

ORDINARY COUNCIL MEETING 9 FEBRUARY 2016

Councillor Peter Kafer left the meeting at 06:33pm, prior to Item 1 and did not return.

ITEM NO. 1

FILE NO: 15/244777
RM8 REF NO: 16-2015-572-1

DEVELOPMENT APPLICATION FOR MULTI DWELLING HOUSING (12 UNITS) AT 2 & 2A TANILBA RD, MALLABULA (LOT 184 & 185 DP 11392)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve development application DA No. 16-2015-572-1 for the construction of a multi dwelling housing development (12 dwellings) at 2 and 2A Tanilba Road, Mallabula (Lot 184 and 185 DP 11392) subject to the conditions contained in (**ATTACHMENT 3**).

ORDINARY COUNCIL MEETING - 9 FEBRUARY 2016
MOTION

001	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Sally Dover, Ken Jordan and John Morello.

Those against the Motion: Crs Geoff Dingle, John Nell and Steve Tucker.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2016
AMENDMENT**

	<p>Councillor John Nell Councillor Steve Tucker</p> <p>That Item 1 development application DA No. 16-2015-572-1 for the construction of a multi dwelling housing development (12 dwellings) at 2 and 2A Tanilba Road, Mallabula (Lot 184 and 185 DP 11392), be deferred to allow for a site inspection.</p>
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The amendment on being put was lost.

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, John Nell and Steve Tucker.

Those against the Motion: Mayor Bruce MacKenzie, Crs Sally Dover, Ken Jordan and John Morello.

**ORDINARY COUNCIL MEETING - 9 FEBRUARY 2016
MOTION**

002	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>It was resolved that Council approve development application DA No. 16-2015-572-1 for the construction of a multi dwelling housing development (12 dwellings) at 2 and 2A Tanilba Road, Mallabula (Lot 184 and 185 DP 11392) subject to the conditions contained in (ATTACHMENT 3).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Sally Dover, Ken Jordan and John Morello.

Those against the Motion: Crs Geoff Dingle, John Nell and Steve Tucker.

ORDINARY COUNCIL MEETING 23 FEBRUARY 2016

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

003	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>It was resolved that Item 2 be brought forward and dealt with prior to Item 1 to allow the public access presenter to arrive and present to Council.</p>
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ITEM NO. 2

**FILE NO: 16/255180
RM8 REF NO: 16-2015-107-2**

**DEVELOPMENT APPLICATION 16-2015-107-2 FOR S96(1A)
MODIFICATION TO LOG PROCESSING WORKS - AMEND SITE LAYOUT
AT 30 FERODALE ROAD, MEDOWIE (LOT 1 DP733278)**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Section 96(1A) Modification Application 16-2015-107-2 to Amend Site Layout for Approved Log Processing Works at 30 Ferodale Road, Medowie (Lot 1 DP733278) subject to the conditions contained in **(ATTACHMENT 3)**.
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

004	<p>Councillor Chris Doohan Councillor Geoff Dingle</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

Cr Peter Kafer entered the meeting at 5.45pm, during debate of Item 2 in Committee of the Whole.

	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Paul Le Mottee, and John Morello.

Those against the Motion: Crs Geoff Dingle, Peter Kafer and John Nell.

The Mayor adjourned the meeting at 5.54pm to allow public access to proceed.

The meeting resumed at 6.08pm with all present at the time of the adjournment.

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

<p>005</p>	<p>Councillor Chris Doohan Councillor Paul Le Mottee</p> <p>It was resolved that Council approve Section 96(1A) Modification Application 16-2015-107-2 to Amend Site Layout for Approved Log Processing Works at 30 Ferodale Road, Medowie (Lot 1 DP733278) subject to the conditions contained in (ATTACHMENT 3).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Paul Le Mottee and John Morello.

Those against the Motion: Crs Geoff Dingle, Peter Kafer and John Nell.

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)**.
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Sally Dover</p> <p>That Council refuse 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).</p>
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**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
AMENDMENT**

	<p>Councillor John Nell Councillor Chris Doohan</p> <p>That Council defer Item 1, 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) for further consideration of the NSW Police report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Geoff Dingle, Chris Doohan, Peter Kafer, Paul Le Mottee, John Morello and John Nell.

Those against the Motion: Cr Sally Dover.

**ORDINARY COUNCIL MEETING - 23 FEBRUARY 2016
MOTION**

<p>006</p>	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>It was resolved that Council defer Item 1, 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), for further consideration of the NSW Police report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Geoff Dingle, Chris Doohan, Peter Kafer, Paul Le Mottee, John Morello and John Nell.

Those against the Motion: Cr Sally Dover.

ORDINARY COUNCIL MEETING 8 MARCH 2016

ITEM NO. 1

FILE NO: 16/250399
RM8 REF NO: PSC2014-01907

**PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013 - MINOR
AMENDMENTS TO LAND AT TOMAGO AND KARUAH**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 to rectify minor mapping inconsistencies at 15 Gray Drive, Karuah, 38 Old Punt Road, Tomago and 1, 12 and 14 Laverick Avenue, Tomago.
- 2) Exercise delegation to make the plan under Section 59 of the *Environmental Planning and Assessment Act 1979*.

**ORDINARY COUNCIL MEETING - 8 MARCH 2016
MOTION**

007	<p>Councillor John Nell Councillor Steve Tucker</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Steve Tucker Councillor Peter Kafer</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 8 MARCH 2016
MOTION**

008	<p>Councillor John Nell Councillor Peter Kafer</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the Planning Proposal (ATTACHMENT 1) to amend the Port Stephens Local Environmental Plan 2013 to rectify minor mapping inconsistencies at 15 Gray Drive, Karuah, 38 Old Punt Road, Tomago and 1, 12 and 14 Laverick Avenue, Tomago. 2) Exercise delegation to make the plan under Section 59 of the <i>Environmental Planning and Assessment Act 1979</i>.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 5

**FILE NO: 16/263637
RM8 REF NO: PSC2015-01399**

FLOODPLAIN RISK MANAGEMENT

REPORT OF: JOHN MARETICH - ASSET SECTION MANAGER
GROUP: FACILITIES & SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note submissions.
 - 2) Endorse the revised Floodplain Risk Management Policy and Flood Hazard Maps shown at (**ATTACHMENT 2**).
 - 3) Revoke the Areas Affected by Flooding and/or Inundation Policy dated 16 December 2008 Minute No 384 (**ATTACHMENT 1**).
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**ORDINARY COUNCIL MEETING - 8 MARCH 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Paul Le Mottee Councillor Ken Jordan</p> <p>That Council:</p> <ol style="list-style-type: none"> 1) Receive and note submissions. 2) Endorse the revised Floodplain Risk Management Policy and Flood Hazard Maps shown at (ATTACHMENT 2). 3) Revoke the Areas Affected by Flooding and/or Inundation Policy dated 16 December 2008 Minute No 384 (ATTACHMENT 1). 4) That the Development Control Plan (DCP) be amended to be more in line with Floodplain Risk Management Policy.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 8 MARCH 2016
MOTION**

009	<p>Councillor John Nell Councillor Peter Kafer</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Receive and note submissions. 2) Endorse the revised Floodplain Risk Management Policy and Flood Hazard Maps shown at (ATTACHMENT 2). 3) Revoke the Areas Affected by Flooding and/or Inundation Policy dated 16 December 2008 Minute No 384 (ATTACHMENT 1). 4) That the Development Control Plan (DCP) be amended to be more in line with Floodplain Risk Management Policy.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 22 MARCH 2016

ITEM NO. 1

FILE NO: 16/270255
RM8 REF NO: 16-2015-775-1

**DEVELOPMENT APPLICATION 16-2015-775-1 FOR A CHANGE OF USE -
WAREHOUSE TO CREMATORIUM AND MORTUARY AT 22 GEORGE
ROAD, SALAMANDER BAY (LOT 18 DP 263269)**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2015-775-1 for a change of use (warehouse to crematorium and mortuary) at 22 George Road, Salamander Bay (Lot 18 DP263269) subject to the conditions contained in **(ATTACHMENT 1)**.

**ORDINARY COUNCIL MEETING - 22 MARCH 2016
MOTION**

010	<p>Councillor John Nell Councillor Ken Jordan</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Sally Dover</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 22 MARCH 2016
MOTION**

011	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council approve Development Application 16-2015-775-1 for a change of use (warehouse to crematorium and mortuary) at 22 George Road, Salamander Bay (Lot 18 DP263269) subject to the conditions contained in (ATTACHMENT 1).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

Mayor Bruce MacKenzie left the meeting at 06:46pm, prior to the debate on Item 2.

Councillor Paul Le Mottee left the meeting at 06:46pm, prior to the debate on Item 2.

In the absence of the Mayor and Deputy Mayor, Cr John Nell nominated Cr Ken Jordan to chair the meeting. No other nominations were received. Cr Jordan chaired the meeting for Item 2 in both Committee of the Whole and Open Council.

ITEM NO. 2

FILE NO: 16/271949
RM8 REF NO: 16-2015-766-1-001

DEVELOPMENT APPLICATION 16-2015-766-1 FOR EARTHWORKS (LANDFILL) AT 2656A-G, 2258B AND 2230B-C NELSON BAY ROAD AND 35-39 STOCKTON BIGHT TRACK, WILLIAMTOWN (LOTS 1 TO 3 DP1008816, LOTS 1 & 2 DP307933, LOT 1 DP177679, LOT 810 DP1008279, LOTS 1 & 2 DP36875, LOT 58 DP753192, LOTS 1 & 2 DP916061, LOT 122 DP753192)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2015-766-1 for Earthworks (Landfill) at 2656A-G AND 2230B Nelson Bay Road and 35-39 Stockton Bight Track, Williamtown (Lots 1 to 3 DP1008816, Lots 1 & 2 DP307933, Lot 1 DP177679, Lot 810 DP1008279, Lots 1 & 2 DP36875, Lot 58 DP753192, Lots 1 & 2 DP916061 and Lot 122 DP753192), subject to the conditions contained in **(ATTACHMENT 3)**.

