

# DRAFT

## MINUTES – 26 APRIL 2016



# PORT STEPHENS

## COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 26 April 2016, commencing at 5.31pm.

**PRESENT:**

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

<b>089</b>	<b>Councillor Paul Le Mottee Councillor Steve Tucker</b>  It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 12 April 2016 be confirmed.
------------	--

Cr Ken Jordan entered the meeting at 5.36pm.

**MINUTES ORDINARY COUNCIL - 26 APRIL 2016**

	Cr Paul Le Mottee declared a pecuniary conflict of interest in Item 3. The nature of the interest is that the Le Mottee Group has undertaken survey work on the site.
--	---

# INDEX

SUBJECT PAGE NO

**COUNCIL REPORTS ..... 4**

1. DEVELOPMENT APPLICATION 16-2015-865-1 - TORRENS TITLE SUBDIVISION (ONE INTO SEVEN LOTS) AT 155 SALAMANDER WAY, SALAMANDER BAY (LOT 284, DP 806310) .....42
2. DEVELOPMENT APPLICATION FOR A CHANGE OF USE TO A RETAIL PREMISES (IGA LIQUOR STORE) AT SHOP 3B, NO.118 GAN GAN RD, ANNA BAY (LOT 111 DP 1086178) .....75
3. SECTION 82A APPLICATION FOR REVIEW OF DETERMINATION NO.16-2015-221-1 FOR SINGLE DWELLING AT NO.7 HIGH STREET HINTON (LOT: 1A DP: 9901)..... 104
4. COMPULSORY ACQUISITION - FORMER ANNA BAY FIRE STATION SITE AT 4290 NELSON BAY ROAD, ANNA BAY ..... 126
5. NAMING OF RESERVES AT CORLETTE - COVE RESERVE, MOORING RESERVE & CORLETTE HILL RESERVE ..... 136
6. INTEGRATED RISK MANAGEMENT POLICY ..... 141
7. 355(C) COMMITTEE TERMS OF REFERENCE APPENDIX REVIEW ..... 164
8. BOOMERANG PARK PLAN OF MANAGEMENT .....5
9. LOWER HUNTER COMMUNITY ADVISORY GROUP - PORT STEPHENS COUNCIL REPRESENTATIVE..... 169
10. LOCAL GOVERNMENT MAYORS WEEKEND SEMINAR, SYDNEY 2016..... 172
11. INFORMATION PAPERS ..... 177

**INFORMATION PAPERS ..... 179**

1. CASH AND INVESTMENTS HELD AS AT 31 MARCH 2016 ..... 180
2. QUARTERLY REPORT OF MAYOR AND COUNCILLORS EXPENSES 2015-2016..... 184

# COUNCIL REPORTS

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>090</b>	<b>Councillor Paul Le Mottee Councillor Chris Doohan</b>  It was resolved that Item 8 be brought forward and dealt with in Open Council prior to Item 1.
------------	--

**ITEM NO. 8**

**FILE NO: 16/308360  
RM8 REF NO: PSC2016-00031**

**BOOMERANG PARK PLAN OF MANAGEMENT**

REPORT OF: STEVEN BERNASCONI - COMMUNITY SERVICES SECTION  
MANAGER

GROUP: FACILITIES & SERVICES

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the submissions (**ATTACHMENT 1, TABLED DOCUMENT 2**) received through the public exhibition for the draft Boomerang Park Plan of Management.
  - 2) Adopt the Boomerang Park Plan of Management (**TABLED DOCUMENT 1**).
- 

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

Cr Ken Jordan entered the meeting at 5.36pm, during Item 8 in Open Council.

<b>091</b>	<b>Councillor Paul Le Mottee Councillor Chris Doohan</b>  It was resolved that Council:  <ol style="list-style-type: none"><li>1) Note the submissions received through the public exhibition for the draft Boomerang Park Plan of Management.</li><li>2) Council endorse the re-categorisation of community land in the publicly exhibited draft Boomerang Park Plan of Management as resolved for exhibition on 2 February 2016, on the basis that the proposed category of "park" is suitable for the current and future permitted use of the land and in accordance with the original dedication as a "recreation reserve".</li><li>3) Adopt the Boomerang Park Plan of Management with the following amendment inserted at section 3.9 Heritage page 18 between paragraphs two and three "Aboriginal objects that had been removed</li></ol>
------------	---

## MINUTES ORDINARY COUNCIL - 26 APRIL 2016

	<p>from Boomerang Park in the 1970's and 1980's were recovered by the NSW Office of Environment and Heritage in March 2016. These Aboriginal objects are now in the care of Worimi Local Aboriginal Land Council and their current location and provenance is registered on the Aboriginal Heritage Information Management System."</p> <p>4) Adopt the Boomerang Park Plan of Management.</p>
--	--

### BACKGROUND

The purpose of this report is to seek Council's endorsement of the Boomerang Park Plan of Management (Plan) (**TABLED DOCUMENT 1**).

Boomerang Park has an existing plan of management that was adopted in November 2000. It is standard practice to review plans of management for Council land every five years. Given the current plan of management has not been reviewed for 16 years, and the demand for uses of Boomerang Park has changed over that time, this review has now been undertaken.

The draft Plan was presented to Council on 2 February 2016 and underwent review by public exhibition for 42 days from 10 February 2016 to 23 March 2016. A total of 151 submissions were received. Expressions of support, objection and recommendation were made across a suite of issues. (**ATTACHMENT 1**) is a summary of the key points and responses to each submission.

The proposal in the draft Plan to re-categorise Boomerang Park to "park" from "sports ground", "area of cultural significance" and "park" triggered the requirement for a public hearing in accordance with *s40(A) of the Local Government Act 1993*. A public hearing was held on 3 March 2016 and was chaired by an independent third party with experience in land use planning. Approximately 85 people attended the public hearing with 23 people speaking both for and against the proposed re-categorisation. (**ATTACHMENT 2**) is the report from the public hearing chairperson.

After reviewing and considering the submissions to the public exhibition period and the public hearing report it is recommended to retain the objectives of the Plan being:

- Meet all legislative requirements;
- Support the conservation and interpretation of heritage values of the park;
- Support the ecological values of the park;
- Expand the recreational opportunities for all ages within Boomerang Park;
- Develop management actions which align with the landscape master plan (detailed in section 1.8 and section 4.1) illustrating action required to implement improvements to the park.

Changes made to the Plan after the public exhibition period and public hearing are found at (**ATTACHMENT 3**).

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Provide passive and active recreation and leisure services and facilities.	Maintain and develop recreational facilities for residents and visitors.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial or resource implications from adopting the recommendations.

Any works or actions recommended in the Plan are subject to Council's annual budgetary processes and the Community Strategic Plan process.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

There are no legal or policy impediments from adopting the recommendations.

The Plan is a legal document that provides a clear framework for the future management of the site. The Plan contains detailed information relating to the present use of the land and intentions about future development, planned usage, as well as current and proposed license and leases over the site.

Preparation of the Plan has been done pursuant to the *Local Government Act 1993*.

The draft Plan was reviewed by LG Legal for compliance with the *Local Government Act 1993*.

During the public exhibition period the NSW Office of Environment and Heritage (OEH) contacted Council regarding allegations that Aboriginal objects had been allegedly removed from Boomerang Park. A subsequent site inspection with OEH and community representatives with knowledge of the alleged Aboriginal objects occurred on 21 March 2016. The result of the site inspection has been the return of verified Aboriginal objects to Worimi Local Aboriginal Land Council and the discarding of other objects not found to be Aboriginal objects. At the time of preparing this report, no further correspondence had been received regarding this matter.

**MINUTES ORDINARY COUNCIL - 26 APRIL 2016**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that adopting the Plan may lead to community objections relating to the proposed reclassification and rezoning resulting in reputation damage.	Medium	Adopt the recommendations in the knowledge that there is opposition to the reclassification/rezoning proposal that is to be addressed in a separate statutory process.	Yes
There is a risk that adopting the Plan with no significant changes from the draft Plan may be viewed as not giving due consideration to the concerns of those submissions opposed to some or all of the draft Plan resulting in reputation damage and possible legal challenge.	Medium	Adopt the recommendations in the knowledge that all submissions have been reviewed in full and considered against the regulatory requirements of plans of management for community land. Note that the Plan has been reviewed for legal rigor by LG Legal.	Yes
There is a risk that not adopting the Plan will limit Council's ability to undertake the suite of actions and studies detailed in the Plan and the Landscape Master Plan resulting in lost opportunity for new uses for Boomerang Park.	Medium	Adopt the recommendations.	Yes



**MINUTES ORDINARY COUNCIL - 26 APRIL 2016**

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that submissions opposed to the draft Plan on the grounds of the categorisation of "park" and its impact on heritage or ecological conservation values may view the Plan as not providing adequate protection of these values of Boomerang Park.	Low	Adopt the Recommendations in the knowledge that the objectives of the Plan include the conservation of cultural heritage values, ecological values and recreation values as well as provide for further studies to be undertaken to develop a cultural heritage interpretation strategy for the Park. Note that the third party cultural heritage assessment notes the significance of Boomerang Park to the local area as a whole park and that this significance is not depleted by the Plan or the categorisation of the Park as a "park".	Yes
There is a risk that amending the Plan will lead to the Plan being re-exhibited in accordance with the Local Government Act resulting in reputation damage.	Low	Adopt the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

In the development of the Plan a heritage and ecological assessment was completed to ensure accurate classification and categorisation of the site. These assessments confirmed the location of heritage and ecologically significant features of the park. By identifying these features the Plan has included management strategies for them to be retained and enhanced.

The Plan will enable greater public use and enjoyment of the site through the provision of new infrastructure and facilities. The Plan expands the opportunities for informal community interaction as well as organised events and gatherings at a range of scales through the embellishment of the park infrastructure and landscape.

The Plan proposes to retain the large natural areas with increased planting density to increase the natural character and also assist in habitat connectivity. By maintaining this large section of natural area it will ensure a balance between the developed area of the park and the natural area.

### **MERGER PROPOSAL IMPLICATIONS**

There are no implications for a merger with Newcastle City Council or any other local government body. The Boomerang Park Plan of Management is a local issue with local implications.

### **CONSULTATION**

The draft Plan was publicly exhibited from 10 February 2016 to 23 March 2016 on Council's website and copies were also made available for viewing at Council's Administration Building and Tomaree Library.

Notification of the exhibition was advertised in the Port Stephens Examiner and details were also posted on Council's website.

An update of the draft Plan public exhibition process was presented to the Aboriginal Strategic Committee meeting held 16 February 2016 and an invitation was given to receive submissions from the Worimi and Karuah Local Aboriginal Land Councils.

A public hearing was held on 3 March 2016 at Raymond Terrace Senior Citizens Centre. Notification of the consultation session was advertised on Council's website, the Port Stephens Examiner and invitations were also emailed to stakeholder groups such as the Boomerang Park Action Group and Council Parks and Reserve 355b Committees. Approximately 85 members of the community attended this session with 23 community members speaking for and against the re-categorisation of the park. **(ATTACHMENT 2)** is the report on the findings of the public hearing.

During the exhibition period the community was able to give feedback via written submissions. Council received a total of 151 written submissions. A summary of all written submissions and feedback received through the exhibition period is provided at **(ATTACHMENT 1)**. A redacted full copy of all submissions is provided at **(TABLED DOCUMENT 2)**.

The main themes from the public exhibition and public hearing include:

- Objections to the proposed re-classification/rezoning proposal of part of Boomerang Park: This matter is not addressed in the draft plan of management as it is dealt with by a separate statutory process.
- Re-categorisation to "park" from "sports ground", "area of cultural significance" and "park": Concerns raised centre largely on the perception that the community land category of "park" will result in a loss of cultural and ecological heritage of Boomerang Park. The response to this concern is that the category of "park" aligns with the original dedication of Boomerang Park as a public reserve in

1837 as well as the subsequent dedication as a recreation reserve in 1892. The "park" category does not inhibit the protection of cultural or ecological heritage. The Plan incorporates all of the recommendations in the heritage assessment of Boomerang Park including but not limited to the completion of an interpretive study to guide how the history of Boomerang Park can be best presented.

- Proposed Men's Shed: Support and objections relating to the Raymond Terrace Men's Shed being sited on Boomerang Park.
- Landscape Master Plan: Concerns raised around perceptions of alienation of community land by specific allocation of parts of Boomerang for specific uses (e.g. playground, Men's Shed, community garden, croquet).

### **OPTIONS**

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

### **ATTACHMENTS**

- 1) Summary of submissions received through public exhibition.
- 2) Report from public hearing held on 3 March 2016.
- 3) Changes made to draft Boomerang Park Plan of Management post public exhibition 10 February to 23 March 2016.

### **COUNCILLORS ROOM**

- 1) Proposed Boomerang Park Plan of Management.
- 2) Redacted full copy of submissions received from public exhibition period.

### **TABLED DOCUMENTS**

- 1) Proposed Boomerang Park Plan of Management.
- 2) Redacted full copy of submissions received from public exhibition period.

**ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.**

**Community Consultation Report  
Boomerang Park Draft Plan of Management**

---

The draft Boomerang Park Plan of Management was prepared to reflect Council's adopted 2014 Landscape Master Plan, which sets the long term vision for the parkland.

**CONSULTATION OBJECTIVE:**

To seek feedback from the community on the draft Boomerang Park Plan of Management.

**CONSULTATION ACTIVITIES:**

- The draft Plan of Management was made available to the public between the dates of 10 February 2016 to 23 March 2016.
- The plan was displayed at the following locations, along with an explanation as to how people could provide feedback:
  - on Council's website;
  - Council's Administration Building;
  - Raymond Terrace Library, and
  - Tomaree Library.
- Details of the exhibition period and community drop in information session were advertised in the local paper 'The Examiner' and also on Council's website.
- Community 'two-on-two' consultation sessions were held on Wednesday 24 February 2016 between 9:00am and 12:00pm, where the community could come and view the draft plan and speak with the project team.
- A public hearing was held on Thursday 3 March 2016 regarding the proposed recategorisation of the park.

**CONSULTATION OUTCOMES:**

**Community 'two-on-two' Consultation Sessions**

The community 'two-on-two' consultation sessions were held on Wednesday 24 February 2016 at Council's Administration building. A total of eight (8) people attended, in four (4) groups.

**Re-categorisation Public Hearing**

The public hearing regarding the proposed re-categorisation of the park was held at 5pm on Thursday 3 March 2016 at the Senior Citizens Hall in Raymond Terrace. Eighty five (85) people attended, twenty-three (23) spoken submissions were made and a further three (3) written submissions were presented.

**Submissions Received**

A total of one hundred and forty-eight (148) submissions were received via email and post during the exhibition period and consisted of:

**ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.**

- Forty-eight (48) individual submissions were received with three (3) of these submissions representing external organisations and groups.
- Two (2) form letters were also submitted; the first with forty (40) submissions and the second with fifty-two (52) submissions.
- A petition with eighty-one (81) signatures, objecting to the Men's Shed development being accessed through the Senior Citizen's car park.

A further three (3) submissions were received after the exhibition period. These three (3) submissions have been considered in the context of the community consultation phase and are summarised below.

For clarity a total of 151 written submissions have been reviewed as part of the consultation process for this Plan of Management.

The following is a summary of issues, comments and concerns raised:

Ref	Date of Receipt	Submitter	Summary of issues raised	Response
1	16 Feb 2016	Resident 1	1) Against any changes to the park, with primary concern relating to the proposed area of land identified for possible rezoning and reclassification.	1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.  However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.
2	16 Feb 2016	Resident 2	1) Raises objection to the proposed area of land identified for possible rezoning and reclassification, based on the following concerns: - The existing categorisation of the park as 'area of cultural significance'; - Potential effects a development would have on the wildlife in the park; - Impact on school activities in the park e.g. cross country events. 2) Raises objection to the building of a Men's Shed in Boomerang Park. 3) Supports the future use of the park for 'public recreation and open space'.	1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.  However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.  2) Noted. The location of the Men's Shed was established in the Master Plan, adopted by Council in November 2014. The building is subject to a development

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

				application. 3) Noted.
3	19 Feb 2016	Resident 3	<p>1) Supportive of new facilities in the park to meet the needs of a growing community, however raises objection to the following facilities:</p> <ul style="list-style-type: none"> <li>- Men's Shed building;</li> <li>- Croquet Courts;</li> <li>- Area rezoned and reclassified for residential housing;</li> <li>- Skate Park.</li> </ul>	<p>1) Noted. The master plan for this site, identifying future facilities and improvements to the park, was subject to a separate exhibition period and adopted by Council in November 2014.</p> <p>The Men's Shed building is subject to a Development Application.</p> <p>This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution</p>
4	20 Feb 2016	Resident 4	<p>1) Raises objection to the proposed area of land identified for rezoning and reclassification;</p> <p>2) Supportive of the children's playground addition to the park.</p>	<p>1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p> <p>2) Noted.</p>
5	22 Feb 2016	Resident 5	<p>1) Supportive of the proposed Men's Shed development in the park, however raises concern over the proposed building design;</p> <p>2) Raises objection to the proposed area of land identified for rezoning and reclassification;</p>	<p>1) The Men's Shed building is subject to a Development Application;</p> <p>2) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or</p>

**ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.**

				endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.
6	22 Feb 2016	Resident 6	1) Raises objection to the proposed area of land identified for rezoning and reclassification.	1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.  However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.
7	26 Feb 2016	Resident 7	1) Supports the construction of a new Men's Shed in Boomerang Park.	1) Noted. The Men's Shed building is subject to a Development Application.
8	27 Feb 2016	Resident 8	1) Supports the draft Plan of Management and also the proposed Men's Shed development.	1) Noted.
9	28 Feb 2016	Resident 9	1) Wholly supports the draft Plan of Management and also the proposed Men's Shed development.	1) Noted.
10	29 Feb 2016	Resident 10	1) Raises objection to the proposed area of land identified for rezoning and reclassification.	1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.  However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.
11	29 Feb 2016	Resident 11	1) Supports the draft Plan of Management and also the proposed Men's Shed development.	1) Noted.
12	29 Feb 2016	Resident 12	1) Supports the draft Plan of Management and also the proposed Men's Shed development.	1) Noted.

**ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.**

13	29 Feb 2016	Resident 13	1) Supports the draft Plan of Management and also the proposed Men's Shed development.	1) Noted.
14	1 Mar 2016	Resident 14	1) Supports the draft Plan of Management and also the proposed Men's Shed development.	1) Noted.
15	1 Mar 2016	Resident 15	1) Supports the draft Plan of Management and also the proposed Men's Shed development.	1) Noted.
16	2 Mar 2016	Resident 16	1) Supports the construction of a new Men's Shed in Boomerang Park.	1) Noted. The Men's Shed building is subject to a Development Application.
17	2 Mar 2016	Resident 17	1) Supports the construction of a new Men's Shed in Boomerang Park. 2) Supports the re-categorisation to 'park'.	1) Noted. The Men's Shed building is subject to a Development Application. 2) Noted.
18	2 Mar 2016	Resident 18	1) Supports the construction of a new Men's Shed in Boomerang Park.	1) Noted. The Men's Shed building is subject to a Development Application.
19	2 Mar 2016	Resident 19	1) Supports the draft Plan of Management and also the proposed Men's Shed development.	1) Noted.
20	2 Mar 2016	Resident 20	1) Supports the proposed re-categorisation of the park to enable the construction of the Men's shed.	1) Noted.
21	2 Mar 2016	Resident 21	1) Supports the proposed re-categorisation of the park and also the proposed Men's shed.	1) Noted.
22	2 Mar 2016	Resident 22	1) Supports the draft Plan of Management, the Men's Shed proposal and also the proposal to rezone and reclassify the area of land within the park.	1) Noted.
23	6 Mar 2016	Resident 23	1) Supports the draft Plan of Management and the Men's Shed proposal.	1) Noted.
24	4 Mar 2016	Resident 24	1) Supports the proposed re-categorisation of the park and also the Men's shed proposal.	1) Noted.
25	7 Mar 2016	Raymond Terrace Senior Citizens	1) Raises concern regarding car access to the proposed Men's shed through the Senior Citizen's car park.	1) The Men's Shed building is subject to a Development Application.



ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

26	8 Mar 2016	Resident 25	<ol style="list-style-type: none"> <li>1) Raises objection to the proposed re-categorisation of the park, as believes that it is too broad;</li> <li>2) Raises objection to the current zoning of the park as RE1 as believes this is too broad;</li> <li>3) Raises objection to Section 3.11 Leases and Licences within the draft Plan of Management, being too broad;</li> <li>4) Raises concerns that Council plans to build croquet courts within the park;</li> <li>5) Objects to the reference in the draft Plan of Management that the proposal for rezoning and reclassification is subject to a separate process;</li> <li>6) Raises concern that the purpose of the draft Plan of Management is too vague and imprecise.</li> </ol>	<ol style="list-style-type: none"> <li>1) The determination of the category 'park' is in accordance with the: <ul style="list-style-type: none"> <li>- 1892 dedication of the land as a 'recreation reserve';</li> <li>- guidelines in the Local Government (General) Regulation 2005; and</li> <li>- objectives of the master plan to strengthen the role of the park as an important community recreational space.</li> </ul> </li> <li>2) The zoning for this park has been determined under the Port Stephens Local Environmental Plan 2013;</li> <li>3) Future entry into specific leases, licences, casual hire, agreements and grant of other estate will be subject to approval by Council;</li> <li>4) The proposal for croquet courts was adopted by Council in the 2014 master plan for the site;</li> <li>5) Noted;</li> <li>6) The purpose of the draft Plan of Management is articulated in Section 1.5.</li> </ol>
27	9 Mar 2016	Resident 26	<ol style="list-style-type: none"> <li>1) Supports the proposed re-categorisation of the park, the draft Plan of Management and the proposal for the Men's shed.</li> </ol>	<ol style="list-style-type: none"> <li>1) Noted.</li> </ol>
28	10 Mar 2016	Resident 27	<ol style="list-style-type: none"> <li>1) Objects to the requirement of a new Plan of Management.</li> <li>2) Opposes the changes in the draft Plan of Management, specifically the proposal for any area of the park to be rezoned and reclassified;</li> <li>3) Raises objection to the proposed re-categorisation, as believes that it will diminish the park's heritage and is contrary to Umwelt's heritage report. Believes it should be categorised as 'area of cultural significance' to restrict development in the park.</li> </ol>	<ol style="list-style-type: none"> <li>1) This draft Plan of Management is required to update the 2000 plan to reflect the current status of the park and the Council's 2014 adopted master plan for the site;</li> <li>2) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.  However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</li> <li>3) The determination of the category 'park' is in accordance with the: 1892 dedication of the land as a 'recreation reserve';</li> </ol>

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

				<ul style="list-style-type: none"> <li>- guidelines in the Local Government (General) Regulation 2005; and</li> <li>- objectives of the master plan to strengthen the role of the park as an important community recreational space.</li> </ul>
29	14 Mar 2016	Resident 28	<ol style="list-style-type: none"> <li>1) Supports the draft Plan of Management and the Men's Shed new building proposal.</li> <li>2) Suggests that heritage signage and photos could be installed in the park to educate visitors of the park's history;</li> <li>3) Raises concern that the Men's Shed development is associated with the proposal to rezone and reclassify an area for potential residential housing.</li> </ol>	<ol style="list-style-type: none"> <li>1) Noted.</li> <li>2) A recommendation in the draft Plan of Management proposes that an interpretive strategy be developed to assist in the best approach to representing the park's cultural heritage e.g. interpretive signage.</li> <li>3) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.  However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</li> </ol>
30	20 Mar 2016	Port Stephens Greens	<ol style="list-style-type: none"> <li>1) Concerned that the public were misled and confused about the purpose of the public hearing;</li> <li>2) Concerned that the public is confused about the different planning processes underway for Boomerang Park and that Council has not been helpful in explaining the objectives and differences of each process;</li> <li>3) Objects to the proposed re-categorisation of the park to 'Park'. Proposes that the park be categorised as 'area of cultural significance';</li> <li>4) Concerned that there are inconsistencies between the two most recent independent heritage reports;</li> <li>5) Questions how an objective of the draft Plan of Management can propose to 'support the conservation and interpretation of heritage values of the park' without the park being categorised as an 'area of</li> </ol>	<ol style="list-style-type: none"> <li>1) A fact sheet was provided with information to better aid the community's understanding of the re-categorisation and public hearing process. In addition to this, the convener at the public hearing also made it clear that the purpose for the hearing was in accordance with section 40A(1) of the Local Government Act, 1993 which provides as follows:  <i>The council must hold a public hearing in respect of a proposed plan of management (including a plan of management that amends another plan of management) if the proposed plan would have the effect of categorising, or altering the categorisation of, community land under section 36 (4).</i></li> <li>2) To better aid the community's understanding of the different planning processes pertaining to Boomerang Park, Council made available fact sheets on its</li> </ol>

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

		<p>cultural significance';</p> <p>6) There should be no further development in the park outside the area designated for 'community services' under the Boomerang Park Plan of Management 2000;</p> <p>7) Proposes that the only category for the park is 'an area of cultural significance' based on previous assessments and expert reports. There has been no adequate justification from Council for the change.</p> <p>8) Raises concern over the protection of fauna and flora in the park and supports any changes to maintain or increase environmental protection.</p>	<p>website. Two-on-two consultation sessions with Council staff during the exhibition period were also another opportunity for the community to ask questions;</p> <p>3) The determination of the category 'park' is in accordance with the:</p> <ul style="list-style-type: none"> <li>- 1892 dedication of the land as a 'recreation reserve';</li> <li>- guidelines in the Local Government (General) Regulation 2005; and</li> <li>- objectives of the master plan to strengthen the role of the park as an important community recreational space.</li> </ul> <p>4) The overall principles and general intent of both reports is clear and consistent. The most recent report from Umwelt (attached to the draft Plan of Management), has been the primary source of consideration to inform the development of the plan;</p> <p>5) The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy for the park which will recommend a variety of interpretive techniques to inform park user of the history of the park;</p> <p>6) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan. However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p> <p>7) Noted. Refer Note 3.</p>
--	--	--	---

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

				8) Noted. Expert heritage and ecological studies have been undertaken to inform this Plan of Management, to ensure best practise management recommendations for the park into the future.
31	21 Mar 2016	Resident 29	1) Objects to the new draft Plan of Management and development in the park.	1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan. However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.
32	21 Mar 2016	Resident 30	1) Objects to the re-categorisation of the park, as believes that the new category of 'park' will allow development in the park alienating public space, which will have a negative impact on recreational, cultural and conservation activities in the park.	1) The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy for the park which will recommend a variety of interpretive techniques to inform park user of the history of the park
33	22 Mar 2016	Resident 31	1) Objects to the proposed area of land identified for possible rezoning and reclassification 2) Supports the categorisation of the park as an 'area of cultural significance'.	1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan. However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.  2) Noted.

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

34	22 Mar 2016	Resident 32	<p>1) Is concerned that the draft Plan of Management will have a negative impact on the park's heritage and flora and fauna values. Believes the existing Plan of Management provides a better approach to managing the park holistically.</p>	<p>1) The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy for the park which will recommend a variety of interpretive techniques to inform park user of the history of the park. Similarly the draft Plan of Management also incorporates strategies to improve the environmental values of the park.</p>
35	22 Mar 2016	Resident 33	<p>1) Is concerned that the proposed re-categorisation of the park will lead to Council leasing and selling off large portions of the park;</p> <p>2) Objects to the Men's Shed development in Boomerang Park.</p>	<p>1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p> <p>2) Noted. The Men's Shed building is subject to a Development Application.</p>
36	23 Mar 2016	Resident 34	<p>1) Is concerned that the draft Plan of Management will have a negative impact on the park's heritage values;</p> <p>2) Is concerned about the potential loss of parkland with the proposed Men's Shed development and also the area of land identified for possible rezoning and reclassification.</p>	<p>1) The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy for the park which will recommend a variety of interpretive techniques to inform park user of the history of the park;</p> <p>2) The Men's Shed building is subject to a Development Application. The proposal to rezone and re-classify an area of land within the park is subject to a separate statutory process.</p>

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

37	23 Mar 2016	Resident 35	1) Objects to the proposed area of land identified for possible rezoning and reclassification.	2) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.  However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.
38	23 Mar 2016	Resident 36	1) Supports the recommendations and objectives of the current Plan of Management in relation to the park's heritage and biodiversity values; 2) Suggests that the park is underutilised because Council neglected the area. Believes that Council should implement the existing Plan of Management to improve the park and disregard the new draft Plan of Management.	1) Noted. 2) Noted.
39	23 Mar 2016	Resident 37	1) Objects to the proposed re-categorisation of the park, as is concerned that the proposed category of park will have a negative impact on the cultural heritage of the park. Suggests that the park should be categorised as an 'area of cultural significance'.	1) The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy for the park which will recommend a variety of interpretive techniques to inform park user of the history of the park;
40	23 Mar 2016	Resident 38	1) Objects to the draft Plan of Management and supports the current Plan of Management. The current Plan of Management has a vision for the park, where the draft Plan of Management does not have any; 2) Objects to the proposed area of land identified for possible rezoning and reclassification; 3) Objects to the development of the Men's Shed in Boomerang Park; 4) Suggests that the park is not underutilised and that it is a vital	1) Noted. 2) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.  However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

			<p>corridor for wildlife and as a passive recreation space, it has an important role in the physical, mental, spiritual and emotional health of the community;</p> <p>5) Objects to the proposed re-categorisation of the park as is concerned that the category of 'park' is to allow for the rezoning and reclassification application. It is also of concern that the category of 'park' will have a negative impact on the cultural heritage of the park, by removing the objectives for 'area of cultural significance' under the <i>Local Government Act, 1993</i>;</p> <p>6) Is concerned that there has been no consultation with the local Aboriginal community;</p> <p>7) Is concerned that the draft Plan of Management does not aim to protect or conserve the ecological values of the park;</p> <p>8) Is concerned that the proposed recreational facilities will alienate the park from the general public;</p> <p>9) Raises concern that the landscape master plan and the draft Plan of Management do not align. Specifically in relation to the proposed area in the master plan nominated for rezoning and reclassification;</p> <p>10) Suggests that the draft Plan of Management and the landscape master plan are inconsistent with the <i>Local Government Act, 1993</i> and that their adoption will see facilitate the destruction of the environment and cultural heritage of the park.</p>	<p>consultation as per Council's resolution.</p> <p>3) Noted. The Men's Shed building is subject to a development application.</p> <p>4) Noted.</p> <p>5) The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy for the park which will recommend a variety of interpretive techniques to inform park user of the history of the park.</p> <p>6) The Aboriginal Strategic Committee have been consulted on the draft Plan of Management;</p> <p>7) Noted – refer note 5.</p> <p>8) The range of facilities and infrastructure proposed in the draft Plan of Management and associated landscape master plan are intended for the benefit of the broader community;</p> <p>9) The proposal to rezone and re-classify an area of land within the park is subject to a separate statutory process;</p> <p>10) The draft Plan of Management and supporting landscape master plan are in accordance with the requirements under the <i>Local Government Act, 1993</i>. Refer Table 4 of the draft Plan of Management, which details the requirements of a Plan of Management under the <i>Local Government Act 1993</i> and how the draft plan satisfies these requirements</p>
--	--	--	---	---

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

41	23 Mar 2016	Resident 39	<ol style="list-style-type: none"> <li>1) Raises objection to the draft Plan of Management on the basis that it is contrary to the original park dedication and appended heritage and environmental reports;</li> <li>2) Recommends that the site be retained as an area for heritage and environmental conservation;</li> <li>3) Objects to the development of the Men's Shed in Boomerang Park.</li> </ol>	<ol style="list-style-type: none"> <li>1) Noted. This draft Plan of Management and proposed reclassification to 'park' reflects not only the 1892 dedication of the land as a 'recreation reserve'; it also reflects the current uses and Port Stephens's management thereof.  The draft Plan of Management directly references Umwelt's heritage report and Firebird ecoSultant's reports. It incorporates objectives and recommendations from both reports. These are also appended to the draft Plan of Management</li> <li>2) Noted.</li> <li>3) Noted.</li> </ol>
42	23 Mar 2016	Resident 40	<ol style="list-style-type: none"> <li>1) Objects to the draft Plan of Management on the basis that it does not comply with the <i>Local Government Act, 1993</i>;</li> <li>2) Raises concern that the draft Plan of Management will have a negative impact on the heritage values of the park;</li> <li>3) Raises concern that Umwelt (authors of the heritage report) were not provided with all relevant information pertaining to the draft Plan of Management and that this has impact their report;</li> <li>4) Raises concern that the appended heritage report and the draft Plan of Management do not align;</li> <li>5) Raises concern that the Public Hearing was not held in accordance with the <i>Local Government Act, 1993</i> and those speakers were not able to speak freely. Suggests that Council needs to hold a further public hearing to comply.</li> </ol>	<ol style="list-style-type: none"> <li>1) Table 4 of the draft Plan of Management details the requirements of a Plan of Management under the <i>Local Government Act 1993</i> and how the draft plan satisfies these requirements;</li> <li>2) Noted.</li> <li>3) Umwelt were given access to all relevant background information pertaining to Boomerang Park;</li> <li>4) The draft Plan of Management references Umwelt's heritage report and incorporates its objectives and recommendations. It is also appended to the draft Plan of Management;</li> <li>5) The Public Hearing was held strictly in accordance with the requirements of the <i>Local Government Act, 1993</i>.</li> </ol>
43	23 Mar 2016	Resident 41	<ol style="list-style-type: none"> <li>1) Suggests that the park should be categorised as an 'area of cultural significance', in light of the heritage report appended to the draft Plan of Management, the park's original dedication as a 'public reserve' and the biodiversity values of the park.</li> </ol>	<ol style="list-style-type: none"> <li>1) Noted. Categorising Boomerang Park as 'an area of cultural significance' is not considered appropriate given the types of uses and activities currently being undertaken in the park.</li> </ol>



ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

44	23 Mar 2016	Resident 42	<p>1) Raises concern that the proposed area nominated for possible rezoning and reclassification will impact the Port Stephens Dog Sports Club area of operation;</p>	<p>1) The proposed area nominated for rezoning and reclassification will not impact the area currently in use by the Port Stephens Dog Sports Club. These areas are completely separate.</p>
45	23 Mar 2016	Resident 43	<p>1) Objects to the proposed re-categorisation of the park as is concerned that the category of 'park' is to allow for the rezoning and reclassification application.</p> <p>2) It is also of concern that the category of 'park' will have a negative impact on the cultural heritage of the park, by removing the objectives for 'area of cultural significance' under the <i>Local Government Act, 1993</i>.</p>	<p>1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p> <p>2) The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy for the park which will recommend a variety of interpretive techniques to inform park user of the history of the park.</p>
46	23 Mar 2016	Resident 44	<p>1) Objects to the proposed re-categorisation of the park and suggests that the park be categorised as an 'area of cultural significance', in order to properly manage and retain the park's heritage significance and allow for the continuation of sports to be played in the park;</p> <p>2) Raises concern that there was not adequate consultation with the community or the Worimi Local Aboriginal Land Council in the preparation of the draft Plan of Management;</p> <p>3) Raises concern that Council has not implemented the current Plan of Management;</p> <p>4) Suggests that the term 'underutilised' be removed from the draft Plan of Management as believes this an opinion and not</p>	<p>1) The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy for the park which will recommend a variety of interpretive techniques to inform park users of the history of the park.</p> <p>2) The Aboriginal Strategic Committee has been consulted on the draft Plan of Management.</p> <p>3) Noted;</p> <p>4) Noted. Utilisation by formal users is limited to the Port Stephens Dog Sports Club, the Senior Citizens Centre and the</p>

