



EXTRA-ORDINARY COUNCIL MEETING 14 FEBRUARY 2012

ITEM NO. 2

FILE NO: PSC2011-03487

NSW PLANNING LEGISLATION AND SYSTEM REVIEW

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft submission in response to the "Issues Paper" prepared by Mr Tim Moore and Mr Ron Dyer for the NSW Planning Legislation System and Review (**Attachments 1 & 2 – to be provided under separate cover**).
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COUNCIL COMMITTEE MEETING 14 FEBRUARY 2012

	Councillor John Nell Councillor Bob Westbury
	That the recommendation be adopted.

EXTRA-ORDINARY COUNCIL MEETING – 14 FEBRUARY 2012

002	Councillor John Nell Councillor Glenys Francis
	It was resolved that the recommendation be adopted.

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

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

Those against the Motion: Nil.



COUNCIL COMMITTEE 14 FEBRUARY 2012 & COUNCIL MEETING 27 FEBRUARY 2012

ITEM NO. 1

FILE NO: 16-2011-543-1

DEVELOPMENT APPLICATION FOR THE COMPLETION OF A PARTLY CONSTRUCTED RURAL SHED AND ONGOING USE AT 2209 PACIFIC HIGHWAY HEATHERBRAE

REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL HEALTH MANAGER
 GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

The development application 16-2011-543-1 for the completion of the partly constructed rural shed and ongoing use is refused for the following reasons:

- 1) The development is inconsistent with the provisions and 1(a) Rural zone objectives of Port Stephens Local Environmental Plan 2000;
- 2) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity;
- 3) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses and unacceptable impact on adjoining premises in terms of solar access.

**COUNCIL COMMITTEE MEETING – 14 FEBRUARY 2012
 RECOMMENDATION:**

	<p>Councillor Ken Jordan Councillor Caroline De Lyall</p>
	<p>That Item 1 be deferred to allow for a site inspection.</p>

In accordance with the Local Government Act 1993, a division be is required or this item.

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 28 FEBRUARY 2012



RESOLUTION:

009	Councillor Ken Jordan Councillor John Nell
	It was resolved that Council defer Item 1 for a month to allow for public access by the applicant and the objectors.

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

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

Those against the Motion: Nil.





COUNCIL COMMITTEE 14 FEBRUARY 2012 & COUNCIL MEETING 27 FEBRUARY 2012

ITEM NO. 4

FILE NO: PSC2009-07013

PLANNING PROPOSAL TO PERMIT A MEDICAL CENTRE AT 2 KEEL STREET, SALAMANDER BAY

REPORT OF: BRUCE PETERSEN - MANAGER ENVIRONMENTAL AND DEVELOPMENT PLANNING
 GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Forward the exhibited Planning Proposal (**Attachment 1**) to the NSW Minister for Planning and Infrastructure under Section 59 of the *Environmental Planning and Assessment Act 1979* requesting that the *Port Stephens Local Environmental Plan 2000* be amended to allow (with consent) medical centres as a permissible use at 2 Keel Street Salamander Bay (Lot 101 in DP 880861).

COUNCIL COMMITTEE MEETING – 14 FEBRUARY 2012
RECOMMENDATION:

	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>That Council:</p> <ul style="list-style-type: none"> 1) Forward the exhibited Planning Proposal (Attachment 1) to the NSW Minister for Planning and Infrastructure under Section 59 of the <i>Environmental Planning and Assessment Act 1979</i> requesting that the <i>Port Stephens Local Environmental Plan 2000</i> be amended to allow (with consent) medical centres as a permissible use at 2 Keel Street Salamander Bay (Lot 101 in DP 880861); and 2) Supports this rezoning on the basis only to legitimise the current operation and this does not in any way imply Council's support for any expansion of buildings, services and/or car parking areas on this site.

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



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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 28 FEBRUARY 2012
RESOLUTION:

Cr Ken Jordan left the meeting at 6.01pm prior to voting on Item 4.

011	Councillor John Nell Councillor Sally Dover
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the Motion: Nil.





COUNCIL COMMITTEE 13 MARCH 2012 & COUNCIL MEETING 27 MARCH 2012

ITEM NO. 1

FILE NO: 16-2011-543-1

DEVELOPMENT APPLICATION FOR THE COMPLETION OF A PARTLY CONSTRUCTED RURAL SHED AND ONGOING USE AT 2209 PACIFIC HIGHWAY, HEATHERBRAE

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

RECOMMENDATION IS THAT COUNCIL:

The development application 16-2011-543-1 for the completion of the partly constructed rural shed and ongoing use is refused for the following reasons:

- 4) The development is inconsistent with the provisions and 1(a) Rural zone objectives of Port Stephens Local Environmental Plan 2000;
- 5) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity;
- 6) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses and unacceptable impact on adjoining premises in terms of solar access.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012

RECOMMENDATION:

	<p>Councillor John Nell Councillor Frank Ward</p>
	<p>That the recommendation be adopted.</p>

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

Those for the motion: Crs Caroline De Lyall, Glenys Francis, Frank Ward, Geoff Dingle and John Nell.

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

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



ORDINARY COUNCIL MEETING – 27 MARCH 2012
RESOLUTION:

041	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that subject to the building certificates being assessed as adequately demonstrating safety and structural adequacy of the slab and frame, Council indicate its support for the development and request the Development Services Group Manager to provide draft conditions of consent to Council.

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

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

Those against the Motion: Crs Geoff Dingle and Frank Ward.



ITEM NO. 2

FILE NO: 16-2011-430-1

DEVELOPMENT APPLICATION FOR SEVEN (7) LOT SUBDIVISION AT NO. 8 – 10 REES JAMES ROAD, RAYMOND TERRACE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2011-430-1 for the following reasons;
 - The proposal does not comply with the *Port Stephens Development Control Plan 2007*. Clause B1.C30 requires no more than 3 allotments utilising an access way whilst the proposal is for 7 lots with a maximum potential of 20 dwellings, which is unacceptable from a streetscape, amenity, connectivity, waste servicing, stormwater and water quality perspective;
 - The proposal will result in unacceptable amenity impacts. The development would result in 24 to 40 garbage bins being placed in front of the 2 allotments fronting Rees James Road. This would result in poor amenity and is considered not in keeping with the streetscape and amenity of a Torrens title subdivision, and an orderly built environment;
 - The proposal has failed to address water quality in accordance with B2.C3 of *Development Control Plan 2007*;
 - The proposal results in an unacceptable impact on stormwater volumes with the potential to increase nuisance flooding into neighbouring properties such as behind proposed lots 6 and 7;
 - The proposal does not include preliminary engineering plans for stormwater, water quality and access as per the requirements of Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*; and
 - The development does not comply with the requirements of Section B2.13 of *Development Control Plan 2007* in that it has not been accompanied by an acoustic report addressing aircraft noise impacts and demonstrating the sites suitability for the proposed development.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012



RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Caroline De Lyall
	That Item 2 be deferred to allow for a site inspection by Councillors.



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

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 27 MARCH 2012
RESOLUTION:

042	Councillor Ken Jordan Councillor Shirley O'Brien
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the Motion: Nil.



ITEM NO. 3

FILE NO: PSC2006-0191

**PLANNING PROPOSAL FOR LAND WEST OF NEWLINE ROAD
 (KINGS HILL, NORTH RAYMOND TERRACE)**

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING & ENVIRONMENTAL
 SERVICES MANAGER
 GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at **Attachment 1** to amend the Port Stephens Local Environmental Plan 2000 and the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 in accordance with Section 55 of the Environmental Planning and Assessment Act for the purposes of obtaining a Gateway determination and seeking endorsement for public exhibition by the Department of Planning and Infrastructure;
- 2) Exhibit the Planning Proposal for at least the minimum period specified in the Gateway determination.

