



ORDINARY COUNCIL MEETING 9 FEBRUARY 2010

ITEM NO. 1

FILE NO: 16-2009-105-1

DEVELOPMENT APPLICATION FOR FOUR (4) LOT SUBDIVISION AT NO. 364 SIX MILE ROAD, EAGLETON

REPORT OF: ANTHONY RANDALL – ACTING MANAGER, DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2009-105-1 for the reasons listed below.

- 1) The proposal has not demonstrated a future use or that the proposed allotments are capable of sustaining a permissible use in the future.
- 2) The development is inconsistent with Clause 37 and Clause 38 of the Port Stephens Council Local Environmental Plan 2000. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding, impact on occupants, property and impact on adjoining properties. Proposed lots 1, 2 and 3 would be severely affected by flooding depths of 4.2 metres and due to isolation in severe floods accessibility for emergency services would be severely limited.
- 3) Approval of any intensification of land use as a result of the subdivision in high risk flood areas places further demand on already limited SES resources by way of domestic property protection, evacuation and/or resupply.
- 4) The development is considered to be an inappropriate land use under the Floodplain Development Manual, 2005.
- 5) The development is not consistent with the provisions and objectives of Zone No 1 (a) (Rural Agriculture "A" Zone) of the Port Stephens Local Environmental Plan 2000. The proposal will fragment agricultural lands and will not protect the agricultural potential of the land. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 6) Insufficient information was submitted with the application to enable a comprehensive assessment of the use of the proposed allotments under Section 79C of the Environmental Planning and Assessment Act, 1979.



- 7) Insufficient information has been provided to assess the proposal in accordance with Clause 47 of the Port Stephens Local Environmental Plan 2000, in terms of demonstrating that the site has the capability for adequate facilities for water provision and wastewater treatment for any intensification of land use permissible as a result of the subdivision.
- 8) Insufficient information has been provided to demonstrate that adequate access can be achieved for all proposed allotments, and in particular proposed Lot 3 has no physical constructed access currently available.
- 9) The development is inconsistent with the principles of State Environmental Planning Policy (Rural Lands) 2008, as the development is not considered to be located in an appropriate location due to extent and nature of flooding.
- 10) It is not possible to implement an evacuation plan for proposed Lots 1-3, that would provide permanent, fail safe, maintenance free measures to ensure the timely, orderly and safe evacuation of any future development on the land, including animal based agricultural activities.
- 11) The development is contrary to the public interests and expectations, of an orderly and predictable built environment.
- 12) The development is inconsistent with the provisions of the Hunter Regional Environmental Plan 1989. It is not considered that the future allotments will be suitable for intensification of land use, due to extent and nature of flooding.
- 13) Approval of this application would have an undesirable cumulative effect, having the potential to increase the community's susceptibility to flooding, in terms of social, economic and environmental consequences.

PLEASE NOTE:

This report was deferred at the Ordinary Council meeting held on 8 December for further information on the legal status of the roads relevant to the application and relating to the incidence of flooding history of the site. This information has been provided as an Information Paper which has been put to this meeting for consideration. See Page 263 – Confidential Information Paper



COUNCIL COMMITTEE MEETING – 09 FEBRUARY 2010

RECOMMENDATION:

	Councillor Frank Ward Councillor John Nell	That the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

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

	Councillor Bruce MacKenzie Councillor Ken Jordan	That Council note its support for the development and that the Sustainable Planning Group Manager be requested to draft Conditions of Consent for consideration by Council.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

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

ORDINARY MEETING – 09 FEBRUARY 2010

004	Councillor Daniel Maher Councillor Ken Jordan	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.



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

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

ITEM NO. 2

FILE NO: 16-2008-827-1

DEVELOPMENT APPLICATION FOR CHANGE OF USE FROM SHED TO DWELLING AT NO. 470 MARSH ROAD, BOBS FARM

REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2009-105-1 for the reasons listed below.

1. The development is contrary to the public interests and expectations, of an orderly and predictable built environment;
2. The development is inconsistent with the 1 (a)—Rural Agriculture “A” Zone objectives of Port Stephens Local Environmental Plan 2000 (LEP2000). The development is out of character with the immediate area and does not maintain an acceptable level of residential amenity;
3. The development is inconsistent with the provisions of Clause 37 (Objectives for development on flood prone land) and Clause 38 (Development on flood prone land) of the LEP2000. The habitable floor levels proposed are below the flood planning level of RL 2.5m AHD and pose an unacceptable risk of damage to property, and do not provide an acceptable residential amenity;
4. The development is inconsistent with Council’s Resolution of 24 February 2009;
5. The development is inconsistent with the design requirements of the Port Stephens Development Control Plan 2007 (DCP). The proposed dwelling is not consistent with the requirements relating to unbroken roof ridgelines and blank walls;
6. The development is not consistent with the aims of State Environmental Planning Policy No 71—Coastal Protection. The proposal is not



considered to be suitable given its type, location and design and its relationship with the surrounding area;

7. The proposal is not consistent with the rural planning principles contained in State Environmental Planning Policy (Rural Lands) 2008. The development is not considered to provide opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities;
8. The development is inconsistent with the provisions and objectives of the Hunter Regional Environmental Plan 1989 (HREP 1989), in terms of being an inappropriate landuse;
9. Insufficient information submitted to enable a comprehensive assessment under Section 79C of the Environmental Planning and Assessment Act, 1979.

COUNCIL COMMITTEE MEETING – 09 FEBRUARY 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Sally Dover</p>	<p>That Council note its support for the development and that the Sustainable Planning Group Manager be requested to draft Conditions of Consent for consideration by Council.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

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

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

ORDINARY MEETING – 09 FEBRUARY 2010

<p>005</p>	<p>Councillor Ken Jordan Councillor Steve Tucker</p>	<p>It was resolved that the Council Committee recommendation be adopted.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.



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

Those against the Motion: Nil.

ITEM NO. 3

FILE NO: PSC2009-07013

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

REPORT OF: PETER MARLER - ACTING MANAGER INTEGRATED PLANNING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Prepare a planning proposal under Part 3 of the Environmental Planning and Assessment Act 1979 to permit with consent a medical centre at 2 Keel Street Salamander Bay (Lot 101 in DP 880861) via an enabling clause in the Port Stephens Local Environmental Plan 2000.
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COUNCIL COMMITTEE MEETING – 09 FEBRUARY 2010
RECOMMENDATION:

	<p>Councillor Frank Ward Councillor John Nell</p>	<p>That Council</p> <ol style="list-style-type: none"> 1) Not proceed with the Planning Proposal to permit a medical centre at 2 Keel Street, Salamander Bay. 2) That the applicant be directed to operate in accordance with the Council approval "professional consulting rooms" and all the conditions that were attached to the approval. 3) That the applicant be advised that if they wish to build a Medical Centre as indicated in the business paper the applicant can acquire a suitable site in the commercial zone area in accordance with the Council's Plan.
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In accordance with the Local Government Act 1993, a division is required for this item.



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

Those against the Motion: Nil.

ORDINARY MEETING – 09 FEBRUARY 2010

006	Councillor Frank Ward Councillor Glenys Francis	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ITEM NO. 4

FILE NO: 2008-3522

REVIEW (2010) OF PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000

REPORT OF: PETER MARLER - ACTING MANAGER INTEGRATED PLANNING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Prepare a Planning Proposal pursuant to the Environmental Planning and Assessment Act 1979 to amend the Port Stephens Local Environmental Plan (LEP) 2000 to:
 - Alter the Heritage Conservation Area boundary;
 - Include the Farm Silo Steel Street Williamtown as an additional heritage item of local significance;
 - Make a general administrative update to Schedule 2 of LEP 2000 to reflect changes to lot numbers, deposited plans etc and bring the Schedule into the Standard Instrument format;



- Provide a minor addition to Schedule 3 Exempt development – signage for sponsorship in open space areas;
 - Rezone Lot 1 DP 874513, 51 William Street Raymond Terrace from 3(a) General Business to 5(c) Proposed Road Zone;
 - Remove superfluous provisions from the Exempt and Complying Schedules in accordance with the State Environmental Planning Policy (SEPP) (Exempt and Complying Development Code) 2008 which are scheduled to take effect on 27 February 2010;
 - Rezone and reclassify part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a).
- 2) On receipt of the Authorisation to Exercise Delegation from the Minister, place the draft LEP and supporting documentation on exhibition in accordance with the requirements of the Department of Planning.
- 3) Note that No 2,4,6 and 11 Irrawang Street, Raymond Terrace have been identified as potential heritage items and should be considered for listing if any funding becomes available.

COUNCIL COMMITTEE MEETING – 09 FEBRUARY 2010
RECOMMENDATION:

	Councillor John Nell Councillor Ken Jordan	That the matter be deferred to allow for a 2-way conversation.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY MEETING – 09 FEBRUARY 2010

007	Councillor John Nell Councillor Ken Jordan	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the 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 Bruce MacKenzie, Shirley O'Brien, Bob Westbury, Steve Tucker, Glenys Francis, Frank Ward, Geoff Dingle, John Nell, Ken Jordan, Sally Dover and Daniel Maher.

Those against the Motion: Nil.

Those against the Motion: Nil.



ORDINARY COUNCIL MEETING 16 FEBRUARY 2010

ITEM NO. 1

FILE NO: 16-2009-890-1

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 29 BOYD BOULEVARD, MEDOWIE

REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Delegate to the General Manager to seek to negotiate with the applicant for Development Application **16-2009-890-1** (29 Boyd Boulevard, Medowie) for agreement to formally incorporate adequate acoustic attenuation to provide internal noise levels consistent with Australian Standard 2021-2000, thereby enabling a formal application and determination to be given consent under delegated authority;
- 2) Note that, in the event of negotiations referred to above being unsuccessful, development consent refusal will be issued under delegated authority.

EXTRA-ORDINARY COUNCIL MEETING – 16 FEBRUARY 2010

026	Councillor Bruce MacKenzie Councillor Peter Kafer	It was resolved that Council move into Committee of the Whole.
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	<p>Councillor Bruce MacKenzie Councillor John Nell</p>	<p>It is moved that Council support the development application for the single storey dwelling at 29 Boyd Boulevard, Medowie – that support being on the basis that noise attenuation be not required for the design and construction of the dwelling – and request the Group Manager Sustainable Planning to bring forward appropriate conditions should Council determine the application by way of consent, because</p> <ol style="list-style-type: none"> 1. It is noted that it is unfortunate that the applicant bought the block of land in early 2009 before the promulgation of the ANEF 2025. 2. The 149 zoning Certificate issued by Council and presumably attached to the contract of sale documents addressed ANEF 2012 and the block was not mapped within the ANEF 20-25 noise exposure contour. 3. Since purchase the owners engaged a builder and chose a design without being aware that the new ANEF 2025 was going to be promulgated on Monday 19th October 2009.
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AMENDMENT

	<p>Councillor Glenys Francis Councillor Ken Jordan</p>	<ol style="list-style-type: none"> 1. That Council defer consideration of the development application at 29 Boyd Boulevard, Medowie pending legal advice on the implications on approval of the development application and advice on taking Class Action against the Commonwealth Government. 2. Invite the Commonwealth Minister for Defence, Senator John Faulkner to a
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		<p>meeting with all Councillors, the General Manager and the Executive Team regarding the management of aircraft noise in Port Stephens – and should the Minister decline to attend such a discussion in Port Stephens, then a deputation be sought with the</p> <p>Minister comprising : The Mayor, Deputy Mayor, one Councillor from each of the three Wards, the General Manager and the Group Manager, Sustainable Planning.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Amendment: Crs Glenys Francis, Ken Jordan, Steve Tucker and Shirley O'Brien.

