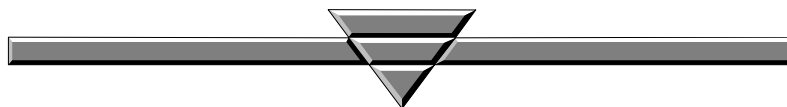


NOTICE OF ORDINARY MEETING

13 OCTOBER, 2009

5.30pm



Port Stephens

C·O·U·N·C·I·L

... a community partnership

The following Councillors attendance is respectfully requested:-

Councillors: Cr B. MacKenzie (Mayor); R. Westbury,(Deputy Mayor); G. Dingle; S. Dover, G. Francis; K. Jordan; P. Kafer; D. Maher; J. Nell; S. O'Brien; S. Tucker; F. Ward.

CHAIR: Councillor Bruce MacKenzie (Mayor)
DEPUTY CHAIR: Councillor Bob Westbury (Deputy Mayor)

SCHEDULE OF MEETINGS

TIME	ITEM	VENUE
5.30pm	Ordinary Meeting (following the Council Committee Meeting)	Council Chambers

Please Note:

In accordance with the NSW Privacy and Personal Information Protection Act, you are advised that all discussion held during the Open Council meeting is tape recorded for the purpose of verifying the minutes. This will include any discussion involving a Councillor, Staff member or a member of the public. Should you wish that the agenda item pertaining to your personal information not be recorded please advise the Executive Officer or the General Manager prior to the meeting.

INDEX

SUBJECT

PAGE NO

MOTION TO CLOSE..... 9

1. MOTION TO CLOSE MEETING TO THE PUBLIC..... 10

COUNCIL COMMITTEE RECOMMENDATIONS 11

1. REQUEST TO REVIEW THE SECTION 94 CONTRIBUTIONS IMPOSED ON DEVELOPMENT APPLICATION 16-2009-200-1 FOR A BULKY GOODS SALES ROOM (BUNNINGS WAREHOUSE) AT 78 PORT STEPHENS DRIVE, TAYLORS BEACH 12
2. SECTION 96 APPLICATION TO MODIFY DEVELOPMENT CONSENT FOR URBAN HOUSING AT NO. 60 DIEMARS ROAD, SALAMANDER BAY..... 13
3. ADOPTION OF HUNTER ESTUARY MANAGEMENT PLAN AND STUDY 14
4. ABORIGINAL PROJECT FUND 15
5. MOBILE FOOD VAN POLICY 16
6. LOCAL TRAFFIC COMMITTEE MEETING – 1ST SEPTEMBER 2009 17
7. REVIEW OF THE CODE OF MEETING PRACTICE..... 18
8. RAYMOND TERRACE RUGBY LEAGUE FOOTBALL CLUB COMMUNITY GROUP LOAN 19
9. PORT STEPHENS FUTURES STRATEGY 20
10. INFORMATION PAPERS..... 21

CONFIDENTIAL ITEMS..... 22

1. GENERAL MANAGER'S CONTRACT OF EMPLOYMENT23

BUSINESS

- 1) Prayer - We ask Almighty God to help us serve the community to the best of our ability, and make Port Stephens a happy and healthy place in which to live, work and visit. Amen.
- 2) "I acknowledge and pay respect to the Worimi People of Port Stephens, who are the traditional owners of this land on which we stand/meet today".
- 3) Confirmation of Minutes Ordinary Meeting of 22 September 2009
- 4) Apologies
- 5) Declaration of Interest
- 6) Mayoral Minutes (if submitted)
- 7) Motions to close meeting to the public
- 8) Operations Committee Recommendations
- 9) Strategic Committee Recommendations
- 10) General Manager's Report
- 11) Notices of Motion
- 12) Rescission Motions
- 13) Motions to close meeting to the public
- 14) Confidential Items
- 15) Motion to open meeting to the public

COUNCIL'S CHARTER

Port Stephens Council is a local authority constituted under the Local Government Act 1993. The Act includes a Charter for all Councils in NSW. The Charter is a set of principles that are a guide to councils in carrying out their functions. A council may add other principles not inconsistent with those in the Act.