ORDINARY COUNCIL MEETING - 22 MARCH 2016
COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Steve Tucker Councillor Sally Dover</p> <p>That Council approve Development Application DA No. 16-2015-766-1 for Earthworks (Landfill) at 2656A-G AND 2230B Nelson Bay Road and 35-</p>
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	<p>39 Stockton Bight Track, Williamtown (Lots 1 to 3 DP1008816, Lots 1 & 2 DP307933, Lot 1 DP177679, Lot 810 DP1008279, Lots 1 & 2 DP36875, Lot 58 DP753192, Lots 1 & 2 DP916061 and Lot 122 DP753192), subject to the conditions contained in (ATTACHMENT 3), with the addition of a further condition at 3c) <i>"no additional truck movements are allowed on Nelson Bay Road"</i>, and that condition 5 be removed.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Sally Dover, Ken Jordan, John Morello, John Nell and Steve Tucker.

Those against the Motion: Crs Geoff Dingle and Peter Kafer.

**ORDINARY COUNCIL MEETING - 22 MARCH 2016
MOTION**

Councillor Paul Le Mottee left the meeting at 08:09pm in Open Council.
Mayor Bruce MacKenzie left the meeting at 08:10pm in Open Council.

<p>012</p>	<p>Councillor Steve Tucker Councillor John Morello</p> <p>It was resolved that Council approve Development Application DA No. 16-2015-766-1 for Earthworks (Landfill) at 2656A-G AND 2230B Nelson Bay Road and 35-39 Stockton Bight Track, Williamtown (Lots 1 to 3 DP1008816, Lots 1 & 2 DP307933, Lot 1 DP177679, Lot 810 DP1008279, Lots 1 & 2 DP36875, Lot 58 DP753192, Lots 1 & 2 DP916061 and Lot 122 DP753192), subject to the conditions contained in (ATTACHMENT 3) with the addition of a further condition at 3c) <i>"no additional truck movements are allowed on Nelson Bay Road"</i>, and that condition 5 be removed.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Sally Dover, Ken Jordan, John Morello, John Nell and Steve Tucker.

Those against the Motion: Crs Geoff Dingle and Peter Kafer.

ORDINARY COUNCIL MEETING 12 APRIL 2016

Councillor Paul Le Mottee left the meeting at 05:32pm, prior to Item 1 in Committee of the Whole.

ITEM NO. 1

FILE NO: 16/296929
RM8 REF NO: PSC2014-02879

PLANNING PROPOSAL - 1519 RICHARDSON ROAD, SALT ASH (PAUL'S CORNER)

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the planning proposal (**ATTACHMENT 1**) to amend the *Port Stephens Local Environmental Plan 2013* by:
 - a) Rezoning Lot 1, DP 158268 and Lots 6, 7, 20 & 23, DP 240103 from RU2 Rural Landscape to B1 Neighbourhood Centre with associated 9m height of building limit and removal of the 40Ha Minimum Lot Size; and
 - b) Including an additional permitted use to permit a single commercial development on the subject site up to 500m² and a combined floorspace no greater than 2,100m².
- 2) Council request to use its delegations under Section 59 of *the Environmental Planning and Assessment Act 1979 (NSW)* to finalise the plan.

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>RECOMMENDATION:</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 12 APRIL 2016
MOTION**

Councillor Paul Le Mottee left the meeting at 06:13pm at Item1 in Open Council and did not return to the meeting.

079	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the planning proposal (ATTACHMENT 1) to amend the <i>Port Stephens Local Environmental Plan 2013</i> by: <ol style="list-style-type: none"> a) Rezoning Lot 1, DP 158268 and Lots 6, 7, 20 & 23, DP 240103 from RU2 Rural Landscape to B1 Neighbourhood Centre with associated 9m height of building limit and removal of the 40Ha Minimum Lot Size; and b) Including an additional permitted use to permit a single commercial development on the subject site up to 500m² and a combined floorspace no greater than 2,100m². 2) Council request to use its delegations under Section 59 of <i>the Environmental Planning and Assessment Act 1979 (NSW)</i> to finalise the plan.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 2

FILE NO: 16/266352
RM8 REF NO: PSC2015-01491

PLANNING PROPOSAL - BOUNDARY REALIGNMENT

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the final planning proposal (**ATTACHMENT 1**) to amend the *Port Stephens Local Environmental Plan 2013* by:
 - a) Amending Schedule 2 Exempt Development to allow certain boundary realignments to occur without development consent; and
 - b) Amending Part 4 Principal development standards to include an additional standard for certain minor boundary realignments where one or more resultant lots do not meet the minimum lot size as shown on the Lot Size Map.
- 2) Submit the planning proposal to the Department of Planning & Environment under Section 59 of the *Environmental Planning and Assessment Act 1979* (NSW) requesting that the Minister make the plan.

Councillor Paul Le Mottee returned to the meeting at 05:33pm, during Committee of the Whole.

**ORDINARY COUNCIL MEETING - 12 APRIL 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>That Council:</p> <ol style="list-style-type: none"> 1) Adopt the final planning proposal (ATTACHMENT 1) to amend the <i>Port Stephens Local Environmental Plan 2013</i> by: <ol style="list-style-type: none"> a) Amending Schedule 2 Exempt Development to allow certain boundary realignments to occur without development consent; and b) Amending Part 4 Principal development standards to include an additional standard for certain minor boundary realignments where one or more resultant lots do not meet the minimum lot size as
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	<p>shown on the Lot Size Map.</p> <p>c) Amending clause 5 (b) of ATTACHMENT 1 to read: "If the subdivision would create a lot or lots that could itself be subdivided in accordance with clause 4.1, unless the boundary realignment involves a lot or lots already capable of being subdivided in accordance with clause 4.1, in which case no additional lots shall be created capable of being subdivided in accordance with clause 4.1."</p> <p>2) Submit the planning proposal to the Department of Planning & Environment under Section 59 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) requesting that the Minister make the plan.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 12 APRIL 2016
MOTION**

080	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <p>1) Adopt the final planning proposal (ATTACHMENT 1) to amend the <i>Port Stephens Local Environmental Plan 2013</i> by:</p> <p>a) Amending Schedule 2 Exempt Development to allow certain boundary realignments to occur without development consent; and</p> <p>b) Amending Part 4 Principal development standards to include an additional standard for certain minor boundary realignments where one or more resultant lots do not meet the minimum lot size as shown on the Lot Size Map.</p> <p>c) Amending clause 5 (b) of ATTACHMENT 1 to read: "If the subdivision would create a lot or lots that could itself be subdivided in accordance with clause 4.1, unless the boundary realignment involves a lot or lots already capable of being subdivided in accordance with clause 4.1, in which case no additional lots shall be created capable of being subdivided in accordance with clause 4.1."</p>
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	2) Submit the planning proposal to the Department of Planning & Environment under Section 59 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) requesting that the Minister make the plan.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 4

FILE NO: 16/267795
RM8 REF NO: PSC2006-0066V2

**PROPOSED AMENDMENT TO PORT STEPHENS SECTION 94
DEVELOPMENT CONTRIBUTIONS PLAN - STAGE 1 FERODALE PARK
SPORTS COMPLEX MASTERPLAN**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Publicly exhibit amendments to the draft Port Stephens Section 94 Development Contributions Plan 2007 (Draft Amendment No. 11) **(TABLED DOCUMENT 1)** and draft Port Stephens Section 94A Development Contributions Plan 2007 (Draft Amendment No. 8) **(TABLED DOCUMENT 2)** for a minimum of 28 days in accordance with clauses 28 and 29 of the Environmental Planning and Assessment Regulation 2000 to:
 - a. update the Section 94 Works Schedule to include the following components of Stage 1 Ferodale Park Sports Complex Masterplan:
 - i. multipurpose centre, associated fit-out and site works including landscaping and 56 car-parking spaces; and
 - ii. playground and associated infrastructure; and
 - b. update the standards guiding the provision of community and recreational facilities in line with *Standards Guiding the Provision of Councils Community and Recreational Facilities* report.
 - 2) Endorse the total allocation of \$2,888,300 in Section 94 funds including the internal borrowing of \$2,208,315 for the purposes of funding the delivery of Stage 1 Ferodale Park Sports Complex Masterplan subject to public exhibition process.
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**ORDINARY COUNCIL MEETING - 12 APRIL 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 12 APRIL 2016
MOTION**

082	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Publicly exhibit amendments to the draft Port Stephens Section 94 Development Contributions Plan 2007 (Draft Amendment No. 11) (TABLED DOCUMENT 1) and draft Port Stephens Section 94A Development Contributions Plan 2007 (Draft Amendment No. 8) (TABLED DOCUMENT 2) for a minimum of 28 days in accordance with clauses 28 and 29 of the Environmental Planning and Assessment Regulation 2000 to: <ol style="list-style-type: none"> a. update the Section 94 Works Schedule to include the following components of Stage 1 Ferodale Park Sports Complex Masterplan: <ol style="list-style-type: none"> i. multipurpose centre, associated fit-out and site works including landscaping and 56 car-parking spaces; and ii. playground and associated infrastructure; and b. update the standards guiding the provision of community and recreational facilities in line with <i>Standards Guiding the Provision of Councils Community and Recreational Facilities</i> report. 2) Endorse the total allocation of \$2,888,300 in Section 94 funds including the internal borrowing of \$2,208,315 for the purposes of funding the delivery of Stage 1 Ferodale Park Sports Complex Masterplan subject to public exhibition process.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 26 APRIL 2016

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**

013	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Chris Doohan Councillor John Morello</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs 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**

014	<p>Councillor Chris Doohan Councillor Ken Jordan</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 (ATTACHMENT 3) to this report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs 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.

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>Councillor Sally Dover Councillor Geoff Dingle</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 (ATTACHMENT 5).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: 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>Councillor Ken Jordan Councillor Chris Doohan</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 (ATTACHMENT 1).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs 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**

015	<p>Councillor John Nell Councillor Ken Jordan</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 (ATTACHMENT 1).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs 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.

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>Councillor Ken Jordan Councillor Chris Doohan</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>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs 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**

016	<p>Councillor Ken Jordan Councillor John Nell</p> <p>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.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, John Morello, John Nell and Steve Tucker.

