and Assessment Act 1979* to the Department of Planning for exhibition to:
 - a. Rezone Part Lot 11 in DP 1079392, Lots 7, 11 and Part Lot 10 in DP 270438, Part Lot 98 in DP 280007, Part Lot 9 in DP 270438 to 2(a) Residential;
 - b. Apply the minimum allotment size for the above allotments as detailed in the Planning Proposal; and
 - c. Rezone Part Lot 11 in DP 1079392 to part 7(a) Environment Protection.
- 2) Resolve to amend existing clause 54A *Development of land – Medowie Road and South Street, Medowie (Pacific Dunes)* and the relevant zoning map of *Port Stephens Local Environmental Plan 2000* to implement Recommendation 1.
- 3) Resolve to include the site in any future amendment to the *Medowie Strategy* in accordance with the Planning Proposal, subject to Recommendation 1.
- 4) Subject to the Gateway determination, resolve to exhibit the draft Development Control Plan at **Attachment 5** under section 74C *Preparation of development control plans* of the *Environmental Planning and Assessment Act 1979* in concert with the Planning Proposal.
- 5) Resolve to confirm any specific additional infrastructure requirements as a result of the Planning Proposal, and the appropriate mechanism for the developer to fund that infrastructure, prior to finalisation of the Planning

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

Proposal.

COUNCIL COMMITTEE MEETING – 1 FEBRUARY 2011
RECOMMENDATION:

	Councillor Geoff Dingle Councillor John Nell	That Council reject the Planning proposal.
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AMENDMENT

	Councillor Bruce MacKenzie Councillor Ken Jordan	That Council defer Item 6 for a period of three (3) months to allow for Council to facilitate negotiations between the developer and the residents of the Estate.
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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 Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover and Ken Jordan.

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

The Amendment on be put became the Motion and was carried.

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, Bob Westbury, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Sally Dover and Ken Jordan.

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

ORDINARY COUNCIL MEETING – 8 FEBRUARY 2011

Cr Bruce MacKenzie left the meeting at 6.32pm prior to voting on Item 6.

Cr Bruce MacKenzie returned to the meeting at 6.33pm prior to voting on Item 6.

MINUTES FOR ORDINARY MEETING – 22 FEBRUARY 2011

<p>008</p>	<p>Councillor Ken Jordan Councillor Shirley O'Brien</p>	<p>It was resolved that Council defer Item 6 for a period to allow for Council to facilitate negotiations between the developer and the residents of the Estate.</p>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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

The Motion on being was carried.

The Mayor exercised his casting vote.

AMENDMENT

	<p>Councillor Geoff Dingle Councillor Frank Ward</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Reject the current Pacific Dunes rezoning application as an over development of the site with potential to reduce the premium quality and value of the site; 2. The developer be advised they should carry out comprehensive public consultation with the residents of the Pacific Dunes Estate to prepare a development plan including the provision of a golf club with a completed club house supporting the viability of the Pacific Dunes golf course and housing estate mirroring the Master Plan.
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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, Geoff Dingle, John Nell and Frank Ward.

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

The amendment on being put was lost.

The Mayor exercised his casting vote.

COMMITTEE MEETING – 1 FEBRUARY 2011

ITEM NO. 6

FILE NO: PSC2010-04979

PLANNING PROPOSAL – PACIFIC DUNES

REPORT OF: BRUCE PETERSON - ENVIRONMENTAL AND DEVELOPMENT PLANNING
MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 6) Resolve to forward the Planning Proposal at **Attachment 1** to amend the *Port Stephens Local Environmental Plan 2000* under section 55 of the *Environmental Planning and Assessment Act 1979* to the Department of Planning for exhibition to:
 - a. Rezone Part Lot 11 in DP 1079392, Lots 7, 11 and Part Lot 10 in DP 270438, Part Lot 98 in DP 280007, Part Lot 9 in DP 270438 to 2(a) Residential;
 - b. Apply the minimum allotment size for the above allotments as detailed in the Planning Proposal; and
 - c. Rezone Part Lot 11 in DP 1079392 to part 7(a) Environment Protection.
- 7) Resolve to amend existing clause 54A *Development of land – Medowie Road and South Street, Medowie (Pacific Dunes)* and the relevant zoning map of *Port Stephens Local Environmental Plan 2000* to implement Recommendation 1.
- 8) Resolve to include the site in any future amendment to the *Medowie Strategy* in accordance with the Planning Proposal, subject to Recommendation 1.
- 9) Subject to the Gateway determination, resolve to exhibit the draft Development Control Plan at **Attachment 5** under section 74C *Preparation of development control plans* of the *Environmental Planning and Assessment Act 1979* in concert with the Planning Proposal.
- 10) Resolve to confirm any specific additional infrastructure requirements as a result of the Planning Proposal, and the appropriate mechanism for the developer to fund that infrastructure, prior to finalisation of the Planning Proposal.

