

Department of Lands 

Port Stephens
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... a community partnership



Nelson Bay Foreshore

Plan of Management

February 2008



Contents

1.	Introduction	4
1.1	Background	4
1.2	Land to Which this Plan Applies	4
1.3	Core Principles	6
2.	Site Description	7
2.1	History	7
2.2	Landform and Geology	9
2.3	Current Land Use	9
2.4	Values	10
3.	Planning Context	12
3.1	Legislative and Planning Framework	12
3.2	Land Use Zoning	12
3.3	Port Stephens Development Control Plan (DCP) 2007	14
3.4	Port Stephens-Great Lakes Marine Park	14
3.5	Status and Use of Reserves	15
3.6	Heritage	16
3.7	Port Stephens Foreshore Management Plan	16
3.8	Native Title	17
3.9	Nelson Bay 2030 Strategy	17
4.	Management Framework	18
4.1	Overarching Principles	18
4.2	Roles	18
4.3	Management Units	18
4.4	Management Objectives	20
4.5	Sustainability	20
4.6	Proposed Integrated Foreshore Redevelopment Plan	20
4.7	Funding	20
5.	Management Issues, Outcomes and Strategies	22
5.1	Management Unit 1 – Nelson Bay Boat Harbour	22
5.1.1	Overview	22
5.1.2	Desired Outcomes	23
5.2	Management Unit 2 – Apex Park	24
5.2.1	Overview	24

5.2.2	Desired Outcomes	24
5.3	Management Unit 3 – Victoria Parade (South)	25
5.3.1	Overview	25
5.3.2	Desired Outcomes	26
5.4	Management Unit 4 – Neil Carroll Park Group	27
5.4.1	Overview	27
5.4.2	Desired Outcomes	28
5.5	Management Unit 5 – Nelson Bay Beach Waterfront	29
5.5.1	Overview	29
5.5.2	Desired Outcomes	29
5.6	Authorised Uses under the <i>Crown Lands Act 1989</i>	30
5.7	Additional Uses Authorised by this Plan	31
5.8	Management Strategies	31
6.	References	40
	Appendix 1 – Legislative and Policy Overview	41

1. Introduction

1.1 Background

This document forms the Plan of Management for Crown land within the Nelson Bay foreshore precinct. The Plan of Management is a joint Department of Lands (Lands) and Port Stephens Council (Council) initiative.

In preparing the Plan of Management, Lands and Council have sought to develop a comprehensive working document that will provide a framework to guide the future development and management of the Nelson Bay foreshore. The management and development strategies listed within the plan are based on:

- (a) an analysis and assessment of the site's physical, cultural, environmental, historical, recreational and economic values in relation to current and future uses;
- (b) earlier master planning work completed by Port Stephens Council (refer *Nelson Bay Foreshore Masterplan 2002*);
- (c) community feedback on the *Nelson Bay Foreshore Vision* which was publicly exhibited during the period 1 December 2006 to 23 February 2007; and
- (d) community feedback on the *Draft Nelson Bay Foreshore Plan of Management* which was publicly exhibited during the period 7 September 2007 to 2 November 2007.

The plan has been prepared in accordance with the requirements of the *Crown Lands Act, 1989*, general principles of Crown land management and relevant land management legislation and policy documents.

The *Crown Lands Act 1989* sets out specific requirements in relation to the referral, display and adoption of the plan. The Act requires that the draft plan be placed on public display for not less than 28 days and that the Minister for Lands must consider timely comment before adopting the plan. The Minister may adopt a plan of management without alteration or with such alteration as the Minister thinks fit.

The Plan of Management seeks to realise the potential of the foreshore as a sustainable social, environmental and economic hub that will cater for the future needs of the permanent population of Nelson Bay and its visitors, including maritime users.

1.2 Land to Which this Plan Applies

This Plan of Management applies to the Crown land within the area shown on Figure 1.1, extending from Laman Street and the Nelson Bay boat harbour in the west, to Fly Point and the Neil Carroll Park group in the east and includes the following Crown reserves:

- Reserve R32059
- Reserve R64421
- Reserve R170169
- Reserve R67366
- Part Reserve R753204



Figure 1.1: General site covered by the Plan of Management. Note: Crown reserves shown in white; Public roads are not included in Plan

1.3 Core Principles

Both Lands and Council recognise the importance of the diverse views of stakeholders with regard to the future development and use of the Nelson Bay foreshore. Lands and Council also recognise that stakeholders will often have competing views and objectives which may not always be completely reconcilable.

In order to ensure that planning and management processes remain focussed on meeting the needs and aspirations of all stakeholders, the following non-negotiable principles have been established to ensure that the planning and management of the foreshore can move forward:-

Core Principle 1 - *Community access to, and use of, the foreshore is a right that must be encouraged* and further developed through the provision of enhanced facilities that provide for public safety, enjoyment and a range of recreational and consumer related experiences.

Core Principle 2 - *Business and tourism activities have a legitimate and important role to play at the foreshore* providing a range of retail, leisure and tourism experiences for our community and our visitors; providing job opportunities for our residents; supporting the economic development of Nelson Bay; and providing a source of revenue that can improve and sustain public recreation facilities along the foreshore.

Inherent in these principles is the need to fulfil all obligations imposed under statutory or other law including current and future environment obligations.

2. Site Description

2.1 History

The Aboriginal people living in the Port Stephens area are members of the Worimi tribe. Their territory extends from Myall Lakes in the north to Barrington Tops in the west and the Hunter River in the south.

The early Worimi people were hunters and gatherers who enjoyed the abundant food supply offered by the district and waters of the Port. Oysters and fish formed a staple diet but the land also offered an abundant food supply in terms of kangaroos, emus, possums and the like.

The first official survey of the Port was conducted in 1795 and, whilst the Port was deemed to be a safe harbour for vessels, early reports concluded that the adjoining land was generally of poor quality.

During the early 1800's the Port Stephens waterways were used to access and log the vast quantities of cedar and other timbers for sale in Sydney and for export to Britain. This cedar trade was well established by 1823.

The earliest land grants in the area were established in 1840 and the earliest land surveys were completed in 1874.

The township of Nelson Bay as we now know it was originally planned for a site named Teramby now occupied by the Seabreeze Estate (eastern Nelson Bay). The original cemetery and school were located at Fly Point. The village was later established further west at its present site, to become known as Nelson Bay.

Early land grants were issued to William Cromarty (granted 40 acres, east of Church Street and down to the water from Tomaree Street and later subdivided in 1913) and to Captain John Dalton (land adjoining Cromarty's acreage west of Church Street).

A wharf was constructed at the Nelson Bay foreshore in 1880. This wharf was located out from a position where the 1929 step balustrades are still located on the northern side of Apex Park. By 1909, steamers brought people from Newcastle for a day trip to Nelson Bay where the locals provided services and received some welcomed cash in exchange for goods, refreshments and other services.



Photograph 2.1 Victoria Pde looking west towards Seabreeze Hotel (current Apex Park on right) c.1910

The original cemetery was established circa 1870. It is thought to be located in the Fly Point area off Victoria Parade, under the last house, north of Shoal Bay Road.

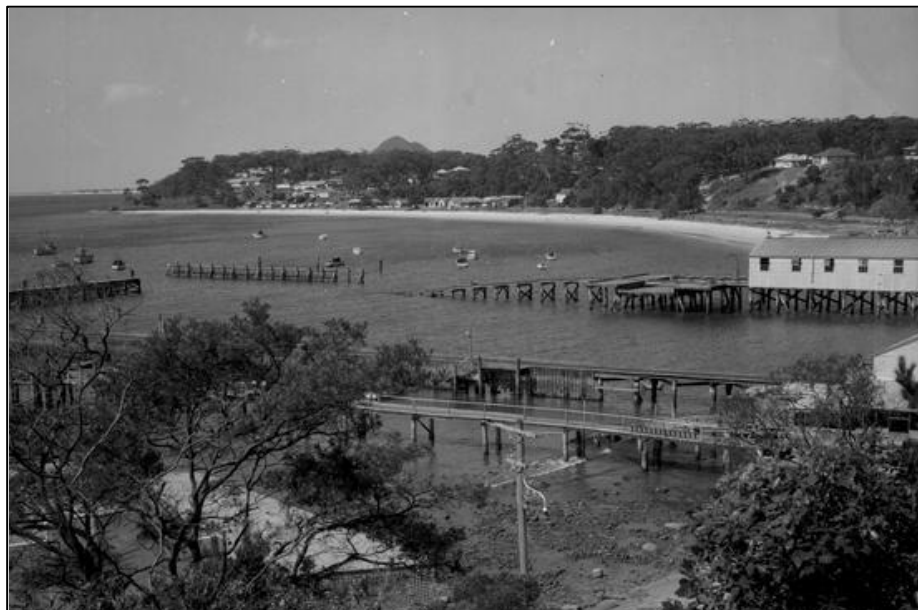
During the period preceding WWII, the area saw little change in the pioneering lifestyle of the local residents. Much of the land area now known as Apex Park was the original village green or common area, with the park area extending around the steps to the original beach and back to what is now Government Road. This common area included the original town well, tennis courts, a rotunda and picnic area. The land in and around the current Apex Park including the Nelson Bay waterfront was used or occupied for a variety of purposes including the former post office and telegraph station, salt water baths, Roger Light's boathouse and the passenger wharf.

