



MINUTES OF THE ORDINARY COUNCIL MEETING

HELD AT COUNCIL CHAMBERS, BREESE PARADE, FORSTER

ON Tuesday, 28 July 2009

Keith O'Leary
GENERAL MANAGER

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Minutes of the Ordinary Meeting of the Great Lakes Council held at the Council Chambers, Breese Parade, Forster on 28 July 2009 commencing at 9.39am.

PRESENT

Present: Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

IN ATTENDANCE

Acting General Manager - Steve Embry, Director Engineering Services - Ron Hartley, Director Planning & Environmental Services - Glenn Handford and Leasing/Caravan Parks Officer - Pat Powell (Minute Taker).

ACKNOWLEDGEMENT OF COUNTRY

The Mayor read the following statement:

"I acknowledge the Worimi people, the traditional owners of the land on which we meet today. I acknowledge their traditional wisdom and enduring culture."

PRAYER

The Mayor led the meeting in the Lavinia Murray prayer.

APOLOGIES

Nil

The Mayor read aloud the following statement:

"An audio recording of this meeting is being made for minute taking purposes as authorised by the Local Government Act 1993 and may be made available to members of the public where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1989."

ADOPTION OF MINUTES OF MEETING

6 RESOLUTION

(Moved C McCaskie/Seconded K Hutchinson)

That the Minutes of the Ordinary Meeting of 23 June 2009, copies of which were distributed among the Councillors, be taken as read and confirmed as a true record of proceedings, subject to the amendment of Clr Robert's declaration of interest to state that "he is a director of the Karuah Local Aboriginal Land Council which holds land in the study area".

7 RESOLUTION

(Moved L Gill/Seconded L Vaughan)

That the Minutes of the Extraordinary Meeting of 14 July 2009, copies of which were distributed among the Councillors, be taken as read and confirmed as a true record of proceedings.

DECLARATIONS OF PECUNIARY & NON-PECUNIARY CONFLICTS OF INTEREST

Councillor/Staff Member	Item and Subject	Nature of Interest
Director Planning & Environmental Services - Glenn Handford	11 - PES Outdoor Cinemas - Lot 44 DP753168 and Lot 7088 DP1066047	Non-pecuniary interest, the nature of the interest being that family friends are the applicants for the outdoor cinema. The Director Planning & Environmental Services elected to leave the meeting and take no part in discussions.
Director Planning & Environmental Services - Glenn Handford	16 - PES List of Matters before the Land & Environment Court	Non-pecuniary interest, the nature of the interest being that a friend is the consultant for objector in appeal for DA37/2009. The Director Planning & Environmental Services elected to leave the meeting and take no part in discussions.
Clr C McCaskie	6 - PES North Shearwater Local Environmental Study LES	Pecuniary interest, the nature of the interest being that her residence adjoins the boundary of North Shearwater. Clr McCaskie left the meeting and took no part in discussions or voting.
Clr C McCaskie	36 Confidential PES Tea Gardens Resource Recovery and Waste Transfer Station Site	Non-pecuniary interest, the nature of the interest being that she is a Trustee of 50% of the land that adjoins the proposed site. Clr McCaskie elected to leave the meeting and take no part in discussions or voting.
Clr J Weate	37 - Confidential PES Tender Scrap Metal Contract	Pecuniary interest, the nature of the interest being that he is the Executive Officer of Great Lakes Community Resources, whose enterprise, Resource Recovery, is contracted to Council to recover metals from the waste stream. Clr Weate left the meeting and took no part in discussions or voting.
Clr L Gill	16 - PES List of Matters	Non-pecuniary interest, the

	before the Land & Environment Court	nature of the interest being that her brother sold the sawmill to the applicant, and she is also a neighbour to the sawmill, Cllr Gill elected to leave the meeting and take no part in discussions or voting.
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NOTICE OF MOTION

38 NOM - Notice of Motion 1 - Recognising Natural Sequence Farming

Index: Notice of Motions
Author: Councillor - John Stephens

RECOMMENDATION:

(Moved J Stephens/Seconded L Roberts)

That Great Lakes Council approach the NSW State Government to set up field testing in Great Lakes and to use Great Lakes Council's expertise in water management to field-test Peter Andrews' theories for Natural Sequence Farming.

An amendment was moved by J Weate, seconded L Vaughan that Great Lakes Council supports the use of Council's expertise in water and environmental management to support the development of sustainable agricultural practices.

The amendment was put to the vote and declared carried and upon becoming the substantive motion was also carried.

8 RESOLUTION

(Moved J Weate/Seconded L Vaughan)

That Great Lakes Council supports the use of Council's expertise in water and environmental management to support the development of sustainable agricultural practices.

CONSIDERATION OF OFFICERS' REPORTS:

GENERAL MANAGER

1 **GM - Local Government Association of NSW Annual Conference - Tamworth**

Index: Conferences & Seminars - LG&SA
Author: Acting General Manager - Steve Embry

RECOMMENDATION:

- 1 That Council approve the attendance of six (6) Councillors to attend the Local Government Association of NSW Annual Conference in Tamworth from 25 - 28 October 2009 and nominate those Councillors.
- 2 That Council nominate three (3) voting delegates from the approved attendees for the Local Government Association of NSW Annual Conference and notify the Association of these delegations.
- 3 That Council determine any motions to submit to the Local Government Annual Conference.

9 RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

- 1 That the above recommendation be adopted.
 - 2 That Ctrs McWilliams, Hutchinson and McCaskie be Council's voting delegates at the Local Government Conference.
 - 3 That Council submit the following Motions to the Conference:
 - (a) **Fair Rating of Properties Designed and Used for Long Term Residential Use**
That the Association pursue changes to the Local Government Act to ensure that all properties designed and used for long term residential use be either individually rated or if rated as a single entity subject to a base amount/minimum rate for each dwelling/unit.
 - (b) **Funding of NSW Public Libraries**
That the Association lobby the State Government to correct the current unacceptable funding provided to NSW Public Libraries
 - 4 That the General Manager provide a report to the next Strategic Committee Meeting on the IPART Revenue Framework for Local Government Draft Report, with a view to possibly submitting a Late Motion to the LGA Conference.
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DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

PUBLIC ADDRESSES

PES - Use of Public Wharf for Passenger Ferry Service and Charter Boat Tours - Marine Parade, Tea Gardens

Public Address 1 - Mr Adrian Thompson

Mr Adrian Thompson (Objector) addressed the meeting giving a brief history of the use of the public wharf by both operators.

PES - Outdoor Cinemas - Lot 44 DP 753168 - Head Street, Forster (Forster Town Park) and Lot 7088 DP 1066047 - Reserve Road, Forster (Reserve 79681 - near Coastal Patrol Building)

Public Address 2 - Mr Peter Howard

The Director Planning & Environmental Services declared a non-pecuniary interest in this item, left the room at 10.37am and took no further part in discussions on this item.

Mr Peter Howard (Objector) addressed the meeting objecting to some aspects of the proposal.

Public Address 3 - Mr Randall Rankin

Mr Randall Rankin (for the Applicant) addressed the meeting in support of the proposal and requesting amendment to condition 13 to extend the time to 11pm to take into account the later start during daylight saving, and an increase in the number of food outlets to four.

