

# DRAFT

## MINUTES 10 FEBRUARY 2015



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 10 February 2015, commencing at 5.45pm.

PRESENT: Mayor B MacKenzie; Councillors G. Dingle; C. Doohan; S. Dover; K. Jordan; P. Le Mottee; J. Morello; J Nell; S. Tucker; Acting General Manager; Acting Corporate Services Group Manager; Facilities and Services Group Manager; Development Services Group Manager and Governance Manager.

001	<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>
	It was resolved that the apology from Cr Peter Kafer be received and noted.

002	<b>Councillor Paul Le Mottee</b> <b>Councillor Steve Tucker</b>
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 9 December 2015 be confirmed.

	There were no declaration of interests received.

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# COUNCIL REPORTS

ITEM NO. 1

FILE NO: 16-2014-91-1

**DEVELOPMENT APPLICATION FOR A BOUNDARY REALIGNMENT,  
DWELLING AND EARTHWORKS (EARTH MOUND) AT NO. 13-15 PORT  
STEPHENS DRIVE, ANNA BAY**

REPORT OF: **MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE  
SECTION MANAGER**  
GROUP: **DEVELOPMENT SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Development Application 16-2015-91-1 for boundary realignment, dwelling and earthworks (earth mound) at No. 13-15 Port Stephens Drive, Anna Bay for the reasons contained in **(ATTACHMENT 3)**.
- 

**MOTION**

003	<b>Councillor Ken Jordan Councillor Steve Tucker</b>
	It was resolved that Council move into Committee of the Whole.

**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Paul Le Mottee Councillor Steve Tucker</b>
	That Council approve the Development Application 16-2014-91-1 for boundary realignment, dwelling and earthworks (earth mound) at No. 13-15 Port Stephens Drive, Anna Bay subject to the conditions tabled at the Council meeting of 10 February 2015.

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

Those for the Motion: Mayor Bruce MacKenzie , Crs Paul Le Mottee, Ken Jordan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

Cr Chris Doohan entered the meeting at 5.51pm following the voting on Item 1, in Committee of the Whole.

### MOTION

<b>005</b>	<b>Councillor Ken Jordan Councillor John Morello</b>
	It was resolved that Council approve the Development Application 16-2014-91-1 for boundary realignment, dwelling and earthworks (earth mound) at No. 13-15 Port Stephens Drive, Anna Bay subject to the conditions tabled at the Council meeting of 10 February 2015.

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

Those for the Motion: Mayor Bruce MacKenzie , Crs Paul Le Mottee, Chris Doohan, Ken Jordan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

### BACKGROUND

The purpose of this report is to present to Council for determination development application 16-2014-91-1 for boundary realignment, dwelling and earthworks (earth mound) at No. 13-15 Port Stephens Drive, Anna Bay (the 'subject site'). The application was called to Council by Councillor Le Mottee to debate the permissibility of the proposed dwelling on the subject site and is reported to Council on this basis. The call to Council form is provided as an attachment to this report **(ATTACHMENT 4)**.

#### Port Stephens Local Environmental Plan 2000

The applicant seeks approval for the construction of a single storey dwelling to be located on a 2.7 metre earth mound and boundary realignment. The subject site is zoned 1(a) Rural Agriculture under LEP 2000. The development is permissible within the 1(a) zone, however, does not satisfy the requirements of LEP 2000 as it would present an increased flood risk to the area.

Port Stephens Local Environmental Plan 2013

The development application was lodged prior to the commencement of LEP 2013. Clause 1.8A of LEP 2013 provides savings provisions relating to development applications lodged prior to the commencement of the new Plan. This Clause provides that the consent authority must determine an application as if the new Plan had not yet commenced. On this basis, the application must be determined under LEP 2000, in particular from a flooding perspective.

Section 79C of the EP&A Act requires consideration to be given to the provisions of LEP 2013. Pursuant to the provisions of LEP 2013 the subject site is zoned RU2 Rural Landscape. Development as proposed by this application is prohibited under LEP 2013.

Site Suitability

The subject site is not considered suitable for the proposed development as the increased density is incompatible with the flood risk of the area. The development cannot be supported from a staff perspective due to the risk to life and property caused by frequent inundation.

Whilst there is currently a resolution of Council relating to all rural dwellings on flood prone land being deferred until such time as the policy position is developed, it is the understanding of Council staff the intent of the Council resolution was not to apply to applications lodged prior to the resolution. Therefore the application has been assessed on its merits and is reported to Council for determination. Further, in the presentation of the notice of motion and deliberations in regard to the deferral pending the flood study, it is understood this only applies to the 'rural west'.

Site Suitability – Flood Risk

The subject site is located within the Anna Bay Catchment area. As there is no area specific flood study prepared for Anna Bay, flood levels for the subject site have been extrapolated from the Port Stephens Flood Study Climate Change Review, 2010 (PSFSCCR 2010).

From this data it has been identified that, the subject site would be inundated to a depth of 1.7 metres AHD and have a flood planning level of RL 2.7 metres AHD (2050 1 % AEP flood level plus 500 mm freeboard – from the PSFSCCR 2010).

The subject site is classed as high hazard as flood depths are greater than 1.0 metre. During flooding events it is likely that the site could be located within a floodway.

The proposal development is not appropriate for the site as any increased density is not compatible with the flood risk of the area. The development cannot be supported due to the unacceptable risk to life and property.

Key Issues

The key issues associated with the development proposal are:

- The site is not suitable as the subject site is classified floodway and is located within a high hazard category.
- The development does not meet the objectives of the 1(a) Rural Agriculture zone of LEP 2000 as the development is not compatible with the flood risk of the area.

The application is recommended for refusal as the subject site is not suitable for the development in accordance with s.79C (1) (c) of the *EP&A Act 1979*. A detailed assessment of the proposal against the provisions of Section 79C of the *EP&A Act 1979* is provided within **(ATTACHMENT 2)**.

**FINANCIAL/RESOURCE IMPLICATIONS**

Should Council refuse the application the applicant may appeal Council's determination under s.97 (1) *EP&A Act 1979*. Defending the refusal would have financial implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Funds to defend Council's refusal of the development application are available within the existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL AND POLICY IMPLICATIONS**

The application is not consistent with Port Stephens LEP2000, Port Stephens LEP2013, Port Stephens Development Control Plan 2013 (DCP 2013), NSW Wetland Management Policy, Floodplain Management in Australia: Best Practice Principles and Guidelines (CSIRO, 2000), NSW Floodplain Development Manual 2005 and the PSFSCCR 2010. The development presents a risk to Council and the community if the application is approved.

On 27 November 2012 Council adopted a revised Corporate Risk Management Policy. The policy includes Council's risk appetite statement that explicitly states that Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public. The policy also identifies that Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating.

A decision contrary to the recommendation presents an unacceptable risk to Council as per Council's standard risk management matrix. These unacceptable risks relate to Council and the local community in respect to public safety, Council reputation and legal exposure.

A decision contrary the planning framework may waiver the good faith provisions in the *Local Government Act 1993*. This could result in individuals being personally accountable and responsible for any subsequent implications resulting from the decision. Further, discussions with Councils Corporate Risk Unit confirmed that it is likely Council's insurers may not cover Council should a decision be made contrary to the relevant standards etc.

It is not considered appropriate to place additional dwelling houses in high risk flood areas creating further demand on already limited SES resources by way of domestic property protection, rescue/medivac and evacuation. Given the high risk of flooding across the site and the potential negative impact on adjoining properties, the proposed development cannot be supported.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused the determination may be challenged in the Land and Environment Court.	Low	Determine application in line with recommendation. In <i>Webster v Muswellbrook Shire Council</i> [2-13] NSWLEC 1146 and <i>Radray Constructions Pty Ltd v Hornsby Shire Council</i> [2014] NSWLEC1024 the Land and Environment Court dismissed appeals against Council's decision to refuse development applications located within a floodway. Council's refusal of the application would therefore be likely to be upheld.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Despite the economic benefits of the development for the proponent, the development shall have an adverse social and economic impact in the locality. The flooding constraints of the site do not enhance and promote the social needs of the community. Supporting such a development would potentially have an economic cost to the community as it will place undue pressure on emergency services such as



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the SES, ambulance, fire brigade and police in terms of responding to any natural hazards and any medical emergencies that may occur and affect the site.

### **CONSULTATION**

In accordance with Council's Notification Policy, the application was not required to be notified or advertised.

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Locality Plan;
- 2) Assessment;
- 3) Reasons for refusal;
- 4) Call to Council Form.

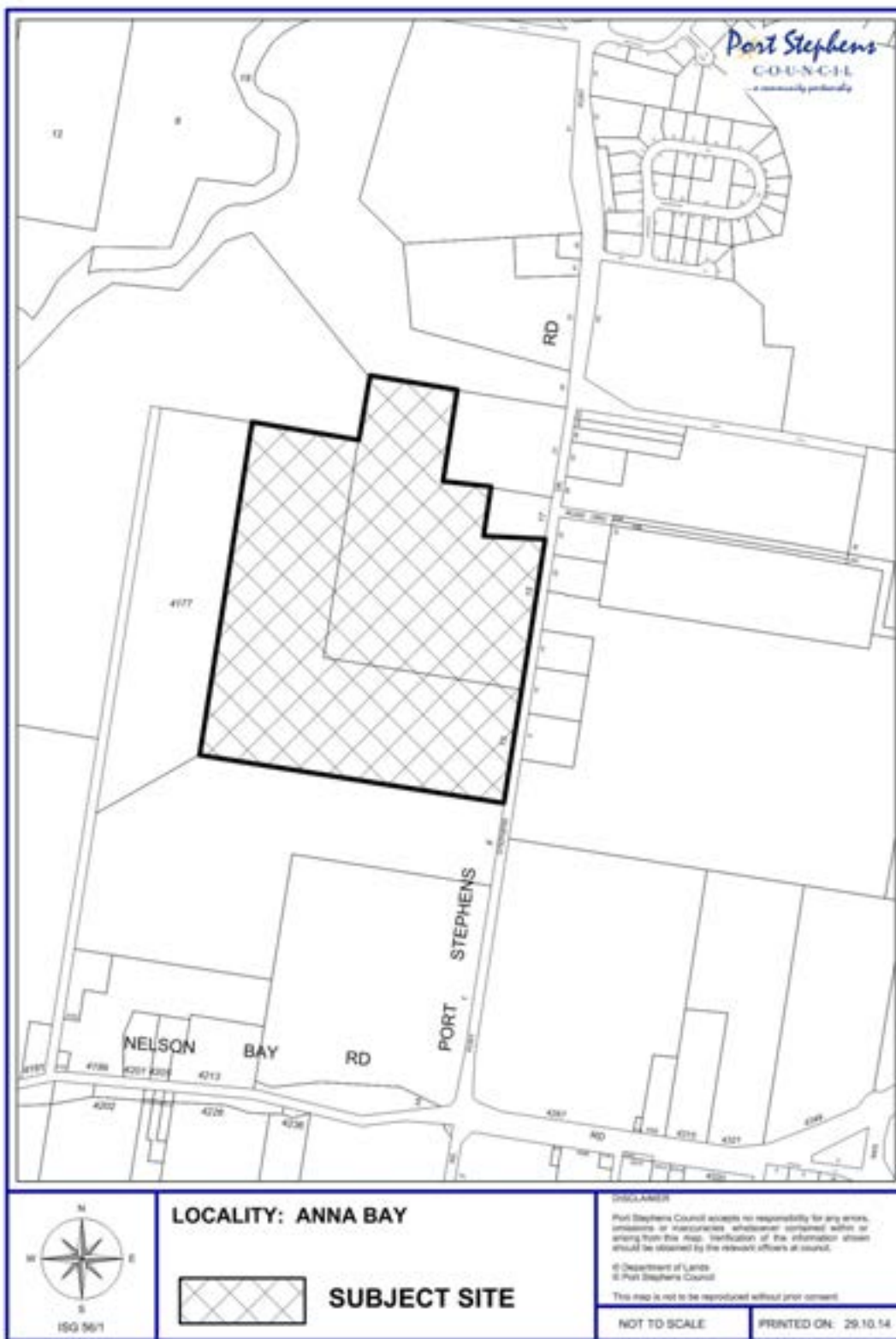
### **COUNCILLORS ROOM**

- 1) Development Plans – also provided under separate cover;
- 2) Statement of Environmental Effects.

### **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1  
LOCALITY PLAN



**ATTACHMENT 2  
ASSESSMENT**

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

**THE PROPOSAL**

The applicant proposes a boundary realignment and construction of a dwelling and earth mound.

**THE APPLICATION**

Owner	Chasiy Pty Limited
Applicant	Chasiy Pty Limited
Detail Submitted	Development Plans including; Architectural Plans and Elevations; Proposed Earth Mound Details; Detailed Survey Plan; Statement of Environmental Effects; and BASIX Certification.

**THE LAND**

Property Description	Lot: 3221 DP: 1033004, and Lot: 212 DP: 1113323,
Address	13 - 15 Port Stephens Drive, Anna Bay
Area	Lot 3221: 23.97ha Lot 212: 17.7ha Total: 41.67ha
Site Description	Lot 3221 is currently vacant and does not contain any improvements. Lot 212 currently contains a bus depot, single storey dwelling, swimming pool, tennis court and associated outbuildings.
Characteristics	SEPP 14 Wetlands Flood Prone Land – Flood Planning Level 2.5m AHD Acid Sulphate Soils Class 2 & 3 Bush Fire Prone Land Koala Habitat – Preferred, Buffer over Cleared and Link over Cleared Endangered Ecological Communities – Swamp

Sclerophyll Forest, Coastal Saltmarsh, & Swamp  
Oak Floodplain Forrest  
Core Habitat

**THE ASSESSMENT  
PLANNING PROVISIONS**

Environmental Planning and Assessment Act 1979	s.79C Planning provisions
Rural Fires Act 1997	s. 100B Bush fire safety authorities
State Environmental Planning Policies	State Environmental Planning Policy No.14 – Coastal Wetlands. State Environmental Planning Policy No. 44 – Koala Habitat. State Environmental Planning Policy No. 71 – Coastal Protection. State Environmental Planning Policy (Building Sustainability Index: BASIX).
Port Stephens Local Environment Plan 2000	CI.12 Subdivision within rural zones generally CI.14 Dwelling-houses and dual occupancy housing in rural zones CI.37 Objectives for development on flood prone land CI.38 Development on flood prone land CI.47 Services
Draft Port Stephens Local Environmental Plan 2013	CI. 1.8A Savings provision relating to development applications CI.4.2 Rural subdivision CI.4.2ALot size exceptions for certain rural and environmental zones CI.4.2CErection of dwelling houses on land in certain rural, residential and environmental protection zones CI.7.3 Flood planning CI.7.6 Essential services
Port Stephens Development Control Plan 2013	B1 Subdivision and Streets B2 Environment and Construction Management B6 Single and Dual Occupancy Dwellings

**STATUTORY ACTS AND REGULATIONS**

Environmental Planning and Assessment (EP&A) Act 1979

*Section 79c – Planning Assessment*

An assessment under section 79C of the act has been undertaken throughout this report.

Rural Fires Act (Section 100B) 1997

Section 100B of the Rural Fires Act, requires a bushfire safety authority for a subdivision of bush fire prone land that could lawfully be used for rural residential purposes. The applicant has elected not to nominate the development as integrated development. Should Council elect to approve the application, a condition of consent would be imposed requiring the applicant to obtain a bush fire safety authority from the NSW Rural Fire Service prior to issue of a Construction Certificate.

**State Environmental Planning Policy No. 14 – Coastal Wetlands**

State Environmental Planning Policy No. 14 – Coastal Wetlands (SEPP14), aims to ensure coastal wetlands are preserved and protected. The application has been assessed having regard to the aims of the SEPP and Clause 7 – Restriction on development of certain land.

The site contains SEPP14 wetlands to the south-western boundary. The proposed development has been located approximately 100 metres from the edge of the mapped area. Site assessment has indicated that it is likely that the wetlands extend beyond the mapped area. However, insufficient information has been submitted for a full assessment to be undertaken. Ground truthing and onsite data would need to be gathered in order to determine the extent of the SEPP 14 wetlands on the site and impact of the development to this area. The application does not satisfy the provisions of SEPP 14.

**State Environmental Planning Policy No. 44 – Koala Habitat Protection**

State Environmental Planning Policy No. 44 – Koala Habitat Protection, aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. Port Stephens Council has a Comprehensive Koala Plan of Management (CKPOM) which overrides the provisions of the SEPP.

The site is mapped as Preferred Koala Habitat, Buffer over Cleared and Link over Cleared under Council's CKPOM. Development proposed by this application is located on a cleared part of the site, resulting in minimal impact on the movement or habitat of Koalas. The proposal is satisfactory with regard to SEPP 44 and Councils CKPOM.

**State Environmental Planning Policy No. 71 – Coastal Protection**

State Environmental Planning Policy 71 – Coastal Protection (SEPP 71), aims to protect the visual, environmental and social assets of coastal land. This application has been assessed having regard to the aims of the SEPP and matters for consideration contained in Clause 8 (Matters for consideration). The application is consistent with the aims of the SEPP and matters for consideration in Clause 8.

**State Environmental Planning Policy: Building Sustainability Index (BASIX)**

State Environmental Planning Policy: Building Sustainability Index (BASIX) seeks to provide environmentally sustainable dwellings through the use of various building practices. A valid BASIX Certificate has been submitted as part of the development application.

**Port Stephens Local Environmental Plan (2000)**

**1(a) Rural Agricultural Zone**

The site is zoned 1(a) Rural Agriculture. The development is permissible within the zone. However, the development is inconsistent with the objectives of the zone as it is not compatible with the flood risk of the area (as discussed elsewhere in this report).

**Clause 12 Subdivision within rural zones generally**

Clause 12 seeks to maintain the rural characteristics of the zone. The proposed boundary realignment is permissible within the zone. No additional allotments are proposed which will assist in maintaining the rural character of the area.

**Clause 14 Dwelling-houses and dual occupancy housing in rural zones**

Clause 14 requires a minimum land size before a dwelling is considered an appropriate development on the site. The proposed boundary realignment will create a parcel of 5.14 hectares on which the proposed dwelling is to be located. In the case of land within the 1(a) zone a dwelling cannot be constructed if the allotment has an area of less than 4,000 square metres. The development area meets the minimum requirements of this clause.

**Clause 37 Objectives for development on flood prone land**

Clause 37 seeks to minimise the risk to life and property associated with the flood risk of the area. The application is not acceptable as the site is considered to be located in a high hazard floodway and is located within an area that conveys a significant portion of the flood waters. The high hazard classification of the site results in the proposed development not being compatible with the flood hazard of the area. During a flood event, residents would not be able to access a safe evacuation route with Port Stephens Drive being subject to inundation. Accordingly, the proposal is inconsistent with the requirements of this clause

**Clause 38 Development on flood prone land**

Clause 38 seeks to restrict development that is not compatible with the land's flood hazard so as to ensure that significant adverse impacts on flood behaviour and the environment are avoided. The application is inconsistent with the requirements of this clause as the site is likely to be located in a high hazard floodway which carries a significant portion of the flood water.

**Clause 47 Services**

Clause 47 requires the consent authority to be satisfied that essential services including water, electricity, sewage, stormwater and access are available to the site. The subject site is able to be connected to water, electricity, and telecommunications services. Sewage management is required to be provided on site via a suitable on-site sewage management system.

**Draft Port Stephens Local Environment Plan (2013)**

**Clause 1.8A Savings provisions relating to development applications**

The development application was lodged prior to the commencement of LEP 2013. Clause 1.8A of LEP 2013 provides savings provisions relating to development applications lodged prior to the commencement of the new Plan. This Clause provides that the consent authority must determine an application as if the new Plan had not yet commenced. On this basis, the application must be determined under LEP 2000.

**RU2 Rural Landscape**

The site is zoned RU2 Rural Landscape pursuant to the provisions of the Port Stephens Local Environmental Plan 2013 (LEP 2013). The development is permissible in the RU2 zone.

**Clause 4.1 Minimum subdivision lot size**

As nominated on the minimum lot size map the subject site has a minimum lot size requirement of 20 hectares. Existing Lot 212 is undersized, having an area of 17.7 hectares. Should the proposed boundary realignment proceed, the size of this allotment would further be reduced to 5.14 hectares. The development is prohibited by this clause.

The application is inconsistent with the requirements of Clause 4.1.

**Clause 4.2 Rural subdivision**

Clause 4.2 allows for rural subdivision that is less than the minimum lot size for the purposes of primary production. A dwelling cannot be erected on an allotment created under this Clause. The application proposes to create an undersized allotment for the purposes of a dwelling house, which is inconsistent with the requirements of this Clause. Clause 4.2 does not apply. The development cannot be supported.

**Cl.4.2B Erection of dwelling houses on land in certain rural, residential and environmental protection zones**

Clause 4.2B enables the erection of dwelling houses on suitable land within rural, residential and environmental protection zones. Development proposed by this application is a lot which was created before the commencement of this plan and has an area greater than 4,000 square metres (5.14 hectares).

Development for the purposes of a dwelling proposed by this application is consistent with the requirements of this clause.

**Clause 4.6 Exceptions to development standards**

Exemptions to development standards are provided within Clause 4.6. Under this Clause, development consent must not be granted utilising the provisions of this Clause for a subdivision which would result in at least one (1) lot that is less than 90% of the minimum area specified under Clause 4.1. Subdivision (boundary realignment) proposed under this application, would result in one (1) allotment which has an area of less than 90% of the minimum lot size prescribed by the minimum lot size map. The proposed subdivision would create an allotment which is 25.7% of the minimum area. Accordingly, clause 4.6 cannot be utilised to vary the minimum lot size, the development is therefore prohibited.

