



MAITLAND CITY COUNCIL

ORDINARY MEETING MINUTES

27 JULY 2010

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PRESENT

Clr Loretta Baker
Clr Peter Blackmore
Clr Paul Casey
Clr Peter Garnham
Clr Bob Geoghegan
Clr Arch Humphery
Clr Henry Meskauskas
Clr Stephen Mudd
Clr Philip Penfold
Clr Lisa Tierney
Clr Ken Wethered

1 INVOCATION

Pastor Tim Cooper representing the Maitland Ministers Association opened the Meeting with the invocation.

2 APOLOGIES AND LEAVE OF ABSENCE**COUNCIL RESOLUTION**

THAT the apologies received from Clr Fairweather and Clr Procter be accepted.

Moved Clr Tierney, Seconded Clr Garnham

CARRIED

3 DECLARATIONS OF INTEREST

Clr Mudd declared a pecuniary interest in Item 10.5 – Petition Regarding Groovin The Moo. Clr Mudd is a Director on the Board of The Hunter River Agricultural and Horticultural Society.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**COUNCIL RESOLUTION**

THAT the minutes of the Ordinary Meeting held 13 July 2010 be confirmed.

Moved Clr Casey, Seconded Clr Humphery

CARRIED

5 BUSINESS ARISING FROM MINUTES

6 MAYORAL MINUTE

6.1 FREEMAN OF THE CITY NOMINATION

File No: 35/15
Attachments: Nil
Responsible Officer: Peter Blackmore - Mayor
Author: Peter Blackmore - Mayor

MAYORAL MINUTE

In accordance with the Council Policy regarding nomination of Council granting Freeman of the City, with the support of the Deputy Mayor Cllr Meskauskas, we wish to nominate Mrs Dorothy Crouch for consideration of this honoured appointment.

Mrs Dorothy Crouch had served for many years on committees at East Maitland Primary School in an executive position.

In 1982 Dorothy gave service to Maitland Boys High School where she served as President of the School Council Committee as President up to and including the School Centenary year.

Mrs Crouch had also given service to Paterson Public School as well as Tocal Agriculture College.

Maitland Amateur Swimming Club has been another organisation which has benefited from Mrs Crouch as she has been a member for more than 70 years. During this time Mrs Crouch has:

- been awarded Life Membership of the club;*
- acted as secretary of the club for 40 years;*
- attained Silver Level Swim Coach with many years as an Examiner for State Swimming Learn to Swim Classes; and*
- been involved in Special Olympics Swim Coaching.*

Mrs Crouch been awarded an Order of Australia Medal for her services to the community and was awarded Maitland Citizen of the Year in 1981.

Mrs Crouch has served on the Maitland City Council Australia Day Committee since 1999.

In the opinion of myself and the Deputy Mayor, Councillor Meskauskas, Mrs Dorothy Crouch has made an outstanding contribution to the City and residents through her tireless efforts over many years.

The Policy for the Freeman of the City states as follows:

i) Freeman of the City

The honour of Freeman of the City is awarded to individuals who have provided the highest level of service. It may be awarded for eminent achievement and merit in the

highest order for service to Maitland, Australia or humanity. A distinguished person who is not a Maitland citizen may be appointed as honorary Freeman.

The Freeman of the City will awarded at an appropriate function with the Common Seal of the Council being affixed to the Award.

An honour board for Freeman Of the City and Maitland Medal recipients be maintained in an appropriate Council building.

RECOMMENDATION

THAT Council confer Freeman of the City of Maitland Award to Mrs Dorothy Crouch in recognition of outstanding contribution to the City of Maitland under the Common Seal of Maitland City Council.

COUNCIL RESOLUTION

THAT Council confer Freeman of the City of Maitland Award to Mrs Dorothy Crouch in recognition of outstanding contribution to the City of Maitland under the Common Seal of Maitland City Council.

Moved Clr Blackmore, Seconded Clr Meskauskas

CARRIED

7 WITHDRAWAL OF ITEMS AND ACCEPTANCE OF LATE ITEMS OF BUSINESS

- 7.1 Acceptance of Late Item 10.9 – Amendment to Planning Proposal under separate cover to replace existing comment under Airds of Lochinvar on Page 13 of Planning Proposal RZ08002 – Lochinvar Investigation Area

Airds of Lochinvar

Council resolved on 9 October 2007 to adopt the Lochinvar Structure Plan, with the resolution including the following amendment:

(b) the identification of the Airds commercial building as a “potential commercial” site.

While the existing ‘Airds of Lochinvar’ building is retail/commercial in nature, it is not proposed to rezone the land that the building exists upon for commercial purposes, given that the site is proposed to be zoned for residential purposes in accordance with the Lochinvar Structure Plan 2007. Rezoning the land to residential purposes would be consistent with the proposed zoning for adjoining allotments, which would not preclude small scale commercial uses such as neighbourhood shops. However, Council recently adopted the Activity Centres and Employment Clusters Strategy 2010 (p. 16-17, 25) which identifies appropriate areas within the Lochinvar Investigation Area for commercial purposes. Rezoning the land that accommodates the Airds of Lochinvar building to a purpose other than residential would be inconsistent with the ACECS 2010 and the LSP 2007. Furthermore, while the LSP 2007 (p. 24) identifies the existing ‘Airds of Lochinvar’ building as a commercial site given the existing use of the building, it does not propose *expansion* of the site for commercial purposes.

- 7.2 Acceptance of Withdrawal of Item 10.10 - Amendment to Maitland Local Environmental Plan - Rezoning of Farley Investigation Area

Moved Clr Casey, Seconded Clr Humphery

CARRIED

8 PUBLIC ACCESS

Michael O’Sullivan representing Largs Holdings Pty Ltd spoke **for** Item 10.3 DA 09-2588 Proposed 121 lot residential subdivision - Lots 1 & 9 DP32519, 546 Paterson Road, Bolwarra Heights.

Graham Coall representing Coall Enterprises spoke **for** Item 10.8 Review of Locality Name for Hillsborough.

Andrew Vile representing himself spoke **for** Item 10.8 Review of Locality Name for Hillsborough.

Ian Andrews representing Ian & Shirlie Andrews, owners of 2/90 Hillsborough Road, Hillsborough spoke **for** Item 10.8 Review of Locality Name for Hillsborough.

Alan Wells representing Wells Environmental Services spoke **for** Item 10.9 Amendment to Maitland Local Environmental Plan - Rezoning of Lochinvar Investigation Area.

COUNCIL RESOLUTION

THAT an extension of one (1) minute be granted to Alan Wells.

Moved Clr Casey, **Seconded** Clr Garnham

CARRIED

9 GENERAL MANAGER'S REPORTS

Nil

10 SERVICE PLANNING AND REGULATION REPORTS**10.1 DA 07-3071 - SECTION 96(1A) MODIFICATION TO EXISTING CONSENT CONDITIONS FOR SENIORS LIVING DEVELOPMENT - LOT 611 DP 867202, 372 NEW ENGLAND HIGHWAY RUTHERFORD
RECOMMENDATION: APPROVAL**

File No: DA 07-3071

Attachments: 1. Locality Plan
2. Development Plans
3. Submissions

Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
David Simm - Manager Development & Environment

Author: Belinda Barrie - Town Planner

Applicant: Signature Gardens Retirement Resorts Pty Ltd

Owner: Willowvale Villages Pty Ltd

Proposal: Seniors Living Development (Self contained units)

Location: 372 New England Highway Rutherford

Zone: 2(a) Residential and 6(a) Public Recreation

EXECUTIVE SUMMARY

This application relates to the amendment of consent conditions relating to an approved Seniors Living Development at 372 New England Highway, Rutherford. The site is zoned part 2(a) Residential and part 6(a) Public Recreation and is not subject to any environmentally sensitive factors.

The original application approved 189 self contained units on the site, with associated community facilities, roads, drainage and an acoustic barrier to the New England Highway.

This application proposes the following amendments:

- *The reduction of units to be constructed on the site from 189 to 165;*
- *The amendment of Section 94 contributions to reflect the recent reduction to the Section 94 contribution rates for Seniors Living developments;*
- *Clarification in relation to those consent conditions applying to certain stages of the development;*
- *The removal of the requirement for a 'turning head' at the end of Turin Terrace;*
- *Construction of the highway noise barrier in stages;*
- *The request for the secondary access point on Turin Terrace to be locked;*
- *Clarification as to the timing of the registration of the restriction on the title as required under SEPP (Seniors Living); and*
- *The amendment to the drainage plan reflecting the reduced number of units.*

The Section 96 application was originally lodged with Council February 2009. This first set of plans was advertised and notified for fourteen days from 16 February 2009 to 2 March 2009. In this period, five submissions were received. The submissions generally related to the use of Turin Terrace for construction vehicles. Further amended plans which are presented to Council as part of this report were re-advertised and re-notified for fourteen days from 17 May 2010 to 31 May 2010. In this period one submission was received in regards to perimeter fencing along the adjoining boundary to the proposal. The matters raised in the submissions are addressed in the body of the report. It is considered that the submissions do not warrant the refusal of the Section 96 application.

The proposal put before the Council is considered to be substantially the same development. The proposal has been assessed against the requirements of the Environmental Planning and Assessment Act 1979 and considered to be compliant. As such, the proposed amendments are recommended for approval.

OFFICER'S RECOMMENDATION

THAT

DA 07-3071 for the Section 96(1A) application to amend the consent at Lot 611 DP 867202, 372 New England Highway Rutherford, be approved, subject to the amended conditions provided in the attached schedule.

COUNCIL RESOLUTION

THAT

DA 07-3071 for the Section 96(1A) application to amend the consent at Lot 611 DP 867202, 372 New England Highway Rutherford, be approved, subject to the amended conditions provided in the attached schedule.

Moved Clr Geoghegan, Seconded Clr Casey

CARRIED

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a division.

The division resulted in 11 for and 0 against, as follows:

For:	Clr Baker	Against:
	Clr Blackmore	
	Clr Casey	
	Clr Garnham	
	Clr Geoghegan	
	Clr Humphery	
	Clr Meskauskas	
	Clr Mudd	
	Clr Penfold	
	Clr Tierney	
	Clr Wethered	

ORIGINAL RENUMBERED SCHEDULE OF CONDITIONS

Reason for Condition(s)

The following condition(s) have been applied to the development, subject of this consent, to ensure that the development meets the requirements of the NSW Environmental Planning and Assessment Act 1979, the NSW Environmental Planning and Assessment Regulation 2000, and the various policies and development controls of Maitland City Council and other government agencies relevant to the development being undertaken.

APPROVED PLANS AND DOCUMENTATION

- 1 The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions to this consent and as amended in red colour:

Plan No./ Report	Revision Date	Prepared by: (consultant)
DA- 2-02	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 2-06	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 2-07	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 2-08	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 2-09	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 2-10	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 2-11	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 3-01	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 3-02	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 3-03	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 3-04	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 4-01	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 4-03	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 4-04	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 4-05	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 4-06	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 4-07	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 5-01	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 5-02	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 5-03	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 5-04	SEPT 2007	Hamilton Hayes Henderson Architects
DA- 6-01	SEPT 2007	Hamilton Hayes Henderson Architects
L01	13.03.08	Terras Landscape Architects
L02	23.11.07	Terras Landscape Architects
L03	23.11.07	Terras Landscape Architects

L04	23.11.07	Terras Landscape Architects
L05	23.11.07	Terras Landscape Architects
L06	23.11.07	Terras Landscape Architects
07331	MARCH 2008	Spectrum Acoustics
BASIX CERTIFICATE NO. 66761651		ASSESSOR NUMBER 20305

- 2 The development shall be operated and constructed in accordance with SEPP (Housing for Seniors or People with a Disability) 2004.
- 3 The "Central Facilities" shall not be used for functions not associated with the onsite residential population.