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

			<p>measurable;</p> <p>5) Is concerned that the draft Plan of Management does not adequately address the issues of visual impact or alienation;</p> <p>6) Objects to the draft Plan of Management on the basis that it will allow for development of the park.</p>	<p>Before and After School Centre;</p> <p>5) Noted;</p> <p>6) This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p>
47	23 Mar 2016	Resident 45	<p>1) Suggests that Council retain the current Plan of Management to ensure the heritage values of the park are retained.</p>	<p>1) Noted.</p>
48	23 Mar 2016	TRRA	<p>1) Raises concern that the community consultation process for the draft Plan of Management has been inadequate and confusing;</p> <p>2) Raises concern that the proposal to rezone and reclassify a portion of Boomerang Park, could be also be proposed for public land in the Tomaree Peninsula;</p> <p>3) Objects to the development of the Men's Shed in Boomerang Park but supports Men's Sheds elsewhere;</p> <p>4) Raises concern that heritage trees have been lost in the development of the playground and that there are no controls over this happening again;</p> <p>5) Raises concern that proposed future uses e.g. croquet courts, Men's Shed, will result in alienation of public space for minority groups;</p> <p>6) Objects to the proposed re-categorisation of the park as is concerned that the category of 'park' is to allow for the rezoning and reclassification application;</p> <p>7) Suggests that Boomerang Park should be retained for its historical, cultural and biodiversity values and not developed;</p> <p>8) Objects to the proposed re-categorisation of the park, as</p>	<p>1) Community consultation has been undertaken as a part of the draft Plan of Management process. Information sheets were also provided to assist in clarifying and providing relevant information relating to the process and purpose of the draft Plan of Management and Public Hearing;</p> <p>2) Noted;</p> <p>3) Noted;</p> <p>4) This is not a matter for consideration in the draft Plan of Management. Port Stephens Development Control Plan 2014 Chapter B-1 provides all relevant information relating to tree management;</p> <p>5) The Boomerang Park landscape master plan is representative of a wide range of potential future uses and activities which will benefit a broad spectrum of the community;</p> <p>6) The rezoning and reclassification application is a separate statutory process and the category of the 'park' will be a minor consideration.</p> <p>7) Noted. Utilisation by formal users is limited to the Port Stephens Dog Sports Club, the Senior Citizens Centre and the Before and After School Centre;</p> <p>8) The draft Plan of Management</p>

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

			<p>raises concern that this will negatively impact the heritage values of the park;</p> <p>9) Disagrees with the consultation events stated in the draft Plan of Management;</p> <p>10) Is concerned that the draft Plan of Management does not adequately address the issue of alienation;</p> <p>11) Objects to the draft Plan of Management on the basis that it will allow for development of the park.</p>	<p>proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy, which will recommend a variety of interpretive techniques to inform park user of the history of the park.</p> <p>9) Consultation activities stated in the draft Plan of Management are true and correct;</p> <p>10) Noted;</p> <p>11) This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p>
49	23 Mar 2016	Resident 46	1) Objects to the draft Plan of Management and proposed re-categorisation reasoning that this, along with reference in the document to the park being underutilised, will allow for the development of the park.	1) Noted.
50	23 Mar 2016	Resident 47	1) Objects to the proposed re-categorisation of the park, as raises concern that this will have a negative impact of the cultural heritage and biodiversity values of the park and will allow for development of the park.	1) Noted. Expert heritage and ecological studies have been undertaken to inform this Plan of Management, to ensure best practise management recommendations for the park into the future.
51	23 Mar 2016	BPAG	<p>1) Notes the park's local heritage significance;</p> <p>2) Objects to the draft Plan of Management and suggests the plan is deficient in describing the park's history and context and is in general lacking in detail;</p> <p>3) Raises concern that the draft Plan of Management does not meet legislative requirements of the LEP and DCP – specifically in relation to heritage significance;</p>	<p>1) Noted;</p> <p>2) It is not the function of a Plan of Management to include extensive detail. The content of a Plan of Management is governed by the requirements of the <i>Local Government Act 1993</i>. A detailed account of the park's history with Umwelt's Heritage Report is appended to the document.</p> <p>3) The draft Plan of Management outlines the relevance of the LEP</p>

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

		<p>4) Raises concern that the draft Plan of Management contradicts and ignores the heritage and ecological reports appended to the document;</p> <p>5) Raises concern that community consultation in the development of the master plan and the draft Plan of Management has been inadequate;</p> <p>6) Objects to current park usage being referred to as underutilised with no factual evidence and believes that the park is an important environmental resource with numerous benefits as passive open recreation space;</p> <p>7) Raises concern that Table 3 'Description of Facility, Condition and Current Uses' does not clearly define and document the true elements of the park;</p> <p>8) Objects to the removal of the water tower as believes this is an important land mark for Raymond Terrace and that there should be further community consultation before any decisions are made;</p> <p>9) Objects to further alienation of public space within the park and the current Plan of management will stop the rezoning and reclassification proposal;</p> <p>10) Objects to the proposed re-categorisation of the park as is concerned that the category of 'park' is to allow for the rezoning and reclassification application. It is also of concern that the category of 'park' will have a negative impact on the cultural heritage of the park, by removing the objectives for 'area of cultural significance' under the <i>Local Government Act, 1993</i>;</p> <p>11) Raises concern that Council illegally removed trees for the purpose of building a playground and that inadequate measures for environmental protection are included in the new draft Plan of Management;</p> <p>12) Raises concern that future leases, licences and other estates authorised in the draft Plan of</p>	<p>and DCP on page 17;</p> <p>4) The draft Plan of Management directly references Umwelt's heritage report and Firebird ecoSultant's reports. It incorporates objectives and recommendations from both reports. These are also appended to the draft Plan of Management;</p> <p>5) Community consultation has been undertaken as a part of the draft Plan of Management process. Information sheets were also provided to assist in clarifying and providing relevant information relating to the process and purpose of the draft Plan of Management and Public Hearing;</p> <p>6) Noted. Utilisation by formal users is limited to the Port Stephens Dog Sports Club, the Senior Citizens Centre and the Before and After School Centre;</p> <p>7) Information provided in this table is of adequate detail as required in a Plan of Management;</p> <p>8) Noted. This water tower is owned by Hunter Water and is on their land and any action to remove the water tower would be a decision solely for Hunter Water Corporation;</p> <p>9) The proposal to rezone and re-classify an area of land within the park is subject to a separate statutory process, regardless of whether Council endorses this draft Plan of Management or retains the existing Plan of Management;</p> <p>10) The rezoning and reclassification application is a separate statutory process and the category of the 'park' will be a minor consideration.</p> <p>The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy</p>
--	--	--	---

**ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.**

			<p>Management is too vague;</p> <p>13) Raises concern that the real purpose of the draft Plan of Management is to allow the development of the Men's Shed and the rezoning and reclassification of the park;</p> <p>14) Supports the existing Plan of Management and suggests Council disregard the draft Plan of Management.</p>	<p>for the park which will recommend a variety of interpretive techniques to inform park user of the history of the park.</p> <p>11) This is not a matter for consideration in the draft Plan of Management. Port Stephens Development Control Plan 2014 Chapter B-1 provides all relevant information relating to tree management;</p> <p>12) Future entry into specific leases, licences, casual hire, agreements and grant of other estate will be subject to approval by Council;</p> <p>13) Noted. The purpose of the Plan of Management is articulated in Section 1.5;</p> <p>14) Noted.</p>
52	23 Mar 2016	Resident 48	<p>1) Recommends that Council retain the current Plan of Management and implements the recommendations of that plan;</p> <p>2) Objects to the draft Plan of Management as believes it will allow for the development of the park and further alienation of public space;</p> <p>3) Raises concern that the community consultation process has been inadequate.</p>	<p>1) Noted.</p> <p>1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p> <p>2) In addition to the exhibition period and the public hearing, Council has also provided the opportunity for the community to ask questions and discuss the draft Plan of Management on 24 February 2016 at two-on-two information sessions.</p>
53	23 Mar 2016	Form letter 40 submissions	<p>1) Objects to current park usage being referred to as underutilised with no factual evidence and believes that the park is an important environmental resource with numerous benefits as passive open recreation space;</p> <p>2) Objects to the proposed re-categorisation of the park as is concerned that the category of</p>	<p>1) Noted. Utilisation by formal users is limited to the Port Stephens Dog Sports Club, the Senior Citizens Centre and the Before and After School Centre;</p> <p>2) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p>

ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.

			<p>'park' is to allow for the rezoning and reclassification application. It is also of concern that the category of 'park' will have a negative impact on the cultural heritage of the park, by removing the objectives for 'area of cultural significance' under the <i>Local Government Act, 1993</i>;</p> <p>3) Suggests Council retains and implements the current plan.</p>	<p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p> <p>3) Noted.</p>
54	23 Mar 2016	Form letter 52 submissions	<p>1) Objects to current park usage being referred to as underutilised with no factual evidence and believes that the park is an important environmental resource with numerous benefits as passive open recreation space;</p> <p>2) Objects to the proposed re-categorisation of the park as is concerned that the category of 'park' is to allow for the rezoning and reclassification application. It is also of concern that the category of 'park' will have a negative impact on the cultural heritage of the park, by removing the objectives for 'area of cultural significance' under the <i>Local Government Act, 1993</i>;</p> <p>3) Raises concern that there has been no community consultation in the development of the master plan and draft Plan of Management;</p> <p>4) Raises concern that the draft Plan of Management does not adequately address the issue of alienation and thereby will allow the reclassification and rezoning of Boomerang Park;</p> <p>5) Suggests Council retains and implements the current Plan of Management.</p>	<p>1) Noted. Utilisation by formal users is limited to the Port Stephens Dog Sports Club, the Senior Citizens Centre and the Before and After School Centre;</p> <p>2) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p> <p>3) Community consultation has been undertaken in the process of developing the master plan and also this draft Plan of Management. In addition to the exhibition period and the public hearing, Council has also provided the opportunity for the community to ask questions and discuss the draft Plan of Management on 24 February 2016 at two-on-two information sessions.</p> <p>4) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is</p>

**ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.**

				the subject of separate statutory processes and community consultation as per Council's resolution. 5) Noted.
55	23 Mar 2016	81 signatures	1) Petition raises concern that the access to the proposed Men's Shed through the Senior Citizen's car park is dangerous.	1) Noted. The Men's Shed building is subject to a development application.

Submissions received after the exhibition period:

56	24 Mar 2016	EcoNetwork – Port Stephens Inc.	1) Objects to the draft Plan of Management, raising concern that the plan does not acknowledge the heritage significance of the park and allows for further development and alienation of public space.	1) Noted. The draft Plan of Management proposes, within the category of 'park', to ensure improvements to the park include strategies to respect and reveal the heritage values of the site. A key recommendation of the plan is to develop an interpretive strategy, which will recommend a variety of interpretive techniques to inform park users of the park's history. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan. However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.
57	28 Mar 2016	Resident 48	1) Recommends that the park be heritage listed; 2) Raises concern that the park is to be developed for housing; 3) Objects to the park being described as 'underutilised', as believes it is important open space and has important biodiversity values.	1) Noted. This is not a matter for the Plan of Management; 2) This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan. However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per

**ITEM 8 - ATTACHMENT 1 SUMMARY OF SUBMISSIONS RECEIVED THROUGH PUBLIC EXHIBITION.**

				<p>Council's resolution.</p> <p>3) Noted. Utilisation by formal users is limited to the Port Stephens Dog Sports Club, the Senior Citizens Centre and the Before and After School Centre.</p>
58	01 Apr 2016	Resident 49	1) Objects to the new draft Plan of Management and development in the park.	<p>1) Noted. This Plan of Management permits the use and development of the park generally in accordance with the landscape master plan.</p> <p>However, the landscape master plan shows a possible rezoning of part of the park as residential. This Plan of Management does not permit that use of the park, or endorse any such rezoning. That is the subject of separate statutory processes and community consultation as per Council's resolution.</p>



Port Stephens Council

---

# Public Hearing on the Recategorisation of Community Land

*Report of the Public Hearing*

6 April 2016



**ITEM 8 - ATTACHMENT 2      REPORT FROM PUBLIC HEARING HELD ON 3 MARCH 2016.**

Report of the Public Hearing in accordance with Section 40A of the Local Government Act 1993 on the recategorisation of community land in the Draft Plan of Management for Boomerang Park, Raymond Terrace

Issue	Date	Description	Reviewed By
Draft	06/04/2016	Draft for client review	IJA/SR/BC
Final	06/04/2016	Final report	IJA

**Contents**

1.0	INTRODUCTION	2
2.0	PUBLIC HEARING PROCESS	2
3.0	THE PUBLIC HEARING AND SUBMISSIONS	3
4.0	ISSUES AND CONCLUSIONS	5

**ITEM 8 - ATTACHMENT 2 REPORT FROM PUBLIC HEARING HELD ON 3 MARCH 2016.****1.0 INTRODUCTION**

Paradigm Planning & Development Consultants Pty Ltd has been engaged by Port Stephens Council to undertake a Public Hearing under Section 40A the Local Government Act, 1993 in relation to a proposed Plan of Management for Boomerang Park at Raymond Terrace which includes a proposal to re-categorise community land.

The draft Plan of Management for Boomerang Park (February 2016) would replace the existing Boomerang Park Plan of Management (November 2000). The draft Plan of Management was exhibited from 10 February, 2016 to 23 March, 2016 and proposes to categorise Boomerang Park as a "Park" under Section 36 of the Act. Under the current Plan of Management (November 2000) Boomerang Park is categorised as part Sportsground and part Park, with both these areas also categorised as an Area of Cultural Significance. The current Plan of Management also separately identifies an area for Expansion of Community Services Buildings on land categorised as Park/Area of Cultural Significance and a Skate Park Area also on land categorised as Park/Area of Cultural Significance.

Section 36 of the Act requires that land classified as community land (as opposed to operational land) must be subject to a plan of management. Section 36(4) requires the plan of management to categorise the community land as one or more of five specified categories, these being:

- A natural area
- A sportsground
- A park
- An area of cultural significance
- General community use

The Local Government (General) Regulation 2005 provides guidelines for each of these five categories. The exhibited draft Plan of Management (February 2016) includes the guidelines for categorisation of land as a park from clause 104 of the Regulation which states:

*Land should be categorised as a park under section 36 (4) of the Act if the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.*

The Public Hearing required by Section 40A of the Act was held on Thursday 3 March, 2016 in the Senior Citizens Centre located within Boomerang Park off Irrawang Street, Raymond Terrace.

Ian Adams of Paradigm Planning & Development Consultants Pty Ltd was the independent person presiding at the Public Hearing consistent with the requirements of Section 47G of the Local Government Act, 1993.

**2.0 PUBLIC HEARING PROCESS**

The Public Hearing was arranged for Thursday 3 March, 2016 during the exhibition period for the draft Plan of Management. Notice of the public hearing was given in the Port Stephens Examiner and on Council's website in accordance with the Act and Regulations. The Notice included advice that it would be necessary to pre-register in order to speak at the hearing.

A Speakers Request Form was provided to enable intending participants to register to speak and state their interest in the matter. The form also included advice that applicants would have a maximum of 5 minutes to speak.

A total of twenty-four speaker registrations were received prior to the Public Hearing and a further registration immediately prior to commencement of the hearing.

The hearing commenced at 5pm at the Senior Citizens Centre in Irrawang Street Raymond Terrace.

**ITEM 8 - ATTACHMENT 2 REPORT FROM PUBLIC HEARING HELD ON 3 MARCH 2016.****3.0 THE PUBLIC HEARING AND SUBMISSIONS****3.1 Chairman's Introduction**

At the commencement of the hearing, Ian Adams explained that the Public Hearing was in relation to the inclusion of a proposal in the draft Plan of Management for Boomerang Park for the community land categorisation of the park under the Local Government Act to be changed. The difference between a change of category for community land and a change of classification between community land and operational land was also briefly explained and it was stated that the Public Hearing was in relation to the recategorisation only and that the separately proposed reclassification of part of Boomerang Park was subject to a different process involving a Planning Proposal and separate public hearing.

Those registered to speak at the hearing were requested to adhere to the 5 minute limit per speaker and advised that a one minute warning would be provided prior to the expiration of the 5 minute period.

A total of eighty-five (85) people attended the Public Hearing including the twenty-three (23) speakers but not including Council staff. The Council staff present at the hearing were not individually introduced.

**3.2 Speakers Presentations**

The public hearing was addressed by a total of twenty-three speakers (two of the pre-registered speakers chose not to address the hearing on the night). Five (5) speakers noted that they spoke in favour of the proposed categorisation under the draft Plan of Management and eighteen (18) noted they spoke against the proposed categorisation. The speakers in the order in which they presented at the hearing were:

1. Terry Ashton of Raymond Terrace
2. Nigel Waters of Nelson Bay (representing the Port Stephens Greens)
3. Peter Francis of Raymond Terrace
4. Robert Bull of Raymond Terrace
5. Barbara McMillan of Raymond Terrace
6. Jennifer Wilson of Raymond Terrace
7. Moira Saunderson of Raymond Terrace
8. Geoff Dingle of Medowie (Port Stephens Councillor)
9. Jean Armstrong of Soldiers Point
10. Jillian Lye of Raymond Terrace (representing Boomerang Park Action Group Inc)
11. Ellen Creaswell of Raymond Terrace
12. Coral Berry of Raymond Terrace
13. Walter Berry of Heatherbrae
14. Lorraine Ross of Raymond Terrace
15. Carolyn Coleman of Raymond Terrace
16. David Davies of Raymond Terrace
17. Margaret Wilkinson of Corlette (representing Tomaree Residents Association)
18. Robyn McMahon of Raymond Terrace
19. Dr Sam Wills of Hawks Nest
20. John McDonald of Raymond Terrace
21. John Young of Medowie
22. Julie Yorke of Raymond Terrace
23. Kevin Lazarus of Glen Oak

Of the twenty-three (23) speakers, nineteen (19) provided a written copy of the matters raised in their presentation. Two of the speakers also included additional material in relation to the history of Raymond Terrace and Boomerang Park. There were also three (3) written submissions made by persons who attended the hearing but did not speak and had not registered to speak. These submissions were against the proposed recategorisation.

There were clear and consistent themes in both the presentations in favour of the recategorisation and those against. The matters raised by speakers are summarised below:

**Matters raised in support**

- Park is currently below standard and requires upgrading
- There is a long history of community use and various changes in use

**ITEM 8 - ATTACHMENT 2 REPORT FROM PUBLIC HEARING HELD ON 3 MARCH 2016.**

- Proposed Men's Shed and curtilage would only occupy 0.6% of the park area

The five (5) speakers in support of the recategorisation proposal all noted their membership of the Raymond Terrace Men's Shed. The theme of these presentations related to underutilisation of the park and consistency of the proposal for a new Mens Shed building with the history of community uses at the park.

Matters raised against

- In the current Plan of Management the categories of Park and Cultural Significance overlap
- Removal of the Cultural Significance categorisation is in conflict with the heritage listing of Boomerang Park in the Local Environmental Plan
- Original of the Cultural Significance categorisation denies the cultural ties to the park for older residents and the history and memories of use of the park by many residents
- Stone from the quarry was used in many local buildings
- Recategorisation is a defacto rezoning proposal for seniors housing
- Recategorisation will enable reclassification, proposal is only about removing constraints
- Various cultural events over 178 year history (including relating to Boer War, WW1 and WW2) justify cultural significance
- Original intent of the park was for public recreation, categorisation only as "park" risks building all over it
- Impact on threatened species which inhabit part of the park
- Current Plan of Management hasn't been properly implemented, resources haven't been allocated

The majority of the speakers against the recategorisation were local residents living in the vicinity of the park or who had memories of use of the park when they were younger. Two (2) of the speakers were not from the immediate locality but were concerned in relation to precedents which may be set for their own local area. All of the matters raised may be summarised into three themes:

1. As an example of early Colonial settlement patterns and due to its use for various community events linked to major historical events Boomerang Park justifies cultural significance
2. Assumption that retention of categorisation as culturally significant would prevent any change to classification of land
3. Presence of threatened species is not consistent with categorisation as a park

**3.3 Chairman's Closing**

The Chairman thanked all participants for their attendance and input to the Public Hearing and explained that an independent report of the Hearing would now be prepared by Paradigm Planning and provided to Council for its consideration in conjunction with the separate staff report on the results of the public exhibition.

It was confirmed that the report would be made available on request to all attendees as well as being placed on the Council website. The Local Government (General) Regulation 2005 requires that Council make the report available within 4 business days of its receipt from the independent facilitator.

**ITEM 8 - ATTACHMENT 2 REPORT FROM PUBLIC HEARING HELD ON 3 MARCH 2016.****4.0 ISSUES AND CONCLUSIONS****4.1 Community Land Categorisation versus Land Classification**

Notwithstanding the information provided within the draft Plan of Management and other information prepared by Council for the exhibition, there is clearly confusion in the community between the categorisation of community land and the reclassification of community land as operational land. The presentations at the Public Hearing also indicate that for those who may fully understand the differences between recategorisation and reclassification, there is a fear of a precedent transferring from one process to the other. This is also in spite of clear explanation at the commencement of the Public Hearing that the process does not alter the status of the park as community land and that any such change is subject to a separate process requiring a Planning Proposal under the Environmental Planning and Assessment Act.

The assumption by many in the community that retention of the categorisation of the park as an Area of Cultural Significance would block any future changes to the classification of the park as community land is misguided. While the history of the park is reflected in the listing of Boomerang Park as a heritage item of Local Significance under Port Stephens LEP2014 and that is a relevant consideration within a Planning Proposal process for reclassification, there is no direct statutory correlation between heritage listing in the LEP and the guidelines for categorisation of community land. The extent of historical and cultural significance of the park as an issue in the planning process is not directly influenced by the categorisation of the land under Section 36(4) of the Local Government Act.

While it is understandable there is legitimate community interest in the long term future of Boomerang Park, the different aspects of that interest need to be directed through legitimate processes. In relation to the heritage significance of Boomerang Park, the objectors' concerns will need to be considered within the Planning Proposal process for the reclassification and rezoning of part of the park which is an entirely separate process to the proposed new draft Plan of Management and change of community land category.

It is noted that the reclassification/rezoning planning proposal has been issued with a Gateway Determination by the Department of Planning and Environment which requires Council to provide further justification in relation to consideration of alternative funding options for park upgrades, open space needs analysis, visual impacts and cultural significance and the Comprehensive Koala Plan of Management. The matters raised in the public hearing in objection to the draft Plan of Management proposed categorisation of the community land as "park" are all matters pertinent to the proposed reclassification.

**4.2 Appropriate Community Land Categorisation**

Although a substantial part of the presentations at the Public Hearing were in relation to the separate proposal for reclassification and rezoning of part of Boomerang Park, the question of appropriate categorisation of the community land under the draft Plan of Management can still be informed by matters raised by the community.

As noted in the introduction above, Section 36(4) of the Local Government Act 1993 requires the plan of management to categorise the community land as one or more of five specified categories:

- A natural area
- A sportsground
- A park
- An area of cultural significance
- General community use

The draft Plan of Management proposes the land be categorised as a park based on the following guideline:

*Land should be categorised as a park under section 36 (4) of the Act if the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.*

A number of speakers at the Public Hearing proposed that the categorisation as a Park is not consistent with the cultural significance of Boomerang Park and that the land should retain the categorisation as an Area of Cultural Significance. The guideline for the latter is:

**ITEM 8 - ATTACHMENT 2 REPORT FROM PUBLIC HEARING HELD ON 3 MARCH 2016.**

*Land should be categorised as an area of cultural significance under section 36 (4) of the Act if the land is:*

- (a) an area of Aboriginal significance, because the land:
  - (i) has been declared an Aboriginal place under section 84 of the National Parks and Wildlife Act 1974, or*
  - (ii) whether or not in an undisturbed state, is significant to Aboriginal people in terms of their traditional or contemporary cultures, or*
  - (iii) is of significance or interest because of Aboriginal associations, or*
  - (iv) displays physical evidence of Aboriginal occupation (for example, items or artifacts such as stone tools, weapons, engraving sites, sacred trees, sharpening grooves or other deposits, and objects or materials that relate to the settlement of the land or place), or*
  - (v) is associated with Aboriginal stories, or*
  - (vi) contains heritage items dating after European settlement that help to explain the relationship between Aboriginal people and later settlers, or**
- (b) an area of aesthetic significance, by virtue of:
  - (i) having strong visual or sensory appeal or cohesion, or*
  - (ii) including a significant landmark, or*
  - (iii) having creative or technical qualities, such as architectural excellence, or**
- (c) an area of archaeological significance, because the area contains:
  - (i) evidence of past human activity (for example, below-ground features such as building foundations, occupation deposits, features or artifacts or above-ground features such as buildings, works, industrial structures, and relics, whether intact or ruined), or*
  - (ii) any other deposit, object or material that relates to the settlement of the land, or**
- (d) an area of historical significance, because of the importance of an association or position of the land in the evolving pattern of Australian cultural history, or*
- (e) an area of technical or research significance, because of the area's contribution to an understanding of Australia's cultural history or environment, or*
- (f) an area of social significance, because of the area's association with Aboriginal life after 1788 or the area's association with a contemporary community for social, spiritual or other reasons.*

Although there was clearly a strong element of historical association with Boomerang Park from members of the community at the Public Hearing, the submissions generally describe a pattern over a long period of time of *recreational, social, educational and cultural pursuits* consistent with the proposed category of a "park" under Section 36(4). None of the information presented at the Public Hearing would appear to justify categorisation of Boomerang Park as an Area of Cultural Significance within the meaning of Section 36(4).

The categorisation of Boomerang Park as an Area of Cultural Significance would potentially preclude or at least place severe restrictions on the types of uses for which Boomerang Park has clearly been valued by the community in the past as many of these uses may be incompatible with achievement of the core objectives for an Area of Cultural Significance. This conflict was not addressed in any submissions which objected to the proposed categorisation as a Park nor did any submissions acknowledge the potential conflict inherent in the existing dual classification of the entire park within the current Plan of Management.

The majority of objection at the Public Hearing to the draft Plan of Management including categorisation of the entire area of Boomerang Park as a Park under Section 36(4) centres on a fear that removal of the current categorisation as an Area of Cultural Significance will facilitate other processes, including reclassification. However, a determination of the appropriate category for community land should be based on the guidelines in the Regulation and not influenced by concerns as to what may be considered under other processes.



**ITEM 8 - ATTACHMENT 3 CHANGES MADE TO DRAFT BOOMERANG PARK PLAN OF MANAGEMENT POST PUBLIC EXHIBITION 10 FEBRUARY TO 23 MARCH 2016**

Changes made to draft Boomerang Park Plan of Management post public exhibition 10 February to 23 March 2016

Page	Section	Changes
All pages		Delete "Draft" from header; typographical, grammar and spelling corrections.
Cover		Delete "February". Insert "April"
1	1.2	Delete "Port Stephens All Breeds and Obedience Canine Club" and insert "Port Stephens Dog Sports Club".
5	1.6	Delete part point 5 being "... (detailed in section 1.8 and section 4.1), illustrating action required to implement improvements to the park"
7	1.8	Paragraph 5 delete "Additional community consultation will now be undertaken for this draft Plan of Management."
10	2.5	Delete "Port Stephens All Breeds and Obedience Canine Club" and insert "Port Stephens Dog Sports Club".
11	Table 3	Delete "Port Stephens All Breeds and Obedience Canine Club" and insert "Port Stephens Dog Sports Club".
19	3.10	Delete "Use of Council Reserves for Commercial Fitness Groups and Personal Trainers Policy" and insert "Commercial Operators Policy"
22	3.12	Delete "Port Stephens All Breeds and Obedience Canine Club" and insert "Port Stephens Dog Sports Club".
25	3.15	Delete "Port Stephens All Breeds and Obedience Canine Club" and insert "Port Stephens Dog Sports Club".
8	Appendix A	Redacted signature of Senior Archaeologist
6	Appendix C	Redacted signature of Ecologist/Bushfire Planner

**ITEM NO. 1**

**FILE NO: 16/306870  
RM8 REF NO: 16-2015-865-1**

**DEVELOPMENT APPLICATION 16-2015-865-1 - TORRENS TITLE SUBDIVISION  
(ONE INTO SEVEN LOTS) AT 155 SALAMANDER WAY, SALAMANDER BAY  
(LOT 284, DP 806310)**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application DA No. 16-2015-865-1 for a torrens title subdivision of one (1) lot into seven (7) lots at 155 Salamander Way, Salamander Bay (Lot 284 DP806310) subject to the conditions contained in **(ATTACHMENT 3)** to this report.

---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>092</b>	<b>Councillor Ken Jordan Councillor Chris Doohan</b>  It was resolved that Council move into Committee of the Whole.
------------	--

**COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Chris Doohan Councillor John Morello</b>  That the recommendation be adopted.
--	---

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 Geoff Dingle, Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, Paul Le Mottee, John Morello, John Nell and Steve Tucker.

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>093</b>	<p><b>Councillor Chris Doohan</b> <b>Councillor Ken Jordan</b></p> <p>It was resolved that Council approve Development Application DA No. 16-2015-865-1 for a torrens title subdivision of one (1) lot into seven (7) lots at 155 Salamander Way, Salamander Bay (Lot 284 DP806310) subject to the conditions contained in <b>(ATTACHMENT 3)</b> to this report.</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 Geoff Dingle, Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, Paul Le Mottee, John Morello, John Nell and Steve Tucker.

Those against the Motion: Nil.

**BACKGROUND**

The purpose of this report is to present to Council for determination development application 16-2015-865-1 for a one (1) into seven (7) lot torrens title subdivision. Proposed lot eight shown on the submitted application plans is now proposed to remain as road reserve. The subject land is owned by Council and represents the bulk of undeveloped commercial land in the Salamander Bay commercial precinct.

The application has been reported to Council as the land is owned by Council and does not trigger reporting to the Joint Regional Planning Panel (JRPP). In addition the proposal is likely to be of interest to the community. The Manager of Development Assessment and Compliance elected to report the matter to Council pursuant to the *Development Applications to be Reported to Council Policy*.

The application proposes a subdivision to create five development lots (proposed lots 1, 2, 3, 4 and 7) serviced by roads, footpaths and essential services and suitable for future commercial use. The remaining two lots (proposed lots 5 and 6) are nominated as residue lots, in which no works are proposed except for the extraction of sand and the upgrade of an existing Asset Protection Zone (APZ) surrounding the existing childcare centre.

The existing access road connecting Bagnall Beach Road with Town Centre Circuit will be formalised and realigned. The upgraded road is proposed to be named Terminus Parade and will include a new bus interchange within the road reserve that will replace the existing bus stop within the carpark of the adjacent Salamander Bay Shopping Centre. The upgrade will also include the signalisation of the intersection of Terminus Parade with Bagnall Beach Road.

A new road to be named Central Avenue is proposed to connect to Bagnall Beach Road. Central Avenue will service the northern development lots and connect to an extended length of Town Centre Circuit.

In support of the development and the greater locality, the application also includes beautification works to Bagnall Beach Road, extending from Sandy Point Road to Salamander Way. The beautification works include new street tree plantings and a shared footpath on the western side of Bagnall Beach Road.

The proposed development lots are located on the eastern side of the subject lot and are unencumbered by the ecological constraints that impact the western part of the site. All land affected by significant ecological constraints such as land identified as wetlands, koala habitat, land identified as endangered ecological community, or land containing threatened species is proposed to be retained wholly within the residue lots. No works are proposed within these lots, except for the removal of sand from a portion of proposed lot 5 which is also unencumbered by the ecological constraints identified above, and the installation of a radiant heat shield within the existing APZ surrounding the existing childcare centre.

In contrast to previous applications for subdivision of the land, the current application does not propose the development of the land encumbered by ecological constraints.

The key issues associated with the development include traffic impact and bushfire threat.

The subject land is mapped as being bushfire prone and accordingly was referred to the Rural Fire Service (RFS). The RFS raised issues with the current fire safety protection measures afforded to the child care centre on proposed lot 6, which do not accord with the requirements of Planning for Bushfire Protection 2006. Following a number of detailed discussions (taking into account the impact of an expanded asset protection zone on threatened species), the RFS issued General Terms of Approval which included the installation of the radiant heat shield.

Submissions received as a result of the notification process raised the impact of the proposed development on the local road network. A Traffic Impact Assessment (TIA) has demonstrated that the existing road network is suitable to cater for the proposed development. In addition, the TIA demonstrates that the local road network will benefit from the signalised upgrade to the existing intersection of Terminus Parade and Bagnall Beach Road, as well as the new transport interchange. The applicant has demonstrated that the proposed works are to be undertaken outside of busy holiday periods when traffic levels are higher. A condition of consent is also recommended requiring the submission of a traffic management plan to reduce the impact of the development on the local road network during the construction phase.

The application includes a request to allow construction works to occur between the hours of 7am to 6pm, Monday to Sunday. The increased construction hours will allow for a compressed construction timeframe, as well as flexibility of road works to be

undertaken outside busy traffic periods. The subject site is largely separated from residential receivers by Bagnall Beach Road, on which road works are permissible on Sundays. The similarity of proposed works to those already permissible in the locality is considered to represent minimal impact on the amenity of the locality. A condition is proposed to require the prioritisation of noise generating works to be carried out between Monday to Saturday where possible.

The proposal has been assessed against Councils requirements for subdivision of commercial land where no issues have been raised. The proposed development represents a logical extension of the existing commercial area and will provide for additional commercial and retail options in the locality. It is considered that subject to compliance with the recommended conditions the development can be undertaken without any significant impact to the environment or surrounding locality.

### **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

### **FINANCIAL/RESOURCE IMPLICATIONS**

There are no anticipated financial or resource implications as a result of the proposed development, other than those already included in Councils budget for the development of the land.

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

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

The development application is consistent with Council's Local Environmental Plan 2013 and the requirements of Section 79C(a) of the *Environmental Planning & Assessment Act 1979*.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that available commercial land opportunities will not be realised in the area.	Medium	Support the recommendation and approve the development application subject to conditions of consent.	Yes

## **SUSTAINABILITY IMPLICATIONS**

The proposal represents a logical extension of the existing commercial area and reinforces the identity of the area as a regional commercial hub. The expansion of commercial and retail services in the locality will improve amenity for local residents who will not have to travel for access to a larger range of service, as well as providing additional employment opportunities to support the growing population.

Beautification works will increase the aesthetic value of the locality which will further improve the amenity for local residents, whilst also supporting the role of the wider locality as an attractive tourism destination.

An assessment of the impacts of the development on surrounding land uses has been carried out and is included as **(ATTACHMENT 2)** to this report. The assessment concludes that the proposed development meets the requirements of the *Environmental Planning and Assessment Act 1979*, the Port Stephens Local Environmental Plan 2013 and relevant chapters of the Port Stephens Development Control Plan 2013, and that (subject to conditions) there are no significant adverse impacts as a result of the proposal.

## **MERGER PROPOSAL IMPLICATIONS**

The development works have already been approved in Council's budget and accordingly, there are no anticipated implications as a result of any merger proposal.

## **CONSULTATION**

The application was exhibited in accordance with Council policy and four submissions were received. The matters raised in the submissions are discussed in the assessment of development impacts included as **(ATTACHMENT 2)** to this report. The assessment concludes that no matters raised are of significance as to warrant refusal of the proposed development.

## **OPTIONS**

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

**ATTACHMENTS**

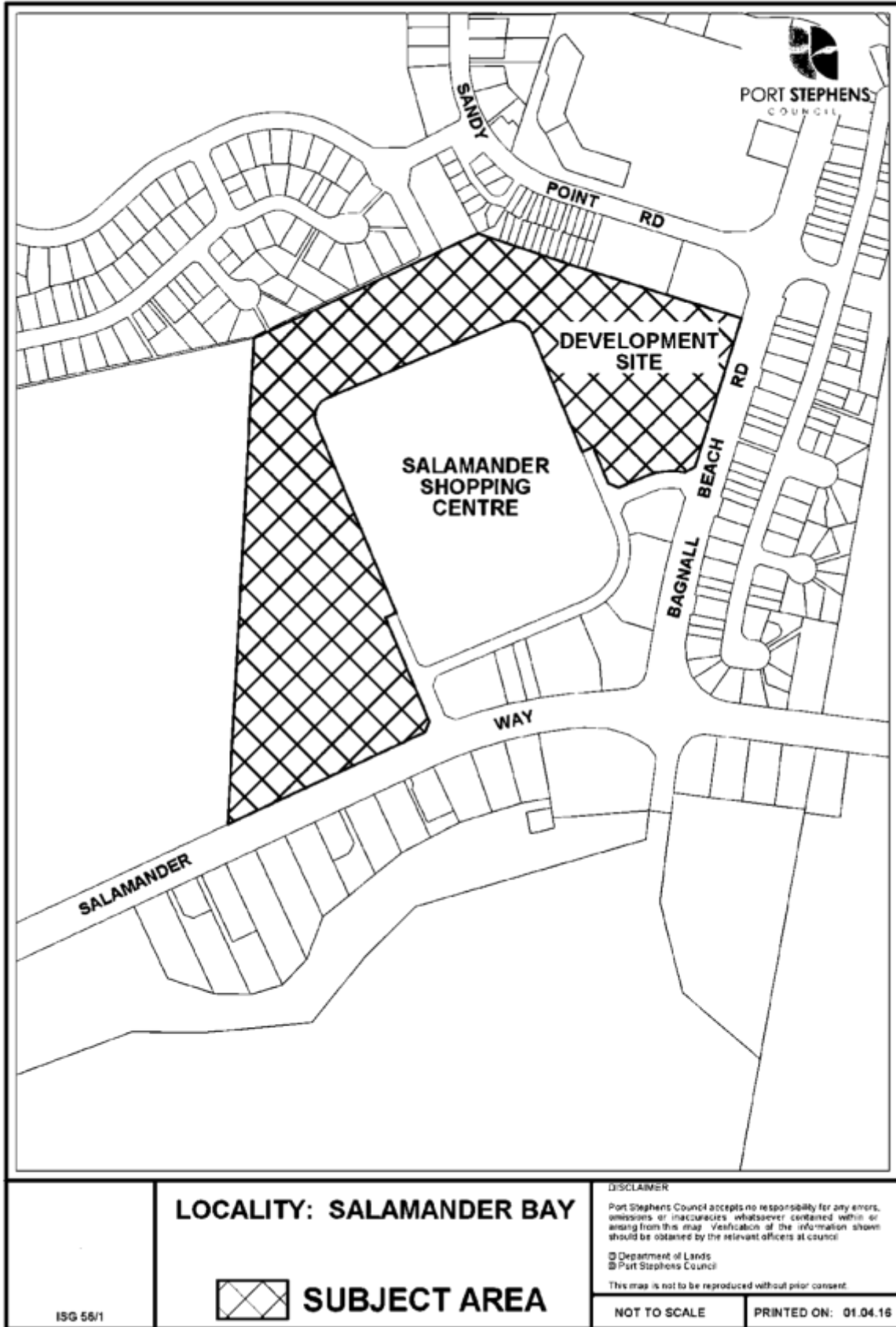
- 1) Locality Plan.
- 2) Development Assessment Report.
- 3) Proposed Conditions and RFS GTA's.