Those against the Motion: Crs Peter Kafer, Daniel Maher, Geoff Dingle, John Nell Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

The Amendment on being put was lost.

027	Councillor Bruce MacKenzie Councillor John Nell	It was resolved that the meeting be adjourned to allow Councillors to consult with the Group Manager Sustainable Planning.
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The Meeting was adjourned at 6.04pm.

The meeting re-commenced at 6.06pm with all councillors present.

The Motion was put and carried.

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

Those for the Motion: Crs Peter Kafer, Geoff Dingle, John Nell Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Crs Glenys Francis, Ken Jordan, Daniel Maher, Steve Tucker and Shirley O'Brien.



028	Councillor Bruce MacKenzie Councillor Peter Kafer	It was resolved that Council move into the Open Council meeting.
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MOTION

	Councillor Glenys Francis Councillor Ken Jordan	<p>It was moved:</p> <ol style="list-style-type: none"> 1. That Council defer consideration of the development application at 29 Boyd Boulevard, Medowie pending legal advice on the implications on approval of the development application and advice on taking Class Action against the Commonwealth Government. 2. Invite the Commonwealth Minister for Defence, Senator John Faulkner to a meeting with all Councillors, the General Manager and the Executive Team regarding the management of aircraft noise in Port Stephens – and should the Minister decline to attend such a discussion in Port Stephens, then a deputation be sought with the Minister comprising : The Mayor, Deputy Mayor, one Councillor from each of the three Wards, the General Manager and the Group Manager, Sustainable Planning.
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AMENDMENT

029	Councillor Bruce MacKenzie Councillor Geoff Dingle	It is resolved that Council support the development application for the single storey dwelling at 29 Boyd Boulevard, Medowie – that support being on the basis that noise attenuation be not required for the design and construction of the dwelling – and request the Group
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		<p>Manager Sustainable Planning to bring forward appropriate conditions should Council determine the application by way of consent, because</p> <ol style="list-style-type: none"> 1. It is also noted that it is unfortunate that the applicant bought the block of land in early 2009 before the promulgation of the ANEF 2025. 2. The 149 zoning Certificate issued by Council and presumably attached to the contract of sale documents addressed ANEF 2012 and the block was not mapped within the ANEF 20-25 noise exposure contour. 3. Since purchase the owners engaged a builder and chose a design without being aware that the new ANEF 2025 was going to be promulgated on Monday 19th October 2009.
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The Amendment on being put was carried became the Motion, which was put and carried.

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

Those for the Motion: Crs Peter Kafer, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Crs Glenys Francis, Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien and John Nell.

The Mayor exercised his casting vote.



ORDINARY COUNCIL MEETING 23 FEBRUARY 2010

ITEM NO. 1

FILE NO: DA 16-2008-291-1

REVIEW OF DEVELOPMENT APPLICATION SEEKING APPROVAL TO CONSTRUCT A SINGLE STOREY DWELLING AT 20 NOBLES ROAD, NELSONS PLAINS, PUSUANT TO SECTION 82A OF ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

**REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING
 GROUP: SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

Refuse the Section 82A Review of Development Application 16-2008-291-1 for the following reasons:

- 1) The proposed development is inconsistent with the provisions of *Port Stephens Local Environmental Plan 2000*, in particular, the Rural 1(a) Zone objectives and planning considerations for development on flood prone land.
- 2) The proposed development is to be located on a floodplain identified as being an area of *High Hazard* (from a hydraulic point of view ie, floodwater depth and velocity) and the *Lower Hunter Valley Floodplain Risk Management Study* (November 2001) recommends that no additional dwellings should be permitted in this location.
- 3) The proposed development is considered an inappropriate land use under the *Floodplain Development Manual 2005*.
- 4) Approving additional dwelling houses in a known flood area designated as "*High Hazard*" is likely to eventuate into an "*Extreme Planning Hazard*" by placing further demand on the already limited resources of the community as a whole, and emergency services specifically, due to domestic property protection, evacuation and/or re-supply.
- 5) Approval of this application would have an undesirable cumulative effect by increasing the community's susceptibility to flooding in terms of social, economic and environmental/ecological consequences.
- 6) It is not possible to implement an evacuation plan which provides permanent, fail safe, maintenance free measures to ensure the timely, orderly and safe evacuation of occupants.

**COUNCIL COMMITTEE – 23 FEBRUARY 2010
 RECOMMENDATION:**

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	Councillor John Nell Councillor Daniel Maher	That the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Daniel Maher and John Nell.

Those against the Motion: Crs Peter Kafer, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

The motion on being put was lost.

	Councillor Bruce MacKenzie Councillor Peter Kafer	That Council express its support in principle for the Development Application and request the Group Manager, Sustainable Planning to draft Conditions of Consent for the next Ordinary Meeting of Council in the event that Council resolves to determine the Application in terms of Conditional Consent.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Cr John Nell.

Councillor Maher abstained from voting.

ORDINARY COUNCIL MEETING – 23 FEBRUARY 2010

038	Councillor Bruce MacKenzie Councillor Peter Kafer	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the 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 Peter Kafer, Daniel Maher, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Cr John Nell.



ORDINARY COUNCIL MEETING 2 MARCH 2010

ITEM NO. 1

FILE NO: 16-2009-890

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 29 BOYD BOULEVARD, MEDOWIE

COUNCILLORS: JORDAN, FRANCIS, MAHER, TUCKER

That Council rescind its decision of 16 February 2010 on Item 1 of the Extra-Ordinary Meeting Report, namely Development Application for Single Storey Dwelling at No. 29 Boyd Boulevard, Medowie in March 2010.

ORDINARY MEETING – 02 MARCH 2010

053	Councillor Daniel Maher Councillor Peter Kafer	It was resolved that Council move into Committee of the Whole.
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	Councillor Ken Jordan Councillor Glenys Francis	That the Rescission Motion be adopted.
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Cr Peter Kafer left the meeting at 6.09pm prior to confidential session.

Cr Peter Kafer returned to the meeting at 6.13pm during the confidential session.

054	Councillor Bruce MacKenzie Councillor Bob Westbury	It was resolved that Council move into Confidential session.
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055	Councillor Daniel Maher Councillor Peter Kafer	It was resolved that Council move into Open Committee of the Whole.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Glenys Francis, Ken Jordan, Daniel Maher and John Nell.

Those against the Motion: Crs Peter Kafer, Steve Tucker, Shirley O'Brien, Geoff Dingle, Bob Westbury, Sally Dover and Bruce Mackenzie.

The Motion on being put was lost.

056	Councillor Bruce MacKenzie Councillor Peter Kafer	It was resolved that Council move into Open Council.
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	Councillor Glenys Francis Councillor Ken Jordan	That Council rescind its decision of 16 February 2010 on Item 1 of the Extra-Ordinary Meeting Report, namely Development Application for Single Storey Dwelling at No. 29 Boyd Boulevard, Medowie in March 2010.
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Cr Peter Kafer left the meeting at 7.02pm.

Cr Peter Kafer returned to the meeting at 7.03pm.

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

Those for the Motion: Crs Glenys Francis, Ken Jordan, Daniel Maher and John Nell.

Those against the Motion: Crs Peter Kafer, Steve Tucker, Shirley O'Brien, Geoff Dingle, Bob Westbury, Sally Dover and Bruce Mackenzie.

The Motion on being put was lost.



ITEM NO. 1

FILE NO: 16-2009-890-1

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 29 BOYD BOULEVARD, MEDOWIE

REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Give consideration to the draft conditions prepared following Council Resolution No. 029 of the meeting of 16 February 2010.

ORDINARY MEETING – 02 MARCH 2010

058	Councillor Daniel Maher Councillor Bob Westbury	It was resolved that the matter be deferred to the next Ordinary Council meeting.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.





ORDINARY COUNCIL MEETING 9 MARCH 2010

Cr Jordan moved and seconded by Cr Dover that Item 2 be brought forward and dealt with prior to Item 1.

ITEM NO. 1

FILE NO: 16-2009-890-1

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 29 BOYD BOULEVARD, MEDOWIE

REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Give consideration to the draft conditions prepared following Council Resolution No. 029 of the meeting of 16 February 2010.

COMMITTEE MEETING – 09 MARCH 2010
RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Sally Dover</p>	<p>That Council approve the development application, 16-2009-890-1 (29 Boyd Boulevard, Medowie), subject to conditions as listed in Attachment 1.</p>
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Chafer, Bruce Mackenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover and Daniel Maher.

Those against the Motion: Crs Glenys Francis, Ken Jordan and John Nell.



ORDINARY MEETING – 09 MARCH 2010

061	Councillor Bruce MacKenzie Councillor Daniel Maher	It was resolved that the Council Committee recommendation be adopted.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Glenys Francis, Ken Jordan and John Nell.



Cr Jordan moved and seconded by Cr Dover that Item 2 be brought forward and dealt with prior to Item 1.

ITEM NO. 2

FILE NO: 16-2008-291-1

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 20 NOBLES ROAD, NELSONS PLAINS

REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Give consideration to the draft conditions prepared following Council Resolution No. 038 of the meeting of 23 February 2010.

**COMMITTEE MEETING – 09 MARCH 2010
 RECOMMENDATION:**

	<p>Councillor Bruce MacKenzie Councillor Peter Kafer</p>	<p>That Council approve the development application, 16-2008-291-1 (20 Nobles Rd, Nelsons Plains) subject to the conditions as listed in Attachment 1.</p>
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	<p>Councillor John Nell Councillor Steve Tucker</p>	<p>That the Motion be put.</p>
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Bruce MacKenzie, Shirley O'Brien, Geoff Dingle, Bob Westbury and Sally Dover .

Those against the Motion: Crs Glenys Francis, Ken Jordan, Steve Tucker, John Nell, Frank Ward and Daniel Maher.

The Chairperson exercised his casting vote.

The Motion on being put was lost.



FORESHADOWED MOTION

	<p>Councillor Daniel Maher Councillor Steve Tucker</p>	<p>That Council defer the development application for a single storey dwelling at No. 20 Nobles Road, Nelson Plains for a 2way conversation with Councillors for the development of a draft policy for building on the floodplain and that the item be brought back to Council on the 13th April 2010.</p>
	<p>Councillor Peter Kafer Councillor Glenys Francis</p>	<p>That the matter be deferred to Ordinary Council meeting 9 March 2010.</p>

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

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

Those against the Motion: Nil.

ORDINARY MEETING – 09 MARCH 2010

<p>062</p>	<p>Councillor Ken Jordan Councillor Frank Ward</p>	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1. Council approve the development application, 16-2008-291-1 (20 Nobles Rd, Nelsons Plains) subject to the conditions as listed in Attachment 1. 2. The mound be expanded to accommodate the landing of a helicopter. 3. That a draft floodplain policy for building houses in floods zones for any future development be prepared for Council.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Glenys Francis, Daniel Maher and John Nell.

