

MINUTES 26 NOVEMBER 2013



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 26 November 2013, commencing at 5.30pm.

PRESENT: Mayor B MacKenzie; Councillors G. Dingle; C. Doohan; S. Dover; P. Kafer; P. Le Mottee; J. Morello; J. Nell; S. Tucker; General Manager; Corporate Services Group Manager; Acting Facilities and Services Group Manager; Development Services Group Manager and Executive Officer.

328	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that the apology from Cr Ken Jordan be received and noted.
329	Councillor Paul Le Mottee Councillor John Morello
	It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council held on 12 November 2013 be confirmed.
	Cr Paul Le Mottee declared a pecuniary conflict of interest in Item 2. The nature of the interest is that Cr Le Mottee's firm has undertaken survey work on this site. Mayor Bruce MacKenzie declared a pecuniary conflict of interest in Item 2. The nature of the interest is that Mayor MacKenzie is the owner of the property.

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MAYORAL MINUTES

MAYORAL MINUTE

ITEM NO. 1

FILE NO: PSC2013-05198

RED (REGIONAL EMPLOYMENT DEVELOPMENT) SCHEME (1972)

THAT COUNCIL:

- 1) Write to the Assistant Minister for Employment, The Hon. Luke Hartsuyker MP and advise that Port Stephens Council is prepared and would be delighted to join with the Federal Government in a scheme similar to the former RED scheme first created in 1972 for unemployed people.
-

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 MOTION

330	Mayor Bruce MacKenzie
	It was resolved that Council write to the Assistant Minister for Employment, The Hon. Luke Hartsuyker MP and the Member for Paterson, The Hon. Bob Baldwin MP, and advise that Port Stephens Council is prepared and would be delighted to join with the Federal Government in a scheme similar to the former RED scheme first created in 1972 for unemployed people.

BACKGROUND

This scheme would allow Port Stephens Council to employ people with payment being made through the government under such a scheme.

Port Stephens Council have ample scope to employ people to work on footpaths and cycle ways which will benefit the Port Stephens Community whilst teaching the unemployed people a skill.

Port Stephens Council believe that the outcome shall be beneficial to the Government, the unemployment population and the residents of Port Stephens Community.

MAYORAL MINUTE

ITEM NO. 2

FILE NO:PSC2013-04720

HUNTER WATER CORPORATION ACCESS ROAD FROM RICHARDSON ROAD COMMENCING AT CAMPVALE THROUGH TO OYSTER COVE ROAD AT OYSTER COVE.

THAT COUNCIL:

- 1) Write to Premier Barry O'Farrell and request the Premier to use all his endeavours to enable the Hunter Water Corporation access road between Richardson Road and Oyster Cove Road, Salt Ash to be accessed in case of an emergency situation. (This Hunter Water Corp road provides access to the rear of properties along Lemon Tree Passage Road, Salt Ash);
- 2) Provide services such as the ambulance, police, SES and fire brigade with a key to access this road in case of emergencies.

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 MOTION

331	Mayor Bruce MacKenzie
	<p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Write to Premier Barry O'Farrell and request the Premier to use all his endeavours to enable the Hunter Water Corporation access road between Richardson Road and Oyster Cove Road, Salt Ash to be accessed in case of an emergency situation. (This Hunter Water Corp road provides access to the rear of properties along Lemon Tree Passage Road, Salt Ash);2) Provide services such as the ambulance, police, SES and fire brigade with a key to access this road in case of emergencies.

BACKGROUND

Council believes that the road can be safely accessed in emergencies such as the recent bush fires which affected Lemon Tree Passage Road and Brown Road which were impassable.

This shall significantly reduce the impact on the local community by providing an alternative means of access.

MOTIONS TO CLOSE

ITEM NO. 1

NO: 16-2009-889-6; PSC2013-04936

MOTION TO CLOSE MEETING TO THE PUBLIC

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

RECOMMENDATION:

- 1) That pursuant to section 10A(2)(g) 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 agenda namely ***Obstruction of Pedestrian Access Between Ash Street and Soldiers Point Bowling Club***;
 - 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information concerning legal options and advice in relation to possible litigation 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 Council's legal position and Council has an obligation to protect its interests and the interests of ratepayers;
 - 4) That the minutes of the closed part of the meeting are to be made public as soon as possible after the meeting and the report is to remain confidential.
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ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 MOTION

332	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that the recommendation be adopted.
333	Councillor John Nell Councillor Paul Le Mottee
	It was resolved that confidential Item 1 be brought forward and dealt with prior to Item 1 listed in the agenda.

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
MOTION

334	Councillor John Morello Councillor Paul Le Mottee
	It was resolved that Council move into confidential session.

CONFIDENTIAL ITEM

ITEM NO. 1

FILE NO: 16-2009-889-6; PSC2013-04936

OBSTRUCTION OF PEDESTRIAN ACCESS BETWEEN ASH STREET AND SOLDIERS POINT BOWLING CLUB

REPORT OF: MATTHEW BROWN - DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 MOTION

Cr Peter Kafer left the meeting at 6.27pm during this item in Open Council.
Cr Peter Kafer returned to the meeting at 6.29pm during this item in Open Council.

337	Councillor Sally Dover Councillor John Nell
	<p>It was resolved that Council consent to the release/extinguishment of the easement over 3 Oasis Close, Soldiers Point, subject to the following conditions:</p> <ul style="list-style-type: none">a. Soldiers Point Bowling Club consenting to the release/extinguishment of the easement over 3 Oasis Close;b. The expeditious construction of a new walkway located at 7 Oasis Close;c. The owners of 3 Oasis Close agree to contribute 50% towards the design and construction of the new walkway;d. Such agreement must be indicated within 7 days of receiving the cost estimate for the design and construction, and payment made in full prior to the commencement of construction;e. Should the owners of 3 Oasis Close not agree to the terms above within the timeframe specified above, then Council immediately undertake actions, including but not limited to, Section 125 of the <i>Local Government Act 1993</i>, to have the fences removed and the right of footway open for use;f. The Soldiers Point Bowling Club contribute 50% to the design and construction of the new walkway;

	<ul style="list-style-type: none">g. The walkway design is to be of an acoustic material that creates minimal pedestrian traffic noise;h. The concept to be placed on public exhibition for a period of 28 days;i. All of the above agreement is subject to the satisfaction of the relevant planning authority (Port Stephens Council).
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COUNCIL REPORTS

ITEM NO. 1

FILE NO: 16-2010-700-2

DEVELOPMENT APPLICATION FOR TWENTY SIX (26) LOT RESIDENTIAL SUBDIVISION AT NO. 2 HALLORAN WAY, 153 RICHARDSON ROAD RAYMOND TERRACE

REPORT OF: PETER GESLING - GENERAL MANAGER
GROUP: GENERAL MANAGERS OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2011-603-1 subject to the attached conditions of consent (**ATTACHMENT 2**) for a twenty six (26) lot residential subdivision at No. 2 Halloran Way, 153 Richardson Road, Raymond Terrace.

**ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
MOTION**

338	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council move into Committee of the Whole.

COMMITTEE OF THE WHOLE RECOMMENDATION

Cr Kafer called a Point of Order and moved a motion regarding the dissent of the Chair.

	Councillor Peter Kafer Councillor Geoff Dingle
	That Council move a motion of dissent of the Chair.

The motion on being put was lost.

	Councillor Paul Le Mottee Mayor Bruce MacKenzie
	That Council approve Development Application 16-2011-603-1 subject to the attached conditions of consent (ATTACHMENT 2) for a twenty six (26) lot residential subdivision at No. 2 Halloran Way, 153 Richardson Road, Raymond Terrace.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Chris Doohan, Steve Tucker, John Morello and Sally Dover.

Those against the Motion: Crs Peter Kafer, Geoff Dingle and John Nell.

MOTION

340	Councillor Chris Doohan Councillor Steve Tucker
	It was resolved that Council approve Development Application 16-2011-603-1 subject to the attached conditions of consent (ATTACHMENT 2) for a twenty six (26) lot residential subdivision at No. 2 Halloran Way, 153 Richardson Road, Raymond Terrace.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Chris Doohan, Steve Tucker, John Morello and Sally Dover.

Those against the Motion: Crs Peter Kafer, Geoff Dingle and John Nell.

BACKGROUND

The purpose of this report is to present a development application, called to Council by Mayor MacKenzie, for determination.

On the 14th May 2013 the subject application was reported to Council. Council resolved that;

- 1) *Subject to the outstanding additional information required (as outlined in Attachment 2 of item No 2 in 14 May 2013 business paper) being submitted and assessed, that Council indicate its support for the Development Application 16-2011-603-1. Conditions of development consent be brought back to Council when available.*
- 2) *In accordance with note 4, Table 2.1 (building site acceptability of ANEF zones) of AS 2021-2000 the site be deemed 'infill' development or 'within an existing built up area' and Council notes that all future development on the site shall achieve the required ANR (Aircraft Noise Reduction) according to Clause 3.2 of AS 2021-2000.*
- 3) *The requirement for future dwellings to provide the required ANR (Aircraft Noise Reduction) according to Clause 3.2 (the noise reduction*

requirements) of AS 2021-2000, shall be made aware to the prospective purchasers via a notation on the 149 Certificate.

The development application proposes a two (2) into twenty six (26) lot residential Torrens Title subdivision plus two drainage reserve lots at 2 Halloran Way and 153 Richardson Road Raymond Terrace. The subdivision is proposed to be staged.

The proposed subdivision will require the demolition of the existing structures on Lot 1 and the construction of a new public road, accessed from Halloran Way. No new access points are proposed to be created from Richardson Road.

The key issues relevant to the proposal are aircraft noise and zone objectives.

Aircraft Noise

A revised Department of Defence map, ANEF 2025, was issued as of 10 August 2011 in response to the expected roll out of the new Joint Strike Fighter Aircraft (JSF). In response to this revised mapping information Council revised its own policy document DCP2007, chapter B15 which includes the 'Noise Planning Area Map', a composite map which amalgamates both ANEF maps (2012 and 2025 - 10 August 2011) for indentifying noise affectation of sites.

ANEF charts are contour maps that show a forecast of aircraft noise levels that are expected to exist in the future. They are prepared for all of the major and regional airports and most of the minor aerodromes that have a large number of annual movements. The maps are prepared by airport owners. For the major airports the ANEF forms part of their Master Plan and is updated every five years. These ANEF maps are primarily used by local Councils for land use planning. They take into account projected maximum noise levels at various locations and the number of occurrences this is likely to happen. This results in a map showing the worst areas of exposure to aircraft noise.

If a dwelling development site is within the "Noise Affected Area" the dwelling requires acoustic protection to be built into any new dwelling. The development site, whilst within the bounds of the "Noise affected Area" and the old ANEF 2012 lies outside the ANEF 2025 affected contour. This serves to forecast that the noise pollution impact will likely be reduced if the Joint Strike Fighter aircraft totally replaces the current fighter aircraft at current estimates approximately in the year 2025.

The proposal originally submitted to Council for assessment consisted of a fifty three (53) lot residential subdivision and was recommended for refusal based on Aircraft Noise concerns as portions of the site were located within unacceptable aircraft noise contours.

Council resolved to support the proposal pending the resolution of engineering issues on the site.

Subsequent to the proposal being considered by Council, the applicant has amended the plans to minimise the Aircraft Noise non compliance with respect to the ANEF2025 noise contours. In doing so the development has been reduced to a twenty six (26) lot residential subdivision.

Whilst the extent of the non compliance with aircraft noise requirements have been reduced, as Councils DCP identifies both ANEF2025 and ANEF 2012 maps for assessment, the proposal is unable to be supported.

Whilst now compliant with ANEF 2025 noise contours, there remains allotments which are considered to be unacceptable forms of development under the ANEF 2012 noise contours. Under the 2012 Maps approximately sixteen (16) allotments are deemed to be unacceptable.

Approval of the ten (10) allotments considered to be 'conditionally acceptable' within both the ANEF2012 and ANEF 2025 maps will require the submission of a new development dealing specifically with those allotments.

The development site is located within the following aircraft noise zones;

Noise Map	Noise Contour	Acceptable Development (subdivision of residential land)
ANEF 2025	20-25, and 25-30	Conditionally Acceptable Unacceptable
ANEF 2012	20-25, and 25-30	Conditionally Acceptable Unacceptable

Control C2 states;

Development must satisfy the indoor design levels specified by Table 3.3 of AS2021-2000 based on average maximum noise levels.

The provisions of Australian Standard 2021-2000 and Section B15 of DCP 2007 do not expressly discuss development for the purposes of subdivision. However the standard does define dwellings in the 25-30 noise contour as "unacceptable". Given that the development seeks approval for allotments to be used for residential purposes and the siting of a dwelling, it is considered to be unacceptable to approve a subdivision in this noise contour.

The Australian Standard 2021-2000 does not recommend development in unacceptable areas. However where the planning authority determines that any development may be necessary within existing built up areas (areas zoned residential) designated as unacceptable, it is recommended that such development should achieve the aircraft noise reduction (ANR) in accordance with Australian Standard 2021-2000 through noise attenuation of dwellings.

It is considered that the green field development does not constitute an existing built up area and that the creation of 26 new residential allotments in an area

"unacceptable" would result in the creation of allotments with poor residential amenity that are unable to be built on due to aircraft noise constraints.

Given the ANEF 2025 and ANEF 2012 noise contours it is recommended that the application be refused. Approval of the subdivision would result in the creation of twenty six (26) allotments intended for residential dwellings of which approximately sixteen (16) that, due to aircraft noise constraints relating to the ANEF 2012 charts could not have a dwelling built upon them.

The development plans indicate that a portion of the site is located within the 20-25 ANEF Noise Contour. Within this noise contour dwellings are conditionally acceptable. It is considered that of the 26 allotments proposed, approximately ten (10) allotments would be classified as conditionally acceptable under the ANEF 2012 maps.

Should the application be approved in its current form, subject to the 25-30 ANEF noise contour, Council would be in the future position of having to assess approximately minimum sixteen (16) applications for dwellings on sites where both the DCP 2007 and Australian Standard 2021-2000 classify the dwellings as unacceptable forms of development. Strict adherence to these policies would result in recommendations for refusal of individual development applications for dwellings.

The Department of Defence was consulted with respect to the proposal. Their response is included within attachments to this report.

Defence has raised concerns specific to the ANEF2025 maps and the 20-25 Noise contour have noting;

Defence does not support the construction of houses within the 20-25 ANEF contour because it does not believe that compliance with AS2021-2000 (in terms of the specified indoor noise level) could be practically achieved given that the external aircraft noise levels at the location could be as high as 90-100db(A).

It is considered however that development in the 20-25 contour is 'conditionally acceptable and that any future dwelling would be required to be engineered to have suitable attenuation.

Notwithstanding the defence advice relating specifically to the ANEF2025 maps, Councils DCP requires that both the ANEF 2025 and ANEF2012 maps be considered with the assessment taking into account the higher of the noise contours that the site is subject to. In this instance the ANEF2012 maps presents higher noise exposure to the development site with all but ten (10) proposed allotments subject to the 25-30 ANEF Contour under the ANEF2012 maps.

Residential 2(a) Zone Objectives

Clause 10(2) states that;

The consent authority must not grant consent for development of land to which this applies unless it is satisfied that the proposed development is consistent with the zone in which it is intended to be carried out.

The development is not consistent with clause 16(2)(e) of the Port Stephens Local Environmental Plan in that the development has not adequately taken into account the Aircraft Noise constraint that is present on the site.

Clause 16(2)(e) requires; "that the design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk."

Aircraft Noise is considered to be an environmental constraint and in this instance it is not considered to be appropriate to create twenty six (26) new allotments in an aircraft noise contour within which dwellings are an unacceptable form of development on a large proportion of lots proposed.

FINANCIAL/RESOURCE IMPLICATIONS

Should Council adopt the recommendation and refuse the development application, the applicant may appeal to the Land and Environment Court. Defending the Council's determination would have financial implications.

Should Council approve the DA, sixteen (16) lots would be created for the purposes of a dwelling in a high aircraft noise area which will likely incur a legal liability, cost of which is difficult to determine but may be significant.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Within operational budget
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is inconsistent with the following Council Policy.

- Port Stephens Local Environmental Plan 2000, specifically the residential 2(a) zone objectives.
- Port Stephens Development Control Plan 2007, Section B15 – Aircraft Noise
- Australian Standard 2021-2000 – Aircraft Noise.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be held	High	Refuse Application	Yes

liable for the creation of noise affected allotments by future owners or builders.			
There is a risk that should the development be refused that the applicant will appeal to the Land and Environment Court.	Medium	Refuse Application	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Despite the aircraft noise non compliance, it is considered that the approval of 26 new residential allotments would generally present a positive social and economic outcome for the community through the increased opportunity for housing, the flow on employment generation in construction of the subdivision and of subsequent dwellings.

In this instance however, approval of the subdivision would result in the creation of approximately sixteen (16) allotments intended for the future development of residential dwellings that are subject to high aircraft noise constraints. Under the provisions of DCP2007 and Australian Standard 2021-2000 the allotments could not have a dwelling built on them due to aircraft noise constraints relating to the ANEF 2012 maps.

Whilst the aircraft noise issue may change in the future and have an element of uncertainty, Council is required to make planning decisions based on legislation at the time of the application. For these reasons it is considered that any approval would create an unreasonable expectation that the allotments could be built on for residential purposes. Further it is considered that the noise pollution levels on the site are such that it would have significant adverse impacts on future occupants within any future dwellings and also in areas of private open space.

This aircraft noise impact is considered to represent the potential for adverse social implications for future residents in the subdivision. While it is noted that there are dwellings located immediately in the general locality that are subject to similar aircraft noise constraints, it is considered that this should not provide justification to further increase the density of allotments in aircraft noise prone areas.

It is considered that with the exception of aircraft noise constraints, the site does not present any environmental issues, native vegetation or flora and fauna that would render the site unsuitable for the proposed development.

CONSULTATION

The application was exhibited in accordance with Council policy and one (1) submission was received in support of the proposal.

The application was also referred to the Department of Defence and is discussed elsewhere in this report.

OPTIONS

- 1) Endorse the Conditions of Consent;
- 2) Reject or amend the Conditions of Consent

ATTACHMENTS

- 1) Locality Plan;
- 2) Draft Conditions.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1 LOCALITY PLAN



**ATTACHMENT 2
DRAFT CONDITIONS**

STANDARD CONDITIONS

- 1) The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.

PLANNING CONDITIONS OF APPROVAL

- 2) The development has been granted an approval from the NSW Rural Fire Service dated 13 June 2012, the Roads & Traffic Authority Dated 21 June 2012 under their relevant legislation. Where conditions are imposed by the authority the development shall comply with the general terms of approval.
- 3) A Subdivision Certificate must be obtained from Council. The applicant must submit a completed Subdivision Certificate Application Form (with applicable fee), six (6) copies of the Survey Plan, four (4) copies of any 88B Instrument and a check list demonstrating compliance with the conditions of this development consent.
- 4) Where a condition of development consent requires the preparation of an instrument under Section 88B of the Conveyancing Act, four (4) copies of the instrument shall be provided to the **Principal Certifying Authority** prior to endorsement of the Subdivision Certificate.
- 5) All lots in the proposed subdivision shall be serviced by the Hunter Water Corporation with water and sewerage facilities.
- 6) A Compliance Certificate under Section 50 of the Hunter Water Corporation Act, 1991 shall be submitted to Council prior to endorsement of the final survey plan. Applications for Section 50 Certificates are to be made direct to the Hunter Water Corporation.
- 7) The submission of documentary evidence from Energy Australia that satisfactory arrangements have been made for:
 - (i) The provision of easements in favour of Energy Australia over private land for existing and proposed power lines and, where the development requires, the relocation of power lines or other assets of Energy Australia;
and
 - (ii) The provision of a grid based (underground/overhead) electricity supply to each of the resultant lots in the subdivision;

Prior to endorsement of the Subdivision Certificate.

- 8) Prior to endorsement of the Subdivision Certificate written evidence must be submitted from the Hunter Water Corporation, Telstra Australia and Energy Australia that satisfactory arrangements have been made for the provision of their respective services to all lots in the proposed subdivision.
- 9) A Geotechnical Engineer's report shall be submitted to and be adopted by Council prior to the endorsement of the subdivision certificate. The report shall provide each lot with a site classification under AS 2870 and take into account site filling and any excavations. Please note such site classification to be made only after completion of site works affecting lots.

Where the report identifies sites with class P, the titles of these properties shall be endorsed under Section 88B of the Conveyancing Act. Council shall be nominated as the sole authority permitted to alter/remove the endorsement.

- 10) The proposed subdivision road names shall be submitted and approved by Council **prior to the issue of any Subdivision Certificate.**
- 11) All erosion and sediment control measures/works and other pollution control and rehabilitation measures undertaken on the site shall conform to the specifications and standards contained in the current version of;

"Erosion and Sediment Control Regional Policy and Code of Practice"

"Managing Urban Stormwater – Soils and Construction produced by Landcom 2004".

An erosion and sediment control plan shall be submitted for approval with the engineering plans.

- 12) A bushfire report certifying compliance with the Bushfire Safety Authority conditions imposed by the Rural Fire Service shall be submitted to Council **prior to the issue of the Subdivision Certificate.**
- 13) Certification from a registered Surveyor shall be submitted to Council prior to the issues of the Subdivision Certificate, stating that no services (including stormwater) or public utility presently connected to the existing building shall straddle any new boundary. Alternatively, an easement shall be created to cover the services, utilities or structures.
- 14) The conclusions and recommendations contained within Section 5 of the Phase 1 Environmental Site Assessment (Coffey, Ref: ENAUWARA04271AA-R01a, dated: 25 May 2012) shall be compiled with **prior to issue of any Construction Certificate.**

The Phase 2 Environmental Site Assessment shall be provided to Council for review and approval **prior to issue of any Construction Certificate.**

The recommendations of this Phase 2 Environmental Site Assessment shall be complied with **prior to issue of any Construction Certificate**. Details to be provided to Council for approval.

- 15) Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council upon discovery.

ROADS AND MARITIME SERVICES CONDITIONS

- 16) The Richardson Road / Halloran Way intersection shall be upgraded as follows:
- The right turn from Richardson Road into Halloran Way shall be closed. This may be achieved through a 'No Right Turn' sign erected on a (minimum) 900mm wide concrete median on Richardson Road, as well as a traffic island in Halloran Way designed in a way that physically restricts the movement.
 - The left turn deceleration lane on Richardson Road shall be designed to separate from Richardson Road (become a slip lane) before it meets Halloran Way.
 - A short concrete median, minimum 900mm wide, shall be constructed in Halloran Way to enhance delineation and provide some protection for right turning vehicles. A 'Stop' sign shall also be erected at this intersection to enhance safety.
 - The intersection upgrade shall include provision for cyclists through the intersection.
 - The above upgrades shall be designed and constructed in accordance with the Austroads Guide to Road Design (with RMS supplements), to the satisfaction of RMS and Council.
- 17) There shall be no direct vehicular access to/from Richardson Road from any of the subdivision properties.
- 18) A Construction Traffic Management Plan (CTMP) shall be prepared and include a Vehicle Movement Plan and Traffic Control Plans. It shall be prepared with the intention of having minimal impact to the operation of the road network during construction. The CTMP shall be submitted to RMS and Council for review and approval prior to any construction activities occurring onsite.
- 19) As road works are required on a State road, RMS will require the developer to enter into a Works Authorisation Deed (WAD) with RMS. RMS will exercise its powers under Section 87 of the Roads Act 1993 (the Act) and the functions of the roads authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Act, as applicable, for all works under the WAD.

- 20) Prior to issuing a construction certificate for the proposed development, the developer shall enter into a WAD with RMS and complete all road works associated with the development.
- 21) Prior to issuing an occupation certificate (interim or final) for the proposed development the developer shall complete all works under the WAD to practical completion, as determined by RMS.
- 22) All works associated with the proposed development shall be at full cost to the developer and at no cost to RMS or Council, to the satisfaction of RMS.

RURAL FIRE SERVICE CONDITIONS

- 23) At the issue of subdivision certificate and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- 24) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- 25) Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

ENGINEERING CONDITIONS

- 26) A **works maintenance bond amounting to 5%** of the cost of civil works must be paid to Council **prior to release of the subdivision linen plan**, at which time the civil works must become public infrastructure. The bonds can be in the form of cash or a bank guarantee, except bank guarantees with expiry dates, which are not acceptable.
- 27) The **developer must** maintain the civil works for twelve (12) months from the date of linen release, or practical completion, whichever is the later. The developer must rectify any omissions from design, defects or other faults in the works that become apparent during the maintenance period. Damage caused by normal use must also be repaired by the developer, including design, workmanship and materials. The developer must also maintain drainage structures, roadside verges, and public land and facilities installed on that land. All associated costs shall be worn by the developer. Should Council incur costs, (including re-inspection fees, costs for rectifying works or making works safe), those costs will be deducted from the bond. **At the completion of the maintenance period** the developer is responsible for requesting that Council inspect the site and notify of any necessary repairs. All works shall be carried out to the satisfaction of Council's Development Engineers or Assets Engineer **prior to the release of any works maintenance bond**.
- 28) The following fees and / or bonds are to be paid as part of this consent:

- a) Subdivision construction certificate/plan approval fee, prior to approval of construction certificate or plans;
- b) PCA/inspection fee, prior to approval of construction certificate or plans;
- c) Long Service Levy, prior to issue of construction certificate (verification of payment is required if paid directly to Long Service Board); and
- d) Maintenance Bond, prior to release of subdivision certificate.