**Clause 7.2 Earthworks**

Clause 7.2 aims to ensure development will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. The proposed development may impact upon the existing wetlands. However, insufficient information has been provided to determine the potential impact of the proposed earthworks on the environmentally sensitive area.

**Clause 7.3 Flood planning**

Clause 7.3 seeks to minimise the flood risk to life and property associated with the use of land and to allow development only where it is compatible with the land's flood hazard so as to ensure that significant adverse impacts on flood behaviour and the environment are avoided. The application is not acceptable as the site is classified as high hazard floodway and is located within an area that conveys a significant portion of the flood flow. The area, even if partially blocked by



development, would cause a significant increase in flood levels or a significant redistribution of flood waters. As such the proposed development may adversely affect other areas and adjoining properties.

**CI.7.6 Essential services**

The subject site is able to be connected to water, electricity, and telecommunications services. Sewage management is required to be provided on site via a suitable on-site sewage management system.

**CI.7.9 Wetlands**

Clause 7.9 seeks to ensure that local wetlands are preserved and protected from the impacts of development. The subject site is identified as local wetlands. Insufficient information has been submitted in order for an assessment of the potential impact of the proposed development on the wetlands to be undertaken. Clause 7.9 has not been satisfied.

**PORT STEPHENS DEVELOPMENT CONTROL PLAN (2000)**

**B1 Subdivision and Streets**

The application has been assessed against the provisions of Chapter B1 – Subdivision and Streets and is considered satisfactory. There is no significant change to the subject sites which would impact upon service provisions, access to site, or drainage.

**B2 Environmental and Construction Management**

The application is required to be assessed against the provisions of Chapter B2 – Environmental and Construction Management. Based on the information submitted with the application, the development is consistent with the requirements of this part.

**B6 Single and Dual Occupancy Dwellings**

The application has been assessed against the provisions of Chapter B6 – Single and Dual Occupancy Dwellings and is considered to meet the requirements of this part as outlined below.

**Part 4 Development Requirements Dwellings and Alterations**

<b>Clause</b>	<b>Comment</b>
B4.2 Height	There is no maximum prescribed height limit for the site.
B4.3 Max. no. of storeys	The proposed dwelling is single storey and meets the requirements of the control.

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B4.5 Setbacks - Rural	The control requires a front setback of 10m and a side setback of 5m. The proposed dwelling is setback 50m from both the front and side boundaries. The setbacks of the development are acceptable.
B4.6 Building form and streetscape	The dwelling faces the street, is single storey, and runs back into the site. The dwelling will be visible on all sides (except the rear) from the road due to its elevated position. Each of the visible elevations will have habitable rooms, windows and living spaces addressing the street in accordance with the requirements of the control.
B4.7 Orientation to street frontage	The proposed dwelling has been sited facing Port Stephens Drive in accordance with the control.
B4.13 Car Parking and Garages	The proposed dwelling provides a double garage in accordance with the control requirement for 3 bedroom dwellings.
B4.14 Earthworks	The proposed earth mound will be constructed to RL 2.7m AHD. The top of the pad will measure 20m x 40m running east/west along the site and have batter slopes 1:4. Any fill would be required to be certified VEMIN.
B4.15 Stormwater and Drainage	No stormwater proposal has been submitted with the development application.
B4.17 Energy Efficiency	Valid BASIX certificates have been provided for each unit. The development is satisfactory with regard to energy efficiency.

### **COMMUNITY CONSULTATION**

In accordance with Council's Notification Policy, the application was not required to be notified or advertised.

### **INTERNAL REFERRALS**

#### **Flood Engineer**

The proposed development does not comply with Port Stephens LEP flood planning controls for the following reasons:

- a) The subject sites flood hazard is not compatible with the proposed development (dwelling).

- b) The impact of the proposed dwelling and filling on neighbouring developments and properties cannot be adequately assessed.
- c) The impact of the proposed dwelling and filling on the environment cannot be adequately assessed.
- d) The impact of the proposed dwelling and filling on social and economic factors cannot be adequately assessed.

The high hazard classification of the site results in the proposed development not being compatible with the flood hazard of the area. During a flood event, residents would not be able to access a safe evacuation route with Port Stephens Drive being subject to inundation. On this basis the application is not acceptable on flooding grounds.

### **Development Engineer**

Subject to conditions of consent the proposed development has been determined to be satisfactory with regard to engineering considerations.

### **Building**

The proposal is satisfactory in relation to building matters subject to conditions of consent.

### **LIKELY IMPACTS OF THE DEVELOPMENT**

The assessment has considered the likely impact of the development by identifying the potential impacts of the proposal, available measures to ameliorate impacts and frequency/severity of impacts.

The development is not compatible with the lands flood risk and will in unacceptable impacts upon life and property. Insufficient information has been submitted to allow an assessment of the potential impact on the SEPP 14 and local wetlands to be undertaken.

The development is recommended for refusal based on the reasons outlined within **(ATTACHMENT 3)**.

### **SUITABILITY OF THE SITE**

There site is physically constrained by flooding and is likely to be affected by ecological constraints and is therefore unsuitable for the proposed development.

### **PUBLIC INTEREST**

The development will result in adverse social, economic and environmental outcomes as the development has not been designed in a manner that is compatible with the flood risk of the land. The development has an unacceptable risk to life and property and will also result in adverse flood impacts to surrounding properties. The development is not within the public interest.

**ATTACHMENT 3  
REASONS FOR REFUSAL**

THAT the consent authority, REFUSE development consent to Development Application No. 16-2014-91-1 for Boundary Realignment, Dwelling and Earth Mound at No. 13-15 Port Stephens Drive, Anna Bay for the following reasons:

1. The subject site is not suitable for the proposed development (s.79C(1)(c) *Environmental Planning and Assessment Act (EP&A Act 1979)* for the following reasons;
  - a. The subject site is located within a tidal inundation area.
  - b. The site is located within a high hazard flood prone area.
  - c. Intensification of development within the floodway will result in increased safety risks to occupants and adjoining properties.
2. Development proposed is inconsistent with the aims and objectives of the 1(a) Rural Agriculture Zone under the Port Stephens Local Environmental Plan, 2000 (LEP 2000) as the development not compatible with the flood risk of the area (s.79C (1) (a) (i) *EP&A Act 1979*).
3. The development is inconsistent with Clause 37 Objectives for development on flood prone land and Clause 38 Development on flood prone land of LEP 2000 due to the high flood risk, resulting in an unacceptable risk to life and property (s.79C (1) (a) (i) *EP&A Act 1979*).
4. The development (boundary realignment) is prohibited as it fails to satisfy Clause 4.1 Minimum subdivision lot size pursuant to the provisions of the *Port Stephens Local Environmental Plan 2013* (LEP 2013) (s.79C (1) (a) (ii) *EP&A Act 1979*).
5. The development is inconsistent with LEP 2013 specifically Clause 4.2 Rural Subdivision, Clause 4.2B Erection of dwelling houses on land in certain rural, residential and environmental protection zones, Clause 7.2 Earthworks and Clause 7.3 Flood Planning. The development of the site is not compatible with the land's high risk flood hazard and would result in unacceptable flood risk to life and property (s.79C (1) (a) (ii) *EP&A Act 1979*).
6. The development is inappropriate for the site given the site is within a high risk flood area and it is therefore not within the public interest (s.79C (1) (e) *EP&A Act 1979*).
7. Insufficient information has been submitted to allow a full assessment of the application (detailed ecological data and ground truthing relating to extent of wetlands identified under State Environmental Planning Policy No. 14 – Coastal Wetlands). Development fails to satisfy Clause 7.9 Wetlands of the *Port Stephens Local Environmental Plan 2013* (s.79C (1) (a) (ii) *EP&A Act 1979*).

ATTACHMENT 4  
CALL TO COUNCIL FORM



CALL TO COUNCIL FORM  
DEVELOPMENT APPLICATION



I, Councillor **Paul Le Mofee**

require Development Application Number **16-2014-91-1**

for **SINGLE STOREY DWELLING**

at **Lot 3221 DP 1033004 – 13 Port Stephens Drive, Anna Bay**

to be subject of a report to Council for determination by Council.

**Reason:**

The reason for this call-up to Council is **to debate the permissibility of the proposed dwelling on a site subject to flooding.**

**Declaration of interest:**

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person. **I have a conflict of interest? Yes/No** (delete the response not applicable).

If **yes**, please provide the nature of the interest and reasons why further action should be taken to bring this matter to Council:

Signed: *[Signature]* Date: *27/10/14*

DATE .... 27.10.2014

**ITEM NO. 2**

**FILE NO: PSC2014-03597**

**PLANNING PROPOSAL – 2885 PACIFIC HIGHWAY, HEATHERBRAE (MOTTO FARM)**

**REPORT OF: TIM CROSDALE – STRATEGY AND ENVIRONMENT SECTION MANAGER**  
**GROUP: DEVELOPMENT SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Planning Proposal at **(ATTACHMENT 1)** for the purposes of Section 55 of the Environmental Planning and Assessment Act 1979 to amend Schedule 1 'Additional permitted uses' of the Port Stephens Local Environmental Plan 2013 to permit (with consent) a 'service station', 'restaurant or café and 'take-away food and drink premises' on land at 2885 Pacific Highway Heatherbrae (Lots 1, 2 and 3 DP 264023; Lot 1 DP 350551; and Lot 101 DP 807522); and
- 2) Forward the Planning Proposal at **(ATTACHMENT 1)** the NSW Department of Planning and Environment for a Gateway Determination.

**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p><b>Councillor Paul Le Mottee</b>  <b>Councillor Sally Dover</b></p>
	<p>That the recommendation be adopted.</p>

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

**MOTION**

<b>006</b>	<p><b>Councillor Ken Jordan</b>  <b>Councillor John Morello</b></p>
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Adopt the Planning Proposal at <b>(ATTACHMENT 1)</b> for the purposes of Section 55 of the Environmental Planning and Assessment Act 1979 to amend Schedule 1 'Additional permitted uses' of the Port Stephens Local Environmental Plan 2013 to permit (with consent) a 'service station', 'restaurant or café and 'take-away food and drink premises' on land at 2885 Pacific Highway Heatherbrae (Lots</li> </ol>

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

	1, 2 and 3 DP 264023; Lot 1 DP 350551; and Lot 101 DP 807522); and 2) Forward the Planning Proposal at <b>(ATTACHMENT 1)</b> the NSW Department of Planning and Environment for a Gateway Determination. ]
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

### BACKGROUND

The purpose of this report is to advise Council of a request to amend Schedule 1 'Additional permitted uses' of the Port Stephens Local Environmental Plan 2013 regarding land at 2885 Pacific Highway, Heatherbrae (known as Motto Farm Motel) to permit (with consent) development for the purposes of a 'service station', 'restaurant and café' and 'take-away food and drink premises'.

<b>Date Lodged:</b>	October 2014
<b>Proponent:</b>	TFA Project Group (on behalf of Newcastle Airport Hotel Motor Inn & Convention Centre Pty Ltd.)
<b>Subject land:</b>	2885 Pacific Highway, Heatherbrae - Lot 1, 2 and 3 DP 264023; Lot 1 DP 350551; and Lot 101 DP807522 (refer to Location plan at <b>(ATTACHMENT 2)</b> )
<b>Zoning:</b>	RU2 Rural Landscape (to be retained)
<b>Site Area:</b>	4.9 ha
<b>Proposed Additional Land Uses:</b>	Service station; Restaurant or café; Take-away food and drink premises (note: 'pub' and 'small bar' are not proposed to be permitted).

The site is currently operating as 'Motto Farm Motel' which is made up of a number of buildings over the site including motel accommodation and dining and restaurant facilities. The Planning Proposal seeks to expand the site's existing motel use to accommodate a service station, ancillary take-away food and drink premises and restaurant dining facilities. A car wash and alterations to the reception area of the motel reception building is also proposed.

It is noted that a previous DA for change of use – Restaurant to Hotel and associated alterations and additions – was refused by Council in 2011, and a subsequent Land and Environment Court appeal was dismissed. The development permissible with consent under this proposal is of smaller scale and different type of use to that previously sought under this development application. In addition, the specific land uses to be allowed for by the Planning Proposal have been specifically defined to limit adverse amenity, social and traffic impacts on the locality.

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

The principal issues in considering the Planning Proposal are the suitability of the subject land for the proposed additional uses and amendment to Schedule 1 of the Port Stephens Local Environmental Plan 2013 to permit certain additional uses on the subject land.

### Suitability of the Subject Land

The proposed 'service station', 'restaurant or café' and 'take-away food and drink premises' will play a supporting role to the employment lands in the Heatherbrae Enterprise Corridor identified in the Port Stephens Planning Strategy (PSPS) without impacting on the viability of bulky goods in the B5 Business Development Zone located on the opposite side of the Pacific Highway.

The site currently has direct vehicle entry via the Pacific Highway and a site exit via Kingston Parade. An initial traffic assessment by the proponent recommended an additional vehicle egress point onto the Pacific Highway to cater to the increased traffic leaving the site. The Traffic Report submitted with the proposal recommends that the existing deceleration lane on the Pacific Highway be shortened to ensure the proposed egress from the subject site does not enter the Kingston Parade left turn deceleration lane (**ATTACHMENT 3**). Further consultation with RMS would be undertaken as part of the exhibition consultation.

### Amendment to Schedule 1 of the Port Stephens Local Environmental Plan 2013

The Amendment to Schedule 1 will specifically enable and limit the additional land uses allowed on site to a 'service station', 'restaurant and café' and 'take-away food and drink premises' without changing the existing RU2 zone. These uses are no threat to the retail hierarchy in the area, they provide facilities to service the local residents, and utilise patronage provided by Pacific Highway traffic. The Planning Proposal enables the limited expansion of existing development on the site. |

## FINANCIAL/RESOURCE IMPLICATIONS

|There are no foreseen financial or resource implications for Council as a consequence of the recommendation of this report. |

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	10,500	Stage 1 Rezoning Fees – 15 August 2014.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		



**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no foreseen legal, policy or major risk implications for Council as a consequence of the recommendation of this report.

Port Stephens Local Environmental Plan 2013

The existing RU2 Rural Landscape zone that applies to the subject land under the Port Stephens Local Environmental Plan 2013 will be retained under the Planning Proposal.

The Planning Proposal will permit (with consent) additional land uses which complement the existing motel use on site and are compatible with the character of the area. By permitting specific additional land uses and retaining the existing RU2 Rural Landscape zoning, potential development is limited to those land uses.

Limiting the land use negates potential negative social impacts associated with allowing other uses through a rezoning. A rezoning may permit development of a pub or small bar, the negative social impacts of which was the concern in the case of the refused Development Application 16-2010-478-1 for a Change of Use – Restaurant to Hotel and Associated Alterations and Additions.

The proposed additional uses on site as defined by Port Stephens LEP 2013 are:

*"service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:*

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,*
- (b) the cleaning of motor vehicles,*
- (c) installation of accessories,*
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),*
- (e) the ancillary retail selling or hiring of general merchandise or services or both;*

*restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.*

*take away food and drink premises means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises."*

Past Development Application for Hotel

Council refused Development Application (16-2010-478-1) for a Change of Use – restaurant to Hotel and Associated Alterations and Additions on 8 February 2011. The

summary reasons for refusal include loss of amenity; traffic; and social concerns principally related to the impacts of alcohol consumption. A subsequent appeal on the refusal by the Proponent to the NSW Land and Environment Court was refused.

The Planning Proposal subject of this Report seeks to address previous concerns related to Development Application 16-2010-478-1 by excluding 'pubs' and 'small bars' as permissible land uses on the subject land. The Proposal limits additional land uses to a 'service station' 'restaurant and café' and 'take-away food and drink premises'. Any liquor served as part of a restaurant or café is not anticipated to have the negative social impact of the former developments or the previously refused hotel. Additionally, any alcohol serving components of a new restaurant/café on the site will be assessed and managed at development application stage and liquor licencing requirements.

Further, the Traffic Report provided with the Planning Proposal indicates any traffic generated by the additional permitted uses could be managed with an additional egress to the Pacific Highway. This will be subject to further consultation with RMS post Gateway.

#### Environmental Planning and Assessment Act 1979

Under Part 3 of the Environmental Planning & Assessment Act 1979 only the Minister or Council as a delegate can initiate a Local Environmental Plan. The Proponent has followed Council's procedures to request a planning proposal to amend the Port Stephens Local Environmental Plan 2013.

If Council resolves to proceed with the recommendation of this Report and prepare a Planning Proposal it will be forwarded to the NSW Department of Planning and Environment for a Gateway Determination.

#### Lower Hunter Regional Strategy

The Planning Proposal is of local planning significance and consistent with the hierarchy of centres identified in the Lower Hunter Regional Strategy. The subject site is identified as 'existing urban area', while the opposing side of the Pacific Highway is mapped as 'employment land'. The subject land is also in close proximity to the Major Regional Centre of Raymond Terrace. The service station and ancillary retail component is not of a scale to have detrimental effect on the 'employment land'. The additional uses may provide support for the light industry and business existing in the area.

The Planning Proposal will assist in achieving 1600 jobs to be accommodated by Raymond Terrace and Heatherbrae under the Lower Hunter Regional Strategy.

#### Port Stephens Planning Strategy

The Port Stephens Planning Strategy identifies the subject site within the 'Heatherbrae Enterprise Corridor'. Heatherbrae is identified as a Specialised Centre that provides local services (e.g. mechanics), caters for highway commuters (via service stations

along the Pacific Highway) and industry (e.g. Weathertex Timber Weatherboards, Wall Panels & Cladding). The proposed permissible uses - 'service station', 'restaurant or café' and 'take-away food and drink premises' will support nearby employment lands and passing trade, without impacting on the viability of bulky goods retailing in the B5 Business Development Zone located on the opposite side of the Pacific Highway. The Proposal is consistent with the strategic direction of the Port Stephens Planning Strategy. |

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the expansion of the commercial enterprise could negatively impact on other identified centres.	Low	Limited additional permitted land uses to a 'service station', 'restaurant' and 'take-away food and drink premises' and do not apply the B5 Business Development Zone.	Yes
There is a risk that adding the group term 'food and drink premises' as a permissible use to the subject land could result in an application for a 'pub' or 'small bar'	Low	The relevant additional permitted uses are specifically limited to a 'restaurant or café' and 'take-away food and drink premises'. This will ensure development of the site is limited and that 'pubs' and 'small bars' will remain prohibited land uses.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

|There are limited or no environmental implications. Some mature trees are located on site however any impacts can be managed at development application stage. Any additional noise generated by the development will be addressed at development application stage.

The Planning Proposal has positive economic implications. It is estimated to directly create 13 jobs and bring an approximate output of \$685,000 to the area (REMPPLAN/Compelling Economics: 2013).

There is a limited potential negative social impact. The proposed additional uses do not include a 'pub' or 'small bar' as permissible land uses. This is achieved through the specification of land use as part of this planning proposal that adequately addresses the previous concerns associated with the past refusal of the DA on the site. This aims to strengthen Council's controls to manage this land use, and potential impact, through a subsequent development application for the site. |

## **CONSULTATION**

Subject to a Gateway Determination the Proposal will be placed on public exhibition for comment from state agencies and the community for a minimum period of 28 days.

Preliminary consultation with the RMS has been undertaken. Further consultation will be undertaken during the formal planning process. |

## **OPTIONS**

- 1) | Adopt the recommendations;
- 2) | Amend the recommendations;
- 3) | Reject the recommendations. |

## **ATTACHMENTS**

- 1) | Council's Planning Proposal;
- 2) | Location Plan;
- 3) | Proponent's Concept Plan. |

## **COUNCILLORS ROOM**

| Proponent's Planning Proposal (including Traffic Assessment). |

## **TABLED DOCUMENTS**

| Nil.

**ATTACHMENT 1**  
Council's Planning Proposal



## PLANNING PROPOSAL

Proposed amendment to Port Stephens Local Environmental Plan 2013  
2885 Pacific Highway, Heatherbrae (Motto Farm Motel)

**Further information**  
Strategic Planning  
Port Stephens Council  
(02) 4980 0326

[council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)  
[council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)

**SUMMARY**

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<b>Subject land:</b>	2885 Pacific Highway, Heatherbrae (Motto Farm Motel) Lot 1, DP 264023; Lot 2, DP 264023; Lot 3, DP 264023; Lot 1, DP 350551; Lot 101, DP807522
<b>Proponent:</b>	TFA Project Group (on behalf of Newcastle Airport Hotel Pty Ltd)
<b>Landowner:</b>	Mr. Michael Doherty
<b>Total Area:</b>	4.9 Hectares
<b>Existing Zoning:</b>	RU2 Rural Landscape (to be retained)
<b>Proposed Amendment:</b>	Development for the purpose of a service station, restaurant or café and take-away food and drink premises is to be permitted with development consent.  Note: The existing RU2 Rural Landscape zoning will remain unchanged.

**BACKGROUND**

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In June 2014 Council received a request to amend the Port Stephens Local Environmental Plan 2013 for land at 2885 Pacific Highway, Heatherbrae (known as 'Motto Farm Motel' - the site). The request is to allow additional permitted uses on the site including a 'service station', 'restaurant or café' and 'take-away food and drink premises'. The existing RU2 Rural Landscape zoning will be retained.

The proposal aims to facilitate redevelopment of part of the existing motel to accommodate a service station and ancillary take-away and restaurant dining facilities. A car wash and alterations to the reception area of the motel reception building are envisaged by the current owner.

A Planning Proposal was lodged with Council on 13 October 2014, accompanied by a Traffic Assessment. The Traffic Assessment concludes that traffic impacts from the additional uses can be managed. It has been identified that the existing deceleration lane into Kingston Parade is longer than the standard requirement, and that the surplus may be utilised for a safe additional egress from the site to the Pacific Highway. Further consultation with NSW Roads and Maritime Services (RMS) as part of any future development application should be undertaken.