**COUNCIL COMMITTEE MEETING – 13 MARCH 2012
 RECOMMENDATION:**

	Councillor Bruce MacKenzie Councillor Caroline De Lyall
	That the recommendation be adopted.

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

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

Those against the motion: Nil.

**ORDINARY COUNCIL MEETING – 27 MARCH 2012
 RESOLUTION:**

043	Councillor Ken Jordan
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	Councillor Sally Dover
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the Motion: Nil.



ITEM NO. 4

FILE NO: PSC2005-4390

TREE PRESERVATION ORDER AND PROCEDURES

REPORT OF: BRUCE PETERSEN –COMMUNITY PLANNING & ENVIRONMENTAL SERVICES MANAGER
 GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Amended Tree Preservation Order (**Attachment 1**);
- 2) Adopt the Amended Tree Management Procedures (**Attachment 2**);
- 3) Note the Submissions received on the Draft Tree Preservation Order and the Draft Tree Management Procedures (**Attachment 3**);
- 4) Delegate, under Section 377(1) of the Local Government Act, to create a 355b Committee of Council for each ward for the purposes of carrying out reviews of Tree Preservation Order Applications under Section 82A of the Environmental Planning and Assessment Act (as amended 1979); and
- 5) Make submissions to the Director General of the Department of Planning and Infrastructure to seek the provisions of the amended Tree Preservation Order and amended Tree Preservation Order Procedure to be incorporated into the draft Comprehensive Port Stephens Local Environmental Plan.

COUNCIL COMMITTEE MEETING – 13 MARCH 2012

RECOMMENDATION:

	Councillor Ken Jordan Councillor Shirley O'Brien
	That the recommendation be adopted.

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

Those for the motion: Crs Caroline De Lyall, Glenys Francis, Frank Ward, Geoff Dingle, John Nell, Ken Jordan, Shirley O'Brien, Sally Dover and Steve Tucker.

Those against the motion: Cr Bruce MacKenzie.



ORDINARY COUNCIL MEETING – 27 MARCH 2012

RESOLUTION:

044	Councillor Sally Dover Councillor Shirley O'Brien
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the Motion: Nil.





COUNCIL COMMITTEE 10 APRIL 2012 & COUNCIL MEETING 24 APRIL 2012

ITEM NO. 1

FILE NO: PSC2007-1204V2

NELSON BAY TOWN CENTRE AND FORESHORE STRATEGY

REPORT OF: DAVID BROYD – ACTING GROUP MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Nelson Bay Town Centre and Foreshore Strategy including the Nelson Bay Improvement Program (**Attachments 1 and 2** (under separate cover));
- 2) Note the proposed content of a draft Development Control Plan for Nelson Bay Town Centre and Foreshore and resolve to prepare the draft Development Control Plan, pursuant to the Environmental Planning and Assessment Act 1979;
- 3) Resolve to prepare a Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 in respect of development standard variations, floor space ratio, building heights and other related development controls for Nelson Bay, pursuant to the Environmental Planning and Assessment Act, 1979.

COUNCIL COMMITTEE MEETING – 10 APRIL 2012

RECOMMENDATION:

	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>That Council:</p> <ol style="list-style-type: none"> 1) Adopt the Nelson Bay Town Centre and Foreshore Strategy including the Nelson Bay Improvement Program (Attachments 1 and 2 (under separate cover)); 2) Note the proposed content of a draft Development Control Plan for Nelson Bay Town Centre and Foreshore and resolve to prepare the draft Development Control Plan, pursuant to the Environmental Planning and Assessment Act 1979; 3) Resolve to prepare a Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 in respect of development standard variations, floor space ratio, building heights and other related development controls for Nelson Bay, pursuant to the Environmental Planning and Assessment Act, 1979; 4) Maximum building heights for Town Centre - Recommend



	<p>maximum building height to be calculated on the basis of 3.5m height for the ground floor and 3 metres for all other floors, rather than 3.5m for all floors, ie:</p> <p style="padding-left: 40px;">3 storeys is 9.5 m maximum height 5 storeys is 15.5 maximum height 7 storeys is 21.5 maximum height;</p> <p>5) Variation to building heights - The proposed Variations to building Heights in Designated Localities and Centres clause to <u>not</u> include the Foreshore area, and a maximum variation of 2 storey (6 m) to apply to the Fisherman's Co-op area;</p> <p>6) Dowling Street Alternative Route - The Implementation Action 3.1 on page 104 of the Appendix 3 Recommendation and Implementation Table of the Strategy, ie the Dowling Street alternative route to destinations east of the Town Centre be shown as a high priority rather than a medium to long term priority because of the importance of the action to the revitalization of Town Centre.</p>
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In accordance with the Section 375A of the Local Government Act 1993, a division is required.

Those for the motion: Crs Glenys Francis, Shirley O'Brien, Caroline De Lyall, Geoff Dingle, John Nell and Sally Dover.

Those against the motion: Crs Peter Kafer, Bob Westbury, Ken Jordan and Bruce MacKenzie.

ORDINARY COUNCIL MEETING – 24 APRIL 2012

	<p>Councillor John Nell Councillor Frank Ward</p>
	<p>That the recommendation be adopted.</p>

AMENDMENT

074	<p>Councillor Sally Dover Councillor Ken Jordan</p>
	<p>It was resolved that Council:-</p> <p>1) Adopt the Nelson Bay Town Centre and Foreshore Strategy</p>



	<p>including the Nelson Bay Improvement Program (Attachments 1 and 2 (under separate cover));</p> <p>2) Note the proposed content of a draft Development Control Plan for Nelson Bay Town Centre and Foreshore and resolve to prepare the draft Development Control Plan, pursuant to the Environmental Planning and Assessment Act 1979;</p> <p>3) Resolve to prepare a Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 in respect of development standard variations, floor space ratio, building heights and other related development controls for Nelson Bay, pursuant to the Environmental Planning and Assessment Act, 1979;</p> <p>4) Variation to building heights - The proposed Variations to building Heights in Designated Localities and Centres clause to <u>not</u> include the Foreshore area, and a maximum variation of 2 storey (6 m) to apply to the Fisherman's Co-op area;</p> <p>5) Dowling Street Alternative Route - The Implementation Action 3.1 on page 104 of the Appendix 3 Recommendation and Implementation Table of the Strategy, ie the Dowling Street alternative route to destinations east of the Town Centre be shown as a high priority rather than a medium to long term priority because of the importance of the action to the revitalization of Town Centre.</p>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Sally Dover and Bob Westbury.

Those against the Motion: Crs Shirley O'Brien, Geoff Dingle, John Nell and Frank Ward.

The amendment became the Motion which was carried.

MOTION

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

Those for the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Sally Dover and Bob Westbury.



Those against the Motion: Crs Shirley O'Brien Geoff Dingle John Nell and Frank Ward.

