

**MINUTES OF THE DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE OF UPPER HUNTER SHIRE COUNCIL HELD ON TUESDAY 11 FEBRUARY 2020 IN THE BARRY ROSE ROOM COMMENCING AT 10.00am**

**PRESENT:**

Cr Kiwa Fisher (Chair), Cr Sue Abbott, Cr Ron Campbell and Cr Lee Watts.

It was noted that Cr Watts was absent from the meeting from 10.05am for the duration of the meeting.

**APOLOGIES:**

Cr James Burns

**IN ATTENDANCE:**

Mayor Wayne Bedggood, Mr Mathew Pringle (Director Environmental & Community Services), Mr Paul Smith (Environmental Planning Officer), Karen Fulljames, Elizabeth Flaherty & Miss Laura Conway (Minutes).

**ADOPTION OF MINUTES:**

Development & Environmental Services Committee held on 10 December 2019.

Moved: Cr Campbell

Seconded: Cr Watts

CARRIED

**DECLARATIONS OF INTEREST:**

Nil.

**PUBLIC PARTICIPATION:**

DESC.02.3      Upper Hunter Local Strategic Planning Statement

Karen Fulljames addressed the committee in relation to the Upper Hunter Local Strategic Planning Statement.

**BUISNESS ITEM:**

DESC.02.1      Development Application No. 159/2018 Demolition of existing structures, services station and convenience store food premises

The Director of Environmental & Community Services provided an overview of the proposed development application. The Director stated that the proposal is for the demolition of existing structures, the construction of a service station and convenience store food premises at 132-140 Bettington Street, Merriwa.

The Director stated that 9 submissions were received over two separate exhibition periods. The main issues raised in the submissions include:

- Noise impacts
- Traffic movement
- Hours of operation
- Pollution levels

The development application was referred to Councils Heritage Advisor for assessment as the site is located within the Merriwa Heritage Conservation Area and is in the vicinity of a number of heritage items. The Heritage Advisor raised a number of concerns with the proposed development which have been addressed in the planning assessment report.

The development application was also referred to NSW Police and RMS for comment. Issues raised by each authority have been adequately addressed in the planning assessment report and/or through recommended conditions of consent.

Cr Abbott spoke against the proposed development and raised concerns in relation to the following matters:

- Noise impact
- Air pollution
- Condition of Dutton Street to accommodate B-double vehicles
- Traffic management
- Hours of operation
- Fuel storage
- Landscaping
- Visual impacts
- Heritage impacts
- Not in the public interest

Cr Campbell spoke in support of the proposed development stating that it is a 'good planned development'. Cr Campbell raised the following points:

- Hours of operation should be 5am-10pm rather than the recommended times of 6am to 10pm.
- The site is within a designated commercial area
- The proposal is considered to be in the public interest

Cr Fisher agreed with the need for changing the recommended hours of operation to 5am – 10pm.

Cr Fisher expressed concern over the number of proposed service stations that have been approved, but then not developed. He has asked for Council to conduct an audit of all service stations across the Shire, including those that have been decommissioned.

Mayor Bedggood noted that the site plan provided on page 24 of the agenda is incorrect. The plan identifies lots that are not part of the development site. Cr Bedggood also stated he is in support of Council conducting an audit of the existing service stations within the Shire. Cr Bedggood stated that he believes the proposed development application is not in the public's best interest. He stated that Council should consider requiring future service stations within the Shire to include charging stations for electric vehicles as they are becoming popular and more economical.

The Director stated that Council is currently in discussions with another organisation looking to establish an EV charging station in Scone.

#### DESC.02.2      Development Application no 153/2019 – Garage

The Director provided an overview of the development application for a proposed garage at 60 Park Street, Scone and advised that the application was referred to the Development & Environmental Services Committee as it does not meet the minimum side setback requirement of 450mm prescribed by the Upper Hunter Development Control Plan 2015. The proposed development would have a setback of 202mm from the side boundary and therefore does not comply with the setback control.