The Director Planning & Environmental Services returned to the meeting at 10.48am.

5 PES - Use of Public Wharf for Passenger Ferry Service and Charter Boat Tours - Marine Parade, Tea Gardens

Index: DA 384/2009 and PK25005

Author: Senior Development Assessment Officer - Alan Bawden

RECOMMENDATION:

- A. It is recommended that DA 384/2009 for the use of Tea Gardens Public Wharf and floating pontoon for a public passenger ferry service and charter boat [River Cruise] business be refused for the following reasons:
1. The current wharf facilities cannot adequately and safely cater for the loading and unloading from two [2] passenger ferry services.
 2. Insufficient car parking available for the passenger ferry service.
 3. The proposal is not in the public interest.
- B. The operator of the ferry Service, Nelson Bay Charters be directed to immediately cease use of the public wharf for public passenger and charter boat operations.
-

- C. Port Stephens Ferry Service be directed to lodge a development application within two [2] months to seek consent for the use of the public wharf for a public passenger ferry service.

(Moved J Weate/Seconded L Vaughan)

That the above recommendation be adopted.

An amendment was moved and seconded (L Roberts/C McCaskie) that this matter be deferred for consideration at a future Council meeting.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the amendment, the results of which were as follows:

AGAINST VOTE - Clr J McWilliams, Clr L Gill, Clr L Vaughan, Clr J Weate
FOR VOTE - Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson

The amendment was carried, became the substantive motion and was carried.

The results of this division were as follows:

AGAINST VOTE - Clr J McWilliams, Clr L Gill, Clr L Vaughan, Clr J Weate
FOR VOTE - Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson

10 RESOLUTION

(Moved L Roberts/Seconded C McCaskie)

That this matter be deferred for consideration at a future Council meeting.

11 PES - Outdoor Cinemas - Lot 44 DP 753168 - Head Street, Forster (Forster Town Park) and Lot 7088 DP 1066047 - Reserve Road, Forster (Reserve 79681 - near Coastal Patrol Building)

Index: DA 237/2009 and PK7560
Author: Development Assessment Planner - David Koppers

Council at its Strategic Committee meeting held on 9 June 2009 resolved that this Development Application be deferred to allow the additional information supplied by the applicant to be considered, and allow Council to review the revenue opportunities, given the development is a commercial venture on land which Council is Trust Manager.

This report considers the information supplied by the applicant together with the issues raised at the Strategic Committee Meeting.

RECOMMENDATION:

It is recommended that Development Application No. 237/2009 for Outdoor Cinemas at Head Street (Lot 44 DP 753168) and Reserve Road (Lot 7088 DP 1066047 – Reserve 79681), Forster is approved subject to the following conditions of consent:

The following condition/s have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:

1. The development must be in accordance with the STAMPED PLANS, the application form and on any supporting information received with the application, except as may be amended by the following conditions.
2. This development consent is restricted to a period of 12 months after the day of the first event. At the completion of this period the applicant may lodge a new Development Application seeking a longer approval.
3. The development is classified as a “public assembly” under the Summary Offences Act 1988. This legislation requires the operator must serve a notice to the Commissioner of Police (via the Local Area Commander) prior to each public assembly gathering. Details of the type of information required to be submitted can be found under Part 4 of the Summary Offences Act 1988.
4. The applicant is to liaise with the NSW Police Local Area Command for the Forster area regarding the appropriate staffing levels for private security personnel for the events. Written confirmation of this is to be provided prior to the commencement of any movies.
5. No ‘R’ rated films are to be screened.
6. Screenings of the cinema shall be in conjunction with the following table:

Coastal Patrol Site

School Holiday Period	Maximum 3 nights/week
Non School Holiday Period	Maximum 4 nights/month

Town Park Site

School Holiday Period	Maximum 1 night/week
Non School Holiday Period	Maximum 2 nights/month

7. The applicant shall provide portable toilet facilities at the following rate:

Male: Closets	1/100 patrons
Male: Urinals	1/100 patrons
Female: Closets	2/100 patrons
Unisex	1 Disabled

The toilets must be cleaned every 3 hours, or as required and toilet paper, soap and handtowels must be provided at all times. Additional toilets shall be brought in as required to satisfy additional demands.

8. The applicant shall install safety fencing along the Southern boundary of the Town Park (adjoining Head Street) to ensure pedestrian and patron safety.
9. The applicant shall fully dismantle all fencing at the completion of each event at the site near the Coastal Patrol and the fencing must be placed in a taped off area which does not pose a hazard to other reserve users. Other event equipment may be stored in this area. No fencing is permitted to remain on the Town Park site after an event.
10. Promotional/advertising signage is not to be displayed upon any site other than the site approved for the event and must be removed at the completion of each event.

11. Noise associated with the use of the cinema shall not be permitted to exceed the background noise level by more than 5 dB(A) LAeq (15 minutes) at the nearest affected residence.
12. Noise associated with the use of the cinema must not be a source of offensive noise at the nearest affected residence:
"offensive noise" means noise:
 - a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
 - b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulation.
13. Movies must be completed by no later than 10:30pm.
14. The total number of food stalls permitted to be operational at any event is limited to two.
15. Food stalls and food handlers shall be registered with and approved by Council, prior to being permitted to attend an event.
16. Food stalls and food handlers associated with the cinema shall at all times comply with the requirements of the Food Act 2003, the Food Standards Code and Council's Guidelines for Commercial Operators/Charity Organisations at Temporary Events. Copies of these Guidelines are available at Council.
17. A temporary food notification must be completed by all food stall holders, prior to attending an event. This can be completed on the Internet at www.foodnotify.nsw.gov.au.
18. The operator is to provide their own separate external power supply. No connection or extension of mains power is permitted. Any fuel powered generators shall not exceed 5dBa above background noise. Fuel generators will also be required not to generate excessive amounts of fumes/smoke that create a public health nuisance.
19. Under no circumstances shall alcohol be consumed within the Council reserves in connection with this development.
20. For the proposed venue area located adjacent to the Coastal Patrol Building and prior to each screening of movies, the applicant shall provide temporary lighting for the visual safe passage for patrons to enter and leave the:
 - a) Venue and seating areas;
 - b) Adjacent car parking areas.at the commencement and end of each screening (or other similar event).
The temporary lighting should be in general accordance with Australian Standard - AS 1158.
21. Bookings of the reserves are to be finalised 1 month prior to the commencement of the event with no more than 3 months bookings made in advance. All prior bookings of the reserve will be given precedence over this application.
22. Certificate of Currency for Public Liability Insurance needs to be supplied with a minimum level of indemnity of \$10M noting Council and Crown as interested parties.
23. Fees for the use of the reserves is set at \$50.00 per day (per site), paid in advance when bookings are made. No refund will be offered if the bookings are not utilised.

24. Payment of a refundable \$1000.00 damage bond is required prior to each event. Pre-inspection and post inspection of the reserve are to be carried out with the event organiser and Council officer two (2) days prior to the event and 1 day after the event.
25. No permanent structures are to be erected or installed.
26. No glass is permitted on the reserve at any time.
27. The site is to be free of obstacles and trip hazards, such as power leads.
28. Area is to be left clean and tidy at the conclusion of activities each day/night and rubbish removed from the site. Separate bins are to be provided for rubbish collection. Council bins shall not be utilised for this purpose.
29. The operator will be required to remove all materials at the completion of the holiday period when multiple events per week are no longer proposed to be conducted.