During the latter years of WWII, the south-eastern shores of Port Stephens were transformed into a naval centre and training camp for assault landing craft (*HMAS Assault*). General MacArthur established the Port Stephens Joint Overseas Operational Training School (JOOTS) comprising Australian and US instructors to prepare Army, Navy and Air Forces to participate in joint overseas operations. Shore camps were established at Nelson Bay and Fly Point. Most of the current parkland area at Fly Point was utilized as a parade ground for *HMAS Assault*.

Evidence of the WWII 'occupation' is still evident in the area. There are a number of concrete slabs around the parkland at Fly Point that formed the foundation for the ablution blocks from the WWII Training Camp. The northern vehicular entrance to the park is the location of the WWII camp's main gate. The Art and Craft Centre was the original WWII sick bay. It later became the hospital for a migrant centre, then the local hospital until 1981.

At the conclusion of WWII, the land at Fly Point became a migrant camp which was later closed in 1954. The Federal Government then attempted to sell land at this site for housing development, but lobbying by the local community (led by local resident Neil Carroll) prevented this sale.

The armed services 'occupation' of the Tomaree Peninsular brought about significant change to the pioneering lifestyle of local residents. Considerable utility and road infrastructure was established during the war period which assisted in the 'modernization' of the area and which, in more recent times, has opened up the area for residential and tourism development.



Photograph 2.2: Nelson Bay foreshore looking east from Laman Street c.1960

Nelson Bay has also undergone significant 'built' changes during the post war period and particularly over the last two decades including the development of the boat harbour and marina and associated tourism infrastructure. The area has also seen an increase in house and unit development to cater for the town's permanent population as well as visitors to the area.

Crown land along the foreshore has, over the years, been reserved for a variety of recreational and business related purposes to cater for the social and economic needs of the local community as well as the many visitors to the area.

2.2 Landform and Geology

The landform of the planning area must be examined in the context of the greater Port Stephens estuary.

The Port Stephens estuary is a drowned valley. However, approximately 10 million years ago during the tertiary period, the area consisted of a plateau with an elevation of approximately 300 metres. Over time, this plateau has eroded, with the exception of the many hills such as Gan Gan, Glovers Hill etc. which remain at the former plateau level level.

Port Stephens became an estuary during the late Pleistocene era (approximately 70,000 years ago) when the sea level rose about 60 metres. The higher points within the estuary remained as islands.

Rock forms in the Port Stephens area belong to the Carboniferous Kuttung Series. This comprises lava flows composed of andesite and rhyolite, separated by eroded weaker sedimentary strata. Two flows of hornblende-pyroxene andesite separated by coarse conglomerates can be found at the western perimeter of the planning area (near the Fishermen's Co-op). These flows are approximately 30 metres thick at sea level. The conglomerate is 10 metres thick. Boulders range up to one metre in diameter, and consist of granite, quartz porphyry and feldspar porphyry in a tuffaceous matrix.

2.3 Current Land Use

The foreshore adjoins and forms part of the greater Nelson Bay Central Business District (CBD) which is the commercial and tourism hub of the Tomaree Peninsular.

The foreshore currently supports a variety of recreational and general commercial uses.



Photograph 2.3: Current view - Nelson Bay foreshore looking east from Laman Street

The boat harbour precinct is home to the local fishing fleet and is the commercial centre of the foreshore incorporating retail, restaurant, tourism, recreational boating and government related services. The boat harbour is also an important tourist 'window' to the Port Stephens waterway and the Port Stephens-Great Lakes Marine Park.

Crown land to south of Teramby Road and Victoria Parade is, for the most part, undeveloped and includes open space recreational areas as well as vegetated areas.

Apex Park currently provides the main pedestrian link between the Nelson Bay CBD and the foreshore and is the site for annual ANZAC day services. A tourist information centre is also located at this site.

Neil Carroll Park is used for a variety of recreational and commercial purposes including the Legacy markets, concerts and other events. The former hospital building located within the grounds of this site is now used as a community art and craft centre (Trust managed by the Ports Stephens Community Arts Centre).

Commercial and recreational activity at the foreshore is mutually supportive. The foreshore is a popular destination for Port Stephens residents and visitors who can enjoy a variety of active and passive recreational activities as well as a range of retail, restaurant and tourist related experiences. However, increasing levels of community and visitor patronage of the foreshore is placing increased demands on existing public and commercial infrastructure within the foreshore precinct particularly during holiday periods. Recreational infrastructure is in need of rehabilitation and enhancement.

2.4 Values

The following core values of the planning area describe the most important things about the site, and the qualities that might be protected and taken into account when formulating future management objectives, strategies and actions. The values are grouped under four headings:

Visual Quality

- The site has very high scenic values due to its foreshore setting and its visual relationship as a scenic adjunct to the adjoining township.
- The site has a mix of built and natural landforms.
- Outstanding water views are available from the site.
- Port Stephens consists of pristine waterways which should be maintained in that condition.

Social/Recreational

- The site is an important and accessible tourist destination.
- The site has a continuing role as a working commercial fishing port and as a safe harbour for recreational and tourism related boating activities.
- The site provides an essential recreational resource for the local community and visitors to the area who can enjoy a variety of active and passive recreational activities as well as a range of retail, restaurant and tourist related experiences.
- The site has potential for the development of additional community and visitor facilities that can provide a range of new and enhanced recreational experiences for all age groups.
- The boat harbour is a key staging point for access to the Port Stephens waterway and the Port Stephens – Great Lakes Marine Park.
- Fly Point is one of the most popular shore-based recreational dive locations in NSW.

Economic

- The site is important to the economy of Nelson Bay as it supports a variety of retail,

restaurant and tourist related activities. It is also an important tourist 'window' to the Port Stephens–Great Lakes Marine Park (a 'jump-off' point to the largest and most diverse marine park in NSW).

- Retail, tourism and related commercial activity at the site provides job opportunities for the local community.
- The site has potential for the provision of additional but sustainable commercial uses that can further support the economic development of Nelson Bay and fund the provision of recreational infrastructure at the site.

Environmental

- The planning area adjoins and also forms part of the Port Stephens-Great Lakes Marine Park. The Park has a diverse marine life including many species of dolphins, turtles, fish, invertebrates, seabirds and seaweeds. Important oceanic islands, major estuarine wetlands and lake systems feature among a variety of park habitats.
- Port Stephens supports a large number of significant ecological features.
- There is significant biodiversity including a diverse range of flora and fauna.
- Port Stephens consists of pristine waterways which should be maintained in that condition

Cultural Heritage

- The foreshore is a highly modified (cultural) landscape demonstrating man made changes to the natural features including, for example, the boat harbour, marina and shops, landscaped areas incorporating exotic plant species, and services infrastructure.
- Nelson Bay was the site for defence facilities during WWII and continues its wartime connection through memorial facilities and services within Apex Park.
- The site retains a high level of heritage significance primarily due to the historical evolution of the port (and the local fishing industry), its relationship with the town, its wartime role and the existence of a small number of associated heritage items.
- Land around the Port Stephens estuary was inhabited by the local Worimi people and provided resources for a hunter-gathering existence.

3. Planning Context

3.1 Legislative and Planning Framework

The development and use of Crown land is subject to various legislative, planning and policy requirements and processes established under the following:

- *Crown Lands Act 1989*
- *Local Government Act 1993*
- *Environmental Planning and Assessment Act, 1979*
- *Heritage Act, 1977*
- *Hunter Regional Environment Plan 1989*
- *Port Stephens Local Environment Plan 2000*
- *Port Stephens Development Control Plan (DCP) 2007*
- *Marine Parks Act 1997*
- *NSW State Plan*
- *NSW Coastal Policy*
- *SEPP 71 - Coastal Protection*
- *NSW Estuary Management Policy*
- *Port Stephens Myall Lakes Estuary Management Plan*
- *Port Stephens Foreshore Management Plan (Draft)*
- *Lower Hunter Regional Strategy*
- *General Crown Lands Policy*

A summary of relevant legislation, planning and policy documents is provided at Appendix 1.

3.2 Land Use Zoning

Development and use of Crown land is subject to the provisions of the Port Stephens Local Environment Plan. Existing land use zonings are shown on Figure 3.1.