Notwithstanding, no submissions were received in relation to the proposed development and the non-compliance has been assessed as minor and acceptable.

The committee raised no concerns with the proposal.

#### DESC.02.3      Upper Hunter Local Strategic Planning Statement

Karen Fulljames addressed the committee in relation to investigation area 3a displayed on the map on page 116 of the meeting agenda. Ms Fulljames stated that this area has been subdivided and now has two owners both of whom do not want residential encroachment. Ms Fulljames indicated that

other investigation areas had been removed from the map and requested that area 3a also be removed from the map.

The Director stated that area 3a is classified as a preliminary investigation area, and not a priority investigation area and is therefore unlikely to be considered for rezoning or development in the short or medium term. He stated that the investigation areas identified within the Upper Hunter Land Use Strategy had not changed and suggested that some areas had been inadvertently left off the map. The Director confirmed that any mapping errors or omissions would be corrected before the Upper Hunter Local Strategic Planning Statement (LSPS) is released for public exhibition.

Mayor Bedggood explained that the investigation areas identified in the Upper Hunter Land Use Strategy may be reviewed in due course.

Committee members proposed a number of minor amendments to the LSPS as follows:

1. The proposed Warbirds attraction and air show should be mentioned on pages 115 and 138.
2. The map on page 116 should be updated to show all approved investigation areas and ensure consistency with the Upper Hunter Land Use Strategy.
3. Delete the reference to 'coal' in the seventh paragraph of page 119.
4. Amend the rationale for Planning Priority 7.1.5 on page 127 by deleting the first sentence and inserting a reference to Council's Position Statement on Coal Mining and Coal Seam Gas Extraction.
5. Correct a typographical error on page 133.

The Committee agreed for the draft Upper Hunter Local Strategic Planning Statement to be placed on public exhibition subject to the above amendments.

#### **COUNCILLOR QUESTIONS:**

Cr Abbott asked about the Queensland to Hunter gas pipeline and how this project will affect the Upper Hunter Shire in the future. Cr Campbell and Mayor Bedggood also expressed interest in the matter. Mr Pringle advised that a report will be prepared for the next meeting.

Meeting closed at 11.30am

## DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE REPORTS

### DESC.02.1 *DEVELOPMENT APPLICATION NO. 159/2018 DEMOLITION OF EXISTING STRUCTURES, SERVICE STATION AND CONVENIENCE STORE FOOD PREMISES*

**RESPONSIBLE OFFICER:** Mathew Pringle - Director Environmental & Community Services

**AUTHOR:** Paul Smith - Senior Environmental Planner

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#### **PURPOSE**

Development Application No. 159/2018 for the demolition of existing structures, service station and convenience store food premises at 136-140 Bettington Street Merriwa (Lot 15 – 19 Section 11 DP 758672 and Lot 101 DP 997957) was lodged with Council on 31 October 2018. The application is being referred to Council because nine submissions were received.

#### **RECOMMENDATION**

That Council approve Development Application No. 159/2018 for the demolition of existing structures, service station and convenience store food premises at 132-140 Bettington Street Merriwa (Lot 15 – 19 Section 11 DP 758672 and Lot 101 DP 997957) subject to the conditions of consent in Attachment 1.

#### **BACKGROUND**

Applicant: Rana Petroleum Pty Ltd

Owner: M A Coorey

Location: 132-140 Bettington Street Merriwa (Lot 15 – 19 Section 11 DP 758672 and Lot 101 DP 997957)

Proposal: Demolition of existing structures, service station and convenience store food premises

Zone: B2 Local Centre & R1 General Residential

Development Application No. 159/2018 for the demolition of existing structures and construction of service station and convenience store food premises at 132-140 Bettington Street Merriwa (Lot 15 – 19 Section 11 DP 758672 and Lot 101 DP 997957) was lodged with Council on 31 October 2018. The applicant amended the development application on 22 October 2019 by removing the proposed heavy vehicle access to Blaxland Street. Nine submissions were received raising a number of issues including noise, traffic movement, air quality, water quality pollution, impacts on heritage, lighting and property values.