Those against the Motion: Cr Geoff Dingle.

ORDINARY COUNCIL MEETING 10 MAY 2016

**ORDINARY COUNCIL MEETING - 10 MAY 2016
MOTION**

017	<p>Mayor Bruce MacKenzie Councillor Ken Jordan</p> <p>It was resolved that Items 1, 2, 3 and 6 be brought forward.</p>
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ITEM NO. 1

FILE NO: 16/283184
RM8 REF NO: 16-2015-660-1

**DEVELOPMENT APPLICATION FOR COMMUNITY FACILITY (RAYMOND
TERRACE MEN'S SHED) AND TWO LOT SUBDIVISION AT NO. 17E
IRRAWANG STREET, RAYMOND TERRACE (BOOMERANG PARK - LOT
1 DP1018979)**

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

FRECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2015-660-1 for the construction of a community facility (Raymond Terrace Men's Shed) and two lot subdivision at 17E Irrawang Street, Raymond Terrace (Boomerang Park – Lot 1 DP1018979) subject to the conditions contained in **(ATTACHMENT 1)**.
- 2) Waive the Section 94A levies in accordance with provision 2.10 of the Port Stephens Section 94A Development Contributions Plan (Amendment No. 7).

**ORDINARY COUNCIL MEETING - 10 MAY 2016
MOTION**

018	<p>Councillor Ken Jordan Councillor Paul Le Mottee</p> <p>It was resolved that Council:</p>
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	<ol style="list-style-type: none"> 1) Approve Development Application DA No. 16-2015-660-1 for the construction of a community facility (Raymond Terrace Men's Shed) and two lot subdivision at 17E Irrawang Street, Raymond Terrace (Boomerang Park – Lot 1 DP1018979) subject to the conditions contained in (ATTACHMENT 1). 2) Waive the Section 94A levies in accordance with provision 2.10 of the Port Stephens Section 94A Development Contributions Plan (Amendment No. 7).
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 2

FILE NO: 16/304429
RM8 REF NO: 16-2015-769-1

DEVELOPMENT APPLICATION NO.16-2015-769-1 FOR SENIORS HOUSING - CONSOLIDATION OF TWO LOTS, DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF TWO DETACHED THREE AND FOUR STOREY BUILDINGS FOR SENIORS HOUSING, COMPRISING 56 DWELLINGS AT NO.60 DIEMARS ROAD AND NO. 240 SOLDIERS POINT ROAD, SALAMANDER BAY (LOT 1 DP1074566 AND LOT 161 DP27047, CURRENTLY KNOWN AS SP49188)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application (DA) No.16-2015-769-1 for seniors housing - consolidation of two lots, demolition of existing building and construction of two detached three and four storey buildings for seniors housing, comprising 56 dwellings at No.60 Diemars Road and No.240 Soldiers Point Road, Salamander Bay (Lot 1 DP1074566 and Lot 161 DP27047, currently known as SP49188), subject to the conditions contained in **(ATTACHMENT 1)**.
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**ORDINARY COUNCIL MEETING - 10 MAY 2016
MOTION**

019	<p>Councillor Paul Le Mottee Councillor Ken Jordan</p> <p>It was resolved that Council approve Development Application (DA) No.16-2015-769-1 for seniors housing - consolidation of two lots, demolition of existing building and construction of two detached three and four storey buildings for seniors housing, comprising 56 dwellings at No.60 Diemars Road and No.240 Soldiers Point Road, Salamander Bay (Lot 1 DP1074566 and Lot 161 DP27047, currently known as SP49188), subject to the conditions contained in (ATTACHMENT 1).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs 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.

Councillor Paul Le Mottee left the meeting at 07:09pm, prior to Item 3 in Open Council.

ITEM NO. 3

**FILE NO: 16/323264
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 - 10 MAY 2016
MOTION**

020	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council refuse Section 82A Application for review of</p>
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	<p>determination of DA No.16-2015-221-1 for the following reasons:</p> <ul style="list-style-type: none"> 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) <i>EP&A Act 1979</i>). 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) <i>EP&A Act 1979</i>). 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) <i>EP&A Act 1979</i>). d) The site is not suitable for the development given the flood characteristics of the site and impacts to the streetscape (s.79C(c) <i>EP&A Act 1979</i>). 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) <i>EP&A Act 1979</i>).
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Chris Doohan.

Councillor Ken Jordan returned to the meeting at 07:33pm.
Councillor Peter Kafer left the meeting at 07:33pm.

ITEM NO. 4

FILE NO: 16/306933
RM8 REF NO: PSC2008-1497

**PLANNING AGREEMENT FOR THE CONSERVATION OF LAND AT
BOUNDARY ROAD MEDOWIE**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Planning Agreement (**ATTACHMENT 1**) in relation to DA 16-2015-336-1 as offered by the Proponent for the ongoing protection and management, for conservation purposes, of land at Boundary Road Medowie (Lots 93-96 DP 753194) including the transfer of approximately 70 hectares of land to the Minister administering the *National Parks and Wildlife Act 1974* (NSW).
- 2) Place the draft Planning Agreement on exhibition for a period of not less than 28 days.
- 3) Enter into the draft Planning Agreement for the purpose of satisfying clause 7.19 *Development at Boundary Road, Medowie* of the *Port Stephens Local Environmental Plan 2013* should no submissions be received.

ORDINARY COUNCIL MEETING - 10 MAY 2016
MOTION

021	<p>Mayor Bruce MacKenzie Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Endorse the draft Planning Agreement (ATTACHMENT 1) in relation to DA 16-2015-336-1 as offered by the Proponent for the ongoing protection and management, for conservation purposes, of land at Boundary Road Medowie (Lots 93-96 DP 753194) including the transfer of approximately 70 hectares of land to the Minister
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	<p>administering the <i>National Parks and Wildlife Act 1974 (NSW)</i>.</p> <p>2) Place the draft Planning Agreement on exhibition for a period of not less than 28 days.</p> <p>3) Enter into the draft Planning Agreement for the purpose of satisfying clause 7.19 <i>Development at Boundary Road, Medowie</i> of the <i>Port Stephens Local Environmental Plan 2013</i> should no submissions be received.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 24 MAY 2016

ITEM NO. 1

FILE NO: 16/319062
RM8 REF NO: 16-2015-852-1

DEVELOPMENT APPLICATION 16-2015-852-1 FOR A COMMUNITY FACILITY, RECREATION FACILITY (OUTDOOR), ASSOCIATED EARTHWORKS, SIGNAGE AND CAR PARKING (FERODALE PARK SPORTS COMPLEX) AT 36 AND 36A FERODALE ROAD, MEDOWIE (LOT 1 DP1003417 AND LOT 22 DP1021843)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2015-852-1 for a Community Facility, Recreation Facility (Outdoor), Associated Earthworks, Signage and Car Parking at No. 36 and 36A Ferodale Road, Medowie (Lot 1 DP1003417 and Lot 22 DP1021843), subject to the conditions contained in **(ATTACHMENT 1)**.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
MOTION**

022	<p>Councillor Steve Tucker Councillor Paul Le Mottee</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Ken Jordan Councillor Peter Kafer</p> <p>That Council defer Item 1 to allow for further consultation with Hunter Water.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
MOTION**

023	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council defer Item 1 to allow for further consultation with Hunter Water.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

Councillor Paul Le Mottee left the meeting at 06:31pm, prior Item 2 in Committee of the Whole.

ITEM NO. 2

**FILE NO: 16/328112
RM8 REF NO: 16-2014-654-5**

**SECTION 96(1A) MODIFICATION APPLICATION NO.16-2014-654-5 TO
REDUCE THE S.94 CONTRIBUTIONS APPLICABLE TO AN APPROVED
MULTI DWELLING HOUSING (15 UNITS) AND 15 LOT SUBDIVISION AT
27 DOWLING STREET, NELSON BAY (LOT 1 DP 235550)**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Section 96(1A) modification application No.16-2014-654-5 which seeks to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at No.27 Dowling Street, Nelson Bay (Lot 1 DP 235550) for the reasons contained in **(ATTACHMENT 3)** of this report.
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**ORDINARY COUNCIL MEETING - 24 MAY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>That Council:</p> <ol style="list-style-type: none"> 1. Section 96 application 16-2014-654-5 be approved to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at 27 Dowling Street, Nelson Bay (Lot 1 DP235550) for the following reasons: <ul style="list-style-type: none"> • There were previously 22 dwellings on the site. Although the dwellings have been demolished, their replacement with 15 new homes under the subject application does not increase the demand for public amenities and services beyond the previous development on the site; and
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	<ul style="list-style-type: none"> • The proponent will construct the full length of Trafalgar Lane at a cost of approximately \$260,000. These works have a public benefit given other properties within the lane will benefit from its construction. <p>2. Condition number 3 be modified to reduce the Section 94 contributions to a total of <u>\$93,667</u> (from the original amount of \$190,260, therefore resulting in a total reduction of \$96,593).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan and Steve Tucker.

Those against the Motion: Crs Geoff Dingle, Sally Dover, Peter Kafer and John Nell.

The motion was lost.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
MOTION**

	<p>Councillor John Nell Councillor Sally Dover</p> <p>That Council refuse Section 96(1A) modification application No.16-2014-654-5 which seeks to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at No.27 Dowling Street, Nelson Bay (Lot 1 DP 235550) for the reasons contained in (ATTACHMENT 3) of this report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Sally Dover, Peter Kafer, Paul Le Mottee and John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan and Steve Tucker.

Following the block vote on all items except Items 2 and 6, Councillor Paul Le Mottee left the meeting at 06.54pm, in Open Council.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
MOTION**

024	<p>Councillor John Nell Councillor Ken Jordan</p> <p>It was resolved that Council refuse Section 96(1A) modification application No.16-2014-654-5 which seeks to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at No.27 Dowling Street, Nelson Bay (Lot 1 DP 235550) for the reasons contained in (ATTACHMENT 3) of this report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Sally Dover, Peter Kafer, Paul Le Mottee and John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Crs Ken Jordan and Steve Tucker.