The request for additional permitted uses is of minor local planning significance, particularly given that the *Lower Hunter Regional Strategy 2006-31* (the LHRS) identifies the area on the opposite side of the highway as 'employment lands'. The proposed 'service station', 'restaurant or café' and 'take-away food and drink premises' is considered to be an expansion of the existing motel land use and may additionally provide support for the light industry and businesses existing in the area.

The site is well positioned to take advantage of passing trade along the Pacific Highway. The proposal is also considered consistent with the Port Stephens Planning Strategy which identifies the land as within the Heatherbrae Enterprise Corridor.

**SITE**

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The Site totals 4.9 ha and is located on the west side of the Pacific Highway, at Heatherbrae in the Port Stephens Local Government Area. The lots are legally described as Lot 1, 2 & 3 DP 264023, Lot 1 DP350551, and Lot 101 DP 807552.

A development application for a motel was approved at 2 Kingston Parade in 1987 and the site is currently operating as "Motto Farm Motel". There are a number of buildings occupying the site, including those used for accommodation, dining and restaurant facilities, cooking and cleaning, car parking, conference and reception facilities. These existing services cater for the local Heatherbrae community and traffic passing along the Pacific Highway.

Figure 1 – Aerial Map (p. 4) and Figure 2 – Street Map (p. 5) provide contextual illustrations for the site.

FIGURE 1 – Aerial Map



Figure 2: Aerial View (source SixMaps)





**PART 1 – Objective of the proposed Local Environmental Plan**

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The objective of this proposal is to enable the redevelopment of part of the existing motel to accommodate a service station development. The motel will expand to include ancillary dining and take away facilities.

**PART 2 – Explanation of the provisions to be included in proposed LEP**

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The objective of this proposal will be achieved by amending Schedule 1 'Additional permitted uses' of the Port Stephens Local Environmental Plan 2013 as follows:

**Schedule 1 Additional permitted uses**

**7 Use of certain land at 2885 Pacific Highway, Heatherbrae**

*(1) This clause applies to land at 2885 Pacific Highway, Heatherbrae, being Lots 1, 2, and 3, DP 264023; Lot 1, DP 350551; and Lot 101, DP 807522.*

*(2) Development for the purpose of a service station, restaurant or café and take-away food and drink premises is permitted with development consent.*

The proposed additional uses on site, as defined by Port Stephens LEP 2013 are:

**service station** means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,*
- (b) the cleaning of motor vehicles,*
- (c) installation of accessories,*
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),*
- (e) the ancillary retail selling or hiring of general merchandise or services or both;*

**restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

**take away food and drink premises** means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

**Note.** Both restaurant or cafe and take away food and drink premises are types of **food and drink premises** in this Dictionary;

**PART 3 – Justification for the Planning Proposal**

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**SECTION A – Need for the Planning Proposal**

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

This proposal is not the result of a strategic study or report. The applicant has had ongoing discussions with the patrons who utilise the motel's services who have identified that refuelling and dining services on the site would be beneficial.

The site is located within the Heatherbrae Enterprise Corridor. Under Port Stephens Planning Strategy (PSPS) the Heatherbrae area is identified for bulky goods retail. The proposed 'service station', 'restaurant or café' and 'take-away food and drink premises' will play a supporting role to the expanding employment lands, without impacting on the viability of bulky goods in this enterprise corridor.

This proposal is also expected to contribute to additional jobs identified by the LHRs for Raymond Terrace.

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

A planning proposal is the only means to allow the uses sought by the applicant under the Port Stephens LEP 2013. The proposal seeks an amendment to Schedule 1 'Additional permitted uses' of Port Stephens Local Environmental Plan 2013. The applicant is not seeking the broad spectrum flexibility which is achieved applying a business zone to the site. Amending Schedule 1 of the LEP (only) will allow three specific additional uses of the site and is the best course of action as the applicant has a clear idea of the size, type and scope of the proposal.

A DA for a change of use – from a Restaurant to a Hotel and associated alterations and additions – was lodged and refused by Council in 2010 (DA 2010-487). A court appeal was subsequently dismissed. The group term 'food and drink premises' is not being applied by the Planning Proposal. This has been achieved through the proposed amendment to Schedule 1 of the LEP and excludes a "pub" and "small bar" from those land uses which may be permissible with consent.

**SECTION B – Relationship to Strategic Planning Framework**

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

Lower Hunter Regional Strategy

The proposal is consistent with the hierarchy employed by the Lower Hunter Regional Strategy. The subject site is identified as 'existing urban area', while the opposing side of the Pacific Highway is mapped for 'employment land', within the Major Regional Centre of Port Stephens.

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The service station and ancillary retail component is not of a scale to have detrimental effect on the 'employment land'. Furthermore, this proposal will assist with achieving the 1600 jobs to be accommodated by Raymond Terrace and Heatherbrae under the Lower Hunter Regional Strategy.

**4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?**

Port Stephens Planning Strategy 2011

The subject site is located within the Heatherbrae Enterprise Corridor. Heatherbrae is identified as a 'specialised centre' that provides local services (e.g. mechanics), caters for highway commuters (via service stations along the Pacific Highway), and industry (e.g. Weathertex Timber Weatherboards, Wall Panels & Cladding). The Planning Proposal will support the development of Heatherbrae as an Enterprise Corridor.

The Port Stephens Commercial and Industrial Lands Study 2010

This Strategy provides support for the current proposal, as it is focused on plans for Heatherbrae based bulky goods retail and the economic viability and desirability of this development in the short to medium term. The proposed additional uses are drawn from the perceived need within the current site for economic viability and the surrounding area context which services the Pacific Highway and the neighbouring industrial area.

**5. Is the planning proposal consistent with applicable state environmental planning policies?**

There are no existing or draft State Environmental Planning Policies that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant State Environmental Planning Policies against the planning proposal is provided as follows:

Table A: Relevant State Environmental Planning Policies

<b>SEPP</b>	<b>Relevance</b>	<b>Consistency and Implications</b>
SEPP 33 (Hazardous & Offensive Development)	This SEPP provides considerations for consent for hazardous & offensive development.	The proposed service station is a "potentially hazardous industry" under SEPP 33, which defines this as "development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or

		<p>likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to... to the biophysical environment."</p> <p>Because of the risk involved, measures must be taken to ensure protection of human health, future development in the area as well and the biophysical environment. The proposed service station will utilise a hazard management manual and install underground petroleum and diesel tanks that must be designed and installed in accordance with AS1940-2004: The storage and handling of flammable and combustible liquid. Hazard assessment will also be undertaken at development application stage</p>
SEPP 44 (Koala Habitat Protection)	<p>This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.</p>	<p>The site is identified as "Mainly Cleared" Koala Habitat by the Koala Habitat Planning Map 2000. There are some isolated mature trees on site and it is unlikely the site is being utilised by koalas due to the sparse vegetation and proximity to the Pacific Highway.</p> <p>This issue will be addressed further at the Development Application stage and by applying the Port Stephens Koala Plan of Management. The proposed additional uses ('service station', 'restaurant or café' and 'take-away food and drink premises'), intensify the existing land use within the existing development footprint.</p>

<p>SEPP 55 (Remediation of Land)</p>	<p>This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.</p>	<p>The subject site is not known as contaminated land and is considered appropriate for the additional proposed uses of 'service station', 'restaurant or café' and 'take-away food and drink premises'. By introducing a service station to the site, the land will in future be considered contaminated and remediation of the land will need to be undertaken before an application for a different use may be considered. Any future development application changing the land use may require the land be remediated before the land is used for that purpose.</p>
<p>SEPP 64 (Advertising &amp; Signage)</p>	<p>This SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.</p>	<p>All advertising and signage will need to be applied for and assessed as part of any development application lodged for the proposal.</p> <p>The applicant should consult with the RMS regarding the proposed signage, as the site is within 250 metres of a classified road (the Pacific Highway). Council will be required to refer applications which fall under this category to the RMS or where the signage proposed is 20 square metres and greater or higher than 8 metres above the ground. As it is likely that signage meeting these specifications will be considered desirable to advertise the additional proposed uses, consultation with the RTA is recommended.</p>

<p>SEPP (Infrastructure) 2007</p>	<p>Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.</p>	<p>The proposal involves development on land that has a frontage to a classified road and is considered "traffic-generating development". As such under the Infrastructure SEPP Council is required to give written notice of the application to the RMS. There has already been consultation between the applicant and the RMS; these recommendations are discussed in the Traffic Report submitted with the proposal. Any subsequent development application is required to address how the intensification of the site's use will not impact the safety, efficiency and ongoing operation of the classified road.</p> <p>An initial assessment of the proposal by the RMS has recommended an additional vehicle egress point onto the Pacific Highway to cater to the increased traffic leaving the site. The Traffic Report submitted with the proposal recommends the existing deceleration lane on the Pacific Highway be shortened to ensure the proposed egress from the subject site does not enter the Kingston Parade left turn deceleration lane.</p> <p>The remaining road infrastructure is considered appropriate to cater for the additional proposed uses. The proposal has not addressed services for utility vehicles; this will be addressed at development application stage.</p> <p>Overall, the proposal is expected to accommodate the efficient movement of people and freight to and from the site. The proposal does</p>
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		not suggest any negative potential traffic safety, road congestion or parking implications, and the surrounding road network will not be adversely affected by the proposal. More consultation with the RMS should be undertaken.
SEPP (Rural Lands) 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	<p>The site is zoned RU2 Rural Landscape. Despite the rural zoning, the site has operated as a motel for numerous years in accordance with an existing development consent. The proposed additional uses are an expansion of the existing motel development, and are also consistent with the Rural Planning Principles of the Rural Lands SEPP.</p> <p>The additional proposed uses support the economic viability of the locality by providing services which are consistent with the existing land uses within the locality. The uses do not compromise any State significant agricultural land, and intensify the existing motel use without taking up additional land area.</p>

**Section 117 Ministerial Directions**

**6. Is the planning proposal consistent with applicable Ministerial Directions?**

The following s117 Ministerial Directions are applicable to the planning proposal:

- 1.1 Business and Industrial Zones – Consistent
- 1.2 Rural Zones – Consistent
- 1.5 Rural Lands – Consistent
- 2.3 Heritage Protection – Consistent



- 3.4 Integrating Land Use and Transport – Consistent
- 3.5 Development near Licensed Aerodromes – Consistent
- 4.1 Acid Sulphate Soils – Consistent
- 4.3 Flood Prone Land – Consistent
- 4.4 Planning for Bushfire Protection – Inconsistent
- 5.1 Implementation of Regional Strategies – Consistent
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast – Consistent
- 6.1 Approval and Referral Requirements – Consistent
- 6.2 Reserving Land for Public Purposes – Consistent
- 6.3 Site Specific Provisions – Consistent

The inconsistencies listed above are considered to be of minor significance. Council seeks the Director General's concurrence for these listed inconsistencies.

Table B: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
<b>1. EMPLOYMENT AND RESOURCES</b>		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Consistent. The proposal is consistent with this direction as it proposes new employment lands within a centre that is identified by the Port Stephens Planning Strategy, which is guided by the centres approach outlined in the Lower Hunter Regional Strategy. This proposal will not undermine the role of the existing centres hierarchy, and will contribute to the jobs identified for Raymond Terrace and Heatherbrae under the LHRs.

1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	Consistent. The site is zoned RU2 Rural Landscape. The Proposal seeks to utilise land in a rural zone for the intensification of an existing business. The site has limited agricultural value and is a logical extension of the existing motel. The proposal meets the demand for businesses servicing the surrounding area. The proposed service station is an example of development under the Rural Lands SEPP which supports "productive and sustainable economic activities in rural areas". Although the site is not directly utilised for rural primary production purposes, it balances the social, economic and environmental interests of the community in the area.
1.5 Rural Lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.	Consistent. The Proposal utilises land within a rural zone for the expansion of the existing motel business. The addition of a 'service station', 'restaurant or café' and 'take-away food and drink premises' will provide services which are consistent with land use in this area. Although the site is identified as having Prime Agricultural Land (Class 1-3) the site has limited agricultural value due to the existing motel and is not currently used for agricultural purposes.
<b>2. ENVIRONMENT AND HERITAGE</b>		
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent. The Morten Bay Figs existing on the site are nominated as Heritage item number 10 by Port Stephens Local Environmental Plan 2013. These will be unaffected by the proposed development.

3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	The proposal is consistent with this objective as it will provide services and jobs within a walkable catchment, reduce dependence on cars, and travel demand in general. The additional uses allow increased convenience for short vehicle refuelling and essential commercial trips for residents in the immediate area. The proposal will create some employment opportunities within walking distance of surrounding residential areas.  The proposal is also considered consistent with this directive as it provides for the efficient movement of freight by enabling the refuelling of heavy vehicles.
3.5 Development Near Licensed Aerodromes	The objectives of this direction is to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Consistent. The proposal has been assessed against clause 7.4 <u>Airspace Operations</u> of Port Stephens Local Environmental Plan 2013. The site is not affected by aircraft noise. The site is identified on the Port Stephens Height Trigger Map as requiring referral from RAAF Base Williamtown and Salt Ash Air Weapons Range for all structures higher than 45m. The development is not proposing any structures which trigger referral.
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts	Consistent. The subject site is located in an area identified as having Class 4 Acid Sulfate Soils. The preparation of an acid sulfate soils management plan is triggered

	<p>from the use of land that has a probability of containing acid sulphate soils.</p>	<p>when works occur more than 2 metres below the natural ground surface or where the watertable is likely to be lowered more than 2 metres below the natural ground surface.</p> <p>The proposed service station will require the installation of underground fuel tanks. Under clause <u>7.1 Acid Sulfate Soils</u> PSLEP 2013, an acid sulfate soils management plan is required to be prepared for the proposed works in accordance with the Acid Sulfate Soils Manual with any development application.</p> <p>An Acid Sulfate Soil Management Plan will need to be designed and implemented prior to the commencement of any onsite excavation. This must be addressed in any development application.</p>
<p>4.3 Flood Prone Land</p>	<p>The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.</p>	<p>Consistent. Although the northern portion of this site is identified as being within the Flood Planning Area, the new uses proposed are located at the far south of the site, adjacent to the Pacific Highway. The identification of this site as flood affected is believed to be of minor significance because:</p> <ul style="list-style-type: none"> <li>• The proposed new land uses will be located away from the portion of the site identified in the Flood Planning Area</li> <li>• The Site is not located in a floodway area</li> <li>• Council Flooding Engineers may identify how development may impact on drainage patterns; this can be provided at development application stage. This would include similar information to a</li> </ul>

		<p>stormwater drainage plan, such as:</p> <ul style="list-style-type: none"> <li>o Location and type of detention system;</li> <li>o Demonstrated volume for maximum AEP;</li> <li>o Pipes, pits, overland flow and discharge access points;</li> <li>o Orifice type, location and screening facility;</li> <li>o Slope/gradient of the land; and,</li> <li>o Post-development flows equal to pre-development flows.</li> </ul> <p>The concurrence of the Director General is not required as it is in accordance with the Floodplain Risk Management Plan and is of minor significance.</p>
4.4 Planning for Bushfire Protection	<p>The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.</p>	<p>Inconsistent. Part of the site has been identified as bushfire prone. Although any development on this portion of land must be designed in accordance with the provisions of Planning for Bushfire Protection, the proposed additional uses are located adjacent to the Pacific Highway and will not involve land which is mapped as bushfire affected.</p> <p>The applicant must engage in consultation with the Rural Fire Service, and comment from the Rural Fire Service will be sought during public exhibition.</p>
<b>5. REGIONAL PLANNING</b>		
5.1	<p>The objective of this</p>	<p>Consistent. The proposal is consistent with</p>

Implementation of Regional Strategies	direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	the LHR5 as discussed under Section B 'Relationship to Strategic Planning Framework' of this Planning Proposal, Part 3 (p. 6). The works are not of a scale which will impact strategic business development in the region and they support Raymond Terrace as a Major Regional Centre.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	The objective of this direction is to manage commercial and retail development along the Pacific Highway.	Consistent. The proposal is consistent with this direction as it proposes to cater to the food, vehicle service and rest needs of travellers on the highway. The addition of a 'service station', 'restaurant or café' and 'take-away food and drink premises' is not of sufficient scale to have a negative impact on the viability of surrounding businesses and retail centres.  Further formal consultation with the RMS will be undertaken as part of any development application process.
<b>6. LOCAL PLAN MAKING</b>		
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent. The proposal is not considered to compromise the intent of this objective.

**SECTION C – Environmental, Social and Economic Impact**

**7. 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?**

No. The site is identified as "Mainly Cleared" Koala Habitat by the Koala Habitat Planning Map 2000. There are some isolated mature trees on site and it is unlikely the site is being utilised by koalas due to the sparse vegetation and proximity to the Pacific Highway.

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

The subject site is located in proximity to - but not within - the Tomago Sandbeds drinking water catchment (refer to Drinking Water Catchment Map of LEP2013). The subsequent development is not expected to have environmental impacts as the site drains to the north and west, and the intensification of use is proposed at the south eastern portion of the site. It is recommended that the proposal be referred to the Hunter Water Corporation for comment. These potential concerns must also be addressed with the submission of any development application.

The design and installation of all fuel storage systems must be shown to be in accordance with AS 1940. All stormwater must be diverted and treated for contaminants on site. An acid sulphate soil management plan must be employed during the construction and installation phase, and a tree management plan is suggested to ensure that no damage to the heritage item fig trees on site is sustained. These issues would be investigated further at development application stage.

Increased traffic volumes may generate increased noise experienced by the adjoining residential properties. Potential acoustic impacts to be further investigated at development application stage.

**9. Has the planning proposal adequately addressed any social and economic effects?**

The proponent submits that the expansion of the existing motel land use will have no adverse social impact. The applicant states that the proposed 'service station', 'restaurant or café' and 'take-away food and drink premises' will be equipped with adequate lighting and CCTV surveillance technology. The proposal states that there is also significant passive surveillance of the buildings on site which will discourage anti-social behaviour. Additionally, any alcohol serving components of a new restaurant/café on the site will be assessed and managed at development application stage and liquor licencing requirements.

The scale of the proposal and the type of the land uses involved suggest that supporting this development will have a positive effect on the economy of the area. The proposal is not of a scale to compromise the viability of future "employment growth" areas on the opposite side of the Pacific Highway.

Based on an estimated investment of \$500,000 in the proposal, REMPLAN indicates that the demand for intermediate goods and services would rise by \$138,000. The secondary consumption effect under this scenario is estimated at \$47,000, making the total increase in output approximately \$685,000.

The employment of ten (10) people in the retail sector (an estimate required to service the new service station, restaurant/café and take away food and drink premises) will have a direct increase in output of \$1.092 million (REMPAN / Compelling Economics: 2013). Flow-on industrial effects in terms of local purchases of goods and services are anticipated from direct jobs created. These indirect impacts would result in the gain of a further 1 job.

The increase in direct and indirect output and the corresponding creation of jobs in the economy are expected to result in an increase in the wages and salaries paid to employees. A proportion of these wages and salaries are typically spent on consumption and a proportion of this expenditure is captured in the local economy. The consumption effects under this scenario are estimated to further boost employment by 2 jobs. Total employment, including all direct, industrial and consumption effects is therefore estimated to increase by up to 13 jobs. The proposal is thus expected to bring an approximate output of \$685,000 to the area and create 13 jobs (REMPAN / Compelling Economics: 2013).

**SECTION D – State and Commonwealth interests**

**10. Is there adequate public infrastructure for the planning proposal?**

The site has adequate available public infrastructure. It is located within proximity to existing infrastructure, such as major roadways and has access to utilities. Whether these utilities will require an upgrade will be assessed with any development application submitted. The development proposes the addition of another egress point to the Pacific Highway, however all other road infrastructure will be able to service the increased demand for access to the site. The addition of an egress point is supported by the Traffic Assessment submitted with the proposal (Appendix 1). Further consultation with RMS would occur following Gateway Determination.

**11. What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?**

The RMS has been initially consulted prior to the lodgement of the proposal with Council. They advise that no further access points to the site from the Pacific Highway should be proposed and recommend an additional egress point for safety reasons. This has been observed by the applicant and an additional egress lane is proposed to facilitate vehicle movements.

Further consultation with the RMS will be undertaken during the public exhibition of the planning proposal.