**COUNCILLORS ROOM**

- 1) Development Plans. (provided under separate cover)
- 2) Submissions. (provided under separate cover)
- 3) Traffic Impact Assessment. (provided under separate cover)

**TABLED DOCUMENTS**

Nil.







**1.0 APPLICATION DETAILS**

<b>Application Number</b>	16-2015-865-1
<b>Development Description</b>	Torrens Title Subdivision (One into Seven Lots) and associated Earthworks, Roads, Landscaping, Bus Stop and Shared Paths
<b>Applicant</b>	ENVIRONMENTAL PROPERTY SERVICES
<b>Date of Lodgement</b>	23/12/2015
<b>Value of Works</b>	\$4,000,000.00

**1.1 Development Proposal**

The application proposes the subdivision of the existing lot into:

- Proposed lot 1 with an area of 2,830m<sup>2</sup>;
- Proposed lot 2 with an area of 2,000m<sup>2</sup>;
- Proposed lot 3 with an area of 4,200m<sup>2</sup>;
- Proposed lot 4 with an area of 10,200m<sup>2</sup>;
- Proposed lot 5 with an area of 22,270m<sup>2</sup>;
- Proposed lot 6 with an area of 50,320m<sup>2</sup>; and
- Proposed lot 7 with an area of 4,920m<sup>2</sup>.

Proposed lots 1, 2, 3, 4 and 7 are development lots which will be serviced by roads with improved pedestrian access paths and street landscaping, as well as essential infrastructure such as reticulated water, sewer, power and telecommunications.

Proposed lots 5 and 6 are residue lots which will require further consent for works and future development. Sand contained within dunes on lot 5 will be used for filling of the development lots. No other works or improvements are proposed on lot 5. It is noted that proposed lot 6 contains the existing Tomaree Library and Community Centre, and Salamander Child Care Centre and that no other development or works are nominated on this lot, except for improvements to the asset protection zone around the existing child care centre. The upgrades will include the construction of a radiant heat shield to better protect the child care centre in the event of a bushfire.

The application also proposes the construction of a new road (known as Central Avenue) connecting the northern portion of the development to Bagnall Beach Road, the extension of Town Centre Circuit to connect with Central Avenue, the formalisation of the connecting road between Town Centre Circuit and Bagnall Beach Road (to be known as Terminus Parade), as well as the signalisation upgrade of the existing intersection of Bagnall Beach Road and Terminus Parade. New street trees and landscaping is proposed along Bagnall Beach Road extending to Salamander Way as part of the road works in Bagnall Beach Road (to upgrade the

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT.**

16-2015-865-1

existing intersection with Terminus Parade and to install the new intersection with Central Avenue).

A new public bus interchange is proposed within the road reserve of Terminus Parade, replacing the existing interchange located within the carpark of the adjoining shopping centre. The interchange will be capable of independently servicing 3 buses concurrently, and is centrally located within the commercial area.

**2.0 PROPERTY DETAILS**

<b>Property Address</b>	155 Salamander Way SALAMANDER BAY
<b>Lot and DP</b>	LOT: 284 DP: 806310
<b>Current Use</b>	The lot is largely vacant land, however a small portion is occupied by the existing Tomaree Library and Community Centre and Salamander Child Care Centre. Portions of the site have been used for temporary events such as circuses in the past.
<b>Zoning</b>	B3 COMMERCIAL CORE
<b>Site Constraints</b>	Bushfire Prone Land Acid Sulfate Soil (Class 3) Koala Habitat (Preferred, Buffer and Link) Endangered Ecological Community (Swamp Sclerophyll Forest) SEPP 71 Coastal Protection Zone Alligator Weeek Affected Land Wetlands Drainage Requirement Area

**2.1 Site Description**

The subject site surrounds the existing Salamander Shopping Village and commercial area. The site is also bound to the north by commercial and residential land uses, and to the west by Mambo Wetland.

The site is large in nature and consists of four distinct portions – the eastern development site adjoining Bagnall Beach Road, the northern sand dunes located to the north of the existing shopping centre, the vegetated wetland located to the west of the existing shopping centre, and the developed land containing the library and childcare centre.

The development site occupies the north-eastern part of the site and is largely cleared of significant vegetation, excepting a small stand of trees surrounding a depression on the site. A number of mature trees are present in this small stand including a small number of Koala feed trees. Other vegetation on the site is generally scattered low scrub of low ecological value. The site is generally of a sandy soil and does not contain any existing improvements except for a gravelled area used for overflow car parking. The area has traditionally been used as overflow car parking in busy periods and for temporary events. This part of the site is bound by

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT.**

16-2015-865-1

Bagnall Beach Road to the east, commercial and residential developments to the north, Town Centre Circuit and Salamander Bay Shopping Centre to the west, and Terminus Parade to the south. This portion of land contains the proposed development lots, and is the focus of this application.

The northern part of the site is clear of any improvements and is characterised by sand dunes and associated scrub of low ecological value. The sand dunes extend significantly above the surrounding land, particularly to the south and west where the difference in height is approximately ten to 11 metres. The application includes the extraction of sand from this part of the site to provide fill material for the development lots (lots 1, 2, 3, 4 and 7).

The ground level of the west and north-western part of the site is relatively lower than the other parts of the site and sits adjacent to the Mambo Wetlands. Vegetation in this portion is relatively dense and constitutes the land containing the Endangered Ecological Community. The site is not mapped as being SEPP 14 Coastal Wetland, however is more commensurate with this vegetation community than with other vegetation found on the site.

The southern part of the site contains the existing library and childcare centre and surrounding land. A 20 metre asset protection zone has been established around the existing buildings on the site, which is regularly maintained and clear of significant vegetation. Outside the developed portion of this part of the site, the land is slightly elevated in comparison to the wetland and contains sparser, dryer vegetation. A number of koala feed trees are located within this part of the site which are frequented by the local koala population. In addition, this part of the site contains a number of natural drainage lines in which endangered Wallum Froglets have been sighted on a number of occasions. This portion of the site is bound by Salamander Way to the south, Town Centre Circuit to the east, and the Mambo Wetland to the west.

**2.2 Site History**

The subject site has remained largely vacant historically, excepting for the use of a small portion of the land for the existing library and child care centre. Other portions of the site have been utilised for a number of short term special event uses.

There have been a number of applications lodged previously proposing the subdivision of the site, including DA16-2012-720-1 which was approved on 23 April 2012 for a one into three lot subdivision. The approval is currently active and presents a conflict in planning approvals with the proposed development. Accordingly, a condition of consent is proposed requiring the surrender of DA16-2012-720-1.

**2.3 Site Inspection**

A site inspection was carried out on 13 January 2016. It was noted that this part of the site is generally in a degraded condition due to the use of the site for overflow car parking. The site of the development lots can be seen in figures 1 and 2 below:

Page 3 of 15



Figure 1 - development site adjacent to the existing access road, including gravel area used for overflow car parking



Figure 2 - Development site viewed from Bagnalls Beach Road, looking north-west

**3.0 APPLICATION SUMMARY**

<b>Assessing Officer</b>	Brett Gardiner
<b>Designated Development</b>	The application does not constitute designated development
<b>Integrated Development</b>	The application does require an additional approvals listed under s.91 of the <i>EP&amp;A Act 1979</i>
<b>Number of Submissions</b>	Four

<b>Recommendation</b>	Approval, subject to conditions
-----------------------	---------------------------------

### 3.1 Internal Referrals

The proposed modification was referred to a number of internal specialist staff. The comments of the staff listed below have been used to carry out the assessment under section 4.0 below.

- 3.1.1 Development Engineer – Following an initial assessment of the proposal by the development engineer, additional information and a number of minor design changes were requested. The additional information was submitted and no further objections were made by the Development Engineer who provided relevant conditions of consent.
- 3.1.2 Vegetation Management Officer – A number of substitutions in the landscaping plan were proposed by the Vegetation Management Officer to reflect the use of endemic vegetation within road reserves. An amended landscaping plan was determined to be acceptable.
- 3.1.3 Natural Resources Officer – The Natural Resources Officer noted that vegetation on the development portion of the site, proposed to be cleared, included koala feed species. However it was noted that the vegetation is disconnected from other koala habitat and the particular specimens were of low value to the local koala population. Compensatory planting of feed tree species elsewhere on the site or in the locality (connected to other koala habitat) is considered to be an improved outcome to the local koala population and accordingly, the removal of the vegetation on the development portion of the site is acceptable. No other impacts on the natural environment were noted. Relevant conditions of consent have been provided and incorporated into the proposed consent.
- 3.1.4 Section 94 Officer – It was identified that the proposed development represents an intensification of the use of the land and accordingly, Section 94A contributions are applicable to any approval. A relevant condition of consent is included in the proposed consent.

### 3.2 External Referrals

The proposed modification was referred to the following external agencies for comment.

- 3.2.1 RFS – The applications was referred to the RFS as integrated development, as the development includes the subdivision of bushfire prone land that could lawfully be used for a residential or rural residential purpose (section 100B(1)(a) *Rural Fires Act, 1997*). The RFS did not object to the development and issued General Terms of Approval (GTAs) on 12 February 2016. A copy of the GTAs were provided to the applicant who noted that the requirement to establish a 60 metre wide Asset Protection Zone (APZ) around the existing childcare centre presented a potential ecological impact on surrounding vegetation, including potential habitat for Wallum Froglets. Following discussions with the RFS to identify the above restrictions on the land, the RFS provided amended GTA's requiring a 20 metre APZ in conjunction with a two metre radiant heat shield. The site contains an existing 20 metre APZ which satisfies this requirement. In addition Councils natural resources officer has confirmed that the radiant heat shield will not result in a significant impact to the movement of fauna, including koalas, throughout the site. The GTA's are not

considered to present any additional impacts on the local ecology and are achievable on the site.

#### **4.0 MATTERS FOR CONSIDERATION – SECTION 79C**

##### **4.1 s79C(1)(a)(i) – The provisions of any EPI**

###### **4.1.1 Port Stephens Local Environmental Plan 2013 (LEP)**

**Clause 2.1 Land Use Zones** – The subject land is zoned B3 Commercial Core. The development addresses the objectives of the zone as it provides additional developable commercial land within the locality to serve the needs of the local and wider community. The additional available commercial land will create additional employment opportunities in the locality and the construction of new access roads and improved intersections will increase accessibility to both the new and existing commercial area. The development also includes the construction of a new transport interchange and pedestrian / cycle ways to increase the accessibility via public transport and foot traffic.

**Clause 2.6 Subdivision** – The proposal constitutes a one into seven lot torrens title subdivision, and is permissible with consent under this clause.

**Clause 4.1 Minimum Lot Size** – There is no minimum lot size applicable to the subject land.

**Clause 5.5 Development Within the Coastal Zone** – The subject land is located within the coastal zone, however is not considered to present any negative impacts on access to the foreshore, ecological values, or visual amenity, due to the physical separation of the subject site from the adjacent waterway. Additionally, the development site is located to the east of the Mambo Wetland – a coastal wetland of high ecological value. The proposed development will form an effective boundary to the wetland and discourage unintended incursion into the wetland, whilst not preventing appropriate access to this coastal feature. The proposed development is also considered to support the use of the coastal zone by providing additional services beneficial to the tourism industry, which in turn promotes the value of the coastal zone in terms of use and ecological significance.

**Clause 5.9 Preservation of Trees or Vegetation** – The application proposes the removal of vegetation within the development site portion of the land, and within the sand dune area. The vegetation in these parts of the site is generally of low ecological value, excepting for the stand of trees surrounding a local depression in the vicinity of proposed lot 4 which contains a number of koala fee tree specimens. The identified feed tree specimens are of low value to the local koala population due to the lack of connecting corridors to other vegetation. Conditions are proposed requiring the compensatory planting of new trees that support and expand other koala habitat on the western part of the site, which is considered to result in a positive outcome for the local koala population.

**Clause 7.1 Acid Sulfate Soils** – The subject site is mapped as constituting potential class 3 acid sulfate soils. The application proposes minimal excavations associated with road works and drainage which may exceed one metre below the natural ground level. Relevant conditions of consent are proposed requiring the development of an acid sulfate soils management plan which informs how works are carried out in this regard.

**Clause 7.2 Earthworks** – The application includes earthworks to level the development sites, which currently contains a number of depressions. Fill is proposed to be sourced from the dune on proposed lot 5. The proposed earthworks are not anticipated to result in negative impacts on the surrounding properties.

**Clause 7.6 Essential Services** – Reticulated water, sewer, power and telecommunications are available to the site. Relevant conditions of consent are proposed that will require the provision of these services to the development lots.

**Clause 7.9 Wetlands** – The subject site contains land mapped as wetland, constituting the western part of the site adjacent to the Mambo Wetlands. No works are proposed within this portion of the site and consequently there are no anticipated negative impacts on the condition or significance of the local flora and fauna, habitat for indigenous or migratory species, or the surface or groundwater characteristics of the land.

#### 4.1.2 SEPP 44 – Port Stephens Koala Comprehensive Plan of Management

The application includes the removal of vegetation within the development lots, which includes the removal of 11 Swamp Mahogany's which are known Koala feed trees. It is noted that the trees proposed for removal are physically separated from other surrounding vegetation and accordingly, they are of low value to the local koala population. A condition of consent is proposed to undertake compensatory planting in accordance with Council's Tree Technical Specification, in an appropriate location so as to supplement the existing nearby koala habitat.

#### 4.1.3 SEPP 71 – Coastal Protection

The subject land is located within the coastal zone as noted in the assessment against clause 5.5 of the PSLEP above. The proposed development is not anticipated to result in any impact on accessibility to the waters of Nelson Bay, or have any negative impacts on the local ecology. Additionally, the physical separation of the development and numerous intervening improvements reduces the opportunity for negative impacts on view to or from the waterway.

#### 4.2 s79C(1)(a)(ii) – Any draft EPI

There are no draft EPI's relevant to the proposed development.

#### 4.3 s79C(1)(a)(iii) – Any DCP

##### 4.3.1 Port Stephens Development Control Plan 2014

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

**Chapter A.12 Development Notification** – The development application was notified for an extended period of time (exceeding the minimum requirements of chapter A.12) being 30 days from 14 January to 12 February 2016. As a result of this process, four submissions were received and are discussed further in section 4.9 below.

**Chapter B2 Natural Resources** – The subject site contains land mapped as being koala habitat, land where incidental sightings on Wallum Froglets have occurred, land within 500m of a wetland, and endangered ecological community. A review of the applicants 7-part test of the impact of the

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT.**

16-2015-865-1

development identified that the natural resources on the development lots are of low ecological value. Rather the higher ecological value land is located within proposed lots 5 and 6, residue lots on which no development is proposed. The application meets the requirements of the DCP chapter and adequately demonstrates that the proposal will not have an unacceptable impact on natural resources.

**Chapter B3 Environmental Management** – The subject land is mapped as being bushfire prone and was referred to the RFS who assessed the impacts of bushfire on the proposal and provided relevant GTA's. The land is also mapped as containing potential acid sulfate soils (class 3). A condition is proposed requiring the preparation of an acid sulfate soils management plan for any works exceeding one metre below natural ground level.

**Chapter B4 Drainage and Water Quality** – A stormwater management plan submitted with the application adequately demonstrates that stormwater collected from proposed roads can be disposed of within the subject site, and achieves required quality targets.

**Chapter B9 Road Network and Parking** – The applicant has provided details of proposed street hardware and fixtures including proposed street trees, kerb inlet pits and footpaths. The proposed furniture meets the requirements of Council technical specifications and policies.

**Chapter C1 Subdivisions**

Clause	Requirement	Assessment
C1.5	A commercial lot should have maximum dimensions of 50 metres deep and 80 metres wide	Proposed lots 1, 2 and 7 meet the maximum lot size requirements, however proposed lot 3 has a width of approximately 88 metres. This variation to the maximum width is considered to be acceptable due to its minor nature. Proposed lot 4 also exceeds the maximum dimensions, however it is noted that this lot is surrounded by public roads on all sides and has the potential for future re-subdivision to suit a variety of commercial options. The variation to the maximum lot dimensions is considered acceptable in this instance so as to provide maximum flexibility for future use of the land.
C1.6	Street layout must comply with the road network specifications in Councils Infrastructure Specification - Design	The proposed road layout has been assessed against the infrastructure specification by Councils Development Engineer and found to meet the road network specifications.
C1.7	Street layout is to cater for required vehicle movements and street furniture	The application has provided plans and documentation that demonstrates that all required standard design vehicles are adequately catered for in terms of manoeuvrability throughout the existing and

Page 8 of 15



**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT.**

16-2015-865-1

		proposed road network. In addition, road reserves are of a suitable width to adequately cater for required footpaths, street trees, stormwater drainage, street lighting and lot accesses.
C1.9	Street tree planting are to be carried out in accordance with the Tree Technical Specification	The applicant has submitted a landscaping plan detailing the extent and type of proposed street tree planting. As part of the proposal, the applicant intends to undertake upgrades to the street tree planting within Bagnall Beach Road, as well as along new or realigned roads. The landscaping plan has been assessed against the Tree Technical Specification by Councils Vegetation Management Officer and determined to be consistent.
C1.10	The subdivision is to meet the minimum lot size requirements specified in the PSLEP	No minimum lot size is specified in the PSLEP for the subject land. It is noted however, that the proposal meets the objectives of the relevant clause as the proposed development lots are each of a sufficient size to cater for future commercial use. In addition, the developments have a range of sizes to provide flexibility for potential future uses.
C1.13	Corner lots should have splays	Proposed lots 1 and 4 are corner lots and contain either splays that meet the requirements of the DCP chapter, or are curved so as to achieve a similar effect.
C1.18	The application is to address the requirements of Councils Technical Specifications document	The proposal included the provision of plans and documents that adequately address the requirements of the Technical Specification.
C1.19	Public Infrastructure is to be located within road reserves	All proposed public infrastructure is located within existing or proposed road reserves, except for one footpath that will be located on proposed lot 7, connecting Purser Street to Central Avenue. A condition of consent is proposed that requires the ongoing provision of this path, and its consideration for future development on the lot.

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT.**

16-2015-865-1

**Chapter D8 Salamander Bay Shopping Centre** – As a result of previous development applications lodged on the subject site, a set of planning principles were developed and adopted by Council. The planning principles gave high level development considerations which have been reproduced in this DCP chapter. The principles in the DCP chapter have been addressed in the table below.

Clause	Requirement	Assessment
D7.1	Identity Hub – Sense of identity for a unified community and commercial precinct	The proposed development provides additional developable commercial land in support of the existing commercial area. The proposed development lots maintain consistent characteristics with other commercial land within the precinct and will allow for additional commercial and community services and options. The increase in size of the commercial precinct will reaffirm the locality as a local hub for transport and community retail and service needs.
D7.2	Integration – Ensure future development integrates with and enhances the precinct	The proposal includes the provision of commercial land in a number of size configurations, in keeping with those already provided in the area. The proposal includes the extension and upgrade of connectivity between the existing and proposed commercial development lots. In addition, the proposal provides an upgraded primary entrance to the commercial area that will service both existing and proposed lots.
D7.3	Connectivity – integrated pedestrian and road network	The proposed road network promotes a continuous flow of traffic and improves access to the adjacent shopping mall through the formalisation and extension of Town Centre Circuit as well as through the provision of an additional connection to the local road network. Further, the application proposes a number of upgraded pedestrian crossings of Bagnall Beach Road, as well as new internal footpaths and pedestrian crossings to increase the accessibility between the proposed and existing commercial lots for pedestrian traffic. A new bus interchange will replace the current arrangement that sees large buses manoeuvring through the narrow aisles located within the carpark of the adjacent shopping centre.
D7.4	Access Points – Appropriate intersection treatments to accommodate	The upgraded intersection of Terminus Parade and Bagnall Beach Road will improve both the capacity and safety of the intersection for vehicles and pedestrians accessing the commercial precinct. In addition, the new

Page 10 of 15

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT.**

16-2015-865-1

	future expansion	connection of Central Avenue with Bagnall Beach Road will further increase access options to the precinct, as well as catering for a potential connecting road on the north-western side of the existing developments.
D7.5	Friendly – Development respects surroundings and users of the development	The application proposes additional commercial land that logically expands the commercial precinct. The additional land maintains a similar style to other commercial land with wide road reserves, frequent use of pedestrian pathways, the introduction of shared pathways to cater for cyclists, upgraded vehicle access that also services existing commercial developments, and increased access points that improves the useability of the precinct. The development also respects the surrounding development by placing new roads internally, and orienting new development lots in this direction.
D7.6	Environment – Ensure development protects local ecology	The proposal includes the development of land outside of areas identified as ecology constrained. The development incorporates onsite stormwater quality control devices and infiltration, and is proposed to be shaped to slope away from ecologically sensitive features on adjoining land. A condition of consent has also been proposed requiring the planting of additional koala feed trees to supplement the existing koala habitat to the west of the subject land.
D7.7	Safety – Development designed to ensure safety of neighbours and users of the development	The development includes the provision of new footpaths to access both the subject and existing commercial areas. In addition, new shared footpaths are proposed that will allow cyclists to access the development and surrounding areas. This includes a new shared footpath along the entire length of Bagnall Beach Road from Salamander Way to Sandy Point Road – one of the busiest stretches of road in the locality. Additionally, the signalisation of the Terminus Parade intersection with Bagnall Beach Road will improve the safety for traffic entering the site or passing the intersection, as well as for pedestrians attempting to cross the road in this locality.
D7.8	Community – Development supports and is consistent with community	The proposed development does not include the construction of any buildings or propose any specific uses of the land. However, the provision of additional commercial zoned land on which community facilities, recreational facilities and

	activities	commercial facilities are permissible and will assist in supporting the activities undertaken by the community.
D7.9	Aesthetics – Designed with human scale in mind and provide holistic approach to precinct	The proposal includes the replication of the existing lot size and configuration characteristics typified throughout adjoining commercial land. The development includes pedestrian pathways to access of new development lots and connecting to existing commercial areas at multiple points. In addition, new street tree plantings both within the proposed site and along Bagnall Beach Road will provide a consistency to the aesthetics of the commercial precinct.
D7.10	Economic Development – Ensure future development officer economic advantages to community	The provisions of new commercial land in the locality will provide long-term future commercial growth, allowing the provision of additional services and retail options to the local community. The increase in availability of commercial and retail options will improve the ability of the commercial precinct to provide for the needs of the local community, and attract visitors from a wider draw area. The additional customers attracted to the precinct will result in positive impacts of the economic viability of both existing and future developments.

**4.4 s79C(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 93F**

There are no planning agreements that have been entered into under section 93F relevant to the proposed development.

**4.5 s79C(1)(a)(iv) – The regulations**

There are no clauses of the regulations relevant to the proposed development.

**4.6 s79C(1)(a)(v) – Any coastal management plan**

There are no coastal management plans applicable to the proposed development.

**4.7 s79C(1)(b) – The likely impacts of the development**

**4.7.1 Social and Economic Impacts**

The proposal will result in upgraded access for both vehicles and pedestrians to commercial developments in the locality through the provisions of additional and upgraded footpaths and pedestrian crossing, the extension of existing roads and provision of an additional connection with the local road network, and the provision of a new bus interchange. The increased accessibility to local services and retail options is a benefit to the local community. A survey undertaken by the applicant and submitted with the application also indicates that the overwhelming view of the local community is that they desire a better range of services in the locality, which will be catered for through the provision of additional commercial land such as the development lots proposed in the application. The construction works associated with the proposal will create

additional economic input to the local economy, as will construction works undertaken for future developments on the sites. The provision of future developments on the new land will also provide additional employment opportunities, providing further and ongoing economic stimulus in the local economic environment.

#### **4.7.2 Impacts on the Built Environment**

The proposed development will improve access to the existing built environment for both vehicular and pedestrian traffic as mentioned above, including for service vehicles that currently experience difficulties in navigating parts of the existing commercial area. The provision of additional commercial land will also reinforce the commercial nature of the area and support the use of the land as a regional commercial hub. Proposed upgrades to the intersection of Terminus Parade and Bagnall Beach Road in addition to associated street tree upgrades will also improve the aesthetics of the greater locality and improve the local amenity for both residents and tourists.

The application requests extended construction work hours to allow construction works to occur between the hours of 7am to 6pm, Monday to Sunday. The application reasons that the extended hours are needed to allow for a compressed timeframe so that works are completed prior to the busy summer period, and to allow for intersection upgrades and beautification works to be carried out during quieter traffic movement times. The justification provided includes that the surrounding residential dwellings do not face the development site and each have a 1.8metre high separating fence that will assist in amelioration of noise impacts. In addition, surrounding residential dwellings are separated from the development site by either Bagnall Beach Road, a 35 metre road reserve, or other commercial developments. It is considered that the request for extended construction work hours is acceptable in this instance, as the proposed works can be assimilated to road works which can already be carried out within the Bagnall Beach road reserve during the proposed hours. In addition, the ability to reduce traffic disruption and complete the development outside of peak tourism times is in the interests of the community who would be otherwise negatively impacted. It is noted that the majority of works are to be carried out well in excess of 50 metres from the closest residence. Additionally, the applicant has indicated that they intend to notify the community of construction timeframes. The proposal to carry out works during the nominated hours is considered to be of a low impact to surrounding development, and is acceptable in this instance.

#### **4.7.3 Impacts on the Natural Environment**

The proposed development will involve the development of a portion of the site that is currently unencumbered by any vegetation or other features of ecological significance and accordingly, there are no anticipated adverse impacts on the natural environment.

#### **4.8 s79C(1)(c) – The suitability of the site**

The development portion of the land is currently surrounded to the south, west and north by other commercial developments and Bagnall Beach Road to the east. The land forms a logical extension to the existing commercial development and also allows for the upgrade and supplement of existing roads and footpaths. The use of the subject land for commercial development will reinforce the commercial hub and allow for an increase in services and retail options. The subject land is relatively flat

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT.**

16-2015-865-1

and requires only minor earthworks and vegetation removal. The subject site is suitable for the proposed development.

**4.9 s79C(1)(d) – Any submissions**

Four submissions were received in relation to the proposed development. The matters raised are discussed below:

<u>Matter Raised</u>	<u>Comments</u>
A pedestrian link is recommended through the development lots to the Rigby Centre on Sandy Point Road	It is noted that no open space is available to accommodate such a link, however the application proposes a new pedestrian link from the development site to Purser Street, and the upgrade of the existing footpath on Bagnall Beach Road. The proximity of these accesses is considered preferential as they are located within public road reserve, rather than on private land. The inclusion of an additional link over private land is not considered suitable for the proposed development. The applicant has also indicated that they intend to provide a shared path along the western edge of Bagnall Beach Road extending from Sandy Point Road to Salamander Way to increase options for cyclists visiting the commercial precinct. A condition is proposed in this regard.
Convenient pedestrian crossings and covered walkways should be provided between the bus interchange and existing shopping centre	The applicant has proposed a number of new and upgraded pedestrian crossings to improve accessibility within the site. There is no existing requirement for covered walkways within road reserves, and the connection of only a single commercial operator is considered to present a commercial disadvantage to other commercial developments. It is also noted that the majority of the pathway between the bus stop and existing shopping centre is located on land under separate ownership. The provision of covered walkways is not supported in this regard.
Street trees and landscaping should be consistent with other non-native vegetation used on other nearby commercial land	The use of non-native species for street trees or landscaping is not supported and does not accord with Council's Tree Technical Specification.
The right turn onto Bagnall Beach Road will be negatively impacted	A traffic impact assessment submitted with the application has demonstrated that the existing intersection will be sufficient to cater for increased traffic at the intersection of Terminus Parade and Bagnall Beach Road, considering the new connection of Central Avenue with Bagnall Beach Road. However, the application proposes the upgrade of the existing intersection on Bagnall Beach road which includes signalisation. The traffic signals are considered to provide safe and equitable access for vehicles and buses, including those turning right onto Bagnall Beach

Page 14 of 15

**ITEM 1 - ATTACHMENT 2 DEVELOPMENT ASSESSMENT REPORT.**

16-2015-865-1

	Road.
Other public works will go unfunded until sales of land recoup investment costs	This is not a valid consideration under the development assessment process. The funding of such developments is carried out is determined by Councils budget process, which includes consideration of the impacts of each project on the operations of Council and service to the local community.
A specific DCP chapter has not been developed to govern future development on the development lots	The existing Commercial Development Chapter of the DCP provides relevant criteria for assessment. There is no legal requirement for broadening the current DCP controls and any future development on the proposed lots will be considered on its merits with consideration given to the existing site specific chapter included in the DCP.
The submitted ecological assessment is out of date	The applicant has provided an updated addendum to the ecological report that has addressed the changes between the current and previous subdivision design, as well as the changes to the local ecology in the intervening period. The addendum has been assessed by Councils Natural Resources Officer who found the report to address the relevant matters for consideration.
Overflow stormwater will be directed to the Mambo Wetlands	The application stormwater design includes the infiltration on stormwater with connection to the existing street drainage network in Bagnall Beach Road, away from the Mambo Wetland. The proposed development adequately protects the ecological value of the Mambo Wetland.

**4.10 s79C(1)(e) – The public interest**

The proposal provides additional commercial land in a locality where a deficiency of commercial opportunities has been identified. The proposed development lots represent a logical extension of the existing commercial area and are located so as not to present any adverse impacts on significant vegetation or threatened species. In addition, the development includes beautification works to the public realm in Bagnall Beach Road, providing benefits beyond the boundaries of the development site. The proposed development is in the public interest.

**5.0 DETERMINATION**

5.1 The application is recommended to be approved, subject to conditions.

Brett Gardiner  
Senior Development Planner



**SCHEDULE 1**

**REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED**

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

**CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT**

1. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent or as noted in red by Council on the approved plans:

Plan/Doc. Title	Plan Ref. No.	Sheet.	Date	Drawn By
Subdivision Plan, as amended in red	34601F PSP	1	30/03/2016	North Point Surveys
Road and Intersection Plans	NL120135	C04DA (rev. B) C20DA (rev. 1) C21DA (rev. 1)	29/03/2016	Northrop
Road and Intersection Plans	NL120135	C05DA (rev. A)	17/12/2015	Northrop
Erosion and Sediment Control Plan	NL120135	C13DA (rev. A)	17/12/2015	Northrop
Landscape Plan	1272	02 to 07	17/12/2015	Moir Landscape Architecture

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.

2. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed.



**ITEM 1 - ATTACHMENT 3 PROPOSED CONDITIONS AND RFS GTA'S.**

Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.

3. The development is to be carried out in accordance with the General Terms of Approval (GTA) issued by the Rural Fire Service, reference number D16/0019 and dated 1 April 2016. A copy of the GTA's are contained within the Bushfire Safety Authority attached as Schedule 3 to this consent.
4. The intersection of Bagnall Beach Road and Terminus Parade is to be signalised at the full cost of the applicant and to the approval of RMS. Works are to include all necessary adjustments to traffic medians, islands, turning and through lanes and include intersection signal controlled integrated pedestrian crossings of Bagnall Beach Road and Terminus Parade. The existing pedestrian refuge crossing of Bagnall Beach Road south of the intersection is to be removed and all disturbed areas reinstated to the satisfaction of Port Stephens Council.

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION**

5. **Prior to the commencement of works**, Development Approval DA16-2012-720-1 is to be surrendered in accordance with the requirements of clause 97 of *Environmental Planning and Assessment Regulation 2000*.
6. **Prior to the commencement of works**, sediment and erosion control measures shall be installed along the contour immediately downslope of any future disturbed areas. The control measures are to be maintained during the construction period and until the site is stabilised by vegetation or other devices.
7. **Prior to the commencement of works**, a Construction and Environmental Management Plan (CEMP) is to be submitted to, and approved by Council. The CEMP is to address the following:
  - a) Traffic Management, including details of haulage routes;
  - b) Construction Noise Management;
  - c) Soil and Water Management in accordance with The Blue Book – Managing Urban Stormwater;
  - d) Waste Management;
  - e) Site Security;
  - f) Acid Sulfate Soil Management;
  - g) A tree clearing protocol that includes the requirement for a pre-clearance survey prior to tree removal within the subdivision disturbance footprint (in accordance with Appendix 3, Figure 1 EPS 2016); and
  - h) Fauna relocation management, including veterinary treatment or transfer to a local volunteer carer group of any injured wildlife.

A copy of the approved CEMP is to be provided to the certifying authority prior to the commencement of works.

8. **Prior to the commencement of works**, a pre-clearance survey must be undertaken by a suitably qualified and experienced ecological consultant in accordance with the CEMP. The survey must inspect all native trees that have

**ITEM 1 - ATTACHMENT 3 PROPOSED CONDITIONS AND RFS GTA'S.**

been approved for removal prior to felling within the subdivision disturbance footprint.

If the pre-clearance survey identifies any threatened species inhabiting a tree flagged for removal, all clearing works shall cease until a plan of management for the relocation of the species has been approved by council in consultation with the Office of Environment and Heritage.

9. **Prior to the commencement of works**, an amended Landscape Plan is to be submitted to and approved by Councils Vegetation Management Officer. The amended plan is to take into account the final approved subdivision layout and the details contained within the memo issued by Moir Landscape and Architecture in relation to the proposed development, dated 10 March 2016.
10. **Prior to the commencement of works**, written notification is to be provided to surrounding residences that informs the residents of the proposed construction timeframe, and the approved hours of construction work. The notification shall also provide the name and contact details for the site supervisor or relevant contact person.
11. A plan showing the final design and location of the footpath connecting Central Avenue with Purser Street over proposed lot 7 is to be submitted to Council prior to its construction.
12. Works associated with the approved plans and specifications located within the existing Road Reserve shall not commence until:
  - a) A Roads Act Approval has been issued; and
  - b) All conditions of the Roads Act Approval have been complied with to Council's satisfaction.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

13. **Prior to issue of Construction Certificate**, and pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Port Stephens Section 94A Development Contributions Plan, a contribution related to the Capital Investment Value (CIV) of the development shall be paid to Council, as determined in accordance with clause 25j of the *Environmental Planning and Assessment Regulation 2000* and as outlined in the table below.

<b>Capital Investment Value</b>	<b>Levy Rate (% of CIV)</b>
Up to and including \$100,000	Nil
More than \$100,000 and up to and including \$200,000	0.5%
More than \$200,000	1%

A Cost Summary Report Form (attached) setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Section 94A Development Contributions Plan, must be approved by Council prior to issue of the Construction Certificate. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must

**ITEM 1 - ATTACHMENT 3 PROPOSED CONDITIONS AND RFS GTA'S.**

be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors.

14. **Prior to the issue of a Construction Certificate** for the proposed bus shelter, detailed plans are to be submitted to the certifying authority.
15. **Prior to the issue of a Construction Certificate**, all work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional, in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', AustRoads Guide to Road Design and relevant Australian Standards.