ITEM NO. 4

**FILE NO: 16/292264
RM8 REF NO: PSC2016-00770**

PLANNING PROPOSAL - FLOOD PLANNING

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal – Flood Planning (**ATTACHMENT 1**) to amend the *Port Stephens Local Environmental Plan 2013* by removing the "Flood Planning Map", together with consequential amendments.
- 2) Forward the planning proposal to the NSW Department of Planning and Environment under section 56 of the *Environmental Planning and Assessment Act 1979* with a request for a Gateway Determination.

Councillor Paul Le Mottee returned to the meeting at 06:44pm, prior to Item 4, in Committee of the Whole.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
MOTION**

025	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the Planning Proposal – Flood Planning (ATTACHMENT 1) to amend the <i>Port Stephens Local Environmental Plan 2013</i> by removing the "Flood Planning Map", together with consequential amendments. 2) Forward the planning proposal to the NSW Department of Planning and Environment under section 56 of the <i>Environmental Planning and Assessment Act 1979</i> with a request for a Gateway Determination.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 5

FILE NO: 16/282888
RM8 REF NO: PSC2015-02333

PLANNING PROPOSAL 374 TO 394 HINTON ROAD HINTON (LOT 328 DP 633032, LOT 8 DP 1038606 & LOT 325 DP 590644)

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal (**ATTACHMENT 1**) for Lot 325 DP 590644, Lot 8 DP 1038606 and Lot 328 DP 633032 (**ATTACHMENT 2**) for the purposes of Section 55 of the *Environmental Planning and Assessment Act 1979* (NSW) and seek amendment to the *Port Stephens Local Environmental Plan 2013* to:
 - a) Rezone the subject land from RU1 Primary Production to RU5 Village; and
 - b) Amend minimum lot size provisions from 40 hectares (400,000m²) to 0.4 hectares (4,000m²).
- 2) Submit the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.
- 3) Request authorisation to exercise delegation of plan making functions for the Planning Proposal.

ORDINARY COUNCIL MEETING - 24 MAY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Ken Jordan Councillor John Nell</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
MOTION**

026	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the Planning Proposal (ATTACHMENT 1) for Lot 325 DP 590644, Lot 8 DP 1038606 and Lot 328 DP 633032 (ATTACHMENT 2) for the purposes of Section 55 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) and seek amendment to the <i>Port Stephens Local Environmental Plan 2013</i> to: <ol style="list-style-type: none"> a) Rezone the subject land from RU1 Primary Production to RU5 Village; and b) Amend minimum lot size provisions from 40 hectares (400,000m²) to 0.4 hectares (4,000m²). 2) Submit the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination. 3) Request authorisation to exercise delegation of plan making functions for the Planning Proposal.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil

ITEM NO. 6

FILE NO: 16/319816
RM8 REF NO: PSC2012-03912

**REVISED PLANNING PROPOSAL FOR LAND AT THE CORNER OF
FERODALE ROAD AND FAIRLANDS ROAD MEDOWIE LOT 100 AND LOT
101 DP 583216**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at (**ATTACHMENT 1**) for Lot 100 and Lot 101 DP 583216 (**ATTACHMENT 2**) for the purposes of Section 55 of the *Environmental Planning and Assessment Act 1979* (NSW) and seek amendment to the *Port Stephens Local Environmental Plan 2013* to:
 - a) Rezone the subject land from RU2 Rural Landscape to R5 Large Lot Residential; and
 - b) Amend minimum lot size provisions from 20 hectares (200,000m²) to 1.0 hectare (10,000m²).
- 2) Submit the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.
- 3) Request Authorisation to exercise delegation of plan-making functions for the Planning Proposal.

Councillor Paul Le Mottee left the meeting at 06:45pm, prior to Item 6 in Committee of the Whole.

Councillor Peter Kafer left the meeting at 06:47pm, during Item 6 in Committee of the Whole.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Geoff Dingle Councillor Steve Tucker</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Ken Jordan, John Nell and Steve Tucker.

Those against the Motion: Mayor Bruce MacKenzie and Crs Sally Dover.

**ORDINARY COUNCIL MEETING - 24 MAY 2016
MOTION**

	<p>RECOMMENDATION IS THAT COUNCIL:</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the Planning Proposal at (ATTACHMENT 1) for Lot 100 and Lot 101 DP 583216 (ATTACHMENT 2) for the purposes of Section 55 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) and seek amendment to the <i>Port Stephens Local Environmental Plan 2013</i> to: <ol style="list-style-type: none"> a) Rezone the subject land from RU2 Rural Landscape to R5 Large Lot Residential; and b) Amend minimum lot size provisions from 20 hectares (200,000m²) to 1.0 hectare (10,000m²). 2) Submit the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination. 3) Request Authorisation to exercise delegation of plan-making functions for the Planning Proposal.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Ken Jordan, John Nell and Steve Tucker.

Those against the Motion: Mayor Bruce MacKenzie and Crs Sally Dover.

Councillor Paul Le Mottee returned to the meeting at 06.54pm, in Open Council following the vote on Items 2 and 6.

ORDINARY COUNCIL MEETING 14 JUNE 2016

ITEM NO. 1

FILE NO: 16/340220
RM8 REF NO: 16-2015-852-1

DEVELOPMENT APPLICATION 16-2015-852-1 FOR A COMMUNITY FACILITY, RECREATION FACILITY (OUTDOOR), ASSOCIATED EARTHWORKS, SIGNAGE AND CAR PARKING (FERODALE PARK SPORTS COMPLEX) AT 36 AND 36A FERODALE ROAD, MEDOWIE (LOT 1 DP1003417 AND LOT 22 DP1021843)

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

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2015-852-1 for a Community Facility, Recreation Facility (Outdoor), Associated Earthworks, Signage and Car Parking at No. 36 and 36A Ferodale Road, Medowie (Lot 1 DP1003417 and Lot 22 DP1021843), subject to the conditions contained in (ATTACHMENT 1).

ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION

027	<p>Councillor John Morello Councillor Chris Doohan</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Geoff Dingle Councillor Peter Kafer</p> <p>That Council approve Development Application DA No. 16-2015-852-1 for a Licensed Community Facility, Recreation Facility (Outdoor), Associated Earthworks, Signage and Car Parking at No. 36 and 36A Ferodale Road, Medowie (Lot 1 DP1003417 and Lot 22 DP1021843), subject to the conditions</p>
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	contained in (ATTACHMENT 1) .
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The Mayor ruled the motion out of order as the proposed motion was not in accordance with the development application lodged by the applicant.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

	<p>Mayor Bruce MacKenzie Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Receives and notes the supplementary information; 2) Approve Development Application 16-2015-852-1 for a Community Facility, Recreation Facility (Outdoor), Associated Earthworks, Signage and Car Parking at No. 36 and 36A Ferodale Road, Medowie (Lot 1 DP1003417 and Lot 22 DP1021843), subject to the amended conditions contained in (ATTACHMENT 1) of the supplementary information, with the following amendments to be included: <ol style="list-style-type: none"> a) Condition 13 – Insert consultation with Hunter Water Corporation prior to issue of the Construction Certificate (as per the wording in the supplementary information); b) Condition 36 – Replace wording 'occupation certificate' with 'construction certificate' and move under appropriate heading (re-numbering where appropriate); and c) Include the additional condition requiring all existing fill on the site to be certified.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, John Morello and Steve Tucker.

Those against the Motion: Cr Geoff Dingle.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

028	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Receives and notes the supplementary information; 2) Approve Development Application 16-2015-852-1 for a Community Facility, Recreation Facility (Outdoor), Associated Earthworks, Signage and Car Parking at No. 36 and 36A Ferodale Road, Medowie (Lot 1 DP1003417 and Lot 22 DP1021843), subject to the amended conditions contained in (ATTACHMENT 1) of the supplementary information, with the following amendments to be included: <ol style="list-style-type: none"> a) Condition 13 – Insert consultation with Hunter Water Corporation prior to issue of the Construction Certificate (as per the wording in the supplementary information); b) Condition 36 – Replace wording 'occupation certificate' with 'construction certificate' and move under appropriate heading (re-numbering where appropriate); and a) Include the additional condition requiring all existing fill on the site to be certified.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Ken Jordan, John Morello and Steve Tucker.

Those against the Motion: Cr Geoff Dingle.

ITEM NO. 2

**FILE NO: 16/328139
RM8 REF NO: 16-2016-178-1**

**DEVELOPMENT APPLICATION FOR COMMUNITY FACILITY (RURAL
FIRE SERVICE BUILDING) AT NO. 1 SUCCESS STREET, TANILBA BAY
(LOT 2 DP1048126)**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2016-178-1 for a community facility (Rural Fire Service building) at No. 1 Success Street, Tanilba Bay (Lot 2 DP1048126) subject to the conditions contained in (**ATTACHMENT 1**).
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Steve Tucker Councillor Chris Doohan</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

029	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>It was resolved that Council approve Development Application DA No. 16-2016-178-1 for a community facility (Rural Fire Service building) at No. 1 Success</p>
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	Street, Tanilba Bay (Lot 2 DP1048126) subject to the conditions contained in (ATTACHMENT 1) .
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 3

FILE NO: 16/315045
RM8 REF NO: 16-2013-757-2

**SECTION 96(1A) MODIFICATION APPLICATION TO DA 16-2013-757-2 -
AMEND STAGING, INTERNAL LAYOUTS, NUMBER OF BUILDINGS AND
DESIGN TO A SENIORS LIVING DEVELOPMENT AT 118 & 118A
SOLDIERS POINT RD, SOLDIERS POINT (LOTS 1 & 2 DP627638)**

REPORT OF: MICHAEL MCINTOSH - GROUP MANAGER
DEVELOPMENT SERVICES
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Section 96(1A) Modification application to DA No. 16-2013-757-2 to amend approved 100 unit seniors living development (amend staging, internal layouts, number of buildings and design) at 118 & 118A Soldiers Point Rd, Soldiers Point (Lots 1 & 2 DP627638) subject to the conditions contained in **(ATTACHMENT 1)**.

