

Minutes 21 October 2008



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 21 October 2008, commencing at 6pm.

PRESENT: Councillors B. MacKenzie (Mayor); R. Westbury (Deputy Mayor); G. Dingle; S. Dover, G. Francis; P. Kafer; K. Jordan; D. Maher, J. Nell; S. O'Brien; S. Tucker, F. Ward; General Manager; Acting Group Manager, Corporate Excellence, Facilities and Services Group Manager; Sustainable Planning Group Manager; Acting Group Manager Commercial Services.

RESOLUTION:

279	Councillor Tucker Councillor Jordan	It was resolved that Minutes of Extra Ordinary Meeting of Council 30 th September 2008 & Ordinary Meeting of Council 14 th October 2008 be confirmed.
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INDEX

SUBJECT	PAGE NO
MAYORAL MINUTES	6
1. MOTION TO CLOSE COUNCIL MEETING TO THE PUBLIC – MATTER OF URGENCY	7
2. MOTION TO CLOSE COUNCIL MEETING TO THE PUBLIC – MATTER OF URGENCY	8
3. INCREASE IN LOCAL GOVERNMENT ASSOCIATION (LGA) & AUSTROADS MEMBERSHIP 2008-2009	9
MOTION TO CLOSE	13
1. DEVELOPMENT APPLICATION FOR PLACE OF ASSEMBLY – OUTDOOR MUSIC EVENTS (NEW YEARS EVE 2008, 2009, 2010) AT NO. 98 SHOAL BAY ROAD NELSON BAY (FLY POINT)	14
2. MOTION TO CLOSE MEETING TO THE PUBLIC	36
OPERATIONS COMMITTEE RECOMMENDATIONS	37
1. 2008-2009 CARRY FORWARD AND REVOTES	38
2. GRANT FOR STORMWATER TREATMENT DEVICE AT TANILBA BAY COMMERCIAL CENTRE	48
3. ROAD CLOSURE BOONDABA LANE TANILBA BAY	55
4. LOCAL TRAFFIC COMMITTEE MEETING – 2ND SEPTEMBER, 2008	61
5. LEASE OF PART LOT 284 DP 806310, 155 SALAMANDER WAY, SALAMANDER TO SALAMANDER CHILD CARE CENTRE	75
6. LEASE OF SUITE 2, TOMAREE LIBRARY & COMMUNITY CENTRE, 155 SALAMANDER WAY, SALAMANDER	78
7. PORT STEPHENS COUNCIL CODE OF CONDUCT	81
8. INFORMATION PAPERS	84
OPERATIONS COMMITTEE INFORMATION PAPERS	85
1. INVESTIGATION INTO VEGETATION CLEARING AT CABBAGE TREE RD, WILLIAMTOWN	86
2. ACCESS COMMITTEE MINUTES	89
3. ABORIGINAL STRATEGIC COMMITTEE	98
4. CASH AND INVESTMENTS HELD AT 31 JULY 2008	107
5. PORT STEPHENS ECONOMIC DEVELOPMENT ADVISORY PANEL	112
6. ACCESS TO INFORMATION – SECTION 12 LOCAL GOVERNMENT ACT 1993	115

STRATEGIC COMMITTEE RECOMMENDATIONS..... 117

1. REGIONAL TREE VANDALISM POLICY..... 118
2. ADOPTION OF TILLIGERRY CREEK MANAGEMENT PLAN 141
3. DEVELOPMENT CONTROLS FOR BROTHELS AND RESTRICTED PREMISES 150
4. CROSS BOUNDARY S94 PLAN FOR VILLAGE IN GREAT LAKES COUNCIL LOCAL
GOVERNMENT AREA ADJACENT TO KARUAH 163
5. COUNCILLOR REIMBURSEMENT POLICY REVIEW 174
6. REVIEW OF THE CODE OF MEETING PRACTICE 204
7. INFORMATION PAPERS 207

STRATEGIC COMMITTEE INFORMATION PAPERS..... 208

1. LOCAL ADAPTATION PATHWAYS PROGRAM – ORGANISATIONAL CLIMATE
CHANGE RISK ASSESSMENT PROJECT 209
2. QUARTERLY UPDATE ON THE HUNTER CENTRAL COAST REGIONAL ENVIRONMENTAL
MANAGEMENT STRATEGY 211

GENERAL MANAGER'S REPORT..... 230

1. REQUEST FOR FINANCIAL ASSISTANCE..... 231
2. ESTIMATES OF INCOME AND EXPENDITURE 235
3. GENERAL MANAGER'S PERFORMANCE REVIEW JUNE 2007 TO JULY 2008 238
4. INFORMATION PAPERS 242

GENERAL MANAGERS INFORMATION PAPERS 243

1. HUNTER INFRASTRUCTURE ALLIANCE 244
2. DESIGNATED PERSONS – PECUNIARY INTERESTS 245

NOTICES OF MOTION 247

1. REWARD FOR INFORMATION ON VANDALS AND GRAFFITI ARTISTS..... 248

CONFIDENTIAL ITEMS..... 249

1. TENDER FOR SUPPLY OF NEWCASTLE AIRPORT AIRSIDE COVERED WALKWAY
2. MELALEUCA ESTATE PTY LTD
3. ADVICE ON THE PENDING LEGAL ACTION IN RESPONSE TO UNAUTHORISED SAND
EXTRACTION AT 5 ZIRCON LANE, FULLERTON COVE

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 Extra Ordinary Meeting of Council 30th September 2008 & Ordinary Meeting of Council 14 October 2008
- 4) Apologies
- 5) Declaration of Interest
- 7) Mayoral Minutes (if submitted)
- 8) Operations Committee Recommendations
- 9) Strategic Committee Recommendations
- 10) General Manager's Report
- 11) General Manager's Information Papers
- 12) Notices of Motion
- 13) Motions to close meeting to the public
- 14) Confidential Items
- 15) Motion to open meeting to the public

COMMITTEE RECOMMENDATIONS

The Committees met on the 7th & 14th October, 2008 and make the following recommendations to Council.

COMMITTEE	PRESENT	TIME
Strategic Committee	Councillors MacKenzie, Nell, Tucker, Francis, O'Brien, Jordan, Ward, Dingle, Westbury, Dover, Kafer & Maher, and Messrs Gesling, Smith, Triglar & Broyd & Ms Shine Apology: Nil	7 th October, 2008 Commenced: 6pm Concluded: 7.35pm
Operations Committee	Councillors MacKenzie, Nell, Tucker, Francis, O'Brien, Ward, Dingle, Westbury, Kafer & and Messrs Gesling, Smith, Triglar & Broyd & Ms Shine Apology: Crs Dover, Jordan and Maher	14 th October, 2008 Commenced: 7.04pm Concluded 7.35pm

MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: A2004-0573V2

MOTION TO CLOSE COUNCIL MEETING TO THE PUBLIC – MATTER OF URGENCY

THAT COUNCIL:

In accordance with CI 2 of Council's Code of Meeting Practice, consider, as a matter of urgency, an additional confidential item of business for which notice has not been given. The business in question is a Confidential Mayoral Minute concerning current legal proceedings.

I further move that, in accordance with section 10C of the Local Government Act, Council resolve (after considering any representations from the public), that further discussion of the matter should not be deferred (because of the urgency of the matter) and should take place in a part of the meeting that is closed to the public.

Council further resolve:

- 1) That pursuant to section 10A(2)(g) of the Local Government Act 1993, Council resolve to close to the public that part of its meeting to receive information regarding and to discuss a Confidential Mayoral Minute entitled **Melaleuca Estate Pty Limited**.
- 2) That the reason for closing the meeting to the public to consider this item is that the discussion will include information pertaining to advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice the legal position of Council, and Council has an obligation to protect its interests and the interests of ratepayers.
- 4) That the Mayoral Minute and minutes in relation to this item remain confidential until such time as the matter is completed.

ORDINARY MEETING – 21 October 2008

RESOLUTION:

280	Councillor Nell Councillor Jordan	It was resolved that the recommendation be adopted.
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MAYORAL MINUTE

ITEM NO. 2

FILE NO: A2004-0146

MOTION TO CLOSE COUNCIL MEETING TO THE PUBLIC – MATTER OF URGENCY

THAT COUNCIL:

In accordance with CI 2 of Council's Code of Meeting Practice, consider, as a matter of urgency, an additional confidential item of business for which notice has not been given. The business in question is a Confidential Mayoral Minute concerning pending legal action.

I further move that, in accordance with section 10C of the Local Government Act, Council resolve (after considering any representations from the public), that further discussion of the matter should not be deferred (because of the urgency of the matter) and should take place in a part of the meeting that is closed to the public.

Council further resolve:

- 1) That pursuant to section 10A(2)(G) of the Local Government Act, 1993, Council resolve to close to the public that part of its meeting to receive information regarding and to discuss a Confidential Mayoral Minute entitled **Advice on the Pending Legal Action in Response to Unauthorised Sand Extraction at 5 Zircon Lane, Fullerton Cove.**
- 2) That the reasons for closing the meeting to the public to consider this item are that the discussion will include information pertaining to pending legal action, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- 3) That disclosure of the information would, on balance, be contrary to the public interest, as it would prejudice the legal position of Council, and Council has an obligation to protect its interests and the interests of ratepayers.
- 4) That the Mayoral Minute and minutes in relation to this item remain confidential until such time as the matter is completed.

ORDINARY MEETING – 21 October 2008

RESOLUTION:

281	Councillor Nell Councillor Jordan	It was resolved that the recommendation be adopted.
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MAYORAL MINUTE

ITEM NO. 3

FILE NO:A2004-0136

INCREASE IN LOCAL GOVERNMENT ASSOCIATION (LGA) & AUSTRROADS MEMBERSHIP 2008-2009

THAT COUNCIL:

- 1) Consider the increase of the 2008-09 membership costs.

ORDINARY MEETING – 21 October 2008

RESOLUTION:

282	Councillor MacKenzie	It was resolved that Council pay the balance of the 2008-2009 membership costs.
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BACKGROUND

At the Council meeting of the 26th August 2008, Council considered a report on the 2008-09 membership for the Local Government Association & Austroads. At the meeting Council was informed of an increase in membership costs of 8.2% from the 2007-08 year.

Council at its meeting of the 26th August 2008 resolved:-

- “1) Reject the additional 5% increase in the LGA subscription and Austroads membership for the 2008-2009 financial year.
2. Support the 3.2% increase in the LGA subscription and Austroads membership for the 2008-2009 financial year.
3. Write to the LGSA asking for the associations to clearly demonstrate why Councils in NSW should wear the additional 5% increase, when Councils have the same dilemma as the LGSA and will have to reduce services to its residents and ratepayers in order to meet the cost shifting by the LGSA.
4. Request the LGSA to send a replacement tax invoice for the 2007-2008 fees plus the 3.2% increase.”

In accordance with Council's resolution payment of the 2008-09 membership with an increase of 3.2% on the 2007-08 membership was paid on 16th October 2008.

The LGA Constitution states that for Council to be able to vote at any meeting, conference or election conducted by the Association Council needs to be a financial member (full annual subscriptions paid). This would include any delegate standing for office in the Association. Council's current membership status is considered under the Constitution to be unfinancial.

ATTACHMENT 1

- 1) Council report – 26 August 2008

ATTACHMENT 1

ITEM NO. 2

FILE NO: A2004-0136

INCREASE IN LOCAL GOVERNMENT ASSOCIATION (LGA) & AUSTRROADS MEMBERSHIP 2008-2009

REPORT OF: PETER GESLING – GENERAL MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Reject the additional 5% increase in the LGA subscription and Austroads membership for the 2008-2009 financial year.
 2. Support the 3.2% increase in the LGA subscription and Austroads membership for the 2008-2009 financial year.
 3. Write to the LGSA asking for the associations to clearly demonstrate why Councils in NSW should wear the additional 5% increase, when Councils have the same dilemma as the LGSA and will have to reduce services to its residents and ratepayers in order to meet the cost shifting by the LGSA.
 4. Request the LGSA to send a replacement tax invoice for the 2007-2008 fees plus the 3.2% increase.
-

BACKGROUND

The purpose of this report is to inform Council that a request from the Local Government and Shires Association of NSW (LGSA) has been received advising of an increase to the LGA subscription and the Austroads membership for the 2008-2009 financial year by an additional 5% on top of the rate pegging limit of 3.2%.

The LGSA sent a letter to all Mayors in NSW on 17 June 2008 explaining the reasons for the additional increase. The letter quite clearly demonstrated that the increases over the past few years have been set in accordance with the rate pegging limit.

At the Hunter Councils GMAC meeting held on Thursday 3 July 2008, it was decided unanimously to recommend that all Councils reject the additional 5% increase until the LGSA could provide justification for the additional increase.

New tax invoices will need to be distributed to Councils if the additional increase is not paid. Councils will need to be issued with a tax invoice for the 2007-2008 fee plus 3.2%.

If the additional 5% increase can be substantiated by the LGSA, then an additional tax invoice for the 5% could be sent to all Councils in due course.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

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

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

FINANCIAL/RESOURCE IMPLICATIONS

The current Management Plan for the 2008-2009 financial year has an allowance for a 4.0% increase to the subscription and membership fees. The increase being 4.2% over the increase allowed for in the 2008-2009 budget.

LEGAL AND POLICY IMPLICATIONS

Nil

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.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

GMAC

OPTIONS

- 1) Adopt the recommendation
- 2) Amend the recommendation
- 3) Reject the recommendation

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

MOTION TO CLOSE

ORDINARY MINUTES – 21 OCTOBER 2008

NOTE: THIS ITEM WAS BROUGHT FORWARD AND DEALT WITH PRIOR TO ITEM 1 MOTION TO CLOSE AT THE REQUEST OF COUNCILLORS NELL. & TUCKER.

ITEM NO. 4

FILE NO: 16-2008-610-1

DEVELOPMENT APPLICATION FOR PLACE OF ASSEMBLY – OUTDOOR MUSIC EVENTS (NEW YEARS EVE 2008, 2009, 2010) AT NO. 98 SHOAL BAY ROAD NELSON BAY (FLY POINT)

REPORT OF: SCOTT ANSON – MANAGER, DEVELOPMENT & BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2008-610-1 for a twelve (12) month period subject to the conditions contained in Attachment 3.
- 2) Note that the General Manager will undertake a compliance audit of all conditions of consent in conjunction with the Event Debrief by 28 February 2009

ORDINARY MEETING – 21 October 2008

RESOLUTION:

283	Councillor Nell Councillor Westbury	It was resolved that the recommendation be adopted.
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A division was called for:

Those for the motion: Crs Jordan, Maher, Tucker, Nell, Westbury & Mackenzie

Those against the motion: Crs Kafer, O'Brien, Dingle, Francis, Dover, Ward

The motion was carried on the casting vote of the Mayor.

Matter Arising:

RESOLUTION:

284	Councillor Nell Councillor Westbury	<p>It was resolved that Council;</p> <ol style="list-style-type: none">1) Approach the Liquor Accord, NSW Police and the Liquor Administration Board, to negotiate closure of bottle shops at 9pm on New Year's Eve across the Port Stephens LGA.2) Request NSW Police to enforce AFZ across the Port Stephens LGA.
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BACKGROUND

The purpose of this report is to present a development application to Council for determination, at the request of Councillor Dover.

The Nelson Bay/Shoal Bay area has had a history of anti-social behaviour associated with previous unstructured and unsupervised New Years Eve celebrations traditionally focussed on the foreshore of Port Stephens. There have been various attempts by the community, local traders, Port Stephens Council and the NSW Police to cater for a range of visitors and interests and address the negative impacts associated with anti-social behaviour and vandalism typically perpetrated by intoxicated persons.

The development application for "Eve Bay 2008" was lodged on 7 August 2008. The application was notified in accordance with Council policy until 1 October 2008. Reasonable extensions of time were granted to persons requesting additional time to respond up until 7 October 2008. A total of seventeen (17) public submissions have been received. The application seeks development consent for use of Fly Point Park for the purpose of an all-age outdoor music event on New Years Eve for the next three (3) years. The accompanying Event Management Plan (EMP) proposes a maximum capacity of 5500 patrons, guest, artists and staff. Excluding set up and removal of the temporary venue, the proposed event would commence at 7.30pm on 31 December 2008 and closes at 1.30am on 1 January 2009.

The Eve Bay event has previously been held on New Years Eve in 2006 and 2007 at the same location. The previous development applications were approved by Council. Council's assessment and development conditions applied have been informed by specialist staff assessment of the proposal, public submissions, post-event submissions and an annual event debrief process facilitated by Council's Recreation Services Section.

Key Issues

The key issues associated with this application include:

- lighting
- parking
- restricted access to Fly Point Park,
- toilet provision
- rubbish and broken glass
- noise
- antisocial behaviour/under age drinking

These issues will be discussed in the assessment.

The current application has been the subject of a number of meetings and discussion between NSW Police, the event co-ordinator and Council officers. The conditions as proposed reflect the outcomes of these discussions and are proposed as a means of managing key issues associated with such an event.

It is recommended that the application be approved for the Eve Bay 2008/09 event only at this time. The potential impacts associated with this development are able to be minimised and/or mitigated through proposed conditions of consent. It is further

recommended that a compliance audit of consent conditions be undertaken in conjunction with the Event Debrief process. It is then open to the applicant to apply to Council to seek development approval for a three (3) year period thereafter.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

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.*

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*

This report relates to *Goal 18 Success & Sustainability – Managing Development Functions.*

To provide a predictable and effective advisory, assessment and inspections service for all development and building activity within Port Stephens.

FINANCIAL/RESOURCE IMPLICATIONS

The proposed arrangement for the event to be held at Fly Point represents a positive financial approach compared to the organised events that Council sponsored up to and including 2005.

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council's Policy.

The applicant would have the right to appeal to the Land & Environment Court in the event of Council determining refusal – however, realistically, the time would not be available for any potential Court Hearing prior to 31 December 2008.

Refusal of the application could mean a more disbursed and disorganised management of New Year's Eve events, which is contrary to Council's policy approach to management of New Year's Eve in the Tomaree Peninsula.

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.*
- 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 cultural 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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The event proposal and associated Event Management Plan (EMP) is considered to provide a safe venue for people to celebrate New Years Eve by providing a controlled space with entertainment supplied. This in turn is considered to minimise the potential risk of injury to patrons and property damage for traders and residents. Council's Community Safety Officer has reviewed the proposed event and raises no objection subject to compliance with all consent conditions, some of which are required by NSW Police Service.

ECONOMIC IMPLICATIONS

There are no significant adverse economic implications associated with this proposal. The proposed Eve Bay event in conjunction with other organised events and attractions in the area will contribute to an overall positive economic impact in the locality.

ENVIRONMENTAL IMPLICATIONS

The impact on the reserve is considered to be minimal given the proposed management of the event and controlled space to be utilised in the reserve. Furthermore, conditions of consent are proposed requiring the site and surrounds to be restored to the condition that they were in before the event, and subject to Council's satisfaction (Recreation Services), immediately at the close of the event.

CONSULTATION

Public Submissions

The application was exhibited in accordance with Council policy and seventeen (17) submissions were received. These are discussed in the Attachments.

Comment Recreation Services Manager

- 1- The organised event for new years moved from Shoal Bay to Fly Point in 2006. The Shoal Bay event cost Port Stephens Council (PSC) approximately \$65000 per year. It is estimated that this year's event at Fly Point will provide PSC with approximately \$10,000 in usage fees. All costs associated with the gated event are borne by the organiser.
- 2 - The above mentioned profit is to be directed to increased toilet cleaning, security, rubbish removal and toilet facilities on the rest of the foreshore for New Years Eve. These increased services do not benefit those who attend the gated event. The event organisers pay for their own such services.
- 3 - The gated event on Fly Point is only one (1) part of the overall New Years Eve activities at Nelson Bay. There is also the Town Management provided activities on the Foreshore and also fireworks etc from D'Albora Marina (which we contribute to from gated event profits). The intention is to create a more family friendly atmosphere on the foreshore area. This has been a key part of the event planning exercises that have taken part this year and which have included all parties involved in the operational matters of the night.
- 4 - Arrangements have been made to allow for integration of security and policing for the whole area for this years event. This will start at 12 noon on New Years Eve. Police have been part of last years event debrief and planning of this year's event. They are fully supportive of having a gated event and of this option over other alternate venues.
- 5- The whole area will be alcohol free (except between the hours 6pm and 1.30pm for Nelson Bay and Little Beach Foreshore). This is to enable the police and security to patrol and manage undesirable activity occurring and proliferating prior to families arriving on the foreshore.
- 6 - Gated event will have alcohol sales and consumption for duration of the event. Please note that it is a no glass event and is licensed by NSW Police. Increased policing and security measures outlined in points 4 and 5 of above will assist in reducing the impacts of glass in the parks for this year's event.
- 7- We are trying to tackle the issue of illegal camping via signposting, road closures and enforcement efforts. Note that this activity has been happening in this area long before 2006 and there is no correlation between the gated event and this activity.
- 8 – Road closure application has been made and detail agreed to by Council staff, the applicant, police and local transport operators.

Post Event Review

A condition of consent for the 2007/08 Event required the Event Coordinator to participate or provide a suitable representative to meet with Council officers, within thirty (30) days of the event, to review the operations of the event and to address any matters arising from the holding of the event. This will be included as a condition of consent.

This review typically occurs in January immediately following the event and involves the proponent, NSW Police and relevant Sections of Council covering community

ORDINARY MINUTES – 21 OCTOBER 2008

safety, traffic management, event management, parks and reserves management and development and building assessment staff.

The debrief evaluates the event in terms of what worked well and identifies opportunities for improvement.

At the Post Event Review held 14 January 2008, in relation to last year's event, the following issues were identified and discussed.

- Security – 40 police were present. Apex Park and the main street needs focus in the future. While police were generally happy with the EveBay approach, extra presence on the foreshore will improve outcomes.
- Toilets/lighting – Temporary lighting is required for families and security at Apex Park. Enough toilets were provided, however additional are required on the foreshore.
- Bins/litter/cleanup – EveBay can clean the perimeter in future to help manage perception issues. More bins are required to the foreshore. Staff need to empty bins during the event. Day after the event the site was satisfactory.
- Transport – Port Stephens Coaches conveyed their general satisfaction, however in future Variable Message Boards are required to advertise bus pick up points. Vehicles were effectively moved on from the area from 3pm and the road closure worked well.
- Camping – There was a limited impact on reserves/parks in this regard, with a good result around Fly Point and Victoria Parade. Camping around Trafalgar and Magnus Corner required further review.
- Alcohol consumption – A 24 hour prohibition is required prior to and after the event for Fly Point Park. This will also apply to the foreshore, however will be relaxed between 6 pm and 10 pm on the foreshore to accommodate "mums and dads" during the fireworks display. Intoxication issues were evident across the entire site, however it was considered to be an improvement on the Shoal Bay events of the past. The police will continue to work with Licensing police on this issue.
- Anti-social behaviour/social issues – Police were relatively happy with the behaviour at the event. The move-on of people from the event and the foreshore was good. However glass and fights on the foreshore, and people loitering outside the event is an issue. Changes to the fencing could alleviate the later issue. Lighting is also an issue for consideration.
- Vandalism/Glass in Parks – EveBay is a no glass event. Perception that the event increases glass on site is incorrect. Nonetheless variable signboards are to be provided to advise of glass restrictions and advertising and security will be reviewed in this regard.

The consensus reached meeting was that by implementing the improvements noted would result in an improved event outcome.

OPTIONS

ORDINARY MINUTES – 21 OCTOBER 2008

- 1) Adopt the recommendation.
- 2) Reject or amend the recommendations.
- 3) Approve the development application (land use approval) for a period of three (3) years and manage the issues through the event debrief and use of public reserve permit process which is reviewed on an annual basis.

Comment

The application is for Eve Bay New Years Eve event to be held at Fly Point for the next three (3) years. The report recommendation is for approval to be granted for only one (1) event to be held this year (ie 2008/09 Event).

This provides Council with the opportunity to undertake a full development compliance check for the proposal. If the applicant subsequently seeks a three (3) year consent the compliance audit can then be considered in the assessment process. The onus is on the applicant to demonstrate compliance and provides Council and the community confidence that approval to operate the event for three (3) years can be adequately managed.

An alternative could be to approve the development application (land use approval) for a period of three (3) years and manage the issues through the event debrief and use of reserve permit process which is reviewed on an annual basis.

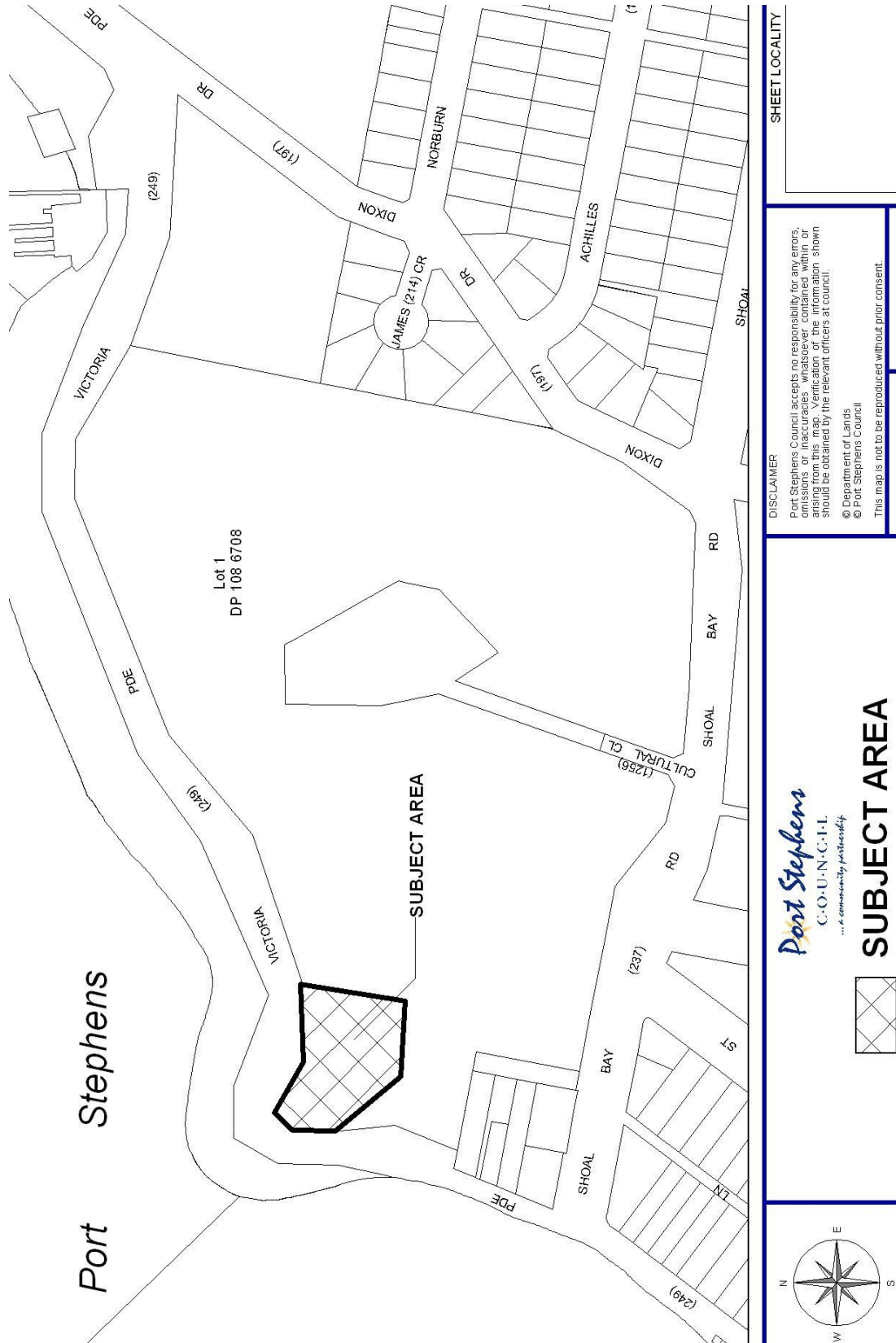
ATTACHMENTS

- 1) Locality Plan
- 2) Assessment
- 3) Conditions

COUNCILLORS ROOM

- 1) Event Management Plan
- 2) Submissions

ATTACHMENT 1 LOCALITY PLAN



ATTACHMENT 2**ASSESSMENT**

The application has been assessed pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and the following is a summary of those matters considered relevant in this instance.

THE PROPOSAL

The application seeks development consent for use of Fly Point Park for the purpose of an all-age outdoor music event (defined in LEP 2000 as a "Place of Assembly" on New Years Eve for the next three (3) years. It is proposed to fence off an area of approximately half a hectare for the event.

The Event Management Plan (EMP) submitted with the application states a maximum capacity of 5500 patrons, guest, artists and staff, and this proposed maximum patronage will be reinforced as a consent condition. Excluding set up and removal of the temporary venue the event commences at 7.30pm on 31 December 2008 and closes at 1.30am on 1 January 2009. The EMP addresses the following operational details, including, but not limited to:

- Security and Lighting
- Amenities (Toilets)
- Waste Management
- Traffic Management
- Public Transport
- Alcohol Consumption/Management
- Noise Management

THE APPLICATION

Owner	Crown Land
Applicant	Cattleyard Promotions
Detail Submitted	7 August 2008

THE LAND

Property Description	Lot 1 DP 1086708
Address	98 Shoal Bay Road Nelson Bay
Site Area	11.81 hectares
Event Area	Approximately 0.5 hectares
Dimensions	The event area has an irregular shape with general dimensions of 75m x 70m.
Characteristics	The subject site is located north-west of the Nelson Bay commercial precinct, in the immediate vicinity of the residential area. The site contains a stage and fixed picnic equipment. The remainder of the site contains substantial tree cover on the western section, away from the event area.

THE ASSESSMENT**1. Planning Provisions**

LEP 2000 – Zoning Relevant Clauses	6(a) General Recreation 29
Development Control Plan	Nil
State Environmental Planning Policies Discussion	SEPP 71 – Coastal Protection

1.1 Port Stephens Local Environmental Plan 2000 (LEP)Clause 29 (Recreation zonings)

Clause 29 is applicable to this application. The subject site is zoned 6(a) General Recreation, which generally relates to recreation reserves, foreshores, bushland and other land reserved for the public. The zone objectives include:

- *To permit development associated with, or complimentary to, open space.*

The proposal is considered to be consistent with the zone objectives.

The proposal is defined as a “Place of Assembly” and is permissible within the 6(a) zone. There are no other specific planning provisions in the LEP relevant to *Places of Assembly*.

1.2 State Environmental Planning Policy 71 – Coastal Protection (SEPP 71)

Clause 8 – Matters for Consideration

The proposal is considered to be consistent with the aims of this policy, which include:

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

The proposal is not considered to impede pedestrian access to the foreshore unimpeded by the event and minimal impact on the surrounding area. However, Victoria Parade will be closed on the afternoon of the event to prevent parking and subsequent camping on the site. Therefore vehicular access to Fly Point will be unavailable. The minor inconvenience that this may cause, and the temporary nature of the event, is not considered to result in an unreasonable impact, warranting refusal of the application.

Vegetation on the site will be protected, which is consistent with SEPP 71 provisions.

2. Likely Impact of the Development

2.1 Lighting

The proposal involves additional lighting for the event duration which has the potential to impact surrounding residents. However given the temporary nature of this event, the impact is not considered to be unacceptable and can be addressed via a condition of consent (Refer Conditions 11 to 16).

2.2 Traffic/Parking/Transport

The application makes provision for event staff parking on the closed Victoria Parade. Patrons arriving by private transport will utilise local street parking. The location of the site and the closure of Victoria Parade prevent parking on site. It is considered that adequate lawful parking is available in the immediate vicinity. It is further noted that regardless of the event, Fly Point Park is a popular area for people visiting Nelson Bay on New Years Eve and the proposed parking situation is typical of this time of year.

Council's Infrastructure Planning Coordinator has advised that there is no objection to the proposal subject to:

- Submission of a road closure application for Victoria Parade; and
- Submission of a Traffic Management Plan, two (2) weeks prior to the event.

The Event Management Plan states that a coach service will be provided for patrons at the conclusion of the event. The proponent must demonstrate that a bus company will service the event and this requirement has been included as a condition of consent.

The abovementioned requirements have been incorporated into proposed conditions of consent (Refer Conditions 54 to 58).

2.3 Restricted Access to Fly Point Park

The applicant will commence setting up the event on New Years Eve and the site will be cleared by 2 January 2009. There will be no public access to Fly Point Park during this time (except during the event by way of a ticket). This is considered acceptable, given the short period of restricted access, in accordance with the Event Management Plan.

2.4 Toilets

A total of forty eight (48) sanitary units (portaloos) are required to service the event, in accordance with the Building Code of Australia (BCA). This requirement will be included as a consent condition (Refer Conditions 4 to 7).

2.5 Rubbish/Broken Glass

The applicant has indicated in the Event Management Plan that there is to be no glass on site and this will be reinforced as a consent condition (Refer to Conditions 18 to 24). This condition has been placed on development consents in previous years, so the broken glass that has littered the locality, as put forward in submissions has more likely been from other sources or activities happening in the area.

At the recently held Public Access on this issue Councillors asked whether there is an opportunity to request hotels and other outlets to use plastic cups instead of glasses on New Years Eve. Whilst none of the local hotels are involved with the subject event, Council's Community Projects Officer (Community Safety) has advised that the Council proposal to use of plastic cups instead of glass on New Years Eve will be raised at the next Tomaree Liquor Accord Members meeting.

The Event Management Plan for the Eve Bay event states that there will be a check and clean of any rubbish outside of the venue. This will be reinforced by a condition for the site and surrounds to be restored to the condition they were in before the event, to Council's satisfaction (Recreation Services).

Consultation was undertaken with Council's Waste Management Co-ordinator who agreed to the following consent condition:

Five x 3m³ bins and 45 wheelie bins serviced by private contractors are to be provided for use on the day of the event. The bin system should be divided into materials with the following categories: * Plastic bottles and cans, * cardboard and paper products and/or organic materials that can be composted, * rubbish (materials which can not be recycled) eg plastic bags, polystyrene.

2.6 Noise

The EMP proposes commencement of the Event at 7.30pm on New Years Eve through to 1.30am New Years Day. The consent will include conditions restricting noise levels, and requiring an acoustic report and monitoring by a suitably qualified and experienced acoustic consultant (Refer Conditions 37 to 44). An acoustic report and monitoring was also a consent condition for the previous New Years Eve events held 2006/07 and 2007/08.

2006/07 event

For the first event, the applicant advised of difficulty getting an acoustic report due to short notice, and provided a submission from a sound technician, who also monitored noise levels during the event.

2007/08 event

For the second event, nothing was submitted in the way of an acoustic report. Furthermore, the monitoring results submitted were not undertaken by a suitably qualified and experienced professional.

Current proposal

Therefore based on the above, it is proposed to amend the condition included in previous development consents to ensure it specifies the requirement for a suitably qualified and experienced professional to both undertake necessary monitoring and report on results. The applicant is to contact Council's Environmental Health Team Leader when seeking such a person, to ensure that they are suitable to undertake the work.

2.7 Anti-social behaviour/Under age drinking

Based on the event debrief process anti-social behaviour does not appear to be attributed to patrons attending the event. The lawful sale and lawful consumption of alcohol at the event is regulated through a separate liquor licence process and State laws relating to the responsible service of alcohol. These provisions are enforced by NSW Police Service.

NSW Police Service has been involved in the planning and consultation for the event, and will undertake additional patrols in the area, in addition to providing assistance to event security where necessary. The Event Management Plan states that a "security plan will be developed by Red Dawn Security and Site Manager". The consent will be conditioned for a Security Plan (including Security Guard numbers) to be approved by NSW Police and submitted to Council prior to undertaking the Event (Refer Conditions 45 to 51). Pedestrian entry to the event area is proposed from the western side, to avoid visual impact and broken glass adjacent to the residential area. There is no on-site parking for cars.

Council's Community Safety Officer has advised that "No Alcohol" signage will be erected in the locality by Council, to prohibit drinking outside of the event area for 24 hours before and after the event. An exclusion has been granted between 6pm and 10 pm on the foreshore for people not attending the event, but participating in other activities within the area (eg fireworks). Anyone wishing to drink alcohol will need to show identification and be fitted with an age-verified wristband. The area is not affected by Alcohol Free Zones, only Alcohol Free areas. Inspector David Matthews from the Port Stephens Local Area Command has confirmed that alcohol free areas are always enforced.

No camping signs are also to be erected and Victoria Parade will be closed from 12pm New Years Eve, to minimise patrons camping in their vehicles after the event.

The Event Management Plan states that a coach service will be provided for patrons at the conclusion of the event. The proponent must demonstrate that a bus company will service the event and this requirement has been included as a condition of consent.

2.8 Cumulative Impacts

There are no significant cumulative impacts anticipated for the locality, having regard to the proposed Fly Point event, celebrations held at d'Albora Marina and

festivities organised by Nelson Bay Town Centre Management. An objective of the Event Debrief is to ensure a co-ordinated approach to minimise impacts of the individual events on one another and the total impact on the community, by the integration of services.

There is no development application for the d’Albora marina celebrations as these are considered to be ancillary to the existing approved use of the marina.

2.9 Site Constraints

Acid Sulfate Soils

The subject site is affected by Class 4 Acid Sulfate Soils. For excavation beyond two metres below natural ground level, an Acid Sulfate Soils assessment and possibly management plan is required. There is no excavation proposed beyond this depth and therefore there is no further issue, or need for additional information in this regard.

Flora and Fauna

Vegetation on the site is shown on Council’s maps as Endangered Ecological Community (Swamp Sclerophyll Forest) and Preferred Koala Habitat. However the area proposed for the development is clear of vegetation, and the consent will include a condition:

All existing vegetation is to be appropriately protected from damage by patrons. Ridged permanent barriers shall be installed for the period of the event for all existing saplings with a girth less than 100mm. Protective barriers shall comprise a securely fixed chain mesh fence 2m in height extending around the drip area of the tree or an alternative approved by Council.

Bushfire

Fly Point Park is indicated as bushfire prone on the Rural Fire Service (RFS) maps. RFS have provided written advice that they have no objection to the event, as it is in a fenced park with well maintained lawn and there will be no open fires. The consent will include a condition in relation to open fires (Refer Condition 35).

3. Suitability of the Site

The site has no constraints except for those which have been previously discussed and the proposal is consistent with the intended uses of a public reserve, and the management objectives outlined in the Nelson Bay Foreshore Plan of Management 2008, which include:

- encourage and promote public use of the foreshore by providing a range of high quality recreational and leisure facilities catering for all age groups
- 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;

- ensure that the use of foreshore land is sustainable in environmental terms;
- establish and maintain a source of funding that will improve and sustain recreational and other infrastructure at the foreshore;

In considering the appropriateness of Fly Point Park for the intended use, consultation with Council's Recreation Services Manager was also undertaken, who advised that the site selection process was very rigorous, was a cross-council approach and included public Expression of Interest process. Tomaree Sports Complex was considered, but Fly Point was deemed more appropriate by the internal working party and Council's Executive Team. On this basis the site is considered suitable for the event.

4. Submissions

The application was notified in accordance with Council policy until 1 October 2008. Reasonable extensions of time were granted until 7 October 2008 for some parties. Council received seventeen (17) objections to the proposal. Two additional submissions were received, one requesting adequate arrangements for the clean up after the event, and the other raising concerns about illegal camping. Other concerns were raised regarding:

- Noise.
- Anti Social Behaviour outside of the event, and after the event.
- Park dominated by the music event and families were replaced by youths.
- Litter and broken glass outside of event.
- Promoters previously did not comply with responsible service of alcohol, given the number of grossly intoxicated young people exiting.
- Tomaree Sports Complex is a more appropriate location.
- Illegal camping.
- Large proportion of patrons attend from outside Nelson Bay, with financial gain to the applicant and limited local benefits.
- Traffic management.
- Three year approval not appropriate.
- Cost to Council of cleanup.

The proposal has the potential to impact on adjoining properties and the immediate locality. Council must determine whether these potential impacts are unreasonable or unacceptable upon the residential amenity of adjoining residents and the immediate environment. The onus is upon the proponent to demonstrate that any potential impacts can be either mitigated or minimised.

5. Public Interest

Council must determine the application on its merits by way of approval or refusal. If approved Council should apply conditions that ensure that any potential environmental impacts are addressed through conditions of consent and ensure compliance. In respect to demonstrating compliance may require the proponent to provide certification in respect to acoustic monitoring, security, waste management and the like. Furthermore a condition to update the EMP on an annual basis incorporating feedback from the EMP debrief process is recommended.

If the application is to be refused Council must formulate defensible reasons for refusal pertaining to any unreasonable or unacceptable impacts identified as part of Council's consideration of the application.

The following points are relevant to Council's consideration of the application:

- The proposed use is temporary in nature comprising an all-age outdoor music event spanning six (6) hours (excluding set up and removal).
- The use is supported in principle by the NSW Police in the proposed location.
- Noise levels can be conditioned to include monitoring and requiring corrective actions to be logged. Compliance with accepted guidelines can be confirmed via certification by a suitably qualified professional.
- Supervision and security is provided during the event and for patrons departing the venue.
- The proponent is responsible for waste management attributed to the venue and immediate perimeter.
- Council does not regulate the responsible service of alcohol. This is a liquor licensing issue rather than a planning merit issue.
- Camping is not proposed as part of the application.
- The event debrief has not identified any negative economic impacts upon the Nelson Bay Town Centre.
- Traffic Management and provision of public transport for patrons attending and departing the event can be conditioned.

It is considered that the New Years Eve event at Fly Point, subject to the imposition of conditions, is not contrary to the public interest.

Conclusion

There appears to be merit in approving the current application for New Years Eve 2008/09 only. This approval would be subject to a full development compliance check as part of the EMP debrief process. It is then open to the proponent to re-apply for a three (3) year time limited approval during early 2009. The findings of the EMP debrief process and any subsequent development application and/or modification would be reported to Council for determination.

Under this scenario if the proponent fails to provide certification required as a condition of development consent this may provide defensible grounds for the Council to not support an application to operate the event for an extended period. Alternatively the provision of this documentation may demonstrate that the temporary event operated in a satisfactory manner within acceptable guidelines justifying a request to operate for an extended period, subject to development conditions. Accordingly the application is recommended for approval for a twelve (12) month period only, subject to conditions.

**ATTACHMENT 3
CONDITIONS**

1. The development is to be carried out in accordance with the approved Plan and Event Management Plan submitted with the application, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans. **An amended Event Management Plan is to be submitted by the applicant, six (6) weeks prior to the event for approval.**
2. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
3. Any damage to the reserve or Council infrastructure caused during or preceding the event in the reserve and surrounding area is to be repaired to Council's satisfaction.

Sanitary Facilities

4. Sanitary facilities (portaloos) for use by patrons and staff shall be available from 31 December 2008 through to 1 January 2009. A minimum of 48 units shall be available with the toilet usage monitored with a dedicated marshal on duty from 7 pm 31 December 2008 through to 2 am 1 January 2009.
5. Hand washing facilities provided with soap and paper towels shall be provided in every sanitary facility.
6. Sanitary facilities shall be secured so as to prevent movement or tipping of the individual units.
7. Sanitary facilities are to be periodically cleaned and re-supplied with toilet paper and paper towels as required.

Camping

8. No camping is permitted on the Fly point public park as part of this consent. The event coordinator is responsible for ensuring no camping within the event area, occurs during the period of occupation of the site being 31 December through to 2 January. Be advised that failure to comply with this condition is an offence under the provisions of the Environmental Planning & Assessment Act 1979.

Signage

9. Highly visible directional signage located in appropriate locations i.e. entrance, near food & drink outlets, is to be installed.
10. Temporary advertising signage for the event must only be displayed for a period of not more than 1 month prior to the event and must be removed within 48 hours after the event. All signage is to be erected on private property, must be securely attached to an approved advertising sign, fence or post supports, and must have a height no greater than 3m above natural ground level and a maximum area no greater than 5 square metres. A maximum of 6 temporary advertising signs are permitted for this event.

Lighting

11. In addition to existing lighting in the park and surrounding areas to be utilised on the day of the event all isolated lighting towers shall be installed in accordance with the lighting plan included in the Event Management Plans.
12. One additional lighting tower shall be installed to the rear of the proposed bars sales/ticket area positioned so as to illuminate the bushland area to the north east of the event area.
13. All lighting associated with the event shall be positioned and operated so as not to cause light spillage onto surrounding residence. Such lighting shall be directed away from the said residential areas.
14. Toilet areas, food stalls, drink outlets, stage and patron areas are to be adequately lit to enable safe access and movement of patrons.
15. Temporary lighting towers shall be positioned and secured so as not to cause harm or risk of injury to patrons, staff and the public.
16. Lighting is required to illuminate area of site and surrounds with no shadow. Mobility of light stands and/or additional lights is required if deemed necessary on the night by Police. The applicant is advised to liaise with the NSW Police Service in this regard.

Vegetation Management

17. All existing vegetation is to be appropriately protected from damage by patrons. Ridged permanent barriers shall be installed for the period of the event for all existing saplings with a girth less than 100mm. Protective barriers shall comprise a securely fixed chain mesh fence 2m in height extending around the drip area of the tree or an alternative approved by Council.

Waste Management

18. A dedicated waste storage bin of a minimum capacity of 3m³ shall be provided at the patron entry point for storage of seized goods and waste. All bins shall be serviced as required so as to ensure adequate storage capacity is available for use during the event so as to prevent waste spillage.
19. Rubbish Bins shall be located as a minimum: * At food and drink stalls * Near toilets * In designated eating area/drinking areas * Public/patron entrances and exits. And shall be monitored and serviced throughout the event.
20. All bins shall be positioned and secured so as not to cause harm or risk of injury to patrons and staff.
21. No sale of glass containers or vessels shall be provided during the event.
22. A log/record of the total volume of waste shall be recorded and provided to Council at each post event review meeting. The log shall comprise but not be limited to total volume, type of waste where possible to generally

classify (eg plastic, metal, putrescibles food scraps etc) and volume of waste collected post event not located in dedicated storage bins (ground rubbish).

23. Five x 3m³ bins and 45 wheelie bins serviced by private contractors are to be provided for use on the day of the event. The bin system should be divided into materials with the following categories: * Plastic bottles and cans, * cardboard and paper products and/or organic materials that can be composted, * rubbish (materials which can not be recycled) eg plastic bags, polystyrene.
24. Additional bins and lights to be provided at the bus drop off point and toilets at Bill Strong Oval.