FORESHADOWED AMENDMENT

	<p>Councillor Frank Ward Councillor Geoff Dingle</p> <p>That Council:</p> <ol style="list-style-type: none"> 1) Adopt the Nelson Bay Town Centre and Foreshore Strategy including the Nelson Bay Improvement Program (Attachments 1 and 2 (under separate cover)); 2) Note the proposed content of a draft Development Control Plan for Nelson Bay Town Centre and Foreshore and resolve to prepare the draft Development Control Plan, pursuant to the Environmental Planning and Assessment Act 1979; 3) Resolve to prepare a Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 in respect of development standard variations, floor space ratio, building heights and other related development controls for Nelson Bay, pursuant to the Environmental Planning and Assessment Act, 1979; 4) Maximum building heights for Town Centre - Recommend maximum building height to be calculated on the basis of 3.5m height for the ground floor and 3 metres for all other floors, rather than 3.5m for all floors, ie: <ol style="list-style-type: none"> i. 3 storeys is 9.5 m maximum height ii. 5 storeys is 15.5 maximum height iii. 7 storeys is 21.5 maximum height; 5) Variation to building heights - The proposed Variations only applies to the Opportunity sites shown in Figure 34 of the Strategy; 6) Dowling Street Alternative Route - The Implementation Action 3.1 on page 104 of the Appendix 3 Recommendation and Implementation Table of the Strategy, ie the Dowling Street alternative route to destinations east of the Town Centre be shown as a high priority rather than a medium to long term priority because of the importance of the action to the revitalization of Town Centre.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.



**PORT STEHENS COUNCIL
PLANNING DECISION REGISTER**
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008



Those for the Motion: Crs Geoff Dingle, John Nell, Frank Ward and Shirley O'Brien.

Those against the Motion: Crs Peter Kafer, Glenys Francis, Caroline De Lyall, Ken Jordan, Bruce MacKenzie, Sally Dover and Bob Westbury.

The foreshadowed amendment was lost.



ITEM NO. 2

FILE NO: PSC2011-04071

AMENDMENTS TO CHAPTER B6 SINGLE AND DUAL OCCUPANCY DWELLINGS – PORT STEHENS DEVELOPMENT CONTROL PLAN 2007

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the exhibited Chapter B6 Single Dwellings, Dual Occupancy Dwellings and Ancillary Structures – Port Stephens Development Control Plan 2007 incorporating proposed amendments pursuant to the Environmental Planning and Assessment Act (**Attachment 1**), and
- 2) Note that discretion will be applied for a period of six months from adoption to enable assessment and determination of relevant applications under the former Chapter B6 of Port Stephens Development Control Plan 2007 when it is demonstrated that:
 - Applicants have entered into contractual and/or financial situations binding them to designs which are in accordance with the former Chapter B6; and/or
 - Applicants have valid, documented justification for having their applications assessed under the former Chapter.

COUNCIL COMMITTEE MEETING – 10 APRIL 2012

RECOMMENDATION:

	<p>Councillor Bob Westbury Councillor Peter Kafer</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the motion: Nil.



ORDINARY COUNCIL MEETING – 24 APRIL 2012

075	Councillor Peter Kafer Councillor Glenys Francis
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the motion: Nil.



ITEM NO. 3

FILE NO: PSC2006-0549

**DRAFT PORT STEHENS LOCAL ENVIRONMENTAL PLAN 2000
 AMENDMENT NO. 22 VOLUNTARY PLANNING AGREEMENT**

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES MANAGER
 GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Not accept the terms of the draft Voluntary Planning Agreement (drainage scheme) as requested by the proponents in relation to the rezoning of land identified in draft Port Stephens Local Environmental Plan 2000 (Amendment No. 22);
- 2) Advise the proponent that drainage works within the Anna Bay Strategy area cannot be funded under the developer contribution system as established in the *Environmental Planning and Assessment Act 1979*;
- 3) Reaffirm Council's earlier resolution dated 29th June 2010 to adopt the Plan with the inclusion of both the 2(a) Residential and 7(a) Environmental Protection zones;
- 4) Amend the resolution of Council dated 29th June 2010 to the following:
 Council resolve, subject to agreement being reached between Council, NSW Office of Environment and Heritage and the proponent in relation to the revegetation of a 40m wide corridor of land within the land proposed to be zoned 7(a) Environmental Protection, to forward the Plan to the Minister requesting that the Plan be made;
- 5) Council investigate options to co-ordinate the implementation of drainage works identified in the *Anna Bay Catchment Drainage/Flood Study (1995)* as part of a Development Control Plan.

COUNCIL COMMITTEE MEETING – 10 APRIL 2012

RECOMMENDATION:

AMENDMENT

	<p>Councillor Bruce MacKenzie Councillor Peter Kafer</p>
	<p>That Council defer Item 3 to allow for a site inspection.</p>

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



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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 24 APRIL 2012

076	Councillor Caroline De Lyall Councillor John Nell
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the Motion: Nil.



ITEM NO. 4

FILE NO: PSC2006-0066

AMENDMENT TO PORT STEHENS SECTION 94 AND SECTION 94A DEVELOPMENT CONTRIBUTIONS PLANS

REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES MANAGER
 GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the draft amended Port Stephens Section 94 Development Contributions Plan 2007 (Amendment No. 8) (**Attachment 1**) on public exhibition in accordance with the relevant provisions of the Environmental Planning and Assessment Act, 1979 and associated Regulation.
- 2) Place the draft amended Port Stephens S94A Development Contributions Plan (Amendment No. 4) (**Attachment 2**) on public exhibition in accordance with the relevant provisions of the Environmental Planning and Assessment Act, 1979 and associated Regulation.

COUNCIL COMMITTEE MEETING – 10 APRIL 2012

RECOMMENDATION:

	<p>Councillor Sally Dover Councillor Bob Westbury</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 24 APRIL 2012

078	<p>Councillor John Nell Councillor Ken Jordan</p>
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**PORT STEHENS COUNCIL
PLANNING DECISION REGISTER**
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008



	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Section 375A of the Local Government Act 1993, a division is required.

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

Those against the motion: Nil.



ITEM NO. 6

FILE NO: PSC2010-04979

REVISED PLANNING PROPOSAL – PACIFIC DUNES

REPORT OF: PETER MARLER - ACTING MANAGER, COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Forward the Planning Proposal (**Attachment 1 - provided under separate cover**) to amend Port Stephens Local Environmental Plan 2000 under Section 55 of the Environmental Planning and Assessment Act 1979 to the Department of Planning and Infrastructure to:
 - a. Rezone Part Lot 98 DP 280007, Lot 7 DP 270438, Lot 10 DP 270438, Part of Lot 9 DP 270438, Part of Lot 11 DP 1079392, Lot 11 DP 1105086 and Lot 14 DP 1079392 to 2(a) Residential;
 - b. Apply the minimum allotment size for the above allotments as detailed in the Planning Proposal; and
 - c. Rezone Part of Lot 11 DP 1079392 to 7(a) Environment Protection.
- 2) Amend existing Clause 54A Development of Land - Medowie Road and South Street, Medowie (Pacific Dunes) and the relevant zoning map of Port Stephens Local Environmental Plan 2000 to implement Recommendation 1;
- 3) Endorse the public exhibition of a site-specific element to Port Stephens Development Control Plan 2007 under Section 74C of the Environmental Planning and Assessment Act 1979 and consequentially amend existing Chapter C7 Medowie – Pacific Dunes Estate where necessary;
- 4) Note that subject to the "Gateway determination" this Planning Proposal will be recommended as an amendment to the Medowie Strategy as part of the regular review process of that Strategy.

COUNCIL COMMITTEE MEETING – 10 APRIL 2012

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Bob Westbury</p>
	<p>That the recommendation be adopted.</p>

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



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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 24 APRIL 2012

080	Councillor Ken Jordan Councillor John Nell
	It was resolved that the Council Committee recommendation be adopted.

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

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

Those against the Motion: Nil.