CONTRIBUTIONS & FEES

- 4 Pursuant to Section 80A(1) of the *Environmental Planning and Assessment Act 1979*, and the Maitland S94 Contributions Plan (City Wide) 2006, a contribution of **\$2,725,812** shall be paid to the Council.

The contribution is calculated from Council's adopted Section 94 Contributions Plan in the following manner:

	3 bedroom	Total
2006(A) Citywide Rec & Open Space	188 x \$4,407	\$828,516
2006(A) Citywide Road & Traffic Facilities	188 x \$4,094	\$769,672
2006(A) Citywide Cultural Facilities	188 x \$791	\$148,708
2006(A) Citywide Community Facilities	188 x \$1,756	\$330,128
2006(A) Citywide Cycleways/Shared Paths	188 x \$181	\$34,028
2006(A) West Rutherford Roadworks	188 x \$3,056	\$574,528
2006(A) West Rutherford Management/Admin	188 x \$214	\$40,232
		\$2,725,812

The above amount may be adjusted at the time of the actual payment, in accordance with the provisions of the Maitland Section 94 Contributions Plan (Citywide) 2006.

Payment of the above amount shall apply to Development Applications as follows:

- *Subdivision only - prior to issue of the Subdivision Certificate.*
- *Building work only - prior to issue of the Construction Certificate.*
- *Subdivision and building work - prior to the issue of the Construction Certificate, or Subdivision Certificate, whichever occurs first.*
- *Where no construction certificate is required - prior to issue of an Occupation Certificate.*
- *For extractive industries - annually from the date of issue of development consent.*

The above "contribution" condition has been applied to ensure that:

- i) *Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of section 94 of the Environmental Planning and Assessment Act, 1979.*
- ii) *Council's administration expenses are met with respect to the processing of the application.*

CERTIFICATES

- 5 Prior to the commencement of works an application for a **Construction Certificate** shall be submitted to, and be approved by, the Accredited Certifier.
- 6 **Prior to the issue of an Occupation Certificate** all conditions of development consent shall be complied with.
- 7 Prior to occupation of the building an **Occupation Certificate** shall be issued by the Principal Certifying Authority.
- 8 **Prior to issue of the Construction Certificate**, a certificate of compliance under Section 50 of the *Hunter Water Act 1991* for this development, shall be submitted to the Accredited Certifier.

LANDSCAPING

- 9 All landscaped areas of the development shall be maintained in accordance with the proposed landscape plan. The landscaped areas shall be kept free of parked vehicles, stored goods, waste material, and the like.

NOISE

- 10 **Prior to the issue of the Construction Certificate**, plans (inclusive of dimensioned site and elevations) shall be submitted showing the location of the onsite bus shelter.
- 11 A bus service shall be provided by the developer/operator at the completion of stage 5. Written confirmation shall be provided to Council confirming the operation of the bus service.
- 12 **Prior to the issue of the Construction Certificate** documentation prepared by a suitably qualified Acoustic Consultant shall be submitted to Council approving the final installation mechanical plant.
- 13 **Prior to the issue of the Occupation Certificate**, the 2.4 metre high acoustic barrier shall be constructed and landscaping planted in accordance with the approved plans between the acoustic barrier and the New England Highway.
- 14 Recommendations contained within the acoustic report prepared by Spectrum Acoustics dated March 2008 shall be implemented.

VEHICLE ACCESS & PARKING

- 15 Car parking for the development shall be provided in accordance with the approved plans, with a minimum allocation for the development of **297** spaces.
- 16 All parking bays shall be delineated with line-marking and/or signposting.

- 17 Garbage waste collection facilities catering for heavy vehicle manoeuvres shall be provided on-site in accordance with SEPP (Housing Seniors or People with a Disability) 2004.
- 18 A secondary access point for emergency purposes shall be provided at Turin Terrace.

CONTAMINATION

- 19 **Prior to the issue of the Construction Certificate** a Phase 2 Environmental Site Assessment shall be undertaken in accordance with the phase 1 Contamination Report, dated 24th August 2007, prepared by Coffee Geotechnics. The development shall incorporate the recommendations contained within the Phase 2 Contamination Assessment report.
- 20 **Prior to any works commencing** all unsuitable material shall be removed from the existing dams and the dams remediated with compacted fill in accordance with AS3798. Construction Certification shall be provided by a Geotechnical Engineer, and forwarded to Council.
- 21 Asbestos encountered on site shall be handled and disposed of in accordance with work cover requirements and the relevant Australian Standard.
- 22 Any contaminated material shall be disposed at an appropriate licensed premise.
- 23 A final validation report shall be submitted to Council if significant contamination is found.

WATER

- 24 The existing dam water shall be assessed by a suitably qualified person prior to its release and reported to Council.

ARCHAEOLOGY

- 25 Should any potential archaeological deposit likely to contain Aboriginal artefacts be identified during the construction stage, all construction works shall cease and application shall be made by a suitably qualified archaeologist to the National Parks and Wildlife Service (NPWS) for an Excavation Permit for Aboriginal relics. If a permit is required, a copy is to be forwarded to Council.

The applicant shall comply with the conditions and requirement of any excavation permit required, and is built into the development program.

LAND TITLE

- 26** A restriction as to user will be registered against the title of the property in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation within the facility to the following kinds of people:
- (a) seniors or people who have a disability,
 - (b) people who live within the same household with seniors or people who have a disability,
 - (c) staff employed to assist in the administration of and provision of services to housing provided under SEPP (Housing for Seniors or People with a Disability) 2004.

STORMWATER DRAINAGE

- 27** **Prior to issue of the Construction Certificate**, a detailed stormwater drainage plan, providing:
- i) *On-Site Detention (OSD)* of stormwater, and
 - ii) an emergency overland flow path for major storm events, that is directed to the public drainage system, and
 - iii) entrapment of gross pollutants, nutrients and hydrocarbons generated from the contributing ground-surface catchment areas,
- shall be designed in accordance with Council's Manual of Engineering Standards, and be submitted to the Accredited Certifier.
- The design shall be based on the concept plans No 07/57, exhibits 3 & 4 Revision C, submitted with the application

ROADS

- 28** **Prior to issue of the Occupation Certificate**, the following works shall be completed:
- i) The proposed roads shall be constructed with an asphaltic or cement concrete wearing surface in accordance with an engineer's design or Council's Manual of Engineering Standards.
 - ii) A "turning head" and footway, within the property, at the termination of the existing road in Turin Terrace, together with all necessary stormwater drainage shall be constructed in accordance with Council's Manual of Engineering Standards, and the works shall be dedicated to Council, at no cost to Council, as "public road".
 - iii) Kerb-side parking restriction, linemarking & signposting in Denton Park Dr to facilitate safe operation of the intersection of Denton Park Dr with the access road, shall be installed in accordance with Council's requirements.

CIVIL WORKS - Roads

- 29 Prior to commencement of works** for the extension Turin Terrace and within Denton Park Drive;
- an engineering design, in accordance with Council's Manual Of Engineering Standards, shall be prepared for approval
 - consent under the Roads Act shall be issued
 - all relevant Council fees shall be paid
- 30 Prior to issue of the Occupation Certificate**, a compliance notice shall be obtained from Council certifying that construction of roadworks have been carried out in accordance with this consent and Council's Manual of Engineering Standards.

EROSION CONTROLS

- 31** The property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking".

BUILDING CONSTRUCTION

- 32** All building work shall be carried out in accordance with the provisions of the Building Code of Australia.
- 33** All demolition works are to be carried out in accordance with Australian Standard AS 2601-2001.
- 34** Upon completion of the building BUT prior to its occupation, a Final Fire Safety Certificate with respect to each critical and essential fire safety measure installed in the building shall be submitted to Council. Such certificates shall be prepared in accordance with Division 4 of Part 9 of the *Environmental Planning and Assessment Regulation, 2000*.
- 35** At least once in each twelve month period, fire safety statements in respect of each required essential fire safety measure installed within the building shall be submitted to Council. Such certificates are to state that:
- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building).
- Such statements shall be prepared in accordance with Division 5 of Part 9 of the *Environmental Planning and Assessment Regulation, 2000*.

- 36** All excavations and backfilling shall be executed safely, in accordance with appropriate professional standards and shall be properly guarded and protected to prevent the works from being dangerous to life or property.

The applicant shall submit to Council, "Notice of Commencement" at least two days prior to the commencement of construction works.

- 37** Hours of Work:

Unless otherwise approved by Council in writing; all building work associated with this approval shall be carried out between 7.00am and 6.00pm Monday to Fridays and 7.00am to 5.00pm on Saturdays with no work permitted on Sundays or Public Holidays that may cause offensive noise.

- 38** The development or any portion of the development shall not be used or occupied until an Occupation or Interim Occupation Certificate has been issued. Occupation certificate applications must be accompanied by the required fee and all associated information and certifications. To ensure occupation or use of the development can occur in a timely fashion, the occupation certificate application should be submitted at the same time as the final inspection is being requested.

- 39** Upon completion of the building BUT prior to its occupation, a Final Fire Safety Certificate with respect to each critical and essential fire safety measure installed in the building is to be provided. Such certificate(s) are to be in accordance with Division 4 of Part 9 of the *Environmental Planning and Assessment Regulation, 2000*.

- 40** (1) Building work that involves residential building work (within the meaning of the *Home Building Act, 1989*) must not be carried out unless the principal certifying authority for the development to which the work relates:

(a) in the case of work to be done by a licensee under that Act:

- (i) has been informed in writing of the licensee's name and contractor licence number, and
- (ii) is satisfied that the licence has complied with the requirements of Part 6 of that Act, or

(b) in the case of work to be done by any other person;

- (i) has been informed in writing of the person's name and owner-builder permit, or
- (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

- (2) A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act, 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of

this clause, sufficient evidence that the person has complied with the requirements of that part.

SERVICES & EQUIPMENT

- 41 A copy of the fire safety schedule and fire safety certificate shall be prominently displayed in the building in accordance with Division 4 of Part 9 of the *Environmental Planning and Assessment Regulation 2000*.
- 42 A copy of the fire safety schedule and fire safety certificate shall be forwarded to the Commissioner of New South Wales Fire Brigades, in accordance with Division 4 of Part 9 of the *Environmental Planning and Assessment Regulation, 2000*.

ACCESS & EGRESS

- 43 Access for disabled persons must be provided in accordance with DP1, DP2, and DP8 of the Building Code of Australia. Compliance with Part D3 of the Building Code of Australia satisfies this requirement. All elements are to meet the requirements of Australian Standard AS1428.1 "Design for Access & Mobility".