The required works to be designed are as follows:

- a) Removal of the existing pedestrian refuge in Bagnall Beach Road adjacent to McDonalds and the reinstatement works;
  - b) Traffic barrier/bollards at the end of Purser Street;
  - c) Reinforced concrete round-a-bouts;
  - d) 1.2m footpaths along all road frontages, except as otherwise shown on the approved plans;
  - e) Class P2 street lighting;
  - f) All redundant vehicular crossings and street furniture to be removed, kerb reinstated and the footway formation reinstated with turf; and
  - g) Signage and line marking. The signage and line marking plan shall be approved by the Council Traffic Committee.
16. **Prior to the issue of a Construction Certificate**, an infiltration system shall be designed and constructed for all road catchments in accordance with the approved plans with amendments in accordance with Australian Standards and Port Stephens Council's Design and Construction Infrastructure Specification to infiltrate all stormwater runoff for storm events up to the 1% ("100 year") AEP or as otherwise agreed in writing by Council as the roads authority.
  17. **Prior to the issue of a construction certificate**, engineering plans for the following subdivision works within the private property must be designed by a suitably qualified professional, in accordance with Council's 'Infrastructure Design Specification – AUS Spec', AustRoads Guide to Road Design, relevant Australian Standards, and provided to the certifying authority. The plans are to detail:
    - a) Internal roads, drainage and pathways generally in accordance with the approved plans;
    - b) Services conduits (including draw wire) for electricity and telecommunications, within the access corridor in accordance with the relevant authority's specifications and requirements;
    - c) Retaining walls certified by a Chartered Professional Structural Engineer;
    - d) Class P2 street lighting;
    - e) Road side barriers where required; and
    - f) Signage and line marking. The signage and line marking plan shall be approved by the Council Traffic Committee prior to the issue of a certificate of practical completion.

**ITEM 1 - ATTACHMENT 3 PROPOSED CONDITIONS AND RFS GTA'S.**

**CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES**

18. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
19. Construction work that is likely to cause annoyance due to noise is to be restricted to 7am to 6pm Monday to Sunday. Where possible, such noise generating works are to be prioritised to occur Monday to Saturday.  
  
When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.
20. All public footpaths and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers.  
  
In the case of sites where it is not possible to keep the footpath or road reserve clear during construction works written approval from Council shall be obtained prior to any closing of the road reserve or footpath area. The closure shall take place in accordance with Council's written approval. The area shall be signposted and such signposting be maintained in a way that ensures public safety at all times.  
  
Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3(1996) 'Traffic Control Devices for Work on Roads'.
21. All material for bulk filling of the development site including re-grading, must be obtained from the northern part of the site and not imported from external sources.
22. The proponent is to liaise with bus operators and Council to determine if an alternate bus stop is required as a result of the loss of the existing stop in the vicinity of the intersection of Central Avenue and Bagnal Beach Road. If it is determined that a compensatory bus stop is required, a suitable alternative location is to be determined in conjunction with bus operators and Council.
23. A traffic barrier incorporating a three metre gate is to be provided at the southern end of Purser Street and is to be provided to prevent unauthorised vehicular access between Purser Street and the proposed pathway.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

24. For endorsement of the subdivision certificate, the person having the benefit of the development consent shall submit an original plan of subdivision plus an

**ITEM 1 - ATTACHMENT 3 PROPOSED CONDITIONS AND RFS GTA'S.**

electronic and signed copy on a USB or CD, suitable for endorsement by Council. The following details must be submitted with the plan of subdivision and its copies:

- a) The endorsement fee current at the time of lodgement;
- b) The 88B instrument plus six (6) copies; and
- c) All surveyor's and/or consulting engineers' certification(s) required under the subdivision consent;

Council will check the consent conditions on the subdivision. Failure to submit the required information will delay enforcement of the linen plan and may require payment of rechecking fees.

25. A pedestrian path/cycleway 2.5 metres wide, generally in accordance with standard drawing S152 is to be provided:
  - a) To the full frontage of proposed lots 1, 2, 3 and 4 prior to the issue of a Subdivisions Certificate;
  - b) To the part of proposed lot 7 fronting road reserve prior to the issue of a Subdivisions Certificate;
  - c) Through proposed lot 7 connecting from Purser Street to Central Avenue prior to the issue of a Subdivisions Certificate; and
  - d) Along the western side of Bagnall Beach Road, extending from Sandy Point Road to Salamander Way and connecting with relevant kerb ramps and existing paths where appropriate.
26. **Prior to the issue of a Subdivision Certificate**, all civil engineering works shall be carried out in accordance with the Construction Certificate, Australian Standards and Council's Design and Construction Specification, Policies and Standards, to the satisfaction of Council.
27. **Prior to the issue of a Subdivision Certificate**, evidence is to be submitted demonstrating provision of reticulated water, sewer, power and telecommunications services to proposed lots 1, 2, 3, 4 and 7.
28. **Prior to the issue of a Subdivision Certificate**, the Section 50 Hunter Water compliance certificate which refers to the subdivision application must be obtained and submitted to Council.
29. **Prior to the issue of a Subdivision Certificate**, street trees and landscaping works within proposed road reserves shall be installed in accordance with the amended landscaping plan. Evidence is to be submitted to Council to demonstrate that installed landscaping meets sight distance requirements in accordance with Australian Standards and AustRoads.

**ITEM 1 - ATTACHMENT 3 PROPOSED CONDITIONS AND RFS GTA'S.**

30. **Prior to the issue of a Subdivision Certificate**, 66 Koala feed trees, either *Eucalyptus robusta* (Swamp Mahogany) or *Eucalyptus parramattensis* (Parramatta red gum), or a combination of these two species, are to be planted at a suitable location as agreed by Council to compensate for the removal of the 11 *Eucalyptus robusta* (Swamp Mahogany) from the development site. The planting location should be situated so as to supplement and extend existing koala habitat. The trees must be planted in accordance with Council's Tree Technical Specification and are to be a minimum of 25 litre pot size and appropriate height. The replacement trees are to be maintained to maturity through use of watering and mulch as required to achieve natural height.
31. **Prior to the issue of a Subdivision Certificate**, all civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of Council with a letter of practical completion issued.
32. **Prior to the issue of a Subdivision Certificate**, Works-As-Executed plans and accompanying report prepared and certified by a suitability qualified drainage engineer confirming all drainage works (including volume, discharge, levels, location, etc) have been constructed in accordance with conditions of consent and the approved plan are to be submitted to Council. Minor variations can be accepted provided that they are clearly identified in the report and the engineer certifies that the overland flow paths will not be altered, discharge rates will not be increased, and no additional negative effects are imparted on any dwellings or property. Minor variations can only be certified where it can be demonstrated that the ease of maintenance and monitoring of the system has not been negatively affected.
33. **Prior to the issue of a Subdivision Certificate**, the applicant shall restore, replace or reconstruct any sections of footpath, cycleway, kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve that occur as a result of construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council
30. The developer is to provide the following plans and / or CAD files:
- a) Road construction plans in CAD format prior to commencement of road works;
  - b) Works-as-executed drawings and CAD files of all engineering works prior to the issue of any Subdivision Certificate(s); and
  - c) CAD files which include all lot and road boundaries, lot numbers and easements, prior to the issue of the Subdivision Certificate.
- All CAD files shall be supplied in AutoCAD or compatible format in a known coordinate system (preferably GDA94 or MGA56)
34. The final plan of subdivision is to show proposed lot 8 as road reserve, as depicted on the approved plan.

**ITEM 1 - ATTACHMENT 3 PROPOSED CONDITIONS AND RFS GTA'S.**

35. A restriction is to be placed on the title of proposed lot 7 requiring future development to give consideration to a pedestrian link between Purser Street and Central Avenue, however such consideration is not required if a pedestrian link is made over an adjoining property or road reserve.

**ADVICE**

- A. Telecommunications infrastructure to services the premises must be installed which complies with the following:
- a) The requirements of the *Telecommunications Act 1997* (Cth);
  - b) For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
  - c) For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
- B. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

**SCHEDULE 2**

**RIGHT OF APPEAL**

If you are dissatisfied with this decision:

- A review of determination can be made under Section 82A of the Act, or
- A right of appeal under Section 97 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.

**NOTES**

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to section 83 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to section 95 of the Environmental Planning and Assessment Act 1979.

SCHEDULE 3 - RURAL FIRE SERVICE BUSFIRE SAFETY AUTHORITY

All communications to be addressed to:

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 NSW RFS  
e-mail: [csc@rfs.nsw.gov.au](mailto:csc@rfs.nsw.gov.au)

Facsimile: 8741 5433



The General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Your Ref: 16-2015-865-1  
Our Ref: D16/0019  
DA16011200258 JC

**ATTENTION:** Brett Gardiner

1 April 2016

Dear Sir/Madam

**Integrated Development for 284/806310 155 Salamander Way Salamander Bay**

I refer to your letter dated 1 April 2016 seeking general terms of approval for the above Integrated Development in accordance with Clause 55(1) of the Environmental Planning and Assessment Regulation 2000.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing childcare centre on proposed Lot 6, to a distance of 20 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. At the issue of subdivision certificate and in perpetuity a minimum 20 metre wide area between the west boundary of the proposed Lot 7 and the vegetation to the west in Proposed Lot 5, shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities**

ID:10025894942/5

Page 1 of 3

Page 9 of 11



The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

4. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

**Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. Between the hazard to the west and the existing childcare centre on proposed Lot 6, a minimum 2.0 metres high radiant heat shield made of non-combustible materials shall be constructed. All posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth.

**Landscaping**

6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'. In this regard the following landscaping principles are to be incorporated into the development:
  - Suitable impervious areas being provided immediately surrounding the building such as courtyards, paths and driveways;
  - Grassed areas/mowed lawns/ or ground cover plantings being provided in close proximity to the building;
  - Restrict planting in the immediate vicinity of the building which may over time and if not properly maintained come in contact with the building;
  - Maximum tree cover should be less than 15%, and maximum shrub cover less than 20%;
  - Planting should not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters);
  - When considering landscape species consideration needs to be given to estimated size of the plant at maturity;
  - Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
  - Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;

- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such timber garden furniture way from the building; and
- Use of low flammability vegetation species.

This letter is in response to a further assessment of the application submitted and supersedes our previous general terms of approval dated 12 February 2016.

For any queries regarding this correspondence please contact Joshua Calandra on 1300 NSW RFS.

Yours sincerely



Jason Maslen  
**Acting Manager**

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.

**ITEM NO. 2**

**FILE NO: 16/305199  
RM8 REF NO: 16-2015-741-1-001**

**DEVELOPMENT APPLICATION FOR A CHANGE OF USE TO A RETAIL PREMISES (IGA LIQUOR STORE) AT SHOP 3B, NO.118 GAN GAN RD, ANNA BAY (LOT 111 DP 1086178)**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application No. 16-2015-741-1 for a retail premises (change of use from food and drink premises (pizza restaurant) to retail premises (liquor premises)) at Shop 3B, 118 Gan Gan Road, Anna Bay (LOT 111 DP 1086178) subject to the conditions contained in **(ATTACHMENT 1)**.

---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

Councillor Peter Kafer left the meeting at 05:57pm, during Item 2 in Committee of the Whole.

Councillor Peter Kafer returned to the meeting at 06:00pm, during Item 2 in Committee of the Whole.

<p><b>Councillor Sally Dover Councillor Geoff Dingle</b></p> <p>That Council refuse Development Application No. 16-2015-741-1 for a retail premises (change of use from food and drink premises (pizza restaurant) to retail premises (liquor premises)) at Shop 3B, 118 Gan Gan Road, Anna Bay (LOT 111 DP 1086178), for the reasons for refusal as stated in <b>(ATTACHMENT 5)</b>.</p>
---

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

Those for the Motion: Crs Geoff Dingle, Sally Dover, Peter Kafer and Steve Tucker.

Those against the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Ken Jordan, Paul Le Mottee, John Morello and John Nell.

The motion was lost.

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p><b>Councillor Ken Jordan</b> <b>Councillor Chris Doohan</b></p> <p>That Council approve Development Application No. 16-2015-741-1 for a retail premises (change of use from food and drink premises (pizza restaurant) to retail premises (liquor premises)) at Shop 3B, 118 Gan Gan Road, Anna Bay (LOT 111 DP 1086178) subject to the conditions contained in <b>(ATTACHMENT 1)</b>.</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 Chris Doohan, Ken Jordan, Paul Le Mottee, John Morello and John Nell.

Those against the Motion: Crs Geoff Dingle, Sally Dover, Peter Kafer and Steve Tucker.

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>094</b>	<p><b>Councillor John Nell</b> <b>Councillor Ken Jordan</b></p> <p>It was resolved that Council approve Development Application No. 16-2015-741-1 for a retail premises (change of use from food and drink premises (pizza restaurant) to retail premises (liquor premises)) at Shop 3B, 118 Gan Gan Road, Anna Bay (LOT 111 DP 1086178) subject to the conditions contained in <b>(ATTACHMENT 1)</b>.</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 Chris Doohan, Ken Jordan, Paul Le Mottee, John Morello and John Nell.

Those against the Motion: Crs Geoff Dingle, Sally Dover, Peter Kafer and Steve Tucker.

**BACKGROUND**

The purpose of this report is to present a development application to Council for determination of a retail premises (liquor premises) at 118 Gan Gan Road, Anna Bay,

legally known as Lot: 111 DP: 1086178 ('**subject site**'). A locality plan is held at (**ATTACHMENT 2**). The site is located within the existing Anna Bay Shopping Precinct at Gan Gan Road at Anna Bay and is situated next to the existing IGA supermarket.

Council's Development Assessment and Compliance Manager elected to report the matter to Council due to the proposed use and in light of concerns raised by the New South Wales Police regarding the social impacts of the development (**ATTACHMENT 3**).

The subject application was previously reported to Council at its ordinary meeting of 23 February 2016 (**ATTACHMENT 4**). Council resolved to defer the matter for further consideration of the NSW police report. Further, Councillor's requested that staff provide draft reasons for refusal (**ATTACHMENT 5**) and provide legal advice regarding the prospects of success should the applicant determine to appeal a refusal of the application.

A two-way conversation was held with Councillor's on 19 April 2016. Council's Legal Service Manager and external legal provider briefed Councillors on the prospect of success in defending any Class 1 Appeal in the event that the Application was refused.

Subsequent to the meeting of 23 February 2016 the applicant provided further information to support the application and elected to amend the proposed hours of operation. The amendment to operating hours has been proposed in order to address some of the concerns raised by Councillors. In particular, the applicant no longer proposes a 10pm closing time on Friday and Saturday evenings. The amended hours of operation are as follows:

- Monday to Saturday: 8:30am to 8:30pm, and
- Sunday: 10am to 8:30pm.

The proposed liquor store will employ a full time manager and a number of casual and part-time staff.

Following the submission of additional information from the applicant and the review of legal advice, the application has been assessed by Council's Senior Executive Planner and it is identified that the proposal may result in adverse social impacts. However, it has been concluded the reduced operating hours during Friday and Saturday evenings reasonably mitigates any potential social impact. Further, it is considered that there are not sufficient grounds to warrant the refusal of the application. A detailed assessment of the application in accordance with s.79C *Environmental Planning and Assessment Act 1979* ('EP&A Act') is provided at (**ATTACHMENT 6**).

Key Issue – social impact

Demographics

The main area of concern relates to the potential adverse social impacts to the surrounding development. In this regard, The NSW Police provided comments on the proposal (**ATTACHMENT 3**) which raised specific concerns relating to the impact that the proposed liquor premises will have on Police resources in the area. Data provided by the NSW Police indicates that the area within the immediate vicinity of the subject site has been a 'hot spot' for alcohol related crime in the Port Stephens Local Area Command (LAC) for a significant time period. As such, the NSW Police have invested time in dealing with the location and have observed intoxicated persons continuing to consume alcohol and exhibiting violent, aggressive and anti-social alcohol related behaviour. The Police identify that this has resulted in an 'Alcohol Free Zone' covering the Anna Bay CBD (which includes the subject site).

The data obtained from the Police Computer System (COPS), Enterprise Data Warehouse (EDW) and Alcohol Related Crime Information Exchange (ARCIE), indicates that there is a large amount of alcohol related anti-social behaviour, particularly in private residences and public places, and involves a large amount of juveniles resulting from secondary supply. The NSW Police also note that there are higher issues at peak holiday times in Anna Bay that are mostly related to youth street and house parties. Figures show that the Nelson Bay area has triple the risk rating for alcohol related violent incidents and double the risk rating for alcohol linking within the Port Stephens LAC.

The Police submission concludes that there is an adequate amount of liquor licences located within the area and that if approval was granted to the proposal an adverse effect on the amenity of the neighbourhood including existing businesses, and an impact to police resources would result as a result of alcohol related crime.

However, the Social Impact Assessment (SIA) submitted with the development application indicates that from January 2014 to December 2014, the BOSCAR data shows that the alcohol related rate of non-domestic assault and rate of assault Police incidents for the suburb of Anna Bay was lower than the NSW average. The alcohol related rate for domestic assault was slightly higher for Anna Bay in comparison to the NSW average. The SIA also identifies that Anna Bay has a SEIFA index (which is an established indicator of relative social economic disadvantage), of 959, which is slightly more disadvantaged than regional NSW (968.9), and the remainder of Port Stephens (970) as at 2011. It also states that Anna Bay is less disadvantaged than the suburb of Raymond Terrace (896), but more disadvantaged than Nelson Bay (978). The SIA concludes that both Anna Bay and Raymond Terrace are trending down between 2006 and 2011, as is regional NSW and the whole of NSW. That is their relative disadvantage is increasing, whereas the LGA of Port Stephens remained static. In completing the SIA qualitative research was undertaken including the conducting of interviews with local businesses, street intercepts with local shoppers, and discussions with Council and the Police.

Impacts to the locality

In order to determine the impacts to the locality, the area that constitutes the locality must be first appropriately defined. In this regard, the impacted locality may vary according to factors such as;

- Walking distance from the proposed liquor outlet to the accommodation of the users;
- The distance from any specific area of likely disadvantage such as a caravan park or place used for emergency accommodation;
- The distance from any popular meeting place that may be frequented by minors, youth or families;
- The types of surrounding businesses such as fast food outlets; and
- The number of other outlets in the vicinity.

The proposed outlet will be located within proximity to an existing packaged liquor outlet and within 200 metres of another packaged liquor outlet and one hotel (Anna Bay Tavern). A further hotel with liquor store and three additional packaged liquor outlets are located within a five kilometre radius of the subject site. In addition, the majority of accommodation, including that used during the holiday period, would be located within walking distance to the subject site. A skate park and recreation reserve are both located within walking distance to the subject site.

Therefore, it is arguable that given the level of disadvantage in Anna Bay, the relevant factors (listed above) associated with the Anna Bay locality and the increase in density of the liquor outlets the proposed development may result in an increase in social impacts and/or increase levels of alcohol related harm.

Mitigation measures

In order to warrant the refusal of the proposed development on the basis of a "likely" adverse social impact, Council should be satisfied that there is a 'real chance or possibility' of the adverse impact eventuating. Consideration must also be given to the ability for the potential impact to be mitigated.

In order to respond to concerns raised by Council (at its meeting of 23 February 2016) and the NSW Police, the applicant has proposed to amend the hours of operation. Trading hours of 10pm on Friday and Saturday evenings are no longer proposed. As a result, the density of accessible liquor outlets during this critical time period has been reduced and the proposed premises will close earlier than the licensed premises in the locality.

Conclusion

Both the applicants SIA and comments from the NSW Police have been considered in the assessment of the application. It has been determined that the potential social impacts can be reasonably mitigated with the introduction of reduced hours of operation.

Further, the proposed development will activate a premise that is currently closed during the day, adding to the character of the village centre. The proponent is committed to the responsible service of alcohol (RSA) and has an Office of Liquor, Gaming and Racing (OLGR) Plan of Management in place which will decrease the negative impacts associated with liquor. The OLGR will also assess the social impacts of the premise as part of their licencing assessment and determination, taking into consideration the surrounding liquor premises.

Community consultation

The application was publically exhibited in accordance with Council's Notification Policy. One submission was received in relation to the proposed development during the exhibition period. The submission outlines concerns regarding the establishment of an additional liquor outlet in the Anna Bay community and the negative social effects this will have on the general public. It also stated that the community already exhibits negative behaviour with regard to alcohol in the area and the public are not open to additional outlets that increase this behaviour.

As outlined elsewhere in this report, it is considered that any potential adverse social impacts can be mitigated by amendment to the hours of operation. Further, the OLGR will also have the opportunity to further assess the social impact of the proposal on submission of a liquor licence application (including a review of the existing number of liquor retail outlets in the area).

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

**FINANCIAL/RESOURCE IMPLICATIONS**

**Development Application**

There are no known financial implications resulting from the recommendation of this report.

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



**LEGAL, POLICY AND RISK IMPLICATIONS**

The proposed development is generally consistent with the objectives and requirements of the *Port Stephens Local Environmental Plan 2013* (LEP) and *Port Stephens Development Control Plan 2014* (DCP). Further details are provided in the Planners Assessment Report included in **(ATTACHMENT 6)**.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the development application will be challenged at the Land and Environment Court.	Low	Approve the application as recommended.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The proposed development does not have any economic or environmental impacts. Concerns have been raised over social impacts as discussed above and a more detailed discussion is contained within the planning report **(ATTACHMENT 6)**. The comments and concerns raised by the NSW Police have been noted. However the retail premise (liquor store) is generally compliant with the *Port Stephens Local Environmental Plan 2013* and *Port Stephens Development Control Plan 2014* and the application is recommended for approval. The applicant has proposed amended hours of operation which reduce the opening times on Friday and Saturday evenings which is considered to satisfactorily mitigate any potential adverse social impacts. Further the NSW OLGR will assess the social implications of the proposal through their licencing process, which is subsequent to the development assessment.

**MERGER PROPOSAL IMPLICATIONS**

The proposed merger is not anticipated to have any implications on the development application.

**CONSULTATION**

The application was exhibited in accordance with Council policy and one submission was received as discussed above, with the key concerns relating to social behaviour and the sale of alcohol.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Conditions of consent.
- 2) Locality plan.
- 3) NSW Police comments.
- 4) Council report - 23 February 2016.
- 5) Reasons for refusal.
- 6) Assessment report.

**COUNCILLORS ROOM**

- 1) Development Plans.

**TABLED DOCUMENTS**

Nil.

**ITEM 2 - ATTACHMENT 1 CONDITIONS OF CONSENT.**

**CONDITIONS OF CONSENT**

**CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT**

1. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent or as noted in red by Council on the approved plans:

<b>Plan/Doc. Title</b>	<b>Plan Ref. No.</b>	<b>Sheet.</b>	<b>Date</b>	<b>Drawn By</b>
Preliminary Concept Plan	SK-01	1 of 1	11/06/2014	Australian Liquor Marketing Pty Ltd.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.

**CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

2. **Prior to the occupation** of the building for the proposed use, the owner is to provide Council a Final Fire Safety Certificate as prescribed by Clause 174 and 170 of the *Environmental Planning and Assessment Regulations 2000*.

**CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF OPERATION**

3. A packaged liquor licence must be sought from the New South Wales Office of Liquor, Gaming and Racing **prior to the commencement of operation**.
4. **Prior to the commencement of operation**, an operation plan of management is to be formulated and submitted to Council for approval. The plan shall be dated and the name and signature of the author of the document shall be included. The plan of management shall incorporate the following:
  - All the measures to be implemented on the premises in terms of safety and security and amenity of surrounding residential properties including but not limited to matters relating to hours of operation, security staff and their responsibilities, training of staff in responsible service of alcohol procedures, control of amplified music and live band performance etc.; and,
  - All the responsibilities of the manager/publican particularly with respect to co-ordination of security measures and management of staff, and co-ordination of any matters involving the NSW Police Service; and,
  - An incident register shall be maintained by the Manager and shall be produced upon demand by any Council officer or NSW Police Officer. The register must contain a direction that all incidents of a criminal nature are to be reported to the police immediately

**ITEM 2 - ATTACHMENT 1      CONDITIONS OF CONSENT.**

**CONDITIONS TO BE SATISFIED AT ALL TIMES**

5. At all times, the hours of operation are to be restricted to:

- Monday to Saturday: 8:30am to 8:30pm, and
- Sunday: 10am to 8:30pm.

Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.

6. The proposed development and all associated activities must comply with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008*.

7. At all times, the consumption of liquor is not to occur within the premise or within the Alcohol Free Zone directly adjacent to the premise.

8. A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1 shall be provided between the entrance to the premises and any disabled parking spaces.

9. A fire safety certificate as prescribed by Section 174 *Environmental Planning and Assessment Regulations 2000* which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council if Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.

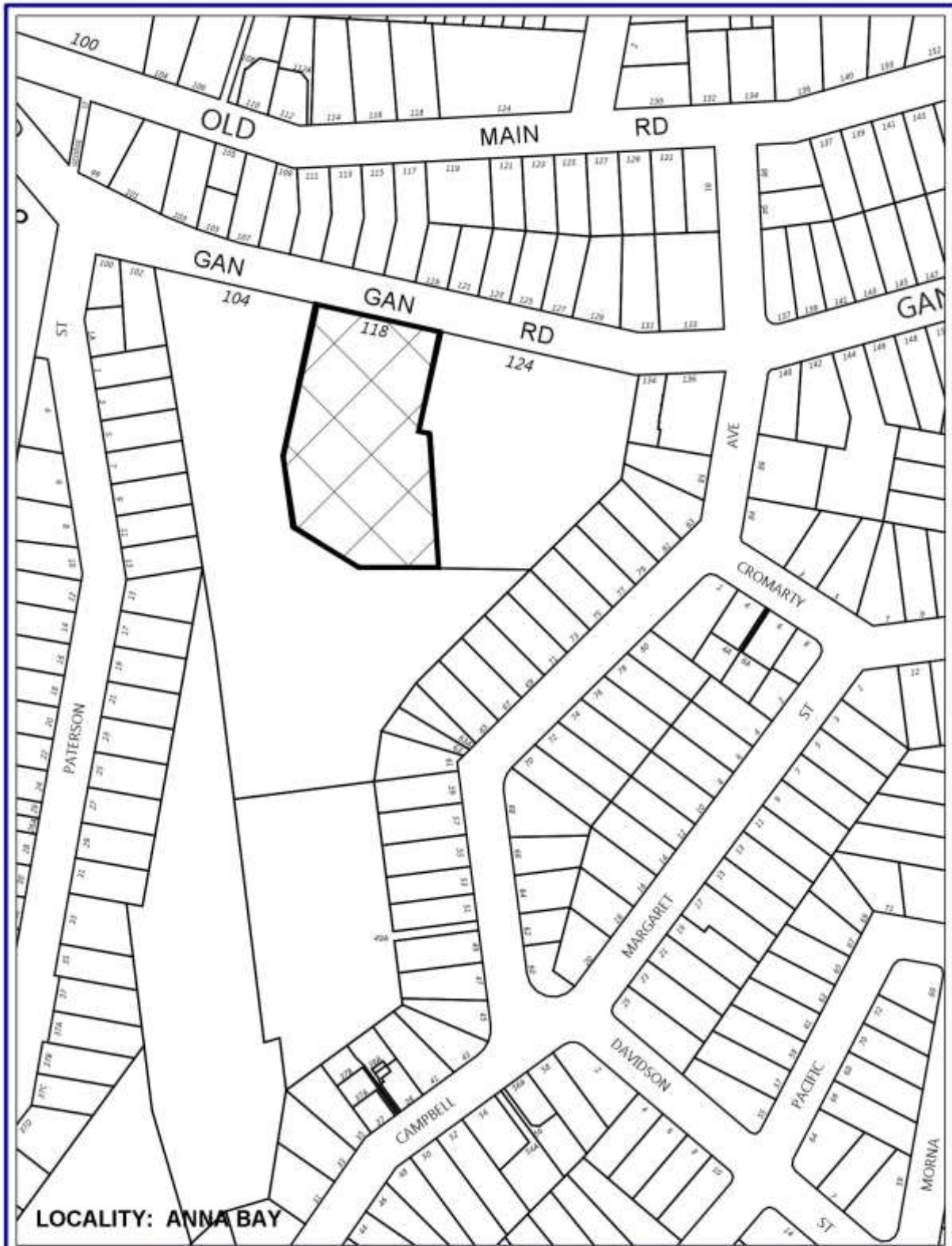
10. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 *Environmental Planning and Assessment Regulations 2000* in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:

- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
- b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

**ADVICES**

- a) Development consent shall be obtained from Council prior to the erection of any advertising structures or signs on the site. This requirement does not apply to any exempt, complying, or previously approved signage.

ITEM 2 - ATTACHMENT 2 LOCALITY PLAN.



LOCALITY: ANNA BAY



  
**Port Stephens**  
 COUNCIL  
*... a community partnership*


**SUBJECT AREA**

**DISCLAIMER**  
 Port Stephens Council accepts no responsibility for any errors, omissions or inaccuracies whatsoever contained within or arising from this map. Verification of the information shown should be obtained by the relevant officers at council.

© Department of Information Technology & Management 2009  
 © Port Stephens Council 2009

This map is not to be reproduced without prior consent.

**NOT TO SCALE**      **PRINTED ON: 17.12.15**

116 Adelaide Street, Raymond Terrace NSW 2254. Phone: (02) 43605295 Fax: (02) 43673612 Email: council@portstephens.nsw.gov.au

**NEW SOUTH WALES POLICE**  
**Port Stephens Local Area Command**



**Licensing Section**  
Raymond Terrace Police Station  
Phone: (02) 49837599  
Facsimile: (02) 49841769  
Mobile: 0409 839 589

10<sup>th</sup> June 2015

**Application for change of use from a licensed pizza restaurant to a Packaged Liquor outlet in respect to premises to be known as IGA Liquor situated at Shop 3B 118 Gan Gan Road, Anna Bay.**

APPLICANT: Anna Bay IGA Pty Ltd.

Inquiries have been conducted from information supplied in relation to the subject premise. Police have major concerns regarding the granting of the application, and do not support the application on the grounds, that it is not in the public interest, as it will have a major impact on Policing resources in the area, and that the needs of the public in the neighbourhood of the premises to which the application relates can be met by facilities for the supply of liquor already existing in, and outside the neighbourhood.

Police believe that the granting of the above liquor licence will have a major impact on Police resources in the area. The Anna Bay area is often policed by neighbouring sectors, (Raymond Terrace and Lemon Tree Passage) due to the limited amount of staff attached to Nelson Bay Station. These outer stations are up to 40 km out of the town and take considerable amount of time to attend to incidents.

Police also believe that the needs of the public in the neighbourhood of the premises to which the application relates can be met by facilities for the supply of liquor already existing in, and outside of the neighbourhood. The proposed premise is within 10 metres from one existing packaged liquor outlet, directly across the car park. Further to this, it is within 200 metres from a further packaged liquor outlets and one Hotel licence. Within a 5 kilometre radius there is a further Hotel with a bottle shop, and three packaged liquor licences. A number of nearby licensed premises have restriction and conditions imposed on their liquor licences due to previous quiet and good order complaints.

The Port Stephens LGA has 137 liquor licences (16 are registered clubs, 14 hotels and 23 packaged), of which 14 have licences with authorized extended trading hours. OLGR calculated the density at 227 liquor licences per 100,000 population, which is higher than the NSW figure at 220 per 100,000 population (OLGR, 2009). Many studies have found a positive association between areas with high outlet density and assault. A US study found that the addition of one additional outlet in a dense area was associated with an extra 3.4 assault incidents each year (Shribner, 1995). A NSW study found that respondents who lived in areas with higher outlet density were more likely to report problems with drunkenness in their local area (Donnelly, 2006).

**ITEM 2 - ATTACHMENT 3 NSW POLICE COMMENTS.**

2

The National Drug Research Institute released in 2008, (*Predicting alcohol related harms from licensed outlet density*) confirmed that an increase in the number of liquor outlets is associated with an increase in alcohol related violence and assault in the surrounding area.

A report by the Alcohol Education and Rehabilitation Foundation indicates that increased liquor outlet density and outlet accessibility are directly related to an increase in neighbourhood problems due to drunkenness, domestic assault and property damage. There are numerous international studies which all point to the same conclusion regarding liquor outlet density.

Only recently in February 2015 the Bureau of Crime Statistics and Research released a report in the media entitled "*The effect of liquor licence concentrations in local areas on rates of assault in New South Wales.*" What is interesting is this report showing an increased rate of domestic assaults and non domestic assaults associated with an increase in outlet density of licensed premises.

In relation to the location of the new store, the immediate vicinity, has been a 'hot spot' for alcohol related crime in Port Stephens LAC for a long time. Police have invested hundreds of hours in dealing with the location, observing intoxicated persons continue consuming alcohol, violent, aggressive and anti social alcohol related behaviour. The area is a recognised concern within the community, which has resulted in the implementation of an Alcohol Free Zone as a result. The proposed store is in the middle of that very Alcohol Free Zone, which covers the entire Anna Bay CBD, including Gan Gan Road.

Alcohol linking data reports for the previous 12 months highlight a total of 72% of persons involved in alcohol related incidents had been drinking in the home/private residence or in a public place. This in itself suggests the majority of the liquor had been purchased or obtained by takeaway means. There are two places of worship, and one primary school, all within 1km of the proposed premises.

Further to this, Police have collected information from the Police Computer System (COPS), Enterprise Data Warehouse (EDW), and Alcohol Related Crime Information Exchange (ARCIE). See attached graphs below. Information obtained from these shows that the Nelson Bay area (which included Anna Bay), has concerns with alcohol related anti social behaviour, particularly in private residences and public places, and involves a large amount of juveniles resulting from secondary supply. Figures show that the Nelson Bay area has triple the risk rating for alcohol related violent incidents and double the risk rating for alcohol linking within Port Stephens LAC.

The figures downloaded from EDW show for the twelve month period March 2014 to February 2015, there were 1856 alcohol related incidents. Of these, 442 (19%) of the incidents have been linked as occurring on licensed premises, resulting in the remaining occurring in public streets and private homes. The offences range from the more serious sexual assault and assault to offensive behaviour and language. Further to this, it is a concern to Police that 116 of these incidents involved under aged persons, including 39 of the incidents involving persons 15 years or younger.

The below graphs show linking data for Port Stephens LAC, and then broken down to the Nelson Bay sector.