The rates are as listed in Council's fees and charges available from the Port Stephens Council web page (www.portstephens.nsw.gov.au). Contact Council's Subdivision Engineer prior to payment.

29) Works within the development site are subject to:

- a) inspection by Council, or the Certifying Authority;
- b) testing by a registered NATA Laboratory; and
- c) approval by Council at each construction stage as determined by Council's Infrastructure Specification, policies and standards.

ROADS ACT APPROVAL CONDITIONS

30) Works associated with the approved plans and specifications located within the existing Road Reserve shall not commence until:

- a) a Roads Act Approval has been issued; and
- b) all conditions of the Roads Act Approval have been complied with to Council's satisfaction.

31) All civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of Port Stephens Council (with a letter of practical completion issued) **prior to issue of the Subdivision Certificate.**

All works associated with the Roads Act Approval shall be at no cost to Council.

32) Works associated with the Roads Act Approval are subject to:

- a) inspection by Port Stephens Council,
- b) testing by a registered NATA Laboratory and
- c) approval by Council at each construction stage as determined by Council.

STANDARD BUILDING CONDITIONS

33) Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.

- 34) Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-

- * Monday to Friday, 7am to 6pm;
- * Saturday, 8am to 1pm;
- * No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L_{10} level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

- 35) It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
- 36) The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

PLANNING

- 37) A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act, 1979 and Section 94 of the Environmental Planning and Assessment Act, 1979 towards the provision of the following public facilities:-

	Per Lot	Total
Civic Administration	(\$1,089)	(\$26,136)
Public Open Space, Parks and Reserves	(\$2,259)	(\$54,216)
Sports and Leisure Facilities	(\$5,327)	(\$127,848)
Cultural and Community Facilities	(\$2,677)	(\$64,248)
Fire & Emergency Services	(\$217)	(\$5,208)
Roadworks	(\$1,512)	(\$36,288)

Note:

a) The above contributions have been determined in accordance with Port Stephens Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Customer Service Counter, 116 Adelaide Street, Raymond Terrace.

b) Contributions are to be paid prior to release of the final survey plan of the subdivision.

c) The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of original consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for twelve months from the date of original consent.

ENGINEERING

- 38) Works associated with the approved plans and specifications shall not commence until:
- a) a Construction Certificate has been issued;
 - b) the Principal Certifying Authority has been nominated; and
 - c) Council has received two days notice of the commencement date.

- 39) All work required to be carried out within a public road reserve must be separately approved by Council, under Section 138 of the Roads Act 1993.

Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional to the satisfaction of Council, in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', and Section B of Development Control Plan 2007:

The required works to be designed are as follows:

- a) Storm water pipe (class 4) connection located within Halloran Way, Raymond Terrace.
- b) Modification of the existing basin to allow for the increase in water generated by the approved subdivision.
- c) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
- d) Payment of applicable fees and bonds; and
- e) Contractor's public liability insurances to a minimum value of \$10 million dollars.

The Roads Act Application must be approved by Port Stephens Council **prior to the issuing of a Construction Certificate** required under this consent..

- 40) Engineering plans for the following subdivision works within the private property must be designed by a suitably qualified professional, in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', and Section B of Development Control Plan 2007 **prior to the issue of a Construction Certificate**.

- a) Internal roads, drainage and pathways.

- b) 1.2m wide reinforced (SL72 steel fabric, 100mm thick) concrete footpath in Lake View Crescent and Road No. 4.
- c) 2.5m wide reinforced (SL72 steel fabric, 100mm thick) concrete footpath in Halloran Way.
- d) Services conduits (including draw wire) for Power and Phone, within the access corridor in accordance with the relevant authorities specifications and requirements.
- e) Inter-allotment drainage where stormwater from individual allotments cannot be discharged directly into the street drainage system.
- f) Secondary stormwater flow path capable of conveying the 1% AEP flood flow.
- g) A full stormwater design prepared by a Chartered Professional Civil Engineer including:
 - i. Details to demonstrate the pre-developed flows used in the calculations for the existing basin are based on the pre-developed catchment area draining to the existing basin. Where pre-developed flows are not calculated based on the pre-developed catchment area for the existing basin, a re-design of the water quality and quantity basins shall occur to demonstrate the post developed flows are restricted to the pre-development flows for the development and water quality is in accordance with Council's Urban Storm water and Rural Water Quality Management Plan.
 - ii. Supporting calculations to demonstrate the Q100 overland flow paths can safely be contained within the road reserve profile and public reserve including the required freeboard. This may involve providing a hydraulic grade line analysis.
 - iii. Supporting calculations to demonstrate the existing drainage network west of proposed road 4 has the capacity to safely convey the additional 5yr and 100yr flows generated by the development to the water quality and quantity basins.
 - iv. Details to demonstrate the offline high flow bypass will function effectively to convey all flows greater than 50% of the 1 year ARI critical storm event around the water quality basin.
 - v. All storm water pipes within the road reserve are to be Class 4.
 - vi. Adequate sediment and erosion control at the inlet to all basins to prevent scouring.
 - vii. The proposed water quality biofiltration basin shall be designed and constructed in accordance with the approved plan and Water by Design – Bioretention Technical Design Guideline

Planting within the bioretention basin shall consist of a mix of any of the following plant species:

Wet and usually damp areas

Juncus continuus
Persicaria decipens
Rununculus inundatus
Villarsia exaltata

Drier areas of basin, intermittent flooding tolerant

Danthonia longifolia

Themeda australis

Lomandra longifolia

Water quality basin walls shall be a maximum 1:4 batters

The engineering plans and any associated reports for the above requirements must form part of the Construction Certificate.

- 41) A **Soil & Water Management Plan** in accordance 'Managing Urban Storm water; Soils and Construction document, Landcom 2004' is to be prepared by an Engineer whose qualifications are acceptable for membership of the Institution of Engineers Australia (or other professional approved by Council) detailing temporary and permanent measures proposed to be installed. The plan is to be submitted to Council and is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**
- 42) A street tree plan cannot be approved until the street light plan has been authorised by Port Stephens Council in accordance with Council's requirements. The street tree plan shall be integrated with the street light plan to ensure offsets of minimum 25m. Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**
- 43) All trees planted within the road reserve shall be one of the following species and have a maximum of 1 tree per lot street frontage. Driveway locations shall be considered when determining the location of the trees.

Acmena smithii

Cupaniopsis anacardiodes

Elaeocarpus Reticularis

Flindersia australis

Harpullia pendula

Syzygium australa

Syzygium Paniculatum

Tristanopsis laurina

Waterhousia floribunda

Tree surface treatment shall be in accordance with the approved landscaped plan. Root barrier protection shall be designed and constructed **to the satisfaction of Council.** Root control barrier shall be 600mm deep and a maximum of 300mm behind kerb. Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate..**

- 44) All verges shall be fully turfed with couch or buffalo. Details shall be submitted to the Certifying Authority **prior to the issue of the construction Certificate.**
- 45) A geotechnical report prepared by a Chartered Professional Geotechnical Engineer detailing the suitability of the road pavement, water quality structure and proposed paved access to the water quality and detention basins in terms of location and structural integrity. Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**
- 46) A utility plan detailing utility layouts shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
- 47) Road pavements shall be designed and constructed in accordance with Council's Infrastructure design and Construction Specification and the Geotechnical Report that forms part of the conditions of consent for this development application . Details shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
- 48) Regulatory Line marking and signage shall be in accordance with Council's Design and Construction Infrastructure Specification and AS1742. Details shall be submitted to Port Stephens Council's Local Development Committee for approval **prior to the issue of the Construction Certificate.**
- 49) The Richardson Road / Halloran Way Intersection shall be upgraded as follows:
- The right turn from Richardson Road into Halloran Way shall be physically restricted by the means of; a 'No right turn' sign erected on a minimum 900mm wide concrete median on Richardson Road, as well as a traffic island in Halloran Way.
 - The left turn deceleration lane on Richardson Road shall be modified and designed as a slip lane so as to be separated from the direct line of traffic before it meets Halloran Way.
 - A short median, minimum 900mm wide, shall be constructed in Halloran Way to enhance delineation and provide some protection for vehicles turning right onto Richardson Road.
 - A 'stop sign' shall also be erected within Halloran Way so as to force vehicles to stop before entering onto Richardson Road.
 - The intersection shall be designed to allow for the safe movement of cyclists through the intersection.

The above upgrades shall be designed and constructed in accordance with the Austroads Guide to Road Design (with RMS supplements to the satisfaction of Roads and Maritime Services and Council.

A Works Authorisation Deed shall be created between the applicant and the Roads and Maritime Services to the satisfaction of the Roads and Maritime Services **prior to the issue of the Construction Certificate..**

- 50) A Construction Traffic Management Plan shall be prepared, including Vehicle Movement Plans and Traffic Control Plans that will have minimal impact on surrounding traffic. Details shall be submitted and approved by RMS and Council **prior to the issue of the Construction Certificate.**
- 51) Turning heads shall be located at the eastern ends of Halloran Way and Lake View Crescent. Turning Heads shall be designed in accordance with Council's Subdivision Code, Part 2; Figure 3-2 – Typical Turning Head Geometry for Accessways. Details shall be submitted to Council for approval **prior to the issue of the construction certificate.**
- 52) The **location of, light poles** and the preferred location of **driveway crossings** must be shown on the subdivision plans. Details must comply with Council's Infrastructure Specification – Design and Construction. Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**
- 53) Road verges shall be designed in a manner that will allow future driveway construction to comply with Council's standard drawings for vehicle crossing driveway profiles. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**

SUBDIVISION CERTIFICATE CONDITIONS

- 54) **A Subdivision Certificate cannot be issued** until the Works-As-Executed stormwater drainage plans have been certified by a registered surveyor documenting that levels and dimensions are within the limits specified in Port Stephens Council's Infrastructure Specification, and to the satisfaction of the Principle Certifying Authority.
- 55) The developer is to provide the following plans and / or CAD files:
- a. Road construction plans in CAD format prior to commencement of road works;
 - b. Works-as-executed drawings and CAD files of all engineering works prior to the issue of any Subdivision Certificate(s); and
 - c. CAD files which include all lot and road boundaries, lot numbers and easements, prior to the issue of the Subdivision Certificate.

All CAD files shall be supplied in AutoCAD or compatible format in a known coordinate system (preferably GDA94 or MGA56)..

- 56) All civil engineering works shall be constructed in accordance with the Construction Certificate and Port Stephens Council's Infrastructure Specification, Policies and Standards, to the satisfaction of Council **prior to issue of the Subdivision Certificate.**
- 57) All road and drainage infrastructure shall be constructed in Stage 1 to the satisfaction of the Principal Certifying Authority **prior to the release of any Subdivision Certificate.**

- 58) All civil engineering works associated with the Works Authorisation Deed shall be carried out to the satisfaction of the Roads and Maritime Services and Council (with a letter of practical completion issued) **prior to issue of the Subdivision Certificate.**

All works associated with the Works Authorisation Deed shall be at no cost to RMS or Council.

- 59) The applicant shall restore, replace or reconstruct any sections of footpath, cycleway, kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve that occur as a result of construction activities, as determined by Council's Development Engineers and the Roads and Maritime Services. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.

A Subdivision Certificate shall not be issued until all necessary remediation and repair works have been completed to the satisfaction of Council and the Roads and Maritime Services.

- 60) Where a lot cannot drain directly to the street, Inter-allotment drainage easements shall be created to provide a legal point of discharge. A draft instrument under Section 88b of the Conveyancing Act 1919 shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Subdivision Certificate.**

SCHEDULE 3 – APPROVED PLANS AND DOCUMENTATION

Statement of Environmental Effects prepared by Tattersall Lander dated May 2011
Stamped plans numbered; <ul style="list-style-type: none"> Subdivision Plan prepared by Tattersall Lander Stamped Amended Dated: 26 aug 2013, Ref: 21100064, Rev: D and dated 16/08/2013
Aircraft Noise Report prepared by Reverb Acoustics, Ref: 11-1575-R1, Dated May 2011
Bushfire Report prepared by Tattersall Lander and dated March 2012
Stormwater Drainage and Quality Report prepared by Tattersall Lander dated August 2013
Seven Part Test prepared by Wildthing dated April 2011
Environmental Site Assessment, prepared by Coffey, Ref: ENAUWARA04271AA-R01a, dated: 25 May 2012
Traffic Impact Assessment, prepared by Better Transport Futures, Dated April 2012

ITEM NO. 2

FILE NO: 16-2010-700-2

S96 APPLICATION TO MODIFY AN APPROVED DUAL OCCUPANCY AND TWO (2) LOT SUBDIVISION AT NO. 2 ADASTRA CLOSE RAYMOND TERRACE

REPORT OF: MATTHEW BROWN - DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse Section 96 application 16-2010-700-2 to modify an approved dual occupancy and two lot subdivision at no. 2 Adastra Close, Raymond Terrace for the reasons below:
 - a) Removal of Condition 40 requiring the preparation of a report by an acoustic engineer will be contrary to the requirements of Development Control Plan 2007 and Australian Standard AS2021-2000;
 - b) Removal of Condition 40 requiring the preparation of a report by an acoustic engineer will expose future occupants to an unacceptable level of aircraft noise in habitable areas.

**ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

Mayor Bruce MacKenzie and Cr Paul Le Mottee left the meeting at 6.43pm prior to Item 2, in Committee of the Whole.

Deputy Mayor, Cr Sally Dover chaired the meeting at this stage.

	Councillor John Nell Councillor Peter Kafer
	<p>That Council:</p> <ol style="list-style-type: none">1) Refuse Section 96 application 16-2010-700-2 to modify an approved dual occupancy and two lot subdivision at no. 2 Adastra Close, Raymond Terrace for the reasons below:<ol style="list-style-type: none">a) Removal of Condition 40 requiring the preparation of a report by an acoustic engineer will be contrary to the requirements of Development Control Plan 2007 and Australian Standard AS2021-2000;b) Removal of Condition 40 requiring the preparation of a report

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013
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	by an acoustic engineer will expose future occupants to an unacceptable level of aircraft noise in habitable areas.
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Geoff Dingle and John Nell.

Those against the Motion: Crs Sally Dover, Chris Doohan, Steve Tucker, John Morello.

The motion was lost.

	Councillor Steve Tucker Councillor Chris Doohan
	That Council approve Section 96 application 16-2010-700-2 to modify an approved dual occupancy and two lot subdivision at no. 2 Adastra Close, Raymond Terrace.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Sally Dover, Chris Doohan, Steve Tucker and John Morello.

Those against the Motion: Crs Peter Kafer, John Nell and Geoff Dingle.

Cr Peter Kafer advised the meeting that he would retire from the meeting at this time due to family reasons. Cr Kafer left the meeting at 7.08pm.

MOTION

Cr Paul Le Mottee and Mayor Bruce MacKenzie left the meeting at 7.16pm, in Open Council.

Item 2 was dealt as the last item and Mayor Mackenzie and Cr Paul Le Mottee did not return to the meeting.

341	Councillor Steve Tucker Councillor Chris Doohan
	It was resolved that Council approve Section 96 application 16-2010-700-2 to modify an approved dual occupancy and two lot subdivision at no. 2 Adastra Close, Raymond Terrace.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Sally Dover, Chris Doohan, Steve Tucker and John Morello.

Those against the Motion: Crs John Nell and Geoff Dingle.

BACKGROUND

The purpose of this report is to present a Section 96 application to Council for determination as requested by Councillor Tucker.

The original development application (DA16-2010-700-1) was previously approved by Council in January 2011 for the erection of a Detached Dual Occupancy Development and a Two Lot Torrens Title Subdivision.

The site is zoned 2(a) Residential within which the development of the site for the purposes of Dual Occupancy is permissible subject to Development Consent.

The development site has a frontage to Adastra Close and Hastings Drive. The site is currently vacant land. To the rear of the site is an area of 6(a) Open Space with the general locality being Residential 2(a) zoned land characterised by single residential developments.

A revised Department of Defence map, ANEF 2025, was issued as of 10 August 2011 in response to the expected roll out of the new Joint Strike Fighter Aircraft (JSF). In response to this revised mapping information Council revised its own policy document DCP2007, chapter B15 which includes the 'Noise Planning Area Map', a composite map which amalgamates both ANEF maps (2012 and 2025 - 10 August 2011) for indentifying noise affectation of sites.

ANEF charts are contour maps that show a forecast of aircraft noise levels that are expected to exist in the future. They are prepared for all of the major and regional airports and most of the minor aerodromes that have a large number of annual movements. The maps are prepared by airport owners. For the major airports the ANEF forms part of their Master Plan and is updated every five years. These ANEF maps are primarily used by local Councils for land use planning. They take into account projected maximum noise levels at various locations and the number of occurrences this is likely to happen. This results in a map showing the worst areas of exposure to aircraft noise.

If a dwelling development site is within the "Noise Affected Area" the dwelling requires acoustic protection to be built into any new dwelling. The development site, whilst within the bounds of the "Noise affected Area" and the old ANEF 2012 lies outside the ANEF 2025 affected contour. This serves to forecast that the noise pollution impact will be reduced if the Joint Strike Fighter aircraft totally replaces the current fighter aircraft at current estimates approximately in the year 2025.

At the time of the original approval the site was identified as being affected by Aircraft Noise and was located within the 25-30 Aircraft Noise Contour under both the ANEF 2025 and ANEC 2025 Aircraft Noise Maps. Under these noise zones the

development was classified as "unacceptable development" and recommended for refusal. The application was ultimately supported, subject to conditions, by Council.

Since the original application and approval, the aircraft noise maps have been amended. The site is now identified as being affected by the 20-25 Aircraft Noise Contour under both the ANEF 2025 and ANEF2012 aircraft Noise Maps. It is noted that development for the purpose of Dual Occupancy is "conditionally acceptable" in this noise contour under both the Development Control Plan 2000 and Australian standard 2021-2000.

Development Control Plan 2007 specifies that an acoustic report is required to support a development application for development that is "conditionally acceptable". Such a report shall dictate measures to reduce the amount of aircraft noise in a building. Condition 40 of the development consent gives effect to this requirement.

The Key issues associated with the proposal are;

- Aircraft Noise; and
- Non Compliance with Councils DCP2007 and Australian Standard AS 2021-2000.

A modification has been lodged to the original consent requesting that Condition 40 of Development Consent 16-2010-700-1 be deleted due to the development being infill development.

Condition 40 states;

Prior to issue of a construction certificate an acoustic report shall be submitted to Council prepared by a suitably qualified acoustic engineer. The development shall be constructed in accordance with the recommendations contained within the acoustic report and the acoustic engineer shall issue a compliance certificate before issue of any occupation certificate.

It is not disputed that the land/development is infill development; however this does not negate the need for noise attenuation under the relevant planning controls.

An assessment of these issues has been provided in the attachments.

FINANCIAL/RESOURCE IMPLICATIONS

Should Council adopt the recommendation and refuse the modification application, the applicant may appeal to the Land and Environment Court. Defending the Councils determination would have financial implications.

If council enables the construction of a dual occupancy development without adequate noise attenuation, it may incur a legal liability, costs of which are difficult to determine, but may be significant.

Source of Funds	Yes/No	Funding	Comment
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MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

		(\$)	
Existing budget	Yes		Within operational budget
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

The development application is inconsistent with the following Council Policy.

Port Stephens Development Control Plan 2007, Section B15 – Aircraft Noise
Australian Standard 2021-2000 – Aircraft Noise.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be held liable for the creation of noise affected dwellings by future owners.	High	Refuse Application	Yes
There is a risk that should the modification be refused, the applicant may appeal at the decision with the Land and Environment Court.	Medium	Refuse Application	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Removal of the requirement for the development to be subject to aircraft noise attenuation would result in the future occupants of the dwellings being exposed to unacceptable noise impacts from aircraft.

Under the provisions of DCP2007 and Australian Standard 2021-2000 the dwellings are required to be attenuated to mitigate against the impacts of aircraft noise. Whilst the aircraft noise issue may change in the future and have an element of uncertainty, Council is required to make planning decisions based on legislation at the time of the application. Further it is considered that the noise pollution levels on the site are such that it would have significant adverse impacts on future occupants within the dwellings and also in areas of private open space.

It is considered that the site does not present any environmental Issues, native vegetation or flora and fauna that would render the site unsuitable for the proposed development.

CONSULTATION

No exhibition of the proposed modification is required due to the nature of the modification to the existing development consent.

OPTIONS

- 1) Adopt the recommendation;
- 2) Reject or amend the Recommendations.

ATTACHMENTS

- 1) Locality Plan;
- 2) Assessment.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

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 development application (DA16-2010-700-1) was previously approved by Council for the erection of a Detached Dual Occupancy Development and a Two Lot Torrens Title Subdivision.

The site is zoned 2(a) Residential within which the development of the site for the purposes of Dual Occupancy is permissible subject to Development Consent.

The development site has a frontage to Adastra Close and Hastings Drive. The site is currently vacant land. To the rear of the site is an area of 6(a) Open Space with the general locality being Residential 2(a) zoned land characterised by single residential developments.

At the time of the original approval the site was identified as being affected by Aircraft Noise and was located within the 25-30 Aircraft Noise Contour under both the ANEF 2025 and ANEC 2025 Aircraft Noise Maps. Under these noise zones the development was classified as "unacceptable development" and recommended for refusal. The application was ultimately supported, subject to conditions, by Council.

Since the original application and approval, the aircraft noise maps have been amended. The site is now identified as being affected by the 20-25 Aircraft Noise Contour under both the ANEF 2025 and ANEF2012 aircraft Noise Maps. It is noted that development for the purpose of Dual Occupancy is "conditionally acceptable" in this noise contour under both the Development Control Plan 2000 and Australian standard 2021-2000.

Development Control Plan 2007 specifies that an acoustic report is required to support a development application for development that is "conditionally acceptable". Such a report shall dictate measures to reduce the amount of aircraft noise in a building. Condition 40 of the development consent gives effect to this requirement.

The Key issues associated with the proposal are;

- Aircraft Noise
- Non Compliance with Councils DCP2007 and Australian Standard AS 2021-2000.

A modification has been lodged to the original consent requesting that Condition 40 of Development Consent 16-2010-700-1 be deleted due to the development being infill development.

Condition 40 states;

Prior to issue of a construction certificate an acoustic report shall be submitted to Council prepared by a suitably qualified acoustic engineer. The development shall be constructed in accordance with the recommendations contained within the acoustic report and the acoustic engineer shall issue a compliance certificate before issue of any occupation certificate.

THE APPLICATION

Owner	GRAFIL PTY LTD
Applicant	Mr R B Mackenzie
Detail Submitted	Modification Form

THE LAND

Property Description	Lot 66 DP 1060406
Address	2 Adastra Close Raymond Terrace
Area	612m ²
Dimensions	Rectangular Corner Block
Characteristics	Vacant

THE ASSESSMENT

1. Planning Provisions

LEP 2000 – Zoning	2(a) - Residential
Relevant Clauses	16, 17, 19, 44
Development Control Plan	Section B15 – Aircraft Noise
State Environmental Planning Policies	Nil

Section B15 – Aircraft Noise

Section B15 outlines the requirements of developments in relation to aircraft noise and attenuation.

The development site is located within the following 20-25 Aircraft Noise Contour in both the ANEF 2012 and ANEF2025 Maps.

Within the 20-25 ANEF Noise Contour, dwelling houses and dual occupancies are considered to be "Conditionally Acceptable" development.

Section B.15 – Aircraft Noise for Buildings states that an acoustic report is required to support a development application for development that is "conditionally acceptable". Such a report shall dictate measures to reduce the amount of aircraft noise in a building. Further control C1 states;

Conditionally acceptable – design measures are required to reduce aircraft noise

Control C2 specifies the Indoor Design Sound Levels for development. Development must satisfy the indoor design sound levels specified by Table 3.3 of AS 2021-2000 based on average maximum noise levels.

In response to this development control and Australian Standard AS 2021-2000 requirement Condition 40 was placed on the consent. Condition 40 states;

Prior to issue of a construction certificate an acoustic report shall be submitted to Council prepared by a suitably qualified acoustic engineer. The development shall be constructed in accordance with the recommendations contained within the acoustic report and the acoustic engineer shall issue a compliance certificate before issue of any occupation certificate.

Control C3 does allow for limited exceptions to the requirements of the DCP. These exceptions relate to;

- A new single dwelling on a vacant pre-existing lot with a dwelling entitlement and located between the 25-30 noise contours (this would normally be classified as unacceptable development).
- Replacement of a single dwelling on a pre-existing lot in any noise contours (where a dwelling would normally be classified as unacceptable development).
- Development in the vicinity of RAAF Base Williamstown on land zoned for Defence Purposes or within the Defence and Airport Related Employment Zone.

The approved development does not relate to any of these Limited Exceptions and there is no valid planning reason for removing the need to attenuate the building to the Levels required by Australian Standard AS 2021-2000.

2. Likely Impact of the Development

Removal of condition 40 would result in the approval and construction of two (2) dwellings without appropriate aircraft noise attenuation within an area affected by aircraft noise levels.

3. Suitability of the Site

The subject site is located within the 20-25 ANEF2012 Noise contour and as such the development is conditionally acceptable subject to the proposed dwelling containing appropriate noise attenuation measures.

4. Submissions

Nil.

5. Public Interest

It is not considered to be in the public interest to remove conditions relating to the requirement for aircraft noise attenuation.