**Part 4 - Mapping**

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Attachment 1 – Site Identification Map and Site Survey

Attachment 2 – Schedule 1 Additional Uses Map

Attachment 3 – Existing and Proposed Site Layout Drawings

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**Part 5 - Details of Community Consultation**

The Proposal is considered to be low impact and is recommended to be placed on public exhibition for a minimum period of 28 days. Community consultation will take place in accordance with the Gateway Determination. Council suggests the following agencies are consulted during the public exhibition period:

1. Roads and Maritime Services (RMS)
2. The Rural Fire Service (RFS)
3. Hunter Water Corporation

**Part 6 – Project timeline**

The following timetable is proposed:

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT
<b>Council Report</b>									
<b>Gateway Determination</b>									
<b>Consultation with State agencies</b>									
<b>Public Exhibition</b>									
<b>Council Report</b>									
<b>Parliamentary Counsel</b>									

**Attachments**

The following attachments are supplementary to this planning proposal:

- Attachment 1 – Site Identification Map
- Attachment 2 – Existing Additional Permitted Uses Map
- Attachment 3 – Proposed Additional Permitted Uses Map

Attachment 1 – Site Identification Map



Attachment 2 – Existing Additional Permitted Uses Map



Attachment 3 – Proposed Additional Permitted Uses Map



ATTACHMENT 2  
Location Plan

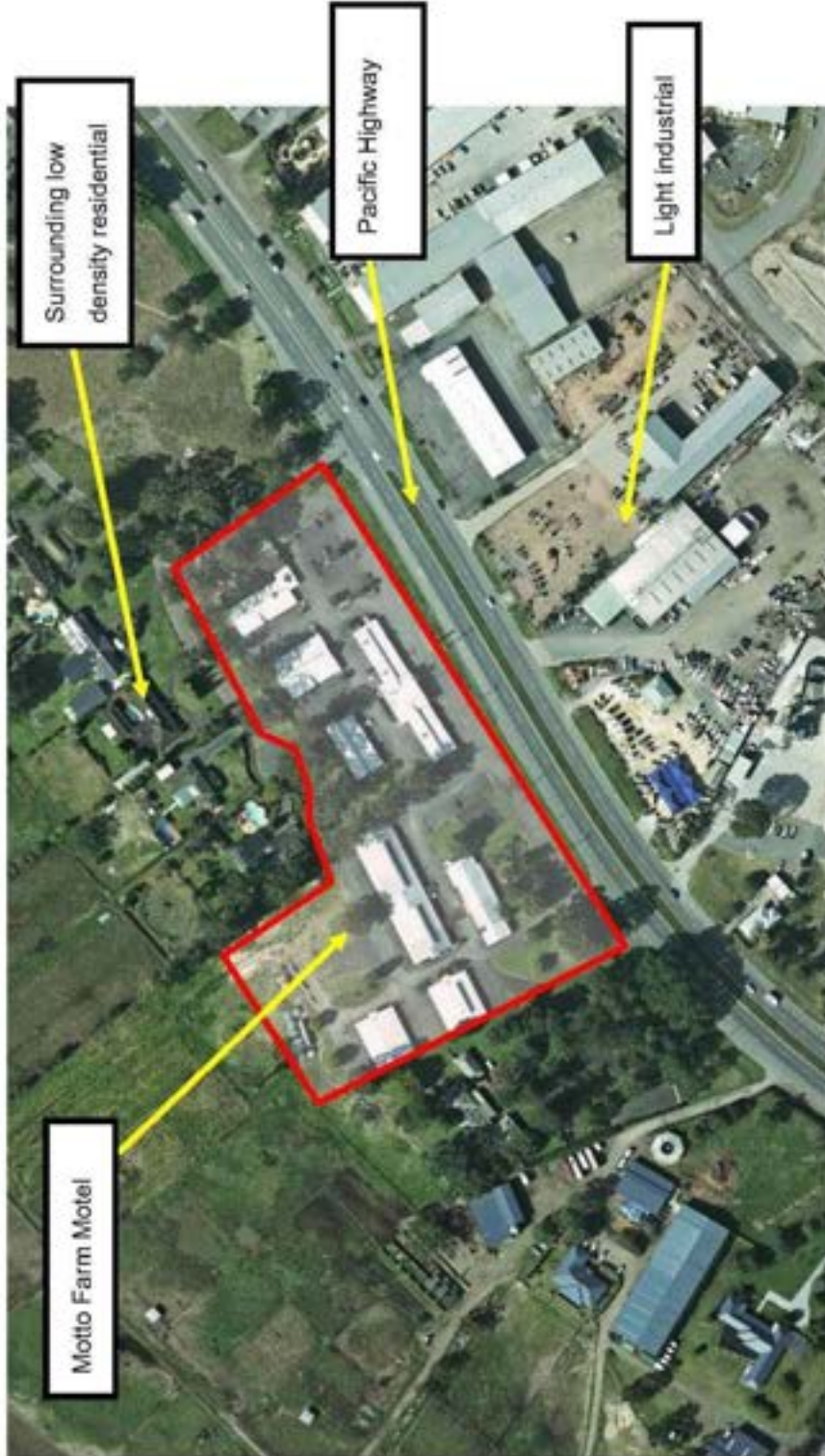


Figure 2: Aerial View (source SixMaps)

ATTACHMENT 3  
Proponent's Concept Plan



**ITEM NO. 3**

**FILE NO: PSC2013-00406**

**POLICY REVIEW - DEVELOPMENT WITHIN THE EXPLOSIVES SAFETY ZONE (ADJOINING WILLIAMTOWN RAAF BASE)**

**REPORT OF: TIM CROSDALE - STRATEGY AND ENVIRONMENT SECTION MANAGER**  
**GROUP: DEVELOPMENT SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Revoke the Policy Development within the Explosives Safety Zone (Adjoining Williamtown RAAF Base adopted 20 May 1997 (Minute No. 1037).

**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Steve Tucker</b> <b>Councillor John Morello</b>
	That the recommendation be adopted.

**MOTION**

<b>007</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that Council revoke the Policy Development within the Explosives Safety Zone (Adjoining Williamtown RAAF Base adopted 20 May 1997 (Minute No. 1037).

**BACKGROUND**

The purpose of this Report is to review the Council Policy Development within the Explosives Safety Zone (Adjoining Williamtown RAAF Base) adopted by Council on 20 May 1997 (Minute No. 1037) (**ATTACHMENT 1**).

The Policy requires Council to refer development applications to the Department of Defence that are located within the Explosives Safety Zone associated with RAAF Base Williamtown. The Policy also requires notification for affected properties to be placed on planning certificates issued under Section 149 of the NSW Environmental Planning and Assessment Act 1979, stating that the land is located within a "Planning Zone" for the Explosives Safety Zone and property owners are to consult with the Department of Defence for approval prior to any works being carried out.

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At the time the Policy was adopted the Explosives Safety Zone affected privately owned land to the south of Williamtown RAAF Base. Updated advice has been provided by the Department of Defence indicating that the new RAAF Base Williamtown – External Explosive Ordnance Safeguarding Map dated 16 October 2013 (**COUNCILLOR ROOM ITEM 1**) no longer affects privately owned property. The only affected land is located immediately to the north-west of the Base and is zoned E1 National Parks and Nature Reserves and is owned by the NSW Department of Premier and Cabinet (Office of Environment and Heritage).

Should circumstances change in the future resulting in the Explosives Safety Zone being extended (so that it impacts on land other than the land managed by the NSW Office of Environment and Heritage and zoned E1 Natural Parks and Nature Reserves) the need for a policy can be reviewed at that time.

This Report recommends that the Policy be revoked. The Explosives Safety Zone no longer affects private property and is a matter that is able to be managed directly between the NSW Office of Environment and Heritage and the Department of Defence (note: Council will continue to include the updated Explosives Safety Zone in its geographic information system for planning information purposes).

### FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications for Council if it adopts the recommendations of this Report.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No	[[ ]]	[[ ]]
Reserve Funds	No	[[ ]]	[[ ]]
Section 94	No	[[ ]]	[[ ]]
External Grants	No	[[ ]]	[[ ]]
Other	No	[[ ]]	[[ ]]

### LEGAL, POLICY AND RISK IMPLICATIONS

The new External Explosive Ordnance Safeguarding Map (2013) no longer warrants a policy position of Council as only public land under management of NSW Office of Environment and Heritage is affected.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that development will be proposed within the Explosives Safety Zone on	Low	Revoke the Policy and advise the NSW Office of Environment and Heritage and Department of Defence to consult directly	Yes



## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

land managed by the NSW Office of Environment and Heritage.		with each other on any proposed development.	
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### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

|There are no social, economic or environmental implications if Council adopts the recommendation of this Report. |

### CONSULTATION

|The Policy has been reviewed in consultation with the Department of Defence, who have no objection to the Policy being revoked.

If Council adopt the recommendation of this Report and revoke the Policy the Department of Defence and NSW Office of Environment and Heritage will be notified. |

### OPTIONS

- 1) |Adopt the recommendation of this Report and revoke the Policy;
- 2) Amend the recommendation of this Report and update the Policy to apply to the land under the management of the NSW Office of Environment and Heritage which is affected by the updated Explosives Safety Zone map;
- 3) Reject the recommendation of this Report and retain the Policy 'as is'. The policy is redundant by virtue of the fact no approvals fall under Council's jurisdiction as a planning authority within the updated Explosives Safety Zone. |

### ATTACHMENTS

- 1) |Policy – Development within the Explosives Safety Zone (Adjoining Williamtown RAAF Base); |

### COUNCILLORS ROOM

- 1) |Map – RAAF Base Williamtown – External Explosive Ordnance Safeguarding Map – 16 October 2013 – Also provided Under Separate Cover. |

### TABLED DOCUMENTS

|Nil.

**ATTACHMENT 1**

Policy – Development within the Explosives Safety Zone (adjoining Williamtown RAAF Base)



Adopted: 20/6/97  
Minute No: 1037  
Amended: 19/12/2000  
Minute No: 710

**FILE NO:** S9735-001

**TITLE:** DEVELOPMENT WITHIN THE EXPLOSIVES SAFETY ZONE  
(ADJOINING WILLIAMTOWN RAAF BASE)

**BACKGROUND**

As part of Council's ongoing review of all its policies, this policy has been re-adopted by Council.

**OBJECTIVE**

The aim of this policy is to require Council to refer development applications to Williamtown RAAF Base that apply to land within the Explosives Safety Zone (adjoining that Base).

**PRINCIPLES**

The policy fits within Council's goal that strategic land use plans and policies are produced and reviewed so as to match Council's and the Community's preferred future.

**POLICY STATEMENT**

1. The following clause will be included in Section 149 Certificates issued over the twelve properties affected:

"The Department of Defence has advised Port Stephens Council that the land described on this Section 149 Certificate falls within a "Planning Zone" related to the operations of the RAAF Base, Williamtown NSW. The "Planning Zone" is necessary in relation to compliance with NATO guidelines for the storage and movements of explosives within the RAAF Base. The aim of the "Planning Zone" is to provide a guide to landowners within that Zone when erecting certain types of structures. A list of the types of structures, which could be affected by that Zone, is provided below. The Department of Defence is to be contacted by property owners proposing to build on land within the "Planning Zone" for approval prior to any works being carried out by consulting the:

Officer in Charge 302 Air Base Wing  
Facilities Service Flight

RAAF BASE, WILLIAMTOWN NSW 2314  
Ph: 49286 531\*

2. Planning Zone to Preclude the Following Types of Building and Facilities

Building of curtain wall construction (ie, buildings largely of frame and glass construction with weight per unit area of wall less than 100 kg/m<sup>2</sup>) require special consideration especially when occupied by a large number of people. These buildings should be avoided near explosives areas due to the serious hazard caused to the occupants of such buildings from flying and falling glass and other frangible materials. Such building could include the following facilities:

- Large facilities of special construction or importance:
  - (a) Large factories of vulnerable construction;
  - (b) Multi-storey office or apartment buildings of vulnerable construction;
  - (c) Large hospitals and hospital facilities;
  - (d) Public works, eg bridges, dykes, locks, dams etc. damage to which will cause considerable disadvantage for the general public;
  - (e) Major traffic terminals, eg railway stations, airports, etc; and
  - (f) Public utilities eg, gas, water and electricity works; and
- Large facilities used for mass meetings and of vulnerable construction:
  - (a) Assembly halls and fairs;
  - (b) Exhibition areas; and
  - (c) Sports stadiums; and
- Built-up areas which are both large and densely developed.

**RELATED POLICIES**

N/A

**REVIEW DATE**

This amended policy will be reviewed within 2 years from the date on which it was adopted by Council.

**RELEVANT LEGISLATIVE PROVISIONS**

N/A

**IMPLEMENTATION RESPONSIBILITY**

The Land Use Planning section of Council is responsible for the implementation of this policy, in conjunction with other staff as appropriate.

ITEM NO. 4

FILE NO: PSC2014-01001

## PORT STEPHENS CULTURAL PLAN 2015-2018

REPORT OF: ROSS SMART – COMMUNICATIONS SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

### RECOMMENDATION IS THAT COUNCIL:

- 1) Note the submission received which is included as **(ATTACHMENT 1)**;
- 2) Adopt the draft Port Stephens Cultural Plan 2015-2018.

### ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor John Nell</b> <b>Councillor Paul Le Mottee</b>
	That the recommendation be adopted.

### MOTION

008	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that Council:  1) Note the submission received which is included as <b>(ATTACHMENT 1)</b> ; 2) Adopt the draft Port Stephens Cultural Plan 2015-2018.

### BACKGROUND

The purpose of this report is to recommend to Council the adoption of the Port Stephens Cultural Plan 2015-2018 following a public exhibition period that closed on 7 December 2014, with one submission received.

The content of the one received submission **(ATTACHMENT 1)** is predominantly positive and encouraging. The more specific suggestions made by the applicant are consistent with the overall objectives and strategic actions outlined in the draft Cultural Plan 2015-2018. As noted also by the author, their comments are most relevant to The Raymond Terrace and Heatherbrae Growth Strategy.

The draft Cultural Plan 2015-2018 aims to consolidate Council's current support for cultural development activities within the available resources of Council and

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

community. Any additional expenditure, beyond current resource levels, would need to be externally funded.

Capacity to leverage additional funds is increased by having an integrated plan that is focused on local cultural development and linked to Council's Community Strategic Plan.

### FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with the implementation of the Cultural Plan are covered in the 2014-2015 budget and will be subject to standard organisation budget review procedures and approvals.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources to implement this plan are covered within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	Yes		The Plan would assist Council in applying for external funds for specific cultural projects.
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

There is a risk that failure to clearly articulate Council's position on cultural development through a Cultural Plan may affect Council's objective to ensure long term sustainability of focused services to meet strategic goals of the organisation.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council's cultural support does not match a strategic framework.	Low	Adopt the recommendations.	Yes

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Cultural Plan provides opportunities for the community to participate in activities that enhance a sense of identity and community belonging, increase awareness and ownership of both built and natural environment and help drive economic development.

It will assist Council to support the many volunteers and organisations in our community who are themselves investing in a sustainable cultural future for Port Stephens.

The Cultural Plan identifies initiatives that encourage both local and regional partnerships with government, training providers and business. These initiatives will promote Port Stephens and encourage tourism, investment and employment opportunities.

Port Stephens residents and visitors value the natural environment of Port Stephens. The Cultural Plan aims to develop projects that will enhance and build a stronger cultural ecosystem where the relationship between cultural activity and the natural environment are well defined and help shape a more sustainable future.

## **CONSULTATION**

The development of this Plan has included extensive research and engagement of relevant community and cultural organisations since September 2013. The development of the Port Stephens Cultural Interagency has been aligned to the development of the Cultural Plan.

The development of this Plan is based on community consultations ranging from invited focus groups to feedback from Council's Strategic Arts and Culture Committee, Heritage and Aboriginal Strategic Committees, the Port Stephens' Cultural Interagency and by the most recent Council community survey (2012). Issues have also been developed based on data presented in the Lower Hunter Region Arts and Culture Snapshot 2013. An internal working group was also established to assist in the process.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Summary of submission received.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.

ATTACHMENT 1  
Summary of Submission Received

Submissions to draft cultural plan 2015-2018 public exhibition

	Name of author	Content of Submission	Recommendation
1	Kaye Newton	<p>Congratulations on a plan that is broad in scope, but also very readable. It seems culture covers just about any activity other than sport and physical recreation.</p> <p>I hope there will be money allocated specifically for public art, particularly in Raymond Terrace. It can be a way to show visitors who we are, as well as engender some local pride of place.</p> <p>Re public outdoor space, again for Raymond Terrace. I hope there is provision for creating a central outdoor space where art and performance can be brought to the people, where they are going about their normal shopping or business. It can also be a gathering space for important occasions, utilising existing parking. I am not sure how the new transport hub has been planned to fit in with this.</p> <p>Maybe King Street could be mentioned as a potential cultural hub encompassing unique heritage and art culture. The built environment cannot be replicated elsewhere but could be utilised as a special precinct. Its proximity to the Pacific Highway and Hunter River adds to its potential. This would benefit William Street too.</p> <p>While the RT Artspace is a step in the right direction, it is basically a narrow hallway, and cannot adequately display some works. The council building display space is only accessible during work hours. There should be a space somewhere that is open in weekends and Sundays for the leisure tourists and visitors even if it is temporary use of empty retail or business space – i.e. "pop-up" window display space.</p> <p>Some of the issues above may well belong under the scope of the Raymond Terrace / Heatherbrae strategy which is yet to be seen.</p>	<p>That no additional action or changes to the Draft Cultural Plan 2015-2018 be made based on content of submission received.</p> <p>Adopt draft Cultural Plan 2015-2018 as per report.</p> <p>Details of submission to be referred to Strategic Planning, as comments made have relevance to Raymond Terrace / Heatherbrae Growth Strategy.</p>

**ITEM NO. 5**

**FILE NO: PSC2014-03985**

**PORT STEPHENS COUNCIL CORPORATE BRAND REFRESH**

**REPORT OF: ROSS SMART – COMMUNICATIONS SECTION MANAGER**  
**GROUP: DEVELOPMENT SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the information contained in the Port Stephens Council Logo Development document included as **(TABLED DOCUMENT 1)**.
- 2) Endorse the implementation of the proposed new council logo and branding suite detailed in the Logo Development document.

**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p><b>Mayor Bruce MacKenzie</b>  <b>Councillor John Morello</b></p>
	<p>That the recommendation be adopted.</p>

**AMENDMENT**

	<p><b>Councillor Paul Le Mottee</b>  <b>Councillor Geoff Dingle</b></p>
	<p>That Council:</p> <ol style="list-style-type: none"> <li>1) Note the information contained in the Port Stephens Council Logo Development document included as <b>(TABLED DOCUMENT 1)</b>.</li> <li>2) Endorse the implementation of the revised council logo and branding suite as detailed to Councillors during two way conversation and included as <b>(ATTACHMENT 1)</b> of the Supplementary Information Memorandum provided.</li> </ol>

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

**MOTION**

<b>009</b>	<p><b>Councillor Ken Jordan</b>  <b>Councillor John Morello</b></p>
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> <li>1) Note the information contained in the Port Stephens Council</li> </ol>



	<p>Logo Development document included as <b>(TABLED DOCUMENT 1)</b>.</p> <p>2) Endorse the implementation of the revised council logo and branding suite as detailed to Councillors during two way conversation and included as <b>(ATTACHMENT 1)</b> of the Supplementary Information Memorandum provided.</p>
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## **BACKGROUND**

The purpose of this report is to present to Council detail of a review conducted into Council's corporate brand, including the corporate logo, and recommend a brand refresh be undertaken by the organisation.

The objective of a corporate brand, and the design elements (such as logo and other visual representations) that stem from it, is to build brand equity. Brand equity is defined as follows:

*... a set of assets linked to a brand's name and symbol that adds to the value provided by a product or service to a firm and/or that firm's customers.*

In a Council context, assets include anything from company reputation to visual identity items including the logo, marketing collateral, signage and other delivery methods.

The visual identity an organisation presents to its community should portray the organisation's values, its vision and how it sees itself both now and into the future. One of the key ways of communicating these attributes is via ensuring the organisation's corporate logo and associated marketing collateral emphasises and reinforces these attributes effectively.

Council's current logo suite was not developed following any kind of strategic process, nor does it adequately reflect the current state and future directions of the organisation. It has been progressively updated over a number of years with some elements having been in place for a decade or more. It features the standard typeface, a set of icons consisting of three square elements representing the natural environment of Port Stephens, and an optional trailer text ('A *community partnership*'), which remains officially a part of the current logo although it is no longer in common use. The icon set was the most recent addition to the suite, in approximately 2010.

The strategic review of Council's brand and logo was conducted entirely in-house utilising the experience and expertise of staff recruited to the Public Relations and Marketing team during 2014. The review featured detailed research, input from the executive and combined leadership teams, and a broad review of rebranding exercises conducted by other local governments and corporates. A series of concept designs were produced for review by the Executive Leadership Team with the final recommended logo being endorsed in December 2014.

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In developing the refreshed logo, care has been taken to ensure the stronger aspects of the current suite are retained while also allowing for modernisation and accurate portrayal of Council's own evolutionary journey. Port Stephens Council has recently undergone significant changes on every level. There is a concentrated focus on changing the culture of Council, its staff, and how it does business.

The proposed logo draws upon these strengths as well as those of the existing icon set, including the emphasis placed on the beauty and diversity of Port Stephens' natural environment. The strategic design elements, colour palette, and typography have all been modernised in the new logo. It retains emphasis on Port Stephens' water, sand, and land/trees, and also reinforces the linkage and inherent differences between the local government area's three wards.

The review and proposed refresh of Council's corporate brand supports the objectives set out in item 19.1.1 ('Strengthen Council's brand and reputation') of the Port Stephens 2014-15 Operational Plan.

### FINANCIAL/RESOURCE IMPLICATIONS

Implementation of the refreshed Council brand will have implications for a number of projects and initiatives currently in development, in addition to the general roll out of the brand across the business. These projects/initiatives include:

- Waste Services Tender roll out and bin replacement;
- Website redevelopment;
- Intranet redevelopment;
- Administration Building space planning;
- Gateway & location signage review.

Costs related to this roll out will be covered under existing recurrent or project budgets.

A detailed implementation plan is in development. A phased implementation over a period of six to twelve months, following a post-endorsement launch by the end of March 2015, is anticipated.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within existing recurring group and specific project budgets.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no legal or policy implications related to the adoption of the recommendation.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council's reputation will be damaged if Council's visual brand/logo is not representative of the organisation it represents and the diverse community it serves.	Medium	Adopt the recommendation.	Yes
There is a risk that not updating Council's logo could place it in breach of relevant acts and guidelines, including the <i>Disability Discrimination Act 1992</i> and <i>Web Content Accessibility Guidelines (WCAG) version 2.0</i> .	Medium	Adopt the recommendation	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Social implications of implementing of refreshed branding could include reputation gains in the community, positioning Council as an organisation that:

- Understands its region and the community it represents;
- Is modern, innovative and future-ready;
- Is aware of the importance of branding and its aesthetic representation in its own community as well as others;
- Is open to growth and change.