The Director Planning & Environmental Services declared a non-pecuniary interest in this item, the nature of the interest being that the applicant is a family friend, and left the meeting at 11.07 AM taking no further part in discussions on this item.

(Moved L Gill/Seconded J Weate)

That the recommendation be adopted with the following amendments to conditions:

- | | |
|--------------|--|
| Condition 5 | No R or MA15+ rated films are to be screened |
| Condition 13 | Movies must be completed by no later than 11pm. |
| Condition 14 | The total number of food stalls permitted to be operational at any event is limited to four. |

and the addition of the following condition:

Only movies in DVD format are to be screened.

An amendment was moved and seconded (C McCaskie/L Roberts)

That the recommendation be adopted with the following amendments to conditions:

- | | |
|--------------|--|
| Condition 5 | No R or MA15+ rated films are to be screened |
| Condition 13 | Movies must be completed by no later than 11pm. |
| Condition 14 | The total number of food stalls permitted to be operational at any event is limited to four. |

and the addition of the following conditions:

Only movies in DVD format are to be screened.
The lease fee to be equal to that charged for similar use in public halls, eg \$110 per use.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the amendment, the results of which were as follows:

FOR VOTE - Clr M Tuffy, Clr C McCaskie, Clr L Roberts
AGAINST VOTE - Clr J McWilliams, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

The amendment was declared lost. The motion was then voted on and declared carried. The results of this division were as follows:

AGAINST VOTE - Clr M Tuffy, Clr L Roberts

FOR VOTE - Clr J McWilliams, Clr C McCaskie , Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

11 RESOLUTION

(Moved L Gill/Seconded J Weate)

That the recommendation be adopted with the following amendments to conditions:

Condition 5 No R or MA15+ rated films are to be screened
Condition 13 Movies must be completed by no later than 11pm.
Condition 14 The total number of food stalls permitted to be operational at any event is limited to four.

and the addition of the following condition:

Only movies in DVD format are to be screened.

The Director Planning & Environmental Services returned to the meeting at 11.30 am.

2 PES - Port Stephens/Myall Lakes Estuary and Coastal Zone Management Committee and Jurisdiction

Index: Project: NS-Est-PS-Mgt; Subject: Environmental management - Est Mgmt Port Stephens Program

Author: Project Coordinator - Prudence Tucker

RECOMMENDATION:

It is recommended that Council:

1. Endorse the Committee's decision to retain the Myall Lakes under the committee's jurisdiction.
2. Note the minutes from the Port Stephens/Myall Lakes Estuary and Coastal Zone Management Committee meetings.

12 RESOLUTION

(Moved K Hutchinson/Seconded L Gill)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

3 PES - Port Stephens Foreshore Plan Adoption Report

Index: NS-EST-PS-FORESHORE

Author: Manager Natural Systems - Gerard Tuckerman

RECOMMENDATION:

That Council adopt the Port Stephens Foreshore Management Plan.

13 RESOLUTION

(Moved K Hutchinson/Seconded J Weate)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

4 PES - Floor Level Requirements for Climate and Flooding - Tea Gardens

Index: Environmental Management - Climate Change

Author: Manager - Building Assessments - Gary Mead

RECOMMENDATION:

It is recommended that:

1. The information contained in this report be noted by Council.
2. Council continue to assess infill development affected by Climate Change in accordance with Council's Draft Climate Change Policy.

14 RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

6 PES - North Shearwater Local Environmental Study LES

Index: SP-LEP-70

Author: Release Area Manager - Roger Busby

Release Area Co-ordinator - Robert Dwyer (RPS Harper, Summers O'Sullivan)

RECOMMENDATION:

It is recommended that Council:

- A. Adopt the Local Environmental Study (LES) prepared by Geolink for North Shearwater as the basis for preparing an amendment to Great Lakes Local Environmental Plan 1996 (LEP) subject to the preparation of an integrated water and sewerage management strategy to the satisfaction of Mid Coast Water.
- B. Amend the Principles Plan in the LES to indicate that urban development may be acceptable by the expansion of Precinct R2 (as shown in areas 2 and 3 in Annexure "C") only if further information is submitted to demonstrate that these areas are suitable having regard to the constraints identified in the LES.
- C. Prepare a development control plan (DCP) for North Shearwater to address issues raised in the LES and during the public exhibition period.
- D. Continue negotiations with the proponents of the rezoning on the preparation of a Voluntary Planning Agreement to address the rehabilitation and management of the conservation/protection areas identified in the LES.

Clr C McCaskie declared a pecuniary conflict of interest in this item, the nature of the interest being that her residence adjoins the boundary of North Shearwater, left the meeting at 11:43 AM and took no further part in discussions or voting on this item.

15 RESOLUTION

(Moved J Stephens/Seconded L Gill)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

ABSENT. DID NOT VOTE - Clr C McCaskie

Clr McCaskie returned from temporary absence at 11.44 AM.

7 PES - Greenhouse Gas Audit - Tuncurry Landfill

Index: Environmental Management - Climate Change
Author: Environmental Education Officer - Naomi Soustal

RECOMMENDATION:

It is recommended that Council take note of the commencement of the Tuncurry Landfill Greenhouse Gas Audit and development of an Emissions Mitigation and Offset Plan project, and its relationship with the Federal Governments National Greenhouse and Energy Reduction Scheme (NGERS).

In addition, it is recommended that Council take the appropriate steps to determine the organisations liability under the NGERS legislation and register to report, as required.

16 RESOLUTION

(Moved J Stephens/Seconded L Gill)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

8 PES - Joint Regional Planning Panel

Index: Circulars - Planning Circular PS 09-016
Author: Manager Development Assessments - Wayne Burgess

RECOMMENDATION:

It is recommended that the information be noted.

17 RESOLUTION

(Moved L Vaughan/Seconded J Weate)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

9 PES - Delegations Under Sec 88 (Waste Levy)

Index: Sec 88 Levy; Landfill General
Author: A/Manager Environmental Services - John Cavanagh

RECOMMENDATION:

That :

- Council delegate the authority to sign the Waste Contributions Monthly Reports for all licensed facilities being Tuncurry Waste Management Centre; Bulahdelah Landfill; Tea Gardens Landfill and Stroud Landfill to any one of the following:– General Manager; Director Planning & Environmental Services; Manager Finance or their alternates.
- And that the Council seal be affixed to the applications to sign reports and delegate other functions in accordance with the Sec 88 Levy.