ITEM NO. 3

FILE NO: PSC2013-03819

DRAFT PORT STEPHENS DEVELOPMENT CONTROL PLAN 2013

**REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING AND ENVIRONMENTAL
SERVICES MANAGER**

GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Draft Port Stephens Development Control Plan 2013 to amend the Port Stephens Development Control Plan 2007;
 - 2) Place on public exhibition for a period of 28 days;
 - 3) Should no submissions objecting to the exhibited Draft Plan be received then adopt as exhibited.
-

Mayor Bruce MacKenzie and Cr Paul Le Mottee returned to the meeting at 7.10pm, in Committee of the Whole.

Mayor MacKenzie resumed the Chair at this time.

Cr Chris Doohan left the meeting at 7.10pm.

Cr Chris Doohan returned to the meeting at 7.12pm.

**ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Steve Tucker
	That the recommendation be adopted.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, CrsPaul Le Mottee, Chris Doohan, Steve Tucker, John Morello, Sally Dover, Peter Kafer, Geoff Dingle and John Nell.

Those against the Motion: Nil.

MOTION

342	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council: <ul style="list-style-type: none">1) Endorse the Draft Port Stephens Development Control Plan 2013 to amend the Port Stephens Development Control Plan 2007;2) Place on public exhibition for a period of 28 days;3) Should no submissions objecting to the exhibited Draft Plan be received then adopt as exhibited.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Chris Doohan, Steve Tucker, John Morello, Sally Dover, Geoff Dingle and John Nell.

Those against the Motion: Nil.

BACKGROUND

It is proposed to amend the Port Stephens Development Control Plan 2007 (PSDCP 2007) to ensure consistency with the impending Draft Local Environmental Plan 2013 (PSLEP 2013). This is to be achieved by:

Removing superseded references and chapters existing from PSDCP 2007;
Integrating the contents of the Port Stephens Tree Preservation Order (PSTPO) **(ATTACHMENT 2)** into Section B2.11 Tree Management of PSDCP 2007 **(ATTACHMENT 1)** to provide the necessary guidance to Clause 5.9 Tree Preservation of the Draft PSLEP 2013, which will only apply to defined urban areas under the Native Vegetation Act 2003

The commencement of the PSDCP 2013 will coincide with the PSLEP 2013.

On 26 March 2013 Council resolved to forward the Draft PSLEP 2013 to the Department of Planning & Infrastructure (the Department) requesting the Draft Plan be made. The Department has since informed Council that it anticipates the Plan will commence in early 2014.

The Draft PSLEP 2013 is a legal instrument that provides zoning and categories of permissible land uses to manage land-use conflicts and standards to control development, such as reserving land for open space, schools, transport or other public purposes. The Draft PSDCP2013 is an 'administrative' amendment to the current PSDCP 2007 to ensure consistency with the Draft PSLEP 2013 and the continued application of the PSTPO.

The PSTPO is provided legislative weight through Clause 50 Tree Preservation of the PSLEP 2007. The gazettal of the PSLEP 2013 means the removal of the PSLEP 2007 and in turn the legislative weight provided to the PSTPO. Rather, Tree Preservation will be provided weight under Clause 5.9 Tree Preservation of the PSLEP 2013.

Clause 5.9 Tree Preservation requires a development control plan to nominate those trees or other vegetation that require council approval for removal, not a tree preservation order. This PSDCP 2013 becomes that development control plan by inserting the trees and other vegetation identified within the PSTPO under B2.11 Tree Management of the current PSDCP 2007.

This proposed amendment to the PSDCP 2007 is a transitional measure only. A comprehensive review of the Draft PSDCP 2013 (incorporating new provisions and revised site specific chapters) will be presented before Council in early 2014. At this point in time the imperative is to simply ensure that the Draft PSLEP 2013 is supported by an accompanying DCP to enable a smooth transition and to ensure continued operation for the assessment of development applications.

Proposed Amendments to Port Stephens Development Control Plan 2007

Removal of superseded references and obsolete chapters

The removal of superseded references and obsolete chapters is proposed. Retaining these provisions within the PSDCP 2007 serves no continuing purpose and removal is administrative.

These administrative amendments are illustrated in the Draft PSDCP 2013 as follows:

- **Yellow highlighting indicates a proposed wording change**
 - For example, a reference to the PSLEP 2000 is updated to be a reference to the Draft PSLEP 2013 (Refer to A1-1);
- **Red text indicates proposed text to be removed**
 - For example, Section B2.4 Acid Sulfate Soils is removed as Clause 7.1 of the Draft PSLEP 2013 prevails (Refer to B2-1);
- **Black text indicates no proposed change**
 - For example, B1.4 Topography and Views remains unchanged from the current PSDCP 2007 (Refer to B1-1).

The following obsolete chapters are to be deleted as their detail has been superseded within the PSLEP 2013 and State Environmental Planning Policies:

- B2.4 Acid Sulfate Soils
 - This Section will be removed. Development is now required to address Acid Sulfate Soils under Clause 7.1 of PSLEP 2013;
- B2.6 Contaminated Land
 - This Section will be removed. State Environmental Planning Policy No. 55 - Remediation of Land supersedes contamination controls contained within the PSDCP;
- B2.17 Support for Neighbouring Buildings

- o This Section will be removed. Support for neighbouring buildings can simply be included as a condition of consent when required;
- B9 Seniors Housing
 - o This Section will be removed. State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 addresses design requirements for seniors housing.

Amending B2.11 Tree Management of PSDCP 2007

Tree Preservation Orders are prepared by councils to control the ring barking, cutting down, lopping, pruning, removing, injuring or wilful destruction of any tree or trees specified without the consent of Council.

The Port Stephens Tree Preservation Order (PSTPO) is afforded legislative force under Clause 50 Tree Preservation of the PSLEP 2000. Clause 50(3) of this Plan provides that a TPO must specify the types or sizes of trees, or identify the location of the trees, that are covered by that Order.

With the introduction of the PSLEP 2013 provisions need to be transitioned across from the PSDCP 2007 and PSTPO. Under the Draft PSLEP 2013 the protection of trees will be provided by Clause 5.9 Tree Preservation which needs to be supported by a DCP. The Draft PSDCP 2013 simply proposes to insert relevant matters identified by the existing PSTPO under Section B2.11.

This approach is consistent with other Councils that have adopted a Standard Instrument Local Environmental Plan. Inserting the PSTPO into the PSDCP 2013 is an administrative need that proposes no changes to the types of trees or other vegetation covered by the PSTPO. A table demonstrating the differences between the current PSTPO and proposed Draft PSDCP 2013 is provided (**ATTACHMENT 3**).

Exhibition Process

The Draft PSDCP 2013 will be placed on public exhibition for a period of 28 days. Notification of the exhibition period will be made in The Examiner and on Council's website. Copies of the Draft PSDCP 2013 will be made publicly available.

If no submissions objecting to the Draft DCP 2013 are received then the Draft DCP 2013 will be adopted by providing public notification. The highlighted text will be removed in the adopted document.

If submissions objecting to the Draft DCP 2013 are received then the matter will be reported back to Council for determination.

Comprehensive Review of DCP

In order to develop a DCP based on best planning practice, and that is supported by the community a comprehensive review is currently being undertaken. This will be presented to Council in early 2014.

This comprehensive review will incorporate some of the following features:

Adopting a Plain English writing style;

Consolidation of heritage provisions into a single chapter;

Guidelines to provide a consistent approach to stormwater quality and biodiversity management;

Incorporation of new or revised site specific chapters, such as:

William Defence and Airport Relation Employment Zone (DAREZ);

Pacific Dunes, Medowie;

Nelson Bay Town Centre.

FINANCIAL/RESOURCE IMPLICATIONS

The Draft DCP 2013 can be processed within the existing budget allocations of the Community Planning and Environmental Services Section.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	1,000	Within existing budget
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The NSW planning system operates within the provisions of the Environmental Planning & Assessment Act 1979 and accompanying Environmental Planning and Assessment Regulation 2000. Provisions contained within this legislation determine the content, structure and process for preparing plans.

Clause 289(A) of the Environmental Planning and Assessment Regulation 2000 provides transitional arrangements for incoming environmental planning instruments. This clause allows for the PSDCP 2007 to operate in conjunction with the Draft PSLEP 2013 up to 6 months from the gazettal of the Draft PSLEP 2013, subject to PSDCP 2007 provisions not being inconsistent with the Draft PSLEP 2013 provisions.

Given this, PSDCP 2007 would be inconsistent with some provisions of the existing PSDCP 2007. The adoption of this housekeeping Draft PSDCP 2013 is essential to specify those trees or other vegetation to which Clause 5.9 Tree Preservation applies.

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

Clause 5.9 of the Draft PSLEP 2013 limits Councils ability to regulate tree removal to urban areas only, whereas the current PSTPO applies to all zones. All non-urban areas will be determined under the Native Vegetation Act 2003 that is administrated by the State Government.

This interpretation of the Clause 289 (A) was confirmed by legal advice provided to Council on 17 October 2013. Concurrently, the Draft PSDCP 2013 has been prepared in accordance with Division 6 of the Environmental Planning and Assessment Act 1979 and will be exhibited in accordance with Clause 18 of the Environmental Planning and Assessment Regulation 2000.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that a new comprehensive DCP will not be completed within the 6 months transitional provisions timeframe (§74C EPAA 1979).	Medium	Complete the comprehensive review of the DCP within the 6 month timeframe.	Yes
There is a risk that the Draft PSDCP 2013 is not provided in time for the commencement of Draft PSLEP 2013.	Medium	Ensure that the Draft PSDCP 2013 is in place within the next 3 months.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adoption of the Draft PSDCP 2013 will assist the general public and developers to understand the relationship between this document and the Draft PSLEP 2013. The Draft PSDCP 2013 is a housekeeping amendment to ensure a consistent application of existing planning controls enabling the transition to the new PSLEP 2013.

CONSULTATION

- 1) Initial consultation has focused on internal stakeholders in Facilities and Services and Development Services;
- 2) Further consultation will take place over the 28 day exhibition period. This is a housekeeping amendment that proposes no change in Council's policy position as expressed in the current PSDCP 2007 or PSTPO.

OPTIONS

- 1) Adopt the recommendation. This will set in place a transition period for the Draft PSDCP 2013 that aligns with the commencement of the Draft PSLEP 2013;
- 2) Adopt the recommendation with amendments. Any policy amendment may delay the finalisation of the Draft PSLEP 2013;
- 3) Reject the recommendation. This may cause confusion with the general public and development industry as to how PSDCP 2007 relates to PSLEP 2013 and the current protection afforded to trees or other vegetation under the PSTPO.

ATTACHMENTS – All listed below are provided under separate cover.

- 1) Section B2.11 Tree Management of Draft Port Stephens Development Control Plan 2013;
- 2) Port Stephens Council Tree Preservation Order;
- 3) Table Comparing Port Stephens Tree Preservation Order with the Draft Port Stephens Development Control Plan 2013.

COUNCILLORS ROOM

- 1) Draft Port Stephens Development Control Plan 2013;
- 2) Port Stephens Development Control Plan 2007.

TABLED DOCUMENTS

Nil.

ITEM NO. 4

FILE NO: PSC2013-04879

ASBESTOS MANAGEMENT POLICY**REPORT OF: MIKE MCINTOSH - GROUP MANAGER DEVELOPMENT SERVICES****GROUP: DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft Asbestos Management Policy (**ATTACHMENT 1**);
 - 2) Place on public exhibition for a period of 28 days;
 - 3) Should no submissions be received, adopt the Asbestos Management Policy as exhibited without a further report to Council.
-

**ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Steve Tucker Councillor Paul Le Mottee
	That the recommendation be adopted.

MOTION

343	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council: <ol style="list-style-type: none">1) Endorse the draft Asbestos Management Policy (ATTACHMENT 1);2) Place on public exhibition for a period of 28 days;3) Should no submissions be received, adopt the Asbestos Management Policy as exhibited without a further report to Council.

BACKGROUND

The purpose of this report is to seek Council endorsement for the adoption of an Asbestos Management Policy.

Like many councils across Australia, a number of our buildings, structures and assets were built or refurbished at a time when asbestos containing materials may have been used during construction. The presence of asbestos containing materials in

itself does not constitute a danger. However, there is a potential risk to health if asbestos containing material is damaged or disturbed.

In response to growing community concern related to the dangers associated with exposure to asbestos, a Model Asbestos Policy and Guide has been developed by the Local Government and Shires Associations of NSW with input from industry reference groups.

An Asbestos Management Project Team with representation from across the organisation was formed to review the Model Policy and Guide and tailor it to our local area. As asbestos and its safe disposal is regulated under numerous pieces of legislation, it is often difficult to determine who is the responsible authority in certain asbestos-related scenarios, when to contact WorkCover or when Council should take the lead role in providing asbestos advice. This can be confusing for the community when dealing with asbestos related matters.

The adoption of an Asbestos Management Policy and Guide formalises Council's approach and will ensure that the organisation is equipped to safely manage asbestos and any associated legislative obligations.

FINANCIAL/RESOURCE IMPLICATIONS

While the long term objective is for all council controlled buildings to be free of asbestos related material, it is estimated that the cost to achieve this objective is far beyond the financial reach of Council. Given the highly regulated nature of asbestos and the many existing mechanisms in place to address risks, a full scale program to remove asbestos is prohibitively expensive and is out of step with both Australian and international practice.

In accordance with asbestos management practices across Australia, Council will continue to pursue a risk management approach which is designed to safeguard those persons who occupy, service and visit council buildings from exposure to asbestos fibres.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council's legislative functions for minimising the risks from asbestos apply in various scenarios including:

- As a responsible employer;
- Educating residents;
- Contaminated land management;
- Council land, building and asset management;
- Emergency response;
- Land use planning (including development approvals and demolition);
- Waste management and regulation.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council fails to meet its obligations in relation to the management of asbestos leading to injury and reputation damage and litigation costs	High	<p>Asbestos register is in place</p> <p>Asbestos management plans are developed and implemented</p> <p>Signage is in place to alert workers and the public to the potential presence of asbestos</p> <p>Eliminate asbestos from all council assets</p> <p>A register is maintained of buildings within the LGA that contain asbestos related materials</p>	No – under current funding asbestos would not be eliminated within a 60 year timeframe
There is a risk that Council fails to heighten community awareness on the identification and safe removal of asbestos leading to increased exposure to risk in the LGA	High	<p>Council's external website provides information and websites links for educational matters</p> <p>Information about land contamination on planning certificates is provided in Section 149 certificates</p> <p>In the event of an emergency Council may ensure that asbestos containing materials are cleaned up</p> <p>Conditions of consent may be imposed and a waste disposal guide issued to applicants</p>	Yes

		where asbestos has been identified	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Council has an important dual role in maintaining a safe environment and minimising the risks of exposure to asbestos, as far as is reasonably practicable, for both:

- a) residents and the public; and
- b) workers (employees, volunteers and contractors) in council workplaces

The community has particular sensitivities to the health risks associated with exposure to asbestos fibres. The high incidence of mesothelioma in Australia and significant media attention generated by the James Hardie matter, have all served to reinforce a cautionary attitude towards asbestos related matters.

An Asbestos Procedure is in place to provide direction to Council workers to minimise risks associated with exposure to asbestos in the workplace. The procedure ensures that workers are involved in the development of safe systems of work and a safe environment with respect to asbestos management issues.

CONSULTATION

- 1) Port Stephens Council Asbestos Management Project Team;
- 2) Executive Risk Management Committee;
- 3) Health and Safety Committee.

OPTIONS

- 1) Adopt the Asbestos Management Policy;
- 2) Reject the Asbestos Management Policy;
- 3) Amend the Asbestos Management Policy.

ATTACHMENTS

- 1) Draft Asbestos Management Policy.

COUNCILLORS ROOM

- 1) Guide to Management of Asbestos Risks within Council.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Draft Asbestos Management Policy



POLICY

Adopted: "[CLICK HERE, INSERT DATE]"

Minute No: "[CLICK HERE, INSERT MINUTE NO.]"

Amended:

Minute No:

FILE NO: PSC2013-04879

TITLE: ASBESTOS MANAGEMENT

RESPONSIBLE OFFICER: GROUP MANAGER, DEVELOPMENT SERVICES

BACKGROUND

Port Stephens Council has an important dual role in maintaining a safe environment and minimising the risks of exposure to asbestos, as far as is reasonably practicable, for both:

- o residents and the public; and
- o workers (employees, volunteers and contractors) in Council workplaces.

Council is committed to complying with the Model Asbestos Policy and Guide recently developed by the Local Government and Shires Associations of NSW with input from industry reference groups.

Council's responsibilities for asbestos management apply in various scenarios including:

As a Responsible Employer

Council has responsibilities to workers under the NSW Work Health and Safety Act 2011 and NSW Work Health and Safety Regulations in maintaining a safe work environment through Council's:

- o General responsibilities;
- o Education, training and information for workers;
- o Health monitoring for workers;
- o Procedures for identifying and managing asbestos containing materials in Council premises.

As part of the Integrated Risk Management System, an Asbestos Procedure is in place to ensure that workers are involved in the development of safe systems of work and a safe environment to manage any asbestos related risks.

Educating Residents

Providing education for the community on the identification and safe removal of asbestos is the joint responsibility of Councils and State Government agencies. Council, however, is often the first point of contact for residents who believe they have identified asbestos in their homes or have a concern or complaint regarding a public health hazard. Council also has a role in proactively offering useful information to the community to minimise avoidable incidents that present asbestos health hazards.

WorkCover has a major role in ensuring that removal of asbestos is carried out in accordance with legislative requirements and, where necessary, by registered contractors. WorkCover legislation, however, only applies to:

- A workplace, or
- Where the type or quantity of asbestos being removed, repaired or disturbed requires the work to be carried out by an asbestos licensed contractor.

Note: A workplace includes a residential property if any person is being employed there, but not if the works are carried out solely by an owner builder who does not employ anyone.

Contaminated Land Management

Council has a responsibility to provide information about land contamination on planning certificates issued under section 149 of the EPA Act. For sites that are significantly contaminated and require a major remediation program independent of any rezoning or development applications, the EPA and WorkCover are the lead regulatory authorities.

Responsibility for cleaning up contaminated land lies with the person responsible for the contamination or the relevant landowner.

Council Land, Building and Asset Management

Council has a responsibility to ensure that risk assessments are carried out on any Council owned buildings or assets that may contain asbestos materials. Like many Councils across Australia, a number of our buildings, structures and assets were built or refurbished at a time when asbestos containing materials may have been used during construction. Control measures are in place to manage these assets.

Emergency Response

Council may play a role in ensuring that asbestos containing materials are cleaned up after an emergency or incident. If the incident occurs at a workplace, WorkCover is the lead agency.

Council may issue a clean up, prevention, cost compliance or penalty infringement notice. Alternatively, Council may act under the EPA Act. Council will determine an appropriate response depending on the nature of the situation.

Land Use Planning (including development approvals and demolition)

Council recognises the need to exercise care when changing zoning for land uses, approving development or excavating land due to the potential to uncover known or unknown asbestos material from previous land uses (for example, where a site has been previously used as a landfill or on-site burial of asbestos waste).

Council is the consent authority for the majority of development applications in the LGA and may impose conditions of consent and a waste disposal guide in development consent to ensure the safe removal of asbestos, where asbestos has been identified or may be reasonably assumed to be present.

Waste Management and Regulation

It is illegal to dispose of asbestos waste in domestic garbage bins or to recycle, reuse, bury or illegally dump asbestos waste. Asbestos waste (in any form) must only be disposed of at a landfill site that may lawfully receive asbestos waste. The Salamander Bay Waste Transfer Station does not accept asbestos waste. Newline Road Landfill operation is the only licensed facility in the Port Stephens LGA.

OBJECTIVE

- 1) Council's long term objective is for all buildings on Council owned land to be free of asbestos containing material. The presence of asbestos in premises on Council owned or managed land will be identified and the risk to health evaluated.
- 2) Council aims to heighten awareness within the community on the identification and safe removal of asbestos to minimise the risk of exposure in the LGA. Education information and website links for educational materials can be found on Council's external website.

PRINCIPLES

- 1) The Policy is underpinned by the following principles:
 - The Policy is consistent with and supports the requirements of the Model Asbestos Policy for NSW Councils developed by the Local Government Association of NSW;
 - Council will take all necessary steps to protect the health and safety of workers, contractors and the community from the risks associated with ACM within Council controlled buildings;
 - A risk management approach will be adopted for the management and control of asbestos containing material;
 - Council should not permit the use of Council owned or controlled buildings and/or other structures, including open spaces, where it is known they contain asbestos containing materials unless all alternatives have been considered and an asbestos management plan has been developed to address the assessed risk.

- 2) Council will manage the risks from ACM and provide a record of actions undertaken with the ultimate aim being to:
 - Increase awareness;
 - Prevent airborne asbestos fibre exposure;
 - Prevent the spread of asbestos fibres;
 - Increase competency and experience; and
 - Control works likely to disturb ACM.

POLICY STATEMENT

- 1) Council has an important dual role in maintaining a safe environment and minimising the risks of exposure to asbestos, as far as is reasonably practicable, for both:
 - residents and the public; and
 - workers (employees, volunteers and contractors) in Council workplaces.
- 2) Council is committed to ensuring that asbestos containing material in Council owned buildings is managed and controlled to protect the health and wellbeing of workers, contractors and the community.
- 3) Detailed procedures and responsibilities for the management of asbestos are included in the Port Stephens Council Guide to the Management of Asbestos Risks and the Asbestos Procedure.

RELATED POLICIES

- 1) PSC Guide to the Management of Asbestos Risks.
- 2) Asbestos Procedure.

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

Asbestos was used widely in Australian buildings and structures between the 1940's and 1980's because of its durability, fire resistance and excellent insulating properties. Heightened public awareness of asbestos related diseases has increased public concern over the handling and ongoing management of asbestos containing material.

ECONOMIC IMPLICATIONS

Council has no insurance coverage under its Public Liability Policy relating to asbestos matters. The policy excludes any actual or alleged liability arising directly or indirectly out of, resulting from or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity.

ENVIRONMENTAL IMPLICATIONS

For sites that are significantly contaminated, the EPA and WorkCover are the lead regulatory authorities. The EPA's role is to regulate the classification, storage, transport and disposal of waste in NSW, including asbestos waste.

Council is the appropriate regulatory authority for activities that are not regulated by the EPA, which typically include demolition, construction sites, residential properties, commercial sites and small to medium sized industrial facilities.

RELEVANT LEGISLATIVE PROVISIONS

- 1) Australian Standard AS2601-2001 : The Demolition of Structures.
- 2) Contaminated Land Management Act 1997.
- 3) Environmental Planning and Assessment Act 1979.
- 4) Environmental Planning and Assessment Regulation 2000.
- 5) Local Government Act 1993.
- 6) Protection of the Environment Operations Act 1997.
- 7) Protection of the Environment Operations (General) Regulation 2009.
- 8) Protection of the Environment Operations (Waste) Regulation 2005.
- 9) State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 10) State Environmental Planning Policy No. 55 – Remediation of Land.
- 11) Codes of Practice.
- 12) Workers Compensation (Dust Diseases) Act 1942.

IMPLEMENTATION RESPONSIBILITY

- 1) Organisation Development, Civil Assets, Property Services, Development and Assessment, Waste.

PROCESS OWNER

- 1) Group Manager, Development Services.

REVIEW DATE

- 1) July 2015.

ITEM NO. 5

FILE NO: PSC2013-00406

POLICY REVIEW: COMPLIANCE POLICY

REPORT OF: MATTHEW BROWN – DEVELOPMENT ASSESSMENT AND COMPLIANCE
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Compliance Policy shown at **(ATTACHMENT 1)**;
- 2) Place the Compliance Policy, as amended on public exhibition of a period of 28 days;
- 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 4) Revoke the Compliance Policy dated 28 August 2007 (Min No. 235), should no submissions be received.

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor John Nell Councillor Steve Tucker
	That the recommendation be adopted.

MOTION

344	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council: <ol style="list-style-type: none"> 1) Endorse the amendments to the Compliance Policy shown at (ATTACHMENT 1); 2) Place the Compliance Policy, as amended on public exhibition of a period of 28 days; 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council; 4) Revoke the Compliance Policy dated 28 August 2007 (Min No. 235), should no submissions be received.

BACKGROUND

The purpose of this report is to forward to Council a report to adopt the updated compliance policy.

Council has a program of systematically reviewing and updating its existing policies.

The fundamental principles in the current compliance policy are still valid today. They are consistent with and in fact developed from guidelines from the NSW Ombudsman and leading government agencies that are involved with the application of compliance activities. For this reason the compliance policy has not been substantially rewritten or amended in a technical sense. There are a number of changes to the format and style of the policy, however the principles within remain largely unchanged. The only real change from a technical point is that some additional considerations when deciding on what compliance action to take are included to assist the community and Council officers.

FINANCIAL/RESOURCE IMPLICATIONS

There are minimal direct financial / resource implications.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		Policy update & implementation within existing budget.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

There are positive legal, policy and risk implications in reviewing and updating policies to the community and facilitating more accurate and robust decision making by Council staff.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that poor decisions will be made as a result of outdated/obsolete policy.	Medium	Update current policies	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Adopting the recommendation to update the Compliance Policy will not result in any adverse sustainability implications.

CONSULTATION

Consultation has been undertaken with the respective internal staff.

OPTIONS

- 1) Resolve to retain the existing policy;
- 2) Resolve to adopt the updated policy.