Council's Charter is:-

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services are managed efficiently and effectively;
- to exercise community leadership;
- to exercise its functions in a manner that is consistent with and actively promotes the principles of cultural diversity;
- to promote and to provide and plan for the needs of children;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development ;
- to have regard to the long term and cumulative effects of its decisions;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and coordination of local government;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- to keep the local community and the State government (and through it the wider community) informed about its activities;
- to ensure that in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the Council is affected; and
- to be a responsible employer.

PORT STEPHENS COUNCIL PLAN

The Local Government Act requires Council to adopt a Council Plan each year for a four year period. The Plan includes activities of Council for the ensuing twelve months, it also includes the Council expenditure.

The Council Plan is established upon five (5) pillars of Sustainability – Social, Cultural, Economic, Environmental and Business Excellence. The pillars provide Council and the Community with key messages.

SOCIAL SUSTAINABILITY – Council will preserve and strengthen the fabric of the community, building on community strengths.

CULTURAL SUSTAINABILITY – Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.

ECONOMIC SUSTAINABILITY – Council will support the economic sustainability of its communities while not compromising its environmental and social well being.

ENVIRONMENTAL SUSTAINABILITY – Council will protect and enhance the environment while considering the social and economic ramifications of decisions.

BUSINESS EXCELLENCE – Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey

BUSINESS EXCELLENCE FRAMEWORK

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 1) **LEADERSHIP** – Lead by example, provide clear direction, build organisational alignment and focus on sustainable achievement of goals.
- 2) **CUSTOMERS** – Understand what markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.
- 3) **SYSTEMS THINKING** – Continuously improve the system.
- 4) **PEOPLE** – Develop and value people's capability and release their skills, resourcefulness and creativity to change and improve the organisation.
- 5) **CONTINUOUS IMPROVEMENT** – Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.
- 6) **INFORMATION AND KNOWLEDGE** – Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – Behave in an ethically, socially and environmentally responsible manner.
- 8) **SUSTAINABLE RESULTS** – Focus on sustainable results, value and outcomes.

MEETING PROCEDURES – SUMMARY SHEET

Starting time – All meeting must commence within 30 minutes of the advertised time

Quorum – A quorum at Port Stephens Council is 7.

Declarations of Interest – See Over for more detail

Pecuniary – Councillors who have a pecuniary interest must declare the interest, not participate in the debate and leave the meeting.

Non-Pecuniary – Councillors are required to indicate if they will be participating in the debate and voting on the decision – Councillors may stay in the meeting i.e. optional to leave.

Confirm the Minutes – Councillors are able to raise any matter concerning the Minutes prior to confirmation of the Minutes.

Public Access – Each speaker has five (5) minutes to address Council with no more than two (2) for and two (2) against the subject.

Motions and Amendments

Moving Recommendations – If a Committee recommendation is being moved, ie has been to a Committee first, then the **motion must be moved and seconded at Council prior to debate proceeding. A councillor may move an alternate motion to the recommendation.**

Amendments – A councillor may move an amendment to any motion however only one amendment or motion can be before Council at any one time, if carried it becomes the motion.

Seconding Amendments – When moving an amendment, it must be seconded or it lapses.

Incorporating Amendments – If a motion has been moved and the mover and seconder agree with something which is being moved as an amendment by others, they may elect to incorporate it into their motion or amendment as the case may be.

Voting Order – When voting on a matter the order is as follows:-

1. Amendment (If any)
2. Foreshadowed Amendments – (If any, and in order that they were moved)
3. Motion

NB – Where an amendment is carried, there must be another vote on the Amendment becoming the motion.

Voting – an item is passed where a majority vote for the subject. If the voting is tied the Chairperson has a second (Casting) vote which is used to break the deadlock.

Closed Session – There must be a motion to close a meeting. Prior to voting on the motion the chairperson must invite the gallery to make representations if they believe the meeting shouldn't be closed. Then Councillors vote on the matter. If adopted the gallery should then be cleared and the matter considered in closed session. Any decision taken in session closed is a Recommendation. There must be a motion to reopen the Council meeting to the public. If a decision occurred in Closed Session, the meeting is advised of the Recommendation in Open session, then there must be a motion to adopt the recommendation.

Procedural Motion – Is a motion necessary for the conduct of the meeting, it is voted on without debate. e.g. defer an item to the end of the meeting (however, to defer an item to another meeting is not a procedural motion), extend the time for a Councillor to speak etc.

Points of Order – when any of the following are occurring or have occurred a councillor can rise on a “Point of Order”, the breach is explained to the Chairperson who rules on the matter.