Event Operation

25. The set-up of the event and final cleanup and removal of all items shall extend over two days only being 31 December and 1 January. No equipment or waste material associated with the event shall be onsite prior to and post the stated dates.
26. Excluding the noted provision for a security fence holding area, unrestricted access shall be provided to Fly Point Park from midnight 1st January.
27. A maximum of 5500 patrons shall be permitted into the event area on the day of the events.
28. The events shall operate to ensure no pass out is available to patrons between the hours of 7.30pm, 31 December 2008 until 1.30am, 1 January 2009.
29. After the event, the site and surrounds are to be restored to the condition they were in before the event, to Councils satisfaction (Recreation Services).

Food Stalls

30. Food vendors operating at the event are required to have documented approval to operate in Port Stephens Council area and this documentation is provided by the proprietor on the attached notification form to Council 28 days prior to the commencement of each event.
31. The event coordinator shall participate or provide a suitable representative to meet with Council officers, within 30 days from the last day of each event, to review to operations of the event and to address any matters arising from the holding of the event.

Emergency Management

32. Portable fire extinguishers shall be available for the duration of the event. Extinguishers to be suitable for Class A and Class E risks, and under the supervision of the site manager. The extinguishers are to have been tested within the previous 12 months and recorded as being fully operational as prescribed in the relevant Australian Standard.

33. No less than ten (10) First Aid personnel are to be on site during the event. At least three (3) First Aid Stations are to be provided for the event, with power and water, in accordance with St John Ambulance Australia Guidelines.
34. A copy of the Emergency Management Plan is to be kept in the Event Coordination Centre during the event.
35. Open fires are not permitted at the event.
36. Written advice from the NSW Ambulance Service that they are aware of the event is required to be submitted to Council prior to the event.

Noise Control

37. The operating noise level of the function and entertainment provided shall comply with the following: a. The LA10 noise level emitted from the entertainment area shall not exceed the L90 background level in any octave band frequency (31.5 Hz/8kHz inclusive) by more than 10dB between 6.00pm and midnight at the boundary of any effected residential premises. i) The LA10 noise level emitted from the function and entertainment area shall not be audible within any habitable room in any residential premises after the hour of 12.00 midnight. ii) For the purpose of this condition, the LA10 can be taken as the average maximum defection of the noise emission from the premises.
38. The applicant to demonstrate to Council with a report from a suitably qualified and experienced professional that these noise levels can be achieved as prescribed. The applicant is to liaise with Council's Environmental Health Team Leader prior to employing this person, to ensure they have the relevant qualifications and experience. The report shall be provided a minimum of 21 days prior to the event.
39. The applicant shall engage the services of a suitably qualified and experienced person to undertake sound level monitoring between the hours of 7.30pm, 31 December and 1.30am, 1 January. Noise levels shall be taken at the boundary of the nearest residence from the stage area with testing undertaken at a minimum of once an hour with a minimum total number of 7 readings taken throughout the event. The applicant is to liaise with Council's Environmental Health Team Leader prior to employing this person, to ensure they have the relevant qualifications and experience.
40. A record of sound level monitored shall be maintained on the event site and available for audit by Council officers or NSW Police as required. Recorded details shall include but not be limited to: i. Name of person undertaking monitoring and professional qualifications relevant to noise monitoring. ii. Equipment used. iii. Location of sampling iv. Time of sample. v. Noise levels recorded at the time of sampling. vi. Mitigation measure taken in the event of prescribed noise levels being exceeded.
41. To assist in management of noise associated matters, the applicant shall provide to NSW Police, contact details for the consultant engaged

to undertake the monitoring of noise levels as prescribed in the conditions of consent, a minimum of seven days prior to each event. The consultant is to be available during the event to provide advice and undertake sampling for NSW Police as required and accessible at all times during the hours of monitoring.

42. The noise consultant shall be available to undertake monitoring during the event as requested by either NSW Police or Council.
43. Sound amplification equipment used during the event shall be installed and maintained to minimise the noise impact on any residential premises or business.
44. The applicant shall ensure that all stage, main speakers and performers face away from any residences.

Security

45. Security Plan (including Security Guard numbers) to be approved by NSW Police and submitted to Council before the event, including Certification/Licensing details.
46. All security guards shall be provided with two way communication units.
47. One nominated security officer shall be located at the temporary police command centre located at Port Stephens Police centre with two way communication to the event coordinator or person responsible for management of the event onsite on the night and all security guards in operation on the day of the event.
48. Perimeter fencing shall have full height screening installed so as to obscure view to within the event.
49. Security Guards presence is required within at least the charter ticket area of the foreshore. Security Guards are to breath test patrons prior to and during the event if eviction is needed.
50. A security log shall be maintained throughout each event which is to include but not be limited to:
 - i) Number of patrons and staff on site at any given time, maintained between 7.30 pm, 31 December and 1.30 am, 1 January.
 - ii) Contact details for event coordinator, security coordinator and first aid coordinator.
 - iii) Incident reports detailing event and actions taken.
51. A copy of a security log, noise monitoring log and waste management records shall be provided to Council at the time of the post event meeting with Council officers.

Alcohol Management

52. Where ticket sales are established for the sale of alcohol, tickets sales shall be issued at no more than five (5) per person per sale.

53. Tickets used for sale of alcohol shall be destroyed at the time of exchange for alcohol so as to ensure unauthorised reuse is prevented.

Traffic Management

54. A Road Closure is to be issued by the road authority (Council) prior to the commencement of each event.
55. A Traffic Management Plan is to be approved in writing by Council's Traffic Engineer two weeks prior to the event.
56. Residential and emergency vehicle access along Victoria Parade and any other public road must not be inhibited by the event.
57. Written advice from Port Stephens Coaches or an alternative bus company advising that they will service the event, to be submitted to Council prior to the event.
58. Variable Message Boards are to be utilised to display pick up points in the area.

Disability Access

59. A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1 shall be provided to and within any building on the site. This accessway shall provide access to all required facilities.
60. Accessible car parking spaces shall be provided. These spaces are to be compliant with Australian Standard 2890.1 (off street) or AS 2890.5 (on street). These accessible parking spaces must be in close proximity to the event hub and provide a clear accessible path of travel directly to the events. If accessible parking is to be provided upon request then the point where accessible parking is to be requested must be manned by a marshal who can direct patrons to the available accessible parking spaces. Clear signage shall indicate "disabled parking available on request" for Mobility Parking Scheme Permit holders. Under this arrangement, where a marshal directs a person to an accessible parking space, the space does not need to be signposted. * Alternatively an appropriate number of compliant accessible parking spaces (1 accessible space for every 30 standard spaces) can be provided in an unmanned area, provided they are clearly signposted as per AS1428.1
61. Access and facilities for the disabled provided in accordance with Australian Standard 1428.1 and relevant provisions of the Building Code of Australia. * Accessible toilet facilities must be provided wherever standard toilet facilities are provided for the event. These must be clearly signposted as being accessible as per AS1428.1.
62. Some of the proposed shuttle service must be provided using accessible buses with appropriate signage indicating disabled access. Main pickup and drop-off points for these services must be fully accessible.

NOTE: ITEM 4 OF THE GENERAL MANAGERS REPORT WAS BROUGHT FORWARD AND DEALT WITH PRIOR TO THIS ITEM AT THE REQUEST OF COUNCILLORS NELL & TUCKER.

ITEM NO. 1

FILE NO: T13-2008, A2004-0028

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d)(i) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1 on the Ordinary Meeting agenda namely **Tender – Newcastle Airport Airside Covered Walkway**
- 2) That the reasons for closing the meeting to the public to consider this item be that:
 - i) The report and discussion will include details of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the tenderers; and
 - ii) In particular, the report includes confidential pricing information.
- 3) That on balance, it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential commercial information could compromise the commercial position of the tenderers and adversely affect Council's ability to attract competitive tenders for other contracts.
- 4) That the report and minutes of the closed part of the meeting are to remain confidential and that Council makes public its decision including the name and amount of the successful tenderer in accordance with Clause 179 of the Local Government (General) Regulation 2005. **PSC's resolution will remain confidential until Newcastle City Council has made its decision.**

RESOLUTION:

285	Councillor Nell Councillor Tucker	It was resolved that the recommendation be adopted
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OPERATIONS COMMITTEE RECOMMENDATIONS

ITEM NO. 1

FILE NO: A2004-0242

2008-2009 CARRY FORWARD AND REVOTES

AUTHOR: JEFF SMITH - ACTING GROUP MANAGER COMMERCIAL SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the votes to be carried forward to the 2008/2009 Estimates as shown in **TABLE 1** of **ATTACHMENT 1**.
- 2) Approves the revotes from the 2007/2008 Estimates as detailed in **TABLE 2** of **ATTACHMENT 1** to this report and vote the necessary funds to meet expenditure.
- 3) Notes that the figures for the Carry Forwards and Revotes are only an Estimate and a further report will be tabled to Council after the Annual Financial Statements for 2007/2008 financial year have been audited.

OPERATIONS COMMITTEE MEETING – 14 October 2008**RECOMMENDATION:**

That the recommendation be adopted.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

286	Councillor Westbury Councillor Maher	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to amend the Budget and bring to Council's attention the value of carry forwards and revotes for review and adoption.

On the 22nd April 2008 Council adopted its Council Plan and Budget 2008/2011 (Council minute 83/2008). This included budget estimates for the 2008/2009 financial year.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

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

FINANCIAL/RESOURCE IMPLICATIONS

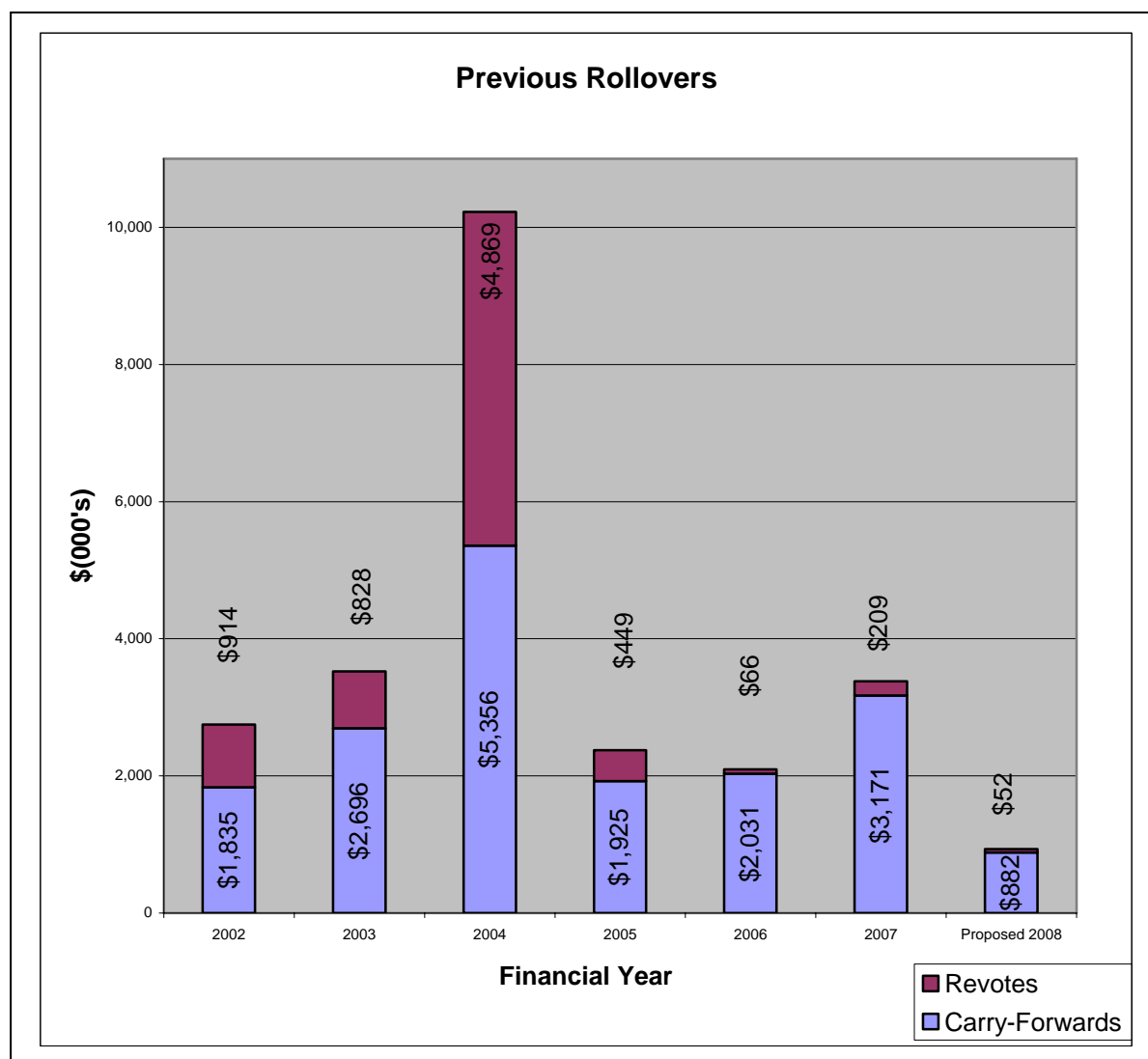
Council's original 2008/2009 Budget estimate is a \$264,472 cash surplus after internal transfers and before depreciation of \$13.5 million. **TABLE 1 OF ATTACHMENT 1** details works committed or in progress at the end of the 2007/2008 financial year. Typically, these funds are legally committed but remain partially or wholly unexpended at the end of the financial year. The funds are not automatically **carried forward** to the new financial year, Council is required to review the funds carried forward. Other unexpended funds may remain uncommitted and such votes lapse unless specifically revoked by Council.

The following table is a summary of the amounts recommended to be rolled forward from 2007/2008.

	Total	Recurrent	Capital
Carry Forwards – Table 1	\$881,576	\$89,227	\$792,349
Revotes – Table 2	\$51,688	\$43,031	\$8,657
Total	\$933,264	\$132,258	\$801,006

For comparative purposes the following table is a summary of the amounts rolled forward from 2006/2007.

	Total	Recurrent	Capital
Carry Forwards	\$3,171,093	\$94,105	\$3,076,988
Revotes	\$209,265	\$27,323	\$181,942
Total	\$3,380,358	\$121,428	\$3,258,930



LEGAL AND POLICY IMPLICATIONS

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:-

- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
- 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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Council's Budget is fundamental for operational sustainability and to the provision of facilities and services to the community.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Executive Group
Section Managers

OPTIONS

- 1) That Council adopts the Carry Forwards and Revotes detailed in this report.
- 2) That Council amends the Carry Forwards and Revotes detailed in this report.
- 3) That Council rejects the Carry Forwards and Revotes detailed in this report.

ATTACHMENTS

- 1) Table 1 – Identified Votes to be carried forward from 2007/2008 (Attach. 1)
- 2) Table 2 – Identified Revotes elected from 2007/2008 (Attachment 1)

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1

TABLE 1 –IDENTIFIED VOTES TO BE CARRIED FORWARD FROM 2007/2008

BUSINESS AND SUPPORT

Component	Master Description	Total Carried Forward	Recurrent	Capital	Source of Funds	Reason Carried Forward
BUSINESS OPERATIONS						
Soldiers Point Holiday Park	Pool sail, embankment and playground BBQ recreation area	\$70,154	\$0	\$70,154	H.P. Restricted Fund	Work in progress.
Halifax Holiday Park	Replace 7 cedar cabins, boundary fence and gates	\$34,411	\$0	\$34,411	H.P. Restricted Fund	Work in progress.
Fingal Bay Holiday Park	4 high range cabins	\$36,479	\$0	\$36,479	H.P. Restricted Fund	Work in progress.
	TOTAL	\$141,044	\$0	\$141,044		

CORPORATE MANAGEMENT

Component	Master Description	Total Carried Forward	Recurrent	Capital	Source of Funds	Reason Carried Forward
CORPORATE MANAGEMENT						
Governance	Aust Business Excellence	\$16,715	\$16,715	\$0	Revenue	Orders raised, goods not received.
External Relations	Corporate Services	\$10,000	\$10,000	\$0	Revenue	Orders raised, goods not received.
	TOTAL	\$26,715	\$26,715	\$0		

SUSTAINABLE PLANNING

Component	Master Description	Total Carried Forward	Recurrent	Capital	Source of Funds	Reason Carried Forward
INTEGRATED PLANNING						
Social Planning	Aboriginal Projects	\$17,406	\$17,406	\$0	Revenue	Work to be completed in 2008/2009.
Social Planning	Community Safety Officer	\$1,319	\$1,319	\$0	Revenue	Work to be completed in 2008/2009. Grant received and taken to revenue.
ENVIRONMENTAL SERVICES						
Environmental Projects	Environmental Education	\$1,549	\$1,549	\$0	Revenue	Unspent funds to be incorporated into 2008/2009 program. Contribution received and taken to revenue.
Environmental Projects	Tilligerry Creek Land Care	\$18,607	\$18,607	\$0	Restricted Cash	Grant received in 2008, costs committed and projects to be finalised in 2009.
Environmental Projects	Koala Habitat Restoration	\$3,782	\$3,782	\$0	Restricted Cash	Unspent funds to be incorporated into 2008/2009 program.
Environmental Projects	Alligator Weed Eradication Program	\$12,084	\$12,084	\$0	Restricted Cash	Unspent funds to be incorporated into 2008/2009 program.

ORDINARY MINUTES – 21 OCTOBER 2008

Component	Master Description	Total Carried Forward	Recurrent	Capital	Source of Funds	Reason Carried Forward
Natural Resources	Community environmental projects	\$7,765	\$7,765	\$0	Revenue and Restricted Cash	Incomplete environmental projects to be completed in 2008/2009. \$1,381 grant received and taken to revenue. \$6,384 Grant received and taken to Restricted cash.
	TOTAL	\$62,512	\$62,512	\$0		

FACILITIES AND SERVICES

Component	Master Description	Total Carried Forward	Recurrent	Capital	Source of Funds	Reason Carried Forward
RECREATION SERVICES						
Sportsfields	Green Wattle Creek extension of riding area	\$37,716	\$0	\$37,716	Sec 94 and Grants	Work in progress.
Sportsfields	Bowthorne Park Shelters, storerooms	\$9,707	\$0	\$9,707	Sec 94, Grants and Contributions	Work in progress.
Sportsfields	Mallabula sports landscaping	\$1,595	\$0	\$1,595	Restricted cash and Contributions	Work in progress.
Sportsfields	King Park Lighting	\$46,318	\$0	\$46,318	Ward Funds and Contributions	Works have commenced. \$7,000 Ward Funds and \$39,318 Contributions.
Sportsfields	Medowie Skatepark	\$57,253	\$0	\$57,253	Sec 94 and Grants	Works have commenced.

ORDINARY MINUTES – 21 OCTOBER 2008

Component	Master Description	Total Carried Forward	Recurrent	Capital	Source of Funds	Reason Carried Forward
Parklands	Kitty Hawk Playground	\$9,105	\$0	\$9,105	Restricted cash	Works have commenced. Dependent on how much Sec 94 is received during 2007/8.
Parklands	Western Area Bushland development Raymond Terrace parks	\$3,000	\$0	\$3,000	Environmental Levy Restricted Fund	Works have commenced.
Parklands	Electrical Assets	\$27,301	\$0	\$27,301	Asset Rehabilitation Restricted Fund and Sec 94	Works have commenced.
Parklands	Western Area Parks and Playground Plan	\$21,807	\$0	\$21,807	Asset Rehabilitation Restricted Fund and Sec 94	Works have commenced.
Foreshores	Foreshore Management Plan Implementation	\$6,581	\$0	\$6,581	Environmental Levy Restricted Fund	Works have commenced.
Foreshores	Foreshore Signage improvements	\$41,440	\$0	\$41,440	Sec 94, Grants and Contributions	Works have commenced.
Foreshores	Nelson Bay Wharf Upgrade	\$34,289	\$0	\$34,289	Sec 94 and Grants	Works have commenced.
Foreshores	Fingal Bay Surf Club Improvements	\$25,111	\$0	\$25,111	Sec 94 and Revenue.	Works have commenced. Revenue was from an insurance claim rolled forward from 2006.
Foreshores	Shelley Beach Landscape Improvements	\$91,598	\$0	\$91,598	Sec 94 and Grants	Works have commenced.

ORDINARY MINUTES – 21 OCTOBER 2008

Component	Master Description	Total Carried Forward	Recurrent	Capital	Source of Funds	Reason Carried Forward
Community Halls	Fern Bay Hall	\$4,797	\$0	\$4,797	Contributions	Works have commenced.
Community Halls	Hinton Hall	\$46,996	\$0	\$46,996	Sec 94 and Contributions	Works have commenced.
Community Halls	Tilligerry Community Centre	\$1,819	\$0	\$1,819	Sec 94 and Contributions	Works have commenced.
TRANSPORT						
Roads Construction	Tanilba Avenue Construction	\$67,219	\$0	\$67,219	Restricted R2R Grant received	Work in progress.
DRAINAGE						
Drainage Construction	Gan Gan Road Anna Bay	\$99,000	\$0	\$99,000	Transport Levy Restricted Fund	Work in progress.
Drainage Construction	Seabreeze Estate Infiltration	\$18,653	\$0	\$18,653	Transport Levy Restricted Fund	Work in progress.
	TOTAL	\$651,305	\$0	\$651,305		

TOTAL FOR TABLE 1 – CARRY FORWARDS

Total	Recurrent	Capital
\$881,576	\$89,227	\$792,349

TABLE 2 –IDENTIFIED VOTES TO BE REVOTED FROM 2007/2008

FACILITIES AND SERVICES

Component	Master Description	Total Carried Forward	Recurrent	Capital	Source of Funds	Reason Carried Forward
SPORT AND RECREATION						
Sportsfields	Ferodale Park Drainage	\$8,657	\$0	\$8,657	Restricted Cash and Grant	Work to be completed in 2008/2009.
	TOTAL	\$8,657	\$0	\$8,657		

CORPORATE MANAGEMENT

Component	Master Description	Total Carried Forward	Recurrent	Capital	Source of Funds	Reason Carried Forward
CORPORATE MANAGEMENT						
Councillor Services	Minor Works Provision	\$43,031	\$43,031	\$0	Revenue	Unallocated minor works provision. \$11,757 East Ward, \$24,708 Central Ward and \$6,567 West Ward.
	TOTAL	\$43,031	\$43,031	\$0		

TOTAL FOR TABLE 2 – REVOTES

Total	Recurrent	Capital
\$51,688	\$43,031	\$8,657

ITEM NO. 2

FILE NO: PSC2008-9059

GRANT FOR STORMWATER TREATMENT DEVICE AT TANILBA BAY COMMERCIAL CENTRE**REPORT OF: MICK LOOMES - ENGINEERING SERVICES MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Accept the Hunter Central River Catchment Management Authority's Grant offer of \$100,000 for the installation of a Stormwater Treatment Device at Tanilba Bay.
- 2) Review the existing drainage capital in the Integrated Works Program (IWP) 2008/09 budget to allocate matching funds of \$100,000 for this project.

OPERATIONS COMMITTEE MEETING – 14 October 2008**RECOMMENDATION:**

That the recommendation be adopted.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

287	Councillor Tucker Councillor Jordan	It was resolved that the recommendation be adopted.
-----	--	---

Note: Cr Jordan left the meeting at 6.49pm during Item 2

BACKGROUND

The purpose of this report is to seek Council approval to accept a \$100,000 drainage grant offer and to provide matching funds of \$100,000 by review of drainage capital works as part of the Integrated Works Program 2008/09 for the installation of a Stormwater Treatment Device (STD) at Tanilba Bay Commercial Centre.

In early September 2008, Council applied for funding through the Hunter Central River Catchment Management Authority's (HCRCA) Partnership Program 2008/09 for the construction of a Stormwater Treatment Device at Tanilba Bay commercial centre. In the application, Council suggested a matching funding of \$100,000 as Council's contribution. On 16 September 2008, the HCRCA advised that the grant

was approved to the value of \$100,000. A copy of the letter from HCRCMA is attached.

The Tilligerry Creek catchment covers an area of 130 km², which forms part of Port Stephens Estuary. The Tanilba Bay commercial centre catchment (28ha) is a sub-catchment of the Tilligerry Creek catchment and consists of various zonings such as commercial, residential, road and public reserve. In 2005, water quality issues within Tilligerry Creek and the surrounding catchment led to the closure of oyster farming in sections of the creek. This prompted Council to consider a number of water quality works to improve the health of the catchment.

Council's Urban Stormwater and Rural Water Quality Management Plan 2003 and the draft Tilligerry Creek Management Plan identified this project as a high priority item. This item is also listed on Council's Forward Works Plan and Integrated Works Program.

The project involves construction of a Stormwater Treatment Device to trap litter, sediment, nutrients and hydrocarbons etc. It will be located with the existing drainage system at the southern end of President Wilson Walk. It also involves an education campaign that will focus on the quality of stormwater entering Tilligerry Creek and how to control the pollutants at their sources.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:

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.*

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

FINANCIAL/RESOURCE IMPLICATIONS

The available options are:

Option 1--Review the current drainage budget and fund \$100,000 for this project and defer the implementation of a drainage project such as the project at Melba Crescent, Raymond Terrace until 2009/10 which is preferred.

or

Option 2--Allocate a further \$100,000 from general revenue to fund this project which is not preferred due to current financial constraints..

Annual maintenance & cleaning costs in the order of \$3,000 will be ongoing once the Stormwater Treatment Device is installed.

LEGAL AND POLICY IMPLICATIONS

Council's Urban Stormwater and Rural Water Quality Management Plan, 2003 and the draft Tilligerry Creek Management Plan encourage the implementation of pollutant control infrastructure within the LGA to improve stormwater quality. The following Management Targets from the Hunter- Central River Catchment Management Authority's Catchment Action Plan will be addressed by this project.

Management Target 23 –Urban Stormwater Management

Management Target 13 – Manage Nutrient Runoff

Management Target 06 –Protect wetlands

Management Target 28 – Protect Marine Habitat

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.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The improvement of Tilligerry Creek is vital for the environmental, economic and social health of Port Stephens. Tilligerry Creek flows into Port Stephens which supports extensive tourism, fisheries and oyster industries. Tourism in Port Stephens is based around the Port and each year attracts 1.3millions visitors spending \$300 million. A continual decrease in the water quality of the Tilligerry Creek and Port Stephens waters will have a long-term impact on this industry and the social and economic health of the area.

ECONOMIC IMPLICATIONS

The total estimated cost to implement the project including the educational component is \$200,000. HCRCMA has offered a contribution of \$100,000 and matching funding of \$100,000 is required from Council to complete the project.

ENVIRONMENTAL IMPLICATIONS

The installation of a Stormwater Treatment Device at the end of the pipe system would reduce the pollutants (litter, nutrients, sediments, hydrocarbons etc) entering Tilligerry Creek and protect its natural resources. Installation of this type of device is one of the best practice management options to improve the stormwater quality in existing developed areas.

Tilligerry Creek and Port Stephens waters are vital ecosystems that support many fish and other aquatic species. The benefit of this action will protect and improve the marine and estuarine environments.

CONSULTATION

The Tilligerry Creek Catchment Committee was established to review the feedback received during the consultation period of the draft Catchment management Plan and assist to get the plan adopted. It has provided a forum to drive the plans implementation by being a feedback link to the wider community. The committee is very supportive of the project and is pleased to see Council taking active steps to improve the health of the catchment. In particular the committee noted that they were pleased to see an initiative that focused on the urban community as to date projects have been agriculturally based. Council will regularly provide information about the progress of this project to the committee.

Extensive consultation has been carried out with Council's Environmental Section in preparation of the funding application and other matters related to this project.

OPTIONS

- 1) The Recommendations included in this report.
- 2) Council allocate an extra \$100,000 from revenue to fund the project.
- 3) Reject the Grant.

ATTACHMENTS

- 1) The letter from Hunter-Central Rivers Catchment Management Authority.
- 2) Location map

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

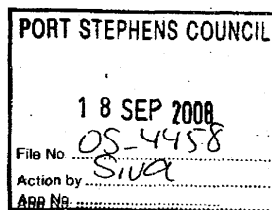
Nil

ATTACHMENT 1



PP055

Mr Nalliah Sivabalan
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324



Dear Mr Sivabalan,

Re: Partnership Program 2008/09

Thank you for your proposal submitted to the CMA for consideration under the 2008/09 State Agency, Local Government and NGO Partnership Program. The CMA received 33 applications for funding under the program, totalling just over \$2M.

The assessment of all proposals is now complete and I am pleased to advise that the CMA Board has approved funding for your proposal to the value of \$100,000. You will be contacted by your CMA Contact Officer (Geoff LeMessurier 65518994 ext 239) to finalise a contract for your project.

As stated in the program guidelines, please be reminded that all works included in your project **must** be completed by the end of June 2009. Signing of the contract must, therefore, be completed within 30 calendar days from the date of this letter.

Please be aware that if you have any existing contracts with the CMA for funding, these works must have been implemented and final reports and invoices provided before the CMA can enter into any further contracts with you.

The CMA congratulates you on the success of your proposal and looks forward to working with you to implement your project.

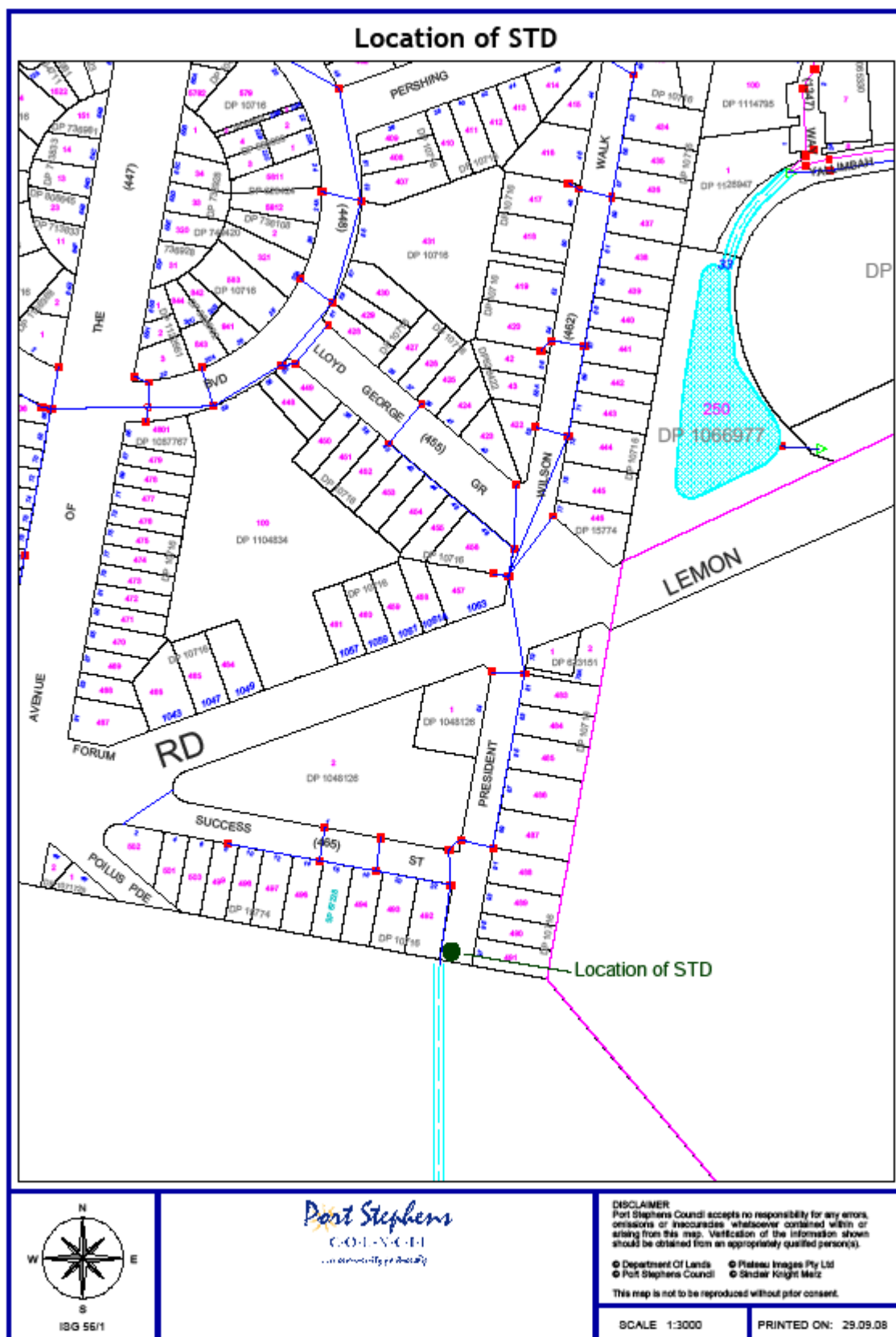
Yours faithfully

A handwritten signature in black ink, appearing to read "Jeff Palmer".

Jeff Palmer
Program Manager
For Glenn Evans
General Manager
16 September 2008

Private Bag 2010 PATERSON NSW 2421 - 816 Tocal Road PATERSON
Tel: 02 4930 1030 - Fax: 02 4930 1013 - ABN: 50 602 455 909

ATTACHMENT 2



ITEM NO. 3

FILE NO: PSC2007-4075

ROAD CLOSURE BOONDABA LANE TANILBA BAY**REPORT OF: PHIL BUCHAN - COMMERCIAL BUSINESS MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) Consents to the closure of Boondaba Lane adjoining Lot 459 DP 1109520 at Tanilba Bay.
- 2) Makes application under Section 34 Roads Act 1993 to the Department of Lands for the closure to be processed.
- 3) Obtains a valuation from the state Valuation Office of the proposed closure area and that valuation be set as the purchase price.
- 4) On finalisation of the closure and payment of all costs and the purchase price by the applicant (owner lot 459) a land Transfer for the closure area be prepared by Council.
- 5) Lodges a subdivision application with Council for the lot as required by Land and Property Information NSW.
- 6) Prepare a plan for the subject area to be consolidated with the adjoining lot (owned by Landcom) if the application is successful.
- 7) Allocate proceeds from the sale to road improvements in the vicinity.
- 8) Grants authority to affix the Council Seal and signatures to the road closure subdivision plan prior to lodging it at the office of Land and Property Information.
- 9) Grants authority to affix the Council Seal and Signatures to the future Transfer, if the matter is successfully concluded.

OPERATIONS COMMITTEE MEETING – 14 October 2008**RECOMMENDATION:**

That this matter be deferred to the Ordinary Council meeting 21 October 2008 to allow further information to be provided.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

288	Councillor Tucker Councillor Mackenzie	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to recommend the closure of Boondaba Lane and consolidate it with Lot 459 DP 1109520 to be sold to adjoining owner as part of current land holding.

Council is applying to close and consolidate a section of road shown in ATTACHMENT 1 (public road) adjoining the boundary of Lot 459 DP 1109520. The total area of road to be closed is 1656m² as shown in ATTACHMENT 2. If closed, the parcel will be sold to Landcom, being the applicant and adjoining owner.

Landcom declared Boondaba Lane public road as part of a subdivision plan dated 24 May 2007, which proposed to open to service lots within its Koala Bay Estate. There has been significant opposition to this option and it is now timely and logical that the Lane be closed and returned to Landcom.

The land is proposed to be incorporated into the land holdings of Landcom and redistributed into residential lots.

The proposed closure has been advertised and adjoining owners notified with no objections being received. Council has been advised that the Service Authorities have no assets in the area and therefore raise no objection to the proposal. Council's staff have no objections to the proposed closure.

If the closure is successful a Certificate of Title will be issued in Council's name, this will then be transferred to the applicant on payment of the purchase price and costs. As is normal in these matters, the State Valuation Office will be required to provide a valuation for the closed road and this will be used to establish the purchase price. While a valuation has not been carried out at this stage it is possible that the valuation will be somewhere in the range of \$35,000 to \$45,000 generally based on land values for the residential rate in Tanilba Bay.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

SOCIAL SUSTAINABILITY –	<i>Council will preserve and strengthen the fabric of the community, building on community strengths.</i>
ENVIRONMENTAL	<i>Council will protect and enhance the environment while</i>
SUSTAINABILITY –	<i>considering the social and economic ramifications of decisions.</i>

FINANCIAL/RESOURCE IMPLICATIONS

The applicant must meet all costs associated with the closure process. If these costs are not met at different stages through the process the next stage is not commenced, until such payment is made.

LEGAL AND POLICY IMPLICATIONS

All actions relating to road closure and purchases are controlled by the Roads Act 1993 with the application being made under Section 34. The Department of Lands is responsible for the process once Council consents to the closure. That Department makes the final decision and gazettes the closure. The Conveyancing Act control the actual sale process once the new Certificate of Title has been issued. Council's Road Closure Policy details the actions to be followed.

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) **CUSTOMERS** – *Understand what makes markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 2) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 3) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 4) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil, as the area is not being used to access any land parcels.

ECONOMIC IMPLICATIONS

The only implications can be positive as Council's maintenance is reduced on the area and some funds can be realised for other road works.

ENVIRONMENTAL IMPLICATIONS

There should be no implications.

CONSULTATION

Applicant; Department of Lands; Service Authorities; adjoining owners; development consultants; Council's Facilities & Services and staff and Principal Property Advisor.

OPTIONS

- 1) Accept recommendation
- 2) Refuse consent

ATTACHMENTS

- 1) Plan showing proposed closure
- 2) Plan showing area of land

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil

59



ITEM NO. 4

FILE NO: A2004-0511

LOCAL TRAFFIC COMMITTEE MEETING – 2ND SEPTEMBER, 2008

AUTHOR: TREVOR ALLEN - INTEGRATED PLANNING MANAGER

RECOMMENDATION IS THAT COUNCIL:

Adopt the recommendations contained in the minutes of the local Traffic Committee meeting held on 2nd September, 2008.

OPERATIONS COMMITTEE MEETING – 14 October 2008**RECOMMENDATION:**

That the recommendation be adopted.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

289	Councillor Nell Councillor Jordan	It was resolved that the recommendation be adopted.
-----	--------------------------------------	---

Matter Arising:**Moved Cr Nell, Seconded Cr Westbury**

That the Local Traffic Committee consider speed reduction methods on the 50km section of Port Stephens Drive.

RESOLUTION:

290	Councillor Nell Councillor Jordan	It was resolved that the recommendation be adopted.
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Matter Arising:**Moved Cr Nell, Seconded Cr Westbury**

That Council investigate the installation of street lights in 50km section of Port Stephens Drive.

RESOLUTION:

291	Councillor Nell Councillor Jordan	It was resolved that the recommendation be adopted.
-----	--------------------------------------	---

Matter Arising:**Moved Cr Ward, Seconded Cr Mackenzie**

That the Local Traffic Committee consider the allocation of parking spaces for people with disabilities in the vicinity of the Chemist at Shoal Bay

RESOLUTION:

292	Councillor Nell Councillor Jordan	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to bring to Council's attention traffic issues raised and detailed in the Traffic Committee minutes and to meet the legislative requirements for the installation of any regulatory traffic control devices associated with Traffic Committee recommendations.

Inspections were conducted on Wednesday 20th August, 2008. In attendance were Port Stephens Council's Technical representative, the NSW Roads and Traffic Authority representative and NSW Police representative.

The Local Traffic Committee met at 9.30am on Tuesday 2nd September, 2008 in Council's Administration Building. In attendance were Port Stephens Council's Technical representative, Roads and Traffic Authority's representative, Port Stephens Council's Road Safety Officer, NSW Police representative, Local Member for Port Stephens Mr C Baumann and Hunter Valley Buses representative. No apologies were received.

LINKS TO CORPORATE PLANS

The items referred to the local Traffic Committee, and the subsequent recommendations are linked to the current Council Plan 2007 - 2011. In Parts 5 and 7 of the Plan, the Local Traffic Committee contributes to the following directions and goals:

- 1) Provide programs and planning instruments that enhance the safety of individuals and the community whilst preserving social amenity and discouraging social isolation.
- 2) Providing good community planning and the development of quality infrastructure.

FINANCIAL/RESOURCE IMPLICATIONS

Council has an annual budget of \$41 000 (\$25 000 grant from the RTA and General Revenue) to complete the installation of regulatory traffic controls (signs and markings) recommended by the Local Traffic Committee. The construction of traffic control devices and intersection improvements resulting from the Committee's recommendations are not included in this funding and are listed within Council's

“Forward Works Program” for consideration in the annual budget process. The construction of traffic control devices and intersection improvements for items with a **SAFETY PRIORITY** (listed below) have a budget of \$ 25 000 (Safety Around Schools Program).

The local Traffic Committee procedure provides a mechanism to respond to and remedy problems in accordance with Council’s “Best Value Services” Policy. The recommendations contained within the local Traffic Committee Minutes can be completed within the current Traffic Committee budget allocations and without additional impact on staff or the way Council’s services are delivered.

SAFETY PRIORITIES

The installation of regulatory traffic controls or traffic control devices that are noted as having a Safety Priority shall be attended to before other works undertaken by Council. These works are generally of an urgent nature requiring immediate action.

There were no items with a Safety Priority as part of the business of the meeting of the 2nd September, 2008.

ITEMS OF INTEREST

Council may take advantage of the knowledge and experience of the Local Traffic Committee members to help them resolve or clarify an issue. When wishing to utilise the expertise of the Local Traffic Committee members in this manner, these items will be included on the agenda under General Business. General Business Items will be dealt with following the completion of formal Local Traffic Committee items.

LEGAL AND POLICY IMPLICATIONS

The local Traffic Committee is not a Committee of Council; it is a technical advisory body authorised to recommend regulatory traffic controls to the responsible Road Authority. The Committee’s functions are prescribed by the Transport Administration Act with membership extended to the following stakeholder representatives; the Local Member of Parliament, NSW Police, Roads & Traffic Authority and Council.

The procedure followed by the local Traffic Committee satisfies the legal requirements required under the Transport Administration (General) Act furthermore there are no policy implications resulting from any of the Committee’s recommendations.

AUSTRALIAN BUSINESS EXCELLENCE FRAMEWORK

This aligns with the following ABEF Principles;

- 2) Mutually agreed plans translate organisational direction into actions
- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 6) Continual improvement and innovation depend on continual learning
- 8) Effective use of facts, data and knowledge leads to improved decisions
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society

- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

The recommendations from the local Traffic Committee aim to improve traffic management and road safety.

SOCIAL IMPLICATIONS

A safer road environment reduces costs to the Council and community by reducing the number and severity of accidents on our roads.

ECONOMIC IMPLICATIONS

Improved transport efficiency assists in the reduction in green house gases and vehicle operating costs.

ENVIRONMENTAL IMPLICATIONS

Transport efficiency and road user safety; contribute positively to the quality of life for residents and visitors to Port Stephens. Improved road user safety distributes benefits to all road users including commercial and private motorists, cyclists and pedestrians. These benefits include improved accessibility, mobility and safer road environment.

CONSULTATION

The Committee's technical representatives are the Police, RTA, and Council Officers; they investigate issues brought to the attention of the Committee and suggest draft recommendations for further discussion during the scheduled meeting. One week prior to the local Traffic Committee meeting copies of the agenda are forwarded to the Committee members, Councillors, Facilities and Services Group Manager, Integrated Planning Manager and Road Safety Officer. During this period comments are received and taken into consideration during discussions at the Traffic Committee meeting.

No additional consultation was undertaken as part of the meeting of 2nd September, 2008.

OPTIONS

- 1) Adopt the Recommendation.
- 2) Adopt specific item recommendations contained in the minutes of the local Traffic Committee and refer non-adopted matters back to the next meeting of the local Traffic Committee with suggested amendments.

ATTACHMENTS

- 1) The minutes of the local Traffic Committee meeting held on 2nd September, 2008 are contained in ATTACHMENT 1.

TABLED DOCUMENTS

- 1) Nil

**ATTACHMENT 1
PORT STEPHENS LOCAL TRAFFIC COMMITTEE MEETING**

**INDEX OF LISTED MATTERS
FOR THE MEETING HELD ON TUESDAY 2ND SEPTEMBER, 2008**

- A. ADOPTION OF THE MINUTES OF TRAFFIC COMMITTEE FROM AUGUST 2008
- B. BUSINESS ARISING FROM PREVIOUS MEETING
- C. LISTED MATTERS
 - C.1. HUNTER STREET RAYMOND TERRACE – INSTALLATION OF 2 HOUR PARKING RESTRICTIONS BETWEEN WILLIAM AND GLENELG STREETS
 - C.2. GLENELG STREET, RAYMOND TERRACE – VISIBILITY FOR PEDESTRIANS AT REFUGE
 - C.3. PATERSON STREET, HINTON – SCHOOL CROSSING
- D. INFORMAL ITEMS
 - D1. ABUNDANCE ROAD AND FAIRLANDS ROAD, MEDOWIE – REQUEST FOR REDUCTION IN SPEED
- E. GENERAL BUSINESS

PORT STEPHENS LOCAL TRAFFIC COMMITTEE MINUTES

Meeting commenced at 9.15am on 3rd September 2008 in the Port Stephens Council Chambers.

MEMBERS PRESENT:

Mr Craig Baumann MP, Member for Port Stephens
Snr Constable John Simmons, Port Stephens Local Area Command
Mr Bill Butler, NSW Roads and Traffic Authority
Mr Joe Gleeson, Port Stephens Council

APOLOGIES:

ADVISORS AND OBSERVERS PRESENT:

Mr Brian Mosely, Hunter Valley Buses
Mr Scott Page, Chairperson, Port Stephens Council
Ms Lisa Hudson, Port Stephens Council
Mr Graham Orr, Port Stephens Council

A. Adoption of the minutes of the Traffic Committee meeting held 5th August 2008:

The RTA representative noted that Item C1 contained a typing error and that the draft recommendation should read "Replace 1 Hour parking signs (1 space) with No Parking – Police vehicles excepted"

Adoption of the minutes was supported unanimously.

B. Business arising from the previous meeting:

Nil

C. Listed Matters

Item: C1

HUNTER STREET RAYMOND TERRACE – INSTALLATION OF 2 HOUR PARKING RESTRICTIONS BETWEEN WILLIAM AND GLENELG STREETS

State MP: Mr C Baumann MP

Requested by: Port Stephens Council

Background:

Council has requested that parking restrictions be installed in Hunter Street Raymond Terrace to reduce the impact of all-day parkers.

Comment:

All-day parkers from the Defence Force building at the corner of William and Hunter Streets are creating parking congestion in the streets surrounding the building. Council has recently approved the extension of parking restrictions in King and Bourke Streets to counteract this. It was noted by the Inspection Committee that vehicles were parked along Hunter Street restricting parking opportunity for visitors to the Junction Inn and to the river foreshore.

Extension of the 2 hour parking restrictions into Hunter Street will force commuter parkers to either park further away or to utilise the Defence Force car park at the intersection of Bourke and King Streets.