ITEM NO. 1

FILE NO: 2009-06567

DRAFT PORT STEHENS LOCAL ENVIRONMENTAL PLAN 2012

REPORT OF: BRUCE PETERSEN - MANAGER COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- A) For land located in the West Ward as defined on the Land Application and Ward Boundaries Map (**Attachment 11** - provided under separate cover):
- 1) Adopt the Planning Proposal at **Attachment 1** (provided under separate cover) and the draft Port Stephens Local Environmental Plan 2012 (Instrument provided under separate cover) at **Attachments 2 and 3** (Maps provided under separate cover) to commence the process in accordance with the provisions of Section 55 of the Environmental Planning and Assessment Act, 1979 (as amended).
 - 2) Refer the draft Planning Proposal and draft Port Stephens Local Environmental Plan 2012 to the Department of Planning and Infrastructure to issue a Gateway determination under Section 56 that would allow Council to proceed to public exhibition and formal government agency consultation.
 - 3) Request the Department of Planning and Infrastructure to endorse both the Port Stephens Futures Strategy and Port Stephens Planning Strategy the Local Environmental Study to underpin the draft Port Stephens Local Environmental Plan 2012 under the Environmental Planning and Assessment Act, 1979 (as amended).
 - 4) Seek the Director-General's opinion that inconsistencies between the draft Local Environmental Plan 2012 and certain Section 117 Ministerial Directions are justified either by an approved strategy or as being of minor significance.
 - 5) Delegate to the General Manager authority to make any minor amendments to the adopted draft Local Environmental Plan 2012 that arise after the formal adoption of this Report or as conditions placed on the Gateway determination Authorisation from the Department of Planning and Infrastructure.
 - 6) Note that a report will be resubmitted to Council if significant amendments are required by the Department of Planning and Infrastructure to the adopted draft Local Environmental Plan 2012.
 - 7) Delegate to the General Manager the authority to incorporate any separate Planning Proposal running concurrently with the draft



- Local Environmental Plan 2012 at any stage in the plan making process where the separate proposal amends the current Port Stephens Local Environmental Plan 2000 or Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010.
- 8) Acknowledge that the Memorandum of Understanding between Council and the Department of Planning and Infrastructure for funding associated with the preparation of the draft Local Environmental Plan 2012 is contingent upon compliance with the agreed milestones explained in this report.
 - 9) Delegate to the General Manager the authority to amend any anomalies identified for open space zones (RE1 Public Recreation) prior to referral to the Department of Planning and Infrastructure.
- B) For land located in the Central Ward as defined on the Land Application and Ward Boundaries Map (**Attachment 11** - provided under separate cover):
- 1) Adopt the Planning Proposal at **Attachment 1** (provided under separate cover) and the draft Port Stephens Local Environmental Plan 2012 (Instrument provided under separate cover) at **Attachments 2 and 3** (Maps provided under separate cover) to commence the process in accordance with the provisions of Section 55 of the Environmental Planning and Assessment Act, 1979 (as amended).
 - 2) Refer the draft Planning Proposal and draft Port Stephens Local Environmental Plan 2012 to the Department of Planning and Infrastructure to issue a Gateway determination under Section 56 that would allow Council to proceed to public exhibition and formal government agency consultation.
 - 3) Request the Department of Planning and Infrastructure to endorse both the Port Stephens Futures Strategy and Port Stephens Planning Strategy the Local Environmental Study to underpin the draft Port Stephens Local Environmental Plan 2012 under the Environmental Planning and Assessment Act, 1979 (as amended).
 - 4) Seek the Director-General's opinion that inconsistencies between the draft Local Environmental Plan 2012 and certain Section 117 Ministerial Directions are justified either by an approved strategy or as being of minor significance.
 - 5) Delegate to the General Manager authority to make any minor amendments to the adopted draft Local Environmental Plan 2012 that arise after the formal adoption of this Report or as conditions placed on the Gateway determination Authorisation from the Department of Planning and Infrastructure.
 - 6) Note that a report will be resubmitted to Council if significant amendments are required by the Department of Planning and Infrastructure to the adopted draft Local Environmental Plan 2012.



- 7) Delegate to the General Manager the authority to incorporate any separate Planning Proposal running concurrently with the draft Local Environmental Plan 2012 at any stage in the plan making process where the separate proposal amends the current Port Stephens Local Environmental Plan 2000 or Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010.
 - 8) Acknowledge that the Memorandum of Understanding between Council and the Department of Planning and Infrastructure for funding associated with the preparation of the draft Local Environmental Plan 2012 is contingent upon compliance with the agreed milestones explained in this report.
 - 9) Delegate to the General Manager the authority to amend any anomalies identified for open space zones (RE1 Public Recreation) prior to referral to the Department of Planning and Infrastructure.
- C) For land located in the East Ward as defined on the Land Application and Ward Boundaries Map (**Attachment 11** - provided under separate cover):
- 1) Adopt the Planning Proposal at **Attachment 1** (provided under separate cover) and the draft Port Stephens Local Environmental Plan 2012 (Instrument provided under separate cover) at **Attachments 2 and 3** (Maps provided under separate cover) to commence the process in accordance with the provisions of Section 55 of the Environmental Planning and Assessment Act, 1979 (as amended).
 - 2) Refer the draft Planning Proposal and draft Port Stephens Local Environmental Plan 2012 to the Department of Planning and Infrastructure to issue a Gateway determination under Section 56 that would allow Council to proceed to public exhibition and formal government agency consultation.
 - 3) Request the Department of Planning and Infrastructure to endorse both the Port Stephens Futures Strategy and Port Stephens Planning Strategy the Local Environmental Study to underpin the draft Port Stephens Local Environmental Plan 2012 under the Environmental Planning and Assessment Act, 1979 (as amended).
 - 4) Seek the Director-General's opinion that inconsistencies between the draft Local Environmental Plan 2012 and certain Section 117 Ministerial Directions are justified either by an approved strategy or as being of minor significance.
 - 5) Delegate to the General Manager authority to make any minor amendments to the adopted draft Local Environmental Plan 2012 that arise after the formal adoption of this Report or as conditions placed on the Gateway determination Authorisation from the Department of Planning and Infrastructure.



- 6) Note that a report will be resubmitted to Council if significant amendments are required by the Department of Planning and Infrastructure to the adopted draft Local Environmental Plan 2012.
- 7) Delegate to the General Manager the authority to incorporate any separate Planning Proposal running concurrently with the draft Local Environmental Plan 2012 at any stage in the plan making process where the separate proposal amends the current Port Stephens Local Environmental Plan 2000 or Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010.
- 8) Acknowledge that the Memorandum of Understanding between Council and the Department of Planning and Infrastructure for funding associated with the preparation of the draft Local Environmental Plan 2012 is contingent upon compliance with the agreed milestones explained in this report.
- 9) Delegate to the General Manager the authority to amend any anomalies identified for open space zones (RE1 Public Recreation) prior to referral to the Department of Planning and Infrastructure.

Cr Bruce MacKenzie left the meeting at 7.11pm prior to voting on Item 1.

091	<p>Councillor John Nell Councillor Sally Dover</p>
	<p>It was resolved that the recommendation be adopted.</p>

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

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

Those against the Motion: Nil.



ITEM NO. 2

FILE NO: 16-2011-543-1

DEVELOPMENT APPLICATION FOR THE COMPLETION OF THE PARTLY CONSTRUCTED RURAL SHED AND ONGOING USE

REPORT OF: MATTHEW BROWN- MANAGER DEVELOPMENT ASSESSMENT AND ENVIRONMENTAL HEALTH
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider this matter.

 Cr Bruce MacKenzie returned to the meeting at 7.20pm, prior to voting on Item 2.