Figure 3-1 Land Use Zoning (Source: Port Stephens LEP)

There are three (3) land use zones within the planning area as follows:

Zone 3(a) – Business General Zone

The objectives of this zone are:

- a) *To provide for a range of commercial and retail activities and uses...including tourist development and industries compatible with a commercial area*
- b) *To ensure that neighbourhood shopping and community facilities retain a scale and character consistent with the amenity of the local area*
- c) *To maintain and enhance the character and amenity of major commercial centres, to promote good urban design and retain heritage values where appropriate*
- d) *To provide commercial areas that are safe and accessible to pedestrians, and which encourage public transport patronage and bicycle use, and minimize the reliance on motor vehicles*
- e) *To provide for waterfront associated commercial development whilst protecting and enhancing the visual and service amenity of the foreshores*

Zone 6(a) – General Recreation “A” Zone

The objectives of this zone are:

- a) *To identify publicly owned land and ensure that it is available for open space recreation*
- b) *To provide an open space network to serve the present and future recreational needs of residents and visitors*
- c) *To permit development associated with, or complimentary to, open space*
- d) *To allow development on foreshores where that development is water related and enhances the recreational use or natural environment of the foreshore*
- e) *To preserve the aesthetics of land which is prominent and visible to the public along foreshore area*
- f) *To preserve privately owned land that is essential for future public open space and to provide for its acquisition by the Council*

Zone 7(w) - Environment Protection “W” (Waterways) Zone

The objectives of this zone are to minimise the impacts caused by commercial operations on the marine life and ecology of the Port Stephens waterways and to provide for such activities and facilities which:

- a) *are compatible with the existing or planned future character of the waterways and adjoining foreshores,*
- b) *protect and maintain the viability of the oyster, prawn and fishing industries of the Port whilst enabling a balance of recreational uses,*
- c) *maintain the integrity of the waterways resource base and provide for its continued use by future generations,*
- d) *ensure there is provision for multiple use of the waterways of Port Stephens having regard to the use and zoning of adjoining waterfront lands,*
- e) *protect and enhance the aquatic environment and the significant marine habitats of Port Stephens,*
- f) *protect and enhance the natural environment based on the principles of ecologically sustainable development including biological diversity and ecological integrity,*
- g) *do not adversely affect or be adversely affected by coastal processes, in both the short and long term.*

3.3 Port Stephens Development Control Plan (DCP) 2007

The Port Stephens Development Control Plan 2007 (DCP) is a suite of documents that provides practical information to support development that retains and enhances the natural and cultural heritage values of Port Stephens local government area.

The DCP applies to all land zoned under the *Port Stephens Local Environment Plan 2000* (LEP) and provides standards for development as well as local controls for specific areas within the LGA. It applies to development applications, applications to modify development consents under section 96 of the *Environmental Planning and Assessment (EPA) Act, 1979* and application for review of determination under section 82A of the Act.

The DCP supplements the provisions of the LEP. However, the provisions of the LEP prevail over the DCP.

3.4 Port Stephens-Great Lakes Marine Park

The Port Stephens–Great Lakes Marine Park has been established under the *Marine Parks Act 1997*. This park extends from Cape Hawke Surf Life Saving Club near Forster south to Birubi Beach Life Saving Club at the northern end of Stockton Beach and includes offshore waters to the 3 nautical mile limit of state waters. It includes Port Stephens and the Karuah River, the Myall River, Myall and Smiths Lakes and all their creeks and tributaries to the tidal limit.

The objectives of the Marine Park are as follows:

- a) to conserve marine biological diversity and marine habitats by declaring and providing for the management of a comprehensive system of marine parks,
- b) to maintain ecological processes in marine parks,
- c) where consistent with the preceding objects:
 - I. to provide for ecologically sustainable use of fish (including commercial and recreational fishing) and marine vegetation in marine parks, and
 - II. to provide opportunities for public appreciation, understanding and enjoyment of marine parks.

The zoning plan for the marine park commenced on 21 April 2007. The park is multiple use and protects marine habitats and species while catering for a wide range of sustainable activities. The following zones are applicable to the planning area:

- **Sanctuary Zone** – Waterway east of Fly Point. This zone provides the highest level of protection by allowing only activities that do not harm plants, animals or habitats. Sanctuary zones allow for guided tours, boating, snorkelling and diving.
- **Habitat Protection Zone** – Waterway east of the boat harbour and extending to Fly Point. This zone protects habitat by reducing high impact activities while allowing recreational fishing, some types of commercial fishing, tourist activities and fishing competitions.
- **Special Purpose Zone** – The waters in and around the Nelson Bay boat harbour (see Figure 3.2). The object of this zone is to provide for marinas and maritime facilities.

Development applications affecting land within the Marine Park require the concurrence of the Marine Park Authority. Development applications outside the Marine Park but likely to affect the Park must be referred to the Marine Park Authority for comment.

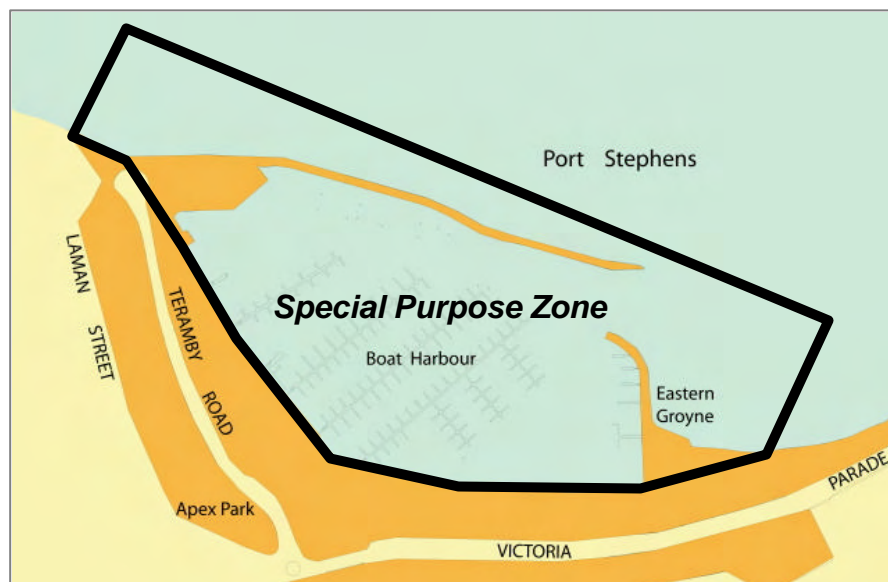


Figure 3-2: Approximate boundaries of Marine Park Special Purpose Zone

3.5 Status and Use of Reserves

The current status of Crown reserves within the planning area is shown in Table 3.1. The location of these reserves is shown on Figure 1.1.

Table 3.1 – Reserve Status

Reserve	Declared Purpose and Date	Lot/DP	Trustee or Manager	Existing Tenants
R32059 Apex Park (west)	Plantation and Public recreation (Gazetted 1/2/1901)	Lots 154 & 179 DP753204	Port Stephens Council (Trustee)	
R64421 Apex Park (east) & Victoria Pde	Plantation and Public Recreation (Gazetted 14/7/1972)	Lot 7011 DP10688905, Lots 155 & 157 DP753204, Lots 567 & 568 DP1033413, Lot 7145 DP1063859	Port Stephens Council (Trustee)	
R170169 (Nelson Bay boat harbour)	Port Facilities and Services (Gazetted 28/6/1996)	Lots 551-559, 564 DP1033413, Lots 13-14 DP805673, Lots 18-20 DP645418, Lot 22 DP816833, Lots 547 & 548 DP48407, Lots 1 & 2 DP 807278	Port Stephens Council (Trustee of eastern groyne area and licensee of central car park area) Lands Dept (manager of the remainder of boat harbour)	<ul style="list-style-type: none"> ▪ Commercial Fishermen's Co-op ▪ Macquarie Leisure ▪ Fortuna Seafoods ▪ Darren Nicholson ▪ NSW Maritime ▪ NSW Police ▪ Royal Volunteer Coastal Patrol ▪ Nelson Bay Tourist Charter Boat Company ▪ Port Stephens Holiday Cruises ▪ Tea Gardens Ferry Services ▪ Nelson Bay Charters ▪ Jamala Charters ▪ East Coast Charters ▪ Maid of the Myall ▪ Port Stephens Council
R67366 (Neil Carroll Park)	Public Recreation (Gazetted 18/2/1938)	Lot 1 DP1086708	Port Stephens Council (Trustee)	
R753204 Victoria Pde (north) near Fly Pt	Future Public Requirements (Gazetted 31/3/2006)		Lands Dept (Manager)	

Crown land may be reserved or dedicated for a variety of public purposes. Allowable uses and activities on land reserved for public purposes are broadly defined by the public purpose of the reservation but are subject to any conditions and provisions within the specific zoning in a local council's local environmental plan. The land uses are then more specifically defined by either a statutory mechanism (a Plan of Management), contractual agreement (leases or licenses over Crown land), or a combination of both. In addition, case law judgements influence the policy and practice of the use of Crown land. With respect to land reserved for a public purpose, case law has indicated that improvements and developments to reserved land are confined to those which support, or are ancillary to, the public purpose of the reservation.

3.6 Heritage

The planning area includes the following items which have been identified on the Port Stephens LEP as being heritage items of local significance:

- **Laman Street Road Reserve** - Former oil-burning street lamp – corner of Laman Street and Government Road.
- **Reserve No 64421 - Pt Lot 154, DP 753204 1A and 8 Laman Street (221.1/1 and 221.8)** - Apex Park Group, including Cenotaph, well, remains of the memorial steps and tree specimen of *Ficus rubiginosa* (Port Jackson Fig).
- **DP 753204 1 Lighthouse Road (1031.1)** - The Native Flora Reserve, including site of former migrant camp, foundations of HMAS Assault, Aboriginal scar tree, burial site and below water artefacts and items including Higgins landing barges, army jeeps, various munitions and anchor of *USS Henry S Grant*.