BACKGROUND

Subject Land: Part Lot 11 in DP 1079392, Lots 7, 11 and Part Lot 10 in DP 270438, Part Lot 98 in DP 280007 and Part Lot 9 in DP 270438.

Land owner: Port Stephens Golf and Country Club Pty Ltd

Proponent: SJB Planning

Date of Submission: August 2010

Existing Zoning: Part 1(c4) Rural Small Holdings & Part 6(c) Special Recreation.

Note: The site is subject to site specific clause 54A of the *Port Stephens Local*

Environmental Plan 2000 that enables residential development of part of the land with consent.

Proposed Zoning: 2(a) Residential and 7(a) Environmental Protection

Note: That part of the site comprising the golf course will remain in the 6(c) Special Recreation zone.

Council has received a request to rezone the subject land at Pacific Dunes, Medowie (refer to **Attachment 1**). In summary, the proposal is seeking to:

Include 4.7 hectares of land within an environment protection zone;

Introduce a residential development precinct at the Village Centre (approximate increase of 100 residential lots); and

Amend existing minimum residential lot sizes applying to 3 existing but partially undeveloped residential precincts (approximate increase of 45 residential lots).

The proposed zone map is at **Attachment 2** and the proposed lot size map is at **Attachment 3**.

The effect of implementing these changes is an increase of approximately 145 residential lots above those already permitted on the site with consent on the Pacific Dunes Estate under the Port Stephens LEP 2000. The large majority of these additional lots - approximately 100 - are proposed in the existing currently undeveloped Village Centre Precinct. The development footprint of this particular precinct is proposed for relatively minor variation.

Previous Resolution of 26th February 2008

On 26th February 2008 Council resolved to prepare a draft local environmental plan to rezone land on the east and west sides of Medowie Road, to facilitate expansion of the Pacific Dunes golf course and also a mixture of additional residential, commercial and community uses.

The relevant landowners have since lodged separate and revised planning proposals for consideration by Council. The effect is that Council's resolution of 26th February 2008 is no longer applicable.

FINANCIAL/RESOURCE IMPLICATIONS

Rezoning Fees

Stage 1 rezoning fees were paid on 11th February 2008 as part of a previous rezoning request that combined the eastern and western sides of Medowie Road. That request did not proceed past the initial stages of rezoning and the respective landowners have since lodged separate planning proposals. Given that the current proposal under consideration by Council is modifying a previous request, no additional Stage 1 fees are being sought from the proponent.

If the proposal is supported by the Department of Planning LEP Gateway determination Stage 2 rezoning fees will be sought in accordance with Council's Fees

and Charges Schedule 2010-2011.

Section 94 Development Contributions

Council's *Section 94 Development Contributions Plan* has not been amended at this time to account for any specific additional infrastructure required in Medowie as a result of growth under the Medowie Strategy including the proposal. This may potentially include broader off-site infrastructure such as flooding, drainage or road works. Further investigation is required with a view to determining the appropriate timing and mechanism for the developer to contribute towards covering the cost of any additional infrastructure that may be required, prior to finalisation of the proposal.

LEGAL, POLICY AND RISK IMPLICATIONS

Lower Hunter Regional Strategy

The site has been interpreted as being within an existing urban area where residential development has already occurred, due to the existing zone provisions under clause 54A of the Port Stephens LEP 2000 that specifically facilitate residential development on the site. The proposal seeks a minor variation in the existing area covered by clause 54A.

Further, clarification of the site's location relative to the green corridor under the Lower Hunter Regional Strategy should be provided through the NSW Department of Planning's LEP Gateway determination. It is noted the Department of Planning supported Council's previous proposed rezoning of the land in February 2008 for additional residential land.

Medowie Strategy

The *Medowie Strategy* was adopted by Council in March 2009 and provides a framework for considering rezoning requests in the area.

The site is regarded as an established area where residential development has already occurred and therefore is not identified for rezoning under the *Medowie Strategy*. However, clause 54A of the Port Stephens LEP 2000 provides that development is permitted with consent.