The Motion on being put as carried.

AMENDMENT

	Councillor Geoff Dingle Councillor Peter Kafer	That Council approve the development application, 16-2008-291-1 (20 Nobles Rd, Nelsons Plains) subject to the conditions as listed in Attachment 1 of the Council Committee agenda of 9 March 2010.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

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

The amendment on being put was lost.



ITEM NO. 3

FILE NO: 16-2008-827-1

DEVELOPMENT APPLICATION FOR CHANGE OF USE FROM SHED TO DWELLING AT NO. 470 MARSH ROAD, BOBS FARM

REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Consider the draft conditions of consent, prepared in accordance with Council Resolution on 9 February 2010 (Minute 5).

**COMMITTEE MEETING – 09 MARCH 2010
 RECOMMENDATION:**

	<p>Councillor Bruce MacKenzie Councillor Sally Dover</p>	<p>That Council approve the development application, 16/2008/827/1, subject to conditions as listed in Attachment 1.</p>
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.

ORDINARY MEETING – 09 MARCH 2010

<p>063</p>	<p>Councillor Bruce MacKenzie Councillor Glenys Francis</p>	<p>It was resolved that the recommendation be adopted.</p>
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.



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

Those against the Motion: Nil.

ITEM NO. 4

FILE NO: 16-2009-105-1

DEVELOPMENT APPLICATION FOR FOUR (4) LOT SUBDIVISION AT NO. 364 SIX MILE ROAD, EAGLETON

REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Consider the draft conditions of consent (Attachment 1), prepared in accordance with Council Resolution on 9 February 2010 (Minute 4).

**COMMITTEE MEETING – 09 MARCH 2010
 RECOMMENDATION:**

	<p>Councillor Bruce MacKenzie Councillor Shirley O'Brien</p>	<p>That Council approve the development application, 16/2009/105/1, subject to conditions as listed in Attachment 1. In this instance, reasons for approval will need to be drafted by Councillors including supporting justification as a basis for defence in any potential legal proceedings.</p>
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

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



ORDINARY MEETING – 09 MARCH 2010

064	Councillor Daniel Maher Councillor Ken Jordan	It was resolved that the Council Committee recommendation be adopted.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

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





ORDINARY COUNCIL MEETING 23 MARCH 2010

ITEM NO. 1

FILE NO: 16-2003-1221-4

SECTION 96 MODIFICATION - EXPANSION OF EXISTING AQUACULTURAL FACILITIES AT 476C MARSH ROAD BOBS FARM

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the Section 96 Application to allow for an Occupation Certificate to be issued for the tourist facility (Stage 1) and the temporary use of a driveway on an adjoining property for internal access. Completion of necessary intersection and internal access works are to be deferred for a maximum period of six (6) months from the date of occupation of the development, subject to the recommended conditions in Attachment 4.
- 2) Not support the applicants request to reduce the tapers required (in accordance with Council’s standard drawing s145) within Marsh Road for the access to the development.

COUNCIL COMMITTEE – 23 MARCH 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Sally Dover</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1) The applicant be given twelve (12) months to complete the roadworks from the date of occupation and the matter be reviewed in 4 months. 2) That Council guide post the existing constructed tapers. 3) The decision is based on the economic viability of the development.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Frank Ward, Sally Dover and Daniel Maher.

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

ORDINARY COUNCIL MEETING – 23 MARCH 2010

081	Councillor Daniel Maher Councillor Sally Dover	It was resolved that Council: <ol style="list-style-type: none"> 1. The applicant be given twelve (12) months to complete the roadworks from the date of occupation and the matter be reviewed in 4 months. 2. That Council guide post the existing constructed tapers. 3. The decision is based on the economic viability of the development in its early stages.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Frank Ward, Sally Dover and Daniel Maher.

Those against the Motion: Crs Geoff Dingle and John Nell



Cr Glenys Francis returned to the meeting at 8.15pm following Item 1.

ITEM NO. 2

FILE NO: 2008-3522

REVIEW (2010) OF PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2000

REPORT OF: PETER MARLER - ACTING MANAGER INTEGRATED PLANNING

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 2) Prepare a Planning Proposal pursuant to the Environmental Planning and Assessment Act 1979 to amend the Port Stephens Local Environmental Plan (LEP) 2000 to:
 - Alter the Heritage Conservation Area boundary;
 - Include the Farm Silo Steel Street Williamtown as an additional heritage item of local significance;
 - Make a general administrative update to Schedule 2 of LEP 2000 to reflect changes to lot numbers, deposited plans etc and bring the Schedule into the Standard Instrument format;
 - Provide a minor addition to Schedule 3 Exempt development – signage for sponsorship in open space areas;
 - Rezone Lot 1 DP 874513, 51 William Street Raymond Terrace from 3(a) General Business to 5(c) Proposed Road Zone;
 - Remove superfluous provisions from the Exempt and Complying Schedules in accordance with the State Environmental Planning Policy (SEPP) (Exempt and Complying Development Code) 2008;
 - Rezone and reclassify part of Lot 61 DP 24364, Johnson Avenue Karuah from Residential 2(a) to Public Open Space 6(a).

 - 2) On receipt of the Authorisation to Exercise Delegation from the Minister, place the draft LEP and supporting documentation on exhibition in accordance with the requirements of the Department of Planning.

 - 3) Note that No 2,4,6 and 11 Irrawang Street, Raymond Terrace and Williamtown Primary School have been identified as potential heritage items and should be considered for listing if any funding becomes available.
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COUNCIL COMMITTEE – 23 MARCH 2010
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Peter Kafer	That the recommendation be adopted.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Glenys Francis, Bruce Mackenzie, Steve Tucker, Shirley O'Brien, Steve Tucker, John Nell, Frank Ward, Sally Dover and Daniel Maher.

Those against the Motion: Nil

ORDINARY COUNCIL MEETING – 23 MARCH 2010

082	Councillor Steve Tucker Councillor John Nell	It was resolved that the recommendation be adopted.
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Glenys Francis, Bruce Mackenzie, Steve Tucker, Shirley O'Brien, Steve Tucker, John Nell, Frank Ward, Sally Dover and Daniel Maher.

Those against the Motion: Nil





ORDINARY COUNCIL MEETING 13 APRIL 2010

RECISSION MOTION

ITEM NO. 1

FILE NO: A2004-0523 -PSC2009-07013

MEDICAL CENTRE AT 2 KEEL STREET, SALAMANDER BAY

COUNCILLORS: NELL, DINGLE, FRANCIS

That Council rescind its decision of 9 February 2010 on Item 3 of the Ordinary Council Meeting Report, namely Planning Proposal to Permit a Medical Centre at 2 Keel Street, Salamander Bay, which essentially means that the medical centre must reduce operations and staff to meet current development consent requirements, and defer compliance action to implement this Resolution until Council has reconsidered the matter on 27 April 2010.

Cr Bruce MacKenzie objected to the Rescission Motion.

ORDINARY COUNCIL MEETING – 13 APRIL 2010

	<p>Councillor John Nell Councillor Sally Dover</p>	<p>That Council rescind its decision of 9 February 2010 on Item 3 of the Ordinary Council Meeting Report, namely Planning Proposal to Permit a Medical Centre at 2 Keel Street, Salamander Bay, which essentially means that the medical centre must reduce operations and staff to meet current development consent requirements, and defer compliance action to implement this Resolution until Council has reconsidered the matter on 27 April 2010.</p>
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In accordance with Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Peter Kafer, Glenys Francis, Ken Jordan, Steve Tucker, Shirley O'Brien, Frank Ward, Bob Westbury and Bruce MacKenzie.

The Motion on being put was lost.





ORDINARY COUNCIL MEETING 27 APRIL 2010

ITEM NO. 1

FILE NO: PSC2008-2238

DRAFT LOCAL ENVIRONMENTAL PLAN NO. 32 RELATING TO PROPOSED SUPERMARKET SITE – MEDOWIE TOWN CENTRE

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) That Council rescind Part 4 of the Resolution – Minute No. 124 – of 28 April 2009 that required the resolution of traffic issues in the Medowie Town Centre and a draft LEP being progressed for adjacent properties as a pre-requisite of the Department of Planning finalising the draft LEP for the proposed supermarket development on the corner of Ferodale and Peppertree Roads, Medowie.

COUNCIL COMMITTEE MEETING – 27 APRIL 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Steve Tucker</p>	<p>That Council rescind Part 4 of the Resolution – Minute No. 124 – of 28 April 2009 that required the resolution of traffic issues in the Medowie Town Centre and a draft LEP being progressed for adjacent properties as a pre-requisite of the Department of Planning finalising the draft LEP for the proposed supermarket development on the corner of Ferodale and Peppertree Roads, Medowie.</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 Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Bob Westbury and Sally Dover.

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



The Chair exercised his casting vote.

The Motion was carried.

ORDINARY COUNCIL MEETING – 27 APRIL 2010

	Councillor Geoff Dingle Councillor Glenys Francis	That the matter be deferred for a presentation on the Voluntary Planning Agreement, including the traffic management plan.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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

The Chair exercised his casting vote and the Motion was lost.

109	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that Council rescind Part 4 of the Resolution – Minute No. 124 – of 28 April 2009 that required the resolution of traffic issues in the Medowie Town Centre and a draft LEP being progressed for adjacent properties as a pre-requisite of the Department of Planning finalising the draft LEP for the proposed supermarket development on the corner of Ferodale and Peppertree Roads, Medowie.
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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 Steve Tucker, Shirley O'Brien, Bob Westbury, Bruce MacKenzie and Sally Dover.



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

The Mayor exercised his casting vote and the matter was carried.

Cr Ken Jordan returned to the meeting at 8.41pm following Item 1.

ITEM NO. 2

FILE NO: PSC2007-2685

PLANNING PROPOSAL IN RESPECT TO COUNCIL OWNED LAND AT SALAMANDER BAY – 22 HOMESTEAD STREET

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to prepare a planning proposal to:
 - a. Rezone Lot 598 DP 27382 from 6(a) General Recreation to Part 2(a) Residential and Part 7(a) Environmental Protection (Attachment 1);
 - b. Investigate for rezoning Part Lot 51 DP 803471, the triangular piece of land to the immediate north, which forms part of the south-eastern boundary of Stoney Ridge Reserve and
 - c. Reclassify Part Lot 51 DP 803471 from ‘community’ to ‘operational’ land subject to the above investigation.

COUNCIL COMMITTEE MEETING – 27 APRIL 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Sally Dover</p>	<p>That the Property Advisory Panel undertake a site inspection of 22 Homestead Street, Salamander 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: Crs Peter Kafer, Glenys Francis, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Bob Westbury, Sally Dover and Ken Jordan.

Those against the Motion: Nil.



ORDINARY COUNCIL MEETING – 27 APRIL 2010

110	Councillor Steve Tucker Councillor Sally Dover	It was resolved that the recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.