ATTACHMENTS

- 1) Updated Compliance Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

Updated Compliance Policy



Adopted: 28/08/07
Minute No: 235
Amended:
Minute No:

FILE NO: PSC2007-
TITLE: COMPLIANCE POLICY
AUTHOR: BRUCE PETERSEN, MANAGER
ENVIRONMENTAL SERVICES

1. BACKGROUND

The purpose of this Policy is to assist Council staff to act promptly, consistently and effectively to unlawful land-use and other illegal activities. The Policy relates to the Regulation of development activity, pollution control, regulation of parking, natural resource management, environmental health, the control over the keeping of animals and other regulatory issues within Council's area of responsibility.

The Policy will help to minimise Council's legal costs by giving a high priority to education, intervention, negotiation and mediation.

The Policy aims to encourage:

- The initiation of a process of education and creation of awareness within the Community in relation to the reasons for and importance of compliance.
- The investigation and enforcement of complaints about unlawful activity or failure to comply with the terms or conditions of approval, notices, licences or breaches of legislation which Council is responsible for enforcing.
- Cooperation with other Government Agencies responsible for enforcing legislation that relates to unlawful activities within Port Stephens.

Changes

Delete:

PSC2007

Insert:

PSC2013-00406

Delete:

Bruce Petersen, Manager
Environmental Services

Insert:

Manager Development
Assessment and Compliance

Delete:

1

Delete:

assist Council staff to act promptly, consistently and effectively to unlawful land-use and other illegal activities.

Insert:

(After – the purpose of this Policy is to) summarise Port Stephens Councils general approach to compliance and enforcement.

Insert:

OBJECTIVE (before The Policy)

Delete:

The Policy..... mediation.

Insert:

The purpose of the Policy is to assist Council staff to act promptly, consistently and effectively to allegations of unlawful activity.

Insert:

(Afterunlawful activities within Port Stephens)

- To initiate a process of education and creation of awareness within the Community in relation to the reasons for and importance of compliance;
- To establish clear

The NSW Ombudsman's Enforcement Guidelines for Council's (and the Appendices` to that document) have been used as the basis of framing this Policy and for developing operational procedures to address compliance issues.

2. PURPOSE

The purpose of this Policy is to assist Council staff to act promptly, consistently and effectively to allegations of unlawful activity.

3. DEFINITIONS

Anonymous Complaints

These are complaints make by persons that do not wish to identify themselves but they are required to identify the issue. The complainants need to provide sufficient information to enable Council to identify the activity, its location and nature.

Prima facie evidence

Is evidence that is sufficient to raise a presumption of fact or to establish the fact in question unless it is rebutted.

Technical breach

Is a minor breach of a regulatory instrument that does not result in any material damage or impact on human health or the environment. It relates primarily to administrative matters, which are in themselves illegal however due to their nature no regulatory action is required.

Unlawful activity

Is any land-use or other activity that has been or is being carried out:

- Contrary to the terms or conditions of a development consent, approval, notice, permission or license.
- Contrary to an Environmental Planning Instrument that regulates the activities or work that can be carried out on particular land.
- Contrary to a legislative provision regulating a particular activity or work.
- Without a required development consent, approval, permission or license.

Using discretion

guidelines for the exercise of discretion in dealing with action requests or complaints about unlawful activity and to assist Council staff.

Insert:

(After....address compliance issues) Council has an internal reference document known as the compliance matrix which assists in assigning various compliance matters to various disciplines

Delete:

2. PURPOSE

Insert:

OBJECTIVE

Delete:

3 DEFINITIONS

Insert:

PRINCIPLES

(After ...its location and nature) In some cases anonymous complaints are not able to be investigated.

Delete:

...unless it is rebutted.

Delete:

their

Insert:

the (nature no regulatory...)

Delete:

Contrary to a legislative...work.

Delete:

Without a required.....license.

In regulatory matters, relates to Council's discretion in deciding whether to take enforcement action or not. Council must exercise this discretion in the context of its broad regulatory responsibilities and experience.

4. POLICY OBJECTIVES

- To initiate a process of education and creation of awareness within the Community in relation to the reasons for and the importance of compliance;
- To identify illegal activities before they escalate so they can be addressed and rectified through negotiation.
- To establish clear guidelines for the exercise of discretion in dealing with action requests or complaints about unlawful activity and to assist Council staff to:
- Recognise and react to a council approved prioritisation of issues of regulatory compliance;
- Determine the extent to which complaints of unlawful activity require investigation and regulatory action;
- Identify and select various options for enforcement action being education, negotiation, mediation, arbitration or some form of regulatory action.

Delete:

4 POLICY OBJECTIVES

Delete:

- To initiate a process of ... compliance;
- To identify illegal activities before they ... negotiation.
- To establish clear ... staff to:
- Recognise ... compliance;
- Determine ... action;
- Identify and select... action.

Insert:

POLICY STATEMENT

Insert:

Education Awareness and Cooperation

Council will educate the community and commercial operators in relation to regulatory issues and their responsibilities in this regard. Council will encourage the public to try to resolve problems as they arise or come to notice before they escalate into significant issues. Council will take a proactive role in cooperation with the community to minimise the occurrence of non-compliance.

Whilst prior warning is encouraging prior to pursuing a development or environment compliance, this is assessed on a case by case basis e.g. on the impacts and severity of alleged offence.

Insert:

Response

Council's regulatory role requires that it identifies and responds appropriately to unlawful activities that it has responsibility for regulating.

Council must respond appropriately to a complaint relating to an alleged unlawful activity. In some instances, using a risk based framework, no further investigation may be a valid response.

5. PRINCIPLES

This Policy applies to:

- The initiation of a process of education and creation of awareness within the community in relation the reasons for and the importance of compliance;
- The investigation and enforcement of complaints about unlawful activity or failure to comply with the terms or conditions of approval, licenses or breaches of legislation, which Council is responsible for enforcing. The Policy relates to the regulation of development activity, pollution control, regulation of parking, natural resource management, environmental health, the control over keeping of animals and other regulatory issues within Council's area of responsibility.
- Cooperation with other government agencies responsible for enforcing legislation that relates to unlawful activities within Port Stephens.

6. POLICY STATEMENT

Education Awareness and Cooperation

- Priority will be given to providing information to the public about the regulatory requirements that Council has responsibility for, including Development, Planning and Building, Environmental Health, Animal Control, Natural Resource Management and Pollution Control.
- Council will educate the community and commercial operators in relation to regulatory issues and their responsibilities in this regard.

Based on circumstances of the alleged offence, Council respond in a way that reflects public interest, resource implications and whether the compliance issue poses a significant risk to public safety, health or to the environment.

All action requests or complaints about alleged unlawful activities should be acknowledged at the earliest opportunity and in any event no later than 7 business days. The response should indicate that Council is investigating the complaint and that a report will be forwarded as soon as possible and no later than a further 28 business days. As soon as possible and within a further 28 business days, a further report should be forwarded to the complainant indicating progress in the matter and where applicable council's decision.

Delete:

6 POLICY STATEMENT

Education, Awareness and Cooperation.....related issues.

- Council will encourage the public to try to resolve problems as they arise or come to notice before they escalate into significant issues.
- Council will take a proactive role in cooperation with the community to minimise the occurrence of non-compliance.
- The procedure to be adopted and the resources to be allocated will be an ongoing process to be determined by the appropriate Council Officer's as delegated by the General Manager.
- A series of seminars and information sessions will be launched progressively to help the development and building industry and other businesses in Port Stephens to understand their legal responsibilities.
- Training programs for industry groups will be initiated to increase their skills and awareness in compliance related issues.

Response

- Council's Regulatory role requires that it identifies and responds appropriately to unlawful activities that it has responsibility for regulating.
- Council must respond appropriately to a complaint relating to an alleged unlawful activity.

Based on the circumstances of the alleged offence, Council respond in a way that reflects public interest, resource implications and whether the compliance issue poses a significant risk to public safety, health or to the environment.

- Council will respond to anonymous complaints only if the complainant provides the necessary information to enable an appropriate response to be initiated.
- Council will endeavour to avoid conflict of interest and bias when dealing with compliance issues.

Insert:
(After...*alleged* *unlawful* activity) In some instances, using a risk based framework, no further investigation may be a valid response.

Delete:
Council will respond to anonymous complaints ...to be initiated.
Council will ... with compliance issues.

Insert:
All action requests or complaints about alleged unlawful activities should be acknowledged at the earliest opportunity and in any event no later than 7 business days. The response should indicate that Council is investigating the complaint and that a report will be forwarded as soon as possible and no later than a further 28 business days. As soon as possible and within a further 28 business days, a further report should be forwarded to the complainant indicating progress in the matter and where applicable Council's decision.

Approach

- Council will ensure confidentiality and respect privacy requirements when dealing with matters of compliance.
- The Council will ensure procedural fairness in matters dealing with non- compliance.
- Council will act in a manner that is impartial and objective when investigating matters of alleged non- compliance.
- Council will follow the Independent Commission Against Corruption Guide (2006) as amended from time to time when dealing with lobbying activities by special interest groups and/or individuals in relation to compliance matters that are the subject of investigation or action by Council.

Feedback and Record Keeping

- Council will provide prompt feed- back to complainants regarding investigations and the outcome of those investigations relating to compliance issues, and the reasons for decisions made relating to these issues.
- Council will keep accurate records of complaints, of its investigations into these complaints and of its decisions of outcomes in relation to these.

7. RESPONSIBILITY

All Council staff (and Councillors) that deal with written or verbal requests or complaints alleging unlawful activity are responsible for following these Policy guidelines. All notifications of alleged unlawful activity (verbal or written) will be lodged in Council's complaints system and directed to the responsible person. The responsible person is to be indicated on Council's Deployment Flow Charts for handling compliance issues. All complaints must be recorded and updated on a regular basis by staff trained in the use of the data -base. The input of the data, its storage, retrieval and use must be carried out in accordance with the Ombudsman's 2002 Guidelines (as updated) in terms of accuracy, privacy and integrity.

8. RESPONDING TO COMPLAINANTS

All action requests or complaints about alleged unlawful activities should be acknowledged at the earliest opportunity and in any event no later than 7 business days after the complaint is received.

The response should indicate that Council is investigating the complaint and that a report will be forwarded as soon as possible and no later than a further 28 business days. As soon as possible and within a further 28 business days, a further report should be forwarded to the complainant indicating progress in the matter and where applicable council's decision

Delete:

Council will follow the Independent Commission Against Corruption Guide (2006... investigation or action by Council

Delete:

Feedback and Record Keeping

Council will provide ... in relation to these.
Council will keep accurate.....relation to these.

Delete:

7

Delete:

(and Councillors) .

Insert:

(After Council's complaints) request

Delete:

Person

Insert:

(After Responsible) Officer

Delete:

The responsible person.....privacy and integrity. .

Delete:

8 RESPONDING TO COMPLAINANTS

All action requests ... council's decision.

9. INVESTIGATING AND PRIORITISING UNLAWFUL ACTIVITY

As a means of helping to screen and prioritise complaints, Council has developed a "Compliance Methodology" in the following terms:

Compliance Methodology

CRITICAL Response time within one business day	MODERATE Response time within 7 business days	MINOR Response time within 28 business days
--	---	---

Delete:

9

Delete:

As a means ...following terms:

Insert:

Council uses a risk based approach in assessing compliance matters and priorities.

In a public and environmental context, risk is measured in terms of the likelihood of an event occurring and the risk of harm to human health and the environment.

Applying a risk based approach enables Port Stephens Council to make informed regulatory decisions that ensure its compliance focus is on the biggest risks to the public.

As a means of helping to screen and prioritise complaints, Council has developed a "Compliance Methodology" in the following terms:

Insert:

/Considerations

(to the heading: Compliance Methodology/Considerations)

<p>Features Requires immediate action</p> <ul style="list-style-type: none"> • The issue is so urgent it needs to be attended to now. • Short term localised impacts with minimal harm would not be included. <p>Public Safety Issue</p> <ul style="list-style-type: none"> • Can involve significant public safety issues. <p>Human health issue</p> <ul style="list-style-type: none"> • Can involve significant human health issues. <p>Environmental harm</p> <ul style="list-style-type: none"> • May involve significant pollution or environmental harm <p>Examples</p> <ul style="list-style-type: none"> • Actions that have or are likely to result in some human harm or disease. • Can include life threatening issues. • Can include criminal acts and significant civil breaches. • Can include environmental issues that result in long 	<p>Features Important but not urgent</p> <ul style="list-style-type: none"> • The non-compliance does not involve any life threatening issue • It is not critical that the issue be resolved immediately <p>Public safety issues</p> <ul style="list-style-type: none"> • Can include moderate, actual or potential public safety issues. <p>Human health issue</p> <ul style="list-style-type: none"> • Can include moderate, actual or potential health issues. <p>Environmental harm</p> <ul style="list-style-type: none"> • Can include moderate or potentially serious impacts on the environment <p>Examples</p> <ul style="list-style-type: none"> • Situations that if left could adversely affect human health, safety or the environment over time • Breaches of legislation that carry civil sanctions. <p>Responses</p>	<p>Features Needs attention but is not urgent</p> <ul style="list-style-type: none"> • May escalate to moderate if left unaddressed • In some cases (but not always) it may be resolved without any regulatory intervention <p>Public safety issues</p> <ul style="list-style-type: none"> • Public safety aspects are minimal or unlikely <p>Human health issues</p> <ul style="list-style-type: none"> • Human health impacts are minimal or unlikely <p>Environmental harm</p> <ul style="list-style-type: none"> • Environmental harm is minimal or unlikely <p>Examples</p> <ul style="list-style-type: none"> • Aesthetic issues • Breach of Regulation but no immediate or likely adverse impacts • Can include neighbour disputes • Minor civil breaches • Minor localised issues • Technical breaches of legislation <p>Responses</p> <ul style="list-style-type: none"> • Investigations/enquiries • Written 	
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<p>term significant impacts.</p> <p>Responses</p> <ul style="list-style-type: none"> • Immediate investigation • Immediate action • Education and awareness may be used • Warnings may be issued • Mediation may be used • Some remedy or restoration may be necessary • Intervention may include some legal instruments (may include stop work, prohibition, injunction, clean up order, etc) • Arbitration may be an option • The last resort would be court action 	<ul style="list-style-type: none"> • Depending on the particular issue, it may be necessary to gather evidence immediately • Investigations, actions and intervention may be required • Some remedy or restoration may be necessary • Mediation may be necessary • Education and awareness may be an option • Warnings may be issued • Stop work orders, clean up notices, infringement notices and other legal instruments may be required • Arbitration may be an option in some cases • The last resort would be court action 	<p>warning/advice</p> <ul style="list-style-type: none"> • Follow up actions • Education and awareness may be an option • Mediation • Remediation/compensation may be required • Legal measures would rarely be used for minor compliance issues, however infringement notices may be used in some cases
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This methodology is not intended to be exhaustive but is meant to be a guide to ensure the efficient use of Council resources when considering a response to a compliance issue, given the urgency or seriousness of the complaint.

Not all complaints will warrant immediate or extensive investigation. Council will consider a range of factors including those in the methodology when deciding the extent to which a matter will be investigated.

Further matters would include:

Jurisdiction

Is the matter in question within the jurisdiction of Council Is there another body that is a more appropriate regulatory agency to investigate and deal with the matter?

Permissibility

Is the activity or work permissible with or without consent?
 If the activity permissible with consent, is there a consent in place?
 Is it possible to determine from the information available to Council whether the activity or work is permissible without consent or whether all conditions of consent are being complied with?

Timing Issues

Is the complaint premature, e.g. does it relate to some unfinished aspect of work that is still in progress?
 Has too much time elapsed since the events, the subject of the complaint, took place?

Magnitude of Offence

Is the complaint trivial, frivolous or vexatious?
 Is the activity having a significant detrimental effect on the environment or does it constitute a risk to public health or safety?

Pattern of Behaviour

Does the complaint indicate the existence of a systemic

Insert:

(Before –is it possible to determine) Would consent have been obtained regardless if it was sought? Is the proposal of the scale similar to exempt or complying development?

Insert:

(After Offence) / Constraints

Insert:

Are there enforcement measures necessary to ensure compliance and bring about the best environmental outcome?
 The potential or actual risk of environmental harm caused by the incident.
 Is the breach a technical breach only?
 When was the unlawful activity carried out and for how long? Why is it so urgent now when/if it has been ongoing before with no action?

Insert:

Tangible Impact

How has the unlawful activity affected the natural or built environment and the health, safety and amenity of the area?

Would consent have been given to the party if it had been sought for this particular issue? Can the breach be easily remedied?

problem, e.g. if the complaint is one of a series, could there be a pattern of conduct or a more wide spread problem?

Has the person or organisation complained of been the subject of previous complaints?

Policy and Resource Considerations

Does the complaint have special significance in terms of Council's existing priorities?

Are there significant resource implications in relation to an investigation and any subsequent enforcement action.

Public Interest Considerations

Is it in the public interest to investigate the complaint?

Is there a potential for a conflict of interest in the investigation of or reaction to a complaint.

Delete:

Has the person ... previous complaints?

Insert:

Has the person, the subject of the complaint, received previous warnings?

Is contrition shown?
Cooperation with the Council by the offender and their willingness to commit to appropriate remedial actions.
Voluntary actions by the offender to mitigate any impacts.

Are there any particular circumstances of hardship affecting the complainant, or the person the subject of the complaint?

Insert:

(After enforcement action.) Is there any precedent which may be set by not taking action?

Delete:

Is it in the public interest to investigate the complaint?

Insert:

Public interest and community expectation about the action taken to provide specific or general deterrence.

Insert:

What action would be reasonable and proportionate in this case given the circumstances?
What would be in the public interest?

Insert:

Alternative Approaches

Would an educative approach be more appropriate than a coercive approach?

What are the costs and the

If a decision is made not to investigate a complaint beyond a certain stage, the decision and the reasons for it must be recorded and appropriately approved.

10. OPTIONS FOR DEALING WITH CONFIRMED CASES OF UNLAWFUL ACTIVITY

If an investigation reveals some illegal activity, Council will attempt to use the most efficient and effective option wherever possible.

Approaches to be considered by Council will include:

Referral

Referring the complaint to an external agency for further investigation or prosecution. Referring the issue to an external mediator.

No Action

Taking no regulatory action on the basis of lack of evidence or for some other appropriate reason.

Counselling and Negotiation

Counselling the subject of the investigation to educate them on the relevant Council requirements.
Negotiating with the subject of the investigation and obtaining some undertaking to address the issues of concern.

Warnings and Notices

Issuing a letter requiring work to be done or the activity to cease.
Issuing a Notice of Intention to Serve an Order or Notice under the relevant legislation.
Issuing a Notice requiring the work to be done under the relevant legislation.

benefits of taking a formal enforcement action, as opposed to taking informal or no action?

Insert:

Likelihood of Success

What are the chances of success if the proposed enforcement action was challenged in Court? Is there a Draft Planning Instrument on exhibition that would make the unauthorised use legal?

Delete:

(after appropriately)

Approved

Insert:

(after appropriately)

Documented

Delete:

10 OPTIONS FOR DEALING WITH CONFIRMED CASES OF UNLAWFUL ACTIVITY

Insert:

COMPLIANCE OPTIONS

Delete:

If an investigation reveals some illegalCouncil will include:

Insert:

(after some other) risk based

Infringement Notices and Orders

Issuing a Penalty Infringement Notice.

Carrying out the work specified in an Order under the Local Government Act at the cost of the person served with the Order.

Court Action

Starting proceedings in the Land and Environment Court for an Order to remedy or restrain a breach of the relevant legislation.

Seeking injunctions from the Land and Environment Court or the Supreme Court. Issuing a Summons in the Local Court.

Taking proceedings for an offence under the relevant legislation.

11. TAKING ENFORCEMENT ACTION

When deciding whether to take enforcement action Council will consider the circumstances of the case including:

Constraints

Is the breach a technical breach only?

When was the unlawful activity carried out and for how long?

Impact

How has the unlawful activity affected the natural or build environment and the health, safety and amenity of the area?

Would consent have been given to the party if it had been sought for this particular issue?

Can the breach be easily remedied?

Attitude

Does the person in breach show contrition?

Are there any particular circumstances of hardship affecting the complainant, or the person the subject of the complaint?

Has the person, the subject of the complaint, received a previous warning?

Alternative Approaches

Would an educative approach be more appropriate than a coercive approach?

What are the costs and benefits of taking formal enforcement action, as opposed to taking informal or no action?

Likelihood of Success

What are the chances of success if the proposed enforcement action was challenged in Court?

Is there a Draft Planning Instrument on exhibition that would make the unauthorised use legal?

Delete:

11 TAKING ENFORCEMENT ACTION

When deciding ... including:

Delete:

Constraints

Is ... breach only?

When ... long?

Delete:

Impact

How ... amenity of the area?

Would ... particular issue?

Can the ... remedied?

Delete:

Attitude

Does ... show contrition?

Are there ... the complaint?

Has the person, ... warning?

Delete:

Alternative approaches.

approach?

What ... no action?

Delete:

Likelihood of Success

What are the chances ... use legal?

Public Interest and Council Policies

What action would be reasonable and proportionate in this case given the circumstances?

What would be in the public interest?

Council's prosecution policy -1395-001 where appropriate.

12. REPORTING ON UNLAWFUL ACTIVITY

All staff responsible for responding to complaints (of illegal activity) are to report to management on actions they have taken or propose to take in relation to these complaints every month. Every three months a summary report of these actions is to be submitted to the full Council for information. The summary report is to include:

- The number of critical, moderate and minor compliance issues dealt with by Council in the previous 3 month period. When the data becomes available, this report will include an analysis of the types and number of unlawful activities reported to Council over time. An analysis of any obvious trends emerging from the data set will also be reported on.
- A detailed summary of all unlawful activities rated as critical (in the reporting period). The detailed summary will provide a status report on progress with Council's response to each critical compliance issue for the reporting period.
- Education and awareness programs initiated by Council to help the community better understand their obligations in terms of compliance.
- Legal costs associated with compliance matters.

13. DELEGATION OF ENFORCEMENT ACTION

Council's prosecution policy 1395-001 applies where appropriate.

Where there are potentially high legal costs or significant resource implications for Council in conducting investigations or in deciding to take court action in relation to illegal activities, the General Manager will inform the Council of the intended course of action and seek the Council's endorsement.

14. RELATED POLICIES

Reference should be made to Council's Prosecutions Policy, file number 1395-001, adopted on the 20 June 2000, minute number 319.

15. SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

There are positive social implications associated with this policy including those of equity, fairness and efficiency in the

Delete:

Public Interest and Council Policies

What ... policy – 1395-001 where appropriate.

Delete:

12 REPORTING ON UNLAWFUL ACTIVITY

All staff responsible for responding to complaints Legal costs associated with compliance matters.

Delete:

13 DELEGATION OF ENFORCEMENT ACTION
Council's prosecution policy 1395-001 ...seek the Council's endorsement.

Delete:

14

Delete:

Reference should be made ... minute number 319.

Insert:

N/A

Delete:

15

Insert:

The Compliance Policy can improve sustainability outcomes for the local government area.

way that Council conducts its regulatory functions. It is not in the community's interest for Council to be spending its time and resources focussing on low priority compliance issues at the expense of more pressing issues. It is also not in the community's interest if Council is not exercising its discretion in a balanced and just way.

An appropriate policy will not only assist Council to approach compliance in a consistent manner but will give the community confidence in its role as a regulator.

ECONOMIC IMPLICATIONS

There are no additional costs associated with the implementation of this policy.

The Compliance Policy will not only help Council to more efficiently conduct its regulatory functions but will minimise legal costs by focussing on education, awareness raising and negotiation rather than expensive legal actions in the courts.

ENVIRONMENTAL IMPLICATIONS

The implementation of this policy should lead to better environmental outcomes due to the policy's emphasis on education and awareness. The policy will also provide a better compliance framework to discourage individuals or corporations from damaging the environment.

16. RELEVANT LEGISLATIVE PROVISIONS

Council has authority to take regulatory action under a number of NSW Acts and Regulations including, but not restricted to:

The Local Government Act, 1993 (NSW)
Environmental Planning and Assessment Act, 1979 (NSW)
Protection of the Environment Operations Act, 1998 (NSW)
Roads Act, 1993 (NSW)
Companion Animals Act, 1998 (NSW)
Noxious Weeds Act, 1993 (NSW)
Public Health Act, 1991 (NSW)
Swimming Pools Act, 1992 (NSW)
Rural Fires Act, 1997 (NSW)
Traffic Act, 1999 (NSW)
Food Act, 1989 (NSW)
Impounding Act, 1993 (NSW)

Delete:

There are positive social implications ...as a regulator

Insert:

The Compliance Policy can improve social outcomes for the local government area.

Delete:

There are no additional costs ... actions in the courts.

Insert:

The Compliance Policy can improve economic outcomes for the local government area.

Delete:

The implementation of ... damaging the environment.

Insert:

The Compliance Policy can improve environmental outcomes for the local government area.

Delete:

16

Council has authority to take regulatory action under a number of NSW Acts and Regulations including, but not restricted to:

Insert:

IMPLEMENTATION RESPONSIBILITY

1 Manager Development Assessment and Compliance

PROCESS OWNER

1 Manager Development Assessment and Compliance

17. REVIEW DATE

- 1) This Policy will be reviewed twelve months after the date on which Council has adopted it.