Recommendation to the Committee:

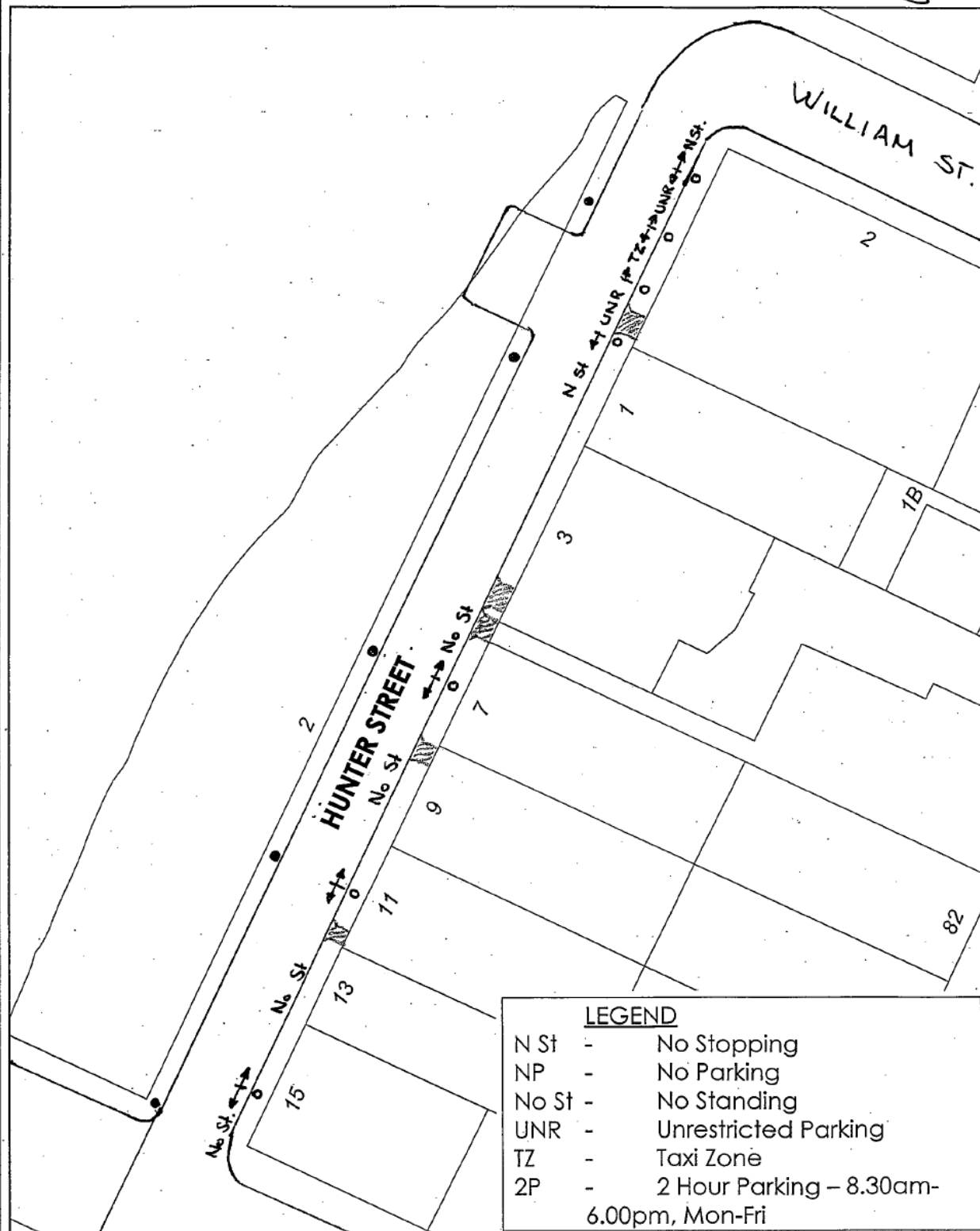
1. Install 2 hour parking restrictions in Hunter Street Raymond Terrace between William and Glenelg Streets as shown on the annexure to the agenda item.
2. Replace the existing 'No Standing' signs in Hunter Street with 'No Parking' signs, in accordance with RTA Technical Direction TD 99/21 - No Standing and No Parking signs

Discussion:

Support for the Recommendation:

- | | | |
|----|-------------------|-------------------------------------|
| 1) | Unanimous | <input checked="" type="checkbox"/> |
| 2) | Majority | <input type="checkbox"/> |
| 3) | Split Vote | <input type="checkbox"/> |
| 4) | Minority Support | <input type="checkbox"/> |
| 5) | Unanimous decline | <input type="checkbox"/> |

Item C1 - Hunter St Raymond Terrace - Existing



ISG 56/1

Port Stephens
C.O.U.N.C.I.L.
...a community partnership

0 metres 50

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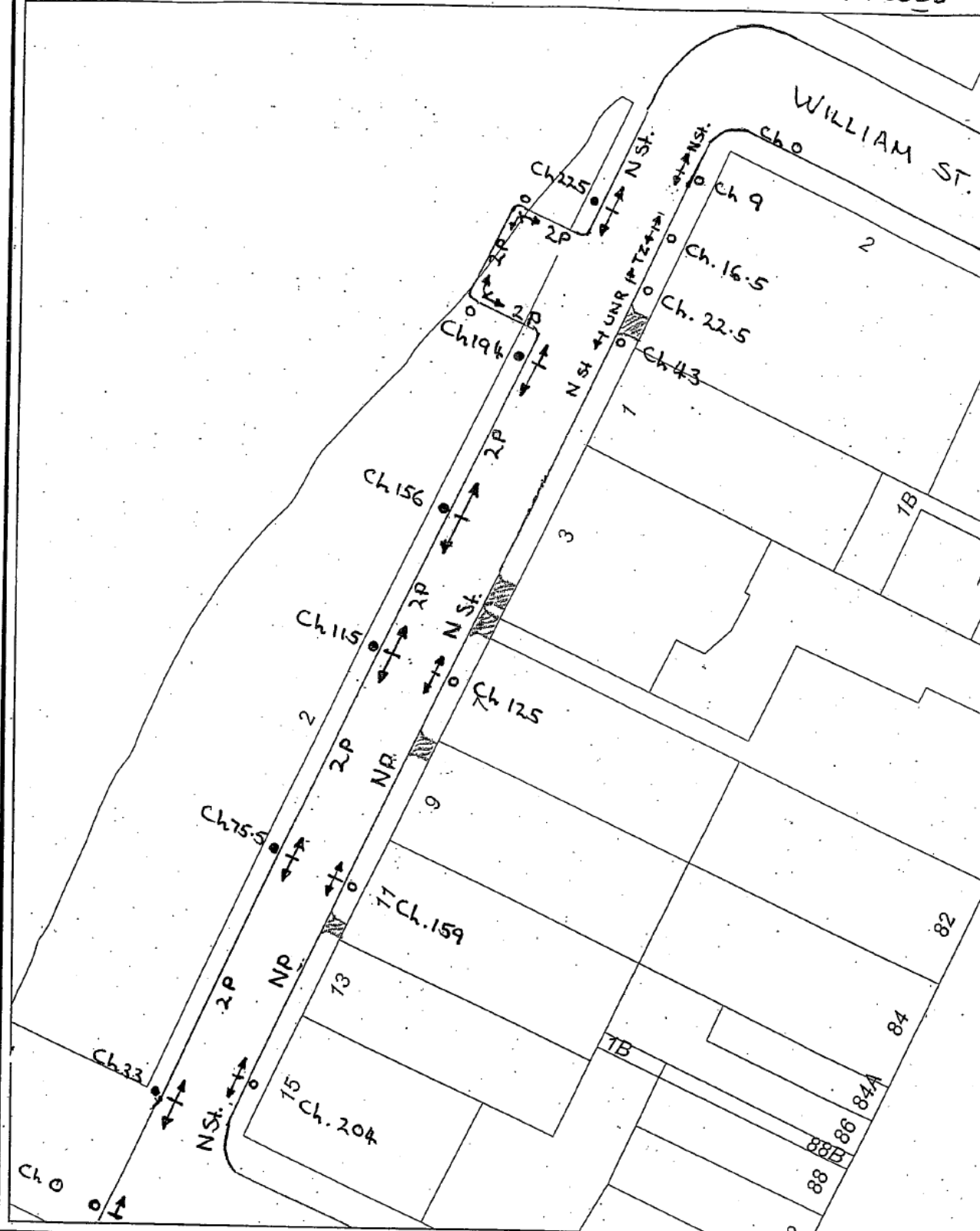
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Item C1 - Hunter St Raymond Terrace - PROPOSED



ISG 56/1

Port Stephens
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0 metres 50

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Item: C2

GLENELG STREET, RAYMOND TERRACE – VISIBILITY FOR PEDESTRIANS AT PEDESTRIAN REFUGE

State MP: Mr C Baumann MP

Requested by: Resident

Background:

A resident has requested Traffic Committee investigate the position of the 'Keep Left' signs positioned on the refuge islands on the Glenelg Street roundabouts.

The resident uses a mobility scooter and the signs block visibility of oncoming vehicles at the crossing points.

Comment:

Inspection of the site identified that the existing 'Keep Left' signs are positioned at such a height so as to reduce visibility for a person operating a mobility scooter.

The Inspection Committee recommended that the existing, standard 'Keep Left (R2-3)' be replaced by the narrow, vertical 'Keep Left (R2-209)'.

Recommendation to the Committee:

Change the existing 'Keep Left' (R2-3) to the narrow, vertical 'Keep Left' (R2-209)

Discussion:

<u>Support for the Recommendation:</u> 1)	Unanimous	<input checked="" type="checkbox"/>	
	2) Majority		<input type="checkbox"/>
	3) Split Vote		<input type="checkbox"/>
	4) Minority Support		<input type="checkbox"/>
	5) Unanimous decline		<input type="checkbox"/>

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Item: C3**PATERSON STREET, HINTON – SCHOOL CROSSING****State MP:** Mr F Terenzini MP**Requested by:** Resident**Background:**

A resident has requested that Traffic Committee investigate changes to the school crossing at Hinton Public School.

The resident comments that approximately 1 in 5 vehicles fail to stop for children crossing in school zone times.

Comment:

The Inspection Committee noted that the existing children's crossing posts are located well back from the roadside, reducing the effectiveness of the children's crossing flags and posts. Relocating the posts to the kerbside will improve visibility of the posts and flags and improve safety.

The 'No Stopping' sign on the northern side of Hinton Road is also situated too close to the children's crossing. Relocation of this post to the western side of the driveway of House no. 23 will improve sight distance for vehicles approaching the crossing.

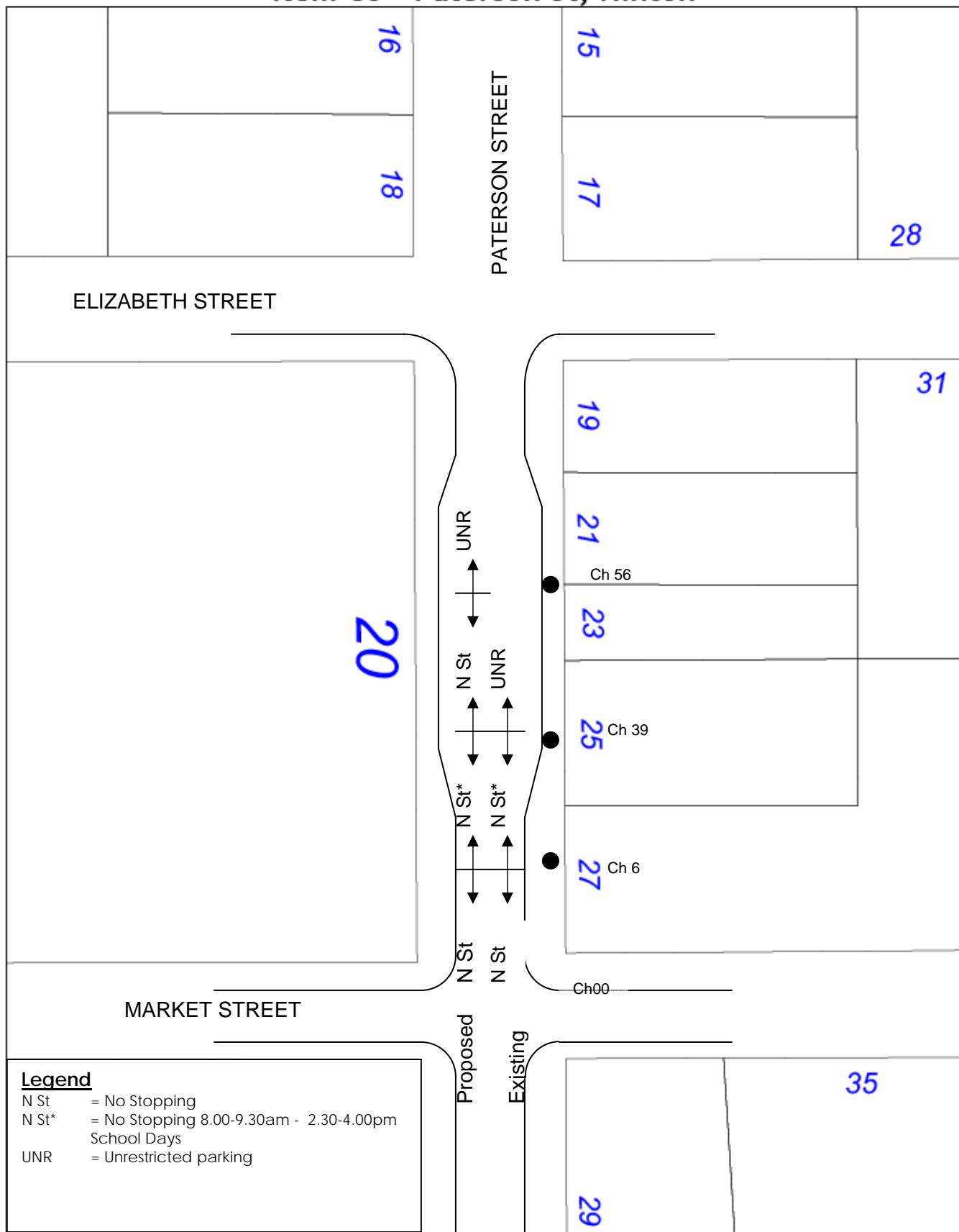
Recommendation to the Committee:

1. Relocate the existing 'No Stopping' sign at No.25 Hinton Road to the western side of the driveway of No.23 as shown on the annexure to the agenda item.
2. Relocate the children's crossing posts closer to the kerbside

Discussion:

<u>Support for the Recommendation:</u>	1)	Unanimous	<input checked="" type="checkbox"/>
	2)	Majority	<input type="checkbox"/>
	3)	Split Vote	<input type="checkbox"/>
	4)	Minority Support	<input type="checkbox"/>
	5)	Unanimous decline	<input type="checkbox"/>

Item C3 - Paterson St, Hinton



Legend

- N St = No Stopping
- N St* = No Stopping 8.00-9.30am - 2.30-4.00pm School Days
- UNR = Unrestricted parking

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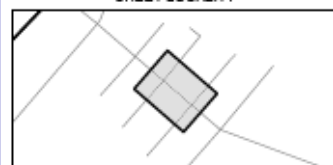
Port Stephens
COUNCIL
... a community partnership



100 000



SHEET LOCALITY



D. Informal Matters

Item: D1

ABUNDANCE ROAD AND FAIRLANDS ROAD MEDOWIE – REQUEST FOR REDUCTION IN SPEED

State MP: Mr C Baumann MP

Discussion:

The Committee noted that the request included Medowie Road as well. Committee members noted that any reduction in speed limit must be in keeping with the prevailing road environment.

Advice to the Committee:

1. Item to be referred to the RTA
2. Council to provide a recommendation of preferred speed limits in the Medowie area

Committees Advice:

That the advice to the Committee be accepted and that the matter be referred to the RTA with a recommendation from Council's Traffic Engineer regarding any changes to speed limits in the Medowie area.

E. General Business

Nil

The meeting closed at 10.15am

ITEM NO. 5

FILE NO: PSC2008-1328

**LEASE OF PART LOT 284 DP 806310, 155 SALAMANDER WAY,
SALAMANDER TO SALAMANDER CHILD CARE CENTRE****REPORT OF: JEFF SMITH, ACTING GROUP MANAGER, COMMERCIAL SERVICES****RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the occupancy by Salamander Child Care Centre Inc of part Lot 284 DP 806310 for a period of up to 20 years.
- 2) Authorise the Mayor and General Manager to affix the seal of Council to the lease documentation.

OPERATIONS COMMITTEE MEETING – 14 October 2008**RECOMMENDATION:**

That the recommendation be adopted.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

293	Councillor Dover Councillor O'Brien	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to formalise the occupancy of part 155 Salamander Way, Salamander, by Salamander Child Care Centre and to request the affixing of Council's seal to the lease documentation.

Salamander Child Care Centre (SCCC) currently occupies an area of land adjacent to the Tomaree Library and Community Centre located at 155 Salamander Way, Salamander. The centre was constructed with funds from both Local and State government and is a non-profit organisation providing child care for families on and around the Tomaree peninsular.

SCCC is currently under the control of a management committee, which is responsible for the day to day management of the facility. All maintenance of the building and surrounds are the responsibility of SCCC, together with outgoings, administration of the facility and employment of staff.

At present there is no formal agreement for SCCC to occupy the area and accordingly there is a need to formalise the responsibilities of both Council and SCCC in this respect. The terms of the proposed lease have been negotiated with SCCC and agreement has been reached to enter into a lease for a period of 10 years with a 10 year option (total term 20 years) at a rental of \$6,000.00 per annum, subject to annual review in accordance with CPI. All maintenance, outgoings and management of the facility remain the responsibility of SCCC.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

SOCIAL SUSTAINABILITY –	<i>Council will preserve and strengthen the fabric of the community, building on community strengths.</i>
CULTURAL SUSTAINABILITY –	<i>Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.</i>
ECONOMIC SUSTAINABILITY –	<i>Council will support the economic sustainability of its communities while not compromising its environmental and social well being.</i>
ENVIRONMENTAL SUSTAINABILITY –	<i>Council will protect and enhance the environment while considering the social and economic ramifications of decisions.</i>

FINANCIAL/RESOURCE IMPLICATIONS

The formalisation of the occupancy will provide Council with an annual return of \$6,000 per annum, subject to annual review. The income received from SCCC reduces the need to call on rate revenue for the sustainability of the facility.

LEGAL AND POLICY IMPLICATIONS

A formal lease document clearly defines the roles and responsibilities of the parties to the agreement and provides a sound basis for the ongoing management and maintenance of the facility. Council's legal service provider, Harris Wheeler will be requested to prepare the relevant lease documentation.

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 makes markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 4) **PEOPLE** – *Develop and value people's capability and release their skills, resourcefulness and creativity to change and improve the organisation.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The facility currently operated by SCCC provides a quality child care service to the residents of the Tomaree Peninsular and surrounding areas. Formalisation of their occupancy ensures the continued provision of child care facilities in the area.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Property Unit Co-ordinator
Community and Library Services Manager

OPTIONS

- 1) Adopt the recommendation
- 2) Amend the recommendation
- 3) Reject the recommendation

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

ITEM NO. 6

FILE NO: A2004-1081

**LEASE OF SUITE 2, TOMAREE LIBRARY & COMMUNITY CENTRE, 155
SALAMANDER WAY, SALAMANDER****AUTHOR: LEE-ANN MCMURRAY - PROPERTY SERVICES CO-ORDINATOR****RECOMMENDATION IS THAT COUNCIL:**

- 1) Note the occupancy by Tomaree Neighbourhood Centre Inc. in respect of the lease of Suite 2, Tomaree Library & Community Centre.
- 2) Authorise the Mayor and General Manager to affix the seal of Council to the lease documentation.

OPERATIONS COMMITTEE MEETING – 14 October 2008**RECOMMENDATION:**

That the recommendation be adopted.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

294	Councillor Nell Councillor Dover	It was resolved that the recommendation be adopted.
-----	-------------------------------------	---

BACKGROUND

The purpose of this report is to advise Council that Tomaree Neighbourhood Centre Inc. are occupying the subject space within the Tomaree Library and Community Centre, and to request that the seal be affixed to the lease documentation formalising their occupancy.

The Tomaree Library and Community Centre has a range of rooms made available for occupancy to various groups under lease arrangement. The Tomaree Neighbourhood Centre have occupied space in the building for some time, however they have recently expanded their services and require additional space. Expressions of Interest were called for the occupancy of the subject space with the Tomaree Neighbourhood Centre being the most suitable applicant.

The Tomaree Neighbourhood Centre are occupying the space under the terms of a commercial rental agreement expiring in 2010. Rental of \$4,680 per annum is

payable and subject to annual review. In order to formalise the lease agreement the documentation must be in a format suitable for registration, requiring the Seal of Council.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

SOCIAL SUSTAINABILITY –	<i>Council will preserve and strengthen the fabric of the community, building on community strengths.</i>
CULTURAL SUSTAINABILITY –	<i>Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.</i>
BUSINESS EXCELLENCE –	<i>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</i>

FINANCIAL/RESOURCE IMPLICATIONS

The occupancy of the subject area by Tomaree Neighbourhood Centre provides a positive return to Council and reduces the need to call on rate revenue for the sustainability of the Tomaree Library and Community Centre.

LEGAL AND POLICY IMPLICATIONS

If the lease is to be registered the seal must be affixed upon signing. The seal of a Council must not be affixed to a document unless the document relates to the business of a council and the Council has resolved (by way of resolution specifically referring to the document) that the seal be affixed.

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:-

- 2) **CUSTOMERS** – *Understand what makes markets and customers value, now and into the future, and use this to drive organisational design, strategy, products and services.*
- 4) **PEOPLE** – *Develop and value people's capability and release their skills, resourcefulness and creativity to change and improve the organisation.*

- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The location of the Tomaree Neighbourhood Centre within the Tomaree Library and Community Centre provides an accessible service to the community and encourages participation of local residents and ongoing community interest in the activities of this group.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Commercial Property Services
Community and Library Services Manager

OPTIONS

- 1) Adopt the recommendation
- 2) Amend the recommendation
- 3) Reject the recommendation

ATTACHMENTS

- 1) Nil

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

- 1) Nil

ITEM NO. 7

FILE NO: A2004-0984

PORT STEPHENS COUNCIL CODE OF CONDUCT

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the previous Code of Conduct dated 27 November 2007 (Min No. 332)
- 2) The new Port Stephens Council Code of Conduct be adopted as tabled, subject to consultation with the Consultative Committee.

OPERATIONS COMMITTEE MEETING – 14 October 2008**RECOMMENDATION:**

That the recommendation be adopted.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

295	Councillor Westbury Councillor Kafer	It was resolved that the recommendation be adopted.
-----	---	---

BACKGROUND

The purpose of this report is to provide Council with the new Port Stephens Council Code of Conduct.

In January 2005 the Department of Local Government introduced a Model Code of Conduct for all NSW Councils. This Code and the associated guidelines were adopted by Council on 26 July 2005 and further reviewed on 27 November 2007.

In June 2008 the Department released a new revised Model Code of Conduct. Council adopted the new Model Code on the 22nd July 2008.

A Port Stephens Council Code of Conduct has now been revised to include the Model Code requirements along with supporting information to assist Council officials (Councillors, staff, committee members and contractors) in their respective roles. The differences between the Model Code and the Port Stephens Council version are shown in grey shading in the attached copy of the Code of Conduct.

All Council officials are requirement to undertake training in the Code of Conduct. Councillors are scheduled to attend training on Monday 17 November 2008 at Council. It is proposed that all staff not trained in the current Code will be scheduled

to attend awareness sessions to update their knowledge of the Code. A strategy is also being developed to roll out a training program to all volunteers.

As part of the new Port Stephens Council Enterprise Agreement Council is required to consult with the Consultative Committee prior to adopting changes to the Code, except where legislation requires Council to do so. Council is requested to adopt the new Code, subject to consultation with the Consultative Committee.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

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*

FINANCIAL/RESOURCE IMPLICATIONS

Councillor training costs have been provided for in the current 2008-09 budget.

LEGAL AND POLICY IMPLICATIONS

It is a requirement under the Local Government Act 1993 for Council to adopt a Code of Conduct.

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.*
- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
- 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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

General Manager

Corporate Services Group Manager

OPTIONS

- 1) Adopt the recommendation
- 2) Suggest further options for inclusion

ATTACHMENTS

- 1) Nil

TABLED DOCUMENTS

- 1) The new Port Stephens Code of Conduct

ORDINARY MINUTES – 21 OCTOBER 2008

ITEM NO. 8

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 14 October, 2008.

2. 1. INVESTIGATION INTO VEGETATION CLEARING AT CABBAGE TREE RD, W/TOWN
3. 2. ACCESS COMMITTEE MINUTES
4. 3. ABORIGINAL STRATEGIC COMMITTEE
5. 4. CASH AND INVESTMENTS HELD AT 31 JULY 2008
6. 5. PORT STEPHENS ECONOMIC DEVELOPMENT ADVISORY PANEL.....
7. 6. ACCESS TO INFORMATION SECTION 12 LOCAL GOVERNMENT ACT 1993

OPERATIONS COMMITTEE MEETING – 14 October 2008

RECOMMENDATION:

That the recommendation be adopted.

ORDINARY MEETING – 21 October 2008

RESOLUTION:

296	Councillor Nell Councillor Francis	It was resolved that the recommendation be adopted.
-----	---------------------------------------	---

Matter Arising:

Moved Cr Dingle Seconded Cr Kafer

That Council call for a report on actions relating to the alleged removal of native vegetation and, in particular the quantities of sand extracted from Georges Road, Fullerton Cove.

RESOLUTION:

297	Councillor Nell Councillor Westbury	It was resolved that the recommendation be adopted.
-----	--	---

Matter Arising:

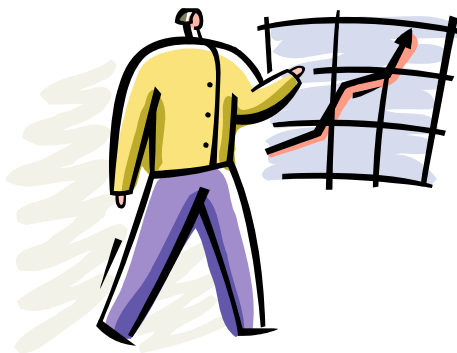
Moved Cr Nell Seconded Cr Tucker

298	Councillor Nell Councillor Tucker	It was resolved that Council review the Investment Policy for cash investments and seek an auditors report on Council's cash
-----	--------------------------------------	--

Note: Cr Dingle left the meeting at 6.50pm during Item 8

Note: Cr Jordan returned to the meeting at 6.53pm during Item 8

OPERATIONS COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

**INVESTIGATION INTO VEGETATION CLEARING AT CABBAGE TREE RD,
WILLIAMTOWN**

REPORT OF: BRUCE PETERSEN – MANAGER, ENVIRONMENTAL SERVICES

FILE: PSC2005-5405

BACKGROUND

The purpose of this report is to inform Councillors about the outcomes of the alleged illegal clearing at Cabbage Tree Rd, Williamtown.

In late June Council received documents depicting alleged tree removal from 38 Cabbage Tree Rd Williamtown which is part of the DAREZ proposal.

The initial stance from Council staff was that as the site is larger than 2ha and zoned Rural 1a the appropriate regulatory authority is the Department of Environment and Climate Change (DECC) who undertakes the compliance of the Native Vegetation Act.

However as per the process Council staff still undertook a review of the information, looked at historical and current aerial photographs, and undertook a site inspection. When reviewing the data staff were of the opinion that no approval under the Native Vegetation Act was required as the vegetation would be classified as regrowth (younger than 1990).

Council staff also concluded that although the clearing may have been a technical breach of the Port Stephens Local Environment Plan 2000 (LEP) the burden of proof would have required Council to ascertain that the cleared vegetation was not exempt from either the Noxious Weed Act 1993 or the Tree Preservation Order. Due to the lack of evidence this would be problematic and a decision was made not to pursue the matter.

A request was submitted for an independent review of this decision and as such Ecobiological was engaged to review the staff assessment with respect to the Native Vegetation Act, the LEP, and the National Parks and Wildlife Act.

In summary Ecobiological found the following:

- That the area that was cleared most likely did contain high value vegetation that would have supported habitat for threatened species including species that still exist on site.
- That there was no evidence of illegal clearing under either the National Parks and Wildlife Act or the LEP and that under the Native Vegetation Act that an illegal clearing event could not be satisfactorily proven.

Council staff agree with the consultants findings in relation to the PSC LEP and the Native Vegetation Act and will pass on the information regarding threatened species to DECC who is the appropriate regulatory authority for offenses committed under the Threatened Species Conservation Act 1995.

ATTACHMENTS

- 1) Executive Summary of Ecobiological (2008). Investigation into the Alleged Illegal Clearing of Land at 38 Cabbage Tree Road, Williamtown NSW. Report prepared for Port Stephens Council (complete report under separate cover)

ATTACHMENT 1

EXECUTIVE SUMMARY OF ECOBIOLOGICAL INVESTIGATION REPORT



Executive Summary

EcoBiological was commissioned by Port Stephens Council to conduct an investigation into the alleged illegal clearing of land at Lot 11 DP1036501, 38 Cabbage Tree Road Williamstown NSW. The investigation was comprised of three main tasks: 1) review three previous environmental reports either directly related to the subject lot or to land adjacent to the subject lot; 2) undertake an aerial photograph comparison of five aerial photographs over a 20-year period; and, 3) undertake a site inspection to gather evidence relating to the alleged illegal land clearing and make an assessment of the study area's ecological value. This report summarises the findings of tasks 1 – 3 and provides a conclusion and comments on the study area's ecological value.

Field surveys were conducted on 31 July 2008 and 13 August 2008.

The three environmental reports reviewed concluded that the study areas subject to the reports supported habitat with a high ecological value. With respect to this report, the study area being investigated is located within one of the areas mapped as having a high ecological value, and joins land to the west also having a high ecological value.

From the aerial photography comparison, an increase in regrowth density and area could be seen from 1987 to 2004. Clearing of this regrowth occurred during 2006.

Data collected during the field surveys revealed that the subject site supported 77 plant species within two plant communities. One of these vegetation communities constitutes an Endangered Ecological Community (EEC) listed under the NSW *Threatened Species Conservation Act 1995*, namely *Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions*.

Fourteen trees within the subject site supported habitat hollows. Two preferred Koala feed tree species listed in the Port Stephens Comprehensive Koala Plan of Management (CKPoM) (*Eucalyptus robusta* and *E. tereticornis*) were present in the study area. The Wallum Froglet (*Crinia tinnula*) was recorded within the study area and is listed as vulnerable under the NSW *Threatened Species Conservation Act 1995*.



This report concludes that the study area should be considered to have a high ecological value as it supports an Endangered Ecological Community and the threatened Wallum Froglet (*Crixis tinnula*) and is correctly mapped as preferred Koala habitat based on the fact that it supports preferred Koala feed trees in a vegetation community known to be readily utilised by Koalas in the Port Stephens Shire.

From a review of the *Native Vegetation Act 2003* (NV Act), regrowth commencing before 1990, cannot be cleared without approval. Regrowth since 1990 can be cleared without approval. It is our opinion that a definitive answer to the age or commencement of the regrowth cannot be determined and therefore the question of whether it constitutes an illegal clearing event under the NV Act cannot be made.

With respect to the clearing of threatened flora, fauna and endangered ecological communities, the significant permissible defence to prosecution under the National Parks and Wildlife Act 1974 is, Part 8A, section 118G (1)(c) an activity that is permitted under any of the following provisions of the Native Vegetation Act 2003 (i) clearing of non-protected regrowth is permitted. Therefore under the provisions of the National Parks and Wildlife Act 1974, no illegal clearing event or impact upon threatened species has occurred.

Under the Port Stephens Council LEP approval would have been required to clear vegetation greater than 3m in height, however as it is now difficult to determine the height of the vegetation at the time of the clearing, therefore an illegal clearing event can not be satisfactorily proven.

It is therefore the conclusion of this investigation that an illegal clearing event could not be satisfactorily proven.

INFORMATION ITEM NO. 2

ACCESS COMMITTEE MINUTES

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

FILE: A2004-0226

BACKGROUND

The purpose of this report is to present to Council the minutes of the Joint Access Committee meeting held on 29 July 2008 and the ordinary Access Committee meetings held in August and September 2008.

Key issues addressed at the meetings included: -

- 1) Access Committee's Chairperson's Annual Report
- 2) Proposed Annual Access Awards
- 3) Access Awareness Day

ATTACHMENTS

- 1) Minutes of the Access Committee joint meeting held on 29 July 2008.
- 2) Minutes of the Access Committee meeting held on 5 August 2008.
- 3) Minutes of the Access Committee meeting held on 2 September 2008.

ATTACHMENT 1

**PORT STEPHENS ACCESS COMMITTEE
MINUTES OF JOINT MEETING HELD 29 JULY 2008
AT PORT STEPHENS COUNCIL**

1. PRESENT:

Cr Swan, Cr Dover, Cr Brown, Cr Dingle, Cr Robinson, Cr Nell, Cr. Francis, Cr Tucker, Cr Jordan, Cr Hodges, Cr Westbury, David Broyd, Paul Procter, Mike Trigar, Robert Harper, Erin Devlin & Carer, Margaret O'Leary, Joe Delia, Kathy Delia, Graham Rayner, Ric McConaghy (Guest Speaker)

2. APOLOGIES:

Ken Whiting, Karen Whiting, Elizabeth Harper, Cathy Jennings, Philip Crowe, Scott Anson, Michelle Page, Trevor Allen

3. WELCOME & MAYORAL ADDRESS: Cr Ron Swan – Mayor of Port Stephens

The Mayor acknowledged the Traditional Landowners of Port Stephens the Worimi Nation. He then went on to welcome the members of the Access Committee of Port Stephens along with fellow Councillors and members of staff. He also extended a special welcome to tonight's guest speaker, Ric McConaghy.

4. MINUTES OF PREVIOUS JOINT MEETING

Cr Westbury moved that the minutes of last year's joint meeting held on 19 June 2007 be adopted. Seconded by Cr Hodges.

5. ACCESS COMMITTEE CHAIRPERSON'S REPORT (Cr Helen Brown)

Cr Brown extended a warm welcome to everyone. As this would be her last joint meeting as a Councillor, she expressed her appreciation to the Committee for the greater understanding and appreciation she has gained of access issues during her time as Chairperson. She indicated that it has been a real thrill and pleasure to serve in this capacity. She also expressed her appreciation to Cr Dover for her regular attendance and input at the monthly Committee meetings.

Cr Brown shared a number of key achievements of the Committee during the last 12 months which have included: -

i) 2008 Access Committee Planning Day:

- In February 2008 the Committee held its first annual planning day. This day provided the Committee with the opportunity to pause and reflect upon its role, objectives and desired directions for the next 12 months. The key outcomes of the planning day were revisions to the Committee's Constitution and the organising of the annual International Day for People with Disabilities picnic celebrations.

ii) Amendments to Access Committee Constitution:

- The Constitution was amended by Council based on the recommendation of the Access Committee to widen the definition of term '*access*' from simply relating solely to people with disabilities to a broader definition of '*universal access*'. This broader definition encompasses and promotes integration of people with

disabilities with the entire community through the working towards the goal of 'universal access' for everyone.

iii) Disability Picnic Event:

- In recent years the annual International Day for People with Disabilities Picnic at Little Beach has grown considerably from its small beginnings, to a major community event attracting around 650 people. It attracts residents and disability services providers from Port Stephens and the surrounding local government areas such as Maitland and Dungog. The event has grown in scale to the point where it is no longer sustainable within existing resources.
- At the planning day in February 2008 the Access Committee reviewed this event and was unanimous in recommending that the event be down scaled to a smaller localised Port Stephens celebration. They also agreed that the primary responsibility for planning and organising the event shift directly to Council Officers which will enable the Access Committee to focus its time and energy on access related issues.

iv) Expansion of Role of Council's Disability Officer Role:

- Council has extended the position previously known as *Disability Access Officer* from 14 hours a week to a full-time capacity of 35 hours a week. The position is now also responsible for aged planning and as such the position has been given the new title of '*Community Planner – Ageing & Disability*'. Council's *Community Planner – Ageing & Disability* is Michelle Page who has been doing a great job. She was unable to be here tonight as she is attending a training course in Sydney.

6. GUEST SPEAKER: (Ric McConaghy)

Ric McConaghy is a play space consultant who works closely with local Councils in developing play spaces which are engaging and reflect the aspirations of children and are accessible and engaging for people with disabilities. He made a short presentation on some of the work he has done in the past, and is currently doing on behalf of Port Stephens Council.

During the last 25 years there has been a significant change in the disability field in terms of providing disabled access. These changes have been driven largely by the Disability Discrimination Act and the importance of integrating access into the built environment. He indicated that whilst his work focuses primarily on children he has found through experience that if you can create a space which works for children, it will work for everyone.

Historically Councils have focused on ensuring the design and fit-out of play spaces comply with Australian Standard 1428 which relates to access (eg; provision of ramps). Experience has shown however that focusing simply on complying with the Australian Standards does not necessarily create opportunities for things to do within a play space/park for people with disabilities. For example the provision of ramps is great, but unless linkages are made with things to do, you will have simply created an elevated gallery / spectator experience only.

Access means more than physical access, it's about providing access for all community members to experience and enjoy a range of diverse opportunities. Play is not just physical; it's a creative, adventurous, emotional and explorative experience and engagement of all human senses.

During the last 12 months he has been working with Council to develop concept plans for the redevelopment of Kitty Hawk Park (Raymond Terrace) and Longworth Park (Karuah). Since the outset of this project an emphasis has been placed on engaging local children to identify and develop their own ideas for these two parks. This has resulted in the formulation of two really inspiring and achievable concept designs. These designs are currently being finalised in consultation with relevant Council Officers to ensure that the concepts can be implemented and are robust in terms of longevity, vandalism and maintenance. An added benefit of the community engagement throughout this process is the community ownership which has been built in.

7. BUSINESS ARISING FROM PREVIOUS JOINT MEETING:

Item 4.1: Additional Resources to Expand Council's Disability Access Officer role:

This has been achieved as highlighted in Cr Brown's address.

Item 4.3: Access Map:

The Access Committee have unanimously decided not to proceed with developing a mobility map for Port Stephens. This is due to research and discussions with other Councils which has found that it is difficult to maintain an updated mobility map due to constant changes to the built environment.

In lieu of a mobility map Council's Community Planner - Ageing & Disability has designed a webpage linked to Council website to assist residents and visitors alike with access to useful and up to date information on services and facilities available in Port Stephens for older residents and people with disabilities.

8. GENERAL BUSINESS:

8.1 Scheduling of Annual Joint Meeting

Committee members asked if consideration could be given to scheduling future joint meetings during the warmer seasons of the year (eg; Autumn / Spring) as it's often difficult for some of the Committee members to come out to evening meetings during the colder months.

Action: 1. Council will look at scheduling the annual joint meeting of the Access Committee in the warmer months of the year when next year's meeting schedule is prepared.

9. SPECIAL PRESENTATION:

The Mayor and Council's Social Planning Co-ordinator presented Erin Devlin with a Mayoral Certificate of Recognition and small box of chocolates in recognition of her length of service and valuable contribution to the Access Committee to improve access for people with disabilities in Port Stephens.

10. DETAILS OF NEXT MEETING

Details of the 2009 joint meeting between Council and the Access Committee will be announced once details have been confirmed.

ATTACHMENT 2

**PORT STEPHENS ACCESS COMMITTEE
MINUTES OF MEETING HELD 5 AUGUST 2008
AT THE RAYMOND TERRACE BOWLING CLUB**

Present:

Paul Bennett, Ian Nowacki, Tony Kean, Kathy Delia, Jeremy Delia, Liz Harper & Deborah (carer), Cr Helen Brown, Margaret O'Leary & student (Sophie), Michelle Page, Cathy Jennings

Apologies:

Ken Whiting, Karen Whiting, Cr Sally Dover

1. ADOPTION OF PREVIOUS MINUTES

Chairperson Cr Brown welcomed members of the Committee and any visitors. The minutes of the previous meeting on 1 July 2008 were adopted as an accurate record of that meeting.

2. MATTERS ARISING FROM PREVIOUS MINUTES

2.1 Proposed Annual Access Awards:

Discussion deferred until next meeting.

2.2 Access Provisions - Raymond Terrace Food Outlet:

Council's Community Planner - Ageing & Disability has written to these premises encouraging consideration is given in the future to installing automatic opening doors to assist with access.

2.3 Disabled Parking Facilities at Nelson Bay Club:

Council's Community Planner - Ageing & Disability has written a letter of thanks to the Club's Manager in regards to the access improvements works they have completed at the request of the Access Committee and their commitment to consider other improvements.

2.4 Accessible Parking Provisions at a Specified Retail Centre on the Tomaree Peninsula:

Council's Community Planner - Ageing & Disability has written to the management of the shopping centre encouraging consideration be given to the provision of additional accessible parking spaces including some all weather spaces if possible.

An Occupational Therapist student from the Nelson Bay Community Health Centre will assess the current access provisions at the centre. A report on the outcomes will be submitted to Community Planner - Ageing & Disability for consideration at the next meeting.

3. NEW BUSINESS

3.1 Joint Meeting with Council:

Cr Brown commended the Committee on the recent successful joint meeting between Council and the Access Committee. The highlights of the joint meeting included: -

- Guest speaker- Ric McConaghy ~ outstanding presentation
- Acknowledgement and presentation by Mayor to a former committee member for their dedication and contributions to the Access Committee

3.2 Opportunity to Join Management Committee of a Local Service Provider:

A Committee member mentioned that a voluntary opportunity exists for a local community member with an accountancy and/or financial background to join the management committee of a local non-government organisation. Please contact Community Planner – Ageing & Disability for more details.

3.3 Trivia Night:

A Committee member mentioned that a Trivia Night will be held on 20 September 2008 at the Raymond Terrace Bowling Club to raise funds for a local disability service provider. Tickets for the night are on sale now and can be purchased by contacting the service on 49831786.

3.4 Community Transport Access Issues:

The Co-ordinator of Port Stephens Community Transport brought to the Committee's attention a number of access issues currently being experienced by their service including: -

- Access to the bus stop in the Shoal Bay Town Centre
- Access to accessible shopping trolleys at local shopping centres
- Suitability of current location of bus stop in Port Stephens St, Raymond Terrace
- Absence of a footpath link to the bus stop located within the Shoal Bay Town Centre and from the Shoal Bay Rd roundabout to the Nelson Bay RSL Club.

Action 1. Community Planner - Ageing & Disability will discuss the community transport issues with relevant Council Officers.

Community Transport also kindly offered the use of one of their buses for one of the Access Committee's future access awareness raising days and/or for the annual disability picnic if required.

4. UPDATE FROM COMMUNITY PLANNER – Ageing & Disability

4.1 Family Advocacy:

The Family Advocacy Service is an advocacy service for people with developmental disabilities to assist families to promote and defend the rights and interests of people with these disabilities. Further information contact Community Planner – Ageing & Disability.

4.2 Carers Invitation:

EDUCARE will be holding an education session for carers on 5 August 2008 and continuing 9 August 2008. Sessions are about accessing community services, Centrelink, solicitors services, stress management, practical skills for carers, where to now. Interested members to contact EDUCARE directly on 1300 887 776

4.3 Centrelink Mobility Allowance:

Anyone wishing to receive a mobility allowance is required to apply through Centrelink who assess all applications for mobility allowance. The allowance is to assist members to utilise public transport to/from work, self employment, training or job seeking. For further information on the eligibility criteria and on how to apply please contact Centrelink directly.

4.4 Amendment to Disability Discrimination System

Proposed amendments to the Disability Discrimination Act have been announced and include clarification of the obligations of employers, service providers and others to remove discriminatory barriers for people with disabilities. Further information will be provided once available.

5. DETAILS OF NEXT MEETING

The next meeting of the Access Committee will be held on 2 September 2008 at 10.30am at Nelson Bay RSL Club.

Meeting closed at 12:00pm

ATTACHMENT 3

**PORT STEPHENS ACCESS COMMITTEE
MINUTES OF MEETING HELD 2 SEPTEMBER 2008
AT THE NELSON BAY RSL CLUB**

Present:

Michelle Page, Cathy Jennings, Amanda Heidke, Kathy Delia, Joe Delia, Margaret O'Leary, Liz Harper & Deborah (carer),

Apologies:

Nil

1. ADOPTION OF PREVIOUS MINUTES

Deputy Chairperson Cathy Jennings welcomed members of the Committee. The minutes of the previous meeting on 1 July 2008 were adopted as an accurate record of that meeting.

2. MATTERS ARISING FROM PREVIOUS MINUTES

Item 2.1: Proposed Annual Access Awards:

Suggestion that there should be specific "categories" for the awards such as recognition of *Service Provider*, recognition of a *Business*, recognition of *Alterations to Premises*. It was suggested that lead up and promotional marketing should include nomination forms in the local newspaper and stickers in windows identifying a nominee. Award winners will receive a framed Certificate to display.

Item 2.2: Accessible Parking Provisions at a Major Retail Centre on the Tomaree Peninsula

A Committee member reported that there appears to be sufficient accessible parking spaces at the shopping centre along with access to wheelchairs and an electric scooter. The shopping centre also has accessible parking spaces located throughout the car parking areas, particularly near the walkway. It was suggested that the shopping centre give consideration to promoting these provisions for access as there is a perception amongst Committee members that the community has a low level of awareness of the existence of these facilities.

3. COUNCIL'S COMMUNITY PLANNER – AGEING & DISABILITY UPDATE

3.1 Multicultural Advocacy Association

This association aims to promote and protect the rights of people of non English speaking backgrounds with a disability and their families and carers in NSW. For more information visit their website www.mdaa.org.au.

3.2 Australia for All

Has a website devoted entirely to accommodation and tourism venues which are fully accessible. For more information visit their website www.australiaforall.com.au

3.3 Information Forum for Carers- Hunter New England Health

Carers are invited to attend a free information forum on 16 September 2008 commencing at 5.30pm at the Western Suburbs Leagues Club, New Lambton. The forum will include a panel of service providers, information on stress management, practical skills for carers etc. For further information and to rsvp attendance contact EDuCARE on 49214895

3.4 Councillor update & Access Committee member election

Deputy Chairperson Cathy Jennings will Chair the Access Committee meetings until Councillors have been appointed to Council's various Committees following the Council election.