Councillor Peter Kafer left the meeting at 06:37pm during Committee of the Whole and did not return to the meeting.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Councillor Sally Dover</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

<p>030</p>	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>It was resolved that Council approve Section 96(1A) Modification application to DA No. 16-2013-757-2 to amend approved 100 unit seniors living development (amend staging, internal layouts, number of buildings and design) at 118 & 118A Soldiers Point Rd, Soldiers Point (Lots 1 & 2 DP627638) subject to the conditions contained in (ATTACHMENT 1).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 4

**FILE NO: 16/321372
RM8 REF NO: 58-2016-2-1**

MARSH ROAD, BOBS FARM - PLANNING PROPOSAL

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at (**ATTACHMENT 1**) for the purposes of the Environmental Planning and Assessment Act 1979 (s55) (NSW) to enable a recreational facility (outdoor) as permissible with development consent at 775, 777 and 781 Marsh Road, Bobs Farm.
 - 2) Forward the Planning Proposal to the NSW Department of Planning and Environment seeking a Gateway Determination.
 - 3) Consider recreational facilities (outdoor) as a permissible use at certain locations within the Zone RU2 – Rural Landscape as part of a future housekeeping amendment to the Port Stephens Local Environmental Plan 2013.
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**ORDINARY COUNCIL MEETING - 14 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Councillor John Morello</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

031	<p>Mayor Bruce MacKenzie Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the Planning Proposal at (ATTACHMENT 1) for the purposes of the Environmental Planning and Assessment Act 1979 (s55) (NSW) to enable a recreational facility (outdoor) as permissible with development consent at 775, 777 and 781 Marsh Road, Bobs Farm. 2) Forward the Planning Proposal to the NSW Department of Planning and Environment seeking a Gateway Determination. 3) Consider recreational facilities (outdoor) as a permissible use at certain locations within the Zone RU2 – Rural Landscape as part of a future housekeeping amendment to the Port Stephens Local Environmental Plan 2013.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

NOTICE OF RESCISSION

ITEM NO. 1

**FILE NO: 16/340262
RM8 REF NO: 16-2014-654-5**

**SECTION 96(1A) MODIFICATION APPLICATION NO.16-2014-654-5 TO
REDUCE THE S.94 CONTRIBUTIONS APPLICABLE TO AN APPROVED
MULTI DWELLING HOUSING (15 UNITS) AND 15 LOT SUBDIVISION AT
27 DOWLING STREET, NELSON BAY (LOT 1 DP 235550).**

COUNCILLOR: MAYOR BRUCE MACKENZIE
KEN JORDAN
STEVE TUCKER

THAT COUNCIL:

That Council rescind its decision of 24 May 2016 on Item No. 2 of the Ordinary Council Minutes namely SECTION 96(1A) MODIFICATION APPLICATION NO.16-2014-654-5 TO REDUCE THE S.94 CONTRIBUTIONS APPLICABLE TO AN APPROVED MULTI DWELLING HOUSING (15 UNITS) AND 15 LOT SUBDIVISION AT 27 DOWLING STREET, NELSON BAY (LOT 1 DP 235550).

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

032	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council rescind its decision of 24 May 2016 on Item No. 2 of the Ordinary Council Minutes namely SECTION 96(1A) MODIFICATION APPLICATION NO.16-2014-654-5 TO REDUCE THE S.94 CONTRIBUTIONS APPLICABLE TO AN APPROVED MULTI DWELLING HOUSING (15 UNITS) AND 15 LOT SUBDIVISION AT 27 DOWLING STREET, NELSON BAY (LOT 1 DP 235550).</p>
	<p>SUPPLEMENTARY RECOMMENDATION IS THAT COUNCIL:</p> <p>1) Notes the additional information provided by the Applicant.</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, John Morello and Steve Tucker.

Those against the Motion: Crs Geoff Dingle and Sally Dover.

**ORDINARY COUNCIL MEETING - 14 JUNE 2016
MOTION**

033	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 3. Section 96 application 16-2014-654-5 be approved to reduce the Section 94 contributions applicable to an approved multi dwelling housing (15 dwellings) and 15 lot subdivision at 27 Dowling Street, Nelson Bay (Lot 1 DP235550) for the following reasons: <ul style="list-style-type: none"> • There were previously 22 dwellings on the site. Although the dwellings have been demolished, their replacement with 15 new homes under the subject application does not increase the demand for public amenities and services beyond the previous development on the site; and • The proponent will construct the full length of Trafalgar Lane at a cost of approximately \$260,000. These works have a public benefit given other properties within the lane will benefit from its construction. 4. Condition number 3 be modified to reduce the Section 94 contributions to a total of <u>\$93,667</u> (from the original amount of \$190,260, therefore resulting in a total reduction of \$96,593).
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Ken Jordan, John Morello and Steve Tucker.

Those against the Motion: Crs Geoff Dingle and Sally Dover.

ORDINARY COUNCIL MEETING 28 JUNE 2016

**ORDINARY COUNCIL MEETING - 28 JUNE 2016
MOTION**

034	<p>Mayor Bruce MacKenzie Councillor Paul Le Mottee</p> <p>It was resolved that Items 6 and 10 be brought forward and dealt with prior to Item 1 in Open Council.</p>
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ITEM NO. 6

**FILE NO: 16/347378
RM8 REF NO: PSC2006-0066v2**

**EXHIBITION OF PROPOSED AMENDMENT TO PORT STEPHENS
SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN - STAGE 1
FERODALE PARK SPORTS COMPLEX MASTERPLAN**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Port Stephens Section 94 Plan and Section 94A Plan to amend the works schedule to include:
 - a) Ferodale multipurpose centre, associated fit-out and site works including landscaping and 56 car parking space as a priority 1; and
 - b) Playground and associated infrastructure as a priority 1 and amend the Project No from OS226 to OS227; and
 - c) Include the Standards Guiding the provisions of Councils Community and Recreational Facilities Report in the Section 94 Development Contributions Plan 2007.

- 2) Endorse the allocation of Section 94 funding towards Ferodale multipurpose centre satisfying relevant standards for the use of Section 94 contributions.

- 3) Review works within the Fern Bay area as part of the 2017-2018 capital works plan and Strategic Assets Management Plan with a view to identify any additional works for inclusion in the Port Stephens Section 94 Plan works schedule.

**ORDINARY COUNCIL MEETING - 28 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Item 6 was not considered in Committee of the Whole.
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**ORDINARY COUNCIL MEETING - 28 JUNE 2016
MOTION**

035	<p>Councillor Steve Tucker Mayor Bruce MacKenzie</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Receive and note submissions. 2) Endorse the amendments to the Port Stephens Section 94 Plan and Section 94A Plan to amend the works schedule to include: <ol style="list-style-type: none"> a) Ferodale multipurpose centre, associated fit-out and site works including landscaping and 56 car parking space as a priority 1; and b) Playground and associated infrastructure as a priority 1 and amend the Project No from OS226 to OS227; and c) Include the Standards Guiding the provisions of Councils Community and Recreational Facilities Report in the Section 94 Development Contributions Plan 2007. 3) Endorse the allocation of Section 94 funding towards Ferodale multipurpose centre satisfying relevant standards for the use of Section 94 contributions. 4) Review works within the Fern Bay area as part of the 2017-2018 capital works plan and Strategic Assets Management Plan with a view to identify any additional works for inclusion in the Port Stephens Section 94 Plan works schedule.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Geoff Dingle and Peter Kafer.

ITEM NO. 2

**FILE NO: 16/331336
RM8 REF NO: PSC2016-01548**

PLANNING PROPOSAL - KINGS HILL CADASTRAL MAPPING UPDATE

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 (NSW) to rectify minor shifts in the cadastre base in and around the Kings Hill area, in accordance with the NSW Land and Property Information updated digital cadastral database.
- 2) Refer the Planning Proposal to the NSW Department of Planning and Environment with a recommendation that the Minister make a Gateway Determination and give delegation to Council to make the plan.

**ORDINARY COUNCIL MEETING - 28 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Paul Le Mottee Councillor Steve Tucker</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 28 JUNE 2016
MOTION**

036	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>It was resolved that Council:</p>
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	<ol style="list-style-type: none"> 1) Adopt the Planning Proposal (ATTACHMENT 1) to amend the Port Stephens Local Environmental Plan 2013 (NSW) to rectify minor shifts in the cadastre base in and around the Kings Hill area, in accordance with the NSW Land and Property Information updated digital cadastral database. 2) Refer the Planning Proposal to the NSW Department of Planning and Environment with a recommendation that the Minister make a Gateway Determination and give delegation to Council to make the plan.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 5

**FILE NO: 16/345839
RM8 REF NO: PSC2015-03998**

RAYMOND TERRACE AND HEATHERBRAE IMPLEMENTATION PANEL

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Not proceed with the formation of the Raymond Terrace and Heatherbrae Implementation Panel at this time.
- 2) Report annually within the Integrated Planning Framework on the progress of actions identified in the Raymond Terrace and Heatherbrae Strategy.

**ORDINARY COUNCIL MEETING - 28 JUNE 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Councillor Paul Le Mottee</p> <p>That Council:</p> <ol style="list-style-type: none"> 1) Not proceed with the formation of the Raymond Terrace and Heatherbrae Implementation Panel at this time. 2) That a further report be presented to Council in six (6) month to review the need for a Panel.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 28 JUNE 2016
MOTION**

037	<p>Councillor Ken Jordan Mayor Bruce MacKenzie</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Not proceed with the formation of the Raymond Terrace and Heatherbrae Implementation Panel at this time. 2) That a further report be presented to Council in six (6) month to review the need for a Panel.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 1

**FILE NO: 16/349511
RM8 REF NO: PSC2016-00122**

PLANNING PROPOSAL FOR PART OF LOT 1 DP 1215257 (795 MEDOWIE ROAD MEDOWIE)

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Defer from the Planning Proposal Part of Lot 1 DP 1215257 west of Peppertree Road, Medowie.
- 2) Adopt the Planning Proposal at (**ATTACHMENT 4**) for part of Lot 1 DP 1215257 east of Peppertree Road (only) for the purposes of Section 55 of the Environmental Planning and Assessment Act 1979 (NSW) and seek amendment to the Port Stephens Local Environmental Plan 2013 to: rezone the subject land from R2 Low Density Residential to part B2 Local Centre; amend the Height of Buildings Map to apply a height limit of 8m; and amend the lot size map to remove minimum lot size provisions.
- 3) Submit the recommended Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.