#### **REPORT/PROPOSAL**

The development site comprises 5 commercial allotments with a combined area of 1.08ha and a 101m frontage to Bettington Street (the plans are provided in Attachments 2 and 3). The development application proposes:

- Demolition of all existing buildings and structures on site;
- Construction and use of a service station with a convenience store, food and drink premise, and truck facilities (GFA 350m<sup>2</sup>),
- Construction of two fuel canopies and bowsers, underground fuel tanks, loading bay and service yard;
- 18 car parking spaces are provided (including 1 disabled space) plus 7 heavy vehicle parking spaces (5 B-Double spaces and 2 B-Triple parking spaces);
- Construction of entry/exit driveways on Bettington Street;
- Associated landscaping and site signage; and
- Other minor works as illustrated on the proposed drawings included in Appendix A, including the construction of 2.8m high acoustic barrier along the eastern and northern boundaries, 2.5m along the western boundary and 1.8m along the southern boundary (as shown in the Acoustic Assessment).

A full assessment of the development application is provided in Attachment 4. Some of the critical issues are: heritage, noise, traffic and amenity.

### **OPTIONS**

1. That Council approve Development Application No. 159/2018 for the demolition of existing structures, service station and convenience store food premises at 132-140 Bettington Street Merriwa (Lot 15 – 19 Section 11 DP 758672 Lot 101 DP 997957) subject to the conditions of consent in Attachment 1.
2. That Council refuse Development Application No. 159/2018 for the demolition of existing structures, service station and convenience store food premises at 132-140 Bettington Street Merriwa (Lot 15 – 19 Section 11 DP 758672 Lot 101 DP 997957) stating the reasons for refusal.

### **CONSULTATION**

Surrounding properties were notified of the development proposal between 14 November 2018 to 28 November 2018. An advertisement was placed in the Hunter Valley News on 14 November 2018. Five submissions were received (copies of the submissions are provided in Attachment 5). The development application was amended on 23 September 2019, this was placed on public exhibition from 11 December 2019 to 17 January 2020 with an additional advertisement printed in the Hunter Valley News on 11 December 2019. Four further submissions were received in relation to potential impacts on No. 130 Bettington Street (the details of these submissions are provided in Attachment 4 & 5).

The development application was also referred externally to the NSW Roads and Maritime Services and the NSW Police Force, and internally to the Heritage Advisor, Manager of Strategic Assets and Manager of Water & Sewer. The responses are provided in Attachment 4.

### **STRATEGIC LINKS**

#### **a. Community Strategic Plan 2027**

This report links to the Community Strategic Plan 2027 as follows:

- Goal 3 Protect the natural environment
- Goal 5 A sustainable and prosperous economy

We are working to achieve the following Community Priorities:



A stronger economic base to attract and retain residents, particularly our young people.



Increase focus on local business, shop occupation and revitalisation of the Town Centres.



Protect the natural environment.

**b. Delivery Program**

- Provide efficient and effective advisory, assessment and regulatory services focused on being Customer 'friendly', responsive and environmentally responsible

**c. Other Plans**

Nil

**IMPLICATIONS**

**a. Policy and Procedural Implications**

Nil

**b. Financial Implications**

Development Application fees of \$3,867.16 have been paid.

**c. Legislative Implications**

An assessment of the development application has been undertaken pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (see Attachment 4).

**d. Risk Implications**

Council determinations of development applications and modifications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied. In the case of this development application the relevant considerations under the Environmental Planning and Assessment Act 1979 have been made. There is a low risk of any third party legal appeal in relation to this application.

**e. Other Implications**

Nil

**CONCLUSION**

The application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2015.