4. GENERAL BUSINESS

4.1 Access Awareness Day

This year's Access Awareness Day will be held on 7 October 2008 in Raymond Terrace. Committee members will meet at 10.00am at the Raymond Terrace Bowling Club to finalise preparations and the commencement of the Awareness day activities. Other details include:

- Participants will be transported in a Community Transport Bus
- Nelson Bay Community Health are providing wheelchairs, walkers and sets of crutches
- Options to secure the use of a double pram are being explored
- Vision Australia will supply special sight glasses
- A light lunch has been organised for participants following the completion of all tasks

Committee members were asked to put any task ideas down in writing and forward to Council's Community Planner - Ageing and Disability via email michelle.page@portstephens.nsw.gov.au or phone 4980 0260.

Note:

There will be no Access Committee meeting in October 2008 due to the Access Awareness Day being held on 7 October 2008.

5. DETAILS OF NEXT MEETING

The Access Awareness Day will be held on 7 October 2008 instead of the scheduled October Access Committee meeting. Committee members are asked to meet at Raymond Terrace Bowling Club at 10.00am

MEETING CLOSED AT 11.20PM

INFORMATION ITEM NO. 3

ABORIGINAL STRATEGIC COMMITTEE

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

FILE: PSC2005-0629

BACKGROUND

The purpose of this report is to present to Council the minutes of the Aboriginal Strategic Committee meetings held on 15 July 2008 and 11 August 2008.

Key issues considered at the meeting included:

- 1) Special Guest Presentation by Dr Kelvin Kong
- 2) Aboriginal Project Fund Update
- 3) 2008 Naidoc Week Outcomes

ATTACHMENTS

- 1) Minutes of Aboriginal Strategic Committee joint meeting on 15 July 2008.
- 2) Minutes of Aboriginal Strategic Committee meeting with Worimi LALC on 11 August 2008.

ATTACHMENT 1

**MINUTES OF JOINT MEETING
BETWEEN PORT STEPHENS COUNCIL
AND COUNCIL'S ABORIGINAL STRATEGIC COMMITTEE
15 JULY 2008**

Meeting opened at 5:40pm

Present:

Val Merrick	Worimi LALC	Cr Ron Swan	PSC
Jamie Tarrant	Worimi LALC	Cr Bob Westbury	PSC
John Ridgeway	Worimi LALC	Cr Sally Dover	PSC
Elaine Larkins	Worimi LALC	Cr John Nell	PSC
Neville Lilley	Worimi LALC	Cr Helen Brown	PSC
Lorraine Lilley	Worimi LALC	Cr Glenys Francis	PSC
Janice McAskill	Worimi LALC	Peter Gesling	PSC
Grace Kinsella	Worimi LALC	David Broyd	PSC
Delece Manton	Worimi LALC	Paul Procter	PSC
Brad Russell	Tomaree High (Worimi member)		
Jemma McLeay	Tomaree High (Worimi member)		
John Freesmith	Karuah LALC		
David Feeny	Karuah LALC		
Sharon Feeny	Karuah LALC		
Fiona Manton	Karuah LALC		
Warren French	Karuah LALC		
Colleen Perry	Karuah LALC		
Richelle Perry	Karuah LALC		
Kevin Manton	Karuah LALC		
Bev Manton	Chairperson, NSW State Aboriginal Land Council		
Dr Kelvin Kong	Guest Speaker		
Sarah Kong	(Guest Speaker's wife)		

Apologies:

Andrew Smith	Worimi LALC	Cr Steve Tucker	PSC
Janice Page	Karuah LALC	Trevor Allen	PSC
Cr Ken Jordan	PSC	Jason Linnane	PSC
Cr Josh Hodges	PSC	Mike Trigar	PSC
Cr Geoff Dingle	PSC	Cliff Johnson	PSC
Cr Geoff Robinson	PSC		

1. TRADITIONAL WELCOME (John Ridgeway – Worimi Elder)

Worimi Elder, John Ridgeway brought the traditional welcome to the land of the traditional tribe, the Worimi people.

2. MAYORAL ADDRESS, CR RON SWAN

The Mayor welcomed the Elders and members of the Worimi and Karuah Local Aboriginal Land Councils along with fellow Councillors and members of staff. He also extended a special welcome to John Freesmith who has just commenced as the new CEO of Karuah Local Aboriginal Land Council.

He then introduced guest speaker Dr Kelvin Kong acknowledging Kelvin on his wonderful achievements over the years and the positive role model he is to our young people. He mentioned that in 2006 Kelvin made history when he became Australia's first Aboriginal surgeon – as an ear, nose and throat specialist. His desire to specialise in that field was influenced by the high rates of ear and eye disease in Australia's Indigenous community. He has worked at major hospitals around Australia including St Vincent's Hospital in Sydney and the Royal Children's Hospital in Melbourne.

3. GUEST SPEAKER, DR KELVIN KONG

Dr Kelvin Kong acknowledged his people, the Worimi mob whom he affectionately referred to as 'his mob', and he acknowledged the opportunities they have given to him and the sacrifices they have made in moving forward. He encouraged people to come out, stand up and be proud of their culture and the importance and value of embracing people from all cultural backgrounds.

He then made a power point presentation highlighting the importance of Indigenous health for all Australians. His presentation was based on walking people through a hypothetical case study of a young boy named Billy and the contrasting perceptions of Billy's situation from both ends of the spectrum as summarised below: -

Billy is young boy in school who suffers from a health condition known as 'glue ear' (i.e: fluid in the ear). This makes it quite hard for him to hear and play. As the condition worsens he experiences speech deterioration which leads to school absenteeism and illness.

This condition can be easily treated medically through the use of grommets.

In Billy's situation however his symptoms are not assessed as a medical matter. Rather it leads to assumptions that because he is a Koori child he is simply being lazy.

Consequently his hearing problems go undiagnosed and his hearing worsens. The school system treats this as a behavioural issue and he is put to the back of the classroom which simply exasperates the issue as Billy is already hard of hearing.

Billy falls behind in literacy and numeracy and eventually the Dept of Community Services get involved.

Dr Kelvin Kong used this hypothetical to give an increased understanding of why: -

- *Indigenous people are over represented on every social determinant of health*
- *The critical importance of improving access to culturally appropriate health care and specialists through education of health professionals and the rethinking way things are done*
- *The importance of starting off at the community level*

- *Need for a vigorous rethinking of Indigenous health and the development of a realistic empowerment strategy*
- *The need for non-Indigenous Australians to look at their own values and how they integrate with Indigenous Australians. Need time apart to talk about values, differences, common ground whilst acknowledging 'men's business' and 'women's business'.*

In closing, he stated that this new understanding and changes in the landscape of mixing diverse cultures can have both an enriching and profound effect. For example the tragic demise of explorers Burke & Wills when viewed through an Indigenous perspective shows that these two explorers didn't perish in a dry and barren area. Rather they died in an area which the Traditional Landowners knew as a supermarket with a chemist and endless water supply given their knowledge of the array of native flora and fauna available for bush tucker, traditional medicines and the untapped water supply underneath them.

4. ADDRESS BY BEV MANTON, CHAIRPERSON NSW ABORIGINAL LAND COUNCIL

Bev welcomed the opportunity to address Council and bring an update on the current activities of the NSW State Aboriginal Land Council which include: -

- *The establishment of a \$30 million Endowment Fund with interest generated from the fund will be used to provide scholarships for up to 200 young people a year.*
- *The strengthening of Land Rights, this year marks the 25th Anniversary of Land Rights.*
- *The provision of training in governance, community and business planning for LALC Board member.*

5. ADDRESS BY JAMIE TARRANT, CHAIRPERSON WORIMI LOCAL ABORIGINAL LAND COUNCIL

Jamie thanked Council for the opportunity to address the meeting and passed on the apologies of the WLALC CEO Andrew Smith who is unable to attend tonight's meeting due to illness. Jamie gave a brief overview of the key achievements of WLALC during the last 12 months which have included the establishment of a new Board. He also acknowledged and applauded the efforts demonstrated by the Worimi Board, Traditional Owners, NPWS and Council in working together on various projects and issues throughout the last 12 months.

In closing he extended his thanks to Council for a grant received under the Aboriginal Project Fund which has enabled new computers to be purchased along with the introduction of an IT platform and systems network. This has helped in the administration and delivery of services, programs and training.

6. ADDRESS BY JOHN FREESMITH, CEO KARUAH LOCAL ABORIGINAL LAND COUNCIL

John indicated that he commenced just four weeks ago in the role of CEO. His initial impressions of Karuah and the commitment of service providers in assisting the Karuah community are really positive. KLALC have a good Board in place and are moving ahead with plans over the next 3 months to develop a new Business Plan which will set out future opportunities and directions.

7. BUSINESS ARISING FROM PREVIOUS JOINT MEETING

Nil

8. GENERAL BUSINESS

8.1 Naidoc Day 2008:

The Mayor commended all those involved in this year's wonderful Naidoc Day celebrations held at Raymond Terrace on 13 July 2008 mentioning one of the highlights was the large number of young people at the event.

8.2 Soldiers Point Boatramp

The Chairperson of Worimi LALC raised some issues concerning Council's proposed plans to upgrade the boat ramp and associated foreshore area. It was agreed that an onsite meeting with the Worimi community, Councillors and relevant Council Officers be organised. It was also suggested that an invitation also be extended to representatives from KLALC to attend.

The purpose of the onsite meeting is to enable a clearer understanding of the issues raised by Worimi community members with respect to the site. It will also enable Council Officers to present an overview of the proposed works for upgrading the boat ramp and the associated infrastructure repairs.

The Mayor also indicated that he would discuss the issues raised with General Manager to clarify what is proposed and to review any previous reports to Council which have been prepared with respect to this site.

- Action:
1. Council will organise an onsite meeting with the Worimi community, Councillors and relevant Council Officers to go over the proposed plans and consider any associated issues.
 2. An invitation also be extended to representatives from KLALC attend.

9. DATE OF NEXT MEETING

To be advised

Meeting closed at 7:10pm.

ATTACHMENT 2

**ABORIGINAL STRATEGIC COMMITTEE
MEETING WITH
WORIMI LOCAL ABORIGINAL LAND COUNCIL
HELD ON THE 11 AUGUST 2008
AT THE MURROOK CULTURAL & LEISURE CENTRE**

Present:

Andrew Smith	Worimi LALC
Val Merrick	Worimi LALC
John Freesmith	Karuah LALC
Colleen Perry	Karuah LALC
Cr Sally Dover	PSC
Cr Helen Brown	PSC
Paul Procter	PSC
Cliff Johnson	PSC
Bryce Cameron	PSC
Ian Gilkes	PSC
Leigh Ridgeway	Dept of Education & Training
Sheryl Cain	Port Stephens Community Care
Gina Ascot Evans	Thou Walla Family Centre
Sarah Webber	Gan Gan Family Centre
Sue Pollock	Port Stephens Family Support Service
Fred Maher	Port Stephens Family Support Service

Apologies:

Cr Ron Swan	PSC
Peter Gesling	PSC
David Broyd	PSC
Mike Triglar	PSC
Scott Anson	PSC
Jason Linnane	PSC

Cr Brown chaired and opened the meeting at 1:25pm

1. WELCOME TO COUNTRY / ACKNOWLEDGEMENT TO LAND

Leigh Ridgeway brought the Traditional acknowledgement to land.

2. ABORIGINAL PROJECT FUND

Representatives from organisations funded under the previous round of Council's Aboriginal Project Fund attended the first part of the meeting to bring an update on the progress of implementing their projects funded under the last funding round as detailed below: -

ORDINARY MINUTES – 21 OCTOBER 2008

Project	Organisation	Grant \$	Status
Crocfest 2007 Project	Hunter River High School	10,000	<p>A group of 44 students from Port Stephens performed at the Crocfest 2007 celebrations at Moree.</p> <p>A special encore performance was held in late 2007 at Hunter River High for Council, local service providers and interested community members.</p>
Don't Diabetes Me Project	Port Stephens Community Care	10,000	<p>Held 3 successful diabetes education days' programs so far with 3 more to go. The programs are held at Murrook with 6 people attending each program. The program is being delivered in collaboration with the Awabakal Diabetes Project and includes introduction to food labels, putting together an appropriate shopping list, visit to a supermarket to look at labels, menu and meal preparation. A recipe book will be produced at the end of the program</p> <p>A formal survey will be undertaken at the end of the program</p> <p>At this stage Port Stephens Community Care are aiming to continue to run this successful program within their future budget allocations</p>
Yarnin & Darnin Project	Gan Gan and Thou Walla Family Centres	9,354	<p>Project was delayed in starting due to the 2 positions of SACC Co-ordinators being vacant for several months at the time when funding was allocated to the Yarnin & Darnin Project. In Nov 2007 the SACC Co-ordinators roles were filled.</p> <p>Prior to commencing the project this year the SACC Co-ordinators consulted during Terms 1 and 2. The engagement of relevant community members, WLALC, Birralee indicated that some changes were required to the project to make it relevant to the two communities of Raymond Terrace and Anna Bay given the significant differences between the 2 communities.</p> <p>Thou Walla have now started the project with 12 people participating with a focus on painting and quilting. The finished items will be displayed at Thou Walla to help to make the centre welcoming for Aboriginal families.</p> <p>At the Gan Gan Family Centre, consultation has highlighted the need to run the art workshops during the evening to maximise participation. The workshops will commence on 25 August 2008. The finished products will include ceramic pots, mosaic heat mats, thermal mugs and photo frames. It is envisaged that around 20 Indigenous families will be involved in the project.</p>
Breathing New Life Project	Worimi Local Aboriginal Land Council	10,000	Project has enabled WLALC to improve the overall image of the Land Council's offices with the completed improvements to the fit-out and furnishings of the reception and office areas. The improvements to the Land Council's office and given staff a sense of pride in their workplace.
Enhancing Business Project	Karuah Local Aboriginal Land Council	7,000	Project has enabled KLALC to purchase a new reception desk, uniforms, and photocopier which are being fully utilised to assist the Land Council in performing its administrative responsibilities.
Linking Attendance Literacy Numeracy and Culture Project	Karuah Preschool	7,550	Deferred to a future meeting due to no representative being present
Gan Gan Dreaming Project	Gan Gan Family Centre	5,000	<p>A Project Worker has been employed for 2 days a week to co-ordinate the project. The project is going well with positive feedback from children throughout the school from years K-6.</p> <p>The children are currently creating Indigenous totem poles which will be erected around the school grounds' including the school's native and bush tucker gardens.</p> <p>The children are also going to develop stepping stones and signs in Katang. Currently working with language group at Worimi LALC on this aspect of the</p>

ORDINARY MINUTES – 21 OCTOBER 2008

			project.
Raymond Terrace Indigenous Resource Centre Project	Port Stephens Family Support Service	7,908	<p>The Raymond Terrace Indigenous Resource Centre was formerly opened this year on 22 April. It is located within the premises of the Port Stephens Family Support Service at 3 Phillip Rd, Raymond Terrace. A Co-ordinator of the new Indigenous Resource Centre commenced on 9 June this year. The centre is being used widely by students and for family history workshops.</p> <p>There is a need for a bus service to transport local Indigenous young people and other transport disadvantaged community members so they can access the centre. KLALC CEO indicated that they would speak to their Board about the availability of their bus and the associated conditions of use.</p>
Gabirr Gumba Project (i.e.; hungry for tomorrow)	Worimi Local Aboriginal Land Council	8,855	<p>WLALC now have their new computer systems in place including an enhanced IT platform. This will assist WLALC in setting up a culturally friendly training centre at Murrook to act as a venue for training courses and programs such as courses in land management. It is important to note that WLALC are not planning to set themselves up as an RTO (i.e.; Registered Training Centre). The focus is to provide a suitable training venue for Recognised Training Organisations to come and use.</p>
Community Sports Court Project	Karuah Local Aboriginal Land Council	10,000	<p>KLALC are currently liaising with Hunter TAFE, who are working on the Mission's Hall, about their capacity to carry out some of the proposed improvement to the existing tennis facility (eg: replacement of asphalt and fencing) as part of its makeover and upgrade to a sports court.</p>

Note:

In regards to the timing of the next funding round of Council's Aboriginal Project Fund, Social Planning Co-ordinator indicated that at this stage it is envisaged that expressions of interest under Stage 1 will be sought in Sept/Oct 2008.

3. BUSINESS ARISING FROM PREVIOUS MINUTES

Item 3: Soldiers Point Boat ramp Improvements

Parks Facilities Co-ordinator and Civil & Landscape Projects Officers tabled construction drawings of the proposed works for upgrading the boat ramp infrastructure including lengthening the break wall, reconstruction of revetment wall, installation of two floating pontoons. This work is required to not only improve the usability of the facilities, but to also protect the cultural aspects of the site from further tidal water damage. The plans have been prepared based on consultation with NPWS, WLALC and Fisheries. It is proposed to lodge the DA for the work simultaneously with undertaking the process to seek tenders for the work.

At the joint meeting of the Aboriginal Strategic Committee on 15 July 2008 it was recommended that an onsite meeting with the Worimi community, Councillors and relevant Council Officers be organised. WLALC have requested that this onsite meeting be held on Thursday 14 August 2008 in the afternoon. The meeting will provide a clearer understanding of the issues raised by Worimi community members have with respect to this site. It will also enable Council Officers to present an overview of the proposed works.

Note:

Due to the time allocated to the presentations on the progress of projects funded under Council's Aboriginal Project Fund, the Committee resolved to defer discussion of the following items of **business arising** until the next meeting.

- Proposed State Government Reforms - Development Application Processes:
- Middens at Birubi Headland
- Review of Aboriginal strategic committee Constitution schedule
- Potential Aboriginal Employment Initiative

- Declaration of Conflict of Interest

4. GENERAL BUSINESS

4.1 Mustons Rd Footpath/Cycleway:

KLALC CEO tabled a letter from a local resident at the Mission requesting a footpath be constructed alongside Mustons Rd to facilitate pedestrian / pram / scooter access between the Mission and the Karuah town centre.

Social Planning Co-ordinator indicated that Council has already recognised this community need with this job listed in Council's forward works program (FWP). He is unsure about the timing of when this work will be undertaken given other priorities in the FWP and when sufficient funds will be in place to commence construction. Preliminary design plans have been developed which were prepared in consultation with KLALC through meetings and site visit.

Action: 1. Social Planning Co-ordinator to clarify timing of commencement of the Mustons Rd footpath/cycleway in Council's FWP and advise KLALC accordingly.

4.2 Murrook Café:

WLALC CEO mentioned that they are in the process of re-establishing their café and restaurant. Although the WLALC has temporarily ceased selling food over the counter, they have continued to operate the catering arm of the café.

4.3 Naidoc Week 2008:

Social Planning Co-ordinator acknowledged and commended WLALC on their generous financial (\$11,000) and in-kind support of this year's Port Stephens Naidoc Week Celebrations which took place in Raymond Terrace on 13 July 2008 at Riverside Park.

WLALC CEO also extended a special vote of thanks to Council's Cultural Development Officer for being relentless in their commitment to the event along with the support of Integrated Planning Customer Support Officer and Child Friendly Community Program Officers in helping to organise the event.

WLALC CEO commented that the event was once again a huge success. He suggested that consideration be given to holding the event next year on the first Sunday of Naidoc Week in lieu of the last Sunday as was the case this year, to enable this signature event to formerly kick off local Naidoc Week celebrations.

4.4 Joint Meeting of Aboriginal Strategic Committee:

Cr Dover commended the WLALC Chairperson on their impassioned address to Council at the joint meeting held on 15 July 2008.

5. NEXT MEETING

The next ordinary meeting of the ASC with WLALC will be held on 13 October 2008 at 1:00pm at Murrook.

Meeting closed at 3.35pm.

INFORMATION ITEM NO. 4

CASH AND INVESTMENTS HELD AT 31 JULY 2008

REPORT OF: JEFF SMITH - FINANCIAL SERVICES MANAGER
FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of Cash and Investments Held at 31 July 2008.

ATTACHMENTS

- 1) Cash and Investments Held at 31 July 2008.
- 2) Monthly Cash and Investments Balance August 2007 – July 2008

ATTACHMENT 1

CASH & INVESTMENTS HELD AS AT 31 JULY 2008								
INVESTED WITH	INV. TYPE	DATE INVESTED	COUPON DATE	MATURITY DATE	NO. OF DAYS	AMOUNT INVESTED	INTEREST RATE	% OF TOTAL FUNDS HELD
GRANGE SECURITIES								
WIDE BAY CAPRICORN BUILDING SOCIETY	Floating Rate Sub Debt	16-Jun-08	15-Sep-08	15-Dec-08	91	500,000.00	9.44%	1.60%
MAGNOLIA FINANCE LTD 2005-14 "FLINDERS AA"	Floating Rate CDO	20-Jun-08	22-Sep-08	20-Mar-12	94	1,000,000.00	9.32%	3.21%
NEXUS BONDS LTD "TOPAZ AA-"	Floating Rate CDO	22-May-08	21-Nov-08	23-Jun-15	183	412,500.00	10.45%	1.32%
HERALD LTD "QUARTZ AA"	Floating Rate CDO	20-Jun-08	22-Sep-08	20-Dec-10	94	450,000.00	9.32%	1.44%
STARTS CAYMAN LTD "BLUE GUM AA-"	Floating Rate CDO	23-Jun-08	25-Sep-08	22-Jun-13	94	1,000,000.00	9.24%	3.21%
HELIUM CAPITAL LTD "ESPERANCE AA+"	Floating Rate CDO	20-Jun-08	19-Sep-08	20-Mar-13	91	1,000,000.00	8.92%	3.21%
HOME BUILDING SOCIETY	Floating Rate Sub Debt	28-Jul-08	27-Oct-08	25-Jul-11	91	500,000.00	8.71%	1.60%
DEUTSCHE BANK CAPITAL GUARANTEED YIELD CURVE NOTE	Yield Curve Note	18-Jul-08	17-Oct-08	18-Oct-11	91	500,000.00	10.00%	1.60%
GRANGE SECURITIES "KAKADU AA"	Floating Rate CDO	20-Jun-08	22-Sep-08	20-Mar-14	94	1,000,000.00	8.82%	3.21%
GRANGE SECURITIES "COOLANGATTA AA"	Floating Rate CDO	20-Jun-08	22-Sep-08	20-Sep-14	94	1,000,000.00	9.12%	3.21%
ANZ YIELD CURVE NOTE	Yield Curve Note	17-Jul-08	16-Oct-08	17-Jul-08	91	500,000.00	8.25%	1.60%
TOTAL GRANGE SECURITIES						\$7,862,500.00		25.21%
ABN AMRO MORGANS								
REMBRANDT ISOSCELES SERIES 1	Floating Rate CDO	20-Jun-08	22-Sep-08	20-Sep-09	94	2,000,000.00	9.22%	6.41%
GLOBAL PROTECTED PROPERTY NOTES VII	Property Linked Note	21-Mar-08	21-Mar-09	17-Sep-11	365	1,000,000.00	0.00%	3.21%
BANK OF QLD FLOATING RATE NOTE	Floating Rate Note	16-Jun-08	15-Sep-08	30-Jun-09	91	1,000,000.00	7.99%	3.21%
TOTAL ABN AMRO MORGANS						\$4,000,000.00		12.83%
ANZ INVESTMENTS								
ECHO FUNDING PTY LTD SERIES 16 "3 PILLARS AA-"	Floating Rate CDO	7-Jul-08	6-Oct-08	6-Apr-10	91	500,000.00	8.96%	1.60%
PRELUDE EUROPE CDO LTD "CREDIT SAIL AAA"	Floating Rate CDO	20-Jun-08	22-Sep-08	30-Dec-11	94	1,000,000.00	9.32%	3.21%
MOTIF FINANCE (IRELAND) PLC	Floating Rate CDO	20-Jun-08	22-Sep-08	1-Jun-17	94	1,017,876.98	4.56%	3.26%
TOTAL ANZ INVESTMENTS						\$2,517,876.98		8.07%
RIM SECURITIES								
GENERATOR INCOME NOTE AAA (2011)	Floating Rate Sub Debt	11-Jul-08	10-Oct-08	29-Jul-13	91	2,000,000.00	9.76%	6.41%
ELDERS RURAL BANK (2011)	Floating Rate CDO	7-Jul-08	9-Oct-08	8-Oct-11	94	1,000,000.00	8.45%	3.21%
TOTAL RIM SECURITIES						\$3,000,000.00		9.62%
WESTPAC INVESTMENT BANK								
HOME BUILDING SOCIETY (2010)	Floating Rate Sub Debt	29-Jul-08	28-Oct-08	27-Apr-10	91	500,000.00	8.94%	1.60%
MACKAY PERMANENT BUILDING SOCIETY	Floating Rate Sub Debt	21-May-08	21-Aug-08	20-Nov-11	92	500,000.00	8.77%	1.60%
TOTAL WESTPAC INV. BANK						\$1,000,000.00		3.21%
LONGREACH CAPITAL MARKETS								
LONGREACH SERIES 16 PROPERTY LINKED NOTE	Property Linked Note	6-Mar-08	5-Sep-08	7-Mar-12	182.5	500,000.00	6.60%	1.60%
LONGREACH SERIES 19 GLOBAL PROPERTY LINKED NOTE	Property Linked Note	7-Mar-08	6-Sep-08	7-Sep-12	182.5	500,000.00	6.00%	1.60%
TOTAL LONGREACH CAPITAL						\$1,000,000.00		3.21%

ORDINARY MINUTES – 21 OCTOBER 2008
ATTACHMENT 1

COMMONWEALTH BANK								
PRINCIPAL PROTECTED YIELD ACCRUAL NOTE	Yield Curve Note	6-May-08	6-Aug-08	06-Nov-11	92	500,000.00	9.25%	1.60%
CALLABLE CPI LINKED NOTE	Yield Curve Note	4-Jul-08	3-Oct-08	04-Apr-12	91	500,000.00	0.00%	1.60%
EQUITY LINKED DEPOSIT	Equity Linked Note	3-Aug-07	5-Aug-08	20-Sep-11	368	500,000.00	8.25%	1.60%
EQUITY LINKED DEPOSIT GI100	Equity Linked Note	24-Jun-08	23-Sep-08	03-Aug-10	91	500,000.00	3.00%	1.60%
EQUITY LINKED DEPOSIT ELN SERIES 2	Equity Linked Note	4-May-08	4-Aug-08	05-Nov-12	92	500,000.00	3.00%	1.60%
BENDIGO BANK SUBORDINATED DEBT	Floating Rate Sub Debt	9-May-08	8-Aug-08	09-Nov-12	91	500,000.00	9.49%	1.60%
TOTAL COMMONWEALTH BANK						\$3,000,000.00		9.62%
FIG SECURITIES								
CREDIT SUISSE PRINCIPAL PROTECTED NOTE AQUADUCT AA-	Principal Protected Note	20-Jun-08	19-Sep-08	21-Jun-10	91	1,000,000.00	0.00%	3.21%
TELSTRA LINKED DEPOSIT NOTE	Principal Protected Note	31-May-08	29-Aug-08	30-Nov-14	90	500,000.00	8.79%	1.60%
STATE GOVERNMENT EMPLOYEES CREDIT UNION	Term Deposit	2-Jul-08	30-Oct-08	30-Oct-08	120	1,000,000.00	8.65%	3.21%
STATE GOVERNMENT EMPLOYEES CREDIT UNION	Term Deposit	2-Jul-08	1-Sep-08	01-Sep-08	61	1,000,000.00	8.53%	3.21%
STATE GOVERNMENT EMPLOYEES CREDIT UNION	Term Deposit	2-Jul-08	1-Aug-08	01-Aug-08	30	1,000,000.00	8.43%	3.21%
AUSTRALIAN DEFENCE CREIT UNION	Term Deposit	2-Jul-08	30-Sep-08	30-Sep-08	90	1,000,000.00	8.56%	3.21%
TOTAL FIG SECURITIES						\$5,500,000.00		17.64%
MAITLAND MUTUAL								
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	16-Jul-08	15-Oct-08	31-Dec-08	91	500,000.00	8.77%	1.60%
MAITLAND MUTUAL TERM DEPOSIT	Term Deposit	27-May-08	25-Aug-08	25-Aug-08	90	526,881.44	8.19%	1.69%
MAITLAND MUTUAL SUB DEBT	Floating Rate Sub Debt	11-Jun-08	10-Sep-08	30-Jun-09	91	500,000.00	8.90%	1.60%
TOTAL M'LAND MUTUAL						\$1,526,881.44		4.90%
TOTAL INVESTMENTS						\$29,407,258.42		94.29%
AVERAGE RATE OF RETURN ON INVESTMENTS							7.76%	
CASH AT BANK						\$1,780,056.69	7.20%	5.71%
AVERAGE RATE OF RETURN ON INVESTMENTS + CASH							7.73%	
TOTAL CASH & INVESTMENTS						\$31,187,315.11		100.00%
BBSW FOR PREVIOUS 3 MONTHS							7.77%	

ATTACHMENT 1

Investment	Int Rate	Reason
GLOBAL PROTECTED PROPERTY NOTES VII	0.00%	Investment is paying a 0.00% return due to capital protection calculations.
MOTIF FINANCE (IRELAND) PLC	4.43%	Lower interest rate due to the purchase of a capital protection note that is linked to this investment
CALLABLE CPI LINKED NOTE	1.00%	Investment is paying a lower than expected return due to the higher inflation figures
EQUITY LINKED DEPOSIT GI100	3.00%	Lower return due to the downturn in the Australian Stock market. Investment return is linked to a bundle of shares
EQUITY LINKED DEPOSIT ELN SERIES 2	3.00%	Lower return due to the downturn in the Australian Stock market. Investment return is linked to a bundle of shares
CREDIT SUISSE PRINCIPAL PROTECTED NOTE AQUADUCT AA-	0.00%	Investment is paying a 0.00% return due to capital protection calculations.

CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER

I, Peter Gesling, being the Responsible Accounting Officer of Council, hereby certify that the Investments have been made in accordance with the Local Government Act 1993 the Regulations and Council's investment policy.

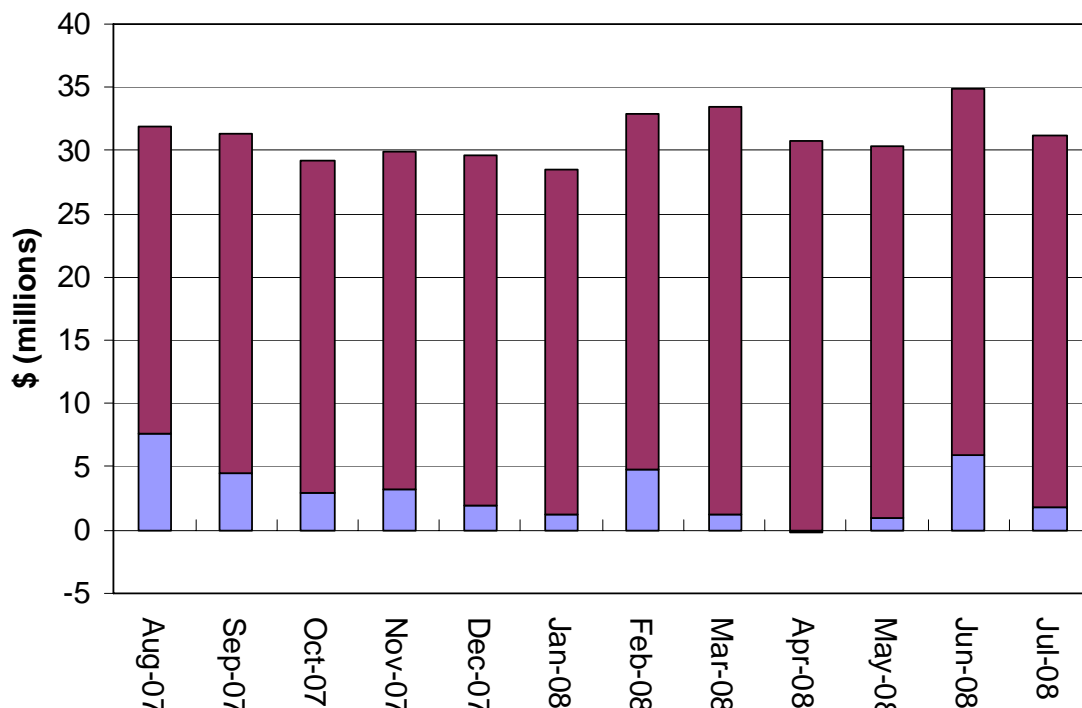
P GESLING

ATTACHMENT 2

Cash and Investments Held

Date	Cash at Bank (\$m)	Investments (\$m)	Total Funds (\$m)
Aug-07	7.612	24.236	31.848
Sep-07	4.531	26.737	31.268
Oct-07	2.855	26.268	29.123
Nov-07	3.148	26.713	29.860
Dec-07	1.911	27.731	29.641
Jan-08	1.163	27.262	28.424
Feb-08	4.760	28.085	32.844
Mar-08	1.162	32.230	33.392
Apr-08	0.146	30.783	30.637
May-08	0.889	29.407	30.296
Jun-08	5.899	28.907	34.806
Jul-08	1.780	29.407	31.187

**Cash and Invested Funds for the Period ended
31/7/2008**



INFORMATION ITEM NO. 5

PORT STEPHENS ECONOMIC DEVELOPMENT ADVISORY PANEL

REPORT OF: LESLEY MORRIS - ECONOMIC DEVELOPMENT MANAGER
FILE: A2004-0645

BACKGROUND

The purpose of this report is to present to Council the minutes of the Port Stephens Economic Development Advisory Panel held on Tuesday 5 August 2008

ATTACHMENTS

- 1) Minutes of the Port Stephens Economic Development Advisory Panel meeting on 5 August 2008.

ATTACHMENT 1

**MINUTES OF THE MEETING OF
PORT STEPHENS ECONOMIC DEVELOPMENT ADVISORY PANEL
HELD 9.30AM TUESDAY 5 AUGUST 2008
AT BUSINESS PORT STEPHENS, RAYMOND TERRACE**

PRESENT: Cllr Bob Westbury, Cllr Josh Hodges, Robyn Bradbury, Susan Rowe, Gillian Summers, Boris Novak, Ian Rennie, Peter Gesling, Scott Orpin, Paul Hughes, Lesley Morris.

APOLOGIES: Cllr Ron Swan, Peter Dann, Brett Fatches

WELCOME AND INTRODUCTIONS

Economic Development Manager Lesley Morris welcomed the Panel and introduced the other members of the Port Stephens Council Economic Development Unit, Brendan Brooks and Angela Kincaid.

The EDAP members introduced themselves.

SELECTION OF CHAIRPERSON

RECOMMENDATION

That Bob Westbury be appointed as the Chairperson.

Moved Josh Hodges, seconded Gillian Summers.

CARRIED

Councillor Bob Westbury took the Chair.

OVERVIEW OF THE ECONOMIC DEVELOPMENT UNIT

A brief powerpoint presentation was delivered, which covered the Economic Development Strategy and the plan for implementation by the Economic Development Unit (EDU).

The following points were discussed:

- Funding of the Economic Development Unit
- Opportunities to attract additional funding for the activities of the EDU and the local business community.
- The need to develop some targets that can be measured and reported to the business community.
- The need to balance short term objectives with strategic issues.

Action: *Develop a reporting scoresheet with KPIs that address the recommendations of the Economic Development Strategy, covering short to long term.*

ATTACHMENT 1

ROLE AND CHARTER OF EDAP

The EDAP Charter was discussed and endorsed.

There is a need to build relationships with regional bodies and government with regards to advocacy for the Port Stephens area.

Action: *Code of Conduct to be distributed for discussion at the next meeting.*

MEETINGS FORMAT AND CONTENT

It was agreed that

- EDAP meetings would be for a maximum of 2 hours.
- A call for agenda items will be distributed two weeks prior to the EDAP meetings.
- A one page briefing document will be prepared for the EDAP on major projects.
- The reporting scoresheet will be included in the Quarterly Report, which will be distributed at least one week prior to the meeting.
- Discussion papers can be prepared or briefings arranged for future meetings, if required.

Action: *Distribute the EDU Priorities Document for feedback.*

QUARTERLY REPORT

The report was noted.

It was suggested that the criteria for funding in the CED EOI document should include a link back to the economic objectives of the Economic Development Strategy and that the financial sustainability of projects be addressed.

GENERAL BUSINESS

The General Manager will provide information regarding projects with an economic impact that are being dealt with by Council, eg Department of Lands – EOI for land at Nelson Bay, study being prepared.

It was agreed that communication between meetings and within the EDAP would be via email.

Action: *Email addresses to be distributed to all members..*

There being no further business, the meeting closed at 11.00am.

NEXT MEETING – 9.30AM TUESDAY 4 NOVEMBER 2008 (VENUE TBA).

INFORMATION ITEM NO. 6

ACCESS TO INFORMATION – SECTION 12 LOCAL GOVERNMENT ACT
1993

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER
FILE: PSC2008-3083

BACKGROUND

The purpose of this report is to advise Council and make public the reasons for not granting access to documents/information under Section 12A, *Local Government Act 1993*.

In accordance with Section 12A (1), *Local Government Act 1993*, the General Manager or any member of staff who decides that access should not be given to a document or other information to the public or a councillor, is required to provide Council with written reasons for the restriction. Sub-section 12A (2) requires that the reason must be publicly available.

The requests shown in **ATTACHMENT 1** to this report are those that are made in writing and determined by Council's Executive Officer for the period 2008/09.

The information in **ATTACHMENT 1** is for the period of July to September 2008 only with a total of 17 applications received, 9 with full access granted and 8 with restrictions as shown below.

ATTACHMENT 1 provides Council with the details of the request and the reasons why access was not fully granted. The names of applicants have not been provided as this would be a breach of the *Privacy & Personal Information Protection Act 1998*. Further details may be available should Councillors require it.

In addition to these figures 4 applications were received under the Freedom of Information Act for the period of July to September 2008.

ATTACHMENTS

- 1) Listing of requests under Section 12 of the *Local Government Act 1993*.

LISTING OF REQUESTS UNDER SECTION 12 OF THE *LOCAL GOVERNMENT ACT 1993*

No.	File No.	Information requested	Determination
1	PSC2008-2927	Seeking development application information	Part released due to Privacy & Personal Information Protection Act
2	PSC2008-3721	Seeking development application information	Part released due to Privacy & Personal Information Protection Act and Copyright legislation
3	PSC2008-3950	Seeking complaint details	Part released due to Privacy & Personal Information Protection Act
4	PSC2008-4446	Seeking complaint details	Part released due to Privacy & Personal Information Protection Act
5	PSC2008-8803	Seeking plans	Access not granted due Copyright legislation
6	PSC2008-8719	Seeking complaint details	Part released due to Privacy & Personal Information Protection Act
7	PSC2008-8187	Seeking development application information	Part released due to Privacy & Personal Information Protection Act
8	PSC2008-8811	Seeking contractors financial information	Part released due to the information involving third parties

STRATEGIC COMMITTEE RECOMMENDATIONS

ITEM NO. 1

FILE NO: PSC2008-2921

REGIONAL TREE VANDALISM POLICY

REPORT OF: SALLY WHITELOW – ACTING ENVIRONMENTAL SERVICES MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Resolve to adopt the Regional Tree Vandalism Policy
-

STRATEGIC COMMITTEE MEETING – 7 October 2008

RECOMMENDATION:

1. Resolve to adopt the Regional Tree Vandalism Policy
 2. Consult with relevant 355B Committees and all Councillors and any changes as appropriate
-

ORDINARY MEETING – 21 October 2008

RESOLUTION:

299	Councillor Nell Councillor Jordan	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to update Council on the results from the exhibition of the Tree Vandalism Policy and to seek Council's adoption of the policy to facilitate a more consistent and strategic approach to dealing with tree vandalism.

The draft Policy was placed on public exhibition in accordance with the Council Resolution of 22 April 2008.

This policy has been developed by a regional working group facilitated by Hunter Councils in light of increasing tree/vegetation vandalism being experienced by councils across the region. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has seen an increase in the vandalism of vegetation.

Such vandalism can have substantial financial and human resource costs for councils. These include the direct loss of the asset value of the trees or vegetation, the cost of the

investigation, rehabilitation and repair costs, and the cost of implementing potential punitive measures aimed to be deterrents.

Recognition of the common tree/vegetation vandalism issues being experienced by councils has resulted in the HCCREMS Steering Committee resolving to prepare a regional policy. This approach, supported by increased sharing of resources and expertise between councils, will provide a greater level of organisational capacity and commitment to address this issue consistently throughout the region.

The policy has recently come off exhibition after a period of 28 days. It was advertised through the Examiner and copies were placed at libraries and at Council's administration building. The policy was also placed on the Council website and on the 'Bang the Table' website. Hard copies were also available on request.

Council received no formal submissions however some comments were received via the 'Bang the Table' website. 143 individual people visited the "Bang the Table" website however only 9 people left comments. While the lack of response infers a general level of satisfaction with the policy this is also supported by the majority of comments on the website (64%) that recognise tree vandalism as an important issue. However it must be noted that such a small amount of respondents that left comments isn't likely to be statistically valid.

Supportive comments on Bang the Table focused on the need to respond to the vandalism and take affirmative action while negative responses were less about the policy and more in relation to concerns about visual barriers.

In relation to visual barriers it is important to note that the policy advises that using a combination of responses is the most effective these include education; monitoring and prevention; regulation, enforcement and rehabilitation. Installation of visual barriers is only considered in high impact events, as defined by the response assessment tool (attachment 4 of the policy) and in this instance there are several options such as signs, bunting, shade cloth, and shipping containers. Before such a response was implemented discussion would also be held with Councillors.

Acknowledging that at least 143 people showed an interest in the policy and that there were no submissions calling for the policy to be amended there have not been any amendments to the policy from the draft version.

It is also important to note that this policy will have links to future work that is currently being planned on updating Council's Tree Planting Guidelines and work with Hunter Councils on Regional Roadside Management that include vegetation management.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

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.*

ENVIRONMENTAL *Council will protect and enhance the environment while*

SUSTAINABILITY – *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*

FINANCIAL/RESOURCE IMPLICATIONS

The policy details the resources needed to implement this policy and includes such things as educational materials, signage, databases, rehabilitation plans and trained staff. Although this may seem extensive initial piloting of the policies principles has shown that by having a consistent and planned approach less time and resources are used when responding to individual events. This is a result of staff being trained in the approach and having a clear direction and parameters in which to undertake their duties along with an approved set of tools.

As this is a regional approach there will also be the opportunity for Councils to share resources.

LEGAL AND POLICY IMPLICATIONS

There is a suite of legislation that applies to tree vandalism, these have been included as a table in attachment 2 of the policy.

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 makes 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 cultural 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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The community has an expectation that Council respond to tree vandalism incidences and the majority of the community is supportive of Council taking a strong consistent approach.

Tree vandalism on public land also means the loss of a valuable community asset that in most cases is worth several thousands of dollars. Most noted are the reduced visual and community amenity of an area, leafy areas are usually seen as more established and generally have a higher real estate value.

ECONOMIC IMPLICATIONS

Having a consistent and strategic approach to tree vandalism will be more cost effective in the long term than creating new approaches to each new event. Replacing mature trees can be costly, it is hoped that by having a consistent approach to tree vandalism that incidences will decrease resulting in reduced budget expenditure.

ENVIRONMENTAL IMPLICATIONS

In many cases tree vandalism occurs on coastal areas that are already under threat of being over loved and are very fragile. The loss of any vegetation along foreshores is usually followed by severe erosion which in turn creates further environmental and asset management issues. Coastal vegetation also acts as important wind-breaks and valuable wildlife corridors. In addition to decreasing the incidences of environmental damage this policy will assist council to remediate after tree vandalism events and restore environmental values.

CONSULTATION

Discussions were held with the Community Engagement Panel to devise a consultation plan to ensure adequate community consultation.

The plan was on exhibition for 28 days and available at libraries and at Council's administration centre. The policy was also placed on the Council website and on the 'Bang the Table' website. Hard copies were also available on request.

The media also ran several stories about the policy ensuring that the plans existence was widely promoted.

OPTIONS

- 1) Adopt, reject or amend the recommendation

ATTACHMENTS

- 1) Regional Tree and Vandalism Policy

COUNCILLORS ROOM

- 1) Nil

TABLED DOCUMENTS

Nil



POLICY

Adopted:
Minute No:
Amended:
Minute No:

TITLE: REGIONAL TREE / VEGETATION VANDALISM POLICY

PURPOSE

The purpose of this policy is to promote a consistent regional approach to the protection and management of trees and vegetation in the landscape, particularly in deterring and responding to the loss of vegetation arising from deliberate vandalism on public land.

APPLICABILITY

This policy applies to the following councils that comprise the Hunter, Central and Lower North Coast Region:

Greater Taree City Council	Cessnock City Council
Great Lakes Council	Maitland City Council
Port Stephens Council	Dungog Shire Council
Newcastle City Council	Gloucester Shire Council
Lake Macquarie City Council	Upper Hunter Shire Council
Wyong Shire Council	Muswellbrook Shire Council
Gosford City Council	Singleton Council

It has been amended for use in the Port Stephens Council Local Government area to align with other Port Stephens Council policies while still reflecting the regional priorities.

SCOPE

This policy outlines the recommended procedures and activities to provide:

1. A consistent approach by councils to deterring and responding to incidences of tree/vegetation vandalism on public land throughout the region.
2. A consistent regional approach to engaging and involving the community in the long term protection and management of vegetation and in reporting illegal vandalism

The policy supplements individual Council tree and vegetation management policies with a regional tree/vegetation vandalism policy that is based on common objectives, values and needs. This policy will assist council in meeting the recommendations of the NSW Ombudsman's Enforcement Guidelines for Councils (2002) by establishing a consistent and transparent investigation and decision making framework when responding to tree and vegetation vandalism events on public land.

BACKGROUND

This policy has been developed in light of increasing tree/vegetation vandalism being experienced by councils across the region. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has seen an increase in the vandalism of trees and vegetation on public land under the care, control and management of councils. Further background information to the policy and the initiatives it comprises are included in Attachment 1.

POLICY OBJECTIVES

1. To promote the value of and need for protection of trees and vegetation on community land
2. To provide regional consistency in the deterrence, investigation and response to tree vandalism incidents
3. To encourage the sharing of experience, expertise and resources among councils when deterring and responding to tree / vegetation vandalism incidents throughout the region.
4. To promote and guide broader community involvement in the prevention of vandalism, and in investigation and enforcement following vandalism incidents

POLICY PRINCIPLES

1. Vandalism of trees and vegetation on community and public land is a serious criminal offence;
2. The long term protection and management of trees and vegetation on public land (including re-establishment in previously cleared areas) is integral to maintaining the economic, cultural, environmental and social values of the region. Trees and vegetation contribute significantly to environmental health, and to human health and wellbeing.
3. The identification and prosecution of perpetrators of public tree/vegetation vandalism should be pursued consistently throughout the region.
4. In the absence of successful prosecutions, Council and the community must carry some responsibility for the prevention of further damage and the rehabilitation of damaged areas.
5. Community education is a key mechanism to promote the protection of trees and vegetation, and to encourage the reporting of vandalism.