SITE CONSIDERATIONS

- 44 All excavated an/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the area and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring land.

Where a retaining wall is planned for this purpose and such wall exceeds 1.0m in height at any point from finished ground level, plans and specifications of the construction SHALL BE APPROVED BY COUNCIL BEFORE WORKS COMMENCE. Plans and specifications of retaining walls greater than 1.0m in height MUST BE CERTIFIED BY A PRACTICING PROFESSIONAL ENGINEER. Note: The submission of a separate Development Application is not required for a retaining wall associated with this approval and indicated on the approved plans.

- 45 All building refuse on this building site shall be stored in such a manner so as not to cause a nuisance to adjoining properties.
- 46 If an excavation extends below the level of the base of the footings of a building/structure on an adjoining allotment of land, the person causing the excavation to be made.
- i) Must preserve and protect the building/structure from damage, and
 - ii) If necessary, must underpin and support the building/structure in an approved manner, and
 - iii) Must, at least 7 days before excavating below the level of the base of the footings of a building/structure 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/structure 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 condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (Includes a public road and any other public place).

47 If the work:

- i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- ii) involves the enclosure of a public place

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

48 A sign must be erected in a prominent position on the work:

- (i) stating that unauthorised entry to the work site is prohibited, and
- (ii) showing the name of the person in charge of the work site and a telephone number at which the person can be contacted during work hours.

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

This condition does not apply to:

- (i) building work carried out inside an existing building, or
- (ii) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

49 Approved toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. The provision of toilet facilities in accordance with this Clause must be completed before any other work is commenced.

50 Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.

ANCILLARY PROVISIONS

51 The swimming pool and required child resistant pool fencing and gates MUST be constructed, installed and maintained STRICTLY in accordance with this approval

and is to comply with the provisions of the *Swimming Pools Act and Regulations 1992*, Australian Standard AS1926-1986 AND Council's Code "Swimming Pools and Safety Fencing" (2000 Edition).

FOOD PREMISES

52 The premises is to be fitted out in accordance with the requirements of Australian Standard 4674-2004, Design Construction and Fit-Out of Food Premises and any other relevant legislation.

53 The premises will be incorporated in Council's Surveillance Program and will be subject to 2 inspection(s) per annum. The current fee for an inspection is \$93.

(i) stating that unauthorised entry to work site is prohibited, and

(ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted during work hours.

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

This condition does not apply to:

(i) building work carried out inside an existing building, or

(ii) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

54 Approved toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. The provision of toilet facilities in accordance with this Clause must be completed before any other work is commenced.

55 The site is to be cleared of all building refuse and spoil immediately after completion of the building/structure.

56 No building materials, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath.

57 Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.

ADVICES

A You are advised that, prior to submitting an application for an **Occupation Certificate** the applicant should ensure that all relevant conditions of development consent have been complied with.

- B** You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the **Protection of the Environment & Operations** (POEO) Act and may incur infringement fines.
- C** You (or the owner) are advised to notify Council in writing, of any existing **damage to the street infrastructure** (including landscaping) along the frontage of the property, prior to commencement of construction. The absence of such notification signifies that no damage exists. Where necessary repairs are carried out by Council, the owner of the property shall be held liable for the cost of those repairs.
- D** You are advised that the issue of this development consent does not amount to a release, variation or modification by Council of any **covenant or easement** applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.
- E** You are advised that compliance with the requirements of the **Disability Discrimination Act**, (DDA) applies to works on this site. It should be noted that compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.

AMENDED CONDITIONS

The following amendments are referenced to the renumbered Schedule of Conditions attached to this document:

Condition No. 1

The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions to this consent and as amended in red colour:

Plan No./ Report	Revision Date	Prepared by: (consultant)
DA- 2-01-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 2-02-C	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 2-03-C	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 2-10-C	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 2-11-E	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 2-13-D	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 3-03-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 3-04-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 4-01-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 4-02-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 4-03-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 4-04-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 4-05-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 4-06-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 4-07-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 4-08-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 4-09-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 5-01-B	MARCH 2010	Hamilton Hayes Henderson Architects
DA- 5-04-C	MARCH 2010	Hamilton Hayes Henderson Architects
L02-13	16.04.10	Terras Landscape Architects
07331	MARCH 2010	Spectrum Acoustics
BASIX CERTIFICATE NO. 18557417		ASSESSOR NUMBER 20305
Accessway Road 20m wide		Pulver Cooper Blackley

Condition No. 4

Pursuant to Section 80A(1) of the *Environmental Planning and Assessment Act 1979*, and the Maitland S94 Contributions Plan (City Wide) 2006, a contribution of

\$1,626,890 shall be paid to the Council.

The contribution is calculated from Council's adopted Section 94 Contributions Plan in the following manner:

	2 bedroom	3 bedroom	Total
2006(A) Citywide Rec & Open Space	46 x \$2,618	118 x \$3,179	\$495,550
2006(A) Citywide Road & Traffic Facilities	46 x \$2,433	118 x \$2,955	\$460,608
2006(A) Citywide Cultural Facilities	46 x \$470	118 x \$571	\$88,998
2006(A) Citywide Community Facilities	46 x \$1,043	118 x \$1,267	\$197,484
2006(A) Citywide Cycleways/Shared Paths	46 x \$108	118 x \$131	\$20,426
2006(A) Citywide Management/Admin	46 x \$99	118 x \$121	\$18,832
2006(A) West Rutherford Roadworks	46 x \$1,823	118 x \$2,213	\$344,992
			\$1,626,890

The above amount may be adjusted at the time of the actual payment, in accordance with the provisions of the Maitland Section 94 Contributions Plan (Citywide) 2006.

Payment of the above amount shall apply to Development Applications as follows:

- *Subdivision only - prior to issue of the Subdivision Certificate.*
- *Building work only - prior to issue of the Construction Certificate.*
- *Subdivision and building work - prior to the issue of the Construction Certificate, or Subdivision Certificate, whichever occurs first.*
- *Where no construction certificate is required - prior to issue of an Occupation Certificate.*
- *For extractive industries - annually from the date of issue of development consent.*

The above "contribution" condition has been applied to ensure that:

- i) Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of section 94 of the Environmental Planning and Assessment Act, 1979.*
- ii) Council's administration expenses are met with respect to the processing of the application.*

Condition No. 5

Prior to the commencement of works for each stage, an application for a **Construction Certificate** shall be submitted to, and be approved by, the Accredited Certifier.

Condition No. 6

Prior to the issue of an Occupation Certificate for each stage of the development, all conditions of development consent relating to that stage shall be complied with.

Condition No. 8

Prior to issue of the Construction Certificate for each stage, a certificate of compliance under Section 50 of the *Hunter Water Act 1991* for this development, shall be submitted to the Accredited Certifier.

Condition No.10

Prior to the issue of the Construction Certificate for buildings within Stage 1, plans (inclusive of dimensioned site and elevations) shall be submitted to Council showing the location of the onsite bus shelter.

Condition No. 12

Prior to the issue of the Occupation Certificate for the Stage 5 Central Facilities building, documentation prepared by a suitably qualified Acoustic Consultant shall be submitted to the PCA confirming that the final installation of the mechanical plant will meet the recommendations of the Spectrum Acoustics report dated March 2010 (Project No. 07331).

Condition No. 13

Prior to the issue of the Occupation Certificate for buildings within Stage 1, the first stage of the 3.1m acoustic barrier to the New England Highway shall be constructed and landscaping planted in accordance with the approved plans. The second stage of the 3.1m acoustic barrier to the New England Highway shall be constructed and landscaping planted in accordance with the approved plans **prior to the issue of the Occupation Certificate for buildings within Stage 4**.

Condition No. 14

Recommendations contained within the acoustic report prepared by Spectrum Acoustics dated March 2010 shall be implemented throughout the development. This includes the approval for the final location of air conditioning plants for the units to be constructed **prior to the issue of the Construction Certificate for each stage**.

Condition No. 15

Carparking for the development shall be provided in accordance with the approved plans.

Condition No. 18

A secondary access point for emergency purposes shall be provided at Turin Terrace with a locked gate. The gate shall be locked with a lock that is compatible with emergency services master keys. The key to this lock shall be kept on site in both the office and manager's residence. Construction vehicles are prohibited from using this entry point at any time.

Condition No. 19

Prior to the issue of the Construction Certificate for any Stage 1 works, a Phase 2 Environmental Site Assessment shall be undertaken in accordance with the phase 1 Contamination Report, dated 24th August 2007, prepared by Coffee Geotechnics. The development shall incorporate the recommendations contained within the Phase 2 Contamination Assessment report.

Condition No. 26

A restriction as to user will be registered against the title of the property in accordance with section 88E of the Conveyancing Act 1919 upon creation, limiting the use of any accommodation within the facility to the following kinds of people:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under SEPP (Housing for Seniors or People with a Disability) 2004.

Condition No. 27

Prior to issue of a Construction Certificate for any staged works, a detailed stormwater drainage plan, providing:

- iv) *On-Site Detention (OSD)* of stormwater, and
- v) an emergency overland flow path for major storm events, that is directed to the public drainage system, and
- vi) entrapment of gross pollutants, nutrients and hydrocarbons generated from the contributing ground-surface catchment areas,

shall be designed in accordance with Council's Manual of Engineering Standards, and be submitted to the Accredited Certifier.

The design shall be based on the concept plans No **07/57, exhibits 3 & 4 Revision E** submitted with the application.

Condition No. 28

Prior to issue of the Occupation Certificate for each of the identified stages, the following works shall be completed:

- iv) The proposed roads shall be constructed with an asphaltic or cement concrete wearing surface in accordance with an engineer's design or Council's Manual of Engineering Standards. **This is to be completed as part of all stages.**
- v) A "turning head" and footway, within the property, at the termination of the existing road in Turin Terrace, together with all necessary stormwater drainage shall be constructed **as part of Stage 8** in accordance with a design prepared by Council consistent with drawing DA073071 dated 24/8/09 and Council's Manual of Engineering Standards, and the works and necessary land within the subject lot shall be dedicated to Council, at no compensatory cost to Council, as "public road".
- vi) Kerb-side parking restriction, linemarking & signposting in Denton Park Dr to facilitate safe operation of the intersection of Denton Park Dr with the access road, shall be installed in accordance with Council's requirements. **This is to be completed as part of Stage 1 works.**

Condition No. 29

Prior to commencement of works for both the extension of Turin Terrace and within Denton Park Drive;

- an engineering design, for a concrete entry/ exit in Denton Park Drive and a flexible granular pavement with an asphaltic concrete wearing surface in Turin Terrace, in accordance with Council's Manual Of Engineering Standards, shall be prepared for approval;
- consent under the Roads Act and a Construction Certificate under the EP&A Act as appropriate, shall be issued;
- all relevant Council fees shall be paid.

Condition No. 30

Prior to issue of the Occupation Certificate for Stage 1, a compliance notice shall be obtained from Council certifying that construction of roadworks in Denton Park Drive have been carried out in accordance with this consent, approved plans and Council's Manual of Engineering Standards. A compliance notice certifying that the construction of roadworks in Turin Terrace has been carried out in accordance with this consent, approved plans and Council's Manual of Engineering Standards shall

be obtained from Council **prior to the issue of the Occupation Certificate for Stage 8.**

Condition No. 34

Upon completion of the Central Facilities building BUT prior to its occupation, a Final Fire Safety Certificate with respect to each critical and essential fire safety measure installed in the building shall be submitted to Council. Such certificates shall be prepared in accordance with Division 4 of Part 9 of the *Environmental Planning and Assessment Regulation, 2000*.