The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent and for the following reasons:

- The proposal complies with the Upper Hunter Local Environmental Plan 2013
- The proposal complies with the Upper Hunter Development Control Plan 2015
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979 subject to conditions of consent.
- Will not have an adverse impact on the surrounding locality.

## RECOMMENDATION

**That Council approve Development Application No. 159/2018 for the demolition of existing structures, service station and convenience store food premises at 132-140 Bettington Street Merriwa (Lot 15 – 19 Section 11 DP 758672 and Lot 101 DP 997957) subject to the conditions of consent in Attachment 1.**

Moved: K Fisher

Seconded: R Campbell

CARRIED

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

<b>FOR</b>	<b>AGAINST</b>
Councillor Campbell	Councillor Abbott
Councillor Fisher	
<b>Total (2)</b>	<b>Total (1)</b>



**Environmental & Community Services**

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**DESC.02.2**

**DEVELOPMENT APPLICATION NO. 153/2019 GARAGE**

**RESPONSIBLE OFFICER:** Mathew Pringle - Director Environmental & Community Services

**AUTHOR:** Paul Smith - Senior Environmental Planner

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**PURPOSE**

On 29 November 2019 Council received Development Application No. 153/2019 for the erection of a 3.79m x 13.040m x approx. 2.93m high attached garage at 60 Park Street, Scone (Lot 7 Section 5 DP 2958). No submissions were received. The development proposal does not comply with the Upper Hunter Development Control Plan 2015 as the proposed side setback from the boundary does not meet the minimum distance of 450mm.

**RECOMMENDATION**

That Council approve Development Application No. 153/2019 for the erection of a 3.79m x 13.040m x approx. 2.93m high attached garage at 60 Park Street, Scone (Lot 7 Section 5 DP 2958), subject to the conditions of consent in Attachment 1.

**BACKGROUND**

Applicant: S R Miller  
Owner: S R and B A Miller  
Proposal: Garage  
Location: 60 Park Street Scone (Lot 7 Section 5 DP 2958)  
Zone: R1 General Residential

Development Application No. 153/2019 was received on 29 November 2019 for the erection of a 3.79m x 13.040m x approx. 2.955m high attached garage at 60 Park Street Scone (Lot 7 Section 5 DP 2958).

**REPORT/PROPOSAL**

The development application is for a garage located on the southern side of the lot behind the building line. This development is designed to be 13.04m (length) and 3.79m (wide) resulting in an area of 49.42 m<sup>2</sup>. and approximately 2.955m high with a 5 degree sloped roof (flat).

The Upper Hunter Development Control Plan 2015 (Part 4b) requires that garages, carports, sheds and other ancillary structures are setback at least 450 mm from a side or rear boundary. The development application proposes that the garage has a side setback of 202mm from the property boundary adjoining 64 Park Street. In this regard the development application does not comply with the Upper Hunter Development Control Plan 2015. Notwithstanding an assessment of the development application in relation to the site context shows it does not adversely impact on the streetscape as it is situated behind the building line of the existing dwelling and to the rear of an existing carport. In addition, it does not have any adverse impacts on the adjoining property (refer to Attachment 2 for full assessment and Attachment 3 for plans).

**OPTIONS**





## **Environmental & Community Services**

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1. That Council approve Development Application No. 153/2019 for the erection of a 3.79m x 13.040m x approx. 2.93m high attached garage at 60 Park Street Scone (Lot 7 Section 5 DP 2958), subject to the conditions of consent in Attachment 1.
2. The Council refuse Development Application No. 153/2019 for the erection of a 3.79m x 13.040m x approx. 2.93m high attached garage at 60 Park Street Scone (Lot 7 Section 5 DP 2958), stating the reasons for refusal.

### **CONSULTATION**

Surrounding properties were notified of the development proposal. The application was placed on public exhibition from 11 December 2019 to 17 January 2020. An advertisement was placed in the Hunter Valley News on 11 December 2019. No submissions were received by Council.