POLICY STATEMENT

1. Definition of Tree Vandalism

For the purpose of this policy, Tree Vandalism is defined as; *'the unlawful destruction, damage or injury to trees and vegetation on community and public land. Examples include poisoning, mowing, pruning, removal and ringbarking'*.

2. Land to which the policy applies

This policy applies to public and community land that is under the care, control and management of Port Stephens Council.

RELEVANT LEGISLATIVE PROVISIONS

There exists a range of offences under various legislation that have the potential to apply in cases of tree / vegetation vandalism. An overview of these offences, relevant legislation, responsible authorities and the nature of penalties that apply are included in Attachment 2.

POLICY RESPONSES

1. Education

Council's community education programs will include the following key elements about the value of vegetation and the adverse impacts of tree and vegetation vandalism:

- To explain the various environmental functions of vegetation in natural and urban environments including: habitat, water quality, air quality, shade, erosion control, aesthetics, weed suppression, noise attenuation, climate change mitigation and wind breaks.
- To explain the cumulative impacts of vegetation loss, so that the impact of a single act can be judged in the context of impacts over time
- To give an economic value to the environmental functions of vegetation and, therefore, to the cost of vegetation loss and damage, and/or by using ANZ Standard (Draft) or similar weighted calculation.
- To highlight the legal significance of offences (i.e. they are criminal acts), and the potential fines and punishments
- To calculate and publicise the direct economic cost to residents of acts of vandalism, in terms of investigation, replacement and remediation costs
- To publicise successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions
- To involve the community directly in maintenance and protection of vegetation, and in rehabilitation of damaged areas (eg through Landcare).

2. Monitoring and prevention

- Council will record vandalism incidents and its response to these on a database to allow an assessment of the cumulative impacts of vandalism, to identify high risk areas and to monitor the effectiveness of rehabilitation and response efforts and community education over time. While councils may utilise a variety of database types to record this information, in order to assist with regional scale assessment and reporting, all councils will at a minimum record the following details in regard to vandalism events:
 - a. The area of canopy that has been impacted upon
 - b. Location of the offence
 - c. Vegetation Type (natural bushland or amenity)
 - d. Method of vandalism (cut, cleared or unknown)
- Council will prepare management plans for individual trees and/or stands of vegetation in high risk areas. These plans should include rehabilitation responses in case of loss or damage. These plans should involve residents in their preparation and implementation when possible, and be communicated to residents.
- Council will actively promote community involvement in stewardship and maintenance of high risk bushland areas.
- Council will target community education initiatives toward high risk vandalism areas

3. Regulation, Enforcement and Rehabilitation

- Council will follow the Investigation and Response Protocol included in Attachment 3 when responding to tree and vegetation vandalism events
- To support the effective implementation of the Investigation and Response Protocol, Council will clearly define relevant staff responsibilities within the protocol, and establish clear lines of communication between those that are involved.
- Council will participate in the development and trial of a regionally standardised 'Response Assessment Model' for the purpose of identifying both the level of impact of vandalism events, and the appropriate initiatives that should be implemented by council in response to these. An example of such an Assessment Model is included in Attachment 4.
- Council endorses the suite of potential response measures to vandalism events included in Attachment 5 of this policy.

RESOURCES

Resources required for an individual council to implement this policy include

- Educational materials (eg brochures)
- Management plans and rehabilitation strategies
- Correspondence templates (eg for letter drops)
- Signage and/or banners
- Paint stencils
- Investigative / regulatory staff
- Physical materials such as bunting, fencing, sail or shade cloth.
- Database to record and monitor vandalism events
- Access to suitable endemic plants suitable for use in rehabilitation
- Team trained and resourced to carry out rehabilitation

Regional resource opportunities

The effective and consistent application of this policy throughout the region could be enhanced, and the resource implications for individual councils reduced through the sharing of experience, expertise and resources among councils. Particular examples of where such resource and information sharing could occur include:

1. Development and use of regional templates for:
 - Educational materials (eg brochures)
 - Management plans and rehabilitation strategies
 - Correspondence (eg for letter drops)
 - Signs
 - Recording vandalism incidents (eg Access database)
2. The sharing of specialist investigative resources and staff that are experienced in environmental investigation techniques. These skills need to be further developed and shared in the region.
3. The promotion and sharing of case studies that critique both successful and unsuccessful responses to vandalism events and the lessons learned from these.
4. Sharing of physical materials required for responding to vandalism events (eg construction fencing, bunting, paint stencils).

There is also the potential for revenue raised through Penalty Infringement Notices and successful court prosecutions to be used as a source of revenue to assist with funding further preventive and regulatory initiatives.

RELATED POLICIES

Port Stephens Council Tree Preservation Order
Port Stephens Council Compliance Policy
Port Stephens Council Tree Management Policy and Procedures
Legal Management Directive

REVIEW DATE

Twelve months from the date of adoption.

IMPLEMENTATION RESPONSIBILITY

Recreation Services Manager
Environmental Services Manager

ATTACHMENTS

1. Background to the Policy
2. Legislative framework
3. Response Protocol
4. Example Response Assessment Model
5. Proposed response measures
6. Template for Letterboxing
7. Signage template

ATTACHMENT 1.

BACKGROUND TO THE POLICY

TREE AND VEGETATION VANDALISM

This policy has been developed in light of increasing tree/vegetation vandalism being experienced by councils across the region. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has seen an increase in the vandalism of trees and vegetation on public land under the care, control and management of councils.

This issue is not unique to the Hunter, Central and Lower North Coast region however, with the Minister for the Environment seeking feedback from councils in November 2005 regarding ways to improve investigation of breaches of the Tree Preservation Order. This was in response to tree poisoning and removal from council reserves and private property 'appearing to have reached epidemic proportions in some areas' and being particularly common around the harbour and beachside suburbs of Sydney'. In response, the Minister was investigating ways to provide councils with greater powers to investigate breaches of Tree Preservation Orders.

There are many reasons that motivate vandalism of trees and vegetation. Some acts are random and without purpose, while others occur through ignorance or are motivated by personal self-interest or gain (eg increased property values, better access to the waterfront, or unimpeded views). Where possible, the response to acts of vandalism should be adapted to suit the perceived motivation. For example, community education and Ranger patrols may be the best response to random vandalism, while prosecution and fines may be the most effective deterrent to economically motivated acts.

The physical nature of tree and vegetation vandalism can occur in a variety of forms, including poisoning, pruning, removal and destruction, and mowing of native understorey. This kind of vandalism has a significant and cumulative impact on the environment. Particular impacts include reduced visual and community amenity, loss of environmental services such as wind-breaks and erosion control, and loss of wildlife habitat.

Such vandalism can have substantial financial and human resource costs for councils. These include the direct loss of the asset value of the trees or vegetation, the cost of the investigation, rehabilitation and repair costs, and the cost of implementing potential punitive / deterrence measures.

The clandestine nature of tree/vegetation vandalism on public land frequently makes the identification of perpetrators difficult. Even where it is possible to identify the most likely offender, it can be difficult to collect sufficient evidence to prove responsibility. This is frequently exacerbated by a general unwillingness among the community to provide testimony, even where an offence may have been witnessed.

Recognition of the common tree/vegetation vandalism issues being experienced by councils has resulted in the HCCREMS Steering Committee resolving to prepare a regional policy. This approach, supported by increased sharing of resources and expertise between councils, will provide a greater level of organisational capacity and commitment to address this issue consistently throughout the region.

POLICY RESPONSES**1. Education**

Unless the community has an understanding of the benefits and value of vegetation, and understands the adverse impacts of vandalism, it is difficult to sustain the level of community and political support necessary to deter and respond to such activities. There is no single strategy or argument that will be successful in engendering this support. As such, long-term and varied programs are required.

In this regard, community environmental education program should aim to address the following:

- To explain the various environmental functions of vegetation in natural and urban environments including: habitat, water quality, air quality, shade, erosion control, aesthetics, weed suppression, noise attenuation, climate change mitigation and wind breaks.
- To explain the cumulative impacts of vegetation loss, so that the impact of a single act can be judged in the context of impacts over time
- To give an economic value to the environmental functions of vegetation and, therefore, to the cost of vegetation loss and damage, and/or by using ANZ Standard (Draft) or similar weighted calculation.
- To highlight the legal significance of offences (i.e. they are criminal acts), and the potential fines and punishments
- To calculate and publicise the direct economic cost to residents of acts of vandalism, in terms of investigation, replacement and remediation costs
- To publicise successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions
- To involve the community directly in maintenance and protection of vegetation, and in rehabilitation of damaged areas (eg through Landcare).

2. Monitoring and Prevention

Given the many years of experience by councils and other land managers in dealing with unapproved clearing and damage to vegetation, it is often possible to predict areas facing high risk of damage, such as new developments fronting waterways with bushland reserves.

The risk of damage to these areas can be reduced by:

- Targeting community education material
- Increasing the presence of enforcement officers
- Monitoring vegetation condition by photographs or aerial photography,
- Involving the community in stewardship and maintenance of bushland areas.
- Developing and implementing management plans for these areas.

Because councils and other land managers do not have the resources to monitor all areas at risk however, community involvement and reporting of vandalism is integral to any monitoring and prevention program. However, the community must have confidence that, if they do report incidents, they will be followed up promptly and effectively by the council. Recording and responding to information provided by the community is therefore extremely important, and can be facilitated through the development of a tree / vegetation database. Development and maintenance of a database is integral to any monitoring and prevention program as it is

the most effective means of recording and demonstrating the cumulative impacts of tree and vegetation vandalism over time.

3. Regulation, Enforcement & Rehabilitation

In order to promote consistency among councils when investigating and responding to vandalism events, a guideline protocol has been developed that is included in Attachment 3. Councils' implementation of this protocol will ensure quick and consistent assessment of damage and determination of an appropriate response strategy. To support the effective implementation of this protocol, clear delineation of staff responsibilities within the process, and clear lines of communication between staff involved need to be established. This will ensure implementation of clear and consistent responses by council, and assist in ensuring that staff and other resources required to initiate and implement a response are available.

Although successful investigations and prosecutions are difficult, their impact is significant in making the community aware of the seriousness of illegally damaging vegetation. Involvement of police and/or private investigators may be warranted in serious cases to take advantage of their investigative skills. Establishing a body of specialist expertise and experience within the region is essential if investigations and prosecutions are going to succeed. This could be supported through the sharing between councils in the region of staff who possess such expertise.

There are a range of responses that can be and have been used to deal with instances of vandalism to trees and other vegetation. Experience has shown that the most effective responses involve a suite of actions, rather than a single action, and combine enforcement, education, and rehabilitation. Effective responses need to be quick, predictable, consistent, fair and well-resourced. It needs to be recognised, however, that councils do not have the resources available to implement the full suite of response measures that are available every time a vandalism event is detected.

To promote consistency between councils in the region, a Response Assessment Model will be developed to assist councils in assessing the level of impact of vandalism damage, and in determining the appropriate level and type of response that is required. An example of such an Assessment Tool is included in Attachment 4. The model to be developed will consider factors such as the ecological value, cultural significance, natural condition, and public prominence of damaged vegetation, and calculate the level of impact of the damage (ie high medium or low). The suite of potential responses considered appropriate for high, medium and low impact offences is included in Attachment 5.

ATTACHMENT 2

LEGISLATIVE FRAMEWORK

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	MAXIMUM PENALTIES	LIMITATION PERIOD (FROM THE DATE OF THE OFFENCE)	REMEDATION
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Penalty Infringement Notice	Development carried out with out development consent	\$600	1 years	
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Local Court	Development carried out with out development consent	1 - 11 Penalty Units	2 year	
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court	Development carried out with out development consent	1 - 11 Penalty Units	2 years	A Court may, impose remediation
Carry out forbidden development	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court	Development carried out with out development consent	1 - 11 Penalty Units	2 years	
Contravene Tree Preservation Order	s629(1) of the Local Government Act 1993	Local Government	Local Court	Wilful or negligent damage of a plant in a public place	Up to \$2,200	6 months	
Clear native vegetation	S43(1) of the Native Vegetation Act 2003	Department of Environment and Climate Change	Penalty Notice for s12(1) offence		\$3,300 for individual and \$5,500 for corporations.		

ORDINARY MINUTES – 21 OCTOBER 2008

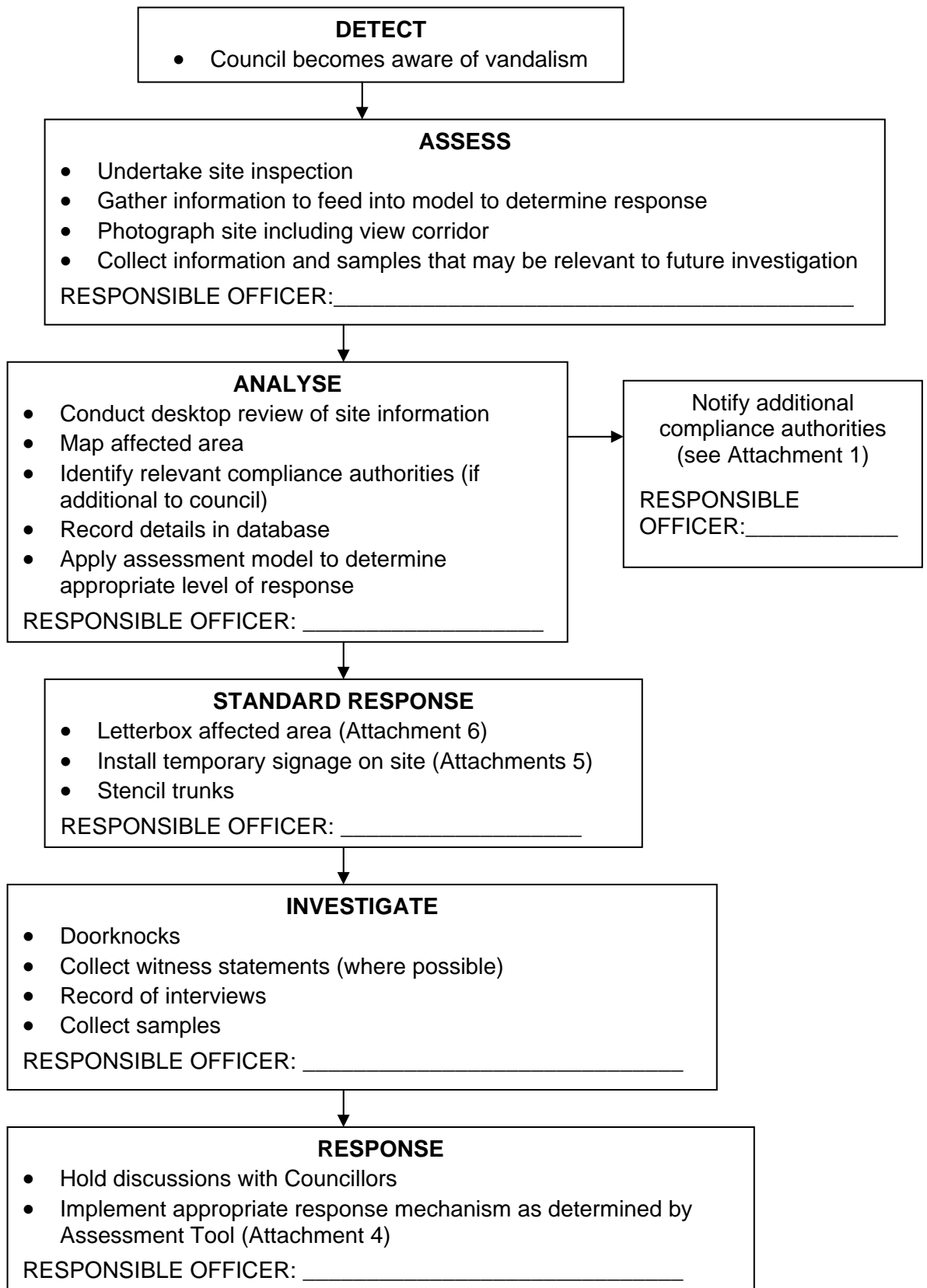
Clear native vegetation	S12(1) and S42(2) of the Native Vegetation Act 2003	Department of Environment and Climate Change	Local Court	Clearing without approval	Up to \$11,000	2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer".	S36 remediation notice may be issued by DNR or a S41 (5) Court may make such order as it thinks fit to remedy or restrain the contravention
Clear native vegetation	S12(1) of the Native Vegetation Act 2003	Department of Environment and Climate Change	Land and Environment Court	Clearing without approval	Up to \$1,100,000	2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer".	S36 remediation notice may be issued by DNR or a Court may make such order as it thinks fit to remedy or restrain the contravention under S41 (5)
Remove material from protected land	s22B(1)b of the Rivers and Foreshores Improvement Act 1948	Department of Environment and Climate Change	Local Court	Carrying out work without a permit	\$66,000 for individual and \$137,500 for corporations.	12 months after the act or omission that form the basis of the alleged offence	
Remove material from protected land	s22B(1)b of the Rivers and Foreshores Improvement Act 1949	Department of Environment and Climate Change	Land and Environment Court	Carrying out work with out a permit	\$66,000 for individual and \$137,500 for corporations.	12 months after the act or omission that form the basis of the alleged offence	

ORDINARY MINUTES – 21 OCTOBER 2008

Wilful or negligent use of a pesticide that injures the property of another person	s.7(1)(b) of the Pesticides Act 1999	Department of Environment and Climate Change	Land and Environment Court		Up to \$120,000 / \$250,000 (individual / corporation).	3 years from the date of the offence or the date on which the offence first came to notice of an "authorised officer".	A court may also, where the offence is proven, order the offender to restore land damaged as a result of the offence and / or order the offender to pay the costs of a "public authority" (which includes a Council) where that authority has incurred costs as a result of the offence or in the clean-up, abatement or mitigation of pesticide pollution
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Department of Environment and Climate Change	Infringement Notice		\$400 for individual and \$800 for corporation	12 months from the date of the offence or the date on which the offence first came to notice of an 'authorised officer'.	
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Department of Environment and Climate Change	Local Court		(2) Up to \$20,000		
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Department of Environment and Climate Change	Land and Environment Court.		(3) Up to \$60,000 / \$120,000 (individual / corporation)		
Use registered pesticide in contravention of approved label	s.15(1) of the Pesticides Act 1999	Department of Environment and Climate Change	As for offence under s.10(1)(b) of the Pesticides Act		As for offence under s.10(1)(b) of the Pesticides Act.	As for offence under s.10(1)(b) of the Pesticides Act.	

ATTACHMENT 3

INVESTIGATION AND RESPONSE PROTOCOL



ATTACHMENT 4

EXAMPLE RESPONSE ASSESSMENT MODEL

Location: _____

Officer: _____

Date: _____

0.125 Weighting for each Main Criteria

Criteria	T [#] 1	T [#] 2	T [#] 3	T [#] 4	T [#] 5	T [#] 6	T [#] 7	T [#] 8	T [#] 9
Significance of the tree									
Type 2 for yes 1 for no for each item									
Historical value									
Commemorative tree									
Significant tree (on register)									
Exceptionally old or fine specimen									
Curious growth habit or physical appearance									
Horticultural/scientific value									
Unusually large size									
Rare to the area									
Outstanding aesthetic quality									
Valuable habitat or corridor									
Key stone species									
Contributes to landscape									
TOTAL	0	0	0	0	0	0	0	0	0
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Life Cycle Stage									
Type 3 for young, 10 for semi-mature, 42 for mature									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Site									
1 for low profile, 2 for average profile and 3 for high profile									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
SULE (Safe Useful Life Expectancy)									
Type 1 for short, 2 for medium or 3 for long									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Environmental effects									
Type 2 for yes and 1 for no									
Will method cause problems eg poison contamination									
Will method cause problems eg erosion									
Will method cause problems eg branches left on site									
Habitat - Loss of nesting sites									
Is the area able to be restored									
Does poisoned tree impact threatened species									
TOTAL	0	0	0	0	0	0			

ORDINARY MINUTES – 21 OCTOBER 2008

WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Target									
1 for occasional, 2 intermittent, 3 frequent, 4 for constant									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Damage									
Type 2 for major or 1 minor									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Cost of remediation and Tree Valuation									
Type in actual amount divided by 1000									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
TOTAL SCORE	0	0	0	0	0	0	0	0	0

SIGNIFICANCE	ACTION
Low Significance 2.63 - 6.253	A) Letterbox residents
	B) Leave trees in place and tattoo trunks
	C) Install temporary signage
	D) PIN or Local Court where evidence exists.
Medium Significance 6.253 - 9.876	A) Letterbox residents
	B) Leave trees in place and tattoo trunks
	C) Install temporary / permanent signage
	D) Replant and rehabilitate
	E) Pursue action in the Local Court or Land & Environment Court where evidence exists.
High Significance 9.876 - 13.5	A) Letterbox residents
	B) Leave trees in place as safety allows
	C) Install permanent signage
	D) Replant and rehabilitate (involve community where possible)
	E) Increase the density of vegetation in rehabilitation works
	F) Offer rewards for information
	G) Block views obtained by the vandalism (eg bunting, shade cloth, shipping containers)
	H) Consider action in the Local Court or Land & Environment Court where evidence exists as per Tree Preservation Order prosecution guidelines.

ATTACHMENT 5

PROPOSED RESPONSE MEASURES FOR LOW, MEDIUM AND HIGH IMPACT VANDALISM EVENTS

The suite of response measures considered appropriate to implement in response to high, medium and low impact tree and vegetation vandalism events on public land are outlined below. They include:

Low impact events

- Letterbox surrounding residents
- Install temporary signage
- Leave tree skeletons in place as far as safety allows and stencil trunks
- Where sufficient evidence exists, issue Penalty Infringement Notice or pursue prosecution in the Local Court.
- Rehabilitate or re-plant

Medium impact events

- Letterbox surrounding residents
- Erect temporary (consider permanent) signage
- Leave tree skeletons in place as far as safety allows and stencil trunks
- Treat poisoned plants or soil to attempt to rescue affected vegetation
- Re-plant and rehabilitate damaged areas.
- Where sufficient evidence is available, pursue legal proceedings in either the Local Court or Land & Environment Court (NB. While the penalties are more substantial in the Land & Environment Court, so too are the costs of proceedings and the burden of evidence that is required. The decision regarding which court to commence proceedings in will depend largely on an assessment of these factors).

High impact events

- Letterbox residents in the vicinity highlighting the damage and seeking information on perpetrators
- Leave tree skeletons in place as far as safety allows
- Erect permanent signs on the site highlighting damage and its consequences
- Publicise damage and responses in the media
- Protect site and rehabilitation works with fencing (eg construction fencing)
- Involve residents and community groups (eg Landcare and schools) directly in planning and implementing rehabilitation strategies
- Treat poisoned plants or soil to attempt to rescue affected vegetation
- Increase the density or extent of vegetation in rehabilitation works(eg “two-for-one” or “three-for-one”)
- Persist with rehabilitation works and maintenance of rehabilitated areas to ensure no loss of vegetation over time
- Offer rewards for information
- Consider proceedings in the Land & Environment Court where sufficient evidence exists as per Tree Preservation Order prosecution guidelines.
- Draw attention to the damage through public art or painting the dead stumps
- Block views using barriers such as bunting, shade cloth, fences or shipping containers

For example, an integrated response to a major incident, combining a suite of actions, may include:

1. Immediately assess the site and gather information
2. Erect permanent signs pointing out the damage and seeking information on the perpetrators.
3. Letterbox residents in the vicinity to publicise the damage and seek information for the investigation.
4. Conduct a thorough investigation including doorknocking local residents with a view to identifying potential witnesses.
5. Assess the best response to stabilise the area and ensure the vandalism isn't rewarded (eg by cutting down or clearing the dead vegetation). Implement measures to block views that may have been obtained (eg shipping containers or screening with shade cloth) or to highlight the damage that has occurred (eg decorating tree skeletons or installing bunting). Such actions can go some way in defeating the vandal's purpose.
6. Prepare and implement a rehabilitation plan, preferably involving local residents (although this may not always be possible or desirable). Successful rehabilitation can be linked with the removal of "punishments". For example, bunting or signs may be removed after 12 months if re-planted vegetation is established and maintained. This will encourage residents to protect rehabilitation works.
7. Where sufficient evidence may be available, consider prosecution in the NSW Land and Environment Court as per Tree Preservation Order prosecution guidelines. If successful, publicise the outcomes.

ATTACHMENT 6

TEMPLATE LETTER FOR LETTER BOXING

Occupier
Address 1
Address 2

Dear Occupier

RE: DAMAGE TO VEGETATION ON COMMUNITY RESERVE

In the last few months valuable trees / bushland in the community reserve at **LOCATION** has been vandalised.

This vandalism has included **[INSERT OFFENCE – EG POISONING OF 5 LARGE TREES]**. The impacts from this deliberate vandalism of community property include **[INSERT IMPACTS EG LOSS OF HABITAT, SHADE AND AMENITY]** The cost to council of rehabilitating the damage caused is likely to exceed **[INSERT VALUE]**, taking money away from other community services.

All native vegetation on Council reserves is protected. Deliberately killing or pruning trees and other vegetation on Council reserves without approval is illegal, and can attract substantial penalties. Council is now investigating this particular incident with a view to identifying those responsible.

Council is planning to **INSERT PROPOSED SUITE OF ACTIONS e.g. REPLACE THE POISONED TREES WITH THREE NEW TREES OF THE SAME SPECIES; REHABILITATE THE SITE AND FENCE IT TO PREVENT FURTHER DAMAGE; INVITE THE LOCAL PRIMARY SCHOOL TO ASSIST IN REPLANTING THE DAMAGED AREA.**

If you have any information that may help Council in its investigation, or if you would like to be involved in rehabilitating and protecting the site in future, please contact **[NAME – POSITION]** on **[PHONE NUMBER]**.

Your assistance in this matter would be greatly appreciated.

Yours faithfully

MANAGER / MAYOR

ATTACHMENT 7

SIGN TEMPLATE

ENVIRONMENTAL VANDALISM!

These trees / vegetation have BEEN DESTROYED / KILLED / ARE SICK as a result of deliberate POISONING / MOWING / OTHER ACTIVITY.

This vandalism is a criminal act. Council is investigating to identify those responsible for this selfish damage to community property and would be grateful for any information from the community that may assist.

Should you have any information that can assist in these inquiries, or if you would like to participate in helping to rehabilitate and protect the site in future, please phone council on PHONE NUMBER.

ITEM NO. 2

FILE NO: PSC2005-4382

ADOPTION OF TILLIGERRY CREEK MANAGEMENT PLAN

REPORT OF: SALLY WHITELAW - ACTING ENVIRONMENTAL SERVICES MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Tilligerry Creek Management Plan, provided with this report under separate cover.
- 2) Extend the Catchment Committee by two members from the Anna Bay locality.

STRATEGIC COMMITTEE MEETING – 7 October 2008**RECOMMENDATION:**

1. Defer the adoption of the Tilligerry Creek Management Plan to the December Ordinary meeting of Council for consultation with the relevant Government authorities and the Estuary Management Committee
2. Extend the Catchment Committee by two members from the Anna Bay locality

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

300	Councillor Nell Councillor Kafer	It was resolved that the recommendation be adopted.
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Note: Cr Maher left the meeting at 6.57pm during Item 2

Note: Cr Dingle returned to the meeting at 6.57pm during Item 2

BACKGROUND

The purpose of this report is to ask Council to adopt the Tilligerry Creek Management Plan and seek approval for the Catchment Committee to be extended by two members from the Anna Bay locality.

In 2004, the Port Stephens/ Myall Lakes Coastal and Estuary Committee recommended the development of a Catchment Management Plan for Tilligerry Creek. The over riding objective of the Plan was to address the sustainable use of Tilligerry Creek as an important estuarine

ecosystem that supports oyster harvesting, aquaculture research, tourism and recreational activities.

A consultant (Earth Tech Pty Ltd) was engaged by Council to prepare the Study. The Study found that ongoing land use pressures have resulted in a decline of habitat quality within the catchment and this has resulted in impacts on water quality, biodiversity, and adversely affected recreational and commercial activities. The report did not look at septic system upgrade issues as this was the subject of other studies being undertaken by Council independently of this Study.

The report made recommendations focusing on:

- Improved management of drains and floodgates
- The installation of trash racks, wetlands and pollutant traps
- Audits of catchment activities
- Improved vegetation management, particularly along creek banks
- Improved stock management
- Buyback of marginal agricultural land

The draft Plan did recommend that Council consider potential Local Environment Plan (LEP) amendments to rezone approximately 1500ha of existing bushland to Environmental Protection. This caused considerable concern in the community and Council resolved that the exhibition period be extended until the end of February 2008 to allow the community more time to prepare submissions. Council also resolved to create a Tilligerry Creek Committee to drive the Plan and to ensure community input. The committee has equal numbers of community and professional representatives.

From February until now, the Committee has been established and has been working through the submissions and modifying the Plan where needed. A report on the submissions received and the Committee's response is attached, grouped under the main topics of concern.

In relation to the management action that Council consider potential Local Environment Plan (LEP) amendments to rezone 1500ha of bushland to Environmental Protection, the Committee's recommendation was to remove this option from the Plan and replace it with a recommendation in the 'Habitat Management Actions' section that refers to voluntary options to increase bushland protection.

Council does have the option of reinstating the original management action, however it is the Committee's view that voluntary conservation actions are a more appropriate mechanism.

It should be noted that the LEP review is an independent process and, although the original management action regarding bushland conservation has been modified to have more focus on voluntary conservation areas of significant vegetation, will still be assessed as part of the LEP review. If areas of vegetation are seen to be environmentally significant, they have the potential to be rezoned to Environmental Protection as part of the LEP process.

The Committee has now supported the revised Plan and is recommending that Council adopt the Plan so that it can be finalised. Once the Plan has been adopted, a letter will be sent to everybody that submitted a submission, detailing the changes made to the Plan and the next steps in continuing the work to improve the health of the Tilligerry catchment.

In recognising that the Plan did not include the Anna Bay catchment, parts of which do drain into Tilligerry Creek, the Committee has requested that the Committee be expanded by two

members from the Anna Bay catchment. This will assist to ensure that the community of Anna Bay remains informed about projects within the Tilligerry catchment and has input into projects proposed by the Committee.

If Council gives approval for the Committee to be expanded by two members from the Anna Bay catchment, the same process as for the initial set up of the Committee will be followed. This includes calling for expressions of interest and selection by an independent panel.

It is worthwhile to note that several projects to improve the Tilligerry catchment are well underway. These projects include fencing off and revegetating creeks and drains, improved drain maintenance procedures, community education in the areas of acid sulfate soils and stock management, upgrades to existing floodgates to improve tidal flushing, and widening and shallowing drains to keep the acid sulfate soil layer inundated. These projects are the result of Council, the Department of Primary Industries and the community working together, and many more projects are planned for the coming years.

Once the Plan is adopted, Council will also have an increased chance of being successful when applying for funding via State and Federal grant programs to continue the Plan's implementation.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

SOCIAL SUSTAINABILITY –	<i>Council will preserve and strengthen the fabric of the community, building on community strengths.</i>
ENVIRONMENTAL SUSTAINABILITY –	<i>Council will protect and enhance the environment while considering the social and economic ramifications of decisions.</i>
BUSINESS EXCELLENCE –	<i>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</i>

FINANCIAL/RESOURCE IMPLICATIONS

Once the Plan is adopted, the focus will shift to the implementation phase and there are a number of actions that are the responsibility of Council and these will be integrated into existing work plans.

The financial benefit of adopting the Plan is that Council will then be able to seek funding through State and Federal grant program to reduce the financial burden.

LEGAL AND POLICY IMPLICATIONS

There are a range of policy implications consequent upon adoption of the Plan.

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 makes 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 cultural 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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Adoption of the Plan will help the community to understand the vision for improving the Tilligerry catchment and the works that are likely to be undertaken over the next few years.

Extending the Committee by two to include the Anna Bay catchment will assist in ensuring that the community of Anna Bay remains informed about projects within the Tilligerry catchment into which the drainage from Anna bay flows.

ECONOMIC IMPLICATIONS

Adoption of the Plan will provide Council with an increased chance to obtain funding for the projects via State and Federal grant programs.

There are no negative economic implications to Council by extending the Committee by two members.

ENVIRONMENTAL IMPLICATIONS

The Plan lists a number of projects that need to be implemented to ensure that the health of the Tilligerry catchment continues to improve. These projects relate to improved management of drains and floodgates, catchment audits, improved vegetation and stock management, installation of trash racks, wetlands and pollutant traps and the buyback of marginal agricultural land.

Adoption of the Plan will allow the Committee to continue with the Plan's implementation.

OPTIONS

ORDINARY MINUTES – 21 OCTOBER 2008

- 1) Adopt the recommendation.
- 2) Modify the recommendation in terms of a varied composition of the Committee, and/or
- 3) Re-establish the recommendation that Council consider amendments to Port Stephens Local Environmental Plan 2000 to rezone approximately 1500 ha. of existing bushland to Environmental Protection (it should be noted that this would be contrary to the strong recommendation of the Committee).

ATTACHMENTS

- 1) The Tilligerry Creek Management Plan – provided under separate cover.
- 2) Summary report on received submissions

COUNCILLORS ROOM

- 1) Tilligerry Creek Management Report Attachments

TABLED DOCUMENTS

- 1) None

ATTACHMENT 1 –
SUMMARY REPORT ON RECEIVED SUBMISSIONS

Draft Tilligerry Creek Catchment Plan

Submission Review Report

There are approximately 4013 residents and businesses in the Tilligerry Creek Catchment.

Council received:

44 Total Submissions

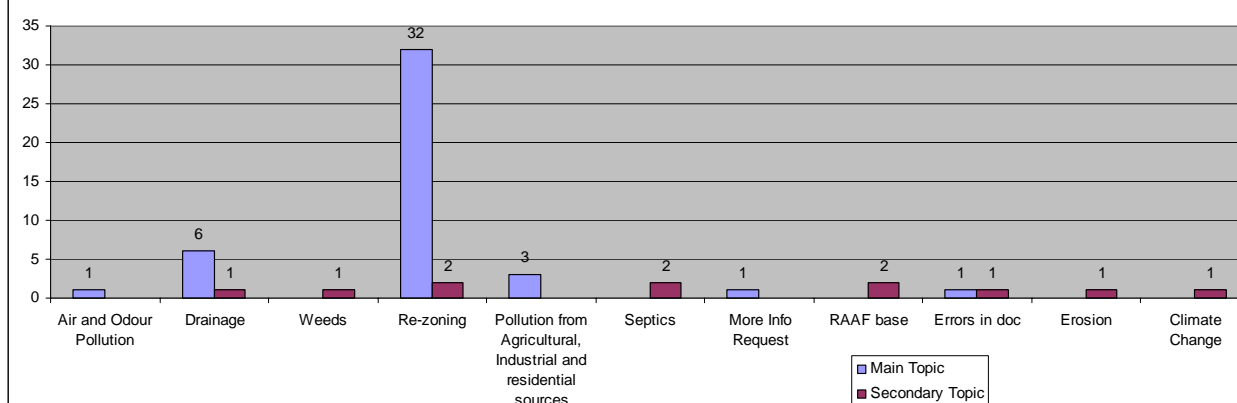
From the total submissions there were;

18 Residents of Salt Ash
12 Residents of Bobs Farm
3 Residents of Medowie
2 Residents of Nelson Bay
2 Residents of Williamtown
1 Resident of Tanilba Bay
1 Resident of Soldiers Pt
1 Community Group – Tilligerry Landholders Group
2 Local Businesses
2 Port Stephens Council

The submissions covered the following issues:

- Re-zonings
- Drainage
- Pollution from Agricultural, Industrial and Residential sources
- Air and Odour pollution
- Septic Tanks
- Weeds
- Erosion
- Climate Change
- Impacts from the RAAF base
- Pointing out errors in the document and Information requests

Figure 2: Topics of Submissions



Several new issues also came to light in the discussions held within the committee. The below list of issues and corresponding responses is a comprehensive list of all the issues that came to light via formal submissions and via committee discussions.

Main Issues raised in the Submissions and the Committees response and amendment to the Plan

The following contains a broad synopsis of the comments raised separated into category headings.

Re-Zonings

The bulk of the comments were against the rezoning as it could have an effect on the value of the land and be restrictive on future uses and developments. Many residents felt that there was already ample protection for vegetation (i.e. the Native Vegetation Act and Councils Tree Preservation Order) and that the idea to re-zone land vegetated land to environmental protection was unwarranted.

There were also submissions that stated that they were largely supportive of the Plan and its approach however wanted the re-zoning recommendation removed from the Plan.

There were several comments that the vegetation classification in the Plan was incorrect, this is quite possible given that the map was based on the LCCREMS vegetation mapping which is regional data.

There was also considerable confusion regarding the legal status of the plan. There is no plan to have the report gazetted and as such any recommendation within the Plan would still need to follow due process. In this case the rezoning recommendation would be research as part of the next comprehensive LEP review due to occur before 2011. This would involve further research into the vegetation communities.

Response

The rezoning recommendation has been removed from the Plan and replaced with a recommendation in the 'Habitat Management Actions' section that refers to voluntary options to increase the protection of bushland.

Drainage

Submissions focused on the lack of clarity regarding who is responsible for drain maintenance and the issue that drains were no longer being maintained on a regular enough basis. There was a comment that a rural drainage study may assist and solve the issue who was responsible for what. There was also the comment that there were some errors in the report in regards to who is responsible for the various floodgates and a concern that not all the floodgates had been listed.

There appears to be a level of frustration regarding drain maintenance.

Response

The actions within the Plan that referred to drainage were checked and amended to reflect the correct ownership details and to ensure no floodgates had been omitted.

Pollution from Agricultural, Industrial and Residential sources

Comments regarding these topics tended to be quite varied. Some submissions focused on the issue of agricultural run off that has been identified as one of the sources of pollution that is affecting the water quality in Tilligerry creek. Comments revolved around the need to fence off creek lines and drains from cattle access, improve riparian vegetation and implement compliance standards for agriculture.

There were also comments concerning chicken farming the in area and the concern that this could be detrimentally affecting water quality.

Response

No changes to the Plan as the program of grants for on-ground works will address many of these concerns. In addition a letter has been sent to Bartters with an offer to help them with grant applications for the creation of an environmental management system that includes their growers.

Septic Tanks

Comments that septic tanks aren't discussed in the Plan.

NB: the human faecal contamination in oysters was discovered after the catchment plan was underway. Because the issue was quite complex it was decided to look at the issue in a more detailed study and retain the wider scope of the catchment plan.

Response

The Plan didn't include septic tanks issues as they warranted a stand alone study. The Plan was amended to reference these studies by name.

Weeds

Comments regarding the increased occurrence of weeds post the June 2007 floods and concern that weeds are decreasing the effectiveness of the drainage system.

Response

No change as the Committee felt that the Plan appropriately covered this area.

Erosion

Comments relating to the fact that there are unfenced areas of the creek and drains that stock can directly access. Concerns that this is leading to, or at least contributing to, bank erosion. Also comments relating to the lack of riparian vegetation and the need to access funding to address this issue.

NB: projects to address this have commenced.

Response

No change as the Committee felt that the Plan appropriately covered this area.

Climate Change

Concerned that raising sea levels could affect properties in the Tilligerry catchment and that the Plan doesn't address this.

Response

No change as while it is recognised that Climate Change could have a large impact on the area more fully resourced studies by both State and local governments were addressing this issue.

Impacts from the RAAF base

Comments regarding the potential pollution from fuel vapour and other activities.

Response

There was no change to the document as Council has no authority over the RAAF however as per the Plan they will be invited to participate in projects relevant to them.

Mining

A submission stating that the catchment has important sand mining areas

Response

No change as the Committee felt that the Plan appropriately covered this area.

Information requests

Most information requests were done by phone or by visiting the Port Stephens Council office. However there was one formal submission asking for a print out of a particular map within the report, this was posted out.

Response

No response needed.

Mapping

There were also some submission calling attention to minor spelling mistakes and errors in the classification of vegetation communities. There were several comments that the vegetation classification in the Plan was incorrect, this is quite possible given that the map was based on the LHCCREMS vegetation mapping which is regional data. Although it would be preferable to have this information correct given the resources needed to ground truth all this vegetation it is not seen currently a priority.

Response

A statement was included in the management Plan to explain the limitations of the mapping. Spelling mistakes were corrected.

Inclusion of Anna Bay Catchment

During committee discussion it was raise that the drainage system in the Anna Bay catchment is linked with Tilligerry Creek and that the Plan doesn't recognise this.

Response

A statement was included in the Plan that recognises that the drainage in Anna Bay affects Tilligerry Creek, that the 2 systems are interlinked and that not including Anna Bay means that some data is missing. The Plan now also makes reference to other studies carried out in the Anna Bay area that will fill some of the knowledge gaps.

Rewording of Document Title

After accounting for the omission of the Anna Bay catchment it was discussed that the Plan shouldn't really be called a catchment Plan.

Response

The word 'catchment' was taken out of the title.

Additions, Omissions and Errors in the Document

- Some minor typing mistakes and formatting were corrected
- Previously omitted details regarding councils and the Oyster QAP water quality testing program were included.
- A statement in the Land Use section was included to indicate the large amounts National Park Estate in the catchment.
- A note was added that the Foreshore Management Plan is also an important document to be reviewed alongside the Tilligerry Plan.
- Additional information regarding some of the specific actions was added in an effort to make the actions more easily understood.
- Sections on oyster farming and faecal contamination were reviewed and inaccuracies corrected.

ITEM NO. 3

FILE NO: PSC2007-1474

DEVELOPMENT CONTROLS FOR BROTHELS AND RESTRICTED PREMISES

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt Chapter 13 Brothels and Chapter 14 Restricted Premises of the Port Stephens Development Control Plan 2007; Attachments 1 and 2 respectively to the report and;
- 2) Adopt amended Chapter 1 – Introduction A1.9 Advertising and Notification Procedures. (Attachment 3 to this report);

STRATEGIC COMMITTEE MEETING – 7 October 2008**RECOMMENDATION:**

That this matter be deferred to the October Ordinary Meeting of Council.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

301	Councillor Dover Councillor Westbury	It was resolved that the recommendation be adopted with the alteration to the references to the 150metres and 200metres for restricted premises be changed to 400metres.
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Amendment:

Moved Cr Francis Seconded Cr Nell

That the Council recommendation be adopted.

The amendment on being put, was lost

A division was called for:

Those for the motion: Crs Dover, Westbury, Jordan, O'Brien, Tucker, Maher and MacKenzie

Those against the motion: Crs Francis, Nell, Ward, Kafer & Dingle

Note: Cr Maher returned to the meeting at 7pm during Item 3

BACKGROUND

The purpose of this report is to present amended draft Development Control Plan chapters for insertion into Port Stephens Development Control Plan.

Council resolved in August 2007 to place on public exhibition draft development controls for brothels and restricted premises. Only two submissions were received and the draft controls were revised following receipt of those submissions.

The submissions and revised draft development controls were reported to Council for adoption in February 2008. At that meeting, the Council resolved to defer the matter until March 2008.

At its meeting in March, the Council resolution was as follows:

“That Council reject the Chapters B15 Brothels and Restricted Premises of Port Stephens DCP 2007 and resubmit them in separate chapters (a) Brothels (b) Restricted Premises”

The controls have been re-drafted accordingly and are presented to Council for adoption (refer to **Attachments 1 & 2**).

Draft changes to Chapter 1 Introduction - A1.9 Advertising and Notification Procedures have also been carried over in this report and are indicated by **bold and underlined text**. (refer to **Attachment 3**).

At its meeting in March, Council also requested a definition of “where children congregate”. Council is advised that there is no standard definition for this situation.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

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.*

FINANCIAL/RESOURCE IMPLICATIONS

Adoption of development controls for brothels and restricted premises will establish a clear policy framework that may reduce Council staff time and resources on future development applications for these activities. The increased clarity of controls may mitigate against appeals to the Land and Environment Court.

Extensive public notification requirements are proposed for development applications and associated costs for brothels and restricted premises (refer to **Attachment 3**).

LEGAL AND POLICY IMPLICATIONS

Council has been involved in legal action to defend previous refusal of a previous development application in Yacaaba Street in Nelson Bay. The introduction of development controls for restricted premises and brothels, as chapters in the Port Stephens Development

Control Pan 2007, may reduce the risk of legal action in the future by clarifying Council's policy position with respect to these activities.

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.*
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- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
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- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Applications for brothels and restricted premises create considerable community concern within the LGA which can be addressed, in part, by the introduction of specific development controls. Adopting development control plan chapters for brothels and restricted premises will set down design and location requirements to provide greater certainty for applicants and the community alike when these land uses are proposed.

Development controls will also reinforce community standards and expectation when development applications for brothels and restricted premises are being prepared and submitted to Council for assessment.

ECONOMIC IMPLICATIONS

The development controls will provide greater financial certainty for applicants by providing clear development and location requirements.

ENVIRONMENTAL IMPLICATIONS

Nil.

CONSULTATION

The draft controls were publicly exhibited in their original format from 13th September to 12th October 2007. Two submissions were received. The issues and controls that were raised in the submissions, and how they were responded to, are repeated below for Council's information.

Issue/Control

Control B15 C4 Restricted premises must not be located on the street or ground level of a building.

The Access Committee of Port Stephens submits that this control discriminates against people with a disability, and that to impose such a condition would be a breach of the Building Code of Australia and the Disability Discrimination Act 1992. The submission also notes that, for a proprietor of a brothel or restricted premises to comply with this control, they would need to occupy an existing accessible building or undergo expensive retrofitting to improve access.

Response

The Control B15 C4 has been removed in response to the submission. The effect is that restricted premises and brothels will be able to be located at ground level, allowing all adult members of the community equal access to brothels and restricted premises.

Issue/Control

The DCP does not clearly state what zones the DCP chapter covers.

Response

There is no need to state zoning controls in a DCP chapter. The LEP is the principal planning instrument that controls the permissibility of land uses. The standard approach is for an applicant to investigate whether a land use is permissible in a local environmental plan prior to investigating detailed development and location requirements.

Issue/Control

B15 C1 The entrance to a brothel or restricted premise must not be located within 150 metres from the entrance of a dwelling on residential zoned land – could the words “on residential zoned” land be removed and make it apply to all dwellings in all zones? Commercial zoned land should also be included.