Clause 55 of the Port Stephens LEP states that the following development may only be carried out with development consent:

- a) *Demolishing, defacing, damaging or moving a heritage item,*
- b) *Altering a heritage item by making structural changes to its exterior,*
- c) *Altering a heritage item by making non-structural changes to the detail, fabric, finish or appearance of its exterior except changes resulting from any maintenance necessary for its ongoing protective care which does not adversely affect its heritage significance,*
- d) *Moving a relic, or excavating land for the purposes of discovering, exposing or moving a relic,*
- e) *Erecting a building on, or subdividing, land on which a heritage item is located.*

Note: Development consent is not required if the consent authority is of the opinion that the proposed development would not adversely affect the heritage significance of the heritage item.

3.7 Port Stephens Foreshore Management Plan

The *Port Stephens Foreshore Management Plan*¹ (being prepared at the date of this publication) compiles and augments the findings of a large number of previous studies to provide a framework that can be used to protect and enhance the environmental, recreational, aesthetic, economic, and cultural values of the Port Stephens foreshore.

The Plan's objectives are consistent with, and contribute to, the objectives of the NSW Coastal and Estuary Policies.

¹ Umwelt 2006. *Living on the Edge – A Foreshore Management Plan for Port Stephens (Draft)*

In preparing the Nelson Bay Foreshore Plan of Management, the issues and strategies identified in the draft *Port Stephens Foreshore Management Plan* have been considered and adopted as necessary.

3.8 Native Title

The introduction of the Commonwealth Native Title legislation in 1993 recognised the existence of native title and made provision for Aboriginal and Torres Strait Islanders to lodge claims over Crown land. The legislation also sets out the requirements for the Crown and appointed Crown reserve trusts in dealing with Crown land in the future unless it can be clearly established that any native title rights and interests that may have existed have been extinguished.

Native title may have been extinguished over parts or the whole of the Nelson Bay foreshore precinct by the construction of authorised public works or by lawful use of the land that is wholly inconsistent with the continuation of native title rights and interests. It will be the responsibility of the reserve managers to ensure that, prior to any works being undertaken, the issue of native title is addressed.

3.9 Nelson Bay 2030 Strategy

Pressure for increasing building heights has led Port Stephens Council to facilitate a review of the LEP and DCP controls for the Nelson Bay Business District and adjoining lands.

The Nelson Bay 2030 project will provide fresh ideas to manage existing issues and guide future development of the area. The project will include the development of a vision for Nelson Bay, strengthening the links between the Town Centre and the waterfront, transport solutions including pedestrian / cycleways, parking and public transport and economic and retail directions for Nelson Bay businesses.

The 2030 project compliments the Plan of Management for the foreshore with both Lands and Council continuing to work together to ensure a common direction and vision for Nelson Bay.

4. Management Framework

4.1 Overarching Principles

Crown land must be managed in accordance with the principles of Crown land management. These principles are defined under Section 11 of the *Crown Lands Act 1989* as follows:

- a) that environmental protection principles be observed in relation to the management and administration of Crown land,
- b) that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible,
- c) that public use and enjoyment of appropriate Crown land be encouraged,
- d) that, where appropriate, multiple use of Crown land be encouraged,
- e) that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and
- f) that Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.

4.2 Roles

The commercial marina precinct (land west of, and including, the d'Albora marina premises) is currently managed by the Department of Lands. All other Crown land within the planning area is under the Trust management of Port Stephens Council.

The planning area forms part of the Port Stephens Regional Crown Reserve which includes all Crown land within the Port Stephens local government area. Regional Crown Reserves allow for the sustainable management of the NSW Crown land system, its natural resources and heritage, as well as rural and urban services to promote active public use, tourism opportunities and local and regional industries. It also allows Lands to strengthen its relationships with local councils and to ensure a distribution of funding to where it is needed most.

The Department of Lands, through the Crown Land Division, has a fundamental role in enabling the people of NSW to build harmonious communities; facilitating prosperous business growth; enhancing an environment for living; and developing and delivering better public services. All of these principles are key components of the *NSW State Plan (2006)*.

As a local government organisation, Port Stephens Council is elected to represent its local community; to be a responsible and accountable sphere of democratic governance; to be a focus for community identity and civic spirit; to provide appropriate services to meet community needs in an efficient and effective manner; and to facilitate and coordinate local efforts and resources in pursuit of community goals.

As Trust manager of Crown land within the planning area, Port Stephens Council holds an interest in the properties that it manages and can only make decisions and take actions concerning a reserve in the interests of the reserve itself, the public and the NSW government.

4.3 Management Units

For planning and management purposes the Nelson Bay Foreshore precinct has been divided into five (5) Management Units as shown on Figures 4.1.



Figure 4.1: Management Units

4.4 Management Objectives

The following management objectives are based on the values of the planning area (Section 2.3), the core management principles (Section 1.3) and feedback from community on the Vision document exhibited by Lands and Council. They also take into account the principles of Crown Land Management referred to above.

The management objectives of the Nelson Bay Foreshore Plan of Management are to:

1. encourage and promote public use of the foreshore by providing a range of high quality recreational and leisure facilities catering for all age groups
2. protect and enhance the visual, social/recreational, environmental, economic and cultural qualities and values of the planning area whilst allowing for types and levels of use and development that are appropriate to individual locations;
3. ensure that the use of foreshore land is sustainable in environmental terms;
4. establish and maintain a source of funding that will improve and sustain recreational and other infrastructure at the foreshore;
5. ensure that physical and economic linkages between the foreshore and CBD are developed and maintained and that reasonable access to the foreshore is available to all users.

This Plan of Management seeks to develop a comprehensive set of management strategies that will achieve the abovementioned management objectives.

4.5 Sustainability

Sustainability is a key component of this Plan of Management. The opportunity exists, through targeted management strategies, to better manage the environment with emphasis on the implementation of energy and water efficiencies, improved waste management and recycling within the foreshore precinct. Improved environmental performance will also assist in maintaining water quality within the Port Stephens-Great lakes Marine Park.

The Nelson Bay urban area is a significant source of stormwater runoff and waste within the foreshore environment. Thus improved 'off site' environmental management practices will need to be implemented to improve water quality and the aesthetic appearance of the foreshore. Port Stephens Council is seeking to address this issue, in part, through enhanced development controls.

4.6 Proposed Integrated Foreshore Redevelopment Plan

Any redevelopment of the foreshore should be based on an integrated foreshore landscape and recreation plan across **all** management units. Such a plan will create a strategic and holistic approach to the future design and placement of landscape elements and public recreational infrastructure and activities within the entire foreshore reserve system. This plan will also need to recognise and support the greater Port Stephens Foreshore Management Plan (being prepared as at the date of this Plan).

Foreshore development will also need to be integrated with town centre development in order to optimise physical and economic links between foreshore and town centre.

4.7 Funding

Funding arrangements need to address recurrent costs of management and maintenance together with capital costs for upgrading works.

Identified sources of funding for work under this Plan include:

- Council's general funds (operational budget and capital works program)
- Income generated from commercial activities within the Reserve system (Council and Lands Dept)
- Section 94 contributions (Developer contributions to Council) or developer Agreements with Council for works in kind.
- Public Reserve Management Fund (Lands Dept)
- Specialised funding/grants from both State and Federal Governments e.g. Commonwealth Enviro fund etc.
- Contributions/sponsorship from the private sector.

All work will need to be staged having regard to funding availability and funding priorities.

5. Management Issues, Outcomes and Strategies

5.1 Management Unit 1 – Nelson Bay Boat Harbour

5.1.1 Overview

This management unit includes the working harbour component of the planning area as well as the existing commercial and tourism precinct. Note: The whole of this site is zoned for business use under the *Port Stephens LEP 2000*.

The area presents a relatively sheltered environment with a general maritime character. There is potential for increased public use and enjoyment of this waterfront location through the introduction of appropriate recreational improvements and tourism/leisure experiences.



Photograph 5.1 Nelson Bay Boat Harbour

Traffic and parking congestion (including bus queuing and parking) is an issue at this locality, particularly during holiday periods.

Boat mooring accommodation within the boat harbour is approaching capacity and consideration needs to be given to providing additional vessel accommodation to meet the future needs of commercial, tourism and recreational boating users. There is also a need to rationalise commercial fishing infrastructure to meet the future requirements of that industry.

There are opportunities to make the harbour precinct a more attractive location for the local community and visitors to the site and to further develop tourism related experiences. Specifically:

- The removal of car parking from public recreational areas should be a priority subject to the provision of alternative car parking facilities within easy access of the foreshore.
- The opportunity exists to further develop recreational infrastructure and tourism related facilities within this management unit.