In the event that Council resolves to adopt the proposal, for clarity it is a recommendation of this report that Council includes the site in any future amendment to the Medowie Strategy to reflect the fact development has been permitted for some time under clause 54A, and would be zoned residential.

Port Stephens Local Environmental Plan 2000

The Port Stephens LEP 2000 has existing provision for development of the site under Clause 54A Development of Land – Medowie Road and South Street, Medowie (Pacific Dunes) as follows:

This clause applies to land within and in the vicinity of the Pacific Dunes Golf Course, Medowie Road and South Street, Medowie, as shown edged heavy black and lettered "Fairway Lots" or "Hillside Lots" on the map marked "Pacific Dunes Residential Area".

Despite any other provision of this plan, consent must not be granted to the subdivision of, or the erection of a dwelling-house on, the land to which this clause applies, unless:

Each lot to be created on so much of the land shown edged heavy black and lettered "Fairway Lots" has a minimum area of 600 square metres, and

Each lot to be created on so much of the land shown edged heavy black and lettered "Hillside Lots" has a minimum area of 900 square metres, and

The proposed dwelling houses will comply with the provisions of this plan relating to development on land within Zone No 2(a)

The proposal is seeking to modify the existing development footprint and increase dwelling density under Port Stephens LEP 2000. A comparison of the existing and proposed development footprint is at **Attachment 4**.

Development Control Plan

A draft development control plan chapter is proposed to apply only to new development in the Pacific Dunes residential areas subject to the rezoning request.

The DCP maintains the high standard of building design that already occurs within the Pacific Dunes Estate. Specifically, it addresses the future development of the Village Centre Precinct and provides revised development controls for the subject Fairway and Hillside precincts.

For all other residential areas in the Pacific Dunes Estate the existing Port Stephens Development Control Plan 2007 Chapter C7 Medowie – Pacific Dunes Estate will continue to apply.

The draft development control plan chapter is at **Attachment 5**.

Aircraft Noise

Part of the Hillside lots and Village Centre precincts are mapped as affected by noise contours under 2025 ANEF dated 23rd October 2009. However, the proposed residential areas are not impacted by noise contours under 2025 ANEC dated 17th May 2010 and 2025 ANEC dated 1st September 2010. Accordingly, development on the land proposed for rezoning is not constrained by aircraft noise.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications.

Flora and Fauna

The Planning Proposal provides a summary description of the flora and fauna on the site. It includes mapping showing the environmental characteristics of the site and impacts of the proposal.

The broad potential impacts of future development are:

- Clearing or modification of approximately 4.42 hectares of native vegetation, being primarily Coastal Sand Apple – Blackbutt Forest;
- Potential future removal of 0.44 hectares of Swamp Sclerophyll Forest (Endangered Ecological Community) to allow for golf course redesign, subject to a separate future development application; and
- Rezoning of approximately 4.7 hectares of environmentally sensitive land from 6(c) Special Recreation to 7(a) Environment Protection.

The proponent has reviewed mapping under the *Port Stephens Comprehensive Koala Plan of Management* and suggested that the mapped Preferred Koala Habitat is in fact Coastal Sand Apple - Blackbutt Forest, a Supplementary Koala Habitat. This view is accepted by Council's Environment Services Section.

Environment Services Section advises that a number of issues will need to be addressed at the development application stage however providing adequate measures are implemented at that time and strict conditions of consent are employed, the proposal has manageable environmental impacts.

Flooding and Drainage

A flood study has been provided by the proponents (*Pacific Dunes (Medowie) Flood Assessment* (DHI Water and Environment, August 2010). Council's Engineering Services Section has reviewed the study and has no objection to the proposal.

Engineering Services Section comments are as follows:

- The proposed Village Centre in conjunction with the existing village centre precinct that is to be modified is relatively unaffected by a 1% AEP event. The northern corner of this area is the only exception. This area affected contributed approximately 30% of the proposed development area of this section of the development. It is expected that a development requirement would be that structures be raised to provide adequate free board. As such, detention should be provided to compensate for the decrease in available area for the flood to dissipate;
- The Fairway lots near the existing village centre is shown to be unaffected by the 1% AEP flooding events in the flood mapping provided;
- The Fairway lots located adjacent to the Hillside lots is relatively unaffected as

shown by the flood mapping. Only the south-eastern corner is affected. As for the proposed Village Centre detention storage would be required where fill is used in affected areas;

- The developer would need to consider detention to maintain pre-development flows for events up to the 72 hour duration if development were to proceed. This is because the Moffats Swamp and Campvale Swamp catchments have typically large peak durations; and
- The existing ridge between Moffats Swamp catchment and the existing catchment should not at any location be lowered as part of the future development.