Response

Restricted premises are a commercial use and in this sense are suited to the commercial zone. This is reinforced by the Port Stephens Local Environmental Plan 2000 which permits restricted premises within the commercial zone. Preventing restricted premises from being located within 150m from all dwellings in all zones will have the effect of preventing this land use from occurring in the LGA because it is common for residential dwellings to be located in commercial zones.

Dwellings located within commercial zones are inherently exposed to the range of retail uses that may occur, including restricted premises. Alternatively, dwellings located within residential zones are provided a higher level of certainty against land uses that may create negative impacts on amenity. For example, restricted premises and brothels are prohibited in residential zones.

Brothels are only permissible within industrial zones where residential dwellings are generally not permitted.

Issue/Control

B15 C2 “The entrance to a brothel or restricted premise must not be located within 200m from the entrance of any child care centre, community facility, educational establishment, hospital or place of public worship” – Could the following be added “or any place where children congregate”?

Response

It is difficult to define “any place where children congregate”. It is considered that excluding restricted premises and brothels within 200m from any child care centre, community facility, educational establishment, hospital or place of public worship provides a high level of separation between these land uses and any place where children congregate. This requirement, in addition to the other location and design controls for restricted premises and brothels, is considered reasonable.

Issue/Control

On page A1-3 Advertising and Notification could the following be added “written representation or objections will be taken into account in Council’s determination of an application”

Response

Submissions are already listed as a matter for consideration when assessing development applications under section 79C of the Environmental Planning and Assessment Act 1979.

Issue/Control

Include a provision that approval is given for a trial period of 12 months only then any objections received from surrounding business will be taken into account for extension of approval.

Response

Applying a time limited condition of consent creates uncertainty for applicants, who, in gaining development consent, would have demonstrated that they have already met the relevant planning requirements of Council.

The DCP and the Environmental Planning and Assessment Act 1979 provide extensive opportunity for community consultation on development applications for brothels and restricted premises at the time an application is being assessed. The DCP provides that development applications for brothels and restricted premises will be advertised and notified to a range of sensitive land uses within 400m of the subject land. The Act provides that any person may make a submission on a development application.

Council can also apply conditions of consent to a development application and take action should those conditions be breached.

For these reasons a provision stating that a 12 month trial period applies has not been included in the DCP.

Issue/Control

Principles and objectives – Maitland DCP contains useful principles and objectives and these could be included in PS DCP 2007.

Response

The principles contained in the draft Chapter B15 Brothels and Restricted Premises of Port Stephens Development Control Plan 2007 are very similar to those provided in Maitland's DCP and no change is recommended.

OPTIONS

- 1) Adopt the separate chapters B13 Brothels and B14 Restricted Premises of Port Stephens Development Control Plan 2007.
- 2) Publicly re-exhibit the separate chapters.
- 3) Not adopt the separate chapters and continue having no specific development controls for these land uses.

ATTACHMENTS

- 2) Draft Chapter B13 Brothels of Port Stephens DCP 2007
- 3) Draft Chapter B14 Restricted Premises of Port Stephens DCP 2007
- 4) Draft Amendments to Chapter A1 Introduction – A1.9 Advertising and Notification of Port Stephens DCP 2007.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil

**ATTACHMENT 1
DRAFT CHAPTER B13**

B13.1 WHERE THIS PART APPLIES

This part applies to all areas of the Port Stephens Local Government Area where brothels are permitted under the *Port Stephens Local Environmental Plan 2000*.

This part provides location and design requirements for brothels so that they do not cause disturbance or otherwise have a detrimental impact on the amenity of the host neighbourhood.

Brothels are not considered as home employment or home occupation for the purposes of the *Port Stephens Local Environmental Plan 2000*.

B13.2 LOCATION

PRINCIPLES

B13.P1 Brothels should be located at a reasonable distance from other sensitive land uses.

B13.P2 Brothels should not be located in proximity to each other to avoid a concentration of such land uses

CONTROLS

B13.C1 the entrance to a brothel must not be located within 150 metres from the entrance of a dwelling on residential zoned land.

B13.C2 The entrance to a brothel must not be located within 200 metres from the entrance of any child care centre, community facility, education establishment, hospital or place of public worship.

B13.C3 The entrance to a brothel must not be located within 200 metres from the entrance of another brothel.

B13.3 SCALE AND CHARACTER

PRINCIPLES

B13.P3 Brothels should be small in scale and respect the existing character of and area.

CONTROLS

B13.C4 Brothels must provide no more than 5 rooms (one sex worker per room) in which acts of prostitution are to take place.

B13.C5 Acts of prostitution must only occur in rooms or areas that are indicated on plans submitted to and approved by Council.

B13.C6 Any building erected or refurbished for use as a brothel must be designed so that it is sympathetic to the existing character of an area and in accordance with any area-specific development controls.

B13.C7 The entrance to a brothel must be discrete and unobtrusive, with signage limited to one business identification sign (maximum 1.2m length and 0.6m height) devoid of any sexually explicit images, language and objects.

B13.C8 No neon or flashing lighting is permitted

B13.C9 Brothels must include an internal reception/waiting area of appropriate size to discourage loitering outside the premises.

B13.4 SAFETY AND ENVIRONMENTAL HEALTH

PRINCIPLES

B13.P4 Brothels should be designed and located so that the safety of all persons is maximised.

CONTROLS

B13.C10 All applications for brothels must include a statement describing how the proposed development addresses the principles of public and individual safety and surveillance.

B13.C11 Council will consider the health and hygiene of a brothel and its operation in terms of:

- Offensive noise – Australian Standard 1055 Acoustics and Protection of the Environment Operations Act 1997;
- Ventilation and lighting;
- Bars and food preparation areas – Australian Standard 4674-2004 Construction and fit-out of food premises;
- Spa baths – Department of Health Guidelines;
- Sanitary facilities – direct access must be provided to shower and hand wash basin facilities; and
- Contaminated waste – facilities must be provided for disposal of used condoms and contaminated waste.

**ATTACHMENT 2
DRAFT CHAPTER B14**

B14.1 WHERE THIS PART APPLIES

This part applies to all areas of the Port Stephens Local Government Area where brothels are permitted under *the Port Stephens Local Environmental Plan 2000*.

This part provides location and design requirements for restricted premises so that they do not cause disturbance or otherwise have a detrimental impact on the amenity of the host neighbourhood.

B14.2 LOCATION

PRINCIPLES

B14.P1 Restricted premises should be located at a reasonable distance from other sensitive land uses.

B14.P2 Restricted premises should not be located in proximity to each other to avoid a concentration of such land uses.

CONTROLS

B14.C1 The entrance to a restricted premise must not be located within 150 metres from the entrance of a dwelling on residential zoned land.

B14.C2 The entrance to a restricted premise must not be located within 200 metres from the entrance of any child care centre, community facility, education establishment, hospital or place of public worship.

B14.C3 The entrance to a restricted premise must not be located within 200 metres from the entrance of another restricted premise.

B14.3 SCALE AND CHARACTER

PRINCIPLES

B14.P3 Restricted premises should be small in scale and respect the existing character of an area

CONTROLS

B14.C4 Any building erected or refurbished for use as a restricted premise must be designed so that it is sympathetic to the existing character of an area and in accordance with any area-specific development controls.

B14.C5 The entrance to a restricted premise must be discrete and unobtrusive, with signage limited to one business identification sign (maximum 1.2m length and 0.6m height) devoid of any sexually explicit images, language and objects.

B14.C6 No neon or flashing lighting is permitted.

ATTACHMENT 3

DRAFT AMENDMENTS TO CHAPTER A1

Port Stephens Development Control Plan 2007

A1 Introduction

A1.1 Foreword

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 provides principles and controls for development that is site responsive, innovative and that contributes to the character of each locality. The DCP seeks to promote safe, lively and pleasant streets, to provide equity of access to all members of the community, and promote more comfortable and sustainable living and working environments.

A1.2 Where this plan applies

The DCP applies to all land zoned under the Port Stephens Local Environmental Plan (LEP) 2000. The DCP applies to development applications, applications to modify development consents under s96 of the *Environmental Planning and Assessment (EPA) Act, 1979* and applications for review of determination under section 82A of the Act that are made on or after the commencement date of this DCP.

A1.3 Relationship to other plans

The DCP has been prepared in accordance with the provisions of the *Environmental Planning and Assessment (EPA) Act, 1979*.

State Environmental Planning Policies and Regional Environmental Plans may apply to the land to which the DCP applies.

Port Stephens Local Environmental Plan (LEP) 2000 applies to the land to which the DCP applies. It is a statutory instrument that sets out the land use zones and broad development controls for development within the government area, including controls for development within the local government area, including controls for height, floor space ratio, heritage conservation and minimum lots sizes for certain development or zones.

The DCP supplements the provisions of Port Stephens LEP 2000.

The provisions of Port Stephens LEP 2000 prevail over the DCP.

The DCP repeals the following development control plans, policies and codes:

- PS1 Urban Housing and Dual Occupancy
- PS2 Parking and Traffic Guidelines
- PS3 Subdivision Guidelines
- PS4 Commercial and Industrial Development Guidelines
- PS5 Home Employment Guidelines
- PS6 Bed and Breakfast Establishments
- PS7 Keeping of Dogs for Commercial Purposes
- PS8 Guidelines for Exempt and Complying Development
- PS9 Energy Smart Homes
- PS10 Building Standards and Notification Procedures for Development Applications
- PS11 Controls for Site Waste Management and Minimisation
- LD1 Development Guidelines for Raymond Terrace Town Centre
- LD4 Development Guidelines – Nelson Bay Commercial Area
- LD5 Development Guidelines – Heatherbrae Industrial Area
- LD6 Development Guidelines – Taylors Beach Industrial Area
- LD7 Development Guidelines – Richardson Road, Raymond Terrace Residential Subdivision
- LD8 Development Guidelines – Medowie Rural Residential Subdivision
- LD9 Development Guidelines – Medowie Central Residential Subdivision
- LD10 Development Guidelines – George Street, Karuah Residential Subdivision
- LD11 Development Guidelines – Wallalong Residential Subdivision
- LD12 Development Guidelines – Cross Street, Seaham Rural Residential Subdivision
- LD13 Development Guidelines – Water Quality - Kinross Industrial Estate, Heatherbrae
- LD14 Development Guidelines – Koala Bay Estate, Tanilba Bay
- LD15 Residential Development Controls – Nelson Bay (West)
- LD16 Development Guidelines – Rees James Road, Raymond Terrace Residential Subdivision
- LD17 Residential Development Controls – Pacific Dunes, Medowie

Effective: 31st May 2007

Port Stephens
C.O.U.N.C.I.L.
... a community partnership

A1-1

Port Stephens Development Control Plan 2007

A1

Introduction

A1.4 When this plan takes effect

The Port Stephens Development Control Plan 2007 (DCP) was adopted by Council on 22nd May 2007 and became effective on 31st May 2007.

A1.5 Savings & Transitional Provisions

The above development controls plans, policies and codes continue to apply to development applications, applications to modify development consent under s96 of the *Environmental Planning and Assessment (EPA) Act, 1979* and applications for review of determination under s82A of the *Environmental Planning and Assessment (EPA) Act, 1979* that were made prior to, but not determined, on the date of commencement of the DCP.

A1.6 How to use the DCP

The DCP uses the term *should* to denote a *highly desirable* outcome and the term *must* to denote a *mandatory* requirement for development.

This DCP structure is as follows:

PART A – INTRODUCTION

Details where and when the DCP applies, provisions for contributions, and procedures for applications, variations, notification and submissions.

PART B – STANDARDS FOR DEVELOPMENT

Specifies the principles and controls for each type of development (such as residential, commercial or industrial development) and for a range of development issues (such as parking and environmental management).

A development proposal **must comply** with the controls outlined in the relevant sections for the **type of development**, for **parking and traffic**, and for **environmental management**.

PART C – LOCAL CONTROLS

Part C provides additional principles and controls for development in local areas that have particular development objectives related to commercial, tourism or service roles, heritage conservation, infrastructure, land release, built form or local character.

A development proposal within an area identified in Part C must comply with the Part C controls for that area in **addition** to Part B controls. Where there is any inconsistency the **Part C control takes precedence**.

For example Dual Occupancy development in the Nelson Bay West area must comply with controls in B6 *Single and Dual Occupancy Dwellings* and C5 *Nelson Bay West*. Development in this area must comply with the side setback control provided in C5 (which overrides the side setback control in B6).

PART D – GLOSSARY AND REFERENCES

Provides a glossary of terms utilised in the DCP and a list of resource documents used in the compilation of the DCP.

A1.7 Making an Application

Prior to the commencement of any development covered by the DCP, formal consent is required. Consent can be sought through the submission of a Development Application (DA) or an application for a Complying Development Certificate.

Council's **Application Guide** sets out the information, documentation and plans that must be submitted for an application.

Failure to carefully research and verify the requirements in the Application Guide or this DCP could frustrate the assessment process and lead to costly delays for your proposal.

A1.8 Site Analysis

Thorough site analysis should ensure that design decisions are based on the site conditions (such as views, aspect, slope and drainage) and the relationship of the site to the street, to open space and to surrounding development.

Council's **Application Guide** sets out the details and documentation required for site analysis. Dependent on the scale and type of development site analysis documentation may include a **plan**, **street elevation**, and **photomontages** for the proposed development and the neighbouring buildings or sites.

Effective: 31st May 2007

Port Stephens
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... a community partnership

A1-2

*Port Stephens Development Control Plan 2007***A1
Introduction**

Sub-division proposals need to illustrate that street, block and lot layouts are based on careful analysis of the local topography, landscape character, aspect and surrounding development.

A development application must clearly state how the design of the proposed development has responded to the site analysis.

A1.9 Advertising and Notification

The kinds of development listed below will be advertised and notified to adjacent landowners in accordance with this plan, in addition to any development, which is required to be advertised and/or notified by the EPA Act and Regulations.

- Development involving a heritage item;
- Development visible from a heritage item;
- Development visible from the street in a Heritage Conservation Area;
- Non-residential uses in or adjacent to residential or rural-residential areas (not including home employment);
- Council projects (excluding adopted works that are consistent with POM);
- Hotels and Motels;
- Brothels;
- **Restricted premises;**
- Hospitals and institutions;
- Junkyards;
- Places of public assembly and places of public worship;
- Tourist developments;
- Residential dwellings with 2 or more storeys;
- Dual occupancy, villa and townhouse and residential flat developments;
- Residential and rural-residential subdivision of 5 or more allotments.
- Garages
- Variations to building setbacks

All development applications for brothels and restricted premises must be notified to dwellings, dual occupancies, urban housing, child-care centres, community facilities, education establishments, hospitals and places of public worship within 400m of the subject land.

Any other kind of development may be advertised and/or notified at the discretion of Council where it is considered appropriate given the nature of the proposal. The minimum advertising/notification period for development applications is 14 days. Where the notice is placed in a newspaper, the period commences on the day on which the notice is published. For the purposes of notification, the period commences from the date that written notice is given.

A1.10 Developer Contributions

Section 94 and 94A of the *Environmental Planning and Assessment (EPA) Act, 1979* allows Council to levy contributions from developers for the provision of public amenities and services required as a consequence of the development. Contributions are generally required prior to the commencement of works.

Further information on the application and calculation of contributions is contained in Council's Contribution Plans.

A1.11 Varying a Standard or Control**VARIATION OF AN LEP STANDARD**

An LEP standard can only be varied under the provisions of State Environmental Planning Policy 1 (SEPP1). A variation should only be considered when that variation can ensure a performance-based solution for a particular site.

A planning report seeking a variation must clearly demonstrate that:

- The standard is unnecessary or unreasonable; and
- The objectives of the standard and the zone have been achieved.

A SEPP1 variation cannot be used to carry out development in a zone where that type of development is prohibited.

VARIATION OF A DCP CONTROL

The applicant must submit sufficient details and documentation to clearly demonstrate that the proposal to vary a DCP control:

- Is consistent with the relevant principle(s) of this DCP; and
- Provides identifiable benefits for the community or for future occupants that would not be achieved by compliance with the DCP control.

Effective: 31st May 2007

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A1-3

Port Stephens Development Control Plan 2007

A1 Introduction

A1.12 Modification of Consent

Council may only amend a development consent where the development is substantially the same as that originally approved and the development consent is still valid.

There are three (3) types of applications for modifications to a consent:

- Modification to correct a minor error, misdescription or miscalculation [s96(1)];
- Modifications involving minimal environmental impact [s96(1A)]; and
- Other modifications [s96(2)].

An application to modify a consent must be made in writing to Council and the relevant fees must be paid. The application may only be made with the written permission of the current owner(s).

Council **may** be required to advertise or to notify adjacent landowners in response to an application to modify a development consent, dependent on:

- The nature of the modification;
- The impact of the modification in general and in particular on adjoining properties; and
- Any submissions received during the initial advertisement/notification period.

The notification procedures vary for each type of modification as follows:

MODIFICATION TO CORRECT A MINOR ERROR, MISDESCRIPTION OR MISCALCULATION

Where a consent is modified under this section and Council is satisfied that the proposed changes reflect the original intentions of Council or the applicant, no notification or advertising of the modified proposal is required.

MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT

The proposed amendments should not impact upon any adjoining landowner, or any person who has previously made a submission to the original development consent or a subsequent modification. No advertising or notification of the application is required. In some circumstances, persons may be notified to clarify information previously provided, if considered necessary.

OTHER MODIFICATIONS

This section applies to all applications to modify consent, other than where the original development consent was for:

- Designated development;
- State significant advertised development;
- Nominated integrated development; or
- Advertised development where the Council was not the consent authority.

Clause 118 of the EP&A Regulations provides requirements for notifying the public of proposed modifications for the development listed above.

All applications to modify a consent under this section must be placed on public exhibition and notified to any person considered to be affected by the proposed changes, whether or not they were previously notified.

A1.13 Referral to a Council Meeting

Applications may be referred to Council by elected members of Council. Staff may also refer applications to Council where it is considered appropriate. Otherwise applications are determined under delegated authority.

A1.14 Submissions

Submissions in response to a development application must be made in writing. The submission should clearly identify the name and address of the writer, the address of the proposed development, Council's application number and the reasons for any objection to, or support of, the proposal.

Submissions are not regarded as confidential.

Effective: 31st May 2007

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A1-4

ITEM NO. 4

FILE NO: PSC2007-3291

CROSS BOUNDARY S94 PLAN FOR VILLAGE IN GREAT LAKES COUNCIL LOCAL GOVERNMENT AREA ADJACENT TO KARUAH

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the exhibited amendment to the "Port Stephens Section 94 Development Contributions Plan 2007" to "Port Stephens Section 94 Development Contributions Plan incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Development Contributions Plan 2008", and to include the site specific chapter 4.7.7 "Land zoned village (2) within the locality of 'Karuah' within the local government area of Great Lakes Council"

STRATEGIC COMMITTEE MEETING – 7 October 2008**RECOMMENDATION:**

That the recommendation be adopted.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

302	Councillor Nell Councillor Tucker	It was resolved that the recommendation be adopted
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BACKGROUND

The purpose of this report is to advise Council of the exhibition of the Cross Boundary Section 94 Development Contributions Plan for the small village zone in Karuah in Great Lakes Council's LGA and to seek Council's adoption of that S94 Plan.

Following the exhibition of Council's revised S94 Plan between March and May 2007, a submission was received from Newcastle Council requesting that acknowledgement of cross border impacts in the Fern Bay – Stockton area be included in a revised Draft Port Stephens S94 Plan including the use of Stockton and Newcastle facilities by residents of Fern Bay.

Council subsequently resolved at its meeting of 26 June 2007 (min 162) together with adopting the new S94 Plan to: '2) "Undertake discussions with Newcastle City Council with a view to preparing a cross boundary Contributions Plan" (Minute 162). In addition at the request of West Ward Councillors, Council with reference to Karuah also resolved to: '3) Undertake discussions with adjoining Councils to consider Cross Boundary Contributions Plans as the need arises.'

ORDINARY MINUTES – 21 OCTOBER 2008

Discussions took place with Great Lakes Council and the proposed Plan was presented to this Council at its meeting of 8 July 2008 who resolved (min 163) to:

- 1) *Endorse the amendment to the “Port Stephens Section 94 Development Contributions Plan 2007” to “Port Stephens Section 94 Development Contributions Plan incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Development Contributions Plan 2008”, and to include the site specific chapter 4.7.7 “Land zoned village (2) within the locality of ‘Karuah’ within the local government area of Great Lakes Council” (Attachment 1).*
- 2) *Endorse the Draft Amendment for public exhibition.’*

A copy of that report including the exhibited amendment is included in the attachments. The exhibited amendment has not had any changes post exhibition and forms the cross boundary S94 Plan recommended to Council by this report.

Following Port Stephens Council's endorsement of the proposed Plan and our General Manager's request to Great Lakes Council to reconsider its previous decision, that Council resolved at it's meeting of 22 July 2008 that:

1. *The Port Stephens cross-boundary contributions plan be supported and advertised for comment.*
2. *If there are no adverse comments received by either Council, the effective date of the plan be as soon as can be practicably advertised.*
3. *Port Stephens Council be requested to meet any legal costs of defending the cross-boundary plan.*

Discussions have taken place with Great Lakes Council in relation to their third resolution and it has been agreed that each Council will defend its own relevant component of the Cross Boundary Plan.

EXHIBITION

The proposed amendment and Cross Boundary Plan was advertised and exhibited from 7 August to 4 September 2008. No submissions were received by either Council. The Plan as endorsed by both Councils and exhibited is now recommended for adoption.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

- 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*

FINANCIAL/RESOURCE IMPLICATIONS

There are no additional costs to Council. S94 staff will amend the accounting records and processes. S94 administrative costs will be recovered from S94 Levies.

LEGAL AND POLICY IMPLICATIONS

Selection of projects and enabling Council to obtain developer contributions must follow the requirements of Section 94 of the Environmental Planning and Assessment Act (1979) and Regulation as amended from time to time. Public notice of both Port Stephens and Great Lakes Councils decision is required to be placed in a local newspaper within 28 days after the decision is made and the contributions plan comes into effect on the date that public notice of its approval is given, or on a later date specified in the notice.

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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The levies will enhance the ability to provide facilities for future communities.

ECONOMIC IMPLICATIONS

The Cross Boundary S94 Chapter will require development in the Great Lakes Council Karuah area to contribute to the facilities located in within Karuah township and district facilities within Port Stephens Local Government area.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications by the proposed by imposing the levy on new development.

CONSULTATION

A number of discussions have been held with the S94 Coordinator at Great Lakes Council in relation to this cross boundary issue and the associated implications.

OPTIONS

- 1) To accept the recommendation
- 2) To reject the recommendation
- 3) To reject the recommendation calling for more information to support the report.

ATTACHMENTS

- 1) Council report of 8 July 2008 including the exhibited Site specific chapter 4.7.7 “Land zoned village (2) within the locality of ‘Karuah’ within the local government area of Great Lakes Council”

ATTACHMENT 1

MINUTES FOR ORDINARY MEETING – 8 JULY 2008

ITEM NO. 8 (OPERATIONS COMMITTEE)

FILE NO: PSC2007-3291

**CROSS BOUNDARY S94 PLAN FOR VILLAGE IN GREAT LAKES
COUNCIL LOCAL GOVERNMENT AREA ADJACENT TO KARUAH**

REPORT OF: TREVOR ALLEN - INTEGRATED PLANNING MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendment to the "Port Stephens Section 94 Development Contributions Plan 2007" to "Port Stephens Section 94 Development Contributions Plan incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Development Contributions Plan 2008", and to include the site specific chapter 4.7.7 "Land zoned village (2) within the locality of 'Karuah' within the local government area of Great Lakes Council" (Attachment 1).
- 2) Endorse the Draft Amendment for public exhibition.

**OPERATIONS COMMITTEE – 8 JULY 2008
RECOMMENDATION:**

That the recommendation be adopted.

**ORDINARY MEETING – 8 JULY 2008
RESOLUTION:**

163	Councillor Nell Councillor Francis	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to advise Council of negotiations with Great Lakes Council to enter into a Cross Boundary Section 94 Development Contributions Plan for the small village zone in Karuah in Great Lakes Council's LGA and to seek Council's adoption of that S94 Plan.

Council resolved at its meeting of 26 June 2007 (min 162) together with adopting the new S94 Plan to: '3) *Undertake discussions with adjoining Councils to consider Cross Boundary Contributions Plans as the need arises.*'

A development application for 71 lots was received by the Department of Planning in July 2007 for No 488 Tarean Rd Karuah just north of Karuah Bridge. The Department subsequently notified and sort comments on the development from Port Stephens Council in November 2007. Discussions then commenced with Great Lakes Council in relation to a Cross Boundary S94 Plan for the development and adjacent village zone within the Great Lakes Local Government area.

Following a number of discussions with Great Lakes Council staff, it was agreed that a site specific chapter inserted into Port Stephens Councils S94 Plan would be the most suitable

for this site. Council's S94 Plan would need to be appropriately named to comply with legislation. Great Lakes Council staff therefore submitted a report to Great Lakes Council recommending that the attached site specific chapter of our S94 Plan be adopted with the proviso that Port Stephens Council accept all costs defending the cross-boundary S94 Plan. The Council however resolved to take no action on the report at its meeting of 13 May 2008. Our General Manager has now written to Great Lakes General Manager seeking reconsideration of the matter.

Should Great Lakes Council reconsider and accept the proposed cross-boundary S94 Plan it is also necessary for this Council's agreement.

In addition to Council's agreement legislation requires exhibition of the Plan for 28 days and necessary time to place appropriate notices of exhibition and adoption.

Although the Minister for Planning is the consent authority, environmental assessment has been delegated to Great Lakes Council. Conditions of consent will generally be drafted by Great Lakes Council.

LINKS TO CORPORATE PLANS

The links to the 2007-2011 Council Plan are:-

- 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.*
- 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*

FINANCIAL/RESOURCE IMPLICATIONS

There are no additional revenue costs to Council. S94 staff will amend the accounting records and processes.

LEGAL AND POLICY IMPLICATIONS

Selection of projects and enabling Council to obtain developer contributions must follow the requirements of Section 94 of the Environmental Planning and Assessment Act (1979) and Regulation as amended from time to time. Public notice of both Port Stephens and Great Lakes Councils decision is required to be placed in a local newspaper within 28 days after the decision is made and the contributions plan comes into effect on the date that public notice of its approval is given, or on a later date specified in the notice.

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 cultural 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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The Cross Boundary S94 Chapter will require development in the Great Lakes Council Karuah area to contribute to the facilities located in within Karuah township and district facilities within Port Stephens Local Government area.

ECONOMIC IMPLICATIONS

The Cross Boundary S94 Chapter will enhance the ability to provide facilities for future communities.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications by the proposed Cross Boundary S94 Chapter.

CONSULTATION

A number of discussions have been held with the S94 Coordinator at Great Lakes Council in relation to this cross boundary issue and the associated implications.

OPTIONS

- 1) To accept the recommendation
- 2) To reject the recommendation
- 3) To reject the recommendation calling for more information to support the report.

ATTACHMENTS

- 1) Site specific Chapter 4.7.7 "Land zoned village (2) within the locality of 'Karuah' within the local government area of Great Lakes Council"

ATTACHMENT 1

**CHAPTER 4.7.7 “LAND ZONED VILLAGE (2) WITHIN THE LOCALITY OF
‘KARUAH’ WITHIN THE LOCAL GOVERNMENT AREA OF GREAT LAKES
COUNCIL”**

*Port Stephens Section 94 Development Contributions Plan 2007
incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Contributions Plan 2008*

Temporary note for exhibition purposes:

The chapter numbers in this document refer to the current Port Stephens Section 94 Development Contributions Plan 2007. This document should be read in conjunction with and will form part of that document on taking effect.

1. Plan Summary

General

This Contributions Plan is referred to as the *Port Stephens Section 94 Development Contributions Plan incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Development Contributions Plan 2008*.

The Plan applies to all land within the local government area of *Port Stephens Council* and that land zoned Village (2) within the Locality of Karuah within the local government area of *Great Lakes Council*.

4.7 Site Specific Contributions

4.7.7 PORT STEPHENS AND GREAT LAKES COUNCILS CROSS BOUNDARY SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN 2008.

LAND ZONED VILLAGE (2) WITHIN THE LOCALITY OF KARUAH WITHIN THE LOCAL GOVERNMENT AREA OF GREAT LAKES COUNCIL

Potential exists for the development of urban land within the Great Lakes Local Government area of the locality of Karuah and zoned Village (2) that will require services within both the Great Lakes and Port Stephens Local Government areas.

This site specific cross boundary S94 Plan applies to the land shown on the following map marked 2:



Nexus

The anticipated residential growth will result in a demand in the Great Lakes and Port Stephens Local Government Areas:

- On existing facilities provided in advance of population growth; and/or
- Requiring the provision of new public facilities not currently available or which may be available but of insufficient capacity to cater for the anticipated increased demand.

Such public amenities and services that have or will be provided have the nexus relationships in accordance with Section 3 – Strategy of this S94 Plan.

Details of population are provided in the Great Lakes Wide Section 94 Contributions Plan.

4.7.1.1 Calculation of S94 Contribution

The following costs per person relating to facilities within the Great Lakes Local Government area are those from the Great Lakes Wide Section 94 Contributions Plan (November 2007) and the Great Lakes Council Section 94 Contributions Plan Open Space – Village Areas (1993/1994).

The costs per person relating to facilities within the Port Stephens Local Government area are those derived from Appendix A of this document – Standards Guiding the Provision of Council's Community and Recreational Facilities or the relevant section of this document where indicated.

Civic Administration

Facility	Cost/Person
<u>Great Lakes Council Facilities</u>	
Section 94 Administration	\$59.29
Headquarters Building	\$186.21
Total	\$245.50

Public Open Space, Parks and Reserves

Facility	Cost/Person
<u>Great Lakes Council Facilities</u>	
Open Space Embellishment Villages (Open Space Villages Plan)	\$71.52
<u>Port Stephens Council Facilities</u>	
Neighbourhood and District Parkland Reserves	\$174.17
Undeveloped Natural Areas / Open Space	\$115.26
Foreshore Open Space	\$143.44
Boat Ramps	\$71.40
Wharves	\$84.32
Total	\$660.11

ORDINARY MINUTES – 21 OCTOBER 2008

*Port Stephens Section 94 Development Contributions Plan 2007
incorporating Port Stephens and Great Lakes Cross Boundary Section 94 Contributions Plan 2008*

Sport and Leisure Facilities

Facility	Cost/Person
<u>Port Stephens Council Facilities</u>	
Leisure Centres	\$248.80
Netball Courts	\$66.47
BMX Tracks	\$23.18
Tennis Courts	\$172.21
Tidal Pools	\$31.45
Swimming Facilities	\$177.45
Skate Parks (refer section 4.3.1)	\$111.24
Sports Fields (refer section 4.3.2)	\$871.32
Total	\$1,702.12

Cultural and Community Facilities

Facility	Cost/Person
<u>Great Lakes Council Facilities</u>	
Library Bookstock	\$61.94
<u>Port Stephens Council Facilities</u>	
Multipurpose Community Space	\$245.16
Branch Libraries	\$134.64
Library Lounges	\$52.02
Exhibition Space	\$117.50
Community and Recreational Facilities Standards Study (refer section 4.4.1)	\$1.49
Multipurpose Children's Space (refer section 4.4.3)	\$157.77
Total	\$770.52

Fire and Emergency Services

Facility	Cost/Person
<u>Great Lakes Council Facilities</u>	
Rural Fire Fighting	\$529.54
<u>Port Stephens Council Facilities</u>	
State Emergency Service Contribution	\$10.34
Total	\$539.88

Contribution per person:

Civic Administration	\$245.50
Public Open Space, Parks and Reserves	\$660.11
Sport and Leisure Facilities	\$1,702.12
Cultural and Community Facilities	\$770.52
Fire and Emergency Services	\$539.88
Total Contribution per person	\$3,918.13

The occupancy factor for this site specific area is 2.4 (2006 Census).

Cost per lot = Cost per person
x occupancy factor per household
= \$3,918.13 x 2.4
= \$9,403.51

The Section 94 Contribution per additional lot or dwelling is \$9,403.

4.7.1.2 SETTLEMENT AND DISTRIBUTION OF CONTRIBUTION.

In accordance with section 94C of the *EP&A Act* *Cross-boundary issues:-*

(1) A condition may be imposed under section 94 or 94A for the benefit (or partly for the benefit) of an area that adjoins the local government area in which the development is to be carried out.

(2) Any monetary contribution that is required to be paid under any such condition is to be apportioned among the relevant councils:

(a) in accordance with any joint or other contributions plan approved by those councils, or

(b) if provision is not made for the apportionment in any such plan—in accordance with the terms of the development consent for the development.

This Site Specific Cross Boundary S94 Plan specifically provides for the S94 contribution to be paid to Great Lakes Council at the time specified in the condition that imposes the contribution. If no such requirement is specified, the contribution must be paid in accordance with section 2.3.3 Timing of Settlement.

The contribution shall be apportioned by Great Lakes Council in accordance with section 4.7.1.1 as follows:

Category	Contribution per lot	Apportionment	
		Great Lakes	Port Stephens
Civic Administration	\$589	\$589	
Public Open Space, Parks and Reserves	\$1,584	\$172	\$1,412
Sport and Leisure Facilities	\$4,085		\$4,085
Cultural and Community Facilities	\$1,849	\$149	\$1,700
Fire and Emergency Services	\$1,296	\$1,271	\$25
Total	\$9,403	\$2,181	\$7,222

ITEM NO. 5

FILE NO: A2004-0284

COUNCILLOR REIMBURSEMENT POLICY REVIEW

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Councillors' Reimbursement policy at ATTACHMENT 1 including the option 1 for the "Communication Equipment".
 - 2) Place the amended Councillors' Reimbursement Policy on public exhibition for a period of 28 days.
-

STRATEGIC COMMITTEE MEETING – 7 October 2008**RECOMMENDATION:**

- 1) Adopt the Councillors' Reimbursement Policy at ATTACHMENT 1 including Option 2 for the "Communication Equipment". This option will also include the provision for the Councillors to claim all servicing and maintenance requirements as an expense
 - 2) Place the amended Councillors' Reimbursement Policy on public exhibition for a period of 28 days.
-

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

303	Councillor Westbury Councillor Jordan	It was resolved that the recommendation be adopted.
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Matter Arising:**Moved Cr Francis Seconded Cr Westbury**

That Council investigate the purchase of chains for the Mayoral Role.

RESOLUTION:

304	Councillor Nell Councillor Tucker	It was resolved that the recommendation be adopted.
-----	--------------------------------------	---

BACKGROUND**The purpose of this report is to review the Reimbursement Policy for Councillors.**

In accordance with section 252 and 253 of the Local Government Act 1993, Council is required to review the payment of expenses and provision of facilities to councillors within 5 months after the end of each year (30 November) and provide a copy of the policy to the Department of Local Government. The Department have provided an extension this year due to the timing of the Local Government elections.

Council last adopted the policy on the 25 March 2008 after public consultation as required by the legislation.

Some minor changes to the Policy are shown in ATTACHMENT 1 for Councillors information and/or comment.

As part of the review Councillors are provided with two (2) options with respect to the Communication Equipment under Section 1.2.4 (h) of the Policy. The options are:

1. All laptops or personal computers supplied by Council for use by Councillors outside the Administration Building will be maintained by an external service provider arranged by Councillors. Councillors are then able to claim reimbursement for expenses. Council will also provide Councillors with facsimile, answering machine, modem & mobile phone at Council's cost.
2. At the beginning of a quadrennium, an allowance will be paid to each Councillor to enable them to purchase the equipment nominated by them. The equipment must be at least to a standard specified by Council. Council staff should not be utilised for maintenance of Councillor's equipment.

Council is required to give public notice of the amendments to the Policy for a period of 28 days. Following public consultation Council is required to consider any submissions received.

FINANCIAL/RESOURCE IMPLICATIONS

Council's 2007-08 budget allocation provides for the inclusions covered in the Policy.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

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*

LEGAL AND POLICY IMPLICATIONS

Under Section 252 Council must adopt a policy concerning the payment of expenses incurred by Councillors in relation to discharging the functions of civic office. It is a requirement of the Local Government Act that Council adopt the policy after June 30 each year and lodge the adopted policy with the Department prior to November 30 each year.

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:-

- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The policy allows Councillors to effectively carry out their responsibilities as members of the Council and as community representatives without suffering financial hardship.

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

General Manager
Acting Corporate Services Group Manager
Acting Corporate Governance Manager

OPTIONS

- 1) Adopt the recommendation
- 2) Amend the draft policy

ATTACHMENTS

- 1) Councillor's Reimbursement Policy

TABLED DOCUMENTS

Nil



Councillors Reimbursement Policy

(Section 252, Local Government Act 1993)

Councillors Expenses Reimbursement Procedures Travel Allowance Conference & Seminar Attendance

Adopted 28 June 1994
Minute No 342
Amended 13 December 1994
Minute No. 691
Amended 14/11/95
Minute No. 562
Amended 10/9/96
Minute No. 528
Amended 23/12/97
Minute No. 1471
Amended 09/03/04
Minute No. 107
Amended 31/01/06
Minute No.398
Amended 27/11/06
Minute No. 758
Amended 25/03/08
Minute No. 069

TABLE OF CONTENTS

TABLE OF CONTENTS	178
INTRODUCTION	179
OBJECTIVES	180
PART 1	181
COUNCILLORS FEES, EXPENSES & FACILITIES	181
1.1 PAYMENT OF EXPENSES	181
1.1.1 Annual Allowance	181
1.1.2 Sustenance	181
1.1.3 Travel	181
1.1.4 Telephone Expenses	182
1.1.5 Mobile Phone Expenses	182
1.1.6 Child Care	182
1.1.7 Internet Expenses	182
1.2. PROVISION OF FACILITIES	182
1.2.1 Mayor	183
1.2.2 Deputy Mayor	183
1.2.3 Councillors	183
1.2.4 All Councillors	185
1.3 PRIVATE BENEFIT	187
PART 2	188
ATTENDANCE AT CONFERENCES AND SEMINARS	188
2.1 AUTHORISATION	188
2.2 REIMBURSEMENT OF COSTS	189
2.3 ACCOMMODATION	189
PART 3	190
TRAVEL ARRANGEMENTS	190
3.1 OVERSEAS TRAVEL	190
3.2 PRIVATELY SPONSORED TRAVEL	190
3.3 STANDARD OF TRAVEL	190
3.3.1 Travel	190
3.3.2 Transfers	191
3.3.3 Cash Advances	191
3.3.4 Air Travel	191
3.3.5 Hire Car	191
3.3.6 Private Vehicle	192
3.3.7 Time Limit for Submitting Claims	192
PART 4	193
INSURANCE - COUNCILLORS	193
4.1 Personal Accident	193
4.2 Professional Indemnity	193
4.3 Public Liability	193
4.4 Councillors' & Officers' Liability	193
PART 5	194
LEGAL ASSISTANCE FOR COUNCILLORS	194
5.1 LEGAL ASSISTANCE FOR COUNCILLORS	194
POLICY	196

INTRODUCTION

This policy is made under the Local Government Act, 1993, including Sections 248 to 254 and 731 and having regard to the provisions of the Department of Local Government Circular to Councils number 07-22, 28 May 2007.

The Act requires that the Council must adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and other Councillors.

Section 428 (2)(f) requires a Council to include in its Annual Report:

- Total amount of money expended during the year on Mayoral fees and Councillors fees
- Council's policy on the provision of facilities for, and the payment of expenses to Councillors
- Total amount of money expended during the year on providing those facilities and paying those expenses.

Section 12 of the Local Government Act provides that the public is entitled to inspect the Council's policy concerning the payment of expenses incurred by, and the provision of facilities to, Councillors, free of charge, and may obtain a copy, either free of charge or on payment of reasonable copying charges.

Section 253 of the Act requires Council to give at least 28 days notice of the proposed policy and the policy must be adopted in Open Council (Section 254).

OBJECTIVES

PART 1 – Fees, Expenses & Facilities

1. To ensure Councillors are able to effectively carry out their responsibilities as members of the Council & as community representatives without suffering financial hardship.

PART 2 – Attendance at Conferences & Seminars

2. To be accountable for Council's performance to the community and ensure effective communication including the identification of changing needs and expectations.

PART 3 – Travel Arrangements

3. To determine the method of reimbursement of expenses incurred by Councillors for travel costs.

The objectives will be achieved if:-

- (a) Reasonable expenses are paid to Councillors to compensate them for costs incurred in carrying out their duties;
- (b) No Councillor suffers financial hardship as a direct result of performing their functions;
- (c) No expenses are paid for activities that are not essential for Councillors to perform their functions effectively.
- (d) Councillors are provided with an opportunity through training to improve their knowledge and skills;
- (e) Councillors are adequately informed of issues relevant to them;
- (f) Community expectations are observed by not sending more representatives than are necessary.

PART 4 – Insurance – Councillors

To provide appropriate insurance coverage for Councillors in the areas of Personal Accident, Professional Indemnity, Public Liability and Councillors' and Officers' Liability.

PART 5 – Legal Assistance for Councillors

To provide legal assistance to Councillors for functions carried out during the Council term.

Nil Changes

PART 1
COUNCILLORS FEES, EXPENSES & FACILITIES

Part 1 is in accordance with Section 252 of the Local Government Act 1993 - Council is to pay expenses incurred or to be incurred, and provide facilities for the Mayor, Deputy Mayor and Councillors to enable them to discharge their functions of Civic Office; and

Includes the provision of annual fees paid to the Mayor, Deputy Mayor and Councillors as determined by Council in accordance with Section 248 - 251 of the Local Government Act and subject to the Local Government Remuneration Tribunal.

1.1 PAYMENT OF EXPENSES

1.1.1 Annual Allowance

Council will determine an annual allowance, to be paid monthly in arrears, in accordance with Section 248 - 251 of the Local Government Act and the determination of the Local Government Remuneration Tribunal.

The following expenses incurred or likely to be incurred will be paid by the Council in accordance with the standards and procedures set out below:-

1.1.2 Sustenance

- a) Councillors will be reimbursed for sustenance expenses if the Councillor is unable to partake of a meal at his or her usual place to partake of meals.
- b) The maximum level of reimbursement will be appropriate to the circumstances of attendance and will be determined by the General Manager.
- c) Councillors seeking reimbursement for sustenance expenses should complete **Form 1A** and provide receipts.
- d) Expenses will be reimbursed with the monthly allowance and itemised.

1.1.3 Travel

- a) Councillors will be reimbursed for travel to activities that directly relate to a Councillors civic function for example - Council and Committee Meetings (including 355b Committees), public meetings and Council site inspections.
- b) See Part 3 - Travel Arrangements.

1.1.4 Telephone Expenses

- a) Council will reimburse the telephone service and equipment charges for a Councillor's private phone number.
- b) Council will reimburse up to \$40.00 per month towards Councillors telephone calls. Claims in excess of \$40.00 will require proof of expense incurred.

1.1.5 Mobile Phone Expenses

- a) Council Mobile Phone Accounts are automatically referred to the Executive Manager-Corporate Management. The telephone rental and all calls will be paid by the Council provided the phone is used exclusively for a Councillor to carry out his/her responsibilities as a member of the Council and as a community representative. Should the phone be used for a dual purpose such as private and Council then all calls should be recorded in a log book/diary and submitted with the account.
- b) Council will reimburse Council related calls on individual Councillors private mobile upon production of paid account and evidence that the calls were Council related. However Council will not reimburse Councillors for calls where the mobile phone plan includes the cost of calls (ie.bundled plans).

1.1.6 Child Care

Reasonable expenses incurred for childcare while attending Council or Committee Meetings, only. Councillors seeking to use child care facilities should notify the General Manager prior to making arrangements.

1.1.7 Internet Expenses

Council will reimburse the monthly cost of internet connection for Councillors up to \$40.00 per month upon production of the paid account. Claims in excess of \$40.00 will require proof of expense incurred.

DELETE

Executive Manager – Corporate Manager

INSERT

Executive Officer

INSERT

1.1.8 TIME LIMIT FOR SUBMITTING CLAIMS

All claims for reimbursement of expenses and travel must be made on the approved form, supported by documents and receipts, within three (3) months of incurring the expense.

1.2. PROVISION OF FACILITIES

The following facilities will be provided in accordance with Section 252 of the Local Government Act to assist Councillors discharge their functions of Civic Office.

1.2.1 Mayor

Motor Vehicle

- a) A fully serviced and maintained motor vehicle for the purposes of discharging the functions of civic office.
- b) Private use of the motor vehicle in accordance with Council's Use of Council Vehicle Agreement.

Office

A furnished office suite located in the Administration Building.

Communication Systems

A mobile telephone with car kit is provided, serviced and maintained.

Motor Vehicle Parking Space

A permanent parking space in the Administration Building carpark will be provided.

1.2.2 Deputy Mayor

Motor Vehicle

- a) In the absence of the Mayor, a fully serviced and maintained motor vehicle for the purposes of discharging the functions of civic office can be provided.

b)

1.2.3 Councillors

Motor Vehicle

- a) A Council motor vehicle may be arranged under special circumstances and where no other alternative means of travel is available for attendance at conferences and seminars.
- b) When a Council vehicle is allocated to a Councillor for use on Council business, **only** a Councillor or a staff member are permitted to operate the vehicle.

Nil Changes

Office

A furnished Councillors' room is provided in the Administration Building, shared by all Councillors.

Motor Vehicle Parking Spaces

Four permanent parking spaces in the Administration Building carpark will be provided.

1.2.4 All Councillors**(a) Administration Support****For the Mayor**

Administration support shall be provided as determined by the Council and the General Manager.

For all Councillors

Staff assistance will be provided as required for matters pertaining to Council business. Assistance may be in the form of administration support to answer constituent's requests; delivery of material from Council and catering for meetings; send and receive facsimiles.

Note:

- i. under no circumstances shall Councillors use the administration services or other facilities provided in association with Local, State or Federal Government election material.
- ii. under no circumstances shall Councillors use the administration services or other facilities provided for the initiation of circular type letters without prior authority of the Council being obtained.

(b) Stationery/Postage

Council will provide each Councillor with stationery, business cards, Christmas cards, and postage for associated mailing. Personal mail will be posted provided the appropriate postage stamp/s are included on the envelope/package.

(c) Refreshments

Beverage and sustenance will be available in the Councillors' Room as required.

(d) Meals

Meals and beverage will be provided after each Council and Committee meetings.

(e) Deliveries

The business paper will be delivered to all Councillors at least three days (*number of days will include weekends*) prior to the Council or Committee Meeting and general correspondence will be delivered each week, regardless of whether there is a Council or Committee Meeting.

(f) Insignia of Office

Provision of badges, name plates, indicating the wearer holds the office of Councillor, to wear at Civic functions.