### **STRATEGIC LINKS**

#### **a. Community Strategic Plan 2027**

This report links to the Community Strategic Plan 2027 as follows:  
Goal 4 – Plan for a sustainable community

We are working to achieve the following Community Priorities:



Rural lifestyle and Country feel are valued and protected and the Upper Hunter Shire remains quiet, safe, healthy and welcoming.

#### **b. Delivery Program**

Assessment of the application is in accordance with the Town Planning Community Strategies:

CS13 - Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community, and

CS14 – Provide efficient and effective advisory, assessment and regulatory services focused on being Customer 'friendly', responsive and environmentally responsible.

#### **c. Other Plans**

Nil

### **IMPLICATIONS**

#### **a. Policy and Procedural Implications**

Nil

#### **b. Financial Implications**

Development Application fees of \$284.00 have been paid.

#### **c. Legislative Implications**



## **Environmental & Community Services**

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An assessment has been undertaken in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

### **d. Risk Implications**

Council determinations of development applications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied.

In the case of this development application the relevant considerations under the *Environmental Planning and Assessment Act 1979* have been made. There is a low risk of any third party legal appeal in relation to this development application.

### **e. Sustainability Implications**

Nil

### **f. Other Implications**

Nil

## **CONCLUSION**

The application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2015.

The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent and for the following reasons:

- The proposal is consistent with the objectives of the R1 General Residential zone pursuant to the Upper Hunter Local Environmental Plan 2013.
- The development generally satisfies the Upper Hunter Development Control Plan 2015, and the variation on the side setback is considered minor and acceptable.
- Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the development is unlikely to have any adverse impacts that cannot be addressed through conditions of consent.
- Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the site is suitable for the development.
- Pursuant to Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979 the development is in the public interest.

## **RECOMMENDATION**

**That Council approve Development Application No. 153/2019 for the erection of a 3.79m x 13.040m x approx. 2.93m high attached garage at 60 Park Street, Scone (Lot 7 Section 5 DP 2958), subject to the conditions of consent in Attachment 1.**

Moved: S Abbott

Seconded: R Campbell

CARRIED



## Environmental & Community Services

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The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

<b>FOR</b>	<b>AGAINST</b>
Councillor Abbott	
Councillor Campbell	
Councillor Fisher	
<b>Total (3)</b>	<b>Total (0)</b>

**DESC.02.3****UPPER HUNTER LOCAL STRATEGIC PLANNING STATEMENT****RESPONSIBLE OFFICER:** Mathew Pringle - Director Environmental & Community Services**AUTHOR:** Paul Smith - Senior Environmental Planner**PURPOSE**

In accordance with the new requirements of the Environmental Planning and Assessment Act 1979 Councils must now prepare and adopt a Local Strategic Planning Statement to help guide land use planning and ensure it aligns with relevant state and regional strategies. A draft Local Strategic Planning Statement has been prepared for adoption and placement on public exhibition for a period of 28 days.

**RECOMMENDATION**

That Council:

1. Adopt the draft Upper Hunter Local Strategic Planning Statement.
2. Place the draft Upper Hunter Local Strategic Planning Statement on public exhibition for a period of 28 days.
3. Undertake consultation with relevant public authorities.

**BACKGROUND**

In 2017 Council adopted the Upper Hunter Land Use Strategy which was endorsed by the NSW Department of Planning and Environment on 21 July 2017 to provide strategic direction to land use planning in the Upper Hunter Shire. The current NSW Government policy supports shifting the focus of the planning system to even greater up-front strategic planning. A key part of transitioning to a strategic planning focus necessitates the preparation of a local strategic planning statement (LSPS) in a consistent format to create a framework for future land use planning decisions. The LSPS is also intended to provide greater strategic alignment between the *Hunter Regional Plan 2036*, *Upper Hunter Community Strategic Plan 2027* and other Council strategies and action plans.

As a result, in accordance with Section 3.9 of the Environmental Planning and Assessment Act 1979 Councils *must prepare and make a local strategic planning statement and review the statement at least every 7 years*. Under the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, Council is required to make its first LSPS before 1 July 2020.