18 RESOLUTION

(Moved J Stephens/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

10 PES - North Tuncurry and Chapmans Road Rezoning, DCP for Wilson VPA Land

Index: SP-LEP-76; SP-DCP-55
Author: Manager Strategic Planning - Alex Caras

RECOMMENDATION:

It is recommended that Council:

1. Defer the rezoning of Lot 1 DP 304132, Lot 11 DP 615229 and Part Lot 12 DP 615229 to 2(a) (Low Density Residential), pending the outcome of more detailed stormwater investigations currently underway;
 2. Adopt the draft Great Lakes Local Environmental Plan 1996 (Amendment No. 76), as amended and contained in Annexure "C" to this report;
 3. Grant delegations to the General Manager and Director, Planning and Environmental Services to formalise legal arrangements for the transfer of land to a 'Conservation Authority' in accordance with the Voluntary Planning Agreement dated 26 February 2008;
 4. Upon formalising the transfer arrangements referred to in item 3, forward the adopted draft Plan to the Minister requesting that the Plan be made; and
 5. Adopt draft Development Control Plan No. 55 (as amended) as contained in Annexure 'D' to this report, to take effect upon gazettal of draft Great Lakes Local Environmental Plan – Amendment No. 76.
-

An amendment to the wording of section 2.6 "Protection of Aquifer" in draft Development Control Plan No 55 was tabled at the meeting. The amended wording is as follows:

2.6 Protection of aquifer

Introduction

The Chapmans Road and North Tuncurry LES (2003) has identified that "a significant unconfined aquifer is located under the North Tuncurry site". Although this water source would require treatment to improve its water quality, it is a water source that must be protected for potential future sustainable use and for the protection of local groundwater dependant eco-systems. It is therefore important to ensure that stormwater quality measures associated with future development are sufficient to adequately protect the underlying aquifer.

Objective

To adequately protect the unconfined aquifer located below the subject land for:

- potential future sustainable use(s); and
- local groundwater dependant eco-systems.

Performance Criteria

2.6.1 Stormwater modelling for all future development must demonstrate adequate protection of the underlying aquifer by complying with Stormwater Management Performance Criteria as set out in Section 2.2.1 of this DCP

19 RESOLUTION

(Moved L Roberts/Seconded J Weate)

That the above recommendation be adopted with point 5 amended to read:

5. Adopt draft Development Control Plan No. 55 (as amended and including amended wording to Section 2.6 as listed above) as contained in Annexure 'D' to this report, to take effect upon gazettal of draft Great Lakes Local Environmental Plan – Amendment No. 76.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

12 PES - Air Transport Facility (Heliport) - Lot 41 Spinifex Avenue, Tea Gardens

Index: DA 296/2009 Air Transport Facility - Pt Lot 41 Spinifex Avenue, Tea Gardens, NSW, 2324 (Pt Lot 41 DP 1123812)

Author: Development Assessment Planner - David Koppers

RECOMMENDATION:

It is recommended that Development Application No: 296/2009 for Heliport at Pt Lot 41 Spinifex Avenue, TEA GARDENS, NSW, 2324 (Pt Lot 41 DP 1123812) be approved subject to the attached conditions.

The following condition/s have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:

1. The development must be in accordance with the stamped plans numbered **0908-1, Sheets 1-3** prepared by **Riordan's Design Service** and dated **04/09/08** the application form and on any supporting information received with the application, except as may be amended by the following conditions.
2. Work on any building shall not commence until a Construction Certificate, complying in all respects with the provisions of the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000* and the *Building Code of Australia*, has been issued.
3. In accordance with Section 94 of the *Environmental Planning and Assessment Act 1979*, a monetary contribution shall be paid to Council prior to the issue of a Construction Certificate. The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

Contributions Plan	Facility	Quantity	Unit	Rate	Amount
Great Lakes Wide	Headquarters Building	\$16,000	\$1 non res	@ \$0.001	= \$16.00
			Total		\$16.00

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June following the date of consent. Payment made after 30 June will be at the indexed rates applicable at that time.

The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on Council's web site www.greatlakes.nsw.gov.au or at Council's offices at Breese Parade, Forster.

4. Design details for the disposal of the stormwater drainage from the helipad being submitted with the application for a construction certificate and approved prior to issue of a construction certificate.
 5. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the principal certifying authority prior to the issue of a construction certificate. The plans shall detail:
 - a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas.
 - b) Footings of the proposed structure.
-

6. The building works are to be inspected during construction by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority subject to the provisions of the *Environmental Planning and Assessment Act 1979 and Regulation 2000*) to verify compliance with this consent and the standards of construction detailed in the *Building Code of Australia*. Inspections shall be carried out as required by Section 162A of the *EP&A Regulation 2000*.
7. It is a condition of approval that all building work must be carried out in accordance with the provisions of the *Building Code of Australia (BCA)*.
8. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
 - a) The name, address and telephone number of the principal certifying authority for the work; and
 - b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
 - c) The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be removed when the work has been completed.

9. Toilet facilities are to be provided at the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site:
 - a) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
10. All adjustments to existing utility services made necessary by the development are to be undertaken at the developer's expense.
11. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times in accordance with Council's Erosion and Sediment Control Policy.
12. Native tree removal for this development shall be restricted to that area of land identified as "proposed 45m by 45m clear area" on the plan showing location of proposed helipad for emergency purposes by Tattersall Surveyors, dated 22-07-08, with file no. 20800136. Native trees outside this area shall be retained in their natural state, free from direct and indirect effect and harm.
13. Prior to their removal, the crown, trunk and foliage of the trees that are approved for removal from the land shall be inspected by construction personnel to ensure that no Koalas are present. Should a Koala be occupying any trees of the land, then the removal operations shall be delayed until such time as that Koala has vacated the land of its own free will. The trees of the land shall be removed using dismantling or sectional-felling only in a manner that does not harm or affect the trees to be retained on the land.
14. Felled vegetation from the land shall not be burnt, but shall be mulched for use in site landscaping.
15. There shall be no modification to the physical configuration of the drain channel as part of this consent, including its depth, width and hydrology.
16. In order to protect the habitat and lifecycle of the wallum froglet, any maintenance and slashing off the approved clear area within the proposed or existing drain channel shall:
 - a) be strictly minimised and avoided where possible

- b) not be conducted more than once a year
 - c) avoid the period May to October inclusive to protect the habitats of the wallum froglet.
 - d) not slash the groundcover any lower than 200mm in height above the ground surface.
17. The development would remove some 25 swamp mahogany trees, 5 broad-leaved paperbark and 3 red mahogany trees. The Applicant shall, prior to the issuing of the Construction Certificate, obtain and provide to Council, at their cost, 50 swamp mahogany (*Eucalyptus robusta*), 10 broad-leaved paperbark (*Melaleuca quinquenervia*) and 6 red mahogany (*Eucalyptus resinifera*) trees in minimum 10-litre pots. This shall compensate at a ratio of 2:1, for the loss of the native trees from the land as a consequence of the development.
- The sourced trees shall be planted by the Applicant, or their representatives, at no cost to Council, within the Council drainage reserve at the corner of Spinifex Avenue and Settlers Way, being Lot 79 DP 1063829. Council's Tree Management Officer shall be informed of the planting and shall provide input and direction to the planting locations.
18. The levels of the land being adjusted to enable free surface runoff and to prevent ponding on the land. The minimum level of the proposed helipad, access road to the helipad and vehicle manoeuvring areas shall be RL 2.1metres AHD. The maximum height shall not exceed RL 2.2 metres AHD and shall be certified as such at the completion of work by a Registered Surveyor.
19. This heliport is approved only for the temporary use of emergency services helicopter operations. Under no circumstances are commercial helicopter activities permitted to operate from the site.
20. The location of the windsock/floodlight shall be moved to the south-east part of the site so as not to create a light/noise nuisance to adjacent residential properties, and to not create a hazard to flight operations from the site. Details of the final location are to be provided with the lodgement of the Construction Certificate.