(g) Disabilities

In line with Anti-Discrimination Guidelines any Councillor with a special disability or special need may notify the General Manager for adjustments to be made.

(h) Communication Equipment

Councillors will be given the option of a computer (PC or laptop), facsimile, answering machine, modem and mobile phone as their means of communication with Council and the community.

In accordance with the DLG guidelines Councillors will be required to return all communication equipment to Council at the end of the Council term unless Councillors elect to purchase at market/written down value.

(i) Corporate Uniform

Councillors may choose from a selection of Corporate Uniform provided by Council's approved supplier. Council will contribute a subsidy to 35% of the initial cost to a maximum of \$220 per annum. A sundry debtor account will then be forwarded to the Councillor for payment of the balance. Alternatively, a deduction can be made from the Councillor's monthly allowance.

(j) Protective Apparel

Provision of Protective Apparel, including hard hat, safety vest and safety footwear, safety glasses and hearing protection to accord with the NSW Occupational Health & Safety Act for on site inspections.

(k) Acts & Regulations

Updated Local Government Act, Regulations and other Acts may be viewed on www.austlii.edu.au or by contacting Corporate Management.

Nil Changes

Insert

All laptops or personal computers supplied by Council for use by Councillors outside the Administration Building will be maintained by an external service provider arranged by Councillors. Councillors are then able to claim reimbursement for expenses. Council will also provide Councillors with facsimile, answering machine, modem & mobile phone at Council's cost.

Note: Please see alternatives in the report above.

Delete

Corporate Management under Section (k)

Insert

Council under Section (k)

Insert

(l) Superannuation

Councillors may elected to contribute all or part of their Councillor Allowance into an approved Superannuation Scheme by completing the appropriate form.

Nil Changes

1.3 PRIVATE BENEFIT

- (a) Fees payable to the Mayor, Deputy Mayor and Councillors will not be reduced for any private benefit gained from the private use of facilities;
- (b) Councillors are required to make payment for any private use of Council facilities in accordance with Council's Code of Conduct and Guidelines.
- (c) Councillors must use Council resources effectively and economically in the course of his or her public or professional duties, and must not use them for private purposes unless such use is lawfully authorised and proper payment is made.
- (d) Councillors must not convert any property of the Council for his or her own use.

PART 2**ATTENDANCE AT CONFERENCES AND SEMINARS**

Part 2 stipulates the relevant authorisation required to attend Conferences/Seminars; provides that Council will meet all reasonable out of pocket expenses; and indicates the standard of accommodation to be provided.

2.1 AUTHORISATION

- a) Councillors will be notified of all relevant conferences.
- b) The total cost of travel undertaken and conferences attended must be included in the Council's Annual Report. [Local Government Act S428(2)(f)]
- c) Councillors interested in attending a conference/seminar should contact the Executive Assistant-Councillor Support. Automatic approval will be granted to attend a conference/seminar within the budget allocation (as determined by Council).
- d) Approval to attend Conferences/Seminars over and above an individual Councillor's budget allocation will be determined by the General Manager and Mayor in accordance with their concurrent delegated authority.
- e) Requests to exceed the total budget allocation for the financial year will be submitted to Council for determination and re-allocation of funds.
- f) In making its decision, the General Manager/Mayor or Council should consider:-
 - i. The relevance of the conference to Council and the potential benefit that may result from attendance;
 - ii. The special interest of the Councillor/s wishing to attend;
 - iii. The total cost to Council of attendance relative to the Program budget;
 - iv. The fair and equitable division of opportunity for Councillors to attend conferences/seminars.

Delete

Section (b)

Insert

(b) All Councillor expenses and reimbursements will be reported in Council's Annual Report in accordance with the requirements of the Local Government Act 1993.

Nil Changes

2.2 REIMBURSEMENT OF COSTS

(a) All costs associated with Conferences/Seminars will be paid to the Conference Organiser in advance by Council:- ie.

- Registration and associated documentation
- Travel (see Part 3);
- Accommodation (See clause 6) and
- Sustenance (See Part 1)

(b) Councillors seeking to extend their stay in conjunction with Council business shall notify the General Manager prior to making arrangements.

(c) Councillors Partners may accompany them on Council business trips subject to all expenses incurred by partners being paid for by the Councillor or by Council if approved under Council's Accompanying Persons Policy, if it is deemed to be appropriate for their attendance. Note: An account system can be organised by prior arrangement with the Executive Assistant – Councillor Support - accounts are payable within thirty days or can be deducted from a Councillor's monthly allowance.

2.3 ACCOMMODATION

(a) Accommodation will be booked and paid for by Council at accommodation where government rates apply. Additional expenses incurred in respect of personal services at the place of accommodation will be paid for by the Council, such as valet parking and laundry (dry cleaning). Note: Video Hire and Mini Bar Facilities will be paid for by the Councillor.

(b) Accommodation booked for attendance at a conference will be at the venues suggested by the conference organiser.

(c) Reimbursement of Accommodation expenses shall be paid where the representative is unable to reside at the place where he/she ordinarily resides and incurs additional expense.

(d) Accommodation shall be paid on a per night basis, based on reimbursement for actual costs involved.

(e) The standard of Accommodation is not to exceed four stars except where a conference or seminar venue exceeds four stars, or as determined by the General Manager.

PART 3 TRAVEL ARRANGEMENTS

Part 3 provides that Council will meet all reasonable out of pocket expenses for travel incurred by Councillors to attend activities that directly relate to a Councillors civic function; and standard of travel to and from Conferences/Seminars.

3.1 OVERSEAS TRAVEL

- (a) This policy will apply to all Council sponsored attendance conducted within Australia.
- (b) Overseas travel arrangements shall be subject to an itinerary approved by the Council (in open Council) and the standard of travel shall be as stated below regardless of destination.
- (c) Any proposed overseas travel should be included in Council's Council Plan and Budget Review for community input. (Min 562 14/11/95) Council must report any overseas travel in the Annual Report [Section 428 Local Government Act].

3.2 PRIVATELY SPONSORED TRAVEL

- (a) Any company wishing to privately sponsor travel should be in accordance with the guidelines of ICAC; pecuniary interest provisions and Council's Code of Conduct. Council approval and disclosure of all details should be made known in open Council. (Min 562 14/11/95).

3.3 STANDARD OF TRAVEL

Councillors should advise the General Manager of their normal mode of travel.

3.3.1 Travel

- (a) Councillors will be reimbursed for reasonable travel expenses to:-
 - Attend Council Meetings, Committee Meetings (including 355b Committees) Public Meetings and Council Site Inspections;
 - Attend Conferences and Seminars where the Councillor elects to use his/her private vehicle.
 - Attend at any duly convened meeting of any organization to which a Councillor has been nominated or elected by specific resolution of Council as an official Council representative and such organization does not provide a travel allowance.

(b) Claims including *back payment* for travelling expenses by Councillors must show amounts incurred for:- [Min 528 10/9/96].

- Air, train, coach and taxi - (receipts to be provided with Form 1A)
- Hire car costs - (receipts to be provided with Form 1A)
- Parking and tolls (receipts to be provided with Form 1A)

(c) Travelling allowance per kilometre as provided in the Local Government State Award:- (complete Form 1A or Log Book Form 1).

The General Manager will use his discretion to reimburse Councillors for attendance at activities other than specified above where the Councillor has attended as a designated delegate for Council.

In making his decision the General Manager considers:-

- i. The relevance of the activity to Council and the potential benefit that may result from attendance;
- ii. The special interest of the Councillor/s wishing to attend;
- iii. The total cost to Council of attendance relative to the Program budget;
- iv. The fair and equitable division of opportunity between Councillors.

3.3.2 Transfers

Transfers from transport terminals to accommodation can be arranged by Council prior to departure, alternatively expenses incurred will be reimbursed with Councillors monthly allowance.

3.3.3 Cash Advances

Cash advances will not be made unless under **special** circumstances and require the General Manager's approval.

Upon return all remaining monies are to be rebanked with Council.

3.3.4 Air Travel

In all cases the most economical fares will be sought to ensure the best possible price for Council, whether it be Economy or Business Class.

Where Air Travel exceeds more than five (5) hours, Business Class Air Travel will be provided.

3.3.5 Hire Car

A Hire Car will only be provided where no other means of travel is available and is to be equivalent to Council's standard vehicle.

3.3.6 Private Vehicle

Councillors who use a private vehicle for travel in excess of 1,000 kilometres will be reimbursed the equivalent cost of an economy class air fare.

- (a) Printed itineraries of arranged travel will be supplied at least one week prior to departure.
- (b) Council has in effect a personal accident cover for Councillors covering them 24 hours per day 7 days per week, if the accident causing the injury occurs whilst engaged in or at any activity which directly or indirectly relates to Council business, including travel to and from the activity.

3.3.7 Time Limit for Submitting Claims

All claims for reimbursement of expenses and travel must be made on the approved form, supported by documents and receipts, within three (3) months of incurring the expense.

Relocate Section 3.3.7 to Part 1, 1.1.8 of this policy.

**PART 4
INSURANCE - COUNCILLORS**

That Councillors are to receive the benefit of insurance cover for:

Personal Accident

Personal Accident insurance covers personal injury which is caused by violent, accidental external and visible means that solely and independently of any other cause results in a Councillor's death or disablement. The cover applies anywhere in the world during and while travelling to and from Council business. The capital benefit for the death of a Councillor is \$500,000. The cover does not include medical expenses.

Professional Indemnity

Professional Indemnity insurance covers Council where Council becomes legally liable to pay compensation for financial loss as a result of any negligent act, error or omission in the conduct of Council's business activities arising from a breach of professional duty. Cover is subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme wording.

Public Liability

Public Liability insurance covers Council's legal liability to pay compensation to third parties arising in connection with the business activities of Council. Matters arising from Councillors' performance of civic duties or exercise of their functions as Councillors are covered subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme policy wording.

4.4 Councillors' & Officers' Liability

Councillors' & Officers' Liability insurance protects Councillors and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Councillors for personal liabilities as a result of wrongful acts subject to any limitations or conditions set out in the policy of insurance.

Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by the Risk Management Co-ordinator.

PART 5
LEGAL ASSISTANCE FOR COUNCILLORS

5.1 LEGAL ASSISTANCE FOR COUNCILLORS

That in the event of:

- (a) An enquiry, investigation or hearing by any of:
- The Independent Commission Against Corruption;
 - The Office of the Ombudsman;
 - Department of Local Government;
 - The Police;
 - The Director of Public Prosecutions; or
 - The Local Government Pecuniary Interest Tribunal,

into the conduct of a Councillor; or

- (b) Legal proceedings being taken by or against a Councillor, arising out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor (with the exception of defamation proceedings), Council shall reimburse such a Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, for all legal expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a solicitor/client basis, PROVIDED THAT:
- i. The amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.
 - ii. The Councillor's performance or exercise of the civic duty or function was in the opinion of Council bona fide and/or proper.
 - iii. the amount of such reimbursement be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by Council's Hunter based Solicitors will be paid ie. any portion of the expenses representing any hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

- (c) Defamation proceedings or other proceedings arising from the making of a public statement, where a Councillor is a defendant or anticipated defendant in such proceedings.

Note: Council may not meet the costs of any action in defamation taken by a Councillor as plaintiff in any circumstances (DLG Circular 00/22).

To ensure that indemnity or reimbursement in respect of costs of defending an action in defamation or other action is only available in circumstances where the person to be indemnified or reimbursed was acting properly when making the statement complained of, the threshold criteria for the application of the indemnity or reimbursement will apply.

- (d) Council may indemnify or reimburse the reasonable legal expenses of a councillor for proceedings before the Local Government Pecuniary Interest Tribunal or an investigative body PROVIDED the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.
- (e) Legal expenses incurred in relation to proceedings arising out of the performance by a councillor of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something which a councillor has done during his or her term of office. An example of the latter is expenses arising from an investigation as to whether a councillor acted corruptly by using knowledge of a proposed rezoning for private gain.

POLICYGeneral

Where proceedings have been foreshadowed or commenced against any of the Mayor and Councillors arising from a public statement or statements made or acts done by any of them and, in the opinion of Council's appointed solicitor the following "Three Criteria" are satisfied through the required procedure set out below namely:

- (a) The statement was made or the act was done in relation to discharging the functions of civic office;
- (b) The Councillor concerned was acting in good faith; and
- (c) The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

then Council will indemnify or reimburse the Councillor for:

- (a) all legal expenses properly and reasonably incurred, given the nature of the legal services provided; and
- (b) any other less, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor),

In responding to or defending such proceeding **PROVIDED THAT** the amount of such indemnity or reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

Engagement of Legal Representatives – Required Procedure

1. The Councillor must, as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. This notification must;
 - i. be in written or electronic form;
 - ii. include all details including any correspondence from the alleged injured party concerning the possible claim; and

- iii. Include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.
2. The Councillor must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by council or its solicitor or the insurer or its solicitor. The Councillor must at all times without undue delay keep Council fully informed of any oral or written communications made to the Councillor by the alleged injured party or the injured party's agents or legal representative in respect of the claim.
3. The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to a claim, notify and forward to Council's insurer any information relating to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied.
4.
 - i. If proceedings are threatened (and not commenced), the General Manager must without undue delay inform Council's appointed Solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in turn notify the Councillor concerned in written or electronic form of that view.
 - ii. If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor concerned.
5. If Council's solicitor forms the view that the Three Criteria are not satisfied under clause (d)(i); the Councillor may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Manager and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
6. If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
 - In the case that the claim is accepted by Council's insurer it will have carriage of the matter subject to

consultation with the General Manager and the Councillor will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.

- If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor. If the Councillor considers that such representation is appropriate then the procedures in clause 7 must be followed. If Council's solicitors are not of the same opinion as the insurers the General Manager in consultation with Council's solicitors will take whatever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.
- If the Councillor considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.

7. If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:
- i. Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - ii. Accounts being considered and approved by the General Manager prior to payment; and
 - iii. All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.
8. Notwithstanding the provisions of paragraph 5.1 (ii) and 5 above, once proceedings have actually been commenced then the procedures set out in paragraph 5 above must be followed. (Note: The General Manager should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.)

Exclusion from Policy

This policy will not apply to any defamation or other action brought by any Councillor or Council employee against any Councillor, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:

- i. the statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Department of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
- ii. The statement:

- is made at a meeting of Council, a briefing of Councillors or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and
- is in accordance with the Local Government (Meetings) Regulations 1999 and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
- Does not breach any other law.

Delete

*Local Government (Meetings)
Regulations 1999*

Insert

*Local Government (General)
Regulations 2005*

Insert

- 1) *Claims for Expenses form*
- 2) *Motor Vehicle Logbook form*
- 3) *Superannuation Form*



Form 1A

CLAIM FOR EXPENSES INCURRED

COUNCILLOR.....

MONTH.....

DATE	PURPOSE	\$	<i>Klms TRAVELLED</i>	TOTAL CLAIM \$ (Office Use Only)
	Minimum Phone Call Claim (min.\$40.00)			
	Minimum Internet Claim (min.\$40.00)			
	Addit. Phone Call Claim (documentation reqd)			
	Addit. Internet Claim (documentation reqd)			
	Line Rental			
	Fax Expenses (documentation reqd)			
	Mobile Claim			
	Travel			
	Conference/Seminars (receipts reqd)			
	Partner Expenses (receipts reqd)			
TOTAL				

*** PAYMENT WILL ONLY BE MADE WHERE RECEIPTS
AND VEHICLE LOG IS PROVIDED.**

Signature of Claimant.....

Date

Councillors – Please note that ALL Councillor's reimbursement claims will be paid the **first Friday** of each month. Therefore Councillors are required to lodge their claims with the Executive Assistant Councillor Support at the end of each month at the **Ordinary Council meeting** for payment the following week.



MOTOR VEHICLE LOG BOOK

COUNCILLORMONTH.....YEAR.....

[illegible]

Signature of Claimant.....

Date



COUNCILLOR REMUNERATION

SACRIFICE ELECTION FORM – SUPERANNUATION

Councillor Name: _____

Date to commence arrangement _____

Annual Remuneration _____

Annual Sacrifice Amount _____

Your Superannuation Fund Details:

Fund Name _____

Membership No (if applicable) _____

Account Name _____

Super Fund ABN (if applicable) _____

Superannuation Product
Identification Number (if applicable) _____

DECLARATION OF COUNCILLOR

I, _____ hereby certify that I have not relied on information or advice gathered through sources or resources from Port Stephens Council to make the decision to enter into a sacrifice arrangement.

I certify that I have obtained independent financial advice or made the decision based on my own investigation in relation to this sacrifice election.

I understand that at all times it remains my responsibility as a Councillor to notify Finance in writing of any change to the benefits sacrificed.

I have attached:

- A letter from the trustee stating that this is a complying fund and (for a self managed superannuation fund) a copy of documentation from the Tax Office confirming the fund is regulated
- Written evidence from the fund that they will accept contributions from Council, and
- Details about how Council can make contributions to this fund

Signed: _____ Councillor Date: _____

Signed: _____ Finance Officer Date: _____

ITEM NO. 6

FILE NO: A2004-0284

REVIEW OF THE CODE OF MEETING PRACTICE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT:

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

STRATEGIC COMMITTEE MEETING – 7 October 2008**RECOMMENDATION:**

The revised Code of Meeting Practice as Tabled at the meeting, be placed on public exhibition for at least 28 days as required by *Section 361 of the Local Government Act, 1993* with changes to Item No. 11 on Page 21 of the Code, reflecting the change from 2 Councillors to 1 Councillor.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

305	Councillor Nell Councillor Tucker	It was resolved that the recommendation be adopted.
-----	--------------------------------------	---

BACKGROUND

Council adopted the Code of Meeting Practice in March 1994 with subsequent reviews in 2000, 2004 and 2006.

The conduct of meetings of Councils and Committees of Councils of which all the members are councillors, is governed by the *Local Government (General) Regulation 2005*.

By *Section 360 of the Local Government Act 1993*, a Council may adopt a code of meeting practice that incorporates the Regulation and supplement the Regulation with provisions that are not inconsistent with the Regulation. Once adopted, Council and Committee meetings must be conducted in accordance with the code of meeting practice.

Several amendments have been made to improve the Code and to update the Code in line with the Regulations. The changes are indicated in the tabled document – insertions are highlighted in blue with the deletions highlighted in red.

Some of the changes include:-

- Section 5.3 (page 19) – Inclusion of Submissions received.
- Section 6 (page 20) - clarification on the 3 days notice of meetings to include weekends in the notice.
- Section 6 (page 21) – Inclusion of the Meeting Procedure summary sheet.
- Section 6 (page 21) – Inclusion of a new requirement to call up a development application to Council. This is part of the new Planning Reform requirements and the Independent Commission Against Corruption (ICAC).
- Section 6.3 (page 22) – Inclusion of item 6 under Order of Business.
- Section 6.3 (page 23) – Deletion of Advisory Boards/Panels
- Section 7.10 (page 26) – insertion iii) limiting speakers.
- Section 7.11 (page 27) – insertion of item e) to ensure a division is called on all planning decisions due to changes in planning legislation.
- Section 8.2 (page 28) – deletion of items (b) & (c) as Section 10E(6) of the Local Government Act has been repealed.
- Section 8.7 (page 30) – insertion of the words “for development application”. This is to reflect Council’s original intention.
- Section 11.6 (page 39) – insert current requirement of declaring Non-Pecuniary Interests.
- Schedule 1 (page 48) – Insert Port Stephens Examiner, SBS Television and ABC Television.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

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*

FINANCIAL/RESOURCE IMPLICATIONS

The Code will be implemented within current financial and human resources.

Once adopted, the Code of meeting practice must be available for public inspection free of charge at the office of the Council during ordinary office hours. Copies of the Code must be available free of charge or, if the Council determines, on payment of the approved fee.

LEGAL AND POLICY IMPLICATIONS

Under Section 361 of the Local Government Act, the draft Code must be placed on public exhibition for not less than 28 days. The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the Council. The council must consider all submissions received before determining the Code.

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.*
- 3) **SYSTEMS THINKING** – *Continuously improve the system.*
- 5) **CONTINUOUS IMPROVEMENT** – *Develop agility, adaptability and responsiveness based on a culture of continual improvement, innovation and learning.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The code allows Councillors to effectively carry out their responsibilities at meetings of the council and committees of which all the members are councillors.

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

General Manager
Acting Corporate Services Group Manager

OPTIONS

- 1) Adopt the recommendation
- 2) Amend the draft Policy and then advertise
- 3) Retain the existing policy

ATTACHMENTS

- 1) Nil

TABLED DOCUMENTS

- 1) Draft Code

ITEM NO. 7

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 7th October, 2008.

No:	Report Title	Page:
1	Local Adaptation Pathways Program – Organisational Climate Change Risk Assessment Project	
2	Quarterly Update on the Hunter Central Coast Regional Environmental Management Strategy	

STRATEGIC COMMITTEE MEETING – 7 October 2008

RECOMMENDATION:

That the information papers be received and noted.

ORDINARY MEETING – 21 October 2008

RESOLUTION:

306	Councillor Tucker Councillor Kafer	It was resolved that the recommendation be adopted.
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STRATEGIC COMMITTEE INFORMATION PAPERS



INFORMATION ITEM NO. 1

**LOCAL ADAPTATION PATHWAYS PROGRAM – ORGANISATIONAL
CLIMATE CHANGE RISK ASSESSMENT PROJECT**

**REPORT OF: SALLY WHITELOW - ACTING MANAGER, ENVIRONMENTAL
SERVICES**

FILE: PSC2007-4164

BACKGROUND

The purpose of this report is to inform Councillors about the local adaptation pathways program.

Adaptation to the unavoidable changes that will occur from climate change is arguably the most significant issue to be tackled this decade by Australian governments, business and industry. Changes to temperature, rainfall patterns and the frequency and intensity of storms will expose many Australian sectors and systems to new or expanded risks. While some impacts will be widespread over large regional areas, other impacts from climate change will intensify at the local scale especially in coastal areas where the intensity of human activity and occupation is greatest and is most threatened by natural processes such as coastal storms and flooding.

Acknowledgement and adaptation in response to climate change is especially critical at the local government level where service delivery to the community is most visible and there is a high level of dependence on these services to provide for citizen's basic needs and quality of life. Potential impacts from climate change can effect almost every aspect of a local government's planning and management responsibilities related to provision of new and maintenance of existing infrastructure, recreational facilities, health services, land use planning and development assessment, and parks and wildlife management. Within this context it is important for local governments to respond to the challenge of climate change to maintain or improve essential services to its populace and to avoid potential legal risks and challenges that may arise from perceived inactivity.

However it has also been recognised by the Federal government that many local councils do not have the capacity or the tools necessary to plan and implement adaptation actions that will address the risks arising from the impacts of climate change.

To combat this the Federal Government introduced the Local Adaptation Pathways Programme that made available grants of \$50,000 to support local government bodies to implement a risk management process to deal with the impacts of climate change, including initial context analysis, risk evaluation workshops and adaptation action plans. Port Stephens Council was successful in obtaining one of these grants.

This risk management process (aligned with the *Climate Change Impacts & Risk Management: A Guide for Business and Government* publication) will be supported by a facilitator selected from a panel of providers approved by the Australian Greenhouse Office. Facilitators will be trained in risk management, basic elements of climate change science and adaptation options for local government.

As a result of this process Port Stephens Council will have:

- Undertaken an organisational risk assessment to address the impacts of climate change across all sectors of the councils business. This will identify and assign priorities to risks that climate change impacts pose to operations and responsibilities.
- Developed an adaptation action plan that will assist council to plan for the impacts of climate change both within council's businesses and to set in place policies and practices to help the community avoid the major impacts of climate change over the coming decades. This will involve developing strategies for managing risks that are well understood and identifying where further investigation is necessary for risks that are not well enough understood to determine an appropriate management strategy
- Determined an agreed sea level rise figure based upon a risk management approach for Port Stephens Council to use in adaptation planning.

Links to Hunter Councils

- Hunter Councils submitted a regional application to the same program but was unsuccessful.

Hunter Councils is still continuing with the project titled 'Understanding and Adapting to the Effects of Climate Change across Key Land Uses in the Hunter Central and Lower North Coast Region'. In addition Hunter Councils is currently coordinating a regional response to adopting a consistent sea level rise figure for planning controls. This follows on from the approach taken by Lake Macquarie Council to adopt a 0.91m sea level rise figure for decision-making and future planning associated with climate change adaptation. It is anticipated that these projects will compliment each other.

Timing

A facilitator will be appointed in August 2008 and the project must be completed by August 2009.

Coordination

The project will be overseen by environmental services in collaboration with the risk management section. A Climate Change team is currently being put together that will oversee this and other related climate change projects.

The primary drivers for the development of the Climate Change Team are:

- To steer Council's commitment to reduce Greenhouse Gas (GHG) emissions to mitigate Council's contribution to Global Climate Change
- To determine the implications of Climate Change to the Port Stephens LGA
- To demonstrate leadership to the Port Stephens community on Sustainability & Climate Change Mitigation/ Adaptation; and
- As part of risk management identify and document those parts of the Port Stephens LGA that are susceptible to Climate Change and identify appropriate risk mitigation responses.

This aligns with Objectives 7.1.1, 7.1.2, 7.3.1 and 7.3.2 of the 2008-2012 Council Plan.

ATTACHMENTS

- 1) Nil

INFORMATION ITEM NO. 2

**QUARTERLY UPDATE ON THE HUNTER CENTRAL COAST
REGIONAL ENVIRONMENTAL MANAGEMENT STRATEGY**

**REPORT OF: SALLY WHITELOW - ACTING MANAGER, ENVIRONMENTAL
SERVICES**

FILE: PSC2005-4459

BACKGROUND

The purpose of this report is to provide Councillors with an update on the Hunter Central Coast Regional Environmental Management Strategy.

The Lower Hunter Central Coast Regional Environmental Management Strategy (LHCCREMS) was originally conceived in 1993 by Environmental Managers of Lower Hunter Central Coast Councils who felt that there was significant potential to work collaboratively, and more cost effectively, on regional environmental management issues. As a result, a Steering Committee was formed which comprised senior staff and elected representatives of all interested Councils.

The original LHCCREMS project was developed in 1995 and in 2002 the project was extended to include the Upper Hunter Councils and in 2004, Greater Taree City Council was welcomed to the program. At this time the project was renamed the Hunter Central Coast Regional Environmental Management Strategy (HCCREMS).

HCCREMS is supported by the Environment Division of Hunter Councils and all supporting Councils make a financial contribution to the program to allow for the regional coordination.

The steering committee meets quarterly and is supplemented by interim meetings that aim to provide the opportunity for a wider range of staff from councils to provide focused input and expertise to the development and implementation of projects that are of particular concern to Councils.

HCCREMS is making good progress in all of the projects currently underway and has resulted in gains for all members including Port Stephens Council. The attached report is prepared by the Director of HCCREMS and provides a good mechanism for keeping Councils better informed on the progress of HCCREMS.

ATTACHMENTS

- 1) Hunter & Central Coast Regional Environmental Management Strategy Steering Committee Report August 2008



HUNTER & CENTRAL COAST REGIONAL ENVIRONMENTAL MANAGEMENT STRATEGY

Steering Committee Report

August 2008

GENERAL INFORMATION

STAFFING

Paul Taylor has joined the Environment Division Team in July as our Data/GIS Manager. Paul has extensive expertise in Council data management and GIS applications after working for over 12 years with Cessnock City Council.

We have just formalised the engagement of Danielle Lawley as our Regional Compliance Coordinator and Juliana Collins as our Regional Education & Events Officer for the Sustainability Program. Both have excellent backgrounds suited to their roles and both will commence on Monday 8th September.

We will be reluctantly saying farewell to Hugh Cross at the end of August – he has accepted a position as Sustainability Team Leader at Lake Macquarie Council. Hugh has been a valuable member of the Division for two and a half years expertly managing the Regional Water Program.

GRANTS: STATUS OF CURRENT GRANT APPLICATIONS

Grant Body	Grant Program	Project Title	Funds Requested	Status
Dept of Primary Industries	Annual Noxious Weeds Management Plans	Hunter and Central Coast Weeds Management Strategy	\$49,100	Pending
Environmental Trust	Urban Sustainability Program	Local Government Climate Change Risk Management & Adaptation Program	approx \$2M	Pending
Environmental Trust	Restoration & Rehabilitation	Roadside Environmental Protection System	\$100,000	Pending
NSW Environmental Trust	Urban Sustainability Major Projects and Urban Waterways Initiative	Grow Me Instead In the Hunter	\$497,500	Pending
NSW Environmental Trust	Urban Sustainability Major Projects and Urban Waterways Initiative	Intranet web based weed mapping project for Hunter and Central Coast Councils	\$300,000	Pending

PROJECT UPDATES

I WATER PROGRAM – FINAL REPORT

The “*Mainstreaming Integrated Water Cycle Management Program*” concluded at the end of June. Commencing in March 2006, the overarching program objective was to “work with all local governments to develop appropriate planning instruments to ensure Integrated Water Cycle Management principles and practices are applied throughout the region”. The funding agreement with the Hunter Central Rivers Catchment Management Authority (HCRCMA) set out a range of activities, milestones and outputs to support this objective. The achievement of these requirements is documented in the *Final Project Report* (HCCREMS, June 2008) to the HCRCMA. A summary is provided below.

The *Project Initiation Benchmark Report* (August 2006) documented the status of integrated water cycle management at the commencement of the program; capturing group interview findings with key staff in each council. During these interviews stakeholders identified their expectations and needs in relation to the program. The (non-quantitative) interview findings generally reinforced the need for the outputs already identified; and emphasised the need for capacity building, model planning provisions and information on WSUD technical performance and cost (preferably from case studies or demonstration sites).

A range of capacity building events commenced in August 2006, these included bus tours of demonstration sites, workshops and breakfast seminars. In all, 25 events were held on a regional or subregional basis. In the case of the *Planning Roadshows* a subregional event was adapted and delivered in-house to each council. Table 1 summarises all the events held.



From mid 2007 the capacity building events were categorised as belonging to either the “Elements”, or “Regional Issues” series. The “Elements” series offered a sequential “IWCM course” where each subsequent event logically built on the information delivered and discussed at the previous event. The “Issues” series, by contrast, was a flexible program that covered a diverse range of topical subjects of interest to particular sectors or sub-regions. Council staff and other stakeholders were invited to nominate subjects for the “Issues” series at any time – providing a mechanism for HCCREMS to respond to particular needs. An example is the “*Pasha*” June Storm Review workshop.

Table 1: Mainstreaming IWCM Program Capacity building events

Event No.	IWCM Event		Event	Date	Location
	Elements	Issues			
1			Wallarah Peninsula WSUD Field Day	9-Aug-06	Murrays Beach
2			Regional Waste Water Reuse & Water Savings Seminar	17-Aug-06	Maitland
3			Sandy Soils WSUD Field Day	26-Sep-06	Port Stephens LGA
4			Local Water Utilities Workshop #1: Integrated Water Cycle Management Planning – Sharing Experiences	11-Dec-06	Muswellbrook
5			Local Water Utilities Workshop #2: Developing Drinking Water Mgt Plans using the Community Water Planner Tool	14-Feb-07	Muswellbrook
6			WSUD for Catchments Above Wetlands Workshop	22-Mar07	Wyong
7			WSUD Training Course for DA Planners & CC Assessors	11-Jul-07	Newcastle IDC
8			Hardies/HCCREMS WSUD Breakfast Seminar: WSUD the latest developments	27-Jul-07	Newcastle
9		R1	Pasha June Storm Review – WSUD Performance Workshop	25-Sep-07	Lake Macquarie

ORDINARY MINUTES – 21 OCTOBER 2008

	IWCM Event			
10	E1		Introduction to IWCM – summary of current best practice – delivered by sub-region	24-Oct-07 Forster
11	E1		Introduction to IWCM – summary of current best practice – delivered by sub-region	25-Oct-07 Toronto
12	E2		Organisational Change – processes and skills	4-Nov-07 Forster
13	E2		Organisational Change – processes and skills	5-Nov-07 Toronto
14		R2	Porters Creek Stormwater Harvesting Project	18-Dec-07 Wyong
15	E3		IWCM Best Planning Practices– Regional Application	20-Feb-08 Toronto
16		R3	IWCM Planning – Pollution Management in Coastal Lakes	18-Mar08 Wyong
17	E4		WSUD Best Planning Practices Roadshow – Maitland City Council	17-Apr-08 Maitland
18	E4		WSUD Best Planning Practices Roadshow – Dungog Shire Council	21-Apr-08 Dungog
19	E4		WSUD Best Planning Practices Roadshow – Wyong City Council	22-Apr-08 Wyong
20	E4		WSUD Best Planning Practices Roadshow – Cessnock City Council	22-Apr-08 Cessnock
21	E4		WSUD Best Planning Practices Roadshow – Muswellbrook Council	24-Apr-08 Muswellbrook
22	E4		WSUD Best Planning Practices Roadshow – Upper Hunter Shire Council	24-Apr-08 Upper Hunter
23	E4		WSUD Best Planning Practices Roadshow – Newcastle City Council	9-May-08 Newcastle
24	E5		Element Series Workshop: IWCM BMPs – source control – theory & application	26-May08 East Maitland
25	E4		WSUD Best Planning Practices Roadshow – Port Stephens Council	29-May08 Port Stephens

In keeping with the expressed interest in ‘case studies’ a number of staff from Councils within and beyond our region presented at these Regional events. Group discussion time was built into latter events to facilitate participant networking.

The Program Coordinator made IWCM presentations and/or provided specialist IWCM advice at an additional 15 events (Table 2 below) which saw the Program engaging with a broader range of stakeholders including the general community and partner organisations such as the Tom Farrell Institute for the Environment and the Department of Education’s Environmental Training Centres. Only five of the 15 events were held outside the region.

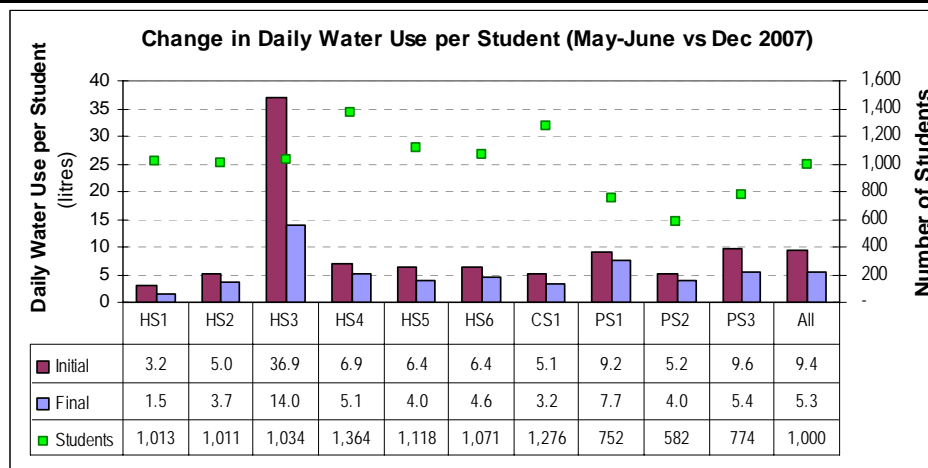
Event presentations are available on the water events webpage:

<http://www.hccrems.com.au/water/watereventspast.html>

A few of these events related to a successful grant application to the NSW Government’s *Water Savings Fund*. HCCREMS secured \$113,070 for the *Central Coast Public Schools Integrated Water Program* to install smart water meters, solenoid cut-off valves and other water saving devices in primary and high schools. Curricular support materials were developed to assist teachers to link the practical experience of monitoring water use and selecting water saving measures with class room learning.



This schools program was highly successful, with estimated water savings double that forecast in the original funding submission. Figure 1 shows the change in water use per student for each of the 10 schools involved, before and after installation of the water saving devices.



HS = High School CS = Community School (K to yr12) PS = Public School

Figure 1: Change in water use per student for participating Central Coast schools

ORDINARY MINUTES – 21 OCTOBER 2008

Table 2: Presentations & contributions to other Capacity building events by the Program Coordinator

	Date	Location	Host Organisation	Forum	Presentation Title / Role	Comment
1	30-Jun-07	Wakefield	HCCREMS	Rural Residential Talk - Lake Macquarie	Managing water & waste water	Presentation to public forum
2	28-Jul-07	Seaham Park	HCCREMS	Rural Residential Education Workshop (Seaham Park)	Managing water & waste water	Presentation to public forum
3	14-Aug-07	Newcastle	DET Hunter Central Coast	Internal meeting of senior DET Regional managers: John Mather - Regional General Manager; Barry Wheeler - Regional Asset Manager; Lester Searle - Associate Faculty Director TAFE Hunter Institute	Expanded Central Coast Integrated Water Program to achieve IWCM in schools	To obtain in-principle support for collaborative funding and resourcing of an expanded program
4	20-Mar-07	Berkeley Vale	HCCREMS	Launch of the Central Coast Public Schools Integrated Water Program at Tuggerah Lakes Secondary College - Berkeley Vale Campus	Opening by the Hon. David Campbell, MP. Minister for Water Utilities, Minister for Small Business	Organised with the assistance of the Minister's Office
5	10-May-07	Henry Kendal, Berkeley & North Lakes	HCCREMS	CC Schools Integrated Water Project - training	Background to IWCM and training in the use of curricular support materials	Delivered at three locations in the Central Coast to Principals and project teacher coordinators
6	22-Jun-07	Wollongong	Stormwater Industry Association of NSW	SIA Annual Conference	Delivered paper: "Urban Water – Sustainable Opportunities Going Going...Captured!"	Conference paper
7	20-Aug-07	Parramatta	WSUD in Sydney	National WSUD Capacity Building Forum	HCCREMS IWCM Program	Workshop to identify common goals and funding opportunities
8	5-Sep-07	Scone	Upper Hunter Council	Internal meeting with planning staff	Incorporating IWCM into development controls	In-house assistance in interpreting IWCM measures for council's LEP revision and major residential and industrial developments
9	13-Sep-07	Taree	MidCoast Water	Internal meeting of senior staff	Expanded Central Coast Integrated Water Program	To obtain in-principle support for collaborative funding and resourcing of an expanded program
10	10-Sep-07	Sabah, Malaysia	Department of Irrigation & Drainage	High level inter-departmental forum across all State agencies involved in urban drainage & water supply	Application of Water Sensitive Urban Design in Sabah	Invitation accepted at personal time and cost. Over 100 attendees
11	9-Nov-07	Newcastle University	Tom Farrell Institute	The Hunter: Sustaining a River and its Communities	Water, Hydrology and Water Management in the Hunter	Public forum. Part of their series: "Regional Solutions for a Sustainable Future"
12	22-Nov-07	Newcastle Council	DET Hunter Central Coast	Climate Change for Schools -Principals Meeting	Central Coast Schools Integrated Water Program	Presentation delivered twice to over 100 Principals and senior staff
13	28-Nov-07	Parramatta	DECC	USP Cluster Mtg - Water Management Cluster	Central Coast Schools Integrated Water Program	Coordination meeting
14	5-Mar-08	Lake Macquarie Council	Lake Macquarie Council	Lake Mac schools Community Water Grant Mtg	IWCM and smart water metering	Provided expert advice to forum of school grant recipients
15	19-Mar-08	Pennant Hills	Sydney Water	Sydney Water - Every Drop Counts seminar	Central Coast Schools Integrated Water Program	Presentation to 80 Principals, Deputies and teachers involved in environmental education

Schools in the Central Coast are required to pay both a water usage charge and a sewerage usage charge, which combined are equivalent to \$2.10 for each litre of water consumed (in 2007). Based on this rate, the water savings achieved by the Program as a whole equate to about \$32,000 per year or \$318,000 over 10 years.

Table 3 indicates that annual school water bills, based on initial and final water use figures, would be reduced by an average of \$3,153 per school, and that the median reduction would be \$1,668.

Table 3: Central Coast Schools IWCM Project – Annualised savings in 2007

Equivalent Annual Cost			
	Average	Median	All Schools
Students	1,000	1,024	9,995
May-June	\$ 7,182	\$ 5,286	\$ 71,819
Dec	\$ 4,029	\$ 3,330	\$ 40,285
Total Change	- \$ 3,153	- \$ 1,668	- \$ 31,534
Diff (%)	- 35	- 33	- 44

These values far outweigh the \$250 annual software licence fee associated with the Smart Water meters

A core program objective was to develop and promote model planning provisions. Accordingly, the *Water Smart Model Planning Provisions*, published by LHCCREMS in 2002, were revised in early 2007 to reflect regulatory changes and advances in planning approaches in the intervening period. The revised *Provisions* were promoted at each subsequent capacity building events in particular the *Planning Roadshows*. A regional community of practice in WSUD planning was supported by creating a special purpose “WSUD Planning Provisions Network Group” in the online clearing house developed and managed by HCCREMS. Table 4 below summarises the implementation of IWCM provisions in councils’ planning instruments. Most councils have either implemented comprehensive IWCM planning provisions, or are actively reviewing their current provisions as part of their LEP and/or DCP review processes.

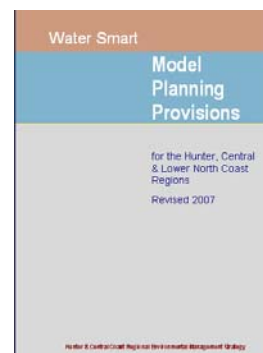






























Table 4: Councils in the HCR-CMA Region implementing IWCM clauses in their Planning Instruments


Council	Council Mgt Plan or EMP	WSUD Policy	LEP	DCP	WSUD Guidelines	Planning Instruments incorporating WSUD Provisions								
						Examples of:								
							Best Practice	A	Advanced	P	Partial	L	Low	* 
Greater Taree	P	P	L 	P 		<ul style="list-style-type: none">DCP 41 - SubdivisionDCP 42 - On Site Effluent Disposal PolicyDCP 43 - Erosion & Sediment Control								
Great Lakes		A	L 	 		<ul style="list-style-type: none">Management Plan 2007-10“Working policies” & Erosion & Sediment Control PolicyGreat Lakes Local Environmental Plan 1996Great Lakes DCP for WSUD – in preparationDraft Great Lakes Water Sensitive Urban Design Strategy, 2007								

Council	Council Mgt Plan or EMP	WSUD Policy		LEP	DCP	WSUD Guidelines	Planning Instruments incorporating WSUD Provisions									
		Examples of:														
			Best Practice				A	Advanced	P	Partial	L	Low	* 	Revision underway		
Cessnock	L	L	L	P			<ul style="list-style-type: none">2007-2010 Management PlanCessnock Local Environmental Plan 1989Cessnock Development Control Plan 2006									
Maitland			L 	P 	A		<ul style="list-style-type: none">Maitland LEPMaitland City-wide DCPManual of Engineering Standards									
Port Stephens	P	P	L	L			<ul style="list-style-type: none">Port Stephens Draft Urban Stormwater and Rural Water Quality Management Plan – contains WSUD componentsSustainability Policy – sets the overall environmental objectives.Urban Rainwater Tank Policy – promotes the use of rainwater tanks.Local Approvals Policy for the Conversion of Septic Tanks for Rainwater Storage (for Irrigation Purposes) – an innovative policy to assist reuse of septic tanks following connection to reticulated sewerage.									
Newcastle	A		L				<ul style="list-style-type: none">Port Stephens Local Environmental Plan (LEP) 2000Newcastle Environmental Management Plan 2003Newcastle Stormwater Management Plan 2004Newcastle Flood Policy 2003Urban Water Cycle Policy 2004Newcastle LEP 2003Newcastle DCP 2005									
Lake Macquarie			L				<ul style="list-style-type: none">DCP No. 1 – Volume 1 – Guidelines, Part 8; Water Cycle Management (2006)									
Dungog			L	A			<ul style="list-style-type: none">DCP No. 1 – Volume 2 – Engineering GuidelinesDungog Local Environmental Plan 2006Shire-wide DCP, Section 18. “Water Efficiency”									
Upper Hunter			L 				<ul style="list-style-type: none">New shire-wide LEP may incorporate some IWCM concepts subject to DoP approval New shire-wide DCP is proposed to incorporate IWCM concepts									
Muswellbrook	L	L	L 	L			<ul style="list-style-type: none">Urban Stormwater Management Plan (2001)Muswellbrook Local Environment Plan 1985 (LEP)Development Control Plan No. 9 – Erosion and Sediment ControlWSUD DCP – is being considered)									
Singleton	L	L	L 				<ul style="list-style-type: none">Onsite Sewerage Management Strategy – does not cover re-useSingleton Local Environmental Plan 1996Singleton DCP 2007; Element 12- Stormwater ManagementStormwater Management Policy Residential and Commercial (May 2003) – addresses stormwater management and rainwater harvesting, including water quality issues and detention.									
Gloucester	L	L	L	L			<ul style="list-style-type: none">Gloucester Local Environmental Plan 2000DCP - Water Efficient Housing									
Wyong			A	P 			<ul style="list-style-type: none">Wyong LEP 1991 (revised Jan 2008)DCP 2005 Chapter 65: Domestic Wastewater Disposal in Non-sewered AreasChapter 66: Subdivision									

Council	Council Mgt Plan or EMP	WSUD Policy	LEP	DCP	WSUD Guidelines	Planning Instruments incorporating WSUD Provisions								
						Examples of:								
							Best Practice	A	Advanced	P	Partial	L	Low	* 
Gosford						<ul style="list-style-type: none">Gosford City Centre Local Environmental Plan 2007DCP No.165 Amendment 1 February 2007:Gosford City Centre Plan Development Control Plan 2007:Water Cycle Management Guidelines (WCM Guidelines):GCC Design Specification for Survey, Road and Drainage Works 2004:								

In addition to the Model Planning Provisions, the eleven supporting “*Water Smart Practice Notes*” in the *Design Guide for Water Sensitive Urban Design*, were substantially revised. Both the Water Smart Planning Provisions and Practice Notes are available on-line from the program’s home at www.hccrems.com.au/water.

Another key program output was the development of a *Regional Demonstration Sites Database* to showcase examples of WSUD in the region. This database was initially developed as an off-line resource to be distributed by CD-ROM. To improve access and ownership the database it was redeveloped into a fully interactive on-line Regional WSUD Register, hosted on a new database-driven website: www.urbanwatersites.info. The site can be accessed and searched by any member of the public. An example of a search result (“summary result” page) is shown below.



demonstrating Water Sensitive Urban Design in the Hunter, Central Coast, and Lower North Coast regions of NSW


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Search results in summary

Your Search for:
All Records:
Returned 26 results from our database of 26 sites.
[Back to refine your search.](#)

To view your search results on the map:
Click on a site to view its name, zoom in or access more information on the site.
Use the map's zoom bar to take a closer look at a cluster of sites.