092	<p>Councillor Glenys Francis Councillor John Nell</p> <hr/> <p>It was resolved that Council refuse the development application for the following reasons:-</p> <ul style="list-style-type: none"> 1) The development is inconsistent with the provisions and 1 (a) Rural zone objectives of Port Stephens Local Environment Plan 2000; 2) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity; 3) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance form the boundary and poses an unacceptable impact on adjoining premises in terms of solar access.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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



COUNCIL COMMITTEE 8 MAY 2012 & COUNCIL MEETING 29 MAY 2012

ITEM NO. 4

FILE NO: PSC2006-6662

PLANNING PROPOSAL – ADDITIONAL RESIDENTIAL LAND AT KINGS HILL

REPORT OF: BRUCE PETERSEN - MANAGER COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES
 GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the recommendations of the Rezoning Application for Land at North Raymond Terrace – Summary Odour Report (SLR Consulting Australia Pty Ltd, 19th March 2012) and the Kings Hill Planning Proposal Independent Planning Review (City Plan Services Pty Ltd, 28th March 2012) noting:
 - a. Recommendation not to rezone land within 1km of the Bedminster Waste Management Facility for residential development;
 - b. Recommendation not to rezone land within 250m of the landfill for residential development; and
 - c. Uncertainty regarding odour impacts from vents located on the landfill.
- 2) Does not proceed with the Planning Proposal to rezone Lot 11 DP 37430 and Part of Lot 3 DP 1098770 to R1 General Residential.

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Peter Kafer</p>
	<p>That Council defer Item 4 to allow for further information to be received.</p>

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

Those for the motion: Crs Peter Kafer, Bob Westbury, Caroline De Lyall, Sally Dover, Bruce MacKenzie, Ken Jordan, Shirley O'Brien and Glenys Francis.



Those against the motion: Crs John Nell, Frank Ward and Geoff Dingle.

ORDINARY COUNCIL MEETING – 29 MAY 2012

104	<p>Councillor Glenys Francis Councillor John Nell</p>
	<p>It was resolved that Council:</p> <p>1) Endorse the recommendations of the Rezoning Application for Land at North Raymond Terrace – Summary Odour Report (SLR Consulting Australia Pty Ltd, 19th March 2012) and the Kings Hill Planning Proposal Independent Planning Review (City Plan Services Pty Ltd, 28th March 2012) noting:</p> <ul style="list-style-type: none"> a. Recommendation not to rezone land within 1km of the Bedminster Waste Management Facility for residential development; b. Recommendation not to rezone land within 250m of the landfill for residential development; and c. Uncertainty regarding odour impacts from vents located on the landfill. <p>2) Does not proceed with the Planning Proposal to rezone Lot 11 DP 37430 and Part of Lot 3 DP 1098770 to R1 General Residential.</p>

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

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

Those against the Motion: Nil.



ITEM NO. 1

FILE NO: 16-2011-430-1

**DEVELOPMENT APPLICATION FOR SEVEN (7) LOT SUBDIVISION
AT NO 8 – 10 REES JAMES ROAD RAYMOND TERRACE**

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

GROUP: **DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

2) Refuse Development Application 16-2011-430-1 for the following reasons:

- The proposal does not comply with the *Port Stephens Development Control Plan 2007*. Clause B1.C30 requires no more than 3 allotments utilising an access way whilst the proposal is for 7 lots with a maximum potential of 20 dwellings, which is unacceptable from a streetscape, amenity, connectivity, waste servicing, stormwater and water quality perspective;
- The proposal will result in unacceptable amenity impacts. The development would result in 24 to 40 garbage bins being placed in front of the 2 allotments fronting Rees James Road. This would result in poor amenity and is considered not in keeping with the streetscape and amenity of a Torrens title subdivision, and an orderly built environment;
- The proposal has failed to address water quality in accordance with B2.C3 of *Development Control Plan 2007*;
- The proposal results in an unacceptable impact on stormwater volumes with the potential to increase nuisance flooding into neighbouring properties such as behind proposed lots 6 and 7;
- The proposal does not include preliminary engineering plans for stormwater, water quality and access as per the requirements of Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*; and
- The development is does not comply with the requirements of Section B2.13 of *Development Control Plan 2007* in that it has not been accompanied by an acoustic report addressing aircraft noise impacts and demonstrating the sites suitability for the proposed development.



COUNCIL COMMITTEE MEETING – 8 MAY 2012
RECOMMENDATION:

	Councillor John Nell Councillor Geoff Dingle
	That Council defer Item 1 to the Ordinary Council on 29 May 2012, to allow for further information to be provided to Council.

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

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

Those against the motion: Crs Frank Ward.

ORDINARY COUNCIL MEETING – 29 MAY 2012

105	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that Council indicates its support in principle, for the development application for seven (7) lot subdivision at No. 8-10 Rees James Road, Raymond Terrace, and the applicant be advised of the need to provide a stormwater drainage study and the inclusion of a public road.

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

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

Those against the Motion: Cr Frank Ward.



ITEM NO. 3

FILE NO: PSC2008-3522

PLANNING PROPOSAL – LOT 1 DP 997897 NO 456 FULLERTON COVE ROAD FULLERTON COVE

REPORT OF: BRUCE PETERSEN – MANAGER COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at **Attachment 1** to commence the process in accordance with the provision of the Environmental Planning and Assessment Act, 1979;
 - 2) Council forward the Planning Proposal to the Department of Planning and Infrastructure with the request for a Gateway Determination.
-

COUNCIL COMMITTEE MEETING – 8 MAY 2012

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Bob Westbury</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 29 MAY 2012



**PORT STEHENS COUNCIL
PLANNING DECISION REGISTER**
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008



109	Councillor John Nell Councillor Ken Jordan
	It was resolved that the recommendation be adopted.

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

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

Those against the Motion: Nil.





ORDINARY COUNCIL MEETING – 26 JUNE 2012

ITEM NO. 1

FILE NO: PSC2006-0191

PLANNING PROPOSAL TO AMEND THE PORT STEPHENS LOCAL ENVIRONMENTAL PLAN (KINGS HILL, NORTH RAYMOND TERRACE) 2010

REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER
 GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal to amend the Port Stephens Local Environmental Plan (Kings Hill, North Raymond Terrace) 2010 at **Attachment 1** in accordance with Section 55 of the Environmental Planning and Assessment Act for the purposes of obtaining a Gateway determination and agreement for public exhibition from the Department of Planning and Infrastructure;
- 2) Exhibit the Planning Proposal for at least the minimum period specified following the Gateway determination.

COUNCIL COMMITTEE MEETING – 12 JUNE 2012

RECOMMENDATION:

	<p>Councillor Bob Westbury Councillor Sally Dover</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the motion: Nil.



ORDINARY COUNCIL MEETING – 26 JUNE 2012

135	Councillor Steve Tucker Councillor Shirley O'Brien
	It was resolved that the recommendation be adopted.

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

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

Those against the motion: Nil.

ITEM NO. 2

FILE NO: PSC2005-4010

MEDOWIE FLOOD STUDY

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Medowie Flood Study (WMA Water 2012) as exhibited, with amendments.
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COUNCIL COMMITTEE MEETING – 12 JUNE 2012

RECOMMENDATION:

	Councillor Geoff Dingle Councillor Peter Kafer
	That the recommendation be adopted.

ORDINARY COUNCIL MEETING – 26 JUNE 2012

Cr Peter Kafer left the meeting at 5.44pm prior to voting on Item 2.



Cr Peter Kafer returned to the meeting at 5.46pm prior to voting on Item 2.