ADVISORY

The applicant should obtain development consent or a property vegetation management plan pursuant to the Native Vegetation Act 2003 for the clearing of native vegetation on the site or written confirmation that there is no statutory need for such from the Hunter/Central Rivers Catchment Management Authority.

The applicant will not be relieved of compliance with either the approval pursuant to the Native Vegetation Act 2003 or this consent in the event of any inconsistencies between this consent and approval to clear granted under the Native Vegetation Act 2003. If there is a need for the applicant to be relieved on an aspect of either approval, the applicant must seek the modification of the relevant approval to achieve consistency with both approvals.

20 RESOLUTION

(Moved L Roberts/Seconded J Weate)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

13 PES - Dwelling Addition Variation to Building Envelope

Index: DA 488/2009

Author: Senior Building Surveyor - Bruce Arkle

RECOMMENDATION:

It is recommended that Council;

1. Permit a variation to the building envelope at Lot 16 DP 1047736, No 8 Palmtops Avenue, Elizabeth Beach subject to a conditions of consent that the building envelope only be varied to the extent required to contain the proposed new decking and that the variation be registered onto the title of the property prior to an occupation certificate being issued for the proposed works and that the General Manager be given authority to sign the necessary documentation.
2. Approve development application No 488/2009 subject to the following conditions.

The following condition/s have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:

1. The development being carried out in accordance with the details set out in the Development Application unless otherwise amended by these conditions of consent.
 2. The building envelope for the property shall only be varied to the extent required to contain the proposed new decking on the western side of the existing dwelling.
 3. The variation to the building envelope shall be registered onto the title of the subject property prior to an occupation certificate being issued for the additions. Proof of registration shall be forwarded to council on completion.
 4. The building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority subject to the provisions of the Environmental Planning and Assessment Act 1979 and Regulation 2000) to verify compliance with this consent and the standards of construction detailed in the Building Code of Australia, at not less than the following stages prior to proceeding to the subsequent stages of construction:
 - a) Commencement of works.
 - b) Pier holes before they are filled with concrete.
 - c) Footings.
 - d) Steel reinforcement.
 - e) Steel columns/beams.
 - f) Framework including floor, wall and roof framing prior to fixing of internal lining.
 - g) Stormwater drains.
 - h) When all plumbing has been installed prior to covering in.
 - i) When drainage lines are laid in position and prior to covering in.
 - j) Wet area flashing prior to covering in.
 - k) Final.
 5. Work on any building shall not commence until a Construction Certificate, complying in all respects with the provisions of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Building Code of Australia, has been issued.
 6. It is a condition of approval that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
-

7. Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the principal certifying authority that they have complied with the applicable requirements of Part 6.
8. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the principal certifying authority prior to the issue of a construction certificate. The plans shall detail:
 - a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas.
 - b) Footings of the proposed structure.
 - c) Structural steel beams/columns.

Where it is proposed to use driven timber piles as part of any building footing system, the following certification from a professional engineer shall be provided prior to a footing inspection:

- i) The durability class (and/or chemical treatment grade) of all piles used within the footing system; and
 - ii) That the driven piles have achieved the required bearing capacity.
9. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life or property.
10. Retaining walls or other approved methods of preventing movement of the soil must be provided if the soil conditions require it and adequate provisions made for drainage. Where retaining walls exceed one (1) metre in height, Engineers details must be submitted to and approved by the Principal Certifying Authority.
11. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - d) must preserve and protect the building from damage.
 - e) if necessary, must underpin and support the building in an approved manner.
 - f) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public places.

12. Toilet facilities are to be provided at the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site:
 - a) Each toilet provided must be a standard flushing toilet and must be connected to MidCoast Water's sewer; and

- b) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
13. Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied.

The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

14. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS2601-1991 : The Demolition of Structures, as in force 1 July 1993.

All utility services are to be disconnected to the requirements of the relevant authorities.

15. The additions to the building are not to be occupied until fully completed in accordance with the approved plans and conditions of development consent.

16. Roof and wall material shall be of a subdued low reflective colour installed in accordance with the manufacturers details.

17. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:

- (a) The name, address and telephone number of the principal certifying authority for the work; and
- (b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
- (c) The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be removed when the work has been completed.

18. Buildings to be set out by a Registered Surveyor to ensure compliance with this consent, and the approved plan/s, and a copy of plan to be supplied to the principal certifying authority prior to the pouring of any concrete slabs / placement of flooring materials.

19. Construction of the proposed additions are to comply with the requirements of AS 3959-1999 (Construction of Buildings in Bushfire Prone Areas) level 3 construction. Detail of compliance shall be submitted to the certifying authority prior to issue of a construction certificate

20. The remaining allotment shall continue to be maintained as an Inner Protection Area in accordance with the provisions of Planning for Bushfire Protection 2006

21. All exposed timber shall be of a fire resistant species as identified in RFS Development Control Note 001.

22. Roofing and guttering shall be designed to prevent the buildup of flammable material. Detail shall be provided with any application for a construction certificate

23. Any landscaping shall adopt the principals of Appendix 5 of Planning for Bushfire Protection 2006.

24. Where the tank water supply and sprinkler system are provided, the tank shall have a 65mm Storz outlet or gate valve for use by the RFS and the sprinkler system shall be installed in accordance with the RFS guideline External Sprinkler Systems.

The following condition/s have been applied to ensure that reasonable levels of health, safety and amenity for the occupants of the building, neighbouring properties and the locality are maintained after the erection of the proposed building:

25. Building materials, sand or waste materials shall not be placed on the footway or road reserve at any time.

The following conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

26. Stormwater shall be discharged to the existing stormwater drainage system.

The following condition/s have been applied to ensure compliance with the Building Code of Australia (BCA) and relevant Standards established by the Environmental Planning and Assessment Act 1979 and Regulations:

27. Timber framing members shall comply with the relevant provisions of AS1684 - Residential Timber Framed Construction Code.

The following condition/s have been applied to ensure compliance with Council's Erosion and Sediment Control Policy:

28. All erosion and sediment control measures undertaken on the site shall be undertaken to conform to the specifications and standards contained in Council's guidelines.
29. Removal and/or disturbance of vegetation shall be confined to the basal area of the approved building, the site(s) of permanent accessways, and land extending a maximum of three (3) metres beyond the outermost projection of the approved building.
30. Stormwater from roof areas shall be linked to a Council approved stormwater disposal system immediately before placement of any roofing materials.
31. Vehicular access shall be controlled so as to prevent the tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy.
32. The site shall be landscaped with all disturbed ground being stabilised against erosion to Council's satisfaction within 30 days of completion of building works.