To view detailed results:
Either Double click a site on the map or use the link from the summary results table below.
[Print Friendly Version](#) of these summary search results.



12		Site Name: Fern Bay Seaside Village - Stage 1 Responsible Organisation: Port Stephens Council Council: Port Stephens Suburb: Fern Bay Postcode: 2295	Consultant: Fagan Mather Duggan Pty Ltd Designer: Urban Water Cycle Solutions Development Type: Greenfield Land Zone: residential-low density Development Scale: Subdivision/precinct
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Initially the database has been populated with about 25 sites. In the future councils, developers and consultants will be able to contribute new sites and/or edit existing sites. It is envisaged that the site

ORDINARY MINUTES – 21 OCTOBER 2008

will develop as a regional showcase of sites that demonstrate water sensitive urban design and integrated water cycle management. Each of the 14 councils is registered as (contributing) users.

Over the duration of the program, Sixteen e-newsletters were published and distributed to a re-established network of almost 200 individuals who practice various aspects of WSUD in councils, water authorities, consultancies and urban development companies. The newsletters provided information on recent developments, events and materials, relevant to the practice of IWCM within the region, including upcoming events hosted by HCCREMS and other organisations. Phone survey feedback indicated that many professionals valued this newsletter as it helped people feel they were “in touch” by a regular speed read.

Other networking and research activities were undertaken a regional level (for example with the University of Newcastle); across the state (such as Department of Environment and Climate Change, DECC Stormwater Unit); and nationally with similar capacity building organisations based in most State capitals. Technical advice was regularly provided via email to individual Council and water authority staff.

One program output required making representation to the State government on behalf of our member councils to facilitate IWCM uptake. A range of activities were conducted to meet this requirement including a number of submissions: to Hunter Water and MidCoast Water on their Integrated (sustainable) Water Cycle Management Plans; to the Department of Planning on the *Local Environmental Plan (LEP) template*; and to DECC on the Draft *Diffuse Source Water Pollution Strategy*.

The findings of the *Final Benchmark Survey Report*, conducted to assess the program’s impact, indicates that substantial improvements in IWCM uptake were achieved over the last two and half years. As reported in Table 5 below, on average just over half of survey respondents (n=35) considered that “substantial progress” had been made. The organisational factors considered to have advanced the most were “organisation commitment”, “policies and mission statements”, “supporting technical resources” and “awareness of drivers”. For five of the seven factors at least one person (not necessarily the same person) indicated that a “sea change” had occurred.

Table 5: Survey respondent’s views on advances in implementing WSUD/IWCM

3. Over the past 2 years, what ADVANCES has your organisation made to help deliver WSUD/IWCM? (please tick one on each row)					
Answer Options	None	Minimal	Substantial	Sea change!	Response Count
Organisational commitment	2	13	19	1	35
%	6	37	54	3	
Policies and mission statements	5	15	15	1	35
%	14	43	43	3	
Technical skills	0	19	16	0	35
%	0	54	46	0	
Supporting technical resources	2	16	17	0	35
%	6	46	49	0	
Internal liaison & support	2	16	16	1	35
%	6	46	46	3	
External liaison & cooperation	0	18	16	1	35
%	0	51	46	3	
Awareness of drivers (e.g environmental condition,	0	12	22	1	35
%	0	34	63	3	
Care to elaborate on any of the above?					12

The most commonly cited factors in achieving these changes (Table 5 below) was “own champions”, followed by the “HCCREMS Urban Water Program”. Hence there is strong support (at least from survey respondents) for the view that the Regional Water program has substantially contributed to advancing the implementation of WSUD/IWCM in the region.

Table 5: Survey respondent’s views on factors instrumental to WSUD/IWCM uptake

4. What FACTORS were instrumental in achieving the above changes? (tick one or more on each row)								
Answer Options	Own champion(s)	Mandatory State/Federal provisions	Model planning provisions/ guidelines	New technical guidelines/ resources	HCCREMS Urban Water Program	Awareness of drivers	Inexplicable revolution!	Response Count
Organisational commitment	13 41%	8 25	8 25	6 19	11 34	11 34	0 0	32
Policies and mission statements	15 50%	8 27	8 27	9 30	5 17	7 23	1 3	30
Staff technical skills	13 41%	3 9	4 13	12 38	15 47	10 31	0 0	32
Supporting technical resources / tools	10 32%	3 10	5 16	13 42	14 45	5 16	0 0	31
Internal liaison & support	16 52%	3 10	4 13	7 23	8 26	7 23	0 0	31
External liaison & cooperation	9 29%	3 10	5 16	9 29	18 58	6 19	0 0	31
Awareness of drivers (e.g environmental condition, costs)	15 48%	5 16	4 13	10 32	10 32	10 32	0 0	31
Care to elaborate on any of the above?								10

In terms of future strategic directions and opportunities, there are signs of a collective momentum building to develop planning provisions that specifically address IWCM issues. Two catalysts for an increasingly common approach between councils over the short term appear to be: (1) the standard LEP template; and (2) the recently introduced “exempt and deemed to comply provisions”.

It is suggested that consistent planning provisions and standardised design/construction procedures; together with improved knowledge on WSUD device performance and lifecycle costs (via extension of the Regional Demonstration Register (urbanwatersites.info)) are significant areas where progress can be made in coming years to advance the uptake of IWCM and improved sustainable water management in our region.

II BIODIVERSITY PROGRAM

Regional Vegetation Classification Scheme

The regional classification scheme for the Hunter, Lower North Coast and Central Coast Region has now been completed and final technical reports are currently being produced. A total of 210 vegetation communities are identified in the final scheme. In addition a number of communities which were not derived through the numerical classification have been identified through expert panels. The 210 communities identified can be grouped into vegetation formations (after Keith 2002) as follows.

Table 1: Vegetation formations

Formation	Communities
Rainforests	21
Wet sclerophyll forests (grassy sub-formation)	14
Wet sclerophyll forests (shrubby sub-formation)	21
Dry sclerophyll forests (shrub/grass sub-formation)	27
Dry sclerophyll forests (shrubby sub-formation)	61
Grassy woodlands	15

Grasslands	2
Heathlands & Shrublands	16
Forested wetlands	19
Freshwater wetlands	12
Saline wetlands	2

In order to develop a hierarchical classification scheme the communities have been analysed to identify relationships with broader vegetation classifications (such as the state level formations and classes) and finer scale, sub-regional and local classifications such as the LHCCREMS classification scheme (NPWS 2000) and those developed by Bell for Gosford (Bell 2003) and Wyong (Bell 2002) local government areas.

A relational database has been developed to store the regional classification scheme and associated biotic and abiotic data and allow various reports to be produced on each of the communities. Information which can be provided in these reports includes the geographic, topographic, geological and climatic distribution of communities, diagnostic plant species, common naturalised plant species, conservation significance and relationships to other classification schemes. A range of other information has also been developed through the analysis of vegetation communities including the relationships between various weed species and specific communities which they commonly infest.

Local scale aerial photography based vegetation mapping

Aerial photography interpretation based, fine scale vegetation mapping has been carried out in a number of coastal areas (Great Lakes, Taree, and Port Stephens) which will be used as a constraint to future regional vegetation mapping. The line work has been completed for all areas and the data capture and integration are also nearing completion. As well as providing constraints to the modelling work this mapping will be available to the relevant councils for use in environmental planning contexts such as the identification of Endangered Ecological Communities.

Regional soils mapping sub-project

The soils mapping being carried out as a sub-project of the regional vegetation classification and mapping project is currently underway, with all relevant data having been supplied to the consultants. The outputs from this project should be in draft stage by the end of the current year. This sub-project will provide a seamless soils mapping layer for the entire region and will be a useful dataset for a range of purposes, including as an input into vegetation modelling.

Reports & Publications

A series of reports and publications will be published throughout August and September summarising the work completed in this stage of the region-wide mapping program –

- Vegetation Classification Scheme: Hunter, Central & Mid-North Coast regions of NSW
- Detailed Vegetation Community Profiles
- Comprehensive Vegetation Survey Dataset Audit: Hunter, Central & Mid-North Coast regions of NSW
- API Mapping report
- Private Landholder, National Parks, and State Forest Survey reports

Future directions for the Biodiversity Program

As the vegetation classification project is nearing completion the Biodiversity Program is investigating ways in which it can support the biodiversity planning and conservation needs of member councils for the remainder of the 2008/2009 year (until the final stage Mapping project commences in June 2009). This process will involve Environment Division staff liaising with member council staff to identify areas that could be appropriately addressed at the regional level. Possible projects to be undertaken in this period include the development of tailored biodiversity related data products for

use in constraints mapping for the new LEP templates. The Program Coordinator will be scheduling visits to individual councils to discuss possible project components in the coming months.

III ROADSIDE ENVIRONMENT PROJECT

From April to June 2008 the project has focussed on the development of a range of tools and resources to assist councils in managing their roadside environments. These have been developed to a final draft stage and include:

Roadside Management Guidelines

A series of draft management guidelines with accompanying field guides have been developed. The management guidelines examine the context and impacts associated with a range of particular roadside environmental issues (soil, water, vegetation and sensitive sites) and provide recommendations for their management. The 'glove box' field guides also provide a brief synopsis of key information and actions relevant to each of these issues to assist operational staff when undertaking on ground works in roadside environments.

Roadside Environmental Assessment Tool

Consultation with GIS and other staff who have been involved in trialling the GIS based Roadside Environment and Assessment Tool has been completed. This process has identified that the GIS software of all councils has the capacity to link the Assessment Tool with their assessment processes and the implementation of relevant management guidelines. Due to the range of GIS products used across the 14 member councils, HCCREMS will further develop and facilitate implementation of this GIS support tool with councils on an individual basis.

REF Template and Environmental Assessment Guidelines

An Environmental Assessment Guideline has been completed that outlines the legislative responsibilities of local councils when conducting road maintenance, modification or construction activities. Based on this guideline, a Review of Environmental Factors Template has also been developed. In order to ensure currency with legislative changes and consistency across the 14 member councils, the option of upgrading the template into an electronic format is being explored. An electronic form would step users through the assessment process and utilise live weblinks to existing federal and state legislative information and tools. The benefits to developing a tool of this nature will be gauged with councils over the coming months.

Training Package

A training module titled '*Protecting and enhancing roadside environments during construction and maintenance activities*' has been developed. The module provides a broad approach to roadside management covering topics such as erosion and sediment control, acid sulphate soils, salinity and water management. The potential for VETAB accreditation of this module as an elective under the Certificate in Local Government (Operational Works) will be explored in the coming months.

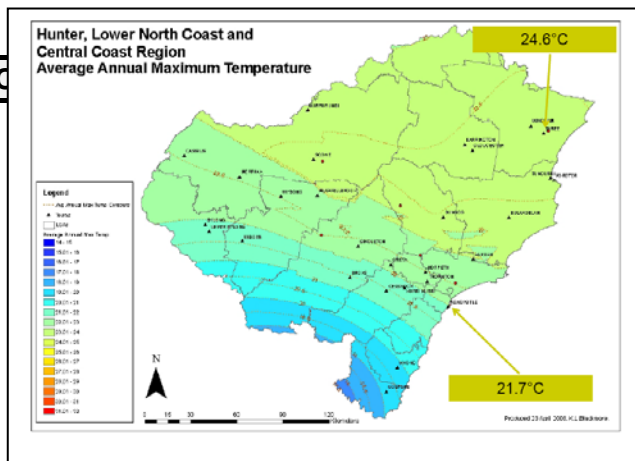
Council Briefings

Throughout August and September, briefings will be provided to all member councils to provide an overview of the nature and content of the project outputs outlined above and to facilitate input to their finalisation. The briefings will also aim to identify the nature of support required by councils to adopt and implement the management tools that have been developed.

Rapid Roadside Assessment Program

Analysis of the data collected during the Rapid Roadside Assessment Program has now been completed and a draft report on its findings developed. A summary of these findings includes:

- The quality of roadside environments varies significantly throughout the Hunter, Central and Lower North Coast region
- The quality of the roadside environment is the key factor in determining whether the roadside environment is of benefit or detriment to the surrounding landscape



conduct their planning, maintenance and construction activities.

NSW Roadside Environment Committee Meeting

On 1 August 2008 Hunter Councils hosted the quarterly meeting of the NSW Roadside Environment Committee. This Committee was formed in 1994 to encourage better management of roadside environments in NSW and comprises 10 organisations with interests in roadside management. Hunter Councils provided a presentation on the Regional Roadside Environment Project and a field trip to sites within the Maitland and Port Stephens local government areas. The field trip highlighted both the values found within local roadside environments and the management issues faced by councils. The REC has expressed interest in sponsoring HCCREMS to provide a presentation on the Roadside Environment Project to other Regional Organisations of Councils across NSW as a model for improving roadside environmental management on a regional basis.

IV CLIMATE CHANGE PROJECT

Research

Stage 2 of the project research program has now been completed, with the draft report detailing the findings of Stage 2 currently being reviewed by the Project Steering Committee. In summary, Stage 2 provides a comprehensive analysis of sub-regional climate distributions, including seasonal, interannual and interdecadal variability of key climate variables and extreme events. It has also identified and analysed the drivers of climate variability in the region, including key synoptic patterns and their influence on sub-regional climate distributions. Findings from Stage 2 also include the identification of sub-regional temporal trends in key climate variables including precipitation and minimum and maximum temperature. These results will provide the basis for the analysis of sub-regional climate change through to 2100AD using projected data from global climate models that will be completed during Stage 3 of the project research.

The following figures show examples of regional climate variability (average annual and seasonal) for key climate parameters that have been identified during the Stage 2 Research.

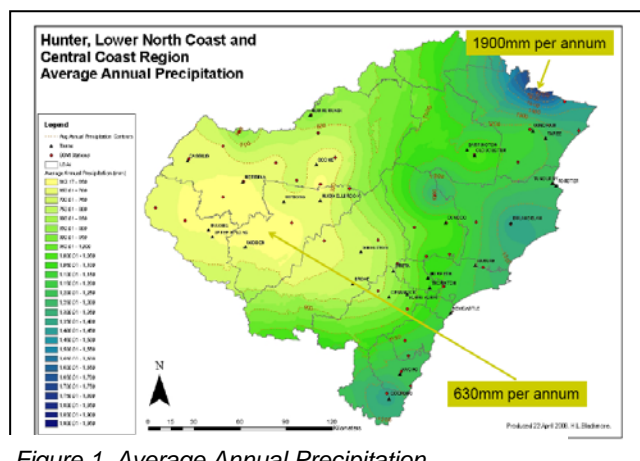


Figure 1. Average Annual Precipitation

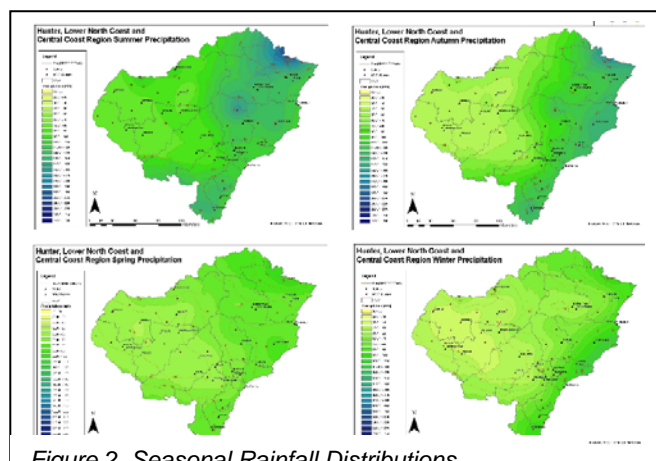


Figure 2. Seasonal Rainfall Distributions

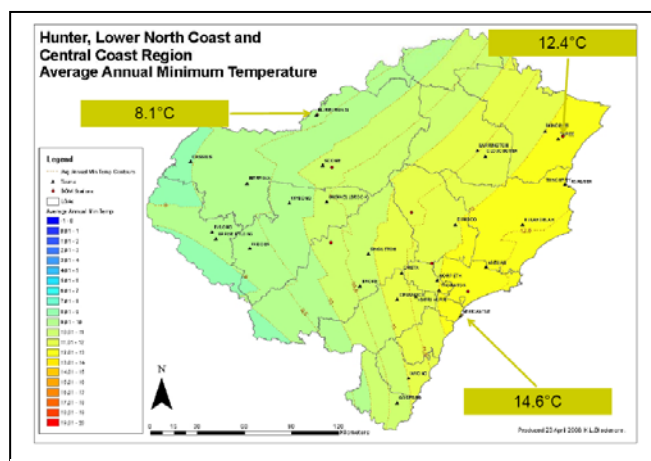


Figure 5. Average Annual Minimum Temperature

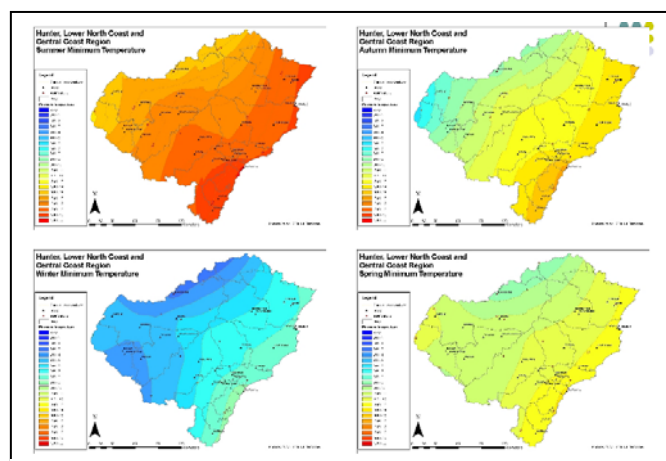


Figure 6. Seasonal Minimum Temperature

Stakeholder Consultation

The first round of stakeholder consultation to be delivered under the project is currently underway. Given the wide range of potential climate change impact scenarios that could potentially be investigated across the region, this process is aiming to narrow the focus for the remaining project stages. In particular, the results of the consultation will assist in identifying the nature of four climate change impact case studies to be developed.

The consultation process is targeting representative government; industry and land use sectors across the region, and is based around seven consultation themes. These themes are considered to be representative of, or iconic to the region, and likely to be noticeably impacted upon by climate change. The particular objectives of the consultation sessions being delivered include:

1. To prioritise the relative importance of the consultation / impact themes across stakeholder groups
2. To identify & rank the first and second order impacts of most concern to stakeholders within each of the consultation themes
3. To prioritise the climate data of most value to stakeholders for the purposes of informing risk assessment and adaptation planning processes

The consultation themes and the nature of the representative stakeholders being targeted in regard to each of these are included in Table 1 below.

Consultation Theme	Representative Stakeholder Groups
Water Balance	Water Authorities & Utilities, Local Government, Hunter Central Rivers Catchment Management Authority (CMA), Department of Primary Industries (DPI), Department of Water & Energy
Biodiversity	Department of Environment & Climate Change (DECC), Hunter Central Rivers CMA, Local Government, Tourism
Human Health	NSW Health, Local Government
Agriculture	Industry Associations, Department of Primary Industries, Tourism
Coasts and Estuaries	DECC, Local Government, Department of Planning, DPI (Fisheries), Tourism
Built Environment & Infrastructure	Local Government, Department of Planning, Industry Associations (eg Architects, Builders)
Natural Disaster / Emergency Management	Local Government, Rural Fire Service, State Emergency Service, Hunter Central Rivers CMA, DECC (flooding), Tourism

V REGIONAL SUSTAINABILITY PROGRAM

The Program Manager and Environment Director met with the NSW Environmental Trust on 23rd July to provide them with an update of current progress and to confirm the proposed program schedule; including joint management of the two Urban Sustainability Program (USP) funded projects, together with the federally funded Local Government Representative Training Project. The Trust indicated its concurrence to those arrangements and its satisfaction with the progress to date.

Benchmark Survey

A major Survey, consisting of a telephone survey to Councillors and General Managers, and an online survey of staff was conducted by the Hunter Valley Research Foundation in early August to obtain information to inform the needs analysis, benchmarking and program evaluation activities. Some 198 telephone interviews were conducted as part of the Councillor/General Manager's survey (i.e. 93% response rate), whilst the on-line staff survey was dispatched to councils between 22-24 July, with 333 fully completed responses received. The HVRF will undertake analysis and report to HCCREMS by early September. Some concern was expressed by some recipients of the telephone survey regarding the manner and professionalism of the HVRF interviewers - which are currently being investigated.

New Councillor Induction Program

A preferred consultant, Gerry Holmes, has been selected to present three of the four standard induction modules proposed to be delivered in-house to member councils as part of the Councillor Induction Project component (two councils have indicated that they don't wish to participate). The consultant is able to adapt their own existing material to our needs, thereby minimising the cost of module content development. In addition, the Environment Division is arranging the development of other sustainability related case study material to augment the consultant's material. Content for the fourth module ("ESD and risk management") is being developed both in-house and via contracted external consultants (Rolf Fenner and Andrew Morrison). A meeting of corporate services council staff (including directors and managers) was held on the 5th August to help tailor the induction material, and to facilitate inter-council discussion of their own induction programs

Capacity Building Activities

Continuing the successful series of WSUD capacity building workshops, the next event, *Water Sensitive Urban Design – will it work? WSUD device performance and lifecycle costs*, has been organised for the 28th August.

A draft tender specification has been developed for the major revision of the urbanwater.info capacity building website. It is anticipated that the tender brief will be finalised and advertised in August, with the work to be completed within six months.

Staffing

Since mid June, the role of *Sustainability Program Manager*, has been filled by Hugh Cross, however, Hugh will be leaving Hunter Councils Environment Division on 12 September to take up the role of Sustainability Team Leader with Lake Macquarie City Council. Advertisements have already been placed to fill the vacancy as soon as possible, but a one month gap is anticipated before the new manager can start.

Two other staff positions were recently filled for the *Sustainability Compliance Coordinator* and the *Sustainability Event and Education Support Officer* positions. The successful candidates were Danielle Lawley and Juliana Collins, respectively.

VI A GUIDE TO RURAL RESIDENTIAL LIVING – WEB VERSION

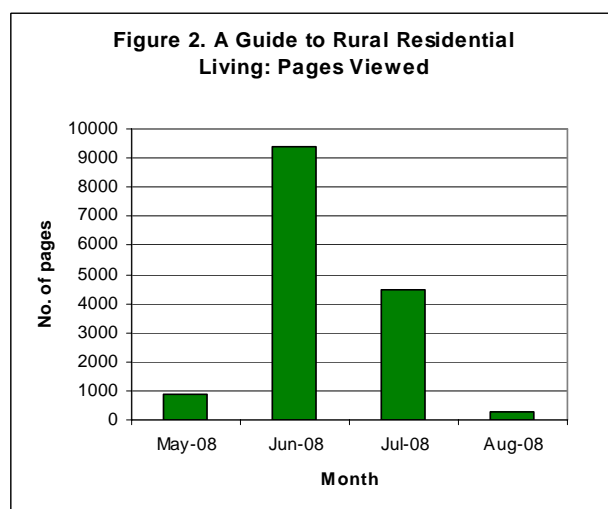
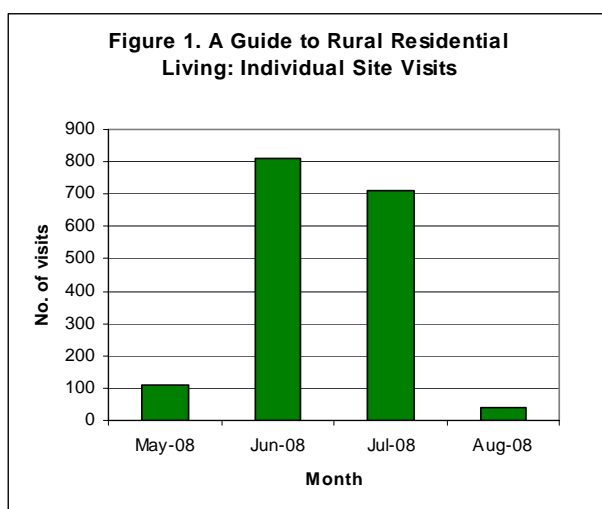
The website version of 'A Guide to Rural Residential Living' (www.ruralresidentialliving.com.au) was officially launched at the Total Small Farms Field Days on the weekend of 3rd to 4th May 2008. In addition to the web based version of the Resource Guide, 5000 CD versions have also been produced and are available to landowners for free from their local council. 50 folder versions have also been produced and can be accessed by landowners at Council Administration Centres and libraries.

The particular strategies being utilised to promote the Resource Guide to landowners in the region include:

1. Direct mailing of a promotional flyer during June 2008 to approximately 15,000 properties across the region. A copy of the flyer is shown on the right.
2. Promotional displays in Council Administration Centres, libraries and other community facilities
3. Regional and local media releases promoting the launch and availability of the Resource Guide.
4. Articles in local council newsletters
5. The provision of links to the web based Resource Guide on individual council websites.

A review of usage of the web site since its launch in May has recently been completed, the results of which are outlined below. These clearly indicate the effectiveness of the direct mailing campaign conducted during June in raising awareness of the site and encouraging access to it by landowners. In summary, the review of usage has identified:

1. A total of 1705 individual visits have been made to the site from 1 May to 4 August 2008. The pattern of visitation for each month during this period can be seen in Figure 1 below.
2. The number of pages viewed in the same time period totals 16, 242, indicating that each visitor on average is viewing 9.5 pages. The number of pages viewed per month can be seen in Figure 2 below.



3. 60% of visitors overall have added the site to their Favorites list. On a monthly basis this includes: May (40%); June (86.7%); and July (53.5%). It is considered that the significant result for June reflects the value and relevance of the Guide to those rural residential landowners that were targeted by the direct mailing campaign at that time.
4. Based on site visitation figures for June and July (ie following the direct mail campaign), it can be roughly calculated that approximately 1 in 10 people targeted by the direct mail campaign have visited the website.
5. The main chapters viewed to date by visitors to the site include:
 - Introduction
 - Gardening and Growing Your Own Food
 - Getting Fencing Right
 - Getting on Top of Weeds
 - Planning Your Property
 - Being a Good Neighbour
 - The Law of the Land
 - Managing Livestock and Pets
 - Getting the Dirt on Soil
 - Water – Collection and Recycling
 - Useful Contacts
6. During August, visitation to the site has also started to occur directly via links provided on individual council websites. This emphasises the importance, now that direct marketing initiatives have been completed, for councils to add this link to their sites to facilitate ongoing marketing and promotion of the Resource Guide.

VII REGIONAL WEEDS MANAGEMENT

Training for Weeds Officers and Managers

A training program has been negotiated with DPI and Tocal College to deliver tailored briefings and capacity building to both Weeds Officers and their Managers at Councils on a range of issues including- legislative responsibilities, risk assessment protocols, strategic landscape planning for weeds management at a regional level, and regional data collection and mapping. The training will be delivered at Tocal on August 19th

Data Collection & Management

Environment Division staff (Michael Somerville and Paul Taylor) have developed a set of data collection protocols for weeds officers in the region. These protocols provide a standardised approach to the systematic collection and recording of weeds information in the field and, if adopted by all member Councils, will allow for:

- a standardised approach to weeds data collection and reporting across all Councils
- a standard training package and support resources to be developed and delivered to all Weeds Officers on a regular basis
- the Environment Division to effectively map and manage weeds data on regional scale
- the Environment Division to provide support to those Councils who do not have access to GIS and mapping facilities for weeds management
- all regional mapping and data management to be consistent with DPI standards

Grant Applications

Two new grant applications were submitted to support the regional weeds program:

1. **Intranet web based weed mapping project for Hunter and Central Coast Councils**

The development and implementation of a web based, intranet system to map noxious and nominated environmental weeds in the Hunter and Central Coast (HCC) Local Government areas. The project will provide a common, purpose designed GIS program, establish a web based mapping system to be updated by member Councils, include training for Council weed officers and support while initial mapping is carried out. A training package including DPI mapping protocols/guidelines will be developed to train new staff.

2. Grow Me Instead In the Hunter

This project which focuses on promoting alternatives to garden escapees is already being coordinated by the Nursery & Garden Industry Australia in Sydney and we intend to expand it into the Hunter Region. The purpose is to:

- Identify plants grown and sold within the nursery industry that are considered invasive to the environment
- Identify suitable alternative suggestions of both introduced and Australian species where possible
- Educate the community through the nursery network so that propagation and sale of invasive plants eventually ceases

Local nurseries will be targeted to avoid new emergent threats in addition to removing plants from sale that are already known to be causing environmental harm. Alternative plants suggested will achieve an environmentally 'friendly' garden that will help preserve indigenous species and habitat for native fauna.

GENERAL MANAGER'S REPORT

PETER GESLING
GENERAL MANAGER

ITEM NO. 1

FILE NO: PSC2005-5185

REQUEST FOR FINANCIAL ASSISTANCE

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-
- a) Carrie's Place - \$500.00 - Donation towards supporting victims of crime from Mayoral Funds.
 - b) Glen Oak Pony Club - \$1000.00 – Donation towards operational costs from Mayoral Funds
 - c) Lemon Tree Passage Family History Society - \$720.00 – Donation towards Publication costs from Mayoral Funds.
 - d) Port Stephens Community Care - \$1000.00 – Donation towards Integral Carer's Day from Mayoral Funds.
 - e) Iona Public School P&C Association - \$600.00 - Donation towards Charity Rodeo - Women's Barrel Race from West Ward.
 - f) Medowie Tidy Towns 355B Committee -\$1000.00 - Donation towards providing and spreading mulch in the reserve area from Central Ward.
 - g) 1st Medowie Scout Group - \$500.00 - Donation towards the purchase of tents and gym mats from Central Ward.
 - h) Relay for Life - \$350.00 - Donation towards cost for the March 2008 Relay for Life 2008 from East Ward.
 - i) Newcastle Neptune's Underwater Club - \$855.00 - Donation towards costs for foreshore License Fee from East Ward.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

307	Councillor Nell Councillor Jordan	It was resolved that the recommendation be adopted with a correction to Item h) Relay for Life to read that the donation of \$350 was attributed to the whole of Council.
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BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by Councillors as deserving of public funding. The Council's policy gives Councillors a wide discretion to either grant or to refuse any requests.

The Council regularly receives requests for financial assistance from community groups and individuals. However, Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the Local Government Act. This would mean that the financial assistance would need to be included in the Management Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

Council's policy for financial assistance has been developed on the basis it is "seed" funding and that there is benefit to the broader community. Funding under Council's policy is not intended for ongoing activities.

The requests listed below were considered by the former Ward Councillors and approved however these were not reported to Council prior to the Local Government election. Due to the timing Items (a) and (b) have been approved by the General Manager and are before Council for ratification by Council.

The requests for financial assistance are shown below:-

MAYORAL DONATIONS

Carrie's Place	Donation towards supporting victims of crime.	\$500.00
Glen Oak Pony Club	Donation towards operational costs.	\$1000.00
Lemon Tree Passage Family History Society	Donation towards Publication costs.	\$720.00
Port Stephens Community Care	Donation towards Integral Carer's Day	\$1000.00

WEST WARD

Iona Public School P&C Association	Donation towards Charity Rodeo - Women's Barrel Race.	\$600.00
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CENTRAL WARD

Medowie Tidy Towns 355B Committee	Donation towards providing and spreading mulch in the reserve area.	\$1000.00
1 st Medowie Scout Group.	Donation towards the purchase of tents and gym mats.	\$500.00

EAST WARD

Relay for Life	Donation towards cost for the March 2008 Relay for Life 2008	\$350.00
Newcastle Neptune's Underwater Club.	Donation towards costs for foreshore License Fee.	\$855.00

LINKS TO CORPORATE PLANS

The Council's Management Plan does not have any program or stated goal or objective for the granting of financial assistance.

FINANCIAL/RESOURCE IMPLICATIONS

Council Ward Funds are the funding source for all financial assistance.

LEGAL AND POLICY IMPLICATIONS

To qualify for assistance under Section 356(1) of the Local Government Act, 1993, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

The policy has other criteria, but these have no weight as they are not essential. These criteria are:

- a) a guarantee of public acknowledgment of the Council's assistance
- b) the assistance encouraging future financial independence of the recipient
- c) the assistance acting as 'seed' funding with a multiplier effect on the local economy.

Australian Business Excellence Framework

This aligns with the following ABEF Principles.

- 3) Understanding what customers value, now and in the future, influences organisational direction, strategy and action
- 10) Organisations provide value to their community through their actions to ensure a clean, safe, fair and prosperous society
- 11) Sustainability is determined by an organisation's ability to create and deliver value for all stakeholders

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Mayor
Councillors

OPTIONS

- 1) Adopt the recommendation.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund all the requests.

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 2

FILE NO: A2004-0242

ESTIMATES OF INCOME AND EXPENDITURE**REPORT OF: NEVILLE WILSON – ACTING FINANCE MANAGER****RECOMMENDATION IS THAT COUNCIL:**

- 1) That Council adopt the Detailed Estimates of Income and Expenditure for 1 July 2008 to 30 June 2009 which is to be tabled at the meeting and that Council approve the expenditure and vote the money necessary to meet such expenditure.
- 2) That Council consider any changes to the Detailed Estimates of Income and Expenditure for 1 July 2008 to 30 June 2009 when it considers the September Quarterly Budget Review.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

308	Councillor Nell Councillor O'Brien	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to advise Council that all approvals and votes of expenditure lapsed at the end of a Council's term and to seek endorsement of the budget to permit continuity of programs.

On the 22nd April 2008, Council adopted a Management Plan for 2008–2012 including detailed estimates of income and expenditure for 2008/2009. The Council further resolved to approve the expenditure and to vote the money necessary to meet such expenditure as detailed in the Estimates of Income and Expenditure 1 July 2008 to 30 June 2009.

Council's policy is that a report be prepared for the newly elected Council on the adopted budget. Under the Local Government (General) Regulation 2005, all such approvals and votes lapsed at the end the Council's financial year. However, this does not apply to approvals and votes relating to:

- Work carried out or started, or contracted to be carried out for Council; or
- Any service provided, or contracted to be provided for Council; or
- Goods or materials provided, or contracted to be provided for Council; or
- Facilities provided or started, or contracted to be provided for Council; before the term of office expired or to the payment of wages and salaries to Council staff.

In order for Council's Programs and activities to continue, Council should at this point of time resolve to adopt the Detailed Estimates of Income and Expenditure 1 July 2008 to 30 June 2009.

Council will have an opportunity to undertake a more detailed review of the Budget when the September Quarterly Budget Review is presented. Council may then if it wishes, make any changes to the Budget that it sees as appropriate.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

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

FINANCIAL/RESOURCE IMPLICATIONS

The 2008/2009 Budget adopted by the previous Council estimated a \$264,472 cash result after transfers.

LEGAL AND POLICY IMPLICATIONS

Under the Local Government Act 1993, one of the roles of the Council as the governing body is to participate in the optimum allocation of the Council's resources for the benefit of the area.

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:-

- 3) **SYSTEMS THINKING –** *Continuously improve the system.*
- 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.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Nil

ECONOMIC IMPLICATIONS

If Council does not approve and vote such expenditure then any works, services and/or facilities that had not commenced or had been contracted to commence as at the 26th August, 2008, will not proceed until such time the appropriate authorisation is provided by Council. This will have considerable impact on the

community, as it will inevitably delay the commencement of significant projects in the Port Stephens Local Government area.

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

Not required

OPTIONS

- 1) Adopt the recommendation as written.
- 2) Adopt the budget with changes/amendments
- 3) Do not adopt the budget

ATTACHMENTS

- 5) Nil

COUNCILLORS ROOM

- 2) Nil

TABLED DOCUMENTS

- 1) Detailed Estimates of Income and Expenditure for 1 July 2008 to 30 June 2009.

ITEM NO. 3

FILE NO: PERSONNEL

GENERAL MANAGER'S PERFORMANCE REVIEW JUNE 2007 TO JULY 2008

REPORT OF: PETER GESLING – GENERAL MANAGER

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive and accept the record of the Performance Management Committee.

ORDINARY MEETING – 21 October 2008**RESOLUTION:**

309	Councillor Nell Councillor Tucker	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is for Council to receive and accept the outcome of the Performance Feedback process.

Council has established a Performance Feedback process for the General Manager that aligns with the Department of Local Government guidelines. This includes:

- 1) Establishment of a Performance Feedback Committee to review the General Manager's performance against the agreed Business Performance Plan (BPP). This Committee meets in February and August each year and provides a report to Council.
- 2) Undertaking an assessment of the statutory quarterly performance report against the Council Plan. This is done in the first week of November, February, May and August.

A further element is available to Council, that any concern should be raised when it occurs. While there is no current formal process, this will be developed in discussions with the Mayor and Councillors. In principle, it should include written notification to the Mayor and General Manager. After assessment, the General Manager will respond to the council to ensure a review in the bi-annual meeting of the Performance Feedback Committee.

A conversation on 'How we Monitor Performance' is scheduled for 4th November. The current facilitator, John Pala, will be present.

LINKS TO CORPORATE PLANS

This process ensures that Council meets its obligation detailed in Part 9 of the Council Plan;

Specifically, Council will

- improve management and leadership policies.
- assess the performance of our leadership and management system.
- be open, transparent and accountable in its operation, policy making and decision making.

FINANCIAL/RESOURCE IMPLICATIONS

Included in operating budget.

LEGAL AND POLICY IMPLICATIONS

Council's charter requires it

- To have regard to the long term and cumulative effects of its decisions.
- To be a responsible employer.

Participation in this formal process allows Council to demonstrate these elements of the Charter and models behaviour for the organisation that performance management is important to ensure Council objectives are achieved. Council's workforce policies are met in this process.

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 cultural 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.*

SUSTAINABILITY IMPLICATIONS

Participation in the Performance Feedback Process enhances the overall sustainability of the organisation by modelling behaviours expected of other supervisors within the organisation and building more effective working relationships.

OPTIONS

- 1) Accept the recommendation.

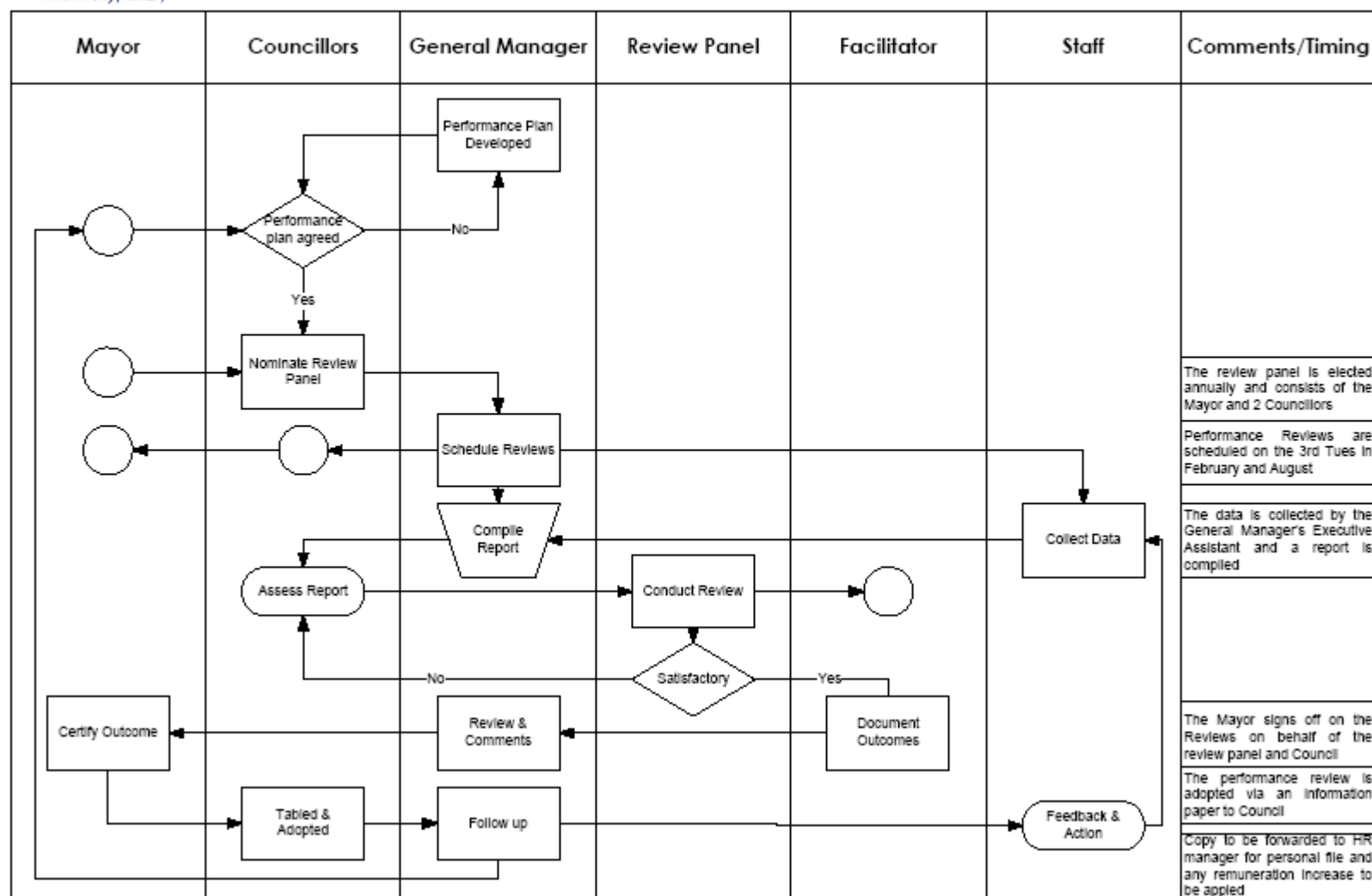
ATTACHMENTS

- 1) Flow Chart for the General Manager's Performance Review Process

TABLED DOCUMENTS

- 1) GM Performance Plan Review – file note of John Pala dated 15th February 2008.
- 2) GM Performance Plan Review - file note of John Pala dated 29th August 2008.
- 3) Business Performance Plan (BPP) for 2008/2009

Review of General Manager's Performance- Port Stephens Council



ITEM NO.5

INFORMATION PAPERS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 21 October, 2008.

No:	Report Title	Page:
	Hunter Infrastructure Alliance	62
	Designated Persons – Pecuniary Interests	63

ORDINARY MEETING – 21 October 2008

RESOLUTION:

310	Councillor O'Brien Councillor Tucker	It was resolved that the recommendation be adopted.
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GENERAL MANAGERS INFORMATION PAPERS



INFORMATION ITEM NO. 1

HUNTER INFRASTRUCTURE ALLIANCE

REPORT OF: PETER GESLING, GENERAL MANAGER

FILE: A2004-0026

BACKGROUND

Hunter Infrastructure Alliance was established to prepare a common submission from the region to the Federal Government's request for submissions regarding infrastructure priorities. The Infrastructure Alliance includes Hunter Councils, Hunter Area Consultative Committee (Regional Development Australia), HEDC, Hunter Business Chamber, Property Council of Australia (Hunter) and UDIA (Hunter).

The General Manager represented Hunter Councils on the working group.

The purpose of this report is to provide Councillors with information on the submission for Infrastructure Australia prepared by the Hunter Infrastructure Alliance.

TABLED DOCUMENTS:

- 1) Hunter Infrastructure Alliance Submission document.
- 2) Media Release – Hunter Infrastructure Priorities
- 3) Summary and Descriptions of Hunter Project.

INFORMATION ITEM NO. 2

DESIGNATED PERSONS – PECUNIARY INTERESTS

REPORT OF: PETER GESLING – GENERAL MANAGER
FILE: A2004-0030

BACKGROUND

The purpose of this report is to advise Council of designated persons who have submitted returns.

Councillors

Cr Ron Swan
Cr Steve Tucker
Cr Craig Baumann
Cr Geoff Dingle
Cr Bob Westbury
Cr John Nell
Cr Sally Dover
Cr Geoff Robinson
Cr Josh Hodges
Cr Ken Jordan
Cr Glenys Francis
Cr Helen Brown

Corporate Management

General Manager
Executive Manager Corporate Management
Legal Officer
Corporate Planning & Community Engagement Coordinator
Executive Officer
Manager Communications & Marketing
Publications Coordinator
Organisation Development Manager
Human Resources Manager

Sustainable Planning

Group Manager Sustainable Planning
Development and Building Manager
Building Coordinator
Integrated Planning Manager
Strategic Planning Coordinator
Senior Land Use Planner
Strategic Planner (2)
Customer Support Coordinator
Engineering Coordinator

Development Coordinator
Senior Development Planner (3)
Senior Policy Planner
Development Planners (2)
Senior Building Surveyors (2)
Health and Building Surveyors (5)
Subdivision Engineer
Section 94 Engineer
Social Planning Coordinator
Development Engineer
Infrastructure Planning Coordinator
Traffic Engineer
Environmental Services Manager
Coordinator Environmental Compliance & Community Health
Coordinator Natural Resources
Compliance Officer
Executive Planner
Environmental Health Team Leader

Business & Support

Group Manager Business & Support
Resources Manager
Principal Property Advisor
Property Unit Coordinator
Business Development Manager
Business Operations Manager
Tourism Manager
Financial Services Manager
Fleet Management Coordinator
Finance & Assets Coordinator
Financial Accountant
Economic Development Manager
IT Coordinator
Procurement & Contracts Coordinator
Mechanical Services Coordinator

Facilities & Services

Group Manager Facilities & Services
Community and Library Services Manager
Engineering Services Manager
Project Services Manager
Operations Manager
Recreation Services Manager
Sports Facilities Coordinator
Parks Facilities Coordinator
Contracts & Halls Coordinator

TABLED DOCUMENTS

Pecuniary Interest Returns

NOTICES OF MOTION

NOTICE OF MOTION

ITEM NO. 1

FILE NO: A2004-0217 PSC2005-3639

REWARD FOR INFORMATION ON VANDALS AND GRAFFITI ARTISTS

COUNCILLOR: FRANK WARD

THAT COUNCIL:

- 1) Considers offering a substantial reward for anyone giving information leading to the conviction of any vandals or graffiti makers. Council is requested to prepare a report on how such a proposal can be implemented and the legal consequences of such a policy.
-

BACKGROUND REPORT OF: JASON LINNANE, RECREATION SERVICES MANAGER

ORDINARY MEETING – 21 October 2008

RESOLUTION:

311	Councillor Ward Councillor Westbury	It was resolved that the recommendation be adopted.
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BACKGROUND

A similar approach is being used in many Councils in New South Wales. Council staff have discussed this idea with Port Macquarie / Hastings Council in recent times. Further conversation with this Council and others will be undertaken as part of the research for the development of a policy on this matter.

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.

ORDINARY MEETING – 21 October 2008

RESOLUTION:

312	Councillor Westbury Councillor Dingle	It was resolved that Council move into Confidential session.
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