# MINUTES ORDINARY COUNCIL - 26 APRIL 2016

## ITEM 2 - ATTACHMENT 3 NSW POLICE COMMENTS.

3

### Alcohol Linking Monthly Report

LAC, PORT STEPHENS (Mar 2014 to Feb 2015)

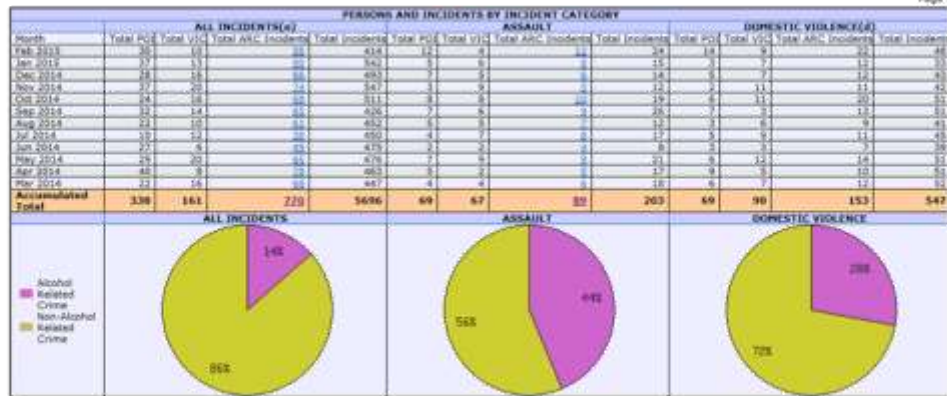
Page 1



### Alcohol Linking Monthly Report

SECTOR NELSON BAY (Mar 2014 to Feb 2015)

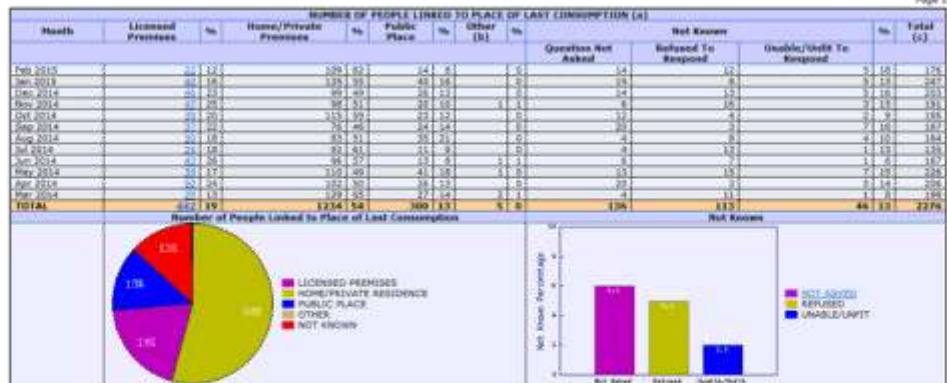
Page 1



### Number of People Linked to LPC Report

LAC, PORT STEPHENS (Mar 2014 to Feb 2015) All Incidents

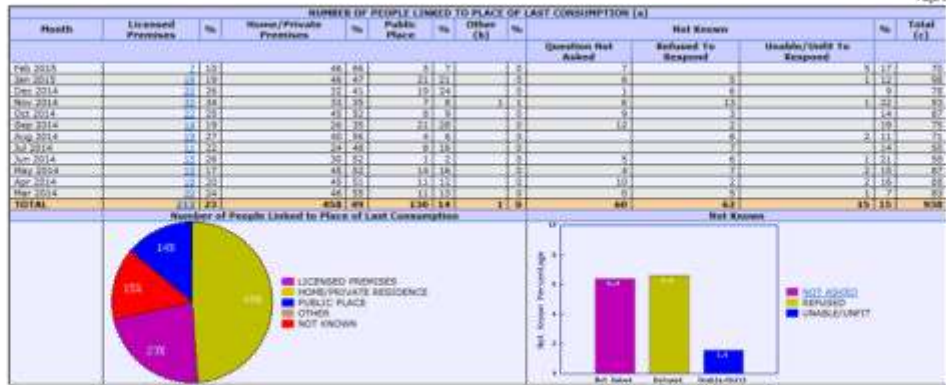
Page 2





Number of People Linked to LPC Report

SCL LPC REL 508 607 (Mar 2014 to Feb 2015) All Incidents



Under Age - Last Place of Consumption Report

SCL LPC REL 509 607 (Mar 2014 to Feb 2015)



Escalated Licensing Operational Response Model by Suburb

LAC PORT STEPHENS (Dec 2013 to Feb 2014)

Suburb	Total Risk	Total Points	Alcohol Linking Program Risk	Under Age Risk	Violence Risk	Malicious Damage Risk	Stealing Risk
NELSON BAY	MEDIUM	20	MEDIUM	1	1	1	1
BAYMOND TERRACE	MEDIUM	20	LOW	1	1	1	1
ARMA BAY	LOW	10	LOW	1	1	1	1
SUNSHINE BAY	LOW	10	LOW	1	1	1	1
FRANK BAY	LOW	10	LOW	1	1	1	1
TEA GARDENS	LOW	10	LOW	1	1	1	1
WARRIOR	LOW	10	LOW	1	1	1	1
SCOTCH POINT	LOW	10	LOW	1	1	1	1
CLARENCE TOWN	LOW	10	LOW	1	1	1	1
FRANK BAY	LOW	10	LOW	1	1	1	1
HEATHCOTE	LOW	10	LOW	1	1	1	1
FRANK BAY	LOW	10	LOW	1	1	1	1
FRANK BAY	LOW	10	LOW	1	1	1	1
TANILUA BAY	LOW	10	LOW	1	1	1	1

The Police submission relies on the fact that there is already an adequate amount of liquor licenses in the area. There is already a significant impact on Policing and the community. Police are working closely with the community and Local Liquor Accord implementing strategies to reduce the harms of alcohol and the general disturbances to the quiet and good order of the neighbourhood.

The application if granted would almost certainly have an adverse affect on the amenity of the neighbourhood, it would affect local Police resources, alcohol related crime and on neighbouring businesses.

**ITEM 2 - ATTACHMENT 3 NSW POLICE COMMENTS.**

5

As stated Police would like Port Stephens Council to take all of the above concerns into consideration, before granting the application. If Council requires any further information in relation to the Police submission, please contact either myself or the Local Area Command.

Nick KALUSKI  
Senior Constable  
Port Stephens LAC.

**ORDINARY COUNCIL - 23 FEBRUARY 2016**

**ITEM NO. 1**

**FILE NO: 16/251406  
RM8 REF NO: 16-2015-741-1-001**

**DEVELOPMENT APPLICATION FOR A CHANGE OF USE TO A RETAIL PREMISES (IGA LIQUOR STORE) AT 118 GAN GAN RD, ANNA BAY (LOT 111 DP 1086178)**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Approve Development Application No. 16-2015-741-1 for a retail premises (change of use from pizza restaurant to IGA liquor premises) at Shop 3B, 118 Gan Gan Road, Anna Bay (LOT 111 DP 1086178) subject to the conditions contained in **(ATTACHMENT 1)**.

**BACKGROUND**

The purpose of this report is to present a development application to Council for determination for the proposed sale of alcohol from a retail premises. The Development Assessment and Compliance Manager elected to report the matter to Council due to the nature of the proposal and that concerns have been raised by the New South Wales Police regarding the social impacts of the development.

**Proposed development**

The application proposes a change of use from an existing pizza store to a retail premises (liquor store). The site is located within the existing B2 Local Centre zone along Gan Gan Rd at Anna Bay, next door to the IGA supermarket.

The liquor store will employ a full time manager and a number of casual and part-time staff. In keeping with the IGA practices, employees will most likely be local residents.

The proposed hours of operation of the liquor store are:

- Monday to Thursday – 8:30am – 8:30pm
- Friday – Saturday – 8:30am – 10pm
- Sunday – 10am – 8:30pm

**Site History**

A previous development application (16-2014-466-1) for a retail premises (liquor store) on the site was withdrawn on 26 February 2015 as a Social Impact

**ORDINARY COUNCIL - 23 FEBRUARY 2016**

Assessment was not submitted with the application and could not be supported. The applicant has provided a Social Impact Assessment as part of the current application.

**Key Issues**Permissibility

The subject proposal complies with the requirements of the *Environmental Planning & Assessment Act 1979* (NSW), the Port Stephens Local Environmental Plan 2013 and the Port Stephens Development Control Plan 2014.

Social Impacts

The NSW Police provided comments on the proposal on the 4 December 2015. Specific concerns were raised in regards to the impact that the store will have on Police resources in the area, which is not in the interest of the public. The NSW Police have noted that the immediate vicinity of the subject premises is renowned as a 'hot spot' for alcohol related crime shown through data collected from the Police Computer System (COPS), Enterprise Data Warehouse (EDW) and Alcohol Related Crime Information Exchange (ARCIE). This data also indicates that there is a large amount of alcohol related anti-social behaviour, particularly in private residences and public places, and involves a large amount of juveniles resulting from secondary supply. The NSW Police also note that there are higher issues at peak holiday times in Anna Bay that are mostly related to youth street and house parties.

The Social Impact Assessment (SIA) submitted with the development application outlines that the Police Data is not always accurate and results in many inconsistencies. As such, the SIA research included analysis of the Australian Bureau of Statistics (ABS) and Bureau of Crime Statistics and Research (BOSCAR) data to determine the suitability of the proposed liquor store. This data shows that crime rates are low in Anna Bay. From January 2014 to December 2014 the BOSCAR data shows that in Anna Bay:

- The rate of non-domestic assault incidents, alcohol related was 51.3 per 100,000 populations, which was much lower than for NSW at 158.2 per 100,000. This was a decrease in Anna Bay from 6 incidents in 2013 to 2 incidents in 2014.
- The latest data (April 2015) shows the continued very low rate of alcohol related assault in the Anna Bay area.

It is however noted that this data represents the Anna Bay centre as a whole and does not reflect the crime data for the exact location of the proposed retail premise (liquor store), demonstrating the importance of Police data in determining the crime existence within this area.

Community consultation was also undertaken as part of the SIA process. In summary, the community raised support for commercial development that activates the street during the day and a desire to make Anna Bay a more attractive village with a vibrant main street. It is recognised that the liquor store would add convenience for locals being situated adjacent to the supermarket, however it was

**ORDINARY COUNCIL - 23 FEBRUARY 2016**

questionable as to whether Anna Bay needed an additional liquor store. Qualitative research for the proposal indicated some concern about economic impacts, specifically negative impacts on existing liquor outlets in Anna Bay and associated competition. Such perceptions are however not supported by quantitative evidence.

The above issues and comments from the NSW Police have been considered in the assessment of the application. It has been determined that the proposed development is unlikely to have a negative social impact due to the scale of the proposed business, the operating hours and model of the Anna Bay IGA liquor store. The proposed development will activate a premise that is currently closed during the day, adding to the character of the village centre. Further, the proponent is committed to the responsible service of alcohol (RSA) and has an Office of Liquor, Gaming and Racing (OLGR) Plan of Management in place which will decrease the negative impacts associated with liquor. The OLGR will assess the social impacts of the premise as part of their licencing assessment and determination, taking into consideration the surrounding liquor premises.

There is no basis for the development to be refused based on competition grounds. The social impact of the proposed liquor store will be assessed on behalf of OLGR once an application has been lodged for a packaged liquor licence and a social impact assessment will form part of that process. Further, to control anti-social behaviour attributed to liquor, the implementation of a strict management policy for the bottle shop with particular attention to RSA and secondary supply will be implemented along with controlled operation hours, in line with the IGA supermarket business. These issues can be addressed through conditions of consent.

**Public Submissions**

One (1) submission was received in relation to the proposed development. The submission outlines concerns regarding the establishment of an additional liquor outlet in the Anna Bay community and the negative social effects this will have on the general public. It also stated that the community already exhibits negative behaviour with regard to alcohol in the area and the public are not open to additional outlets that increase this behaviour. As outlined above, a detailed assessment of the social impact of the proposal has been undertaken and it is considered the proposal complies with the requirements of the relevant legislation, plans and policies. The OLGR will have the opportunity to further assess the social impact of the proposal on submission of a liquor licence application (including a review of the existing number of liquor retail outlets in the area).

**COMMUNITY STRATEGIC PLAN**

Strategic Direction	Delivery Program 2013-2017
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

**ORDINARY COUNCIL - 23 FEBRUARY 2016**

**FINANCIAL/RESOURCE IMPLICATIONS**

**Development Application**

There are no known financial implications resulting from the recommendation of this report.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The proposed development is generally consistent with the objectives and requirements of the *Port Stephens Local Environmental Plan 2013* (LEP) and *Port Stephens Development Control Plan 2014* (DCP). Further details are provided in the Planners Assessment Report included in **(ATTACHMENT 2)**.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the development application will be challenged at the Land and Environment Court.	Low	Approve the application as recommended.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The proposed development does not have any economic or environmental impacts. Concerns have been raised over social impacts as discussed above and a more detailed discussion is contained within the planning report **(ATTACHMENT 2)**. The comments and concerns raised by the NSW Police have been noted. However the retail premise (liquor store) is generally compliant with the *Port Stephens Local Environmental Plan 2013* and *Port Stephens Development Control Plan 2014* and the application is recommended for approval as the NSW OLGR will further assess the social implications through their licencing process.

**ORDINARY COUNCIL - 23 FEBRUARY 2016**

**NCC AND PSC MERGER PROPOSAL IMPLICATIONS**

The proposed merger is not anticipated to have any implications on the development application.

**CONSULTATION**

The application was exhibited in accordance with Council policy and one (1) submission was received as discussed above, with the key concerns relating to social behaviour and the sale of alcohol.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Conditions of consent.
- 2) Planners Assessment Report.
- 3) Locality Plan.

**COUNCILLORS ROOM**

- 1) Development Plans.

**TABLED DOCUMENTS**

Nil.

**REASONS FOR REFUSAL**

1. The development has the potential to result in adverse social impacts to the surrounding community. The proposal may exacerbate social problems in the locality associated with alcohol-related harm (s.79C(1)(b) *EP&A Act 1979*).
2. The site is in vicinity of sensitive locations including a skate park and public reserves. As a result the development may lead to an increased potential for secondary supply of alcohol to minors (s.79C (1)(b)&(c) *EP&A Act 1979*).
3. The site is not suitable for the development. The site is located within a socially and economically disadvantaged area. The NSW Police have identified the immediate vicinity as a 'hot spot' for alcohol related crime. The development will result in the increased availability of alcohol and increased density of liquor outlets in the locality (s.79C(1)(c) *EP&A Act 1979*).
4. The development may result in an unacceptable social impact to the surrounding locality. The development is not in the public interest (s.79C(1)(e) *EP&A Act 1979*).



ITEM 2 - ATTACHMENT 6 ASSESSMENT REPORT.



**APPLICATION DETAILS**

<b>Application Number</b>	16-2015-741-1
<b>Development Description</b>	Retail premises (liquor store)
<b>Applicant</b>	Anna Bay IGA PTY LTD
<b>Date of Lodgement</b>	10/11/2015
<b>Value of Works</b>	\$50 000
<b>Property Address</b>	Shop 3B 118 Gan Gan Road, Anna Bay 2316
<b>Lot and DP</b>	<b>LOT: 111 DP: 1086178</b>
<b>Current Use</b>	Food and drink premises (pizza store)
<b>Zoning</b>	B2 – Local Centre
<b>Site Constraints</b>	Bushfire Prone Land Category 1 and 3, Acid Sulphate Soils Class 3, Koala Habitat – Preferred and Supplementary, Endangered Ecological Communities – Swamp Sclerophyll Forest, Flood Prone Land, SEPP 71 Coastal Protection, Alligator Weed Affected Land
<b>Designated Development</b>	The application is not designated development
<b>Integrated Development</b>	The application does not require any additional approvals listed under s.91 of the EP&A Act
<b>Number of Submissions</b>	One
<b>Recommendation</b>	Approved with Conditions

**Development Proposal**

The application proposes a change of use from an existing pizza store to a retail liquor store.

The liquor store will employ a full time manager and a number of casual and part-time staff. In keeping with the IGA practices, employees will most likely be local residents.

The proposed hours of operation of the liquor store are:

- Monday to Saturday: 8:30am to 8:30pm, and
- Sunday: 10am to 8:30pm.



PORT STEPHENS  
COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

### Site Description

The subject site is located within the existing Anna Bay Shopping Centre. This centre includes an IGA Supermarket, Bakery, Butcher, News agency and smaller retail businesses. The existing car park comprises of approximately thirty-seven (37) car parks. The subject site is within ten (10) metres from one (1) existing packaged liquor outlet, directly across from the car park. Further to this, it is within 200 metres from another packaged liquor outlet and one (1) hotel licence. Within a five (5) km radius there is a further hotel with a liquor store and three (3) packaged liquor outlets.

### Site History

The subject site has been subject to the following development applications:

- DA 16-2014-466-1 – Retail Premises (Liquor Store) – Change of Use to Existing Premises (Application Withdrawn 26/02/2015)

**Comment** – the above application was withdrawn on the basis that insufficient information was supplied in the form of a Social Impact Assessment and additional comments from the NSW Police and Liquor and Gaming Authority. The current application (16-2015-741-1) has been submitted with the additional information for review and determination. No compliance issues exist in this regard.

### Site Inspection

A site inspection was carried out on Wednesday 6 January 2015. The subject site can be seen in figures 1, 2 and 3 below:



Figure 1 and 2 – Surrounding sites and car parking



## DEVELOPMENT ASSESSMENT REPORT



Figure 3 – Subject site

### **MATTERS FOR CONSIDERATION – SECTION 79C**

#### **s79C(1)(a)(i) – The provisions of any EPI**

Port Stephens Local Environmental Plan 2013 (LEP)

**Clause 2.1** – The proposed development is defined as a Retail premises (liquor store) and is permissible with consent in the B2 – Local Centre Zone. The development addresses the objectives of the zone through encouraging employment opportunities in accessible locations. Through the implementation of an additional liquor outlet within the area in close proximity to other retail outlets, it is noted that a 'range' of retail uses has not been achieved. It is however noted that the Anna Bay Shopping Centre and surrounding street stores is large enough to cater for more than one packaged liquor store and does not propose operational hours outside of feasible hours and is in line with the operating hours of the IGA Supermarket located adjacent to the proposed site. The location of the proposed liquor store encourages patrons to maximise public transport patronage and encourages walking and cycling.

ITEM 2 - ATTACHMENT 6 ASSESSMENT REPORT.



PORT STEPHENS  
COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

### **Clause 7.1 – Acid Sulphate Soils**

The subject site is identified as containing class 3 acid sulphate soils. The works occurring as part of the proposed development is internal therefore no impact on acid sulphate soils as a result of the proposed development will occur.

### **Clause 7.6 – Essential Services**

Essential services are currently connected to the existing building and will service the proposed development.

#### Applicable State Environmental Planning Policies (SEPP)

#### **State Environmental Planning Policy No. 64 Advertising and signage**

No concerns are raised in regards to the SEPP as the proposal retains the sites existing signage.

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

No concerns are raised in regards to the SEPP as the proposal includes internal modifications only.

#### **s79C(1)(a)(ii) – Any draft EPI**

There are no draft EPI's relevant to the proposed development.

#### **s79C(1)(a)(iii) – Any DCP**

#### Port Stephens Development Control Plan 2014

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

**Chapter A.12** – The development application was notified in accordance with the requirements of chapter A.12. In response, one submission was received (discussed elsewhere within this report).

#### **Chapter B6 – Essential Services-**

Essential Services (electricity, water, sewerage and suitable vehicular access) are currently connected to the existing building which will facilitate the development.

#### **Chapter B9 – Road Network and Parking**

The proposed development has a floor area of 9.5m x 9.2m (87.4m<sup>2</sup>) therefore requiring approximately four car parking spaces. The proposed development is located in the Anna Bay Shopping Village that provides a large hardstand parking area which includes approximately thirty-seven (37) car parking spaces (incorporating accessible/disabled parking spaces). The car parking area also includes 15 minute car parking spaces and a loading bay area. Public transport is located within walking distance from the store. The proposed development therefore satisfies the car parking requirements outlined in B9 of the DCP2014.



## DEVELOPMENT ASSESSMENT REPORT

### Chapter B10 – Social Impact

The NSW Police provided comments on the proposal which raised specific concerns relating to the impact that the proposed liquor premises will have on Police resources in the area. Data provided by the NSW Police indicates that the area within the immediate vicinity of the subject site has been a 'hot spot' for alcohol related crime in the Port Stephens Local Area Command (LAC) for a significant time period. As such, the NSW Police have invested time in dealing with the location and have observed intoxicated persons continuing to consume alcohol and exhibiting violent, aggressive and anti-social alcohol related behaviour. The Police identify that this has resulted in an 'Alcohol Free Zone' covering the Anna Bay CBD (which includes the subject site).

The data obtained from the Police Computer System (COPS), Enterprise Data Warehouse (EDW) and Alcohol Related Crime Information Exchange (ARCIE), indicates that there is a large amount of alcohol related anti-social behaviour, particularly in private residences and public places, and involves a large amount of juveniles resulting from secondary supply. The NSW Police also note that there are higher issues at peak holiday times in Anna Bay that are mostly related to youth street and house parties. Figures show that the Nelson Bay area has triple the risk rating for alcohol related violent incidents and double the risk rating for alcohol linking within the Port Stephens LAC.

The Police submission concludes that there is an adequate amount of liquor licences located within the area and that if approval was granted to the proposal an adverse effect on the amenity of the neighbourhood including existing businesses, and an impact to police resources would result as a result of alcohol related crime.

However, the Social Impact Assessment (SIA) submitted with the development application indicates that from January 2014 to December 2014, the BOSCAR data shows that the alcohol related rate of non-domestic assault and rate of assault Police incidents for the suburb of Anna Bay was lower than the NSW average. The alcohol related rate for domestic assault was slightly higher for Anna Bay in comparison to the NSW average. The SIA also identifies that Anna Bay has a SEIFA index (which is an established indicator of relative social economic disadvantage), of 959, which is slightly more disadvantaged than regional NSW (968.9), and the remainder of Port Stephens (970) as at 2011. It also states that Anna Bay is less disadvantaged than the suburb of Raymond Terrace (896), but more disadvantaged than Nelson Bay (978). The SIA concludes that both Anna Bay and Raymond Terrace are trending down between 2006 and 2011, as is regional NSW and the whole of NSW. That is their relative disadvantage is increasing, whereas the LGA of Port Stephens remained static. In completing the SIA qualitative research was undertaken including the conducting of interviews with local businesses, street intercepts with local shoppers, and discussions with Council and the Police.

In order to determine the impacts to the locality, the area that constitutes the locality must be first appropriately defined. In this regard, the impacted locality may vary according to factors such as;

- Walking distance from the proposed liquor outlet to the accommodation of the users;
- The distance from any specific area of likely disadvantage such as a caravan park or place used for emergency accommodation;

ITEM 2 - ATTACHMENT 6 ASSESSMENT REPORT.



- The distance from any popular meeting place that may be frequented by minors, youth or families;
- The types of surrounding businesses such as fast food outlets; and
- The number of other outlets in the vicinity.

The proposed outlet will be located within proximity to an existing packaged liquor outlet and within 200 metres of another packaged liquor outlet and one hotel (Anna Bay Tavern). A further hotel with liquor store and three additional packaged liquor outlets are located within a five kilometre radius of the subject site. In addition, the majority of accommodation, including that used during the holiday period, would be located within walking distance to the subject site. A skate park and recreation reserve are both located within walking distance to the subject site.

Therefore, it is arguable that given the level of disadvantage in Anna Bay, the relevant factors (listed above) associated with the Anna Bay locality and the increase in density of the liquor outlets the proposed development may result in an increase in social impacts and/or increase levels of alcohol related harm.

In order to warrant the refusal of the proposed development on the basis of a "likely" adverse social impact, Council should be satisfied that there is a 'real chance or possibility' of the adverse impact eventuating. Consideration must also be given to the ability for the potential impact to be mitigated.

In order to respond to concerns raised by Council (at its meeting of 23 February 2016) and the NSW Police, the applicant has proposed to amend the hours of operation. Trading hours of 10pm on Friday and Saturday evenings are no longer proposed. As a result, the density of accessible liquor outlets during this critical time period has been reduced and the proposed premises will close earlier than the licensed premises in the locality.

**Chapter C8 – Signage**

The proposed development has identified that the existing signage on the building façade and dimensions of the signage will remain. Any additional signage that does not meet the requirements of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* requires development consent.

**s79C(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 93F**

There are no planning agreements that have been entered into under section 93F relevant to the proposed development.

**s79C(1)(a)(iv) – The regulations**

N/A

**s79C(1)(a)(v) – Any coastal management plan**

There are no coastal management plans applicable to the proposed development.



**s79C(1)(b) – The likely impacts of the development**

Social and Economic Impacts

Refer to Chapter B10 – Social Impact discussion.

Impacts on the Built Environment

The proposed development will not have any impacts on the surrounding built environment. Conditions of consent have been recommended by Council's Building Surveyor and approved by planning regarding the implementation of fire safety measures.

Impacts on the Natural Environment

The proposed development will not involve any impacts on the natural environment.

**s79C(1)(c) – The suitability of the site**

It is noted that the proposed development may result in adverse social impacts to the locality. However, retail premises (liquor store) are permissible within the B2 Local Centre zone and the proposal is generally compliant with the *Port Stephens Local Environmental Plan 2013* and *Port Stephens Development Control Plan 2014*. As detailed elsewhere within this report the potential adverse social impacts are considered capable of being mitigated by conditions restricting the operating hours on Friday and Saturday evenings. The potential adverse social impacts that may arise from the proposal are not sufficient to warrant the refusal of the application and as such the development is considered to be suitable for the site.

**s79C(1)(d) – Any submissions**

One submission been received in relation to the proposed development. The submission outlines concerns regarding the implementation of an additional liquor outlet in the Anna Bay community and the negative social effects this will incur on the general public. It notes that the community already exhibits negative behaviour with regard to alcohol in the area and the public are not open to an additional outlet increasing this behaviour. Please refer to the social impact discussion under Chapter B10 – Social Impact in this report.

**s79C(1)(e) – The public interest**

As detailed within elsewhere within this assessment report the proposed development, subject to conditions of consent, is considered to be in the public interest.

**MINUTES ORDINARY COUNCIL - 26 APRIL 2016**

Councillor Paul Le Mottee left the meeting at 06:20pm, prior to Item 3 in Committee of the Whole.

**ITEM NO. 3**

**FILE NO: 16/292122  
RM8 REF NO: 16-2015-221-1**

**SECTION 82A APPLICATION FOR REVIEW OF DETERMINATION NO.16-2015-221-1 FOR SINGLE DWELLING AT NO.7 HIGH STREET HINTON (LOT: 1A DP: 9901).**

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

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Refuse Section 82A Application for review of determination of DA No.16-2015-221-1 for the following reasons:
  - a) The development fails to satisfy cl.7.3 Port Stephens Local Environmental Plan 2013 as the development is not compatible with the flood hazard of the land (s.79C(1)(a)(i) *EP&A Act 1979*).
  - b) The development fails to satisfy cl.7.6 Port Stephens Local Environmental Plan 2013 as adequate essential services, particularly in relation to the disposal and management of wastewater, have not been provided (s.79C(1)(a)(i) *EP&A Act 1979*).
  - c) The development fails to conform to the controls contained within Port Stephens Development Control Plan (B5 Flooding and Control C4.6 Streetscape) (s.79C(1)(a)(i) *EP&A Act 1979*).
  - d) The site is not suitable for the development given the flood characteristics of the site and impacts to the streetscape (s.79C(c) *EP&A Act 1979*).
  - e) Given the likely significant adverse impacts on the flood behaviour, risk to life, property and environment that may result from the approval, the development is not in the public interest (s.79C(e) *EP&A Act 1979*).

---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p><b>Councillor Ken Jordan Councillor Chris Doohan</b></p> <p>That Council defer consideration of the Section 82A Application for review of determination of DA No.16-2015-221-1 at 7 High Street, Hinton, for inspection.</p>
--	---



## MINUTES ORDINARY COUNCIL - 26 APRIL 2016

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 Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, John Morello, John Nell and Steve Tucker.

Those against the Motion: Cr Geoff Dingle.

Councillor Paul Le Mottee left the meeting at 6.30pm, prior to item 3 in Open Council and did not return to the meeting.

### ORDINARY COUNCIL MEETING - 26 APRIL 2016 MOTION

<b>095</b>	<b>Councillor Ken Jordan</b> <b>Councillor John Nell</b>  It was resolved that Council defer consideration of the Section 82A Application for review of determination of DA No.16-2015-221-1 at 7 High Street, Hinton, for inspection.
------------	---

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 Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, John Morello, John Nell and Steve Tucker.

Those against the Motion: Cr Geoff Dingle.

### BACKGROUND

The purpose of this report is to present a section 82A application for 'Review of Determination' (RD) of Development Application (DA) No.16-2015-221-1 to Council for determination. The DA related to land located at No.7 High Street, Hinton which is identified as Lot: 1A DP: 9901 ('the subject site'). The application has been called to Council by Councillor Jordan on the basis that the land is flood prone. The call to Council form is attached as **(ATTACHMENT 1)**.

After a detailed assessment, the 82A review has concluded the same recommendation as the initial assessment in that the development cannot be supported.

It is noted that the site is part of a large land holding that comprises lots 2A and 6A DP 9901, a locality plan is provided at **(ATTACHMENT 2)**. The site is located on the bank of the Paterson River. The site is located on a floodplain and is relatively flat. There is a flood levee constructed to the west of the site adjoining the Paterson River. The Hinton Bridge is in proximity to the site and is a listed heritage item. An

existing shed with associated land fill is located on the site and was approved under (16-2014-384-3).

It is noted that the provisions of s.82A *Environmental Planning and Assessment Act 1979* ('EP&A Act') provide an applicant that is dissatisfied with the Council's determination of their development application (DA) a mechanism to seek an internal review of the original decision. This is known as a 'Review of Determination' (RD). When lodging an s.82A application the applicant is entitled to amend the original application and Council must review its decision on the basis of the amended application. However, the application must remain substantially the same.

Section 82A further specifies that the RD must be determined within 6 months of the date that the applicant received notice of the original determination. It is also required that that where the original application was determined by a delegate of the Council, the s82A review must be undertaken by Council or another delegate of the Council who is not subordinate to the delegate who made the determination. Both these requirements have been satisfied in this instance.

The proposed land use is permissible within the RU1 Primary Production Zone. However, the key issues with the development subject to review relate to flooding as the site is classed as High Hazard Floodway and Excessive Depth FPM Zone under the Paterson River Floodplain Risk Management Study and Plan. Provision of adequate on-site sewage management also remains an outstanding issue.

#### **DA No.16-2015-221-1**

The application subject to the s.82A RD (DA No.16-2015-221-1) sought consent for the construction of a single four bedroom dwelling set on an elevated platform supported by metal piers and the extension of the existing shed located on site. The dwelling was proposed to be constructed with a finished floor level (FFL) of 7.7AHD. The natural ground surface is approximately 4.1-4.7m AHD. An on-site sewage management system (OSMS) and associated land fill were also proposed. Access to the development was proposed via High Street, Hinton. The original application was refused under delegation on 20 November 2015 for the following reasons:

- 1) The site not suitable for the proposed development (s.79C(c) EP&A Act) as:
  - a) The subject land is located entirely in the High Hazard Floodway. Due to the risk associated with velocities and/or depth which pose a risk to structures and/or the safety of persons the land is deemed unsuitable for residential development;
  - b) The development is considered an inappropriate land use under the NSW Floodplain Development Manual 2005; and
  - c) It is inappropriate to place additional dwelling houses in high risk flood areas and placing further demand on already limited SES resources by way of domestic property protection, rescue/medivac and evacuation.
- 2) The development is inconsistent with the provisions of cl.7.3 of Port Stephens Local Environmental Plan 2013. The development is compatible with the land's

flood risk. Significant adverse impacts on the flood behaviour, risk to life, property and environment may result from approval of the development (s.79C(a)(i) EP&A Act).

- 3) The development fails to conform to the controls contained within the Port Stephens Development Control Plan 2014 B5.8 High Hazard 1 – Floodway Development located within High Hazard 1 (s.79C(a)(iii) EP&A Act).

Basis for s.82A review

The applicant has sought review of determination No.16-2015-221-1 on the basis that a Hydraulic Loading Assessment (HLA) report has been prepared by GCA, which identifies that the proposed dwelling is located within a flood storage area rather than a high hazard floodway. The applicant suggests that the area is characterised by relatively low flood velocities which will not pose a significant risk to structures or persons, and that the dwelling can be designed to withstand the effects of major flooding.

Amended plans have also been submitted with the s.82A application which provides for:

- 1) An aerated effluent tank to be located on fill and having a top lid surface of 6.0m AHD.
- 2) An area of filling located to the east of the proposed shed extension to provide an elevated area for the disposal of effluent. This area is at 5.3m AHD which is below the 1 in 20 year flood level.

The applicant has also sought review pursuant to s.82A *EP&A Act* on the basis that Council has previously approved dwellings within proximity to the subject development. In this regard, it is understood that the applicant is referencing the dwelling approved under DA No.16-2014-492-1 located at 19 High Street, Hinton. This dwelling is currently under construction. This approval is discussed below.

DA No.16-2014-492-1 – Dwelling at 19 High Street, Hinton

DA No.16-2014-492-1 sought development consent for an earth mound and single storey dwelling at No.19 High Street, Hinton. The application was approved by Council at its ordinary meeting of 9 December 2014 subject to conditions of consent.

Council staff had recommended that Council refuse the DA on the basis that the subject site was located entirely within the floodway and subject to high hazard flooding. Due to the risk to structures and/or the safety of persons the site was considered to be unsuitable for residential development. The development was found to be inconsistent with cl.7.3 *Port Stephens Local Environmental Plan 2013* (LEP2013) which relates to development on flood prone land and the need to minimise the flood risk to life and property and to ensure development remains compatible with the land's flood risk.

It is noted that subsequent to the approval of DA No.16-2014-492-1, at its Ordinary Meeting of 14 July 2015 Council adopted Chapter B5 Development Control Plan 2014. Chapter B5 was specifically drafted to relate to Council's Floodplain Risk Management Policy and Flood Hazard Maps at such time that they were adopted by Council. The Floodplain Risk Management Policy and Flood Hazard Maps were adopted by Council at its Ordinary Meeting of 8 March 2016. These instruments form Council's flood planning policy.

Therefore, Council is considering the subject s.82A application within a different policy context to the dwelling approved under DA No.16-2014-692-1. In addition each application must be assessed upon its merits irrespective of past approvals. For example, the Hinton Hotel (which is located to the south of the subject site) would be unlikely to be approved under the current flood planning policy. It is understood that a number of dwellings have historically been approved on flood prone land across the LGA and it is also likely that these dwellings would not be supported under the new flood planning policy. It is appreciated that this may create a sense of confusion within the community. However, Council has a duty to assess and make an informed decision regarding each development application in light of the most recent information available. In this regard, the proposed development is not appropriate due to the flood risk to life and property in accordance with Council's current flood planning policy.

Assessment s.82A Review of Determination No.16-2015-221-1

Flood classification

Council staff do not support the findings in the applicants Hydraulic Loading Assessment (HLA) report. The site is classed as High Hazard Floodway and Excessive Depth FMP Zone under the Paterson River Floodplain Risk Management Study and Plan 2001. The determination of appropriate hydraulic categories was undertaken by specialists at the time of the flood study and floodplain risk management plan for the area and is specific to the catchment. The hydraulic categorisation of floodway is attributed to the substantial volume of water flowing through this property in times of major flooding.

The land has been identified as a pathway taken by major discharges of floodwaters, the obstruction or partial obstruction of which would cause a significant redistribution of floodwaters, or a significant increase in flood levels and that in this area. Further, flood waters; pose a possible danger to personal safety, the evacuation of premises via trucks would be difficult, where able-bodied adults would have difficulty wading to safety, and where there is a potential for significant damage to buildings.

The Floodway and Excessive Depth FPM Zone identifies that part of the floodplain where there is considered to be no potential to implement ameliorative measures and allow for any structures or intensive activity at a level of risk which would be considered acceptable to the community. The principal risk criterion in this extreme FPM zone category is when velocities exceed levels which may threaten the integrity of built structures or the safety of persons. The other criteria which captures an area

within this FPM zone is that of depth which, in the case of the Paterson River Floodplain, expansive areas are subject to deep level flooding during a 1% AEP flood, and evacuation problems may arise due to floods up to and Extreme Flood.

In this regard, the property is affected by very significant flooding in events as frequent as the 20% Annual Exceedance Probability (AEP). AEP refers to the chance or probability of flooding occurring on-site. The AEP rating for the subject site indicates that on average the development would be subject to flooding approximately every five years.

The subject site is also located within the high provisional hazard category for 5% AEP and greater. Therefore there is increased potential for significant structural damage to buildings. The development is not compatible with the lands flood hazard and will result in an unacceptable risk, therefore it cannot be supported.

#### Impact to SES Resources

The applicant suggests that use of communication systems and construction of floor levels above the 1% AEP mitigate the impacts of the development upon resourcing of the SES. However, communication systems cannot be completely relied upon to mitigate risk during flood. It is very common for power outages to occur during times of storms. Although building floor levels above the 1% AEP flood level mitigates some of the risk associated with major flooding, there are remaining risks associated with floods greater than the 1% AEP as well as access and isolation associated with storms up to the 1% AEP.

#### Clause 7.3 LEP2013 - Compatibility with flood risk

The applicant has provided an assessment of the forces up to the 1% AEP flood. However, the forces above the 1% AEP have not been assessed by a hydraulic engineer or a structural engineer. There is also no link between the identified hydraulic forces during flood and the design of the house. In addition, the applicants HLA states at section 4:

*"It should be remembered that council's information indicates that the probable maximum flood (PMF) is significantly higher than the floor level of the dwelling. Should an event significantly larger than the 1% AEP occur, it is likely that the structure would not survive and an appropriate evacuation plan should be in place to protect the lives of the occupants".*

Council have to consider events greater than the 1% AEP, for example the floods that occurred in Dungog in 2015 were greater than 1% AEP. The safety of life or property has not been adequately catered for and the development is not compatible with the flood risk as there is an inappropriate risk to life and property in events greater than the 1% AEP flood event. As such the proposed development fails to satisfy the provisions of cl.7.3 LEP2013, which provides that development consent must not be granted unless the consent authority is satisfied that the development is compatible with the flood hazard of the land.

In *North Ocean Shores Inc. v. Byron Shire Council* [2009] NSW LEC 69, Preston CJ at [19] indicated that a type of clause, such as clause 7.3 LEP2013, requires the consent authority to form the requisite opinion that carrying out of the development is consistent with the relevant objectives before it embarks on a consideration of the merits of the development application, and before it has the power to grant consent. On this basis, it is considered that the development fails the 'test' set out within cl.7.3(3) and that consent must not be granted. Any decision to the contrary may be found to be ultra-vires.

#### Clause 7.6 LEP2013 – Essential services

Clause 7.6(1)(c) LEP2014 provides that development consent must not be granted to development unless the consent authority is satisfied adequate arrangements for the disposal and management of sewage have been provided for. The applicant has not addressed the requirement for the submission to Council of an effluent management report prepared by a consultant addressing the high hazard elements of Council's Development Assessment Framework. This issue was raised with the applicant under the original determination (DA 16-2015-221-1).