Condition No. 35

At least once in each twelve month period, fire safety statements in respect of each required essential fire safety measure installed within the Central Facilities building shall be submitted to Council. Such certificates are to state that:

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

Such statements shall be prepared in accordance with Division 5 of Part 9 of the *Environmental Planning and Assessment Regulation, 2000*.

Delete Condition No. 39

Condition No. 41

A copy of the fire safety schedule and fire safety certificate shall be prominently displayed in the Central Facilities building in accordance with Division 4 of Part 9 of the *Environmental Planning and Assessment Regulation 2000*.

Condition No. 51

The swimming pool and required child resistant pool fencing and gates MUST be constructed, installed and maintained STRICTLY in accordance with this approval and is to comply with the provisions of the *Swimming Pools Act 1992*, *Swimming Pool Regulations 2008* and Australian Standard AS1926.1-2007.

The following advices are to be included into the Schedule of Conditions attached to the original Notice of Determination:

Additional Advice F

You are advised that Council will accept cost for survey plan preparation and registration, and an engineering design for the works at the termination of Turin Terrace, consistent with Council drawing dated 24/8/09.

Additional Advice G

You are advised that for the **access entry/exit works** on the footway verge in Denton Park Dr, inspections by Council of works, is required (eg formwork & reinforcement). See Council's "Application To Construct Private Works On Footway". You should contact Council (ph. 49 34 9700), giving at least 24 hours notice for inspections.

Additional Advice H

You are advised that consent is not given to the proposed signage as indicated on the plans. Permanent signage requires a separate Development Application and subsequent approval prior to its installation.

10.2 DA 10-379 SKYDIVING OPERATION ANCILLARY TO AERODROME - LOT 102 DP1113319, 604 NEW ENGLAND HIGHWAY, RUTHERFORD

File No: DA 10-379

Attachments:

1. Locality Plan
2. Development Plans
3. Submissions
4. Aerodrome Consultative panel Minutes

Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
David Simm - Manager Development & Environment
Stephen Punch - Principal Planner

Author: Cindy Dickson - Town Planner

Applicant: Skydive Maitland Pty Ltd

Owner: Royal Newcastle Aero Club

Proposal: Skydiving Operation Ancillary to Aerodrome

Location: 604 New England Highway, Rutherford

Zone: 5(a) Special Uses

EXECUTIVE SUMMARY

Development consent is sought from Council for a proposed skydiving operation ancillary to the existing aerodrome at 604 New England Highway, Rutherford. The subject land is zoned 5(a) Special Uses (Aerodrome) under Maitland Local Environmental Plan, 1993 (LEP).

An 'aerodrome' is a permissible form of development in the 5(a) Special Uses (Aerodrome) zone with Council consent. In terms of permissibility of this particular land use activity the Council only needs to be satisfied that the proposal is ordinarily incidental or ancillary to the primary use of the land for the purposes of an aerodrome. Council considers that using the aerodrome as a base for the conducting of parachuting operations satisfies this provision of the LEP.

The Maitland Aerodrome site is located approximately 3 kilometres west of Rutherford and has operated for over 4 decades. The site is relatively level with scattered low level vegetation generally around the perimeter of the property, two sealed runways and one grass runway. The skydiving operation will primarily use the sealed runways.

The existing social club building located to the east of the Royal Newcastle Aeroclub (RNAC) office and runways is currently being utilised for the operations of Maitland Skydive. Maitland aerodrome is an 'authorised landing area' for the purposes of the Civil Aviation Regulations. It is not a controlled aerodrome; therefore circuit patterns cannot be defined or regulated as occurs at major city airports. RNAC does not have operational control of every aircraft that visits the airfield however, the Community Operational Undertaking (COU) prepared by RNAC and adopted by the Council in 2005 and as amended June 2009 contains a recommended circuit pattern to be adopted whenever possible. The adopted COU for the aerodrome identifies

parachuting (commonly known as skydiving) as a type of operation/activity to be conducted at the aerodrome. The proposal involves formal development consent for this use on the site. Identification signage is also proposed to identify the business.

The development application has been considered by the Rutherford Aerodrome Community Consultative Committee and its comments have been taken into consideration in the assessment of the proposal.

The application was notified for a period of 14 days and during this period three (3) submissions and subsequent emails from objectors were received. The key issues raised related to acoustic impact, flight path location, concern over number of aircraft movements and aircraft operations (direction of banking after take-off and circuits). The objections raised have been discussed in detail within this report, however, it is considered that the issues raised are not sufficient to warrant refusal of the application. Accordingly, it is recommended the application be approved subject to conditions.

OFFICER'S RECOMMENDATION

THAT

- 1. DA 10-379 for Skydiving Operation ancillary to the existing aerodrome on Lot 102, DP1113319, 604 New England Highway, Rutherford be approved, subject to the conditions of consent set out in the attached schedule.**

COUNCIL RESOLUTION

THAT

- 1. DA 10-379 for Skydiving Operation ancillary to the existing aerodrome on Lot 102, DP1113319, 604 New England Highway, Rutherford be approved, subject to the conditions of consent set out in the attached schedule.**

Moved Clr Wethered, Seconded Clr Mudd

CARRIED

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a division.

The division resulted in 11 for and 0 against, as follows:

For:	Clr Baker	Against:
	Clr Blackmore	
	Clr Casey	
	Clr Garnham	
	Clr Geoghegan	
	Clr Humphery	
	Clr Meskauskas	
	Clr Mudd	
	Clr Penfold	
	Clr Tierney	
	Clr Wethered	

SCHEDULE OF CONDITIONS

Reason for Condition(s)

The following condition(s) have been applied to the development, subject of this consent, to ensure that the development meets the requirements of the NSW Environmental Planning and Assessment Act 1979, the NSW Environmental Planning and Assessment Regulation 2000, and the various policies and development controls of Maitland City Council and other government agencies relevant to the development being undertaken.

APPROVED PLANS AND DOCUMENTATION

1. The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions of this consent or as shown in red colour on the plans:

Plan Ref. N ^o	Sheet N ^o	Rev ⁿ N ^o	Revision Date	Prepared by: (consultant)
Signage Plan	-	-	15 March 2010	Skydive Maitland Pty Ltd
Site Plan (Figure 1)	-	-	-	Skydive Maitland Pty Ltd
Site Plan (Figure 2)	-	-	-	Skydive Maitland Pty Ltd

GENERAL

2. The business shall operate within the following times (with the exception of limited night skydives):
 - o 7.00am to 8.00pm from September to April; and
 - o 7.00am to 6.00pm from May to August.

Night skydives shall be undertaken only between 6.00pm to 10.00pm.

3. The operation of the business shall be consistent with the Community Operational Undertaking for the Rutherford Aerodrome adopted by Maitland City Council on 22 February 2005.
4. This consent shall be included as an annexure to the Community Operational Undertaking for the Rutherford Aerodrome adopted by Maitland City Council on 22 February 2005.
5. Intensive skydiving training courses shall not exceed four (4) courses within a calendar year. Written notification of the activities shall be provided to the RNAC two (2) weeks prior to the beginning of the course.
6. Night skydiving operations shall not exceed six (6) instances within a calendar year. Written notification of the activities shall be provided to the RNAC two (2) weeks prior to the operations being undertaken.
7. Special events (excluding night skydiving and intensive skydiving training courses approved as part of this consent) shall be subject to a separate development application.

8. It is the Applicants responsibility to ensure compliance with the requirements of the Disability Discrimination Act, 1992 (DDA). Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.

10.3 DA 09-2588 PROPOSED 121 LOT RESIDENTIAL SUBDIVISION - LOTS 1 & 9 DP32519, 546 PATERSON ROAD, BOLWARRA HEIGHTS

File No: DA 09-2588

Attachments: 1. Locality Plan
2. Development Plan
3. Submission

Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
David Simm - Manager Development & Environment
Stephen Punch - Principal Planner

Author: Ian Cunningham - Town Planner

Applicant: Largs Holdings Pty Ltd.

Owner: Largs Holdings Pty Ltd.

Proposal: 121 Lot Residential Subdivision

Location: Lots 1 & 9, DP 32519, 546 Paterson Road, Bolwarra Heights.

Zone: 2(a) Residential

EXECUTIVE SUMMARY

The proposal seeks consent to subdivide two lots (Lots 1 & 9 in DP 32519) having a combined area of 12.989ha, into 121 residential lots with associated road works and utility services.

The subject site is greenfield and located to the south of the junction of Paterson Road and Dunmore Road, Largs. The site comprises undulating open grazing land with sparse vegetation. The overall site is roughly dissected by a watercourse feeding into a dam (adjacent to Dunmore Road) which through reconstruction will form the storm water detention basin serving the overall development.

The proposed configuration of the residential subdivision is consistent with the Largs Urban Release Area Plan in terms of road layout and the proposed (staged) lot layout provides a mix of lot sizes from approximately 620m² to 1700m².

This proposal represents the third subdivision within the Largs Urban Release Area with two previous development approvals for approximately 86 lots occurring on adjoining land to the south with access to Largs Avenue. The precincts surrounding the subject site are primarily flood liable rural to the north, with rural residential development occurring nearby in Dunmore Road, and established rural residential development to the south-west in the Lang Drive/Hilldale Drive area.

The subject site has historical association with the early settlement sequence of Largs, and is in close proximity to Dunmore House, which itself has a significant historical association with the development of Largs through the activities of Reverend John Dunmore Lang and the Lang family, who were instrumental in the establishment and growth of the village of Largs and surrounding farmlands.

The proposal has attracted a submission objecting to the proposed subdivision based upon the perceived incompatibility of the development with the curtilage and amenity of Dunmore House, and the potential relics/workings believed to be in the general area that may be affected by the development.

The significance of Dunmore House is recognised in the Largs Urban Release Area Plan, and as such, the proposed residential subdivision will be required to address the impact upon the Dunmore House curtilage through native landscaping parallel to, and for the extent of Paterson Road that will assist in improving the integration of the residential development site and Dunmore House

Generally, the matters raised in the submission have been investigated through the Development Application assessment process. It is considered that the proposed development of the subject site can be managed in terms of the discovery of any relics or workings through the normal precautionary procedures that apply to sites identified as having historical potential.

The full scope of issues raised in the submission are discussed further in the body of this report and the proposal overall is found to be generally consistent with the Largs Urban Release Area Plan.

The submission has involved input from the Local State Member who has requested that the residents' concerns be taken into account in this matter.

OFFICER'S RECOMMENDATION

THAT

The proposed two (2) lot subdivision into one hundred and twenty-one (121) residential lots at Lot 1 & 9, DP 32519, 546 Paterson Road, Bolwarra Heights be approved subject to consent conditions.

COUNCIL RESOLUTION

THAT

The proposed two (2) lot subdivision into one hundred and twenty-one (121) residential lots at Lot 1 & 9, DP 32519, 546 Paterson Road, Bolwarra Heights be approved subject to consent conditions.