CONSULTATION

If the proposal proceeds to public exhibition, it is recommended that it be placed on exhibition for a period of 28 days and relevant government authorities will be consulted.

Adjoining land owners will be notified of the exhibition.

OPTIONS

- 1) Adopt the recommendations of this report
- 2) Amend the recommendations of this report
- 3) Reject the recommendations of this report

ATTACHMENTS

- 1) Pacific Dunes Planning Proposal
- 2) Pacific Dunes Planning Proposal - Zone Map
- 3) Pacific Dunes Planning Proposal – Lot Size Map
- 4) Comparison of Existing and Proposed Development Footprints
- 5) Pacific Dunes Draft Development Control Plan.

COUNCILLORS ROOM

- 1) Planning Proposal and Appendices (SJB Planning, August 2010).

TABLED DOCUMENTS

Nil.

**ATTACHMENT 1
PACIFIC DUNES PLANNING PROPOSAL
PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 2
PACIFIC DUNES PLANNING PROPOSAL – ZONE MAP
PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 3
PACIFIC DUNES PLANNING PROPOSAL – LOT SIZE MAP
PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 4
COMPARISON OF EXISTING AND PROPOSED DEVELOPMENT FOOTPRINTS
PROVIDED UNDER SEPARATE COVER**

**ATTACHMENT 5
PACIFIC DUNES DRAFT DEVELOPMENT CONTROL PLAN
PROVIDED UNDER SEPARATE COVER**

RECISSION MOTION

ITEM NO. 2

FILE NO: PSC2009-01335

PROPOSED AMENDMENT TO PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000 TO RECLASSIFY AND REZONE VARIOUS COUNCIL OWNED PUBLIC LANDS - : LOT 17 DP 231214, 35A BLANCH STREET, BOAT HARBOUR (SITE 16)

COUNCILLORS: NELL, WARD, DINGLE

That Council rescind its decision of 28 July 2009 on Item 3, 1) a) Lot 17, DP 231214. 35a Blanch Street, Boat Harbour (Site 16) of the Ordinary Council Meeting Report, namely Proposed Amendment to Port Stephens Local Environmental Plan 2000 to Reclassify and rezone various council owned public lands at Lot 17 DP 231214, 35a Blanch Street, Boat Harbour (Site 16).

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

044	Councillor Geoff Dingle Councillor Frank Ward	That the rescission motion 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, Geoff Dingle, Frank Ward, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Ken Jordan and Sally Dover.

Those against the Motion: Nil.

MINUTES FROM ORDINARY COUNCIL MEETING 28 JULY 2009

ITEM NO. 3

FILE NO: PSC 2009-01335

PROPOSED AMENDMENT TO PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000 TO RECLASSIFY AND REZONE VARIOUS COUNCIL OWNED PUBLIC LANDS

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

1) Pursuant to Section 54 of the Environmental Planning and Assessment Act (1979) resolve to:

a) Reclassify the following land from "community" to "operational" as identified in Attachment 1 (provided under separate cover) and rationales provided in Attachment 2 (provided under separate cover):

- Lot 279 DP 740009, 27 Garden Avenue, Raymond Terrace (Site 1)
- Lot 5 DP 261238, 9 Rosemount Drive, Raymond Terrace (Site 2)
- Lot 1 DP 1093118, 1 Skelchley Street, Raymond Terrace (Site 3)
- Lot 23 DP 843416, 77 Dawson Road, Raymond Terrace (Site 4)
- Lot 133 DP 246855, 20 Enterprise Drive, Tomago (Site 5)
- Lot 132 DP 246855, 15 Enterprise Drive, Tomago (Site 6)
- Lot 10 DP 596640, 44 Ferodale Road, Medowie (Site 7)
- Lot 39 DP 807956, 2 Coachwood Drive, Medowie (Site 8)
- Lot 38 DP 807956, 1 Coachwood Drive, Medowie (Site 9)
- Lot 64 DP 815722, 151 Ferodale Road, Medowie (Site 10)
- Lot 109 DP 243096, 1 Lyndel Close, Soldiers Point (Site 11)
- Lot 22 DP 241918, 8 Garuwa Street, Fingal Bay (Site 12)
- Lot 17 DP 805074, 154 Rocky Point Road, Fingal Bay (Site 13)
- Lot 25 DP 247555, 44A Squire Street, Fingal Bay (Site 14)
- Lot 34 DP 580267, 13 School Drive, Tomago (Site 15)
- Lot 17 DP 231214, 35a Blanch Street, Boat Harbour (Site 16)
- Pt Lot 322 DP 636840, 9 Mitchell Street, Soldiers Point (Site 17)
- Pt Lot 2071 DP 852662, 2 Ridgeway Avenue, Soldiers Point (Site 18)

b) Rezone the following land as below as identified in Attachment 1 (provided under separate cover) and rationales provided in Attachment 2 (provided under separate cover):