5.1.2 Desired Outcomes

1. The establishment and implementation of an integrated foreshore landscape and recreation plan across **all** management units. Key elements of this plan to include:
 - a) Where appropriate, tree and plant selection is to be endemic to the seaside environment and respond to the scale of open space, the need for shade and the preservation of views.
 - b) An efficient watering and drainage system to maintain the aesthetic integrity of open space areas - the use of recycled stormwater to be investigated for this purpose.
 - c) A uniformity of style, colour and design on foreshore improvements including recreational infrastructure, signage and waste facilities.
 - d) The integration of public artwork into the landscaping and open space environment.
 - e) Enhanced lighting and other security measures that will provide appropriate levels of public safety.
 - f) A range of appropriate high quality recreational and leisure facilities across all age groups.
 - g) Public amenities (toilets, drinking fountains etc)
 - h) Interpretative signage that reflects the cultural landscape.
2. The protection and enhancement of the existing visual qualities of the boat harbour precinct in accordance with its maritime character.
3. Reduction in traffic, parking congestion, bus queuing and vehicle/pedestrian conflict.
4. The provision of improved pedestrian and bicycle movement and access arrangements within this area including enhanced linkages to the Nelson Bay CBD and other management units.
5. The provision of enhanced multi-purpose recreational infrastructure and facilities including the widening of the foreshore area east of the marina (refer Port Stephens Council's *Nelson Bay Foreshore Master Plan 2002*) to establish a multi-purpose open space area. The existing public wharf (Eastern Groyne) could be relocated to this new foreshore location.
6. Maintenance of water quality within the boat harbour through improved environmental performance of stormwater and waste disposal systems.
7. Working with tenants to improve environmental performance and practices.
8. Creation of new/sustainable opportunities for commercial, tourism and recreational uses within the harbour precinct that achieve a rich mix of activity and vitality and that compliment commercial/retail activity within the greater Nelson Bay CBD.
9. Provision of additional mooring capacity within the boat harbour to cater for the future needs of commercial, tourism and recreational boating users. This can, in part, be achieved through a rationalisation of some existing mooring facilities.
10. Development and use of the area is to be within a framework that encourages energy, water and materials efficiency.

5.2 Management Unit 2 – Apex Park

5.2.1 Overview

This management unit includes the land bounded by Teramby Road, Victoria Parade and Laman Street.

Apex Park currently provides the main pedestrian link between the Nelson Bay CBD and the foreshore and is the site for annual ANZAC day services. A tourist information centre is also located at this site upon Council land.

The site was the original “village green” and has special historic and social significance. The site contains a number of items of local heritage and cultural significance including the cenotaph, the remains of the memorial steps and the site of the original town well.

The embankments of this reserve at the Teramby Road frontage are densely vegetated but are also subject to infestation by noxious/environmental weeds. Bank stability also needs to be effectively managed.

The opportunity exists to improve the utility of this open space area through the provision of more seating, public art and improved lighting. The reconstruction of the former rotunda in the park could provide a forum for light entertainment (jazz etc.) which could assist in further promoting and facilitating the exchange of pedestrians between foreshore and CBD.



Photograph 5.2 Former Rotunda (middle background) 1960's

5.2.2 Desired Outcomes

1. The retention and maintenance of this area as a high quality multi-purpose public open space area (including war memorial site) and important pedestrian link to the waterfront.
2. The establishment and implementation of an integrated foreshore landscape and recreation plan across **all** management units. Key elements of this plan to include:
 - a) Where appropriate, tree and plant selection is to be endemic to the seaside environment and respond to the scale of open space, the need for shade and the preservation of views.

- b) An efficient watering and drainage system to maintain the aesthetic integrity of open space areas - the use of recycled stormwater to be investigated for this purpose.
 - c) A uniformity of style, colour and design on foreshore improvements including recreational infrastructure, signage and waste facilities.
 - d) The integration of public artwork into the landscaping and open space environment.
 - e) Enhanced lighting and other security measures that will provide appropriate levels of public safety.
 - f) A range of appropriate high quality recreational and leisure facilities across all age groups.
 - g) Public amenities (toilets, drinking fountains etc)
 - h) Interpretative signage that reflects the cultural landscape.
3. Improved disabled access into and through this area.
 4. The protection and promotion of heritage items including the implementation of conservation and maintenance measures.
 5. Improved car parking opportunity within the area with possible access from Teramby Road and/or Laman Street.
 6. Enhanced lighting and other security measures that will provide appropriate levels of public safety.
 7. The reconstruction of the former rotunda to provide a venue for light entertainment.
 8. Improved pedestrian safety at the Victoria Parade and Teramby Road entrances/exits to this reserve (providing a safe and continuous link between foreshore and town centre).
 9. An ongoing program for the removal of noxious/environmental weeds and stabilization of embankments along Teramby Road.
 10. Improvements in the aesthetic appearance of utility infrastructure within and adjoining this Management Unit.

5.3 Management Unit 3 – Victoria Parade (South)

5.3.1 Overview

This management unit consists of all Crown land situated on the southern side of Victoria Parade and extending, in part, through to Magnus Street.

The site is underutilized in terms of formal public recreation use although this is largely a consequence of landform (steep embankments along much of Victoria Parade).

The embankments at the eastern portion of this reserve are densely vegetated but are also subject to infestation by noxious/environmental weeds.

The development of additional car parking facilities within this area (including a possible underground car park) should be examined as a part solution to car parking congestion within the broader foreshore precinct and as a site for the relocation of existing car parking facilities from waterfront areas such as the eastern groyne. Note: The removal of car parking

from waterfront locations can provide more public recreation space and assist in minimising the potential impact of stormwater discharges into the waterway (oily residues etc.)

Sustainable commercial/tourism use of part of this site (location to be further examined) might also be considered as a means of providing:

- revenue to fund public infrastructure improvements both within this Management Unit and along the foreshore generally; and
- a commercial link between the foreshore and Nelson Bay township (to facilitate an exchange of pedestrian traffic between foreshore and township).

However, any such use should be subject to:

- (a) preservation of views from the residences along the adjoining Magnus Street ridge line and
- (b) preservation and enhancement of pedestrian access from Magnus Street to the waterfront.

5.3.2 Desired Outcomes

1. The establishment and implementation of an integrated foreshore landscape and recreation plan across **all** management units. Key elements of this plan to include:
 - a) Where appropriate, tree and plant selection is to be endemic to the seaside environment and respond to the scale of open space, the need for shade and the preservation of views.
 - b) An efficient watering and drainage system to maintain the aesthetic integrity of open space areas - the use of recycled stormwater to be investigated for this purpose.
 - c) A uniformity of style, colour and design on foreshore improvements including recreational infrastructure, signage and waste facilities.
 - d) The integration of public artwork into the landscaping and open space environment.
 - e) Enhanced lighting and other security measures that will provide appropriate levels of public safety.
 - f) A range of appropriate high quality recreational and leisure facilities across all age groups.
 - g) Public amenities (toilets, drinking fountains etc)
 - h) Interpretative signage that reflects the cultural landscape.
2. Particular attention to be given to feature landscape elements (possible terraced gardens, seating etc) within the sloping embankment to the immediate east of the Victoria Parade/Teramby Road roundabout given this site's visual 'presence' at the eastern entrance to the foreshore precinct (see photograph 5.3).
3. Reduction in traffic and parking congestion and pedestrian conflict at Victoria Parade.
4. The provision of improved pedestrian and bicycle movement and access arrangements within this area including enhanced linkages to Magnus Street and the Nelson Bay CBD.

5. Creation of new/sustainable opportunities for tourism and recreational development within this area (to be further identified) but subject to:
 - a) preservation of views from the residences along the adjoining Magnus Street ridge line and
 - b) preservation and enhancement of pedestrian access from Magnus Street to the waterfront.
6. The development of additional car parking facilities within this area (including a possible underground car park) should also be examined as a part solution to car parking congestion within the broader foreshore precinct and as a site for the relocation of existing car parking facilities from waterfront areas such as the eastern groyne. Note: The removal of car parking from waterfront locations can provide more public recreation space and assist in minimising the potential impact of stormwater discharges into the waterway (oily residues etc.)
7. Removal of noxious/environmental weeds within this area.



Photograph 5.3 Embankment near Teramby Street roundabout

5.4 Management Unit 4 – Neil Carroll Park Group

5.4.1 Overview

This management unit includes all Crown land currently managed by Port Stephens Council within the area bounded by Victoria Parade, Shoal Bay Road and Dixon Drive and includes Neil Carroll Park, Fly Point Reserve, Bill Strong Oval and Port Stephens Native Flora Garden.

This reserve system is used for a variety of purposes including concerts and related events, picnics, general public recreation and sporting events. The reserve is the venue for the Legacy Craft Markets and Australia Day citizenship ceremonies.

The northern section of the reserve is densely vegetated and forms the Port Stephens Native Flora Garden. A skate ramp has also been constructed on the western side of Cultural Close.

The western portion of the reserve system is used for concerts and other stage events and has a natural amphitheatre appearance with panoramic water views. A stage has been constructed at the north-western corner of this area.

The site includes a number of items of local heritage and cultural significance.

There is potential for increased public use and enjoyment of this reserve system through enhanced recreational improvements and use for concert and event activity. The site is also well suited to activities such as wedding ceremonies.

Land in the vicinity of Cultural Close has the capacity to be further developed for car and bus parking use and may, in part, provide a solution to car and bus parking congestion within the broader foreshore precinct.

5.4.2 Desired Outcomes

1. The retention and maintenance of this area as a multi-purpose reserve system.
2. The establishment and implementation of an integrated foreshore landscape and recreation plan across **all** management units. Key elements of this plan to include:
 - a) Where appropriate, tree and plant selection is to be endemic to the seaside environment and respond to the scale of open space, the need for shade and the preservation of views.
 - b) An efficient watering and drainage system to maintain the aesthetic integrity of open space areas - the use of recycled stormwater to be investigated for this purpose.
 - c) A uniformity of style, colour and design on foreshore improvements including recreational infrastructure, signage and waste facilities.
 - d) The integration of public artwork into the landscaping and open space environment.
 - e) Enhanced lighting and other security measures that will provide appropriate levels of public safety.
 - f) A range of appropriate high quality recreational and leisure facilities across all age groups.
 - g) Public amenities (toilets, drinking fountains etc)
 - h) Interpretative signage that reflects the cultural landscape.
3. Enhanced development of the site to provide improved facilities for concerts and events including wedding ceremonies.
4. The provision of improved pedestrian and bicycle movement and access arrangements within this area including enhanced linkages to the Nelson Bay CBD and other management units
5. The development of additional car and bus parking facilities off Cultural Close as a part solution to car and bus parking congestion within the broader foreshore environment.
6. Improved pedestrian safety along Victoria Parade towards Little Beach.