The proposed on-site sewage management system (OSMS) cannot be supported as Council requires that tank openings and electrical shall be located above the 1:100 flood level or be designed as such that the tank is water and gas tight will all electrical components located above the 1:110 flood level. The applicants proposed OSMS provides a treatment system top of lid at RL 6.0m AHD which represents a 1:20 level. Further the proposed disposal area will be located at 5.3m RL AHD which is below the required 1:20 level.

Again, cl.7.6 LEP2013 provides a precondition to the granting of consent. As such, the application cannot be approved unless Council is satisfied that satisfactory arrangements have been made for the disposal and management of sewage.

#### Compliance with DCP2014

The development does not comply with the provisions of Chapter B5 DCP2014. Development is not encouraged within a floodway, particularly the provision of housing. The applicant has not demonstrated that the proposed dwelling is structurally sound or that a suitable flood refuge has been provided.

Further, the proposed development is not in keeping with the existing streetscape character. The locality is typified by large rural allotments with isolated structures, namely rural sheds, setback from the road frontage. The proposed dwelling is within 13.6 metres of the frontage which complies with front setback requirements of the DCP. However, the setback does not maintain the existing rural character as surrounding structures have substantial setbacks from the road frontage. The impact to the streetscape and rural character is exemplified by the proposed construction method which results in the dwelling being located on 2.7metre pylons. The neighbouring dwelling (16-2014-492-1) is located on a large fill pad as is the sites

existing shed. The dwelling will result in an adverse impact to the existing streetscape.

Conclusion

The application is not consistent with:

- Port Stephens LEP2013, in particular cl.7.3 and cl.7.6.
- Port Stephens DCP2014, in particular Chapter B5 and control C4.6.
- Port Stephens Council "Areas Affected by Flooding and/or Inundation Policy", 2006.
- The Paterson River Floodplain Risk Management Study and Plan 2001  
The NSW Floodplain Development Manual 2005  
Floodplain Risk Management Policy (adopted 8 March 2016).

From a practical and strategic view point, it is not sound planning to put people and property in harm's way, with Council approving development applications for residential occupation in high hazard flood ways. It is widely held, that residential development in such high velocity and depth flood waters is not 'good planning'.

The proposal is not compatible with the flood hazard of the property and poses significant risk to life and property due to flood risk. Given that the reasons for refusal of DA No.16-2015-221-1 have not been overcome, it is recommended that this s.82A application for review of determination of DA No.16-2015-221-1 be refused for the reasons detailed within **(ATTACHMENT 3)**.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

**FINANCIAL/RESOURCE IMPLICATIONS**

The determination could be challenged in the Land and Environment Court. Defending Council's determination could have financial implications.

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes		There is scope within Council's existing budget to defend Council's determination if challenged.
Reserve Funds	No		

**MINUTES ORDINARY COUNCIL - 26 APRIL 2016**

Section 94	No		The proposal does not result trigger the application of s.94 contributions.
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

The development application is not consistent with the relevant planning instruments, flood development guidelines and studies including; *Environmental Planning and Assessment Act 1979* (EP&A Act), LEP2013, DCP2014, the Port Stephens Council "Areas Affected by Flooding and/or Inundation" Policy, Floodplain Risk Management Policy the Paterson River Floodplain Risk Management Study and Plan 2001, and the NSW Floodplain Development Manual 2005. Detailed responses to the relevant environmental planning instruments are provided within the Assessment report contained within **(ATTACHMENT 4)**.

On 10 June 2014 Council adopted the 'Integrated Risk Management Policy'. At point No.2 of the policy statement it is identified that: "Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public." It is further noted 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 to refuse the s.82A review of determination 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.

Section 733 *Local Government Act 1993* provides Council with a general exemption from liability with respect to flood liable land only if the necessary studies and works are carried out in accordance with the principles contained in the NSW Floodplain Development Manual 2005. Endorsement of this development would be contrary to these principles. A decision contrary the planning framework may negate the good faith immunity provisions in *Local Government Act 1993*. This could result in individual Councillors being personally accountable and responsible for any subsequent implications resulting from the decision. Further, in the event of any future claim Council's insurers may determine not to cover Council should the application be approved contrary to the recommendation.



<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk if the application is approved that Council's decision will be ultra-vires as cl.7.3 LEP2013 has not been satisfied.	Medium	Determine the application in line with the recommendation.	Yes
There is a risk that if the application is approved, that Council may be liable for any damage or consequences to approving a development located on a site with a known flood risk and that does not have adequate essential services.	Medium	Determine application in line with the recommendation.	Yes
There is a risk that is the application is approved Council will undermine the weight given to recently adopted policy including DCP2014 and the Floodplain Risk Management Policy.	Medium	Determine application in line with the recommendation.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The application is inconsistent with the Floodplain Risk Management Policy (adopted by Council on 8 March 2016) which aims to reduce the impact of flooding and flood liability on individual owners, and to reduce the private and public losses resulting from floods. Therefore, proposed development is considered likely to result in an adverse social and economic impact within the locality.

The flooding constraints of the site and insufficient provision of wastewater services do not enhance and promote the social needs of the community. Supporting such a development is likely to result in an economic cost to the community as it will place undue pressure on emergency services such as the SES, ambulance, fire brigade and police in terms of responding to any natural hazards and any medical emergencies that may occur on the site.

**MERGER PROPOSAL IMPLICATIONS**

The determination of the s.82A review is not anticipated to have any implications upon the proposed Council merger.

**CONSULTATION**

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

**OPTIONS**

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

**ATTACHMENTS**

- 1) Call to Council form.
- 2) Locality plan.
- 3) Reasons for refusal.
- 4) Assessment report
- 5) Office of Environment and Heritage referral comments.

**COUNCILLORS ROOM**

- 1) Development Plans and documentation.

**TABLED DOCUMENTS**

Nil.

ITEM 3 - ATTACHMENT 1 CALL TO COUNCIL FORM.



CALL TO COUNCIL FORM  
DEVELOPMENT APPLICATION



I, Councillor Jordan  
require Development Application Number.....  
for Dwelling on Lot 1A  
DP-9901-T High Street Hinton  
at Hinton

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

**Reason:**

The reason for this call-up to Council is Flood Lands

**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:

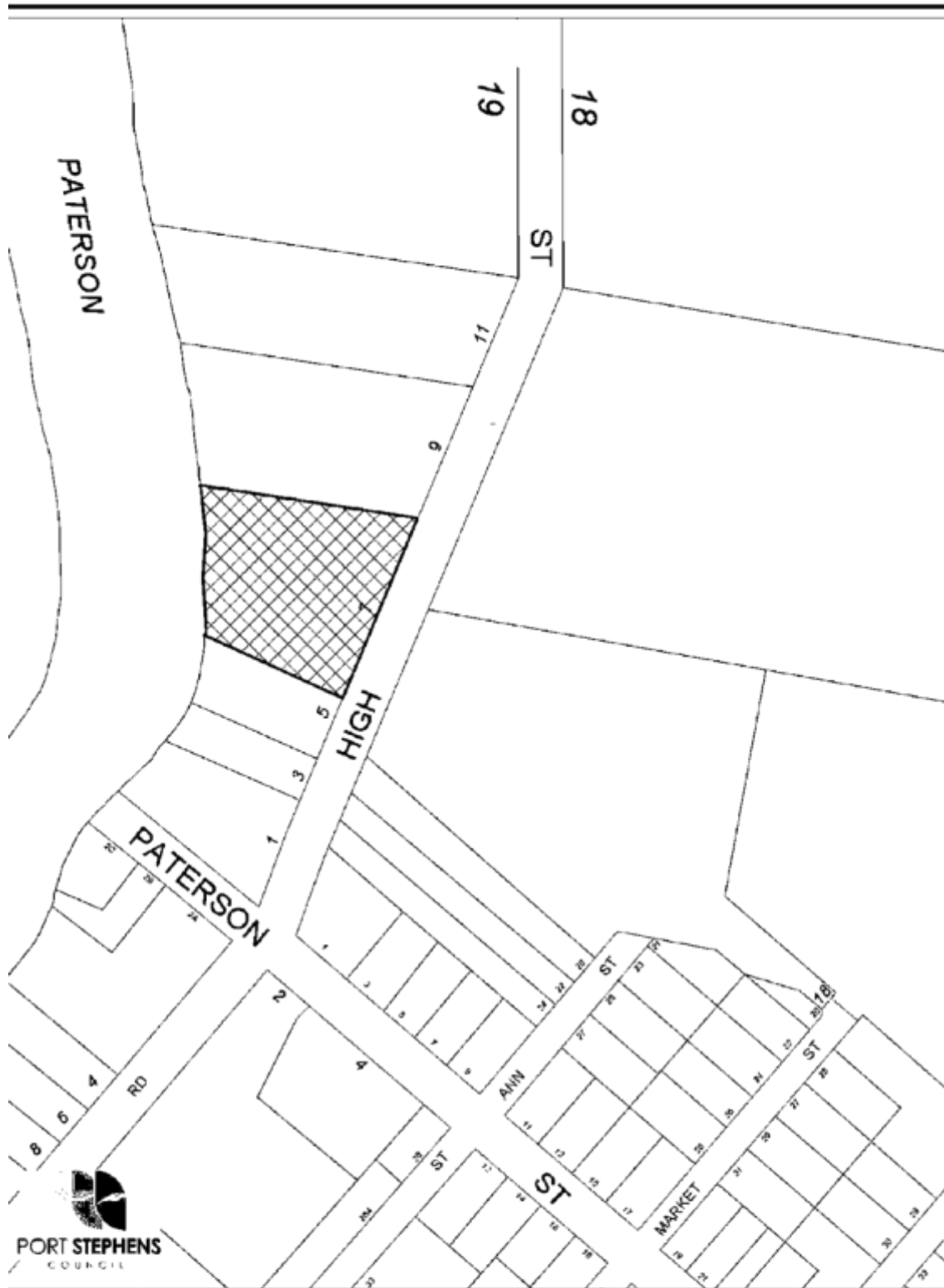
.....  
.....  
.....

Signed: .....



Date: .....

22/3/2016



**LOCALITY: HINTON**

 **SUBJECT AREA**

**DISCLAIMER**

Port Stephens Council accepts no responsibility for any errors, omissions or inaccuracies whatsoever contained within or arising from this map. Verification of the information shown should be obtained by the relevant officers at council.

© Department of Lands  
© Port Stephens Council

This map is not to be reproduced without prior consent.

NOT TO SCALE

PRINTED ON: 22.03.

116 Adelaide Street, Raymond Terrace NSW 2304. Phone: (02) 6900 255 Fax: (02) 4987 642 Email: council@portstephens.nsw.gov.au

**REASONS FOR REFUSAL**

1. The development fails to satisfy cl.7.3 Port Stephens Local Environmental Plan 2013 as the development is not compatible with the flood hazard of the land (s.79C(1)(a)(i) EP&A Act 1979).
2. The development fails to satisfy cl.7.6 Port Stephens Local Environmental Plan 2013 as adequate essential services, particularly in relation to the disposal and management of wastewater, have not been provided (s.79C(1)(a)(i) EP&A Act 1979).
3. The development fails to conform to the controls contained within Port Stephens Development Control Plan (B5 Flooding and Control C4.6 Streetscape) (s.79C(1)(a)(i) EP&A Act 1979).
4. The site is not suitable for the development given the flood characteristics of the site and impacts to the streetscape (s.79C(c) EP&A Act).
5. Given the likely significant adverse impacts on the flood behaviour, risk to life, property and environment that may result from the approval, the development is not in the public interest (s.79C(e) EP&A Act).

**APPLICATION DETAILS**

<b>Application Number</b>	16-2015-221-1
<b>Development Description</b>	Two Storey Dwelling (Section 82A Review)
<b>Applicant</b>	HILL TOP PLANNERS PTY LTD
<b>Date of Lodgement</b>	02/01/2016
<b>Value of Works</b>	\$220,000.00
<b>Property Address</b>	7 High Street HINTON
<b>Lot and DP</b>	LOT: 1A DP: 9901
<b>Current Use</b>	Rural land including farm building (shed)
<b>Zoning</b>	RU1 PRIMARY PRODUCTION
<b>Site Constraints</b>	Flood prone land (high hazard floodway)
<b>Integrated Development</b>	Nil.
<b>Number of Submissions</b>	N/A
<b>Recommendation</b>	Refusal

**Development Proposal**

The application proposes the review of determination No. 16-2015-221-1 pursuant to s.82A *Environmental Planning and Assessment Act 1979* (EP&A Act). The application subject to the s.82A RD (DA No.16-2015-221-1) sought consent for the construction of a single four bedroom dwelling set on an elevated platform supported by metal piers and the extension of the existing shed located on site. The dwelling was proposed to be constructed with a finished floor level (FFL) of 7.7AHD. The natural ground surface is approximately 4.6-4.7m AHD. An on-site sewage management system (OSMS) and associated land fill were also proposed. Access to the development was proposed via High Street, Hinton. The original application was refused under delegation on 20 November 2015 for the following reasons:

1. *The site not suitable for the proposed development (s.79C(c) EP&A Act) as:*
  - a. *The subject land is located entirely in the High Hazard Floodway. Due to the risk associated with velocities and/or depth which pose a risk to structures and/or the safety of persons the land is deemed unsuitable for residential development,*
  - b. *The development is considered an inappropriate land use under the NSW Floodplain Development Manual 2005,*

**ITEM 3 - ATTACHMENT 4 ASSESSMENT REPORT**

16-2015-221-1

- c. It is inappropriate to place additional dwelling houses in high risk flood areas and placing further demand on already limited SES resources by way of domestic property protection, rescue/medivac and evacuation.*
- 2. The development is inconsistent with the provisions of cl.7.3 of Port Stephens Local Environmental Plan 2013. The development is compatible with the land's flood risk. Significant adverse impacts on the flood behaviour, risk to life, property and environment may result from approval of the development (s.79C(a)(i) EP&A Act).*
- 3. The development fails to conform to the controls contained within the Port Stephens Development Control Plan 2014 B5.8 High Hazard 1 – Floodway Development located within High Hazard 1 (s.79C(a)(iii) EP&A Act).*

The applicant has sought review of determination No.16-2015-221-1 on the basis that a Hydraulic Loading Assessment (HLA) report has been prepared by GCA, which identifies that the proposed dwelling is located within a flood storage area rather than a high hazard floodway. The applicant suggests that the area is characterised by relatively low flood velocities which will not pose a significant risk to structures or persons, and that the dwelling can be designed to withstand the effects of major flooding.

Amended plans have also been submitted with the s.82A application which provides for:

1. An aerated effluent tank to be located on fill and having a top lid surface of 6.0m AHD.
2. An area of filling located to the east of the proposed shed extension to provide an elevated area for the disposable of effluent. This area is at 5.3m AHD which is below the 1 in 20 year flood level.

Further, Council staff concerns that the proposal would result in impacts to SES resourcing was suggested to be overcome due to use of communication systems, floor levels above the 1% Annual Exceedance Probability (AEP), and the over resourcing of SES in Hinton.

The applicant has also sought review pursuant to s.82A EP&A Act on the basis that Council has previously approved dwellings within proximity to the subject development. In this regard, it is understood that the applicant is referencing the dwelling approved under DA No.16-2014-492-1 located at 19 High Street, Hinton. This dwelling is currently under construction.

**Site Description**

The subject site to land located at No.7 High Street, Hinton which is legally identified as Lot: 1A DP: 9901. Access to the site is via High Street. The lot is part of a large land holding that comprises lots 2A and 6A DP 9901. The site is irregular in shape with a frontage of 88.48metres and is located on the bank of the Paterson River. The site is located on a floodplain and is relatively flat. There is a flood levee constructed to the west of the site adjoining the Paterson River. An existing shed will associated land fill is located on the site and was approved under (16-2014-384-3).

**Site Inspection**

A site inspection was carried out and impacts of the site can be seen in figure 1 below:



**Fig.1: Proposed location of dwelling**

**Internal Referrals**

The proposed modification was referred to the following internal specialist staff. The comments of the staff listed below have been used to carry out the assessment.

**Development and Flood Engineering:** It was identified that the subject site is classed as High Hazard Floodway and Excessive Depth FPM Zone under the Paterson River Floodplain Risk Management Study and Plan. The proposed development has not been supported as detailed within this assessment report.

**Environmental Health – Waste Water:** It was identified that the adequate provision for on-site sewage management systems (OSMS) has not been provided for. The proposed system does not satisfy Council's requirements as tank openings and electrical are below the 1:100 flood level. Treatment system top of lid will be at RL 6.0m AHD which represents 1:20 level. Further, the disposal area will be located at 5.3m RL AHD which is below the required 1:20 level. The disposal area has also been located below 1:20 flood level.

The applicant was requested under the original application to submit a consultant's report would be required at DA stage addressing the OSMS element of the proposal. This information was not submitted with the s.82A review.

**Heritage Officer:** The application was referred to Council's heritage officer for comment due to the proximity of the site to Hinton Bridge a State listed heritage item. It was determined that the development would not have an adverse impact upon adjoining heritage items.



**External Referrals**

The proposed modification was referred to the following external agencies for comment.

**Office of Environment and Heritage:** The application was referred to the Office of Environment and Heritage (OEH) given the proximity of the proposed works to the flood levee. In response, OEH confirmed that the development complies with the guidelines for development on or adjacent to levees. The proposed works were not considered likely to pose a significant risk to any of the Hunter Valley Flood Mitigation Scheme assets or impact on the performance of the declared floodplain, as such approval under s.256 of the *Water Management Act 2000* was not required.

It is noted that OEH did not consider the flood hazard, compliance with Council's LEP or DCP or evacuation requirements.

**MATTERS FOR CONSIDERATION – SECTION 79C**

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.

**s79C(1)(a)(i) – The provisions of any EPI****State Environmental Planning Policy No 55—Remediation of Land**

Clause 7(1) (b) and (c) of SEPP 55 require that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed. If the land requires remediation Council must be satisfied that the land will be remediated before the land is used for that purpose. The existing site has a history of use for rural purposes. The land is not identified as contaminated on Council's records. Further, due to the construction methods proposed there shall be minimal disturbance of existing soils. The proposal is satisfactory when considered against the provisions of SEPP No.55 and further investigation is not warranted.

**Port Stephens Local Environmental Plan 2013 (LEP)**

**Clause 2.1 Land use zones:** The proposed development is defined as 'Dwelling and Earthworks' and is permissible with consent within the RU1 Primary Production Zone. The proposed development is not inconsistent with the objectives of the RU1 Primary Production zone.

**Clause 4.3 Height of buildings:** Clause 4.3 specifies the maximum height of buildings for development is not to exceed the maximum height shown for the land of the 'height of buildings map'. No specified height is mapped for the property. The height of the proposed dwelling is 8.74metres.

**Clause 5.10 Heritage conservation:** The site is located within proximity to the Hinton Bridge which is a state listed heritage item. Council's Heritage office reviewed the application and determined that the development would not result in adverse impact to surrounding heritage items.

**Clause 7.1 Acid sulfate soils:** The subject site is identified as Class 4 acid sulfate soils (ASS). Accordingly works more than 2 metres below the natural ground surface and works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface, as a result of excavations for footings, utility services and drainage. Due to the amount of fill excavation it is anticipated that ground disturbance kept to a minimum. Should Council determine to approve the development this matter could be addressed via conditions of consent.

**Clause 7.2 Earthworks:** Clause 7.2 seeks to ensure that earthworks will not have a detrimental impact upon the environment or surrounding properties. The development requires earthworks involving approx. 1.72meters of fill to facilitate wastewater disposal. However, fill to a greater extent would be required to ensure compliance with Council's wastewater requirements as the proposed level is below the 1:20 level. The extent of fill is not supported.

**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 when considered in the context of clause 7.3 as the site is classified as floodway and is located within an area that conveys a significant portion of the flood flow. As such the proposed development may adversely affect other areas and adjoining properties.

Further, the property is affected by very significant flooding in events as frequent as the 20% Annual Exceedance Probability (AEP). AEP refers to the chance or probability of flooding occurring on-site. The AEP rating for the subject site indicates that on average the development would be subject to flooding approximately every five years.

The subject site is also located within the high provisional hazard category for 5% AEP and greater. Therefore there is increased potential for significant structural damage to buildings. The development is not compatible with the lands flood hazard and will result in an unacceptable risk, therefore it cannot be supported.

**Clause 7.6 Essential services:** Clause 7.6 requires the consent authority to be satisfied that essential services including water, electricity, sewage, stormwater and access are available to the site. The applicant will require onsite waste water treatment system and onsite water supply was the services are not available.

**s79C(1)(a)(ii) – Any draft EPI**

There are no draft EPI's relevant to the proposed development.

**s79C(1)(a)(iii) – Any DCP**

**Port Stephens Development Control Plan 2014**

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

**Section A - Introduction**

**A.12 Development Notification:** In accordance with the requirements of chapter A.12, the development application was not notified.

**Section B – General provisions**

**B3.B - Acid sulfate soils:** Refer to cl.7.1 LEP2013 discussion above.

**B3.C – Contaminated land:** Refer to SEPP No.55 discussion above.

**B3.F – Earthworks:** Refer to cl.7.2 LEP2013 discussion above. The proposal is not considered satisfactory.

**B5 – Flooding:** Refer to cl.7.3 LEP2013 discussion above. As discussed, the area has been classified as High Hazard Floodway by the Paterson River Floodplain Risk Management Study. The hydraulic classification (i.e. floodway/storage/fringe) is not based only on the velocity of the floodwaters alone. The determination of appropriate hydraulic categories was undertaken by specialists at the time of the flood study and floodplain risk management plan for the area and is specific to the catchment. The hydraulic

categorisation of floodway is attributed to the substantial volume of water flowing through this property in times of major flooding. The location of the proposed dwelling is not appropriate for residential purposes.

The development is not consistent with the outcomes of section B5.8 of the DCP which related specifically to High Hazard Floodway, as follows:

- **B5.8:** New buildings or structures and fill are not supported unless accompanied by a report. Development within a floodway is not encouraged. An application may only be considered where it demonstrated to have specific community needs/benefits, which does not relate to the provision of housing.
- **B 5.2:** The hydraulic assessment has not adequately assessed the relevant flooding events as it has addressed the 1% AEP flood event rather than the PMF as required by Section B5.2. A report from a Chartered Professional Structural Engineer has not been provided and it is not certain whether the proposed building will be structurally sound in events up to the PMF. As these requirements have not been met, there is significant risk to life in events greater than the 1% AEP.
- **B5.7:** A flood refuge above the PMF level has not been provided in accordance with the provisions of B5.7.

#### **Part C - Single and Dual Occupancy Dwellings**

The application has been assessed against the provisions of Development Control Plan 2013 (DCP2013), B6 – Single and Dual Occupancy Dwellings as follows:

**C4.1 Site Coverage:** The development is located upon rural land adheres to the maximum non-permeable suffice area.

**C4.9 Height:** LEP2013 does not provide for specific height limits are set for the property although the current design reached approximately 9.7m above natural ground due to the amount of fill required to build above the 1% AEP level.

**C4.F Setback:** The proposal complies with the setback requirements. A 13.6metre front setback has been provided to High Street. A11.7metre side setback and 51metre rear setback has also been provided.

**C4.6 Streetscape and privacy:** The proposed development is not in keeping with the existing streetscape character. The locality is typified by large rural allotments with isolated dwellings setback from the road frontage. The proposed dwelling is within 13.6metres of the frontage which complies with front setback requirements of the DCP. However, the setback does not maintain the existing rural character as surrounding dwellings have substantial setbacks from the road frontage. The impact to the streetscape and rural character is exemplified by the proposed construction method which results in the dwelling being located on 2.7metre pylons. The neighbouring dwellings are located on large fill pads as per the existing sites shed. The dwelling will result in an adverse impact to the existing streetscape.

**C4.H Private open space:** Adequate open space and solar access has been provided.

**C4.I Private open space:** The development results in the adequate provision of car parking and garages.

**C4.J Site facilities and services:** Suitable site facilities and services can be provided for on-site.

**s79C(1)(a)(iia) – Any planning agreement or draft planning agreement entered into under section 93F**

There are no planning agreements that have been entered into under section 93F relevant to the proposed development.

**s79C(1)(a)(iv) – The regulations**

Consideration of the regulations is not required in this instance.

**s79C(1)(a)(v) – Any coastal management plan**

There are no coastal management plans applicable to the proposed development.

**s79C(1)(b) – The 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 improve impacts and frequency/severity of the impacts. The development is not compatible with the flood risks associated with the land and may result in unacceptable impacts to life and property. The development is recommended for refusal for the following reasons.

**s79C(1)(c) – The suitability of the site**

This site is physically constrained by flooding and is considered unsuitable for the proposed development.

**s79C(1)(d) – Any submissions**

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

**s79C(1)(e) – The public interest**

The development may 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 poses an unacceptable risk to life and property and may also result in adverse flood impacts to surrounding properties. The development is not within the public interest.

ITEM 3 - ATTACHMENT 5 OFFICE OF ENVIRONMENT AND HERITAGE  
REFERRAL COMMENTS.



Office of  
Environment  
& Heritage

Our reference: DOC16/131656  
Contact: Richard Murphy

PORT STEPHENS COUNCIL  
116 Adelaide Street  
PO Box 42  
RAYMOND TERRACE, NSW, 2324  
ATTN: Amy Stone

Dear Alisa-Jane Evans,

**RE: Request for Comment - Section 82A**

**Review of DA Determination 16-2015-221-1**

I refer to your request for comment / conditions in relation to s.256 approval for 7 High Street Hinton - DA 16-2015-221-1.

The proposed development complies with all our guidelines for development on or adjacent to levees. Based on this and the drawing provided OEH has determined that the proposed works do not pose a significant risk to any of the Hunter Valley Flood Mitigation Scheme assets or impact on the performance of a declared floodplain.

Please note, OEH has not considered flood hazard, compliance with Port Stephens Council's DCP or LCP or evacuation.

If Council, having considered these matters and resolves to approve the development, then OEH cannot see any impediments to providing the necessary consent under s256 of the Water Management Act 2000.

If you would like to discuss this matter, please contact Richard Murphy, Floodplain Engineer on 4927 3144 at the Newcastle Office.

Yours sincerely,



11/03/2016

**RICHARD MRUPHY**  
Floodplain Engineer, Hunter-Central Coast  
Water Floodplains & Coast  
Regional Operations Group

Locked Bag 1002 Dangar NSW 2309  
Level 4 26 Honeysuckle Dr Newcastle NSW 2300  
Tel: (02) 4904 2500 Fax: (02) 4904 2504  
ABN 30 841 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

**ITEM NO. 4**

**FILE NO: 16/276674  
RM8 REF NO: PSC2006-0533**

**COMPULSORY ACQUISITION - FORMER ANNA BAY FIRE STATION SITE AT  
4290 NELSON BAY ROAD, ANNA BAY**

REPORT OF: GLENN BUNNY - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Make application to the Minister and the Governor for approval to acquire 4290 Nelson Bay Road, Anna Bay, being the land described as Lot 398 DP 753204, by compulsory process under sections 186(2)(a) and 187 of the *Local Government Act 1993*.
- 2) Proceed with the compulsory acquisition of the land described as Lot 398 DP 753204 in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*, for the purpose of consolidation with adjoining Council owned land.
- 3) On receipt of Title the land be classified as Operational Land.

---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p><b>Councillor John Nell Councillor Steve Tucker</b></p> <p>That the recommendation be adopted.</p>
--	---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>096</b>	<p><b>Councillor Chris Doohan Councillor Ken Jordan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Make application to the Minister and the Governor for approval to acquire 4290 Nelson Bay Road, Anna Bay, being the land described as Lot 398 DP 753204, by compulsory process under sections 186(2)(a) and 187 of the <i>Local Government Act 1993</i>.</li><li>2) Proceed with the compulsory acquisition of the land described as Lot 398 DP 753204 in accordance with the requirements of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i>, for the purpose of</li></ol>
------------	--

## MINUTES ORDINARY COUNCIL - 26 APRIL 2016

- |    |   |
|----|---|
|    | consolidation with adjoining Council owned land.                |
| 3) | On receipt of Title the land be classified as Operational Land. |

### BACKGROUND

The purpose of this report is to recommend Council make application to the Office of Local Government for the Minister and the Governor's approval to acquire Lot 398 DP 753204 (the Land) by compulsory process under Sections 186 (2)(a) and 187 of the *Local Government Act 1993* and in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.

Council, at its meeting of 11 February 2014 (**ATTACHMENT 1**), resolved to purchase the Land and declare it Operational. Application for compulsory acquisition was made to the Office of Local Government (OLG) which responded on 8 January 2016 outlining further actions required by Council before the matter can be progressed, namely "The resolution submitted with the application is not sufficient for an application to compulsorily acquire land and a fresh resolution expressly authorising making an application to the Minister and the Governor for approval to compulsorily acquire the land is required". OLG also provided a copy of model resolutions suitable for this compulsory acquisition of land for public recreation and this wording has been used in the preparation of this report.

The previous report outlines the history of the Land, but summarily it is the site of the old Anna Bay Rural Fire Station which has been relocated. The site is now unused.

Council wishes to acquire the Land from the Crown to consolidate this small section (632sqm shown by white edge) with the adjoining operational land shown by black edge (**ATTACHMENT 2**). Both parcels are zoned "RE1 Public Recreation" under the Port Stephens Local Environmental Plan 2013.

### COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Provide passive and active recreation and leisure services and facilities.	Maintain and develop recreational facilities for residents and visitors.

### FINANCIAL/RESOURCE IMPLICATIONS

The valuation will be undertaken by the Valuer General and will determine the financial impact upon Council. An estimate of \$15,000 has been made for the acquisition and related costs and has been provided for in the current Property Services budget.

**MINUTES ORDINARY COUNCIL - 26 APRIL 2016**

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**

There are no obvious legal implications.

Council's Property Section will complete the process within the Office of Local Government Guidelines for the Compulsory Acquisition of Land by Councils under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Given recent prominent concerns around contamination from firefighting activities, there may be a risk that the land may be contaminated so a Phase 1 Site Audit will be obtained before the valuation is undertaken and the acquisition is completed.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that compensation to Crown Land for the acquisition will be too great and not within budget.	Low	Accept the recommendations.	Yes
There is a risk that objection will be raised to the acquisition by the Minister or Governor.	Low	Accept the recommendations.	Yes
There is a risk that the land may be contaminated from its previous use.	Low	Accept the recommendations and proceed to finalise the acquisition once the land has been independently verified as free from contamination.	Yes

**SUSTAINABILITY IMPLICATIONS**

There are considered to be positive long term economic and environmental impacts as the subject site can be added to Council's adjacent land holding creating a single regular shaped lot more suitable for development.



**MERGER PROPOSAL IMPLICATIONS**

A merger will not have any implications on this compulsory acquisition proposal.

**CONSULTATION**

Internal

- 1) Community & Recreation Manager.
- 2) Property Development Coordinator.
- 3) Property Officer.
- 4) Land Acquisition & Development Manager.
- 5) Property Services Manager.

External

- 1) Crown Lands Office.
- 2) Office of Local Government.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Minutes Ordinary Meeting - 11 February 2014.
- 2) Locality Map.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**MINUTES ORDINARY COUNCIL – 11 FEBRUARY 2014**

ITEM NO. 7

FILE NO: PSC2006-0533

**PURCHASE LOT 398 DP 753204, FORMER ANNA BAY FIRE STATION, CROWN RESERVE 89712**

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

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Purchase Lot 398 DP 753204 (Reserve 89712) being 4290 Nelson Bay Road, Anna Bay (former Anna Bay Rural Fire Station site) and declare the land as Operational Land;
- 2) Authorise the General Manager and the Mayor to sign and affix the Seal of Council to any related documentation.

**ORDINARY COUNCIL MEETING – 11 FEBRUARY 2014**  
**COMMITTEE OF THE WHOLE RECOMMENDATION**

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

**MOTION**

<b>011</b>	<b>Councillor Paul Le Mottee</b> <b>Councillor Chris Doohan</b>
	It was resolved that Council: <ol style="list-style-type: none"> <li>1) Purchase Lot 398 DP 753204 (Reserve 89712) being 4290 Nelson Bay Road, Anna Bay (former Anna Bay Rural Fire Station site) and declare the land as Operational Land;</li> <li>2) Authorise the General Manager and the Mayor to sign and affix the Seal of Council to any related documentation.</li> </ol>

**BACKGROUND**

The purpose of this report is to recommend to Council the purchase of Lot 398 DP 753204 (Reserve 89712), 4290 Nelson Bay Road Anna Bay for an amount to be determined by negotiation between the Crown and Property Services. The value of the parcel of land is considered nominal due to its size (632m<sup>2</sup>), the restricted market

**MINUTES ORDINARY COUNCIL – 11 FEBRUARY 2014**

and its current zoning (6a). Under the provisions of the Port Stephens Council Local Environmental Plan 2013 the land is zoned RE1 Public Recreation.

The abovementioned property has for many years been vacant due to Council demolishing the old Anna Bay Rural Bushfire Station and building a new station for the Anna Bay and Bobs Farm Rural Bushfire Service at 1A Fishermans Bay Road, Anna Bay.

Crown Land owns the land as a Reserve for the purpose of 'Bushfire Brigade'. Council owns the adjoining property, being the former Anna Bay Oval (Lot 10 DP 729986) and is currently proposing to reclassify it from Community to Operational Land for redevelopment purposes. It would be strategic for Council to purchase the Reserve from the Crown and consolidate it with Lot 10 DP 729986. The purchase and consolidation of this lot will not impact on any current use of the Council owned adjoining land.

**FINANCIAL/RESOURCE IMPLICATIONS**

The value of the land is considered nominal however a survey plan of consolidation would need to be prepared and legal fees for transfer and registration would also be payable.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	10,000	Funds for the purchase would be required from the Property Reserve.
Section 94	No		
External Grants	No		
Other	No		

**LEGAL, POLICY AND RISK IMPLICATIONS**

Crown Lands Department and Council's Property Section will complete all standard legal documents to complete the land transaction by way of Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991.

There are no encumbrances on the land.

**MINUTES ORDINARY COUNCIL – 11 FEBRUARY 2014**

<b>Risk</b>	<b>Risk Ranking</b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that should Council not acquire the land now, Crown Land could change the purpose of the Reserve and lease or licence the land for a use that may not compliment the future plans of Council for the adjoining property.	Medium	Adopt the recommendations.	Yes.

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The former Anna Bay Oval is currently being reclassified from Community to Operational to allow the development of the site. The future use has not been determined as there is further analysis of proposed uses to be undertaken to ensure the best outcome for the site. The purchase and consolidation of the Crown parcel and the Council owned land will straighten the boundary of the land (**ATTACHMENT 1 & ATTACHMENT 2**).

**CONSULTATION**

- 1) Property Officer;
- 2) Crown Land staff;
- 3) Community Services Section Manager;
- 4) Property Development Co-ordinator;
- 5) Economic Development Project Officer.

**OPTIONS**

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

**ATTACHMENTS**

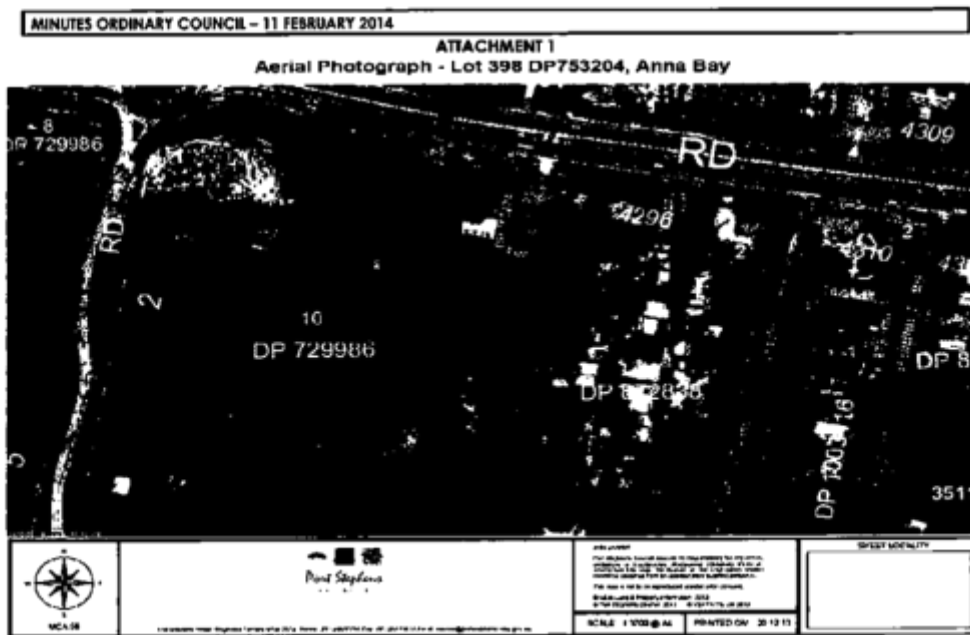
- 1) Aerial photograph;
- 2) Location map.