- (Site 1) Lot 279 DP 740009, 27 Garden Avenue, Raymond Terrace from 6(a) Community/Recreation to 2(a) Residential

MINUTES FOR ORDINARY MEETING – 28 JULY 2009

- (Site 3) Lot 1 DP 1093118, 1 Sketchley Street, Raymond Terrace from 6(a) Community/Recreation to 2(a) Residential
- (Site 8) Lot 39 DP 807956, 2 Coachwood Drive, Medowie from 6(a) Community/Recreation to 2(a) Residential
- (Site 9) Lot 38 DP 807956, 1 Coachwood Drive, Medowie from 6(a) Community/Recreation to 2(a) Residential
- (Site 11) Lot 109 DP 243096, 1 Lyndel Close, Soldiers Point from 6(a) Community/Recreation to 2(a) Residential
- (Site 14) Lot 25 DP 247555, 44A Squire Street, Fingal Bay from 6(a) Community/Recreation to 2(a) Residential
- (Site 16) Lot 17 DP 231214, 35a Blanch Street, Boat Harbour from 6(a) Community/Recreation to 2(a) Residential
- (Site 18) Pt Lot 2071 DP 852662, 2 Ridgeway Avenue, Soldiers Point from 6(a) Community/Recreation to 3(a) Business General.

- 2) Note that the future classification, zone and use of community land zoned Public Recreation 6(a) Lot 10 DP 729986 at Jessie Road, Anna Bay will be considered as part of the preparation of a new Port Stephens Local Environmental Plan for 2011.

STRATEGIC COMMITTEE – 07th July 2009

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>	<p>That Council:</p> <p>1) Pursuant to Section 54 and 55 of the Environmental Planning and Assessment Act (1979)/ resolve to initiate a planning proposal and to:</p> <p>a) Reclassify the following land from "community" to "operational" as identified in Attachment 1 [provided under separate cover] and rationales provided in Attachment 2 [provided under separate cover]:</p> <ul style="list-style-type: none"> • Lot 279 DP 740009, 27 Garden Avenue, Raymond Terrace (Site 1) • Lot 5 DP 261238, 9 Rosemount Drive, Raymond Terrace (Site 2) • Lot 1 DP 1093118, 1 Sketchley Street, Raymond Terrace (Site 3) • Lot 23 DP 843416, 77 Dawson
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MINUTES FOR ORDINARY MEETING – 28 JULY 2009

		<p>Road, Raymond Terrace (Site 4)</p> <ul style="list-style-type: none"> • Lot 133 DP 246855, 20 Enterprise Drive, Tomago (Site 5) • Lot 132 DP 246855, 15 Enterprise Drive, Tomago (Site 6) • Lot 10 DP 596640, 44 Ferodale Road, Medowie (Site 7) • Lot 39 DP 807956, 2 Coachwood Drive, Medowie (Site 8) • Lot 38 DP 807956, 1 Coachwood Drive, Medowie (Site 9) • Lot 64 DP 815722, 151 Ferodale Road, Medowie (Site 10) • Lot 109 DP 243096, 1 Lyndel Close, Soldiers Point (Site 11) • Lot 22 DP 241918, 8 Garuwa Street, Fingal Bay (Site 12) • Lot 17 DP 805074, 154 Rocky Point Road, Fingal Bay (Site 13) • Lot 25 DP 247555, 44A Squire Street, Fingal Bay (Site 14) • Lot 34 DP 580267, 13 School Drive, Tomago (Site 15) • Lot 17 DP 231214, 35a Blanch Street, Boat Harbour (Site 16) • Pt Lot 322 DP 636840, 9 Mitchell Street, Soldiers Point (Site 17) • Pt Lot 2071 DP 852662, 2 Ridgeway Avenue, Soldiers Point (Site 18) <p>b) Initiate a Planning Proposal and to Rezone the following land as below as identified in Attachment 1 [provided under separate cover] and rationales provided in Attachment 2 [provided under separate cover]/planning proposal:</p> <ul style="list-style-type: none"> • [Site 1] Lot 279 DP 740009, 27 Garden Avenue, Raymond Terrace from 6(a) Community/Recreation to 2(a) Residential • [Site 3] Lot 1 DP 1093118, 1
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MINUTES FOR ORDINARY MEETING – 28 JULY 2009