7. The protection and promotion of heritage items including the implementation of conservation and maintenance measures.

5.5 Management Unit 5 – Nelson Bay Beach Waterfront

5.5.1 Overview

This management unit includes the Nelson Bay beach waterfront (east of the boat harbour) and waterside Crown land in and around Fly Point.

This area is a popular swimming and leisure area for residents and visitors. However, increased pedestrian traffic has had adverse impacts on the stability of beach embankment areas and general dunal vegetation. Sand movement/loss is also an issue requiring management as is the illegal removal of vegetation from the site.

The general streetscape is relatively unattractive and consists, in part, of a patchwork of pavement areas, unsightly overhead power lines and an unsightly utility installation.

The availability of convenient parking at this location is an issue during holiday periods.

The opportunity exists to further protect recreational assets, stabilize the beach and associated embankments, enhance public access and improve the aesthetic qualities of this site.

5.5.2 Desired Outcomes

1. The establishment and implementation of an integrated foreshore landscape and recreation plan across **all** management units. Key elements of this plan to include:
 - a) Where appropriate, tree and plant selection is to be endemic to the seaside environment and respond to the scale of open space, the need for shade and the preservation of views.
 - b) An efficient watering and drainage system to maintain the aesthetic integrity of open space areas - the use of recycled stormwater to be investigated for this purpose.
 - c) A uniformity of style, colour and design on foreshore improvements including recreational infrastructure, signage and waste facilities.
 - d) The integration of public artwork into the landscaping and open space environment.
 - e) Enhanced lighting and other security measures that will provide appropriate levels of public safety.
 - f) A range of appropriate high quality recreational and leisure facilities across all age groups.
 - g) Public amenities (toilets, drinking fountains etc)
 - h) Interpretative signage that reflects the cultural landscape.
2. This area should be managed to cater for high levels of low-key recreational use.
3. The number of public access points to the beach should be limited and developed to protect this foreshore environment.
4. Existing embankments should be reconstructed and dunal vegetation protected. Additional improvements might be considered to effectively manage the movement of

sand (both lateral drift and wind blown movement) including the possible construction of a raised boardwalk from the boat harbour to Fly Point.

5. This beach area should be used for public swimming and promoted accordingly, with a view to discouraging public swimming within the boat harbour.
6. Restrictions might be placed on powered vessel movement to reduce or eliminate the possibility of vessel/swimmer conflict.
7. The provision of improved pedestrian and bicycle movement and access arrangements within this area including enhanced linkages to the Nelson Bay CBD and other management units.
8. Improved pedestrian safety along Victoria Parade and particularly in and around Fly Point
9. Enhanced lighting that will provide appropriate levels of public safety.
10. The provision of adequate off-site car parking to meet the needs of beach users as well as recreational divers and swimmers/snorkellers accessing the Fly Point Marine Reserve.
11. General improvements to the streetscape e.g. investigate feasibility of placing power lines underground, reconstructing pavement areas and improving the aesthetic appearance of the Hunter Water utility installation at this location.

5.6 Authorised Uses under the *Crown Lands Act 1989*

Future development and use of the various Crown reserves covered by this Plan are restricted to:

- a) those permissible uses under the *Port Stephens Local Environment Plan 2000*;
- b) the existing declared purpose under the Crown reservation;
- c) purposes additional to the declared purpose if authorised by this Plan of Management (see Section 112 of the *Crown Lands Act 1989*);
- d) purposes additional to the declared purpose if authorised by the Minister by order published in the NSW Government Gazette (see section 121A of the *Crown Lands Act 1989*)

Under section 34A of the *Crown Lands Act 1989* the Minister may also grant a lease, licence or permit in respect of a Crown reserve for the purposes of any facility or infrastructure or for any other purpose the Minister thinks fit provided he is satisfied that it is in the public interest to do so and has had due regard to the principles of Crown land management.

A reserve trust may, in respect of the whole or any part of a reserve, grant temporary (maximum one year) licences for any of the following purposes (refer Section 108 of the *Crown Lands Act 1989* and Section 31 of the *Crown Lands Regulation 2006*):

- access through a reserve,
- advertising,
- camping using a tent, caravan or otherwise,
- catering,
- emergency occupation,
- entertainments,
- equestrian events,
- exhibitions,
- filming (within the meaning of the *Local Government Act 1993*),
- functions,

- hiring of equipment,
- holiday accommodation,
- markets,
- meetings,
- military exercises,
- mooring of boats to wharves or other structures,
- sales,
- shows,
- sporting and organised recreational activities,
- stabling of horses,
- storage.

5.7 Additional Uses Authorised by this Plan

For the purposes of achieving the outcomes and management strategies specified in Part 5 of this Plan, the following additional uses within Management Unit 3 are hereby authorised by this Plan in accordance with the provisions of Section 112 of the *Crown Lands Act 1989*.

Reserve Number R64421: Tourism Uses

The above authorisation is subject to normal planning processes and approvals under the *Environmental Planning and Assessment Act, 1979*.

5.8 Management Strategies

Key management strategies and actions are outlined in the following pages. These strategies are grouped under each of the Management Objectives outlined in Section 4.4 of this Plan

Management Objective 1: Encourage and promote public use of the foreshore by providing a range of high quality recreational and leisure facilities catering for all age groups.

STRATEGY		ACTION (means of achieving strategy)	PRIORITY
S1	<p>Establish and implement an integrated foreshore redevelopment plan across all management units to include the following key elements:</p> <p>(a) Enhanced provision for shade , shelter, seating and picnic facilities</p> <p>(b) Where appropriate, tree and plant selection is to be endemic to the seaside environment and respond to the scale of open space, the need for shade and the preservation of views.</p> <p>(c) An efficient watering and drainage system to maintain the aesthetic integrity of open space</p> <p>(d) A uniformity of style, colour and design on foreshore improvements including recreational infrastructure, signage and waste facilities.</p> <p>(e) A possible integration of public artwork into the landscaping and open space environment.</p> <p>(f) Enhanced lighting for public safety and security</p> <p>(g) Active recreational facilities (investigate viability of improved playground area or children's water park, exercise stations, cycleway and walking paths etc.).</p> <p>(h) Public amenities (toilets, drinking fountains etc)</p> <p>(i) Interpretative signage that reflects the cultural landscape.</p>	<ul style="list-style-type: none"> ▪ Engage qualified consultant to prepare the plan and to cost public infrastructure works. Copies of public submissions received under the Nelson Bay Foreshore Vision exhibition to be furnished to consultant to review/consider specific proposals advanced by community and business respondents. Consider establishing a Community forum/committee to assist in the development of the plan. ▪ Identify sources and availability of works funding ▪ Obtain all required planning approvals ▪ Establish and implement a works programme based on funding availability and work priorities 	High

STRATEGY		ACTION (means of achieving strategy)	PRIORITY
S2	Establish an enhanced open space area between the marina and eastern groyne suitable for quality events, markets etc. Consider relocating the public wharf to this new foreshore location.	<ul style="list-style-type: none"> ▪ Implement the foreshore widening project established by Council under its 2002 Foreshore Masterplan to establish a superior recreational destination and to discourage swimming activity within this vessel movement area. Obtain all required planning approvals and identify funding sources. ▪ Investigate feasibility of relocating public wharf to southern foreshore. ▪ Encourage quality day events and other activities. Discourage carnival and side-show type activities. ▪ Install a discreet underground power supply for event use. 	High

Management Objective 2: Protect and enhance the visual, social/recreational, environmental, economic and cultural qualities and values of the planning area whilst allowing for types and levels of use and development that are appropriate to individual locations.