**ORDINARY COUNCIL MEETING - 12 JULY 2016
MOTION**

038	<p>Councillor Paul Le Mottee Councillor Steve Tucker</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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Councillor John Nell left the meeting at 05:30pm, during Item 1 in Committee of the Whole.

Councillor John Nell returned to the meeting at 05:32pm, during Item 1 in Committee of the Whole.

Councillor John Nell left the meeting at 05:33pm, during Item 1 in Committee of the Whole.

Councillor John Nell returned to the meeting at 05:34pm, during Item 1 in Committee of the Whole.

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Geoff Dingle Councillor Ken Jordan</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 12 JULY 2016
MOTION**

039	<p>Councillor Ken Jordan Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Defer from the Planning Proposal Part of Lot 1 DP 1215257 west of Peppertree Road, Medowie. 2) Adopt the Planning Proposal at (ATTACHMENT 4) for part of Lot 1 DP 1215257 east of Peppertree Road (only) for the purposes of Section 55 of the Environmental Planning and Assessment Act 1979 (NSW) and seek amendment to the Port Stephens Local Environmental Plan 2013 to: rezone the subject land from R2 Low Density Residential to part B2 Local Centre; amend the Height of Buildings Map to apply a height limit of 8m; and amend the lot size map to remove minimum lot size provisions. 3) Submit the recommended Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 26 JULY 2016

ITEM NO. 1

FILE NO: 16/352581
RM8 REF NO: 16-2016-41-1

DEVELOPMENT APPLICATION NO. 16-2016-41-1 FOR TOURIST AND VISITOR ACCOMMODATION - ALTERATIONS AND ADDITIONS TO EXISTING 'FINGAL BAY HOLIDAY CENTRE' INCLUDING LANDSCAPE WORKS, SWIMMING POOL AND BBQ SHELTER AT 48 MARINE DRIVE FINGAL BAY (LOT 336 DP 753204)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application No. 16-2016-41-1 for Tourist and Visitor Accommodation - Alterations and Additions to existing 'Fingal Bay Holiday Centre' including landscape works, swimming pool and BBQ shelter at No.48 Marine Drive, Fingal Bay (LOT 336 DP 753204) subject to the conditions contained in (**ATTACHMENT 2**).

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

040	<p>Councillor Steve Tucker Councillor Sally Dover</p> <p>It was resolved that Council that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Sally Dover</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

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

041	<p>Councillor Steve Tucker Councillor John Morello</p> <p>It was resolved that Council approve Development Application No. 16-2016-41-1 for Tourist and Visitor Accommodation - Alterations and Additions to existing 'Fingal Bay Holiday Centre' including landscape works, swimming pool and BBQ shelter at No.48 Marine Drive, Fingal Bay (LOT 336 DP 753204) subject to the conditions contained in (ATTACHMENT 2).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 2

FILE NO: 16/368525
RM8 REF NO: 16-2014-122-2

SECTION 96 APPLICATION TO MODIFY DETERMINATION NO: 16-2014-122-1 FOR A SINGLE DWELLING SHED AND ASSOCIATED EARTH MOUND AT NO: 218 SEAHAM RD, NELSONS PLAINS

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse the application for the determination of DA 16-2014-122-2 (Dwelling, shed and associated earth mound) for the following reasons:
 - a) Insufficient information provided in relation to the amended fill foot print to the originally approval by Council to determine any potential further adverse impact on the local flooding environment and whether a flooding report would be required to support the application.
 - b) Given the likely significant adverse impacts on the flood behaviour, property and environment that may result from the approval, the development is not in the public interest (s79C(e) EP&A Act 1979).
 - c) The development fails to satisfy cl.7.3 Port Stephens Council (PSC) *Local Environmental Plan 2013* (LEP) as the development is not compatible with the flood hazard of the land (s.79C(1)(a)(i) EP&A Act 1979).

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

	<p>Mayor Bruce MacKenzie Councillor Steve Tucker</p> <p>That Council approve the application for the determination of DA 16-2014-122-2 (Dwelling, shed and associated earth mound) in accordance with the Conditions of Consent detailed in ATTACHMENT 3 of the report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Sally Dover, John Morello and Steve Tucker.

Those against the Motion: Crs Geoff Dingle and John Nell.

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

042	<p>Mayor Bruce MacKenzie Councillor Steve Tucker</p> <p>It was resolved that Council approve the application for the determination of DA 16-2014-122-2 (Dwelling, shed and associated earth mound) in accordance with the Conditions of Consent detailed in ATTACHMENT 3 of the report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Sally Dover, John Morello and Steve Tucker.

Those against the Motion: Crs Geoff Dingle and John Nell.

ITEM NO. 4

**FILE NO: 16/345287
RM8 REF NO: PSC2013-05184**

PLANNING PROPOSAL - 108 MAGNUS STREET, NELSON BAY

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Submit the Planning Proposal at (**ATTACHMENT 1**) to the Department of Planning and Environment requesting a Gateway Determination.
 - 2) Request Written Authorisation to Exercise Delegation under section 59 of the *Environmental Planning and Assessment Act, 1979* in the making of the draft Local Environmental Plan.
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**ORDINARY COUNCIL MEETING - 26 JULY 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor John Nell Councillor Sally Dover</p> <p>That Council take no action on the Planning Proposal at 108 Magnus Street, Nelson Bay.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Geoff Dingle, Sally Dover, John Morello and John Nell.

Those against the Motion: Cr Steve Tucker.

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

043	<p>Councillor Steve Tucker Councillor John Morello</p> <p>It was resolved that Council take no action on the Planning Proposal at</p>
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	108 Magnus Street, Nelson Bay.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Geoff Dingle, Sally Dover, John Morello and John Nell.

Those against the Motion: Cr Steve Tucker.

ORDINARY COUNCIL MEETING 13 SEPTEMBER 2016

NOTICE OF MOTION

ITEM NO. 2

**FILE NO: 16/392550
RM8 REF NO: PSC2005-2767**

**PATHWAY PLAN TO BE INCLUDED AS A REVISION OF THE SECTION
94 PLAN**

COUNCILLOR: SALLY DOVER

THAT COUNCIL:

- 1) Commence the background work required to inform the inclusion of the Port Stephens Council's Pathway Plan endorsed by Council on 24 May 2016 including cycle ways within a revised Section 94 Plan.
- 2) Complete the background work in time to inform a full review of the Section 94 Plan, pending the outcome of the current merger proposal.

**ORDINARY COUNCIL MEETING - 13 SEPTEMBER 2016
MOTION**

260	<p>Councillor Sally Dover Councillor John Nell</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Commence the background work required to inform the inclusion of the Port Stephens Council's Pathway Plan endorsed by Council on 24 May 2016 including cycle ways within a revised Section 94 Plan. 2) Complete the background work in time to inform a full review of the Section 94 Plan, pending the outcome of the current merger proposal.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 27 September 2016

ITEM NO. 2

FILE NO: 16/355708
RM8 REF NO: PSC2016-01630

PLANNING PROPOSAL - 9B DIEMARS ROAD, SALAMANDER BAY

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the planning proposal at (**ATTACHMENT 2**) to reclassify the subject site from 'community' to 'operational' land.
- 2) Forward the planning proposal to the NSW Department of Planning and Environment under Section 56 of the *Environmental Planning and Assessment Act 1979* with a request for a Gateway determination.

**ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2016
MOTION**

044	<p>Mayor Bruce MacKenzie Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Endorse the planning proposal at (ATTACHMENT 2) to reclassify the subject site from 'community' to 'operational' land. 2) Forward the planning proposal to the NSW Department of Planning and Environment under Section 56 of the <i>Environmental Planning and Assessment Act 1979</i> with a request for a Gateway determination.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 3

FILE NO: 16/356442
RM8 REF NO: PSC2014-00920

PLANNING PROPOSAL - KINDLEBARK DRIVE AND HERITAGE AVENUE, MEDOWIE

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at (**ATTACHMENT 1**) to amend the *Port Stephens Local Environmental Plan 2013* by:
 - a) Rezoning from R5 Large Lot Residential to R2 Low Density Residential (including an amendment to the Lot Size Map to 500m² and Height of Building Map to 9m) in respect of 142 Kindlebark Drive (Lot 10 DP1154803); 1A Heritage Avenue (Lot 61 DP 1106425); 140A Kindlebark Drive (Lot 2 DP 270731); 140 Kindlebark Drive (Lot 3 DP 270731); 1/1 Heritage Avenue (Lot 4 DP 270731); 2/1 Heritage Avenue (Lot 5 DP 270731); and 140B Kindlebark Drive (Lot 6 DP 270731); and
 - b) Including Schedule 1 *Additional permitted uses* in respect of land at 142 Kindlebark Drive (Lot 10 DP 1154803) to permit:
 - hotel or motel accommodation;
 - function centre;
 - restaurant or café;
 - small bar;
 - cellar door premises;
 - commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises.
 - 2) Exercise its delegations under Section 59 of the *Environmental Planning and Assessment Act 1979* (NSW) to finalise the plan.
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ORDINARY COUNCIL MEETING - 27 SEPTEMBER 2016
MOTION

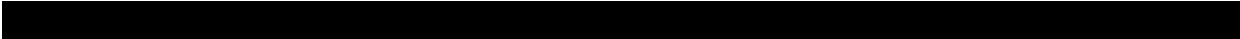
045	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the Planning Proposal at (ATTACHMENT 1) to amend the <i>Port Stephens Local Environmental Plan 2013</i> by:
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	<p>a) Rezoning from R5 Large Lot Residential to R2 Low Density Residential (including an amendment to the Lot Size Map to 500m² and Height of Building Map to 9m) in respect of 142 Kindlebark Drive (Lot 10 DP1154803); 1A Heritage Avenue (Lot 61 DP 1106425); 140A Kindlebark Drive (Lot 2 DP 270731); 140 Kindlebark Drive (Lot 3 DP 270731); 1/1 Heritage Avenue (Lot 4 DP 270731); 2/1 Heritage Avenue (Lot 5 DP 270731); and 140B Kindlebark Drive (Lot 6 DP 270731); and</p> <p>b) Including Schedule 1 <i>Additional permitted uses</i> in respect of land at 142 Kindlebark Drive (Lot 10 DP 1154803) to permit:</p> <ul style="list-style-type: none"> - hotel or motel accommodation; - function centre; - restaurant or café; - small bar; - cellar door premises; - commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises. <p>2) Exercise its delegations under Section 59 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) to finalise the plan.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.