<p>Delete: 17 Delete: Twelve months Insert: 3 years</p>
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ITEM NO. 6

FILE NO: A2004-0284

POLICY REVIEW: PAYMENT OF EXPENSES & PROVISION OF FACILITIES TO COUNCILLORS POLICY

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Revoke the Payment of Expenses & Provision of Facilities to Councillor Policy dated 27 November 2012 (Min No. 323);
- 2) Adopt the Payment of Expenses and Provision of Facilities to Councillors Policy as amendment as advertised (**ATTACHMENT 1**).

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Sally Dover Councillor John Morello
	That the recommendation be adopted.

MOTION

345	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council: <ol style="list-style-type: none"> 1) Revoke the Payment of Expenses & Provision of Facilities to Councillor Policy dated 27 November 2012 (Min No. 323); 2) Adopt the Payment of Expenses and Provision of Facilities to Councillors Policy as amendment as advertised (ATTACHMENT 1).

BACKGROUND

This matter was deferred to the Council meeting held on 12 November 2013, to allow for the provision of additional information concerning clause 2.15.1, in particular insurance coverage for legal expenses.

This aspect of the policy is covered under a Statewide Mutual Liability Scheme which approximately 140 Councils are covered by the Scheme. Council has been advised that quotes have previously been sought for this type of cover from other providers without success. This is due to insurance companies not being prepared to insure

individual Councils rather seeking a "group of Council" arrangement for Councillor and Officer Liability Insurance.

It is proposed to amended the wording of clause 2.15.1 from *Councillors shall receive legal expenses.....to Councillors may be entitled to indemnity for an enquiry, investigation or hearing commenced by an official body*. This change is to ensure the policy is in line with the insurance policy with respect to insurance coverage for legal expenses.

The policy is to provide access to cover where it is deemed under the insurance policy, that a Councillor has acted appropriately and not in an unlawful manner. Obviously with any successful claim, the insurance company would make an assessment at the time, taking into account the matter in question, the actions of the individual and any other relevant circumstances of such a claim. The current insurer is Zurich and should a claim eventuate and not be paid out, Council could make a submission to the Statewide Board where it is felt that the councillors costs should be covered, the Board has the discretion to approve claims in these circumstances, if appropriate.

Alternatively, Council could resolve at anytime that the costs be covered directly be the Council. This would require a report to be tabled at an Ordinary Meeting of Council.

The purpose of the following information is to provide Council with any response received from the community following public exhibition of the Payment of Expenses and Provision of Facilities to Councillors Policy.

Council has publicly exhibited the Payment of Expenses and Provision of Facilities to Councillors Policy for 28 days. Public exhibition was from 3 October 2013 to 31 October 2013. No submissions were received.

Council is now asked to consider the adoption of the policy amendments as advertised.

FINANCIAL/RESOURCE IMPLICATIONS

Expenditure associated with this policy is included in the 2013-14 budget allocation, however the upper limits are not fully budgeted, given some Councillor do not reach these limits. Councillors will be advised should the upper budget limits be achieved.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	93,330	This is the total cost allocated under this policy
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK 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.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of Section 252 & 253 of the Local Government Act 1993, should this policy not be adopted and reimbursement made to Councillors.	Low	Adopt a revised policy	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The policy allows Councillors to effectively carry out their responsibilities as members of the Council and as community representatives without suffering personal financial hardship.

CONSULTATION

- 1) General Manager;
- 2) Councillors;
- 3) Port Stephens Community.

OPTIONS

- 1) Adopt the recommendation;
- 2) Amend the draft policy.

ATTACHMENTS

- 1) The proposed amendments to the policy.

TABLED DOCUMENTS

- 1) Payment of Expenses and Provision of Facilities to Councillors Policy as amended.

**ATTACHMENT 1
PROPOSED AMENDMENTS TO THE POLICY**

Clause	Proposed amendments
1.1.12	Change adopted date to 2013 date once adopted.
1.6	<p>Delete</p> <ul style="list-style-type: none"> • Division of Local Government Model Code of Conduct – June 2008. <p>Insert</p> <ul style="list-style-type: none"> • Division of Local Government Model Code of Conduct, as amended
2.6.2	<p>Delete - NSW Local Government and Shires Association.</p> <p>Insert - Local Government NSW</p>
2.6.4	<p>Delete - Each Councillor is entitled to a maximum of \$1000.00 per year of term.</p> <p>Insert - The Mayor is entitled to a maximum of \$1000.00 per year of term.</p> <p>Delete - NSW Local Government and Shires Association.</p> <p>Insert - Local Government NSW</p>
2.6.5	<p>Delete - NSW Local Government and Shires Association.</p> <p>Insert - Local Government NSW</p>
2.6.6	<p>Delete - NSW Local Government and Shires Association.</p> <p>Insert - Local Government NSW</p>
2.7.1	<p>Delete - a) NSW Local Government and Shires Association.</p> <p>Insert – a) Local Government NSW</p>
2.7.6	<p>Delete - NSW Local Government and Shires Association.</p> <p>Insert - Local Government NSW</p>
2.8.1	<p>Delete - NSW Local Government and Shires Association.</p> <p>Insert - Local Government NSW</p>
2.12	<p>Insert a new sub-clause to accommodate bundle plans for phone and internet and separate mobile phone plans. This clause would be an alternate option to sub-clause 2.12.5</p> <p>Draft sub-clause</p> <p>As an alternative to clause 2.12.5, Council shall reimburse Councillors for their communication device costs where it is part of a bundle plan. This would include landline costs and internet where costs were incurred in attending to Council business to a maximum cost of \$120.00 per Councillor per month of term. The maximum cost for a mobile phone plan would be \$100.00 per Councillor per month of term.</p> <p>All communication device costs incurred above this maximum are at the Councillors own expense.</p>
2.12.6	<p>Delete – (This clause is no longer relevant as Councillors are required to purchase their own device and seek reimbursement).</p> <p>If a Councillor so elects, Council will provide the Councillor with a mobile phone instead of paying a contribution towards the Councillor's expenses on their existing mobile phone, however the maximum amount of mobile phone expenses incurred by Council must not exceed the amount set out in clause 2.12.5. All communication device costs incurred above this maximum must be reimbursed to Council by the</p>

	Councillor. Councillors are encourage to purchase their own mobile phone and seek reimbursement under clause 2.12.5.
	Renumber the following clauses as a result of deleting 2.12.6 2.12.7 2.12.8 2.12.9
2.12.9	Delete -(This clause is no longer relevant as Councillors are required to purchase their own device and seek reimbursement). Upon a Councillor ceasing to hold office, that Councillor must return to Council any items provided to him or her under this clause. Generally Council does not provide such equipment as Councillors are required to by such equipment under 2.12 and seek reimbursement.
2.13.2	Delete Where a Councillor has responsibilities for the care and support of any relative, Council shall reimburse the actual cost incurred by the Councillor to engage professional care for the relative whenever considered necessary by the Councillor (acting reasonably) in order for the Councillor to discharge the functions of civic office. Insert Where a Councillor has sole responsibility for the care and support of any relative, Council shall reimburse expenses for carer arrangements, where expenses relate to a relative as defined under clause 2.13.1 and are payable when a Councillor is required to attend the following to discharge the functions of civic office: a) Council meetings, committee meetings, inspections, formal briefings, civic and ceremonial functions relating to civic office; b) Meetings scheduled by Council and/or the Mayor; c) Meetings arising as a result of a Councillor being appointed by Council to an outside body or committee; d) A meeting, function or other official role as a representative of the Mayor or Council.
2.15.1	Delete Councillors shall receive legal expenses, in the event of: (a) An enquiry, investigation or hearing by any of: <ul style="list-style-type: none">• The Independent Commission Against Corruption;• The Office of the Ombudsman;• Division of Local Government;• The Police;• The Director of Public Prosecutions;• The Local Government Pecuniary Interest Tribunal; or• Council's Conduct Review Committee/Reviewer.

	into the conduct of a Councillor; or Insert Councillors may be entitled to indemnity for an enquiry, investigation or hearing commenced by an official body.
3.1.1	Delete Council's adopted Management Plan. Insert Council's adopted Integrated Strategic Plans.
3.3.3	Delete – (this is a duplication with Clause 3.5.2) Light refreshments such as biscuits, health bars and beverages.
3.7.1	Increase the fee from \$220 to \$250 per annum.
3.9.3	Delete Further details can be obtained through Council's Recreation Services Section at Council. Insert Further details can be obtained through the Councillor Support Executive Assistant.
3.10.1	Delete NSW Occupational Health & Safety Act Insert NSW Workplace Health & Safety Act
3.12.7	Delete - A mobile phone for the use of the Mayor in discharge of their formal duties, the cost of which shall be fully met by Council. Also, renumber clause 3.12.8.
4.1 & 4.1.1	Delete – (This clause is no longer relevant as Councillors are required to purchase their own device and seek reimbursement). Upon ceasing to hold office a Councillor may purchase any Council equipment held by the Councillor at the market value of the equipment at the time of ceasing to hold office as approved by the General Manager.
4.2.1	Insert the replacement date of the policy.
	Update FORM 1 of the Policy to reflect changes

ITEM NO. 7

FILE NO: PSC2009-02488

POLICY REVIEW: FRAUD AND CORRUPTION CONTROL

REPORT OF: TONY WICKHAM – EXECUTIVE OFFICER

GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the amendments to the Fraud & Corruption Control policy shown at **(ATTACHMENT 1)**;
- 2) Place the Fraud & Corruption Control policy, as amended on public exhibition of a period of 28 days;
- 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council;
- 4) Revoke the Fraud & Corruption Control policy dated 12 April 2011 (Min No. 111), should no submissions be received.

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Sally Dover Councillor John Nell
	That the recommendation be adopted.

MOTION

346	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council: <ol style="list-style-type: none"> 1) Endorse the amendments to the Fraud & Corruption Control policy shown at (ATTACHMENT 1); 2) Place the Fraud & Corruption Control policy, as amended on public exhibition of a period of 28 days; 3) Should no submissions be received, the policy be adopted as amended, without a further report to Council; 4) Revoke the Fraud & Corruption Control policy dated 12 April 2011 (Min No. 111), should no submissions be received.

BACKGROUND

The purpose of this report is to recommend the amendments to the Fraud and Corruption Control Policy, **(ATTACHMENT 1)** which represents Council's commitment to effective fraud and corruption risk management and prevention. The policy has been reviewed and endorsed by the Audit Committee at its meeting of 4 November 2013.

Port Stephens Council is committed to protecting its revenue, expenditure and property from any attempt, either by members of the public, contractors, elected Councillors or its own employees, to gain by deceit, financial or other benefits. The policy (and a supporting management directive) has been developed to protect public funds and other assets, protect the integrity, security and reputation of Council and its employees, and assist in maintaining high levels of service to the community.

This Policy draws together Council's fraud and corruption prevention and detection initiatives into one document. It forms part of Council's Risk Management Framework and has three major components:

Prevention – initiatives to deter and minimise the opportunities of fraud and corruption;

Detection – initiatives to detect fraud and corruption as soon as possible after it occurs; and

Response – initiatives to deal with detected or suspected fraud and corruption.

The desired outcome of this Policy is the elimination of fraud and corruption against Council.

FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the development and implementation of the Policy are within the existing 2013-2014 Budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	45,000	Costs associated with the function of internal audit
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

All information received by Council in relation to suspected fraudulent or corrupt conduct will be collected, classified and handled appropriately having regard to privacy, confidentiality, legal professional privilege and the requirements of natural justice.

The Policy has been developed in accordance with Australian Standard AS8001:2008 Fraud and Corruption Control.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that fraudulent activity could occur within Council which is a risk of any business. The key to managing the exposure to fraudulent activity is to ensure appropriate controls are in place.	Low	Adopt the reviewed policy.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Fraud and Corruption Control Policy provides the community with assurance of the integrity in the Local Government system and of Port Stephens Council. Related policies provide confidence to those who identify potential fraud or corruption to come forward.

Fraud and corruption cost the organisation because they detract from its financial performance and its ability to provide and enhance facilities and services to its community. This policy addresses this risk.

By putting in place mechanisms to detect corruption it allows for a 'level playing field' for promoters of economic development opportunities and the enhanced reputation of Council will underpin other strategies for economic growth in the LGA.

By preventing fraud and corruption, this Policy allows for those other controls and conditions that are in place to protect the environment from being subverted.

CONSULTATION

- 1) General Manager;
- 2) Executive Team;
- 3) Council's Audit Committee.

OPTIONS

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

ATTACHMENTS

- 1) The reviewed Fraud and Corruption Control policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



POLICY

Adopted: 12 April 2011

Minute No: 111

Amended:

Minute No:

FILE NO: PSC2009-02488

**TITLE: FRAUD AND CORRUPTION
CONTROL POLICY**

REPORT OF GROUP MANAGER CORPORATE SERVICES

BACKGROUND

Port Stephens Council (Council) recognises that it has a responsibility to develop, encourage and implement sound financial, legal and ethical decision-making and organisational practices.

This Fraud and corruption control policy represents Council's commitment to effective fraud and corruption risk management and prevention. The desired outcome of this commitment is to minimise the potential for fraud and corruption against Council.

This policy draws together Council's fraud and corruption prevention and detection initiatives into one document. It forms part of Council's risk management framework and has three major components:

- Prevention – initiatives to deter and minimise the opportunities of fraud and corruption;
- Detection – initiatives to detect fraud and

Changes

Delete:

Group Manager Corporate Services

Insert: Executive Officer

corruption as soon as possible after it occurs;
and

- Response – initiatives to deal with detected or suspected fraud and corruption.

For the purpose of this policy the term “Council officials” refers to all employees, consultants and contractors engaged by Council.

The desired outcome of this policy is the elimination of fraud and corruption against Council involving employees and other persons external to Council. While the elimination of all instances of fraud and corruption may not realistically be achievable, it remains Council’s ultimate fraud and corruption prevention objective.

OBJECTIVE

To achieve its fraud and corruption prevention objectives Council will:

- 1) Identify fraud and corruption risks and regularly review and update the Fraud and corruption control policy;
- 2) Provide fraud and corruption awareness training to those staff who are identified as being in positions that require fraud and corruption awareness training;
- 3) Ensure all Councillors, staff, contractors and the public are aware of Council’s fraud and corruption control policy;
- 4) Encourage and promote professional and ethical business practice;
- 5) Identify any weaknesses in Council’s control processes through regular review of Council’s operations;
- 6) Clearly communicate how suspected instances of fraud and corruption can be reported;
- 7) Investigate alleged or suspected instances of fraud or

Delete: after

Insert: if

corruption using professionals with experience in investigation techniques;

- 8) Take appropriate action to deal with instances of actual, suspected or alleged fraud or corruption, including by recommending prosecution of persons and/or organisations for fraud or corruption offences where and when appropriate; and
- 9) Use all practicable avenues to recover money or property lost through fraudulent or corrupt activity.

PRINCIPLES

Council is committed to:

- 1) Adopting measures to minimise risk;
- 2) Serving, representing and promoting community needs, interests and aspirations;
- 3) Protecting community assets and resources; and
- 4) Exercising its powers and engage in initiatives that add value to and capitalise on the community's assets and resources.

POLICY STATEMENT

1 Overview

This Fraud and corruption control policy represents the commitment of the Council to effective fraud and corruption risk management. It also requires the commitment, co-operation and involvement of all Councillors, staff, contractors and the public in preventing, detecting and responding to all instances of fraud and corruption.

2 Purpose

Port Stephens Council is committed to protecting its revenue, expenditure and property from any attempt,

either by members of the public, contractors, elected Councillors or its own employees, to gain by deceit, financial or other benefits. This policy is designed to protect public funds and other assets, protect the integrity, security and reputation of Council and its employees and assist in maintaining high levels of service to the community.

3 Attitude to fraud and corruption

- a) The Council has a zero tolerance to fraud and corruption.
- b) Council is committed to minimising the incidence of fraud and corruption through the development, implementation and regular review of fraud and corruption prevention, detection and response strategies.

4 Council's approach to fraud and corruption

- (a) Council will ensure that Council officials are aware of the fraud and corruption reporting procedures and are actively encouraged to report suspected fraud and corruption through the appropriate channels.
- (b) Council has adopted a clear framework and approach to fraud and corruption detection and prevention, This approach is based on the Australian standard for fraud and corruption control AS 8001:2008. In particular, the following fraud and corruption control strategies are pursued by Council:

Prevention Strategies	Detection Strategies
<ul style="list-style-type: none"> ▪ Integrity framework – Code of conduct 	<ul style="list-style-type: none"> ▪ Council and external agency reviews
<ul style="list-style-type: none"> ▪ Fraud and corruption control management directive (including allocation of fraud and corruption prevention responsibilities) 	<ul style="list-style-type: none"> ▪ Management reports and internal audit reviews

▪ Fraud and corruption awareness training	▪ Staff induction and fraud and corruption awareness training sessions
▪ Fraud and corruption risk assessments	▪ Clear reporting channels and internal audit reviews
▪ Robust internal controls	▪ Protected disclosures and internal reporting
▪ Pre-employment screening	▪ Police checks and references

- c) All information received by Council in relation to suspected fraudulent or corrupt conduct will be collected, classified and handled appropriately having regard to privacy, confidentiality, legal professional privilege and the requirements of natural justice.
- d) If fraud or corruption against Council is detected, the General Manager will make all decisions on the appropriate communications protocol by nominating one person to be the authorised spokesperson. Any communications relating to a fraud or corrupt incident by a person other than the General Manager or authorised spokesperson will be considered a breach of this policy. Any breach of any policy is dealt with under the provisions of the Enterprise agreement 2008; and/or the terms of contract; and/or the Code of conduct.

5 Reporting

Under the Code of conduct there is an obligation for each Council official to report any improper conduct, which includes suspected fraudulent or corrupt behaviour. An individual may report the matter either internally or externally as outlined below.

Council officials should report any suspicions to only those people who absolutely need to know. This protects people from allegations that may not be proven and prevents the possible destruction of evidence.

Delete: Protected disclosures and internal reporting

Insert: Public Interest disclosures and internal reporting

5.1 Internally

Councillors, Council officials and delegates of Council must report as soon as possible any suspected fraudulent or corrupt behaviour to:

- Executive Officer;
- General Manager; or
- Mayor.

Supervisors and managers or the internal auditors have an obligation to immediately pass on the reports of suspected fraudulent or corrupt behaviour or breaches of the policy to the General Manager.

The only exception to this is where the General Manager is suspected of conduct relating to fraud or corruption, in which case the matter should be reported to the:

- Mayor;
- Executive Officer; or
- The relevant external agency. (See 5.2 below)

5.2 External Agencies

Matters relating to suspected fraudulent or corrupt activities can also be reported to the following external agencies:

- The Independent Commission Against Corruption (ICAC) – telephone 8281 5999 (in the case of allegations of fraud or corruption);
- The Division of Local Government – telephone 4428 4100 (in the case of allegations relating to pecuniary interests);
- NSW Police – telephone 9281 0000 (in the case of allegations relating to fraud); and
- NSW Electoral Commission – telephone 9290

Delete: 2008

Insert: 2011

5999 (in the case of allegations relating to election fraud).

6 Responsibilities

Council will ensure that:

- Relevant exposure of significant risks to the Council are identified. The evaluation of risk is a critical determinant in Council's approach to fraud and corruption prevention and detection;
- Relevant legal obligations are monitored to ensure that operating procedures and conditions meet these obligations;
- The Code of conduct and associated policies and procedures are developed and publicised;
- Appropriate fraud and corruption prevention and detection controls are incorporated when developing and maintaining computer and/or other systems;
- Employees are properly trained and understand relevant Council policies and the legislative requirements of protection for informants under the Protected Disclosures Act 1994;
- An environment exists in which fraud and corruption related activity is discouraged; and
- Effective investigations of allegations are undertaken, and notified to the NSW Police, the ICAC, the NSW Electoral Commission and/or the Division of Local Government, for investigation and/or prosecution as required.

There are a number of specific responsibilities associated with the prevention of fraud and corruption related activity. These specific responsibilities are to be included in the Fraud and corruption control management directive.

7 Record keeping, confidentiality and privacy

Council will maintain effective record keeping systems to demonstrate due process has been followed for all actions and decisions arising out of the implementation of this

Insert: or 1800 463 909

Delete: 9281 0000

Insert: 4983 7599

policy. All investigative documentation will comply with relevant legislative provisions, will remain strictly confidential and will be retained in accordance with the *State Records Act 1998* and Council's Access to information policy.

RELATED POLICIES

This policy supports existing Council procedures in place to ensure that employees have access to suitable processes to deal with grievances or the decisions of supervisors and provided with safe and healthy working conditions. Refer also to the following key Council documents:

- Code of conduct;
- Protected disclosures internal reporting policy;
- Grievance and dispute resolution process; and
- Access to information policy.

Delete: Protected

Insert: Public Interest

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The Fraud and corruption control policy provides the community with assurance of the integrity in the local government system and of Port Stephens Council. Related policies provide confidence to those who identify potential fraud or corruption to come forward.

Delete: Fraud and corruption control management directive.

Insert: Fraud and Corruption Control Management Directive.

ECONOMIC IMPLICATIONS

Fraud and corruption cost the organisation because they detract from its financial performance and its ability to provide and enhance facilities and services to its community. This policy addresses this risk.

By putting in place mechanisms to detect corruption it allows for a 'level playing field' for promoters of economic development opportunities and the enhanced reputation of Council will underpin other strategies for economic growth in the LGA.

ENVIRONMENTAL IMPLICATIONS

By preventing fraud and corruption, this policy allows for those other controls and conditions that are in place to protect the environment from being subverted.

RELEVANT LEGISLATIVE PROVISIONS

Local Government Act 1993 and Local Government (General) Regulations 2005;
Environmental Planning and Assessment Act 1979
Independent Commission against Corruption Act 1998
Protected Disclosures Act 1994
Crimes Act 1990
State Records Act 1998
Australian Standard AS8001:2008

IMPLEMENTATION RESPONSIBILITY

Group Manager Corporate Services

REVIEW DATE

To ensure the Fraud and corruption prevention policy remains relevant, it will be reviewed every two (2) years. If legislative requirements alter, this policy will be reviewed immediately to accord with these requirements.

Delete: Protected
Insert: Public Interest

Delete: 1998
Insert: 1988
Delete: Protected
Insert: Public Interest

Delete:
Group Manager Corporate Services
Insert: Executive Officer

Insert: above "Review Date"

PROCESS OWNER

Executive Officer

ITEM NO. 8

FILE NO: PSC2010-03194

AUDIT COMMITTEE 2012-2013 ANNUAL REPORT

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Audit Committee 2012-2013 Annual Report as presented.
-

**ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor Steve Tucker
	That the recommendation be adopted.

MOTION

347	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council adopt the Audit Committee 2012-2013 Annual Report as presented.

BACKGROUND

The purpose of this report is to present to Council the Audit Committee's Annual Report for the period 2012-2013.

The Audit Committee has been established in accordance with the Division of Local Government *Best Practice Guidelines 08/64*.

The Annual Report to Council summarises the Audit Committees activities for the 2012-2013 period in accordance with the Audit Committee Charter, Item 5.1 *Reporting to Council*.

FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications arising from the annual report.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Audit Committee activities remain consistent with the Audit Committee Charter, all relative legislative requirements and DLG Guidelines.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council is not compliant with the Audit Committee Charter and relevant legislation.	Low	Adoption of this report	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

It is considered that the Audit Committee will continue to add significant rigour to Council's governance framework, risk control, compliance and financial reporting and will enhance Council's reputation, operations and financial sustainability.

CONSULTATION

- 1) Audit Committee;
- 2) Executive Leadership Team;
- 3) Internal Auditors;
- 4) External Auditors.

OPTIONS

- 1) Adopt the recommendation;
- 2) Reject the recommendation.

ATTACHMENTS

- 1) Audit Committee 2012-2013 Annual Report.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1



116 Adelaide Street, Raymond Terrace NSW 2324
PO Box 42, Raymond Terrace NSW 2324

DX 21406 | ABN 16 744 377 876



Report

Date: 8 August 2013

File No: PSC2009-02637

Subject: Audit Committee 2012-2013 Annual Report

Background:

At its meeting held on 9 February 2010, Port Stephens Council resolved to establish a Section 355c Audit Committee (Committee) in accordance with Division of Local Government *best practice guidelines* 08/64. The objective of the Committee is to enhance the corporate governance of Council through the provision of independent oversight, review and advice. The Committee has no executive powers and assists Council by providing independent assurance and critical review on the organisation's governance, financial, risk control and compliance frameworks.

The Committee's Charter includes a requirement to report annually to Council on the Committee's achievements. Accordingly, the Committee is pleased to present this report on its activities for the 2012/2013 financial year.

Management by Council of governance and risk activities is a crucial requirement for business success. The Audit Committee continues to guide Council in managing risk as an integral part of management practices and as a safe guard to ensuring continuity of business.

Audit Committee structure

The Committee has four voting members. Two are independent members in accordance with the Division of Local Government's *best practice guidelines*, and two Councillors represent Council on the committee. Non-voting members include the General Manager, Group Managers and the Executive Officer. Representatives from Council's internal audit provider, Lawler Partners and external audit provider, PricewaterhouseCoopers also attend meetings as required.

Audit Committee members 2012/2013 are:

Mr David Wheeler (independent Chair)
Mr Bob Urry (independent member)
Councillor Ken Jordan
Councillor Peter Kafer

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

Committee meetings were held on the following dates:

The Committee has met a further four (4) times since –

- 26 July 2012
- 25 October 2012
- 28 February 2013
- 27 June 2013

The budget for the Audit Committee enables a minimum of four meetings (held quarterly) per year; however, the actual number held is dependent on the committee and the extent of issues awaiting review.