Cr Bruce MacKenzie returned to the meeting at 5.47pm prior to voting on Item 2.

136	Councillor Geoff Dingle Councillor Caroline De Lyall
	It was resolved that the recommendation be adopted.

ITEM NO. 3

FILE NO: PSC2006-0066

**AMENDMENT TO PORT STEHENS SECTION 94 AND 94A
 DEVELOPMENT CONTRIBUTIONS PLAN**

REPORT OF: **BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL
 SERVICES MANAGER**
 GROUP: **DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the amendment to the Port Stephens Section 94 Development Contributions Plan (Amendment No. 8) **(TABLED DOCUMENT 1)**;
 - 2) Adopt the amendment to the Port Stephens Section 94A Development Contributions Plan (Amendment No. 4) **(TABLED DOCUMENT 2)**.
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COUNCIL COMMITTEE MEETING – 12 JUNE 2012

RECOMMENDATION:

	Councillor John Nell Councillor Bob Westbury
	That Council: <ol style="list-style-type: none"> 1) Adopt the amendment to the Port Stephens Section 94 Development Contributions Plan (Amendment No. 8) (COUNCILLORS ROOM DOCUMENT 1); 2) Adopt the amendment to the Port Stephens Section 94A Development Contributions Plan (Amendment No. 4) (COUNCILLORS ROOM DOCUMENT 2).



**PORT STEHENS COUNCIL
PLANNING DECISION REGISTER**
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008



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

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

Those against the motion: Nil.



MATTER ARISING

	Councillor Steve Tucker Councillor John Nell
	That further information be provided on the inclusion of drainage capital works in the Section 94 Contribution Plan.

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

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 26 JUNE 2012

137	Councillor Sally Dover Councillor John Nell
	It was resolved that Council: <ol style="list-style-type: none"> 1. The current amendments to the Section 94 and Section 94A Development Contributions Plans are the result of a minor review undertaken to ensure Council meets its legislative requirements. It is therefore recommended that Council resolve to adopt the draft amended Port Stephens Section 94 Development Contributions Plan and the draft amended Port Stephens Section 94A Development Contributions Plan as exhibited from 3 to 31 May 2012. 2. An Interim Drainage Policy be prepared for Medowie. 3. It is further recommend that Council investigate the cost of developing an LGA wide Strategic Drainage Plan to identify required drainage infrastructure and capital works costs to meet the needs of future population growth. This could enable Council to include a drainage levy in future contributions plans.

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



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

Those against the motion: Nil.

Cr Sally Dover noted that cycleway funding will be included in the next review of the Section 94 Plan.

MATTER ARISING

138	<p>Councillor Sally Dover Councillor John Nell</p> <p>It was resolved that further information be provided on the inclusion of drainage capital works in the Section 94 Contribution Plan.</p>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.





ORDINARY COUNCIL MEETING – 24 JULY 2012

ITEM NO. 1

FILE NO: 16-2011-623-1

**DEVELOPMENT APPLICATION FOR 2 LOT TORRENS TITLE
 SUBDIVISION AT NO 3121 NELSON BAY ROAD BOBS FARM –
 LOT 22 DP 748423**

REPORT OF: PAUL MINETT - DEVELOPMENT ASSESSMENT AND COMPLIANCE
 ACTING MANAGER
 GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2011-623-1 for the following reasons:

- 1) Insufficient information submitted to enable a comprehensive assessment under Section 79C of the Environmental Planning and Assessment Act, 1979;
- 2) The development is inconsistent with the Performance Criteria in the Port Stephens Comprehensive Koala Plan of Management;
- 3) The development potentially poses an unspecified impact on threatened species, populations or ecological communities, or their habitats and supplementary koala habitat;
- 4) The development is inconsistent with zone objective (a) for the 1(a) Rural Agriculture zone in Port Stephens Local Environmental Plan 2000.

COUNCIL COMMITTEE MEETING – 10 JULY 2012

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>
	<p>That the development application for 2 Lot Torrens Title subdivision at No 3121 Nelson Bay Road, Bobs Farm – Lot 22 DP 748423, be approved subject to the conditions contained in Attachment 3.</p>

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



**PORT STEHENS COUNCIL
PLANNING DECISION REGISTER**
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008



Those for the motion: Crs Ken Jordan, Bruce MacKenzie, Caroline De Lyall, Steve Tucker, Shirley O'Brien, Sally Dover, John Nell, Bob Westbury and Frank Ward.

Those against the motion: Crs Peter Kafer, Geoff Dingle and Glenys Francis.



ORDINARY COUNCIL MEETING – 24 JULY 2012

190	Councillor Bruce MacKenzie Councillor Ken Jordan
	It was resolved that the development application for 2 Lot Torrens Title subdivision at No. 3121 Nelson Bay Road, Bobs Farm – Lot 22 DP 748423, be approved subject to the conditions contained in Attachment 3, subject to the deletion of condition 9, dot points 2 & 3 and 10.

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

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

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



ITEM NO. 2

FILE NO: 16-2011-507-2

**DEVELOPMENT APPLICATION FOR A SECTION 96
 MODIFICATION INVOLVING THE DELETION AND
 MODIFICATION OF BUSHFIRE CONSTRUCTION REQUIREMENTS
 FOR PROPOSED DWELLING AT NO 144 ROCKY POINT ROAD,
 FINGAL BAY**

**REPORT OF: PAUL MINETT – DEVELOPMENT ASSESSMENT AND COMPLIANCE
 ACTING MANAGER**
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

Refuse the Section 96 Development Application 16-2011-507-2 for the building design modification to reduce the extent of bushfire construction requirements and deletion of bushfire condition 21 of development consent DA16-2011-507-1 for the construction of a single storey dwelling the 21 September 2011 at Lot 9 DP 730087, 144 Rocky Point Road, Fingal Bay for the following reasons:

- 7) The proposed modifications do not, to the degree necessary, reduce the risk of ignition from a bushfire, appropriate to the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and intensity of the bushfire attack on the proposed building;
- 8) The proposal is not supported by the NSW Rural Fire Service;
- 9) The development is inconsistent with the provisions of clause 16 (2)(e), Residential Zoning 2(a) – Residential "A" Zone of Councils Local Environmental Plan 2000; and
- 10) The development is does not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009.

COUNCIL COMMITTEE MEETING – 10 JULY 2012
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor
	That Council indicate its support in principle with conditions of consent to be brought back to Council.



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

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

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

ORDINARY COUNCIL MEETING – 24 JULY 2012

191	<p>Councillor John Nell Councillor Geoff Dingle</p> <p>It was resolved that Council refuse the Section 96 Development Application 16-2011-507-2 for the building design modification to reduce the extent of bushfire construction requirements and deletion of bushfire condition 21 of development consent DA16-2011-507-1 for the construction of a single storey dwelling the 21 September 2011 at Lot 9 DP 730087, 144 Rocky Point Road, Fingal Bay for the following reasons:</p> <ol style="list-style-type: none"> 1) The proposed modifications do not, to the degree necessary, reduce the risk of ignition from a bushfire, appropriate to the potential for ignition caused by burning embers, radiant heat or flame generated by a bushfire; and intensity of the bushfire attack on the proposed building; 2) The proposal is not supported by the NSW Rural Fire Service; 3) The development is inconsistent with the provisions of clause 16 (2)(e), Residential Zoning 2(a) – Residential "A" Zone of Councils Local Environmental Plan 2000; and 4) The development is does not comply with the requirements of Planning for Bushfire Construction 2006, the Building Code of Australia and Australian Standard AS 3959-2009.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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



**PORT STEHENS COUNCIL
PLANNING DECISION REGISTER**
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008



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



ITEM NO. 3

FILE NO: 16-2011-543-1

REVIEW OF A DEVELOPMENT DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, FOR THE COMPLETION OF THE PARTLY CONSTRUCTED RURAL SHED AND ONGOING USE

REPORT OF: PAUL MINETT – DEVELOPMENT ASSESSMENT AND COMPLIANCE
 ACTING MANAGER
 GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

Refuse the Section 82A review of development application 16-2011-543-1 for the completion of the partly constructed rural shed and ongoing use, for the following reasons:

- 1) The development is inconsistent with the provisions and 1(a) Rural zone objectives of Port Stephens Local Environmental Plan 2000;
- 2) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity;
- 3) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses and unacceptable impact on adjoining premises in terms of solar access.