ORDINARY COUNCIL MEETING 11 OCTOBER 2016

ITEM NO. 1

FILE NO: 16/418268
RM8 REF NO: PSC2015-01575

**DRAFT AMENDMENT TO PORT STEPHENS DEVELOPMENT CONTROL
PLAN 2014 - B1 TREE MANAGEMENT**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft amendments to the Port Stephens Development Control Plan 2014 in respect of B1- Tree Management (**ATTACHMENT 1**).
- 2) Place the proposed draft amendments to the Port Stephens Development Control Plan on public exhibition for a period of 28 days.
- 3) Should no submissions be received endorse the proposed draft changes.
- 4) Continue to waive the tree removal notification fee during the proposed 12 month moratorium.

ORDINARY COUNCIL MEETING - 11 OCTOBER 2016
MOTION

046	<p>Councillor Paul Le Mottee Councillor Peter Kafer</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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



Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 11 OCTOBER 2016
MOTION**

047	<p>Councillor Chris Doohan Councillor John Morello</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Endorse the draft amendments to the Port Stephens Development Control Plan 2014 in respect of B1- Tree Management (ATTACHMENT 1). 2) Place the proposed draft amendments to the Port Stephens Development Control Plan on public exhibition for a period of 28 days. 3) Should no submissions be received endorse the proposed draft changes. 4) Continue to waive the tree removal notification fee during the proposed 12 month moratorium.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 3

**FILE NO: 16/425833
RM8 REF NO: 16-2016-666-1**

**WAIVING OF FEES - DEVELOPMENT APPLICATION (MARGI'S HOUSE)
- 69 GOVERNMENT ROAD NELSON BAY**

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Waive the development application fees for development application 16-2016-666-1 (Margi's House).

**ORDINARY COUNCIL MEETING - 11 OCTOBER 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Mayor Bruce MacKenzie Councillor Peter Kafer</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Peter Kafer, Paul Le Mottee, Bruce MacKenzie, John Morello, John Nell and Steve Tucker

Those against the Motion: Nil.

**ORDINARY COUNCIL MEETING - 11 OCTOBER 2016
MOTION**

048	<p>Councillor Chris Doohan Councillor John Morello</p> <p>It was resolved that Council waive the development application fees for development application 16-2016-666-1 (Margi's House).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Peter Kafer, Paul Le Mottee, Bruce MacKenzie, John Morello, John Nell and Steve Tucker

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 8 NOVEMBER 2016

ITEM NO. 1

FILE NO: 16/426932
RM8 REF NO: 16-2013-626-2

DA16-2013-626-2 - SECTION 96(2) MODIFICATION TO TOURIST FACILITY (STAGED PHASING OF CONSTRUCTION WORKS AND AMENDMENT TO A PROPORTION OF UNITS TO LONG TERM OCCUPANCY) AT MAGNUS STREET, NELSON BAY (MARINA RESORT)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application DA No. 16-2013-626-2 for a modification to a tourist facility to stage phasing of construction works and an amendment to a proportion of units to long term occupancy at 29 to 45 Magnus Street, Nelson Bay (Lots 41 to 44, DP 15998) subject to the reasons for refusal contained in (**ATTACHMENT 3**) to this report.

ORDINARY COUNCIL MEETING – 8 NOVEMBER 2016
MOTION

	Council did not move into Committee of the Whole during the meeting.
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ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016
MOTION

049	<p>Councillor Ken Jordan Councillor Steve Tucker</p> <p>It was resolved that Council refuse Development Application DA No. 16-2013-626-2 for a modification to a tourist facility to stage phasing of construction works and an amendment to a proportion of units to long term occupancy at 29 to 45 Magnus Street, Nelson Bay (Lots 41 to 44, DP 15998) subject to the reasons for refusal contained in (ATTACHMENT 3) to this report.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, Paul Le Mottee and Steve Tucker.

Those against the Motion: Nil.

ITEM NO. 4

FILE NO: 16/427156
RM8 REF NO: PSC2016-01959

**PLANNING PROPOSAL TO AMEND ZONING AND MINIMUM LOT SIZE
PROVISIONS AT BOUNDARY RD MEDOWIE (LOTS 93-96 DP 753194)**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the planning proposal (**ATTACHMENT 2**) for the purpose of section 55 of the *Environmental Planning and Assessment Act 1979* (NSW) to amend the *Port Stephens Local Environmental Plan 2013* in respect of part of lots 93-96 DP 753194 to:
 - a) amend the Land Zone Map to rezone the subject land from R5 Large Lot Residential to R2 Low Density Residential;
 - b) amend the Lot Size Map to reduce the minimum lot size from 1,000m² to 500m² within the proposed R2 Low Density Residential zone;
 - c) amend the Height of Buildings Map to apply a corresponding height limit of 9m within the proposed R2 Low Density Residential zone; and
 - d) amend the boundary of the E2 Environmental Conservation zone located within the subject land.
- 2) Submit the planning proposal to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan making functions.

ORDINARY COUNCIL MEETING - 8 NOVEMBER 2016
MOTION

050	<p>Councillor Chris Doohan Councillor Steve Tucker</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the planning proposal (ATTACHMENT 2) for the purpose of section 55 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) to amend the <i>Port Stephens Local Environmental Plan 2013</i> in respect of part of lots 93-96 DP 753194 to: <ol style="list-style-type: none"> a) amend the Land Zone Map to rezone the subject land from R5 Large Lot
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	<p>Residential to R2 Low Density Residential;</p> <p>b) amend the Lot Size Map to reduce the minimum lot size from 1,000m² to 500m² within the proposed R2 Low Density Residential zone;</p> <p>c) amend the Height of Buildings Map to apply a corresponding height limit of 9m within the proposed R2 Low Density Residential zone; and</p> <p>d) amend the boundary of the E2 Environmental Conservation zone located within the subject land.</p> <p>2) Submit the planning proposal to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan making functions.</p>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, Paul Le Mottee and Steve Tucker.

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING 22 NOVEMBER 2016

ITEM NO. 1

FILE NO: 16/436079
RM8 REF NO: 16-2016-212-1

DEVELOPMENT APPLICATION 16-2016-212-1 FOR DEMOLITION WORKS, A SERVICE STATION, RESTAURANT, TAKE AWAY FOOD AND DRINK PREMISES, ALTERATIONS AND ADDITIONS TO EXISTING MOTEL, AND ANCILLARY SITE WORKS AT 2283 AND 2285 PACIFIC HIGHWAY, HEATHERBRAE.

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2016-212-1 for demolition works, a service station, restaurant, take away food and drink premises, alterations and additions to existing motel, and ancillary site works at 2283 and 2285 Pacific Highway, Heatherbrae (LOTS:1011 and 1012, DP: 1225318) subject to the conditions contained in (**ATTACHMENT 3**) to this report.

ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION

051	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council approve Development Application 16-2016-212-1 for demolition works, a service station, restaurant, take away food and drink premises, alterations and additions to existing motel, and ancillary site works at 2283 and 2285 Pacific Highway, Heatherbrae (LOTS:1011 and 1012, DP: 1225318) subject to the conditions contained in (ATTACHMENT 3) to this report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 2

**FILE NO: 16/434190
RM8 REF NO: 16-2014-392-1**

SECTION 96 APPLICATION TO MODIFY DETERMINATION NO: 16-2014-392-1 FOR A SINGLE STOREY DWELLING AND ASSOCIATED EARTH MOUND AT NO: 851 NEWLINE RD, EAGLETON

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

RECOMMENDATION IS THAT COUNCIL:

1. Refuse the Section 96 application for DA 16-2014-392-2 (Dwelling, associated earth mound) for the following reasons:
 - a) The development is not in the public interest (s79C(e) *EP&A Act 1979*) given the likely significant adverse impacts on the flood behaviour, property and environment that may result.
 - b) The development fails to satisfy cl.7.3 *Port Stephens Council Local Environmental Plan 2013* (LEP) as the development is not compatible with the flood hazard of the land (s.79C(1)(a)(i) *EP&A Act 1979*).

**ORDINARY COUNCIL MEETING - 22 NOVEMBER 2016
MOTION**

052	<p>Councillor Ken Jordan Councillor Chris Doohan</p> <p>It was resolved that Council approve the Section 96 application for DA 16-2014-392-2 (Dwelling, associated earth mound) subject to the conditions contained in (ATTACHMENT 2) to this report.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Chris Doohan, Sally Dover, Ken Jordan, John Morello and Steve Tucker.

Those against the Motion: Crs Geoff Dingle, Peter Kafer and John Nell.

Councillor Paul Le Mottee returned to the meeting at 5:42pm prior to Item 3.

ORDINARY COUNCIL MEETING 13 DECEMBER 2016

ITEM NO. 1

FILE NO: 16/434274
RM8 REF NO: 16-2016-482-1

DEVELOPMENT APPLICATION 16-2016-482-1 FOR DEMOLITION OF EXISTING SURF LIFE SAVING BUILDING AND THE CONSTRUCTION OF A NEW LIFEGUARD FACILITY (ANCILLARY TO A RECREATION AREA) AT 23 HANNAH PARADE, ANNA BAY (LOT 7311 DP1129641)

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2016-482-1 for the demolition of existing lifeguard building and the construction of a lifeguard facility (ancillary to a recreation area) at 23 Hannah Parade, Anna Bay (Lot 7311 DP 1129641) subject to the conditions contained in **(ATTACHMENT 2)**.