21 RESOLUTION

(Moved M Tuffy/Seconded L Gill)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Cllr J McWilliams, Cllr M Tuffy, Cllr C McCaskie, Cllr L Roberts, Cllr J Stephens, Cllr K Hutchinson, Cllr L Gill, Cllr L Vaughan, Cllr J Weate

14 PES - Pacific Palms Draft Local Environmental Plan - Transfer of Council Land to Department of Environment and Climate Change

Index: SP-LEP-13, Land Use Planning/Pacific Palms Study
Author: Release Area Manager - Roger Busby

RECOMMENDATION:

- A. That Council agree to transfer three areas of Council owned land, shown in Annexure "A", to the Department of Environment and Climate Change subject to the following:
1. DECC confirming that they want the land.
 2. The transfer is to only occur in conjunction with the transfer of other private land to DECC (as part of the development/conservation offset arrangement being negotiated with the Pacific Palms LEP).
 3. Council's tourist office and an appropriate bush fire asset protection zone on Lot 45 DP 200167 Boomerang Dr are to be subdivided from the reserve for retention by Council.
- B. The General Manager be granted delegated authority to undertake all necessary actions to give effect to the transfer should the above conditions be met.

Clr L Vaughan left the meeting at 11:55 AM for personal reasons.

22 RESOLUTION

(Moved J Stephens/Seconded J Weate)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr J Weate
ABSENT. DID NOT VOTE - Clr L Vaughan

Clr L Vaughan returned to the meeting at 11.58 AM

15 PES - State Significant Development - Concept Plan and Project Application

Index: State Significant Development - MP-09-0123
Author: Manager Development Assessment - Wayne Burgess

This item was to be considered by Council's DCU at the meeting held on 23 July 2009. Councillor Roberts has "called in" the item and it is now to be referred to Full Council for determination.
--

RECOMMENDATION:

(Moved L Gill/Seconded K Hutchinson)

That the information be noted.

An amendment was moved by L Roberts, seconded J Stephens that:

- 1 That the above recommendation be adopted.
- 2 That Council develop a proforma for the submissions on State Significant developments including matters such as S94 funding and water quality
- 3 That Council resubmit the rezoning request for the shopping centre at Tuncurry

Clr C McCaskie left the meeting at 12:00 PM.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the amendment, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr L Roberts, Clr J Stephens, Clr K Hutchinson
AGAINST VOTE - Clr M Tuffy, Clr L Gill, Clr L Vaughan, Clr J Weate
ABSENT. DID NOT VOTE - Clr C McCaskie

The Chairperson used her casting vote and declared the amendment carried

The amendment became the substantive motion and was carried on the casting vote of the Mayor.

The results of this division were as follows:

FOR VOTE - Clr J McWilliams, Clr L Roberts, Clr J Stephens, Clr K Hutchinson
AGAINST VOTE - Clr M Tuffy, Clr L Gill, Clr L Vaughan, Clr J Weate
ABSENT. DID NOT VOTE - Clr C McCaskie

The Chairperson used her casting vote and declared the motion carried

Clr C McCaskie returned from temporary absence at 12:02 PM

23 RESOLUTION

(Moved L Roberts/Seconded J Stephens)

- 1 That the above recommendation be adopted.
- 2 That Council develop a proforma for the submissions on State Significant developments including matters such as S94 funding and water quality
- 3 That Council resubmit the rezoning request for the shopping centre at Tuncurry

16 PES - List of Matters before the Land & Environment Court - July 2009

Index: Land & Environment Court Appeals - Development Applications
Author: Manager, Development Assessment - Wayne Burgess

RECOMMENDATION:

That the information be noted.

The Director Planning & Environmental Services declared a non pecuniary conflict of interest in discussions on DA37/2009, the nature of the interest being that a personal friend is the consultant for the objector in the appeal relating to DA37/2009, left the meeting at 12.14AM and took no further part in discussions on this item, returning to the meeting at 12.16AM.

Clr L Gill declared a non pecuniary conflict of interest in discussions on the sawmill, the nature of the interest being that her brother sold the sawmill to the applicant, and she is also a neighbour to the sawmill, left the meeting at 12:16 AM and took no further part in discussions or voting on this item.

24 RESOLUTION

(Moved L Vaughan/Seconded L Roberts)

That Council move into Closed Council (Confidential Section of Ordinary Meeting) (Meeting Closed to the Public) to discuss the items contained in this report, for the following reason:

REASON FOR CONFIDENTIALITY:

This item is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993 which permits the meeting to be closed to the public for business relating to the following:-

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

Upon resuming into Open Council the following resolution was passed:

25 RESOLUTION

(Moved J Stephens/Seconded M Tuffy)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Vaughan, Clr J Weate
ABSENT. DID NOT VOTE - Clr L Gill

Clr L Gill returned from temporary absence at 12:31 PM

17 PES - Minutes of Great Lakes Catchment Management Group (GLCMG)

Index: NS-CATCH-GL-MGT; Council Committees - Catchment Management Committee

Author: Catchment Coordinator - Stacey Tyack

RECOMMENDATION:

That the information be noted.

26 RESOLUTION

(Moved J Weate/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

DIRECTOR ENGINEERING SERVICES

18 ES - Policy for additions in flood prone land

Index: Flood Prone Land Policy
Author: Director Engineering Services - Ron Hartley

RECOMMENDATION:

That the report be noted.

27 RESOLUTION

(Moved L Gill/Seconded L Vaughan)

That the above recommendation be adopted.

19 ES - Footpath Priority Construction Programme

Index: Roads - Cycleways, bicycle tracks, footpaths
Author: Traffic Engineer - Wade Holmes

RECOMMENDATION:

That Council adopts the Footpath and Cycleway Priority Programme List.

28 RESOLUTION

(Moved J Stephens/Seconded K Hutchinson)

That the above recommendation be adopted.

20 ES - Bushfire Management Committee Minutes

Index: District Bush Fire Management Committee
Author: Parks Asset Officer - Kris Koch

RECOMMENDATION:

Council note the minutes from the Great Lakes Bushfire Management Committee dated 15 June 2009.

29 RESOLUTION

(Moved K Hutchinson/Seconded L Gill)

That the above recommendation be adopted.

21 ES - 355 Sport & Recreation Committee Minutes

Index: 355 Sport & Recreation Committee Coomba Park
Author: Parks Asset Officer - Kris Koch

RECOMMENDATION:

Council notes the minutes of Coomba Park & District 355 Sport & Recreation Committee dated 11 June 2009.

30 RESOLUTION

(Moved L Gill/Seconded C McCaskie)

1. That the above recommendation be adopted.
 2. That minute takers at meetings be requested to include surnames in the minutes.
-

22 ES - NSW RFS Manning Team Great Lakes District Liaison Committee

Index: Rural Fire Committee
Author: Executive Coordinator - Andrew Blatch

RECOMMENDATION:

That the minutes of the meetings of the RFS Manning Team Great Lakes District Liaison Committee held 16 March 2009 and 15 June 2009 be noted.

31 RESOLUTION

(Moved L Gill/Seconded L Vaughan)

That the above recommendation be adopted.

23 ES - Engineering Department Performance

Index: Corporate Management - Administrative Matters - Engineering Services
Author: Executive Coordinator - Andrew Blatch

RECOMMENDATION:

That the report in relation to the performance of the Engineering Division be received and noted.

32 RESOLUTION

(Moved K Hutchinson/Seconded M Tuffy)

That the above recommendation be adopted.