Attendance at the four meetings held to 30 June 2013 is as follows

David Wheeler	4	
Bob Urry		3
Councillor Kafer		0
Councillor Jordan		4
General Manager		4
Group Manager Corporate Services		4
Group Manager Facilities and Services (or representative)		4
Group Manager Development Services (or representative)		4
Executive Officer		4
Internal Auditor representative		4
External Auditor representative		2

It should be noted that representation by the external auditor is only required twice per annum, reflecting key stages of the external audit scope.

Cost of audit activities to Council

The following provides an estimate of the cost of audit related activities to Council for 2012/2013:

Internal Audit contract fees	45,000
Internal Audits conduct outside the contract	16,065
2010/2011 External Audit fee	77,000
Audit Committee attendance fees	600
Sundry expenses (advertising (EOI), etc)	2,475
TOTAL	\$141,140

Engagement with external auditors

The Audit Committee undertakes a general oversight role of the external auditor's audit scope, approach and reliance on internal audit activity. The committee also monitors management's implementation of recommendations identified within the external auditor's management letters.

The Committee also has a role in the oversight of Council's financial statements. During the year the Committee considered Council's 2011/12 financial statements and external audit focus areas.

Risk management

A key role of the committee is to review and monitor the effectiveness of the key controls in place to manage and mitigate the risks encountered by Council. These matters include operational, strategic, financial and fraud control environments, as well as ensuring adequate insurance coverage and business continuity planning.

During 2012/2013, the committee considered the high priority risks facing the organisation and monitored risk treatment plans established by management to reduce or mitigate those risk exposures.

Current high priority risks include:

Asset:	Ability to adequately maintain assets, both physical and built environments
Compliance:	Records management compliance with State legislation
Governance:	Political decisions being made contrary to professional advice, policy or legislation
Technology:	Ability to meet business needs with appropriate technology infrastructure
People:	Health and safety systems ensuring a safe work environment
Governance:	Ability to continuously improve and innovate
Reputation:	Effective leadership management and inappropriate use of social media
Reputation:	Lack of cohesion of elected members

Legal matters

By nature of its legislative compliance role, Council has a history of various legal actions over time. Legal matters can have a significant impact on the financial and resource capacity of the organisation. Management considers the merits of all legal action and seeks to mediate and settle matters where appropriate. The committee has an oversight role on key litigation and compliance matters before the Council.

During 2012/2013 the committee considered the following significant legal matters:

- Lawrence Waterhouse Pty Ltd (in liquidation) – Council seeking to recover significant legal costs awarded by the Courts
- MM Constructions (Australia) Pty Ltd – insurance liability matter in Supreme Court, now final
- Towers – compulsory acquisition matter
- McEwan and Webb – Appeal in the Land & Environment Court, now final
- Watson Group – Prosecution for unlawful disposal of waste, now final
- Armstrong – Prosecution for dog attack, now final
- ATB Morton – Appeal against deemed refusal of development application, now final
- Nichol – Appeal against refusal of development application, matter continuing
- Gilson – Appeal against Prevention Notice, now final
- Le Mottee Group – Appeal against refused building certificate application, now final
- Le Mottee Group – Appeal against refused development application, matter continuing

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

Internal audit

The Audit Committee at its first meeting of the year held on 26 July 2012, the Audit Committee endorsed the Internal Audit Program 2012-2013. This document represents the forward program for the Internal Auditor for the coming financial year, together with an estimated timing and risk rating of future audits across Council.

The Audit Committee has identified 10 auditable areas across Council for the period of the Internal Audit plan 2012-2013. Given the resources available auditable areas of highest risk have been prioritised.

The table below lists internal audit reports examined by the Audit Committee at the four meetings held since 1 July 2012:

Report	Risk Rating	Area/s of Council where applicable
Succession Planning	Extreme/Medium	Organisation Development
<p>Key findings:</p> <p>The overall results of the audit identified that there are a number of areas for improvement for Council in managing succession planning. Based upon the five broad steps of succession planning, the Council is only completing the first two steps in detail. Some aspects of the remaining three steps are completed within Council, however the management and review of this is limited, largely informal and does not form part of any structured process.</p> <p>An overall summary of the positive aspects of succession planning at Council are as follows:</p> <ul style="list-style-type: none"> • Structured process for assessing and planning for workforce requirements for Council moving forward; • Annual performance management system across Council, through the Work and Development Plan; • Identification of critical employees and position across Council; and • Detailed employee surveying, including employee engagement. 		
Project Management	High/Medium	Facilities & Services
<p>Key findings:</p> <p>The overall results of the audit indicate that improvements should be made around the general understanding and training of project management, in particular sign off at each stage, policy and procedure enhancement and document control.</p> <p>The positive aspects of the findings were that consideration is given to key areas such as risk, restrictions and communication.</p>		
Section 94	Extreme/Medium	Community Planning & Environmental Services

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013
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Key findings:

The overall results of the audit identified that there are a number of areas for improvement in future managing Section 94 contributions, in particular allocation of repealed funds, policy and procedures and regular training.

It was noted that from a positive aspect Council had formed a Section 94 Analysis Team, flowcharted processes and acknowledgement of the importance of a structured process.

Asset Maintenance	Extreme/Medium	Civil Assets
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Key findings:

The overall results of the audit identified a number of areas for improvement. The key areas were informal processes for review and quality assurance of maintenance, the need for improved asset register and better utilisation of AUSSPEC/NAMS/IIMM plans.

Capital Projects/Works Management	High/Medium	Civil Assets
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Key findings:

The overall result of the audit identified improvements in the areas of a formal capital works framework and process improvement, improved project plans and real time financial reporting.

Financial Modelling		Financial Services
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The Financial Modelling audit was conducted in addition to the endorsed Audit Program. The report was provided as part of the future financial position modelling for Council.

This information will be used for future budget planning purposes and business activities.

Payroll & Leave Management	Medium/Low	Financial Services
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Key findings:

The overall results of the audit identified improvement in the key areas of succession planning for staff, reduction of staff resources for data entry and the improved managed of timesheets/flexisheets.

The audit also identified positives aspects with the audit. Those being the high level of knowledge of payroll staff and the management of the whole process by payroll staff.

Property Management	Medium/Low	Property Services
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Key findings:

The overall results of the audit identified improvement in policy development for bond requirements and document management.

Exercising Delegations	High/Low	General Manager's Office
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MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

Key findings:

The overall results of the audit identified improvement in annual reviews, improved understanding of the review process is required, currency of legislation and improved definition surrounding monetary values.

The audit also identified positives aspects with the audit. Those being key personnel were aware of their delegations and the process in exercising delegations, management of the instruments is appropriate for the operations and an overall conservative approach is taken by staff when exercising delegations.

Sundry revenue & cash handling

Low

Financial Services

Key findings:

The overall results of the audit identified improvement are required in cash float management, receipting, management of EFTPOS facilities and random till counts.

The audit also identified positives aspects with the audit. Those being minimal cash handling by staff, positive attitude by staff and appropriate reconciliation procedures.

Action plans to address the Internal Audit findings have been established by management and are maintained by the Committee.

The 2013-14 audit schedule will involve an assessment of the extreme and high priority corporate risks and completion of the activities scheduled below.

Area of activity	Timing for completion
Business Continuity	Rolled over from 2012-13
Contractor and Temporary Personnel	Rolled over from 2012-13
Administration and Reporting for Grants	Rolled over from 2012-13
Fraud & Corruption Prevention Controls	Rolled over from 2012-13
Assessment of extreme and high priority corporate risks	June 2014

General activities of the Audit Committee

The following represents a summary against the Audit Committee Charter of matters discussed at the Committee meetings held during 2012/2013:

TASK	26/7/2012	25/10/2012	28/2/2013	27/6/2013
Receive presentations and reports from auditors				
Internal	✓	✓	✓	✓
External		✓		✓
Review implementation of	✓	✓	✓	✓

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013
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internal and external audit recommendations				
Review risk register actions and implementation	✓	✓	✓	✓
Review Fraud and corruption prevention plan Note: To be completed in 2013-14				
Review Risk management framework	✓	✓	✓	✓
Approve annual internal audit program	✓			
Determine Audit Committee meeting schedule	✓			
Review Audit Committee's performance Note: To be completed in 2013-14				
Review Audit Committee Charter	✓			
Review and approve the Audit Committee's annual report to Council	✓			
Review annual financial statements		✓		

Conclusion

The Committee looks forward to the opportunity to continue to provide input to Council's governance and audit processes over the coming year.

Recommendations:

- 1) Accept the Audit Committee 2012/2013 Annual Report as presented.

David Wheeler
CHAIR – AUDIT COMMITTEE

<u>Communication method</u>	
✓	Post on myPort
✓	Post on PSC website
<input type="checkbox"/>	Memo to section managers
<input type="checkbox"/>	Presentation to SLT
<input type="checkbox"/>	Snapshot article
<input type="checkbox"/>	All staff memo from General Manager
<input type="checkbox"/>	2 way conversation with Councillors
<input type="checkbox"/>	Councillors weekly PS newsletter
✓	Report to Council
<input type="checkbox"/>	Media release
<input type="checkbox"/>	Other _____

ITEM NO. 9

FILE NO: PSC2010-03194

AUDIT COMMITTEE CHARTER

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Nominate two (2) Councillors as members of the Audit Committee;
 - 2) Endorse the Audit Committee Charter.
-

**ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor John Nell Councillor John Morello
	That the recommendation be adopted.

MOTION

348	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council: 1) Nominate two (2) Councillors as members of the Audit Committee; 2) Endorse the Audit Committee Charter.

BACKGROUND

The purpose of this report is to provide the reviewed Audit Committee Charter to Council for adoption.

The Audit Committee (Committee) reviews its Charter annually and reports the amendments to Council. The Committee are not seeking to amend the Charter this year.

The Committee sought clarification at its last meeting with respect to the composition of the Committee. It was noted by the Committee that Council at its

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

meeting on 24 September 2013, appointed a third Councillor to the Committee, being Cr Chris Doohan.

In line with the Division of Local Government Guidelines, the number of Councillors on the Committee should not be greater than that of the number of independent committee members. The Committee currently comprises two (2) independent members and three (3) Councillors (Crs Jordan, Kafer and Doohan). Council is requested to nominate two (2) Councillors as members of the Audit Committee.

FINANCIAL/RESOURCE IMPLICATIONS

There are no direct costs associated with the adoption of the Audit Committee Charter.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council are not complying with the Division of Local Government Guidelines with three (3) Councillors appointed to the Committee	High	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Audit Committee Charter provides the community with an understanding of the framework in which the Committee operates. It provides the community with the confidence that Council's process and procedures are being examined independent to Council in a legal framework.

CONSULTATION

- 1) Audit Committee.

OPTIONS

- 1) Adopt the recommendation.

ATTACHMENTS

- 1) Audit Committee Charter.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

AUDIT COMMITTEE CHARTER

Adopted by Council on 9 February 2010
(Amended by Council on 19 October 2010)
(Amended by Council on 13 September 2011)
(Amended by Council on 20 December 2011)
(Amended by Council on 9 October 2012)

The logo for Port Stephens Council, featuring the words "Port Stephens" in a stylized blue font with a yellow star above the "P", and "COUNCIL" in a smaller, blue, sans-serif font below it.
COUNCIL

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1. OBJECTIVE

The objective of the Audit Committee (Committee) is to enhance the corporate governance of Port Stephens Council (Council) through the provision of independent oversight, review and advice. The Committee will assist Council by providing independent assurance and assistance on the organisation's governance, risk, control and compliance frameworks.

In fulfilling its objective, the ability of the Committee to maintain independent and objective judgement is vital.

The Committee will report to Council and provide independent advice and recommendations on matters relevant to the Committee's Charter. The Committee will also act as a forum for communication between Council, General Manager, senior management, internal audit and external audit.

2. AUTHORITY

Port Stephens Council will establish the Audit Committee to operate as an independent and objective advisory committee to Council. The Committee is established as an advisory committee of Council pursuant to Section 355C of the Local Government Act 1993 (as amended).

The Council authorises the Committee, within the scope of its roles and responsibilities, to:

- obtain information it needs from any employee or external party (subject to their legal obligations to protect information and with prior consultation with the General Manager);
- discuss any matters with the internal and external auditors or other external parties (subject to confidentiality considerations);
- request the attendance of any employee at Committee meetings (subject to prior consultation with the General Manager); and
- obtain external legal or other professional advice considered necessary to meet its responsibilities (in accordance with Council procurement arrangements and subject to prior consultation with the General Manager).

The Committee does not have any delegations or authority to implement actions not otherwise specified or authorised by Council. The Committee does not have any management functions and is independent of management.

3. COMPOSITION AND TENURE

The Committee will consist of four voting members – two elected members of Council (excluding the Mayor) and two external independent members.

The members of the Committee, taken collectively, will have a broad range of skills and experience relevant to Council's operations.

3.1 ELECTED MEMBER OF COUNCIL

The elected member of Council (excluding the Mayor) appointed to the Committee will have relevant and appropriate experience in business, risk, law and financial management.

Appointment of the elected member to the Committee will be determined by Council as resolved from time to time.

Council may resolve to appoint an elected member for consecutive terms.

3.2 INDEPENDENT EXTERNAL MEMBER

The two independent external members will have relevant and appropriate experience in business, risk, law and financial management.

The independent external members will be appointed on the terms and conditions determined by Council.

Council may resolve to appoint an independent external member for consecutive terms.

3.3 INVITEES (NON-VOTING)

Unless the Committee determines otherwise, the following Council officers and representatives will be required to attend meetings of the Committee for specific agenda items:

- General Manager
- Group Managers
- Manager Financial Services
- Manager Legal Services
- Executive Officer
- Corporate Risk Manager
- Representatives of the external auditor
- Representatives of the internal auditor
- Other officers may attend by invitation as requested by the Chair of the Committee.

The Council officers and representatives will have no voting entitlements.

3.4 INDEPENDENT CHAIR

An independent external member will be the Chair of the Committee.

Appointment of the independent external member Chair to the Committee will be determined by the Committee as resolved from time to time.

The Committee may resolve to appoint an independent external member as Chair for consecutive terms.

In the absence of the Chair the members present at the meeting will elect an acting Chair.

4. ROLES AND RESPONSIBILITIES

The Committee has no executive powers, but may from time to time be delegated specific powers by Council.

In carrying out its responsibilities, the Committee, must at all times, recognise that primary responsibility for management of Council rests with the Council and the General Manager as defined by the Local Government Act.

Council or the General Manager may refer any matter to the Committee within the scope of its roles and responsibilities.

The responsibilities of the Committee may be revised or expanded by the Council from time to time.

The Committee's specific responsibilities include:

4.1 RISK MANAGEMENT

- Review Council's risk management framework to ensure comprehensive processes exist to identify operational, strategic, financial and fraud risks. Review controls to ensure effective processes to reduce risks to an acceptable residual level.
- Review whether a sound and effective approach has been followed in developing strategic risk management plans for major projects or undertakings.
- Review the impact of the risk management framework on its control environment and insurance arrangements.
- Review whether a sound and effective approach has been followed in establishing business continuity planning arrangements, including whether plans have been tested periodically.
- Review and endorse the Risk management (and related) policies and procedures.

4.2 CONTROL FRAMEWORK

- Review whether management has adequate internal controls in place, including over external parties such as contractors and advisors.
- Review whether management has in place relevant directives and procedures, and these are periodically reviewed and updated.
- Progressively review whether appropriate processes are in place to ensure adequate compliance to policies and procedures.
- Review whether appropriate policies and procedures are in place for the management and exercise of delegations.
- Review the Code of Conduct as it applies to ethical and lawful behaviour.

4.3 EXTERNAL ACCOUNTABILITY

- In consultation with management ensure the annual financial reports comply with applicable Australian Accounting Standards and Department of Local Government Guidelines.
- Review the external audit opinion, including whether appropriate action has been taken in response to audit recommendations and adjustments.

- Consider responses on contentious financial reporting matters in conjunction with Council's management and external consultants.
- Review the processes in place designed to ensure financial information included in the annual report is consistent with the signed financial statements.
- Ensure timely and accurate publishing of the annual report to include the signed financial statements as per Australian Accounting Standards and Department of Local Government Guidelines.
- Ensure appropriate controls are in place to satisfy compliance to State Government reports and recommendations.
- Ensure management has in place an appropriate framework to link organisational objectives and outcomes meet Council expectations.

4.4 LEGISLATIVE COMPLIANCE

- Ensure an appropriate compliance framework exists to identify risks and controls over legislative compliance to relevant laws, regulations and associated government policies.

4.5 INTERNAL AUDIT

- Ensure the Internal Audit Plan meets the objectives of management and recommend adoption as required.
- Consider the adequacy of internal audit resources to carry out its responsibilities, including completion and compliance of the approved Internal Audit Plan within the designated timeframe.
- Provide input (but not decision) into the tender, remuneration and appointment of the internal auditor.
- Ensure the existence and provide input into an effective long-term internal audit strategic plan.
- Receive audit reports and consider significant issues that have been identified. Review recommendations and ensure appropriate follow up of issues is effected within a timely manner.
- Review and endorse the Internal Audit Charter.
- Periodically review the performance of Internal Audit.

4.6 EXTERNAL AUDIT

- Note the external auditor's scope and approach, including any reliance on internal auditor activity.
- Review and ensure management implement recommendations contained within the external auditor's management letter as appropriate.
- Provide input (but not decision) into the tender, remuneration and appointment of the external auditor.

4.7 RESPONSIBILITIES OF MEMBERS

Members of the Committee are expected to:

- have a good understanding of the Committee's position within the Council's governance framework;
- understand the regulatory and legislative requirements appropriate to Council;
- understand and ensure clearly defined roles and responsibilities for audit related positions and consultancies exist;
- ensure effective communication exists between the Committee, management and key stakeholders;
- provide professional competency to be able to meet the objectives of the Committee; and
- contribute effectively to the quality assurance and continuous improvement process as it relates to the objectives.

5. REPORTING

5.1 REPORTING TO COUNCIL

The Committee, through the Chair, will report regularly to Council on significant governance, risk and internal control issues including:

- significant control weaknesses or breakdowns in critical controls;
- fraudulent or illegal activities;
- evaluation of the effectiveness of the internal and external audit functions; and
- endorsement of the financial statements.

The Committee will also report immediately to the General Manager any matter it deems of sufficient importance.

Where the Committee makes a recommendation to Council on a matter within the scope of its Charter, the matter will be listed as an agenda item for consideration by Council.

The Committee will submit an annual report to Council summarising its activities for the previous year.

5.2 INTERNAL AUDIT REPORTING

At the first Committee meeting after 30 June each year, Internal Audit will provide a performance report of:

- the performance of Internal Audit for the financial year as measured against agreed key performance indicators; and
- the approved Internal Audit Plan of work for the previous financial year showing the current status of each audit.

6. ADMINISTRATIVE ARRANGEMENTS

6.1 MEETING PRACTICE

Unless otherwise specified in this Charter and in accordance with any Local Government Act requirements, the Committee will determine its meeting practice, processes and protocols.

6.2 VOTING

Matters under consideration by the Committee will be determined by consensus whenever possible. In the event that consensus cannot be achieved, an item is adopted by the Committee where a majority of members vote for the subject. If the voting is tied the Chair has a second (casting) vote which is used to break the deadlock.

6.3 MEETING SCHEDULE

The Committee will meet at least four times per year, with one of these meetings to include review and endorsement of the annual audited financial reports and external audit opinion.

The need for any additional meetings will be decided by the Chair of the Committee, though the Council, General Manager or other Committee members may make requests to the Chair for additional meetings.

A forward meeting plan, including meeting dates and agenda items, will be agreed by the Committee each year. The forward meeting plan will cover all Committee responsibilities as detailed in this Audit Committee Charter (refer attachment A).

6.4 ATTENDANCE AT MEETINGS AND QUORUMS

A quorum will consist of a majority of Committee members, including at least one independent external member.

6.5 SECRETARIAT

The General Manager will ensure that appropriate secretariat support is provided to the Committee. The secretariat is the liaison between the Committee and the day to day operations and staff of Council.

6.6 AGENDA

The secretariat will ensure the agenda for each meeting and supporting papers are circulated to members in sufficient time (at least three working days) before the meeting.

Circulation of the agenda will be by normal postal services or electronic means as determined by the Committee.

6.7 MINUTES

Minutes of Committee meetings will be recorded by the secretariat and reviewed by the Chair prior to circulation to members for information and action arising.

The minutes will be circulated within three weeks of the meeting being held.

6.8 IMPLEMENTATION OF AUDITOR RECOMMENDATIONS

The Committee will maintain a register to track the implementation of both internal and external audit recommendations. The register will include all audit recommendations, together with management responses, that have yet to be implemented or where implementation is in progress. The status of recommendations will be reviewed by the Committee at each meeting.

6.9 CODE OF CONDUCT

Committee members are bound by the terms and conditions of the Port Stephens Council Code of Conduct.

Committee members must declare any conflicts of interest at the start of each meeting. Details of any conflicts of interest must be appropriately minuted.

Where members or invitees at Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist.

6.10 INDUCTION

The General Manager will ensure that new Committee members receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

6.11 PERFORMANCE ASSESSMENT

The Chair of the Committee will initiate an annual review of the performance of the Committee. The review will be conducted on a self-assessment basis (unless otherwise determined by the Committee), with appropriate input from management and any other relevant stakeholders, as determined by the Committee.

6.12 REVIEW OF AUDIT COMMITTEE CHARTER

The Committee will review the Audit Committee Charter on an annual basis and make recommendation on any changes to Council for its determination.

Any changes to the Audit Committee Charter must be approved by Council.

Approved:	Port Stephens Council Meeting	Date: 9 February 2010
Amended:	Port Stephens Council Meeting	Date: 19 October 2010
Reviewed:	Audit Committee meeting	Date: 4 August 2011
Amended:	Port Stephens Council Meeting	Date: 13 September 2011
Amended:	Port Stephens Council Meeting	Date: 20 December 2011
Amended:	Port Stephens Council Meeting	Date: 9 October 2012

ATTACHMENT A
AUDIT COMMITTEE –WORK PLAN

TASK	TIMING
Receive presentations and reports from internal and external auditors	Standing item
Review implementation of internal and external audit recommendations	Standing item
Review risk register actions and implementation	Standing item
Review Fraud and corruption prevention plan	February
Review Risk management framework	February
Approve annual internal audit program	May
Determine Audit Committee meeting schedule	May
Review Audit Committee's performance	July
Review Audit Committee Charter	July
Review and approve the Audit Committee's annual report to Council	October
Review annual financial statements	October

AUDIT COMMITTEE – PROPOSED MEETING SCHEDULE

July
October (Financial Statements)
February
May

ITEM NO. 10

FILE NO: PSC2005-3701

ESTABLISHMENT OF BIRUBI POINT CULTURAL HERITAGE ADVISORY PANEL

REPORT OF: STEVEN BERNASCONI – COMMUNITY SERVICES SECTION MANAGER
GROUP: FACILITIES AND SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Constitution Schedule for the Birubi Point Cultural Heritage Advisory Panel (**ATTACHMENT 1**);
 - 2) Consider nomination for Councillor representation on the Birubi Point Cultural Heritage Advisory Panel;
 - 3) Receive nominations from the Anna Bay community for one representative to participate in the Birubi Point Cultural Heritage Advisory Panel and approve via the normal administrative process.
-

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Sally Dover Councillor John Morello
	<p>That the recommendation be adopted as follows:</p> <ol style="list-style-type: none">1) Adopt the Constitution Schedule for the Birubi Point Cultural Heritage Advisory Panel (ATTACHMENT 1);2) Cr Sally Dover be nominated as the Councillor representative on the Birubi Point Cultural Heritage Advisory Panel;3) Receive nominations from the Anna Bay community for one representative to participate in the Birubi Point Cultural Heritage Advisory Panel and approve via the normal administrative process.

MOTION

349	Councillor Chris Doohan Councillor John Nell It was resolved that Council: <ul style="list-style-type: none">1) Adopt the Constitution Schedule for the Birubi Point Cultural Heritage Advisory Panel (ATTACHMENT 1);2) Cr Sally Dover be nominated as the Councillor representative on the Birubi Point Cultural Heritage Advisory Panel;3) Receive nominations from the Anna Bay community for one representative to participate in the Birubi Point Cultural Heritage Advisory Panel and approve via the normal administrative process.
-----	--

BACKGROUND

The purpose of this report is to endorse the commencement of a Birubi Point Cultural Heritage Advisory Panel as a 355c committee of Council.

Adopting the recommendations aligns with the Operational Plan 2013-2014 goal of "Council will engage its citizens in developing plans for the future of the Port Stephens local government area".

Since 2005 Council has convened an informal steering committee for all issues relating to the management of Birubi headland. This committee involves a range of stakeholders and site users and was originally convened to be the point of reference to resolve areas of land use conflict, cultural heritage management and to consider new ways to manage the site and surrounding open space. Council is the steering committee convenor.

Since the redesign and subsequent redevelopment of Birubi Point Surf Life Saving Club this steering committee has ceased to meet. The reason for this is that the redesign, approval and construction of the surf club has been the priority for Council and many of the issues that the steering committee have been dealing with were largely resolved during the negotiations around the redesign of the surf club precinct.