**ORDINARY COUNCIL MEETING - 13 DECEMBER 2016
MOTION**

053	<p>Councillor John Nell Councillor Steve Tucker</p> <p>It was resolved that Council move into Committee of the Whole.</p>
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COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Morello Councillor Sally Dover</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.



Those for the Motion: Mayor Bruce MacKenzie, Crs 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 - 13 DECEMBER 2016
MOTION**

054	<p>Councillor Paul Le Mottee Councillor Ken Jordan</p> <p>It was resolved that Council approve Development Application DA No. 16-2016-482-1 for the demolition of existing lifeguard building and the construction of a lifeguard facility (ancillary to a recreation area) at 23 Hannah Parade, Anna Bay (Lot 7311 DP 1129641) subject to the conditions contained in (ATTACHMENT 2).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs 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.

ITEM NO. 2

FILE NO: 16/461418
RM8 REF NO: 16-2015-769-3

SECTION 96(1A) MODIFICATION APPLICATION NO. 16-2015-769-3 TO REDUCE THE SECTION 94 CONTRIBUTIONS APPLICABLE TO AN APPROVED SENIORS HOUSING DEVELOPMENT - INCLUDING CONSOLIDATION OF TWO LOTS, DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF TWO (2) DETACHED THREE AND FOUR STOREY BUILDINGS FOR 56 SENIORS HOUSING DWELLINGS AT NO. 60 DIEMARS ROAD AND NO. 240 SOLDIERS POINT ROAD, SALAMANDER BAY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Section 96(1A) modification 16-2015-769-3 for the reduction in Section 94 Contributions applicable to an approved seniors housing development including consolidation of two (2) lots, demolition of existing building and construction of two (2) detached three (3) and four (4) storey buildings for 56 seniors housing dwellings, subject to the conditions contained in **(ATTACHMENT 2)**.

ORDINARY COUNCIL MEETING - 13 DECEMBER 2016
COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Steve Tucker</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs 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 - 13 DECEMBER 2016
MOTION**

055	<p>Councillor Paul Le Mottee Councillor Ken Jordan</p> <p>It was resolved that Council approve Section 96(1A) modification 16-2015-769-3 for the reduction in Section 94 Contributions applicable to an approved seniors housing development including consolidation of two (2) lots, demolition of existing building and construction of two (2) detached three (3) and four (4) storey buildings for 56 seniors housing dwellings, subject to the conditions contained in (ATTACHMENT 2).</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs 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.

ITEM NO. 3

**FILE NO: 16/461471
RM8 REF NO: PSC2006-0815**

PLANNING PROPOSAL - 290 AND 308 TAREAN ROAD, KARUAH

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal (**ATTACHMENT 1**) to amend the Port Stephens Local Environmental Plan 2013 (NSW) to rezone Lot 20 and Lot 21 DP 579653 – 290 and 308 Tarean Road, Karuah from RU2 Rural Landscape to part R2 Low Density Residential and part E2 Environmental Conservation.
 - 2) Exercise its delegations under Section 59 of the *Environmental Planning and Assessment Act 1979* (NSW) to finalise the plan.
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**ORDINARY COUNCIL MEETING - 13 DECEMBER 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Ken Jordan Councillor John Morello</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Geoff Dingle and Peter Kafer.

**ORDINARY COUNCIL MEETING - 13 DECEMBER 2016
MOTION**

<p>056</p>	<p>Councillor Paul Le Mottee Councillor Ken Jordan</p> <p>It was resolved that Council adopt the Planning Proposal (ATTACHMENT 1) to amend the Port Stephens Local Environmental Plan 2013 (NSW) to rezone Lot 20 and Lot 21 DP 579653 – 290 and 308 Tarean Road, Karuah from RU2 Rural Landscape to part R2 Low Density Residential and part E2 Environmental Conservation.</p> <p>2) Exercise its delegations under Section 59 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) to finalise the plan.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Geoff Dingle and Peter Kafer.

ITEM NO. 4

FILE NO: 16/461537
RM8 REF NO: PSC2016-02354

**PLANNING PROPOSAL - 74 SOUTH STREET, MEDOWIE (LOT 712 DP
1077195)**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the planning proposal at (**ATTACHMENT 2**) for the purpose of section 55 of the *Environmental Planning and Assessment Act 1979* (NSW) to amend the *Port Stephens Local Environmental Plan 2013* in respect of 74 South St Medowie (Lot 712 DP 7077195) to:
 - a) Amend the Land Zone Map to rezone the subject land from R5 Large Lot Residential to R2 Low Density Residential;
 - b) Amend the Lot Size Map to reduce the minimum lot size from 2,000m² to 900m²; and
 - c) Amend the Height of Building Map to 9m.
- 2) Be consistent with their existing developed minimum lot size and include an additional administrative amendment to the minimum lot size map in respect of 66 South St (Lot 5 DP 280007); 68 South St (Lot 4 DP 280007); 70 South St (Lot 3 DP 280007); and 72 South St (Lot 2 DP 280007) to reduce the minimum lot size shown from 2,000m² to 900m².
- 3) Submit the planning proposal to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan making functions.

Councillor Peter Kafer left the meeting at 06:06pm during debate in Committee of the Whole.

Councillor Peter Kafer returned to the meeting at 06:12pm during debate in Committee of the Whole.

**ORDINARY COUNCIL MEETING - 13 DECEMBER 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Mayor Bruce MacKenzie Councillor Ken Jordan</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer, John Nell and Steve Tucker.

The Motion was carried on the casting vote of the Mayor.

**ORDINARY COUNCIL MEETING - 13 DECEMBER 2016
MOTION**

057	<p>Councillor Paul Le Mottee Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the planning proposal at (ATTACHMENT 2) for the purpose of section 55 of the <i>Environmental Planning and Assessment Act 1979</i> (NSW) to amend the <i>Port Stephens Local Environmental Plan 2013</i> in respect of 74 South St Medowie (Lot 712 DP 7077195) to: <ol style="list-style-type: none"> a) Amend the Land Zone Map to rezone the subject land from R5 Large Lot Residential to R2 Low Density Residential; b) Amend the Lot Size Map to reduce the minimum lot size from 2,000m² to 900m²; and c) Amend the Height of Building Map to 9m. 2) Be consistent with their existing developed minimum lot size and include an additional administrative amendment to the minimum lot size map in respect of 66 South St (Lot 5 DP 280007); 68 South St (Lot 4 DP 280007); 70 South St (Lot 3 DP 280007); and 72 South St (Lot 2 DP 280007) to reduce the minimum lot size shown from 2,000m² to 900m².
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	<p>3) Submit the planning proposal to the NSW Department of Planning and Environment for a gateway determination including a request for the delegation of plan making functions.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer, John Nell and Steve Tucker.

The Motion was carried on the casting vote of the Mayor.

ITEM NO. 5

FILE NO: 16/450998
RM8 REF NO: PSC2013-05184

**DRAFT AMENDMENT TO PORT STEPHENS DEVELOPMENT CONTROL
PLAN CHAPTER B1 - TREE MANAGEMENT**

REPORT OF: DAVID ROWLAND - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the submissions received during the exhibition period.
 - 2) Adopt the *Port Stephens Development Control Plan 2014 (ATTACHMENT 1)*, which removes the exhibited amendment on the basis that:
 - a) The existing *Port Stephens Development Control Plan* allows for the urgent removal of trees or other vegetation if it is a risk to human life or property (i.e. dangerous trees) if post-notification is provided;
 - b) The existing *Port Stephens Development Control Plan 2014* and associated *Port Stephens Council Tree Technical Specification 2014* allows for the removal of other trees or other vegetation (i.e. non-dangerous) for a variety of reasons, such as property damage, amenity or other relevant circumstances.
 - 3) Amend section 4.4 of the *Port Stephens Council Tree Technical Specification 2014 (ATTACHMENT 2)*, to include the statement; *Impact on Human Health: Where a tree proposes an unacceptable risk to human health. The health concern must be supported by a statutory declaration* to provide further guidance on the consideration of human health matters in the determination of a tree removal application.
 - 4) Recognise the need for an education and communication campaign to inform the community of the standards applicable and the services available for tree removal in Port Stephens.
 - 5) Report the outcomes of tree removal applications to Council every six months to monitor the impact of these changes for the community and environment.
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**ORDINARY COUNCIL MEETING - 13 DECEMBER 2016
COMMITTEE OF THE WHOLE RECOMMENDATION**

	<p>Councillor Paul Le Mottee Councillor John Nell</p> <p>That the recommendation be adopted.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Geoff Dingle.

**ORDINARY COUNCIL MEETING - 13 DECEMBER 2016
MOTION**

058	<p>Councillor Paul Le Mottee Councillor Ken Jordan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Consider the submissions received during the exhibition period. 2) Adopt the <i>Port Stephens Development Control Plan 2014 (ATTACHMENT 1)</i>, which removes the exhibited amendment on the basis that: <ol style="list-style-type: none"> a) The existing <i>Port Stephens Development Control Plan</i> allows for the urgent removal of trees or other vegetation if it is a risk to human life or property (i.e. dangerous trees) if post-notification is provided; b) The existing <i>Port Stephens Development Control Plan 2014</i> and associated <i>Port Stephens Council Tree Technical Specification 2014</i> allows for the removal of other trees or other vegetation (i.e. non-dangerous) for a variety of reasons, such as property damage, amenity or other relevant circumstances. 3) Amend section 4.4 of the <i>Port Stephens Council Tree Technical Specification 2014 (ATTACHMENT 2)</i>, to include the statement; <i>Impact on Human Health: Where a tree proposes an unacceptable risk to human health. The health concern must be supported by a statutory declaration to provide further guidance on the consideration</i>
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	<p>of human health matters in the determination of a tree removal application.</p> <p>4) Recognise the need for an education and communication campaign to inform the community of the standards applicable and the services available for tree removal in Port Stephens.</p> <p>5) Report the outcomes of tree removal applications to Council every six months to monitor the impact of these changes for the community and environment.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Geoff Dingle.