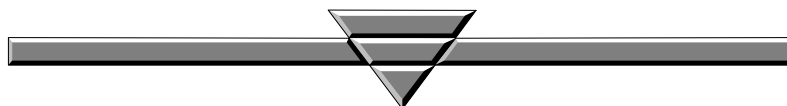


Minutes 12 May 2009



Port Stephens

C·O·U·N·C·I·L

... a community partnership

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 12 May 2009, commencing at 8.00pm.

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

136	Councillor Ken Jordan Councillor John Nell	That Council receive and note apologies from Cr Daniel Maher.
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Declaration of Interest: Nil received.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: A2004-0840

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(c) of the Local Government Act, 1993, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Mayoral Minute Item 1 on the Ordinary meeting agenda namely **Proposed Commercial Acquisition Raymond Terrace**.
- 2) That the reasons for closing the meeting to the public to consider this item be that it contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council proposes to conduct business.
- 3) In particular, the information and discussion concerns **Proposed Commercial Acquisition Raymond Terrace**.
- 4) On balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as the information and discussion need to be carried out confidentially to protect the interests of both parties. Any breach of such confidentiality could prejudice Council's position.
- 5) That the minutes relating to this item be made public.

ORDINARY MEETING 12 MAY 2009

137	Councillor Steve Tucker Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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MOTIONS TO CLOSE

ITEM NO. 1

FILE NO: 1779-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) 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 Combined Strategic/Operations Committee agenda namely **Mediation Services T09-2009**.

- 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 in respect of the **Mediation Services T09-2009**.

- 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 of the closed part of the meeting is 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.

ORDINARY COUNCIL – 12 MAY 2009

138	Councillor Steve Tucker Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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ITEM NO. 2

FILE NO: 1779-003

MOTION TO CLOSE MEETING TO THE PUBLIC

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(d) 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 Council agenda namely **Employee Assistance Program T10-2009**.
- 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 in respect of the **Employee Assistance Program T10-2009**.
- 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 of the closed part of the meeting is 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.

ORDINARY COUNCIL – 12 MAY 2009

139	Councillor Steve Tucker Councillor Peter Kafer	It was resolved that the recommendation be adopted.
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OPERATIONS COMMITTEE RECOMMENDATIONS

ITEM NO. 1

FILE NO: PSC2008-9317

MEDOWIE FLOODPLAIN RISK MANAGEMENT COMMITTEE

REPORT OF: TREVOR ALLEN – MANAGER, INTEGRATED PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Receive nominations and appoint up to two Councillors on the Medowie Floodplain Risk Management Committee.
-

COMBINED STRATEGIC & OPERATIONS COMMITTEE – 12TH May 2009

RECOMMENDATION:

	Councillor Bruce MacKenzie Councillor Steve Tucker	That this item be deferred to the Ordinary Council meeting on 12 May 2009.
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ORDINARY COUNCIL – 12 MAY 2009

140	Councillor John Nell Councillor Ken Jordan	It was resolved that Councillors Tucker, Dingle and O'Brien be Council's representatives on the Medowie Floodplain Risk Management Committee.
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BACKGROUND

The purpose of this report is to request Council to appoint up to two (2) Councillors on the Medowie Floodplain Risk Management Committee.

Council adopted a report and recommendations on Medowie flooding on 16 December 2008 as follows:

- 1) *Form a Floodplain Risk Management Committee to frame the Brief and oversee a Flood Study to advise Council on Floodplain Management options for the Medowie township;*
- 2) *Receive Nominations and appoint up to two Councillors on the Committee;*

- 3) *Give consideration to funding of the Study in the quarterly budget review;*
- 4) *Amend the Policy for Areas Affected by Flooding and/or Inundation as provided in Attachment No 1 to restrict subdivision to a minimum of 1 hectare on flood prone land.*
- 5) *Amend LEP 2000 such that subdivision on flood prone land reflects a minimum lot size of 1 hectare.*

At that stage, Council decided to await advice regarding community representatives before appointing Councillors to the Committee.

Invitations for community representatives have been advertised and closed 2 April. Four nominations were received from Mr R. Russell, Mr J. Delia, Mr J. Humphries and Mr J. Robinson of Medowie. The Medowie Progress Association have also advised that their representatives are Mr J. Donahoo and Ms S. Hirsch of Medowie.