During 2012 there was a concerted effort to resolve unfinished processes around the distribution of funds to Council from the Worimi Conservation Lands gained from beach vehicle permits and commercial licences. Part of the resolution to this outstanding matter was that Council would formally establish a new Panel to provide advice on cultural heritage, funding opportunities, site management and Aboriginal Place management.

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

It is proposed that membership of the Panel consist of the following:

Organisation	Number of representatives
Port Stephens Council	3
Worimi Conservation Lands Board of Management	2
Registered Aboriginal Owners of the Worimi Conservation Lands	3
Worimi Local Aboriginal Land Council	2
Birubi Point Surf Life Saving Club	1
NSW Trade and Investment Crown Lands	1
National Parks and Wildlife Services	1
Anna Bay community	1
TOTAL	14

(ATTACHMENT 1) details the Panel's constitution.

FINANCIAL/RESOURCE IMPLICATIONS

The Panel will be convened and managed by the Community Services Section Manager with input from other sections of Council when required. All costs for Council staff resources will be managed from within existing budgets. Membership to the Panel will be requested on a pro bono basis by those external agencies invited to nominate for membership. Panel members will be provided with meals during the meeting at Council's cost.

The Panel will meet three times per year (March, July and November) for a maximum time per meeting of four (4) hours. Meeting minutes will be taken by Council officers and distributed to members via electronic format.

This committee will not receive the annual 355c committee financial subsidy as it acts in an advisory capacity only.

Table 1 below outlines the cost of providing for and managing the Panel only.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	2,000	Estimate for meals, meeting materials and miscellaneous items from within existing resources.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Under Section 355c of the Local Government Act 1993 Council may exercise its functions itself or by delegation to another person or persons. Council must approve the Constitution of such delegated persons.

The Constitution of the proposed Birubi Point Cultural Heritage Advisory Panel consists of the standard 355c Committee Constitution adopted by Council on 24 June 2003, Minute 251 and a customised schedule of the Panel's individual activities. The Constitution contains the delegation from Council to undertake specified activities and the framework of how the Panel will operate.

The Panel will be managed and provided with support as outlined in the Volunteer Strategy.

Council is the Crown Trustee for the Birubi Point Reserve (Reserve Number 91451) which incorporates the localities known as Birubi Beach Reserve, Birubi Point Surf Life Saving Club, Birubi Beach Lower Car Park and Robinson Reserve. The proposed Panel will not have any delegations to override Council's responsibilities for the Crown Reserve with all recommendations from the Panel requiring endorsement by Council prior to proceeding.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that damage to cultural heritage artefacts and Aboriginal Places may result in legal, financial and reputation damage.	Medium	Adopt the recommendations	Yes
There is a risk that Council may forfeit the right to access annual funding from the Worimi Conservation Lands Board of Management if the Panel is not endorsed resulting in financial loss.	Medium	Adopt the recommendations	Yes
There is a risk that Panel members may act in a way that has potential for legal, financial or reputation implications to Council	Low	Adopt the recommendations	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are no foreseeable negative implications for adopting the recommendations.

Adopting the recommendations will however provide a vehicle to:

- improve cultural heritage awareness in the context of land management,
- improve liaison with key stakeholders around management of land formally recognised as Aboriginal Places,
- improve the planning for environmental management of the Birubi Point, beach and adjacent coastal land,
- improve opportunities to attract external funding for site improvements,
- improve planning for future user demands especially around growth in tourism activities on the site and,
- improve the general place management and oversight of an area that is in high demand as a recreation space, tourism destination, dynamic coastal environment, significant cultural place for the Worimi community, surf life saving training ground and popular surfing spot.

CONSULTATION

In proposing this Panel the General Manager convened a meeting between Council's Community Services Section Manager, the Chairperson of the Worimi Conservation Lands Board of Management and National Parks and Wildlife Service Regional Manager on 20 February 2012. The outcomes of this meeting was a letter (dated 13 June 2012) confirming the mutually agreed position on a range of issues including the establishment of the proposed Panel. Since then a number of competing factors have delayed the establishment of the Panel, none so much as the redesign, costing, approval and construction of the Birubi Point Surf Life Saving Club and the temporary dissolution of the Worimi Conservation Lands Board of Management whilst the Minister for Environment and Heritage finalised the new appointments for the Board during 2013.

Letters were sent to the proposed membership groups of the Panel on 16 August 2013 advising them of the proposed Panel and inviting them to accept an invitation to membership of the Panel.

In the establishment of the Panel and the objective of developing a Landscape Master Plan for the area, a community consultation plan will be required to ensure input by the Anna Bay Parks and Reserves 355c Committee and the wider Anna Bay community.

OPTIONS

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

ATTACHMENTS

- 1) Birubi Point Cultural Heritage Advisory Panel Schedule to Constitution.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1

SCHEDULE TO CONSTITUTION

To be read in conjunction with 355(b) Committee Standard Constitution

Item 1	Name of Committee	Birubi Point Cultural Heritage Advisory Panel
Item 2	Name of Council Group and Section	Facilities & Services Group / Community Services Section
Item 3	Functions delegated by Council to committee	<ol style="list-style-type: none"> 1. Develop a Landscape Master Plan for the Birubi Point Reserve 2. Develop an Annual Works Plan for Birubi Point Reserve 3. Develop and deliver alternative funding strategies for the management of Birubi Point Reserve
Item 4	Restrictions on functions delegated	The Panel provides advice to Port Stephens Council. Any and all recommendations from the Panel to Port Stephens Council as the Trust Manager of the Crown Lands require endorsement by Port Stephens Council prior to implementation.
Item 5	Policies, legislation the committee is required to comply with	<p>Principle policies & legislation including but not limited to:</p> <p>Local Government Act 1993 and it's Regulation as amended Crown Lands Act 1989 Work Place Health and Safety Act 2011 Privacy and Personal Information Protection Act 1988 State Records Act 1998 Port Stephens Council Code of Conduct Port Stephens Council Code of Meeting Practice Port Stephens Council Accessing Information Policy Port Stephens Council Volunteer Strategy</p>
Item 6	Date on which constitution concludes	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	<p>The Panel shall consist of fourteen (14) members made up of the following representation from the following organisations or individuals:</p> <ol style="list-style-type: none"> 1. Port Stephens Council: three (3) representatives – one (1) Councillor, General Manager, Community Services Section Manager. 2. NSW Crown Lands – one (1) representative to be nominated by NSW Crown Lands 3. NSW National Parks and Wildlife Service – one (1) representative to be nominated by NSW National Parks and Wildlife Service. 4. Worimi Conservation Lands Board of Management – two (2) representatives to be nominated by Worimi Conservation Lands Board of Management 5. Worimi Local Aboriginal Land Council – two (2) representatives to be nominated by Worimi Local Aboriginal Land Council 6. Registered Aboriginal Owners of the Worimi Conservation Lands – three (3) representatives to be nominated by Registered Aboriginal Owners of the Worimi Conservation Lands 7. Birubi Point Surf Life Saving Club – one (1) representative to be nominated by Birubi Point Surf Life Saving Club 8. Anna Bay community – one (1) representative from

ATTACHMENT 1

		the Anna Bay community to be selected through an open recruitment process coordinated by the Panel.
Item 8	Councillors	One (1) Councillor as resolved by Council.
Item 9	Council employees	General Manager or his/her delegate Community Services Section Manager
Item 10	Name of financial institution and type of account	Not applicable.
Item 11	Name of any account operated by the committee	Not applicable.
Item 12	Area assigned to committee and/or map	The area known as Birubi Point Reserve – Lot 7325 in Deposited Plan 1156724, also known as Crown Reserve Number 91451, 73 Patterson Street Anna Bay and containing the localities known as Birubi Beach Reserve, Birubi Point Surf Life Saving Club, Birubi Beach Bottom Car Park and Robinson Reserve.
Item 13	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full - body of constitution not to be altered.	<p>Amendments</p> <ol style="list-style-type: none"> 1. Clause 7.1.(a) is amended to read "The Committee, at a minimum, must appoint a Chair and Deputy Chair." 2. Clause 7.1.(b) is not applicable 3. Clause 7.1.(c) is not applicable 4. Clause 9.4.(a) is amended to read "The Committee shall hold ordinary meetings three times in a financial year and these shall be held in March, July and November." 5. Clause 10 is not applicable 6. Clause 12 is amended in its entirety to read "The Committee shall provide an annual report to Council that provides a summary of all activities undertaken by the Committee in the preceding year." <p>Additions</p> <ol style="list-style-type: none"> 1. Clause 7.1.(e) to read "Council will provide a secretariat for the Committee and that position will be filled by a staff member of the Community Services Section Manager. The secretariat role is not a member of the Committee and has no voting rights." 2. Clause 6.9 to read "Nominated representatives from member organisations of the Committee are to be endorsed by Port Stephens Council."
Item 14	Changes to constitution or Schedule – Adopted by Council: Meeting Date: Minute No: Resolution:	

ITEM NO. 11

FILE NO: PSC2013-0069

ORGANISATION DEVELOPMENT SUSTAINABILITY REVIEW

REPORT OF: ANNE SCHMARR - ORGANISATION DEVELOPMENT MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Note the information contained in the Sustainability Review – Organisation Development Service Strategy presented as **(TABLED DOCUMENT 1)** and endorse the findings of the review.

CR CHRIS DOOHAN RETURNED 7.12PM.

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Chris Doohan Councillor Paul Le Mottee
	That the recommendation be adopted.

MOTION

350	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council note the information contained in the Sustainability Review – Organisation Development Service Strategy presented as (TABLED DOCUMENT 1) and endorse the findings of the review.

BACKGROUND

The purpose of this report is to present to Council the outcomes of the Sustainability Review for the Organisation Development Section and seek endorsement of the recommendations contained in the Service Strategy.

The comprehensive review of this package has been undertaken in accordance with Clause 15.1 of the Community Strategic Plan to ensure that services and assets delivered to the community are sustainable in the longer term.

The sustainability review comprises three key stages:

Stage 1 – reviewing what is currently delivered (service drivers);
Stage 2 – reviewing what should be delivered (service levels);
Stage 3 – reviewing how services should best be delivered (service delivery method).

Organisation Development Services

The Organisation Development Section forms part of the Corporate Services Group. Its purpose is to support internal customers in the delivery of best value services to the community. The Section is structured around the key areas of Human Resources, Corporate Risk and Safety with an equivalent EFT of 12.43. In 2012, the Business Improvement function was transferred from Organisation Development to the Business Systems Support Section to coordinate the program of corporate business improvements, including those relating to information technology. This change in the structure has allowed a 'one council' approach to business improvement.

Council has adopted a centralised and shared service approach for its Organisation Development functions. This helps to ensure consistency in the deployment of systems and processes across the various business units and the development of a common culture across the organisation.

The Organisation Development Section has responsibility for development and implementation of the Workforce strategy to support Council's vision for Port Stephens and the community into the future. This ensures the organisation has the capacity and capability to deliver efficient, effective and responsive services to the community.

In addition to the development of this key strategy, other primary roles of the Section are to:

- strategically manage human resourcing;
- support leaders to manage large scale change;
- provide practical and useable workforce planning and learning and development programs to improve and accelerate performance;
- stay on top of current and emerging business trends and assessing what might block the organisation's progress;
- ensure a consistent, holistic approach to the management of risk and safety; and
- ensure we continually improve the way we go about our business.

Excellence in the way an organisation manages its human resources, risk and safety makes the difference between long lasting success and failure.

Services and outputs provided by Organisation Development that support Council's vision are documented in the Organisation Development Service Strategy presented as **(TABLED DOCUMENT 1)**.

Benchmarking data:

Human Resources staff ratios:

Staff ratios for the human resources function for an organisation of a similar size are currently 1.28% of staff. Based on our current EFT of 463.27 this equates to 5.9 staff. Two staff are employed to deliver human resource services.

Learning, Training and Development staff ratios:

Staff ratios for the learning, training and development function for an organisation of a similar size are currently 0.72% of staff. Based on our current EFT of 463.27 this equates to 3.3 staff. Two staff are employed to deliver learning, training and development services.

Recruitment staff ratios:

Staff ratios for the recruitment function for an organisation of a similar size are currently 0.30% of staff. Based on our current EFT of 463.27 this equates to 1.4 staff. One staff member is employed to deliver recruitment services.

An increase in the number of applications and the number of jobs being recruited over the last two years is placing increasing demands on the human resource function. Applicant rates have risen 215% since the 2011-2012 year (1,468 applicants predicted to rise to 3,156 by the end of 2013-2014 based on current data) with no increase in human resources to manage the increased workload. Similar trends in the number of positions recruited have also been seen rising 34% from 2011-2012.

Corporate Risk and Safety staff ratios:

A survey conducted of Australian local government authorities indicates an average 1.7 risk staff for all councils. Two staff are employed to deliver corporate risk services.

A survey of Australian local government authorities indicates an average of 2.9 work health and safety staff for council's of our size. 3.4 staff are employed to deliver work, health and safety services.

Snapshot of Organisation Development:

- Establishment of 12.43 EFT;
- Strong staff engagement with a score of 93% in the recent 2013 staff engagement results;
- Winner of the 2013 State Cover Award for Excellence in Health and Safety;
- Winner of the 2013 HR Award Employer of Choice in the Not for Profit and Public Sector;
- Finalist in the 2013 AHRI Award for Workplace Relations;
- High customer satisfaction with service delivery;
- Strong participation in regional and other industry groups.

The Organisation Development section has a highly engaged, professional team of employees who continually strive for excellence and are being recognised within the industry and at a national level for their contributions.

FINANCIAL/RESOURCE IMPLICATIONS

The total number of employees within the Organisation Development Section is 12.43. The service strategy proposes to investigate increasing the establishment by 0.6 EFT to support the recruitment function. Given the importance of ensuring that Council selects high performing staff with the right organisational fit, there is strong support from the Senior Leadership team for this proposal.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	34,000	Strong support from the Senior Leadership Team to increase the EFT by 0.6 and fund from overheads.

LEGAL, POLICY AND RISK IMPLICATIONS

Council's obligations to workers, including staff, volunteers and contractors, come from a wide variety of sources – Federal, State and territory laws, industrial awards and agreements, tribunal decisions and contracts of employment. Council has a legal responsibility to comply with these various pieces of employment legislation.

There are various offences and penalties that apply for breaches of the legislation through non-compliance.

An important role of the Organisation Development Section is to work with all groups and sections to ensure that Council minimises its risks of various offences and penalties.

If Council considers alternative options to the recommendations within the service strategy, the following risks should be considered:

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that a reduction in staff numbers may lead to customer dissatisfaction with service levels.	High	Agreed levels of service meet customer requirements.	Yes
There is a risk that a reduction in levels of service may lead to inadequate risk, safety and human resource information systems.	High	Service levels are supported by adequate numbers of qualified professional and specialist staff.	Yes
There is a risk that a reduction in the provision of specialist advice may lead to non-compliance with legislative requirements resulting in fines and reputation damage.	High	Organisation Development continues to provide managers and staff with specialist advice to inform decision making.	Yes
There is a risk that failure to increase staffing levels to support Council's recruitment function may result in time delays in recruitment and the loss of quality candidates.	High	Investigate the resourcing requirements in Organisation Development to support Council's recruitment function.	No

SUSTAINABILITY IMPLICATIONS

The Organisation Development Section plays a key role in supporting the organisation to develop its internal capacity to ensure there is alignment with Council's strategic direction.

CONSULTATION

- 1) Executive Leadership team;
- 2) Group managers;
- 3) Section managers.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Organisation Development Service Strategy.

ITEM NO. 12

FILE NO: FILE NO: A2004-0242

QUARTERLY BUDGET REVIEW AS AT 30 SEPTEMBER 2013

REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve the discretionary changes to the adopted budget as detailed under separate cover **(TABLED DOCUMENT 1)** presented as the 2013-2014 Quarterly Budget Review Statement – September 2013.

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor John Morello Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

351	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council approve the discretionary changes to the adopted budget as detailed under separate cover (TABLED DOCUMENT 1) presented as the 2013-2014 Quarterly Budget Review Statement – September 2013.

BACKGROUND

The purpose of this report is to amend the budget by bringing to Council's attention the proposals and issues that have an impact on the 2013-2014 budget that are detailed in the Quarterly Budget Review Statement – September 2013. This statement sets out the details of variations between Council's original budget and the proposed budget as part of the September Quarterly Budget Review.

Council adopted its Integrated Strategic plans on 28 May 2013 (Minute No. 147) and these plans include the budget estimates for the 2013-2014 financial year.

FINANCIAL/RESOURCE IMPLICATIONS

Council's underlying result is expected to be \$1.769 million (surplus) being an improvement of \$183,816 with the adoption of the recommended changes. The original projected underlying surplus adopted by Council in May 2013 was \$1.585 million.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	Yes	682,528	Negative increase
Section 94	Yes	199,000	Negative increase
External Grants	Yes	3,606,313	Positive increase
Revenuer	Yes	637,344	Positive increase

LEGAL, POLICY AND RISK IMPLICATIONS

Clause 203(1) of the Local Government (General) Regulation 2005 requires Council's Responsible Accounting Officer to prepare and submit a Quarterly Budget Review Statement (QBRs) to Council.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the underlying operating result may return to a deficit.	Medium	Long Term Financial Plan established to reach break even point by 2015.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

- 1) Financial Analysis team;
- 2) Executive Leadership team;
- 3) Senior Leadership team.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) 2013-2014 September Quarterly Budget Review Statement – September 2013.

ITEM NO. 13

FILE NO: PSC2005-4217

ANNUAL FINANCIAL REPORTS 2012-2013

REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER
GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the 2012-2013 Financial Reports (General Purpose Financial Reports and Special Purpose Financial Reports) presented as **(TABLED DOCUMENT 1)** and accept the Auditor's Report, as submitted by PricewaterhouseCoopers;
- 2) Make available to the public the audited Financial Reports for the year ending 30 June 2013, together with the Auditor's Reports.

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor John Morello Councillor John Nell
	That the recommendation be adopted.

MOTION

352	Councillor Chris Doohan Councillor John Nell
	<p>It was resolved that Council:</p> <ol style="list-style-type: none"> 1) Adopt the 2012-2013 Financial Reports (General Purpose Financial Reports and Special Purpose Financial Reports) presented as (TABLED DOCUMENT 1) and accept the Auditor's Report, as submitted by PricewaterhouseCoopers; 2) Make available to the public the audited Financial Reports for the year ending 30 June 2013, together with the Auditor's Reports.

BACKGROUND

The purpose of this report is to advise Council that Council Officers have prepared the 2012-2013 Financial Reports in accordance with Australian Accounting Standards, the Local Government Act 1993 (as amended) and associated regulations, and the Local Government Code of Accounting Practice.

The Financial Reports have been reviewed by Council's auditors (PricewaterhouseCoopers) and the Audit Committee, and this report is to formally present Council's Financial Reports for the year ending 30 June 2013, together with the Auditor's report to the public in accordance with section 419 of the Local Government Act 1993 (as amended).

Public notice of the presentation of the audited Financial Reports has been advertised in The Examiner on 14 November 2013 and copies of the Financial Reports have been made available at the customer services desk, Raymond Terrace Library, Tomaree Library and on Council's website.

The financial reports, including the audit reports, have been circulated separately to Councillors for their information and a two way conversation was held on 12 November 2013 with a representative from PricewaterhouseCoopers in attendance to discuss the reports.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	80,000	External audit fees.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the Financial Reports contain errors of fact and/or misleading information.	Low	The annual financial reports have been subject to external auditing by PricewaterhouseCoopers, and they have signed off on the statements.	Yes
There is a risk that the financial reports are not submitted to the Division of Local Government within the statutory timeframe.	Low	Council's project plan for the preparation and lodgement of the financial reports had the audit being signed off by 31 October 2013, and statements lodged with the Division of Local Government	

		by 7 November 2013. These milestones have been met.	
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SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Completion of the annual Financial Reports provides Council with the information needed to facilitate prudent financial management decision-making which will have a positive impact on the community.

CONSULTATION

- 1) PricewaterhouseCoopers (external auditors);
- 2) Audit Committee;
- 3) Division of Local Government.

OPTIONS

- 1) Accept the recommendations;
- 2) Amend the recommendations;
- 3) Reject the recommendations.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) 2012-2013 Annual Financial Reports.

ITEM NO. 14

FILE NO: A2004-0242

2013-2014 CARRY FORWARD AND REVOTES**REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER****GROUP: CORPORATE SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Formally resolves to allocate funding to the attached works/projects carried forward from the 2012-2013 financial year to the current financial year.
-

**ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Steve Tucker Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

353	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council allocate funding to the attached works/projects carried forward from the 2012-2013 financial year to the current financial year.

BACKGROUND

The Local Government Act 1993 and associated General Regulations state that the budget for any project which has not commenced at the close of the financial year formally lapses. A Council is therefore required to examine works/projects that have not been commenced by the end of the financial year and determine if these should be carried forward and if so, to formally vote a budget allocation for that purpose.

Council's management has examined all works/projects that were either partially completed or not yet commenced and has determined that a number of these works/projects should be recommended to be carried forward to the 2013-2014 financial year. These works/projects are included as **(ATTACHMENT 1)** to this report and total \$9,631,606.00.

FINANCIAL/RESOURCE IMPLICATIONS

Funding for the recommended works/projects is available from a variety of sources as originally planned. No further amendments to the original funding sources are recommended.

The funding sources are:

Source of Funds	Yes/No	Funding (\$)	Comment
General Revenue	Yes	567,798.00	
Restricted Assets	Yes	8,156,726.00	
Section 94	Yes	746,022.00	
External Grants	Yes	161,060.00	
Total		9,631,606.00	

The recommended level of works/projects to be carried forward compares to a total of \$11,665,519.00, which was carried forward from the previous financial year.

LEGAL, POLICY AND RISK IMPLICATIONS

Once an approval or vote has lapsed and it does not fit the criteria of a carry forward, it can only be reinstated by a resolution of the Council.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that by not completing works identified in the Community Strategic Plan, Council's reputation could be damaged and community expectations would not be met.	High	Carry forward the works/projects and complete in the current financial year.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

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

CONSULTATION

- 1) Executive Leadership Team;
- 2) Section Managers.

OPTIONS

- 1) Adopt the recommendation and the works/projects proceed;
- 2) Amends the recommendation;
- 3) Reject the carry forwards and revotes detailed in this report and the works/projects do not proceed.

ATTACHMENTS

- 1) List of works/projects to be carried forward.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
LIST OF WORKS/PROJECTS TO BE CARRIED FORWARD

ATTACHMENT 1

Community Planning and Environment Services

Aboriginal Projects	works in progress	30,000
Aged friendly Community project	works in progress	19,934
Community Environment Project	works in progress	47,322
Cultural Development	works in progress	38,159
Environmental projects	works in progress	35,724
Karuah Growth Strategy	works in progress	8,112
Medowie Flood plain study	works in progress	14,803
Raymond terrace Strategy	works in progress	27,068
Rezoning requests	works in progress	24,000
Rezoning requests	works in progress	49,316
Weeds and Pests	works in progress	12,514
Weeds and Pests	works in progress	11,185
Weeds and Pests	works in progress	<u>5,747</u>
		323,884

Business Support

Administration Centre - wireless network	works in progress	5,000
Authority ERP	works in progress	10,000
Digital copying of records	works in progress	56,000
Firewall project	works in progress	5,000
Internet service project	works in progress	25,000
IT Client hardware maintenance	works in progress	10,000
Offsite storage of records	works in progress	7,000
Visual server infrastructure	works in progress	<u>10,000</u>
		128,000

Civil Assets

Alma Street Raymond Terrace	replace playground	45,000
Brandy Hill Drive	rehabilitation	41,366
Brandy Hill Drive Seg 100	rehabilitation	59,381
Brandy Hill Drive Seg 90	rehabilitation	116,859
Bus Stops	various	53,999
Ferodale Road Widening	rehabilitation	120,000
Grahamstown Road Blackspot	rehabilitation	17,256
Italia Road Seg 20	rehabilitation	240,820
Kirang Drive	cycleway	49,356
Lemon Tree Passage	boardwalk replacement	74,846
Little Beach	sand removal	20,263
Mambo Wetland	drainage	31,500
Masonite Road Roundabout	rehabilitation	122,568
Medowie Road to Campvale Road	open drain	82,222
Nelson Bay Road - missing link	shared path	82,737
Salamander Hockey Field	new surface	20,000
Seabreeze Estate	drainage	17,245
Bridge/road maintenance	works	151,558
Sunset Beach	seawall remediation	22,650
Tanilba Ave - Admiralty Ave to Peace Pde	rehabilitation	13,110
Tanilba Bay Foreshore	rehabilitation	9,992
The Hub	carpark	52,382
Williamstown Amenities	replace septic tank	<u>10,000</u>
		1,455,110

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

General Managers Office		
Councillor Services	minor works	<u>69,482</u>
		69,482
Community and Recreation		
Apex Park	improvements	161,459
Birubi Surf Club	improvements	176,484
Boomerang Park Croquet	construction	40,000
Brandon Park	wicket improvements	6,500
Council RFS Management Costs	repairs	34,250
Henderson BBP	improvements	70,312
Henderson Park	rehabilitation	38,256
Hinton Cricket nets	improvements	10,000
Library Services	works	20,480
NB Foreshore Playground Shade	improvements	30,000
NB Skatepark	improvements	20,000
RFS Building Maintenance	works	57,190
Salt Ash Horse Yard	construction	10,000
Shoal Bay Foreshore	works	1,281,644
Urban Bushland Mgt	works	<u>16,888</u>
		1,973,462
Property Services		
Fingal Bay Holiday Park	recreation room upgrade	292,905
Fingal Bay Holiday Park	garden villas 9 -14	913,879
Fingal Bay Holiday Park	reconstruct amenities	399,435
Fingal Bay Holiday Park	replace playground	15,387
Halifax Holiday Park	2 bedroom cabin	150,279
Halifax Holiday Park	office refurbishment	24,773
Halifax Holiday Park	upgrade amenities	318,000
Office and Chambers	upgrade air conditioner	279,061
Property Development	398 cabbage tree road	16,604
Property Development	178 cabbage tree road	3,212
Property Development	salamander waters stage 1	45,020
Property Development	155 salamander way	2,692,727
Property Development	437 hunter street	364,321
Property Development	113 beaumont street	8,136
Property Development	528 hunter street	29,201
Property Development	10 Salamander Way Stage 24/25	<u>4,870</u>
		5,557,810
Operations/Fleet and Depots		
Fleet Services	major plant	<u>123,857</u>
		123,857
TOTAL ROLLED FORWARD		9,631,606

ITEM NO. 15

FILE NO: PSC2013-02460

PORT STEPHENS COUNCIL ANNUAL REPORT 2012-2013

REPORT OF: WAYNE WALLIS - GROUP MANAGER

GROUP: CORPORATE SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopts the Port Stephens Council Annual Report 2012-2013 presented as **(TABLED DOCUMENTS 1)** Volumes 1 and 2.
-

**ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Chris Doohan Councillor Steve Tucker
	That the recommendation be adopted.