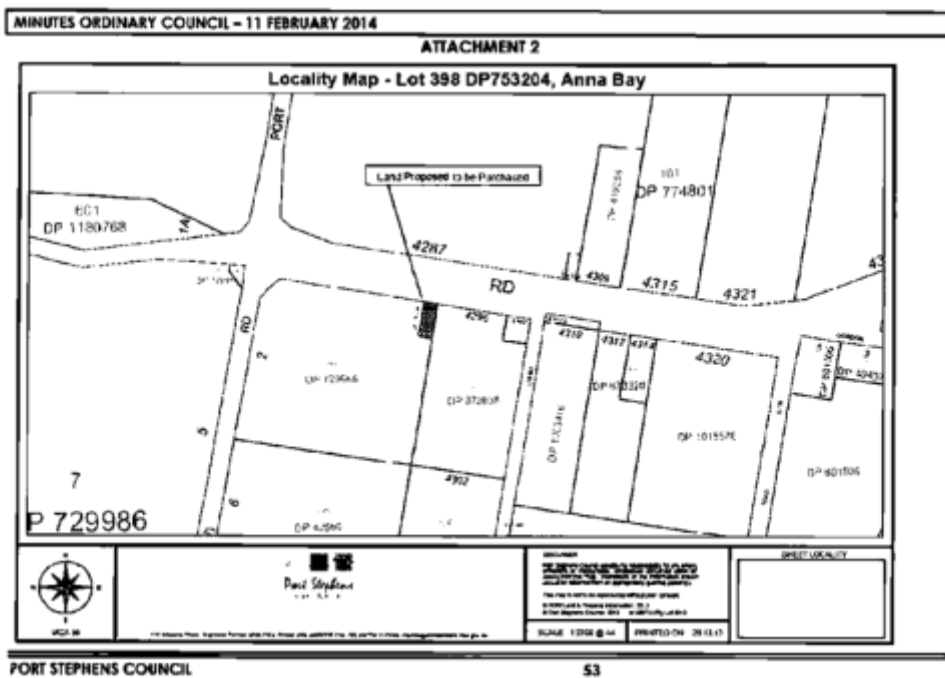
**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.







**ITEM NO. 5**

**FILE NO: 16/277377  
RM8 REF NO: PSC2016-00601**

**NAMING OF RESERVES AT CORLETTE - COVE RESERVE, MOORING RESERVE & CORLETTE HILL RESERVE**

REPORT OF: GLENN BUNNY - PROPERTY SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Make application to the Geographical Names Board (GNB) of NSW to approve the names of three separate Council Public Reserves at Corlette:
    - i) Cove Reserve
    - ii) Mooring Reserve; and
    - iii) Corlette Hill Reserve
  - 2) Place the application on public exhibition for a period of 28 days if the Geographical Names Board agrees to the names and, should no submissions be received, progress the application without a further report to Council.
- 

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p><b>Councillor John Nell</b> <b>Councillor Sally Dover</b></p> <p>That the recommendation be adopted.</p>
--	---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>097</b>	<p><b>Councillor Chris Doohan</b> <b>Councillor Ken Jordan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Make application to the Geographical Names Board (GNB) of NSW to approve the names of three separate Council Public Reserves at Corlette:<ol style="list-style-type: none"><li>i) Cove Reserve</li><li>ii) Mooring Reserve; and</li><li>iii) Corlette Hill Reserve</li></ol></li><li>2) Place the application on public exhibition for a period of 28 days if the Geographical Names Board agrees to the names and, should no</li></ol>
------------	--



	submissions be received, progress the application without a further report to Council.
--	--

## **BACKGROUND**

The purpose of this report is to recommend Council apply to the Geographical Names Board of NSW (GNB) to formally adopt the names 'Cove Reserve', 'Mooring Reserve' and 'Corlette Hill Reserve' for three reserves located at Corlette.

These three reserves were dedicated to Council by Urban Growth (Landcom) upon registration of various subdivision plans - Cove Reserve - Lot 2427 DP1148801; Mooring Reserve - Lot 2746 DP1188840; Corlette Hill Reserve - Lot 2 DP1026536, Lot 2852 DP1194081 and Lot 3132 DP1201622.

Since these reserves were dedicated, Council's GIS Mapping has identified these reserve names shown edged blue, red and white on **(ATTACHMENT 1)**. Making application to the GNB to adopt and gazette these already identified names will formalise the proposed reserve names.

Two reserve names have been chosen using the name of the roads which provide access to them as this is a common approach to naming reserves. Cove Reserve (edged white) is accessed via Reveal Cove, and Mooring Reserve (edged blue) is accessed via Mooring Avenue. The name Corlette Hill Reserve (edged red) is due to the reserve being on the hill above Corlette. GNB staff have advised Council's Property Officer these names should be acceptable to the Board.

If the GNB agrees to the proposed names they will be locally advertised with a submission period of 28 days. Should no submissions be received objecting to the names, the Gazette will then be published to complete the official naming process.

## **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
The Port Stephens community is informed and involved in decisions that affect them.	Engage our community in conversations and provide timely & accurate information.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial or resource implications to Council involved in submitting the application to the GNB to name reserves.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

The application will be prepared in accordance with Council's Naming and Renaming of Reserves Policy. Once approved, GNB will prepare and advertise the Gazette Notice as required by the *Geographical Names Board Act 1996*. Additionally, the Council Plans of Management require Council to 'ensure the sustainable management of assets which meet community needs'.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the GNB will reject the proposed names.	Low	Overcome objection and, if required, reapply to the GNB.	Yes
There is a risk that if reserves are left unidentified this may cause identification difficulties for not only the general public but also authorities such as Emergency Services.	Low	Gazette all reserve names.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

No adverse social, economic or environmental implications are expected.

**MERGER PROPOSAL IMPLICATIONS**

There are no implications for a merger with the naming of these reserves.

**CONSULTATION**

Internal

- 1) Property Officer.
- 2) Land Acquisition & Development Manager.
- 3) GIS Technical Officer.
- 4) Community & Recreation Coordinator.

External

- 1) Geographical Names Board.

**OPTIONS**

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

**ATTACHMENTS**

- 1) Aerial Photo - Three Reserves Corlette.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



**ITEM NO. 6**

**FILE NO: 16/308131  
RM8 REF NO: PSC2012-04581**

**INTEGRATED RISK MANAGEMENT POLICY**

REPORT OF: MICHELLE GILLIVER-SMITH - ORGANISATION DEVELOPMENT  
SECTION MANAGER  
GROUP: CORPORATE SERVICES

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Receives and notes the submission.
- 2) Adopts the revised Integrated Risk Management Policy shown at **(ATTACHMENT 1)**.
- 3) Revokes the Integrated Risk Management Policy dated 10 June 2014 Minute No 135 **(ATTACHMENT 2)**.

---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p><b>Councillor John Nell Councillor John Morello</b></p> <p>That the recommendation be adopted.</p>
--	---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<p><b>098</b></p>	<p><b>Councillor Chris Doohan Councillor Ken Jordan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Receives and notes the submission.</li><li>2) Adopts the revised Integrated Risk Management Policy shown at <b>(ATTACHMENT 1)</b>.</li><li>3) Revokes the Integrated Risk Management Policy dated 10 June 2014 Minute No 135 <b>(ATTACHMENT 2)</b>.</li></ol>
-------------------	---

**BACKGROUND**

The purpose of this report is to finalise the revision of the Integrated Risk Management Policy which was presented to Council on 8 March 2016 and has since been on public exhibition.

One submission was received from Council's Risk Management Coordinator to incorporate the inclusion of key points of the Critical Incident and Business Continuity Management Directives to provide clarity on how these components of the integrated system fit together. These recommended changes are noted in red in the submission **(ATTACHMENT 3)**.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Port Stephens Council's services and assets are sustainable in the longer term.	<p>Council will maintain its underlying financial performance to budget at break even or better.</p> <p>Council will increase its revenue from non-rates sources.</p> <p>Manage risks across Council.</p> <p>Attract, retain and develop staff to meet current and future workforce needs.</p> <p>Provide enabling business support services for Council's operations.</p>

**FINANCIAL/RESOURCE IMPLICATIONS**

Sound project and program planning and implementation based on risk management principles will reduce the exposure of the community to losses. A more structured approach to managing the risks associated with provision of services and facilities will reduce the cost of claims and optimise the economic benefit to Council.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Council's Integrated Risk Management System will be compliant with AS/NZS ISO 31000:2009 Risk Management - Principles & Guidelines; AS/NZS 4801:2001.

Occupational Health & Safety Systems; AS/NZS ISO 14001:2015 Environmental Management Standards; *Work Health & Safety Act 2011*, *Protection of the Environment Operations Act 1997* and the *Local Government Act 1993 (NSW)*.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the Integrated Risk Management Policy is now obsolete leading to low staff compliance and acceptance.	Low	Adopted revised Integrated Risk Management Policy.	Yes
There is a risk that failure to adopt the Integrated Risk Management Policy will inhibit the development and stifle continuous improvement of the Integrated Risk Management System.	Low	Adopted revised Integrated Risk Management Policy.	Yes

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Part of Council's mission is to provide services and make decisions to enhance our quality of life, our economy and our natural environment. The identification, measurement and control of risks to protect the community, the Council, its assets and the environment against loss will help to ensure the sustainability of Council services and facilities.

The principles of risk management require staff to make informed judgements concerning the level and cost of risk involved in achieving cost-effective outcomes.

Our focus on environmental performance is supported by the Integrated Risk Management System that includes compliance obligations and consideration of environmental aspects such as prevention of pollution, degradation of ecosystems and resource efficiency as part of the risk assessment process. The Integrated Risk Management System supports Council's focus on environmental sustainability and addressing the impacts of climate change by including consideration of environmental impacts as part of the risk assessment process.

### **MERGER PROPOSAL IMPLICATIONS**

Newcastle City Council has no adopted Risk Management Policy in place at present. Dungog Shire Council has a Risk Management Policy which was adopted in 2005. As

the policy sets the direction for Port Stephens Council's approach to corporate risk management, work health and safety and environmental performance, it is an integral part of our Integrated Risk Management System.

## **CONSULTATION**

### Internal

- 1) Executive Leadership Team.
- 2) Corporate Risk Management Team.
- 3) Environmental Management System Officer.
- 4) Endorsed by Audit Committee 18 February 2016.

### External

- 1) Public Exhibition.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Revised Integrated Risk Management Policy - Revised 5 April 2016 following Public Exhibition.
- 2) Existing Integrated Risk Management Policy - adopted 10 June 2014.
- 3) Submission.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

Nil.



ITEM 6 - ATTACHMENT 1 REVISED INTEGRATED RISK MANAGEMENT POLICY - REVISED 5 APRIL 2016 FOLLOWING PUBLIC EXHIBITION.

Policy



**FILE NO:** PSC2012-04581  
**TITLE:** INTEGRATED RISK MANAGEMENT  
**POLICY OWNER:** ORGANISATION DEVELOPMENT MANAGER  
**PURPOSE:**

Council's purpose is to provide services and make decisions to enhance our quality of life, our economy and our natural environment. The identification, measurement and control of risks to protect the community, the Council and its assets against loss helps to ensure the sustainability of Council services and facilities and ensure the safety of workers, residents and visitors alike. Similarly, the identification and management of opportunities through the application of risk management principles ensures that Council is well positioned to take or increase risk in order to pursue opportunities.

Council recognises that the environmental, social and economic importance of operating in a sustainable manner, ensuring a high level of environmental compliance and performance through continuous improvement and the implementation of our Environmental Management System. Our focus on environmental performance is supported by the Integrated Risk Management system that includes compliance obligations and consideration of environmental aspects such as prevention of pollution, degradation of ecosystems and resource efficiency as part of the risk assessment process.

Critical incident and business continuity management minimises the risk to staff, protects property and guards Council's reputation from events that have, or are likely to have, noticeable and detrimental operational impact on Council. The ability to respond quickly to limit damage in the short window of opportunity that often occurs at the beginning of a crisis can serve to contain the potential costs to Council.

The principles of risk management require staff to make informed judgements based on best available information concerning the level and cost of risk and opportunity involved in achieving cost-effective outcomes. By implementing an Integrated Risk Management System throughout Council, we will be better positioned to meet our objectives and deliver services and infrastructure in a way that is sustainable and meets our customers' needs. The aim of the Integrated Risk Management System aligns with Delivery Program Item 15.1.3 'manage risks across Council'.

**CONTEXT/BACKGROUND:**

Port Stephens Council has a responsible approach to risk management, seeking to recognise and manage our exposure to risk in accordance with our vision, purpose and values.

**Policy**

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date:

Printed: 04/12/2015

Review Date: 30/11/2017

Page: 1 of 6

ITEM 6 - ATTACHMENT 1 REVISED INTEGRATED RISK MANAGEMENT POLICY - REVISED 5 APRIL 2016 FOLLOWING PUBLIC EXHIBITION.

## Policy



We are committed to managing risk on a systematic, organisation-wide basis consistent with AS/NZS ISO 31000:2009 *Risk management – Principles and guidelines*, AS/NZS 4801:2001 *Occupational Health & Safety Management Systems* and AS/NZS ISO 14001:2015 *Environmental Management Standards*. This methodology will create sustainable value by both minimising risks to the achievement of our objectives and by identifying potential opportunities, by ensuring the health and safety of our workers and by protecting our environment.

Our Integrated Risk Management System will also align with Council's Business Excellence Framework by facilitating continuous improvement.

### SCOPE:

Our integrated risk management system will comprehensively integrate all risks, including safety, environmental risks and business risks (financial, property, security, commercial, etc), into our decision making, business planning and reporting at all levels. A consistent, holistic approach to risk management strengthens our ability to deliver more efficient and effective services to our community.

The key steps for implementing an Integrated Risk Management System across the organisation include:

- i. Centralising all corporate risk, work health and safety and environmental management documents on the Integrated Risk Management System on Council's intranet
- ii. Progressively combining common documents to provide a simpler, more focused management system, a reduction in duplication, more effective audit management and a greater demonstration of due diligence.
- iii. Implementing a communication strategy for the Integrated Risk Management system

### DEFINITIONS:

Risk	Effect of uncertainty on objectives (Note: an effect is a deviation from the expected and can be positive and/or negative)
Risk management	Coordinated activities to direct and control an organisation with regard to risk

## Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date:

Printed: 04/12/2015

Review Date: 30/11/2017

Page: 2 of 6

ITEM 6 - ATTACHMENT 1 REVISED INTEGRATED RISK MANAGEMENT POLICY - REVISED 5 APRIL 2016 FOLLOWING PUBLIC EXHIBITION.

Policy



**POLICY STATEMENT:**

- 1) Port Stephens Council is committed to developing an effective Corporate Risk Management system that clearly considers all major risks and opportunities integrated into one common framework. Our integrated risk management system will focus on continually improving comprehensive risk management processes.
- 2) In pursuing the achievement of its objectives and governance responsibilities, Council will accept a degree of risk commensurate with both the potential reward and with Council's role in the community. Our categories of risk and current risk appetite are set out in the table below:

	Willingness to Accept Risk			
	Low	Medium	High	Extreme
	Preference for options that avoid risk or have low inherent risk	Preference for safe options with low degree of residual risk and limited potential for reward	Willing to consider all options with a preference for prudent options and an acceptable level of reward	Enthusiasm for innovation leading to preference for higher rewards despite greater inherent risk
<b>Asset</b>		✓		
<b>Legal</b>	✓			
<b>Financial</b>		✓		
<b>Business Systems &amp; Processes</b>			✓	
<b>Environment</b>	✓			
<b>Reputation</b>		✓		
<b>People</b>	✓			

In particular, Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public.

In consideration of our commitment to our stakeholders and community, Council has no appetite for risks that impinge on our transparency and integrity of decision making.

We have no appetite for risks that may have a significant adverse impact on our long term financial sustainability. However, Council encourages entrepreneurship and has a reasonable appetite for risks arising from property and economic development opportunities.

Reflecting our conservative approach to knowledge management, resilience and

**Policy**

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)

Issue Date:

Printed: 04/12/2015

Review Date: 30/11/2017

Page: 3 of 6

ITEM 6 - ATTACHMENT 1 REVISED INTEGRATED RISK MANAGEMENT POLICY - REVISED 5 APRIL 2016 FOLLOWING PUBLIC EXHIBITION.

## Policy



environmental performance, Council has little appetite for risks in these areas. We have a moderate appetite for risk in normal business operations and accept that there is an element of reputation risk inherent in the delivery of our services.

Understanding the role of technology in enabling and innovating core business operations, we are open to technology risks that improve service delivery and efficiency of operations.

Notwithstanding the above, Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating, and will actively manage all risks with an extreme or high residual risk ranking.

- 3) Council is required to identify, evaluate, mitigate, monitor and report business continuity risks to ensure its able to continue operations in the event of a material business interruption and to continue to provide critical services to the community and stakeholders.
- 4) Council is committed to empowering employees to assume accountability and responsibility for risk management in the workplace by creating and promoting a culture of participation and by providing a robust process to monitor and review the effectiveness of risk management across Council.

### POLICY RESPONSIBILITIES:

- 1) Corporate Risk Management will be led by the Senior Leadership Team, ie. The General Manager, group managers and section managers with support from the Corporate Risk Management Team. The Senior Leadership Team is committed to guiding effective risk management by the application of the principles detailed in AS/NZS ISO 31000:2009 *Risk management – Principles and guidelines*.
- 2) Direct responsibility and final accountability for critical incident and business continuity management rests with the Emergency Response Committee (ERC) comprised of:
  - General Manager
  - Mayor
  - Group Manager Corporate Services
  - Group Manager Facilities & Services
  - Group Manager Development Services
  - Organisation Development Manager
  - Property Services Manager
  - Communications Manager
  - Business Systems Support Manager
  - Risk Management Coordinator

## Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date:

Printed: 04/12/2015

Review Date: 30/11/2017

Page: 4 of 6

**ITEM 6 - ATTACHMENT 1 REVISED INTEGRATED RISK MANAGEMENT POLICY - REVISED 5 APRIL 2016 FOLLOWING PUBLIC EXHIBITION.**

**Policy**



- 3) Every staff member is responsible to implement and embed risk management by:
- identifying, managing and monitoring risks and opportunities in their areas of accountability;
  - communicating these areas of risk to their manager or supervisor;
  - taking measures to ensure their own safety, that of other employees, customers and other workers; and by acting to reduce environmental harm by preventing pollution, degradation of ecosystems and minimising resource use.

**RELATED DOCUMENTS:**

- 1) Work Health and Safety Statement of Commitment.
- 2) Injury Management Management Directive.
- 3) Work, Health and Safety Responsibilities Guideline.
- 4) Supervisors accompanying injured employees to initial medical treatment following work injury Management Directive .
- 5) Injury Management and Return to Work Procedure.
- 6) Council Prosecutions Policy.
- 7) Compliance Policy.
- 8) Corporate Risk Management Framework.
- 9) Audit Committee.
- 10) Environment Policy
- 11) Incident Management Plan
- 12) ICT Disaster Recovery Plan
- 13) Records Management Disaster Recovery Plan
- 14) Section Business Continuity & Recovery Plans

**CONTROLLED DOCUMENT INFORMATION:**

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website <a href="http://www.portstephens.nsw.gov.au">www.portstephens.nsw.gov.au</a>			
<b>RM8 container No</b>	PSC2012-04581	<b>RM8 record No</b>	16/302228
<b>Audience</b>	Councillors, staff and community		
<b>Process owner</b>	Organisation Development Manager		
<b>Author</b>	Risk Management Coordinator		

**Policy**

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)

**ITEM 6 - ATTACHMENT 1 REVISED INTEGRATED RISK MANAGEMENT POLICY - REVISED 5 APRIL 2016 FOLLOWING PUBLIC EXHIBITION.**

Policy



<b>Review timeframe</b>	Two years	<b>Next review date</b>	30/11/2017
<b>Adoption date</b>			

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1.0	10/06/2014	Risk Management Coordinator	Original policy	135
2.0	17/11/2015	Risk Management Coordinator	Updated into incorporate new Brand Identity Style Guide v1.0; amendments to risk appetite statement table; inclusion of opportunity; updates to environmental performance references; inclusion of key points of Critical Incident & Business Continuity Management Directive.	

**Policy**

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)

Issue Date:                      Printed: 04/12/2015                      Review Date: 30/11/2017                      Page: 6 of 6

**ITEM 6 - ATTACHMENT 2 EXISTING INTEGRATED RISK MANAGEMENT POLICY - ADOPTED 10 JUNE 2014.**



**POLICY**

Adopted: 10 June 2014  
Minute No: 135

**FILE NO:** PSC2012-04581  
**TITLE:** INTEGRATED RISK MANAGEMENT  
**RESPONSIBLE OFFICER:** ORGANISATION DEVELOPMENT MANAGER

**BACKGROUND**

Port Stephens Council has a responsible approach to risk management, seeking to recognise and manage our exposure to risk in accordance with our vision, purpose and values.

We are committed to managing risk on a systematic, organisation-wide basis consistent with AS/NZS ISO 31000:2009 *Risk management – Principles and guidelines*, AS/NZS 4801:2001 *Occupational Health & Safety Management Systems* and AS/NZS ISO 14000:2005 *Environmental Management Standards*. This methodology will create sustainable value by both minimising risks to the achievement of our objectives and by identifying potential opportunities, by ensuring the health and safety of our workers and by protecting our environment through the prevention of pollution.

Our corporate risk management system will comprehensively integrate all risks, including safety, environmental risks and business risks (financial, property, security, commercial, etc), into our decision making, business planning and reporting at all levels. A consistent, holistic approach to risk management strengthens our ability to deliver more efficient and effective services to our community.

Our Integrated Risk Management System will also align with Council's Business Excellence Framework by facilitating continuous improvement.

**OBJECTIVE**

- 1) Council aims to promote an holistic approach to risk management and to develop an Integrated Risk Management System that incorporates corporate risk management, work health and safety management and environmental management. All risks that could affect the achievement of our objectives, the health and safety of our workers and the integrity and sustainability of our environment will be identified, assessed and treated to an acceptable level.

**ITEM 6 - ATTACHMENT 2 EXISTING INTEGRATED RISK MANAGEMENT POLICY - ADOPTED 10 JUNE 2014.**

- 2) The integration of risk management into our decision-making process helps us to make informed choices for the benefit of Council, our community and our stakeholders. Our risk management approach will be systematically incorporated into our strategic planning and day to day business operations. We will facilitate consultation and communication for employees and stakeholders alike and provide information, supervision and training for all workers.

**PRINCIPLES**

- 1) Corporate Risk Management will be led by the Senior Leadership Team, ie. The General Manager, group managers and section managers with support from the Corporate Risk Management Team. The Senior Leadership Team is committed to guiding effective risk management by the application of the principles detailed in AS/NZS ISO 31000:2009 *Risk management – Principles and guidelines*.
- 2) Every staff member is responsible to implement and embed risk management by:
  - identifying, managing and monitoring risks in their areas of accountability;
  - communicating these areas of risk to their manager or supervisor;
  - taking measures to ensure their own safety, that of other employees, customers and other workers; and by
  - acting to reduce the change of serious environmental harm and conserving biological and ecological integrity.
- 3) The key steps for implementing an Integrated Risk Management System across the organisation include:
  - i. Centralising all corporate risk, work health and safety and environmental management documents on the Integrated Risk Management System on Council's intranet
  - ii. Progressively combining common documents to provide a simpler, more focused management system, a reduction in duplication, more effective audit management and a greater demonstration of due diligence.
  - iii. Implementing a communication strategy for the Integrated Risk Management system
- 4) By implementing an Integrated Risk Management System throughout Council, we will be better positioned to meet our objectives and deliver services and infrastructure in a way that is sustainable and meets our customers' needs.



**ITEM 6 - ATTACHMENT 2 EXISTING INTEGRATED RISK MANAGEMENT POLICY - ADOPTED 10 JUNE 2014.**

**POLICY STATEMENT**

- 1) Port Stephens Council is committed to developing an effective Corporate Risk Management system that clearly considers all major risks integrated into one common framework. Our integrated risk management system will focus on continually improving comprehensive risk management processes consistent with AS/NZS ISO 31000:2009 *Risk management – Principles and guidelines*, AS/NZS 4801:2001 *Occupational Health & Safety Management Systems* and AS/NZS ISO 14000:2005 *Environmental Management Standards*.
- 2) In pursuing the achievement of its objectives and governance responsibilities, Council will accept a degree of risk commensurate with both the potential reward and with Council's role in the community. Our categories of risk and current risk appetite are set out in the table below:

	<b>Willingness to Accept Risk</b>				
	<b>Low</b>		<b>Medium</b>		<b>High</b>
	<b>Averse</b>	<b>Minimalist</b>	<b>Cautious</b>	<b>Open</b>	<b>Hungry</b>
	Preference for options that avoid risk	Preference for ultra safe options with low inherent risk	Preference for safe options with low degree of residual risk and limited potential for reward	Willing to consider all options with a preference for prudent options and an acceptable level of reward	Enthusiasm for innovation leading to preference for higher rewards despite greater inherent risk
<b>Asset</b>			✓		
<b>Governance</b>		✓			
<b>Financial</b>			✓		
<b>Knowledge</b>		✓			
<b>Resilience</b>		✓			
<b>Environment</b>		✓			
<b>Reputation</b>			✓		
<b>Compliance</b>			✓		
<b>People</b>	✓				
<b>Technology</b>				✓	

In particular, Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public.

In consideration of our commitment to our stakeholders and community, Council has no appetite for risks that impinge on our transparency and integrity of decision making.

**ITEM 6 - ATTACHMENT 2 EXISTING INTEGRATED RISK MANAGEMENT POLICY - ADOPTED 10 JUNE 2014.**

We have no appetite for risks that may have a significant adverse impact on our long term financial sustainability. However, Council encourages entrepreneurship and has a reasonable appetite for risks arising from property and economic development opportunities.

Reflecting our conservative approach to knowledge management, resilience and conservation of the environment, Council has little appetite for risks in these areas. We have a moderate appetite for risk in normal business operations and accept that there is an element of reputation risk inherent in the delivery of our services.

Understanding the role of technology in enabling and innovating core business operations, we are open to technology risks that improve service delivery and efficiency of operations.

Notwithstanding the above, Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating, and will actively manage all risks with an extreme or high residual risk ranking.

- 3) Council is committed to empowering employees to assume accountability and responsibility for risk management in the workplace by creating and promoting a culture of participation and by providing a robust process to monitor and review the effectiveness of risk management across Council.

**RELATED POLICIES**

- 1) Work Health and Safety Statement of Commitment
- 2) Injury Management Management Directive
- 3) Work, Health and Safety Responsibilities Guideline
- 4) Supervisors accompanying injured employees to initial medical treatment following work injury Management Directive
- 5) Injury Management and Return to Work Procedure
- 6) Council Prosecutions Policy
- 7) Compliance Policy
- 8) Corporate Risk Management Framework
- 9) Audit Committee

**SUSTAINABILITY IMPLICATIONS**

**SOCIAL IMPLICATIONS**

Council's purpose is to provide services and make decisions to enhance our quality of life, our economy and our natural environment. The identification, measurement and control of risks to protect the community, the Council and its assets against loss helps to ensure the sustainability of Council services and facilities and ensure the safety of workers, residents and visitors alike.

**ITEM 6 - ATTACHMENT 2 EXISTING INTEGRATED RISK MANAGEMENT POLICY - ADOPTED 10 JUNE 2014.****ECONOMIC IMPLICATIONS**

The principles of risk management require staff to make informed judgements based on best available information concerning the level and cost of risk involved in achieving cost-effective outcomes.

**ENVIRONMENTAL IMPLICATIONS**

Council recognises that the environmental, social and economic importance of operating in a sustainable manner, ensuring a high level of environmental compliance and performance through continuous improvement and the implementation of our Environmental Management system. Our focus on environmental sustainability is supported by the Integrated Risk Management system that includes consideration of environmental impacts such as pollution, inter-generational equity and conservation of biological and ecological integrity as part of the risk assessment process.

**RELEVANT LEGISLATIVE PROVISIONS**

- 1) Local Government Act, 1993
- 2) Work Health & Safety Act, 2011
- 3) NSW Work Health and Safety Act, 2011
- 4) Work Health and Safety Regulation, 2011
- 5) Civil Liability Act, 2002
- 6) Protection of the Environment Operations Act, 1997
- 7) Coastal Protection Act, 1979
- 8) Native Vegetation Act, 2003
- 9) Threatened Species Conservation Act, 1995
- 10) Environmental Planning & Assessment Act, 1979
- 11) National Parks & Wildlife Act, 1974
- 12) Heritage Act, 1999
- 13) Contaminated Land Management Act, 1997
- 14) Pesticides Act, 1999
- 15) Environmentally Hazardous Chemicals Act, 1985
- 16) Crown Lands Act, 1989
- 17) Dangerous Goods (Road & Rail Transport), 2008
- 18) Soil Conservation Act, 1938
- 19) Wilderness Act, 1987
- 20) Waste Avoidance & Resource Recovery Act, 2001
- 21) Noxious Weeds Act, 1993
- 22) Fisheries Management Act, 1994
- 23) Australian Environmental Protection & Biodiversity Act, 1999

**IMPLEMENTATION RESPONSIBILITY**

- 1) General Manager.

**ITEM 6 - ATTACHMENT 2 EXISTING INTEGRATED RISK MANAGEMENT  
POLICY - ADOPTED 10 JUNE 2014.**

**PROCESS OWNER**

- 1) Organisation Development Manager.

**REVIEW DATE**

- 1) 1 October 2015.

ITEM 6 - ATTACHMENT 3 SUBMISSION.

**Sent:** Wednesday, 23 March 2016 12:33 PM  
**To:** Wayne Wallis  
**Subject:** Integrated Risk Management Policy Submission

**File no. PSC2012-04581**

Hi, Wayne.

Following consideration by Council on 8 March 2016, the Integrated Risk Management policy has been placed on public exhibition. I wish to make a submission to amend the policy.

Recent integration of our incident and business continuity management processes and documents has resulted in streamlining of these functions. I propose to incorporate the key elements of the Incident and Business Continuity Management management directive into the policy eliminating the need for the management directive.

The recommended inclusions appear in red on the attached copy of the policy.

Regards,

[Redacted]



---

[Redacted] | Risk Management Co-ordinator  
p [Redacted]  
w [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



ITEM 6 - ATTACHMENT 3 SUBMISSION.

Policy



**FILE NO:** PSC2012-04581  
**TITLE:** INTEGRATED RISK MANAGEMENT  
**POLICY OWNER:** ORGANISATION DEVELOPMENT MANAGER

**PURPOSE:**

Council's purpose is to provide services and make decisions to enhance our quality of life, our economy and our natural environment. The identification, measurement and control of risks to protect the community, the Council and its assets against loss helps to ensure the sustainability of Council services and facilities and ensure the safety of workers, residents and visitors alike. Similarly, the identification and management of opportunities through the application of risk management principles ensures that Council is well positioned to take or increase risk in order to pursue opportunities.

Council recognises that the environmental, social and economic importance of operating in a sustainable manner, ensuring a high level of environmental compliance and performance through continuous improvement and the implementation of our Environmental Management System. Our focus on environmental performance is supported by the Integrated Risk Management system that includes compliance obligations and consideration of environmental aspects such as prevention of pollution, degradation of ecosystems and resource efficiency as part of the risk assessment process.

Critical incident and business continuity management minimises the risk to staff, protects property and guards Council's reputation from events that have, or are likely to have, noticeable and detrimental operational impact on Council. The ability to respond quickly to limit damage in the short window of opportunity that often occurs at the beginning of a crisis can serve to contain the potential costs to Council.

The principles of risk management require staff to make informed judgements based on best available information concerning the level and cost of risk and opportunity involved in achieving cost-effective outcomes. By implementing an Integrated Risk Management System throughout Council, we will be better positioned to meet our objectives and deliver services and infrastructure in a way that is sustainable and meets our customers' needs. The aim of the Integrated Risk Management System aligns with Delivery Program item 15.1.3 'manage risks across Council'.

**CONTEXT/BACKGROUND:**

Port Stephens Council has a responsible approach to risk management, seeking to recognise and manage our exposure to risk in accordance with our vision, purpose and values.

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date:

Printed: 04/12/2015

Review Date: 30/11/2017

Page: 1 of 6

Policy



We are committed to managing risk on a systematic, organisation-wide basis consistent with AS/NZS ISO 31000:2009 *Risk management – Principles and guidelines*, AS/NZS 4801:2001 *Occupational Health & Safety Management Systems* and AS/NZS ISO 14001:2015 *Environmental Management Standards*. This methodology will create sustainable value by both minimising risks to the achievement of our objectives and by identifying potential opportunities, by ensuring the health and safety of our workers and by protecting our environment.

Our Integrated Risk Management System will also align with Council's Business Excellence Framework by facilitating continuous improvement.

**SCOPE:**

Our integrated risk management system will comprehensively integrate all risks, including safety, environmental risks and business risks (financial, property, security, commercial, etc), into our decision making, business planning and reporting at all levels. A consistent, holistic approach to risk management strengthens our ability to deliver more efficient and effective services to our community.

The key steps for implementing an Integrated Risk Management System across the organisation include:

- i. Centralising all corporate risk, work health and safety and environmental management documents on the Integrated Risk Management System on Council's intranet
- ii. Progressively combining common documents to provide a simpler, more focused management system, a reduction in duplication, more effective audit management and a greater demonstration of due diligence.
- iii. Implementing a communication strategy for the Integrated Risk Management system

**DEFINITIONS:**

Risk	Effect of uncertainty on objectives (Note: an effect is a deviation from the expected and can be positive and/or negative)
Risk management	Coordinated activities to direct and control an organisation with regard to risk

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version  
Before using this document, check it is the latest version, refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date:

Printed: 04/12/2015

Review Date: 30/11/2017

Page: 2 of 6

Policy



**POLICY STATEMENT:**

- 1) Port Stephens Council is committed to developing an effective Corporate Risk Management system that clearly considers all major risks and opportunities integrated into one common framework. Our integrated risk management system will focus on continually improving comprehensive risk management processes.
- 2) In pursuing the achievement of its objectives and governance responsibilities, Council will accept a degree of risk commensurate with both the potential reward and with Council's role in the community. Our categories of risk and current risk appetite are set out in the table below:

	Willingness to Accept Risk			
	Low	Medium	High	Extreme
	Preference for options that avoid risk or have low inherent risk	Preference for safe options with low degree of residual risk and limited potential for reward	Willing to consider all options with a preference for prudent options and an acceptable level of reward	Enthusiasm for innovation leading to preference for higher rewards despite greater inherent risk
<b>Asset</b>		✓		
<b>Legal</b>	✓			
<b>Financial</b>		✓		
<b>Business Systems &amp; Processes</b>			✓	
<b>Environment</b>	✓			
<b>Reputation</b>		✓		
<b>People</b>	✓			

In particular, Council has no appetite for risks that may compromise the safety and welfare of staff, volunteers, contractors and/or members of the public.

In consideration of our commitment to our stakeholders and community, Council has no appetite for risks that impinge on our transparency and integrity of decision making.

We have no appetite for risks that may have a significant adverse impact on our long term financial sustainability. However, Council encourages entrepreneurship and has a reasonable appetite for risks arising from property and economic development opportunities.

Reflecting our conservative approach to knowledge management, resilience and

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)

Issue Date: Printed: 04/12/2015 Review Date: 30/11/2017 Page: 3 of 6



## Policy



environmental performance, Council has little appetite for risks in these areas. We have a moderate appetite for risk in normal business operations and accept that there is an element of reputation risk inherent in the delivery of our services.

Understanding the role of technology in enabling and innovating core business operations, we are open to technology risks that improve service delivery and efficiency of operations.

Notwithstanding the above, Council will not accept a risk that has potentially catastrophic consequences, regardless of the likelihood of that risk eventuating, and will actively manage all risks with an extreme or high residual risk ranking.

- 3) Council is required to identify, evaluate, mitigate, monitor and report business continuity risks to ensure its able to continue operations in the event of a material business interruption and to continue to provide critical services to the community and stakeholders.
- 4) Council is committed to empowering employees to assume accountability and responsibility for risk management in the workplace by creating and promoting a culture of participation and by providing a robust process to monitor and review the effectiveness of risk management across Council.