ORDINARY COUNCIL MEETING 11 MAY 2010

PLANNING PROPOSAL IN RESPECT TO COUNCIL OWNED LAND AT SALAMANDER BAY – 22 HOMESTEAD STREET

**REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING GROUP:
 SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

Resolve to prepare a planning proposal to:

- Rezone Lot 598 DP 27382 from 6(a) General Recreation to Part 2(a) Residential and Part 7(a) Environmental Protection (Attachment 1);
- Investigate for rezoning Part Lot 51 DP 803471, the triangular piece of land to the immediate north, which forms part of the south-eastern boundary of Stoney Ridge Reserve and
- Reclassify Part Lot 51 DP 803471 from ‘community’ to ‘operational’ land subject to the above investigation.

COUNCIL COMMITTEE MEETING – 11 MAY 2010
RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Sally Dover</p>	<p>That the matter be deferred to allow for a report to be presented to Council on the “pros” and “cons” of the whole site being re-zoned to residential.</p>
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In accordance with the section 375A, Local Government Act 1993, a division is required for this item.

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

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



ORDINARY COUNCIL MEETING – 11 MAY 2010

126	Councillor Ken Jordan Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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In accordance with the section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.





ORDINARY COUNCIL MEETING 8 JUNE 2010

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2006-6753

22 HOMESTEAD STREET, SALAMANDER LOT 598, DP 27382

THAT COUNCIL:

- 1) Re-zoned the parcel of land at 22 Homestead Street, Salamander from rural to 2(a) residential.
-

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

153	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council investigate the whole site to be rezoned to residential and that the applicant have the opportunity to have another ecologist review of the site and potential offsetting.
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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 Glenys Francis, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Crs John Nell.



MAYORAL MINUTE

ITEM NO. 5

FILE NO: PSC 2006-0191

MOXEY – NELSON BAY ROAD – DA16-2010-102

THAT COUNCIL:

- 1) Support the construction of a residential property in the ANEF 2025 noise effected area. On receipt of reply from RTA the General Manager under delegated authority approve the DA 16-2010-102.
-

ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

157	Councillor Bruce MacKenzie Councillor Glenys Francis	It was resolved that the matter be deferred to the Ordinary Council meeting on 29 June 2010.
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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 Glenys Francis, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Nil.

ITEM NO. 1

FILE NO: 16-2010-152-1

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 24 REFLECTIONS DRIVE ONE MILE

REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP:
SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:



- 1) Refuse Development Application 16-2010-152-1 for the following reasons:
- i) The proposed construction of a dwelling is unsuitable for the proposed development site as it is susceptible to and significantly affected by sea level rise, inundation and flooding when assessed against Section 79C of the Environmental Planning and Assessment Act 1979;
 - ii) The Designed Ground Floor Levels are below the minimum acceptable Flood Planning Level (FPL) for this location of 3.0m AHD;
 - iii) The proposed development is inconsistent with the provisions of Port Stephens Local Environment Plan 2000 - in particular, the Residential 2(A) Zone objectives and considerations for development on land affected by or susceptible to environmental constraints including sea level rise, inundation and flooding.

COUNCIL COMMITTEE MEETING – 8 JUNE 2010
RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Sally Dover</p>	<p>That Council support the development application at a level of 2.5 AHD and delegate full determination to the General Manager.</p>
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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

The Motion on being put was carried.



ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

161	Councillor Ken Jordan Councillor Bob Westbury	It was resolved that Council support the development application at a level of 2.5 AHD and delegate full determination to the General Manager.
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Those for the Motion: Crs Ken Jordan, Shirley O'Brien, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

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

The Motion on being put was carried.

	Councillor Glenys Francis Councillor John Nell	That Council defer to allow for a site inspection by Councillors.
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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 Glenys Francis, Steve Tucker, Geoff Dingle and John Nell.

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

The amendment on being put was lost.



ITEM NO. 2

FILE NO: : 16-2010-146-1

DEVELOPMENT APPLICATION FOR TWO STOREY DWELLING AT NO. 193 SOLDIERS POINT ROAD, SALAMANDER BAY

REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2010-146-1 for the following reasons:
 - i) The proposed construction of a dwelling is unsuitable for the proposed development site as it is susceptible to and significantly affected by sea level rise, inundation and flooding when assessed against Section 79C of the Environmental Planning and Assessment Act 1979;
 - ii) The Designed Ground Floor Levels are below the minimum acceptable Flood Planning Level (FPL) for this location of 3.5m AHD;
 - iii) The proposed development is inconsistent with the provisions of Port Stephens Local Environment Plan 2000 - in particular, the Residential 2(A) Zone objectives and considerations for development on land affected by or susceptible to environmental constraints including sea level rise, inundation and flooding.

COUNCIL COMMITTEE MEETING – 8 JUNE 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Ken Jordan</p>	<p>That Council support the development application at a level of 2.90 AHD and delegate full determination to the General Manager.</p>
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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 Glenys Francis, Ken Jordan, Steve Tucker, Shirley O'Brien, John Nell, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Cr Geoff Dingle.

Geoff Dingle abstained from voting.

**ORDINARY COUNCIL MEETING - 8 JUNE 2010
RESOLUTION:**

162	Councillor Ken Jordan Councillor John Nell	It was resolved that the recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Crs Geoff Dingle



ITEM NO. 3

FILE NO: 16-2009-257-1

DEVELOPMENT APPLICATION FOR 229 SITE CARAVAN PARK, MANAGERS RESIDENCE, COMMUNITY HALL, RECREATION FACILITIES AT NO. 19 & 20 ROAD 580 OFF PORT STEPHENS DRIVE, ANNA BAY

REPORT OF: KEN SOLMAN – MANAGER, DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

1) Refuse DA 16-2009-257-1 for the following reason:

The site is not considered suitable for 229 caravan sites providing long term accommodation, because:

- The development is inconsistent with the objectives of the 1(a) Rural Agriculture Zone.
- The site is not considered suitable for the proposed development following assessment of the matters for consideration in Clause 10 of State Environmental Planning Policy 21 Caravan Parks.
- The development is not consistent with the Lower Hunter Regional Strategy.

COUNCIL COMMITTEE MEETING – 8 JUNE 2010

RECOMMENDATION:

	<p>Councillor John Nell Councillor Glenys Francis</p>	<p>That the matter be deferred to allow for a site inspection by Councillors.</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 Glenys Francis, Ken Jordan, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Bob Westbury, Sally Dover and Bruce MacKenzie.

Those against the Motion: Nil.



ORDINARY COUNCIL MEETING - 8 JUNE 2010

RESOLUTION:

163	Councillor Glenys Francis Councillor John Nell	It was resolved that the recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.





ORDINARY COUNCIL MEETING 29 JUNE 2010

ITEM NO. 1

FILE NO: 16-2005-354-3

DEVELOPMENT APPLICATION FOR TOURIST OPERATION – BOAT RIDES ON THE PORT STEHENS WATERWAYS

REPORT OF: KEN SOLMAN ACTING MANAGER DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2005-354-3 for to modify consent 16-2005-354-2 so as to remove the requirement for S94 contributions (condition 9) for the following reasons:
 - a. The development is not consistent with the Parking Provisions contained within Section 3.8 of Port Stephens Development Control Plan 2007.
 - b. Refund of Contributions would be contrary to the provisions of Section 2.3.7 of the Port Stephens Section 94 Contributions Plan.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010

RECOMMENDATION:

	<p>Councillor Bob Westbury Councillor Glenys Francis</p>	<p>That Council approve the Section 96 development application and refund the Section 94 contribution and fees paid, excluding interest.</p>
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.



ORDINARY COUNCIL MEETING – 29 JUNE 2010

181	Councillor Peter Kafer Councillor Steve Tucker	It was resolved that the Council Committee recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.



ITEM NO. 2

FILE NO: PSC2006-0549

DRAFT PORT STEHENS LOCAL ENVIRONMENTAL PLAN 2000 AMENDMENT NO. 22

REPORT OF: TREVOR ALLEN - MANGER INTEGRATED PLANNING
 GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt draft Port Stephens Local Environmental Plan 2000 Amendment No. 22 (**Attachment 1**) and, subject to a Voluntary Planning Agreement being prepared and adopted, forward the Plan to the Minister for Planning requesting that the Plan be made;
- 2) Note the preparation of a draft Voluntary Planning Agreement with the proponent to fund infrastructure for land affected by the Plan and facilitate the development in accordance with *Anna Bay Strategy and Town Plan 2008*;
- 3) Note the preparation of a Draft Development Control Plan for the subject land affected by the Plan.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010

RECOMMENDATION:

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

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

Those against the motion: Nil.



ORDINARY COUNCIL MEETING – 29 JUNE 2010

182	Councillor Ken Jordan Councillor Shirley O'Brien	That the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

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

AMENDMENT:

	Councillor Glenys Francis Councillor Geoff Dingle	That Council agree in principle to the rezoning and defer the decision to allow for a two way conversation on the VPA process.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

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

The amendment was put and lost.

Cr Peter Kafer left the meeting at 8.23pm prior to Item 4.



ITEM NO. 4

FILE NO: 16-2009-564-1

DEVELOPMENT APPLICATION FOR A 19 LOT SUBDIVISION AT 25 SWAN ST,
 HINTON – LOT 100 DP 628056

REPORT OF: KEN SOLMAN – ACTING MANAGER DEVELOPMENT & BUILDING
 GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Approve DA 16-2009-564-1 for a 19 lot subdivision at 25 Swan St, Hinton – Lot 100 DP 628056 subject to the conditions listed in **Attachment 4**.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010

RECOMMENDATION:

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

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 29 JUNE 2010

184	Councillor Steve Tucker Councillor Ken Jordan	It was resolved that the recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.



Cr Peter Kafer returned to the meeting at 8.25pm following Item 4.

ITEM NO. 5

FILE NO: 16-2010-54-1

DEVELOPMENT APPLICATION FOR A BOUNDARY ADJUSTMENT AND TWO DUAL OCCUPANCIES AT 644 & 650 MARSH ROAD, BOBS FARM

REPORT OF: KEN SOLMAN – ACTING MANAGER DEVELOPMENT & BUILDING
 GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve DA 16-2010-54-1 for a boundary adjustment and two dual occupancies at 644 & 650 Marsh Road, Bobs Farm subject to conditions contained in **Attachment 4**.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Shirley O'Brien</p>	<p>That the matter be deferred to allow for a site inspection on the 3rd July 2010.</p>
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.

ORDINARY COUNCIL MEETING – 29 JUNE 2010

<p>185</p>	<p>Councillor Bruce MacKenzie Councillor Glenys Francis</p>	<p>It was resolved that the Council Committee recommendation be adopted.</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



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

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

Those against the motion: Nil.



ITEM NO. 6

FILE NO: 16-2010-102-1

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 2258
 NELSON BAY ROAD, WILLIAMTOWN

REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING
 GROUP: SUSTAINABLE PLANNING GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2010-102-1 for the construction of a single storey brick veneer dwelling at LOT: 7, DP 224476, 2258 Nelson Bay Road, Williamtown for the reasons contained below.

The development represents an unacceptable level of exposure to aircraft noise and does not meet the acceptability criteria under the Australian Standard AS2021-2000 or DCP2007.

COUNCIL COMMITTEE MEETING – 29 JUNE 2010
RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Shirley O'Brien</p>	<p>That the matter be deferred to allow for a site inspection on the 3rd July 2010.</p>
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.