Moved Clr Humphery, Seconded Clr Geoghegan

CARRIED

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a division.

The division resulted in 11 for and 0 against, as follows:

For:	Clr Baker	Against:
	Clr Blackmore	
	Clr Casey	

Clr Garnham
Clr Geoghegan
Clr Humphery
Clr Meskauskas
Clr Mudd
Clr Penfold
Clr Tierney
Clr Wethered

Schedule of Conditions DA 09-2588

Proposed 121 lot residential subdivision of Lots 1 & 9 in DP 32519, 546 Paterson Road, Bolwarra Heights.

1. The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions of this consent or as shown in red colour on the plans:

Plan Reference	Sheet N ^o	Rev ⁿ N ^o	Date	Prepared by: (consultant)
Proposed subdivision of lots 1 & 9, DP 32519.	n/a	n/a	11/3/10	RPS Harper Somers O'Sullivan

CONTRIBUTIONS & FEES

2. Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Maitland S94 Contributions Plan (City Wide) 2006, a contribution of \$1,438,829 shall be paid to the Council.

The contribution is calculated from Council's adopted Section 94 Contributions Plan in the following manner:

	lots	Total
2006(A) Citywide Rec & Open Space	119 x \$4,675	\$556,325
2006(A) Citywide Road & Traffic Facilities	119 x \$4,344	\$516,936
2006(A) Citywide Cultural Facilities	119 x \$839	\$99,841
2006(A) Citywide Community Facilities	119 x \$1,863	\$221,697
2006(A) Citywide Cycleways/Shared Paths	119 x \$192	\$22,848
2006(A) Citywide Management/Admin	119 x \$178	\$21,182
		\$1,438,929

The above contributions rates are indexed, at least annually, with reviewed rates to apply from 1st February each year in accordance with the provisions of the Maitland Section 94 Contributions Plan (Citywide) 2006. Please refer to Council's web page for the current rates applicable.

Payment of the above amount shall apply to Development Applications as follows:

- *Subdivision only - prior to issue of the Subdivision Certificate.*
- *Building work only - prior to issue of the Construction Certificate.*
- *Subdivision and building work - prior to the issue of the Construction Certificate, or Subdivision Certificate, whichever occurs first.*
- *Where no construction certificate is required - prior to issue of an Occupation Certificate.*
- *For extractive industries - annually from the date of issue of development consent.*

The above "contribution" condition has been applied to ensure that:

- i) Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of section 94 of the Environmental Planning and Assessment Act, 1979.*
- ii) Council's administration expenses are met with respect to the processing of the application.*

3. **Prior to the issue of the Subdivision Certificate**, “house numbering” and “subdivision certificate” fees, in accordance with Council’s *Schedule of Fees and Charges*, shall be paid to Council.

CERTIFICATES & REPORTS

4. **Prior to issue of the Subdivision Certificate**, original plans and/or documents of survey/title, and four copies, shall be submitted to Council.
5. **Prior to issue of the Subdivision Certificate**, a copy of a geotechnical report, classifying each lot in accordance with the procedures established in Australian Standard AS 2870, shall be submitted to Council.
6. **Prior to issue of the Construction Certificate**, application (together with a plan) shall be made, and submitted to Council, for road names. The suggested names shall offer options, which shall be supported with reasons (historical or otherwise) for the chosen names.

UTILITY SERVICES

7. Underground water, sewerage, electrical power and communication infrastructure shall be provided to each lot within the proposed subdivision.
8. Road reserve and path lighting shall be provided in accordance with the requirements of the power supply authority and Australian Standard AS 1158;
- adopting categories P4 (collector roads) & P5 (local roads) for the appropriate road type within the subdivision,
 - providing “cut-off” luminaries (such as “Aeroscreen” or similar)
 - adopting category V intersection lighting at Dunmore Rd.
9. **Prior to issue of the Subdivision Certificate**, a certificate of compliance under Section 50 of the Hunter Water Act 1991 for this development shall be submitted to Council.
10. **Prior to the issue of the Subdivision Certificate**, water, sewerage (with direct connection to a Hunter Water treatment facility), telecommunications and electrical power services shall be reticulated for each lot in accordance with the service provider’s requirements.
11. **Prior to issue of the Subdivision Certificate**, documentary evidence from the providers of electrical power, communications and gas (if applicable), confirming that satisfactory arrangements have been made for the installation of infrastructure services, shall be submitted to Council.

VEGETATION & LANDSCAPING

12. **Prior to the issue of the Construction Certificate** a detailed “landscape plan”, in accordance with Council’s tree planting guidelines showing proposed street plantings, shall be submitted to Council for approval. The plan shall include details of the type of species, and the mature height and spread.

13. **Prior to the issue of the Subdivision Certificate** the site shall be cleared of all trees:
- within the road reserve
 - along proposed lot boundaries
 - within asset protection zones required by the NSW Rural Fire Service
14. **Prior to issue of the Subdivision Certificate**, all environmental weeds, rubbish and the like, shall be destroyed and/or removed from within the proposed public reserve

FAUNA

15. **Prior to commencement of works**, a qualified ecologist shall inspect, supervise and report to Council regarding the removal and relocation of any threatened fauna species, which in the professional opinion of the ecologist, require such treatment.

BUSHFIRE

16. **General Terms of Approval**, Rural Fire Service;
(Asset Protection Zones)

1. At the issue of subdivision certificate and in perpetuity, the southern boundary of the lots adjoining the northern boundary of adjoining Lot 2 DP 32519, to a distance of 10 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. At the issue of subdivision certificate and in perpetuity, the eastern boundary of the lots adjoining the western boundary of adjoining Lot 2 DP32519, to a distance of 15 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

(Water and Utilities)

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

(Access)

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

ARCHAEOLOGY

- 17(a). Prior to, or during construction, identification of any potential archaeological deposit likely to contain Aboriginal artefacts, shall cause construction works to cease. Application shall be made by a suitably qualified Archaeologist to the National Parks and Wildlife Service (NPWS) for an excavation permit for Aboriginal relics. A copy of such a permit, shall be submitted to Council.

- (b) Prior to, or during construction, identification of any potential or actual European artefacts, shall cause construction works in the vicinity of the find to cease. The applicant shall immediately engage a qualified archaeologist to review and report on the find and consult with the NSW Heritage Office in order to determine the necessary requirements for preservation or removal of the item(s).

ROADS & PATHS

18. Kerb and gutter and road construction with an asphaltic concrete wearing surface of all proposed roads, together with all necessary stormwater drainage and infrastructure facilities, shall be provided in accordance with Council's Manual of Engineering Standards. Road 1, from lot 63 to lot 88 shall have an alignment of 4.5 – 9.0 – 4.5 metres. Road 7 shall have an ultimate alignment of 4.5 – 9.0 – 4.5 metres and shall provide a minimum interim pavement width of 6m, with an adjacent table drain at the property boundary.
19. An RTA type 'AUR' intersection treatment, including a deceleration "left-turn" lane in Dunmore Rd, at its junction with Road 1, shall be provided in accordance with Council's Manual of Engineering Standards. The existing stormwater conduit in Dunmore Rd shall be assessed for its structural integrity and adequacy as part of the engineering design for the works.
20. A shared pedestrian/cycle path 2.5m wide, from Road 1 generally along Dunmore Road to the south-eastern corner of lot 2 DP32519, shall be provided in accordance with Council's Manual of Engineering Standards.
21. A pedestrian path 1.5m wide shall be provided along Roads 1, 7, 4 and 3 (east of Road 4) in accordance with Council's Manual of Engineering Standards.
22. A concrete driveway within the "handle" of "battle-axe" lots 59, 67, 70, 74, 75, 97, 98, 6 & 7 shall be provided in accordance with Council's Manual of Engineering Standards.
23. Vehicle turning heads shall be provided at the southern end of Road 4 and in Road 7.

STORMWATER DRAINAGE

24. A major/minor stormwater drainage system shall be provided, in accordance with Council's Manual of Engineering Standards, catering for discharge from contributing catchment areas in their ultimate developed state.
25. A stormwater detention system shall be designed and approved for the subject subdivision to reduce post-developed discharges to pre-developed discharges, for the critical storm up to and including the 1% AEP ("100 year") event, in accordance with Council's Manual of Engineering Standards.
26. A stormwater retention system shall be designed, approved and constructed to entrap gross pollutants, nutrients and hydrocarbons generated from the contributing catchment areas in their ultimate developed state, in accordance with Council's Manual of Engineering Standards, and the publication *"The Constructed Wetlands Manual"*.

EROSION CONTROL

27. The site and its surrounding environs shall be protected from the effects of erosion (as water and wind borne particles) and off-site "vehicle tracking", by the application of adequate controls. Details in accordance with Council's Manual of Engineering Standards and the manual, "*Managing Urban Stormwater*" shall be submitted as part of the Construction Certificate application.

CIVIL WORKS - CERTIFICATION

28. **Prior to issue of the Construction Certificate** for the road and drainage works, an engineering design shall be prepared, in accordance with Council's Manual of Engineering Standards, for approval.
29. **Prior to issue of the Subdivision Certificate**, all necessary works shall be carried out in accordance with this consent and Council's Manual of Engineering Standards.

LAND TITLE

Lot numbers quoted in "Land Title" conditions refer to the approved plan. Any requirements for specified lots within nominated reports must be cross-referenced with the approved plan.

30. The proposed public roads shall be dedicated to Council, at no cost to Council.
31. The land shown on the approved plan, adjacent to the northern boundaries of lots 97 & 98 for the purposes of a public road, intersection shall be dedicated to Council, at no cost to Council.
- Prior to issue of the Subdivision Certificate**, the land to be dedicated shall be cleared of all improvements and waste, and the grass shall be mowed.
32. The land containing the proposed stormwater basins shall be dedicated to Council as drainage reserves, at no cost to Council.
33. A restriction on the title of lots with a common boundary with Paterson Rd and Dunmore Rd under Section 88B of the Conveyancing Act, shall be created to give effect to the prohibition of direct vehicular access to those roads.
34. A positive covenant on the title of lots with a common boundary to Paterson Road including lots 97 & 98, under Section 88BA of the Conveyancing Act, shall be created to give effect to an ongoing preservation and maintenance, by the subject lot-owner, of the approved landscaping.
35. A positive covenant on the title of lots 29 to 42 inclusive, under Section 88BA of the Conveyancing Act, shall be created to give effect to an ongoing programme of maintenance by the owner of that lot, of the Asset Protection Zone 15 metres wide in accordance with the requirements of the Rural Fire Service.

36. A positive covenant on the title of lots 7 to 14 inclusive, under Section 88BA of the Conveyancing Act, shall be created to give effect to an ongoing programme of maintenance by the owner of that lot, of the Asset Protection Zone 10 metres wide in accordance with the requirements of the Rural Fire Service.
37. A restriction on the title of lots with a common boundary with Paterson Road and including lots 97 & 98, under Section 88B of the Conveyancing Act, shall be created to give effect to the provision that boundary fencing, shall be of post and wire or timber rail construction.
38. The authority empowered to release, vary or modify restrictions and covenants on the use of the land required by this consent, shall be nominated as "Maitland City Council".