		<p>Sketchley Street, Raymond Terrace from 6(a) Community/Recreation to 2(a) Residential</p> <ul style="list-style-type: none"> • (Site 8) Lot 39 DP 807956, 2 Coachwood Drive, Medowie from 6(a) Community/Recreation to 2(a) Residential • (Site 9) Lot 38 DP 807956, 1 Coachwood Drive, Medowie from 6(a) Community/Recreation to 2(a) Residential • (Site 11) Lot 109 DP 243096, 1 Lyndel Close, Soldiers Point from 6(a) Community/Recreation to 2(a) Residential • (Site 14) Lot 25 DP 247555, 44A Squire Street, Fingal Bay from 6(a) Community/Recreation to 2(a) Residential • (Site 16) Lot 17 DP 231214, 35a Blanch Street, Boat Harbour from 6(a) Community/Recreation to 2(a) Residential • (Site 18) P1 Lot 2071 DP 852662, 2 Ridgeway Avenue, Soldiers Point from 6(a) Community/Recreation to 3(a) Business General. <p>2) Note that the future classification, zone and use of community land zoned Public Recreation 6(a) Lot 10 DP 729986 at Jessie Road, Anna Bay will be considered as part of the preparation of a new Port Stephens Local Environmental Plan for 2011.</p>
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MINUTES FOR ORDINARY MEETING – 28 JULY 2009

MATTER ARISING:

	<p>Councillor Peter Kafer Councillor Bruce MacKenzie</p>	<p>That Council incorporate the implementation of the Council resolution of 24 October 2006 (Minute No. 715) to rezone Aliceton Reserve from Residential 2 (a) to Public Open Space 6(a) into the amendments proposed above.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY COUNCIL – 28TH July 2009

Cr Peter Kafer returned to the meeting at 6.59pm prior to voting on item 3.

<p>234</p>	<p>Councillor John Nell Councillor Ken Jordan</p>	<p>It was resolved that the recommendation be adopted.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

MATTER ARISING:

<p>235</p>	<p>Councillor John Nell Councillor Ken Jordan</p>	<p>It was resolved that Council incorporate the implementation of the Council resolution of 24 October 2006 (Minute No. 715) to rezone Aliceton Reserve from Residential 2 (a) to Public Open Space 6(a) into the amendments proposed above.</p>
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CONFIDENTIAL ITEMS



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

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

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

045	Councillor Ken Jordan Councillor Geoff Dingle	It was resolved that Council move into Confidential Session.
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ITEM NO. 1

FILE NO: PSC2005-3622

BETTLES PARK SABRE JET

REPORT OF: PHILIP CROWE – COMMUNITY & RECREATION MANAGER

GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Rejects all Expressions of Interest that have been received.
- 2) Negotiate with volunteer groups based within the Port Stephens Local Government Area to undertake an upgrade of the Sabre Jet to keep it within the Port Stephens Local Government Area.
- 3) Negotiate with the two companies that have provided an Expression of Interest to seek further detail.

ORDINARY COUNCIL MEETING – 22 FEBRUARY 2011

The General Manager declared a less than significant non-pecuniary conflict of interest in this item as a Director of FighterWorld and remained in the Chamber.

049	Councillor Glenys Francis Councillor Peter Kafer	It was resolved that Council: <ul style="list-style-type: none">1. Rejects all Expressions of Interest that have been received.2. Negotiate with volunteer groups based within the Port Stephens Local Government Area to undertake an upgrade of the Sabre Jet to keep it within the Port Stephens Local Government Area.3. Negotiate with the two companies that have provided an Expression of Interest to seek further detail.
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There being no further business the meeting closed at 7.52pm.

I certify that pages 1 to 116 of the Open Ordinary Minutes of Council 22 February 2011 and the pages 117 to 121 of the Confidential Ordinary Minutes of Council 22 February 2011 were confirmed by Council at its meeting held on 8 March 2011.

.....
**Cr Sally Dover
DEPUTY MAYOR**