### POLICY RESPONSIBILITIES:

- 1) Corporate Risk Management will be led by the Senior Leadership Team, ie. The General Manager, group managers and section managers with support from the Corporate Risk Management Team. The Senior Leadership Team is committed to guiding effective risk management by the application of the principles detailed in AS/NZS ISO 31000:2009 *Risk management – Principles and guidelines*.
- 2) Direct responsibility and final accountability for critical incident and business continuity management rests with the Emergency Response Committee (ERC) comprised of:
  - General Manager
  - Mayor
  - Group Manager Corporate Services
  - Group Manager Facilities & Services
  - Group Manager Development Services
  - Organisation Development Manager
  - Property Services Manager
  - Communications Manager
  - Business Systems Support Manager
  - Risk Management Coordinator

## Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version.  
Before using this document, check it is the latest version, refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date:

Printed: 04/12/2015

Review Date: 30/11/2017

Page: 4 of 6

Policy



- 3) Every staff member is responsible to implement and embed risk management by:
- identifying, managing and monitoring risks and opportunities in their areas of accountability;
  - communicating these areas of risk to their manager or supervisor;
  - taking measures to ensure their own safety, that of other employees, customers and other workers; and by acting to reduce environmental harm by preventing pollution, degradation of ecosystems and minimising resource use.

**RELATED DOCUMENTS:**

- 1) Work Health and Safety Statement of Commitment.
- 2) Injury Management Management Directive.
- 3) Work, Health and Safety Responsibilities Guideline.
- 4) Supervisors accompanying injured employees to initial medical treatment following work injury Management Directive .
- 5) Injury Management and Return to Work Procedure.
- 6) Council Prosecutions Policy.
- 7) Compliance Policy.
- 8) Corporate Risk Management Framework.
- 9) Audit Committee.
- 10) Environment Policy
- 11) Incident Management Plan
- 12) ICT Disaster Recovery Plan
- 13) Records Management Disaster Recovery Plan
- 14) Section Business Continuity & Recovery Plans

**CONTROLLED DOCUMENT INFORMATION:**

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website <a href="http://www.portstephens.nsw.gov.au">www.portstephens.nsw.gov.au</a>			
<b>RM8 container No</b>	PSC2012-04581	<b>RM8 record No</b>	16/302228
<b>Audience</b>	Councillors, staff and community		
<b>Process owner</b>	Organisation Development Manager		
<b>Author</b>	Risk Management Coordinator		

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)

Issue Date: Printed: 04/12/2015 Review Date: 30/11/2017 Page: 5 of 6

ITEM 6 - ATTACHMENT 3 SUBMISSION.

Policy



<b>Review timeframe</b>	Two years	<b>Next review date</b>	30/11/2017
<b>Adoption date</b>			

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1.0	10/06/2014	Risk Management Coordinator	Original policy	135
2.0	17/11/2015	Risk Management Coordinator	Updated into incorporate new Brand Identity Style Guide v1.0; amendments to risk appetite statement table; inclusion of opportunity; updates to environmental performance references; <b>inclusion of key points of Critical Incident &amp; Business Continuity Management Directive.</b>	

Policy

WARNING: This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version, refer to Council's website [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)



Issue Date: Printed: 04/12/2015 Review Date: 30/11/2017 Page: 6 of 6

**ITEM NO. 7**

**FILE NO: 16/293953  
RM8 REF NO: A2004-0709**

**355(C) COMMITTEE TERMS OF REFERENCE APPENDIX REVIEW**

REPORT OF: STEVEN BERNASCONI - COMMUNITY SERVICES SECTION  
MANAGER

GROUP: FACILITIES & SERVICES

---

**RECOMMENDATION IS THAT COUNCIL:**

- 1) Revoke the current 355(c) Committee Schedules for the following committees **(ATTACHMENT 1)**:  
Aboriginal Strategic Committee  
Birubi Point Cultural Heritage Advisory Panel  
Community Choir Committee  
Heritage Advisory Committee  
Port Stephens Australia Day Committee  
Strategic Arts Committee
- 2) Adopt the 355(c) Committee Terms of Reference Appendices **(ATTACHMENT 2)** that have been ratified by the following Committees:  
Aboriginal Strategic Committee  
Birubi Point Cultural Heritage Advisory Panel  
Community Choir Committee  
Heritage Advisory Committee  
Port Stephens Australia Day Committee  
Strategic Arts Committee

---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Sally Dover Councillor John Nell</b>  That the recommendation be adopted.
--	---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>099</b>	<b>Councillor Chris Doohan Councillor Ken Jordan</b>  It was resolved that Council:  1) Revoke the current 355(c) Committee Schedules for the following committees <b>(ATTACHMENT 1)</b> :
------------	--

## MINUTES ORDINARY COUNCIL - 26 APRIL 2016

	Aboriginal Strategic Committee Birubi Point Cultural Heritage Advisory Panel Community Choir Committee Heritage Advisory Committee Port Stephens Australia Day Committee Strategic Arts Committee
2)	Adopt the 355(c) Committee Terms of Reference Appendices <b>(ATTACHMENT 2)</b> that have been ratified by the following Committees:  Aboriginal Strategic Committee Birubi Point Cultural Heritage Advisory Panel Community Choir Committee Heritage Advisory Committee Port Stephens Australia Day Committee Strategic Arts Committee

### BACKGROUND

The purpose of this report is to recommend to Council the adoption of the amended 355(c) Committee Terms of Reference Appendices for the Committees that Council administers.

At its meeting of 27 October 2015 Council resolved to receive further reports to endorse the adoption of individual 355(c) Committee Appendices following consultation with each Committee (Minute No 322).

It was also endorsed that 355(c) Committee Terms of Reference Appendices would be reported to Council once a review had taken place in collaboration with Council volunteers.

As part of the review, the following Committees required new Terms of Reference Appendices, as their current Constitution Schedules are out of date. The table below outlines when the current 355(c) Committee Constitution Schedules were adopted by Council. These are shown in full at **(ATTACHMENT 1)**.

The amendments to the current Terms of Reference use an updated template, including policies and legislation associated with 355(c) committees and the roles and functions of the Committees.

NAME OF COMMITTEE	DATE ADOPTED BY COUNCIL
Aboriginal Strategic Committee	14 October 2014 Minute No 264
Birubi Point Cultural Heritage Advisory Panel	26 November 2013 Minute No 349
Community Choir Committee	27 May 2003 Minute No 197
Heritage Advisory Committee	27 March 2007 Minute No 68
Port Stephens Australia Day Committee	14 April 2015 Minute No 076
Strategic Arts Committee	28 October 2014 Minute No 281

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
The community is a partner in developing the future of the local government area.	Council will engage its citizens in developing plans for the future of the Port Stephens local government area.

**FINANCIAL/RESOURCE IMPLICATIONS**

There are no foreseen financial or resource implications resulting from the recommendations in this report.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

A 355(c) Committee Terms of Reference sets out mandatory provisions for the administration and management of the Committees and their requirements under the *Local Government Act 1993*. The Appendix is the supporting document to the Terms of Reference detailing the individual purpose and roles of each Committee and any clauses within the Terms of Reference that are not relevant to that Committee's functions.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that conflict between 355(c) Committee Members arises due to management and operational requirements not being clearly outlined in a detailed 355(c) Committee Terms of Reference Appendix.	Low	Adopt the recommendations.	Yes

## **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Council establishes advisory committees to assist in Council operations under section 355(c) of the *Local Government Act 1993*.

Council currently has six advisory 355(c) Committees that are administered by Council staff. They offer a range of advisory services that assist Council's operations and promote positive partnerships with our community. These include:

- Coordination of Australia Day activities.
- Assist in the assessment of the Aboriginal Projects Fund, Cultural projects Fund and Heritage Projects Fund.
- Advise on the management of Birubi Point Aboriginal Place.
- Enhance cultural and heritage knowledge and partnerships between Council and the community.
- Increase participation of community in civic events.

## **MERGER PROPOSAL IMPLICATIONS**

Adopting the recommendations is not expected to impact on a merger with Newcastle City Council or any other local government body.

## **CONSULTATION**

- 1) Thorough consultation was undertaken in 2015 in the development of the 355(c) Committee Terms of Reference. The template for individual Committees' Appendix was also a part of this process. This is outlined in the report of 27 October 2015 Item No 13.
- 2) Draft 355(c) Committee Terms of Reference Appendices for each Committee was tabled and reviewed at individual committee meetings for feedback and suggested amendments. Final drafts have been ratified by the Committees and these are the documents being recommended for Council endorsement.

## **OPTIONS**

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

## **ATTACHMENTS**

- 1) Adopted Current 355(c) Schedules to Standard Constitution. (Provided under separate cover)
- 2) Draft 355(c) Committee Terms of Reference Appendices for Committees Administered by Council. (Provided under separate cover)

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



**ITEM NO. 9****FILE NO: 16/308706  
RM8 REF NO: PSC2013-04636****LOWER HUNTER COMMUNITY ADVISORY GROUP - PORT STEPHENS COUNCIL  
REPRESENTATIVE****REPORT OF: WAYNE WALLIS - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Accept the nomination of Councillor Paul Le Mottee as a Port Stephens Council representative to the Lower Hunter Community Advisory Group of Hunter Local Land Services.

Councillor Paul Le Mottee returned to the meeting at 06:27pm during Committee of the Whole.

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Peter Kafer Councillor John Nell</b>  That the recommendation be adopted.
--	---

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>100</b>	<b>Councillor Chris Doohan Councillor Ken Jordan</b>  It was resolved that Council accept the nomination of Councillor Paul Le Mottee as a Port Stephens Council representative to the Lower Hunter Community Advisory Group of Hunter Local Land Services.
------------	---

**BACKGROUND**

Hunter Local Land Services (HLLS) is seeking the interest of Port Stephens Council to have a representative on the Lower Hunter Community Advisory Group. Generally from other local government areas a Councillor is the representative member.

HLLS delivers services to stakeholders and the community on natural resource management, agricultural extension, animal health, invasive species and emergency management. To create an opportunity to provide information to the community and stakeholders, whilst also receiving feedback on strategic direction and programs, the HLLS hold an annual Community Advisory Group (CAG) meeting in each Hunter Local Land Services District.

Port Stephens Council is located in the Lower Hunter District. Members of the Group from the Lower Hunter District are a collection of nominated representatives from local councils, government agencies, non-government organisations, producer and industry groups and community groups like Landcare.

There will be one formal Community Advisory Group meeting per district per year. The meetings will be of flexible length depending on the amount of business to be completed and will usually be followed by an 'Open Community Session' for locals to discuss the relevant issues with the Board and receive updates on Local Land Services activities.

Board members will also be invited to critical meetings of other organisations – particularly farmer groups.

### **COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Port Stephens has strong governance and civic leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

### **FINANCIAL/RESOURCE IMPLICATIONS**

There are no financial implications associated with a Councillor being a representative on the Lower Hunter Community Advisory Group for the Hunter Local Land Services.

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

**LEGAL, POLICY AND RISK IMPLICATIONS**

Council representation will create an opportunity to provide information to the community and stakeholders on services provided by the Hunter Local Land Services.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that the Port Stephens Council community will not be represented on matters relating to the Hunter Local Land Services.	Low	Adopt the recommendation.	

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Representation on the Lower Hunter Community Advisory Group will keep the Port Stephens Council community well informed on matters relating to natural resource management, agricultural extension, animal health, invasive species and emergency management.

**MERGER PROPOSAL IMPLICATIONS**

Nil.

**CONSULTATION**

- 1) Mayor.
- 2) Councillors.
- 3) General Manager.
- 4) Executive Team.

**OPTIONS**

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

**ATTACHMENTS**

Nil.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM NO. 10****FILE NO: 16/309758  
RM8 REF NO: PSC2015-00004****LOCAL GOVERNMENT MAYORS WEEKEND SEMINAR, SYDNEY 2016****REPORT OF: WAYNE WALLIS - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE****RECOMMENDATION IS THAT COUNCIL:**

- 1) Endorse the attendance of Deputy Mayor, Cr Chris Doohan at the Local Government NSW Mayors Weekend Seminar 2016 to be held from Saturday 21 and Sunday 22 May 2016 at the Local Government NSW Board Room, Sydney.
- 2) Allow a 'one-off' increase of the conference allowance under the Policy for Deputy Mayor Cr Chris Doohan to attend the conference.

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor Peter Kafer Councillor Ken Jordan</b>  That Council: <ol style="list-style-type: none"><li>1) Endorse the attendance of Deputy Mayor, Cr Chris Doohan and Cr Peter Kafer at the Local Government NSW Mayors Weekend Seminar 2016 to be held from Saturday 21 and Sunday 22 May 2016 at the Local Government NSW Board Room, Sydney.</li><li>2) Allow a 'one-off' increase of the conference allowance under the Policy for Deputy Mayor Cr Chris Doohan and Cr Peter Kafer to attend the conference.</li></ol>
--	--

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>101</b>	<b>Councillor Chris Doohan Councillor Ken Jordan</b> It was resolved that Council: <ol style="list-style-type: none"><li>1) Endorse the attendance of Deputy Mayor, Cr Chris Doohan and Cr Peter Kafer at the Local Government NSW Mayors Weekend Seminar 2016 to be held from Saturday 21 and Sunday 22 May 2016 at the Local Government NSW Board Room, Sydney.</li><li>2) Allow a 'one-off' increase of the conference allowance under the Policy for Deputy Mayor Cr Chris Doohan and Cr Peter Kafer to attend the conference.</li></ol>
------------	---

**BACKGROUND**

The purpose of this report is to inform Council of the Local Government NSW Mayors Weekend Seminar 2016 to be held from Saturday 21 and Sunday 22 May 2016 at the Local Government NSW Board Room, Sydney.

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

The Conference is open to Mayors, Deputy Mayors and Councillors considering standing for Mayor in the near future.

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 all travel outside of the Hunter Councils area.

**COMMUNITY STRATEGIC PLAN**

<b>Strategic Direction</b>	<b>Delivery Program 2013-2017</b>
Port Stephens has strong governance and civic leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

**FINANCIAL/RESOURCE IMPLICATIONS**

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

<b>Source of Funds</b>	<b>Yes/No</b>	<b>Funding (\$)</b>	<b>Comment</b>
Existing budget	Yes	1,320	\$1,320 registration costs per person. Travel & accommodation will be additional to this cost.
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 Council to approve all Councillor conference attendances outside the Hunter Region. Councillors' conference costs are limited to \$3,500 per year under the Policy.

<b>Risk</b>	<b><u>Risk Ranking</u></b>	<b>Proposed Treatments</b>	<b>Within Existing Resources?</b>
There is a risk that Port Stephens Council will not be represented on matters at the conference.	Low	Adopt the recommendations.	Yes

**SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

Ensuring the local government area is well represented in all matters at the conference will benefit the Port Stephens community. Information received will be disseminated to the appropriate members of the community and relevant Council staff.

**MERGER PROPOSAL IMPLICATIONS**

This will have no implications on the proposed merger as the event is in May 2016.

**CONSULTATION**

Nil.

**OPTIONS**

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

**ATTACHMENTS**

- 1) LGNSW Mayors Seminar - Sydney - May 2016

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



# MAYORS' WEEKEND SEMINAR

21-22 May 2016, LGNSW Board Room, Sydney



A two-day program of specialised professional development for mayors, deputy mayors and aspiring mayors.

**LOCAL GOVERNMENT NSW**  
GPO BOX 7003 SYDNEY NSW, 2001  
LB, 28 MARGARET ST SYDNEY NSW 2000  
T 02 9242 4000 F 02 9242 4111  
LGNSW.ORG.AU LGNSW@LGNSW.ORG.AU

**LGNSW.GOV.AU**

## OTHER MAYOR AND COUNCILLOR PROFESSIONAL DEVELOPMENT PROGRAMS

### Workshops for Elected Members

LGNSW Learning Solutions offers a range of programs for Councillors. These are available as public workshops and can also be delivered in-house at your council. Consult the LGNSW Learning Solutions Calendar at [ignsw.org.au/Events-Training](http://ignsw.org.au/Events-Training) for dates of the following workshops:

- Advanced Media Skills
- Asset Management
- Chairing and Effective Meeting Procedures
- Code of Conduct
- Community and Stakeholder Engagement
- Community Leadership
- Dynamic Presentation Skills
- Financial Issues in Local Government
- Good Governance
- Handling Difficult People for Councillors
- Introduction to Local Government
- Know your Planning
- Lobbying for Success
- Long Term Strategic and Financial Planning
- Managing Time and Stress
- Preventing Bullying and Harassment for Councillors
- Social Media
- Understanding Sustainability
- Writing Skills for Councillors

Mayors and general managers should note that the above programs can also be arranged in-house at your council, with significant savings. If you want a training proposal on any of the above topics or even one not mentioned in the above list, please call LGNSW Learning Solutions. Our team of training consultants is experienced in all aspects of local government and will work with you to satisfy your training needs.

Contact LGNSW Learning Solutions for a quote on 02 9242 4004 or [learning@ignsw.org.au](mailto:learning@ignsw.org.au)

### Executive Certificate for Elected Members

This five-day accredited program gives elected members a pathway to a Graduate Certificate in Local Government Leadership or a Master of Local Government.

The program was developed by LGNSW in partnership with the UTS Centre for Local Government, and TAFE NSW. Conducted over three stages, the five-day course includes:

- A focus on good governance, local democracy and credibility for NSW elected members
- Access to high level and well respected local government practitioners and researchers sharing their insights and experiences
- High level theory and analysis regarding leadership, governance and the role of the councillor
- Information regarding common practice and good practice on a diverse range of topics
- Common issues being faced by mayors

### Mayoral Mentoring

LGNSW's mayoral mentoring service is available to mayors of all NSW member councils, chairs of member county councils and the chairperson of the NSWALC.

The service is free and confidential. Mentors are Genia McCaffery, former LGA President, ALGA President and Mayor of North Sydney; and Mike Montgomery AM, former Shires Association President, ALGA President and Mayor of Moree Shire Council.

For further information please email: [mayoral.mentor@ignsw.org.au](mailto:mayoral.mentor@ignsw.org.au)



ITEM NO. 11

FILE NO: 16/313282  
RM8 REF NO: PSC2016-00015**INFORMATION PAPERS**REPORT OF: WAYNE WALLIS - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE**RECOMMENDATION IS THAT THAT COUNCIL:**

Receives and notes the Information Papers listed below being presented to Council on 26 April 2016.

<b>No:</b>	<b>Report Title</b>	<b>Page:</b>
1	Cash and Investments held as at 31 March 2016	180
2	Quarterly Report of Mayor and Councillors Expenses 2015-2016	184

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<b>Councillor John Nell</b> <b>Councillor Chris Doohan</b>  That the recommendation be adopted.
<b>102</b>	<b>Councillor Paul Le Mottee</b> <b>Councillor Steve Tucker</b>  It was resolved that Council move out of Committee of the Whole.

**ORDINARY COUNCIL MEETING - 26 APRIL 2016  
MOTION**

<b>103</b>	<b>Councillor Chris Doohan Councillor Ken Jordan</b>						
	<p>It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 26 April 2016.</p> <hr/>						
	<table><thead><tr><th><b>No:</b></th><th><b>Report Title</b></th></tr></thead><tbody><tr><td>1</td><td>Cash and Investments held as at 31 March 2016</td></tr><tr><td>2</td><td>Quarterly Report of Mayor and Councillors Expenses 2015-2016</td></tr></tbody></table>	<b>No:</b>	<b>Report Title</b>	1	Cash and Investments held as at 31 March 2016	2	Quarterly Report of Mayor and Councillors Expenses 2015-2016
<b>No:</b>	<b>Report Title</b>						
1	Cash and Investments held as at 31 March 2016						
2	Quarterly Report of Mayor and Councillors Expenses 2015-2016						

# INFORMATION PAPERS

**ITEM NO. 1**

**FILE NO: 16/308644  
RM8 REF NO: PSC2006-6531**

**CASH AND INVESTMENTS HELD AS AT 31 MARCH 2016**

REPORT OF: TIM HAZELL - FINANCIAL SERVICES SECTION MANAGER  
GROUP: CORPORATE SERVICES

**BACKGROUND**

The purpose of this report is to present Council's schedule of cash and investments held at 31 March 2016.

**NCC AND PSC MERGER PROPOSAL IMPLICATIONS**

There are no merger proposal implications as this is a legislative requirement.

**ATTACHMENTS**

- 1) Cash and investments held at 31 March 2016.
- 2) Monthly cash and investments balance March 2015 to March 2016.
- 3) Monthly Australian term deposit index March 2015 to March 2016.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.

**ITEM 1 - ATTACHMENT 1 CASH AND INVESTMENTS HELD AT 31 MARCH 2016.**

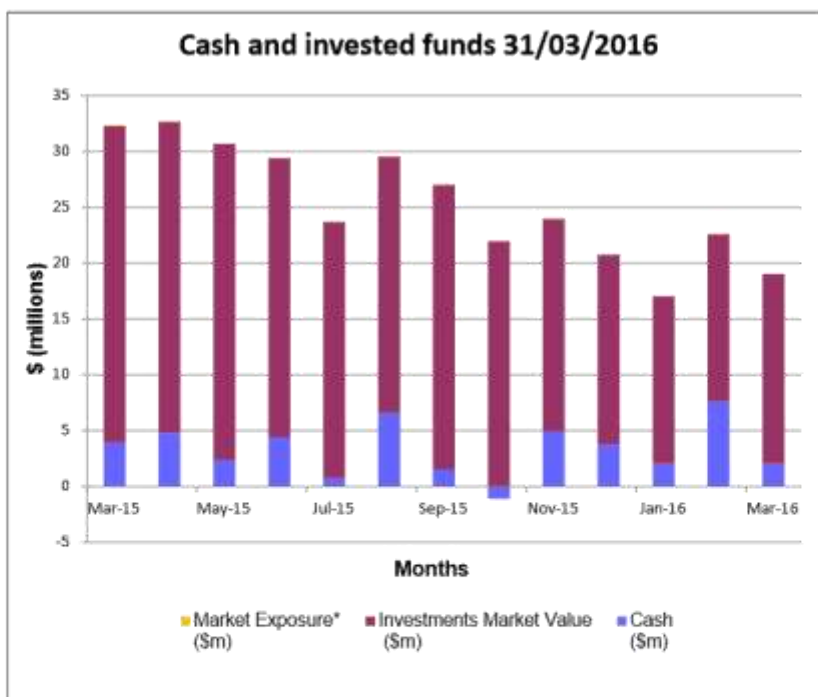
**CASH AND INVESTMENTS HELD AS AT 31 MARCH 2016**

ISSUER	BROKER	RATING*	DESC.	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
<b>TERM DEPOSITS</b>								
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	2.90%	168	6-Apr-16	2,000,000	2,000,000
ARAB BANK AUSTRALIA LTD	RIM	NR	TD	3.05%	280	20-Apr-16	2,000,000	2,000,000
ANZ	ANZ	AA-	TD	3.00%	119	4-May-16	2,000,000	2,000,000
ANZ	ANZ	AA-	TD	3.00%	126	18-May-16	2,000,000	2,000,000
BANKWEST	BANKWEST	A-	TD	3.00%	111	15-Jun-16	2,000,000	2,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	AA-	TD	3.08%	98	29-Jun-16	2,000,000	2,000,000
SUNCORP BANK	SUNCORP	A+	TD	3.10%	196	21-Sep-16	2,000,000	2,000,000
BANK OF SYDNEY	CURVE	NR	TD	3.15%	259	16-Nov-16	2,000,000	2,000,000
<b>SUB TOTAL (\$)</b>							<b>16,000,000</b>	<b>16,000,000</b>
<b>OTHER INVESTMENTS</b>								
ANZ ZERO COUPON BOND	ANZ	AA-	BOND	0.00%	9yrs	1-Jun-17	1,017,877	984,287
<b>SUB TOTAL (\$)</b>							<b>1,017,877</b>	<b>984,287</b>
<b>INVESTMENTS TOTAL (\$)</b>							<b>17,017,877</b>	<b>16,984,287</b>
<b>CASH AT BANK (\$)</b>							<b>2,037,613</b>	<b>2,037,613</b>
<b>TOTAL CASH AND INVESTMENTS (\$)</b>							<b>19,055,490</b>	<b>19,021,900</b>
CASH AT BANK INTEREST RATE				2.40%				
BBSW FOR PREVIOUS 3 MONTHS				2.35%				
AVG. INVESTMENT RATE OF RETURN				2.85%				
TD = TERM DEPOSIT								
*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>T HAZELL</b>								

**ITEM 1 - ATTACHMENT 2 MONTHLY CASH AND INVESTMENTS BALANCE MARCH 2015 TO MARCH 2016.**

**CASH AND INVESTMENTS BALANCE**

Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure* (\$m)	Total Funds (\$m)
Mar-15	3.937	28.332	0.098	32.367
Apr-15	4.793	27.867	0.064	32.723
May-15	2.301	28.375	0.056	30.732
Jun-15	4.422	24.967	0.051	29.440
Jul-15	0.727	22.968	0.050	23.745
Aug-15	6.590	22.968	0.050	29.608
Sep-15	1.542	25.468	0.050	27.060
Oct-15	1.092	21.968	0.050	20.926
Nov-15	4.959	18.989	0.029	23.977
Dec-15	3.759	16.989	0.029	20.776
Jan-16	2.043	14.989	0.029	17.061
Feb-16	7.589	14.989	0.029	22.607
Mar-16	2.038	16.984	0.034	19.055

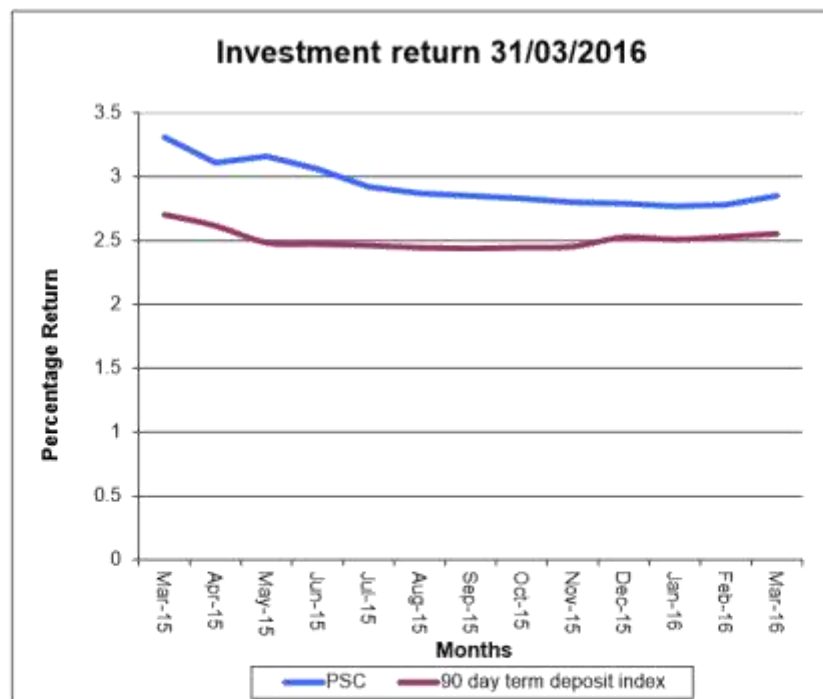


\*Market exposure is the difference between the face value of an investment and its current market value.

**ITEM 1 - ATTACHMENT 3 MONTHLY AUSTRALIAN TERM DEPOSIT INDEX MARCH 2015 TO MARCH 2016.**

**AUSTRALIAN TERM DEPOSIT ACCUMULATION INDEX**

<b>Date</b>	<b>90 day term deposit index</b>	<b>PSC</b>
Mar-15	2.7035	3.31
Apr-15	2.6157	3.11
May-15	2.4841	3.16
Jun-15	2.4727	3.06
Jul-15	2.4632	2.92
Aug-15	2.4447	2.87
Sep-15	2.4384	2.85
Oct-15	2.4458	2.83
Nov-15	2.4535	2.80
Dec-15	2.5259	2.79
Jan-16	2.5089	2.77
Feb-16	2.5293	2.78
Mar-16	2.5539	2.85



**ITEM NO. 2**

**FILE NO: 16/309116  
RM8 REF NO: PSC2015-02258**

**QUARTERLY REPORT OF MAYOR AND COUNCILLORS EXPENSES 2015-2016**

REPORT OF: WAYNE WALLIS - GENERAL MANAGER  
GROUP: GENERAL MANAGER'S OFFICE

**BACKGROUND**

The purpose of this report is to provide the quarterly expenses of the Mayor and Councillors which have been incurred in accordance with the Payment of Expenses and Provision of Facilities to Councillors policy.

The tables at **(ATTACHMENT 1)** and **(ATTACHMENT 2)** include the total number of meetings attended during this period.

**MERGER PROPOSAL IMPLICATIONS**

There are no implications.

**ATTACHMENTS**

- 1) Councillors Expenses October - December 2015.
- 2) Councillors Expenses January - March 2016.

**COUNCILLORS ROOM**

Nil.

**TABLED DOCUMENTS**

Nil.



**MINUTES ORDINARY COUNCIL - 26 APRIL 2016**

**ITEM 2 - ATTACHMENT 1 COUNCILLORS EXPENSES OCTOBER - DECEMBER 2015.**

			<i>C/ Bruce Mackenzie</i>	<i>C/ Chris Dowling</i>	<i>C/ Geoff Dingle</i>	<i>C/ John Moretto</i>	<i>C/ John Neal</i>	<i>C/ Ken Jordan</i>	<i>C/ Paul Le Moine</i>	<i>C/ Peter Kiefer</i>	<i>C/ Sally Doves</i>	<i>C/ Steve Tucker</i>	<b>TOTALS</b>
<b>Total Council Meetings Attended (4 held)</b>		<i>limits as per policy</i>	4	2	4	4	4	4	4	3	4	4	37
Councillor Mobile Rental	802.123	<b>\$200 per month</b>	\$0.00	\$404.00	\$150.00	\$0.00	\$41.00	\$0.00	\$298.00	\$0.00	\$55.00	\$0.00	\$948.00
Councillor Mobile Calls	803.123		\$0.00	\$55.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$55.00	\$110.00
Councillor Landline Phone Rental	804.123		\$0.00	\$55.00	\$110.00	\$0.00	\$0.00	\$0.00	\$34.00	\$0.00	\$0.00	\$0.00	\$199.00
Councillor Landline Phone Calls	805.123		\$0.00	\$0.00	\$10.00	\$0.00	\$0.00	\$0.00	\$31.00	\$0.00	\$0.00	\$0.00	\$41.00
Councillor Fax Rental	807.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Fax Calls	808.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Internet	806.123	<b>\$60 per month</b>	\$0.00	\$164.00	\$109.00	\$0.00	\$0.00	\$0.00	\$109.00	\$0.00	\$0.00	\$0.00	\$382.00
Councillor Intrastate Travel Expenses	801.123	<b>\$6,000 per year</b>	\$42.00	\$791.00	\$745.00	\$0.00	\$1,694.00	\$1,047.00	\$236.00	\$0.00	\$1,047.00	\$1,422.00	\$7,026.00
Councillor Intrastate out of pocket expenses	809.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate travel (out of NSW)	810.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate out of pocket expenses	813.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate Accommodation (out of NSW)	811.123		\$1,160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillors Intrastate Accommodation	812.123	<b>\$3,500 per year</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Conferences	814.123		\$906.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,547.00	\$834.00	\$0.00	\$1,094.00	\$1,088.00	\$6,469.00
Councillor Training	815.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$165.00	\$0.00	\$0.00	\$0.00	\$165.00
Councillor Partner Expenses	816.123	<b>Mayor \$1,000 per term \$500 per term</b> Cts	\$177.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$177.00
Councillor Computers	817.123	<b>\$3,000 per term</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Stationary	818.123	<b>No limit.</b>	\$36.00	\$45.00	\$23.00	\$23.00	\$23.00	\$23.00	\$51.00	\$23.00	\$77.00	\$132.00	\$458.00
Councillor Awards/Ceremonies/Dines	819.123	<b>\$100 per day</b>	\$835.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$529.00	\$0.00	\$0.00	\$0.00	\$1,370.00
Councillor Child Care Costs	820.123	<b>\$2,000 per term</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Communications Bundle	821.123	<b>\$120 per month</b>	\$91.00	\$0.00	\$0.00	\$0.00	\$409.00	\$600.00	\$0.00	\$0.00	\$360.00	\$563.00	\$2,023.00
Councillor Allowances		<b>Mayor \$58,470per annum \$18,380per annum</b> Cts	\$14,617.50	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$55,972.50
<b>TOTALS</b>			<b>\$17,864.80</b>	<b>\$6,109.00</b>	<b>\$8,742.00</b>	<b>\$4,618.00</b>	<b>\$6,764.00</b>	<b>\$8,812.00</b>	<b>\$6,882.00</b>	<b>\$4,618.00</b>	<b>\$7,228.00</b>	<b>\$7,861.00</b>	<b>\$76,498.80</b>

**MINUTES ORDINARY COUNCIL - 26 APRIL 2016**

			<i>C/ Bruce Mackenzie</i>	<i>C/ Chris Doonan</i>	<i>C/ Geoff Dingle</i>	<i>C/ John Moretto</i>	<i>C/ John Neil</i>	<i>C/ Ken Jordan</i>	<i>C/ Paul Le Moine</i>	<i>C/ Peter Kiefer</i>	<i>C/ Sally Dover</i>	<i>C/ Steve Tacker</i>	<i>TOTAL</i>
			6	4	5	4	6	5	5	6	6	5	52
<b>Total Council Meetings Attended (6 held)</b>		<b>Limits as per policy</b>											
Councillor Mobile Rental	802.123		\$0.00	\$303.00	\$100.00	\$755.00	\$41.00	\$0.00	\$626.00	\$0.00	\$164.00	\$0.00	\$1,989.00
Councillor Mobile Calls	803.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Landline Phone Rental	804.123		\$0.00	\$44.00	\$116.00	\$83.00	\$47.00	\$0.00	\$101.00	\$0.00	\$0.00	\$0.00	\$391.00
Councillor Landline Phone Calls	805.123	\$200 per month	\$0.00	\$0.00	\$0.00	\$221.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$221.00
Councillor Fax Rental	807.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Fax Calls	808.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Internet	806.123	\$60 per month	\$0.00	\$164.00	\$109.00	\$327.00	\$0.00	\$0.00	\$218.00	\$0.00	\$0.00	\$0.00	\$818.00
Councillor Intrastate Travel Expenses	801.123		\$46.00	\$570.00	\$24.00	\$775.00	\$743.00	\$368.00	\$1,397.00	\$0.00	\$647.00	\$838.00	\$5,408.00
Councillor Intrastate out of pocket expenses	809.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate Travel (out of NSW)	810.123	\$6,000 per year	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate out of pocket expenses	813.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Interstate Accommodation (out of NSW)	811.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Intrastate Accommodation	812.123		\$0.00	\$0.00	\$0.00	\$0.00	\$802.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$802.00
Councillor Conferences	814.123	\$3,800 per year	\$0.00	\$0.00	\$0.00	\$0.00	\$714.00	\$0.00	\$141.00	\$0.00	\$0.00	\$0.00	\$855.00
Councillor Training	815.123		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Partner Expenses	816.123	Mayor \$1,000 per term \$500 per term C/s	\$0.00	\$0.00	\$0.00	\$0.00	\$216.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$216.00
Councillor Computers	817.123	\$3,900 per term	\$0.00	\$0.00	\$0.00	\$0.00	\$2,133.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,133.00
Councillor Stationary	818.123	No limit.	\$0.00	\$124.00	\$0.00	\$0.00	\$0.00	\$214.00	\$31.00	\$24.00	\$56.00	\$0.00	\$449.00
Councillor Awards/Ceremonies/Diners	819.123	\$100 per day	\$140.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$140.00
Councillor Child Care Costs	820.123	\$2,000 per term	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Councillor Communications Bundle	821.123	\$120 per month	\$0.00	\$0.00	\$0.00	\$0.00	\$375.00	\$600.00	\$0.00	\$0.00	\$236.00	\$545.00	\$1,756.00
Councillor Allowances		Mayor \$58,470per annum. C/s \$18,380per annum	\$14,617.50	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$4,595.00	\$55,972.50
<b>TOTALS</b>			<b>\$14,803.50</b>	<b>\$5,800.00</b>	<b>\$4,944.00</b>	<b>\$6,756.00</b>	<b>\$9,666.00</b>	<b>\$5,777.00</b>	<b>\$7,109.00</b>	<b>\$4,619.00</b>	<b>\$5,698.00</b>	<b>\$5,978.00</b>	<b>\$71,150.50</b>

There being no further business the meeting closed at 6.30pm.