In an economic sense, implementing a new brand offers Council the opportunity to further promote itself and the region as a tourism destination, either corporately, through the Holiday Parks business, or through existing relationships such as that which exists with Destination Port Stephens.

There are no environmental implications related to adopting the recommendation.

**CONSULTATION**

- 1) Public Relations & Marketing Coordinator and team;
- 2) Executive Leadership Team;
- 3) Combined Leadership Team;
- 4) Section Managers;
- 5) Community Services Section Manager, Waste Management Coordinator and team.

**OPTIONS**

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

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Port Stephens Council Logo Development document.

**ITEM NO. 6**

**FILE NO: A2004-0853**

**POLICY REVIEW: PROPERTY INVESTMENT POLICY**

**REPORT OF: CARMEL FOSTER – GROUP MANAGER CORPORATE SERVICES**  
**GROUP: CORPORATE SERVICES**

-----  
**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorses the amendments to the Property Investment policy shown at **(ATTACHMENT 1)**;
- 2) Revokes the Property Investment policy dated 29 May 2012 (Min No. 110);
- 3) Receives and notes the submission.

-----  
**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Ken Jordan</b> <b>Councillor Sally Dover</b>
	That the recommendation be adopted.

**MOTION**

<b>010</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that Council:  1) Endorses the amendments to the Property Investment policy shown at <b>(ATTACHMENT 1)</b> ; 2) Revokes the Property Investment policy dated 29 May 2012 (Min No. 110); 3) Receives and notes the submission.

**BACKGROUND**

The purpose of this report is to review the Property Investment Policy, adopted by Council on 29 May 2012 (Min No. 110).

Council resolved on 11 November 2014 (Min No. 297) in part to Place the Property Investment policy, as amended on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.

The objective of the Property Investment Policy is to invest in Real Property and maintain a real estate portfolio as a strategy for providing capital growth and

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

recurrent source of income to supplement Council's rates and other statutory income producing activities to provide services to the community.

During the exhibition period one submission was received and that submission raised a number of matters which are detailed as amendments in **(ATTACHMENT 1)**.

None of the matters raised in the submission received affect the intent of the Policy and related to format of the document and to the removal of some matters which are addressed under Council's Acquisition and Divestment of Land Policy.

### FINANCIAL/RESOURCE IMPLICATIONS

Costs associated with Policy review are covered in the 2014-2015 budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Resources required to review this policy are covered within the existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

There is a risk that failure to properly manage Council's documented policies, management directives, strategies and processes may affect Council's objective to ensure the long-term sustainability of services and protect the community's assets.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that returns from Council's Property Portfolio will diminish over time if an effective Policy is not implemented.	Medium	Adopt the Property Investment Policy.	Yes

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

- 1) Property Services Section Manager;
- 2) Investment and Asset Manager.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Property Investment Policy.
- 2) Submission.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



Adopted: 29 May2012  
Minute No: 110  
Amended:  
Minute No:

**FILE NO: A2004-0853**

**TITLE: PROPERTY INVESTMENT POLICY**

**RESPONSIBLE OFFICER: PROPERTY SERVICES  
MANAGER**

**BACKGROUND**

The current portfolio mix and status of Council's investment portfolio provides investment returns that currently alleviate some call on rates and continue to provide acceptable capital growth across the portfolio.

This policy provides guidelines for consideration in the process of ~~acquisition, improvement, value adding and disposal~~ **the management of** investment properties. Investment properties are those that provide financial return to Council and or provide strategic pathways for future income generation. Within the context of this policy, it is important to state that investment properties can also be held in some cases as land bank opportunities and while over the initial term Council may derive an income from the property, future development can be undertaken in accordance with the Acquisition and Divestment of Land Policy.

Property Investment activities and in particular lower risk investments are generally activities spanning medium to longer terms (say 5 to 20 years).

The attractiveness of a property investment will be dependent upon a variety of factors not only inherent to a particular subject property but also upon a range of external factors such as Government fiscal, taxation and

Changes

Delete: acquisition, improvement, value adding and disposal  
Insert: the management of



investment policies, investor confidence, availability of funds and analysed returns as compared to other investments such as the stock market for example.

The Principles of this policy provide a framework of considerations to ensure a, consistent informed approach to ~~management of the investment portfolio acquisition,~~ **management of the investment portfolio** ~~management and divestment~~ is undertaken.

It is noted that this policy refers ~~to only~~ **only to** Operational Land as defined under the Local Government Act 1993 and provides no structure for the acquisition or disposal of Community Land. All land ~~required, managed or disposed of~~ in accordance with this policy will be classified 'Operational' within the context of the Local Government Act 1993.

**OBJECTIVE**

- 1) To invest in Real Property and maintain a real estate portfolio as a strategy for providing capital growth and recurrent sources of income in supporting Council's rates and other statutory income producing activities in the provision of services to the community.
- 2) To maintain a portfolio balance of medium and longer term property investments providing acceptable growth and recurrent returns in line with strategic and operational goals of the Council.

**PRINCIPLES**

- 1) To ensure optimum financial return is realised through appropriate management of Council's Property Investment portfolio.
- 2) To utilise effective asset management and planning practices in the management of Council's Property Investment assets to ensure maximum economic return to Council.
- 3) To satisfy the real property needs of Council by meeting the requirements and corporate objectives outlined in the current Long Term Financial Plan.
- 4) Investment decisions will have regard to the prevailing economic conditions and factors relative to property investment such as those discussed within the Property Investment policy, taking into account vacancy rates, lifecycle costs of improvements, location future development potential and market demand.
- 5) Any decision to acquire or divest of an asset comprising part of the Investment Property Portfolio is

Delete: acquisition, management and divestment

Insert: management of the investment portfolio

Delete: to only

Insert: only to

Delete: required, or disposed of

Insert: 's'

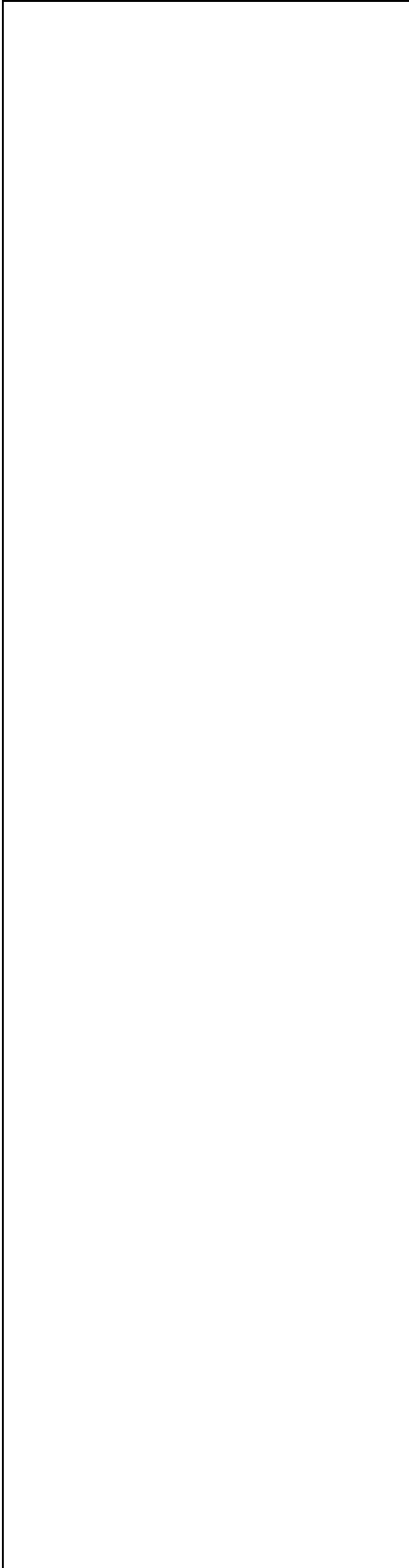
required to be supported by a resolution of Council and is to be undertaken in accordance with the related Acquisition and Divestment of Land Policy.

**DEFINITIONS**

'Act'	means the Local Government Act 1993
'Investment Property'	means built form commercial, retail, industrial or residential property that derives a rental return (yield) in accordance with the long term financial plan.
'Property Investment Portfolio'	means properties dealt with within the financial statements of Port Stephens Council at Note 14.
'Real Property'	means a freehold or leasehold or other reversionary or partial interest in improved land.

**POLICY STATEMENT**

- 1) The purpose of this policy is to set forth a framework under which Port Stephens Council will manage the operations of its Property Investment portfolio ensuring:
  - The establishment of a documented process to guide the decision-making process;
  - A reference guide that will survive successive Councils; and
  - The overall mix and nature of investment properties will provide a balanced source of income that complements existing investment activities.
- 2) The Investment and Asset Manager (PSC725) will



regularly review and report on the performance of its investment portfolio and use this information to determine recommendations to Council regarding the portfolio.

- 3) All property investment activities will be undertaken in accordance with Financial Services section Long Term Financial Plan, Council's Property Investment Strategy ~~2008 – 2013~~ **2013 – 2018** and will also reflect Council's ongoing commitment to sustainability.

**RELATED POLICIES**

- 1) Restricted Funds policy.
- 2) Cash Investment policy.
- 3) Asset Management policy.
- 4) Long Term Financial plan.
- 5) Acquisition and Divestment of Land policy.
- 6) Integrated Strategic plans.
- 7) Property Investment Strategy ~~2008 – 2013~~ **2013 – 2018**.

**SUSTAINABILITY IMPLICATIONS**

**SOCIAL IMPLICATIONS**

Nil.

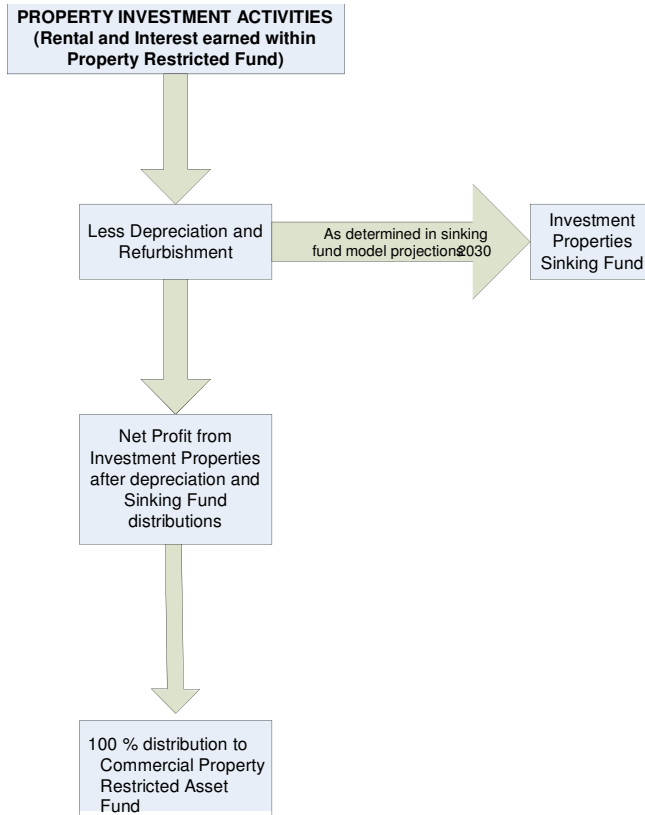
**ECONOMIC IMPLICATIONS**

Efficient and effective management of the Property Investment Portfolio will provide an ongoing income stream, which reduces the call on rate revenue and provides funds for further investment.

The distribution of funds received from Council's Investment portfolio is to be carried out in accordance with the following:

Delete: 2008 – 2013  
Insert: 2013 – 2018

Delete: 2008 – 2013  
Insert: 2013 – 2018



**ENVIRONMENTAL IMPLICATIONS**

Nil.

**RELEVANT LEGISLATIVE PROVISIONS**

- 1) Local Government Act 1993.
- 2) Real Property Act 1900.
- 3) Conveyancing Act 1919.
- 4) Retail Leases Act 1994.

**IMPLEMENTATION RESPONSIBILITY**

- 1) Investment and Asset Manager PSC725.

**REVIEW DATE**

- 1) ~~1 May 2014 – two years from implementation.~~  
February 2017.

Delete: 1 May 2014 – two years from implementation  
Insert: 10 February 2017

ATTACHMENT 2



116 Adelaide Street, Raymond Terrace NSW 2324  
 PO Box 42, Raymond Terrace NSW 2324  
 DX 21406 | ABN 16 744 377 876

The General Manager  
 Port Stephens Council

Attention; Ms Zoe Pattison  
 Acting Group Manager Corporate Services Section

By Hand

Dear Zoe,

Please note that the abovementioned Policy is currently on exhibition on the Port Stephens Council website. It is noted that there are a few anomalies which are noted in the table hereunder and which I note should be corrected in the final document prior to adoption by the Council;

UNDER HEADING	PARAGRAPH	AMENDMENT SUGGESTED	REASONING
BACKGROUND	2	Should commence "The Policy provides guidelines for consideration in the process of the management of investment properties."	Acquisition, value adding and disposal are dealt with by the Acquisition and Divestment of Land Policy.
BACKGROUND	5	Should read "....consistent informed approach to management of the investment portfolio is undertaken."	Acquisition and Divestment of Land Policy.
BACKGROUND	6	Should read...."refers only to..."	Grammatical only
BACKGROUND	6	Should read...."All land managed in accordance with the Policy..."	Required is in error viz; "Acquisition" and this together with "disposal" are dealt with by the Acquisition and Divestment of Land Policy.
OBJECTIVE	1	Should read...."recurrent sources of income..."	Multiple income streams.
PRINCIPLES	3	Should read...."PROPERTY NEEDS OF Council by assisting in meeting the requirements...."	Grammatical only
PRINCIPLES	4	Delete	Acquisition and Divestment of Land Policy.

Telephone: 02 4980 0250 | Facsimile: 02 4987 3612  
 Email: council@portstephens.nsw.gov.au | Web: www.portstephens.nsw.gov.au

ATTACHMENT 2

PRINCIPLES	5	Paragraph 5) becomes Paragraph 4)	See point above
POLICY STATEMENT	3	Should read... "Council's Property Investment Strategy 2013 - 2018..."	Strategy dates corrected
RELATED POLICIES		Should read... "Property Investment Strategy 2013 - 2018..."	Strategy dates corrected

Brett Field  
Acting Property Services manager

16 December 2014

ITEM NO. 7

FILE NO: PSC2005-2662 & T18-2014

## T18-2014 ENVIRONMENTAL MONITORING

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

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### RECOMMENDATION IS THAT COUNCIL:

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item No. 7 on the Ordinary Council agenda namely **T18-2014 ENVIRONMENTAL MONITORING**.
- 2) That the reasons for closing the meeting to the public to consider this item be that:
  - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
  - ii) In particular, the report includes confidential pricing information in respect of the **T18-2014 ENVIRONMENTAL MONITORING**.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5) Accept the Tender offered by GHD for \$209,970 (ex GST) for the environmental monitoring of the four decommissioned landfill sites within Port Stephens Council from March 2015 to December 2017, with an option to extend for a further two (2) years.

---

### ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor John Nell</b> <b>Councillor Ken Jordan</b>
	That Council accept the Tender offered by GHD for \$209,970 (ex GST) for the environmental monitoring of the four decommissioned landfill sites within Port Stephens Council from March 2015 to December 2017,

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

with an option to extend for a further two (2) years.

### MOTION

011	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that Council accept the Tender offered by GHD for \$209,970 (ex GST) for the environmental monitoring of the four decommissioned landfill sites within Port Stephens Council from March 2015 to December 2017, with an option to extend for a further two (2) years.

### BACKGROUND

The purpose of this report is to seek approval for entering into a contract for the environmental monitoring of the four decommissioned landfill sites in Port Stephens Council area. These landfill sites are at Salamander Bay, Lemon Tree Passage, Newline Road Raymond Terrace and King Park Raymond Terrace.

The environmental monitoring of decommissioned landfill sites is a regulatory requirement set by The Environment Protection Authority (EPA) for the owners of these types of facilities and is linked to Section 9.1.1.7 of Councils Operational Plan. The environmental monitoring involves the contractor sampling, testing and reporting to council on the analytical results in comparison to the standards set by the NSW EPA for acceptable levels in both ground and surface water as well as for methane gas levels in the buildings at these sites.

Tenders were called for the supply of environmental monitoring at these decommissioned landfill sites in Port Stephens Council LGA during November 2014.

A total of **16** tender submissions were received, a summary of which is included as **(ATTACHMENT 1)**. These tender submissions were assessed by Council staff using a two-step process:

- 1) An assessment of all tender submissions was made against the criteria with the exclusion of references to give each submission a score out of 85, the result of this assessment is shown in the first table of **(ATTACHMENT 1)**;
- 2) References were then called for the top three (3) tender submissions from the previous assessment to give them a complete score out of 100, the result of the full assessment is shown in the second table in **(ATTACHMENT 1)**.



## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

The weightings agreed for this Tender evaluation were:

Criteria	Weighting %
Tender Price	50
Previous Experience	15
References	15
Management & Staff Resources	10
Current Commitments	10

The detailed breakdown used by the reviewing team to give each tenderer a score for each of the above criteria is included as **(ATTACHMENT 2)**.

### FINANCIAL/RESOURCE IMPLICATIONS

The environmental monitoring of decommissioned landfill sites is an activity that is already occurring and it is funded from the Waste Management Charge. ]

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes ]	209,970 ]	Nil. ]
Reserve Funds	No ]	[]	[]
Section 94	No ]	[]	[]
External Grants	No ]	[]	[]
Other	No ]	[]	[]

### LEGAL, POLICY AND RISK IMPLICATIONS

The tendering process complied with Council's procurement guidelines and the Local Government (General) Regulations 2005 Part 7 Tendering and Local Government Act 1993. Contracts for the amount of \$150,000 (inc GST) or more or for a period of two years or more require Council approval.

The tender specifications considered all of the requirements set by The Environmental Protection Authority (EPA) for these decommissioned landfill sites and other needs of Council so risk of contract variation is low. The tendered price is for a three (3) year contract with a plus two (2) year option and covers all of the tender specifications; any additional testing requested by council will incur an additional cost.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that environmental damage to surrounding land or	Medium	Adopt the recommendation.	Yes

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

waterways could occur if environmental monitoring is not performed on these sites as required.			
There is a risk that legal action could be taken against Council by either the EPA or land owners if the environmental monitoring is not performed on these sites as required.	High	Adopt the recommendation.	Yes

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The monitoring of the decommissioned landfill sites is a regulatory requirement to monitor any environmental impact the decommissioned landfill site is having on the surrounding areas. Not undergoing the process will have legal risk for Council, which could also have social, economic and environmental implications for Council because any gaps in data will not allow us to form a sound environmental management decision if one is required to be made. ]

### CONSULTATION

Consultation was held between Council's Waste Management Coordinator, Contracts Coordinator & Procurement and Tender Officer in order to produce the tender documents. ]

### OPTIONS

- 1) Accept the recommendations;
- 2) Amend the recommendations;
- 3) Reject the recommendations. ]

### ATTACHMENTS (CONFIDENTIAL – provided under separate cover)

- 1) Tender assessment summary;
- 2) Detailed breakdown used to score evaluation criteria. ]

### COUNCILLORS ROOM

[Nil. ]

### TABLED DOCUMENTS

[Nil. ]

ITEM NO. 8

FILE NO: T16-2014

**T16-2014 - TENDER FOR THE SUPPLY OF TWO (2) 22.5T TRUCKS WITH TIPPING BODIES**

REPORT OF: **TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER**  
GROUP: **CORPORATE SERVICES**

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) That pursuant to section 10A(2)(d) of the Local Government Act, 1993, the Council resolve to close to the public that part of its meetings to discuss Item No. 8 on the Ordinary Council agenda namely **T16-2014 TENDER FOR THE SUPPLY OF TWO 22.5T TRUCKS WITH TIPPING BODIES.**
- 2) That the reasons for closing the meeting to the public to consider this item be that:
  - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
  - ii) In particular, the report includes confidential pricing information in respect of the **T16-2014 TENDER FOR THE SUPPLY OF TWO 22.5T TRUCKS WITH TIPPING BODIES.**
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report of the closed part of the meeting is to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179) of the Local Government (General) Regulation 2005.
- 5)
  - i) Accept the tender from Gilbert and Roach (Hexham) for the supply of two (2) 22.5T Isuzu CXY 455 Giga trucks at the tendered price of \$340,783.64 ex GST.
  - ii) That the tendered offer for the trade price for two (2) of Council's existing trucks plant numbers 27500 and 27803 be accepted from Gilbert and Roach at the tendered price of \$100,000.00 ex GST.

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

### ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor John Nell</b> <b>Councillor Paul Le Mottee</b>
	That Council:  i) Accept the tender from Gilbert and Roach (Hexham) for the supply of two (2) 22.5T Isuzu CXY 455 Giga trucks at the tendered price of \$340,783.64 ex GST.  ii) That the tendered offer for the trade price for two (2) of Council's existing trucks plant numbers 27500 and 27803 be accepted from Gilbert and Roach at the tendered price of \$100,000.00 ex GST.

#### MOTION

<b>012</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that Council:  i) Accept the tender from Gilbert and Roach (Hexham) for the supply of two (2) 22.5T Isuzu CXY 455 Giga trucks at the tendered price of \$340,783.64 ex GST.  ii) That the tendered offer for the trade price for two (2) of Council's existing trucks plant numbers 27500 and 27803 be accepted from Gilbert and Roach at the tendered price of \$100,000.00 ex GST.