STRATEGY		ACTION (means of achieving strategy)	PRIORITY
S3	Establish an inspection and maintenance regime that will preserve the aesthetic integrity of the foreshore and landscape elements	<ul style="list-style-type: none"> ▪ Prepare and implement an asset maintenance plan with respect to public recreational infrastructure and landscape elements within the foreshore precinct ▪ Investigate the feasibility of establishing a dedicated site office that would be responsible for monitoring site conditions (repair and safety), assisting with maintenance programming, and undertaking events co-ordination/promotion. ▪ Remove noxious/environmental weeds and monitor for reinfestation. 	Medium
S4	Preserve existing vistas from within the reserve system and particularly from within Apex Park and the Neil Carroll/Fly Point park	<ul style="list-style-type: none"> ▪ Identify key vistas as part of foreshore redevelopment plan (see S1) ▪ Ensure that plant species and planting locations do not have the capacity to compromise vistas into the future 	High
S5	Promote the history of Nelson Bay and conserve/document/promote heritage items	<ul style="list-style-type: none"> ▪ Establish appropriate heritage management and conservation plans for individual heritage items. ▪ Establish a heritage trail along the foreshore 	Medium
S6	Investigate new and enhanced opportunities for sustainable commercial, tourism and recreational uses within the following Management Units: <ul style="list-style-type: none"> ▪ the existing built environment of the boat harbour (Management Unit 1), ▪ the western side of the Eastern Groyne and associated waterfront area 	<ul style="list-style-type: none"> ▪ Investigate opportunities as part of foreshore redevelopment plan (see S1), having regard to statutory planning controls and Council's urban strategy for Nelson Bay. ▪ Pursue rezoning of land if required ▪ Commercial opportunities should generally be pursued under a public/open market 	High

STRATEGY		ACTION (means of achieving strategy)	PRIORITY
	(management Unit 1), <ul style="list-style-type: none"> ▪ the southern side of Victoria Parade (Management Unit 3) and ▪ Neil Carroll Park (Management Unit 4) 	<p>lease tender process (No land is to be sold).</p> <ul style="list-style-type: none"> ▪ Careful consideration to be given to mix of commercial uses to enhance the range of commercial, retail and tourism related uses within the greater Nelson Bay CBD 	
S7	Establish additional mooring capacity within the boat harbour to cater for the future needs of commercial, tourism and recreational boating users.	<ul style="list-style-type: none"> ▪ Rationalise existing commercial fishing moorings within the boat harbour in consultation with the Commercial Fishermen's Co-op. ▪ Identify opportunities for additional mooring infrastructure within the boat harbour. ▪ Development of additional mooring facilities to be conducted under a public/open market lease tender process (No land to be sold). ▪ Examine opportunities to provide enhanced 'short stay' mooring facilities for day visitors to Nelson Bay (max 24 hour stay to ensure equitable turnover of berth use) 	Medium
S8	Encourage a uniformity of style, colour and design for foreshore improvements to reflect the maritime setting and to compliment the broader recreational landscape	<ul style="list-style-type: none"> ▪ Style, colour and design of future development are to be key criteria in the consideration and approval of future development (or redevelopment) proposals. 	High
S9	Implement a new signage strategy for the area and rationalise existing signage to reduce visual pollution	<ul style="list-style-type: none"> ▪ Remove redundant and non-complying signage. Progressively introduce a new signage system to the area. ▪ Provide interpretative signage as part of a wider system for the planning area. Historic, maritime and indigenous themes should be considered. 	Medium
S10	Minimise the impact of utility installations (particularly above ground power and water infrastructure) on the visual amenity of the foreshore	<ul style="list-style-type: none"> ▪ Initiate discussions with Energy Australia re feasibility, timetable and funding options to place overhead power lines underground and to (subject to viability). The opportunity to be taken to upgrade walkway paving at this time. ▪ Initiate discussions with Hunter Water to visually upgrade its infrastructure at Victoria Parade (within Management Unit 5), to remove redundant infrastructure within 	Medium

STRATEGY	ACTION (means of achieving strategy)	PRIORITY	
		Management Unit 2 (pipeline along western side of Teramby Road) and to visually upgrade its operational infrastructure within Management Unit 2 (western side of Teramby Road)	

Management Objective 3: Ensure that the use of foreshore land is sustainable in environmental terms

STRATEGY		ACTION (means of achieving strategy)	PRIORITY
S11	Encourage resource and design efficiency	<ul style="list-style-type: none"> ▪ Investigate feasibility and cost of recycling stormwater for irrigation purposes. Integrate engineering works into the foreshore redevelopment programme. Pursue State and Commonwealth funding for this aspect of the project ▪ Design for energy efficiency and responsible use of resources 	High
S12	Improve waste management practices	<ul style="list-style-type: none"> ▪ Work with existing tenants to establish best practice waste management practices within existing tenanted areas ▪ Establish a waste management strategy to encourage recycling and waste separation at source 	Medium
S13	Preserve the environmental integrity of sensitive beach embankments	<ul style="list-style-type: none"> ▪ Reconstruct existing embankments as necessary and control access points to beach 	High
S14	Maintain water quality and manage rubbish build-up within the boat harbour.	<ul style="list-style-type: none"> ▪ Implement ongoing measures to address environmental impacts of stormwater discharge, recreational and commercial vessel use, the maintenance of vessels and waste management at adjoining (land based) premises ▪ Investigate feasibility and cost/benefit of retrofitting a tidal flushing pipe/viaduct at the western end of the northern breakwall 	Medium

Management Objective 4: Establish and maintain a source of funding that will improve and sustain recreational and other infrastructure at the foreshore

STRATEGY		ACTION (means of achieving strategy)	PRIORITY
S15	Establish a funding programme for foreshore development work and for future improvements to, and maintenance of, recreational infrastructure within the foreshore precinct.	<ul style="list-style-type: none"> ▪ Council and Lands to jointly identify and implement a funding programme for the redevelopment and maintenance of the foreshore. Potential sources of funding to include: <ol style="list-style-type: none"> a. Council's general funds b. Income generated from commercial activities within the Reserve system (Council and Lands Dept) c. Section 94 contributions (Developer contributions to Council) or developer Agreements with Council for works in kind. d. Public Reserve Management Fund (Lands Dept) e. Specialised funding from both State and Federal Governments e.g. Commonwealth Enviro fund etc. f. Contributions/sponsorship from the private sector. ▪ All commercial development proposals to be subject to a competitive tendering process to establish a maximum/competitive financial return on public land. ▪ Ensure that all commercial leases and licenses are on a sound management basis and provide a commercial return reflecting full land value. ▪ Develop and implement a commercial policy for short term hire/use of Crown land. Rent concessions to be established for not-for-profit groups such as Legacy. 	High

Management Objective 5: Ensure that physical and economic linkages between the foreshore and CBD are developed and maintained and that reasonable access to the foreshore is available to all users.

STRATEGY		ACTION (means of achieving strategy)	PRIORITY
S16	Improve traffic and parking outcomes to enable better and safer access to the foreshore	<ul style="list-style-type: none"> ▪ Examine options to improve vehicular circulation in and around the foreshore including traffic diversions to limit the number of vehicles that need to access the foreshore. ▪ Develop additional parking in strategic locations to cater for demand. Sites to be further examined to include Laman Street, southern side of Teramby Road, southern side of Victoria Parade and Neil Carroll Park (land adjoining Cultural Close) ▪ Designated spaces for disabled parking are to be provided. ▪ Remove existing parking from inappropriate locations (e.g. Eastern Groyne) to assist pedestrian movement, to improve the visual appearance of waterfront recreational spaces and to maximise recreational use of waterfront land. ▪ Examine opportunity to provide short term 'free parking' for local residents outside of peak periods 	Medium
S17	Improve pedestrian and bicycle access within and between Management Units.	<ul style="list-style-type: none"> ▪ Improve disabled access generally along the foreshore providing ramp access in appropriate locations ▪ Walkways and cycleways to be incorporated into foreshore masterplanning with the objective of maximising public access to waterfront (S1). ▪ Establish walkway/cycleway to Little Beach (within Management Unit 5) 	High

6. References

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Appendix 1 – Legislative and Policy Overview

Crown Lands Act 1989

The *Crown Lands Act 1989* provides for the administration and management of Crown Land in NSW.

The objects of this Act are to ensure that Crown land is managed for the benefit of the people of New South Wales and in particular to provide for:

- *a proper assessment of Crown land,*
- *the management of Crown land having regard to the principles of Crown land management (see later discussion),*
- *the proper development and conservation of Crown land having regard to those principles,*
- *the regulation of the conditions under which Crown land is permitted to be occupied, used, sold, leased, licensed or otherwise dealt with,*
- *the reservation or dedication of Crown land for public purposes and the management and use of the reserved or dedicated land, and*
- *the collection, recording and dissemination of information in relation to Crown land.*

Local Government Act 1993

The purposes of the *Local Government Act 1993* are as follows:

- *to provide the legal framework for an effective, efficient, environmentally responsible and open system of local government in New South Wales,*
- *to regulate the relationships between the people and bodies comprising the system of local government in New South Wales,*
- *to encourage and assist the effective participation of local communities in the affairs of local government,*
- *to give councils:*
 - *the ability to provide goods, services and facilities, and to carry out activities, appropriate to the current and future needs of local communities and of the wider public*
 - *the responsibility for administering some regulatory systems under the Act*
 - *a role in the management, improvement and development of the resources of their areas,*
- *to require councils, councilors' and council employees to have regard to the principles of ecologically sustainable development in carrying out their responsibilities.*

The Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides the statutory basis for the development consent process in New South Wales. Section 79C of Part 4 of the EP&A Act outlines the factors that a Council must consider when assessing a development application for local development. These matters include:

- *any environmental planning instrument;*

- *any draft environmental planning instrument that has been placed on public exhibition and details of which have been notified to the consent authority.*
- *any development control plan;*
- *the Regulations;*
- *the likely impacts of the development, including environmental impacts on both*
- *the natural and built environment, and social and economic impacts on the locality;*
- *The suitability of the site for the development;*
- *any submissions made in accordance with the Act or the Regulations; and*
- *the public interest.*

Heritage Act 1977

The *Heritage Act 1977* is an Act to conserve the environmental heritage of the State of NSW. "Environmental heritage" is defined to include places, buildings, works, relics, moveable objects, and precincts, of State or local heritage significance.