ADVICES

The following advices are limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A You are advised that the potential for road widenings in Dunmore Rd arising from the requirements of this consent may affect subdivision layout.
- B You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the **Protection of the Environment & Operations** (POEO) Act and may incur infringement fines.
- C You are advised that, in accordance with the EP&A Act, (sec.109F) payment of the building industry **Long Service Leave levy**, where applicable, must be paid prior to issue of any Construction Certificate.

**10.4 RECLASSIFICATION OF COMMUNITY LAND TO OPERATIONAL LAND
AT EAST MAITLAND TO FACILITATE EXTENSION OF CHELMSFORD
DRIVE THROUGH TO MOLLY MORGAN DRIVE.****File No:** RZ 10-013**Attachments:**

- 1. Locality Plan**
- 2. Conceptual Intersection Configuration**
- 3. Applicant's Request to Initiate
Reclassification**

Responsible Officer: **Leanne Harris - Group Manager Service Planning and
Regulation**
David Simm - Manager Development & Environment**Author:** **Stephen Punch - Principal Planner**

EXECUTIVE SUMMARY

Council are continuing its assessment of Development Application No. 08-918 relating to the expansion of the Stocklands Greenhills retail precinct. One of the major considerations with the proposal relates to the proper management of traffic. Various traffic management solutions have been reviewed by both Council and the RTA and this process is continuing as traffic generation figures, traffic distribution and modelling are being refined.

Two traffic management options appear to be emerging as the most likely outcomes for the development:

- 1. Upgrading of the New England Highway and Mitchell Drive intersection; and*
- 2. Construction of an extension to Chelmsford Drive between the New England Highway and Molly Morgan Drive.*

While Option 1 can largely be accommodated within the existing road reserve, Option 2 involves the occupation and use of land classified as 'community land' under the Local Government Act 1993. In order for Council to impose conditions on the development consent requiring construction and dedication of the Chelmsford Drive link, this land needs to be reclassified to 'operational land' via an LEP amendment process.

The reclassification of the land to accommodate traffic management Option 2 should not be construed as being pre-emptive of the outcome of the development application process. Rather, it is creating the proper legal planning platform for the imposition of development consent conditions in the event that the development application assessment process adopts the Chelmsford Drive extension as the most appropriate traffic management solution for the development. While the demand for the Chelmsford Drive extension is driven by the redevelopment of the Stocklands retail centre (that is, the link could not be justified in the absence of the proposed Stocklands expansion) the broader Green Hills retail/commercial precinct will derive benefit from the proposal in the form of improved traffic conditions and access to the highway.

It is important that the LEP amendment process commence as quickly as possible in order that the reclassification be in place at the time the development application assessment is complete and ready for determination.

A number of environmental investigations are to be undertaken – ecological, stormwater and acoustic – however it is appropriate that these reports be provided as additional supporting information with the reclassifications and development application for the Greenhills retail centre expansion.

OFFICER'S RECOMMENDATION

THAT

- 1. In accordance with Section 56 of the Environmental Planning and Assessment Act 1979, a planning proposal be submitted to the Department of Planning to amend Maitland Local Environmental Plan 1993 for the purpose of reclassifying part of the following lots from Community Land to Operational Land:**
 - Part of Lot 7, DP 831327, Molly Morgan Drive East Maitland**
 - Part of Lot 250, DP 264015, Molly Morgan Drive East Maitland**
 - Part of Lot 22, DP 591803, New England Highway East Maitland**
- 2. If the planning proposal is given a gateway determination to proceed, consultation with the community, including a public hearing be undertaken.**
- 3. All community consultation be undertaken in accordance with Section 57 of the EPA Act, the directions of the gateway determination and the requirements of LEP Practice Note PN 09-003.**
- 4. A further report be presented to Council following the public consultation process.**

COUNCIL RESOLUTION

THAT

- 1. In accordance with Section 56 of the Environmental Planning and Assessment Act 1979, a planning proposal be submitted to the Department of Planning to amend Maitland Local Environmental Plan 1993 for the purpose of reclassifying part of the following lots from Community Land to Operational Land:**
 - Part of Lot 7, DP 831327, Molly Morgan Drive East Maitland**
 - Part of Lot 250, DP 264015, Molly Morgan Drive East Maitland**
 - Part of Lot 22, DP 591803, New England Highway East Maitland**
- 2. If the planning proposal is given a gateway determination to proceed, consultation with the community, including a public hearing be undertaken.**
- 3. All community consultation be undertaken in accordance with Section 57 of**

the EPA Act, the directions of the gateway determination and the requirements of LEP Practice Note PN 09-003.

4. A further report be presented to Council following the public consultation process.

Moved Clr Mudd, Seconded Clr Garnham

CARRIED

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a division.

The division resulted in 11 for and 0 against, as follows:

For:	Clr Baker	Against:
	Clr Blackmore	
	Clr Casey	
	Clr Garnham	
	Clr Geoghegan	
	Clr Humphery	
	Clr Meskauskas	
	Clr Mudd	
	Clr Penfold	
	Clr Tierney	
	Clr Wethered	

10.5 PETITION REGARDING GROOVIN THE MOO

File No: 150/5
Attachments: 1. Petitions
Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
Author: David Simm - Manager Development & Environment

EXECUTIVE SUMMARY

This report is presented to Council following the receipt of a resident petition in relation to the 2010 "Groovin the Moo" festival held at the Maitland Showground on the 8th May. The South Maitland Action Group has coordinated this approach with a view to having the event moved from its current venue as a result of anti social behaviour, excessive noise and the proximity and size of the event in relationship to adjoining residential properties.

OFFICER'S RECOMMENDATION**THAT**

- 1. Council support the concerns of the residents of South Maitland and formally advise and discuss with the Hunter River Agricultural and Horticultural Association those matters that continue to remain at issue with each year's event.**

Clr Mudd declared a pecuniary interest in this item. Clr Mudd is a Director on the Board of The Hunter River Agricultural and Horticultural Society. Clr Mudd left the chambers at 6.13pm and did not participate in discussion or voting on the matter in accordance with Section 451 of the Act. Clr Mudd returned to the meeting at 6.20pm.

COUNCIL RESOLUTION**THAT**

- 1. Whilst not seeking to stop the event, Council support the concerns of the residents of South Maitland and formally advise and discuss with the Hunter River Agricultural and Horticultural Association those matters that continue to remain at issue with each year's event.**

Moved Clr Penfold, Seconded Clr Baker

CARRIED

SUSPENSION OF STANDING ORDERS**COUNCIL RESOLUTION**

THAT Standing Orders be suspended to congratulate Mrs Dorothy Crouch as Freeman of the City.

Moved Mayor Peter Blackmore, Seconded Cllr Mudd

CARRIED

The Mayor and Deputy Mayor Cllr Meskauskas both congratulated Mrs Dorothy Crouch as Freeman of the City. The Council also congratulated Mrs Dorothy Crouch by a show of acclamation.

RESUMPTION OF STANDING ORDERS**COUNCIL RESOLUTION**

THAT Council resume Standing Orders to deal with the remainder of the meeting.

Moved Cllr Garnham, Seconded Cllr Humphery

CARRIED

10.6 WASTE AND SUSTAINABILITY IMPROVEMENT PAYMENTS 2010-2011

File No: P44197
Attachments: Nil
Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
David Simm - Manager Development & Environment
Author: Deanne Nelson-Pritchard - Senior Environmental Health Officer

EXECUTIVE SUMMARY

The Local Council Waste and Sustainability Improvement Payments (WaSIP) form part of the City and Country Environment Restoration Program run by the Department of Environment, Climate Change and Water (DECCW). Council has participated in this program since 2006 and has been successful in achieving the standards to obtain these payments each year.

The Waste and Sustainability Improvement Payment has been offered for 2010/2011 with a large list of standards to be implemented. If Maitland City Council becomes involved it will be entitled to at least \$343,486 to be used towards waste avoidance, resource recovery and environmental sustainability projects. The 2010/2011 activities are directed towards sustainability across the Council and therefore will require participation across many management areas and responsibilities.

OFFICER'S RECOMMENDATION**THAT**

- 1. Council endorse participation in the Waste and Sustainability Improvement Payment.**
- 2. Council provide suggestions for possible projects to be undertaken if additional funding is available from the Waste and Sustainability Improvements Payment following implementation of mandatory requirements.**

COUNCIL RESOLUTION**THAT**

- 1. Council endorse participation in the Waste and Sustainability Improvement Payment.**
- 2. Council provide suggestions for possible projects to be undertaken if additional funding is available from the Waste and Sustainability Improvements Payment following implementation of mandatory requirements.**

Moved Cllr Humphery, Seconded Cllr Geoghegan

CARRIED

10.7 TIDY TOWNS UPDATE

File No: 83/3
Attachments: Nil
Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
David Simm - Manager Development & Environment
Deanne Nelson-Pritchard - Senior Environmental Health Officer
Author: Fiona Rowan - Environmental Officer

EXECUTIVE SUMMARY

The 2010 NSW Tidy Towns Awards program is well underway with eight project submissions and an Overall Maitland Town submission to be assessed in the Maitland local government area. Assessors will visit Maitland between August 16-20, 2010 to assess each entry.

The Tidy Towns Awards weekend will be held in Lockhart from November 5 to 7, 2010.

OFFICER'S RECOMMENDATION**THAT**

1. Council nominate its representative to attend the 2010 Tidy Towns Awards Weekend from November 5 to 7 in Lockhart.

COUNCIL RESOLUTION**THAT**

1. Council nominate Cllr Procter as its representative to attend the 2010 Tidy Towns Awards Weekend from November 5 to 7 in Lockhart.

Moved Cllr Casey, Seconded Cllr Humphery

CARRIED

10.8 REVIEW OF LOCALITY NAME FOR HILLSBOROUGH

File No: 64/2

Attachments: 1. Locality Map
2. Submissions (under separate cover)

Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
Monica Gibson - Manager City Strategy

Author: Dianne Murray - GIS Technician

EXECUTIVE SUMMARY

The purpose of this report is to notify Council of the completion of the public exhibition period to modify the Hillsborough/Rosebrook suburb (locality) boundaries gazetted 17 May 1991 & 25 October 1991, consider submissions and recommend the preferred option to the Geographical Names Board.

OFFICER'S RECOMMENDATION**THAT**

1. Hillsborough be retained as a suburb (locality) within the Maitland Local Government Area.
2. The Geographical Names Board be notified of Council's decision.
3. All affected landowners, public authorities and submission makers be notified of Council's decision.

COUNCIL RESOLUTION**THAT**

1. Hillsborough be retained as a suburb (locality) within the Maitland Local Government Area.
2. The Geographical Names Board be notified of Council's decision.
3. All affected landowners, public authorities and submission makers be notified of Council's decision.