ORDINARY COUNCIL MEETING – 29 JUNE 2010

186	Councillor Bruce MacKenzie Councillor Glenys Francis	It was resolved that the Council Committee recommendation be adopted.
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In accordance with Section 375A of the Local Government Act 1993, a division is required for this item.

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

Those against the motion: Nil.





ORDINARY COUNCIL MEETING 13 JULY 2010

ITEM NO. 1

FILE NO: 16-2009-257-1

DEVELOPMENT APPLICATION 16-2009-257-1 FOR A 229 SITE CARAVAN PARK, MANAGERS RESIDENCE, COMMUNITY HALL, & RECREATION FACILITIES AT 19 & 20 ROAD 580 OFF PORT STEPHENS DRIVE, ANNA BAY

REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse DA 16-2009-257-1 for a 229 Site Caravan Park, Managers Residence, Community Hall and Recreation Facilities at 19 & 20 Road 580 Off Port Stephens Drive, Anna Bay for the following reason:

The site is not considered suitable for 229 caravan sites providing long term accommodation, because:

- The development is inconsistent with the objectives of the 1(a) Rural Agriculture Zone.
- The site is not considered suitable for the proposed development following assessment of the matters for consideration in Clause 10 of State Environmental Planning Policy 21 Caravan Parks.
- The development is not consistent with the Lower Hunter Regional Strategy.
- The Roads and Traffic Authority (RTA) will not issue concurrence for access to Nelson Bay Road. **(Attachment 4 – RTA letter 23 June 2010)**

COUNCIL COMMITTEE MEETING – 13 JULY 2010

RECOMMENDATION:

	<p>Councillor Sally Dover Councillor Shirley O'Brien</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Approve DA 16-2009-257-1 for a 229 Site Caravan Park, Managers Residence, Community Hall and Recreation Facilities at 19 & 20 Road 580 Off Port Stephens Drive, Anna Bay, in principle and; 2. That staff provide draft conditions of consent for consideration by 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, Steve Tucker, Shirley O'Brien, Bob Westbury, Sally Dover and Ken Jordan.

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

ORDINARY COUNCIL MEETING - 13 JULY 2010

	<p>Councillor Geoff Dingle Councillor Peter Kafer</p>	<p>That Council:-</p> <p>1) Refuse DA 16-2009-257-1 for a 229 Site Caravan Park, Managers Residence, Community Hall and Recreation Facilities at 19 & 20 Road 580 Off Port Stephens Drive, Anna Bay for the following reason:</p> <p>The site is not considered suitable for 229 caravan sites providing long term accommodation, because:</p> <ul style="list-style-type: none"> ▪ The development is inconsistent with the objectives of the 1(a) Rural Agriculture Zone. ▪ The site is not considered suitable for the proposed development following assessment of the matters for consideration in Clause 10 of State Environmental Planning Policy 21 Caravan Parks. ▪ The development is not consistent with the Lower Hunter Regional Strategy. ▪ The Roads and Traffic Authority (RTA) will not issue concurrence for access to Nelson Bay Road. (Attachment 4 – RTA letter 23 June 2010).
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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

The Motion on being put was lost.

200	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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

The Motion on being put was carried.



ITEM NO. 2

FILE NO: 16-2010-54-1

DEVELOPMENT APPLICATION FOR A BOUNDARY ADJUSTMENT AND TWO DUAL OCCUPANCIES AT 644 & 650 MARSH ROAD, BOBS FARM

REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING
 GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve DA 16-2010-54-1 for a boundary adjustment and two dual occupancies at 644 & 650 Marsh Road, Bobs Farm subject to conditions contained in **Attachment 4**.

**COUNCIL COMMITTEE MEETING – 13 JULY 2010
 RECOMMENDATION:**

	<p>Councillor Bruce MacKenzie Councillor Shirley O'Brien</p>	<p>That Council approve DA 16-2010-54-1 for a boundary adjustment and two dual occupancies at 644 & 650 Marsh Road, Bobs Farm subject to conditions contained in Attachment 4, excluding Conditions 5 and 6.</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 Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Bob Westbury, Sally Dover and Ken Jordan.

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

The Motion on being put was carried.

ORDINARY COUNCIL MEETING - 13 JULY 2010

<p>201</p>	<p>Councillor Ken Jordan Councillor Shirley O'Brien</p>	<p>It was resolved that the Council Committee recommendation be adopted.</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



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

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

Those against the Motion: Crs Peter Kafer, Caroline De Lyall and Geoff Dingle.



ITEM NO. 3

FILE NO: 16-2010-102-1

DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 2258 NELSON BAY ROAD, WILLIAMTOWN

REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING GROUP

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Development Application 16-2010-102-1 for the construction of a single storey brick veneer dwelling at LOT: 7, DP 224476, 2258 Nelson Bay Road, Williamtown for the reasons contained below.

The development represents an unacceptable level of exposure to aircraft noise and does not meet the acceptability criteria under the Australian Standard AS2021-2000 or DCP2007.

COUNCIL COMMITTEE MEETING – 13 JULY 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Steve Tucker</p>	<p>That Council:-</p> <ol style="list-style-type: none"> 1. Approve Development Application 16-2010-102-1 for the construction of a single storey brick veneer dwelling at LOT: 7, DP 224476, 2258 Nelson Bay Road, Williamtown, in principle and; 2. That staff provide draft conditions of consent for consideration by Council at the Council Committee meeting of 27 July 2010.
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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, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Bob Westbury, Sally Dover and Ken Jordan.



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

Caroline De Lyall abstained from voting.

ORDINARY COUNCIL MEETING - 13 JULY 2010

Cr Glenys Francis left the meeting at 8.02pm prior to voting on the matter.

202	Councillor Ken Jordan Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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

Cr Glenys Francis returned to the meeting at 8.15pm following voting on the matter.



RECISSION MOTION

ITEM NO. 1

FILE NO: PSC2008-2238

VPA FOR PROPOSED REZONING OF LAND AT PEPPERTREE ROAD, MEDOWIE

COUNCILLORS: DINGLE, WARD, KAFER

That Council rescind its decision of 29 June 2010 on Item 12, Min.191 of the Ordinary Council Report, namely VPA for Proposed Rezoning of Land at Peppertree Road, Medowie.

ORDINARY COUNCIL MEETING - 13 JULY 2010

Cr Bruce MacKenzie objected to the Rescission Motion.

	<p>Councillor Geoff Dingle Councillor Frank Ward</p>	<p>That Council rescind its decision of 29 June 2010 on Item 12, Min.191 of the Ordinary Council Report, namely VPA for Proposed Rezoning of Land at Peppertree Road, Medowie.</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, Geoff Dingle and Frank Ward.

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

The Rescission Motion on being put was lost.

The Mayor exercised his casting vote.





ORDINARY COUNCIL MEETING 27 JULY 2010

ITEM NO. 1

FILE NO: 16-2010-102-1

**DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 2258
 NELSON BAY ROAD WILLIAMTOWN**

**REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING
 GROUP: SUSTAINABLE PLANNING GROUP**

RECOMMENDATION IS THAT COUNCIL:

- 1) Determine this matter.

**COUNCIL COMMITTEE MEETING – 27 JULY 2010
 RECOMMENDATION:**

	<p>Councillor Bruce MacKenzie Councillor Steve Tucker</p>	<p>That Council resolve to give development consent to Development Application 16-2010-102-1 for the construction of a single storey brick veneer dwelling of DP 224476, 2258 Nelson Bay Road Williamtown subject to the conditions contained in Attachment 1.</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 Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Bob Westbury and Sally Dover.

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

Cr Caroline De Lyall abstained from voting.

The Mayor exercised his casting Mayor.



ORDINARY COUNCIL MEETING – 27 JULY 2010

220	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that Council give development consent to Development Application 16-2010-102-1 for the construction of a single storey brick veneer dwelling of DP 224476, 2258 Nelson Bay Road Williamtown subject to the conditions contained in Attachment 1.
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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, Steve Tucker, Shirley O'Brien, Bob Westbury and Sally Dover.

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



ITEM NO. 2

FILE NO: PSC2006-0046

DRAFT PORT STEHENS COMMUNITY SETTLEMENT STRATEGY

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Place the *draft Port Stephens Community Settlement Strategy* on public exhibition for a period of four weeks with a report back to Council on the outcomes of the exhibition.

COUNCIL COMMITTEE MEETING – 27 JULY 2010

RECOMMENDATION:

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

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 27 JULY 2010

221	Councillor Peter Kafer Councillor John Nell	It was resolved that the recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.



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



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

Those against the Motion: Nil.





ORDINARY COUNCIL MEETING 10 AUGUST 2010

ITEM NO. 1

FILE NO: 16-2009-324-1

DEVELOPMENT APPLICATION FOR 16-2009-324-1 AT LOT 3 DP 1036690 AND LOT 11 DP 1036501 WILLIAMTOWN DRIVE AND LOT 131 AND LOT 132 DP 609165 CABBAGE TREE ROAD

REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and note the assessment of Development Application 16/2009/324/1 for a 103 lot subdivision for Defence and Airport Related Employment Development at Lot 3 DP 1036690 and Lot 11 DP 1036501 Williamtown Drive and Lot 131 and Lot 132 DP 609165 Cabbage Tree Road, Williamtown and delegate determination of Development Application 16-2009-324-1 to the General Manager to make a determination upon Council receiving certification in writing from the Director General of the Department of Planning that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure pursuant to the requirements of clause 26B(3) of the Port Stephens Local Environmental Plan 2000.

COUNCIL COMMITTEE MEETING – 10 AUGUST 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Shirley O'Brien</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Receive and note the assessment of Development Application 16/2009/324/1 for a 103 lot subdivision for Defence and Airport Related Employment Development at Lot 3 DP 1036690 and Lot 11 DP 1036501 Williamtown Drive and Lot 131 and Lot 132 DP 609165 Cabbage Tree Road, Williamtown and delegate determination of Development Application 16-2009-324-1 to the General Manager to make a determination upon Council
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		<p>receiving certification in writing from the Director General of the Department of Planning that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure pursuant to the requirements of clause 26B(3) of the Port Stephens Local Environmental Plan 2000.</p> <ol style="list-style-type: none"> 2. Should the General Manager not be in a position to determine the matter, the matter be brought back to Council to be resolved. 3. That Council be briefed on the matter prior to the determination being made.
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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, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bruce MacKenzie.

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 10 AUGUST 2010

<p>238</p>	<p>Councillor Peter Kafer Councillor Shirley O'Brien</p>	<p>It was resolved that the council committee recommendation be adopted.</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, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bruce MacKenzie.

Those against the Motion: Nil.



ITEM NO. 2

FILE NO: 2007-1204

NELSON BAY PLANNING STRATEGY - STRATEGIC PRINCIPLES

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING
 GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the broadening of the Nelson Bay Planning Strategy area to include the Nelson Bay Foreshore;
- 2) Endorse the Nelson Bay Strategic Principles (**Attachment 1 – provided under separate cover**); for purposes of
 - a. Forwarding to Ardent Leisure, the NSW Department of Land & Property Information and the NSW Department of Planning as Council’s strategic statement for consideration under the Part 3A concept planning processes for the Nelson Bay foreshore; and
 - b. Presenting as appropriate at community workshops to be convened by Consultants on behalf of Ardent Leisure and the NSW Department of Land & Property Information for consultation purposes in relation to the preparation of a concept plan for the Nelson Bay Foreshore in accordance with Part 3A of the Environmental Planning & Assessment Act as amended

COUNCIL COMMITTEE MEETING – 10 AUGUST 2010

RECOMMENDATION:

	<p>Councillor John Nell Councillor Bruce MacKenzie</p>	<p>That the matter be deferred to allow for consultation with East Ward Councillors and reported back to Council at the Council Committee on 24 August 2010.</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, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bruce MacKenzie.