24 ES - Great Lakes Local Emergency Committee Meeting

Index: Emergency Services - Local Emergency Management Committee
Author: Executive Coordinator - Andrew Blatch

RECOMMENDATION:

That the Minutes of the Meeting of the Great Lakes Local Emergency Management Committee Meeting held on 23 April 2009 be noted.

33 RESOLUTION

(Moved C McCaskie/Seconded L Gill)

That the above recommendation be adopted.

25 ES - RFS District Asset Working Group Minutes

Index: Rural Fire Services Buildings
Author: Executive Coordinator - Andrew Blatch

RECOMMENDATION:

That the minutes of the RFS District Asset Working Group meeting held on 5 May 2009 be noted.

34 RESOLUTION

(Moved C McCaskie/Seconded L Vaughan)

That the above recommendation be adopted.

DIRECTOR CORPORATE & COMMUNITY SERVICES

26 CCS - Acquisition of Land - Part of 23 Peel Street, Tuncurry

Index: Land Acquisition - General

Author: Manager Administrative Services - John Dougherty

RECOMMENDATION:

It is recommended that

1. Council resolves to acquire the subject property at 23 Peel Street, Tuncurry (Lot 10 in unregistered subdivision of Lot 1 DP 305223) at a purchase price of \$390,000 (incl GST).
2. The Common Seal of Council be affixed to all necessary documents relating to the acquisition and transfer of part of 23 Peel Street, Tuncurry (Lot 10 in unregistered subdivision of Lot 1 DP 305223).
3. The land be classified as "Operational Land" in accordance with clause 31 (2) of the Local Government Act, 1993

35 RESOLUTION

(Moved L Roberts/Seconded L Gill)

That the above recommendation be adopted.

27 CCS - S355 Great Lakes Arts Network

Index: Council Committees - S355 Great Lakes Arts Network

Author: Community Services Coordinator - Amanda Ellis

RECOMMENDATION:

1. That the attached Great Lakes Arts Network minutes be noted.
2. That the recommendations of the Great Lakes Arts Network identified in the attached minutes be endorsed

36 RESOLUTION

(Moved L Vaughan/Seconded L Gill)

- 1 That the attached Great Lakes Arts Network minutes be noted.
 - 2 That Council endorse the formation of a GLAN working group for the dolphin project.
-

28 CCS - Community Safety Precinct Committee

Index: Crime Prevention, Community Safety
Author: Community Services Coordinator - Amanda Ellis

RECOMMENDATION:

That the Mayor, Clr Jan McWilliams, and the Community Services Coordinator, Amanda Ellis, be endorsed as Council's representatives on the Community Safety Precinct Committee.

37 RESOLUTION

(L Roberts/J Stephens)

That the above recommendation be adopted.

29 CCS - Great Lakes Safe Communities/Healthy Minds Taskforce

Index: 355 Committee Great Lakes Safe Communities/Healthy Minds Taskforce
Author: Community Services Coordinator - Amanda Ellis

RECOMMENDATION:

1. That the attached Healthy Minds Taskforce minutes be noted.
2. That the recommendations of the Healthy Minds Taskforce identified in the attached minutes be endorsed.
3. That the facilitation of a Mental Health Forum in Hawks Nest/Tea Gardens on 26 May, 2009 be noted.

38 RESOLUTION

(Moved L Roberts/Seconded C McCaskie)

1. That the attached Healthy Minds Taskforce minutes be noted.
 2. That the facilitation of a Mental Health Forum in Hawks Nest/Tea Gardens on 26 May, 2009 be noted.
-

30 CCS - Investment Report as at 30 June 2009

Index: Investments
Author: Revenue Accountant - Col Mckillop-Davies

RECOMMENDATION:

It is recommended that the information concerning Council's investments as at 30 June 2009 be noted.

39 RESOLUTION

(Moved L Roberts/Seconded L Gill)

That the above recommendation be adopted.

31 CCS - List of Outstanding Reports

Index: Council Meetings
Author: Director Corporate & Community Services - Steve Embry

RECOMMENDATION:

Submitted for Council's information/consideration.

40 RESOLUTION

(Moved L Vaughan/Seconded L Gill)

That the above recommendation be adopted.

Council adjourned for lunch at 1.01pm.

Council reconvened at 2.06pm.

MEET THE PUBLIC SESSION

The Mayor invited members of the gallery who wished to address Council on any items not listed on the agenda to do so at this stage - no one availed themselves of this opportunity.

LATE BUSINESS

Council Upcoming Commitments

The dates for upcoming Council commitments were confirmed as follows:

18 August 2009 (pm)	Presentation of long term financial plan (Council Chambers)
19 August 2009 (am)	Workshop on Council's financial planning
19 August 2009 (pm)	Inspection of Council area

20 August 2009 (am) Inspection of Council area

Councillors are to advise the Director Engineering Services of any particular inspections they would like to make, with final details and itinerary to be forwarded to Councillors as soon as possible.

Environmental Advisory Board Meeting

It was noted that damage is occurring to the foreshore in Coomba Park due to planks placed on the ground. It was stated that approval for this had been obtained and Clr Gill will forward details of this to the Director Engineering Services.

Marine Park Advisory Committee

It was advised that apparently an offer from the Marine Park Authority to provide signage for Council's boat ramps had been declined by Council. The Director Engineering Services to follow this up.

Motion for Local Government Conference

41 RESOLUTION

(Moved C McCaskie/Seconded L Gill)

That a motion regarding private certifiers along the lines of that submitted to a previous Local Government Conference be submitted to the Local Government Conference, in the light of the Coroner's comments made recently.

Toonang Drive

It was reported that the condition of Toonang Drive has deteriorated substantially. The Director Engineering Services to investigate this.

Waste Services for Granny Flats

The classification of granny flats as dual occupancies, with the provision of separate garbage services, was queried, as these properties are only used occasionally. The Director Corporate & Community Services is to follow up this matter.

Monkerai Bridge

Further to a request at a previous Council meeting for further information regarding the Monkerai Bridge, the Director Engineering Services advised that he had written to various Ministers but had not yet received a response. It was requested that an inspection of this bridge be included on the Council Tour.

Visit by Genia McCaffrey, President, Local Government Association

It was noted that the President of the LGA, Genia McCaffery, has advised of her intention to visit Great Lakes in the period 29 September 2009 to 1 October 2009, to brief Councillors on various issues. It was recommended that 29 September be suggested for this visit to take place.

CLOSED COUNCIL

42 RESOLUTION

(Moved L Vaughan/Seconded C McCaskie)

That Council move into Closed Council (Confidential Section of Ordinary Meeting) (Meeting Closed to the Public) to discuss the items listed in the report.

Upon resuming into Open Council the Chairperson reported that the following motions had been passed:

32 CONF MAYOR - General Manager's Performance Review

Index: Performance Review Senior Staff
Author: Mayor - Cllr Jan McWilliams

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:-

(a) personnel matters concerning particular individuals (other than Councillors)

RECOMMENDATION:

1. That Council accept the Performance Review Committee's review of the General Manager's performance with a rating of "A" ("More than Satisfactory")
2. That Council approve a 3.9% increase in remuneration to be effective from the anniversary date of the contract, consisting of both the 2.5% increase and 1.4% increase provided for by the SOORT (NSW Government Senior Executive Service) in its 2008 determination
3. That Council note that the General Manager's remuneration package has fallen behind that of similar Councils and this will need consideration later in the year if the General Manager elects to request a renewal of his employment contract.