Moved Clr Wethered, Seconded Clr Garnham

CARRIED

**10.9 AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN -
REZONING OF LOCHINVAR INVESTIGATION AREA**

File No: RZ08002

Attachments: 1. Planning Proposal (under separate cover)
2. Planning Circular
3. Locality Plan

Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
Monica Gibson - Manager City Strategy

Author: Josh Ford - Strategic Town Planner

EXECUTIVE SUMMARY

A draft local environmental plan has been prepared for the Lochinvar Investigation Area in accordance with Council's resolution on 25 November 2008, directions from the Department of Planning and the statutory requirements for government agency consultation. The site is identified as a 'Proposed Urban Area' and a 'Major Release Site' under the Lower Hunter Regional Strategy 2006. The purpose of this report is to inform Council of the results of the environmental assessment and to propose that the Planning Proposal be submitted to the Department of Planning for a Gateway determination.

The Planning Proposal is supported by environmental studies which have involved specific investigation and assessment of a number of matters affecting the subject land. Recommendations from the environmental studies suggest that the site is appropriate for rezoning to urban purposes, however the recent exhibition of the Maitland to Minimbah Third Track project has highlighted uncertainties regarding noise, vibration and air quality impacts on land within the southern part of the site adjoining the rail corridor. Further investigation of these impacts will be required to demonstrate the extent of constraints from the project. Detailed development controls and area planning will be required to support the urban release area and these are matters that can be addressed through the amendment of the Maitland Citywide DCP.

The draft plan is not inconsistent with any state planning policies, directions for the preparation of local environmental plans or regional strategies, and it supports the objectives and targets of the Lower Hunter Regional Strategy 2006 and the Maitland Urban Settlement Strategy 2008.

*The draft LEP is required to transfer to the Gateway planning system as a planning proposal by 30 September 2010, as per the timelines outlined under the Department's Savings and Transitional Provisions for LEPs (**Attachment 2**).*

OFFICER'S RECOMMENDATION**THAT**

1. The draft local environmental plan for the Lochinvar Investigation Area as detailed in the attached planning proposal be endorsed as an amendment to the Maitland Local Environmental Plan 1993.

2. Pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, the Planning Proposal be submitted to the Department of Planning for a Gateway Determination, noting that further investigations are required to determine the impacts from the Maitland to Minimbah Third Track project.
3. Written representations be made to the Minister for Planning and the Department of Planning noting the substantial planning work undertaken for the Lochinvar Investigation Area, requesting that this be recognised during the assessment of the Maitland to Minimbah Third Track project.
4. A further report be presented to Council following the public exhibition period, to demonstrate compliance with the Gateway determination and to provide details of any submissions received throughout that process.

NOTE

Acceptance of amendment to Planning Proposal as per Item 7.1

COUNCIL RESOLUTION**THAT**

1. The draft local environmental plan for the Lochinvar Investigation Area as detailed in the attached planning proposal be endorsed as an amendment to the Maitland Local Environmental Plan 1993.
2. Pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, the Planning Proposal be submitted to the Department of Planning for a Gateway Determination, noting that further investigations are required to determine the impacts from the Maitland to Minimbah Third Track project.
3. Written representations be made to the Minister for Planning and the Department of Planning noting the substantial planning work undertaken for the Lochinvar Investigation Area, requesting that this be recognised during the assessment of the Maitland to Minimbah Third Track project.
4. A further report be presented to Council following the public exhibition period, to demonstrate compliance with the Gateway determination and to provide details of any submissions received throughout that process.

Moved Cllr Meskauskas, Seconded Cllr Mudd

CARRIED

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a division.

The division resulted in 11 for and 0 against, as follows:

For:	Clr Baker	Against:
	Clr Blackmore	
	Clr Casey	
	Clr Garnham	
	Clr Geoghegan	
	Clr Humphery	
	Clr Meskauskas	
	Clr Mudd	
	Clr Penfold	
	Clr Tierney	
	Clr Wethered	

**10.10 AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN -
REZONING OF FARLEY INVESTIGATION AREA**

File No: RZ09005

Attachments: 1. Planning Proposal
2. Locality Plan

Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
Monica Gibson - Manager City Strategy

Author: Josh Ford - Strategic Town Planner

EXECUTIVE SUMMARY

A draft local environmental plan has been prepared for the Farley Investigation Area in accordance with Council's resolution on 10 November 2009, directions from the Department of Planning and the statutory requirements for government agency consultation. The site is identified as a 'Proposed Urban Area' under the Lower Hunter Regional Strategy 2006. The purpose of this report is to propose that the Planning Proposal be submitted to the Department of Planning for a Gateway determination.

The Planning Proposal is supported by preliminary environmental studies. Further detailed investigations will be required to support the assessment of the draft local environmental plan and consider matters such as biodiversity significance, infrastructure provision and air quality impacts from existing and future activities.

The recent exhibition of the Maitland to Minimbah Third Track project has highlighted uncertainties regarding noise, vibration and air quality impacts on land within the northern part of the site adjoining the rail corridor, meaning that further investigation of these impacts will be required to demonstrate the extent of constraints from the project.

OFFICER'S RECOMMENDATION**THAT**

- 1. The draft local environmental plan for the Farley Investigation Area as detailed in the attached planning proposal be endorsed.**
- 2. Pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, the Planning Proposal be submitted to the Department of Planning for a Gateway Determination, noting that further detailed investigations and consultation is required.**
- 3. A further report be presented to Council following the Gateway determination to provide details of community consultation and environmental assessment requirements.**

NOTE

Item Withdrawn – See Item 7.2

10.11 REVIEW OF FEES AND CHARGES - SPORTSGROUNDS, FACILITIES AND RESERVES

File No: 129/1

Attachments:

1. Fees & Charges Policy
2. Use of Public Open Space Policy
3. Amended Fees & Charges Schedule

Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation

Author: Lynn Morton - Manager Community and Recreation Services

EXECUTIVE SUMMARY

The review of the performance of Council's Recreation Boards undertaken in 2009 clearly identified the need to review and restructure Council's pricing system as it relates to fees and charges for Recreation Services. The re-structure should ensure that the pricing framework is transparent, equitable, is regionally benchmarked and allows for comparability of fees and levels of subsidy.

Accordingly, this report presents Council with two draft policies and an amended Fees and Charges Schedule as it relates to Recreation Services. They are:

- *Fees and Charges Policy – Sportsgrounds, Facilities and Reserves*
- *Use of Public Open Space by Fitness Groups and Personal Trainers Policy,*

It is recommended that the draft Policies and the amended Fees and Charges Schedule be publicly exhibited prior to adoption by the Council.

OFFICER'S RECOMMENDATION THAT

1. That the:
 - Fees and Charges Policy – Sportsgrounds, Facilities and Reserves
 - Use of Public Open Space by Fitness Groups and Personal Trainers Policy, and
 - Draft Fees and Charges Schedule for Sportsgrounds, Facilities and Reserves(as attached) be exhibited for 28 days to provide the opportunity for members of the public to comment on the draft documents.
2. A further report be presented to Council detailing the results of the public exhibition process.
3. Council's Sport and Recreation Advisory Board be formally thanked for their hard work and effort in the development of the draft Policy documents and amended Fees and Charges Schedule.

COUNCIL RESOLUTION**THAT****1. That the:**

- **Fees and Charges Policy – Sportsgrounds, Facilities and Reserves**
- **Use of Public Open Space by Fitness Groups and Personal Trainers Policy, and**
- **Draft Fees and Charges Schedule for Sportsgrounds, Facilities and Reserves**

(as attached) be exhibited for 28 days to provide the opportunity for members of the public to comment on the draft documents.

- 2. A further report be presented to Council detailing the results of the public exhibition process.**
- 3. Council's Sport and Recreation Advisory Board be formally thanked for their hard work and effort in the development of the draft Policy documents and amended Fees and Charges Schedule.**

Moved Cllr Meskauskas, Seconded Cllr Garnham

CARRIED

10.12 TEMPORAY SUSPENSION OF ALCOHOL FREE ZONE - MAITLAND HERITAGE MALL - 2ND ANNUAL MAITLAND AROMA COFFEE, CHOCOLATE AND FINE FOOD FESTIVAL

File No: 21/44/1
Attachments: Nil
Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
Author: Lynn Morton - Manager Community and Recreation Services

EXECUTIVE SUMMARY

Council has received an application from Maitland City Centre Management to temporarily suspend the Alcohol Free Zone in the Heritage Mall during the event "2nd Annual Maitland Aroma Coffee, Chocolate and Fine Food Festival."

Council has previously resolved to the temporary suspension for this event and it is recommended that the application be approved.

OFFICER'S RECOMMENDATION**THAT**

1. Part of the Central Business District Alcohol Free Zone in the following locations be suspended:
 - a. High Street from Church Street to the Elgin intersection
 - b. Bulwer Street from High Street to the Maitland Leagues Club pedestrian entrance
2. The period of suspension be restricted to:
 - a. Friday 13 August 2010 – 5.00pm - 8.00pm; Festival launch (The Heritage Mall only)
 - b. Saturday 14 August 2010 – 9.00am – 6.30pm; Festival Activities
 - c. Sunday 15th August 2010 – 9.00am – 6.00pm; Festival Activities
3. The Alcohol Free Zone signage within the affected area is covered over during the periods of suspension at the full cost to the applicant.

COUNCIL RESOLUTION**THAT**

1. Part of the Central Business District Alcohol Free Zone in the following locations be suspended:
 - a. High Street from Church Street to the Elgin intersection
 - b. Bulwer Street from High Street to the Maitland Leagues Club pedestrian entrance
2. The period of suspension be restricted to:

- a. Friday 13 August 2010 – 5.00pm - 8.00pm; Festival launch (The Heritage Mall only)
 - b. Saturday 14 August 2010 – 9.00am – 6.30pm; Festival Activities
 - c. Sunday 15th August 2010 – 9.00am – 6.00pm; Festival Activities
3. The Alcohol Free Zone signage within the affected area is covered over during the periods of suspension at the full cost to the applicant.

Moved Clr Garnham, Seconded Clr Tierney

CARRIED

11 ASSETS AND INFRASTRUCTURE PLANNING REPORTS**11.1 HUNTER RIVER: BRANXTON TO GREEN ROCKS FLOOD STUDY****File No:** 103/64**Attachments:** 1. Hunter River: Branxton to Green Rocks Flood Study July 2010 (Under Separate Cover)**Responsible Officer:** Chris James - Group Manager Assets & Infrastructure Planning**Author:** Chris McGrath - Manager Assets

EXECUTIVE SUMMARY

The Draft Hunter River: Branxton to Green Rocks Flood Study is presented to Council for formal adoption.

At its Meeting of 8 June 2007, Council resolved to place the Flood Study on public exhibition for 28 days. This period expired on 14 July 2010 with no formal public comment received. A request was received from DECCW officers to include a quick reference table that summarises levels at specific location along the Hunter River. This table has been included in the Flood Study and is considered an inconsequential addition to the Study.

The Study provides information on flood flows, velocities, levels and extents for the full range of flood events under existing catchment and floodplain conditions, including the impact on flood levels from a greenhouse induced sea level rise. The study assesses the impact of blockages on flood levels and undertakes hazard and hydraulic mapping. It will form the basis for updating Council's Floodplain Risk Management Plan and other planning documents.

This Flood Study completes the floodplain modelling for the entire LGA. It has been review by a technical group consisting of floodplain professionals from the Department of Environment, Climate Change and Water (DECCW), Maitland City Council and Cessnock City Council. The draft was presented to Council's Floodplain Risk Management Committee and recommended public exhibition.