#### BACKGROUND

The purpose of this report is to ask Council to consider and accept the tender for two (2) 22.5T Isuzu CXY 455 Giga trucks with tipping bodies and the disposal of two existing units.

In accordance with Council's Plant Replacement Schedule, tenders were called for two (2) 22.5T trucks with tipping bodies and trade or outright purchase of two (2) of Council's existing trucks (plant numbers 27500 and 27803).

As the requirements of the two vehicles varied in their application and specification it was decided to request tender costs for two separate vehicles by designating them as:

- Option 1, specified to operate as a gravel tipping body with a minimum payload carrying capacity of 12 Tonne (10m<sup>3</sup>) with standard well mounted hoist, 10 speed manual transmission and air bag suspension.

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

- Option 2, was specified to operate as a gravel tipping body with a minimum payload carrying capacity of 12 Tonne (10m<sup>3</sup>), with a Palift hoist, 10 speed manual transmission and spring suspension.

Four (4) tenders were received by the advertised closing date, Friday 7 November 2014.

The following four (4) companies tendered for the supply and trade of Council's existing trucks

- Newcastle Commercial Vehicles trading as Newcastle Iveco (Iveco model Powerstar 6401);
- Newcastle Commercial Vehicles trading as Newcastle Hino (Hino model FS2844);
- Gilbert and Roach (Hexham NSW) (Isuzu model CXY 455 Giga);
- Volvo Commercial Vehicles (Sydney) (Volvo model FM13).

One (1) tender was deemed non-conforming due to not completing mandatory schedules as requested:

- Volvo Commercial Vehicles (Sydney).

Two tenders were deemed non-conforming due to their inability to supply one or both vehicles as per the specifications.

- Newcastle Commercial Vehicles trading as Newcastle Iveco;
- Newcastle Commercial Vehicles trading as Newcastle Hino.

There were no tender submissions for the outright purchase only of the tendered Council owned trucks.

The tendered prices, including tenders for the purchase of Council's existing trucks, are compared in detail at **(ATTACHMENT 1)**.

The weightings agreed for this Tender evaluation were:

Criteria	Weighting %
Price	100

### FINANCIAL/RESOURCE IMPLICATIONS

The items are listed in the 2014-15 Plant Replacement Schedule and it is proposed to purchase the items using funds from the Fleet Management Capital Budget.

The Financial Implication is that the existing plant items, Council Plant Nos. 27500 and 27803 have reached the end of their economic life and require replacement in order to minimise the whole of life cost to Council for the vehicle entitlement. Whilst all suppliers and auction houses were given the opportunity to purchase these vehicles, Gilbert & Roach Pty Ltd was the only company to submit a conforming tender.

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

Council have several similar Isuzu models in its existing fleet and have found the Isuzu to be one of the leading truck manufacturers that exhibit value for money, reliability, back up service and spare parts. This reflects in an annual cost that is more than competitive when compared to other similar makes and models.

The tendered price was within the acceptable price range for this type of vehicle in today's market and was adopted by Fleet in consultation with Capital Works and Public Domain & Services, without additional evaluation required.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	340,783.64	Capital Budget 2014-15
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

The recommended item of plant complies with all State and Federal statutory or authority requirements.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that the procurement of an unsuitable replacement plant item may result in a sub-optimal outcome.	Low	Minimise risk by following a tendering and specification process that involves other stakeholders such as workshop and actual operator.	Yes
There is a risk that non procurement of these items of plant may result in increased maintenance costs due to the age of the trucks.	High	Minimise risk by procuring new items of plant within allocated life cycles.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

[There are no social or economic implications.]

**Environmental Efficiency Features**

The Isuzu SiTEC Series II engines produce as little as one sixth of the level of particulate matter (PM) standard met by their Japanese competitors. PM is the smoke, soot and harmful invisible unburned hydrocarbons emitted from a truck's exhaust and does not rely on fuel additives to achieve this.

Isuzu Clean Air Solutions (I-CAS) technology was applied to the new engines to meet these high environmental standards; I-CAS incorporates key technologies to improve emissions and increase efficiency via the stricter Euro V emissions standards. ]

**CONSULTATION**

- 1) [Facilities and Services – Public Domain & Services - Roadside and Drainage;
- 2) Facilities and Services – Capital Works - Road Construction;
- 3) Corporate Services – Procurement;
- 4) Facilities and Services – Fleet Operations. ]

**OPTIONS**

- 1) [Accept the recommendations;
- 2) Amend the recommendations;
- 3) Reject the recommendations. ]

**ATTACHMENTS** (CONFIDENTIAL – provided under separate cover)

- 1) [Tender Cost Analysis Table. ]

**COUNCILLORS ROOM**

[Nil. ]

**TABLED DOCUMENTS**

[Nil. ]

**ITEM NO. 9**

**FILE NO: PSC2010-03960/246**

**PROPOSED NAME CHANGE OF LEMON TREE PASSAGE PARKS AND RESERVES COMMITTEE**

**REPORT OF: STEVEN BERNASCONI – COMMUNITY SERVICES SECTION MANAGER**  
**GROUP: FACILITIES AND SERVICES**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Rename Council's 'Lemon Tree Passage Parks and Reserves Committee' to the new name of 'Lemon Tree Passage Parks, Reserves and Tidy Towns Committee', and amend the Constitution Schedule for same.

**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Steve Tucker</b> <b>Councillor John Morello</b>
	That the recommendation be adopted.

**MOTION**

<b>013</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that Council rename Council's 'Lemon Tree Passage Parks and Reserves Committee' to the new name of 'Lemon Tree Passage Parks, Reserves and Tidy Towns Committee', and amend the Constitution Schedule for same.

**BACKGROUND**

The purpose of this report is to seek Council's support for the Lemon Tree Passage Parks and Reserves Committee to include 'Tidy Towns' in their name, and as such amend the Constitution Schedule for same.

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



## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

At its meeting of the 21 May 2014, the Lemon Tree Passage Parks and Reserves Committee passed a motion to participate in the Keep Australia Beautiful Tidy Towns program as they feel it will enable the Committee to engage in a wider range of community and environmental projects in the local area.

On the 13 October 2014, the Lemon Tree Passage Parks and Reserves Committee wrote to Council requesting their name to be changed to 'Lemon Tree Passage Parks, Reserves and Tidy Towns Committee' (**ATTACHMENT 1**).

The above links to the following Goals in the Community Strategic Plan 2014 – 2024:

6.1 The community is a partner in developing the future of the local government area.

9.1 Manage the natural environment for existing and future generations.

### FINANCIAL/RESOURCE IMPLICATIONS

There are no increased financial or resource implications from adopting this recommendation.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within existing budgets.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

There are no legal or policy ramifications for adopting the recommendations. Amendments to an individual committee constitution schedule do not affect the Standard 355 Committee Constitution, which remains in place unless amended by Council.

The table below identifies a potential risk of not adopting the recommendations.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that if the name change is not endorsed, Council will incur reputation damage cause by the Committee not being satisfied with the	Low	Adopt the recommendations.	Yes

outcome.			
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**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

There are no economic implications from adopting the recommendations.

There are social benefits in adopting the recommendations including the expansion of meaningful volunteering opportunities, rewards and recognition for the work of volunteers, and improved group dynamics and alignment of committee objectives.

Potential environmental benefits may result from the committee being able to participate in a wider range of initiatives to protect, preserve and enhance the local environment, and to increase community environmental awareness.

**CONSULTATION**

- 1) Lemon Tree Passage Parks and Reserves Committee
- 2) Volunteers Coordinator

**OPTIONS**

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

**ATTACHMENTS**

- 1) Letter from the Secretary of the Lemon Tree Passage Parks and Reserves Committee, 13 October 2014, requesting the amendment to their name.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil

ATTACHMENT 1

Letter from the Lemon Tree Passage Parks and Reserves Committee, 13 October 2014, requesting amendment to their name.

Robyn Brennan  
PO Box 1338  
Lemon Tree Passage  
NSW 2329

13<sup>th</sup> October 2014

Wayne Wallis  
General Manager  
Port Stephens Council  
PO Box 62  
Regent Street NSW 2324

Dear Mr Wallis,

Lemon Tree Passage Parks and Reserves 355 (c) Committee is requesting a change of name.

A motion was passed at the regular committee meeting of 21<sup>st</sup> May 2014, resolving to join the Keep Australia Beautiful NSW Tidy Towns program. Joining the Tidy Towns program will enable the Lemon Tree Passage Parks and Reserves volunteer group to participate in a wider range of community projects in the local area.

We are requesting our name be changed to "Lemon Tree Passage Parks, Reserves and Tidy Towns".

Yours sincerely,  
Robyn Brennan  
Secretary  
Lemon Tree Parks and Reserves

Enclosed: copy of minutes of committee meeting, 21<sup>st</sup> May 2014.



**ITEM NO. 10**

**FILE NO: PSC2014-02039**

**2016 LOCAL GOVERNMENT ELECTION**

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

**RECOMMENDATION IS THAT PORT STEPHENS COUNCIL ("THE COUNCIL"):**

- 1) Pursuant to s. 296(2) and (3) of the *Local Government Act 1993* (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
- 2) Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
- 3) Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p><b>Councillor Paul Le Mottee</b>  <b>Councillor Ken Jordan</b></p>
	<p>That the recommendation be adopted.</p>

**MOTION**

<b>014</b>	<p><b>Councillor Ken Jordan</b>  <b>Councillor John Morello</b></p>
	<p>It was resolved that Port Stephens Council:</p> <ol style="list-style-type: none"> <li>1) Pursuant to s. 296(2) and (3) of the <i>Local Government Act 1993</i> (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.</li> <li>2) Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.</li> <li>3) Pursuant to s. 296(2) and (3) of the Act, as applied and modified</li> </ol>

by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council. ]

## **BACKGROUND**

[The purpose of this report is to allow Council to consider contract agreements for the 2016 local government election in Port Stephens.

As Council is aware the next NSW local government ordinary elections will be held in September 2016. Under the *Local Government Act 1993*, Council has the option of engaging the NSW Electoral Commission or conducting the election "in-house", by contract. Council conducted the 2012 election "in-house".

Council is required to make a resolution 18 months from the next election (by 9 March 2015) should it wish to engage the NSW Electoral Commission (NSWEC) to conduct the 2016 local government election, and enter into a contract no later than 15 months from the next election.

If Council fails to pass a resolution before the abovementioned dates, Council will be required to conduct the election "in-house", by contract and seek tenders given the cost exceed the \$150,000 threshold under *the Local Government (General) Regulation 2005*.

Council has sought preliminary quotations from the following suppliers:

- NSW Electoral Commission; and
- Australian Election Company.

It is recommended that Council engage the NSW Electoral Commission to conduct the 2016 local government election in Port Stephens, based on the cost and experience of conducting local government elections. A report was tabled at Council following the 2012 election which detailed the conduct of the 2012 election.

The recommendation above is worded specifically to engage the NSWEC. Whilst there is no timeframe within the recommendation, under the legislation it will not commence until the 2016 local government election and can be terminated immediately following the 2016 election should Council wish. Alternatively, it will remain in place until 18 months from the 2020 local government election. ]

## **FINANCIAL/RESOURCE IMPLICATIONS**

[The local government election will be funded from a reserve fund. Council dedicates \$100,000 per year to the election reserve. ]

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	400,000	This includes internal costs.
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

In accordance with s296 of the *Local Government Act 1993*, Council is required to pass a resolution of its intention in relation to conducting the 2016 local government election for Port Stephens.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council will not be able to engage the NSWEC should this resolution not be passed before 9 March 2015.	Low	Adopt the recommendation.	Yes.

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

- 1) Mayor;
- 2) Councillors;
- 3) General Manager.

**OPTIONS**

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

**ATTACHMENTS** (CONFIDENTIAL – provided under separate cover)

- 1) NSW Electoral Commission preliminary estimate;
- 2) Australian Election Company quotation. ]

**COUNCILLORS ROOM**

[Nil. ]

**TABLED DOCUMENTS**

[Nil. ]

**ITEM NO. 11**

**FILE NO: PSC2011-02657**

**SIX-MONTHLY REPORT JULY – DECEMBER 2014 AGAINST DELIVERY PROGRAM 2012-2016**

**REPORT OF: WAYNE WALLIS – GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Adopt the Six-Monthly Report July – December 2014 against Delivery Program 2012-2016.

**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Ken Jordan Councillor Paul Le Mottee</b>
	That the recommendation be adopted, supplementary information.

**MOTION**

<b>015</b>	<b>Councillor Ken Jordan Councillor John Morello</b>
	It was resolved that Council adopt the Six-Monthly Report July – December 2014 against Delivery Program 2012-2016.

**BACKGROUND**

The purpose of this report is to provide to Council and the Port Stephens community an update on progress in achieving the outcomes of the Delivery Program 2012-2016. The Six-Monthly Report July – December 2014 focuses on the key result areas that were agreed between the Council and the General Manager to be priorities in order to achieve the overall objectives of the Delivery Program.

**FINANCIAL/RESOURCE IMPLICATIONS**

The Six-Monthly Report July-December 2014 was produced in-house by the Corporate Strategy & Planning unit of the General Manager's Office and production was facilitated through recurrent funding.



## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

### LEGAL, POLICY AND RISK IMPLICATIONS

Section 404(5) of the *Local Government Act 1993* requires the General Manager to report to Council and the community on progress in achieving the objectives of the Delivery Program. This report complies with this legislative requirement.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that Council does not adopt the Six- Monthly Report July – December 2014 leading to breach of legislation.	Low	General Manager provides a Six-Monthly Report for the period July to December 2014 to Council within the stipulated timeframe – February 2015.	Yes

### SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Delivery Program 2012-2016 and the Operational Plan 2014-2015 include objectives and actions that address social, economic and environmental aspects of Council's operations. The key result area shown in the Six-Monthly Report July-December 2014 indicates that Council has met and or is meeting 98.2% of the requirements through completion of associated actions, and therefore there are no adverse sustainability implications.

### CONSULTATION

This Six-Monthly Report July-December 2014 was compiled from data derived from across all Council's operations.

**OPTIONS**

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

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

- 1) Six-Monthly Report July-December 2014 against Delivery Program 2012-2016.

ITEM NO. 12

FILE NO: PSC2015-00123

**LOCAL GOVERNMENT NSW TOURISM CONFERENCE – MARCH 2015**

REPORT OF: WAYNE WALLIS – GENERAL MANAGER

GROUP: GENERAL MANAGER'S OFFICE

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**RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the attendance of Cr John Nell and Cr John Morello at the Local Government NSW Tourism Conference to be held on 2-4 March 2015 at Mount Panorama, Bathurst.

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**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Ken Jordan</b> <b>Councillor Chris Doohan</b>
	That the recommendation be adopted.

**MOTION**

<b>016</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that Council endorse the attendance of Cr John Nell and Cr John Morello at the Local Government NSW Tourism Conference to be held on 2-4 March 2015 at Mount Panorama, Bathurst.

**BACKGROUND**

The purpose of this report is to inform Council of the Local Government NSW Tourism Conference to be held on 2-4 March 2015 at Mount Panorama, Bathurst.

The Conference Draft Program is shown at **(ATTACHMENT 1)**.

The Conference is open to all Councillors.

As Councillors would be aware the Payment of Expenses and Provision of Facilities to Councillors Policy requires that a resolution of Council be sought for Councillor attendance at Conferences.

**FINANCIAL/RESOURCE IMPLICATIONS**

The costs associated with registration, travel and accommodation would be covered from the budget, subject to the Councillor not exceeding the conference budget limits in the Policy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Registration, travel and accommodation costs are covered within the existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The Payment of Expenses and Provision of Facilities to Councillors Policy requires that Council approve all Councillor conference attendances. Councillors' conference costs are limited to \$3,500 per year under the Policy.

Risk	<a href="#">Risk Ranking</a>	Proposed Treatments	Within Existing Resources?
There is a risk that non-attendance will disadvantage the Port Stephens Community as this conference is an opportunity for knowledge sharing.	Low	Endorse the attendance of Cr John Nell and Cr John Morello at the conference.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The Port Stephens community would benefit from Councillors attending this Conference to ensure the Local Government area has a presence at an important Tourism event.

**CONSULTATION**

Nil.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Draft Local Government NSW Tourism Conference Program 2015.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

ATTACHMENT 1



**Local Government NSW Tourism Conference 2015**  
**'Building Community Capital: social, economic and cultural'**

2-4 March 2015, Mount Panorama Pit Complex, Pit Lane, Mount Panorama, Bathurst.

**DRAFT PROGRAM** as of 9 December 2014

Conference MC: **Scott McGregor**

*This Program is correct at the time of printing; changes may occur and will be updated in the online version.*

Monday 2 March – Mount Panorama Pit Complex	
12.30pm – 3.30pm	Exhibitors set up for Trade Exhibition
1.00pm – 5.00pm	Registration opens Mount Panorama Transfer bus from listed hotels
1.30pm – 5.30pm	<p><b>Optional AVIC Summit:</b>  <b>Inspirational Visitor Servicing for Local Government 2015 and beyond</b></p> <p>For all AVIC network and VIC tourism and operations staff and volunteers, this half day session will deal directly with the operational challenges of your VIC facilitated by John Larkin, CEO, Aurora Research. Case Studies: Mudgee, Southern Highlands, Griffith and Parramatta will present on their differing management, funding and operational models and how this works in their region.</p> <p>Case Studies will cover some of the following:</p> <ul style="list-style-type: none"> <li>• Developing a culture of continuous improvement (inspirational visitor servicing)</li> <li>• Local and regional up-selling (including visitor orientation)</li> <li>• Local and regional asset and product development</li> <li>• Adapting to new technology</li> <li>• Social Media and Marketing</li> <li>• Itinerary development</li> <li>• Understanding consumer research (how are you judged?)</li> <li>• Consumer knowledge building</li> <li>• Retail strategy and development (including point-of-sale)</li> <li>• High level visitor customer servicing - (How to manage special-interest groups)</li> <li>• Leadership and community engagement</li> <li>• Budgeting, monitoring and reporting</li> </ul> <p>Book separately on the registration forms: \$120.00 per person.</p>
3.30pm – 3.50pm Afternoon tea	
5.30pm	<p>AVIC attendees to enjoy short guided tour of Precinct Pit – register online for this tour (limited numbers apply)</p> <p>Mark Rayner, Circuit Manager, Mount Panorama Pit Complex</p>
6.00pm – 8.00pm	<p><b>Opening Ceremony and Welcome Reception</b>                      National Motor Racing Museum                      Welcome to Country                      Welcome to Local Government Tourism from Cr Keith Rhoades AFSM, LGNSW President.</p> <p>Delegate registration will be available at this event.</p>

**MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015**

<b>Tuesday 3 March Mount Panorama Pit Complex</b>		
8.15am	Trade exhibition opens	
8.50am – 9.00am	MC Introduction and Housekeeping	Scott McGregor, Director Railway Adventures and Ruwenzori Retreat Mudgee
9.00am – 9.15am	Welcome to Bathurst	Cr Gary Rush, Mayor Bathurst Regional Council
9.15am – 9.30am	Welcome and Opening of Conference Tourism Keynote Address	The Hon. (John) Giovanni Barilaro Regional Minister for Tourism and Small Business (invited)
9.30am – 10.00am	Keynote address	Simonne Shepherd, General Manager Industry Partnership and Government Policy Destination NSW
10.00am - 10.30am	Building Community Capital	Di Henry OAM, President Maxxam Events Pty Ltd
10.30am – 10.50am	Morning Tea	
10.50am – 11.05am	Local Government Land Use Decision Making for Events in NSW	Garry O'Dell, Doctoral Candidate Newcastle Business School Faculty of Business and Law University of Newcastle
11.05am – 11.35am	Small Places, Big Ideas	Professor Tara Grabazon, Professor of Education / Head – School of Teacher Education Charles Sturt University
11.35am – 12.05pm	Accessible Events	Paul Nunnari Manager Event Access and Inclusion Department of Premier and Cabinet
12.05pm - 1.05pm	<b>The Trust Economy – the good, the bad and the ugly!!</b> This panel will explore the merits, challenges and pitfalls of some online programs including the likes of airbnb, short term holiday rentals, private land camping and local government caravan parks to look at the broader issues of compliance and regulation versus individual choice consumerism.	Facilitated by MC Scott McGregor  Panelists include: Lyndel Gray, CEO, CCIA (invited) Richard Munro, Chief Executive Officer, AAOA James Woodford, Owner, Private Land Camping
1.05pm – 2.00pm	Lunch - Precinct Pit Tour– register online for this tour (limited numbers apply)	
2.30 pm – 4.30pm	Site Venue tours: Bathurst Treasures	
	<b>Site Visit 1 Bicentenary Walking Tour.</b> The walk will visit some of the new heritage attractions in Bathurst's popular riverbank precinct, developed as part of the community's 200 <sup>th</sup> birthday. Maximum Number 56	Facilitated by Dr Robin McLachlan Local historian
	<b>Site Visit 2 History Mystery Bus Tour.</b> Part of the Autumn Colours Program; join the mystery tour to who knows where to discover bits of Bathurst's stories and past ..... and join the dots. Maximum number 56	Facilitated by Chris Stewart Local historian, Vice President Family History Group, Committee Member Bathurst and District Historical Society, Member Autumn Colours Heritage Working Party
	<b>Site Visit 3 Art Trail Walking Tour</b> Art is all around you if you know where to look. Enjoy a stroll around Bathurst's original town square unveiling a plethora of artwork and visit Bathurst Regional Art Gallery housing a magnificent collection and some eye catching public art. Maximum number 56	Facilitated by Mr Peter Hodgson, Chair Town Square Committee

**MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015**

	<p><b>Site Visit 4</b>  <b>The Heritage Pass to Historic Homes Bus Tour.</b>                  Bathurst's Historic Homes Pass unites three unique and distinctive house museums: Miss Trails House &amp; Garden, Abercrombie House and Ben Chifley's home. With one managed by the National Trust, one privately owned and one managed by Bathurst Regional Council, this tour will highlight partnerships and tour packaging, as well as Bathurst's cultural wealth.                  Maximum number 50</p>	<p>Facilitated by Trish Hays,                  Visitor Information Centre Manager                  Bathurst Regional Council</p>
<p>4.30pm – 5.00pm                  5.15pm – 5.43pm</p>	<p>City transfer bus back to accommodation                  Precinct Pit Tour– register online for this tour (limited numbers apply, Rydges guests should book this time if they wish to do the tour – can walk back to hotel for dinner pickup.)</p>	
<p>6.30pm – 7.00pm                  7.00pm – 8.00pm                  8.00pm - 11.00pm</p>	<p>Dinner: Transfers from accommodation to Australian Fossil and Mineral Museum                  Pre-dinner drinks and canapés.                  Bathurst 200 Birthday Bash Dinner: Bathurst celebrates 200 years at the Carrington Function Centre and Theatre, 99 Keppel Street, Bathurst                  Transfers</p>	

<b>Wednesday 4 March - Mount Panorama Pit Complex</b>		
8.15am	Trade exhibition opens	
9.00am – 10.30am	<p><b>State Your Case! Panel</b>                  A competition to find a great resolution from three industry experts who give their answers to the listed challenges. Voted on by the audience, with a single prize of \$3000.00 to the pitching council and a great opportunity to learn from the conference.                  Not to be missed</p>	
9.10 am– 9.30am	<p><b>Case Study 1</b>                  Dogman and Rabbit Girl visit Forbes Central NSW</p>	<p>Richard Morgan                  Director Tourism, Community and Cultural Development                  Forbes Shire Council</p>
9.35am – 9.55am	<p><b>Case Study 2</b>                  Business and Community Buy in.</p>	<p>Greg Lawrence                  Manager Tourism and Economic Development                  Griffith City Council</p>
10.00am – 10.20am	<p><b>Case Study 3</b>                  Developing the St Ives Precinct Future Into a Viable Tourism Destination</p>	<p>Janice Bevan, Director Community                  Ku-ring-gai Council</p>
10.25am – 10.30am	Winners Presentation.	
10.30am – 11.00am	Morning Tea	
11.00am – 12.00noon	<p><b>Concurrent Topic Stream 1 - Educational and Cultural Tourism</b>                  Building up the Social Infrastructure of the Destination                  Visiting Friends and Relatives, packaging for educational groups, regional infrastructure and referencing your Destination Management Plan</p>	<p>Facilitated by Victoria Enskine                  Media and Public Relations Officer                  Bathurst Regional Council</p>
	<p><b>The VFR Host: Tapping the Potential of the Visitor Economy's Unrecognised Weapon!</b>                  This discussion will highlight new research that shows how much more local residents and institutions can be leveraged to support the tourism market.</p>	<p>Carolyn Childs                  Director                  MyTravel Research .com</p>
	<p><b>Fresh Eyes: Collaboration Between Central NSW Tourism, Centroc and CSU Students for Tourism.</b>                  In 2014, final year marketing students went to work for Central NSW Tourism and Centroc to leverage the 'Unearth' campaign with an investigation into night sky tourism for the central west. The findings include clever collaborations, opportunities in search, social media and technology.</p>	<p>Andrew Mashman                  Adjunct Professor                  School of Marketing and Management                  Charles Sturt University</p>



	<b>Adding Value: Economic Impact from Culture and Tourism</b>	<b>Michael Huxley General Manager Museums and Galleries NSW</b>
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**ITEM NO. 13**

**FILE NO: 1190-001**

**REQUEST FOR FINANCIAL ASSISTANCE**

**REPORT OF: WAYNE WALLIS – GENERAL MANAGER**

**GROUP: GENERAL MANAGER'S OFFICE**

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
  - a) Mayoral Funds – Mayor Bruce MacKenzie – Tilligerry Lions Club – Assistance with Promotion of Area - \$500.00;
  - b) Mayoral Funds – Mayor Bruce MacKenzie – Shoal Bay Public School – Presentation Day Donation - \$250.00;
  - c) East Ward Funds – Cr Sally Dover – Port Stephens Outreach Centre – Reimbursement of DA Fees paid for playground cover - \$785.58;

**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Ken Jordan Councillor Steve Tucker</b>
	That the recommendation be adopted.

**MOTION**

<b>017</b>	<b>Councillor Ken Jordan Councillor John Morello</b>
	It was resolved that Council approve provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:- <ul style="list-style-type: none"><li>a. Mayoral Funds – Mayor Bruce MacKenzie – Tilligerry Lions Club – Assistance with Promotion of Area - \$500.00;</li><li>b. Mayoral Funds – Mayor Bruce MacKenzie – Shoal Bay Public School – Presentation Day Donation - \$250.00;</li><li>c. East Ward Funds – Cr Sally Dover – Port Stephens Outreach Centre – Reimbursement of DA Fees paid for playground cover - \$785.58;</li></ul>

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

funding. The Financial Assistance Policy gives Councillors a wide discretion to either grant or to refuse any requests.

The new Financial Assistance Policy provides the community and Councillors with a number of options when seeking financial assistance from Council. Those options being:

1. Mayoral Funds
2. Rapid Response
3. Community Financial Assistance Grants – (bi-annually)
4. Community Capacity Building

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act. This would mean that the financial assistance would need to be included in the Management Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

The requests for financial assistance are shown below is provide through Mayoral Funds, Rapid Response or Community Capacity Building:-

### **EAST WARD – Councillors Dover, Morello & Nell**

Port Stephens Outreach Centre	Reimbursement of DA Fees paid for playground cover	\$785.58
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### **MAYORAL FUNDS – Mayor MacKenzie**

Tilligerry Lions Club	Assist with Promotion of Area	\$500.00
Shoal Bay Public School	Presentation Day Donation	\$250.00

### **FINANCIAL/RESOURCE IMPLICATIONS**

Council Ward, Minor Works and Mayoral Funds are the funding source for all financial assistance.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	1535.58	Councillor Funds \$785.58 Mayoral Funds \$750.00
Section 94	No		
External Grants	No		
Other	No		

**LEGAL AND POLICY IMPLICATIONS**

To qualify for assistance under Section 356(1) of the Local Government Act, 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

<b>Risk</b>	<b><a href="#">Risk Ranking</a></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Council may set a precedent when allocating funds to the community and an expectation that funds will always be available.	Low	Adopt the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Nil.

**CONSULTATION**

- 1) Mayor;
- 2) Councillors;
- 3) Port Stephens Community.

**OPTIONS**

- 1) Adopt the recommendation;
- 2) Vary the dollar amount before granting each or any request;
- 3) Decline to fund all the requests.

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 14**

**INFORMATION PAPERS**

**REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER**  
**GROUP: GENERAL MANAGERS OFFICE**

**RECOMMENDATION IS THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 10 February, 2015.

<b>No:</b>	<b>Report Title</b>
1	Legal Consequences of Offering Graffiti Rewards
2	Cash and Investments held at 30 November 2014
3	Cash and Investments held at 31 December 2014
4	Designated Persons – Pecuniary Interest
5	Petition from Residents to stop the relocation of the Bus Stop and Shelter from 112 to 116 Government Road, Nelson Bay

**ORDINARY COUNCIL MEETING –10 FEBRUARY 2015**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

<b>Councillor Sally Dover</b> <b>Councillor Paul Le Mottee</b>
That Items 2, 3 and 4 be adopted.

<b>Councillor Sally Dover</b> <b>Councillor Chris Doohan</b>
That Council prepare a Graffiti Reward Policy in accordance with Chapter 3 of the Local Government Act which states that Council needs to effectively plan for, account for and manage the assets for which it is responsible.

**MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015**

	<b>Councillor Geoff Dingle</b> <b>Councillor Ken Jordan</b>
	That a site inspection be arranged for Councillors to visit both sites of the current and future bus stop and shelter locations on Government Road, Nelson Bay.

<b>004</b>	<b>Councillor Paul Le Mottee</b> <b>Councillor Chris Doohan</b>
	It was resolved that Council move out Committee of the Whole.

**MOTION**

<b>018</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that Items 2, 3 and 4 be adopted.

<b>019</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that Council prepare a Graffiti Reward Policy in accordance with Chapter 3 of the Local Government Act which states that Council needs to effectively plan for, account for and manage the assets for which it is responsible.

<b>020</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Morello</b>
	It was resolved that a site inspection be arranged for Councillors to visit both sites of the current and future bus stop and shelter locations on Government Road, Nelson Bay.

# INFORMATION PAPERS



INFORMATION ITEM NO. 1

**LEGAL CONSEQUENCES OF OFFERING GRAFFITI REWARDS**

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**REPORT OF:** TIM CROSDALE – STRATEGY AND ENVIRONMENTAL SECTION MANAGER  
**GROUP:** DEVELOPMENT SERVICES

**FILE:** A2004-0217

**BACKGROUND**

The purpose of this report is to inform Council of legal consequences with respect to establishing a Graffiti rewards scheme.

Council resolved on 8 July 2014 "to prepare a report on the legal consequences of offering a reward of up to \$1,000 for information leading to conviction relating to graffiti damage on Council property."

Engaging in graffiti, including damaging or defacing property, is an offence under the Graffiti Control Act 2008. While Council is responsible for the removal of graffiti on Council property & assets, the NSW Police is the agency responsible for enforcement and prosecution in relation to graffiti offences.

Should Council wish to offer rewards for information leading to the conviction relating to graffiti damage on Council property it would need to prepare and establish a policy of the Council to administer the rewards scheme. A graffiti rewards policy could be established under Council's charter in accordance with Chapter 3 of the Local Government Act 1993. This provides that Council should "*bear in mind that it is custodian and trustee of public assets*" and Council needs to effectively plan for, account for and manage the assets for which it is responsible.

Typically, graffiti rewards schemes have the following components;

- A reward is payable only for graffiti incidents involving Council owned and managed property (public property);
- Incidents need to be reported to the police;
- Informants need to be aware that as part of a Police investigation they may be required to provide an additional witness statement or attend court in support of the Police process. Whether an informant's evidence can remain confidential is a matter for Police;
- Applications to Council for reward are verified with the Police; and
- Convictions include an individual admitting guilt or being found guilty of an offence by a court in criminal proceedings. This extends to cautions and all juvenile offences administered under the Young Offenders Act 1994 where the young person has admitted guilt.



A graffiti reward policy would need to outline conditions, law enforcement and the assessment process regarding rewards.

It should be noted reward schemes are funded and administered from public money (Council revenue) and as such a clear nexus between expenditure and savings with respect to damage to public property should be demonstrated. Costs would need to include the establishment and on-going administration of the rewards scheme, which would require Council resources in addition to the financial reward.

The expense of a reward scheme should also be considered against other programs and mechanisms that are in place to manage graffiti. A graffiti rewards scheme may duplicate the graffiti and vandalism reporting systems that the community can access by contacting the Police Assistance Line (PAL) or reporting graffiti vandals to Crime Stoppers. This reporting can also be done anonymously which also encourages the community to report these incidents unlike a graffiti rewards program.

Rapid removal and community education are the current actions utilised by Council which is the recommended method in Council's existing Graffiti Management Plan 2009. Council's Graffiti Management Plan's rapid removal action has had a 'significant impact' on the incidents of graffiti in Port Stephens. Before deciding whether to introduce a rewards scheme Council is advised to review the effectiveness of the existing Graffiti Management Plan to take a holistic approach. A review of the Council's existing Graffiti Management Plan 2009 is planned to commence after June 2015.

#### **ATTACHMENTS**

Nil.

**CASH AND INVESTMENTS HELD AT 30 NOVEMBER 2014**

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**REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER**

**GROUP: CORPORATE SERVICES**

**FILE: PSC2006-6531**

**BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 30 November 2014.

**ATTACHMENTS**

- 1) Cash and investments held at 30 November 2014.

**ATTACHMENT 1**

<b>CASH AND INVESTMENTS HELD AS AT 30 NOVEMBER 2014</b>								
<b>ISSUER</b>	<b>BROKER</b>	<b>RATING*</b>	<b>DESC.</b>	<b>YIELD %</b>	<b>TERM DAYS</b>	<b>MATURITY</b>	<b>AMOUNT INVESTED</b>	<b>MARKET VALUE</b>
<b>TERM DEPOSITS</b>								
BANK OF SYDNEY LTD	FIGG	N/R	TD	3.75%	196	03-Dec-14	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.74%	266	17-Dec-14	1,005,896	1,005,896
ING BANK (AUSTRALIA)	CURVE	A	TD	3.65%	182	17-Dec-14	1,000,000	1,000,000
BANK OF SYDNEY LTD	RIM	N/R	TD	3.75%	210	14-Jan-15	1,000,000	1,000,000
SUNCORP	SUNCORP	A+	TD	3.45%	147	28-Jan-15	2,000,000	2,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.65%	182	11-Feb-15	1,000,000	1,000,000
ING BANK (AUSTRALIA)	FIGG	A	TD	3.56%	182	25-Feb-15	1,000,000	1,000,000
ARAB BANK AUSTRALIA LTD	RIM	BB+	TD	3.90%	271	11-Mar-15	1,500,000	1,500,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.58%	182	25-Mar-15	2,000,000	2,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.58%	182	08-Apr-15	2,000,000	2,000,000
ARAB BANK AUSTRALIA LTD	RIM	BB+	TD	3.85%	266	06-May-15	500,000	500,000
POLICE CREDIT UNION LTD (SA)	FARQUHARSON	N/R	TD	3.65%	224	14-May-15	2,000,000	2,000,000
ING BANK (AUSTRALIA)	ING	A-	TD	3.52%	182	20-May-15	2,000,000	2,000,000
AMP BANK LTD	FARQUHARSON	A+	TD	3.50%	275	29-May-15	1,000,000	1,000,000
BANK OF QUEENSLAND LTD	BOQ	A-	TD	3.60%	266	03-Jun-15	2,500,000	2,500,000
AMP BANK LTD	CURVE	A+	TD	3.50%	266	03-Jun-15	1,000,000	1,000,000
WAW CREDIT UNION CO-OPERATIVE	CURVE	N/R	TD	3.65%	301	01-Jul-15	2,000,000	2,000,000
AMP BANK LTD	FARQUHARSON	A+	TD	3.50%	266	12-Aug-15	2,000,000	2,000,000
<b>SUB TOTAL (\$)</b>							<b>26,505,896</b>	<b>26,505,896</b>
<b>OTHER INVESTMENTS</b>								
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99%	10yrs	31-Dec-14	500,000	500,000
NEXUS BONDS LTD "TOPAZ AA-"	GRANGE	A	CDO	0.00%	10yrs	23-Jun-15	412,500	373,317
ANZ ZERO COUPON BOND	ANZ	AA-	BOND	0.00%	9yrs	01-Jun-17	1,017,877	934,269
<b>SUB TOTAL (\$)</b>							<b>1,930,377</b>	<b>1,807,586</b>
<b>INVESTMENTS TOTAL (\$)</b>							<b>28,436,273</b>	<b>28,313,482</b>
<b>CASH AT BANK (\$)</b>							<b>3,292,636</b>	<b>3,292,636</b>
<b>TOTAL CASH AND INVESTMENTS (\$)</b>							<b>31,728,909</b>	<b>31,606,118</b>
CASH AT BANK INTEREST RATE				2.50%				
BBSW FOR PREVIOUS 3 MONTHS				2.76%				
AVG. INVESTMENT RATE OF RETURN				3.46%				
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE			
CDO = COLLATERALISED DEBT OBLIGATION					FRSD = FLOATING RATE SUBORDINATED DEBT			
*STANDARD AND POORS LONG TERM RATING								
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
<b>W WALLIS</b>								

**CASH AND INVESTMENTS HELD AT 31 DECEMBER 2014**

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**REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER**  
**GROUP: CORPORATE SERVICES**

**FILE: PSC2006-6531**

**BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 31 December 2014.

**ATTACHMENTS**

- 1) Cash and investments held at 31 December 2014.
- 2) Monthly cash and investments balance December 2013 to December 2014.
- 3) Monthly Australian term deposit index December 2013 to December 2014.

**ATTACHMENT 1**

<b>CASH AND INVESTMENTS HELD AS AT 31 DECEMBER 2014</b>									
<b>ISSUER</b>	<b>BROKER</b>	<b>RATING*</b>	<b>DESC.</b>	<b>YIELD %</b>	<b>TERM DAYS</b>	<b>MATURITY</b>	<b>AMOUNT INVESTED</b>	<b>MARKET VALUE</b>	
<b>TERM DEPOSITS</b>									
BANK OF SYDNEY LTD	RIM	N/R	TD	3.75%	210	14-Jan-15	1,000,000	1,000,000	
POLICE CREDIT UNION LTD (SA)	FARQUHARSON	N/R	TD	3.65%	224	14-Jan-15	2,000,000	2,000,000	
SUNCORP	SUNCORP	A+	TD	3.45%	147	28-Jan-15	2,000,000	2,000,000	
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.65%	182	11-Feb-15	1,000,000	1,000,000	
ING BANK (AUSTRALIA)	FIG	A	TD	3.56%	182	25-Feb-15	1,000,000	1,000,000	
ARAB BANK AUSTRALIA LTD	RIM	BB+	TD	3.90%	271	11-Mar-15	1,500,000	1,500,000	
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.58%	182	25-Mar-15	2,000,000	2,000,000	
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.58%	182	8-Apr-15	2,000,000	2,000,000	
SUNCORP	SUNCORP	A+	TD	3.45%	126	22-Apr-15	2,000,000	2,000,000	
ARAB BANK AUSTRALIA LTD	RIM	BB+	TD	3.85%	266	6-May-15	500,000	500,000	
ING BANK (AUSTRALIA)	ING	A-	TD	3.52%	182	20-May-15	2,000,000	2,000,000	
AMP BANK LTD	FARQUHARSON	A+	TD	3.50%	275	29-May-15	1,000,000	1,000,000	
BANK OF QUEENSLAND LTD	BOQ	A-	TD	3.60%	266	3-Jun-15	2,500,000	2,500,000	
AMP BANK LTD	CURVE	A+	TD	3.50%	266	3-Jun-15	1,000,000	1,000,000	
BANK OF QUEENSLAND LTD	BOQ	A-	TD	3.60%	196	17-Jun-15	1,500,000	1,500,000	
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.58%	182	17-Jun-15	2,000,000	2,000,000	
WAW CREDIT UNION CO-OPERATIVE	CURVE	N/R	TD	3.65%	301	1-Jul-15	2,000,000	2,000,000	
AMP BANK LTD	FARQUHARSON	A+	TD	3.50%	266	12-Aug-15	2,000,000	2,000,000	
<b>SUB TOTAL (\$)</b>							<b>29,000,000</b>	<b>29,000,000</b>	
<b>OTHER INVESTMENTS</b>									
NEXUS BONDS LTD "TOPAZ AA-"	GRANGE	A	CDO	0.00%	10yrs	23-Jun-15	412,500	373,317	
ANZ ZERO COUPON BOND	ANZ	AA-	BOND	0.00%	9yrs	1-Jun-17	1,017,877	944,131	
<b>SUB TOTAL (\$)</b>							<b>1,430,377</b>	<b>1,317,448</b>	
<b>INVESTMENTS TOTAL (\$)</b>							<b>30,430,377</b>	<b>30,317,448</b>	
<b>CASH AT BANK (\$)</b>							<b>1,958,638</b>	<b>1,958,638</b>	
<b>TOTAL CASH AND INVESTMENTS (\$)</b>							<b>32,389,015</b>	<b>32,276,086</b>	
CASH AT BANK INTEREST RATE				2.50%					
BBSW FOR PREVIOUS 3 MONTHS				2.79%					
AVG. INVESTMENT RATE OF RETURN				3.42%					
TD = TERM DEPOSIT					FRN = FLOATING RATE NOTE				
CDO = COLLATERALISED DEBT OBLIGATION					FRSD = FLOATING RATE SUBORDINATED DEBT				
*STANDARD AND POORS LONG TERM RATING									
<b>CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER</b>									
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY									
<b>W WALLIS</b>									

ATTACHMENT 2

Cash and Investments Held

Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Dec-13	6.932	20.992	0.939	28.863
Jan-14	4.122	21.271	0.659	26.052
Feb-14	5.006	24.274	0.656	29.936
Mar-14	2.048	25.759	0.171	27.978
Apr-14	2.692	23.761	0.169	26.622
May-14	4.964	25.775	0.156	30.895
Jun-14	1.572	29.276	0.155	31.002
Jul-14 -	0.532	23.290	0.147	22.905
Aug-14	4.375	24.305	0.132	28.811
Sep-14	3.793	29.310	0.126	33.230
Oct-14	0.350	28.313	0.123	28.786
Nov-14	3.293	28.313	0.123	31.729
Dec-14	1.959	30.317	0.113	32.389



ATTACHMENT 3

Australian Term Deposit Accumulation Index

Date	90 Day Term Deposit Index	PSC
Dec-13	3.3007	3.67
Jan-14	3.2797	3.63
Feb-14	3.2527	3.64
Mar-14	3.2397	3.62
Apr-14	3.2216	3.61
May-14	3.1931	3.62
Jun-14	3.1897	3.62
Jul-14	3.1389	3.58
Aug-14	3.1182	3.55
Sep-14	3.1082	3.51
Oct-14	3.0955	3.49
Nov-14	3.0886	3.46
Dec-14	3.0832	3.42



**INFORMATION ITEM NO. 4**

**DESIGNATED PERSONS – PECUNIARY INTEREST**

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

**FILE: PSC2012-02853**

**BACKGROUND**

The purpose of this report is to advise Council of those new Council staff who have submitted Returns.