**COUNCIL COMMITTEE MEETING – 10 JULY 2012
 RECOMMENDATION:**

	<p>Councillor John Nell Councillor Geoff Dingle</p>
	<p>That the recommendation be adopted.</p>

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

Those for the motion: Crs Geoff Dingle, Caroline De Lyall, Peter Kafer, John Nell, Frank Ward, Sally Dover and Glenys Francis.

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



**PORT STEHENS COUNCIL
PLANNING DECISION REGISTER**
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008





ORDINARY COUNCIL MEETING – 24 JULY 2012

	<p>Councillor Ken Jordan Councillor Shirley O'Brien</p>
	<p>That Council indicate its support in principle and that draft conditions of consent be developed for Council's consideration.</p>

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

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

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

<p>192</p>	<p>Councillor John Nell Councillor Glenys Francis</p>
	<p>It was resolved that Council refuse the Section 82A review of development application 16-2011-543-1 for the completion of the partly constructed rural shed and ongoing use, for the following reasons:</p> <ol style="list-style-type: none"> 1) The development is inconsistent with the provisions and 1(a) Rural zone objectives of Port Stephens Local Environmental Plan 2000; 2) The development is out of character with the immediate landscape and does not maintain an acceptable level of amenity; 3) The development is considered to be incompatible with the immediate landscape in terms of height, bulk, scale and distance from the boundary and poses and unacceptable impact on adjoining premises in terms of solar access.

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

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



ITEM NO. 4

FILE NO: 16-2011-842-1

REQUEST TO WAIVE DEVELOPMENT APPLICATION FEES FOR TWENTY-SEVEN (27) LOT SUBDIVISION AT NO 3 WADE CLOSE, MEDOWIE

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

GROUP: **DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse the request to waive fees for Development Application 16-2011-842-1.

COUNCIL COMMITTEE MEETING – 10 JULY 2012
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Steve Tucker
	That Council waive the fees for development application 16-2011-842-1 in the sum of \$2642.50.

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

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

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

ORDINARY COUNCIL MEETING – 24 JULY 2012

193	Councillor Bruce MacKenzie Councillor Steve Tucker
	It was resolved that the Council Committee recommendation be



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

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

Those against the Motion: Crs Glenys Francis, Geoff Dingle, John Nell and Frank Ward.



ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

RESCISSION MOTION

ITEM NO. 1

FILE NO: 16-2011-507-2

**DEVELOPMENT APPLICATION FOR A SECTION 96
 MODIFICATION INVOLVING THE DELETION AND
 MODIFICATION OF BUSHFIRE CONSTRUCTION REQUIREMENTS
 FOR PROPOSED DWELLING AT NO 144 ROCKY POINT ROAD,
 FINGAL BAY**

COUNCILLORS: MACKENZIE, O'BRIEN, TUCKER, WESTBURY

That Council rescind its decision of 24 July 2012 on Item 2 of the Ordinary Council Meeting Report, namely Development Application for a section 96 modification involving the deletion and modification of bushfire construction requirements for proposed dwelling at no 144 Rocky Point Road, Fingal Bay.

ORDINARY COUNCIL MEETING – 25 SEPTEMBER 2012

247	<p>Councillor Steve Tucker Councillor Ken Jordan</p> <p>It was resolved that Council rescind its decision of 24 July 2012 on Item 2 of the Ordinary Council Meeting Report, namely Development Application for a Section 96 Modification involving the deletion and modification of bushfire construction requirements for proposed dwelling at No. 144 Rocky Point Road, Fingal Bay.</p>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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



The motion was carried.

248	Councillor Ken Jordan Councillor Bruce MacKenzie
	It was resolved that the Section 96 modification application come back to Council with draft conditions of consent following on site consultation with the Rural Fire Service.

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

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



ORDINARY COUNCIL MEETING – 10 OCTOBER 2012

DEVELOPMENT APPLICATION FOR THE DEMOLITION OF A GARAGE AND THE ERECTION OF A NEW GARAGE AND ASSOCIATED CARPORT

REPORT OF: MATHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

The development application 16-2012-88-1 for the demolition of an existing weatherboard garage and the erection of a new Colorbond garage with an attached carport at Lot 19 DP 1057659, No 340 Hinton Road, Hinton, be approved subject to the Conditions of Consent listed in **Attachment 3** for the following reason:

- 1) The proposed development is permissible and appropriate, subject external building materials being sympathetic to the heritage conservation area.

ORDINARY COUNCIL MEETING – 9 OCTOBER 2012

COMMITTEE OF THE WHOLE

252	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that Council move into Committee of the Whole.

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Ken Jordan Councillor Chris Doohan
	That the recommendation be adopted subject to the deletion of Condition 14 and an amendment to Condition 13 in the Consent as follows:



	<p>13. <i>The following external materials must be used;</i></p> <ul style="list-style-type: none"> • <i>External cladding is to be a timber or fibre cement or colourbond style weatherboard (with similar profiles to traditional weather board profiles used in the area and not to be a hardiplank or similar profile), or</i> <p style="padding-left: 40px;"><i>Corrugated zincalumne/iron (custom orb profile) sheeting ran horizontally to reflect traditional styles.</i></p> <ul style="list-style-type: none"> • <i>Corrugated zincalumne/iron roof sheeting is to be used.</i>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

MOTION

253	<p>Councillor Ken Jordan Councillor Steve Tucker</p>
	<p>It was resolved that the recommendation be adopted.</p>

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

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

Those against the Motion: Nil.

MATTER ARISING

254	<p>Councillor Geoff Dingle Councillor Ken Jordan</p>
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	<p>It was resolved that Council review the Hinton heritage conservation area.</p>
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ITEM NO. 2

FILE NO: PSC2012-02054

SECTION 96 APPLICATION SEEKING REDUCED SECTION 94 CONTRIBUTIONS FOR AFFORDABLE HOUSING DEVELOPMENT

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

RECOMMENDATION IS THAT COUNCIL:

- | | |
|--|-------------------------------|
| 1)
Section 96 Application 16-2007-541-3, subject to amended and new condition 65; | Approve
condition 8 |
| 2)
development contributions to Bamreta Pty Ltd in the \$126,810.50. | Issue a refund of
mount of |
-

ORDINARY COUNCIL MEETING – 9 OCTOBER 2012

COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Paul Le Mottee left the meeting at 5.38pm prior to voting on Item 2.

	<p>Councillor Ken Jordan Councillor Peter Kafer</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the Motion: Nil.

MOTION

Cr Paul Le Mottee left the meeting at 6.33pm prior to voting on Item 2.



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255	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that the recommendation be adopted.

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

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

Those against the Motion: Nil.