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Those against the Motion: Nil.



ORDINARY COUNCIL MEETING – 10 AUGUST 2010

239	Councillor John Nell Councillor Shirley O'Brien	It was resolved that the council committee recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.



NOTICE OF MOTION

ITEM NO. 2

FILE NO: A2004-0217

PROPOSED DEVELOPMENT OF THE EXTENSION OF LAVIS LANE

COUNCILLORS: WARD, DINGLE, KA FER

THAT COUNCIL:

- 1) In order that Councillors' may be able to consider the public disquiet on the matter the General Manager is requested to prepare a report to Council as soon as possible on the proposed development of the extension of Lavis Lane as required by the developers of the sand mining by Macka Sands.
- 2) The report should give complete details of all actions by Council staff in the matter including copies of all correspondence between any council staff and the parties involved and notes of all conversations between any Council staff and any member of the Tower family and representatives of Macka Sands and their solicitors and surveyors.

ORDINARY COUNCIL MEETING – 10 AUGUST 2010

248	Councillor Frank Ward Councillor Geoff Dingle	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1. In order that Councillors' may be able to consider the public disquiet on the matter the General Manager is requested to prepare a report to Council as soon as possible on the proposed development of the extension of Lavis Lane as required by the developers of the sand mining by Macka Sands. 2. The report should give complete details of all actions by Council staff in the matter including copies of all correspondence between any council staff and the parties involved and notes of all conversations between any Council staff and any member of the Tower family and representatives of Macka Sands and their
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PORT STEHENS COUNCIL
PLANNING DECISION REGISTER
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008



		solicitors and surveyors. 3. That the report be made available within 4 weeks.
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Cr Ken Jordan left the meeting at 7.31pm prior to voting on the item.

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

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

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



ORDINARY COUNCIL MEETING 24 AUGUST 2010

ITEM NO. 1

FILE NO: 2007-1204

NELSON BAY PLANNING STRATEGY - STRATEGIC PRINCIPLES

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING
 GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 3) Note the broadening of the Nelson Bay Planning Strategy area to include the Nelson Bay Foreshore;
- 4) Endorse the Nelson Bay Strategic Principles (**Attachment 1 – provided under separate cover**); for purposes of
 - a. Forwarding to Ardent Leisure, the NSW Department of Land & Property Information and the NSW Department of Planning as Council’s strategic statement for consideration under the Part 3A concept planning processes for the Nelson Bay foreshore; and
 - b. Presenting as appropriate at community workshops to be convened by Consultants on behalf of Ardent Leisure and the NSW Department of Land & Property Information for consultation purposes in relation to the preparation of a concept plan for the Nelson Bay Foreshore in accordance with Part 3A of the Environmental Planning & Assessment Act as amended.

COUNCIL COMMITTEE MEETING – 24 AUGUST 2010

RECOMMENDATION:

	<p>Councillor Sally Dover Councillor Frank Ward</p>	<p>That Council:-</p> <ol style="list-style-type: none"> 1. Adopt the recommendation. 2. Specify in Principle 7, two (2) view corridors through the carpark to the beach and from Stockton Street through the Marina buildings to the water.
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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, Caroline De Lyall, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover and Ken Jordan.

Those against the Motion: Crs John Nell and Glenys Francis.

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

DIVISION FOR THE MOTION

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

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

Those against the Motion: Nil.

ORDINARY COUNCIL MEETING – 24 AUGUST 2010

256	Councillor John Nell Councillor Sally Dover	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.



ITEM NO. 2

FILE NO: 16-2009-293-2

SECTION 96 APPLICATION TO MODIFY DEVELOPMENT CONSENT NO. 16-2009-293-1 AT NO. 30 REFLECTIONS DRIVE ONE MILE

REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Section 96 Application 16-2010-293-2 for the reasons below:
 - (a) The development is inconsistent with the provisions of Port Stephens Local Environmental Plan 2000, in particular the planning considerations for development on flood prone land.
 - (b) The development is considered inconsistent with the principles of the Floodplain Management Manual 2005, as the development does not comply with the current Flood Planning Level.
 - (c) The modification would result in a development which has no freeboard of the floor level to current 1% AEP Flood levels.
 - (d) Approving the modification to allow a development with a finished floor level (FFL) below the Flood Planning Level in high risk flood areas places further demand on already limited SES resources by way of domestic property protection, evacuation and/or resupply. Furthermore, approval of the modification leaves Council exposed to litigation in the future.
 - (e) Approval of this application would have an undesirable cumulative effect by increasing the community's susceptibility to flooding, in terms of social and economic consequences.
 - (f) The development is contrary to the public interests and expectations of an orderly and predictable built environment.

COUNCIL COMMITTEE MEETING – 24 AUGUST 2010
RECOMMENDATION:

		Item 2 was withdrawn at the meeting.
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PORT STEHENS COUNCIL
PLANNING DECISION REGISTER
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008



ORDINARY COUNCIL MEETING – 24 AUGUST 2010

		Item 2 was withdrawn at the meeting.
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ITEM NO. 3

FILE NO: 16-2009-840-2

AMENDMENT TO DEVELOPMENT APPLICATION FOR SINGLE STOREY DWELLING AT NO. 3 MEEHAN ROAD, RAYMOND TERRACE

REPORT OF: KEN SOLMAN- ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application (S96 modification) 16-2009-840-2 for the following reasons:

1. Construction of a new dwelling without appropriate noise attenuation would be inconsistent with the provisions of Australian Standard AS2021-2000 – Acoustics – Aircraft Noise Intrusion – Building Siting and Construction;
2. Construction of a new dwelling without appropriate noise attenuation would be inconsistent with the provisions of Australian Standard AS2021-2000, and Port Stephens Council DCP 2007 – Section B2.13 – Aircraft Noise, and
3. Construction of a new dwelling without appropriate noise attenuation would be inconsistent with the objectives of the Department of Planning Ministerial (117) Direction on development near licensed aerodromes.

COUNCIL COMMITTEE MEETING – 24 AUGUST 2010
RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Caroline De Lyall</p>	<p>That the Development Application (S96 modification) 16-2009-840-2 be approved.</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, Caroline De Lyall, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover, Ken Jordan and Glenys Francis.

Those against the Motion: Cr John Nell.

ORDINARY COUNCIL MEETING – 24 AUGUST 2010

257	Councillor Peter Kafer Councillor Ken Jordan	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr John Nell.



ITEM NO. 4

FILE NO: 16-2009-768-2

SECTION 96 APPLICATION TO MODIFY DEVELOPMENT CONSENT FOR DETACHED DUAL OCCUPANCY & TWO LOT TORRENS TITLE SUBDIVISION AT NO. 4 MEEHAN ROAD, RAYMOND TERRACE

REPORT OF: KEN SOLMAN - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2009-768-2 for the following reasons:

- 1) Construction of a new Dual Occupancy without appropriate noise attenuation would result in occupants being exposed to unacceptable aircraft noise impacts and unacceptable indoor sound levels.
- 2) Construction of a new Dual Occupancy without appropriate noise attenuation would be inconsistent with the provisions of Australian Standard AS2021-2000, Acoustics – Aircraft noise intrusion – Building siting and construction and Port Stephens Council DCP 2007 – Section B2.13 – Aircraft Noise
- 3) Construction of a new dwelling without appropriate noise attenuation would be inconsistent with the objectives of the Department of Planning Ministerial (117) Direction on development near licensed aerodromes.

COUNCIL COMMITTEE MEETING – 24 AUGUST 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Caroline De Lyall</p>	<p>That the Development Application (S96 modification) 16-2009-768-2 be approved.</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, Caroline De Lyall, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover, Ken Jordan and Glenys Francis.



Those against the Motion: Cr John Nell.

ORDINARY COUNCIL MEETING – 24 AUGUST 2010

258	Councillor Peter Kafer Councillor Ken Jordan	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr John Nell.



ITEM NO. 5

FILE NO: PSC2006-6662

KINGS HILL DRAFT LOCAL ENVIRONMENTAL PLAN 2010 – PROPOSED REZONING OF LAND AT NEWLINE ROAD ADJOINING THE BEDMINSTER WASTE MANAGEMENT FACILITY – CONSIDERATION OF LATEST DEPT. OF DEFENCE AIRCRAFT NOISE ADVICE

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Request that the NSW Department of Planning issue a certificate under section 65 of the Act to enable public exhibition of the draft Local Environmental Plan to amend the Kings Hill draft LEP with respect to Part Lot 3 in DP 1098770 to rezone the land to R1 General Residential and E2 Environmental Conservation (**Attachment 1**).

COUNCIL COMMITTEE MEETING – 24 AUGUST 2010
RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Glenys Francis</p>	<p>That Council invite the noise consultant to address Council and that the report be deferred until such time.</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, Caroline De Lyall, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover, Ken Jordan, Glenys Francis and John Nell.

Those against the Motion: Nil.

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



ORDINARY COUNCIL MEETING – 24 AUGUST 2010

259	Councillor Bruce MacKenzie Councillor Ken Jordan	It was resolved that Council: <ol style="list-style-type: none"> 1. Request that the NSW Department of Planning issue a certificate under section 65 of the Act to enable public exhibition of the draft Local Environmental Plan to amend the Kings Hill draft LEP with respect to Lot 3 in DP 1098770 and Lot 11 in DP 37340, Newline Road, Raymond Terrace to rezone the land to R1 General Residential and E2 Environmental Conservation (Attachment 2). 2) Invite the noise consultant to address Council. 3) Incorporate the same clause/s as was drafted for the overall Kings Hill LEP in relation to odour.
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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, Caroline De Lyall, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Geoff Dingle, Frank Ward, Bob Westbury, Sally Dover, Ken Jordan, Glenys Francis and John Nell.

Those against the Motion: Nil.

The motion on being put was carried.

AMENDMENT

	Councillor Glenys Francis Councillor Peter Kafer	That Council invite the noise consultant to address Council and that the report be deferred until such time.
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PORT STEHENS COUNCIL
PLANNING DECISION REGISTER
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008




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

Those for the Motion: Crs Peter Kafer and Glenys Francis.

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

The amendment on be put was lost.