In accordance with Section 450A of the Local Government 1993, all new staff are required to lodge a Return within three (3) months of commencement. These Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who have submitted Return/s:

Strategic Planner (PSC043)

**ATTACHMENTS**

Nil.

**TABLED DOCUMENTS**

- 1) Pecuniary Interest Returns.



INFORMATION ITEM NO. 5

**PETITION FROM RESIDENTS TO STOP THE RELOCATION OF THE BUS  
STOP AND SHELTER FROM 112 TO 116 GOVERNMENT ROAD, NELSON  
BAY**

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**REPORT OF:** JASON LINNANE – GROUP MANAGER

**GROUP:** FACILITIES AND SERVICES

**FILE:** PSC2013-05152

**BACKGROUND**

The purpose of this report is to advise Councillors that a Petition containing 84 signatures was received on 1 December 2014 from a resident of Government Road requesting that Council stop the proposed relocation of the bus stop and shelter from 112 to 116 Government Road, Nelson Bay.

These works were planned to commence in December 2014 however were placed on hold to allow further consultation as a result of the petition received.

**Funding Background**

The NSW Government through the Community Transport Agreements Branch of Transport for NSW funds the Country Passenger Transport Infrastructure Grants Scheme (CPTIGS) to improve passenger transport facilities in rural and regional communities. The aim of the Scheme is to raise the profile of public transport and increase comfort, amenity and security for country passengers and support operators.

Council has received a grant of \$283,500 for the 2012-13 round (to be expended by March 2015) to upgrade bus facilities to a Disability Discrimination Act (DDA) standard that is safe and promote public transport for all users.

Council is required to have 90% compliance by 2017 under the Disability Discrimination Act (DDA) for bus stops, kerb ramps, paths and other public infrastructure. Port Stephens is currently less than 25% compliant across the LGA, but in targeted areas such as Raymond Terrace Council is on track to achieve over 90% compliance for bus boarding points during the 2014/2015 financial year with assistance from Transport for NSW through CPTIGS funding.

**Government Road Site**

Council has received complaints from bus operators and passengers regarding the bus stop location at 114 Government Rd, west of the intersection with Harrington Street, Nelson Bay. The complaints are primarily due to the large non-standard steps

## **MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015**

to board buses and narrow accesses for elderly, visual and mobility impaired passengers and path users.

Only one suitable relocation site was found to be compliant which took into account site access, sight distance and safety for bus stop users and road users. This site has received \$15,000 in CPTIGS 2012-13 funding to construct a new bus stop and shelter to Council and DDA standards and removal of the existing shelter and concrete slab.

Relocation of existing shelter and hardstand is required to meet Councils obligations to provide accessible public transport to the community.

A site meeting was held with the East Ward Councillors on 18 December 2014. This meeting was held to explain to the Councillors the factors in relation to the combination of lane width, bus stop spacing (<400m), proximity to intersections, crest sight distance and appropriate access requirements for all users. It is after detailed consideration of these matters that Council staff believe that there is no alternative to the proposed site at No. 116 Government Road.

Site discussions with residents and bus operators have occurred on several occasions to discuss and address concerns raised. Discussions in regards to the placement of this shelter have also taken place with Transport for NSW and local Bus Operators through the Transport Operators six monthly meetings as well as the quarterly Port Stephens Transport Working Group meetings held by Transport for NSW.

### **ATTACHMENTS**

- 1) Petition

ATTACHMENT 1

**PETITION FOR PORT STEPHENS COUNCIL – November 2014**

We the undersigned petition the Port Stephens Council to stop the relocation of a bus stop and shelter in Government Road Nelson Bay (Currently sited outside 112, and planned to be resited outside 116). We do so for the following reasons;

1. The planned site is on the crest of a hill, and creates a danger zone with limited vision to vehicles travelling up the hill on the side of the proposed stop.
2. The proposed bus stop will lead to the bus vehicle covering the driveway of Number 116 and prevent rights of access as required
3. Government Road hill, known as Misery Hill to the locals has been the site of many near misses with accelerating vehicles moving up the hill travelling at speeds well beyond the 50 km limits...predominantly at speeds of 80 to 120kms.
4. Many residents –(from 114, 116, 118, and across the road) have personally experienced near misses in attempting to turn left into their driveways with other vehicles passing on their left to overtake at exceptionally high speeds. If we then add a bus into this equation and pedestrians crossing at this site, a tragedy is not too far away.
5. Passengers alighting from the bus at the proposed stop will attempt to cross the road at the site of the bus stop and cannot be seen by accelerating vehicles coming up the hill due to vision being impeded by the shape of the hill crest.
6. Create greater difficulty for residents to safely have a view corridor to exit their properties both up and down Government road.
7. Create far greater safety issues for the elderly who will attempt to cross Government Road at the bus site instead of walking further up the street to a clear view corridor at Harrington Road.
8. The shape of the crest outside 116 impedes a clear view of traffic in both directions.
9. Residents of 118 which is a complex of 3 three flats will have difficulty with car parking on street for their vehicles of family and visitors.

The current site outside 112 was chosen initially many years ago due to these factors and it concerns us as residents that council is ignoring these long term and ongoing community safety issues. We object to the bus hardstand and shelter being moved further down the hill, from the current flat site to a sloping blind crest of a hill. We recommend the bus stop remain as currently sited, and council use their funds for the improvement on the current site.

# NOTICES OF MOTION

# NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217 &  
PSC2009-06567

## PLANNING PROPOSAL TO AMEND THE LEP – EXEMPT DEVELOPMENT – WATER STORAGE FACILITIES

MAYOR BRUCE MACKENZIE

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### THAT COUNCIL:

- 1) Resolve to immediately prepare a Planning Proposal to amend the LEP to include the following:

Add to Schedule 2 Exempt Development:

#### **Water Storage Facilities**

- a) Must only be constructed on land zoned RU1 Primary Production or RU2 Rural Landscape;
- b) Must be less than 1 Megalitre if the subdivision was approved before 1 January 1999 with harvestable water rights or be built on minor streams that capture a maximum of 10 per cent of the property's average regional rainfall run-off;
- c) Must not be on land mapped as Class 1, 2, 3 or 4 on the Acid Sulfate Soils Map;
- d) Maximum depth of 5 metres Australian Height Datum when within 500m of adjacent Class 1, 2, 3 or 4 Acid Sulfate Soil Land and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land;
- e) Minimum distance from any property boundary – 10m;
- f) Must not contain a spillway more than 1m in height;
- g) Must not involve works within 40m of the banks of a named watercourse.

Note: Farm dams must comply with the NSW Farm Dams Policy (Harvestable Dams Policy), a copy of which can be obtained from the NSW Office of Water or relevant State Government Authority

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**BACKGROUND REPORT OF: TIM CROSDALE – STRATEGY & ENVIRONMENT  
SECTION MANAGER, DEVELOPMENT SERVICES**

**ORDINARY COUNCIL MEETING –10 FEBRUARY 2015  
MOTION**

021	<p><b>Mayor Bruce MacKenzie Councillor Paul Le Mottee</b></p> <p>It was resolved that Council immediately prepare a Planning Proposal to amend the LEP to include the following:</p> <p style="padding-left: 40px;">Add to Schedule 2 Exempt Development:</p> <p><b>Water Storage Facilities</b></p> <ul style="list-style-type: none"><li>a) Must only be constructed on land zoned RU1 Primary Production or RU2 Rural Landscape;</li><li>b) Must be less than 1 Megalitre if the subdivision was approved before 1 January 1999 with harvestable water rights or be built on minor streams that capture a maximum of 10 per cent of the property's average regional rainfall run-off;</li><li>c) Must not be on land mapped as Class 1, 2, 3 or 4 on the Acid Sulfate Soils Map;</li><li>d) Maximum depth of 5 metres Australian Height Datum when within 500m of adjacent Class 1, 2, 3 or 4 Acid Sulfate Soil Land and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land;</li><li>e) Minimum distance from any property boundary – 10m;</li><li>f) Must not contain a spillway more than 1m in height;</li><li>g) Must not involve works within 40m of the banks of a named watercourse.</li></ul> <p>Note: Farm dams must comply with the NSW Farm Dams Policy (Harvestable Dams Policy), a copy of which can be obtained from the NSW Office of Water or relevant State Government Authority</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

## MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

### BACKGROUND

Under the provisions of the Port Stephens Local Environmental Plan 2013 (PSLEP 2013) a Farm Dam is not currently considered as exempt development and in turn requires a development application to be lodged with Council. This Notice of Motion seeks to remove the need for an application to be lodged with Council for small dams by specifying this class of development as exempt subject to meeting the criteria.

Upper Hunter Shire and the Mid-Western Regional Council have achieved this through similar amendments to their respective LEPs.

In consideration of this Notice of Motion it is important to note that the construction of farm dams may trigger other requirements for development approval or licences separate to its development classification. In this regard there are a number of provisions related to water licensing requirements as outlined in the NSW Farm Dams Policy.

As such a proposed amendment to the PSLEP 2013 would need to be drafted to reflect the need to adhere to the NSW Farm Dams Policy. This is consistent with the approach taken by both Upper Shire and Mid-Western Regional Councils in their amendments to their LEP provisions.

Moreover, the PSLEP 2013 requires development consent for certain ground disturbance activities within areas of the LGA mapped as Acid Sulphate Soils (ASS). This can be addressed in the planning proposal through specifying exclusion from Class 1 to 4 ASS and reflecting the specific depth restrictions for land mapped as Class 5 ASS.

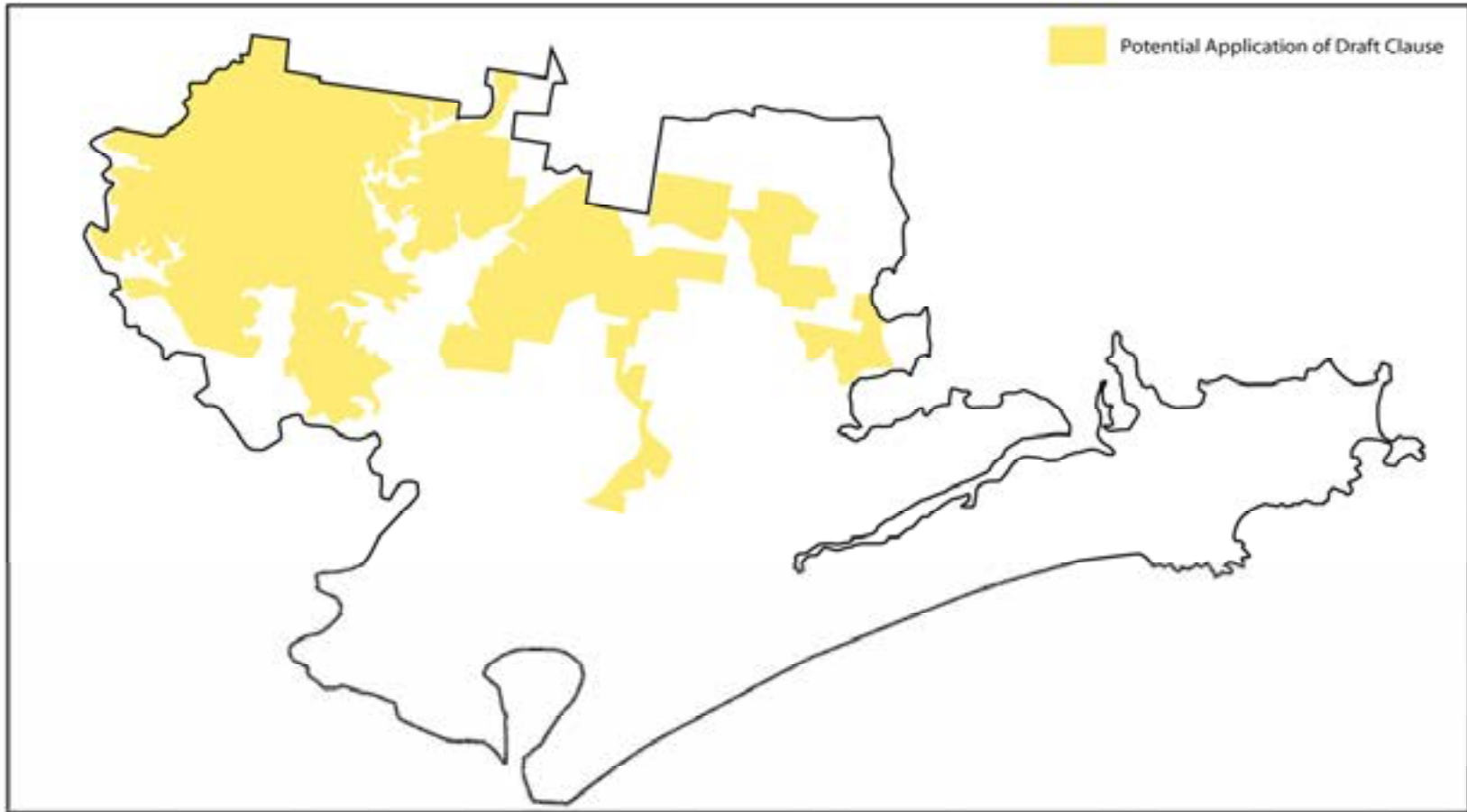
The Notice of Motion would result in those rural landowners in the north and western portions of the Local Government Area not being required to submit a development application for the construction of farm dams subject to meeting the criteria. The area of application of this Notice of Motion is shown on **(ATTACHMENT 1)**.

The standard process for proposed amendments to the PSLEP 2013 is approval from the Department of Planning and Environment subject to the review of the Planning Proposal. At this stage it is unclear on the Department's position on the proposed amendment which will be established through consultation with the Department through the preparation of the Planning Proposal.

### ATTACHMENT

- 1) Locations where the proposed Clause applies.

**ATTACHMENT 1**  
**Locations where the proposed Clause applies**





# NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217 &  
PSC2009-06567

## PLANNING PROPOSAL TO AMEND THE LEP – EXEMPT DEVELOPMENT – REALIGNMENT OF BOUNDARIES

MAYOR BRUCE MACKENZIE

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### THAT COUNCIL:

- 1) Resolve to immediately prepare a Planning Proposal to amend the LEP to include the following:

Add to Schedule 2 Exempt Development:

#### **Realignment of Boundaries**

The Realignment of Boundaries pursuant to this Clause:

- a) must be of minimal environmental impact, and
- b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994), and
- c) cannot be carried out in a wilderness area (identified under the Wilderness Act 1987).
- d) cannot be carried on land on which a heritage item or draft heritage item is situated.

This Clause applies to land in Zones:

- i. RU1 Primary Production,
- ii. RU2 Rural Landscape,
- iii. RU3 Forestry,
- iv. RU4 Primary Production Small Lots,
- v. RU6 Transition,
- vi. R5 Large Lot Residential,
- vii. E2 Environmental Conservation,

- viii. E3 Environmental Management or
- ix. E4 Environmental Living.

The subdivision of land, for the purpose only of any one or more of the following, is exempt development specified for this clause:

- a) widening a public road,
- b) a realignment of boundaries:
  - i. that will not create additional lots or the opportunity for additional dwellings, and
  - ii. that will not create a resultant lot that is more than 15% different in area to at least one pre-existing lot
  - iii. that will not result in one or more lots that are smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless the original lot or lots are already smaller than the minimum size), and
  - iv. that will not adversely affect the provision of existing services on a lot, and
  - v. that will not result in any increased bush fire risk to existing buildings,
- c) rectifying an encroachment on a lot,
- e) creating a public reserve,
- d) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

Add to Part 4 Principal Development Standards

**Exceptions to minimum subdivision lot size for lot boundary adjustments in certain Rural, Residential and Environmental Zones.**

The objective of this clause is to facilitate boundary adjustments between lots if one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land and the objectives of the relevant zone can be achieved.

- 1) This clause applies to land in the following zones:

- i. RU1 Primary Production,
- ii. RU2 Rural Landscape,
- iii. RU3 Forestry,
- iv. RU4 Primary Production Small Lots,
- v. RU6 Transition,
- vi. R5 Large Lot Residential,
- vii. E2 Environmental Conservation,
- viii. E3 Environmental Management or
- ix. E4 Environmental Living.

2) Despite clause 4.1, development consent may be granted to subdivide land by adjusting the boundary between adjoining lots if one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land, and the consent authority is satisfied that:

- a) the subdivision will not create additional lots or the opportunity for additional dwellings, and
- b) the number of dwellings or opportunities for dwellings on each lot after subdivision will be the same as before the subdivision, and
- c) the potential for land use conflict will not be increased as a result of the subdivision, and
- d) if the land is in a rural zone, the agricultural viability of the land will not be adversely affected as a result of the subdivision.

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**ORDINARY COUNCIL MEETING –10 FEBRUARY 2015**  
**MOTION**

<b>022</b>	<p><b>Mayor Bruce MacKenzie</b>  <b>Councillor Paul Le Mottee</b></p> <p>It was resolved that Council immediately prepare a Planning Proposal to amend the LEP to include the following:</p> <p style="padding-left: 40px;"><u>Add to Schedule 2 Exempt Development:</u></p> <p><b>Realignment of Boundaries</b></p> <p>The Realignment of Boundaries pursuant to this Clause:</p> <ul style="list-style-type: none"> <li>a) must be of minimal environmental impact, and</li> <li>b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified</li> </ul>
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under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994), and

- c) cannot be carried out in a wilderness area (identified under the Wilderness Act 1987).
- d) cannot be carried on land on which a heritage item or draft heritage item is situated.

This Clause applies to land in Zones:

- x. RU1 Primary Production,
- xi. RU2 Rural Landscape,
- xii. RU3 Forestry,
- xiii. RU4 Primary Production Small Lots,
- xiv. RU6 Transition,
- xv. R5 Large Lot Residential,
- xvi. E2 Environmental Conservation,
- xvii. E3 Environmental Management or
- xviii. E4 Environmental Living.

The subdivision of land, for the purpose only of any one or more of the following, is exempt development specified for this clause:

- a) widening a public road,
- b) a realignment of boundaries:
  - i. that will not create additional lots or the opportunity for additional dwellings, and
  - ii. that will not create a resultant lot that is more than 15% different in area to at least one pre-existing lot
  - iii. that will not result in one or more lots that are smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless the original lot or lots are already smaller than the minimum size), and
  - iv. that will not adversely affect the provision of existing services on a lot, and
  - v. that will not result in any increased bush fire risk to existing buildings,
- c) rectifying an encroachment on a lot,
- e) creating a public reserve,
- d) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

Add to Part 4 Principal Development Standards

**Exceptions to minimum subdivision lot size for lot boundary adjustments in certain Rural, Residential and Environmental Zones.**

The objective of this clause is to facilitate boundary adjustments between lots if one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land and the objectives of the relevant zone can be achieved.

- 1) This clause applies to land in the following zones:
  - x. RU1 Primary Production,
  - xi. RU2 Rural Landscape,
  - xii. RU3 Forestry,
  - xiii. RU4 Primary Production Small Lots,
  - xiv. RU6 Transition,
  - xv. R5 Large Lot Residential,
  - xvi. E2 Environmental Conservation,
  - xvii. E3 Environmental Management or
  - xviii. E4 Environmental Living.
- 2) Despite clause 4.1, development consent may be granted to subdivide land by adjusting the boundary between adjoining lots if one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land, and the consent authority is satisfied that:
  - a) the subdivision will not create additional lots or the opportunity for additional dwellings, and
  - b) the number of dwellings or opportunities for dwellings on each lot after subdivision will be the same as before the subdivision, and
  - c) the potential for land use conflict will not be increased as a result of the subdivision, and
  - d) if the land is in a rural zone, the agricultural viability of the land will not be adversely affected as a result of the subdivision.

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

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

**BACKGROUND REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER, DEVELOPMENT SERVICES**

**BACKGROUND**

Boundary realignments are not currently a permissible form of development under the Port Stephens Local Environmental Plan 2013 (PSLEP 2013). Rather, boundary realignments are permitted under the State policy – SEPP (Exempt and Complying Codes) 2008. The State policy permits boundary realignments without the requirement for gaining a development consent, however only when a number of conditions can be met.

Changes to the State policy over time has seen a continued restriction on the scenarios where boundary realignments can be carried out, to the extent that proposals once considered to be straight-forward developments are no longer permissible.

The restrictions imposed on boundary alignments results in impractical development outcomes in many instances, where boundaries on the map do not relate to topographical or physical features of the land. Consequently, public confidence in the planning process can be negatively impacted.

To restore a practical outcome based solution, Council has the option to prepare a planning proposal to introduce permissibility for boundary realignments under the PSLEP 2013, such as described in the resolution above.

It is noted that the above resolution addresses those boundary realignments permissible without consent. In addition the above resolution also provides for Council to consider a planning proposal to address those boundary realignments that do not meet the above stated criteria, allowing a merits based assessment to be carried out via a development application.

The standard process for proposed amendments to the PSLEP 2013 is approval from the Department of Planning and Environment subject to the review of the Planning Proposal. At this stage it is unclear on the Department's position on the proposed amendment which will be established through consultation with the Department through the preparation of the Planning Proposal.

It is noted that in the planning framework there is generally a requirement for local environmental plans to maintain consistency with State policy. In this instance, the consistency between the State policy and the proposed amendments to the PSLEP 2013 would need to be established with the Department of Planning and Environment. This may require lobbying of the State Government to change the State policy to provide for consistency with the proposed amendment to the PSLEP 2013.

There being no further business the meeting closed at 6.47pm.