ITEM NO. 2

FILE NO: PSC2012-02054

SECTION 96 APPLICATION SEEKING REDUCED SECTION 94 CONTRIBUTIONS FOR AFFORDABLE HOUSING DEVELOPMENT

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

RECOMMENDATION IS THAT COUNCIL:

- | | |
|--|-------------------------------|
| 1)
Section 96 Application 16-2007-541-3, subject to amended and new condition 65; | Approve
condition 8 |
| 2)
development contributions to Bamreta Pty Ltd in the \$126,810.50. | Issue a refund of
mount of |
-

ORDINARY COUNCIL MEETING – 9 OCTOBER 2012

COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Paul Le Mottee left the meeting at 5.38pm prior to voting on Item 2.

	<p>Councillor Ken Jordan Councillor Peter Kafer</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the Motion: Nil.

MOTION

Cr Paul Le Mottee left the meeting at 6.33pm prior to voting on Item 2.



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255	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that the recommendation be adopted.

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

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

Those against the Motion: Nil.



ITEM NO. 2

FILE NO: PSC2012-02054

SECTION 96 APPLICATION SEEKING REDUCED SECTION 94 CONTRIBUTIONS FOR AFFORDABLE HOUSING DEVELOPMENT

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

RECOMMENDATION IS THAT COUNCIL:

- | | |
|--|-------------------------------|
| 1)
Section 96 Application 16-2007-541-3, subject to amended and new condition 65; | Approve
condition 8 |
| 2)
development contributions to Bamreta Pty Ltd in the \$126,810.50. | Issue a refund of
mount of |

ORDINARY COUNCIL MEETING – 9 OCTOBER 2012

COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Paul Le Mottee left the meeting at 5.38pm prior to voting on Item 2.

	<p>Councillor Ken Jordan Councillor Peter Kafer</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the Motion: Nil.

MOTION

Cr Paul Le Mottee left the meeting at 6.33pm prior to voting on Item 2.



255	Councillor Ken Jordan Councillor Steve Tucker
	It was resolved that the recommendation be adopted.

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

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

Those against the Motion: Nil.



ITEM NO. 3

FILE NO: PSC2008-3583

CAMPVALE LANDSCAPE SUPPLIES - COMPLIANCE INVESTIGATION

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Take no further compliance action pending the adoption of the New Port Stephens Local Environment Plan 2012 in relation to Campvale Landscape Supplies.
-

ORDINARY COUNCIL MEETING – 9 OCTOBER 2012

COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Paul Le Mottee returned to the meeting at 5.43 pm.

	Councillor Ken Jordan Councillor Peter Kafer
	That the recommendation be adopted.

MOTION

256	Councillor Ken Jordan Councillor Peter Kafer
	It was resolved that the recommendation be adopted.

Cr Paul Le Mottee returned to the meeting at 6.35 pm.



ITEM NO. 4

FILE NO: PSC2010-01705

DRAFT AMENDMENT NO 38 TO THE PORT STEHENS LOCAL ENVIRONMENTAL PLAN 2000 – PART LOT 1202 DP 1174968, MASONITE ROAD, HEATHERBRAE

REPORT OF: BRUCE PETERSEN – MANAGER ENVIRONMENTAL SERVICES AND DEVELOPMENT PLANNING
GROUP: COMMUNITY AND DEVELOPMENT PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve upon receipt of the final Conservation Management Plan (CMP) to proceed with the draft planning proposal (Attachment 1) to rezone Lot 1202 in DP 1174968 from 7 (a) Environmental Protection "A" to 4 (a) Industrial General "A" and request the Minister for Planning make the plan under Section 59 of the Environmental Planning and Assessment Act 1979.
-

ORDINARY COUNCIL MEETING – 9 OCTOBER 2012

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor Ken Jordan Councillor John Morello</p>
	<p>That the recommendation be adopted.</p>

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

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

Those against the Motion: Nil.



MOTION

257	Councillor Ken Jordan Councillor Chris Doohan
	It was resolved that the recommendation be adopted.

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

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

Those against the Motion: Nil.



ITEM NO. 5

FILE NO: PSC2011-04146

PLANNING PROPOSAL – RESIDENTIAL DEVELOPMENT AT NELSON BAY ROAD, EASTERN ENTRANCE TO NELSON BAY

REPORT OF: BRUCE PETERSEN - ENVIRONMENTAL AND DEVELOPMENT PLANNING MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at **Attachment 1** in respect of Lot 3542 DP 1044499, Lot 3551 DP 622263 and Lot 392 DP 753204 for the purposes of Section 55 of the Environmental Planning and Assessment Act 1979 to facilitate further investigations into rezoning to part 2(a) Residential and part 7(a) Environment Protection under the Port Stephens Local Environmental Plan 2000.
- 2) Resolve to proceed with the Planning Proposal on the basis that the Proponent will investigate biodiversity offsets under the NSW Biodiversity Banking and Offsets Scheme following a Gateway Determination.
- 3) Resolve to report the Planning Proposal to Council prior to any public exhibition in the event of a positive Gateway Determination from the NSW Department of Planning and Infrastructure, which would require the submission of all relevant studies.

ORDINARY COUNCIL MEETING – 9 OCTOBER 2012

COMMITTEE OF THE WHOLE RECOMMENDATION

	<p>Councillor John Nell Councillor Geoff Dingle</p>
	<p>That Item 5 be deferred to allow for resolution of the environmental issues.</p>

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

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



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

	Councillor Ken Jordan Councillor Sally Dover
	That the recommendation be adopted.

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

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

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

MOTION

258	Councillor Ken Jordan Councillor Steve Tucker
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the Planning Proposal at Attachment 1 in respect of Lot 3542 DP 1044499, Lot 3551 DP 622263 and Lot 392 DP 753204 for the purposes of Section 55 of the Environmental Planning and Assessment Act 1979 to facilitate further investigations into rezoning to part 2(a) Residential and part 7(a) Environment Protection under the Port Stephens Local Environmental Plan 2000. 2) Resolve to proceed with the Planning Proposal on the basis that the Proponent will investigate biodiversity offsets under the NSW Biodiversity Banking and Offsets Scheme following a Gateway Determination. 3) Resolve to report the Planning Proposal to Council prior to any public exhibition in the event of a positive Gateway Determination from the NSW Department of Planning and Infrastructure, which would require the submission of all relevant studies.



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

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

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





ORDINARY COUNCIL MEETING – 23 OCTOBER 2012

ITEM NO. 1

FILE NO: 16-2012-507-1

**DEVELOPMENT APPLICATION FOR DIGITAL TELEVISION TOWER
 AT 41 FISHERMANS BAY ROAD FISHERMANS BAY**

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

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2012-507-1 for the reason listed below:

- 1) The development is defined as a 'Telecommunication Facility'. In accordance with the Port Stephens Local Environmental Plan 2000, 'Telecommunication Facilities' are identified as prohibited development within the Zone No 7(f1) – Environment Protection "F1" (Coastal Lands) Zone.

ORDINARY COUNCIL MEETING – 23 OCTOBER 2012

COMMITTEE OF THE WHOLE

275	Councillor Steve Tucker Councillor Geoff Dingle
	It was resolved that Council move into Committee of the Whole.

COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor John Nell Councillor Sally Dover
	That Council indicate its support in principle for approval of the development application for a digital television tower at 41 Fishermans Bay Road, Fishermans Bay and request the General Manager draft Conditions of Consent under delegated authority.



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

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

Those against the Motion: Nil.



MOTION

	Councillor Sally Dover Councillor John Nell
277	It was resolved that the recommendation be adopted.

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

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

Those against the Motion: Nil.



**PORT STEHENS COUNCIL
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