The first meeting of the Committee is due to be held in mid-May, and hence appointments of one or two Councillors to that Committee are now sought.

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

Funding options for the Study will be presented to Council in the next quarterly budget review. Negotiations are at an advanced stage with Hunter Water for 50/50 funding of the Study and Plan.

LEGAL AND POLICY IMPLICATIONS

The preparation of a Flood Study and Flood Risk Management Plan implementation will assist Council in determining development guidelines, flood reduction measures, the Medowie Strategy and issuing S149 Planning Certificates. Council is also afforded a level of immunity in respect of advice given, consents issued and works done, where such are given in good faith and in accordance with an adopted Flood Risk Management 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 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 flood study and subsequent Flood Risk Management Plan will provide advice and development controls to reduce the likely impacts of flooding on current and future development.

ECONOMIC IMPLICATIONS

The Flood Risk Management Plan will have some economic implications for individuals and developers constructing dwellings, filling within affected areas and other structures, such as raising floor levels. In some cases it may reduce the amount of development permissible. Funding of trunk drainage works will be by a combination of grants, developer contributions and Council funding.

ENVIRONMENTAL IMPLICATIONS

The Flood Study and Flood Risk Management Plan will assess and incorporate environmental considerations in the flood affected areas.

CONSULTATION

As well as community representation on the Committee, the studies and Plan will be exhibited for public comment. Hunter Water has been consulted during the preparation of the Medowie Strategy. Other organisations including the Department of Environment and Climate Change will be consulted during the process.

OPTIONS

- 1) Appoint up to two Councillors to the Medowie Floodplain Risk Management Committee
- 2) Not appoint Councillors to the Committee

ATTACHMENTS

Nil

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ITEM NO. 2

FILE NO: PSC2007-2662

INQUIRY INTO THE 2008 LOCAL GOVERNMENT ELECTIONS

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

RECOMMENDATION IS THAT COUNCIL:

- 1) Authorise the General Manager to make a submission to the Inquiry into the 2008 Local Government Election addressing the concerns of Election costs and delays as outlined in the report.

COMBINED STRATEGIC & OPERATIONS COMMITTEE – 12TH May 2009

RECOMMENDATION:

	Councillor Bob Westbury Councillor Ken Jordan	That the recommendation be adopted.
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ORDINARY COUNCIL – 12 MAY 2009

141	Councillor John Nell Councillor Steve Tucker	It was resolved that the recommendation be adopted.
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BACKGROUND

The purpose of this report is to inform and provide Council with the opportunity to make a submission to the Inquiry into the 2008 Local Government Elections. Submissions close on the 13th May 2009.

Following the 2008 Local Government elections the NSW Government agreed to an Inquiry into the Elections. A Joint Standing Committee has been formed and the Terms of Reference and the Committee membership are shown at **ATTACHMENT 1**.

Council has previously been informed of the final costs for the 2008 Port Stephens Election which totalled \$308,200. Currently the elections are conducted by the Electoral Commission NSW on behalf of Councils. This has seen the costs rise in comparison to the former model where each Council conducted the election in house. It has been well documented in the media the substantial impact the growing costs of Local Government Elections are having on the finances of many Councils across the State.

The matters for consideration following the 2008 Election are:-

The increase in costs for the Electoral Commission NSW to conduct an election
Delays by the Electoral Commission to provide results of the election
Increase costs and delays due to the method of voting (ie. "above the line" and "below the line")
The impact of costs and community understand of the "Group" voting method

Should Council elect to make a submission, this matter will be required to be considered at the Ordinary Meeting of Council on 12 May 2009.

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 financial /resource implications with this particular report, however there are financial/resource implications in the long term for this Council should the current election processes continue.

LEGAL AND POLICY IMPLICATIONS

Should the Inquiry make recommendations to the Government to change the current voting practices there would have minimal implications for Council as the legislative requirements would remain the same however the running of the election would become the responsibility of the Council not the Electoral Commission.