OFFICER'S RECOMMENDATION**THAT the Hunter River: Branxton to Green Rocks Flood Study be adopted.****COUNCIL RESOLUTION****THAT the Hunter River: Branxton to Green Rocks Flood Study be adopted.****Moved Clr Humphery, Seconded Clr Casey****CARRIED**

**11.2 TRANSFER OF COUNCIL LAND - ASHTON GROVE ESTATE EAST
MAITLAND****File No:** 122/945**Attachments:**

1. Ashton Grove Road Closures as Advertised
2. Ashton Grove - Permanent Road Closures
3. Ashton Grove - Deposited Plan
4. Ashton Grove Subdivision Layout

Responsible Officer: Chris James - Group Manager Assets & Infrastructure Planning**Author:** Stephen Hawes - Manager Infrastructure Planning and Administration

EXECUTIVE SUMMARY

At its meeting on 22 June 2010, Council considered a report on the proposed sale of Council land at Ashton Grove Estate, East Maitland, and resolved to sell Lots 2 & 3 DP115083 to Landcom. The report also included reference to Lot 1 DP1150834 being exchanged at no cost for a corresponding road opening. Council approval to undertake this land transfer was omitted from the recommendation.

The purpose of this report is to correct this omission and recommend transfer of the land.

OFFICER'S RECOMMENDATION**THAT**

1. Council agree to the transfer of Lot 1 DP1150834 to Landcom at no cost;
2. Landcom pay all costs associated with the transfer;
3. The Council Seal be attached to any necessary documentation in relation to the transfer.

COUNCIL RESOLUTION**THAT**

1. Council agree to the transfer of Lot 1 DP1150834 to Landcom at no cost;
2. Landcom pay all costs associated with the transfer;
3. The Council Seal be attached to any necessary documentation in relation to the transfer.

Moved Clr Garnham, Seconded Clr Geoghegan**CARRIED**

12 FINANCE AND ADMINISTRATION REPORTS**12.1 STATEMENT OF INVESTMENTS AS AT 30 JUNE 2010**

File No: 82/2
Attachments: Nil
Responsible Officer: Graeme Tolhurst - Group Manager Finance and Administration
Author: Kristy Bragg - Corporate Accountant

EXECUTIVE SUMMARY

The Local Government (General) Regulation 2005, Section 212 requires Council to report on its investments.

OFFICER'S RECOMMENDATION**THAT**

1. The report indicating Council's Funds Management position be received and noted.
2. The certificate of the Responsible Accounting Officer be noted and the report adopted.

COUNCIL RESOLUTION**THAT**

1. The report indicating Council's Funds Management position be received and noted.
2. The certificate of the Responsible Accounting Officer be noted and the report adopted.

Moved Cllr Penfold, Seconded Cllr Tierney

CARRIED

12.2 COUNCIL BLOCK ADVERTISING

File No: 137/1192
Attachments: 1. Examples
Responsible Officer: Graeme Tolhurst - Group Manager Finance and Administration
Author: Emma Shanks - Economic Development & Marketing Officer

EXECUTIVE SUMMARY

The purpose of this report is to advise Council of the suitable options for the block advertising after Council resolved on the 25th May 2010 not to accept any tender received during the tender process that commenced on the 20th March 2010. The options proposed will provide savings to Council on its block advertising and also meet the statutory requirements regarding the advertising of Development Applications (DA's).

OFFICER'S RECOMMENDATION**THAT**

1. Council adopt option one (1) which incorporates The Hunter Post once a week and additional advertising in the Mercury on a Monday and Thursday for DA's.
2. Council commences the new arrangement immediately on six (6) month trial basis starting 16/08/2010 and report back to Council on completion of the trial
3. During the trial period, Council also trial the services of Lenard Holt Robb (LHR) advertising agency

COUNCIL RESOLUTION**THAT**

1. Council adopt option one (1) which incorporates The Hunter Post once a week and additional advertising in the Mercury on a Monday and Thursday for DA's.
2. Council commences the new arrangement immediately on six (6) month trial basis starting 16/08/2010 and report back to Council on completion of the trial
3. During the trial period, Council also trial the services of Lenard Holt Robb (LHR) advertising agency

Moved Clr Meskauskas, Seconded Clr Wethered

CARRIED

12.3 FORMATION OF MAITLAND 2021 COMMUNITY REFERENCE PANEL

File No: 29/41/1
Attachments: Nil
Responsible Officer: Graeme Tolhurst - Group Manager Finance and Administration
Author: Leah Flint - Manager Corporate Planning

EXECUTIVE SUMMARY

Work on implementation of the new Integrated Planning and Reporting legislation is moving rapidly to meet implementation timeframes of 1 July 2011. The development of the ten year community strategic plan, 'Maitland 2021', requires informing, consulting and involving the local community. A range of mechanisms are proposed in the engagement strategy for 'Maitland 2021', with a key component being the establishment of a reference panel to represent a range of community interests.

OFFICER'S RECOMMENDATION**THAT**

1. The 'Maitland 2021' community reference panel be adopted by Council

COUNCIL RESOLUTION**THAT**

1. The 'Maitland 2021' community reference panel be adopted by Council

Moved Cllr Garnham, Seconded Cllr Baker**CARRIED**

13 CITY WORKS AND SERVICES REPORTS

Nil

14 ITEMS FOR INFORMATION**14.1 HOUSEHOLD CHEMICAL COLLECTION****File No:** 61/32**Attachments:** Nil**Responsible Officer:** Leanne Harris - Group Manager Service Planning and Regulation
David Simm - Manager Development & Environment
Deanne Nelson-Pritchard - Senior Environmental Health Officer**Author:** Michael Tinlin - Environmental Health Officer

EXECUTIVE SUMMARY

The Household Chemical Collection is a FREE service to the local community whereby a range of unwanted chemicals can be disposed of in an Environmentally responsible manner. Maitland City Council is providing an extra collection for 2010 from the Waste and Sustainability Improvement Payment Program funds, to gauge local response to the collection program normally run in partnership with the NSW Department of Environment, Climate Change and Water.

The Maitland Household Chemical Cleanout will take place on Saturday July 31, 2010 at the Transpacific Depot at Rutherford.

OFFICER'S RECOMMENDATION**THAT the information contained in this Report be noted.****COUNCIL RESOLUTION****THAT the information contained in this Report be noted.****Moved Clr Wethered, Seconded Clr Casey****CARRIED**

14.2 UPDATE ON ENVIRONMENTAL PROGRAMS ACTIVITIES

File No: 55/2
Attachments: Nil
Responsible Officer: Leanne Harris - Group Manager Service Planning and Regulation
David Simm - Manager Development & Environment
Deanne Nelson-Pritchard - Senior Environmental Health Officer
Author: Fiona Rowan - Environmental Officer

EXECUTIVE SUMMARY

The staff of Environmental Programs have been busy with a number of projects in recent months. They have included hosting of the Regional Waste as Art Exhibition, the quarterly Second Hand Saturday collection, and implementation of the Litter Project Grant.

An update of these activities and upcoming environmental activities is contained within this report.

OFFICER'S RECOMMENDATION

THAT the information contained in this Report be noted.

COUNCIL RESOLUTION

THAT the information contained in this Report be noted.

Moved Clr Wethered, **Seconded** Clr Casey

CARRIED

**14.3 STATUS REPORT ON CAPITAL WORKS PROGRAM PROJECTS -
DESIGN AND CONSTRUCTION****File No:** 122/814**Attachments:**

1. CWP 09/10 Status on Design and Construction
2. CWP 10/11 Status on Design and Construction

Responsible Officer: Chris James - Group Manager Assets & Infrastructure Planning**Author:** Stephen Hawes - Manager Infrastructure Planning and Administration

EXECUTIVE SUMMARY

A report on the status of projects within the Capital Works Programs for 2009-2010 and 2010-2011 as at 21 July 2010 is provided.

OFFICER'S RECOMMENDATION

THAT the information contained in the status report be noted.

COUNCIL RESOLUTION

THAT the information contained in the status report be noted.

Moved Clr Wethered, Seconded Clr Casey

CARRIED

14.4 KEY PERFORMANCE INDICATORS - JUNE 2010

File No: 35/57
Attachment/s: Nil
Responsible Officer: Graeme Tolhurst - Group Manager Finance and Administration
Leah Flint - Manager Corporate Planning
Author: Melissa Allen - Corporate Planning Analyst

EXECUTIVE SUMMARY

This report provides Council with information in relation to performance against key indicators.

OFFICER'S RECOMMENDATION

THAT the information contained in this Report be noted.

COUNCIL RESOLUTION

THAT the information contained in this Report be noted.

Moved Clr Wethered, **Seconded** Clr Casey

CARRIED

14.5 LOCAL TRAFFIC COMMITTEE JULY 2010 DRAFT MINUTES

File No: 140/5

Attachments: 1. Draft Minutes of Local Traffic Committee - July 2010

Responsible Officer: Chris James - Group Manager Assets & Infrastructure Planning
Stephen Hawes - Manager Infrastructure Planning and Administration
Scott Henderson - Infrastructure Planning Engineer

Author: Kenneth Splatt - Traffic Officer

EXECUTIVE SUMMARY

Draft minutes of Maitland City Council's Local Traffic Committee Meeting held Thursday, 1 July 2010, are attached for Council's information. These draft minutes will be adopted at the next Local Traffic Committee Meeting to be held Thursday, 5 August 2010.

OFFICER'S RECOMMENDATION

THAT the information contained in this report be noted.

COUNCIL RESOLUTION

THAT the information contained in this report be noted.

Moved Clr Wethered, Seconded Clr Casey

CARRIED

14.6 CORRESPONDENCE ANALYSIS

File No: 35/61
Attachments: Nil
Responsible Officer: Graeme Tolhurst - Group Manager Finance and Administration
Author: Nicole Kelly - Corporate Support Assistant

EXECUTIVE SUMMARY

This report contains valuable information in relation to Council's outstanding correspondence. The report is a valuable tool within the organisation and provides information in relation to the guidelines for replying to correspondence.

OFFICER'S RECOMMENDATION

THAT the information contained in this Report be noted.

COUNCIL RESOLUTION

THAT the information contained in this Report be noted.

Moved Clr Wethered, **Seconded** Clr Casey

CARRIED

14.7 CUSTOMER SERVICE REPORT FOR JUNE 2010

File No: 31/12
Attachments: Nil
Responsible Officer: Graeme Tolhurst - Group Manager Finance and Administration
Author: Jon Dundas - Manager Administration and IT

EXECUTIVE SUMMARY

The information contained in this report provides an indication of Council's performance in the handling of customer service requests.

OFFICER'S RECOMMENDATION

THAT the information contained in this Report be noted.

COUNCIL RESOLUTION

THAT the information contained in this Report be noted.

Moved Cllr Wethered, **Seconded** Cllr Casey

CARRIED

15 NOTICES OF MOTION/RESCISSION

Nil

16 QUESTIONS WITHOUT NOTICE

Nil

17 URGENT BUSINESS

Nil

18 COMMITTEE OF THE WHOLE

Nil

19 CLOSURE

The meeting was declared closed at 6.55 pm.

.....
General Manager

.....
Chairperson