ORDINARY COUNCIL MEETING 14 SEPTEMBER 2010

ITEM NO. 1

FILE NO: 16-2008-827-2

SECTION 96 APPLICATION TO MODIFY DEVELOPMENT CONSENT NO. 16-2008-827-1 AT NO. 470 MARSH ROAD, BOBS FARM

REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 4) Refuse Section 96 Application 16-2008-827-2 for the deletion and/or modification of Condition 5, 11, 15 & 20, as the application in seeking the deletion of Condition No. 11 & 15:
 - (a) Is inconsistent with the provisions of Port Stephens Local Environmental Plan 2000. In particular the planning considerations for development on flood prone land, including the provisions of Clause 37 (Objectives for development on flood prone land) and Clause 38 (Development on flood prone land).
 - (b) Is inconsistent with the principles of the Floodplain Management Manual 2005, as the development does not comply with the current Flood Planning Level.
 - (c) Is a breach of Council's duty of care in protecting residents, SES personnel and property owners from the personal and property risks associated with flood events.
 - (d) Would have an undesirable cumulative effect by increasing the community's susceptibility to flooding, in terms of social and economic consequences.
- 2) Express support for the modification of Condition No. 20, should the applicant lodge a Section 96 application to modify this consent in the future.

COUNCIL COMMITTEE MEETING – 14 SEPTEMBER 2010
RECOMMENDATION:

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

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

	<p> Councillor Bruce MacKenzie Councillor Sally Dover </p>	<p>That the Section 96 application 16-2008-827-2 be approved with amendments to Conditions 11 and 20 as shown below and the deletion of Condition 15.</p> <p><i>"Condition 11 – Electrical Installations – As the 1% flood level is 1.88 AHD (i.e. only 80mm above the Existing Floor Level) and the switchboard includes earth and leakage circuit breakers, there is minimal risk from the power supply. The pillar connection to be raised above the 1% (1.88AHD) flood level o is to be water sealed."</i></p> <p><i>"Condition 20 Access way within Road Reserve – a concrete edge strip at the gravel/road interface to prevent damage to the road sea is to be provided"</i>.</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, Bruce MacKenzie, Steve Tucker, Shirley O'Brien, Bob Westbury, Sally Dover, Frank Ward and Ken Jordan.

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



ORDINARY COUNCIL MEETING – 14 SEPTEMBER 2010

278	Councillor Bruce MacKenzie Councillor Sally Dover	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

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





ORDINARY COUNCIL MEETING 28 SEPTEMBER 2010

ITEM NO. 1

FILE NO: 16-2009-981-1

DEVELOPMENT APPLICATION FOR A BOUNDARY REALIGNMENT AT NO.7 & NO.9 CROMARTY LANE BOBS FARM

REPORT OF: KEN SOLMAN –DEVELOPMENT & BUILDING, ACTING MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Refuse DA 16-2009-981-1 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 1(a) Rural Agriculture Zone objectives of Port Stephens Local Environmental Plan 2000.
- 3) The development potentially poses a significant impact on threatened species, populations, ecological communities, or their habitats.
- 4) The development is contrary to the public interests and expectations, of an orderly and predictable built environment.

COUNCIL COMMITTEE MEETING – 28 SEPTEMBER 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Sally Dover</p>	<p>That Council defer the matter to allow for further information to be provided to the next Council Committee meeting.</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 John Nell, Bob Westbury, Sally Dover, Frank Ward, Bruce MacKenzie, Shirley O'Brien, Geoff Dingle, Glenys Francis and Caroline De Lyall

Those against the Motion: Nil.



ORDINARY COUNCIL MEETING – 28 SEPTEMBER 2010

302	Councillor John Nell Councillor Glenys Francis	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.



Cr Geoff Dingle left the meeting at 7.25pm and returned at 7.29pm prior to voting on Item 2.

ITEM NO. 2

FILE NO: 16-2009-257-1

DEVELOPMENT APPLICATION 16-2009-257-1 FOR A 229 SITE CARAVAN PARK, MANAGERS RESIDENCE, COMMUNITY HALL, & RECREATION FACILITIES AT 19 & 20 ROAD 580 OFF PORT STEPHENS DRIVE, ANNA BAY

REPORT OF: KEN SOLMAN – DEVELOPMENT & BUILDING, ACTING MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the draft conditions of consent for DA 16-2009-257-1 are at Attachment 4.

COUNCIL COMMITTEE MEETING – 28 SEPTEMBER 2010

RECOMMENDATION:

	Councillor John Nell Councillor Frank Ward	That Council approve Development Application 16-2009-257-1 for a 229 Site Caravan Park, Managers Residence, Community Hall & Recreation Facilities at 19 & 20 Road 580 Off Port Stephens Drive, Anna Bay with the conditions shown in Attachment 4.
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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 John Nell, Frank Ward, Caroline De Lyall, Glenys Francis and Geoff Dingle.

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

ORDINARY COUNCIL MEETING – 28 SEPTEMBER 2010

303	Councillor John Nell Councillor Geoff Dingle	It was resolved that the recommendation be adopted.
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PORT STEHENS COUNCIL
PLANNING DECISION REGISTER
Section 375A, Local Government Act 1993
(DLG Circular 08-45) –
Commenced 1 October 2008



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, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bob Westbury.

Those against the Motion: Crs Bruce MacKenzie and Shirley O'Brien.



ITEM NO. 5

FILE NO: PSC2005-1530

DRAFT AMENDMENT TO COUNCIL'S DEVELOPMENT CONTROL PLAN TO INCLUDE INDEPENDENT DISABLED ACCESS AUDITS FOR RELEVANT DEVELOPMENT PROPOSALS

REPORT OF: TREVOR ALLEN –INTEGRATED PLANNING, MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Place on public exhibition for 28 days the draft amendment to Port Stephens Development Control Plan 2007 (**Attachment 1**) requiring Independent Access Audits for relevant development proposals.

The item was withdrawn prior to the meeting.





ORDINARY COUNCIL MEETING 19 OCTOBER 2010

ITEM NO. 1

FILE NO: 16-2009-981-1

DEVELOPMENT APPLICATION FOR A BOUNDARY REALIGNMENT AT NO.7 & NO.9 CROMARTY LANE BOBS FARM

REPORT OF: KEN SOLMAN –DEVELOPMENT & BUILDING, ACTING MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

Refuse DA 16-2009-981-1 for the following reasons:

- 5) Insufficient information submitted to enable a comprehensive assessment under Section 79C of the Environmental Planning and Assessment Act, 1979.
- 6) The development is inconsistent with the 1(a) Rural Agriculture Zone objectives of Port Stephens Local Environmental Plan 2000.
- 7) The development potentially poses a significant impact on threatened species, populations, ecological communities, or their habitats.
- 8) The development is contrary to the public interests and expectations, of an orderly and predictable built environment.

COUNCIL COMMITTEE MEETING –19 OCTOBER 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Sally Dover</p>	<p>It was resolved that Council support the Development Application in principal and request that the Sustainable Planning Group Manager prepare a report with conditions being prepared and presented at the next Council Meeting.</p>
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Those for the motion : Crs Bruce MacKenzie, Ken Jordan, John Nell, Steve Tucker, Bob Westbury, Glenys Francis, Peter Kafer, Geoff Dingle, Sally Dover, Shirley O'Brien.

Those against the motion : Nil.

The motion on being put was carried.



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





ORDINARY COUNCIL MEETING – 19 OCTOBER 2010

333	Councillor Ken Jordan Councillor Bruce MacKenzie	It was resolved that the council committee recommendation be adopted.
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Those for the motion : Crs Peter Kafer, Glenys Francis, Ken Jordan, Bruce MacKenzie, Steve Tucker , Shirley O'Brien, John Nell, Sally Dover, Bob Westbury and Geoff Dingle.

Those against the motion : Nil.

The motion on being put was carried.



Cr Ken Jordan declared a pecuniary interest in this item and left the meeting at 7.12pm.

ITEM NO. 2

FILE NO: 16-2010-291-1

DEVELOPMENT APPLICATION FOR SUPERMARKET (WOOLWORTHS) AT NO. 39, 41, 43, 45 AND 47 FERODALE ROAD, MEDOWIE

REPORT OF: KEN SOLMAN –DEVELOPMENT & BUILDING, ACTING MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Note that the status of the development application 16-2010-291-1 in relation to the merit assessment matters pertaining to 79C of the *Environmental Planning and Assessment Act 1979*, particularly noting the outstanding issues involved and how these relate to the concept plan supported in principle by Council in May 2009;
- 2) Endorse the exhibition of the draft amendment to Port Stephens Development Control Plan 2007 as contained in Attachment 8 (to be issued under separate cover) for purposes of testing that concept and seeking to achieve a policy framework for the determination of the subject development application.

COUNCIL COMMITTEE MEETING –19 OCTOBER 2010

RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Shirley O'Brien</p>	<p>That the recommendation be adopted.</p>
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In accordance with the Local Government Act 1993, a division is required for this item.

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

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

The motion on being put was carried.



ORDINARY COUNCIL MEETING – 19 OCTOBER 2010

334	Councillor Bruce MacKenzie Councillor Steve Tucker	It was resolved that the council committee recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

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

The motion on being put was carried.

RECISSION MOTION

ITEM NO. 1

FILE NO: 16-2009-257-1

DEVELOPMENT APPLICATION 16-2009-257-1 FOR A 229 SITE CARAVAN PARK, MANAGERS RESIDENCE, COMMUNITY HALL, & RECREATION FACILITIES AT 19 & 20 ROAD 580 OFF PORT STEPHENS DRIVE, ANNA BAY

COUNCILLORS: MACKENZIE, O'BRIEN, DOVER

That Council rescind its decision of 28 September 2010 on Item 2 of the Council Committee Report, namely Development Application 16-2009-257-1 for a 229 Site Caravan Park, Managers Residence, Community Hall & Recreation Facilities at 19 & 20 Road 580 Off Port Stephens Drive, Anna Bay.

ORDINARY COUNCIL MEETING – 19 OCTOBER 2010

	Councillor Glenys Francis Councillor Geoff Dingle	That the Recission Motion in front of us not be put to council.
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In accordance with the Local Government Act 1993, a division is required for this item.



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

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

The motion on being put was lost.

347	Councillor Bruce MacKenzie Councillor Steve Tucker	That Council 1) Rescind its decision of 28 September 2010 on Item 2 of the Council Committee Report, namely Development Application 16-2009-257-1 for a 229 Site Caravan Park, Managers Residence, Community Hall & Recreation Facilities at 19 & 20 Road 580 Off Port Stephens Drive, Anna Bay.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

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

The motion being put was carried.

Cr Dingle left the meeting at 8.07pm and returned at 8.16pm.
 Cr Francis left the meeting at 8.09pm and returned at 8.17pm.

348	Councillor Glenys Francis Councillor John Nell	That the motion be put.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

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

The motion being put was carried.



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



Cr Dingle left the meeting at 8.25pm prior to voting and did not return.

349	Councillor Bruce MacKenzie Councillor Steve Tucker	That Council has discussions with the applicant about the draft conditions put forward by the Group Manager Sustainable Planning.
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In accordance with the Local Government Act 1993, a division is required for this item.

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

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

The motion on being put was carried.