The Hunter Regional Environment Plan 1989

The Hunter Regional Environment Plan 1989 is a statutory planning instrument that promotes the balanced development of the region, the improvement of its urban and rural environments and the orderly and economic development and optimum use of its land and other resources. The REP achieves this objective in a number of ways but principally by providing direction to local councils in the preparation of their local planning instruments and by providing a further overlay of matters that Councils must consider in determining development applications.

Port Stephens Local Environment Plan 2000 (LEP)

Development and use of Crown land is subject to the provisions of the Port Stephens Local Environment Plan 2000.

A Local Environmental Plan is an instrument prepared by a Council and approved by the Minister in respect of the whole or any part of the land within the Council's area. The provisions of the Local Environmental Plan relating to a given parcel of land provide a detailed outline of the uses to which the land may be put.

Port Stephens–Great Lakes Marine Park

The *Marine Parks Act 1997* establishes the legal basis for creating a system of marine parks in NSW. Marine parks are designed to protect marine animal and plant life along the NSW coastline but also allow many recreational and commercial uses. They fit into a broad framework for managing coastal and marine biodiversity.

NSW State Plan (2006)

The NSW State Plan is a 10 year plan consisting of 14 long term social, economic and environmental goals, 34 specific priorities for action and 60 targets, against which progress can be measured.

The plan is divided in to five major areas of Government activity:

- **Rights, Respect and Responsibility** – reducing crime and anti-social behaviour by improving the justice system and promoting community participation and citizenship.
- **Delivering Better Services** – improving service delivery in the key areas of healthcare, transport and education.

- **Fairness and Opportunity** – Promoting social justice and bettering outcomes for Aboriginal people, people with a disability and people with a mental illness. Increasing focus on early intervention, developing skills at school entry and reducing child abuse and neglect.
- **Growing Prosperity Across NSW** – promoting productivity and economic growth, supporting rural and regional economies and cutting government red tape.
- **Environment for Living** – improving urban environments, housing affordability and road networks as well as improving sustainable water and electricity supplies while focusing on environmental protection.

The State Plan is being implemented through the Department of Lands' own strategic plans.

NSW Coastal Policy and Planning

The 1997 NSW Coastal Policy responds to the fundamental challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values of the coastal environment at risk. To achieve this, the Policy has a strong integrating philosophy based on the principles of ecologically sustainable development (ESD).

The Policy addresses a number of key coastal themes including:

- Population growth in terms of physical locations and absolute limits;
- Coastal water quality issues, especially in estuaries;
- Disturbance of acid sulphate soils;
- Establishing an adequate, comprehensive and representative system of reserves;
- Better integration of the range of government agencies and community organisations involved in coastal planning and management;
- Indigenous and European cultural heritage; and integration of the principles of ESD into coastal zone management and decision making.

The management of the coastal zone is the responsibility of a range of government agencies, local councils and the community. The Policy provides a framework for the balanced and coordinated management of the coast's unique physical, ecological, cultural and economic attributes.

In 2001, the NSW Government's Coastal Protection Package was announced. This consists of the Comprehensive Coastal Assessment (a program designed to build a set of consistent and comprehensive data on the physical, biological, social and economic values of the NSW coastline), SEPP71 (see below), extension of the 1997 NSW Coastal Policy, and a number of related strategies and programs.

SEPP 71 – Coastal Protection

State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71) was introduced in October 2002 as part of the NSW Government's Coastal Protection Package. SEPP 71 applies to the coastal zone of the State as defined in the *Coastal Protection Act 1979*. The Policy gives statutory force to some of the elements of the *NSW Coastal Policy 1997*.

While the policy primarily comes under consideration when a development application is submitted for determination the objectives and general principles established in the SEPP should be recognized as relevant to any coastal planning exercise.

The objectives of SEPP 71 are:

- *to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales Coast,*

- *to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore,*
- *to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore,*
- *to protect and preserve Aboriginal cultural heritage and Aboriginal places, values, customs, beliefs and traditional knowledge,*
- *to ensure that the visual amenity of the coast is protected,*
- *to protect and preserve beach environments and beach amenity,*
- *to protect and preserve native coastal vegetation,*
- *to protect and preserve the marine environments of New South Wales,*
- *to protect and preserve rock platforms,*
- *to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the Protection of the Environment Administration Act 1991),*
- *to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic qualities of the surrounding area,*
- *to encourage a strategic approach to coastal management.*

NSW Estuary Management Policy 1992

The general goal of the NSW Government's Estuary Management Policy is to achieve an integrated, balanced, responsible and ecologically sustainable use of the State's estuaries which form a key component of coastal catchments.

The specific objectives of the Policy are:

- *the protection of estuarine habitats and ecosystems in the long term, including maintenance in each estuary of the necessary hydraulic regime;*
- *the preparation and implementation of a balanced long term management plan for the sustainable use of each estuary and its catchments, in which all values and uses are considered, and which defines management strategies for:*
 - *conservation of aquatic and other wildlife habitats*
 - *conservation of the aesthetic values of estuaries and wetlands*
 - *prevention of further estuary degradation*
 - *repair of damage to the estuarine environment*
 - *sustainable use of estuarine resources, including commercial uses and recreational uses as appropriate.*

The Policy itself is to be implemented through the preparation and implementation of Estuary Management Plans.

Port Stephens Myall Lakes Estuary Management Plan

The *Port Stephens – Myall Lakes Estuary Management Plan* (Umwelt 2000) guides the use and development of the estuary and its surrounds with the aim of protecting and enhancing the environment and lifestyle that is so highly valued by the local community and visitors to the area.

The Estuary Management Plan identifies a variety of values considered to be at risk as a result of the absence of an integrated management framework for the foreshore area and sufficiently comprehensive background information to guide this framework. These values

included Aboriginal heritage, riparian vegetation, foreshore erosion, illegal foreshore structures, overcrowding of some recreational facilities, and nearshore water quality.

Port Stephens Foreshore Management Plan

The Port Stephens Foreshore Management Plan (being prepared at the date of this publication) compiles and augments the findings of a large number of previous studies to provide a framework that can be used to protect and enhance the environmental, recreational, aesthetic, economic, and cultural values of the Port Stephens foreshore.

The specific objectives of this plan are to:

- *increase community awareness and understanding of the issues and processes affecting the foreshore, and to provide opportunities for the community to engage in decision making about foreshore management issues;*
- *provide community groups with a strategic context for their work (i.e. to provide individual groups with an understanding of how their work fits in with the work and projects of other organisations, and how their work enhances the foreshore as a whole);*
- *recommend actions that are consistent and integrated with other current strategic planning and policy initiatives in the region provide for structured and prioritised management of key issues on the foreshore,*
- *identify responsible stakeholders and properly assess the costs and benefits of management actions; and*
- *provide detailed and practical advice on management actions for local areas.*

These objectives are consistent with, and contribute to, the objectives of the NSW Coastal and Estuary Policies.

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy applies to the local government areas of Newcastle, Lake Macquarie, Port Stephens, Maitland and Cessnock and is one of a number of regional strategies currently being prepared by the Department of Planning for high growth areas in NSW. The primary purpose of the regional strategy is to ensure that adequate land is available in appropriate locations to sustainably accommodate the projected population growth and associated housing, employment and environmental needs over the next 25 years.

Crown Lands Policy for Marinas and Waterfront Commercial Tenures (2005)

This Policy was developed to guide the creation of new and renewed tenures for marinas and waterfront commercial facilities in accordance with the requirements of the *Crown Lands Act 1989*, the principles of Crown Land Management, and the wider considerations such as competition and probity. It sets out considerations that apply to existing Crown tenures, as well as new development sites.

The intent of the Policy is to:

- *ensure that the commercial leasing and licensing of Crown lands is consistent, transparent, fair and impartial;*
- *encourage the sound environmental management of New South Wales' waterways and foreshores;*
- *encourage the ongoing development and improvement of existing and new waterfront sites to ensure the availability of high infrastructure for the storage, maintenance, repair and use of watercraft by the boating public;*
- *encourage the use of waterfront land for public use and enjoyment;*

- *secure a market return from the commercial use of Crown land and the best outcome for the State;*
- *provide certainty for the holders of Crown tenures in a commercially secure environment; and*
- *promote and encourage the operation of market forces in the development and operation of Crown tenures.*

Crown Lands Policy for Tourist & Associated Facilities on Crown Land (2006)

This Policy was developed to guide the creation of new and renewed tenures for Tourist & Associated Facilities in accordance with the requirements of the *Crown Lands Act 1989*, the principles of Crown Land Management, and the wider considerations such as competition and probity. It sets out considerations that apply to existing Crown tenures, as well as new development sites.

The intent of the Policy is to:

- *ensure that the commercial leasing and licensing of Crown lands is consistent, transparent, fair and impartial;*
- *encourage the sound environmental management of Crown land in New South Wales;*
- *encourage the ongoing development and improvement of existing and new tourist facilities to ensure the availability of high quality infrastructure and accommodation for tourists;*
- *encourage the use of suitable crown land for public use and enjoyment;*
- *secure a market return from the commercial use of Crown land and the best outcome for the State;*
- *provide certainty for the holders of Crown tenures in a commercially secure environment; and*

promote and encourage the operation of market forces in the development and operation of Crown tenures.