A Point of Order can be raised where:-

1. There has been any non compliance with procedure, eg motion not seconded etc.
2. A Councillor commits an act of disorder:
 - a) Contravenes the Act, any Regulation in force under the Act, the Code of Conduct or this Code
 - b) Assaults or threatens to assault another Councillor or person present at the meeting
 - c) Moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee, or address or attempts to address the Council or Committee on such a motion, amendment or matter
 - d) Insults or makes personal reflections on or imputes improper motives to any other Councillor, any staff member or any person present at the meeting
 - e) Says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt
 - f) Reads at length from any correspondence, report or other document, without the leave of the Council
 - g) Discusses, moves or attempts to move a motion or amendment with respect to the Confirmation or Minutes, which does not relate to their accuracy as a true record of the proceedings.

Declarations of Conflict of Interest – Definitions

Pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in Clause 7 of the Code of Conduct.

Non Pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

Making a Declaration of Interest

At the start of the meeting when declaring an interest at the meeting, Councillors:-

1. Identify the Item to which the declaration relates
2. Provide completed Declaration of Interest form to the Chairperson
3. Declare the nature of the interest eg *Live next door to the application*
4. Declare the type of the interest eg *Pecuniary interest or Non Pecuniary*
5. Action to be taken eg. *Pecuniary interest (must leave the room), Non Pecuniary (whether will discuss, vote, or leave the room)*

Finish of Meetings

1. If disorder occurs the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair.
2. No discussion allowed on any motion for adjournment of the Council. If negated, no similar motion for adjournment until half an hour again has elapsed.
3. A motion to extend the time of any meeting beyond the time of 9:00pm is required.



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DECLARATION OF INTEREST

Item No. in agenda _____

Brief Description of Item _____

Councillor _____ declared a * pecuniary interest
significant non pecuniary
non- pecuniary
conflict of interest
(*circle type of interest)

in this item. The nature of the interest was _____

Councillor _____ left the Chamber at and
thereby did not take part in the discussion or voting on the Item.

Councillor _____ returned to the Chamber and resumed
his/her

usual place at the meeting.

Time Councillor returned to the Chamber _____.

MOTION TO CLOSE

ITEM NO. 1

FILE NO: PERS: GESLING

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(a) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Mayoral Minute Confidential Item 1 on the Ordinary Meeting agenda namely **General Manager's Contract of Employment**.
 - 2) That the reasons for closing the meeting to the public to consider this item be that the report and discussion will include matters and information relating to personnel matters concerning particular individuals
 - 3) That the report of the closed part of the meeting remain confidential.
-

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

COUNCIL COMMITTEE RECOMMENDATIONS

ITEM NO. 1

FILE NO: 16-2009-200-1

REQUEST TO REVIEW THE SECTION 94 CONTRIBUTIONS IMPOSED ON DEVELOPMENT APPLICATION 16-2009-200-1 FOR A BULKY GOODS SALES ROOM (BUNNINGS WAREHOUSE) AT 78 PORT STEPHENS DRIVE, TAYLORS BEACH

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

RECOMMENDATION IS THAT COUNCIL:

- 1) That Condition 37 of development consent 16-2009-200-1 be amended to require that the amount of Section 94 contribution for roadworks be \$65,000, based on the acknowledgement of 'Material Public Benefit' created by the construction of the round-about proposed as part of the Subdivision application 16-2001-1700-1.1)

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

ITEM NO. 2

FILE NO: 16-2007-1117-3

SECTION 96 APPLICATION TO MODIFY DEVELOPMENT CONSENT FOR URBAN HOUSING AT NO. 60 DIEMARS ROAD, SALAMANDER BAY.

**REPORT OF: ANTHONY RANDALL - ACTING MANAGER, DEVELOPMENT AND BUILDING GROUP:
SUSTAINABLE PLANNING**

RECOMMENDATION IS THAT COUNCIL:

Refuse Development Application 16-2007-1117-3 for the reasons below:

1. Condition 11 was imposed to ensure that the remaining vegetated portion of the subject site remains undeveloped in perpetuity – reflecting the environmental values of that portion of the site
2. No adequate or substantive justification has been provided to warrant deletion of Condition 11
3. Condition 11 should remain to sustain the integrity of the original rationale for that condition
4. The portion of the subject site which would be adversely impacted upon by deletion of Condition 11 has well substantiated environmental values including the presence of endangered ecological communities.