43 RESOLUTION

(Moved J Weate/Seconded L Gill)

That the above recommendation be adopted.

33 CONF PES - Unauthorised Tree Removal Lot 22 DP843479, Lot 22 The Lakes Way, Council Unformed Road, Council Public Reserve Lot 133 DP264330, Forster

Index: Infringements - Proposed Legal Action
Author: Investigations & Compliance Coordinator - Greg Pevitt

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(e) of the Local Government Act 1993 which permits the meeting to be closed to the public for business relating to the following:-

(e) information that would, if disclosed, prejudice the maintenance of law

RECOMMENDATION:

It is recommended that the General Manager, or a person nominated by the General Manager, be authorised to commence such legal proceedings as he or she considers appropriate to prosecute such persons whom he believes responsible for the unauthorised tree removal at Lot 22 DP843479 known as Lot 22 The Lakes Way, Council's unformed road adjoining Lot 22 and Lot 133 DP264330 being a public reserve, Forster on or about 15 June 2009.

Any proceedings may be commenced in such a court considered appropriate for breaches of any laws including breaches of Council's Tree Preservation Order and/or development carried out without development consent as the General Manager or his delegate consider appropriate.

Trees removed from Lot 22 DP843479 Lot 22 The Lakes Way, Council's unformed road adjoining Lot 22 and Lot 133 DP264330 being a public reserve, Forster required the consent of Council prior to removal, the trees were removed without the consent of Council, the matter has now been investigated and legal action be commenced, Class 5 proceedings, in the Land & Environment Court, New South Wales.

44 RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr C McCaskie, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate
AGAINST VOTE - Clr M Tuffy, Clr L Roberts

34 CONFPEPES - Unauthorised Tree Removal at Lot 37 DP1023220, 91 The Lakes Way, Forster (behind the Lakeside Tavern)

Index: Staff & Management

Author: Investigations and Compliance Coordinator - Greg Pevitt

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(e) of the Local Government Act 1993 which permits the meeting to be closed to the public for business relating to the following:-

(e) information that would, if disclosed, prejudice the maintenance of law

RECOMMENDATION:

It is recommended that the General Manager, or a person nominated by the General Manager, be authorised to commence such legal proceedings as he or she considers appropriate to prosecute such persons whom he believes responsible for the unauthorised tree removal at Lot 37 DP1023220 known as 91 The Lakes Way, Forster on or about 6 July 2009.

Any proceedings may be commenced in such a court considered appropriate for breaches of any laws including breaches of Council's Tree Preservation Order and/or development carried out without development consent as the General Manager or his delegate consider appropriate.

Trees removed from Lot 37 DP1023220, 91 The Lakes Way, Forster required the consent of Council prior to removal, the trees were removed without the consent of Council, the matter has now been investigated and legal action be commenced, Class 5 proceedings, in the Land & Environment Court, New South Wales.

45 RESOLUTION

(Moved L Gill/Seconded J Weate)

That the above recommendation be adopted, subject to the Director Planning & Environmental Services seeking legal advice in respect of Council's ability to prosecute a TPO breach in the 1C urban investigation zone. Further, the Director Planning & Environmental Services shall report back to Council on this matter.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

35 CONFPEs - Construction of Large Shed Without Consent - 114 Blackbutt Drive, Failford

Index: Infringements - Proposed Legal Action

Author: Investigations & Compliance Coordinator - Greg Pevitt

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(e) of the Local Government Act 1993 which permits the meeting to be closed to the public for business relating to the following:-

(e) information that would, if disclosed, prejudice the maintenance of law

RECOMMENDATION:

That the General Manager, or a person nominated by the General Manager, be authorised to commence such legal proceedings as he/she considers appropriate to prosecute such persons whom he/she believes responsible for the unauthorised erection of a shed at 114 Blackbutt Drive, Failford on or about October 2008.

Any proceedings may be commenced in such a court considered appropriate for breaches of any laws including breaches of the Environmental Planning & Assessment Act as the General Manager or his delegate consider appropriate.

46 RESOLUTION

(Moved L Gill/Seconded J Weate)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate

37 CONFPPES - Tender Scrap Metal Contract

Index: Recycling General; Landfills General

Author: A/ Manager Environmental Services - John Cavanagh

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d)(ii) of the Local Government Act 1993 which permits the meeting to be closed to the public for business relating to the following:-

- (d) commercial information of a confidential nature that would if disclosed:
 - (ii) confer a commercial advantage on a competitor of the council

RECOMMENDATION:

It is recommended that:

1. The tendered schedule of rates submitted by 'Onesteel' for the collection of scrap metal over a term of one (1) year commencing 1st July 2009 be accepted.
2. That Council authorise the affixing of the Common Seal of Council to all necessary documents relating to the Scrap Metal contract.

Clr J Weate declared a pecuniary conflict of interest, the nature of the interest being that he is the Executive Officer of Great Lakes Community Resources whose enterprise, Resource Recovery, is contracted to Council to recover metals from the waste stream. Clr Weate left the meeting at 03:14 PM and took no further part in discussions or voting on this item.

47 RESOLUTION

(Moved L Gill/Seconded K Hutchinson)

That the above recommendation be adopted.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr C McCaskie, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan
ABSENT. DID NOT VOTE - Clr J Weate

Clr J Weate returned from temporary absence at 03:15 PM

36 CONFPPES - Tea Gardens Resource Recovery and Waste Transfer Station Site

Index: Tea Gardens Waste Transfer Station; Waste Management Strategy
Author: A/Manager Environmental Services - John Cavanagh

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(di) of the Local Government Act 1993 which permits the meeting to be closed to the public for business relating to the following:-

- (d) commercial information of a confidential nature that would if disclosed:
 - (i) prejudice the commercial position of the person who supplied it

RECOMMENDATION:

That Council:

- acquire Lots 2 and 3 DP 877627 at the independent Valuer amount of \$1.45M subject to Development consent;
- have a Development Application prepared independently;
- Lot 3 Carripool Street be utilised as part of the joint facilities;
- classify the land if acquired as Operational Land;
- make application to increase loan borrowings to the Dept Local Government by a further \$2.75M.

Clr C McCaskie declared a non pecuniary conflict of interest, the nature of the interest being that she is a trustee of 50% of the land adjoining the proposed site, left the meeting at 03:16 PM and took no further part in discussions or voting on this item. Clr McCaskie did not return to the meeting.

48 RESOLUTION

(Moved L Roberts/Seconded L Gill)

That the above recommendation be adopted with the addition of part B:

- B That the Director Planning & Environmental Services be requested to present a further report to Council on the options for purchase of the third block, including reasons for acquiring the land and options to fund the acquisition.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

FOR VOTE - Clr J McWilliams, Clr M Tuffy, Clr L Roberts, Clr J Stephens, Clr K Hutchinson, Clr L Gill, Clr L Vaughan, Clr J Weate
ABSENT. DID NOT VOTE - Clr C McCaskie

MEETING CLOSURE

The meeting closed at 3.26pm.

CHAIRPERSON