The LSPS must set out a 20-year vision for land use and identify how growth and change will be managed into the future. It provides the opportunity for councils and their communities to shape the future direction for land use in their local government area.

**REPORT/PROPOSAL**

The draft LSPS has been developed with the following sections: Policy Context, Strategic Context, Vision statement, Settlements of the Upper Hunter, Our Themes and Planning Priorities, Action plan and Implementation, monitoring and reporting. The draft LSPS is provided in Attachment 1.

## OPTIONS

1. That Council: (i) Adopt the draft Upper Hunter Local Strategic Planning Statement. (ii) Place the draft Upper Hunter Local Strategic Planning Statement on public exhibition for a period of 28 days. (iii) Undertake consultation with relevant public authorities.
2. Adopt the draft Upper Hunter Local Strategic Planning Statement with further amendments.
3. Not adopt the draft Upper Hunter Local Strategic Planning Statement in its current form.

## CONSULTATION

The draft LSPS is yet to be placed on public exhibition. Agency consultation and consultation with other Council sections is yet to be undertaken.

## STRATEGIC LINKS

### a. Community Strategic Plan 2027

This report links to the Community Strategic Plan 2027 as follows:

Goal 1 - A supported community

Goal 2 – Promote well-being and a connected, healthy and happy community

Goal 3 – Protect the natural environment

Goal 4 – Plan for a sustainable community

Goal 5 – A sustainable and prosperous economy

We are working to achieve the following Community Priorities:



Rural lifestyle and Country feel are valued and protected and the Upper Hunter Shire remains quiet, safe, healthy and welcoming.



A stronger economic base to attract and retain residents, particularly our young people.



Increase focus on local business, shop occupation and revitalisation of the Town Centres.



Protect the natural environment.



Increased and innovative tourism and visitor opportunities.



Upper Hunter Shire Council to support and provide community services which promote health, wellbeing and the celebration of culture.



Protect the natural environment.



Increased and innovative tourism and visitor opportunities.

## b. Delivery Program

The adoption of the draft LSPS is in accordance with the Community Strategic Objectives of town planning to:

- Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Control Plans, which reflect the needs and expectations of the broad Community.
- Facilitate and provide for a growing population, including for example, affordable housing, community amenities, health and welfare services.

## c. Other Plans

Nil

## IMPLICATIONS

### a. Policy and Procedural Implications

Nil

### b. Financial Implications

There are a number of actions in the LSPS that may require funding.

### c. Legislative Implications

Section 3.9 of the Environmental Planning and Assessment Act 1979 requires Councils to *prepare and make a local strategic planning statement and review the statement at least every 7 years*. Under the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, Council is required to make its first LSPS before 1 July 2020.

### d. Risk Implications

Nil

### e. Sustainability Implications

The LSPS provides a framework to enable Council to better implement sustainability into land use planning decisions. The planning priorities include a range of actions to improve biodiversity conservation, water quality, provision of renewable energy, economic issues and social issues.

**f. Other Implications**

Nil

**CONCLUSION**

The LSPS aims to provide clear direction for decisions taken by Council and NSW Government agencies relating to the future use of land within the LGA. It will guide the preparation of future LEP amendments. It also provides a policy framework to facilitate opportunities as they arise in the future.

**RECOMMENDATION**

**That Council:**

- 1. Adopt the amended draft Upper Hunter Local Strategic Planning Statement.**
- 2. Place the amended draft Upper Hunter Local Strategic Planning Statement on public exhibition for a period of 28 days.**
- 3. Undertake consultation with relevant public authorities.**

Moved: S Abbott

Seconded: K Fisher

CARRIED

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

<b>FOR</b>	<b>AGAINST</b>
Councillor Abbott	Councillor Campbell
Councillor Fisher	
<b>Total (2)</b>	<b>Total (1)</b>