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

ITEM NO. 3

FILE NO: PSC2005-4386

ADOPTION OF HUNTER ESTUARY MANAGEMENT PLAN AND STUDY

REPORT OF: BRUCE PETERSEN – ENVIRONMENTAL SERVICES MANAGER
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Hunter Estuary Management Study and Hunter Estuary Management Plan.

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

ITEM NO. 4

FILE NO: PSC2005-0889

ABORIGINAL PROJECT FUND

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Supply funds from Council's Aboriginal Project Fund in accordance with the amounts and purposes prescribed below: -
 - i. 5,000 to Kup-Poon-Dee Community Services for the Indigenous 'Men's Business' Program
 - ii. 3,450 to Karuah Local Aboriginal Land Council for the Karuah Community Hall Project
 - iii. 6,286 to Karuah Local Aboriginal Land Council for the Karuah Winter Project
 - iv. 5,000 to the Gan Gan Family Centre for the Threading our Stories Together Project
 - v. 9,264 to the Worimi Local Aboriginal Land Council for the Worimi Wuung
 - vi. 6,000 to the Karuah Community Preschool for the Dhanbaan Burray (Strong Child) Project
- 2) All grants allocated as per recommendation (1) shall be subject to the funding conditions specified in Attachment 2 of this report.

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

ITEM NO. 5

FILE NO: PSC2009-05304

MOBILE FOOD VAN POLICY

REPORT OF: BRUCE PETERSEN – MANAGER ENVIRONMENTAL SERVICES
GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to place the attached Draft Mobile Food Van Policy on public exhibition for 30 days.

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

ITEM NO. 6

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 1ST SEPTEMBER 2009

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

RECOMMENDATION IS THAT COUNCIL:

Adopt the recommendations contained in the minutes of the Port Stephens Local Traffic Committee meeting held on 1st September 2009.

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

ITEM NO. 7

FILE NO: A2004-0284

REVIEW OF THE CODE OF MEETING PRACTICE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) The revised Code of Meeting Practice as Tabled at the meeting, be placed on public exhibition for 28 days as required by Section 361 of the *Local Government Act 1993*.

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

ITEM NO. 8

FILE NO: PSC2005-3634

**RAYMOND TERRACE RUGBY LEAGUE FOOTBALL CLUB COMMUNITY
GROUP LOAN**

**REPORT OF: JASON LINNANE, RECREATION SERVICES MANAGER
GROUP: FACILITIES AND SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Write off the outstanding debt owed from the Raymond Terrace Rugby League Football Club in the amount of \$32,987.79 not recoverable.

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

ITEM NO. 9

FILE NO: PSC2007-2791

PORT STEPHENS FUTURES STRATEGY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Port Stephens Futures Draft Strategy (Attachment 1 – provided under separate cover) in principle and as a foundation for the preparation of the Community Strategic Plan, Delivery Program and Operational Plans;
- 2) Delegate to the General Manager to finalise by way of corrections and upgrading for publication – without in any way detracting from the substance of the content of the document;
- 3) Plan to exhibit the Port Stephens Futures Strategy with the Community Strategic Plan during March, April and/or May 2010, and
- 4) Formally express its appreciation to the members of the Port Stephens Futures Reference Group (Attachment 2).

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

ITEM NO. 10

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 13 October, 2009.

No:	Report Title
1.	PORT STEPHENS ECONOMIC DEVELOPMENT PANEL
2.	ABORIGINAL STRATEGIC COMMITTEE
3.	CASH AND INVESTMENT HELD AT 31 AUGUSTS 2009
4.	CHILD FRIENDLY BUILT ENVIRONMENT REPORT
5.	COMMUNICATE PORT STEPHENS ADVISORY COMMITTEE

COUNCIL COMMITTEE MEETING – 13 OCTOBER 2009

RECOMMENDATION:

CONFIDENTIAL ITEMS



In accordance with Section 10A, of the Local Government Act 1993, Council can close part of a meeting to the public to consider matters involving personnel, personal ratepayer hardship, commercial information, nature and location of a place or item of Aboriginal significance on community land, matters affecting the security of council, councillors, staff or council property and matters that could be prejudice to the maintenance of law.

Further information on any item that is listed for consideration as a confidential item can be sought by contacting Council.