MOTION

354	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council adopt the Port Stephens Council Annual Report 2012-2013 presented as (TABLED DOCUMENTS 1) Volumes 1 and 2.

BACKGROUND

The purpose of this report is to present to Council the Annual Report 2012-2013 comprising the annual report of activities and statutory statements, and the audited financial accounts of Port Stephens Council for the financial year ended 30 June 2013.

FINANCIAL/RESOURCE IMPLICATIONS

The Annual Report 2012-2013 contains in Volume 2 the audited financial accounts of Port Stephens Council and Volume 1 contains a financial summary together with details of Council's key performance measures for the year and its capital expenditure and governance across the whole of Council's operations.

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

The adopted Annual Report 2012-2013 will be placed on Council's website, and hard copies will be placed in Council's libraries and distributed to the State Library of NSW and the Division of Local Government.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	2,000	Printing and postage costs for hard copies are funded from revenue.
Reserve Funds	No		
Section 94	No		
External Grants	Ni		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Section 428 (1) of the Local Government Act 1993 states: Within 5 months after the end of each year, a council must prepare a report (its annual report) for that year reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed. Volume 1 of the Annual Report 2012-2013 has been prepared in accordance with that Section.

Section 428 (4)(a) states: The Annual Report must contain a copy of the council's audited financial reports prepared in accordance with the Local Government code of Accounting Practice and Financial Reporting published by the Department, as in force from time to time. Volume 2 of the Annual Report has been prepared in accordance with that Section.

The Annual Report 2012-2013 Volumes 1 and 2 complies with all legislative requirements contained in the Act and the Regulations.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that failure to provide the annual report within the legislated timeframe could lead to financial and reputational loss.	Low	Council adopts the Annual Report on 26 November 2013.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Annual Report 2012-2013 is a report on progress in the implementation of Council's Delivery Program which has been developed on the basis of social, economic and environmental sustainability of Council and its services and operations; and on principles of social just and equity.

CONSULTATION

- 1) The Annual Report 2012-2013 was compiled in consultation with the Mayor and staff of Port Stephens Council;
- 2) The accounts were audited by Council's external auditors, Price WaterhouseCoopers.

OPTIONS

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

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Annual Report 2012-2013 Volumes 1 and 2.

ITEM NO. 16

FILE NO: 1190-001

REQUEST FOR FINANCIAL ASSISTANCE

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

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) Rapid Response – Cr Geoff Dingle – Central Ward Funds – Medowie Public School – Donation towards expenses with vegetable garden - \$200;
 - b) Rapid Response – Cr Ken Jordan – West Ward Funds – Raymond Terrace Rotary Club – Donation towards expenses for Australia Day 2014 funds to purchase a BBQ - \$500.

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor John Nell Councillor Chris Doohan
	That the recommendation be adopted.

MOTION

355	Councillor Chris Doohan Councillor John Nell
	<p>It was resolved that Council approve provision of financial assistance under Section 356 of the Local Government Act from the respective Mayor and Ward Funds to the following:-</p> <ol style="list-style-type: none"> c) Rapid Response – Cr Geoff Dingle – Central Ward Funds – Medowie Public School – Donation towards expenses with vegetable garden - \$200; d) Rapid Response – Cr Ken Jordan – West Ward Funds – Raymond Terrace Rotary Club – Donation towards expenses for Australia Day 2014 funds to purchase a BBQ - \$500.

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

MINUTES FOR ORDINARY COUNCIL – 26 NOVEMBER 2013

funding. The Financial Assistance Policy gives Councillors a wide discretion to either grant or to refuse any requests.

The new Financial Assistance Policy provides the community and Councillors with a number of options when seeking financial assistance from Council. Those options being:

1. Mayoral Funds
2. Rapid Response
3. Community Financial Assistance Grants – (bi-annually)
4. Community Capacity Building

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.

The requests for financial assistance are shown below is provide through Mayoral Funds, Rapid Response or Community Capacity Building:-

WEST WARD – Councillors Jordan, Kafer & Le Mottee

Rotary Club of Raymond Terrace	Donation towards expenses for Australia Day 2014 funds to purchase a BBQ	\$500
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CENTRAL WARD – Councillors Dingle, Doohan & Tucker

Medowie Public School	Donation towards expenses with vegetable garden.	\$200
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FINANCIAL/RESOURCE IMPLICATIONS

Council Ward, Minor Works and Mayoral Funds are the funding source for all financial assistance.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	700	\$200 from West Ward Funds \$500 from Central Ward Funds
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

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.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation that funds will always be available.	Low	Adopt the recommendation	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

- 1) Mayor;
- 2) Councillors;
- 3) Port Stephens Community.

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. 17

INFORMATION PAPERS

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

RECOMMENDATION IS THAT COUNCIL:

That Council receives and notes the Information Papers listed below being presented to Council on 26 November, 2013:

No:	Report Title
1	2013 Joint Meeting Aboriginal Strategic Committee, Councillors and Senior Management of Council
2	Cash and Investments Held as at 31 October 2013
3	Designated Persons – Pecuniary Interest

ORDINARY COUNCIL MEETING – 26 NOVEMBER 2013 COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Chris Doohan Councillor John Morello
	That the recommendation be adopted.

339	Councillor Paul Le Mottee Councillor Chris Doohan
	It was resolved that Council move out Committee of the Whole.

MOTION

356	Councillor Chris Doohan Councillor John Nell
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 26 November, 2013.

INFORMATION PAPERS



INFORMATION ITEM NO. 1

**2013 JOINT MEETING ABORIGINAL STRATEGIC COMMITTEE,
COUNCILLORS AND SENIOR MANAGEMENT OF COUNCIL**

REPORT OF: BRUCE PETERSEN - COMMUNITY PLANNING & ENVIRONMENTAL SERVICES
SECTION MANAGER

GROUP: DEVELOPMENT SERVICES

FILE: PSC2005-0629

BACKGROUND

The purpose of this report is to present to Council the minutes of the Aboriginal Strategic Committee joint meeting held 15 October 2013.

The role of Council's Aboriginal Strategic Committee is:

- 1) To advise Council in relation to issues of concern between Council and the Aboriginal community;
- 2) To promote a positive public image with respect to issues for Aboriginal people in Port Stephens;
- 3) To provide a consultative mechanism with respect to development issues;
- 4) To improve relations between the Aboriginal and non Aboriginal community of Port Stephens;
- 5) To exchange information between the Aboriginal community and Council on issues affecting Aboriginal people;
- 6) To promote mutual awareness and respect for the cultures of both Aboriginal and non Aboriginal communities; and
- 7) To promote an increased awareness of the needs of Aboriginal communities and to assist with the development of programs to address those needs where possible and appropriate.

The key matters covered at the meeting included:

- Mayoral Address;
- Address by CEOs of Worimi and Karuah Local Aboriginal Land Councils.

ATTACHMENTS

- 1) Minutes of Aboriginal Strategic Committee joint meeting held on 15 October 2013.



Aboriginal Strategic Committee Joint Meeting

MINUTES



Minutes of meeting held on 13 October 2013 at Port Stephens Council

MC: Paul Procter

Minute taker: Paul Procter

Present:

Cr Bruce MacKenzie	Port Stephens Council
Cr John Nell	Port Stephens Council
Steve Bernasconi	Port Stephens Council
Cr Steve Tucker	Port Stephens Council
Cr Paul LeMottee	Port Stephens Council
Cr Sally Dover	Port Stephens Council
Peter Gesling	Port Stephens Council
Mike McIntosh	Port Stephens Council
Carmel Foster	Port Stephens Council
Tony Wickham	Port Stephens Council
Jason Linnane	Port Stephens Council
Peter Matwijow	Port Stephens Council
Jessica Franklin	Port Stephens Council
James Campbell	Port Stephens Council
Paul Procter	Port Stephens Council
David Feeney	Karuah Local Aboriginal Land Council
Sharon Feeney	Karuah Local Aboriginal Land Council
Dale Greentree	Karuah Local Aboriginal Land Council
Delma Johnson	Karuah Local Aboriginal Land Council
Mark Hampton	Karuah Local Aboriginal Land Council
Andrew Smith	Worimi Local Aboriginal Land Council
Neville Lilley	Worimi Local Aboriginal Land Council
Lorraine Lilley	Worimi Local Aboriginal Land Council
Valerie Merrick	Worimi Local Aboriginal Land Council
Gwen Newlin	Worimi Local Aboriginal Land Council
Rachael Newlin	Worimi Local Aboriginal Land Council
Leigh Ridgeway	Worimi Local Aboriginal Land Council
Cliff Johnson	Community member
Gabriella Johnson	Community member
John Clarke	Guest Speaker
Jodie Clarke	Guest

Apologies:

Cr Peter Kafer	Port Stephens Council
Cr Geoff Dingle	Port Stephens Council
Cr Ken Jordan	Port Stephens Council

Meeting opened at 6:20pm

1. Welcome and Introductions:

Council's Social Planning Co-ordinator welcomed everyone to the annual joint meeting of Council's Aboriginal Strategic Committee.

2. Welcome to Country:

Worimi Elder Neville Lilley brought the 'Welcome to Country' acknowledging the traditional land owners, Elders past and present.

3. Mayoral Address:

1) The Mayor of Port Stephens, Councillor Bruce McKenzie paid respect to the Worimi People who are the traditional owners acknowledging that: -

"Today, we are meeting on Worimi Country, we acknowledge the past, we are working towards a better tomorrow".

The Mayor welcomed the Elders and members of the Worimi and Karuah Local Aboriginal Land Councils, fellow Councillors, members of staff and guest speaker John Clarke.

The Mayor commended the Aboriginal Strategic Committee on their work over the last 12 months and thanked them for their advice to Council on various matters and their input and guidance on the Aboriginal Projects Fund.

Finally the Mayor congratulated the Land Councils on the success of this year's local NAIDOC Week celebrations and to all involved in the staging of the recent successful NSW Indigenous Rugby League Knockout.

4. Guest Speaker, John Clarke:

Well known fisherman, local historian, storyteller and renowned author John Clarke shared with everyone his stories and experiences gained through writing his latest book 'The Oystermen'. He outlined how the Aboriginal people were the backbone of the oyster industry highlighting their talent and strength which contributed to the Industry's success.

5. Address by David Feeney, CEO Karuah Local Aboriginal Land Council:

KLALC CEO acknowledged Elders past and present. He outlined the work undertaken by the Land Council over the last 12 months, acknowledging the voluntary efforts of community member Wayne Ping.

He expressed appreciation to Council for the Aboriginal Projects Fund program and also the support provided at the recent NSW Indigenous Rugby League Knockout. In regards to football he outlined their ongoing efforts in developing rugby league at Karuah.

6. Address by Andrew Smith, CEO Worimi Local Aboriginal Land Council:

WLALC CEO acknowledged the Traditional land owners, Elders past and present. He thanked John Clarke for sharing the history of the local oyster industry, emphasising that capturing this history is so important for the community especially for children to learn.

He indicated that for the second time WLALC has been awarded the highest performing LALC in the region by the NSW State Aboriginal Land Council.

WLALC was successful this year in establishing a cultural and heritage elective at Irrawang High School. This has resulted in 1500 students completing this program during the last financial year.

Sand Dune Adventures (for the third year) received an award for cultural tourism in the Hunter.

WLALC have just completed their new Community and Business Plan which outlines some exciting initiatives to further enhance the Murook Centre.

They thanked Council for the Aboriginal Projects Fund, work on the Birbui Surf Club development and support in the staging of this year's NSW Indigenous Rugby League Knockout.

They mentioned the success of this year's Elder's Olympics which was hosted in Port Stephens which saw an attendance of over 600 people.

Finally acknowledged new WLALC Chairperson Leigh Ridgeway and Deputy Glen Newlin on their appointment to these Executive roles on the WLALC Board.

7. General Business:

Nil

8. Close

Meeting closed at 7:25pm

INFORMATION ITEM NO. 2

CASH AND INVESTMENTS HELD AS AT 31 OCTOBER 2013

REPORT OF: TIM HAZELL – FINANCIAL SERVICES SECTION MANAGER

GROUP: CORPORATE SERVICES

FILE: PSC2006-6531

BACKGROUND

The purpose of this report is to present Council's schedule of cash and investments held at 31 October 2013.

ATTACHMENTS

Cash and investments held at 31 October 2013;
Monthly cash and investments balance October 2012 to October 2013;
Monthly Australian term deposit index October 2012 to October 2013.

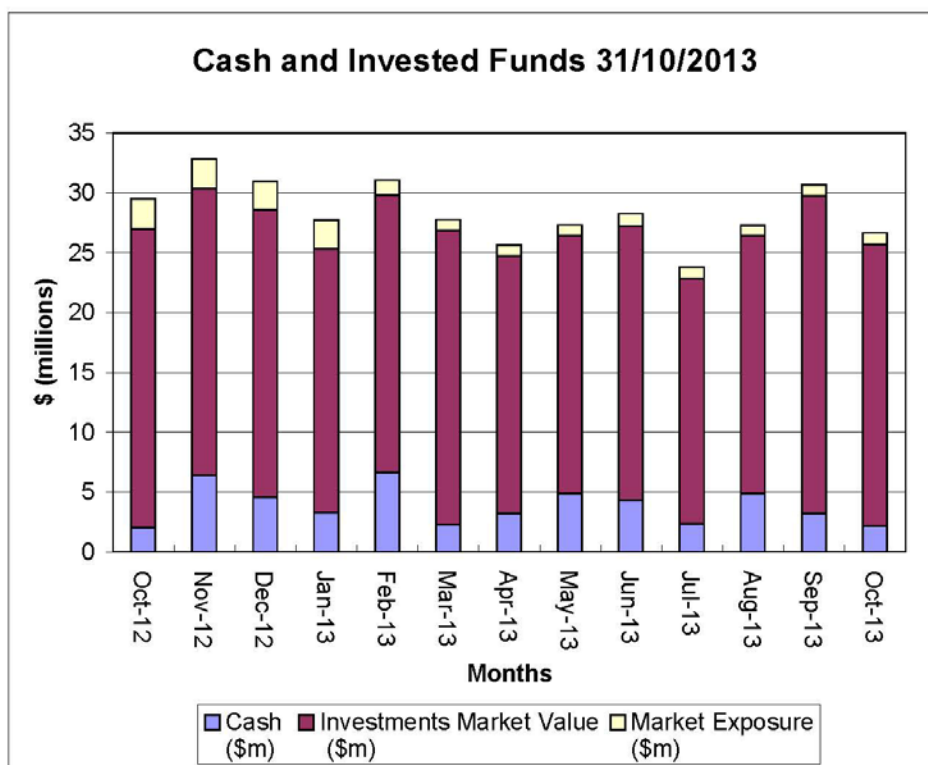
ATTACHMENT 1

CASH AND INVESTMENTS HELD AS AT 31 OCTOBER 2013								
ISSUER	Broker	Rating	Desc	YIELD %	TERM DAYS	MATURITY	AMOUNT INVESTED	MARKET VALUE
TERM DEPOSITS								
BANK OF SYDNEY LTD	BOS	N/R	TD	4.30%	112	6-Nov-13	1,000,000	1,000,000
PEOPLES CHOICE CREDIT UNION	FARQUHARSON	A2/BBB+	TD	4.05%	112	6-Nov-13	1,000,000	1,000,000
ME BANK	CURVE	A2/BBB	TD	4.23%	159	20-Nov-13	500,000	500,000
COASTLINE CREDIT UNION	FIIG	N/R	TD	4.23%	159	20-Nov-13	1,000,000	1,000,000
ME BANK	ME BANK	A2/BBB	TD	4.05%	119	4-Dec-13	1,000,000	1,000,000
BANK OF QUEENSLAND LTD	BOQ	A2/BBB+	TD	4.50%	278	18-Dec-13	1,500,000	1,500,000
GOLDFIELDS MONEY LTD	CURVE	N/R	TD	3.85%	92	18-Dec-13	1,000,000	1,000,000
ARAB BANK AUSTRALIA LTD	RIM	B/BB+	TD	3.85%	127	2-Jan-14	1,000,000	1,000,000
ARAB BANK AUSTRALIA LTD	FARQUHARSON	B/BB+	TD	3.85%	119	2-Jan-14	1,000,000	1,000,000
BANK OF QUEENSLAND LTD	CURVE	A2/BBB+	TD	3.90%	147	15-Jan-14	1,000,000	1,000,000
THE MUTUAL	THE MUTUAL	N/R	TD	3.85%	147	15-Jan-14	1,000,000	1,000,000
SUNCORP BANK	SUNCORP	A1/A+	TD	4.03%	142	29-Jan-14	2,000,000	2,000,000
ING BANK (AUSTRALIA) LTD	RIM	A1/A	TD	3.85%	160	12-Feb-14	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	CURVE	P-3/Baa3	TD	3.81%	154	12-Feb-14	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	3.80%	163	26-Feb-14	1,000,000	1,000,000
INVESTEC BANK (AUSTRALIA) LTD	FIIG	P-3/Baa3	TD	3.87%	182	12-Mar-14	1,000,000	1,000,000
RAILWAYS CREDIT UNION LTD	FARQUHARSON	N/R	TD	3.59%	154	12-Mar-14	1,000,000	1,000,000
NATIONAL AUSTRALIA BANK LTD	NAB	A1+/AA-	TD	3.80%	182	26-Mar-14	1,000,000	1,000,000
RURAL BANK LTD	CURVE	A2/A-	TD	3.75%	182	26-Mar-14	1,000,000	1,000,000
RURAL BANK LTD	CURVE	A2/A-	TD	3.75%	181	26-Mar-14	1,000,000	1,000,000
SUB TOTAL (\$)							21,000,000	21,000,000
OTHER INVESTMENTS								
GRANGE SECURITIES "KAKADU AA"	GRANGE	CCC	CDO	4.35% 7yrs		20-Mar-14	1,000,000	248,900
DEUTSCHE BANK TELSTRA LNK DEP. NTE	FIIG SECURITIES	A+	FRN	4.43% 7yrs		30-Nov-14	500,000	485,000
THE MUTUAL	THE MUTUAL	N/R	FRSD	4.99% 10yrs		31-Dec-14	500,000	500,000
NEXUS BONDS LTD "TOPAZ AA-"	GRANGE	A+p	CDO	0.00% 10yrs		23-Jun-15	412,500	373,317
ANZ ZERO COUPON BOND	ANZ	AA	BOND	0.00% 9yrs		1-Jun-17	1,017,876	877,175
SUB TOTAL (\$)							3,430,376	2,484,392
INVESTMENTS TOTAL (\$)							24,430,376	23,484,392
CASH AT BANK (\$)							2,192,898	2,192,898
TOTAL CASH AND INVESTMENTS (\$)							26,623,274	25,677,290
CASH AT BANK INTEREST RATE				2.70%				
BBSW FOR PREVIOUS 3 MONTHS				2.64%				
AVG. INVESTMENT RATE OF RETURN				3.77%				
TD = TERM DEPOSIT				FRN = FLOATING RATE NOTE				
CDO = COLLATERALISED DEBT OBLIGATION				FRSD = FLOATING RATE SUBORDINATED DEBT				
CERTIFICATE OF RESPONSIBLE ACCOUNTING OFFICER								
I HEREBY CERTIFY THAT THE INVESTMENTS LISTED ABOVE HAVE BEEN MADE IN ACCORDANCE WITH SECTION 625 OF THE LOCAL GOVERNMENT ACT 1993, CLAUSE 212 OF THE LOCAL GOVERNMENT (GENERAL) REGULATION 2005 AND COUNCIL'S CASH INVESTMENT POLICY								
P GESLING								

ATTACHMENT 2

Monthly Cash and Investments Balance at 31/10/13

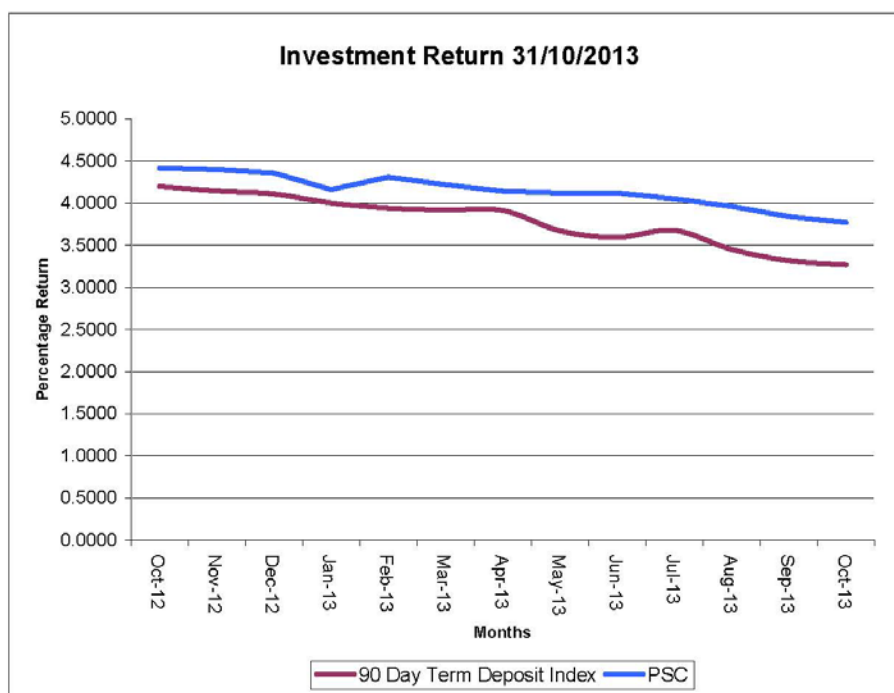
Date	Cash (\$m)	Investments Market Value (\$m)	Market Exposure (\$m)	Total Funds (\$m)
Oct-12	2.066	24.918	2.512	29.496
Nov-12	6.388	23.962	2.468	32.818
Dec-12	4.524	24.003	2.427	30.955
Jan-13	3.291	21.993	2.438	27.721
Feb-13	6.608	23.191	1.240	31.038
Mar-13	2.301	24.525	0.906	27.731
Apr-13	3.192	21.527	0.903	25.623
May-13	4.870	21.531	0.900	27.301
Jun-13	4.302	22.926	1.005	28.232
Jul-13	2.366	20.426	1.005	23.797
Aug-13	4.847	21.578	0.852	27.278
Sep-13	3.221	26.489	0.941	30.652
Oct-13	2.193	23.484	0.946	26.623



ATTACHMENT 3

Monthly Australian Term Deposit Index at 311013

Date	90 Day Term Deposit Index	PSC
Oct-12	4.1994	4.42
Nov-12	4.1428	4.4
Dec-12	4.1100	4.36
Jan-13	4.0025	4.16
Feb-13	3.9400	4.31
Mar-13	3.9185	4.22
Apr-13	3.9119	4.14
May-13	3.6715	4.12
Jun-13	3.5944	4.12
Jul-13	3.6774	4.05
Aug-13	3.4506	3.96
Sep-13	3.3183	3.84
Oct-13	3.27	3.77



INFORMATION ITEM NO. 3

DESIGNATED PERSONS – PECUNIARY INTEREST

REPORT OF: PETER GESLING - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

FILE: PSC2012-02853

BACKGROUND

The purpose of this report is to advise Council of those new Council staff who have submitted Returns.

In accordance with Section 450A of the Local Government 1993, all new staff are required to lodge a Return within three (3) months of commencement. These Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who have submitted Return/s:

Strategic Planner (PSC043).

ATTACHMENTS

Nil.

TABLED DOCUMENTS

- 1) Pecuniary Interest Returns.

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.

There being no further business the meeting closed at 7.17pm.

I certify that pages 1 to 167 of the Open Ordinary Minutes of Council 26 November 2013 and the pages 168 to 177 of the Confidential Ordinary Minutes of Council 26 November 2013 were confirmed by Council at its meeting held on 10 December 2013.

.....
Bruce MacKenzie
MAYOR