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.
- 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

Nil

ENVIRONMENTAL IMPLICATIONS

Nil

CONSULTATION

General Manager

OPTIONS

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

ATTACHMENTS

- 1) Terms of Reference for the Standing Committee

COUNCILLORS ROOM

Nil

TABLED DOCUMENTS

Nil

ATTACHMENT 1



PARLIAMENT OF NEW SOUTH WALES
JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

INQUIRY INTO 2008 LOCAL GOVERNMENT ELECTIONS

Terms of reference for the committee

- (1) A Joint Standing Committee, to be known as the Joint Standing Committee on Electoral Matters, be appointed.
- (2) The Committee inquire into and report upon such matters as may be referred to it by either House of the Parliament or a Minister that relate to:
 - (a) The following electoral laws:
 - (i) *Parliamentary Electorates and Elections Act 1912* (other than Part 2);
 - (ii) *Election Funding Act 1981*; and
 - (iii) Those provisions of the *Constitution Act 1902* that relate to the procedures for, and conduct of, elections for members of the Legislative Assembly and the Legislative Council (other than sections 27, 28 and 28a);
 - (b) The administration of and practices associated with the electoral laws described at (a).
- (3) All matters that relate to (2) (a) and (b) above in respect of the 24 March 2007 state election, shall stand referred to the Committee for any inquiry the Committee may wish to make. The Committee shall report on the outcome of any such inquiry within 12 months of the date of this resolution being agreed to by both Houses.

Votes and Proceedings of the Legislative Assembly, Thursday 21 June 2007, entry no 13 (7)
Legislative Council Minutes of Proceedings, No 13, Tuesday 26 June 2007, entry no 25

Terms of reference for the inquiry

All matters that relate to (2) (a) and (b) above in respect of the September 2008 local government elections are referred to the Committee for any inquiry the Committee may wish to make, including in relation to the costs of the 2008 local government elections.

The Committee is report on the outcome of its inquiry by 2 March 2010.

Letter from The Hon Nathan Rees MP, Premier to Chair, dated 2 March 2009

Committee Membership

Ms Cherie Burton MP (Chair)	(Australian Labor Party)
The Hon Amanda Fazio MLC-(Deputy Chair)	(Australian Labor Party)
Mr Robert Coombs MP	(Australian Labor Party)
The Hon Diane Beamer MP	(Australian Labor Party)
The Hon Don Harwin MLC	(Liberal Party)
The Hon Jenny Gardiner MLC	(The Nationals)
Ms Lee Rhiannon MLC	(Greens)

Parliament of New South Wales · Macquarie Street · Sydney NSW 2000 · Australia
Telephone (02) 9230 2161 · Facsimile (02) 9230 3309 · Email electoralmatters.committee@parliament.nsw.gov.au

CONFIDENTIAL ITEMS

ORDINARY COUNCIL – 12 MAY 2009

141	Councillor Steve Tucker Councillor Peter Kafer	It was resolved that Council move into Confidential Session.
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MAYORAL MINUTE

ITEM NO. 1

FILE NO:PSC2009-01648

PROPOSED COMMERCIAL ACQUISITION RAYMOND TERRACE

THAT COUNCIL:

Proceed with the purchase of Council Assessment 222489 Raymond Terrace for investment purposes.

ORDINARY MEETING 12 MAY 2009

142	Councillor Bruce MacKenzie	There being no objection the Mayoral Minute was adopted.
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CONFIDENTIAL

ITEM NO. 1

FILE NO: T09-2009, PSC2008-8621

MEDIATION SERVICES T09-2009

REPORT OF: ANNE SCHMARR, MANAGER ORGANISATION DEVELOPMENT

ORDINARY COUNCIL – 12 MAY 2009

143	Councillor Glenys Francis Councillor Peter Kafer	It was resolved that Council accepts the tender of Converge International, David O'Brien and Robyn Bartlett and Associates for the provision of employment mediation services.
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CONFIDENTIAL

ITEM NO. 2

FILE NO: T10-2009, PSC2008-8621

EMPLOYEE ASSISTANCE PROGRAM T10-2009

REPORT OF: ANNE SCHMARR, MANAGER ORGANISATION DEVELOPMENT

ORDINARY MEETING – 12 MAY 2009

144	Councillor Glenys Francis Councillor Peter Kafer	It was resolved that Council accept the tender of Converge International for the provision of an Employee Assistance Program for Council staff.
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There being no further business the meeting closed at 8.06pm.

I certify that pages 1 to 21 of the Open Extra Ordinary Minutes of Council 12 May 2009 and the pages 22 to 34 of the Confidential Ordinary Minutes of Council 12 May 2009 were confirmed by Council at its meeting held on 19 May 2009.

.....
Cr Bruce MacKenzie
MAYOR