ORDINARY COUNCIL MEETING 14 DECEMBER 2010

ITEM NO. 1

FILE NO: 16-2010-526-1

DEVELOPMENT APPLICATION FOR TWO (2) STOREY DWELLING AT NO. 5 BAYSIDE STREET (PRIVATE ROAD), NELSON BAY

**REPORT OF: KEN SOLMAN – ACTING MANAGER, DEVELOPMENT & BUILDING
GROUP: SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

- 1) Not support the State Environmental Planning Policy 1 (SEPP 1) variation to Clause 19 of the Port Stephens Local Environmental Plan 2000 (LEP) for the construction of a two storey dwelling at number 5, Lot 42 Bayside Street (Private Road), Nelson Bay.
- 2) The applicant be given the opportunity to modify and/or re-design the proposed dwelling to more closely align with the existing development consent DA 16/2007/154/1 and/or the current planning controls applicable to the site.
- 3) Council note that if the applicant chooses not to modify and/or re-design the proposed dwelling then the application be determined by Council staff under delegation.
- 4) Refuse the request to release, vary or modify the instrument setting out the terms of easements and restrictions under the provisions of 88B of the Conveyancing Act 1919 affecting number 5, Lot 42 Bayside Street (Private Road), Nelson Bay be because:-
 - the proposed development is of a size, bulk and scale that significantly exceeds the existing dual occupancy development consent that enabled the creation of Lot 42 and Lot 43 as an integrated dual occupancy (DA 16/2007/154/1);
 - the proposed development is of a size, bulk and scale that significantly exceeds the statutory requirements and would be an overdevelopment of the small lot No 42 created for an integrated dual occupancy development.

**COUNCIL COMMITTEE MEETING – 7 DECEMBER 2010
RECOMMENDATION:**



	<p>Councillor Bruce MacKenzie Councillor Frank Ward</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1. Support the development application for two (2) storey dwelling at No. 5 Bayside Street, Nelson Bay. 2. Support the request to release, vary or modify the instrument setting out the terms of easements and restrictions under the provisions of 88B of the Conveyancing Act 1919 affecting number 5, Lot 42 Bayside Street (Private Road), Nelson Bay. 3. Council indicated its support for the development application and delegate determination to the General Manager, with the proposed condition be subject to consultation with the Mayor.
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ORDINARY COUNCIL MEETING – 14 DECEMBER 2010

<p>392</p>	<p>Councillor Frank Ward Councillor John Nell</p>	<p>It was resolved that the Council Committee recommendation be adopted.</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, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bob Westbury.

Those against the Motion: Nil.



ITEM NO. 2

FILE NO: 16-2010-22-1

DEVELOPMENT APPLICATION FOR TWO STOREY DWELLING AT NO. 227
FORESHORE DRIVE, CORLETTE.

REPORT OF: KEN SOLMAN - DEVELOPMENT AND BUILDING, ACTING MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 2) Not support the State Environmental Planning Policy 1 (SEPP 1) variation to Clause 19 of the Port Stephens Local Environmental Plan 2000 (LEP) for the construction of a two storey dwelling at number 227 Lot 340 Foreshore Drive, Corlette.
- 3) Refuse Development Application for a two storey dwelling at number 227 Lot 340 Foreshore Drive, Corlette DA16-2010-22-1 for the following reasons:
 - The proposed two storey dwelling which is the subject of this application does not comply with the requirements of Clause 19 Port Stephens Local Environmental Plan 2000 and is not permissible.
 - The development is inconsistent with the provisions and Residential 2(a) zone objectives of Port Stephens Local Environmental Plan 2000. The development is out of character with the immediate streetscape and does not maintain an acceptable level of residential amenity.
 - The development does not comply with the design requirements of Section B6 – Single and Dual Occupancy Dwellings, of Port Stephens Development Control Plan 2007. The development will have an unacceptable impact on the streetscape, visual privacy, amenity, useable open space, and boundary setbacks of the adjoining or adjacent properties.
 - The development is an overdevelopment of the site and incompatible with the immediate streetscape in terms of height, bulk and scale. The development poses an unacceptable residential amenity impact in terms of privacy, solar access. The development is contrary to the public interests and expectations, of an orderly and predictable built environment consistent with Council policies.
 - The proposed construction of a dwelling is unsuitable for the proposed development site as it is susceptible to and significantly affected by sea level rise, inundation, erosion and flooding when assessed against Section 79C of the Environmental Planning and Assessment Act 1979.



The proposed development is inconsistent with the provisions of Port Stephens Local Environment Plan 2000 - in particular, the Residential 2(A) Zone objectives and considerations for development on land affected by or susceptible to environmental constraints including sea level rise, inundation, and erosion and flooding.

- The Designed Ground Floor Levels are below the minimum acceptable Flood Planning Level (FPL) for this location of 3.5m AHD;

COUNCIL COMMITTEE MEETING – 7 DECEMBER 2010
RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Caroline De Lyall	That Council defer Item 2 to allow for a site inspection by Councillors.
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ORDINARY COUNCIL MEETING – 14 DECEMBER 2010

393	Councillor John Nell Councillor Ken Jordan	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Nil.



ITEM NO. 3

FILE NO: PSC 2009-06567

UPDATE ON PREPARATION OF NEW PRINCIPAL LOCAL ENVIRONMENTAL PLAN FOR PORT STEHENS

REPORT OF: BRUCE PETERSON - ENVIRONMENT AND DEVELOPMENT PLANNING, MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt Option 1 to continue to prepare a draft Planning Proposal (Principal LEP) in accordance with the Environmental Planning and Assessment Act, 1979

COUNCIL COMMITTEE MEETING – 7 DECEMBER 2010
RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Steve Tucker</p>	<p>That Council:</p> <ol style="list-style-type: none"> 1) Adopt Option 1 to continue to prepare a draft Planning Proposal (Principal LEP) in accordance with the Environmental Planning and Assessment Act, 1979. 2) Any interested Councillors can seek additional information to be presented.
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ORDINARY COUNCIL MEETING – 14 DECEMBER 2010

<p>394</p>	<p>Councillor John Nell Councillor Peter Kafer</p>	<p>It was resolved that the Council Committee recommendation be adopted.</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, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bob Westbury.

Those against the Motion: Nil.

ITEM NO. 4

FILE NO: 16-2003-577-2

DEVELOPMENT APPLICATION FOR ADDITIONS TO HOTEL AT NO. 37 FERODALE ROAD MEDOWIE

REPORT OF: KEN SOLMAN - DEVELOPMENT AND BUILDING, ACTING MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2003-577-2 for additions to Hotel at No.37 Ferodale Road Medowie subject to the conditions contained in Attachment 3.

COUNCIL COMMITTEE MEETING – 7 DECEMBER 2010

RECOMMENDATION:

	<p>Councillor John Nell Councillor Glenys Francis</p>	<p>That Council defer Item 4 to allow for additional information, including crime statistics to be provided to Councillors.</p>
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ORDINARY COUNCIL MEETING – 14 DECEMBER 2010

<p>395</p>	<p>Councillor John Nell Councillor Ken Jordan</p>	<p>It was resolved that the Council Committee recommendation be adopted.</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, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bob Westbury.

Those against the Motion: Nil.



ITEM NO. 5

FILE NO: 16-2009-981-1

DEVELOPMENT APPLICATION FOR A BOUNDARY REALIGNMENT AT NO.7 & NO.9 CROMARTY LANE BOBS FARM

REPORT OF: KEN SOLMAN –DEVELOPMENT & BUILDING, ACTING MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Consider the draft conditions of consent for DA 16-2009-891-1 as provided in Attachment 3.

COUNCIL COMMITTEE MEETING – 7 DECEMBER 2010
RECOMMENDATION:

	<p>Councillor Bruce MacKenzie Councillor Shirley O'Brien</p>	<p>That Council determine to grant consent to the development application for a boundary realignment at No. 7 & 9 Cromarty Lane, Bobs Farm with the following conditions of consent:</p> <ol style="list-style-type: none"> 1. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans. 2. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997. 3. A Subdivision Certificate must be
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		<p>obtained from Council within five (5) years of the date of this consent, otherwise this approval will lapse. The applicant must submit a completed Subdivision Certificate Application Form (with applicable fee), six (6) copies of the Survey Plan, two (2) copies of any 88B Instrument and a check list demonstrating compliance with the conditions of this development consent.</p> <p>4. The development has been granted an approval from the NSW Rural Fire Service dated 17 March 2010 under their relevant legislation. Where conditions are imposed by the authority the development shall comply with the general terms of approval.</p> <p>5. At the commencement of Subdivision Certificate and in perpetuity, the property around the existing dwelling on proposed Lot 1487 shall be managed as follows:-</p> <ul style="list-style-type: none"> a) north for a distance of 35 metres as an inner protection area; b) east and south to a distance of 20 metres as an inner protection area; and c) west for a distance of 55 metres as an inner protection area as outlined within Section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document 'Standards for asset protection zones'. <p>6. At the issue of Subdivision Certificate and in perpetuity the entire property around the</p>
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		<p>existing dwellings on proposed Lot 1488 to a distance of 20 metres shall be managed as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document 'Standards for asset protection zones'.</p> <p>7. Water, electricity and gas are to comply with Section 4.1.3 of "Planning for Bush Fire Protection 2006".</p> <p>8. Property access roads shall comply with Section 4.1.3(2) of "Planning for Bush Fire Protection 2006".</p> <p>9. The existing building on proposed Lot 1487 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes any sub floor areas, openable windows, doors, vents, weepholes and eaves.</p> <p>10. All trees within the proposed properties created via boundary realignment are protected by Council's Tree Preservation Order. This development consent permits clearing for proposed fencing of new boundaries (to a maximum of 3.0 metres of clearing either side of the boundary/fence line) <u>only</u>.</p> <p>No clearing of remaining vegetation is permitted to occur.</p>
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		<p>Tree clearing on these properties for any other purpose requires separate approval under Council's Tree Preservation Order.</p> <p>11. All unapproved fill and waste shall be removed from the site prior to issue of subdivision certificate and the site remediated to its state prior to importation of materials.</p> <p>12. In accordance with State Environmental Planning Policy No. 55 - Remediation of Land, all remediation work must be carried out in accordance with any contaminated land planning guidelines issued under section 145C of the Act, any guidelines in force under the Contaminated Land Management Act 1997, and the remediation plan approved under this consent.</p> <p>13. In accordance with State Environmental Planning Policy No. 55 - Remediation of Land, a notice of completion of remediation work must be provided to Council within 30 days of the completion of remediation work. The notice must include particulars as specified by clause 18 of State Environmental Planning Policy No. 55.</p> <p>14. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council immediately upon discovery.</p>
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ORDINARY COUNCIL MEETING – 14 DECEMBER 2010

396	Councillor Ken Jordan Councillor Sally Dover	It was resolved that the Council Committee recommendation be adopted.
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In accordance with the Section 375A, Local Government Act 1993, a division is required for this item.

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

Those against the Motion: Cr Geoff Dingle.



ITEM NO. 1

FILE NO: PSC2010-05125

PORT STEHENS COMMUNITY SETTLEMENT STRATEGY AND THE PROPOSED WALLALONG RELEASE AREA

REPORT OF: BRUCE PETERSEN – ENVIRONMENTAL & DEVELOPMENT PLANNING, MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive the Report.

ORDINARY COUNCIL MEETING – 14 DECEMBER 2010

413	Councillor Ken Jordan Councillor Shirley O'Brien	It was resolved that Council:- 1) Receive the report. 2) Invite the Minister for Planning or his delegate to a site inspection of the Wallalong area in early 2011.
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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, Steve Tucker, Shirley O'Brien, Geoff Dingle, John Nell, Frank Ward, Sally Dover and Bob Westbury.

Those against the Motion: Nil.